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## **Introduction to a special issue of *Oñati Socio-Legal Series*: Practices of Memorialization and the Process of Social Reconstruction**

OÑATI SOCIO-LEGAL SERIES VOLUME 10, ISSUE 3 (2020), 535-543: PRACTICES OF MEMORIALIZATION  
AND THE PROCESS OF SOCIAL RECONSTRUCTION

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### **Abstract**

Over the last century, Europe and the world have witnessed two world wars, civil wars, terrorist attacks, and abuse of power both by dictatorial regimes and in various institutional settings, all leading to serious violations of human rights. Today we continue to see the effects of such violations affecting large numbers of people. This special issue of *Oñati Socio-Legal Series* is about commemorative practices and their role in post-conflict societies regarding processes of social reconstruction and transitional justice. It also considers current alternatives and complementary systems of justice, like restorative justice and transformative justice to face mass-victimisation. Through practices of memorialization victimhood is defined, constructed, acknowledged or neglected. Their materialisation is often a result of negotiated outcomes involving a number of actors, legislation and institutions. By presenting case studies, the authors hope to enhance practices of memorialization and to critically contribute to the transitional or transformative justice agenda.

### **Key words**

Transitional justice; atrocities; memorialization; social reconstruction

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## Resumen

Durante el siglo pasado, Europa y el mundo entero han sido testigos de dos guerras mundiales, así como guerras civiles, ataques terroristas y abusos de poder por parte de regímenes dictatoriales y varias instancias institucionales, todo lo cual ha conducido a graves violaciones de derechos humanos. Hoy día, aún vemos los efectos de dichas violaciones que afectan a un gran número de personas. Este número especial de *Oñati Socio-Legal Series* trata sobre prácticas de conmemoración y el papel que desempeñan en sociedades posconflicto en relación con procesos de reconstrucción social y justicia transicional. También toma en consideración alternativas actuales y sistemas complementarios de justicia, como la justicia restaurativa y la justicia transformativa, para enfrentarse a la victimización masiva. A través de prácticas de memorialización, se define, construye, reconoce u obvia la condición de víctima. Su materialización es a menudo consecuencia de resultados negociados que implican a una serie de actores, legislaciones e instituciones. A través de estudios de caso, los y las autores/as esperamos realzar las prácticas de memorialización y contribuir de forma crítica a los planes de justicia transicional o transformativa.

## Palabras clave

Justicia transicional; atrocidades; memorialización; reconstrucción social

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## 1. Introduction

Over the last century, Europe and the world have witnessed two world wars, civil wars, terrorist attacks, and abuse of power both by dictatorial regimes and in various institutional settings, all leading to serious violations of human rights. Today we continue to see the effects of such violations affecting large numbers of people. To give a few examples:

1. the European Union integration keeps being based in the “Never again” (De Vries 2020) and, with the prominent voice of Holocaust victims, new voices emerge to debate the memory of forgotten victims during the two world wars (Jaeger 2020);
2. during the Bosnian War (1992-1995) in Bosnia-Herzegovina an estimated 100,000 people were killed and the political situation in this region is still very tense (Gallagher 2003, United States Holocaust Memorial Museum n.d.);
3. in 2017 the number of deaths due to terrorism worldwide was 26,400 and many people still suffer from losses and trauma (Miller 2018);
4. in terms of institutional abuses of power, over the past century, Roman Catholic priests have abused about 100,000 children who still suffer from physical and psychological complaints as adults (Terry 2008, McAlinden 2014, Gallen 2016).

Governments, European organizations (e.g. Council of Europe, Organization for Security and Co-Operation in Europe) and international NGO's (e.g. International Centre for Transitional Justice) are involved in policymaking and direct support for these victims. The EU has taken policy measures to support victims of human rights violations in general and to enhance the rebuilding of societies after such violations have ended (Directive 2012/29/EU, Council of Europe 2018). The EU has made efforts to voice the victims and to support routes to what we call social reconstruction, i.e. a process which ultimately leads to a situation in which victims, perpetrators, witnesses and by-standers peacefully co-exist, and some form of justice can be experienced. All these measures are part of the so-called transitional justice agenda (Simic 2017). Transitional justice, i.e. the ways in which countries or communities emerging from a period of conflict and repression, address large-scale or systematic human rights violations to make the “transition” from a situation of conflict to a situation of peace, is an important international issue. There are several ways to achieve social reconstruction, such as truth-finding, trials, reparation and dealing with the past through practices of memorialization. Due to the legal focus in the transitional justice agenda, less attention is paid to the impact of practices of memorialization on the goals of transitional justice (Buckley-Zistel and Schäfer 2014). Since the atrocious past is remembered anyway, both on an individual and a collective level, practices of memorialization might offer much-needed new opportunities to realize social reconstruction. This special issue of *Oñati Socio-Legal Series* is about commemorative practices and their role in post-conflict societies regarding processes of social reconstruction and transitional justice. It also considers current alternatives and complementary systems of justice, like restorative justice and transformative justice (Dignan 2005) to face mass-victimisation (including environmental harms), since transitional justice is criticised because of its temporal character and its greater weight on macro politics matters without considering the

