

# Exploración/Exploration

## The Peace Commission: A Consensus on the Recent Past in Uruguay?

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On 1 March 1985, Julio María Sanguinetti<sup>2</sup> took office as president of Uruguay, thereby putting an end to the military dictatorship that had ruled the country since the takeover in 1973. The balance of human rights violations under the military regime was considerable: thousands of people had been thrown out of work for political motives in both public and private productive sectors; three to four thousand citizens had been imprisoned; there were more than thirty cases of disappearances of left-wing militants in Uruguay and 130 Uruguayans in Argentina, Chile and Paraguay; there were the unexplained deaths of some 150 left-wing political activists; the disappearance of at least ten minors, and the forced political exile of 28,000 to 68,000 people.

The debate that has dominated the Uruguayan public space in recent decades is the one concerning the recent past. Since 1985, the public space has been affected not only by battles over the political usage of the past, but also by the search for negotiated solutions that strive to deal with a past that still hangs heavy on the present. This article offers an analysis of the role played by the Peace Commission (2000-2003) in the struggle to appropriate the memory of the recent past in Uruguay.

### The struggle for the memory of the recent past (1985-2004)

The years between 1985 and 2004 can be broken down into three distinct periods representing separate phases in the history of the struggles to remember or forget the Uruguayan military dictatorship (Allier Montaño 2004, 2003). The first period, which I shall call *The Battle of Memory and Oblivion* (1985-1989), was characterized by two contrary demands. On the one hand, various human rights organizations, relatives of 'first-hand victims' (especially the *Madres y familiares de Uruguayos detenidos-desaparecidos*, hereafter referred to as the *Familiares*), and the 'Broad Front' (*Frente Amplio – FA*) demanded 'truth and justice' in remembrance of the recent past; while on the other, the government, the *Partido Colorado* (Colorado Party – PC), some sectors of the *Partido Nacional* (National Party – PN) and the military pressed for the imposition of a *punto final*, or statute of limitations setting a 'cut-off point' for legal action in order to forget the events of the recent past.

Through the approval of a series of laws, the most important being the Law of Expiry of the Punitive Powers of the State (henceforth the 'Expiry Law'), the state waived its right to judge military or police officers involved in violations of human rights (*Ley de Caducidad de la Pretensión Punitiva del Estado*, No. 15848, 22 De-

ember 1986). In the referendum held 16 April 1989 on the Expiry Law, the voters validated the government's decision not to judge the military with 56.12 per cent in favour of the law, and 43.9 per cent opposing.

The referendum marked the beginning of a second phase in this history: *The Repression of the Past: Forgetting Human Rights Violations* (1990-1994), which meant the discontinuance of debate from the public space over the military dictatorship during the government of Luis Alberto Lacalle (PN).

Declarations made by army officers Francisco Scilingo and Martín Balza in Argentina, who acknowledged the 'death flights' (*vuelos de la muerte*, see Verbitsky 1995) and the disappearance of political opponents, sparked off a re-emergence of the past into the public consciousness. Foremost among various internal factors instrumental in generating this renewal of the past was the constant activism of *Familiares*; other important factors were the awareness of new generations, the increasing strength of social movements, and the appearance of new groups such as *Hijos* and *Familiares de asesinados por razones políticas* and other groups of former political prisoners demanding the truth. This phase, which I shall call *The Re-emergence of the Past* (1996-2004), was characterized by a demand for 'the truth'. A variety of groups were continually calling for the explanation and remembrance of the recent past. Nevertheless, Julio María Sanguinetti's second government (1995-2000) maintained the same attitude as his first: denial of the human-rights violations and a refusal to judge the military.

The presidential elections of 1999 brought Jorge Batlle of the PC to power. He promptly departed from the position of previous governments regarding the recent past to become involved in resolving the problem of missing persons (an issue that has remained the central topic for debate on the recent past). He held a meeting on 13 April 2000 with the *Familiares*; this was important because it was the first time since the return of democracy in 1985 that a president of the republic had received this organization.

