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Abstract

During the 20th Century, both Germany and Spain had atrocities committed against specific groups of people at home under fascist leaderships. Both countries democratised with the death of their leader, leaving members from the previous regime in power. However, two very different approaches to reconciliation were taken. Germany prosecuted the leaders of the old regime, implemented collective guilt across the population, and either destroyed fascist memorials and insignias or actively challenged them with counter-memorials. As opposed to following the German path to reconciliation, the fruits of which could be seen during the democratisation of Spain, the new democracy decided to implement the 1975 Pact of Forgetting, an unwritten agreement to not bring up the atrocities committed under Franco for fear of retribution. In order to understand the events that led to two very different outcomes through the use of interviews, analysis of the Suárez's cabinet, and analysis of the use of memorials in both cases, this paper will ask why did Spain choose to avoid a similar reconciliation process to the one taken by West Germany thirty years prior despite being in a similar state and what role did public history play?

Silenced Ghosts: A comparison of Spanish and German “reconciliation” attempts

Berlin currently suffers from a spate of dark tourism known as the ‘YOLOCAUST’ where people climb the concrete slabs of the Memorial to the Murdered Jews of Europe meant to represent the trains used in the holocaust to transport Jews and

instead repurpose them as props and backdrops in their selfies. Although signage for the memorial is not as prominent as it could be, the Memorial to the Murdered Jews of Europe is yet another example of the German “counter-memorial” trend whereby the narrative of uncertainty due its simplistic design contrasting overly glorified fascist memorials, leaves the burden of remembrance with the viewer (Young et al. 1998).

However, Spain, another former fascist state with a similar democratisation process, has almost none of this culture of memorialisation and instead relies mainly on existing fascist memorials like Valle de los Caídos to memorialise victims – the same monuments at which far-right members give fascist salutes. Under the title *Silenced Ghosts*, an intentional nod to the ground-breaking works of Tremlett in *Ghosts of Spain* and Auchter’s *The Politics of Haunting and Memory in International Relations* that inspired this paper, this paper will fill two gaps in literature concerning the West German and Spanish attempts to reach reconciliation. The first gap in literature concerning the role of the elites behind the different reconciliation attempts, and the second being the lack of Spanish and West German case comparisons, given their similarities.

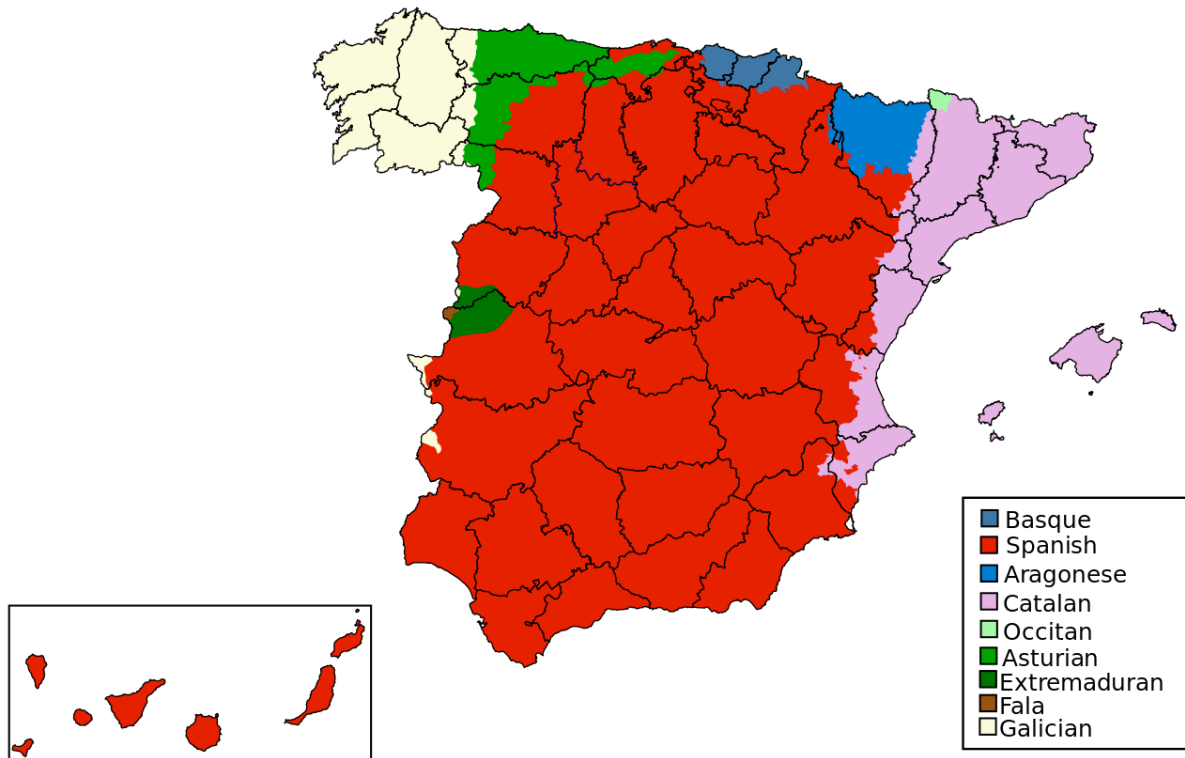
How did memorialisation become so abstract in one country and so reliant on the old in another considering the similarities in democratisation processes and the crimes that they memorialise? Although both states committed similar crimes and members of the old regime remained in some positions of power, a choice was made whether or not to address the past through the destruction and contextualisation of remnants of the old regime and counter-narratives in the form of memorials and museums. With rising tensions, advancements in transitional justice, and better access to information, it is important to now ask why did Spain choose to avoid a similar reconciliation process to the one taken by West Germany thirty years prior despite being in a similar state and what role did public history play?

In recent months, the Spanish government has come down hard on the once devolved region of Catalonia through the use of police violence and imposing its control through direct rule as a reaction to an independence vote that it ruled as being illegal. This seemingly sudden and unusually aggressive reaction to a vote within a European Union state is no freak miscalculation on the government’s part; it is the

calculated and purposeful reaction of a group of people with a specific mindset shaped by history.

During the Spanish Civil War (1936-1939), the Catalanian government chose to fight along side the Republicans, Franco's adversaries. Displeased with the 1936 election victory by the Progressive Popular Front, Franco instigated a military uprising against the Second Republic from his base in Morocco. This conflict pitted loyalist republicans that included the navy, police, the left, liberals and areas vying for devolution, against nationalists that included the army, air force, the right and royalists. The conflict is believed to have claimed 175,000 republican lives, 110,000 nationalist lives and 125,000 civilian lives (Sandler 2002, 160). Atrocities including, but not limited to, mass rape, mass murder of prisoners, and systematic murder of suspected leftists, liberals and freemasons under Franco were reported during and after the Spanish Civil War claiming as many as 200,000 lives (Beever 2006, 156, 315, 330). In reaction, underground republican groups like the ETA coordinated terror attacks.

Following the bloody victory, Franco quickly cracked down on all aspects of Catalan identity from the banning of Catalan being spoken through to the removal of its government. Catalan was swiftly replaced with Spanish - the start of what some deem to be "Franco's attempts of cultural genocide" (Moreno 2001, 1). This was by no means restricted to only Catalonia as Franco sought to implement the same policies in the Valencian, Basque, Galician, Aranese, Asturian, Leonese, Aragonese Extremaduran, and Fala communities in order to create a single Spanish nation-state.



(<http://i.imgur.com/f9NakYj.png>)

As authoritarians and their regimes go, Franco had the best possible outcome as he left this world on his own terms and many of his allies that he left behind were able to keep their jobs as the Spanish transition to democracy was thought to be better facilitated if all sides verbally agreed to forget and instead focus on the future through the 1975 Pact of Forgetting. However, this simple choice to look to the future left many Francoist structures standing and denied victims memorialisation and their families any chance of dialogue to garner reconciliation. There is no single normative form of reconciliation or path to it, but the general concept can at best be defined as “the end of a disagreement and the return to friendly relations” (The Oxford English Dictionary 2013, 603). What this meant was that in the years following the Pact of Forgetting, there is evidence to suggest that far right groups in Spain, such as Alianza Popular, its successor party the Partido Popular, and more recently VOX supporters, comparable to other European far right groups, were allowed a platform to oppose any form of separatism, let alone calls for justice as this paper will later explain.

Calls for justice were easily deflected with through the lack of counter-narratives and the use of structures like the Valle de los Caídos that proclaimed

reconciliation although built with slave labour (Alcaine 2010, 5). With right-wing figures like as Carlos Arias Navarro claiming to speak with Franco's ghost, Franco's ghost still had agency in Spanish politics (Preston 2004, 392). Memorials like Valle de los Caídos that memorialised the Civil War and seemingly deflected conspiracies by the left became important places of pilgrimage and testament to the elite's memory (Preston 2004, 392). Such groups have become increasingly vocal of their stance that any separatism or investigation into the past is a threat to what they regard as Spain and Spanish culture.

What boggles the mind most when looking at the reaction to the Catalanian independence vote is not the far right or police brutality, but the fact that the ruling Partido Popular party enables, and in some cases orders, such sentiment and action against the Catalans to take place in accordance with Franco's one Spain approach. The stance of the Partido Popular is very much reflective of some of its known Francoist membership and the fact that in the Spanish population one in three consider Franco in his actions to be a positive historical figure – a saviour of Spain, even if they do not necessarily agree with the atrocities committed against republicans, socialists, liberals, communists, and others on the basis of hearsay (El Mundo 2006) (Guarino 2010, 65).

In the interest of accuracy and relevancy, this paper will use a reputable method of taxonomisation and four leading concepts in the field of memory studies and international relations; transitional justice, vehicles for memory, memory entrepreneurs, and memory politics.

Transitional justice is now seen as the path to achieving reconciliation post-conflict. However there are two definitions. The more liberal definition is “to strike a balance between redressing the abuses of the former governments and integrating victims and perpetrators in a postconflict society” (Piccone 1996, 541). On the other hand, the more orthodox definition is to, “characterize the choices made and quality of justice rendered when new leaders replace authoritarian predecessors presumed responsible for criminal acts in the wake of the ‘third wave of democratization’” (Siegel 1998, 433). Regardless of there being no one definition, both ensure the recognition of the crimes committed by the authoritarian predecessors and the judgement of said predecessors for said crimes. It is commonly accepted that the

history of transitional justice started post-Second World War with the International Military Tribunal and although the legal construct that ensures processes nowadays was non-existent back then, the tribunal with its novice concepts of transitional justice was successful (McGonigle Leyh 2016, 559). However, the early example that Nuremberg set, even without the three decades worth of legal developments since, was not enough to entice the Spanish transitional government.

