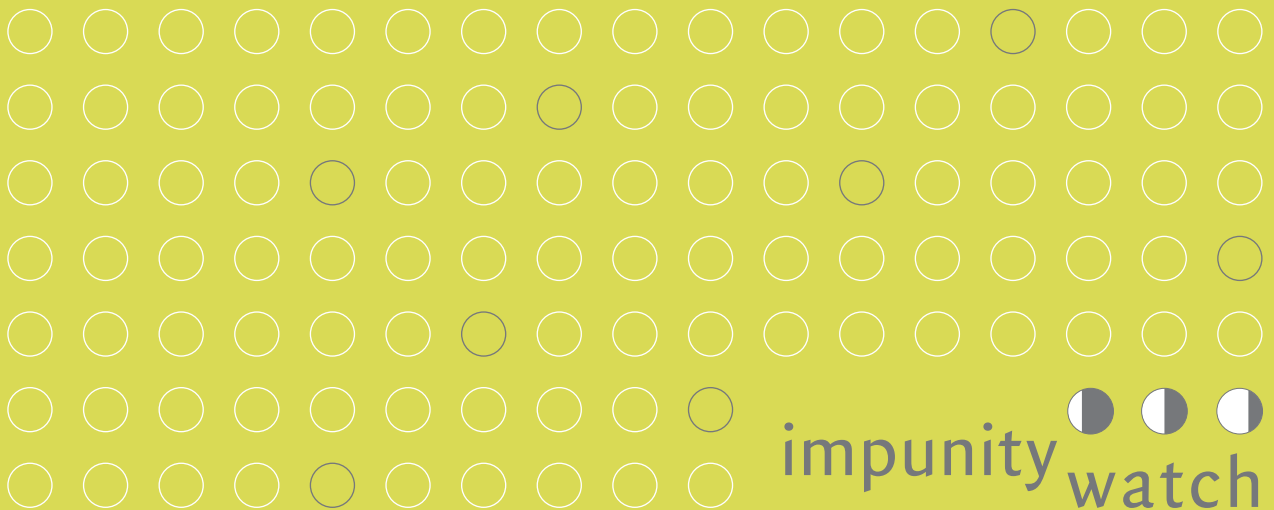


## Understanding The Role Of Memory Initiatives In Communities Struggling With Impunity

Debating in the Netherlands with youth, experts and policy-makers





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# EXECUTIVE SUMMARY

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*Dealing with a past characterised by gross human rights abuses and systematic violations of international law in an inclusive and comprehensive manner is crucial to breaking cycles of violence and combating impunity. The role of ‘memory initiatives’ as part of this dynamic is currently attracting greater attention. Various dilemmas facing these initiatives must nevertheless be overcome, which requires that certain key areas fundamental to understanding the relationship between memorialisation and impunity are examined. These include the multifaceted meanings that can be attached to memory, certain proposed objectives of initiatives, their potential for inclusion and also division, the necessity of engaging future generations in memory processes, as well as ownership over such processes. Fundamental to this approach is recognition that time is a crucial consideration, with memory acknowledged as a process that evolves, during which its imposition upon communities must be avoided. Whilst critical reflection should be encouraged – including on potentially artificial designations of the past such as the perpetrator-victim-bystander paradigm - this too must be sensitive to context. Outsiders may play a pivotal role, but must remain alert to the impact of their involvement and possible unintended consequences. In the immediate aftermath of gross human rights violations, an awareness of the differences between hypothesised ‘victim initiatives’ and ‘multi-ethnic’/‘multi-memory’ initiatives may well be a crucial starting point for considering each of the myriad of issues that memory initiatives and impunity raise after violence.*



# FOREWORD: THE IMPUNITY WATCH MEMORIALISATION PROJECT

Monuments and memorials may play a key role in the combat of impunity and peace-building when they help post-conflict countries deal honestly and fairly with their past. Yet in most cases, memorials appear controversial and divisive, as public remembrance and recognition of all atrocities and all victims tends to run counter to the interests of perpetrators and those who supported or condoned their crimes. Even within particular victim groups, it can often be difficult to reach consensus on a common interpretation of the past.

This is why Impunity Watch, a research-for-policy organisation that works with local civil society organisations to achieve accountability for grave human rights abuses committed during periods of conflict and/or mass repression, began working on memorialisation in 2009. Together with the Anne Frank House, an organisation with considerable experience of memorialisation in post-conflict areas, we explored existing work in this field and assessed common needs.

Our investigations and past experiences pointed to many situations in which memory initiatives are dispersed, communicate little or not at all with others, and do not form part of a more integral plan. Moreover, organisations working on a technical level on the creation of memory initiatives rarely communicate with those advocating at the political level for the creation of such initiatives as an important component of the combat of impunity. As a result, there is little connection between the technical and political aspects of memorialisation, even though they often face similar unresolved dilemmas. Equally, we have found that the potential to learn from research, as well as practical experience in different parts of the world, is under-exploited. Drawing together the results of work conducted in different fields and different countries as a means of improving overall understanding of the possibilities available when it comes to mobilising memorialisation as an impunity-reduction mechanism is therefore crucial.

To enhance understanding of the role played by monuments and memorials in post-conflict societies, we designed a project that draws on the needs, experiences and dilemmas associated with memorialisation in a range of diverse countries in order to provide widely applicable guidance as to how memorials can be developed and used. This Memorialisation Project has the following aims:

- To deepen understanding of key dilemmas that recur in memorialisation processes in post-conflict countries, and explore the full potential of memory initiatives in combating impunity;
- To connect technical and activist memory initiatives, and encourage them to support one another in creating national memorialisation processes that are more effective in combating impunity;
- To promote an exchange of lessons learned and best practices in dealing with memorialisation dilemmas among technical and activist civil society organisations from a selection of post-conflict countries, with the input and involvement of activists and experts with experience in memorialisation elsewhere;

- To publish and disseminate a variety of resources that provide practical recommendations for the elaboration of memory initiatives and influencing public policy on memorialisation, including education policy;
- To promote international political and financial support for civil society organisations working on memory initiatives.

In order to pursue these aims, various activities have been undertaken, with some currently underway and others planned for 2011-2012.

The first, a three-pronged debate series organised in the Netherlands, explored crucial aspects of the memorialisation paradigm.<sup>1</sup> Beginning with a debate with youth representatives in the Netherlands, followed by an ‘expert meeting’ and culminating in a mini-conference, the debate series sought to bring together a range of perspectives concerning the key dilemmas of memorialisation and its role in post-conflict countries. The results of this debate series are systematised in this report.

To complement, and in many ways test the recommendations drawn from this debate series, a comparative research project on memorialisation is being simultaneously conducted in six countries based around a common framework.<sup>2</sup> This research engages local civil society partners to ensure that activist and practitioner perspectives on the issue of memorialisation are reflected. At the conclusion of the project, an international exchange conference will be organised to involve the project’s researchers and civil society partners, and featuring international experts on the topics under consideration. The conference will be a forum for discussing the comparative analysis of the case studies and for drawing-out conclusions to inform policy and generate practical recommendations concerning memorialisation.

For Impunity Watch, the hope is that this inter-disciplinary approach will promote a bridging of knowledge and complementarity of intervention strategies among technical and activist organisations. Ultimately, the desire is to provide a wider perspective on the links between memory initiatives and the right to justice, the right to truth, the right to reparations and efforts aimed at non-recurrence – in short, those factors entwined with impunity. Whether memorialisation can be used as an effective impunity-reduction strategy and the extent to which public policy in this regard can be shaped are of primary concern. The first concrete step towards this understanding is the synthesis of the debate series that follows in this Report.

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1 The reports of each debate are available on the Impunity Watch website at: [www.impunitywatch.org](http://www.impunitywatch.org).

2 The countries chosen for the research are: Bosnia-Herzegovina, Burundi, Cambodia, Guatemala, Serbia and South Africa. In each country a local researcher has been selected to undertake the research, which will include producing a comprehensive mapping of memory initiatives in the country, case studies of selected initiatives and ethnographic research involving key informants and stakeholders through semi-structured interviews and focus group discussions. In order to ensure comparative aspects across each context, the researchers have been given a general Research Framework of issues to study. Whilst moulding the Framework to the specifics of their country, the overall research question to be addressed is: *Do Memory Initiatives have a role (positive or negative) in addressing cultures of silence that perpetuate impunity?*

# Part 1

## INTRODUCTION AND DILEMMAS

### 1. INTRODUCTION

#### Setting The Stage For Memory Initiatives

According to the Oxford Dictionary, to ‘memorialise’ is *to preserve the memory of; to be or supply a memorial of; to commemorate*. Societies have engaged in this instinctive practice of remembrance for centuries. Indeed along with every settlement of people one will find objects or poignant reminders of people and times past. Memory initiatives are an age-old phenomenon.

Whether in the form of simple gravestones, grand monuments or memorial sites, memory initiatives are necessarily intertwined with tragic events, often reflecting conflict. The somewhat ritual desire to mourn, commemorate and honour the dead, as well as the desire to preserve the memory of particular events, naturally took shape as a particular response to violence. Individuals, communities and sometimes whole societies have sought solace in these initiatives.