conditions for a real cultural, economic and socio-political change (Lekha Sriram 2007, Mutua 2015).

## 2. Practices of memorialization

Practices of memorialization are never neutral, but are always negotiated (Connerton 1989, Pouligny *et al.* 2007, Rieff 2016). Post-conflict societies or communities – where conflict in one way or another persists – are confronted with questions such as: what is truth regarding the past in a post-conflict situation, and who decides on what “truth” is; or how to balance the narratives of the “winners” on the one hand, and the victims or survivors on the other? Through practices of memorialization (such as memorial days, documentaries, museums, monuments, books, commemorative websites) victimhood is defined, constructed, acknowledged or neglected. To make sure that all groups at all levels of a society are involved an inclusive and critical approach to commemorative practices is needed.

Practices of memorialization generally constitute a public validation of the wrongs committed and of the resulting victimisation. Their materialisation is often a result of negotiated outcomes involving a number of actors, legislation and institutions. The formal adoption of specific practices of memorialization relating to victimhood, such as national days of remembrance or the erection of memorials, are often preceded or accompanied by official decrees of recognition and institutionalisation. Once the practices are adopted, they may generate or support legal consequences for victims’ agency that reinforce the rights and claims of the victims. Nevertheless, the construction of victimhood by practices of memorialization is characterized by complexities: in some cases there seems to be a hierarchy of victims and different victims’ parties may have competitive claims. There is a real danger of practices being conceived in a pre-defined, one-sided way, and imposed top-down essentialist identity politics.

Practices of memorialization contribute to the construction of victimhood and the perception of justice. Memorial culture does not, in the first place, refer to the past, but to the current processes of memorialization in the present and comprises social, material and mental or cognitive dimensions (Erll *et al.* 2008). A crucial dimension of these processes is the actual realization of a memorial, a museum, a documentary etc. Materialisation of memory urges questions of agency and power and can be “contested”: there can be tensions between those commissioning the memorials, the backers and the victims. They may have a healing effect through constructions of shared memories or generate conflicting memories that embody new sources of conflicts. Successful practices of memorialization involve a polyphony of narratives: narratives of (various groups of) victims and perpetrators, institutions, nations and the international community.

## 3. Social reconstruction

One of the aims of transitional justice is social reconstruction, which, as mentioned before, can be defined as a process in a society or group which has suffered human rights violations which leads, in the end, to a situation of social cohesion, tolerance and peaceful co-existence of all groups involved (victims, perpetrators, witnesses, bystanders) at all levels of the society or group. There is a close relationship between processes of social reconstruction and practices of memorialization. Social

reconstruction of a group (an ethnic group, an abused community, a nation, a region) demands negotiations to reach agreement on (partial) truth that all parties involved agree on or find acceptable. Practices of memorialization can positively or negatively affect such processes of social reconstruction. At whose behest do practices of memorialization occur and how do these practices actually change public awareness from one-sided perceptions of the past to a more dialogic sense regarding the violent or atrocious past? Duncan Bell notes: "Memory is capable of being yoked to state power, in the name of nationalism, or employed in opposition, as a challenge to dominant narratives" (Bell 2010, p. 15). Practices of memorialization can support processes of vindication, voicing, participation and validation of victims, processes which are considered as elements of victims' sense of justice, besides their need for reparation and offender accountability.

#### **4. Outline of this special issue**

In this special issue of *Oñati Socio-Legal Series* we study (the construction of) victimhood and (the perception of) justice in relation to processes of social construction through practices of memorialization. By presenting and comparing case studies related to different kinds of atrocities, civil wars and human rights' abuses, the authors hope to enhance practices of memorialization and to contribute to the transitional or transformative justice agenda by putting commemorative practices more to the fore.

Dion van den Berg and Martin Hoondert (The Netherlands) describe the design and development of an exhibition regarding the Srebrenica genocide. The leading question in their article is: Does the exhibition successfully construct a shared sense of truth about the Srebrenica genocide? This evaluative question demands insight in the concept of truth and, more specific, in the debate about plural truths and multiple narratives.

