“ON THE PAWPRINTS OF TERROR”:
THE HUMAN RIGHTS REGIME AND THE PRODUCTION OF TRUTH AND
SUBJECTIVITY IN POST-AUTORITARIAN CHILE

By

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ABSTRACT

In 1990, Chile made a successful transition from the authoritarian dictatorship that had ruled the country since 1973 to a democratically elected government. The authoritarian regime was characterized by massive and systemic practices of human rights abuses, and it left an official toll of 5,000 deaths, about 2,000 of which constitute “detained and disappeared people”, and an additional 27,000 people who have been officially recognized as victims of torture. These figures do not take into account the unknown numbers of Chilean exiles, or those who were internally displaced or who lost their jobs due to their suspected political affiliations. The human cost of the military regime has continued to be one of the most enduring issues confronting the post-authoritarian Chilean nation.

This thesis builds on the work of critical researchers who locate the Chilean authoritarian regime in the transnational politics of the Cold War and their effect in implementing neo-liberalism in Chile. This literature demonstrates that terror was a constitutive, rather than an incidental, element of neo-liberal governmentality: governmentality that inscribed itself on Chilean bodies through terror practices and that remains unscathed through the transition to democracy. With that premise in mind I explore, through a historical analysis of major conjunctures in the history of human rights debates in Chile, how the post-authoritarian nation accounts for the human rights
legacies of authoritarianism while obscuring the continuity of authoritarian governmentality. I propose that human rights constitute a biopolitical governmental regime that in a manner comparable to the authoritarian terror captures human life within the realm of state power. As a regime, human rights submit experiences of terror to specific power-knowledge technologies that render terror intelligible, manageable and governable. Rather than promoting essential values of truth and justice, the human rights regime produces specific discourses of truth and justice as well as specific discourses of subjectivity and nation. In concrete terms, this thesis explores how the post-authoritarian nation and its subjects use the human rights regime to discursively construct a national truth in order to promote and protect specific governmental arrangements.
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To my son Andres
for being my compass and my anchor…

and to all the women, children and men who
lost their lives, their country, their humanity and more
in the struggles on which this thesis is written.

“You make me write losing pieces of my soul
and in each line shreds of skin”
(Victor Manuel)
Chapter 1
Introduction

The sovereign sphere is the sphere on which it is permitted to kill without committing homicide and without celebrating a sacrifice, and sacred life – that is, life that may be killed but not sacrificed – is the life that has been captured in this sphere (Agamben 1998 p83)

Water does not leave evidence, or signs, or guilty parties. That is what they said happened to my father and they told me that I should just think of him as dead (Human rights activist and daughter of a detained disappeared, 2004)

This dissertation is written against the background of unspeakable and unimaginable acts of terror in which the Chilean state bureaucracy efficiently organized the persecution, capture, torture, death and disappearance of tens of thousands of people in order to permanently change the political, economic and social landscape of the nation. Yet this is not a study of that terror; rather, it is a study of the kinds of violence and terror that the state inflicts and then re-inflicts on those same victims and their relatives in the process of accounting for terror, repairing damage, and reinstating human rights. Many examples of this violence prompt this study. I give just one here: on June 8, 1976, a man named Luis Emilio Maturana\(^1\) kissed his small son and wife and left for his job as a teacher in Santiago, Chile. He never returned; he was arrested by the secret police and “made to disappear\(^2\)”. His mother and wife spent the next 14 years

\(^1\) I would like to express my gratitude to my dear friend Carolina Gajardo for allowing me to use her story.

\(^2\) “Disappearances” or “forced disappearances” constituted a wide spread practice among the authoritarian regimes in Latin America. This practice consists in the detention and execution of victims followed by the planned banishment of the body and the denial of the detention. In its conventional use in Latin America, the words “disappeared” or “detained disappeared” usually refer to the processes by which someone is “made to disappear” by the state, rather than to the idea that the person disappeared of his or her own accord. Relatives commonly use the expression “the state disappeared him/her”. Forced disappearances constitute a systemic and organized method of repression through which the state attempts to inflict fear not only on the victims and their families but on the whole of society with the objective of preventing any form of resistance to the authoritarian regime. It is estimated that as many as 90,000 people were victims of this crime during the authoritarian regimes in Latin America. As I argue later on in this thesis,
searching for him, but the authoritarian regime\textsuperscript{3} never acknowledged his detention. In 1990 when Chile made a peaceful and negotiated transition to democracy, the newly elected government of Patricio Aylwin instituted the Rettig Truth, Justice and Reconciliation Commission (the Rettig Commission) to investigate cases of death and disappearance during the dictatorship. Luis Emilio’s widow was among the thousands of people who gave their testimonies. After ten months of investigations the Commission issued its report, listing Luis Emilio among the 2,279 victims of “political violence” resulting in death during the 17-year dictatorship\textsuperscript{4}. In addition to some rather scattered information about the events surrounding his detention and later execution, the report concluded that Luis Emilio might have been buried in an unmarked grave at Cuesta Barriga, in the outskirts of Santiago, along with a number of other victims. However, no

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\textsuperscript{3} The concept of authoritarian regime is used in this thesis instead of “Pinochet regime” or the more benign concept of “Pinochet government” to avoid identifying the Chilean authoritarian regime with the figure of its most visible ruler in ways that run the risk of overlooking the widespread effects of the regime and its complex relations of complicity. The concept of regime, as a discuss in more detail when I take up the idea of governmentality refers to what Foucault identifies as the complexity of power relations, system of ruling and “discursive and material elements” that allow for the exercise of power both in its central location within the state and its most diffuse expression in discourses of subjectivity and discipline that both produce and regulate subjects. (Foucault, M. (1980). Two Lectures. Power/Knowledge: Selected interviews and Other Writings, 1972-1977. New York, Panthen Books, Foucault, M. (2007). Security, Territory and Population: Lectures at the College de France 1977-1978. New York, Palgrave Macmillan.)

\textsuperscript{4} Among those listed, 1,183 were described as detained disappeared people, and 2004 as victims of political executions. The Commission also identified 641 cases in which it could not determine the political motivations of the death, 504 cases that were beyond its mandate and 449 cases in which not enough information existed to determine whether the person was a victim of human rights violation. In 1992, the National Council of Reparation and Reconciliation (Corporación Nacional de Reparación y Reconciliación CNRR) was created to continue the work of the Rettig Commission. This Council received an additional 1,200 complaints and finally qualified 899 additional cases which when added to the Rettig Commission cases resulted in a total of 3,195 qualified cases of human rights violations.
attempts were made to recover his remains and he remained missing for another eight years.

In 1999 the arrest of Gen. Augusto Pinochet in London on extradition presented by Spanish courts for crimes against humanity once again brought to the forefront of political discourse the pending issue of human rights demands. In order to deal with social unrest caused by the Pinochet case, the Chilean state established the Human Rights Discussion Table, known in Chile as Mesa de Dialogo (the HRDT). This initiative was hailed as an opportunity to create dialogue between historically polarized sectors of Chilean society in order to find a solution that could lead to determining the whereabouts of the detained disappeared. As a result of the professional secrecy law proposed by the HRDT, the Armed Forces released information on 180 cases of detained-disappeared people, indicating that 130 of them had been “thrown in the ocean, rivers and lakes” throughout the country (Lagos 2001). Luis Emilio was now listed as having been thrown in the ocean near the beach of San Antonio. His widow and son went to the beach and threw flowers in the water as a symbolic gesture because, as his widow stated, “we believed this contributed to closing the wounds the way the politicians are always talking about”. “We knew we were not going to find him”, she continued; “he was gone”. In the years after the HRDT, a number of reports were issued that contradicted the information provided, and in 2004 Luis Emilio’s whereabouts were once again listed as unknown. It appeared that he was not gone after all.

5 The release of the Rettig Report was accompanied by proposals for monetary and moral compensation, which I look at in Chapters 7, and by a proposal to develop a national public education project in which facilitators would use the Report to promote discussions on matters of human rights throughout the country. Many of the human rights activists I interviewed were trained to be part of this program. However the program was never put in place and shortly after its release, the government stopped printing the Report. It seems that one reason for such response was the assassination of right-wing appointed Senator Jaime Guzman by a paramilitary group associated with the Manuel Rodriguez Patriotic Front on April 1, 1991, roughly two months after the release of the Rettig Report. Guzman was, and still is, considered the mind behind the dictatorship’s economic reform, the 1980s constitution, and the transition process.

6 The arrest caused considerable upheaval among the Armed Forces specifically in regards to the impact of the case on pending judicial investigations against military personnel.
The history of human rights debates in Chile since the end of the authoritarian regime is filled with stories of disappearances and re-disappearances; it is also filled with initiatives through which the post-authoritarian nation takes on the task of systematically accounting for past terror by investigating and organizing terror stories in order to construct a national truth of the violence of the authoritarian regime. In addition to the Rettig Commission, in 2003 the state established the Valech Commission on Political Imprisonment and Torture (the Valech Commission) that conducted investigations and organized a report in which some 27,000 cases of torture were officially recognized. The state has also instituted a comprehensive system of pensions and benefits for survivors, relatives and victims of the regime.

Relatives of disappeared and executed people and the survivors of the regime have struggled throughout the history of the democratic transition to keep pending human rights issues alive. The Association of Relatives of the Detained Disappeared (AFDD) has focused considerable attention on issues of judicial justice, maintaining a position that opposes any measures of impunity and advocates for “justice, nothing more, nothing less” (1999), and lobbying against laws such as the secrecy law resulting from the HRDT and other initiatives aimed at closing judicial investigations (Agrupacion de Familiares de Detenidos Desaparecidos 1999a; 1999b). The Association was also active in the Pinochet case in England and Spain, testifying before Judge Baltasar Garzon, the judge in charge of the case in Spain (1999); attending the hearings in the

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7 Some unofficial figures estimate that as many as 400,000 people may have been victims of political imprisonment and torture during the regime. Thus the official figure acknowledged by the Valech Commission remains rather conservative (Stern, S. (2006). Battling for Hearts and Minds: Memory Struggles in Pinochet's Chile 1973-1988. Durham and London, Duke University Press.)

8 This system of compensation includes, for example, pensions for surviving spouses of detained disappeared and executed victims, education benefits for surviving children, economic and tax incentives for returning exiles, monetary compensation for people who were unlawfully dismissed from their employment due to political affiliation, pensions for victims of political imprisonment and torture, and a program to provide integrated medical care free of charge to victims and survivors. The state has also financed a number of symbolic measures such as the construction of monuments throughout the country.
English courts; and publicly speaking out against the Chilean state’s decision to advocate for Pinochet’s return to Chile and England’s final decision to allow Pinochet to return to Chile (2000). They have also actively lobbied and protested in parliament during debates concerning compensation policy (1997). In the case of torture, human rights organizations were active in lobbying and providing advice to the government of President Ricardo Lagos prior and during the creation of the Valech Commission through, for example, the Ethical Commission against Torture⁹ (Comision Etica Contra la Tortura 2001).

In response to human rights demands, the state has instituted a number of devices such as truth commissions, the HRDT, and secrecy and compensation laws with which it has attempted to account for the legacies of the regime, reinforce a narrative of Chile as a nation with human rights, and spread the instability that stories of death and torture pose for national reconciliation. Truth commissions require victims to retell and relive their terror stories in order to reinforce the idea that Chile has dealt with its past. While victims may feel acknowledged by the space that these commissions provide them, their stories become the material used by commissions to construct normative national narratives that rather than being about the victims are about the nation. Through these devices, the state has regulated how much truth can be known by, for example, producing paradoxical narratives about the violence that, on the one hand, equalize historical responsibility making all of us responsible for the 1973 military coup, while on the other, turns the abuses of the regime into the responsibility of individual soldiers.

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⁹ In June 2001, the Ethical Commission Against Torture, a commission made up of a significant number of human rights organizations, presented a report to President Lagos providing an extensive amount of research about the situation of survivors of torture in Chile. The Commission demanded the creation of a national commission on torture as well as incentives to facilitate the judicial investigation of torture cases. (Comision Etica Contra la Tortura (2001). Informe de la Comision Etica Contra la Tortura al Presidente de la Republica, Sr. Ricarco Lagos Santiago, CODEPU.)
Political debates, in turn, use the reports issued by commissions to collectively construct a national narrative of reconciliation in which national subjects/citizens can claim belonging. Stories of terror become in these debates objects of consumption and voyeuristic appropriation in which, as I show in chapter 7, the sexualized and naked humanity of tortured and dispossessed people is used to sustain national narratives that reassure subjects of their humanitarianism and of their role as builders of national reconciliation. They also sustain the consolidation of specific ruling relations in which life is calculated and placed within the realm of the market and within a rationality of cost and benefit applied to concepts of justice. Concretely, debates over justice become restrained within economic discourses of compensation in which a market rationality is imposed on discourses of attainable justice. In the process of accounting for terror, “national truth” has suffered a number of metamorphoses: truth has become as President Aylwin stated in his inaugural speech a “great temptation” that can potentially threaten political stability (1990); truth has also become justice when demands for fuller accountability have been rendered dangerous, and truth has become a weapon when it has been necessary to account for massive numbers of victims. In the tug of war between human rights demands and the state, the human rights abuses of the authoritarian regime have become a constant reminder of, and a potential threat against, the official language of reconciliation that dominates transitional political discourse.

What facilitates and justifies the nation’s response to human rights demands is a normative language of reconciliation and consensus – what Richard and Moulian have called the “democracy of agreements” (Moulian 1997; Richard 1998) – that permeates all discussions concerning the legacies of the regime. In this discourse, as Moulian argues, the story of the authoritarian regime is subjected to a process of “whitening” accomplished through a “system of bartering” in which the legitimization and protection of the authoritarian regime is exchanged for democratic transition. This exchange
retroactively transforms the regime into both a necessity and a legitimate government (Moulian 1997 p32). Reconciliation, as Richard argues, presupposes, and in fact is predicated on, the repression and exclusion of those bodies and histories that while essential to the democratic transition must be kept safely at bay (Richard 1998 p29). Discourses of reconciliation also permeate mainstream academic discourse and processes of knowledge production in which the transition is constantly constructed as constrained by ‘authoritarian enclaves’ embodied in structural conditions such as electoral law and appointed Senators (For example, Bengoa 1994; Flisfisch 1994; Ruiz 2000). While the restraints placed by these enclaves cannot be denied, what is important to consider is that, in spite of these restrictions, national human rights debates tend to construct the post-authoritarian nation as a nation that has heard and satisfied human rights demands. Official human rights narratives generally stress “pride”. As Senator Naranjo stated in his interview for this study, “We are the only transition to democracy in the world that has not backed down… this must fill us with national pride” (Naranjo 2005).

When confronted with the dissatisfaction of human rights activists, national subjects generally turn to discourses of “prudence” and “pragmatism” in which the need to protect democracy, which according to authors such a Moulian and Thayer (Thayer 2001) usually means also the protection of the neoliberal model. This model, instituted through terror by the authoritarian regime, requires the sacrifice of higher moral values of justice. As renowned Chilean scholar, member of the Rettig Commission and state human rights advisor Jose Zalaquett argues, the pragmatic need to protect a delicate democracy requires that human rights issues be approached with prudence (1991; 1992; 2000). This notion that prudence should guide human rights policy, in turn, permeates state official discourse in which, as I discuss in chapter 4, demands for truth are constructed as a temptation that can place democracy in danger.
The constant disappearances and re-disappearances of victims such as Luis Emilio, as well as their materialization in national human rights discourse as suffering mutilated bodies, become new forms of violence and dehumanization within normative discourses of reconciliation and consensus. As Moulian suggests, the language of consensus and reconciliation is used to cover the uncomfortable memory of the terror in order to perpetuate the idea of Chile as the neoliberal miracle of the South (p37). In this way, the language of reconciliation constitutes the apparently clean and smooth surface of the nation under which human rights legacies are forced to be submerged. Although terror and its victims never completely disappear and regularly threaten rise to the surface of the nation, leaving their wet and bloody stains on the national reconciliation project, their reemergence is always regulated through the organizing and disciplinarian language of human rights and national reconciliation. Furthermore, victims do not only refuse to die, but they are also constantly resurrected, for it is their re-emergence in human rights discourse that allows the nation to reinforce its nation-building project. Consequently, narratives of national reconciliation require the emergence and re-emergence of victims in order to build the nation on their shoulders. In their attempts to struggle not to disappear, victims, survivors and activists are constantly confronted with the reality that the state does not hear their demands the way they intend them. Demands for justice are answered with policies that transform justice into monetary compensation, stare terror is transformed into the responsibility of everyone and no-one and into laws that protect the identity of state agents. Demands for truth are met with national narratives that turn the regime into a salvation against a communist cancer, soldiers into heroes, and politicians into humanitarians.
Research questions

This study began with two simple questions: how has the post-authoritarian state accounted for the legacies of terror left by the authoritarian regime? And how have discourses of human rights assisted in this process of accounting for terror? This thesis explores these questions by building on a body of literature that proposes that human rights constitute a biopolitical regime that, as Giorgio Agamben (1998) argues, captures human life, life in its most bare biological expression in the sphere of sovereign power (1998 p23). Building on the work of Michel Foucault and Hannah Arendt (1976), Agamben proposes that human rights constitute another expression of the biopolitical practices that, since the Enlightenment, accomplish the calculation of life and its submission to state power. Foucault (1990) sustains that biopower constitutes the mechanism that allows for the “explicit calculation” of human life through the interrelation of power and knowledge that transforms life in order to fit it within specific systems of ruling (p155). These mechanisms of calculation, argues Foucault, reach from the realm of the individual and his biological functions to the entire population. Agamben applies this notion of biopower to concepts of human rights arguing that in the process of affording rights, human rights discourses also produce discourses of humanity that calculate human life inscribing it into the realm of state power. “Rights won by individuals in their conflicts with central power”, argues Agamben, “always simultaneously prepared a tacit but increasing inscription of individuals’ lives within the state order” (1998 p121). As a result, human rights do not represent metaphysical, essential, or natural human conditions, but in fact produce the “human” in human rights discourses, linking conceptions of humanity to specific state arrangements, and establishing human rights as a transnational regime of power that regulates states, international human rights
organizations, local human rights struggles and individual conceptions of self (Grewal 1999; Douzinas 2002; Langlois 2005; Zizek 2005).

As I discuss in chapter 3, at the same time that it discursively constructs the subject/human with rights, the human rights regime delineates the borders of humanity: those spaces to which life that falls outside the category of humanity, and which Agamben calls “bare life” or “sacred life”, is relegated. Human life, he continues, only has meaning when “natural life vanishes into the figure of the citizen in whom rights are ‘preserved’” and through which claims of national belonging can be negotiated (p127). At the same time, human rights allow the identification of life that remains bare life or homo sacer, life located outside of the political community, “life devoid of value” and that can become “the place of sovereign decision” (pp. 138-142). This is a central component of the idea of human rights as a regime in which specific relations of ruling determine the conditions that constitute the subject that can claim human rights as well as the relations of ruling and the power arrangements within which those rights can be claimed (Douzinas 2002). The sacrifice of bare life, as Agamben observes, is a condition for the construction of the political community, for the “building of the city of men”, and for the production of ideal subjectivity (p7). Agamben then agrees with Arendt when she argues that human rights are, in fact, citizenship rights awarded to those who can claim citizenship and national belonging (Arendt 1976 p279). Yet at the same time, Agamben proposes not that human rights are limited or imperfect in their reach, but that human rights discursively produce and regulate human life so as to create categories of citizen-subject who can claim rights, homo sacer who fall outside the category of citizen-subject, and systems of ruling that regulate both expressions of life. Thus, the concept of human rights as a regime used in this thesis builds on Agamben’s idea that human rights constitute a power technology with the “real historical function” of capturing life in the realm of state power in order to subject it to a complexity of power relations that
authorize the ruling of both victims of human rights violations and of citizen-subjects (Agamben 1998 p127). Ultimately, the human rights regime authorizes specific ways of thinking about government. To be declared someone whose ‘rights have been violated’, as occurs in Chilean human rights debates, means to be located in a *sacred* space that while vesting the victim with recognition, also locates the victim in the constitutive space on which the post-authoritarian nation is built and on which subjects construct their humanitarian subjectivity and negotiate belonging. Although victims are central to national truth processes, their location outside the political community is reinforced by their submission to the regulation and organization of human rights policy and the marginalization that it imposes on victims and survivors.

In its most essential conditions, argues Agamben, totalitarianism needs to be brought back to its “humanitarian context” in order to understand the continuity that exists between totalitarianism and ideas of human rights. Totalitarian regimes such as the Nazi regime require for their consolidation similar biopolitical arrangements: arrangements that “have their foundation in the unconditional assumption of a biopolitical task in which life and politics become one” (Agamben 1998 p149). Thus, the failure of human rights during the Holocaust, as Agamben argues, is not caused by the inability of nations to apply human rights, or because the Holocaust was particularly inhumane, but by the fact that both human rights and totalitarianism constitute part of a biopolitical regime that since the Enlightenment has captured life in the sphere of sovereign power. In this way, and building on Foucault’s notion of governmentality, the human rights regime can be considered a regime that facilitates a rationality of government that is manifested, Foucault writes, as the “right disposition of things arranged so as to lead to a suitable end” (Foucault 2007 p96). As I discuss in more detail in chapter 3, the concept of governmentality proposed by Foucault allows us to analyse how at different historical junctures the power to rule over individual subjects and whole populations is
conceptualized. Human rights discourses can be understood as power-imbued discourses of truth about humanity in which human life is defined so as to allow for the capture, calculation and regulation of life in order to advance specific ideas/rationalities of ruling. In this way, the human rights regime shares with authoritarian and totalitarian regimes similar biopolitical conditions in the sense that they rely on discursive constructions of life and of the relationship between life and the state in order to advance specific relations of ruling.

As I discuss later on in this chapter, the Chilean authoritarian regime relied on the articulation of a complexity of power relations in which power was exercised normatively over the population through the law, over individual bodies through terror, and on minds through the deployment of discourses of truth that reproduced hegemonic knowledge, regulated desire and produced subjectivity. This complexity of power relations worked together to install, regulate and normalize a social, political and economic model based on liberalism, capitalism and individualism (Moulian 1997 pp. 48-55). Focusing mostly on a genealogy of the economic and political conditions of the transition, Moulian argues that the democratic transition does not break away, and in fact, perpetuates and consolidates the political and economic model of the authoritarian regime by reproducing the same form of biopolitical power exercised by that regime. “The Chile of today”, continues Moulian, “is a production of dictatorial Chile…the simple image of a society created with the ‘materials’ of dictatorial Chile and that cannot be anything other than a picture of it taken a few years later” (p15). Although Moulian is not primarily concerned with the human rights question, his analysis suggests a continuation in the transitional period of the same governmentality imposed by the authoritarian regime with, at best, some cosmetic changes. Building on Agamben and Moulian’s arguments, this study asks three concrete additional questions: how do human rights discourses in Chile capture, identify and contain bare life, now embodied in victims and
survivors, in the sphere of sovereign power through processes that render human rights violations intelligible? Do these practices reproduce the biopolitical effect of the authoritarian regime now in the name of a post-authoritarian nation-building project? And, how is this accomplished in human rights discourse?

The task of answering these questions has required me to chase after stories of terror as they float up, and again submerge under the surface of the Chilean nation. I track the pawprints that terror leaves on the national landscape by looking at those moments in which legacies of terror become the most evident and in which the nation is forced to rearticulate its national reconciliation project through human rights language. This enterprise takes me through 15 years of human rights debates in Chile and through many moments in which the pawprints of terror can be found. I focus specifically on three of these moments: the 1990 Rettig Truth, Justice and Reconciliation Commission and its compensation proposals, the 2000 Human Rights Discussion Table and its resulting secrecy law, and the 2003 Valech Commission on Political Imprisonment and Torture and its resulting compensation proposals.

As I discuss in more detail in chapter 2, the study builds on the premise that the biopolitical organization and effects of the human rights regime can be traced in discursive practices - understood in a Foucauldian sense as active interactions of power and knowledge – that produce truth and reality, and sustain ruling relations. Building on Foucault (1981), Hook (2001) argues that discursive practices restrict, enable and constrain what can be said, written and spoken and, in that way, they produce truth and constitute reality (p523). Further, as practices, discourses do not remain restricted to textual or linguistic manifestations of discourse, but also connect, as Said observes, to networks of power relations within which they become the instrument and not just the effect of power (1983 p212). Discursive practices authorize specific practices of ruling and concrete governmental rationalities that manifest beyond language tying discourse
to extra-textual and material conditions such as institutional practices (p539). The study also assumes that discursive practices can be particularly traced in political “text and talk”\(^{10}\) as manifestations of discourse, through strategies such as rhetorical moves and semantic gestures that allow subjects to appropriate truth, use it to understand themselves and others, collectively construct national narratives, and concretely conceive practices of ruling (van Dijk 1993). While this analysis is centered on what the human rights regime does, it is also important to keep in mind that it can potentially allow us uncover the “gaps and shortcomings” of human rights discourses in order to, as Hook suggests, “increase the combative power of potentially subversive forms of knowledge” about the human subject (Hook 2001 p536, italics in the original).

Concretely, I analyze how reports produced by national truth commissions and their ensuing political debates constitute sites in which we can trace the biopolitical work of the human rights regime, its capturing of bare life and its production of subject and nation. I do this by conducting a close reading of the reports produced by the Rettig and Valech Commissions; records of the HRDT; records of parliamentary debates, public speeches and the media; and interviews with political figures and human rights activists. In analyzing the extensive amount of data collected, I have devised two sets of critical questions that can allow me to tease out of the data the way in which knowledge and power interact to accomplish the biopolitical effect of the human rights regime. First, I pay attention to how human rights discourses render terror intelligible and knowable through discourses concerning “national truth”. Secondly, I pay attention to what political subjects do with that truth; how they use it to understand themselves and the nation, and to propose specific state practices.

\(^{10}\) The concept of “text and talk” is commonly used in critical discourse analysis to refer to a complexity of interrelated communicative interactions that occurs through for example what political elites say in parliamentary debates as well as what is written in reports, the media and textbooks. van Dijk, T. (2007). The study of discourse: an introduction. Discourse Studies. T. van Dijk. (London, Sange: pp. xix-xlii.)
The rest of this chapter includes a brief review of the critical literature on the history of the Chilean authoritarian regime and its practices of terror. This review is meant to locate historically and conceptually the human rights regime in Chile in context with the biopolitical effects of terror in the authoritarian regime, its connection to the politics of the Cold War and its co-existence with the neoliberal project of the authoritarian regime. The chapter ends with a brief discussion of the reasons and conditions that bring me to this study. Chapter 2 deals with the methodology used to collect and analyze the data, focusing specifically on the study of discourse from a Foucauldian perspective. Chapter 3 presents Foucauldian concepts of biopower and governmentality, and reviews critical literature on human rights in order to illustrate how governmentality and biopower inform the concept of human rights as a biopolitical regime.

The analysis of data begins in chapter 4 in which I analyze documents and speeches surrounding the Rettig Commission including its Report. I trace the manner in which truth is constituted as a “great temptation” that could potentially destabilize the democratization process if more complete versions of truth were demanded. Since the state is also faced with the need to produce truth about the past, such truth is organized in the highly regulated language of the Rettig Report. The Report constructs a truth about Chile's history in which the authoritarian regime is constituted as a patriotic response to civil conflict, and terror becomes the reasonable actions of soldiers confronted with a communist and terrorist threat. Victims become potential enemies and are made to bear responsibility for terror. We observe here a first example of how the human rights regime grasps and captures human life when human rights discourses turn to the issue of responsibility for human rights violation. Within the framework of a story of war, human life becomes regulated along the lines of individual responsibility in which state terror becomes what individuals do to other individuals. Human life emerges at this
point as individual autonomy, rationality, and independent judgment de-linked from the power relations that organize terror.

Chapter 5 takes us to the Valech Report on Torture and to the biopolitical practices involved in the systemic organization of massive numbers of torture stories. I pay attention to the use of statistics as an epistemological weapon used in the Report to systematically organize and produce tortured bodies. The human rights regime can be observed at work here as testimonies of torture are rendered speakable and knowable through methods of data management that quantify torture according to variables that empty stories of torture of meaning and renders them ultimately silent. Tortured bodies are produced as bare humanity without voice in the Report, in a way that makes the human rights regime complicit in the practices of torture that rely on the silencing and dehumanizing of victims.

In chapter 6, I begin to look at how national truth produced in the reports is appropriated and used by national subjects to claim belonging in the nation. This chapter is concerned specifically with what Agamben identifies as the role of bare life, and its sacrifice in the production of nation and community. I trace this process through an analysis of human rights declarations issued by the Armed Forces and the political Right, as sectors of society with the strongest ties to the authoritarian regime. I also look at documents surrounding the HRDT, and parliamentary debates on the issue of secrecy law. Through these documents I trace the discursive manoeuvres that subjects make as they claim a space in the nation that allows them to make their complicity in terror disappear while becoming champions of human rights. These manoeuvres include debates about historical context that confirm a story of war while also producing state terror as excesses. Truth, restricted to information about the whereabouts of the bodies of the detained-disappeared, is transformed into justice as political elites offer
information in exchange for their entrance into the nation. This ultimately accomplishes the sacrifice of bare life through the declaration of bodies as drowned.

Finally, in Chapter 7 I turn my attention to parliamentary debates concerning compensation programs proposed by the Commissions and the way in which stories of pain and torture are taken up in debates to justify the transformation of justice into compensation. I trace two simultaneous conditions: the symbolic process by which political subjects use stories of pain in a voyeuristic and highly corporeal manner to imagine themselves as good people with the moral responsibility to compensate. At the same time, I trace how the appropriation of tortured and disposed bodies allows subjects to articulate particular governmental practices. Concretely, I show how the debates accomplish the submission of stories of terror to the calculability of a market mentality that ultimately renders terror calculable in terms of cost and benefit.

A brief historical background

Comparing the Chilean case to the that of Germany, in which a society “capable of achievements in the realm of science or culture also turn[ed] out to harbor amazing capacity for barbarism”, historian Steve Stern asks how a nation such as Chile that considered itself an exception in Latin America “could descend into a world of brutality beyond the imaginable” (Stern 2006 p. xxv-xxvi). The belief that Chile is an exception among political systems in the region, argues Stern, emerges in the commonly held assumption that in spite of social needs and conflicts, Chile enjoyed a political system that was “democratic and resilient” and in which politicians practised “gentleman’s” politics. Stern argues that we should not assume that the authoritarian regime in Chile simply reflected what was expected of Latin America as a region that “has not been notable for the resilience of democratic institutions, nor for hesitation in using strong-
armed methods of political rule”. He suggests that applying such an assessment to Chile constitutes an example of “international cultural prejudice” that while potentially erroneous in the Chilean case finds its origin in the “tragic historical patterns” that characterize the region (p.xxv).

Three commonly accepted premises are embedded in a belief in Chile’s exceptionality and its relationship to the rest of the continent. First, it is assumed that Chile is in fact an exception among an otherwise unstable region: a nation of gentleman in a land of dictators and in which a violence of the caliber brought about by the authoritarian regime was unheard of before in its history. Second, if Chilean exceptionality is doubted it is because of a somewhat well-founded prejudice against Latin America as a whole: well-founded because democracy has, in fact, not taken root in Latin America as it has in other parts of the world. And third, if democracy has not taken root in Latin America it has nothing to do with international forces whose only sin is to hold “cultural prejudice” against the region. None of these premises actually explains why Chile, and Latin America for that matter, descends “into a world of brutality” and, in fact, these premises fit with what is already a common belief about the global South: that it is a place of brutality and savagery in which democracy does not take hold (Razack 2004).

The military regime headed by Augusto Pinochet that took power on September 11, 1973 and its practices of terror need to be understood within a complexity of historical and transnational conditions that since Spanish conquest have influenced not only Chile but the rest of Latin America. They specifically need to be understood within the global historical phenomenon known as the Cold War, its long lasting effects in Chile and the region, and the protagonist role that it afforded the US as an emergent superpower in the continent and the world. Consequently, any critical study of the military regime must challenge the idea of Chile’s exceptionality in the region, its reliance
on a narrative that turns Chile’s democracy into gentlemen’s politics, its disconnection from the conditions that impact the continent at large, and its disregard for the transnational power relations that determine the conditions in Chile.

The Cold War, as characterized by “the division of the world into ideologically and militarily adverse blocks” was built on a colonial terrain in which, first Europe, and then the US “appoint [themselves] the center of the world” by diving up the earth (Balibar 2004 p 7, 13 my italics). Grosfoguel (2000) argues that political and economic processes in Latin America need to be understood as part of the “longue durée geoculture of modernity” that has since the time of the Enlightenment impacted both the region and the rest of the world (p348, italics in the original). While the Spanish conquest incorporated Latin American into the global economy of colonialism, liberal ideas of development and rational progress, which in addition to notions of human rights and individual freedoms were intrinsic concepts of the Enlightenment, provided an ideological foundation for the incorporation of the region into a capitalist world economy. Local Spanish land-owning Creole elites selectively adopted those ideas and adapted them to their own interests. Thus, while ideas of national sovereignty and free-trade became the basis for struggles against Spanish colonialism, the newly independent nation disregarded notions of individual freedoms and rights, maintaining the racial and class structures as well as structures of coerced labour and economic inequality established by the Spanish (Quijano 1993). At the same time, these elites shifted their allegiances from Spain, which became the symbol of backwardness and feudalism, to Great Britain and then the US as new core powers in the region, which became the new models of civilization (Zea 1986). Latin American elites began to model their political institutions on English institutions at the same time that they internalized frameworks of development that uneasily placed them within the global economy. In turn, the association of Latin American Creole elites
with Spanish backward and savage forms of colonialism served as a justification for the subordination of the region to the economic and political domination of the North.

Grosfoguel argues that the idea that Latin America suffers from underdevelopment and lack of modernity emerges as much from colonial power relations that relied on locating the region within hierarchies of development as from the application by local Creole elites of the same development frameworks to the evaluation of their own conditions (p349). Although at times local elites attempted to challenge colonial and global subordination imposed by colonial powers and later global economic powers, solutions to Latin American problems were commonly stated and framed in the language of modernity and development. As Zea observes, Latin American Creole elites suffered from “northernmania” and in that way they both accepted notions of development - and by extension, their own underdevelopment - and reproduced unequal colonial power relations both globally and locally. This is the case, for example, with strategies emerging from opposing camps in relation to economic development, in which both developmental theory and dependency theory proposed strategies that, while emerging from different ideological stands, remained focused on the achievement of modernity11 (Grosfoguel 2000 p361). These proposals continued to reproduce conditions

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11 Grosfoguel defines development theory as a theory emerging from Enlightenment ideas of progress in which rational action would lead to higher development and more perfect economic conditions. In Latin America, this theory translates into policies that favour free trade and national sovereignty, but in which the most fundamental injustices of the system were not addressed (slavery, forced labor, “the pacification” of aboriginal populations, etc). At the turn of the 20th century, these ideas were embedded in neomercantilist and liberal economic approaches that either supported free trade or protectionism depending on the fluctuations of the world economy (p350). Dependency theory, on the other hand, emerged during the 1950s in response to the economic crisis of the war period. This theory challenged Latin America’s technological and economic dependency on the North and proposed that development could only be achieved by breaking away from their dependency on the North. Development theory is generally associated with strategies that challenged an orthodox Marxism that understood Latin America as not yet accomplishing the stages of development required for the achievement of socialism. They also challenged the idea that capitalism would bring about development, proposing instead methods of drastic social and economic transformation towards socialism. Cardoso, F. and E. Faletto (1979). Dependency and development in Latin America. (Berkeley, University of California Press.)
of dependency of Latin America on the North, at the same time that the North continued to interfere in Latin American affairs.

As a result of Latin America’s historical and at times uneasy relationship to colonial and global superpowers, political systems in the region remained elitist and plagued by conflict, repression and violence. Creole elites replaced colonial classes and even though they pushed for modern ideas of national sovereignty and liberal capitalist development, they remained for the most part exclusionary and authoritarian in their relationship to their local populations. Revolutions, dictatorships and civil wars were common in the region until well into the 1970s and were caused by complex combinations of international influences, oppressive and exclusionary local political structures, and, as I argued below, emergent centre-left and leftists political movements.

Chile is not an exception in the conditions discussed above even though the myth of Chile’s exceptionality has survived until now. Tomas Moulian (1997) argues that the notion that prior to the 1970s Chile had enjoyed one of the longest periods of political stability in Latin America is a common belief among political elites and historians in Chile (p151). These elites, argues Moulian, tend to use a reduced definition of democracy to justify the myth of Chilean exceptionality. The idea that Chile was an example of democracy and stability prior to the authoritarian regime, he argues, “was constructed upon a dangerous mixture of forgetfulness and mystification” that obscured a past of disorder, brutality, death and concentration camps, while mystifying the stability and depth of Chilean democracy (p156). “The illusion of a solid democratic tradition”, continues Moulian, “did not allow us to see that what we had was in fact corporate politics: a system consolidated on negotiations among organized elites” (p 157). Moulian traces in Chilean history a multiplicity of conditions that demonstrate the reproduction of the same elitists and exclusionary political arrangements that affect other parts of Latin America. Civil wars and foreign intervention, for example during the nitrate rush in the
North of Chile, and anti-liberal political projects that sustained a state system in which power remained concentrated in a reduced portion of the population worked together to produce a complexity of social ills that remained relatively intact until the election of Salvador Allende in 1970. At the same time, periods of relative democratic consolidation disguised political systems based on brutal oligarchic arrangements in which repression against the poor and workers, as well as military intervention were not uncommon (p151-155). In this way Moulian challenges the belief that Chile was exceptionally democratic by demonstrating that in fact Chile was not an exception among Latin American imperfect democracies, but simply a nation with “dreams of grandeur” (p157).

Starting during the 1830s and well into the 1930s European colonial influence in Latin America was replaced by the US’s quest for hemispheric domination. Although presenting itself as a protector of American independence through for example the Monroe Doctrine\textsuperscript{12}, the emergence of the US as a superpower in the region reproduced some of the conditions that had characterized Latin America’s relationship to its colonial counterpart. The new power of the US placed local political and economic elites in the position of having to negotiate and at times capitulate in order to maintain some level of sovereign independence and obtain the support they needed to maintain their economic and political hegemony (Smith 2008 p82). Although responses to US influence varied consistently during the 19th century and included for example strategies to constitute a confederation of Latin American states that could counter-balance the power of the US, by the Second World War the US had established its position as a superpower in the region and few countries have escaped its influence.

\textsuperscript{12}The Monroe Doctrine was passed in US congress in 1823 and stated that any further attempts by European countries to colonize land and exercise colonial control over any American nation would be considered an aggression that required US intervention Smith, P. (2008). Talons of the Eagle: Latin America, the United States and the World. (New York & Oxford, Oxford University Press.)
The end of the Second World War gave way to the Cold War as a new justification for US intervention in Latin America. It also reproduced and reinforced some of the historical political and social conflicts that had characterized Latin American politics since colonialism. In its ideological expression in the North, the Cold War and its resulting intervention in the affairs of Southern nations was regularly justified, as Mamdani (2005) argues, through the use of human rights discourses, the protection of democracy and of the American way of life. However, in its more pragmatic characteristics, the Cold War also allowed the North to expand and consolidate its global reach and impose on the South a new neoliberal order. The Cold War combined regular warfare with innovative tactics that did not always require direct US military intervention. “Proxy wars” relied on local elites and military forces – many of them trained in US military schools and universities – to achieve its objectives in the South (Mamdani 2005). These tactics relied on the sympathies, loyalties and fears of the local elites and armed forces to push economic and political reform and/or overthrow local governments. At the same time, these tactics were combined with foreign economic policy such as US President John F. Kennedy’s Alliance for Progress and the later structural adjustment policies of the International Monetary Fund and World Bank imposed through policies such as the “Washington consensus” (Chavkin 1982; Lewellen 1995; Grandin 2004; Gomez 2005; Smith 2008). In its most violent expression in Latin America, the Cold War resulted, for example, in the CIA-sponsored coup in Guatemala against Jacobo Arbenz in 1954; the Cuban revolution in 1959 and later US covert operations to destabilize Cuba such as the Bay of Pigs’ incident in 1961; the military intervention in Dominican Republic

13 The “Washington consensus” was the term initially coined in 1989 by John Williamson to describe a set of ten specific economic policy prescriptions that he considered should constitute the “standard” reform package for developing countries as conditions for loans and aid by institutions such as the International Monetary Fund (IMF), World Bank, and the US Treasury Department. These conditions included fiscal discipline, reduction of state expenditure, privatization of social services, deregulation of the economy and the implementation of free-market economies (Ibid. p 223).
in 1965; the support for the Contras in Nicaragua through the selling of arms to Iran in the 1980s, and the chain of US supported military coups that swept Latin America during the 1970s.

Inside Latin America, the Cold War had paradoxical effects that cannot be easily explained solely in terms of anti-communist sentiments or ideological polarization. As Bethell and Roxborough (1994) observe, Latin American politics in the early 20th Century experienced the emergence of popular political movements made up of historically disenfranchised groups such as workers and peasants, as well as middle-class intellectuals who advocated for the idea that Latin American development required, as was the case with supporters of dependency theory, drastic social and political reform. These movements sometimes appropriated the more democratic elements of the liberalism of the oligarchy to advocate for social and political reform. They enjoyed some success in appropriating political power, as is the case, for example, with the centre-left coalition governments in Chile in the late 1930s. Nevertheless, such challenges had ambiguous effects. On the one hand, they represented a contestation and a counterbalance to the power historically held by the oligarchy, which was forced to adopt defensive positions in relation to these political programs. On the other, the power maintained by the land-owning classes specifically in parliamentary politics forced these coalition governments to enter into constant processes of negotiations with an oligarchy whose ideas of development remained fixed on notions of capitalism and dependency on the global economy. This ultimately placed any program for lasting political and social reform at risk and moderated the political discourse of the Left (Moulian and Vergara 1980). As Grandin (2004) argues, these negotiations resulted in the “taming” of the Marxist left which by the Second World War had become part of a number of ruling coalitions in the region: coalitions that advocated for widespread processes of social and economic reform and programs that “sought to achieve economic development through
state planning”. While maintaining Marxism as a banner, these coalitions were in fact, by necessity, more liberal than Marxist in their political projects.

As Grandin continues, in spite of the moderation of Marxist political discourse, the social and political reform programs proposed by these Center-Left coalitions encountered strong resistance of a still powerful land-owning class that while adhering to a liberal political discourse remained elitist and exclusive in their political practice (p6). The anti-communist ideas promoted by the US as part of the Cold War ideological machinery eventually found, as Monsavais suggests, fertile ground in the resistance and frustrations of the oligarchy (2004). The US, on its part, carried an anti-soviet rhetoric, as Dominguez argues, to “illogical” and contradictory levels. While defending its Latin American foreign policy with the argument that intervention was a venue for the protection of democracy against Soviet totalitarianism, the US actively engaged in forms of military and political intervention that, according to Dominguez, ultimately eliminated liberal reform and imposed authoritarianism (Dominguez 1999). In Chile, this resulted in the military coup that ended the Allende Government in 1973.

The 1973 military coup is to some extent the product, argues Moulian, of the challenges that Allende’s rather idealistic plan for a “peaceful path to socialism” posed for conservative, land-owning elites accustomed to power. These elites saw in Allende’s political project a concerted strategy to if not remove at least seriously destabilize their hegemony (p 168). Moulian recognizes in Allende’s political project an answer to historical injustices against poor and disenfranchised populations at the same time that he argues that Allende simply did not have the strength to impose his revolutionary agenda (p166). In fact, Allende and his followers, argues Moulian, were blinded by the same myth of Chile’s exceptional tradition of democracy that affected the rest of the political class which let them to believe that the country would simply accept the changes brought about by a democratically elected government (p161). As Moulian continues,
Allende attempted an unprecedented process of reform without taking into consideration that such reforms required a mobilization of power that they were either unable or unwilling to exercise (p159). As a result, these reforms created further social unrest and polarization, and reinforced the class anxieties of the elites (p168). These elites, in turn, found in the anti-communist rhetoric of the Cold War an explanation for their fears as well as an ideological basis for supporting a military way out of Allende’s socialist revolution.

The governmentality of terror

The Cold War did not return Chile to a pre-revolutionary moment; it fundamentally transformed it. Moulian (1997) offers here one of the most influential critical studies of the Chilean authoritarian regime, which he organizes as a genealogy of the Chile of the 1990s. He traces the origin of Chile’s post-dictatorial nation to the economic, legal and political social reorganization imposed by the authoritarian regime, its transformation from a terrorist to a constitutional dictatorship, and its implementation of a revolutionary economic transformation based on the imposition of neoliberalism in Chile. His work also offers an invaluable framework to understand the role of terror in the military regime and its effect on the post-authoritarian nation. Moulian’s most controversial and influential proposal is that the transition in Chile did not begin with the end of the military regime and the election of a new government but with the social, political and economic reordering of the authoritarian regime that transformed the country in a way that is later simply maintained by democratically elected governments. Additionally, he argues that the transition is not from dictatorship to democracy, but from dictatorship to neoliberalism (p18-19). In fact, Moulian suggests that the transfer of political power is a formality, carried out through the rules of the authoritarian regime and
the aim of which is to complete the Chile’s neoliberal transformation (p47). In this way, Moulian stresses the continuation of the model rather than the idea of a post-dictatorial nation as an interruption or rupture.

Moreover, Moulian suggests that the social, economic and political conditions of the post-authoritarian nation are sustained by the terror practices of the dictatorship whose objective was not only to repress internal enemies, but also to produce a new nation. He describes the military regime by using the violent imaginary of the abortion (p151) that interestingly for Moulian enables both an abortive expulsion and a birth, both emerging from the womb of the Chilean nation. This abortion/birth requires, according to Moulian, power to act both in its more silent and economic manner, which he associates with Foucault’s concept of discipline and biopower, and in its more “strident”, visible and repressive expression, which he connects to a sovereign expression of power (p174).

The authoritarian regime constituted a new governmental regime unlike any previous experience in Chile. The consolidation of these new ruling relations required that the power of the regime be deployed to all aspects of Chilean life, from normative power through the law, to the regulation and discipline of the minds and bodies of each and every member of the population (p122). Moulian argues that the authoritarian regime was able to impose a capitalist revolution through the dispersion of power from above aligning every area of life to a capitalist model. This required power to act at the level of the law in order to structurally transform political and legal institutions through, for example, constitutional reform, law that outlaws and later regulates political parties and institutions, labor reform, etc. (p145). At the level of ideology and knowledge, the regime required the use of ideas and discourses that justified and naturalized the new model while introducing ideas of competition, labour flexibility, individualism and consumerism. These discourses eventually lead to the regulation and disciplining of desire and social action (p102-103).
In terms of power over bodies, Moulian argues that the authoritarian regime exercised power through the organized and systemic repression of ‘enemies of the state’ through practices more readily associated with practices of terror. This exercise of power is what Moulian associates with the imaginary of the abortion and that consisted in the systemic neutralization and elimination of a national project considered dangerous - a project that is irremediably associated with the bodies seen as responsible for its advancement and that requires the systemic elimination of those bodies. Terror required that bodies of victims, carefully identified as associated with a “soviet cancer”, be persecuted and eliminated not only to neutralize any potential danger, but also in order to constitute an exemplifying practice, a cautionary measure that brings the whole of the population into the disciplining project either through fear or complicity (Timerman 1987; Garcia 2000). Taylor (1997) observes in the Argentinean context that the exercise of terror requires the constant construction and reconstruction of the body which constitutes the battleground on which the revolutionary national project is carried out. The identification of “enemy bodies” – discursively constructed in the figure of the communist (Casanova 2001) – allows the regime to place bodies outside the protection of the law. They become rightless in an Arendtian sense, or homo sacer in an Agambian sense. It is morally acceptable and, as Moulian observes, a duty and an act of faith, to eliminate them\(^\text{14}\) (1997 p185).

The enemy body is rendered rightless through procedures designed to remove citizenship as well as through their systemic removal from, yet imposed symbolic reflection, in the public eye. In this way, the enemy body is not only removed and eliminated, but it as also a body talked about, and materialized in the anti-communist

\(^{14}\) Moulian states: “The Chilean dictatorship adopted the name of Christianity as a justification. It identified the fight against Marxism as a battle in the name of Christ and Occidental Christian civilization…the acts of terror were assumed to be, for those who carried them out, acts of faith” (p175)
discourse of the dictatorship. It becomes the subject of those discourses that construct the communist enemy as a lurking presence justifying the repressive practices of the regime. Citizenship is also removed through the inscription of bodies on lists of people who are required to give themselves up, or who are assigned to specific political organizations that are to be neutralized. Citizenship is removed through their unrecognized detention or kidnapping through which the body is made to legally and materially disappear from the public arena while being thrown temporarily or permanently into an indeterminate void (Timerman 1980). Bodies are also made devoid of rights through their execution without trial and without the benefit of existing international treaties. Bodies permanently disappeared this way remain eternally rightless for they are not even entitled to the documentary archiving of the death certificate, or to their legal materialization through habeas corpus. Disappearance recreates once again a duality of inscription and erasure for while the body is permanently removed, there are no tombs or markers of death that can complete the ritual. This again has the effect of becoming a cautionary tale for others. Yet, as Antonia Garcia observes, as cautionary tales they also remain present in the imagination, beyond the confines of detention centres, and the body (Garcia 2000 p89). Bodies are also rendered rightless through their arrest and confinement to concentration camps in which they can be subjected to reeducation to the point of death: a re-education that has the state and not the bodies as the objective (Moulian 1997 p185).

15 During the first days after the military coup, the regime publicized a number of lists with names of government officials, labor leaders and community activists who were required to turn themselves in for questioning, possible detention or house arrest. In the confusion of these first few days, many people named in those lists turned themselves in voluntarily. Many were executed and/or disappeared Winn, P. (2006). Introduction Victims of the Chilean Miracle: Workers and Neoliberalism in the Pinochet Era, 1973-2002. (P. Winn. Durham & London, Duke University Press. p.26.)
16 This is exemplified by the conditions to which former members of the Allende government were submitted at Isla Dawson where they were put into marches and forced labour and where the regime justified it practices in name of re-education. “Prisoners: you must forget what you were
Terror emerges in these practices as the capacity of the state to act on the bodies without having to recognize limits of any kind, without having to adhere to any regulations in the determination of punishment, and without having to account to anyone for its actions. Thus, terror is absolute and seemingly arbitrary. Yet terror is authorized by the previous or concurrent rendering of its subjected victims as rightless and by the complicity, either through fear or concurrence, of citizens that either wholeheartedly accept or participate, reluctantly tolerate, or silently and fearfully endure the practice of terror. This complicity is required and authorized by the systemic construction of terror as a necessary practice in the achievement of a national project (Moulian 1997 p22). In this way, the totalitarian practice of terror is not incidental, but rather constitutes a calculated act aimed at achieving calculated effects; effects that, as Olivier Le Cour Grandmaison (2000) argues, cannot and should not be reduced only to the effects of terror. As he contends, to reduce the understanding of totalitarianism to the immediate effect on the repression of bodies is to deny that these bodies and the practice of terror on them were essential elements of all encompassing practices of ruling for which the whole nation was the target.

This brings me to the second element of the abortion/birth analogy that Moulian associates with the terror. The practice of terror on the enemy body is not an end in itself, or at least not its ultimate goal. While the abortion of the socialist project requires the elimination of the bodies associated with it and, through this elimination, the disciplining of the whole of society, such elimination enables the birth of a neoliberal order and its subject. Terror constitutes an instrument for the negotiation of belonging which is mediated by the capacity to enact, advocate and justify practices of terror (Taussig 2004). But terror is also an instrument for the claiming of belonging associated

before”, stated one of the guards, “Chile does not need useless intellectuals like you. Chile needs soldiers and we will make soldiers out of you at any cost. Whoever does not understand that will be left by the side road” (cited in Moulian, p 185).
with the production of the subject that belongs. As a form of power that absolutely acts on the “enemy body” and systemically regulates what can be known, power allows for the production of new forms of knowledge and new subjects. The disciplinary actions of the state through the use of terror produce new forms of knowledge about not only the unwanted subject, but most importantly about the ideal national subject, the subject who could profess love to the homeland and who could justify the use of terror in order to secure and protect the nation and to articulate belonging. Within the context of this knowledge and its connection to expulsion and hate, a specific concept of nation becomes naturalized: a nation in which communism is the enemy and capitalism the salvation.

Understanding terror in this complex way means that the practice of terror escapes any attempt of rationalization along individualistic lines. Arendt (2006) argues and Moulian agrees that terror cannot simply be explained as a means to an end, or as the actions of particularly evil individuals. “The cruelty of the regime was impersonal”, argues Moulian, and “cannot be explained in terms of the psychopathic actions of individuals with sadistic tendencies” (p174). Individuals, continues Moulian, “carried their ordered tasks and followed the rules of the trade to which they were assigned” (p175). However, and here Moulian is extremely useful, terror in Chile served specific governmental purposes not only in terms of the reorganization of the state and the economy, but also in terms of its role in producing new subjectivities. As Taussig argues in the context of colonial practices of torture, terror constitutes not only moments of extinction but also of advance. It is ordinary conduct through which subjects make sense of themselves and their social environment, and through which they are incorporated into a complexity of ruling relations (p39). Razack adds, relying on Arendt, that terror provides a “moral universe” in which subjects come to know themselves as members of a community, a nation and a people (2004). As Suarez-Orozco (2007) argues in the
Argentinean context, the practice of terror was not only the organized process of eliminating the subversive leftist, but also the process of social reorganization guided by fantasies and delusions about what constituted disorganization, what was order and who could implement it. It is in this process that the civilizing mission of the regime reaches the “literalization” of the reorganizing fantasy through the practice of organized terror (p384).

In the context of Cold War governmentality in Chile, the imposition of neoliberalism required not only the systemic extermination of political enemies, but also the participation of local elites who found in Cold War anti-communist rhetoric a venue to deal with their class anxieties (Cardoso and Faletto 1979). The Cold War not only played into the fears of those elites, but effectively recruited them in the campaign to impose authoritarianism in the region (Brunner 1994; Kornbluh 2003; Haslam 2005). In this sense, terror was sustained by a multiplicity of relations of complicity that extended from the routines of everyday life in which denouncing one’s neighbour was part of the same practice as donating one’s wedding bands to the campaign for national economic reconstruction, privatizing the economy and promoting the unchecked enrichment of local and international elites. These practices rested on the separation of subjects into “us” – those who donated their jewelry; made or maintained their fortunes; were able to acquire the values and life styles promoted by the new economy, and denounced their neighbour in order to contribute to the elimination of dirty “upelientos” and “them” – those associated with a political project considered deviant and whose identification and elimination was necessary to the neo-liberal project.

Consequently, and here again Moulian makes a critical contribution, terror cannot be understood solely for its effects on individual bodies as part of a campaign to get rid

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17 *Upeliento* is a word derived from UP (the popular coalition of political parties that brought Allende to power) and it is used to derogatively refer to people assumed to have communist ideas.
of an unwanted section of the population. As part of an all-encompassing governmental project, terror is part of a system of power that reaches from the state to each and every member of society. Terror’s objective, he adds, is the achievement of an “absolute governmentality” that sustains and the same time is sustained by the complex strategies that brought about the structural, cultural and biopolitical transformation of the Chilean nation (p177). Terror ensures and guarantees the production and reproduction of a social order that, while apparently de-linked from the most repressive expressions of power as terror, cannot exist independently from terror (see also Brunner 1983; 1994; Moulian 1994).

In terms of the structural transformation of Chile, the military regime intervened in all aspects of public and private life from the economy to the private realm of the family and individual desire, systematically applying the economic and social policies outlined in the loan conditions of the IMF and the World Bank. The health system was reorganized to create a two-tiered model that effectively inserted health into the market economy (Labra 2002). The authoritarian regime took over educational institutions, students and teachers were expelled, books burned, academic departments closed, at the same time that the educational system was also restructured to create a two-tier system that imposed a neoliberal system of fee-for-service and that submitted education to a market economy (Monckeberg 2005; Smith 2008)\textsuperscript{18}. Labour laws were passed eliminating unions and collective agreements, and effectively instituting the concept of labour flexibility as an organizing principle and as a condition of Chile’s new capitalism

\textsuperscript{18} In the months following the military coup, universities and schools were taken over; thousands of students and academics were expelled and many of them were subject to arrest and disappearance. The head of all major educational institutions were replaced by members of the Armed Forces, academic subjects were systematically excluded from the curriculum, books were burnt, etc. Eventually the system of public education was systemically dismantled creating an semi-private education system under the control of the market.
A new constitution was created which reorganized political life and dictated the conditions for the eventual transition to democracy (Thayer 1996).

These larger structural changes went hand in hand with state intervention into the private life of Chileans through the dissemination of ideas about child rearing, and the reinforcement of gender roles through ideological apparatuses and institutions such as CEMA-Chile and the Mother's centres (Jaquette 1994). The body came under regulation not only with the control of reproduction through the criminalization of abortion\(^\text{19}\) but also through sexual education, the distribution of gender roles, and the violent submission of bodies to dress and grooming codes. Furthermore, the authoritarian regime implemented economic disciplinary practices through which class was reinforced by carefully regulated labor relations and the promotion of consumer practices, which ultimately produced the consumer citizen that Moulian is concerned with.

These structural changes required the deployment of what Moulian calls *ideas fuerza* – notions and ideas with the power to define reality - that sustained an ideological reorientation of the nation and that required the enunciation of certain ideas and the renunciation of others. These ideas produced systems for the distribution of a specific social theory based on power-knowledge that annuls and denies other ideological systems changing them into non-knowledge (p196). The anti-communist sentiments of local political elites and the reinforcement of these sentiments through the economic, military and political support of international superpowers worked to construct the ideological project of the Allende government and its centring on the proletariat not only as an ‘evil’ ideology, but most importantly as knowledge that did not count. In this manner, the regime naturalized a new hegemonic discourse, constituted as knowledge

\(^\text{19}\) The Health Code of 1967 formally legalized abortion, but only when it was necessary to save the woman's life. The measure was reversed in 1989 by Pinochet, making abortion illegal in all circumstances. This law is still in effect.
and truth. This discourse did not only vilified the ideas and ideologies of the Allende government, but also installed in people's minds the idea that the military regime would bring about a “national reconstruction” that would finally achieve development. This discourse was based on the notion that the most “natural” process to achieve this development was through the unobstructed transactions of the market: notions that acquired the character of science during the regime and became the backbone of the transformation of Chile (Moulian 1997 p88).

Simultaneously these discourses were transformed into practice through the work of an organized liberal intellectual social group that, while actively working within the dictatorship, remained safely separated from practices of terror (Valdes 1989). Young intellectuals educated in the Chicago School of Economics brought to Chile the ideas of Milton Friedman, as well as Friedman himself who met with Pinochet and pitched to him the idea that only an extreme form of neoliberalism would cure Chile of its underdevelopment (Winn 2006 p27). These students of Friedman became the technocrats and architects of what has become known as the “Chilean economic miracle”.

The “Chicago Boys” restructured the economy through the systemic production of a “naturalized” understanding of the market as a superstructure disconnected from any political ideology; naturally occurring as a massive number of individuals, who are also understood as ‘naturally’ de-linked from collectivities and social class, make ‘free’ decisions that the state can observe but not influence (Gongora 1994; Thayer 1996; Thayer 2001). As Moulian continues, the military regime installed the ideas that the market is the only natural space that can efficiently distribute resources (p202); a natural state that interestingly needs to be installed through “unnatural” means by the careful internalization of an economic model emerging from the Chicago School of Economics, and through the disciplining practice of terror (Moulian and Vergara 1980). This
economic restructuring reaches individual subjects, argues Moulian, through the systemic linkage of individuals’ desires to the economy and through things like credit and flexible labour that offers people access to the goods that bring them into modernity while tying them to the ups and downs of the market (p100). The capacity to acquire goods, continues Moulian, “operated as a decisive factor in the construction of subjectivity” and in the submission of subjects to specific social relations (p99). The new Chilean subject is a consumer subject that independently and without the mediation or protection of unions or a social network approaches the market to satisfy his/her needs (p101).

The re-structuring of Chilean society, argues Thayer (2001) building on Moulian, is not only meant to eliminate and counteract the effects of Allende’s utopian revolution, neither is it meant to simply consolidate Pinochet as head of state or to perpetuate the authoritarian regime. In fact, the reorganization of Chilean society has as an objective the eventual end of that regime, but under conditions that would ensure the continuation of its governmental project. In order for Chile to truly become the model of neoliberalism in the South, adds Moulian, the authoritarian regime needed to create, through the governmental project I have discussed, the conditions for a controlled democratic transition that would project the model into the future (p34). The eventual transition becomes, thus, a simple esthetic change, disguised as the rational acceptance of consensus and of a new conception of state in which politics no longer mean the search for alternatives, but the simple administration of the model (Offe 1991).

In sum, terror in the authoritarian regime was not a side effect, but a fundamental component of the productive project of the regime; and, as a result, the violence was not an excess of power on the part of agents of the regime – an argument predominant in human rights discourses in the post-authoritarian period - but a calculated act and a necessary instrument of the regime, as well as an integral element of the civilizing
project of the regime. Roberto Garretón argued during the HRDT debates, that violence during the regime was systemic:

It required the creation of a state structure designed to impose a political, economic, social, cultural and moral system that is foreign to the population. Thus, it is essential to eliminate through exile, imprisonment, censorship, death and torture those who dissent (Garretón 1999).

Terror constituted in Chile a systemic and bureaucratic practice, organized along systematized networks of organizations, detention/extermination centres, procedures, budget lines, legal instruments, hiring practices, training facilities and personnel. It was organized, administered and captured in files and folders. It required trained personnel who were taught the best methods to inflict the maximum amount of pain. It required special equipment such as torture machines, cars, trucks, helicopters and ships. It was also economically organized in payroll and personnel files through which the workers of terror collected salaries and commendations. The pay of terror fed families and stimulated the economy. Terror taught all of us who were involved in it, as victims, victimizers, witnesses, or simple citizens who we were and where we belonged. Furthermore, terror facilitated a transformation through which new mentalities and new subjectivities became possible not only through fantasies of superiority and inferiority, but also through modernity, consumer-subject discourses and development. Terror facilitated a revolutionary transformation of society in which a new rationality became the norm: a rationality that produced a new citizen, a self-regulating individual whose desires, as Moulian observes, are satisfied in the competitive realm of the market (p18). This new Chilean subject became linked to multiple and extra-national networks of relations of power and complicity that also implicate the North in the condition of the South, and that are an integral part of the neo-liberalization of Chile. Finally, as a project, neo-liberalism projected itself into the future: it created the rules and guidelines that
made the transition to democracy possible, and as governmental rationality, it continues to regulate how we understand and know terror.

**Why follow the pawprints of terror?**

During a panel presentation at a recent and very prestigious international conference in Santiago, a distinguished Chilean scholar and someone I refer to regularly in this thesis, stated that “the human rights issue in Chile is dead”. My first reaction was to ask myself, when did it die? How did it die, was it a long death, or a sudden one? And why did I not find out? The statement made me remember the first time I met Viviana Diaz, the President of the Association of the Detained Disappeared, during my first visit to the Association’s house in Santiago in 2003. She was rushing from a hospital visit with one of the members of the association and appeared upset. She said that in addition to the extensive work the association was doing trying to get the state to respond to their demands, push legal cases, lobby parliament, etc., they were also dealing with a rapidly aging membership. The mothers, wives and daughters of the disappeared were dying. Perhaps she wondered if the human rights struggle would die with their members. Thinking about the rest of us who lost family or friends, suffered torture or exile, I wondered if for us too the human rights issue is dead or dying. Perhaps the human rights issue is dying with the last generations of people who lived through the dictatorship. Perhaps it dies when due to a need to spare our children the knowledge of terror, or to protect our own dignity, we maintain and reproduce the secret of terror. When asked to clarify, the scholar at this panel argued that the issue was dead because the state had dealt, in one way or another, with all the pending issues concerning the legacies of the regime: cases were being investigated in the courts and members of the Armed Forces had been tried and sentenced; the issue of torture had been acknowledged; people were getting pensions; and exiles had been given assistance to
return to the country. Further, the Armed Forces had come “on board” and recognized that human rights had been violated. “In Chile”, he continued, “the state has done all it can to resolve human rights issues”. This scholar’s argument is not unique; most politicians I interviewed for this study argued that the Chilean state has done a lot more than many other Latin American countries in matters of human rights. Furthermore, many observed that, contrary to the Argentinean case, no *punto final* policies or laws of due obedience had been instituted in Chile; Chile had let cases run their course.

As I discuss in more detail throughout this thesis, academics in the social sciences in Chile, even those who are located at opposite ends in the political spectrum, generally agree on what they consider is the underlying cause of the problem with human rights demands: the negotiated character of the transition. The “authoritarian enclaves” left by the negotiations are considered, by some of these academics, to restrict the chances to more fully achieve justice in human rights cases (for example, Bengoa 1994; Flisfisch 1994; Ruiz 2000), while for others, they make the democratic transition more a technical procedure than a true political transformation (Ruiz 1993; Ruiz 2000; Richard 2001). These academics tend to find a willing audience in international circles in which the problems with human rights in Chile and Latin America are evaluated in terms of the capacity of the state to account for human rights demands, strengthen democratic institutions, or implement more complete systems of justice (for example, O’Donnell and Whitehead 1986; Ensalaco 1994; Pion-Berlin 1994; Ardiles 2003; Sikkink and Wallin 2007). This is also a position commonly taken by international human rights NGOs who impose on the South normative languages of human rights connected to liberal concepts of democracy (Brody 2001). Underlying these international positions is the problematic assumption that if Latin America could just perfect its

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20 *Ley de Punto final* can be roughly translated as Full Stop Law. It imposed an end to all investigations concerning cases of human rights violation in Argentina. The law was passed in 1986 and voided in 2005.
democracy, human rights could be more fully achieved, reinforcing the imperialist idea, observed by authors such as Razack (2004) and Zizek (2005), that the South is a place of terrible violence and imperfect democracy which requires that the North teaches them a lesson on how to do it, albeit sometimes a violent one.

