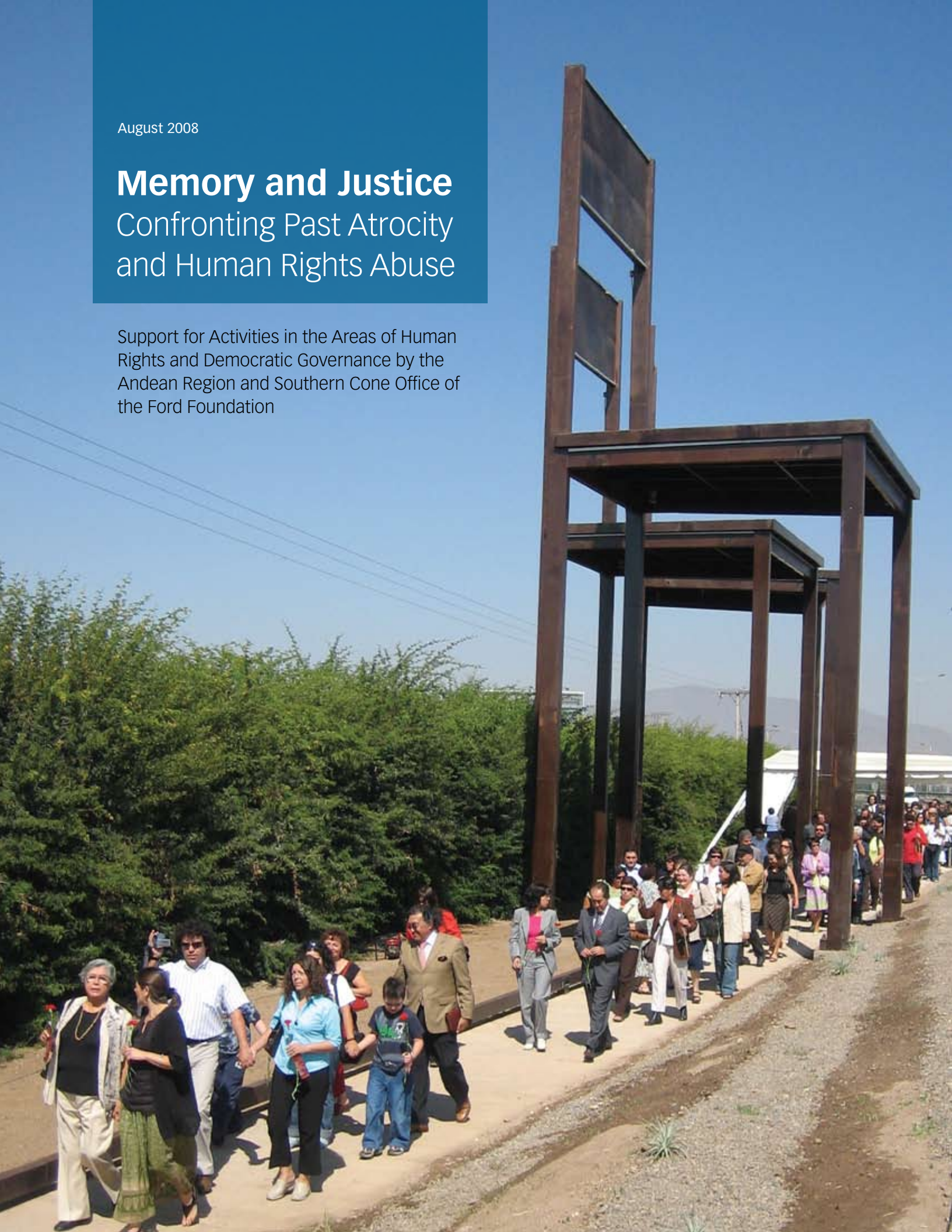


August 2008

# Memory and Justice

## Confronting Past Atrocity and Human Rights Abuse

Support for Activities in the Areas of Human Rights and Democratic Governance by the Andean Region and Southern Cone Office of the Ford Foundation



## **AUTHORSHIP**

This report was written by Louis N. Bickford and Debra L. Schultz of the International Center for Transitional Justice (ICTJ) as a consultancy report for the Ford Foundation’s Andean Region and Southern Cone Office.

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*People leaving inauguration ceremony of “Un Lugar para la Memoria” (“A Place for Memory”) in Chile, built in memory of Santiago Nattino, Manuel Guerrero and José Manuel Parada (whose decapitated bodies were found in the field). March 29th, 2006*

# 1. Introduction

The international human rights movement was still very young when it started grappling with the legacies of past atrocity and human rights abuse. As the global human rights movement began to take shape in the early 1960s,<sup>1</sup> its primary concern was to stop ongoing violations of human rights such as torture, unjust imprisonment, extra-judicial execution, and restrictions of freedom and assembly.

In the 1970s human rights groups and victims' associations began to confront harsh dictatorships in Argentina and Chile, among other places, and demanded an end to authoritarian rule and the establishment of democracy.

Responding to the fall of authoritarian regimes, people involved in human rights and democratization movements started to develop a new set of strategies that would focus on accountability for periods of violence and repression in the recent past. They developed programs for confronting the complex legacies of human rights abuse that took place under those former regimes.

At least three important concepts inspired this new direction. The first two were justice and truth, the cornerstones of what civil society organizations such as the Mothers of the Plaza de Mayo in Argentina were demanding. The third was memory, as activists insisted on not forgetting the atrocities committed in their societies. Both drawing on and reinforcing repertoires from similar movements in other parts of the world - such as the slow emergence in the 1980s of a new wave of questioning the Holocaust in Germany - Southern Cone human rights movements articulated direct linkages between past, present, and future. They called for *Nunca Más!* (never again) and demanded historical accountability for crimes committed by authoritarian regimes.

## A Burgeoning Field

Since the 1980s, when only a small number of organizations and individuals were confronting human rights abuse under prior regimes, the number of institutions working on dealing with the past has grown steadily and exponentially. The Ford Foundation has played a decisive role in fostering this growth.

Consider the timeline represented at the bottom of these pages. At the end of military dictatorship in Argentina in 1983, family members of the thousands of people who “disappeared” were calling for truth, memory, and justice in the face of the military regime’s obfuscation, lies, and secrecy. In other countries around the world, little activity within the human rights and democratization movements tried to come to terms with past abuse. On the international level, there was arguably only one report, written by human rights activist Juan Méndez in 1987, then at Americas Watch, that argued in favor of truth and justice for past abuses.<sup>2</sup>

More than two decades later, dozens of NGOs, governmental and non-governmental institutions, university programs, and other organizations around the world have adopted an emphasis on dealing with the past as

1976	1977	1979
<b>Chile:</b> Vicariate of Solidarity founded to attend to families of people who disappeared while in detention.	<b>Argentina:</b> Mothers of the Plaza de Mayo established.  Establishment of the Grandmothers of the Plaza de Mayo.	<b>Argentina:</b> Center for Legal and Social Studies (CELS) founded.



*Chilean President Michele Bachelet greets family members of the disappeared while attending the inauguration of “Un Lugar para la Memoria” (“A Place for Memory”). She expressed her commitment to creating a human rights institute. March 29, 2006*

the core of their work, complementing the important findings of other organizations that focus on current violations. These organizations include some of the most vibrant and innovative groups to have emerged in recent years, such as Memoria Abierta (Open Memory) in Argentina; Memorial in Russia; the Center for the Study of Violence and Reconciliation (CSV) in South Africa; the International Center for Transitional Justice (ICTJ) with 10 international offices representing every major world region; and the International Coalition of Historic Site Museums

of Conscience, a network of dozens of memory sites around the world.

The Ford Foundation’s office for the Andean Region and Southern Cone in Santiago has made essential contributions to these developments, as have the New York office and several others overseas. Moreover, in the early years of the work the Santiago office supported, these topics were new and innovative directions for the human rights movement globally, and foundation support was critical. As a result, dealing with the

1980	1981	1983
<b>Chile:</b> Corporación de Promoción y Defensa de los Derechos del Pueblo (CODEPU) founded during military dictatorship in November.	<b>Uruguay:</b> Creation of Servicio de Paz y Justicia (SERPAJ), first organization in Uruguay dedicated to the promotion and defense of human rights.	<b>Argentina:</b> Military junta released its final report and institutional act on April 28.  Democracy restored when Raúl Ricardo Alfonsín became president.

past today has become a fully integrated component of the human rights and democratization movements in many countries throughout the world.

### The Role of the Ford Foundation

Launching its human rights program in 1975, the Ford Foundation contributed to the end of repressive regimes around the world. In 1990, Augusto Pinochet's military dictatorship ended with the election of a new government in Chile, for example. Starting at the end of 1989, democratic revolutions in Poland, Czechoslovakia, Hungary, Romania, Bulgaria, and East Germany helped pave the way to formal dissolution of the Union of Soviet Socialist Republics (USSR) in December 1991. Earlier that same year Nelson Mandela was released from prison and elected president of the African National Congress soon thereafter. Then in April 1994, South Africa held its first free general election, choosing Mandela as president. Grounded in the foundation's fundamental, sustained, and multifaceted commitment to human rights over the past three decades, this report examines some of the initiatives the Ford Foundation has helped foster in many societies attempting to deal with legacies of traumatic pasts.

At key moments the foundation recognized the value of investing in new ways that made a difference. Taking early risks on a subject that was not widely seen as important—and sometimes even criticized as being substantially less important than other competing priorities<sup>3</sup>—the Andean Region and Southern Cone office saw an emerging stream of activity that identified the importance of truth and memory as well as justice about past atrocity. Instead of accepting amnesia for past atrocity, which has arguably been the normal way of dealing with the past throughout history, a number of foundation grantees insisted on remembering these events and, most importantly, on linking memory to justice.

Many regions in the world have come to terms in different ways with the legacies of the past. But the global

movement to link memory and justice began to take its most coherent form in the Southern Cone of Latin America in the late 1980s and early 1990s. Additionally, the foundation has been involved in work in Indonesia, Russia, and South Africa to support projects dealing with past atrocity. And the foundation's decisive support for new global institutions more recently, such as the ICTJ and the Coalition, has helped provide expertise and capacity-building for processes of dealing with the past in dozens of countries in every world region.

### This Report

This report examines the development of the movement to deal with the past from approximately 1983 to 2008 with an emphasis on the impact of Ford Foundation support, particularly from the Andean Region and Southern Cone office since the early 1990s. How has this support to various organizations mattered? How has it made a difference? Moving beyond the contribution of the Ford Foundation, the report also examines the ways in which dealing with the past has become characterized by a proliferation of activities and initiatives, as well as the creation of new institutions.

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The report draws on more than a dozen interviews, written correspondence with a selection of key actors, Ford Foundation grant files, an earlier consultancy report written by Professor Peter Winn, and eight commissioned papers on dealing with the past in specific countries or areas of interest.<sup>4</sup>

1983 continued	1984	1985
Comisión Nacional para la Desaparición de Personas (CONADEP) established to investigate disappearances during junta's rule.  <b>Peru:</b> Pro-Human Rights Association (APRODEH) established.	<b>Argentina:</b> CONADEP published "Nunca Más" Report.	<b>Brazil:</b> Investigative report called "Brazil: Nunca Mais" published, detailing human rights violations by military junta that ruled Brazil between 1964 and 1985. Report remained on the national bestseller list for 25 weeks.

## 2.

# Dealing with the Past: Latin American Roots

Initiatives in Latin America and especially in the Southern Cone pioneered numerous approaches to dealing with mass atrocity, often with Ford Foundation support. The drivers of these processes—NGOs, political activists, and governmental institutions—experimented with new forms of resolving what was a very old problem: how to come to grips with the terrible legacies of past societal trauma.

They used both novel instruments (such as truth commissions, oral history projects, and new forensic anthropology methods) as well as enhancing existing forms (such as criminal trials, reparations programs, and constitutional reform) to do so. These novel approaches became the early elements of an emergent field of activity designed to say “never again” to mass atrocity.

