

Inhabiting Unfinished Pasts: Law, Transitional Justice, and Mourning in Postwar Peru

La justice sans la force est impuissante.

—Blaise Pascal

In this essay I focus on the problem of death and the dead in political transitions. The usual approaches to the question of how to deal with past atrocities tend to exclude the dead from consideration, as if the complex problem of justice and recovery in the aftermath of devastating violence concerned only the living. Alternatives such as reconciliation, prosecution, or pardon are considered in terms of breaking cycles of violence and preventing its repetition. The implicit assumption here is that what matters most is the potentiality of death (i.e., death in the present or future) rather than its actuality (i.e., death in the past). In this view, the dead are dealt with at the symbolic level, and questions of proper burial are addressed to the private realm of kinship, as if properly dispatching the dead were not a political problem.

By contrast, following the burgeoning anthropological literature on this problem, this essay interrogates the place of the dead as interlocutors of the transition, as well as their agency in social, political, and cultural transformation in the aftermath of devastating violence. I argue that, as violence continues to be a permanent, even defining, feature of “post-conflict” societies, the question of the (re)foundation of the political order in the aftermath of mass atrocities is concerned with thanatopolitics not only in terms of the continuing problem of whom sovereign power kills or lets die but also in terms of the political problem of how to properly dispatch the dead. Governed by both legal and humanitarian discourses, state-sponsored projects of transitional justice seek to address such problems through the rational means of the law and disciplinary power. As these official projects are eventually unable to return the victims’ bodies to their relatives, families of the disappeared participating in legal and forensic procedures, those through which post-conflict Peru seeks to bring closure to past state atrocities, appropriate the outcomes of the forensic procedures to claim a voice and speak truth to power through cultural tropes. In doing so, they are able to find and found (ordinary) languages to imagine forms of justice and mourning without the body in face of mass unaccounted-for death. Seen from this perspective, the usual opposition between (legal) justice and (political) reconciliation as the defining problem of the transition is rendered illegible, because at stake is not merely the problem of the restoration of the political order or standards of the law but also the determination of criteria as to what it means to live together in a human form of life in the face of devastating violence.

As a contribution to this discussion, this essay examines the project of transitional justice through which the post-conflict Peruvian state seeks to address legacies of mass death among Quechua-speaking people in the south-central Andes. More specifically, it focuses on forensic exhumations of clandestine mass graves conducted at Los Cabitos, the headquarters of the counterinsurgency campaign of the 1980s and 1990s in Ayacucho, the region most heavily affected by Peru's internal conflict. These forensic procedures were intended to recover the bodies of the *desaparecidos* (disappeared) during the worst moments of the war in the early 1980s. The forensic-archaeological exhumation provided hard evidence to demonstrate the patterns of extermination of terrorism suspects and uncovered Nazi-like technologies of body disposal used by the military in its headquarters, which made impossible the identification and individualization of victims of state terror.

Death in Transition

In August 2003, after two years of work, the Peruvian Truth and Reconciliation Commission (TRC) presented its final report to then-president Alejandro Toledo. The TRC established that approximately 69,000 people, including both civilians and combatants, died in twenty years of internal war (1980–2000) between the Peruvian security forces and the guerrilla groups Shining Path and Túpac Amaru Revolutionary Movement (MRTA). According to the TRC, such a figure meant that Peru had suffered more deaths during this twenty-year period than in all the wars fought since independence from colonial rule in 1821. Even more disturbingly, the TRC found that over 40 percent of these victims were Quechua-speaking peasants from the highland department of Ayacucho. Of these, 79 percent lived in rural areas. The TRC situated these disturbing figures in the context of a national population in which only 16 percent speak Quechua or some other native language and only 29 percent live in rural areas. To emphasize how devastating this violence was, the TRC projected the number of fatalities at national scale in the following terms: “If the ratio of victims to population reported to the TRC with respect to Ayacucho were similar countrywide, the violence would have caused 1,200,000 deaths and disappearances. Of that number, 340,000 would have occurred in the city of Lima.”¹

Yet in the view of the TRC, more disquieting than these figures themselves was the fact that this experience of mass death among Quechua-speaking people was not only unaccounted for but also unnoticed by mainstream Peruvian society—to the point that there was not even memory of it. Salomon Lerner, the Peruvian TRC's former chairman, said that this fact demonstrated how exclusion in Peru was so absolute that it was possible for tens of thousands of citizens to disappear without anyone in the broader society even noticing it. “In effect,” he said, “we Peruvians used to say, in our previous worst-case scenarios, that political violence caused 35,000 casualties. What does it reveal of our political community to know now that 35,000 more people are missing, our brothers and sisters, and nobody missed them?”² In that the TRC's new figures nearly doubled prior estimates, Lerner said that the TRC's final report exposed a double scandal: the huge number of murders, disappearances, and torture, and the “ineptitude, slackness and indifference of those who could have stopped this humanitarian catastrophe from happening, but didn't.”³

This truth of mass death gone unnoticed and unremembered called for justice, and Lerner framed it in both moral and legal terms. Lerner said Peruvians had to learn to live with the truth of their betrayal and the shame and scandal of their obliviousness to the fate of their fellow citizens. Further, he demanded the end of impunity and expressed the need for legal accountability for crimes against human rights committed during the counterinsurgency campaign, at least in some of the most egregious cases. Only in this way could the promise of Peru's birth as a modern republic be realized—that of a political community in which, in Lerner's words, "the death of each citizen counts as our own tragedy, and in which every human casualty resulting from either arbitrariness, or crime or abuse of power sets into motion the wheels of justice to compensate for the loss and to punish the perpetrators."⁴

This formulation of transitional justice is noteworthy because it establishes an explicit link between the possibility of political community in the aftermath of atrocities and the problem of unacknowledged mass death in the past. In the view of the Peruvian TRC, the reality that the internal war did not affect the entire fabric of Peruvian society but ravaged those groups discriminated against on the grounds of class, culture, and ethnic cleavages is in itself an expression of the absolute exclusion that historically has shaped the contours of modern Peruvian society. That mass death among these groups has gone unnoticed or is forgotten reveals the continuing and pervasive presence of this logic of "absolute exclusion." Therefore, to acknowledge the forgotten dead is a condition of possibility for constituting the post-conflict political community, not primarily—it seems—in terms of preventing death in the future but of unmaking "absolute exclusion" in the present. For the Peruvian TRC, the law is the privileged mechanism to actualize such a project of transitional justice, thus endorsing the liberal idea that law has regenerative powers. Not surprisingly, because of its emphasis on the notion of exclusion and the law as a regenerative mechanism, the Peruvian TRC did not conceive of post-atrocity reconciliation as a problem of how to bring together conflicting parts of society in a process of national reunification, as in South Africa. Rather, the Peruvian TRC understood reconciliation as the need for the state to "reconcile" with its citizens by (re)granting rights and legal protections that historically have been denied.⁵

In what follows I examine this project of bringing back the unknown and forgotten dead into national memory as a means of producing senses of justice in the present, senses that the Peruvian TRC conceives of in terms of membership and belonging to the political community.⁶ However, rather than asking the TRC's question—namely, how social and political elites learn to live with the poisonous knowledge of their betrayal and denial of the other's death—I ask how people directly affected by internal war accommodate mass death within, and in relation to, official projects of transitional justice. The anthropologist Kimberly Theidon has suggested that the war in rural Ayacucho was experienced as a "cultural revolution," that is, as "an attack against cultural practices and the very meaning of what it is to live as a human being in these villages."⁷ Central to these practices and meanings is the question of tragic and untimely death. In Theidon's words, "Many lament how they were forced to leave their dead loved ones wherever they had fallen, returning—if they could—only to 'bury them hurriedly like animals.'"⁸ If, as Robert Hertz has argued,

proper burial epitomizes the transition of the soul from the world of the living to the world of the ancestors, then the souls of thousands of unnamed Peruvians are still wandering as ghosts “through the misty passage between life and death.”⁹

I am certainly concerned with questions of proper burial, because for survivors of mass violence this is an ontological rather than symbolic problem; however, by focusing on the figure of the *desaparecido*, I take the problem in a different direction: that of suspended death.¹⁰ As machine of state terror, the practice of forced disappearance aims to bring about a hyperbolic uncertainty about the fate of the disappeared to the point that even their death remains utterly uncertain for their surviving families—since they have never had the chance to undertake even an “improper” burial of their missing loved ones’ remains. State-sponsored projects of transitional justice such as the Peruvian one emerge with the promise of recovering and returning the bodies of the disappeared to their relatives for proper burial. I ask, then, what happens when, as in the Peruvian case, such official projects are unable to fulfill their promise and the bodies of the disappeared continue missing.