For other scholars, especially in the field of cultural studies, the “democracy of agreements” has caused social amnesia in which a politics of forgetting has been instituted, and a language of consensus has been imposed as part of the regulated and controlled process of democratization (for example, Elgueta 2000; Jocelyn-Holt 2000). In these arguments, the climate of consensus has attempted to smooth out historical ideological differences, political struggles, and state violence creating a social and political climate in which members of the regime have been allowed to become democrats (Richard 1994; Moulian 1997; Beasley-Murray 2001). Consensus has impeded the achievement of more complete systems of human rights and more complete practices of memory. This, in turn, is a critique also made of other democratization processes such as in South Africa, Argentina, Guatemala and El Salvador, in which the politics of reconciliation are blamed for a lack of recognition of the unprecedented effect of systemic violence on victims and on society (Taylor 1997; Du Toit 1999; Duvenage 1999; Lund 2003; Martinez Salazar 2008).

Some very valuable critiques emerge from this field of cultural studies, from which I draw considerably in this thesis, and which are greatly influenced by Moulian’s work. Some of these critiques consider the larger issues impacting on the politics of consensus and move beyond blaming the political negotiations of the transition for the social amnesia affecting post-authoritarian society. Some authors suggest that the impossibility to fully deal with the past has to do with the fact that this is a transition, not towards democracy, but towards neo-liberalism: a transition that takes place within an authoritarian regime and that requires democracy as a formality to complete the
transformation process (for example, Thayer 1996; Levinson 2001; Thayer 2001). As a formality, the democratic transition is not a radical change, but a "reverberant movement" that does not advance or change; rather, it maintains a continuity of transformation (Villalobos-Ruminott 2001 p79). They also suggest that the process of democratization has resulted in an interrupted process of mourning in which the memory of the past continues to haunt the present. The solution, for these authors, is to move beyond official sites of memory, such as reports and monuments, to "residual sites of memory" such as testimonials, artistic expressions and even contesting academic writing in order to promote critical practices of memory (Richard 2001).

Cultural critics offer a valuable framework to ask the questions concerning the supposed “death of the human rights issue” in Chile. While it is evident that not only the Chilean state, but most post-authoritarian states constantly try to make the issue of past terror go away, the argument that the democratic transition is no more than part of a continuous transformation allows us to see how attempts to kill the human rights issue places the post-authoritarian nation and its subjects in complicity with the authoritarian regime. In this way, we can begin to interrogate how the death of the human rights issue completes, or at least constitutes an important step in the transformation to neoliberalism. However, cultural critics have not fully explored how the state achieves the death of human rights through human rights policy. Indeed, critiques of the democratic transition tend to easily turn to human rights discourses when confronted with the unmet demands of victims. Even victims and activists cannot resist articulating their demands in a language of human rights in which state injustice is perceived as a failure to recognize their inherited human condition21. Activists generally call on human rights discourses as

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21 This is a position commonly represented by some of the most critical human rights advocacy groups in Chile such as CODEPU (Coalition for the Promotion and Defense of the Rights of the People)
instruments to formulate their critiques of the post-authoritarian nation, reinforcing the idea that Chile’s democracy is, in fact, imperfect.

These critiques rarely question the supremacy of human rights in determining how we understand notions of justice, violence, state, the individual, etc. Furthermore, while the democratic transition is commonly criticized for maintaining the economic model of the authoritarian regime, arguing that such a model is antithetical to human rights and that it constitutes an obstacle for the true achievement of human rights, the question of how the human rights regime helps to reproduce this model is rarely explored. Perhaps the human rights regime converges rather than opposes the governmental project of neoliberalism. Perhaps the human rights regime in Chile reproduces, as Agamben proposes, the capture of life in the grip of state power a way that is more in tune rather than contrary to the governmental project of the authoritarian regime. I begin with the premise that what Chile does with the bodies of victims and with terror stories is possible precisely because the human rights regime is at work in Chile, and not because human rights are absent or imperfect. It is within the constraints of the regime of human rights that national subjects can construct a national truth that justifies the violence and dehumanization re-inflicted on victims. This argument is possible thanks to more recent interrogations of human rights as a regime, specifically emerging in Northern academic circles and in relation to current struggles relating to the War on Terror. Agamben’s work is among these, but also among these is the critical work on the role of violence in the construction of the new world order and in the making of imperial subjectivity (Agamben 1998; Grewal 1999; Zizek 2005; Razack 2008). These interrogations of the idea of human rights allow me to mount at this historical time a critique of the Chilean post-authoritarian nation that was not possible ten years ago. While the work of authors such as Arendt questioned the idea of the human in human rights as early as the end the Second World War, it was not been until Arendt was taken
up in the context of current political conjunctures that a more concrete field of critical studies of human rights emerged.

Therefore, my study attempts to mount an interrogation of the Chilean case in the narrow space that exists between a critique that Chile has failed to fully account for past terror and the common proposal that a solution to this failure is the achievement of fuller expression of human rights. Whenever possible, I have attempted to stop at the place where other scholars turn to human rights when confronted with what nations do with their legacies of violence, in order to ask how the human rights regime accomplishes what is done to bodies in the name of human rights. This interrogation is not meant to suggest that we should do away with human rights all together. Rather, I am more concerned with exploring what the human rights regime makes possible and what it restricts. Only though this understanding we can figure out how to critically use human rights to achieve different governmental effects. I have felt a need to remain rather close to this question of how, and as a result my study is concerned with demonstrating what human rights discourses accomplish in the quotidian and commonplace space of documents and debates. There is a scarcity of studies of political debates in Chile even though what politicians say is a common subject of critique. However, such critique usually pays excessive attention to political affiliations and not enough attention to what Razack identifies as the process by which national subjects, independent of their political affiliations, contribute to a collective process of story telling that allows them to imagine themselves as part of a nation, at the same time that they sustain nation-building in the process through which they discursively dehumanize others (Razack 2000). I believe I can make a small contribution to a critique of how human rights work in Chile by showing how subjects attempt to dispose of the issue of human rights in the day-to-day practices of political discourse.
Additionally, we seem to be at the start of a new generation of human rights debates concerning past injustices and past terror. Canada is in the process of mounting a Truth and Reconciliation Commission to deal with the legacies of the residential school system and its effects on aboriginal communities. Australia has also attempted a similar process through a Royal Commissions to investigate the death of aboriginal people in custody. Both countries have also issued official apologies in a similar manner that Chile did at the end of the authoritarian regime. The rhetoric of “never again” seems to be reemerging. Tracing what takes place as nations attempt to account for stories of systemic violence, genocide, historical injustices, etc. through the work of commissions seems like a critical and relevant project at this time. In this, Chile can offer a cautionary tale to those communities that see in these initiatives an opportunity to obtain recognition for past injustice and negotiate national belonging.

In personal terms, this study is extremely important. As a Chilean who grew up and became politically and socially conscious in one of the poorest areas of Santiago during the years of the authoritarian regime, it is critical for me to stress that terror in Chile was not an incidental or isolated event; not was it the work of an aberrant and savage Third World dictator. Terror brought us all into a brutal governmental regime in which all aspects of our lives where submitted to discipline in order to, as Moulian so eloquently demonstrates, bring Chile into the fold of a transnational neo-liberal world order. The Chile that went into the authoritarian regime was not the same one that came out and neither were all of us who lived and survived the regime. For those who did not survive, it is critical to acknowledge that their deaths were not the actions of soldiers who committed excesses; their deaths were calculated actions that sustained the transformation of Chile, the enrichment of the elites, and of the transnational corporations that now claim Chile as a place of business. These deaths in many ways also sustained our own survival. Yet as a Chilean who now lives in Canada, I am aware
of the dangers of my social location. I have traveled across the line that separates the North and the South and I have brought stories along. In places like Canada that pride themselves in saving refugees, these stories are commonly associated with a brutal regime in which human beings were killed and tortured for some unspecified reason that has nothing to do with Canada, but that Canada can cure through humanitarian work. We, refugees, are many times required to adjust our stories to that narrative. In this context, my study may produce insecurity for I am attempting to dismantle that idea that through human rights and humanitarianism we can protect human dignity.

On the other hand, as an exile, I am also aware that my critique is tainted by my location as an academic in the North. Friends and families constantly remind me that this social location would not have been possible without the authoritarian regime, and that my life has been made considerably better in material terms through exile. In the process of collecting the data, I was regularly reminded by those who I interviewed that as an exile I was not up to date with the struggles confronting the democratic transition and that my condition as an exile perhaps clouded my judgment and objectivity. Someone even called me in no uncertain terms an ingrate for apparently questioning and dismissing the important advances made in Chilean human rights policy. My location in the North requires acknowledgement; for my critique is located in the hazardous trade route between North and South in which resources, labour and materials are traded, but also stories and knowledge. I have tried as much as possible not to trade with the horror stories of victims. I have purposely excluded from my data the testimonies of violence shared with me by the people I interviewed. Unfortunately, it has not always been possible to eliminate terror stories, for it is intrinsic to any research that deals with painful stories, to have to materialize them in some way in writing. When I have been forced to illustrate with examples, as is the case with my discussion of the torture commission, I have used testimonial excerpts reproduced in the reports,
acknowledging that this is not an unproblematic decision. I include these stories with reluctance and ambivalence.
Data collection

The data for this thesis was collected during a 2-year doctoral fellowship in Chile and was carried out through the use of two methods of data collection. Firstly, I conducted archival research on public records of human rights debates, and secondly, I conducted 18 interviews with relevant informants in the field of human rights. Prior to formally collecting the data, I engaged in informal discussions with Chileans in Chile and in Canada about their thoughts concerning human rights policies and the human rights problematic since the end of the authoritarian regime. I also did a wide search of documents such as newspapers and magazine articles in order to construct a first impression that could guide the later data collection process. These preliminary discussions provided directions in terms of the kinds of question that could be asked of the data. Informants commonly commented on the negative and positive effects of human rights policies, how these policies dealt or not with human rights concerns, and how they felt about the way the state had responded to larger issues such as the finding of the detained disappeared\(^1\). Also, specific concepts such as “national truth”, “reconciliation” and “human rights violations” were commonly used to qualify opinions about human rights policies in Chile. This led to the articulation of two sets of questions that guided the data collection and analysis: what has the state done in matters of human rights? And, how have human rights policies reinforced specific ideas of human rights, nation and subjectivity?

\(^1\) At the time I started the research process the state had not yet created the Valech Commission on Torture.
Once these questions were clarified, I began the simultaneous process of archival research and interviews. The collection of archival material included records of parliamentary sessions in the Chilean Senate and the Chamber of Deputies concerning legislative projects surrounding the major events in the history of human rights in Chile; records of public speeches by official figures in the three governments between 1990 and 2004, including annual presidential State of the Nation speeches; speeches by other relevant government figures such as Ministers of the Interior, members of the two human rights commissions discussed in this thesis; members of the Human Rights Discussion Table; and representatives of human rights groups in Chile. I also collected records of speeches by members of the opposition and news reports concerning the four periods covered in this thesis, and relevant scholarly work dealing with Chilean human rights debates, the commissions and the human rights situation. Finally, I collected archival records of official documentation and committee submission by government officials and activists, as well as documents publicized by human rights organizations.

In terms of legislative debates, the data was quite extensive because human rights constitute one of the most debated issues in Chilean politics. Until the time I finished the data collection, there had been 31 legislative projects entered into Parliamentary records (see figure 1). Some of these had been debated and either passed or failed; some had sat in Parliament awaiting debate for as long as ten years (as is the case with the project to include human rights issues in the education curriculum); some were still in process; and some had been entered, debated and approved in as short a time as 24 hours. The number of parliamentary records posed an interesting challenge because the amount of data collected was massive and proved hard to manage. I dealt with this challenge by adhering to Elbe’s (2002) concept of genealogy as critically episodical. Thus, in choosing four major themes in the history of human rights debates, I also chose to sample parliamentary records limiting my
analytical scope to parliamentary debates, speeches, news media, etc. occurring around the time or as a result of the major themes. In terms of parliamentary debates, for instance, I focused my analysis on those debates surrounding compensatory legislation proposed by the Rettig Commission, the secrecy legislation that followed the Human Rights Discussion Table, and the compensatory legislation following the release of the Valech Torture Report (these legislations are listed in bold in figure 1).

**Figure 1: Summary of Law projects entered in Chilean Parliament**

<table>
<thead>
<tr>
<th>No Bol.</th>
<th>Year</th>
<th>Month</th>
<th>Name Project</th>
<th>Date in</th>
<th>Date Out</th>
<th>Approved</th>
<th>Law Number</th>
<th>Date Publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>29-07</td>
<td>1990</td>
<td>April</td>
<td>Crea Oficina del Retorno</td>
<td>Apr-90</td>
<td>Aug-90</td>
<td>Yes</td>
<td>18.994</td>
<td>August 1990</td>
</tr>
<tr>
<td>63-10</td>
<td>1990</td>
<td>August</td>
<td>Convención Americana Sobre Derechos Humanos</td>
<td>May-90</td>
<td>Aug-90</td>
<td>Yes</td>
<td>DS 873</td>
<td>August 1990</td>
</tr>
<tr>
<td>326-04</td>
<td>1991</td>
<td>April</td>
<td>Crea Monumento DDHH en Santiago</td>
<td>Apr-91</td>
<td>Sep-02</td>
<td>no</td>
<td></td>
<td></td>
</tr>
<tr>
<td>654-07</td>
<td>1992</td>
<td>August</td>
<td>Interpreta Ley de Amnistía</td>
<td>Aug-92</td>
<td>May-01</td>
<td>no</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1057-07</td>
<td>1993</td>
<td>August</td>
<td>Designación Ministros</td>
<td>Aug-93</td>
<td>Jul-94</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1575-10</td>
<td>1995</td>
<td>May</td>
<td>Convención Interamericana sobre Desaparición Forzada</td>
<td>May-95</td>
<td>Sep-03</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1628-17</td>
<td>1995</td>
<td>June</td>
<td>Instituye Día del DD</td>
<td>Jun-95</td>
<td>Jun-02</td>
<td>No</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1657-07</td>
<td>1995</td>
<td>July</td>
<td>Dicta Normas Ley de Amnistía</td>
<td>Jul-95</td>
<td>Jun-01</td>
<td>No</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
In addition to archival research, this study includes eighteen interviews with expert informants in Chile. The participants include members of the Chilean government, including one former Head of State; Minister and Under-Secretary of the Interior as the ministry in charge of state human rights programs; members of the Chilean Senate and Chamber of Deputies; a former Minister of Defence; the Executive Secretaries of the Rettig and Valech Commissions; members of both Commissions; a member of the
Human Rights Discussion Table; and activists from major human rights organizations. 50% of the informants are women; out of these, 5 are activists and members of human rights organizations (see figure 2 for details of interviewees). The archival research and the interview processes became mutually sustaining activities in the sense that the interview process informed and guided archival research at the same time that archival material informed questions and the analysis of interviews. In this way, the data gathering processes incorporated intertextual and interdiscursive strategies in the gathering, organization, what Foucault calls eventalization, and, as I discuss below, analysis of the data. For instance, several times interviews highlighted specific events, moments or actors in legislative debate that were not easily identifiable in the extensive amount of archival data. In these cases, the interview process guided the identification of documents or records for analysis. On the other hand, archival data regularly informed clarification questions and provided a context to understand the answers provided by informants. Furthermore, concepts such as “national truth” and “national reconciliation” that abound in the archival research provided a context to trace the appropriation and/or challenge human rights discourse and their influences in the process of subjected formation.

Figure 2: Interviewees

<table>
<thead>
<tr>
<th>Interviews</th>
<th>18</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Officials:</td>
<td></td>
</tr>
<tr>
<td>Former President of Chile</td>
<td>5</td>
</tr>
<tr>
<td>Under-Secretary of the Interior and former member of the Rettig Commission</td>
<td></td>
</tr>
<tr>
<td>Former Minister of Defense and Member of the Human Rights Discussion Table</td>
<td></td>
</tr>
<tr>
<td>2 officials from Human Rights Program, Ministry of the Interior, Chile</td>
<td></td>
</tr>
<tr>
<td>Members of Parliament:</td>
<td></td>
</tr>
<tr>
<td>Senators:</td>
<td>2</td>
</tr>
<tr>
<td>Member of the Human Rights Commission of the Senate: 1</td>
<td></td>
</tr>
<tr>
<td>Other Senators: 1</td>
<td></td>
</tr>
<tr>
<td>Deputies:</td>
<td>3</td>
</tr>
<tr>
<td>President of the Human Rights Parliamentary Commission: 1</td>
<td></td>
</tr>
<tr>
<td>Former President of the Chamber of Deputies: 1</td>
<td></td>
</tr>
<tr>
<td>Other Deputies: 1</td>
<td></td>
</tr>
<tr>
<td>Members of Rettig and Valech Commissions:</td>
<td>3</td>
</tr>
</tbody>
</table>
Interviews with the participants were arranged through personal contacts during the two years that the data collection lasted. Interviews lasted between a half hour and two hours and followed an unstructured approach. One interview was conducted over the phone, one interview was conducted in Toronto and the rest took place in Chile. A set of open-ended questions was sent to potential interviewees ahead of time. These questions were divided into two main areas of discussion (see figure 3). One area had to do with the most important accomplishment and/or failures in matters of human rights since the end of the authoritarian regime. This included issues such as critical historical moments and actors, forces at play in human rights debates, and solutions provided in human rights policy. The other area included questions of opinion and evaluation in terms of how human rights policies have advanced or hindered national truth, justice, reconciliation and national identity. Informants were also asked to comment on how human rights debates have answered human rights demands posed by victims, survivors and human rights organizations. These questions were meant to guide discussion during the interview; however, interviewees were allowed to expand on the areas they considered most relevant and to take the interview in different directions if they so wished. For example, President Patricio Aylwin used the list of questions to guide his conversation with me in a manner that required little prompting. He basically spoke for 2 hours about what he thought were the most important accomplishment of his government’s human rights strategies. In a few cases, informants took the opportunity to
identify critical issues they thought required more extended discussion. This meant that their interview developed in a different direction from the others and did not follow the list of questions presented. For example, a member of the Senate, a senator from the right, considered it important to speak about what his party had specifically done in matters of human rights and what he thought were the “unrealistic expectations” of victims, survivors and academics.

Figure 3: Interview questions

<table>
<thead>
<tr>
<th>I. Areas of accomplishments or failures in human rights debates and human rights policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. What are the most important or significant moments in the history of human rights debates since the end of the authoritarian regime? (For example, commissions, symbolic moments or legislation)</td>
</tr>
<tr>
<td>a. What makes these moments significant?</td>
</tr>
<tr>
<td>2. Who have been the most important actors in these debates?</td>
</tr>
<tr>
<td>a. Why are these actors significant?</td>
</tr>
<tr>
<td>b. How did they contribute to advance or hinder human rights debates? (For example, the role of the military, the opposition, human rights organizations and activists)</td>
</tr>
<tr>
<td>3. What kind of political or social forces have made possible or hindered these developments? (For example, the conditions of transitional negotiations)</td>
</tr>
<tr>
<td>a. Why have these forces advance or hinder human rights debates?</td>
</tr>
<tr>
<td>4. What kind of solutions has the state provided in areas of human rights? (For example, compensations programs, judicial investigations, symbolic measures)</td>
</tr>
<tr>
<td>a. How do these solutions hinder or contribute to resolve the human rights issues legated by the authoritarian regime?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>II. Evaluation of accomplishments in human rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. How have the moments identified above advanced or hindered the development of national truth about human rights violations?</td>
</tr>
<tr>
<td>2. How have these moments advanced or hindered processes of democratization or reconciliation?</td>
</tr>
<tr>
<td>3. How have these moments contributed to the development of national identity?</td>
</tr>
<tr>
<td>a. Why is it important for Chile to deal with human rights legacies?</td>
</tr>
<tr>
<td>4. How have victims, survivors and activists figured in human rights debates?</td>
</tr>
<tr>
<td>a. Have human rights demands been met?</td>
</tr>
<tr>
<td>b. Do you think that human rights policies have satisfied the demands of victims, survivors and human rights organizations?</td>
</tr>
<tr>
<td>5. Are you satisfied with the accomplishments of human rights debates?</td>
</tr>
<tr>
<td>a. What remains to be done?</td>
</tr>
</tbody>
</table>

I describe the interview process as one of snowballing in which one interview would give way to other interviews depending on who the person interviewed knew and whether that person could facilitate contacts with other government officials and critical
informants. This process proved laborious because within the context of Chilean society, I had to rely heavily on personal introductions through common acquaintances in order to contact potential informants. Those initial contacts are usually made through class or professional connections in Chilean society, and maintained through family connections and social recognition. Since my background is working class and I do not play a professional role in Chile’s human rights, I did not easily have access to connections that could facilitate introductions with critically located informants.

In my case, access to the political class in which many of these informants were located happened by sheer chance. After unsuccessfully trying to contact a few government officials during my first few months in Chile, I went to an academic bookstore in Santiago to buy some books. I was looking specifically for an out-of-print collection of President Aylwin’s speeches. While I was browsing through some books an elderly man approached me and asks me if, in my condition as an apparently educated woman (his words more or less), I could recommend one of the two books he was holding in his hands for his wife. I looked up and realized that the man speaking to me was in fact the first transitional President Patricio Aylwin. We had a short conversation about my choice of books (I actually recommended something else for his wife) and then I briefly explained the reason for my presence in Chile and my request for an interview. He agreed to speak to me and share some of the books and documents in his personal collection. I conducted this interview a few weeks later and after a two-hour conversation I asked if he could put me in touch with other politicians and political actors. He agreed to make some phone calls on my behalf which he immediately did. As a result of this fortuitous event and thanks to President Aylwin’s connections (I doubt anyone he called would have denied his request), I was able to move through a chain of political connections both within and outside the government: connections that extended beyond
political affiliations and included people at opposite extremes of the Chilean political spectrum.

**Discourse analysis and Foucault**

The analysis of the data is guided by the central questions that concern me in this study: 1) how human rights discourses render stories of terror intelligible and knowable through discourses concerning “national truth”; and 2) how “national truth” allows political subjects to understand themselves and the nation, and to propose specific state practices. In conjunction, these two questions allow me to trace the biopolitical effect of human rights discourses in Chile and their role in capturing life in the sphere of state power. I begin with the assumption that these biopolitical effects can be traced in the discursive practices surrounding human rights debates and in the official documents, speeches, interviews and reports that engage with this debate.

The research data encompasses a wide variety of records and examples of political discourse; it also includes a wide variety of genres such as reports issued by Truth Commissions, parliamentary debates, academic literature, news reports, and interviews. As genres, these records constitute distinctive types of text and discursive practices that are situated within specific fields of activity (Reisigl and Wodak 2001 cited in; Haque 2005). However, they can be read against, juxtaposed and in conjuncture with, each other as interconnected manifestations of discourse and of the power struggles that give meaning to specific concepts of truth. Thus, it is assumed that different genres inform and mutually sustain each other in ways that illuminate the central research question.

At the same time, recognition is given to the differentiated locations of these examples of discourse in power relations, the different fields of action in which they exist,
and their location within the history of the democratic transition. For example, the reports issued by commissions and the HRDT constitute expressions of sovereign power even when their production is the result of contested processes; they are prime examples of normative discourses. They are widely distributed and read and, in that way, they have an effect on the constitution and inscription of official history and on the formation of subjectivity that other forms of discourse may not have. Reports also inform each other across history building on previous reports in ways that at times require little formal or explicit recognition. Academic literature and new reports reflect the process by which such truth is inscribed in national discourse and distributed throughout the body politic. Parliamentary debates, on their part, constitute examples of the role of the state in exercising political power in ways that require the truth put forward by commissions in order to articulate specific policies, at the same time that they can disrupt and contest such truth. Finally, interviews and parliamentary debates, offer a glimpse on the processes by which subjects adopt and appropriate, or challenge and disrupt the official truth.

Interviews, specifically, have particular temporal relations to the rest of the data because informants commonly reflect on events after their occurrence, modifying and reinterpreting those events in context with current conditions and in ways that allow them to conceptualize and re-conceptualize their own subjectivity. Interviews can be located in the field of historical memory, which Elgueta (2000) defines in the Chilean context as a complex relationship between past and present in which the past is not only a time in history, but also “actuality that manifests itself as memory” (p33). As such, practices of memory, as Lilja (2008) argues in the context of politics of memory in Cambodia, have effects on the present through the social processes, factors and dominant discourses that influence memory, and through the effects that such acts of remembrance have for claims of political legitimacy (p74). The relationship between practices of memory and
subjectivity is dialectical because, for example, “national truth” produced through truth commissions, provides discourses to subjects through which they can claim belonging, at the same time that their claims allow them to re-inscribe “national truth” in public discourse. In other words, interviews allow us to trace the manner in which, as Hall (1997) suggests, discourse produces subjects that have the power to speak within discourse and to assert its effects.

My analysis of interviews does not attempt to record how different subjects remember the past\(^2\). Rather, I build on Elgueta and Lilja’s arguments and trace how claims of political legitimacy and national belonging influence and are influenced by practices of memory. Additionally, I trace in interviews, and to some extend in parliamentary debates — as Razack (2000) suggests building on Said — how individuals participate in discourse, collectively constructing through the exercise of the power to narrate or to block narrative, a national story within which they can understand themselves as part of a community (p182). Furthermore, I trace in interviews processes of resistance, understood by Foucault as the process by which discourse can be a “hindrance”, a “stumbling-block” and “a starting point for an opposing strategy” that can allow individuals to find within power relations a space to resist the negative effects of governmentality (1990 p101). This is particularly relevant when considering interviews with human rights activists that critique and reject official human rights discourses at the same time that they adopt human rights discourse to frame their demands.

Interviews pose specific kinds of challenges: due to their nature as “contextually based” and “mutually accomplished” relationships, interviews implicate the researcher in  

more explicit ways than other forms of research (Fontana and Frey 2005 p714). At the same time that the data obtained through interviews is produced through collaboration, the responses provided by informants can always be influenced by the role, intentions and agendas that the researcher may have, or may be perceived to have. For instance, responses given by some informants in this research may have been influenced by their perception of my location as an exile. These perceptions may result in assumptions made about the influence of my location on my political perspectives in relation to historical struggles in Chile, my opinion about human rights issues, and my current residency in the First World. Responses may very well have been influenced by what these informants believed I expected to hear, or by what they thought I should know. Human rights activists may have perceived that, as an exile, I would be sympathetic of their human rights claims, or uninformed of their struggles. Political actors may have perceived me, in spite of my efforts to appear impartial, as overly critical, or unfairly biased as a person affected by the repressive practices of the regime. While my personal history and my subject location obviously influence all aspects of this research, this influence should in no way be perceived as casting doubt on the veracity or sincerity of the information collected in the research in general and in the interviews in particular. As a part of a Foucauldian research methodology, the interviews are not scrutinized for truth; rather they are seen as expressions of discourse that produce specific discourses of truth at a specific historical moment. Whenever possible, I account for the potential influence that my role may have on the responses elicited in interviews.

The analysis of the data is carried out through the use of a Foucauldian approach to discourse analysis. The concept of discourse remains a rather elusive term in Foucauldian research. Nevertheless, an understanding of discourse from a Foucauldian point of view opens possibilities for a more critical view of the interrelation between power, knowledge and subjects than other forms of critical discourse analysis (CDA),
which see discourse as simple communicative interactions taking place in “text and talk” (van Dijk 1991; 1993; 1993; 1993). While more conventional forms of CDA rely on structural frameworks to understand power in discourse (Wodak, de Cillia et al. 1999; van Dijk 2003; van Dijk 2007), Foucauldian discourse analysis uses a more expansive concept of discourse in which power acts through discourse and is an instrument of it. As a result, the question of the structural location of speakers occupies a secondary position because discourse is seen as existing beyond interpersonal communications, and beyond individual authorship extending into extra-textual locations (Foucault 1984).

Relying on Foucault, Sharp and Richardson define discourse as “not just communicative exchanges, but a complex entity that extends into the realm of ideology, strategy, language and practice, and is shaped by the relations between power and knowledge” (Sharp and Richardson 2001 p195). McKenna (2004) also stresses the importance given by Foucault to the connection between discourse and material practices external to discourse, observing that discourse occurs within fields in which it acquires place and status, and opening up possibilities for its permanence as discourse (p11). Derek Hook (2001), on his part, observes that a central concern in Foucault’s idea of discourse is its connection to the material conditions and procedures that influence the production, selection, organization and distribution of discourse. This, Hook suggests, means that discourse needs to be located within political action and extra-textual fields. Discourse, he continues, is also that which “enables writing, speaking and thinking”. Thus, the focus needs to be on “discursive practices” which work “in both inhibiting and productive ways, implying a play of prescription that designate both exclusions and choices” (p523).

Discourse, in this context, is not only what is said, but also all those other forms of discourse that determine what can be said — all those forms of discourse that either explicitly or implicitly inform speech. Furthermore, discourse also extends to context
outside communication such as professional practices, institutional arrangements, etc. (Said 1983). In the case of human rights talk in Chile, those who speak about human rights are informed not only by the “facts” stated in truth commissions, but they also make sense of those facts through larger discourses that determine, for example, their own understandings of themselves as specific human subjects. When President Aylwin speaks of a ‘moral imperative’ to find a solution to the legacy of human rights violations, he is not only speaking of a particular political problem, but he is also referring to particular ideas of humanity that make it imperative that the legacies of the regime be dealt with in some way. Ideas of human rights existing beyond his statement inform and determine what he says and how he frames the problem of human rights. This is commonly understood as the interdiscursive and intertextual character of discourse, understood not only as how specific statements draw from one another, but also how they draw from “socially available repertoires” (Fairclough 2003).

In a Foucauldian framework, the question of how communication or speech is structurally located is not relevant because it is assumed that discourse is more than speech and language and that it encompasses “discourse rules and categories that were a priori assumed as a constituent part of discourse and therefore of knowledge” (Young 1981 p48). In this way, the location of the author of a particular piece of discourse is not considered to necessarily determine the influence of discourse or its originality. Discourse, as existing beyond particular speech, is not produced by a particular actor; on the contrary, discourse gives rise to subjects and allows subjects to take up subject positions within discourse (Foucault 1984). At the same time, discourse captures specific human experiences and turns them into objects of discourse, capturing, in this way, specific aspects of human life in the realm constituted by the relationship of power and knowledge. For instance, when torture is addressed in human rights debates, the relationship of discourse and power determines how torture victims are materialized in
discourse as objects of discourse, and how such objectification constitutes the basis for processes of nation building and subject formation. In tracing the capturing of tortured bodies in discourse, we can also trace the way in which those who speak and read about torture use those stories to produce themselves as national subjects responsible for saving victims (Razack 1998). The question according to Foucault is not who has spoken, but how discourse gives rise to subjects with the privilege to speak (p527). This does not necessarily mean that everyone can speak with the same level of authority as power works through discourse to grant certain statements and those who utter them authority.

One of the most important functions of discourse is to constitute a field in which power and knowledge interrelate to invest certain statements with the quality of truth and to allow certain bodies to take up the position of subject. Foucault considered truth not to be an essential or metaphysical condition, but as a “thing of this world: it is produced only by virtue of multiple forms of constraint. And it induces regular effects of power”. Truth and power are circularly related, according to Foucault, because power produces and sustains truth, while truth sustains and extends power (p75). He argues that we should not look for truth, but for the processes by which truth is attributed to certain forms of discourse and not to others” (Foucault 1981): in other words, the idea of discourse analysis is to trace how we come to know something as truth. Truth is produced, Hook argues, through processes of exclusion through which certain speeches are excluded or rejected, becoming either true or false through a struggle for knowledge that is the result not of a “will to truth”, but a “will to power” (p524).

In order to trace the way in which truth comes to be, Foucault suggests that we use a combination of genealogy and “eventalization” as a way to dispel the idea that there is an origin in which truth exists outside of discourse, while we pin the analysis to specific discursive events in other to avoid excessive dispersion. Foucault’s genealogical
approach emerges in dialogue with Nietzsche’s interrogation of positivist concepts of origin, descent and emergence as the place and time in which concepts are born. In this dialogue, Foucault reads Nietzsche as dismantling commonly accepted and immobile concepts of essence and descent as exact and ancient (Foucault 1984 p78-81). Foucault argues that in searching for the historical beginning of things, the genealogist finds “not the inviolable identity of their origin; [but] the distension of other things,…[their] disparity” (p78). Genealogy is, in Foucault’s argument, concerned not with the search for origin, but with challenging of notions of origin as “moment of birth” or as the “site of truth”. Genealogy is the critical use of history to “dispel the chimeras of origin” (p80).

Likewise, genealogy is the process of sorting out the different traits that constitute an idea or concept keeping in mind that in searching for descent, we may rather find “numberless beginnings” (p81). This is the essence of Foucault’s post-structural project: the search in history of the different, uneven and multiple elements that influence what we know in the present. The question that guides this genealogical enquiry concerns how we come to know what we know, and the answer is found in the past; a past that is not heritage, but rather, “an unstable assemblage of faults, fissures and heterogeneous layers that threaten the fragile from within or from underneath” (p82). Genealogy allows the genealogist to trace the many traits and events that work together to historically constitute a concept, disturbing, in this way, that which is considered immobile (p82).

Alan Schrift (2000) argues that the objective of genealogy is to trace the history of “becoming”. Tracing the process by which concepts and subjects “become” requires that we resist any attempt toward a fixed notion of identity or truth. Instead the focus is the struggles that cause the subject to be always

in process, a work in progress and never finished, producing itself in response to and being produced by the contingent antagonisms and alliances that constitute the social (p155, italics in the original).
At the centre of Foucault’s genealogical approach is a skeptical attitude in relation to any statements that can be presented as truth. This allows him to move away from a discussion of the veracity of specific statements in favour of a methodology that allows him to trace how a particular statement becomes truth. In the context of my study, this skeptical attitude opens up possibilities to challenge statements that are presented as truth while tracing their connection to other discourses that help to produce them as truth. Statements, or coded expressions such as “spiral of violence”, “individual responsibility” or “reconciliation,” can be questioned not through a struggle to prove that other statements are truer, but through an interrogation of those historical moments in which those statement acquire supremacy over others. We can also trace the process by which other statements “become noise to discourse”; what is left out. Furthermore, this skepticism can allow us to trace how specific forms of scientific knowledge, such as statistics, come into play at specific historical moments to construct what counts as truth about conditions such as torture.

In terms of eventalization, Foucault (1994) argues that confronted with the impossibility of ascertaining precise origins, eventalization constitutes a strategy that can prevent excessive dispersion while pinning genealogy to the political goals that guide social justice research (Chambers 2001). Eventalization means to “make visible a singularity” in order to pinpoint the event for analysis while still paying attention to the multiple processes that make the event possible, its continuities and discontinuities (p249). As Stefan Elbe (2002) argues, genealogy is episodical “in that, rather than recounting the entire history of a phenomenon, it focuses on the crucial and contingent historical shifts that enabled a phenomenon to emerge” (p79).

In identifying, for example, the documents surrounding the Human Rights Discussion Table as discursive events, we can trace how at that specific moment, different discourses come into play within a struggle to revise, reconstruct and re-
inscribe an official history that accounts for the causes of terror. Eventalization, then, provides us with a strategy for studying this specific event, paying attention to the multiple conditions that make the event possible (Caton 1999), and interconnecting it with the larger emergence of both human rights discourses and discourses of history. This is useful, for while the history of human rights debates is vast and can potentially contain a multiplicity of origins both nationally and transnationally, being able to identify specific and significant events such as human rights commissions allows me to remain true to the critique that guides me.

Power is probably the most important consideration in the study of discourse from a Foucauldian perspective as it is through the work of power in discourse and through discourse that certain statements acquire the status of knowledge, determining what will count as subjects and what is to be done to bodies. It is also through a Foucauldian understanding of power that transformative possibilities emerge out of the study of discourse. Foucault rejected an idea of power as solely acting from a top-down perspective, simply as repressive, or as only “carrying the force of prohibition”. He identified the productive aspects of power as enabling and restricting. As he argues,

What makes power hold good, what makes it accepted, is simply the fact that it does not weigh on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms knowledge, produces discourse. It needs to be considered as a productive network (Foucault 1984 p61).

“Power”, he added elsewhere, “is everywhere, not because it embraces everything, but because it comes from everywhere” (Foucault 1990 p93).

As Richardson (1996) observes, Foucault proposes that power has an insidious character in contemporary society because it cannot only be easily traced to sovereign manifestations of power; it works across a wide network of relations and in discourse to mask itself as forms of truth and knowledge that produces subjects. Power, McNay argues, explains how out of a infinite number of possibilities and meanings, “there is a
relative paucity or rarity of what is possible to think and say at any one time” (1994 p86). In this way, the analysis of discourse needs to be concerned with the power struggles that determine meaning in discourse (Foucault 1980 p114). For example, when looking at the issue of responsibility in human rights discourse, we can trace through different and historically specific manifestations of discourse the moments in which concepts of “individual responsibility” emerge, are contested, and become part of “national truth”. Human rights violations are produced as the product of individual action as early as Aylwin’s inaugural speech, and while it becomes the subject of contestation in the Rettig Commission to the extent that the report offers contradictory positions in relations to this, the idea of “individual responsibility” remains a dominant condition of human rights discourse. It fact, it gets re-inscribed in speeches, academic documents and parliamentary debates after the report, and it is used and articulated by informants in interviews. Through the interdiscursive and genealogical analysis of different discursive genres we can trace how power is at work in discourse in ways that gives meaning to this notion of responsibility. We can trace how human rights discourses exercise their biopolitical effect through this idea of responsibility by constructing objects and subjects in discourse. Finally, we can trace the counter-stories, the continuities and discontinuities that produce notions of responsibility, as well as their effect in the production of subjectivity.

Furthermore, as Hook argues, the understanding of power as acting in discourse connects discursive practices to larger material conditions because power is not just a function of text, associated with the internal properties or structures of language; power in language “links to, and stems from, external, material and tactical forms of power” (p530). This understanding of power is critical because it allows us to see not only how discourse manifests power, but also how it is an instrument of power. Thus the study of discourse needs to look at language as an active “occurring”, as something that
“implements action, and that is also power and action”. “Discourse” continues Hook, “is the thing that is done, ‘the violence’, as Foucault puts it, ‘which we do to things’” (p532). This interconnection of power and discourse is evident in Foucault’s work on discipline, punishment and governmentality in which he traces the processes by which specific forms of ruling and discipline are discursively articulated in ways that capture human life and determine specific actions to be done on life. Power acts through discourse to dispose of certain conditions, distribute bodies, and to impose specific practices that are not confined to the realm of language but that extend to institutional practices, disciplinary actions and material arrangements (Foucault 1984).

Power understood in this way allows me to trace the kinds of violence that are enacted on the bodies of victims in human rights discourses, extending to practices and policies that specifically impact on people’s lives. Thus, the discursive production of victims as poor, or the detailed and impersonal description of torture, is not only done in the inoffensive space of text and talk, but extends to concrete material practices. As Said observes, discourse is not an “esoteric” element; it is affiliated to institutions, agencies, classes, academies, corporations, states, etc. (Said 1983 p212). The impact of power and discourse on bodies is made visible through the analysis of how the interrelation of power and knowledge produces subjects: subjects that are knowable and that can be captured in the power-knowledge relationship. Foucault observes that in the analysis of writings about training, for example, we can observe the “constitution of the individual as a describable, analyzable object, not in order to reduce him to ‘specific’ features as did the naturalists in relation to living beings, but in order to maintain him in his individual features …under the gaze of a permanent corpus of knowledge” (Foucault 1995 p203). Discussing the emergence of the soul, Foucault once again stresses the critical relationship between power and knowledge. He argues that the soul emerges as an
element “in which are articulated the effects of a certain type of power and the reference to a certain type of knowledge” (Foucault 1984 p202).

**The possibilities of Foucauldian discourse analysis**

Foucault offers some important methodological directions for research that open up possibilities for critical and transformative research. For instance, as I observed above, a Foucauldian discourse analysis requires that we maintain a skeptical position “towards all those rationalities, explanations and statements that would validate themselves on the grounds of their proximity to a supposed truthfulness” paying attention to the conditions that make truth a product of discourse and power (Hook 2001). This does not mean, Hook argues, that Foucauldian research accepts truth as a relative term; rather it focuses on the power struggles to grant some statements more validity than others. The aim of research is not to find truer statements, but to destabilize those that are considered true and “increase the combative power of potentially subversive forms of knowledge” (p536, italics in the original)

In order to destabilize truth, the study of discourse should not be concerned only with the search for meaning, argues Hook, but also with the “scarcity of meaning”, with what cannot be said, is impossible to say, or what is not heard in discourse (p527). This is critical because it allows us to look at how power determines what can or cannot be said in discourse: how power is not simply a function of discourse as it is commonly assumed in critical linguistics. Most importantly, Foucauldian discourse analysis allows us to trace the disciplinary functions of discourse in terms of determining what is done to bodies both in discourse and in the material conditions of life. In challenging the idea of truth as “esoteric” and immobile, I can trace how reports from the truth commissions, for example, represent specific tactics of power that can be read in the reports but are not
only confined to the reports. I can also see power acting through the reports to authorize some discourses while not authorizing others. Moreover, I can trace through the interdiscursivity of reports, debates and speeches, how power extends beyond discourse into practice. This links to Fairclough’s understanding of discourse as “social action and interaction” that emphasizes the importance of keeping in mind the inside as well as outside effects of discourse (Fairclough 1995; Fairclough and Wodak 1997).

Finally, as Foucault (1997) observes, a critical understanding of how power works and as an instrument of discourse can allow us to uncover how human life is captured in discourse and how as a result we are ruled through discourse. By rendering problematic the triangular interrelation of power, discourse and subjectivity, we can begin to articulate alternative ways of begin ruled. Power understood not only in its repressive character can lead, as Chambers (2001) suggests, to an acceptance that while power may be unavoidable, it does not have to be evil. Concrete and concerted efforts to find ways to privilege other forms of truth and subjectivity in order to find ways of not being governed “quite so much” can result from research of this kind.

Limitations of the methodology

This study sheds light on the process through which the state takes up histories human rights atrocities and uses them to construct an official story of a reconciled post-dictatorial nation. In this way, this study traces how, as Richard (1998) observes, the politics of consensus neutralize human rights demands through a normative language of reconciliation that disposes of multiple, de-centralized and contesting memories of disagreements (p28). I am concerned with how such process of neutralization is possible and traceable in human rights discourse, and how that neutralization sustains specific notions of government. In this venture, genealogy and Foucauldian discourse
analysis provide valuable methodological directions that direct the research gaze towards the workings of power in discourse and its effects on bodies. However, due to this focus on the manner in which power is at work in discourse to produce and organize specific practices of ruling, the methodology can be subjected to some common critiques already known about Foucault and his study of discourse. For instance, in looking at discourse as an all-encompassing entity though which power is constantly at play, the methodology can become the victim of its own critique by perpetuating the violence of discourse on bodies simply though the tracing of its workings. In focusing on how the power of the state to rule over bodies is conceived through human rights discourse, the methodology reproduces the centrality of the state and, in that way, obscures the role of human rights activism and their subversive discourses in resisting state power. I do not trace the history of human rights activism or organizing in Chile, or its role in pushing the state to recognize human rights demands. This important and critical work has been taken up in academic research in Chile and Latin America in such works as that of Diana Taylor on the Madres de la Plaza de Mayo in Argentina (Taylor 1997), or Bucheli and Curto’s work on the Madres movement in Uruguay (Bucheli, Curto et al. 2005). In Chile, this history has been recorded by authors such as Padilla (1994) and Cavallo (1999) among others. It has also been recorded with great detail in the documents and records kept by many human rights organizations in Chile (For example, García 2002).

Although, the work of human rights organizations and of subversive human rights struggles is an area to which this research cannot do justice, in directing the gaze towards the working of the state and the power of human rights discourse, I am not denying the importance of human rights activism. Rather, sketching the biopolitics of human rights allows us to see that demands are rarely heard by the state in the manner in which human rights activists and survivors intend them. Within normative discourses of individualism and pluralism, as Richard suggests, narratives of victimization and
human rights activism become just one story among many (p70). The process by which this happens can be better traced through a methodology that centres on power and discourse, and a study of how these are at play in human rights discourse.

In this manner, the research differs from methodologies used in some studies of memory in Chile, specially by academics such as Stern (2002; 2006), that look at memory as individual “loose memories” that become “emblematic” or “collective” memory through their attachment and organization around “memory knots” (important dates, spaces, or social relations) and through a collectively built “memory box”. This methodology leads Stern to a complex understanding of diverse and contested ways of remembering the authoritarian regime, as well as to contested notions of what the post-authoritarian state should do with the legacies of the regime. However, its does not sufficiently take into consideration how power is at work in discourses of memory and history and how such discourses determine what can be remembered and what can be done with histories of terror. A genealogy of the post-authoritarian state, while not denying diverse and contested memories, can help us understand why and how certain discourses about the past acquire force. Only through a critical understanding of these processes, can we increase the combative power of subversive forms of knowing.
Chapter 3
The human rights regime and the calculation of life and death

“The reinstatement of trust and cohabitation between Chileans, no matter their belief or political ideologies,… no matter if they are civilians or military, means that we cannot turn individual guilt, the result of individual actions, into institutional concerns” (Patricio Aylwin, National Stadium, March, 1990)

Human rights debates in Chile confront the dilemma of making sense of a national past in which state terror was policy. These debates consistently take acts of terror — such as the one depicted in the picture above — in which uniformed soldiers using state-issued weapons and following state-issued orders carried out the systemic persecution, repression and extermination of people who were considered enemies of the state — and turn them into the actions of individuals. Uniforms, orders, lines of command, budget lines, infrastructure and the complex relations and structures that made up the machinery of terror are systematically made to vanish under the cover of
individual guilt. Also made to vanish is the biopolitical policy of terror that, as discussed in chapter 1, sustains the revolutionary government of the authoritarian regime. In the relationship between the violence portrayed in the picture and the official language of the post-authoritarian regime, Aylwin’s statement has the capacity to organize and regulate what we see and don’t see in acts of terror. Victims and their experiences are allowed entrance into the national narrative – a narrative that is, if we follow Aylwin’s reasoning, centred on the achievement of national reconciliation – through a regulated and regulating language of human rights. Experiences of terror, and the experiences of soldiers for that matter, become trapped within a story of individual guilt, institutional innocence and national reconciliation.

How do human rights discourses emerging since the advent of the Enlightenment facilitate this management of terror stories and their victims? How do human rights regulate what can and cannot be said and known about state terror? And, what role do victims play in this process of rendering violence intelligible? In this chapter I elaborate on the idea that human rights constitute part of what Foucault identifies as a biopolitical rationality of government that since the 16th century has taken human life and human populations as the centre of political power. This idea of human rights as biopolitics allows me to locate terror and the processes that transform terror into human rights violations within a historically and ideologically specific project of modernity that coexists and converges with the development of liberal and capitalist democracies in the West. I begin with a discussion of Foucault’s work on power, subject and knowledge and his later application of these concepts to an inquiry of the governmental role of the state. I then review critical human rights literature that either directly or loosely incorporates a Foucaultian perspective to the analysis of human rights in order to propose a framework that sees human rights discourses as a biopolitical governmental regime.
Biopower and governmentality

In “The Subject and Power”, Michel Foucault defined much of his academic work as centred on the construction of the “genealogy of the subject” arguing that his interest was not centrally the study of power, but “to create a history of the different modes by which in our culture, human beings are made subjects” (Foucault 1982 p208). It is in the construction of this genealogy of the subject that Foucault finds a point of entry into the study of the interconnection of power, knowledge and processes of subject formation that contributes to the formulation of biopower and that constitutes one of Foucault’s most critical contributions. Biopower as a concept originally introduced in the first volume of the History of Sexuality (Foucault 1990) refers to the complex interrelation of techniques of power, forms of knowledge and their effect in bringing a wide array of conduct into the realm of public discourse submitting them to “explicit calculation” (p155). It also makes it possible for society to exercise power over conduct previously excluded, materializing human conduct in political action (p10-11). This event is most important because it allows for the linkage between a concept of the individual, generally excluded from traditional notions of sovereign power, and an emerging concept of populations as subjects of governmental rule (Foucault 2007).

The study of the genealogy of the subject leads to a critique of traditional conceptions of power as acting solely through the state apparatus and in a repressive manner (Chambers 2001). In Discipline and Punish (1995) for example, Foucault offers an idea of “normalizing” power that circulates in a continuous, uninterrupted and capillary manner throughout the social body (p27). The state is not seen as the only, or even the most important, site of power. In fact, Foucault’s major critique of Marxism is in the foremost role it gives to the state as a repressive system and to the excessive repressive condition it attaches to power ignoring that,
if power had no other function but to repress,...if it was exercised only in a negative form, it would be very fragile. If [power] is strong it is due to the fact that it produces positive effects at the level of desire¹ (Foucault 1992 p107).

As Amy Allen (2002) notes, Foucault attempts to challenge a totally repressive view of power, in part displacing power from the exclusive domain of the state and the judiciary, and, in that way, he strives to “cut off the head of the King” (p132)². Foucault’s aim is to invert the mode of analysis, and in so doing to call attention to “not the domination of the King in his central position...but that of his subjects in their mutual relations, not the uniform edifice of sovereignty, but the multiple forms of subjugation that have a place and function within the social organism” (Foucault 1980 p96). In Foucault’s own words, in order to accomplish this aim, the analysis of power,

should not concern itself with the regulated and legitimate forms of power in their central location, with the general mechanism through which they operate.... On the contrary, it should be concerned with power at its extremities, with those points where it becomes capillary, that is, in its more regional forms and institutions (p96).

Truth as a discursively constituted effect of power gives legitimacy to specific forms of knowledge which in turn reinforce and reproduce power (1980 p93). Thus, power requires knowledge in the same way that knowledge is the effect of power (p102). In Foucault’s own words,

we should admit that power produces knowledge (and not simply by encouraging it because it serves power or by applying it because it is useful); that power and knowledge directly imply one another (1995 p27).

This interdependence of power and knowledge makes it possible for the emergence of sciences and forms of expertise that facilitate the constitution and the regulation of subjects, the legitimization of specific government procedures, and the individualization of concrete targets of rule (Hunter 1996; Trigo 2002; Wong 2003). Disciplines such as

¹ My translation of the Spanish text.
² A task that, Allen argues, he shares with other important philosophers such as Hannah Arendt who while opposing Foucault in quite important aspects, also strives to conceptualize an alternative view of power.
statistics constitute intellectual technologies that connect particular realities to specific fields of knowledge (Miller and Rose 1990; Popkewitz 1998), while at the same time, knowledge as a form of discourse works to re-define these realities to fit within specific power configurations. As Nikolas Rose (1996) argues, forms of expertise, as claims of knowledge, work to legitimize power. Thus, knowledge is the discursive representation that allows power to act by way of making certain realities and relations visible and thinkable (Miller and Rose 1990 p77). The interdependence of power and knowledge can be better understood if we introduce the concept of “dispositif of power” defined by Foucault as both a

thoroughly heterogeneous ensemble of discursive and material elements - for example, discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions, and so on – and the system of relations...established between these elements (Foucault 1980 p194).

“Dispositifs of power” produce the individual subject. For Foucault, human beings are subjected, and in a dual sense: they are subjected to the complex, multiple, shifting relations of power at the same time that they are enabled to take up the position of subject in and through those relations. In other words, power is a condition for the possibility of individual subjectivity. The constitution of subjects, the regulation of their desires; the explicit calculation of their relationship with other subjects and with society; and the specific definitions and delimitation of their freedom is essential to understand the full reach of power (Miller and Rose 1995). In Foucault’s view,

it is already one of the prime effects of power that certain bodies, certain gestures, certain discourses, certain desires, come to be identified and constituted as individuals. The individual, that is, is not the vis-à-vis of power; it is, I believe, one of its prime effects (Foucault 1989 p308).

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3 The mutuality in the subject-power relationship explains why while Foucault insists that his interest has been the study of the constitution of subjects, he cannot separate the process of constituting subjects from the study of the power relations imbuéd in the constitution of the subject.
Subjecthood is critical to Foucault’s work on punishment and sexuality specifically as it refers to processes by which biological life becomes calculable, divisible and manageable. As he argues, in the process of modifying systems of punishment, the body becomes subject to specific and at times highly detailed calculations. Foucault identifies how the body becomes the target of power in ways that allow society to shape, manipulate and train the body to its most intimate and minimal details (p136). Foucault’s work on sexuality, furthermore, challenges the apparently repressive nature of sexuality discourses in Victorian times in which the body of the masturbating child, the hysterical woman, the reproducing body, and the homosexual become the field on which discourses of sexuality calculate and regulate sexual conduct. In fact, sexuality is seen by Foucault not as a natural drive “which power tries to hold in check, or as an obscure domain which knowledge tries gradually to uncover”, but a historically specific process that allows for the management of sexual conduct, the regulation of reproductive behaviours and the constitution of subjects (Foucault 1990 p105).

Simultaneously, these repressive expressions of power are accompanied by productive expressions of power that allow certain subjects to use discourses of sexuality, punishment and sanity to perform on themselves specific kinds of regulation that allows them to become ideal subjects. As he states in the second volume of the *History of Sexuality* (1985), his aim is to analyse the practices by which individuals were led to focus their attention on themselves, to decipher, recognize, and acknowledge themselves as subjects of desire, bringing into play between themselves and themselves a certain relationship that allows them to discover, in desire, the truth of their being, be it natural or fallen. In short, with this genealogy the idea was to investigate how individuals were led to practice, on themselves and on others, a hermeneutics of desire, a hermeneutics of which their sexual behaviour was doubtless the occasion, but certainly not the exclusive domain (p5).

By discussing the emergence of moral discourses concerning sexuality, Foucault traces the moral and ethical work of discourse and its effect on the constitution of
subjects (p32). He understands desire as the subject of moral regulation that requires that subjects conduct considerable moral and ethical work on themselves in order to come to know themselves as citizens. This ethical work requires that individuals train themselves as moral subjects in the process of understanding and ruling themselves and others (p77). Morality and ethics as discourses of subjectivity set the conditions down for the exercise of self-mastery - the “enslavement of the self by oneself” (p79). Sexuality becomes the ethical and moral domain within which subjects locate and understand themselves as free subjects capable of self-mastery.

Although in looking at subjectivity and biopower Foucault insisted on maintaining a view of power as not centrally located within state institutions, this analysis does not preclude a reflection of the governing role of the state. In the 1977-1978 Lectures given by Foucault at the Collège de France (2007), he in fact began to explore the application of his analysis of the interrelation of power, knowledge and subjectivity to a study of the state and state power. In his own words:

Just in the examination of the relationship between reason and madness in the modern West we tried to question the general procedures of confinement and segregation, thus going behind the asylum, the hospital, therapies, and classifications,* and just as for the prison we tried to go behind penitentiary institutions in the strict sense so as to seek out the general economy of power, can we carry out the same reversal for the state? Is it possible to move outside? Is it possible to place the modern state in a general technology of power that assured its mutation, development, and functioning? Can we talk of something like a “governmentality” that would be to the state what techniques of segregation were to psychiatry, what techniques of discipline were to the penal system, and what biopolitics was to medical institutions? (p120, asterisk in the original).

In proposing an analysis of the state, Foucault returned to a notion of power as related to the state and state apparatus, a political representation of power. In spite of this return to political power, Foucault did not take a traditional methodological approach. As it has become characteristic of a Foucauldian method of inquiry, Foucault did not ask whether or not the state was entitled to rule in one or another manner, or whether a
certain method of exercising power was truer than another. Foucault asked instead how the power to govern is conceptualized at different historical junctures; who is seen as the subject of that power; how is that power conceptualized; and to what extent different historically specific forms of government contribute to the constitution of a genealogy of modern liberal government rationality. Consequently, Foucault focused his research on the different ways in which the power to rule is constituted through time, beginning with the Middles Ages and Classical Antiquity and up to earlier liberal and neo-liberal rationalities of government in order to differentiate and identify different, historically specific and at times interconnected, forms of government (Foucault 1991). Through a close analysis of different historically specific documents concerning the “hows” of ruling, Foucault is able to determine the role of these documents as part of a larger debate concerning the question of how to govern. As he suggests, “the essential thing is that [these documents] attempted to articulate a kind of rationality which was intrinsic to the art of government, without subordinating it to the problematic” of the ruler and those over whom he rules (p89).

This inquiry allowed Foucault to propose specific ways of thinking about the role of state (specifically the liberal state) and to look at the state as a series of practices of ruling that rest on forms of knowledge that make government thinkable and practicable (Burchell 1996 p21). Although governmental rationality as a concept does not emerge until these lectures, as Arpad Szakoleszai and Thomas Lemke (Szakoleszai 1998; Lemke 2008) indicate, governmentality is part of the larger reflection that constituted most of Foucault’s work on the topics of subject, power and knowledge, and as such, it cannot be divorced from his preoccupation with these topics. While governmentality pays attention to the state as a site of power, or more specifically to the “genealogy of the modern state” (Foucault 2007 p354), it in fact constitutes a process of integration that allows Foucault to think about the productive relationship between power and knowledge.
in tandem with the repressive role of power in its centralized location within the state. Thus, governmentality, as Graham Burchell suggests, refers to a “contact point” between techniques of domination applied through the state apparatus, and techniques of the self (Burchell 1996, p.20).

Citing 16th century French scholar Guillaume de La Perrière, author of *Le Miroir Politique*, Foucault adopts La Perrière’s definition of government as the “right dispositions of things arranged so as to lead to a suitable end” (p96). In identifying the “things” that concern government, he argues that the object of government since the 16th century is a complexity of “men and things”. In his own words:

The things government must be concerned about, La Pierrere says, are men in their relationships, bonds, and complex involvements with things like wealth, resources, means of subsistence, and, of course, the territory with its borders, qualities, climate, dryness, fertility, and so on. “Things” are men in their relationships with things like customs, habits, ways of acting and thinking. Finally, they are men in their relationship with things like accidents, misfortunes, famine, epidemics, and death (p96)

These relationships between men and things, which becomes central to government, mark a shift from previous understandings of sovereign rule, discussed by Foucault in his study of Machiavelli. While sovereignty takes the territory as the principal object of rule, population emerges since the 16th century as the principal object of state power. This, in turn, requires the mobilization of specific forms of knowledge associated with political economy and statistics. Economy is defined not from a traditional notion of economy as the proper way of managing the family but from a modern understanding of economy as the management of populations (p354-347). Statistics, in turn, emerges as the “science of government” that authorizes the study and identification of the conditions affecting the population (p104), and becomes the “main technical factor” that allows for a specific knowledge and understanding of the population and its problems. Foucault adds that statistics,
gradually reveals that the population possesses its own regularities: its death rate, its incidence of disease, its regularities of accidents. Statistics [further] shows that, through its movements, its customs, and its activity, population has specific economic effects. Statistics enables the specific phenomena of population to be quantified and thereby reveals that this specificity is irreducible [to the] small framework of the family (p104, brackets in the original)

In contrast with the interest that Foucault places in the effects of disciplinary power on the body in *Discipline and Punish*, the emergence of population as an aspect of governmentality allows him to expand beyond individual discipline while at the same time moving away from a sovereignty that sees inhabitants as an undifferentiated element of territory. In other words, population allows a notion of the subject that is complex in the sense that it views individual subjects in their interrelation to each other while avoiding reducing the subject to the sum of the population/group. Population authorizes a view of the subject that both generalizes and individualizes them making it possible for governmental power to be both narrow and wide in its targeting (Foucault 1990; Gordon 1991). As Morgan Brigg (2002) points out, governmentality and its stress on population conceives a form of power that not only generalizes, allowing us to pay attention to the relationship of population, their moves, migration, death/birth to the field of government, but also individualizes, allowing us to visualize and conceptualize the individual subject in his/her most intimate details, desires and conduct. As Nicolas Rose (1996) adds, a conceptualization of the subject as both the subject of rule and the bearer of individual choices and freedoms, as it is the case with liberal rationality of government, is only possible if we conceptualize power as simultaneously narrow and wide, individualizing and totalizing.

As Foucault states, the emergence of population does not eliminate discipline. "Discipline", he continues,

was never more important and more valued than when the attempt was made to manage the population: managing the population does not mean just managing the collective mass of phenomena or managing them simply at the level of their
overall results; managing the population means managing it in depth, in all its fine points and details (p107).

According to Colin Gordon, when speaking of governmentality, Foucault had in mind precisely this notion of power as having both a narrow and wide effect. That is, it considered the government of oneself and of others, the process of subjectification, classification and division traced in the work on disciplinary power. Government as an activity could concern the relation between self and self, private interpersonal relations involving some form of control or guidance, relations within social institutions and communities and, finally, relations concerned with the exercise of political sovereignty (1991 p2-3).

The government of the modern state rests on the integration of individuals on the condition that their “individuality would be shaped in a new form, and substituted to a set of very specific patterns” (p214). Modern western governmentality rests on the incorporation of individual subjectivity under specific rules that regulate the way in which the subject sees himself as an individual with his own choices, places him in relation to his community and his family, and makes him the target of state ruling. In sum, governmentality in contemporary society can be understood as a way of thinking about ruling; the forms of knowledge, the specific combination of practices and procedures, and “the ensemble formed by institutions, procedures, analysis and reflections” that allow power to flow through the state, the population and reach each and all individuals both generally and individually (p108). In other words, governmental rationality is concerned, not with the legitimacy of political sovereignty, but with the problem of “how to govern”, how to mobilize power within a continuity of macro and micro physical domains, and within a social space that mediates this micro-macro continuum (Foucault 1991; Poblete 1999; Poblete 2002).
Governmentality, biopower and human rights

Can we understand human rights discourses along the lines of what Foucault defines as government, as the “right disposition of things arranged so as to lead to a suitable end”? Giorgio Agamben (1998), in his discussion of Foucauldian biopower and Arendtian ideas of totalitarianism, provides the most concrete articulation of biopower in relation to human rights discourses. Agamben argues that human rights declarations need to stop being considered “proclamations of eternal metajuridical values” and instead must be recognized as having a “real historical function in the modern notions of state” (p127). Thus, human rights, according to Agamben, are not only a historically specific development, but also constitute part and parcel of a governmental rationality in which natural life, what it means to be human, is formally inscribed in the mechanisms and calculations of power (p119). Therefore, Agamben suggests that human rights can be understood as a governmental regime in which specific discourses of humanity are imbued with power so as to constitute truth. These discourses of humanity then become disciplinary techniques that allow “certain bodies and certain gestures” to take on the position of subjects. This complex set of relations form an ensemble within which specific relations of ruling and specific institutional arrangement are legitimized.

In order to render the governmental and biopolitical character of human rights, we need to begin by looking at the historically specific processes by which ideas of humanity and human rights acquire supremacy. According to Costas Douzinas (2002), human rights emerge in the context of quite specific historical struggles and class interests and as a “political and ideological weapon for the fight of the rising bourgeoisie against [the] despotic political power and static social organization” of feudal and monarchical society (p446). Human rights emerge historically with the advancement of Enlightenment ideas and their political expression within the French and American
revolutions and their diverse articulations of “The Rights of Man” which, in addition to
giving way to new political institutions, also revolutionized the way in which humanity
was understood. In this sense, as Serena Parekh (2008) argues in her discussion of
Hannah Arendt’s work, human rights are a product of modernity and its “radical change
in how we understood ourselves, our world, and the values that regulated them” (p1).

Although the Enlightenment came to challenge traditional ideas of power and
values as having a metaphysical and often theological basis⁴, the notion of the rights of
man marked the beginning of a new discussion, not less influenced by metaphysical
considerations, of the nature of humanity (Waldron 1987 p18). Concretely, the French
and American Revolutions authorized the mobilization of specific forms of knowledge
about those qualities and conditions that constitute the human being and the relationship
between humanity and political power (Gaete 1993).

High humanism, based on the concept that there is something essential about
the human condition that separates human beings from other species thereby investing
them with superiority and warranting their protection, acquired supremacy within
discourses surrounding the rights of man (Little 1993). As the product of humanist
ideas, human rights are considered to embody universal human values that are
“inalienable” belonging to people due solely to their conditions as human beings
(Donnelly 1989). This principle is evident in declarations such as the French declaration
that states, “men are born free and remain free and equal in their rights” and that “the
final end of every political institution is the preservation of the natural and imprescriptible
rights of man” (quoted in Douzinas 2002 p448). The idea that human beings share a

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⁴ Parekh seems to look back to these metaphysical and theological grounds with certain
nostalgia when she argues that it is the loss of foundation in Enlightenment discourses of values
that ultimately results in the lost of human dignity. Parekh, S. (2008). *Hannah Arendt and the
p.1).
common and universal condition that justify rights is, as Jeremy Langlois argues (2005), what gives moral “bite” to the idea of human rights. As he continues,

this, indeed, is the force of the ‘human’ in the term human rights – the idea that these rights accrue to all people simply by the virtue of their being human. They do no need to belong to a particular class or religion, their sex or race has no impact, their wealth or status is neither here nor there. Under a human rights regime, it is their humanity which serves as the basis for their recognition and the basis for the universalism of the human rights doctrine (p371, italics in the original).

High humanism, argues Douzinas, emerges in the process by which the Enlightenment attempts to separate itself from ideas of the divine in which God is the source of all power (p455). “The core project of the Enlightenment”, adds John Gray (1995), is to introduce new notions of “critical and rational morality” based on secularism and humanism which in their capacity to rationally bind humanity ensure “the creation of a universal civilization” (p123). Thus, high humanism proposes that human beings deserve human rights not because God grants those rights, but because those rights are based on a universal rationality that renders the human condition unquestionable and self-evident.

The instrument that sustains high humanism is the idea of human nature and its manifestation in natural law. As Douzinas continues, Enlightenment discourses build on notions of “nature” and natural law which “challenged the claims of the ancestral” to give way to discourses of humanity based on the idea of the good – “that which is good intrinsically, by nature” (p448). In this sense, as Jeremy Langlois comments, human rights emerge as the product of “‘natural Reason’ – reason unadulterated by the superstitions of religion and traditional authorities”, but that nonetheless remain based on notions of universal and essential values associated with humanity now represented by ‘scientific’ ideas of the natural conditions that constitute humanity” (p376). The purpose of human rights declarations was simply to represent those concepts of humanity defined as determined by nature. Thus, argues Douzinas, the invention of
nature became a foundational concept of modernity and an intrinsic aspect of how the French and American revolutions defined the rights of man.

