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THE PALGRAVE HANDBOOK OF STATE-SPONSORED HISTORY AFTER 1945

Edited by Berber Bevernage and Nico Wouters



The Palgrave Handbook of State-Sponsored
History After 1945

Berber Bevernage · Nico Wouters
Editors

The Palgrave
Handbook of State-
Sponsored History
After 1945

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State-Sponsored History After 1945: An Introduction

Berber Bevernage and Nico Wouters

PRESENTING THE HANDBOOK

State-sponsored history is not a widely used academic concept or an established field of study. When used, it is mostly considered in a narrow sense, for example, in a standard association with ‘official history.’ With this handbook, we aim to introduce state-sponsored history as a much more diverse and complex series of processes and outcomes of direct and indirect state influence on the construction of history and public memory (Bodnar 1992). In doing so, we aim to provide the first systematic integrated analysis of the role that states or state actors have played in these processes since 1945.

Engaging the past through diverse practices and institutions has been a constitutive aspect of the phenomenology of the modern state. Managing the circulation of information and ideas about history and even conjuring up the past through public activities such as commemorative rituals, re-enactments or the creation of monuments, often has served to cement the relationship between the state and the nation. In order to analyse this close relationship in a broad sense, we take into account the legislative, executive and judicial functions of the state. Such a broader take on state-sponsored history allows

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us to connect diverse phenomena as well as separate strands of literature related to history and public memory that we believe belong together. This handbook therefore aims to contribute to the study of history and public memory by combining elements of state-focused research in separate fields of study. Looking at the memorial capacities of modern states furthermore allows us to contribute to the study of the state itself. Looking at the state through its broad memorialising capacities adds an analytical perspective that is not often found in classical studies of the state. In order to fulfil this ambition, the handbook has a broad geographical focus and analyses cases from different regions around the world. We mainly look at democratic contexts, although dictatorial regimes are not excluded.

State-Sponsored History?

Official history in the narrow sense refers to forms of officially sanctioned history, often written by historians working in state departments or public functions. The burgeoning field of public history, for example, owes a lot to historians working for governments or in public functions (Tyrrell 2005, pp. 153–155; Jordanova 2006, p. 137). In the United States, historians working for the federal government have their own professional society and journal (*Society for History in the Federal Government*; see Leopold 1977; Hewlett 1978; Kammen 1980, pp. 44–45; Reuss 1986; Graham 1993). In New Zealand state(-related) agencies offer a major source of employment for historians (Dalley and Phillips 2001, p. 10; Dalley 2009). Topics of official histories can greatly differ, ranging from military history, histories of government agencies and policies to more general themes of (perceived) public interest. Historians working on official histories tend to receive the criticism that they merely execute political agendas. Yet, some have claimed that official histories can be intellectually innovative. Official military histories in the United States, for example, according to Jeffrey Grey (2003, p. xi), focused on the roles of women and Afro-Americans well before these subjects were studied in mainstream historiography (Grey 2003). Supporters argue that official historians sometimes enjoy relatively extensive intellectual autonomy and have the leeway to voice opinions other than those of their employers (Reuss 1986).

Despite the continuing importance of official history, state-sponsored history is much broader, varied and, we argue, important. Modern states delegate parts of their functions and responsibilities to individuals and groups which cannot be considered state officials or personnel. ‘The modern state,’ Matthew Flinders (2006, p. 223) argues, ‘could not function without delegation,’ and this also applies to state-sponsored history. The relation between the modern state and the writing of (national) history has always involved forms of delegation including public–private partnerships. In some states it has been commonplace to leave crucial aspects of the collective relations to the past—including national commemorations, heritage conservation and

archival practices—to private initiative. In these cases the state provides financial aid or symbolic sanction rather than taking the direct initiative. The history of the relations between historians and the state in the United States provides an important example (Tyrrell 2005, p. 155). Yet, delegation also occurs in countries with long traditions of state intervention. A prime example is the so-called historical expert commission (see Part IX of this Handbook, Historical Expert Commissions and Commissioned History), often created when states are confronted with difficult historical issues which demand state initiative but where official history would be suspect and counter-productive. Another prime example is the common financial and logistical arrangement between the state and universities or research institutes (see Part III of this Handbook, Research Institutes and Policies). To study state-sponsored history we have to include the blurry boundaries between the public and the private and the more indirect, ‘arm’s length,’ forms of governance.

In addition to official history, state-sponsored history is also often associated with censorship or official denial. State-sanctioned censorship of history has been a widespread phenomenon in the past and there are few indications that this will change in the near future (see De Baets 2002). Censorship, certainly when enforced through intimidation and violence, is arguably the most blunt and disabling way in which states commonly intervene in the formation of history and public memory. In its most clear-cut form we encounter this in authoritarian or totalitarian regimes. Yet, as complex a phenomenon as state-sponsored history should not be reduced entirely to its most extreme manifestations. Indeed, forms of (self-)censorship, for strategic reasons of funding, for example, are quite common in democratic regimes as well.

In its broad approach, this handbook addresses *restraining* or *disabling* as well as *constructive* or *enabling* aspects of state-sponsored history. States can indeed be deeply involved in politics of historical denial and can severely violate academic freedom. Yet, states also have been, and still are, of crucial importance in the creation and protection of academic freedom or autonomy through legislation, funding and logistics. This can shelter academics from the direct demands by market forces, ruling classes or partisan groups. Investments by states in academic research and higher education, of course, also often come with demands and therefore with a price. As Pierre Bourdieu (1994, p. 3) argues for the social sciences (and by extension for the humanities):

History attests that the social sciences can increase their independence from the pressures of social demand ... only by increasing their reliance upon the state. And thus they run the risk of losing their autonomy *from* the state, unless they are prepared to use *against* the state the (relative) freedom that it grants them.¹

The autonomy of academia vis-à-vis the state is always relative and differs from case to case (Neave 1982; Neave and Van Vught 1991). Yet, because

most modern states claim to impartially represent the general interests of their citizens (rather than the specific interests of any particular group), they often have a certain ‘interest to disinterestedness’ (Bourdieu 1994, p. 18), even if only nominally. This can be used as leverage by academics to stress the social and political importance for the state of their profession, which they often claim to be based on the values of autonomy, impartiality and disinterested objectivity. Keeping a close relationship with the state can in many cases be attractive to academics, because they want to share in its authority, access its resources or contribute to the perceived general interest.

States can also deploy their enabling capacities in policies of counter-denial. They can do this, for example, by officially acknowledging certain events or even by actively granting a specific moral status to particular pasts. Contemporary victim or survivor groups, indeed, frequently turn towards the state in their struggles for memory and against denial. Memory activists often demand official acknowledgment, the official recognition by states or state-actors of specific knowledge or value claims.² As Peter Gray and Oliver Kendrick (2001, p. 13) argue, the state ‘remains for many the ultimate arbiter of the status of a particular memory.’

In short, one who considers the complex relationship between academia and the state merely in terms of a ‘freedom versus servitude,’ or the equally complex relationship between memory activists and the state merely in terms of ‘resistance versus domination,’ will miss important dimensions of state-sponsored history.

Finally, state-sponsored history can be approached in very general terms as both a mechanism or *process* and as the outcome or *product* of this. This handbook focuses on both dimensions. As a *process*, state-sponsored history refers to a complex series of practices that can take multiple shapes in different regime types. It occurs when different levels of state power or state actors actively (but not necessarily overtly) initiate or intervene in the construction of history and public memory. We could call this the memorialising state.

As a *product*, state-sponsored history refers first to the concrete and direct (intended or unintended) results yielded by state initiatives, intervention or influence. Such a direct result can be anything, ranging from textbooks and historical publications to memory laws, memorials and public apologies. Second, it also refers to the more indirect (intended or unintended) results, which manifest themselves in less concretely visible but often also more durable forms of historical (meta)narratives (Somers 1994) or memory regimes (Kubik and Bernhard 2014). These (meta)narratives and memory regimes are not only sponsored by the state but are also regularly *about* the state, in the sense that they actively construct or reinforce certain representations of the state. This we can call the memorialised state.³

Some Preliminary Comments on the Concept of the State

This volume is not a contribution to state theory and does not aim to offer a definition or an overarching theory about the nature, boundaries and

workings of the state. However, some preliminary conceptual remarks about how we use the concept of state are necessary. Defining ‘the state’ remains notoriously difficult. As Bob Jessop (2013, p. 339) writes:

Is the state best defined by its legal form, its coercive capacities, its institutional composition and boundaries, its internal operations and modes of calculation, its declared aims, its functions for the broader society or its sovereign place in the international system? Is it a thing, a subject, a social relation, or simply a construct which helps to orientate political action?

Many scholars have declared the retreat of the state (Strange 1996) in the context of neoliberal politics and economic globalisation. The globalised world after 1945, according to some commentators, has been an era in which states and state-actors were ‘overgrown by other forms of organisation: issue-based networks, collective security arrangements, global markets, new political forms such as the EU, and political processes segmented by policy arenas’ (Warren 2008, p. 384). Undoubtedly, the power of states and their influence on social relations have become less clear after 1945. State functions and powers have been delegated upwards (supranational institutions), sideways (civil society organisations, the market) and downwards (subnational levels and organisations; Biebricher 2013). Appropriating the language of Michel Foucault, some have defended a shift in research focus from states and governments to more decentred forms of ‘governmentality’ (as discussed in Dean and Villadsen 2016). They stress that distinctions between state and other social spheres are neither natural nor static. Some have even questioned whether it still makes sense to use the concept of ‘the state’ in societies with such highly dispersed power relations.

This handbook starts from the premise that the state should indeed not be treated as a ‘thing’ with clearly defined and fixed boundaries. Rather it should be seen as a loose set of entities and practices which can function in profoundly different ways depending on the historical, sociocultural or institutional context. Modern states include (or exclude) different apparatuses, spheres and people with different aims (Biebricher 2013). When using the term ‘the state’, we refer to this diversity of entities and practices. Yet, despite this ‘polymorphous’ and ‘polycontextual’ nature of the modern state (Jessop 2015, p. 44) the central claim of this handbook is that states and state actors continued to play an important role in the production of history and public memory after 1945, perhaps even increasingly so, and they therefore remain viable objects of academic study. In short, this handbook does not dwell on the question of what the state actually is or how it should be defined. Rather we focus on particular state capacities and functions. Our focus is both on the memorialising state, or the various ways in which states, successfully or unsuccessfully, mobilise their power and resources to create particular histories and memory regimes as well as on the memorialised state, or the multiple results and outcomes of these state interventions and

the way in which certain forms of statehood are constituted or reinforced through them.

States can influence history and public memory in four capacities: as legislators, as financial investors or institution builders, as ‘nominators’ or ‘consecrators’ and as judicial powers or ‘arbiters.’ Firstly, states create laws and these laws influence professional historiography and public memory in many ways. The relatively recent surge of memory laws (see Part I in this Handbook, *Memory Laws and Legislated History*) is an important example. Yet, many other legislative interventions exist which are highly relevant for the work of historians and the construction of historical narratives.

Secondly, states can provide the financial means that are necessary for the maintenance of professional historiography and history education but also for many other forms of historical culture, including memorials and commemorations (see Part VI of this Handbook, *Memorials, Monuments and Heritage*). States are also of critical importance to historiography and public memory due to their capacity to build institutions. Although they have often worked in collaboration with, or have taken over, existing initiatives by ‘private’ social groups—such as religious orders, associations of amateurs or collectives of victims and activists—states play a crucial and ongoing role in the creation and regulation of institutions such as archives, research centres, museums, schools and the like.

Thirdly, states have particular capacities in the ‘realm of symbolic production’ (Bourdieu 1994, p. 2). States, as Pierre Bourdieu (1994, p. 10) argues, have a sometimes enigmatic power of ‘nomination’ or ‘consecration,’ even if this power seldom remains unchallenged. According to Bourdieu the modern state historically was able to transform premodern forms of ‘diffuse symbolic capital,’ primarily based on forms of recognition between groups of peers, in an ‘objectified symbolic capital,’ codified and bureaucratised. Such power of nomination is implied in a wide range of tasks, from the official registration of birth, marriage or death, to sworn translations or even the granting of university diplomas. This power of nomination is, for example, highly relevant for the creation of truth commissions and historical expert commissions (see Part VIII of this Handbook, *Truth Commissions and Commissioned History*, and Part IX, *Historical Expert Commissions and Commissioned History*), but also to distinguish analytically between official and unofficial or acknowledged and unacknowledged histories. This is also why official historical apologies only tend to ‘work’ if they are pronounced by persons in particular positions who follow strictly codified rules or scripts (see Part X of this Handbook, *Official Apologies and Diplomatic History*). In short, states can mobilise their symbolic capital to invest in specific persons, ideas or causes which via acts of nomination can, if successful, then become symbolically augmented or integrated in an official canon.

Finally, states have the capacity to speak justice and to function as arbiters in societal disputes. This is the result of a gradual historical process whereby states replaced or incorporated older competing judicial powers (held by religious authorities, local rulers, traditional leaders etc.). Surely certain levels of legal pluralism continue to be a common feature in many countries (Holden 2016; Dupret et al. 1999; Zips and Weilenmann 2011). Moreover, as we discuss, the judicial sovereignty of states has been both challenged and strengthened by the rise of supra- and interstate judicial powers such as the International Criminal Court, the European Court of Human Rights and the Inter-American Court for Human Rights. Few scholars will contest, however, that modern states continue to have exceptional judicial powers. State-based judicial powers have arguably become even more important in relation to the construction of history after 1945 than before, because states have increasingly used courts and tribunals as public history classes and to decide on good versus bad in history or even on legitimate versus illegitimate historical interpretation.

A BRIEF SKETCH OF STATE-SPONSORED HISTORY BEFORE 1945

The age-old use of chroniclers or court historians by rulers all over the world to legitimate their rule is well-known (e.g. Evans 1993; Twitchett 1992; Kurz 2012; von Ostenfeld-Suske 2012; Kagan 2009; Grell 2006; Woodhead 2007; Lanziti 2016). Yet, with the rise of the modern state and modern colonialism history became even more crucial. Emerging nation-states needed to legitimise their sovereignty and even their very existence, both towards their own populaces as well as towards other states. Historical narratives offered the necessary political, legal, cultural and moral arguments. Established and emerging states in the nineteenth and early twentieth centuries developed several classic ways to use history for this purpose. The way such a process proceeded depended on the type of relationship between states and nations as well as the level of institutional advancement of states. Yet, whatever the type of state, history always was an essential mode whereby non-nations were converted into nations (Duara 1995, p. 27). This was the case in Europe but also in many other regions. In the Arab world, for example, Youssef Choueiri (2003, p. 5) argues, modern historiography, ‘emerged at the dawn of the nineteenth century in conjunction with the rise of a relatively well-defined territorial unit, governed by a quasi-western state.’ When the combined impact of Ottoman reform and breakdown and European influence and encroachment triggered the creation of separate national states in the Arab world, historians played a key role in this process by carving up and reallocating among the new political entities a past that was previously considered common Arab or Islamic heritage (Choueiri 2003, pp. 6–7; also see Determann 2013).

History has also been used to differentiate allegedly civilised, advanced or modern people from allegedly uncivilised, backward and premodern ones, particularly to legitimise colonial projects. Indeed, state-sponsored history greatly expanded during the age of colonialism. Several scholars have noted the importance for the colonial enterprise of ‘state-generated knowledge,’ often geographical and ethnographic but also historiographic and archival (Edney 1997; Cohn 1996; Guha 1997; Ballantyne 2001).⁴ ‘The establishment of empire,’ Anne Norton (1993, p. 453) argues, ‘requires the colonization of time, the rule of memory.’ Colonial states used history to claim the cultural inferiority of the colonised but also to understand local power and property structures (Guha 1997), to mediate in local conflicts (Prior 1993) or to incorporate and codify allegedly traditional forms of authority (Norton 1993).

National Heritage and Its Infrastructure

Until the eighteenth century cultural objects were mainly gathered and categorised by private collectors, however, the French Revolution launched the notion of a public national heritage (*patrimoine*). The revolutionary politician Abbé Grégoire defended the idea of national objects that belonged to ‘all citizens.’ Moreover, he argued that it fell to the state to identify such objects, especially among the works of art confiscated by the revolutionary regime, and to take measures to protect, preserve and make them publicly accessible. The notion of national heritage necessitated not only a legal framework of protection, but also the creation of national infrastructures that would later turn out to be important instruments of nation-building (Sax 1990; Poulot 1993; Arrhenius 2012).

A first type of infrastructure that emerged was centralised national or imperial libraries and archives (see Part II of this Handbook, Archives and Libraries). Although the first collected and created access to books and other written material, the latter generally collected documents that were created by the state itself (or by its legal predecessors). France provides a textbook example, where the National Archives were created in 1790. Many national archives would quickly exceed their task of preserving state documents to gather all kinds of documents which were considered relevant to the nation or empire. This often included archives seized during military campaigns or after territorial expansions (Huskamp Peterson 2005) which, for example, happened extensively during the Napoleonic wars. In fact the massive seizure of archives by the French imperial armies and their subsequent ‘repatriation’ after Napoleon’s demise formed a catalyst event in the creation of national archives in European countries outside France. As with works of art, the issue of ‘transported’ archives stimulated the idea that independent nations needed a national archive to safeguard documents that could serve to define the nation (Verschaffel 2012, p. 31).

In order to function as symbols of national independence, however, archives, or at least a careful selection, had to be made public or be exhibited. Archival pieces were sometimes literally exhibited in their original material form, but a more efficient way of distributing them was by publication in facsimile or edited formats (Saxer 2012, p. 51). Therefore, another important instrument of state-sponsored history to emerge during the nineteenth century was large publication series of sources. Classic examples are the *Monumenta Germaniae Historica*, the *Recueil des historiens des Gaules et de la France* (1869–1904, 24 vols.), the *Colección de documentos inéditos para la Historia de España* (1842–1895, 113 vols.), the *Chronicles and Memorials of Great Britain and Ireland During the Middle Ages* (1858–1911, 253 vols.), the *US Foreign Relations* series (McAllister, Botts, Cozzens and Marrs 2015) and the *Fonti per la storia d'Italia* (started in 1887).

Yet, even here archival collections remained mostly directed at a small circle of elites, if only because their consumption demanded a high level of literacy. State-sponsored national museums had greater potential to reach a broad audience (see Part V, Museums and Musealisation). In these museums, objects were recontextualised and their narratives rewritten into symbolical anchor points of an emerging national identity. Older works of art retroactively came to embody the modern nation, such as the iconic *Nachtwacht* by Rembrandt van Rijn that in 1885 received a central place in the *Rijksmuseum* in Amsterdam. We should, however, be careful not to see such initiatives only as stratagems of nation-building. In Britain, for example, the state rarely took the initiative to create national museums, and most of the British national museums grew out of state responses to large donations by collectors (Watson and Sawyer 2011). Colonial or ethnographic museums were also often created on the basis of such donations, and very often objects were removed from their countries of origin in questionable ways. Because these ‘exotic objects’ were now (dis)placed in European museums they gradually became ‘nationalised’ as European heritage, creating the problem of looted heritage after the 1960s (Barkan 2002), many of which are ongoing.

The showcasing of national heritage also put pressure on the predominantly transnational framework of a neoclassical Renaissance heritage rooted in the idea of a shared European Greco-Roman civilisation. Although this transnational idea remained actively upheld in the nineteenth century by a small cosmopolitan class of European elite-rulers, it came under pressure from, largely grassroots-based, national sensibilities that favoured the culturally specific. In nineteenth century Europe there was a growing shift in attention to medieval (Gothic) monuments, castles and cathedrals or the ‘picturesque cult’ of the rural authentic countryside that spread itself from the United Kingdom and Germany all over the continent after 1870. Nevertheless, national heritage as a form of conscious state-sponsored history did not come to play a dominant role overnight. Even in the first decades

of the existence of large museums such as the National Gallery in London or the *Rijksmuseum* in Amsterdam, the ‘national’ purpose was not the main driving force. Local or municipal interests, the individual interests of scholars or collectors, or classic-aesthetic principles continued to compete with the element of national identification mechanisms throughout the nineteenth century (Van der Laarse 2005, p. 6).

Networks of Professionals

The creation of new national infrastructures of history and heritage was also linked to the development of nationally organised networks of professionals. These included historians, but also archivists, archaeologists and specialists in art and heritage. Professionally trained state archivists actively had to manage official records and permanently appraise, select, describe, preserve and disclose those very historical records that would quickly become essential to the writing of national history (Schwartz and Cook 2002). Archivists therefore held important powers in relation to politics of national identity formation. Equally essential were the emerging networks of professional historians who were closely connected to statist efforts of nation-building (Iggers 2005). Even after the formation of a professionalised and supposedly ‘scientific’ historiography during the nineteenth century, the strong link between history and the state was reconfirmed or even strengthened (Tyrrell 1999). In many countries, states came to play a vital role in financing and supporting academic historians and their associations (Higham et al. 1965). In late nineteenth-century Japan, for example, the Meiji government played a key role in the creation of modern academic historiography by establishing a highly influential government office of historiography and by actively importing Western-style historiography (Mehl 1998; Furuya 2002).

The large majority of nineteenth and early twentieth century historians also loyally supported their states and often did not see any contradiction in combining a self-professed scientific impartiality with an openly avowed patriotism (Iggers 1997, pp. 28–30). The relations between historians and statesmen were often so close that the boundaries between their respective identities became blurred. Many prominent historians were deeply involved in politics. In Germany, for example, Heinrich von Sybel served in several Prussian political assemblies and led the Prussian state archives from 1875 to 1895 (Mehl 1998, p. 156), Johann Droysen served in the Frankfurt Parliament and the Bundestag (Emslie 2015, pp. 67–80), Barthold Georg Niebuhr functioned as a Prussian ambassador to the Vatican (Stern 1973, p. 46) and Leopold von Ranke received the title of official historiographer of the state (Berger et al. 1999, p. 7). In France, the influence of historians in politics, according to Georg Iggers (1997, p. 32), was possibly even greater than in Germany: historians such as François Guizot, Jules Michelet, Louis Blanc, Alphonse de Lamartine, Alexis de Tocqueville, Hippolyte Taine and Adolphe Thiers all occupied central political

mandates. In the Ottoman empire and the nation-states that emerged from it after its demise, too, the bureaucrat-historian or statesman-historian was a common figure (Choueiri 2003; Gorman 2003; Davis 2005).

In countries where relations between the state and the historical profession were less close, as was long the case in the United States, historians often complained that they deserved more direct influence on politics (Tyrrell 2005, pp. 153–155). In the United States, the forging of bonds with the state was an active strategy used by the supporters of an emerging professional historiography between 1880 and 1918. As Ian Tyrrell (1999) explains, being closely attached to the state had several advantages for academic historians: placing historiography in public service could increase the prestige of the discipline and of its professionals (who often came from lower classes than many elitist amateurs), but having access to the records of the nation-state also provided professional historians with sources to write national histories which could replace or incorporate the more restricted histories often written by amateur and local historians. In more general terms, Chris Lorenz (2010, p. 74) argues that even academic historians' methodological identification with 'objectivity' is closely related 'to the political theory of the "supra-partisan" nation-state, including the assumption that state archives were the primary storehouses of "realistic" information for historians.' In other words, the norm seemed to be that of a symbiotic relationship where both states and historians recognised their mutual interests.

Commemorations, Monuments and Memorials

Commemorative ceremonies are by no means a state monopoly, and people of all ages and cultures engage in them. It can be argued that the commemorative function is an important aspect of ancestor worshipping (Gauchet 1997) and it also features centrally in the great world religions, which Danièle Hervieu-Léger (2000) describes as 'chains of memory' (also see Connerton 1989). Yet, the organisation of state commemorative ceremonies—such as jubilees, centenaries of founding events or birthdays of public figures—and the erection of monuments and memorials has long been an important aspect of state-building. As such, it has been strongly expanded and assimilated by modern states since the late eighteenth century (Bartelson 2006; Burke 2010). Commemorative events and sites have also been an important part of the mass production of traditions, part of which were invented, that Eric Hobsbawm (1983) situates in Europe between 1870 and 1914 and which he closely relates to the legitimacy problem that state elites faced due to the rise of mass democracy. An example of the invention of new public commemorative celebrations as an alternative 'civic religion' can be found in the French Third Republic in 1880 when Bastille Day was initiated and where a true 'statue-mania' and 'cult of

memory' took root, especially after the Franco–Prussian war of 1870–1871 (Hobsbawm 1983; Winter 2006).

State elites, however, have not always been successful in disseminating their invented traditions and as a general rule their success depended on their ability to assimilate existing popular initiatives or to '[broadcast] on a wavelength to which the public was ready to tune in' (Hobsbawm 1983, p. 264). Strong popular demand, moreover, sometimes forced governments into official commemoration. This was, for example, the case in France in the late nineteenth century where the government, heavily pressured by veterans and only reluctantly, initiated official commemoration of the abovementioned Franco–Prussian war, an event that for the French state represented a humiliating military defeat and ensuing civil division (Varley 2002). Nevertheless, as Jay Winter argues (2006, p. 58), the dominant agenda behind official commemorations during the late nineteenth and early twentieth centuries can be interpreted as quite a transparent one: 'new political regimes had to invent or unearth an illustrious past to justify and stabilise their nascent political forms.'

Wars had an important impact on both the memorialising, as well as the memorialised state, in both disseminating the processes and rituals of memorialisation, as in providing their narrative themes and content. The First World War in particular is often seen as an essential catalyst for the spreading of new forms of commemoration and as sparking the rise of an unprecedented level of state intervention in public memory. One of the most remarkable features of the official commemorations after the First World War was their increasingly 'democratic' character and their strong focus on the remembrance and naming (Laqueur 1994) of common soldiers. Although some scholars observe similar, antecedent, tendencies after the Anglo–Boer War in South Africa (Stanley 2002; Donaldson 2013), memorialisation after the First World War was ground-breaking because it stressed the importance of the individual, even if standardised, burial and remembrance of the common soldier and civilian victim. This was in strong contrast to most older war memorials and commemorations which only named elites or officers and left common soldiers in scarcely marked mass graves (Gough 2008; Gillis 1994, pp. 9–10).

Newly established state-sponsored war graves commissions played a principal role in the identification of huge numbers of war dead, the registration of their last resting place and the creation of war cemeteries and memorials. In order to deal with the problem of the large numbers of missing or unidentifiable dead, an important commemorative innovation was established in several countries: the public remembrance of unknown soldiers centred around tombs containing unidentified human remains or even empty ones, as with the Cenotaph in London. This increased state intervention was based on pragmatic necessities or spurred by pressing popular demands for new rituals of mourning in the face of unprecedented suffering. We should therefore guard ourselves, as Jay Winter (2014) and David Cannadine (2011) argue,

to see too much political strategy or a *raison d'état* behind the new commemorative practices after the First World War, as many of them were based on popular initiatives and represented genuine sites of individual and collective mourning. Nevertheless, at the same time official memorial policies could contravene popular demands and even sometimes 'triumphed over personal and private desires' (Heffernan 1995, p. 313.). One example was Britain's contested decision not to repatriate the dead, which, although at least partly caused by basic practical and logistical reasons, did imply 'a radical shift in the command by the state over the identities of the war dead' (Werbner 1998, p. 71). This was because as 'official property,' Michael Heffernan (1995, p. 313) argues, the dead 'were not allowed to pass unnoticed back into the private world of their families,' because 'to do so would have dramatically diminished their collective cultural impact.' According to Bob Bushaway (1992) the state-sponsored memorial policies in Britain, with their stress on sacrifice and unity through remembrance, also 'resulted in the denial of any political critique of the Great War or of post-War society from the perspective of popular expectation or aspiration which, elsewhere, took the form of revolution or nationalism' (p. 137). In this sense, the memorialising state enacted processes that, in shaping how people were able to remember the dead, also crafted a narrative of equality in the uniformity of battlefield cemeteries, of the nobility of mass sacrifice and of common national suffering that united the populace.

Textbooks and Official Histories

States also intervened more directly in the writing and teaching of history, for example, by commissioning source series, historical publications and textbooks (see Part IV in this Handbook, Schools, Curricula and Textbooks). Policies to create uniform national textbooks and public history education predated modern state formation and were pioneered by Lutheran theologian Philip Melancthon (1497–1560) and much later in Catholic countries (France, Portugal, Spain and the Low Countries) confronted with the retreat of the Jesuit order during the 1760s–1780s (Fontaine 1985, pp. 95–96; Meirlaen 2014). The first national textbooks in a modern sense were sponsored by the different official commissions for school reform that were created in exactly this period (one of the very first of these modern examples was Jean des Roches' *Epitomes historiae Belgicae* from 1781–1782; see Dubois 2002). These commissioned textbooks, only called 'manual' or 'handbook' from the mid-nineteenth century onwards, were intended to be used by all teachers within the borders of the country and served as models for the modern state-sponsored (or state-approved) textbooks by the French revolutionary regime and post-Napoleonic European states.

Just as with national textbooks, the publication of national source series predated modern state formation and emerged from a gradual process in which traditional, premodern examples of such publications were

commissioned more systematically by national authorities. Modern states increasingly chose to publish and edit their own source series (and write their own historical accounts) rather than to leave this to the ‘free initiative’ of historians. The most important stimulus for modern states to commission such official histories systematically were military conflicts (e.g. in border regions) and wars. Indeed, official military histories written in military departments by so-called ‘historians in uniform’ became a systematic phenomenon in the nineteenth century, often stimulated by an international dynamic of the competition to ‘build a case’ (e.g. one state counteracting another state’s claims with their own source editions).

It was not until the First World War, however, that states used official (military) editions and publications to their fullest potential. Even early in this ‘total war,’ most countries created specific institutes and/or temporary structures such as commissions to gather documents and publish sources and national histories, first to legitimise the war effort, afterwards to lay claims to post-war reparations, and finally to organise history and public commemoration (e.g. Germany created the *Kriegsarchiv*, Great Britain the Imperial War Museum). In this way, war created a strong overlap or even symbiosis between the agendas of belligerent states and historians. In Belgium, for example, historian Henri Pirenne played a leading role in official state commissions and series of publications, yet at the same time used the momentum to push an agenda of scholarly innovation after 1918 (Benvindo et al. 2014, p. 177). Official histories were, however, also used after the First World War for reconciliatory purposes, as with the bilateral commissions (such as the Franco-German and Anglo-German ones), created to coordinate mutual textbook revision. Nevertheless, a true transnational history movement failed to launch after 1918; even the 150 volumes on 15 countries published with funding from the Carnegie Endowment for International Peace mostly remained nationally-oriented studies. We would see largely the same phenomenon of increased state intervention in official histories after 1945. The strong association of official history with military history, in fact, might be one of the explanations why official history has such a bad reputation, certainly among the anti-militarist generations which arose in the context of the 1960s and the War in Vietnam (Grey 2003, p. ix; Spector 1990; Krieger 1968).

CHANGING FACES OF STATE-SPONSORED HISTORY AFTER 1945

The relationship between states and historiography or public memory after 1945 shows many continuities with the situation in the nineteenth and early twentieth centuries. States still controlled national archives and seized foreign archives during military campaigns (Huskamp Peterson 2005), although the demand for repatriation of archives after military conflict and in post-colonial situations generated much stronger political tensions

between states (Auer 1998; Mnjama 2011) than it had before. States also still published official source series, and increasingly also full-fledged official histories to legitimise their political regime or their past behaviour. States also still tried to incorporate individual historians and historical associations into their projects of state- and nation-building. And dictatorial regimes that took their cue from authoritarian models of the 1930s continued to exist, or emerged anew, after 1945 on practically all continents.

Despite these continuities, however, there were also some new aspects to state-sponsored history after 1945. First, ‘national’ state-sponsored history was increasingly challenged by supranational and subnational groups and organisations which contested the absolute sovereignty of the nation-state in relation to history and memory. Second, state structures and capacities significantly changed after 1945—although unevenly and differently depending on the region—and this had a profound impact on state-sponsored history which at times took on radically new forms and functions. A third factor, we argue, was the changing assessment of knowledge and knowledge production that has accompanied the rise of so-called ‘knowledge economies,’ a process that is ongoing.

State Sovereignty Under Pressure

From ‘Above’: The Rise of Supranational Organisations, Norms and Regulations

If the First World War created a new world order that confirmed the near absolute sovereign powers of the nation-state, the Second World War catalysed the formation of a new supranational world order with built-in restraints to that very principle of absolute national sovereignty. The development of this supranational order was far from a linear process, was not uniformly applied and often took place more on the level of norms than that of action and enforcement. Yet, the new supranational norms and rules have had a significant impact on the way in which states deal with ‘their’ pasts. This is especially clear in relation to heritage policies and human rights violations. During the second half of the twentieth century there has been strong growth in international cultural heritage laws which increasingly codified the idea that certain aspects of historical culture belong to ‘humanity’ in general rather than solely to individual states and thus deserve international protection (Francioni 2004). The idea of so-called ‘world heritage’ was at first primarily used to protect material cultural heritage in contexts of war (see the Hague Convention of 1954) but has subsequently also involved norms about states’ domestic responsibility to protect material and natural heritage (see UNESCO World Heritage Convention of 1972) and even intangible cultural heritage (see UNESCO Convention on the Safeguarding of Intangible Cultural Heritage of 2003) in times of peace. Partly in response to the Taliban’s

notorious destruction of the Buddha statues in Bamiyan, the destruction of ancient heritage by IS/DAESH in Syria and Iraq and by Ansar Dine in the Malian city of Timbuktu—the latter being declared a war crime during a pioneering trial at the International Criminal Court (2016)—the idea has gained legal legitimacy that world heritage should be protected even if this contravenes the will of the state on whose territory it is situated, and even if this would have previously been considered a purely domestic affair. As Francesco Francioni (2004, p. 1220) argues:

... under appropriate circumstances, cultural heritage in the territory of any State may be considered an element of the general interest of the international community, and, as such, it must be protected even against the wishes of the territorial State... In this sense, culture as the common patrimony of humankind becomes an important tool to counterbalance sovereignty.

An even more important challenge to the sovereignty of national states (including their relation to the past) comes from the paradigm of universal human rights and the system of international criminal justice. Both evolutions can unarguably be seen as global outcomes of the Second World War. The precise genealogy and causes of these changes in the legal sphere, which Kathryn Sikkink (2011) calls ‘the justice cascade,’ are the subject of ongoing debate. There is large consensus among scholars, however, that many of the new practices and ideas about human rights and criminal law were pioneered, tested and disseminated in a series of emblematic trials such as the Nuremberg trials, the Eichmann trial in Jerusalem, the Junta trials in Buenos Aires, the Holocaust trials in France, the special tribunals for Rwanda (ICTR) and the former Yugoslavia (ICTY) and the International Criminal Court (ICC) in The Hague (see Part VII in this Handbook, Courts, Tribunals and Judicial History). The International Military Tribunal at Nuremberg after the Second World War as well as the subsequent American Military Tribunal actively integrated academics in their legal proceedings (Haberer 2005; Priemel and Stiller 2012), and launched a more durable trend in which a growing number of historians would be hired to help lawyers build their cases and even to appear in court as so-called ‘expert witnesses’ (Wijffels 2001; Evans 2002; Delafontaine 2015; Petrović 2002; Frei, Van Laak and Stolleis 2000). This ‘judicialisation of history’ has provoked numerous criticisms (e.g. Ginzburg 1991; Arendt 2006; Douzinas 2012) but some scholars have pointed to the methodological similarities and even overlap in goals between legal proceedings and historical research (Kircheimer 1961). According to Richard Wilson (2005 and 2011) internationally supervised courts and tribunals (such as the ICC and the ICTY) in particular can yield nuanced historical accounts which challenge the patriotic myths and biased historiography often produced by nation-states and their judicial branches. In addition, lawyers and judges in trials and tribunals on crimes against humanity increasingly came to see themselves as tasked with teaching public history as well as solely serving justice

(Osiel 1999; Sarat and Kearns 2009), and Lawrence Douglas (2001) aptly identifies the rise of a ‘didactic legality.’

Related phenomena that are equally relevant for state-sponsored history are the emergence of the concept of the so-called ‘right to the truth’ in international law and the emergence of the practice of ‘transitional justice,’ which aims to provide some level of justice in the context of societal transitions after violent conflict or dictatorship. The ‘right to the truth’ was pioneered in the Inter-American Court for Human Rights in a case on forced disappearance and implied that states have an obligation to inform relatives of *desaparecidos* about their fate. The right was later further elaborated in a series of UN resolutions and reports where it was interpreted much more broadly. As UN special rapporteur Louis Joinet (1997) explains, the right to truth:

is not simply the right of any individual victim or closely related persons to know what happened, a right to the truth. The right to know is also a collective right, drawing upon history to prevent violations from recurring in the future. Its corollary is a ‘duty to remember,’ which the State must assume, in order to guard against the perversions of history that go under the names of revisionism or negationism; the knowledge of the oppression it has lived through is part of a people’s national heritage and as such must be preserved.⁵

This right to truth and the norms of transitional justice are increasingly seen as a legitimate basis to limit states’ sovereignty regarding how they deal with their past. Human rights norms have given rise to the idea that states have an ‘archival imperative’ (Bickford 1999) regarding the dark pages of their history. The right to truth and the norms of transitional justice are also often mobilised to demand post-conflict states to set up truth commissions, erect memorial monuments, offer apologies or other reparatory measures. (For more information on the right to truth, see Groome 2011.)

From ‘Below’: Communitarian Demands for Recognition

The supranational normative and legal developments described above have often developed in response to initiatives or demands by subnational groups and they generally had an empowering effect on these groups and their struggles. During the last couple of decades, new subnational social groups have come to the fore in many countries that challenge the uniform state-sponsored historical narratives that existed in many countries after 1945. These groups include indigenous communities and other cultural minorities as well as new social movements, such as gay and lesbian activism. Although the struggle of these groups often comprises demands for socioeconomic redistribution, they simultaneously also demand recognition from states for identity-based rights and needs, as well as of historical violations of these rights and needs (Hobson 2003). This phenomenon has been named ‘politics of recognition’ by Charles Taylor (1994) and is considered a very important and

widespread political trend by many scholars. As Nancy Fraser (1995, p. 68) puts it:

The 'struggle for recognition' is fast becoming the paradigmatic form of political conflict in the late twentieth century. Demands for 'recognition of difference' fuel struggles of groups mobilized under the banners of nationality, ethnicity, 'race', gender, and sexuality. [...] Cultural domination supplants exploitation as the fundamental injustice. And cultural recognition displaces socioeconomic redistribution as the remedy for injustice and the goal of political struggle.

These new social and political forces have challenged absolute state sovereignty, as it were, 'from below.' The politics of recognition can be quite challenging for liberal democracies because although they are generally 'committed in principle to equal representation of all' (Gutmann 1994, p. 3), in the context of state-sponsored history, the demands for the recognition of particular histories sometimes contradict the more universalising and homogenising uses of history, both in terms of equal citizenship and for 'classic' nation-building. The increasing and sometimes conflicting demands by different groups for the official recognition of their particular pasts at the very least puts an increased stress on the state's functions of nomination/consecration and arbitration.

Confronted with the powerful mobilising force of the politics of recognition, many states have therefore adopted a variety of state-sponsored history strategies including the representation of minority histories in textbooks, monuments and museums, the granting of (symbolic) reparations and the offering of official apologies for historical injustices. An important example showing the pressure on the diverse state functions, is the Native American Graves Protection and Repatriation Act (NAGPRA), which was issued by the federal government of the United States in 1990. It required federal agencies and institutions, notably museums, to return Native American historical collections (including human remains and cultural objects) to their present-day culturally-affiliated native groups. Some scholars have perceived NAGPRA, and related subsequent laws in the United States and other countries, as a threat to scientific study and historical knowledge, especially after NAGPRA enabled Native American tribes to claim and rebury the approximately 8500-year-old skeleton of the so-called Kennewick Man which was discovered in 1996 and was also labelled by archaeologists as universal human heritage and claimed in the name of science (Owsley and Jantz 2002; Jenkins 2011; Editors Scientific American 2012). Native Americans and their supporters, however, have often interpreted NAGPRA as a necessary step towards restoring ownership over their culture, history and heritage (Gerstenblith 2002). As such it presents an important apex of the politics of recognition, one that could be considered to weaken national state sovereignty as well as the position of actors such as historians who traditionally allied themselves with

the state to defend their privileged position in matters of history and public memory.

New States, State-Capacities and Languages of Justification

Mainly due to the process of decolonisation in Africa, Asia and, to a lesser extent, the Americas, many ‘new’ states were created or gained legal sovereignty in the post-war period. Each of these newly independent states made use of state-sponsored history to justify its existence and construct its often complex identity as a multiethnic nation-state. Despite global trends creating restrictions to state sovereignty after 1945, many older states during the same period were also able to increase their powers and governmental capacities significantly. Notwithstanding important exceptions, the post-1945 picture is thus generally much more complex than that of a ‘retreat’ or ‘weakening’ of states in the face of globalisation.

Post-Colonial States

Post-colonial states attain a large part of their legitimacy from having overcome colonialism and just as state-sponsored history played an important role in constructing colonialism, equally it has been a key factor in attempts to dismantle it. For this purpose, emerging post-colonial states often demanded copies of, or at least full access to, their archives from the former colonising country, which often led to lengthy discussions (such as the one for example between Kenya and Great Britain with respect to the so-called ‘migrated archives,’ but also between Senegal and France, or Namibia and Germany). Colonial histories often served to deny sovereignty to colonised people by repudiating their historicity and by interpreting the pre-colonial as a mere prelude to the colonial. Post-colonial histories on the other hand, often strengthen claims to sovereignty by connecting the present to a glorious pre-colonial past and by reinterpreting the colonial period as an ‘interruption’ (Norton 1993).

Some phenomena are similar to what occurred earlier in Western countries. Post-colonial historians, for example, often revived old, or invented new, traditions in order to provide the new nation-state with a sense of antiquity and these efforts were generally supported by the state. Post-colonial states, at least in certain periods, generally also played a crucial role in the creation or consolidation of a professional discipline of history in their territories and the histories written by these professionals in turn were often strongly state-centred.

In sub-Saharan Africa, for example, the wave of decolonisation in the 1950s and 1960s produced an ‘veritable historical revolution’ (Reid 2015, p. 242) whereby African as well as some non-African historians enthusiastically engaged in projects of nation-building, frequently maintaining

close relations with leaders of African nationalist movements (Ranger 2009). The emerging university-based African historiography also regularly used the rise of African nationalism as a research object, thereby often using the model of nationalism as it had emerged in Europe much earlier (Iggers et al. 2013, p. 300). This meant that even among intellectuals who favoured pan-African nationalism and the creation of one African state, the state was 'privileged as a historical subject' (Jewsiewicki and Mudimbe 1993, p. 3).

When the initial nationalist enthusiasm waned, African historians started to study other topics, attempting to go beyond the history of national elites and to study the history of common indigenous people. Yet this intellectual reorientation in many African countries seems to have coincided with a decline of funding for academic history, a diminishing influence of historians in the public sphere and the dissolution of their privileged relation to the state (Reid 2015).

Some post-colonial states, certainly in Africa, seem to have grown anxious about the past in general and prefer a future-oriented developmental agenda as a source of nation-building (Reid 2015). This does not mean, however, that these states' engagement with the past has come to an end, and some have actively begun to instrumentalise traditional folk beliefs or pre-colonial traditions, such as the Vietnamese state recognising ancestor worship as the most popular form of belief in the country and using it actively after 2005 to impose cultural nationalism (Jellema 2007, p. 72). As Alessandro Triulzi (2006, p. 22) remarks in a study on the Horn of Africa and Southern Africa, the past few decades have seen the rise of new forms of state memorialisation. First, professional historians are 'relegated to a secondary role.' Second, representations of the national past are increasingly 'drafted in government offices by state intellectuals.' Third, 'an ill-defined "public memory," under the guise of state rituals and public memorialisation of past events, has come to dominate the public arena.' Several other scholars have confirmed Triulzi's thesis regarding an increasingly 'state-driven politics of memory' for other African regions, although they also stress the strongly varying institutional capacities of African states to control national history effectively (Ranger 2009; Reid 2015; Kössler 2007).

In general, it can be argued that anti-colonialism generally did not lead to a rejection of statehood, but rather to a further dissemination of its notions and ideals which historically originated in Western Europe and which colonialism helped spread. As Thomas Blom Hansen and Finn Stepputat (2001, p. 6) argue: 'In the eyes of [post-colonial] politicians, rebels, planners, and social scientists, the history of European state formation continues to provide powerful images of what a proper state should be,' and this includes the notion that sovereign states have a natural responsibility in matters of history and public memory.

Welfare States and Therapeutic States

Another relatively new type of statehood which produced new practices of state-sponsored history was the Keynesian welfare state that first appeared in Western democracies. The welfare state was applied differently in each country, but it generally created more powers and intervening capacities for states in social policies, the definition of civic or political rights, and the provision of utilities and services (Braithwaite 2009). This had interesting implications for state-sponsored history because from the outset, the ideological foundation of the welfare state involved more than merely socioeconomic matters. When John Maynard Keynes in 1936 defended his vision of a more interventionist state he also meant in cultural affairs and education. The national Council for the Encouragement of Music and the Arts in Great Britain created in 1940, for example, had Keynes as its first president. A similar close relation between state-sponsored history and the welfare state can be observed in the case of the New Deal program (1933–1938) in the United States under President Franklin D. Roosevelt. Part of the New Deal was a Federal Arts Projects (Federal Project Number One) that ultimately launched the Works Progress Administration's oral history project. Amongst others, this project collected circa 2000 interviews relating to the history of slavery. The legacy of the New Deal in safeguarding heritage and the massification of education remained influential after 1945 until roughly the 1980s. The GI Bill of 1944 (or the Veterans Educational Assistance Act of 2008 in its modern form), for example, provided better access to (higher) education for veterans. The creation of the interdisciplinary Area Studies (e.g. through the National Defense Education Act of 1957) in the context of security policies in the Cold War context also meant a great investment in, amongst other things, the study of history.

The investment and active intervention in social and cultural programmes was a natural built-in component of the regulatory task of democratic welfare states (De Haan 2012). In some states, cultural policies are explicitly used to enhance social cohesion and solidarity in a more general sense (a European parliamentary report of 2006 indicated that this was mostly the case in the welfare states of Sweden, Denmark, Finland, some Baltic countries, the United Kingdom, France and the Netherlands (*Financing the Arts*)). In Europe certainly, states (and local authorities) do remain far more important investors in culture than private or nongovernmental actors. That the interest of welfare policies to invest in culture and education lies with the fact that such policies have a higher acceptance rate within socially and ethnically more homogeneous nation-states, seems to be reputed by research (Mau and Veghte 2007). Far more important therefore is the ideological notion that underpins welfare states, namely the idea that national integration and identification can be better achieved with a culturally well-educated citizenry. This has the positive potential of a broad democratisation of knowledge and more equal social opportunities, but also the danger of excluding those parts of the population that fall outside the increasingly rigid cultural and political norms.

Welfare states themselves thus to a great extent determine who is in- and excluded from national integration.

Several academics have noted the relatively recent rise of a new type of state or at least a new technique and justification of governance: one that is based on therapeutic discourse, that treats large sections of the population (the homeless, the unemployed, people manifesting ‘anti-social’ behaviour etc.) as psychologically vulnerable or sick and uses therapeutic interventions to promote social integration and solve political problems. The rise of therapeutic governance was originally primarily observed in Western post-industrial countries such as the United States (Szasz 1984; Polsky 1991; Nolan 1998; Chriss 1999), the United Kingdom (Furedi 2004) and Australia (Wright 2011). Additionally, the Holocaust or Shoah became a dominant focal point in public memory in the West and arguably offered a model of victim-centred memory agency for other victim groups (Levy and Sznajder 2002, 2006; Rothberg 2009). Commentators have different opinions on whether the ‘therapeutic state’ should be seen as an (authoritarian) expansion of the welfare state (Szasz 1984, 2001; Fitzpatrick 2003) or as a defensive reorientation or even neoliberal surrogate (Humphrey 2005) to the welfare state. They generally agree, however, that the incorporation of the ‘therapeutic imperative’ by states is based on a much broader ‘therapeutic culture’ (Sykes 1992) or ‘triumph of the therapeutic’ (Rieff 1966) that is supported by therapeutic professionals (psychiatrists, psychologists, psychotherapists, social workers, New Age healers etc.) and has spread all over the Western world and beyond. They also agree that the therapeutic rationale is increasingly used by Western states as a means of self-legitimation, whether to justify expanding governmental reach, to solve the legitimacy deficit produced by the crisis of the welfare state or to do both. James Nolan (1998, p. 292) argues that ‘a therapeutic basis of legitimation provides the state with the tools to continue [its advance] into the personal lives of citizens.’ According to Frank Furedi (2004, p. 166) ‘the loss of credibility in the project of classical welfarism has encouraged the state to adopt a more individualised and therapeutic style of policy-making.’

According to Furedi, therapeutic governance also enables states to respond to the demands for recognition by new social movements and even use these to its advantage. He argues that there is an often obscured ‘therapeutic imperative behind the expansion of the politics of recognition’ and the therapeutic state in its turn is a ‘state of recognition’ that is animated by the affirmation of psychological suffering and the management of psychological distress (2004, pp. 163–167). The close connection between recognition and past suffering or trauma, according to Furedi (2008), also explains the increasing popularity of what he calls ‘history-as-therapy’ (narratives that ‘reflect on history through a prism of pain and misfortune’).

Recently, others (Pupavac 2004a, 2004b; Humphrey 2005; Moon 2009) have taken the discussion on the therapeutic state beyond the Western

post-industrial context and indicated the increasing importance of therapeutic governance as a tool to deal with legacies of violent conflict and as a technique of state-building in post-conflict societies all over the world. The clearest examples can be found in the project of national reconciliation and particularly in the Truth and Reconciliation Commission (TRC) set up in South Africa after the end of apartheid. TRC discourse was replete with therapeutic metaphors, with an explicit goal to ‘heal the nation’ by means of ‘truth telling’ (‘revealing is healing’ was a key slogan). Similar therapeutic approaches can be found in many other countries attempting to create national reconciliation (such as Ghana, Liberia, Sierra Leone, Bosnia, Guatemala and Peru). The recurrent reasoning is that war-torn societies are psychologically wounded and that the state, responsible for the psychological health of its citizens, needs to heal the nation (Moon 2009, p. 72). According to Michael Humphrey (2005), important political goals undergirding such programs are to re-establish state sovereignty as well as to change the relation between victims of human rights abuses and the state by changing victims’ relation to the past. In a similar vein Claire Moon argues that the rise of therapeutic discourse is closely related to a ‘recent global proliferation of amnesty agreements,’ in which punishment is forestalled in order to focus better on healing and reconciliation, despite severe legitimacy problems these laws can create for state elites (2009, p. 72).

One can disagree with the outright negative moral evaluation of therapeutic governance and the misgivings about victims’ demands for recognition expressed by many critics of the therapeutic state (for a more positive evaluation of states’ increased focus on victims and historical injustices, see, e.g. Barkan 2000; Barkan and Karn 2006). The main point in the context of our discussion of state-sponsored history, however, is that history and memory are of key importance to therapeutic states for at least two reasons. First, by stressing a history of victimisation and arguing that untreated past trauma and resentment can lead to future violence, states are able to claim a ‘therapeutic mandate’ and justify new forms of state intervention. Second, by stressing that ‘truth telling’ and the creation of reconciliatory historical narratives are the best way to heal the nation, post-conflict states are able to claim political legitimacy by promoting projects of state-sponsored history that they themselves set the conditions for, including truth commissions, public apologies, programs of official memorialisation and the like.

Changing Approaches to Knowledge, Knowledge Production and Expert Authority: The Rise of ‘Knowledge Economies’ and the ‘Participatory Turn’

Just as states have profoundly transformed since the second half of the twentieth century so has their relation to knowledge and knowledge production, including that relating to the past. One factor that is highly relevant to state-sponsored history is the rise of so-called ‘knowledge economies’ which have

developed against the background of globalisation and ‘competitive statehood’ (Sum and Jessop 2013; Campbell and Pedersen 2015). An increasing number of states perceive their knowledge-producing institutions and industries as economic assets which have to be actively managed to increase the state’s competitive position. In order to optimise the link between knowledge and innovation while at the same time decreasing government spending, knowledge economies often encourage private initiatives and grant industry an increased role in science and cultural policy. These ideas and policies, often developed in business and management schools as well as think tanks, at first sight seem to have led to a loosening of centralised state control over institutions of higher education. Higher education reform and new funding regulations have increased the stress on the market utility of research, which has had a big impact on the humanities (Collini 2009). These tendencies combined, however, do not imply a retreat of the state with regard to science and cultural policy (Neave 1982; Neave and van Vught 1994). Instead universities are increasingly confronted with hybrid situations in which they are submitted to market mechanisms as well as to indirect government regulation in the form of new financing regimes and assessments by intermediary bodies (Amaral and Magalhães 2001; Neave 2012; Mandler 2015).

Scholars have indeed argued that the rise of ‘knowledge economies’ severely challenges academic autonomy and the idea of academia as an exceptional realm of knowledge production. As Mary Henkel (2007, p. 90) explains:

‘Knowledge societies’ generate new modes of knowledge production, which raise questions about distinctions between basic and applied research and between universities as the bases for pure or theoretical research and industry as the location of applied or commercial research.

The reconceptualisation of knowledge production and academic autonomy in this way have a significant impact on state-sponsored history. Governments which favour the active management of strategic research based on an agenda of ‘user friendliness’ and economic or social ‘employability,’ are more likely to defend proactive policies concerning historical knowledge. They can do this by commissioning historical research, but increasingly also by influencing research agendas more indirectly, most notably through financing regimes. Research funding is increasingly granted on the basis of proven ‘impact’ or ‘applicability,’ meaning that research which fails to meet these criteria diminishes.

In addition to the reallocation of knowledge production between universities and industry with the aim of raising economic productivity, there have been other tendencies of decentralisation and increased ‘user orientation’ of knowledge production which are often placed under the label of ‘democratisation’ (Henkel 2007, p. 90). Changes in communication technology have made it possible for knowledge to be more easily exchanged, recontextualised

and even coproduced by many different organisations and individuals (Nowotny cited in Henkel 2007, p. 90; also see Jasanoff 2004). This creates a ‘democratisation’ of knowledge production in the sense that ‘it is extensively distributed in different kinds of organizations, eroding distinctions between expert and non-expert actors and organizations and, with them, the authority of experts and professionals’ (Henkel 2007, p. 90). This participatory turn is particularly visible in the heritage sector. Archives, libraries and museums increasingly set up ‘cocreative’ media programmes (e.g. via crowd sourcing) in which community members are invited to contribute their own materials, oral histories or testimonies to collections. This is certainly visible in those cases where these collection-holding heritage institutions emerged from civil society agencies aimed at safeguarding the memory of subaltern groups and minorities. The implication of this participatory turn for state-sponsored history is ambiguous. As Burgess, Klæbe and McWilliam (2010, p. 151) remark, it can on the one hand help public institutions to reach new audiences and increase their societal impact, but it can ‘question the traditional institutional authority that “official” archives of public memory were assumed to wield.’ Another tension between both, is the emotional investment of participating communities versus the distant approach of historians, which in some cases might lead to a lack of mutual understanding.

Indeed, some scholars point to contemporary societies that increasingly ‘speak back’ to science. Combined, these changes have a great impact on academic autonomy because they radically question the idea that the academic realm is an exceptional or privileged space of knowledge production or even that it is a well-defined sphere with clear boundaries. These conceptual and practical changes undermine the old claims that academia constitutes a separate sphere in society which should be granted self-governance and be protected against external interventions (Henkel 2007, p. 91). Knowledge relating to the past has not been at the forefront in the creation of knowledge economies with one notable exception: heritage tourism. In close cooperation with private actors in tourist industries, modern states have come to consider heritage as a prime economic asset. This involves marketing for the large iconic national sites as well as the use of copyrighted intangible heritage and ‘traditional knowledge’ as strategies for economic development in certain regions (Scher 2002; Forsyth 2012).

FINAL REMARKS

Fundamental transformations in the political, social and cultural spheres have changed the position of history and public memory in many countries after 1945 and especially since the 1980s. Although we can observe both continuities as well as discontinuities in the evolution of state-sponsored history, our main focus lies on the new social, cultural and political demands, challenges and sensitivities to which states have had to adapt their traditional functions.

Several key developments can be observed in the memorialising state during the past few decades, including the emergence of memory laws, the rise of public historical apologies, truth and historical expert commissions and the increasing judicialisation of history. We argue that these are related to the rise of supranational and subnational movements and normative frames, to the emergence of new state functions (among others the therapeutic one) and to changed relations to knowledge production. Modern states developed specific new policy strategies. There are, for example, the active investment in civic education and the initiatives to heal parts of the nation perceived as traumatised or damaged. Modern states learned to use 'memory' as a policy term in fields as diverse as education, heritage and culture, commemoration, tourism and international diplomacy. Although it is hard to discern strong correlations between a decline in states' socioeconomic powers and on the other hand a rise of state intervention in matters of history and public memory, modern states clearly invested in both civic education as well as policies related to victim healing as an instrument to reach or maintain social cohesion and stability. States had to adapt to new social actors demanding recognition as well as to the broader evolution of the democratisation of knowledge in participatory knowledge economies. This created new types of relationships, where social actors sometimes use the state for their own purposes. Yet, modern states have learned to use these actors as well, for example, by integrating their organisations and initiatives in the institutional framework of the state and by representing their demands as a key legitimisation for the creation of new state functions. In order to be effective, state-sponsored history must dialogue with, but preferably integrate and assimilate existing views, values and tendencies in society. New partnerships have been developed with extra-university research institutes created by states for specific purposes, as well as NGOs or civic movements, and public or private tourism and heritage actors. The traditional role of professional historians and universities has arguably decreased. Many states formally reconfirm the sacrosanct principle of academic freedom but they simultaneously have supported the development of knowledge economies in which research funding has increasingly come to depend on criteria of economic utility and social impact.

We want to put forward the concluding remark that the modern state in general has intensified and in many ways strengthened its powers on the construction of history and public memory after 1945. As the many case examples in this volume demonstrate, the state remains highly present and active in most domains of citizens' contact with articulations of history and public memory: in heritage sites, educational texts, tourist travel, to the more private realms of victim testimonies or recognition of minority groups' suffering. The state's memorialising functions prove powerful, as are the very tangible effects of its memorialised articulations. The state does this in many ways and the outcomes are often ambiguous. The welfare-state ideology creates a more equal distribution of wealth, but at the same time uses processes of

national integration and identification to exclude those who do not fall within established norms. Politics of recognition have empowered victims but can also create a dependency on an increasingly therapeutic state. The state can also enhance control and power when assuming responsibility for past human rights violations by assuming moral authority and leadership and confirming its powers of arbitration and recognition. Paradoxically, as new forms of digital knowledge production emerge that rely on globalised processes, the state is able to use national history to shore up its legitimacy into the future, thereby suggesting at least a partial resistance to globalisation. The fact that despite the decreased powers of modern states in certain domains they seem able to increase their capacities in domains of history and public memory indicates that further examination of state-sponsored history can enhance our knowledge on the nature of the modern state.

As a final remark we also want to point to the increased or renewed importance of nationalism as an ideological force and political principle for states' policies. This is paradoxical as well, as it goes against the upwards trend of a growing unified international community under global human rights norms. By the late 2010 s, political regimes governed by an intensified nationalist populism emerged in Russia, Turkey, Poland, Hungary and the United States. These national populist regimes differ but are characterised by the urge for protectionism and a defence of national sovereignty, underpinned by an ideology of aggressive patriotism and an overt exclusion of certain groups considered as non-national. Even in states promoting self-critical politics of recognition or reparation, the wish to promote positive national identification has been more openly expressed during the last two decades. States' national heritage policies, for example, have proven essential in this regard. In short, states will likely continue to exercise profound influence on history and public memory in the twenty-first century and the many interwoven issues related to state-sponsored history as an integrated field of study are further discussed in the different sections and chapters of this volume.

NOTES

1. For a very similar argument, see Noiriel (2009).
2. As Thomas Nagel explains, acknowledgment is 'what happens and can only happen to knowledge when it becomes officially sanctioned.' Nagel cited in Govier (2003, p. 66).
3. We would like to thank Oz Frankel who brought these terms up in a discussion during the conference that was organised on the occasion of the creation of this book.
4. We should, however, take care not to overestimate the capacity of states to get power out of knowledge and their control over the process of knowledge production. As Oz Frankel (2006) has argued in his book, *States of Inquiry*, the official inquiries and surveys were often also strategically used by local groups

and even ethnic minorities and colonised people as a means to obtain representation at a state level.

5. For the updated resolutions and reports on the right to truth, see: <http://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/InternationalInstruments.aspx#truth>.

REFERENCES

- Amaral, A. and Magalhães, A. (2001) 'On Markets, Autonomy and Regulation the Janus Head Revisited', *Higher Education Policy*, 14(1), 7–20.
- Arendt, H. (2006) *Eichmann in Jerusalem. A Report on the Banality of Evil* (New York: Penguin Books).
- Arrhenius, T. (2012) *The Fragile Monument. On Conservation and Modernity* (London: Artifice Books).
- Auer, L. (1998) 'Disputed Archival Claims. Analysis of an International Survey.' (Paris: Unesco). Retrieved 12 April 2017 from <http://unesdoc.unesco.org/images/0011/001134/113472eo.pdf>.
- Ballantyne, T. (2001) 'Archive, Discipline, State. Power and Knowledge in South Asian Historiography,' *New Zealand Journal of Asian Studies*, 3(1), 87–105.
- Barkan, E. (2000) *The Guilt of Nations. Restitution and Negotiating Historical Injustices* (Baltimore: Johns Hopkins University Press).
- Barkan, E. and Karn, A. (eds.) (2006) *Taking Wrongs Seriously. Apologies and Reconciliation* (Stanford: Stanford University Press).
- Barkan, E. (2002) 'Amending Historical Injustices. The Restitution of Cultural Property—An Overview' in E. Barkan and R. Bush (eds.) *Claiming the Stones. Naming the Stones. Cultural Property and the Negotiation of National and Ethnic Identity* (Los Angeles: Getty Publications), pp. 16–46.
- Bartelson, J. (2006) 'We Could Remember It for You Wholesale. Myths, Monuments and the Constitution of National Memories' in D. Bell (ed.) *Memory, Trauma and World Politics* (Basingstoke: Palgrave Macmillan), pp. 33–53.
- Benvindo, B. Majerus, B. and Vrints, A. (2014) 'La Grande Guerre des historiens belges, 1914–2014', *Journal of Belgian History*, 44(2/3), 170–196.
- Berger, S., Donovan, M. and Passmore, K. 'Apologias for the Nation-State in Western Europe Since 1800' in S. Berger, S., M. Donovan and K. Passmore (eds.) (1999) *Writing National Histories. Western Europe Since 1800*. (New York: Routledge).
- Bernhard, M. and Kubik, J. (eds.) (2014) *Twenty Years After Communism. The Politics of Memory and Commemoration* (Oxford: Oxford University Press).
- Bickford, L. (1999) 'The Archival Imperative. Human Rights and Historical Memory in Latin America's Southern Cone', *Human Rights Quarterly*, 21(4), 1097–1122.
- Biebricher, T. (2013) 'Critical Theories of the State. Governmentality and the Strategic-Relational Approach', *Constellations*, 20(3), 388–405.
- Blom Hansen, T and Stepputat, F. (2001) 'Introduction' in T. Blom Hansen and F. Stepputat (eds.) *States of Imagination. Ethnographic Explorations of the Postcolonial State* (Durham: Duke University, 2001), pp. 1–40.
- Bodnar, J. (1992) *Remaking America. Public Memory, Commemoration, and Patriotism in the Twentieth Century* (Princeton: Princeton University Press).
- Bourdieu, P. (1994) 'Rethinking the State. Genesis and Structure of the Bureaucratic Field', *Sociological Theory*, 12(1), 1–18.

- Braithwaite, J. (2009) 'The Regulatory State' in R. Goodin (ed.) *The Oxford Handbook of Political Science* (New York: Oxford University Press), pp. 217–238.
- Burgess, J., Klaebe, H. and McWilliam, K. (2010) 'Mediatization and Institutions of Public Memory. Digital Storytelling and the Apology', *Australian Historical Studies*, 41(2), 149–165.
- Burke, P. (2010) 'Co-memorations. Performing the Past' in K. Tilmans, F. van Vree and J. Winter (eds.) *Performing the Past. Memory, History, and Identity in Modern Europe* (Amsterdam: Amsterdam University Press), pp. 105–118.
- Bushaway, B. (1992) 'Name upon Name. The Great War and Remembrance' in R. Porter (ed.) *Myths of the English* (Cambridge: Polity Press), pp. 136–167.
- Campbell, J. L. and Pedersen, O. K. (2015) 'Policy Ideas, Knowledge Regimes and Comparative Political Economy', *Socio-Economic Review*, 13(4), 679–701.
- Cannadine, D. (2011) 'War and Death, Grief and Mourning in Modern Britain' in J. Whaley (ed.) *Mirrors of Mortality. Studies in the Social History of Death* (London: Routledge), pp. 187–241.
- Choueiri, Y. M. (2003) *Modern Arab Historiography. Historical Discourse and the Nation-State* (London: RoutledgeCurzon).
- Chriss, J. (ed.) (1999) *Counseling and the Therapeutic State* (New York: Aldine de Gruyter).
- Cohn, B. S. (1996) *Colonialism and Its Forms of Knowledge. The British in India* (Princeton: Princeton University Press).
- Collini, S. (2009) 'Impact on humanities. Researchers must Take a Stand Now or Be Judged and Rewarded as Salesmen', *The Times Literary Supplement*, 13 November.
- Connerton, P. (1989) *How Societies Remember* (Cambridge: Cambridge University Press).
- Dalley, B. (2009) 'Shades of Grey. Public History and Government in New Zealand' in P. Ashton and H. Kean (eds.) *People and Their Past. Public History Today* (Basingstoke: Palgrave Macmillan), pp. 74–90.
- Dalley, B. and Phillips, J. (2001) 'Introduction' in B. Dalley and J. Phillips (eds.) *Going Public. The Changing Face of New Zealand History* (Auckland: Auckland University Press), pp. 7–13.
- Davis, E. (2005) *Memories of State. Politics, History, and Collective Identity in Modern Iraq*. (Berkeley: University of California Press).
- Dean, M. and Villadsen, K. (2016) *State Phobia and Civil Society. The Political Legacy of Michel Foucault* (Stanford: Stanford University Press).
- De Baets, A. (2002) *Censorship of Historical Thought. A World Guide 1945–2000* (Westport).
- De Haan, I. (2012) 'The Western European Welfare State Beyond Christian and Social Democratic Ideology' in D. Stone (ed.) *Oxford Handbook of Postwar History* (Oxford: Oxford University Press), pp. 299–318.
- Delafontaine, R. (2015) *Historians as Expert Judicial Witnesses in Tobacco Litigation. A Controversial Legal Practice* (Cham: Springer).
- Determann, J. M. (2013) *Historiography in Saudi Arabia. Globalization and the State in the Middle East* (London: I. B. Tauris).
- Donaldson, P. (2013) *Remembering the South African War. Britain and the Memory of the Anglo-Boer War, from 1899 to the Present* (Liverpool: Liverpool University Press).

- Douglas, L. (2001) *The Memory of Judgment. Making Law and History in the Trials of the Holocaust* (New Haven: Yale University Press).
- Douzinias, C. (2012) 'History Trials. Can Law Decide History?', *Annual Review of Law and Social Science*, 8(1), 273–289.
- Duara, P. (1995) *Rescuing History from the Nation. Questioning Narratives of Modern China* (Chicago: University of Chicago Press).
- Dubois, S. (2002) 'Le premier manuel d'histoire de Belgique et l'enseignement de l'histoire nationale dans les collèges à la fin de l'Ancien Régime', *Revue belge de philologie et d'histoire*, 80/1, pp. 491–515.
- Dupret, B., Berger, M. and al-Zwaini, L. (eds.) (1999) *Legal Pluralism in the Arab World* (The Hague: Kluwer).
- Editors Scientific American (2012) 'Who Owns the Past?', *Scientific American*. Retrieved 19 September 2016 from <http://www.scientificamerican.com/article/whoownsthepast/?print=true>.
- Edney, M. H. (1997) *Mapping an Empire. The Geographical Construction of British India 1765–1843* (Chicago: University of Chicago Press).
- Emslie, B. (2015) *Speculations on German History. Culture and the State* (Rochester: Camden House).
- Evans, R. J. W. (1993) 'Historians and the State in the Habsburg Lands' in W. Blockmans and J.-Ph. Genet (eds.) *Visions sur le développement des États européens* (Rome: École Française de Rome), pp. 203–218.
- Evans, R. (2002) 'History, Memory, and the Law. The Historian as Expert Witness', *History and Theory*, 41, 326–345.
- Financing the Arts and Culture in the European Union. Structural and Cohesion Policies*, (2006), Study Report of the Directorate General for Internal Policies of the Union, European Parliament http://www.culturalpolicies.net/web/files/134/en/Financing_the_Arts_and_Culture_in_the_EU.pdf. Accessed on 25 April 2017.
- Fitzpatrick, M. (2003) 'The Therapeutic Society', *Psychotherapy in Australia*, 9(3), 68–71.
- Flinders, M. (2006) 'Public/Private. The Boundaries of the State' in C. Hay, M. Lister and D. Marsh (eds.) *The State. Theories and Issues* (Basingstoke: Palgrave Macmillan), pp. 223–247.
- Fontain, P. F. M. (1985) *Hoe ontstaat geschiedenis. Een historische antropologie* (Kampen: Kok Agora).
- Forsyth, M. (2012) 'Lifting the Lid on "The Community". Who Has the Right to Control Access to Traditional Knowledge and Expressions of Culture?', *International Journal of Cultural Property*, 19, 1–31.
- Francioni, F. (2004) 'Beyond State Sovereignty. The Protection of Cultural Heritage as a Shared Interest of Humanity', *Michigan Journal of International Law*, 25(2004), 1209–1228.
- Frankel, O. (2006) *States of Inquiry. Social Investigations and Print Culture in Nineteenth-Century Britain and the United States* (Baltimore: Johns Hopkins University Press).
- Fraser, N. (1995) 'From Redistribution to Recognition? Dilemmas of Justice in a "Post-Socialist" Age', *New Left Review*, 122, 68–93.
- Frei, N., Van Laak, D. and Stolleis, M. (eds.) (2000) *Geschichte vor Gericht. Historiker, Richter und die Suche nach Gerechtigkeit* (München: Beck).

- Furedi, F. (2004) *Therapy Culture. Cultivating Vulnerability in an Uncertain Age* (London: Routledge).
- Furedi, F. (2008) 'History as Therapy', *Spiked* (Issue of 5 March).
- Furuya, D. (2002) 'A Historiography in Modern Japan. The Laborious Quest for Identity', *Scandia*, 68(1), s.p.
- Gauchet, M. (1997) *Le désenchantement du monde. Une histoire politique de la religion* (Paris: Gallimard).
- Gerstenblith, P. (2002) 'Cultural Significance and the Kennewick Skeleton. Some Thoughts on the Resolution of Cultural Heritage Disputes' in E. Barkan and R. Bush (eds.) *Claiming the Stones. Naming the Stones. Cultural Property and the Negotiation of National and Ethnic Identity* (Los Angeles: Getty Publications), pp. 162–197.
- Gillis, J. R. (1994) 'Memory and Identity. The History of a Relationship' in J. R. Gillis (ed.) *Commemorations. The Politics of National Identity* (Princeton: Princeton University Press), pp. 3–24.
- Ginzburg, C. (1991) 'Checking the Evidence. The Judge and the Historian', *Critical Inquiry*, 18(1), 79–92.
- Gorman, A. (2003) *Historians, State and Politics in Twentieth century Egypt. Contesting the Nation* (London: Routledge).
- Gough, P. J. (2008) 'Commemoration of War', in B. Graham and P. Howard (eds.) *The Ashgate Research Companion to Heritage and Identity* (Aldershot: Ashgate), pp. 323–347.
- Govier, T. (2003) 'What Is Acknowledgement and Why Is it Important' in C. Prager and T. Govier (eds.) *Dilemmas of Reconciliation. Cases and Concepts* (Waterloo: Wilfrid Laurier University Press).
- Graham, H. D. (1993) 'The Stunted Career of Policy History', *The Public Historian*, 15(2), 15–37.
- Gray, P. and Kendrick, O. (2001) 'The Memory of Catastrophe', *History Today*, 51(2), 9–15.
- Grell, C. (ed.) (2006) *Les historiographes en Europe de la fin du Moyen Âge à la Révolution* (Paris: Presses de l'université Sorbonne).
- Grey, J. (2003) 'Introduction' in J. Grey (ed.) *The Last Word? Essays on Official History in the United States and British Commonwealth* (Westport: Praeger), pp. ix–xiii.
- Groome, D. (2011) 'The Right to Truth in the Fight Against Impunity', *Berkeley Journal of International Law*, 29(1), 175–199.
- Guha, R. (1997) *Dominance Without Hegemony. History and Power in Colonial India* (Cambridge: Harvard University Press).
- Gutmann, A. (1994) 'Introduction' in A. Gutmann (ed.) *Multiculturalism. Examining the Politics of Recognition* (Princeton: Princeton University press), pp. 3–24.
- Haberer, E. (2005) 'History and Justice. Paradigms of the prosecution of nazi crimes', *Holocaust and Genocide Studies*, 19(3) 487–519.
- Heffernan, M. (1995) 'For Ever England. The Western Front and the Politics of Remembrance in Britain', *Ecumene*, 2(3), 293–323.
- Henkel, M. (2007) 'Can Academic Autonomy Survive in the Knowledge Society? A Perspective from Britain', *Higher Education Research & Development*, 26(1), 87–99.
- Hervieu-Léger, D. (2000) *Religion as a Chain of Memory* (Cambridge: Polity press).

- Hewlett, R. G. (1978) 'The Practice of History in the Federal Government', *The Public Historian*, 1(1), 29–36.
- Higham, J. Krieger, L. and Gilbert, F. (1965) *History* (Englewood Cliffs: Prentice Hall).
- Hobsbawm, E. (1983) 'Mass-Producing Traditions. Europe, 1870–1914' in E. Hobsbawm and T. Ranger (eds.) *The Invention of Tradition* (Cambridge: Cambridge University Press), pp. 263–307.
- Hobson, B. (ed.) (2003) *Recognition Struggles and Social Movements. Contested Identities, Agency and Power* (Cambridge: Cambridge University Press).
- Holden, L. (ed.) (2016) *Legal Pluralism and Governance in South Asia and Diasporas* (York: Routledge).
- Humphrey, M. (2005) 'Reconciliation and the Therapeutic State', *Journal of Intercultural Studies*, 26(3), 203–220.
- Huskamp Peterson, T. (2005) 'Archives in Service to the State' in M. Procter, M. Cook and C. Williams (eds.) *Political Pressure and the Archival Record* (Chicago: The Society of American Archivists), pp. 259–276.
- Iggers, G. (1997) *Historiography in the Twentieth Century. From Scientific Objectivity to the Postmodern Challenge* (London: Wesleyan University Press).
- Iggers, G. (2005) 'The Professionalization of Historical Studies and the Guiding Assumptions of Modern Historical Thought' in L. Kramer and S. Maza (eds.) *A Companion to Western Historical Thought* (Oxford: Blackwell).
- Iggers, G., Wang, Q. E. and Mukherjee, S. (2013) *A Global History of Modern Historiography* (London: Routledge).
- International Criminal Court (2016) 'ICC Trial Chamber VIII Declares Mr Al Mahdi Guilty of the War Crime of Attacking Historic and Religious Buildings in Timbuktu and Sentences him to Nine Years' Imprisonment', Press Release 27 September. (<https://www.icc-cpi.int/legalAidConsultations?name=pr1242>. Accessed on 22 May 2017).
- Jasanoff, S. (ed.) (2004) *States of Knowledge. The Co-production of Science and Social Order* (New York: Routledge).
- Jenkins, T. (2011) *Contesting Human Remains in Museum Collections* (London: Routledge).
- Jessop, B. (2013) *State Theory. Putting the Capitalist State in Its Place* (New York: John Wiley & Sons, 2013).
- Jessop, B. (2015) *The State. Past, Present, Future* (Cambridge: Polity Press).
- Jewsiewicki, B. and Mudimbe, V. Y. (1993) 'Africans' Memories and Contemporary History of Africa', *History and Theory*, 32(4), 1–11.
- Joinet, L. (1997) 'Question of the Impunity of Perpetrators of Human Rights Violations (Civil and Political)'. Retrieved 6 January 2017 from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G97/129/12/PDF/G9712912.pdf?OpenElement>.
- Jordanova, L. (2006) *History in Practice* (Oxford: Oxford University Press).
- Kate Jellema (2007) 'Returning Home: Ancestor Veneration and the Nationalism of Doi Moi Vietnam' in Philip Taylor (ed.) *Modernity and Re-enchantment: Religion in Post-revolutionary Vietnam* (Lexington Books), pp. 57–89.
- Kammen, M. (1980) *The Past Before Us. Contemporary Historical Writing in the United States* (Ithaca: Cornell University Press).

- Kössler, R. (2007) 'Facing a Fragmented Past. Memory, Culture and Politics in Namibia', *Journal of Southern African Studies*, 33(2), 361–382.
- Kagan, R. L. (2009) *Clio and the Crown. The Politics of History in Medieval and Early Modern Spain* (Baltimore: Johns Hopkins University Press).
- Kirchheimer, O. (1961) *Political Justice. The Use of Legal Procedure for Political Ends* (Princeton: Princeton University Press).
- Krieger, L. (1968) 'Official History and the War in Vietnam. Comment', *Military Affairs*, 32(1), 16–19.
- Kurz, J. (2012). 'The Consolidation of Official Historiography During the Early Northern Song Dynasty', *Journal of Asian History*, 46(1), 13–35.
- Lanziti, G. (2016) 'Leonardo Bruni and the Rise of Official Historiography in Renaissance Florence' in P. Howard and C. Hewlett (eds.) *Studies on Florence and the Italian Renaissance in Honour of F. W. Kent* (Turnhout: Brepols), pp. 431–448.
- Laqueur, T. W. (1994) 'Memory and Naming in the Great War' in J. R. Gillis (ed.) *Commemorations. The Politics of National Identity* (Princeton: Princeton University Press), pp. 150–167.
- Leopold, R. W. (1977) 'The Historian and the Federal Government', *The Journal of American History*, 64(1), 5–23.
- Levy, D. and Sznajder, N. (2002) 'Memory. Unbound. The Holocaust and the Formation of Cosmopolitan Memory', *European Journal of Social Theory*, 5(1), 87–106.
- Levy, D. and Sznajder, N. (2006) *The Holocaust and Memory in the Global Age* (Temple University Press).
- Lorenz, C. (2010) 'Unstuck in Time. Or: The Sudden Presence of the Past' in K. Tilmans, F. van Vree and J. Winter (eds.) *Performing the Past. Memory, History, and Identity in Modern Europe* (Amsterdam: Amsterdam University Press), pp. 67–102.
- Mandler, P. (2015) 'The Impact of the State' in P. Ramos and B. Taithe (eds.) *The Impact of History? Histories at the Beginning of the Century* (London: Routledge), pp. 169–181.
- Mau S. and Veghte B. (eds.) (2007) *Social Justice, Legitimacy and Welfare State* (Hampshire, UK: Ashgate).
- McAllister W. B., Botts J., Cozzens P. and Marrs A. W. (2015) *Toward "Thorough, Accurate, and Reliable": A History of the Foreign Relations of the United States Series* (Washington, DC: Office of the Historian, U.S. Department of State) (<https://history.state.gov/historicaldocuments/frus-history>).
- Mehl, M. (1998) *History and the State in Nineteenth-Century Japan* (Basingstoke: Palgrave Macmillan).
- Meirlaen, M. (2014) *Revoluties in de klas. Secundair geschiedenisonderwijs in de Zuidelijke Nederlanden 1750–1850* (Universitaire Pers Leuven).
- Mnjama, N. (2011) 'Migrated Archives Revisited', *Esaribica Journal*, 30, 15–34.
- Moon, C. (2009) 'Healing Past Violence. Traumatic Assumptions and Therapeutic Interventions in War and Reconciliation', *Journal of Human Rights*, 8(1), 71–91.
- Neave, G. (1982) 'The Changing Boundary Between the State and Higher Education', *European Journal of Education*, 17(3), 231–241.
- Neave, G. (2012) *The Evaluative State. Institutional Autonomy and Re-engineering Higher Education in Western Europe* (Basingstoke: Palgrave Macmillan).

- Neave, G. and Van Vught, F. (eds.) (1991) *Prometheus Bound. The Changing Relationship Between Government and Higher Education in Western Europe* (London: Pergamon press).
- Neave, G. and Van Vught, F. (eds.) (1994) *Government and Higher Education Relationships Across Three Continents* (Bingley: Emerald).
- Noiriel, G. (2009) 'L'historien et l'objectivité', *Science Humaines* (www.scienceshumaines.com).
- Nolan, J. L. (1998) *The Therapeutic State. Justifying Government at Century's End* (New York: New York University Press).
- Norton, A. (1993) 'Ruling Memory', *Political Theory*, 21(3), 453–463.
- Osiel, M. (1999) *Mass Atrocity, Collective Memory, and the Law* (New Brunswick: Transaction Publishers).
- Owsley, D. and Jantz R. (2002) 'Kennewick Man—A Kin? Too Distant' in E. Barkan and R. Bush (eds.) *Claiming the Stones. Naming the Stones. Cultural Property and the Negotiation of National and Ethnic Identity* (Los Angeles: Getty Publications), pp. 141–161.
- Petrović, V. (2002) *The Emergence of Historical Forensic Expertise. Clio Takes the Stand* (New York: Routledge).
- Polsky, A. (1991) *The Rise of the Therapeutic State* (Princeton: Princeton University Press).
- Poulot, D. (1993) 'Le patrimoine des musées. Pour l'histoire d'une rhétorique révolutionnaire', *Genèses*, 11, 25–49.
- Priemel, K. C. and Stiller, A. (eds.) (2012) *Reassessing the Nuremberg Military Tribunals. Transitional Justice, Trial Narratives, and Historiography* (New York: Berghahn Books).
- Prior, K. (1993) 'Making History. The State's Intervention in Urban Religious Disputes in the North-West Provinces in the Early Nineteenth Century', *Modern Asian Studies*, 27(1), 179–203.
- Pupavac, V. (2004a) 'International Therapeutic Peace and Justice in Bosnia,' *Social and Legal Studies*, 13(3), 377–401.
- Pupavac, V. (2004b) 'War on the Couch. The Emotionology of the New International Security Paradigm', *European Journal of Social Theory*, 7(2), 149–170.
- Ranger, T. (2009) 'The Politics of Memorialisation in Zimbabwe' in S. Carvalho and F. Gemenne (eds.) *Nations and Their Histories. Constructions and Representations* (Basingstoke: Palgrave Macmillan), pp. 62–76.
- Reid, R. (2015) 'States of Anxiety. History and Nation in Modern Africa,' *Past and Present*, 229(1), 239–269.
- Reuss, M. (1986) 'Public History and the Federal Government' in B. J. Howe and E. L. Kemp (eds.) *Public History an Introduction* (Malabar: Krieger Publishing Company), pp. 293–309.
- Rieff, P. (1966) *The Triumph of the Therapeutic. Uses of Faith After Freud* (New York: Harper and Row).
- Rothberg, M. (2009) *Multidirectional Memory Remembering the Holocaust in the Age of Decolonization* (Stanford University Press).
- Sarat, A. and Kearns, T. (eds.) (2009) *History, Memory, and The Law* (Ann Arbor: University of Michigan Press).
- Sax, J. L. (1990) 'Heritage Preservation as a Public Duty. The Abbé Grégoire and the Origins of an Idea', *Michigan Law Review*, 88(5), 1142–1169.

- Saxer, D. (2012) 'Monumental Undertakings. Source Publications for the Nation' in I. Porciani and J. Tollebeek (eds.) *Setting the Standards. Institutions, Networks and Communities of National Historiography* (Basingstoke: Palgrave Macmillan), pp. 47–69.
- Scher, Ph. (2002) 'Copyright Heritage. Preservation, Carnival and the State in Trinidad', *Anthropological Quarterly*, 75(3), 453–484.
- Schwartz, J. M. and Cook, T. (2002) 'Archives, Records, and Power. The Making of Modern Memory', *Archival Science*, 2(1), 1–19.
- Sikkink, K. (2011) *The Justice Cascade. How Human Rights Prosecutions Are Changing World Politics* (New York: W. W. Norton & Company).
- Somers, M. (1994) 'The Narrative Constitution of Identity. A Relational and Network Approach', *Theory and Society*, 23, 605–649.
- Spector, R. (1990) 'An Improbable Success Story. Official Military Histories in the Twentieth Century', *The Public Historian*, 12, 25–30.
- Stanley, L. (2002) 'A "Secret History" of Local Mourning. The South African War and State Commemoration', *Society in Transition*, 33(1), 1–25.
- Stern, F. R. (1973) *The Varieties of History: From Voltaire to the Present* (Vintage Books).
- Strange, S. (1996) *The Retreat of the State. The Diffusion of Power in the World Economy* (Cambridge: Cambridge University Press).
- Sum, N. L. and Jessop, B. (2013) 'Competitiveness, the Knowledge-Based Economy and Higher Education', *Journal of the Knowledge Economy*, 4(1), 24–44.
- Sykes, C. (1992) *A Nation of Victims. The Decay of the American Character* (New York: St. Martin's Press).
- Szasz, T. (1984) *The Therapeutic State. Psychiatry in the Mirror of Current Events* (Buffalo: Prometheus Books).
- Szasz, T. (2001) 'The Therapeutic State. The Tyranny of Pharmacy', *The Independent Review*, 5(4), 485–521.
- Taylor, C. (1994) 'The Politics of Recognition' in A. Gutmann (ed.) *Multiculturalism. Examining the Politics of Recognition* (Princeton: Princeton University Press), pp. 25–73.
- Triulzi, A. (2006) 'Public History and the Re-Writing of the Nation in Postcolonial Africa', *Afrique & Orient*, 8(2), 22–35.
- Twitchett, D. (1992) *The Writing of Official History Under the T'ang* (Cambridge: Cambridge University Press).
- Tyrrell, I. (1999) 'Making Nations/Making States. American Historians in the Context of Empire', *The Journal of American History*, 86(3), 1015–1044.
- Tyrrell, I. (2005) *Historians in Public. The Practice of American History, 1890–1970* (Chicago: The University of Chicago Press).
- Van der Laarse, R. (ed.) (2005) *Bezeten van vroeger. Erfgoed, identiteit en musealisering* (Amsterdam: Het Spinhuis).
- Varley, K. (2002) 'Under the Shadow of Defeat. The State and the Commemoration of the Franco-Prussian War, 1971–1914', *French History*, 16(3), 323–344.
- Verschaffel, T. (2012) '"Something More than a Storage Warehouse". The Creation of National Archives' in I. Porciani and J. Tollebeek (eds.) *Setting the Standards. Institutions, Networks and Communities of National Historiography* (Basingstoke: Palgrave Macmillan), pp. 29–46.

- von Ostenfeld-Suske, K. (2012) 'Writing Official History in Spain. History and Politics, c. 1470–1600' in J. Rabasa, M. Sato, E. Tortarolo and D. Woolf (eds.) *The Oxford History of Historical Writing 1400–1800*, vol. 3 (Oxford: Oxford University Press), pp. 428–448.
- Warren, M. E. (2008) 'Democracy and the State' in J. S. Dryzek, B. Honig and A. Phillips, *The Oxford Handbook of Political Theory* (Oxford: Oxford University Press), pp. 382–401.
- Watson, S. and Sawyer, A. (2011) 'National Museums in Britain', in P. Aronsson and G. Elgenius (eds.), *Building National Museums in Europe 1750–2010* (Linköping: Linköping University Electronic Press), pp. 99–132.
- Werbner, R. P. (1998) *Memory and the Postcolony: African Anthropology and the Critique of Power* (Zed Books).
- Wijffels, A. (ed.) (2001) *History in Court. Historical Expertise and Methods in a Forensic Context* (Leiden: Ius Deco Publications).
- Wilson, R. A. (2005) 'Judging History. The Historical Record of the International Criminal Tribunal for the Former Yugoslavia,' *Human Rights Quarterly*, 27(3), 908–942.
- Wilson, R. A. (2011) *Writing History in International Criminal Trials* (Cambridge: Cambridge University Press).
- Winter, J. (2006) 'Notes on the Memory Boom. War, Remembrance and the Uses of the Past' in D. Bell (ed.) *Memory, Trauma and World Politics* (Basingstoke: Palgrave Macmillan), pp. 54–73.
- Winter, J. (2014) *Sites of Memory, Sites of Mourning. The Great War in European Cultural History* (Cambridge: Cambridge University Press).
- Woodhead, C. (2007) 'Reading Ottoman "Şehnâmes". Official Historiography in the Late Sixteenth Century', *Studia Islamica*, (104/105), 67–80.
- Wright, K. (2011) *The Rise of the Therapeutic Society. Psychological Knowledge and the Contradictions of Cultural Change* (Washington: New Academia Publishing).
- Zips, W. and Weilenmann, M. (eds.) (2011) *The Governance of Legal Pluralism. Empirical Studies from Africa and Beyond* (Münster: LIT Verlag).

PART I

Memory Laws and Legislated History

Laws Governing the Historian's Free Expression

Antoon De Baets

Where there is no law, there is no freedom.
Wherever law ends, tyranny begins.
(Locke 1689, II, §§ 57, 202).