I situate the analysis of this problem in relation to the seemingly paradoxical temporality of the finished/unfinished pasts within and through which the post-conflict state unfolds the work of the continuous refoundation of its order and the legitimacy of its violence. Two decades after the official declaration of victory over the Maoist Shining Path, and despite the democratic transition and the launching of a major project of transitional justice, violence has continued as a permanent feature of post-conflict Peru.¹¹ On the one hand, in the context of a relentless right-wing campaign to discredit the work of the TRC and denounce any attempt to document human rights abuses as an “apology for terror,” there have been many attempts to grant amnesty to officials indicted for crimes against human rights during the counterinsurgency campaign.¹² As the guarantee of domains of immunity for security forces is essential to ensure national security and economic growth, finishing the past through impunity and amnesia is the condition of possibility for the refoundation of the post-conflict order. On the other hand, the figure of the “terrorist” continues to be an organizing tenet of Peruvian post-conflict state discourses and practices. The “antiterrorist” legislation enacted during the counterinsurgency campaign of 1980–2000 not only remains in place with few modifications but has been expanded to face social protests against the effects of neoliberal policies. For the Peruvian post-conflict state, the past is unfinished in this sense. This temporality of unfinished pasts is internal to the work of state power in that it produces both the kinds of new threats against which the post-conflict state can legitimize its violence and the grid of affects, such as fear and shame, necessary to establish its control over suspect populations.¹³

Perhaps no other figure than the *desaparecido* so clearly inhabits the temporality of the finished/unfinished past of the post-conflict state. As the “terrorist” par excellence, the disappeared person is the political transgressor whose death or disappearance needs to be forgotten. At the same time, he or she is a victim whose body needs to be recovered to complete the regenerative work of the law in the post-conflict project of reconstituting the political community. Thus, following Simmel, we can say that the *desaparecido* occupies a position similar to that of the stranger: “The stranger—he says—like the poor and like sundry ‘inner enemies,’ is an element of the group itself.

His position as a full-fledged member involves both being outside it and confronting it.”¹⁴ The *desaparecido* is both inside and outside the law and epitomizes the difference between membership and belonging.¹⁵ He or she is included abstractly by the law as a member of the political community but is simultaneously affectively excluded by the state’s framing of him or her as an “internal enemy.”

Here the ethnographic focus is on the forensic exhumations of clandestine mass graves at Los Cabitos in the Peruvian south-central Andes. I consider the limits and possibilities of the legal and forensic project of recovering unknown and forgotten bodies that can be constituted as both legal subjects (victims of state crime to be returned to the political community) and cultural subjects (dead people whose bodies are to be returned to their families to be properly buried and mourned).¹⁶ In particular, I consider how the outcomes of legal and forensic work are folded into and appropriated by the relatives of *desaparecidos* to constitute forms of mourning and justice without the body, within and outside the rational discourses and practices of official post-conflict projects of transitional justice. I also consider how these forms of mourning do not lead to closure but to new forms of inhabiting unfinished pasts and the ongoing struggle against state terror.

Exhuming State Terror

Los Cabitos is the name of the military base in Ayacucho, Peru, that served as headquarters for the 1980s and 1990s counterinsurgency campaign against the Maoist Shining Path in the Peruvian south-central Andes.¹⁷ In the context of the state of exception, it became a major center for the clandestine detention and “disappearance” of suspected insurgents and rebel sympathizers that the Peruvian military invariably labeled as “terrorists.” The Peruvian TRC documented hundreds of cases of people last seen at Los Cabitos during the worst moments of the internal war between 1983 and 1985. The TRC concluded that the enforced disappearance of suspects constituted a systematic and generalized practice of the government forces, which consisted of raids against suspects’ homes during the curfew at night, their arbitrary detention and torture in military bases, and their subsequent extrajudicial execution. Typically, official denial followed, sealing off the detention/disappearance within the hermetic chamber of enforced silence. Given that the collected evidence linked this systematic practice of detention/disappearance to the military headquarters of Los Cabitos, the TRC recommended full criminal investigations to determine corresponding penal responsibilities.¹⁸

The opening of criminal investigations in the case of Los Cabitos came as a result of the legal reconfiguration that followed the collapse of the Fujimori regime in late 2000.¹⁹ Two years earlier, this legal intervention would have been simply unthinkable. A carefully orchestrated legal and institutional framework, in which the 1995 Amnesty Law had a central place, shielded the military against any investigation for crimes against human rights committed during the counterinsurgency campaign. In addition, for the powerful Peruvian military, Los Cabitos symbolized the victory of the Peruvian state against the Shining Path. Thus, any attempt to inquire into allegations of gross human rights violations met invariably with denial, arrogance, and/or intimidation. Unsurprisingly, given its highly sensitive political and historical significance, the

criminal investigation was constantly subjected to a series of institutional and political pressures and constraints that sought to undermine it. Chief among these was the reluctance of the military to release documentation, as well as a relentless media campaign and the attempted intimidation of the legal and forensic personnel involved in the investigation via death threats and other harassment.

In spite of these adverse conditions, the criminal investigation made slow but steady progress. Under the direction of the Prosecutor's Office, initial forensic explorations in search of clandestine mass graves located on the premises of Los Cabitos started in late 2001. However, it was only in early 2004 that legal authorities appointed a small team of three forensic anthropologists to conduct full-scale investigations. After more than one year of exploratory work, the forensic anthropology team focused on a wasteland adjacent to the main barracks of Los Cabitos, known as La Hoyada. The exhumation soon began to yield hard evidence of a pattern of systematic extermination of suspects of terrorism in the area. In early 2005, the forensic team made its first major finding by recovering fourteen complete bodies from clandestine mass graves scattered in the premises of Los Cabitos.²⁰ These bodies showed signs of having been tortured. They had been blindfolded and their hands tied behind their backs before being killed. Circumstantial evidence indicated that the victims had probably been forced to dig their own graves. In the graves, stones covered the bodies, and traces of lime were found, indicating that the chemical had been used to accelerate the decomposition of the bodies. Most of the tombs had been sacked to disinter the bodies.

In subsequent seasons, the forensic team excavated a contiguous garbage dump in which they uncovered construction debris along with charred fragments and heaps of ashes of human bones. In late 2006 and early 2007 they uncovered the foundations of blast furnaces. Around these remains the team also uncovered industrial-like installations, such as combustible pipes connected to a now unused tank of oil and three-phase electric wiring. The electric wires came from the main barracks of the military base. In mid-2007, the team made yet another crucial finding by uncovering ashes and charred fragments of human bones associated with the foundations of the furnaces. On the basis of these findings, the forensic team established the hypothesis that the military had sacked the clandestine mass graves containing the bodies of its victims in order to burn them in ad hoc blast furnaces. The ashes and remains of those burned bodies were subsequently disposed of in a garbage dump in the surrounding area. Subsequently, the military demolished the furnaces and dumped the debris in the same garbage dump. Thus the forensic exhumation provided hard evidence to prove that Los Cabitos was a center of extermination of suspected "terrorists" and that the military had used Nazi-like techniques to dispose of their bodies.