The prevalence of memory initiatives has therefore long preceded the development of international human rights norms at all levels. At least at the state level, during the 19th century through to the mid-20th century, a so-called *statue-mania* was witnessed whereby memory was embodied by the erection of permanent, imposing monuments or statues to national heroes literally placed on pedestals. Thereafter, this tradition has given way to *memorial-mania*, with commemorations a key aspect.<sup>3</sup> As a consequence, whilst the field of Transitional Justice (hereafter ‘TJ’) has slowly gathered pace since the late 1980s through the institutionalisation of responses to deal with gross violations of human rights (GHRV), memory initiatives were already a particular mode of such redress. Regardless of this sequential development, *[t]he importance of transitional justice is now firmly established following conflict. It is now the rule rather than the exception to seek redress for populations that have experienced the most abhorrent crimes.*<sup>4</sup>

The question becomes one of how to reconcile these very separate developments; separate in both time and ideological grounding. Where the international human rights framework has become the language of peace and development, and with it the affirmation of the necessity of TJ, the existence of memory initiatives has been somewhat marginalised. Criminal prosecutions through national, international or hybrid tribunals, truth commissions, and institutional reforms through vetting, lustration and demobilisation programmes have become the core approaches to impunity reduction, together in some

3 Dr Jens Meierhenrich, Memorialisation Conference, 30 November 2010.

4 R. TEITEL, ‘Transitional Justice Genealogy’, (2003) 16, *Harvard Human Rights Journal*, 69-94. See also: R. TEITEL, *Transitional Justice*, Oxford, Oxford University Press 2000.

instances with material or symbolic reparations. As the framework of combating impunity has expanded, memorialisation efforts have slowly found place as part of post-conflict and transitional agendas, buoyed by analogous developments in the field of human rights. As much as this reflects the incorporation of age-old practices as described, it is also reflective of the reality that many societies and communities struggling to deal with past abuses and faced with the prospect of *living together again*<sup>5</sup> have sought creative ways to address impunity, perhaps often as a reaction to the incomprehensibly tardy 'grander' initiatives. Crafting memory initiatives to contribute to combating impunity remains unexplored.

Whilst it may appear premature to offer lessons learned in the introduction to such a report, certain key considerations underlie the discussion that follows, drawn from the practice of addressing impunity to date. The need for a range of complementary approaches has been stressed as fundamental in light of the challenges that individual mechanisms face in attempting to wrestle a society from violence and guide it towards 'justice', 'truth', 'reconciliation', 'peace' and the multiple other objectives aggregated to impunity reduction. This need for a holistic perspective has been underlined not least in the UN Secretary-General's affirmation that there can be no *one-size-fits-all* approach to TJ, with *integrated attention* to various approaches required. Of equal importance are the emerging voices arguing for greater consideration of context and efforts grounded in grassroots understandings. Whilst such a 'bottom-up' approach has yet to gain the universal support that it deserves, it is central to the approach of IW and associated organisations.

## Situating Memory Initiatives After Violence

Arguments in favour of the criminal prosecution of perpetrators of GHRV have frequently included the forceful opinion that subjecting 'facts' to judicial scrutiny is favourable to the creation of an historical record of the past and a memory of violence. Whilst an assessment of the fidelity of this belief is beyond the scope of this Report, it suffices to register scepticism to such suggestions. Equally, the role of Truth Commissions or Truth and Reconciliation Commissions in achieving prospective objectives, particularly those concerning non-recurrence of violence, has also been subjected to scrutiny, again beyond the scope of this Report. Nonetheless, within this context of uncertainty regarding the objectives and realistic impact of post-conflict mechanisms, the space for alternative mechanisms is created.

As noted, 'memory initiatives' in their expanded understanding are one such pre-existing alternative. As a developing norm under international law - see for example UN GA Resolution 60/147 (2005) adopting the 'Van Boven/Bassiouni Principles', including the various obligations to establish the truth, pursue criminal accountability, provide reparations and guarantee non-repetition - the supposed benefits of memorialisation efforts are being increasingly asserted, whether in commemorative, pedagogical or preventive terms. Their value for symbolic justice, reconciliation and dialogue, as well as for filling the potential gaps created by legal strictures, have all been proffered. Against this background, the relationship between these initiatives and impunity after violence is a crucial dynamic that requires more sustained examination. Still, according to certain scholars, memory initiatives can *affirm the humanity of those who were killed and ascribe accountability for their deaths, thereby fighting a culture of impunity*.<sup>6</sup>

In this light, and according to those who have ventured into the under-appreciated wilderness of memory initiatives after violence, great potential exists for these initiatives to be used to *address some of the intangible aspects of conflict*<sup>7</sup> and contribute to TJ. Extension and supplementation of the work

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5 B. INGELAERE, 'Living Together Again: The Expectation of Transitional Justice in Burundi – A View From Below', (2009), Working Paper / 2009.6, Institute of Development, Policy and Management, University of Antwerp.

6 L.M. MOORE, '(Re) covering the Past, Remembering Trauma: the Politics of Commemoration at Sites of Atrocity', (2009) 20, *Journal of Public and International Affairs*.

7 E. NAIDU, 'The Ties That Bind: Strengthening the links between memorialisation and transitional justice' (2006), *Centre for the Study of Violence and Reconciliation (CSVR)*.

of tribunals and truth commissions have been particularly claimed,<sup>8</sup> as have their purported benefits for stimulating dialogue about the past and acting as vessels for the promotion of human rights. Even where legal approaches to accountability are prioritised after the perpetration of GHRV, the suggestions exists that memory initiatives can act as an “aesthetic extension and performative practice of international law and politics”.<sup>9</sup> Moreover, the dynamic potential for initiatives to take various forms suggests that they have the capacity to be used for educational purposes as well as the more traditional objectives of mourning, remembrance and honouring the past.

Nevertheless, caution must prevail. The leap from their traditional use for the preservation of memory and commemoration to a component of a human rights or TJ framework should not be taken lightly. As a fledgling component of post-conflict agendas seeking forward-looking objectives, careful situation is necessary to ensure both viability and benefit after violence. The possible adverse effects of such initiatives, particularly when stretched beyond their traditional scope, thus require equal if not greater consideration. For just as the potential benefits can be hypothesised, so too must attention be drawn to the intrinsic risk that memory initiatives can be instrumentalised to cement division after the perpetration of GHRV and manipulated in a way that far from moving communities beyond their past instead ensures that that past becomes the prevailing social factor in the present. In such situations, resentment, pain and hostility, perhaps as a result of political manipulation and demonisation may remain just below the surface, reducing the space for progressing away from violence and threatening peace and stability through the creation of justifications for revenge.

Preliminary research into memorialisation by IW and the AFH has found little evidence of research into the relationship between memory initiatives and impunity. In spite of research by Nora (1984), Halbwachs (1980), Jelin and Langland (2002), Bickford (2007) and Aguilar (2008), to name just a few, as well as initiatives by the International Center for Transitional Justice (ICTJ), including a February 2011 report on memorials in Uganda, there remains a relative paucity of research on memory initiatives, particularly in comparison with other methods of impunity reduction. The importance of pursuing more research is thus apparent. However, in addition, IW and the AFH have observed that organisations working on the technical level of the creation of initiatives rarely communicate with those advocating for their creation as a component of impunity reduction. As a result, a need exists to bridge the gap between the technical and political aspects of memorialisation.

## 2. DILEMMAS OF MEMORY

As a consequence of the relative paucity of research on the subject, memory initiatives remain riddled with dilemmas. The following provides an overview of some of the key dilemmas identified by IW and the AFH, and elaborated in the debate series.

### Objectives

As briefly introduced in the foregoing, the precise objectives of memory initiatives remain ambiguous at both a conceptual and practical level. Unlike the so-called ‘traditional’ mechanisms of TJ, the aims of which have been widely debated in the literature, memory initiatives remain enigmatic owing in part to the dearth of research conducted on the issue, and in part to their traditional use long before the advent of TJ. This is by no means to suggest that the aims of tribunals and truth commissions are universally agreed upon - indeed the pursuit of ‘justice’ through these mechanisms is loaded with contradictions and dispute - rather the suggestion is that the debate concerning memory initiatives has yet to fully mature.

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8 J. BARSALOU and V. BAXTER, ‘The Urge to Remember: The Role of Memorials in Social Reconstruction and Transitional Justice’ (2007), United States Institute of Peace (USIP).

9 S.L. STEELE, ‘Memorialisation and the Land of the Eternal Spring: Performative practices of memory on the Rwandan genocide’ (2006), Passages: law, aesthetics, politics, July 2006.

As a consequence, it is pertinent to question whether such initiatives can espouse multiple objectives, simultaneously dignifying victims of past violence whilst also speaking to a society as a whole in the pursuit of prospective aims. Of course, the nature of each individual initiative is paramount, when comparing static ventures such as monuments to the more dynamic initiatives that incorporate music and dance, for example. The question must be posed as to whether these very different initiatives seek the same ultimate objectives under an umbrella notion of 'memory initiatives', or whether objectives are only truly relevant according to the specific initiative at hand. Furthermore, the role of memory initiatives as part of a holistic transitional agenda must also be better understood, assessing where they may complement, or even contradict other approaches.

## Stakeholders

Related to the lack of clarity concerning their objectives, the relationship between memory initiatives and the multiple stakeholders in societies after GHRV remains uncertain. According to the traditional approach that employs a tripartite distinction of victims, perpetrators and bystanders, little is understood about the presentation and representation of these groups at memory initiatives. Questions abound: should victims from all sides be memorialised? Is there value in trying to reflect the role of colonialism in fomenting the context leading to conflict? Should perpetrators be included in the process, or be simply left at the mercy of criminal prosecution? And what role should international actors play, particularly where there is suggestion of their own responsibility?

Finally, and perhaps fundamentally, can memory initiatives demonstrate the multiple identities that manifest during conflict, enabling victim to be viewed also as perpetrator, perpetrator to receive empathy - even sympathy - as victim, and bystanders to reflect on their often complicitous role in the commission of GHRV? Given the extremely divisive nature of these issues, greater examination is needed of whether memory initiatives can inculcate a culture of self-reflection, or whether such objectives are simply utopian. Moreover, in doing so it would seem necessary to ensure legitimacy in the eyes of those having a stake, which reflects the necessity of 'bottom-up' approaches that are not imposed from the outside, but rather developed in a way that affords grassroots actors a central role. Nevertheless, the intrinsic risk of bias or narrow visions of the past emanating from the grassroots must not be forgotten. Equally however, one must be alive to the fairness of expecting critical self-reflection from those who have recently lost loved ones.