Abbreviations

| | |
|---------|--|
| A19 | Article 19 |
| ECHR | European Court of Human Rights |
| ICCPR | International Covenant on Civil and Political Rights |
| ICTR | International Criminal Tribunal for Rwanda |
| OHCHR | Office of the (United Nations) High Commissioner for Human Rights |
| SRFEX | <i>Report of the (United Nations) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression</i> |
| UN | United Nations |
| UNCESCR | UN Committee on Economic, Social and Cultural Rights |
| UNCHR | UN Commission on Human Rights |
| UNHRC | UN Human Rights Committee |

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Everywhere, historians are surrounded by laws and yet most of the time they do not see them.¹ But these laws are imperatively there, regulating directly or indirectly multiple aspects of their work. Being the domain of government, laws are state-endorsed by definition. According to the classical doctrine of *trias politica*, they are proposed by the executive branch, promulgated by the legislative branch and administered by the judicial branch of government.

The perspective of the lawmaker covers all domains of social activity and laws affecting historians are often crafted with these broader domains in mind. Dealing with the past is only one, and usually not the main, concern of the lawmaker. Laws affecting the work of historians belong to three types: those affecting their *work conditions* in general and specific ways, those regulating their access to *information*, and those governing their freedom of *expression*. This is what Fig. 2.1 visualizes. The distinction is not absolute: strictly speaking, laws determining information and expression are integral parts of those determining work conditions. Nevertheless, separating them is still useful because the more one moves from work conditions to information and expression, the more direct (though not necessarily the more profound) the impact of laws is on the work of historians. For example, education laws, as laws affecting specific work

| | | | |
|--|-----------------|---|----------------------|
| Laws governing historians' general and specific work conditions | | | |
| <ul style="list-style-type: none">• <i>general</i>: international law and treaties; the constitution; laws regarding media, assembly, association...• <i>specific</i>: heritage laws, education laws, academic freedom laws | | | |
| Laws governing historians' information and containing limits set by private and public interests | | | |
| <ul style="list-style-type: none">• copyright laws, right to information laws, archives laws, national security laws• laws regulating the legacy of past human rights violationsⁱ | | | |
| Laws governing historians' free expression and containing limits set by private interests | | Laws governing historians' free expression and containing limits set by public interests | |
| (individuals) | | (society and state) | |
| privacy laws | defamation laws | memory laws | blasphemy laws |
| data protection laws | insult laws | | hate speech laws |
| | | | genocide denial laws |

ⁱI call legacy laws those laws that regulate the legacy of human rights violations in democracies that emerge after a period of conflict or dictatorship. The past-oriented character of these laws puts them in the historians' spotlight. The most relevant of these for present purposes are amnesty laws (because they limit the access to sources about crime suspects and perpetrators).

Fig. 2.1 Taxonomy of laws governing the historian's work

conditions, regulate how universities and thus history departments are organized: this certainly affects the work of historians but does not control directly what they write or teach (at least not in democratic societies). In contrast, right to information laws help determine the availability of records and therefore directly affect what historians can investigate. The laws with the most direct impact are subdivided according to the parties that can restrict the free expression of historians: individuals, society and state. The study of law types governing the information and expression of historians can give answers to one fundamental question: what are we legally allowed to say about the past?

In the present chapter, I offer a survey of laws that directly interfere with the free expression of historians, that is, with what they tell and write, with the purpose of protecting (alleged) public interests. They can be grouped under four types: memory laws, blasphemy laws, hate speech laws and genocide denial laws. For each type, a definition is given and overlap with other types indicated, important debates are summarized and consequences for the practice of history identified. In order to have a standard to discuss and evaluate these law types, I first present the broadly shared general freedom of expression framework as established by the United Nations.

THE INTERNATIONAL FREEDOM OF EXPRESSION FRAMEWORK

The global standards that regulate the universal right to freedom of opinion and expression are set out in Articles 19 and 20 of the International Covenant on Civil and Political Rights (ICCPR). The ICCPR is a formal elaboration of the 1948 Universal Declaration of Human Rights. It was approved by the United Nations in 1966 and as of September 2017 ratified by 169 states (representing 80% of the world population).²

The Standards

Article 19.1 describes the *formation* of opinions, Article 19.2 their *expression*, Article 19.3 their *restriction*, and Article 20 their *prohibition*.

Article 19 of the ICCPR

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;

- (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20 of the ICCPR

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

In order to interpret these two articles, we need guidance of the Human Rights Committee, a United Nations body established in 1976 to supervise compliance with the ICCPR by the States Parties (the ratifying states). One of the Committee's tasks is to issue authoritative interpretations of the various ICCPR articles. In 2011, it produced a *General Comment* on Article 19, which is our main guide here (UNHRC 2011; replacing UNHRC 1983a; see also UNHRC 1983b).³

The Formation of Opinions

Article 19.1 establishes the right to form and hold opinions. The Human Rights Committee observed:

Paragraph 1 of Article 19 requires protection of the right to hold opinions without interference. This is a right to which the Covenant permits no exception or restriction ... All forms of opinion are protected, including opinions of a political, scientific, historic, moral or religious nature. (UNHRC 2011, § 9)

This commentary emphasizes the absolute and nonderogable right *to hold* opinions, including those of a historical nature. Under “opinions of a historical nature” we should understand interpretations of past events and moral judgments about the conduct of historical figures.

This right is underpinned by the noncoercion principle. In the Human Rights Committee's words:

Any form of effort to coerce the holding or not holding of any opinion is prohibited. Freedom to express one's opinion necessarily includes freedom not to express one's opinion. (UNHRC 2011, § 10; see also ICCPR, Article 18.2; UNHRC 1993, § 5)

Coercion is inconsistent with the right to hold opinions. In other words, from a human rights perspective, historians are not obliged to adopt interpretations of past events or moral judgments about the conduct of historical figures made by others; and citizens in general are not obliged to comply with

a duty to remember imposed on them by others (see for full discussion, De Baets 2009, Chap. 5).

The Expression of Opinions

Whereas Article 19.1 focuses on individuals as such, Article 19.2 focuses on individuals in their social context. It establishes the right to freedom of information and expression. This is a right of individuals looking for information and ideas (“seek”), individuals expressing opinions (“impart”) and the public interested in hearing them (“receive”). Here, another principle emerges, the right to err or the right to make mistakes. According to the Human Rights Committee:

The Covenant does not permit general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events. (UNHRC 2011, § 49)⁴

This right to err refers to opinions and less so to facts. Statements of fact are indeed distinguished from statements of opinion. From a human rights perspective, historical facts are susceptible to a truth/falsity proof whereas historical opinions are not. This distinction is an important fundament of legal epistemology. It means that expressing opinions enjoys far stronger protection than expressing statements of fact.

The Restriction of Opinions

Article 19.3 embodies the idea that the right to freedom of expression, although universal, is not absolute. It describes the standards to restrict free expression. (See for the restriction principles, UNCHR 1984 and SRFEX 2010, §§ 72–87.) Four general principles underlie these standards. First, restricting a right in order to protect it is delicate and, therefore, the scope of restrictions on free expression is itself restricted and should never undermine the essence of the right (see also ICCPR, Article 5). Second, only states may permissibly restrict free expression. Third, the exercise of the right of free expression carries with it special responsibilities. This clause is first and foremost applicable to states. They have responsibilities to respect (i.e., not to interfere with free expression when it is not necessary), responsibilities to protect (i.e., to prevent private actors from interfering with the free expression of others) and responsibilities to fulfill (i.e., to facilitate free expression by means of legal, financial, promotional and other measures; see also ICCPR, Article 2). In their turn, historians also have duties: for example, the duty not to express discriminatory views when they act as symbols of authority in a teaching context (see UNHRC 2000, § 11.6; ECHR 2011a, §§ 12, 14). Fourth, the standards are applicable at all times, including times of public emergency, although states may then take temporary measures enabling them to derogate

from their responsibilities under strict conditions (see ICCPR, Article 4.1; UNCHR 1984, part II).

The Three-Part Test

Based on these principles, a sophisticated method to assess the appropriateness of restrictions on free expression has been developed. It is internationally accepted and best known as “the three-part test.” The first branch of the test prescribes that the restriction should be “provided by law.” Inasmuch as we are dealing with laws in this chapter, this is of utmost importance here. In order to understand this branch of the test, we should first have a grasp of the notion of rule of law. Former British prime minister and historian Gordon Brown once observed that “In establishing the rule of law, the first five centuries are always the hardest.” According to the United Nations:

The “rule of law” ... refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency. (UN Secretary-General 2004, § 6)⁵

A focal part of the rule of law is legality. The central idea of the legality principle is that restrictions on free expression cannot be imposed by the whims of a public official on the spot; they must be enshrined in pre-existing laws which are consistent with international human rights standards. Furthermore, laws must be publicly accessible (they cannot be secret), and described in clear, precise and unambiguous language, so that everyone can understand them. They must also be equally enforced. Laws containing vague and overbroad formulations expand the range of people permitted to implement them, give them too much power, create uncertainty and arbitrariness and produce a chilling effect (a deterring effect) on free expression.⁶

The legality principle leads to at least two observations of interest to historians. First, the Human Rights Committee tells us:

[I]t is not compatible with the Covenant for a restriction to be enshrined in traditional, religious or other such customary law. (UNHRC 2011, § 24, also § 32; see also *Joint Declaration* 2014, §§ 1b, 1f)

Second, it is also well known that most dictatorships invest much energy in keeping up a semblance of legality in a contorted attempt to enhance their legitimacy. Often, they function under a martial law regime. But dictatorial

decrees usually do not meet the legality principle. Some blatantly prescribe an entire ideology; others facilitate the persecution of dissidents or the ban on their publications under the guise of national security or anti-terrorism laws. Still others are secret laws or laws with secret interpretations or laws with overbroad secrecy regulations. Finally, some decree blanket amnesties granting immunity for perpetrators of human rights violations. Sometimes, provisions of dictatorial or colonial laws survive in democracies.⁷

The second branch of the test enumerates a list of legitimate interests on which free expression restrictions can be based. These interests can be private (respecting the rights or reputations of others) or public (protecting national security, public order, public health and public morals).

Among the private interests, reputation is straightforward, but the catch-all expression “rights of others” is less clear. In various legal cases, it has been understood to include, inter alia, the rights to copyright, to privacy and to equality. The phrase has also been invoked to protect the honor and dignity of genocide victims (deceased and surviving) and their relatives and descendants (see ECHR 2015, §§ 143–144, 155–157). The “rights of others” clause relates to both individuals and the community as a whole.

The public interests mentioned in Article 19.3 of the ICCPR are generally recognized as legitimate for the survival and functioning of society and the state (the latter as the legal and political manifestation of society). National security should be understood as the protection of:

[T]he existence of the nation or its territorial integrity or political independence against force or threat of force. (UNCHR 1984, § 29)

This includes the possibility to shield sensitive information from the public. Ideally, public order should be:

[T]he sum of rules which ensure the functioning of society or the set of fundamental principles on which society is founded. Respect for human rights is part of public order. (UNCHR 1984, § 22; see also ECHR 2015, §§ 146–154)

The interest of public health (the third public interest) does not play a major role in the study of the past: although it is justified on public health grounds to ban misleading information about disasters, accidents, plagues and diseases while they unfold, the restriction of histories of these calamities must invoke public order grounds because of their potential to sow unrest. By contrast, the interest of public morals is crucially important for historians. The *Siracusa Principles*, adopted by the United Nations Commission on Human Rights in 1984, stipulate:

Since public morality varies over time and from one culture to another, a state which invokes public morality as a ground for restricting human rights, while enjoying a certain margin of discretion, shall demonstrate that the limitation in

question is essential to the maintenance of respect for fundamental values of the community. The margin of discretion left to states does not apply to the rule of non-discrimination as defined in the Covenant [the ICCPR, *adb*]. (UNCHR 1984, §§ 27–28; see also UNHRC 1993, § 8; UNHRC 2011, § 32)

Significantly, the list of private and public interests is exhaustive. Interests not listed in Article 19.3 are not permissible as restriction grounds. This means that free expression restrictions in the name of “tradition,” “custom,” “culture,” “national pride,” “protection of memory” or “insult to the fatherland” should all be discarded as invalid.

The third branch of the test prescribes that restrictions should be “necessary” to achieve the protection of the interests. The necessity principle stipulates that the restriction must address a pressing social need.⁸ In addition, the benefit flowing from the restriction must outweigh the harm it does to free expression and the restriction selected should be proportional and the least intrusive measure available. Restrictions that are unnecessary or disproportional (e.g., harsh sanctions) produce chilling effects that may unduly restrict free expression on the part of the person concerned and others (see also UNHRC 2011, §§ 34–35).

The three-part test is a staple of international law. If states fail it, a violation of the right to free expression has occurred.

The Prohibition of Opinions

Article 20 of the ICCPR is an extension of Article 19.3. Whereas Article 19.3 is about *restricting* expressed opinions, Article 20 is about *prohibiting* them. In the words of the Human Rights Committee:

[F]or the acts addressed in Article 20, the Covenant indicates the specific response required from the State: their prohibition by law. It is only to this extent that Article 20 may be considered as *lex specialis* with regard to Article 19. (UNHRC 2011, § 51)

This means that governments have a duty to enact laws prohibiting war propaganda (Article 20.1 of the ICCPR) and laws prohibiting “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” (or hate speech for short) (Article 20.2 of the ICCPR). The views diverge on whether the acts prohibited under Article 20 can be considered opinions at all.

This is, in a nutshell, the international free expression framework insofar as it is relevant for historians. The framework is a coherent whole of fundamental principles, all of which have to be carefully balanced. It is our guide in discussing those laws that directly aim at restricting what historians say or write about the past.

MEMORY LAWS

In recent decades, an increasing number of countries have adopted memory laws, that is, laws that *prescribe* or *prohibit* certain views of historical figures, symbols, dates and events (Fig. 2.2).

Memory Laws Regarding Historical Figures (as Part of Defamation Laws)

The most important subcategory of memory laws are those regarding historical figures but, curiously, they are rarely recognized as such because they are also a subcategory of an even more important group of laws: defamation laws. As a subcategory of defamation laws, memory laws regarding historical figures are vulnerable to the same criticism as defamation laws. Article 17 of the ICCPR stipulates:

No one shall be subjected ... to unlawful attacks on his honour and reputation.

Whereas honor is a person's self-esteem, reputation is a person's good name or fame, the esteem in which one is generally held within a particular community. An "attack on reputation," or defamation, is the intentional impairment of that reputation ("fama"). This can be done orally (slander) or in writing (libel) (for definitions, see A19 2000; A19 2003; A19 2006).

Proper defamation laws are laws that protect individuals against false statements of fact that damage their reputations. The basic principle is that only individuals can possess reputations: according to Article 17 of the ICCPR, the harm from an attack on reputation is personal in nature.⁹ This principle rules out the notion of "group defamation" and it does not allow individuals to sue on behalf of a group. As we saw, the "reputation of others" is explicitly mentioned in Article 19.3 of the ICCPR as a possible restricting ground for free expression.

Defamation laws can infringe the basic principle (only individuals possess reputations) by incorporating improper purposes:

- The protection of the reputation of states, nations or religions
- The protection of the reputation of deceased persons

| <i>Content:</i> | historical figures | historical symbols | historical dates | historical events |
|--------------------------------------|---|--------------------|-------------------|--|
| <i>Overlap with other law types:</i> | defamation laws blasphemy laws lèse majesté laws desacato laws | heritage laws | public order laws | genocide denial laws hate speech laws |

Fig. 2.2 Typology of memory laws according to content

- The prevention of legitimate debate about matters of public concern (such as criticism of officials or exposure of official wrongdoing).

The first and second groups comprise improper objects of reputations; the last one provides unduly strong protection for reputations. Let us analyze these purposes in turn (*Joint Declarations* 2013, pp. 22–23, based on A19 2000).

First, scores of historians in communist countries have been sued in the past because they had defamed “the nation,” “the state,” “the Soviet system,” “the Party” or its “nationalities policy.” In the Middle East and North Africa, there is a strong tendency to attack critical historians in the name of concepts such as “Islam” or “justice.” In Turkey, scores of writers, including many historians, were imprisoned because they insulted “Turkishness.” Public bodies such as states are abstract, however, and do not possess reputations.

Second, there is the problem of posthumous reputation. Countless countries have adopted laws containing provisions for “protection of the memory of the dead” and against “defamation of the dead.” Such laws against “defamation of the dead” are most prominent in cases of deceased political leaders. In 2000, at least 18 countries had such laws (World Press Freedom Committee 2000). Among the more notorious examples are the following. The Thai legislation on lèse majesté (1908) protects the monarch and his predecessors; in Turkey, a law protects the legacy of Atatürk (1951); in Iran, a similar law punishes insult against the memory of Ayatollah Khomeini (1995). In India, there is a Prevention of Insults to National Honour Act (1971), but in 2009 the Supreme Court turned down a plea to make it mandatory for people to show respect to Mahatma Gandhi. In 2014, a number of publications in Ethiopia were accused of belittling the legacy of former Prime Minister Meles Zenawi (who died in 2012). In the United States, the state of Oregon adopted a statute with the following provision:

No textbook shall be used in the schools which speaks slightly of the founders of the republic or of those who preserved the union or which belittles or undervalues their work. (*Oregon Revised Statutes* 1981, Sect. 337.260)

When this provision was challenged in court, the appeals court did not express an opinion on its constitutionality.

Because reputation is personal, it cannot be inherited. The London-based NGO Article 19 observed:

[A] right to sue in defamation for the reputation of deceased persons could easily be abused and might prevent free and open debate about historical events. (A19, 2000, comment on principle 2)

In 2008, 349 historians sent a letter to the Spanish government to warn against the abuse of defamation laws, arguing that the 2007 Historical Memory Law, although encouraging historical research on the civil war and the Franco era, could have the unintended effect of increasingly exposing historians to libel trials initiated by the heirs of former perpetrators of human rights violations (Barros and 348 historians 2008).

Third, the issue of criticism of public officials is best introduced by explaining the public-figures doctrine, which stipulates that public figures such as heads of state and government should tolerate more criticism of their reputations than private citizens (see also ECHR 1986; *Joint Declarations* 2013, p. 23). German-speaking jurisdictions often label public figures as “figures of contemporary history.” In spite of this widely accepted doctrine, political leaders in many corners of the world tolerate less rather than more criticism of their reputations. Heads of state have eagerly used the defamation instrument to repress unwelcome historical statements criticizing their reputations either directly or through comments on their past conduct or ideas. Biographies about political leaders have frequently caused serious trouble to their authors. The Human Rights Committee observed that:

[A]ll public figures, including those exercising the highest political authority such as heads of state and government, are legitimately subject to criticism and political opposition. Accordingly, the Committee expresses concern regarding laws on such matters as, [lèse majesté], *desacato*, disrespect for authority, disrespect for flags and symbols, defamation of the head of state and the protection of the honour of public officials ... States Parties should not prohibit criticism of institutions, such as the army or the administration. (UNHRC 2011, §§ 38, 47)¹⁰

When historians are sued for defamation, their strongest defense is that they told the truth: the *exceptio veritatis*. This is so because one cannot defend a reputation one does not deserve in the first place. The truth defense is curtailed in those countries that legally limit the time period for which proof of truth is possible.

In short, defamation laws are legitimate if and when they protect personal reputations against attack. When, however, they protect abstract entities such as states, state symbols or religions, when they protect the memory of deceased figures or shield heads of state and other public figures, including religious figures, from criticism, they are nothing else than memory laws and, in these three cases, improper.

Memory Laws Regarding Historical Symbols

Other brands of memory laws include those prescribing or prohibiting the use of historical symbols. “Symbols” is a broad term covering names (of countries, streets), flags (including coats of arms, badges), hymns and mottos, monuments (buildings, sculptures, statues, digital monuments), coins and

stamps, memorial plaques and portraits dedicated to former leaders, heroes or victims, and, finally, the paraphernalia of military organizations (such as uniforms). From this inventory, it can clearly be inferred that memory laws regarding historical symbols overlap with heritage laws (laws that protect the natural and cultural heritage), insofar as the material infrastructure of the symbols is involved.

After a change of regime, these historical symbols are frequently modified by law or decree, which explains why many new symbols celebrate resistance movements against past repression. In addition, symbols that were in use prior to the period of repression may be reintroduced to restore a sense of continuity with an earlier period of freedom or independence.

The state has many functions, among them a symbolic function when it emphasizes certain social values and an expressive function when it commemorates and educates (see also Brettschneider 2012, pp. 3, 5–7, 13, 15, 20–22). When the state prescribes symbols and endows them with an official character, it fulfills these symbolic and expressive functions. The laws regulating such symbols belong to the legitimate prescriptive kind, as long as citizens are free to use symbols other than the official ones (within the bounds specified below).

The adoption of new symbols, however, is often accompanied by prohibitive measures. Several countries have banned the use of totalitarian symbols (Closa Montero 2010, pp. 294–332). Bans on symbols of previous regimes are often justified on the grounds of protecting the rights of others (namely the victims of the previous regime) or maintaining public order. Although these are legitimate grounds as such, they can be invoked only if they are prescribed by law and if they can be shown to be really necessary. In an attempt to specify this “necessity standard,” the NGO Article 19 drafted 20 *Principles on Protection of Human Rights in Protests* in 2015. Under Principle 10.2 (“Freedom to choose the cause or issue of protests”), states must allow protests that:

[m]erely display insignia, uniforms, emblems, music, flags or signs that are historically associated with discrimination against certain groups, unless they are intended and likely to incite imminent violence. (A19 2015b, p. 23)

We have seen that flags (and other such symbols) do not have reputations, and therefore the charge of flag defamation is not a legitimate ground for prohibition. However, as late as 2014, sixteen EU member states punished the insult of state symbols, such as flags, anthems and coats of arms, and ten punished insult of the symbols of foreign states (International Press Institute 2014, pp. 16–18).¹¹

Because laws seldom solve the entire problem, several issues usually remain unaddressed: should some of the discarded symbols be preserved for their artistic value? What does one do with private ownership of symbols? How does one cope with symbols charged with multiple meanings? How does one

treat places that are now sites of contestation? (For legal cases about symbols, see ECHR 1999; ECHR 2008; ECHR 2012a; ECHR 2012b.) Perhaps the most difficult issue of all is how to respect burial sites containing the remains of members of the previous regime (see, among others, *Third Geneva Convention* (1949), Article 120, and its 1977 additional protocols).

Memory Laws Regarding Historical Dates

There are also memory laws that prescribe or prohibit anniversaries or public holidays, and the commemorations associated with them (see, e.g., the UNHRC cases about Belarus at concernedhistorians.org). Here again, allocating an official status to historical dates as such is not problematic in principle. The end of an international or civil war, the downfall of a dictatorial regime and a declaration of independence are typical moments that are commemorated. Such days may also honor acts of resistance and uprising or, alternatively, commemorate the victims of past crimes. The same situation as in the case of symbols arises. The state is allowed to prescribe anniversaries and to endow them with an official character in order to fulfill its symbolic and expressive functions. As long as citizens are free not to attend official days and celebrate days other than the official ones, the laws regulating such anniversaries belong to the legitimate prescriptive kind.

Commemorations, however, are sometimes suppressed or obstructed on grounds of public order (disturbance of the peace) or, if they are held near cemeteries, public morals (disturbance of piety).¹² Examples include annulled celebrations of anniversaries of massacres, coups and rebellions; disturbances during annual pilgrimages; violence at sacred sites; the break-up of funerary corteges and wakes; and the suppression of traditional ceremonies.

The legitimacy of commemorations can be determined by combining the requirements of Articles 19 (freedom of expression) and 21–22 of the ICCPR (the freedoms of peaceful assembly and association). In 2013, the United Nations Committee on the Elimination of Racial Discrimination recommended:

In order to promote inter-ethnic understanding, balanced and objective representations of history are essential, and, where atrocities have been committed against groups of the population, days of remembrance and other public events should be held, where appropriate in context, to recall such human tragedies, as well as celebrations of successful resolution of conflicts. (UN Committee on the Elimination of Racial Discrimination 2013, § 35)

Recently, the importance of digital technologies in public protests has been acknowledged. In 2011, the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression (henceforth Special Rapporteur on Free Expression) voiced concern about:

[T]he emerging trend of timed (or “just-in-time”) blocking of the internet to prevent users from accessing or disseminating information at key political moments, such as ... anniversaries of ... historically significant events. (SRFEX 2011, § 30)

It should be recalled that, under international law, commemorations that upset others should be protected from violence, not banned (see UN 2016, Principle 4). Memory laws regarding symbols and dates overlap with the first class (historical figures) and last class (historical events) of memory laws because symbols and dates usually refer to these figures and events.

Memory Laws Regarding Historical Events

The last group of memory laws prescribes or prohibits views of historical events. Scores of countries have adopted such laws as the following examples demonstrate. In the past 25 years, at least 14 European countries approved laws condemning Holocaust denial.¹³ France formally recognized the Armenian killings of 1915 as genocide in 2001, but a law to criminalize its denial was dismissed by the Constitutional Council in 2012. The same country also adopted laws regarding the slave trade and slavery (2001) and the positive role of French colonialism (2005; repealed 2006). Spain passed a comprehensive Historical Memory Act in 2007 to deal with the legacy of the civil war and the Franco era. In Ukraine, a 2006 law stipulated that the Holodomor, the famine of 1932–1933, was genocide. This was followed in 2015 by other memory laws that banned Nazi and communist symbols, criminalized denial of the “criminal nature of the communist totalitarian regime,” and rehabilitated highly controversial resistance fighters in World War II. In 2009, the Russian government called for a law “On Combating the Rehabilitation of Nazism” that would not only criminalize attempts to rehabilitate Nazism but also block serious historical research into World War II (for analysis, see A19 2009b). Although this draft law was rejected, a similar law was approved by the Duma in 2014. In Algeria a presidential “Decree Implementing the Charter for Peace and National Reconciliation” was promulgated in 2006. It criminalized, inter alia, any expression believed to denigrate state institutions or security forces for their conduct during the internal conflict of 1992–2000. In 2013, Cambodia adopted a Law Against the Nonrecognition of Crimes Committed During Democratic Kampuchea. In 2016, the proposed new Liberation War Denial Crimes Act in Bangladesh provided for imprisonment and fines if certain events of the 1971 war of independence were denied, distorted or opposed. In 2012, the National Transitional Council of Libya promulgated a law that banned criticism of the 2011 Revolution and glorification of al-Qaddafi and his regime, but a month later the Supreme Court declared the law unconstitutional. In the

wake of the 1994 genocide, Rwanda adopted laws against “genocide ideology” (ideas that could lead to genocide, including the double genocide thesis), “divisionism” and “sectarianism” (ideas encouraging ethnic animosity between the Tutsi and Hutu populations) in the early 2000s (for analysis, see A19 2009c; Amnesty International 2010).

When reviewing these examples, several observations are in place. First, the overwhelming majority of these laws deal with one category of historical events, namely genocide, crimes against humanity and war crimes and their historical counterparts. Second, the United States did not adopt federal memory laws regarding historical events, although some states have such laws regarding historical figures. Some (Durrani 2014; Lidsky 2008, pp. 1091–1092, 1101; Post 2009, p. 132) attribute this absence to the First Amendment, which reads:

Congress shall make no law ... abridging the freedom of speech.

Third, in many countries, the memory laws have given rise to heated debates, foremost in France (see *Liberté pour l'histoire*; lph-asso.fr), but also elsewhere. These debates relate to such aspects as:

- The reasons for and against adopting memory laws, including laws regarding historical events of previous centuries or unconnected to national history
- The different roles of the three branches of government and of political parties, civil society groups and professional historians in creating or opposing memory laws
- The permissibility of using contemporary concepts of international law (such as genocide) to characterize historical crimes (as discussed in De Baets 2011, pp. 132–142)
- The problem of finding evidence for imprescriptible crimes long after the facts
- The proper function of laws and the proper role of the state in relation to history and collective memory (De Baets 2015; Belavusau and Gliszczyńska-Grabias, eds. 2017)
- The duration of commemoration (when should it start and end)? (UN Special Rapporteur in the Field of Cultural Rights 2014 § 57).

A Critical Evaluation of Memory Laws

In 2011, the Human Rights Committee has rejected those memory laws that *prohibit* historical views:

Laws that penalize the expression of opinions about historical facts are incompatible with the obligations that the Covenant imposes on States Parties in relation to the respect for freedom of opinion and expression. (UNHRC 2011, § 49)

In a footnote, the Committee clarified that this statement referred to “so-called memory laws.” In 2013, the United Nations Independent Expert on the Promotion of a Democratic and Equitable International Order declared in the same vein:

Such laws [defamation, blasphemy and memory laws, *adb*] have totalitarian implications and consequences, violate human dignity, the right to open debate, academic freedom, and ultimately lead to intellectual stagnation and self-censorship ... States should ... repeal legislation that is incompatible with Articles 18 and 19 [of the ICCPR]; in particular ... memory laws and any laws that hinder open discussion of political and historical events. (*Report of the Independent Expert 2013*, §§ 38, 56e)

And in 2014, the Special Rapporteur on Free Expression and other rapporteurs jointly declared:

Certain types of legal restrictions on freedom of expression can never be justified by reference to local traditions, culture and values ... These include: ... Laws which provide for special protection against criticism for officials, institutions, historical figures, or national or religious symbols. (*Joint Declaration 2014*, § 1f)

The NGO Article 19 tells us what is wrong with memory laws:

[M]emory laws ... are not necessary in a democratic society, but are in fact counterproductive. [They] too often end up elevating history to dogma ... [They] are both unnecessary—since generic hate speech laws already prohibit incitement to hatred—and open to abuse to stifle legitimate historical debate and research. (A19 2008b)

This is all the more so when these laws provide for criminal sanctions. Given these risks, some have denounced “the nanny state and its memory police” (Garton Ash 2008).

This evaluation can be summed up as follows (Fig. 2.3):

| Form: | prohibitive memory laws | prescriptive memory laws that are: | |
|----------------------------|-------------------------|------------------------------------|--------------|
| | | coercive | non-coercive |
| Condemned internationally? | yes | yes | no |

Fig. 2.3 Typology of memory laws according to form

Clearly, memory laws of the *prohibitive* type are condemned internationally. In principle, the condemnation does not extend to memory laws of the *prescriptive* type. Only when memory laws of the *prescriptive* type adopt a coercive character, that is, when their implementation is obligatory and non-compliance is sanctioned with penalties or imprisonment, do they become indistinguishable from the prohibitive type.

BLASPHEMY, HATE SPEECH AND GENOCIDE DENIAL LAWS

Blasphemy Laws

Some memory laws partially overlap with other law types, such as blasphemy, hate speech and genocide denial laws. Blasphemy laws seek to protect a religion, its doctrines, symbols and venerated personalities (direct blasphemy) or its adherents (indirect blasphemy) from insult and defamation (A19 2015a, p. 29). Heresy laws ban other religions altogether. In the quite frequent cases that they refer to historical religious figures, symbols, dates or events, there is much overlap with memory laws.

In India, for example, Penal Code provisions regarding the insult of religion or religious beliefs have been used against historians, although as early as 1977 the Supreme Court ruled that products of serious historical research could not be punished or proscribed under the Penal Code, even if some of the facts unearthed as a result of such research were unpalatable to followers of a particular religion (*Indian Penal Code* 1860, Articles 153a, 295a, 298; Coliver, ed. 1992, p. 173).

In 2012, almost half of the world's countries had laws that penalized blasphemy (Human Rights First 2012; Reporters without Borders 2013). They mainly used four grounds to restrict free expression. First, defamation of religion: because reputation is a right of individuals, not of abstract concepts such as religion, this is an illegitimate ground. Second, insult to religious feelings: to the extent that blasphemy laws use the concept of insult, they are vulnerable to the same objections as insult laws; they protect feelings of honor and dignity rather than reputations (World Press Freedom Committee 2000; A19 2006, pp. 1–3, 5, 10; also Barendt 2005, pp. 170–192, 227–246, 295–302). This is problematic because whether someone's honor or dignity has been hurt by a remark cannot be proven by external factors or by the test of the "reasonable person" (a hypothetical person who exercises average care); the only evidence available is the individual's own statement as to his or her feelings. Third, public morals: this ground is often appealed to in cases where the state religion is allegedly offended, making it illegitimate for the same reasons as the first two. Fourth, public order: this ground is also weak, as in a typical blasphemy case the disruption of public order following an accusation of blasphemy is not usually caused by the alleged blasphemers but by those feeling offended by them (Neier 2013). Blasphemy rows often lead to damage or destruction of places of worship and to desecration of sacred objects of the religion to which the alleged blasphemers belong (see also De Baets 2014).

In practice, blasphemy laws often serve to shield powerful religious leaders from legitimate criticism and to discriminate against the views of religious minorities, dissenting believers and nonbelievers (SRFEX 2012, §§ 53, 78; *Joint Declarations* 2013, p. 50). The Human Rights Committee noted that:

Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant ... [I]t would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith. (UNHRC 2011, § 48; also UNHRC 1993)

From a human rights perspective, blasphemy laws are impermissible, but in certain circumstances laws that ban the advocacy of religious hatred are not. The latter are part of the group of hate speech laws.

Hate Speech Laws

Mainly due to the Internet, hate speech has been on the rise in recent decades, often acquiring an international dimension through this channel. As we saw, Article 20.2 of the ICCPR requires states to prohibit hate speech by law. It is defined as:

[A]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.¹⁴

This definition has given rise to much discussion. Four issues stand out. First, it is not clear why some concepts were chosen over others, for example, incitement rather than provocation or instigation. In addition, clear descriptions of the incitement and advocacy concepts or of the other concepts (hatred, discrimination, hostility, violence) have not been available for decades. The Special Rapporteur on Free Expression first tried to define them in 2012:

“Advocacy” is explicit, intentional, public and active support and promotion of hatred towards the target group; “[i]ncitement” refers to statements about national, racial or religious groups that create an imminent risk of discrimination, hostility or violence against persons belonging to those groups. (SRFEX 2012, § 44, giving also definitions for hatred, discrimination, hostility and violence, based on A19 2009a, Article 12.1; see also Mendel 2006, p. 46 and A19 2015a, pp. 74–78. For early criticism of the definition, see Partsch 1981, p. 228)

The *imminent risk standard* for incitement is important as it requires a direct and immediate connection between the expression and the conduct it advocates. The spark and tinder analogy has been used (Feinberg 1975, pp. 146, 149–50; also Post 2009, p. 134). Although hate speech by definition is inchoate (the conduct advocated through incitement does not have to be committed for the speech to amount to a crime), a high degree of risk of resulting

harm must be identified (SRFEX 2012, § 45e; OHCHR 2012; see also the 1969 Brandenburg test in the United States; see also A19 1996, principle 6).

Second, prohibitions under Article 20 are to be interpreted in conformity with the restrictions of Article 19.3 (UNHRC 2011, §§ 50–52; SRFEX 2012, §§ 41, 77; Nowak 2005, pp. 476–79; UN Committee on the Elimination of Racial Discrimination 2013, § 35). The Special Rapporteur on Free Expression proposed a checklist for the prohibition of expressions, including the following elements: severity of hatred, intent, content or form of speech, extent of speech, likelihood or probability of harm occurring, imminence of the acts called for, and context (SRFEX 2012, §§ 46, 79; see also OHCHR 2012). In particular, the context (e.g., a context in which hate speech is part of a media monopoly on the part of those in power) is important in deciding whether an expression is hate speech. The context includes historical patterns and also introduces a margin of appreciation (room for maneuvering in fulfilling legal duties) for states dealing with hate speech. In this connection, it remains unclear whether in certain contexts direct incitement can be implicit and expressed insidiously through a pattern of insinuations (UNHRC 1996: individual opinion by Evatt, Kretzmer and Klein; see also ECHR 2015, § 57, discussing direct versus indirect and explicit versus implicit incitement).

Third, many harmful, offensive or objectionable expressions, although raising concerns of tolerance and meriting condemnation, do not constitute hate speech (although, confusingly, they are called so). (SRFEX 2012, § 43; A19 2008a, p. 8). Fourth, strictly speaking, it is not correct to call hate speech “group defamation” because hate speech laws protect the life, safety and equality of members of vulnerable groups rather than their reputations.

Article 20.2 of the ICCPR imposes a duty on states to promulgate hate speech laws. On balance, if surrounded by all the demanding guarantees explained above, the need to protect free expression and prohibit hate speech is mutually compatible and supportive. Hate speech laws thus protect legitimate interests such as the rights of others (in particular their rights to life and equality), public order (their safety), and national security (if Article 20.1 of the ICCPR, prohibiting war propaganda, is also included). The question remains, however, why a separate Article 20.2 of the ICCPR and why checklists are necessary if all the restrictive grounds are already accommodated under Article 19.3. (On the history of ICCPR, Article 20.2, see Partsch 1981, pp. 226–30; Nowak 2005, pp. 468–71; Post 2009, pp. 123–38.)

Arguments in favor of hate speech laws include the following. Foremost, they protect vulnerable minorities. Moreover, being strong signs that the social values of a community exclude hate speech, they improve the norms of respect in liberal democracies. The arguments against hate speech laws are more numerous (Mendel 2010; Mendel 2012, pp. 7–11; see also the debate between Waldron 2012 and Hare 2012). They risk driving hate speech underground: “Sunlight is said to be the best of disinfectants”

(United States Supreme Court Justice Louis Brandeis in 1914). In addition, the provisions of such laws are often full of vague offenses and are abused to suppress criticism (Post 2009, pp. 125–26; for examples of vague offences, see SRFEX 2012, §§ 50–51). For example, Article 20.2 does not prohibit the advocacy of a right of peoples to self-determination and independence, although such advocacy is often labeled as hate speech. The conceptual difficulty in distinguishing between hate speech and vehement criticism of the political system is pervasive. In the past, states often used hate speech laws against the very minorities they were supposed to protect (SRFEX 2002, 37; Coliver 1992, p. 363; Hare 2012). Perhaps the strongest argument against hate speech laws is that they are not effective: they reach only a small subset of all hate speech and provide not only a platform for hate speech exposure, but also for hate speech itself (SRFEX 2012, § 32). On balance, whereas the *symbolic* effects of hate speech laws (emphasizing social values) are sizeable, their *repressive* effects (punishing offenders) and *preventive* effects (steering conduct in a certain direction) seem rather weak (see also Raes 1995, pp. 67–77). Already in 1992, the NGO Article 19 concluded that:

[T]he possible benefits to be gained by such laws simply do not seem to be justified by their high potential for abuse. (Coliver 1992, pp. vii, viii, 363)

Expressions of hate speech may be dressed up as historical research. They may tell a pseudostory about the target groups who were supposedly responsible for injustice in the past or constitute an alleged threat in the present, which is then backed up by pseudohistorical arguments (Mendel 2006, pp. 40–41). For example, during the 1994 genocide in Rwanda, many murders were inspired by distorted historical views. Radical Hutus believed that the Tutsi were foreigners in Rwanda, where they were supposed to have settled following their arrival from the Nilotic regions. Therefore, Tutsi bodies were systematically thrown into the Nyabarongo river, a tributary of the Nile, apparently to “send the Tutsi back to their place of origin” and to “make them return to Abyssinia” (ICTR 1998, § 120, note 54). Such expressions of hate speech with a historical dimension can be condemned from a variety of angles: morally, they are lies; scientifically, forms of fraud; professionally, abuses of history; legally, human rights violations (De Baets 2009, Chap. 1).¹⁵ Hate speech is rife in times of genocide or ethnic violence.

As in defamation cases, there must be a truth defense in hate speech cases: true statements must never be prohibited in the context of hate speech. There is, however, a complication. Much pseudohistorical hate speech may skillfully weave truthful elements into the story in order to make it sound more convincing. It is also probable that scores of mob members participating in hate speech campaigns are not aware of the historical falsifications (Mendel 2006, pp. 60–61). In the *Nahimana* case, the International Criminal Tribunal for

Rwanda specifically rejected both Nahimana and Ngeze's claimed commitment to the truth, stating that truth was "subservient to their objective of ... destruction of the Tutsi ethnic group" (ICTR 2003, § 1027).

The preceding discussion clarified in passing that one particularly pernicious form of hate speech is the direct and public incitement to commit genocide. According to the 1948 Genocide Convention, such incitement must be punished as a criminal offense (*Convention* 1948, Article 3c). One of the questions, then, is whether the denial of past genocides can be seen as hate speech and incitement to genocide.

Genocide Denial Laws

All genocides (the Holocaust, the Armenian genocide, Srebrenica, etc.) and many crimes against humanity (e.g., in the Congo Free State) and war crimes (Nanjing, Katyn, My Lai, etc.) have been targets of denial both during and after the fact (Ternon 2003, pp. 207–221). This is so because these crimes, from the planning stage until long after the execution stage, are steeped with attempts to keep them secret and to erase their traces.

Until two decades ago, most genocide denial laws related to Holocaust denial only. Because of the importance of these laws in more than a dozen countries, the European Union tried to unify legislation in this area through a Framework Decision in 2008. This Decision has rapidly become the leading prototype of genocide denial laws in Europe and elsewhere (European Union 2008), although it presents itself as a criminal-law approach to racist and xenophobic hate speech rather than as a genocide denial law. It makes the following intentional conduct punishable with one to three years' imprisonment when it is directed against individuals and groups defined by reference to race, color, religion, descent or national or ethnic origin: (a) publicly inciting to violence or hatred, including by distributing tracts and pictures; (b) publicly condoning, denying or grossly trivializing genocide, crimes against humanity and war crimes as defined in the 1998 International Criminal Court statute or crimes defined in the 1945 Nuremberg Charter, when that conduct is carried out in a manner likely to incite violence or hatred against such individuals and groups (summary of European Union 2008, Article 1).¹⁶

Clause (a), as a variant of the hate speech definition, is not problematic. At most, one can object that, as much genocide denial is only available as printed matter or online content, one can always escape incitement simply by not watching or reading it (Feinberg 1975, p. 145). Clause (b), however, has provoked two opposing reactions. Most welcomed the qualification that the conduct described under clause (b) must be "likely to incite" violence or hatred, thus linking it to clause (a) and to the imminent risk standard of incitement in hate speech laws. On the other hand, two of the three types of conduct specified under (b)—publicly condoning, denying or grossly trivializing—aroused much criticism because of their vagueness. Only "denial"

seems straightforward: it is the allegation that a given crime did not occur or, if it did, that it does not merit the qualification “genocide,” even in the face of massive corroborated evidence to the contrary. But what is “condoning”? Is it doubting, disputing, excusing, explaining away, relativizing, trivializing, minimizing, justifying, accepting, defending, endorsing, approving, advocating, encouraging, promoting, spreading, glorifying, praising, celebrating or making an apologia?¹⁷ And when exactly does “trivializing” become “gross”? Many of these terms are without definition under international human rights law and open to abuse (A19 2015a, p. 33). Several historians therefore found clause (b) either superfluous or in violation of the legality principle and either way a danger to the historical debate (see also Cajani 2011).

Two grounds are commonly invoked to restrict genocide denial. The first is the reputations of others. Deniers imply that the victims are lying about the genocide and thus are falsifying history; by so doing, the deniers defame the reputations of survivors and the memory of the victims. Second is public order. In this view, genocide denial is perceived as a camouflage for hate speech, and in the case of Holocaust denial, as a pretext for anti-Semitism and racism.

One of the toughest unsolved puzzles is whether the appeal to the memory and dignity of deceased genocide victims (as in the argument above) is a legitimate ground to prohibit genocide denial. On the one hand, the dead, as former human beings, do not possess human rights. Nor is the memory of victims a legitimate restriction ground of free expression. However, as we saw, the living must exercise their right to free expression with a sense of responsibility, among which, it could be argued, is the duty to respect the dignity of the dead (which is a posthumous, not a human dignity). In the *Perinçek* case, the European Court of Human Rights (ECHR) found a compromise solution: an attack on the reputation of one’s ancestors can affect one’s private life and identity, thus circumventing the puzzle by linking respect for the dead to a right of the living, namely their privacy (De Baets 2009, Chap. 4; see also A19 2009b, pp. 13–14; ECHR 2015, §§ 200–202).

The Human Rights Committee and the ECHR have dealt differently with cases of Holocaust denial. The Human Rights Committee, in *Faurisson v France* (1996), dealt with Faurisson’s denial under Article 19.3 of the ICCPR rather than Article 20.2 of the ICCPR. Moreover, the Committee was critical about the Gayssot law (the Holocaust denial law under which Faurisson was convicted) and similar Holocaust denial laws, but because it did not see it as its task to evaluate laws in the abstract, it did not then ask France to repeal it (UNHRC 1996, §§ 9.3, 9.5, 9.7). Fifteen years after *Faurisson*, the Committee made an appeal to remove memory laws under explicit reference to this very case, making it likely that it equates most genocide denial laws with prescriptive memory laws (which it rejects) rather than hate speech laws (which it accepts).

Like the Human Rights Committee, the ECHR systematically rejected all the applications of Holocaust deniers. Usually, however, it did not resort to Article 10 of the European Convention on Human Rights (the equivalent of

Article 19 of the ICCPR), but to Article 17 (the equivalent of Article 5 of the ICCPR). Article 17, the so-called abuse clause, was devised to counter the enemies of democracy. Indeed, the ECHR has consistently viewed Holocaust denial as advocacy of National Socialism, a totalitarian doctrine incompatible with democracy and human rights and falling outside the scope of the right to free expression protected under Article 10 (Cannie and Voorhoof 2011). Another bone of contention is why the ECHR considers the Holocaust to be an “established historical fact,” whereas other equally well-researched genocides (e.g., the Armenian genocide) do not receive such a status (Mendel 2006, pp. 40–41; see also ECHR 2011b, §§ 41–43, ECHR 2015, §§ 209–220).

Several questions surrounding genocide denial and laws to combat them have been fiercely debated, for example

- Is genocide denial itself the final stage of a genocide in that it completes the murders and the erasure of evidence, and if in this case denial becomes a part of the definition of genocide, are deniers accomplices of genocide (punishable under Article 3e of the Genocide Convention)?
- Is genocide denial a form of direct and public incitement to genocide (punishable under Article 3c of the Genocide Convention), enhancing the risk of future genocide?
- Given the different historical experiences of countries, how large is the margin of appreciation for states in dealing with it (see also Flauss 2006, pp. 7–17)?

The question whether genocide denial laws are efficient has not been answered satisfactorily. Some of those convicted of genocide denial have received prison sentences, in Europe as well as Rwanda, but undoubtedly courtrooms only capture a small part of the phenomenon, especially given the Internet's speed and reach. The claim that it prevents denial in other than symbolic ways is debatable. “The State cannot act effectively against the lie because it has no monopoly over the truth” (Raes 1995, p. 74). If this is true itself, no genocide laws are needed: hate speech laws alone suffice to punish genocide denial, if that denial passes the incitement threshold.

Many have pointed to the adverse effects of genocide denial laws. They argue that genocide denial laws create an impression among those sceptical of official wisdom that the truth about genocide is too fragile for debate and cannot survive without legal protection, even after many decades. Furthermore, deniers have an advantage regardless of the trial outcome: if they are accused of denial, they can sue their accusers for defamation (see, e.g., High Court of Justice Queen's Bench Division 2000); if they are charged and convicted, they can pose as free-speech martyrs, and if they are acquitted, they receive a semblance of credibility. Opponents of such laws further argue that if genocide denial is criminalized, there is no logical reason not to criminalize

other historical crimes, at the risk of creating a never-ending series of taboos (the ratchet effect).

CONCLUSION

From an international human rights perspective, only laws applying the three-part test of Article 19.3 and the imminent risk standard for incitement of Article 20.2 of the ICCPR are justified. On that criterion, *all* memory laws that prohibit historical views, *all* memory laws that prescribe historical views *insofar as they are coercive*, *all* lèse majesté laws, *all* desacato laws, *all* insult laws, *all* blasphemy laws, *all* heresy laws, *all* genocide denial laws *insofar as they do not belong to the class of proper hate speech laws*, and *all* defamation laws *of which the purpose is not to protect the reputations of living individuals* should be rejected. Only proper defamation laws and proper hate speech laws are allowed. In addition, we found that even hate speech laws that are in conformity with Article 20.2 of the ICCPR, although strong for their symbolic effects, are weak for their repressive and preventive effects. Nevertheless, the restrictions regime of Article 19.3 of the ICCPR has proven to be a solid instrument to solve free-expression conflicts. Although it can be refined, it has stood the test of time.

Laws have an impact on the entire historiographical operation. They influence the historian's general and specific work conditions. At the heuristic level, they help determine the amount of information available. At the epistemological level, they help guide the methodology and force historians to think more deeply about evidence and truth. At the ethical level, they encourage the virtues of accuracy and honesty and lead to reflection about the rights and duties of responsible historians and their subjects and audiences. If just laws are essential for society's survival, then they are certainly also essential for history's survival.

NOTES

1. All websites mentioned were last visited on March 23, 2017. I am grateful to Toby Mendel, director of the Centre for Law and Democracy (Halifax, Canada), for his critical reading of this chapter's draft. Section 1 was delivered as a lecture entitled "Laws Governing the Free Expression of Historians in Democracies" at the international conference on "State-Sponsored History" in Ghent, Belgium (November 2015). A version of it appeared as "A Historian's View of the International Freedom of Expression Framework," *Secrecy and Society*, 1 (2016), no. 1, article 8 (<http://scholarworks.sjsu.edu/secrecyandsociety/voll/iss1/8>). Section 2 was delivered as a lecture entitled "A Critical View of Memory Laws/Una vista crítica de las leyes de memoria" at the International Workshop on Historiography and Theory of History in La Habana, Cuba (February 2017). I thank all those present at these conferences for their comments.
2. URL: indicators.ohchr.org. Countries that have not yet ratified the ICCPR include China, Cuba, Malaysia, Myanmar and Saudi Arabia.

3. All *General Comments* are at www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx.
4. This right to err echoes the views of John Stuart Mill (1859, Chap. 2), who argued that erroneous and false opinions are valuable because they challenge disbelievers to refute them in order to come closer to the truth. In the process, some of the supposedly erroneous or false information could turn out to be true after all.
5. URL: www.un.org/en/ruleoflaw. The definition of rule of law is inspired, inter alia, by Article 8 in *Déclaration* (1789). See also Fuller's classic (1964), 33–94, discussing eight requirements for legality: generality; promulgation; nonretroactivity; clarity; noncontradiction; capability of being obeyed; constancy through time; congruence between law declared and law administered.
6. Article 15 of the ICCPR emphasizes one element of the legality principle: the prohibition of retroactive application of criminal laws (*nullum crimen sine lege*).
7. For example, India's sedition law dates from 1870 and Egypt's assembly law from 1914. For the latter, see Cairo Institute for Human Rights Studies (2017).
8. In Europe, the usual formula is "necessary in a democratic society."
9. This claim is inferred from UNHRC (1988), § 11: "Article 17 affords protection to personal honour and reputation ..." and "States parties should indicate in their reports to what extent the honour or reputation of individuals is protected by law." See also A19, 2000, principle 2; Nowak 2005, pp. 403–404. There is one exception: also entities with the right to sue and be sued have reputations.
10. *Desacato* laws criminalize disrespect for public officials.
11. For example, the nine EU member states where insulting the state was a criminal offence were Austria, Belgium, Croatia, Germany, Poland, Portugal, and Slovenia (punishable with imprisonment), and Italy and Spain (not punishable with imprisonment).
12. Laws governing cemeteries and memorial sites are of importance here.
13. Outside Europe, Holocaust denial laws (or broader ones covering Holocaust denial) exist, for example, in Israel, Germany, Canada and Australia.
14. Derived from Articles 2 (equality) and 7 (nondiscrimination) in *Universal Declaration of Human Rights* (1948).
15. Classical cases are those against Julius Streicher, Hans Fritzsche and Ferdinand Nahimana. For the latter, see ICTR 2003.
16. Only Article 1 is discussed here, not the passages containing remarks about "hate crimes."
17. See, for example, the distinction drawn by the Spanish Constitutional Court (Tribunal Constitucional de España 2007) between denial and justification of genocide, criminalizing the latter but not the former. See also ECHR (2015), §§ 96–97, 240.

REFERENCES

Amnesty International (2010) *Rwanda. Safer To Stay Silent. The Chilling Effect of Rwanda's Laws on 'Genocide Ideology' and 'Sectarianism'* (London: Amnesty International).

- Article 19 (1996) *Johannesburg Principles on National Security, Freedom of Expression and Access to Information* (London: A19).
- Article 19 (2000) *Defining Defamation. Principles on Freedom of Expression and Protection of Reputation* (London: A19).
- Article 19 (2003) *Rights vs Reputations. Campaign against the Abuse of Defamation and Insult Laws* (London: A19).
- Article 19 (2006) *Defamation ABC. A Simple Introduction to Key Concepts of Defamation Law* (London: A19).
- Article 19 (2008a) *Expert Meeting on the Links between Articles 19 and 20 of the ICCPR: Freedom of Expression and Advocacy of Religious Hatred that Constitutes Incitement to Discrimination, Hostility or Violence* (London: A19).
- Article 19 (2008b) 'France: No More "Memory Laws"' (London: A19).
- Article 19 (2009a) *The Camden Principles on Freedom of Expression and Equality* (London: A19).
- Article 19 (2009b) *Memorandum on the Russian Draft Federal Law 'On Combating the Rehabilitation of Nazism, Nazi Criminals or their Collaborators in the Newly Independent States Created on the Territory of Former Union of Soviet Socialist Republics'* (London: A19).
- Article 19 (2009c) *Rwanda: Comment on the Law Relating to the Punishment of the Crime of Genocide Ideology of Rwanda* (London: A19).
- Article 19 (2015a) '*Hate Speech*' *Explained. A Toolkit* (London: A19).
- Article 19 (2015b) *The Right to Protest. Principles on Protection of Human Rights in Protests* (London: A19).
- Barendt, E. (2005) *Freedom of Speech* (2nd ed.; Oxford: Oxford University Press).
- Barros, C., and 348 historians (2008) 'Documento en solidaridad con el historiador Dionisio Pereira' (Santiago de Compostela: Historia a Debate).
- Belavusau, U. and Gliszczyńska-Grabias, A. (eds.) (2017) *Law and Memory. Addressing Historical Injustice through Law* (Cambridge: Cambridge University Press [to appear]).
- Brettschneider, C. (2012) *When the State Speaks, What Should It Say? How Democracies Can Protect Expression and Promote Equality* (Princeton: Princeton University Press).
- Cairo Institute for Human Rights Studies (2017) *Toward the Emancipation of Egypt. A Study on Assembly Law 10/1914* (Cairo: CIHRS).
- Cajani, L. (2011) 'Criminal Laws on History. The Case of the European Union,' *Historiein*, 11, 19–48.
- Cannie, H. and Voorhoof, D. (2011) 'The Abuse Clause and Freedom of Expression under the European Human Rights Convention. An Added Value for Democracy and Human Rights Protection?' *Netherlands Quarterly for Human Rights*, 9(1), 54–83.
- Closa Montero, C. (2010) *Study on How the Memory of Crimes Committed by Totalitarian Regimes in Europe Is Dealt with in the Member States* (Madrid: CSIC).
- Coliver, S. (ed.) (1992) *Striking a Balance. Hate Speech, Freedom of Expression and Non-discrimination* (London: A19).
- Convention (1948) *Convention on the Prevention and Punishment of the Crime of Genocide*.
- De Baets, A. (2009) *Responsible History* (New York and Oxford: Berghahn).

- De Baets, A. (2011) 'Historical Imprescriptibility,' *Storia della Storiografia*, nos. 59–60, 128–49.
- De Baets, A. (2014) 'The Year Zero. Iconoclastic Breaks with the Past,' *Annales Universitatis Paedagogicae Cracoviensis*, Folia 165 — *Studia Politologica*, 13 (www.aupc.up.krakow.pl/index.php/studpol/article/view/2613), 3–18.
- De Baets, A. (2015) 'Democracy and Historical Writing,' *Historiografías*, no. 9, 31–43 (www.unizar.es/historiografias/numeros/9/debaets.pdf).
- Déclaration (1789) *Déclaration des droits de l'homme et du citoyen*.
- Douglas, L. (1998) 'Policing the Past. Holocaust Denial and the Law' in R. Post (ed.) *Censorship and Silencing. Practices of Cultural Regulation* (Los Angeles: Getty Research Institute for the History of Art and the Humanities), pp. 67–87.
- Durrani, S. (2014) 'Censored by Memory,' *Harvard Political Review* (harvardpolitics.com/books-arts/censored-memory).
- ECHR (2011b) *Cultural Rights in the Case-Law of the European Court of Human Rights*.
- ECHR (1986) *Lingens v Austria* (9815/82).
- ECHR (1995) *Tolstoy Miloslavsky v United Kingdom* (8/1994/455/536).
- ECHR (1999) *Sugg and Dobbs v Sweden* (45934/99).
- ECHR (2008) *Vajnai v Hungary* (33629/06).
- ECHR (2011a) *Gollnisch v France* (48135/08).
- ECHR (2012a) *Fáber v Hungary* (40721/08).
- ECHR (2012b) *Fratanoló v Hungary* (29459/10).
- ECHR (2015) *Perinçek v Switzerland* (27510/08).
- European Union (2008) 'Council Framework Decision 2008/913/JHA of 28 November 2008 on Combating Certain Forms and Expressions of Racism and Xenophobia by Means of Criminal Law,' *Official Journal of the European Union*, L328/55–L328/58.
- Feinberg, J. (1975) 'Limits to the Free Expression of Opinion,' in J. Feinberg and H. Gross (eds) *Philosophy of Law* (Encino, CA: Dickenson), pp. 135–151.
- Flauss, J.-F. (2006) 'L'Histoire dans la jurisprudence de la cour européenne des droits de l'homme,' *Revue trimestrielle des droits de l'homme*, 65, 7–17.
- Fuller, L. (1964) *The Morality of Law* (New Haven: Yale University Press).
- Garton Ash, T. (2008) 'The Freedom of Historical Debate Is under Attack by the Memory Police,' *Liberté pour l'histoire* (lph-asso.fr).
- Hare, I. (2012) 'The Harms of Hate Speech Legislation,' *Free Speech Debate* (Oxford: freespeechdebate.com).
- High Court of Justice Queen's Bench Division (2000) *David Irving v Penguin Books and Deborah Lipstadt* (EWHC–QB–115).
- Human Rights First (2012) *Blasphemy Laws Exposed. The Consequences of Criminalizing 'Defamation of Religions'* (New York: HRF).
- ICCPR (1966) *International Covenant on Civil and Political Rights*.
- ICTR (1998) *Prosecutor v Jean-Paul Akayesu: Judgement* (ICTR 96–4–T).
- ICTR (2003) *Prosecutor v Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze: Judgement and Sentence* (ICTR–99–52–T).
- Indian Penal Code* (1860).
- International Press Institute (2014) *Out of Balance. Defamation Law in the European Union and Its Effect on Press Freedom* (Vienna: IPI).

- Joint Declaration* (2014) *Joint Declaration on Universality and the Right to Freedom of Expression* (Vienna: OSCE).
- Joint Declarations* (2013) *Joint Declarations of the Representatives of Intergovernmental Bodies to Protect Free Media and Expression* (Vienna: OSCE).
- Lidsky, L. (2008) 'Where's the Harm? Free Speech and the Regulation of Speech,' *Washington and Lee Law Review*, 65(3), 1091–1101 (www.scholarlycommons.law.wlu.edu/wlulr/vol65/iss3/9).
- Locke, J. (1689) *Two Treatises of Government* (London).
- Mendel, T. (2006) *Study on International Standards Relating to Incitement to Genocide or Racial Hatred—For the UN Special Advisor on the Prevention of Genocide* (Halifax: CLD).
- Mendel, T. (2010) *Hate Speech Rules under International Law* (Halifax: CLD).
- Mendel, T. (2012) 'Does International Law Provide For Consistent Rules on Hate Speech?' in M. Herz and P. Molnar (eds) *The Content and Context of Hate Speech. Rethinking Regulation and Responses* (Cambridge: Cambridge University Press), pp. 417–429.
- Mill, J. S. (1859) *On Liberty* (London: Parker & Sons).
- Neier, A. (2013) 'The Future of Free Speech,' *Free Speech Debate* (freespeechdebate.com).
- Nowak, M. (2005) *UN Covenant on Civil and Political Rights: CCPR Commentary* (2nd ed.; Kehl am Rhein: Engel).
- OHCHR (2012) *Rabat Plan of Action on the Prohibition of Advocacy of National, Racial or Religious Hatred that Constitutes Incitement to Discrimination, Hostility or Violence*.
- Oregon Revised Statutes* (1981).
- Partsch, K. J. (1981) 'Freedom of Conscience and Expression, and Political Freedoms' in L. Henkin (ed.), *The International Bill of Rights. The Covenant on Civil and Political Rights* (New York: Columbia University Press), pp. 209–45.
- Post, R. (2009) 'Hate Speech' in I. Hare and J. Weinstein (eds.), *Extreme Speech and Democracy* (Oxford: Oxford University Press), pp. 123–38.
- Raes, K. (1995) 'Vrijheid van meningsuiting en de revisionistische geschiedvervalsing' in G. Schuijt and D. Voorhoof (eds) *Vrijheid van meningsuiting, racisme en revisionisme* (Gent: Academia Press), pp. 31–77.
- Report of the Independent Expert (2013) *Report of the Independent Expert on the Promotion of a Democratic and Equitable International Order* (A/HRC/24/38) (Geneva).
- Reporters without Borders (2013), *Blasphemy: Information Sacrificed on Altar of Religion* (Paris: RWB).
- SRFEX (2002) (E/CN.4/2002/75) (Geneva).
- SRFEX (2010) (A/HRC/14/23) (Geneva).
- SRFEX (2011) (A/HRC/17/27) (Geneva).
- SRFEX (2012) (A/67/357) (Geneva).
- Ternon, Y. (2003) 'Le Spectre du négationnisme. Analyse du processus de négation des génocides du XXe siècle' in C. Coquio (ed.) *L'Histoire trouée. Négation et témoignage* (Nantes: L'Atalante), pp. 207–221.
- Third Geneva Convention, relative to the Treatment of Prisoners of War* (1949).
- Tribunal Constitucional de España (2007) *Judgment No. 235/2007*.

- UN (2016) *Ten Principles for the Proper Management of Assemblies – Implementation Checklist* (Geneva).
- UNCHR (1984) *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights* (E/CN.4/1985/4, Annex).
- UNCESCR (1999) *General Comment 13* [right to education].
- UNCESCR (2005) *General Comment 17* [authorship].
- UNCESCR (2009) *General Comment 21* [right of everyone to take part in cultural life].
- UN Committee on the Elimination of Racial Discrimination (2013), *General Recommendation 35*.
- UNHRC (1983a) *General Comment 10* [freedom of expression].
- UNHRC (1983b) *General Comment 11* [prohibition of war propaganda and inciting national, racial or religious hatred].
- UNHRC (1988) *General Comment 16* [privacy and reputation].
- UNHRC (1993) *General Comment 22* [freedom of thought].
- UNHRC (1997) *General Comment 26* [continuity of obligations].
- UNHRC (2011) *General Comment 34* [freedoms of opinion and expression].
- UNHRC (1996) *Faurisson v France* (550/1993).
- UNHRC (2000) *Ross v Canada* (736/1997).
- UN Secretary-General (2004) *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies* (S/2004/616).
- UN Special Rapporteur in the Field of Cultural Rights (2014) *Memorialization Processes. Report* (A/HRC/25/49) (Geneva).
- Universal Declaration of Human Rights* (1948).
- Waldron J. (2012) 'The Harm of Hate Speech,' *Free Speech Debate* (Oxford: freespeechdebate.com).
- World Press Freedom Committee (2000) *Insult Laws. An Insult to Press Freedom* (Reston, VA: WPFC).

RECOMMENDED READINGS

- Article 19 (2000) *Defining Defamation. Principles on Freedom of Expression and Protection of Reputation* (London: A19).
- Article 19 (2009) *The Camden Principles on Freedom of Expression and Equality* (London: A19).
- Barendt, E. (2005) *Freedom of Speech* (2nd ed.; Oxford: Oxford University Press).
- Fuller, L. (1964) *The Morality of Law* (New Haven: Yale University Press).
- Garton Ash, T. (2016) *Free Speech. Ten Principles for a Connected World* (London: Atlantic Books).
- Hare, I. and Weinstein J. (eds.) (2009), *Extreme Speech and Democracy* (Oxford: Oxford University Press).
- Mill, J. S. (1859) *On Liberty* (London: Parker & Sons).
- Nowak, M. (2005) *UN Covenant on Civil and Political Rights. CCPR Commentary* (2nd ed.; Kehl am Rhein: Engel).
- Schauer, F. (1982) *Free Speech. A Philosophical Inquiry* (Cambridge: Cambridge University Press).
- United Nations Human Rights Committee (2011) *General Comment 34* [freedoms of opinion and expression] (CCPR/C/GC/34).

Writing History Through Criminal Law: State-Sponsored Memory in Rwanda

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INTRODUCTION

The tensions between Germany and Turkey triggered by the recognition of the Armenian genocide by the Bundestag in June 2016 confirmed (if this was still necessary) the sensitive, crucial and controversial nature of processes of construction of collective memory. This is particularly true in post-violence settings, as demonstrated by the saga of anti-denial laws enacted in Europe since WWII (Pech 2009; Cajani 2012). Several post-genocide societies have resorted to criminal law to enforce memory, trying to crystallize a precise interpretation of the past in order to counter revisionist theories negating the occurrence of well-established facts such as the Holocaust. The UN Human Rights Committee (HRC) has stressed in its General Comment (GC) 34 that freedom of expression is a necessary condition for the full development of the person and is essential for any society (Human Rights Committee, General Comment No. 34 on Article 19 of the ICCPR, 12 September 2011, para 2). Freedom of expression is also the basis for “the full enjoyment of a wide range of other human rights.” Pursuant to GC 34 the obligation to respect freedom of opinion and expression is binding upon executive, legislative and judicial power. Limiting freedom of expression to protect some core values is, however, admissible under international law if this happens within the framework provided by Articles 19 and 20 of the International Covenant on Civil and Political Rights (ICCPR).¹

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Post-genocide Rwanda, however, has moved one step further, adopting several pieces of legislation severely limiting freedom of expression and political participation, which have also impacted on the debate surrounding the genocide and testimonies in genocide-related trials. To unpack the particular attention paid to hate speech and genocide denial in Rwanda it is important to stress the crucial role that media have played in the direction of the violence before and during the killings in 1994. This was confirmed by the Media Trial before the ICTR, where Ferdinand Nahimana and Jean Bosco Barayagwiza, working for the hate Radio Radio Télévision Libre des Mille Collines (RTML), and Hassan Ngeze, the director of the newspaper *Kangura*,² were found guilty and convicted of genocide, incitement to genocide and crimes against humanity. A 2009 study conducted by Harvard's Kennedy School of Government concluded that 10% of the perpetrators, about 51,000 individuals, took part in the genocide because of the propaganda campaign orchestrated by the RTML (Jansen 2014, p. 194).

Since 2001, Rwanda has adopted three laws criminalizing, respectively, "sectarianism," "negationism" and "genocide ideology." These provisions have also notably been used to trump the main opposition leader, Victoire Ingabire, preventing her from participating in the presidential election of 2010 (see Sect. "[Jurisprudence and Impact of the Memory Laws](#)"). The provisions of the negationism laws have been criticized by human rights defenders, NGOs and by the UN Human Rights Committee for their lack of compliance with international human rights standards. The vagueness of their wording, which does not permit the comprehension of the element constituting the crime has also been repeatedly stressed (Sullo 2014). These pitfalls have been confirmed by the Supreme Court of Rwanda, the highest branch of the national judiciary, in the case regarding Agnes Uwimana-Nkusi and Saidati Mukakibibi. The Court, however, has refrained from declaring the law at odds with the Rwandan constitution, which notably protects freedom of speech and declares the supremacy of international human rights law over domestic law.

It is not surprising hence that international indicators of a free and open society concerning Rwanda give disappointing results. Rwanda ranks 161st out of 180 in the 2016 World Press Freedom Index issued by Reporters Without Borders. In a 2013 country report the Freedom House has declared that "Rwanda is not an electoral democracy" because the Rwandan Patriotic Front (RPF), the ruling party since 1994, tightly controls the electoral process (Jansen 2014, p. 191).³ The provisions regulating the media in Rwanda have also been heavily criticized. The 2013 law N 02/2013 on regulating media, for instance, has attracted criticisms by the London-based NGO Article 19 for its lack of intelligibility and the restrictions and tight control it imposes on the media (Jansen 2014, p. 195). Another widely debated issue surrounding post-genocide justice regards the offenses perpetrated by the Rwandan Patriotic Army (RPA), the military wing of the RPF. The RPA is suspected of being responsible for several thousand human rights violations

during and in the aftermath of the genocide, but the Rwandan government has showed a clear lack of will to prosecute the organization (Amnesty International 1994).

This chapter, after some preliminary remarks on the influence of the genocide on the constitutional system of Rwanda, examines the genocide denial laws as well as the jurisprudence based on them against the background provided by international human rights law and constitutional norms. Some suggestions are finally provided as to how to align them with international human rights norms.

GENOCIDE DENIAL IN THE RWANDAN CONSTITUTION

The will to come to terms with the legacy of the genocide is the benchmark of the Rwandan constitutional system. The Rwandan 2003 constitution is deeply permeated by the intention to overcome the legacy of the 1994 violence and defeat genocide ideology. The constitution, however, does not clarify what exactly “genocide ideology” means, providing no guidance as to how prosecutors and judges should interpret the anti-denial and minimization provisions. Among international law instruments the 1948 Convention on the Repression and Prevention of the Crime of Genocide urges the state’s party to prohibit “direct and public incitement to genocide,” but does not criminalize the denial of genocide. The only instrument of international law criminalizing the denial of genocide remains the 2003 Additional Protocol to the Convention on Cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems (Sullo 2014, p. 420).

The Preamble of the Constitution strongly emphasizes the necessity to overcome the legacy of the genocide and promote national unity. It solemnly affirms that the Rwandan state is “based on the principle of rule of law, on the respect for fundamental human rights, pluralistic democracy, equitable power sharing, tolerance and resolution of issues through dialogue.” It expressly highlights the adherence of the Rwandan state to the principles of human rights enshrined in the UN Charter and other instruments of international law. The Preamble also highlights Rwanda’s privilege of having a common language, a common culture, and a long shared history. It explicitly refers to genocide ideology by affirming Rwandans are “Resolved to fight the ideology of genocide and all its manifestations and to eradicate ethnic, regional and any other form of divisions.”

Article 13 of the Constitution highlights that “revisionism, negationism and trivialisation of genocide are punishable by the law.” Article 33 extends the prohibition to “propagation of ethnic, regional, racial or discrimination or any other form of division.” Furthermore, the Constitution sets up two crucial instruments to deal with the legacy of the genocide and overcome social divisions.⁴ The first is the National Unity and Reconciliation Commission

envisioned in Article 178 of the Rwandan Constitution. The commission is tasked with reporting annually about the reconciliation policies in the country. The second, the National Commission for the Fight against Genocide, set up pursuant to Article 179 of the Constitution, is tasked with organizing a permanent debate on the genocide and its consequences as well as prevention strategies.

The Rwandan Constitutional Charter protects freedom of opinion and expression under Article 34. Accordingly, limits to freedom of expression are “public order and good morals, the right of every citizen to honour, good reputation and the privacy of personal and family life” as well as the protection of youth and minors.⁵ The conditions for exercising freedom of expression are determined by the Rwandan law. Rwanda is also a party to the African Charter on Human and People’s Rights, Article 9 of which protects the right to information and freedom of expression.⁶

The Rwandan constitutional charter emerges as a real national autobiography reflecting on the country’s national history and, to the extent possible, redressing it. This is not surprising as constitutional transitions are a privileged *locus* to write, rewrite and crystallize national history. Other post-conflict transitions by the way are marked by a similar effort to use constitution-building processes as an instrument to judge the past. We see this, for instance, in the constitutional transition in post-Gaddafi Libya where the 2016 Libyan draft constitution includes an entire chapter (Chapter XI) devoted to transitional justice measures aimed at redressing the injustice of Gaddafi’s regime. The risks for freedom of expression emerging when the legislator acts as a historian fixing history through criminal law are, however, immense, as the following sections demonstrate.

THE LAWS ON SECTARIANISM, DIVISIONISM AND GENOCIDE IDEOLOGY

Unlike in Europe, where the criminalization of genocide denial was adopted decades after the Holocaust occurred, in Rwanda legal measures to fight genocide denial have been enacted a few years after the 1994 massacres. Consequently, although witnesses of the Holocaust in Europe have almost disappeared (which might somehow justify the enforcement of memory through legal measures), several victims, perpetrators and witnesses of the genocide are still alive in the African country. This is, however, only one of the several differences between the two genocide settings.

As have many European countries, Rwanda has registered instances of genocide denial, which have been addressed through Law 47/2001 on Prevention Suppression and Punishment of the Crime of Discrimination and Sectarianism, Law 33 *bis* of 2003 punishing the crime of genocide, crimes against humanity and war crimes and Law No. 18/2008, Relating to the Punishment of the Crime of Genocide Ideology.

On December 18, 2001 the Rwandan Parliament adopted Law 47/2001 on Prevention Suppression and Punishment of the Crime of Discrimination and Sectarianism. Article 3 of the law defines the crime of discrimination and sectarianism as follows.

The crime of discrimination occurs when the author makes use of any speech, written statement or action based on ethnicity, region or country of origin, colour of the skin, physical features, sex, language, religion or ideas with the aim of denying one or a group of persons their human rights provided by Rwandan law and International Conventions to which Rwanda is party. The crime of sectarianism occurs when the author makes use of any speech, written statement or action that causes conflict that causes an uprising that may degenerate into strife among people.

Discrimination and sectarianism are punishable by a term of incarceration ranging from three months to two years (one to five years for government officials and NGO staff). The law has been criticized for its lack of specificity and its unclear wording. The crime of sectarianism is not subject to a statute of limitation. Scholarly literature has also stressed that the law has been abused to clamp down the main opposition party, the Mouvement Démocratique Republicain, accusing it of “divisionism” on the basis of law 47/2001 (Waldorf 2009, p. 108). Human Rights Watch (HRW) has reported that interviewed judges were not able to define divisionism, even though they had convicted defendants charged of divisionism relying on law 47/2001 (HRW 2008). The Brussels-based NGO *Avocats Sans Frontières* (ASF) after analyzing the case law based on Law 47/2001 has concluded that application of the law by the Rwandan judiciary is highly problematic (ASF 2011, pp. 79–83). The judges in fact do not always clarify the legal element justifying the conviction discrimination or sectarianism (Tribunal de Base Nyakabuye, District Rusizi, 09/11/2007; Tribunal de Grande Instance Gicumbi, 04/02/2010). Furthermore, in Rwandan jurisprudence the analysis of elements constituting the offenses, namely “the aim of denying one or a group of persons their human rights” and generating “conflict that causes an uprising that may degenerate into strife among people” is often missing.

Two years after the adoption of law 47/2001, the denial and minimization of the genocide was criminalized through Law 33 *bis* of 2003 punishing the crime of genocide, crimes against humanity, and war crimes.⁷ Article 4 of this law affirms that:

Shall be sentenced to an imprisonment of ten (10) to twenty (20) years, any person who will have publicly shown, by his or her words, writings, images, or by any other means, that he or she has negated the genocide committed, rudely minimised it or attempted to justify or approve its grounds, or any person who will have hidden or destroyed its evidence. Where the crimes mentioned in the preceding paragraph are committed by an association or a political party, its dissolution shall be pronounced.

Also in this case the wording adopted is very broad and the law lacks the necessary specificity that must characterize criminally sanctioned measures. As a result it is, for instance, difficult to understand what the term “rudely minimising” means. Article 17(3) of the law raises further concerns as it punishes attempts to prompt others to commit the offenses proscribed in the same way as if such offences had actually been perpetrated. Consequently, also “incitement, by way of speech, image or writing, to commit ... such a crime, even where not followed by an execution” is considered a crime. (Jansen, p. 196). The penalties established in the law are moreover very harsh, ranging from 10 to 20 years of imprisonment.

One of the most concerning aspects of the memory laws enacted in Rwanda is their impact on post-genocide justice. ASF has voiced concerns regarding the consequences of Law 33 *bis* of 2003 on testimony sworn before *gacaca* courts, the main transitional justice mechanism established to cope with the legacy of the genocide (ASF 2011, p. 51). A telling case concerned a 46-year-old farmer acting as a witness before a *gacaca* court, who declared: “*Est-ce que je vais témoigner sur le génocide des Tutsi, sur celui des Hutu ou sur celui des Twa?*” (“Should I testify about the genocide of the Tutsi, that of the Hutu, or that of the Twa?”) On the basis of Article 4 of Law 33 *bis* 2003 he was convicted to three years imprisonment by the Tribunal de Grande Instance of Nyagatare. The judge held that “These words demonstrate that the accused does not attach any importance to the genocide of the Tutsi committed in Rwanda in 1994; the only genocide committed in Rwanda was against the Tutsi, no genocide was committed against the Hutu or the Twa. The accused has downplayed the genocide against the Tutsi affirming that other genocides had been committed.”⁸ Also in this case the court did not elaborate on the element constituting the offense and any reasoning regarding the intentionality of the offense was missing.

Amnesty International (AI) has also reported that the Rwandan judiciary has stressed the flaws of the 2003 law by affirming that its definitions are “broad” and “not scientific” (AI 2010, p. 18).

A third law was deemed necessary by the Rwandan parliament in order to prevent the spread of “genocide ideology” in 2008, Law 18/2008.⁹ According to Article 1 of Law 18/2008, the objective of the Genocide Ideology Law is to prevent and punish the crime of genocide ideology. The law states that “[I]t is necessary to prevent and punish genocide ideology in order not for genocide to be committed again in the country,” considering the law a crucial mechanism in order to grant the nonrecurrence of the genocide. According to Article 2, the genocide ideology is:

an aggregate of thoughts characterized by conduct, speeches, documents and other acts aiming at exterminating or inciting others to exterminate people basing on ethnic group, origin, nationality, region, colour, physical appearance, sex, language, religion or political opinion, committed in normal periods or during war.

The crime of genocide ideology, outlined in Article 3 of the law:

is characterized in any behaviour manifested by facts aimed at dehumanizing a person or a group of persons with the same characteristics in the following manner: 1) threatening, intimidating, degrading through defamatory speeches, documents or actions which aim at propounding wickedness or inciting hatred; 2) marginalising, laughing at one's misfortune, defaming, mocking, boasting, despising, degrading creating confusion aiming at negating the genocide which occurred, stirring up ill feelings, taking revenge, altering testimony or evidence for the genocide which occurred; 3) killing, planning to kill or attempting to kill someone for purposes of furthering genocide ideology.

The law criminalizes several heterogeneous offenses conducive to genocide ideology without being limited to target the denial of the 1994 genocide. Some offences, such as “creating confusion aiming at negating the genocide which occurred,” “mocking,” “boasting” or “laughing at one’s misfortune” are ill-defined and may easily be the object of abusive interpretation, consequently violating the principle that criminal law has to be strictly construed (Sullo 2014, p. 437). The concept of genocide ideology is set out very broadly, making it impossible to identify the prohibited conducts. In order to include the broadest possible range of behaviors within the umbrella of criminal sanctions, the Rwandan legislator has completely neglected the principle of legality and of specificity, crucial in the realm of penal law. Surprisingly, Rwandan prosecutors had started to target suspects of “genocide ideology” even before the 2008 law was adopted on the basis of the previous anti-denial legislation (Waldorf 2009, p. 109). The law has also attracted criticisms by the European Union, that before it was passed required the Rwandan government to pay “attention to the quality of the drafting, in particular in relation to specifying more clearly the principles of legality, intentionality and supporting freedom of expression.”¹⁰ Law 18/2008 provides severe penalties for those convicted of genocide ideology. According to Article 4:

Any person convicted of the crime of genocide ideology ... shall be sentenced to an imprisonment of ten (10) years to twenty five (25) years and a fine of two hundred thousand (200,000) to one million (1,000,000) Rwandan francs. In case of recidivism, the penalty provided for in the preceding paragraph shall be doubled.

In addition, “Any person found guilty of the ideology of genocide who was convicted of the crime of genocide, shall be sentenced to life imprisonment” (Article 5). The Law on Genocide Ideology also targets organizations, imposing fines and the dissolution on those found guilty. Particularly concerning are the provisions regarding children. A child guilty of genocide ideology is placed in a rehabilitation center for up to 12 months if younger than 12. If between 12 and 18 years old, however, children are subject to half of the

sentence envisaged for adults, which can be partially or fully served in a rehabilitation center. This rule is at odds with the principle of “best interest of the child” spelled out in international human rights law. The principle, set out in the Convention on the Rights of the Child and in the Beijing Rules, imposes recourse to prison as a last resort and for the shortest time for children. Unfortunately the law on genocide ideology allows that children of 12 years old serve their sentence in prison, risking abuse where they are not immediately separated from adults.

JURISPRUDENCE AND IMPACT OF THE MEMORY LAWS

Thousands of Rwandans have been prosecuted under the memory laws passed, respectively, in 2001, 2003 and 2008. The three laws share with the Rwandan constitution a lack of guidance as to how to interpret the term “genocide ideology,” providing judges and prosecutors with an unfettered margin of appreciation when applying the relevant provisions. Referring to the 2003 law René Lamarchand has declared that “So vague and all-embracing is the language of the law as to give the courts extraordinary latitude to indict suspects on the flimsiest grounds” (Lemarchand 2006).

NGOs and human rights defenders have also stressed the political use of the memory laws in Rwanda. The most famous case in this respect regards Victoire Ingabire.¹¹ An exiled political opponent, Ingabire returned to Rwanda to run for the presidency of the republic in 2010. Following her declarations that the crimes committed during the genocide by the RPA also should be prosecuted, Ingabire was charged with genocide ideology under the 2008 law and arrested. Her political party was refused registration and she was not allowed to run for the presidency. Paul Kagame received 93.08% of the votes. In March 2012 Mrs. Ingabire filed a constitutional challenge before the Supreme Court arguing that Articles 2 and 3 of the Genocide Ideology law contrasts with Articles 20, 33 and 34 and of the Rwandan Constitution. The challenge was rejected in October 2012, but the Supreme Court acknowledged that the law lacked clarity. Despite the acknowledgment, the Supreme Court extended Ingabire’s sentence from 8 to 15 years of imprisonment. The Rwanda Supreme Court is the court of last instance, tasked with overseeing activities of courts and tribunals in Rwanda, while ensuring judiciary independence. According to Article 144 of the Rwandan Constitution, “Its decisions shall be binding on all parties concerned whether organs of the State, public officials, civilians, military, judicial officers or private individuals.” The Supreme Court also ensures the constitutionality of international treaties and domestic legislation (Article 145 Rwandan Constitution).

Another worrying factor is represented by the repercussions of the genocide ideology law on genocide trials, where they have limited the possibility to give free testimonies. Four parliamentary commissions on “divisionism”

and “genocide ideology,” set up between 2003 and 2008, have made a clear link between these offenses and the speaking out against RPF crimes (HRW 2008, p. 36). According to the commissions, examples of revisionism include affirming that “Hutus [are] detained on the basis of some simple accusation” or that “[there are] unpunished RPF crimes.” One commission has also reported cases of genocide ideology in schools throughout Rwanda.¹² Several organizations have been included in a list of actors spreading genocide ideology, which also included the BBC and HRW.¹³ This repressive atmosphere, punishing interpretations of Rwandan history that differ from the official one, has reportedly exerted a great influence on post-genocide justice and on *gacaca* trials in particular, influencing debates and testimonies. The case of Celestin Sindikubwabo, reported by HRW, offers a clear example. When testifying before a *gacaca* court in the Nyakizu district in October 2006, Sindikubwabo declared that the defendant fled to Burundi in order to escape RPF troops who were killing civilians. As a consequence of his testimony he was arrested and sentenced to a prison term of 20 years for “gross minimization of the genocide.”

The Rwandan government has paid constant attention to the way the genocide is elaborated and remembered and has established countrywide memorial centers that amplify and spread official interpretations of the past. Fighting the genocide ideology was the official theme of the genocide commemoration in April 2016, which confirms the attention paid by the Rwandan government to this topic. The memory of the genocide and its particular interpretation promoted through criminal law is used by the Rwandan government as an *instrumentum regni* to gain legitimacy. This approach has a strong impact on memorialization processes, historical research and more generally on the education of the young generations.

Evidence of the restrictions placed on historical research includes, for instance, the accusations of genocide ideology formulated against Alison des Forges, a leading scholar working on the Rwandan genocide (Waldorf 2009, p. 112). Des Forges in her work in fact has always stressed that the RPA was responsible for thousands of revenge killings against Hutus during and in the aftermath of the genocide. Recent scholarship has also shed light on the use of schools for the indoctrination of children, before as well as after the genocide.

In the post-colonial age schools were used to strengthen the dichotomization in Hutu and Tutsi categories. After the genocide schools became an instrument to introduce new identity categories rewriting national history. With the aim of eradicating genocide ideology 6000 teachers have been trained and encouraged to start their classes every day with three minutes aimed at stigmatizing the genocide ideology.¹⁴ According to Elisabeth King, after Autumn 1994 the post-genocide regime, “placed a moratorium on teaching history in Rwanda’s schools” and “prioritized the rewriting of history books” (King 2014). In 1995, the government of Rwanda highlighted

the necessity of a new manual of Rwandan history that would “rehabilitate certain historical truths that had been sacrificed for the sake of ideological manipulation.” Reportedly, the moratorium on the teaching of history of Rwanda, despite several initiatives to resume it, is still in place in most of the country (Moshman 2014). In the words of King, “[T]he logic of the Kagame regime seems to go as follows: tell them to reconcile and the population will do so. Teach them a new history and they will embrace it. Notify them that Hutu, Tutsi, and Twa no longer exist and it will be so.” The need shared by Rwandan students for a genuine, unbiased and balanced history curriculum has emerged from King’s research. The memory policy of the Rwandan government culminated in an interesting constitutional amendment which in 2008 replaced the more ethnically neutral term “genocide” included in the Preamble, Articles 51 and 179 of the Rwandan Constitution by the new wording, “genocide of the Tutsi.”¹⁵

Concerns regarding the influence that the genocide ideology law might exert on witnesses testifying before Rwandan courts have been voiced by the ICTR Trial Chambers in the *Kanyarukiga Case*, which stated:

The Appeals Chamber considers that there was sufficient information before the Trial Chamber of harassment of witnesses testifying in Rwanda, and that witnesses who have given evidence before the Tribunal experienced threats, torture, arrests and detentions, and, in some instances, were killed. There was also information before the Trial Chamber of persons who refused, out of fear, to testify in defence of people they knew to be innocent. The Trial Chamber further noted that some defence witnesses feared that, if they testified, they would be indicted to face trial before the *Gacaca* courts, or accused of adhering to “genocidal ideology.”¹⁶

Similar reasoning followed the British High Court in cases regarding the extradition to Rwanda of individuals suspected of genocide indicted in the United Kingdom.¹⁷ In order to address this problem the government of Rwanda amended the legislation regulating the trials of accused transferred from other jurisdictions establishing that “[N]o person shall be criminally liable for anything said or done in the course of trials.”¹⁸

Another interesting case regards the journalists Agnès Uwimana-Nkusi and Saidati Mukakibibi, who were arrested in July 2010 (Jansen 2014, p. 199). The two journalists wrote for the biweekly publication *Umurabyo*, a Kinyarwanda-language newspaper printed in 100–150 copies per issue, where they had criticized the Rwandan government. The journalists were tried before the High Court of Kigali. Uwimana-Nkusi was convicted for four separate charges due to her writings including genocide minimization (Article 4 of the 2003 Law) and divisionism (Article 1 of the 2001 Law on Sectarianism; Jansen 2014, p. 200). Mukakibibi was sentenced for threatening national security due to one article published in *Umurabyo* but was acquitted of the divisionism charge (Jansen 2014, p. 200). In one article Uwimana-Nkusi

wrote that “Rwandans lived for a long time with this hatred until they ended up killing each other after [former President] Kinani [Habyarimana]’s death.” The expression “killing each other” triggered the accusation of genocide minimization. As the Court explained,

Uwimana-Nkusi Agnes claims that hatred between Rwandans grew, which led to them killing each other. The High Court has found that here she has shown that it was hatred that caused the killings, and this is not true as there was an intention of exterminating the Tutsis. The defendant intentionally minimises the genocide in her article, since before the Court she admitted that genocide took place against the Tutsis and that killings did not occur from both sides. (Jansen 2014, p. 200)

Found guilty of genocide minimization, Uwimana-Nkusi was convicted to 10 years’ imprisonment and a fine. She was also sentenced to five years of prison for threatening national security, one year and a fine for divisionism and a one-year prison term for defaming the president: 17 years in total for one article. Mukakibibi received a sentence of seven years of imprisonment due to threat to national security.

The two journalists appealed the conviction before the Supreme Court of Rwanda. Referring to Article 4 of Law 33 *bis* 2003 the Supreme Court stated that:

This article does not explain clearly the acts constituting the crime of genocide minimisation. It only shows that denial of genocide can be punished when it is made public either through speech, writing, image or photo or any other way. The Supreme Court has never taken a decision in a trial explaining what it means to minimise the genocide. The Rwandan dictionary also does not give an explanation of what is “the minimisation of genocide.”

The Court elaborated on the concept of genocide minimization (in Kinyarwanda “*gupfobya*”), affirming that:

In the current language of Kinyarwanda “*gupfobya*” means giving something minimal worth it does not deserve. This idea is developed in the law project on the criminalisation of genocide ideology in which it says: “The minimisation of genocide is any behaviour exhibited publicly and intentionally in order to reduce the weight or consequences of the genocide against Tutsis, minimise how the genocide was committed, alter the truth about the genocide against the Tutsis in order to hide the truth from the people; asserting that there were two genocides in Rwanda: one committed against the Tutsis and the other against Hutus.”¹⁹

The Court concluded that even though Uwimana-Nkusi had actually used a word minimising the genocide, due to the lack of intention inferred from her writings, she had to be acquitted. While acknowledging that the 2003 law

does not clarify the meaning of genocide minimization, the Supreme Court unfortunately refrained from providing any clarification that could guide judges and prosecutors in the interpretation of such a contested term. This was definitely a missed opportunity. Despite this, the Supreme Court made clear two important points: (1) the 2003 law does not clarify what “minimization of the genocide” consists of; and (2) in order to commit the crime of minimization, a degree of intentionality is required (Jansen 2014, p. 205).