**In the mid-1980s, the work by human rights organizations in Argentina to confront past atrocity was groundbreaking, and included both successful prosecution of former military leaders and the most significant early truth commission, the Commission on the Disappeared and Politically Executed (known by its initials in Spanish as the CONADEP).**

The Ford Foundation has been providing support to the human rights movement in the Southern Cone since 1978, when it gave its first grant to the Vicariate of Solidarity in Chile. That initial grant and subsequent support enabled the Vicariate to document more than 19,000 individual cases of human rights abuse, infor-

mation that would become essential in future court cases and in the Chilean truth commission’s work.<sup>5</sup>

In 1980 the Ford Foundation supported the Argentine human rights group Center for Legal and Social Studies (CELS), one of the organizations that would help define the human rights movement globally and whose work on dealing with the past in Argentina was vitally important. In the mid-1980s, the foundation and others, such as the American Association for the Advancement of Science (AAAS), worked closely with domestic organizations, such as the Grandmothers of the Plaza de Mayo, to focus on the ravages of dictatorship. During this period, the Grandmothers and other groups of victims’ family members worked – in some cases in collaboration with the new democratic government, in other cases as voices outside – to confront the legacies of past abuse.

The work in Argentina to confront past atrocity was ground-breaking; it led to the successful prosecution of former military leaders<sup>6</sup> and the creation of the most significant early truth commission, the Commission on the Disappeared and Politically Executed (known by its initials in Spanish as the CONADEP). In fact, when the CONADEP began to undertake its work, it relied heavily on the human rights documentation that CELS

1986

**Argentina:** Creation of Argentine Forensic Anthropology Team to help locate and identify Argentines who disappeared during “Dirty War” period from 1976 to 1983 when military junta ruled.

Law 23.466 provided for reparations awards to spouses and children of people who disappeared during military rule.

1987

**Argentina:** Argentine Historical and Social Memory Foundation created.

“*Partial Justice in Argentina*” Report written by Juan Méndez for Americas Watch.



*Trial of members of the de facto military government that ruled Argentina from 1976 to 1983. Their crimes included forced disappearance, torture, and murder of thousands of people. Top officers Jorge Rafael Videla and Emilio Eduardo Massera were sentenced to life imprisonment. April 22nd, 1985*

had done. The Argentine transition also included significant reparations programs to victims, as well as plans for the reform of institutions under democratic rule. Within civil society, law-based NGOs as well as associations of victims' families consistently demanded truth, justice, and memory. In 1987 and 1988, the foundation supported the newly established Argentine Forensic Anthropology Team to identify the remains of individuals whose cases had been documented by the CONADEP.

In Chile, a democratic transition began in the late 1980s. In many ways significantly different from the Argentine transition, the Chilean experience was characterized by negotiations of a broad democratic opposition that won a plebiscite in 1988 and a return to elected government in 1990. In a context in which prosecutions of the former military rulers appeared dauntingly difficult, the new democratic government established an official commission chaired by Raúl Rettig on truth and reconciliation (1990-1991).

**1988**

**Aspen Institute** Conference on "State Crimes: Punishment or Pardon" held November 4-6.

**Colombia:** The Colombian Commission of Jurists (CCJ) founded.

**1989**

**Uruguay:** SERPAJ published "*Uruguay: Nunca Más*," exposing state-sanctioned human rights offenses by military junta that ruled nation from 1973 to 1985.

**South Africa:** Center for the Study of Violence and Reconciliation (CSV) launched.

The Rettig Commission used a rigorous methodology to determine who disappeared and who was executed for political reasons between 1973 and 1990. The commission (as well as a second truth commission in 2003-2004 called the Valech Commission on political prisoners and torture) relied heavily on the documents archived in the NGOs (including the Vicariate of Solidarity) that were organized and preserved with Ford Foundation support. This information from within the human rights movement was crucial since, in contrast to Europe and Japan after World War II, state archives on the previous dictatorship were destroyed or hidden by the armed forces. Commission members stressed the enormous importance of these NGO records and called them fundamental to their work, even affirming that the commissions could not have completed their missions without the records.<sup>7</sup> Meanwhile, interesting and inspiring developments around the region were both influencing and being influenced by the developments in the Southern Cone. In Guatemala, for example, two different truth commissions—each supported at different times by the foundation—emerged to focus on the legacy of mass atrocity and violence committed during more than a decade of conflict. One of these, the Historical Clarification Commission (CEH), was a UN-sanctioned official truth commission (1994-1999). The Catholic Church and affiliated organizations largely ran the other (1995-1998), the Recuperation of Historical Memory Project (REMHI). Both drew heavily on and made fresh contributions to the ideas and priorities being articulated in the Southern Cone about the importance of dealing with the past.

Elsewhere in the world, events such as the fall of the Berlin Wall, the end of apartheid, and the dissolution of the USSR (discussed later) were also contributing to global debates about how to deal with the past.

### Human Rights Activism at a Crossroads

Developments in Argentina and Chile posed novel program choices for the foundation in human rights. On

the one hand, the crimes committed by past regimes were horrific, and dealing with the legacies of past abuse seemed essential in order to build sustainable democracies in the region. On the other hand, even though the dictatorships had ended and state agents no longer terrorized the countries, human rights were far from guaranteed by the fledgling democracies. How would the human rights movements, based in civil society, deal with ongoing abuse under these new regimes? In the early 1990s, the human rights movement in the Southern Cone faced new issues and needed to re-examine its basic strategies.

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**The core challenge would be to “understand better how the lingering authoritarian characteristics of transitional democracies are related to their pasts, and how they might be overcome”**

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Through a series of grant actions, the Andes and Southern Cone office pointed toward the links between responding effectively to the past as well as present, despite their apparent differences. The core challenge of the human rights program in the Santiago office would be “to understand better how the lingering authoritarian characteristics of transitional democracies are related to their pasts, and how they might be overcome.”<sup>8</sup> Indeed, one of the ways to combat ongoing abuse would be to confront the legacies of the past. This also would have a key component for the future: In order to build strong democracies based on transparency, accountability, and tolerance, it was important to address the painful and complex legacies of dictatorship. As the current representative of the Santiago office, Martín Abregú, puts it, “It has been argued that working on themes related to the dictatorships in the region was somehow looking backwards, while the challenges in the region were more about the future. But we realized that this was a wrong way to put it ... It is clear that to focus on recent history has become a central axis in the construction of deep and stable democracies.”<sup>9</sup>

#### 1990

**Chile:** National Commission on Truth and Reconciliation established to investigate human rights abuses committed during General Augusto Pinochet’s rule (1973-1990).

Democracy restored and Patricio Aylwin elected president (1990-1994).

In *Velasquez-Rodriguez* case, **Inter-American Court of Human Rights** found that states have a duty to prevent, investigate, and punish any violation of rights recognized by the Inter-American Convention on Human Rights.



To a significant extent, the office came to these conclusions through its strong, ongoing relationships with its principal partner organizations on the ground. For example, the foundation supported and actively participated in “What Now?” a two-day meeting in Lima in July 1999 of some 50 organizations throughout the region organized by the flagship Legal Defense Institute (IDL) and Washington Office on Latin America (WOLA).<sup>10</sup> Also in 1999 the foundation contracted Joan Dassin to prepare a consultant’s report on “Building the Latin American Human Rights Field.” Although the report focused on financial and institutional sustainability of flagship organizations, it also tackled questions related to the past and future of the movement more generally. A response paper by Alex Wilde, then the representative in the Santiago office, raised the point that “the new context of the 1990s has challenged the human rights movement in Latin America to adapt its mission and strategies.”<sup>11</sup>

In this context, the Santiago office launched the Historical Memory Initiative, a grant-making and research program that would ultimately involve a combination of grants, foundation-administered projects (FAPs), and research consultancies focused on more deeply exploring the relationship between past, present, and future.

### The Historical Memory Initiative: Strengthening the Link between Memory and Justice

The goal of the Santiago office’s Historical Memory Initiative was “to facilitate social learning to prevent repetition” of state violence associated with dictatorship and “to draw ongoing lessons useful to creating cultures of human rights.”<sup>12</sup>

Alex Wilde explained that the Historical Memory Initiative “was meant to help societies address the deep moral wounds that remained after initial efforts at truth and reparation for the victims of state violence. It built upon the courageous defense of human rights under the dictatorships - an ethical and organizational legacy that

gives ‘historical memory’ its distinctive character in this region. It has taken a long time for this healing, and in many ways it is still ongoing. But this program was a bet on the future, and the foundation understood that its impact would be seen only as each society found its own way to deal with these issues.”<sup>13</sup>

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Beginning with a series of activities aimed at supporting human rights archives, the foundation awarded grants to develop and modernize documentation centers to such flagship institutions as the Vicariate of Solidarity in Chile, CELS in Argentina, Pro-Human Rights Association (APRODEH) in Peru, and the Colombian Commission of Jurists (CCJ), chosen because of the importance of their archives and/or because they represented the best practice in their country and thus could serve as a model for others to emulate.<sup>14</sup> The idea that accountability for the past required a solid documentary record is as old as the Nuremberg Tribunal, but many key archives in the Southern Cone – principally those of human rights NGOs – were being lost to time and neglect.

The foundation also sought to preserve documents and materials that highlighted the historic role of the human rights movement in the region and therefore targeted the organizational records of key NGOs in the region. A consultancy and a FAP focused on surveying existing collections of human rights NGOs with the goal of preserving these for the long-term.<sup>15</sup> The confer-

1990 continued

**USSR:** International Memorial Society helped build Memorial to the Victims of the Gulag at Lubyanka Square in Moscow, near KGB headquarters.

1991

**Argentina:** Establishment of a reparations program for victims of unjust imprisonment during military rule (1976-1983).

**Chile:** National Commission on Truth and Reconciliation’s final report (“*Rettig Report*”) issued estimated that 2,298 politically related deaths occurred between September 1973 and March 1990.

ence that resulted from this FAP, “Preserving Historical Memory: Documents and Human Rights Archives in the Southern Cone”,<sup>16</sup> became the first of its kind to convene archivists, librarians, government officials representing national libraries, and human rights activists who were interested in preserving historical memory.

In 2003 the United Nations Educational, Scientific, and Cultural Organization (UNESCO), based in Paris, declared that the archives of a number of the flagship human rights organizations should be designated as documentary heritage/cultural patrimony within its Memory of the World Program. In designating the Chilean archives, UNESCO said: “The future cannot be built on oblivion, on concealing what has happened. This idea applies to individuals, societies, and humanity. To understand the *raison d’être* of democracy and respect for human rights, it is necessary to know and remember how the dictatorships functioned.

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**Countries will be able to choose a future free of terror and the mistakes of the past, only by knowing and reflecting on their past.<sup>17</sup>**

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But these and other documents have had an even more direct impact. When former dictator Augusto Pinochet was detained in London in October 1998, the effect was profound, not only in Chile, but also globally. Pinochet’s detention could not have occurred without the documentary evidence collected by Chilean human rights groups and archives, such as those supported by the Ford Foundation.

One dramatic example of the importance of documents involves Ford Foundation support for the National Security Archive (NSA), an NGO based in Washington, D.C., that specializes in U.S. government documents. The NSA’s research leading up to the 25th anniversary of the coup in Chile had unanticipated important results. The archive’s special anniversary Web posting of

formerly top secret CIA, National Security Council, and Defense Intelligence Agency records on Pinochet and his repression, coupled with an article by NSA researcher Peter Kornbluh in a Chilean newspaper on the documents, contributed to massive negative publicity that convinced Pinochet’s daughter that he should grant an interview to *The New Yorker* while he was seeing doctors in London. The publication of the article helped call attention to his presence in Britain. In the immediate aftermath of his arrest, the archive’s posting of documents became the single most sought-after and used Internet source of documentation on Pinochet’s human rights abuses, with information from the declassified records incorporated into dozens of major newspaper articles around the world.

Also with the support of the Ford Foundation, the NSA’s Chile documentation project became the leading advocate and strategist to force the Clinton administration to release thousands of never-before-seen documents on repression during the Pinochet dictatorship. Archive staff personally delivered the most important of those documents in terms of evidentiary value to judicial authorities in Spain where Pinochet was wanted for killing Spanish citizens in Chile, as well as to judges, lawyers, and victims’ families in his homeland.

Similarly, a project supported by the foundation to develop an Internet site in the early days of widespread use also became a vital tool during the Pinochet proceedings both in London and after he returned to Chile. This was the Chile Information Project (CHIP),<sup>18</sup> a Web site that included pages on “Chronology of Human Rights in Chile,” “Sites of Memory” (which displayed an interactive map of sites of torture and detention throughout Chile), and “Human Rights Today.” The CHIP project allowed global audiences to quickly access a great deal of information about the dictatorship in Chile at a critical moment.

The Historical Memory Initiative supported a number of projects that aimed to strengthen the power of a link between memory and justice. One of the approaches

#### 1991 continued

**Russia:** Law on Rehabilitation of Victims of Political Repression adopted to rehabilitate victims of political repression on Soviet territory between 1917 and 1991.