## Justice

All too often, 'justice' is simply synonymous with criminal prosecutions. Taking a broader understanding of the term, efforts should be mounted to understand the role of memory initiatives alongside criminal justice as part of a more comprehensive justice agenda. However, as the troubled relationship between prosecutions and truth commissions in various contexts demonstrates - for example Sierra Leone, South Africa and East Timor - there are dangers that mechanisms can contrive to undermine each other. The revelation of facts or truths in one arena may create adverse effects in another, thus memory initiatives must be alive to such dangers.

A related concern suffered by each approach to dealing with the past is how memory initiatives can balance acknowledgement of ethnically-based crimes, respect cultural approaches to honouring victims, whilst simultaneously reaching all sections of society. Even the basic assumption that underlies such questioning, i.e. whether this is indeed desirable, is open to significant dispute. The possibility for alienating groups within a society is also an overriding concern.

The question of expansion of memory initiatives from their traditional remembrance and commemorative roots towards a retributive agenda may also create difficulties. This particular leap in both conception and objectives requires considerable examination given the evident differences between their respective bases.

## Truth

Dilemmas concerning the inculcation of ‘truth’ about the past demonstrate the interconnection between each and all of the dilemmas already identified, and thus the reality that these issues are inseparable from one another in any consideration of memory initiatives. Nonetheless, for the sake of simplicity certain issues will be highlighted here.

‘Truth’ in itself remains a divisive concept often inseparable from the manifestations of personal interpretation and bias. Beginning with its supposed naked form - basic facts - ‘truth’ emerges after meaning is assigned to those alleged facts; a process which naturally creates place for contradictions. It is largely these different interpretations that are the foundation for most criminal trials. Therefore, how can memory initiatives reconcile these dilemmas? Can ‘competing’ versions of the past, perhaps even represented in different initiatives, be overcome? And what can be done to alleviate the pain, tension and misinformation that may result from controversial and contested memorials? Once again it is necessary to recognise the implicit bias introduced through such questions, that is, *should* initiatives attempt to reconcile these dilemmas, or are they conducive to rich debate about the past? Perhaps the value of initiatives may lie in an ability to make visible those issues that may have been suppressed.

### 3. A ROLE FOR CIVIL SOCIETY?

Set against the above background, it is clear that memory initiatives in their various forms can be controversial and divisive. As a consequence, the role of these initiatives in the delivery of justice, combating impunity and helping societies come to terms with the violent past is far from assured.

In this regard, civil society organisations (CSOs) may play a pivotal role. Sensitive and considered engagement with the issues at hand and the stakeholders in the process could potentially help to counter those that would establish divisive versions of the past, with CSOs - where appropriate - acting as watchdogs. Of course, the risks involved with such engagement, including for CSOs themselves to become actors in the process, should be a conscious and continually appreciated consideration. Nonetheless, the potential for grassroots civil society in the establishment and continuance of memory initiatives could be extremely significant, insofar as CSOs can reflect the needs, concerns and grievances expressed at the grassroots, and at the grassroots experience of impunity as manifested in daily life after violence.



## Part 2

# UNDERSTANDING AND DEBATING THE ROLE OF MEMORY INITIATIVES

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As noted, the following analysis forms a synthesis of the discussion and principal conclusions from the debate series held in the Netherlands. Whilst acknowledging - by means of reiteration - that understanding the relationship between memory initiatives and impunity after GHRV is a relatively new phenomenon and as a result contains many issues that must be reconciled, the hope is that by bringing together these issues a contribution can be made to assist in the development of future initiatives for the benefit of communities dealing with impunity. Importance must also be attached to the duty of states to deal responsibly and inclusively with memory as an aspect of impunity. For this reason, certain key areas have been emphasised that are considered to be the fundamental aspects wherein communities struggle in their interaction with memory initiatives and where civil society should be supported and states' actions scrutinised.

The recommendations presented hereunder represent certain tangible fruits of the Netherlands debate series, with complementary empirical research underway in six countries that have suffered GHRV in their recent past. The purpose of this comparative research is to understand the dynamics of memory and impunity in practice, with particular focus on the role of memory initiatives, whether positive or negative. At the conclusion of the overall project on Memorialisation, the comparative research analysis together with the report of the debate series will be used to generate policy recommendations for civil society organisations as part of IW's research-for-policy rationale.

Having in mind the research undertaken alongside the debate series, the analysis seeks to consider the role of memory initiatives in the context of 'cultures of silence' that perpetuate impunity. Whether as a result of lack of acknowledgement or recognition of suffering (including suffering of the 'Other'), competing versions of the past, an absence of or insufficient education about the past, or manipulation by certain groups after GHRV, cultures of silence can take many forms that each contribute to impunity. According to the operationalisation of the concept by the six researchers undertaking the comparative research, this can be manifested in three overriding areas that require focus: (i) roles/stakeholders (usually conforming to the traditional perpetrator-victim-bystander distinction); (ii) truth-telling; and (iii) future generations. Where possible these focus areas are highlighted in the analysis.

One final point requires attention. The analysis and recommendations that follow are in no way intended as a 'blueprint' or handbook for *doing* memory initiatives. Instead, the analysis seeks to stimulate further critical thinking and engagement with the issues that are highlighted, as well as to stimulate further research into the relationship between these initiatives and impunity after GHRV. Highlighting some of the challenges facing CSOs in engaging with these issues at the grassroots is furthermore intended to provide insight into where these organisations can be supported.

## 4. THE MULTIFACETED MEANING OF ‘MEMORY’

*Sixty-five years after the end of WWII, questions still remain about the relationship between the people of Nazi Germany and Hitler. In particular, what socio-political conditions facilitated his rise to power and upon which he was able to base his mass following? The answers to these questions are not fully part of the collective memory.*

*(Dr Simone Erpel, Memorialisation Conference)*

*Collective memory is a social construct. Only twenty-four persons were prosecuted at Nuremberg, yet the trials have come to be perceived as having ended Nazi impunity.*

*(Prof Stephan Parmentier, Expert Meeting)*

There can be no one meaning of ‘memory’. At least as far as combating impunity, its associated cultures of silence and communities ripped apart by GHRV are concerned. Memory is dynamic, ever-changing, and is affected by the progression of time, processes of reflection, new discoveries, evolving personal perceptions and a myriad of other influences. Memory is not limited to the search for truth by way of the basic facts, but involves personal prejudices and sensibilities, and the reconciliation of those facts and prejudices with expectations, assumptions, hope and despair. It is the recollection of facts and the interpretation of those facts; it is finding a place for such recollection in the present; it is simultaneously both remembrance of the past and shaping the future. In this light, we can state with as much certainty as the field will allow that ‘common memory’ does not exist.<sup>10</sup> Equally however, memory is both individual and collective. The challenge for memory initiatives if they are to have a positive impact on reducing impunity after GHRV is to thus negotiate these realities.

Absent the resources and ability to deal with each individual memory after GHRV, memory initiatives are naturally concerned with the collective memory. (Given the flexibility of memory as suggested above, this may nevertheless also produce effects on the memory of individuals.) Just as ‘common’ memory appears an impossibility, ‘collective’ memory is the result of negotiation and is a social construct. A lasting example of such construction is the Nuremberg trials: despite only prosecuting twenty-four persons, the trials have become part of the collective memory and conscience consciousness that Nazi impunity was ended. Equally, the story of Anne Frank is now one of the universal reference points and memories of the six million European Jews murdered during the Holocaust. Such examples reveal the power of memory, but perhaps more importantly the power of its symbolic representation through processes of negotiation. Memory initiatives can be hooked into our subconscious and conscious understanding of events in order to produce collective, positive outcomes.

Just as the aforementioned examples represent manipulation and construction of a memory that has become viewed as positive (except perhaps by Neo-Nazi groups), the same processes of manipulation can produce very different effects on the collective memory of the past. A slow realisation has developed over recent years that the construction of the so-called collective memory in Rwanda has served only to reinforce the rhetoric and ideology of an authoritarian regime seeking to justify its position based on a narrative of victimhood and a representation of the past that solely emphasises the halting of a Genocide. At the same time, this imposed collective memory has led to an almost complete criminalisation of the Hutu ethnicity based on an interpretation of mass participation. In this way, the appropriation of memory, and perhaps more importantly the means through which to impose it on a population, demonstrates the risks involved in negotiating and constructing memories of past GHRV.

What is clear is that perceptions of the past and of the ‘truth’ lead to the development of memory. As a result there can never be one single truth, which is why the practice of the state in Rwanda is not only short-sighted but also raises cause for concern in terms of the future outbreak of violence. Compare the Netherlands for example where a plurality of perspectives and memories exist at its more than three

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10 Prof Stephan Parmentier, Expert Meeting, 15 September 2010.

thousand memorials of WWII. Furthermore, the suggestibility of memory means that the stories that it represents can change over time as history is passed from one generation to the next. In the same manner, as individuals reflect on their past, justifications for violence may emerge influenced by the search for truth and by personal desires to assuage guilt or avoid responsibility. This process has desirable purchase not only for those perpetrators of GHRV, but also those who stood by whilst GHRV were being committed. Equally, the same process may lead individuals not to reflect on their responsibility or acts of perpetratorship, instead favouring the moral high ground of victimhood. Once such justifications and lack of critical reflection enter the collective memory, impunity emerges. This problematic is a reflection of memory as a construct. As the processes, structures and personal involvements in GHRV are examined, facts and history become distorted: memory is created.

Set against this brief context - which alone could form the subject of a substantial inquiry - the challenge facing memory initiatives is daunting. Nonetheless, certain overriding aspects necessitate reflection when addressing the multifaceted meaning of memory.

