

The Institutionalisation of Memories: Advances in Mental Health and Policies on Impact

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ABSTRACT

The aim of this article is to describe the tensions and contradictions that arise in the process of institutionalising memory through public policies on comprehensive reparation, particularly those designed to address mental health issues stemming from the consequences of the dictatorships in Argentina and Uruguay. A qualitative methodology was employed, involving a documentary analysis of 46 public policies, various field observations and interviews with qualified informants. The main findings indicate that, whilst the wide range of policies is significant, the responses are fragmented, highlighting the difficulties in accessing specialised services and the lack of continuity in the provision of care. This is evident in both Argentina and Uruguay. Another finding suggests that mental health is addressed through public policies, alongside other policies; however, for this to become a comprehensive form of reparation, it must be based on a specific paradigm of political trauma. This approach brings together three fundamental aspects: psychoanalytic or relational clinical practice, the human rights perspective, and public policies.

Keywords: Human Rights, Mental Health, Policies, Subjectivity.

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Background

Dictatorships have established social models that remain in force today. We can see this in the cases of Argentina and Uruguay. The political violence perpetrated during the 1960s and 1970s in the Southern Cone countries of Latin America continues to have an impact to this day, shaping our ways of thinking, acting and feeling. Historical events in the recent past created rifts and disrupted the social bonds essential to collective life. Twenty years on (2005), following the arrival of self-styled 'progressive' governments in several countries across South America, new spaces for dialogue have emerged, and claims and demands are beginning to be institutionalised into concrete public policies.

Current research on the consequences of repressive state action can be grouped, on the one hand, under

academic disciplines, namely: history, anthropology, political science, sociology and psychology, amongst others. Within the human sciences, one of the most frequently addressed areas has been the psychosocial consequences and impacts of this period and the damage to the social fabric. In this regard, we can relate these to: the consequences of prolonged political imprisonment, policies of surveillance and repression against the trade union and student movements and political parties, exile in various countries, and enforced disappearance (Larrobla, 2016). However, other dimensions are possible for analysis, such as transgenerational transmission (Kaes, 1996), coping mechanisms whilst in prison (Pérez-Sales, 2006), collective memory (Halbwachs, 1925; Ricoeur, 2008), and how work has been carried out on public policies for comprehensive reparation, particularly in relation to the mental health

of those affected (Lira, 2010; Robaina, 2015; Mosquera, 2015). In Argentina in particular, the events marked by the removal of children and babies, and their return, constitute another dimension for analysis; here, authors such as Lo Giudice (1997) and Rousseaux (2008), both from the disciplinary field of psychology, address the issue alongside the right to identity and the production of subjectivities.

This background enables us to discuss the progress made in public policies regarding comprehensive reparation in two South American countries: Argentina, on the one hand, and Uruguay, on the other. The distinctive feature of this article is the provision of more detailed data, which enables us to map the institutional actors responsible for implementing these policies; in this sense, what we refer to as the institutional actors of memory.

Objectives

To compare the scope, limitations and challenges of comprehensive reparation processes in Argentina and Uruguay.

Methodology

A review was conducted of available documents relating to public policies on comprehensive reparation, dating back to the start of democracy (1983 in Argentina and 1985 in Uruguay). The review covered decrees, laws, official reports and action plans for each policy, totalling 46 public policies. From the documents reviewed, a comparative table was drawn up, detailing the type of action, defined in terms of the type of response to reparation measures, namely: a) restitution; b) compensation; c) satisfaction; d) rehabilitation; e) non-repetition.

The classification of the public policies surveyed was carried out using the definitions proposed by international human rights bodies, such as the Inter-American Commission on Human Rights and the American Convention on Human Rights, establishing criteria, dimensions and mechanisms to achieve reparation. However, it is considered pertinent to the approach to reparations that these should be considered from a paradigm based on reparation being comprehensive.

Table 1. Redressive public policies in Argentina, 1983–2003.

Mechanism	Date	Name	Participating Institution	Reparation Mechanism
Decree No. 187	December 15, 1983	Creation of the National Commission on the Disappearance of Persons (CONADEP)	Office of the President	Satisfaction; Non-repetition
Law No. 23,117	September 30, 1984	Reinstatement of workers dismissed from state-owned and mixed-economy enterprises	Ministry of Justice and Human Rights	Restitution

We will present the public policies by referring to two periods (1983–2003; 2004–2015 for the Argentine case, and 1985–2004; 2005–2015 for the Uruguayan case). We will also describe the regulatory mechanism—be it a law, decree and/or resolution—the date on which it was enacted, the name of the policy, the institution responsible for its implementation, and the reparation mechanism envisaged.