Two contrasting stand points that were once intolerant of the other's existence have been able to coexist relatively peacefully in Spain since the death of Franco due to the Pact of Forgetting that also came in 1975. The Pact of Forgetting is a spoken contact between the different political parties to avoid confrontation over the past, to safeguard the amnesties granted to perpetrators of crimes dating back to the Civil War and to ensure a future based on cooperation (Encarnación 2008, 437). In order to create an unspoken agreement whereby all could look to the future, Adolfo Suárez, King Carlos's transitional prime minister, first needed to get the recently legalised left to the table. This was accomplished through partial amnesties for left-wing political prisoners with the 30th July 1976 amnesty and a full amnesty for ETA terrorists on 20th May 1977 after threats of a continued campaign of terror (Preston 2004, 389). The unspoken agreement was later enforced by the Law 46/1977 of 15th October 1977 Of Amnesty or the "Amnesty Law" under Suarez's democratic government. The partial and full amnesty laws acted as speedy means to avoid conflict between factions now that Franco was dead and the state was starting to democratise. As the Amnesty Law allowed crimes to be amnestied and criminal records to be destroyed, it "precluded any formal treatment of the past" ruling out any possibility of transitional justice allowing a schism in memory to remain between the different factions (Law 46/1977) (Encarnación 2008, 437).

Memory is separate from experience as experience is "subjectively lived, culturally shared, and "shareable"" (Jelin 2003, 24). Memory, has to be triggered by discourse as "whenever and wherever there are subjects who share a culture, social agents who try to "materialize" the meanings of the past in different cultural products that are conceived as, or can be converted into, "vehicles for memory," such as books, museums, monuments, films, and history books" (Jelin 2003, 24-25). One of the ways memory can be "materialized" is through the politicisation of memory, how memory

can be manipulated by policymakers and individuals of power to their own ends. Jelin terms the people that “seek social recognition and political legitimacy of *one* (their own) interpretation or narrative of the past” as “memory entrepreneurs” (Jelin 2003, 33-34). The gap between enduring an event and actually recalling an event, that allows it to be a memory, is a space for “cultural and artistic activity” to take place to form vehicles for memory that can best represent the memory (Huysen 2012, 3).

Memorials are the prime example of a vehicle for memory as their discourse is designed to trigger memory in order to keep memory of an event or person alive. On this basis, memorials play a large role in the reconciliation process as markers of the “mutual recognition and acceptance” expected of reconciliation hence the interest in memorials that this paper takes (Bar-Tal and Bennink 2004, 15).

The schism in memory between different groups of the Spanish populous is very much reflective of the possibility of many competing memories and truths. In the words of Jelin, “the space of memory is an arena of political struggle that is frequently conceived in terms of a struggle “against oblivion” [...] however [...] in truth, what is at stake is an opposition of “memory against memory”” (Jelin 2003, xviii). Franco is one of the most prolific memory entrepreneurs as he taught Spaniards over generations amongst other things to believe that his coup was nothing more than a well-received “rebellion” against a “leftist-Communist rebellion” and the violence that it brought with it (Southworth 1963, 9-33). In choosing to look to a future without documents of the old regime or excavation sites to enable investigations into the atrocities, the elites that agreed upon the 1975 Pact of Forgetting also agreed upon the hegemonic Francoist memory. Until the memory struggle is allowed to end through investigation, the memories of Franco’s victims and their families are doomed to the status of “claims” rather than history (Stern 2016, 121).

Although the work of Steve Stern revolves around the later regime of Pinochet in Chile, this paper will follow Stern’s approach of taxonomising the memories of the period as Pinochet’s regime, like Franco’s, came about following a coup against a left-wing elected government. Like in Spain, the systematic atrocities were hidden from public view giving rise to the elites’ hegemonic memory of events. Stern’s work separates the different parties into two main opposing groups: “the human rights camp” and “the junta and its supporters” (Stern 2016, 125-126). The human rights

camp is comprised of political prisoners, activists in civil society, the victims and the relatives of the disappeared whilst the junta and its supporters are made up primarily of the Catholic Church, police and military forces and the government that cooperated with them (Stern 2016, 119-126).

As in Chile, these two groups in Spain held conflicting memories of the cause and legacy of the Spanish Civil War that formed the memory struggle. For the junta and its supporters, their memory, the hegemonic memory, was that the republicans had started the Civil War violently with backing from the USSR and that Franco had provided a way to protect themselves from a coming atheist, communist regime (Babiano-Mora 1992) (Ellwood 2014, 113). Considering murders, rapes and false imprisonments as well as restrictions on language and reproduction had been used against the suspected republican population in the name of falangism, a Spanish fascist ideology, there was a fear of revenge reinforced by memories of republican violence during the Civil War and on-going insurgency (Preston 1986, 520). The human rights camp held different memories of a war that they believed to have been started by the falangists as part of a larger proxy war waged by fascists looking to capture Spain (Babiano-Mora 1992). It must be noted at this point that the difference in experience and power between a majority of the human rights camp and the Catalan nationalist bourgeoisie under Franco's rule and during the transition period is so vast that they cannot be boxed together as little victimisation was felt and their opposition was based primarily around independence (Martín-Cabrera 2011, 157, 186). This situation placed and continues to place the human rights camp in a difficult situation where they are represented by a political elite with little interest in pursuing justice all the while a doctored history fostered for decades under Franco's regime and adopted by succeeding governments only reinforces the struggle over memory. Because the truths of the human rights camp contradict the Franco approved official narrative, any attempt at reconciliation through a truth commission or any other method in the foreseeable future would risk breaching the Pact of Forgetting (Encarnación 2008, 440). This comes as the pact is an alternative to transitional justice and ensures a focus on the future rather than any confrontation over the past.

On this basis, the old age of the victims and the decades of misinformation pose the largest threats to the memory and truths of the human rights camp. In order

to keep the scope of this paper as narrow as possible, this paper will save the memory of the human right camp for another paper that can do it justice and instead only focus on the memory of the elites that agreed upon the 1975 Pact of Forgetting.

Literature review: Western Politics

It is now understood that memory holds value for both western politics and global politics as a whole as Auchter, the first to apply memory studies to international relations theory, explained that memory has serious implications for statecraft. These implications come about as not only do the living have agency, but so do the dead which is complicated by the impossibility to govern the “ghostly” (Auchter 2014, 29). The knowledge of bodies being out there is enough to influence the political landscape through the voting public as “decisions of life or death” form political identities and so memory can influence statecraft through identity politics (Auchter 2014, 7, 119).

This understanding of memory has come off the back of memory and human rights being politicised to the extent that they became respected political tools. Moyn and Huyssen argue that human rights give value to the memories of human rights violations that had inspired their creation (Moyn 2010, 2) (Huyssen 2015, 29). On this basis Huyssen and Teitel argue that although memory and human rights are normally separated by “disciplinary specialization”, they are nevertheless intrinsically linked and so should be grouped together (Huyssen 2015, 28, 32). The focus of human rights and memory discourse historiography is primarily split between three points in history, pre-20th Century, post-Second World War and 1970s onwards.

Human rights discourses really took off in the 1970s when they transcended the confines of the state with Moyn, Huyssen and Alston referencing Jimmy Carter’s 1977 inauguration speech, the rise of NGOs, and the boom in human rights and memory discourse that came with them (Huyssen 2015, 27) (Alston 2013, 2044). Unfortunately, it wouldn’t be until during the 1980s that the recognition and success of human rights discourse would reach memory discourse. This is due in part to a

trickle down effect of the success of human rights discourse and in part due to the boom in vehicles for memory like the *Holocaust* documentary series that brought memory discourse into the mainstream and brought memories of the atrocities to younger audiences (Huysen 2003, 12). These audiences were both domestic and foreign and allowed for shift of focus from the war to atrocities against the Jewish population (Huysen 2003, 12).

The construction of multiple holocaust museums during this period, most notably the Holocaust Memorial Museum in Washington led not only to globalised memories of the holocaust, but Americanised memories of the holocaust (Huysen 2003, 13). Moyn and Huysen argue that the human rights utopia currently being pursued in Western politics and the attached memory discourses only truly took off after the failures of earlier attempts at a utopia undertaken by fascism and communism left a new goal for societies to strive for (Huysen 2015, 28). With the completion of the Washington Holocaust Memorial Museum in 1993 and a new utopian dream needed, Huysen and Cohen see the “Americanization” of the holocaust memories as being the building block upon which the U.S. led Western powers built their interventionist foreign policy and R2P around (Huysen 2003, 13) (Huysen 2015, 30).

Comparisons have always been made between current atrocities and past atrocities that have been punished for example the comparison of the slave trade and the Nazi atrocities during the 1940s (Martinez 2014, 14). Western powers using the Americanised holocaust memory as a building block for foreign policy have only increased such comparisons, putting memory discourse history back into the spotlight. However, comparisons encouraged by interventionist foreign policy are not without criticism as although able to “energize some discourses of traumatic memory”, Huysen and others fear the potential of the comparisons to overlook local politics and history (Huysen 2000, 24). Memory discourse history has also flourished due to a “more complex interrelationship between state power, moral ideas, and domestic and international legal institutions than many contemporary theories of international law and relations acknowledge” (Martinez 2014, 14).

In conclusion, memory discourse has a reliance upon human rights discourse that has enabled its international recognition since the 1980s. This international

recognition has only been fostered under the Western interventionism of the 1990s that increased the number of comparisons made that kept memory discourse in academia. With the dead having agency through the influence of memory on statecraft, worldwide recognition of memory discourse through its relationship with human rights discourse, and the rise of initiatives dedicated to protecting human rights and memory, there were plenty of tools at Spain's disposal to ensure reconciliation should one have been attempted.

Literature review: Spain

Although investigating and even discussing the atrocities committed under Franco are treated very seriously as seen with the prosecution of the human rights investigator Baltasar Garzón back in 2012 that was met with international attention and condemnation, there is still surprisingly little literature published on the subject. This comes as survivors strive to make their experiences public before they die, historians strive to record more on an under-investigated subject, and the Francoists promote a counter-narrative that continues the legacy of Franco and shames the survivors and families of victims into keeping quiet (Encarnación 2014, 111-112).

As Encarnación points out, with such a focus on the role of the Amnesty Law, little literature extends to the Pact of Forgetting let alone looks at those behind the pact (Encarnación 2008, 456). For far too long academics such as Labanyi have only mentioned the pact in passing leaving readers with ambiguous descriptions. For example, Labanyi argues that the Franco memorials and the attached obsessions paved the way to a “desire to break with the past; it was not, as is often argued, a determination to forget, but a decision not to let the past affect the future” during the democratising period (Labanyi 2007). This is not particularly clear and can be interpreted in different ways from a less sceptical interpretation being that the intention was never to forget, but to focus on a more constructive future through to a more sceptical interpretation being that the policymakers did not want the past affecting their future, making the Pact of Forgetting nothing more than a state enforced amnesty for those responsible and a gag on those pursuing accountability.