As suggested, memory initiatives must negotiate a realm of TJ that is continually evolving and which often may transform at a rapid pace. Memory is a fluid and dynamic construct, and one which does not remain static, nor exhausted of meaning and debate. Current attempts in Germany to understand and explore outstanding questions concerning the relationship between the people of Nazi Germany and Hitler even after sixty-five years and a huge body of research and debate on the most well-known Genocide, illustrate this dynamic. In order to assist communities after GHRV, memory initiatives could realistically be expected to attempt to reflect the dynamism of memory, allowing for social debate on versions of the truth to take form. In facilitating or stimulating this debate, initiatives could provide a forum for open and honest dialogue, as well as personal introspection, which could assist in the construction of collective memory upon which further debate and dialogue can take place. Just as in Germany, the process may take many years, particularly as individuals attach their own meaning to memory.

By contrast, and as will be discussed shortly, recognition is also needed of the danger of imposing such lofty ideals onto communities. It is not yet thoroughly understood to what extent so-called 'victim initiatives' and their initiators would be open to such instrumental objectives, or indeed whether they necessarily must be imposed. Once again the roots of memory initiatives come to the fore. These more intimate, perhaps one-sided initiatives may quite legitimately prioritise a single version of the past as part of the process of coming to terms with violence and commemoration. Devaluing the importance of this would be a risky strategy. Where the facilitation of the expression and negotiation of memory is nevertheless key is in those countries where debate is either stifled, non-existent or politicised.

In the process of negotiation and dynamics of memory, it may be of equal importance to draw attention to that which is *not* remembered. Just as with a lack of critical self-reflection on one's individual past, the social construction of a collective memory leads to narratives and 'truths' being excluded. The top-down narrative in Rwanda as reflected in the country's many state-sponsored initiatives is a demonstrable case in point. This process is revealing and requires further exploration. For as the process of sanitisation<sup>11</sup> of memory may create a negotiated - and positive - collective memory, it may equally hide and therefore cultivate further tensions and distrust. Examining what is excluded may thus demonstrate the key areas of dispute within a population, consequently illustrating those areas where memory initiatives and measures of TJ can be most effective. Memory initiatives should be alive to this paradigm of sanitisation so as to neither exclude key memories of the past nor create the conditions for future conflict or GHRV. In such a process, any physical, tangible changes visible over a period of time at memory initiatives themselves can be informative. Time itself may also heavily influence sanitisation, with the potential for the revelation of additional 'truths' perhaps increasing with the passage of time.

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11 Dr Malathi de Alwis, Memorialisation Conference, 30 November 2010.

When considering memory initiatives in a TJ framework there is also a fundamental need to question any potential assumption that such initiatives are always desirable. Whilst criminal proceedings, as mentioned, have become the de facto *modus operandi* of TJ and post-conflict reconstruction this development has emerged based on such an assumption. In the absence of further research into the effects of international criminal justice, this assumption will remain untested. Similarly, the contradictions and pitfalls associated with even the very meaning of memory as introduced here testify to this sentiment of caution, as does the very fact that the generalisability of lessons from across contexts remains largely unexplored. The latter state of affairs again reflects the general paucity of research into the effects of TJ. For memory initiatives this requires that outsiders approach the issue with caution. For as the above analysis has demonstrated, memory and the initiatives that seek to embody it have the potential to generate significant controversies. In this way they may also breed the same political divisions and harm as so-called ‘retributive’ mechanisms, despite their (claimed) ostensible ‘restorative’ and prospective value. Evidence suggesting resentment among the local population in Soweto of the ‘Mandela House’ initiative - established to preserve the history and legacy of the Mandela family - owing to the influx of tourism demonstrates that controversy can be generated even in unexpected places.

## 5. OBJECTIVES (AND THE NECESSITY) OF MEMORY INITIATIVES

*...the objectives to be pursued through memorialisation require greater scrutiny, not only to establish the role of memorialisation in post-conflict settings, but moreover its potential contribution – positive or negative. When undertaking such an inquiry, the target audiences should also be given centre stage.*  
(Memorialisation Conference Report)

*International tribunals can only ever convict the tip of the iceberg of perpetrators, causing frustration for some victims. They are based on Anglo-Saxon legal practice, thus are not concerned with finding the truth but with winning cases. Memory on the other hand is dynamic, meaning it is open-ended and can never be closed.*  
(Herman von Hebel, Expert Meeting)

A principal outcome of the debate series in the Netherlands was to accentuate certain elements relevant to discussions of the objectives of memory initiatives. A multitude of questions were raised throughout the series specifically directed towards this issue, which inform the subsequent discussion. With a tangible thirst for answers at the final debate in particular, the hope is that further empirical work will be undertaken with regard to the specific objectives to which memory initiatives should aspire. This research could readily focus on the issues raised here. For IW, the comparative research project to accompany the debate series will begin to take up this challenge.

### Necessity

In beginning such analysis it is necessary to reiterate a key lesson learnt from previous attempts to deal with the past: the importance of a holistic approach. By implication, the place of memory initiatives and other alternative mechanisms for addressing impunity after GHRV should be considered as necessarily part of any TJ agenda, particularly where they speak to concerns after violence that tribunals, truth commissions or other mechanisms cannot, and moreover since their existence may have long preceded these more formal institutions. The problem of course still remains that without fully appreciating the objectives of memory initiatives it is difficult to ascribe value to them as part of such agendas. Once again however, it must be stated that confusion and debate over the objectives that criminal prosecutions (in particular) seek has not prevented them from becoming the foremost mechanism in post-conflict and transitional agendas.

Regardless of such gaps in understanding, the presence of impunity in its many forms after GHRV demonstrates the potential need for memory initiatives. As suggested in the previous chapter, once justifications for overtly criminal acts permeate into a collective memory, impunity results. Moving one step further, the potential need for memory initiatives can be inferred using certain examples as illustrations; situations to which the hypothesised value of memory initiatives can be attributed. The

downplaying of Soviet crimes through the removal from history books of the labour camps of the ‘Gulag Archipelago’<sup>12</sup> not only represents an explicit attempt to tamper with a memory initiative (history books), but furthermore demonstrates the necessity of informing future generations about such crimes in order to ensure that they are not completely forgotten. Moving West, and forward several decades, the seminal speech delivered in 1985 by former President of the Federal Republic of Germany, Richard von Weizsäcker to commemorate the fortieth anniversary of the end of WWII can be cited. Addressing the need for honest reflection and engagement with the past, von Weizsäcker cautioned:

*Our young people are not responsible for what happened over forty years ago. But they are responsible for the historical consequences. We in the older generation owe to young people not the fulfilment of dreams but honesty. We must help younger people to understand why it is vital to keep memories alive. We want to help them to accept historical truth soberly, not one-sidedly, without taking refuge in utopian doctrines, but also without moral arrogance. From our own history we learn what man is capable of. For that reason we must not imagine that we are quite different and have become better. There is no ultimately achievable moral perfection.*

The inherent need to avoid feeding new myths about the past as time progresses is clear.

Finally, the Spanish example can be raised. Despite its outward appearance as a stable democracy, realities in Spain belie this façade. Having not been through any significant process of TJ in the aftermath of its civil war and the subsequent Franco regime, much division and buried truths remain in Spain. The presence of monuments to Franco, incomplete history books, mass graves, amnesties, silence among ordinary people not wishing to draw attention to their possible role and to some extent forty years of ETA attacks all demonstrate a culture of silence and impunity resulting from a failure to honestly deal with a troubled history.<sup>13</sup> Here, memory initiatives have been appropriated by political divisions.

## Objectives

Together with the brief assessment of the potential necessity of memory initiatives, relevant insight into the question of *objectives* is offered here with particular emphasis on areas of importance raised during the debate series. Once again, the intention is in no way to seek to produce a ‘blueprint’ of objectives (something which even after sustained debate would be a task fraught with difficulties), but rather to stimulate further discussion. Since the debate surrounding memory initiatives is yet to fully mature, the importance of such discussion cannot be overstated. Certain of the dilemmas raised earlier are crucial to this discussion: questions of multiple and ultimate objectives; dynamism; and the relationship with other mechanisms, in particular tribunals. These can be dealt with in turn.

### *Multiple and Ultimate Objectives*

Owing to the age-old practice of memorialisation, perhaps the immediate objectives that are brought to mind when the issue of memory initiatives is raised is that of dignifying victims and of commemorations, in addition to the related objective of combating revisionism. Whilst such objectives are ostensibly appropriate and seem to speak to the value of these initiatives, the multiple meanings of memory as already discussed, in particular the loaded concepts of ‘victim’, ‘perpetrator’ and ‘bystander’, raise immediate problems with such seemingly honourable objectives. Attempting to forward alternatives - perhaps those aimed at social debate - in order to combat these concerns are equally problematic however, since they may logically downplay such commemorative ends. The dilemma raised earlier is thus the overriding challenge: how to reconcile the simultaneous necessity of dignifying victims whilst also speaking to a society as a whole in the pursuit of prospective aims.

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12 Dr Nancy Adler, Expert Meeting, 15 September 2010

13 Dr Anja Mihr, Expert Meeting, 15 September 2010.

The matter is further complicated by experience of memory initiatives in practice, since evidence can be forwarded demonstrating a veritable range of positive objectives emanating from individual initiatives. Using the Spanish example once more, recent efforts to rename streets, acknowledge crimes on both sides as well as organise commemorations appear to have had a positive impact on the prevailing culture of silence. Furthermore, initiatives in Germany are underway to give space to understanding Nazi perpetrators, which appear to have had positive outcomes for rejecting the simple demonisation of perpetrators in favour of comprehending their actions. The ‘truth’ that this reveals about mass violence and GHRV is often overlooked post-conflict, but finds an important place concerning objectives of non-recurrence. Whether the supposed objective of a moral judgment of perpetrators fits within this can however be contested. Equally, there are many examples of successful initiatives that represent the memory of one group of victims, but the potential contrast with those initiatives that promote the suffering of all victims is important to consider. What must be kept in mind is that judging success and positive outcomes is heavily dependent upon the observer, especially concerning issues as emotive as conflict and GHRV. Furthermore, a positive outcome in one context may lead to tension in another.