It is appropriate to note that this research and the researcher regard public policies as ‘political-cultural’ actions to be interpreted and analysed as texts that play a role in the construction of the social, both in terms of the problem itself and the subjects it involves, in this case those affected by state terrorism.

With regard to the participation of patients and/or the public, we note that another data collection technique involved in-depth interviews with qualified informants who are public policy makers. All four interviews were conducted with informed consent and lasted 120 minutes each. The transcripts were stored in the researcher’s cloud storage under encryption and robust security measures.

In all cases, this project was approved by the Research Ethics Committee of the Faculty of Psychology at the University of the Republic and registered with the Ministry of Public Health under number 9697374. Furthermore, the research participants have given their consent.

Results

The right to reparation. Reparation policies in Argentina

Reparation as a public policy began to take root in Argentina during the first year of democracy (1983), as a state policy implemented by the government of Raúl Alfonsín. It began in a very nascent form with a decree (No. 187) providing for compensation for victims. This policy was further developed in the 1990s. However, the demand from human rights organisations called for a reparations policy that would include: restitution, guarantees of non-repetition, satisfaction and symbolic measures.

Mechanism	Date	Name	Participating Institution	Reparation Mechanism
Law No. 23,278	September 28, 1985	Recognition before National Pension Funds for individuals dismissed, forced to resign, or exiled for political or union reasons	Ministry of Labor and Social Security	Restitution; Compensation
Law No. 23,511	May 13, 1987	National Genetic Data Bank	Ministry of Science, Technology and Innovation	Restitution
Law No. 24,043	November 27, 1991	Benefits granted to individuals detained under the Executive Branch during the state of siege or by military courts (including formerly disappeared detainees)	Ministry of Justice, Security and Human Rights	Compensation
Law No. 24,321	May 11, 1994	Declaration of Absence due to forced disappearance	Ministry of Justice, Security and Human Rights	Restitution
Law No. 24,411	December 7, 1994	Compensation for forced disappearance or death caused by State terrorism	Ministry of Justice, Security and Human Rights	Compensation
Law No. 25,457	August 8, 2001	National Commission for the Right to Identity (CONADI)	Secretariat of Human Rights, Ministry of Justice, Security and Human Rights	Restitution; Non-repetition

Table 2. Redressive public policies in Argentina, 2003–2015.

Mechanism	Date	Name	Participating Institution	Reparation Mechanism
Decree No. 1259/2003	December 16, 2003	General Archive of Memory	Secretariat of Human Rights, Ministry of Justice, Security and Human Rights	Satisfaction; Non-repetition
Law No. 25,764	August 13, 2003	Witness and Defendant Protection Program	Secretariat of Criminal Policy and Penitentiary Affairs; Secretariat of Human Rights, Ministry of Justice, Security and Human Rights	Satisfaction; Non-repetition
Law No. 25,779	August 21, 2003	Annulment of Amnesty Laws (Law No. 23,492 “Full Stop” and Law No. 23,521 “Due Obedience”)	Office of the President	Non-repetition
Decree No. 715/2004	June 9, 2004	Special Investigation Unit for the Disappearance of Children	National Commission for the Right to Identity (CONADI)	Restitution
Law No. 25,914	August 30, 2004	“Children’s Law” – Compensation for children	Ministry of Justice, Security and Human Rights	Compensation
Decree No. 848/2004	July 13, 2004	National Historic Monument – Mariani-Teruggi House	Office of the President	Restitution; Satisfaction; Non-repetition
Resolution No. 173 (Ministry of Defense)	2006	Opening and access to all Armed Forces archives related to events between 1976–1983	Ministry of Defense	Restitution; Non-repetition
Resolution No. 14 (Secretariat of Human Rights)	2007	Federal Network of Memory Sites	Secretariat of Human Rights, Ministry of Justice, Security and Human Rights	Restitution; Non-repetition
Resolution No. 606/2007	2007	National Plan for Support and Comprehensive Assistance to Plaintiffs and Witnesses, victims of State terrorism	Secretariat of Human Rights, Ministry of Justice, Security and Human Rights	Satisfaction; Non-repetition
Decree No. 606	May 22, 2007	Truth and Justice Program	Chief of the Cabinet of Ministers	Satisfaction