Of what little literature takes a specific stance concerning the Pact of Forgetting, there are two schools of thought; the continuation school of thought, best exemplified in the work of Moa, and the revisionist school of thought, best exemplified in the work of and arguably headed by Preston. Like the name suggests, the continuation school of thought continues and strengthens the narrative nurtured under Franco of a dangerous Left. This culminates in Moa circulating Francoist myths in arguing for the less sceptical interpretation by blaming the left in general for starting the Spanish Civil War and explaining that much of Franco's less favourable actions were mere reactions based on leftist actions and for these reasons the pact of silence, Moa's name for the Pact of Forgetting, only extends to the left (Moa 2003). An admirer of Moa's work and fellow practitioner of the continuation school of thought is Stanley G. Payne. Payne, like Moa blames the Left for a disproportionately large amount of the violence and its role in the start of the Spanish Civil War (Payne 1990, 269). Like Moa and others in the continuation school of thought, Payne is unacademic in voicing his disagreement with the revisionist school of thought, go as far as to refer to the work of Preston as little more than a "narrow obsessive" that "writes up wartime Republican propaganda as a sort of history" without any form of justification (Sesia and Payne interview 2017). The shared characteristics of the continuation school of thought go even further as Payne, like Moa, has also been branded a pseudo-historian accused of omitting new specialist revisions in historiography from his works and ignoring major influences such as the role of the landowners in the establishment of Franco's regime in order for him to make the sweeping generalisations in favour of their stance that the continuation school of thought is known for (Viñas et al. 2015, 111). It is therefore unsurprising that Payne believes the Pact of Forgetting never existed and the term to be nothing more than a "propaganda slogan" reflective of the Left's "paranoia" (Payne 2011, 251).

Although revisionist schools of thought have received a bad wrap, the revisionist school of thought is devoid of the nationalist myths circulated by the continuation school of thought, as it is made up of foreign Hispanophiles less likely to have bias when retracing Spanish history from the Spanish Civil War. Preston is more explicit in taking the side of the more sceptical interpretation in arguing that "those guilty of the atrocities would never contemplate any reconciliation with the defeated for fear of the vengeance of their victims", and that they didn't have to as a long and

effective reign under Franco had allowed a heavily doctored history to take hold leading to a “sociological Francoism” that caused an inability to “look upon its recent violent past in an open and honest way” meaning that confrontation was never a possibility (Preston 1986, 520). Preston goes on to discuss the fact that none of the Republicans that had committed atrocities during the Spanish Civil War were alive in Spain at the time of its signing as “those who did not escape into exile were either tried during the war itself by the Republican authorities or else afterwards by the Francoists” (Preston 1986). This implies that the Pact of Forgetting was created with only Francoists, like Adolfo Suárez, that “had no reason whatsoever to resuscitate old quarrels” in mind (Encarnación 2008). It also left those in the opposition in a position where they had no choice but to sign. Encarnación describes the situation as being that the “Left-wing leaders were also cognizant of the political environment in which the transition unfolded, especially rising political violence, and did not wish to pursue any policy that would make a delicate situation even more so” (Encarnación 2014).

Overlooking the accusations of bias and questionable scholarly approaches, the continuation school’s literature is by no means of no relevance to this paper as there is value in its empathetic approach to creation of what some believe to be the Pact of Forgetting. After stating that the Pact of Forgetting does not exist in *Spain: A Unique History*, Payne went on to explain that it was never about forgetting as the transitional government knew the failures and decided to avoid repeating them and the “silence” was a matter of leaving the debates to scholars (Payne 2011, 251). His defence for the Partido Popular’s defensiveness during the early 2000s when criticisms of the lack of investigations into past atrocities were aired is that the left had only brought up the subject as a way to “wave the bloody shirt” when they weren’t doing well in the polls (Payne 2011, 251).

Although revisionists Encarnación and Preston both agree that the Spanish political left was left with little choice but to agree to the terms of the Pact of Forgetting, the writers disagree over the role of Adolfo Suárez and in turn present him differently. Encarnación presents Suárez as a reasonable figure within Spanish political history by noting his position as the head of the first democratic government post-Franco and legalisation of the communist party, as well as attempting to rationalise Suárez’s past as a Francoist official, explaining that “he was a former

Francoist official [...] as were many in the leadership of his centrist party” (Encarnación 2008). What Encarnación appears to miss or exclude from this brief introduction of Suárez is his major role as the Director-General of the Spanish Radio and Television Corporation under Franco. A position that would have put Suárez in charge of Franco’s propaganda. Encarnación is also biased in making the assumption that the left was just as uninterested in re-examining the past as Francoists like Suárez in stating that due to the lack of any resistance from left, the leftist leadership during the 1980s and 1990s was “entirely disinterested in revisiting the past” (Encarnación 2008). Preston on the other hand acknowledges Suárez’s role as the “ideal man to dismantle the Francoist system” under King Carlos during the transition, however he notes that once the objective was complete he was no longer of use (Preston 2004, 382). Having become head of his own party to the discontent of the King and following the retirement of his handler, Torcuato Fernández-Miranda, in May 1976, he could now realise his long-term political ambition without anyone to answer to implying that any policy or decision under Suárez post-May 1976 was not necessarily in the interest of those that democratised Spain (Preston 2004, 391).

Compared with the biased and the non-peer reviewed work of the Francoist writer and accused pseudo-historian, Moa, the peer reviewed works should be able to shed a lot more light on the subject of the Pact of Forgetting. However, even as a piece of historical academia by an accredited historian, the article only makes reference to Suárez as one of the many Francoists and opposition figures that drew up, agreed upon, and benefited from the Pact of Forgetting without really specifying who did what and why (Cattini 2011, 34). This leaves a clear gap in literature concerning the Spanish democratising process and a key part of modern Spanish history (Cattini 2011, 34). Given the critical eye that the revisionist school of thought has towards revisions in historiography and its relatively lesser bias, this paper will primarily make use of the revisionist school of thought in order to be as accurate and up to date in its arguments. That being said, the continuation school of thought does hold merit in having empathy for the subjects discussed and so its literature will be taken into account to make this a more rounded paper. With a revisionist school approach and continuation school empathy, this paper will be one of the first to analyse both the role that Suárez and his cabinet had in forming the pact, what they stood to gain from the pact and the relationship that the different actors had.

Literature review: West Germany

Many if faced with the research question “why did Spain choose to avoid a similar reconciliation process to the one taken by West Germany thirty years prior despite being in a similar state?” would simply answer that the allies were able to apply the pressure to sow the seeds of reconciliation through denazification and democratisation processes following their invasion, an assumption that has deterred comparisons and investigations into the Spanish case - something that this paper aims to change. The assumption is inspired by a revisionist school of thought that included academics such as Dobbins, Diamond, Linz, Lipset, Peceny and Dempsey supported by the CATO Institute and RAND Corporation that asserted that democracy in West Germany was installed by the U.S. as justification for the 2003 invasion of Iraq (Payne 2006, 210). The revisionist school of thought’s exaggerated heroisation of the role of the U.S. has led to the assumption that West Germany was unwilling enough to democratise on its own that academics like Mihr have grouped its democratisation with that of Turkey and Spain in pieces that unfoundedly describe “democratic flaws or deficits”, “violent suppression of minorities”, “detention of protestors”, “biased and political trials”, and “expulsion of political parties” (Mihr 2018, 27).

However, the old school of thought establishes that much of the democratic apparatus in West Germany was German and established in the final days of the Nazi regime – a fortnight before the U.S. arrival in Berlin (Payne 2006, 217). The West Germans also undertook the creation of their constitution that ensured a democratic structure (Davidson 1957, 237). That being said, there is one thing the U.S. and its allies can take credit for and that is denazification, the brainchild of a few members of the Washington and London political elite that believed that guilt should not be reserved to just the Nazi elites (Berghahn 2004, 130). The idea of a collective punishment came out of the assumption that all members of the Nazi party and any of the public affiliated with them were staunch believers, an assumption that may well have inspired the assumptions and ideas of the revisionist school of thought. On the other hand, the old school are quick to point out that the population were not captivated by the ideology of Nazism as Churchill and Morgenthau, the fathers of

denazification, would have people believe and so on that basis, the Spanish population were no more guilty, but were never made to face it (Berghahn 2004, 130).

Under the allied denazification process, memory had likely the strongest role it has ever had as only allegations of Nazi affiliation or crimes were enough to find a person guilty (Payne 2006, 215). A majority of academics including Huysen of the revisionist school of thought and Payne of the old school of thought focus primarily on the allied use of memory in the trials that followed the Second World War and the human rights that they inspired. However, few look at what happened beyond 1951 when the allies had given up on denazification after it was perceived to be ineffective and the West Germans actively opposed it leaving a gap in literature as to how and why West Germans continued to spread the idea of a collective liability and in some cases guilt that can still be seen today when they regained control (Steinweis and Rogers 2003, 235). Frei argues that the collective guilt enforced by a foreign nation in West Germany was disliked by the local population and when denazification was halted in 1951, a very different guilt was observed, one that literature has failed to properly document (Frei 2002, xiii, 1, 3). Denazification had taught West Germans to feel guilt for their roles and contacts under the Nazi regime, however the guilt that arose in 1951 was one of a general guilt for what had happened, but they maintained that guilt should not lie with them for their connections and actions, but rather with the Nazi figureheads (Frei 2002, xiii, 1, 3). On this basis, this paper will add to the currently lacking literature left by both schools of thought by examining how exactly memory was handled by West German society using a better understanding of the guilt post-denazification.

Why wasn't transitional justice an option in Spain? Paige argues that transitional justice only moved from naming and shaming by activists to claims to "justice that prioritized legal-institutional reforms and responses – such as punishing leaders, vetting security forces, and replacing state secrecy with truth and transparency – over other claims to justice that were oriented toward social justice and redistribution" during the 1980s starting with the Bolivian National Commission of Inquiry into Disappearances in 1982, five years after Spain transitioned to democracy (Paige 2009, 321). However, this is not enough to excuse the failure to reconcile in Spain after Franco as there are earlier examples of democratisation like that of West

Germany post-Second World War where the tearing down of Nazi memorials and insignia were common practice. Most importantly, the West German example is not only destructive, but also constructive as one of the approaches of the West German public in coming to terms with the essential memorial conundrums given by Young is the use of counter-monuments (Young 1994, 414). The use of very public means, such as counter-monuments, with which to confront the public helped to instil a larger sense of self-imposed collective liability that Arendt and Jaspers agree upon as best being described as a “collective responsibility in terms of a liability predicated on political association that does not impute blame” (Schaap 2001, 749). Schaap argues that this collective responsibility came about as the West Germany was able to meet his criteria for achieving reconciliation, “collective *accounting for* past wrongs and *responding to* the suffering of those wronged is widely perceived as a necessary condition for achieving reconciliation in these societies” (Schaap 2001, 749).

With the earlier mentioned allied abandonment of the strategy of collective guilt in 1951 West Germany in mind whilst looking at the progress West Germany made in meeting the criteria for reconciliation on its own, it is clear that reconciliation cannot be forced even by a international coalition of superpowers. It is on this basis that the usual excuse for a lack of academic investigation into the missing Spanish reconciliation being that one case was forced by an invasion of superpowers and the other was not is simply not good enough. To answer the research question, this paper must first fill the gap in literature by analysing how Suárez and his cabinet participated in the creation of hegemonic memory. From there it will fill the gap in literature on West German guilt in order to better analyse how the West German political leadership handled human rights and memory discourse. Only in filling these gaps in literature can academia successfully pinpoint the decisions that led to Spain’s failure to reconcile.