October 30 declared Day of Remembrance of the Victims of Political Repression.

#### 1992

**Chile:** Establishment of reparations program for victims of state-sponsored human rights abuse identified by National Commission on Truth and Reconciliation.



Public hearing before the Peruvian Truth and Reconciliation Commission in Cusco. June 2002

<p><b>1993</b></p> <p>UN Security Council Resolution 808 established <b>International Criminal Tribunal for the former Yugoslavia</b> (ICTY).</p>	<p><b>1994</b></p> <p><b>Argentina:</b> Law 24.411 authorized reparations for heirs of victims of forced disappearance and extrajudicial killing.</p>	<p><b>South Africa:</b> District Six Museum opened in Cape Town.</p> <p>UN Security Council Resolution 955 established <b>International Criminal Tribunal for Rwanda</b> (ICTR).</p>
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focused on academic institutions and particularly the discipline of history. Support to the Universidad de Santiago de Chile and its partner, an organization called Education/Communication (ECO), allowed them to develop municipal histories of repression in a neighborhood of Santiago that the dictatorship had targeted and show the community how to tell its own history of the period.

Other grants focused on the discipline of history and the ways in which history, memory, and justice are interwoven. For example, a grant to the Ethics Center of the Alberto Hurtado University emphasized the ethical dimensions of history research and teaching in a democratic culture of human rights. The project combined “the need for establishing the truth and of developing a historical consciousness of human rights” with a gender perspective, thus focusing on both “how do we research and write about a troubled recent past in Latin America” and “how do we teach history in Latin America so that it is the history of both men and women.”

Finally, with Ford support, a bilingual electronic publication of 34 major studies on political violence was published titled “Historicizing the Past in Latin America”, by Dr. Anne Perotin. Available on the Web site [www.historizarelpasado.cl](http://www.historizarelpasado.cl), this electronic publication has further contributed to the ways that the discipline of history engages with the past in Chile.

The Santiago office also supported a series of research projects undertaken by Chilean psychologist and historian Elizabeth Lira and political scientist Brian Loveman, beginning with support in 1998 for the project “Reconciliation and Social Memory.” The eight publications that resulted from their studies helped to redefine Chilean historiography in the current period by encouraging historians to look at both historical continuities of repression and reconciliation, and to draw lessons for present and future political development from the study of history.

The largest grant under the Historical Memory Initiative was to develop an academic training program for

PhD students from Latin America on collective memory and repression in the Southern Cone, coordinated mainly by Professor Elizabeth Jelin of the Economic and Social Development Institute (IDES) in Argentina; Eric Hershberg at the Social Science Research Council (SSRC); Professor Paul Drake, head of the SSRC Joint Committee on Latin American Studies as well as a dean and political scientist at the University of California, San Diego; and Professor Carlos Ivan Degregori of the Institute of Peruvian Studies. Sixty young scholars went through this program, linking it with their on-going doctoral programs at various universities, and went on to build the intellectual underpinnings of what later became known as transitional justice or historical memory.

Dr. Jelin now jokes that she did not go out seeking to start a Latin American field of memory studies. “Memory found me...when the actors in the human rights movement began to talk about it.”<sup>19</sup> Thirteen books were published as a result of the program, and they have had an impact on the way that universities in Latin America confront the legacies of repression. Graduates have played important roles in subsequent truth commissions, teaching, educational reform, human rights NGOs, and public education.<sup>20</sup>

The Historical Memory Initiative wrapped up its work in 1999 with a planning grant from the foundation for the project “To Remember”, run by Patricia Valdez, to consider the possibility of forming a new organization in Argentina that would focus on the challenge to remember past atrocity there. This initial investment led to the founding of Memoria Abierta, a flagship organization known globally for dealing with the past<sup>21</sup>.

Seeing historical memory as a vital dimension of deepening democracy in the Southern Cone, Santiago office, program staff had argued that support for Memoria Abierta – encompassing social memory both of human rights violations and the unprecedented movement that arose to protect those rights—was meant to address impunity, facilitate social learning to prevent repetition

#### 1994 continued

**Guatemala:** Commission for Historical Clarification established to investigate acts of the government and opposition forces during Guatemala’s 30-year civil war.

#### 1995

**South Africa:** National Truth and Reconciliation Commission established to investigate government and opposition human rights offenses of apartheid era.

#### 1996

**Russia:** Memorial partnered with the Perm regional administration to create Gulag Museum.

of such traumas, and to enhance public recognition of the authoritarian past to forge a broader social memory that expressed a shared vision of truth and justice.<sup>22</sup>

In fact, the methodologies and practices used by Memoria Abierta for dealing with the past in Argentina—from preserving archives, to opening public spaces to learning based on dialogue, to contributing to the creation of a “memory museum” project—have been revolutionary globally in terms of the development of memory and transitional justice work. Memoria Abierta has participated in numerous activities and events in Argentina and abroad, playing a key part in articulating what it means to remember past human rights abuse. The organization’s role as founding members of the International Coalition of Historic Site Museums of Conscience (outlined later) has meant that it has contributed to the development of sites in places such as Bangladesh, the Czech Republic, Russia, Senegal, and the United Kingdom.

### Seeking Truth in Peru

The foundation supported numerous activities in Peru around documenting human rights abuse crimes committed by both the state and the guerilla groups from 1980 to 2000, the period in which the state waged war against Sendero Luminoso (“Shining Path”), a Maoist insurgency that terrorized the countryside. During the second decade of the period, President Alberto Fujimori was able to bring the insurgencies under control, but at a very high cost, as his government became increasingly authoritarian and resorted to human rights abuse of its own. Throughout this period, the foundation continued to support flagship organizations such as the Pro-Human Rights Association (APRODEH), the Institute for Legal Defense (IDL), and the National Human Rights Coordinator (Coordinadora) to document human rights abuse and hold violators accountable.

A moment of opportunity for dealing with the past arose during the first half of 2001 in the months

between Fujimori’s departure and the beginning of the presidency of Alejandro Toledo, when caretaker President Valentin Paniagua set in motion a truth commission. With the support of key Peruvian NGOs, the truth commission was established after Toledo took office.

In 2002, the foundation gave support to the Peruvian Truth and Reconciliation Commission, which made enormous contributions to confronting the past in order to build a democratic future. As Peter Winn puts it, “The Peruvian truth commission began with truth telling, but ended with a reshaping of the country’s historical memory—which its members are convinced in retrospect was one of the most important parts of their multi-volume report, sparking a national discussion on the causes and consequences of Peru’s racial and ethnic divisions.”

In addition to the work of APRODEH and the National Human Rights Coordinator, another indirect contribution to Peru’s truth commission came from Ford grantee the International Center for Transitional Justice (ICTJ), which sought to share the expertise and lessons learned from past truth commissions with the protagonists of current truth commissions in other countries, as discussed in more depth later. The ICTJ’s commitment to the Peruvian truth commission was significant and long lasting. For a few years Peru represented the ICTJ’s largest single investment of time and energy.

The foundation also worked with the ICTJ to initially develop the powerful documentary “State of Fear” by Skylight Pictures ([www.skylightpictures.com](http://www.skylightpictures.com)) This film, based on the Peruvian truth commission, puts a human face on the larger national process of uncovering the hidden past and efforts at reconciliation, interviewing both victims and victimizers, as well as those caught in between. The film was a theatrical and critical success in the United States, where it was also shown in several festivals. In Peru, it aired on television and was also distributed in Quechua for rural audiences. “State of Fear” has had an impact elsewhere, from Russia to

#### 1996 continued

**Argentina:** *Confessions of an Argentine Dirty Warrior* published, a chilling account of disappearances from perpetrator’s perspective (Francisco Scilingo).

**Bangladesh:** Creation of Liberation War Museum, whose mission is to let future generations know about horrors that occurred during Pakistan’s war of independence.

#### 1997

**South Africa:** Robben Island Museum opened.

**International Criminal Tribunal for the former Yugoslavia’s** first conviction (of Dusko Tadic) was achieved.

Nepal. The documentary should have a significant educational impact for university and civic audiences.<sup>23</sup>

### Dealing with the Past in Ongoing Conflict: Colombia

Dealing with the past in the midst of conflict brings up a series of challenges. This may be especially true in Colombia, which Colombians often refer to as “a country without memory.” Throughout a brutal internal armed conflict, both left-wing guerilla forces and right-wing paramilitary groups have accrued a long, horrific record of abuses against civilians. In 2005 Law 975 - the Justice and Peace Law - was passed, a controversial package that called for the demobilization of armed groups. The law also laid the groundwork for the creation of the Colombian National Commission on Reparation and Reconciliation (CNRR), an autonomous organization with representatives of government, human rights organizations, and victims’ associations.

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**“Memory is a crucial element of peace-building in Colombia because peace can only be constructed upon knowledge of the past”.**

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A new emphasis on confronting the past has entered the popular discourse in Colombia. Anthropologist Maria Victoria Uribe explains, “Memory is a crucial element of peace-building” in Colombia because peace can only “be constructed upon knowledge of the past,” and the concepts of truth, justice, memory, and reparation have increasingly appeared in public debate. There has been considerable national and international interest in displaying experiences from other countries and comparing processes of transitional justice and achievements of truth commissions. This has made the public, the media, and private universities more sensitive to victims and the issues of truth and historical memory than before.

Moreover, because human rights organizations press for the truth about past human rights violations and those that continue to occur – killings, massacres, and disappearances – they increasingly see dealing with the past as a component of a larger struggle against impunity. During this decade many human rights organizations have focused on collecting testimonies and oral history projects.

As dealing with the past becomes more important in Colombia, one of the key resources available continues to be the extensive documentation done by Ford flagship grantee the Colombia Commission of Jurists (CCJ). Since 1988, the CCJ has achieved significant recognition both in Colombia and globally for its high standards in documenting human rights abuse and atrocity in the Colombian context.

The Andean Region and Southern Cone office is poised to contribute to the ways in which Colombia comes to terms with a violent past, including support for CNRR’s Historical Memory Initiative that seeks to help clarify historical facts and preserve memory regarding human rights violations during the country’s internal armed conflict.

The Center for Justice and Society (DeJusticia) is another Ford grantee in Colombia that focuses on dealing with the past. Its aim is to protect the rights of victims of the armed conflict in Colombia, promote peace and avoid future atrocities. To those ends, DeJusticia carries out research on issues of transitional justice in Colombia, seeks to inform processes of design and implementation of public policies on truth and justice, and monitors, together with other civil society organizations, the implementation of the Justice and Peace Law regarding demobilization of paramilitary troops.

Finally, foundation grantee ICTJ has established its largest country office in Colombia and continues to work closely with Colombian partners to examine ways that transitional justice approaches can build peace in the Colombian context.

1997 continued

**United Nations:** Draft Basic Principles on the Right to Reparations for victims of Gross Violations of Human Rights and International Law (Van Boven Principles).

1998

Rome Statute for the **International Criminal Court** adopted by vote of 120 to 7 on July 17.

**Guatemala:** “*Guatemala: Never Again Report*” presented to public on April 24.

**Argentina:** Congress repealed full stop and due obedience laws, allowing cases that involved crimes against humanity to be reopened.

### 3. Global Influences

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While Ford support helped launch the fields of historical memory and transitional justice in Latin America's Southern Cone, the Santiago office's grant-making both influenced and was influenced by efforts across the foundation. From the 1990s until today, Ford has given sustained support to anchor institutions dealing with the past in the former Soviet Union, South Africa, and Indonesia, with preliminary efforts in other world regions.

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#### Post-Soviet Memory

In 1989, recognizing impending change in Central/Eastern Europe, the foundation's board of trustees approved a new grant-making program for the region, with a focus on strengthening the rule of law and promoting respect for human rights. After the USSR dissolved in 1991, the foundation could accelerate efforts to build a human rights sector in Russia. In addition to strengthening and linking human rights NGOs, Ford also addressed "the issue of historical memory and human rights culture by supporting groups, which, while researching past repression and creating memorials to the victims, also address current abuses and consciously link past and present in public education projects."<sup>24</sup>

The International Memorial Society (Memorial) remains the flagship institution pursuing this mission. Officially founded by Andrei Sakharov in 1992, Memorial continues to enable families to find documents and the graves of family members who were among the millions of victims of Stalinist repression. In 2005, Memorial had a database of 1,300,000 victims.