### **The Peace Commission**

During the 1980s and '90s, at the end of armed conflicts in various countries around the world and with the commencement of democratic processes, some 20 different commissions of investigation into the recent past were established (see Cassell 1993, Hayner 1994). The first was organized in Argentina (1983-1984), followed closely by those in Chile (1990) and El Salvador (1992).<sup>3</sup> Many of these have been non-jurisdictional public bodies whose function is to explore a period in history tainted by serious human rights violations or even crimes of *lèse humanité*. It is not possible here to fully describe the way other commissions have worked in comparison with the Uruguay case, but it is worth pointing out that even if the profiles and objectives differ, all have certain specific characteristics in common: the aspiration to open up the past to investigation and examination, the construction of a *historical truth* with a view to enabling present reconciliation, and the aim of ensuring that events such as those of the recent past never occur again.

In Uruguay, the demand to clear up the fate of the missing seemed to attain the highest level of legitimacy among the population following the return of democracy in 1985. At least five different proposals for the creation of a 'truth' or 'reconciliation commission' were put forward between 1997 and 1998. Three polls on society's position regarding the disappeared were published in 1997 and the result

showed that between 54 and 63 per cent of those interviewed wanted an investigation to find the whereabouts of the disappeared. Thus, society as a whole, as well as various human rights organizations and many prominent cultural, political, social and religious personalities demanded that the government take up the subject of missing persons. Unfortunately not much has remained of the proposals made in 1997 and 1998 due to the lack of support from the government. However, they were useful for bringing into the open a matter that was dramatically affecting public opinion.

Against this historical background, Jorge Batlle decreed the establishment of a peace commission (*Comisión para la paz*) on 9 August 2000. The mission given to this body was '[...] to investigate as closely as possible the situation of the detainees/missing during the *de facto* regime, and also to attend to the issue of minors who disappeared under those circumstances' ('Resolución de la Presidencia', 9 August 2000).

The Uruguayan commission did not intend to prepare an amnesty law (as was the case in South Africa, for example), because such an amnesty law had already been passed in 1986 and had subsequently received public approval in the 1989 referendum. Nor did it aim to denounce those individuals responsible for the violations (as did corresponding commissions in Argentina and El Salvador). Thus, there were no judicial consequences, such as the arraignment of military officers involved in acts of repression. Nevertheless, like the South African and Argentinian commissions, the Uruguayan commission sought to promote a policy of economic and legal reparations. It is therefore crucial to stress the narrowness of this commission's mandate: it was only to discover the truth regarding the fate of the disappeared, leaving aside the other issues mentioned above. Finally, it is important to emphasize the lateness of its creation compared to other commissions around the world. They were created immediately following the end of those conflicts as opposed to fifteen years later in the case of Uruguay.

The names given to the various commissions express their scope and intentions. Many of those set up in past decades include the words *truth* or *reconciliation*.<sup>4</sup> Others make specific reference to the situation under investigation.<sup>5</sup> Finally, there are those that set out to *re-write the history* of the past.<sup>6</sup> The Uruguayan commission was not considered as being a *truth* commission. The word *truth* was not even mentioned among its functions or objectives. The inclusion of the concept of *peace*, not so distant from *reconciliation*, is not accidental in this context, because subsequent civilian governments were in agreement in regarding the recent past as a *war* between antagonistic sides.<sup>7</sup> Thus, Batlle's initiative followed the same line of thought: a peace commission could only exist where there had previously been a war.

It is also worth mentioning that the majority of groups concerned with the commission agreed in general with the intentions of the commission. Their members were representative of the different sections of society with an interest in the recent past (the FA-EP, the PN, the trade union movement, the Peace and Justice Service, and the *Familiares*). Although officially the people present on 9 August 2000 were there as individuals, on a more-or-less symbolic level the different groups felt represented by them. In effect, a plural and representative commission was shaped from different sections of society.