The forensic work was less successful in individualizing and identifying the victims. By January 2009, when the preliminary investigation came to a close, the forensic archaeologists exhumed more than one hundred complete bodies—including a number of children—and recovered an uncountable amount of fragments of charred bones and ashes of human remains.²¹ Those remains still await identification. As to the complete bodies, the usual techniques of identification—such as postmortem data and/or expo-

sition of the victims' recovered clothes and remains before their potential relatives—did not render positive outcomes. Nor was the technique of DNA testing yet available as of this writing. More dramatically, the individualization and identification of the charred fragments and ashes of human bones proved to be an impossible task.

The legal implication of the impossibility of individualization and identification is that the human remains uncovered in the forensic exhumation could not constitute proper legal evidence within the existing categories of crime against human rights established in the Peruvian penal code. Within the category of extrajudicial execution and aggravated murder, victims must be identified. Within the category of forced disappearance, the body of the victim is by definition missing. That these unidentified human remains had entered into a kind of legal limbo was made clear in the prosecutor's indictment on charges of torture and forced disappearance against seven high-ranking military officers, who had been in command of the Peruvian army and Los Cabitos in 1983. This indictment is primarily based on the testimony of survivors and relatives of the disappeared. The evidence collected in the forensic exhumation works in the indictment as "contextual evidence."²²

Given the impossibility of individualization and identification, the legal authorities were also unable to return the recovered human remains to their relatives to facilitate their cultural work of mourning. The humanitarian component of the Peruvian project of transitional justice started to gain relevance as obstructions to the prosecution of perpetrators became more conspicuous. Aware of these difficulties, the otherwise sensitive prosecutor for human rights in Ayacucho articulated this shift in the following terms:

We are aware that most probably we won't be able to identify the perpetrators in all the cases under investigation. Thus, we won't be able to prosecute them in every single case; but we want to say to the [victims'] relatives: "Look, we could not make justice, but at least we have recovered the remains of your relatives. This is the way in which the state is trying to reach you." We want to say: "Look, we have sought the truth and the truth is that your relative was killed in these circumstances, this is the place in which he was buried, and now we are restoring him to you for proper burial."²³

This formulation reveals the shift of emphasis in the legal work of dealing with state terror from retribution to restoration in the Peruvian context of transitional justice.²⁴ In this shift, the position of the body as bearer of truth is displaced from being primarily evidence for retribution, that is, legal closure, to being primarily an object for restoration, that is, cultural closure. Not only does this displacement accentuate the need for recovering the individual body but it also articulates the dichotomy between the body as evidence and the body as person in a different light.²⁵ The victim's body continues to be the privileged site where the state can read truth, but rather than legal evidence for prosecution, this truth is a truth about the victim's suffering that his or her surviving relatives can rely on to make sense of their loss. The state tells the surviving relatives the truth about the circumstances in which their missing loved one was killed. It is a legally authorized narrative about an individual history of death articulated in terms of victimhood. The body thus wrapped in the

legal truth about its suffering and death is returned to the realm of kinship for proper burial and cultural closure. Returned to the recesses of the private, the missing body is taken out from public visibility to become an object for family memory and commemoration. The individual body then becomes the mediator of a legal and political act by which the state brings closure by pronouncing death and returning the body to its relatives for proper burial and public forgetfulness. To use Morris's felicitous phrase, it is returning the body without haunting.²⁶

The impossibility of individualization and identification of recovered human remains blocks this project of restoration through the means of the law and its humanitarian sense. If the state is said to make its population legible to itself, here we can see that it is unable to read the truth of its own practices of violence. Even less is it able to speak truth to its subjects in terms of the individual histories of atrocious death that would serve as a basis for their cultural consolation. In the face of this inability, packed in cardboard boxes in storage rooms of the Legal Medicine Institute (IML), the exhumed remains are held not only in a legal limbo but also, as it were, in a cultural limbo. Sharing with me her disappointment, the prosecutor for human rights in Ayacucho said that without the possibility of identification and individualization, "We are just amassing bones."²⁷

Thus a limit has been reached: the impossibility of producing the individual bodies of the *desaparecidos* through the rational means of the law and forensic sciences. I take this failure of the law to restore the individual missing body as a form of suspension of the teleology of the state. The central question, then, is what happens when the rational languages of the law and associated disciplines fall silent in the face of state atrocities. In the context of this silence we begin to hear those other ordinary voices that populate the site of devastation, speaking about how we may find our way back home to a human form of life in the aftermath of devastating violence. We need to listen to these voices as we try to understand how senses of mourning and justice can emerge in the absence of the individual body and how survivors of state violence and relatives of the disappeared inhabit this devastation as an experience of the limit.

Bodies of Evidence

We stand at the edge of the site of exhumation at Los Cabitos behind the yellow tape that demarcates the "crime scene." The mothers of *desaparecidos* have approached to hear the archaeologists' daily report about the progress of the forensic work.²⁸ From this position, the mothers can see in the *cuadriculas* (trenches) some fragments of charred human bones along with heaps of ashes and other remains that the archaeologists have exposed. The scene is part of the landscape of devastation that unfolds before the weeping mothers' eyes. In front of this scene, Mama Isabel starts to describe other gruesome scenes of devastation she and other mothers witnessed elsewhere during the early years of the counterinsurgency campaign in the 1980s. She vividly recalls how they went again and again to the *botaderos* in a desperate search for their missing children with the agonizing hope to recover at least their remains for proper burial. A gruesome signature of state terror, the *botaderos* were places, usually deep ravines and garbage dumps in the outskirts of Ayacucho city, where the military dumped the bodies of the people they executed during the early 1980s. Mama Isabel

retells stories of how in several occasions they saw in these places hundreds of shattered bodies with evidence of torture and gunshot wounds to the head. Dogs and pigs had started to eat the unidentified bodies. She provides details as if she were still standing at those scenes of terror. Mama Angelica joins Mama Isabel. In her retelling she also associates the scenes of devastation they saw in the *botaderos* with what they see now at Los Cabitos. Clearly, retelling is one powerful mode in which these mothers inhabit the spatiotemporality opened up by criminal law. To observe the forensic exhumation incites in them the need to retell their experiences of suffering and state terror.²⁹

As a concrete manifestation of the influence of how grammars of recovery permeate legal projects of transitional justice, the Office of the Special Prosecutor for Human Rights in Ayacucho allowed the participation of the mothers of *desaparecidos* in the legal and forensic investigation as *parte civil* (plaintiffs) so they could closely observe the progress of the forensic exhumation of mass graves at Los Cabitos. Two main purposes animated this practice of the legal authorities. First, they sought to establish a clear contrast between their post-conflict practices of institutional transparency and truth-telling and the wartime practices of institutional denial and validation of impunity. Second, in addition to these political dimensions of “institutional recovery,” sharing contemporary standing ideas about trauma and the therapeutic qualities of truth-telling, these authorities held that participation in the forensic exhumation would allow survivors and relatives of the disappeared to gain closure to their suffering. In this view, narration allows victims and survivors to relieve their suffering by imposing order on it and thus making sense of it.³⁰

The collapse of the images of devastation of the past (*botaderos*) into the present (the site of exhumation) occurring in these mothers’ retelling speaks to how freezing time is one appalling effect of the practice of forced disappearance and its official denial. There is then a traumatic experience in need of being retold and worked through. However, to understand retelling at the site of exhumation merely as an expression of the compulsive repetition of an unmastered past is to lose sight of its crucial political implications. Repetition via retelling at Los Cabitos is meant to speak of what the law is unable to listen to and to speak. It also allows us to see how these mothers begin to make a move away from such frozenness in time. We can hear this move in Mama Angelica’s words. After invoking once again the unspeakable suffering of those bodies—the bodies they saw before and those they see now—she goes on to say, “Now, they cannot say that we are madwomen; they cannot say that we are drunks; they cannot say that we are liars; they cannot say we are ‘terrorists’”³¹ Mama Angelica’s indictment of the state following her retelling is a political statement rather than a statement of trauma.