At this stage it is necessary to offer a preliminary conclusion. That is, that the root of the problem facing objectives is the attempt to try to neatly box the *multifaceted meaning of memory* into measurable objectives, so as to gauge ‘success’ across the board. This involves trying to generalise a myriad of initiatives into a simplified model of success: a blueprint. This risks reproducing past malpractice, since whilst it may not be easy for many academics and more importantly practitioners to accept, this very over-simplification can quite readily be stated as undermining the potential positive impact of international criminal justice. Put simply, pronouncing wide-ranging objectives that simultaneously look to judge the past and guide the future may create disappointment, and in the absence of concrete evidence, somewhat negligently assures populations that criminal justice will have an instrumental impact. For memory initiatives the inherent risks are the same. For whilst it may be tempting to assign multiple well-intentioned objectives, a hypothesised contrast between *victim initiatives* that voice the story of one group of victims and *multi-ethnic* or *multi-memory* initiatives that give voice to all victims<sup>14</sup> - or at the very least the implicit considerations in making such distinctions - may not be easily overcome.

Thus, as outsiders attempting to assist populations in breaking a culture of impunity (of which silence is a central component) it is necessary to proceed with caution. What must be kept in mind is that violence is usually played out in its most devastating form at the grassroots level and in ordinary communities. This necessitates that these communities are involved in the process of intervention, in order for the initiative to have purchase where its objectives are most needed, without romanticising their involvement. Moreover, as part of this process, the temptation to overburden initiatives with a range of ostensibly important objectives should be resisted; a more realistic approach will avoid disappointment. Crucially, before attempting any assistance it appears fundamental to understand how the past continues to affect the future in the particular context so that initiatives can be designed to truly bring about positive effects in combating impunity, but also to avoid antagonising members of the population and perpetuating impunity.

Finally, perhaps the ultimate caution with which outsiders can proceed is to avoid the temptation to always seek to intervene. The countless memory initiatives that have been established by populations after GHRV should be given priority in research if the desire is to truly understand the objectives of memory initiatives. Whilst notions of the rule of law, recognising the suffering of all, giving space to perpetrators, and so forth may appear honourable objectives, they may equally be an affront to the dignity of certain actors after GHRV. Or they may not. The key point is to avoid imposing values upon communities that may not be ready to receive them. Even good intentions may in practice be inadvertently ethnocentric or paternalistic. The link to mechanisms of TJ is also relevant, since in the absence of (for example) prosecutions, the extent to which communities can be expected to embrace the narrative and memory of those whom they deem to be responsible for GHRV is not for outsiders to determine. It is therefore important to recognise the potential for different objectives both according to the context and according to the authors of an initiative. Individuals and the communities to which they belong may first need time to reflect on their suffering and

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14 Dion van den Berg, Memorialisation Conference, 30 November 2010.

to develop an understanding about the past to inform their individual and collective memories, before more prospective and inclusive memories can be developed, including those of groups with whom they may not immediately identify.

### *Dynamism*

Having discussed at some length the problems facing generalisations of the objectives of memory initiatives, attention can nonetheless be briefly given to evidence offering added insight into the potential contribution that memory initiatives may make, relevant to objectives. Here the issue of dynamism is important.

As mentioned when discussing the meaning of memory, dynamism at memory initiatives may take many forms. The example of the plurality of perspectives and memories can again be demonstrated by reference to the number of WWII memorials in the Netherlands alone. Such plurality allows for broad contributions to inform a collective memory about the past. Initiatives underway in Germany to examine the role of the ‘perpetrator’ in the Nazi-era may provide a similar contribution. Here, by avoiding the simple presentation of perpetrators as inherently evil without further analysis, initiatives seek to challenge perceptions by introducing aspects of what Hannah Arendt termed, the *Banality of Evil*. This approach also avoids unhelpful abstract notions. The challenge faced is to balance the instinct for demonisation against the risks of appearing sympathetic to the perpetration of GHRV. Finding this appropriate balance in *comprehension* of past acts based on wider societal conditions, can have potentially far-reaching impact on the non-recurrence of atrocities. In Germany, this has involved the presentation of both the normality of concentration camp guards (their *banality*) as well as objects that are outwardly innocuous.<sup>15</sup> The dynamism of these initiatives is their ability to challenge perceptions, disorientate the observer and blur previously immovable boundaries.<sup>16</sup>

Depending on their design, memory initiatives may allow yet further dynamism. When accompanied by or themselves stimulating further research, initiatives may once again enrich memory of the past with new interpretations and information. In turn, this may add to their effectiveness in furthering objectives related to breaking cultures of silence and fostering dialogue based on informed historical understandings. Even those ventures that may appear static - monuments, etc. - can be infused with dynamism when accompanied by research. Moreover, dynamism may go beyond merely research to include the performance of wider, perhaps practical functions at or alongside memory initiatives. Of course, exploration of the contribution of initiatives that are in and of themselves dynamic - for example performance arts - is of equal importance. Exploring the infusion of traditional memory initiatives with dynamic elements, as well as the emerging role of dynamic initiatives will contribute to understanding impunity after GHRV.

### *Relationship with other mechanisms: Tribunals*

Conventional wisdom holds that criminal prosecutions after the perpetration of GHRV assist in the avoidance of the moral decline that otherwise results from impunity. Criminal prosecutions of course also target the simplest manifestation of impunity through delivering retributive justice for past crimes. Yet in this latter respect they are also open to criticism when institutionalised as the foremost approach to combating impunity and to TJ in a particular context. Since by their very nature they will only ever convict the *tip of the iceberg*,<sup>17</sup> frustration may mount. Furthermore, there are considerable doubts about the ability of criminal trials to produce historical records, informed in part by the shape of proceedings as being directed towards the winning of cases and in part by the aspiration to close the books on a particular case. Contradictions thus abound. For as has already been demonstrated, memory should ideally not be based on victor’s ideology and must be infused with the dynamism and open-endedness that may be beyond the strictures of criminal prosecutions.

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15 Dr Simone Erpel, Memorialisation Conference, 30 November 2010.

16 Ibid.

17 Herman von Hebel, Expert Meeting, 15 September 2010.

In one respect, this state of affairs could open the door for Outreach activities, which have engagement with grassroots populations as their core principle. Current practice in this domain is however grossly underdeveloped, despite the best efforts of those assigned its mammoth, underfunded task. Nevertheless, in the same way in which criminal prosecutions can be used as a means of engagement through Outreach, so too could prosecutions be used to stimulate memory initiatives - their limitations notwithstanding. It would appear that if applied sensitively there are mutual areas for enforcement, whereby memory initiatives could grow out of criminal proceedings - either directly or as a means to enrich potentially limited narratives. Moreover, memory initiatives may indeed stimulate the prosecution of those who perpetrate GHRV (invoking similar considerations as concern the debated relationship between tribunals and truth commissions). An interesting area for further research in this regard is the question of the extent to which memory initiatives can fill any gaps left by criminal justice.

The hypothesised value of memory initiatives alongside criminal prosecutions is once again their potentially broader scope and dynamism. Initiatives may focus more successfully on the collective memory of the past through the eyes of a particular group or society, whilst criminal proceedings are more adept at viewing through the lens of single perpetrators. Argentina perhaps represents a case in point of each of these suggestions. After the adoption of amnesty laws in 1989, energy shifted from the demand for criminal prosecutions to preserving memory through film, protests and the efforts of younger generations to keep memory of the past alive. As a result in large part of these efforts, amnesty laws were overturned in 2005, with criminal prosecutions beginning soon after. Furthermore, as a consequence of this shift, new historical interpretations were introduced, transforming for example crimes defined as 'state terrorism' into 'genocide'.<sup>18</sup> Shifts in political orders necessarily create space for new insights, which consequently produce new interpretations of impunity that can dictate the future prosecution of cases. The role of memory initiatives in stimulating these developments is clear.

There are of course limitations. As already demonstrated, memory initiatives may be no less controversial than criminal prosecutions; much like prosecutions they too can potentially hinder objectives such as reconciliation. Further, the relationship between the mechanisms is certainly more complex than the brief analysis here suggests, with the very nature of prosecutions being based upon forensic truth, as compared to the social truths at memory initiatives. Further research would inform this relationship, though certain latent capacities appear to exist whereby these mechanisms could work together - the mutually-reinforcing stimuli suggested above representing an obvious example - but the contours of this relationship require mapping. If indeed there is place for oral histories during criminal prosecutions, then this should be explored. The suggestion has been raised that during the investigation phase of a case before trial, the gathering of evidence and interviewing of witnesses could offer great advantage for the collection of oral histories for building historical records in addition to the forensic evidence required at trial.<sup>19</sup> Subject of course to the administration of justice, rights of the accused to a fair trial and the fundamental rule of law, this possibility must be considered.

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18 Prof Ton Robben, Expert Meeting, 15 September 2010.

19 Dr Dienne Hondius, Expert Meeting, 15 September 2010.

## 6. INCLUSION AND DIVISION

*...[memory initiatives] can be very ugly processes.  
(Dr Malathi de Alwis, Memorialisation Conference)*

*...in the Balkans, Serb victims have the lowest status in the hierarchy of victims that has emerged...  
Bosniaks and Kosovo Albanians have attained the highest status...the danger is when these hierarchies  
are reproduced within victim organisations, with everyone clamouring for the highest status...  
(Participant, Memorialisation Conference)*

In the introduction to this Report caution was raised that the possible adverse effects of memory initiatives require equal if not greater attention. The cementing of divisions, political manipulation and demonisation are just some of the intrinsic risks, with particular difficulties concerning the extent to which initiatives can and even should encourage critical self-reflection. Truth in itself is an inherently divisive concept.

Further examples of the delicate project of memory after GHRV have also been explored in the foregoing chapters. Through all of the rhetoric, the message is clear: there is a fine line between beneficial memory initiatives and *very ugly processes*.