## The final report of the Peace Commission

The initial 120-day term for the report was extended repeatedly. For 31 months until 30 August 2002, the commission continued its investigation into the fate of the missing, and delivered its final report to President Batlle on 10 April 2003. As in the cases of Argentina and Chile, the Uruguayan report was signed unanimously by all members of the commission, despite the political differences that divided them.

The 85-page report consisted of five sections, which included background information, methodology, main conclusions, final suggestions, credits and 14 appendices. The commission claimed to have obtained their data through several different channels, using information from various different human rights organizations and previous investigative commissions in Uruguay and Argentina, as well as from interviews with witnesses, and military and police personnel.

The challenges the commission had to deal with were various. First, the thirty or more years which had elapsed since the events had taken place made the reconstruction of what had happened all the more difficult. Second, in view of the public and official character of the commission, those who were interviewed were reserved in giving information. Third, the fragmented and dispersed nature of information transformed the investigation into a puzzle of enormous complexity. Finally, the military and the police regarded much of the information as within their jurisdiction, and were not especially eager to share it.

Unlike other investigative commissions where the number of reports of disappearance or other abuses reached into the thousands,<sup>8</sup> only 222 reports connected to cases of missing persons were filed with the Uruguayan commission. Since it was not an institution with a judicial mandate, its members decided to confirm a person as disappeared only when ‘everyone is sanely and honestly convinced of having arrived at the truth’. Members of the commission assured that the intention had been ‘[...] not to achieve “the [absolute] truth” or the “most convenient truth”, but only the “possible truth”’ (*Informe final...* 2003, 15).

Thus, out of 38 cases of disappearance in Uruguay (32 Uruguayans and 6 Argentineans), the report formally acknowledged the deaths of only 26 Uruguayans, of whom 23 had died under torture, while only three cases were related to ‘direct actions intended to kill the persons involved’. In fact, the final fate of only one of the persons missing in Uruguay was ascertained completely. Regarding the Argentinean cases, the commission confirmed four of them, and only ‘partially’ confirmed the disappearance of one. Regarding the final fate of the disappeared, the report accepted the truth of the *Operativo Zanahoria* (‘Operation Carrot’),<sup>9</sup> which made it impossible to locate and hand over the bodies of the missing persons to their families in Uruguay because towards the end of the dictatorship the corpses had been removed and cremated, and their ashes had been thrown into the ocean.

Contrary to the idea that they were victims of a ‘war’, the report established that those missing in Uruguay had not been part of any ‘subversive organization’, and that their deaths had occurred after the defeat of the Tupamaro guerrilla forces in 1972.<sup>10</sup>

With regard to the Uruguayans gone missing in Argentina, the commission raised the number to 182 denouncements: thirteen victims were located (thanks to the collaboration of the Argentinean Team on Forensic Anthropology), a further 42 cases were confirmed (although without the objective and formal support enjoyed

by the previous cases), 73 were partially confirmed, and more than 50 were dismissed on account of insufficient data.<sup>11</sup> In the case of Uruguayans gone missing in Chile, the commission received eight reports, seven of which were confirmed, and only one dismissed. In Paraguay two denouncements were confirmed, in Bolivia only one, and there were none for Brazil or Colombia.

The commission received 40 denouncements involving minors: 32 were made by third parties and eight by young people who claimed to have doubts about their 'biological identity'. Thirty-three cases were dismissed, one was confirmed and six filed by the young persons themselves were considered to be still under investigation.

Despite the fact that its mission was limited to the goal of finding out the fate of the disappeared, the commission's report also included the recognition of 'serious human rights violations during the *de facto* regime' (forced disappearances, as well as torture and illegal detentions in clandestine centres). It was also officially recognized that 'crimes of state' had been committed, and that these were carried out by state agents. The Uruguayan commission did not mention the names of those agents, claiming that it was not empowered to determine the responsibilities of individuals or institutions. But the commission recalled that it was the state's duty to defend the law, and at the same time asked for a condemnation of all the *political violence* of the past.