As early as October 1990, the society, operating as a loosely knit organization, helped erect the Memorial

to the Victims of the Gulag at Lubyanka Square, near KGB headquarters in Moscow. In 1991, Memorial promoted the successful passage of the Law on Rehabilitation of Victims of Political Repression. October 30 was declared a Day of Remembrance of the Victims of Political Repression.

In 1996, Memorial partnered with the Perm regional administration to create the Gulag Museum, at the site of a former concentration camp. The only remaining prison camp among thousands of such former sites in Russia, the Gulag Museum is a founding member of the International Coalition of Historic Site Museums of Conscience. Former foundation president Susan Berresford recalls that the trustees' visits to the Gulag Museum were profoundly moving and instrumental in demonstrating the importance of memory work as a foundation commitment in this region.<sup>25</sup> Today, the Gulag Museum leads a network of five Russian sites working on the history and consequences of totalitarianism.

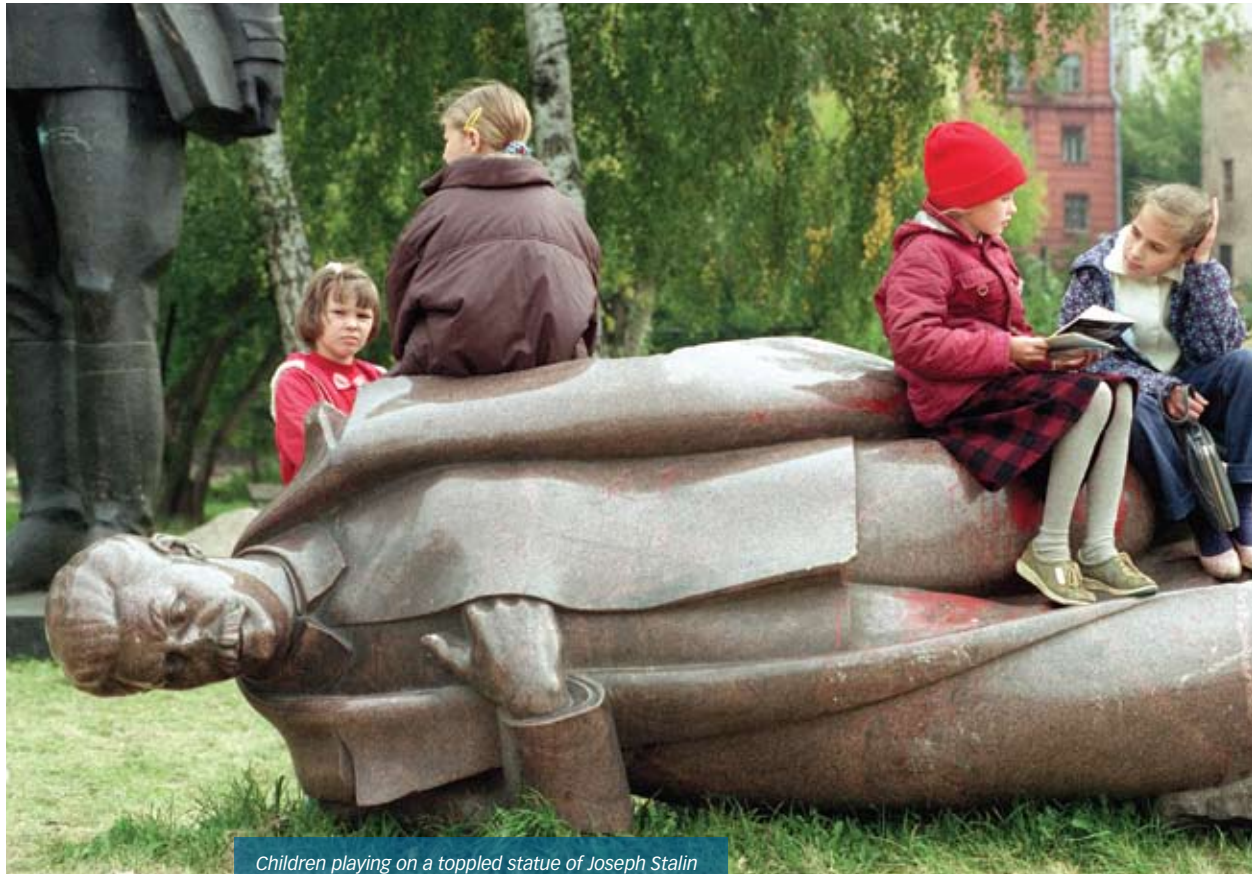
In the current challenging climate, investing in human rights in Russia requires a long-term commitment and innovative strategies. Ford grantee Sarah Mendelson of the Center for Strategic and International Studies (CSIS) ties knowledge of the past to the future success

#### 1998 continued

Top Argentine junta leaders Jorge R. Videla and Emilio E. Massera arrested for kidnapping of babies during Dirty War, and ordering torture and execution, respectively.

**Rwanda:** World's first conviction for genocide when ICTR found Jean-Paul Akayesu guilty of nine counts of genocide for his role in Rwandan massacre.

**U.K.:** Pinochet arrested for murder in London on warrant from Spain requesting his extradition. Spanish authorities issued warrant pursuant to their investigation of allegations of murder, torture, and disappearances of Spanish nationals in Chile between 1973 and 1990.



*Children playing on a toppled statue of Joseph Stalin in a park in Moscow, Russia. September 11, 1991.*

of the Russian human rights movement. According to CSIS survey data, Russian university students do not understand the impact of Stalinism on their country. Working with Russian partners, CSIS is conducting new research—on historical memory and on gender roles—to promote the use of data assessment and social marketing as a methodology for the next generation of human rights activists.

Scholars and practitioners agree that addressing the past is particularly challenging in Central/Eastern European countries and the former Soviet Union.<sup>26</sup> Seeking to learn from best practices in Latin American and South Africa, CSIS plans to hold a meeting in June on absent

memory at Budapest's House of Terror, a museum documenting the legacies of Communism in Hungary. Participants will identify strategies appropriate to confront absent memory in post-Soviet contexts. They will analyze methodologies targeting history curricula and texts, popular movies, exhibits and national museums, public awareness campaigns, tourism at memorial sites, the opening of archives and declassification of documents, political amnesties, truth commissions, and prosecutions. This meeting should provide a timely assessment of the state of the art in applied work on historical memory around the world.

#### 1998 continued

**South Africa:** National Truth and Reconciliation Commission issued final report.

#### 1999

**International Coalition of Historic Site Museums of Conscience** founded by District Six Museum (South Africa); Gulag Museum (Russia); Liberation War Museum (Bangladesh); Lower East Side Tenement Museum (U.S.); Maison Des Esclaves (Senegal);

National Park Service (U.S.); Memoria Abierta (Argentina); Terezin Memorial (Czech Republic); and the Workhouse (U.K.).



## The South African Transition

South Africa galvanized the world's attention with its transition from apartheid to the election of Nelson Mandela as president in 1994. The country's groundbreaking Truth and Reconciliation Commission (1995-1998) also raised hopes that even legacies as brutal as apartheid could still be addressed in ways to catalyze profound social transformation.

Operating in South Africa since 1952, the Ford Foundation played an unprecedented and little-known role in South Africa's transition.<sup>27</sup> Almost immediately after Mandela's election, the foundation began to support efforts to preserve the history of apartheid and anti-apartheid struggles, creating multiple opportunities for world communities to reflect on its meaning.

Foundation Vice President Alison Bernstein recalls a pivotal foundation meeting held in the mid 1990s on Goré Island, a site where slave ships departed from the coast of Senegal. During one of the first meetings Susan Berresford addressed as incoming foundation president, she spoke passionately about wanting to invest in more historical memory projects "because they are so important to the identity and prospects of marginalized people and their long-term hopes for justice."<sup>28</sup>

The District Six Museum opened in Cape Town in 1994, documenting one of apartheid's most wrenching episodes. In 1966, the government declared the district a white area and forcibly removed 60,000 residents of color to Cape Flats, a barren outlying area. Then the government bulldozed their houses to the ground, seeking to erase this history.

Grounding its programming in community involvement, the District Six Museum educates the public, documents forced removals, and contributes to restorative justice. Recognizing the museum's extraordinary role, the Ford Foundation is one of several funders supporting an ambitious effort to regenerate the community's memoryscape by developing a District Six

Memorial Park and 80 smaller heritage sites into the District Six Cultural Heritage Precinct.

A founding member of the International Coalition of Historic Sites of Conscience, the museum has played a leadership role in memory work nationally, regionally, and internationally. With Ford support, it hosted the Hands on District Six Conference in May 2005, which launched the African Sites of Conscience Network with the explicit goal of exploring "post-colonial memory work."

Robben Island, a maximum-security prison for political prisoners during apartheid from 1961 to 1991, was declared a World Heritage site in 1999. The Robben Island Museum conducts tours of the physically imposing sites on the island. Ford supported the prison tour project, a powerful and controversial program to train former political prisoners to serve as docents guiding tours and sharing their own experiences. Robben Island also became a partner in the Legacies of Authoritarianism Project—a global research project that sought to understand how societies deal culturally with mass atrocity—and hosted its inaugural meeting in 1999 with scholars and practitioners from a dozen countries.

The Robben Island Museum also supports the Mayibuye Archives in collaboration with the University of the Western Cape. The vast collection contains 100,000 photographs, 10,000 film and video recordings, 5000 artifacts, and 2000 oral history tapes.

Preserving, organizing, and interpreting such materials is vitally important to properly document and pass down to future generations the history of apartheid and the anti-apartheid struggle. To help achieve these goals by empowering under-represented communities, in 2007 Ford gave scholarships to black and women students in the African Program in Museum and Heritage Studies offered jointly by the Robben Island Museum and the universities of Cape Town and the Western Cape. The program has been training profes-

### 1999 continued

**Peru:** "What Now?" meeting in Lima, organized by Instituto de Defensa Legal (IDL) and the Washington Office on Latin America (WOLA).

**Argentina:** Memoria Abierta created to achieve coordinated participation in local and national

initiatives that work towards a collective memory of Argentina's recent past.

**Guatemala:** Commission for Historical Clarification's final report, "*Guatemala: Memory of Silence*," published.

**Robben Island** declared a World Heritage site.

**Chile:** "The Preservation of Historical Memory: documents and archives on human rights in the Southern Cone" held April 25-28.



Ex-resident story-teller Noor Ebrahim talks to visitors about the floor map, one of District Six Museum's main exhibits. May 2005

sionals from museum and heritage institutions all over Africa since 1998.

No one figure represents the anti-apartheid struggle more powerfully than Nelson Mandela. Yet surprisingly, materials related to his life, work, spirit, and vision are scattered around the world, inhibiting any systematic analysis of his legacy. Ford was among the first to support the creation of the Nelson Mandela Museum of Memory. Seeking to make accessible materials and information about Mandela, the museum plans to collect and consolidate materials, develop exhibitions, and create Web-based resources and outreach programs to communities that lack access to formal archives.

A key foundation grantee, the Institute for Democracy in South Africa (IDASA), convened a meeting in the early 1990s that brought together human rights activists from the Southern Cone and Eastern Europe to discuss with South Africans efforts to deal with the past. These South-South exchanges helped shape the future Truth and Reconciliation Commission (TRC). Later IDASA helped publish and disseminate almost a million copies of excerpts from the TRC's final report.<sup>29</sup>

Initially launched in January 1989, the Center for the Study of Violence and Reconciliation (CSV) is one of the primary institutions located in the southern hemisphere that generates knowledge, practice, and

#### 1999 continued

**Sierra Leone:** Lomé Peace Agreements provided for establishment of Truth and Reconciliation Commission to investigate atrocities committed in Sierra Leone's civil war between 1991 and 1999 (enacted in 2000).

#### 2000

**United Nations:** Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law (Bassiouni Principles)

**Argentina:** Law 12.483 created Provincial Commission on Memory.

policy to address legacies of violence and human rights abuse. The foundation's support of CSVR enabled it to monitor the proceedings of the TRC, to assess implementation of its recommendations, and to analyze the TRC's social and political impact.

In 2002, CSVR hosted an international conference on research methods and transitional justice. Its work on the continuum between ordinary and extraordinary violence in societies in transition has helped focus attention on gender and transitional justice. And later it helped launch the new *International Journal of Transitional Justice*.

The inclusion of gender concerns in justice and memory work represents a major development in the field. One final example serves to demonstrate further evolution. In 2007, the Gay and Lesbian Archive's (GALA) *Memory in Action* project launched an exhibition on documenting same-sex experiences in African contexts. The fact that GALA, which receives grants from the foundation, is one among many Lesbian, Gay, Bisexual, Transgender archives presenting at an international conference to be held this year demonstrates another facet of the political power of memory work for previously marginalized groups.