Simon Green, Katherine Kondor and Alicia Kidd (UK) explore the possibilities of a narrative victimology. Memorialisation is often thought about in terms of physical structures such as memorials, cenotaphs, exhibitions or museums. Green, Kondor and Kidd demonstrate that story-telling can also be understood as a type of memorialisation for the victims of crime and large-scale human rights violations. Using examples from recent biographic interviews with an asylum seeker fleeing conflict in Gaza and two Hungarian radical right activists, the argument is that victim identities are constructed and reconstructed through the development of personal and mediated narratives about suffering and resilience.

Ioxerramon Bengoetxea (Basque Country) describes the most significant initiatives in the field of transitional justice adopted in the Basque case – notwithstanding the internal debate around the use of the term transitional justice –, stressing the importance of civil society, and the range of issues arising in a post-conflict situation where different agents have significantly different agendas. Bengoetxea shows that the Basque civil society has contributed to the transitional justice agenda by finding solutions that enhance and consolidate peaceful living together. According to the author, the measures adopted by ETA – final ceasefire, decommissioning, apology and dissolution – have been adopted in "conversation" with, or under pressure from Basque civil society.

Samara Velte (Basque Country) researches the discourses regarding the Basque Country's atrocious past by young people, the so-called millennials. This is the first

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generation that does not have direct memories about the most violent phase of the conflict (between 1968 and 2006). Therefore, the mental models these young people create about the violent past are necessarily based on external discourses, and the narratives they build are, at the same time, newly contextualized and re-significated discourses. Velte aims to identify some of these narratives and mental models, as well as the main channels through which knowledge and attitudes towards the violent past is being transmitted to the younger generations.

David Clarke (UK) analyses two documentary films made since the turn of the millennium, which both seek to examine the phenomenon of tourism at concentration camp memorial sites. In analyzing both films, Clarke uses the notion of the “post-witness”, i.e. the witness with no direct biographical connection to the victims of National Socialism. Visiting a concentration camp, as a post-witness, does not automatically lead to a sense of emotional connection, but might be an experience of uncertainty, disappointment and alienation. Documentary films that seek to engage with the phenomenon of post-witnessing in relation to the suffering of the victims of National Socialism potentially contribute to our understanding of the ways in which individuals make sense of that experience, not least in the tourist context.

Gema Varona (Basque Country) engages with “green victimology”, departing from the parallelism between large-scale human rights violations and the complex notion of ecocide. Varona uses the case study of the *Prestige* tank disaster that occurred in Spain in 2002. Memorials of that event and its consequences have been considered as part of possible informal restorative justice practices reflecting tensions among different stakeholders. This includes questioning the concepts of “victim” and “victimhood”, beyond its anthropocentric use, in order to include other beings and the ecosystems.

## 5. From the Oñati workshop to this special issue

This special issue is the result of a workshop, organized by Martin Hoondert and Gema Varona in close cooperation with the staff of the Oñati International Institute for the Sociology of Law. We had colleagues coming from The Netherlands, Belgium, the United Kingdom, Colombia and different cities of the Basque Country. All of them were very generous in preparing their presentations and open them to critical discussion. The hospitality of the Oñati Institute allowed us to learn together from different disciplines, professions, perspectives and contexts. Different explicit and implicit practices of memorialization, after large-scale human rights abuses, open the door of complex personal, interpersonal and social tensions in relation to the public acknowledgment of injustices. By referring to cases as diverse as wars, terrorist attacks, and abuse of power – including both by dictatorial regimes and in various institutional settings –, no recipes were found on good or bad memories but the need to create shared spaces for listening, understanding and questioning the cultural forces favouring those abuses and violence.

By stopping our everyday routines to meet us in Oñati, all the participants could concentrate on this topic, on which we have been working during the last years within the PRACMEM network (see [www.pracmem.eu](http://www.pracmem.eu)), and keep working in current projects (e.g. the EU Cost Action on Cultures of Victimhood, and the 17<sup>th</sup> International Symposium of Victimology in 2021). The International Institute for the Sociology of Law,

all its extraordinary team, together with the unique village of Oñati, offered us the opportunity to enjoy debating and making sense of that debate.

We hope the readers of this special issue of *Oñati Socio-Legal Series* will experience this good atmosphere of learning and debating about the complexities regarding commemorative practices, social reconstruction and the way people have to cope with past atrocities.

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