High humanism and its grounding in ideas of human nature constitutes, as Agamben argues, a critical historical moment in which biological life, the body, materializes in political discourse and becomes the object of political power. As Douzinas adds, humanism mediates the emergence in political discourse of the naked man, “someone without history, desire or needs”, a biological being “deprived of all those traits and qualities that build human identity” (p455). This naked humanity is what Agamben associates with the figure of the homo sacer or sacred man and with the idea of bare life, a life that through human rights discourse enters the structure of the state and becomes, using a Foucauldian notion of biopower, a subject of explicit calculation.

The entrance of biological life into political discourse facilitates two interrelated processes. On the one hand, human rights discourse facilitates the concrete definition of humanity in a process analogous to what Foucault identifies as the emergence of population and the subject as replacement of territory and the object of sovereign power. The naked man is given substance in human rights discourses that vest in biological life specific sets of characteristics. In other words, the human in human rights is not a representation of an essential condition that human rights discourses attempt to capture, but a social construction that produces a specific notion of humanity in order to grant him rights. As Douzinas argues, “the 'human' of human rights, is a floating signifier. As a signifier, it is just a word…empty of all meaning and [that] can be attached to an infinite number of signifieds”. However, as Douzinas continues,

it carries an enormous symbolic capital, a surplus of value and dignity endowed by the revolutions and declarations and augmented by every new struggle that adopts the rhetoric of human rights (p456).
This demonstrates, argues Douzinas, that human rights discourses “do not belong to humans and do not follow the dictates of humanity; they construct humans. A human being is someone who can successfully claim human rights” (p457).

On the other hand, at the same time that human rights discourses discursively produce the human in human rights, they allow for the systemic classification of “bare life” into categories of citizen, the legitimate bearer of human rights, and the homo sacer, who remains eternally outside the category of citizen and on whom sovereign power can be most brutally exercised. Both figures, argues Agamben, equally demonstrate the biopolitical character of human rights for both constitute the ground on which political power can be exercised. Rights granted to man only have meaning to the extent that “natural life vanishes into the figure of the citizen in whom rights are ‘preserved’” (p127). Simultaneously, those defined as homo sacer, biological life that is located outside of the political community and that as a result “may be killed and yet not sacrificed” (p8), easily become “life devoid of value” and “the place of sovereign decision” (p138-142).

The political calculation of life in human rights discourse only makes sense if we understand that the emergence of human rights goes hand in hand with the emergence of the modern nation-state and with the location of nation-state within historical global imperial and colonial relations and their reliance on racial technologies (Hesse 2004). Peces-Barba Martinez (1987) argues that human rights are historical rights which arise with modernity and within the political institutions that characterize it. Both the French and American declarations, argues Douzinas, are categorical in terms of the role of a specific conception of the nation-state as the source of human rights and the one responsible for their protection. The Enlightenment, consequently, established the defence of human rights on specific kinds of political associations, which became “sovereign law-makers” and took it upon themselves to defend the rights of a “particular ‘man’, the national citizen” (p449). As Douzinas continues,
If the declarations ushered in the epoch of the individual, they also launched the age of the state – the mirror of the individual. Human rights and national sovereignty – the two antithetical principles of international law – were born together, their contradiction more apparent than real (p449)

“Declarations of rights”, argues Agamben, “must therefore be viewed as the place in which the passage from divinely authorized royal sovereignty to national sovereignty is accomplished” (p128).

The exclusionary nature of the modern nation state and its connection to the history of human rights, according to Arendt (1976), ultimately uncovers the contradictory relationship between the idea of human rights as “inalienable” and national sovereignty during the first half of the twentieth century. According to Arendt, the emergence of human rights and nation, which is, as discussed above, a foundational aspect of modernity, meant that man lost his rights when he could not claim national belonging. The identification, in the years prior to the Second World War in Europe, of whole groups of people who could not claim belonging in any nation and that as a result required special protection in order to safeguard their humanity, made the mutually constitutive and, as Arendt argues, paradoxical relationship between human rights and national belonging evident. “No paradox of contemporary politics is filled with more poignant irony”, continues Arendt, “than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as ‘inalienable’ those human rights, [which] are enjoyed only by citizens of the most prosperous and civilized countries, and the situation of the rightless themselves” (p279). As Arendt continues, the first step in the production of rightless people was the deprivation of citizenship status and only when no nation made any effort to claim the stateless as their own that the extermination of millions of people could begin (p296). This eventually gave way to the horrors of the Holocaust in which millions of people were rendered people without rights.
This paradoxical relationship between human rights and the nation state is problematic in another significant way. While it became evident during the Second World War that human beings without citizenship could not secure rights, the constitution of the nation state demonstrated that nation-building was a project plagued by violence and dependent on the identification and exclusion of those who did not belong, and could not easily claim belonging in the category of citizen. As Balibar (2004 p8) argues, the modern nation state emerging at the time of the Enlightenment inherited some of the most critical characteristics of sovereign power: its dependency on systems of exclusion that through their division between minorities and majorities and between “populations considered natives and those considered foreign” ultimately sustained nation building. As Hansen and Stepputat (2005) argue via Morgan (1988), the emergence of the people associated with the idea of popular sovereignty did not mean widespread recognition of multitudes of people, but represented specifically identified subjects who through citizenship — defined at times in quite restrictive ways — could claim sovereignty by asserting their belonging on the back of those who did not belong.

The crystallization of national sovereignty does not rely solely in the production of shared national histories and “systems of representation” as Benedict Anderson (1983 p15) argues, but also on rituals of exclusion and death destined to produce through a shared sense of belonging national communities (Hansen and Stepputat 2005 p9). In other words, the mutually constitutive relationship between nation and rituals of exclusion paves the way, as George Mosse (1985) points out, for nationalist processes in which citizens can appropriate ideas of national subjectivity that allows them to recognize their place and the place of others in the world: to perform on themselves and on others the work that allows them to assert national subjectivity. These ideas, as Razack (2004) argues in her engagement with Mosse, eventually provide a moral universe within which the elimination of those deemed outside the nation and therefore
outside humanity could be considered morally necessary for national survival (p158).
This is probably the most obscene effect of modernity: while giving birth to ideas of
human nature and human rights, it also carries within the seed of totalitarian terror.
Since subjects in modernity cannot easily claim that their human condition derives from
supreme powers; and since, as Arendt argues, when people find themselves outside of
the nation “the world [finds] nothing sacred in the abstract nakedness of being human”
(1976 p299), human beings who cannot claim belonging in the nation and cannot assert
citizenship, cannot easily ascertain rights. What is more serious, and here I believe
Agamben advances Arendt’s argument by using biopower, processes of nation building
– as fundamentally exclusionary projects – rely on sovereign violence against those who
while excluded from the nation are fundamental to its construction. Nationalist processes,
as Villa (1999) observes in her discussion of Arendt, amount to experiments in humanity
that rely on the violent management of those excluded from the nation in order to construct citizenship. As Hansen and Stepputat add, the body of those excluded from the nation constitutes the site on which “sovereign violence always inscribes itself” a “necessary double of sovereign power, its necessary surface of inscription” (p11).

The mutually constitutive relationship of human rights and the nation-state demonstrates not that human rights failed during the Second World War, or that totalitarianism was a particularly aberrant and inhuman regime. Rather, within a biopolitical understanding of human rights, Nazism and totalitarianism are, as Agamben observes,
redefinitions of the relations between man and citizen, and become fully intelligible only when situated – no matter how paradoxical it may seem – in the biopolitical context inaugurated by national sovereignty and declarations of rights (p130).

In other words, totalitarianism constitutes not an extreme phenomenon located outside
of modernity and Enlightenment ideas of humanity, but a direct product of modernity in
which notions of humanity and rights are produced and calculated. Totalitarianism is able to re-conceptualize humanity not because it is an inhuman regime, but precisely because ideas of humanity are discursively constituted elements of modernity and intrinsically linked to notions of nationalism and nation-state with their reliance on sovereign power and the calculation of life within political discourse.

If as I have discussed so far, human rights constitute a biopolitical regime that places human life in the realm of political calculations in a way that authorizes both the constitution of citizenship and the continuous exclusion of bare life during the Holocaust, how can we make sense of the revival of human rights doctrines in the post-war period? In spite of the inability of discourses concerning the “Rights of Man” to protect human dignity of those considered non-citizens during the Second World War, the post-war period saw the resurgence and perfecting of Enlightenment ideas of human rights. Western responses to the challenge that totalitarianism posed for human rights were dominated by attempts to re-inscribe human rights in international legal and political discourse. Such re-inscriptions take the form of essentialist defenses of human rights by which ideas of humanity are once again constituted as universal and objective moral principles that exist prior to law and that result from unquestionable, intuitively apparent, transcultural and recognizable natural morality (Little 1993). Other defenses of human rights that are more willing to acknowledge the challenge that totalitarianism posed for essential and universal human rights principles champion human rights by arguing that rather than constituting natural and essential conditions, human rights are historically contingent but not culturally relative (Donnelly 1989). Thus, human rights are seen as emerging from a universal capacity of humanity to recognize other human beings as human and to vest on them human rights. For others, human rights, though not necessarily essential human conditions, constitute ethical demands that command
universal loyalty due to the capacity shared by human beings to exercise reason (Gewirth 1982; Sen 2004).

Defenses of human rights emerging from less essentialist philosophical positions, advocate for ideas of human rights that constitute legal and political instruments that while not universal, are grounded on history and work together to promote the development of political communities (Ignatieff 2001; 2007). For authors such as Norberto Bobbio (1996) and Richard Rorty (2001), for example, the issue in human rights is not whether there is universal foundation for ideas of humanity, but rather the power that human rights can exercise in the constitution of inclusive notions of humanity and inclusive human communities. Human rights then constitute, in these defenses, principles of justice that while not essential can nevertheless provide foundation for just political societies and a basis for the judgment of political regimes.

Bobbio (1996), specifically, sees the post-war period as a positive stage in human rights characterized by the internationalization of human rights principles. The emergence after the Second World War of a multiplicity of international human rights instruments constitutes to Bobbio, not an attempt to provide irrefutable foundation to human rights or to demonstrate their self-evident character, but a strategy to defend and protect human rights within political and legal realms based principally on international consensus (p12). The Universal Declaration of Human Rights takes care, argues Bobbio, of the problem of foundation, by providing “validity” to notions of humanity through internationally recognized agendas to protect human dignity. It is inter-subjective consensus rather than universal foundation that, he argues, provides human rights their universal condition (p14). As Parekh (2007) argues, while the limitation of human rights posed by totalitarianism fundamentally derived from the deprivation of citizenship — understood as a fundamental condition of human belonging in a common world in which action can have meaning — the reassertion of human rights in a post-totalitarian world
depends on the construction of international and thus universal communities in which human beings can assert belonging and in which human rights can acquire validity. Suggested in these defenses of human rights is the idea that the failure of human rights during the Holocaust was caused not by the socially constructed and historically specific nature of the idea of humanity inherited in human rights discourse, but by a failure of the international community to recognize the inhuman condition of totalitarianism. Thus, the strategy in post-war human rights debates is to re-inscribe human rights discourse in a process that historically and discursively separates totalitarianism and Nazism from modern nations’ defenders of human rights.

As Hesse observes in relation to the use of the concept of racism to explain the horrors of the Holocaust, conceptions of the Holocaust in the post-war period tend to see in the practices of the Nazi regime a paradigmatic and extreme form of racism which becomes the measure against which other forms of racism are evaluated and conceptualized. Yet, this conception of racism carries a “double bind” in which certain experiences of racism – specifically those that could compare in extremity and intensity to the Nazi regime – were foregrounded, while foreclosing an understanding of other experiences of racism – those that “appeared inassimilable or incomprehensible or threatening” (Hesse 2004 p14). As Hesse continues,

in this way the concept of racism is doubly-bound into revealing (nationalism) and concealing (liberalism), foregrounding (sub-humanism) and foreclosing (non-Europeanism), affirming (extremist ideology) and denying (routine governmentality) (p14).

In other words, by marking the Holocaust as an extreme and exceptional experience of racism and terror, an experience that in its exceptionality is systematically separated from the project of modernity from which it emerges together with notions of human and human rights, post-war liberal defenders of human rights both exalt the Holocaust, in order to sustain human rights discourses, and obscure its origins. Furthermore, in
denying the modern roots of totalitarianism, post-war human rights discourse manages to deny the inadequacies of the human rights regime, its biopolitical character, and its continuous dependency on exclusionary practices. As Hesse adds,

the emphasis of the Holocaust…has underwritten a liberal critique of the political extremism of fascist racism, obliging the foreclosure of a radical critique of the social conventions of colonial racism. It has rendered inviolable the vaunted western ideals of universal liberal political culture, only aberrantly fascist and benignly colonial (p15)

Advocates of human rights ignore that, similarly to the way that the “Rights of Man” constitutes an organic element of specific political projects during the French and American revolutions, human rights discourses in the post-war period are also connected with specific and globalized political projects: projects that are not unique to the post-war period, but that remain, in fact, a continuous condition throughout the history of modernity, including through the period of the Holocaust. Particularly, the “Rights of Man” emerge as a biopolitical regime within specific colonial and imperial projects. These projects depend on intrinsically violent technologies of power in which the exclusion of certain populations, specifically colonial population, constitutes the necessary foundation for the constitution of modernity and those “Rights of Man”. In the same way, the reassertion of the human rights regime in the post-war period and its construction of Nazi racism as a paradigmatic and exceptional form of racism not only obscures the origin of human rights, but also the Eurocentric ideological constructs that now dictate and regulate the manner in which human rights exist in a post-war global order.

Consequently, while post-war human rights instruments emerge in attempts to make sense of the horrors of the Holocaust, they also work to project human rights concepts into emerging international communities and within the historically specific – though not at all historically disconnected – geopolitics of the post-war period. In this
way, the process by which the Holocaust is made sense of in the post-war period has as much to do with the need to make sense – through the use of familiar human rights language – of totalitarian terror, as with the need to sustain and justify the political institutions, and transnational relations of the post-war period. These transnational relations, while exhibiting historically specific conditions, do not break away from historical legacies, specifically with histories of colonial violence.

The end of the Second World War saw the emergence in the international arena of two main and interrelated political conditions: a gradual process of decolonization caused by the debilitation of European colonial powers as a result of the war, and the polarization of the Allies forces that eventually precipitated the Cold War. These two conditions, in turn, prompted a shift in global power relations within which the transformation of old colonies into the Third World is probably one of its most critical effects. Human rights within the emerging politics of the Cold War became instruments for the political and ideological differentiation between Western and Eastern political arrangements. Notions of civil and political rights – as traditionally understood in terms of enlightened ideas of individual freedom and civic citizenship – were evaluated and, in fact, given supremacy in the West over ideas of economic rights most commonly associated with communist ideologies (Gordon Lauren 1998; Matua 2002). Within the political and military confrontations of the Cold War, Western human rights discourses become an instrument of neo-imperialism through which the West, specifically the US as a new global power, imposed on international discourse ideas of individualism, capitalism and liberalism as requirements for alliance and for the securing of support from Western powers. Instruments such as the Universal Declaration of Human Rights work then to articulate a historically and ideologically specific language of humanity that fit within international liberalism and which provide the ideological basis for Cold War
world polarization and for the imposition on the Third World of liberalism and capitalism (Richardson 2001; Langlois 2002).

Whereas the internationalization of human rights discourse may contribute to the location of human rights within extra-national arrangements, the management and calculation of human life remains not only a fundamental condition of human rights discourses, but also locates human rights within a specific transnational governmental regime now associated with globalization and neoliberalism. The adoption of human rights language has become in the post-war period a requirement for Third World nations to claim belonging in an international community of nations and has almost always been accompanied by the expected implementation of liberal and capitalist governmental arrangements. Further, as Rajagopal (2003) argues, human rights, specifically international human rights law, emerge as part of civilizing projects to contain the Third World through liberalism, capitalism and liberal democratization processes.

The adoption of international human rights covenants become a requirement for the socialization of human rights values, the evaluation of domestic – specifically Third World – democratic arrangements, and the institution of civic citizenship as transnational normative political discourse (see for example Löwenheim 2008; Risse and Sikkink 2008). As Anthony Langlois proposes, human rights after the Second World War promote the constitution of a new form of internationalism based on a revitalized idea of humanism but that nonetheless are based on particularistic ideas of humanity and nation (p371-372). Discourses of human rights work, in the post-war period, to legitimize and coordinate the “institutionalization of a discrete set of ethical norms across a rapidly globalizing world” (p369): norms associated, as Frost (1996; 2002) argues, to specific ideas of nation, democracy and humanity. Specifically, as Langlois continues, in the post-war period, human rights have become the lingua franca that regulates how notions of rights, democracy and citizenship are articulated in international settings even when
international human rights instrumentalities, based as they are on the already discussed interrelation of citizenship and bare life, do not change the situation of human rights violations on the ground (p370).

Human rights discourses during the post-war period reproduce and reinstate modern discourses of human rights and their inherited notions of subjectivity that while advocating “universal” humanity remain firmly based on exclusive, Eurocentric and stratified notions of humanity, individualism, autonomy and nationalism. The imposition of these notions of humanity on the Third World continues to demonstrate that the assertion of ideal humanity specifically understood as liberal citizenship requires the violent repression of those on whom liberalism must be imposed (Pierce 1981; Mars 1995). Within the power struggles of the Cold War, human rights become an instrument for the reproduction of colonial global power relations through neo-imperial practices that now transform old colonies into the Third World (Lewellen 1995). Human rights, as Langlois argues, while demonstrating the follies of the West during the Second World War, “was foisted upon the rest of the world” during the power struggles to make the Third World liberal during the Cold War (p373). As Zizek (2005) reminds us, the human rights regime remains firmly rooted on violent ideas of the superiority of the North that now justifies violent excursions in the South by using the rhetoric of human rights. Bringing human rights to the South justifies the killing of those human beings the North argues it is there to protect.

As I discussed in chapter 1, the Cold War facilitated a process of violent US intervention in Chile and the rest of Latin America, intervention that gave way in Chile to an unprecedented social, political and economic reorganization project that consolidated liberalism and capitalism as hegemonic political systems. Economic reform and dependence was imposed through structural adjustment policies of the International Monetary Fund and the World Bank which coupled with the violent imposition – through
dictatorships and authoritarian governments- of neo-liberal political arrangements facilitated US influence in the region. As scholars of the Cold War in Latin American have argued, the conflict had the double objective of stopping the spread of communism in the region and of ensuring US dominance through the spreading of capitalism (for example, see Anderson 2002; Harvey 2003). The justification for such interventions by calling upon discourses of human rights specifically associated with the idea of US role in defending democracy and American interests constitutes a predecessor of the contemporary US defence of the War on Terror.

Neoliberalism as an ideology and political system firmly rooted in Enlightenment ideas of liberal democracy, individualism and nationalism, was imposed in Latin America through the violent politics of the Cold War. This once again demonstrated that modernity and its articulation of ideas of human rights require the systemic calculation and management of life in order to turn bodies into either citizens of liberal capitalist societies or “enemies of the state” that need to be eliminated to secure and protect the nation-building project. Modern conceptions of the nation-state as elite-dominated institutional arrangements based on restrictive notions of citizenship and liberal notions of individualism require the orchestrated practice of terror in order to survive in Latin America. As students of Latin American history have argued, economic restructuring in the region relied on the establishment of free-market economies through the restructuring policies of authoritarian regimes (see for example Cardoso 1975; Cardoso and Faletto 1979; Silva 1999). Human rights as a discourse do not only fail to protect those deemed enemies of the state and of US expansionist politics, but also, in fact, constitute the ideological banner that ushered in neo-liberalism to the region. As Grandin (2004) argues, the threat of social justice movements in Latin America was that they provided a “venue in which self and solidarity could be imagined” along with participatory- and social justice-oriented state practices. “Cold War terror”, continues
Grandin, “changed that, imposing a more restrictive model, one that defined individualism as economic self-interest and advanced it through free market policies” (p108). In this sense, the human rights regime was not antithetical to the practices of terror supported by the Cold War, specially to those practices that were justified as a venue to “protect” civil rights, individual freedom and private property against other projects that searched for alternative and transformative ways to conceptualize self and freedom.

This brings me to the issue that most concretely concerns me in this study: the question of how nations make sense of the kind of terror required to impose liberalism, capitalism and human rights in countries such as Chile. Returning briefly to the example with which I began this chapter, and understanding biopower and governmentality as critical conditions of human rights discourses, we can begin to explore the role of Aylwin’s statement in conjunction with a multitude of other statements in human rights discourses since 1990 in bringing human life and human experiences into the realm of state power. We can also uncover the role of statements such as this in producing truth about bodies and about the nation in ways that provides citizen subjects with a repertoire of truth with which they can appropriate national narratives and claim a space in the nation. Further, we can pay attention to the governmental arrangements that this statement advances. In sum, we can trace the way in which human rights discourses dispose of terror and its victims so as to lead to a suitable end: the “reinstatement of national reconciliation”.

Aylwin’s statement is an example of sovereign power exercised on victims of terror and on national citizens though which life is calculated and victims are made to appear in public discourse as the embodiment of bare life. The statement materializes biological life in a discourse embodied in victims and perpetrators whose encounter becomes a subject of state power. By capturing those bodies and acts, the human rights
regime can dispose of them, arranging them in relation to each other and to a larger nation-building project. As Aylwin’s statement demonstrates, victims and victimizers are made to stand as independent and autonomous subjects in human rights discourse. Their encounter becomes the result of different “beliefs and political ideologies” and most importantly, the “result of individual guilt and individual actions”. In capturing terror in discourse, Aylwin’s statement organizes and regulates bodies submitting them to the biopolitics of the human rights regime. In the process of organizing a narrative of terror, Aylwin’s statement makes the revolutionary governmental project of the authoritarian regime disappear: a project that requires terror for its achievement, and a project that remains intact throughout the democratic transition.

As I demonstrate in the chapters that follow, human rights debates in Chile consistently produce the figure of bare life: the bodies of victims and at times perpetrators that are allowed to materialize and resurface at times, while being forced under the surface of national reconciliation at others. This is accomplished in public discourse in highly regulated and embodied ways through, for example, the use of statistical language in the production of tortured bodies in the Valech Report I discuss in chapter 6, which allows the nation to know the most intimate details about victims, their pain and suffering in a manner that produces the victims and authorizes their saving. The naming of terror as human rights violations effectively places biological life within the constrains of a transnational discourse of human rights: a discourse dominated, as Agamben once again observes, by a humanitarian doctrine which “can only grasp human life in the figure of bare or sacred life, and therefore, despite [itself], maintains a secret solidarity with the very powers [it] ought to fight” (p133).

The normative character of Aylwin’s statement does not only make the body of victims specifically visible, but also prescribes the kind of conduct that would constitute the ideal subject: the subject that will find a place in the reconciled nation, the subject
who can only see himself through discourses of individual responsibility in which terror is
what individuals do to other individuals and in which structures of domination remain
invisible. The human rights regime produces not any kind of subject, but a subject that is
fundamentally delimited by neoliberalism in which it finds its most suitable habitat. As
Langlois eloquently argues,

the positivist assumption, that we are able to make observations of our humanity
as such and distill from these observations bills of human rights, is fundamentally
flawed. It is necessarily the case that all our observations of what it means to be
human, and all distillations of these observations into political programmes like
bills of rights, are done from within one or another of the human traditions. This,
of course, is why the bills of rights emergent from the time of the Enlightenment
to the present give us liberal political formulations: not because they were able to
show that human beings are by nature liberal, but because they were framed
within a liberal milieu (2005 p375-376).

As Forrester adds, the discursive deconstruction of notions concerning the “essential
condition” of liberal humanity allows us to uncover the particularistic notion of humanity
imposed and prescribed under the disguise of universal metaphysical discourses of
humanity (2001 p58).

Additionally, Wendy Brown (2005) contends that the notion of the individual at
the centre of human rights language is a concept in which human beings are considered
to enjoy freedom. However, this freedom is narrowly defined along neo-liberal lines in
ways that produce and regulate individuals along discourses of self-care and individual
responsibility. It is the individual, in human rights language, that acquires normative
preeminence over all else; individuals that do not only receive moral primacy over
collective experiences, but individuals who are produced and understood along specific
liberal normative lines (Gray 1995). Thus, as Burchell (1996) suggests, freedom and
individuality, central concepts of human rights, constitute techniques of the self that
produce individuals as governable within a liberal governmentality. “Individual freedom”,
Burchell continues, “is here a technical condition of rational government rather than the
organizing value of a utopian dream” (p24). Individuality as a technique of self involves “individuals adopting particular practical relations to themselves in the exercise of their freedom in particular ways” at the same time that their actions are subjected to specific kinds of interpretations and processes of signification (p26).

Individual freedom and autonomy constitute mechanisms of domination and subjectification that seek to produce subjects capable of self-mastery and self-regulation. This process fits within a rationality of government based on the notion of free liberal civilized citizenship that become the marker of ideal subjectivity within a globalized world. For example, Inderpal Grewal (1999) observes in her critique of “the women's rights as human rights” movement that the main premise of women’s rights arguments is the acceptance of “universal formations of individual and community, liberty and democracy” which are seen as philosophically given and not as historically and ideologically specific formations of liberal democratic states. As such, human rights discourses are unable to account for the life experiences of differently located people who cannot easily explain their conditions of oppression in the individualized language of human rights. Human rights demands based solely on individual gender experiences, argues Grewal, fail to account for the fact that not all women are able to live their lives solely as women independently from their communities, or from other forms of oppression impacting on their lives such as racism and classism (p341-432).

In the Chilean case, the individualized language of human rights fails to account for the transnational and historical conditions that are at play in acts of terror. It fails to account for the fact that acts of terror during the authoritarian regime constituted a crush, a slaughter and a confrontation between political projects, discourses of subjectivity, and governmentalities in which one project obliterated the other. To explain those acts of terror as simple encounters between individuals, as what individuals do to other
individuals, is to deny the larger forces that were at play and the lasting effect of terror in the way we now understand ourselves, the nation and terror itself.

Furthermore, this language of rights is designed to deny the systemic conditions that produce terror and that need terror to advance particular nationalist projects. As Sherene Razack argues, “[r]ights thinking is based on the liberal notion that we are all individuals who contract with one another to live in a society where each of us would have the maximum in personal freedom”. When histories of group inequality and systemic violence enter the discourse of human rights, continues Razack, they “are strenuously resisted through the narrative that we are all just human beings” (1998 p17). This tendency to individualize violence is specially poignant when faced with histories of state terror where it is hard to deny state responsibility. For example, in his critique of the South African truth and reconciliation process, Mamdani (1996) observes that the imposition of a normative language of forgiveness and its focus on individualized amnesty hearings work together to obscure the systemic character of apartheid violence and its role in achieving specific political projects. In the Guatemalan context, Oglesby (2007) argues that while creating a space for the discussion of past atrocities, national processes of truth recovery restrict how the truth will be understood to individualized experiences removed from the social conditions and relations that determine not only victim’s social location, but also the power relations that made victims a target in the first place. This systematic process through which experiences of terror are removed from the systems of oppression and the political structures that organize state terror inevitably requires further violence. The individualization of terror is imposed on victims sometimes by force and through national rituals such as truth commissions in which victims are required to appear in their bare humanity in order to become the site on which the nation is built and on which national subjectivity is asserted.
In stressing individualism, autonomy and self-mastery, the human rights regime removes experiences of oppression and repression from the structures of state terror that sustain them as well as from the liberal conciliatory politics that attempt to explain them. This is probably the most evident effect of Aylwin’s statement: in producing the violence as “individual guilt”, the statement effectively makes violence the product of relationships between autonomous individuals and obscures the state structures that authorize and depend on terror. In this way, liberal human rights language works to obscure a multiplicity of oppressive practices that sustain the oppression of certain bodies and the ideal subjectivity of others (p27). Citing Carol Pateman (1988), Razack argues that the emphasis on individual autonomy that characterizes liberal rights claim ignore that “oppression is the hidden cornerstone on which rests individual autonomy”. As Razack once again reminds us, the adherence to liberal understandings of human rights obscures the relations of domination that position certain people in relations of domination and subordination of each other in a way that not only perpetuates oppression, but also allows to certain people claims of superiority and modernity (1998 p30).

Aylwin articulates a discourse of subjectivity that effectively calculates human life, funneling it into an ideal of the individual subject capable of individual responsibility and judgment. Furthermore, he cunningly ties this discourse of subjectivity to a nation-building project defined as the “reinstatement of cohabitation and trust”. In these few words, we witness the systemic calculation of human life, its connection to the construction of national subjectivity and its linkage to a specific idea of nation. As I demonstrate throughout this thesis, it is the acceptance of this official story, systematically constituted as national truth that allows subjects to claim belonging in the nation through the appropriation of a language of rights. The deployment of a specific discourse of truth make possible the systematic disposition of the experiences of terror
exemplified in Aylwin's statement. Discursively produced national histories, as I discuss in chapters 5 and 7, both distribute and individualize responsibility in ways that effectively remove state terror from the state institution, doctrines and practices within which they were organized and without which they make little sense. These national stories systematically produce authoritarian terror as not a state practice. Human rights violations, as I discuss in chapter 5, become the product of a fratricidal conflict between equal opponents and within global conditions that place Chile in danger of a communist take over. Within this conflict, the authoritarian regime is seem as coming to impose order and save the nation. State terror conveniently disappears under a national narrative in which violence is not the result of oppression or the instrument of social reorganization, but the result of individual soldiers who in the heat of battle went too far.

What is the "suitable end" that the human rights regime makes possible? At first sight, Aylwin's statement discursively produces a national truth: a truth that while being subject as much to criticism for constituting a limited account of past violence as it is praised for promoting peaceful resolution of human rights dilemmas, carries within a power that cannot be denied. In this statement Aylwin effectively inscribes an official truth in national discourse that frames any subsequent investigation of human rights

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abuses. This official truth does not only have biopolitical effects on victims and on citizen subjects, but also contributes to the construction of a nation that uses human rights to consolidate a specific governmental rationality. In this way, the human rights regime produces more than "structures of feeling", as Razack argues building on Said (2004 p144), but also a set of specific strategies through which nations constitute themselves into specific kinds of nations. In the case of Chile, the human rights regime allows Chile to claim a space in a global community of liberal democracies. The human rights regime does not only sustain specific conceptualizations of the human in human rights, but also gives primacy to specific kinds of institutional arrangements that, as Grewal argues when discussing Ilumoka (1994), legitimize specific state institutions and "the concentration of power in the hands of powerful groups" who can claim ideal human subjectivity (p339). In other words, the human rights regime as embodied in the statements at the beginning of this chapter, sustains the consolidation of liberal state formations along concepts of liberal representative democracies that, while historically specific, are seen as neutral and ideal sites for the implementation of human rights (Forrester 2001). Liberal democracy and free-market economies emerge in human rights discourses as the ideal form of governance (Clohesy 2004; Sørensen 2006).

In conclusion, the human rights regime regulates what we see and don’t see in practices of authoritarian terror. The biopolitical regime, the economic model and the political system implemented through terror are conveniently obscured as is the role of national and international forces and power relations in the production of both the conditions for the practice of terror, and the manner in which we later deal with the terror. Furthermore, the manner in which the human rights regime determines how we understand ourselves and others as subjects with human rights or as subjects of human rights policy gets obscured by the emphasis that human rights place on universal humanism and individualism as unquestionable and essential conditions. By advancing this framework,
this thesis may be read as opposing human rights; that is not its main objective. Rather, it is concerned with asking questions about the productive role of the human rights regime, with asking how the human rights regime works to determine how we understand terror, and with tracing the way in which the human rights regime produces subjectivity and nation. I am inclined to maintain that what the human rights regime accomplishes is precisely what it is meant to accomplish: the calculation of human life, the regulation of stories of terror, the production of specific concepts of nation and subject, and the consolidation of specific governmental arrangements. Whether we can think of different ways of understanding human life and terror stories depends on our capacity to understand and question what the human rights regime entails. Only then can we think of different ways in which we can understand humanity and human dignity.
Chapter 4
Truth as the Great Temptation:
*The Rettig Commission*, responsibility and the production of Chile’s past

“Truth and justice to a possible extent”, the Report showed the truth. The whole country knows it…We have not yet discovered the truth of where the disappeared are…[but] that the disappeared are dead is now a truth accepted by everyone: they were killed (Aylwin Azocar 2005)

The question of how to deal with histories of terror is a question that concerns most nations that have come out of periods of conflict and repression in which terror constituted a critical element of how the state ruled over its citizens. This question is specially poignant when terror is a technology that, as Moulian argues, constituted a critical element of an authoritarian power regime destined not only to repress unwanted political projects and the people associated with them, but also to produce a governmentality and project it into the future (Moulian 1997). As I discussed in chapter 1, the authoritarian regime in Chile constituted part and parcel of a larger governmental project: a project that reached transnationally through the international power relations of the Cold War and its effect in bringing Chile into the fold of a neoliberal world order, to each and every member of the Chilean nation through its biopolitical effects on individual bodies and through the systemic organization of bodies within local and extra-local relations of power, production, labour, consumption, etc. As Moulian adds, terror practices, understood as the exercise of state power over bodies, constituted an organic element of this governmentality (p177). These biopolitical effects remain and in fact endure through the transition to democracy which, as Moulian observes, constitutes more a process of gradual transformation from authoritarianism to neoliberalism than an end of the regime (p145). In his own words, post-authoritarian Chile is the “successful culmination of a ‘transformation’”: 

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a long process of preparation, during the dictatorship, of an exit route out of the dictatorship the objective of which was to allow for the continuity of its basic structures [of power] under other political robes: the robes of democracy (p145).

In an Agambian sense, the authoritarian regime deployed technologies of power that effectively captured life, organizing it and managing it within a governmental regime that while relying on authoritarianism, remained circumscribed within the ideological systems of modernity (Agamben 1998). At the same time, such governmentality was predicated in its continuity and as a result, was not meant to end but to remain. These governmental effects create a dilemma for nations that transit to liberal democratic arrangements that while discursively constructed as liberation and a breakaway from authoritarian pasts, are regulated by the same biopolitics of authoritarianism. The dilemma becomes how to produce the post-authoritarian nation as post-authoritarian, or better still anti-authoritarian, while maintaining the biopolitical arrangements that sustain first authoritarianism and later democratic reconstruction. How to maintain continuity while discursively producing discontinuity? These questions are central to Hesse’s argument about the “conceptual double bind” of rights language in which human rights discourses reveal as much as they conceal terror. In the context of Nazi racism, Hesse argues, rights language reveals the “imprints” of racism in nationalism, while “concealing its anchorage in liberalism” (Hesse 2004 p9). A similar condition can be observed in Chile in which the question of how to deal with past terror while consolidating the biopolitical governmentality imposed by authoritarianism requires that strategies to deal with terror both reveal specific aspects of terror, while concealing both the anchorage of terror in those biopolitics and their perpetuation in the democratic transition. How do the biopolitics of modernity re-inscribe themselves in discourses of human rights in the post-authoritarian nation?

In this chapter I explore this question by looking at how Chile uses the human rights regime to bring stories of terror into the landscape of the post-authoritarian nation
in order to render them intelligible and construct with them a national truth. My objective is to reveal the obscured biopolitical effects of the human rights regime as it produces “national truth” and calculates human life, while keeping in mind that such effects reproduce, converge and conspire with the larger neoliberal governmentality of authoritarianism and with its role in incorporating Chile and its subject into a New World Order. I am concerned specifically with how the post-authoritarian nation organizes terror stories into a narrative that becomes national “truth” in which an overarching discourse of prudence constructs truth as a danger to the consolidation of democracy: a danger that needs to be neutralized through the careful management of how terror stories are allowed to enter the national imaginary. In turn, discourses of prudence mediate further transformations in which the authoritarian regime becomes a “just war” and state terror becomes an “individual crime”. The convergence of discourses of prudence, “just war” and “individual crime” produces the conditions under which human rights discourse performs its biopolitical function, regulating what we know and don’t know about terror. What must be ignored, through the careful regulation and systematic organization of a national truth, in order to protect the continuous governmentality of the authoritarian regime? And, how must terror be conceptualized in order to protect the governmental project?

I centre my analysis specifically on the Report of Rettig Truth Justice and Reconciliation Commission (henceforth the Rettig Commission) created during the transitional government of Patricio Aylwin (1990-1993) arguing that the Report constitutes what Balibar calls a “site of memory” in which “national ideologies” are inscribed to produce national community (2004 p23). I conduct a close reading of the Rettig Report specifically as it deals with contested issues of history and responsibility. I juxtapose this reading of the Report with speeches, academic contributions, interviews, and public declarations made by political actors as they comment, appropriate and
inscribe the truth of the Report. This allows me to detect not the veracity or falsity of the Report, but the process by which a national truth is discursively constructed across these samples of discourse. Thus, in reading the Report, speeches, articles, etc, I am not asking whether those examples of discourse constitute true accounts of events, but how they contribute to the construction and installation of a national “truth” and to the management and organization of terror stories.

**Historical and political context**

The Rettig Commission was created on May 9, 1990, roughly two months after President Aylwin took office as Chile’s first democratically elected government in 17 years. Aylwin’s campaign platform had been centred on the promise that his government would end authoritarian atrocities bringing the nation into a new period of truth and justice (Ensalaco 1994). Under the slogan “la alegría ya viene” (“joy is coming”), Aylwin’s political campaign had built on the gains of the “No” campaign in the 1988 Referendum in which Pinochet lost his bid to remain in power for an additional 9 years (Quinn 2001). Aylwin’s campaign stressed the negative aspects of the authoritarian regime including its unjust economic policy and its history of human rights violations (Flisfisch 1994). Skaar (1994) argues that the Commission was a response to pressures from members of the governing coalition, the Concertacion, who themselves had been victims of the regime or advocates for human rights causes, as well as from human rights organizations and

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1 The Referendum took place on October 5, 1988 and resulted in a triumph for the “No” option with 55.99% of the vote. This meant that, according to the transitory conditions included in the 1980 Constitution, the military regime had to call for general Presidential and Parliamentary elections in 1989, leading to the end of the authoritarian regime and the beginning of the democratic transition.

2 The **Concertacion de Partidos por la Democracia** is a coalition of political parties from the centre and centre-left of the political spectrum. They came together under the name of Coalition of Political Parties for the No during the 1988 referendum campaign. After the referendum they constituted themselves into the Coalition of Political parties for Democracy and have managed to win every election in Chile since the end of the authoritarian regime.
activists. Having remained active in denouncing human rights abuses throughout the authoritarian regime, human rights organizations and relatives of victims actively campaigned during the referendum and the presidential elections basing their political actions on a strategy to bring human rights abuses to the forefront of both campaigns. These organizations centred their strategy on preempting any attempt by the newly elected government to overlook the human rights question, or to impose policies that would limit investigations in cases of human rights abuses. Specifically, human rights organizations focused their activism on preventing what they called a tendency to “close national wounds” without proper investigation (Agrupación de Familiares de Detenidos Desaparecidos 1997). For these activists, the eventual transition to democracy carried with it the danger of impunity and amnesia in matters of human rights violations (Agrupación de Familiares de Detenidos Desaparecidos 1998).

Shortly after his presidential inauguration, Aylwin initiated a process of consultation with human rights organizations, human rights lawyers, academics and members of the governing coalition to decide on a process to meet the campaign promises concerning human rights. Faced with the restrictions imposed by the 1978 Amnesty Law and the conditions imposed by the negotiations that led to democracy, Aylwin opted for a formula that would avoid full-fledged military trials while ensuring some measures of truth and justice (Zalaquett 1991; Tepperman 2002). As Skaar observes, in deciding on a strategy to deal with human rights demands, Aylwin would draw on the experiences of two neighbouring countries, Argentina and Uruguay (Skaar 1994). Argentina had implemented a truth commission that emphasized truth-telling followed by a handful of military trials. However, these trials had brought considerable social unrest, debilitating the Alfonsín transitional government and resulting in the eventual reversal of the sentences (Zalaquett 1992 p1427). Uruguay, on the other hand, had adopted a policy of forgiveness that resulted in no substantial truth-finding initiatives
and no prosecutions (Pion-Berlin 1994). Aylwin adopted a strategy that would place Chile in between a strategy of full-fledged prosecutions and complete disregard for human rights abuses. His policy would borrow from the Argentinean truth commission while avoiding the social unrest brought about by trials, and in this way, the transitional government would respond to human rights demands while protecting the negotiated conditions of the transition.

The Rettig Commission constitutes a prime example of the truth commissions that have become a commonly used strategy to deal with past human rights atrocities in diverse international settings. The Rettig Commission together with the Argentinean Truth Commission became models for many other truth commissions around the world including the South African TRC (1995) and similar commissions in Guatemala (1994), El Salvador (1992), Sierra Leon (1999) and Morocco (2004). In their organization and structure, Truth Commissions are not all dissimilar from the Royal Commissions commonly used in Commonwealth states except for the fact that truth commissions generally do not have the power to issue warrants, subpoena, or seizing documents or evidence (Freeman 2006).

The Rettig Commission was named after its chairman, lawyer and former ambassador Raul Rettig, and was composed of an even split number of representatives from supporters of the Pinochet regime and supporters of the Concertacion, but excluded relatives of the victims (Popkin and Roht-Arriaza 1995). In was officially

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3 Royal Commissions usually involve research into an issue, consultations with experts both within and outside government and public consultations as well. The warrant may grant immense investigatory powers, including summoning witnesses under oath, offering of indemnities, seizing of documents and other evidence (sometimes including those normally protected, such as classified information), holding hearings in camera if necessary and—in a few cases—compelling all government officials to aid in the execution of the Commission. Sunga, L. S. (2009). Ten Principles for Reconciling Truth Commissions and Criminal Prosecutions, The Legal Regime of the ICC, J. Doria, H.-P. Gasser and M. C. (Bassiouni, Brill.)
instituted by Supreme Decree Law 355\textsuperscript{4} of the Ministry of Justice with the mandate to investigate cases of grave human rights violations and cases of politically motivated violence resulting in death during the period between September 11, 1973 and March 1990 (Ministerio de Justicia 1990). In contrast with El Salvador, for example, in which the truth commission was the result of international pressures within the context of a peace accord and was made up of internationally appointed members (Nuzzi and Dodson 1999), the Rettig Commission, like the Argentinian Commission, was made up of government appointed notables representing different sectors of the political spectrum (Barahona de Brito 1997). During its nine months of investigations, the Commission traveled throughout the country collecting testimonies in private audiences and organized its findings into a report that was officially presented to President Aylwin in February 1991. The Commission investigated a total of about 4,000 cases; among these 1,183 were deemed cases of detained disappeared people, and 2004 were victims of political executions. The Commission also identified 641 cases in which it could not determine the political motivations of the death, 504 cases that were beyond its mandate and 449 cases in which not enough information existed to determine whether the person was a victim of human rights violations. The Commission concluded that 95% of the cases were the result of violence inflicted by agents of the state (Comission Nacional de Verdad y Reconciliacion 1991).

Human rights activists in general considered that the Commission offered an opportunity to bring to light events that had been ignored or denied by the authoritarian

\textsuperscript{4} In Chilean law, a Supreme Decree is a legal instrument used by the Executive powers of the state to implement policy in situations of urgency. It is hierarchically located below laws passed by Parliament and, as a result, is used for specific situations in which the President deems it necessary to circumvent regular legislative processes. In order to be enforceable, a supreme decree requires the signature of the President and the minister in charge of the area that affects the supreme decree. (Biblioteca del Congreso Nacional de Chile, Glosario legislativo, in www.bcn.cl/ayuda/glosario).
state. As one activists stated in an interview for this study, “the commission finally provided me with the chance to hear for the first time that someone believed me when I said that my husband had been disappeared by the state...for a long time the state denied this and now they had to acknowledge it...that was an achievement for me”. However, human rights organizations also criticized the Commission for having a restricted mandate to investigate only cases that had resulted in death leaving survivors of state repression, and especially victims of torture, without recognition (Hamber 1998) and for creating a false sense of justice that disguised policies of impunity. They specifically objected to the mandate that restricted the Commission’s capacity to name people responsible for human rights violations, arguing that the Commission produced a limited account for human rights violations and that as a result perpetuated impunity. As representatives of the Association of Relatives of the Detained Disappeared argued after the release of the Report, the Rettig Commission “had demonstrated that there was concern for matters of human rights, but concern does not always translate into a search for truth and justice” (Agrupación de Familiares de Detenidos Desaparecidos 1997).

Following its release, the Report was widely discussed in the media and conservative and moderate political leaders expressed contrition (Amstutz 2005). There was not a wide printing of the original version of the Report, but it was printed as an insert in a daily newspaper (Hayner 1994). As I discuss in chapter 6, the armed forces condemned the Report as biased and incomplete, arguing that the historical interpretation of events that led to the authoritarian regime, as well as the claims that deaths constituted human rights violations and not casualties of war, ignored the role of the Armed Forces in a war against communism. However, the findings of the Commission in terms of the number of identified victims were not contested. At the time, the country also witnessed the discovery of mass graves in which the authoritarian
regime had buried executed victims in Tocopilla, Colina and Pisagua. All these events led to a wave of public celebrations (monuments and public memorials) recognizing and honoring victims. As a result of the Report and its proposals the state implemented a number of compensation policies destined to create a system of pensions and benefits for relatives of the dead victims. Most of these measures were passed in Law 19,123, which I discuss in chapter 7. There were also follow-up plans centring on human rights education. For example, the Commission proposed the creation of a nation-wide education program aimed at disseminating the results of the Commission throughout the country with the objective of creating historical dialogue (García 2005). However, a series of attacks by the armed Left against right-wing politicians, including the murder of right wing leader, Jaime Guzmán, soon after the report's release, overshadowed the Report and halted the implementation of this education program. The assassination effectively ended discussion about the Report until 1998 when Pinochet was arrested in London (Human Rights Watch 1991; Mattarollo 2002).

The Rettig Commission is generally considered one of the most important achievements of the democratic transition and a critical element of the process of democratic consolidation of the Aylwin administration (see, for example, Aguero 1993; Barahona de Brito 1993). In the field of political science in Chile, the democratic transition is generally seen as beginning with the negotiations that followed the defeat of the ‘yes’ option in the 1988 referendum that eventually led to the election of Aylwin in the 1999 elections. For some Chilean scholars, the democratic transition begins with the

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5 26 bodies were unearthed in the Northern desert town of Pisagua in June of 1990. Due to the dry conditions of the Northern desert, these bodies were relatively well preserved facilitating their identification. In the same year, 4 bodies are discovered also in the Northern town of Tocopilla. About a hundred bodies were exhumed from unmarked graves in Santiago’s General Cemetery’s Lot 29.

6 Jaime Guzmán Errázuriz is considered one of the most influential civilians in the authoritarian regime and the creator of the 1980 Constitution. He is also the ideological founder of the right-wing Independent Democratic Union Party (UDI). Members of the Manuel Rodríguez Patriotic Front, a left-wing paramilitary organization, assassinated him in 1991. His murder constituted the only political assassination of the democratic transition.
transfer of power from Pinochet to Aylwin: a process facilitated by negotiations with the authoritarian regime leading to for example the constitutional reforms of 1989, but also regulated by the Constitution put in place by the authoritarian regime in 1980 (Garretón 1989; Bengoa 1994). “Authoritarian enclaves” imposed by the Constitution are usually considered as restricting conditions that impact on the capacity of the transitional democracy to consolidate itself and to fully address human rights legacies (Correa Sutil 1992; Flisfisch 1994). These ‘enclaves’ are associated with the system of appointed senators, the National Security Council and the binomial electoral system established by the authoritarian regime in the constitution and that give specific character to the democratic transition (Herz 1982; Baloyra 1987; Godoy Araya 1999).

Most political scientists in Chile evaluate the democratic transition by adopting a rather restrictive concept of democracy understood almost exclusively along the lines of a system of elected representatives. For example, Karl argues that democratic transition is achieved when the majority of the adult population can participate as citizens in the selection of their political leaders through competitive elections (Karl 1990 p391). As a result, it is commonly assumed that Chile achieved democracy when Aylwin took office.

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7 Appointed senators were originally 9 and included former Chiefs of the Armed Forces, former ministers of state and former Presidents. Pinochet became an appointed senator in 1998 when he retired as Commander in Chief of the Army and remained in this position until 2000 when he was forced to retire after his arrest in London. The system of appointed senators remained in place until the constitutional reform of 2006. (Munoz, H. (2008). The dictator’s shadow: Life under Augusto Pinochet. (New York, Basic Books.)

8 The National Security Council (COSENA) was created in the 1980 Constitution and it is made up of the President of Chile, the Presidents of the Senate and the Chamber of Deputies, the Commanders of the 4 branches of the Armed Forces and the Auditor General. Prior to the 1995 constitutional reforms, the council could be convened by any two members and its most important attributions were to call the attention of the President to, or express its opinion about, any situations that could compromise national security or the constitution (Lefranc, S. and M. Stein (2005). “Las politicas de perdon y de la reconciliacion. Los gobiernos democraticos y el ajuste de cuentas con el legado autoritario.” (Desarrollo Economico 45(178): 163-186).

9 El sistema binominal was adopted in the 1980 Constitution and is an electoral system that favours coalition slates. In this system candidates are elected only if the coalition they represent outpolls the second-place coalition by a margin of 2-to-1. This system has consistently favored right-wing parties that in spite of not gaining a majority of votes have been able to elect representatives. This system remains in place until now Munoz, H. (2008). The dictator’s shadow: Life under Augusto Pinochet. (New York, Basic Books).
Concerns such as those created by the “authoritarian enclaves” imposed by the constitution are seen less as evidence of an undemocratic system, and more as a characteristic of Chile’s democracy. Due to the “bargains” on which the democratic transition is built, the transitional democracy is commonly perceived to be either a “negotiated” democracy (Godoy Araya 1999), or a “protected” democracy (Garretón 1989). The former usually refers to the fact that the post-authoritarian democracy is restricted by the conditions set up in negotiations with the authoritarian regime concerning the maintenance of the economic model implemented by the authoritarian regime and the permanence of the 1978 Amnesty Law on order to protect members of the dictatorship against prosecutions for human rights violations (Bengoa 1994). Those who see the transition as a “protected” democracy do not deny the consequences of political negotiations but tend to also consider structural conditions such the authoritarian enclaves already mentioned (Skaar 1994; Garretón 1999; Salazar 2003).

For scholars in this field, the Rettig Commission highlights the specific conditions of the democratic transition which, according to Zalaquett, limit what the democratically elected government can do in matters of human rights, forcing the state to adopt strategies of consensus in order to protect a fragile democracy (Zalaquett 1992; , see also Lefranc and Stein 2005). In this context, the legacies of terror of the authoritarian regime are considered as one more “authoritarian enclave”, Garretón (1989) calls human rights legacies “ethical enclaves” while Bengoa (1994) calls them “moral enclaves”. These ethical or moral enclaves require, as these authors suggest, that the post-authoritarian nation adopts strategic solutions that use what Garreton calls “radical symbolic” gestures in matters of human rights without seriously impacting or affecting the social position of actors associated with the authoritarian regime, or the structures regulating the democratic transition (1989 p120). As Correa Sutil argues,
in the Chilean situation, the political constraints were great, and the newly
elected government thought that it did not have enough power to impose
punishment. Therefore, acknowledgement became policy (Correa Sutil 1992
p1458).

The Rettig Commission is constituted then as a strategy that allows the state to meet its
moral obligations without putting the democratic process in danger. The Commission is
seen as meeting two critical objectives: the moral legitimization of the democratic
transition specifically in relation to human rights groups and the international community,
and the maintenance of the balance of powers with still strong authoritarian elements. As
Bengoa continues, the Aylwin government opted for a policy of caution in relation to
human rights issues in which the “superior good” of maintaining and consolidating
democracy took precedence over demands to more fully account for past terror. While
judicial prosecutions threatened to weaken the transition, the Rettig Commission
constitutes the strategy through which the state disassociates truth from justice: truth
that advances national reconciliation while perpetuating impunity (1994 p40).

Yet to argue that the Rettig Commission, like similar commissions in other
countries, constitutes solely a strategy to pragmatically deal with the structural conditions
of the democratic transition is to deny more profound and less conniving interests
underpinning the creation of the Commission. As I discuss bellow, there are traceable
discourses of subjectivity, morality and truth impregnating debates concerning the Rettig
Commission that cannot simply be explained as a result of structural and historical
political restrictions. There are identifiable concerns regarding the moral dilemmas
presented by stories of terror that intimately impact on the way in which post-
authoritarian subjects understand themselves and their role in the democratic transition.
These dilemmas require that any solution concerning the human rights question be
framed in a language of modernity and humanitarianism even when the responses to the
human rights demands reproduce terror and victimization. As a result, the Rettig
Commission, no matter its role in dealing with concrete demands and restrictions, provides a site in which national subjectivities are negotiated within human rights discourse creating a space in which subjects structure national narratives within which they emerge as humanitarian subjects.

A less widely accepted position in relation to the conditions of the democratic transition and the role of the Rettig Commission within it is put forward by authors such as Moulian (1997) and Thayer (2001). These authors question the argument that the democratic transition constituted a breakaway from the authoritarian regime that resulted from negotiations between the regime and a democratic opposition. As a result, their perception of the role of the Rettig Commission is less optimistic and celebratory than that of the authors mentioned earlier. For these critics the transition does not mark an end to authoritarianism at a specific historical moment (when Aylwin takes office). Rather, the transition, as I observed above, constitutes a process of gradual transformation that begins as early as the military coup and that continues quite undisturbed through the formalities of the transfer of political power. This process of transformation, proposes Thayer (1996) building on Moulian, begins as early as 1977\(^{10}\), continues through the 1980 process of constitutional reform and culminates with the absorption of the political opposition into the governmental regime put in place by authoritarianism\(^{11}\) (see also Beasley-Murray 2001). In fact, Thayer argues that the

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\(^{10}\) Moulian argues that starting in 1977 there is a consistent process of transformation within the authoritarian regime influenced in part by the murder in Washington of former Chilean minister of foreign affairs Orlando Letelier and the outcry this assassination caused in the US. It was also influenced by the need to strengthen the presence of Chile in the global economy through the securing of international loans. These conditions created struggles within the regime between “soft” and “hard” tendencies and eventually lead to the dissolution of the secret police (DINA) and the marginalization of members of the regime more publicly implicated in the violation of human rights. Moulian, T. (1997). *Chile Actual: Anatomia de un Mito*. (Santiago, Arcis Universidad., pp 224-227).

\(^{11}\) Martinez and Diaz argue that such transformation can be traced as far back as the 1960s and that the Frei and Allende governments of the 1960s and 1970s in fact created the conditions for the eventual neoliberal transformation of the authoritarian regime. Martinez, J. and A. Diaz
transition that takes place in Chile is a transition not towards democracy but towards a market economy which takes place within the authoritarian regime through the measures that brought Chile in line with the neoliberal world order and that constructed a model of state and democracy as simple techniques of management (see also Levinson 2001).

This process of transformation results in at least two conditions. First, the transfer of power from dictator to elected president constitutes a mere formality that does not endanger the carefully fixed governmentality of the authoritarian regime. This is exemplified concretely by arguments commonly used by political actors in Chile that the transition to democracy was successful because it was done according to the “rules of the game” imposed by the authoritarian regime. These rules of the game do not only regulate how the transition is organized but also effectively absorb transitional politics into the authoritarian governmentality. Secondly, the democratic transition only constitutes change as long as, as I observed earlier, democracy is conceptualized narrowly along the lines of free elections, dismissing possibilities for alternative ideological or governmental arrangements and inscribing democracy as simple management of the state.

Moreover, as the transition to democracy requires that continuity be disguised as discontinuity, the post-authoritarian state invests human rights discourses with a morality of consensus and necessity that portrays the post-authoritarian nation as caught between the ethical dilemmas of accounting for past terror and the realpolitik imposed by the conditions of the transition. The Rettig Commission emerges here as the “best possible solution”: a solution caught, as Richard (1998) observes, in a normative


13 This argument was quite central, for example, in President Aylwin’s interview for this study, as well as in the interviews given by members of parliament.
language of consensus that submits terror to new offenses. Terror is transformed, continues Richard, into “insignificant” memory through the process that make the act of speaking of terror into a practice that distances terror experiences from the regime in which it takes place (p35). In this critique the Rettig Commission and I argue the Valech Commission, constitutes not heroic attempts to overcome “authoritarian enclaves”, but rather instruments, or what Moulian calls rituals, that disguise the continuation of the order while producing the illusion of a ‘grand’ discovery of truth (Moulian 1997 p67). Whereas these authors do not focus centrally on the analysis of the Rettig or Valech commissions, they provide a critical framework on which to centre the critique advanced in this study.

A brief discussion of truth commissions

Truth commissions have become a common instrument used by nations to account for past histories of violence and historical injustices, and much has been written about them (for example, Crocker 1998; Kaplan 1999; Rotberg and Thompson 2000; Graybill 2002). However, truth commissions were rather unheard of prior to the 1970s, even though atrocities regularly committed by both external forces and by the state against internal enemies are not a new phenomenon. The diversity of scholarly work on commissions and the many of fields in which research is based demonstrates that truth commissions have the capacity to traverse a multiplicity of discourses from law and political sciences, to sociology, anthropology and psychology, just to name a few. One condition, nevertheless, seems to define the location of truth commissions in national reconciliation processes: commissions exist in a sort of in-between space, between pragmatic conditions specifically related to justice issues and the consolidation
of political arrangements, and symbolic effects specifically related to the promotion of national reconciliation.

Scholars in the field of transitional theory, for instance, usually refer to truth and reconciliation commissions as strategies that allow new and remerging democracies to investigate and deal with legacies of violence while still maintaining delicate balances of power with exiting authoritarian regimes (Hayner 1994; Hampson 1995; Kaye 1997; Crocker 1998; Nuzzi and Dodson 1999; Hayner 2001). For these authors, the negotiated character of many transitions, and the permanence of authoritarian enclaves in new democracies require arrangements that make it difficult to implement judicial investigations into human atrocities (Garreton 1989; Flisfisch 1994; Pasqualucci 1994; Mendez 1997; Rakate 1999; Stahn 2001). As Du Toit (2000) observes in the context of the South African TRC, truth commissions usually operate within the historical circumstances of transitional justice and within negotiated settlements in which there are no clear winners in a conflict. They cannot, as was the case of the Nuremberg trials, establish victor’s justice and are required to carefully manoeuvre within delicate political and historical contexts. As a result of these restrictions, truth commissions offer alternatives to more traditional retributive justice pursuits by favouring strategies that constitute “truth as acknowledgement and justice as recognition” (p123, italics in the original). As Zalaquett (1991) adds, transitional democracies attempt to find middle ground in which the conditions of democratic transitions are required to weigh demands for justice with the need for democratic consolidation. Commissions are considered a venue to achieve this balance between human rights demands and democratic reconstruction. In this sense, commissions are seen as a site in which demands for truth and justice can be contained in a manner that can further the processes of democratization (see also Correa Sutil 1992; Pion-Berlin 1994).
In their perceived capacity to contain demands of truth and justice demands, truth commissions offer remedial effects because they either constitute sites in which truth is perceived to have justice effects (Goldstone 1996; Zalaquett 2003), or they provide a “forum in which the victims of violence could have their experiences of trauma politically validated” (Goodrich 1998 p 274). Nevertheless, as Zalaquett (2003) observes, the need to further the “political viability” of transitional democracies is a fundamental ethical objective influencing the creation of truth commissions. This objective, continues Zalaquett, is encapsulated in the famous expression “never again” which became representative of transition discourse concerning truth commissions. This imperative to sustain fragile political arrangements leads to commissions being seen by some scholars as “second best options” in which optimal systems of justice are constituted as undermining democracy while commissions provide more pragmatic measures of justice (Minow 2000 p237). For others, however, truth commissions provide a better alternative for the achievement of truth than traditional retributive justice measures. Due to their public character, commissions are perceived as catalysts for national rituals of truth that can reach all members of society (see for example Zalaquett 1995)

Scholars who are critical of the role of commissions in maintaining balances of power, observe that rather than advancing truth and justice, commissions are in fact unjust because they sacrifice justice demands in order to maintain political stability (Woods 1998). Brandon Hamber (1999), for instance, argues in the South African context that the role of the TRC in protecting the terms of the transition resulted in the commission being expected to resolve once and for all human rights issues in order to allow the post-apartheid government to move on with its other political agendas. This condition had an impact on the commission’s capacity to account for more complete versions of truth that in turn limited retributive justice. Due to their non-prosecutorial character, commissions are seen to produce limited results for victims of human rights
abuses who are demanding more complete accountability (Kaye 1997; Jeffery 1999; Posel 1999). For many critics, the emphasis that commissions have on the consolidation of democratic arrangements, and the element of amnesty that is either a component or an end result of many commissions, ultimately impact on justice demands perpetuating impunity and interfering with the establishment of the rule of law (Bengoa 1994; Huste 1995; Ardiles 2003; Call 2003). For others, the quasi-judicial character of truth commissions and their location outside the sphere of prosecutorial law result in lack of legal protection for those who may come under the investigation of truth commissions or who may be named as perpetrators in their reports (Freeman 2006).

Conversely, other authors suggest that commissions provide a more expanded form of justice in which truth constitutes an element of justice that has remedial effects for victims, where telling truth through commissions constitutes a way of staging justice (Goldstone 1996; Goodrich 1998; van Zyl 1999). For example, paying attention to their role in historical inquiry, Godwin-Phelps observes that commissions constitute a process by which the nation creates a story of itself through historical inquiry. She recognizes that commissions interpret the past, imposing on historical events a “plot” that they would not possess as mere [historical] sequences (Godwin Phelps 2006 p80). The role of commissions as interpreters of the past produces, according to Godwin-Phelps, positive effects because commissions allow individuals to tell their stories. She remains convinced that “personal stories compromise a notable portion of the new history” manifesting “a unique sharing of power [that reflects] the promise of democracy”. “The voices of people are meaningful in the newly constituted country”, concludes Godwin-Phelps (p81). Commissions, according to her, produce justice because they produce truth and because they incorporate the voice of victims.

It is generally agreed that the most important role of commissions is to promote national reconciliation. That is, in spite of their inherited relationship to political structures
and their limited justice effects, commissions have a critical role in providing symbolic sites for the construction of national identity (for example, Flisfisch 1994; Lefranc and Stein 2005). While commissions are hailed or criticized for their emphasis on the legitimization of specific political arrangements, or for their limited justice and truth effects, many scholars tend to take the reconciliation aspect of truth and reconciliation commissions as a rather unquestioned purpose of commissions. They are seen as able to quiet tempers, promote prudence and heal the nation (Liebenberg and Zegeye 1998; Cronin 1999; Lund 2003; Young 2004). The nation in this debate acquires human-like characteristics as wounded soul or an emotionally scarred body, or the nation emerges as a natural continuation of private and familiar life in which individuals reconcile both for their own benefit and the benefit of the whole nation (for example Bengoa 1994; Zalaquett 2000; Zalaquett 2003). Commissions are seen as vested with both religious and therapeutic roles as entities capable of promoting emotional social healing, build trust and achieving national communion (for example, Allan and Allan 2000; Akhavan 2001; Govier and Verwoerd 2002).

This unquestioned relationship between human rights and national reconciliation results in studies of truth commissions in which a critical analysis of power remains elusive. Political and structural analyses of truth commissions, as those contained in the field of transitional studies for example, tend to account for power relations in a more explicit manner as a political representation of power located in state institutions that need to be legitimized and consolidated in order to protect democracy (Crocker 1998; Skaar 1999). Nevertheless, when the discussion turns to the reconciliatory effects of commissions, power seems to vanish under the concept of national reconciliation values, which commissions should – but are sometimes unable to – achieve (for example, Zalaquett 1995; Olawale Albert 1999; Rakate 1999).
Richard Wilson offers an evaluation of commissions that is less optimistic and that opens up a space to begin to ask questions about the role of commissions in the maintenance of power relations. In his study of the South African TRC, he observes that commissions constitute the strategy used by political elites to legitimate power and to impose on those whose voices it hears (perpetrators and victims) a language of human rights that forces them to recognize the power of the new government (Wilson 2000; Wilson 2001). Commissions, suggests Wilson, are historically specific instruments that constitute a technique for the legitimization of new ideas of citizenship based on human rights, constitutionalism and the rule of law that departs from ethnic forms of nationalism (p3-4). They are instruments for the distribution of a liberal language of human rights and for the legitimization of state institutions, such as justice tribunals, that now regulate previous ethnic conflicts. The legitimizing effect of commissions, suggests Wilson, ultimately impacts on survivors’ demands for truth and justice. Commissions, Wilson continues, squeeze individual demands into a language of human rights and national truth that does not necessarily represent the interests of victims (p225). Reconciliation, as a critical expression of human rights language, he continues, constitutes the “Trojan horse” that smuggles an unpleasant past into the present in order to convert it into a truth that the nation can now claim is a truth for national reconciliation. Reconciliation, he writes, renders “commonsensical and acceptable the adjuring of legal retribution” by creating a “moral imperative which portrays retributive justice as blood-lust…and as an affront to democratization” (p97). This is done so as to legitimize the power of the new state. Additionally, and here Wilson seems to account for the symbolic as well as material effects of commissions, commissions inscribe and impose a language of reconciliation and human rights on the public discourse of the nation. In the context of an ethnographical study, Wilson shows how the language of reconciliation – as the principal expression of human rights talk – is transferred and imposed on victims and perpetrators.
in the context of the ritualistic conditions of public hearings. He argues that the public performance of the human rights talk in the hearings achieves the purpose of distributing the language of human rights to victims, perpetrators and the nation. It is in that way that Wilson argues, that commissions promote nation-building processes that are destined not only to legitimize institutional arrangements, but also to teach the language of human rights to the whole of society (p15). They in fact have pedagogical effects. This could not be achieved, argues Wilson, simply through the “dull, rule-bound and technically obsessed courts of law” (p20).