Mechanism	Date	Name	Participating Institution	Reparation Mechanism
Resolution PGN 13/08	March 26, 2008	Coordination and Monitoring Unit for cases of human rights violations during State terrorism; guidelines for crimes against humanity cases	Public Prosecutor's Office	Satisfaction; Non-repetition
Decree No. 589/2008	April 8, 2008	Truth and Justice Program	Secretariat of Human Rights, Ministry of Justice, Security and Human Rights	Satisfaction
Law No. 26,375	May 21, 2008	Special Unit for the Search of Persons	Ministry of Justice, Security and Human Rights	Restitution; Non-repetition
Supreme Court Resolution 42/08	December 29, 2008	Supervisory Unit for Crimes against Humanity	Supreme Court of Justice of the Nation	Restitution; Non-repetition
Decree No. 1333/2008	August 19, 2008	National Historic Monument – Officers' Casino of the Navy Mechanics School (ESMA)	Secretariat of Culture, Office of the President	Restitution; Non-repetition
Resolution No. 1271/2009	November 19, 2009	Assistance Center for Victims of Human Rights Violations "Dr. Fernando Ulloa"	Secretariat of Human Rights, Ministry of Justice, Security and Human Rights	Rehabilitation
Law No. 26,691	June 29, 2011	Memory Sites of State Terrorism	Ministry of Culture	Restitution
Resolution PGN 435/12	October 23, 2012	Specialized Unit for cases of child appropriation during State terrorism (UFICANTE)	Office of the Prosecutor for Crimes against Humanity	Restitution
Resolution PGN No. 1442/13	July 29, 2013	Office of the Prosecutor for Crimes against Humanity	Public Prosecutor's Office	Non-repetition; Satisfaction
Law No. 26,913	November 27, 2013	Reparations regime for former political prisoners of Argentina	Ministry of Justice, Security and Human Rights	Compensation
Law No. 27,156	July 1, 2015	Prohibition/nullity of future amnesties, pardons, or sentence commutations	Ministry of Justice, Security and Human Rights	Non-repetition

In Argentina, the first steps and attempts to introduce measures aimed at reparation were taken during the early years of democracy, which began in 1983. The first policies that sought to restore certain rights to the victims (see Table 1) were through compensation and restitution. However, restitution began to take shape and become firmly established following the struggle of the Grandmothers, in their demand for the recovery of their grandchildren's identities. In 1987, Law No. 23,511 was enacted, establishing the National Genetic Data Bank (BNDG) with the aim of identifying and returning to their families of origin the children of those murdered or disappeared who had been born in captivity or abducted alongside their parents.

This first democratic phase (defined as such for the purposes of this research) came to a close with the enactment of Law No. 25,457 (2001), establishing the National Commission for the Right to Identity (CONADI), which reports to the Human Rights Secretariat of the Ministry of Justice, Security and Human Rights.

Subsequently, during the second period analysed (2003–2015), a wide range of reparatory policies were implemented, with the political landscape dominated by a self-styled progressive political faction, during what is known as the Kirchner era. This 12-year period has been one of the most significant in terms of the development and formulation of public policy on memory, truth and justice.

It is important to understand that, under Néstor Kirchner's first government, the impunity laws (in Argentina, the 'Punto Final' Act of 1986 and the 'Obediencia Debida' Act of 1987, along with Menem's pardons, which are known as the impunity laws) – which had been upheld and legitimised for 20 years – were repealed. In the early 1990s, under President Carlos Menem, the military perpetrators of genocide achieved impunity through the president's granting of pardons, thereby creating the possibility of forgetting. However, when Dr Néstor Kirchner assumed state responsibility for the crimes committed during the last civil-military dictatorship, these laws would no longer be consistent with the kind of policy that would begin to be implemented.

This was a period that not only introduced policies for reparations for the victims, but also brought about, on the social stage, what many human rights organisations and Argentine citizens had been hoping would happen: a request for forgiveness from the President of the Nation. And so it was that on 24 March 2004, at the

opening ceremony of the current Museum of Memory, formerly the Navy Mechanics School (ESMA) (a former clandestine centre of detention, torture and extermination), President Néstor Kirchner, for the first time in the country’s democratic history, asked for forgiveness for the actions of the State.