As other commissions had done, the Uruguayan commission made several proposals to update the legal situation of missing persons. The commission suggested the term 'absence due to forced disappearance', which could be declared by accepting the conclusions of the commission as sufficient proof. The commission also proposed paying a financial indemnification for damages suffered as a result of the illegal acts of government agents that would go to families of persons killed who had not as yet received any sort of compensation. To date, none of these proposals have become law.

On 10 April 2003, the very day he received the report, President Batlle claimed: 'During the past 40 years Uruguay has lived through very difficult and very painful circumstances'. And he continued:

We have been engaged – step by step and sure of our procedures – in resolving our differences, healing our wounds, learning to live with each other [...] and also learning that the moral effort Uruguay has performed throughout this whole process is the basis that will allow us to *regard the future with tranquility*, with hope and with the certainty that such things [...] will *never happen again* ('Mensaje del Presidente Batlle...' 10 April 2003) [my italics].

Batlle's words confirmed the existence of an ideological confrontation between at least two segments of the population in Uruguay. The past had not been left behind, it is still being experienced in the present, and the ideological confrontation still continues. Both with the first civilian government, and the then current civilian government, the past was to be seen through the eyes of the future in order to look at it 'with tranquillity', as well as through the eyes of the present as the time for healing wounds and 'learning to live with each other'. Batlle immediately decreed the acceptance of the information contained in the report, 'assuming that these conclusions constituted the *official version* on the situation of the disappeared' ('Resolución de la Presidencia...' 10 April 2003) [my italics].

On 16 April 2003, the president signed a statute of limitations regarding the violence of the recent past, which would take effect when the conclusions from the

commission had been ratified, and in consideration that these would put an end to arguments over the terms of the fourth article of the Expiry Law.<sup>12</sup> Initially the commission's final report was well received by most groups involved in the matter; however, less positive reactions towards Batlle's decrees emerged later. There were three points that aroused particular debate in the public space: 1) the government's assertion that the Peace Commission had effectively discharged its obligations under the Expiry Law;<sup>13</sup> 2) the version regarding the fate of missing persons in Uruguay;<sup>14</sup> and 3) the insistence that the report represented a 'cut-off point' (*punto final*) on the issue of the disappeared.<sup>15</sup>

Regarding public opinion on the commission, it can be suggested that it was not representative of the whole of Uruguayan society. According to a poll in April 2003, one sector of opinion for which the process initiated by Batlle's government was favourable. A wider sector considered the issue of the disappeared as still not settled. And around thirty per cent of the population was not even aware that the report from the commission had already been prepared and delivered (Canzani, Zuasnabar, Vincent 2003).

### **The Peace Commission: a new version on the recent past?**

A 'cut-off point' on memory cannot be imposed when violent and traumatic events are unresolved, or when those events have not been acknowledged by all sectors of society, or when the complete truth is as yet unknown. Even though some authors warn against the *abuse of memory* (Todorov 1998, Augé 1998), there are many others who believe that memory should not be repressed or blocked out (Ricoeur 2000, Jelin 2002). In my opinion, the Latin American countries have not yet reached the point where they can speak of an 'abuse of memory'. It is still highly necessary to continue delving into the past within the arena of public debate.

Maren and Marcelo Viñar (1993) argue that in the public space there should be 'a multiplicity of memories and forgettings' in opposition to the version inherited by the dictatorship. Some Uruguayan historians believe that only by discussing the recent past in the public space can democracy develop widely (Caetano 2002). Others maintain that while memory is indeed selective, it should also be free, plural and debatable if a democracy is fully to develop (Rabotnikof 1996).

It is important to mention that even though the commission's report did not amount to a historical narrative and did not delve into the causes and consequences of the period in question, it became the *official history* of the missing persons in Uruguay, as did the corresponding reports in Chile and Argentina:

The contribution of the commission is limited to verifying the accuracy of facts that, although denied many times, must now be considered as part of *official history*. From now on [...] it is everyone's responsibility to process and overcome, in all its dimensions, a sad and dark period of our recent history, with the intention of laying the foundations for a final and definitive peace (*Informe final... 2003, 16*) [my italics].