Even after debating these issues with young stakeholders, experts and policy-makers, overcoming this fine line remains somewhat illusive. The problem as has already been addressed is the very nature of memory as being wholly intertwined with divisions of the past. Moreover, the interplay of this dynamic is specific to each particular context, ensuring that the task of memory initiatives is a formidable one. Here, the attempt will not be to draw best practice-style conclusions, but rather to highlight memory initiatives raised during the debate series with accompanying analysis directed towards points of focus that are essential to understanding the interplay between these initiatives, impunity and cultures of silence.

An initiative drawing particular controversy was raised during the first debate in the series. The *Plaasmoorde* monument in South Africa to commemorate White farmers who have been victim of farm attacks since the fall of Apartheid demonstrates salient ethnic polarisation. To the victims and their families, the initiative represents victimisation for political ends - even with the state's complicity - and to some signifies an attempted Genocide occurring in the wider society. The monument has thus become symbolic of efforts to preserve the *Afrikaner* and *Boer* culture in South Africa. To the victims, their victimisation goes unnoticed by the 'international community' given the history of Apartheid. By contrast, to many other South Africans and many within the 'international community', the initiative is regarded as symbolising a racist minority. Two fundamentally opposed 'truths' and consequently memories of these events thus exist in a state of perpetual tension, even in spite of the rhetoric of reconciliation expounded by the TRC. For the group that claims ownership of this initiative however, the memorial represents *their* interpretation and memory.

Additional examples can be cited. A similar dynamic is evident surrounding the *Valley of the Fallen* in Spain, since despite its construction to commemorate all victims of the civil war, Franco's burial at the site and personal decision to construct the initiative, including the use of political prisoners in its construction (of whom several died during the hard labour), can be considered to perpetuate Spain's suppressed divisions. Even a monument to the Surinamese anti-colonial writer and resistance fighter, Anton de Kom in the Netherlands caused controversy when unveiled. The depiction of de Kom, bare-chested and rising from stone is criticised as perpetuating the image of slavery and the racist notion of de Kom as a primitive creature. Such examples reveal the need for sensitivity to different interpretations, especially when attempting to establish initiatives for the benefit of all groups, society as a whole or to convey a message to society.

These examples are manifestations of the hypothesised differences in objectives that are entrenched between many *victim initiatives* on the one hand and *multi-ethnic* or *multi-memory initiatives* on the other.<sup>20</sup> For many (not all) *victim initiatives* the intention is solely to represent the position and memory of its group, regardless of the divisions that may result. By contrast, *multi-ethnic* initiatives attempt to be inclusive, and should therefore be more sensitive to both the design and message presented, which requires that outsiders are alive to political narratives. The same should of course apply when engaging with *victim initiatives* but the very nature of these initiatives as representing the memory of certain stakeholders may implicitly create division. Indeed, tension may result even from best intentions. At the Srebrenica memorial in Bosnia, the desire of the initiative's Director for openness and reflection about the past, through allowing the much-maligned DUTCHBAT soldiers to pay their respects, was met with strong resistance from the 'owners' of the initiative: the mothers and widows of those murdered.<sup>21</sup> Finally, as the case of the Balkans also demonstrates, where a hierarchy of victims is created - placing certain groups above others - *multi-ethnic initiatives* may themselves contribute to distorted interpretations of the past.

There are of course many successful examples of initiatives to victims - the *Plan de Sanchez* chapel memorial in Baja Verapaz, Guatemala cited as just one. This striking example of victim acknowledgement had its legitimacy confirmed by a ruling by the Inter-American Court of Human Rights that *acts of Genocide* had been committed as part of a state policy – the Court stressing the gravity of these acts despite lacking jurisdiction under its founding Convention to rule on the question of Genocide. Here, the social and political context around the initiative has become important. This dynamic nonetheless may have negative consequences, demonstrating the potential for division where socio-economic conditions connected to the past continue to influence the present. The *Monument of Halabja Martyrs* in Iraq is demonstrative. First inaugurated in 2003 to honour victims of Saddam Hussein's poison gas campaign in 1988, just three years later the monument was in ruins. A protest on the anniversary of the gas attacks to complain about the prevailing desperate condition of the town 18 years after the attacks (with the government blamed for doing little to improve the situation, despite having built an impressive new monument) eventually resulted in the monument being set on fire and a 17-year-old boy being shot dead. For many, the monument now symbolises the desperation of the present, rather than a memorial to the past. This vivid example illustrates that memory initiatives cannot be taken in isolation, nor can they alone guide a community away from its past.

The significance of this fact, even for younger generations who were not always direct witnesses to the past, should not be underestimated. Guatemala can once again be highlighted. During the debate with youth representatives, the example of the *Eternal Flame* to mark the country's peace accords was cited as an example of an initiative with little meaning. Since the peace accords did not ensure change in the prevailing social conditions, nor justice for the crimes committed for the Guatemalan people, the representative (whose mother was a victim of abduction and torture and who now lives in the Netherlands) could see little else than a hollow message.<sup>22</sup> Such reflection demonstrates that memory initiatives cannot be divorced from wider political issues, particularly those negative ones, nor can the inauguration of an initiative in and of itself be enough, particularly where it is interpreted as an empty gesture. Here, the impact of such symbolic forms of reparation will not be enough in the absence of tangible change. In this respect, the decisions concerning the perpetration of Genocide by state armed forces and paramilitary in Guatemala not only impacted upon the collective memory of the past, but served also to further cement the legitimacy of many *victim initiatives*. The ruling by the International Court of Justice finding that Genocide was committed in Srebrenica - in addition to subsequent decisions at the International Criminal Tribunal for the former Yugoslavia - had an analogous effect in Bosnia. What can be seen is that such judicial determinations also act as guarantors of the memory at these initiatives, simultaneously preventing political manipulation. A cautionary note should however be attached here. In Rwanda, judicial 'legitimacy' concerning Genocide determinations has been manipulated by the Government to reinforce its own application of memory.

In many situations it can be hypothesised that balanced and adequate information could assist in combating polarisation. This could be further guaranteed by inclusiveness as to the involvement of local communities, particularly across past lines of division. However, once again the issue potentially becomes one of the difference between *victim or multi-ethnic/multi-memory initiatives*.

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20 Dion van den Berg, Memorialisation Conference, 30 November 2010.

21 Ibid.

22 Javier, Youth Representative (Guatemala and the Netherlands), Future Generations Debate, 22 April 2010.

## 7. FUTURE GENERATIONS

*...young people in Cambodia are largely unaware of the past, with the 'survivor generation' also failing to communicate exactly what occurred...[thus] the starting point is silence in Cambodian society...  
(Kristina Chhim, Memorialisation Conference)*

*Monuments. What's in it for me?  
(Future Generations Debate)*

Non-recurrence is commonly cited as one of the principal justifications for memory initiatives. By its very nature this objective speaks to future and younger generations (hereafter simply, 'future generations'). The suggestion is that these generations are essential to combating impunity and breaking cultures of silence.

Several examples have already been cited which by implication point to the importance of future generations, as well as non-recurrence. Whether the tampering of memory of Soviet crimes or the (until-recently) absence of reference to the Khmer Rouge in history books, the importance attached by a former German President to keeping memory of the past alive among young people, the power of youth initiatives in Argentina, or the insightful reflections on the past by a Guatemalan youth, the role of these generations appears difficult to deny. In this sense, these examples attest to the inference that future generations are not mere passive recipients of history and memory, but rather are active participants in the process of its interpretation and contestation.

This of course has different implications depending on the age of those future generations. At the lower ends of the spectrum, engagement through memory initiatives may help to develop critical thinking and instil democratic values. By comparison, the aforementioned examples demonstrate that future generations themselves can be important to shaping memory, either mobilised by or mobilising memory initiatives. The power and capabilities of future generations should be harnessed in post-conflict settings and within approaches to combating impunity, particularly concerning breaking cultures of silence. At the time of writing, future generations were playing a central role in the re-writing of history and the literal tearing down of the memory initiatives representing regimes across the Arab World. The power of youth has also been witnessed in a negative sense by contrast, whereby monuments of WWII were used to incite younger generations to participate in the Balkans conflicts. These are just some of the many relevant examples.

Whilst engaging future generations may be relatively axiomatic in some situations, in others it may be more difficult. This is not intended to disparage future generations, but rather is a natural consequence of the fact that these generations may not have been direct witnesses to the acts to which memory initiatives refer, may have been too young to fully comprehend the acts, or may have difficulty due to their experiences with any attempts to recall the past. These effects are naturally different for generations (for example) in European countries reflecting on WWII, as compared to those generations for whom the GHRV of the past are very much part of the present social fabric. A reading of the discussion here should thus keep this acknowledgement in mind.

Nonetheless, at the outset of the debate series, this challenge of engaging future generations was apparent. A youth representative born in the former Dutch colony and slave post of Curaçao expressed that a lack of personal relation to the events meant that WWII monuments had no meaning to him. By contrast, another youth representative with no personal relation to the events found that he could identify with a statue marking protests by Amsterdam dockworkers against the deportation of Jewish residents, in part because of its clear message. By the same reasoning, he found the meaning of a monument erected by the Jewish community as a sign of gratitude to the people of Amsterdam who helped Jews to evade persecution difficult to understand, since the Netherlands lost 75% of its Jewish population. Various dynamics are at work here, but one important inference to be drawn is that education alongside memory initiatives, especially those that are more static, is important. Inculcating reflection and dialogue will assist in creating understanding about those intangible aspects of GHRV

and their importance for the future, particularly where an absence of personal connection may leave initiatives absent of meaning. This is equally applicable to other generations in societies. What should in no way be prevented however is healthy discussion of the past where appropriate as stimulated by memory initiatives, for this is at the very heart of the creation of collective memories and necessary for understanding that past.