Uwimana-Nkusi was acquitted of the charges of genocide minimization and divisionism. Her sentence for threatening national security was reduced from five to three years for a total incarceration term of four years instead of seventeen. Mukakibibi’s sentence was reduced from seven to three years. The journalists have appealed the sentences to the African Commission on Human and Peoples’ Rights, because of a violation of their fair trial rights.²⁰ The case is pending.

According to Article 190 of the Rwandan Constitution international treaties prevail on national legislation.²¹ Rwanda is a party to the ICCPR, whose Article 19 requires that limitations to freedom of expression meet the following criteria: (1) are established by law; (2) are necessary in a democratic society; and (3) pursue a legitimate aim, namely protection of public morals, reputation or national security. It is hardly sustainable that the 2001, 2003 and 2008 memory laws pursue the legitimate aim spelled out in Article 19 ICCPR. Moreover, in at least one case, regarding the 2003 law, the highest judiciary body in Rwanda has confirmed that the law is severely missing specificity, and consequently the limitations to freedom of expression it poses do not meet the criterion of being “established by law.” This makes the restrictions of freedom of expression according to the 2001, 2003 and 2008 laws in violation with the ICCPR and the African Charter on Human and People’s Rights. As international treaties binding Rwanda trump domestic legislation, the three laws should be rigorously amended. This is not what happened however.

In fact only minor changes have been introduced in the 2003 law on minimising the genocide through a reform of the penal code enacted in 2012 exclusively concerning penalties.²² The new norm affirms that:

Any person who publicly shows, by his/her words, writings, images, or by any other means, that he/she negates the genocide against the Tutsi, rudely minimizes it or attempts to justify or approve its grounds, or any person who hides or destroys its evidence shall be liable to a term of imprisonment of more than five (5) years to nine (9) years. If the crimes under paragraph one of this Article are committed by an association or a political organisation, its dissolution shall be pronounced.

The aforementioned pitfalls of the law consequently remain in place. The 2008 law on genocide ideology was amended in August 2013, introducing

two important requirements, namely that the crime of genocide negation has to be both deliberate and committed in public (Article 5).²³ The improvement, however, seems less significant considering Article 2.4 of the law which defines “public” any place accessible to two or more persons (Jansen 2014, p. 208). According to Article 5 of the law genocide negation is:

any deliberate act, committed in public, aimed at:

1. Stating or explaining that genocide is not genocide.
2. Deliberately misconstruing the facts about genocide for the purpose of misleading the public.
3. Supporting a double genocide theory for Rwanda.
4. Stating or explaining that genocide against the Tutsi was not planned.

The law includes a very detailed interpretation of Rwandan history, the contradiction of which raises criminal liability for genocide negation. The wording remains to a certain extent ambiguous. It is difficult, for instance, to understand what “the purpose of misleading the public” means. Further ambiguity characterizes Article 6 of the law, affirming that those who down-play “the gravity of the consequences of the genocide” or the “methods through which it was perpetrated” are guilty of minimization.

Article 2 of the 2013 law defines the term “deliberate,” which means “willingly and with a desire to promote genocide ideology.” The latter is defined as:

any intentional act, done in public whether by oral, written or video means or by another means and through which may show that a person is characterized by ethnic, religious, nationality or racial-based with the aim to: 1. advocate for the commission of genocide; 2. support the genocide.

In order to commit the crime of genocide ideology it is hence necessary either “to advocate for the commission of genocide” or “support the genocide.” The law emphasizes the necessity of intentionality in the commission of the crimes, which obliges prosecutors to prove beyond any reasonable doubt the deliberate will to deny the Tutsi genocide supporting genocide ideology. The elusive wording of the law has been stressed by scholarly literature, which has urged interim measures to provide guidance as to how to apply the law until a more radical reform is enacted (Jansen 2014, p. 209).²⁴ Article 162 of the Rwandan Constitution allows the minister of justice to establish prosecution policies and in the public interest to deliver instructions to “the Prosecutor General to undertake or refrain from investigating and prosecuting an offence.” The minister of justice may also “issue written instructions to any Prosecutor to investigate and prosecute or refrain from investigating and prosecuting an offence and inform the Prosecutor General of such instructions” (Jansen 2014, p. 210).

CONCLUSIONS

The Rwandan Supreme Court has clarified in the case law regarding Victoire Ingabire, Agnès Uwimana-Nkusi and Saidati Mukakibibi that its domestic genocide denial laws are flawed and do not respect international human rights standards set out in the ICCPR and in the African Charter on Human and Peoples' Rights. The Court has, however, refrained from declaring the genocide denial legislation unconstitutional, creating a situation of legal ambiguity that risks triggering further abusive restrictions of freedom of expression. Following the criticisms triggered by the tight limitation of freedom of expression violating human rights standards, the Rwandan government has enacted a reform that is simply cosmetic. The European saga on genocide denial laws has demonstrated how problematic the legislative interpretation of history through criminal law is and could provide important lessons learned to countries that face historical revisionism like Rwanda. The legislation allows the Rwandan authorities to repress internal dissent and any call for a comprehensive approach to post-genocide justice addressing the crimes committed by the RPF. Post-genocide Rwanda emerges hence as another context where state authorities have recurred to "public use of history," exploiting the memory of the past violence in order to strengthen their grip on power. The costs of such a policy in terms of freedom of expression, education and thought are, however, unbearable. The memory laws enacted in Rwanda have had a negative impact on historical research, and on the public debate concerning recent Rwandan history. Particularly worrisome is the impact of a unilateral interpretation of the past imposed through criminal law on children's education. As Rwandan recent history and the genocide exemplify very well, the risks that indoctrination policies imply are enormous. Freedom of expression, debate and research should be granted to all Rwandans, even with the risk that ideas criticizing the current executive could emerge.

NOTES

1. Article 19 of the ICCPR affirms that the freedom of expression may "[B]e subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (*ordre public*), or of public health or morals." Article 20 ICCPR establishes that 1. "Any propaganda for war shall be prohibited by law. 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."
2. Kangura had published a pro-Hutu extremist manifesto known as the "Ten Hutu Comendments."
3. Freedom in the World: Rwanda, Freedom House, <http://www.freedomhouse.org/report/freedomworld/2013.rwanda>.
4. See Article 33 of the Rwandan Constitution: "Freedom of thought, opinion, conscience, religion, worship and the public manifestation thereof is

guaranteed by the State in accordance with conditions determined by law. Propagation of ethnic, regional, racial or discrimination or any other form of division is punishable by law.”

5. See Article 34 of the Rwandan Constitution: “Freedom of the press and freedom of information are recognized and guaranteed by the State. Freedom of speech and freedom of information shall not prejudice public order and good morals, the right of every citizen to honour, good reputation and the privacy of personal and family life. It is also guaranteed so long as it does not prejudice the protection of the youth and minors. The conditions for exercising such freedoms are determined by law.”
6. See Article 9 of the African Charter on Human and People’s Rights: “1. Every individual shall have the right to receive information. 2. Every individual shall have the right to express and disseminate his opinions within the law.”
7. Law No. 33*bis*/2003, Repressing the Crime of Genocide, Crimes Against Humanity and War Crimes, art. 9, Official Gazette of Rwanda, Nov. 1, 2003.
8. Translation from French by the author.
9. Law No. 18/2008, Relating to the Punishment of the Crime of Genocide Ideology, Official Gazette of Rwanda, Oct. 15, 2008.
10. Republic of Rwanda, Joint Government Assessment, Draft Final, (July 23, 2008), at 73, 79.
11. Le Ministère Public v. Ingabire, Judgment No. RP 0081-0110/10/HC/KIG (High Ct. of Kigali Oct. 20, 2012).
12. National Assembly, *Rapport d’Analyse sur le Problème d’Idéologie du Genocide Evoquée au sein des établissements Scolaires*, December 2007.
13. Report of the ad hoc Parliamentary Commission created on January 20, 2004 by the Parliament, the Chamber, in charge of examining the killings perpetrated in the province of Gikongoro, the genocidal ideology and those who propagate it throughout Rwanda, Rwandan Senate, Republic of Rwanda, *Genocide Ideology and Strategies for its Eradication* (2006), at 161.
14. National Assembly, *Rapport d’Analyse sur le Problème d’Idéologie du Genocide Evoquée au sein des établissements Scolaires*, December 2007, p. 40.
15. See Waldorf (2009, note 69 at p. 104): “Since 2008, however, the government has reemphasized ethnicity in describing the 1994 genocide. A constitutional amendment added new ethnicized language to that portion of the preamble that stresses reconciliation: ‘Emphasizing the necessity to strengthen and promote national unity and reconciliation which were seriously shaken by the 1994 tutsi genocide and its consequences’ (original emphasis). References to the genocide throughout the 2003 Constitution were modified in a similar fashion.”
16. ICTR, Kanyarukiga Decision on the Prosecution’s Appeal Against Decision on Referral under Rule 11 *bis*, para. 26, 30 October 2008.
17. *Vincent Brown aka Vincent Bajinja* (et al.) v. *Government of Rwanda and the Secretary of State for Home Department* [2009] EWHC 770, Apr. 8, 2009, para. 62.
18. Organic Law modifying and complementing the Organic Law No. 11/2007 of 16/03/2007 concerning the transfer of cases to the Republic of Rwanda from The International Criminal Tribunal for Rwanda and Other States, Official Gazette, 26 May 2009, Art. 2—Guarantee of rights of an accused person.

19. 2012 Judgment, para. 48.
20. The African Commission on Human and Peoples' Rights is established by the African Charter. The Commission was inaugurated in November 1987 in Addis Ababa. The Commission is tasked with the protection and promotion of human and peoples' rights as well as with the interpretation of the African Charter on Human and Peoples' Rights.
21. Article 190 of the Rwandan Constitution affirms: "Upon their publication in the official gazette, international treaties and agreements which have been conclusively adopted in accordance with the provisions of law shall be more binding than organic laws and ordinary laws except in the case of non-compliance by one of parties."
22. See Law No. 01/2012/OL, Instituting the Penal Code, Official Gazette of Rwanda, June 14, 2012.
23. See Law No. 84/2013, Law on the Crime of Genocide Ideology and Other Related Offenses, Official Gazette of Rwanda, Sept 9, 2013.
24. The author has stressed that "Ostensibly, genocide ideology is an element of negationism under the 2013 Law. However, what constitutes genocide ideology remains elusive. ... Furthermore, if negationism has as an element the willing advancement of genocide ideology, it is unclear what differentiates crimes under article 5's 'negationism' from 'genocide ideology' as proscribed by article 3."

REFERENCES

- Amnesty International (1994) *Rwanda. Reports of Killings and Abductions by the Rwandese Patriotic Army, April–August 1994* [AFR 47/16/94] (London: Amnesty International).
- Amnesty International (2010) *Safer to Stay Silent, The Chilling Effect of Rwanda's Laws on 'Genocide Ideology' and 'Sectarianism'* [AFR 47/005/2010] (London: Amnesty International).
- ASF (2011) *La Pratique Judiciaire du Contentieux de l'Idéologie du Génocide et Infractions Connexes. Limites et Défis d'Application 2007–2010* (Brussels: Avocats Sans Frontières).
- Cajani, L. (2012) 'Diritto Penale e Libertà dello Storico' in G. Resta and V. Zeno-Zencovich (eds.) *Riparare, Risarcire, Ricordare. Un Dialogo tra Storici e Giuristi* (Naples: Editoriale Scientifica), pp. 371–410.
- Human Rights Watch (2008) *Law and Reality. Progress in Judicial Reforms in Rwanda* (New York: Human Rights Watch).
- Jansen, Y.-O. (2014) 'Denying Genocide or Denying Free Speech? A Case Study of the Application of Rwanda's Genocide Denial Laws', *Northwestern University Journal of International Human Rights*, 12(2), 191–213.
- King, E. (2014) *From Classroom to Conflict in Rwanda* (Cambridge: Cambridge University Press).
- Lemarchand, R. (2006) *Genocide, Memory and Ethnic Reconciliation in Rwanda* 25. <http://www.ua.ac.be/objs/00178894.pdf>.
- Moshman, D. (2014) *Education for Rwanda: After the Genocide*, *Huffpost*. https://www.huffingtonpost.com/david-moshman/education-for-rwanda-aft_b_5511630.html.

- Pech, L. (2009) *The Law of Holocaust Denial in Europe. Towards a (Qualified) EU-wide Criminal Prohibition*. <http://www.jeanmonnetprogram.org/wp-content/uploads/2014/12/091001.pdf>. Retrieved 27 March 2017.
- Sullo, P. (2014) 'Lois Mémoires in Post-Genocide Societies. Rwandan Law on Genocide Ideology under International Human Rights Law Scrutiny', *Leiden Journal of International Law*, 27(2), 419–445.
- Waldorf, L. (2009) 'Revisiting Hotel Rwanda. Genocide Ideology, Reconciliation, and Rescuers', *Journal of Genocide Research*, 11(1), 101–125.

French Memory Laws and the Ambivalence About the Meaning of Colonialism

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The entanglements of law and memory are a prevalent phenomenon in any Western society, but the attempts of France to come to terms with its past as a colonial country provides a particularly interesting case. The French parliament has resorted to legislation in order to establish a particular official historical narrative on a number of occasions.¹ This chapter analyses the debates surrounding the laws that set in stone seemingly contradictory meanings of slavery and colonialism. The Taubira law, passed in 2001, established slavery as a crime against humanity. The subsequent law about the ‘positive’ aspects of colonialism, the so-called law of February 2005, was aimed at recognising and honouring the memory of certain groups whose memory of colonialism had not been previously officially recognised. The infamous Article 4 of the law of February 2005 prescribed that school programs were to focus on the ‘positive aspects’ of colonialism. Although this article was later repealed, it determined the image of the entire law. Both seemingly contradictory laws about the meaning of slavery and colonialism caused heated debates about the role of history and memory in French society, about who has a say in them, and also about the suitability of legislation for the purpose of establishing official ‘truths’ about the past.

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FRENCH COLONIALISM AS SLAVERY OR AS AN ‘*OEUVRE CIVILATRICE*’?

Memory laws indicate that the legislator pronounces an evaluation on certain historical events or elements of the national past, thus establishing an official position of the state about this past (Savarese 2007, pp. 145–146). Hence, memory laws officialise a particular normative narrative about history, such as ‘slavery was a crime against humanity’ (the Taubira law). The notion of ‘memory laws’ (*lois mémorielles*) points more to the politics at play behind the passing of this type of laws rather than the character of the laws themselves, hence revealing their role as tools in battles about the meaning of the past. Concern has been expressed, in particular by historians, about law and legislation entering into the field of historical interpretation, considered by many as belonging to scholars. Yet, for others law is a tool of social pedagogy through which the state can legitimately express moral condemnation of certain events and recognise the memory of certain groups.

This chapter analyses the historical narratives that the French memory laws about colonialism construct, and reflects on the laws’ implications for French national identity. Although memory laws establish ‘state-sponsored history,’ the French laws about colonialism are at the same time manifestations of contests between different narratives. This suggests that in present-day democracies, the contrast between ‘official’ history of the state, and different historical narratives as advocated by civil society groups, is malleable. The law is a vehicle for different groups through which the contests over narratives are fought.²

The Taubira law that recognised slavery as a crime against humanity was passed by the French Parliament in May 2001 after almost four years of parliamentary debates. This was in addition to years of political campaigning, in particular by community groups among the population of the French Antilles and Réunion (*Collectif des Antillais, Guyanais et Réunionnais*). Since the 1960s, politics of memory concerning slavery have been advocated by overseas associations in Martinique and elsewhere in the Caribbean region. In metropolitan France, consciousness about the history and memory of slavery increased as thousands of overseas residents immigrated to the mainland. Their memory of slavery became linked to their identity as belonging to a discriminated-against race in contemporary France (Ledoux 2013, pp. 4–6).

At the time of the French commemorations for the 150th anniversary of the abolition of slavery in 1998, a ‘*Comité pour une commémoration unitaire du 150e anniversaire de l’abolition de l’esclavage*’ was created in metropolitan France of several West Indian, Guyanese, and Réunion Island associations. This social movement sought to foster the memory of slavery and promote the question of reparations on the basis of slavery. The group protested against history being thus far largely written by Europeans, identified themselves as descendants of slaves and thus as victims, and demanded that the history of slavery be inscribed in a legal category of ‘crimes against humanity’

(Ledoux 2013, p. 6). In the identity and memory politics concerning slavery, memory concerning the Holocaust has been a central point of reference. The judicialisation of Holocaust memory has contributed to depicting slavery in terms of 'trauma' and through the prism of legal categories such as 'genocide,' 'crimes against humanity,' and 'reparations' (Ledoux 2013, pp. 4–6).

Three bills concerning slavery and the slave trade were presented at the French National Assembly between July and December of 1998. Finally, the one drafted by Christiane Taubira, a delegate from French Guyana who had attended events organised by the *Comité Devoir de mémoire* was selected. The text of the bill was largely composed by the *Comité Devoir de mémoire* lawyers (Ledoux 2013, pp. 7–8). The law was passed unanimously on its first reading by the National Assembly in February 1999. The Senate proposed some changes to the law which were, however, rejected by the National Assembly. The bill was passed by the Senate in May 2001.

Article 1 of the Taubira law recognises the transatlantic and Indian Ocean slave trade and slavery itself practiced from the fifteenth century in the Americas, the Caribbean, the Indian Ocean, and Europe against African, Amerindian, Malagasy, and Indian populations as a crime against humanity. The corresponding provision of the *Code Pénal* in Article 212-1 characterises a crime against humanity as: 'Deportation, reduction to slavery or the massive and systematic practice of summary executions, of abduction of persons followed by their disappearance, or torture or inhuman acts, inspired by political, philosophical, racial or religious motives, and organised in pursuit of a concerted plan against a group of a civil population are punished by criminal imprisonment for life.' Article 2 of the Taubira law establishes the proposition that all educational and research programmes in history and the social sciences should accord the question of slavery and the slave trade 'the important place they deserve' and promotes the opening of archival sources to researchers. Article 4 of the law establishes an annual day of commemoration for the abolition of slavery by the French and sets up a committee to guarantee the honouring of the memory of the crime of slavery. As a gesture towards memorial associations, the article establishes that among committee members there will be representatives of associations dedicated to the memory of slaves. Article 5 also gives a possibility for associations to 'defend the memory of slavery and the honour of descendants of slaves in front of the tribunals.'³ The French Republic is named only as the power that condemns the crime of slavery (Garraway 2008, p. 382). Otherwise the French state is not implicated in the Taubira law.

Not much public debate about slavery and the slave trade had taken place in France before the passing of the Taubira law in 2001. However, the Taubira law coincided with increasingly intense debates about the larger theme of French colonialism and its various commemorations that relate to the attempts by French society to come to terms with its colonial past, a process that had already been going on for a few decades (Camus 2006, p. 650). The rapporteur of the law, Christiane Taubira, argued that the French were

generally ignorant of the fact that France had been involved in the slave trade in the first place, and that history textbooks had largely overlooked the question of slavery, practised in the French colonies under the *code noir* (black code). The *code noir* established the legal conditions of slavery, the status of slaves, and imposed certain obligations and prohibitions upon their masters in the French colonies. The *code noir* initially took shape under Louis XIV's edict of 1685.⁴

Since the end of the seventeenth century slavery was widespread especially in the French West Indies, practiced so as to provide labour for sugar-cane plantations. Slavery was first abolished by the French Republic in 1794, but it was reinstated in 1802 by Napoleon I. On 27 April 1848, the Second Republic abolished slavery in its French overseas colonies, thus formally ending three centuries of the practice. However, coerced labour continued to be widely practiced in the French colonies, now just legally under the label 'free labour.'

In 1998, the government of the Fifth Republic organised extensive official celebrations to commemorate the 150th anniversary of the abolition of slavery by France. French and Caribbean writers, historians, politicians, and journalists debated the issues surrounding the memory of slavery in contemporary French society as well as in the ex-colonies. Questions were raised as to who and what should be commemorated: the three centuries of slave trade and plantation slavery that formally ended in 1848, or the 1848 decree declaring the emancipation of black slaves in France's colonies? The Frenchmen, most notably French abolitionist Victor Schoelcher, who made the signing of the decree possible or the resistance and rebellion of slaves and other blacks in their struggles for freedom (L'Hostis 2008, pp. 45–46)?

The remembrance of slavery in France, like the remembrance of any other historical event or experience, involves a clash of memories, contests over what memory and whose memory shall gain official recognition. For many French of the metropole, 1848 can be reduced to a date that symbolises the accomplishments of the abolitionist movement of the Second Republic, and of the Declaration of the Rights of Man. During the 1998 commemorations, the government celebrated the abolitionary decree as a founding moment of principles of liberty, equality, and fraternity, hence stressing the foundations of democracy and of the Republic (L'Hostis 2008, pp. 47–48). In his opening speech at the commemoration of the 150th anniversary of the abolition of slavery on 23 April 1998, the right-wing President Jacques Chirac presented the abolition of slavery as a building block of the nation: '*La démarche retenue pour l'abolition est une démarche d'intégration. Elle contribue à renforcer l'unité de la nation.*' In Chirac's formulation, through abolition, emancipated former slaves became members of the nation that had formerly enslaved them. Abolition is equated with the Republic, and slavery itself as part of the excesses of the *Ancien Régime* (Vergès 1999, pp. 258–260). The discourse of the socialist Prime Minister Lionel Jospin, on the other hand,

stressed the idea that French people have a collective responsibility for the ‘human tragedy’ of slavery (Ledoux 2013, pp. 3–4). As to the speech of the head of state, L’Hostis points out (L’Hostis 2008, p. 48) that the abolition of slavery is presented as an inevitable destiny in history, executed by the French, and France presented as the birthplace of universal freedom. In this narrative, ‘slaves are not represented as “makers” of historical events: history, by definition, is made in France’ (L’Hostis 2008, p. 49).

In the French commemorations of abolition, Haiti has been cut out of discussions about French national history which, it has been pointed out, means that only a partial narrative of republicanism has been permitted to emerge (Forsdick 2009, p. 273). The Haitian revolution that took place in the former French colony of Saint-Domingue between 1791 and 1804, which led to the founding of the sovereign state of Haiti free from slavery and ruled by nonwhites and former captives, is presented in the Republican narrative as ‘an exotic parody of its French counterpart’ even though ‘at various points in the 1790s, the core of French revolutionary activity was not Paris but Saint-Domingue’ (Forsdick 2009, p. 274). The exclusion of Haiti from French commemorations of slavery reduces commemoration to the national frame instead of reading it in a wider context of colonial memory. As noted by Forsdick, an extension of memorial implications can be applied to several other late twentieth-century anniversaries celebrated in France: for instance, the European dimensions of the Victory in Europe day (8 May 1945), marking Nazi Germany’s surrender of its armed forces and thus the end of WW II in Europe, tended to obscure other events that occurred on the same date, most notably the massacres by French troops of pro-independence demonstrators in Algeria, particularly in Sétif and Guelma (Forsdick 2009, p. 274).

As noted by Forsdick, the official slogan of the commemorations, ‘*tous nés en 1848*’ aimed to transcend national and cultural boundaries but disguised the very different memorial traditions related to slavery (Forsdick 2008, pp. x–xi). With its inclusionary message, the slogan ‘*tous nés en 1848*’ actually stands in odd contrast to the exclusionary practices of the republic during slavery and colonialism. Under colonialism French identity was openly built upon the exclusion of blacks from what defines French citizenship—equality, liberty, and fraternity—the repercussions of which continue in the form of inequality and racism in the present (Vergès 1999, p. 260). The status of slaves in the French colonies, organised by the *code noir* and other ordinances, reduced slaves to a juridical condition of objects upon which attributes of property laws were applied (Article 44 of the *code noir* stated ‘*déclarons les esclaves être meubles*’), although the slaves themselves could not own property (Jos 2000, p. 144). Upon abolition, it was the masters who received financial compensation for the loss of slaves (Vergès 1999, p. 270). The Taubira law, according to its defenders, intended to recognise these wrongs and rectify them in a symbolic way.

During parliamentary debates on the Taubira law, some right-leaning delegates denounced the discourse of ‘repentance’ that the law signified for them. Questions were raised as to why France should be depicted as a slavery-practising country by a law while so many other nations were also involved in slavery and slave trading, especially when France and Europe actually eventually abolished the practice. A counter-argument used by the defenders of the Taubira law points out that although slavery was not perhaps worse in the French colonies than in other colonies, it nevertheless was in ‘flagrant contradiction with the principles affirmed as universal’ (Vergès 2006, pp. 105–106) that the Republic claimed to represent. For advocates of the Taubira law, official recognition and commemoration of slavery as a crime against humanity officialises a more honest reading of the past, promotes greater respect for human beings in the present, and encourages a novel dynamic of reparation in our post-slavery societies (Jos 2000, p. 143).

Based on Article 4 of the Taubira law, the French Prime Minister Jean-Pierre Raffarin appointed in 2004 the ‘*Comité pour la mémoire de l’esclavage*,’ chaired by Guadeloupean writer Maryse Condé, to make recommendations for the commemoration of slavery in French society. A year later the Committee produced a report in which its experts outlined recommendations that included objectives concerning memory of slavery in terms of commemoration, teaching, research, and the cultural domain (Thomas 2008, p. 168).⁵ Central to the conclusions of the report was an insistence on the importance of situating slavery and slaves in French history, in the domain of education, as well as in French collective memory (Thomas 2008, p. 168). A concrete outcome of the committee’s report was the inauguration of a *Journée nationale de commémoration*, to ‘honour the memory of the slaves and commemorate the abolition of slavery,’ to be celebrated annually on May 10 (Thomas 2008, p. 169).

The report of the *Comité pour la mémoire de l’esclavage* (submitted to the prime minister in 2005) acknowledged that the memory of slavery was divided into opposing memories that emphasised either abolition or slavery itself, the latter having been marginalised and privatised in the ‘national consciousness.’ The report encourages recognising and fostering the complex nature of slavery, of abolition and of their memories, and acknowledges that after abolition new forms of servitude and exclusion continued.⁶ The report fosters a ‘*mémoire partagée*’ (shared memory) that allegedly results from the recognition of multiple memories of slavery. But as Forsdick contends, any such ‘shared memory’ risks ignoring the emergence and existence of competing alternative memories (Forsdick 2009, p. 282).

Intense debates concerning the Taubira law ensued some four years after its passing, with the report of the Committee and the case of Pétré-Grenouilleau that brought into the spotlight potential problems concerning the normative regulation of history and memory for political purposes of identity. The Taubira law paved the way for a legal claim brought against an acclaimed

French historian, Olivier Pétré-Grenouilleau, because of his characterisation of slavery in an interview that dealt with his scholarly work on the topic of the European slave trade. Pétré-Grenouilleau had previously published a book on the slave treaties and the deportation of Africans to the Americas which received acclaim and recognition by the Academy of France (Pétré-Grenouilleau 2004). In an interview in June 2005 with the *Journal du dimanche*, Pétré-Grenouilleau argued that although he had no problem with the characterisation of slavery as a crime against humanity, the historical evidence did not justify placing the slave trade under the more specific category of ‘genocide.’ According to Pétré-Grenouilleau, slave traders operated on the basis of commercial self-interest and consequently it would have been against the profit motive of slave traders to wish to destroy slaves as a group. Therefore, the slave trade did not meet the legal definition of genocide (Rémond 2006).

Community groups of the *Collectif des Antillais, Guyanais et Réunionnais* contested Pétré-Grenouilleau’s comments about the slave trade and initiated criminal and civil lawsuits on the basis of the Gayssot law criminalising denial of the Holocaust and the Taubira law’s Article 5 against this research-based conclusion by the historian. The same collectives also sought to have Pétré-Grenouilleau suspended from his professorial position for ‘revisionism.’ Somewhat ironically, as Christopher Miller observes, this implied an effort to silence a historian who had arguably done more than any previous scholar to cast light on the French slave trade (Miller 2008). The historian’s position did not even contradict the legislative position of the French Parliament that classified the slave trade as a crime against humanity and not as genocide. The suit of the *Collectif des Antillais, Guyanais et Réunionnais* had little chance of legal success given the lack of criminalisation in the Taubira law, as well as the fact that the Gayssot law dating from 1990 which criminalises Holocaust denial is applicable solely in the case of negationism concerning crimes committed during the World War II period. A petition signed by nineteen leading historians was published in Pétré-Grenouilleau’s defence and the case was subsequently withdrawn by the *Collectif des Antillais, Guyanais et Réunionnais* in February 2006 (Forsdick 2008, p. xiii).

The Taubira law and ensuing debates about slavery in France occurred in an international context where colonialism and slavery have gained larger visibility. UNESCO established 23 August (the date symbolising the start of the Haitian Revolution) as the International Day for the Remembrance of the Slave Trade and Its Abolition and launched ‘Breaking the Silence,’ a project aimed at highlighting, through educational initiatives, the historical significance of the slave trade and its social, economic, and cultural implications (Forsdick 2008, pp. xi–xii). During the past decade, debates regarding possible reparations for slavery have intensified. In addition to legal demands based on slavery and colonialism arising in the United States and in various European countries, the Caribbean Community (CARICOM) established in 2013 the CARICOM Reparations Commission that advocates reparatory

justice for the communities which the Commission sees as the descendants of the victims of crimes against humanity in the forms of slavery and slave trade. Being represented by a British law firm, they now claim reparations from several European countries that benefited from the enslavement of African people.

Politics of memory and reparations based on the Holocaust have played a role as a model to the defendants in the legal case that some members of the Mau Mau launched in Britain in 2006 due to the atrocities they suffered under British colonial rule in Kenya, as well as in the apology directed by Germany to the Herero and Nama people based on atrocities committed in the beginning of the twentieth century in what is now Namibia. In January 2017 Germany was sued for reparations by descendants of the Herero and Nama people in the United States. In France, the *Collectif des Filles et Fils d'Africains Déportés* (Movement of the Sons and Daughters of Deported Africans) has been at the forefront of the battle to obtain financial compensation from the state for victims of slavery (Camus 2006, p. 651). In France there are no legal mechanisms, such as affirmative action in the United States, endeavouring to address the legacy of slavery and its appearance in structures of inequity in contemporary society. A range of advocacy groups working on behalf of ethnic minority populations has been active in French society, notably the *Conseil représentatif des associations noires* (CRAN), the *Collectif Egalité*, *S.O.S. Racisme*, the *Indigènes de la République*, and *Mouvement contre le racisme et pour l'amitié entre les peuples* (MRAP), all groups whose memberships include populations with a common historical experience of exclusion and discrimination that often continues in the present (Thomas 2008, p. 172).

The long period of time between the commission of the abuses and present-day claims means that the direct victims of slavery, now characterised as victims of a crime against humanity, are no longer alive. For crimes against humanity to have taken place, according to French law, a systematic large-scale practice of a politics of ideological, racial, or religious hegemony must have been taking place. Even if slavery could be considered to have been practised as a politics of hegemony, as defenders of the Taubira law claim, its retroactive depiction and definition as such has caused protestation among historians and lawyers alike. Individuals responsible for slavery and the slave trade have obviously perished. Even most of the defenders of the Taubira law wish to limit the law's consequences to political condemnation, and pedagogical recognition. Any legal implications of the Taubira law have been rejected on the basis that retroactive punishment of acts that were not punishable at the time, but in fact were officially authorised in most nations, is not possible (Jos 2000, pp. 144–145). As to possible reparations, during the parliamentary debates, both the delegates of the left and the right wanted to avoid the word reparations from appearing in the law, fearing, probably rightly so, that it would incite legal claims (Vergès 2006, pp. 115–116).

LEGAL RECOGNITION FOR 'POSITIVE ASPECTS' OF COLONIALISM

When a law officially recognises a particular historical interpretation, there's often a counter-narrative, of which the proponents seek equal recognition by law. Only a few years after the passing of the Taubira law, the French National Assembly passed a law requiring teachers and textbooks to acknowledge and teach the 'positive role' of the French presence overseas, especially in North Africa, and to give appropriate recognition of the 'sacrifices' of the French army. Article 4 of the law of 23 February 2005, the *loi portant reconnaissance de la Nation et contribution nationale en faveur des Français rapatriés* (Law on Recognition by the Nation and National Contribution in Favour of French Repatriates)⁷ states:

University research programmes will accord to the history of the French presence overseas, notably in North Africa, the place that it deserves. School curricula will recognise, in particular, the positive role of the French presence overseas, notably in North Africa, and will accord the history and the sacrifices of the soldiers of the French Army who came from these territories the eminent place to which they have a right.⁸

What exactly the contested Article 4, demanding emphasis upon the 'positive' aspects of French colonialism, implied is somewhat unclear, as Robert Aldrich contends. Nor was it clear how the French Ministry of Education aimed to enforce such a legally established position (Aldrich 2006). But what was clear was that the law aimed to provide an alternative view to the 'discourse of repentance,' a view which allegedly dominated the conception of France's colonial past. This alternative view was brought into existence to accommodate those groups feeling nostalgic for the empire.

Not surprisingly, many of those who advocated the law of February 2005 in the French National Assembly belonged to the centre-right party, *Union pour un Mouvement Populaire* (UMP). Article 4 of the law and its characterisation of the 'positive role' of colonialism had been a parliamentary amendment to the law based on a governmental initiative, introduced by a delegate of the UMP (Thenault 2012, p. 185). The contested article was to a large extent the result of activism by parliamentary deputies coming from the South of France, where the weight of the vote of the French settlers to the colonies is considered crucial (Bertrand 2006, p. 22). According to the legislator, the memory 'wrong' suffered by the repatriates consisted of the silence of the state towards repatriates, along with the triumph of anti-colonial memory, established almost as 'historical truth.' This had allegedly distorted the complex image of colonists and of colonialism. The legal commentator of the law of 23 February, Christian Kert, declared that only the darkest aspects of colonialism were reported in the media. He argued that the French presence in Algeria had been compressed into the war of independence, which itself is reduced to the worst atrocities that took place, namely torture (Bertrand 2006, pp. 30–32, 41–42).

The ensuing anger about such an interpretation of colonialism, now firmly stated in a law and thus an official position of the state, overshadowed the fact that the law of February 2005 was really intended to recognise groups that had long advocated for a recognition of their role in French colonialism, and who also see themselves as victims of history. Most notable amongst these groups were the *harkis* and the *pièdes-noirs*. The *harkis* are a pro-French group of Algerians that allied with France during the Algerian war. Regardless of their loyalty towards the colonisers during the war that led to the independence of Algeria, most *harkis* were abandoned by the French after the war in Algeria and left to be killed as traitors by the victorious Algerian National Liberation Front (FLN). Those who made it to France spent decades in internment camps and were denied full civil rights.⁹ The *pièdes-noirs*, on the other hand, made up the former settler community living in colonial Algeria.¹⁰ Their social and professional situations were diverse, and their social position in colonial society was often far from the caricature image of the domineering coloniser they were often seen as from the outside. Their memories are largely based on the idea of having been betrayed by France after the war, as they received no compensation for their material losses from the French state until an indemnification law in 1987 (Roussio 2004, pp. 130–131). The primary function attached to this law of February 2005 was to respond to the ‘demand of memory’ of the *harkis* and the *pièdes-noirs* by creating an official legislative response to injustices suffered by these repatriates of French Algeria.¹¹

When the law was debated in the National Assembly, Article 4 passed largely unnoticed. During the subsequent debates in the Senate, nobody raised objections and even the socialists voted for the law. This is possibly because most of the parliamentary debates concentrated on the question of the *harkis*, broadly thought of as victims in France, as well as the French repatriates of the colonies. Moreover, Article 4 was relatively lengthy and formulated in such a way that it mentioned the ‘French presence overseas,’ rather than explicitly referring to colonialism. It accorded ‘to the sacrifices of the combatants of the French army in these territories the eminent role that they deserve.’ After the public uproar that Article 4 caused, when the National Assembly discussed a possible amendment to the article in November 2005, the president of the socialist party acknowledged that the socialists had lacked ‘vigilance’ during the legislative process.

Shortly after the law of 23 February 2005 was passed in the National Assembly, it was loudly denounced by human rights groups, historians, and citizens of France’s overseas territories, who claimed it represented historical revisionism and a deliberate attempt to ignore the reality of France’s colonial past. Many of those who objected to the law of February 2005 feared that it would impose an ‘official lie’ about crimes that were incontestably an element of French colonial rule (Bertrand 2006, p. 17). Two petitions were signed in March and December of 2005 by tens of thousands of people, among them

many prominent French historians, calling for the law to be repealed.¹² In November 2005, the National Assembly refused to consider the repeal of the contested article of the law of February 2005. Communists, socialists, and centrists were in favour of reconsidering the matter, but conservative parties objected to it. In December 2005 the head of state declared that there is no official history in the Republic; history writing is an affair of historians, not of the law. Finally, President Chirac removed the contested article by a decree, after the constitutional Council had declared that the contents of the contested article did not belong to the domain of law.

In June 2005 a collection of the historians who had protested against the law and its Article 4 created the *Comité de Vigilance face aux Usages Publics de l'Histoire* which sought to condemn any political use of history. Although this association claims not to deny the legitimacy of memory laws as such, which the group sees as part of democratic functioning of the state, they declared Article 4 of the law of February 2005 'antidemocratic' for it established a particular version of the past which it obliged teachers to impose. In its manifesto, the association demands first a firmer link between historical research and the teaching of history, the discrepancy of which Article 4 of the law of February of 2005 made clear. Secondly, the historians belonging to this association denounce the lack of complexity in historical accounts that circulate in the public sphere, and reject their own role as arbitrators in contests of memory.¹³

The Pétré-Grenouilleau case caused further mobilisation of historians against memory laws. In reaction to the case, several internationally renowned historians, including Pierre Nora, Jacques Julliard, and Pierre Vidal-Naquet published another petition and founded the association *Liberté pour l'histoire* in December 2005. These historians demanded that all memory laws be repealed. The debates about the abrogation of Article 4 of the law of February 2005 hence implied a new attack on the Taubira law, along with all other French memory laws. According to the group's manifesto, history is not religion. History is not morality. History is not the slave of current events. History is not memory. History should not be subject to law and jurisdiction.¹⁴ For these historians, memory laws constrain the freedom of historians and imply illegitimate judicialisation of particular narratives as historical and moral 'truths.' Later, in 2008, the Association published a similar petition, '*L'appel de Blois*' (the Blois appeal) directed at a European audience, historians and politicians in particular, which called for the mobilisation of European historians to reject retrospective 'moralisation' and 'judicialisation' of history.¹⁵

Both of these associations, the *Comité de Vigilance face aux Usages Publics de l'Histoire* as well as the *Liberté pour l'histoire* essentially defend 'history' against 'memory.' This appears understandable in a context in which numerous memorial groups advocate for their experience of the past to be given official recognition by the state. The claim of concerned French historians

is that ‘memory’ is not subject to the same methodological criticism as ‘history.’ When the state succumbs to memory demands, the state sides itself with subjective accounts of the past. Memory polemics about what are the worst atrocities and who are the ‘truest’ victims of the past hardly do justice to historical reality and to the complexity of the past, the former being of interest to memory activists and the latter to historians. At the same time, the position of these French historians appears somewhat ambivalent. They acknowledge that academic history and historians do not hold exclusive rights to the past in contemporary societies. But their attempt to clarify the relationship between history and memory appears somewhat crude in an academic environment that increasingly acknowledges the subjectivity of all historical accounts.

Different, competing politics of memory about slavery and colonialism exist in French society. The result is that seemingly opposing narratives about colonialism have been inscribed in legislation. Although memory laws construct state narratives, they reflect partisan interests. The Taubira law condemned slavery of the past as the most heinous crime. Through this law, the state affirms itself as a post-colonial state that defends human rights. Advocates of the law of February 2005 aimed to recognise the less obvious victims of colonialism (or of decolonisation), the *harkis* and the *pièdes-noirs*, and to make the claim that colonialism had other than simply negative effects. Through both of these laws, the French state reaffirmed itself as inclusionary in terms of the recognition of the memory of groups whose memory of colonialism has not previously been officially recognised. However, the times of classic Republican memory, as described by Pierre Nora (1997), when the state acted as a unifier of nation, history, and memory, are clearly long over. In contemporary society the state is left to manoeuvre between different groups whose experiences, memories, and identities are increasingly transformed into legislation.

NOTES

1. French memory laws include the *Gayssot law*, enacted in July 1990, which criminalised denial of the Holocaust (negationism); a law of January 2001 recognising the Armenian genocide in the Ottoman Empire in 1915; the *Taubira law* of May 2001 recognising slavery as a crime against humanity; and the law of February 2005, which recognises the efforts of ‘repatriates’ in the former French colonies in Algeria, Morocco, Tunisia, Indochina, and other territories previously under French sovereignty.
2. I have elsewhere analysed these French memory laws about colonialism as results of ‘politics of victimhood.’ See Löytömäki (2012).
3. Loi no 2001-434 du 21 mai 2001, tendant à la reconnaissance de la traite et de l’esclavage en tant que crime contre l’humanité. JORF, no 119, 23 May 2001, 8175.

4. 'Liberty, Equality, Fraternity. Exploring the French Revolution' at <https://chnm.gmu.edu/revolution/d/335/>; 'Code Noir', Dictionary of American History 2003. Available at www.encyclopedia.com/doc/1G2-3401800891.html.
5. See www.comite-memoire-esclavage.fr.
6. See 'Mémoires de la traite négrière, de l'esclavage et de leurs abolition,' Comité pour la mémoire de l'esclavage, Rapport à monsieur le Premier Ministre, 12 avril 2005.
7. Loi n° 2005-158 du 23 février 2005 portant reconnaissance de la Nation et contribution nationale en faveur des Français rapatriés. JORF no. 0046, 24 February 2005, 3128.
8. Quoted in Adrich (2006), 14.8.
9. See <http://news.bbc.co.uk/1/hi/world/europe/1781607.stm>. On the politics of memory and identity engaged in by the *pièdes noirs*, see Jordi (2002).
10. The settler community consisted of various factions, of which the French were only a small minority in comparison to Spaniards and Corsicans. There was also a large Jewish minority in colonial Algeria.
11. For a critical debate about the law, see, for instance, Barkat (2007, pp. 37–46).
12. In a petition on 25 March 2005 in *Le Monde*, Claude Liauzu and five other prominent historians denounced the 'apologetic *histoire officielle*' and demanded the removal of Article 4.
13. cvuh.blogspot.fi.
14. Petition of 19s. See <http://www.lph-asso.fr/>.
15. Blois appeal. <http://www.lph-asso.fr/>.

REFERENCES

- Aldrich, R. (2006) 'Colonial Past, Post-colonial present. history wars French-style', *History Australia*, 3(1), 14.1–14.10.
- Barkat, S. M. (2007) 'Les "rapatriés" d'Algérie et le simulacre de la loi,' in S. Jahan, and A. Ruscio (eds.) *Histoire de la colonisation. Réhabilitations, Falsifications et Instrumentalisations* (Paris: Les Indes savants).
- Bertrand, R. (2006) *Mémoires d'empire. La controverse autour du 'fait colonial'* (Paris: Éditions du Croquant).
- Camus, J. (2006) 'The Commemoration of Slavery in France and the Emergence of a Black Political Consciousness', *The European Legacy: Towards New Paradigms*, 11(6), 647–655.
- Forsdick, C. (2008) 'Foreword' in C. Baker and J. Jahn (eds.) *Postcolonial Slavery. An Overview of Colonialism's Legacy* (Newcastle: Cambridge Scholars Publishing), pp. ix–xxi.
- Forsdick, C. (2009) 'Colonialism, Post-Colonialism and the Cultures of Commemoration' in C. Forsdick and D. Murphy (eds.) *Post-Colonial Thought in the French-Speaking World* (Liverpool: Liverpool University Press), pp. 271–284.
- Garraway, D. (2008) 'Memory as reparation? The politics of remembering slavery in France from abolition to the Loi Taubira (2001)', *International Journal of Francophone Studies*, 11(3), 365–386.

- L'Hostis, A. (2008) 'Transforming the Silences of the Past. The Writing of "L'Histoire à Faire" in French Caribbean Literature' in C. Baker and J. Jahn *Post-colonial Slavery. An Overview of Colonialism's Legacy* (Cambridge: Cambridge Scholars Publishing), pp. 44–67.
- Jordi, J. (2002) 'Les pied-noirs. Constructions identitaires et réinvention des origines', *Hommes et Migrations*, 1236, 14–25.
- Jos, E. (2000) 'Esclavage et crime contre l'humanité. Argumentaire juridique' in S. Chalons (ed.) *De l'Esclavage aux réparations* (Paris: Éditions Karthala), pp. 135–155.
- Ledoux, S. (2013) "'Devoir de mémoire". The post-colonial path of a post-national memory in France. A study of the development of the 'Taubira law', *National Identities*, 1–18.
- Löytömäki, S. (2012) 'Law and Memory. The Politics of Victimhood', *Griffith Law Review*, 21(1), 1–22.
- Miller, C. L. (2008) *The French Atlantic Triangle. Literature and Culture of the Slave Trade* (Durham: Duke University Press).
- Nora, P. (ed.) (1997) *Les Lieux de mémoire, tome 1, La République* (Paris: Gallimard).
- Pétré-Grenouilleau, O. (2004) *Les Traites négrières. Essai d'histoire globale* (Paris: Gallimard).
- Rémond, R. (2006) 'History and the Law', *Études*, 4046, June. Available: http://www.lph-asso.fr/index.php?option=com_content&view=article&id=154%3Alhistoire-et-la-loi&catid=60%3Arene-remond&Itemid=184&lang=en.
- Rousso, H. (2004) 'Les raisins verts de la guerre d'Algérie' in Y. Michaud (ed.) *La Guerre d'Algérie (1954–1962)* (Paris: Odile Jacob), pp. 127–151.
- Thenault, S. (2012) *Algérie. des 'événements' à la guerre: Idées reçues sur la guerre d'indépendance algérienne* (Paris: Le Cavalier Bleu).
- Thomas, D. (2008) 'Slavery in Global Context in French Caribbean Literature' in B. Baker and J. Jahn (eds.), *Postcolonial Slavery. An Overview of Colonialism's Legacy* (Cambridge: Cambridge Scholars Publishing), pp. 166–177.
- Vergès, F. (1999) "'I am not the slave of slavery'". The politics of reparation in (French) post-slavery communities' in A. C. Allessandrini (ed.) *Franz Fanon, Critical Perspectives* (London: Routledge), pp. 258–275.
- Vergès, F. (2006) *La mémoire enchaînée. Questions sur l'esclavage* (Paris: Albin Michel).

History Watch by the European Court of Human Rights

Pierre-Olivier de Broux and Dorothea Staes

Abbreviations

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| ECHR | European Convention of Human Rights |
| ECtHR | European Court of Human Rights |
| NGO | Nongovernmental organisation |
| UN | United Nations |
| WWII | Second World War |

It is a fact that state-sponsored history is also written by judges and their judgments (Favreau 2012, Sarat and Kearns 2002).¹ Particularly on a European level, the sentences of the European Court of Human Rights (hereinafter: ECtHR) can offer two angles to understand the dynamics of state-sponsored history. Its jurisprudence can illustrate how judges are confronted with history, and think they have to protect it or interfere with it. On the other hand, the ECtHR imposes on its member states binding frameworks on how to deal with history in order to respect fundamental human rights.

The ECtHR uses at least four instruments to do this. The first instrument is *freedom of expression* (Article 10 of the European Convention on Human Rights, hereinafter: ECHR), as a tool to expand the freedom to investigate historical facts and events but also to verify and ensure the research's reliability (Chapter X.1). The second instrument is the *right to respect for private life* (Article 8 ECHR), as a limitation for research and for the right to

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access historical documents and archives (Chapter X.2). In using these two—sometimes conflicting—fundamental rights, the Court is constructing a broad deontological framework of historical research. However, the ECtHR is more prudent in recognizing another important emerging right, the third potential instrument of the Court: the *right to the truth*, which could or should belong to (the family of) victims whose fundamental rights were violated (Chapter X.3). Finally, through different cases, the ECtHR has sometimes asserted certain historical facts, playing a larger political role than planned or expected. About this fourth instrument, one could argue that history is not so much “protected” but on the contrary instrumentalized by the Court (Chapter X.4).

This chapter does not pretend to be exhaustive about the ways in which the ECtHR handles history. The first aim here is to update the existing works of, among others, Flauss (2006, 2012), Kaminski (2010), Puéchavy (2012) and Vivant (2007). These authors already discussed numerous cases and situations in which the ECtHR took a position relating to historical debates and we want to reassess their work with regard to the important recent ECtHR cases. A second aim is to assess the reciprocal influence of historical debates on the Court, and of the Court on the historical debates, and in doing so to evaluate the role of the ECtHR in protecting or guiding history and historical research.

FREEDOM OF EXPRESSION TO PROTECT HISTORICAL RESEARCH AND HISTORICAL TRUTH

Article 10 ECHR protects freedom of expression. This protection can be invoked in three different ways for the benefit of history and of historical research. Firstly, and most prominently, the ECtHR has ruled several times that “[I]t is an integral part of freedom of expression to seek historical truth.” and it has done so with regard to a wide variety of contemporary historical facts and events, among others: the Resistance movements in France during WWII (case of *Chauvy and others v. France*—29 June 2004, §69); the role played by Switzerland during WWII (case of *Monnat v. Switzerland*—21 September 2006, §57); the role played by Azerbaijani fighters during the Khojaly Massacre in Nagorno-Karabakh in 1992 (case of *Fatullayev v. Azerbaijan*—22 April 2010, §87); the Armenian genocide (case of *Dink v. Turkey*—14 September 2010, §135); or the role of the state security service under the communist regime of Hungary (case of *Ungvary and Irodalom KFT v. Hungary*—3 December 2013, §63).² Although most of these cases were introduced by journalists—only the last one was brought to the fore by a professional historian—all these cases involved the investigation of certain past events within (recent) national history. The essential arguments for the Court’s protection of historical research were probably most clearly expressed by German judge Nussberger in her partly concurring and partly dissenting opinion in the second case of *Perincek v. Switzerland* (15 October 2015):

Assessing, evaluating and commenting on historical events are prerequisites for living peacefully together in society, being conscious of what has happened in the past and assuming responsibility where necessary. There is not one historical truth that could remain permanently immutable. On the contrary, new research and new discoveries of documents and evidence may shed new light on what has been deemed to be an uncontested view. Therefore, debate and discussion about history is an essential part of freedom of expression and should in principle never be curtailed in a democratic society, especially not by defining taboos on what events have to be excluded from free assessment in public debate or by establishing certain “official views” that must not be contested.

This particular aspect of the freedom of expression has its roots in democracy and the aim for a peaceful society. Any legal provision preventing a debate on historical truths must be dismissed. This issue was especially at stake in the Swiss case (*Monnat v. Switzerland*). Journalist Daniel Monnat had broadcast a documentary entitled “Switzerland’s Lost Honour,” about “the attitude of Switzerland and its leaders, emphasising their alleged affinity with the far right and their inclination towards rapprochement with Germany,” about their anti-Semitism and about their role in the appropriation of unclaimed Jewish assets (§6). Swiss tribunals judged “that journalism of that nature was subject to particularly stringent rules of diligence, which the programme had not observed. The journalist should have informed viewers that the report was not presenting an indisputable truth but rather one possible interpretation of relations between Switzerland and Germany” (§14). In addition to a judicial blame for the broadcasting company, any purchase of a copy of the disputed program was prohibited. For the ECtHR, this national ruling was not acceptable. The attitude of Switzerland during WWII was undoubtedly an “ongoing debate among historians” (§57) that was profoundly dividing Swiss public opinion, but nevertheless a debate without any alleged damages to personal reputations nor to the State’s democratic foundations, and, moreover, it concerned events that took place more than fifty years ago. In this context, tolerance and freedom of expression “[form] part of the efforts that every country must make to debate its own history openly and dispassionately” (§64).

The tolerance for open discussions about history is particularly crucial in cases where researchers have been sued following defamation provisions. The ECtHR’s jurisprudence tells us that it’s not a good solution to officialize one or the other historical interpretation. This is demonstrated in the *Dink* and *Fatullayev* cases. Turkish journalist Dink’s oral and written opinion about the Armenian genocide was considered as a denigration of the *Türklük* (Turkish identity/Turkishness), penalized in Turkish legislation. Russian journalist Fatullayev’s opinion about a responsibility of Azerbaijani political and military authorities for the Khojaly Massacre in Nagorno-Karabakh was perceived as an act of defamation. Both journalists were subjected to criminal prosecution and condemned. Extremists assassinated Dink and Fatullayev was put in jail.

Distancing itself from the national emotions both cases created, the ECtHR ruled that a violation of the freedom of expression had occurred. In the second case, after reiterating that “[I]t is not the Court’s role to arbitrate the underlying historical issues which are part of a continuing debate between historians that shapes opinion as to the events which took place and their interpretation,” the ECtHR continued that, based on “independent sources,” “various matters related to the Khojaly events still appear to be open to ongoing debate among historians, and as such should be a matter of general interest in modern Azerbaijani society” (*Fatullayev v. Azerbaijan*, §87). In both cases, the Court ruled that “[I]t is essential in a democratic society that a debate on the causes of acts of particular gravity which may amount to war crimes or crimes against humanity should be able to take place freely” (ibid. and *Dink v. Turkey*, §135). The first obligation the ECtHR imposes thus is the following: the member states have to allow debates on history.

However, the ECtHR has also stipulated several restrictions to the freedom of expression relating to historical facts. The freedom to discuss and investigate history does not imply that one can say whatever one wants, and restrictions are considered acceptable when they are prescribed by law, are “necessary in a democratic society,” and pursue a legitimate aim (Article 10, §2 ECHR).³ The Court even engaged in a deep analysis of its own jurisprudence in the recent *Perincek v. Switzerland* case (15 October 2015). Here, the ECtHR distinguished four reasons to interfere duly with the freedom of historical research or debate:

- An unnecessary breach of privacy (see below; and *Perincek v. Switzerland*, §200–203);
- Calls to violence and “hate speech” (§204–208), although the referenced cases did not rely on instrumentalized historical facts (but see §231 in fine);
- Denial of the Shoah or Holocaust, referring to no less than 17 different cases (§209–212)⁴. This restriction has already been studied by many authors, all of them supporting the protection offered by the ECtHR and by European States’ legislation against those kinds of negationist discourses (Lobba 2015; Gliszczynska-Grabias 2013; Puéchavy 2012; Dubuisson 2007; Bertrams and de Broux 2007). What is at stake, however, are the characteristics of the term “denial” targeted by this restriction, beyond the specific denial of the Holocaust. At the moment, the jurisprudence of the ECtHR on this matter remains unclear because it gave conflicting signs: on the one hand, there are signs in favor of the enlargement of the powers of restriction of the freedom of expression in case of “clearly established historical facts” (reading “a contrario” *Fatullayev v. Azerbaijan*, §81). However, some signs seem to go in a different direction. In *Perincek v. Switzerland*—a severely criticized arrest (Daniele 2016; Garibian 2016)—the Court

asserted about the Holocaust that “the justification for making its denial a criminal offence lies not so much in that it is a clearly established historical fact but in that, in view of the historical context in the States concerned ... its denial, even if dressed up as impartial historical research, must invariably be seen as connoting an antidemocratic ideology and anti-Semitism” (§243). The latter statement permits differentiating the denial of the Holocaust with the denial of the Armenian genocide, even if they both are “established historical facts.” This therefore led the ECtHR to reject the restriction and to rule that the rights to freedom of expression of a Turkish politician were violated, after this man’s conviction for denying the Armenian genocide, however, in a way that lacked any call for violence, hatred or intolerance. If we put this together, a denial violates the Convention when it fulfills three conditions: the denial has (i) to concern “clearly established historical facts,” (ii) to denounce democratic ideology, and (iii) to entail a call for violence, hatred or intolerance.

- Finally, a theoretical restriction to the freedom of expression in a context of a presentation of historical facts could depend on: (i) the manner in which the impugned statements were phrased and the way in which they could be construed; (ii) the specific interest or the rights affected by the statements; (iii) the statements’ impact and (iv) the lapse of time since the historical events to which the statements relate (§213–220). In most of the cases, however, the ECtHR has rejected the possibility of a restriction on that basis, as in the *Monnat v. Switzerland* case (see also, in the same sense, arrest *Orban and others v. France*, 15 January 2009, about the use of torture during the Algerian war; arrest *Lehideux and Isorni v. France*, 23 September 1998, about the role of Marshal Pétain during WWII). Only in rare cases, for instance, when there is a voluntary and conscious distortion of the truth or when there is a manifest absence of care and moderation regarding the professional duties of the author, the Court argued that a restriction to the freedom of expression was a legitimate sanction (see, for instance, *Radio France and others v. France*, 30 March 2004, about the responsibility of a French official in the Jewish deportation during WWII).

Against this background, a second obligation that the Court imposes on its member states is to prevent the use of history to infringe others’ fundamental rights, and, therefore, particularly to ensure the respect for one’s reputation and the prohibition of violence or (racial) discrimination, especially when partial or untruthful facts are presented.

Finally, the Court has slowly and very recently evolved to a consecration of a right to access public information, deduced from the right to freedom of expression. The key case in that matter is *Kenedi v. Hungary* (26 May

2009). Hungarian historian Janos Kenedi, specialist in the functioning of the secret services of totalitarian regimes, in particular in Soviet-type states, demanded access to classified documents (considered as state secrets until 2048) for the purposes of his ongoing historical research. The national courts had always rejected the historian's requests. In its judgment the ECtHR considers this as an interference with the freedom of expression and holds that "access to original documentary sources for legitimate historical research was an essential element of the exercise of the applicant's right to freedom of expression" (§43), opening the way for a more universal right of access to state-held information.⁵ This consecration has recently been confirmed in the case of *Magyar Helsinki Bizottság v. Hungary* (8 November 2016, about a human rights survey conducted by an NGO) in which the Court enumerates the threshold criteria to achieve such access, namely (§157–170): (i) the purpose of the information request (ideally a public debate on issues with a general interest); (ii) the nature of the information sought (especially original documentary sources for legitimate historical research, as set out in *Kenedi*); (iii) the role of the applicant (relying on the special position of journalists, NGOs and other watchdogs, civil society or academic researchers among others); and (iv) ready and available information. On these conditions, the ECtHR imposes its third obligation to the states: to give access to information they hold, in particular to any historical archives. This evolution in the Court's case law will certainly lead to new statements relating to this right, especially about the possible restrictions when this is "necessary in a democratic society" (based on Article 10, §2 ECHR). Nearly all international and national rules on the right to access to documents provide exceptions (see, for instance, in Belgium: infringements to fundamental rights, national security, economic interests of the state, secrets imposed by law, privacy; etc.; see de Broux et al. 2014), whose compatibility with the ECHR still has to be examined. Nevertheless, these Strasbourg cases mark a very important step in the evolution of the scope of freedom of expression, and one that should offer stronger support to the needs of historians in their search for historical truth.

ACCESS TO DOCUMENTS, FREEDOM OF RESEARCH AND PRIVACY

The respect for one's private life, protected under Article 8 of the ECHR, encompasses a solid potential restriction for access to documents and freedom of research. First, as mentioned above, a state's interference with historical research or debate under Article 10 of the ECHR (freedom of expression) may be justified when there is an unnecessary breach of Article 8 of the ECHR (right to privacy). Second, cases about access to historical documents pertaining to one's personal privacy and about public expression of historical facts affecting this privacy may be based directly on an alleged breach of Article 8 of the ECHR. In both situations, the Court accepts that personal

privacy also includes an individual's reputation, and even the reputation of one's ancestors.

The *first* potential restriction is inherent to finding a balance between freedom of expression and respect for private life. It touches on the question of whether the states' interference with historical research was proportionate in the light of protecting the right to privacy. In the context of such an examination by the ECtHR, several criteria are relevant: (i) contribution to a debate of general interest; (ii) how well known the person concerned [i.e., the person whose privacy is affected] is and what the subject of the publication was; (iii) prior conduct of the person concerned; (iv) method of obtaining the information and its veracity; (v) content, form and consequences of the publication; and (vi) severity of the sanction imposed. The Court summarized these criteria in *Ungváry and Irodalom Kft. v. Hungary* (3 December 2013, §45), a case that established a violation of Article 10 of the ECHR because of an award of damages against a historian and a publisher for their allegations that a public official had collaborated with the state security services during the communist regime. The protection of the official's private life was not capable of justifying the state's interference with the freedom of expression. The Court, when assessing the justification of the impugned statements, considered particularly relevant the distinction between statements of fact and value judgments, by holding that "the requirements to prove the truth of a value judgment is impossible to fulfil and infringes freedom of opinion itself" (§46). However, it continued that "[W]here a statement amounts to a value judgment, there must exist a sufficient factual basis to support it, failing which it will be excessive" (*ibid.*). Thus, the difference lies "in the degree of factual proof which has to be established" (*ibid.*).

The case of *Karsai v. Hungary* (1 December 2009, §32 and §35) demonstrates the importance the Court attaches to distinguishing between statements of facts and value judgments, as well as to criteria such as the contribution to debates of public interest and the nature and severity of the sanction. The judgment establishes a violation of the freedom of expression because of a national civil court's finding that an article of utmost public interest, written by a Hungarian historian and university professor, was defamatory. That this article criticized the right-wing press, including a specific author who claimed that his reputation was harmed, did not alter the ECtHR's conclusions. In the decision of *Dzhugakhvili v. Russia* (9 December 2014, §32), balancing the right to private life against the right to freedom of expression in respect to an article about the Katyn massacre and the USSR's responsibility, the Court confirmed the importance of "public interest" once again:

The Court notes that historical events of great importance which affected the destinies of multitudes of people, as well as the historical figures involved therein and responsible for them, inevitably remain open to public historical scrutiny and criticism, as they present a matter of general interest for society.

Although Article 8 of the ECHR offers a potential restriction to the freedom of expression, the Court does not always include it as a counterbalancing factor. In the case of *Magyar Helsinki Bizottság v. Hungary* (8 November 2016), about a human rights survey conducted by an NGO, the ECtHR held that Article 8 of the ECHR was not applicable in relation to the right to data protection (§196, and concurring opinion of Judges Nussberger and Keller, §3). Here, the Court introduced a threshold for applying Article 8 of the ECHR to data protection based on the following criteria: (i) the foreseeability of the use of the personal data, (ii) the connection of the data with private or professional life, and (iii) the accessibility of the data (concurring opinion of Judges Nussberger and Keller, §4). This case was criticized for offering insufficient data protection (especially in relation to data that are already in the public domain), and for being at odds with the approach of the Court of Justice of the European Union (*ibid.*, §5–9).

The second potential obstacle for access to documents and freedom of research follows from complaints directly based on Article 8 of the ECHR. Indeed, in line with this provision, a state is required to take action to secure respect for private life in relations between individuals (*Putistin v. Ukraine*, 21 November 2013, §34). “Private life” is a broad concept and includes a person’s reputation as a part of his or her personal identity (*ibid.*, §32). In the Court’s recent case law, even damages to the reputation of a deceased person can affect the private life and identity of that person’s surviving family members, however, only in relatively exceptional circumstances (*ibid.*, §33 and the concurring opinion of Judge Lemmens to this case; see also: *Dzhugashvili v. Russia*, 9 December 2014, § 27).

In addition, the application of Article 8 ECHR may establish a hurdle for certain practical measures taken on the basis of historical evidence, and consequently refrain from doing historical research on the same basis. This is illustrated by *Ivanovski v. “the former Yugoslav Republic of Macedonia”* (January 21, 2016), a case about a removal from public office of the president of the constitutional court as a result of a national Lustration Act (of 2008), which made collaboration with the state security services between 1944 and 2008 an impediment to holding public office (about lustration policies: David 2003). The evidence of the Court president’s collaboration in 1964 was found in the state archives. However, according to the ECtHR, the lustration measure created an unnecessary interference with the right to privacy, *inter alia* because “[I]t should in some manner be a qualifying condition for the imposition of such a measure that the person being lustrated was not acting under compulsion” (§182). This condition “constitutes an essential factor in the exercise of balancing the interests of national security and the protection of the affected individual’s rights” (*ibid.*) and had been inspired by an instrument other than the ECHR, namely by the Council of Europe “Guidelines to ensure that lustration laws and similar administrative measures comply with the requirements of a state based on the rule of law.” In addition to the

aspect of “compulsion,” the time aspect was relevant too: “any threat those being lustrated could initially pose to the newly created democracy must have considerably decreased with the passage of time” (§185, and see also: *Sõro v. Estonia*, 3 September 2015, § 62).

Although Article 8 of the ECHR may provide a direct lawful basis for a state’s interference with historical research and publications, the ECtHR does not always conclude the complaint with a violation of that provision. For instance, in *Putistin v. Ukraine*, the alleged failure to secure the right to reputation of an applicant whose father was allegedly defamed by a newspaper article as having been a collaborator with the Gestapo, did—given the particular circumstances of the case—not amount to a breach of the right to privacy (§36–41). This was even more evident for “legitimate criticism of public figures who, by taking up leadership roles, expose themselves to outside scrutiny” (about the figure of Stalin, *Dzhugashvili v. Russia*, 9 December 2014, § 30).

THE RIGHT TO THE TRUTH

The “right to the truth” may encourage historical research and stimulate access to historical information. In practice, it encompasses the obligation of states to establish institutions, mechanisms and procedures to enable the revelation of the truth, for instance, through following up on requests for state-held information, and through archives, truth and fact-finding commissions, courts and the like (Groome 2015, p. 1 and pp. 5–6; de Greiff 2013).

In international law, the right to the truth has been developing over the last 30 years. It moved beyond its initial links to disappeared persons (encompassing the right to know the fate and whereabouts of the victim; see Article 24(2) UN International Convention for the Protection of All Persons from Enforced Disappearance) and now covers a right of individuals to know the truth about gross violations of human rights affecting them (Navi Pillay, UN High Commissioner for Human Rights, 13th Session of the UN Human Rights Council; Groome 2011, 2015). Accordingly, “[A]mnesties or similar measures and restrictions to the right to seek information must never be used to limit, deny or impair the right to the truth” (“Study on the right to the truth,” E/CN.4/2006/91, 8 February 2006). In 2009, the UN Human Rights Council adopted a resolution on the right to the truth (“Right to the Truth,” A/HRC/12/L.27, 25 September 2009), stressing the importance of victims, families and societies as a whole of knowing the truth regarding gross violations of human rights (ibid., p. 3) and of “preserving historic memory” related to such violations (ibid., p. 4), which states should ensure by “access, to the fullest extent practicable, to information regarding the actions and decision-making processes of their Government” (ibid.). In 2013, the UN General Assembly adopted a resolution on the right to the truth (“Right to the Truth,” A/RES/68/165, 18 December 2013) encouraging states to establish national archival policies.

In the context of supranational human rights supervision, the right to truth—as an autonomous and independent right—developed first and foremost under the case law of the Inter-American Court of Human Rights (see Inter-American Commission of Human Rights, OEA.Ser.L/V/II.152, 2014; Ferrer Mac-Gregor Poisot 2016; Groome 2011). The ECtHR, to the contrary, does not explicitly protect a right to the truth. Nevertheless, it protects its underlying principles in a more implicit manner (Groome 2011, p. 177 & 2015, p. 4 and pp. 7–8; Fabbrini 2013) by invoking Article 2 of the ECHR (right to life), Article 3 of the ECHR (prohibition of torture and degrading and inhuman treatment), and Article 38 of the ECHR (covering an obligation to furnish all necessary facilities in order to enable the Court to examine a case). Overall, however, the right to the truth does not flourish to its full potential under the ECtHR’s case law, not only due to some procedural impediments but also because of refraining from protecting it more strongly under Article 13 of the ECHR (right to an effective remedy) or Article 8 of the ECHR (right to family life).

First, in respect to Article 2 of the ECHR, the Court has ruled that the procedural aspect of this right “requires that there should be some form of effective official investigation when individuals have been killed as a result of the use of force, either by State officials or private individuals” and, as a consequence, that the authorities “must take the reasonable steps available to them to secure the evidence concerning the incident” (see, e.g., *Branko Tomašić and Others v. Croatia*, 15 January 2009, §62, and *Treskavica v. Croatia*, 12 January 2016, §59–60). The ECtHR even affords itself temporal jurisdiction in relation to the investigation of deaths or disappearances that occurred prior to the entry into force of the ECHR (see *Šilih v. Slovenia*, 9 April 2009, §159–160, in which the Court considered the procedural aspect of Article 2 ECHR as a separate and autonomous duty that continued after the death took place; and see *Varnava and Others v. Turkey*, 18 September 2009, §147, in which the Court held that the procedural obligation under Article 2 ECHR arising from disappearances operates independently of the substantive obligation under that same provision, setting a precedent for temporal jurisdiction in disappearance cases; see also: Heri 2014, pp. 4–6).

However, the Court’s temporal jurisdiction is not unconditional: the procedural aspect of Article 2 of the ECHR can be faced with impediments. This was demonstrated by *Janowiec and Others v. Russia* (21 October 2013), a case brought by relatives of the Polish officers and officials who were detained in Soviet prisons after the Red Army’s invasion in 1939 of the Republic of Poland and who were, in 1940, killed by the Soviet secret police and buried in mass graves in the Katyń forest (Kozheurov 2013). Although investigations into these murders were started in 1990, the Russian authorities decided in 2004 to discontinue them. The document containing the decision of the Russian authorities to stop the investigations was classified as top-secret and the Russian courts had denied any request to gain access to it. The

ECtHR held that it had no temporal jurisdiction to consider the procedural aspect of Article 2 of the ECHR because there was no “genuine connection” between the deaths (as the triggering event) and the entry into force of the ECHR (§141 and 159–161). For a “genuine connection” to be established, the period between the death and the entry into force needed to be reasonably short and a major part of the investigation had or ought to have been carried out after the Convention’s entry date (§148). Therefore, in *Janowiec and Others*, the Court held that a bridge was lacking from the distant past into the recent post-entry-into-force period and that it had no competence to examine the complaint under Article 2 of the ECHR (§160–161). In the absence of this genuine connection, “a Contracting Party cannot be held responsible under the Convention for not investigating even the most serious crimes under international law if they predated the Convention” (§151). This argumentation was criticized by Judges Ziemele, De Gaetano, Lafranke and Keller in their partly dissenting opinion (§33–34), stressing that the Court, by declaring itself incompetent, denied the role of the Convention system in “provid[ing] a Court that would act as a ‘conscience’ for Europe.” A similar criticism appeared in legal doctrine: Heri argued that “the judgment has shown a lack of sensitivity for the special nature of disappearance cases” and missed “the opportunity to process a collective traumatic experience” (Heri 2014, p. 11 *et seq.* and p. 17) and Schabas (2013) said that the case missed a chance “to heal a wound in Europe’s legal history” and reflects “amnesia about dark episodes in the continent’s history.”

Second, some aspects of the right to the truth are protected under Article 3 of the ECHR. The Court accepts that the suffering of family members of a disappeared person might amount to inhuman treatment on account of the particularly callous attitude of the authorities towards their requests for information. Here, Article 3 of the ECHR focuses on the state’s dismissive reactions to the efforts of the family to obtain information, and not as much on the actual disappearances or deaths (*Janowiec and Others v. Russia*, §178 and §186–189; Groome 2011, p. 180). For example, in *Cyprus v. Turkey* (10 May 2001), the Court decided that the continued failure of Turkey to account for persons last seen in the custody of the Turkish troops during its military operations in Northern Cyprus in 1974 violated Article 3 of the ECHR in respect to the relatives of the missing persons (§158 and see also: *Varnava and Others v. Turkey*, 18 September 2009, §200–202). In addition, as follows from *El-Masri v. the Former Yugoslav Republic of Macedonia* (12 December 2012), the Court has pronounced a violation of Article 3 of the ECHR in respect to victims of torture and inhuman and degrading treatment when they had been deprived of “being informed of what happened, including of getting an accurate account of the suffering ... allegedly endured and the role of those responsible ...” (§192). In this case, the victim (Mr. El-Masri) had been seized by the Macedonian authorities as a terrorist suspect and handed over to the US Central Intelligence Agency operatives who secretly transferred

him to Afghanistan for the purpose of interrogation. After these events, Mr. El-Masri asked the Macedonian prosecutors to open criminal investigations. Because the domestic inquiry was discontinued, the ECtHR noted a lack of effective investigation and a violation of the procedural aspect of Article 3 of the ECHR (§182). Here, albeit cautiously, the Court acknowledged two dimensions of a right to the truth: a right for the *victim* to know the truth and a *societal* dimension including the interest of the public at large to know the truth about serious human rights violations in order to maintain public confidence in the government (see §191–192 and Fabbrini 2013, p. 3 and p. 18).

Third, Article 38 of the ECHR may protect some aspects of the right to the truth. This provision covers an obligation of the member states to furnish all necessary facilities to the Court. In the proceedings of *Janowiec and Others*, Russia, because of the classification of the document as “top-secret,” had refused to give the ECtHR a copy of a domestic court decision about the discontinuance of the criminal investigations into the Katyń massacre. Therefore, the Court held that Russia failed to comply with Article 38 of the ECHR. It argued that “even where national security is at stake, the concepts of lawfulness and the rule of law in a democratic society require that measures affecting fundamental human rights must be subject to some form of adversarial proceedings before an independent body competent to review the reasons for the decision and the relevant evidence” (§213). In that light, the national authorities failed to carry out “a balancing exercise between the alleged need to protect the information ... and the public interest in a transparent investigation ... and the private interest of the victims’ relatives in uncovering the circumstances of their death” (§214).

Although the Court, as clarified by the aforementioned cases, recognizes aspects of the right to the truth, thus keeping up with a trend in international (human rights) law to increasingly protect this right, it also misses some opportunities. For instance, the Court could have highlighted more firmly the link between Article 13 of the ECHR (right to an effective remedy) and the right to the truth (see Fabbrini 2013, pp. 19–21). This had been a point of criticism in the case of *El-Masri* in which the concurrent judges, although applauding the decision for placing the right to truth in the context of Article 3 of the ECHR, criticized the Court for failing to offer “[a] more explicit acknowledgment of the right to the truth in the context of Article 13 of the Convention” which “would in a sense cast renewed light on a well-established reality” (concurring opinion of Judges Tulkens, Spielmann, Sicilianos and Keller, §7). Moreover, as far as we know, the Court does not connect a right to the truth to Article 8 of the ECHR in its protection of family life. This contrasts with the approach of the Human Rights Chamber of Bosnia and Herzegovina, arguing that Article 8 of the ECHR offers family members a right to seek information about missing family members (*Unković v. Bosnia and Herzegovina*, Case No. CH/99/2150, 10 May 2002, Decision

on Review, §126), and the African Commission on Human and Peoples Rights, holding that the protection of family life includes a right of the family to know what happened to a relative (*Article 19 v. Eritrea*, Communication 275/2003, May 2007) (Groome 2015, p. 9).

THE COURT ACTING AS AN HISTORIAN?

The ECtHR insists on not pronouncing itself as to what the “historical truth” is, but it sometimes accepts some “historical truths” and takes them into account. In the recent case of *İzzettin Doğan and Others v. Turkey* (26 April 2016), for instance, the Court confirmed its previous case law that it “must abstain, as far as possible, from pronouncing on matters of purely historical fact,” and added that it may “take account of the “historical context” and “accept certain well-known historical truths and base its reasoning on them” (§175). Some recent examples of the judges asserting that some facts are “historical facts,” as such not available for discussion, are found in the cases of *Perinçek v. Switzerland* (15 October 2015), *Janowiec and Others v. Russia* (21 October 2013) and *Epstein and Others v. Belgium* (8 January 2008).

The case of *Perinçek v. Switzerland* established a violation of the right to freedom of expression in the light of a criminal conviction of an academic rejecting the legal characterization as “genocide” of the atrocities committed by the Ottoman Empire against the Armenian people in 1915. Although the Court held that it has “no authority to make legally binding pronouncements” to determine whether “the massacres and mass deportations suffered by the Armenian people ... can be characterised as genocide within the meaning of that term under international law” (§101–102), nonetheless, in the further examination of the case, the Court seems implicitly to endorse that genocide against the Armenian people took place (§261–268). In addition, some of the separate judges considered it “self-evident” that “the massacres and deportations suffered by the Armenian people constituted genocide,” which is “a clearly established historical fact” that cannot be denied (see dissenting opinion of Judges Spielmann, Casadevall, Berro, De Gaetano, Sicilianos, Silvis and Kuris, §2). They supported this conclusion by the citation of a book chapter of historians Hans-Lukas Kieser and Donald Bloxham in *The Cambridge History of the First World War* (Cambridge University Press, 2015, Vol. I, “Global War”, Ch. 22 (Genocide), pp. 585–614). This contradicted the assertions of some (third) parties to the case, including the applicant who held that “historical research on the events of 1915 and the following years was ongoing and that no consensus among scholars existed in relation to them” (§160) and the Turkish Government, that alleged the following: “[t]he applicant had not called into question the reality of the massacres and deportations, simply their legal characterisation, on which there was no international consensus. They were still the subject of a heated debate” (§106).

In the case of *Janowiec and Others v. Russia*, which concerned the criminal investigations into the Katyn massacre, the Court held that “[e]ven though not all of the bodies have been recovered, their death was publicly acknowledged by the Soviet and Russian authorities and has become an established historical fact” (§186) and, as a consequence, the case had to be treated as a “confirmed death” case (§187). For that matter, the Court did not explicitly refer to historical sources. In addition, the separate judges held that “[t]here is no doubt that the Katyn massacre must be qualified as a war crime” (partly dissenting opinion of Judges Ziemele, De Gaetano, Lafranke and Keller, §22). To support that conclusion, the judges cited an article of William Schabas, a professor who specialized in human rights law and international criminal law.

In the case of *Epstein and Others*, the Court did not explicitly speak of an “historical fact” but a closer reading of this case suggests that the ECtHR took for granted some historical observations, *in casu* that Belgium did not carry responsibility in the context of WWII. This case concerned a law passed by the Belgian authorities in 2003 introducing new measures on pensions in favor of Jewish and Roma victims of WWII. Because this law specified that only people who had Belgian nationality on January 1, 2003 and had resided in Belgium during the German occupation were entitled to the benefits, some individuals who could not benefit from the measure (because they had not, or no longer, been Belgian citizens on January 1, 2003), lodged a complaint before the ECtHR alleging an infringement of the national law with the principles of equality and nondiscrimination (Article 14 ECHR). The Court declared the case inadmissible, arguing that if a state decided to make amends for damage for which it bore no responsibility, it had a wide margin of appreciation to determine the forms and beneficiaries of the reparation. The Court accepted, without any further explanation, that Belgium was a state that had decided to award compensation to war victims for damage for which it was not responsible (*Epstein and Others v. Belgium*, 8 January 2008, p. 15, §3).

In the aforementioned cases, the issue we raise is not about whether the circumstances actually constitute historical truths. The concern is that the Court, although larger debates about the historical assessment of the facts may still run, is ready to accept facts as historical facts based solely on a scarce amount of sources or with no reference to historical materials at all. The Court’s reasoning would become more persuasive if it would develop some guidelines as to when, why and with what kind of documentation the Court can establish “historical facts.” Thereby, a diversification of the sources of documentation is recommendable.

In addition to examples of the Court taking account of facts as “historical facts,” there are also occasions on which the Court itself actively unfolds aspects of the “historical truth” on the basis of its own assessment of the case and its underlying circumstances. For instance, in the particular context of Article 7 of the ECHR (*nullum crimen sine lege*, no punishment without law),

the Court must prevent domestic courts from imposing criminal penalties that were unforeseeable and retrospective. Therefore, the Court might have to examine whether, at a certain point in history, certain acts amounted to some specific criminal offences. This can be illustrated by the cases of *Kononov v. Latvia* (17 May 2010) and *Vasiliauskas v. Lithuania* (20 October 2015) (see also Liivoja 2013, Mälksoo 2011 and Zilinskas 2011).

The case of *Kononov v. Latvia* concerned a conviction under national legislation introduced in 1993 for war crimes committed during the Second World War. Because Article 7 of the ECHR on the prohibition of retroactive criminal laws does not affect the punishment of “war crimes,” the Court had to address the definition of this notion and, as a part of that exercise, assess whether the affected villagers were “combatants” or “civilians.” Because the factual evidence regarding the extent to which the deceased villagers participated in hostilities was disputed between Latvia, the Chamber, the applicant and the Russian authorities (see §193), the Grand Chamber “[h]aving regard to the above-described dispute,” said that it will “begin its analysis on the basis of a hypothesis most favourable to the applicant: that the deceased villagers fall into the category of ‘civilians who had participated in hostilities’ ... or that they had the legal status of ‘combatants’” (§194; see also §201). In addition, the Court had to assess whether the applicants’ conviction for “war crimes” had a sufficiently clear legal basis under international law in 1944. To reflect on the definition of that crime at that point in history, the Court made use mainly of international conventions, field manuals and codes, international case law (of military tribunals) and academic publications (see §199 *et seq.*). Against that background, the ECtHR decided that “at the time when they were committed, the applicant’s acts constituted offences defined with sufficient accessibility and foreseeability by the laws and customs of war” (§244).

Several concurring judges to this case criticized this conclusion by pointing at the complexity of the question of foreseeability of the penalty at the time the acts took place. Unlike the majority, they were not persuaded that in 1944 there was a “sufficiently sound and acknowledged legal basis for war crimes to be regarded as having been precisely defined at that time, and for their definition to have been foreseeable,” and they argued that “[t]he applicant was prosecuted, tried and convicted more than half a century after the events in question, on the basis of a criminal law alleged to have existed at that time—a state of affairs that is clearly problematic” (concurring opinion of Judges Rozakis, Tulkens, Spielmann and Jebens, §10). Thus, the “historical” conclusion of the separate judges differed from the one of the majority as they held that “at the material time, neither domestic nor international law was sufficiently clear in relation to war crimes” (§ 16).

Vasiliauskas v. Lithuania offers another example of a case giving meaning to a notion at a certain point in history. Here, because of the applicant’s conviction in 2004 for alleged genocide of Lithuanian partisans in 1953, the Court made use of several instruments other than the ECHR (including, *inter alia*, the Nuremberg Charter, UN resolutions, international conventions,

case law of the International Court of Justice, academic publications, etc.; §170–178) to put the circumstances into their historical perspective and to clarify the understanding of the notion of “genocide,” now and historically. It concluded that the interpretation of the domestic courts of the notion of “genocide” (that led to the conviction of the applicant) did not accord with the definition of this crime as it stood at the relevant time (in 1953) and that therefore, the conviction was not foreseeable (§166 and §183).

CONCLUSIONS

The aforementioned “historical” affairs offer proof of what we announced in the introduction to this chapter: the ECtHR has an influence on historical research. The Court’s case law also shows us what kind of influence. Powerful tools to stimulate historical research are offered by Article 10 of the ECHR on the freedom of expression and by the right to the truth, which is, albeit cautiously, tied to several provisions of the Convention. The Court seems on the other hand to lack the knowledge or the will to put historians in full capacity to investigate the past, particularly to give them access to public information or to enforce inquiries on past infringements of fundamental rights. Article 8 of the ECHR on respect for one’s private life operates as a boundary to access to historical documents and the development of historical research. Admittedly, one may argue that the other aspect of Article 8 of the ECHR, that protects the family life, may stimulate the recognition of a right to the historical truth but, thus far, the Court did not use it in that context. Finally, although the ECtHR insists on not pronouncing itself on what the historical truth is, the Court “writes” history by acknowledging certain facts as historical facts, by historically interpreting certain events and by assessing the meaning of notions at a certain time in history. In doing it, the Court stays extremely weak in its reasoning and its references, and should develop guidelines or collaborations to escape further criticism.

By using all these tools, the Court has not only created a legal framework for historical research, but it has also interfered with it by contributing to historical observations. Doing so, the ECtHR offers no exception to other public authorities acting as powerful actors in “watching history.”

NOTES

1. Dorothea Staes’ research has been funded by the Interuniversity Attraction Poles Programme initiated by the Belgian Science Policy Office, more specifically the IAP “The Global Challenge of Human Rights Integration: Towards a Users’ Perspective” (www.hrintegration.be).
2. Each arrest and decision of the ECtHR is referenced hereinafter by its name and, for the first reference, also by its date. They can all be consulted on the Court’s online database: <http://hudoc.echr.coe.int>.

3. Article 10 §2 ECHR: “The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention for disorder or crime, for the protection of health or morals, for the protection of the reputation of the rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.”
4. “In some of those cases the Commission relied on Article 17 as an aid in the interpretation of Article 10 §2 of the ECHR, and used it to reinforce its conclusion on the necessity of the interference”; sometimes Article 17 was even used alone, the denial of the Holocaust being considered as incompatible with democracy and human rights. But this use of Article 17 has been criticized by Cannie and Voorhoof (2011, reiterated in Voorhoof 2016), accurately arguing that such an application overestimates effects of genocide denial on democracy and could by itself harm the values of the ECHR.
5. It can be noted that, before this extension of the Court’s jurisprudence, others ways had been used to claim access to historical documents, in particular relying on Article 8 ECHR (see below) or on Article 38 ECHR (concerning obligation for the State to cooperate with the ECtHR; see, for instance, arrest *Janowiec and Others vs. Russia*, 21 October 2013, §209, a case also commented below).

REFERENCES

- Bertrams, K. and de Broux, P.O. (2007) ‘Du négationnisme au devoir de mémoire. L’histoire est-elle prisonnière ou gardienne de la liberté d’expression?’, *Revue de droit de l’ULB*, 35(1), 75–134.
- Cannie, H. and Voorhoof, D. (2011) ‘The abuse clause and freedom of expression in the European Human Rights Convention. An added value for democracy and human rights protection?’, *Netherlands Quarterly of Human Rights*, 29(1), 54–83.
- Daniele, L. (2016) ‘Disputing the indisputable. Genocide Denial and Freedom of Expression in the *Perincek v Switzerland*’, *Nottingham Law Journal*, 25, 141–151.
- David, R. (2003) ‘Lustration Laws in Action. The Motives and Evaluation of Lustration Policy in the Czech Republic and Poland (1989–2001)’, *Law & Social Inquiry*, 28(2), 387–439.
- de Broux, P.O., de Jonghe, D., Simar, R. and Vanderstraeten, M. (2014) ‘Les exceptions à la publicité des documents administratifs’ in V. Michiels (ed.), *La publicité de l’administration* (Bruxelles: Bruylant), pp. 133–192.
- de Greiff, P. (2013) ‘Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence’, 28 August, A/HRC/24/42.
- Dubuisson, F. (2007) ‘L’incrimination générique du négationnisme est-elle conciliable avec le droit à la liberté d’expression’, *Revue de droit de l’ULB*, 35(1), 135–195.
- Fabbrini, F. (2013) ‘The European Court of Human Rights, Extraordinary Renditions and the Right to the Truth. Ensuring Accountability for Gross Human Rights Violations Committed in the Fight Against Terrorism’, *Human Rights Law Review* (doi :[10.1093/hrlr/ngt017](https://doi.org/10.1093/hrlr/ngt017)).

- Favreau, B. (2012) 'Le jugement de l'histoire' in B. Favreau (ed.) *La loi peut-elle dire l'histoire? Droit, Justice et Histoire* (Bruxelles: Bruylant), pp. 9–29.
- Ferrer Mac-Gregor Poisot, E. (2016) 'The Right to Truth as an Autonomous Right under the Inter-American Human Rights System', *Mexican Law Review*, 9(1), 121–139.
- Flauss, J.F. (2006) 'L'Histoire dans la jurisprudence de la Cour européenne des droits de l'homme', *Revue trimestrielle des droits de l'homme*, 65, 5–22.
- Flauss, J.F. (2012) 'L'Histoire dans la jurisprudence de la Cour européenne des droits de l'homme: le contentieux des anciennes démocraties populaires', in B. Favreau (ed.) *La loi peut-elle dire l'histoire? Droit, Justice et Histoire* (Bruxelles: Bruylant), pp. 89–101.
- Garibian, S. (2016) 'On the Breaking of Consensus. The Perinçek Case, the Armenian Genocide and International Criminal Law' in J. Willems, H. Nelen and R. Moerland (ed.) *Denialism and Human Rights* (Cambridge: Intersentia), pp. 235–250.
- Gliszczyńska-Grabias, A. (2013) 'Penalizing Holocaust Denial. A View from Europe' in C.A. Small (ed.) *Global Antisemitism. A Crisis of Modernity* (Leiden: Martinus Nijhoff Publishers), pp. 237–256.
- Groome, D. (2011) 'The Right to Truth in the Fight against Impunity', *Berkeley Journal of International Law*, 29(1), 175–199.
- Groome, D. (2015) 'The Right to Truth. The Evolution of a Right', available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2660889, pp. 1–11.
- Heri, C. (2014) 'Enforced Disappearance and the European Court of Human Rights' *ratione temporis* Jurisdiction. A Discussion of Temporal Elements in *Janowiec and Others v. Russia*', *Journal of International Criminal Justice* (doi:10.1093/jicj/mqu053).
- Inter-American Commission on Human Rights (2014) "The Right to Truth in the Americas", 13 August, OEA/Ser.L/V/II.152.
- Kaminski, I.C. (2010) "Historical situations" in the jurisprudence of the European Court of Human Rights in Strasbourg', *Polish Yearbook of International Law*, 30, 9–60.
- Kozheurov, Y. (2013) 'The case of *Janowiec and others v. Russia*. Relinquishment of jurisdiction in favour of the court of history', *Polish Yearbook of International Law*, 33, 227–245.
- Liivoja, R. (2013) 'Competing Histories. Soviet War Crimes in the Baltic States' in K. Heller and G. Simpson (eds.) *The Hidden Histories of War Crimes Trials* (Oxford: Oxford University Press), pp. 248–266.
- Lobba, P. (2015) 'Holocaust Denial before the European Court of Human Rights. Evolution of an Exceptional Regime', *European Journal of International Law*, 26(1), 237–253.
- Mälksoo, L. (2011) 'Kononov v. Latvia', *American Journal of International Law*, 105(1), 101–108.
- Puéchavy, M. (2012) 'L'Histoire de la Seconde Guerre mondiale dans la jurisprudence de la Cour européenne des droits de l'homme' in B. Favreau (ed.) *La loi peut-elle dire l'histoire? Droit, Justice et Histoire* (Bruxelles: Bruylant), pp. 63–87.
- Sarat, A. and Kearns, T.R. (2002) 'Writing History and Registering Memory in Legal Decisions and Legal Practices. An Introduction' in A. Sarat and T.R. Kearns (eds.) *History, Memory and the Law* (Ann Arbor: University of Michigan Press), pp. 1–24.