As anthropological literature has widely documented, state terror is above all a war of silencing and involves the state’s power to produce a unique language that is particular to terror.³² Official denial of the existence of prisoners, torture, disappearances, or even of internal warfare itself wages terror because it undergirds the arbitrariness of the exception. Simultaneously, in what Taussig calls “terror’s talk,” official speech presents the state as the only source of order, law, and legitimate violence, while in actuality it is the very source of disorder, illegality, and arbitrary violence, defining the contours in which the everyday is experienced as a permanent

state of exception.³³ Words are unmoored from their usual meanings to become weapons in themselves. This is aimed to reconstitute the political community through terror by paralyzing society and driving suspect populations into permanent states of fear, shame, and guilt.

The mothers' irruption into public space to demand the whereabouts of the disappeared disrupts terror's talk. Images of mothers and relatives of the disappeared mobilizing in the streets during the worst moments of violence and repression constitute the other side of the experience of state terror in Latin America and elsewhere. The mothers of the disappeared make present in the public sphere an absence created (and denied) by the state. As Taussig notes, what is important in these collective acts is not so much the facts of terror, since they are in their way well known, but the "shift in social location in which those facts are placed."³⁴ The shift of the "social location" of the facts of terror is from the private sphere, in which the state seeks to place them, to the public sphere, where the mothers place them. Speaking truth to power in the streets is the only means these mothers have to preclude the "disappearance of the disappearance" that "terror's talk" seeks to attain.³⁵ For them, repetition is the condition of possibility to sustain the shift of social location of the facts of terror and their unyielding demand to know the whereabouts of their missing children.

Similar to other mothers in Latin America, the Quechua-speaking mothers of the disappeared in the Peruvian Andes repeatedly engaged in state terror to prevent the "disappearance of the disappearance." During the worst moments of the counter-insurgency campaign, they visited every possible (and impossible) site in search of their missing children: police stations, military garrisons, hospitals, clandestine centers of detention when they hoped to find their missing relatives alive; ravines, rivers, hills, caves, or the *botaderos* when they hoped to find at least their remains to offer them a proper burial. To no avail: their missing children never reappeared, either alive or dead. When there were no more places to go, out of pain and overcoming their fear these mothers went to the streets to demand the whereabouts of their missing children. Speaking truth to power, they became unruly subjects. Repeated engagement with state terror was their way of bearing witness to the damage violence inflicted on the weave of life, and the response of the state to this dangerous act of witnessing was to pathologize the mothers and cast suspicion on them. Terror's talk spoke of them as madwomen, liars, drunks, or "terrorists."

The collapse of past images of unidentified shattered bodies dumped in the *botaderos* into present-day images of unidentified shattered bodies recovered at the site of exhumation bespeaks how the temporality of the disappearance is irreducible to a coherent linear structure of before-and-after articulated between a beginning and an end. The event of disappearance cannot be understood merely in terms of the specific act of the abduction of relatives; also required are the terms of the different institutional and social layers in which, and with which, the disappearance continues to happen in the present. "Terror's talk" and the disappearance of the disappearance do not end with the political transition and the official beginning of the post-conflict era. "Terror's talk" has not ceased to constitute these mothers as suspect people just because of their status as mothers of "terrorists."

Thus, in a repeated effort to situate the facts of terror in their proper social location, the Quechua-speaking mothers of the disappeared reengage state terror at the site of exhumation at Los Cabitos, not only to present their stories of pain and suffering as witnesses but also to indict the state's practices of denial and terror's talk. In front of the fragments of human remains recovered in the exhumation, Mama Angelica says, "Now, they should watch their masterpiece [*obra maestra*]; now they should come here and, in front of all this evidence of what they have done, they should dare to deny it: 'No, we have not done this'" There is rage in her words. These words are burdened by histories of violence, suffering, and denial that are not only individual but social. Her words indict denial. In this sense, at Los Cabitos, the last word is not the state's denial and terror's talk but these mothers' indictment of both.³⁶ In their rage, these words demand to lead words back home. By leading words back home, these mothers seek to introduce a different temporality in which the past can be reclaimed not only in terms of truth and knowledge but also in terms of affect as a condition of possibility for some future.

In this ethnographic scene we can see how a connection is established between the work of law and these mothers' senses of justice. This connection goes in directions different from what some theorists predict. Agamben, for instance, making reference to the Kantian differentiation between the *quaestio juris* and the *quaestio facti*, asserts a clear dichotomy between law and justice. For him, law is not directed toward the establishment of justice or the verification of truth but solely to judgment independent of truth and justice. Truth, he says, cannot be exhausted by the law. A nonjuridical element of truth exists outside and beyond the juridical language, so "the *quaestio facti* can never be reduced to the *quaestio juris*."³⁷ What concerns the survivor, Agamben suggests, is precisely this nonjuridical element of truth, "everything that places a human action beyond the law, radically withdrawing it from the trial."³⁸

If we were to reduce the work of the law merely to the problem of the trial, as Agamben does, we would agree with this conclusion. In fact, as mentioned, the unidentified human remains uncovered during the forensic exhumation at Los Cabitos do not constitute proper evidence in the trial and, as such, they lie outside the purview of legal judgment. However, we need to emphasize that official denial is central to the practice of forced disappearance and that the very establishment of the facts of the disappearance, its *quaestio facti* as it were, is at stake in the search for justice in this kind of case. In contexts of forced disappearance it is the *quaestio juris* that allows the possibility of such establishment of the facts to take place and prevent the disappearance of the disappearance. The law facilitates the shift in social location for the facts of terror, namely, from the recesses of denial to the realm of historical truth. In other words, the indictment of the survivor can only take place in the spatiotemporality opened up by the law. It is to take control of a memory "as it flashes in a moment of danger."³⁹

Talking Soul

"I do my housework early in the morning so I can come every day. It is as if I am visiting him here to chat a lot as we used to before he went missing; he was so cheerful and always made me laugh. Perhaps his soul [*alma*] is here . . . His soul must be here

indeed, and that is why I feel good when I come here. I would not miss coming here.” Mama Victoria is a pleasant woman, small and thin. Since the beginning of my fieldwork I have seen her attending the forensic exhumation at Los Cabitos almost every day, always dressed in black mourning clothes (*luto*). She is in search of her missing brother, who was kidnapped by a military squad from their home in early 1990. I ask her for whom she is wearing *luto*, and she tells me that it is for her mother, who has died some time ago. However, she clarifies, in the wake of the recovery of human remains during the forensic exhumation, her *luto* is, in a way, also for her missing brother.⁴⁰

At a certain point, following the dramatic and painful revelation of the shattered fragments of human bones, the mothers started to talk about *almas* (souls and ghosts) at Los Cabitos. Some of the stories were already well known before the exhumations, but they acquired new intensity during the forensic work. Others were new because they emerged in the context of the exhumation. Some of them were described as hearsay, others were based on the personal experience of a teller.