The Right To Reparation: Reparation Policies in Uruguay

Table 3. *Reparatory public policies in Uruguay, 1985–2004.*

Mechanism	Date	Name	Participating Institution	Reparation Mechanism
Law No. 15,783	March 8, 1985	Establishes the right of reinstatement to the corresponding institution for all persons dismissed between February 9, 1973 and February 28, 1985	Ministry of Labor and Social Security	Restitution
Law No. 16,102	November 1, 1989	Right to compensation for termination of employment	Ministry of Labor and Social Security	Compensation
Law No. 17,061	December 10, 1998	Cerro S.A. meatpacking plant: regulations regarding workers and employees dismissed during the de facto period	Ministry of Labor and Social Security	Restitution
Resolution No. 858/000	August 9, 2000	Creation of the Peace Commission (COPAZ)	Intersectoral Commission	Restitution; Non-repetition
Law No. 17,449	December 27, 2001	Establishes that all private-sector workers forced to leave the country between February 9, 1973 and February 28, 1985 for specified reasons are covered by this law	Ministry of Labor and Social Security	Restitution
Law No. 17,620	February 12, 2003	Establishes that reinstated teaching staff under Law No. 15,783 may exercise their rights before the Social Security Bank	Ministry of Labor and Social Security	Restitution

In Uruguay, steps were taken and attempts made to introduce measures aimed at providing redress during the early years of democracy, which began in 1985. The policies that sought to restore certain rights to victims took the form of compensation and restitution. Meanwhile, it is observed that ‘comprehensive’ reparatory measures only began to take shape from 2005 onwards, when so-called ‘progressivism’—as a political project for the nation—provided the first political responses to the demands of organisations. By that point, 20 years of democracy had already passed.

Institutional Frameworks for Memory, Truth and Justice in Contexts of Political Progressivism

Uruguay has an institutional framework that is distributed across the three branches of government (the executive, the judiciary and the legislature). According to the Information System on Human Rights Institutions in Mercosur (SISUR), a study carried out as part of the IPPDH-FOCEM Project ‘Building Infrastructure for the Protection and Promotion of Human Rights in Mercosur’, conducted by the IPPDH with financial support from

the Mercosur Structural Convergence Fund (FOCEM), carried out between 2013 and 2015, it is stated that there are currently 31 state bodies coordinating actions on and for human rights. Of these 31 bodies, 5 have established specific lines of work relating to Memory, Truth and Justice. We also note the creation of the Specialised Prosecutor’s Office for Crimes against Humanity, through the enactment of Law No. 19,550 (2017). Thus, Uruguay has six institutions with specific lines of work relating to Memory, Truth and Justice.

The same system (SISUR) states that the first formal institutional step was the creation of the Commission for Peace (2000), with the aim of receiving, analysing, classifying and compiling information on enforced disappearances that occurred during the civil-military dictatorship. Subsequently, the Secretariat for Human Rights and the Recent Past (2003) was established, building on the work of the Commission for Peace.

Within the regulatory framework of the so-called Law on Comprehensive Reparation for Victims of Illegitimate State Action (No. 18,596), Decree No. 297/010 (2010) established a free, lifelong benefit for

Table 4. Redressive public policies in Uruguay, 2005–2015.

Mechanism	Date	Name	Participating Institution	Reparation Mechanism
Resolution No. 755/2005 (in compliance with Art. 4 of Law No. 15,848)	2005	Historical Investigation on Detained-Disappeared Persons	Ministry of Defense; University of the Republic	Restitution; Rehabilitation; Satisfaction; Non-repetition
Law No. 18,026	December 22, 2006	Cooperation with the International Criminal Court in matters of genocide, war crimes, and crimes against humanity	Ministry of the Interior	Non-repetition
Resolution No. 832/006	December 26, 2006	“Never Again Day” (June 19)	Office of the President	Non-repetition
Law No. 18,033	October 3, 2006	Restoration of pension and retirement rights for exiles, detainees, prisoners, or clandestine individuals – Special Reparatory Pension (PER)	Ministry of Labor and Social Security	Compensation; Restitution
Law No. 18,420	November 21, 2008	Approval of the International Convention for the Protection of All Persons from Enforced Disappearance	Ministry of Foreign Affairs	Non-repetition; Satisfaction
Law No. 18,435	December 12, 2008	National Memory Archive	Ministry of Education and Culture; National Archives; Agency for the Development of Electronic Government and the Information and Knowledge Society (AGESIC)	Satisfaction
Law No. 18,596	September 18, 2009	Recognition and reparation for victims of unlawful State actions between June 13, 1968 and February 28, 1985	Special Commission of the Ministry of Education and Culture	Restitution; Compensation; Rehabilitation; Satisfaction; Non-repetition
Law No. 18,596	September 18, 2009	Office for the Attention to Victims of State Terrorism (OAVTE) – State Health Services Administration (ASSE)	State Health Services Administration (ASSE)	Rehabilitation
Resolution No. 463/013	August 1, 2013	Renaming of the Follow-up Secretariat of the Peace Commission to the Secretariat of Human Rights for the Recent Past	Office of the President	Satisfaction; Non-repetition
Decree No. 131/015	May 19, 2015	Creation of the Working Group for Truth and Justice	Office of the President	Satisfaction; Non-repetition
Resolution No. 002/2015	September 7, 2015	Specialized Human Rights Unit	Office of the Attorney General	Satisfaction; Non-repetition