Wilson provides a valuable appraisal of truth commissions that sidetracks the question of whether or not commissions achieve justice by looking instead at what commissions strive to achieve: the legitimization of specific government arrangements and the distribution of human rights language. Now, he suggests that the achievements of the TRC are limited, resulting in “discontinuities” and “divergences” between the reconciliatory language of the TRC and people’s conceptions of justice, what he calls “vengeance” (Wilson 2000). This results in people looking outside of commissions for other more complete expressions of truth and justice. This leads Wilson to an analysis of local justice initiatives in which people negotiate justice demands apparently outside the human rights rhetoric offered by the commission. This allows him to conclude that centralized human rights practices as those embodied in national truth commissions are unable to account for diverse justice demands, and that the protection of human rights requires more pluralistic, decentralized and multi-local sites for the formulation of human rights values (p87).

As I show in this study, commissions are instruments characterized by possessing a Janus face: at the specific historical juncture in which they are located, commissions constantly maintain their gaze simultaneously on the past and the future. In their mandate to account for past terror within the constraints of a continuing
governmental regime, commissions constitute devices that regulate and organize the past producing a story that can inscribe order and meaning on past events, protect contemporary power relations and advance future national reconciliation arrangements. Commissions produce more pervasive effects than those recognized by most researchers of truth commissions, and they cannot be simply evaluated for their failure and success. It is not enough to ask whether commissions produce sufficient truth or justice. Rather, we need to ask what biopolitical effects they produce. Commissions need to be looked at as sites in which power and knowledge produce narratives meant to transcend the work of these commissions and reach the most intimate aspects of people’s lives in ways that cannot be limited to the simple acceptance or rejection of their results. As I show in this study, commissions embody a governmental rationality where the goal is not only the legitimization of state institutions, but also the production of individual subjectivity that captures human life in the highly constrained realm of state power. For instance, while as Godwin-Phelps (2006) is technically correct in observing that commissions incorporate victims’ voices in their narrative, the use of individual testimonies requires that we centralize the question of how power is at work in the regulation and organization of victims’ narratives. In constructing a national story on the basis of individual testimonies, commissions capture human life (victims, perpetrators and the rest of us) within a regime of truth that sustains specific governmental arrangements.

Commissions produce symbols, fictions and mythologies that, as Balibar argues building on Anderson, help the nation to build “imagined communities” (p23). They tell us a story of the nation and provide us with a repertoire of concepts that allows us to give meaning to who we are and our relationship to others and the state. In the context of liberal democracies, truth and reconciliation commissions produce symbols, fictions and mythologies that are embedded in the liberal regime of human rights in
which human life is not only specifically defined and discursively produced, but also regulated. In other words, truth and reconciliation commissions constitute a site in which the human rights regime performs its biopolitical work of inscribing human life within a state order. Commissions constitute a site in which biological life is captured in the power-imbued language of human rights in order to further a nation-building project summed up under the banner of national reconciliation. In this way, they look towards the past but maintain their gaze firmly in the present and the future.

I propose that in their relationship with the human rights regime and the state, commissions constitute an apparatus understood in a Foucauldian sense as an “ensemble of discursive and material elements” destined to resolve a specific problem related both to the population and to the state. Their purpose is the management of a specific problem in order to achieve specific results (Foucault 1980). They examine specific phenomena such as practices of state terror, submit it to epistemological discipline, through what Goldberg calls the “dual practice of naming and evaluating”, to produce national truth, and calculate human life (Golberg 1993 p150). Commissions, in this way, constitute an example of what Agamben calls a “double-sided political event” in which the undertaking of stories of past terror achieves the double effect of recognizing and granting rights and freedoms while submitting life to sovereign power (p121). Commissions discipline and organize chaotic experiences and present them to the nation as a “national truth”. In their capacity to produce truth, they converge and legitimate specific power arrangements – for example, the building of democracy by using the tools provided by the authoritarian regime, the neo-liberal project that makes the market into a ‘natural’ mediator of human activity, and the political arrangements imposed by force by the military regime and maintained by the democratic transition. At the same time, in producing and legitimizing, commissions also inscribe human life – both the victim and the citizen – within a system of power. This is a dimension of the
study of commissions that has remained largely ignored in a field of study mostly concerned with whether of not commissions can respond to human rights demands or legitimize political institutions and political systems. Perhaps this has to do with the location of transitional studies within the social sciences, or with the hegemony of the human rights regime specifically within the study of post-authoritarian and post-totalitarian states.

Commissions do not exist independently, nor do they arbitrarily construct truth. They respond to a mandate that as I show below sets a framework within which the commission is to perform its duties. In liberal democracies such as Chile, such a framework is established by a neo-liberal order embodied in the human rights regime that, as Nelly Richard (2001) and Willy Thayer (2001) observe, regulates society, its economy, politics and language, imposing normative discourses of ideal individualism, humanism, consumer-citizenship, the state and the market. In other words, the framework that organizes the work of the Commission emerges from within the same social reorganization project of the authoritarian regime and finds specific expression in the liberal language of nation’s discourse of truth, justice and reconciliation.

**Truth and justice as far as possible**

In 1991 at a lecture at Hastings College in California, renowned Chilean scholar and member of the Rettig Commission, Jose Zalaquett stated that the “ghosts of the past, if not exorcised to the fullest extent possible, will continue to haunt the nation tomorrow” (Zalaquett 1992 p1430). In this statement, Zalaquett summarizes the problem that confronts the post-authoritarian nation in its first few years: the problem presented by the legacies of the past. The statement also encapsulates the Janus face of Chilean human rights discourses: the need to keep an eye on the past in order to build a nation
for tomorrow. The ghosts that haunt the nation are quite real. The authoritarian regime has left an undetermined number of victims dead and alive. Human rights activists have been not only vocal in demanding recognition from the state for the terror inflicted on their bodies and on the bodies of their relatives, but have also been invited to take part in the celebrations of democracy. Chile has also earned a poor reputation in the international community for its practices of terror. The authoritarian regime was condemned even by the US, its most fierce ally. These condemnations at the very least taint the success of Chile’s economic miracle. The legacies of the authoritarian regime threaten, as Aguero (1993) suggests, the stability of Chile’s otherwise “nicely normal’ politics” (p131). Further, as President Aylwin exemplified during his interview for this study, “the legacies of the regime threaten to upset the moral integrity of post-authoritarian subjects”: subjects educated in a long humanistic tradition that produces them as possessing an “innate desire to belong in a community of people of goodwill naturally inclined to build common understanding” (Aylwin Azocar 2005).

How does the nation exorcise its ghosts? Critics of the transitional democracy, such as Moulian (1997; 2004) and Richard (2000), argue that the democratic transition is built on amnesia because it forgets its own origins in the transformation process of the authoritarian regime. Yet, the post-authoritarian nation does not forget the legacies of terror and, in fact, actively accounts for terror through, for example, the Rettig Commission. Furthermore, as most political actors stated in their interviews, there is shared desire, what Undersecretary of the Interior Jorge Correa Sutil called a “stubbornness,” to bring terror experiences to light (Correa Sutil 2004). As Senator Jaime Naranjo stated,

we needed to deal with human rights issues….It would have been very frustrating and disappointing for all those people who suffered and expressed solidarity with us if we have not done it and just decided to turn the page….The fact that we responded to human rights demands must fill us with pride (Naranjo 2005)
This suggests that paradoxically the act of exorcising the ghosts of the past does not mean expelling them from the nation, but rather actively capturing terror, rendering it knowable, while fixing it within the power relations of the post-authoritarian nation. Furthermore, the connection between the act of accounting for terror and national pride, as Senator Naranjo states it above, suggests that the presence of terror stories in the landscape of the nation is critical for the constitution of a humanitarian subject. As Razack comments in relation to the role of stories of genocide in the construction of national identity, the appropriation of terror stories is a national process by which subjects confirm their humanitarian character and negotiate a space on the nation by owning and knowing stories of dehumanization and genocide. This process intrinsically requires the presence – albeit carefully regulated and, as Razack argues, ultimately obliterated – of the suffering body of victims (2007 p376). In the Chilean case, this national process is mediated, not by imposed forgetfulness, but by the careful act of capturing terror stories in a post-authoritarian human rights discourse in which terror tells the nation the truth about itself.

The looming presence of terror stories in post-authoritarian national narratives requires zealous regulation. As Zalaquett observes building on Weber, accounting for past violence requires that the nation carefully manoeuvres in a narrow space between a moral imperative, what he calls an “ethics of conviction”, and an “ethics of responsibility” (Zalaquett 1991 p1430). The former refers to a desire to achieve the fullest extent of truth and justice, while the latter restricts such endeavors through a mandate to protect democracy: to achieve the former to the “fullest possible extent” in order to prevent the ghosts of the past from haunting the nation’s future. The Aylwin administration conceived its human rights policy as existing within two parameters: “imperfect justice and peaceful coexistence”. As Aylwin stated in his interview,

human justice is always imperfect and it is necessary to place the desire for
justice, understood as the punishment of the guilty, in balance with other more important social values such as the human desire for peaceful coexistence and the end of conflict (Aylwin Azocar 2005).

It is in this narrow space that the politics of the possible, what became known in Chile as a policy of “Verdad y justicia en la medida de lo posible” (Truth and justice as far as possible), are negotiated. It is also in this narrow space that experiences of terror are actively and strategically captured and manifested in the realm of state power.

The politics of the possible require the regulation of how stories of terror will be allowed into the national discourse, as well as the careful definition of notions of truth and justice in order to deter or at least render undesirable any demands for truth and justice measures that could upset national reconciliation. In this process, truth and justice acquire the character of tempting danger, which the nation must keep in check. In Aylwin’s inaugural speech at the National Stadium in March of 1990, we can observe how a national reconciliation discourse begins to take shape in the political discourse of the new government and how such discourse determines the mandate of the Rettig Commission. He began by recognizing that "the consciousness of the Nation requires that we clarify the truth in respect to the disappearance of individuals...that occurred during the dictatorship" (Aylwin Azocar 1990). At the national inauguration feast, the human rights questions is specifically circumscribed by the issue of disappearances and death leaving outside of human rights discourse those who have survived terror.

This speech and the inauguration constitute a ceremony of national reaffirmation and the inscription of terror stories on the landscape of the post-dictatorial nation. The bodies of disappeared people are allowed for the first time to materialize in human rights discourse, both through the explicit welcome of relatives to the ceremony and through the symbolic recognition of victims. In fact, the whole inauguration at Santiago's National Stadium was in itself a ceremony of inscription. As Minister Correa Sutil remembered in
his interview, the speech at the National Stadium is a speech with much symbolism; the National Stadium had been a place where [many people] were detained and tortured. [During the celebrations] the list of the detained disappeared was printed for the first time and was posted on the scoreboard: it was posted in the place where many of them had been tortured and disappeared. After that, women survivors danced the cueca sola\textsuperscript{14}. Remember that this was a dance that was only performed in secrecy and under threat during the dictatorship. So, this is an act full of symbolism (2004).

The inauguration had a paradoxical effect: it materialized the body of the disappeared through their absence, inscribing on the absent body a new national narrative of modernity in which the democratic transition attempts to create an image of itself as a nation that has broken away from the dictatorship. The democratic transition emerges as a new project through the inauguration and specifically in Aylwin’s speech: a nation that grants recognition to the absent body and welcomes it to the celebration of democracy. Human rights initiatives accomplish here their first biopolitical effect: that the spectacular re-appearance of the disappeared in the national landscape in order to bestow rights on the body immediately requires the careful management of the stories of disappearance that would be tolerated and the context within which Chile would recognize its violent past. This is accomplished through the mutually constitutive, and at times paradoxical, role that is assigned to truth and justice in the new transition. The body of the disappeared would be acknowledged through a dual discourse in which truth about the body is both expected and restricted. Truth, thus, emerges as desire and danger, moral imperative and prudent conduct. This contradictory role assigned to truth only makes sense if we pay attention to the way in which discourses of truth are linked to the power of the state.

\textsuperscript{14} Cueca is Chile’s national dance. During the authoritarian regime, the women of the Association of Relatives of the Detained Disappeared would appear in political demonstration and in cultural events dancing the cueca with the imaginary figure of their loved ones. This had the effect of inscribing in political resistance the bodies that were missing. This is what became known as the “cueca sola”.
As Aylwin argued, "the people have the right to know the truth and it is the moral obligation of those who govern to tell it" because "to clarify the truth and to do justice in matter of human rights is an unavoidable moral obligation required for national reconciliation" (1990). It is the nation that has a moral obligation to find the truth at the same time that that it is the nation that will benefit from it. The body of the disappeared is captured here in a discourse of human rights in which the body is submitted to state power and in which victims and relatives are required, as Lefranc observes, to accept new conceptions of truth and justice: conceptions that are at best “palliative” (Lefranc and Stein 2005). In his speech Aylwin proclaims the existence of a specific social problem: the disappeared, a problem that the state needs to deal with in order to achieve national reconciliation. The inclusion of victims in the inaugural celebrations proclaims for the whole nation the truth of their existence at the same time that the celebration of democracy, of the new Chile, traps them within a national reconciliation discourse. Aylwin achieves this by carefully inscribing a master narrative in which the story of the past serves the present and future of the nation defined along the lines of national reconciliation. This necessarily requires the careful management of official memory leading to the 're-signification of terror' in order to fit within a national reconciliation discourse.

The linkage of truth, justice and reconciliation facilitates the restriction of truth and justice in favour of national reconciliation by inscribing prudence as a rational conduct. This is accomplished by limiting the truth through warnings about the danger of getting carried away while searching for the truth and by equalizing truth and justice in order to make it possible for truth to pass as justice. This resonates with post-authoritarian literature that warns about the dangers of wanting too much justice. As Pion-Berlin (1994) observes for example, demands for justice in post-authoritarian Chile require the careful balance “between moral virtue and political necessity”, and as
Zalaquett adds,

We have to quite definitely accept that in talking about a transition to democracy and confronting a past full of violations of human rights there are solutions, but we cannot hope for optimum results (Zalaquett 2003 p15).

In the presidential inauguration, Aylwin inscribed prudence as a rational conduct and a desirable quality of the democratic subject. This is done through a discursive construction of truth as a "great temptation" and a potential excess. As he continued,

we still have other difficulties: those derived from within ourselves. I would call them the "great temptations": The temptation of engrossing ourselves in settling accounts with the past (Aylwin Azocar 1990 p3).

Aylwin restated this later on in his speech by arguing that finding out the truth,

is a necessary exercise in justice, but that we need to avoid the risk of wanting ...to engross ourselves indefinitely in persecutions, recriminations and witch-hunts that would lead us from our responsibility with the future of the nation...it is my duty to avoid spending our time looking towards the past (1990).

The great temptations that Aylwin warns about are precisely the temptation of demanding “too much” truth and justice, of becoming “engrossed” in a search that is unproductive for the future of the nation. “Engrossing ourselves” is associated with an almost obsessive attention to the past that could potentially dwarf future national reconstruction by demanding too much truth and too much justice. The new nation’s ultimate goal is to face the future. As he continued,

it is legitimate, after such a long period of absolute power,...for the people to want to know the truth of what happened ...[However,] we have said - and I repeat - that we need to approach this delicate issue reconciling the virtue of justice with the virtue of prudence and that, once we assign the corresponding personal responsibilities, it will be time for forgiveness (1990, p4).

Aylwin constructs too much truth and too much justice as a danger – defined by him as "the great temptation" to demand a "settling of accounts with the past". Although he recognizes that to want to know the truth is a legitimate desire, a desire that he
constructs also as a human desire for justice, the issue of the truth needs to be approached with prudence: a prudence that should end in forgiveness and not in a desire to settle accounts. Although prudence is not explicitly defined, we are told that acting without prudence means wanting to know too much of the truth, to engage in witch-hunts and to spend the time "looking towards the past".

The moral duty to know the truth and the prudent conduct expected of subjects converge on the issue of responsibilities for human rights violations. We observe here once again how experiences of terror are trapped in the discourse of reconciliation that requires the careful organization of terror stories. Aylwin introduces the issue of "personal responsibilities" when he states that forgiveness should follow after the assignment of personal responsibility. This is the first time in which the issue of responsibility or culpability is referred to, and, as is evident, responsibility is defined as individual, not systemic. Aylwin states,

It is beautiful and varied the task that we have ahead of us: to reestablish a climate of respect and trust in the coexistence among all Chileans no matter their beliefs, ideas, activities or social condition. [No matter if they are] civilian or military (1990 my italics).

This statement prompted booing in the crowds at the Stadium who obviously objected to this equalization of military and civilians, this official inclusion of members of the past regime in the celebrations of democracy. However, Aylwin continued by claiming,

Yes gentlemen, yes compatriots, civilians or military; there is only one Chile! The guilt of individual persons cannot compromise everyone! We have to be capable of constructing the unity of the Chilean family!

At this crucial passage in Aylwin's speech we witness the biopolitical effect of human rights discourse that produces a nation through the constitution of subjects individually responsible for acts of terror. The systemic character of terror, the machinery that houses terror (its methodical, bureaucratic and economic character), and the repressive role of terror as part of an authoritarian governmentality that produces the
conditions under which the state now accounts for terror, disappear with a stroke of Aylwin’s conciliatory pen. This statement has multiple effects: it regulates terror stories, embodied in the demands of relatives who just a few minutes ago have been welcomed to the celebration of democracy; it turns terror into the acts of individuals separating terror from the state; and it officially includes the military in the nation through the conciliatory language of the transition. The removal of “individual guilt” from its institutional location makes the authoritarian regime innocent by forcing the individual to bear full responsibility for the actions of the regime. It is on the back of individuals – both victims and victimizers – that acts of terror are brought into the imaginary of the post-authoritarian nation. The power of the statement is observable in the linkage between the acceptance of this official account of terror and the construction of a new nation. As Aylwin suggests, the assignment of individual responsibility mentioned before requires that we avoid assigning institutional responsibility – the compromising of everyone – for human rights abuses. He reinforces this individualization by connecting it to forgiveness as a requirement for the construction of national unity: “the unity of the Chilean family”.

The Rettig Report: a national history

Over a period of nine months, the Rettig Commission conducted a systematic process of investigation into allegations of human rights violations and organized its conclusions into a report. The Report provides a first official account of the events that led to the death and disappearance of about 3,000 Chileans during the military regime and proposes compensation measures destined to resolve human rights issues. The biopolitical effects of human rights discourses, which are initially observable in Aylwin’s inauguration speech, find here a more sophisticated expression. Two central strategies that facilitate the biopolitical regulation of terror stories are traceable in the Report. First, the Report produces and distributes a historical national narrative arguably built on the
personal testimonies of victims, but that evidently has little to do with personal testimonies. This is foremost a story for the nation and one about an authoritarian regime *un-implicated* in the terror. Secondly, the Report officially adopts a language of human rights and uses it to construct a truth about the actual encounters of terror, their participants and the role of the state in them. The normative language of reconciliation is translated in the Report through both the discursive production of notions of responsibility for human rights violations and through the inclusion and containment of personal narratives. Victims' voices are organized in the Report to fit a normative discourse of national reconciliation producing, in this way, the nation's past and projecting the nation's future.

The most important achievement of the Rettig Commission is its systemic construction of a national historical narrative both of the authoritarian regime and of the period prior to the regime. Personal histories of terror become, as the Report states, "merely auxiliary" in this historical narrative (Comission Nacional de Verdad y Reconciliacion 1991 p10). In Chapter One of Part Two of the Rettig Report, the Commission states,

we have considered our duty to include references to the circumstances that the country lived on September 11, 1973, because although nothing can justify the violation that we will describe, [these references] will contribute to remembering the climate in which these [violations] may have been rooted (p33)

The Report introduces us to a historical interpretation of the events prior to the military coup that, according to the Commission contribute, though do not justify the violation of human rights. According to the Commission, at the moment of the coup the country was confronting "an acute crisis in its national life represented by the destruction and weakening of important points of consensus between Chileans" (p34). This crisis is described as affecting "national institutions, traditions and norms of social and political cohabitation" which were there "to safeguard the respect for human rights" (p34). In this
way, the Commission sets up a historical view that places the origin of human rights violations on some of the political and social conditions that affected the country prior to the beginning of the military regime. As the Commission notes, "it becomes essential to know the 1973 crisis as much to understand the gestation process of the later human rights violations...to prevent that they repeat themselves" (p33). The understanding of the “acute crisis” – constructed as a truth to be known – is set up as a path to prevent the repetition of these events, in order to promote the national reconciliation that is the end result of this historical narration. In fact, the historical narrative put forward in this section of the Report effectively constructs the past as one of irrational violence and "fratricidal" struggle in which we all 'went irrational' while making the recognition of that moment of irrationality a requirement for the achievement of a rational national reconciliation. In this way, the Rettig Commission becomes, as Benedict Anderson (1983) argues, a national history lesson that formulates a shared national past that sustains the assertion of a shared national future (see also Ensalaco 1994).

The Rettig Report states that the military regime follows a period of crisis, a crisis described as one of political confrontation that was irremediably leading to an armed conflict caused by the gradual arming of the extreme left. This confrontation is seen as taking place within a "politic-ideological order" in which "doctrines and attitudes gestate and collide in a manner that directly and immediately impact on the issue of human rights" (p33). As the Report continues, "the crisis can be described as a confrontation between two sides" defined as possessing opposing ideological postures and refusing peaceful negotiations, in favour of "armed confrontation" (p34). The international origin of these confrontations is traced to the struggles of the Cold War that promoted, according to the Commission, a world-wide ideological "polarization". In Latin America, that conflict is connected to the Cuban revolution, and its resulting emergence of "insurgent" guerrillas in different countries of the region. The insurgence of the Cuban-
style revolutionaries met, according to the Report, with the counter-insurgent groups supported by the U.S. The conditions that led to the military coup are the result of a confrontation between international superpowers that plays itself out within the internal political life of the country. The authoritarian regime is constructed as the resolution to this crisis.

It is important to recognize that while the Report seems to define this conflict as confrontations between two sectors of society, it is characterized by a markedly anti-communist and anti-left tone that reinforces a specific ideological position in relation to the conflicts of the Cold War. This is evident when the Report describes a process of separation of sectors of the "extreme left" (specifically the MIR\textsuperscript{15}, The Socialist Party, the MAPU\textsuperscript{16} and the Christian Left) from the "democratic path" opting for a progressive challenge, and a resultant weakening of democratic institutions such as Parliament (p35). These groups, which are constituted in the Report as groups with strong links to "international soviet" movements, are described as choosing an "armed alternative to conquer power" (p34). Conversely, when referring to groups located on the right of the political spectrum – groups with historical ties to processes of liberal modernity and which later occupied critical locations within the regime’s reorganization project – the

\textsuperscript{15} The Revolutionary Left Movement (MIR) (\textit{Movimiento de Izquierda Revolucionaria}) was founded on October 12, 1965. The group emerged from various student organizations and established a base of support among the trade unions and shantytowns of Santiago. Andrés Pascal Allende, a nephew of Salvador Allende, was one of its early leaders. Miguel Enríquez Espinosa was the General Secretary of the party between 1967 and his assassination in 1974 by the DINA. MIR considered itself a revolutionary vanguard party and advocated a Marxist-Leninist model of revolution in which it would lead the working class to a "dictatorship of the proletariat". Members of MIR were specifically targeted by the repressive apparatus of the military dictatorship in the first few years of the authoritarian regime. (http://www.mir-chile.cl/). (2008). "Sitio Web Oficial del Movimiento de Izquierda Revolucionaria - MIR de Chile " Retrieved October 12, 2008).

\textsuperscript{16} United Popular Action Movement (Movimiento de Acción Popular Unitario--MAPU), a party founded in 1969 by a breakaway group from the Christian Democrats. Many MAPU leaders embraced Marxist positions.
*Movimiento Patria y Libertad*[^17] is scarcely identified. This was a political group with strong links to the armed forces and that later actively participated in the military regime’s repressive apparatus, as the only right-wing group that supported armed confrontation. In fact, the Report goes on to indicate, that "the rest of the parties of the Right did not participate in any military action" (p36 my italics) even when "a mentality in favour of resolving certain problems by force was common within the parties of the Right" (p36). The Commission reproduces the anti-communist sentiments of the Cold War, suggesting that the blame for the conflict of the 1970s is the ideological polarization of the left that did not only have a mentality conducive to armed confrontation, but also actively acted on such mentality by choosing a path of confrontation. This exonerates liberal sectors and places the historical narrative within the polarizations of the Cold War that makes the left the culprit while leaving the right un-implicated.

The next section takes us to the final days of the Allende government and describes the final stages of the “crisis” as one of “ungovernability” defined as "indicative of excluding [ideological] concepts of society, unable to impose their political project, but also unable to negotiate with the enemy in a way that would ensure a peaceful resolution” (p37). In fact, these last days are defined by the Commission as existing within a "climate that objectively led to a civil war". The Report constructs the political climate prior to September 11, 1973 as one of irrational polarization where international struggles for political power are played out, causing certain political sectors, specifically leftist groups, to ‘choose armed conflict’ over democracy. Significantly, the Cold War emerges in this historical discourse as an external interruption of Chile’s democratic tradition. This interruption is caused, not by the colonial interests of the US and their convergence with the interests of Chilean conservative sectors (which as I discussed in

[^17]: This group was founded in 1961 originating from sectors of the political Right that opposed Allende’s government.
chapter 1 are clearly identified by critical historical scholarship). Rather, the interruption is produced as the result of actions of subversive groups of the left who ally themselves with international communism. The right, with its alliance to international liberal ideas represented in the foreign policy of the US, emerges here as a defender of democracy. The source of the conflict is the emergence of insurgent groups motivated by the Cuban revolution within a larger ideological international war for power.

Two conditions are obscured in this historical revision: The social justice focus of the popular movements of the 1970s, and the connection of these movements to histories of social exclusion and marginalization. Both conditions strongly implicate the political right. As I discussed in chapter 1, the process of crystallization of the power of the oligarchy and the bourgeoisie in Chile that started as early as the 1930s and that continued until 1970 (Zeitlin and Ratcliff 1988 p207) was based on essentially elitist conceptions of political participation (Navia 1998). This resulted in the effective exclusion of marginalized sectors of the population – the working class, women and aboriginal populations – from the political life of the country (Constable and Valenzuela 1991). It is to a great extent the social discontent caused by elitist concepts of citizenship that caused marginalized populations to feel attracted to the socialist and popular constructions of citizenship proposed by the Allende political project (Richard 1994; Garreton 1996).

The Report makes some reference to these social conditions at the beginning of its historical analysis when it states that "the Commission does not ignore that the crisis had more profound roots, [roots] of socio-economic character" but then quickly turns away from those roots stating that "to explore [them] – except for specific references – would have taken [the Commission] beyond its mandate and away from the direct objectives" of the Report (p33). The Report also overlooks the implication of the political right, and even sectors of the political centre such as the Christian Democratic Party (a
party that was part of the political coalition in power at the time of the transition and of which Patricio Aylwin was a member) in the social destabilization of the Allende administration that precipitated and actively promoted the military coup. The role of these conservative sectors of society in the destabilization of the economy and their dependence on the financial and military support of the US are obscured in this narrative. Furthermore, the role of the conflict in a global struggle for domination of the South within the politics of the Cold War gets conveniently ignored when the Report describes the character of the conflict (Haslam 2005).

The discourse of social polarization and its reliance on the construction of the pre-coup crisis as the manifestation of international struggles in the national arena constructs Chilean history as one of progressive development towards modernity (Held 1992; Brunner 1994; Schutte 1998), a progressive development that is interrupted not by the terror of the military regime but by the 'polarization' of the pre-1973 crisis and its connection to communist ideologies. The Allende government is in fact defined as an irrational period of chaos that endangered constitutional rights "to private property" through expropriations, land reform and collectivization of companies. The fundamental right to private property is seen as an effective violation of "individual rights" that makes the military coup necessary (p40). This historical narrative so far sets the stage for the military coup as the necessary solution, or even a natural and inevitable outcome of the crisis that precedes its irruption into the political arena and the terror as a reasonable response to crisis.

Within this context, military intervention is justified by producing the military coup as the "decisive intervention" of the armed forces as a response to the crisis: an intervention that is defined as extraordinary considering the "professionalism, discipline, obedience towards civil power, and political neutrality" that the armed forces had been able to maintain (p39). Although the Report recognizes in this section that "deformed
concepts of counter-insurgency and doctrines of national security” that existed within the armed forces may have played a role in the coup, the fundamental reason for military intervention is the “intensification of the crisis” which risked the eventual polarization of the armed forces (p39). As the Report suggests, the armed forces “had to consider the possibility that non-action would bring a more significant evil: civil war” caused by the eventual internal division of the armed forces (p39). The latter could lead to the dangers of civil war and foreign invasion. As the Report continues, “the crisis...that weakened and split the country worsened foreign desires and implied, therefore, a danger to the exterior security [which constitutes] the specific mission of the Armed Forces” (p39). Consequently, the military coup is constituted not only as a way out of the conflict, but also as a necessary act of national and institutional self-preservation.

This understanding of the conflict has two major implications: while it takes culpability away from the military regime, effectively justifying military actions and concretely liberating the political right from any responsibility, it also ignores the historical socio-economic conditions that were at the centre of these struggles. Ultimately, the effect of this historical reconstruction is, as Mamdani (1996) argues in the South African context, the conceptualization of human rights abuses as existing solely within militant confrontation and not as part of larger social, political and economic projects.

Human rights violations

The second part of the Rettig Report also includes a historical narrative of the years of the military regime beginning with the days immediately following the military coup of September 11, 1973. The analysis of this period is divided into sections dealing with the institutional and legal framework of the regime (chapter 2); the war tribunals (chapter 3); and the actions of the justice tribunals in regards to human rights violations
(chapter 4). These chapters offer us a glimpse into the Commission's position on the institutionalization of the military regime and the connection of this process to the violation of human rights. It begins to delineate the kind of actions and behaviours that constitute human rights violations, as well as the nature of those behaviours: how they will constitute bodies as victims and perpetrators. Strikingly, the Commission underlines a contradictory discourse in relation to human rights abuses and their connection to the process of establishment of the military regime’s ideological and political project. While the systemic practice of human rights abuses, and the connection of those practices to a process of consolidation of the regime are evident, the Report sets up a historical narrative that ultimately denies that relationship.

For instance, the Commission recognizes that the events of September 11, 1973, although explained as the military’s "patriotic compromise to reinstate...the shattered institutional and justice system" of the nation (p55) – a position that stems from the “social polarization” narrative in the previous section – in fact, turned out to be a "profound alteration of the Chilean governmental system" (p55). This alteration is accomplished through the systemic and progressive concentration of power in the military government. Such concentration of power extended to the direct and indirect control of all major national institutions beginning with the legislative and administrative powers, the intervention into the administration of universities and other educational institutions (p61), the implementation of states of emergency which facilitated the concentration of justice on military tribunals (p79-80), the control of the media, the suspension and later the criminalization of political parties (p58), and the creation of a national security apparatus organized first through DINA (Direction of National Intelligence) (p45) and later through CNI\(^\text{18}\) (National Intelligence Center) (p52).

\(^{18}\) DINA was the Chilean secret police in the government of Augusto Pinochet. It was established in November 1973, as an army intelligence unit headed by General Manuel Contreras and vice-
Indirectly, the Commission also traces the process by which the justice tribunals came to ally themselves with the military regime first because of widespread sympathy and support for the regime among judges (p42), and later through the institutionalization of legislation that limited the powers of the justice tribunals to address writs of Habeas Corpus (p98). In fact, the Report is quite strong in its critique of the members of the Supreme Court for their inability to assure the protection of human rights, stating that "the Judicial Powers did not react with enough energy in regards to violation of human rights" (p95). In another section, the report states "writs of Habeas Corpus filed [on behalf of victims] did not advance beyond the denial of detentions by the Minister of the Interior and judges did not practice inspections in secret detention centers or places of torture" (p95).

While it is acknowledged that the military regime constituted a process of concentration of power "never known before" in the country (p42), the Report progressively denies the implication of the regime in human rights violations. This denial is first achieved by setting up the initial years of the regime as a period of internal ideological confusion dominated by internal struggles and secret security operations. For instance, the Commission states that at its onset, the military regime did not have a clear political project beyond the "reinstatement of institutionalization" described above; that it was unclear how long the military regime should occupy power; that the internal division of power within the armed forces was undetermined; and that the final objectives of the regime were unsettled (p43). In this "confusing ideological panorama", the Report continues, "there was one group of soldiers, specifically from the army, that acted in secret... – a group that had a notable ideological coherence and action which was determinant in the problem of human rights" (p43). This group is associated with DINA director Raúl Iturriaga. It was separated from the army and made an independent administrative unit in June 1974, under the aegis of decree #521. DINA existed until 1977, after which it was renamed the Central Nacional de Informaciones (CNI) (National Intelligence Centre).
and is described as a group with strong links to the counterinsurgent technologies of the Cold War, with strong anti-communist ideas, and supporters of a "war ideology" that placed national security over human rights (p44-45). (Note how the Commission stresses that this is one group and not all of the military institutions or the state.)

The Report continues then by defining this group as dominated by a "deformed concept of national security" (p45, my italics), and "virulent anticommunism" (p46, my italics) that made the group adhere to repressive techniques that went as far as to deny the group's own "moral integrity in order to allow others to enjoy moral integrity and free society" (p45). Significant are the adjectives "deformed" and "virulent" used by the Commission to define this group; these adjectives constitute the actions of this group of soldiers as exceptions rather than the norm. Here the Report engages in a process analogous to what Sherene Razack (2004) identifies in the Commission of Inquiry into the actions of Canadian soldiers in Somalia in which the constitutive role of violence in securing a superior national identity and a specific political projects is denied by turning the violence into the actions of a few "bad apples". The individualization of violence and its constitution into "virulent" and "deformed" actions of individual soldiers make the story of violence something that not only exonerates the nation, but also makes the nation a victim. As Razack continues, a national narrative constructed in this way "minimizes confusion and restores order," creating an interpretation of events that is distributed as national truth and from which events the nation-building project that relies on violence comes out unscathed (p118). Furthermore, as is also the case in Chile, those who commit the violence, while virulent and deformed in their ideas, are also constructed as ultimate victims: victims of an uncivilized and hostile environment in Somalia, and of a climate of confrontation that required them to sacrifice their own moral integrity in Chile.

The exceptionality of the security apparatus of the military regime is reinforced in the following section when the Report argues that the actions of this apparatus did not
enjoy general acceptance among the armed forces. Yet, the Report continues that this
group prevailed, and this prevalence is attributed to its efficient organization which was
attractive to the middle powers within the armed forces; its secrecy which resulted in the
military hierarchy not knowing its actions; and the social isolation of the armed forces
which meant that they were not up to date with what was occurring in the country (p46-
47). The Commission also argues that this group maintained its actions in secret
because it did not want to dishonour military institutions and the "Chilean image". In the
historical narrative of the Report, even the most extremist within the regime are
rehabilitated and presented as self-sacrificing patriots.

When attention turns to CNI, as the successor of DINA, and to the events of the
early 1980s\(^{19}\) the Report makes an interesting turn which needs to be understood in
context of the ideological and political consolidation of the military regime, and of the role
of civilians – civilians with strong ties to historically conservative sectors of society and to
emerging liberal ideologies. Following the above mentioned initial period of ideological
confusion, the military regime is described as going through a process of ideological and
political organization that ended with a move from a discourse of emergency and re-
institutionalization of the country, to a project of reordering understood as the "moral,
institutional and material reconstruction of the nation" aimed at "changing the mentality
of Chileans" (p49).

The Report observes that the assassination in Washington of Orlando Letelier
and Ronnie Moffit\(^{20}\) in 1976 by members of DINA cast a shadow on the regime by
bringing international attention to the human rights situation in Chile. As a result of the

\(^{19}\) The 1980s constitute an important moment in the history of the authoritarian regime
characterized by the reemergence of a strong popular protest movement and by a new outbreak
of repressive actions on the part of the military regime.

\(^{20}\) Orlando Letelier del Solar was a Chilean economist, political figure, diplomat and, later, US-
based activist. He was assassinated in Washington, D.C. with his assistant Ronnie Moffit, by
Chilean DINA agents.
request for extradition of the heads of DINA, civilian participants in the regime attempted to “improve” the human rights situation by demanding the separation of the regime from, and the final dismantling of the DINA group. DINA was legally dissolved in 1977 and replaced by CNI. The transition was, according to the Report, facilitated by civilian members of the regime who by then were occupying critical positions within the dictatorship.

The Report argues that civilians did not participate in the coup or in the “ideologically uncertain” initial period of the regime but that the sectors of the political right began to assume political and technical roles within the regime as it consolidated its political project (p49). These civilians are described as occupying highly specialized and technical positions in the regime that distanced them from the “secret organizations” responsible for the violation of human rights. The Report speculates that most likely these civilians within the regime either did not know about the violation of human rights; but that if they knew, "they lacked the instruments to efficiently undertake the situation; or judged it to be unproductive to withdraw their global support to the military regime" solely on the basis of human rights violations (p50-51). Yet, the legal dissolution of DINA in 1977 coincides with the consolidation of the regime's political project designed to a great extent by civilians within the regime.

The political project of the regime, as it emerged in this period, is a project articulated in a liberal language of individual freedoms and human rights. As the 1974 Declaration of Principles issued by the authoritarian regime indicates, the nation has always,

been the profound reflection of the Chilean subject's appreciation for the spiritual dignity of the human person and, consequently, for his fundamental rights. It is in this respect for human rights, and not in the popular election and constitutional

21 The report states that this period begins around 1974 with the release of the "Declaration of Principles of the Chilean Government", and continued through the design and approval of the 1980 Constitution.
succession of governments, that the roots and essence of Chilean democracy can be found (Cited in Rettig Report p62).

It is in this early declaration of principles that the language of human rights begins to be articulated in a manner that is overtly contradictory with the actual practice of human rights violations. The Report suggests that such incongruence has to do with parallel, bifurcated projects that created a dissonance between the political project that civilians within the regime wanted to advance and the practice of repression carried out by members of “secret groups”. The Report also suggests that the civilian political project eventually predominated as the regime consolidated itself and that this lead to the eventual dissolution of DINA, and the creation of CNI.

If the dissolution of DINA is presented by the Report as a sign that the regime was consolidating a political project invested in liberal human rights language, how then is CNI's practice of repression explained? Two strategies are used to explain the continuous violation of human rights by CNI. First, although a majority of DINA's personnel transferred to CNI and CNI was legally mandated to manage and centralize information regarding national security, the Report constructs CNI as a rather “undisciplined” organization which "would have made it possible to conduct 'autonomous' operations, and for the emergence of satellite groups which resulted in uncontrollable actions" (p52, my italics). This lack of control is also associated with the new hierarchical localization of CNI as dependent on the Ministry of the Interior that, the Report suggests, contributed to the lack of political control of CNI. Second, the actions of CNI are explained as a reasonable answer to a "resurgence of insurrectional and indiscriminate terrorist activity on the part of some political enemies of the regime" particularly the Communist Party and MIR (p52). As the Report indicates, in this period, extreme leftist groups that favoured armed confrontation organized and reorganized themselves. Contingents trained for subversive action returned to the country. Their methods and objective were diverse. Under political pretexts they threatened the lives of public authorities, assassinated police officers and
guardians of public order, planted bombs …and conducted assaults in which state agents and civilians died (p52).

The emergence of these groups is connected to the organized protest movement of the 1980s. These groups are also constituted as having the objective of once again leading the country towards a situation of "ungovernability".

The actions of the repressive apparatus of the state are construed by the Report as existing separately from its process of political and economic transformation. Again, the actions of CNI are considered as separate from the rest of the regime in a similar manner to DINA's actions. When actions are unexplainable in this way, the Report turns to claims concerning a re-emergent danger of insurgent groups. Once again, the civil war narrative that discursively justifies the coup is called upon to justify the actions of the repressive apparatus of the regime. The historical narrative remains constant in the way it produces the political project of the regime as innocent for the violence that sustained it. The political and social reorganization project that finally achieves neo-liberalism in Chile emerges here as either a victim of secret, organized or disorganized groups, or a potential victim of insurgent terrorist groups. Terror is rendered at best incidentally caused by the uncontrollable actions of independent groups. At worst, it is a reasonable response to insurgent threats.

The Report positions repressive military actions and political actions as opposing and mutually exclusive actions. This serves the purpose of liberating first the armed forces, and then the political right and its liberal project of nation from any institutional responsibility for the massive violation of human rights. When this distinction is unsustainable it is justified with the argument that there was, in fact, resurgence in terrorist groups that required these repressive actions. What is not recognized by the Report is the manner in which both projects – the repressive and the political – sustain and need one another in order to accomplish the reordering of the nation. The legal and
institutional consolidation of the regime – with its legalization of states of emergency that authorized the continuous suspension of rights; provided a legal framework for the systemic detention, isolation and interrogation of victims (p70); maintained the nation under a permanent state of siege (p74); gave authority for justice to military tribunals (p69); declared widespread amnesty (p69); and finally instituted a constitution that legalized the authoritarian regime and set the rules for the later transition – was sustained and supported by the repressive practices of the security apparatus of the state. At the same time, the legal consolidation of the regime and its authorization of terror provided, as Moulian (1997) and Thayer (1996) demonstrate, the ideal conditions for the transition of the state and the economy towards neo-liberalism and the free-market economy.

The Report and the issue of justice

While the historical narrative of the Report separates human rights violations from the larger national project of the authoritarian regime, it is in the Report’s articulation of a transnational regime of human rights and its application to issues of justice that we find one of the most important effects of the Report for human rights demands. In part one of the Report, the post-authoritarian nation incorporates and adopts a language of human rights that aligns Chile with an international human rights regime. The Commission deals with an important dilemma presented by the adoption of human rights language: that of the potentially large number of cases of people whose rights have been violated and the need to preserve the conciliatory character of its historical narrative.

The Rettig Report defines how human rights would be understood by the new nation. It begins by locating a national concept of human rights in relation to an
international rights language that places the Chilean democratic transition in close relationship to international concepts of liberalism and humanism, and defines citizenship along the lines of civic citizenship based on individualism, and not on belonging to a group. Hence, the Report begins by connecting the concept of human rights used by the new democracy to the adoption of the Universal Declaration of Human Rights and "other international documents that proclaim rights" which the new nation has adopted and internalized as part of its legislation (Comisión Nacional de Verdad y Reconciliación 1991 p14). These rights are conceptualized as "inherent" to each person in the nation. This conceptualization of rights is based on the notion that individuals possess inherent rights "to life, dignity, psychic and physical integrity, and freedom" (p16). It also conceptualizes the individual as existing in a climate of "tolerance and mutual support" suggesting that the nation is responsible for providing these. The Report also acknowledges that prior to the period covered by the Report, national law "presented many deficiencies (carencias) and insufficiencies that prevented the protection of human rights".

The violation of human rights is associated here with an imperfect legal system in which rights were not sufficiently protected. The adoption of international human rights conventions perfects the legal apparatus of the state and makes it possible for the state to provide the climate in which people will enjoy their intrinsic rights. The state, as the historical narrative has established, is not responsible for the violations of human rights. In fact, the Report argues that the lack of knowledge about human rights constituted a weakness that places human rights at risk during the military regime. The perfecting of the state through the adoption of human rights is what will ensure their future protection.

The historical narrative of the Report has the effect of diluting and distributing responsibility throughout the body politic, placing responsibility at times problematically on those who were most clearly targeted by the regime. The process of diluting
responsibility effectively constructs the military regime as a necessity for the return of the nation to an institutional path towards modernity. The later construction of the repressive apparatus of the military state as the isolated, deformed actions of secret, highly organized, or disorganized groups has the effect of exonerating the military institutions and the governmental project of the regime.

The final accomplishment of this exoneration and dilution of responsibility takes place as the Commission attempts to deal with the contested issue of responsibility. Questions regarding responsibilities were publicly debated during this period. As the Report indicates,

> during the period that the Commission functioned, public opinion witnessed an intensification of debates...about the controversy concerning the kind and degree of responsibility that individuals, political parties, the Armed Forces, and other institutions have in regards to the events under investigation by the Commission (p19).

As a result of these debates, the Commission considers it “inevitable and convenient” to define the concepts of justice and responsibility that will be used by the Commission: the manner in which the human rights regime will be practically applied to human rights demands. As I mentioned above, the Commission defines human rights violations as attempts against inherited human conditions of individuals. Human rights violations are defined as having two main characteristics: violations against life, and as implicating “the moral responsibility of the state” (p15). The first seems simple enough, but the second places the Commission in potentially explosive political terrains: how can guilt in cases of human rights abuses be individual, as Aylwin stated in his speech, if the state is implicated? Leaving this dual conceptualization of human rights abuses undefined could potentially lead to the political and criminal indictment of the military regime and its political allies.

> It is this dual qualification that elucidates one of the most critical internal contradictions of the Report, and of human rights policies in transitional democracies in
general: the contradictory notion of responsibility. The counter-positioning of the state as implicated in human right abuses and the issue of individual responsibility firmly rooted in liberal notions of subjectivity, freedom, independence and autonomy are central to this internal conflict. In proclaiming that military institutions could not be held responsible for the acts of individuals within those institutions, President Aylwin had effectively exonerated the armed forces for their responsibility in human rights violations even before the Commission was launched. The Commission is left to swim in murky waters as it defines human rights violations and issues of responsibility within the framework set up by Aylwin. The question of what constitutes human rights violations is at the centre of this contradiction. Can individuals commit human rights violations? Or, is the implication of the state a necessary requirement in the definition of human rights violations?

The Commission approaches this issue by referring to two main positions within this debate: a narrow definition of human rights violations that requires the implication of the state, and a broader definition of human rights violations that implicates both parties equally within an armed conflict. Referring to the first position, the Report argues that human rights violations necessarily require the participation of the state. Using the example of "a soldier that tortures a prisoner", the Report argues that although the soldier's actions are a crime unto themselves, they can also constitute a violation of human rights because the act of torturing takes place within the context of a relationship between the state, of which the soldier is an agent, and its citizenry that grants the state "the force" to inflict pain on individual citizens (p18). This contextualization of human rights violations has critical implications: while individuals can deprive other individuals of life, the violation of human rights necessarily presupposes the ultimate exercise of state power against its citizens.

This framework offers some critical possibilities. On the one hand, it could potentially allow for the recognition of the role of the military in the organization of a
repressive apparatus organized to repress and eliminate “enemies of the state”. This could weaken the individual responsibility framework outlined by the Aylwin administration and open the door for the recognition of the organized systemic character of human rights violations during the military dictatorship. On the other hand, the ultimate implication of the state may potentially weaken attempts to bring individual state agents to justice. In this binary understanding of human rights violations state responsibility can potentially deny individual responsibility\textsuperscript{22}.

The Report then describes a second position that challenges state implication as the only qualifier of human rights violations. This “broader” definition of human rights violations involves the argument that violence during the dictatorship was equally condemnable because it existed within the climate of a "struggle for power" (the historical narrative discussed above), and because such actions violated values of humanity and humanitarianism that "should be respected not only by state, but also by all political actors" (p19). The Commission was also entrusted with the investigations of "politically motivated deaths’ as a result of ‘terrorist acts’ and acts of opposition to the military regime”. This category of violence authorized the Commission to include military and police personnel killed in confrontations with resistance groups. The equalization of responsibility inherent in this “broader” definition of human rights violations reflects a

\textsuperscript{22} The origin of this debate goes as far back as the Nuremberg Trials after World War II in which agents of the Nazi regime unsuccessfully claimed they were “only following orders” and that therefore they were not responsible for their crimes. This legal defense became known as Nuremberg defense. Before the end of World War II, the Allies suspected that such a defense might be employed, and issued the London Charter of the International Military Tribunal, which specifically stated that this was not a valid defense against charges of war crimes. This defense has been used with different levels of success since the end of the war. For instance, following the My Lai massacre in Vietnam, William Calley, a soldier tried in the massacre, successfully used this defense in 1968. Lately, the defense has been used to defend soldiers during the Abu Ghraib torture and prisoner abuse scandal in the United States.

Although in international law a doctrine of command responsibility has replaced the Nuremberg defense, the defense has continued to be used with different levels of success in Latin America and has resulted more often than not in lesser sentences for individuals implicated in human rights violations.
“bartering” process that attempts to trade the actions of activists in their efforts to resist the repression of the state, for the human atrocities committed by the regime. The illegalities of activists, defined as such by the legal system imposed by the authoritarian regime, and minor in comparison with state terror, are considered equal to the responsibilities of the state. This discourse of shared and balanced responsibility levels differences and, to borrow from Nelly Richard, “smooths out the rough and wrinkled spots that could upset the pragmatic definitions” of the transitional conciliatory order (p11).

The definition of human rights as individual crimes and as occurring within the context of an armed conflict allows for a discursive equalization of victims that further ignores the state systemic practice of violence and the disproportionate number of victims of the regime. It is critical to understand that in order to sustain this definition of human rights violations as existing beyond state practice, a notion of the “fratricidal” confrontation that supports the “spiral of violence” justification of the regime needs to remain unquestioned at the same time that it is constituted as national history. This position has another important implication: by constituting human rights violations as actions of combatants within a ‘balanced’ conflict, the Commission effectively distributes responsibility. In fact, if human rights violations happened within a struggle for power, then we – all Chileans – are all responsible for what happened. The Commission reinforces this when it deals with the issue of historical and political responsibility. The report states,

in the same manner that we have spoken about the moral responsibility of the state,...we can also speak with propriety about the moral and historical responsibility of the political parties, other national institutions, and the whole of society (p21).

Furthermore, the recognition of the “un-dissolvable relationship” between what happened prior to the military coup and what happened after (p19), which the
Commission connects to the “institutional breakage” and “national division” that “made the violations of human rights probable” (p20) sustains this equalization of responsibility while constructing the military regime as a necessary intervention and its terror as a reasonable mediator to obtain peace and order.

Apparently, the Commission is divided in its stance on what constitutes human rights violations and what is the role of the state in the commission of these abuses. In fact, it is unable to fully adhere to one or the other definition. In a later section the Report goes back to a ‘traditional’ definition of human rights violations stating that "the Commission can only obey the parameters set up by the Decree" that created it. However, it continues, adhering to a broader definition of human rights "that the consciousness of public opinion has imposed" does not mean to "proclaim the general validity of this wider interpretation". "Moreover", the Report continues,

it is the belief of the Commission that acts of terrorism and other illegitimate actions committed with political motivations, cannot be used to justify the violation of human rights committed by the state....The fact that the monopoly of public power of the state can be used to violate the rights of people is of singular gravity (p19).

Nevertheless, in a section dealing specifically with the issue of judicial responsibility, the Commission again swings back to a broader definition of human rights. The Commission delimits what would constitute the “moral responsibility of the state”, arguing that such moral responsibility has a “precise technical and legal significance” (p20), precise in the sense that it is delimited to a “purely moral” responsibility for “actions executed by people at the service of the state” (p20). This is understood to constitute responsibility for the commission of individual actions while following “state policies or directives”; or for “not issuing policies or directives that would prevent the actions of individuals”; or for “allowing the actions of individuals to remain exempt of punishment” (p20). This notion of moral responsibility has no legal significance beyond “responsibilities of civil character” (payment of damages) (p21).
Otherwise, the Report asserts that “all other forms of responsibility, in general, only affect individuals” (p21). Further, when referring to institutional responsibility – specifically the responsibility that may fall on the armed forces – it categorically states that “responsibilities for these actions are always individual and in no way [do] they compromise [those] institutions” (p21).

We witness here how the Commission struggles to define the relationship between individuals and the state within a liberal discourse that already produces individual autonomy and responsibility. We can also see how the commission uses human rights discourses to construct ideas of state and subject that submits not only terror, but also the memory of terror, to borrow from Brown (2005), to a governmentality that reaches “from the soul of the citizen-subject to education policy to practices of empire” (p39). Even if in a precarious and, at times, ambiguous way, the Report bio-politically organizes subjects regulating their relationship with each other and the state. The state emerges as separate from the actions of individuals, not responsible for organizing a repressive apparatus. At most, the state is responsible for not controlling its agents. Individuals remain autonomous subjects whose actions the state fails to regulate. State responsibility is diluted, distributed to all members of society and to each and every individual who is made to bear the burden of state policy. Individuals constituted as inherently capable of independent and rational action emerge here as agents capable of deceiving the state and its regulatory measures. Moreover, a multitude of terror encounters become in the Report encounters detached and de-linked from the power relations of the state, occurring within spaces in which autonomous subjects, as Brown adds, are seen as fully responsible for their actions, and in which the systemic machinery of terror becomes individual “mistakes in judgment” (2005 p43).

The exoneration of the armed forces is sustained by another important discursive move: the warning that an indictment of the armed forces would place the nation in
danger. The Commission sustains that dealing with the issue of institutional responsibility in a “simplistic manner”, would run the risk of “not only mistaking concepts, but also of putting in danger the superior interest of the military institutions, and the superior interest of the nation” (p21). In this manner, the Commission interlinks military institutions with the interest of the nation while reinstating the honour of the armed forces. As the Report continues, “it is also true that the fundamental role that the Armed Forces have played in the history of the nation needs to be appreciated...” (p21). Consequently, the Report states that “it is commendable to avoid the utilization of the matter of human rights...[to] denigrate these institutions or diminish their [historical] contribution to the nation and the role that they may have in the future” of the nation (p21). As a result, the Commission places the armed forces and the military regime above other institutions and groups that may share historical responsibility for a past of human rights abuses.

Finally, the definition of human rights violations as individually committed crimes with little or no connection to the institutions to which perpetrators belonged could produce some interesting results in terms of opening the door for the identification of those responsible. However, the Commission closes even that door. This is accomplished by delimiting the attributions of the Commission as outside the role of the justice tribunals and by defining the possible identification of violators, interestingly, as human rights violations. As the Report indicates, "in the process of conducting its investigations, the Commission received information about the identity [of individuals]...that had participated in the incidents under investigation" (p28). However, the Rettig Commission, unlike other Commissions\textsuperscript{23}, could not, as stated by the Decree

\textsuperscript{23} The Salvadorian Commission identified the names of agents of the state responsible for human rights violations, while the South African TRC provided an opportunity for the identification of human rights violators through its amnesty hearings which required public allocution as part of amnesty applications. Even though it can be argued that neither of these Commissions offered
that created it, include those names in the Report. The reasons for that omission, according to the Commission, have to do with the fact that the determination of guilt is the prerogative of the justice tribunals (p28). Furthermore, if the Commission had decided to identify human rights violators, that would have constituted a “violation of the fundamental principles of the Rule of Law and the separation of the power of the state, as well as violation to the basic norms that sustain the respect for human rights” (28, my italics).

The adoption of the human rights regime produces an important dilemma for the Rettig Commission and for the post-authoritarian nation that has to do with reconciling the historical narrative that produces the authoritarian regime as a solution to conflict and constitutes acts of violence as the actions of misguided secret groups, with the problem posed by human rights demands. The Commission evidently has a hard time finding its way within the multiplicity of dangers that these dilemmas pose. The journey is filled with dangerous turns. At the end, the Report seems to offer no clear solution. Acts of terror do not implicate the state because they were committed within a climate of war by secret groups that the state had no control over. Yet, the state has moral responsibility for providing compensation. Acts of terror were a response to the extreme left’s option of “armed conflict”, but they did not implicate the political right and its civilians even though many of them were part of the regime. The left is asked to assume moral and historical responsibility but the right and the armed forces are exonerated because they intervened to save the nation from the left. Finally, the state while financially liable for the actions of its agents is not responsible for the criminal actions of individuals. Therefore, the Commission cleverly closes all doors for justice demands and effectively makes human rights the responsibility of everyone and no-one.

more effective results by way of retributive justice, neither of them resulted in the significant social destabilization that the Chilean process associates with the danger of demanding too much justice.
The voice of victims

An important effect of the Rettig Report, as Casanova observes, is the systemic replacement of dead victims with their relatives. This replacement, he continues, results in the further disappearance of the disappeared into both the image of the relative who can now speak for and instead of the disappeared, and the private realm of the family in which the socio-political role of those who disappeared is denied (2001 p162). This, I believe, authorizes the transformation of state terror and the social trauma it causes into the particularistic, private and individual suffering of the family that, in their public performance of normative human rights discourses, can inscribe national reconciliation. At the same time, the transformation of relatives into victims produces another body in the biopolitical regime of human rights: a body that is alive and can speak with a live voice and in present time the language of the democratic transition.

This can be traced specifically in Chapter 4 of Part Three of the Report, which includes a general narrative of the effects of human rights violations on relatives. Although this section occupies a small portion of the final Report, it is critical for the inscription of the normative reconciliatory discourse of the Report. While students of the Rettig Report (Herz 1982; Zalaquett 1995; Wilde 1999; Hertz 2000; Godwin Phelps 2006 among others) suggest that the victims were given voice in this section, I argue that the value of this section rests precisely on the replacement of victims with their families who now can speak their pain through personal testimony. The Report then fits the personal testimonies into a reconciliation discourse. While the previous sections of the Report retain an emotionally detached tone to tell stories of human rights violations favouring a legalistic, authoritative and positivist language in the narration of human rights abuses, this section introduces the voices of the relatives of victims. The Report justifies this introduction of personal narratives by arguing that, "the Commission believes that the
truth would be incomplete if the families were not allowed to give their testimonies about the damages they have suffered as a result of the most grave violations of human rights” (p765). It also argues that it is these personal testimonies that constitute the basis for compensatory proposals because victims are allowed to speak about reparation (p765).

Most importantly, the Report states that these first person narratives have not been subject to interpretation and that the families “have just been allowed to speak” (p766).

We hear the voices of relatives as they speak about their personal journeys of searching for their loved ones, the pain suffered by the constant denial of the violation on the part of the authoritarian regime and of the abuses they have endured. However, this apparent absence of interpretation is deceiving as the justification for the introduction of these testimonies and the order in which the testimonies are presented organize their narratives within the larger national master narrative that the Report constitutes. Further, these testimonial voices are used to introduce and justify the compensatory measures that finally define justice discourses in the Report. The testimonies are limited to short statements disconnected from the stories they tell. Some of them are no longer than one sentence and offer little connection to the individual victims presented in other sections of the Report.

The testimonies are presented as an act of listening to pain that “has not been heard” before. This act of listening takes place in “public and private audiences” where victims are allowed to speak freely, and in which the testimonies are granted recognition: recognition that is constituted as an initial form of reparation (p765). In this manner, these testimonies are placed in context with the national recognition of which they are the object: listening to the stories not heard before suggests that the new nation welcomes those stories, and grants compensatory recognition. There is an attitude of atonement in the recognition that the Report grants to victims specifically as it recognizes that listening to victims constitutes reparation for the injury of not granting
recognition before. However, such atonement is limited to the act of listening and does not extend to the recognition of the role of the state in causing the loss.

The manner in which the testimonies are organized forces the individual narratives to fit with the national reconciliation discourse. This is done in spite of the argument that the “Commission has not interpreted [the testimonies], but rather has decided to let [the families] speak” (p766). The testimonies follow a progressive path beginning with a narration of horrors, bereavement and loss and ending with the denial of revenge and the acceptance of the legality of the new nation (pp 766-782). We begin by hearing about the endless search for the lost ones, the abandonment of families, the exclusion from the normalcy of life that families experience, and the uncertainty and hopelessness that results from the disappearance (p776). Then, we are introduced to the perceptions that these families have of the country and the political and social institutions of the regime and of the manner in which the regime denied their demands for recognition (p779). Finally, narratives turn to the “present feelings” (p784) in which relatives speak of “ending a stage” and beginning another and of “constructing a future” (p785). This last section begins with the voice of a relative that indicates that “to us [the declaration in front of the commission] is a very painful, but also very important moment” suggesting that the transition to democracy has granted families the opportunity to speak and that families have done so in spite of the pain that the process causes. This section and the chapter meaningfully end with the voice of a relative who claims, “I do not want vengeance, I only want to find peace and for that I need to know the truth” (p785). This quite critically achieves the inscription of the new national project. The discovery of truth is constituted as the achievement of peace: a peace that denies and denounces vengeance. The resemblance of this statement to Aylwin’s inaugural speech is striking in its conceptualization of truth as justice and in its definition of any excessive demand for justice as vengeance. Ultimately, the testimonies are placed within a national story that
takes the reader from places of pain, horror and lack of recognition into a new national landscape in which revenge has no place.

**Never again**

On March 4, 1991, President Aylwin delivered his historical “never again” speech in which he officially released the Rettig Report. President Aylwin’s speech constitutes a critical national moment in the history of the Chilean democratic transition. It also constitutes a catalyst for a national ritual in which the “truth” of the Report becomes the mythology on which a new post-authoritarian national community would be built. The speech solemnly presented to the nation the results of the Rettig Commission and called the nation to accept and internalize the truth of the Report. While the Report is presented as a discovery of truth, such truth is fitted into the national reconciliation discourse that Aylwin had already articulated in its inauguration speech of March 1990. Aylwin highlighted in this speech those aspects of the Report that most effectively reinforced national reconciliation. For instance, while the Commission debated between a narrow and a broader definition of responsibilities, Aylwin wholeheartedly endorsed the broader definition. As he indicated,

> Beginning from the concept that “there are certain human values that need to be respected *not only* by the state, *but by all political actors*, and according to the Decree that created the Commission, the Report defines the violation of human rights as “not only certain acts committed by agents of the state, *but also others perpetrated by individual citizens* under political pretexts” (Aylwin Azocar 1991 my italics).

Aylwin’s official definition of human rights violations erases not only the apparent internal conflict of the Report concerning the definition of human rights violations, but also the demands to recognize human rights violations as the systemic practice of the state which had constituted a major demand of critics and human rights activists (Richard 1994; Garretón 1999).
The official constitution of human rights violations in its broader sense allowed Aylwin to make another important claim: human rights violations were the responsibility of the whole of society and, as a result, the whole society needed to acknowledge and accept this truth. Since the violation of human rights resulted from a lack of “firm national consciousness about human rights”, Aylwin endorsed the Commission’s proposal for a process of legal modernization destined “to perfect Judicial Powers” in order to make them accomplish “their role as guarantors of the essential rights of persons”; to effectively naturalize a regime of human rights. This also included, as Aylwin argued, the education of the armed forces in regard to the value of human rights. The speech effectively made human rights violations the result, not of the calculated and economic deployment of state power, but of a moment in which none of us knew better, the result of an accident or of a lapse of judgment. As such, the legacies of the regime can be remedied by the adoption of human rights and by the alignment of national institutions to the regime of human rights in order to create a “culture truly respectful of human rights”. Once again, Aylwin’s speech constitutes a moment in which moral and rational conduct is defined along lines similar to his inaugural speech: acceptance of truth as moral imperative and prudent pursuit of truth and justice.

The 1991 speech then turned to the issue of justice: the question of what to do about human rights violations. Justice is once again constructed as a potential danger and “imprudent” expectation that could threaten the conciliatory national discourse. Aylwin began by creating a framework to understand justice. As he indicated,

Justice is the most superior of all social aspirations, [an] irreplaceable basis for peace. [However,] we know that due to the natural limitations of the human condition, perfect justice is generally a condition that is unattainable in this world. This does not mean that we should not aspire to the utmost justice possible (my italics).

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24 As I discuss in Chapter 6, the armed forces rejected this insinuation arguing that it was precisely their respect for human rights that forced them to take power.
In addition to justice being limited and potentially an imprudent pursuit, it is also an unattainable value because as Aylwin argues, “the disappearance or death of loved ones are irreparable losses, for it is not possible to establish a correlation between the pain, powerlessness, and the hopes of victims and the measures” proposed by the Report. Faced with this impossibility to measure terror, Aylwin is left with the task of defining what “possible justice” means. Here we begin to see the double bind of justice discourse which in a similar style to the one observed by Hesse (2004) in debates concerning Nazi racism, defines and uncovers the paradigmatic character of authoritarian terror while obscuring and disguising the power of post-authoritarian justice discourse. The “never again” speech reveals authoritarian terror as immeasurable and irreparable: a terror beyond comprehension. The “irreparability” of terror, in turn, obscures and conceals the more ordinary violence that traps terror within a discourse of “possible justice”. This “justice with a surname”, as Viviana Diaz president of the Association of Relatives of the Disappeared, called it, forces victims and relatives to “accept a conciliatory discourse that continues to sacrifice our loved ones” (2005).

The speech preempts any demands for too much justice by arguing that vengeance cannot constitute justice. “On the contrary”, Aylwin argues, “justice precludes vengeance”. Interestingly, vengeance is associated with demands for judicial justice, which is constructed by Aylwin as imprudent demands on the part of victims and survivors. Once judicial justice is constructed as an imprudent demand, “possible” and “prudent” measures of justice can only be defined along three lines: truth, moral rehabilitation, and compensation. Aylwin defines the acceptance of the Report’s truth as one of the most critical measures to achieve justice. As he continues, “the clarification and acceptance of the truth, as it emerges from the Report, is already an important achievement of justice for victims”. The Report is the expression of truth as justice; a measure of justice that requires that Chilean society as a whole recognizes “the events
constituted as the truth in the Report”. “Justice”, continues Aylwin, “presupposes the
courage to confront the truth as a manner of achieving justice; the generosity to
recognize the faults, and the attitudes of forgiveness in order to arrive at the
reconciliation of all Chileans”. This is another aspect of the speech’s binding character:
not only does the speech preclude demands for too much justice, but it also calculates
and produces ideal subjectivity. The ideal post-authoritarian subject is one that would
accept the truth of the Report: a truth constituted as justice. We witness again the
biopolitical effect of human rights as it organizes and calculates conduct, normalizing the
relationship between victims, victimizers and the nation along the lines principles of
rationality and prudence in which “unreasonable” demands for justice constitute markers
of difference and exclusion.

Truth as the expression of justice requires, as Aylwin suggests, the “moral
dignifying of the victims”. “The truth, in itself”, Aylwin continues, “is part of justice as it
achieves the moral rehabilitation of victims”. Consequently, the most critical goal of the
“never again” speech is to get the nation to accept the “legitimate” truth of the Report: a
goal that occupies most of the speech. Aylwin continues,

The Report that today I submit for public acknowledgement clarifies the truth. Due to
the antecedents of the Report and the quality of its authors – many of whom were collaborators of the past regime – this truth must be accepted by all. No one in good faith could deny it.