### The Emergence of a Focus on the Past in Indonesia

Just as the South African Truth and Reconciliation Commission was issuing its five-volume report in 1998, a strategic opportunity emerged for engaging with violent past in another part of the world. Indonesian dictator Suharto was forced to resign in 1998 after a repressive 32-year presidency. Having blamed the 1965 murder of several senior military officers on the Indonesian Communist Party, Suharto led an anti-communist purge in which an estimated one million people were killed and another million jailed. In 1975 Indonesia annexed the former Portuguese colony of Timor-Leste (now East Timor), starting a brutal 24-year occupation in which 100,000 lost their lives.

Located in Ford's Jakarta office, Indonesia Representative Mary Zurbuchen immediately sought to support a wide array of Indonesians who wanted to reckon with the past. She wrote: "While the New Order government imposed an official 'history' that justified its repressive actions in purging its opponents, people now seek alternative versions of the truth, the uncovering of hidden human rights abuses, and freedom of expression for diverging points of view."<sup>30</sup> They needed frameworks to do so, and some began to talk about transitional justice.

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Having learned about Alex Wilde's work in the Andean Region and Southern Cone office and Ford's extensive involvement in South Africa, Zurbuchen decided to consult with experts such as colleague Anthony Romero, who was the director of Human Rights and International Cooperation, and Alex Boraine, former deputy chairman of the South African TRC. The Jakarta office soon launched a multifaceted FAP on transitional justice in Indonesia.

The office contracted a team comprised of Paul van Zyl and Priscilla Hayner (who would later, with Alex Boraine, found ICTJ), and Douglass Cassell (a former legal advisor to El Salvador's Truth Commission) to conduct a technical assistance mission. They met with government and NGO representatives to discuss draft legislation, including the proposed truth commission bill and a proposed human rights court.

#### 2000 continued

**Uruguay:** Commission established by President Jorge Batelle began investigating fate of people who disappeared during military regime in power from 1973 to 1985.

#### 2001

**Peru:** Truth and Reconciliation Commission established to investigate human rights abuses and terrorist violence attributable to state or armed insurgent groups between May 1980 and November 2000.

**International Center for Transitional Justice (ICTJ)** established in New York.

**Balkans:** Slobodan Milosevic transferred into ICTY custody in June.

The team participated in several seminars with diverse constituencies, addressing both judicial and non-judicial approaches to accountability.

Zurbuchen values the small, local efforts that began to engage these issues. NGOs and local communities wrote revised local histories, started to uncover mass graves, and confronted local corruption. As they became increasingly familiar with transitional justice terminology, Indonesian human rights groups and others initiated discussions about the legacy of 1965 in new books, through newspaper and television coverage, and in public debates about revising the history curriculum. Interviews with former political prisoners were conducted and publicized. Children whose parents had suffered repression have become more vocal in calling for these stories to be heard. Sanata Dharma University launched a new program for the study and promotion of community reconciliation, truth-seeking, and human rights.

While discrimination against those affected by the 1965 repression has diminished, there are still lingering effects of that period in Indonesian society.<sup>31</sup> Human rights NGOs have therefore become even more immersed in how to deal with the past, and many have sought to learn from global experiences. The leaders of key NGOs working on these themes, for example, have spent time studying transitional justice in Cape Town, South Africa, as part of the ICTJ's global fellowship program.

While Indonesia has not had a classic truth commission, the Indonesian Women's Commission has initiated a ground-breaking process to hear testimonies and document human rights violations against women during the 1965 repression. Its report makes comprehensive recommendations to Indonesia's president and government. These include calls for a presidential apology, symbolic and material reparations for female victims, and ongoing documentation and truth-telling efforts, including the location of mass graves. The commission has linked truth-telling about violations in 1965 to ongoing efforts to eliminate violence against women in Indonesia.

In relation to the Indonesian occupation of what is now East Timor, from 1974 to 1999, the Timorese Commission for Reception, Truth, and Reconciliation (2002-2005) concluded that Indonesian security forces committed the great majority of rights violations, which were massive and systemic. Unfortunately, the commission's report has not been widely distributed, nor its recommendations implemented.<sup>32</sup> Nevertheless, its innovations have informed subsequent truth commissions, including the inclusion of gender-sensitive provisions in the enabling legislation for the current Liberian Truth and Reconciliation Commission.

#### 2001 continued

In the *Barrios-Altos* case, the **Inter-American Court of Human Rights** found Peruvian amnesty for state-sponsored human rights abuse to be in violation of the American Convention of Human Rights, holding there

can be no amnesty for torture and disappearance, and that amnesty violates victims' and relatives' right to truth.

**Ghana:** Parliament passed law establishing National Reconciliation Commission to investigate allegations of human rights abuses during times of unconstitutional governments.

## 4. South-South Exchange, Global Networks, and International NGOs

South-south exchange has long characterized initiatives to address past atrocity, a fact that international partners such as the Ford Foundation have recognized and supported.

Chilean human rights lawyer and human rights advocate José Zalaquett explains how sharing insights gained from truth commissions have helped in these regions:

*“There has been an incredible amount of south-south exchange. Chile learned from what they did and didn’t do in Uruguay and Argentina before the time of the Chilean transition. The South Africans learned from Chile and Argentina. Then the Peruvians learned from the South Africans”*<sup>33</sup>

In 1987 and 1988 the foundation supported the newly established Argentine Forensic Anthropology Team, an NGO that focused at that time on finding the remains of the disappeared in Argentina and collaborating with prosecutors to develop evidence, as well as work with family members of the victims to treat the remains respectfully and arrange for proper burials. In the last 20 years, the award-winning team has been invited to work with truth commissions and other truth-telling initiatives internationally. The team has made enormous contributions to informing people about what happened to their loved ones and developing legal cases for prosecution of perpetrators.

### Transitional Justice

One element of the globalization of dealing with the past was the emergence of a set of legal and moral

questions related to holding perpetrators accountable in courts. The Ford Foundation’s support for an Aspen Institute conference called “State Crimes: Punishment or Pardon”<sup>34</sup> (November 4-6, 1988) helped to launch a path of work that has been extremely influential in holding violators of human rights accountable in courts; according to one analysis, the term “transitional justice” first joined the lexicon at the conference. The meeting “aimed to sort through the moral, political, and legal implications of recent trials, commissions of inquiry, purges, and other measures intended to hold previous regimes to account for systematic human rights abuses, as well as to foster a transition to democracy.”<sup>35</sup> “‘Over and over again,’ Lawrence Weschler wrote in *The New Yorker*, ‘countries as varied as Uganda, Argentina, South Korea, Chile, South Africa, Brazil, the Philippines, Uruguay, Guatemala, and Haiti (all of whom were represented at the Aspen Institute conference) and the Soviet Union, Poland, Czechoslovakia, and China (which were not) confront the same sorts of questions as they attempt to move from dictatorial to democratic systems of governance—in essence, the question of what to do with the former torturers in their midst.’”<sup>36</sup>

The period from 1995 to 1998 was particularly important for the globalization of this movement. First, the South African truth commission that started in 1995 sparked a great deal of interest throughout the world in how societies can and should deal with the past.

2001 continued

**East Timor:** Commission for Reception, Truth, and Reconciliation created to address human rights violations committed during Indonesian occupation of East Timor between April 1974 and October 1999.

2002

**Colombia:** Constitutional court ruled that penal justice extends to protection and promotion of the right to truth, justice, and reparation (National Court ruling, 2002, C 228).

**International Criminal Court (ICC)** officially came into existence on July 1.

**Sierra Leone:** Government and UN established Special Court for Sierra Leone (SCSL).

The way that the TRC was able to create incentives for perpetrators to participate (in exchange for amnesty, in some cases) was unique and inspiring. And the emphasis put on reconciliation gave added significance to this newly salient addition to the global political lexicon.

In 1998, former dictator Augusto Pinochet was detained in London, as mentioned earlier, triggering global debates about the practice of universal jurisdiction and whether he should be tried for his crimes in Britain, Spain, or back in Chile. The contribution of the Andean Region and Southern Cone office has been noted earlier.

By the end of the 1990s, it was becoming apparent that a new paradigm of engaging with the past was emerging. To understand this phenomenon, comparative study—both within regions and between regions—became important. The three-year Legacies of Authoritarianism Project, based at the University of Wisconsin and supported under the foundation’s Crossing Borders program, brought together multi-regional research teams with members from Argentina, South Africa, Peru, the Philippines, Serbia, Thailand, and the United States to discuss the ways in which the realms of art and culture have been vehicles for addressing the legacies of past atrocities.<sup>37</sup>

The movement to deal with past human rights abuse and atrocity was now global. The foundation’s support for the work done by human rights organizations involved in transitions from authoritarian regimes in Argentina, Chile, and Uruguay, among other places; for various Latin American truth commissions; and for efforts such as the Historical Memory Initiative in the Andean Region and Southern Cone office had paved the way. Interest in truth commissions throughout the world had grown dramatically. That combined with the interest in the detention of Pinochet created some excitement about human rights advocacy that focused on confronting past atrocity. The groundwork had been laid for the continued growth of a global field of activity focused on preventing future abuse by engaging with the past.

It was becoming clear that activity concerning past human rights abuse—whether framed as memory, reparations, or transitional justice—was only going to increase. As Anthony Romero put it, Ford Foundation program staff “were responding to events on the ground that were real and palpable, there was energy and interest, and people responded to it”.<sup>38</sup> So in 1999, the foundation commissioned a consultancy report about the nascent field and held a few modest consultative meetings with experts and practitioners working in the area. One of these took place in Santiago that April, convened by Anthony Romero and the Andean Region and Southern Cone’s Historical Memory Initiative. Some of the top thinkers in the region on this topic, such as José Zalaquett, Patricia Valdéz, Jorge Correa, and Elizabeth Lira, participated<sup>39</sup>.

People reacted to the early draft of the report with a combination of enthusiasm about the field and apprehension and uncertainty about how to best pursue the shared goal of strengthening an approach to human rights that was gaining legitimacy and influence. The final draft was finished in time for a meeting of most of the key players in this field on April 6th, 2000.

The consultancy report outlined a minimum of \$3 million (an underestimate) the foundation had made in two dozen grants.<sup>40</sup> These included more than \$1 million through the Historical Memory Initiative and almost \$700,000 to Fulcrum Productions in London for the production of “The Terror and the Truth,” a three-hour documentary. The report then discussed the vibrancy of the field, and the clear demand among activists in numerous countries around the world for more comparative information, greater understanding of emerging patterns and trends, more research, and greater reciprocal exchange among actors.

The meeting in April 2000 opened by Susan Berresford, Bradford Smith, and Anthony Romero focused on what had come to be called transitional justice. A narrow slice of a broad set of questions related to dealing with the past, transitional justice addressed the legal

### 2003

**Ghana:** National Reconciliation Commission created to address post-independence authoritarianism as part of active policy of national reconciliation.

**Peru:** Final Report of Truth and Reconciliation Commission made public in August.

Creation of **Movimiento Para Que No Se Repita**, a collective network of victims’ organizations, NGOs, churches, and grass-roots

organizations, to promote TRC’s recommendations at national level. It has 38 regional groups in 25 regions.

**UNESCO** declared archives of several NGOs patrimony within its Memory of the World Program.

obligations of states in the aftermath of atrocity according to international law, and, as such, it was primarily focused on the role of the state, political institutions, and the formation of public policy. The widely accepted definition suggested that successor states had four types of obligations under international law that needed to be translated into policy. These were (1) the obligation to find and tell the truth about what had happened in the past; (2) the obligation to prosecute and punish perpetrators; (3) the obligation to develop reparations programs for victims; and (4) the obligation to take measures to guarantee the crimes wouldn't be repeated, mainly by identifying and reforming responsible state institutions.