Research design

The main focus of this paper will very much be on the Within-case analysis of the key policy makers in West Germany post Second World War and Spain during and after the transition to democracy in 1978 giving the paper a scope of approximately forty years (1945-1985). In the second chapter focusing on the West German case and the

Spanish case, this paper will examine the identities and backgrounds of key policy makers in an effort to better examine the factors involved in the decision making that led a newly democratic Spain down a very different path to reconciliation to that of West Germany at a time when the fruits of the West German experiment with collective guilt could be seen. Through the method of first examining key individuals and their motives in each case separately, this paper will attempt to identify mechanisms behind the attempts to and not to reconcile using targeted pattern matching rather than process tracing as this paper believes that targeted pattern matching would be better suited to a small scale analysis of rational actors.

The key individuals in question whose backgrounds and actions will be examined are those that made up the Spanish transitional government as they had to tread carefully during the democratisation period and any links with persons that may have committed crimes may demonstrate pressure to avoid a reconciliation process closer to the West German model. Transition figures such as Suárez stood to gain a lot in the democratisation process and he, a known wheeler-dealer, may have made concessions to ensure his place as prime minister. With this paper focusing on a gap in literature yet to be filled, there are no sufficient theories to make use of congruence analysis in this paper. The analysis of memory politics, how memory is manipulated in politics by memory entrepreneurs in positions of power, in both the Spanish and West German cases through the use of primary and secondary sources will play a key role in this paper as it is key to understanding the reconciliation process of a state – exactly what the research question is investigating (Auchter 2014, 7). This analysis of the role of memory politics within the Spanish and German transitional governments, and policies such as the Pact of Forgetting will be accomplished through an analysis of primarily primary sources such as the wording used in the dominant political narrative and the wording used in the dominant cultural narrative as “in politics, collective memory exerts its influence both from the bottom up, as interpretations of the past affect the identities and understandings of political elites, as well as from the top down, as statements by public figures place certain events into the national consciousness while silencing or forgetting others” (Verovšek 2016, 529).

Secondary sources in the form of academic papers will also be utilised in the analysis of the role of memory politics within the Spanish and German transitional

governments, and the Pact of Forgetting in order to capture a broader perspective of German and Spanish society as a whole. Data collection through the use of quantitative methods such as surveys and qualitative methods such as directly contacting individuals of interest will allow this paper to better argue the role of popular media outlets had in influencing the Spanish public's reception of the Pact of Forgetting in comparison with the German case. Interviews with the Spanish public of different political persuasions will allow for a better perspective of the influence that Spanish policymakers behind the role of Francoist monuments and the lack of counter narratives had in comparison with the German case.

Character analysis will then allow for this paper to better identify at what point the Spanish transitional government chose not to go through the process of reconciliation like the West Germans did and why. During the second chapter this paper will then conduct a brief Between-case analysis using the information that will have been garnered from the Within-case analysis of the democratisation, reconciliation process of West Germany post-Second World War in the second chapter, and the democratisation but lack of a reconciliation process in Spain post-Franco to identify necessary causation and sufficient causation in order to better answer the research question and strengthen the Within-case analysis. In lacking the theories necessary for a focused comparison due to a lack of academia on this topic, this paper will instead focus on across case analysis in its Between-case analysis in order to compare similar cases, attributes and typology to better identify where the similarities end and where the differences begin thereby mapping out the role of human agency to the extent that one or several actions done differently from the West German example can be blamed for the massive divergence that has now sprouted from such a similar process of democratisation.

Chapter 1: Setting scenes

1.1 The impact of the Pact of Forgetting on contemporary Spain

Of all the Facebook accounts linked with right and far right organisations such as VOX, La Falange, the unofficial Alianza Nacional and Falange Española de las JONS

that were contacted for the research presented in this paper, the issue that is halting any prospect of a Spanish reconciliation can be succinctly summed up in the about section of the La Falange Facebook account that reads, “Frente al separatismo: ni negociación ni olvido ni perdón” – “faced with separatism: neither negotiation nor forgetfulness nor forgiveness” (Facebook). The phrasing may well be an intentional use of olvido (forgetfulness) as nod to el pacto del olvido (the Pact of Forgetting) as many on the right as well as the left do not agree with such a pact with 100% of right leaning respondents in Figure 1 saying that they felt had been affected by the pact with one respondent saying “Si te refieres a la transición, sirvió para blanquear los crímenes de la izquierda y sacar a la calle a terroristas presos” – “If you mean the transition, it served to whitewash the crimes of the left and release imprisoned”, and another responding, “Ya son dos generaciones de españoles las que han crecido ignorando la verdadera historia en el mejor de los casos, y aprendiendo a odiar a España en el peor” – “It's already two generations of Spaniards who have grown up ignoring the true story at best, and learning to hate Spain at worst”. The two responses showcase two very classic fallacies of the Spanish right; that the Pact of Forgetting served only those that had committed crimes on the left, as they only saw the left as having committed any crimes, and that the left has recently managed to get to the children and teach them lies about Spain as much of that they learn is contrary to what the previous generations of their family had learnt. The former is incorrect as the Pact of Forgetting not only overlooked much more grievous crimes of the right, but a smaller number of people and crimes; “no judicial proceedings taken against anyone who had committed crimes against humanity in defence of the previous regime (i.e. those guilty of the Francoist repression) or crimes of terrorism committed against said regime (i.e. members of the post-Civil War guerrilla groups, ETA, FRAP and GRAPO), a dramatically smaller number” (Preston 2018). In regards to the latter, an almost withdrawal syndrome from Franco’s propaganda machine can be observed as “for almost four decades [after his death] General Francisco Franco was someone Spaniards could not escape. He was there in school books, church prayers, statues, plaques, street names and thousands of other reminders of a violent insurrection that led to a vicious civil war”, and so the history and way of life for many was suddenly different to that of their children and thus conspiracy theories were prompted from the right (The Guardian 2009). After decades of learning to admire the accomplishments

of Franco, the sudden change in stance of the establishment appeared to many on the right to be nothing more than the left attacking Franco's legacy through the youth.

The fallacy of right wing victimisation is still very much a part of the Spanish political environment to this day as “what some see as the necessary exposure of still open wounds to the light of day in order to heal, others see as the reopening of wounds that have already healed” (Hadzelek 2012, 154). There are no wounds so deep nor so open in Spanish society as the unknown fates of Republicans and others that Franco saw as his opponents. There is no call for an investigation into unaccounted for bodies from the Spanish right as the bodies of those fighting for Franco during the Spanish Civil War were “exhumed at the end of the Civil War and their graves inscribed with the phrase *Caídos por Dios y por España* (Those who fell for God and for Spain)” and buried in the Valle de los Caídos (Encarnación 2008). Those volunteering for the Nazis in the Blue Division and later Blue Legion have been exhumed and repatriated at taxpayers' expense under the People's Party's (Partido Popular) José Mariá Aznar to the Vault of the Blue Division in the Cementerio de la Almudena in Madrid (Encarnación 2008, 143).

The Spanish right are very much the gatekeepers of memory politics thanks to the Pact of Forgetting and the October 1977 Amnesty Law, both of which are still in place, and with all but republican bodies accounted for, the right can claim “we have had enough of unburying the dead” (Gálvez Biesca 2006, 31). The 1981 threat of violence in the form of a military coup stopped any exhumations of the republican war dead and those that were disappeared under Franco between 1981 and 2000 (González-Ruibal 2007, 205). Even a socialist government did not dare to go too far in its 2007 Historical Memory Law, an attempt at revising the Pact of Forgetting, in just limiting its amendments to the removal of public Francoist symbols and monuments, as well as recognising the international brigades (González 2009, 182). The Spanish right showed signs of compromise in 2011 when the Partido Popular regained power under Rajoy and did not quash the 2007 Historical Memory Law, but they instead closed the La Oficina de Víctimas (the Office of Victims), the governmental department in charge of exhuming Franco's victims (EIPlural.com 2012). As with many states where victimised portions of the population attempt reconciliation, the state will appease the opposition to an extent only to take back

power through other means. This less than absolute stance of the Spanish right does not correlate with any threat that may prove a causal relation, but it does come at a time when many that may have been found guilty for crimes in the Spanish Civil War, the Second World War and under Franco's rule are dying out.

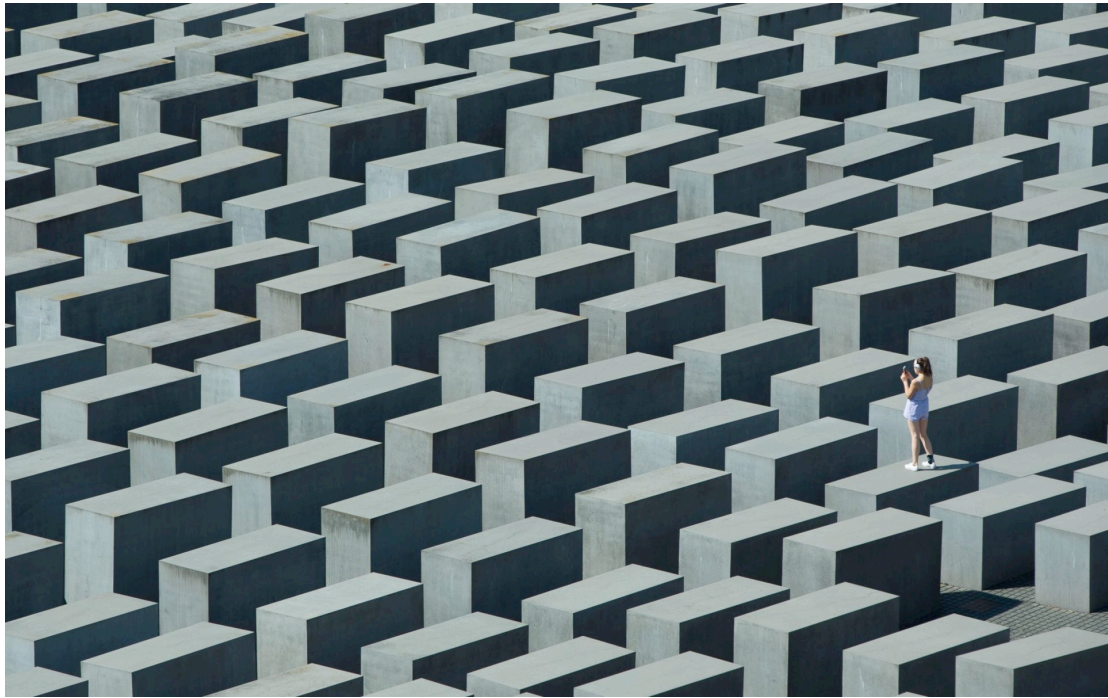
Currently, all illegal parties in Spain are left wing and independence oriented parties that have been made illegal due to the sometimes-unsubstantiated claims that they have links to left-wing terror groups. The list of illegal parties in Spain is currently limited to; Eusko Abertzale Ekintza (Basque Nationalist Action), Partido Comunista de las Tierras Vascas (Communist Party of the Basque Homelands), Euskal Herritarrok (Basque Citizens), Batasuna (Unity), Herritarren Zerrenda (List of Fellow Citizens), Demokrazia Hiru Milioi (Democracy 3,000,000), and Askatasuna (Freedom). However, self-proclaimed continuations of far-right parties that once led the call to fascism in Spain during the early 20th Century like the falangist Falange Española de las JONS are still active and legal irrespective of their links with far-right terrorism (Rodríguez Jiménez 2009, 142). Clearly, reconciliation has not yet occurred in Spain and nor will it with the current course of events. In order to understand how Spain may start to address its issue with past, more attention needs to be brought to the circumstances in which the Pact of Forgetting came about.