The premise of these stories is that in the Peruvian Andes, as elsewhere, ghosts and spirits roam around unburied bones. Ghosts wander in, suffering, and haunt the living until their bones are properly buried. This is because the dead are understood to be the bearers of powerful agency that is unleashed at the moment of biological death; this agency is dangerous for the living and needs to be domesticated through proper funerary and mourning rituals. If these rituals do not take place, the agency embodied by the bones roams freely, extending the power of death among the living. However, if the bones of a deceased person are properly treated, they may become beneficial for the living. Thus in the Peruvian Andes human bones inspire anxiety and respect because they hold the possibility of life and death.⁴¹ The exhumation site is full of human bones out of place. Therefore, it is not surprising that ghosts manifest their presence at Los Cabitos, wandering around those fragments of human bones exposed to plain view by the forensic exhumation.

What is distinctive about the wandering souls of Los Cabitos is that they are strangers to the familiar ghosts, roaming souls, and nonhuman beings that populate the Andean world. The ghosts and wandering souls of Los Cabitos do not belong to any of the traditional categories of evil beings, because they are not moral transgressors, nor have they broken any relations of reciprocity within their kin relations. They may share some defining features with those ordinary evil beings, but their genealogy and condition are different. The ghosts and wandering souls of Los Cabitos are spoken of as collective rather than individual entities, which is the typical way in which Andean people speak of “traditional” ghosts, souls, and deities. Also, the souls and ghosts at Los Cabitos are not understood to be dangerous. They just want, the mothers of the disappeared said, to go back home, and they are happy to see their relatives visiting them at the site.⁴²

Talk about souls at Los Cabitos is a subtle acknowledgment that the temporality of death has entered into the horizon of relations with missing relatives. It is not that these mothers never entertained the possibility that their relatives were dead. Conversely, in more than twenty years of vain searching, the mothers of the disappeared wandered in every possible place where they believed they might find at least

their missing children's remains in order to offer them a proper burial. But their wandering was fruitless. For surviving relatives, the absence of the body and lack of a proper burial suspended death and blocked the possibility for grieving family members to constitute themselves as mourners. As Ezequiel told me:

We have not buried our [missing] parents. Many people asked me, "Why aren't you wearing *luto*?" How could I? I do not know whether they are dead or they are alive. I do not know where they are. I do not know. People ask me, "Why haven't you offered a mass for your parents?" "Why haven't you gone to Huamanga [the capital city of Ayacucho] to offer a mass for the dead [*misa de difunto*]?" I respond, "Maybe they are alive . . . maybe they are alive . . ." We have been living with this anxiety for many years. Until now, we have not worn *luto*.⁴³

The experience of hyperbolic uncertainty not only suspends death but also allows relatives of the disappeared to harbor some last shred of agonizing hope for the remote possibility of finding their missing relatives alive after all these years. This chronic search for possibilities in the face of the indeterminacy of reality is what Byron Good refers to as "subjunctivizing reality."⁴⁴ It is the temporality of the "might be" associated with the duration of hyperbolic uncertainty and the groundlessness of a nowhere. As Déotte writes, "The disappearance is midway between the ascertained presence and the absence, for we need to insist on this point: the disappeared is not an absentee. Absence is a mode of being in relation to a certain place. Conversely, the disappeared 'is not here, nor is there.'"⁴⁵ The phrase "¿Dónde están?" gives expression to this nowhere-ness, articulating a radical estrangement between being and space.⁴⁶

It is my contention that the forensic exhumation at Los Cabitos opens up for the mothers and relatives of the disappeared, for the first time in more than twenty years of vain search, the possibility for a *where* in which the bodies of their missing relatives *might be* dwelling. As the scenes of devastation uncovered by the forensic exhumation unfolded before them, these relatives realized that those charred fragments and ashes of human bones might be their missing relatives' remains. Simultaneously, however, as identification and individualization of these remains were impossible, uncertainty was not entirely dispelled. Nevertheless, a crack had already been introduced into the temporality of disappearance. The possibility of assigning their missing relatives' remains a "whereness," or at least an imperfect locality, affects the indefinitely prolonged uncertainty that had long engulfed these mothers' lives.⁴⁷ It punctuates the duration of the disappearance.

The subjunctive mood of the "might be" works here to open up the grammar of death, as opposed to life, as their missing relatives' most probable mode of being. Mama Anki articulated this shift away from hyperbolic uncertainty in these terms: "I know that they brought my son here [Los Cabitos]. *Perhaps* those bones are his. Who knows? Where else can I find them if not here? Probably he will be here forever." The forensic exhumation then opens up a fold in which a small difference is introduced. It allows the families a redefinition of their relationship with their missing relatives: the *desaparecido* might be dead and might be there.

To redefine relations with their missing loved ones within the grammar of death allows these relatives both to acknowledge the presence of their souls at the site of

exhumation and to constitute themselves as mourners. By definition, wherever there are human bones there are souls roaming around them; as such, the souls of the *desaparecidos* populate the wasteland of Los Cabitos, roaming around the fragments and ashes of bones uncovered by the forensic exhumation. The notion of soul operates here as a cultural trope through which the absent—and denied—body and existence of the disappeared are acknowledged and made public. This is why these mothers and relatives can visit those souls at this site and talk with them and feel good about having them finally accompanied and cared for. In this way, they also constitute themselves as mourners and, perhaps—like Mama Victoria—even start to wear *luto*.

Decomposing State Terror

The cultural work of mourning demands that a body be properly buried and mourned. In the Peruvian Andes, as elsewhere in the world, death is not understood as the end of life but rather as a transfiguration into a new mode of existence for both the dead and the living. Cultural prescriptions indicate that to attain such transfiguration, it is obligatory to perform funerary and mourning rites in the presence of the body to dispatch the dead properly. Otherwise, death cannot be domesticated. Without the body present, neither the dead nor the living can go through the painful process of transfiguration and separation to attain a new mode of existence. This explains the social and cultural investment in proper burial as well as the anxiety and respect for unburied human bones.⁴⁸ If this is the cultural prescription, how can mourning and proper burial be conducted in the absence of the body, as at Los Cabitos?

Sacralization of the site of exhumation is one response to the problem of mourning without the body. The site is an impersonal witness to the unspeakable form of death to which these mothers' missing loved ones were probably subjected. It contains, as it were, their suffering. As the site of their murder, the site also contains the blood and shattered remains of human bodies whose burned bones are scattered everywhere and whose souls wander nearby, lost on the way to the world of the dead. By definition, as the container of material remains of human bodies and souls, the site becomes a sacred site. As such, it becomes a *succedaneum* of the dead body upon which the proper rituals are to be conducted to allow the dead to find their way to the world of the dead. The mothers of *desaparecidos* seek to appropriate the site of killing and truth as a sacred site, one at which they can conduct rites of symbolic reburial of the unidentified remains and rituals of commemoration of the disappeared.

The idea of sacralizing the site of exhumation was explicitly articulated in some conversations that took place among the mothers in October, before the celebration of the Day of the Dead.⁴⁹ A group of mothers was, as usual, sitting next to the site of exhumation. At certain points in the conversation, Mama Natividad expressed the recurrent anxiety of the relatives as to whether they would ever be able to recover the individual remains of their missing loved ones. In tears, pointing to some prickly pear cacti, she asked whether some missing bodies might not be buried beneath them. Casting her eyes over the cacti, Mama Lucila said that surely there were bodies buried there, and there and there. Mama Natividad then asked whether it would be possible at all to recover those bodies in such a huge place. This was the moment at which

Mama Lucila said, “This is why I ask why it is that we do not claim this site as a ‘campo santo.’”⁵⁰ Mama Lucila’s response immediately provoked a conversation. Mama Natividad said, “Yes, for all of us,” emphasizing the collective dimension of the claim and potential appropriation.⁵¹ They wanted to offer a mass for the souls of the disappeared at the site of exhumation; they also wanted to transform the site of killing into a *campo santo* and to construct a memorial there. Thus, while talking of souls conceives the disappeared to one category of people—the dead—talking of sacralization conceives the surviving relatives as another category—the mourners. As relatives of the *desaparecidos* killed at this site, they are entitled to claim the site as a “*sucedaneum* body” for their work of mourning.