Since the truth is already constituted as legitimate, due in part to the
representative character of the Commission, Aylwin can call the nation to accept its
truth. He continues, “I make a fervent call to all my compatriots to accept the truth that is
exposed in the Report and to adjust their conduct according to the recognitions of the
truth” Later on he states,

convinced of its legitimacy, I call all my compatriots to assume it and to act in
consequence. Shared by all, this truth, no matter how cruel and painful, will
remove reasons for disputes and division among Chileans.
The speech pairs the acceptance of the truth with two conditions: the fear of what could happen if the truth were not accepted and the ultimate achievement of reconciliation that stems from the acceptance of the truth. Aylwin made a connection between past and present: the Janus face of national reconciliation discourse, adding that,

the truth was hidden for a long time. While some denounced it, others – who knew it – denied it, and those who should have investigated it, did not do so. This explains why many people, probably a majority, did not believe it. That discrepancy was a factor of division and hate between Chileans.

If in the past truth was not recognized, in the present and future, the acceptance of the truth will ensure national unity. Otherwise, as Aylwin suggests,

when truth is not respected, trust among people is broken and, consequently, doubts, disqualifications, hate and violence re-emerge. Lies are the precedent of violence and they are incompatible with peace.

If truth were not publicly acknowledged then, as Aylwin continued, “fratricidal struggles” would re-emerge which “would destroy our rebirthing democracy and destroy the yearning for peace that we all share”. Consequently,

Only the acceptance of truth will make us free. Free, first, from our own prejudices and passions that constitute a major obstacle for peace. As a Christian, I think that peace is the ultimate goal of justice, and can only be built on the basis of truth.

This is probably the most important accomplishment of the “never again” speech: the constitution of the truth of the Report as the most important expression of “possible” justice, and the consequent acceptance of this truth as a prerequisite for peace and national reconciliation.

The binding of truth, justice and reconciliation articulated in the speech mediates an important discursive move: to refocus the nation towards the future rather than the past to the extent that has critically affected human rights victims. He continued,

For the wellbeing of Chile, we must look to the future that unites us more than to the past that divides us. We have much to do to construct a truly democratic
society...to wear our energies away in efforts to scrutinize past wounds that are irremediable...we cannot progress by widening divisions. It is now the time for forgiveness and reconciliation.

Reconciliation requires that the nation “begins by identifying who are the offended parties and call them to forgive and who are the offenders who are to be forgiven”.

Human rights violations are constructed as a matter of the past, a wound that divided the nation and that, for the wellbeing of the nation, should be scrutinized no longer. Since the truth had been uncovered and accepted by the nation, it is now time to get over it and forgive.

The “never again” speech lays out a plot within which the memory of terror is finally captured in national discourse and tied to a national reconciliation project that ultimately renders terror specifically knowable, innocuous and unthreatening. Aylwin’s statements and the Rettig Report dispose of the past and produce and national truth in which complex histories are fit into a simplistic national narrative. The production of this national story places the nation in the situation of defining complex stories in ways that at times are contradictory. Human rights violations become here the actions of individuals who act in the name of a state that is not culpable; the responsibility of the victims but not of perpetrators; the result of a situation of conflict that the armed forces tried to resolve, Armed Forces that are ultimately betrayed by secret groups acting within the regime but not under its orders. One thing seems clear in this confusing and contradictory mesh of narratives: the political project of the authoritarian regime, which required violence for its insertion and consolidation and that is defined as the responsibility of civilian intellectuals and technocrats working within the regime, is not implicated in terror. This ultimately contributes to the legitimization of the authoritarian governmental project: a project that in the discursive construction of terror as excess, betrayal and individual crime is rendered unnamable, unspeakable and ultimately invisible.
The little nation that could

The release of the Rettig Report constituted a national feast in which a sense of nationhood was articulated and inscribed in a multiplicity of sites in which the Report was debated and discussed. Although, as I discuss in Chapter 6, the armed forces and the right remained relatively marginalized within the celebrations of the democratic inauguration and the Rettig Report, the idea that Chile has uncovered a fundamental truth permeated most debates at this time. While the Association of Relatives of Detained Disappeared warned that, “not the whole truth has been uncovered”, it also characterized the Report as the event that “symbolizes the recognition of the Chilean society of a truth previously hidden” (1997 p114). National and international news praised Chile for its capacity to account for its past in such as peaceful manner. “Chile comes closer to truth”, declared a news report, highlighting that “things in Chile have not been easy” because, on the one hand, Pinochet remained as Chief Commander of the Army while, on the other, human rights activists and relatives of victims “demand not only justice, but also the truth about where their sons, husbands and brothers are buried” (López 1993).

The new democratic Chile was consistently constructed as a nation under siege in news reports. On the one side, a still powerful conservative and authoritarian sector threatened democracy. On the other, the families of victims made unreasonable demands. While authoritarian sectors claimed, as a politician stated in a newspaper report, that “the past must remain in the past” (Persoglia 1999), relatives of victims were consistently portrayed as unable to understand the restrictions of the democratic transition. From in between these two arguments, the Rettig Report emerged as a national ritual of truth: a ritual that told the nation a truth not only about unreasonable demands, but also about itself as a nation in which truth was justice. Politicians
vigorously supported the conclusions of the Report. “Truth expands slowly but with strength”, argued Huneeus, echoing President Aylwin, stating that “we must have courage to accept the truth with all its cruelty and ask for forgiveness for errors made” (Huneeus 1999). “The truth about events of transcendental ethical importance” added Zalaquett, “have been revealed in an irrefutable way” and in a way that “rips apart the veil of secrecy and social denial”. In this, “Chile has been the most successful because no-one can refute the events detailed in the Rettig Report” (2003 p11).

The idea that Chile is an extraordinary and exceptional example for other democratic transitions was also expressed in interviews. Remembering the Rettig Report, political actors commonly stated that, as MP Antonio Leal stated, “Chile has gone farther and further than many other countries such as Spain, Argentina and South Africa”. “In Chile”, he continued, “we have never taken a step back from the truth of the Rettig Report... The world must know that we have opened up the truth, we have investigated and found out what happened” (2005). Undersecretary Correa Sutil added that “we acted with courage as did President Aylwin,” adding that “all cartoonist critiques of what the Aylwin government did are clumsy and petty” (2004). In this discourse the post-authoritarian nation emerges as embellished with pride and courage in spite of its fragile democracy. “The transition was hard”, added Natacha Molina, president of the government’s office for returning exiles, “it may look easy but at every step we risked Pinochet taking democracy away from us again....What we managed to do was not small potatoes for a small country like ours”(2003). The Rettig Report became the instrument that mediated this sense of pride and the quite literal construction of the nation as a little nation that could.
Conclusion

Since at least the end of the Second World War, legal scholars and social scientists have attempted to grapple with the question of responsibility in situations of widespread and systemic terror. Authors such as Browning (1998), Laban Hinton (2004) and McFarland-Ike (1999), for instance, have attempted to address the difficult question concerning the role of individuals in totalitarian regimes. At the centre of this inquiry is the idea that gross human atrocities are made up of a multitude of moments in which, as Browning states, “individual human beings killed other human beings in large numbers over an extended period of time” (pxvii). In the Chilean context, Nancy Guzmán (2000) confronts a similar question in her work based on interviews with infamous Chilean torturer Osvaldo “Guaton” Romo in which she searches for a logic that can explain Romo’s actions and his willing participation in the torture, death and disappearance of political dissidents. Similarly, testimonial work by survivors such as Luz Arce (2004) and Emilio Rojas (1989) consistently confront the need to either explain their own actions or the actions of other individuals involved in terror by pointing to some specific characteristic that defines them as human beings. The need to find something, a logic that explains the actions of individuals involved in terror is a constant feature of these testimonies. Arce explains the process by which she turns into a DINA informer in order to avoid further torture by downplaying her role as an informer. She claims that she was simply a “cog in the wheel” of state terror and that, as a result, she is not legally responsible for the actions of the regime. In fact, she claims that she is another victim of the dehumanizing effect of terror (p77-78). It is this assertion that allows Arce to eventually claim that she has repented and reclaimed a reconstructed sense of self. Meanwhile, Rojas’ testimony is characterized by consistent attempts to find some humanity in those who captured and tortured him. The officer in charge of the detention
camp appears in his narrative as a “good man of clean intentions” who happens to be in charge of the camp (Rojas 1989).

However, these attempts to find logic are confronted by the fact that traditional discourses of morality and individual responsibility fail to account for the organized character of state repression. Browning finds that excessive anti-Semitism, coercion or indoctrination constitute insufficient explanations to account for the participation of soldiers in the final solution (p179). McFarland-Ike concludes that the euthanasia program of the Nazi regime was organized in a way that worked to realign the morality of nurses by carefully separating, both physically and psychologically, nurses from patients and by reinforcing a discourse that constructed patients as unworthy of life (p8). Killing those patients was in fact transformed into a moral act, and nurses’ hesitation to kill or their moral qualms about killing simply did not matter. The Nazi regime relied on a complexity of strategies destined to create a system in which nurses “no longer saw individual, suffering patients, but only hopeless cases for whom they could do little and who appeared more or less as useless eaters”. “Killing these patients”, writes McFarland-Ike, “simply followed a matter of course; it was murder without the guilty conscience” (p6).

Arendt (2006) observes that when confronted with Eichmann, the courts found nothing particularly hideous or exceptional about him. “The trouble with Eichmann” writes Arendt, “was precisely that so many were like him, and that many were neither perverted or sadistic, they were and still are, terribly and terrifyingly normal”. Eichmann, argues Arendt, was a man whose consciousness functioned precisely in the way it was supposed to within a regime in which murder was the law. Similarly, Romo emerges in Guzman’s works as unrepentant. He is willing to describe in great detail the technicalities of torture and to justify the repressive policies of the state in which all
enemies had to be killed\textsuperscript{25}. However, it is also evident that Romo is not especially deviant. He is simply following the orders of a state in which the doctrine of a “dirty war” justified killing those considered enemies of the state, and in which Romo sees himself as a soldier. Romo ends by stating that he would do it again in spite of the fact that he finds himself alone and abandoned by a military whose orders he was following. This leads Guzman to conclude that Romo “is not a monster that escaped the control of the line of command to give himself to deviant desires”. “Romo”, continues Guzman, “is like hundreds of other agents of the state that were in charge of administering the machinery of terror…to exterminate through torture, death and disappearance a century of social struggles” (p57). Similarly, remembering a meeting in which Romo asked for her forgiveness for participating in her torture, Arce states that,

I have to confess that his request for forgiveness coupled with the fact that he is now the scapegoat, a civilian without special privileges, makes me inclined to forgive him and I have. I feel Osvaldo Romo, with all his negative traits [torture, rape and murder] was used and abused by DINA (p125, my parenthesis).

Meanwhile, when attempting to account for the humanity of victims, authors such as Primo Levi and again Arendt remind us that there is nothing built in Enlightenment notions of humanity that can protect human beings from being exterminated. When people become “nothing but human”, deprived of citizenship and of state protection, observes Arendt, “the world [finds] nothing sacred in the abstract nakedness of being human” (Arendt 1976 p299). Levi writes in his relentless accounts of life and death in Auschwitz, that this is a place in which his humanity does not exist as he counts as only

\textsuperscript{25} Romo in fact describes in great detail the use of electricity in the torture of women, arguing that women were especially strong in enduring electrocution because giving birth made them stronger. He also justifies the throwing of bodies in the ocean, stating that “it is like feeding the fish”. Ultimately, Romo justifies all these actions arguing that this was a “dirty war” in which the killing of the enemy is justified and in which DINA made the terrible mistake of leaving some of those enemies alive. He ends by stating that he is in peace with his consciousness because he fulfilled his duties El País (2007). Fallece Osvaldo Romo, uno de los más crueles torturadores de la dictadura de Pinochet. El País, Madrid, Spain).
one of “six hundred and fifty ‘pieces’” that are loaded “like cheap merchandise for a journey towards nothingness, a journey down there towards the bottom” (p17). His account of life and death reminds us that humanity has lost all meaning. He continues,

The Muselmanner, the drowned, form the backbone of the camp, an anonymous mass, continuously renewed and always identical, of non-men who march and labour in silence, the divine spark dead within them, already too empty to really suffer. One hesitates to call them living: one hesitates to call their death death, in the face of which they have no fear, as they are too tired to understand (p90).

Confronted by the enormity of a state-organized extermination machine, these authors suggest that both victims and victimizers have become equally dehumanized. As Villa (1999) argues in her work on Arendt, “the unique horror of totalitarianism was that it created a system in which ‘all men became equally superfluous’, equally deprived of their individuality and equally suited to the role of executioner or victim” (p13). This means to Villa that the totalitarian camps altered human nature creating a system in which murder was law and those who ordered the deportation and extermination of Jewish people were simply obeying the law (p50). In these conditions, the extermination of stateless populations did not require power-mad people, or megalomaniacs, but people who willingly engaged in murder and who functioned, as Villa writes, within “the normative legitimation of murder…a function of what ‘respectable society’ endorses and allows” (p47).

The argument that state terror relies on the “manipulation of the human body”, in order to advance an experiment aimed at reconstructing humanity, can lead to a rather nihilist evaluation of the role of people in state terror, in which the participation of people in murder or their location as victims is simply a matter of fact. This may lead to the question with which Browning ends his book: “if men in Reserve Battalion 101 could become killers under such circumstances, what group of men cannot (p189)?” If people are simply thoughtless individuals who are submitted to the human experiment of totalitarianism, then they can be seen as not responsible for state terror. This position
seems to be built on a dichotomy between the state as an all-encompassing entity and its citizens as passive pieces within it. The argument that individuals were simply following orders can easily translate into innocence because the answer to Browning’s question can easily be that no one can resist becoming a killer under totalitarianism. Should individuals not be held responsible for their role in materializing state terror in its most brutal manifestation on bodies? After all, in the economy of terror of the authoritarian regime there are many examples in which agents of the state splurged on excessive expressions of terror.

On the other hand, if the responsibility for terror is always, as the Rettig Report states, the responsibility of individuals, then state institutions cannot be held responsible. Considering that state institutions are also invested in protecting its agents and that, as has been observed, nothing particularly evil can be found in individual perpetrators who follow orders, claims of individual responsibility easily lead to the condition in which no one can be held particularly responsible because the state either protects its agents, or because agents are simply following orders. Inherent in this dichotomy is the idea that responsibility is an “either or affair”: it is either the state or the individual, but never both.

This duality can be interrogated by following Sherene Razack’s (2004) work on Canadian peacekeeping violence. She agrees with Arendt’s assertion that there is nothing particularly evil about those who participate in state terror, but she questions a superficial interpretation of Arendt’s notion of thoughtlessness. She observes that “it bears much thinking…to examine the ‘truths’ that are so often repeated in our context”

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26 This is a position advanced by the Due Obedience Laws promulgated in Argentina in 1987 and that dictated that crimes committed by agents of the state were not punishable because they were the results of orders issued by the state. Lazzara, M. J. (2006). Chile in Transition. (Gainesville, University Press of Florida). This is also a legal argument that has been used with different levels of success in different cases since the end of the Second World War (see note 9 above)

27 For example, Eduardo “Coco” Paredes, one of President Allende’s closest advisor and who was arrested at the Presidential palace on September 11, 1973 was brutally tortured for 4 days: while still alive he was burnt with a blow torch all the way to the bone, his body was subjected to multiple fractures and he was shot 17 times at close range.
Razack refers here to the kinds of discourses of truth that justify the killing of people who are discursively constructed as savage others and whose deaths are justified as part of the efforts of northern nations to bring civilization to the South. Arendt, in Razack’s reading, is not arguing that thoughtlessness means powerlessness. Rather, thoughtlessness means that,

totalitarianism gave men like Eichmann, as well as many other types of individuals, an entire moral universe in which they could come to know themselves as whole, a universe in which the extermination of Jews was not a moral issue (p160).

In the same way that Foucault argues that discourses of sexuality construct subjectivity, subjects, according to Razack, use the discourses of truth provided by totalitarianism to perform on themselves the work that allows them to understand themselves as people who fit in the moral universe of the state. The organized and systemic character of totalitarian terror is not here simply the overwhelming force that destroys humanity by imposing power solely from above, and thoughtlessness is not the blind incapacity to resist and act independently of totalitarianism. Thoughtlessness is the unproblematic acceptance and repetition of truths provided by totalitarianism and their use to understand ourselves as subjects. These truths work through subjects and subjects are both their target and their instrument, yet this is not all that makes up the subject, nor are these truths the only ones that give meaning to our actions. Nevertheless, the repetition of these truths is always also the actions of individuals.

This understanding of how truths work on and through subjects opens up two points of entry into the idea of responsibility. The first one has to do with the opportunity of becoming aware of ways of thinking and acting differently in discourse, or of not reproducing those truths that make us complicit in acts of terror. This brings us back to Foucault’s political challenge: if we know how we are ruled through discourse, could we not think of ways of being ruled differently? This creates the possibility for critical self-
reflection and self-scrutiny that while allowing subjects to interrogate and resist totalitarian truths, also upsets the discursively produced dichotomy between state organized terror and individual responsibility. Individuals emerge here as capable of self-scrutiny, capable of resisting thoughtlessness and, by extension, also responsible for their own thoughtlessness. Furthermore, as Arendt (2006) argues in relation to Eichmann, consciousness emerging from self-scrutiny can lead to the disruption of the idea, observed in Eichmann, that legality and morality are one and the same. This can allow us to think ourselves outside the universe provided by totalitarianism, and can result in what I believe should be the central focus of conscious thinking: the production of subjects who can reflect before they act, before they switch on the torture machine and before they engage in practices that plunge them and their victims into terror.

A second point of entry into an analysis of responsibility leads us to a critical conceptualization of the role of the individual in state terror. If we can comprehend how the “truths” of terror pull individuals in so they can become active agents of terror, we can propose as Abdel-Nour (2003) does that we share in national responsibility every time we experience a sense of belonging in the nation that is built on terror. Abdel-Nour proposes that we use the concept of “individual national responsibility” as a framework to conceptualize the role of individual actions and complicity in the acts of state. “Individual national responsibility” is linked to the idea of national pride in ways that allow Abdel-Nour to argue that an individual shares in national responsibility when she feels pride for those achievements that the nation has accomplished through unjust or violent means (p695). “In short”, argues Abdel-Nour,

if the national bond creates imagined agents, ought these same agents be imagined as responsible? My core claim is this: national responsibility is actively incurred by individuals with every proud thought they have and every proud statement they make about the achievements of their nation (p703).

Building on Abdel-Nour, Murocca (2007) argues that a crucial element of individual
national responsibility is the “connection between individual stories, subject-making practices and broader historical and national contexts that produces them” (p312). Individual national responsibility requires that we critically look at the historical continuity and unquestioned truths that remain pervasive presences in national discourse even after the end of terror practices. As we are historically linked to terror practices and to the national projects that such practices advance, any understanding of responsibility must include a critical view of the way in which “national historical narratives” permeate how subjects understand themselves and how they celebrate national achievements (p310). In post-authoritarian Chile, such a concept of responsibility necessarily implicates those who unquestionably accept and reproduce a historical narrative that establishes the authoritarian regime as a salvation as well as those who experience pride for the achievement of the official truth about terror.

In attempting to grapple with the issue of responsibility, the Rettig Commission fails to open up these points of entry into a more critical understanding of national responsibility and historical continuity. Thus, not only does the commission fail to truly make sense of the character of state terror, but it also effectively re-inflicts and perpetuates other less extraordinary forms of violence on victims. The Commission is unable to question the dichotomous location of the state and individual, or the regimes of truth that regulate the work of the Report and that are firmly rooted on the anti-communist and liberal discourses of the authoritarian regime. As a result, individual responsibility emerges as a normative discourse that not only denies the critical role of the state in the organization of terror, but that also produces specific forms of subjectivity. Discourses of individual responsibility produce subjects that, as Arendt suggests in the Eichmann proceedings, are “perfectly capable of telling rights from wrong...[and] aware of the criminal nature of their acts” (2006 p26-27). Responsible individuals emerge in this narrative as those who are capable of discerning when they
are being ordered by “independent and secret groups” to perform illegal acts, but who are also not linked to the state that orders those acts. Since those groups are themselves acting independently from the state, individual responsibility discourses doubly deny the role of the state in terror: the state did not organize a terror apparatus, neither did it issue the orders that lead to terror.

Furthermore, truths, specifically those associated with the anti-communist ideologies that justified the repression, torture, killing and disappearance of those considered enemies of the state remain not only obscured in discourses of responsibility, but also firmly established in the historical narrative of the Report. Discourses that produce victims as enemies impregnate the national discourse in ways that obscure the role of violence in facilitating Chile’s transformation. In this way, the Report completes what Carlos Casanova (2001) argues is the process by which the transition into neoliberalism requires the constitution of the image of the “communist” enemy understood as the ultimate expression of totalitarianism which, in turn, justifies the totalitarian actions of the authoritarian regime (p157). A Marxist, Casanova argues that the “general repression” that facilitated the transition of Chile into a neo-liberal society integrated into an international capitalist system, “delegated its power to the repressive regime of the Armed Forces”. However, it also deployed discourses that systematically and concurrently produced a “truncated” image of the complex social struggles of the proletariat turning these struggles into threats of communist totalitarianism that ultimately justify terror. “It is not enough the repress the proletarian movement”, argues Casanova, “it is also required to invest that which is repressed with the spectacular image of totalitarianism” (p 156-157). The repression of social movements and the violation of human rights emerge here as the justified actions of the state against the subversive and terrorist actions of a communist enemy. Victims become enemies, evidence of the resurgence of insurgent groups within the Cold War narratives firmly established in the
Report. In the human rights discourses of the democratic transition, discourses of national reconciliation complete the obscenity: “victims who are in reality enemies” share in the responsibility for their own death at the same time that they are required, by the constitution of demands for ‘too much justice’ as imprudent and potentially destructive for the nation, to forfeit any demands for retributive justice.

The discourses of individual responsibility prevalent in the Report, as well as those concerning the nature of the individual that participates in totalitarian terror, do not generally question the need to explain terror in specific ways. Why do we need to make sense of the nature of the encounters in which people kill other people in large numbers? Why does the Rettig Commission need to take all the discursive detours – the comings and goings – that demonstrate its struggle to make sense of terror? Arendt (2006) and Razack (2000; 2004; 2008) once again prove helpful here because they direct us to shift our gaze away from the actual expression of terror – although this is never absent – to other less evident expressions of sovereign power, and explore the reasons that motivates nations to make sense of terror, and the projects that such processes of sense-making authorize. The way in which the nation is implicated in the practices of violence it later tries to explain is an ever present theme in Razack’s work specifically as it deals with issues of complicity, peacekeeping violence and, For example, the evictions of Muslims from Canadian society. At the centre of this work is the argument that there is an identity, a national narrative that the nation needs to build and protect through processes of making sense. A white Canadian colonial identity is consolidated, argues Razack, through a complex process through which the nation develops “mythologies” (p8) that allow soldiers to emerge traumatized from violent encounters with the people they are there to protect, while the nation also comes out both betrayed and innocent from such encounters.

In her work on the Eichmann case, while observing the “ordinary” and
“unremarkable” nature of Eichmann’s consciousness, Arendt also critiques the court’s attempts to turn Eichmann into a monster. The court, she argues, brings the procedures against Eichmann beyond the realm of the law, and turns them into spectacle. She argues that such betrayal of the “seclusion”, “abstention” and emotional detachment that justice demands is caused by a powerful reason behind the trial: that of using the procedure to educate the nation, to provide the younger generations of Jews with a national mythology. Whether Eichmann was in fact a monster seems no longer to matter (p6).

What motivated the Rettig Commission to attempt to make sense of issues of responsibility and human rights violations? In scrutinizing, even when remaining legalistic and detached, the multitude of encounters that make up authoritarian terror, the Commission symbolically and concretely gazed upon the acts of torture and death in which the state through its agents dehumanized and exterminated. The Commission, as I have shown so far, inscribe a series of mythologies on the surface of the nation, mythologies that construct a past of conflict in which the military regime is the saviour, and in which the post-authoritarian nation finds truth to build national reconciliation. The motivations of people in participating in the repressive apparatus of the state are secondary in importance because, in fact, the commission can impose on those individual acts all kinds of meaning. The post-authoritarian nation emerges here as the nation that embraces and welcomes its soldiers and the nation that rejects revenge – understood as too much justice.
Chapter 5
Tortured Bodies: Speaking terror and the epistemic violence of the Valech Report on Torture

While they interrogated me, they undressed me and they applied electricity to both sides of my head, my testicles and anus. They put something in my mouth so I would not bite my tongue while they electrocuted me (Man arrested in September 1973 at Santiago’s National Stadium 2004 p 234).

I was arrested when I was five months pregnant…I was placed on the floor with my legs open and rats and spiders were introduced in my vagina and anus, I felt I was bitten and I woke up [soaked] in my own blood. Two prisoners were forced to have sex with me, both refused and we were all simultaneously beaten….I was taken to places were I was subjected to numberless and repeated rapes...forced to swallow the torturers’ semen or be sprayed with their ejaculations on my body and face (Woman arrested on October 1973 in the Arica Regiment in La Serena, Valech Report, p243).

What happens to stories of terror and torture such as the ones described above when nations engage in truth processes that attempt to incorporate them into the official history of the nation? How do these stories make it into official human rights discourse? What are they allowed to say and what are they forbidden from saying? Are these stories allowed to stain with their pawprints the clean surface of the reconciled nation? If so, what kind of prints are they authorized to leave? And, what kind of instruments facilitate the telling of torture stories? In this chapter I deal with the critical question concerning the manner in which nations tell, in detailed manner, histories of terror that have remained unspeakable and unmentionable in the public domain. I do this by undertaking an analysis of the Valech Report on Political Imprisonment and Torture (henceforth the Valech Report), Chile’s second truth commission created in 2003 by the government of Ricardo Lagos as part of his “There is no Tomorrow without Yesterday” human rights program (Gobierno de Chile 2003). I pay attention specifically to the manner in which the Report manages and regulates histories of terror by manifesting
tortured bodies in discourse through the use of two interrelated power techniques: statistics as a technology that renders stories of torture of a particular population knowable, intelligible and quantifiable, and the strategic and detailed materialization and examination of individual tortured bodies through the careful inclusion of individual testimonies.

I argue that the need to account for a massive number of cases of torture – a number that can potentially disrupt national reconciliation discourses and the nation-building project – the Valech Commission is required to incorporate complex methods of data management that can allow it to meet its mandate to “rigorously” provide a global truth about human rights. Statistics constitute the technology that forces stories of torture into variables, categories, units of analysis, graphs and tables within which they either disappear or become countless moments of never-ending violence. At the same time, the statistical management of torture is coupled with the watchful containment of torture stories which mediate the manifestation of the tortured body – presented as “purely bare life” (Agamben 1998 p164) – in the discursive terrain of the Report. The use of testimonies does not, to borrow from Foucault, “efface the body” but make it visible as a “dense transfer point for relations of power” (1990 pp 103 and 152). The interrelated use of statistics and testimonies facilitates the constitution of bodies as forensic information. This is not at all dissimilar from what Gever (2005) observes in the cultural production of bodies in mass media phenomenon such as the CSI (Crime Scene Investigation) series in which the minute and at times gruesome and “methodical disembowelment” of bodies captures life and death in scientific discourse (p456). Consequently, the Report constitutes the “disciplinary analytical space” in which sovereign power is exercised to capture the experience of torture (bare life) and render it visible and knowable (Foucault 1995 p143).
The ultimate objective of the Report and its management of torture is to construct, through the process of making sense of torture, specific ideas of community and nation. I suggest that the Valech Commission adopts and imposes methodologies that, as Kali Tal (1996 p6) argues, reduce traumatic events “to a set of standardized narrative[s]...turning [them] from frightening and uncontrollable event[s] into a contained and predictable narrative” which can later be sensationally appropriated or conveniently subdued. This process of standardization, which Tal associates with the codification of traumatic events into acceptable narratives, embodies a violent process in which, in the Chilean case, statistics and the management of testimonies constitute critical weapons for the sanitizing management of torture stories. Thus, while the telling of stories may be experienced as a freeing moment for victims who are finally allowed to break the secrecy of torture, the disciplinary management of stories of terror suggests a moment of violence re-inflicted on victims. As Levinson writes in regard to justice discourses in Chile, “the calculated representation of terror becomes terror itself” (p49). Tortured bodies produced through the epistemological technique of the Valech Report perpetually remain encased around the figure of bare life. They can only speak of their torture, of those moments in which they were reduced to voiceless bodies, in this way they remain voiceless, forever trapped in the unspeakable act of torture. Only in the perpetuation of their silence, the imposition of silence on their stories, can the nation build community through the act of acknowledging torture.

**Torture as practice**

Torture in Chile constituted evidence of the biopolitical power of the authoritarian state in which the human body becomes the site for the inscription of a political project. Torture was organized, systemic and methodical, following at times highly regulated and
disciplined procedures and requiring detailed training in which the highly intimate and embodied encounter between torturer and victim is never left to chance. As Ximena Bunster (1991) observes, even when expressing itself as the exceptional and apparently excessive manifestation of the savagery of torturers who gang rape or electrocute, individual experiences of torture are always supported and regulated by a repressive apparatus through which the military state carefully inscribes its ideas of society on the bodies of victims. Torture, in this way, dehumanizes, turning the victim, as Luz Arce remembers, into “something that is being thrown down there, that is being used...a dismembered doll...a single huge mass of growing nausea” (Arce 2004 p138). Torture, specifically sexual torture against women, continues Bunster, relies on the “extermination of the sexual identity of women” that only makes sense within a patriarchal society. Nevertheless, torture is not directed to destroying patriarchy, but to reinforce it, reconstruct it and re-inscribe it on the tortured bodies and by extension on those who witness the torture and are cautioned by it (p43).

Gomez-Barris (2007) argues that the practice of torture in Chile cannot be separated from the neo-liberal turn of the nation: It was, after all, through severe punishment of the social and individual body that the military state imposed its multifold project of “fiscal discipline”, free trade, flexibilization of labor, the privatization of state enterprises, and the reentrance of the nation into global capitalist economic structures (p87).

Richard Rubenstein (2008), adds that torture in Chile was a practice characterized by “routinization, rationalization, and bureaucratization” in which torture became an ordinary and organized practice and an intrinsic element of the repressive state (p33). As Mark

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1 Osbaldo ‘guaton’ Romo in his interview with Nancy Guzman describes for instance how the application of electricity to prisoners caused them to experience intense thirst, but that they were not given water because drinking could cause the death of the prisoner. Testimonies such as the ones by Luz Arce and Emilio Rojas speak of prisoners who committed suicide by drinking water after torture. Rojas, E. (1989). Tejas Verdes: Mis primeros tres minutos. Santiago, Editora Seminario, Arce, L. (2004). The Inferno: A story of terror and survival in Chile. (Madison, University of Wisconsin Press). Guzman, N. (2000). Romo: Confesiones de un Torturador. (Santiago, Planeta.)
Pedelty (2004) suggests in his study of war journalist correspondence in El Salvador, torture is part of a complex structure of social injustice within which violence acquires and loses meaning while the systemic injustice remains. Torture and violence in these analyses become part of something else: the achievement of a social project that requires the ordinary practice of torture.

Torture emerges in the work of these authors in its bureaucratic character as a state institution in which the practice of terror is supported by those other actions that are organic to the work of ruling. Torture took place in buildings that became torture centres\(^2\), that received budget and personnel, were located within a complexity of institutional hierarchies, were regulated through documentation and procedures, and were organized as a complexity of routines in which documents and files were kept, organized and centralized so as to achieve the intelligence purpose of torture. Torture machines were built and tested; manuals of torture were written, and torturers were properly trained in national and international training centres in which they were not only taught, as Arce remembers, “national intelligence theories, search and seizure, and Marxism” (Arce 2004 p244-246), but also the proper use of torture: how much pain to inflict and to what purpose (Haugaard 1997). In torture centres, prisoners were submitted to carefully designed routines in which their body functions, sleeping, eating, bathing, etc were submitted to careful calculation, so as to achieve the ultimate control of the body, its submission to the state apparatus of torture\(^3\).

\(^2\) Many of these centers were located in buildings that were expropriated by from political parties such as the Socialist Party, after the authoritarian regime outlawed them. This is the case for example of the infamous center called Londres 38 in Santiago, Chile.

It is the bureaucratic organization of torture and its compartmentalization that allows soldiers to claim that they did not participate in torture, or that they had no role in the organization of terror. This has been recently observed by Razack (2009) in American soldiers’ accounts for their participation in the torture of prisoners in Abu Ghraib and Guantanamo. These soldiers attempt to explain away torture by using euphemisms such as “interrogation” which erase torture acts, stops them from “penetrating the consciousness” of the soldiers, and removes them from the multitude of actions that constitute the work of soldiers. What facilitates the denial of responsibility, as authors such as Fuentes (2004), Garretón (2004) and Moulian (2004) have argued in their analysis of the Meneses-Aguero case in Chile, is the careful fragmentation of the work of torture which facilitates the denial of the widespread, bureaucratic and organized character of torture and its reliance in at times sophisticated divisions of labour that, while all contributing to the dehumanization of torture, allows certain subjects to exonerate themselves. In this case, Emilio Meneses, a recognized academic in political science, was accused of having participated in the interrogation and torture of one of his colleagues. Meneses’ defence was that while he was an “interrogator” and a “classifier” of prisoners, he had not actually participated in torture. The organized character and bureaucratic nature of the torture-machine relies, as McFarland-Icke (1999) has argued in her own analysis of the participation of nurses in the Nazi’s euthanasia program, on “the organization of space and the division of labor” that ultimately produces a kind of “free floating responsibility” that allows torture labourers to argue that they did not participated and that, as a result, they have no responsibility for torture and death. She argues that the careful organization of torture as a state practice does not only rely on the participation of individual subjects in all the tasks associated with torture, but also

98 Minutos). There is also extensive documentation of testimonies of torture in the archives of international human rights organizations such as Amnesty International.
depends on the careful moral realignment of those subjects, the remaking of their subjectivity, in order to carry its tasks while producing the illusion of innocence (p237-245). The fragmentation and division of torture, its removal from the visible landscape of the nation – its relegation to secret torture centres – ultimately accomplishes the denial of torture making it into something that does not implicate soldiers or rest of us.

However, torture cannot solely be understood in its bureaucratic expression or simply as a function of rational objectives. The practice of terror manifests the power of the state on bodies in a multitude of encounters in which individual torturers came into contact with individual prisoners in highly intimate ways. It is in the multitude of these encounters that the biopolitical project that requires and sustains torture imprints itself on the bodies of victims and on the bodies of torturers. The tortured body becomes here the expression of Agamben’s bare life: a body that can be sacrificed in order to build a “community of men” of which the torturer is a part. This inevitably leads to the question of the psychic and symbolic conditions that facilitate the capillary expression of torture on individual bodies. Sherene Razack (2008) and Michael Taussig (2004 p44-51) argue that torture and terror, what Taussig calls “spaces of death”, constitute ordinary practices invested in the preservation of racial and imperial hierarchies, in which subjects and nations come to understand themselves as part of imperial projects, and which ultimately give birth to the New World Order. Razack proposes that in order to make sense of terror, we need to pay attention the “fascist poetics” (using Taussig’s expression) that underline the “psychic structure” of terror. She suggests that terror constitutes an intrinsic part of an imperial project in which terror encounters allow those who participate in terror to “mark the boundary between self and other” (p79), between the communist, constituted as the enemy, and the state that requires the real and symbolic destruction of the enemy to install its political project (Casanova 2001). Taussig and Razack resist the rationalization of torture as a function of economic or
imperial enterprises. Thus, Taussig argues that the torture of aboriginal people in Putumayo cannot be easily explained in its economic and political contexts as functional to the needs of labour. He states that,

> behind the search for profit, the need to control labor, the need to assuage frustration, and so on, lie intrinsically construed long-standing cultural logics of meaning – structures of feeling – whose base lies in the symbolic world and not in one of rationalism (p41)

Taussig and Razack suggest that in addition to advancing specific enterprises, cultures of death are about the constitution of hegemonic subjects who understand themselves in the practice of violence through a complex process through which racial discourses are deployed so as to produce an image of the Other that, in turn, justifies the violence. Thus, in the infliction of violence, in its intimate manifestations, subjects make themselves superior by inscribing the hegemonic project on the body of the victim.

> “Torture links the body to the state”, argues Razack (2009) suggesting, I believe, that the practice of torture, specially sexualized torture, constitutes a biopolitical technology that submits bodies – the body of the prisoner and that of the torturer – to sovereign power. As Razack continues, torture is not simply designed to obtain information; it is also meant to inscribe, to “stake” identity on bodies of victims and torturers, imprinting on them the power of the state. Torture inscribes power by giving voice or taking it away. As Elaine Scarry (1985) argues, torture transforms the “body into voice” (p45): voice that she associates with a sense of self that allows subjects to use language to project themselves into the world. “Through this ability to project words and sounds into his environment”, continues Scarry, “a human being inhabits, humanizes and makes his own space much larger than that occupied by his body alone” (p49). Torture grants the torturer the capacity to transform himself into only voice, to brutally project himself onto his environment, inscribing and inflicting himself on the prisoner. The torturer becomes a voice that demands the submission and destruction of the
prisoner for “the question, whatever its content, is an act of wounding” (p46). The state invests the torturer with its voice, for let us not forget that it is the state that grants the power to systematically torture; this is not a common crime. The state provides the torturer with a repertoire of words, symbols, expressions and truths which repetition and internalization, as Razack suggests, allow the torturer to know himself as part of a national project, to be part of the moral universe provided by totalitarianism (2004 p160). In this sense, while the body of the torturer becomes voice through torture, it is only voice as long as it embodies the power of a voiceless entity – totalitarianism or God in Scarry’s case. This is not to say that torturers are powerless and simple cog in the machine of torture. Torturers are the voice of the state because they embody it; they use it to make themselves superior and to understand their role in torturing prisoners as part of a great project of which they are a part. “I would do it again and I would do it worse”, states Chilean torturer Osbaldo Romo in his interview with Nancy Guzmán, “this time I would leave no one alive…I fulfilled my duties and I fulfilled them well, my conscience is clean and so are my beliefs” (Guzmán 1995).

The transformation of the body into voice is predicated, argues Scarry, on the inverted effect of torture on the prisoner. Torture reverts the prisoner to a state prior to language transforming him into a voiceless body that betrays and hurts the prisoner. The tortured body makes sounds, but his voice has become “a weapon against him, made to betray him on behalf of the enemy, made to be the enemy” (p48). This accomplishes the ultimate destruction of the self. As Scarry continues,

The goal of the torturer is to make the one, the body, emphatically and crushing present by destroying it, and to make the other, the voice, absent by destroying it. It is in part this combination that makes torture…mimetic of death; for in death the body is emphatically present while the more elusive part represented by the voice is so alarmingly absent that heavens are created to explain its whereabouts (p49, italics in the original).

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4 Scarry writes in her study of the Bible, “As God in the scene of hurt is a bodiless voice, so men and women are voiceless bodies. God is their voice; they have none separate from him” (p200).
This is why torture cannot simply be explained as a process to obtain confession; for, as Scarry continues, torture rarely provides results, and confession rarely leads to the end of torture. Rather, as Lazreg (2007) observes, torture constitutes an identity-making practice that requires the destruction of the self: his transformation through the act of forced confession into a voiceless body that only speaks what the torturer demands. When torture achieves this, argues Casanova, the torturer become subject through the “brutal act of de-subjectification” (p168).

Consequently, while being predicated in the destruction of the subject, torture is also productive. Torture, as Agamben (1998) suggests, relies on the constitution of bodies into bare life, bodies that can be sacrificed by locating them outside the law. While the torture of bodies does not violate the law from which they have been excluded, it does authorize the construction of a political community. The figure of bare life or homo sacer, continues Agamben, operates as an “inclusive exclusion” that inscribes life onto the political order through its exposure to “an unconditional capacity to be killed” (p85). This ‘inclusive exclusion’ carries with it, he argues, “the peculiar privilege of being that whose exclusion founds the city of men” (p7). Thus, the act of torturing constructs civilization by securing the political project and the civilizing mission that assures the superiority of both the torturing body and the torturing state. As Razack suggests in her discussion of camps, the eviction of bodies from the community that permits their torture, make[s] possible the production of white identities – as kin, families, nations. Materially and symbolically, camps help to create and sustain a racial and neo-liberal order in which white people come to know themselves as a superior people...citizens who have freedom to make their own choices (2008 p7-8).

Speaking of torture

If torture relies on the rendering of bodies voiceless, how do we speak of torture in the post-torture period? Literature concerning torture in post-authoritarian Chile has
remained poignantly scarce. Until the constitution of the Valech Commission in 2003, discussions in academic circles had remained for the most part focused on the “unspeakable” condition of torture, a condition that, as Tomas Moulian (2004) suggests, interfered with the completion of national and personal mourning. Victims, according to Moulian, were silenced not only by the dehumanizing character of torture as state practice, but also by the refusal to name torture and to speak of torture in post-authoritarian Chile. The silencing effect of torture, as authors such as Claudio Fuentes (2004) and Elizabeth Stanley (2004) have recommended, can only be overcome by giving victims the opportunity to speak of torture. The act of speaking of torture is considered a remediation to the dehumanization and silence that authors such as Kirk Simpson (2007) and, as discussed above, Elaine Scarry (2004) identify as an intrinsic part of the practice of torture. Torture resists linguistic expression and remains located outside language, and the “conformist master narrative” of post-authoritarian human rights debates, continues Simpson, only perpetuates the offenses of authoritarian regimes and the silencing of torture (p90). As a result, Simpson suggests that to allow victims to speak publicly of their experiences constitutes a form of empowerment that allows victims to recover and rediscover their voice.

Faced with the moral need to speak of torture, many scholars confront an impossibility to truly represent torture in language, to render the voiceless experience speakable. Marjorie Agosin (2003) for example grapples with the question of what it means to speak of practices of terror that escape rational explanation. Rojas Baeza (2004), on her part, argues that in attempting to narrate torture, words are always restricted to the level of description. Torture is, in this view, unspeakable (p165). Faced with this impossibility, Rojas Baeza concludes that what can be said about torture, and what is heard about torture is always limited by the impossibility of discursively reproducing the actions that pushed victims to a pre-discursive state. Nevertheless, the
need to speak about torture requires, as Idelber Avelar (2001) argues in conversation with Scarry, a reexamination of the conditions that cause torture to resist representation. Avelar suggests that to trace the limitations that confront language when confronted with the silencing experience of torture could “tell us something about what the practice of torture does to discursive representation” (p183). He suggests that if we can understand how torture achieves the deprivation of voice, the transformation of the tortured body into body without voice, then we can find ways to undo, or at least overcome, such silencing. This, suggests Avelar, could open up possibilities to reconstruct voice and subjectivity in ways that can be healing to victims and society. While building on Scarry, Avelar resists what he considers Scarry’s “fixed binary” that constructs the torturer as having voice and the prisoner as being deprived of it, suggesting that tracing the conditions that cause the “irrepresentability” of torture can open up “pluralistic possibilities and expanded fields” where the victims and the subject can re-sculpt subjectivity” (p183). The question then becomes how to speak of torture in a way that can unlock the “unspeakability” of torture.

However, this debate over the representation of torture seems unable to acknowledge the historical and political context in which torture is spoken about and in which victims are required to speak of torture, and the power relations that influence what can be known or said about torture. This prompts the critical question that occupies me in this chapter: if torture pushes bodies outside the political community (bare life), relying on the deprivation of voice to sustain the constitution of specific hegemonic subjects and nations, can those bodies whose silencing was required for such construction be truly allowed to speak of torture? This question, while not in disagreement with Avelar’s proposal that it is important to find ways to speak of torture, shifts the question towards the state and the political project that torture sustains. It forces the analysis into a discussion of the power structures that influence the representation of torture by inverting Avelar’s hypothesis regarding the relationship
between torture and discursive representation. Rather than asking about what torture does to discourses of representation, I ask instead, what discursive representation does to torture? If power relies on the rendering of victims voiceless in ways that places torture outside language, as Scarry argues, and if torture resists representation, as Avelar suggests, what effect do attempts to speak of torture, specifically within national reconciliation discourses, have on the experience of torture? Most critically, how does the representation of torture fit within national reconciliation discourses? While I agree that it is critical to resist the silencing of torture, to find ways to speak of torture, I also think we need to critically think about how we speak of torture.

The disciplinary conditions in which torture stories are allowed to emerge specifically in national discourses of human rights require us to think about the kind of stories of torture that get told. In what ways do they get told and what becomes unspeakable in national debates about torture? Here the connection between initiatives that allow victims to speak of torture and processes of nation building become intimately intertwined producing dilemmas for those who advocate for the inclusion of torture in national truth processes. Academics concerned with national reconstruction (Causino 1985; Biggar 2001; Garretón 2003; Johansson 2003; Larrain 2006) suggest that the official recognition of torture constitutes a requirement for the reparation of national identity. Larrain, for example notes that the official acceptance of histories of torture not only provides opportunity for recognition of events previously denied, but also for the reconstitution of fractured national subjectivities (p329). Thus, for these authors, the inclusion of torture within human rights debates accomplishes national objectives that are beyond individual claims. Yet in proposing the inclusion of torture in national truth processes, these authors overlook that, as Razack (2009) observes, “discussions of torture create community as much as torture itself does”. In other words, torture as a biopolitical expression of power relies on the reconstitution of subjects and the
realignment of their morality in order to produce a terrain in which torture performs its biopolitical task. Attempts to explain torture remain dominated by this biopolitics in which subjectivity, community and morality are constructed and reconstructed on the terrain of torture now by authorizing and regulating the process by which torture is spoken about.

The Valech Commission: speaking of torture

On August 12, 2003 President Ricardo Lagos announced the creation of a national commission to investigate cases of political imprisonment and torture during the authoritarian regime. This proposal was part of a larger human rights program presented by the Lagos administration in a document entitled “No Hay Manana Sin Ayer” (There is no tomorrow without yesterday) (Lagos 2003). This proposal stated that a “solution to the problem of human rights in Chile required a global account and an official recognition of human rights violations and victims (p3). Echoing the discourse of the Aylwin administration, the proposal stated that “progress in national reconciliation requires complete knowledge of the truth about human rights violations, the recognition of victims and the reparation of damage” (p5). Furthermore, the proposal explicitly built on the legacy of the Rettig Commission and the Human Rights Discussion Table\(^5\) arguing that “it is possible to achieve increasing levels of truth, specially when the collection and systematization of information is carried out by notable and nationally recognized members of society” (Ministerio del Interior 2003).

The Valech Commission was constituted by Supreme Decree 1040 on September 26, 2003 and was named after its chairman, Bishop Sergio Valech. The Commission was made up of eight members but excluded representatives of human rights organizations or members of the Association of Ex-political prisoners. The

\(^{5}\) I look at the Human Rights Discussion Table in chapter 6.
Commission was originally granted six months to collect and organize testimonies of torture and political imprisonment\(^6\) into a report. The Report was officially released on November 29, 2004. This Report was based on testimony given to the commission by 35,868 people, of which 27,255 were regarded as legitimate cases of torture and political imprisonment (Comision Nacional sobre Prision Politica y Tortura 2004).

A number of social and political conditions converge to make the Valech Commission possible. Probably most important is the arrest of Pinochet in London in 1998 under an application for extradition made by Spanish Courts for crimes against humanity (Gerdtzen 2000). While this case led to considerable social unrest specially in conservative sectors and in the armed forces, and resulted in the eventual release of Pinochet in 2000, the case also contributed to the end of a period of relative silence in official circles concerning the human rights issues\(^7\). The Pinochet case eventually led to his retirement as appointed senator and his indictment in Chilean courts for a number of human rights cases as well as cases of misappropriation of state funds. Further, the case created the condition for the progressive separation of the right from the figure of Pinochet which eventually resulted in the army and the Unión Democrática Independiente (UDI) – the party with the closest historical ties to Pinochet – making declarations in which they addressed human rights issues\(^8\).

The issue of torture was also brought to the realm of public discourse by human rights organizations and groups of torture survivors who in 2001 created the Ethic

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\(^6\) After the Commission released its report, it was granted an additional period of time to expand its investigations. A second set of 1,204 recognized cases was released in 2005.

\(^7\) Under-Secretary Correa Sutil observed during his interview for this study that following the assassination of Jaime Guzman and for most of the Frei administration, issues of human rights were rather absent from political debates in Chile. “This silence is broken”, argues Correa Sutil, “when Pinochet is arrested and the government needs to make a decision about what strategy to take in the case”. Correa Sutil, J. (2004). Interview. T. Macias. Santiago, Chile.

\(^8\) I look at this documents in chapter 6
Commission Against Torture⁹. In June of that year, this commission submitted to President Lagos an extensive report recommending the creation of a national commission to investigate torture. The Ethic Commission’s report reminded the government that the “historic memory of the nation was incomplete” because “it still ignored the magnitude of the crime of torture and its impact on Chilean society” (p5). It also stressed that if Chile wanted to perfect its democracy and align itself with international human rights instruments, “the crime of torture had to be accounted for” (p6). The Ethic Commission estimated that about 300,000 people had been imprisoned and tortured during the authoritarian regime, and that the state has a responsibility to recognize and compensate victims. “Considering that it was the state and its agents who, through the application of different methods of torture, inflicted the damage”, argued the Ethical Commission, “it is the state’s main responsibility to formulate reparation policies” (p3).

Statistics, testimonies and the Valech Report

In contrast to the silencing effect of torture, the Valech Commission positioned itself as the entity responsible for giving voice to victims of torture. In chapter 1 of the Report, the Commission describes what it considers to be the most important dilemma presented by its mandate: the dilemma of portraying a history of torture that had been denied. As the Commission stated, in spite of the fact “that tortured people maintained the memory and the scars caused by the maltreatments” there was a “conspiracy of silence about torture that had slowly extended through the country” (p17). Presented

⁹ This commission was made up of about 14 human rights organizations and survivor’s groups including the Association of Ex-political Prisoners, Corporation for the Defense of Rights of the People, Amnesty International, Villa Grimaldi Peace Park Corporation, and a number of organizations associated with Churches and religious organizations that provide assistance to torture survivors. Comision Etica Contra la Tortura (2001). Informe de la Comision Etical Contra la Tortura al Presidente de la Republica, Sr. Ricarco Lagos Santiago, CODEPU.
with the mandate to give voice: to end the silence of torture, the Commission was confronted with the challenge of “truthfully proving torture thirty years later” (p18) while “more then 30,000 people…parade” in front of the Commission’s offices (p18). Having to account for a massive number of torture complaints, the Valech Commission was required to develop a method to present in a reduced and manageable manner a complexity of conditions: to produce a generalized history of torture from those 30,000 testimonies. The Commission resolved this dilemma by adopting positivist methods of data management organized through methods of data collection and methods of data presentation that discipline torture stories.

As I discussed in chapter 4, the human rights regime performed a biopolitical function through the Rettig Reports by capturing the memory of terror in political power through the careful organization of a historical narrative of the authoritarian regime. The Valech Commission added another important dimension to the biopolitical impact of human rights. Its Report centralizes an account and description of the practices of torture bringing testimonies of torture to the very centre of its analysis. Two interconnected technologies of power authorize this centralization: the methodical statistical organization of torture stories and the regulated inclusion of testimonies in the narrative of the Report. Together these two technologies speak to the governmental role of the human rights regime in which the process of accounting for torture facilitates the exercise of security, as a power technology over a whole population, and disciplinary power as the individualized and minute regulation of bodies. The following reading of the Report takes into consideration the constant interrelation of these two power technologies.

In his analysis of the South African Truth Commission, Richard Wilson (2000; 2001) argues that the use of forensic and statistical methods of data collection and organization in the work of the TRC impacts on the experiences of human rights victims
whose stories are de-contextualized in the Report. He argues that the "rise of the forensic model", understood as the systemic and structured process of collecting, organizing, systematizing and presenting information that took over after the public hearings in South Africa, resulted in the construction of a "controlled vocabulary of data coding which profoundly affected the Report" (Wilson 2001 p38). Infocom, the department within the South African TRC in charge of organizing information, introduced a positivist approach based on quantitative statistical methods driven by individual human rights violations that while constituting a unit of analysis, were meant to create generalized national truth. While Wilson argues that this method of managing human rights violations produces a limited account of terror stories, the use of statistical tools also has productive effects in rendering terror stories specifically knowable. In order to understand this productive role, we need to turn to Foucault and his understanding of the governmental role of the knowledge-power relation in discursively producing reality.

As technologies of government, statistics allow, as Mary Poovey (1998) observes, for the exercise of epistemological power that produces numerical information that renders experiences, such as in the case of torture, visible, manageable and knowable (p148). In this way, statistics and the accounting of stories of terror that it relies on, constitute, as Neu (2000) proposes, a "software" that submits torture to disciplinary power allowing the state to know the phenomenon at a distance and deal with it through human rights policy. As “software”, statistics are as implicated in the domination of bodies as the “hardware” apparatus of the state, which Neu associates with military domination. Data management technologies produce technical knowledge through the mobilization of expertise that allows for decision-making based on careful calculations. As Andrew Barry (1996) argues, statistical methods of data management produce technical knowledge about an emerging governmental category, known as the population, which is fundamental to liberal forms of government (p132). As Foucault
noted in his development of the notions of biopower and governmentality, techniques of knowledge production about the population serve as weapons supporting power and knowledge relations, “that invest human bodies and subjugate them by turning them into subjects of knowledge” part of a “political anatomy” (Foucault 1995 p28). Statistics as knowledge of the state, argues Foucault, is the tool with which the state deals with the problems of the population by rendering sectors of the population, or the whole population visible by quantifying its characteristics in order to render it subject to rule (Foucault 1991 p238, 242).

As a technique of knowledge and power, statistical data management produces ambiguous effects in those so measured. As Foucault highlights in the context of his discussion of punishment, the observation and management of the population in order to render it knowable and governable has individualizing and generalizing effects – the government of each and all which Foucault associates with governmentality (Foucault 1991; Gordon 1991). The body is observed in minute details partitioning, fragmenting and separating its complex conditions imposing on it cellular disciplinary practices, and in this way producing a specific concept of the individual (p143). This observation also compares bodies to other bodies, classifying them according to categories within which individuals disappear so as to eliminate confusion (p145). Discipline exercised through careful observation constitutes, as Foucault argues, “an act of rank, a technique for the transformation of arrangements” that “individualizes bodies by a location that does not given them a fixed position, but distributes them and circulates them in a network of relations” (p146). Statistics, as Foucault argues, create the condition for the numerical calculability of subjects that contribute to the development of “correct manners of managing individuals,” both individually and collectively (Foucault 1997 p92). This is in itself an expression of state power exercised through the infliction of epistemological disciplinary power on those who come under statistical observation.
The Valech Commission organized a complex method of data collection and analysis that began with an individualized and private process of collecting testimonies. The Valech Commission, in a similar way to the Rettig Commission, constituted its activities as a private affair: a process of collecting torture stories that, contrasting with the public hearings of the South African TRC and the public trials of Argentinian generals was shrouded in privacy and secrecy. Victims were required to fill out questionnaires and then were expected to individually testify in private audiences with commissioners (p33-34). Questionnaires collected information such as demographic data (age, gender, ID number, marriage status, occupation, political affiliation, etc, p41). Information about the “conditions of the arrest” and “characteristics related to the privation of freedom” was collected. This included brief and detailed descriptions of the torture and the torture centre in which individuals were kept (p42). Applicants needed to enclose with their applications documentation supporting the information provided, such as copies of application for habeas corpus. Professionals hired by the Commission to conduct individual interviews with applicants used the questionnaire to support their investigation of cases. In these interviews, the professionals “were required to request that the person describe incidents of torture in a summarized and brief manner” which were then recorded into the questionnaire (p42). Once individuals narrated the events “without interruption on the part of the professionals”, the Report continues, “necessary questions could be asked so as to obtain precise details to facilitate the later investigation and determination process”(p42).

At this point, as the Report states, professionals could determine if the incident being described effectively constituted an incident of torture. If the case was not deemed legitimate, the “interviewer had to explain to the interviewee the reason why the claim could not be admitted while orienting the person to other state or private institutions to which the person could make complaints”. Once the interview was over, the professional
conducting the interview was required to “review the information provided and consign the information to a file by entering the information into an electronic form” which constituted the official “entry point into the Commission’s database” (p42). This procedure speaks of a calculated and uniform process of data collection that transformed individual stories of torture into data that was later submitted to processes of analysis and legitimization. The process was driven by the individual forms and by the individual stories of torture, stories that victims were required to narrate in detail, but was not centred in the particularities of these stories. The ultimate objective was the production of units of forensic truth that, while relying on the careful observation of the wounds exhibited by the victims, was intended to produce undifferentiated units of data. The body and its multiple wounds is the unit of analysis that is subjected to observation, comparison and measurement, in order to render a pass or fail that ultimately erases the body, as it becomes information, file and data. The data becomes a stand-in for the tortured body while the body is forced back into silence, into the entity without voice on which the torture is inflicted.

The Commission then organized a “rigorous process of analysis” that according to the Report,

consisted of the validation of the information given by those who testified through documents and information provided by public institutions, human rights organizations, victims groups,…qualified witnesses,…data bases and, in a significant number of cases, through a second interview with victims or witnesses (p74).

This “rigorous analysis” is activated and mediated by evidentiary documents that grant validity to the testimonies: the forms that victims fill out, the evidentiary documents provided by them, and the corroborating evidence provided by human rights organizations and national institutions. The method of data gathering allows for the individualized expression of torture stories and for their processing and management, which paradoxically empty those individuals experiences of torture of their individuality.
The organization and statistical analysis of forms and testimonies allows for the construction of a generalized picture of torture that is not about individual experiences. Statistics then manage to reduce confusion and dispersion by grouping stories of torture into measurable categories and variables.

The Report represents an example of positivist and reductionist methods of data management where the working methodology that guides the “quantitative analysis” of cases is constituted by “the definition of variables and categorization of the available data according to those variables” (p469). As the Report continues, the quantitative analysis of the information required the,

coding of the information about the 27,255 applications…; [the] determination of relevant variables and the construction of tables and graphs per categories and [historical] periods (p269)

It is in the mobilization of statistical expert knowledge that we once again see the how individual experiences of terror disappear under generalized quantifiable instruments of data management that produce a population of tortured bodies with specific demographic characteristics. The language of the Report is statistical, consisting of the careful classification of victims in graphs and tables that while comparing, ranking and generalizing, also fragment and de-contextualize terror. The Report groups victims into graphs that compare them and classify them according to gender, age at the time of detention and at the time of the Report (p472), occupation at the time of detention and at the time of the Report (p473), political affiliation (p474), and organizational involvement at the time of detention (p475-476). It classifies victims according to the above categories but this time divided according to the period in which the detention took place. Finally, the Report once again organizes the information according to gender and age specifically paying attention to the classification of women and minors. The Report classifies victims according to detention centres and geographical regions (p204), and
according to historical periods (p205). Within each period, victims are organized per institution that carried out the detention (p206), and per the number of detention centres in which they were kept (p211). The Report is plagued with countless bar and pie graphs in which torture victims become invisible dots in color sections and segments that quantify terror experiences. Victims are “distributed” according to countless fragmentary variables in which the complexity of torture is rendered measurable.

In chapter 4, the Report turns to the macabre task of describing and organizing terror experiences according to methods of torture. It is here that the state produces experiences of terror in their most minute and detailed expression, and pins torture experiences to never-ending moments of terror. Victims materialize only in their capacity to exhibit on their bodies the wounds of torture. We witness here the entrance of disciplinary technologies that minutely and individually manage and fragment torture stories. This places the Report within a politics centred on the exposure and minute observation of the body. As I observed above, the production of the tortured body here is comparable to the mass media phenomenon of the CSI television series that, as authors such as Gever (2005), West (2008) and Hermes (2009) have studied. Gever (2005), for example, argues that the CSI phenomenon that in the last ten years has become globally recognized, manifests a renewed cultural fascination with the body that can only be understood in context with the protagonist role that the series gives to forensic sciences. The appearance of mutilated, bloody and usually dead bodies in the first few minutes of each episode, she observes, creates the conditions for plots where science and forensics constitute the privilege character in stories that transform bodies into minute units of observation (p445). Naked humanity, portrayed in this way, evokes the conditions identified by Agamben in the modern hospital room in which bare life – the comatose patient – appears at the moment in which science determines death (1998
The power of science nationalizes the body, continues Agamben, arguing that this process prompts,

[an] extreme embodiment of homo sacer (the comatose person has been defined as an intermediary being between man and animal), what is at stake is, once again, the definition of a life that may be killed without the commission of homicide (1998, p165).

In the CSI series, bare life is not usually represented by the body that can be killed, but by the body that has already been killed and can now be subjected to the “methodical disembowelment” of forensic practices (2005, p456): practices that as Foucault (1973) observes provide epistemological support for the production of knowledge about disease and health. In addition to supporting scientific knowledge, the dissection of the body, Gever continues, renders the body transparent in order to produce with it knowledge about the social body (2005, p458). The relationship between power and knowledge materializes and centralizes the body through the calculation, classification and examination of the body (Foucault 1995).

The Valech Report exhibits a comparable process of capturing life and death. While tortured bodies are commonly alive, the Report organizes a sort of massive autopsy of tortured bodies in which the experience of torture is dissected, examined and inspected in great detail in order to produce, with the support of statistical knowledge, a “complete truth” about torture. In this way, the Valech Report perpetuates the permanent exposure of torture wounds by discursively materializing the act of torture in countless details that multiply and atomize the torture experience. While the use of graphs is not a predominant feature in chapter 4, the language of the Report remains dominated by statistical language. Categories of torture are introduced here. For example, practices such as “repeated beating” (p226), “mutilations” (p229), “hangings” (p230), “application of electricity” (p233), “simulated executions” (p237), and “rape” (p242) are described in detail. Methods of torture become systematized and measurable variables and
classifying instruments. Torture experiences are forced to find meaning within them while being subjected to the calculability of statistical variables. The Report does not only develop operational and measurable definitions of methods of torture, but also offers actual, or percentile figures of how many victims declared having been victim of one or another method of torture.

Woven into the statistical and forensic language of the Report, we find the careful inclusion of excerpts of personal testimonies: testimonies that once again are fragmented and fixed at a specific moment of terror. The Report subjects these testimonies to surveillance making them speak to the statistical language. The use of testimonies is strategic and instrumental in the legitimization of the statistical data. Testimonies seem to erupt in a controlled manner, but they never disrupt the positivist narrative and statistical organization of the Report. In fact, the Report carefully fits personal narratives into the statistical narrative allowing them to speak only in relation to the classification instruments determined by epistemological power. The Report imposes order on the personal stories of pain by authorizing the controlled inclusion of testimonials while preventing the possible subversion of the normative statistical and forensic discourse.

For instance, the Report defines torture by electrocution as a method of torture that consists of the application of electric charges on the whole body or on specific areas depending on the instruments used. Invariably, [this] provokes intense physical pain and acute psychological suffering. This torture can leave permanent aftereffects (Comision Nacional sobre Prision Politica y Tortura 2004 p233)

Thus, torture is defined in a manner that can be measurable and applicable to a complexity of personal experiences in a way that makes it possible for the commission to ascertain, out of a multitude of related descriptions, those that qualify as torture by electrocution. This allows the Report to state that,
more than a third of the people indicated to this Commission that they had been tortured, being subjected among other things, to the application of electricity. This method was used during the whole period of the military regime […] (p23)

The definition of torture by electrocution and the statistical evidence of its existence is then completed with excerpts of individual testimonies. We witness here how tortured bodies emerge in their most embodied forms of bare life. For example, a testimony states,

…they positioned me naked on the grill[^10] and they applied electricity to my hands, ankles, head and testicles. I lost consciousness and they woke me by throwing icy water on me (Comision Nacional sobre Prision Politica y Tortura 2004 p234)

Another testimony adds,

…I fainted and they woke me by punching me, they gave me another shock [of electricity] and I think I lost consciousness again… then a man came in and examined me with a stethoscope and told the [interrogator]: “No more for today, give her 2 valiums and water (Comision Nacional sobre Prision Politica y Tortura 2004 p245)

The Report maintains a consistent methodology as it accounts for practices such as beating, hanging, drowning, etc.

When the Report turns to the issue of sexual torture (p242), images of raped bodies of women, sodomized bodies of men; and bodies penetrated through the use of animals and instruments make their appearance in the Report. Statistics is once again the organizing instrument; we learn, for example, that approximately 3,400 women declared having experienced some form of sexual violence and that 316 were actually raped; that 229 were subjected to torture while pregnant; that 20 suffered abortions while detained in torture centres; and that 15 gave birth while in prison (p252). Excerpts of testimonies once again sustain the classifying method. Most of these testimonies are

[^10]: The parrilla or grill is a contraption made out of a bed frame to which electric cables have been connected. Prisoners are made to lie down on that frame, they are tied while electrodes are attached to different parts of their body.
quite graphic and disconcerting and are meant to confirm the Report’s classifications and claims. They become an endless chain of torture moments that sustain and confirm the organized and systematic truth of the Report; they become windows into histories of terror that illuminate only the violent encounter.

Consequently, data management technologies, along with the careful introduction of testimonial excerpts have the effect of constructing a social category: the tortured body understood along reduced classifications such as age, gender, method of torture, etc. The positivist and reductionist process of presenting the information achieves the reduction of the complexities of people’s personal experiences to manageable information that can be disciplinarily included in the national narrative in a manner that is non-threatening to the already established historical narrative. The process is always intrinsically violent not only in its reductionism, but also in its temporal paralyzing effect. The statistical and forensic reduction of experiences of torture does not only empty the experience of torture of any complexity, agency, or historical context but also pins the tortured body to the moment of horror: the tortured body is always portrayed only in his/her moment of violence. As bare life, it is allowed to speak only of the horror, the rape, and the electrocution.

While the statistical classification of bodies by data management systems creates the image of “un-distinguished” stories of pain, valid only in their capacity to fit within the imposed categories, the testimonial irruptions individualize the pain making it possible for the reader to see the tortured body in its totality and specificity. It is this dual portrayal of the pain; imposed duality of massiveness and individuality that achieves the re-commission of violence that confirms the manner in which the Report imposes "epistemological power".
The suffering tortured body

In Chapter 7, the Commission provides us with a general profile of torture victims. Once again, the Report adopts a combination of statistical and testimonial language that sustains the construction of the torture victim. The statistical language is evident when the Report refers to its role as one of “constructing a general descriptive profile of victims…in order to statistically delineate the behavior of the identified variables in the affected universe” (p561). Graphs compare and classify victims according to gender (p561); age at the time of detention (p562) and at the time of the Report (p563); employment and occupation at the time of detention and at the time of the Report (p563) and political affiliation (p565). The Report also divides each one of these groups according to period in which the detention and torture took place, as well as according to how long individuals were held in detention centres (p585). The Report pays special attention to the imprisonment and torture of women by classifying female victims according to age, employment and occupation (p578), political affiliation (p579) and family situation (specifically stating if women were pregnant or had children, p580).