1.2 The impact of reconciliation on contemporary Germany

The German reconciliation process changed German society completely as it saw Germany filled with memorials and counter-memorials to victims funded by state and non-state actors and a large role in its styling and meaning given to the survivors of the atrocity being memorialised. An earlier mentioned example of such a memorial being the 2005 Berlin Memorial to the Murdered Jews of Europe (pictured).

Everything about this memorial makes it a classic example of a bottom-up approach to memorialisation and a victory of civil society. As can be expected from a counter-memorial, it was conceived at the movement's peak during the 1980s by members of civil society that were disappointed with the lack of memorials dedicated to Jewish Holocaust victims (Stiftung Denkmal Für Die Ermordeten Juden Europas). With growing support for the project, the reunified German government in 1995 opened a public design competition and funded the winning design through the state-funded

Memorial to the Murdered Jews of Europe Foundation (Stiftung Denkmal Für Die Ermordeten Juden Europas). The memorial stands testament to the openness of the West German and later reunified German governments when it came to discussing the past and empowering civil society and recognising its claims.



(https://cdn.modlar.com/photos/3963/img/s_1920_x/7_574117271d8b8.jpg)

This sets Germany apart from Spain that had the Pact of Forgetting as memorials constructed and given meaning by offending governments only serve their agenda, as memorials are reliant on context for their significance. Currently, symbols of inappropriate parties including “flags, insignia, uniforms, slogans and forms of greeting” are illegal in Germany under section 86a of the German criminal code (Strafgesetzbuch 1998). The current ban on inappropriate symbolism is an extension on the 1949 criminalisation of the swastika without lobbies trying to protect the symbol as seen in Spain, possibly because such lobbies as the Heidelberg circle were too busy trying to amnesty leading Nazi officials (POLITICO 2017) (Frei 2002, 12-13). More recently, the law has gone beyond just the physical realm to combat any alternative claims and to maintain the current hegemonic memory via the creation of memory laws whereby holocaust denial is now an imprisonable offence under section 130 of the German criminal code (Strafgesetzbuch 1998).

Memory still plays a large part in advancing the collective guilt expressed in collective responsibility as generations strive to understand the past whether it be holocaust survivors revisiting Auschwitz on Holocaust remembrance day or the grandson of Rudolf Höss, Auschwitz's commandant, coming to terms with his grandfather's crimes and in the process preventing the same (The Times of Israel 2014). Although the Germans, unlike the Spanish, have days of remembrance and well-maintained concentration camps to look to as vehicles for memory, nowhere is the collective guilt better demonstrated than in the compensation payments to victims of the Nazi regime that totalled 53 billion DM by 1978 (Sagi 1980, 196). The payments that were literally paid by the West German people to victims of the former regime demonstrates an acknowledgment of the suffering that was experienced and a shared responsibility amongst the German public for the consequences.

Although the Spanish left has been reluctant to make many amendments to the Pact of Forgetting, the German left feels a sense of 'responsibility' to keep German politics as politically centrist as possible. This leads to parties like the SPD being quick to liken policies like those of the AfD to those of the Nazi regime (Reuters 2017). With so many vehicles for memory, a critical left, and laws to maintain the hegemonic memory, West Germany has been successful in creating a culture of collective responsibility and guilt.

1.3 The historical background of the Spanish case

When it comes to the question of why reconciliation has not occurred, it is imperative that the groups that need to reconcile are known. The Carlists and Falangists under the command of Franco made victims of nationalists, Jews, republicans, communists, and liberals, and refused to recognise their victimhood until Zapatero's socialist government's 2007 law of historical memory that recognized victims on both sides, a refusal that has a lasting effect on the believability of victims (Ley de la Memoria Histórica – Ley 52/2007). Although the Spanish and German cases occurred for different reasons, the atrocities committed and those committing them were very much cut from the same cloth and kept close relations throughout with Raymond writing "He [Franco] and his men were made of the same stuff as those most open

minds of the Nazi Holocaust – we have the diaries of Himmler, the memoir of Hoess, for example. Men who killed less like machines, more like bureaucrats, signing forms, buried in paperwork rather than corpses, solving problems of logistics that were in practice genocidal solutions” (Raymond 2012). These close relations between the Nazis and Franco regime were very much reflected in not only their hatred of communists, liberals and Jews, but use of a modified historical memory; the hegemonic Francoist memory “was based on the need to justify the military coup against the democratically elected government and the planned slaughter that the coup would entail” (Preston 2008, epilogue). This entailed a threat of a Jewish-Bolshevik-Masonic conspiracy and like their Nazi allies, the Franco regime capitalised heavily on anti-Semitic sentiment. Although the Franco regime did not systematically kill Jews like their allies, they did expect the Jewish population to leave and refused sanctuary to many fleeing the Nazi genocide. As soon as he saw the tide of the Second War changing, Franco “began to whitewash his image. It is no surprise that, encouraged by the regime, soon, in 1949, books started to be published such as *España y los judíos* (Spain and the Jews), which were gestures of rapprochement” (Preston 2008).

Republicans, socialists, liberals and communists were grouped together simply as anyone that was believed to oppose the Franco regime and “waves of these individuals were condemned on mere hearsay without trial, loaded onto trucks, taken to deserted areas outside city boundaries, summarily shot, and buried in mass, shallow graves that began dotting the Spanish countryside in the wake of the advancing Nationalist” (Guarino 2010, 65).



(<https://i.redd.it/sum2k0tfsapz.jpg>)

Those that were not shot were either imprisoned for life sentences or forced to build the 1959 Valle de los Caídos (pictured), a monument that Franco taught the Spanish public through state propaganda to believe was a monument to Spanish national reconciliation, a non-truth that is still believed and circulated to this day (Graham 2004, 29) (Alcaine 2010, 5). Although the neo-classical contemporaries of the Nazi architect Speer, Muguruza and Méndez, are commonly credited with designing the grandiose monument, the monument was very much the brainchild of Franco and the two architects were merely hired to realise the Caudillo's plans (Preston 1996, 352). Being as extreme an example of a top-down approach to memorialisation as it gets, Valle de los Caídos did not empower civil society to memorialise on their own terms like in the West German case, but rather it enabled the Francoist memory of events to win the memory struggle and repress all other memories. With such memorials being the vehicles for the hegemonic Francoist memory and the only narrative in public memorialisation, it is clear to see where the failure of reconciliation in Spain stems from.

It is not only those that were forced to build the Francoist memorials that have been let down by the Spanish government and lack of attempts at reconciliation as a method of appeasing surviving and known victims of unjust imprisonment under Franco, the Spanish government introduced a law in 1984 deeming years that had been spent imprisoned as “years contributing to Social Security” (Parades 128). Unfortunately, there was no such appeasement for homosexuals that endangered the Francoist “macho” ideal as they were left in prisons and mental asylums being administered shock therapy, even after the transition to democracy under the “social dangers and rehabilitation” law (The Guardian 2001).

Republican and ‘repatriated’ children were sent to state-run institutions whilst the small children of prisoners were adopted by Francoist families leaving many broken families (Graham 2004, 29). This move has been labeled an attempt at a repression of the left and a cultural genocide by an ongoing court case filed by human rights lawyers Slepoy and Messuti with the backing of more than 150 victims and relations of victims (El País 2013). The children in Catalan, Valencian, Basque, Galician, Aranese, Asturian, Leonese, Aragonese Extremaduran, and Fala speaking areas that weren’t rehomed were instead forced to only speak Spanish outside of the household between 1939 and 1975, a move that has been criticised as an attempt at a cultural genocide (Escobar Urmeneta and Unamuno 2008, 229).

In summary, the groups that the Francoists needed to reconcile with in the Spanish case consisted of suspected nationalists, republicans, communists, liberals, homosexuals, repressed speakers of regional languages and the children of these groups who never knew their parents or culture.

1.4 The historical background of the German Case

To maintain scope, this paper will only discuss the domestic victims of the Nazi regime. The recognition of victims is a process in itself that, if accomplished, is fundamental to the reconciliation process. Although the many of the remaining high-ranking Nazis were prosecuted at Nuremberg, the indictments, such as crimes against humanity, were broad, identified few groupings of victims, and were subject to the attitudes of the period. Because of this, this paper will chronologically list victims by

the date at which they were acknowledged by the (West) German society in order to better contextualise history and filter out claims of victimhood by those underserving of it such as persecuted Nazis. Included in such a list are at least 25,000 dead communists and socialists recognised in 1949 (Greene 2014), 1,250-5,000 dead Jehovah's Witnesses recognised in 1949 (Shulman 2000), 160,000-180,000 dead German Jews that were recognised in 1952 (United States Holocaust Memorial Museum), the 400,000 handicapped dead that were barely referred to due to the stigma, but nonetheless memorialised by a small plaque for decades until the 1990s (Schmuhl 2001, 316), 25,000 murdered Roma were recognised in 1982 (Lewy 2000, 221-222), an unknown number of oppressed followers of the Bahá'í Faith that were only recognised after 1991 due to a small following, an unknown number of sterilised people of colour that only entered public consciousness from 2000s academia in 2010 in a Deutsche Welle article and are yet to be memorialised, and 5,000-15,000 dead homosexuals formally recognised in 2017 after decades of persecution (Harran et al. 2000, 108).

In March 1933, construction for the first concentration camp in Dachau started as Hitler gained plenary powers under the 1933 Enabling Act. Dachau was originally constructed to contain political prisoners such as suspected communists and socialists through to trade unionists, all identifiable by a red triangle. Along with the internment of political prisoners under the new powers, the Nazi regime also targeted religious groups such as the Bahá'í Faith and Jehovah's Witnesses for fear of them allowing fragmentation and pacifism amongst the German people (Garbe and Grimm 2006, 100-102). Those considered to have genetic disorders or part of the German black minority were forcibly sterilised under the 1933 sterilisation law as the first of many racial hygiene policies. Homosexuals incarcerated under the Nazis, in mainly standard prisons, were able to bargain for reduced sentences in return for sterilisation (United States Holocaust Memorial Museum). The 1935 Nuremberg laws legally enforced the Nazi social Darwinist concepts of who was "untermensch" and who was "übermensch" based on race. With the categorisation of "untermensch", Jews, gypsies, and all races considered other than the Nordic, Persian, Japanese, and Chinese "races" lost all rights both political and civil. Without citizenship, loss of assets, and restrictions on relations with the "übermensch", many targeted groups left Nazi Germany. With the failure of the Madagascan plan in 1942, Jehovah's Witnesses

imprisoned from 1935 were able to leave for menial labour as concentration camps started to receive a wider range of inhabitants including Jews, gypsies, Jehovah's Witnesses, and a minority of the incarcerated homosexual population. Members of such groups were either used as a sterilised labour force or killed (Letter from SS-Oberführer Viktor Brack to Reichsführer-SS Himmler, June 23, 1942).