Sacralization also addresses another problem: what to do with the remains of unidentified missing people (the missing strangers). As the exhumation piles up ashes and fragments of bones whose identification is impossible, a growing concern for the fate of these unknown remains emerged among the mothers. Mama Elena formulated the question as follows: “What are we going to do with these little bones without owner [*huesitos sin dueño*]?⁵² Where are we going to bury them?” Here, ownership conveys ideas of belonging. Human bones belong to networks of kinship that have to take care of them. However, as unknown remains, the fragments of bones at Los Cabitos cannot be situated within networks of kinship. Nonetheless, they are human remains that need to be cared for. It is important to note that these unknown remains may belong to strangers, unknown people, but also to people who, according to the relatives, may have betrayed their missing relatives and therefore caused their disappearance. The criteria here seem to be that it does not matter what they did or who they were. What matters is that these remains belong to people who have endured atrocious forms of violence—the same forms of violence to which their relatives may have been subjected—and therefore deserve to be properly buried and remembered. In any case, human bones should not be wandering around; they need to be buried to appease their souls. At Los Cabitos, the ghosts and wandering souls of the strangers stand on their own right without necessarily being brought into the grammar of kinship to enter into social interaction.⁵³

At work in these scenes is the observation that sacralization encompasses both the need to mourn the individual missing loved one and the need to acknowledge the death of the unknown other. It is the emergence of a form of collective mourning. As Mama Lidia says, “We want a site where we can bring flowers in their memory; a site where we can pray for them; a site to remember them; a site where we can place their photos and light candles for them. We want to visit them at the site where they were killed.”⁵⁴

Elsewhere I have elaborated on how the forms of violence and punishment of the human body waged in the context of state terror are seen by these relatives as “being ‘against nature,’ as defining the limits of life itself.”⁵⁵ This provides one direction in which forms of agreement as to the definition of a human form of life are tested. What we see in these scenes at Los Cabitos is another direction in which it seems that it is not so much the forms of killing that are at stake as the fate of the dead and their continuing presence (and stake) in life and the world of the living. We can say, then, that criteria as to what a human life is and what it means to live together in a society

are to be (re)established against particular “human” practices that have gone beyond agreement on a form of life, not only—or, perhaps, not mainly—in relation to the forms or fact of killing but rather in relation to the fate of the dead. It is what we do with the dead that defines a human form of life. The missing have been stripped even of the possibility of death and have no position in the world whatsoever. In trying to bring them back to social life, these mothers seek to restore criteria and agreement on a form of life in which death and the dead take their proper place in the world.

If we speak of criteria here, it is because it becomes clear from these scenes that these mothers and relatives are concerned not only with the fate of their missing relatives but also with that of the strangers who shared the same fate. It is to the *desaparecidos* as a category of people, rather than merely as an indeterminate number of missing individuals, that these mothers offer the gift of death at Los Cabitos. While kinship is the driving force behind their tireless and painful search throughout these years, in this search they have come to acknowledge that the missing constitute a collective subject, even more so at the moment in which, as demonstrated by the forensic exhumation, death appears to be their only possible fate. The mothers came to realize that the fate of their kin is inextricably linked with the fate of a whole category of people and that it cannot be thought of in solely individual, or familial, terms.

However, there is another aspect to this act of collective mourning and the sacralization of the site. Hertz shows how mourning is a suspended time in which a difficult and painful struggle for separation takes place.⁵⁶ Mourners engage the deceased body through a series of rituals to help the dead find their way to the world of the dead. The final decomposition of the body marks the end of this period of mourning. If the site of exhumation can be seen as the body of state terror, we can say that these mothers engage this body through proper rituals of sacralization so as to facilitate its decomposition and help the ghost of state terror to find its place in the world of the dead. As with any other ancestor, this ghost may return or haunt the present, but the living have found ways of dealing with it. If this is the case, sacralization of the site of killing is not only a cultural but a political response to state terror.

Inhabiting Unfinished Pasts

In looking at the problem of death and the dead in political transitions from massive violence, we have come to encounter popular notions of the sacred mobilized as a radical critique against the practice of sovereignty. By focusing on the forensic exhumation of clandestine mass graves conducted at Los Cabitos, the headquarters of the counterinsurgency campaign of the 1980s and 1990s in the south central Peruvian Andes, we have seen how these notions emerge as a response to two broader moves by the “post-conflict” state toward addressing the violence of the past. First, it is the official project of transitional justice with the promise of bringing the individual missing body back into social being as both legal subject (i.e., the body of the victim) and cultural subject (i.e., the body of a person to be properly buried). The failure of this promise in the Peruvian case not only is evidence in itself of the unspeakable practices of state atrocity during counterinsurgency campaigns but also speaks of the limits of official projects of transitional justice in attempting to recover the victims’

bodies through the *individualizing* practices of legal and disciplinary power, as a means of coming to terms with past state atrocity.

Second, it is the temporality of the finished/unfinished pasts through which, in the continuous work of refoundation of the order of the state, the “post-conflict” state seeks not only to (re)constitute the kinds of internal enemies and threats against which to legitimize its violence but also to forget its own atrocity of the past and constitute domains of immunity in the present necessary to face the “ever-present” threat of terrorism. Controlling the collective memory of violence is a central task here to produce the grid of affects necessary for disciplining suspect populations by means of maintaining alive memories of the enemy’s terror, while simultaneously silencing and/or modulating what is to be said about state terror. Sovereign power dwells in the temporality of finished/unfinished pasts. It is both different from and beyond the temporality of the law, which, in constituting the social, is endowed—at least in liberal understandings—with powers to establish definite succeeding realms of past, present, and future governed by rules and norms.

In inhabiting this temporality of the finished/unfinished pasts, the Quechua-speaking mothers of the disappeared find (and found) a minor language to articulate their senses of justice and mourning without the body, by collectively reclaiming the sacred. In doing so, they are not stating their alleged unawareness of the modern regime of rights, or languages of the law and citizenship or disciplinary powers. Conversely, they move within these languages and go beyond them to state a fundamental critique of the practice of sovereignty in the very terrain in which the political theology of the modern state attempts to situate the legitimacy of its absolute power of life and death. When the mothers mobilize ideas of the sacred in this radical critique, they are stating a fundamental idea that has a familiar resemblance with political modernity; that is, that agreements in a form of life are *constitutive* of society whereas sovereign power is always *constituted* power. The notion of the sacred here appears thus connected to notions of thresholds conceived of in terms of an ontology that refers not to metaphysical or transcendental origins but to a core of fundamental agreements in a human form of life. Transgressions of these thresholds call into question the entire fabric of society.