The purpose of this detailed statistical delineation is to produce a profile of victims at the present time, concentrating on the aftereffects of torture. An image of suffering and traumatized torture victims begins to emerge as psychological traumas, paranoia, deteriorated health, cancer, family breakdowns, homelessness, unemployment etc. are described (p589). As the Report states, “the reconstruction of personal testimonies makes evident the irreparable dimension of the suffered trauma” (p589). These “irreparable dimensions” constitute principally psychological trauma and material deprivation. Victims’ testimonies here speak of “recurrent nightmares, insomnia and flashbacks” (p597). A women arrested in 1974 states, “I wake up soaked in sweat […] How come the passage of time has not made me forget so I can stop torturing myself in
my dreams?” (p597). Another victim states that “even today [he] wake[s] up from the recurrent nightmare of death by drowning” (p598).

In addition to psychological trauma, the Report states that “the vast majority [of victims] lost their jobs, and their means of subsistence, and even their homes…their lives became extremely adverse” (p588). The wife of a dead victim speaks of her husband dying of gastric cancer as a result of torture and of her children suffering “extreme economic dispossession” (p594). Other testimonies speak of lost employment, displacement, poverty and hunger. In sum, the Report constructs a picture of the victim as in permanent state of trauma and suffering: suffering that is defined as irreparable, but that stills requires the actions of the state in the form of economic compensation.

It is the production of a population of suffering victims that sustain the compensatory measures proposed by the Commission in the Report’s last chapter. Here the statistical management of stories of torture accomplishes the final identification and determination of a universe of torture victims that now sustain compensation proposals. As the Report states, the Commission was mandated to “determine who are the people that suffered political imprisonment and torture and it has done so”. It now turns to the issue of “modest and symbolic reparation for identified victims”; compensation that must also “procure the reconciliation of all Chileans” (p517).

The historical emergence of the Pinochet regime

As the Rettig Report did before, the Valech Report also locates histories of violence within a historical narrative presented as a context to understand torture practices. However, it is evident that the Valech Report has an ambiguous relationship with the official historical narrative of the Rettig Report. On the one hand, the Report
rejects a role in constructing, as the Rettig Report had done before, a history of the period prior to the authoritarian regime, stating that,

the investigation of the [historical] process that resulted in the September 11, 1973 [coup], cannot justify the subsequent massive violation of human rights. Accordingly to the specific mandate of this Commission, it was not considered necessary to refer to the period prior [to the coup] (p161).

However, the Report acknowledges the work of historical reconstruction done by the Rettig Commission by justifying its denial to revise history by arguing that the Rettig Commission had already accomplished this work. As the Report states, it decided not to,

repeat the work of historical contextualization of the human rights violations that occurred between 1973 and 1990, [work] already done more than a decade ago by the [Rettig] Commission on Truth and National Reconciliation.(p161).

Consequently, while offering some significant alternative interpretations of history, the Report is still firmly rooted in the dominant post-authoritarian historical discourse.

Interpretative historical deviations are, nonetheless, significant for they allow us to see how specific discourses of responsibility begin to suggest themselves in the Report. As I demonstrated in chapter 4, the Rettig Report produces a historical narrative that in critical ways produces the military regime as a solution rather than as a problem maintaining that the armed forces took power in an attempt to save the nation from subversive terrorism. This suggests that the actions of the regime are reasonable even if the actions of individuals within the regime could be misguided. The Valech Report suggests something slightly, but also significantly, different. The authoritarian regime emerges in the Report as a response to a process of political and social polarization, as was the case also in the Rettig Report, but the actions of the regime, specifically in relation to human rights violations, are considered illegal.

For instance, the authoritarian regime is described as acting contrary to the Constitution by dictating a number of decrees that contravene and eventually overturn the Constitution (p162); war tribunals are described as acting contrary even to their own
normative frameworks (p168); and judicial powers are described as abdicating their faculty to “oversee and regulate the war tribunals” (p171). In sum, while acknowledging the conflictive situation – specifically within the context of the politics of the Cold War (p165) – which caused the military coup, the Commission constructs a picture of the authoritarian regime as an illegal regime. It is this constitution of the regime that sustains the Commission boldest contention: that the practice of torture constituted an institutional practice. As the Report states,

the information collected by this Commission allow [us] to arrive at the moral conviction of the veracity of the denounced tortures [which] invalidate any explanation that these were anomalous or fortuitous acts, or actions imputable only to individuals, [The tortures] constitute evidence of their deliberate and institutional character (Comisión Nacional sobre Prisión Política y Tortura 2004 p178, my italics).

The Report produces a historical narrative in which, on the one hand, torture can be an institutional practice, while, on the other, the armed forces, the rest of society, and specifically the political right are not responsible. This report accomplishes this by constructing a history of the regime in which power is concentrated in one person, or at best on a few clearly identifiable individuals. The Report begins by identifying the military junta as responsible for the military coup. The junta, according to the Report, “derogated the constitution”, “proscribed political parties of the Left”, “destroyed electoral registries”, “dissolved municipal governments”, “dissolved Parliament”, “took over the administration of universities and educational institutions”, “intervened in the media”, etc. (p161-162). Eventually, the Report argues, the junta lost its governing role through the full concentration of powers on the self-invested Head of State: Pinochet, who becomes truly a dictator.

The repressive apparatus of the military state – that is DINA, CNI, and the other repressive institutions of the military regime – emerges in this narrative as the “executor
of a police state" that is the sole responsibility of a regime headed by Pinochet (p182) in which even the rest of the armed forces were kept in the dark. As the Report argues,

DINA was a government institution only accountable to the President of the Junta and Chief Commander of the Armed Forces General Augusto Pinochet, with absolute disregard for other members of the Junta, other commanders of the Armed Forces and of Judicial Powers. Its brutal practices and autonomy of action caused rejection and opposition among those who supported the coercive politics of the government as long as they responded to certain levels of control and rationality (p181).

The dissolution of DINA and its replacement with CNI is also attributed exclusively to Pinochet (p182). Moreover, the concentration of powers, according to the Report, limited the possibilities for scrutiny on the part of civilian sectors which, if informed, would have opposed the violation of human rights. Such concentration of power that included the censorship of the media and the dissolution of political parties created, according to the Report, “propitious conditions for the abuse of power” and “subtracted from public scrutiny the actions of state agents in charge of repression” (p162). The civilian public emerges in this narrative as victims of censorship.

These shifts in national historical discourse take place in the Report but are also connected to conditions external to the Report. As I demonstrate later on this thesis, the official constitution of national truths produces in Chile the conditions for the public articulation of human rights which prompt political subjects such as the armed forces and sectors of the political right to begin to distance themselves from Pinochet who, in turn, becomes solely responsible for the atrocities of the authoritarian regime. In the Report, the discussion of how the power of the state gets concentrated in Pinochet while possibly disrupting the “individual responsibility” discourse dominant in post-authoritarian human rights debates, eventually produces minor revisions to that discourse. The recognition of the institutional character of torture is possible because the “individual responsibility” claim is shifted to make the practice of violence the individual
responsibilities of a dictator and his followers: Pinochet who while engaging in systemic violence is individually responsible for the implementation of a regime based on violence. This nicely fits with arguments that, as I demonstrate in later chapters, maintain that during the regime, it was individuals who ruled and not institutions and that, as a result, institutions could not assume responsibilities for individual actions; although, as the Report states, such actions were institutional.

Conclusion

On November 28, 2004, President Lagos delivered to the nation his speech entitled “To never again relive it, to never again deny it” in which he made public the findings of the Valech Commission. He hailed the Commission for offering an opportunity to “enter – thirty years later – an obscure dimension of our national existence, a profound abyss of suffering and torments” (Lagos 2004). In this speech, Lagos publicly acknowledged that, “political imprisonment and torture constituted an institutional and unacceptable practice of the state [that was] foreign to Chile’s historical tradition”. He also stated that the Report allowed him to “sort through the thousands of testimonies that shook him” and that he “felt very closely the magnitude of the suffering, the injustice of extreme cruelty, [and] the immensity of the pain”. It is the careful presentation of torture stories that make it possible for Lagos to feel and be shaken by thousands stories of torture.

Lagos asked, “How could we live 30 years in silence?” and interestingly, he argues that the reason for silence is not the conditions of the democratic transition, or the political and economic model that needs to be protected. The reason for silence had to do, according to Lagos, principally with victims who had kept silent as a way to maintain a dignified existence. While he argued that fear could be a reason why torture
had been kept silent, “silence is also related to an attitude of basic human dignity” that made victims keep torture a secret even from their spouses. The silence that has made the nation unable to speak of torture is not then the result of a refusal to officially open a debate that could bring to light thousands of testimonies, but the option of victims in search of a dignified existence. The silence of torture becomes here the silence chosen by victims. Lagos then compares the “dignified silence” of the victims to the silence that the nation has kept in relation to torture, silence that Lagos associates with a desire to “hide and to rip [torture] from the archives of national memory”. The absence of torture from national human rights debates emerges in Lagos’s speech as the “dignified” actions of a nation that did not want to remember an obscure moment in history. However, that silence, Lagos declared, “needed to end, and has ended”. The Valech Report constitutes in Lagos’ speech the official recognition of torture that finally brings to light the experiences of suffering of torture victims producing, by its mere release, justice effects. As a result of the Report, the nation has removed the “veil of thick and insane silence” that covered the eyes of the nation and now the whole nation can know and assume histories of torture (Lagos 2004).

What does the Valech report with its statistical analysis of torture do to stories of torture? I return for a moment to the question I formulated at the beginning of this chapter about the impact of discursive representation on experiences of torture and conclude that one of the main accomplishments of the Report is to produce a specific entity understood as a traumatized tortured body. This accomplishment is mediated by the use of data management technologies and disciplinary technologies that allow the Commission to identify a population of tortured people that the nation can then use to both construct a historical narrative of torture and to develop strategies aimed at saving this traumatized population. In chapter 7 I observe how the compensatory measures of the Report and the process used by the Report to produce a population of suffering
tortured bodies enables the sensationalist and voyeuristic appropriation and distribution of torture stories, which allow political subjects to consume torture stories and, in the process, construct a narrative of the saving nation.

This is not to say that victims of torture do not suffer trauma, or that they have no agency in their engagement with the state. The trauma of torture, electrocution, rape and other unimaginable expressions of terror are real enough and they leave permanent scars in people’s lives. Furthermore, as Simon Turner (2005) suggests in relation to Burundian refugees in Tanzanian refugee camps, while camp violence constitutes a biopolitical project, subjects of biopolitics also create pockets in which they negotiate sovereignty and political agency. The Valech Commission also constitutes a critical expression of biopower specifically designed to manage and portray torture stories, to bring torture to light in its general statistical expression and, at the same time, in its most minute description. Yet political agency in Chile is observable in the work of human rights activists who demand from the state the recognition of their experiences. Victims of torture also negotiate spaces for survivorship within torture discourses of which the actual act of offering their testimony to the Commission – to speak publicly of torture – can constitute a major expression. Declaring in front of the Commission and having their stories recorded can be a liberating and healing experience. This, however, does not disrupt the biopolitical role of the Report and constitutes an example of the way in which victims’ demands for recognition are taken up within the power relations of the state in which the protection of a narrative of reconciliation is the most important objective. Victims and survivors are rarely heard in the way they mean their demands as those demands are commonly also subjected to the organization technologies of power.

As Sherene Razack argues building on Kali Tal and Renato Rosaldo (2004 p18), the transformation of trauma stories into national narratives transforms those stories into something else. In the case of the Valech Report, this is generally a sanitized narrative
assembled for national consumption. The story of torture in the Valech Report becomes about identifiable, measurable and calculable moments of terror and not about the governmental regime that torture sustained and made possible. Whether victims can actually speak of anything other than the actual moment of torture seems rather unlikely for the only authorized voice of victims is the one that speaks of rape, electrocution, trauma and poverty. The official torture narrative does not authorize a debate about the kind of political and economic projects that depended on the brutal disciplinary power of the military regime, projects that remain alive and well while continuing to be cleared of any responsibility for torture.

The Valech Commission, in a similar way to the Rettig Commission before it, produced histories of terror in which certain things about the terror could never be spoken. The Commission effectively re-inscribed violence on torture victims, making their stories valuable only to the extent that they could remain pinned to moments of terror and be stuck in tables and graphs in which the role of terror in the consolidation of neo-liberalism could not be acknowledged. Victims became generalized and individualized in ways that now support justice practices firmly fixed in notions of monetary compensation. Justice, as Lagos stated in his speech announcing the Commission, as well as in his speech making public the Report was unquestionably understood along monetary terms. Justice would be monetarily “modest” and symbolic and would not compromise political/economic elites or the armed forces. It was within a framework of justice as compensation and within the highly disciplinary confines of the epistemological violence of the Valech Report that the nation could now proclaim that torture had been an institutional practice of the state.

In the same way that torture forever marks the body of the survivor leaving scars that no time can erase, scars that at times are only seen by the survivor’s eyes, the survivor is not left unscathed by the reading of the Valech Report. One journeys through
its pages with a constant knot in the throat, fighting the choking sensation that at times is tears while at others is the recurrent memory of rape, drowning, nausea, or involuntary spasms caused by electrocution. The management of stories of torture forces the survivor to re-experience endless moments of terror, of loss of body and voice. This management reproduces endless moments in which, as Arce (2004) remembers, the body was reduced to a “deformed mass of nausea”, in order to transform its essence and turn it voluntarily or involuntarily into an instrument of the state: the example for those who could be next or, as in Arce’s case, into a collaborator, someone who confesses and gives up names through torture. In the same way that, as Timmerman (1980) argues, one is never the same after an encounter with “Susan”, the torture machine, one is not left untouched by the official account of torture. The violence that is at times only one’s own is multiplied indefinitely not only by the numbers of survivors accounted for, but also by the relentless fragmentation, mutilation and dismemberment imposed on the body in the process of telling torture. The official story of torture perpetuates torture, reminding the survivor of her fragmentation, of the completeness of the mutilation caused by torture.

I return to Sherene Razack and her statement that discussions of torture “create Community as much as torture does” and suggest that the Valech Report is an example of this process by which a nation makes sense of torture and through this process becomes complicit, in the same biopolitical arrangements that sustained torture to begin with. Tortured bodies remain the site of sovereign power in official discussions of torture and as such, they remain homo sacer, the body that can be sacrificed, dismembered and calculated in order to produce a national narrative in which the nation emerges anew from its obscure past. What is left unaccounted for is the way in which the recognition of torture requires the relentless embodiment of torture experiences, the forced revisiting of torture on the bodies of survivors. It is only through this revisiting of
torture on bodies that the nation can claim, as Lagos did in his speech, that the silence of torture has ended.
Chapter 6
Drowning the dead
Heroes, rogue soldiers and how truth becomes justice

The army has never allowed secret groups or illegal organizations within its ranks... as a result... what was expressed in the [Rettig Report] in this regard constitutes an unjustifiable and offensive error (Ejercito de Chile 1991).

Exacerbated by the violence and the need for vengeance that is produced by the danger and the loss of comrades, [soldiers] may have disproportionately and undesirably used excessive force (Salgado Brocal 1999).

How do we make sense of the explicit discursive shift evident in the two quotes above? What accounts for the explicit transformation from a discourse in which the insinuation that human rights violations resulted from actions of secret groups constitutes an “unjustifiable and offensive error” – an attack against the principle of military obedience – to a discourse in which lonely subjects “exacerbated” by the trauma of war used “undesirable” and “excessive force”? What happens to stories of terror in the time and space in between these two statements? What new violence needs to be inflicted on victims of terror to facilitate this transformation? And, what do these changes afford national subjects? This chapter is about what subjects do with the official truth produced by truth commissions, and about how they use it to build the nation and to know themselves as subjects within it. It is also about the kind of sacrifices that the production of nation and subjectivity requires of victims. In this way, this chapter is very much about the mapping of what Agamben (1998) identifies as the process by which the sacrifice of bare life constructs the city of men. In tracing this story, I trace also the kind of discursive transformations, the semantic changes, that take place in order to facilitate the entrance of subjects into the nation: the active dimensions of truth production that allow subjects to influence the shifting of truth discourses. Two important ones can be mentioned: the transformation of truth into justice, and the transformation of terror into
individual crimes. I propose that these transformations, specifically those associated with a historical narrative, have the effect of revealing specific characteristics of terror – usually those associated with individual responsibility – while obscuring processes of subjection, the systemic character to state terror, and the governmental project that requires both terror and the regulation of knowledge about terror. In tracing discursive transformations and semantic changes, I also uncover the violence that the management of terror requires in order to perpetuate discourses of national reconciliation. In this specific case, this violence takes the form of a concerted effort to declare the death and drowning of victims. The declaration of death and drowning, in turn, sustains the claims of subjects that they have become champions of the human rights cause.

I trace discursive shifts through the history of the transition beginning right after the release of the Rettig Report with the public reaction of the armed forces, continuing with the Human Rights Discussion Table (HRDT) and its resulting secrecy legislation which between 1999 and 2000 prompted an organized process of historical revision, and ending with the 2003 and 2004 public declarations issued by the right wing Unión Democrática Independiente Party (UDI) and again the armed forces acknowledging human rights violations. In this chapter, I analyze several documents including speeches and submissions made in the HRDT, records of parliamentary debates concerning secrecy law, and public declarations of the political right, represented here by UDI as the party with the closest historical ties to the authoritarian regime, and the armed forces. I also use interviews with political actors specifically representatives and members of human rights organizations.

Although human rights have been a central issue among members of the ruling Concertación, in this chapter I focus primarily on conservative sectors of society as they
accommodate their discourse to the dominant human rights discourse of the state and converge with members of at times opposing political organizations on a common national story. In so doing, we can see how, as Razack (2000) argues, national narratives surpass and, in fact, cannot be explained as the result of ideological differences, but as stories that provide coherence and are enticing to all members of society (p186). Furthermore, in tracing the continuities and discontinuities in human rights discourse, we can also trace the complicity of all subjects, no matter their political affiliation, in what Razack calls both the appropriation and “obliteration” of stories of pain that sustains claims of national belonging (Razack 2007).

The 1999 Human Rights Discussion Table (HRDT), known in Chile as the Mesa de Dialogo, and its resulting professional secrecy law, were initiatives established by the Frei\(^1\) administration to deal with the social instability caused by the arrest of Pinochet in England in 1998. The HRDT was created under the advice of President Frei’s Minister of Defense, Edmundo Perez Yoma in August 1999 as a government initiative that brought together representatives of human rights organizations, civic institutions including religious organizations and academe, and military institutions to discuss the issue of human rights. The official objective of the HRDT was to promote the gathering of information that could lead to the whereabouts of the detained disappeared. The Table met several times between 1999 and 2001 and produced a written agreement proposing the institution of a professional secrecy law to promote the release of information about the detained disappeared. The law was formally introduced to Parliament that after short debates approved it as Law #19,687 in June 2000. Shortly after the end of the HRDT,

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\(^1\) Eduardo Frei Ruiz-Tagle succeeded President Aylwin in 1994 and was president until 2000. His government was characterized by an agenda focused on strengthening international economic relations which eventually resulted in the signing of the Free Trade Agreement with the US, China and the European Union. His government was also characterized by a climate of silence in matters of human rights violations until 1998 when Pinochet was arrested in London (Fundacion Frei, [http://www.fundacionfrei.cl/efrt/index.html](http://www.fundacionfrei.cl/efrt/index.html)).
members of UDI released their human rights program called “Paz Ahora” (Peace Now) (Union Democratica Independiente UDI 2003) in which they outlined what they considered was an ethical solution to the pending issues of detained disappeared people. In 2004, in the days prior to the release of the Valech Report on Torture, the army now under the command of General Emilio Cheyre released a similar document in which for the first time, the armed forces addressed and, some have argued, recognized the violation of human rights during the authoritarian regime (Cheyre 2004). This declaration was revised by Cheyre a few days later during a human rights seminar organized in Santiago’s military academy (Cheyre 2004).

Nelly Richard (2001) argues that the coup d’etat in Chile constituted “un golpe de la representación”/a strike of representation (p103) - or as Villalobos (2001) calls it, a “strike of the tongue” (p77) - suggesting that in addition to its practices of terror, the authoritarian regime systematically deployed representational technologies that re-signified discourse and reality aligning them with the authoritarian governmental project. As Luis Cárcamo (2007) adds, the authoritarian regime “re-semanticized” words such as torture, worker and revolution to fit within a new conception of reality and subject (p17). Feitlowitz (1998) makes a similar argument in her analysis of the “lexicon of terror” in Argentina’s “Dirty War” in which the military junta perversely and systematically constructed a discourse in which words and euphemisms such as “excesses”, “methods”, “procedures” and “national security” constituted “coded discourse” that obscured and normalized torture (p20). Feitlowitz also traces how language becomes a form of torture through its use in the multiple encounters in which, to borrow from Scarry

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2 The word “golpe” in Spanish has a double meaning as both “stroke” and “coup”. Richard here uses the word twice as “golpe de estado” (coup d’état) and as “strike” as the violent strike of words which she calls “golpe de la palabra” or “golpe de la representacion”.
(1985), the torturers become voices that allows them to violently project themselves onto their environment and onto the body of the prisoner.

Feitlowitz argues that the authoritarian regime “created two worlds – one public and one clandestine, each with its own encoded discourse” (p20). While the public discourse portrayed the regime as a supreme mission and soldiers as saviours of the nation, the clandestine inflicted torture and was embodied in the multiple re-significations and semantic reconstructions that turned a multitude of quotidian words into weapons of terror. Words such as parrilla/barbeque became signifiers of torture weapons; the electric grills in which prisoners were “cooked” (p49). The public and clandestine discourses work together to produce a lexicon, a language that disciplines and normalizes. As Masiello argues, authoritarian regimes “reduce the interpretative activity of the population to an echo of the official word and abolish the contesting voices of those ‘others’ opposed to the government” (cited in Taylor 1997 p7). These regimes also introduced new language and appropriated old ones to inscribe terror in the day-to-day lives of people. Thus, the discursive construction of terror does not only obscure brutal practices through the use of euphemisms in order to create the illusion of innocence, but also inscribes terror in the multitude of words it recruits for its operation.

In the same way in which language and discourse assign meaning to experiences of terror, so does the post-authoritarian nation recruit its own words and discourses to re-signify terror and to fit it within the confines of the human rights regime.

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3 A very poignant example comes to mind: in the Chilean language there is an expression that signifies “punishment” or “reprimand” of the kind a mother would inflict on a child when he or she misbehaves. The expression goes something like this: “I will apply to you the 24th Transitory Article”. This expression refers to Article 24th of the 1980 Constitution introduced by the authoritarian regime as the article in which the state of exception was legislated. This article legalized the suspension of civil and legal rights and liberties in cases of state emergency. It was this article that sustained the regime’s legitimacy and its permanent institution of the state of siege. All kinds of violence could be inflicted on people when this article was “applied”. We all knew what it meant to be arrested under the 24th transitory article; yet the expression has infiltrated everyday life without completely losing its meaning.
As Richard argues, “between the loss of voice” that results from practices of terror and “the recovery of voice” in the post-authoritarian nation, “there is a struggle to give meaning to the catastrophe” (2001 p103). It is in this space – between the loss of voice and its recovery – that the democratic transition performs the work of “turning words inoffensive” through the use of new euphemisms that, as Richard argues, “name memory with words exempt of semantic convulsion” so as to not upset the conciliatory discourse of the transition (1998 p30). It is, I believe, in this process of re-signification that we can trace new acts of violence for it is not all who recover voice within a negotiated democratic transition, but only those who can align themselves with the national discourse and use it to tell a story of themselves as good people. As Taylor (1997) argues in her critique of “Paso de Dos”, a play about torture, “under the political guise of denouncing victimization and the Dirty War, the play too stages a phony dialogue while it carries out a systematic assault” on victims. “The construction of national identity”, continues Taylor, “is predicated on destruction, just as the military had done” (p9). What is a stake is a national subjectivity forged through mutual meaning making and through a collective naming and narration of the past. In the context of post-authoritarian human rights discourse in Chile, nation is built through the collective process that allows subjects located at time at opposite sides of the political spectrum to converge on a mutually constructed narrative that provides them with a language with which to tell a truth about the past, the present and themselves.

Truth and reconciliation commissions, such as the ones in Chile produce, as I showed in the previous two chapters, national truth through the careful management of the past and its histories of terror. The work of truth allows Chile to account for its violent past and to impose a normative language of national reconciliation that promotes nation building, and creates a notion of Chile as coming into the fold of a transnational
community of liberal democracies. Internally, the work of narrating the past allows Chile to inscribe discourses of national reconciliation that, as Schaap (2006) argues in his discussion of reconciliation politics in Australia, rely on the idea of a transcendental or original unity that the nation needs to recover. Discourses of reconciliation become the basis for the building of what Anderson (1983) calls an “imagined community” that rely on the construction of common past, in this case provided by truth commissions, and the use of that past to build subjectivity. Discourses of reconciliation tend, as Schaap continues, to produce reconciliation as a de-politicized term – yet obviously politically negotiated - unconnected to the power relations that determine both the production of truth and national reconciliation (p616). The human rights regime provides the language with which nations can both tell a national story and perform the biopolitical work that allows certain bodies to become the subjects that build the nation. National discourses of truth tell subjects a truth about themselves at the same time that, as Richard (1998) argues, “invite us and gather us around the official memory” (p31). The act of speaking in the language of the transition, of using the systems of representation made available by the Reports, opens to those subjects the doors of the nation. Reconciliation talk provides the language that allows human rights to perform the work of building nation, to create the conditions for the disappearance of bare life into the figure of the citizen.

In his genealogy of the subject, Foucault traces how the intersection of truth and power authorizes modes of objectification and subjectification (Foucault 1984; 1990; 1995). The objectification of certain bodies, through what Agamben identifies as the figure of bare life and that Foucault associates with the body of the prisoner, the soldier and the sexually deviant, has a constitutive role on the production of ideal subjectivity. Knowledge produced about those other bodies also produce the ideal subjects: it provides subjects with knowledge through which they can know themselves and through
which they claim belonging in a category of humanity (Foucault 1997 p151). Truth constitutes a technology through which subjects can act upon one another, but also upon their own selves (p154). Knowledge invested with the power of truth provides subjects with discourses through which they can “practice on themselves” the work that allows them to take up the position of subject; to “decipher, recognize and acknowledge themselves as subjects” (Foucault 1985 p5).

Truth commissions tell subjects a “truth” about a national identity, collective past, the bodies involved in its conflicts, and about themselves and the nation. Through the appropriation of that truth and its internalization into language, what Balibar calls the appropriation of “the sacred” and that he associates with the effect of national discourses in the production of national identity (2004 p20), subjects perform on themselves specific kinds of work that allows them to accommodate themselves in order to fit within the normative human rights language of the transition. Truth commissions not only record a history but also constitute active dimensions of truth production; active because they serve the specific goal of allowing political subjects in the transition to know and understand themselves as part of a nation. The histories of violence, while highly regulated, are instrumental for this process of subject formation: they are appropriated and they become the knowledge that subjects use to engage in what Foucault calls “truth games” that bring subjects into the fold of the nation and that allows subjects to build, to borrow from Agamben, the city of men. Nevertheless, the appropriation of the truth of the commission does not happen at the same time for all subjects. Members of the ruling Concertacion in Chile, for example, historically ascertained certain ownership over human rights issues due to their historical connection to human rights struggles. As President Aylwin stated in his interview, “many members of the government had been active in human rights work in international and national human rights or humanitarian
organizations during the authoritarian regime; many also had been arrested or exiled themselves”. “It was only natural”, he argued, “that human rights issues would be critical for these members” (Aylwin Azocar 2005). Appropriating the discourse of the Report was easier for these subjects and, in fact, many of them actively worked in the process of shaping the discourse. For members of the opposition and the armed forces, on the other hand, human rights discourses were not as easily adopted. These members tended to respond differently at differently moments to the invitation to adopt human rights language.

A just war: a dying narrative?

In the days following the release of the Rettig Report, different sectors of Chilean society publicly acknowledged or rejected the truth of the Report. Monsignor Silva Henriquez, for instance, stated that the Report contributed to the healing of the “Chile’s soul” highlighting that the Report contributed to national reconciliation and its demands for forgiveness (Television Nacional de Chile 1991). Meanwhile, members of the Association of Relatives of the Detained Disappeared (AFDD) argued that the Rettig Report constituted a starting point in the achievement of justice, and that “any truth in relation to the disappeared must also be accompanied by legal investigations and prosecutions of those who participated in the crimes” (Short 1998). Human rights activists and organizations, as I discussed in chapter 4, generally celebrated the Report arguing that it was a starting point for more complete truth and justice initiatives. These reactions in general contributed to a climate of recognition of the truth of the Report and generally adopted the human rights language of the Report. The armed forces on the

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4 The armed forces in Chile are organized in four branches: the Army called Ejercito de Chile, the navy or La Armada de Chile, the Air Force or Fuerza Aerea, and the Police or Carabineros de Chile. In contrast with police forces in Canada who hierarchically depend of different levels of government and are considered civil servants, in Chile, Carabineros depends of the Ministry of
contrary, rejected the Report, stating that it constituted an attack on military institutions and a denial of the role of the armed forces in bringing the country back to order. The armed forces rejected the use of a human rights language by adhering to a Cold-War discourse in which deaths constituted casualties in a war against communism. The armed forces adhered to the historical narrative of the Report in regard to the years leading to the military coup, but rejected the historical interpretation of the years of the dictatorship as violations of human rights. In this way, they continued to reproduce a discourse in which they were the saviours of the nation.

“It is absurd to argue that the armed forces provoked the events of September 11 of 1973”, argued the navy, stating that,

The real and effective [truth] is that [the armed forces] had to intervene only after the immense majority of the people demanded to put an end to the crisis that confronted the country after the breakage of institutionalism (Armada de Chile 1991, my italics).

Meanwhile the army argued: “military intervention constituted the exercise of the supreme solution once the political and consensual alternatives had been spent”. The military coup constituted the “historic mission” to confront the actions and “consequences of subversive and terrorist acts” (Ejercito de Chile 1991). The armed forces also maintained that after that after the coup “the subversive war persisted” (Ejercito de Chile 1991). War presented the armed forces with a “kill or be killed” situation in which, as the air force declared, only “total victory” resulting from the organized neutralization of the enemy could be considered (Fuerza Aerea de Chile 1991).

The reaction of the armed forces constituted evidence of the persistent presence of what Feitlowitz (1998) calls a “lexicon of terror” in which the armed forces continued to

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Defense and are under the command of the Chief Commander of the Armed Forces. Hereafter, documents by any of the branches of the armed forces are referenced by their Spanish name.
use the “encoded language” of the Cold War: a language full of euphemisms such as “mission”, “supreme acts” and “total victory” that not only obscured terror and its governmental role, but also re-inscribed terror on the landscape of the post-authoritarian nation. Soldiers emerge in this narrative of war as patriotic subjects engaged in a dirty war against the international forces of communism and their materialization in internal enemies: enemies that are more dangerous precisely because they can be any Chilean. The enemy is constructed, Lagos Schuffeneger argues, as a cancer that needs to be extirpated in order to save the nation while the soldiers become the remedy that accomplish it. Only through the idea of a cancer that destroys the nation from within can the extermination of other Chileans be justified (Lagos Schuffeneger 2001).

Undisciplined, secret and autonomous actions of individuals were highly unlikely, argued the armed forces, because an “essential value” on which the military relies is the “the principle of obedience”. “The army never allowed secret groups or illegal organizations within its ranks” and to suggest otherwise, as the Rettig Report had done, was considered, as the quote at the beginning of this chapter demonstrates, both “unjustifiable and offensive”. While “unfortunate events” occurred, they do not nullify that the armed forces were saviours of the nation. “It is true that in the dirty war declared by extremists, some undesirable and unpredictable situations may have taken place”, stated the army; nevertheless, these situations cannot overshadow “the use of legitimate force [even if they] affect the life of people and their physical integrity” (Ejercito de Chile 1991 my italics).

Terror is transformed into a story of war in which, in a way not at all dissimilar from what Razack observes in her analysis of the War on Terror, soldiers resort to violence when confronted with a subversive enemy (Razack 2008 p59). In the discourse of the Chilean military, the enemy is an internal enemy, who could be anyone, and who
can only be identified by their communist ideological beliefs. The communist here becomes the enemy within, someone who could be any of us because the enemy, as Casanova observes, potentially lives “in the heart of the individual” (2001 p159). The communist, he continues, is a figure invested with the power to bring disorder to the country: an enemy that - in a matter that later echoes in the anti-terrorist discourse of the War on Terror - can only be counteracted with terror⁵. The communist becomes the narrative technology - what Casanova calls the “ideological double” of state terrorism - that makes the military appear as the solution to the national crisis (p157). As a double, the figure of the communist enemy is made to serve the propagandistic and ideological machinery of the authoritarian state, becoming not only the enemy, but also the justification for state terror. The figure of the communist allows the Chilean military to constructs a “justified war” narrative in which the armed forces emerge as expressions of military efficiency aimed at the neutralization of the enemy. Chile becomes a battlefield in this narrative, a place in which enemies lurk. The dead and disappeared are targets and not people, enemies in a war between equal forces. The almost non-existent armed resistance to the military coup is inflated to become an all-out war in which anyone can be the enemy. This narrative conveniently leaves out not only the fact that in comparison to state repression, civilian resistance was weak, but also that the Cold War and its reliance on military power led to what US international Security Advisor Anthony Lake called the “enlargement of the zone of democracy and free market” which eventually led to the transformation of Chilean society (Haslam 2005).

Since deaths constituted casualties in a legitimate war, they could not be human

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rights violations and, as a result, there was no need for the state to commemorate or compensate victims or their relatives. As the navy stated,

we cannot go without declaring our reserve or disagreement…with proposals such as those destined to rehabilitate the name and dignity of victims through the perpetuation of their names and other ephemera in monuments and such…which would essentially contradict the concept of reconciliation, forgiving and forgetting that should characterize this stage in the Chilean historical process (Armada de Chile 1991).

Faced with the Rettig Report, the armed forces emerge as a wounded people who are victims of national amnesia and the influence of subversive elements in the post-authoritarian state. As the army continued,

Peace – obtained through the contribution of all those who struggled for the liberty of our nation – makes us forget the tragic dimensions of war….When we see war distancing itself through time, we see it as mere cruel and passionate frenzy. The concrete form in which war was lived as well as the causes that motivated it begin to disappear (Ejercito de Chile 1991).

The “tragic dimensions of the war” narrative allowed the armed forces to claim: “We also have our own martyrs, our own widows, our own orphans, and our own mutilated”.

The Human Rights Discussion Table

By 1999, the war narrative that characterized the response of the armed forces to the Rettig Report had been replaced by a different narrative and the story of an efficient and organized campaign against communism disappeared under the figure of the rogue and wounded soldier: soldiers that confronted with a climate of war, as the second quote at the start of this chapter demonstrates, “may have disproportionately used excessive force”. This change is mediated by a new state initiative to promote and inscribe reconciliation: the HRDT. The HRDT does not qualify as a truth commission as it was not mandated to investigate human rights cases. The objective of the table was, as Minister Perez Yoma stated in his interview for this study, to constitute a commission
that would discuss “pending issues concerning human rights, specifically those related to the whereabouts of the detained disappeared” (Perez Yoma 2004). The table was also intended, as Perez Yoma continued, as an opportunity for people who had historically held opposing views on the matter of human rights to dialogue with each other. The HRDT, then, is conceived as an opportunity to promote a community-building process based on the search for the disappeared.

Historically, the HRDT emerges at a particularly conflictive time and after about six years of relative silence in human rights debates in Chile. Pinochet had retired as Commander in Chief of the Armed Forces and had become Senator-for-life in 1998. Later that year, he was arrested while recovering from back surgery in London, England, on an application for extradition presented by the Spanish courts under charges of crimes against humanity. This gave way to a long and influential international legal process that lasted almost two years and that eventually resulted in Pinochet being stripped of sovereign immunity, but also being retuned to Chile under compassionate grounds due to his “poor health”. The case influenced international legal discourse by creating precedence that opened the door for countries to prosecute crimes against humanity committed in other countries (Brownlie 1998; Bianchi 1999; Lagos Erazo 1999; Acevedes J. 2000; Brody 2000; Byers 2000). Thus, the arrest is considered an historical development in international human rights law in which long rooted legal arguments such as sovereign immunity and territoriality came under question opening up the possibility for advancement in international human rights struggles for justice (Falk 2000; Roth-Arriaza 2000; Roth-Arriaza 2006).

In Chile, the arrest of Pinochet once again brought to the forefront the contested character of the national truth of the Rettig Report. The case caused social polarization, with supporters of Pinochet demanding that the government defend Pinochet’s immunity, while human rights organizations and sectors of the Concertacion demanded that the
state support Spain’s strategies to bring Pinochet to justice. The official position of the state was highly controversial because it opted for defending Pinochet’s sovereign immunity and applied for his release under compassionate grounds (Lagos and Munoz 1999; Perez and Gerdtzen 2000). The armed forces and the right were vocal supporters of Pinochet. Politicians and military high ranking officers publicly spoke against the government and threatened another military takeover if Pinochet was not returned to Chile. The armed forces also expressed concern for the impact that the case could have on pending human rights judicial investigations in which members of the armed forces were implicated. In this context and considering the timing of the HRDT, it is likely that the HRDT constituted a strategy by the government to diffuse the effects of the Pinochet case by appeasing the armed forces.

In spite of the fact that it was constituted as an initiative to find the detained disappeared, the target of the HRDT is the armed forces that need, as Perez Yoma recognized in his interview, to be given a chance to explain themselves and to engage in a historical debate in which they can also become subjects of human rights. As he stated,

I decided to give an opportunity for the armed forces and for the whole society to recognize that in a moment of confusion and conflict, there could have been excesses. One can understand that there were excesses without justifying and still promote understanding (2004).

In fact, there was a general perception in the HRDT that the armed forces needed to be incorporated into the national reconciliation project. As a member of the HRDT stated

many civilians have the perception that the armed forces have not been fully incorporated into the normal life of the country. They remain in a sort of ghetto, marginalized to some extent due to the position they have adopted in the [human rights] debate, and also due to the rejection and suspicion with which they are looked upon by certain sectors. The perpetuation of such a situation is not healthy for the Chilean people, [because] we should feel that [the armed forces] belong to all of us (Blanco 1999).
The apparent marginalization of the armed forces in this view was directly linked to the problem of human rights and its impact on the international reputation of the nation, which prevented the armed forces from protecting the nation. It was argued that the marginalization of the armed forces rendered Chile vulnerable to external threats. As the physicist Claudio Teitelboim, member of the table, stated,

I argue that the human rights problem has seriously debilitated the capacity of the armed forces to defend the Nation against any external aggression. This direct debilitation of our military capacity is, in itself, much more serious than, for example, the problem of the international image of Chile due to the problem of human rights no matter how valid these concerns might be (Teitelboim 1999).

The problem of Chile’s reputation, which in the HRDT becomes the problem also of the “tainted image” of the armed forces and their marginalization from national human rights debates, requires that we find a solution. The solution is a debate over “historical context” within which the authoritarian regime can be emptied of its terror experiences. This is done by confirming the story of war and by accommodating it to a story of soldiers who were overcome by a war in which they commit undesirable but understandable excesses. This narrative ultimately authorizes the appropriation of human rights language by the armed forces and the Right that allows them to become champions of human rights.

Under the banner of creating a space for a “frank” dialogue between patriots, the HRDT set out to find a common “historical context” that could allow for the whole of society to understand what caused human rights violations. As Perez Yoma stated in his speech inaugurating the HRDT, the development of a common historical context is understood as,

the general reflection about the reasons for political violence, the contexts in which the violence took place, and the commitments that are required to overcome it and substitute it with a culture centered on social peace, reconciliation and the respect for human rights (Perez Yoma 1999).
Perez Yoma acknowledged that discussions about history had taken place in fragmented and contested ways through, for example the Rettig Commission, since the end of the military regime. Nevertheless, such discussions were “insufficient, contradictory and non-inclusive”. “There are advances”, he argued, “but there is also a generalized consciousness of the insufficiencies and contradictions contained in this reflection” (Perez Yoma 1999).

A dialogue over history was established, in contrast with what was constructed as the contested and fragmented character of previous historical debates. This dialogue was also understood as the concerted effort to conciliate divergent opinions concerning the role of history in human rights discourses. Specifically, two opposing positions were identified: the position that sustained that historical considerations could not be used to justify human rights violations, and the position that sustained that “the incidents under consideration” would be “a direct consequence of the historical conditions” (Cohen 1999). In the historical debate of the HRDT we witness how the historical narrative of the Rettig Report constitutes the venue that allows the armed forces to perform the semantic shifts that bring them into the nation. The language of the Report provides the encoded discourse that the armed forces can adjust and fit so as to claim ownership of human rights language. As I showed in chapter 4, this language does not significantly depart from the Cold War rhetoric that had provided the authoritarian regime with a repertoire of concepts and ideas to explain and justify their “mission”. There is no significant disruption of the historical narrative of the Rettig Report in HRDT’s debate over context. The discussion centres on issues of justification and not on the validity of the Report’s truth; this truth is tacitly validated. Nevertheless the HRDT also provided a terrain, informed by the historical narrative of the Rettig Report, in which new words could be adopted to explain and produce both authoritarian terror and the role of the armed forces in it.
Members of the HRDT such as Roberto Garretón, who opposed the historical justification debate, based their argument on the idea that while we could accept that the period prior to the military coup was a period of conflict, there was no justification for the atrocities of the regime. As Garreton stated,

in the submissions made in this room, it has been identified as constitutive elements of this “historical context” the violent option, the ideological confrontation, the polarization, the social disorder, the bipolar confrontation at the global level, the excessive violence, the disproportionate violence, the clandestine confrontation, the excesses, the existence of a “Marxist government that, according to the majority of Chileans, had fallen from legality”. Many can agree with all or part of this diagnostic. I, at least accept it in general term (Garretón 1999, my italics).

However, as he continued, “there is no relation of cause and effect between the historical context …and the events that caused and continue to cause horror that those who in Chile and abroad had known” of the violation of human rights. He stated,

I ask myself, how the “ideological confrontation” or the supposed “illegality of the government” that ended in 1973 can explain the Albania massacre that occurred 14 years later; or, how the “option for violence” (that probably refers to the Socialist Congress declaration of 1967) can explain the rape of women in Tejas Verdes, Cuatro Alamos or Villa Grimaldi; or, how the “ideological polarization” could influence the assassinations of Orlando Letelier, Tucapel Jimenes, General Carlos Pratt or Jose Manuel Parada; or, how the “bipolar confrontation at the global level” and its threat to national security can justify the expulsion from Chile of, for example, Jaime Castillo or Jose Zalaquett, or the detention of Zalaquett or Pamela Pereira, both members of this commission (Garretón 1999).

Those who supported the historical justification position, on the other hand, anchored their arguments on two premises: that a revision of history was necessary to

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6 The Albania massacre, also known as the “Corpus Christi massacre”, took place between the 15th and the 16th of June, 1987 when twelve members of the Manuel Rodriguez Patriotic Front were killed by members of the Central Nacional the Informaciones (CNI), the secret police organization that came to replace DINA.

7 Cuatro Alamos, Tejas Verdes and Villa Grimaldi are three of the most infamous detention centres used by the Chilean secret police during the dictatorship. Villa Grimaldi, for example, was a complex of buildings used for the interrogation and torture of political prisoners by DINA, the Chilean secret police, during the government of Augusto Pinochet. The complex was located in Peñalolén, in the outskirts of Santiago, and was in operation from mid-1974 to mid-1978. About 5,000 detainees were brought to Villa Grimaldi during this time, at least 240 of whom were "disappeared" or killed by DINA.
achieve national reconciliation, and that the revision of official history would produce an explanation for human rights violations. The former was constituted as the nation’s imperative to perfect truth: an imperative understood, as the representative of the air force argued in the HRDT, “not an instrument to satisfy selfish desires, but a strategy to generate the willingness to achieve reconciliation” (Concha Besa 1999). The national reconciliation imperative was considered a process of “objective historical work” that would finally allow the armed forces to become part of the post-authoritarian nation. As Concha Besa added:

we think that the whole of Chile, specially the newer generations, need this objective, complete, and historically transversal revision: to achieve the honorable closure of a traumatic chapter of our national life, as it is the case of the questioning in respect to the violation of human rights and the situation of the detained disappeared (1999).

According to this line or argument, the military regime was justified in its response to a political situation that placed the nation in danger caused by the Allende government’s intention "to put the nation on the path towards a soviet regime that made it imperative that the armed forces intervene". Challenges to the practices of the regime were perceived to be “unjust” because, as representatives of the armed forces argued, they questioned “the institutional tradition of the armed forces”. To contextualize the regime in relation to a longer history of conflict meant in this discourse that human rights violations were an issue that as one member stated, could not “be limited to a partial and biased focus applied only to a specific sector of society”. As another member stated,

even before September 11 [1973], human rights were violated by agents of the state which through different mechanisms initiated a process that was characterized by attempts against life, abuses, arbitrariness and excesses against private property, free determination, education, legal and labor stability, generating the hate, resentment and violence that convulsed social peace (Waghorn 1999).
In this argument, the practices of the Allende government, specifically those related to “specific ideologies and political organizations”, also constituted human rights violations that “directly contributed” to the social and institutional breakage and the resulting actions of the military regime. As an academic in the HRDT stated,

violence was already among us. None of the relevant social actors of the period can throw the rock and then hide the hand in regards to the democratic crisis… This is not about the equalization of responsibility; it is about the understanding of the crisis of a system in which all the parties are somehow implicated (Serrano 1999)

The historical narrative of the years prior to the military coup provided by the Rettig Report is reinforced in the HRDT becoming an instrument for the discussion of the historical context of the regime in which “violence was already among us” before authoritarian terror became policy. The armed forces emerge in this narrative firmly secured in their role as saviours of the nation. They are invited into the fold of the nation through the historical debate that exchanges terror for war and produces the armed forces as agents of order. The armed forces, in turn, need to do very little to become part of this narrative; they just need to suggest that they intervened to protect human rights already being violated by Allende. Terror becomes reasonable: the violation of human rights is justified in order to protect human rights.

The HRDT achieves the final consolidation of a historical narrative of war that becomes firmly inscribed, widely distributed and appropriated in public discourse. For instance, in 2001, in a speech given by the Socialist Jose Miguel Insulza, then Minister of the Interior\(^8\), he argued that “in spite of the fact that during the mid-seventies we, Chilean exiles, argued that the [Allende Government] was building socialism through democracy”, and that the military regime had “constituted a minority force to overthrow

\(^8\) Jose Miguel Insulza was political advisor to the Ministry of Foreign Affairs and Director of the Diplomatic Academy of Chile during the Allende government. He was expelled from the country in 1973 and went in exile to Mexico. He returned to Chile in 1990 and by 1998 he was Minister of Interior. In 2005, he was elected as Secretary General of the Organization of American States.
the government, *that is not technically the truth*” (Insulza 2001, my italics). The truth, according to Insulza in 2001 was that “the government that lost the power in 1973 was no longer a majority government...the majority of the country was in favor of a change in government”. The overthrow of the Allende government had, according to Insulza, “emerged because the majority of the nation was in favor of Allende’s ousting”. If we follow Insulza’s reasoning, we find some interesting implications in his statement. In addition to confessing that he had lied during his years as an exile in which he defended the Allende government in order to obtain international solidarity, his statement implies at least two things: one that the Pinochet regime was a legitimate response to a political unstable situation; and two, that the practices of terror of the regime were justified in the context of political conflict: a conflict that if we follow his reasoning was caused by Allende’s loss of support, and not by authoritarian violence.

Statements of this kind have the effect of retroactively legitimizing authoritarianism at the same time that they reinforce and reassure political subjects of their humanitarian condition. Discussing the negotiation process of the transition, Moulian (1997) observes that the “systems of bartering” that created the conditions for the end of the regime relied heavily on an “operation” that “transform[ed] Pinochet from dictator to patriarch” in order to legitimize the negotiations and facilitate the transfer of power. This operation afforded Pinochet not only “forgiveness but also grace and greatness” making him a democrat and allowing him the “simulacrum of clean hands” (p33). Moulian argues that such an operation is performed by authoritarian elites invested in the maintenance of the economic and political project imposed by authoritarianism. Such an operation, he continues, is possible under the threat of continuous terror and, in this way, is the result of fear. However, manifestation of this legitimizing effect in Insulza’s statement more than 10 years after the end of the regime, as well as its manifestation in statements by other political actors in regards to the HRDT
cannot simply be explained as the result of fear. The historical narrative reinforced in the HRDT becomes the hegemonic language of the transition: a language that invites and gathers the rest of the nation and allows subjects to claim national belonging through their adaptation to this language. Furthermore, the adoption of this language justifies squalid policies of human rights under the guise that histories of conflict create difficult, if not impossible, conditions for those who try to make sense of them.

In interviews conducted for this study, political actors generally agreed with statements such as the one made by Insulza. As Senator Jaime Naranjo, for example, stated, “We were in a conflictive situation before 1973 and we all agree that the situation had become unsustainable”. He then added that “after years of disagreement, we can now finally say that no one can deny the truth provided by the Rettig Commission; it is a truth known by all” (Naranjo 2005). MP Antonieta Saa stated, “I think we have come to a generalized understanding of our history that contributes to national unity”. This understanding, continued Saa, “has required that we all accept past mistakes” (Saa 2005). While the majority of these actors had opposed the military regime in the 1970s and 1980s, at this time they seem to adapt their positions to fit within the official historical discourse of the nation. The acceptance of this official history secures their place in the nation not only through the acceptance and recognition of the official narrative, but also through the sense of belonging that such recognition affords them.

In addition to these shifts in the discourse of members of the governing coalition, in the period that followed the HRDT, the right and the armed forces also began to venture into human rights issues. For instance, Joaquin Lavin, Pinochet’s long-term supporter and presidential candidate for the right wing coalition called “Allianza por Chile” stated to news reporters during the 2005 presidential elections that “if [he] had

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“Alianza por Chile” is made up of UDI and the Renovacion Nacional Party. It has remained the official opposition in Chile since the end of the authoritarian regime. The “Juntos Podemos”
known of the human rights violations [he] would have never supported Pinochet in the 1988 referendum” (La Nacion 2005). Most critically, in 2003, UDI released a public declaration entitled “Peace Now” (Union Democratica Independiente UDI 2003) that outlined its program to resolve human rights issues. In 2004, Chief Commander of the armed forces General Emilio Cheyre, released a document entitled “Army: End of a Vision” (Ejercito: Fin de una visión) (Cheyre 2004) followed by a speech a few days later at a human rights conference organized by the army at the Santiago Military Academy (Cheyre 2004). In both these instances, the army publicly addressed the issue of human rights violations. These documents inscribed in public discourse the idea that the armed forces and the right had come to terms with human rights issues.

UDI argued that the human rights situation in Chile had a direct correlation to the historical events prior to the military coup arguing that the military regime responded to an escalation of violence in the 1960s and early 1970s. This historical narrative is by this period accepted as national history to such an extent that it requires little articulation. According to UDI, these events produced a “climate of profound social convulsions” and “violent fratricidal confrontations” that gave way to the “numerous crimes that we reject”. UDI reinforced the notion that it was the social convulsions prior to the regime that caused the crimes; crimes that UDI had always rejected. In fact, a major argument of this document is that civilians in the regime did not only reject the “excesses”, but that their participation in the military regime, as the Rettig Report already stated, served to improve the human rights record of the regime. As UDI argued, civilians in the regime opposed groups that engaged in crimes during the regime. As the argument goes,

[civilians in the regime] introduced a decisive change in the issue [of human rights] which was recognized by the Rettig Report; that is the reason why during the military government, in contrast with many other cases in Latin America and coalition which is made up of the Communist and Green Parties has consistently failed to elect representatives, mostly as a result of the binomial electoral system in place in Chile. El Mercurio. (2008). "Ficha de Partidos Politicos en Chile." Retrieved November 25, 2009.
the world, rather that worsen [the violations] with the passage of time, these improved significantly to the point that the transferring of power to the new government was done in conditions of indisputable constitutional normality (Union Democrática Independiente UDI 2003 p3).

In spite of the recognition of the crimes and the positioning of civilians in the regime as ‘improving’ the human rights situation, UDI argued that human rights violations did not de-legitimize the regime. As the UDI declaration continued,

The problem of the violation of human rights, with all its gravity and its emotional baggage, does not affect the intrinsic legitimacy of the armed forces’ actions by request from the majority of the citizenry, and after the collapse of the Unidad Popular’s institutionalism

Furthermore, the practices of violence of the regime, specifically in its later years are explained as a legitimate response to a reemergence of violent groups; groups that, as UDI continued, constituted,

the second cause [of violence]....In spite of having left behind the social convulsion already described, [these groups] believed they were authorized to act against those they considered their real or imagined political enemies (2003 p5).

Note how UDI’s narrative remains quite close to the historical narrative of the Rettig Report and the HRDT. The military coup constitutes an act of saving the nation and a response to a demand by the majority of the population; civilians in the regime were not implicated and, in fact, improved human rights conditions; and, the escalation of repression in the last years of the regime was the result of a resurgence of subversive activities. The fact that civilians were not implicated in any of these repressive actions allows UDI to argue that

all sectors of society, without exception, should admit that before and after September 11, 1973 we could have done more to protect human rights which are not the exclusive patrimony of [one sector of society] (2003 p6).

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10 Unidad Popular is the coalition of political parties of the left that in 1970 brought socialist President Salvador Allende to power.
This argument comes nicely to a logical conclusion: if the regime is a response to the violent actions of those who, like the Socialist Party or MIR, endorsed a revolutionary path, and the regime’s human rights practices are the result of exacerbated tempers within the context of a fratricidal war in which individuals committed excesses, and since the civilians in the regime acted to improve the human rights situation, then not only the whole of society is responsible for the human rights violations of the regime, but UDI specifically is less responsible than the rest of society.

The army, on the other hand, stated that the actions of the armed forces must be understood in the context of a generalized situation of conflict. They argued that the Cold War had produced a “generalized vision that influenced all sectors of society both nationally and internationally which resulted in the radicalization of a conflict and the imposition of a climate of confrontation”. Within this climate of confrontation, as the document continued,

we came to accept as legitimate all the modes of conflict and struggle as methods to obtain and maintain power...; a vision that, ultimately, became the distinctive seal of our political, social and economic relations and that remained dominant among us, Chileans, during many years, as the Cold War dictated (Cheyre 2004 p2).

The actions of the armed forces become patriotic acts in this story of war; soldiers attempted to save the nation. “We acted”, continued the army, “with the absolute certainty that our actions were just and that [we] defended the common general good and the majority of Chilean’s” (2004 p2 my italics).

In spite of the fact that political actors repeatedly stated that war could not justify the violation of human rights, the narrative of war was consistently used to qualify the actions of the regime. As the army document, for example, stated,

Does that scenery of global conflict already described excuse the violation of human rights? My answer is an unequivocal: no. The violation of human rights never and for no one, can have ethical justification (2004 p2).
Perhaps the story of war cannot easily account for the terror of the state. However, this doubt is quickly silenced for,

[the truth] must be complete and understood always in the historical context in which the events took place. In our case, it was exceptional, abnormal and hateful circumstances that divided us profoundly (2004 p2).

Consequently, the historical debate of the HRDT and its projection onto public discourse imply a process of convergence of different political actors, some of whom had historically been located in opposing ideological extremes, on a common narrative of war. The official historical truth becomes an enticing story in which we can find a simple and accommodating explanation for terror. This narrative erases or, as President Aylwin(2005) stated during his interview, “smoothes ideological divisions” and invites us all to join the feast of national reconciliation. Terror disappears under a story of war and victims, once again, become the casualties of what Nelly Richard (2001) calls the “transactional model of the transition from authoritarianism to neo-liberalism” (p9). This narrative leads to what Moulian (1997) calls the “whitening” of the regime that legitimizes terror, making it, as Galende (2001) argues building on Moulian, “an accident in the passage from civil war to the brutal conditions of the market” (p10). Old political divisions that in the past had provided space for the imagination of possibilities are sacrificed and the history of the regime emerges as apparently devoid of ideology, “purely centered”, as Beasley-Murray suggests, “in the technical management of difference” within a governmental regime firmly established by authoritarianism (2001 p31). Subjects are invited to adjust, to perform the work that allows them to claim national belonging through a common story of war. However, this management of history that smoothes ideological differences, requires that stories of terror not be forgotten; they must be simply selectively remembered. Only through the narrative of war and its brutalities, can we as a nation claim that we have overcome war, that now we do not only agree that we were at war with ourselves, but also that, through historical agreement, we have come
out of conflict. This ultimately consolidates the regime within which the feast of reconciliation takes place and our place in it.

What do we do with those stories of terror that can potentially upset the agreed-on story of war? How do we explain all those death that, as Minister Perez Yoma acknowledged, “are ghosts that continue to haunt the nation”? As he stated during his interview,

If bodies do not appear, the problem never ends and the families continue searching…I told the armed forces that if this was not resolved the victims would continue haunting them (Perez Yoma 2004).

Stories of relatives searching with the pictures of their loved ones pinned to their chests do not disappear through the accommodating narrative of war. They remain ever present, even more so with the international media coverage of the Pinochet case. The silent image of Sola Sierra\(^\text{11}\) with the picture of her missing husband on her chest quietly sitting in the audience during the Pinochet extradition procedures in London constitutes a painful reminder that the deaths have not gone away (Costa 1998). The silent marches of relatives become screams in television screens in which daily reports show them marching in front of the House of Lords, holding pictures of the disappeared asking: “Where are they?” Those who are not there anymore, but who remain painfully present in their absence are not easily silenced; they appear faintly in the debates of the HRDT as the tortured bodies in Villa Grimaldi or the victims of the Albania massacre. The bodies that, as Moulian observes, are metaphorically aborted in order to give birth to the new Chile scream in the accusing chant of the anti-torture organizations: “Cain, what have you done with your brother (Agosin 2003)?” How can the armed forces and the right truly become subjects in the new democracy if bodies continue to lurk, to circle the

\(^{11}\) After secret police detained her husband in 1976 and subsequently vanished him, Sola Sierra became a vocal human rights activists and president of the Association of Families of the Detained Disappeared. She died shortly after the release of Pinochet and his return to Chile.
accommodating story of war, threatening to crush us with thousands of bodies? How does the nation come to know that those bodies, as Razack (2004 p117) states, “have nothing to do with us”, nothing to do with who we are as a people? Two processes make this possible: the placing of responsibility for terror once again on the shoulders of soldiers, and the declaration that state institutions do not possess information about the whereabouts of the disappeared. The former transferred terror, more definitely than the Rettig Report, onto the actions of individuals for which state institutions had no responsibility, while the latter led to the concerted effort to kill the detained disappeared.

Rogue soldiers

The HRDT facilitated the separation of the authoritarian regime’s governmental project from the victims of terror by allowing military institutions and former members of the authoritarian regime to divorce themselves from those who ruled during the authoritarian regime, and from those who committed acts of terror. Members of the HRDT argued that it was necessary for military institutions to stop considering themselves as one and the same as the military regime. As one member stated, “between 1973 and 1989 the people that governed [the country] did so as individual people, not as institutions: institutions can never govern” (Blanco 1999). This allowed members of the HRDT to claim that,

there was no institutional responsibility in the acts of the government of the period, nor was there institutional responsibility in the errors or crimes that may have been committed by specific individuals (Waghorn 1999).

Here the individual once again materializes in human rights language: he emerges as the lonely figure of the soldier acting on his own behalf. This materialization constitutes an examples of what Agamben (1998) calls sovereign power and that allows state institutions to claim a space in the nation through their systemic separation from
the soldier who violated human rights. The process by which human rights materializes the figures of the soldier paradoxically parallels the process by which human rights discourses capture the life and death of the victims. The soldier becomes another expression of *homo sacer*, life “captured in the sovereign ban” – in this case in the regime of human rights – and that “may be killed but not sacrificed” (Agamben 1998 p83). The soldier emerges, as Douzinas (2002 p455) suggests, as “naked man”, empty of history and desire, a signifier on which certain meanings can be written: meanings that turn the soldier into an individual disconnected from the social institutions in which the soldier performs the activities associated with his trade. The soldier is disciplined in the process by which human rights discourse assigns meaning to his life: he is forced to bear the burden of terror that has now become “individual excesses”. The soldier is captured and bound to a discourse in which his actions become solely his own.

The disciplining of soldiers within the human rights regime mirrors the disciplinary practices that produce soldiers to begin with. By its mere nature, military training, as Foucault (1984) observes, rests on the disciplining, manipulating, shaping and molding of the bodies of soldiers in their most intimate details to turn them into weapons of the state. The body of the soldier in this disciplinary grid constitutes an specific “object and target” of power that makes soldiers into subjected bodies (Foucault 1984 p182). “Discipline”, continues Foucault, “increases the forces of the body (in economic terms of utility) and diminishes these same forces (in political terms of obedience)”. Thus, the body becomes the site both of training, which increases the capacity of the body, and of subjection that increases domination over the body (p182). Military training, then disposes of bodies in order to both increase their power as weapon and decrease their power as subject. Only through this training can soldiers become the weapon that Scarry argues, constitutes the voice of God (2004 p200). In the Argentinian context, Feitlowitz (1998) observes that soldiers involved in the Dirty War reported that they were “ordered”
to man the flights that disposed of the bodies of victims of the regime by throwing them into the water. The roster of duties systematically rotated officers so as to ensure that each one of them would serve, and as a result, would become both part of the machinery of terror and forcibly bound to silence (p201). After the end of the regime, some of these officers spoke publicly about their training and participation, and denounced the military for ordering them to participate in the torture and killing of victims of the regime\textsuperscript{12}.

Independently of the responsibility that soldiers may individually bear as actors and enactors of authoritarian power, the process by which the HRDT turns state terror into individual excesses embodies a “conceptual double bind”\textsuperscript{13} that both reveals and obscures specific practices and power relations. The production of soldiers as individually responsible reveals their participation in acts in which state terror finds its most capillary expression, while it obscures both the linkage of those acts to the larger relations that organize terror and the conditions of soldiers as trained subjected bodies of the state. The individualization of responsibility obscures the act of subjection by producing and materializing an autonomous subject capable, as Brown (2005) argues in the context of neoliberal governmentality, of rational action. Here the human rights regime converges with neoliberal governmentality and affects individual conduct prescribing the citizen-subject and the figure of bare life. The human rights regime inscribes and prescribes individuals as “rational, calculating creatures whose moral autonomy is measured by their capacity for ‘self-care’”. In this way, the regime “carries

\textsuperscript{12} At the time of completion of this thesis, a similar situation is occurring in Chile. An association of ex-conscripts of the Army has filed a suit against the Chilean state for psychological damage as a result of being forced to violate the human rights of prisoners. As one of these ex-soldiers stated, “we are demonstrating to our society and to the world that the first people whose rights were violated during the military government were us” Terra/BBC Mundo. (2009). "Chile: ex-soldados piden indemnización." Retrieved November 3, 2009.

\textsuperscript{13} I borrow this expression from Barnor Hesse’s discussion of the “conceptual double-bind” of discourses about Nazi racism, but I use it to pinpoint to a slightly different phenomenon. Hesse, B. (2004). "Im/plausible deniability: Racism's conceptual double bind." Social Identities 10(1): 9-29.
responsibility to new heights: the rationally calculating individual bears full responsibility for the consequences of his or her action no matter how severe the constraints on this action" (p42).

At the same time, this discourse of responsibility, while revealing the individual as capable of rational action, also obscures the fact that individuality and neoliberalism, as Brown observes, requires a constructivist project through which ideas of individualism are developed, disseminated and institutionalized (Brown 2005 p41). Notions of individual responsibility obscure the constructivist project of the post-authoritarian nation that inscribes and organizes acts of terror as individual responsibility and makes soldiers bear the burden of history and its terror. As members of the HRDT argued, if individuals ruled and individuals committed crimes, then the armed forces were accurate in their claim that they shared no responsibility. As a member added,

the armed forces believe, and it is logical, that responsibilities are individual: for that reason it would be erroneous to feel compelled to identify with the “military government” and even less with those who concurred in the [human rights] abuses (Blanco 1999).

Military institutions are rendered innocent of acts committed by people under their command. By extension, those who witnessed, organized, gave the orders, assigned resources, made fortunes, or simply looked the other way are also innocent. As a member stated,

we have to reinforce and reiterate, as it has always been the argument of our commanders, that the army never promoted a state policy designed per se to cause the elimination of opponents to the Military government (Waghorn 1999).

If state institutions did not order the elimination of “opponents”, then organized terror - Moulian’s “abortion” – did not give birth to a new governmentality. This is also an expression of the double bind of human rights discourse in which the rendering of institutions as innocent obscures the lasting governmental regime that reorganized the
whole of Chilean society through terror. The project is safe; the deaths are not on our conscience. General Cheyre inscribes this idea in public discourse arguing that the terror of the authoritarian regime, in fact, constituted the “punishable and morally unacceptable”, but essentially individual actions of “military personnel” for which the military had the duty to assume “institutional responsibilities”. This responsibility did not constitute a recognition that human rights violations were an institutional practice; only a recognition of the failure of the army to master “the rational administration of the legitimate force of the state” which resulted in the armed forces “excusing or ignoring that a sector of its members were violating the dignity of people” (Cheyre 2004 p2). Responding to suggestions that this recognition included recognition of an “institutional doctrine”, Cheyre stated that, "some have deduced and simplistically insists that [I] would be recognizing that there was an ‘institutional doctrine’ of human rights violations; that never existed!” “This should not be understood as a confession of collective culpability” (p3). Cheyre continued,

There is no moral principle that could dilute individual responsibility into collective anonymity... The army, as an institution, cannot replace the guilt or punishment of those who betraying the doctrine and rules, committed crimes or mistakes... Responsibilities, I repeat, are individual (Cheyre 2004 p3 my italics).