- Schabas, W.A., (21 October 2013) ‘Amnesia in Strasbourg’, available at <http://humanrightsdoctorate.blogspot.be/2013/10/katyn-amnesia-in-strasbourg.html>.
- Vivant, C. (2007) *L'historien saisi par le droit. Contribution à l'étude des droits de l'histoire* (Paris: Dalloz).
- Voorhoof, D. (2016) “‘Hate speech’, radicalisering en het recht op expressievrijheid—Waarom artikel 17 EVRM (misbruikclausule) geen revival verdient’, *Auteurs & Media*, 1, 4–18.
- Zilinskas, J. (2011) ‘Kononov Case and the Baltic States’, *Jurisprudencija*, 18(3), 859–870.

Legislated History in Post-Communist Lithuania

Tomas Balkelis and Violeta Davoliūtė

INTRODUCTION

The aim of this chapter is to provide an overview of legislative measures that set the legal framework for dealing with the totalitarian heritage of twentieth-century history in post-communist Lithuania. These measures were adopted since the emergence of the popular movement in the late 1980s to the present time. They were specific legal manifestations of state-sponsored history that were introduced during an intense period of transition from Soviet rule and the formation of an independent nation-state. As part of the general process of transitional justice, they include not only the so called “memory laws” (i.e., laws that dealt specifically with certain historical events such as Soviet deportations, the Holocaust, or the Nazi-Soviet Pact of 1939), but also other laws and institutions dealing with various issues of the historical past in Lithuania (such as lustration, restitution, official apologies, criminal prosecutions for participation in genocide, truth commissions etc.).

This broad variety of forms of “legislated history” is chosen deliberately in order to trace the dynamics of legal “history politics” in the period from the late 1980s to the present. Here the focus is on three key questions. What were the main stages in the implementation of these measures? How are they

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related to recent political developments? And what are the continuities and discontinuities between the measures adopted in the early period of independence (in the 1990s) and those of the last fifteen years?

In a recent study of transitional justice in the Baltic states, Eva-Clarita Pettai and Vello Pettai suggested that among the three Baltic states, Lithuania was the one that showed the most “far reaching and sustained state involvement in issues of truth and justice” (2015, p. 317). This is certainly true if one looks at the range of laws adopted by various Lithuanian governments in dealing with the country’s recent historical past. The key historical events on which they focused were, primarily, the three occupations by totalitarian regimes (Soviet in 1940–1941, Nazi in 1941–1944, and Soviet again in 1944–1990). However, the state’s involvement in the process of coming to terms with the totalitarian past was of different intensity at various political junctures. Moreover, it needs to be contextualized not only vis-à-vis the political changes of the last twenty years, but also vis-à-vis those challenges that it encountered in the perception of the public.

This chapter, however, is more focused on the adoption and transmission of “historical laws” than on their public reception. Nevertheless, we pay occasional attention to various challenges and controversies these attempts of “legislated history” encountered among the local and international publics. In our view, these controversies help us to understand the relationship between the state and society in the complex making of memory politics.

In this chapter we argue that the whole process of implementing legal “historical justice” in Lithuania went through three distinct stages, each witnessing an increasing level of intervention by the state. Our second point is that the early laws which were intended, first of all, to delegitimize the Soviet regime and to re-establish independence charted the direction for those that were adopted later. Moreover, the beginning of the legislative process already contained those historical narratives that would lay the foundation for a range of “memory laws.”

During the first stage, 1988–1992 (Phase A), the measures were largely enabling laws aimed at the restoration of an independent Lithuania, annulment of the Soviet rule, introduction of a democratic system and mass rehabilitation of victims of Soviet repressions. The key legal feature of these years was the introduction of the Constitution of 1992, which pointed out a new direction in dealing with the traumatic historical past. Alongside the state, this early period also saw a high level of activity among various nonstate actors in the legislative process.

The second period, 1992–2003 (Phase B), was aimed largely at laying a new legal framework for bringing to justice key perpetrators of historical crimes and restoring moral authority, political status and asserting the dignity of victims.¹ This stage was notable for the increasing activity of the state in the legislative process, especially by the right-wing government of Gediminas Vagnorius (1991–1992) that adopted the Genocide Law of 1992 to confront

the past violations and prosecute those responsible for atrocities committed against Lithuanian citizens under the occupations. This law testified to a proactive approach taken by Lithuania to confront rather than forget the occupation abuses and prepared the legal background for further measures.

The third stage, from 2003 to the present (Phase C), is more concerned with the consolidation, implementation and expansion of the laws that have been adopted earlier. The key issues of material restitution, victim compensation, historical reconciliation and particularly memorialization dominate this period. The latter process is especially notable, but also ridden with various challenges and controversies that continue to divide Lithuanian society on various interpretations of historical events. Moreover, this period also witnessed a qualitative increase in the public's activity in commemorative practices and debates on painful historical issues. Thus, even while the state is still heavily involved in the legislative process of dealing with the historical past, it faces a great deal of competition from nonstate actors with their own agendas.

Hereafter we describe each of these three stages in greater detail, focusing on major laws and legal measures that affected the way Lithuania dealt with its recent historical past and on challenges and qualitative changes that occurred in society as a result of this process.

PHASE A: 1988–1992

These years saw the gradual transformation of Soviet Lithuania into a newly reconstituted independent republic. From 1989 to 1990, Lithuania, while still part of the Soviet Union, adopted several transitional legal measures that would chart the country's direction until today. During this early phase, the main legal efforts focused on establishing the illegality of the Soviet occupation and creating a basis for reconstituting Lithuania's sovereignty. Thus, in 1989, under the intense lobbying of representatives from the three Soviet Baltic republics, the Congress of People's Deputies of the USSR established a commission to review the legality of the Molotov–Ribbentrop Pact. It concluded (on July 20) that the pact did indeed contain secret clauses to relegate the Baltic states to the Soviet sphere of influence, and called on the Congress to invalidate them as illegal under international law. The Soviet parliament did so in December 1989. On February 7, 1989, the Lithuanian Supreme Council adopted a resolution that condemned the aggression against Lithuania in 1940 and declared its occupation and annexation as international crimes. The declaration that the Lithuanian parliament made on July 21, 1940 on joining the USSR was proclaimed illegal and void, and the USSR Law of August 3, 1940 on admitting the Lithuanian Soviet Socialist Republic to the USSR was declared illegal and therefore not binding (Resolution 1990).

One of the key transitional justice attempts in Lithuania's effort to deal with its totalitarian past was the establishment of a new constitution. While still part of the Soviet Union, Lithuania reinstated its Constitution of 1938 by a 1990 law, which remained in force until 1992, when a new Constitution

was adopted by referendum in the newly independent Lithuania. The reinstatement of the pre-war constitution clearly showed the country's orientation to independence and the rejection of the heritage of Soviet occupations. Moreover, it created a symbolic link with the pre-war period of independent statehood.

On June 14, 1992 Lithuania held a referendum on the withdrawal of the Soviet Army and on compensation for the damages suffered under the Soviet occupation. The Lithuanian Constituent Assembly confirmed the results of the referendum by a special degree of June 30, 1992 (*Vyriausybės žinios* 1992a). Based on this early declaration, on June 13, 2000 Lithuania adopted a law, "On compensation for damages under Soviet occupation," whose major aim was to urge Russia to accept moral and financial responsibility for the damages done to Lithuania under the Soviet occupations (*Valstybės žinios* 2000). Russia has consistently refused to accept Lithuania's request.

The early period also saw an attempt to create a legal framework for the return of nationalized property to the victims of occupations. This question was at least partially solved through the adoption of the "Act on the restoration of the rights of the Catholic Church" on June 12, 1990 (Nr. 18 -470) and the law "On the property rights of citizens regarding the restitution of real property" (Nr. I-1454) on June 18, 1991 (*Valstybės žinios* 1990). Yet the issue of property restitution to the victims of totalitarian regimes was far from resolved during Phase A, and carried on into the later years.

The period also witnessed the establishment of an official body aimed at investigating and reporting on one of the key periods of recent past abuse. Such was the primary goal of the *Sąjūdis* Commission for Investigation of Stalinist Crimes that came into being in July 1988 (*Lietuvos gyventojų rezistencijos ir genocido tyrimų centras* 2016). Yet its primary activity was not the legal investigation of the committed misdeeds, but rather public education about Soviet crimes. The commission, which was composed mostly of intellectuals and was not a state body, distributed questionnaires on the Soviet deportations in Lithuania, collected data about camps, mass killings, numbers of victims and provided the information to the *Sąjūdis* press and the public. This effort was aimed at publicizing the historical fact and scale of the atrocities to a public that was only partly aware of the events in question. Given the purpose of mobilizing the populace against Soviet rule, an emphasis was placed on the crimes of the Soviets against the Lithuanian nation. Considerably less attention was paid at that time to the crimes of the Nazis in general or the Holocaust in particular.

The early process of dealing with the Soviet past was dominated not so much by the state (the Soviet Lithuanian government at the time was lukewarm and ambivalent about the persecutions committed by the Soviets), but by various nonstate actors that coalesced under the wing of *Sąjūdis* (such as Freedom League of Lithuania and the Union of Political Prisoners and Deportees of Lithuania). These political associations were especially active in publicizing Soviet crimes through their mass rallies, cultural events and

independent press such as *Sąjūdžio žinios* and *Atgimimas*. However, this state versus society dynamic was quickly reversed as the popular movement won the 1990 election to the Supreme Soviet of Soviet Lithuania and entered the government.

In May 1990 the right-wing government decided to proceed with the mass rehabilitation of persons repressed by the Soviet and Nazi regimes. This was achieved by the adoption of the May 2, 1990 law “Regarding the reconstitution of legal rights of the people repressed for resistance to occupation regimes” (Nr. I-180). As a result, more than 50,000 people were rehabilitated by the spring of 1991 (Geleževičius 2003, p. 10). A peculiar feature of this rehabilitation was that it was carried out not by a single agency but by a number of state institutions including the Lithuanian Supreme Court, the General Procurator’s Office and the Ministry of the Interior. In the majority of cases the procedure did not involve a thorough legal investigation and, as a result, had a hurried character.

Soon this generated controversy in the form of public protest by Jewish organizations and foreign governments against Lithuania’s willingness to rehabilitate people who were allegedly involved in the Holocaust (Geleževičius 2003, p. 14). Thus, despite Lithuania’s proclamation of the *Declaration on the Jewish Genocide in Lithuania* in May 1990 that acknowledged participation of some Lithuanians in the Holocaust, the early rehabilitation became an international fiasco. This called for the revision of the entire legal process. On the other hand, it opened a public debate about one of the most controversial pages of the history of Lithuania: the involvement of Lithuanians in the Holocaust. The later years were spent streamlining and revising the rehabilitation process.

The process of rehabilitation was parallel to another key legal measure of transitional justice: lustration. According to one estimate, more than 100,000 Lithuanians were involved in the institutional network of the Soviet security forces (NKVD, later KGB) during 1940–1990 (Anušauskas 2008, p. 224). Yet in the course of 1990–1992 the lustration became limited largely to a number of legal steps intended to delegatize and prevent further activities of the KGB in Lithuania. For instance, such was the intention of the decision of the Constitutional Court of March 3, 1990 which recognized the KGB as a repressive agency of the Soviet occupational regime. The actual process of lustration started only after 1998, and is far from complete to this date.

PHASE B: 1992–2003

The adoption of the “Law on responsibility for the genocide of residents of Lithuania” (which came into effect on April 9, 1992) marks the second phase of the legislative process (Law on the responsibility for the genocide of the population of Lithuania 1992). This law, as well as the decision of the prosecutor of Lithuania that no time limitations shall be applied to the criminal liability for grave crimes against humanity opened a new stage in Lithuania’s

efforts to deal with its recent history. A key feature of these years was also an attempt to revise and streamline the early restitution by paying closer attention to non-Lithuanian groups of victims, the pressure from foreign governments and civil society organizations. The attempt also reflected the political will of the government to promote reconciliation with the Jewish community. These years also saw the further development and implementation of the mechanism of lustration.

The Genocide Law of 1992 was an expression of the political will of the right-wing government of Gediminas Vagnorius to confront and prosecute those responsible for atrocities committed against Lithuanian citizens during the Soviet occupations. A peculiar feature of the law was that in comparison with the international 1948 Genocide Convention, its genocide definition was broadened to include additional (social and political) categories of crimes committed by the Soviet regime in Lithuania, that is, repressions aimed at people belonging to a particular class, such as rich farmers or *kulaks*, or people belonging to a particular political party (Satkauskas 2004, p. 392–393). Rimvydas Valentukevičius, Senior Prosecutor of the Special Investigations Department of the Prosecutor's Office, explained that “such an expansion of the genocide concept is totally valid and necessary, because the classical concept of genocide established in international law is confined to four characteristics of the group destroyed that cannot be readily applied in the instance of the mass destruction of the Lithuanian population” (Valentukevičius 2002, p. 639).

This legal action was soon followed by some practical steps. In October 1991 Lithuania established a Special Investigations Division (STS) in the Prosecutor's Office. Throughout 1990–2008, STS conducted 229 pre-trial investigations of the alleged crimes against humanity and war crimes committed under the Nazi and Soviet occupations. Of those 20 (8.7% of all) were passed to the courts as criminal cases. As a result of these early trials, six persons were sentenced with imprisonment, four were acquitted, five cases were discontinued because of death of the accused, six people were recognized as unable to stand trial and two cases were never finished (Generalinės Prokuratūros veiklos ataskaita 2009, p. 5–6). To this day, Lithuanian courts have convicted altogether 31 individuals for crimes committed during the Stalinist years, eight of whom were found guilty of genocide, mostly for having participated in the killing or arrest of anti-Soviet Lithuanian partisans (Pettai 2016, p. 8).

The majority of these investigations took place in 1992–1994 and 2002–2003. However, the Lithuanian justice system was not successful in securing convictions. During 1990–2008, of the more than 50,000 people who were perpetrators of the Soviet and Nazi crimes at different levels (Anušauskas 2007, p. 16), only six were sentenced (of those only three were imprisoned). This can be explained, first, by the fact that there was no real “de-Sovietization” of the state service in Lithuania (lustration was very limited). Many of the judges were former Communists unwilling to bring justice to the

perpetrators. Second, Lithuania failed to create a special court dealing specifically with crimes of genocide, leaving them to regional courts, which did not have any experience in dealing with such cases.

Another major step in bringing “historical justice” in Phase B was an establishment of the Genocide and Resistance Research Centre of Lithuania (LGGRTC) by the Lithuanian Parliament in October 1992. This institution was, and continues to be, the primary official channel for the efforts of memorialization of the crimes committed by the totalitarian regimes. Yet from its early days LGGRTC also appropriated some functions of a truth-seeking commission and of a research institute involved in academic studies of the crimes of totalitarian regimes. In effect, the centre became the state’s tool for executing “historical justice” as defined by the 1992 Genocide Law.

Nevertheless, there was a considerable difference between the early (1992–1997) and later (post-1997) activities of LGGRTC. Among its initial aims were: to create an inventory of all Soviet documents related to the Soviet crimes and institutions responsible for them; to gather new materials on the genocides committed by totalitarian regimes and to archive them; to analyze “genocide’s doctrine, mechanism, consequences and to create a registry of all victims;” to provide the information to official bodies; and to share its research results with the public (*Lietuvos Respublikos vyriausybės nutarimas* 1992). Thus in the early period the largest share of the institute’s energy was devoted to establishing the scope and scale of the crimes committed by the Soviets in Lithuania.

The later aims of LGGRTC, confirmed by a separate law in June 1997 (Nr. VIII-238), reflected a gradual shift from the early activities concentrated on coming to terms with the totalitarian crimes to focus on their memorialization, commemoration and legal investigation. Thus, the newly defined goals, in addition to “genocide research,” included “reconstitution of historical justice,” “commemoration of resistance members and genocide victims” and “an initiation of legal investigation of the consequences of occupations” (*Lietuvos Respublikos Lietuvos gyventojų genocido ir rezistencijos tyrimų centro įstatymas* 1997). To this day the LGGRTC continues to employ a number of Lithuanian researchers involved in the academic study of the regimes.

However, throughout the years of its existence the centre attracted strong criticism from international organizations and governments (e.g., from the US Department of Justice Office of Special Investigations and various Jewish groups) for its focus on the Soviet victims of the Gulag and neglect of the Nazi victims of the Holocaust (Resende and Budryte 2014, p. 175). For many years its Museum of the Genocide Victims of Lithuania (established in 1992) in Vilnius contained barely any references to the Holocaust. However, since 2011 it has held several exhibitions and published many more texts on the genocide of the Lithuanian Jews during the Nazi occupation (Holokausto ekspozicija 2010).

In an effort to demonstrate its commitment to a balanced treatment of the Nazi and Soviet occupations, the government established the International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation Regimes in Lithuania (hereinafter “Commission”) in 1998. The aims of the Commission were very similar to those of LGGRTC including research of past abuses, “stimulating process of historical justice and understanding of the origins of the crimes of Nazi and Soviet occupations,” “promoting cooperation among local and international partners in achieving this difficult task,” educating society about the Holocaust and the crimes of the Soviet regime and “consulting national decision-making bodies on issues related to the Commission’s agenda” (Tarptautinė komisija 2016). Inasmuch as Nazi and Soviet crimes were carried out for different reasons and employed distinct methods, the commission was divided into two sections: one for the investigation of the Soviet and another for the Nazi crimes. Its members included fifteen well-known academics from Lithuania and abroad. Nevertheless, despite the high value of its research, it immediately faced criticism from Lithuanian nationalists (for its extensive focus on the Holocaust) and the Simon Wiesenthal Centre and Jewish survivors of the Holocaust (for implying that the Soviet and Nazi crimes were comparable). Embarrassingly for the Lithuanian government, one of the members of the commission, Yitzhak Arad, a representative of the Yad Vashem, the Holocaust Martyrs’ and Heroes’ Remembrance Authority in Israel, was summoned by the Prosecutor’s Office to provide evidence as a witness into his alleged activities within an NKVD unit during WWII. In protest, he suspended his membership in the commission whose subsection on Nazi crimes stopped its activities in 2005.

The years 1992–2003 also saw the first consistent attempts at restitution of nationalized properties to the victims of the totalitarian regimes. According to the Lithuanian law of June 18, 1991 “On the property rights of citizens with regard to the restitution of real property,” the lost property could be returned only to citizens who permanently resided in Lithuania (except Soviet deportees and their children; Geleževičius 2003, p. 159). Yet this strict eligibility requirement was removed in 1997, and all Lithuanian citizens who resided abroad now could reclaim their confiscated properties. In addition to the properties returned to private individuals, the first wave of restitution saw the restitution of religious properties. This was made possible by the law “On the restitution of real property to religious communities of Lithuania” of March 21, 1995 (*Valstybės žinios* 1995a).

The years 1992–2003 also saw a series of state compensation measures aimed at repairing the material and moral damages of past abuse. These measures included a mix of material and symbolic benefits distributed to victims as well as official apologies by some Lithuanian politicians. On June 30, 1997 Lithuania adopted a new law regarding “Reconstitution of legal status of the people repressed during 1939–1990 occupations” (Nr. VIII-342) which replaced the above-mentioned law of 1991 (Nr. I-180). This was followed by

the law of October 6, 1998, “On the state support to the family members of those killed during the resistance to occupations, 1940–1990” (*Vyriausybės žinios* 1998). This change signified the renewed and more organized effort to proceed with the reconstitution of legal rights to the victims. The new law expanded the number of victim categories by including in them not only deportees and resistance members but also political prisoners, displaced persons, homeless children and others who were repressed on the grounds of their ethnic origin or political motives. As a result, during 1997–2009 the legal status of the repressed was granted to more than 83,000 people including 42,000 deportees, 18,000 repressed persons, 5000 political prisoners, 2500 displaced people and 800 homeless children. There were also about 1500 persons whose requests were turned down (*Lietuvos Respublikos Lietuvos gyventojų genocido ir rezistencijos tyrimų centras* 2016).

The persons who received these certificates were entitled to financial compensations by the state and to special social security benefits. The legal framework for the financial compensations and social benefits to the repressed persons was laid down by the January 11, 1992 decree of the Lithuanian government “Regarding the return of political prisoners, deportees and their family members to Lithuania and their employment and provision with apartments” (*Vyriausybės žinios* 1992b). On March 5, 2002 this early decree was substituted by the “Program of the return of political prisoners, deportees and their family members to Lithuania, 2002–2007” (*Valstybės žinios* 2002). Thus, Lithuania embarked on an ambitious social integration whose main aims were to provide the repressed persons with information on possible repatriation to Lithuania, to compensate their repatriation expenses and to find them accommodation and employment in Lithuania. Overall, this effort was quite successful as many of them were able to return to their homeland.

Pressure from the US government and the public outcry of different Jewish organizations over the way Lithuania rehabilitated a number of Holocaust perpetrators were largely responsible for the process of derehabilitation that started in 1995. On February 24, 1995 then President A. Brazauskas issued a decree, “On the legal revision of certificates of illegal repressions,” which opened a legal channel for revising some of the mistakes of the early restitution (*Valstybės žinios* 1995b). As a result of this revision, between 1995 and 2002 more than 100 persons lost their legal status of repressed persons granted before 1992 for their involvement in the genocide against the Lithuanian Jews (BNS 2002). The culmination of the effort of reconciliation with the Jews was Brazauskas’ visit to Israel and his “apology speech” in the parliament of Israel on March 1, 1995. In the speech he openly admitted the involvement of Lithuanians in the Holocaust killings and asked for forgiveness (Geleževičius 2003, p. 54).

The return to the lustration issue became possible after the return of the right-wing government of Vagnorius in December 1996. In the course of 1998–1999 Lithuania managed to create a lustration mechanism designed to

filtrate former KGB agents from state services. On November 23, 1999 Lithuania adopted the Lustration Law which defined several categories of former KGB employees who were required to go through lustration (*Valstybės žinios* 1999). For this purpose, in 1999 Lithuania created the lustration agency that processed more than 1500 people who admitted their employment in the KGB (ELTA 2005). The key feature of the lustration was its voluntary character: former KGB employees were encouraged to declare their involvement in it. Yet the lustration soon became bogged down in a fruitless parliamentary debate about the so-called “KGB reserve” (the persons who were recruited as potential KGB employees), their status and whether they needed to go through lustration. During 2005–2010 there was some renewed interest in lustration and expansion of voluntary lustration, but by the end of this period it stalled completely due to the unwillingness of the left-wing political elite to support the process (Stan and Nedelsky 2015, p.131). Overall, the public perception of the process was negative and lustration is seen as incomplete (Ravaitytė 2015, p. 93).

PHASE C: 2003–PRESENT

The third phase saw a qualitative change in transitional justice measures designed to deal with the historical past. This change was characterized by the expansion of processes that had been started in previous years: restitution of material property, payments of financial compensations, social benefits to the repressed persons and attempts to bring to justice perpetrators of the totalitarian crimes in Lithuania. This period also saw the substantial transformation of public opinion which started to accept more positively state-oriented measures and increasingly participated in different commemoration practices. This qualitative change was also visible in another key feature of the period: the greatly expanding effort of memorialization and education on the victims and crimes of the totalitarian regimes. The last few years also saw a lively academic debate on the topics previously perceived as taboo (e.g., Lithuanians’ participation in the Holocaust and the atrocities committed by Lithuanian anti-Soviet partisans against civilians during the late 1940s).

Although the chances of successful legal prosecution of those responsible for war crimes during occupations were higher in the immediate period after independence (Phase A), the process of legal prosecution really took off only in the last twenty years (Phases B and C). This can be seen from the diagram in Fig. 6.1 of the number of criminal investigations submitted to the court between 1990 and 2008.

This tendency could be explained by a combination of factors, of which the increased public awareness about the crimes committed by the Soviet and Nazi occupational regimes and the streamlining of the legal process after the first successful showcase trials of Soviet and Nazi perpetrators were key. One of the first such trials was the case of Kurakinas in 1998, where three persons were sentenced for committing the crime of genocide by participation

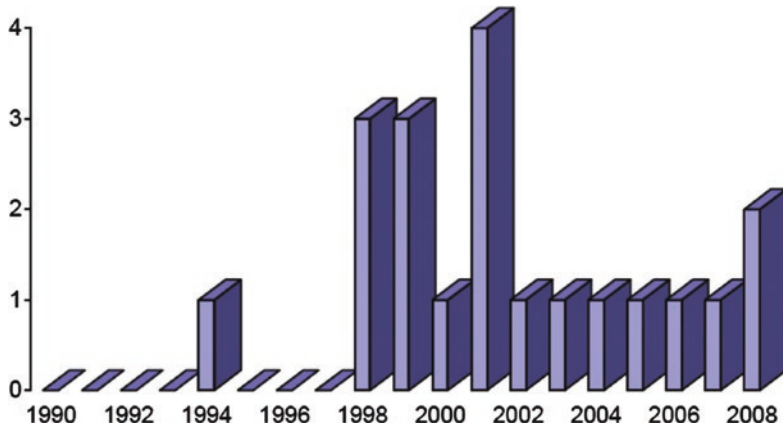


Fig. 6.1 Number of criminal investigations submitted to a court for trial, 1990–2008 *Source* Generalinės Prokuratūros Specialiųjų tyrimų skyriaus veiklos ataskaita 2008 metais, 2009-01-29, Nr. 12.14–2, 6.

in a Soviet detachment of assassins (Satkauskas, p. 392). Another key precedent was set up by the 2002 trial of Preikšaitis when charges were brought against three former members of the Soviet Security forces for the killing of members of the Lithuanian resistance in the post-war period (Judgment of Vilnius Regional Court 2002). In both cases the charges were based on the 1992 Genocide Law. Yet the greatest international publicity was given to the first two trials of the Lithuanian perpetrators of the Holocaust. The case of the former chief of the Lithuanian police under the Nazis, A. Lileikis, was discontinued due to his early death in 2000, however, his assistant K. Gimžauskas was successfully charged in 2001 (Geleževičius 2003, p. 75). He never served his sentence due to his illness. The final case was the case against A. M. Dailidė in 2006 which also ended with a court's decision to postpone a sentence due to his poor health. Although both cases received some positive international acclaim, they did not diminish the criticism by various Jewish organizations that Lithuania deliberately slowed them down to avoid bringing the perpetrators to justice (Holokaustas Lietuvoje 2010).

The years 2003–2009 also saw a new series of measures to return property to the victims of the Soviet and Nazi regimes. By 2009 Lithuania returned to private claimants most of the property that was confiscated, and paid out various compensations. Phase C was concerned largely with the return of communal (as opposed to private and religious) properties. For a long time, Lithuania remained one of the last countries in the European Union where the issue of the restitution of communal Jewish property was still unresolved. However, under the pressure of the European Union and various foreign Jewish organizations, on June 21, 2011, the right-wing government of Andrius Kubilius issued the law, “On the Good Will Compensation for the

Restitution of Communal Jewish Property” (Nr. XI-1470) by which Lithuania agreed to pay the Lithuanian Jewish Community 128 million litai (37.1 million euros) by 2023 as compensation for communal Jewish property (On the Good Will Compensation 2016). The decision removed one of the major hurdles in the process of reconciliation between two local communities.

During Phase C, Lithuania also continued its “Program of the return of political prisoners, deportees and their family members to Lithuania, 2002–2007” which was extended until 2012. In 2008 alone almost 300 former political prisoners, deportees and their family members received financial support from the state, in comparison with only 257 in the two-year period of 2006–2007 (Generalinės Prokuratūros veiklos ataskaita 2009). In addition, more than 93,000 persons received financial compensation as various categories of victims between 2004 and 2008. Throughout 2001–2006, about 12,000 Lithuanian citizens also received financial compensation in the total amount of 58 million litai from Germany for their incarceration in the Nazi concentration camps, ghettos and deportations for forced labor in Germany. LGRTC administered this German reparation program that came to a successful conclusion in 2006 (*Bernadinai* 2006).

After 2002, when Lithuania became a member of the Task Force for International Cooperation on Holocaust Education, Remembrance and Research, broad-based education programs designed to educate the public about the crimes of totalitarian regimes in Lithuania got underway. In 2003, a special program on tolerance education was established called Teaching about the Crimes of Totalitarian Regimes, Prevention of Crimes against Humanity and Tolerance Education. It was implemented by the International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation Regimes (Commission) at schools throughout the country. This large-scale education work went along a renewed memorialization effort that became concentrated around two key institutions: the above-mentioned Museum of Genocide Victims in Vilnius and The Vilna Gaon Lithuanian State Jewish Museum (established in 1989). Both museums displayed numerous exhibits devoted to the Nazi and Soviet crimes in Lithuania and developed a number of educational programs and commemoration sites.

Finally, on July 3, 1997, Lithuania adopted the “Law on Remembrance Days” (VIII-397) which along with traditional Catholic holidays marked several days to commemorate the victims of totalitarianism. In all, Lithuania has 60 days of remembrance. Of those, 20 commemorate different historical events of the country: from the July 15th that commemorates the medieval Battle of Žalgiris (or Grunwald or Tannenberg) against the Teutonic Knights to October 16th as the Day of Genocide of the Population of Lithuania Minor. However, the list of days is clearly dominated by those dedicated to various events from the Nazi and, especially, the Soviet periods. Thus the Day of Mourning and Hope on June 14 is dedicated to the memory of the first Soviet deportation of June 14, 1941. In 1994, the 23rd of September was declared

the National Memorial Day for the Genocide of the Lithuanian Jews, to commemorate the victims of the liquidation of the Vilnius ghetto in Paneriai in 1943. Lithuania also marks January 27 as International Holocaust Remembrance Day. The Defenders of Freedom Day on January 13 commemorates those who were killed by the Soviet armed forces while defending the Lithuanian Parliament and TV tower in Vilnius in January 1991. The 28th of August is a remembrance day for the victims of Soviet-led massacres in Tuskulėnai in 1941. Interestingly, Lithuania also celebrates its days of ascension to NATO (March 29) and the European Union (May 1). All these days clearly reflect the political course adopted by the country away from Soviet occupation and toward European integration from the late 1980s to the present time.

Nevertheless, the remembrance policy did not escape challenges and even caused some controversies. Among them, the decision to include June 23 as the Day to Commemorate the June Uprising of 1941 divided society internally and also received a lot of criticism from abroad, due to the fact that the Provisional Government of Lithuania that was established during the uprising against the retreating Soviets showed signs of anti-Semitism. Today, tension remains between those who look at the event as the manifestation of the nation's resistance and patriotism and those who consider that this page of resistance is heavily tainted by the Holocaust and collaboration with the Nazis and, therefore, should not be commemorated (*Lietuvos žinios* 2012).

The most recent controversy about the politics of memory erupted in 2012 when a group of Lithuanian MPs proposed "The Law on Nation's Historical Memory" (*Lietuvos Respublikos Tautos istorinės atminties įstatymas* 2016). The project envisioned not only a revised list of remembrance days, but most significantly a board staffed by various politicians, academics and members of nationalist NGOs (including an extreme right-wing and anti-EU *Pro Patria*) who would engage in setting the direction for the "nation's historical memory." The project was shelved indefinitely in 2014 after protests by the public, liberal-minded press and particularly professional historians who objected to the law as an attempt to impose political censorship on their research and free speech. It is hoped this latest controversy testifies that, despite the state's activism in setting the terms of historical commemoration, Lithuanian society has matured enough to reject policies that are reminiscent of totalitarian methods of control.

CONCLUSIONS

We have tried to demonstrate that there is a clear connection between the early set of laws and legislative measures that sought to delegitimize the communist period and the subsequent measures that were more concerned with creating new interpretations and memories of the recent past in Lithuania. Thus, the early laws that proclaimed the Soviet government as occupational and illegitimate were followed by the adoption of two most significant

pieces of “legislated history”: the 1992 Constitution that established a symbolic continuity with the interwar independent statehood and the 1992 Genocide Law that ensured the state would take a pro-active approach by persecuting those who committed crimes against Lithuania’s citizens during occupations.

These two cases of “legislated history” charted a clear “historical” direction for a series of other laws and measures that included the creation of truth commissions, rehabilitations, restitutions, lustration, official apologies, memorialization and education efforts. In fact, they already contained historical interpretations that were carried over into the later measures.

In spite of the heavy hand of the state, the overall process of “legislated history” was quite effective in the sense that society actively responded by providing both support (in the early stage) and considerable opposition (in the last stage) to the state’s interference in dealing with the totalitarian past. The political euphoria of independence and public indignation over the crimes of occupational regimes have been gradually replaced by more sophisticated strategies of dealing with the past including memorialization work, commemoration rituals, educational programs and public debates over the most controversial historical episodes. Yet some of these strategies, for example, the lustration of former KGB agents and court trials of perpetrators of the past crimes, were only partially successful, fragmentary and, therefore, barely achieved their aims. In short, the effort of bringing the perpetrators to justice failed to match the efforts expended on the rehabilitation and commemoration of the victims.

NOTE

1. There was a certain overlap between the first two phases: some of the measures (e.g., victims’ rehabilitation or lustration) took place during both of them, though at differing degrees of intensity.

REFERENCES

- Anušauskas, A. (2007) ‘Genocido Lietuvoje nebuvo?’, *Veidas*, 10.
- Anušauskas, A. (2008) *KGB Lietuvoje. Slaptosios veiklos bruožai* (Vilnius: Atvažiavo meška). *ELTA* (2005) 19 February.
- Geleževičius, R. (2003) *Holokausto teisingumas ir restitucija Lietuvoje atkūrus nepriklausomybę, 1990–2003* (Vilnius: Lietuvos teisės universitetas).
- Generalinės Prokuratūros Specialųjų tyrimų skyriaus veiklos ataskaita 2008 metais (2009) 12, 29 January.
- ‘Holokaustas Lietuvoje–be susitaikymo su skaudžia istorija’ (2010) *Lietuvos rytas*, 9 June. <http://kultura.lrytas.lt/-12760200121274689375-holokaustas-lietuvoje-be-susitaikymo-su-skaud%C5%BEia-istorija.htm>. Accessed on 9 April 2016.

- ‘Holokausto ekspozicija bandoma spręsti istorinį “nesusipratimą”’, *Delfi* (2010) 17 December. <http://www.delfi.lt/news/daily/lithuania/holokausto-ekspozicija-ban-doma-spresti-istorini-nesusipratima.d?id=39811239>. Accessed on 3 March 2016.
- Judgment of Vilnius Regional Court of 4 June 2002 (2002) *Lietuvos Rytas*, 5 June.
- Law on the responsibility for the genocide of the population of Lithuania (1992) *Valstybės žinios*, I-2477, 9 April.
- Lietuvos gyventojų rezistencijos ir genocido tyrimų centras. <http://www.genocid.lt/centras/lt/127/c/>. Accessed on 10 May 2016.
- Lietuvos Respublikos Lietuvos gyventojų genocido ir rezistencijos tyrimų centro įstatymas (1997) VIII-238, 5 June.
- Lietuvos Respublikos Lietuvos gyventojų genocido ir rezistencijos tyrimų centras (2016) <http://www.genocid.lt/centras/lt/96/a/>. Accessed on 3 March 2016.
- ‘Lietuvos Respublikos Tautos istorinės atminties įstatymas. Projektas XIP- 4631(3)’ (2016) http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=466441&p_tr2=2. Accessed on 28 March 2016.
- Lietuvos Respublikos vyriausybės nutarimas (1992) 904, 26 November.
- ‘On the Good Will Compensation for the Restitution of Communal Jewish Property’ (Nr. XI-1470). <https://www.e-tar.lt/acc/legalAct.html?documentId=TAR.6EFC EA60E654>. Accessed 15 March 2016.
- Pettai, E. C. (2016) ‘Prosecuting Soviet Genocide: Comparing the Politics of Criminal Justice in the Baltic States’, *European Society and Politics*, 8.
- Pettai, E. C. and Pettai, V. (2015) *Transitional and Retrospective Justice in the Baltic States* (Cambridge: Cambridge University Press).
- ‘Prokuroras atmeta E. Zurofo kritiką’ *BNS* (2002) 26 September.
- Ravaitytė, J. (2015) ‘Iliustracijos politikos Lietuvoje vertinimas’ *Politologija*, 1.
- Resende E. and Budryte, D. (eds.) (2014) *Memory and Trauma in International Relations: Theories, Cases and Debates* (New York: Routledge, 2014).
- ‘Resolution on the 1939 Pacts between Germany and the USSR and the Annulment of their Consequences to Lithuania’ (1990) *Lietuvos TSR Aukščiausiosios Tarybos ir Vyriausybės žinios*, 8–182.
- ‘Ruošiantis J. Brazaičio perlaidojimui, 1941-ųjų Laikinajai vyriausybei–ir pagarba, ir kritika’ (2012) *Lietuvos žinios*, 16 May. <http://lzinios.lt/lzinios/Istorija/ruosiantis-j-brazaicio-perlaidojimui-1941-uju-laikinajai-vyriausybei-ir-pagarba-ir-kritika/4322>. Accessed on 9 April 2016.
- Satkauskas, R. (2004) ‘Soviet Genocide Trials in the Baltic States’, *Yearbook of International Humanitarian Law*, 7.
- Stan, L. and Nedelsky, N. (eds.) (2015) *Post-Communist Transitional Justice: Lessons from Twenty-Five Years of Experience* (Cambridge: Cambridge University Press).
- Tarptautinė komisija nacių ir sovietinio režimo okupacijų nusikaltimams tirti. <http://www.komisija.lt/en/body.php?&m=1187855510>. Accessed on 9 April 2016.
- Valentukevičius, R. (2002) ‘The legal aspects of investigation and evaluation of the crimes of communism. Expansion of the concept of genocide’ in A. Anušauskas (ed.), *Proceedings of Anti-Communist Congress*, (Vilnius: Ramona).
- Valstybės žinios* (1990) 18–470, 30 June.
- Valstybės žinios* (1995a) 27–600, 29 March.
- Valstybės žinios* (1995b) 18–422, 1 March.

Valstybės žinios (1999) 104–2976, 8 December.

Valstybės žinios (2000) 52–1486, 28 June.

Valstybės žinios (2002) 26–930, 9 March.

Vyriausybės žinios (1992a) 21–615, 30 June.

Vyriausybės žinios (1992b) 11–286, 20 April.

Vyriausybės žinios (1998) 92–2543, 21 October.

‘Vokietija baigia mokėti kompensacijas’ (2006) *Bernadinai*, 5 July.

PART II

Archives and Libraries

Archives, Agency, and the State

Trudy Huskamp Peterson

After the great King Hammurabi conquered the kingdom of Mari in 1760 BCE, he sent scribes to inventory the archives of Mari and cart back to Babylon all “useful” material. Only then was Mari put to the torch (Sasson 1995). Hammurabi’s administration not only created its own archives, but also appraised existing records in the conquered territory, preserved them, and presumably used them. He enacted and acted on archives. From antiquity to the present, the state has created the records it needed to rule, preserved those it chose, and thereby significantly shaped the history it was and is possible to write.

State archives are the caboose of the train of the state. State archives follow where the state goes, preserving evidence of its functions, always in the process of “becoming” as the great train continues to move and more and more archives are created. State archives are shaped by the functions the state chooses to assume, the process by which it documents those functions, the nature of the law it enacts to govern its archives, the security the state provides to the archives, the choices it makes of what documents to preserve, and the access policies of the state. Silences in archives do exist. They are a natural consequence and reflection of the politics of the state.

This chapter concerns the archives of the state, whether held in a national archive, in a state-sponsored research institute, or in the creating government entity. It does not cover the state’s relationship with institutions that collect materials from private sources through donation, such as a national manuscript collection, a national archives of works by artists, or a national collection of papers of authors. Although the state may support such institutions

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through financial appropriations to the institution or tax incentives for private donors, the impact of the state on them is much more indirect than the impact of the state on its own archives.

State archives are part of the basic suite of state agencies; even the world's youngest nation, South Sudan, is creating one. The state's authority over them is unquestioned. With that power to shape the archives, the state sets the boundaries of the resources that researchers have available to write a thorough and reliable history of the state and its peoples.

STATE FUNCTIONS

The decision by the state of what functions it will perform is the initial shaping of history through archives. In antiquity the basic types of records created by the ruling bodies included laws, financial and accounting records, land ownership documents, records "facilitating control over persons for purposes of military service, forced labor, and the payment of a capitation or personal tax," notarial records of private business transactions, and records of administration of the realm (Posner 1972). Over the millennia the functions of government have expanded, and the UN Statistics Division now lists the basic state functions as defense; public order and safety; economic affairs; environmental protection; housing and community amenities; health; "recreation, culture and religion;" education; and social protection (UNSTATS 2016). Not all states perform all these functions, and states add, modify, and eliminate functions over time. But all the functions a state does undertake should leave a documentary record that is preserved in state archival institutions.

The state may decide to create a permanent agency to undertake a new function. For example, France took over the country's railroads in 1937, merging them into one rail system and creating an entity to manage it. States may also forcibly nationalize businesses, creating new state bodies that produce archives, as happened during the Sovietization of Eastern Europe after the Second World War. The state may also create temporary bodies, often after a particularly traumatic event or during the transition from one form of government to another, such as moving from a more repressive to a less repressive state. Vetting panels, truth commissions, claims boards, and temporary tribunals all are archive-creating bodies. Bangladesh, for example, created the International Crimes Tribunal in 2009 to judge perpetrators in the 1971 civil war, and the Tribunal's records are state archives. Because these are special entities, the disposition of the records they create may or may not fall within the general records laws governing the state archives, leaving the fate of the records and the subsequent access to them unclear.

States may add a new function to an existing agency; South Korea, for example, recently decided to establish a Center for Investigation and Documentation on Human Rights in North Korea within the existing Ministry of Unification. The Center is "to collect, research, preserve, publish, or

otherwise deal with various kind of materials and information” on human rights in North Korea (North Korean Human Rights Act 2016). States also discontinue functions, such as the mass privatization that was undertaken in the United Kingdom during the Thatcher years, with the corresponding loss of state documentation of those functions. Privatization may or may not be accompanied by the transfer of the state’s records of the function to the new private organization for its use. If they are transferred, the archives will be removed from the access regime established for state archives and researchers will no longer be able to use that leverage to gain access.

Finally, a state may decide to contract with private entities for the performance of a function that it once undertook itself. Government contractors operate schools, test medicines, analyze traffic patterns, and even process requests for access to government records. Private security companies, given contracts by the state, are now a constant factor in warfare, from providing guards for government officials to conducting interrogations of prisoners. When a service is performed by a contractor, the state will usually receive only those records that are required by the contract, which will probably be a scant record of the function the contractor performed.

Expansion of the territory of the state, including by occupation and colonization, creates special situations that change the functions that ultimately are documented in archives.

Purchase When a state buys a territory, it may purchase the administrative records along with the territory, impoverishing the original owner’s archives and enhancing its own. For example, when the United States bought Alaska from Russia in 1867, “Under terms of a treaty concluded March 30, 1867 (15 Stat. 541), ‘any Government archives, papers, and documents relative to the territory and dominion aforesaid, which may now be existing there,’ were transferred to the United States” (National Archives and Records Administration, Record Group 261).

Occupation When a state occupies and administers a territory, it creates records that reflect its administrative functions. At the end of the occupation, it leaves and typically takes the records with it. For example, when Germany controlled Serbia during World War II, the German General Plenipotentiary of the Serbian Economy created records that are now part of the records of the German state, although there are clear Serbian interests in them (National Archives and Records Administration 1966). These situations eliminate the records of the function in the occupied territory, thereby depriving the people who live there of a continuing history of their governance.

Seizure Like Hammurabi, an occupying power may seize and retain records of the occupied territory, taking them back to its capital, using them as it chooses and returning them at will. These may be vast quantities of records,

as the literal tons of records the Allies took from Germany following World War II (Eckert 2012; Grimsted 2001, 2016) or the United States took from Iraq during the Second Iraq War that began in 2003 (Cox 2010). The state may also seize records of non-state actors. The government of Colombia seized a computer containing records of the FARC militant group in 2010 (Alsema 2010), and the United States seized documents from Osama bin-Laden's compound during the raid that killed him (Rosenberg 2016).

Colonial Records A state governed as a colony that later becomes independent will find its history in the metropole's records. Whether this is Japan holding records of its control of Korea in the twentieth century, Spain holding the records of Peru, or Germany holding the records of Namibia, these—like records of occupying powers—are of interest to both colonizer and colonized. In a number of instances continuous conflict has arisen over the most appropriate place for the archives to reside (Peterson 2000). Ever since its independence, Algeria, for example, has sparred with France over the records now held in France of the French administration in Algeria, with Algeria demanding it be given all of them (Algerian Press Service 2016).

DOCUMENTING STATE FUNCTIONS

Document creation involves both technology and content. As the technology used by government changes, the records to be retained in the archives change as well. Archival institutions may be slow to acquire databases or Twitter accounts to hold alongside palm leaf documents and glass plate negatives. The period of technology transition is especially fraught with documentation problems, as some persons will deny that the new formats are records at all and refuse to save them, whereas others will make duplicate copies to ensure the survival of a record (e.g., an email and a paper copy of an email). A famous relief of scribes of Sennacherib of Assyria recording a head count of enemy dead, one using a hinged diptych and his colleague writing on a scroll, shows that creating duplicates using two technologies is not a new practice (Posner 1972).

Even if an archival institution does acquire the records made with the new technologies, it is utterly dependent on the records creators in the government to document their activities adequately. Statistics are a particular problem. For example, although keeping the vital statistics of births and deaths is a basic state function, governments may not register all births. The United Nations and the World Bank have a program to achieve “universal civil registration of births, deaths and other vital events, including reporting cause of death, and access to legal proof of registration for all individuals by 2030,” demonstrating how far the states now are from adequately accounting for their citizens (World Bank 2014). Current means of gathering statistics undercount the world's poor (Overseas Development Institute 2015) and

often miss women over 49 (Anderson 2015). Police departments may not record complaints of domestic violence, meetings may be held without minutes taken, or telephone calls may be made without documenting the conversation. In Tunisia during the Bourgiba and Ben Ali regimes, for example, women were detained and interrogated without formal process and “thus lack documentary proof of their experiences” (Gall 2015). Furthermore, events quite beyond state control may disrupt recordkeeping. The West African Ebola epidemic in 2014–2015 interrupted birth registrations in Liberia and Sierra Leone, UNICEF reported (Guilbert 2015).

False information in records also exists, whether because the creator of the records was misinformed, believed inaccurate information, or was intentionally falsifying the record. In Egypt, for example, marriage certificates may list an older age for the bride to evade the law requiring a girl to be 18 for a legal marriage (Fouad 2015). Archivists making certified true copies for legal purposes are obliged to explain that the copy is a true copy of the item held by the archives but that certification does not mean that the information contained in the item is true.

And, finally, as an English judge wrote nearly 100 years ago, “The government are very keen on amassing statistics. They collect them, add them, raise them to the Nth power, take the cube root and prepare wonderful diagrams. But you must never forget that every one of these figures comes in the first instance from the village watchman, who just puts down what he damn pleases” (Stamp 1929).

ARCHIVES LAW

Many archives laws or one? Laws determine whether one or two or even more state archives exist, what their authorities are and what is excluded from their remits. Almost every country, with the exception of Bangladesh and the Hong Kong Special Administrative Region, has at least one archives law. In addition, many laws not specifically termed “archives” have important impacts on the archival institution, and their provisions need to be harmonized with the archives law.

A dozen provisions found in a typical national archives law shape the archival institution’s holdings and practices. In 2004, the International Council on Archives (the international organization of the world’s archival institutions and archivists, founded in 1948, which maintains the archival profession’s official relationship to UNESCO) issued *Principles for Archives and Records Legislation* as guidance to governments drafting or amending archives laws. Among the salient elements are the following:

Scope and Extent of Application to Public Bodies The authority of the national archives to preserve state records may be limited both vertically and horizontally within government. The most important vertical question is whether the

archives is to hold the records of the head of state. Many national archives do not have the legal mandate to hold those records, leaving their disposition to the whim of the person who held the post. And yet, without the preservation of and access to the records of the president or prime minister, no state history can be complete. This is state-shaping history at its most fundamental. Similarly, in a country with a unitary system of government the archives law may apply to all governments, from that of a tiny town to the national government departments, whereas in federal governments the authority of the federal archives law is strictly limited to the federal level.

Horizontal constraints within a single level of government also have limiting effects. In countries that maintain a separation between executive, legislative, and judicial powers, each may maintain its own archival institution. Even within an executive branch, certain ministries may be excluded from the general archives law, allowing them to manage or not manage their records as they wish. A survey in 2014 of EU countries found that only half require defense ministry records to come to the national archives (copy in author's possession); other exclusions are often the ministries of foreign affairs and police and intelligence services. In some countries these separate archives are better funded and managed than the national archives; in other countries some ministers simply neglect the records in the ministerial archives.

Definition of Archives Lawsuits involving government archives often turn on the question of whether the item in question is a government record. By a vote of two to one, a panel of judges in Canada ruled in April 2016 that the records of the Independent Assessment Process, which made awards to claimants who had suffered abuse while in government-authorized residential schools, are not government records and can be destroyed unless the claimant wishes his or her claim file retained. The government appealed the decision, but the Supreme Court of Canada dismissed the appeal. Some laws specify all the physical types of materials that are considered government records, which means that the law must be amended every time a new technology appears; if it is not changed, the materials created using the new technology will be outside the archives framework. When in 2007 it was learned that in 2005 the US Central Intelligence Agency destroyed 92 videotapes of interrogations of terror suspects, the Agency justified the destruction by saying the videotapes were “not records,” a position the National Archives and Records Administration contradicted by pointing to the definition of records in law (Cox 2012).

The definition should also clarify what materials are not government archives and, therefore, a person departing government service can carry them away as personal property. An example of what can happen when the definition is lacking is the case of Chile's president Patricio Aylwin Azocar, who gave his presidential records to a nongovernmental organization (NGO) he had helped create. Included in the papers were the president's records

of Chile's 1990–1991 National Truth and Reconciliation Commission that Aylwin established. The records at the NGO constitute “the only genuine copy that exists of the documentation compiled and analyzed by the Commission” (Peterson 2005). By contrast, having a clear definition of records helped the United States retrieve the records of telephone conversations that Secretary of State Henry Kissinger had taken with him as personal papers when he left government (National Security Archive 2001). A definition gives the archives and the interested public the possibility of challenging decisions to take as personal papers the government's records of legal and historical value.

Inalienability and Imprescriptability The International Council on Archives recommends that archives laws state that records cannot be removed from state custody without an act of the legislative body. Sadly, laws often lack this element. In the absence of such a provision, Liberia's Truth and Reconciliation Commission, at the conclusion of its work in 2009, decided to transfer all its records to the Georgia Institute of Technology in the United States, apparently to “safeguard its documentation” (Svard 2013). This has taken the commission records out of the effective reach of the people of Liberia, to whom they belong and whose tragic history they document.

Acquisition of Private Sector Materials Every state needs to preserve both the records of government and the records of persons and institutions in civil society, for without them the history of the nation and its peoples will be incomplete and biased. Whether the national archives should be the place to collect private sector materials is a political choice, often influenced by other politically powerful cultural institutions in the country. But if no other institution is filling this role or is only focused on a narrow part of the culture, a national archives law that does not permit private sector acquisition impoverishes the historical record.

Reporting Responsibility, Placement National archives around the world usually report hierarchically either to the head of state (United States), a “soft” ministry such as culture (France), or a “hard” ministry such as interior (Rumania). The political pressures vary, but a national archives in a ministry of culture is less likely to be able to acquire and hold archives from “hard” ministries such as defense and police, whereas national archives in ministries of interior have more difficulty providing public access and often engender public suspicion about government records retention and access policies. Today, throughout the world, the appointment of the national archivist is usually a political choice, whether the appointment is made by the head of state or by the minister to whom the archives reports.

Authorities The law strengthens or weakens the hand of the national archives in dealing with other parts of the government. Can the national archives

oversee the management of current records in agencies and set standards, (for example, requirements for managing email)? Do the archives have the final say on what records can be destroyed? Can the archives compel the transfer of records that they believe should be preserved permanently? The records of the British administration of its colonies were withheld from the UK National Archives for decades by the Foreign and Commonwealth Office, until a lawsuit made the acknowledgment that the records exist impossible to deny (Elkins 2011). Do the archives have the authority to accept records with national security classifications? The national archives of India can accession only records that are entirely open to the public, with the result that the massive quantities of government records with privacy issues and with security classifications are outside its custody.

Sanctions An archives law that aims to shape state history positively will provide sanctions for the defacement, destruction, or theft of archives. States must be willing to enforce the sanctions and punish violators.

Archives laws must also be harmonized with the suite of other information laws. These may include a freedom of information act, whose provisions might supersede the access provisions in the archives law; a privacy or data protection act which may override the openness legislated in an archives law; a sunshine act which would throw open previously closed minutes of meetings; and parts of many other pieces of legislation, including those creating temporary bodies. States may pass these without focusing on the law's future impact on archives and the historical record, making post-passage harmonization difficult.

The current EU legislation requiring deletion of records upon request is a supranational law that also must be harmonized with national legislation. EU archivists worked diligently to make this a workable regulation that protects the archival programs in EU nations. As explained in the "recitals" to Article 89, *Safeguards and derogations relating to processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes* ("recitals" set out the reasons for the contents of the articles of an act), Member States are permitted "to provide for the further processing of personal data for archiving purposes, for example with a view to providing specific information related to the political behaviour under former totalitarian state regimes, genocide, crimes against humanity, in particular the Holocaust, or war crimes" (Barrera 2016). It is too soon to tell what this will mean for protecting records of general historical interest.

A special legal relationship is that between a national archives and a government research institute. A number of countries have created special research institutes to hold the records of security services or political parties or military forces. These institutes are most likely to arise when the entities that created the archives have been implicated in human rights abuses or involved in significant traumatic events. Some have emerged from older

institutions dedicated entirely to research to become custodians of archives, but most are created as entirely new bodies due to popular pressure on legislators. They are distinct from general national archives in their focused mandate to keep and make available very specific bodies of archives, investigate and do academic research, and commemorate and educate the public about the historic injustices that are documented in the archives. By contrast, national archives will have records from a much broader range of institutions from a much more extended time horizon; they may prepare educational materials, but they usually will neither assign staff members to do independent authorized research in the holdings nor set out to evaluate the truth of the information in the records.

Although all state archives are inherently political, originating within the country's political structure, a research institute established by the state to examine high profile events of the recent past is particularly susceptible to political pressure. The appointment of the chief of such an institute is often mired in political wrangling between political actors. In January 2016, the new administration in Argentina announced that it would appoint a new head of the *Archivo Nacional de la Memoria*, an institution created by the president in 2003 to hold the records of the "era of state terrorism." The previous head was a victim of the Argentine military dictatorship and the announcement that he was being removed brought immediate negative reactions from human rights groups, to no avail (Bertoia 2016). Institutes that are responsible for deciding when to release records may find themselves caught in controversy when they release them on politically prominent individuals. When in early 2016 Poland's Institute of National Remembrance released files indicating that former President Lech Walesa was a communist informer in the 1970s, Walesa emphatically denied the implications of the records (Stanton 2016).

In some cases the relationship between the research institutes and other government archives can be tense. Research institutes often begin with a citizen initiative and may quickly achieve prominence, with ample state financing and staffing, while the national archives struggles. However, as years go by and the circumstances that brought the institute into being recede into the past, the institute is likely to find its funding diminishing and itself under pressure to become part of another institution. Some will be incorporated into the national archives, whereas others may become part of a national academy of science or a more general research body. The Netherlands Institute for War Documentation (NIOD) was founded after World War II to maintain the legacy of the Netherlands during World War II, with classic tensions and debates in 1945 about the institute's relationship with the national archives. In 1999 it merged with the Royal Netherlands Academy of Arts and Sciences (NIOD 2016). The German Federal Commissioner Preserving the Records of the State Security Service of the former German Democratic Republic by law is eventually to become part of the *Bundesarchiv* (Bundesrepublik Deutschland 1991, amended 2013).

PRESERVATION

The state also shapes history, sometimes inadvertently, by the actions it takes or fails to take to support the preservation of archives. Preservation is a program to be managed, not a one-time problem to be solved. And it requires funds: for housing, for equipment and supplies, for staff, for training, and for security.

Neglect is a great destroyer of archives, through inadequate storage (bats in the ceiling of the storage area, termites on the shelves, rodents on the floor), lack of equipment (no heating, ventilation, and air-conditioning systems, no computers large enough to handle the incoming digital materials), lack of training for staff members, and lack of funds. Mold destroys archives. So does dirt on electronic and audiovisual materials. So do inherent characteristics of the item itself, whether acid eating paper or nitrate film decomposing. Without regular maintenance and conversion to newer systems, electronic information becomes unreadable, due to software and hardware obsolescence.

Too often funds for preservation are inadequate or nonexistent. To use two examples from a single month from a single country (August 2015, India): (1) a research team is working on a comprehensive study of capital punishment in India. An official report in 1967 said that 1410 persons had been executed between 1953 and 1963, but for the entire period since 1947 the prison system has data on only 765 cases. The research leader told *TIME* magazine, “There’s a complete lack of information—they don’t even have the names of the prisoners, let alone the official files. It just shows the callousness of the record-keeping system in the jails.” There is “no central authority” enforcing rules for records in the prisons, he said, and prisons say the missing records were “lost or destroyed by termites” (Jenkins 2015).

(2) The *Times of India* reported that over 200,000 “photographs and thumb impressions on documents of registered property owners, 15,993 registration deeds of firms and societies and over 4000 certificates, including marriage certificates, are missing from the records of 43 sub-registrar offices.” These were all electronic documents created between 2003 and 2014, and “even the back-up mechanism, a routine feature for any electronic documentation, has failed.” Hard copies of the documents are available only prior to 2011 (Moudgal 2015).

Although neglect, conscious or uncaring, is an important factor in determining what archives remain for historians to use, another serious problem is adequate physical security to prevent theft and malicious acts. Security may be so lax that archives are stolen. People steal for varied reasons. Some steal to protect records important to them if they believe the state will not care for the records as well as they can; this is often the reason a person will steal a genealogical record. Some people steal to prevent others from obtaining information. Commercial interests can lead to theft; for example, land records were reportedly stolen from the national archives in South Africa “seemingly

by people who want to stop claims being lodged on land they hold or to strengthen their own claims where there are competing or overlapping claims” (Buthelezi 2015). And still others—including, sadly, even some archivists—steal to sell (Morrison 2012). The state’s commitment to the security of the archives does indeed shape archives and shape history.

Finally, in some instances state actors simply ignore any extant law and destroy state records. One of the Greek government’s acts in 1989 was to burn all the secret police files held on Greek citizens during the post-Civil War period (Samantas 2005). As apartheid was ending in South Africa, the intelligence services destroyed great quantities of records. As the Iraq war began in 2003, reported Sa’ad Eskander, who became the national archivist later that year,

[S]ome people loyal to the old regime set fire to the Republican Archive, and some other departments such as the reproduction one. As a result, the contents of the Republican Archive were turned into ashes. The Republican Archive was of a great value politically as well as historically. Apart from covering the history of the Ba’ath Party since it seized power in 1963, this archive contained the transcripts of all court-martials set up by the Ba’ath regime for the trial of its opponents. I agree with the conclusion made by the UNESCO and the Library of Congress teams that the burning of the Republican Archive was well-organized, as evidence of using incendiary materials in the fires was found. (Eskander 2004)

APPRAISAL

The two real powers that archivists have are the power to decide what records to keep and what to destroy (appraisal) and the power to tell the public what the archives holds (description). Appraisal by archivists cannot take place, of course, unless the records have been preserved. But if the records exist and are defined as state records, then the archivists have the responsibility to decide what records to retain. It is essential that an appraisal be carried out, both because it is physically and economically infeasible to save every record of government and because without some winnowing the future user will be bogged down by vast numbers of items that are not useful for research.

Many theories of appraisal exist, all of which try to help the archivist come to a reasoned judgment on the likely legal and historical value of the materials in question. The first question is whether the records provide significant evidence of the functions of the state; if so, they normally are retained permanently. If not, the next question is whether the materials provide information about persons, places, events, and phenomena that would be difficult or impossible to obtain from any other source. A classic example of records with evidential value is the US Federal Bureau of Investigation’s file on Martin Luther King, Jr., which provides evidence of what the Bureau was doing to the civil rights leader. Conversely, retaining all the records of a census

of population in a country is not necessary as evidence (a small quantity of administrative records of the census would provide that) but all the results are saved because they provide unique information about the people living in the country at the time.

Most appraisals are routine (although often technically complex) and are entirely within the purview of the archivists, however, in a few cases political pressures and worldviews can influence the final outcome. For example, the former director of library and archives services for Namibia told a reporter, "During colonialism, unlike the record keeping of the white people, if a native estate record came to the archive, it was not automatic that they were accepted. They had to be appraised in order to determine whether they were valuable to the archive. Due to this procedure, many of the native estate records were destroyed or if kept, never processed" (Tervahartiala 2015).

Political pressures can also play a useful role in protecting records. For example, in 1979 the American Friends Service Committee and a number of organizations and individuals sued the US Federal Bureau of Investigation and the National Archives, alleging that the FBI's records schedule, which permitted significant destruction of Bureau records and which had been approved by the Archives in 1977, violated various laws and interfered in a number of respects with their rights and interests. Acting under court order, a seventeen member team of archivists reappraised the FBI records during 1981, vigorously debating each proposed disposition of every category of FBI records (the author was a team member). The new records disposition schedule was submitted to the court and the plaintiffs, and the judge accepted it in September 1986, ending the litigation. Without the external pressure, it is very unlikely that the records schedule would have been revisited and very likely that important records would have been lost for history.

ACCESS POLICY

Access is the availability of records for consultation as a result both of legal authorization and the existence of finding aids (i.e., description). Since 1994 the International Council on Archives has published four standards on archival description: *International Standard for Archival Description (General)*, *International Standard Archival Authority Record (Corporate Bodies, Persons, Families)*, *International Standard for Describing Functions*, and *International Standard for Describing Institutions with Archival Holdings* (International Council on Archives 1994, 1996, 2008). These standards, designed for use by both government and private archives, are voluntary, but they have transformed descriptive practices in archives around the world.

Backlogs of description exist in many places, for a variety of reasons. Description is a time-consuming process, and often funds are insufficient to support both the number of trained staff members and the equipment (e.g., audiovisual viewing equipment) needed for work.

Most archival description is factual, even bland; however, in unusual cases specific policies may influence what the description includes, and that in turn can lead the researcher to erroneous conclusions. During the Soviet period, archivists in the USSR created public finding aids that indicated only the content of the information in the first document in the file, however large the file might be and however unrepresentative that document was. The idea was to ensure that if the finding aid somehow slipped out of the control of the archives it would not fully reveal what was contained in the file (IREX 1990).

The state may also influence the decision whether to describe—and how fully—records held by the archives that are not available for public use. Pressure from transferring entities may result in archives not describing restricted holdings or not providing a sufficient description to enable the researcher to decide whether the records are of use to the research project. In 2012, the International Council on Archives adopted the *Principles of Access to Archives*, which states unequivocally that the public must know what the archival institution holds, even if the records are not available for general use (International Council on Archives 2012). Adherence is voluntary, but the *Principles* are a benchmark for the access that an archival institution should provide to researchers.

Aside from the nature and availability of finding aids, the control of access to government records is largely dictated by state policies, and the archivists may have limited discretion to open records. An anecdote told by a researcher during the last years of the Jaruzelski regime in Poland makes the point. He went to the State Museum in Kielce asking for access to records about the 1946 pogrom there: “At first the archivist feigns ignorance of the entire matter; but on being pressed further, she admits that there are actually many detailed photographs and eye-witness accounts—the result of an official investigation. But they have been sealed for 100 years to allow ‘memory to heal itself.’ Why no plaque, no sign at all? It is not necessary, for there are no Jews left here anyway. ‘Besides,’ she says, ‘this is a political matter, and I am only an archivist’” (Young 1989).

State archives usually have two types of restrictions: general and specific. A general restriction, established by the archives with the blessing of the state, applies to a type of record common to all government entities (for instance, a statement on who would have access to file of government personnel). Many of these formerly common general restrictions have been superseded by freedom of information acts, privacy/data protection acts, and other laws. A freedom of information act may include an exemption for national security information; if not, the national security restriction is likely to be found in the general restrictions. (Freedom of information laws, mostly enacted since the 1960s and now in force in over 100 countries, are often the principal means for researchers to request access to records that remain restricted).

The second type of restriction applies only to a single body of records; these restrictions may be established by law or imposed by the creating entity at the time of the transfer of the records to the archives. The laws establishing research institutes often have specific access and restriction rules written in. Specific restrictions may also be instituted by the creating entity; for example, the Nuclear Claims Tribunal of the Republic of the Marshall Islands specifies that the records of claims (which are replete with medical information about the claimant) are closed to general research for fifty years except to medical and related researchers who can apply to use them.

If the records are restricted by law or by the creating agency (i.e., by state action) the researcher has little chance that the archives will be able to open the records. The archival institution is likely to have some flexibility to release information only if three constraints are absent: the records have no national security classification, the records are not the subject of a law specifying closure, and there was no specific restriction issued to the archives by the transferring agency at the time the records were sent to the archives. If none of these apply, the archives is then responsible for ensuring that personal privacy would not be invaded by the release of the records. If this is not the case, the records can be released. Depending on the country and the type of records, this scope of discretion could cover a substantial body of records or it could be insignificant.

National security restrictions are a special category. The problems are two-fold: what is classified and how classified items can be declassified. Nearly all states classify at least some information relating to foreign affairs, to intelligence operations, and to military and national defense processes. Nuclear nations also classify information about the design of and tactics for the use of nuclear weapons. However, some nations use the classification authority to cover personnel matters, routine police operations, and economic information, leading to a vast ocean of classified archives. The criteria a state uses for classification changes, sometimes rapidly in response to a political event. For example, as fighting in eastern Ukraine was flaring in 2015, Russian President Vladimir Putin decreed that information on all military casualties during “special operations” in peacetime is classified as a state secret (*RT News* 2015).

Declassification is a critical problem in all archival institutions that hold classified records. Although twenty-two nongovernmental organizations and several UN special rapporteurs issued *The Global Principles on National Security and the Right to Information* (Tshwane Principles) in 2014 and these have been endorsed by the Council of Europe, most governments continue to declassify archives very slowly (*Global Principles* 2013). For example, in 2015 Spain’s minister of defense rejected a petition to declassify official records dated between 1931 and 1968, saying, “We will not declassify documents whose content we are ignorant about because the government is

not going to take risks on state security issues.” The material in question is about 10,000 “folders and documents” and the government does not have the “technical means and personnel” and “does not consider it a priority” to undertake a declassification review (*El País* 2015). The problem is that if the ministry of defense will not declassify the records, no one else can, absent a law that opens all classified records. The nearly universal rule in governments is that the entity that puts on the classification is the only entity that can lift it. This means that any item requested by a researcher that has security classification must be sent back to the originating entity for review and possible declassification. In the case of entities with no successor in function, such as a temporary commission that had the power to classify but has gone out of existence, the archives may have some authority to remove the commission’s classifications but not the classifications of items from existing government bodies that were used by the commission.

Just as one government institution cannot declassify an item from another government institution, some countries go further and insist that classified *information* from Institution A that is included in an item created by Institution B, even in an item on Institution B’s letterhead, cannot be declassified until Institution A has reviewed it for its “equities” in the information. For example, if the defense attaché in an embassy has information about troop strength in the country where she is stationed and that information is included in a daily report that the ambassador sends back to the ministry of foreign affairs, the ministry of foreign affairs cannot declassify the report until the ministry of defense has reviewed it. If the ministry of foreign affairs records are in the archives and a researcher wants to see the report, the archives will first ask the ministry of foreign affairs for review, which will make its decision but then instruct the archives to refer the report to the defense ministry. Meanwhile the researcher waits, and waits.

Declassification can occur when it is to the political advantage of the state. When visiting Argentina in March 2016, US President Barak Obama announced that he ordered the United States to “declassify troves of secret military and intelligence documents that could shed light on the atrocities” of the “dirty war” era in Argentina (Davis Hirschfeld and Gilbert 2016).

A special complication arises when the archives of one nation contain security classified items from another nation. In general, if the two countries are not friendly, the release is at the total discretion of the receiving country. For example, in September 1945 Igor Gouzenko, a cipher clerk for the military attaché of the Soviet embassy in Ottawa, Canada, defected with 109 documents he had taken from the embassy. The papers showed that a Soviet spy network was operating inside Canada. In 1946 a royal commission investigated allegations, based on the Gouzenko documents, that Canadians were supplying information to the Soviet Union, and its public report included copies and excerpts from the documents (Royal Commission 1946). If the

two countries are friendly, the receiving country generally will not release the classified item of the sending country without conferring with the sender. The process for requesting declassification of classified items from a friendly foreign government is usually this: the archives holds the records of the defense ministry; the defense ministry records include a classified document it received from friendly country A; the researcher asks for the records; the archives refers the request to the defense ministry; the ministry says country A must be consulted. Then either the defense ministry talks to the other defense ministry and replies to the archives or the whole matter is referred to the foreign ministry, which will contact the foreign ministry in country A, which will refer the question to its defense ministry, and after the answer, it will go back through the chain of institutions to tell the archives and the researcher whether the item will be released. The only bright light in this problem is a 2015 decision by a judge in Australia who ruled that the prime minister must release records of his conversations with US officials and that the excuse that he had to “consult foreign governments” before making the decision was not valid (O’Brien 2015).

The public frequently urges a change in the government’s access regime. Taiwan provides a current example. In March 2016 a legislator proposed legislation on the archives of political persecution cases of the White Terror era “to draw a distinction between ‘political victims’ and ‘perpetrators’ and grant the former [and their families], not the latter, free access to the files and protection of privacy. Moreover, access granted to the political victims could trump the perpetrators’ right to privacy.” The Taiwan Association for Truth and Reconciliation called “for the government to take stock of how many documents should be categorized as political, have them collected, conserved, studied and made public on certain conditions, and establish an institution specifically responsible for the management and research of the documents” (Hsiao 2016). The secretary-general of the Taiwan Association for the Care of the Victims of Political Persecution During the Martial Law Period suggested that the government pass a supplemental archives act “to allow victims or their families to read through documents, such as the records of interrogations and alleged confessions, so the public could understand the absurdity of the military’s trials” (Hsin-fang and Chung 2016). In these arguments the right to have access and the right to prevent access are entwined with the proposal for a separate archival institution.

Archivists can fall afoul of officials when making material available, whether or not security classified. The latest example is the head of the Russian archives that covers the Soviet period who was demoted after releasing records showing that the story of the sacrifice of the 28 “Panfilov’s guardsmen” during World War II was not true (Hobson 2016). In all these access issues, government policies simply tie the hands of the archives. And by refusing to open archives for research, the government indeed shapes what is and can be known.

CONCLUDING THOUGHTS

Silences in archives exist, reflecting decisions of the state, from its choice of functions to carry out, to its conscious or unconscious decisions to preserve records, and to the policies of access it chooses. The silences reflect the politics of the state, both the value it places on maintaining a record of its actions that is reliable and adequate to reconstruct its past, and also whether it believes that an informed citizenry that can deal with its past will be a more socially and politically sustainable unit.

Michel-Rolph Trouillot argued that there are four kinds of silences, relating to: (1) the making of sources, (2) the making of archives (“the moment of fact assembly”), (3) the making of narratives, and (4) the making of history (Trouillot 1995). The archives as an institution are an agent for the first two of these silences, but the last two are those of the research community. For archives that are part of research institutes with a mandate to expose the “truth” of certain notorious events or eras, the last two are also part of the responsibility for the constructed silence. But in the general state archives, the creation of a narrative and the making of history are at best subliminal parts of the regular processes of appraisal and description.

Maintaining archives, preserving the past for the future, requires vigilance from archivists, researchers, and the general public. The state controls and shapes the evidence of its actions, but the citizens have the agency to demand the retention of and access to the archives. After all, archives are, fundamentally, a public good.

REFERENCES

- Algerian Press Service (2016) ‘Zitouni: Algeria, France should seriously deal with issues of common memory,’ 27 January. <http://www.aps.dz/en/algeria/10508-zitouni-algeria,-france-should-seriously-deal-with-issues-of-common-memory>. Accessed 16 April 2016.
- Alsema, A. (2010) ‘Seized computers “show FARC-links to Mexican cartel”’, *Colombia Reports*, 21 December. <http://colombiareports.com/seized-computers-show-farc-links-to-mexican-cartels/>. Accessed 16 April 2016.
- Anderson, L. (2015) ‘It’s official—many women become invisible after 49’, *Thomson Reuters Foundation*, 13 April. <http://www.trust.org/item/20150413161814-h2eup/?source=dpMostPopular>. Accessed 16 April 2016.
- Barrera, G. (2016) ‘Commentary’, *HRWG News*, June. <http://www.ica.org/sites/default/files/ICA%20HRWG%20News%202016-06.pdf>. Accessed 16 November 2016.
- Bertoia, L. (2016) ‘Administration gets ready to shake up National Archive of Memory’, *Buenos Aires Herald*, 6 January. <http://www.buenosairesherald.com/article/206168/administration-gets-ready-to-shake-up-national-archive-of-memory>. Accessed 15 November 2016.
- Boutillier, A. (2016) ‘Ottawa seeks top court ruling on residential school records,’ *The Star*, 18 June. <https://www.thestar.com/news/canada/2016/06/18/residential-school-abuse-victims-fight-for-their-testimony.html>. Accessed 15 November 2016.

- Bundesrepublik Deutschland, Federal Commissioner for the records of the State Security Service of the former German Democratic Republic. *The Act regarding the Records of the State Security Service of the former German Democratic Republic (Stasi Records Act)*. http://www.bstu.bund.de/DE/BundesbeauftragterUndBehoerde/Rechtsgrundlagen/StUG/StUG_englisch/StUG_englisch_pdf.pdf?__blob=publicationFile. Accessed 15 November 2016.
- Buthelezi, M. (2015) 'Department fails to protect archives and democracy', *Mail & Guardian*, 27 March. <http://mg.co.za/article/2015-03-27-department-fails-to-protect-archives-and-democracy>. Accessed 17 November 2016.
- Cox, D. (2010) 'Archives & Records in Armed Conflict: International Law and the Current Debate over Iraqi Records and Archives', *Catholic University Law Review*, 59, 1001–1056.
- Cox, D. (2012) 'The CIA and the Unfinished National Archives Inquiry,' *Jurist*, 3 December. <http://www.jurist.org/forum/2012/10/douglas-cox-cia-records.php>. Accessed 15 November 2016.
- Davis, J. Hirschfeld and Gilbert J. (2016), 'Obama Declares a New Partnership in Talks with Argentine Leader', *New York Times*, 23 March. <http://www.nytimes.com/2016/03/24/world/americas/obama-argentina-president-mauricio-macri-brussels-attacks.html?action=click&contentCollection=Americas&module=RelatedCoverage®ion=Marginalia&pgtype=article&mtrref=www.nytimes.com&gwh=9B80DB6A937DA4D95B675B0FD499B018&gwt=pay>. Accessed 16 April 2016.
- Eckert, A. M. (2012) *The Struggle for the Files. The Western Allies and the Return of German Archives after the Second World War* (Cambridge: University of Cambridge Press).
- Elkins, C. (2011) 'Alchemy of Evidence. Mau Mau, the British Empire, and the High Court of Justice', *The Journal of Imperial and Commonwealth History*, 39(5), 731–748.
- El Pais* (2015) 'Spain refuses to declassify state files from 1931 to 1968', 24 June. http://elpais.com/elpais/2015/06/24/inenglish/1435137628_738266.html. Accessed 16 November 2016.
- Eskander, S. (2004) 'The Tale of the Cemetery of Books,' *Information Today*, 21(11). <http://www.infotoday.com/it/dec04/eskander.shtml>. Accessed 16 November 2016.
- Fouad, A. (2015) 'Here comes the ... child bride? Despite legal restrictions, underage marriage persists in rural Egypt,' *Al-Monitor*, 24 August. http://www.al-monitor.com/pulse/originals/2015/08/egypt-underage-marriage-wedding-law-officiant-bribery.html?utm_source=Al-Monitor+Newsletter+%5BEnglish%5D&utm_campaign=eb7e0602dc-August_27_2015&utm_medium=email&utm_term=0_28264b27a0-cb7e0602dc-93088897. Accessed 16 April 2016.
- Gall, C. (2015) 'Women in Tunisia tell of decades of police cruelty, violence and rape,' *New York Times*, 28 May. http://www.nytimes.com/2015/05/29/world/africa/women-in-tunisia-tell-of-decades-of-police-cruelty-violence-and-rape.html?_r=2. Accessed 16 April 2016.
- Global Principles on National Security and the Right to Information* ("The Tshwane Principles"), 2013. http://www.right2info.org/national-security/Tshwane_Principles. Accessed 16 April 2016.

- Grimsted, P. Kennedy (2001) 'Twice Plundered of "Twice Saved"? Identifying Russia's "Trophy" Archives and the Loot of the Reichssicherheitshauptamt', *Holocaust and Genocide Studies*, 15, 191–244.
- Grimsted, P. Kennedy (2016) 'Displaced Pan-European Cultural Valuables on the Eastern Front. Seventy Years after the Second World War,' IISH-Research Paper 53.
- Guilbert, K. (2015) 'Ebola disrupts Liberia birth records, poses trafficking threat–UN', *Thomson Reuters Foundation*, 31 July. http://www.trust.org/item/20150731000203-a8jq/?utm_medium=email&utm_campaign=Weekly+Digest+50815&utm_content=Weekly+Digest+50815+CID_7715dcfce3d9bd4d45d11fc018cb91ab&utm_source=Campaign%20Monitor&utm_term=Ebola%20disrupts%20Liberia%20birth%20records%20poses%20trafficking%20threat-U. Accessed 16 April 2016.
- Hobson, P. (2016) 'Battle in the Archives–Uncovering Russia's Secret Past,' *Moscow Times*, 24 March. <http://www.themoscowtimes.com/news/article/battle-in-the-archives—uncovering-russias-secret-past/563566.html>. Accessed 16 April 2016.
- Hsiao, A. (2016) 'Legislator calls for act to archive sensitive documents,' *Taipei Times*, 15 March. <http://www.taipeitimes.com/News/taiwan/archives/2016/03/15/2003641626>. Accessed 16 November 2016.
- Hsin-fang, L. and Chung, J. (2016) 'Calls for Martial Law era articles to be declassified', *Taipei Times*, 14 March. <http://www.taipeitimes.com/News/taiwan/archives/2016/03/14/2003641547>. Accessed 16 November 2016.
- International Council on Archives. *Principles for Archives and Record Legislation*, 2004. http://www.ica.org/sites/default/files/CLM_2004_archival-principle_paper_draft_EN.pdf.
- International Council on Archives (2012) *Principles of Access to Archives*. <http://www.ica.org/en/principles-access-archives>. Accessed 16 April 2016.
- International Council on Archives. "Standards." <http://www.ica.org/en/public-resources/standards>. Accessed 16 April 2016.
- IREX. 'Report to IREX on Soviet-American Symposium on Archival Description Programs and Finding Aids,' May 1990.
- Jenkins, N. (2015) 'Most of India's Execution Records Have Been "Lost or Destroyed by Termites"', *TIME*, 3 August. <http://time.com/3981848/india-execution-records-destroyed-termites/>. Accessed 16 November 2016.
- Morrison, E. W. (2012) 'Leslie Waffan, ex-Archives worker, sentenced for stealing, selling recordings,' *Washington Post*, 3 May. https://www.washingtonpost.com/local/crime/leslie-waffan-ex-archives-worker-sentenced-for-stealing-selling-recordings/2012/05/03/gIQAX0f7zT_story.html. Accessed 16 November 2016.
- Moudgal, S. (2015) '2 lakh e-records missing from stamps and registration department,' *The Times of India*, 7 August. <http://timesofindia.indiatimes.com/city/bengaluru/2-lakh-e-records-missing-from-stamps-and-registration-department/articleshow/48384241.cms>. Accessed 16 November 2016.
- National Archives and Records Administration. Record Group 261, Records of Former Russian Agencies. <http://www.archives.gov/research/guide-fed-records/groups/261.html>. Accessed 12 April 2016.
- National Archives and Records Administration, Microfilm publication T-75, *Office of the Plenipotentiary for the Serbian Economy*. Washington, DC 1966. <http://www.archives.gov/research/captured-german-records/microfilm/t75.pdf>. Accessed 12 April 2016.

- National Security Archive. 'Archives Hails Turnover of Kissinger Papers,' 09 August 2001. <http://nsarchive.gwu.edu/news/20010809/>. Accessed 16 April 2016.
- Netherlands Institute of War Documentation. <http://www.niod.nl/en/about-niod>. Accessed 16 April 2016.
- O'Brien, N. (2015) 'Prime Minister's office forced to hand over sensitive documents on David Hicks,' *Sydney Morning Herald*, 20 June. <http://www.smh.com.au/nsw/prime-ministers-office-forced-to-hand-over-sensitive-documents-on-david-hicks-20150620-ghqkw1>. Accessed 16 April 2016.
- Overseas Development Institute (2015) *The data revolution: Finding the missing millions*. <http://www.odi.org/publications/9476-data-revolution-finding-missing-millions>. Accessed 16 April 2016.
- Peterson, T. Huskamp (2000) 'Macro Archives, Micro States', *Archivaria*, Fall. <http://journals.sfu.ca/archivar/index.php/archivaria/article/view/12764/13953>. Accessed 16 April 2016.
- Peterson, T. Huskamp (2005) *Final Acts. A Guide to Preserving the Records of Truth Commissions*. (Baltimore: Johns Hopkins University Press).
- Posner, E. (1972) *Archives in the Ancient World* (Cambridge: Harvard University Press).
- Republic of Korea, North Korean Human Rights Act of 2016. <https://www.law.go.kr/eng/engLsSc.do?menuId=2&query=NORTH%20KOREAN%20HUMAN%20RIGHTS%20ACT#liBgcolor0>. Accessed 13 November 2016.
- Rosenberg, M. (2016) 'Tracking Devices in Teeth, and Other bin Laden Worries,' *New York Times*, 2 March. http://www.nytimes.com/2016/03/02/world/middleeast/osama-bin-laden-materials-declassified.html?_r=0. Accessed 30 March 2016.
- Royal Commission appointed under Order in Council P. C. 411 of February 5, 1946 to investigate the facts relating to and the circumstances surrounding the communication, by public officials and other persons in positions of trust, of secret and confidential information to agents of a foreign power. *The Report of the Royal Commission*. Ottawa: E. Cloutier, Printer to the King, 1946. <http://publications.gc.ca/site/eng/472640/publication.html>. Accessed 16 November 2016.
- RT News (2015) 'Russia classifies military casualties in peacetime,' 28 May. <http://rt.com/politics/262785-russia-secret-military-casualties/>. Accessed 16 November 2016.
- Samatas, M. (2005) 'Studying Surveillance in Greece. Methodological and Other Problems Related to an Authoritarian Surveillance Culture,' *Surveillance & Society*, 3(2/3), 181–197.
- Sasson, J. M. (1995) 'King Hammurabi of Babylon' in *Civilizations of the Ancient Near East* (New York: Scribner). http://discoverarchive.vanderbilt.edu/xmlui/bitstream/handle/1803/3863/King_Hammurabi.pdf?sequence=1. Accessed 22 October 2017.
- Stamp, Sir J. (1929) *Some Economic Factors in Modern Life* (London: King and Son).
- Stanton, J. (2016) "Yes I made a mistake, but I was no spy". Polish Solidarity hero Lech Walesa denies he was a Communist informant and calls on mystery "perpetrator" from his past to reveal what really happened,' *Mailonline* and *Associated Press*, 18 February. <http://www.dailymail.co.uk/news/article-3452567/Official-documents-Walesa-collaborated-regime.html#ixzz4QE44MMV6>. Accessed 16 November 2016.
- Svard, P. (2013) 'Liberia's Truth and Reconciliation Commission. The Importance of Documentation in Postwar Education and Reconciliation' *The*

- Social Science Research Council, 29 April. <http://forums.ssrc.org/kujengamani/2013/04/29/liberias-truth-and-reconciliation-commission-the-importance-of-documentation-in-postwar-education-and-reconciliation/#.VxKKnt9JdQw>. Accessed 15 November 2016.
- Tervahartiala, A. (2015) 'Stories that were lost, but never died,' *The Namibian*, 31 October. <http://southernafrican.news/2015/10/20/stories-that-were-lost-but-never-died/>. Accessed 17 November 2016.
- Trouillot, M.-R. (1995) *Silencing the Past. Power and the Production of History* (Boston: Beacon Press).
- UN Statistics Division. *Classifications registry, COFOG (Classification of the Functions of Government)*. <http://unstats.un.org/unsd/cr/registry/regcst.asp?Cl=4>. Accessed 13 November 2016.
- World Bank Group, World Health Organization, "Global Civil Registration and Vital Statistics: Scaling Up Investment Plan 2015–2024." <http://www.worldbank.org/content/dam/Worldbank/document/HDN/Health/CRVS%20Scaling-up%20plan%20final%205-28-14web.pdf>. Accessed 30 March 2014.
- Young, J. E. (1989) 'The Texture of Memory. Holocaust Memorials and Meaning,' *Holocaust and Genocide Studies*, 4(1). <http://hgs.oxfordjournals.org/content/4/1.toc>. Accessed 17 November 2016.

RECOMMENDED READINGS

- Eckert, Astrid M. (2012) *The Struggle for the Files. The Western Allies and the Return of German Archives after the Second World War* (New York: Cambridge University Press).
- Gonzalez Quintana, A. (2009) *Management of the Archives of the State Security Services of Former Repressive Regimes* (Paris: International Council of Archives). <http://www.ica.org/en/management-archives-state-security-services-former-repressive-regimes>.
- International Council on Archives, Human Rights Working Group. *HRWG News*. <http://www.ica.org/en/public-resources/hrwg-newsletters>.
- Munden, P. (ed.) (1967) *Archives and the Public Interest. Selected Essays by Ernst Posner* (Washington, DC: Public Affairs Press).
- Nelson, A. K. (ed.) (1978) *The Records of Federal Officials. A Selection of Materials from the National Study Commission on Records and Documents of Federal Officials* (New York: Garland Publishing).
- Posner, E. (1972) *Archives in the Ancient World* (Cambridge: Harvard University Press).
- Posner, E. (1997) 'Archives in Medieval Islam,' *The American Archivist*, 35(3–4), 291–316.
- Procter, M., Cook, M. and Williams, C. (eds.) (2005) *Political Pressure and the Archival Record* (Chicago: The Society of American Archivists).
- Schellenberg, T. R. (1956) *Modern Archives. Principles and Techniques* (Chicago: University of Chicago Press).
- Weld, K. (2014) *Paper Cadavers. The Archives of Dictatorship in Guatemala* (Durham: Duke University Press).

Open Archives to Close the Past: Bulgarian Archival Disclosure on the Road to European Union Accession

Niké Wentholt

Abbreviations

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| EU | European Union |
| EP | European Parliament |
| EC | European Commission |
| EPP | European People's Party |
| DS | <i>Dŭrzhavna Sigurnost</i> (State security apparatus of the Bulgarian Communist Party) |
| DSB | Democrats for a Strong Bulgaria (<i>Demokratni za Silna Bŭlgaria</i>) |
| BSP | Bulgarian Socialist Party (<i>Bŭlgarskata Sotsialisticheska Partiya</i>) |
| UDF | Union of Democratic Forces (<i>Sŭyuzŭt na Demokratichnite Sili</i>) |
| NMSS | National Movement of Simeon II (<i>Natsionalno Dvizhenie Simeon Vtori</i>) |
| MRF | Movement for Rights and Freedoms (<i>Dvizhenie za Prava i Svobodi</i>) |

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INTRODUCTION

In December 2006, Bulgaria did what all other countries in the region of Central and East Europe had done (long) before: it adopted a law that disclosed the archives of the former communist *Dürzhayna Sigurnost* (DS), the secret state security services (“*Zakon za dostüp*” 2015; Djankov 2014, p. 8; Ibroscheva 2012, p. 23).¹ This institution, often compared to the East-German Stasi and the Soviet KGB, had formed an extensive network in totalitarian communist Bulgaria (Hristov 2006).²

The law was adopted one month before the European Union (EU) officially welcomed Bulgaria as a member state on January 1, 2007. Recently, Bulgarian academics have stated that archival disclosure was an absolute EU accession condition (Baeva 2014, p. 374; Djankov 2014, p. 10). A quick investigation of relevant EU policies, however, fails to show direct references to an archival law until November 2006, thus suggesting a more complex dynamic.