### The Emergence of New International NGOs

From these meetings, the Ford Foundation decided to build on its long history of partnering with efforts to deal with the past by investing in a new institution. With support from president Susan Berresford, whose backing of the new institution was vital, the ICTJ was founded in March 2001, by Alex Boraine, Paul van Zyl of the South African TRC, and independent researcher Priscilla Hayner.<sup>41</sup> The center would develop cutting-edge research and be a source of best practices worldwide. Responding to requests for technical assistance, the ICTJ would be able to bring both global contacts and top-notch specialist expertise to any situation requiring creative thinking about dealing with the past. And the ICTJ would have a deep commitment to capacity-building. The creation of the ICTJ would help to strengthen, not deplete, the field. In this sense, the ICTJ was seen as a catalytic enterprise, meant to harness existing expertise on dealing with the past through networks, capacity-building, and reciprocal exchange among existing, as well as future, specialists. One of the people who spoke in support of this idea was Mary Zurbuchen, who commented on the ways in which international experts like Boraine, Van Zyl and Hayner had made major contributions to both the creation of the Timorese truth commission and the

broader debates about the past in Indonesia. The idea of creating a global institution that could create these connections made sense.

The ICTJ focused on one burgeoning area of interest: the formation of public policy on how to deal with the past through approaches such as the creation of official truth commissions, the establishment of reparations policies, and prosecutions of former dictators and warlords in criminal proceedings, in domestic courts when possible, or in international tribunals when necessary. It developed programs in each of these areas and was soon working in more than 15 countries. By 2008, that number had more than doubled. In addition to its initial focus on legal obligations of states, the ICTJ developed programs that focus on social memory, including its Memory, Memorials, and Museums Program.

The ICTJ has had an impact on how societies around the world deal with the past. The international networks it has fostered have linked practitioners from all world regions. The ICTJ's training programs have graduated hundreds of leaders of NGOs working on these themes. And the convening power of the ICTJ around questions of transitional justice has been significant, as the institution has been able to make contributions to national discussions and debates among policymakers on dealing with the past in dozens of countries.

The center has also provided technical assistance to enhance the impact of truth commissions in Peru, Morocco, Ghana, Timor-Leste, and Liberia, to name only a few; prosecutorial strategies in countries such as Sierra Leone and Cambodia; reparations policies in Peru and Ghana, among others; the creation of sites and public memorials in Lebanon and Cambodia; and institutional reform efforts in Burundi, Liberia, Iraq, and other contexts. The ICTJ has also worked to increase the gender sensitivity of transitional justice mechanisms in Colombia, Liberia, and Morocco, and influenced peace and justice debates in, for example, Colombia and Uganda.

#### 2003 continued

**Argentina:** "Archivo Nacional de la Memoria" created by decree of the Executive in December.

**Chile:** President Ricardo Lagos said, "Many believe that in order to overcome traumas of the past it was enough to 'turn the page' or bury one's memory. A society does not become more human denying the pain, the pain of its history."

**Indonesia:** Ad hoc Human Rights Court created in Jakarta to try people for human rights violations in East Timor during 1999.

At the same time another global organization was forming, also with foundation support, through the Arts and Culture side of its programs. Starting in 1999, the Lower East Side Tenement Museum hosted a meeting of “Sites of Conscience,” museums that work to interpret history through their sites, engage in programs to stimulate dialogue, and provide opportunities for public involvement in issues raised at the site. Alison Bernstein credits the museum’s founder and president, Ruth Abram, with introducing the “cultural” side of the foundation the idea that “societies have an obligation to come to terms with their past.”<sup>42</sup>

Between 1999 and 2004, the International Coalition of Historic Site Museums of Conscience attracted dozens and dozens of potential members from around the world, including the District Six Museum, the Liberation War Museum (Bangladesh), the Gulag Museum, and the Japanese American National Museum (United States). Foundation grantees have been driving forces of the Coalition. For example, one of the first and most influential members was Memoria Abierta; more recently, the Corporacion Parque por la Paz Villa Grimaldi has both benefited greatly by being a member of the Coalition and has also made important contributions.

By 2008, the coalition had also blossomed in size and complexity, adding more members and organizing numerous events. Foundation support throughout the life of the coalition—which has come from both Arts and Culture and the Human Rights programs—has been essential to its growth and allowed the coalition to bring substantial expertise, fresh ideas, and an array of new practitioners, including many from the world of museum professionals, to the field of dealing with the past.

In June 2007, the ICTJ and the coalition of sites of conscience collaborated with each other and the Latin American Social Sciences Faculty (FLACSO)—a long-standing foundation grantee in Chile—to organize the first global conference on memorialization and democracy. Held in Santiago with support from the foundation’s office there, this event brought together scholars and practitioners from throughout the world to debate the relationships between memory, history, public art, memorialization processes, and sites of conscience in terms of building long-lasting and stable democracies.<sup>43</sup>

The coalition, like the ICTJ, was an international institution that came at the right moment, demonstrable by the increasing support from its primary constituencies and from donors and other supporters that it has garnered since the inception. It now counts more than 100 members or potential new members. Moreover, the coalition and the ICTJ represent a particular kind of international NGO in the age of globalization, one whose primary function is to facilitate reciprocal exchange across world regions, while respecting and always prioritizing local context. This may be the most significant element of the foundation’s support for these two international organizations.

#### 2003 continued

**Argentina:** Instituto Espacio para la Memoria created in Buenos Aires to direct memory initiatives in urban areas.

**Cambodia:** UN and Cambodian government reached agreement on international war crimes tribunal to prosecute former Khmer Rouge leaders.

**Morocco:** Human rights and truth commission (Instance Équité et Réconciliation) established to address cases of disappearance, deaths, and other human rights violations.



## 5. Assessing Impact

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Between 1983 and 2008, dealing with the past has gone from an inchoate and ad hoc set of strategies that appeared in a few contexts (most notably Argentina, Uruguay, and then Chile) to a rich, comprehensive and multi-layered set of overlapping fields of activity with a reservoir of experience and comparative knowledge from every world region upon which to draw.

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In part because of the early investments the Ford Foundation made in supporting the Aspen Institute conference in 1988, the Historical Memory Initiative in the Andean Region and Southern Cone office in the mid-1990s, and the creation of the Coalition and the ICTJ in the early 2000s, the field has grown in breadth and depth, and has become a vital part of human rights and democratization strategies worldwide.

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**“Dealing with legacies of past abuses is always painful. It is also hazardous, mostly because the forces interested in impunity and forgetting still wield considerable power and are determined to erect obstacles in the path of truth and justice. At key moments, initiatives designed to preserve memory provide the necessary energy and impetus to overcome those seemingly insurmountable barriers”**

*Juan Méndez, ICTJ*

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Dealing with the past represents an important new direction in human rights advocacy and in the movement for stable, sustainable democracies around the

world. By examining the kinds of activities described above, it is possible to draw some tentative conclusions about the ways in which this line of work by dedicated activists and flagship organizations may have helped to strengthen human rights cultures and democratic institutions in many countries.

It is also clear that the actions of organizations such as the Ford Foundation can contribute to significant changes. In this case, the foundation’s support has helped to create and strengthen a field that has had enduring results in the areas of human rights, democratization, and peace-building.

Ultimately, this report suggests that post-authoritarian democracies have gained strength from dealing with their troubled histories in various ways. These countries have spent more than 20 years engaged in national soul-searching activities that fall under the various titles of “historical memory,” “transitional justice,” “accountability for past human rights abuse,” “memorialization,” “truth-telling,” “reparations for victims,” “sites of conscience,” and “dealing with the past.” These overlapping approaches have been adapted more recently to many other contexts including post-conflict settings (such as Liberia and Sierra Leone) and even to ongoing conflicts (such as Colombia and the Democratic Republic of Congo).

### 2004

**Argentina:** National and local governments signed agreement in March to create “Space for Memory and the Promotion and Defense of Human Rights” at former Navy Mechanics School.

**Paraguay:** Creation of Truth and Justice Commission to investigate human rights violations committed from 1954 to 2003. Much of the focus would be on violations committed during dictatorship of Alfredo Stroessner (1954–1989).

**International Criminal Tribunal for the former Yugoslavia** closed cases concerning 50 individuals by April.

One way of measuring impact concerns the overall growth of the field and the way that it has been financed. In this regard, it is clear that funding for activities built around dealing with the past has grown enormously over the past decade. Taken alone, increased funding does not reveal much, but linked to the other ways of assessing impact discussed later, it reinforces the sense that dealing with the past has captured the imagination of global communities as a method of promoting accountability, preventing conflict, consolidating peace, and generating reflection on root causes.

While the Ford Foundation has played a clear leadership role by investing early in these activities, the more recent diversification of funding sources attests to the widespread interest in the linkages between memory and justice. Funding for programs related to historical memory, transitional justice, and dealing with the past has increased dramatically in recent years. By a very conservative estimate, U.S. private foundations alone have invested about \$93 million dollars in related fields from 2003-2007.<sup>44</sup> Major donors for the combined fields today include:

- government ministries of foreign affairs or aid agencies, such as the governments of Canada, Japan, Luxembourg, the Netherlands, Norway, and Spain;
- specialized offices such as the Justice and Rule of Law Department of the Foreign and Commonwealth Office (UK) and the Section for Humanitarian Policy & Conflict Issues of the Swedish Ministry for Foreign Affairs;
- private foundations, such as MacArthur, Charles Stewart Mott, Rockefeller Brothers, Rockefeller, Carnegie Corp, Henry M. Jackson, Oak, Open Society Institute, Samuel Rubin Foundation;
- corporate foundations, such as Goldman Sachs and Allstate;
- and other organizations, such as the Henrich Böll Foundation and the US Institute for Peace.<sup>45</sup>

Judy Barsalou, formerly of the U.S. Institute for Peace and now at the Ford Foundation office in Cairo, points

out that governmental and private donors previously engaged in supporting human rights, conflict prevention/resolution, and social science research, are now responding to requests by human rights groups, scholars, peace-building activists, and NGOs to support efforts to deal with the past. “Increasingly, all these categories of actors appear to be seized with the notion that understanding the past, accounting for it, and helping populations come to grips with it are integral to the larger pursuits of promoting human rights and building peace locally and internationally.”<sup>46</sup>

### Shifting the Way that Societies Approach Past Atrocity

The roots of this movement in Latin America and especially in Argentina, as discussed earlier, mean that it draws its initial inspiration from the fact that victims and citizens would not let the dictators get away with their bad deeds. These movements refused to let authoritarian rulers and military juntas go down in history in any way that did not recognize the terrible crimes for which they had been responsible. Using many different approaches, they refused to allow silence, lies, and forgetting to dominate the collective memory of what had happened.

These movements have changed the discourse about the past in their countries and globally; they have reframed the discussion about the relationship between past and future. Canadian philosopher Michael Ignatieff has said that the goal of truth commissions is “to limit the range of permissible lies,” and these movements also sought, at a minimum, to accomplish that aspiration. In doing so, they helped create the conditions that would allow for the prosecution of perpetrators, significant institutional reforms (such as judicial reform and constitutional reform, as well as reforms of the security sector), the creation of meaningful victim-centered reparations programs, and the establishment of preventative measures so that these crimes would be unlikely to occur again. They also made it difficult for

2004 continued

**Iraq:** Iraqi Interim Governing Council established tribunal to try Saddam Hussein and members of his regime for crimes committed during his rule.

2005

**United States:** “State of Fear” documentary released with support from Ford Foundation, Sundance Documentary Fund, and U.S. Institute of Peace.

**South Africa:** “Hands on District Six” Conference in May.

**Peru:** Victims’ family members created memory museum on October 15.

nostalgia—romantic, fictionalized, partial memories of a law-and-order past under dictatorship—to surface in the future without being undermined by irreconcilable contradictions and undeniable truths about the brutality and hubris of former regimes.

Aryeh Neier, president of the Open Society Institute, says that the impact of 25 years of activities that focus on dealing with the past has made an enormous difference. It “is immensely significant, he explains, because “you can go to certain places and you become quickly aware that addressing the past is very much a part of addressing the future, that it is inseparable. The German philosopher Karl Jaspers argued after World War II that acknowledging moral responsibility and other forms of responsibility is part of the process of constructing what goes forward.” Neier continues, “A crucial part of building a more open society is acknowledging what took place in the past and addressing it in some way.”

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**Recognizing victims publicly, fashioning meaningful programs aimed at simultaneously acknowledging their trauma and helping them recover from it, and providing spaces for them to tell their stories, be listened to by both fellow citizens and respected leaders ... is an essential component of tolerance, the foundation of a democratic society.**

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Creating essential linkages between past, present, and future has arguably been the most influential aspect of this movement. Drawing on the experiences of victims and the expertise of civil society organizations and human rights leaders, these movements translated frustration, pain, anger, and disappointment into concrete action for enhancing stable, peaceful democracies in post-authoritarian or post-conflict settings, as well as in other contexts. As the Ford Foundation’s Mary McClymont puts it, “it is clear to me that the approach of the international community towards the importance of

remembering past human rights abuse and atrocity is fundamentally different than when I first started working in these fields two decade ago.”