The other dynamic to be drawn from above perhaps relates to a sense of ownership. This is particularly apt for those generations not experiencing GHRV first hand. For in order for memory initiatives to in any way contribute to combating impunity and cultures of silence, a connection must be established to the people. One possible approach to take would again involve educational programmes, with examples already cited of the consequences of excluding balanced histories from school curricula. Moreover, the importance of aesthetics should not be underestimated for future generations. Just as education can stimulate reflection, so too can visual expression provoke similar engagement. Once again the views of youth representatives are illuminating. In addition to its clear message, the representative explained that the brave appearance of the dockworker statue led to his personal identification, whilst in Curaçao the visual and emotive impact of initiatives representing the slave uprising was important. Finally, even aware of controversy surrounding the statue of Anton de Kom, the youth representative found the initiative to be aesthetically engaging. Such insight should be heeded.

In order to not perpetuate impunity and cultures of silence, future generations are fundamental to the process of TJ in general, and memory initiatives in particular. They must be included and accorded a central role in any initiative dealing with the past and be exposed to the multiple versions of history, interpretations and events of the past in a pluralistic and balanced fashion. That being said, once again the issue of *victim* and *multi-ethnic/multi-memory* initiatives comes to the fore. In the latter, effectuating the importance of this involvement is relatively straightforward, whereas in the former this is likely more difficult. In these situations the challenge is to find methods to engage future generations in ways that do not offend the essential message and importance of *victim initiatives* to their owners and to societies in general.

## 8. OWNERSHIP: ENGAGING WITH THE GRASSROOTS

*...the best way of doing truth-telling is where people live: in the local communities...  
(Dion van den Berg, Memorialisation Conference)*

*...critical reflection is needed from outsiders to appreciate unintended consequences....  
(Dr Jens Meierhenrich, Memorialisation Conference)*

There is an emerging realisation that the experiment of TJ must better reflect the particularities of each context and be infused with grassroots understandings. This ‘bottom-up’ approach is important to inculcating a sense of ownership. In the combating of impunity and cultures of silence, and in the framework of human rights, this realisation must be given a more central role. Indeed, whilst memory initiatives must necessarily be seen as influencing social and political changes, they must also be directed towards positive change at the grassroots.

Once again, practice is demonstrative. Taking as an example the current climate of a distinct ‘top-down’ narrative in Rwanda where a huge chunk of the population is effectively alienated, evidence suggests that at the grassroots these state-sponsored initiatives nevertheless have little impact. Indeed, whilst the potential for such divisive rhetoric from the ‘top-down’ to negatively influence memory and ideology in Rwanda should not be forgotten, for ordinary people seeking to negotiate and come to terms with their past and the deaths of their relatives, informal initiatives have seemingly much greater significance. The importance of this message should be heeded. For in concluding this Report in April 2011 - the beginning of the seventeenth commemoration period of the Genocide - contradictions abound. The narrative promoted by the current Rwandan regime focuses exclusively on GHRV committed against the Tutsi population, effectively criminalises the Hutu ethnicity, but also excludes from the imposed collective memory those

Hutus who did not participate or actively refused to join the killings, as well as those violations committed by the RPF<sup>23</sup> in the course of halting the Genocide and thereafter against civilian refugees in Zaire (now the DRC). It remains to be seen what the long-term effects of this narrative will be - in spite of growing discontent both inside Rwanda and at an international level - but in the short-term the contradictions can be seen in the theme of the this year's commemoration period: *Commemorating the Genocide against the Tutsi: Upholding the Truth, Preserving our Dignity*.

In this respect, the inference is that in many contexts there may currently be something of a correlation between the size of an initiative, and consequently the level of international fanfare it receives, and the internalisation of that initiative at the grassroots. The suggestion is that informal initiatives of memory are more relevant to ordinary people. This relationship may furthermore translate into processes of truth-telling, whereby local communities become the most suitable and effective arenas for truth-telling. This process should be better understood and deferred to, since when done respectfully and inclusively this may well provide a strong base for combating impunity by allowing an honest examination of stakeholders and past GHRV, which in turn can benefit future generations. More concerted effort is needed to understand this process and to truly engage with local communities in the process of truth-telling and inculcating ownership of a collective memory. This remains a challenge, but the first step is to explore these existing informal initiatives in order to understand the role that they play for local communities dealing with memories of the past. Furthermore, what is unclear is the extent to which such local dynamics can lead to profound impact on a society's culture of impunity, or whether initial progress must be built upon in larger initiatives.

Nonetheless, outside involvement should not be discouraged out of hand. With greater appreciation of the dynamics at play at the grassroots of a particular context, outsiders can begin to engage with local communities in order to understand where international efforts can contribute most effectively. In this process ownership is again key, meaning that communities must be afforded the central role in the creation and maintenance of initiatives. Such involvement must be important to fulfilling not only the hypothesised objectives of commemoration and dignity, but also the process of honest reflection on the past. With increased ownership will also potentially arise increased connection to future generations, as discussed above. The benefit of distance for outsiders will also allow for an objective examination of the root causes of GHRV, which can be fed into memory initiatives. This fusion of an objective view of the past with subjective realities may well provide a strong base for addressing cultures of silence and may furthermore assist divided communities in understanding the realities that faced, and are facing, the 'Other'. However, such cannot be achieved where the outside engagement is not neutral.

In attempting to assist communities after violence reflection by outsiders is fundamental. A critical examination of efforts is necessary in order to both appreciate the possibility of unintended consequences<sup>24</sup> and to avoid promoting political agendas. Organisations in Rwanda could well learn from this warning. Since just as outside engagement can have a potentially positive impact on the collective memory and for certain objectives that memory initiatives may well be able to achieve, the risk and possibility of negative consequences is very real. The danger of becoming complicit in the promotion of political agendas, biased narratives and the interests of one group of stakeholders, and consequently fuelling a culture of silence that breeds impunity, is omnipresent for outsiders. This means that sensitivity must be balanced by the maintenance of critical distance. Simply because engagement should be sensitive to stakeholder and in particular grassroots interests, this does not automatically render those interests legitimate and beneficial for that context and the combating of impunity. This should remain at the forefront of engagement, whether with *victim initiatives or multi-ethnic/multi-memory initiatives*. Just as tendencies should not be imposed from the 'top-down', 'bottom-up' interests cannot always prevail, particularly when those interests may negatively affect transitions from violence.

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23 The Rwandan Patriotic Front (RPF) and its military wing, the Rwandan Patriotic Army (RPA) were led by the current President of Rwanda, Paul Kagame. Despite being credited for putting an end to the Genocide, more questions are being asked about the RPF's role before, during and after the events of 1994. In 2010, a UN report found evidence to suggest that the RPF had committed massive human rights violations and violations of international law in Zaire (DRC). The report even suggested that 'genocide' may have been committed, though the final report was significantly watered-down after protests from Rwanda.

24 Dr Jens Meierhenrich, Memorialisation Conference, 30 November 2010.

## 9. CONCLUSION AND RECOMMENDATIONS

The debates, report and analysis reveal several important conclusions concerning memory initiatives. Whilst further research is needed to understand the relationship between memory initiatives and impunity, the following areas must be built upon, as directed in the debate series.

Memory is both a dynamic and divisive process. The capacity of memory initiatives to contribute to both retrospective and prospective objectives after the perpetration of GHRV can be a potentially significant influence on cultures of silence and impunity. Equally, the process may quite possibly open old wounds and reinvigorate conflict. Thus, whilst reflection on the past is important, timing is crucial. Memory must be given recognition as a process that evolves, with sufficient time and space for such evolution. Communities affected by GHRV must be afforded time to come to terms with their past whilst negotiating the after-effects of violence that prevail in their communities. These communities must be accorded a central role in delimiting the boundaries of where memory initiatives can be utilised and what they can achieve, particularly until further research establishes a better understanding of the contribution - positive or negative - of memory initiatives in practice. This involves allowing objectives to be articulated at the grassroots, not imposed from outside, and not imposed according to one-size-fits-all blueprints. Identifying cross-cutting dilemmas between contexts is not the same as attempting to generalise approaches.

After the lapse of sufficient time, communities may be encouraged to reflect critically on the past, which includes the role of former enemies or those who committed GHRV. Here, whilst comprehension is not equivalent to sympathy, demonisation is unhelpful in the long-term as it omits consideration of wider contributing factors. In this sense, the current perpetrator-victim-bystander paradigm is often artificial and hinders honest engagement with the past and collective memories. Outsiders can encourage such reflection, but must remain alert to the impact of their involvement and possible unintended consequences. Maintaining a critical distance will help to avoid the risks of politicisation and promoting political agendas.

The multiple meaning of 'facts', 'truth' and 'memory' even within 'collective memory' is a challenge after violence, but equally the very thing that can liberate communities from the scourge of impunity and cultures of silence after GHRV. In the immediate aftermath of GHRV however, an awareness of the differences between hypothesised *victim initiatives* and *multi-ethnic/multi-memory initiatives* may well be a crucial starting point.

### GENERAL RECOMMENDATIONS

- Respect the heterogeneity of memory initiatives. Respect must be given to the potential division between initiatives that aim to examine and understand the past in an explicitly neutral manner, seeking objectives including deterrence, historical narratives, and the promotion of inter- and intra-community understanding, with an explicit eye to breaking cultures of silence, and those initiatives that - at least in the immediate years after GHRV - seek to promote purely the interests of individual groups or communities, which may first be commemoration, coming to terms with violence, understanding the past and dealing with prevailing realities.
- Memory initiatives have a role as part of a holistic TJ agenda, alongside other mechanisms.
- More research is needed in a comprehensive and sustained manner in order to understand the role of memory initiatives after violence.