Almost ten years after the law’s adoption, Bulgaria proves an interesting case to study the interlinkages between the “international,” domestic party-political motivations and supposed breakthroughs in state involvement with history. Although little has been published in English on this subject, I gratefully build upon the work of several Bulgarian authors and, additionally, the French work of Nadège Ragaru. She understands the law as the result of a complex interplay between different actors, levels, and contexts (Ragaru 2010). Starting from this premise, this chapter studies EU documents and Bulgarian parliamentary minutes to examine the impact of impending EU membership on the Bulgarian political debate on the archival law. The first part discusses the domestic context and the second part addresses the EU context, however, the third section brings both levels together to argue that much more than direct EU involvement, it was the EU’s normative status and membership prospect that mattered. Parties from the left and right instrumentalized the latter as part of their broader strategies towards the past. This provides new insights for a first exploration of the archival law’s impact in the fourth and last part.

COMMUNISM OR ANTI-COMMUNISM? UNDERSTANDING THE HISTORY OF THE ARCHIVAL LAW

It is tempting to present the far-reaching 2006 law as a “breakthrough” unparalleled in Bulgarian history (Ibroscheva 2012, p. 17). Not only did the 2006 law bring all the files together in one location, it established an archival committee charged with an extensive mandate (COMDOS). The tasks of this “independent state body” include both disclosure and preservation of the files and dissemination of findings from its own research (“*Zakon za dostüp*” 2015; Hristov 2010). In addition to providing access to researchers and journalists, the committee publishes reports on DS collaborators in those public

positions listed in the law's controversial third article that was and is subject to much debate and revision ("*Zakon za dostup*" 2015; COMDOS 2016). COMDOS explicitly distances itself from lustration, or forceful purification of society. In the words of the committee itself, its publications, however, contribute to a "moral" lustration in which the individual, or the institution hiring that individual, may determine the consequences of the proven affiliation with the DS (COMDOS 2016).

Although the 2006 law was thus significant in terms of potential and reach, the political debate on the archival issue had been salient for almost two decades. Together with other issues of the communist past, archival disclosure divided the Bulgarian parliament in two (Dobre 2011, p. 146; Ljoe-benov 2011). The Bulgarian political arena until 2001 can be described, albeit slightly simplified, as a duel between the anti-communist "blue" party of the Union of Democratic Forces (UDF) plus its partners and the "red" ex-communists, the Bulgarian Socialist Party (BSP) plus its partners. Both sides organized themselves in coalitions. Developments regarding archival disclosure and dealing with the communist past in general can thus be traced back almost exactly to the corresponding electoral waves. The UDF's coalition won the parliamentary elections of 1991 and 1997. In these years, despite internal disagreement within the UDF, Bulgaria indicted some communist perpetrators, adopted a radical lustration law that was later, somewhat controversially, declared unconstitutional (Helsinki Watch 1993, p. 10; Trifonova Price 2015, p. 187), and in 1997 pushed through an archival law.

However, the BSP and its partners, winning elections in 1994, maintained sufficient support to prevent a real confrontation with the communist past. Indeed, academic literature describes the Bulgarian general attitude towards the past in terms of silence and negligence (Kazalarska 2013, p. 261). Bulgaria remains, for example, the only country in the region not to host a central museum of communism (Guentcheva 2012, p. 134; Vukov 2008, p. 310). Opponents of archival disclosure both within and outside Parliament moreover destroyed numerous files ("*Hronika na sagata s dosietata*" 2006; Djankov 2014, p. 8; Hristov 2006; Trifonova Price 2015, p. 188) and blocked access to the archives ("*Hronika na sagata s dosietata*" 2006; Rossum 1997, p. 6). The archival committee installed by the UDF-dominated parliament in 1997 thus faced many obstacles, but still managed to publish a total of nine reports ("*Hronika na sagata s dosietata*" 2006; Baeva and Kalinova 2011, p. 207; Ragaru 2010, p. 207). Its work was eventually ended by a new and remarkable player: the National Movement of the returned Tsar Simeon II (NMSS). Claiming to focus on national reconciliation and dismissing engagement with the past as an obstacle to the future and national security—not unlike the arguments previously used by the BSP (Metodiev 2009, p. 163)—the newly returned tsar revoked the previous archival law through adoption of another law that aimed (or merely claimed) to protect classified information. Under this law, the committee's work became impossible as

archival disclosure now constituted a national security breach (“*Hronika na sagata s dosietata*” 2006; Crampton 2007, p. 415; Ragaru 2010, p. 208).

This coming to power of Simeon II signified a more profound change in Bulgarian politics; the rise of populism gave way to parties that transcended old divisions of left and right, communist and anti-communist (Ragaru 2010, pp. 217–218; Ljoebenov 2011). Within these more flexible party constellations after 2001, new coalitions emerged vis-à-vis archival disclosure. For this reason, in the remainder of this chapter I often refer to the “pro-disclosure” and the “anti-disclosure” side rather than to the political parties’ names.

Remarkably, it was the anti-disclosure side that dominated Parliament in the years leading up to the archival law. In the parliamentary elections of 2005, the BSP turned out to be the biggest party with 31% of the votes. Its party leader Sergei Stanishev became prime minister with socialist President Georgi Parvanov already in power. The BSP formed a coalition with Simeon II’s party, uninterested if not dismissive of archival disclosure, and the Movement for Rights and Freedoms (MRF), which focused on the communist crimes committed against Turkish Bulgarians rather than confrontation with the past as a whole. The UDF and the similarly pro-disclosure Democrats for a Strong Bulgaria (DSB) together received a mere 14% of the votes. During 2005 and 2006, bills and law proposals by the pro-disclosure side were voted down or otherwise hindered. It does not take much imagination to connect this observation to recent knowledge disseminated by COMDOS that many of these anti-disclosure parties’ members and leaders could be found and indeed were found in the DS files.

CONDITION OR COMPROMISE? UNDERSTANDING THE EU’S ENGAGEMENT WITH BULGARIA’S ARCHIVAL DISCLOSURE

In order to offer an explanation for the sudden change in the second half of 2006 that enabled archival disclosure, the factor of EU membership has to be introduced. Although the European Union was of course not the only relevant international actor (the United States, the Council of Europe, and NATO played important roles too) its membership prospect was of particular significance in the archival debate. During all of the 2000s, all Bulgarian political parties and the majority of the electorate supported the bid for membership, which became a “focal point” in political strategy making (Crampton 2007, p. 407; Mungiu-Pippidi 2010, p. 68; Spendzharova 2003, p. 142; Vachudova 2010, pp. 92, 94). Even the BSP explicitly committed itself to “full integration of our country into a united Europe and the world democratic community” (Supreme Council of the BSP 2006).

On August 29, 2006, a UDF member of Parliament declared that the Bulgarians had to thank “the demands of the European Union” for having the ruling coalition “at last” seriously discussing archival disclosure (Narodnoto Sabranie 2006c). To which demands of the European Union did this

member of Parliament refer? Progress reports or other EU assessment documents remained silent on the issue, so did the Joint Parliamentary Committees. Apart from some specific comments during debates,³ the demand for archival disclosure was not significantly salient among Members of European Parliament (MEPs). Instead, discussion focused on urgent present-day issues including rights of the Roma minorities, nuclear plants, and corruption. EU organs clearly and repeatedly stressed, when asked about the issue, that archival disclosure was not part of the accession mandate (Council of the European Union 2006a, b, c).

Individuals and Momentum

It is important that there were a couple of exceptions of groups and individuals taking a more pro-active stance within the European Union. In 2004, the European People's Party (EPP) Group, as the biggest political group in the European Parliament (EP), had already "invited" member and candidate member states alike to disclose formerly classified communist files (EPP Group 2004). This political initiative did not enjoy an EU-wide follow-up, however. It was in fact a MEP for the Greens/European Free Alliance group, Els de Groen, who concretely took on the Bulgarian archival issue in the pre-accession years. In addition to consistently but unsuccessfully raising the issue in questions addressed to the European Commission (EC) and Council of the European Union and in EP debates and resolution proposals (European Parliament 2006a; European Parliament 2006c, p. 3), she visited Bulgaria several times and organized a conference in Sofia bringing together archival law experts from the Central and East European region. She received support from some of her fellow EP group members and enjoyed the help of her Bulgarian assistant and civil society activist Vasil Kadrinov, but had no official EU mandate. During a meeting with Rumen Petkov, minister of interior and BSP representative, she showed him a decision by the Bulgarian court that supported journalist Hristo Hristov's plea for access to the archives of the dissident Georgi Markov murdered in London in 1978. She then told him that swift disclosure of all files would be a "favorable signal to Brussels" (De Groen 2009, p. 63; De Groen 2015). Petkov chose, at least on paper, to cooperate.

It is difficult to determine whether Petkov genuinely supported the law (De Groen 2015), or wanted to use the law to bring down a personal rival (Hristov 2010; Ibroscheva 2012, pp. 17–18)—or both—but the voting behavior of many, including some of his BSP colleagues, gradually changed (Narodnoto Sabranie 2006c). The NMSS, as discussed before initially dismissive of engagement with the past, also shifted in favor of the law now that archival disclosure was framed in a discourse of the European future. Journalists and other pro-disclosure individuals outside politics strengthened their efforts and started the initiative "Clean Voices." Several newspapers aligned

themselves with the pro-disclosure stance. A representative from the MRF, which had now clearly chosen the pro-disclosure side as well despite the party leader's later confirmed affiliation with the DS, stated that he felt supported by "society and the media debate on the issue" (Narodnoto Sabranie 2006c).

The pro-disclosure side, which was thus already gaining strength, then received formal support from the EP in the last months of 2006. EP Enlargement rapporteur for Bulgaria Geoffrey Van Orden, indeed from the EPP, had for quite some years explicitly urged the Bulgarian authorities to allow research on the murder of the aforementioned Georgi Markov, whose files were part of the DS archives (European People's Party 2006). Yet not until November 2006, in his final report on Bulgaria's accession, did Van Orden include an official reference to the archival law. In one of the clauses he "welcomed" Bulgaria's perceived willingness to disclose the secret service archives and praised the upcoming law as a "measure that will help build public confidence and demonstrate a clear break with the past" (European Parliament 2006b; Kadrinov 2015). The EP adopted the resolution on November 30, 2006. This did not go unnoticed in the Bulgarian domestic debate and the pro-disclosure camp directly referred to it to further its agenda (Narodnoto Sabranie 2006d). For the NMSS, the MRF, and even the BSP, this EP recognition and endorsement meant that there was no politically credible way to opt out of archival disclosure. On December 19, 2006, the Bulgarian Parliament adopted the law.

Change and Continuity

Nevertheless, the last-minute EU support as symbolized by Van Orden's reference was all but a sufficient condition for archival disclosure. In November 2006, Van Orden reacted to, rather than instigated a domestic political debate that had been salient for months, a debate that was increasingly in favor of disclosure, and was founded on a long domestic legacy. Van Orden's action should also not be seen as a signifier of EU-wide change of enlargement priorities towards Bulgaria. After Bulgaria's accession and thus after the EP's support for the archival law, EU officials still refused to engage with the law's implementation. Archival disclosure, they argued, belonged exclusively to Bulgaria's national competence (European Commission 2007, 2009).

This practice of disengagement corresponds to the more general discourse in which the European Union positioned itself towards the communist past in Central and East European states. Up until then, the historical narrative of these new EU countries was presented through, as I prefer to call it, an "overcome"-discourse. Inspired by a similar rhetoric coined by domestic dissidents in their attempt to overthrow communism (Littoz-Monnet 2013, pp. 490, 494, 501; Malksoo 2009, pp. 656, 659), high-profile EU representatives from all four main EU institutions presented the communist past as a foreign and alien imposition and temporal "aberration" from the normal

course of history (Wilfried Martens in: European People's Party 2004). In 2010, former EP President Hans-Gert Poettering together with his successor Jerzy Buzek praised the Bulgarian dissidents who had risked their lives to "defend our European values" and depicted them as "bridge builders" between "the democratic past and the European future of the Bulgarian nation" (EPP Group 2010, pp. 8, 36). This reflected a clear prioritization of policies and politics directed at the present and the future, rather than at the communist past. It was only in 2009, again responding to explicit desires by Central and East European elites, that the EP adopted a resolution that acknowledged the relevance of commemorating and studying this past (European Parliament 2009).

DOMESTIC OR INTERNATIONAL? THE EU MEMBERSHIP PROSPECT IN THE BULGARIAN DEBATE

Despite the European Union's general disinterest in archival disclosure, both the pro-disclosure and the anti-disclosure sides referred to the EU membership prospect to advance their political positions. Their arguments connected the concrete and moral status of EU membership in the Bulgarian political debate with the morality associated with dealing with the past in general. A short note of caution on the Bulgarian political references to EU membership is apt. References to the Council of Europe (an institution that does not belong to the European Union, but is held in high regard by the European Union), "being European," and the European Union were occasionally used in an almost indistinct manner. For the sake of clarity, I only include explicit references to the European Union here.

The pro-disclosure side tied the European Union's alleged normative status as an area for democracy, human rights, and rule of law into the existing moral arguments of a right to memory, historical truth, and democratic responsibility, which archival disclosure was said to represent. A parliamentarian from the DSB, a party seceded from the UDF, in one sentence linked Van Orden's support to the need to reveal the past's secrets and to the desire to join the European and international community and their "democratic rules" (Eliana Maseva in: Narodnoto Sabranie 2006d). Others used more concrete references. Ivan Sotirov, like many of his colleagues, pointed out that Bulgaria was the "only country" at the doorstep of or in the European Union not to have "sufficiently solved the issue [of the archives]" (Narodnoto Sabranie 2006a). These arguments were part of a broader political strategy that fit well with the previously discussed overcome-discourse of the European Union. Already in 2000, during a political wave favorable to the anti-communists, Parliament had adopted a law that declared the communist regime "criminal." It "externalized" (Zhurzhenko 2007, p. 3) the communist regime as a foreign and temporary rupture from an otherwise free European path. The tropes were very similar to that of the EU discourse. Communism, according

to the 2000 law, was imposed by a “foreign force,” “violating ... national dignity,” “national sovereignty,” and “traditional values of European civilization” (“*Zakon za obyavyavane*” 2000). The EU’s strong discourse on communism coupled with the EU’s alleged normative status could thus be employed to add urgency to the need to reveal the secrets of this dark past, kept in the state security archives.

The anti-disclosure side, on the other hand, tried to discredit the law by trivializing the past in comparison to the challenges of EU accession that lay ahead. In January 2006, Prime Minister Stanishev expressed his disdain for the pro-disclosure attempts to seek division and confrontation in the name of interest for the archival past, when “the country has to solve very important problems and questions for successful integration into the European Union” (Narodnoto Sabranie 2006b). As the pro-disclosure side pointed at other Central and East European member states to highlight Bulgaria’s lag in archival disclosure, a NMSS-representative from the anti-disclosure side used EU member Spain as an example of a country that had smartly chosen to forgive and move on, rather than to linger in the past (Kamen Vlahov in: *Narodnoto Sabranie* 2004). The EU’s overcome-discourse, with its rationale of the past as irrelevant to the present, thus also proved useful to the BSP. This is even more interesting in the light of the BSP’s ambiguous attitude towards its own past (Baeva and Kabakchieva 2014, p. 71). The party officially praised its communist predecessor’s achievements and “the historical significance of the revolutionary struggles” (47-ia kongres na BSP 2008, p. 2). On the other hand—and here the BSP’s political attitude met the EU’s overcome-discourse—from the early 2000s the party consequently presented itself as a “European... party of the future,” welcoming reform and modernity (e.g., 44-ia kongres na BSP 2008, p. 262).

Both rationales of identification and dissociation with its predecessor could be used to discredit engagement with the past. The rationale of identification implied that the past’s disclosure would mean nothing else than lies about imagined crimes of an actually just regime. The rationale of dissociation, on the other hand, made critical engagement with the past sound irrelevant and even dangerous: it violated the supposed need to disregard the past in order to embark on a bright EU future. In the last half of 2006, it was this second rationale that became increasingly important and eventually dominated the BSP’s argument concerning the archival law. An obsession with the past, a BSP representative reminded her colleagues, fails to acknowledge that “[W]e have new realities; new politics and that we live in more contemporary times” (Marusya Lyubcheva in: *Komisiya po pravata na choveka i veroizpovedaniyata*, 2006). National reconciliation and forward-looking consensus would pave the way to join the European family in the European Union. These values were juxtaposed with the allegedly divisive confrontation with the past through archival disclosure.

Because of the mismatch between the EU enlargement policy's actual disregard for archival disclosure and the moral normative meaning ascribed to the EU membership prospect by EU individuals and Bulgarian political parties, both sides of the debate could refer to the European Union to support their claims. Arguably, the pro-disclosure camp eventually "won" this struggle. In this, they were significantly helped by Geoffrey van Orden's explicit support in November 2006. But to determine who was eventually on victory's side, we have to look at the period after the law's adoption.

EXPLORING THE LAW'S IMPACT AFTER BULGARIA'S ACCESSION INTO THE EUROPEAN UNION

The law remained heavily contested in the Bulgarian political arena. Through the mechanism of "post-accession conditionalities," most notably admission to the Schengen zone, the European Union had a tool even after January 1, 2007 to enforce the implementation of agreed promises. Nevertheless, as we have seen, the EC and Council of the European Union declared themselves uninterested in archival disclosure. This was a significant factor in explaining what happened after the law's adoption, or rather, what did not happen. Although the BSP's coalition lost many seats in the 2009 elections and operated from the opposition, it could continue to hinder the law's implementation. And it would: many of its high-ranking party members had worked as DS agents. First, the party tried to delay the process of setting up the archival committee, using the law's provision that national Parliament elects the committee's members ("*Zakon za dostup*" 2015; Gospodinova and Krüsteva 2007). Another strategy concerned the committee's resources to preserve and disclose the archives. As the most striking result, only four years after the law's adoption did Parliament provide a building for the new centralized archive (Dobre 2011, p. 151). By tirelessly proposing amendments, the BSP often successfully limited the law's reach and accessibility by claiming to protect "national security" (Dobre 2011, p. 151; Ibroscheva 2012; Komisiya po vütrešna sigurnost 2006; Trifonova Price 2015, pp. 191, 210).

These actions by the anti-disclosure side have had a severe impact on the archival committee's work. Recently, the BSP unsuccessfully tried to close down the archival committee. Using the same arguments of protecting national security and focusing on the future instead of the past, it moreover still blocks the disclosure of former military intelligence files (COMDOS 2016). On the other hand, over the last few years the committee has proven able to overcome the political stalemate and to function more autonomously. As indicated by COMDOS itself, as well as by other experts, popularity of, access to, and trust in the committee have increased (Baeva and Kalinova 2011 pp. 59–60; Ciobanu 2014, p. 123; COMDOS 2016; Kadrinov 2016). All media frequently report on the work of the committee, although the

liberal media are clearly most interested in the issue. COMDOS' revelations do not always lead to political action (when, e.g., Parvanov, president at the time, was unmasked as former DS agent "Gotse"; he did not resign nor was he forced to step back), but often to scandals that mobilize public opinion. The committee moreover extensively cooperates with partners in the Central and East European region (COMDOS 2016). Here, the shift in EU engagement with the communist past is highly relevant. When the EP adopted the aforementioned resolution in 2009 that endorsed active commemoration of the communist past, it established a Platform for European Memory and Conscience (henceforth "Platform"; European Parliament 2009). This Platform monitors the work of the committee and actively supports its work. Now that COMDOS is working towards digitalizing its files to improve access, support from the Platform and its Central and East European partners is very welcome. After all, the committee still has to work with limited staff and few resources (COMDOS 2016; Dobre 2011, p. 151). More concerning are the Platform's accusations that some COMDOS members, including the socialist chair, are themselves DS affiliated (Platform of European Memory and Conscience 2012, pp. 2–3).

Concluding, in the early years after Bulgaria's accession the European Union thus refused to engage with the archival disclosure. This helped the anti-disclosure side, using the same future-oriented arguments as those used by the European Union to hinder the committee's work severely. Although it should not give rise to unbridled optimism, in recent years COMDOS seems to have outgrown its role as political plaything. Aided by the Platform established in 2009, it is, at least to a certain extent, successful in fulfilling its mandate.

CONCLUSION

This case of archival disclosure in pre-accession Bulgaria offers some insights that may be applicable to the broader study of state-sponsored history.

First, this case indicates that even when a domestic "breakthrough" seems to be imposed by an outsider such as the European Union, it is likely to be the result of a long domestic struggle. In the polarized Bulgarian arena, attempts towards archival disclosure were doomed to remain attempts. Populism brought political opportunism, but still, it was the traditional pro-disclosure party UDF and civil society groups that saw their chance to couple this domestic momentum to the momentum of EU membership.

A second lesson that can be taken from this case is that international and supranational pressure is often more subtle than assumed, and so are its consequences. European Union institutions were generally uninterested in Bulgaria's archival law when evaluating its readiness for membership. However, committed individuals could, in their roles as EU representatives, put the ascribed normative and moral meaning of the EU membership prospect to

their advantage. Ragaru concluded in 2010 that “the European calendar and the electoral calendar of Bulgaria met” in a decisive manner (Ragaru 2010, p. 209). The conclusion of this chapter would even be that (individual) actors within the European Union and within Bulgaria *actively* synchronized the calendars to make archival disclosure the only viable political option.

Third, and related to the previous point, the international dimension has an impact beyond direct engagement: it may be made part—whether based on actual policies or as the result of political rhetoric—of the domestic debate. In Bulgaria, the lack of clear EU engagement created space for both sides to pick and choose readings of what EU membership could possibly mean in terms of the dealing with the past. The pro-disclosure side used the alleged status of the European Union as an area characterized by rule of law, human rights, and democracy to underscore that “being European” meant disclosing the secrets of the past. The anti-disclosure camp argued that confrontation with the past impeded a future-directed policy of “being European.”

It can be argued that this highly suggestive argumentation and shallow rhetoric from both sides created false expectations of the committee. The risks of the UDF’s overstretched claim of archival disclosure bringing about historical truth, as an alleged EU value, are real, if only because so many of the DS files have been destroyed or otherwise manipulated. The recent claim, popular in the anti-disclosure camp, that the archival law was an absolute EU accession condition first contradicts historical evidence. Moreover, it denies Bulgarian ownership of the law. It feeds into the still popular argument that the archives’ contents are relevant only to an exclusive elite (Baeva 2014, p. 380). In this polarized climate, professional historians trying to show the nuances of the past may easily lose to those who parade black-and-white versions of history.

This chapter’s conclusion may be that the debate on the archival law was rarely about the actual archives themselves, however, it does not argue that the archival law was just a rubber stamp. COMDOS has, perhaps against all odds, to a certain extent transcended the political restrictions by which it was seemingly bound. The question is now: is this enough for professionals to generate new narratives from the archives that give proper due to the nuances of the shared Bulgarian past?

NOTES

1. The translations in this chapter are my own. For Romanization, I used a slightly adapted version of the BGN/PCGN transliteration system.
2. In the remainder of this chapter, I denote the Bulgarian totalitarian communist regime for the sake of clarity with the single words “communist” and “communism.” Here I do not refer to communism as a set of ideas and values, but as the political form that this ideology took in the specific situation of the Bulgarian totalitarian state.

3. In a debate in 2005, for example, a MEP for the Independence/Democracy group called for opening up the files relating to the Bulgarian secret services' alleged support for the assassination attempt on the pope (European Parliament 2006a).

REFERENCES

- 44-ia kongres na BSP (2008) 'BSP-partiya na promyanata, partiya na būdeshteto, pri-eta yuni 2002 g.' in G. Pirinski, N. Ananieva and E. Kandilarov (eds.) *Programno razvitiie na BSP. Sbornik dokumenti (1990–2005)* (Sofia: Tsentr za istoricheski i politilozicheski izsledvaniya), pp. 242–281.
- 47-ia kongres na BSP (2008) *Ustav na Būlgarskata sotsialisticheska partiya priet ot 47-ia kongres na BSP–22 i 23 noemvri 2008 g.* http://bsp.bg/documents/osnovni_dokumenti.html. Accessed 22 September 2015.
- Baeva, I. (2014) 'How Post-1989 Bulgarian Society Perceives the Role of the State Security Service' in S. Troebst, M. N. Todorova and A. Dimou (eds.) *Remembering Communism. Private and Public Recollections of Lived Experience in Southeast Europe* (Budapest: Central European University Press), pp. 367–384.
- Baeva, I., and Kalinova, E. (2011). *Sotsializmūt v ogleadaloto na prehoda* (Sofia: Iztok-Zapad).
- Baeva, I., and Kabakchieva, P. (2014). 'How Is Communism Remembered in Bulgaria? Research, Literature, Projects' in S. Troebst, M. N. Todorova and A. Dimou (eds.) *Remembering Communism. Private and Public Recollections of Lived Experience in Southeast Europe* (Budapest and New York: Central European University Press), pp. 71–96.
- Ciobanu, M. (2014) 'Post-Communist Transitional Justice at 25. Unresolved Dilemmas', *Annals of the University of Bucharest: Political Science Series*, (2), 119–136.
- Council of the European Union (2006a) *Parliamentary Questions. Joint reply to written questions E-1261/06, E-1263/06, E-1265/06* (Brussels) OJ C 329.
- Council of the European Union (2006b) *Parliamentary Questions. Reply to E-0468/2006* (Brussels) OJ C 328.
- Council of the European Union (2006c) *Parliamentary Questions. Reply to E-4991/2006* (Brussels) OJ C 291.
- Crampton, R. (2007) *Bulgaria* (New York: Oxford University Press).
- COMDOS, Interview by author, 20 June 2016 (Sofia).
- Djankov, S. (2014) 'Bulgaria. The Greatest Vacillations' in A. Aslund and S. Djankov (eds.) *The Great Rebirth. Lessons from the Victory of Capitalism over Communism* (Washington: Peterson Institute for International Economics), pp. 135–148.
- Dobre, K. F. (2011) 'Sledite ot komunizma. Pamet i zabrava v publichnoto prostranstvo v Sofiya i v Bukuresht. Primerniyat sluchaj s shest pametnika i tyaxnata sūdba' in I. Znepolski (ed.) *Da poznaem Komunizma* (Sofia: Institut za izsledovane na blizkoto minalo), pp. 116–166.
- EPP Group (2004) *XVIth EPP Congress Resolution Condemning Totalitarian Communism* (Brussels: EPP group). http://arc.eppgroup.eu/Press/peve04/eve01/res-communism_en.asp. Accessed 30 July 2015.
- EPP Group (2010) *Conference "The Endured European Dream of Bulgaria - 1944–1989"* (Brussels: EPP Group).

- European Commission (2007) *Parliamentary Questions. Answer given by Mr Frattini on Behalf of the Commission to E-3237/2007* (Brussels) OJ C 45.
- European Commission (2009) *Parliamentary Questions. Joint Answer Given By Mr Barrot on Behalf of the Commission to Written Questions E-3416/08 and E-3417/08* (Brussels) OJ C 999.
- European Parliament (2005) *Debates. Applications for Accession of Bulgaria and Romania* (Strasbourg: European Parliament).
- European Parliament (2006a, 16 May) *Debates. Progress Report on the Accession of Bulgaria and Romania* (Strasbourg: European Parliament).
- European Parliament (2006b) *Resolution on the Accession of Bulgaria to the European Union. P6_TA(2006)0511* (Brussels).
- European Parliament (2006c) *Motion for a Resolution on behalf of the Verts/ALE Group. B6-0344/06*.
- European Parliament (2009) *European Conscience and Totalitarianism. P6_TA(2009)0213* (Brussels: European Parliament).
- European People's Party (2004) *Press Release. Anastasia Moser Confirmed as Leader of Bulgaria's BANU-PU for the Seventh Time. Retrieved from EU Historical Archives, Florence. D.1.2004.11-006* (EPP-ED International Publications).
- European People's Party (2006) *Press Release. Bulgaria Clears Last Hurdle Before Accession. Geoffrey van Orden MEP. Retrieved from EU Historical Archives, Florence. D.1.2006.11-0090* (European People's Party).
- Gospodinova, V. and Krüsteva, S. (2007, January 27) *Kakvo tuk znachat nyakakvi si srokovove*. http://www.capital.bg/politika_i_ikonomika/bulgaria/2007/01/26/307410_kakvo_tuk_znachat_niakakvi_si_srokovove/. Accessed 24 September 2015.
- Groen, E. de (2009) *Een moeras vol krokodillen* (Breda: Stichting Uitgeverij Papieren Tijger).
- Groen, E. de Interview by author, 23 April 2015.
- Guentcheva, R. (2012) 'Esots. Virtualnite muzei na komunizma v Bŭlgariya', *Seminar_BG* (7), 126–136.
- Helsinki Watch (1993) *Decommunization in Bulgaria*. <https://www.hrw.org/sites/default/files/reports/BULGARIA938.PDF>. Accessed 27 September 2015.
- Hristov, H. (2006) *Kato pŭrvo nyama vtoro*, 21 November. http://www.dnevnik.bg/dnevnikplus/2006/11/20/295133_kato_purvo_niama_vtoro/. Accessed 21 September 2015.
- Hristov, H. (2010) *Kakvo tryabva da znaem za zakona za dosietata*. 23 July. http://www.capital.bg/blogove/dosieta/zakonut/2010/07/23/937043_kakvo_triabva_da_znaem_za_zakona_za_dosietata/. Accessed 22 September 2015.
- Hronika na sagata s dosietata (2006, 27 May) <http://www.vesti.bg/novini/pylniiat-tekst-na-publikaciia-podgotvena-ot-redakciia-spravochna-informaciia-na-bta-893384>. Accessed 10 March 2016.
- Ibroscheva, E. (2012) 'Spies Like Us. Media, Politics and the Communist Past in Bulgaria', *Central European Journal of Communication*, 1(8), 11–23.
- Kadrinov, V. Interview by author, 17 April 2015 and 28 May 2016 (Sofia).
- Kazalarska, S. (2013) *Muzeyat na Komunizma. Mezhdū pametta i istoriyata, politikata i pazara* (Sofia: Universitetsko izdatelstvo 'Cv. Kliment Ohridski').
- Komisiya po pravata na choveka i veroizpovedaniyata (2006, March 16) <http://www.parliament.bg/bg/parliamentarycommittees/members/169/steno/ID/186>. Accessed 6 January 2016.

- Komisiya po vŭtreshna sigurnost i obshtestven red (2006, October 26) <http://www.parliament.bg/bg/archive/2/3/160/reports/ID/473>. Accessed 30 December 2015.
- Littoz-Monnet, A. (2013) 'Explaining Policy Conflict across Institutional Venues. European Union-Level Struggles over the Memory of the Holocaust', *Journal of Common Market Studies*, 51(3), 489–504.
- Ljoebenov, M. (2011) *Bŭlgarskata partijna sistema. Grupirane i strukturirane na partijnite predpochitatija 1990–2009* (Sofia: Universitetsko Isdatelstvo 'Cv. Kliment Ohridski').
- Malksoo, M. (2009) 'The Memory Politics of Becoming European. The East European Subalterns and the Collective Memory of Europe', *European Journal of International Relations*, 15(4), 653–680.
- Metodiev, M. (2009) 'Bulgaria' in L. Stan (ed.) *Transitional Justice in Eastern Europe and the Former Soviet Union. Reckoning with the Communist Past* (London: Routledge), pp. 152–175.
- Mungiu-Pippidi, A. (2010) 'When Europeanization Meets Transformation' in V. Bunce, M. McFaul and K. Stoner-Weiss (eds.) *Democracy and Authoritarianism in the Postcommunist World* (New York: Cambridge University Press), pp. 59–81.
- Narodnoto Sabranie (2004) *9 septemvri 2004g.* <http://parliament.bg/bg/plenaryst/ns/1/ID/1066>. Accessed 1 June 2016.
- Narodnoto Sabranie (2006a) *2 avgust 2006g.* <http://parliament.bg/bg/plenaryst/ns/2/ID/180>. Accessed 10 March 2016.
- Narodnoto Sabranie (2006b) *27 yanvari 2006g.* <http://parliament.bg/bg/plenaryst/ns/2/ID/94>. Accessed 15 March 2016.
- Narodnoto Sabranie (2006c) *29 avgust 2006g.* <http://parliament.bg/bg/plenaryst/ns/2/ID/191>. Accessed 10 March 2016.
- Narodnoto Sabranie (2006d) *6 dekemvri 2006g.* <http://www.parliament.bg/bg/plenaryst/ns/2/ID/234>. Accessed 25 January 2016.
- Platform of European Memory and Conscience (2012) *Letter to Mr Boyko Borisov Prime Minister of the Republic of Bulgaria* (Strasbourg: Platform of European Memory and Conscience). <http://www.memoryandconscience.eu/wp-content/uploads/2012/02/letter-Prime-Minister-Borisov.pdf>. Accessed 20 October 2015.
- Ragaru, N. (2010) 'Dossiers de la Sûreté d'État Bulgare. Le Communisme Dans les Pliures du Temps', *Revue des études slaves*, 81(2–3), 203–225.
- Spendzharova, A. B. (2003) 'Bringing Europe In? The Impact of EU Conditionality on Bulgarian and Romanian Politics', *Southeast European Politics*, 4(2–3), 141–156.
- Supreme Council of the BSP (27 November 2006) *Reshenie na visshiya sŭvet na BSP ot 27 noemvri 2006 g.* http://bsp.bg/documents/resheniq_nacionalen_syvet.html. Accessed 22 September 2015.
- Trifonova Price, L. (2015) 'Secrets, Lies, and Journalist-Spies. The Contemporary Moral Dilemma for Bulgarian Media Professionals', *The International Journal of Press/Politics*, 20(2), 185–203.
- Vachudova, M. A. (2010) 'Democratization in Postcommunist Europe: Illiberal Regimes and the Leverage of the European Union' in V. Bunce, M. McFaul and K. Stoner-Weiss (eds.) *Democracy and Authoritarianism in the Postcommunist World* (New York: Cambridge University Press), pp. 82–106.

- Van Rossum, L. (1997) *The Former Communist Party Archives in Eastern Europe and Russia. A Provisional Assessment* (Amsterdam: International Institute of Social History). <http://www.iisg.nl/publications/rosum.pdf>. Accessed 15 October 2015.
- Vukov, N. (2008) 'The "Unmemorable" and the "Unforgettable". "Museumizing" the Socialist Past in Post-1989 Bulgaria' in O. Sarkisova and P. Apor (eds.) *Past for the Eyes. East European Representations of Communism in Cinema and Museums After 1989* (Budapest: Central European University Press), pp. 307–334.
- Zakon za dostup i razkrivane na dokumentite i za obyavyavane na prinallezhnost na Bŭlgarski grazhdani kŭm dŭrzhavna sigurnost i razuznavatelnite sluzhbi na Bŭlgarskata narodna armiya* (13 October 2015). <http://www.lex.bg/bg/laws/ldoc/2135540283>. Accessed 2 September 2016.
- Zakon za obyavyavane na komunisticheskiya rezhim v Bŭlgariya za prestŭpen* (5 May 2000). <http://lex.bg/laws/ldoc/2134920192>. Accessed 21 September 2015.
- Zhurzhenko, T. (2007) 'The Geopolitics of Memory', www.eurozine.com, 10 May. <http://www.eurozine.com/pdf/2007-05-10-zhurzhenko-en.pdf>. Accessed 27 February 2016.

Archives and Post-Colonial State-Sponsored History: A Dual State Approach Using the Case of the “Migrated Archives”

Michael Karabinos

Someone who would read only the published statements of national archives themselves, would probably never have more than a hazy understanding of the role of these institutions. With words and phrases such as “national memory”, “collective memory”, “national identity”, “heritage” and “public access”, inferences could be made into how influential and important national archives really are. Additional use of phrases such as “public records” and “government records” further clouds those assumptions, as we are left to wonder how vital the documents of governmental processes and procedures are to a nation’s collective memory and the identity of its people, especially those of groups who are underrepresented in such records.¹

National archives are government institutions and thus have as their ultimate mission the collection, preservation and (ideally) disclosure of government records. As government institutions, national archives are part of a greater system of state-centered writing of history. They are part of what Jerome de Groot (2008, p. 240) describes as a “government desire for the past to bind together the present.” The influence of national archives on how history is written presents itself through archival principles such as access, appraisal, arrangement and description. These principles strongly influence the propagation of certain narratives over others. Today, even the numerous national archives that actively engage in new projects to diversify their

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collections and become more inclusive cannot escape that this will always been seen through the lens of the state.

German historian Stefan Berger concluded his study of national archives and the formation of national master narratives in Europe by stating that though national archives are seen as central to the formation of such historical narratives, the records themselves were only consulted by a limited number of scholars and the archives form more of a symbolic role (2013). In the course of this chapter I reveal some of the other means through which national archives can either influence or strengthen state histories that go beyond simply consulting archival documents to write history. In questioning the role of the national archives in creating state-sponsored history I believe that the national archive can be either the tool or the hand holding it. Examples of both are shown, meaning instances when the state manipulates the national archives for its own gain as well as when the national archives act as an agent of state interests.

To reveal what roles national archives can play in the construction of state-sponsored histories I focus specifically on the decolonization process. How colonial history, the independence movements and wars, and postcolonial history are remembered is still of great relevance to countries on both sides of the colonial experience. In this chapter, I look at the national archives of the United Kingdom and its former colonies of Malaysia and Singapore to explore how national archives function as state institutions and their role in the writing and remembering of history.

ARCHIVAL PRINCIPLES

The level of explicit state control of history via the archive has changed greatly in the past 200 years, at least in a Western European context. Philipp Müller's (2013) study of state archives in the various nineteenth-century German kingdoms portrays strong state control over the archive coming directly from the monarch. Historians could receive or be denied access to certain records—or the archive itself—based on their reason for research, their previous output or the contemporary political relation between the state in question and the historian's home country. From a twenty-first-century perspective we may like to see the current situation as fundamentally different, but archival policies are varied, and such direct control is still found around the world. Even in Western-style democracies a nuanced form of “soft” control over the archive is combined with a more explicit control over controversial records. Policies such as the “thirty-year rule” determining how long it takes before archives are made public are a form of “soft” control, and broad national security rules create situations not unlike those described by Müller. Such legislated archival principles form the basis of the profession. I mention each of these principles as they relate to the different post-colonial cases.

The core archival principles and concepts, as discussed by Trudy Peterson earlier in this handbook, have a direct relation with state influence over archives. Access, both in terms of legal and physical access to records, is fundamental to the existence of archives and how researchers use them. One of the most basic functions of an archivist is the appraisal and selection of documents. Selection's inverse, the decision not to archive certain records, is equally important as it relates to highlighting state-sponsored history. How archives are arranged and described also influences their use and usability. In particular with online inventories and finding aids, the metadata used by archivists to contextualize content for researchers can have profound effects on how users interact with the archives.

New technologies offer a new form of state control in archives. Appraisal and selection have been a central tenet since the beginning of archival science as a profession. With the digitization of archives and their publication on the Web, a second tier of appraisal and selection takes place. South African archivist Verne Harris speaks of the "archival sliver," where what is seen in the archive is only a sliver of what survives destruction, which is only a sliver of what is recorded in the first place (2002). Harris ends his explanation of the sliver saying the final evidence in the archive is but "a sliver of a sliver of a sliver." With digitization, the sliver has taken on a new shape. Although access to certain documents has certainly increased through new digital portals, new questions must be asked, such as who makes the digitization selection decisions and why some records are digitized whereas others remain available only in physical form. Historians and other researchers must be cognizant of such dilemmas and their limitations when interacting with the digital archive. Charles Jeurgens (2013, p. 47) calls for "a clear strategy" that looks beyond just digitizing for the sake of digitizing. Rather, the plan must "reflect on which archival collections should be digitised and why. It must constantly be considered how the user will actually benefit from the digitisation of certain documents."

ARCHIVES AND COLONIALISM

The work of archivists and ramifications of archival concepts such as appraisal and selection are the means through which archives can impact history. There is a small but established group of archival theorists who have studied this impact as it relates to colonialism and post-colonial societies. Jeannette Bastian's history of archives in the US Virgin Islands highlights how a marginalized group can "reclaim" their past (2003); Evelyn Wareham has reviewed how the introduction of written archives has affected traditionally oral societies in the Pacific (2002); Ricardo Punzalan's history of the National Archives of the Philippines traces the dual-colonial past of an institution that has a foundation of Spanish records but was created under the American administration (2006); and Ellen Ndeshi Namhila's work in Namibia (2015) joins a

growing school of literature on how to overcome “gaps” in colonial archives. Just these four examples show the vast geographic scope that the impact of colonial archives has on written history.

Following independence of a former colony, pieces of the archival infrastructure existed as colonial relics. However, it was also clear that without something like a national archive, no modern state could exist. For previously orally based societies, the arrival of the archival logic during the colonial period drastically changed how their communities remembered their history. As one chief from Palau described the contemporary situation, “[W]e may have lost the ability to commit and retain things in our collective memory as our ancestors did” (Wareham 2002, p. 197). Wareham notes that “[r]enegotiating memory, both oral and written, is a core aspect of re-empowerment and decolonization” (2002, p. 198).

In the Philippines, two colonial powers shaped the national archive and the study of history. Originally a Spanish colony, the Philippines were transferred to the United States following the Spanish-American War. It was the American government that used Spanish records to form the basis of the National Archives of the Philippines. Despite being written in a language many Filipinos cannot read and stored in a building the majority never visits, Punzalan notes that the colonial creation of the archives “contributed to imagining the nation” (2006, p. 389). This is an image that could not exist without the intervention of the state using the National Archives to feed the idea, one that “embodies the notion of a common and collective past” (Punzalan 2006, p. 389).

The Dutch-Indonesian relationship after independence has been one of flux. A 1963 correspondence between archivists in the midst of a diplomatic row exemplifies how the state can influence archival outreach and policy.² It took place within the period known as “Guided Democracy” (1957–1966) where President Sukarno strengthened the executive branch and oversaw military confrontations first with the Netherlands and then with Malaysia. Frans Rijndert Johan Verhoeven, in his capacity as UNESCO expert and acting director of the National Archives of Malaysia, wrote to the director of the National Archives of Indonesia, R. Mohamed Ali, to ask about a collection of Dutch records from their period of control of Malacca which he hoped could be copied for a new collection he was building in Malaysia. Only two decades prior to writing his letter Verhoeven held Ali’s position as director of the *Landsarchief*, the colonial predecessor to the National Archives of Indonesia.

Ali’s response to Verhoeven first blames the Dutch administration for a backlog of work that would make it difficult to add any new projects to his schedule. Ali then reminds Verhoeven of the strict regulations in place for Indonesians at the *Landsarchief*. Finally, Ali tells Verhoeven that such a request by a foreigner would have to go through the Ministry of Information, effectively blocking Verhoeven’s request. When Verhoeven later wrote an article on the archives of Dutch Malacca he was unable to make any

reference to the records he was hoping to see from Ali. In this episode the national archive was quite explicitly a tool of the state. Sukarno's anti-Dutch political agenda had manifested itself in the national archive.

The years following Guided Democracy, through the Suharto era and the period since, have all seen archives as a point of diplomatic talks between the two countries. Seized archives from Indonesia by the Netherlands were returned during a series of talks from the 1970s to 1990s, whereas other records from the independence period continue to be held in The Hague (Karabinos 2015). In the ongoing post-colonial period, national archives continue to wield influence over how colonial narratives are written and remembered.

In several respects recording information and creating an archive was a form of legitimizing power for the colonizers. In a post-colonial world the power of language can be reversed. Bill Ashcroft states (2009, p. 3) that whereas language "*can* be an ontological prison it *need* not be, for the key to post-colonial resistance is that speakers have agency in the way they employ language to fashion their identity." Though he is referring to post-colonial literature, in the line "[t]his appropriation of language, this capacity to make it do a different cultural work from that of the colonizers, is metonymic of post-colonial cultures themselves" (Ashcroft 2009, p. 4), we could just as well believe that he is referring to the ability of post-colonial nations to use a colonially created structure such as the archive for a new use in creating an independent identity. The archive is a structure that can survive revolutions and can be co-opted by the new administration for its own use. It therefore can never be completely removed. Rather, the archive as a structure must be re-evaluated, refigured and rethought.

What post-colonial archives show is that the "state-sponsored history" in a national archive can at times belong to a different state than that owning the national archive. The colonial effects can leave behind a national archive that functions primarily as a colonial institution of the former colonial power. As Bastian states (2009, p. 54), "If your history was written by the colonizers, then the history of all the colonized people becomes difficult to find. The scholar of the people's history must read between the lines, hear those whispers in the records, and see those shadowy forms that have been written about. But they rarely speak." Although a post-colonial state can engage in various attempts at decolonizing the archive, any colonial archive is a complex system of political issues, as I show in more depth for the British Empire in Southeast Asia.

THE CASE OF THE "MIGRATED ARCHIVES" IN SOUTHEAST ASIA

British colonial interests in Southeast Asia date back to the early seventeenth century, when the English competed with the Dutch to fill the void left by the decreased power of the Portuguese in the area. Various wars and treaties

would change the spheres of influence, and control would shift from trade companies to colonial departments of the metropolitan government. Administrations would routinely send records back to London from throughout the empire. This action continued right up until the eve of independence when a vast organized transfer of archives took place through communication between the Foreign Office and colonial administrators. This has led to a national archive in London with a vast array of colonial-produced records, and a national archive in Singapore that was left needing to purchase copies of records created within its borders from its former colonial master.

When the British Foreign and Commonwealth Office (FCO) was revealed to have been withholding records from The National Archives that they had received during the decolonization process this was a clear example of the state mishandling archives for its own historical gain. In many ways this was done in a way hidden from The National Archives itself, which was unaware of the specifics of the records in question. These records, generally known under a specific proper name as the “Migrated Archives”, came to light during a court case against the British government brought on by survivors of torture committed during a rebellion against the colonial administration in Kenya. The court had ruled that the FCO must turn over all relevant documents. When faced with obstructionism from the document depository at FCO Hanslope Park, the FCO official charged with complying with the court request continued to push the issue with records managers until he threatened to come to Hanslope Park himself and look. Soon after Hanslope Park admitted to finding “missing” Kenyan documents (Anderson 708). This initial discovery was only the beginning and led to the greater Migrated Archives being made public. Government offices are generally bound to transfer records to national archives, however, exceptions are often made for matters of national security. The extent of the Migrated Archives, however, took exceptions to the extreme, betraying both deception and mismanagement.

In the period before their existence was known to the public the Foreign Office was withholding evidence of the colonial past from researchers through a suppression of archival access. Part of this action stems from intentional policy, namely a culture of secrecy at the Foreign Office meant to hide certain information, whereas the rest comes from what David Anderson calls a “bureaucratic bungle” (Anderson 2011). Records were initially sent back to the Foreign Office, then moved during government restructuring. Furthermore, civil servant turnover and shifting meant the true contents of the archives slowly faded from institutional memory.

Following the revelation of their existence and their transfer to The National Archives, the records were slowly released to the public after being checked for any further sensitive material. The manner in which The National Archives released the records formed another example of state manipulation of access. Rather than come from the FCO, this time it was a decision from

The National Archives. The first tranche of archives included those deemed most relevant to historians: from Kenya, Malaysia and Cyprus. Selecting which countries' archives would be the first to be seen was very useful to historians interested in those countries, including myself. Nevertheless, it was another example of how appraisal, selection and arrangement impacts what researchers see and use.

The proceedings of the court case revealed that facts from the decolonization of the British Empire were kept from historians and other researchers, and corroboration of their stories was kept from those affected by colonialism. Historian Caroline Elkins received negative reviews for her 2005 book *Imperial Reckoning* on the Mau Mau Rebellion in Kenya. A key complaint from other historians stemmed from her reliance on oral testimony and lack of archival evidence of claims, which she credited to the "fragmented nature" of the official documents in archives (Elkins 2011, p. 736). The discovery of the Migrated Archives offered more evidence of "British colonial brutality," the identities of the decision makers, identities of the executioners of the actions, who had knowledge of the brutality and the response of British officials to the brutality (Elkins 2011, p. 744). Access to the Migrated Archives helped validate the claims of the survivors and gave evidence to British knowledge of what was occurring in Kenya.

Although this bureaucratic bungle may appear to back up the official story that the misplacement of the Migrated Archives was accidental, further disclosures from the FCO show the culture of secrecy to far outweigh any other reasoning for keeping evidence away from the public. The British newspaper the *Guardian* found further evidence that a complete transfer from the FCO was not taking place, and that nearly one million records were still being kept away from The National Archives (Cobain 2013). Like the Migrated Archives, these untransferred records come from across the former empire and include records still being kept inaccessible (Cobain and Norton-Taylor 2013). Anthony Badger's claim of a lack of a "smoking gun" in the non-Kenyan archives will do little to dissuade historians from being skeptical when the culture of secrecy within the FCO continues to live on (2012, p. 803). This collection of over one million records dwarfs the Migrated Archives' 8800 files. The same ingrained philosophies regarding secrecy and archives that led to the creation of the Migrated Archives and their seclusion still lingers at the FCO. The FCO still has a bastion of hidden documents that would provide a wealth of information on the British Empire to historians.

Selection of documents is perhaps the most obvious action taken that affects how archives can promote a specific version of history. Just prior to the creation of Malaysia, one official was chosen for each of the two British colonial territories on the island of Borneo that would be integrated into the state of Malaysia to oversee the decisions: Terence O'Brien in North Borneo and Michael MacMullen in Sarawak. The differing personal opinions of O'Brien and MacMullen meant two different criteria for what records would

be destroyed, which would be transferred to Malaysia and which would be transferred to London where they would eventually become part of the Migrated Archives (Hampshire 2013). O'Brien, a career diplomat who was heavily involved in the negotiations to create Malaysia and held a similar role with regard to records in Ceylon in 1948, was more likely to destroy documents rather than relive the embarrassment of the new government finding personal references as had happened previously (Hampshire 2013, p. 343). Unlike O'Brien, who recommended burning the majority of the records he reviewed, MacMullen was under the impression more records should be handed over to Malaysia and fewer should be destroyed (Hampshire 2013, p. 345). MacMullen's desire to destroy less than O'Brien subsequently also meant that more records from Sarawak than North Borneo are included in the Migrated Archives (Hampshire 2013, pp. 346–347).

Even if one accepts the idea that the initial lack of access to the Migrated Archives was the result of a “bureaucratic bungle,” the roles of O'Brien and MacMullen unambiguously shows an intentional archival silencing. These two men were literally choosing what could be seen in the future National Archives of Malaysia. State control of the archive was put into the hands of two men without archival backgrounds, making decisions based on their assumed expert opinions as distinguished colonial officials. In one final action before the United Kingdom transferred sovereignty, these decisions left a lasting imprint of the colonial past on how history would be remembered in Malaysia.

Anderson further exposes the fact that the Public Record Office (PRO; today part of The National Archives) had the opportunity in 1995 to review the records but declared them “not ‘public’ records to Britain and so [they] could not be accepted” (2011, p. 713). Because the PRO saw them as public records of British colonial governments that existed separately from the central British government the records were seen as outside their purview. When the news of these records became known this decision was reversed, but that initial claim is one way in which the appraisal and selection of records by national archives affects what can later be accessed and consulted by researchers. Had the decision been kept, it would have put the archives in a dangerous no man's land, not held by The National Archives, but not being sent back to former colonies for deposit at their national archive. To this Anderson states (2011, p. 713) that it “should make historians who regard The National Archives as guardians as well as custodians of our records think more deeply about the effectiveness of the system we have in place for procuring and retaining records.” The entire story of the Migrated Archives should make historians, and archivists, think more deeply about the archival system, if prior to it they felt archival repositories gave them all they needed for research. Missing records can exist anywhere and certainly should cause historians to pause when thinking of archives. They should also cause archivists to question their own current knowledge of the system.

If we truly want to determine the role of national archives in state-sponsored history then we must also pay attention to the shortcomings of national archives. Foremost among them is lack of access. This can mean both lack of physical control of records, but also barriers to the access of records that are held by the archive. As seen in the case of the Migrated Archives, the lack of access to these archives decreased the post-colonial states' role in the archive and increased that of the former colonizer. Control of the archives leads to control of the past, whether through destroying archives or making some accessible and others inaccessible. For the former colonies that have their history written in the Migrated Archives, these records are out of the states' hands, and thus out of the hands of the archives as well. This is the other side of the coin for the Migrated Archives, as they also relate to non-British countries involved. National archives cannot influence national history if archives are being kept from them.

THE NATIONAL ARCHIVES OF SINGAPORE

With Malaysia being one of the main sources of the Migrated Archives, Singapore was also affected due to their connected history. The independence of Singapore was a four-stage process: first the crown colony was granted limited self-governance, and soon after was given complete control of internal affairs, while the British still controlled defense and foreign affairs. In 1963 Singapore joined Malaya, Sarawak and North Borneo (Sabah) to form Malaysia, and in 1965 Singapore left Malaysia to become a fully independent country. In the final months before the creation of Malaysia, the British High Commission in Singapore was in direct talks with the Foreign Office back in London. Records were destroyed or transferred based on decisions made by various diplomats and civil servants, a process that, as previously mentioned, has repeated itself in Sarawak and North Borneo.

The National Archives of Singapore is primarily the repository of Singapore government records, but a special acquisition department was set up in the early 1990s to purchase copies of records related to Singapore held outside the country. It is not a unique situation for Singapore that their pre-independence records would be held in other countries and mostly in archives of the former colonizer. Such records constitute what Jean Allman (2013) refers to as the "shadow archive," the archive of a former colony that is scattered about outside its borders. A lingering colonialism exists in many ex-colonial national archives when it comes to the records of the pre-independence period.

The National Archives of Singapore (NAS) is similar to many of the world's national archives in that it keeps government records, collects other historical records deemed relevant to Singapore, and is open to the public. Appraisal and selection, in terms of determining access to records, errs heavily on the side of limiting much of what could be seen as politically sensitive. The

directive for this appears to come from the state and placed on the archive, as Kwa and Ho (2012, p. 140)) state “NAS ... will have to work harder to convince the creators of the records deposited in the NAS to declassify their records and open them for public consultation.”

When entering the reading room of NAS, an experienced researcher will notice a difference from most other archives they have visited. Instead of seeing users with documents spread out on a table, the researcher will see other archive users huddled around microfilm readers. Although such technology is commonplace in archives, in Singapore it is the primary interface through which users will interact with the archive. We are told that everything of value is microfilmed, and that records of historical value are kept for safekeeping away from the public, whereas other records are destroyed. We must trust that what we are seeing is what is available, and given the number of records that are declared secret and unavailable for public access, such trust is hard to come by. State control of archives in post-colonial situations is therefore not merely a matter of the former colonizer hiding unflattering information. It can also be seen in ex-colonial states limiting access to their post-independence history, a concept referenced in the Verhoeven/Ali letters.

Derek Heng has described (2009) the role of the National Archives of Singapore in the transformation of the national historical narrative at the turn of the twenty-first century. After a founding national narrative that proclaimed the inevitability of Singapore’s independence, by the 1980s a second national narrative was being formulated. This narrative “assumed that there could only be one source of reliable information pertaining to the historical experience of the period in question—the national leaders of Singapore—and that all of the other sources lacked credibility” (Heng 2009, p. 25). This “second national narrative” as Heng calls it, was codified by the National Archives in their book *Singapore: Journey into Nationhood*. The book, along with the writings of Singapore’s first Prime Minister Lee Kuan Yew, was made part of the school curriculum (Barr and Skrbish 2008, p. 35). The National Archives were thus completely intertwined with the historical narrative creation emanating from the top of the state. However, a new narrative disseminating from the political elite was beginning to be created shortly after the publication of the book. This new narrative, again with backing of the National Archives, attempted to position Singapore in a greater story of Asian history, tracing its history back beyond the British foundation of modern Singapore in 1819 (Heng 2009, p. 29). As Kwa Chong Guan of the National Archives Board put it (Kwa 2009, 39):

[N]o NAS archivist could before the 1980s have anticipated the need to reach out to collect Dutch and Portuguese records on Singapore. The implications for our reconstruction of Singapore’s past on the tacit narratives of the British records is that Singapore’s history started with Raffles [British colonial officer and founder of Singapore], and all before that is of antiquarian interest.

... Today, the NAS as the corporate memory of the government is archiving a series of records that will, in similar fashion to the Straits Settlements Records, shape how a younger generation of historians reconstruct[s] Singapore's post-1965 history.

The archives' role in building Singapore's second national narrative can be seen in a 1997 quote from former Deputy Prime Minister Lee Hsien Loong (son of Lee Kuan Yew and currently prime minister) where he states:

We are not talking about an idealised legendary account or a founding myth [but rather] objective history, seen from a Singaporean standpoint. Not all the history books have been written, because hitherto many documents have been locked away in archives. But now, 30 years after our independence, the archives are starting to be opened, and the documents for this period are becoming available to historians. Progressively, a more complete picture will emerge. (Lee quoted in Loh 1998, p. 6)

In Singapore, archive-based state control of history not only exists at the National Archives itself, but also through multiple World War II "Interpretive Centres" created by the National Archives. These centers use archival documents as part of larger exhibitions on Singapore's wartime history. One center, "Reflection at Bukit Chandu," was designed by the National Archives to commemorate the Malay Regiment that defended Singapore during the war. Management of the center has shifted to the National Heritage Board since its founding, however, the National Archives was instrumental in its creation and still maintains the "Memories at Old Ford Factory" center. Part of the reasoning behind the building of these centers, as Donna Brunero explains, was to move the scope of the war away from one "between imperialists ... to that of local participation" (2006, p. 430). However, owing to the fact that the Malay Regiment at the time was part of the British army, "Reflection at Bukit Chandu" still has a "colonial viewpoint, as evidenced by the fact that information is sourced predominantly from British official documents" (Brunero 2006, p. 435). To create such centers without the use of British-created documents would be nearly impossible, and such is the case here. An attempt was made to tell the story from a local standpoint, but given the imperial nature of the war in Asia and the provenance of the records used in telling the story it is clear that this attempt was still channeled through a British lens. As with all government-sponsored historical projects, the Singapore interpretive centers are meant not only for thinking about the past, "but also for reflecting on present-day nationhood" (Brunero 2006, 436). Again we can see evidence of outside or dual state-sponsored history, where the current Singaporean government tells a certain narrative using archives created by the British colonial administration.

CONCLUSION

As shown, national archives can be a driving force in implanting a state-dictated narrative in the national consciousness through various means, both subtle and explicit. Despite this, national archives' doors are generally open to researchers who are free to draft a counter-narrative. Any opportunity, however, to write a counter-narrative depends on access to archives, learning how to read and understand these archives, and having a grasp of how the national archives function as a state apparatus. It is in understanding the archive that post-colonial societies have the ability to remove lingering restraints of a colonially imposed reading of history. I have shown examples of how this post-colonial counter-narrative can also be sponsored by the new state, but it is a fundamental concept regarding archives that can also be applied outside the state structure.

The ability to write counter-narratives is determined by how one "reads" the archive. Although there is a pull leading researchers to read "against the archival grain" to find the stories of the subaltern, Ann Stoler recommends reading "along the archival grain" first (2009, p. 50). This entails fully comprehending the content and context of, in the case of this chapter, those state authorities whose archives are held in national archives. Recognizing the role of the state within the archive and the role of the archive within the state is crucial to using the national archive in any significant way. Without it any attempt to dig deeper than what is on the surface of the archive will be stifled. Understanding the political and historical context of the archive and its collection gives the researcher the necessary tools to examine the records critically within an archive.

Knowing the structure of an archival institution and the context behind its creation can strengthen the work of historians. The cases in this chapter were meant to give examples of such context, visualizing how in post-colonial archives the state (which can mean either the former colonizer or the successor state) has a number of means to manipulate history through national archives. Whether it is the British government keeping colonial records out of the public eye or the National Archives of Singapore using its influence to affect school curriculum, the national archives can play a key part in the development of state-sponsored histories. The historian navigating such institutions must be aware of and acknowledge the archival situation—the sliver, gaps, whispers and other nuanced stories imparted through state control—and put themselves in the proper position to use optimally what is at their disposal.

NOTES

1. See: "About National Archives," <http://www.nlb.gov.sg/About/AboutNational-Archives.aspx>; "Vision, Mission & Objective National Archives Malaysia," <http://www.arkib.gov.my/en/web/guest/visi-misi-dan-objektif>; "National Archives of

the Netherlands,” <http://en.nationaalarchief.nl/>; “Our Role—The National Archives,” <http://www.nationalarchives.gov.uk/about/our-role/>.

2. Nationaal Archief, The Hague, Collectie 441 F.R.J. Verhoeven, 1921–1987, nummer toegang 2.21.281.04, inventarisnummer 30.

REFERENCES

- Allman, J. (2013) ‘Phantoms of the Archive. Kwame Nkrumah, a Nazi Pilot Named Hanna, and Contingencies of Postcolonial History-Writing’, *American Historical Review*, 118(1), 104–129.
- Anderson, D. M. (2011) ‘Mau Mau in the High Court and the “Lost” British Empire Archives. Colonial Conspiracy of Bureaucratic Bungle’, *The Journal of Imperial and Commonwealth History*, 39(5), 699–716.
- Ashcroft, B. (2009) *Caliban’s Voice. The Transformation of English in Post-Colonial Literatures* (London: Routledge).
- Badger, A. (2012) ‘Historian, a Legacy of Suspicion and the “Migrated Archives”’, *Small Wars & Insurgencies*, 23(4–5), 799–807.
- Barr, M. and Skrbiš, Z. (2008) *Constructing Singapore. Elitism, Ethnicity and the Nation-building Project* (Copenhagen: NIAS Press).
- Bastian, J. (2003) *Owning Memory. How A Caribbean Community Lost Its Archives and Found Its History* (Westport: Libraries Unlimited).
- Bastian, J. (2009) ‘Preserving Evidence, Constructing History. How Government Archives Sustain the Memory of the Nation’ in *Power of Collective Memories and Evidence: Proceedings of the International Conference on Records and Archives, 17–18 July 2008* (Singapore: National Archives Singapore).
- Berger, S. (2013) ‘The Role of National Archives in Constructing National Master Narratives in Europe’, *Archival Science*, 13(1), 1–22.
- Brunero, D. (2006) ‘Archives and Heritage in Singapore. The Development of “Reflections at Bukit Chandu”, a World War II Interpretive Centre’, *International Journal of Heritage Studies*, 12(5), 427–439.
- Cobain, I. (2013) ‘Foreign Office Hoarding 1 m Historic Files in Secret Archive’, 18 October. <http://www.theguardian.com/politics/2013/oct/18/foreign-office-historic-files-secret-archive>. Accessed 2 June 2016.
- Cobain, I. and Norton-Taylor, R. (2013) ‘Files that may shed light on colonial crimes still kept secret by UK’, *The Guardian*, 26 April. <http://www.theguardian.com/uk/2013/apr/26/national-archives-colonial-documents-secret>. Accessed 2 June 2016.
- De Groot, J. (2008) *Consuming History. Historians and Heritage in Contemporary Popular Culture* (London: Routledge).
- Elkins, C. (2011) ‘Alchemy of Evidence: Mau Mau, the British Empire, and the High Court of Justice’, *The Journal of Imperial and Commonwealth History*, 39(5), 731–748.
- Hampshire, E. (2013) “‘Apply the Flame More Searingly”. The Destruction and Migration of the Archives of British Colonial Administration. A Southeast Asia Case Study’, *The Journal of Imperial and Commonwealth History*, 41(2), 334–352.
- Harris, V. (2002) ‘The Archival Sliver. Power, Memory, and Archives in South Africa’, *Archival Science*, 2(1–2), 63–86.

- Heng, D. (2009) 'From Political Rhetoric to National History. Bi-Culturalism and Hybridisation in the Construction of Singapore's Historical Narrative', in D. Heng and S. M. K. Aljunied (eds) *Reframing Singapore. Memory, Identity, Trans-regionalism* (Amsterdam: Amsterdam University Press), pp. 21–38.
- Jeurgens, C. (2013) 'The Scent of the Digital Archive: Dilemmas with Archive Digitisation', *BMGN - Low Countries Historical Review*, 128(4), 30–54.
- Karabinos, M. (2015) 'The *Djogdja Documenten*. The Dutch-Indonesian Relationship Following Independence through an Archival Lens', *Information & Culture*, 50(3), 372–391.
- Kwa, Chong Guan (2009) 'Records and Archives. Power of Collective Memories and Evidence,' in *Power of Collective Memories and Evidence: Proceedings of the International Conference on Records and Archives, 17–18 July 2008* (Singapore: National Archives Singapore).
- Kwa, C. G. and Ho, C. T. (2012) 'Archives in the Making of Post-Colonial Singapore', in C. Jeurgens, T. Kappelhof and M. Karabinos (eds) *Colonial Legacy in South East Asia. The Dutch Archives*, (The Hague: Stichting Archiefpublicaties), pp. 125–150.
- Loh, K. S. (1998) 'Within the Singapore Story. The Use and Narrative of History in Singapore', *Crossroads: An Interdisciplinary Journal of Southeast Asia Studies*, 12(1), 1–21.
- Müller, P. (2013) 'Archives and History. Towards a History of the "Use of State Archives" in the 19th Century', *History of the Human Sciences*, 26(4), 27–49.
- Namhila, E. N. (2015) *Recordkeeping and Missing "Native Estate" Records in Namibia. An Investigation of Colonial Gaps in a Post-colonial National Archive* (PhD Dissertation, University of Tampere).
- Punzalan, R. (2006) 'Archives of the New Possession. Spanish Colonial Records and the American Creation of a "National" Archives for the Philippines', *Archival Science*, 6, 381–392.
- Stoler, A. (2009) *Along the Archival Grain. Epistemic Anxieties and Colonial Common Sense* (Princeton: Princeton University Press).
- Wareham, E. (2002) 'From Explorers to Evangelists. Archivists, Recordkeeping, and Remembering in the Pacific Islands', *Archival Science*, 2(1–2), 187–207.

The “Cleansing” of Croatian Libraries in the 1990s and Beyond or How (Not) to Discard the Yugoslav Past

Dora Komnenović

In a 1990 newspaper article, the Croatian journalist Jasmina Kuzmanović aptly described a frequent occurrence at that time in the streets of formerly socialist countries: “Similar scenes are appearing from Sofia to Riga, and probably even more to the East, the classics of Marxism and local theoreticians are being removed from library shelves and offices and sold for pennies ... Books and monuments, as the ideological furniture of the previous epoch, now have recycling or museums as options” (Kuzmanović 1990, pp. 37–38).¹ More than twenty years later, in his “Libricide: The Destruction of Books in Croatia in the 1990s” (*Knjigocid: Uništavanje knjiga u Hrvatskoj 1990.-ih*), Ante Lešaja estimated² that in the period between 1990 and 2010 approximately 2.8 million books were removed from Croatian libraries (Lešaja 2012, p. 280). As the author underlines, the removal of “unsuitable” (*nepodobne*) books was a systematic process justified with standard library procedures such as weeding and discarding, as well as a direct consequence of the “exclusionism” (*isključivost*) of the 1990s. The latter was principally directed towards the following categories: Tito’s Yugoslavia as a state community, socialism as ideology and practice, the National Liberation Struggle and antifascism (1941–1945), the Serbs as people (including the Croatian Serbs), the working people (i.e., the working class) and any type of disagreement with

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governmental policies (*Ivi*, p. 502). Before delving deeper into the matter, a short definition of weeding and discarding is required.

Weeding is an important factor in the development of a library collection and as such it complements the acquisition policy (Doll and Barron 2002, p. 59). It has to be carried out periodically, depending on the size of each library. Often called discarding³ (writing-off), reverse selection, deselection, pruning, retirement or relegation,⁴ the process consists in removing books and other materials from a library collection to another location that can range from a larger library to a storage site or a book sale (*ibid.*). There are many reasons for weeding that range from a lack of storage space and the existence of duplicate copies to physical damage or inaccuracy or obsolescence of information contained in the book. Ideally, the person who has the final say is the same person responsible for the development of the collection in a given area, but the decision can be sometimes subject to the authority of the library director or a board. Regardless of the decision-making body, weeding is a highly discretionary and subjective procedure that depends on the professional skills, experience and ideological convictions of the individual or board in charge of it.

Consequently, the “*libricide*” Lešaja refers to needs to be distinguished from the war-related destruction of libraries, archives, religious objects and cultural heritage in general in former Yugoslavia, which has been relatively well documented (e.g., Skender 1992; Aparac-Gazivoda and Katalenac 1993; Van der Hoeven and Van Albada 1996; Knuth 2003; Riedlmayer 2007). In fact, library “cleansing”⁵ has not been accorded the same scholarly attention, with the notable exception of the above-mentioned study and a special issue of *Prosvjeta*, the journal of the homonymous Serbian Cultural Society, which appeared in 2003.⁶

The present chapter departs from these two accounts and further analyzes the phenomenon by predominantly focusing on the Croatian state’s positioning vis-à-vis the removal of “unsuitable” books during the process of ethno-nationalization of previously shared, all-Yugoslav cultural spaces. A brief examination of statements and acts of governmental bodies tells volumes about the cultural climate of the early 1990s, epitomized by a two-day consultation organized by the Ministry of Reconstruction (*Ministarstvo obnove*) with the aim of initiating a “spiritual renewal” of the nation after the end of state socialism, an idea strongly backed by President Franjo Tuđman and the Catholic Church. Following a short scrutiny of the aforementioned, it is argued that the authorities made “discarding” possible due to the impunity reserved for “cleansers,” by installing “suitable” cadres in important positions, and in general by fostering “exclusionism” and anti-intellectualism. Last but not least, the text poses questions about the symbolic weight of discarding and the potential of the discarded twenty years later, as well as about the implications of its “normalization” and relegation to an unavoidable consequence of structural or sociopolitical changes.

CONTRIBUTIONS ON THE TOPIC OF BOOK DESTRUCTION

As mentioned in the introduction, the damage suffered by libraries during the Croatian War of Independence (1991–1995) was documented in a timely way. In 1992, the National and University Library in Zagreb published *Hrvatske knjižnice na meti: Vodič* ("Croatian Libraries on Target: A Guide"), a compendium of approximately 150 destroyed libraries in the besieged regions of Croatia in 1991–1992. A year later the Croatian Librarians' Association published a similar account, "Wounded Libraries in Croatia." A document compiled for UNESCO in 1996, "Memory of the World: Lost Memory-Libraries and Archives Destroyed in the Twentieth Century," also contains information about what has been referred to as "cultural cleansing" or even "culturecide" in former Yugoslavia. Furthermore, authors including Rebecca Knuth dedicated a chapter or section of their works to the region. *Libricide: The Regime Sponsored Destruction of Books and Libraries in the Twentieth Century* (2003) contains a chapter on Greater Serbia and the war-time destruction of mostly Bosnian-Herzegovinian cultural heritage, which is also one of the topics in Knuth's following book, *Burning Books and Leveling Libraries: Extremist Violence and Cultural Destruction* (2006). The list could go on with Lucien Polastron's *Books on Fire: The Destruction of Libraries Throughout History* (2007) or Fernando Baez's *A Universal History of the Destruction of Books: From Ancient Sumer to Modern-Day Iraq* (2008), and probably some more, such as Miriam Valencia's paper on "Libraries, Nationalism and Armed Conflict in the Twentieth Century" (2002). Last but not least, András Riedlmayer, author of various reports on cultural heritage destruction during the wars in former Yugoslavia, wrote "Crimes of War, Crimes of Peace: Destruction of Libraries During and After the Balkan Wars of the 1990s" (2007), an article in which he also briefly touched upon instances of library "cleansing" in Croatia and Bosnia.

Nevertheless, the only two accounts entirely devoted to "libricide" are the *Prosvjeta* magazine special issue on "Bibliocide-Culturecide: Where One Burns Books, One Will Soon Burn People," published in 2003 by the Serbian Cultural Society "Prosvjeta" (*Srpsko kulturno društvo Prosvjeta*) and Ante Lešaja's volume about the destruction of books in Croatia between 1990 and 2010, *Knjigocid. Uništavanje knjiga u Hrvatskoj 1990.-ih* (Libricide. The Destruction of Books in Croatia in the 1990s).

Lešaja's encyclopedic study is the result of a decade of research and it contains references to a number of newspaper articles, speeches, instructions and other proceedings that have appeared in the 1990s in connection with what the author calls "libricide" (*knjigocid*), or the systematic destruction of books. Although it focuses (solely) on Croatia, due to its meticulousness and completeness, Lešaja's work constitutes a valuable starting point for anyone interested in cultural heritage destruction in Croatia, the former Yugoslav area and broader. The term *knjigocid*, translatable as libricide, bibliocide or even bookicide was first used in the Croatian press by the political weekly *Feral*

Tribune in 1998 to describe the hasty removal of approximately 100–150⁷ Serbian books from the library in Korčula⁸ and their (inappropriate) disposal in a waste container (Lešaja 2012, p. 24). As Lešaja underlines, the removal of “unsuitable” (*nepodobne*) books was a systematic process justified with the standard library procedures of weeding and discarding, and is thus comparable to the deliberate dynamiting of anti-fascist monuments and later blaming the Serbs or strong wind for the action.⁹ The destruction of socialist monuments¹⁰ and the (ab)use of history textbooks have in fact already attracted some (scholarly) attention.¹¹ Lešaja argues that the “exclusionism” promoted during the “social overturn” (*društveni prevrat*) of the 1990s was nothing but an expression of the fundamental social conflict, a change in the economic system that allowed a very limited number of people to grow rich at the expense of a much wider population. The author estimates¹² that in the given period the collection of public, school and special libraries shrank by approximately 13.33% (*Ivi*, p. 280), which mostly affected books printed in Cyrillic, published in Serbia or written by a Serbian author, as well as those dealing with a “leftist” topic. Approximately 55% of the discarded books originated from elementary school libraries (*ibid.*).

The departing point of Lešaja’s research was the previously mentioned “Korčula case” (the removal of 100–150 Serbian books), which is the only instance of “libricide” that ended in the courtroom and received extended media coverage. The librarian responsible for the act in Korčula pressed charges for defamation against *Feral Tribune*, the philosopher Milan Kangrga (for the article, “*Hrvatski knjigocid. Barbarizam i renesansa*” (Croatian Libricide. Barbarism and Renaissance), published on March 30, 1998) and the journalist Igor Lasić, author of the article, “*Djevojčica sa žigicama*” (The Little Match Girl), dated March 1, 1999. Two lawsuits out of four were later withdrawn (the first one against *Feral Tribune* and Igor Lasić),¹³ but the episode constitutes a paradigmatic example of prosecution against the critics of libricide (*Ivi*, p. 404). Lešaja in fact devotes an entire chapter to the legal proceedings, showing that there was hardly an independent judiciary in 1990s Croatia (*Ivi*, pp. 383–413). As he argues, it was instrumentalized and used to serve the dominant nationalist platform; the frequent (mis)use of the category “emotional distress” (*duševna bol*) in lawsuits is a case in point (*Ivi*, p. 391).

Lešaja divides the public reactions to “bibliocide” into two groups: the mostly condemnatory stance taken by concerned citizens and journalists, and the relative (“provided that it happened”) or formal (nominal) condemnation of such acts by public institutions and professional associations (*Ivi*, p. 147). As he stresses, the Ministry of Culture reacted twice when the minister was Božo Biškupić (he served as minister of culture in three governments led by the center-right party Croatian Democratic Union-*Hrvatska demokratska zajednica*, that is, from 1995–2000, 2003–2009), and twice during the mandate of Antun Vujčić (who was minister from 2000–2003, in the government

led by the center-left Social-Democratic Party-*Socijaldemokratska partija Hrvatske*) with statements on the "Korčula case" (*Ivi*, pp. 147–148). Nevertheless, the letters of protest signed by various intellectuals remained unanswered. What characterizes both the attitude of the Ministry of Culture and professional associations such as the Croatian Library Association (*Hrvatsko knjižničarsko društvo*) and the Croatian Council for Libraries (*Hrvatsko knjižnično vijeće*) is the minimization of acts of "libricide" as sporadic, singular episodes; their relativizing by comparing them with the action of the "aggressor"; and partial justification by questioning the actual value of the discarded books.

To summarize, Lešaja stresses the persistence of such stances and a complete lack of assumption of responsibility (*Ivi*, p. 150). What is more, when a case of murky discarding was reported to have happened in Bugojno (Bosnia and Herzegovina) in 2005, the Ministry of Culture immediately condemned the "bibliocide" directed against Croatian books (*Ivi*, pp. 152–153). By the same token, when in 1993 a text about the situation in Croatia was published in the Slovenian daily *Delo*, a prompt reaction followed in the Croatian press,¹⁴ defending the country's role of victim of Serbian aggression, wishing to distance itself from the "barbaric practices" of their Eastern neighbors. Interestingly and not surprisingly, the appearance of Lešaja's book in 2012 aroused attention in the Serbian media. As much as former Yugoslav countries would like to distance themselves from one another, gloating over the "misdeeds" of a neighbor is often done in an all-Yugoslav frame of reference, with the purpose of cleaning up one's reputation and possibly relativizing one's own faults.

In a similar vein Rade Dragojević introduced the English language edition of the *Prosvjeta* magazine special issue on "Bibliocide-Culturecide: Where One Burns Books, One Will Soon Burn People" published in 2005 (the original appeared in 2003) by the Serbian Cultural Society "Prosvjeta" (*Srpsko kulturno društvo "Prosvjeta"*). The English-language version according to the author,

... was not due to malice, nor to damage the reputation of the country in which we live by airing its "dirty laundry" before foreigners. The reason ... lies in our desire to stress the unacceptable nature of bibliocide by internationalising the problem, and the fact that we are publishing in English only shows that our society is maturing and we are not afraid of outside assessments of shameful episodes from our recent past. (*Prosvjeta* vol. 12(37) n. 71 (681) 2005, pp. 4–5)

Apart from the introductory remarks by Dragojević, the issue includes a couple of articles written especially for the occasion by authors who have followed libricide in the 1990s such as Igor Lasić and Ante Lešaja, as well as reprints of articles published in anti-establishment papers such as *Feral Tribune*, *Novi List* and *Tjednik*. Finally, it includes a bibliography on "bibliocide as social pathology" prepared by Ante Lešaja (pp. 60–66).

Although in Lešaja's book the approach is predominantly scholarly and most claims are substantiated with proofs, *Bibliocide-Culturecide: Where One Burns Books, One Will Soon Burn People* is more journalistic in its style and it does not always offer references for the stated facts. Such an example is the Nazi-inspired exhibition of "degenerate art," or "objectionable literature" (*entartete Kunst*) allegedly organized somewhere in Croatia (*Prosvjeta*, vol. 12(37) n. 71 (681) 2005, p. 5), which most likely never took place.¹⁵ This and for instance the variations on the number of books removed on the island of Korčula reported by the media that went from 100–150 to 400–500,¹⁶ suggests caution with some data, but also points to the important role the media have in not only *mediating*, but also cocreating a particular story. Similarly, bibliocide was sometimes referred to as "book burning" in the media, probably metaphorically, but this might create confusion among (un)informed readers, as well as fuel hearsay.¹⁷ Nevertheless, both publications undoubtedly contributed to the examination of a largely unresearched phenomenon, but also to the analysis of contradictions and unlawful practices of some institutions in a country that sought to establish its international image as a Western democracy defending Christian values against "Byzantine despotism."

Following this brief analysis of the available literature, the focus is now on the factors that made murky discarding possible.

SPIRITUAL RENEWAL À LA CROATE

Dubravka Ugrešić wrote about the atmosphere in Croatia in a 1992 essay, *Čisti hrvatski zrak* (Clean Croatian Air)¹⁸: cans of *clean Croatian air* were sold on the streets of Zagreb, (national) hygiene was on the lips of prominent politicians, who in pure Croatian language boasted their pure Croatian blood and expressed their happiness for having clean, non-Serbian and non-Jewish-wives.¹⁹ According to the author "the newly established value system was based on the clean-dirty dichotomy" (Ugrešić 1999, p. 74), underpinned by the idea of "spiritual renewal" (*duhovna obnova*).²⁰

It is under this name that in June 1992 (the year of Croatia's international recognition and admittance to the United Nations) a two-day consultation organized by Rev. Anto Baković under the aegis of the Ministry of Reconstruction (*Ministarstvo obnove*)²¹ was held in Zagreb. The event gathered approximately 70 speakers, including academics, economists, ministers, religious and other prominent (public) figures. The conference proceedings were published in the volume *Duhovna obnova Hrvatske* (Spiritual Renewal of Croatia), sponsored by the Ministry of Science (*Ministarstvo znanosti*) (ed. by Baković 1992). As Baković writes in the foreword, the aim of the counseling was to "show our public, confused by certain journalists [who advanced their own interpretation of spiritual renewal], what spiritual renewal is and what it is not" (p. 6). In the words of the editor,

[T]he first task of a free and independent Croatia, following the liberation from foreign occupiers, was to work on societal and spiritual renewal. It was necessary to free our Croatian man from Communist totalitarianism, the illusion of Yugoslavism, the practice of Serbian theft, bribes and corruption, of the inherited Ottoman "*mañana*,"²² and from the newly established slavery towards Western European mammonism (p. 5).

The volume consists of five sections with a number of contributions each, addressing societal and moral renewal, the cultural, political and economic dimensions of spiritual renewal, as well as the spirituality of the Croatian people. It abounds with derogatory terms directed at Yugoslavia, socialism and the Serbs ("Yugo-hell", "Serbian theft" p. 5, "monstrous mixture" p. 11, "distorted negative perspective" p. 87, "political and spiritual terror" p. 122), and exclusionary patriotism ("History textbooks can only be written by those experts who possess a Croatian national identity" p. 121), but it also raises significant questions about the direction the newly independent Croatia should take. Most importantly, one of the speakers confronted the audience with the choice between continuity and discontinuity with the country's (socialist) legacy:

Whether we want it or not, like it or not, a smart young state first needs to take care of continuity, albeit momentarily and in organizational forms that principally do not seem appropriate, but they are here and are producing an instantaneous result. Not to destroy the remains of buildings that are still not that unstable to be torn down, but, conversely, to repair them and expand them. (pp. 100–101)

In the following years, the idea of spiritual renewal did not figure as prominently in the governmental agenda and was relegated to Church activities.²³ Nevertheless, the above-mentioned volume is an important indicator of the *Zeitgeist* and might be useful in understanding some other moves that are will be analyzed shortly. More specifically, the extent to which discarding and acquisition in libraries reflect sociopolitical changes and co-shape national narratives are examined is, as it refers to extent.

"IN THOSE TIMES..."

Even if libraries were not explicitly mentioned at the consultation, it was affirmed that "[E]ducation has an important role in the transmission of values and in the renewal of youth" (*Ivi*, pp. 122–130). In the same year (1992) two documents directed at school libraries were issued, using a similar wording to the one displayed at the consultation on spiritual renewal. A document for "internal use,"²⁴ the Instruction on the Procedure for Elementary School Libraries (*Naputak za rad sa knjižnicama osnovnih škola*), was signed by Veronika Čelić-Tica on behalf of a working group sponsored by the Institute

of Education of the Ministry of Education, Culture and Sport (*Zavod za školstvo Ministarstva prosvjete, kulture i športa*), the Development Service of the National and University Library (*Razvojna služba nacionalne i sveučilišne knjižnice*) and the Central Commission of Zagreb Libraries (*Matična služba Knjižnica grada Zagreba*). The Instruction, for example, asserted that school library inventories have to be stocked with books “exclusively by Croatian authors, with books written in the Croatian literary language using the Latin script” and that school library inventories must not contain “ideologically tainted literature” (*Prosvjeta*, vol. 12(37) n. 71 (681) 2005, pp. 4–5, 8, 24, 28–29; Lešaja 2012, pp. 106–116). Although public libraries fall under the jurisdiction of the Ministry of Culture, school and scientific libraries are a responsibility of the Ministry of Science and Education (*Ministarstvo znanosti i obrazovanja*²⁵; Stričević and Pehar 2015, p. 679). The document was followed by the “Binding Instruction on the Usage of School Library Book Inventories” (*Obvezatni naputak o korištenju knjižnog fonda u školskim bibliotekama*), signed by the Minister of Education, Culture and Sport, Vesna Girardi-Jurkić. The Binding Instruction required the introduction of “Literature for the needs of religious culture and religious instruction in schools” and advised that the “Ideological literature from the past system that provides its own interpretation of historical truth may be placed in a special collection in adequate numbers as testimony to a specific period, while the remainder, in compliance with library regulations, should be offered to an appropriate library that preserves such collections, etc.” (ibid.).

Considering that the inventories of school libraries mostly consist of volumes that are assigned readings defined by the curricula, it is interesting to observe what happened with those in the same period. Marijana Hameršak argues that compulsory reading lists outlined in school curricula do not always reflect ideological and political changes as much as they do the developments in the publishing industry (Hameršak 2006, pp. 104–105). For instance, in the curriculum for the years 1991–1993, the list for elementary schools included for the first time books with a religious background²⁶ and it excluded literary works that thematized the World War II partisan struggle or the socialist experience.²⁷ Nevertheless, it still included works that are part of the national corpora of the other (former) Yugoslav republics.²⁸ On the other hand, these titles have not been reprinted or republished in the given period, which indicates that they have not been used in practice (ibid.). In order to gain a clearer picture of what actually happens on the ground, more parameters, both formal and informal, should be taken into account. Almost a decade later, Girardi-Jurkić stated about the Binding Instructions that “[I]n those times this was the ‘mildest’ one could sign, considering the amount of pressure she was exposed to” (Lasić 2015, n.p.). It is extremely hard to establish whether there were other, similar, internal or even oral instructions, as some people who worked in education in the given period claim.²⁹

When it comes to public libraries, in 1997 the Finance Minister, Borislav Škegro, issued the following statement: "[T]he government will introduce measures for inciting the publishing that the Croatian state needs. For instance, public libraries will be financed to remove books in Serbian and similar languages, or those with inappropriate and obsolete translations" (*Novi list*, November 27 1997).³⁰ More space on the library shelves was required not only for newly published volumes that in Škegro's words "the Croatian state needs," but also those that were kept in "closed funds" during socialist Yugoslavia. As Željko Vegh writes, the following volumes were kept in closed funds, generally unavailable to library users: books not in line with the communist ideology, those representing the USSR in a bad light, authors that were writing against leftists, books by ustashe, chetniks and other enemies, as well as books dealing with religious topics (Vegh 2015, p. 28). Quoting Stipčević, he underlines the removal of books during socialist Yugoslavia was done at the discretion of each librarian and local authorities. For example, in the Zagreb City Library, 2800 titles were relegated to the closed fund (*Ivi*, p. 27). Similarly, in the National and University library (*Nacionalna i sveučilišna knjižnica NSK*) émigré literature was kept in the so-called D-fund (the Director's Fund), available only to researchers upon request. The collection was shown to the public for the first time in 1989 in an exhibition; it is today part of the Foreign Croatica Collection (*inozemna Croatica*) and available to the users in its entirety. A considerate part of the collection was donated to the NSK by Croatian émigrés, including Vinko Nikolić, a former Ustasha-official in the Nazi-puppet Independent State of Croatia (1941–1945), who, like many others, returned to Croatia in the early 1990s and occupied important (governmental) positions.

IN THESE TIMES... (IN LIEU OF CONCLUSIONS)

Since antiquity, the destruction of monuments and books was seen as the killing of the memory of a person, a culture, a collective. Throwing away books in Cyrillic or shredding 40,000 copies of the *Encyclopedia of Yugoslavia*³¹ symbolically corresponds to the elimination of the memory of socialism, Yugoslavia and the Serbs, who used to constitute around 12% of the population of Croatia,³² but also served as a warning to the "Yugo-Communist remnants selling themselves for a handful of Judas'coins" not to plot with multicolored devils against Croatia's freedom and independence.³³ The author of this utterance is himself a former communist turned nationalist, Franjo Tuđman, whose books, that is, the ones that celebrated Tito, the socialist revolution and the National Liberation Struggle were, as Stipe Šuvar claims, removed from public libraries in order to erase this part of his past (Šuvar 2003, p. 130). History writing, as well as library revision necessarily includes selectivity, which is dictated more by particular interests rather than structural changes such as the informatization of library catalogues or the

increase in the number of publishing houses and volumes after the dissolution of Yugoslavia. As shown in this chapter, the “young state” of Croatia’s answer to the perennial dilemma between change and preservation, continuity and discontinuity, tearing down and (re)building, which resurfaces in times of crisis and uncertainty, was to privilege discarding. Even if the issue was, for instance, addressed at the consultation on “spiritual renewal” and thus subject to debate, the direction taken is today presented as necessary and inevitable.

As a symbolical representation of the past that has been rejected in the name of promises for a better future, discarded books are regaining currency as it becomes clear that these promises have been broken. In other words, twenty five years after the end of state socialism in Europe, despite the nominal incompleteness of transition, former socialist countries are entirely integrated into the capitalist world in a semi-peripheral role, and their impoverished citizens feel excluded from the decision-making process (Horvat and Štiks 2012, n. p.).

It is within this context that in June 2015 the nonprofit association Multimedia Institute (*Multimedijalni institut MI2*) launched, in cooperation with the curatorial collective WHW (What, How & for Whom), an open call for the collection and scanning of books that were removed from Croatian libraries in the 1990s, based on Ante Lešaja’s “typology of exclusionism.” In the wake of the exhibition action “Discarded. On the Occasion of the 20th Anniversary of Operation ‘Storm’” (*Otpisane, povodom 20. godišnjice Oluje*) 173 volumes were scanned and uploaded to the Web page www.otpisane.org. Between June 18 and July 13 around 600 people visited the exhibition in Nova Gallery in Zagreb, and approximately 18–20 visitors brought books for scanning.³⁴ The action also included four performances by prominent Croatian artists: Siniša Labrović, Božena Končić-Badurina, Antonio Grgić and Luiza Margan.³⁵ By focusing on the destruction of books, the exhibition curators wanted to address the wider context, preceding or following operation Storm³⁶ in which the simultaneous destruction of monuments, houses and the killing of people were made possible, both inside and outside the war zones. In addition to being an attempt at rescuing the discarded books from oblivion, the exhibition action was an invitation to reflect critically on the direction that was taken 25 years ago. As such, it raised the issue of the (in)evitability of war (whether a defense or a civil one, or both), the status of the victims and the refugees, the challenges of post-conflict and post-socialist transformation, ethno-nationalism, the writing of history, competing narratives etc. The program was supported by the Zagreb City Office for Education, Culture and Sports (*Gradski ured za obrazovanje, kulturu i sport*) and the Ministry of Culture, in the framework of the long-lasting support accorded to the curatorial collective What, How & for Whom and the events it organized in Nova Gallery.