Susan Berresford, former president of the Ford Foundation, puts it this way. “It is very, very important” to deal with the past. “If societies don’t deal with the past, then the victims suffer even more” because “you are denying them their own integrity as a person, as a member of a culture, as a member of the community,” and this is done “at your peril.”<sup>47</sup>

In this sense, the movement to deal with past atrocity has always been equally about the future as much as the past. It is, at its heart, a progressive movement that seeks to learn from the errors and transgressions of the past in order to build a better future. The following are some, but certainly not all, of the ways that efforts to deal with the past have had impact since 1983.

#### **By demanding that we learn from the past**

The movement to deal with the past is based on the idea that we can learn from it. It has therefore prioritized finding out the truth about what happened in the past through various approaches. These include trials and truth commissions, curricular reform, dissemination of reports from truth commissions, programs about trials and accountability, the conversion of former torture centers into educational sites, and the development of interpretive exhibits to teach citizens about the past and reinforce the idea that these kinds of crimes must never again take place.

#### **By deepening debate about social and political reconciliation**

By bringing to the foreground the complex relationships among reconciliation, healing, and accountability, the movement to deal with the past has had to face the challenge that reconciliation, in some cases, might mean forgetting, while in other cases it might mean confronting the past. Nowhere was this clearer than in

2005 continued

**Colombia:** Law 975 (“Justice and Peace Law”) passed.

Colombian NGO Movimiento Nacional de Víctimas de Crímenes de Estado established.

**Indonesia:** President Gusmao released final CAVR report to Timorese Parliament and UN Secretary-General.

**Liberia:** Truth and Reconciliation Commission created to investigate gross human rights violations that occurred in Liberia from January 1979 to October 14, 2003.

the case of South Africa, where reconciliation became a widely used, but highly contested and hotly debated, concept. The term increasingly became used in the titles of truth commissions—many of which came to be called truth and reconciliation commissions (such as in Peru, Sierra Leone, and Liberia)—and elicited controversy in many contexts. In any case, that the term is debated in so many contexts and with such sophistication concerning the respective roles of remembering, forgetting, accountability, silence, truth, justice, and reparation, is itself a very positive contribution.

### By addressing the ways that violence is gendered

By looking at historical periods characterized by systematic violence, such as under dictatorship in Uruguay, mass atrocity under Suharto in Indonesia, or apartheid in South Africa, the movement to deal with the past can identify patterns of abuse and violence. One of the clearest types of patterns is the gendered nature of violence: that men and women experience violence differently and in the aftermath have different ways of identifying and reporting on violence. One example is that the iconic “victim” to appear before the South African truth commission was a mother talking about violence committed against a son instead of discussing her own traumatic experience. Another important dimension is the recognition of the continuum of violence in women’s lives in periods of extraordinary societal violence, as well as in pre-conflict and post-conflict contexts.

### By giving voice to victims

Throughout history, victims of mass atrocity and their family members have often been silenced. The movement to deal with the past, through initiatives such as truth commissions, trials, oral history projects, documentation and publicity projects, the creation of public memorials and sites of conscience, and other formal and informal truth-telling efforts, has provided those victims the opportunity to be heard and recognized. As the writer Ariel Dorfman puts it, if the voice of a



*Demonstration in front of the Argentine Navy Mechanics School (ESMA), an illegal detention center during the National Reorganization Process' dictatorial rule (1976-1983).*

victim has not been heard, if “her story or his story has not been verified publicly, has not been accepted publicly by the community, this is in some senses a worse punishment than the atrocity itself.”<sup>48</sup>

### By recognizing victims as citizens whose rights have been violated

By recognizing victims publicly, fashioning meaningful programs aimed at simultaneously acknowledging their trauma and helping them recover from it (such as mas-

#### 2006

**Chile:** August 30 officially declared National Day of the Disappeared.

Supreme Court stripped Pinochet of immunity. Judge indicted him for kidnapping and torture at Villa Grimaldi. He was put under house arrest on October 31, 2006. Superior Court later dismissed all charges.

Chilean President Michele Bachelet said, “Remembering the past is also essential for laying the foundations of a more just, equal, and participatory future.”

sive reparations programs), and providing spaces (such as truth commissions) for them to tell their stories, be listened to by both fellow citizens and respected leaders, efforts to deal with the past have endeavored to integrate victims as fellow citizens who deserve to be seen and heard. This kind of recognition is an essential component of tolerance, the foundation of a democratic society.<sup>49</sup> Full inclusion of victims and their experience as elements of society as a whole can foster an ability to accommodate diversity in the future, and to be tolerant of differences. Recognition of victims is thus deeply linked to the constitutive values of societies today as they deal with current problems of discrimination and exclusion.

#### **By raising questions of guilt, culpability, and complicity**

Efforts to deal with the past have raised complicated questions about who is guilty. While affirming that individuals must be held accountable for the crimes for which they are directly responsible, the movement has sought to grapple much more deeply with the complexity of guilt and complicity. Moreover, it is clear that it is impossible logistically and financially to prosecute every responsible person, thus it is inevitable that some perpetrators at some levels will remain untouched by formal justice processes.

#### **By insisting that individual perpetrators must be held accountable for past actions**

By sending a clear signal that individuals can be held accountable in courts and in public opinion for human rights violations and mass atrocity, the human rights movement in general (and dealing with the past in particular) has insisted that those most responsible for crimes should be tried in courts, even for crimes committed decades earlier and which many have been forgotten. This insistence on accountability for past abuse may contribute to preventing these crimes from happening in the future.

#### **By insisting that the state is responsible for protecting its citizens**

Truth-telling through formal commissions or unofficial forms as well as criminal prosecutions, has pointed to the ways in which the state is “charged with protecting the rights of citizens,” as the Chilean Truth and Reconciliation Commission puts it, and therefore must be held to account for crimes committed by its agents. The Chilean commission continues, “It should always be emphasized that acts of terrorism or other illegitimate actions committed for political reasons cannot be used to seek to justify human rights violations committed by the state, and that the state’s use of its monopoly over public force to violate the rights of persons is a matter of the gravest concern.”

#### **By making dealing with the past a requirement for membership in the world community of states**

The movement to deal with the past has helped to make it “shameful to paper over terrible experiences.”<sup>50</sup> One of the results of this is that in general countries around the world are expected to deal with their pasts in order to be seen as members of the international community. Comparing Japan and Germany, for example, Neier of the Open Society Institute says, “I think there is a general recognition that Germany transformed itself by coming to terms with the past, and Japan’s refusal to come to terms with the past has produced this continuing resentment in a number of countries of Asia.” While powerful states such as China, Russia, and the United States might be routinely ignore this requirement, many less powerful nations, including those that seek membership in the European Community, must increasingly demonstrate that they have sincerely tried to come to terms with violent periods in their recent pasts.

#### **By identifying and reforming abusive institutions from previous regimes**

One of the driving principles of the movement to deal with the past has been to develop “guarantees of non-

2006 continued

**Colombia:** Organization of Sons and Daughters for Memory and Against Impunity created to preserve memory of those killed for political reasons.

Sentence C 396 of 2007 of the Colombian Constitutional Court stated that search for truth is a guarantee of justice and an instrument of protection to victims.

**Argentina:** Congress passed law declaring March 24 “National Day of Memory, for Truth and Justice.”

repetition.” The clearest way to achieve this goal, in addition to deterrence, is by identifying the institutions—such as state security forces, police, the judiciary, the intelligence services, and other key institutions—that were most responsible for the crimes, and to hold those institutions accountable and then transform them into democratic, transparent, and functional institutions. Using vetting techniques, creating civilian oversight bodies, or completely reconstructing institutions are some of the ways to accomplish these goals.

#### **By clarifying international law about obligations of states in the aftermath of violence**

The movement to deal with the past has resulted in enhanced jurisprudence by important entities as the Inter-American Commission and Inter-American Court. This legal interpretation of the obligations of states is at the core of how dealing with past atrocity has been defined. For example, in the Inter-American Court’s 1988 case *Velásquez-Rodríguez v. Honduras*, the judges were clear: “The State has a legal duty to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.”<sup>51</sup>

#### **By changing international norms**

There are other ways in which international norms have shifted because of the movements to confront the past. The United Nations Secretary-General’s report on the rule of law and transitional justice in conflict and post-conflict societies endorsed the “full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice, and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all), and individual prosecutions, reparations, truth-seeking,

institutional reform, vetting and dismissals, or a combination thereof.”

#### **By contributing to the widespread acceptance of criminal prosecution for mass atrocity**

Prosecution of those most responsible for human rights violations and atrocity has come a long way since the initial prosecutions of the military junta in Argentina. Today, autocrats as diverse as former heads-of-state Alberto Fujimori (Peru) and Hissène Habré (Chad), as well as hundreds of officials from former dictatorships, are under indictment by domestic courts; this does not even count the work of the ad hoc international criminal tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), or the International Criminal Court (ICC), which Jonathan Fanton of the MacArthur Foundation calls “the most important international institution since the United Nations.” Although the ICC is not explicitly concerned with dealing with the past, its creation is at least in part attributable to the important strides made by prosecuting the leaders of military regimes in domestic courts in Argentina, Chile, and Guatemala, among other places.

#### **By making it clear that future political and economic development often depends on dealing with the past**

The movement to confront the past has catalysed important questions about whether “business as usual” (i.e. not addressing the past) has worked in terms of economic development, peace-building, and post-conflict reconstruction. In many cases, it is clear that ignoring past atrocity can sabotage these goals, as past social trauma simmers and resurfaces as bitter resentment, tension, and flawed institutions. By engaging in constructive and reciprocal dialogues with more established fields—such as Economic Development, Gender, Rule of Law, and Peace-Building—a broad conversation has emerged that links accountability for the past with future national development, thus enriching all these fields.

#### *2006 continued*

President Néstor Kirchner said, “That process of remembering, that construction of memory, is a valuable mechanism of resistance.”

“Images for Memory” exhibit celebrated in Buenos Aires by Memoria Abierta on the 30th anniversary of 1976 coup.

#### **2007**

**Chile:** First Global Conference on Memorialization and Democracy held in June, organized by ICTJ, Coalition of Sites of Conscience, and Latin American Social Sciences Faculty (FLACSO).

## 6. The Future of Dealing with the Past

Over the past two decades there has been an increasing movement to deal with past human rights abuse and atrocity. This has resulted in a proliferation of initiatives, activities, new organizations, and new priorities within existing organizations. These efforts have fallen under many different rubrics, but taken together amount to a major new direction in the human rights, democratization, and peace-building movements globally.

The Ford Foundation has played a major role in these developments. The foundation's early support for key human rights organizations in Argentina and Chile, where in many respects the movement started, as well as the Andean Region and Southern Cone office's decision to explore questions of memory and justice in the 1990s and its continuing support (including in Colombia) in the 2000s, have contributed to the development of a vibrant and diversified set of activities aimed at confronting impunity for mass atrocity. The establishment—with significant foundation support—of international networks and organizations in the 2000s that have worked in dozens of countries on questions related to dealing with the past, is an additional indication of the vibrancy of the field.

In spite of the positive results and growth of the field, the efforts to deal with the past that have emerged over the past two decades may have raised as many questions as answers. Chilean President Michele Bachelet touched on this in 2007 when she visited the memory site Villa Grimaldi, the former torture center, where she herself had been a prisoner after the 1973 coup.

*"I know that I am going to walk where I walked before...  
And I know that the eternal questions will be more than*

*a whisper: How could it happen again? Could we have avoided it? Have we done enough for it to never happen again? Are we now a community based on mutual respect? We can't stop asking those questions."*

Achieving the aspiration of Nunca Más concerning human rights abuse, crimes against humanity, and genocide is one of the most significant challenges in the world. Efforts to address and learn from the past and, in so doing, to create both democratic institutions and cultures of human rights represents a solid contribution to the achievement of this goal.

However, the movement to deal with past atrocity is still in its infancy, and there is every indication that such efforts and initiatives will continue to expand in the future. The realization that, although local circumstances will always vary, remembering past atrocity and dealing with it may be an important component of building stable democracies for the long-term has had a profound influence. There remain many challenges in all world regions. From Russia, where some blame amnesia or nostalgia for ongoing authoritarian practices, to the Democratic Republic of Congo, where the damages of a massive war are still being experienced daily. From countries such as Australia and Canada,

### 2007 continued

**South Africa:** Nelson Mandela Centre of Memory and Dialogue established.

**The Hague:** Opening of trial of former Liberian president Charles Taylor by Special Court for Sierra Leone.

**Oxford University Press** launched *International Journal of Transitional Justice*.

**Chile:** Bilingual electronic publication of 34 major studies on political violence called *"Historicizing the Past in Latin America"* published.