## RECOMMENDATIONS TO OUTSIDERS

- Taking heed of the above General Recommendations, memory initiatives are a process. Where it is desired, time must be allowed for communities to deal with the past before instrumental objectives are attempted. The emotive subject of GHRV may mean that memories are too raw in the immediate aftermath of violations to contemplate broader objectives.
- Assisting in the process of TJ and memory initiatives must be undertaken in a ‘bottom-up’ manner, since these mechanisms should not be imposed from the outside. Greater consideration of context is fundamental to truly combating cultures of silence and impunity. This involves active engagement with the grassroots to understand the needs and realities as expressed by ordinary people.
- Sensitivity to context and consulting with affected communities must be done in a way that respects a critical distance. Those engaging with the issue of memory must be alive to unintended risks of promoting political agendas.
- As the experience of mechanisms of TJ is beginning to demonstrate, there are implicit risks of promoting and attempting multiple and instrumental objectives. Engagement with the grassroots should assist in defining the objectives that memory initiatives can pursue. Promoting multiple objectives, especially in the absence of concrete, empirical evidence, may only lead to disappointment and further discontent.
- The way in which past violence and GHRV continue to affect the present must be understood before any intervention or assistance is attempted. This includes not only the manifestation in socio-economic conditions, but also understanding that memory itself may exist as the fundamental division between groups, or the defining factor of a group’s identity as compared to the ‘Other’.
- The dynamic nature of memory and memory initiatives should be harnessed. This is particularly relevant for engaging with younger generations and for promoting education about the full extent of the past.



## APPENDIX I

### ORGANISATIONAL PARTNERS

**Impunity Watch (IW)** is a Netherlands-based, international non-profit organisation founded to uncover and address the obstacles that obstruct many Transitional Justice mechanisms in bringing truth, justice, reparations and guarantees of non-repetition to victims; a problem that often reflects a failure to take into account local knowledge and concerns in their design. IW's approach is to assist civil society - local experts, activists and victims - to have a stronger input in policy-making in this sphere, so that their grassroots knowledge, contacts and insight can help create policies that truly respond to the range of needs, concerns and grievances, and tackle impunity at its roots.

The **Anne Frank House (AFH)** spreads awareness of the life story and diary of Anne Frank by maintaining as a memorial site the house in which the Frank family hid and acquainting the global public with her story in a variety of ways. The AFH aims to inspire reflection on, and discussion of, the dangers of anti-Semitism, racism, and discrimination, and, related to this, to generate debate on the importance of freedom, equal rights under the law and democracy.



## APPENDIX II

### DEFINITIONS

**Impunity:** *the impossibility de jure or de facto of bringing the perpetrators of serious crimes and gross violations of human rights under international law to account whether in criminal, civil, administrative or disciplinary proceedings since they are not subject to any inquiry that might lead to their being accused, arrested, tried and, if found guilty, sentenced to appropriate penalties, and to making reparations to their victims.*

Measures designed to prevent recurrence of such violations, while not amounting to accountability as such, are a crucial additional component of an adequate state response. IW believes impunity to be a consequence of identifiable obstacles in six key areas: normative framework, institutional resources and capacity, independence and willingness, political will, influence of entrenched interests and societal factors within countries.

According to IW, responsibility includes a criminal law dimension (individual responsibility and state obligations to establish jurisdiction over individuals and over crimes) and a human rights law dimension (state obligations to provide effective remedies to victims). However, IW sees impunity not as a problem confined purely to legal systems or to the administration of justice but as a symptom of weaknesses in all three branches of state and so includes these within the scope of its definition. Beyond state institutions, IW believes that impunity extends to the influences of non-state actors and societal factors, which can be crucial to the success or failure of transitional justice initiatives.

**Memory Initiatives:** *any activity promoted by entrepreneurs of memory which aims to enhance the understanding of a past characterised by conflict, including the operation of museums and exhibits, the erection and maintenance of memorials and monuments, the creation and observance of remembrance days, musical and theatre workshops and performances on relevant topics, the creation of associations of victims, their relatives, their communities and those who sympathise with and support them, the running of educational, awareness-raising and remembrance programmes, and the gathering of information and campaigning in relation to all of these approaches.*

Entrepreneurs of memory are understood to include those individuals, groups and institutions which aim to enhance the understanding of a conflictive past, including museums, associations of victims, their relatives, their communities and those who sympathise with and support them, such as human and minority rights organisations, civil society organisations dealing with education and memory, religious groups, schools and universities.



## APPENDIX III

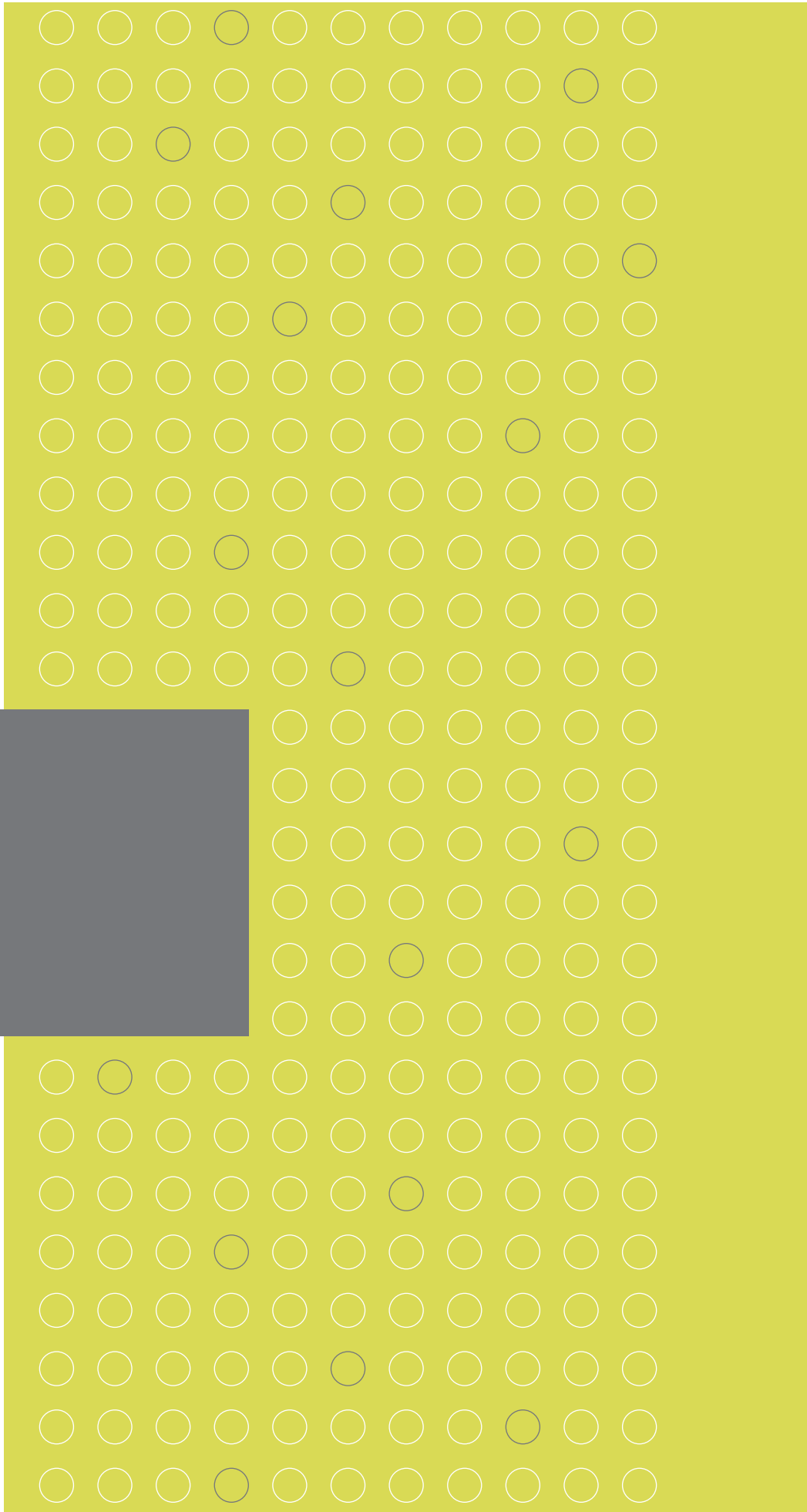
### DEBATE SERIES PARTICIPATING ORGANISATIONS

Anne Frank Foundation  
Campus Den Haag - University of Leiden  
Centre for Conflict Studies (University of Utrecht)  
Centre for Holocaust and Genocide Studies (CHGS)  
Centre for Humanities (University of Utrecht)  
Critical Mass  
European Association of History Educators (EUROCLIO)  
German Historical Museum/Camp Ravensbrück memorial  
Heidelberg University, Germany  
Hivos  
ICCO  
IKV/Pax Christi  
Institute for Historical Justice and Reconciliation (IHJR)  
Institute for Social Studies (ISS)  
Institute for War and Peace Reporting (IWPR)  
Intercultural Museum and Heritage Projects (IMHP)  
International Criminal Tribunal for the former Yugoslavia (ICTY)  
Leuven University, Belgium  
London School of Economics and Political Sciences  
Mensen met een Missie  
Ministry of Education, Culture and Science, the Netherlands (OCW – department national heritage)  
Ministry of Foreign Affairs, the Netherlands  
Nationaal Comité 4 en 5 mei  
National Institute for the Study of Dutch Slavery and its Legacy (NiNsee)  
National Institute for War Documentation (NIOD)  
Netherlands Helsinki Committee  
Netherlands Institute for Human Rights (SIM - University of Utrecht)  
Netherlands Institute of International Relations Clingendael  
Radio La Benevolencija  
Special Court for Sierra Leone (SCSL)  
Special Tribunal for Lebanon (STL)  
Stichting Leren  
University Amsterdam (VU)  
University of Amsterdam (UVA)  
University of Antwerp, Belgium  
University of Colombo, Sri Lanka





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Cover image: Frank de Ruiter.  
Images of the disappeared affixed to  
a wall in Guatemala City, Guatemala.  
Absent a traditional memorial,  
the simple images attest to  
ongoing impunity and serve as  
family-led initiatives to remember  
their loved ones.

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