Even if the impact of actions like this one might be limited, their symbolic importance is considerable and comparable to getting the metaphorical foot in the door. The above-mentioned exhibition certainly cannot (and did not aspire to) bring back all the monuments, books and edifices that fell victim to the war and sociopolitical change, but it can act against "the normalization of scandal"³⁷ by exposing the cracks in the national narrative and serving as a reminder that on the same shelves and pedestals something else used to stand.

NOTES

1. All translations from Bosnian–Croatian–Serbian are my own, unless otherwise indicated.
2. Lešaja's estimations are based on the total number of volumes in Croatian libraries and their oscillation over the years, as recorded by the Croatian Bureau of Statistics (*Državni zavod za statistiku*). As the author elaborates on pages 273–283, acquisition and discarding statistics should also be kept by the National and University Library and made publicly available, but he was not able to acquire such data, despite a vast correspondence with this institution. As I was told on the phone by an employee of the Croatian Institute for Librarianship at the National and University Library, chances are low that the data on acquisition and discarding in public and school libraries for the period 1990–2000 is still available in its archive (if it ever was, given the circumstances during the war) and it is normally kept for not longer than 10 years.
3. Even if they are sometimes used interchangeably, weeding and discarding are not synonyms, because weeding can also involve storing, that is, keeping the material at a second level of access usually not open to the public. Consequently, when a book is weeded it is still property of the library, whereas after it is discarded and marked with an appropriate seal, it no longer belongs to it.
4. Because these are mostly terms with a negative connotation, there is a tendency to use more proactive expressions such as collection renewal or collection reevaluation.
5. Although the word "libricide" echoes genocide and has been used to denote publicized acts of violent book destruction throughout history, from Alexandria to present-day Iraq, "cleansing" resonates with ethnic cleansing that accompanied the wars of Yugoslav succession, and it featured prominently in the (political) vocabulary of the 1990s, as shown later in the text. In this chapter, I use the term "libricide" (including its synonyms such as "bookicide" or "bibliocide") and "cleansing" interchangeably.
6. It was originally published in Bosnian–Croatian–Serbian, and an English version followed in 2005.
7. I am referring to the number cited by Igor Lasić, but in the press the number sometimes rose to 400–500 (see, for instance, *Novi list*, March 30, May 10 or September 10, 1999).
8. A retired university professor and amateur librarian, Lešaja took part in the revitalization and development of this library in his native Korčula in the late 1980s.

9. Here I am referring to the Monument to the Victory of the People of Slavonia (*Spomenik pobjedi naroda Slavonije*) by Vojin Bakić, unveiled in 1968 in Kamenska and dynamited by the Croatian army in 1992. The responsibility for the act was attributed first to the Serbs and then to a strong wind. For more information, see Lešaja (2012), p. 48 and the documentary by Bogdan Žižić, *Damnatio memoriae ili Udar na sjećanje* (2001), HRT, 60'.
10. During the 1990s, partisan monuments (between 1945 and 1990 approximately 6000 had been erected in cities and villages throughout Croatia) were often destroyed, as they went from being "a symbol of victory over fascism (...) to a symbol of failed communist dictatorship" (Radonić 2012, n.p.). More precisely, "2964 have been demolished, damaged or removed, out of which 731 are monuments and other memorials of high artistic and cultural-historical value" (Hrženjak 2002, xii).
11. See, for instance, Najbar-Agičić and Agičić (2007), as well as the vast research conducted by the Georg Eckert Institute for International Textbook Research, or the Joint History Project Sponsored by the Centre for Democracy and Reconciliation in Southeast Europe (CDRSEE). The destruction of anti-fascist monuments and memorials has been analyzed in the previously mentioned documentary film by Bogdan Žižić *Udar na sjećanje/Damnatio memoriae* (2001), Hrženjak ed. (2002), Burghardt and Kirn (2013), etc.
12. See Footnote 2.
13. Kangrga was first found guilty, but the lawsuit against him was finally dismissed in 2002. For a detailed chronology of the process, see also *Kulturocid. Sudski proces protiv Milana Kangrga*, (Culturecide. The Court Case against Milan Kangrga), a text by Lešaja published in *Republika*, n. 490–491, 2010.
14. The text was written by Nikica Mihaljević and published in three parts in *Delo* on January 7, 14 and 21, 1993. The reactions were soon published in *Večernji list* (January 26 and February 7, 1993), signed by D. Derk and B. Donat, and *Vjesnik* (January 30 and March 6, 1993), in texts written by D. Brdarić and T. Sabljak, respectively. For a more detailed analysis, see Lešaja (2012), pp. 162–166.
15. Because I was not able to find any information about the alleged exhibition, I turned to the author of the article in *Prosvjeta* where it was first mentioned. He was not able to substantiate this claim with proofs.
16. See Footnote 7.
17. Lešaja, for instance, writes he was informed about the burning of books in front of a school in Slavonska Požega, but the informer asked for discretion (p. 159).
18. First published in German as *Der Saubere Kroatische Luft* on October 23 1992 in "Die Zeit," followed by the English version "The Dirty Tirany of Mr. Clean" on December 5th of the same year. The Croatian text was later published in the collection of essays *Kultura laži* (Culture of Lies) in 1996. On May 30, 2015 the text reappeared on Peščanik. Online: <http://pescanik.net/esej-koji-putuje-vec-pune-23-godine/>.
19. The reference here is to an often-quoted statement by Franjo Tuđman at a pre-electoral gathering of the Croatian Democratic Union (HDZ- Hrvatska

- demokratska zajednica) in April 1990, as reported on the Lupiga Web portal: <http://www.lupiga.com/vijesti/tako-je-govorio-franjo-tudjman>. Last Accessed on 2 February 2017. In her essay, Ugrešić also cites the intellectual V.G., who once stated he liked "clean" women and of another public figure, who declared it was "common knowledge that for 300 years there was no byzantine blood in his/her family" (Ugrešić 1996, p. 74).
20. For Ugrešić's views on the "cleansing" of Croatian culture today and the persistence of the idea of "spiritual renewal," see the interviews given to the portal *Novosti* on June 13, 2016: <http://www.portalnovosti.com/dubravka-ugrei-hrvatska-po-modelu-ndh> and *Peščanik* on July 13, 2016: <http://pescanik.net/dubravka-ugresic-intervju-6/>. Last Accessed on 30 January 2017.
 21. The Ministry of Reconstruction was instituted during the Government of National Unity (*Vlada nacionalnog jedinstva*) led by Franjo Gregorić from July 1991 to August 1992. Slavko Degoricija was named minister on December 31, 1991 and held the post until August 1992. The Ministry consisted of seven Committees, one of which was the Committee for Demographic and Spiritual Renewal (*Odjel za demografsku i duhovnu obnovu*), led by the priest Anto Baković.
 22. I replaced Baković's expression "lahko" čemo- sutra čemo' (we will do it easily-tomorrow) with what seems to be a more appropriate term in the English language.
 23. For a more detailed analysis of the consultation and the edited volume, see Lešaja 2012, pp. 504–528.
 24. Lešaja in fact writes that the text was not published in Croatia until 2000, in an article by Rade Dragojević "Disanje latinicom" (*Breathing in Latin Script*), *Feral Tribune*, April 22, 2000. It had, however, been published in Slovenia in August 1992 in *Knjižničarske novice* 2 (1992) n. 8 (Lešaja 2012, pp. 106–107).
 25. Between 1990 and 1995 culture and education pertained to the same Ministry, the Ministry of Culture and Education (*Ministarstvo kulture i prosvjete*), between 1990–1993 named the Ministry of Education, Culture and Sport (*Ministarstvo prosvjete, kulture i športa*).
 26. The author quotes two titles: *Dijete je rođeno* by Jindra Čapek and *Bor koji je ostao neokičen* by Ruth Hagen-Torn (p. 104).
 27. Compared to the 1989 curriculum, the following works did not figure in the period 1991–1993: *Ja sam pionir* by Emil Paravina and Josip Bifel, France Bevk's *Priče o Titu*, *Priče partizanke* by Branko Ćopić, *Kurir s Psunja* written by GabroVidović and, finally, *Pirgo and Mali konjovodac* by Anđelka Martić (p. 105).
 28. *Ježeva kućica* by Branko Ćopić, *Tko je Videku napravio košuljicu* by Fran Levstik, *Ledena gora* by Ahmet Hromadžić, Vehbi Kikaj's *Iz priče u priču*, *Bijeli dvori*, *Bijelo ciganče* by Vidoe Podgorec, *Družina Sinjega galeba* by Tone Seliškar, *Orlovi rano lete* by Branko Ćopić, *Plavi čuperak* by Miroslav Antić, Branislav Nušić's *Autobiografija* and a poetry selection from South Slavic literature *Svjetiljka snova* (ibid.).
 29. Informal conversation with schoolteachers and acquaintances.
 30. Another statement that is often cited as indicative of the anti-intellectualism of the 1990s is "How much for a kilo of brain? 2.5 DM for a kilo," issued by the

- Keeper of the State Seal, Ivan Milas. In Zlatar, A. (2001), 'Kultura u tranzicijskom periodu u Hrvatskoj', in *Reč* n. 61/7, pp. 59–74, 66.
31. As done by the director of the Institute of Lexicography, Dalibor Brozović.
 32. In 2001, the number dropped to 4.54%, and in 2011 to 4.36%. Source: Croatian Bureau of Statistics (*Državni zavod za statistiku*): <http://www.dzs.hr/default.htm>. Last Accessed on 2 February 2017.
 33. Franjo Tuđman used this expression in a famous speech given on November 26, 1996 at the Zagreb airport. He was referring to the "foreign mercenaries" that were receiving help from foreign organizations, the George Soros' Open Society Foundation among others. This was an open reference to the fact that *Feral Tribune*, one of the rare independent newspapers at the time, was receiving funding from the previously mentioned organization. The speech (in Croatian) can be viewed at <http://www.youtube.com/watch?v=AqbJOVIEzng>. Last Accessed on 2 February 2017.
 34. The numbers were communicated to me by the organizers and are purely indicative and approximate.
 35. I have analyzed the exhibition in more detail in the article "Discarded Legacies as Vehicles for Alternative Engagement," working title which is expected to be published in an edited volume on Balkan legacies in 2018.
 36. Operation Storm (*Oluja*) was one of the last major battles in the Croatian war for independence (1991–1995). Launched on August 4, 1995 to restore Croatian control over a large part of territory, it provided the setting for various crimes against civilians. It also forced most of the remaining Serbian population to flee the country.
 37. More about the intentions of the organizers can be read at: <https://www.otpisane.org>. Last Accessed on 2 February 2017.

REFERENCES

- Aparac-Gazivoda, T. and Katalenac, D. (eds.) (1993) *Wounded Libraries in Croatia* (Zagreb: Croatian Library Association).
- Bácz, F. (2008) *A Universal History of the Destruction of Books. From Ancient Sumer to Modern-Day Iraq* (New York: Atlas & Co.).
- Baković, A. (ed.) (1992) *Duhovna obnova Hrvatske. Zbornik radova sa savjetovanja održanog u Zagrebu 11. i 12. Lipnja 1992*. [The Spiritual Renewal of Croatia. Proceedings of the consultation held in Zagreb on June 11 and 12, 1992] (Zagreb: Vlada Republike Hrvatske, Agencija za obnovu).
- Burghardt, R. and Kirn, G. (2013) 'Yugoslavian Partisan Memorials. Between Memorial Genre, Revolutionary Aesthetics and Ideological Recuperation', *Manifesta Journal around curatorial practices*, 16 ('Of Regret and Other Back Pages') <http://www.manifestajournal.org/sites/default/files/issues-pdf/mj16-regret-and-other-back-pages/MJ-16-screen.pdf>. Accessed on 2 February 2017.
- Delo*, January 7, 14 and 21, 1993.
- Doll, C. and Baron, P. P. (2002) *Managing and Analyzing Your Collection. A Practical Guide for Small Libraries and School Media Centres* (American Library Association).
- Feral Tribune*, April 22, 2000, March 30, 1998 and March 1, 1999.

- Hameršak, M. (2006) 'Osnovnoškolska lektira između kanona i propisa, institucija i ideologija' [Elementary School Assigned Reading between the Canon and Lists, Institutions and Ideology], *Nar. Umj.* 43(2), 95–113.
- Hrženjak, J. (ed.) (2002) *Rušenje antifašističkih spomenika u Hrvatskoj 1990–2000* [The Destruction of Anti-Fascist Monuments in Croatia 1990–2000] (Zagreb: Saba RH).
- Interviews with Dubravka Ugrešić: <http://www.portalnovosti.com/dubravka-ugrešić-hrvatska-po-modelu-ndh> and <http://pescanik.net/dubravka-ugresic-intervju-6/>. Accessed on 30 January 2017.
- Knuth, R. (2003) *Libricide. The Regime Sponsored Destruction of Books and Libraries in the Twentieth Century* (Westport: Praeger).
- Knuth, R. (2006) *Burning Books and Leveling Libraries. Extremist Violence and Cultural Destruction* (Greenwood Publishing Group).
- Kuzmanović, J. (1990) 'Epoha na smetlišu' [Epoch in the junkyard], *Danas*, 4, 37–38.
- Lasić, I. (2015) 'Sjećanje na "otpis". Uništavanje knjiga devedesetih', *Bilten*, 30 June. <http://www.bilten.org/?p=7977>. Accessed on 2 February 2017.
- Lešaja, A. (2010) 'Kulturocid. Sudski process protiv Milana Kangrga' [Culturecide. The Court Case against Milan Kangrga], *Republika*, n. 490–491: <http://www.republika.co.rs/490-491/23.html>. Accessed on 2 February 2017.
- Lešaja, A. (2012) *Knjigocid. Uništavanje knjiga u Hrvatskoj 1990-ih* (Zagreb: Profil & SNV).
- Najbar-Agičić, M. and Agičić, D. (2007) 'The Use and Misuse of History Teaching in 1900s Croatia', in S. P. Ramet and D. Matić (eds.) *Democratic Transition in Croatia. Value Transformation, Education* (Texas: Media, A&M University Press).
- Novi list*, November 27, 1997, March 30, May 10 and September 10, 1999 issue.
- Polastron, L. (2007) *Books on Fire. the Destruction of Libraries throughout History* (Rochester: Inner Traditions).
- Prosjeta* vol. 12(37), n. 71 (681), Special English Language Edition Bibliocide- Culturecide. Where one burns books, one will soon burn people. November 2005.
- Radonić, Lj. (2012) 'Standards of Evasion. Croatia and the "Europeanization of memory"': <http://www.eurozine.com/articles/2012-04-06-radonic-en.html>. Accessed on 2 February 2017.
- Riedlmayer, A. J. (2007) 'Crimes of War, Crimes of Peace. Destruction of Libraries during and after the Balkan Wars of the 1990s', *Library Trends*, 56(1), 107–132.
- Skender, D. (ed.) (1992) *Hrvatske knjižnice na meti. Vodič* [Croatian Libraries on Target. Guide] (Zagreb: National and University Library).
- Stričević, I. and Pehar, F. (2015) 'Libraries in Croatia. Developments and Trends in the Postsocialist Period', *Library Trends*, 63(4), 675–696.
- Šušar, S. (2003) *Hrvatski karusel-prilozi političkoj sociologiji hrvatskog društva* (Zagreb: Razlog).
- Tudman, F. (1996) Speech delivered at Zagreb Airport on November 26, 1996. <http://www.youtube.com/watch?v=AqBJOVIEzng>.
- Udar na sjećanje/Damnatio memoriae* (2001), Documentary film by Bogdan Žižić, 46 min.
- Ugrešić, D. (1996) *Kultura laži. Antipolitički eseji* [The Culture of Lies. Antipolitical Essays] (Zagreb: Arkzin).

- Ugrešić, D. (2015) 'Esej koji putuje već pune 23 godine' (An Essay that has been travelling for 23 years): <http://pescanik.net/esej-koji-putuje-vec-pune-23-godine/>. Last Accessed on 2 February 2017.
- Valencia, M. (2002) 'Libraries, Nationalism, and Armed Conflict in the Twentieth Century', *Libri*, 52(1), 1–15.
- Van der Hoeven, H. and van Albada, J. (1996) *Memory of the World. Lost Memory. Libraries and Archives Destroyed in the Twentieth Century* (Paris: UNESCO).
- Večernji list*, January 26 and February 7, 1993.
- Vegh, Ž. (2015) 'Sudbina hrvatskih knjiga kršćanske tematike i nadahnuća u Gradskoj knjižnici u Zagrebu za vrijeme komunizma' [The Fate of Christian Themed and Inspired Croatian Books at the Zagreb City Library During the Communist Era], *Kroatologija* 6(1–2), 27–93.
- Vjesnik*, January 30 and March 6, 1993.
- Zlatar, A. (2001) 'Kultura u tranzicijskom periodu u Hrvatskoj', *Reč*, 61(7), 59–74. www.otpisane.org[http://www.lupiga.com/vijesti/tako-je-govorio-franjo-tudjman-](http://www.lupiga.com/vijesti/tako-je-govorio-franjo-tudjman)<http://www.dzs.hr/default.htm>.

PART III

Research Institutes and Policies

State Authority and Historical Research: Institutional Settings and Trends Since 1945

Lutz Raphael

A look at the institutional settings for historical research in the present world confronts us with myriad private and public institutions—archives, libraries and research institutes—often highly specialized and serving the interests of a rather small clientele of experts or specialists. In many democratic countries, a kind of official pluralism exists that has given birth to a specific kind of historical institute managed and financed by political parties, NGOs, private associations or religious organizations and all bound more or less strictly to partisanship and a particular world view, ideology or religious belief. Many of them are legally instituted as foundations. This pluralism is particularly strong in the field of contemporary history, everywhere the quintessentially political element of public history (Raphael 2012). But whatever the exact context, in general terms the state still remains everywhere the most important single player in this new landscape of public history as it runs universities and research institutes and (co)finances research commissions and foundations. This privileged fiscal and legal status of state-sponsored history has survived from periods where the past was more or less regarded as the quasi-exclusive property of the state and a small scholarly elite of often state-funded historians at its service.

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THE HISTORICAL KNOWLEDGE/STATE POWER NEXUS: A MODEL

Among critical scholars of contemporary historiography it is a kind of trivial truth that the modern profession of history and state power have a closely entangled history (Berger 2007; Lönneroth et al. 1994; Berger and Lorenz 2010; Berger and Conrad 2015). According to the most radical version of post-modern and post-colonial theory the academic setting itself is structurally prone to a kind of distorted view of the past and any critical perspective of the past has to shift away from this “scientist” authoritarian model (Chakrabarty 2000; White 2005). This critical argument aims its arrows at the forms in which the results of modern historical research are presented or narrated but they tend to overlook the contradictory effects that the institutionalization of modern historical research had on the relationship between political authority and historiography. The critical production of “facts” and “documents”; the rules governing the production of professional narratives on the past; the categorization and selection of “sources”; and the making of an academic profession with particular skills, knowledge and ethos are vital elements of the whole process one may call “modern history production.” What kind of documents are selected, what methods of investigations are used and what kind of truth model is critical for the selection of all the information gathered during the scholarly work by historians is not the mere outcome of master narratives or tropes of historiography. What differentiates professional historiography from other forms of history production (amateur history, family memory, religious commemoration) is that scholarly research is constantly being linked to critical reflection on the forms of presentation of the past, sometimes with unpredictable results. As a result, master narratives are not taken for granted and may become a subject for revision.

This model of history production is socially embedded in strong patterns of professionalism historically built over a long period in institutional settings regulating the space of historical research in universities, academies and many other institutions of research or higher learning. These institutions are not neutral in relation to the output of scholarly history writing and it is worthwhile to have a closer look at the ways in which state authority and historical research are linked and how political authorities tried to use these intellectual resources of modern historical scholarship as a tool for political legitimation and mobilization (Raphael 1996). When history was created as a discipline (as a collective unit of scholarly investigation and reports on the past with their own standards, habitus and forms of communication) this collective unit tended to demand the symbolic power of certification and authorization of any historical narrative. There never existed any academic monopoly on the representation of the past but the institutions of higher learning created a hierarchy of knowledge production that could not be ignored by the political field and state authority. Censorship, imprisonment or killing of critical historians are forms of intervention still used by state power to silence critical views of the past but they generally do not succeed in profoundly changing

the structural setting of the production of historical knowledge and the central position of institutions of higher learning in it (see Chap. 2 by Antoon De Baets in this volume). States, or political authority in general, developed more sophisticated ways of regulating their relationship to historical knowledge and these are the subject of the following overview.

The level of intellectual and institutional autonomy granted to historical research at a given moment is a useful yardstick both normatively and analytically. This norm of intellectual and institutional autonomy itself is a result of liberal constitutionalism starting in Europe in the eighteenth century. It was further strengthened by the spread of democratic rules for academic institutions. It culminated in an informal rule of noninterventionism for private or public sponsors of scholarship. Therefore we may describe this specific case of the relation between knowledge and power a form of “structural dependency.” Analytically it helps to differentiate between institutional settings granting that kind of autonomy/dependency and forms of direct political interventionism. Therefore a realistic approach has to start from a perspective that conceives of public authority and modern history as often connected by common interests and some kind of intellectual and social consensus. The modern state and modern historiography have engaged in a continuous partnership that allowed both sides to grow and to impose their own social credibility. This is true for almost all modern political regimes, liberal, democratic, communist, fascist or right-wing-authoritarian.

In today’s world, the map of modern professional history production is more or less global as the spread of modern education and science has led to the worldwide exportation of European institutions of higher learning (mainly universities). These institutions had to be adapted to very different regional or local situations and in that process the traditionally strong links between historiography and state power have been rearranged (outside Europe the cases of China, Japan or the Islamic world). Therefore the following overview tries to take into account this global perspective but it is in a certain way biased by very different levels of geographical expertise.¹ Europe, North America and parts of Asia are much better known in detail than the Latin American, African or Arabic countries when it comes to these institutional arrangements.

TRADITIONS: TWO TYPES OF INSTITUTIONAL SETTINGS FOR HISTORICAL RESEARCH INSTITUTIONS

Historical research as a well-defined aspect of professional historiography is framed by a set of institutional settings (archives, libraries, seminars, journals, university courses). These institutional settings are the product of a global evolution starting in Europe around 1800. They have conquered the last ramparts of other forms of representing the past only after the Second World War, when the so-called “people without history” were integrated into this

setting (Iggers et al. 2008; Raphael 2003; Woolf 2011, pp. 281–508). The great variety of national solutions to how to regulate historical research as a professional activity is informed by two major models that were established during the long nineteenth century in Europe and that spread worldwide. One model may be called “state-centered” and the other “liberal-societal.”

In the case of the “state-centered” model the state is the main or even the only source of financing historical research. Tax money has been spent to build archives and research libraries, to keep universities running and to establish history chairs. In this model, public financing has also been central for the progress of larger research projects seen as having national or state importance: source editions of documents of the nation’s or state’s past, prestigious editions of ancient sources concerning, for example, the Greco-Roman “cradle” of European civilization or other topics of high symbolic value and cultural prestige.

In all these cases, historians were doing their research as state employees or functionaries. State authorities disposed of deposits of documents inherited from early modern, medieval or ancient political authorities—kings, princes, collective bodies of government—and when transforming them into state archives reluctantly made them accessible to professional historians (and not yet to every citizen/subject). In this model, the structural dependency of history production and state administration is at least threefold. First, archives and libraries have been publicly financed and governed as part of the state administration, their staff becoming important gatekeepers for state authorities in front of scholarly or public curiosities menacing the “*arcana imperii*” (Verschaffel 2012). Second, universities and royal or other academies of science were equally public institutions and the history professors, together with their colleagues from the other disciplines, formed a separate corps inside the higher ranks of the civil service (Moretti 2012). Throughout Europe in the late eighteenth and first half of the nineteenth century, universities were reformed and transformed into state institutions whose personnel was on the payroll of the state and were nominated by ministries, but with the institutional participation of the academic community. Therefore the “autonomy” and “freedom of research” granted by constitutional right or statute law was merely a counterpart of a very direct dependency of the historians on state authority.

The third element of this state-centered model is the state’s financing and ordering of research products via public source editions, handbooks and other publications often administered by research institutes not directly linked to universities (in the form of historical commissions, sections of national academies etc.) (Saxer 2012).

The Russian example is best to illustrate the authoritarian leanings of this state-centered model. Since the early nineteenth century, the tsarist state engaged in the building of institutions for professional historiography. The tsarist state reorganized its own ministries’ archives, created chairs of history

at the state universities of Kazan, Moscow and St. Petersburg, edited series of old legal documents (1830 “Complete Code of Laws of the Russian Empire”) and in 1836 created the first Archaeographic Commission in order to collect documents on the past of every territory of the Russian empire. Until the end of the tsarist empire, Russian professional history was subjected to strict political control but was nevertheless very productive in rewriting different versions of a state-centered historiography (Antoshchenko 2010; Mazour 1975; Bohn 1998). The Russian example is a very instructive one because it shows that dynastic or imperial authority is often more vital to the creation of these institutional settings than the nation-state model of the modern power/knowledge nexus suggests. In many parts of Europe and Asia the princely states and ruling dynasties, confronted with new political demands of a liberal and national public, invested in professional historiography as the best way to legitimate their own power and support conservatism against the risks of revolution and reform. Dynastic states like Prussia, Bavaria or Austria sponsored the new discipline and its professional activities (e.g., 1854: *Institut für Österreichische Geschichtsforschung*; 1858: *Historische Kommission bei der bayerischen Akademie der Wissenschaften*). When Japan’s political class started to reform its country after 1867 following the Western model it invested in adapting traditional Japanese historiography to the new standards and to refashion a highly state-centered model (Mehl 1998; Wang 2007; Schneider and Tanaka 2011).

This institutional setting was supported by a specific professional culture that spread among historians as a result of this state-sponsored professionalization. Many historians subscribed to a professional credo of “impartiality” and to a professional ethos or habitus of academic distance from direct political action or participation, yet they also defined themselves as loyal servicemen of their state or as loyal subjects of the ruling dynasty. The authoritarian and patriarchal aspects of the state-centered model are visible at various levels and they often survived the trend towards more liberal or even democratic constitutions that occurred since the middle of the nineteenth century (Saxer 2014; Schnicke 2016).

We should note that this model functioned best as long as direct state interventions in the form of direct commissions for research or the dismissal of personnel remained at a low level and was the exception to the rule of a common agreement on the limits of academic criticism of state authority. State authorities such as monarchs, prime ministers or parliaments generally did not intervene in professional disputes about research methods and priorities because they could rely on a basic consensus about the priorities of historiography: to legitimate the existing state (and its constitutional order) and to serve the needs for historical education for the ruling elites and the rising number of state-serving middle classes. This elementary conformism was strongly criticized by those political movements excluded from this original institutional setting, such as intellectuals of the socialist movements or, in other countries, religious or national minorities or democrats.

The “liberal-societal” model is mainly an outcome of Anglo-American trends and it developed as a latecomer in the shadow of the state-centered model during the second half of the nineteenth century. In the “liberal-societal” model the state was much less active in creating the institutional and financial frameworks for the new profession. Historical research relied much more heavily on private or indirect public funding as its main places, the universities, were established as more or less autonomous private or semi-private institutions. The educated and wealthy elites were more directly involved in the making of history than in the state-centered model, be it as sponsors of research activities or as gentleman historians themselves. Often Christian churches and rich philanthropists were important sponsors or direct administrators of these new centers for professional historical research. Society played a more active role and it was particularly liberalism and democratic nationalism that pushed forward this public yet not state-centered model of historical research. Only the archival infrastructure was more or less a state monopoly, but even in this case regional (the single states in the United States, counties or other regional authorities in other countries) and local autonomy were rather strong. The United States (Lingelbach 2003) and Britain (Daunton 2005) were the two countries where this model developed in its ideal-typical forms. In the United States and Britain, professional historians needed much more time to convince the public of their own authority and of the need for public investment in institutional infrastructure, as it had been developed abroad under the patronage of public sponsorship (Goldstein 1983). Yet, in this liberal-societal model the professional ethos followed the example of the state-centered model and opted in favor of impartiality and distance towards politics (other than patriotism).

Before 1914 these two models informed the main discussions about the power/knowledge relationship in historical research. The liberal-societal model served as a kind of critical yardstick for autonomy and the risks of political control in countries with strong state traditions. In contrast the state-centered model served as an example for the efficient sponsoring of urgent national research agendas via state authorities. National solutions are therefore mostly combinations of elements of both models and there is not always a direct link between particular political regimes and these different ways of sponsoring historical research. The democratic French Republic after 1871 did not abolish the state-centered model it inherited from the earlier pre- and post-revolutionary regimes but it used this framework to reorganize historical research along lines of national state interest (Lingelbach 2003). In Britain state authorities could not avoid directly investing in historical research as private funding remained too weak to finance all that was considered of national interest by the public. In Latin America before 1914, the professional infrastructure was often rather weak as the small liberal or conservative ruling classes were shy in investing in historical research. These ruling classes often preferred the older model of literate historiography practiced by

statesmen themselves or by wealthy gentleman historians (Riekenberg 1995; De Freitas Dutra 2007).

The institutional frameworks of the nineteenth century survived well into the twentieth. Moreover, one can trace back many currently existing institutional settings for historical research to this period. Academies as organizations of long-term editing projects, state-sponsored universities as the backbone of historical research and for the training of professional historians, a strong network of public archival services, museums and libraries all active in historical research projects are just the most striking examples of these long-term institutional settings.

TOWARDS STATE INTERVENTIONISM: THE PERIOD OF THE TWO WORLD WARS

The period of the World Wars (1914–1945) led to some important innovations with lasting effects to the present. The First World War turned into a total war mobilizing the educated elites and particularly the academic scholars in ways that were unprecedented up to that moment (Moretti 2010; Novick 1988, pp. 111–132). War propaganda and the legitimation of war aims created an urgent need for historical expertise. New forms of direct sponsoring and interventions by government therefore came into existence: historical commissions were formed with the declared intention to legitimate that nation's war aims and to defend its participation in this war. This particularly concerned the borderlands between fighting states. The Versailles peace settlement did a lot to enhance this trend further as the victorious Western powers tried to legitimate their decisions via scientific expertise leading to a kind of history wars between neighboring nations such as Germans and Poles, Hungarians and Romanians, Germans and French, Italians and Yugoslavs among others (Piskorski 2002; Frank and Hadler 2010, pp. 66–151, 247–272). These disputes were intensified by the official backing of revisionist positions via historical research. The German *West-* and *Ostforschung* is the most spectacular example as it continued unaltered but was merely radicalized from the democratic Weimar Period into the Nazi regime and directly served to legitimate the new German expansive war aims during the Second World War with regard to all neighboring countries (Haar 2000; Fahlbusch 1999, 2010). Poland, Romania and Hungary followed the same model of state interventionism or sponsoring of historical research aiming at legitimating the territorial quest of their own nations. As this kind of research often used demographic, anthropological or archaeological documents it transcended the narrow definition of political or national history as state history still dominant at this moment and their protagonists saw themselves as pioneering innovative methods and exploring new sources thanks to the particular funding from their governments outside and in addition to the regular budgets for research and universities (Oberkrome 1993; Hettling 2003). This kind of

political reordering of historical research is typical of this new cycle of political interventionism.

It can also be found in the area of diplomatic and military history as all warring states engaged in official histories of their own diplomatic and military actions during the First World War. Historical commissions had to organize large editorial projects based on privileged access to the archival sources of ministries and governments. Military history that had developed in the shadow of the discipline as an institutionally and socially separated subfield, mainly practiced by members of the armed forces themselves, now gained importance as part of public history. It was generally held under direct ministerial or military control and financed via the military budget. The enlarged historical services of the armed forces got more or less a kind of monopoly in using their own archives for writing the kind of official war historiographies that in all nations were urgently asked for by a still mobilized national public. Here patriotism could directly be served by historical expertise.

Both the international and the military history projects launched by the warring states were genuinely projects of contemporary history or better of history of the present time and in these cases the ordinary delays for archival access (30/40 or 50 years) were suspended. Thus contemporary history, up to this time often considered as a less prestigious and professionally dubious field of professional history, was converted into a full-fledged part of the discipline. In this case, the political control in the selection of the historians in charge of the new official missions was strict but the strong competition among the belligerent nations at the same time imposed high standards of archival scrutiny and led professional commissions to quarrel about methods and interpretations (Zala 2001). The historian's war on the political responsibilities for the outbreak of the First World War marks a watershed in the political use of the new historical profession. Structural dependency on state authority that had been the dominant form before the war was partly replaced by direct political control and interventionism. This was particularly the case in the field of contemporary history.

The new Soviet Union claimed to organize historical research in a completely new manner and to break the power/knowledge nexus of "bourgeois" scholarship. The Bolshevik party started with the political ambition to invent a new kind of Marxist history and to rewrite both national and global history. Because Marxist and socialist historiography defined itself as a coherent alternative to other forms of modern professional or "scientific" history this ambition encompassed both a new definition of relevant themes and sources, and a new epistemological framework defining Soviet history as part of a new socialist science and proletarian *Weltanschauung* or ideology (Enteen 1978; Behrendt 1997). This "full" program of an ideologically unified Marxist (and after Lenin's death in 1924 officially Marxist-Leninist) history, in a total break with the older practices of historical research, had a very short-lived existence. There were many reasons for this quick demise. First, the lack of

trained communist personnel led to a more moderate implementation of the project, combining the ideological break with older forms of historiography. More important, the revolutionaries eagerly followed the tsarist path of full state control over all institutions of history-making: from archives to universities and the academy and they used their professional staff if they agreed to serve their new political masters. Second, under Stalin's dictatorship this system was further transformed into a knowledge system that strictly served the legitimacy of the new Soviet state and its leaders by linking them to a "progressive" tradition of earlier rulers of the Russian state. Therefore the older professional routines of historical research were silently re-established and integrated into the new state system of historical learning and teaching at universities and the newly founded Soviet academy that inherited the traditions of the old tsarist academy (Heer 1970). Under Stalin this new form of linkage between party control, state authority and historical profession got its definite form: he imposed a direct political control of historiography by the ruling Bolshevik party. The dictator himself frequently intervened in all historical questions he deemed vital to state security and the party doctrine. At the same time, history again became a central topic in school education and the number of professional historians trained at universities was raised. Historical research was concentrated at the new Soviet Academy and some larger universities. Therefore the Soviet model under Stalin combined direct political interventionism in historical research with the establishment of a new state-centered system of historical research institutions under a narrowly defined and comprehensive ideological umbrella.

The establishment of this third model of power/knowledge relations in modern historiography cannot be overestimated. It got international relevance as most communist parties followed the Soviet path and when they got into power they copied the new system or adapted it to the institutional and intellectual traditions of their own countries.

THE CHALLENGES OF THE SECOND WORLD WAR: CONTEMPORARY HISTORY AND MILITARY HISTORY AS POLITICAL AGENDAS AFTER 1945

The military and political events of the Second World War touched all continents. The death rates of soldiers and civilians, the mass destruction of cities and economic infrastructure, the war crimes committed by Nazi Germany, Japan and the Soviet Union created a kind of iceberg with which all future representations of this past had to cope. All surviving states tended to redefine their own legitimacy in light of these historical events. This tendency was particularly strong in defeated countries such as Germany, Italy or Japan but it also concerned the Allied powers. The nation's past was reinterpreted in the light of this war, its victims, its murderers and its heroes. Contemporary history was promoted as the central element of

public history: the (re)construction of the war archives or the collection of all lost or dispersed traces of critical events of this war became one of the central tasks for post-war governments. The resistance movements and the occupying forces were eager to collect further evidence against the new legal and political category of “collaborators,” those cooperating with the defeated Nazis, Japanese or Fascists. State authority was often needed to confiscate and collect relevant documents and establish new archives and centers of research for this particular task. But the purges were only the first step and the writing of the war events of collaboration and resistance became one of the top priorities throughout Europe and in East Asia. This did not mean that the national public and the political authorities were eager to turn to these often distorting events. On the contrary, silence or the spread of simplified and politically correct versions of these years were the rule after the first dramatic clash of opinions and memories at the end of war. Yet, everywhere commissions of experts had to be installed, archives and centers of documentation founded and new historians trained for this new kind of research on the recent past.

Confronted with this situation, the political forces in the liberated countries acted very differently: in France, West Germany and the Netherlands, for example, the task of collecting the sources and of organizing historical research on Resistance and wartime was initiated and supervised by the state as a kind of neutral and most legitimate institution. In the Netherlands it was just 72 h after the liberation that a National Institute for War Documentation was created and many other countries would follow (Porciani and Raphael 2010, p. 143). In France too, immediately after Liberation, the provisional government under De Gaulle created two institutes for historical research on the Second World War. Both the “Commission d’histoire de l’Occupation et de la Libération” and the “Comité d’histoire de la Deuxième Guerre Mondiale” stood directly under the patronage of the prime minister. These two committees were united in 1951 and since 1978 to today it has continued working, under the name of “Institut d’histoire du temps présent.” Thus in France, the state affirmed its role as a guaranty of historical objectivity and legitimacy in this central, very sensitive field of national historiography. But as the political strife about the Vichy period, collaboration and resistance were particularly strong with the French public, setting communists and Gaullists against each other both claiming the prestige of resistance for themselves, party-funded institutions were established that challenged the traditional monopoly of state institutions in the field of contemporary history (Raphael 2012).

In West Germany, the history of the Nazi period started outside the discipline and its academic institutions, which avoided approaching this critical subject in the first decade after the end of Nazism and the German empire. Thus from the beginning, strong impulses for the advancement of contemporary history (*Zeitgeschichte*) came from outside the discipline and university: democratic historians returning from exile or politicians of the new democratic parties pressing for critical historical studies about the recent

German past from the authoritarian structures of the German Empire to the Republic of Weimar and the Third Reich (Raphael 2012). These initiatives led to the creation of two important public institutions that unlike their French counterparts were not put under direct control by the government but financed and controlled collectively by the member states (Bundesländer) and the federal government. The “Institut für Zeitgeschichte” became the biggest research institution for the history of the Third Reich before expanding its areas of study to the political history of the entire twentieth century (Möller and Wengst 1999). The “Kommission für die Geschichte des Parlamentarismus,” was founded in 1951 by a joint initiative of the German federal parliament and the Ministry of the Interior. It dedicated its research to the history of the democratic institutions, namely of the political parties and the different parliaments in Germany, thus occupying an important sector of contemporary history otherwise of primary interest to party foundations. Yet, these state-funded institutions did not cover all aspects of West German contemporary history. The Protestant and Catholic churches established their own commissions for the study of their own history during the Nazi period and in the late 1950s and 1960s the four bigger political parties—the social democratic party, the two Christian democratic and the liberal party—created their own foundations (largely financed via public funding) and started their own research projects and archives centered on their own past. Therefore the strong impact of state-sponsoring on historical production did not mean any direct interventionism but a more subtle cooperation between the dominant currents in history and the main political currents in federal and regional politics. At this level, affinities between the conservative current and the Christian Democratic Party on the one hand, and between the left liberal or left currents and the social democratic counterpart came into existence with strong impact on the writing of contemporary history. The Dutch, French and West German cases illustrate the variety of institutional settings resulting from public interest in contemporary history. This subfield had and still has uncertain chronological limits and has been open to many different definitions from one country to the other but now it was increasingly defined as the history of the very recent past and in particular the period of the World Wars.

Another situation developed in those countries occupied by the Red Army. Here too, a central commission had been founded to collect documents and write the history of resistance but the communist takeover of power went along with the imposition of one official version of these often controversial war events, a version that eliminated the voices of all dissident political groups and silenced the political ambiguities of Soviet and communist activities during the war (particularly from September 1939 to June 1941 when the Soviet Union was neutral). Actually, independent historical research on critical events was shut down and historians working on that period had to accept very close political control by party officials and the secret service (Hadler and Pók 2012; Sabrow 1997, 2001). But this reorientation was part of a larger

process of transformation that touched all areas of professional history from schoolbooks to schoolteachers and academic staff. They all had to adapt to a new socialist model that was more or less a copy of the Soviet system.

As was the case after the First World War, the belligerent armed forces took over the task to write the records of battles and warfare. Because the scope of this second total war was much larger than that of 1914–1918 the official histories grew again much larger. In the case of the United States the outcome was a 81-volume series, *U.S. Army in World War II*, and the armed forces engaged a number of young scholars to write their war histories (Tyrrell 2005, pp. 185–207). Military history, always an important branch of historical research, became an even more important part of contemporary history as public interest was very high. This was particularly true for the four victorious countries, the United States, United Kingdom, France and the Soviet Union. In these countries the commemoration of the decisive victories and the capitulation of the enemy forces (May 8/9, September 3) became important public events of the national historical culture. As a result, military history has become a very large subfield of professional historiography whose main institutions (research institutes, archives, chairs and journals) are directly financed by the armed forces or the ministries of defense and whose personnel is mostly part of the military staff and work under conditions of strict military discipline and control.²

The formation of the two blocs and their ideological, political and military confrontation strengthened the role of the state in the field of science and higher learning in both camps but in rather different ways. As we have shown, in the new socialist countries, from the GDR to the People's Republic of China, the new rulers were eager to copy the Soviet model of a state-organized and ideologically controlled history profession. In most of these countries even the institutional details of the Soviet model were copied leading to an enlargement of academies as new national centers of historical research employing an ever-growing number of historians only doing research or controlling their colleagues (Hadler and Pók 2012).

In the western bloc, freedom of science and learning became one of the assets of their ideological self-representation and it set strict limits to direct interventions from government into the academic world. Therefore the creation of new institutions and the indirect funding of research projects via public foundations, the intelligence services and via private funding were getting more and more important (van Dongen 2015). But apart from that, the overall direct public funding of research in science (including particularly the natural sciences and the social sciences) grew constantly. Professional historians profited from this growing importance of big science by joining the ranks of social scientists when they created the new kind of regional studies established in the United States and later in other Western centers of higher learning as area studies. Politically these area studies were welcomed as a powerful instrument for Western expertise on the post-colonial world.

Historians also profited from the new public investments in sociological and economic research, whereby smaller sums were turned to projects of social and economic history. The short marriage between history and the social sciences, from the mid-1950s to the end of the 1970s, happened in an institutional and political context where Western political authorities invested heavily in the social sciences (Passmore 2011). Modernization theory offered a new global vision and a general framework for social expertise and political prognosis, and it served well as a reference point for all historical scholars in need of public funding for their new research projects in social and economic history. Again, we can observe a rather “happy” or seemingly “innocent” encounter of public sponsoring and historical research.

In this case, the Latin American countries are very interesting examples. In the interwar period, their state authorities had often started to invest more public funds into higher education. In post-revolutionary Mexico, for example, the public research infrastructure had been reformed or newly created (as the renowned Universidad Nacional Autónoma de México) and after the Second World War US foundations and international organizations sponsored large research programs in the field of economic or social history such as the source edition project on documents on the history of labor (*Fuentes para la historia del trabajo en la Nueva España*) or the creation of a Commission for Economic History of the Latin American Council of Social Sciences (Padilla 2011).

The most spectacular case, however, is the creation and the rise of the “Ecole des Hautes Etudes en Sciences Sociales,” at this moment still the 6e Section de l’EPHE at Paris. Under the presidency of Fernand Braudel, social sciences, social and economic history and anthropology were the core disciplines of this new research institution largely funded by the French state but strategically using additional funds from the Ford Foundation to create posts for the new kind of area studies the new institution wished to develop under the methodological and conceptual umbrella of the Annales “school” (Raphael 1994, pp. 150–205). In this case too, public and private sponsors had larger political intentions but they never could get control of the research agenda and the choice of personnel in this new institution.

The ideological confrontations of the Cold War created intellectual conditions favoring consensus among the members of the historical discipline in both camps. In Western democracies a moderate liberal consensus was shared by the large majority of historians and helped to integrate the national-conservative elements, which were particularly strong in the defeated countries, into the new political world order. In countries where the liberal traditions of private or semi-private institutions in higher learning and scholarship had been particularly strong such as in the United Kingdom and the United States, public authority now received the mandate to finance and organize the expansion of universities and research institutions. Therefore we can observe a convergence of the two European models inherited from the nineteenth century in many countries of the Western world.

In countries of the socialist camp, the state established a monopoly on historical research and never conceded full autonomy to its professional historians. But the recruitment of young communist historians in the years of Resistance and immediately after WWII helped to create a kind of cohabitation between state and professional historians transcending the Stalinist model relying exclusively on control, command and terror. Since the late 1950s, cooperation between historians and public authorities has been based on a more sophisticated model of political control, the respect of academic standards and a consensus about models for a usable past to be presented in public and learned in schools and universities (Górny 2011; Sabrow 2001; Höslér 1995; Kozlov 2011). The old model of cooperation between the nation-state and the historical discipline in defense of a national past against external or internal enemies was coming back, now under the strictures of official Marxism-Leninism. This imposed more or less a ban on independent historical research about the recent past (the two last centuries) but allowed the flowering of state-sponsored historical research on the earlier period of the nations' past.

One should not forget that in both camps the discipline profited largely from public investment in institutions of higher learning and research. In Europe the number of professional historians in higher learning and research grew from some 3200 to nearly 11,000 from 1955 to 1980 and the increase was more or less the same in both the Western and the Eastern camps (Porciani and Raphael 2010, p. 50).

STATE-BUILDING AND HISTORICAL RESEARCH IN A POST-COLONIAL WORLD

Post-colonial theory underlines the strong ties that have linked modern historiography dealing with territories formerly under colonial rule and the colonial state. Colonial administrators and officials were often the pioneers of Western-style historiography and colonial institutions were vital to the development of geographically, linguistically and historically specialized knowledge on these parts of the world. British India is a very fine example as in South Asia modern professional scholarship on the past arrived with the colonial invader and the establishment of the modern discipline was part and parcel of new British colonial institutions of education, scholarship and state archives (Chakrabarty 2011; Chatterjee 1993, pp. 14–94). As universities were only founded relatively late in South Asia, a large number of indigenous historians studied in Britain, important parts of the state records went back to Britain too and the establishment of the new infrastructures for historical learning and research followed the British example.

The Indian case is paradigmatic for many former colonies in Asia and Africa. Anti-colonial movements strongly relied on this kind of colonial knowledge to use it critically against the colonizers. History was seen by most of them as a useful tool for their claims of national independence and

as a necessary element for the building of a new post-colonial nation-state (Ajayi 1994; Odhiambo 2000; Eckert 1999; Falola 2011; Kumar 2011). This turn to history was further strengthened by the presence of left-wing, often communist, currents inside the anti-colonial movements. Here the Soviet model of a partisan historiography supporting their own political movement and later the socialist state gave historiography even more impact.

The decolonization starting at a large scale immediately after WWII, first in Asia and the Middle East then turning to Africa, gave birth to two institutional models for historical research. In countries where communists were leading the new independent states, the Soviet model was adopted in ways rather similar to those in Eastern Europe at the same time (Pelley 2011; Feuerwerker and Kahn 1968; Schneider and Tanaka 2011). In North Korea, North Vietnam or the People's Republic of China the communist parties imposed a strict control on historical research, created new central institutions (academies, party institutes) for historical research and engaged strongly in the production and propagation of an official history becoming a kind of uncontested framework for all specialized research. Therefore the "ideological truth"-model created a new kind of explicitly critical or emancipatory but at the same time politically supervised new post-colonial national and nationalist historiography "from above."

In countries opting for the Western camp after independence or joining the newly created movement of the nonaligned states, the new national historiography was written and researched by members of the anticolonial elites trained in Western universities and often trying to adapt the colonial infrastructures of higher learning and research to the new tasks of nation-building via a common past. State universities including Ibadan in Nigeria, Legon in Ghana, Makerere in Uganda, Damascus in Syria or Bagdad in Iraq became centers of new nationalist history schools whose members engaged both in the construction of new national infrastructures of historical research, from archives to research seminars and in the creation of a new master narrative of the nation's past (Neale 1985; Choueiri 1989; Kaese 2000; Odhiambo 2000). The post-colonial nationalist political class strongly supported this early wave of historical research. Professional historians engaged in rewriting a critical history of the colonial period, often contrasting this recent past with the glorious history of earlier states and empires situated on the territories of the new nation-state. They created new lines of continuity between past and present. In Africa and Asia, public financing of these new centers was vital for the creation of a post-colonial perspective and the links between history teaching in schools and universities and the academic research was particularly strong. The search for a "usable past" for the post-colonial nation was the common ground of all these initiatives and this kind of consensus had a strong impact on the forms of collaboration between public authorities and historians engaged in research and the building of an infrastructure for this new history.

Therefore, in most countries of the post-colonial world, state-sponsored historical research was vital for the reorientation from colonial Eurocentric perspectives to national perspectives. Often the cooperation between historians pioneering this new national historiography and the political elites was very strong and based on an ideological consensus of anti-colonialism. Both pleaded in favor of historical research as a building block for a new national history “from above” that was part of an explicit modernizing project and aiming at transforming the minds of their own population towards a new inclusive version of the nation’s past and future.

Once again South Asia is an interesting example for the strategies the public authorities developed to realize these overall political aims. After independence and the partition of British India historical research was mainly organized at the public universities and professional historians did engage in rewriting the nation’s past as part of an integrative master narrative of development and modernization (Zachariah 2011). Institutionally, the new governments merely tried to expand and reform the colonial institutions such as state archives, university colleges and public libraries to support the new nation-centered historical research. It was a British initiative (to launch a source edition legitimizing British colonial policy in the last 10 years of their rule in India) that led to a more direct political intervention in historical research. In order to correct this lenient colonial perspective, another source edition had to present the Indian side and the nationalist fight for independence during these years from 1938 to 1947. Finally this task was handed over to a new central institution, the Indian Council of Historical Research (ICHR) founded in 1972 with the official task of “giving proper direction to historical research and encouraging and fostering objective and scientific writing of history” (ICHR newsletter 1973, p. 1). The members of this council were nominated by government and its funds granted by government under parliamentary control. The political authorities therefore had direct control over this new organization. The council’s original program reads like a comprehensive road map for the promotion of historical research as part of nation-building:

Financial assistance in form of Grant-in-Aid to research Projects, financial assistance for Publications of theses and other historical documents, fellowships to research scholars. Assistance to professional organisations of historians, Surveys of current historical research in India, source materials on Indian history, preparation and translation of important books of history for the use of students, teachers, and scholars, establishment of a Documentation and Library Centre, clearing-house functions for on-going historical research and the organisation of seminars, conference and other programmes. (ICHR newsletter 1973, p. 4)

The publication of 10 volumes of the new series “Towards Freedom”—to reject the British view on the last 10 years of colonial rule—planned to be finished in just eight years was only one element in a much larger agenda

given to this new central institution by the public authorities. One can see the impact of socialist planning in this over-ambitious program but the new institution was accepted by Indian historians and it became one of the most important agencies for the promotion of historical research in the following decades. Its official records show a rapid growth of the sponsoring activities and the selective role the ICHR could play in the expanding field of professional Indian historiography since the 1970s.

The basic consensus on the urgent need for a usable past for the new nations may explain why authoritarian governments or outspoken dictatorships were eager to support this kind of strong nationalist program and they often found eager support among the learned historians when launching ambitious programs for the writing of the nation's past. The chapter on the Tadhana project (see the Chap. 12 by Rommel Curaming in this volume) under the dictatorship of President Marcos in the Philippines is an evident example of this configuration. Other examples may be found in Indonesia under the Suharto military government (Zurbuchen 2004; Milner 2011; Curaming 2005; Kumar 2011).

THE CRISES OF THE 1980s–1990s: STATE SPONSORSHIP AND PUBLIC FUNDING UNDER ATTACK

The first 25 years after the end of the Second World War may be regarded globally as golden years of state-sponsored historiography. As we have seen, both camps of the Cold War diverged fundamentally in defining the limits of political control and interventionism but they shared a consensus about the primordial importance and interest in the nation's past (that could imply a strong dissent about the narratives for this public history). All helped to create a kind of “natural” harmonious co-operation between the majority of professional historians and the ruling political classes in their countries.

The new post-colonial states more or less followed this path in investing in the infrastructures for modern historical research and sponsored the scholarship of professional historians engaged in the rewriting of a “usable past” for the new nation-states in the making. State-sponsored post-colonial national historiography flourished under these conditions and profited from external support both from the Western and the Eastern camps.

But since the 1960s the ideological framework for the newly established consensus between professional historians and the political authorities of their countries eroded. The fading away of the ideological confrontation between the two camps opened space for internal dissent. In Western countries part of the academic world turned left, the institutional links between science and power as instituted during the Cold War now came under attack leading towards a much stronger defense of academic autonomy and a sharper look at its institutional underpinnings as during the 1950s. The student movement

of 1968 radicalized this internal criticism of all forms of collusion between state and academia (Katsiafacas 1987). As a result of this critical movement pluralism of methods and concepts was strengthened and led to a situation where conflict and dissent over all important issues of public history became normal. In some countries this led to cleavages among professional historians following the confrontational lines of the party system (left-right; liberal-conservative/socialist-liberal; Novick 1988, pp. 415–521; Raphael 2003, pp. 215–227). In socialist countries too, the 1960s saw the rise of internal socialist reformers but their political failure led to an end of the more peaceful cohabitation between historians and communist authorities. The most dramatic case was the Czechoslovakian one where the end of the reform movement in August 1968 led to a repressive regime resulting in the dismissal of hundreds of historians, their exile and a standstill of historical research for nearly two decades.

Therefore, for public authorities the sponsoring of historical research in general became a much more risky investment as the academic world produced many dissenting views on the past and tended to undermine the authority of official views. Under these conditions of ideological pluralism direct sponsoring of politically “correct” historiography became a much more complicated affair as we show in a moment.

Whereas these intellectual shifts needed time to develop, two political and economic events in the 1980s gave fatal blows to the post-war models in the so-called second and third worlds. In many countries of Africa and South America and part of Asia the new world economy of the 1980s led to a collapse of public financing of higher learning and of public education in general. Internal and external factors came together in cutting the fiscal basis for many historical research institutions in these countries causing a massive brain drain towards Western centers of research (profiting at the same time from the growth of pluralism, especially in the United States, Canada and Australia). The new neoliberal orthodoxy in international development agencies, from World Bank to IMF, made the cutting of state expenditure a *conditio sine qua non* for any financial help urgently needed by governments at the edge of bankruptcy. The political causes and outcomes of this economic crisis of the post-colonial state were very different and there was no global trend as far as our topic is concerned. Yet, in many countries, state authority suffered substantially under these circumstances of underfunding of public higher education and corruption. Furthermore, ethnic cleavages undermined the project of nation-building as it had been conceived during the first decade after independence. As a result historical research did lose much of its relevance in the eyes of those in power and those contesting the ruling authorities often insisted on a kind of counter-history at the regional or local level, legitimating the claims of their own social or ethnic groups neglected or marginalized by official national historiography (Harneit-Sievers 2002). In some countries, the political classes shifted the focus of their nation-building projects towards

a vision of an ahistorical modernity based on the spread of new technologies and the knowledge produced by the social sciences. The past was increasingly seen as a cultural resource for a tourism-centered heritage culture (without any investment in professional research as a more encompassing “national project”).

The revolutionary events of 1989 put an end to the established third “ideological truth” model in many countries of Eastern Europe. As a consequence, professional historians lost much public esteem as they were regarded as loyal servants of the ancien regimes. The neoliberal transformations in most of these countries led to serious cuts in university budgets and undermined the economic fundamentals of the professional infrastructure as created by the socialist regimes. Public history underwent a dramatic change as dissenting views on contemporary history were now made public everywhere and the falsifications of the recent past were openly discussed (Brunnbauer 2004; Davies 1997; Marès 1996; Ivanisević 2002). Yet, in the countries of the former eastern bloc the link between public authorities and the majority of professional historians was restored and it was now a renewed nationalism that was put forward to strengthen the often weak governments and the new ruling classes by invoking the nation’s glorious past. There are three main reasons for this development: first, the structural dependency in these state-centered fields of professional history production did not disappear; second, before 1989 nationalism has been a strong current in all these countries behind the umbrella of Marxism-Leninism; and third, the public interest and the political re-evaluation of the national past, particularly the recent past during the twentieth century, put historiography at the forefront of many political debates. State sponsoring of history projects became an important issue in the political field and as in the Western world, a new kind of interventionism took shape at the end of the 1990s.

The political outcome of these crises and revolutions differed enormously and Western democracy was not the overall winner as Western liberals triumphantly suggested at the beginning of this period. The balance of power between society, economy and state changed in favor of the first two. This could lead to more democratic regimes giving way to a new pluralism in public history and in professional research where different social, political and religious interests were competing in funding their historical research. Yet, the crisis of former authoritarian regimes also resulted in a general decline of public authority and social coherence leading to situations of civil war or the segmentation of society and state along ethnic or religious lines (spectacular cases were Yugoslavia, Algeria, Iraq, Syria or Somalia). In all cases the older models of public sponsoring of professional history corroded without any substantial renewal of research opportunities. As a result, many historical experts fled from their home countries and continued their work in exile, a situation that could be observed in many African or Arab states in the last decades of the twentieth century.

STATE AND HISTORICAL RESEARCH AT THE BEGINNING OF THE TWENTY-FIRST CENTURY

The last 15 years have been years of substantial changes but as contemporaries we may be wrong in appreciating main trends and configurations. Other parts of this handbook describe in detail some of these trends as the rise of truth commissions (a trend starting in the late twentieth century) (see Part VIII of this Handbook, Truth Commissions and Commissioned History), the rise of expert commissions created by public authorities in order to define a kind of official view on contested topics of the past (see Part IX of this Handbook, Historical Expert Commissions and Commissioned History), the use of historians as experts in trials on past crimes of public law (see Part VII of this Handbook, Courts, Tribunals and Judicial History). It is the accumulation of these new forms that suggest that a new model of state-sponsored history has been in the making in the shadow of the crises we have just described. They strongly differ from earlier models insofar as this kind of public interventionism mainly uses:

- Ad hoc institutions such as commissions.
- A mix of legal and historical methods and procedure.
- Is open for the voices of those whose past is concerned.
- It often aims at creating public events that have effect in the political field.

The great majority of these new projects and state initiatives are dealing with the recent past (in the many cases of recent dictatorships or of civil war), the Nazi period and the war crimes of the Second World War. A particular case is represented by commissions or research projects dealing with cases of genocide. The Holocaust hereby often becomes a historical yardstick for the public evaluation of ethnic cleansing, pogroms or mass killing of ethnic or social groups in the past. These kinds of public interventions normally encompass research commands for professional historians that end up in official reports presented to government or parliament. A detailed public documentation and publication of sources is often part of this kind of reporting. Agenda setting in the political field is an essential part of these public interventions resulting in the sponsoring of professional historical research.

Latin America and Europe are two regions that are pioneering many new forms of interventionism. West Germany has become a country where ad hoc historical commissions are created increasingly frequently. This spread has been prepared by the role professional historians have taken up since the late 1950s in the trials regarding Nazi crimes. West-German professional contemporary history established its own high reputation both in the public sphere at home and among international scholars by defending their findings as expertise in war crime trials. This reputation of critical distance towards state authorities during the Nazi period was the starting point for new commands for professional expertise in the many claims for

compensation of victims of forced labor during the Nazi period. Many companies used this kind of critical evaluation as a kind of moral rehabilitation from their own past, something of a moral necessity seeing the sensibility of an international public concerning all things relating to Holocaust and war crimes. Since 2005, German ministries established one after the other their own expert commissions to write their own chapters of the Nazi period and the fates of de-Nazification in their institutions after 1945 (Mentel and Weise 2016).

All these activities of bureaucrats and politicians in search for a usable past must be seen in a larger framework of policies of science and higher learning worldwide. The costs of higher learning are expanding in times of a general crisis of public finances that under the dominant models of public austerity has led to a global rise in private investment in higher education and research. In many states, a private sector of higher learning has come into existence and has been playing an important role in the teaching and learning of history for the first time. Simultaneously state financing of higher learning has tended towards more selective forms creating complex mixtures of financial programs for scientific “excellence” often prioritizing socially or economically useful research. As a result normal research has been put under stricter rules placing *de facto* limitations on the basic funding for universities and other research institutions. As the levels of basic funding for historical research (i.e., without any politically imposed targeting) are very different worldwide, the consequences of these new forms of research and educational politics have produced local effects that cannot be compared. Serious historical research and more ambitious research projects have become practically impossible without special funding be that via extra money from government, international foundations or private sponsoring (this tends to be the case in many African states and countries of the former Soviet Union). On the other side, these new indicator-based forms of public funding create further opportunities for historical projects in larger clusters of excellence, at centers of advanced studies, without stopping on-going historical research. This is the case in many countries of the so-called first world. Therefore the levels of political control or indirect political targeting of historical research worldwide is not only a function of political regimes but also of these new financial regulations.

The Russian government under President Putin is a very interesting example. Here the general underfinancing of the humanities and historical research has been compensated by programs and initiatives unilaterally sponsoring historical research and writing that serves the political aims of the regime culminating in 2009 in the presidential initiative to create a “Historical Truth Commission” whose official name fully explains its main objectives: the “Presidential Commission of the Russian Federation to Counter Attempts to Falsify History to the Detriment of the Russian State” (Antoshchenko 2010).

Even in a country like India where a combination of the two traditional types (liberal-societal/state-centered) of the state power/historical knowledge nexus has been established after independence, political interventionism has become a serious threat to the autonomy of historical research particularly in the field of contemporary history. In the early 2000s the BJP-led government used its statutory power on the ICHR to stop the publication of critical documents on collaboration offered by organizations affiliated to the British raj during the Quit India campaign of M. Gandhi in 1942–1943 and it tried to redistribute financial means following their own ideological views on the Indian past (Report of the One-Man Committee 2005). In other countries, such as China, where public investments in higher learning are still expanding, historical research has many more opportunities. Although a model of state control is still vigorous in China, independent research has many more chances (Weigelin-Schwiedrzik 2011).

Due to these new incentives and as an outcome of the structural crisis of public financing of higher education, new regimes of politically sponsored and targeted forms of historical research have come into existence. They tend to strengthen the links between the political-public sphere and the academic world of professional historians and they have created new social roles often combining moral, legal and historical expertise in new forms of public history (Dumoulin 2003). In a long-term perspective, they show the growing international impact of the second (mostly Anglo-American model) in a moment when the two state-centered models entered a period of crisis or collapsed. But one should not forget that the infrastructure of historical research in most countries of the world is still publicly financed, often strictly controlled by government or other public authorities and that probably the large majority of professional historians are part of the public service sector of their countries and not of privately funded institutions.

NOTES

1. The critical historiography of these institutional settings of historical research and writing is one of the most neglected topics in the field of the history of modern historiography. Whereas official reports or texts published to celebrate these institutions at their centenaries or other occasions are numerous, critical studies are rare (Lingelbach 2003; Tollebeek 1994; Langholm 1995; Lindner 1999). For Europe a special team of the European research project, “Representations of the Past: the Writing of National Histories in Nineteenth and Twentieth Century Europe,” funded by the European Science Foundation (2003–2008) has studied these institutional settings in detail: Porciani and Tollebeek (2012) and Porciani and Raphael (2010) are syntheses not yet available for other parts of the world.
2. This chapter cannot analyze in detail the different ways war and military history developed under such conditions in the different parts of the world and the role of independent, often civilian centers of research in this subfield.

REFERENCES

- Ajayi, F. J. A. (1994) 'National History in the Context of Decolonisation. The Nigerian Example' in E. Lönneroth (ed.) *Conceptions of National History* (Berlin: Campus), pp. 65–78.
- Antoshchenko, A. V. (2010) 'Russia' in I. Porciani and L. Raphael (eds.) *Atlas of European Historiography. The Making of a Profession 1800–2005* (Basingstoke: Palgrave Macmillan), pp. 87–92.
- Behrendt, L. (1997) 'Die Institute der Roten Professur. Kadenschmieden der sowjetischen Parteintelligenz (1928–1938)', *Jahrbücher für Geschichte Osteuropas*, 45, 597–621.
- Berger, S. (ed.) (2007) *Writing the Nation. A Global Perspective* (Basingstoke: Palgrave Macmillan).
- Berger, S. and Conrad, C. (2015) *The past as history. National identity and historical consciousness in Modern Europe* (Basingstoke: Palgrave Macmillan).
- Berger, S. and Lorenz, C. (2010) *Nationalizing the past. Historians as nation builders in Modern Europe* (New York: Palgrave Macmillan).
- Bohn, T. M. (1998) *Russische Geschichtswissenschaft von 1880 bis 1905. Pavel N. Miljukov und die Moskauer Schule* (Köln: Böhlau).
- Brunnbauer, U. (ed.) (2004) *(Re)Writing History. Historiography in Southeast Europe after Socialism* (Münster: LIT).
- Chakrabarty, D. (2000) *Provincializing Europe. Postcolonial thought and historical difference. Princeton Studies in culture/power/history* (Princeton: Princeton University Press).
- Chakrabarty, D. (2011) 'The Birth of Academic Historical Writing in India' in S. Macintyre, J. Manguerra and A. Pók (eds.) *The Oxford History of Historical Writing. vol. 4: 1800–1945* (Oxford: Oxford University Press) pp. 520–536.
- Chatterjee, P. (1993) *The Nation and its Fragments* (Princeton: Princeton University Press).
- Choueiri, Y. M. (1989) *Arab History and the Nation-State. A Study of Modern Arab Historiography 1820–1980* (London: Routledge).
- Curaming, R. A. (2005) 'The State and the Historians in the construction of Nationalist Historical Discourses in Indonesia and the Philippines: a Preliminary Consideration' in E. Palmer (ed.) *Asian futures, Asian traditions* (Folkestone: Global Oriental), pp. 60–80.
- Daunton, M. (ed.) (2005) *The Organization of Knowledge in Victorian England* (Oxford: Oxford University Press).
- Davies, R. W. (1997) *Soviet History in the Yeltsin Era* (London: Macmillan).
- De Freitas Dutra, E. (2007) 'The mirror of history and images of the nation. The invention of a national identity in Brazil and its contrasts with similar enterprises in Mexico and Argentina' in S. Berber (ed.) *Writing the nation. A global perspective* (Basingstoke: Palgrave Macmillan), pp. 84–102.
- Dumoulin, O. (2003) *Le rôle social de l'historien. De la chaire au prétoire* (Paris: Albin Michel).
- Eckert, A. (1999) 'Historiker, "nation building" und die Rehabilitierung der afrikanischen Vergangenheit. Aspekte der Geschichtsschreibung in Afrika nach 1945' in W. Küttler (ed.) *Geschichtsdiskurs. Globale Konflikte, Erinnerungsarbeit und Neuorientierungen* (Frankfurt/M: Fischer), pp. 162–187.

- Enteen, G. M. (1978) *The Soviet Scholar-Bureaucrat. M.N. Pokrovskii and the Society of Marxist Historians* (University Park Pennsylvania).
- Fahlbusch, M. (1999) *Wissenschaft im Dienste der nationalsozialistischen Politik? Die "Volksdeutschen Forschungsgemeinschaften" von 1931–1945* (Baden-Baden: Nomos).
- Fahlbusch, M. (ed.) (2010) *Völkische Wissenschaften und Politikberatung im 20. Jahrhundert. Expertise und "Neuordnung" Europas* (Paderborn: Schöningh).
- Falola, T. (2011) 'African Historical Writing' in A. Schneider and D. Woolf (eds.) *The Oxford History of Historical Writing. Volume 5: Historical Writing since 1945* (Oxford: Oxford University Press), pp. 399–421.
- Feuerwerker, A. and Kahn, H. (1968) *History in Communist China* (Cambridge: Cambridge University Press).
- Frank, T. and Hadler, F. (2010) *Disputed territories and shared pasts. Overlapping national histories in modern Europe* (New York: Palgrave Macmillan).
- Goldstein, D. (1983) 'The Professionalization of History in Britain in the Late Nineteenth and Early Twentieth Centuries', *Storia della storiografia*, 3, 3–27.
- Górny, M. (2011) 'Historical Writing in Poland, Czechoslovakia, and Hungary' in A. Schneider and D. Woolf (eds.) *The Oxford History of Historical Writing. Volume 5: Historical Writing since 1945* (Oxford: Oxford University Press), pp. 243–265.
- Haar, I. (2000) *Historiker im Nationalsozialismus. Deutsche Geschichtswissenschaft und der "Volkstumskampf" im Osten* (Göttingen: Vandenhoeck & Ruprecht).
- Hadler, F. and Pók, A. (2012) "'A Daily working Group Together in One House". Research Institutes at the National Academies of Sciences in East Central Europe' in I. Porciani and J. Tollebeek (eds.) *Setting the standards: Institutions, networks and communities of national historiography* (Basingstoke: Palgrave Macmillan), pp. 183–201.
- Harneit-Sievers, A. (ed.) (2002) *A Place in the World. New local Historiographies from Africa and South Asia* (Leiden: Brill).
- Heer, N. W. (1970) *Politics and History in the Soviet Union* (Cambridge: Cambridge University Press).
- Hettling, M. (ed.) (2003) *Volksgeschichten im Europa der Zwischenkriegszeit* (Göttingen: Vandenhoeck & Ruprecht).
- Hösler, J. (1995) *Die sowjetische Geschichtswissenschaft 1953 bis 1991. Studien zur Methodologie- und Organisationsgeschichte* (München: Oldenbourg).
- Iggers, G. G., Wand, Q. E. and Mukherjee, S. (2008) *A global history of modern historiography, 1st ed.* (Harlow: Pearson Longman).
- ICHR newsletter (1973) ed. Indian Council of Historical Research, vol. 1–2.
- Ivanisević, A. (ed.) (2002) *Klio ohne Fesseln? Historiographie im östlichen Europa nach dem Zusammenbruch des Kommunismus* (Wien: Böhlau).
- Kaese, W. (2000) *Akademische Geschichtsschreibung in Nigeria. Historiographische Entwicklung und politisch-oziale Hintergründe, ca. 1955–ca. 1995* (Hamburg: Lit).
- Katsiaficas, G. (1987) *The Imagination of the New Left. A Global Analysis of 1968* (Boston: South End Press).
- Kozlov, D. (2011) 'Athens and Apocalypse. Writing History in Soviet Russia' in A. Schneider and D. Woolf (eds.) *The Oxford History of Historical Writing. Volume 5: Historical Writing since 1945* (Oxford: Oxford University Press) pp. 375–398.
- Kumar, A. (2011) 'Indonesian Historical Writing' in A. Schneider and D. Woolf (eds.) *The Oxford History of Historical Writing. Volume 5: Historical Writing since 1945* (Oxford: Oxford University Press), pp. 575–593.

- Langholm, S. (1995) 'The Infrastructure of History' in W. H. Hubbard (ed.) *Making a historical culture. Historiography in Norway* (Oslo: Scandinavian University Press).
- Lindner, R. (1999) *Historiker und Herrschaft. Nationsbildung und Geschichtspolitik in Weissrussland im 19. und 20. Jahrhundert* (München: R. Oldenbourg).
- Lingelbach, G. (2003) *Klio macht Karriere. Die Institutionalisierung der Geschichtswissenschaft in Frankreich und den USA in der zweiten Hälfte des 19. Jahrhunderts* (Göttingen: Vandenhoeck & Ruprecht).
- Lingelbach, G. (2011) 'The Institutionalization and Professionalization of History in Europe and the United States' in S. Macintyre, J. Maiguashca, and A. Pók (eds.) *The Oxford history of historical writing, vol. 4: 1800–1945* (Oxford: Oxford University Press), pp. 78–96.
- Lönneroth, E. et al. (eds.) (1994) *Conceptions of National History* (Berlin: Campus).
- Marès, A. (ed.) (1996) *Histoire et pouvoir en Europe médiane* (Paris: L'Harmattan).
- Mazour, A. G. (1975) *Modern Russian Historiography. A Revised Edition* (Westport: London).
- Mehl, M. (1998) *History and the State in the 19th Century Japan* (London: Macmillan).
- Mentel, C. and Weise, N. (2016) *Die zentralen deutschen Behörden und der Nationalsozialismus. Stand und Perspektiven der Forschung* (München: Institut für Zeitgeschichte München).
- Milner, A. (2011) 'Southeast Asian Historical Writing' in S. Macintyre, J. Maiguashca, and A. Pók (eds.) *The Oxford history of historical writing, vol. 4: 1800–1945* (Oxford: Oxford University Press), pp. 537–558.
- Möller, H. and Wengst, U. (eds.) (1999) *Fünfzig Jahre Institut für Zeitgeschichte* (München: Oldenbourg).
- Moretti, M. (2010) 'Historians and the First World War' in I. Porciani and L. Raphael (eds.) *Atlas of European Historiography. The Making of a Profession 1800–2005* (Basingstoke: Palgrave Macmillan), pp. 34–35.
- Moretti, M. (2012) 'A New Community of Scholars. The University Professors at Work' in I. Porciani and J. Tollebeek (eds.) *Setting the standards: Institutions, networks and communities of national historiography* (Basingstoke: Palgrave Macmillan), pp. 291–312.
- Neale, C. (1985) *Writing "Independent" History. African Historiography, 1960–1980* (Westport: Greenwood Press).
- Novick, P. (1988) *That noble dream. The "objectivity question" and the American historical profession* (Cambridge: Cambridge University Press).
- Oberkrome, W. (1993) *Volksgeschichte. Methodische Innovation und völkische Ideologisierung in der deutschen Geschichtswissenschaft 1918–1945* (Göttingen: Vandenhoeck & Ruprecht).
- Odhiambho, E. S. A. (2000) 'Re-introducing the "People without History". African Historiographies' in R. Torstendahl (ed.) *An Assessment of twentieth-century historiography: Professionalism, methodologies* (Stockholm: Almqvist & Wiksell International), pp. 151–178.
- Padilla, G. Z. (2011) 'Mexican Historical Writing' in A. Schneider and D. Woolf (eds.) *The Oxford History of Historical Writing. Volume 5: Historical Writing since 1945* (Oxford: Oxford University Press), pp. 454–472.

- Passmore, K. (2011) 'History and Social Science in the West' in A. Schneider and D. Woolf (eds.) *The Oxford History of Historical Writing. Volume 5: Historical Writing since 1945* (Oxford: Oxford University Press), pp. 199–219.
- Pelley, P. (2011) 'Vietnamese Historical Writing' in A. Schneider and D. Woolf (eds.) *The Oxford History of Historical Writing. Volume 5: Historical Writing since 1945* (Oxford: Oxford University Press), pp. 559–574.
- Piskorski, J. M., Hackmann, J. and Jaworski, R. (2002) *Deutsche Ostforschung und polnische Westforschung im Spannungsfeld von Wissenschaft und Politik. Disziplinen im Vergleich. Deutsche Ostforschung und polnische Westforschung Bd. 1.* (Osnabrück: Fibre; Poznańskie Towarzystwo Przyjaciół Nauk).
- Porciani, I. and Raphael, L. (eds.) (2010) *Atlas of European Historiography: The Making of a Profession 1800–2005* (Basingstoke: Palgrave Macmillan).
- Porciani, I. and Tollebeek, J. (eds.) (2012) *Setting the standards: Institutions, networks and communities of national historiography* (Basingstoke: Palgrave Macmillan).
- Raphael, L. (1994) *Die Erben von Bloch und Febvre. Annales-Geschichtsschreibung und nouvelle histoire in Frankreich 1945–1980* (Stuttgart: Klett-Cotta).
- Raphael, L. (1996) 'Organisational Frameworks of University Life and Their Impact On Historiographical Practice' in R. Torstendahl and I. Veit-Brause (eds.) *History-making. The intellectual and social formation of a discipline* (Stockholm: Royal Acad. of Lett), pp. 151–168.
- Raphael, L. (2003) *Geschichtswissenschaft im Zeitalter der Extreme. Theorien, Methoden, Tendenzen von 1900 bis zur Gegenwart* (München: Beck).
- Raphael, L. (2012) 'Militancy and Pluralism. Party and Church Institutes of Contemporary History in Western Europe since 1945' in I. Porciani and J. Tollebeek (eds.) *Setting the standards. Institutions, networks and communities of national historiography* (Basingstoke: Palgrave Macmillan), pp. 240–265.
- Report of the One-Man Committee to enquire into the Affairs of the Indian Council of Historical Research, New Delhi by D. Bandyopadhyay, 11th July 2005.
- Riekenberg, M. (1995) *Nationbildung, Sozialer Wandel und Geschichtsbewußtsein am Río de la Plata* (Frankfurt/M: Vervuert).
- Sabrow, M. (2001) *Das Diktat des Konsenses: Geschichtswissenschaft in der DDR 1949–1969* (München: Oldenbourg).
- Sabrow, M. (ed.) (1997) *Verwaltete Vergangenheit. Geschichtskultur und Herrschaftslegitimation in der DDR* (Leipzig: Leipziger Universitätsverlag).
- Saxer, D. (2012) 'Monumental Undertakings. Source Publications for the Nation' in I. Porciani and J. Tollebeek (eds.) *Setting the standards. Institutions, networks and communities of national historiography* (Basingstoke: Palgrave Macmillan), pp. 47–69.
- Saxer, D. (2014) *Die Schärfung des Quellenblicks. Forschungspraktiken in der Geschichtswissenschaft 1840–1914* (München: Oldenbourg).
- Schneider, A. and Tanaka, S. (2011) 'The Transformation of History in China and Japan' in S. Macintyre, J. Manguerra, and A. Pók (eds.) *The Oxford history of historical writing, vol. 4: 1800–1945* (Oxford: Oxford University Press) pp. 491–519.
- Schnicke, F. (2016) *Die männliche Disziplin. Zur Vergeschlechtlichung der deutschen Geschichtswissenschaft 1780–1900* (Göttingen: Wallstein).
- Tollebeek, J. (1994) 'De machinerie van de geschiedenis. De witbouw van een historische infrastructuur in Nederland en België' in J. Tollebeek (ed.) *Opstellen over de geschiedschrijving in Nederland en België* (Amsterdam: Bert Bakker), pp. 17–35.

- Tyrrell, I. (2005) *Historians in Public. The Practice of American History, 1890–1970* (Chicago: Chicago University Press).
- van Dongen, J. (ed.) (2015) *Cold War science and the transatlantic circulation of knowledge. History of science and medicine library History of modern science 1*. (Leiden: Brill).
- Verschaffel, T. (2012) ‘“Something More than a Storage Warehouse” The Creation of National Archives’ in I. Porciani and J. Tollebeek (eds.) *Setting the standards. Institutions, networks and communities of national historiography* (Basingstoke: Palgrave Macmillan), pp. 29–46.
- Wang, Q. E. (2007) ‘Between myth and history. The construction of a national past in modern East Asia’ in S. Berger (ed.) *Writing the nation. A global perspective* (Basingstoke: Palgrave Macmillan), pp. 126–154.
- Wang, Q. E. (2000) ‘Between Marxism and Nationalism. Chinese Historiography and the Soviet Influence, 1949–1963’, *Journal of Contemporary China*, 9, 95–111.
- Weigelin-Schwiedrzik, S. (2011) ‘Chinese Historical Writing since 1949’ in A. Schneider and D. Woolf (eds.) *The Oxford History of Historical Writing. Volume 5: Historical Writing since 1945* (Oxford: Oxford University Press), pp. 615–636.
- White, H. (2005) ‘The Public Relevance of Historical Studies. A Reply to Dirk Moses’, *History and Theory*, 44, 333–338.
- Woolf, D. R. (2011) *A global history of history* (Cambridge: Cambridge University Press).
- Ying-Shih, Y. (1994) ‘Changing Conceptions of National History in Twentieth-Century China’ in E. Lönneroth (ed.) *Conceptions of National History* (Berlin: Campus), pp. 155–174.
- Zachariah, B. (2011) *Playing the nation game. The ambiguities of nationalism in India. New perspectives on Indian pasts* (New Delhi: Yoda Press).
- Zala, S. (2001) *Geschichte unter der Schere politischer Zensur. Amtliche Aktensammlungen im internationalen Vergleich* (München: Oldenbourg).
- Zurbuchen, M. S. (ed.) (2004.) *Beginning to Remember. The Past in the Indonesian Present* (Seattle: Wahington University Press).

RECOMMENDED READINGS

- Berger, S. and Conrad, C. (2015) *The past as history. National identity and historical consciousness in Modern Europe. Writing the nation* (Basingstoke: Palgrave Macmillan).
- Dumoulin, O. (2003) *Le role social de l'historien. De la chaire au prétoire* (Paris: Albin Michel).
- Lingelbach, G. (2003) *Klio macht Karriere. Die Institutionalisierung der Geschichtswissenschaft in Frankreich und den USA in der zweiten Hälfte des 19. Jahrhunderts* (Göttingen: Vandenhoeck & Ruprecht).
- Macintyre, S., Maiguashca, J. and Pók, A. (eds.) (2011) *The Oxford history of historical writing. Volume 4: 1800–1945* (Oxford: Oxford University Press).
- Porciani, I. and Raphael, L. (eds.) (2010) *Atlas of European Historiography: The Making of a Profession 1800–2005* (Basingstoke: Palgrave Macmillan).
- Porciani, I. and Tollebeek, J. (eds.) (2012) *Setting the standards. Institutions, networks and communities of national historiography* (Basingstoke: Palgrave Macmillan).

- Raphael, L. (2012) *La ciencia histórica en la era de los extremos. Teorías, métodos y tendencias desde 1900 hasta la actualidad* (Zaragoza: Institución 'Fernando el Católico').
- Schneider, A. and Woolf, D. (eds.) (2011) *The Oxford History of Historical Writing. Volume 5: Historical Writing since 1945* (Oxford: Oxford University Press).
- Tyrrell, I. (2005) *Historians in Public. The Practice of American History, 1890–1970* (Chicago: Chicago University Press).
- Zala, S. (2001) *Geschichte unter der Schere politischer Zensur. Amtliche Aktensammlungen im internationalen Vergleich* (München: Oldenbourg Verlag).

Official History Reconsidered: The Tadhana Project in the Philippines

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The Tadhana project was a history-writing project sponsored in the 1970s by the then well-known dictator and president of the Philippines, Ferdinand Marcos. Marcos forged a partnership with some of the most able Filipino scholars of that generation to realise this project. The aim was very ambitious: to write a 21-volume history that was academically rigorous, ‘truly national’ in scope, and ‘genuinely Filipino’ in spirit (Marcos 1982). It sought to cover the earliest period (geologic times) up to the Marcos years in the 1970s. Aside from being the most ambitious, it was also the most controversial history project ever undertaken in the country.

The project started in 1973–1974, not long after the declaration of martial law in September 1972. Martial law was imposed on the pretext that the republic was in grave danger. Allegedly, it was threatened both by the left-ist and rightist enemies of the state. The scholars who took part in the project have been called, mostly in private, by various names, such as ‘intellectual prostitutes,’ ‘academic mercenaries,’ or ‘Marcos’ lapdogs.’ Notwithstanding their strong protestations to the contrary, the scholars were reproached for being allegedly co-opted or manipulated, and for willingly ‘selling their souls’ to a dictator.¹ From this standpoint, it may be seen as an exemplary case of what Julien Benda calls a ‘treason of intellectuals’ (Benda 1969).

This chapter is based on Chap. 2 of the author’s PhD thesis (Curaming 2006)

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Observers' knee-jerk reactions to Tadhana were typical. Basil Liddell Hart's oft-cited comment that they are 'official but not history' (as cited in French 1986, p. 58) reflects the deeply suspicious attitude many scholars and ordinary people hold towards official histories, particularly if they occur in a dictatorship. As a history 'authorized by institution, group, or person,' following Tim Cook's (2006, p. 4) definition, official histories are obviously enabled by these powers and interests. One wonders almost intuitively what agenda lies beneath the proffered facts and interpretations. It is precisely because of such transparency that one easily creates an impression that invariably official histories are propaganda or hagiographies. They are predictable and self-serving and thus ought not to be taken seriously. Although many official histories fit such a description, it could also be misleading. We would miss key insights about the nature and importance of official histories if we relied exclusively on such a static and one-dimensional view.

Several studies have shown a more complex picture of official histories, including military histories. Andrew Green (2003), for example, has shown that the famous military historian Sir Edward Edmonds who spearheaded the writing of the monumental, 28-volume *History of the Great War* was more balanced or impartial than was widely believed. Tim Cook's (2006) *Clio's Warriors* demonstrates that although official military historians in Canada were circumscribed by their official position, the professional training and hard work they put in analysing innumerable documents to which they have had an almost exclusive access yielded a more nuanced portrayal of historical episodes than one expects of official history. They also lay the foundation upon which subsequent serious academic works were built (Cook 2006).

This chapter examines the case of the Tadhana project to demonstrate the multidimensional, shifting and complex power relations that can underpin an official history. The aim is to contribute towards theorising official history by highlighting the complex or ambivalent power relations that undergird an official history.

STATE-SCHOLAR RELATIONS IN THE PHILIPPINES: A BACKGROUND

Elsewhere (Curaming 2008) I compared the relevant aspects of intellectual and political history of the Philippines and Indonesia to identify the factors that affected the contrasting patterns of the state-historian relations in the two countries in the 1970s. That was when Tadhana began in the Philippines and a comparable state-sponsored history-writing project, *Sejarah Nasional Indonesia* (SNI, National History of Indonesia) was carried out in Indonesia. Two crucial points are highlighted in that article. First, the more fluid and confrontational state-civil society relations in the Philippines and, second, the deeper roots of professionalisation of historical scholarship in the Philippines than in Indonesia.

Marcos' declaration of martial law in September 1972 installed an authoritarian regime which fit well into the patterns of authoritarianism in the region in the 1960s–1970s. However, this episode was seen both in the Philippines

and in the United States as an aberration from the purported long-standing role of the Philippines as a 'showcase of democracy' in Asia. In Indonesia the 'democratic experiment' had relatively shallower roots and had been short lived, lasting just about a decade in the 1950s. The Philippines, on the other hand, had by the 1970s already had no less than seven decades of at least nominal engagement with democratic practices and institution-building. State-civil society relations in the Philippines were more dynamic and, of course, more contentious (Clarke 1998). The structure of power relations was far from solidified and the centers of power were multiple and liable to shifting alliances (Curaming 2008, pp. 129–132).

Marcos painstakingly paved the groundwork for authoritarian rule via a wide range of Machiavellian strategies (De Quiros 1997; Mijares 1976). He adroitly calculated and manipulated various conflicting and complementary forces, including those within the military. Lulled by complacency wrought, amongst other factors, by their long-standing dominance of the political and economic spheres, the traditional oligarchs who could have stopped Marcos proved vulnerable to his wily manipulations (Overholt 1986, 1139–1140). Threats from the left were on the rise, and they served well to justify the imposition of martial law. Marcos cleverly positioned himself at the middle and proclaimed himself the leader of what he called a 'revolution from the center' (Marcos 1971, 1974).

Many Filipinos by the 1970s had grown tired of traditional politics but they were also wary of the radical aspirations of the left-leaning groups (Overholt 1986, p. 1142). Marcos' promises of a new beginning and a glorious future attracted their curiosity and support. One can understand why many Filipino scholars and technocrats willingly joined and worked for, or with, the Marcos regime. Those who participated in Tadhana were amongst good examples.

The development of the historical profession in the Philippines had gone far enough by the 1970s to allow the formation of a critical mass of scholars who upheld the notions of intellectual autonomy or academic freedom. There were also those who believed in 'engaged' or 'partisan' scholarship, particularly amongst left-leaning intellectuals. This situation helps explain Marcos' rather cautious behavior in dealing with scholars. At the same time, it explains why the project had from the start its fierce critics and why critiques persist until now.

The roots of 'engaged,' anti-establishment historical scholarship in the Philippines were deep. They went at least as far back as the late nineteenth century, amongst patriotic works of propagandists² such as Jose Rizal (Mojares 2006; Ocampo 1998). This tradition was kept alive in the works of Teodoro Agoncillo (1956, 1960, 1977) and Renato Constantino (1975, 1978) who were the key proponents of anti-colonial nationalist writing. The professionalisation of history, which fed into the development of nationalist history writing while also trying to carve its own path, was underway in the early decades of American rule with Filipino scholars obtaining MAs and

PhDs in history and closely related fields either from some of the top universities in the United States or in the Philippines. In comparison, say, with Indonesia that produced its first homegrown PhD in history only in 1978, the Philippines already had by then not only a stable of overseas-trained historians but homegrown graduate programs (Curaming 2008, pp. 132–137). This is an important point to note in understanding the difficulty initially faced by Marcos in recruiting top scholars to work for the project, as well the restrained manner he showed while engaging with those who agreed to participate. He must have sensed that any signs of overt manipulation could jeopardise the project.