Clearly, Germany post-Second World War had many victims and their families to reconcile with, so how did the West German reconciliation attempt differ so much from the Spanish attempt considering many of the groups that were targeted in the same way?

Chapter 2: The two cases

Although the Allies had sentenced high ranking Nazis to death and imprisonment for their crimes, that was not enough to close rifts between groups or to ease the suffering of the victims and their families as opposed to what the revisionist school of thought will have you believe. Like Spain, West Germany's government was battling to maintain its position and domestic stability in order to avoid the threat of violence posed by parties both domestic and foreign when they regained power from the allies in 1949 (Frei 2002, xi).

With the Allied denazification process increasingly becoming a witch-hunt that separated the public into the category of "politically objectionable" or "politically unobjectionable" even after almost the entire senior Nazi leadership had been processed, in 1949 German Chancellor Adenauer and others became increasingly in favour of an alternative in calling for denazification to "vanish as fast as possible" (Bundesarchiv B136/3769). The 1949 Bundestag was made up of many parties including the Sozialdemokratische Partei Deutschlands (SPD) that were made illegal and its members oppressed due to their opposition to the Nazi regime and so now legalised, SPD members, like Löbe, were not prepared to embrace the collective guilt that denazification instilled (*Wahlperiode 1* 1949, 1f). The Bundestag preferred a more nuanced concept of collective guilt that was more self-imposed than directly imposed (Frei 2002, 1).

With a nuanced concept of collective guilt that could be agreed upon, the Bundestag could turn its attention to the possibility of an amnesty for the German people. With the representation of both ends of the political spectrum, the amnesty could be shaped to the liking of both supporters of the previous regime as well as the victims of the very same regime. Even Alfred Loritz's Wirtschaftliche Aufbau-Vereinigung (WAV), a right-wing populist party that reached out to lower ranking Nazis, suggested an amnesty that only extended to what the penal laws would determine to be "misdemeanours" and "infractions" (Connor 2007, 126) (Bundestag-Drucksachen 1, Wahlperiode 27, 21 Sept. 1949). In early 1951 the Amnesty Law amnestied sentences of up to a year, allowing many former functionaries of the SA, Nazi Party and SS, also known as '301ers', to return to governmental positions as their an amnesty was seen as the best method of buying their cooperation (Frei 2002, 9, 17).

Although easy to imagine that the increased presence of former-Nazis in the legal system would reduce the competency of trials of former-Nazis, prosecutors like Fritz Bauer relied upon the use of younger prosecutors and the cooperation of the Israeli state in bringing figures such as Eichmann to justice (Schüler-Springorum 2016). The victims were also taken into consideration by the West German legal system, as pressure from Jewish groups allowed for survivors to reclaim assets although many assets were left in limbo due to lack of heirs and the majority of holocaust survivors living abroad. Pressure from groups paid off when in the 1952 Claims Conference, the value of heirless assets was recognised and compensation was granted to the Israeli state for its \$1.1 billion care for Nazi victims (Rosensaft and Rosensaft 2001, 36). Following this victory for primarily Jewish victims, the 1953 *Bundesergänzungsgesetz zur Entschädigung für Opfer der nationalsozialistischen Verfolgung* (BErG), a restitution law, formalised the claimant process allowing for any private persons to claim compensation for personal damage and to reclaim assets.

There was no silence after the Second World War as West Germans wanted a public debate on what had happened however politics and academia failed the public due to their Nazi links and so there was instead a civic cultural revolution (Schüler-Springorum 2016). Films including the 1946 *Die Mörder sind unter uns* (The

murderers are amongst us), theatre including the Hochhuth's 1963 *Der Stellvertreter* (The deputy), and the later 1978 *Holocaust* TV series kept the debate in the public sphere (Schüler-Springorum 2016). It was not before long the public debate seeped into the political and academic spheres through a younger generation that led to a shift during the mid-1960s from the question why the Nazi regime came about to a more critical line of questioning that attempted to identify who gained from the regime and its actions (Schüler-Springorum 2016). This change in the focus of academia during the late 1960s to early 1970s was also felt in political circles as Bavaria made trips to the Dachau concentration camp memorial an obligatory part of the school curriculum (Schüler-Springorum 2016). With a returning Jewish population, funding from the West German government, the rise of pressure groups like the Central Council of Jews in Germany and the Leo Baeck Institute that gave grants to academia with a more critical eye for the Nazi atrocities, survivors had the agency and the finance to bring the debate into the public sphere (Schüler-Springorum 2016). This agency was first seen in 1946 when memorialisation was discussed culminating in the first memorial site opened at the former Buchenwald concentration camp in 1949 (Stein and Stein 1993).

Buchenwald was only the first of many as between 1949 and up to the 1970s "Holocaust memorializing typically took the form of plaques and markers to indicate the locations of former synagogues, neighborhoods, cemeteries and other Jewishly identified sites eradicated by the Nazis" (Harris 2010, 34). Memorialisation also went beyond the physical as the People's Day of Mourning, a day originally created to honour World War One victims, was revived with new meaning (Harris 2010, 35). Although the memorials were no way as sophisticated and imposing as the memorials that followed, they didn't dramatise the contradiction and conflict that takes such a central position in contemporary memorials (Harris 2010, 35). With the success of *Holocaust*, attention to the Jewish victims really peaked during the late 1970s and early 1980s leading to more financing of memorials at which time were still traditional nineteenth century style memorials almost reminiscent of the grandiose Nazi style (Lupu 2003, 130-131). With the sheer amount of memorials being constructed it was only a matter of time before the horrific past began to go through a process of "normalization" leading to a wave of counter-memorials that aimed to

challenge the previous trend of memorialisation by aiming to be “ephemeral rather than permanent” (Lupu 2003, 131).

Clearly, the reconciliation through restitution and recognition that could be observed in 1970s West Germany had its roots in the triumph of agency during the late 1940s and early 1950s. With such international events as the 1952 claims conference, the 1961 Eichmann trial, and even the Series Holocaust being shown on Spanish state television (TVE) in 1979, why wasn't there a similar debate and reconciliation in Spain?

There were two fears that influenced the actions of those managing the Spanish transition to democracy, the fear of high-level individuals being prosecuted for crimes committed during the Civil War and Second World War, and the fear of another civil war. The 1975 Pact of Forgetting and the later October 1977 Amnesty Law under Suárez's government that “gave amnesty to all the crimes committed during the Dictatorship and Civil War” were both influenced heavily by both fears (Parades 2010, 132).

Having been appointed as the transitional prime minister at the time the Pact of Forgetting was believed to be in effect, the two fears created several points of pressure upon Suárez and his cabinet. After Franco's death the aim of the Falangist and Carlist movements had been accomplished as Carlos was King and Spain had been saved from the communist threat and with an ever more international emphasis on democracy and the pull of the European Communities, there were many reasons to democratise. However, Franco had left behind an idea of what he what he wanted this new democratised Spain to look like which included continued repression of the left. King Carlos tasked Suárez as prime minister with the aim of overseeing the transition and removing what was left of the old regime, as there was a possibility to benefit to the Spanish people both socially and economically.

There was also a lot of pressure from all elites for a full amnesty to ensure their survival as all had seen what happened to the Nazi leadership post-Second World War and what happened to the junta in Greece in 1975. The ETA and other leftist armed groups would only come to the table for a functioning democracy if there could be a release of their political figures leading to the 30th July 1976 amnesty,

and eventually operatives under the 20th May 1977 full amnesty. As discussed in chapter 1.1, law 46/1977 of 15th October 1977 or the “Amnesty Law” was much more aimed at those guilty of crimes of the right and brought solace and security to those that had committed them as by committing atrocities together, a non-spoken pact was created during the Civil War, a Pact of Blood (Preston 1986, 3). The Pact of Blood allowed for “networks of patronage and corruption” as many Francoists relied on each other to maintain the agreed upon silence and to silence victims through the creation of Pact of Forgetting and the October 1977 Amnesty Law (Preston 1986, 3).

So why was the amnesty law so broad considering the disproportionate amount of atrocities being committed by the right? Although the 15th June 1977 election ensured representation of the left with the Spanish Socialist Workers Party holding 29.32% of the congress of deputies and the Communist Party of Spain with 9.33%, the left’s elite was nonetheless in fear and out of touch. The fear was of a coup was so great that when Suárez announced the communist party’s legalisation on 9th April 1977, he had been sure to announce it whilst the military elite were out of town for fear of a coup (Preston 2004, 385, 386). In return for such a risk, Suárez was able to ask for their loyalty to the crown and the new government, an arrangement that likely ensured the communist party’s support for the 1977 Amnesty Law (Preston 2004, 384). Although the left in general was fearful for their position and worked with Suárez, they were unlikely to bring up the crimes committed by the right as the leadership that Suárez was negotiating with was made up of elites that never experienced the crimes that their brethren had experienced and so had little interest in discussing them on that basis (Martin-Cabrera 2011, 157, 186). On this basis, the Spanish case did not have a left whose position was lawful enough, secure enough and experiences horrific enough to successfully define the 1977 Amnesty Law in such a way that the right may have been successfully targeted.

With the earlier mentioned Pact of Blood ensuring a sense of fraternity between Francoists, who made up Suárez’s cabinet and what ties did they have to Franco’s atrocities that may have influenced their decision-making as well as Suárez’s? Suárez’s earlier discussed ties to Franco as Director-General of the Spanish Radio and Television Corporation, a position that put him in charge of Franco’s propaganda, are similar to those of the other members of his transitional cabinet.

Suárez's deputies, Fernando Santiago y Díaz, a general during the Spanish Civil, and Manuel Gutiérrez Mellado, who led three platoons of the Information and Military Police Service (SIPM) during the Spanish Civil War (*Relación Jurada De Méritos y Servicios Que Concurren En El Capitán De Artillería Don Manuel Gutiérrez Mellado 1939, 1-4*), were both in strong positions with reason to influence Suárez's decision to propose a far-reaching amnesty (Chislett 2013, 82).

Service amongst Suárez's cabinet during the Spanish Civil War was not limited to higher ranks as Félix Álvarez-Arenas Pacheco, minister of the army, Carlos Franco Iribarnegaray, minister of the air force, Admiral Gabriel Pita da Veiga, minister of the navy until 9th April 1977, and Admiral Pascual Pery, minister of the navy post-9th April 1977, all served at relatively low ranks and were none the less part of this fraternal Pact of Blood.