victims of state terrorism, with the creation of the Office for the Care of Victims of State Terrorism (OAVTE) within the State Health Services Administration (ASSE). Subsequently, the National Human Rights Institution and Ombudsman’s Office (INDDHH) was established and began operating in 2012, and in 2013, the National Mechanism for the Prevention of Torture, reporting to the INDDHH, became operational. And at the end of 2019, the Institution began to assume responsibility for investigations into crimes committed during the period of state terrorism.

For its part, the Secretariat for Human Rights (SDH) was established in 2014 as part of the institutional restructuring of human rights, and took over some of the functions of the Directorate of Human Rights, which had been under the Ministry of Education and Culture since 2005.

The SDH seeks to adopt a cross-cutting approach to human rights in public policy. The SDH’s strategic position enables it to influence state planning and maintain direct dialogue with the highest authorities in

the ministries. Finally, the Directorate of Human Rights and Humanitarian Law within the Ministry of Foreign Affairs has existed since the restoration of democracy, acting as a liaison with the Universal and Inter-American Human Rights Systems, amongst other functions.

Within the same sphere, reporting to the Presidency, is the Secretariat for Human Rights and the Recent Past. Meanwhile, through Decree No. 131/015, the Presidency of the Republic established the Working Group for Truth and Justice

It is also worth noting an event that took place in 2017, whereby the Attorney General's Office was granted the power to transform a National Public Prosecutor's Office into a Specialised Prosecutor's Office for Crimes against Humanity, through the enactment of Law No. 19,550 (2017).

Meanwhile, in Argentina, according to the same data source (SISUR) consulted for the case of Uruguay, the human rights institutional framework is extensive and spans all branches of government, although the majority of it is concentrated within the executive branch. The survey included 56 state bodies (institutions and coordination mechanisms) belonging to all branches of government and covering a wide range of issues and structures. However, regarding issues related to memory, truth and justice, the greatest concentration of institutional structures is found within the executive branch, centred on the Secretariat for Human Rights of the Ministry of Justice and Human Rights.

Conclusions

International regulatory frameworks, which guide states in implementing specific public policies for the redress of serious human rights violations, served as the compass that guided countries such as Argentina and Uruguay during their transitional processes to establish concrete measures for redressing harm. Thus, in both Argentina and Uruguay, during the early years of democracy (the 1980s), there were attempts to implement certain policies.

We maintain that reparation cannot originate from a single direction; on the contrary, it must combine individual clinical aspects with the reconstruction of the social fabric.

This is why mental health enters the dialogue as a public policy, alongside other policies; however, for it to become comprehensive reparation, it must be grounded in a specific paradigm of political trauma. This approach brings together three fundamental aspects: the psychoanalytic or relational clinical approach, the human rights perspective, and public policies.

Regarding the role of the State, we can say that the broad spectrum of policies is significant, but there are some not insignificant elements to be discussed. There are fragmented responses regarding the difficulties of accessing specialised services and a lack of continuity in care provision. This is observed in the case of Argentina, as well as Uruguay.

Trauma is a socially situated phenomenon; Martín Baró (1990) already spoke of this when he began to develop his concept of psychosocial trauma. The author states that psychological suffering in contexts of political violence must never be dissociated from the social fabric.

Psychological harm is directly linked to what society continues to perpetrate today: impunity and silence. In other words, trauma is sustained over time as long as there is no justice or recognition.

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