Here terror becomes the actions of rogue soldiers who acted independently of military institutions and who committed excesses that were unrelated to orders. However, those excesses are also explained away as the understandable actions of soldiers confronted with a dirty war in which responsibility needs to be placed also on those on whose bodies the violence was enacted. This constitutes another dimension of the process of production of the individual, which as I have argued so far requires that systemic conditions of terror be obscured. This also demonstrates another expression of the human rights regime that now invests individual soldiers with meaning as human beings. For instance, a member of the HRDT stated that,
in the context in which we lived, characterized by violence, there were people who having to fight in an internal conflict, for which conditions they were not trained, and in which they were confronted with an adversary inspired by violent ideologies and even trained in non-conventional and irregular techniques of war; in such a scenario ...it was difficult to eventually prevent excesses and the disregard for the principles of proportionality in regular conflicts in which soldiers are trained (Concha Besa 1999 p5).

The salvation for the soldiers rests on the investment of human rights in them; they need to be turned into “simply human”. Soldiers are in this story overcome by encounters with enemies fighting in a war for which they were not prepared, a war in which the enemies, like the ghosts they have become, lurk around every corner. Human rights violations become understandable practices considering the heat of battle. As a member of the HRDT stated,

exacerbated by the violence and the need for vengeance that is produced by the danger and the loss of comrades, [soldiers] may have disproportionately and undesirably used excessive force (Salazar Ardiles 1999).

Soldiers are then not only individually responsible for their actions; they are victims of a conflict that did not respond to the regular laws of war. Ultimately, these soldiers who now bear the burden of the regime’s actions, are constituted as deserving of pity, recognition and understanding. As the 2004 army declaration stated,

in spite of our rejection of their actions we cannot forget that – as many others – [these soldiers] dreamt to live in a different reality. This is without a doubt not an excuse, but the realization of their frustrated life projects, the weight of their conscience, the pain of their families, their lost of faith (2004 p5).

The narrative of war, of rogue and wounded soldiers that do not represent military institutions or the rest of the nation facilitates the claim that institutions do not know where the detained disappeared are, but that with the right incentives they can help find them. As the representative of the army at the HRDT stated,

in terms of claims concerning the existence of information about the whereabouts of the bodies of the detained disappeared, I have to categorically and objectively express that to date, [the armed forces] as institutions do not posses information
Information about the detained disappeared was, thus, “outside the real and actual capacities of the institution”; only individuals could possess and give the information and only through (1999) “free and individual decisions”. To accomplish this, it was desirable to “establish specific measure and policies to promote the voluntary release of the information” (Waghorn 1999). This justified, as I discuss later on, the proposal and institution of secrecy legislation.

**Championing human rights**

The historical debate reinforces the story of a nation in which terror becomes war and has nothing to do with the nation we have become. The story of wounded soldiers who committed excesses in which state institutions not only did not kill and disappear people, but also do not know where the dead are has a calming effect on us inviting us to speak of human rights violations: to be both horrified and untouched by them. In this narrative we can all claim the language of human rights. The human rights language converges historical narratives and diffuses responsibility, repelling it away from the subjects and the multiple locations in which terror become “excesses”. Within this narrative, the HRDT and the debates that ensued create the space for subjects to become champions of the human rights cause and human rights violations become the patrimony of the whole nation. This represents a shift in the discourse of the right and the armed forces from denial to appropriation. As a member of the Chilean Senate stated during the debates concerning the secrecy law proposed by the HRDT,

> the violation of human rights constitutes a patrimony not only of the colleagues sitting at the other side [referring to the members of the Concertacion]. Today, as it should have always been and will be in the future, the violation of human rights is the patrimony of the whole of society (Senado de Chile 2000).
And, as UDI argued in the 2003 “Peace Now” document, human rights cannot be solely the patrimony of victims either. “After all”, as UDI stated, “human rights and their ethical and juridical implications are not the exclusive patrimony of a specific political sector, not even of the direct victims, but of all Chileans” (Unión Democrática Independiente UDI 2003 p8, my italics).

Based on the “shared patrimony” of human rights UDI, which emerges from the historical narrative as the most innocent, and the armed forces, which emerge as the nation’s saviour, can attribute to themselves the moral superiority to resolve human rights issues. UDI claimed that they were pioneers in human rights struggles; that they had always been concerned for human rights; and that they could now claim both ownership of the human rights patrimony and prerogative to propose solutions. As UDI continued,

our party has contributed to many national reconciliation initiatives. The nation can be sure that we will continue collaborating, keeping always in mind that such a noble objective requires adequate balance between generosity and realism (p8).

The claim over human rights issues is sustained by the support of victims who, according to UDI, morally legitimized their proposal. The “Peace Now” declaration maintained that UDI had met with the relatives of more than a hundred victims recognized as such by the Rettig Report: victims who themselves “have approached UDI demanding help in finding a better solution” to the human rights question. In spite of political differences, those victims, according to UDI, “trust our traditions in approaching the grand problems of the nation” (p6).

Ideological differences no longer matter in the context of a human rights regime and members of UDI and victims can come together as simple humans removed from histories, conflicts and the governmental project that they sustain – the manner in which
terror serves as an organizing tool that reaches all subjects. Sherene Razack observes, “the universal sameness that [is] so important for the liberal self requires the careful containment and taxonomy of difference” (p17). While Razack discusses the racial underpinnings of liberal human rights discourse, her observation is useful here. Human rights language relies on the “natural” sameness of human beings that result in what Langlois (2002; 2005) identifies as the metanarratives of humanity that construct the subject, paradoxically, as both equal and uniquely individual. Only within this discourse of sameness and individuality, can we argue, as UDI does, that they and victims have come together to discuss the problematic of human rights. However, the production of sameness requires the careful containment of terror stories and the historical differences that sustain and justify terror.

Three discursive moves need to take place in order for this illusion of sameness and individuality to become unproblematic. First, histories of oppression, of state organized terror and of the social reorganizing that they sustain must be carefully managed in order to produce UDI members, on the one hand, as un-implicated in terror while, on the other, as humanitarian, trustworthy subjects with a patriotic vocation to address human rights issues. The multiple historical processes in which these subjects are implicated in terror through their political and economic activities as architects and technocrats of the authoritarian regime need to disappear under a discourse in which UDI is humanitarian. Further, the manner in which the management of terror stories in the post-authoritarian nation continues to implicate these subjects must also be obscured in order to produce the illusion that victims and UDI come together in a space of dialogue in which UDI is the champion of human rights. As UDI stated, “many victims do not share our political beliefs, but they have come to…trust our history of ethical conduct” (Union Democratica Independiente UDI 2003 p6).
Secondly, in the same way that it happens in the debates surrounding the HRDT, human rights violations need to be systematically produced as individual actions: actions that do not compromise institutions and political projects. Third, in separating themselves from histories of oppression in order to stand as simple human beings, UDI members must re-inscribe and contain the stories of victims. In a similar way to what I showed in chapters 4 and 5, in which victims stories need to be fit within reconciliation discourses, UDI uses victims to produce stories of suffering and contains those stories within a human rights discourses that establishes UDI’s humanitarianism. UDI needs to emerge here as the saviour of victims and the champion of human rights. This requires the careful containment of victims as objects of UDI’s humanitarianism. This humanitarianism is predicated on victims’ pain: a pain not spoken by victims, but appropriated and narrated by UDI.

Liisa Malkki (1996) argues in her critique of humanitarian work with refugees that the appropriation of refugees’ stories to advance humanitarian work generally requires the silencing of people who find themselves in the “classificatory space” of the victim (p386). This sustains, she argues, the production of “authoritative narratives” about victims. Malkki traces these “authoritative” forms of representation in visual images, academic scholarship, the media, etc. The construction of a humanitarian subject relies on the graphic description of suffering and the implicit silence and containment of the victim. The suffering body, argues Diana Taylor (1997 p2-11) in the Argentinian context, is both “trophy” and terrain of representation on which belonging in the nation is negotiated. Only in a place in which terror has nothing to do with UDI, can they claim the issue of human rights and emerge as human rights subjects. Only through the careful management of victims, can UDI claim that they can speak for them. Victims emerge here as the opposite of the individual subject, as a monolithic body of suffering humanity, abandoned by the state. As UDI argued, victims are “affected by a pain caused by
disappearance and death” that is “aggravated by the lack of knowledge about the whereabouts of bodies”. Victims suffer a “personal and un-transferable pain” (p3). In addition to the pain of losing loved ones, UDI argues that victims suffer because of the “unwillingness of the state to provide solutions and its political use of their pain” (p6). “30 years is too long to continue opening wounds”, argues UDI, and victims want to move on: they want to “start a new stage in their lives” (p7).

Suffering victims are not completely silenced as they are allowed to speak in the contained space that makes UDI humanitarian. Victims are quoted by UDI as saying that they recognize “that in the conflict we all lost equally”. That is why “we must all give our commitment to the ‘never again’” (p8). Interestingly, victims produced by UDI as de-linked from their social location can be made to stand as equal in their humanity and individuality as UDI members: equal and united in their loss. In UDI’s narrative, Jaime Guzman, UDI’s assassinated father and the architect of authoritarian political project stand on equal ground as victims of the project. As UDI declares,

the families of...Jaime Guzmán and the families that have approached UDI are united in a passionate commitment with forgiveness in which they offer their own pain as sacrifice for national peace and the construction of a better nation (Unión Democrática Independiente UDI 2003 p12).

UDI emerges as the facilitator of such sacrifice, which testifies, UDI continues, to the their “unrelenting, passionate commitment to building a reconciled nation”.

This critique of UDI’s statement does not deny that some victims may have approached UDI. Victims and their organizations do not speak with a monolithic voice, nor do they agree on the way in which the human rights question should be addressed. Rather, the critical point here is that the capacity to claim that they speak for victims gives UDI a moral authority that legitimizes their humanitarianism and their human rights proposal. As UDI stated, “if they claim that they have been abandoned, we would not do so, because that is not allowed by our conception of public service”.
The claim to speak on behalf of victims authorizes UDI’s commitment to not stray from the path of human rights activism that, according to this declaration, has always characterized the party. The government, on the contrary, is perceived as having abandoned victims and as having used human rights demands for political purposes of “maintaining these issues indefinitely” unresolved. Victims approach UDI because “they have suffered the deferment of their demands for solutions and the utilization of their cases to advance the political agenda of certain political sectors”. UDI, on the contrary, has heard the claims and will not abandon them.

In this context, one in which UDI has heard the claim of victims and has acted according to a tradition of human rights defence sustained by the historical narrative, UDI’s proposal emerges not only as response to the claim of victims, but also as the most “ethical response” to human rights demands. According to UDI, the human rights question is not constituted by the practices of violence of the military regime, which if we follow the official story, they helped to improve, but by the usage of human rights demands for political reasons by the governing coalition, the parties of the left, and human rights organizations. According to UDI, the nation “has remained anchored to the past” and this has caused the continuation rather than the reduction of the pain. As the declaration continues,

the attitude of the nation in the last decades has not been one of search for understanding, conciliation and cohabitation among compatriots. On the contrary, in certain circles, the [strategy] has been one of constant remembrance of the wounds (Union Democrática Independiente UDI 2003 p10).

The solution, then, is the search for ways to close the open national wounds and “reestablish harmony among Chileans based on a common memory of the past”. While the common memory is already installed in national discourse as the national narrative of conflict and fratricidal confrontation which the military regime comes to settle, the
reestablishment of harmony has to do with the finding of ways to put an end to human rights demands. As the UDI’s declaration continued,

   to those who want to close the wounds, let’s give them the instruments to do so, as much as it is possible. To not do so would mean to disregard those who directly and personally suffered the pain, and the big majority who want peace (2003 p12).

   UDI’s proposal is centred on two main issues: finding ways to close human rights cases, and improve monetary reparations. Both solutions, according to UDI, require keeping in mind the necessity to maintain balance between the search for truth and the demands for justice. In terms of compensation, UDI proposed to improve monetary compensation in order to meet the principle of civil liability already in place in human rights policies. This proposal does not depart in any fundamental ways from the compensatory focus of previous human rights policies; it only proposes to increase benefits. In terms of closing the cases, UDI argued that what families want is to “close processes of mourning”. This proposal is intimately linked to a challenge of the “permanent kidnapping” legal argument that maintains that the detained disappeared cannot be declared dead. As the declaration stated,

   the relatives have expressed the need to speed up the [judicial] processes and, with that, to “close the processes of bereavement”. The lack of information, together with the fiction of kidnappings, which could indefinitely continue, conspires against them (2003 p14).

   The debate over “permanent kidnapping” is controversial and has a bumpy history. I provide here a very brief overview. In Chilean law, “permanent kidnapping” refers to a crime that has the character of the continuous, which means that it has a beginning but has not ended. “Permanent kidnapping” does not end unless the victim is found alive or dead, in which case kidnapping becomes murder (Aylwin Azocar 2005). This argument has been used in Chile to counteract the 1978 Amnesty law, which remains in place in spite of several attempts to remove it from Chilean law. The legal
argument is based on the premise that since the bodies of the victims could not be found, the kidnapping may be said to continue, therefore it cannot be subjected to a statute of limitation and no amnesty can be decreed. This has helped indict Chilean militaries who would otherwise benefit from amnesty. In fact, decisions by Chile’s Supreme Court have in numerous cases confirmed the permanent kidnapping argument\textsuperscript{14} (Manilich 2004).

“Permanent kidnapping” constitutes an example of how discourse constructs reality in highly contested ways. During the authoritarian regime the state used the indeterminacy caused by disappearances to claim that those who were arrested and disappeared were in fact alive. They may have simply left their wives or moved out of the country. This idea in fact obscured murder, leaving victims and relatives in limbo. In the post-authoritarian period, on the other hand, the Rettig Commission originally recommended the legal declaration of death of the detained disappeared arguing that this would resolve the legal indeterminacy that affected relatives (Comision Nacional de Verdad y Reconciliacion 1991). This is a reversal in the position of the state in relation to detained disappeared people now focused on declaring death rather than denying it. Relatives, in turn, refused and successfully lobbied for the removal of the proposal. The death of the dissapeared, as a member of the Association of Families of Detained Dissappeared stated, “would remove the incentive to find the detained dissappeared” (Garcia 2005). In fact, several relatives I interviewed indicated that they would rather deal with the legal problems associated with selling property, dealing with

\begin{footnote} One of the most recent is the case of Miguel Angel Sandoval Rodrigues, disappeared in January 1975 – a period covered by the 1978 amnesty law. In 2004, the Chilean Supreme Court ratified a jail sentence against members of DINA arguing that even though “no one could believe that he could still be alive”, reports that he was in fact assassinated in 1975 could not be confirmed as long as the body was not found. The decision argued that “it is impossible to determine the death”. This, in turn, made it impossible to establish if the crime occurred during the period covered by the amnesty law (1973-1978). (La Nación, 18 November 2004) \end{footnote}
inheritances, or access pensions rather than with declared legal death.

“Permanent kidnapping" has become in the post-authoritarian period another concept in the lexicon of the transition: a term that perpetuates indeterminancy. While during the authoritarian regime the disappearance of people provided the regime with a unique weapon of terror that extended, through its indeterminate condition, to the whole of the population, permanent kidnapping can be considered a new euphemism that hides death, for most people assume that the detained disappeared are most likely dead. Yet, it is an ambivalent concept that has remained a political issue for relatives who refuse and oppose the legal declaration of death which would stamp cases with a seal of closure and finality that relatives refuse to accept without more complete forms of truth. Rather, in its indeterminancy and ambivalence, the term has provided relatives with a tool to keep cases open. As a term then, it occupies an uneasy place in the lexicon of the transition and remains contested.

UDI’s proposal attempted to reinstate the Rettig Commission’s recommendation arguing that,

truthfully, nobody can rationally believe that in 2003 permanent kidnappings initiated in the 1970s and 1980s could continue, and that they had continued after 1990. It is not possible to construct anything solid and serious that could effectively resolve the [human rights] problem…on that basis (Union Democratica Independiente UDI 2003 p13).

The problem, according to UDI, is that permanent kidnapping constitutes an obstacle to the finding of bodies and that the solution is to end permanent kidnapping in order to submit the crimes to statute of limitation, apply amnesty, and, in that way, promote the production of information regarding the whereabouts of the detained disappeared. Amnesty is at the centre of UDI’s proposal and it is considered the most important tool for the achievement of reconciliation. It is, as UDI argued, a “courageous and patriotic solution” (p1-2). In order to achieve reconciliation, the lives of the disappeared – or the legal ambivalence about their deaths – must be sacrificed and exchanged for information
about the whereabouts of bodies. This constitutes another example of the transactional character of justice discourse in Chile in which truth about the detained disappeared is traded for justice to the extent that truth becomes justice. The argument is that demands for justice obstruct the search for truth, and that while “it is necessary to do justice and provide compensation”, it is important to recognize that, “due to the passage of time, such demands acquire a limited and relative dimension” (Unión Democrática Independiente UDI 2003 p13). UDI continued,

the citizenry has invested more value on truth, even at the expense of justice. Furthermore, [we] would venture to say that, to the national collective, today truth constitutes also a measure of justice (Unión Democrática Independiente UDI 2003 p14).

Yet this transaction may not render relatives an equal rate of return that it could render those who are likely to benefit from amnesty and UDI itself. UDI proposed a method similar to the one established through the HRDT secrecy law in which judges would collect information about detained disappeared people. If bodies were found, UDI proposed that judges declare death and apply amnesty. If bodies were not found, but enough information existed to ascertain the death, then judges should still declare the death and apply amnesty (p9). This is a formula where relatives might very well never find their loved ones, yet amnesty would be finally widely applied.

To assign more value to truth means, according to UDI, to prioritize the search and identification of bodies facilitated by the end of “permanent kidnapping”, the application of statutes of limitation, and granting of amnesty in open cases. This implicitly means the declaration of death of the detained disappeared. UDI proposed a process to declare the death of the disappeared that would allow judges to declare the death “even if remains have not been found” based on the “impossibility to sustain a belief that the disappeared may be alive” (p9). Following on the steps of the HRDT, UDI also proposed the creation of legal incentives for those who come forward with information about the
whereabouts of the disappeared. As the proposal continues, “it is important to promote the search for truth” and in order to do that “incentives, such as reduced sentences” need to be established to “promote the production of information about human rights cases and about the whereabouts of the detained disappeared” (p10). While in the economy of terror of the authoritarian regime, disappearances produce a surplus of terror, magnified through its permanent and continuous indeterminacy, the declaration of death – the end of permanent kidnapping – in the post-authoritarian economy of justice can only bear profit for those who were complicit in terror and for those who now claim that they have closed human rights cases and achieved national reconciliation. The privileging of truth, constituted as the truth about the whereabouts of remains, and the limitation of demands for justice embodied in the end of permanent kidnapping are constituted by UDI as ethical solutions that reflect the reality that justice can never be total: a condition that “the relatives and the community must understand” in the context of a nation that “has made the maximum effort to facilitate national reconciliation” (p10). This understanding also needs to prioritize the fact that “the nation also has a demand and a need: peace” (2003 p14).

Secrecy: how truth becomes justice

It could be simplistically argued that UDI’s human rights proposal constitutes a deviant and an ultra-conservative action of a political group that tries to exonerate itself from its responsibilities in the authoritarian regime by adopting, as MP Aguiló (2005) stated in his interview, “an outrageous position that only confirms their desire to end and close human right cases”. However, it is critical to position UDI’s proposal in context with a normative human rights language in which UDI is simply accessing available discourse that present more continuities and convergences than discontinuities and contradictions.
with what other political subjects or the state say. The historical narrative of UDI and its adoption of concepts such as “secrecy” and “legal incentives” was a narrative already put in place by a wide spectrum of political actors – actors of all political denominations – from the end of the authoritarian regime. One of the main proposals of the HRDT was the creation of a law that instituted professional secrecy as an incentive for members of the armed forces to provide information about detained and disappeared people. This law was passed in the Chamber of Deputies and the Senate without major opposition or political struggle and after only two days of debates. The story of war in which institutions did not kill and in which only individuals possessed information about the crimes authorized the HRDT to argue that incentives needed to be given in exchange for information. Secrecy legislation was proposed in the final agreement of the HRDT as a “measure to obtain useful information that could facilitate the localization of the detained disappeared” (Lagos 2000). In practical terms, the law established the “duty of secrecy”, similar to the figure of confessional privilege which would “benefit those who take it upon themselves to collect information” (Gobierno de Chile 2000). Those upon whom the benefit fell were the representatives from the diverse religious and moral organizations that had been part of the HRDT. The proposal stated that the armed forces would collect the information and secretly forward it to these leaders. Secrecy law rests on a principle of transaction through which truth – understood as information about the whereabouts of bodies and that is aimed at declaring them dead – is exchanged for justice. As was the case in the Rettig report, truth – the recognition of the violation of human rights – becomes an expression of justice. In the discourse of the HRDT both the declaration of death and the role that the armed forces vest upon themselves as procurers of information allow the armed forces to gain institutional and national legitimacy.

The justification for secrecy is that the finding of the bodies was more important than the achievement of justice that the identification of those who possess the
information could potentially facilitate. In the search for bodies, judicial justice constituted a potential obstacle: an obstacle that needed to be overcome through secrecy. In this position justice becomes an obstacle to the finding of the detained disappeared, a value that is equated with truth. As a member of HRDT argued, “justice is more difficult to achieve when it can constitute an obstacle for the reconstruction of truth; the latter constitutes a value superior to the former”. This means that “the search for absolute justice works against social peace and the happiness of the Chilean people” (Salazar Ardiles 1999). Justice needs to be limited in order to promote the finding of the bodies. This again speaks to the privileging of national reconciliation over truth and justice, which becomes a recurrent phenomenon in the history of human rights debates in Chile.

The idea of secrecy has paradoxical effects here: secrecy is constituted as the solution to the permanent secret of disappearances and the termination of the secrecy about the whereabouts of the bodies requires the imposition of secrecy on those who collect the information. As an MP indicated in the debates surrounding the legislation,

the question of the detained disappeared constitutes a secret that creates crisis for our Christian values... Here we have a secret: the detained disappeared. Where are they? Can we break a secret with another? I think we can and this is the value of this law (Camara de Diputados 2000).

The finding of the bodies, which secrecy facilitates, leads to the ultimate declaration of death. Truth becomes about the search for the dead or better still, the search for the living dead in order to produce their final death. As another political actor stated, “we need to make all the efforts we can to find the detained disappeared or, at least, collect all the information available to determine the circumstances of their death” (Senado de Chile 2000). The finding of the disappeared in order to ascertain their death is considered critical for the nation to move on, to close the transition and to finally reconcile. As political actors consistently argued in this debate, the HDRT created the opportunities to find the detained disappeared, determine their death and in that way, as
an MP stated, “construct truthful reconciliation as a nation that leaves behind the
controversies of the past and fully assumes the respect for human rights” (Senado de
Chile 2000). The finding of the disappeared and the declaration of their death is an
action that had the nation as a focus and not the victims. As another MP stated,

I hope we will find Victor Diaz, Carlos Lorca, Megindo Castillo, Ricardo Garcia,
Benito Tapia and the thousands of disappeared friends; because that way we can gain freedom and dignity (Senado de Chile 2000 p34 my italics).

The finding of bodies does not return the bodies to a state of dignity; the finding of those
bodies dignifies the nation. And as another MP stated,

in 34 hours we have approved a law that is critical for the development of the
nation; a law that opens opportunities to close wounds and which demonstrates
the capacity of Chileans to reach agreements on issues that are critical to
national cohabitation (Senado de Chile 2000 p55).

The ritual of celebration

Six months after the passing of the secrecy law, members of the HRDT delivered
to the government’s palace a document containing the collected information concerning
the whereabouts of detained disappeared people, and in January 2001, President
Ricardo Lagos publicized the findings in a speech to the nation. In his speech Lagos
began by commending the “courage and generosity [of] representatives of human rights
lawyers, moral institutions, victims and armed forces who took the step of sitting together
and confront the truth that needed to be found”; a truth that, as he continued, “contained
important information about our detained and disappeared people provided for the first
time by the armed forces” (Lagos 2001). As Lagos stated,

the information I have received is crude and painful; information that speaks of
death, burials, clandestine tombs, [and] bodies thrown in the ocean, lakes and
rivers of Chile (2001 p1).

In the carefully packaged historical narrative of conflict, individual responsibility,
truth as justice and humanitarianism, the death of the detained disappeared constitutes
a major achievement. Secrecy, meant to find the bodies, produces no bodies, but stories of drowning. Bodies do not need to be found; they just need to be submerged. Paradoxically, the drowning of bodies – the final death of the disappeared – becomes here a ritual of celebration and national reconciliation. Concretely, out of over a thousand victims, the HRDT resulted in information about “180 detained and disappeared persons who would be dead, of which 130 identified victims had been thrown in the ocean, rivers and lakes of Chile; 20 unidentified victims would be in a massive grave in the capital region” (Lagos 2001 p2). President Lagos constituted the information, on the one hand, as “the most important piece of truth” ever received in regards to victims of human rights violations (2001 p2 my italics). On the other hand, he argued that what is important was not the number of victims found, but the fact that the information is the result of the armed forces’ recognition and cooperation: their entrance into the nation. At this moment, Lagos welcomed the armed forces into the nation by granting them recognition for finally informing the people of the death of the detained disappeared. Recognition and cooperation was described by President Lagos as a venue by which the armed forces recovered “a profound sense of honour, inherent to military vocation” (2001 p2). In fact, this speech reiterates a number of times the recognition given by the nation to the armed forces for providing the information about victims while the number of victims found is considered secondary.

Ultimately, secrecy sustained the reconciliatory celebration that followed after the end of the HRDT. The finding of the detained disappeared was constructed as the achievement of secrecy that eventually rescued the national reconciliation project. As an MP stated in the secrecy debates,

to achieve the uncovering of the whereabouts of the detained disappeared; is what inspires us today, and what without doubt will strengthen national unity and will make a historical contribution to healing the wounds of the past (Camara de Diputados 2000).
Secrecy law was hailed as the achievement of mutual understanding based on the sharing of a common truth and the welcoming of the armed forces into the reconciled nation. The armed forces are congratulated for having provided the gesture of recognition that was requested of them, in spite of the evidence that the armed forces never really recognized that human rights were violated during the regime, or that they possessed information about the whereabouts of the missing victims. The armed forces are celebrated for having acknowledged the truth of the nation as stated in the Rettig Report. As President Lagos stated,

what I would like to express tonight is that, more than the number, what transcends is the recognition of the armed forces which has assumed that Chile cannot advance towards the future burdened by the debts of the past (2001 p3).

This recognition was hailed as the recovery of the military honour, honour that demonstrates, as an MP stated, that the armed forces had “recognized the individual mistakes of men in their ranks” and had “become part of the national mourning for victims” (Senado de Chile 2000 p52). This recognition is seen as a “sign of courage and strength which deserves the acknowledgement of the whole nation”: an acknowledgement that, as President Lagos declared, “does not erase what happened, but that clearly and sincerely recognizes and demonstrates the condemnation of those crimes and the absolute commitment to prevent these crimes in the future” (Lagos 2001 p3). It is this recognition, as an MP stated, that finally “closes the gap between the armed forces and the rest of the nation” (Senado de Chile 2000 p53).

Evidently, the national ritual that is made possible by the HRDT is qualitatively different from the one that followed the Rettig Commission. While at the end of the Rettig period, the nation engaged in a ritual of pain that was predominantly dominated by a sense of discovery of a national reality – the violation of human rights – that had been thus far ignored, the HRDT gave way to a national feast to welcome the armed forces.
The nation at the end of the HRDT is a nation that “has overcome disunion” (Lagos 2001 p4). The embrace on national television between human rights lawyer and daughter of a detained disappeared, Pamela Pereira, and the army’s representative, General Salgado, becomes the symbol of national unity and evidence of the perceived notion that the transition has come to an end. As an MP stated,

> to be able to embrace, as Pamela Pereira and General Carlos Salgado did, demonstrates that we, civilians and soldiers, can shake hands and begin a new stage in our national history (Camara de Diputados 2000).

As President Lagos stated, “our fears are left behind. Little by little the climate of harmony gets established. Truth stops being a source of fear and it becomes the foundation for trust” (2001 p4).

> The embrace is not only sign of reconciliation, but most importantly it is perceived as a sign of closure. As an MP argued,

> what all Chileans need to do is to reconcile: I trust that this law will, in the short term, produce the conditions that we expect and then we will be able to say, consciously, that we have turned a page in our history (Senado de Chile 2000 p49).

Another agreed stating that:

> for the first time we have an open path towards reconciliation, the closure of the transition and the re-encounter of the Chilean people. We must assume this ethic duty towards the young generations, and bequeath them a reconciled nation that has overcome the divisions of the past (Senado de Chile 2000 p60).

The HRDT, UDI’s statement and the army’s declarations received wide coverage in the media and for a while it seemed that the country was swept away by this reconciliation feast. Monsignor Errazuriz, for instance declared that “the Catholic Church constitute[d] an ‘excellent channel’ to collect the information that people may have about the violation of human rights” because “we have a vocation for reconciliation and peace” (Mayorca 2002). In extensive interviews with the El Mercurio Newspaper, political actors and human rights lawyers hailed the achievement of finally obtaining a gesture of
recognition by the armed forces (Correa 1999). Meanwhile, members of the military and UDI stated that “the acknowledgement that we were at war finally recognizes that if I am alive is only because they had bad aim” (La Nacion 2003). Reconciliation became a feast in which we all come to know ourselves as innocent members of the nation and as good and patriotic people. However, as was also evident in the media, it was the armed forces that were the guests of honor.

**The death of the disappeared**

When truth becomes justice and can be achieved through secrecy, then we can become a nation with human rights in which the death can be killed but not sacrificed. The narrative of war and wounded soldiers becomes the context for not only this death, but also for the feast of national reconciliation that celebrates death. The HRDT and the subsequent declarations by the right and the armed forces enable the nation to claim that we have finally become one. However, belonging, as it becomes evident in these debates, requires the sacrifice of victims and their families, their perpetuated expulsion from the nation. At this historical juncture, that expulsion is achieved through the declaration of the death of the detained disappeared. Histories of terror, of the death and disposal of bodies are allowed to momentarily re-emerge, to surprise and shock us, just to be drowned, literally submerging bodies under the surface of a reconciled nation that now includes the armed forces and the right. This once again materializes Agamben’s bare life: the death that builds the nation.

However, expulsion is also achieved through the sacrifice of another expression of bare life: the relatives of the detained disappeared. A great majority of the families opposed the secrecy law, arguing that it finally installed impunity in cases of human rights violations. As Viviana Diaz, president of AFDD indicated in her interview, “the families of the disappeared condemned the HRDT’s agreement because we feared that
it would finally consecrate impunity by limiting truth only to the location of bodies” (Díaz 2005). The main argument of the AFDD was that the truth of the HRDT was a truth that had been “systematically edited leaving out some of the most important demands made by families: the establishment of a complete truth of what had happened to their relatives”: a truth that needed to include “the establishment of responsibilities and the recognition of institutional implication”. As Mireya García, Secretary of AFDD, indicated, the main demand of our association is to know the truth, the complete truth, not just parts of the truth. We already have a part, we know our relatives were shot, some of us have buried them: for us to know the truth means to know who detained them, where they were kept, when were they abducted, who shot them and who gave the orders (García 2005).

These activists saw the politics of revision of the HRDT as a sacrifice of the whole truth, “surrendering the truth”, as another human rights activist stated, “in exchange for the finding of bodies” (Henninng 2005). The uncovering of the bodies sustains the concealment of the truth about the conditions of the disappearance and the identity and institutional involvement of those who were responsible.

The families’ organized opposition to the HRDT and the secrecy law upset national reconciliation; as a result, they became ingrates who did not endorse or understand the national need to reconcile and close the historical wounds. Their organized opposition was interpreted as the anti-national ranting of suffering victims whose grief did not allow them to understand the need for national reconciliation. As an MP stated during the professional secrecy debates, we understand the rejection of the relatives of any advance in this matter. It is an understandable sentiment; after so many years of distrust and fears (Camara de Diputados 2000).

Throughout the debates, the families are constantly subjected to the “understanding” of the nation. The nation understands their pain, their frustration, their passion, their opposition and their need to voice it. As an MP stated,
we know and are conscious that there would be people who would not be satisfied. *We understand them!* We are with them! But they also need to understand that the country must find the peace that has been denied; peace that requires that we leave a legacy to the younger generations. Today Chile looks firmly to these groups of Parliamentarians and Senators and urges us to swiftly pass this law (Camara de Diputados 2000, my italics).

And another stated:

I *understand* the families of the detained disappeared….All those people experience much pain. Unfortunately, sometimes such suffering prevents us from listening to each other. I think that our job today is to attempt to advance the process of national reconciliation that is a basic requirement to avoid further division and separation among Chileans (Camara de Diputados 2000, my italics).

Each act of understanding is accompanied by the counter-positioning of families as unable to understand, as the ones who are too blinded by pain to grasp the national reconciliation project. While the nation understands that victims suffer they, in turn, are unable to understand the good intentions of legislators reflected in the “search for peace” and the “attempt to advance in the process of reunification” that the nation needs in order to stop “national division and separation” (Camara de Diputados 2000). The vocal protest of the families in the galleries of Parliament\textsuperscript{15} was interpreted as the “understandable expression of emotions” of those who, as an MP stated, “are frustrated because they think that truth banishes the possibility of justice [even though] the truth would bring them consolation” (Camara de Diputados 2000). The families’ lack of understanding is what gets them physically removed from the galleries. Interestingly, once the families are expelled from Parliament because, as one MP stated, they “disrupt the legislative process” due to their inability to “maintain emotional composure”, parliamentarians continued to legislate with “comprehension and solidarity for those who reject the HRDT’s agreement” (Camara de Diputados 2000).

After the HRDT submitted its results, President Lagos publicly, even if not legally,

\textsuperscript{15} Human rights organizations were quite vocal in their protest against secrecy legislation and, as a result, they were eventually expelled from the debates.
declared the death of 180 detained disappeared people. He also declared that the families could finally grieve their found dead and give them proper burial. For those thrown in the ocean, Lagos stated, “grief and consolation comes from knowing the tragic destiny of their bodies” (Lagos 2001 p3). President Lagos’ speech at the end of the HRDT has a tone of finality: the dead have been found and even if their bodies are not produced, the nation can finally declare them dead and move on.

It is important to remember that the HRDT, while constituted as the “procedure that would allow the nation to meet its duty of finding the detained disappeared” (Perez Yoma 1999), resulted in information for only 180 cases, 130 of which appeared as having been thrown in the “ocean, rivers and lakes”. Viviana Diaz remembered that most of the victims that were listed as thrown in the water were family members of some of the most important leaders of the human rights movement, including her father. As she observed,

strangely, those who appear are publicly renowned people, social and political leaders. In these cases, their relatives became, in the search process, natural leaders of the human rights organization (Diaz 2005).

Furthermore, the final information, though hailed as the truth, was, as Diaz stated “imprecise” in the location of the bodies yet categorical in the declaration of the death. In this sense, the HRDT accomplished an obscene act of violence unprecedented in the history of human rights since the end of the regime. The listing of bodies as thrown in the water accomplished the double disappearance of victims. As Diaz argued,

to be thrown in the water means that the detained victim is permanently obliterated. Water does not leave evidence, or signals, or guilty parties. That is what they said happened to my father and they told me that I should just think of him as dead (2005).

It was commonly agreed among activists that the listing of their relatives as having been thrown in the water left them with nothing to hold on to, with the conviction
that, as another activist stated, “to be in the deeps of the ocean reveals for me the horrible and painful truth that I will never know what happened…nor will I ever find his remains” (Gajardo 2006). This feeling of finality is not necessarily associated with the rather uncertain declaration of death, but with the historical narrative that accompanies the declaration: the fact that the HRDT confirmed a historical narrative that did not allow for the critical uncovering of the conditions under which people died. The systemic denial of institutional involvement and systemic practice of violence that the HRDT confirms does not allow for some critical questions. As another activist stated,

to throw them in the water while using and mobilizing the infrastructure of the state: trucks to transport them, ships that carry them to their place of execution, maybe helicopters who take them to the place where they were dumped; and military personnel: marines, soldiers, police, air force…all of that is denied and remains a secret that has only partially been unveiled for 27 years (Garcia 2005).

The HRDT confirmed the double lie of the transition: that, on the one hand, the armed forces did not know what happened, and that, on the other, they had contributed to finding out where they were. What is given in exchange is the opportunity to appropriate the language of human rights and to become part of the national reconciliation project while receiving the protection of secrecy. This sealed the pact of impunity that protected military institutions and implicated the democratic transition in the violation of human rights. In fact, the granting of secrecy protection accomplishes the obliteration of the disappeared and completes the crime.

Interestingly, while the televised embrace between Pamela Pereira and General Salgado is hailed as the ultimate symbol of reconciliation, there is one element that makes that embrace a contentious issue for human rights activists and survivors, and constitutes an internal contradiction in national historical discourse. While the official national narrative is that human rights violations are always individual acts perpetrated on individual victims, Pamela Pereira’s participation in the HRDT can never be
understood in any other way than as in her role as the daughter of a victim and as a representative of victims as a collectivity. This makes her participation problematic even when it is argued that she is there only in her capacity of human rights lawyer. In an interview given to El Mercurio in June 2000, Pereira reinforced that her intentions when being part of the HRDT was to “find the detained disappeared and to achieve the recognition by the armed forces of the violation of human rights” (2000). According to her, both objectives had been met by the HRDT. In her opinion, the achievement of institutional recognition and the finding of the bodies of victims required certain sacrifices in terms of judicial justice. When asked if she “had given up justice in exchange for a bit of truth”, she stated, “I have not given up justice in exchange for a bit of truth; I have tried to find all the truth while maintaining possible measures of justice” (p496). Secrecy mediates these two achievements and the price that Pamela Pereira and human rights lawyers at the HRDT are willing to pay for truth are the “possible measures of justice”.

In fairness, some members of the HRDT including Pamela Pereira resisted the historical narrative that transformed terror into individual crimes. Garretón for instance argued that,

the violations of human rights in Chile constituted institutional, systemic, grave and massive practices. By systemic, I mean the creation of a whole state structure designed to impose economic, social, cultural, and moral policies that were not easily accepted by the people. [In order to accomplish this], it was necessary to “eliminate” through exile, imprisonment, censorship, death and torture anybody who may oppose. By institutional, I mean that the state used a comprehensive system of formal and informal institutions…to impose a systemic policy of human rights violations (Garretón 1999).

Pereira, on the other hand, stated that,

In Chile, there were secret laws; secret police; budgets with secret lines; secret jails; secret orders; secret personnel; secret agreements; secret organizations; secret trials; secret witnesses; and documents protected by military secret (Pereira 1999).

In this discourse of systemic violations, “torture was a systemic practice in the country,
exercised against political detainees in secret detention centers. This situation affected thousands of people and possibly was the threshold of death for many detained disappeared” (Pereira 1999).

Why doesn’t this perspective prevail? In addition to the fact that these members were a minority within the HRDT, perhaps the historical debate of the table was already so firmly established and authorized by the Rettig Report and by the human rights discourse of the state that its disruption was impossible. Perhaps these subjects also found something meaningful in human rights discourses that allowed them to negotiate belonging in the nation. Perhaps the nation became so swept-up by the feast of national reconciliation that these voices were quickly silenced. What is evident is that by the end of the HRDT, the prospect of finding the bodies of the detained disappeared had become such a temptation that the sacrifice of justice in the name of truth seemed like a small price to pay. The transaction that transforms truth into justice constitutes probably the most important point of contention between these members of the HRDT and human rights organizations and relatives of victims. As Viviana Diaz stated, the HRDT “accomplished what Pinochet had not been able to:...the injuring and fracturing of the human rights movement” caused by the impossible dilemma of having to negotiate how much truth and how much justice they could obtain from a nation that insisted in making the human rights question die (Diaz 2005).

Conclusion

The HRDT and the declarations by UDI and the armed forces constitute another expression of the potential for violence embedded in the human rights regime. This period in the history of Chilean’s human rights debates represents an expression of what Richard (2001) and Villalobos (2001) identify as a “coup of the tongue” that re-signified
reality during the authoritarian regime and that, in the post-authoritarian period, is perpetuated through the convergence and amalgamation of discourses that give meaning to terror in order to make it disappear. Through the discursive shifts that take place in this period, the human rights regime also performs its biopolitical work by capturing victims and soldiers in the power of the state, inflicting on them new offences and making them solely bear the burden of responsibility for terror. These biopolitics capture life in the figure of “rogue”, “traumatized soldiers” and “drowned victims” and simultaneously obscure the complexities and complicities of systematized state terror and of politics of reconciliation. Words such as “ideological” and “fratricidal confrontations”, and “individual excesses” produce a national story in which victims and victimizers are made to stand alone and de-linked from the systemic conditions that produce and are produced through terror. The notion of a “just war” against communism remains a hegemonic and normative concept in which victims are also made to bear the burden of history. Words such as “excesses” and “suffering soldiers” cast sympathy for those who were the enactors of terror while obscuring the disciplinary function of military obedience. Discourses that turn truth into justice provide comfort and justification for the infliction of new offences, while concepts such as “permanent kidnapping” become, in their contested character, a site for struggles over the death of detained disappeared people.

What does this process of giving meaning to the past make possible? As Razack (2000) suggests in the Canadian context, stories of besieged nations strike a cord in the national psyche providing a story in which subjects come to know themselves as members of a nation in which inflicting violence on those who threaten the nation is not only justified, but also logical (p186). Similarly, the story of conflict during the authoritarian regime in Chile offered subjects a coherent story within which violence against certain bodies – the bodies of other Chileans – was justified. The narrative of
conflict not only reduced resistance and quieted moral qualms, but also gave subjects a moral universe in which the killing of other Chileans was justified. Furthermore, within a narrative of war against communism, national subjects afforded themselves critical roles in the construction of a new nation, construction that required the “neutralization” of enemies and resisters. In the post-authoritarian nation, narratives of just wars are now accompanied by stories of individual responsibility and excesses, which offer coherence, reduce conflict and allow subjects to claim a space in a reconciled nation. The amalgamation of these narratives and their convergence on the at times confrontational terrain of political discourse afford subjects a wide range of opportunities to come out of the story with a sense of superiority and self-righteousness: they can become humanitarian subjects at the same time that they are saviours of the nation. These discursive moves and amalgamations reveal subjects as humanitarian and saviours while obscuring the fact that the production of humanitarians and saviours requires the re-infliction of violence on those bodies that continue to be bare life. The declaration of death of the detained disappeared, their literal drowning under the waters of Chile’s lakes, rivers and oceans constitute a new violence, a new terror, on which the nation is built: a terror that leaves relatives with no bodies to bury, no evidence and no guilty parties. In the transaction that calculates the value of truth and justice, and that transforms truth into justice, victims and their relatives are left with neither, for, to invert Pereira’s argument in regards to her participation in the HRDT, the human rights regime leaves them with limited truth and impossible justice.
Chapter 7
The price of justice:
The articulation of truth and the marketing of pain in parliamentary debates

A bit of money to eat and dress themselves even if minimally, to cover basic monthly expenses so those widows, those orphans, those women, those daughters can have, at least a piece of bread to put in their mouths (Member of Parliament 1991 p967).

In this chapter, I look at how stories of terror get taken up in political text and talk in order to authorize notions of justice as monetary compensation and secure national belonging. I explore the role of stories of terror reproduced, as the quote above, in the highly corporeal language of ‘hungry mouths’ in the constitution of national subjectivity and the establishment of compensation discourses. Faced with stories of death, torture and disappearance, subjects struggle as they conciliate the moral imperative to deal with terror through the restrictions of a reconciliation discourse that, while built on the idea that truth and justice leads to reconciliation, constructs justice as not only unattainable, but also dangerous. Terror materializes as “irreparable” loss in a discourse in which justice is a desirable, but imprudent, value. As irreparable loss, terror, as one MP stated, has “no price” because “no amount of gold could substitute the loved and lost son” (Senado de Chile 1992 p3787). Nevertheless, in order to claim that the nation has achieved reconciliation and that subjects are now humanitarian, subjects must figure out a way to repair the irreparable. How do subjects negotiate notions of attainable justice and what kind of sacrifices do such notions of justice demand from victims? In other words, how can the nation compensate for a loss that “no amount of gold” could ever pay?
In her analysis of political talk in relation to Canadian immigration policy and document rules, Razack (2000) suggests that what gives vitality to policies that are discriminatory and contradictory in their results, is that these policies are grounded on narratives that call on people's nationalist desires. The acceptance of these narratives, in spite of their detrimental impact, becomes for political subjects “simple logic”: a story that makes sense to national subjects reducing confusion and providing a terrain in which claims of belonging can be ascertained (2000 p186). In Chile, the “simple logic” that determines that “irreparable losses” can be repaired is a narrative of the nation in need of reconciliation, which subjects can procure through compensation. Monetary compensation emerges as a device that can allow subjects to claim humanitarianism and reconciliation while leaving intact the idea that legal justice constitutes an “imprudent pursuit”. Compensation can quiet the conscience and provide comfort as subjects join in a reconciled nation and, as a result, compensation must become justice. Victims and survivors become trapped in the logic that the irreparable can be repaired because in order to render terror repairable, specific calculations need to be performed on bodies: calculations that relegate victims to a location in which their life can be given, or be deprived of, value.

At least three simultaneous processes by which compensation becomes justice are observable in parliamentary debates: first, compensation must be turned into the most acceptable way to claim national belonging: an explicit sign that subjects have internalized the truth of the reports; second, compensation must be turned into an attainable and calculable measure of justice; and third, the “irreparable loss” associated with terror must be turned into measurable and calculable loss. I propose that the logic of compensation emerges in Chile as embedded in a specific mentality: a market mentality of calculability in which economic conduct regulates and renders justice measurable and calculable as compensation, and through formulas of cost and benefit.
This market rationality, translated into the idea that the irreparable can be repaired, requires the regulation and management of terror stories and of victims and survivors. In rendering terror calculable and intelligible in monetary terms, the human rights regime materializes the bodies of victims in discourse, as the quote above shows, as dispossessed and hungry mouths that the national subject is responsible for feeding. Only though the careful materialization of bodies as dispossessed in debates can subjects negotiate a price for justice.

In this chapter, I trace the process by which this economic rationality is applied to debates over compensation and to bodies of victims in order to render them calculable and compensable. I begin with a discussion of the literature on compensation in order to locate the conceptual framework and differentiate my critique from what other authors have said on this matter. I then look at how the concept of compensation is taken up in parliamentary debates through a discussion that links truth and reconciliation to the imperative to accept compensation as a measure of justice. I do this by looking at how compensation is inscribed as the only attainable form of justice that can materialize the recognition of truth without endangering reconciliation. I then trace how debates turn compensation into justice by linking the mandate to compensate to the idea of attainable justice as a requirement for national reconciliation. I end by revealing how bodies are trapped in the calculability of compensation by tracing how debates of reconciliation materialize terror stories and the bodies of victim in compensation discourse.

I centre my analysis specifically on records of Parliamentary debates surrounding two moments in the history of human rights debates in Chile: the debates taking place after the Rettig Report in 1991 and the debates surrounding the Valech Report in 2004. I look specifically at two legislative projects: Law 19,123 that contained reparation measures proposed by the Rettig Commission, and Law 19,992 containing
the reparation proposals of the Valech Commission. I also look at interviews and other public documents as they inform and contribute to this analysis.

Compensation as justice

The main objective of parliamentary debates concerning human rights in Chile is the creation and institutionalization of compensation policies understood as measures of justice and retribution. In the case of the Rettig Commission, these consisted of a wide array of proposals including the moral rehabilitation of the public image of victims, which President Aylwin symbolically enacted in his “Never Again” speech, as well as procedures to legally declare the death of the detained disappeared\(^1\). The goal was also to institute compensation systems to provide pensions, health care for surviving relatives, scholarships for surviving children, housing subsidies, debt forgiveness, and exceptions from compulsory conscription. Finally, the project included the creation of a public corporation responsible for dealing with the cases still pending, contributing to the search for missing victims, and keeping archives related to human rights cases\(^2\) (Comission Nacional de Verdad y Reconciliacion 1991 p 823-836). The compensation proposals of the Rettig Report eventually became the comprehensive system of reparations that has been used throughout the history of human policies in Chile. This system also includes tax exceptions for returning exiles passed under law 19,128 in 1991, and benefits for people who lost jobs due to their suspected political affiliations.

\(^1\) This proposal was strongly opposed by victims and human rights organizations that successfully lobbied to have it removed from Law 19,123.

\(^2\) This corporation became known as the Corporación Nacional de Reparación y Reconciliación (CNRR). After the end of the Rettig Commission, this council took over the responsibility to investigate cases that the Rettig Commission had not been able to qualify as human rights violations. The Corporation continued investigating cases until June 1993. It received an additional 1,200 claims of which 899 were considered cases of human rights violations which added to the cases recognized by the Rettig Commission resulted in a total of 3,195 cases of human rights violations resulting in death. Lira, E. and B. Loveman (2005). Políticas de Reparacion: Chile 1990-2004. (Santiago, LOM.)
approved under law 19,234 passed in 1992. In 2004, the Valech Commission built on the system of reparation already in place and extended benefits to victims of political imprisonment and torture. Benefits also included a one-time payment to children who had been born in prison or had been imprisoned with their parents (Gobierno de Chile 2005). Additionally, the Lagos administration proposed the institution of secrecy to protect the information collected in the Report for 50 years. This was justified as a measure to protect the confidentiality of victims and meant that no information kept in the victims’ files would be shared with any other state institutions including the courts. Neither could victims have access to it. This measure, argued the representative of the Lagos administration in Parliament over loud protest from activists groups sitting in the audience, was response to victims’ requests that testimonies be kept confidential (Cámara de Diputados 2004).

Through these reparation policies, Chile proposed and eventually established a framework of compensation along the lines of what has become common practice in international human rights practices. These practices have received considerable attention in the international human rights literature and several authors have documented the role of reparations in dealing with past injustices (see, for example, Torpey 2001; Thompson 2002; David and Yuk-ping 2005; Laplante and Theidon 2007). Compensation policies have been discussed in such diverse transnational settings as South Korea (Han 2005), Ghana (Ameh 2006), and Latin America (Mendez 1997; Howland 2008); and concerning such diverse issues as the legacies of slavery for African Americans and the Japanese internment in Canada and the US during World War II (see, for example, Torpey 2001; Howard-Hassmann and Lombardo 2007). In the specific case of Chile, Elizabeth Lira and Brian Loveman (2005), for example, argue that state reparation measures have the effect of bringing victims into the fold of national reconciliation providing concrete measures of justice that allow victims to feel morally
and materially rehabilitated. Furthermore, reparations measures, they argue, constitute an attainable form of justice that poses few challenges to the delicate balance of power in post-authoritarian democracy. Other authors argue that reparation and compensation measures ensure the incorporation of victims into democratization processes that have collective therapeutic value that goes beyond individual mental health (Espinoza 2005; Gomez 2005; Kovalskys 2005; Howland 2008).

As is the case with truth and reconciliation commissions, reparation debates were unheard of prior to World War II. As Barkan (2000) and Torpey (2001) demonstrate, much of the framework currently used to conceptualize reparations for human rights violations emerged after the Holocaust and as a result of Germany’s negotiations to compensate the Jewish and Israeli people. Consequently, principles of reparation emerge at the same historical moment and within the same conceptual and ideological parameters as the liberal human rights regime. A critical issue in these debates is the role of monetary compensation as a measure of justice. Jeremy Waldron (1992), for instance, argues that compensation should have the capacity of restituting the material and psychological loss experienced by individual victims recreating, or at least attempting to recreate, the original living conditions that people would have had, had not the injustice occurred (p5). Margaret Urban Walker (2006), on the other hand, challenges the idea that compensation can ever restore victims and society to a condition prior to the violation of rights specially when atrocities are massive and prolonged over history. However, this does not mean, according Urban Walker, that compensation should not be granted; it simply means,

that the framework of corrective justice strains, because it has never been meant to deal with either a massive scale of serious mayhem or a protracted and brutal subjugation and mutually ramifying indignities and atrocities that characterize oppressive and violently repressive systems (2006 p380).
For these authors the issue is the imperfect approaches to compensation and not its conceptualization as a desirable measure of justice. Critiques of for example countries such as South Africa and El Salvador for their limited capacity to implement or carry out compensation programs is perceived to be the result of imperfect systems and not a function of compensation models.

The question is not whether monetary compensation should exist, but what the best way of providing compensation would be and how to expand compensatory frameworks to account for massive injustices. Naomi Roht-Arriaza (2004) suggests that while case-by-case court-ordered compensations are inadequate to respond to massive cases of human rights violations or historical injustices, collective reparations such as those associated with community development and preferential access to services, for instance constitute more adequate measures of compensation. Pablo de Greiff (2006), on the other hand, suggests that while compensation can never truly return victims to their original conditions specifically because loss is hard to measure, “political” conceptions of reparation should aim at restoring social relations and social solidarity between victims and other members of society.

Monetary compensation, according to this literature, can have the capacity to redress conditions of social and economic marginalization by allowing individuals who have been historically excluded to claim equal participation in society. Khatchadourian (2006) argues that compensation is aimed at rectifying, correcting, or ameliorating “the condition of those who have suffered certain kinds of injury or loss” (p430). Michael Marrus (2009) also suggests that compensation measures, while insufficient in achieving full restitution, can contribute to the social recognition of victims and to the perfecting of social memory about the Holocaust. At the centre of this argument is the idea that compensation contributes to improvement of victim’s social standing and physical and mental health, while reducing poverty among individuals who have suffered victimization.
Barkan argues that at the centre of compensatory justice is the principle of property restitution which can allow victims to claim social belonging (2000 p5). This is particularly critical, Waldron (1992) suggests, when oppression has been accompanied by dispossession, as it is the case of the aboriginal communities who were deprived of their land. Central to this argument is the idea that, as Marrus observes relying on Israel Singer, compensation can have the effect of re-humanizing those individuals who have been victimized by providing restitution for material lost (1998 p120). While some victims groups oppose the decision by other victims to accept compensation, arguing that accepting money devalues or extinguishes moral guilt, there is also considerable support on the part of victim groups, politicians and academics for measures of compensatory justice (David and Yu-ping 2005).

There is generalized acceptance in the literature of the premise that compensation constitutes an appropriate measure to redress or at least promote justice for past injustices. In this way, it is assumed that, even if precariously and imperfectly, damage for human rights abuses can be rendered knowable and calculable in concrete terms so as to constitute a measurable basis for the granting of compensation. While some authors argue that frameworks used to determine monetary compensation could be inadequate, the idea of monetary compensation remains largely unquestioned (for example, Torpey 2001; de Greiff 2006; Urban Walker 2006). Even those like Barkan and Minow (1998) who look at the issue of monetary compensation with some level of apprehension and defensiveness specifically due to the challenges confronted when attempting to quantify loss and human cost, they do not dismantle the idea that compensation should have a monetary value.

There are two important assumptions made in debates over compensation that need to be critically examined. First, compensation is based on the idea that experiences of terror can be funneled into intelligible concepts of loss and damage in
order to be compensated. Secondly, these debates are generally based on the problematic assumption that compensation puts victims on equal terms with their victimizers and the state, and that material property, at the centre of capitalist values, can bring people into a human community. In terms of the latter condition, Martha Minow (1998) argues that compensation has the advantage of bringing together victims and perpetrators allowing both to claim humanity in the process of negotiating. Barkan, specifically, associates compensatory justice to other forms of restitutive justice such as apologies and argues that collective guilt, what he calls the “guilt of nations”, has an important role to play in liberal political debates over justice. Ultimately, Barkan proposes that collective guilt does not only improve the social location of victims, but also contributes to the entrance of true morality into politics by allowing perpetrators to accept moral responsibility. This is accomplished, Barkan continues, by de-centring the role of victims in processes of victimization and historical recognition and by allowing perpetrators to express guilt for historical injustices (Barkan 2000). Restitution and compensation constitute, according Barkan, measures that strengthen the victims and their claims by promoting guilt for perpetrators and improving the social location of victims. Perpetrators, on the other hand, earn legitimacy and recognition. This is also a position advanced by Marrus (2009) who suggests that granting material compensation can bring people into a human community granting them recognition and social acceptance.

In their respective discussions of the Holocaust compensation debate, both Barkan (2000) and Torpey (2001) suggest that the decision on the part of Germany to compensate allows Germany to gain international legitimacy. This, according to Barkan, constitutes a novelty that does not easily find expression in real politics suggesting that moral principles guide negotiations. As Barkan continues,
The novelty in the international emphasis on morality has been characterized in going beyond accusing other countries of human rights abuses, to include self-examination (Barkan 2000 p2).

Barkan considers self-examination and rehabilitation an important aspect of national guilt and its resulting compensatory measures. By paying compensation, post-authoritarian or post-conflict societies gain legitimacy and international recognition that eventually facilitate their entrance into global communities of nations. In personal terms, the expression of guilt through the contribution of perpetrators to national truth commissions, as was the case in South African amnesty hearings, provides perpetrators with concrete benefits in the form of amnesty and social inclusion in post-authoritarian democracies. This is perceived to also have compensatory effects on victims who receive not only the recognition of the nation, granted through the confession of perpetrators, but also restitution through this confession. As Wilson (2001) observes in regards to the South African amnesty hearings, these hearings were based on the principle that reconciliation and reparation required that victims and victimizers be brought together in the space of the hearings to facilitate confession, redemption and forgiveness, understood as expressions of the religious reconciliatory language of the TRC. In this process, victims and perpetrators were made to enact a national reconciliation discourse through individual recognition of guilt and individual forgiveness, and through an emotionally charged process that equalized victims and perpetrators. This contributed to a national discourse that morally equalized the conflict of apartheid, erasing racial difference and colonial histories (p107-114). Santner (1992) observes a similar process of equalization of victims and victimizers in the German case in which victims and Nazi soldiers receive recognition in post-war ceremonies that impose moral equivalency on stories of suffering.
However, the argument that compensatory justice equalizes victim and victimizer leaves some important premises unquestioned. For instance, while supporters of compensatory justice seem to agree that compensation advances the social location of victims validating their claims and granting them moral standing, and that perpetrators accomplish political and social legitimacy through the expression of guilt and apologies, their support is predicated on the idea that both perpetrator and victim converge in negotiations over compensation on equal terms and that the state is simply the mediator of such encounters. Barkan, in particular, suggests that a major achievement of compensatory negotiations is the capacity to bring victims and perpetrators into the common space of the negotiations in ways that grant social recognition to victims placing them at the same social level as perpetrators (Barkan 2000 pxxiv). This, as it seems apparent in the debate over justice and compensation in Chile, is not always the case. In fact, victims are consistently marginalized from negotiations about compensations while politicians and policy makers debate and decide what compensations should be granted. In the same way, authors in the South African context observe that the ritualistic character of amnesty hearings captures the victims in a normative discourse in which the granting of forgiveness is constituted as a moral obligation of victims (Du Toit 1999; Duvenage 1999). Furthermore, while Barkan suggests that compensation is driven by guilt and by the need to atone for past wrongs, it is evident in Chilean human rights debates, those political actors with strong ties to the authoritarian regime do not necessarily express guilt, specially considering that their version of history seems to acquire and maintain legitimacy throughout the history of human rights debates. What is more important, it seems that at the centre of debates and negotiations over compensation is the underlying need to produce legitimacy for post-authoritarian and by extension authoritarian regimes. In other words, the idea that victims and victimizers come together to negotiate belonging in the nation through the granting of compensation
and the securing of national legitimization is misleading. Compensation debates, specially when referring to state sponsored compensation policies, are processes imbued with power in which victims are not necessarily allowed to confront the repressive state on equal terms, mostly when at the centre of the debates is the protection of political negotiations and the construction of a national reconciliation narrative. Victims continue to be regulated by unequal power relations that determine what is to be done in matters of compensation.

On the other hand, when turning our attention to the idea that experiences of terror can be monetarily, materially and even symbolically compensated, we are confronted with a debate over whether or not compensation can ever amount to justice. As Marrus observes, some Holocaust survivors see in compensation policies a failed attempt to measure loss and to assign value; they consider this a new insult. Although other survivors argue that demands for compensation are not about the money, Marrus observes that in determining compensation, discussions generally lead to a debate over material need or material entitlement (p120-123). There is general agreement in the literature that even though atrocities can never be truly compensated, compensations provide some measure of justice and that they can represent expressions of sorrow that rehabilitate perpetrators (see, for example, Ignatieff 2000). These defences are based on the idea that compensation can allow for moral principles to enter political and economic discourse. However, those who oppose compensation argue that principles of compensation are based on a neo-liberal morality based on an economy of pain. This economy depends, as Natan Sznaider (2002) observes, on the unquestionable capitalist idea that “it is perfectly possible to satisfy justice by means of money. Money makes very different things equal; that is the whole point of it” (p107).

In spite of the fact that compensation can concretely improve the quality of life of survivors and that survivors and activists may consider these measures important, what
is absent from the debate over compensation is a discussion that can de-centre the questions of the efficacy of compensation or their moral value, and ask instead about the role of compensation within the human rights regime and the rationality on which principles of compensation are embedded. Questions regarding the kinds of political projects or governmental practices that are authorized through compensation, as well as the sacrifices that compensation requires victims to make in order to obtain compensation are generally left out of discussions concerning compensation as justice.

I return for a moment to Foucault’s notions of biopower as the inclusion of human life in the mechanisms and calculations of power, and Agamben’s critique of human rights as a regime invested in the production of bare life and its submission to sovereign power (p119). Building on Foucault, Agamben observes that the figure of bare life as the life that can be sacrificed in order to build the nation remains a constant condition in both totalitarian and democratic regimes because these regimes are essentially biopolitical regimes in which human life is at the centre of state power. In totalitarianism, bare life is submitted to a rational economy in which life is calculated and assigned value in order to identify the “life unworthy of being lived” (p173), life that could be systematically exterminated. Could we not make a similar argument for human rights debates over compensation?

As I have shown in this study the human rights regime captures bare life in truth reports that organize and systemize experiences of terror, rendering terror knowable through, for example, statistical and forensic language. Further, reports organize terror stories within normative historical discourses in which terror is fit into accommodating historical narratives that capture terror and its victims in restrictive stories of “just wars” and “fratricidal confrontation”. If under the banner of “accounting” for terror, reports produce and capture life, what do subjects do with that life when they are asked to do something about human rights violations? What kinds of calculations do they make? And
what kind of worth is assigned to life in compensation debates? I begin to unravel the process by which compensation debates capture bare life by looking at debates concerning the imperative of compensation to achieve reconciliation, arguing that, in these debates, a "logic" of compensation as calculable begins to take form.

A truth for reconciliation

Parliamentary debates taking place as a result of truth commissions are for the most part concerned with an inscription of the truth of commissions on public discourse and with the use of that truth to secure national belonging. In general, debates produce principles of compensation as the ticket that secures the entrance of the subject into the nation and a sign that these subjects have internalized the official truth. Parliamentary debates about compensation achieve the same convergence of different political views into a common national narrative that I observed in the debates concerning the HRDT and the secrecy legislation, in which ideological differences are either accommodated or attenuated over time, through the use of a reconciliation discourse inscribed as a normative value. In this sense, records of parliamentary debates concerning compensation do not differ significantly from what has been the history of human rights debates in which official truth may have found some resistance at the beginning of the democratic transition, but becomes widely accepted with the passage of time.

Let us remember that at the time of the Rettig Report, President Aylwin made an urgent call to the nation to accept the truth of the Report as a critical way to advance the cause of national reconciliation. As I discussed in chapter 6, conservative sectors of society and the armed forces were reluctant at that time to firmly support the Report, although they mostly embraced the historical narrative of the Report in relation to the years leading to the military coup. Debates concerning the compensation measures of
the Rettig Report show a struggle along political affiliations to get members of right wing political parties to accept both the truth of the Rettig Report and its compensation program. MPs from the governing coalition consistently called on the opposition to accept the truth of Report. For example, one MP stated that “the process of reparation requires the courage to confront the truth in order to achieve justice…and the generosity to recognize errors” (Senado de Chile 1992 p3781). “The virtue of truth”, added another MP, “is not an ill obsession…but an indispensable [value] even when it is painful and uncomfortable” (Senado de Chile 1992 p3785). The opposition, on the other hand, was reluctant to name the violence of the authoritarian regime as human rights violations and continuously used the language of war to refer to victims as casualties, the product of what one MP called “profound social crisis and uncontrollable conflicts” (Cámara de Diputados 1991 p382). They also argued, as I discuss in more detail later on, that the compensation measures proposed by the government were excessive, disproportional and even unnecessary, and that they did not advance the principle of reconciliation.

These differences led to lengthy debates over history and the value of compensation as a tool of reconciliation resulting in the compensation project sitting in Parliament for almost a year.

By 2004, however, the national truth had become widely accepted and opposition to the idea of compensation was nonexistent. Different political actors had converged, in a manner similar to what happened in the HRDT’s debates, on a generally accepted national truth and, as a result, the compensation law for survivors of torture passed in a record time of 21 hours. This debate is characterized by little discrepancies in relation to the truth as political actors of all sides, including UDI, could now claim some ownership of the human rights issue. As a UDI member stated, “no one can remain untouched in the deepest corners of our heart by the different forms of torture that political prisoners endured between 1973 and 1990” (Cámara de Diputados 2004 p15). Another added,
echoing the secrecy debates discussed in chapter 6, that “the legacy of human rights is no longer the property of just one political group, it now belongs to all of us” (Cámara de Diputados 2004 p21). And, a member of the ruling coalition argued, “With this initiative we are finally achieving national reconciliation. We could not turn our backs on our compatriots who have suffered” (Cámara de Diputados 2004 p18).