Even those in the cabinet without a military background had reason to avoid investigations into missing persons as many cabinet members had friends and family that served with the nationalists during the Spanish Civil War and some even committed atrocities post-Civil War. Rodolfo Martín Villa, minister of the interior under Suárez, is currently accused of several crimes including ordering the executions of five workers during strikes in 1976 (*El País* 2013). Villa is also accused of ordering "General Secretary of the Movement, Ignacio García López, to destroy all of the Falange's documents and archives" in 1977, inline with the Amnesty Law, by academics including Armengou, Bellis and del Río Sánchez (Martín-Cabrera 2011, 185-186).

Those with positions of power that could pressure Suárez's proposed amnesty and had an interest in avoiding investigations into crimes during Franco's regime are not limited to just Suárez's cabinet. Antonio María Oriol y Urquijo, a member of one of the families sustaining the Franco regime, served as the Minister of Justice 1965-1973 and the President of the Spanish Council of State (*Presidente del Consejo de Estado*), the consultative council of the Spanish government, 1973-1979 (Rodríguez Jiménez 2009, 142). Lieutenant General Emilio Villaescusa Quilis was made President of the Supreme Council of Military Justice (CSJM) in 1976, a body that oversaw military justice, or lack thereof, during the reign of Franco and the creation of the Pact of Forgetting until the CSJM was disbanded under the *Orgánica Law* in

1987 (Ley Orgánica 4/1987). The Supreme Council of War and Navy (Consejo Supremo de Guerra y Marina), the precursor to the CSJM, had been dissolved under the Azana Law of the Second Spanish republic and its powers bestowed upon a sixth chamber of the Spanish supreme court, but fearing civil powers over the military sphere, it was quickly re-established as the CSJM under Franco (Ballbé 1983, 348) (Marzal Rodríguez 2005, 308). Lieutenant General Villaescusa Quilis was also a former Nazi volunteer of the Blue Division (División Azul) on the Eastern Front and one of several hundred surviving Blue Division members, the very same Blue Division whose dead were exhumed and repatriated at taxpayers' expense under the People's Party's (Partido Popular) José Mariá Aznar (El País 2002) (The Telegraph 2015) (Encarnación 2008). The CSJM and the Spanish Council of State had a strong relationship that went back four and a half centuries, meaning that both Antonio María Oriol y Urquijo and Lieutenant General Emilio Villaescusa Quilis had reason and access to the Suárez cabinet to influence the amnesty to their own ends (Valero Torrijos 2002, 110).

The supposed 1977 abduction of Lieutenant General Emilio Villaescusa Quilis and Antonio María Oriol y Urquijo showed the sheer danger of domestic and foreign left-wing dissidents in Spain to all levels of Spanish society and reminded key decision makers that the block of Spanish society that had been persecuted under Franco would be "quite happy if it could start another civil war" (Hilton 2000). That being said, the timing and style of the abduction by a supposed armed wing of a previously non-existent group, GRAPO, was so convenient just four days from the referendum on political reform as a subject for the right's fear tactics that the Commander in Chief of Military Staff, Mellado, believed it to be nothing more than a stunt by the police and far-right (Preston 2004, 379-380). This is only furthered by the fact that Moa, an accused pseudo-academic and former member of GRAPO, now heavily anti-left, has been able to succeed domestically with biased books on the Spanish Civil War without the accusations of breaching the 1977 Amnesty Law that others like Garzón face (Preston 2004, 379).

Regardless of whether or not the GRAPO attempts at character assassinations of the left-wing leadership and fear tactics were part of a right-wing false flag operation, the pressure was most definitely on Suárez and his cabinet as the most

violence since the Spanish Civil War was seen in the streets of Spain (Preston 2004, 380). Although insurgents were successful in the pressuring the cabinet, the true threat came from a coup that could use these events as justification. Suárez was identified as being treacherous by many ultras after legalising the communist party, leading to propaganda and shell organisations aimed at the military that gave the impression that the military was ready for a coup (Preston 2004, 388). Both this and the 1981 coup attempt would silence any discussion on, let alone excavations of Franco's victims until the early 2000s causing a return to "the repression of memory" (Humblebæk 2014, 165). With the sustained threat of a coup and Francoists with an interest in concealing the horrors of the crimes that they had committed and positions of power to do so, it is unsurprising that the military archives housing local records of the disappeared have never been opened to the public and have instead been protected by José María Aznar's government and successive governments since (Encarnación 2008). With such a monopoly on information and threats of legal action, Francoists have been successful in impeding accusations and consequently avoided any form of reconciliation.

However, West Germany's politicians also failed the public so why wasn't there a similar public or academic discussion? With a mass exodus of the most endangered republicans reaching 500,000 travelling to France in 1939 alone, few victims of Franco's regime remained (United States Holocaust Memorial Museum). Of those that remained, Franco's repression of memory was effective with 88.2% of the public "did not express their opinion for fear of retribution", a far cry from the West German case where the threat of retribution was almost negligible (Encarnación 2014, 183-184). This fear was no different for academics under Franco as all kinds of expression were branded subversive propaganda as poets and playwrights like Federico García Lorca had been known to be disappeared. The situation was hardly helped by the fact that the victims that remained had no leadership to lead the public debate as the elites of the left had made compromises in order to participate in elections and the Government of the Spanish Republic in exile (Gobierno de la República Española en el exilio) that had been abroad for decades dissolved itself with its recognition of the new democratic government on 21st July 1977 (Maldonado and Valera 1977). What's more, there were no returning victims or institutions to bankroll and mastermind the kind of pressure, academia, or vehicles of memory seen

in West Germany. On this basis, there were no public vehicles for memory in Spain supporting a non-Francoist narrative and with the only memorials like Valle de los Caídos being state funded, the human rights camp in their grief would instead have to turn to vehicles for memory promoting the hegemonic Francoist memory. With decades of repression of memory, lack of vehicles for memory without the hegemonic memory, and a powerful narrative, there is next to no willingness to attempt retroactive transitional justice (Encarnación 2014,185-186).

The October 1977 Amnesty Law would later prove to be incredibly effective with criminal charges being filed against the earlier mentioned Judge Baltasar Garzón without any chance of appeal for defying the Amnesty Law by simply investigating 19 mass graves and indicting Franco and several deceased officials (The Guardian 2012). This came even after the United Nations Human Rights Committee had deemed that crimes against humanity were “not subject to a statute of limitations”, leaving crimes against humanity committed by Franco’s forces well within Garzón’s purview (The United Nations Human Rights Committee 2009, 41).

If external actors are so quick to pressure Spain now, why weren’t they during the transitional period? Although the republican dream of an Allied ousting of Franco was nearly realised, the shift of focus from the war on fascism to the Cold War mixed with Franco’s careful whitewashing of crimes to reinvent himself as a an anti-communist ally left Franco firmly in power (Graham et al. 2014, 140). With the new focus on the on the Cold War order and the values that came with it, the only barrier for joining NATO was being a democracy, allowing Spain to secure its borders with next to no pressure based on its domestic politics when it joined in 1982 (Luelmo 2016, 2-3). A very similar situation could be said of the European Communities as Spain could join if they met certain expectations for a democracy, but those expectations did not include “truth, justice, or reparations for past abuses” when they applied for membership in 1977 followed by their acceptance in 1986 (Ferrán and Hilbink 2017, 202). Clearly, the prestige that came with being a democracy allowed many institutions to overlook domestic injustices, as they were considered insignificant compared to the greater threat that the Cold War posed. It must also be noted that transitional justice was still in early days and having been only used twice before was far less respected than it is now.

In summary, the failure to reconcile in the Spanish case was due to the strong position of the nationalists and their network that allowed them to pressure the Suárez cabinet and elites of the left into proposing and passing a wide-reaching amnesty enforced by the 1977 Amnesty Law and protected from future investigation by the 1975 Pact of Forgetting. Although the wide-reaching amnesty could not be better defined by political pressure, it did nonetheless ensure that the left's political prisoners and armed wing were released and that the left could once again participate in Spanish politics. With the threat of a coup from the military and terror attacks from armed groups, all elites knew that to start a discussion about reparations and abuses or to recognise claims could bring Spain to yet another Civil War and so the discussion was left out of the political and academic sphere. There was no public discussion on the past as Francoist repression of memory had been incredibly successful in silencing claims for fear of punishment and of the few in the human rights camp left in Spain, there was no leadership to call action as those still alive had recognised the transitional government and had no reason to bring up claims that were neither their own nor fruitful to the compromise that had been struck with the remnants of the former regime. That combined with the lack of pressure from outside actors due to the new focus on the Cold War and Franco's rebranding left victims isolated with no narrative of their own.

Conclusion

In conclusion, reconciliation is no one single process and the reconciliation process can include more victims over time as more groups and crimes come to be recognised. This paper acknowledges that there were limits to what could be discussed as this paper focused primarily on the memory of the elites in order to maintain a narrow scope for research and so much of the relationship that human rights had with memory studies and their role in the two cases had to be left out. The heavy restrictions on and destruction of many of the Spanish records placed a serious limit on the amount of research that could go into the victims and crimes of the Spanish Civil War. Without a doubt, the challenges posed by the Pact of Forgetting only being a verbal agreement were the largest in the process of researching this paper as the

power play and concessions made have been lost in time leading to a reliance on other evidence in order to reach its conclusions.

That being said, the narrow scope allowed this paper to fill two gaps in literature, the first being on 1970s human rights and memory discourse by analysing the Suárez cabinet and how it treated human rights and memory discourse, and the second being on West German guilt in order to pinpoint the decisions that led to Spain's failure to reconcile. In filling these two gaps in literature, it can be understood that although there were similarities in that an earlier fascist regime had gone about systematically repressing and killing groups that it deemed to be enemies of the state creating many victims and asylum seekers, there were two differences that led to the decision not to reconcile, the differing influence of the former regime and the responsibility of the left.

When West Germany ended the failed Allied denazification policy in 1951, the highest ranks of the Nazi leadership were either dead or being brought to justice, allowing the state to turn to restitution based upon claim without fear of retribution, spurred on by victim's pressure groups. Nationalists responsible for atrocities committed in the Spanish case were still in positions of influence and had no intention of being prosecuted or faced with another civil war and so denied claims by the human rights camp through the 1975 Pact of Forgetting and the later 1977 Amnesty Law. Because of their continued positions of power, nationalists responsible for the atrocities were able to pressure Suárez to pick Civil War veterans Santiago y Diaz and Mellado as his deputies, putting them in good stead to ensure that the amnesty would be as broad as possible.

As the left in the West German case had been repressed and incarcerated, it allowed them to take on the status of victims meaning that they would have little need for an amnesty compared with their Nazi compatriots. The Spanish left, however, were regarded as being far from victims after the republican crimes of the Civil War and continuing insurgency. This not only meant that they had less bargaining power in comparison with the West German example, but also more of an interest in a wider reaching amnesty for the members of their armed wings.