In my opinion, the commission's report aided in the 'social construction' of a 'historical truth', which is not necessarily a 'scientifically validated historical truth'. It is not an 'official history' in the sense of a coherent narrative on the recent past; it is the official recognition that from now on the disappearance of many people will not be denied, nor will it be denied that the armed forces from different countries

of South America collaborated together, that there were 'actions tending to cause death' to individuals during the dictatorship, that human rights were violated, or that those missing in Uruguay were not the result of the armed conflict because their deaths had occurred *after* the period of violent confrontation with the Tupamaros urban guerrilla movement had ended in 1973.

Nevertheless, for the military forces that had been involved in the recent past, this history was not *the truth*. Some declarations by prominent military officers argued that the report included 'half-truths', that it strived for a 'revisionism that would pulverize the army', and that it projected a 'distorted image of the historical truth that our country lived through' (*La República* 10 May 2003).

The confrontations of the 1960s and '70s seem to be alive even today in the differing versions of the memory of that past. For the military, that period is remembered as a threat to democracy caused by the Tupamaros, against whom the political authorities had requested military intervention, and therefore, the transgressors were not the military, but those forces that had opposed the government. For the Tupamaros and their memory, they had done nothing more than rebel against an untenable economic and political situation; this is a position they have continued to hold. For the memory of the human rights organizations, those who had suffered human rights violations had been the victims of the military.

In my opinion, the commission's report has enabled an alternative memory of the recent past to enter the public space. The confrontation between the military and the urban guerrillas had led to the establishment of a military dictatorship in 1972. Unnecessary violations of human rights continued to take place, even though the 'war' had already been concluded. In this vision, both the armed forces and the Tupamaro guerrilla fighters were guilty: it was a continuation of the 'two demon' theory, although with the express condemnation of human rights violations.

After an eighteen-year battle between memory and oblivion, a 'shared history' was accepted among almost all the factions involved. The battles over different political uses of the past gave way, for the first time, to the acceptance by the government of the existence of human rights violations during the dictatorship. The commission's final report was thus transformed into a first consensual attempt to reconcile the recent past in Uruguay. The debate regarding the dictatorship in the public space (which has certainly not been concluded with the commission's report<sup>16</sup>) demonstrates that it is through the public space that social agreements on political debates concerning a society are to be reached.

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la historia del tiempo presente', *Cuicuilco Revista de la Escuela Nacional de Antropología e Historia*, Vol. 11, No. 30, enero-abril de 2004, pp. 9-45, CONACULTA-INAH, México. <eallier@gmail.com>