What happens in the time and space between the struggle to accept truth and compensation during the Rettig compensation debates and the wide acceptance of truth and compensation during the Valech compensation debates? A concrete principle takes root in these debates: a principle based on the idea that compensation was the way to achieve justice and that as a result, it would lead to national reconciliation. Accepting compensation also became a way to claim political legitimacy and secure a place in the nation. This requires first that compensation be turned into an observable sign of the subjects’ acceptance of the official truth, and second, that compensation be transformed into justice. In terms of the former, debates consistently reinforced the idea that a measurable and observable way to internalize truth was through the acceptance of compensation. As a result, part of the ritual of recognition of national truth was the acceptance of compensation as a measure of justice. As an MP stated during the debates over the Rettig compensation proposals, “the most important value is the truth….Without it we could never obtain reconciliation….The acceptance of compensation constitutes a recognition of the truth” (Cámara de Diputados 1992 p16). Another stated,

reparation is a principle that summons the whole nation…it must include the recognition of truth…[it] requires the moral rehabilitation of victims, and the procurement of a better quality of life for them” (Cámara de Diputados 1991 p4865).

“The acceptance of compensation”, added another MP, “signals the nation’s commitment and duty with truth and justice in matters of human rights” (Cámara de
In the process of accepting truth, political subjects construct a discourse in which the acceptance of the government’s compensation program constitutes proof that truth has been internalized and that as a result subjects have obtained legitimacy in the post-authoritarian nation. The story that runs through these debates concerning the need for compensation is a story of a nation that is, as President Aylwin stated in his message to Parliament (Cámara de Diputados 1991 p91), “wounded in its soul”: wounded by a past of conflict and by soldiers who committed excesses. As a result, in order to save the nation and mend its wounds, political subjects must accept the call that “summons” them to recognize the truth by granting compensation and, through that, secure a place in the nation. Debates about compensation become the site in which national belonging is negotiated through the active role of speaking the “official truth”. “For many years we have felt helpless”, argued one MP during the torture debates, “but now we are called to rebuild the nation” (Cámara de Diputados 2004 p12). The process of rebuilding the nation requires, as another MP added, that “we reflect and accept the horrible things that happened in our country” (p11).

Belonging in the nation requires the recognition of the national wounds as well as the “commitment to overcome the hate that dominated the past” through what one MP called “a rejection of the use of violence as a method of political action” (Cámara de Diputados 2004 p21). However, the recognition of terror and its submission to a normative historical narrative of war and excesses also allows political subjects to claim innocence in terror. Over loud protest from human rights activists and survivors sitting in the audience during the debates over torture, an MP stated, “it has been historically recognized that civilians [in the dictatorship] could not know what was happening in torture and detention centres”. “If all public men had to quit their functions”, added this MP, “because a government in which he works approves laws that go against his principles,…countries would have no one to govern them” (Cámara de Diputados 2004
Since these subjects could not know that torture was being practised, and since even if they knew, they could not quit their functions simply because there was torture, they can claim that they are in fact innocent and that they can, as this MP concluded, “look into the future” while “showing solidarity towards the victims so we can all together build a better nation” (Cámara de Diputados 2004 p23). Terror stories in the context of the official story are stories without complicities: stories in which civilians in the regime performed the duty to rule while the government in which they ruled tortured and killed.

Compensation as calculable justice

In order for subjects to be able to secure a place in the nation through the approval of compensation, compensation must also become justice, even if an imperfect manifestation of it. Justice constitutes the material that binds truth and reconciliation and can allow subjects to claim moral superiority in the post-authoritarian nation. Let us keep in mind that in contrast with many other examples of truth commissions, Chilean truth commissions have not explicitly imposed the notion “let’s bygones be bygones” as was the case for example in El Salvador, or the idea of the systematic closure of judicial prosecutions as was the case with the “punto final” laws in Argentina. In fact, justice, even when constructed as a dangerous desire has remained a component of the truth, justice and reconciliation triad that characterizes human rights debates in Chile. As an MP reinforced during the Rettig debates,

truth and justice are the greatest challenges that confront Chilean society in the construction of a stable and peaceful future. If we assume these challenges, the results can take us on the path of definite reconciliation and peaceful cohabitation between Chileans (Senado de Chile 1992 p3787).

The official discourse that produces national reconciliation as based on principles of truth and justice creates a conundrum for political subjects. Official human rights
discourse has produced human rights violations as “irreparable losses” and justice as an imprudent and potentially dangerous pursuit. Parliamentary debates consistently coin Aylwin’s statement in the ‘Never Again’ speech that “the disappearance or death of a loved one constitutes an irreparable loss”, but that “reparation…seems to be an absolute requirement for a full transition into democracy” (Cámara de Diputados 1991 p4865). As an MP stated,

years of pain, of incessant search for the loved ones, of loneliness and poverty, of feeling foreign to the world…have no price. To a mother, there is no amount of gold that could substitute the loved and lost son (Senado de Chile 1992 p3787)

The images of suffering victims and mothers searching for loved ones threaten the security of the nation and uncover a weakness in the national reconciliation project for it is impossible to build reconciliation as based on truth and justice if victims continue to suffer injustice. The authoritarian regime has been produced as a time of conflict in which atrocities were committed and deaths went unpunished, even those deaths were the actions of individuals. The post-authoritarian nation, by contrast, has based its claims of novelty and humanitarian liberalism on the principle of the rule of law as well as on the notion that the new nation has broken away from the authoritarian regime. Yet, the national subject cannot easily claim humanitarianism and human rights if victims continue searching and if justice is denied. How can irreparable losses be repaired if justice is potentially dangerous? And how can justice be a fundamental requirement of reconciliation if it cannot be attained?

The solution manifests itself in the form of monetary compensation, which becomes the most attainable measure of justice, a way to transform truth into reconciliation, and a tool to build the nation. The notion that it is impossible to compensate for the loss was almost always accompanied in the debates by the expression of a national duty to repair and compensate. MPs consistently expressed that “it is our duty as a conscientious and responsible society to recognize mistakes, heal
wounds, end hatred, dignify the victims, and for that we procure reparation" (Senado de Chile 1992 p3789). “Monetary compensation”, added another MP, “constitutes a modest but significant gesture of reparation for the violence exercised and suffered [by victims] and a commitment of this Parliament with national reconciliation” (Senado de Chile 1992 p3782). By the time of the torture debate in 2004, the duality of unattainable justice and the imperative to compensate had become idiosyncratic in the history of the democratic transition. Parliamentarians once again called on a repertoire of arguments in which the possibility to provide true retribution is impossible, but that frame monetary compensation as the best possible outcome. Compensation, in fact, becomes justice in the debates even when the agreement is that the damage is irreparable. As an MP stated,

nothing can repair the pain, the sleepless hours, the fear, the recurrent nightmares suffered by victims. This session must constitute the opportunity for all of us to acknowledge at least the pain of victims. That is in itself a major homage to truth, reparation and long-awaited justice (Cámara de Diputados 2004 p20).

Another added:

the damage is irreparable, but the state must compensate in some measure….as it is indicated in the Report….By assuming its responsibility, the state responds once and for all and, in that manner, we feel that we have truly achieved reconciliation (p37).

In the logic of compensation, the narrative that sustains the idea that the irreparable can be repaired is one in which compensation constitutes a measure of justice that can secure the required national reconciliation, and that through the granting of monetary compensation subjects gain a place in the nation.

Parliamentary debates consistently construct compensation as a measure of justice that can further nation building. As an MP stated, “compensation is a measure of justice…that provides recognition and validation to victims of human rights violations and
rehabilitates those who have been affected, mending the damage” (Senado de Chile 1992 p3729). Another MP added: “Reparation, be it material or moral, constitutes an absolutely necessary task that can lead to the strengthening of our democracy” (Senado de Chile 1992 p3782). And yet another stated that, “there is consensus about the justice of compensation...and about the fact that it effectively contributes to the construction of a common future for the nation” (Senado de Chile 1992 p3733).

In order for monetary compensation to become justice, a specific economic rationality needs to capture the concept of justice and render it attainable and calculable in monetary terms. Parliamentary debates over compensation consistently produce compensation along the lines of proportionality and cost. For instance, while there was general agreement that some monetary compensation was in order, the extent and amount of this compensation varied according to the value placed by different actors on the loss and suffering of victims and the need to overcome the legacy of the regime.

Members of Parliament that represented the ruling coalition agreed that justice required the maximum possible compensation and, for the most part, supported the recommendations of the reports. Meanwhile, representatives from the parties of the right including appointed Senators, challenged proposals for compensation arguing that either compensation measures were excessive, or that the method of compensation did not further national reconciliation. While the idea of compensation as justice is accepted as a basis for claim citizenship, the extent of that compensation can be, or at least should be negotiated. Those who challenged compensatory proposals generally argued that, as one MP indicated, reparation measures were “an exceptional benefit that greatly exceeds existing pensions in the country” and that as a result “they generate disproportion” (Cámara de Diputados 1991 p378). This argument applied to the amount of the pension as well as the period and conditions of eligibility. According to these arguments, the proposed monetary compensation created “unjust conditions as a result
of excess or defect" that would excessively burden the state (Câmara de Diputados 1991 p379, my italics). As another MP argued, “the monetary value [of compensation] may have many justifications, but it must also be in tune with the limitations of our economy” (Câmara de Diputados 1991 p961). As a result, added this MP, “we do not agree with the proposal to award 150,000 pesos monthly pension, and we insist on a method of one-time payments of an agreed-upon quantity that can truly repair the loss suffered by victims” (p961).

When arguing the conditions of eligibility, right wing MPs had at least two objections: on the one hand, the fact that years and conditions of eligibility exceeded those enjoyed by the rest of the population was considered unfair and excessively expensive. For instance, the proposal to extend eligibility for surviving children to twenty-four years of age (irrespective of their student status) rather than the accustomed eighteen, or for widows to qualify for pensions even if they have remarried, were considered excessive benefits. As one MP indicated,

> although we do not close ourselves to a discussion with the government,...to determine an amount that, within the limitations of our possibilities, is reasonable, [the proposed pensions] generate an additional cost to the pension system (Câmara de Diputados 1991 p972)

At its extreme, these objections resulted in arguments in which the loss of life under the political and historical conditions that the Rettig Report constructed did not constitute a loss that merited the amount of compensation proposed. As another MP blatantly stated “the amount or value of the reparation does not correspond with the inflicted damage” (Câmara de Diputados 1991 p961, my italics).

The opposition to the compensatory measures had another critical connotation which reflected the need felt by these conservative politicians to end human rights debates as soon as possible. The argument that monthly pensions should be replaced

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3 This corresponds to about $310 in Canadian dollars.
with one-time payments was centred around the issue of whether or not a person would benefit more from a one-time payment of “twelve or fifteen million [pesos]” rather than receiving the same amount on monthly installments. Yet, this position also implied that human rights demands had to be resolved once and for all, and that the nation should put an end to future human rights issues. As one MP stated,

   we are in agreement with the idea...of establishing a one-time compensation payment that could finally end the whole problem caused by the repression during the dictatorship and the violation of human rights (Cámara de Diputados 1991 p963).

And another added that,

   this is about providing people with one payment, pension or compensation, however we want to call it that effectively repairs the damage suffered. This would be impossible with 140,000 pesos a month or may be even with 15 or 20 millions paid all at once (p964).

These parliamentarians argued that compensation through one-time payments would make it unnecessary to create a system to continue dealing with human rights victims and that, as a result, the need to continue dealing with human rights demands would cease to exist. Victims could, in fact, be paid to go away.

   Right wing politicians attempted to propose a counter-discourse about victims that, while accepting that some damage has been caused, produced victims as potential abusers of the system. In challenging eligibility criteria for widows and children, these MPs argued that while widows, for example, should be awarded pensions; those should not extend to those who have remarried (Cámara de Diputados 1991 p379). Thus, debate became about whether a widow was in fact a widow; and if she was a widow, how long might she live while collecting a pension, or if in fact the payments given by any method would be proportional to the loss.

   Members of the ruling coalition responded with arguments that also centred on life expectancy of widows. As an MP stated, “a widow could live ten, fifteen or even
twenty more years. [A monthly pension] would mean that she could receive 18 millions”. “This amount”, added the MP, “would exceed the six millions proposed as one-time payment” (Cámara de Diputados 1991 p968). This story is a story of subjects bartering for the life of victims, negotiating and calculating the value of life. The story is also about victims who may abuse the good will of the nation by possibly taking something they do not deserve. The story is not about systemic terror and its overreaching effect on bodies, it is not a story about justice, but a story about how much would constitute sufficient payment, and thus sufficient justice. These politicians challenged the opposition for being unable to maintain the real focus on “the central problem of the grave violation of human rights” (Cámara de Diputados 1991 p970) and objected to what an MP called “the sad haggling over the amount of reparation” (Cámara de Diputados 1991 p962). They also argued that debating over monetary considerations was a way to divert the debate from what one MP called, “the historical debt” with victims of human rights violations. However, their challenge did not take the debate in a different direction and economic considerations continued to dominate justice debates. The underlying assumption that human life could be assigned value was not disrupted. Even when these politicians argued that benefits needed to be increased, they simply argued that compensation required more and no less benefits. As an MP argued, “given the gravity of the damage suffered by the families, we must provide a pension that can eliminate …the irreparable loss of the loved one” (Cámara de Diputados 1991 p962). The discussion remained trapped in a discussion of cost and calculability and effectively trapped the human rights issue within a mentality of cost effectiveness, possible abuses and proportional payment that required that subjects assign value to terror.

In the haggling over compensation benefits we see how subjects take part in a

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4 Please note that right wing politicians did not really specify an agreed-on amount for this one-time payment. As a result, different amounts are being used at different times.
process of bartering and bargaining through which notions of national reconciliation are weighted against concepts of calculable loss. The human rights regime converges here with a market mentality that is in tune with the governmental project of the authoritarian regime and its continuation in the post-authoritarian period. As I discussed in chapter 1, one of the effects of the authoritarian regime in Chile was the imposition of neoliberalism through a complexity of authoritarian power relations that combine, as Moulian (1997) demonstrates, the sovereign power of the law through the repressive policies of the state; the power of discourse through the deployment of normative ideas that organize and produce specific ways of thinking; and through power over bodies, both in its repressive and productive character, in order to produce a new Chilean subject who could understand his/her actions in a language of productivity, competition and consumerism. These power relations systematically separated people from social institutions and networks, such as organized labour, within which political solidarities, alternative subjectivities and political agencies had been historically negotiated in order to produce an atomized individual subject responsible only for him/herself and who is expected to satisfy his/her needs within a market economy produced as a natural realm of human activity (Masiello 2002; Winn 2006).

This social reorganization project relied on the “shock therapy” of neoliberal economic policy recommended by Milton Friedman and implemented by the “Chicago Boys”. While the imposition of neoliberalism may not have been the central objective of the 1973 military coup, what is important to acknowledge is that the authoritarian regime with its repressive practices created in Chile a controlled environment for a neoliberal social experiment. The regime reduced, or eliminated altogether, social resistance and the possibility of organized opposition (see, for example, Richards 1997; Duquette 1998). In that way, the regime created a propitious climate for a social reorganization project that brought neoliberalism to Chile. As a governmental project, however, the
Chilean neoliberal experiment cannot solely be explained in terms of economic policy. Its impact must be traced throughout the social body as it determines and reorganizes all aspects of human life and human subjectivity. As Harvey argues, “Neoliberalism...has pervasive effects on ways of thought to the point where it has become incorporated into the common-sense way many of us interpret, live in, and understand the world” (2007 p3). Neoliberalism extends its influence over all aspects of human life, as Read argues, “from the quotidian experience of buying and selling commodities from the market, which is then extended across other social spaces, ‘the marketplace of ideas,’ to become and image of society” (2009 p26). As an overreaching ideology, neoliberalism also constitutes a form of subjectivity that discursively produces specific practices as intrinsic to human nature and deploys them through disciplinary power (Brown 2005). The subject of neoliberalism is an economic subject, what Foucault calls homo economicus, that understands all actions – his and other’s – along the lines of cost, benefit and competition, which becomes the matrix of social and political relations (Foucault 2007 p12). As Brown argues,

while this entails submitting every action and policy to considerations of profitability, equally important is the production of all human and institutional action as rational entrepreneurial action, conducted according to a calculus of utility, benefits, or satisfaction against a microeconomic grid of scarcity, supply and demand, and moral value-neutrality (2005 p40).

The subject of neoliberalism does not only act in a specific way in the economic realm – as entrepreneur or worker – but also applies a market mentality to all aspects of human activity and bases his actions and decisions along discourses of self-care, individual responsibility, self-reliance, and autonomy. As Read continues, the neoliberal subject applies an economic rationality to his relations with others “from marriage to crime, to expenditure on children”, which become actions that “can be understood ‘economically’ according to a particular calculation of cost for benefit” (2009 p28). As
governmentality, neoliberalism as Brown (2005) and Lemke (2008) add, is a constructivist project, the aim of which is to actively create a social reality while suggesting that it already exists as a “natural habitat” for human activity. As a result, it requires the active development and dissemination of its rationality through the deployment of disciplinary discourses that produce the market as the “natural” environment for human activity.

The post-authoritarian subject in Chile comes to understand himself in compensation debates through his capacity to calculate and assign value to the life or the loss of life of others. Neoliberalism and its market mentality provides a language that is akin with compensation discourse and that allows national subjects to transform irreparable loss into attainable justice. In this sense, albeit neoliberalism may not be the precursor of compensation discourses, compensation language finds a home in neoliberal governmentality allowing for the expression of ideas of justice as compensation, and providing a friendly environment for the articulation of entrepreneurial economic subjectivity. Through the articulation of compensation discourse the subject invests in the human rights regime, embracing the idea that compensation will yield the profit of reconciliation that will ensure the subject’s place in the nation. Furthermore, as compensation is vested with morality, equating as Brown observes “morality with rational action” (2005 p42), the calculation of life and death, through the calculation of compensation and its transformation into justice, assures the subject moral superiority. This allows the subject to argue, as an MP did in the debates, that he “congratulates” himself “as a parliamentarian...for telling political prisoners and tortured victims that they can count on us” (Cámara de Diputados 2004 p20).

Human rights and the market mentality converge in a discourse of calculation, in which rights can be exchanged in a market of rights and freedoms that, as Brown observes, carefully calculates freedom within an “order of domination” in order to
become “an instrument of that domination” (2005 p44). Moreover, the market mentality converges with the human rights regime to produce a language of cost and benefit that assigns, literally as is observable in the Chilean case, value to the life (Agamben 1998). The application of this neoliberal rationality to human rights is traceable in compensation debates in the use of an economic language to calculate justice as well as in the effects of the neoliberal rationality in the constitution of subjects and others. In introducing a discourse of cost and proportionality, Chilean subjects materialize human life in discourse in order to assign value to it, adhering to a framework in which, as Marrus (2009) suggests, property or lack thereof determines humanity and belonging in the community. This rationality adheres to specific formulas of cost and benefit that allow subjects to weigh, for example, variables such as length of life against cost. Life becomes calculable in this discourse as widows and orphans are measured, calculated and projected as virtual numbers in a budget line. At the same time, the value of life gets weighed against acts of terror to determine loss and “reparability” even as it is stated that terror has no price. Finally, terror and the life caught in it are placed in a scale against values of reconciliation in order to determine the cost of terror that would render the highest rate of return in terms of reconciliation. Arguments concerning proportionality – even when stating that pensions compensate insufficiently – submit the bare life captured in the human rights regime to an economic discourse that as Read, observes “becomes an entire way of life, a common sense in which every action...can be charted according to a calculus of maximum output [in the form of reconciliation] for minimum expenditure” (2009 p31).

By the time of the torture debates in 2004, the rationality of calculability has become firmly inscribed in political discourse and the idea that value could be assigned to terror has become an unquestioned procedure. In addition to the habitual declarations that torture could not be repaired debates centred mostly on determining whether the
pensions and benefits were sufficient. Political actors of all sectors used a common language in which the principle of calculable justice had become an unquestionable framework and the only question that remained was how much money could compensate terror. As an MP stated, “we hear that pensions and bonuses are miserable…Parliamentarians argue that they would like to increase [these benefits] but people need to understand that we do not have the power to do that. That is up to the government…[which] must have done all its economic calculations already” (Cámara de Diputados 2004 p31-32). Another MP agreed stating, “it is true that the reparations are insufficient…but as a nation and as a society, we have taken charge of the truth of torture” (2004 p35). By the end of the compensation debate, the human rights regime had finally accomplished the calculation of bare life, its production as naked humanity that could then be submitted to sovereign power. Human life entered not only the realm of state power, but within a neo-liberal governmentality, it entered the calculability of cost and benefit of an economic rationality that had extended to all aspects of human life in order to produce the citizen-subject that measured humanitarianism along economic terms. This form of humanitarianism requires not only that victims, as Malkki (1996) suggests, be rendered speechless, but also that bodies be made intelligible as cost and liability. The subject, in turn, emerges as rational *homo economicus* whose humanism is constructed as an invitation to be part of a national reconciliation project in which the calculation of life ensures national belonging.

### The pain of others

The economy of life that calculates pain and assigns value also achieves the symbolic production of a national community through the commodification and appropriation of stories of pain that secures the moral superiority of subjects and their authority to govern over human rights issues. Parliamentary debates concerning the
compensatory measures proposed by truth commissions in Chile offer us an opportunity to observe how the appropriation of the pain of victims produces both a national subject and an economy of pain in which terror is rendered intelligible, calculable and measurable in monetary terms. The national story of torture and disappearance allows subjects to discover and become, as an MP stated, “Shocked and scarred” by terror stories (Cámara de Diputados 2004 p27). The tortured body shows itself to subjects in human rights discourse as the embodiment of inhumanity and terror that allows the subject to know himself as human. An MP observed, while speaking about an encounter with a victim of torture, “[she] showed me her body and said: 'look, my brother, what they did to me'. I cannot describe the horror I saw and heard from this person” (Cámara de Diputados 2004 p34). The body that shows the subject her horror allows the subject to be horrified to the extent that the body becomes the terrain on which, as this MP continues, “our beautiful future can be built”.

Subjects appropriate bare life, in its most corporeal expression as hungry mouths and mutilated bodies, and in the process they come to know themselves as moral and humanitarian subjects. In her discussion of the reasons that make subjects care for the pain of others, Sherene Razack (2007) builds on the work of Saidiya Hartman (1997) on the anti-abolitionist discourse of white Americans during the 19th Century, and the way in which it took up the description of the pain of slaves. The detailed description of the pain suffered by slaves, argues Hartman, allows subjects to make the pain their own and in the process the story of pain becomes a story about the subject and not the slave. This ultimately confirms the dehumanization of the slave, as Razack argues, because “the pain can only come into existence at the expense of the slave as a subject” (p377). Meanwhile, only through the appropriation of the pain, can the subject come to know himself as a humanitarian subject demonstrating that humanization is predicated in the dehumanization of others in ways that closely links, as Agamben observes, humanitarian
discourses, that “can only grasp human life in the figure of bare or sacred life, to the most extremes expression of sovereign power” (1998 p133). As Razack continues, the dehumanization of the slave through the humanitarian appropriation of their pain makes both the slave and the abolitionist “kindred spirits” who come into “being through the objectification of the slave” (2007 p378).

The appropriation of the pain of others, argues Razack building on Sara Ahmed (2000) turns the body in pain into a commodity, an object of consumption that confirms the superiority of the consuming subject and his identification as the hero of the story (p279). As Razack observes, the appropriation of the pain of others confirms the location of the body in pain – the figure of bare life – as the object on which the humanity of the subject is predicated. This, as Malkki (1996) adds in her discussion of international humanitarian work with refugees, reflects a common condition of contemporary humanitarian work in which the bodies of refugees are portrayed as speechless human misery. The rendering of refugees speechless dismisses their stories and their knowledge while portraying them as victims in need to assistance (p386). This silencing turns them into “bared, naked, humanity” that can reaffirm the humanitarian subjectivity of those who assign to themselves the role of helpers (p390).

The mutually constitutive relation between the dehumanization of slaves and victims and the humanization of the subjects leads Razack to interrogate the discourses behind humanitarian work in situations such as the Rwandan genocide. Razack specifically undertakes a critique of cultural productions such as the Canadian film “Shake Hands with the Devil” that deals with the trauma experienced by General Roméo Dallaire in his peacekeeping mission during the days leading to the Rwandan genocide. She traces the process that turns the story of the genocide of Rwandan people into a story of Canadian peacekeepers’ trauma who become the heroes of the story (Razack 2004; Razack 2007). The “anonymous corporeality of the Rwandans”, continues Razack
(using Malkki’s expression), constitutes the venue through which “Canadians come to experience ourselves as national, as citizen, and indeed as human” (2007 p381).

Ultimately, the story of trauma is not the story of those on whose bodies terror has been enacted, but those who witness the terror and can speak about it, and those who while physically and temporarily removed from the terror, are reaffirmed as human subjects through viewing trauma and terror on the movie screen. The story is ultimately uplifting and “life-affirming”, continues Razack, because through the story we are virtually able to inhabit the body in pain without becoming the tortured body (p386).

A similar phenomenon is observed by Diana Taylor (1997) in her analysis of Eduardo Pavlovsky’ play “Paso de Dos” about the stories of torture during Argentina’s Dirty War. Taylor interrogates the manner in which this play deals with the history of the Dirty War by reproducing for the audience the sexualized torture a victim suffers at the hands of an obsessed torturer. By asking about the role of sexualized violence in the production of post-authoritarian national identities and the effect of the spectacle of violence on the audience, Taylor uncovers that the perpetuation of violence on gendered and sexualized bodies sustains not only the domination of authoritarian terror, but also the dependence of post-authoritarian power on violated victims to sustain its own domination (1997 p5). Taylor builds on Susanne Kappeler’s (1986) observation that the materialization of victim’s bodies allows the dominant subject to ascertain his domination enhanced by the pornographic5 pleasure obtained through the gazing on the victim. The story is meant to reaffirm national identity not only through the enactment of sexualized torture, but also through the portrayal of the story as a testimony of the war: a story of heroism in which the female victim of terror is not only required to die, but to make her

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5 I use pornography here in the same way that Taylor does “in the most general sense to refer not so much to content (the female exposed body) as to the structural relationship of domination in which (generally) the women-object is nothing but victim to be violently exposed/raped by the aggressive subject for his enjoyment and the pleasure of an paying audience” Taylor, D. (1997). Disappearing Acts: Spectacles of Gender and Nationalism in Argentina’s “Dirty War”, (Durham and London, Duke University Press), p.267, note 2.
death reaffirm our humanity. The play, argues Taylor, makes torture into a pleasurable and titillating story in which the appropriation of the tortured body sustains the self-affirmation of a nation that has come out of the Dirty War. Yet, the pleasure of watching torture and coming through renewed is dependent on the reenactment of the dehumanizing experience of torture. This ultimately puts the post-authoritarian nation in bed with the authoritarian regime. “The play depicts the construction of national identity”, argues Taylor, “as predicated on female destruction, just as the military had done” (1997 p9).

In debates over compensation the bodies of victims emerge in two major and highly embodied ways: as destitute people and as permanently violated victims, both expression of naked humanity. Compensation as justice can only happen if victims are constructed as having experienced damage, understood as economic damage, as a result of the violation of human rights. Victims need to be destitute in order to justify the payment of a pension and to confirm both that national subjects have done something about human rights violations and that a rationality of cost and benefit is the best way to deal with human rights demands. As one MP argues,

none of them are millionaires; they receive the benefits already in place with a rare mixture of anger, shame and dignity because they need them for themselves and for their families; because they need to buy medication, finish paying their homes, repair their dentures or, maybe, buy a plot in the cemetery where their bones can find final rest at the end of the path (Cámara de Diputados 2004 p30).

Speaking of a visit with Chilean exiles in Moscow, another MP observed, “It had been two years since they had last eaten meat. Some of the Parliamentarians had to give them some money” (Cámara de Diputados 1991 p2835). This image of hungry and dispossessed bodies apparently contrasts with the argument that, as another MP observed, “no one can sell his own pain, no one can place monetary value on every second, hour or day in prison; no one can price the magnitude of physical and psychological pain”(p37). Yet, in an economy of pain, bodies are calculated through their
naked dispossesssion as in need of medication, dentures or burial plots in which they become literally just bones. They become as another MP stated, “the families…that were left undefended and dispossessed…due to the events that led to bloodbath, tears and suffering” (Cámara de Diputados 1991 p966). Only through this material dispossesssion can life be measurable in terms of the material resources needed to procure bodily needs. The production of dispossessed bodies authorizes their submission to the neo-liberal morality of the market in which dentures, houses and death have a price. Injustice, in the above quote, is not the practices of torture or the infliction of death, but the monetary dispossesssion that, like torture and death, is lived on the bodies of victims who need to “repair their dentures” or pay for a “plot in the cemetry”. As the quote at the top of this chapter demonstrated, compensation debates materialize “hungry” and “naked” widows and orphans in order for the nation to provide them a “bit of money to eat and dress themselves” (Cámara de Diputados 1991 p967). While the terror is what brings victims into the realm of governmental calculation, terror that cannot be compensated, it is the dispossesssion of victims and their constitution as “hungry mouths” that constitutes the injustice, and the commodity that can be paid for. Dispossesssion ultimately renders the pain of victim intelligible, as they become nothing but “hungry mouths” that the national subject is responsible for feeding. Victims emerge here in their full corporeality as bodies whose biological needs can be given value. At this moment the experiences of terror, of unspeakable violence, become measurable and tradable.

Nevertheless, the story of torture and death cannot be forgotten for it is this experience that causes the monetary dispossesssion that the nation can compensate. It is also the story of trauma and torture that can secure the moral superiority of the neo-liberal subject, his humanism and his prerogative to grant compensation. In the Rettig debates terror shows its bodies in the figure of searching widows and mothers. As an MP observed, “I give my approval to this law thinking of a modest and poor woman,
Doña Olga Reyes,...who after the coup went from detention centre to detention centre looking for Sonia Bustos” (Senado de Chile 1992 p3789). As another added, “This project allows us to honestly acknowledge…the families that have suffered because they cannot find the remains of their loved ones", because they do not know where to "put a bunch of flowers or light a candle for their dead" (Cámara de Diputados 1991 p967). The torture debates, on their part, offer a unique opportunity to observe how the appropriation of histories of torture through narration contradicts the apparent request for secrecy that the state argues, victims have demanded. Here the body materializes, for example, in the figure of “the 15-year-old mother who was raped and as a result had a son" who demands secrecy and that allows political subjects to argue that “we must respect her wishes” (Cámara de Diputados 2004 p45). It is this apparent request for secrecy that forces subjects to cloak their talk about torture in the claim that they resist describing the violence. The description of torture is required if the humanism of the subject is to be achieved through the calculation of the value of life. However, as Razack reminds us, the achievement of humanism and calculation rests on the re-infliction of terror, which obliterates the subjectivity of the victims and precludes them from speaking or refusing to speak of terror. Only through this manoeuvre can subjects sideline the apparent need for secrecy while still appearing to respect it. For example, MPs constantly argued that they would not go into details about the specific experience of torture, yet that sentence was always followed by the act of speaking about the indescribable pain. As an MP sensationally stated,

Atrocious methods of torture were used, which I will not describe because it is inappropriate, but [let me just say] that in this room there is a [female] colleague…whose nipples were cut (Cámara de Diputados 2004 p30).
MPs spoke in great detail, for example, of the sexual torture subjected on women imprisoned in the infamous “Venda Sexy”\(^6\). As this quote demonstrates,

> It is just a matter of reading the testimony that I have in my hands...referring to that infamous place called “Venda Sexy”. I quote, “I was not penetrated by the dog, [but] while I was imprisoned one of our comrades that is now disappeared came back destroyed from the torture because she had been penetrated by the dog. We could only comfort her because we did not want to know details” (Cámara de Diputados 2004 p29)

Bodies emerge here in their most brutal nakedness; at the limits of humanity as bodies forced into bestial brutalities that reduces them to residues of humanity. This dehumanization confirms the humanity of the subject who gazes upon the terror and who through the revisiting of violence on the victims can, as Razack argues, momentarily inhabit the tortured body, imagine the torture imposed on it, without becoming the tortured body. The subject comes out of the experience with the conviction that he has witnessed the human body in its most extreme dispossession, but has not become the body. The experience reminds him of his humanity and confirms his role as a saviour, the hero of the story. For example, an MP stated:

> I have no doubt that those women who conceived children as a result of torture and who were born in prison are now relieved; Those who were forced to abort as a result of the brutality must be crying...With this initiative we are taking an important step in the process to achieve national reconciliation. We can not turn our backs on those who suffered (Cámara de Diputados 2004 p39).

This is, as Razack and Taylor suggest, a titillating and uplifting story in which the subject becomes a “superman” that does not turn his back on suffering victims and who through the saving of victims achieves national reconciliation. The materialization of victims and their saving confirms the national narrative: that through the calculation of life and the detailed description of the body in pain we are called to be part of a larger mission, to become part of the new reconciled nation.

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\(^6\) “La Venda Sexy” (The Sexy Blindfold) was the name given to a house located in the Quilín sector of Santiago. It functioned parallel to Villa Grimaldi as a detention centre from January to July 1975.
The narration of the indescribable allows tortured bodies to momentarily float to the surface of the national discourse in the form of tortured bodies of women on which the most unspeakable, yet spoken about, forms of violence have been inflicted. The move can only be described a voyeuristic in its gendered and sexualized manifestation. The tortured bodies that are allowed to float in order to be subjected to the gaze of the nation are the bodies of women who, in their sexualized violence, the violent conception of children, the induced abortion, and the sexualized electrocution, sustain the desire of the masculine nation to pay through compensation for the privilege to look upon them. This momentary materialization of the dispossessed tortured bodies finally accomplishes the marriage of the neoliberal model of the dictatorship and the human rights regime of the post-authoritarian nation: the submission of bodies to the rational calculability of a market mentality that now infiltrates the realm of human rights. Here we witness what Brown identifies as the infiltration of a market mentality into the domain of human conduct in which human actions becomes calculations of cost and benefit. The production of the individualized tortured and poor body, whose pain can be traded in a market of offers and demands for compensation, allows subjects to measure and bargain over how much life and pain are worth.

Conclusion: the benevolent, generous subject

The truth reports and the debates work together to produce specific subjects and objects of human rights. In the same manner in which the act of speaking about human rights violations allows political actors to own the discourse of human rights, and to distribute it as “truth”, this process constructs specific images of whom the victims were. On the one hand, a specifically classed and gendered victim emerges. The widows, the mothers and the daughters who need to have clothes to wear and bread to put in their
mouths become representatives of those that compensation is meant for. In addition, the tortured body permanently pinned to the moment in which dignity is lost sustains the moral imperative that renders national subjects rationally humanitarian and generous. By the end of the history of human rights debates, the nation has rendered death and torture intelligible, calculable and governable.

Furthermore, the accommodating character of the national historical narrative mediates the collective appropriation of pain. While the moral rehabilitation of the dead occupies an important place in Aylwin and Lagos’ speeches at the release of each report, and in political debates, the “spiral of violence” narrative supported throughout the history of the democratic transition effectively constitutes the military regime as an act of saving the nation that obscures the violation of human rights. While the armed forces initially wholeheartedly supported this thesis, the contention is possible because the reports open the door for that conceptualization. If the dead could potentially be casualties, casualties that created the conflict to begin with, they cannot be easily considered victims. However, in order for the post-authoritarian nation to claim that a collective moral duty has been met, victims need to momentarily be brought to the surface. Such resurfacing is highly regulated; victims can only be observed in the most corporeal expression of their inhumanity. Victims need to remain poor, drowned and tortured. It is this constant tension between a historical narrative of conflict and the moral duty to acknowledge victims that submit the victims and their stories of terror to constant submersion and re-submersion. Every time terror stories emerge they leave their bloody pawprints on the national landscape; and every time the national subject rises to the challenge of erasing those prints.

The construction of victims as destitute and violated bodies supports the constitution of the national subject as privileged and rational. If the victim of human rights abused is female and poor, the subject doing the saving, the reconciled national subject,
is certainly not. The national subject is, first of all, the saviour of mothers, raped women, widows, daughters and orphans, and the allocation of compensation sustains the benevolent identity of the national subject while obscuring the calculation of life. As one MP eloquently states,

During a long time, victims were unprotected, isolated; even ignored by society and the state. Only in our new democracy, and according to our libertarian conceptions, we have been able to procure reparations and moral rehabilitation (Cámara de Diputados 2004 p56).

The achievement of a benevolent national image allows the nation to engage in a process of celebration and for national subjects to self-congratulate for the achievement of truth, justice and reconciliation. Political subjects need to use the space of the parliamentary debates to reinforce and remake themselves as good people. As one MP stated, “we are demonstrating that we are capable of living in freedom” (2004 p63), and as another declared,

the Chilean citizen is now living in freedom and security, without the fears of the past, with happiness and hope because...he is called to participate in the common task of constructing a future for the nation (2004 p52).

Evidently the Chilean subject that is called to construct the nation stands in contrast to the “unprotected” “ignored” and tortured victim. It is the Chilean subject’s libertarian conceptions that procure the reparations and the one that, as a result, lives in freedom and happiness. Additionally, it is the democratic subject, unconnected to the passions of the past that is in charge of national reconstruction. As an MP stated,

this is a task demanded at all times from us, democrats, and very specifically at this time of national reconstruction; to use all our might with generosity and intelligent creativity, in order to reach the maximum level of reconciliation (Senado de Chile 1992 p3789).

The construction of national reconciliation is presented as the obligation of moral subjects who follow the sacrificial “moral and ethical imperative that demands that all [citizens] work together to make sure [situations like this] never repeat themselves”
This is not only a personal imperative; it is as one MP claims, “the patriotic imperative to banish hatred and install mutual respect and understanding” (1992 p3781).

The torture debate finally achieves what the whole history of official human rights debates has been for a long time producing: the confirmation of the neoliberal project through its convergence with the human rights regime that places human life within the realm of the market in which life is assigned value. As I have argued in this thesis, the human rights regime allows for the constitution of terror as something individuals do to other individuals within the context of a liberal notion of the autonomous subject: a subject that as Brown reminds us is constructed along a rationality of self-care and individual independence. When “moral lapses” occur, observes Brown, even in their more organized and systemic expression as state terror, they are rendered, as it became apparent in the HRDT debates, simple and understandable “errors in judgment” (2005 p43). This translates into three main implications: one, human rights violations do not implicate, and effectively exonerate, an authoritarian regime that needed terror to sustain its neoliberal social reordering project. Two, soldiers are individually responsible, but they could also be victims within a national historical narrative in which conflict is caused by those who later become victims of human rights violations. And, three, the post-authoritarian neoliberal nation and its subjects are not implicated in the violence even though out of the goodness of their hearts they take on the moral imperative to do something about human rights violations.

It is argued that in the years since the end of the authoritarian regime the judicial system in Chile and elsewhere has perfected and expanded judicial prosecutions in human rights cases. In this, Chile has become an example for many other countries. Several cases continue being investigated and many others have been tried and sentences have been issued. Chilean has surpassed even Argentina and South Africa in
the extent to which judicial justice has been achieved. The Pinochet case in England continues to be cited in international legal settings as an important accomplishment for international human rights law. In Chile, retired general and head of the infamous DINA, Manuel Contreras, was convicted in 1993 and then again in 2008 and is currently serving two life sentences for the assassination of General Pratt and his wife. A number of other members of the armed forces are also in jail. Prior to his death in 2006, Augusto Pinochet was also charged with a number of crimes including the illegal appropriation and use of public funds. Many argue that his death may have ended the human rights question; the death of the dictator may actually extinguish the issue of responsibility. Additionally, in spite of a number of attempts to end the permanent kidnapping legal argument which would facilitate the declaration of death of the detained disappeared and would submit the crimes to statute of limitation, such an argument continues to exist along with the 1978 amnesty law that would render many of those deaths un-punishable crimes. In spite of all this, it seems obvious that the human rights regime has effectively made the pursuing of judicial justice an individual endeavour. Victims and relatives are the ones who individually push forward case-by-case investigations.

When sentences are obtained, they seem to leave victims, as an activist stated, “with a bitter taste” in their mouths because the economy of punishment to which the courts submit cases “seem unable to account for the immeasurable loss” experienced by victims. In this economy of punishment the incalculability of terror is submitted to its most terrifying counterpart: the terror of calculability. The systemic and organized practice of terror that required the identification and sacrifice of life in order to build a new Chile is submitted to the offense of calculating loss in years in prison for individuals and amounts

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7 General Carlos Pratt was an army officer, a political figure, minister and Vice President of Chile during President Salvador Allende's government, and General Augusto Pinochet's predecessor as Commander-in-chief of the Chilean Army. He and his wife were killed with a car bomb in Buenos Aires, Argentina, in 1974.
of pensions for victims. Even if sentences were extensive and pensions excessively generous, terror in the post-authoritarian nation materializes again in the calculability of loss and becomes terror itself. The calculation of life reveals a more terrible manoeuvre than impunity itself: the calculation of life and death that leaves terror immune while creating the false image of justice.

Yet, of all political actors I interviewed not one questioned the need to measure human loss and account in some way for the violence inflicted on victims. For some, Chile had achieved, as an MP declared, “an incredible and unprecedented amount of truth which constitutes a great measure of justice”. For another: “justice although imperfect has allowed us to come to terms with the past and provide some measure of reparation to victims”. For a member of the Valech Commission, “the procurement of truth about torture has allowed Chile to greatly perfect truth to the extent that now we know who was tortured, how and where”. For another member of the Commission, “the investigations have allowed us to measure the dimensions of torture by weeding out false complaints and by creating a real picture of torture”. For President Aylwin, his human rights program amounted to “prudent measures that gave [the nation] truth while protecting democracy” (2005). The violence involved in measuring terror, weeding out false cases, and turning truth into justice and justice into money was not a concern for these political actors. For a small number, however, the claims for more complete measures of justice left nagging feelings of uneasiness. As Undersecretary of the Interior, Jorge Correa (2004) stated, “I wonder what would happen if we asked victims if they feel that the principles of truth and justice have been met. What would they say?” Yet, the answer to that question seem impossible because the regime relies on the systemic silencing of victims, their eviction from parliamentary debates in which their protests become the ranting of emotional bodies who disrupt, as one MP stated during the secrecy debates, the “rational work of making law” (Cámara de Diputados 2000.
The victims and the relatives speak and publicly denounce the contradictions of human rights discourses, but they speak in a voice and in a language that the nation cannot hear.

When I asked about whether or not other more complete measures of justice were possible, it seemed to me that my social location got in the way of my work as a researcher. The question was often interpreted also as the resented voice of a victim. As an MP stated,

You exiles do not understand because you have not been here and don’t know how important it is for us to protect our precarious democracy. We have done our best and we have succeeded; that must be valued.

And as another stated: “the Chilean process is complex and needs to be evaluated with a complete vision of history…we have done what we can”. “This may seem insufficient from the outside” another added, “but we have achieved a peaceful democratic transition”.

At the time of the Valech Commission, Chile was commemorating 30 years since the military coup. For some, those 30 years had brought Chile to a level of economic and political development that placed the country in a privileged location on the continent. In 2004, Chile sent its first peacekeeping troops to Haiti as part of a mission to “protect human rights and assist in the reinstitution of peace and political order” in that country (Pendola 2005). With this move, Chile joined countries such as Canada in a community of middle-powers that adhered to the idea that through a show of military power, they could teach other nations to become nations with human rights. In 2009, soldiers in that mission shot at a crowd of Haitians approaching a military helicopter that had landed due to a malfunction. The crowd, according to Second Commander of the mission Toro Tassara, had come “closer than necessary” to “beg for food and water” (Terra/BBC Mundo 2009). The story is strikingly familiar for us in Canada; yet it marks a turn for
Chile’s claim of belonging in an international community of nations that can claim human rights and democracy. Chile has apparently entered a family of nations that give themselves the permission to violate the rights of others in order to protect their human rights. Perhaps, Chile can now say that it no longer is a land of dictators. Nevertheless, these 30 years have been for many of those who survived the authoritarian regime a time of new offences, of new reminders of the precarious claim they have to human rights, and a constant reenactment of terror on their bodies permanently relegated to the space of bare life that now sustains the building of a new nation with human rights.
Chapter 8
Conclusion
“Nunca más? The challenge of telling truth with justice

You were merely an eye, yet you too remember that night, don’t you? Later I was told that you’d died, that you had a weak heart and couldn’t survive the “machine”…How can you have died, considering that that night we conquered death? (Timerman 1980 p6)

Primo Levi (1989) begins his famous essay, “The Grey Zone” by asking: “Have we – we who have returned – been able to understand and make others understand our experience?” The question is as critical for those of us who lived through the authoritarian regime in Chile and came out of it, as it was for Levi and his experience of surviving National Socialism. Trying to make sense and render intelligible the multitude of conditions that caused terror in Chile is a necessity if we are to avoid repeating the history of terror that killed and disappeared thousands and left thousands of others forever scarred by our encounter with terror. Yet, as Levi warns us, there is an intrinsic danger associated with the act of understanding: a danger that, as he observes, is caused by a compulsion to reduce and simplify the story of terror in order to render decipherable and comprehensible experiences that otherwise may become unintelligible, chaotic and disorienting (1989 p38). Furthermore, the process of understanding terror is always embedded in the social and political conditions of the moment in which terror is made sense of and, as a result, we always run the risk of obscuring, as Hesse (2004) argues, the ordinariness and continuity of violence, while revealing only those facets of terror that accommodate our desire to make terror something that has nothing to do with who we are as a nation and as a people.

If we apply the question to the Chilean democratic transition we are bound to conclude that in rendering the authoritarian regime intelligible, the Chilean nation has in
many ways committed the offense of simplifying that Levi warns us against. Levinson observes that in spite of the fact that not all Chileans suffered the same experiences during the dictatorship, Chileans as a collective community “share the absence of an appropriate explanation” for their history”: “they share”, he continues, “the unexplainable” (2001 p53). Furthermore, as Richard (1998) argues, in attempting to explain its past from the centralized location of political discourse, Chile has also re-inflicted new forms of terror, new offences, under the guise of making sense of the catastrophe. As I have shown in this study, the post-authoritarian nation has consistently produced historical narratives that accommodate and adjust terror to a governmental rationality that relies on the legitimization of the dictatorship. The negotiations and transactions that legitimize authoritarianism, in turn, secure the hegemony of specific ruling arrangements and the privilege of specific national subjects in the post-authoritarian period. As a result, post-authoritarian Chile not only shares the incapacity to fully explain the traumatic experiences that led to its transformation, but also, in attempting to explain it while leaving the transformation unchallenged, Chile has produced truncated, incomplete and ultimately violent explanations for its past. The human rights regime that since the time of the Enlightenment has produced mutually constitutive concepts of humanity and nation-state has become a primary tool in the process of rendering terror intelligible. The figure of bare life, embodied in victims and survivors who through human rights discourse are materialized as tortured, disposed, mutilated and drowned bodies, has remained caught in the realm of state power in order to secure a national narrative of reconciliation. Victims and survivors remain trapped in the grasp of terror in which they become the terrain for the building of national truth and the production of post-authoritarian discourses of subjectivity.

I have shown that human rights discourses produce a truth about the dictatorship that turns terror into isolated excesses and repression into a legitimate war. In the
process of producing this story, the post-authoritarian nation has become complicit in practices that, to borrow from Levi, rely not on the sanctification of victims of terror, but on their degradation and transformation into a resemblance of terror (1989 p40). The national historical narratives of war turns victims of terror into enemies that are made to embody and resemble, as Casanova argues, totalitarianism in order to justify the enactment on their bodies of totalitarian terror (2001 p156). In post-authoritarian human rights discourses, the bodies that must be eliminated during the authoritarian regime in order to protect the “fundamental values of the nation”, are once again sacrificed through the production of a narrative in which they are both the permanent embodiment of what brought us to the catastrophe in the first place and the vestiges of humanity that now secure post-authoritarian claims to human rights. The social movements of the 1960s that, as Casanova (2001) observes, searched for different ways of thinking and being in Latin America, dared to imagine a different reality, and gave way to complex historical and political developments, become first displaced and replaced with a truncated image on which terror could be enacted, and then reduced to one-dimensional images of disposed and violated bodies. The process of accounting for terror, of understanding terror, has inscribed new terrors through the systemic calculation and regulation of what we know about terror. In other words, the accounting of terror has become the terror of accounting by submitting victims to the sovereign ban now under the banner of human rights.

This has concrete implications for those captured in the ban. National reconciliation is built on the bodies of victims and human rights debates produce a space for the pornographic appropriation of torture stories; stories that are told while saying that they would not be told. The bodies that are forced into submersion by the truth reports are regularly allowed to momentarily and ephemerally float to the surface in a highly disciplined manner through the voyeuristic gaze of the national subject. The
stories of torture are then constituted as examples of experiences of pain that could never be compensated or restituted, but that will only see justice through the calculation of monetary compensation. The impossibility to reconcile the counter-positioning of the irreparability of pain and the need to pay for the pain goes largely unchallenged as the reparation for torture and death is framed within the context of a national reconciliation prerogative that has the nation and not victims as its centre. Compensation, even in its discursive impossibility to compensate, is justifiable only when the nation, and not the victim, is its ultimate beneficiary. In this discursive construction of compensation and irreparability, the stories of victims become the commodity that cannot be paid, but that are at the centre of the transaction that sustains the neo-liberal national reconciliation project.

Has Chile become a more humane society in the process of accounting for its human rights legacies? Have torture and death truly awakened compassion or, as Razack (2007) asks, produced outrage? In the period after the Rettig and Valech Commissions, the media in Chile experienced the emergence of a multitude of images of torture and death that inundated public human rights discourse. Recordings made during the authoritarian regime of concentration camps such as the National Stadium and Dawson Island, kept for years in the archives of national television, made their appearance to massive audiences to improved ratings and products sold. The reenactment of torture and pain for documentaries aimed at telling us the truth of torture and disappearance made Chileans witness violence in its most brutal expression in order to remind us who we were as people and who we were not (For example Aguero 2007). Testimonies of torture were reproduced in newspaper articles that generally began by showing the tortured body in its more embodied expression, as trauma, rape, electrocution and abortion to gradually shift the attention to a vision of the nation as achieving truth and reconciliation (For example El Sur 2004; Paz and Rebolledo 2006).
Victims were generally required to speak the language of reconciliation in these reports; they were made to confirm our condition as a good and reconciled people.

Nevertheless, one example seems to uncover the truth of our compassion more than any other. In 2006 one of Chile’s most important department stores released a catalog advertising a new brand of jeans. In a nation-wide graphic campaign distributed through all major newspapers, this catalogue portrayed blindfolded and chained bodies of jeans-wearing models hanging by their arms and feet, or depicting the infamous *pau de arara*. In a blatant depiction of torture that only made sense after the nation had been exposed to the truth of torture, this campaign used the dehumanizing experience of torture to sell us a product. In a manner that resembled the compensation debates, torture in this ad campaign became commodity, object of consumption and tool in an economy of pain destined to measure, calculate and sell the body. Yet, in spite of the public outrage of survivors and human rights organizations and probably because of it, the campaign became one of the most sought after images, an instant success. Torture became in this occurrence what Razack calls a “simple pleasure” (2007 p386), an artifact of neoliberal governmentality in which terror is traded and calculated in order to render with it the highest amount of benefit. Jeans, or claims to national reconciliation, are the assets that we are willing to buy with torture. In the exchange we become not only good consumers, but also good humanitarians. Yet, in the exchange, we are not required to think about the multiplicity of relations that the jeans-buying and selling subjects of both the trivialization of torture in the ad and the practice of torture that made possible the economic structures that now allow us to buy the product and claim the place of the consumer citizen.

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1 *Pau de arara* or Parrot’s perch is a physical torture technique designed to cause severe joint and muscle pain, as well as headaches, and psychological trauma. The technique consists of a tube, bar, or pole placed over the victim’s biceps and behind the knees while tying both the victim’s ankles and wrists together. The entire assembly is suspended between two metal platforms forming what looks like a parrot’s perch.
If nations are to account more critically for terror, torture and death, we must ask the question of how to effectively tell truth with justice. To explore possible answers to this question we have to start by unraveling its parts. What does it mean to tell truth differently in order to open up possibilities for more just truth processes? What does it mean to achieve more comprehensible measures of justice? And who is the “we” at the centre of both processes? As I have discussed in this thesis, when nations take it upon themselves to construct from above and in a concerted manner a story of their past, and specifically when those processes of truth construction are embedded on negotiated transitions that have left intact the governmental regime of authoritarianism, processes of truth construction are bound to be determined and restricted by the power relations that, to rephrase Foucault, disposes of terror so as to lead to a “suitable end” (2007). In other words, when the nation relies on the construction of truth about terror to tell a story about itself, processes of truth construction run the risk of becoming the expression of exclusionary power that, to borrow from Hansen and Stepputat (2005), constructs national truth by inscribing “sovereign violence” on bodies.

Could truth about terror be constructed outside the sovereign grip of the state? Or, could this sovereign grip produce and capture truth less or at least differently? For example, could Chile have accounted for torture differently? Or could a different truth about torture be told? As Levinson proposes, an authentic transition from authoritarianism requires an incessant, yet not obsessive, engagement with the traumatic experience through the constant articulation of collective answers that recognizes that the traumatic experience never actually disappears. These constant collective engagements can build and open up new ways into the future without ignoring the past (2001 p54). How can we critically build on the past? Villalobos argues that the question of the recording of Chilean history is a question concerning the “hand with
which history is written” suggesting that who tells history and how history is told constitutes a critical issue for more inclusive processes of nation-building (2001 p73).

Perhaps if the state had allowed the survivors and their organizations to organize their own process of truth telling, we would have ended up with a different truth: one possibly not as dominated by statistical and forensic language. This could have allowed victims to be more actively engaged in what Harriet Jacobs identifies as “a process of exchange between the non-sufferer and the sufferer” that allows survivors to add their voice to the story, benefit from national compassion and in fact shift the hand that writes history (Cited in Razack 2007 p390). If survivors of torture had been given the power to control their own truth telling, instead of a 700-page report, perhaps we would have ended up with 7,000 or 70,000 pages of testimonies. It would have certainly been a sight to behold and a challenge for any researcher. Perhaps we would have found on those pages not only the countless moments of terror in which victims became voiceless bodies, but also the minute moments and the at times, by comparison, minor instances in which solidarity, mutual comforting, embracing and beholding gave survivors the strength to resist one more day. Perhaps we would have found on those pages the vestiges of dreams, memories, or of the friendly eye that Timmerman (1980) affectionately remembers looking at him through the open peephole of the cell across the hall. Perhaps we would have been able to read in those pages about more than terror; maybe in those pages we would have found a different expression of human life captured in the power of discourse. Or, as Avelar suggests, a truth-telling process controlled by survivors could have resulted in “more pluralistic processes of subject formation” in which the “voice of the tortured subjects” can exist, coexist and resist in spite and beyond the practice of torture (2001 p183).

Furthermore, if we had allowed victims to organize truth telling, the power of showing and seeing terror would have been disrupted and possibly inverted. The victims
that the truth reports allow us to see in the whole extent of their inhumanity could possibly be allowed to look back at us from their own truth narrative and tell us something more about ourselves. Taylor (1997) argues, discussing the politics of witnessing, that a reciprocal and political practice of gazing and, I argue, truth telling can catch the spectator, those for whom the story is told, “off balance in the spectorial gaze, suddenly aware that the object of the gaze is also the subject who looks back, who challenges and objectifies us”. She continues,

Instead of the power and authority of the unseen seer looking down from some higher place, reciprocity upsets and destabilizes the authoritarian vantage point. What becomes immediately visible are the specificities of our position, and the ensuing limits to our perspective (p261).

Such truth telling may force us to locate ourselves politically, economically and historically in the story of terror forcing us to accept more fully the “heavy weight of sorrow” that goes with the political act of witnessing (1997 p265). This reciprocal relationship may push us to critically and politically think about terror and our complicity in it, avoiding what Razack argues building on Hartman (1997) and Sontag (2003) is the unproblematic humanitarian contemplation of terror that allows us to consume terror stories without having to think about our role in it (Razack 2007 p387).

At the same time, perhaps from the centralized position of the state a different truth could be told. In the same scientific and investigative fashion in which the state organizes terror stories, the state could tell a story about itself, its organizations and institutions of terror, its lines of command, its record keeping process, its bureaucracy of terror, and its workers of terror. The state could tell a story of the systemic process through which it organized a machinery of terror and in that way reveal an obscured part of itself and its workings. Furthermore, in a similar fashion that Grandin (2000) observes in the Guatemalan truth commission, Chile could tell a different truth about its history, accounting more fully and less apologetically for the complicities and implications of
social institutions, the oligarchy, and the international community in the conditions that led to terror. In other words, a centralized story of terror could be less about managing terror stories and more about the kind of nation that terror produced.

Different process of truth telling can lead to more critical ideas of justice. More critical truth telling processes require a critical analysis of the conditions under which it becomes possible for people to enact terror on others and come to know themselves as specific subjects with specific missions through terror. The official explanation that human rights violations are always the responsibility of individuals is both an insufficient and an incomplete explanation and as a result it produces limited justice. Agents of the regime were both targets and instruments of the discourses that supported terror practices and, in that way, they came to know themselves as subjects through what Razack (2004) calls the moral universe provided by totalitarianism and through the enactment of that morality on the bodies of others. Through terror, agents of the regime came to experience pride and belonging in the new nation constructed on death, torture and disappearance. Through terror, those who were not the front-line workers of terror but who profited from the authoritarian national reorganization project also sustained their claims of subjectivity on terror. However, as I discussed in chapter 4, explanations of terror that limit our view solely to the actions of individuals do not only constrain our understanding of the complexity of repressive practices of the regime, but deceive us into believing that if we did not see it, experience it or act on it, terror had nothing to do with us: nothing to do with who we are and where we belong in the nation. Without a more complex understanding of justice, demands for judicial justice even when rendering some victories, continue to leave us with the bitter taste that some fundamental injustice has remained in spite of judgments and sentences.

Nevertheless, it is unclear if a more widespread identification of perpetrators is the only solution. Knowing who did what to whom and when can be important, and
survivors may find consolation in detailed expressions of truth and in the judgment of those who otherwise would remain immune. However, when justice discourses rely solely on individualized notions of justice, we create more complex systems of evasion in which justice is perceived to be achieved when one soldier is sentenced for what he did while following orders and the rest of us can go about our business unaffected and unburdened. Terror relied on a multiplicity of complicities and on a system of command and bureaucratic arrangements that effectively distributed responsibility throughout the social body. It also recruited us into a nation-building project in which we were invited to feel pride for the achievements that were possible through terror. These conditions require that we examine notions of responsibility more critically in order to unravel the interlocking social relations that made us also part of what the soldiers did. I return for a moment to my discussion of Abdel-Nour (2003) in chapter 4 and propose that a critical approach to justice requires that we adopt a framework of “individual national responsibility” to conceptualize the role of individual actions and complicities in the acts of the state. “Individual national responsibility” requires us to link acts of violence to feelings of national pride that are accomplished through violent means (Abdel-Nour 2003 p695). Abdel-Nour argues that, “national responsibility is actively incurred by individuals with every proud thought they have and every proud statement they make about the achievements of their nation” (Abdel-Nour 2003 p703).

This notion of individual national responsibility can help us re-conceptualize ideas of justice without disrupting the principle that individuals should also be held accountable for their individual role in the most capillary enactments of terror on bodies. Individual national responsibility can allow us to render traceable the relations of complicity that link all of us to some extent to the violence of the Chilean authoritarian regime. In fact, we can trace those relations of complicity all the way to post-authoritarian conditions in which national subjects congratulate themselves, and come to know themselves as
proud members of a nation that engages in an orderly transit towards democracy without disrupting or disputing, as Stern observes, “the market driven private property, and openness-to-the-world principles that now drive the Chilean economy” (2006 p368). We can begin to question, as Abdel-Nour proposes, our own pride and, by extension, our own complicity and responsibility in the local practices of terror and their connections — through neoliberal transnational practices that required and continue to require terror in order to create a world order — to the multiplicity of sites from which we see and know ourselves through gazing upon terror. Individual national and transnational responsibility does not preclude the pursuit of individual legal and criminal accountability but it does open possibilities for a more complete version of truth and justice even if it proves to be a more uncomfortable process. Individual national and transnational responsibility may force us to look at ourselves in a different light while submitting our actions to the scrutiny of history.

Finally, if we are to account more completely for the past and trace our complicities, we must ask who are the “‘we’ who came back” in Levi’s question. The history of how Chile has made sense of its past demonstrated that the “us” that makes sense is not always the victims of terror who are forced to relive terror so the rest of “us” can come to know ourselves as good people through national truth-telling. Many of those who went in, who were caught in the grip of terror, never came back and many have not yet been allowed to return. As Razack argues in her discussion of the politics of empathy, when a national history of innocence is at the centre of collectivist accounts of violence and genocide, we are at risk of purposely avoiding seeing the power relations and the histories of domination that continue to rely on terror and in which we are embedded. We cannot know or see, continues Razack, our implication, our individual national responsibility, if we continue to invest in the production of a national story in which we are the hero and the innocent saviour (2007 p390-391). We cannot render
terror critically and politically intelligible if such intelligibility requires that we grant victims the “status of subjects” that look back at us, “rather than objects who are simply the conduit to our own sense of self as compassionate” (p391). If we are to be more fully accountable for the past we necessarily need to ask ourselves, as Razack (2004; 2007) and Taylor (1997) suggest, what we gain from processes of truth-telling and what are the implications of granting survivors the power to gaze back at us through their own truth-telling process. Taylor argues that a critical approach to witnessing terror requires that we disrupt the systems of domination that sustained violence to begin with and their continuation in contemporary and “daunting politics” of witnessing. She argues that “the issue is not if but how” to look (p259). Razack suggests that a critical understanding of the past requires that we take into account the “material base” that sustains terror. In the context of histories of genocide in the Third World, Razack suggests that we recognize not only our consumption of “the slave’s pain, and the pain of Rwandans”, but also the material relations that allow us to continue benefiting, to in fact continue stealing, their resources. We require collective and political processes of revealing those other forms of violence that while not centrally staged in national truth processes, continue in spite of collective claims that authoritarianism has given way to democracy.

The authoritarian regime in Chile used terror as an integral part of a system of repression that imposed neoliberalism: an order that eventually cascaded to each and every one of us who lived through the dictatorship. This system taught us who we were and where we belonged and, in the process, we became the target and instrument of the regime. Concurrently, the authoritarian regime integrated Chile into a transnational neoliberal order through the politics of the International Monetary Fund and the World Bank and their structural adjustments. The order linked terror, as well as the continuous poverty and marginalization of local Chilean populations suffering from the “shock therapy” of the regime, to a complexity of transnational relations and to each and every
one of us: to me now writing in the North about Chile and to you who now read these words. As a result, individual national and transnational responsibility requires that, as Razack (2004) argues, we look critically at who we are in order to trace how our claims to be part of those “who came back” is predicated on the continuous violence against those who remain trapped in the grip of terror. In the case of Chile, any critical analysis of the post-authoritarian nation must keep in mind that the authoritarian regime cannot be easily separated from its neoliberal project and that any attempt to disentangle one from the other leaves us with half-truths. Such understanding can open up possibilities for different ways of thinking about the past and about our present conditions. As Levinson (2001) observes, recognizing how the authoritarian state and the neoliberal market are mutually related can allow us to see how none of them on their own is absolute, and neither is their combination absolute: neoliberalism is not a totality, continues Levinson, “something else is possible” (p54).

However, attempts to look at who we are and how we understand ourselves on the terrain of terror stories rarely envision more transformative political projects that can disrupt the “material base” that both sustains terror and the process of accounting for it. Can we really do human rights work within a world order that continues to rely on violence? Can we truly disrupt the biopolitical effects of the human rights regime and its reliance on the capture of life without dismantling the systems of global and local political and economic domination that consistently depend on the sacrifice of bare life? Can we do critical human rights work within neoliberalism and its exclusionary nation-building processes? Arendt argues that the most fundamental right is the right to belong: to belong in a political community in which subjects can speak meaningfully and negotiate a place in the world (1976 p293). This is usually associated with the capacity of human beings to claim belonging in a nation in which rights can be claimed, protection can be
demanded and subjectivity can be asserted through meaningful speech (Parekh 2008 p29). As Parekh argues,

Being fundamentally rightless means that we cannot add anything to the common world and that everything we do will lack significance because it will have no expression in the common world (2008 p33).

As a result, according to these authors, the solution to rightlessness is the construction of political collectivities that can give meaning to our human actions. Nevertheless, if we are to construct inclusive political communities we need to challenge historical processes of nation building that are based on violent and ritualistic exclusion as well as traditional conceptions of human rights that rely on the classification of human life into citizens and homo sacer or bare life. This necessarily requires that we think of other ways to understand human rights, nation and ultimately belonging and political action. Critically understanding who we are requires more than a reflection of how we require the dehumanization of others in order to understand ourselves as human with human rights. We have to begin to think of possible alternatives; we must attempt to think outside the neoliberal box and try to imagine, as Foucault (2007) proposes, ways of being governed less, or at least of being governed differently by the human rights regime.

On a personal note, I feel great ambivalence about my project, for in answering Levi’s question I am required to acknowledge that, as one of those Chileans who came back, or more precisely came out of the authoritarian regime, I am not sure I have been able to understand or make others understand our experience. Neither am I certain that this project has contributed to a different process of truth construction: one where my personal story of my encounter with terror or the account of other survivors could be more centralized. One question guided this study: how has the nation accounted for its legacies of terror? And, in tracing the multiple moments in which the nation has captured in its grip those bodies who float up to its surface in order to re-submerge them, I have
traced the story of new terrors, new offences and new calculations. In bearing witness to these obscenities I have reproduced them in this study. I have reenacted the offences and subjected myself, and possibly others to the drowning. At times, most specifically in the case of torture in which I am most closely touched, I have felt the waters of the nation cover me and close above my head. Yet, my goal was always to trace in the specific site of political discourse how the nation builds itself on stories of terror. I have tried to remain true to that project without precluding the possibility that other truths can be told from the other side of state power. President Allende said in his last speech before he died during the bombing of the presidential palace,

I have faith...[that] others will overcome this dark and bitter moment when treason seeks to prevail...sooner rather than later, the great avenues will open again and free [people] will walk through them to construct a better society.

My parents’ generation of poor working class and marginalized people who grew up in the tumultuous but exiting years prior to the authoritarian regime believed that a different world was possible and that they could build an inclusive nation through democracy. I grew up with the vestiges of those dreams spoken in whispers through my childhood and young adulthood and, while for many now those dreams were naïve, I do not lose hope that, in fact, one day a story from the other side will be told and that that day we will take to the streets and build anew.

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