The notion of the sacred thus crucially suggests that the question of justice and mourning, or recovery, in the aftermath of state atrocity cannot be conceived of merely in terms of the restoration of regimes of rights or the rule of law, as official projects of transitional justice such as the Peruvian understand the problem. Rather, given that along with human bodies the campaign of state terror has devastated criteria as to what a human form of life is, the notion of the sacred suggest that at stake here is a fundamental problem of the (re)constitution of those fundamental agreements in a human form of life that allow for the possibility of a life together in society. In this sense, rather than discarding them as irrational, emotional, superstitious, or even idolatrous representations of reality, in a typical modern gesture, we may well take seriously ideas of the sacred articulated in ordinary languages as windows to explore further how popular political theologies respond to state atrocity, as well as how a focus on the sacred is not a nostalgic inability to move forward out of the past but an active and vibrant engagement with the present.

NOTES

This essay is dedicated to the Quechua-speaking mothers of the disappeared, organized as the National Association of Relatives of People Detained, Kidnapped, and Disappeared in Peru (ANFASEP). It benefited enormously from comments received at the workshop “The Possibilities of [Re]Conciliation: The Legalization of Justice,” held at the Max Planck Institute, Halle, in November 2009. I particularly thank the organizers, Zerrin Özlem Biner and Sharika Thiraganama, for their invitation to participate in such a productive meeting.

1. Cited in Hatun Willakuy, *Version abreviada del Informe Final de la Comisión de la Verdad y la Reconciliación Perú* (Lima: Comisión de Entrega de la Comisión de la Verdad y Reconciliación, 2004), 434.

2. Salomon Lerner’s speech presenting the Peruvian TRC’s final report in Lima on August 28, 2003. For an English version of the speech, see Lerner, “Peruvian Commission on Truth and Reconciliation: Speech of the Presentation of the Final Report,” *ReVista* (Fall 2003), <http://www.drclas.harvard.edu/publications/revistaonline/fall-2003/peruvian-commission-truth-and-reconciliation> (last accessed September 20, 2012). Translation modified by the author.

3. Ibid.

4. Ibid.

5. As part of its project of transitional justice, in August 2003 the Peruvian TRC submitted a selection of forty-seven paradigmatic cases of crimes against human rights committed during the counterinsurgency campaign for criminal persecution. Two of them, the *Barrios Altos* and *La Cantuta* cases, served to sentence former president Alberto Fujimori on charges of gross human rights violations in April 2009. For more on the Peruvian TRC’s legal project, see Eduardo Gonzales Cueva, “The Peruvian Truth and Reconciliation Commission and the Challenge of Impunity,” in *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice*, ed. Naomi Roht-Arriaza and Javier Mariezcurrena (Cambridge: Cambridge University Press, 2006), 70–93; Lisa Laplante, “Entwined Paths to Justice: The Inter-American Human Rights System and the Peruvian Truth and Reconciliation Commission,” in *Paths to International Justice: Social and Legal Perspectives*, ed. Marie Benedicte Dembour and Tobias Kelly (Cambridge: Cambridge University Press 2007), 216–42. For the Fujimori case, see Jo Marie Burt, “Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori,” *International Journal of Transitional Justice* 3, no. 3 (2009): 384–405.

6. I focus on the legal component of this project. Elsewhere, Deborah Poole and I examine how the moral component of the TRC’s transitional justice project demands a consensual understanding of the facts of past violence. See Poole and Isaias Rojas-Perez, “Memories of Reconciliation: Photography and Memory in Postwar Peru,” *e-misférica* 7, no. 2 (2011), <http://hemi.nyu.edu/hemi/en/e-misferica-72/poolerojas> (last accessed September 20, 2012).

7. Kimberly Theidon, “Justice in Transition: The Micropolitics of Reconciliation in Postwar Peru,” *Journal of Conflict Resolution* 50, no. 3 (2006): 438.

8. Ibid.

9. Robert Hertz, *Death and the Right Hand* (Glencoe, Ill.: Free Press, 1960), 78; Antonious C. G. M. Robben, “State Terror in the Netherworld: Disappearance and Reburial in Argentina,” in *Death, Mourning, and Burial: A Cross-Cultural Reader*, ed. Robben (Oxford: Blackwell, 2004), 142.

10. In his fascinating account of the ghosts of war in Vietnam, Heonik Kwon notes how ideas

of ghosts or specters are usually taken by intellectuals as historical metaphors through which histories of violence and injustice can be narrated. Differently, by emphasizing the stakes these ghosts continue to have in people's everyday life, he argues, "ghosts in Vietnam are primarily of concrete historical identities, whose existence, although belonging to a past era, is believed to continue to the present time in an empirical, rather than allegorical, way." Kwon, Heonik, *Ghosts of War in Vietnam* (Cambridge: Cambridge University Press 2008), 2.

11. Elsewhere I have suggested that rather than "post-conflict," which entails a clear-cut distinction between the temporalities of war and peace, anthropology might take up the concept of repetition as a key to understanding the complexities of violence in such societies. See Isaias Rojas-Perez, "Writing the Aftermath: Anthropology and Post-Conflict in Latin America," in *A Companion to Latin American Anthropology*, ed. Deborah Poole (Oxford: Blackwell, 2008), 254–75.

12. While a handful of convictions, including Fujimori's in April 2009, would suggest that the rule of law has eventually started to prevail in post-conflict Peru, the fact is that the attempt to close the books on the past through legal means has been systematically eroded from within the state itself through the argument of "national security." The most recent example is Legislative Decree 1097, passed by the Garcia regime in September 2010, which placed statutes of limitation on crimes against human rights committed prior to 2003. National and international opposition forced the government to retreat, and the congress repealed the decree in mid-September 2010.

13. Veena Das, *Life and Words: Violence and the Descent into the Ordinary* (Berkeley: University of California Press, 2007); Michael Taussig, *The Nervous System* (London: Routledge, 1992); Rojas-Perez, "Writing the Aftermath"; Linda Green, *Fear as a Way of Life: Mayan Widows in Rural Guatemala* (New York: Columbia University Press, 1999).

14. Georg Simmel, "The Stranger," in *The Sociology of Georg Simmel*, trans. Kurt Wolff (New York: Free Press, 1950), 402–8.

15. Veena Das and Deborah Poole, eds., *Anthropology in the Margins of the State* (Santa Fe, N.M.: School of American Research Press, 2004).

16. I conducted ethnographic work among relatives of *desaparecidos* in Ayacucho, Peru, from September 2005 to August 2007 with grants from the National Science Foundation (project #0518950) and the United States Institute of Peace.

17. The military base of Los Cabitos is situated in a kind of natural fortress in the northeastern outskirts of the city of Ayacucho. The city's airstrip and maximum security jail are nearby. Watchtowers and checkpoints are distributed strategically all around the base, and it is common to see off-duty military personnel strolling in the area.

18. Comisión de la Verdad y Reconciliación, 7:79.

19. The 2001 ruling of the Inter-American Court of Human Rights annulling the Peruvian Amnesty Law initiated this legal reconfiguration in Peru regarding prosecution of human rights crimes. For more on this, see Burt, "Guilty as Charged"; Gonzales-Cueva, "Peruvian Truth and Reconciliation Commission."

20. Elsewhere I provide details of how a number of contingencies made possible the progress of the forensic exhumation. See Isaias Rojas-Perez, *Fragments of Soul: Law, Transitional Justice and Mourning in Postwar Peru* (book manuscript in preparation). One of them was the 2004 publication of a book revealing unknown crimes carried out by army death squads during the counterinsurgency campaign. One chapter confirmed survivors' testimony about the existence of clandestine mass graves in the wasteland of Los Cabitos and revealed that the military made use of

blast furnaces to dispose of the bodies of their victims. See Ricardo Uceda, *Muerte en el Pentagonito: Los cementerios secretos del Ejército Peruano* (Bogota: Planeta Colombiana, 2004).