Marcos' dictatorial regime, as with many other dictatorships, made use of its power to repress, intimidate, incarcerate, torture and even kill its perceived opponents. At the same time it tried hard to project a positive, even heroic, picture of itself in pursuit of a noble mission. Repression and violence were harsh and quite rampant but not indiscriminate. It was targeted to particular groups. Amongst groups that the Marcos regime dealt with restraints, even fawned upon, were intellectuals, academics, writers and artists. Ferdinand and Imelda, his wife, tried hard to win them over, showering them with respect or flattery, depending on whose point of view, as well as moral support or material rewards. There were indications that the couple appeared seeking being acknowledged as intellectuals.³

GENESIS OF THE TADHANA PROJECT

The roots of the Tadhana project may be traced to an inspiration Marcos found in Winston Churchill's multivolume, *The History of English-Speaking Peoples* (Churchill 1956). Like Churchill who was alleged to have said that '[h]istory will be kind to me, for I intend to write it,' Marcos believed that 'sometimes [it is] convenient to be able to write down your own side of history' (Marcos 1982, p. 5). Such a declaration fed into the widespread supposition that Marcos sponsored the project because he needed convincing justifications perpetuating himself in power. Given that the project began after the declaration of a martial law in 1972 and a number of ghostwritten books were published around that time to explain or justify Marcos' policies and authoritarian rule, this suspicion was not without basis.⁴ Also the grand narrative of Philippine historical development that runs through *Tadhana* coincided almost perfectly with Marcos' interest to present martial law and the New Society it sought to create as a natural or a logical conclusion of the evolutionary process in the development of the Filipino nation. The choice of title *Tadhana*, which means 'destiny,' is strongly indicative of this aspiration. It was supposedly a destiny for the Filipino nation to see the rise of the New Society (*Bagong Lipunan*) characterised by peace, prosperity and national pride.

However, Marcos appeared more politically savvy and nuanced than that. He understood very well that many would doubt or reject offhand the purported good intentions and scholarly qualities of Tadhana, given the highly contentious atmosphere of the 1970s and 1980s. What he had in mind, as indicated by his very close aide Adrian Cristobal (2005), was that a high-quality, very scholarly history would be able to stand a critical scrutiny through time. Long after he would be gone, a hundred or more years hence, Marcos would remain in a dialogue with people (both Filipinos and foreigners) of future generations through Tadhana. Marcos envisioned the future generations to be in a better position to judge the wisdom of what he did (Cristobal 2005). He seemed confident about his future vindication and Tadhana was amongst the instruments that would purportedly make it possible.

Marcos also appeared to harbor deep anxiety with historians, many of whom he described as ‘contentious’ (Marcos 1982, p. 1), and with the judgment of History (capital H). After reading Bailey’s book *Presidential Greatness* which, Marcos notes in his diary on 19 December 1971, ‘explains the bias of historians and how they get it,’ he concluded that ‘history should not be left to the historians’ (Marcos n.d., n.p).⁵ In a speech in 1967, Marcos expressed the need for writing history to correct what he thought to be an erroneous and overly negative picture of him in the press. Marcos was likewise clearly concerned about how he would be judged in/by history. On 8 October 1970, for instance, he wrote in his diary (Marcos n.d., n.p):

I often wonder what I will be remembered in history (as/for). Scholar? Military hero? Builder? The new constitution? Reorganization of (the) government? Uniter (sic) of the variant and antagonistic elements of our people? He brought light to a dark country? Strong rallying point or a weak tyrant?

Marcos was skillful in many areas and he endeavoured to be known as such. He had a very notable academic background, having graduated with honors at the prestigious law school of the University of the Philippines. He topped the bar examination in 1939 despite being in jail. He impressed legal luminaries in the Philippines when he represented and defended himself before the Supreme Court and got acquitted, reversing a lower court’s conviction of him for murder. He fancied himself as the most bemedalled war hero and a scholar who was supposed to have written many books.⁶

The project started sometime in 1973–1974 when Marcos finally found a group of relatively young historians who were willing to participate. For several years Marcos had been looking not just for any historians but for top-notch ones who could help realise the project. It proved not easy. Since 1968 through his wife, Imelda, Ferdinand Marcos a number of times wooed the two leading historians in the country, Teodoro Agoncillo and Horacio de la Costa. Yet, they politely declined. Agoncillo explained in an interview in 1976 what it would have meant had he agreed to write history for Marcos: ‘...the day I do that ... I am finished!’ He added he would ‘not just be a

fiction writer but a prostitute' [Agoncillo and Jose 1995 [1976], as reprinted in Ocampo (1995, p. 150)].

The hunt continued and the task of recruiting participants fell upon the shoulders of the then director of the National Library, Serafin Quiason. He was a historian who obtained a PhD at the University of Pennsylvania. Before moving on to the National Library in 1966 he was a mid-level professor at the University of the Philippines (UP), at the flagship campus in Diliman, Quezon City. This university contained the largest concentration of scholars in the country who could contribute significantly to the project. Despite being a center of rabid anti-Marcos opposition, it was from UP Diliman that Quiason managed to recruit scholars who proved willing, for varying reasons, to join the project (Quiason 2004). Amongst their ranks were some of the most able and promising younger scholars such as Zeus Salazar who was a historian/area studies specialist who earned a PhD (Ethnology) from the University of Paris Sorbonne, Samuel Tan who was also a historian and got a PhD from Syracuse University, Rodolfo Paras-Perez who was an established artist and had obtained a PhD in Art History from Harvard, Cesar Hidalgo who acquired a PhD in Linguistics at Georgetown University, Reynaldo Ileto who got a PhD in History from Cornell, and Ben Austria who attained a PhD in Geology from Harvard. They were amongst the emerging leaders of their respective fields. Their diverse backgrounds reflected the multi- and interdisciplinary aspirations of the Tadhana project (Curaming 2006).

Although popular belief concentrates on the supposedly handsome salaries as reason for these scholars' participation in the project, reasons were in fact varied. The nationalist aspiration of the project was attractive to many participants (e.g. Cruz 1989; Paras-Perez 2004; Salazar 2004; Tan 2004). The resurgence of Filipino nationalism in the 1960s and 1970s, whose defining parameters were no doubt contested, set the contexts upon which the partnership between Marcos and scholars crystallised. Marcos declared that 'the need to refresh one's perspectives on the past is particularly acute for a people whose written history is mainly the legacy of (a) nation, or nations that once subjugated them' (Marcos 1982, p. 3). Such a pronouncement was likely to have struck a sympathetic chord not only amongst scholars but also many common Filipinos during that time. Salazar recalled that when Quiason approached him and invited him to the project, the latter described it as a 'very important, nationalist undertaking' (Salazar 1989). Cruz, who joined the project much later in 1980, echoed the same words when referring to Quiason's time-tested bait to entice potential prospects (Cruz 1989).

The opportunity to advance their own research via substantial funding, access to the archives and the chance to push the frontier of Philippine historiography more broadly were other major attractions. Leading participants such as Salazar and Tan fondly remembered the generous provisions for the project including clerical support, research assistantship, and trips overseas to gather archival materials (Salazar 2004; Tan 2004). Given Marcos'

well-known tight-fistedness,⁷ that he allowed generous provisions for the project indicated the enormous importance he attached to it.

Salazar and Tan also had a grand vision of revolutionising and pushing the boundaries of history writing in and on the Philippines. Tan, for instance, wanted to include the Muslims and other indigenous people in the historical narrative of nation formation which was traditionally dominated by Christian lowlanders. He also wished to infuse the historical narrative with a multidisciplinary analytical approach whereby the analytic tools of the social sciences would be woven into the historical narrative (Tan 2004). Salazar, for his part, aimed at employing an internalist or indigenous perspective to Philippine history. He also wished to fill in the wide gaps in historical knowledge, particularly relating to the periods before the coming of the Spaniards as well as the first 200–250 years of the colonial era. He had the ambition to produce a truly complete Filipino history. Asked if it did not bother him to work for Marcos who was despised by many, he put it strongly in these words (Salazar 2004):

If I'd be offered by anyone—even by a criminal—a whole institute to allow me to write my history [referring to complete Philippine history], I'd accept. I wouldn't mind even if he's a criminal. The important thing is that I be able to do it. After all this is more important than one single individual. So for me there's no moral issues here because one of the attainments of historiography is that you no longer judge in moral terms.

What stands out is the paramount role of scholarly motivations. For some critics, it seemed hard to believe that scholars who joined the Tadhana project could be motivated by things other than money and power. These critics missed the possibility that for some scholars knowledge is a form of wealth and, even if they (scholars) do not acknowledge it, it is also a form of power (Pels 1995, 1997). That said, it did not mean that compensation was not an important consideration. It certainly was particularly for those in lower or weaker academic positions. Luis Dery, for instance, one of the research assistants, claimed to have received from the project a salary which was more than double his usual salary. Without his work at the project, it would have been almost impossible to pay for doctoral studies while providing for the needs of his family (Dery 2004).

Another participant, Reynaldo Iletto, admitted that the honorarium he received from the project (around 600 pesos) was a substantial addition to his salary of about 1500 pesos per month as Assistant Professor at the University of the Philippines, Diliman Campus. He claimed that 'for most of those who took part in the project, the pay was the big attraction' (Iletto 2004).

So in the Tadhana project there was a convergence of scholarly, material and political interests. Marcos was willing to give what the scholars needed—funding, research opportunities, time, facilities, and the like—and the scholars lent Marcos scholarly authority, which he seemed to desire.

The project ran until February 1986 when the Marcos regime collapsed in the face of, amongst other pressures, the People Power uprisings. By then the research project was still far from completion. Only four of the projected nineteen full volumes and one of the two abridged volumes had been published. According to Cruz (1989) the manuscripts of the remaining unpublished volumes had already been completed and submitted to Juan Tuvera for editorial vetting and Marcos' approval. Tuvera was Marcos' trusted aide who knew intimately his writing style. His many other responsibilities as Executive Secretary and Marcos' illness since the early 1980s slowed down the whole process. The second abridged volume covering the period 1897 to the 1970s was reportedly already on a galley proof by early 1986. The volume could have come out within the year (Tan 2004) but the chaos of the February 1986 uprisings precluded the possibility. The whereabouts of this manuscript has become an object of gossip and puzzlement amongst members of the team. Reportedly, it has not been seen since then (Mangahas 2004; Quiason 2004; Tan 2004).

DYNAMICS

The framework of the project was laid out in a 62-page document published in 1976. Entitled *Tadhana Outline: History of Filipino People* (Marcos 1976a), it was a brainchild of Salazar and Tan. Both of them attested that upon submission to Marcos, it was accepted without revision. In the words of Quiason, 'Marcos swallowed it hook, line and sinker' (Quiason 2004). Elsewhere, I have discussed in detail the contents of this outline (Curaming 2006, pp. 88–129). It offers an impressive synthesis and innovative interpretations of the entire history of the Philippines, highlighting the indigenous origins of the Filipino nation as well as Philippine polity. It underscores the Austronesian and Malayo-Polynesian roots of Filipino identities and is keen to present the colonial periods under Spain and the United States as just a temporary disruption of the deeply rooted patterns of cultural-historical development. Erudite, conceptually coherent and novel in its approaches and interpretation, it demonstrates a willful attempt to lift up considerably the Philippine historiographic benchmark. In my own assessment, it was a decolonialising historiography *par excellence*. It was very notable for anticipating some of the key issues such as colonial discourse, and 'provincializing' or decentering Europe that became faddish in the post-colonial or decolonial literature from the 1980s and 1990s (Chakrabarty 2000). In addition to the overall quality, I also want to stress the leverage the scholars enjoyed in deciding the content and approaches. Keenly aware of the uneasy relations between the state and Filipino scholars, Marcos must have appreciated the need for caution and delicacy. He could not be seen or sensed as manipulating without risking that some scholars would leave the project.

To what extent Marcos has influenced the contents of *Tadhana* is difficult to establish. As noted above, someone did the editing for Marcos, Juan Tuvera. Aside from being the Executive Secretary, Tuvera functioned as the overall Project Director. The four key members—Tan, Salazar, Quiason and Paras-Perez—claimed in my interviews with them in 2004 and 2005 that Marcos did not intervene to influence the substantive content of *Tadhana*. It was only on two occasions, Salazar (1989, p. 199) recalled, that Marcos had minor details altered. According to him, he concurred just to humor Marcos and also his own self.

Tan corroborated Salazar's recollection. In his words: 'Marcos did not influence Tadhana, ideologically or theoretically. The only participation he had was when he read the manuscripts and ...had marginal notes... and questions asked. But more on factual parts of history... In fact it was the other way around...the Tadhana (was) the one that shaped Marcos views of history... and later on his perception of future itself...' (Tan 2004). This bold declaration appears not entirely baseless. For instance, Marcos's conception of Philippine history that one can glimpse from his book *Introduction to the Politics of Transition*, was sharply different from that in his previous works. This book came out in 1978, two years after the Tadhana Outline. Interestingly, it adopted the Tadhana framework of Philippine history. More explicitly, in the entry date 17 February 1973 on his diary, Marcos scribbled what he envisioned to be an outline of the Philippine history he wanted to write. It clearly echoed the conventional emplotment of Philippine history, which was in stark contrast to what Tadhana offered. Whereas conventional Philippine history locates colonial experience under Spain and the United States as the fulcrum around which the Filipino nation and the state developed, Tadhana in contrast goes deep into the past, centuries earlier than the coming of the Europeans.

Despite the claims about Marcos' nonintervention made by Tan, Quiason, Salazar and Paras-Perez, there are indications to the contrary. In my interview with Fe Mangahas in 2004, she narrates being asked to revise her manuscript. She was assigned to write on the most recent period that coincided with the first six or seven years of Marcos in office, 1966–1972. She recounted an emissary from Malacañang Palace, the president's official residence, came one day. Quiason called her for a closed-door meeting where the man from the Palace told her that the approach she used in writing the chapter entitled 'Radical Alternatives' was unacceptable. The emissary explained that Marcos' voice should be the one heard in the chapter. Marcos' voice/perspective ought not be reduced to just one amongst many, as was the case in Mangahas' draft. Mangahas recalled being asked by Quiason if she was willing to revise and she responded: 'Sir, if you can get somebody to re-write it, please just have it re-written.' The meeting ended when Quiason said to the man from Malacañang not to worry, that the concern would be addressed (Mangahas 2004).

This anecdote shows that despite the wide latitude Marcos allowed the scholars to have, Marcos probably did insist to have his way when it concerned a historical question crucial to his political interests. The anecdote also shows, however, that Mangahas could apparently say no, although at the risk of losing her job which was very dear to her considering that she was the breadwinner.⁸ It suggests an array of possible explanations, including her felt need, a trained historian as she was, to uphold measures of academic integrity. In a sense, she ‘spoke truth to power.’ Likewise, that Quiason allegedly did not pressure her, despite his avowed duty as the Deputy Director of the Project to represent Marcos’s interest, could also mean a lot of things. Possibly, being a scholar himself, he shared with Mangahas an understanding of the scholarly and political situations that served as context for Mangahas’ stance. Rather than pressuring her, he had the chapter rewritten by another member of the team.

On the whole, the relationship between Marcos and the scholars of the Tadhana project proved to be amicable. The scholars enjoyed considerable freedom. Except for a few instances noted above, there was hardly a need for Marcos to ‘manipulate’ or restrict them, as one might expect in an official history writing project. Marcos’ wholesale acceptance of the new approach and framework offered by Tadhana may be due to his genuine desire to pursue excellence and the state of the art in the field. It also appeared that he recognised the indigenous and inclusive orientation of nationalism offered by Salazar and Tan as suitable for his grand designs. It still awaits more definitive study to determine his exact motivations.

A NECESSARY PARTNERSHIP?

Critics of official histories in liberal democracies assume a dichotomous relation between good and impartial academic history, on the one hand, and supposedly politically tainted or biased official history, on the other. The case of Tadhana suggests that the opposition between political interests and ‘good’ scholarship might not be as strict. What Marcos needed for his political purpose was a rigorous scholarship produced by highly credentialed scholars because, amongst other possible reasons, he believed such scholarship could stand the test of time. This use of experts for political purposes is a common practice amongst governments and agencies or institutions such as the Rand Corporation, World Bank, IMF and the CIA, amongst others (Rich 2004; Boswell 2009). They employ expert social scientists and area specialists with the intent to pursue their political interests (Winks 1996). If a common logic underpins the two contexts, how come it is reproached in one but tolerated, perhaps even encouraged in another? Possibly, the perceived Western democratic nature of such institutions makes these efforts acceptable and even to a certain extent beyond criticism. Alternatively, could it be that the concealed, unacknowledged, ignored or ‘permitted’ political character of the

WB-IMF-CIA-Rand operations which made their use of experts acceptable, whereas that of 'unacceptable' leaders such as Marcos cannot be tolerated? From a meta-analytic critical standpoint, therefore, the supposedly oppositional ties between the scholarly and the political may be a false dichotomy occasioned by hidden political interests that need to be exposed.

The still widely accepted notion of neutrality or objectivity of scholarship makes it difficult for many to imagine that even so-called 'good,' 'honest' and 'impartial' scholarship usually implies a political or interested position in itself. Bourdieu's work (Bourdieu 1988; Bourdieu and Wacquant 1989; Bourdieu 1992) clearly demonstrates that scholarly practices are governed and driven by a scholastic ideology, in which the claim to professionalism, impartiality or neutrality are central elements. Such an ideology establishes, sustains and at the same time conceals the power of the scholarly class. By being perceived as powerless, or above or outside politics, the scholarly class makes itself indispensable in the scheme of things, particularly for political actors of compatible ideological colours. They all need justifications for their political thoughts, actions and interests. Often enough, scholarship sides with one or another in political debates, but mostly it consciously locates itself in a neutral position, adjudicating or arbitrating between competing groups. Such a position of neutrality cannot be equated to apoliticality. It is a major source of scholars' power. So when the key Tadhana scholars claimed that they were sincerely in pursuit of a scholarly agenda, and not of fame or wealth or power, it ought to be interpreted and analysed as something not out of pure altruism. It was their self-interest to do so. It was, in the final analysis, their politics to be scholarly and neutral.

A NECESSARY FALSE OPPOSITION?

If scholarship and politics are not necessarily oppositional, and if they may even normally go together, why is it that the intimate relationship between scholars and the state, as exemplified by the Tadhana project, is often unfavourably perceived? Critical reactions to Tadhana suggest this may be the case because maintaining the fiction of the oppositional relationship between the two is mutually favourable for the scholarly class whose claim to power and privilege lies in the supposed impartiality of scholarship, as well as for the political players who need scholars' output for their own purposes, good or bad. What official history projects such as Tadhana do is make such partnership explicit, thus risking exploding the myth that sustains or props up the collective interests of both the scholarly and political classes. With their interests threatened, they respond by kicking those involved from the moral community of 'true' scholars by calling them names such 'intellectual prostitutes,' 'mercenaries' or 'Marcos's lapdogs.'

Critics of Tadhana may be classified into two major groups. The first group consists of those who opposed Marcos for various political reasons. From

their viewpoint, most or all of what Marcos did deserves to be opposed, and this includes the Tadhana project. The second group consists of those, mainly scholars, who were scandalised by what they perceived to be a wanton disregard for the fundamental precepts in scholarship, which are autonomy and impartiality. The two groups overlap, but those in the latter group are more concerned about the need to preserve the integrity of the scholarly enterprise. They would probably oppose any similar project regardless of the sponsors. Critics of scholarship in support of, or under the behest of the communists and the Nazis, for example, seem oblivious of the liberal or neoliberal biases of the kind of scholarship they tolerate, approve or promote (e.g. Muller-Hill 1998; Lifton 1986). The opposition, in other words, may be rooted in the ‘wrong politics’ such scholarship endorses. The subtext of such critique may be put this way: ‘Had you only sided with us, the political character of your position would have been ignored or remain concealed.’

GOOD INTENTIONS ARE NOT ENOUGH

It is a common tenet in the sociology of knowledge that knowledge assumes a life of its own as it circulates and is consumed in society. Regardless of a scholar’s good intention, irrespective of the accuracy and impartiality of scholarly output, how knowledge is used ultimately depends on the interests of particular knowledge consumers. Good intentions and accuracy, therefore, will not prevent politicisation; they may even be necessary constituting elements in this process.

Anyone who has a particular interest needs to find suitable knowledge to justify it, to convince other people and oneself about the appropriateness or acceptability of this interest, in moral, political, social, cultural or economic terms. They are free to interpret things in ways that suit their purpose. This was illustrated when Marcos used the deep historical roots of the supposed development of the Filipino nation in ways the scholars who wrote them found very surprising. It was not the scholars’ intent—particularly not of those who worked on volumes covering periods centuries or millennia removed from Marcos’ time—to support Marcos’ political design. Yet, their scholarship nevertheless did deliver this support when research results were pieced together to fill in the scheme Marcos had in mind. The Tadhana scholars may be faulted for their naïveté. They thought they could play with fire and avoid being burnt at the same time. But the important point to highlight is that even if they had not joined the project and become an explicit part of the team, their ideas which may have been published independently could still have been used by someone like Marcos to bolster his political plans. The scholars’ participation in Tadhana simply formalised and made explicit the partnership between embodiments of power and knowledge. It is a partnership that is consummated on a daily basis as anyone uses knowledge for their particular purposes every day.

Also, an open marketplace of ideas offers a range of possible interpretations for possibly any important issue or question. We select that which serves our interest or purpose and ignore or downplay others that do not. The debates or clash of ideas that animate history in the Philippines, or any field of scholarly endeavour for that matter, ensure that a sufficiently wide range of factual and interpretative options are available that could serve any shade of political difference. We often interpret these debates as an indication of scholars' independence and desire to reach the highest level of accuracy. What is ignored in the process is the role of these scholarly debates in providing scholarly justifications for every side in politically contentious struggles, thus affirming the marriage between power and knowledge.

CONCLUSION

This chapter seeks neither to support the widespread view that scholars who joined an official history project deserve to be castigated for complicity with the powerful, nor does it aim to defend or exonerate them. Doing either of these merely shifts the standpoint from one politics to another. The chapter instead raises a question drawn from a meta-analytic standpoint that can open up a potentially more productive analytic pathway. This question is the following: what have we got to sacrifice for focusing primarily on the patrons' political interests and the scholars' alleged sins of, say, moral ineptitude, and political naïveté, amongst others? It is common knowledge that official histories such as Tadhana reflect the power and interests of their patron. But the possibly greater importance of official history lies beyond affirming such a commonplace conclusion. By taking official history like Tadhana as a partnership between two entities that mutually need each other, the power of scholars is recognised and made explicit rather than elided or concealed. The main reason why it is important to recognise the power of the scholarly class lies in the analytic blindness that results from its nonrecognition. As long as scholarship's power is elided, the fiction is maintained that there is a space beyond the political which may be attained. The prevailing idea is that it is just a matter of being empirically accurate, methodologically sound, conceptually sharp and theoretically up to date and the resulting scholarship is insulated from politics. However, it is impossible to attain such a nonpolitical state simply because scholarly output cannot exist in a social vacuum. Unequal power relations permeate practically every social relation and thus ensure that knowledge can be apprehended only within a political sphere. The idea of a nonpolitical state which may be reachable via good scholarship is a myth that some scholars might need to maintain because it is the enabling starting point of their profession.

The importance of official history, therefore, lies in the seemingly contradictory but in reality inseparable properties that it possesses. The very notion of official history flags the existence of history or any knowledge that is not

‘official,’ or in other words, not power-driven. On the other hand, official histories such as the Tadhana project are no more than a formalisation and ‘explicitisation’ of power-knowledge interplay that is probably happening, discreetly, on a daily basis, hidden or mistaken for something else. By making this interplay explicit, it endangers the wellspring of power of the scholarly class, which helps to explain why official histories and historians who join them are often ostracised (or at the very least eyed with suspicion). By treating official histories and other ‘politically transparent’ scholarly endeavours as an exemplification of how embodiments of knowledge and power work together, the important question ceases to be whether knowledge is driven by power, but rather, whose and what types of power underpin whose and what type of knowledge.

NOTES

1. Given the long-standing virulent criticisms of Marcos and almost everything he did, it is rather surprising that Filipino scholars have been sparing in putting in writing their harsh words for those who took part in Tadhana. Privately, however, it is common. For examples of public castigation of Tadhana scholars, see Abinales (2016) and Muego (1988, 166). No-holds-barred, epic in proportion, very heated exchanges on Tadhana and the scholars who took part in it happened on Facebook. It ran for three weeks, 6–28 July 2010. When this was compiled and printed it easily reached 68 pages. (See ‘Ang Akademikong Debate/Talastasan Ng Dekada, Nasa Facebook!!!’ 2010).
2. Propagandists refer to those involved in the Propaganda Movement of the late nineteenth-century Philippines–Spain. During that time the term propaganda did not carry the negative connotation it has today. It meant to inform, or propagate new ideas or information.
3. See, for example, accounts in Wikileaks, https://www.wikileaks.org/plusd/cables/1976MANILA02685_b.html.
4. See, for example, Marcos (1973, 1974, 1976b, 1979, 1980).
5. The entries in Marcos diaries, at least those in the version I managed to see, started in 1968 and ended in 1984. The version I had access to was deposited in the Presidential Commission on Good Government (PCGG) library. It was a typewritten (word-processed) version with no pagination and no date of publication. This version is possibly sanitised (Rempel 1993), with entries incriminating anti-Marcos oppositionists and officials in the Aquino administration removed.
6. Proofs that Marcos lied about his war medal claims spread in 1986, with the *New York Times* publishing a lengthy report (see Gerth 1986) on the discovery made by Alfred McCoy, a historian who stumbled upon archival materials that revealed serious problems with Marcos’ claims. Moreover, the several books under his name are believed to have been ghostwritten by a stable of brilliant writers. See Teodoro (2008) and Tatad (2007).
7. Marcos was an Ilocano. Among ethno-linguistic groups in the Philippines, Ilocanos are known for being spendthrift, and Marcos was not an exception.

8. Both she and her husband were anti-Marcos activists who were among those incarcerated during the Martial Law. Upon release one of the conditions set by the military was for her to work for a government agency. Her husband who sustained both physical and psychological injuries could, unfortunately, no longer work, so Fe Mangahas had to earn for the family (Mangahas 2004).

REFERENCES

- Abinales, P. (2016) 'Historians and the Distortions of "that Martial Law Thingy"', *Rappler*, June 11. <http://www.rappler.com/thought-leaders/136041-historians-distortions-martial-law>.
- Agoncillo, T. (1956) *The Revolt of the Masses. The Story of Bonifacio and the Katipunan* (Quezon City: University of the Philippines).
- Agoncillo, T. (1960) *Malolos. The Crisis of the Republic* (Quezon City: University of the Philippines).
- Agoncillo, T. A. (1977) *History of the Filipino People*. 5th ed. (Quezon City: R.P. Gracia).
- Agoncillo, T. and Jose, F. S. (1995 [1976]) 'Solidarity Interview with Agoncillo' in A. Ocampo (ed.), *Talking History* (Manila: De La Salle University).
- "Ang Akademikong Debate/Talastasan Ng Dekada, Nasa Facebook!!!" 2010. *Facebook*. <http://documents.tips/documents/akademikong-talastasan-ng-dekada.html>.
- Benda, J. (1969) *The Treason of the Intellectuals* (New York: Norton).
- Boswell, C. (2009) *The Political Uses of Expert Knowledge. Immigration Policy and Social Research* (Cambridge: New York: Cambridge University Press).
- Bourdieu, P. (1988) *Homo Academicus* (Cambridge: Polity Press).
- Bourdieu, P. (1992) *An Invitation to Reflexive Sociology* (Cambridge: Polity Press).
- Bourdieu, P. and Wacquant, L. (1989) 'For a Socio-Analysis of Intellectuals. On Homo Academicus. An Interview with Pierre Bourdieu', *Berkeley Journal of Sociology*, 34, 1–29.
- Chakrabarty, D. (2000) *Provincializing Europe. Postcolonial Thought and Historical Difference* (Princeton: Princeton University Press).
- Churchill, W. (1956) *A History of the English-Speaking Peoples* (London: Cassell).
- Clarke, Gerard (1998) *The Politics of NGOs in Southeast Asia. Participation and Protest in the Philippines* (London: Routledge).
- Constantino, R. (1975) *The Philippines. A Past Revisited* (Quezon City: Tala Pub. Services).
- Constantino, R. (1978) *The Philippines. The Continuing Past* (Quezon City: Foundation for Nationalist Studies).
- Cook, T. (2006) *Clio's Warriors. Canadian Historians and the Writing of the World Wars* (Vancouver: UBC Press).
- Cristobal, A. (2005) Interview regarding the Tadhana Project Interview by Rommel Curaming.
- Cruz, R. (1989) 'Ang Paggagawa Ng Tadhana Mula 1980' in B. Abrera and D. Lapar (eds.) *Paksa, Paraan at Pananaw Sa Kasaysayan* (Quezon City: UP Likas/Bakas), pp. 200–203.
- Curaming, R. (2006) 'When Clio Meets the Titans. Towards Rethinking State-Scholar Relations in Indonesia and the Philippines' PhD Thesis (Canberra: Australian National University).

- Curaming, R. (2008) 'Contextual Factors in the Analysis of State-Historian Relations in Indonesia and the Philippines,' *Philippine Studies*, 56(2), pp. 123–150.
- De Quiros, C. (1997) *Dead Aim. How Marcos Ambushed Philippine Democracy* (Pasig City: Foundation for Worldwide People Power).
- Dery, L. (2004) Interview regarding the Tadhana Project Interview by Rommel Curaming.
- French, D. (1986) "'Official but Not History"? Sir James Edmonds and the Official History of the Great War', *The RUSI Journal*, 131(1), 58–63.
- Gerth, J. (1986) 'Marcos's Wartime Role Discredited in U.S. Files', *New York Times*, January 23. <http://www.nytimes.com/1986/01/23/world/marcos-s-wartime-role-discredited-in-us-files.html?pagewanted=all>.
- Green, A. (2003) *Writing the Great War: Sir James Edmonds and the official histories 1915–1948*. London: Frank Cass.
- Ileto, R. (2004) 'Communications through Email Regarding the Tadhana Project', March 9.
- Lifton, R. (1986) *The Nazi Doctors. Medical Killing and the Psychology of Genocide* (New York: Basic Book).
- Mangahas, F. (2004) Interview regarding the Tadhana Project Interview by Rommel Curaming.
- Marcos, F. E. n.d. "Marcos Diaries, 1968–1984." Typed manuscript Quezon City. PCGG Library.
- Marcos, F. E. (1971) *Today's Revolution. Democracy* (Manila: Marcos Foundation).
- Marcos, F. E. (1973) *Notes on the New Society of the Philippines, I* (Vol. 1). Manila: F.E. Marcos.
- Marcos, F. E. (1974) *The Democratic Revolution in the Philippines* (Englewood Cliffs: Prentice-Hall International).
- Marcos, F. E. (1976a) *Tadhana Outline. History of the Filipino People* (Manila: Ferdinand Marcos).
- Marcos, F. E. (1976b) *Notes on the New Society of the Philippines: Rebellion of the Poor* (Vol. 2). Manila: F. E. Marcos.
- Marcos, F. E. (1980) *An Ideology for Filipinos*. Manila: F. E. Marcos.
- Marcos, F. E. (1982) 'A Sense of National History', *Historical Bulletin*, 26(1–4): 1–15.
- Mijares, P. (1976) *Conjugal Dictatorship of Ferdinand and Imelda Marcos* (San Francisco: Union Square).
- Mojares, R. (2006) *Brains of the Nation. Pedro Paterno, T.H. Pardo De Tavera, Isabelo De Los Reyes, and the Production of Modern Knowledge* (Quezon City: Ateneo de Manila University Press).
- Muego, B. N. (1988) *Spectator Society. The Philippines Under Martial Rule* (Monographs in International Studies, no. 77) (Athens: Ohio University Center for International Studies).
- Muller-Hill, B. (1998) *Murderous Science. Elimination by Scientific Selection of Jews, Gypsies, and Others in Germany, 1933–1945* (Plainview: Cold Spring Harbor Laboratory Press).
- Ocampo, A. (1998) 'Rizal's Morga and Views of Philippine History', *Philippine Studies: Historical and Ethnographic Viewpoints*, 46(2), 184–214.
- Ocampo, A. R. (1995) *Talking History. Conversations with Teodoro Andal Agoncillo* (Manila: De La Salle University Press).

- Overholt, W. (1986) 'The Rise and Fall of Ferdinand Marcos', *Asian Survey*, 26(11), 1137–1163.
- Paras-Perez, R. (2004) Interview regarding the Tadhana Project Interview by Rommel Curaming.
- Pels, D. (1995) 'Knowledge Politics and Anti-Politics. Toward a Critical Appraisal of Bourdieu's Concept of Intellectual Autonomy', *Theory and Society*, 24(1), 79–104.
- Pels, D. (1997) 'Mixing Metaphors. Politics or Economics of Knowledge', *Theory and Society*, 26(5), 685–717.
- Quiason, S. (2004) Interview regarding the Tadhana Project Interview by Rommel Curaming.
- Rempel, W. (1993). *Delusions of a Dictator: The Mind of Marcos as Revealed in His Secret Diaries*. Boston: Little Brown.
- Rich, A. (2004) *Think Tanks, Public Policy, and the Politics of Expertise* (Cambridge: Cambridge University Press).
- Salazar, Z. (1989) 'Ang Historiograpiya Ng Tadhana. Isang Malayang Paggunita-Panayam' In B. Abrera and D. Lapar (eds.) *Paksa, Paraan at Pananaw Sa Kasaysayan* (Quezon City: UP Likas/Bakas), pp. 193–199.
- Salazar, Z. (2004) Interview regarding Tadhana, Part I Interview by Rommel Curaming.
- Tan, S. K. (2004) Interview regarding Tadhana, Part I Interview by Rommel Curaming.
- Tatad, F. (2007) 'Remembering Adrian Cristobal (Feb. 20, 1932–Dec. 22, 2007)', *First Things First*. December 28. <http://franciscotatad.blogspot.com/2007/12/remembering-adrian-cristobal-feb-20.html>.
- Teodoro, L. V. (2008) 'Ghosts', *LuisTeodoro.com*. August 1. <http://www.luisteodoro.com/ghosts/>.
- Winks, R. W. (1996) *Cloak & Gown. Scholars in the Secret War, 1939–1961* (New Haven: Yale University Press).

History Riding on the Waves of Government Coalitions: The First Fifteen Years of the Institute of National Remembrance in Poland (2001–2016)

Idesbald Goddeeris

Abbreviations

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| BEP | Biuro Edukacji Publicznej (Public Education Office) |
| BStU | Bundesbeauftragte für die Stasi-Unterlagen (Federal Commissioner for the Stasi Records) |
| BUiAD | Biuro Udostępniania i Archiwizacji Dokumentów (Office for Preservation and Dissemination of Archival Records) |
| GKŚZpNP | Główna Komisja Ścigania Zbrodni przeciwko Narodowi Polskiemu (Chief Commission for the Prosecution of Crimes against the Polish Nation) |
| IPN | Instytut Pamięci Narodowej (Institute of National Remembrance) |
| ÚPN | Ústav pamäti národa (Nation's Memory Institute) |
| USTR | Ústav pro studium totalitních režimů (Institute for the Study of Totalitarian Regimes) |

After the fall of communism in 1989 and 1991, Eastern European countries developed different ways of dealing with their past. Eastern Germany quickly opted for a great deal of transparency, forced by the public storming

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of the Stasi headquarters in January 1990. It established the BStU (Federal Commissioner for the Stasi Records), which gave access to the archives and prepared a number of judicial cases, among others against the *Mauerschützen*, that is, soldiers who shot hundreds of citizens who tried to cross the Iron Curtain. Most other countries put off the issue, giving priority to more urgent problems. Only in the late 1990s did Poland create the Institute of National Remembrance (Instytut Pamięci Narodowej, IPN). It was used as a model elsewhere: Bratislava established the Nation's Memory Institute (ÚPN) in 2002 and Prague the Institute for the Study of Totalitarian Regimes (USTR) in 2006.¹

The IPN immediately took a dominant position in Poland's coming to terms with its totalitarian past. It organized memory politics, framed new national narratives and even played a judicial role. However, it also became the object of party politics under different ruling coalitions in Poland over the past fifteen years. It is therefore, along with its life span and broad powers, an interesting case to study the relation between the state and the nation's past in a twenty-first-century European democracy.

This chapter consists of three parts. First, it discusses the context of the IPN's establishment, demonstrating that the IPN resulted from a political fight but survived due to its scientific relevance. Second, it analyzes the IPN's historical activities and argues that it at times served as a pawn in political and highly mediatized debates. Finally, it examines the Institute's judicial role and makes clear that this was also subject to political games. The chapter is based on the author's close observation of and collaboration with the IPN, both for his own historical research (Goddeeris 2013 and 2015) and on a more institutional level.²

THE CREATION OF THE IPN AND THE JEDWABNE CASE

Poland did not go through a revolution in 1989, but instead experienced a gradual shift from communism to democracy. After a decade of political unrest following the rise of the independent trade union *Solidarność*, the communist authorities in 1988 decided to have roundtable negotiations with the opposition. All parties agreed on having partly free parliamentary elections in June 1989, which were won by the opposition. In August 1989, months before the revolutions in other Eastern European countries, Tadeusz Mazowiecki was appointed the first non-communist prime minister since the Second World War. However, it was an incomplete change of power. The Mazowiecki government not only consisted of former dissidents, but also had some communist ministers. Moreover, the communist leader General Jaruzelski remained Polish president until December 1990.

This gradual transition is a first explanation for the fact that the Polish state initially ignored its recent past. In order to guarantee the success of their takeover, the former dissidents who were now in power wanted to unite rather than polarize the nation. Moreover, they had many separate and

more urgent topics, such as economic liberalization, the writing of a new constitution, and relations with the disintegrating Soviet Union and reuniting Germany. Mazowiecki therefore in his inauguration speech for the Polish parliament announced drawing a *gruba kreska*, a thick line, between the present and the past.

In the following years, the political context, and more particularly democratic immaturity, also kept Poland away from its past. Initially, there was much political fragmentation. The first completely free parliamentary elections in October 1991 brought almost 30 different political parties into parliament and resulted in several short-lived successive governments. Some of them wanted to start “de-communizing” Polish society, but the first attempt in June 1992 led to the fall of the government and a big political hangover. An MP had published the names of 64 politicians who were suspected of having spied for the communist secret services; this included President Lech Wałęsa. The Constitutional Court judged that this approach was not in accordance with the constitution.

After these first volatile years, the former communists—now turned into social democrats—regained power. Understandably, they did not put the communist past high on the agenda. It was only after the former dissidents won the parliamentary elections of September 1997 that Polish politicians began to focus on the issue. The new government of former anti-communists wanted to grant victims of the communist regime access to their files in the archives of the communist secret service (the UB before 1956 and the SB afterwards; both Security Service). In September 1998, the Polish parliament passed a law establishing the Institute of National Remembrance. The IPN consisted of three departments: a judicial that promoted legal action, an archival that declassified the secret services’ archives, and an educational that spread new findings and views among the broader public.

The IPN immediately met with opposition. The social democratic president Aleksander Kwaśniewski vetoed the law, but was overruled by parliament. After a new law was passed in April 1999, it took more than a year before the Polish parliament could elect the IPN administration. The composing of the *kolegium*, or administrative council, went smoothly: in July 1999 the Polish parliament chose five lawyers and six historians. However, the selection of the director proved more difficult. Only in April 2000, a candidate appeared who was acceptable for all political parties: Leon Kieres, a professor of law who had belonged to Solidarność in the 1980s. On June 30, 2000, Kieres took the oath in the Polish parliament. In September 2001, the IPN opened its reading room. The IPN had a central seat in Warsaw, but also disposed of ten, and later eleven branches in provincial capitals, each with its own three departments.

This was just in time, as the entire project had almost been a fiasco. The government’s position was gradually weakening: the coalition in May 1999 turned into a minority cabinet, Kwaśniewski was re-elected in October 2000, and everybody knew that the social democrats would win the next elections,

which indeed happened in September 2001. The social democrats were far less enthusiastic about the IPN. By then, however, the IPN was firmly ensconced in Polish society.

This was largely due to the publication of *Neighbours* by Jan Tomasz Gross, a professor at Columbia University of Polish-Jewish descent. Gross examined the murder of 1600 Jews in July 1941 in Jedwabne, a village that had been controlled by the Soviet Union between September 1939 and June 1941 and was conquered by Germany briefly after the start of Operation Barbarossa. The Nazis had always been blamed for the massacre, but Gross examined judicial archives of the late 1940s and found that the local Polish population had killed their Jewish neighbours. The publication of his book in May 2000 was a big shock. Poland had always remembered its role in the Second World War in terms of victims and heroes. It had been the others who had collaborated and killed (Ochman 2013).

The Białystok branch of the IPN started a judicial inquiry in September 2000. Simultaneously, some of the IPN historians embarked on huge scientific research of the archives of the communist security services, which had collected a lot of materials in the late 1940s. This resulted in a two-volume monograph, which aided the politicians by giving the affair a place, and silenced the more extreme and often overtly anti-Semitic reactions from nationalist Poles. It lowered the number of Jewish victims to 300–400, concluded that only 30–40 Poles were involved in the killing, and emphasized that they were inspired by the German occupiers (Machcewicz and Persak 2002). The Jedwabne case was a catalyst for the genesis of the IPN. It made the institute relevant to the entire Polish society and acceptable for the social democratic government. But it also brought forward the scientists, who confirmed their independence and took over the leading role from politicians.

It may seem a paradox that Jedwabne was the IPN's first test. The institute was meant, as one of its departments is named, to prosecute the crimes against the Polish nation. One had expected it to denounce the crimes of Soviet and Polish communists, not investigate Polish offenses against Jews. Yet, Jedwabne was a key element in the IPN's gain of societal trust and scientific authority. The fact that the case dated from the Second World War and not from the communist era was not an issue. As laid down in the law of its foundation,³ the IPN focused on the entire totalitarian past, including Nazism, Stalinism, and post-1956 communism. This, obviously, was already quite a statement about the past: the Polish nation had been the victim of successive dictatorships for fifty years, between 1939 and 1989.

FROM ARCHIVAL RESEARCH AND HISTORICAL EDUCATION TO "WILD LUSTRATION"

As stated above, until 2007 the IPN consisted of three departments: a judicial, an educational, and an archival. The latter, the BUiAD (Office for Preservation and Dissemination of Archival Records), was the largest and

employed almost half the entire staff. It was responsible for the declassification of the security services' archives. This was a huge task. The IPN received about 80 km of documents, which was much more than similar institutions in Romania (24 km), the Czech Republic (18 km), Hungary (3.8 km), and Slovakia (1.8 km). Only the former GDR has more materials: about 111 km (Mink 2013, pp. 161–162).

These archives were only open to certain groups: officers of the Public Prosecutor, historical researchers, and *osoby pokrzywdzone* (people who were damaged, i.e., victims). Journalists and those suspected of having collaborated with the communist state security were denied access. IPN archivists went through all files before handing them to readers, in order to check if they held information that needed to be kept secret even after 1989. They also decided whether to grant people the status of *osoba pokrzywdzona*. In this way, they also acted as judges.

The purpose of the second department, the Public Education Office (BEP), remained more vague: the law that created the IPN only prescribed that the BEP had to inform society about the structures and the methods of Nazi and communist institutions responsible for committing crimes. The young but talented historian Paweł Machcewicz, who in 2000 became the director of the BEP, fleshed this out in a very dynamic way and turned the BEP into the IPN's flagship. In other words, the IPN used the freedom it received in this field to develop a wide range of activities in the spirit of the law.

The BEP stimulated scientific research and archival exploration in a variety of ways. It launched new research projects, for instance, about the political processes between 1944 and 1956 (Koczwańska-Kalita 2010, pp. 82, 126). It set up a number of series and journals to publish research results. It organized conferences in which both protagonists and historians participated. It sought collaboration with Polish universities and foreign institutions, such as the United States Holocaust Memorial Museum in Washington, DC and Yad Vashem in Jerusalem. In sum, the IPN published about 150 books and organized about 2500 conferences, seminars, and discussion panels over the first five years of its existence (Dudek 2011, p. 147). It provided important scientific works, not only biographic dictionaries and other more encyclopedic instruments, but also innovative monographs, for example, a study about the less-known concentration camp of Warsaw in 1943 and 1944 (Kopka 2007).

The BEP also tried to acquaint the broader public with these new findings. It made agreements with Polish media to publish serials written by IPN staff members. It founded "historical clubs" in order to spread knowledge via lectures and debates. It published DVDs with historical images and organized traveling street exhibitions. It even organized outdoor events, such as a *kiermasz historyczny* (a historical fair of stalls with publications and exhibitions), a *piknik historyczny* (a historical picnic, where old protagonists told stories about the past), and a *rajd historyczny* (an outdoor game, in which participants were divided in groups and had to explore the field as resistance fighters

or dissidents, execute assignments, and answer quiz questions). The BEP also targeted the youngest generation, which had not experienced communism. It involved youth movements in its events, held historical themed gatherings, mapped out school excursion itineraries, gave teachers' training, adapted education programs, and compiled special classes.

Some of these activities may seem far-reaching, but they did not raise much concern in Polish society. By and large, there was curiosity about the many secret or unclear aspects of the Second World War and the communist period, and consensus about the IPN's focuses and interpretation. Even the social democratic government did not bother the IPN. Poland was about to enter the European Union and the government did not want to appear immature by opening old discussions about the past. There was no direct pressure as in Bulgaria (see the Chap. 8 by Niké Wentholt in this volume), but informally, Poland wanted to prove its capacity to responsibly deal with the past.

It wasn't until the end of 2004 that the IPN came in the eye of a storm. This started when Małgorzata Niezabitowska, the former spokeswoman of Prime Minister Mazowiecki, in December 2004 was accused of having spied for the communist security service in the 1980s. Poland was in shock and IPN Director Kieres allowed a journalist to examine the file. In this way, he both created a precedent and opened Pandora's box. In January 2005, another journalist, Bronisław Wildstein, smuggled an inventory of 160,000 names out of the reading room and published it online. He presented it as a list of all secret agents, but this was not correct. The list also contained names of persons the SB was interested in and had many namesakes of public figures.

The Wildstein list sparked a real *teczkomania* or "obsession with files." Over the following months, several famous Poles were accused of having lived a double life. In April 2005, just weeks after the death of the Polish Pope John Paul II, Konrad Hejmo, a central figure among the Polish clergy in Rome since the late 1970s, was unmasked as a secret agent. In June 2005, Prime Minister Marek Belka also appeared to have a file. Both of these cases, and many others, were more nuanced than the first accusations suggested. However, the accused did not have the floor for a proper defense.

This *dzika lustracja* or "wild lustration" (lustration being the word used for the purge of people who had collaborated with the communist secret service) broke out not only because the declassification of the files led to important findings or because journalists had gained access to them and the media began to dominate the process. Election fever also played a role: Poland was facing parliamentary elections in September 2005 and presidential elections in October. The nationalist and conservative party PiS (Law and Justice) used the ghosts of the past to create a climate of distrust against the establishment, suggesting that many public figures had a hidden past, in order to strengthen its program against corruption and moral decline. The IPN itself also made mistakes. The director lost control over the lustration process, and some IPN

historians, who were the only ones with easy access to the files, acted in the media as inquisitors who selectively cleared some of the celebrities on the list.

PiS won both the parliamentary and presidential elections and formed a coalition with two even more populist and right-wing parties. This new government used all of its means to turn the IPN into an institution that propagated a nationalist version of Polish history. It appointed a new director, Janusz Kurtyka, a medievalist with radically nationalist views. It issued a new lustration law that opened the archives to everybody and expanded the judicial tasks of the IPN. And it dramatically raised the IPN budget. Whereas the IPN received 83 million złoty (about 20 million euro) in 2005, it obtained 207 million złoty (about 50 million euro) in 2007.

The result of all these measures was a flood of historical production and distribution. The IPN not only increased the number of organized events, but also launched new kinds of activities. It organized historical re-enactments, inter alia of the riots in Radom in June 1976 and the assassination of SS und Polizeiführer Franz Kutschera in Warsaw in February 1944. It inaugurated new statues and memory plaques, often for obscure and/or local heroes. It organized holiday camps for children and designed board games to introduce them to national twentieth-century history, such as *Awans* about military grades and *Kolejka* (Queue) about daily life under communism. Some of its initiatives were eyebrow raising. In 2006 and 2007, the IPN organized the special exhibition series called *Twarze Bezpieki* (The Faces of the Security Service). On market squares and shopping streets of more than 20 Polish cities, panels were displayed with the names, pictures, and careers of the major officers in the local secret services (Piekarska & Strasz 2007, pp. 162–207). After having been involved in a highly mediatized and politicized witch hunt during the previous years, the IPN now set up a modern version of the medieval pillory.

Scientific research and historical production also mushroomed under the new Polish government and IPN director. Whereas the IPN had published 150 books in its first five years of existence, it reached that number now in one year and produced 650 books between 2005 and 2010. The first generation of historians continued its research (although some scholars, such as Machcewicz, left the IPN) and was joined by a great number of new scholars. However, many of these studies were dubious. The bulk of them dealt with the secret service's perception of or the reaction to particular events, organizations, individuals, ethnic or social groups, or topics. They all described this in a very chronical and factual style and with a political focus, even when they dealt with economic, social, or cultural themes. They often reduced cases to a particular region or a short period and lacked comparison or contextualization. They made few attempts to connect to international literature or to the trends and turns that have occurred in historical sciences. They mostly limited their sources to the secret services' archives, from which they extensively quoted. Moreover, few authors questioned the quality of the reports. They

considered them to be accurate accounts, in spite of the fact that intelligence officers obviously did not see or understand everything, regarded the world with biased paradigms, not only a Marxist one, but also a very Manichean one, and often even exaggerated the importance of their case. There also was little reflection on more fundamental questions, such as agents' motivations or the majority of the population's attitude (and indifference to the political system). On the contrary, most of these books only aimed to reveal the "real truth" of the past events. However, they reduced the entire history of the Second World War and the Polish People's Republic to a simplified narrative by dividing the world into two camps: the good Polish nationalists, and the bad communists, Russians, and Germans. Moreover, the IPN had the financial means to spread this image. Thousands of copies of a new history book about the twentieth century were distributed for free to Polish schools and libraries (Dziurok e.a. 2010).

Of course, this new memory policy also faced criticism. The former Solidarność activist Władysław Frasyniuk wrote an *Oskarżam* (Polish for *I accuse*) to the people who "enjoy shining in the light of cameras and spotlights and construct their five minutes in media on injustice towards others." The Cracow history philosopher Bronisław Łagowski denounced the "history falsification of the IPN" (Dudek 2011, pp. 218, 273). Others compared the IPN's methods with the propaganda techniques of the former regimes. History departments at Polish universities and the Polish Academy of Sciences developed an ambiguous relationship with the IPN. Some professors joined the criticism and approached the twentieth century in a different way. The Warsaw historian Marcin Kula, for instance, created a new series of monographs focusing on different aspects of the communist past, from daily life to rock concerts (*W krainie PRL: In the Land of the Polish People's Republic*). Yet, many others integrated the IPN as a new and major scientific player. They passed certain projects to the IPN, such as the compilation of the extensive and annual *Bibliografia historii polskiej* in 2008. They also granted important awards to IPN historians, such as the KLIO award to Jerzy Eisler in 2006 and the *Polityka* award to Krzysztof Persak (in spite of the fact that the weekly *Polityka* was in general very critical of the IPN).

After a few years, the IPN offensive softened. On the one hand, the nationalist and populist government coalition fell in the summer of 2007 and the liberal PO (Civic Platform) won the parliamentary elections of October 2007. However, the focus on secret agents backfired on Polish nationalists when it appeared that many clergymen had written reports for the communist security service. The most important one was Archbishop Stanisław Wielgus, the then-newly appointed primate of the Polish church who had to resign in January 2007 because of his file at the IPN. But there were many more priests with a hidden past. As a matter of fact, the clergy proved to have been an easy target for blackmail, given the moral authority and exemplary function they claim.

Yet, this does not mean that 2007 was a watershed in the history of the IPN. On the contrary, there were some important anniversaries in the following years that the new Prime Minister Donald Tusk did not want to leave unnoticed: in 2008 the 40th anniversary of the student protest, and in 2009 the commemoration of the two key years 1939 and 1989. Moreover, the government ruled in *cohabitation* with the PiS president Lech Kaczyński and the radical IPN director Janusz Kurtyka. It was only in 2010 that the events again accelerated. In April, Kaczyński and Kurtyka died in a plane crash near Smolensk, both on their way to commemorate the 70th anniversary of the massacre of Katyń. In July, the PO candidate won the presidential elections.

In those very same months, starting from March 2010, the Polish parliament debated a number of amendments to the IPN law, which were subsequently passed by the new president. They facilitated a wider and quicker access of the IPN archives to the broader public and made a first step in depoliticizing the institution by granting its Council the right to elect the executive director. The new council—which had nine members and were chosen among particular candidates by the Lower House, the Senate, and the President—in June 2011 chose Łukasz Kamiński as the new director.

Kamiński had been one of the IPN's core historians since the foundation of the institute and was known for his reluctance to let historical research become entangled in political agendas. He again gave a new direction to the IPN and kept it away from media attention. The IPN once again became first and foremost a scientific entity. This was also easier, because the moderate PO governments (2007–2015) avoided public polarization around the past. Yet, the IPN did not fundamentally change its discourse or its obsession with factual details, and employed the same historians as before 2007. Moreover, it remained a well-financed state institution. In 2011, the IPN still received more than 50 million euros. This is less than the BStU in Berlin, which received almost 90 million euro, but significantly more than similar institutions in Romania (4 million), Bulgaria (2.5 million), Hungary (1.6 million), Slovakia (1.6 million), and Lithuania (1.5 million; Mink 2013, pp. 161–162).

JUDGES AND PUBLIC PROSECUTORS

A third department, next to the BUiAD and the BEP, was the GKŚZpNP (Chief Commission for the Prosecution of Crimes against the Polish Nation). This department was responsible for the IPN's tasks in promoting legal action against people who had committed “crimes against the Polish nation.” These were offenses against the criminal code that had been conducted under but not prosecuted by these totalitarian regimes. The IPN targeted both managerial staff and executors.

This department was also subject to the conjuncture of Polish party politics. In April 1997, more than a year before the first IPN law was issued, the Polish parliament passed a law that judicially settled the position of people

who had collaborated with the communist regime. The law was a reaction to the investigation of Józef Oleksy, a former prime minister who in December 1995 had to resign following accusations of contacts with the KGB but who was later acquitted of all charges. The other political parties perceived this as a cover-up operation and issued a law with an alternative majority. The law required people holding particular public offices to submit a declaration about possible collaboration with the communist security service. In total, about 26,000 people were subject to the law, ranging from MPs and judges to high-ranking officials and general editors. The content of their declaration as such was not at stake; only those who had issued a false declaration actually suffered prosecution. All declarations therefore needed to be checked by a new court, the Lustration Court (Sąd Lustracyjny).

The law was not immediately put into practice due to social democratic opposition, but was resuscitated by the new government after the parliamentary election of September 1997. Between 1998 and 2004, the Lustration Court checked more than 18,000 declarations and identified 741 potential *klamcy lustracyjni* (lustration liars). The onus of proof was too weak for about 80% of them, but 153 individuals were sued and a couple dozen were sentenced (Dudek 2011, pp. 25–26). They would have been better off revealing the truth, as the case of the social democratic politician Andrzej Olechowski illustrates. Olechowski admitted that he had collaborated with the SB but was not publicly punished and gained second place in the presidential election of 2000.

The IPN, and more particularly its judicial department, GKŚZpNP, had a different task. It was part of the Public Prosecutor and had to supervise the criminal inquiry and prosecution of crimes committed between 1939 and 1990. From 2000 to 2009, it prepared more than 6300 cases, which led to 242 charges against 385 persons, inter alia on the basis of nearly 70,000 witnesses. In February 2017, the IPN website mentions 340 cases.⁴

They were very different and included, for example, guardsmen in Nazi camps, executioners in Stalinist prisons, *milicja* commanders who violently suppressed demonstrations, and SB officials who imprisoned dissidents. They also targeted anti-communist resistance fighters who killed Ukrainians. Many defendants were found guilty and given a prison sentence. Others could postpone their prosecution because of their poor health. Still other trials could not take place because the accused lived abroad and their country of residence refused to extradite them. Helena Wolińska-Brus, for example, was a military prosecutor between 1948 and 1956 who left Poland because of her Jewish origin in the late 1960s and settled in Oxford. She called the charges of her involvement in the Stalinist repression new examples of Polish anti-Semitism, and was supported by the British government. Stefan Michnik, a judge in the 1950s who sent several political prisoners to death and in 1968 settled in Sweden, was not handed over to Poland in 2010 because the charges were precluded by the lapse of time.

Most cases addressed “small fry,” who personally martyred or convicted particular people. The accused’s superiors for a long time stayed out of range. Only in 2004 did the IPN section of Katowice start an inquiry of the legal character of the December 1981 imposition of martial law. It concluded the case in 2007 and charged five top officials, including former Prime Minister and Defense Minister Jaruzelski. However, the judge did not proclaim the bill of indictment and in May 2008 asked the IPN prosecutor to interrogate additional witnesses, such as Margaret Thatcher and Mikhail Gorbachev.

The trial took place in the IPN’s most turbulent era and illustrates the judicial dependence on the political war on memories and the alleged “justice” that many propagated at the time. The PiS’s victory in the parliamentary and presidential elections of September and October 2005 indeed also affected the judicial dealing with the totalitarian past. PiS had campaigned for the exposure and punishment of all former agents and put these promises into action.

On October 18, 2006, the parliament passed a first amendment to the 1998 law of foundation. It opened the secret services’ archives for journalists, extended the statute of limitation for crimes under communism and gave the IPN new lustration powers and assignments. First, the IPN had to present so-called “certificates of the past,” based on its archives, to everybody who held a position of significant public responsibility. The group was interpreted in a very broad way and included more than fifty professions, including post-doctoral researchers, journalists, tax inspectors, and members of the board of banks, schools, and sport clubs. Second, the IPN was asked to make a list of all secret agents from the communist period. Third, it had to put all this information—the certificates, the list of agents, and copies of archival documents—online (after having blacked out the names of third persons and of private information).

The new law was immediately considered infeasible. According to the media, it submitted between 400,000 and 700,000 people to the lustration procedure. It was impossible to screen all of them within the time period of six to twelve months, as the law prescribed. Moreover, many criticized the fact that the information was put on the Internet before the accused could lodge an appeal. The drafting of a list of secret agents was also considered an impracticable task. The list would never be complete, would neglect all nuance, and would lump everybody together in one category.

President Lech Kaczyński took note of the comments and made some changes. His modifications, however, did not get to the heart of the matter. He only ordered that all involved people themselves, and not the IPN, had to submit an *oświadczenie lustracyjne* or lustration declaration and that the IPN subsequently had to check them. In other words, Kaczyński returned to the system introduced in 1997. There were differences, though. The group that was subject to the law was about twenty times greater. The declarations were not to be examined by the Lustration Court, which was disbanded, but

by a new department within the IPN, the fourth one: the *Biuro Lustracyjne* (Vetting Office). It was an attempt to take the lustration process away from the judicial power's influence and to increase the political influence. The new law also provided greater punishments, up to three years detention, for "lustration lies."

The Polish Parliament accepted the changes in January 2007. On March 15, 2007, the new law became active. In the following weeks, hundreds of thousands of Poles were supposed to submit a declaration about their contacts with the communist security apparatus. Many prominent opinion-makers and politicians, including the EMP Bronisław Geremek, refused to do so. They did not want to be part of what they considered as populist polarization of society. They found support in their opposition when the Constitutional Court on May 11 judged that the law held 39 elements that were not in accordance with the Polish constitution and EU rules.

Eventually, the entire lustration debate ended when the coalition fell in the summer of 2007 and the Parliament called for snap elections in October 2007. The voters punished the ruling parties, and the new prime minister, Donald Tusk, did not put the lustration very high on the agenda. He did not change the legal base in order to avoid further polarization, but the emotions of the previous years subsided.

CONCLUSION

The IPN celebrated its 15th anniversary in 2015 and again showed its relevance in February 2016, when new documents from the file of secret agent Bolek (supposedly Lech Wałęsa's alias during the 1970s) popped up. Yet, this was not the first time that this happened and the returning discussion about Wałęsa's past also demonstrates Poland's failed lustration from the communist era.⁵ The IPN indeed is not a unanimous success. It could not always claim political independence and most notably its second president, Janusz Kurtyka (2005–2010), followed a radical nationalist, but also populist agenda. Though it has produced a tremendous amount of new historical knowledge, it is confronted with academic criticism for its one-sidedness.

Interestingly, Poland's, and other Eastern European countries', lustration was focused on the punishment of perpetrators, rather than on the rehabilitation of victims or on national reconciliation. It particularly aimed for the disclosure of the truth, but stigmatized secret agents in particular. Several elements account for these focuses, such as the presence of huge archival collections, the nonviolent character of the former opposition (and the fact that only one side committed crimes, unlike, for instance, South Africa), the example of Germany in the early 1990s, and the fact that the whole process ended up in the center of media attention and political games.

The Kamiński administration of the IPN (2011–2016) calmed the biggest storms, but a new wind seems to be rising. After years of opposition,

PiS won the presidential and parliamentary elections of May and October 2015. In June 2016, the new conservative and nationalist government issued a new IPN law. It ordered the IPN to popularize history as “an element of patriotic education” and to oppose publications that by means of false allegations harmed or dishonored the Polish nation. The new law also changed the rules of the IPN administration council, abolishing the influence of academia and the judiciary. A week later, the Polish parliament elected four PiS candidates for the new *kollegium*, and in July, it voted Jarosław Szarek as the new IPN director. Szarek was affiliated with PiS and in his campaign asserted that “Germans were the executors of the Jedwabne crime and that they had coerced a small group of Poles to become involved.” One of his first measures was to discharge Krzysztof Persak, the coauthor of the authoritative and two-volume 2002 IPN study of Jedwabne. Politics had returned to the IPN.⁶

Over the following months, the IPN again more regularly made the headlines. It published controversial documents online, including a list of 8500 SS guards in Auschwitz and an inventory of documents that had been declassified from the IPN’s secret collection.⁷ It was involved in new legislation, for instance, receiving the assignment to screen people for a law that decreased the pension of former officials of the security apparatus and their family members, or obtaining the right to sue individuals or organizations who publicly assigned (co) responsibility of the crimes of the German Third Reich to the Polish nation or the Polish state.⁸ It set up new campaigns of memory politics, for instance, to provide relevant history classes in police schools or to rename all streets referring to the communist past.⁹ And it provided new evidence of Wałęsa’s collaboration with secret services in the early 1970s, further blackening the icon of Solidarność and the opponent of PiS president Jarosław Kaczyński.¹⁰ Poland has clearly entered a new stage in its history and its dealing with the past. Even the new Second World War Museum in Gdańsk was criticized because it highlighted the terror, and not the (Polish) heroism of the war.¹¹

NOTES

1. See their websites via <http://eureconciliation.wordpress.com/nationalinstitutions-responsible-for-the-investigation-and-archival-of-communist-crimes/>; an overview in Combe 2009; a comparison in Mink 2013, 155–170, and a discussion of the services themselves in Persak and Kamiński 2005.
2. For instance at conferences and, from 2013 to 2016, within the program council of the journal *Pamięć i Sprawiedliwość*. Some important other studies about the IPN are Killingsworth 2010 and Dudek 2011.
3. See: <http://www.ipn.gov.pl/pl/o-ipn/statut/24218,Statut-IPN-KSZpNP.html>. Last Accessed on 6 August 2016.
4. <http://ipn.gov.pl/pl/sledztwa/akty-oskarzenia>. Last Accessed on 6 February 2017.

5. Prior to the discovery of new documents in February 2016, the most detailed overview of Wałęsa and the SB: Cenckiewicz & Gontarczyk 2008.
6. See the Polish media of the summer of 2016, inter alia <http://www.polityka.pl/tygodnikpolityka/kraj/1665190,1,nowelizacja-ustawy-o-ipn-weszla-juz-w-zycie-do-instytutu-wkracza-polityka.read> (June 16, 2016), <http://www.tvn24.pl/wiadomosci-z-kraju,3/sejm-wybral-czlonkow-kolegium-ipn,655234.html> (June 23, 2016), <http://wyborcza.pl/1,75398,20424470,kandydat-na-szefa-ipn-o-jedwabnem-wykonawcami-tej-zbrodni-byli.html> (July 19, 2016), and <http://wyborcza.pl/1,75398,20469280,prezes-szarek-wyrzuca-krzysztofa-persaka-i-jedwabne-z-ipn.html> (July 29, 2016). Last Accessed on 6 August 2016.
7. <http://www.rp.pl/Historia/170139950-IPN-opublikowalo-nazwiska-esesmanow-z-KL-Auschwitz.html>; <http://www.rp.pl/Historia/170129537-Na-stro-nie-internetowej-IPN-wykaz-dokumentow-wylaczonych-w-2016-r-z-tzw-zbioru-zastrzezonego.html>. Last Accessed on 8 February 2017.
8. <http://www.rp.pl/Praca-emerytury-renty/312309915-Ustawa-dezubekizacyjna-podpisana-przez-prezydenta-Andrzeja-Dude.html>; <http://www.rp.pl/Prawo-karne/310079984-Sankcje-za-sformulowania-polskie-obozy-smierci.html#ap-1>. Last Accessed on 8 February 2017.
9. <http://www.rp.pl/Sluzby-mundurowe/161129335-IPN-podejmie-wspolprace-edykacyjna-z-Komenda-Glowna-Policji.html>; <http://ipn.gov.pl/pl/aktualnosci/polityka-historyczna/zmiany-nazw-ulic/nazwy-ulic>. Last Accessed on 8 February 2017.
10. <http://www.rp.pl/Historia/170139839-IPN-Podpisy-Walesy-w-aktach-TW-Bolka-nie-byly-sfalszowane.html>. Last Accessed on 8 February 2017.
11. <http://www.rp.pl/Rzad-PiS/161118903-Sellin-Muzeum-II-Wojny-Swiatowej-oraz-Muzeum-Westerplatte-beda-polaczone.html#ap-1>. Last Accessed on 8 February 2017.

REFERENCES

- Cenckiewicz, S. and Gontarczyk, P. (2008) *SB a Lech Wałęsa. Przyczynek do biografii* (Gdańsk-Warszawa-Kraków: IPN).
- Combe, S. (ed.) (2009) *Archives et histoire dans les sociétés postcommunistes* (Paris: La Découverte).
- Dudek, A. (2011) *Instytut. Osobista historia IPN* (Warszawa: Czerwone i Czarne).
- Dziurok, A., Gałęzowski, M., Kamiński, Ł., and Musiał, F. (2010) *Od niepodległości do niepodległości. Historia Polski 1918–1989* (Warszawa: IPN).
- Goddeeris, I. (2013) *Spioneren voor het communisme. Belgische prominenten en Poolse geheim agenten* (Leuven: Lannoo Campus).
- Goddeeris, I. (2015) 'Secretive Spies or Ordinary Clerks? Polish Communist Intelligence Services in Brussels, 1975–1989', *Dutch Crossing*, 39(3), 246–260.
- Killingsworth, M. (2010) 'Lustration after totalitarianism. Poland's attempt to reconcile with its Communist past', *Communist and Post-Communist Studies*, 43, 275–284.
- Koczwańska-Kalita, D. (2010) *Kronika. 10 lat IPN* (Warszawa: IPN).
- Kopka, B. (2007) *Konzentrationslager Warschau. Historia i następstwa* (Warszawa: IPN).
- Machciewicz, P. and Persak, K. (2002) *Wokół Jedwabnego* (Warszawa: IPN, 2 vols.).

- Mink, G. (2013) 'Institutions of National Memory in Post-Communist Europe. From Transitional Justice to Political Uses of Biographies (1989–2010)' in G. Mink and L. Neumayer (eds.) *History, Memory and Politics in Central and Eastern Europe* (Houndmills: Palgrave), pp. 155–170.
- Ochman, E. (2013) *Post-communist Poland. Contested Pasts and Future Identities* (Routledge).
- Persak, K. and Kamiński, Ł. (eds.) (2005) *A Handbook of the Communist Security Apparatus in East Central Europe 1944–1989* (Warsaw: Institute of National Remembrance).
- Piekarska, A. and Strasz, M. (2007) *Katalog wystaw IPN* (Warszawa: IPN).

PART IV

Schools, Curricula and Textbooks

History in Schools

Peter Seixas

INTRODUCTION

State schools have been a key institution for the dissemination of national histories from their inception in Prussia and North America in the nineteenth century, to their rapid spread throughout Europe, European colonies, and, just as intensively, in post-colonial states around the world in the wake of World War II. State-sponsored schooling, national history and the nation-state have provided three potentially mutually supportive axes throughout the twentieth century. Constructing or conveying a shared memory for the next generation has been seen as a key component of building national collective identification, with universal compulsory schooling as a potent vehicle for getting the job done.

Notwithstanding this potentially symbiotic development of school, history and nation, their interconnections have been anything but monolithic. To state the most obvious counter-example: school history can be designed to eliminate, assimilate or recognize national minorities within a multinational state. Nor have state-sponsored school histories developed in linear trajectories. On the contrary: changing political contexts, shifting international pressures, and vicissitudes in educational theory have all played complex interactive roles, in different ways, in a variety of geographic and political settings.

To make sense of these variations during the period from 1945 to the present, this overview first proposes a theoretical framework with which to understand the range of purposes and forms for history in schools. Secondly,

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the theoretical framework provides the basis for a broad, and admittedly porous, periodization to make sense of major developments in the teaching and learning of history in schools since 1945, using a few representative examples to illustrate their nature and variety. That is followed by an overview of the various institutions and mechanisms that have been constructed in order to achieve the dissemination of a state-sponsored history through schools and related educational institutions. Although it may be tempting to treat “the state” as a monolithic agent in the exercise of power it may be more constructive to view it as a site of struggle over conflicting interests and ideologies (Skocpol, Evans and Rueschemeyer 1985). A final note comments on the implications for methodologies of investigating state-sponsored histories in schools and the shape of the existing literature in addressing these questions. What kinds of evidence enable researchers and writers to make broad claims about the activities and impacts of states in sponsoring histories?

THEORETICAL FRAMEWORK: A HISTORY/MEMORY MATRIX

The framework begins with basic elements from what Jörn Rüsen called a disciplinary matrix (Megill 1994). The matrix, actually a cycle, provides a way of thinking about the relationship between the scientific discipline of history and the larger cultural circumstances within which the discipline is practiced. Individuals, groups and nations have needs for orientation in time. These provide the field for historians’ work: their questions, theories and methodologies. In turn, the products of historians’ work, their representations of the past, feed back into the larger culture’s understandings and orientations. Thus there is a dialogical relationship between the disciplinary practices of history and what gets translated from the German as “life practice.”

The second piece of the analytical framework, to be imposed on the disciplinary matrix, involves the much-discussed relationship between history and memory. I am proposing the distinction as ideal types: that is, there is no such thing as “pure history” devoid of the characteristics of memory. Yet it is helpful to pose the distinction. And here is the border: memory is deeply felt; it affirms community ties, collective identities and common foes; and it thrives on preservation and enhancement. History is analytic and intellectual; it belongs to “everyone and no one” (in Pierre Nora’s phrase); and it thrives on evidence-based critique and revision (Nora 1996; see Fig. 14.1).

Blending Rüsen with history/memory, we have a conceptual scheme that puts all kinds of memory practices “below the line,” where they contribute to identity formation, community building and, most important for our purposes initially, national solidarity. The processes of state and nation building may well call for overtly nationalistic, solidarity-enhancing mythologies (below the line). If so, a discipline-informed history education (above the line) may appear as a somewhat irrelevant academic exercise. On the other hand, difficult memories, fractured communities and plural societies may

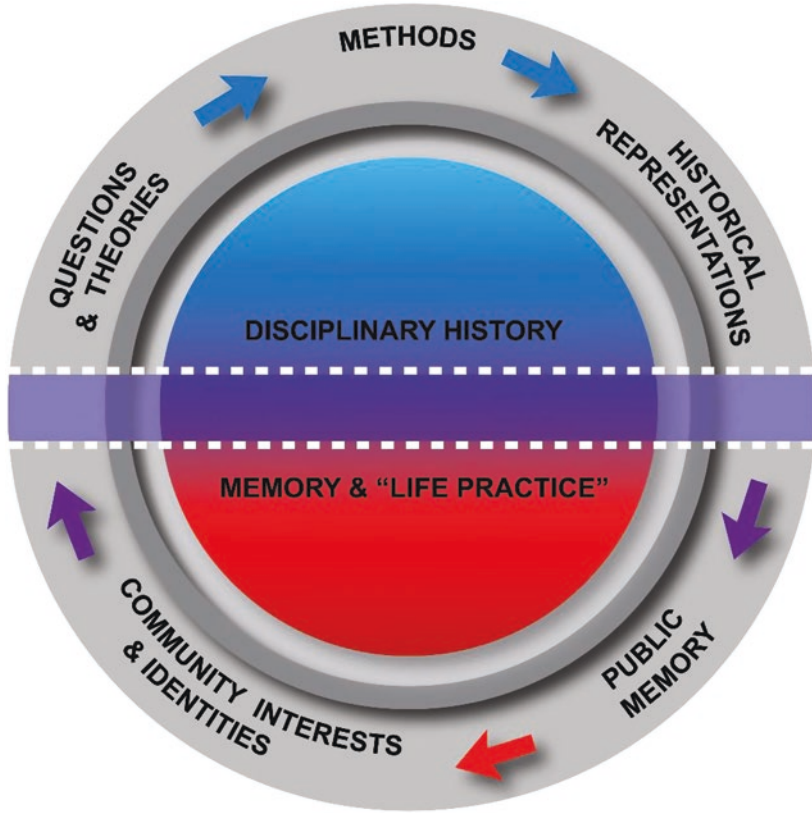


Fig. 14.1 A history/memory matrix

give rise to questions that are appropriately taken up by the critical, evidence-based, truth-seeking methods of history. From there, if all works well, new representations of the past can feed back into popular memory. Following Rüsen's matrix, we can call this framework the "history/memory matrix."

The history/memory matrix becomes useful in a comparative study of state-sponsored school history when we try to locate the latter in the matrix. It might well land below the line, as a tool for constructing or reinforcing national collective memory. On the other hand, in order to provide an educative function in open liberal democracies, it might land above the line, with students learning to handle source material in the practice of a critical disciplinary history. Ideally located, it is neither above nor below the line, but right in the transition zone, forming a bridge between collective memory and disciplinary history. In this case, teachers start from the identities and memories that students arrive with from their families and communities, and work with these through history's disciplinary practices, ultimately to foster among students (and their communities) a more capacious, contingent, complex and

historicized understanding of their situation, thus completing the cycle. This ideal, “bridge,” version of history education likely depends on some social and cultural friction, but not so much that groups of students are systemically alienated from schools.

This scheme allows us to examine school history practices beyond the relatively simple question, “Which story is being told?” by history teachers, textbooks and curricular prescription. It helps to make sense of the forms in which state histories are authorized or prescribed for schools.

The quintessential “below-the-line” school history consists of a well-defined narrative, with a focus on particular events and actors legislated or otherwise mandated through state mechanisms. Built into such a prescription are the interpretive valences that point unambiguously towards meanings of the narrative for the present. Origins, triumphs over adversity, repelling of enemies from within and without, and the core beliefs, values and character traits that made triumph possible are typically embedded in such a narrative (Lorenz 2004). These ideas come together in the concept of a historical “canon.” Stuurman and Grever (2007, p. 3) define the canon as “a historical grand narrative, consisting of selected figures, events, story lines, ideas and values, colligated by definite plots, perspectives and explanations.” With its Biblical and literary overtones, the term has been particularly prominent in history education policy debates in the Netherlands. Applied to school history curricula its main use appears to be to promote, or alternatively to criticize, the official authorization of a traditional narrative. Stuurman and Grever (2007) nod, however, to the processes of change, even within a canonical approach to curriculum: “The staying power of a canon depends on its ability to integrate new knowledge and new perspectives without impairing the basic plot of its grand narrative” (p. 4). In any case, the canonical approach clearly places history education “below the line” in the history/memory matrix.

School history programs that can be characterized as “above the line” focus on competency in the disciplinary practices of history: the interpretation and reading of primary sources and the construction and critique of historical accounts. They downplay the *uses* of history for the present and the connections between history and students’ identities. These have been far less common, but have occupied an important part of history education debates at certain points since World War II.

A third possibility is that history education is located as a bridge between history and memory, where skilled teachers have considerable autonomy to address the memorial cultures of the students in their classes and where community memories, perhaps even divided memories, are held up and subjected to and enlarged by critical historical scrutiny, feeding back into public memory. In this perhaps ideal setting, the history/memory matrix runs smoothly, firing in all sectors of the cycle. The series “National History and Beyond” published over three issues of the *Journal of Curriculum Studies* (vol. 41, no. 6, vol. 42, no. 2 and vol. 42, no. 5) exemplify this range of curricular possibilities (Seixas 2009).

THREE PERIODS OF SCHOOLING IN THE POST-WAR ERA

This framework makes possible the definition of three different periods of history education from 1945 to the present, at least in Europe and North America. While these can be characterized in broad strokes, the qualities that define the earlier periods do not simply fade away, but rather persist into the later periods. Thus each new period might even be considered as a new additive layer. Moreover, the intellectual periods—the initial changes in ideas, research, books and articles on history education—have preceded their widespread institutionalization, generally by decades.

In the aftermath of World War II and throughout the Cold War period, history education in both Eastern and Western bloc countries was located “below the line” as a tool to promote solidarity in opposition to communists and the Soviet Union (in the West) and to the United States and its allies (in the East). Classic mythic and canonical elements informed the construction of this national collective memory: foundation stories about the nation’s beginnings establishing core values, heroes and villains, historic struggles to overcome adversity from within (whether from geography, threats to national unity, subversion of core values) and opposition from the enemy without. Typically, Belgium’s immediate post-war history policy showed “a remarkable combination of traditional, romantic-emotional elements with enlightened-rational accents,” highlighting both national military heroes and international figures of enlightened humanitarianism (Wils 2006, p. 20; Grever, Bruijn and van Boxtel 2012). This is not to deny far earlier challenges to the grand narrative, which Allan Megill (2008) located as early as the World War I.

State-sponsored history programs during this period, at least outside of newly decolonized nations, were reinforced by Manichean bipolar geopolitics. The end of the period was already in sight by the time of the political and cultural upheavals of 1968, the turmoil surrounding the American intervention in Vietnam, an international women’s movement and various colonial and racial liberation movements that challenged traditional historical narratives. Even so, those narrative forms continued to surface with new content in the new nations.

By 1970, in the United Kingdom, the United States, West Germany, the Netherlands, Canada and elsewhere, these cultural upheavals took place alongside changes in thinking about education in general and history education, specifically. These forces conspired to shift history education upwards, metaphorically, in the history/memory matrix into the hemisphere of disciplinary practices.

Harvard psychologist Jerome Bruner’s (1960) idea that “the structures of the disciplines,” including history, could provide the basis for teaching and learning in all school subjects had an international impact. But Bruner was only one of the sources that influenced the UK’s Schools Council History Project (SCHP), the clearest instance of a repositioned history education. Launched in 1972, the SCHP recognized neither the reinforcement of

national identities, nor social solidarity as legitimate goals for teaching history. As Shemilt (1980, p. 4) wrote in one of the foundational documents, teachers should aim at “teaching for rational knowledge not agglomerated belief.” To that end, students would engage in open-ended investigation of historical sources, and learn the methods and habits of mind of the historian. By the 1990s, not only had the SCHP examination system spread through much of the United Kingdom, but the new British national curriculum was heavily influenced by its approach to teaching history (Lee 2014). Simultaneously, German history didactics, as an academic field, was invigorated by the introduction of scholarship on historical consciousness, although it took decades for those ideas to make their way into German state curricula (Kölbl and Konrad 2015; Bracke et al. 2014). In the Netherlands, curriculum reform in the 1970s went in similar directions (Wilschut 2010). Luigi Cajani (2006, p. 28) notes the impact of 1968 on history education in Italy: textbooks came under attack, “as the main tool of the traditional approach to teaching history.” Over the next twenty years, the “history workshop,” with students’ active interpretation of primary sources, became a common feature of Italian classrooms. In the United States, history was subsumed under the umbrella of “social studies” in most states. In this context a Brunerian approach to historical sources and interpretation was an integral part of the shift that involved other social sciences as well. Inquiry, critical thinking, contemporary issues and the “structures of the disciplines” were concepts that infused diverse projects. By the late 1960s, the turn was widely known as “the new social studies” (Fenton 1967). Barry Beyer (1971, p. 3) began his *Inquiry in the Social Studies* with the line, “What? Not another book on inquiry?” In the schools and classrooms where these projects thrived, the canonical narrative of American history and the goals that accompanied it were downplayed.

The reforms that developed internationally in history education in the late ‘60s and early ‘70s were subjected to competing forces over the next two decades. Though new disciplinary approaches atrophied in some areas, they never disappeared. But, after 1989–1990, new elements again began to shift history education back downward in the history/memory matrix, albeit with a markedly different configuration in relation to national history. The fall of the Berlin Wall and the end of the Soviet Union coincided with new levels of popular discussion of the Holocaust in the wake of the German *Historikerkstreit*, broadened demands for reparation, apologies and restitution, and the spread throughout Europe of admissions of complicity and shared guilt (Levy and Sznajder 2002). The turning point that I am proposing here follows that proposed by Hartog (2015) and Bevernage and Lorenz (2013). To what extent changes in school-sponsored histories reflect changes in “regimes of historicity” is a topic for future investigation.

In this context, Holocaust survivors became authorities and their experience, related through testimonial writing, speaking and film, came to have an elevated epistemological status. Most importantly, the treatment of the

Holocaust became a template for victims of other historical crimes and injustices (Torpey 2004, 2006). As indigenous and formerly colonized peoples, victims of political violence and sexual identity minorities sought recognition and restitution for past experiences, their claims led directly to the historical records. In post-conflict zones, school history was used as one part of larger transitional justice campaigns. Over time, school history curricula and textbooks became important avenues for these initiatives, internationally (Cole 2007). Textbooks and curricular initiatives outside of Germany highlighted complicity with the Nazis (Schär and Sperisen 2010). In a similar turn in Argentina, the Federal Education Law of 1993 ended the curricular silence about the dictatorship (1976–1983) to the point where, according to Friedrich (2014) references to the dictatorship became ubiquitous. Globalization, mass migration and the incipient revolution in technology and communications would compound these challenges to history as the progressive narrative of the nation.

If disciplinary history had offered some challenge to the use of collective memory to foster national solidarity and identity within established states, the next turn from disciplinary practices to memory offered still further challenges to the nation-state. It appeared to offer guilt instead of pride, and the highlighting of disparate identities over national solidarity. In relation to aboriginal history, it fundamentally challenged the story of progress fundamental to the workings of the earlier history/nation/education triad.

Not surprisingly, this development prompted what has been characterized as “history wars,” where a few well-placed public intellectuals (Lynne Cheney and Diane Ravitch in the United States, Keith Windschuttle in Australia, Jack Granatstein in Canada) issued *cris de coeur* over what had been lost not only in school history, but in academic history as well. They were concerned about fragmentation, specialization and irrelevance among academic historians, ignorance of basic facts among teachers and students and the evacuation of patriotism and national pride across the board. Although they generated a high profile for debates over history education, in retrospect their polemics seem not to have had an enduring impact in the jurisdictions within which they wrote (Nash, Crabtree and Dunn 1997).

Other history wars have continued, however, in regions where there are deep historical divisions among conflicting groups or nations. Nakou and Barca (2010, p. 3) call attention to intense and largely unresolved debates where the public “cannot conceive history education except as a means to cultivate national identity, in absolute accordance with the official national narrative and traditional national aims.” Not surprisingly, where states subsume multiple national identities history education conceived in these terms can turn schools into battlegrounds. Greece, Turkey, Israel, Japan and South Korea, Northern Ireland and Quebec comprise the “passionate debate” chapters in this (the largest) section of their edited collection. In an international context of accelerating migration, including massive movement of political

and climate refugees, a seismic shift in gender relations, new forms of global economic, communications and technological integration, passionate struggles over national histories are not likely to fade away any time soon. These forces destabilize established communities, often prompting contrary initiatives, on the one hand, to try to rebuild what has been lost, and to build new communities of solidarity in defense of social and political rights.

To summarize, the immediate post-war period saw a “below the line” school history to build a Cold War generation with a cohesive national or imperial collective memory. By 1970 threads of opposition began to cohere into a disciplinary approach of history education “above the line,” at first in theoretical work, but also in practical experiments in history education. These were increasingly present in various elements of state-sponsored history over the following decades. By the 1990s, another layer was added on, as Holocaust recognition in popular culture became a template for history education as a means of recognition for victims and voice for the silenced. In this era, testimony, experience and trauma became key concepts for refugees, immigrants, survivors of war and genocide and sexual and gender minorities, who all found new niches in school history textbooks and curricula. Those who saw in these developments threats to the nation became even more strident. There were complex consequences, both for history as national identity building, and for disciplinary history: neither was wiped off the curricular agenda. In terms of the history/memory matrix, history education had moved down, once again, below the line, though often, now, in the service of memories other than the national.

The latest development raises important questions. Does it mean that history education can no longer serve the function of building national cohesion and national identities, and if so, will it lose traction in the competition for curricular space in the school curriculum? Or, alternatively, will school history become a more capacious instrument for the effective hegemonic incorporation of more complex populations under a false promise of freedom and diversity? Or, finally, can contemporary states allow it, in response to engaged scholars and aroused peoples, to become a site for a genuinely liberal, critical and tolerant discussion and dialogue across difference? The answers will vary, depending on specific conditions and, of course, according to who is answering.

The logic of the tripartite periodization suggested in the pages above must be taken only as a broad heuristic. Specific political and cultural developments have led to very different kinds of situations in various countries. Piattoeva (2010) shows, for example, two very different trajectories since the 1990s in Russia and neighboring Finland. Kan (2010) traces a continuous emphasis on “a relatively static body of facts... and a Han-centred view of history” over the last 60 years. And the contemporary survival of all three paradigms (dominated, respectively, by goals of (1) building national solidarity, (2) teaching disciplinary inquiry and (3) recognizing historical injustice) is evident in the contributions to the edited collection of Carretero, Asensio and

Rodriguez-Moneo (2012). Amidst all of these examples, we should continue to search for those rare moments when history education stood as a bridge between history and memory.

MECHANISMS FOR IMPLEMENTING HISTORY IN SCHOOLS

States authorize and promote history in schools through a variety of mechanisms that can be thought of as a variety of levels, from the highest policy initiatives to the “in-the-trenches” activities of teachers and students in classrooms.

Curriculum policy is generally expressed through documents that set out (in greater or less specificity) what is to be taught in schools at what level. But the relationship between curriculum policy and what students actually learn is sufficiently distant that a one-to-one correspondence can never be assumed. The intervening mechanisms consist of the materials, including textbooks, that are funded, written, authorized (in relation to the mandated curriculum) and distributed to teachers and students. Also to be considered are the assessment schemes, ranging from nationally developed and prescribed standardized assessments, to relatively autonomous teacher-generated and school-based assessments. They also include inspection, oversight and evaluation of history teachers by more or less centralized supervisors, about which not much has been written. Little of the existing historical research examines more than one or two of these levels, going all the way from politics and ideology through curriculum policy and textbooks, to teachers and classrooms, and into the work and thought of students.

On curriculum policy, Arie Wilschut provides a comparative overview of Germany, England and the Netherlands over the course of two centuries. In “History at the mercy of politicians and ideologies,” he traces continuities and changes over a relatively long period of curriculum history. He notes history education’s early role in “creating strong moral personalities... responsibly acting people...[and] a national spirit” (Wilschut 2010, p. 702). This agenda ran into difficulty in the 1960s in all three European contexts. In Wilschut’s (2010, pp. 703–711) interpretation (confirming my periodization), the 1960s and 1970s were an exceptional period of curriculum policy, where the idea of “real” (i.e., open, scholarly, critical) history, supporting a free liberal society, supplanted history education as nationalistic indoctrination.

Textbooks’ public and textual nature makes them an easier and more accessible research subject than teachers, students or even curriculum documents. Foster and Crawford also point to their significance as cultural artifacts: “Textbooks stand as cultural artifacts that, in their production and use embody a range of issues associated with ideology, politics and values which in themselves function at a variety of different levels of power, status and influence” (Foster and Crawford 2006).

It is perhaps not surprising then that history textbook research comprises the largest single body of research on state-sponsored history in schools. There is an international research institute devoted to their study (The Georg Eckert Institute), scholarly journals specializing in them (e.g., *Journal of Educational Media, Memory and Society*), numerous edited collections devoted to them and a substantial research literature in other education journals (e.g., Nicholls 2006).

Traditional textbooks are well known for their omniscient voice and their absence of references (Crismore 1984). They may be viewed as more truthful and objective than other texts, simply by virtue of the authorization by the state. The same books may be especially suspect in the eyes of national or other minorities within the borders of the state (Korostelina and Lässig 2013; Rosenzweig and Thelen 1998). On the other hand, classroom materials have been designed to provide aids for teachers in each of the three periods, not just in the first nation-building narrative stage, for which they would seem most easily and obviously constructed. The British SCHP textbooks, for example (Scott 1987), are prime examples of classroom materials for the second period. Wils (2006) eviscerated the same kinds of books in Belgium.

Bert Vanhulle (2009) examines Belgian history textbooks for their narrative structures and rhetorical characteristics from three different moments: early post-war, the 1990s, and post-2000. These periods conform well to those that I have proposed, but the most dramatic changes come about in last period, where the narrative structure recedes, as noted by Wils (2006), to the background:

As history is now seen as a mere construction, it is possible for the pupil to create a past himself through historical method. Textbooks stimulate this attitude towards history by accompanying literally every bit of source fragment, illustration or text excerpt with a series of questions concerning interpretation or greater historical context and so on... This emphasis on skills overshadows a narrative conception of history in these textbooks.... The ending is no longer a foundation but a loose collection of present problems. (Vanhulle 2009, p. 280)

Although Vanhulle seems to strike a note of despair, it is also possible to see these textbooks (which are common not only in Belgium in recent years, but internationally) as a key classroom mechanism for the state sponsorship of a disciplinary approach to history education.