Because of these two differences, two decisions not to remember were made, the culpable nationalists were able to pressure the Suárez cabinet to choose a full amnesty and a threatened left in need of amnesty for some of its members chose to facilitate its passing in the Cortes. These two decisions silenced victims for more than two decades as they had been abandoned by the left's elite and the exiled republican government that recognised that elite's position. With a lack of counter-narrative, restrictions on the discussion of past crimes, and the threat of violence especially after the 1981 coup, the human rights camp reverted to the Franco era repression of memory.

Although this outcome is far from ideal, it was the price of peace. Considering that not all Francoists had committed crimes and with an insurgency at the time, the West German style of prosecution and discussion of crimes would have caused another Civil War and so they skipped the prosecution procedure to ensure peace through an amnesty. The left's decisions were also understandable as they had the pressures of trying to ensure the left's representation in the Cortes as well as trying to maintain the peace. The true villains of this paper are the politicians and continuation school of thought members that did not participate in the Spanish Civil War and yet they at a time when there are only two known surviving nationalist veterans they continue to avoid any investigations into past crimes as a means to maintain the glory of Franco's false history (The Telegraph 2008) (Limia 2013).

Going forward, a new question has arisen out of the findings of this paper as now that the role of the Spanish elites in politicising their memory is known, how did Franco's victims attempt to counter the hegemonic memory?

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Appendices

Figure 1. The percentage of the Right that have been affected by the Pact

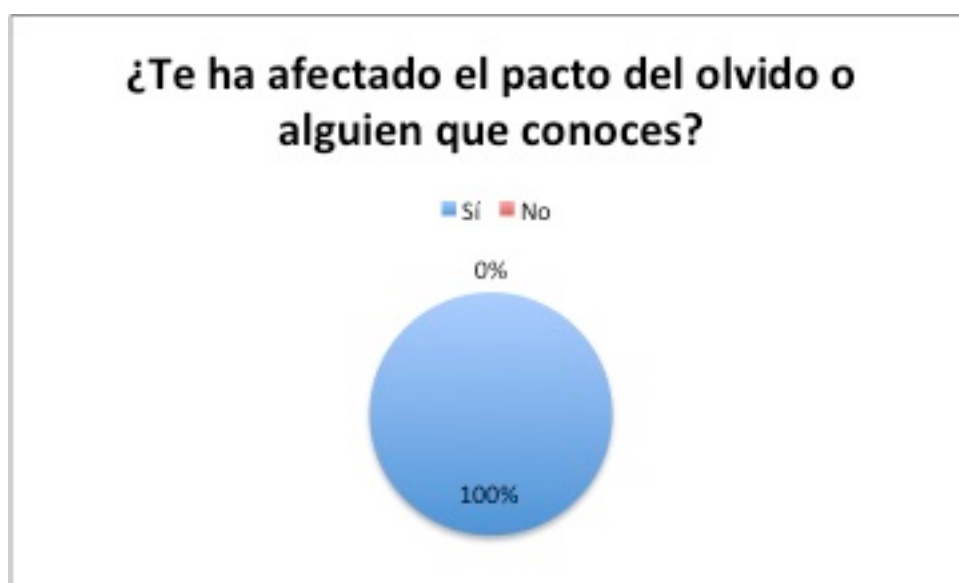


Figure 2. The percentage of the Right that believe that the Pact reconciled Spain

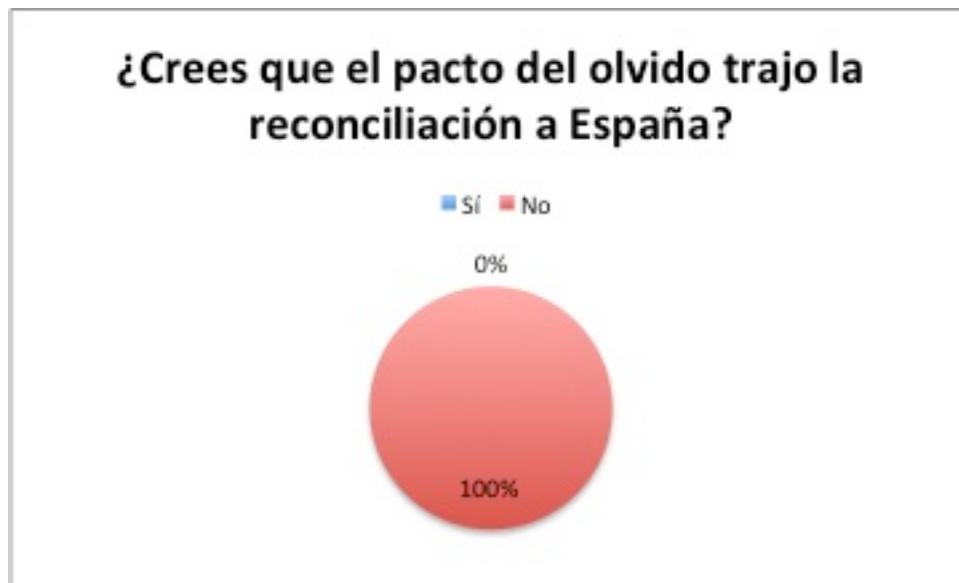


Figure 3. The percentage of the Left that have been affected by the Pact

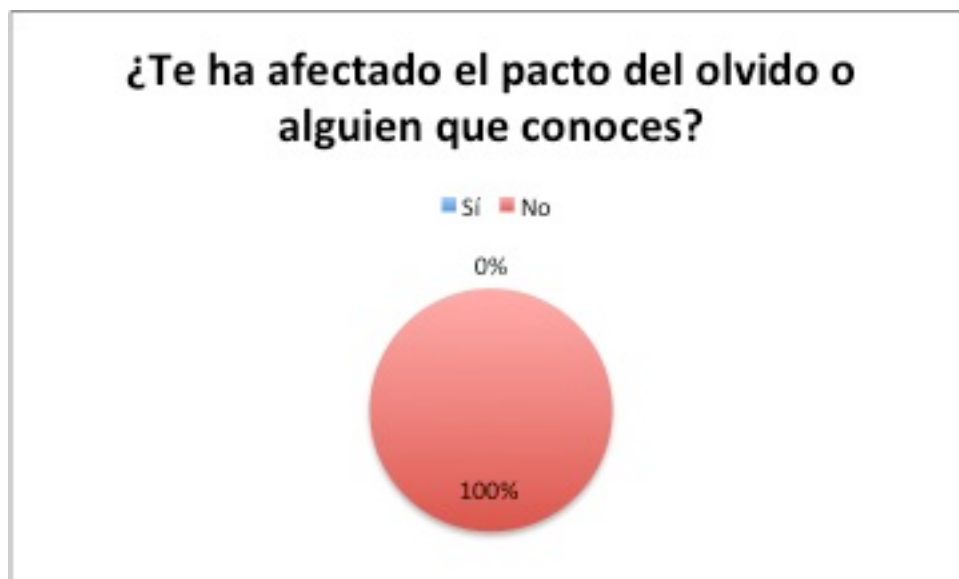


Figure 4. The percentage of the Left that believed that the Pact reconciled Spain

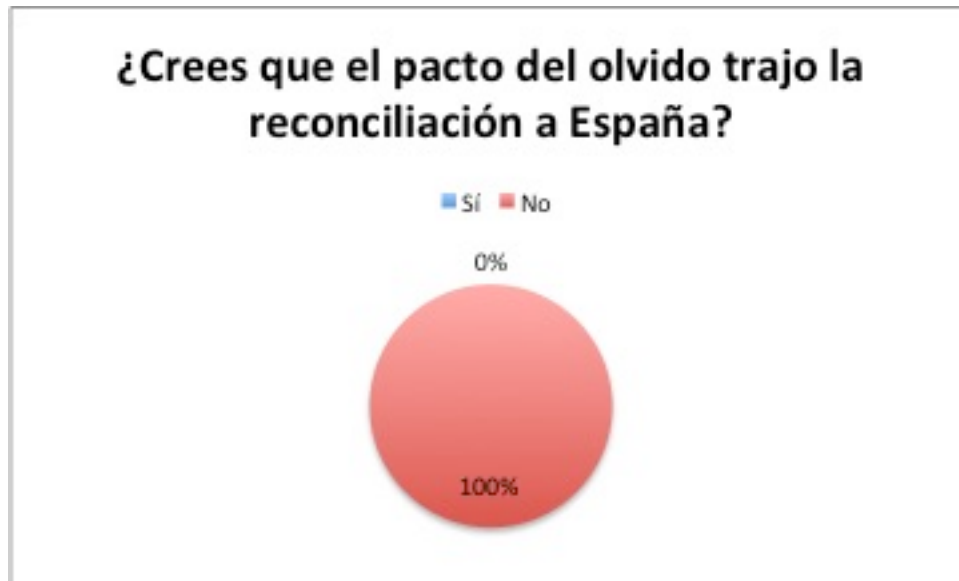


Figure 5. The percentage of Centrists that have been affected by the Pact

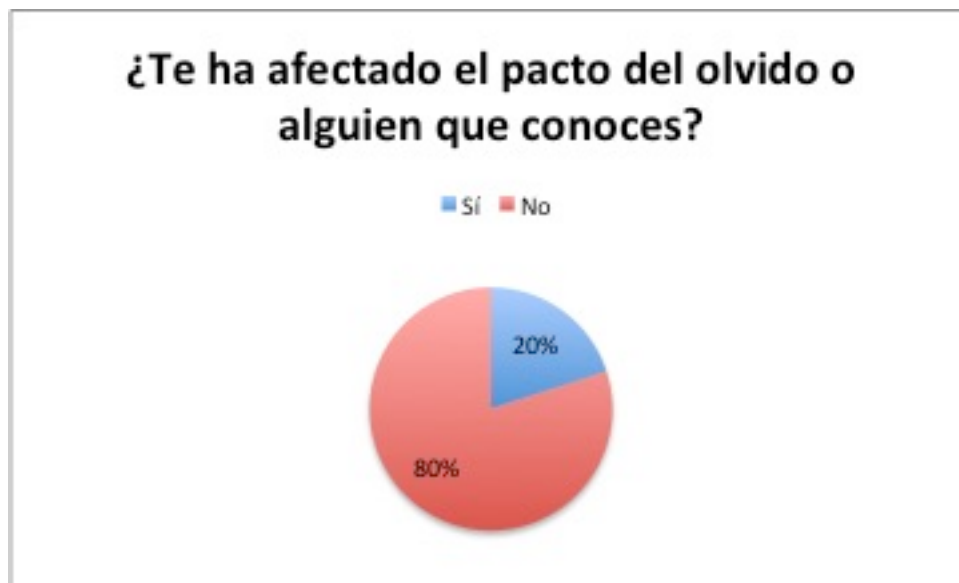


Figure 6. The percentage of Centrists that believe that the Pact reconciled Spain

¿Crees que el pacto del olvido trajo la reconciliación a España?

■ Sí ■ No