## Notes

1. This paper was presented in the conference 'Remembering and Forgetting the Period of the Military in Latin America', organized by Dr Mario I. Aguilar, SLAS, April 2004. It forms part of a Ph.D. dissertation that the author defended at the École des Hautes Études en Sciences Sociales, Paris. This dissertation was made possible by the financial help of CONACYT (Mexico). Special thanks are due to Alejandro Allier, Christopher Follett, Kathleen Willingham and Michiel Baud for their collaboration on the English version of this paper. I also wish to thank Dr Nora Rabotnikof, Emilio Allier and the referees of the *European Review of Latin American and Caribbean Studies* for their helpful comments and suggestions in relation with this work.
2. Sanguinetti is a member of the Colorado Party. The Colorado and National Parties had their origins at the end of the nineteenth century and are the 'traditional parties' of Uruguay, combining sectors from the left and right. The Broad Front (*Frente Amplio*, FA) was formed in 1971 and includes several left-wing parties and social organizations; in 1994 it changed its name to Broad Front-Progressive Encounter (*Frente Amplio-Encuentro Progresista*, FA-EP). In 1989, due to differences regarding the candidates that were to take part in the presidential elections, the Broad Front split up. Those who left the FA went on to form the New Space (*Nuevo Espacio*) political movement.
3. For a comparison of the purposes, performances and reports of the various Truth Commissions in Latin America, see Funes (2001), Cuya (1996), and Barahona de Brito (2002).
4. The commissions in Chile, El Salvador, Germany, South Africa, Haiti, Panama and Peru, just to cite a few examples.
5. This is the case of the *Comisión Nacional sobre la Desaparición de Personas* in Argentina, the Commission of Investigation on Human Rights Violations in Uganda, and the *Fiscalía Especial para Movimientos Políticos y Sociales del Pasado* in Mexico.
6. See the *Comisión de Establecimiento Histórico* in Guatemala.
7. This is the theory of the 'two demons'. By it, the coup d'état is explained as the justification of the fight between two antagonistic forces, here the urban guerrilla movement of the Tupamaros and the military; see Demasi 2003.
8. For instance, in Argentina the order of magnitude was around nine thousand, in Chile 2,095 victims were registered, in El Salvador approximately 65,000, and Guatemala registered a total of 42,275 victims.
9. This had been reported by Senator Rafael Michelini a few years before; the operation involved the removal of bodies of missing persons from military facilities.
10. At the beginning of the *Movimiento de Liberación Nacional*-Tupamaros, there were militants from a number of leftist groups who used the method of urban guerrillas, introducing an element of rupture with the traditions of political struggle that had existed in Uruguay since the early twentieth century. Beginning in 1963, they started stealing from banks and distributing the money among the poorest in society: this was a way of recreating the myth of Robin Hood. During these years they enjoyed a great popularity. After December 1966, people began using the expression 'revolutionary clandestine violence', for there were several armed clashes between the police and the Tupamaros. In 1968, the Tupamaros began to kidnap important and influential politicians, members of the police forces, as well as ambassadors and foreign military advisors. The Tupamaros never managed to develop a substantial military apparatus. In 1972, they were defeated by the military forces.
11. A total of 28 were ruled out since they did not enter the framework of events studied by the commission; 20 figured in old lists drawn up in Argentina that had not been brought up to date; three persons were still alive and had had nothing to do with the events that took place in the 1970s; one case was eliminated because the person involved was still alive; two cases could not be resolved since the identity of the persons in question could not be determined; another two cases were rejected because the persons involved were not Uruguayans.
12. This article establishes that when a judge receives a denouncement related to one or more missing persons, the case must be sent to the executive branch of the government so that the corresponding



- investigations may be started. However, the article has been interpreted in Uruguay as the obligation upon the executive branch to *investigate* the whereabouts of the missing persons.
13. For some, the Commission's report had not been drawn up within the terms of the Expiry Law; the grounds for this questioning were the Commission's own claim that, in the terms laid down by the law, it was not empowered to investigate, but only to compile information.
  14. The debate started to revolve around the reports of the cremation of bodies and the subsequent disposal of their ashes over the sea. Many groups questioned this version because it was 'too easy', and because of the impossibility of finding the bodies of the disappeared in Uruguay.
  15. The sections of society involved in the issue aligned themselves in the same way they had done with the Expiry Law or the 1989 referendum: the *Colorados* and a majority of *Nacionalistas* were for 'letting the wounds heal' and leaving the past behind; the majority of the Broad Front supporters, some *nacionalista* sectors, all the New Space supporters, the human rights organizations and the unions were all for continuing along the road already entered on until the recent past should be made completely clear; the report did not necessarily represent the 'last word'. Everyone made references to the future as a central argument in their claims.
  16. A good number of events that have taken place after the submission of the final report of the Peace Commission suggest that the debate over the recent past in Uruguay has not yet come to a close. FA-EP's Tabaré Vázquez's accession to power in 2005 opened paths not travelled until then. That year saw the beginning of excavations in military facilities searching for bodies of people missing in Uruguay (up to now two bodies have been located). In 2006 the demand for justice has regained a spot in public discussions; in fact, an important campaign has begun for the annulment of the Expiry Law. In August 2006, an attorney general charged several former members of the military and the police with the disappearance of three leftist militants. In September they were found guilty, although it remains to be seen if they will be sent to prison. Nevertheless, it was the first time after the return of democracy in Uruguay that members of the military and police were accused ([BBCMundo.com](http://BBCMundo.com) 31 August 2006).

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