### 2008 (January-March)

By January, 1,056 human rights-related legal actions were open or completed against 614 former regime agents, civilian and former and current military personnel.

where the legacies of the assimilationist policies against native peoples can be seen as cultural genocide, to cases of ongoing conflict, such as Colombia or Burundi, where dealing with the past may be a part of the attainment of peace. These are just a few of the many examples of places where dealing with the past is or may become important.

Last year in Spain, decades after the end of the civil war and the subsequent period of authoritarian rule under Francisco Franco, parliament passed the Law of Historic Memory, which seeks to engage with that traumatic period. In Cambodia, the transformation of Tuol Sleng prison museum into a Genocide Museum and Educa-

tion Center was announced in 2008. The blue-ribbon Moroccan truth commission—the first of its kind in the Arab and Muslim worlds—has recommended that the country grapple with the memory of its past.

The current interest in these strategies suggests that dealing with the past has become a core aspect of building just and fair societies based on transparency, tolerance, and the rule of law. But the relationship between memory and justice is only just beginning to be fully explored, and this topic is likely to continue to remain an important element of the human rights and democratization movements for the long term.

2008 (January - March) continued

**Memory Studies Journal** launched in January.

**Australia:** Prime Minister Kevin Rudd apologized to Stolen Generations in Parliament and spoke of profound grief, suffering, and loss experienced by indigenous people.

"Is an Interdisciplinary Field of Memory Possible?" Conference held by **Trans-regional Center for Democratic Studies**, New School University and ICTJ's Memory and Memorials Program.

**Budapest:** Center for Strategic and International Studies (CSIS) convened meeting on "Absent Memory."



## Notes

- <sup>1</sup> It is possible to tell the story of the global human rights movement in different ways, including dating it back to the British and Foreign Anti-Slavery Society's creation in 1839 (see William Korey, NGOs and the Universal Declaration of Human Rights. New York: Palgrave Macmillan, 2001), or the founding of the American Civil Liberties Union in 1920 (see Samuel Walker, *In Defense of American Liberties*, Second Edition: A History of the ACLU. Chicago: Southern Illinois University Press, 1999). One reasonable place to begin the story, however, is with the founding of Amnesty International that began with a letter written by the group's founder in 1961 (see Margaret E. Keck, Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*. New York: Cornell University Press, 1998).
- <sup>2</sup> The report was "Truth and Partial Justice in Argentina," by Juan Méndez for Americas Watch. Additional contextual information provided by Aryeh Neier in interview conducted on March 7, 2008, at the Open Society Institute in New York. For more information on this interview, see full transcription on file.
- <sup>3</sup> For example, see Reed Brody, "Justice: The First Casualty of Truth?" *The Nation*, April 30, 2001.
- <sup>4</sup> Interviews acknowledged in various endnotes. For authors of commissioned papers, see Acknowledgements.
- <sup>5</sup> See Ford Foundation Report, "Forty Years in the Andean and Southern Cone" 2003, p. 37.
- <sup>6</sup> President Carlos Saúl Menem later pardoned the junta leaders. But the fact that they were successfully tried in a court of law was of no small significance. See Carlos Santiago Nino, *Radical Evil on Trial*. New Haven, Ct.: Yale University Press, 1996.
- <sup>7</sup> Peter Winn's Consultancy Report: "Ford Foundation Historical Memory Programming in the Andean Region and Southern Cone, Sept. 30, 2007, p. 6, quoting, respectively, Elizabeth Lira and José Zalaquett.
- <sup>8</sup> See Ford Foundation Grant #980-1010, p. 2. For detailed information about this grant, please see grant paperwork on file.
- <sup>9</sup> E-mail correspondence with Martín Abregú, April 15, 2008.
- <sup>10</sup> Alex Wilde, "Reflections on Building the Human Rights Field in Latin America: a discussion document," Nov. 29-30, 1999, p. 2.
- <sup>11</sup> Alex Wilde, "Reflections on Building the Human Rights Field in Latin America: a discussion document," Nov. 29-30, 1999, p. 1.
- <sup>12</sup> Alex Wilde, "Reflections on Building the Human Rights Field in Latin America: a discussion document," Nov. 29-30, 1999, p. 2, fn
- <sup>13</sup> Alex Wilde, e-mail correspondence to Louis Bickford on April 14, 2008.
- <sup>14</sup> Peter Winn's Consultancy Report: "Ford Foundation Historical Memory Programming in the Andean Region and Southern Cone," Sept. 30, 2007, p.2.
- <sup>15</sup> See Ford Foundation Grant #999-0007. For detailed information about this grant, please see grant paperwork on file. Also see Louis Bickford, "The Archival Imperative: Human Rights and Historical Memory in Latin America's Southern Cone," *Human Rights Quarterly* (Volume 21, Number 4, November 1999), pp. 1097-1122.
- <sup>16</sup> See Elizabeth Quay Hutchison, A Rapporteur's Report for "Preserving Memory: Documents and Human Rights Archives in the Southern Cone. A workshop organized by the Andes and Southern Cone office of the Ford Foundation, April 25-28, 1999, Santiago, Chile"
- <sup>17</sup> Memory of the World, UNESCO's program aiming at preservation and dissemination of valuable archive holdings and library collections worldwide. Chile - Human Rights Archive of Chile, available at [http://portal.unesco.org/ci/en/ev.phpURL\\_ID=7540&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/ci/en/ev.phpURL_ID=7540&URL_DO=DO_TOPIC&URL_SECTION=201.html)
- <sup>18</sup> See Ford Foundation Grant #990-0297. For detailed information about this grant, please see grant paperwork on file.
- <sup>19</sup> Interview with Elizabeth Jelin, March 13, 2008, at the International Center for Transitional Justice, New York, p. 4. For further information on this interview, see full transcription on file.
- <sup>20</sup> Peter Winn's Consultancy Report: "Ford Foundation Historical Memory Programming in the Andean Region and Southern Cone," Sept. 30, 2007, p. 3
- <sup>21</sup> See Ford Foundation Grant #1005-0337. For detailed information about this grant, please see grant paperwork on file.
- <sup>22</sup> See Ford Foundation Grant #1005-0337, p. 2. For detailed information about this grant, please see grant paperwork on file.
- <sup>23</sup> E-mail correspondence with Alex Wilde, April 21, 2008. Also Peter Winn's Consultancy Report: "Ford Foundation Historical Memory Programming in the Andean Region and Southern Cone," Sept. 30, 2007, p.15.
- <sup>24</sup> Mary McAuley, Program Officer Memo, Peace and Social Justice Program, Moscow Office, Human Rights Field, Dec. 14, 1999.
- <sup>25</sup> Interview with Susan Berresford, March 25, 2008, at New York Community Trust, New York, p. 15. For further information on this interview, see full transcription on file.
- <sup>26</sup> Mark Freeman, director of ICTJ's Brussels office, cites four factors to explain this: the countries were under Soviet occupation; the pervasive and intimate nature of totalitarianism in these regimes; the timing of transitions (before the innovations of the International Criminal Tribunal for Yugoslavia and the South African TRC); and Euro-centrism (lack of interest in non-European models for dealing with the past). Open Society Institute President Aryeh Neier attributes these challenges to "the extreme complexity, the degree to which so many people, many of whom behaved honorably in significant ways, were also compromised in other ways. And so the dividing lines between heroism and treachery are often very difficult to discern."
- <sup>27</sup> William Korey, *Taking on the World's Repressive Regimes: The Ford Foundation's International Human Rights Policies and Practices*. New York: Palgrave MacMillan, 2007, 139-140.
- <sup>28</sup> Interview with Alison Bernstein, Ford Foundation, New York, March 7, 2008, and with Susan Berresford, New York Community Trust, New York, March 25, 2008. For further information on these interviews, see full transcriptions on file.
- <sup>29</sup> William Korey, *Taking on the World's Repressive Regimes: The Ford Foundation's International Human Rights Policies and Practices*. New York: Palgrave MacMillan, 2007, 262.
- <sup>30</sup> See Ford Foundation Grant #1000-2048, especially RFG/FAP document from Mary Zurbuchen (Aug. 31, 2008). For detailed information about this grant, please see grant paperwork on file.
- <sup>31</sup> Interview with Mary Zurbuchen, March 12, 2008, at ICTJ, New York. For further information on this interview, see full transcription on file.
- <sup>32</sup> Priscilla Hayner, *Unspeakable Truths, Confronting State Terror and Atrocity*. New York: Routledge, 2001, Afterword.
- <sup>33</sup> Quoted in the documentary film "Confronting the Truth: Truth Commissions and Societies in Transition," Steve York and Neil J. Kritz, July 2007.
- <sup>34</sup> See Ford Foundation Grant file #885-0148. For further information on this interview, see full transcription on file.
- <sup>35</sup> See Paige Arthur's paper "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice," ICTJ, 2008, p. 1.
- <sup>36</sup> Paige Arthur, "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice," ICTJ, 2008, p. 1.
- <sup>37</sup> Ksenija Bilbija, Jo Ellen Fair, Cynthia E. Milton, and Leigh Payne, *The Art of Truth-Telling About Authoritarian Rule*. Madison: The University of Wisconsin Press, 2005.
- <sup>38</sup> Interview with Anthony Romero, March 7, 2008, at the American Civil Liberties Union office, New York, p. 23.
- <sup>39</sup> Louis Bickford, one of the authors of the present report, also participated in that meeting.
- <sup>40</sup> See Priscilla B. Hayner, "Transitional Justice Meeting Discussion Paper," Ford Foundation, April 6, 2000 (in ICTJ's possession).

- <sup>41</sup> Numerous interviews suggest that Susan Berresford played a key role in this story. Berresford herself explained that when the idea of the ICTJ began to emerge, “what struck me . . . was there were these pieces different parts of the Ford program affecting the world and it needed somehow to be more coherent”. She decided to throw her support behind the ICTJ and to help it “move confidently, knowing how hard it is to start something, assemble a board, do the work”. Berresford worked internally with foundation staff—and “pushed a little harder” to make it work—as well as externally, by calling presidents of other foundations to ask them to support the fledgling organization. Interview with Susan Berresford, March 25, 2008, at New York Community Trust, New York, p. 15. For further information on this interview, see full transcription on file.
- <sup>42</sup> Interview with Alison Bernstein, Ford Foundation, New York, March 7, 2008, pp. 12 and 24. For further information on this interview, see full transcription on file.
- <sup>43</sup> Sebastian Brett, Louis Bickford, Liz Ševčenko, and Marcela Ríos, *Memorialization and Democracy: State Policy and Civic Action*, a report based on the international conference of the same name, held June 20–22, 2007, in Santiago, Chile.
- <sup>44</sup> Figure derived by adding up grants from private U.S. foundations to programs related to historical memory, transitional justice, oral history, cultural memory, international criminal courts and tribunals, dealing with the past, and reparations between 2003-2006. Because not all grants have been reported for 2007, a total figure is estimated, based on the trends of previous years. Calculated using Foundation Directory Online. Total does not include 2008 grants.
- <sup>45</sup> E-mail correspondence with Judy Barsalou, March 15-16, 2008.
- <sup>46</sup> E-mail correspondence with Judy Barsalou, March 15-16, 2008.
- <sup>47</sup> Interview with Susan Berresford, March 25, 2008, at New York Community Trust, New York. For further information on this interview, see full transcription on file.
- <sup>48</sup> Phone interview with Ariel Dorfman, March 25, 2008. For further information on this interview, see full transcription on file.
- <sup>49</sup> E-mail correspondence with Felipe Agüero, April 11, 2008.
- <sup>50</sup> Interview with Susan Berresford, March 25, 2008, at New York Community Trust, New York. For further information on this interview, see full transcription on file.
- <sup>51</sup> I/A Court H.R., *Velásquez-Rodríguez v. Honduras*. Merits. Judgment of July 29, 1988. Series C No. 4, par. 174.

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**New York**

5 Hanover Square, 24th Fl.

New York, NY 10004

Tel +1 917 637 3800

Fax +1 917 637 3901 (23rd Floor)

Fax +1 917 637 3900 (24th Floor)

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