21. Uceda says that approximately 500 were killed and clandestinely buried at Los Cabitos. See *Muerte en el Pentagonito*, 125–48. Luis Bromley, former executive director of the IML, suggests that the number of victims was more than a thousand. Quoted in Isaias Rojas-Perez, “Sueño con serpientes: Para entender Cabitos y Putis,” *Ideele* 187 (2008): 77–81.

22. Chief prosecutor Luz Ibañez filed her indictment against the high-ranking military in February 2009. The trial in the Los Cabitos case started in late May 2011, i.e., more than two years after the indictment, almost ten years after the beginning of criminal investigations, and almost three decades after the crimes were committed.

23. Interview with the author. Ayacucho, Peru, February 1, 2006.

24. In Latin America, Argentina is perhaps the clearest example of how this shift from prosecution to restoration came about as a result of the post-conflict regime’s willingness to temper the consequences of its transitional justice project. As a result, a new set of tensions emerged among the mothers of Plaza de Mayo that resulted in their split into two different organizations. For discussions of this case, see Zoe Crossland, “Violent Spaces: Conflict over the Reappearance of Argentina’s Disappeared,” in *Material Culture: The Archaeology of Twentieth-Century Conflict*, ed. Colleen M. Beck, William Gray Johnson, and John Schofield (London: Routledge, 2002), 115–31; Robben, “State Terror in the Netherworld.”

25. Crossland, “Violent Spaces.”

26. Rosalind Morris, “Returning the Body without Haunting: Mourning ‘Nai Phi’ and the End of Revolution in Thailand,” in *Loss: The Politics of Mourning*, ed. David L. Eng and David Kazanjian (Berkeley: University of California Press, 2003), 29–58.

27. “Solo nos estamos llenando de huesos.”

28. At the request of the Office of the Public Prosecutor of Human Rights in Ayacucho in charge of the criminal investigation, the forensic experts briefed the relatives on a daily basis about the progress made during the day in the exhumation, which included an exhibition and detailed explanation of their findings.

29. Author’s fieldnotes, October 2006. At their request, all the names of the mothers mentioned in this essay are first names only.

30. The therapeutic model is premised on the presupposition that victims of political violence have experienced traumatic events that are always-already situated in the past and need to be addressed through psychoanalytical models of narration. There is a burgeoning literature criticizing the uses of notions of “trauma” and “post-traumatic stress disorder” in humanitarian interventions into post-conflict societies. See, for example, Didier Fassin, “The Humanitarian Politics of Testimony: Subjectification through Trauma in the Israeli-Palestinian Conflict,” *Cultural Anthropology* 23, no. 3 (2008): 531–58. For the Peruvian case, see Kimberly Theidon, *Entre prójimos: El conflicto armado interno y la política de la reconciliación en el Perú* (Lima: Instituto de Estudios Peruanos, 2004).

31. Author’s fieldnotes, October 2006.

32. I refer here fundamentally to the Latin American experience. See, for instance, Taussig, *Nervous System*, 14. See also Robert M. Carmack, ed., *Harvest of Violence: The Maya Indians and the Guatemalan Crisis* (Norman: University of Oklahoma Press, 1988); Juan Corradi, Patricia Weiss Fagen, and Manuel Antonio Garretón, eds., *Fear at the Edge: State Terror and Resistance in Latin America* (Berkeley: University of California Press, 1992); Victoria Sanford, *Buried Secrets: Truth*

and *Human Rights in Guatemala* (Basingstoke: Palgrave Macmillan, 2003); Marguerite Feitlowitz, *A Lexicon of Terror: Argentina and the Legacies of Terror* (Oxford: Oxford University Press, 1998); Rojas-Perez, "Writing the Aftermath."

33. Taussig, *Nervous System*.

34. *Ibid.*, 14–15.

35. Jean-Louis Déotte, "Las paradojas del acontecimiento de una desaparición," in *Memorias en conflicto: Aspectos de la violencia política contemporánea* (Lima: IEP & IFEA, 2002), 323.

36. Nadia Seremetakis, *The Last Word: Women, Death, and Divination in Inner Mani* (Chicago: University of Chicago Press, 1991).

37. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford, Calif.: Stanford University Press, 1998), 17.

38. *Ibid.*

39. Walter Benjamin, "Theses on the Philosophy of History," in *Illuminations*, ed. Hannah Arendt, trans. Harry Zohn (New York: Schocken, 1969), 253–64.

40. Author's fieldnotes.

41. Catherine Allen, *The Hold Life Has: Coca and Cultural Identity in an Andean Community* (Washington, D.C.: Smithsonian Institution Press, 1988). In the Andean village of Accomarca, Mama Benedicta told me, "It is said that bones have agency in themselves [*Tullus kausam*]." Author's fieldnotes, August 2007.

42. Elsewhere I provide a more detailed account of the presence of these ghosts and souls at Los Cabitos and the specific ways in which they animate the work of mourning in the face of atrocity and devastation. See Rojas-Perez, *Fragments of Soul*. For an anthropological study of ghosts, souls, and evil beings in the Peruvian south-central Andes, see Juan Ansion, *Desde el rincón de los muertos: El pensamiento mítico en Ayacucho* (Lima: GREDES, 1987).

43. Author's fieldnotes, February 22, 2007. Ezequiel is a fifty-year-old peasant who lives in the Andean village of Accomarca in southeastern Ayacucho. His parents were disappeared by the army in 1985. Since then, he and his brothers have been in search of them. I also conducted fieldwork among survivors of the massacre of the civilian population carried out by the Peruvian army in Accomarca, Ayacucho, in August 1985.

44. Byron Good, *Medicine, Rationality, and Experience: An Anthropological Perspective* (Cambridge: Cambridge University Press, 1994), 153.

45. Déotte, *Paradojas*, 324.

46. Throughout Latin America, the expression "¿Dónde están?" (Where are they?) became a central motto of the organizations of relatives of *desaparecidos* in their struggles to get them back alive.

47. I am inspired here by the seventeenth-century English botanist Nehemiah Grew's oft-quoted definition: "A point hath no dimensions, but only a whereness, and is next to nothing."

48. Hertz, *Death*; Arnold Van Gennep, *The Rites of Passage* (London: Routledge and Paul, 1960); Allen, *Hold*, 184.

49. All Saints' Day and the Day of the Dead (*Día de los Muertos*) together make up a two-day celebration (November 1 and 2) in which people throughout the Andes and elsewhere in Latin America commemorate the ritual return of their ancestors and renew their relations with them. See, among others, Joseph W. Bastien, *Mountain of the Condor: Metaphor and Ritual in an Andean Ayllu* (St. Paul, Minn.: West Publishing Co., 1978); and Emilia Ferraro, "Kneading Life: Women and the Celebration of the Dead in the Ecuadorian Andes," *Journal of the Royal Anthropological*

Institute 14, no. 2 (2008): 262–77; Peter Gose, *Deathly Waters and Hungry Mountains: Agrarian Ritual and Class Formation in an Andean Town* (Toronto: University of Toronto Press, 1994).

50. *Campo santo* can be translated as “cemetery.” However, in this context it has an emphasis on the idea of sacredness. As such, I prefer to translate it literally as “sacred field” or “sacred site.”

51. “Aja, kay llapachanchik riki.”

52. This is the literal translation.

53. In Guatemala, Sanford finds a different formula: “If [the remains] do not belong to anybody, then they belong to me” (*Si no tiene dueño, entonces es mio*). Here kinship is the language through which unknown remains, and their corresponding souls, are appropriated and brought back to social interaction. See Sanford, *Buried Secrets*.

54. Author’s fieldnotes, October 26, 2006.

55. See Rojas-Perez, *Fragments of Soul*; Das, *Life and Words*, 90.

56. Hertz, *Death*.