In Russia and Central and Eastern Europe, our periodization probably needs to be streamlined by collapsing the first and second period, with the major changes coming with the collapse of the Soviet Union. In her study of the production of Polish textbooks between 1944 and 1989, Joanna Wojdon (2015) documents the multiple sites at which the Polish United Workers' Party (i.e., the Communist Party) exercised active control through a "ladder of power." Even in this context, "people were the weak point of the system." Authors, editors and teachers, "Who taught according to their own

beliefs and not to political instructions,” undercut efforts to use the schools to cement support for the regime.

There is an abundant literature on the history of history textbooks in relation to World War II. Japan’s textbook controversies revolved around the role of schools in promoting Japanese nationalism and the portrayal of pre-war and wartime crimes. The more successful transformations in German textbooks’ approaches to war memory over the course of the period, before and after reunification, have also been well studied. Hein and Selden (2000b, p. 8) point to a key factor explaining the difference: in Japan, unlike Germany, decisions over textbook content are centralized under the direct control of the government, and so become “authoritative statements of national policy and ideology.” There was also a powerful German consensus that repudiation of Nazism would constitute a far more acceptable stance in the context of its close European neighbours. An analogous consensus was never fully achieved among the Japanese (see, e.g., Crawford and Foster 2007; Hein and Selden 2000a; Nozaki 2008).

Korostelina and Lässig (2013) provide a major sampling of joint history textbook projects whose explicit goals were to foster processes of reconciliation and peace-making between groups that had recently been enemies in the contexts of war, colonialism or genocides. All of these projects were initiated after 1990, and most, a decade later. While some of them received state authorization, international organizations or civil society groups initiated most. In some cases, they were subsequently authorized by states, but in at least one (Israel/Palestine), authorities actively prohibited the resulting textbooks from being used in the schools. The editors caution:

This leads us to the overarching question...concerning the extent to which the use of multiple perspectives and controversy, that is, western concepts of history instruction, can really be rendered universal and bring about true progress when addressing an extremely conflictual aspect of history in the classroom, and attempting to foster mutual trust. (Korostelina and Lässig 2013, p. 14)

History assessments provide another element in the implementation of state-sponsored history. In recent years, education in individual national contexts has been subjected to international comparison through various international assessment regimes, including the Programme for International Assessment (PISA) and Trends in International Mathematics and Science Study (TIMSS), leading to a competitive scramble to maintain or raise standards within individual states. Up until now, history has remained largely outside an international assessment field dominated by the school subjects of math, science and reading. It would seem, *prima facie*, a more challenging task to run international tests in history. States have signed onto various rigorous internationally administered assessments (such as Cambridge Assessment and the International Baccalaureate), but inasmuch as these come with their own programs of learning, they do not function in the same way that

PISA and TIMSS do as stimuli to invest in or reform national school programs. It can fairly be said that assessments are largely in a developmental stage for any conception of history education that goes beyond the canonical paradigm and that international testing in this area does not (yet) have any impact (Ercikan and Seixas 2015).

A number of scholars, using a range of methodologies, have attended to the relationship between school curricula and students' ideas, thus shifting the focus to the reception rather than the production of historical narratives (Angvik and von Borries 1997; Létourneau and Moisan 2004; Clark 2008). To date, however, these methodologies have not yielded any longitudinal study to provide a history of changes in young people's ideas over decades.

The multiplicity and fragmentation in mechanisms for the implementation of state-sponsored history education are captured well in the conclusion of Schär and Sperisen's case study of the teaching of the Holocaust in Switzerland.

On the level of state power, there is no uniform vision of the nation's history... Furthermore, there are institutional rules of history education that restrict the direct transmission of knowledge and promote teaching youths to develop their own views. And then there are the teachers, who have their part in shaping history. (Schär and Sperisen 2010, p. 665)

A COMMENT ON METHOD AND THE STATE OF THE LITERATURE

What are the cautions that can be drawn from the above, for methods in investigating state-sponsored school history? There is a paucity of literature, historically, examining multiple aspects of state-sponsored history in schools: from curriculum policy debates and documents through to students' historical belief and thought. Curriculum documents and textbooks are certainly a reflection of certain political intentions and orientations, filtered through the processes, both legislative and administrative, for putting them into place. But we cannot necessarily conclude from them any particular claims about what teachers are teaching, and even less so, what students are learning or believing. Schär and Sperisen (2010) provide one rare example of a study on multiple levels. But even their work does not follow change over the entire period, which would represent the most ambitious research agenda in the history of state-sponsored history in schools from 1945 to the present.

James Wertsch's (2000, 2002) work in post-Soviet Estonia rings a crucial warning bell for research into such cases: what is taught is not the same as what is learned. Wertsch distinguished between "mastery" and "appropriation," or more simply put, between "knowledge" and "belief." Although Estonians subjected to Soviet versions of history might "know" the details they had learned in school, they maintained a conflicting set of "beliefs" about what really happened, in the form of a compelling counter-narrative. Terrie Epstein (2008) reached similar conclusions in studying Black American

students' views of American history (also see Barton 2005). The meanings of state-sponsored history in schools cannot be conclusively studied without attention to the thinking and ideas of the students and citizens at which that schooling was aimed.

A second methodological caveat has to do with the relationship of the particular to the whole, the detailed studies to the larger contexts. It is often advantageous to have "thick descriptions" of local events and specific cases. In order to draw large conclusions from these, however, the relationship of the sample to the population must be clearly spelled out. Historians are not known for their methodological transparency in this regard.

There are many ways that the study of a specific event, time period, country or institution might be significant in the quest for a systematic, large-scale, comparative picture of schools as a locus for state-sponsored history over the past seven decades. The odds are better if the study is contextualized historically, geographically and institutionally. The close analysis of a particular curriculum document, for example, is much enhanced by understanding those that preceded and followed it, how it compared to those in other jurisdictions at the time and what impact it had on textbooks, classrooms, teachers and students. Longitudinal studies, broad comparative studies and studies that draw links across politics, ideology, policy and impact are particularly valuable for building such a picture, but rare in the current literature on history in schools.

With these cautions in mind, I end by admitting the obvious: that the schemes I have proposed, both the history/memory matrix and the three-layer periodization of post-war history education remain open hypotheses, whose validity and utility will of necessity be further tested against other literature, other cases.

REFERENCES

- Angvik, M. and von Borries, B. (eds.) (1997) *Youth and History. A Comparative European Survey on Historical Consciousness and Political Attitudes Among Adolescents* (Hamburg: Körber Stiftung).
- Barton, K. C. (2005) "Best not to forget them". Adolescents' judgments of historical significance in Northern Ireland, *Theory and Research in Social Education*, 33(1), 9–44.
- Bevernage, B. and Lorenz, C. (2013) 'Breaking up time—Negotiating the borders between present, past and future. An Introduction' in C. Lorenz and B. Bevernage (eds.) *Breaking Up Time. Negotiating the Borders Between Present, Past and Future* (Gottingen: Vandenhoeck & Ruprecht), pp. 7–35.
- Beyer, Barry K. 1971. *Inquiry in the Social Studies Classroom*. Columbus OH: Charles E. Merrill.
- Bracke, S., Flaving C., Köster, M. and Zülsdorf-Kersting, M. (2014) 'History education research in Germany. Empirical attempts at mapping historical thinking and learning' in M. Köster, H. Thünemann and M. Zülsdorf-Kersting (eds.) *Researching History Education* (Schwalbach/Ts.: Wochenschau Verlag), pp. 9–55.

- Bruner, J. (1960) *The Process of Education* (Cambridge: Harvard University Press).
- Cajani, L. (2006) 'Italian history textbooks on the brink of the twenty-first century' in J. Nichols (ed.) *School History Textbooks Across Cultures* (Oxford: Symposium Books), pp. 27–41.
- Carretero, M., Asensio, M. and Rodriguez-Moneo, M. (eds.) (2012) *History Education and the Construction of National Identities. International Review of History Education*. Edited by P. Lee, R. Ashby and S. J. Foster (Charlotte: Information Age Publishing).
- Clark, A. (2008) *History's Children. History Wars in the Classroom* (Sydney: New South).
- Cole, E. A. (ed.) (2007) *Teaching the Violent Past* (Lanham: Rowman and Littlefield).
- Crawford, K. and Foster, S. J. (2007) *War, nation, memory. International perspectives on World War II in school history textbooks, Research in curriculum and instruction* (Charlotte: Information Age Pub).
- Crismore, A. (1984) 'The rhetoric of textbooks: Metadiscourse,' *Journal of Curriculum Studies*, 16(3), 279–296.
- Epstein, T. (2008) *Interpreting national history. Race, identity, and pedagogy in classrooms and communities* (New York: Routledge).
- Ercikan, K. and Seixas, P. (eds.) (2015) *New Directions in Assessing Historical Thinking* (New York: Routledge).
- Fenton, E. (1967) *The New Social Studies* (New York: Holt, Rinehart and Winston).
- Foster, S. and Crawford, K. (2006) 'The critical importance of history textbook research' in S. Foster and K. Crawford (ed.) *What Shall We Tell the Children. International Perspectives on School History Textbooks* (Greenwich: Information Age Publishing), pp. 1–23.
- Friedrich, D. S. (2014) *Democratic Education as a Curricular Problem. Historical Consciousness and the Moralizing Limits of the Present* (New York: Routledge).
- Grever, M., de Bruijn, P. and van Boxtel, C. (2012) 'Negotiating historical distance. Or, how to deal with the past as a foreign country in heritage education', *Paedagogica Historica*, 48(6), 873–887.
- Hartog, F. (2015) *Regimes of Historicity. Presentism and Experiences of Time* (New York: Columbia University Press).
- Hein, L. and Selden, M. (eds.) (2000a) *Censoring History. Citizenship and Memory in Japan, Germany, and the United States* (London: M. E. Sharpe).
- Hein, L. and Selden, M. (2000b) 'The lessons of war, global power and social change' in L. Hein and M. Selden (eds.) *Censoring History* (Armonk: East Gate Books), pp. 1–50.
- Kan, F. L. F. (2010) 'The functions of Hong Kong's Chinese history, from colonialism to decolonization', *Journal of Curriculum Studies*, 42(2), 263–278.
- Kölbl, C. and Konrad, L. (2015) 'Historical consciousness in Germany. Concept, implementation, assessment' in K. Ercikan and P. Seixas (eds.) *New Directions in Assessing Historical Thinking* (New York: Routledge), pp. 17–28.
- Korostelina, K. V. and Lässig, S. (eds.) (2013) *History Education and Post-Conflict Reconciliation. Reconsidering Joint Textbook Projects* (London: Routledge).
- Lee, P. (2014) 'Fused Horizons? UK research into students' second-order ideas in history. A perspective from London' in M. Koster, H. Thunemann and M. Zulsdorf-Kersting (eds.) *Researching History Education. International Perspectives and Disciplinary Traditions* (Schwalbach: Wochen Schau), pp. 170–194.

- Létourneau, J. and Moisan, S. (2004) 'Young People's Assimilation Of A Collective Historical Memory. A Case Study of Quebecers of French-Canadian Heritage' in P. Seixas (ed.) *Theorizing Historical Consciousness* (Toronto: University of Toronto Press), pp. 109–128.
- Levy, D. and Sznajder, N. (2002) 'Memory Unbound. The Holocaust and the Formation of Cosmopolitan Memory,' *European Journal of Social Theory*, 5(1), 87–106.
- Lorenz, C. (2004) 'Towards a theoretical framework of comparing historiographies. Some preliminary considerations' in P. Seixas (ed.) *Theorizing Historical Consciousness* (Toronto: University of Toronto Press), pp. 25–48.
- Megill, A. (1994) 'Jörn Rüsen's theory of historiography. Between modernism and rhetoric of inquiry', *History and Theory*, 31(1), 39–60.
- Megill, A. (2008) 'Historical representation, identity, allegiance' in S. Berger, L. Eriksonas and A. Mycock (eds.) *Narrating the Nation* (New York: Berghahn Books), pp. 19–34.
- Nakou, I. and Barca, I. (eds.) (2010) *Contemporary Public Debates Over History Education* (Charlotte: Information Age Publishing).
- Nash, G. B., Crabtree, C. and Dunn, R. (1997). *History on Trial. Culture Wars and the Teaching of the Past* (New York: Knopf).
- Nicholls, J. (ed.) (2006) *School History Textbooks across Cultures. International Debates and Perspectives* (Oxford: Symposium Books).
- Nora, P. (1996) *Realms of Memory. Rethinking the French Past* (New York: Columbia University Press).
- Nozaki, Y. (2008) *War memory, nationalism and education in post-war Japan, 1945–2007. The Japanese history textbook controversy and Ienaga Saburo's court challenges* (London: Routledge).
- Piattoeva, N. (2010) 'Citizenship and nationality in changing Europe. A comparative study of the aims of citizenship education in Russian and Finnish national education policy texts', *Journal of Curriculum Studies*, 41(6), 723–744.
- Rosenzweig, R. and Thelen, D. (1998) *Presence of the Past. Popular Uses of History in American Life* (New York: Columbia University Press).
- Schär, B. C. and Sperisen, V. (2010) 'Switzerland and the Holocaust: teaching contested history,' *Journal of Curriculum Studies*, 42(5), 649–669.
- Scott, J. (1987) *Medicine Through Time* (Edinburgh: Holmes McDougall).
- Seixas, P. (2009) 'National history and beyond', *Journal of Curriculum Studies*, 41(6), 719–722.
- Shemilt, D. (1980) *History 13–16. Evaluation Study* (Edinburgh: Holmes McDougall).
- Skocpol, T., Evans, P. B. and Rueschemeyer, D. (eds.) (1985) *Bringing the State Back In* (Cambridge: Cambridge University Press).
- Stuurman, S. and Grever, M. (2007) 'Introduction. Old Canons and New Histories' in M. Grever and S. Stuurman (eds.) *Beyond the Canon. History for the Twenty-First Century* (New York: Palgrave Macmillan), pp. 1–16.
- Torpey, J. (2004) 'The Pursuit of the Past. A Polemical Perspective' in P. Seixas (ed.) *Theorizing Historical Consciousness* (Toronto: University of Toronto Press), pp. 240–255.
- Torpey, J. (2006) *Making Whole What Has Been Smashed. On Reparations Politics* (Cambridge: Harvard University Press).

- Vanhulle, B. (2009) 'The path of history: narrative analysis of history textbooks—A case study of Belgian history textbooks (1945–2004)', *History of Education*, 38(2), 263–282.
- Wertsch, J. V. (2002) *Voices of Collective Remembering* (New York: Cambridge University Press).
- Wertsch, J. V. (2000) 'Is it possible to teach beliefs, as well as knowledge about history?' in P. Stearns, P. Seixas and S. S. Wineburg (eds.) *Knowing, Teaching and Learning History. National and International Perspectives* (New York: New York University Press), pp. 38–50.
- Wils, K. (2006) 'The evaporated canon and the overvalued source. History education in Belgium, an historical perspective' in L. Symcox and A. Wilschut (eds.) *National History Standards. The Problem of the Canon and the Future of Teaching History* (Charlotte: Information Age Publishing), pp. 15–31.
- Wilschut, A. H. J. (2010) 'History at the mercy of politicians and ideologies. Germany, England, and the Netherlands in the 19th and 20th centuries', *Journal of Curriculum Studies*, 42(5), 693–723.
- Wojdon, J. (2015) 'The system of textbook approval in Poland under communist rule (1944–1989) as a tool of power of the regime', *Paedagogica Historica*, 51(1–2), 181–196.

RECOMMENDED READINGS

- Carretero, M., Berger, S. and Grever, M. (eds.) (2017) *Palgrave Handbook of Research in Historical Culture and Education* (London: Palgrave Macmillan).
- Carretero, M., Asensio, M. and Rodriguez-Moneo, M. (eds.) (2012) *History Education and the Construction of National Identities* (Charlotte: Information Age Publishing).
- Crawford, K. and Foster S. J. (2007) *War, Nation, Memory. International Perspectives on World War II in School History Textbooks, Research in Curriculum and Instruction* (Charlotte: Information Age Publishing).
- Köster, M., Thünemann, H. and Zülsdorf-Kersting, M. (eds.) (2014) *Researching History Education. International Perspectives and Disciplinary Traditions, Geschichtsunterricht Erforschen* (Schwalbach/Ts.: Wochenschau Verlag).
- Nakou, I. and Barca, I. (eds.) (2010) *Contemporary Public Debates Over History Education* (Charlotte: Information Age Publishing).
- Seixas, P. (ed.) (2004) *Theorizing Historical Consciousness* (Toronto: University of Toronto Press).

History Teaching for the Unification of Europe: The Case of the Council of Europe

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INTRODUCTION

The Council of Europe was founded on May 5, 1949 by 10 European states: Belgium, Denmark, France, Ireland, Italy, Luxembourg, The Netherlands, Norway, Sweden and the United Kingdom, soon joined in August of the same year by Greece and Turkey, and by the Federal Republic of Germany and Iceland in the following year (Wassenberg 2013). The first article of the Statute of the Council asserts the aim “to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress.” In other words, an ideological program to support the movement towards the economic and political unification of Europe, which was then at its very beginning and was soon to be consolidated with the treaty establishing the European Coal and Steel Community in 1951 and with the Treaties of Rome in 1957. What is characteristic of the Council of Europe, which sits in Strasbourg and is managed by a Committee of Ministers and by a Parliamentary Assembly, is the fact that member states do not transfer part of their national powers to it, as in the case of the European Union, but keep their full sovereignty: their co-operation is therefore based on the common values and common political decisions, which, although not binding, can assert a more or less considerable influence. Specific action fields of the Council of Europe are on one hand the affirmation of human

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rights, democracy and the rule of law, and on the other hand the creation of a common European identity respectful of political, cultural and ethnic diversities. Regarding the latter, history education was attributed a fundamental role from the beginning, because it was considered a fundamental instrument for shaping a new common European identity. In fact, since the end of the First World War many pacifists in and outside Europe criticized history textbooks for their nationalistic stance and often militaristic tone, and many initiatives were taken in order to revise them, from the diplomatic level, as in the case of the *Comité International de la Coopération Intellectuelle*, set up in 1922 by the League of Nations (Renoliet 1999), to the level of teachers' organizations, as in the case of the French *Syndicat National des Instituteurs* and of the German *Deutscher Lehrerverein*, which in 1926 created the *Fédération internationale des associations d'instituteurs* (Schueddekopf 1967, p. 23). The Council's engagement was not only a continuation of these initiatives of disarmament¹ of history education, but went beyond them by constructing a new narrative, a common historical discourse for Europeans that would recognize what was believed to be their inherent unity. It was in fact the same pattern and intent as the one generally underpinning the construction of national histories: the creation of a common identity as the basis of a common political allegiance. Much as nation-states usually do, the Council of Europe uses history for political purposes, the only difference being that the horizon is shifted from the national level to that of Europe. This initiative was inspired by pacifism and international understanding, even outside Europe, and in this sense it was in tune with the contemporary initiatives of the UNESCO (Faure 2015). But on it loomed the danger of an accusation of political manipulation in support of the pro-European project. In fact, this issue resurfaced several times in the course of the activities organized by the Council of Europe in the field of history education. One can periodize these activities into three phases, up to the present.

During the first phase, which covered the 1950s, the Council concentrated on the revision of textbooks and on shaping a common framework for European history: for this purpose six conferences of historians were held between 1953 and 1958, during which participants produced a set of recommendations for curriculum developers and textbook authors. The second phase was much longer and less intensive than the first one and lasted until the fall of the Berlin Wall. It was predominantly focused on the consolidation of the results of the previous phase, with some attempts to widen the European horizon on the world. The beginning of the third phase in 1991 was closely connected with the access of many states that were previously behind the Iron Curtain. This third phase continues today and is characterized by special attention paid to these new member states with the aim of introducing in them a teaching of history inspired by the pan-European vision and democratic values; and also by the intensive production of teaching materials on European history.

THE FIRST PHASE

Edward Herbert Dance,² one of the initiators of the project of the Council of Europe, clearly summarized by the following words the preoccupations about the contemporary state of history education and the rationale of its improvement:

It is often said that one of the most important functions of history teaching is the inculcation of patriotism; some countries even put the inculcation of patriotism as the very first function of the history lesson. Patriotism, at any rate, is the better side of nationalism, and it is good that it should figure in the history textbooks. ... But patriotic pride can easily slip into national arrogance. There is no justification for the all too frequent practice in history textbooks of dwelling on the national achievements while disregarding the achievements of foreign nations. (Bruley and Dance 1960, pp. 24–25)

The bias, he continued, was especially strong when dealing with wars:

The First World War is almost invariably presented in the textbooks from the national angle; each nation sees itself as the centre of the struggle with “allies” whose own needs and motives receive an altogether inadequate attention; while it is usually implied that the enemy nations have no needs but only motives, which are customarily represented as all bad. ... In the case of both wars it is customary for the textbooks to assign “responsibilities”: for the Second War, Hitler is “responsible”; for the first, different nations in different national books ... it is now time, in dealing with all wars, to cease speaking of “responsibilities” and refer instead to “causes.” (Bruley and Dance 1960, p. 47)

The first conference, held in Calw in 1953, aimed to define a general conceptual framework of European history. The following five conferences³ focused instead on particular periods: in Oslo in 1954 on the Middle Ages, in Rome in 1955 on the sixteenth century, in Royaumont in 1956 on the seventeenth and eighteenth centuries, in Scheveningen in 1957 on the period 1789–1871 and finally in Istanbul and Ankara in 1958 on the period 1870–1950. The conferences were organized around some lectures dealing with relevant themes of European history, on the presentation of the analysis of textbooks previously made and on the definition of a set of recommendations for improving both textbooks and curricula by methodological innovations and European contents and interpretations.

The recommendations of the Calw conference defined the ideology of the project, based on Europeanism and pacifism, with an explicit defense against the possible accusation of political manipulation:

Our purpose is not to use history as propaganda for European unity, but to try to eliminate the traditional mistakes and prejudices and to establish the facts. ... It is especially necessary to avoid any interpretation of historical development

which might be used in the particular interest of one state, or which might disturb the friendly relations between peoples. ... It would be desirable not to introduce into the past contemporary national antagonisms. On the contrary, one should emphasise that conflicts between states or between sovereigns did not necessarily involve the peoples themselves. (Bruley and Dance 1960, p. 76)

In this context it is significant that the idea of a common European textbook to be adopted in all states was unanimously refused because (so asserted the British delegate Edward Dance) it was “contrary to academic common sense and raised insoluble problems” (EXP/Cult (53)33, p. 26). The way to go (according to the French delegate Marc Bonnet) was rather a coordination of the curricula and the production of teaching materials on specific European themes (EXP/Cult (53)33, Appendix 7, pp. 39–40).

During the following conferences recommendations focused on the Reformation and the Counter-Reformation, on the French Revolution, on nationalism, on colonialism, on women’s history, on economic and social history and so on. There was general agreement among the historians on most issues, with the relevant exceptions of the role of Byzance and of the Ottoman Empire together with Islamic civilization in the history of Europe. The debate started with the Byzantine Empire. In Calw the German delegate Paul Egon Hübinger asserted that the religious division between Catholic and Orthodox Christianity after the schism of 1054 had created two different civilizations, which remain divided to the present (EXP/Cult (53)33, Appendix 6, p. 22). The Greek delegate Denis Zakythinos vibrantly retorted this vision which showed the point of view, he said, of a Western European country, and asserted that the Byzantine Empire had always been part of the whole European community, despite the religious differences, because they were both inspired by the common reference to the Roman Empire and because they had a common enemy. In fact, he maintained, both in Western and Eastern Europe there had been “a unity of sentiment, an awareness of the vast European community which was a very genuine reality to its peoples.” The enemy was outside, it was fought during the Crusades, which were “an achievement of the whole Western community” and played an important role in unifying Europe (EXP/Cult (53)33, pp. 15–17). Thus an additional problem was at stake: the role of Islam. The Dutch delegate L.J.M. van de Laar proposed including Arabian culture into the cultures that were traditionally considered the “main forces” of the European Middle Ages, that is, the classic, the Christian and the German one (EXP/Cult (53)33, p. 18), but met the total disagreement of Hübinger, who replied that “[T]he Arabians had not been so important to the development of Europe as the Orthodox and the Slav world” (EXP/Cult (53)33, pp. 21–22).

Thus a competition between Islamic and Orthodox culture had arisen, which was to be at the core of the next conference, in Oslo, when two lectures faced each other, one on Byzance and another one on Islam. Zakythinos picked up again and developed the main points of his intervention held in

Calw. The Turkish delegate Ekrem Üçyiğit asserted that “[T]he Islamic civilisation is essentially a part of Mediterranean civilisation and shows, in many respects, a unity of origin with the civilisation of Christian Europe” (EXP/Cult (54)44, p. 31). In fact Islam was connected by its religious features with old Palestine and the Old Testament, and by its scientific culture with ancient Greece. During the Middle Ages Islam had contributed to the progress of European civilization not only by its own culture but also as intermediary with the classical culture, and by that it had brought about the birth of modern Europe, profoundly different from medieval Europe. Modern Europe was in fact being characterized by the emergence of a European consciousness and by the new culture of the Renaissance, inspired by the classical heritage, which also produced a new vision of religion characterized by a decreasing role of Christianity and a new stress on pluralism and tolerance (EXP/Cult (54)44, p. 32).

The debate was very heated and many of Üçyiğit’s statements were refused, in particular the role of the Arabs in transmitting the classic culture to Europe. In addition the Belgian delegate André Puttemans supported Zakythinos’ opinion that Islam had contributed to the creation of Europe only by its role of enemy, which had stimulated European unity. The recommendation at the end of this conference clearly shows that Byzance was accepted in European history both by stressing the religious continuity between Western and Eastern Christianity and by acknowledging its role in the common fight against Islam. Only a few generic words were spent instead in favor of recognition of the contribution of Islamic culture to the formation of European intellectual and artistic life (Bruley and Dance 1960, p. 73).

After this first difficult encounter, the relation between Europe and Turkey, and Islam in general, improved during the following conferences, although not without resistance, above all by the Greek delegate. The history of the Ottoman Empire was again the object of reflection thanks to further lectures held by Üçyiğit in Royaumont and by another prominent Turkish historian, Halil İnalcık, in Istanbul. The recommendations of the conference in Scheveningen gave evidence of an important turn, although limited to the Ottoman Empire and with no mention of Islam:

When treating the Eastern Question, it is desirable that the Ottoman Empire be studied in its own right and not merely as a factor in the policy of the powers; care should be taken to avoid implying that Turkey is a non-European country. (Bruley and Dance 1960, p. 75)

Finally, during the last conference in Istanbul and Ankara the issue of the two world wars was addressed, that Dance had pointed at as one of the most sensitive: the recommendations noticed that most textbooks had adopted an objective view, which stressed the causes rather than the immediate responsibilities, and wished that this attitude become even more generalized, thus

avoiding “the suggestion of collective guilt of a people” (Bruley and Dance 1960, p. 76).

THE SECOND PHASE

After this first phase, during which the main aim of constructing the framework for a common European historical narrative had been attained, the Council’s activity on history education lost momentum. The seven main meetings held during this longer second phase, which lasted until the fall of the Berlin Wall, predominately aimed at the consolidation of the previous results. At the Elsinore symposium in 1965 on *History Teaching in Secondary Education* the idea of a common history textbook was repealed once more: “there can be no question of a uniform teaching of history in the different countries,” thus it was written in the recommendations (*Against Bias and Prejudice* 1995, p. 34). Rather, in order to present history from a European point of view, a long list of “elements common to European history, influencing part or all of Europe” was set up: from the “Great Migrations” (equivalent to the neutral German expression *Völkerwanderung*, instead of the Italian *Invasioni barbariche*, charged with derogative meaning) to contemporary Europe through the Crusades, the Renaissance, the religious reform movements, the revolution of the eighteenth and nineteenth centuries, the European expansion in the world and the formation of colonial empires and many more. This was a true history school program similar to that in use in most states. Interestingly, despite the achievements of the previous conferences, the place of the Byzantine Empire was still uncertain because it was only put in brackets at the end of the list, with the recommendation that:

(Attention should be drawn to the place of Byzantine history in medieval civilization. Byzantine culture should be examined, and common elements of, as well as differences between, Western and Eastern medieval history should be observed). (*Against Bias and Prejudice* 1995, pp. 36–37)

The Elsinore recommendations also dealt with teaching practices, in particular by stressing the importance of the use of a wide selection of visual and written sources and of the interdisciplinary approach with geography and any other relevant school subject (*Against Bias and Prejudice* 1995, pp. 36–37). Another focus concerned the way to deal with “controversial questions,” an issue which is one of the main problems of history teaching. It was indeed recommended that in such cases, “[T]he teacher ought to present all relevant points of view” (*Against bias and prejudice* 1995, pp. 36–37). In Elsinore a new issue was also introduced: the involvement of history with citizenship education. This connection was controversial: the recommendations give evidence of strongly diverging opinions because many participants feared that history could be displaced by civics and in order to prevent that they maintained that the two subjects should remain separated with the argument that

their aims are different. Nevertheless, they also thought that the teaching of both should be committed to the same teacher for the following reasons:

[F]irstly, because the understanding of the present is dependent on knowledge of the past; secondly, because a teaching of history which did not somehow end with the study of the problems of today could, sooner or later, be considered a depreciated subject in secondary schools. (*Against bias and prejudice* 1995, p. 36)

Thus a certain connection between history and citizenship education was asserted as necessary, despite the fear that a presentist vision of education could be detrimental for the study of the past. The actual definition of the character and role of citizenship education remained ambiguous anyway. For some participants it had to be considered as an independent discipline; for others it rather had formative aims, meaning to give pupils the capacity “to participate actively in the political, economic and social life of the community” and to acquire “norms of social thought and behaviour, respect for fundamental values, love of one’s country and the understanding of the community of Europe and of the world” (*Against bias and prejudice* 1995, p. 36). Once more, the participants cared a lot about removing any suspicion of serving (partisan) political interests:

“As the aim of civics is not propaganda, but rather to enable the student to form an opinion of his own, there ought to be no indoctrination.” (*Against bias and prejudice* 1995, p. 36)

As one has seen, in the statements on citizenship education there was also a reference to the world outside Europe. This was in tune with a first attempt to enlarge the horizon of European history through the connections with the rest of the world. Among the recommendations, for instance, there was “the study of non-European civilisations of the past and the present—e.g. the Steppe civilisations—and their influence on European countries (and vice versa)” (*Against bias and prejudice* 1995, p. 33). The mention of just the Steppe civilizations shows, however, a focus limited solely to the relation between Europe and the “invaders” from central Asia in late Antiquity and the early Middle Ages.

The issue of the world outside Europe was picked up again in a much broader horizon at the symposium held in Braunschweig in 1969 on *History Teaching in Lower Secondary Education*. In the recommendations the stress was not on Europe but on civilizations worldwide:

The delegates consider that the emphasis should be placed on the history of civilisations, understood in the widest and not merely in the political sense – that is to say, embracing spiritual, religious, social, cultural, technical, economic, scientific and other matters. (*Against bias and prejudice* 1995, p. 38)

Europe was no longer the unique core of the curriculum, but part of a multiple spatial scale:

There should be no attempt to “compartmentalise” history into local, national, European and world: all these aspects of history are inter-related and inter-dependent. ... Whenever the opportunity is presented, the national and the European horizons must be widened to a world perspective. In a developing world, problems which do not assume universal significance are few and far between. It is therefore essential to refer to all civilisations, including non-European systems. These latter should also be examined from the standpoint of their original nature. (*Against bias and prejudice* 1995, p. 39)

The enlargement of the European horizon was thus recognized as a necessity, and one could recognize in this new vision an influence of the contemporary decolonization process. Nevertheless the Eurocentric approach was not substantially challenged. Europe remained in fact the final goal of teaching: the recommendations underlined the need to highlight both commonalities and dissimilarities of European civilization, as well as “the influence exerted by other civilisations on European civilisation and its extension to other parts of the world” (*Against bias and prejudice* 1995, p. 41).

The recommendations of the conference *Teaching About the Portuguese Discoveries in Secondary Schools in Western Europe*, held in 1983 in Lisbon, went further. They explicitly blamed the traditional Eurocentric point of view in presenting the European discoveries:

In the past, the European Discoveries were often taught in a chauvinistic or Eurocentric way. In view of the multi-cultural character of many schools in Western Europe, and of the need to educate young people for life in an inter-dependent world, it is essential that teaching about this topic should not lead to feelings of racial or cultural superiority. (*Against bias and prejudice* 1995, p. 49)

It is interesting to find here (as in other parts of this text) the reference to multiculturalism, a phenomenon which at that time affected only a few European societies and has later become common to many of them, with the increasing immigration from outside Europe. This socially and culturally new situation, together with the awareness of the incipient globalization, pushed the participants to look outside the borders of Europe.

In this context, the usual term “discovery” itself was denounced for having a Eurocentric bias:

The term “Discoveries” needs careful consideration because it might be taken to imply that the rest of the world was a blank before the European Voyages of Expansion, and teachers and textbook authors might wish to use such alternatives terms as “European expansion overseas” or “The Age of Encounter.” (*Against bias and prejudice* 1995, p. 49)

It was further considered necessary to avoid any unilateral presentation of these voyages but to put them into the general history of exchanges and to include also non-European protagonists:

The European Voyages of Exploration and Expansion should be placed in ... the general context of contacts and exchanges between peoples throughout history. Here teachers might wish to refer to Arab and Chinese travellers and voyages and to the Franciscan missions to the Mongol Empire and North Africa. ... Pupils should be helped to understand:

- (i) The background to, and reasons for, European expansion;
- (ii) The overall consequences of this phenomenon for Europe and other parts of the world (*Against bias and prejudice* 1995, pp. 49–50).

In comparison with the symposium in Braunschweig, the worldview of the participants had indeed become more detailed:

When teaching about the Portuguese and other European Voyages, care should be taken to do justice to the considerable achievements of the contemporary civilisations in other parts of the world, e.g. Africa, India, China and Japan. Teaching about the Voyages could, thus, serve as a window into other cultures and promote better intercultural understanding. (*Against bias and prejudice* 1995, p. 51)

But even if this enlargement of the intellectual horizon is a sign of a moment when European unity seemed achieved and the problems were rather with the rest of the world, on the historiographical level this didn't bring about a true world vision of history, considered as a unity from its beginnings to the present. Indeed, it was limited to one peculiar moment in history, the "age of encounter," and as always from a European standpoint.

During this second phase religious issues, which had already been addressed in the broader context of the roots of European civilization, became a specific object of research at the symposium held in Louvain in 1972 on *Religion in School History Textbooks in Europe*. A preceding analysis of history textbooks and syllabi showed that religion had almost completely disappeared from history teaching, a fact that participants considered "inadmissible," because "in all periods, religion has been a major component of society" (*Against bias and prejudice* 1995, p. 22). They recommended therefore that "the religious phenomenon should always be presented in all its aspects" (*Against bias and prejudice* 1995, p. 23), having regard not only for the relations with political powers, but also for its different interpretations and for its impact on art. Obviously teachers and textbook authors were advised to refuse any idea of superiority of one religion over the others, to take care of being neither apologists nor detractors and to avoid any

anachronistic value judgments. The comparative horizon was once more Eurocentric:

If the textbooks used in Western Europe accordingly devote a pre-eminent place to European forms of Christianity (Catholicism, Protestantism, Orthodoxy), they should not lose sight of the role of other religions (Judaism, Islam) and their contribution to the development of European culture. (*Against bias and prejudice* 1995, p. 23)

The inclusion of Islam side by side with Judaism was thus once more justified by a relation to Europe. Interestingly, the justification of this inclusion was formulated as follows: “[Textbook authors and teachers] will, thus, serve historical truth, as well as contribute towards a spirit of open-mindedness and ecumenism” (*Against bias and prejudice* 1995, p. 23); once again, a political perspective. Other religions were only vaguely mentioned and with a comparative eye that was actually a reduction to the European experience:

“It is desirable to show in the religions of the past and other cultural spheres not only their original aspects but also what they have in common with the religions which are being practised today in the country where one is teaching”. (*Against bias and prejudice* 1995, p. 23)

Both Jewish and Islamic culture in their contribution to Europe were years later the object of two Resolutions by the Parliamentary Assembly of the Council of Europe, respectively, in 1987 (Council of Europe—Parliamentary Assembly 1987) and in 1991 (Council of Europe—Parliamentary Assembly, 1991). The latter marks a deep change in the vision of Islam. It starts by underlining the transformation of European societies because of the increasing Muslim immigration, and by that it shows that the motivation to change the representation of Islam in history teaching and in the media is motivated by a social issue rather than by an historical scientific necessity. Islamic culture, one reads,

suffered and is still suffering from misrepresentation, for example through hostile or oriental stereotypes, and there is very little awareness in Europe either of the importance of Islam’s past contribution or of Islam’s potentially positive role in European society today. Historical errors, educational eclecticism and the over-simplified approach of the media are responsible for this situation.

With an unconventionally frank speech it was also asserted that “many contemporary Muslims” themselves had contributed to this misrepresentation “through their own lack of critical intellectual examination or intolerance.” The outcome was “that Islam is too often perceived in Europe as incompatible with the principles which are at the basis of modern European society (which is essentially secular and democratic) and of European ethics (human

rights and freedom of expression)” (Council of Europe—Parliamentary Assembly 1991). Incompatibility certainly exists—so it is argued in the Resolution—with Islamic fundamentalism, but this doesn’t represent Islam as a whole. In order to achieve this necessary clarification an objective account of Islamic history was recommended to history educators, together with fostering knowledge of Arabic culture through language courses in schools, exchange of teachers and students, cooperation between universities of Europe and of the Islamic countries, translation of Islamic works and so on.

To conclude the picture of this phase,⁴ the constant attention to teacher training must be underlined. This attention was to become stronger and stronger later, in order to cope with the problems of democratization of the member states that were behind the Iron Curtain and joined the Council of Europe in great number after the fall of the Berlin Wall. This event marked a turn in the activity of the Council of Europe, and the beginning of a new, highly intensive, phase.

THE THIRD PHASE

The conference held in Bruges 1991 on the theme *History Teaching in the New Europe* (Slater 1995) saw an unprecedented participation: delegates from Albania, Bulgaria, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Czechoslovakia and the USSR were the newcomers. These states made up the “new Europe,” which was undergoing a process of democratic transition and to which also belonged the adoption of a new vision of European history, entirely different from what had been taught there up to then. The debate focused on the nature of Europe, which was recognized as both an area and an idea, and defined in its relation with other continents according to the following list of values:

- (i) a developing civilisation;
- (ii) different cultures suggesting an image of multi-lingualism;
- (iii) the land of the partial achievement of human rights;
- (iv) a civilisation capable of preserving and transmitting knowledge;
- (v) a civilisation which maintains close links between the sciences and technical skills;
- (vi) the importance of a critical mind;
- (vii) a painful dimension (Europe is also the theatre of conflict and oppression);
- (viii) a civilisation which is expanding, to the detriment of others (*Against bias and prejudice* 1995, p. 52).

The list was a confused one indeed, partly boastful and partly embarrassed, with the emergence, for the first time in the history of these conferences, of elements of harsh self-criticism. Another peculiar feature of this conference

was the presentation of an unofficial textbook for European history, initiated by Frédéric Delouche, a businessman who had committed himself to fighting nationalism in Europe, and written by a group of European historians (Delouche 1992; Tiemann 2000). The book was received by the participants with mixed feelings: positive reactions but also reservations and doubts. Even if it was the fruit of a private initiative and not an official European textbook, the one repeatedly rejected in previous conferences, this book was likely to evoke suspicion of political bias, if officially sponsored by the Council of Europe. And in fact the report of the conference shows the will to stress the limits of its value: “[T]he textbook ... was not intended to replace national textbooks, but to complement them, particularly for the benefit of teachers” (*Against bias and prejudice* 1995, p. 53). Therefore the participants rather preferred a less engaging and compromising solution: the production of teaching materials by experts selected by the Council of Europe. These materials should combine the European level with the regional ones, the latter being highlighted by appropriate sources. Three themes, considered less complex than others, were proposed to start: the Medieval City, the Industrial Revolution, and Fascism and its forms. And two years later, at the conference in Leeuwarden on *The Teaching of History Since 1815 with a Special Reference to Changing Borders*, the delegates reaffirmed that these materials should not lead to a common history textbook:

Although teachers and students throughout Europe need appropriate textbooks and educational materials on European history, steps towards the development of European History textbooks could prove counter-productive – and would be educationally inappropriate – if they seek to present a uniform, common history. (*Against bias and prejudice* 1995, p. 60)

After the conference in Bruges intense activity followed, focusing on the states in “democratic transition,” where most of the meetings and conferences took place. The political context in these states was particularly sensitive, and the risk for the Council of Europe of being charged with political bias was always present. The delegates of the symposium on *History, Democratic Values and Tolerance in Europe: The Experience of Countries in Democratic Transition* held in Sofia in 1994 boldly faced this problem by recognizing the existence of this risk and asserting their confidence in the capability of repealing any accusation by giving evidence of their own good faith:

Although there is a risk that the Council of Europe may be accused of social engineering, even though for the best of reasons, we must not be deterred from our effort to see that history teaching reflects the positive values in which liberal democratic societies believe. History can so easily be abused to sanction or even promote racial, religious or cultural prejudice, hatred and violence. We have to ensure that, in contrast, it is a vehicle for civilised behaviour and values. Indeed, we have to be able to devise recommendations in such an open and balanced

way that we cannot be accused of favouring any political party or faction or any mere theoretical fad or fashion. That is our challenge. (*Against bias and prejudice* 1995, p. 64)

Also very interesting is the last sentence of the conclusions of this symposium: “Finally, the Council of Europe should draw up a European Charter for History Teachers, designed to protect them from political manipulation” (*Against bias and prejudice* 1995, p. 65). This is the evidence of the acute sensitivity and awareness among participants who were facing in many post-communist countries the intrusion of politicians in history education with clear and often aggressive nationalistic tones: exactly what the Council of Europe had tried to get rid of since the beginning. Anyway this Charter, even if it got the support of the Parliamentary Assembly in a Recommendation to the Committee of Ministers (Council of Europe—Parliamentary Assembly 1996), was never written down.

Meanwhile the production of teaching materials by experts was greatly increased.⁵ Among the many projects can be mentioned one that was launched in 2002 and ended up, after a series of five conferences, in a book with the title *Crossroads of European Histories. Multiple Outlooks on Five Key Moments in the History of Europe* (2006). This project shows the special concern with the new member states: indeed the idea underlying this project was that the changes in central and eastern Europe in the 1990s were not only the consequence of the end of the Cold War, but the outcome of long-term developments and aspirations. As key events of this progress were identified, first the revolutions of 1848, then the Balkan Wars of 1912–1913, the immediate aftermath of the First and the Second World Wars, to finish with 1989. A subsequent large project, *Shared Histories for a Europe Without Dividing Lines*, from 2010 to 2014, was devoted to the impact across all member states of the Industrial Revolution, of the development of education, of human rights as reflected in the history of art and finally of the relations with the rest of the world.⁶

CONCLUSION

The activities of the Council of Europe in the field of history education are a particular example of the use of history for the justification of a political agenda and the creation of consensus: in this case in favor of European unification, as it had been previously in favor of the consolidation of the nation-states. This long experience has seen a dialectic between the historians who play the role of experts on one side and the many political actors who make up the Committee of Ministers and the Parliamentary Assembly, with a large space of freedom for the former. In this context it is relevant to once again mention the constant rejection of a common history textbook. This can be seen as a sign of resistance against direct political interference on history education.

To which extent have the efforts of the Council of Europe been successful? Research done in the early 1990s on the image of Europe in British, French, German, Italian and Spanish textbooks for history, geography and citizen education showed a general shift from the national point of view to a European vision, as summarized by the coordinator Falk Pingel:

By all means, one can no longer say that the textbooks we have examined explicitly endeavour to develop a sense of national consciousness: they rather point towards more global values, or try to engender an awareness of the European and Western tradition. (Pingel 1995, p. 287)

Yet, today the general picture of history education in the member states of the Council of Europe is far from being homogeneous. Further steps have indeed been taken to get beyond the national point of view by Germany and France with a common history textbook (Defrance and Pfeil 2013), and a similar process is advancing between Germany and Poland (Lässig and Strobel 2013). The focus on national history is nevertheless still strong in Greece, where by the way there is a single compulsory textbook (Liakos 2008–2009; Nakou and Apostolidou 2010), and it is widespread among the states that accessed after the fall of the Berlin Wall (Dimou (ed.) 2009). The project of a Slovakian–Hungarian common history textbook has been significantly sidetracked in 2010 by the Slovakian Minister of Education Ján Slota, a nationalist politician in a coalition government with a center-left party (The Economist 2010). And also among the member states of the European Union one can observe cases of a backlash to a focus on national history as a tool for citizenship education. In The Netherlands the killing of Pim Fortuyn in 2002 and of Theo van Gogh in 2004 by Muslim extremists has provoked a debate about how to integrate immigrants and led *inter alia* to a reform of history education focusing on the strengthening of Dutch values and identity, not without controversy, by the way (Doppen 2010). In the United Kingdom the recent crisis with the European Union, known under the nickname “Brexit,” has also involved history both on the educational and on the academic level. David Abulafia, a prominent British historian and leader of the recently founded Eurosceptic think tank *Historians for Britain*, has, in an interview in 2015, condemned the politics of creating a common vision of European history, asserting that it is a “soft push” for further EU integration which is prevailing in Germany and France and “was starting to ‘creep in’ to teaching in Britain” (Riley-Smith 2015). “Millions of children across Europe,” he maintained, “were being taught an incorrect vision of history for political purposes.” The idea of a European people, in the opinion of *Historians for Britain*, is rather a myth than a reality (Abulafia (ed.) 2015) and in particular the history of the United Kingdom shows that it had developed in a distinctive way in comparison with its continental neighbors (Abulafia 2015; Abulafia (ed.) 2015). These statements provoked the reaction of another group of British historians who signed an open letter where they

denied English historical exceptionality and asserted on the contrary the commonalities with the rest of Europe ('Fog in Channel' 2015). Political stance and scientific research prove to be tightly interwoven in this case.

Despite all the efforts, the specter of political bias on history education is still haunting Europe.

NOTES

1. This concept was developed in Pacifist circles in the period between the two world wars (Siegel 2004).
2. Edward Herbert Dance was one of the vice presidents of the Historical Association of England and Wales, a prolific author of history textbooks and in the interwar period he was active in the field of textbook revision and international co-operation. He gave an account of his reflections on this experience in his book, *History the Betrayer. A Study in Bias* (London: Hutchinsons of London, 1960).
3. For the full list of the participants to all six conferences see Bruley and Dance (1960), pp. 83–86.
4. There were also a meeting of experts on "History Teaching in Upper Secondary Education," held in Strasbourg in 1971, a Conference on *Co-operation in Europe Since 1945, as Presented in Resources for the Teaching of History, Geography and Civics in Secondary Schools*, held in Braunschweig in 1979, and the Educational research workshop on *History and Social Studies—Methodologies of Textbook Analysis*, held in Braunschweig in 1990. The proceedings of the latter are published in Bourdillon (ed.), (1992).
5. For instance the set of supplementary teaching units for Cyprus, *A Look at our Past, Μια Ματιά στο Παρελθόν μας, Geçmişimize Bir Bakış*, published in 2011.
6. Among the many publications of the Council of Europe during this period one might mention two books by Robert Stradling, *Teaching Twentieth-Century European History* (2001) and *Multiperspectivity in History Teaching* (2003), one by Ruth Tudor on *Teaching Twentieth Century Women's History: A Classroom Approach* (2000), one by Falk Pingel, with the title *The European Home: Representations of the Twentieth Century Europe in History Textbooks* (2000), and one by Jean-Michel Lecomte, *Teaching About the Holocaust in the Twenty first Century* (2001).

REFERENCES

- Abulafia, D. (2015) 'Britain. Apart from or a part of Europe?', *History Today*, 65(5), pp. 7–7.1.
- Abulafia D. (ed.) (2015) *'European Demos'. A historical myth?* (London: Business for Britain).
- Archives of the Council of Europe, EXP/Cult (53)33 Revised: Committee of Cultural Experts, *Report of the Symposium on the revision of history textbooks held at Calw in the Black Forest from the 4th–12th August, 1953*.
- Archives of the Council of Europe, EXP/Cult (54)44: Committee of Cultural Experts, *Report of the Symposium on the revision of history textbooks held in Oslo from the 7th to the 14th August, 1954*.

- Archives of the Council of Europe (1995), Council of Europe–Conseil de l'Europe, *Against bias and prejudice. The Council of Europe's work on history teaching and history textbooks* (= CC-ED/HIST (95) 3 rév) (Strasbourg: Council for Cultural Co-operation).
- Bourdillon, H. (ed.) (1992), *History and Social Studies. Methodologies of Textbook Analysis* (Amsterdam: Swets & Zeitlinger).
- Bruley, E. and Dance, E. H. (eds.) (1960), *A History of Europe?* (Leyden: A. W. Sitjhoff).
- Council of Europe–Conseil de l'Europe, Parliamentary Assembly–Assemblée Parlementaire, *Resolution 885 (1987): Jewish contribution to European culture*.
- Council of Europe–Conseil de l'Europe, Parliamentary Assembly–Assemblée Parlementaire, *Recommendation 1162 (1991): Contribution of the Islamic civilisation to European culture*.
- Council of Europe–Conseil de l'Europe, Parliamentary Assembly–Assemblée Parlementaire, *Recommendation 1283 (1996): History and the learning of history in Europe*.
- Defrance, C. and Pfeil, U. (2013) 'Symbol or reality? The background, implementation and development of the Franco-German history textbook' in K. V. Korostelina and S. Lässig (eds.) *History Education and Post-Conflict Reconciliation. Reconsidering joint textbook projects* (London: Routledge), pp. 52–68.
- Delouche, F. (ed.) (1992) *Histoire de l'Europe* (Paris: Hachette).
- Dimou, A. (ed.) (2009) *'Transition' and the Politics of History Education in Southeast Europe* (Göttingen: V&R Unipress).
- Doppen, F. H. (2010) 'Citizenship education and the Dutch national identity debate', *Education, Citizenship and Social Justice*, 5(2), 131–143.
- Faure, R. (2015) *Netzwerke der Kulturdiplomatie. Die internationale Schulbuchrevision in Europa 1945–1989* (Berlin: De Gruyter Oldenbourg).
- 'Fog in Channel, Historians Isolated' (2015), *History today*, 65(7), 4–5.
- Lässig, S. and Strobel, T. (2013) 'Towards a joint German-Polish history textbook: historical roots, structures and challenges' in K. V. Korostelina and S. Lässig (eds.) *History Education and Post-Conflict Reconciliation. Reconsidering joint textbook projects* (London: Routledge), pp. 90–119.
- Liakos, A. (2008–2009) 'History Wars–Notes from the field', *Yearbook of the International Society for the Didactics of History*, 57–74.
- Nakou, I. and Apostolidou, E. (2010) 'Debates in Greece. Textbooks as the Spinal Cord of History Education and the Passionate Maintenance of a Traditional Historical Culture' in I. Nakou and I. Barca (eds.) *Contemporary Public Debates Over History Education* (Charlotte: Information Age Publishing), pp. 115–131.
- Pingel, F. (1995) 'Befunde und Perspektiven. Eine Zusammenfassung' in F. Pingel (ed.) *Macht Europa Schule? Die Darstellung Europas in Schulbüchern der Europäischen Gemeinschaft* (Frankfurt am Main: Diesterweg), pp. 263–293.
- Renoliet, J.-J. (1999) *L'UNESCO oubliée. La Société des Nations et la coopération intellectuelle (1919–1946)* (Paris: Publications de la Sorbonne).
- Riley-Smith, B. (2015) 'Pupils taught 'distorted' view of European history to push further EU integration', *The Telegraph*, 26 February.
- Schueddekopf, O.-E. (1967) Historique de la révision des manuels d'histoire 1946–1965, in O.-E. Schueddekopf et al. *L'enseignement de l'histoire et la révision des manuels d'histoire* (Strasbourg: Conseil de la Coopération Culturelle du Conseil de l'Europe), pp. 11–47.

- Siegel, M. L. (2004) *The Moral Disarmament of France. Education, Pacifism, and Patriotism 1914–1940* (Cambridge: Cambridge University Press).
- Slater J. (1995) ‘History Teaching in the New Europe. Challenges, Problems and Opportunities. A commentary on a symposium organized by the Council of Europe, Bruges, December 1991’, *International Yearbook of History Education*, 1, 173–178.
- The Economist (2010) ‘Culture creep. The Slovak leader deploys national culture as a political weapon’, *The Economist*, 11 March.
- Tiemann, D. (2000) ‘Möglichkeiten und Grenzen internationaler Kooperation in der Geschichtsdidaktik. Erfahrungen als Mitautor des Europäischen Geschichtsbuches’ in H. Timmermann and H. D. Metz (eds.) *Europa: Ziel und Aufgabe. Festschrift für Arno Krause zum 70. Geburtstag* (Berlin: Duncker & Humblot), pp. 51–61.
- Wassenberg, B. (2013) *History of the Council of Europe* (Strasbourg: Council of Europe Publishing).

Teaching History Under Dictatorship: The Politics of Textbooks and the Legitimation of Authority in Mobutu's Zaire

Denise Bentrovato

The dictum that ‘history is written by the victors’ is a commonplace founded on extensive scholarly investigation of the role of power in historical knowledge production and on the ‘use and abuse of history’ (see Foner 2002; Macmillan 2008; Zinn 1990). Studies in this field have, to speak with Max Paul Friedman and Padraic Kenney (2005), situated ‘the past in contemporary global politics’; they have shown how, in the context of struggles for domination and quests for legitimacy, those in power have commonly sought to supply societies with ‘grand narratives’ conforming to their ideologies and interests.

Complementing this literature is a growing body of research investigating the politics of history teaching within national education systems, whose potential influence on the ideas of younger generations has historically led learners to become subject to politicisation. These systems have been integral to state apparatuses, serving as ‘political means of maintaining or of modifying the appropriation of discourses with the knowledge and power [they] carr[y] with [them]’ (Foucault 1972, p. 227). Curricula and textbooks have been primary carriers of knowledge and power and key ideological tools (Apple 1982, 2014; Apple and Christian-Smith 1991; Ferro 2003). As Stuart Foster and Keith Crawford (2006, p. 1) observe, these ‘cultural artefacts’

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have historically sought to ‘imbue in the young a shared set of values, a national ethos, and an incontrovertible sense of political orthodoxy.’

The focus of this chapter lies in the exploration of the exercise and perpetuation of power through pedagogical practices under autocratic systems characterised by personalised rule and a personal appropriation of the state. Specifically, the analysis examines state-sponsored school history as a distinct facet in the overall ‘(ab)use’ of state power in such systems, regarding it as an instrument aimed at ensuring regime survival through the construction and support of legitimacy. With a view to complementing extant scholarship, this chapter addresses a notable regional bias in this research field, the relative neglect of Africa, by investigating the case of Mobutu’s Zaire (today Democratic Republic of Congo), one of Africa’s longest-lasting (1965–1997) and most notorious personalised regimes (see Braeckman 1992; Callaghy 1984; Ikambana 2007; O’Ballance 2000; Young and Turner 1985). The chapter analyses the politics of history teaching in Zaire in the context of key political and cultural strategies and tools developed by the regime to exercise control over the state and the nation. The analysis draws on empirical data deriving from three sets of primary sources: Mobutu’s official communications and public speeches; key party documents and programmes; and history and civics curricula and textbooks issued by state-owned or private publishing houses in the 1970s and 1980s. The analysis pays particular attention to their rhetorical-discursive and representational content, applying Michel Foucault’s discourse analysis (1972, 1980) and Max Weber’s theory of legitimate authority (1978, 1994) as frameworks for the understanding of how Mobutu’s power and authority were discursively constructed and legitimated through appeals to the past. The chapter ends by highlighting continuity and change in discourse and practice in the post-Mobutu era to further demonstrate ‘the historical constitution of knowledge’ (Foucault 1980, p. 59) and the concomitant permeation of state power in educational institutions as visible through textbook discourse.

STATE IDEOLOGY AND THE POLITICS OF HISTORY AND CULTURE

Joseph-Desiré Mobutu seized power in 1965 against the backdrop of the acute political crisis which marked Congo’s first years of independence from Belgium. Self-proclaimed president of Congo’s Second Republic, the former army chief ruled the vast central African country with an iron fist for over thirty years. Among the measures that promoted the concentration and personification of power with and through Mobutu was the establishment of his Popular Movement of the Revolution (MPR) as the country’s single state party. The MPR functioned as Mobutu’s personal instrument of power and mouthpiece, through which he absorbed all branches of government as well as making all Zaireans its ‘members and “militants”’ (Adelman 1975, p. 103).

After 1974, Mobutu's appropriation of the state was accompanied by the entrenching of 'Mobutism,' 'the teachings, thought, and action of the president-founder of the MPR' (Callaghy 1984, p. 173), as Zaire's state ideology. According to Thomas Callaghy (1984, p. 6), Mobutu's doctrine comprised 'notions from liberal democracy, revolutionary populism, even socialism' as well as 'traditional African notions of community, equity, authority, and power, particularly pre-colonial concepts of kingship, chiefship, and the "big man."' Mobutism further blended a personality cult of Mobutu as the country's supreme chief and a philosophy and policy of national 'authenticity,' centred on a cult of the ancient past, which involved efforts to write and disseminate the country's 'authentic history' (Mobutu 1976; see also Elliot and Dymally 1990; White 2006; Young and Turner 1985).

Mobutu's 'authenticity' called for a return to the country's ancestral roots and a revalorisation of pre-colonial tradition as a foundation for the development and modernisation of 'our great African fatherland' (Mobutu 1975a, p. 314). This strategy of the legitimisation of absolute power relied on the 'invention of tradition' (Hobsbawm 1983). It centred allegedly traditional institutions and values on the all-powerful, sacred and unifying father figure of the chief and insisted on the inappropriateness of Western-style multiparty politics in the African setting, citing the Congolese colonial heritage with its alleged results of "tribalism, rebellions, fratricidal wars, failure of the state, [and] territorial balkanisation' (Mobutu 1989, p. 88). In Mobutu's official communications, and in the *Historical Preamble* of the MPR *Manifeste de la N'Sele* (Comité Centrale du MPR 1984), his victory was placed in the context of a long history of patriotic struggle against colonial, neocolonialist and imperialist forces whose interest was to 'keep Africa in a state of misery and unproductivity in order to exploit it continuously' (Mobutu 1975a, p. 209). Mobutu (1975b, pp. 238–239, 606–607) presented himself as the heir of this struggle, exalting his military coup as a 'Revolution' that had signalled a radical break with the 'humiliating' past and the 'beginning of our total independence' and 'our mental disalienation' – 'our national resurrection' (cited in Adelman 1975, p. 103).

In the context of an attempted 'cultural revolution' aimed at decolonising Congolese minds, this legitimising historical narrative was accompanied by the introduction of several sweeping measures and symbolic gestures geared towards fostering reinvented traditions (Botombe 1975; Callaghy 1987; Mikanza 1992; White 2006). What Gauthier De Villers (1998 p. 87) refers to as 'a form of cultural atavism' found expression, for instance, in the renaming of the Congo (the country, the river and the currency) as Zaire. Likewise, colonial *lieux de mémoire* glorifying 'our hangmen' (Mobutu, 1975a, p. 266), including statues of the Belgian kings Leopold II and Albert I and the explorer Henry Morton Stanley, and towns, streets and public places named after them, were replaced with *lieux de mémoire* honouring 'our heroes,' such as Lumumba. The president himself, renamed Mobutu Sese Seko Kuku

Ngbandu wa za Banga (generally translated as ‘the all-powerful warrior who, because of his endurance and inflexible will to win, will go from conquest to conquest leaving fire in his wake’), was glorified as the country’s ultimate hero and saviour. His image, complete with his trademark leopard-skin cap and his elaborately carved wooden walking stick—emblems of African chieftaincy—was immortalised on television, posters, stamps, national currency (Braeckman 1992) and textbook pages.

THE INSTITUTIONALISATION OF STATE-SPONSORED HISTORY IN ZAIREAN SCHOOLS

Conscious of the power of education to shape people’s minds, and of its considerable share in public employment, Mobutu proceeded to nationalise, centralise and politicise the sector in the wake of his coup. One of the first steps in this direction was the nationalisation of the country’s universities following student anti-government protests (Ndaywel 2009, pp. 552–553). In 1971, Zaire’s three existing tertiary institutions were merged into a single university, the *Université Nationale du Zaïre*. Its top academic officials were nominated by presidential ordinances, and its staff and students were automatically enlisted in the party-state, by which they were closely monitored. In this period, academic historiographical production was thus strictly controlled and constrained by the regime (de Baets 2002, pp. 136–139; Mbata 2005). The nationalisation of primary and secondary education followed in 1974. The politicisation of education found expression in the nomination of school authorities based on their ‘militantism’ (Mokonzi Bambanota 2005, p. 5) and in the establishment of the MPR youth wing, the *Jeunesse Mouvement Populaire de la Révolution*, in all educational institutions to instruct, mobilise and monitor Zairean youth (Schatzberg 1978). State control was also exercised through the *Direction des Programmes Scolaires et Matériels Didactiques* an institution attached to the Department of Education, which was tasked with designing and revising school curricula and developing educational material and guidelines for the vetting of schoolbooks for use in Zairean schools. From 1984–1985 onwards, this state body, issuer of official school directives and policies, commenced its own editing activities, which served to further centralise the production of schoolbooks (Sivry 1986).¹ Through such instruments and processes of centralisation, regulation, monitoring, coercion and patronage, the education system and those involved in the sector were forcibly co-opted and made part of the powerful and far-reaching machinery of the Mobutist state.

In line with official state doctrine and policies, Zairean schools, through curricular and extracurricular activities specifically designed by the regime as part of state-sponsored educational reforms, undertook the mission of combating ‘neocolonialism’ (Longesha 1987, pp. 3–4) and forging a united and patriotic citizenry around Mobutu and his party. This task was primarily

assigned to the school subject 'civic and political education,' which had replaced religious education in 1974. Among the values featuring prominently in textbooks for the subject, exemplarily the series *Education Civique et Politique* (Babudaa Malibato 1974, 1975, 1981a), was respect for authority: particularly the MPR and its leader, communitarianism, selflessness, a spirit of service, patriotic courage and a sense of pride in the country and its ancestral heritage.

History education features in Mobutu's public speeches and official documents as having an equally important role to play in the development of Zairean citizens, with school history deemed crucial for the nurturance of national pride and a sense of attachment, devotion and sacrifice towards state and nation. Mobutu (1981) saw its aim as 'teach[ing] the traditions ... [and] the glories of the fatherland, the secular institutions, the cultural, moral and spiritual richness of Zaire' (p. 87) so as to 'develo[p] children's love of the fatherland and of the common good, and all the qualities of a patriot' (p. 60). Reflecting this dictum, the 1988 primary school curriculum (CEREDIP/EDIDEPS, cited in Mutamba Makombo 2005, p. 241), for instance, expected pupils to 'learn the cult of our great men, of our heroes, of all those who have contributed to the greatness of the fatherland.' The primary school textbook *Histoire du Zaïre 5ème Primaire* (1975) opens with the national anthem *La Zaïroise*, preceded by a picture of a smiling Mobutu among enthusiastic masses and a caption featuring the president's speech on the occasion of the MPR's first anniversary. The book *6ème Primaire* (1982) commences with a text on 'Patriotism,' exalting love and self-sacrifice for the fatherland. In the introduction to another primary school textbook, *Histoire 6è Primaire: Le Zaïre en Afrique et dans le Monde* (1971, 1981), the authors explicitly encourage Zairean teachers to draw lessons from history guided by their patriotism.

As well as seeking to promote a nationalist and patriotic spirit among Zairean youth, the education system was also geared towards producing reverent and uncritical attitudes towards the authorities and the institutions of power. This objective appears strikingly clearly in the 1976 *Student Guide* issued by the *Institut Makanda Kabobi* (IMK), the party's ideological training centre. Run by the *Mobilisation, Propaganda et Animation Politique* unit of the *Bureau Politique*, the institute was an important instrument of the propagation of the teachings of the 'Founder-President' and 'Father of the Nation' (p. 3; see also De Boeck 1996, p. 81). The official line presented in this and other state documents recognised the education system as a potential 'hot-bed of contestation or questioning' (IMK 1976, p. 12); it therefore required schooling, particularly school history, to 'prepare the child to accept the dominant power and its various representatives' (IMK 1976, p. 17), and, more specifically, to nurture feelings of love, admiration, respect, indulgence, obedience, loyalty, obligation and gratitude towards President Mobutu. In the words of the guide's authors,

School history will laud the Head of State. He is paternal, protective, peacemaking, charitable.... School history will worship the Head of State and the country's political regime. The teaching of history will attach children to the President of the Republic. It will venerate the person, the function, the lineage, the entourage and the works of the Head of State. ... The Head of State represents essentially the will of the people or the will of God. He is thus sacred. (p. 19)

TEXTBOOKS, AUTHENTICITY AND NATIONALISM

The 'grand narrative' presented in Zairean textbooks depicted a nationalistic, patriotic and hagiographical history; these textbooks' aim was to instil pride in pre-colonial traditions, in line with Mobutu's nationalist doctrine and its recourse to 'authenticity' while condemning colonialism and neocolonialism, and to exalt Mobutu's Second Republic and his achievements. Textbook descriptions of Zaire's pre-colonial kingdoms and empires, as found, for instance, in *Histoire 6è Primaire* (1971, 1981, p. 77), praised their ancient organisation, their 'marvellous' civilisation, and their 'splendour' and 'richness.' A lesson on the Luba Empire in *Histoire du Zaïre 5ème Primaire* (1975, p. 38) highlighted the beauty of 'a large country made up of various ethnic groups united to work for the common good' and stressed the necessity of such a country having 'a chief, because a country without a chief is a body without a soul.'

This proud and positive historical narrative showed strong anti-colonial undertones. Zairean textbooks condemned European colonialism for having curbed the 'marvellous' evolution of African and Zairean pre-colonial states (*Histoire 6è Primaire* 1971, 1981, pp. 103–104) and for having imposed 'economic enslavement,' 'social subjugation' and subjection to 'political domination' (*Education Civique et Politique 3* 1981b, p. 39). Belgium's colonial enterprise in particular was denounced for having plundered the country's 'fabulous' natural wealth and for having treated the Zairean people as machines expected to 'produce, serve and obey' (*Histoire 6è Primaire* 1971, 1981, p. 31). In an apparent further legitimisation of the official philosophy and policy of national authenticity, the textbooks decried the colonial authorities' attempts at weakening traditional authority and at destroying local traditions and culture as a shrewd strategy for the maintenance of power. Among the many misdeeds of colonisation listed in *Education Civique et Politique 3* (1981b, p. 39) were the 'disdain of the Zairean person and cultural values' and its 'cultural and spiritual uprooting through the imposition of a foreign civilisation.'

Echoing the narrative espoused in the MPR manifesto and in Mobutu's public communications, Zairean textbooks presented a mixed view of the country's decolonisation process and the achievement of independence. The textbooks, in line with an anti-colonial nationalistic discourse, celebrated the patriotic resistance to foreign occupation and the 'martyrs' of the

independence struggle, including former Prime Minister Lumumba, depicted as a 'great Zairean patriot' and a 'national independence hero' (*Histoire du Zaïre 6ème Primaire* 1982, p. 81; *Histoire Classes Terminales* 1987, p. 182, 262; *Education Civique et Politique 3* 1981b, p. 45). On the other hand, they tempered their celebratory tone by alluding to the unpreparedness of national elites to rule over their country as it 'regained the freedom that had been lost since 1885' (*Histoire Classes Terminales* 1987, pp. 181–183).

Quoting a speech made by Mobutu at the United Nations Assembly in 1973, *Education Civique et Politique 3* (1981b, p. 52) associated the period of the First Republic (1960–1965) with the 'unfortunate' commencement of a new era, marked by 'anarchy, chaos, disorder, recklessness and incapacity.' Textbooks described the new independent state as having been faced with a loss of central authority and a prevailing condition of national disunity, tribalism and balkanisation 'incited by th[e] former colonisers' (*Histoire du Zaïre 6ème Primaire* 1982, pp. 92–94). They also accused the politicians and parties of the period of ill-preparedness and irresponsibility, suggesting they were moved by personal ambition and greed rather than by a concern for the common good and that, '[m]is-directed, these political parties were real causes of divisions, troubles and misfortunes of all kinds which put the country to fire and the sword' (*Civisme 2* 1974, p. 44). Zairean textbooks justified Mobutu's military coup by situating the event within a context of popular exasperation with fratricidal wars and external interference and of a widespread desire for a return to peace and order.

TEXTBOOKS AND THE PERFORMANCE OF MOBUTU'S CULT OF PERSONALITY

The lessons conveyed through Zairean history and civics classes complemented the daily sessions of '*animation politique*,' during which Zairean pupils, and society at large, were required to perform political songs and dances and chant slogans honouring and pledging allegiance to the chief and the party (Sang'Amin 1989; Schatzberg 1978; White 2006).

Textbooks celebrated Mobutu's intervention in a country that was 'on the brink' of total anarchy and saluted his regime for having broken with the troubled past. Mobutu, 'Father of the Revolution,' was depicted as a redeemer, the 'Guide' of Zaire, who had committed himself to 'save the country' and 'restore order where chaos reigned' (*Civisme 2* 1974, p. 58; *Histoire du Zaïre 6ème Primaire* 1982, p. 96). In stark contrast to the politicians of the First Republic, Mobutu appears as a competent and experienced leader and a selfless patriot who had made 'a thousand sacrifices' in the interest of the nation (*Histoire du Zaïre 6ème Primaire* 1982, p. 101). The textbook sought, through extensive information on Mobutu's life, to equip pupils to '[s]how that on account of his origins and the functions he exercised before and after 1960, MOBUTU was very well-prepared to assume

the presidency of the Republic of Zaire.’ It described his background and character at length to the end of demonstrating his legitimacy as the country’s supreme leader. Zairean textbooks exalted the ‘outstanding revolutionary spirit,’ the ‘courage and high determination’ and the ‘decisiveness, composure, [and] intelligence’ of this ‘great statesman’ and ‘great militant of Zaire’ (*Civisme 2* 1974, pp. 56–57, p. 61; *Histoire du Zaïre 6ème Primaire* 1982, p. 103). *Histoire du Zaïre 6ème Primaire* (1982, p. 99) reiterates the myth of Mobutu’s exceptionality and irreplaceability by rhetorically asking: ‘[i]n whom would Zaireans find the force, the consciousness, [and] the wisdom that characterise a head of state if not in its Head, President MOBUTU[?].’ Further, it adds to this image of unassailable legitimacy by describing him as enjoying overwhelming popular support at home, as demonstrated in his election by the people, and great esteem around the world (pp. 101, 104).

The first of the many achievements of the Second Republic listed in Zairean textbooks, notably in *Histoire du Zaïre 6ème Primaire* (1982, pp. 103–106), is the ‘pacification’ of the country. Head of the ‘valiant’ national army, Mobutu is described here as an ‘apostle of peace,’ who had embarked on an oxymoronically termed ‘peace crusade’ and a ‘merciless’ and victorious fight against ‘evil forces’ that had ravaged Zaire through secessions and rebellions. Mobutu was additionally commended for supporting liberation and peace efforts elsewhere in Africa, and for having established excellent regional and international relations. Another achievement mentioned is the restoration of the country’s national unity and central authority; drawing on a historical context of division, tribalism and anarchy, Zairean textbooks legitimised the creation of a single state party as having united all Zaireans. *Histoire Classes Terminales* (1987, p. 109) justifies Mobutu’s monopolisation of power by underscoring the president’s alleged willingness to avoid disunity and internal conflict. Its author (p. 196) explains:

[Mobutu] banned political party activity, a source of dissention within the young nation. ... To react against the political and administrative anarchy, General Mobutu increasingly strengthened his authority. As from March 22 [1966], he exercised legislative power (through ordinance laws) and the functions of Prime Minister. This system has the advantage of avoiding the danger of a conflict between the Head of State and his Prime Minister.

The legitimising messages thus conveyed through Zairean textbooks the political necessity of centralising power echoing the ‘political animation’ slogan, ‘One people, one party, one leader [*chef*],’ often heard both in and outside Zairean classrooms (Sang’Amin 1989, pp. 154–155).

Depicted in *Histoire du Zaïre 6ème Primaire* (1982, p. 83) as ‘a man who loved freedom and justice,’ Mobutu was said to have worked hard to achieve Zaire’s liberation from all forms of colonial and neocolonial servitude, including ‘underdevelopment, alienation and degradation’ (*Civisme 2* 1974,

p. 61). The regime was praised for having acted to end a long-standing condition of economic dependence, and the benefits to foreign actors this dependence engendered, by having Africanised the country's leadership and elites, countered foreign monopolies through the nationalisation of businesses and the reclaiming of national rights to Zaire's soil and subsoil and created and strengthened a national industry and currency (*Histoire du Zaïre 6ème Primaire* 1982, pp. 112–113). *Histoire Classes Terminales* (1987, p. 206) cited these measures as having led, in a 'spirit of economic independence,' to a 'real economic boom.' Textbooks further claimed that Mobutu committed himself to the promotion of human rights, including women's emancipation, and the expansion of social services such as education and healthcare.

Another accomplishment of the Second Republic cited in Zairean textbooks is the reaffirmation of the country's national dignity and international prestige, said to have been achieved through a series of development and modernisation measures. Underscoring the critical changes introduced by Mobutu, *Histoire du Zaïre 6ème Primaire* (1982, p. 115) explained that '[y]esterday Congolese, we were the laughing-stock of Africa and the world. Today, [having] erased our mistakes thanks to the dynamism of our leader MOBUTU SESE SEKO, we present ourselves with pride as Zaireans.'

Zairean textbooks typically omitted mentions of opposition to Mobutu's rule. The few references made were placed within the context of unambiguous celebration of Mobutu's political, administrative, economic and sociocultural reforms and achievements, thus implicitly denying legitimacy to voices critical of the regime. Within an overall positive narrative which failed to situate events of dissent against their backdrop of legitimate grievances, instances of opposition to Mobutu's rule were reported in ways that appeared to justify and condone their violent suppression by the regime. In *Histoire Classes Terminales* (1987, pp. 194–205), the response of the state and the army to threatened destabilisation by political plots, conspiracies and insurrections by 'war criminals,' 'gangs of mercenaries' and 'aggressors' from abroad was said to have been energetic and triumphant.

HISTORY TEACHING AND THE LEGITIMATION OF AUTHORITY

The content of Zairean textbooks discussed above is revealing of the intention of the Zairean state, appropriated by Mobutu and his party, to impart a supposedly authentic history; these textbooks provide telling examples of a state-sponsored politicisation of history and clear manifestations of an education system co-opted by an autocratic state seeking political legitimacy and societal control. Weber's theory of legitimate authority appears particularly helpful to scholarly attempts to make sense of the politicisation of history teaching in Zaire and understand its role in supporting Mobutu's regime through the promotion of institutionalised historical knowledge.

The empirical data from state-sanctioned history and civics textbooks which this chapter has analysed indicate their role, as powerful cultural artefacts, in the attempted legitimisation of Mobutu's leadership and authority, a legitimisation primarily pursued through 'traditional' and 'charismatic' grounds as conceptualised by Weber. The regime's legitimisation strategies, pursued through a discursive recourse to the past and evident in Zairean textbooks among many other sources, appear to have included elements of 'traditional authority,' whose legitimacy rests, in Weber's words, on 'an established belief in the sanctity of immemorial traditions,' as well as strong elements of 'charismatic authority,' which is predicated on an 'entirely personal devotion to, and personal trust in, revelations, heroism, or other qualities of leadership in an individual' (Weber 1994, p. 312).

The analysis has shown the 'tradition'-related basis of Mobutu's claims to legitimacy to have been discursively constructed in textbooks in two primary ways. First, textbooks "'re-traditionali[sed]" power' (Dunn 2003, p. 118); that is, they manipulated past traditions, symbols and cultural beliefs related to the sacred and divine absolute authority of the traditional chief and applied them to Mobutu, who had appropriated them for himself as the country's new head of state. In a similar way, Zairean textbooks sought to supply 'natural' legitimacy to Mobutu's power and authority by appropriating the imagery of patriarchal traditional social hierarchies (see also Schatzberg 1988, pp. 88–89), particularly by presenting him as 'the *Chef* [i.e. Head or Chief] of the large Zairean family' and as 'father of the nation' (*Education et Instructions Civiques 3* 1974, p. 16). These discursive strategies represent a manifestation of the concept of 'invented traditions' and of their deliberate use for 'establishing or legitimizing institutions, status or relations of authority' (Hobsbawm 1983, p. 9). Second, Zairean textbooks helped construct the traditional basis of Mobutu's legitimacy by symbolically appropriating the memory of Congo's 'independence martyrs' and by presenting Mobutu as the heir of an age-old nationalist and anti-colonial struggle aimed at national liberation from colonial and neocolonial oppression.

We have seen that the construction and sustenance of the charismatic basis of Mobutu's legitimacy claims relied on a pervasive and institutionalised cult of personality, or 'charismatisation.' History and civics textbooks created and sustained a charismatic image on whose basis Mobutu became the object of deification and worship in Zairean society by listing and emphasising a series of personal qualities and experiences 'by virtue of which he [was] considered extraordinary and treated as endowed with supernatural, superhuman, or at least especially exceptional powers or qualities' (Weber 1978, p. 241). Zairean textbooks nurtured this perception by resorting to the past in order both to manufacture a historical 'charismatic situation,' identified in the literature as the 'precondition for the establishment of charismatic leadership' (Pinto, Eatwell and Larsen 2007, p. 39), and to attribute a historic and revolutionary 'charismatic mission' to the leader (Pinto et al. 2007, p. 40; Weber 1978, p. 244).

Zairean textbooks constructed a ‘charismatic situation’ by framing Mobutu’s rise to power in a historical context marked by the delegitimising incapacity of existing leaders and institutions; in this way, Mobutu’s ascendancy appeared to resolve a persistent and acute national crisis and growing popular distress (Pinto et al. 2007; Tucker 1968). Textbooks consolidated Mobutu’s legitimacy and authority by cultivating the image of him as the only and indispensable valiant and apt leader, able and determined to guard and defend national interests from evil forces threatening the survival of the state and the nation. His mission and role appeared as that of a messiah, a saviour, an apostle and defender of peace and justice, and a guide and a teacher in a nation reborn.

CONTINUITY AND CHANGE IN POST-MOBUTU CONGO

This chapter would not be complete without a brief note on the aftermath of Mobutu’s autocratic rule and the impact of regime change on official discourse and state-sponsored school history. In 1997, Mobutu was ousted by Laurent Kabila’s Alliance of Democratic Forces for the Liberation of Congo-Zaire and his Public Salvation Government. As in many other instances around the world, regime change in Congo was accompanied by a rejection of the previous ‘regime of truth’ and by the propagation of an ideological and historical discourse that legitimised the incumbent power-holders and their policies against both the overthrown order and all potential opposition to the new status quo.

The new official discourse, although it distanced itself from the past, showed a remarkable degree of continuity with the previous era. Like Mobutu, Laurent Kabila — and his son Joseph, who succeeded him after his assassination in 2001—employed a rhetoric which traced the origins of Congo’s troubled history to an imperialist wish to hinder the country’s development by imposing conditions of economic dependence and psychological alienation. Influenced by Marxist-Leninist ideology, Kabila’s government portrayed Congo’s national history between 1885 (the year of the establishment of the Congo Free State by the Belgian king Leopold II) and Mobutu’s demise in 1997 as a period dominated by an anti-popular, oppressive, bloody and exploitative colonial and neocolonial state which had served foreign interests. In a bid to legitimise his leadership, Kabila, like Mobutu before him, positioned himself historically as the heir of an even longer struggle for ‘true national liberation’ from state oppression and exploitation at the hands of imperialist powers and their neocolonial agents (Kabila 2000).

Long portrayed as a time of peace and prosperity, the presidency of Mobutu was now condemned as a period of dictatorship, misery and infrastructural and economic devastation. Its demise was acclaimed as the achievement of a long-aspired-to ‘liberation’ and as the ‘victory of the

popular democratic revolution' (Kabila 2000, pp. 115–116). While claiming a commitment to democracy, the new regime perpetuated Mobutist practices: much like its predecessor, the incumbent leadership eschewed political liberalisation, putting forward the argument that this would be a recipe for chaos in a setting dominated by neocolonial parties which had long divided the people. The new rulers sought legitimation by presenting themselves as the 'liberators' of the country's masses, who had erred by following and supporting the dictator. In 1997, Kabila declared that '[o]nly we have resisted against this evil. The three quarters of the country went along with it. We saw you dancing to the glory of the monster' (cited in De Villers 1998, p. 91).

Efforts to rewrite the country's national history in the new era were once again accompanied by a symbolic and cultural war, this time against the Mobutist heritage. As part of a social engineering project aimed at redefining the nation in opposition to the old regime, Kabila quickly re-established the name 'Congo' and the national anthem and the flag of the First Republic. Whereas Mobutu had inaugurated 'Zairean' identity as a symbol of the reappropriation of a long-lost national dignity and pride, Kabila, who took the not entirely un-Mobutist title 'Builder and Father of the Nation,' committed himself to making a clean sweep of recent history and truly restoring 'Congolese' dignity, claiming that '[o]ur human dignity as citizens was fictitious as the word "Zairean" represented the opprobrium, the beggary and the shame of the African' (cited in De Villers 1998, p. 91). School textbooks have been revised accordingly: Mobutu's regime is now depicted as an illegitimate and illegal autocratic and dictatorial regime, which had presided over pervasive human rights abuses, theft and official impunity and over a grave economic, social and political crisis that had deprived the Congolese people of their basic rights to well-being and security (*Histoire 6è Primaire* 2004, pp. 145–146; *Histoire 6ème Année Secondaire* 2009, pp. 194–203).

In sum, we would do well to remember that history is not only *written* by the victors, but also *taught* by the victors. Often accorded a marginal place in scholarly discussions on states' exercise of power, state-sponsored history teaching, as a primary locus of history politics, is an important factor in contemporary national and global politics. Its analysis, to which this chapter seeks to contribute, can provide academic research with valuable insights into the inner dynamics of state-appropriated power.

NOTE

1. State control of textbook production in Zaire further appears evident in one civics textbook (Babudaa Malibato 1975) which reproduced a letter of authorisation for its dissemination signed by the powerful *Bureau Politique* of the MPR.

REFERENCES

- A group of teachers (1971) *Histoire 6è Primaire. Le Congo en Afrique et dans le Monde. Des Origines à Nos Jours* (Kinshasa: Okapi).
- A group of teachers (1981) *Histoire 6è Primaire. Le Zaïre en Afrique et dans le Monde. Des Origines à Nos Jours* (Kinshasa: Samafos).
- A group of teachers (2004) *Histoire 6è Primaire. Le Congo (rd) en Afrique et dans le Monde. Des Origines à Nos Jours* (Kinshasa: New Scolot Editions).
- Adelman, K. L. (1975) 'The Church-State Conflict in Zaire, 1969–1974', *African Studies Review*, 18(1), 102–116.
- Akenawi Laken, C. and Makwiza Dilanda, B. (2009) *Histoire 6ème Année Secondaire* (Kinshasa: Centre de Recherches Pédagogiques).
- Apple, M. W. (1982) *Education and Power* (Boston: Routledge and Kegan Paul).
- Apple, M. W. (2014) *Official Knowledge. Democratic Education in a Conservative Age* (3rd ed., New York: Routledge).
- Apple, M. W. and Christian-Smith, L.K. (eds.) (1991) *The Politics of the Textbook* (New York: Routledge).
- Babudaa Malibato, E. (1974) *Education et Instructions Civiques, 3ème Secondaire, Le Citoyen dans la Communauté Nationale* (Kinshasa: Bureau de l'Enseignement Catholique).
- Babudaa Malibato, E. (1975) *Education Civique et Politique 2. Le Citoyen dans le Développement National. 4ème Secondaire* (Kinshasa: ed. Mayaka Esongama Nsa).
- Babudaa Malibato, E. (1981a) *Education Civique et Politique. 3ème Secondaire. 1. Le Citoyen dans la Communauté Nationale* (2nd ed., Kinshasa: Samafos).
- Babudaa Malibato, E. (1981b) *Education Civique et Politique 3. Le Citoyen et la Conscience Nationale, Africaine, Internationale* (Kinshasa: Bobiso).
- Botombele, B. E. (1975) *La Politique Culturelle en République du Zaïre* (Paris: UNESCO).
- Braeckman, C. (1992) *Le Dinosauré. Le Zaïre de Mobutu* (Paris: Fayard).
- Callaghy, T. (1987) *Politics and Culture in Zaire* (Ann Arbor: University of Michigan).
- Callaghy, T. M. (1984) *The State-Society Struggle. Zaire in Comparative Perspective* (New York: Columbia University Press).
- Comité Centrale du MPR (1984) *Manifeste de la N'Sele* (Kinshasa: Forcad-IMK).
- De Baets, A. (2002) *Censorship of Historical Thought. A World Guide 1945–2000* (Westport: Greenwood Press).
- De Boeck, F. (1996) 'Postcolonialism, Power and Identity. Local and Global Perspectives from Zaire' in R. Werbner and T. Ranger (eds.) *Postcolonial Identities in Africa* (London: Zed Books), pp. 75–106.
- De Villers, G. (1998) 'Identifications et Mobilisations Politiques au Congo Kinshasa', *Politique Africaine*, 72, 81–97.
- Dunn, K. (2003) *Imagining the Congo. The International Relations of Identity* (New York: Palgrave Macmillan).
- Elliot, J. M. and Dymally, M. M. (eds.) (1990) *Voices of Zaire. Rhetoric or Reality* (Washington: Washington Institute Press).
- Ferro, M. (2003) *The Use and Abuse of History, Or, How the Past Is Taught to Children* (New York: Routledge).
- Foner, E. (2002) *Who Owns the Past. Rethinking the Past in a Changing World* (New York: Hill and Wang).

- Foster, S. J. and Crawford, K. A. (eds.) (2006) *What Shall We Tell the Children? International Perspectives on School History Textbooks* (Greenwich: Information Age Publishing).
- Foucault, M. (1972) *The Archaeology of Knowledge* (London: Tavistock).
- Foucault, M. (1980) *Power/Knowledge. Selected Interviews and other Writings 1972–1977* (New York: Pantheon Books).
- Friedman, M. P. and Kenney, P. (2005) *Partisan Histories. The Past in Contemporary Global Politics* (New York: Palgrave Macmillan).
- Hobsbawm, E. J. (1983) 'Introduction. Inventing Traditions' in E. J. Hobsbawm and T. Ranger (eds.) *The Invention of Tradition* (Cambridge: Cambridge University Press).
- Ikambana, P. (2007) *Mobutu's Totalitarian Political System. An Afrocentric Analysis* (New York: Routledge).
- Institut Makanda Kabobi (1976) *Guide de l'Étudiant* (Okapi: Kinshasa).
- Kabila, L. D. (2000) *De l'Édification du Pouvoir Populaire en République Démocratique du Congo* (Kinshasa: Secrétariat des CPP).
- Kasongo wa Kapinga (1975) *Histoire du Zaïre, 5ème Primaire* (Kinshasa: Samafos).
- Kasongo wa Kapinga and Kombe (1982) *Histoire du Zaïre, 6ème Primaire* (Lodi: Laus).
- Longo Kazumba, S. (1987, 2006) *Histoire Classes Terminales* (Kinshasa: New Scolot Editions).
- Macmillan, M. (2008) *The Uses and Abuses of History* (Toronto: Viking).
- Malaba Tshiwula, Wua-K. (1974) *Civisme 2* (Kinshasa: Sciedi).
- Mbata Betukumesu Mangu, A. (2005) 'Libertés Académiques et Responsabilité Sociale des Universitaires en République Démocratique du Congo', *Journal of Higher Education in Africa/Revue de l'Enseignement Supérieur en Afrique*, 3(2), 35–81.
- Mikanza, M. (1992) 'Pour une Politique Culturelle Nationale?' in I. Ndaywel è Nziem (ed.) *Quelle Politique Culturelle pour la Troisième République du Zaïre* (Kinshasa: Bibliothèque Nationale du Zaïre), pp. 199–220.
- Mobutu Sese Seko (1975a) *Discours, Allocutions et Messages. 1965–1975, Vol. 1* (Paris: Jeune Afrique).
- Mobutu Sese Seko (1975b) *Discours, Allocutions et Messages. 1965–1975, Vol. 2* (Paris: Jeune Afrique).
- Mobutu Sese Seko (1976) 'Vœux et Hommages, Senghor est Entré Vivant dans l'Histoire' *Ethiopiques Numéro Spécial*. ethiopiques.refer.sn/spip.php?article612. Accessed 10 June 2016.
- Mobutu Sese Seko (1981) *Discours, Allocutions et Messages. Vol. 2 (1979–1981)* (Kinshasa: Société Missionnaire St Paul).
- Mobutu Sese Seko (1989) *Dignité pour l'Afrique: Entretiens avec Jean-Louis Remilleux* (Paris: Albin Michel).
- Mokonzi Bambanota, G. (2005) 'Les Exclues de l'Ecole Congolaise, Ecole pour Tous: Discours ou Réalité?', *Ecole Démocratique*. <http://www.skolo.org/IMG/doc/Congo.doc>. Accessed 10 June 2016.
- Mutamba Makombo, J.-M. (2005) 'L'Histoire de l'Afrique Vue par les Africains' in I. Mandé and B. Stefanson (eds.) *Les Historiens Africains et la Mondialisation. Actes du 3e Congrès International des Historiens Africains (Bamako, 2001)* (Paris: Karthala), pp. 237–252.

- Ndaywel È Nziem, I. (2009) *Nouvelle Histoire du Congo. Des Origines à la République Démocratique* (Kinshasa: Cri édition).
- O'Ballance, E. (2000) *The Congo-Zaire Experience 1960–1998* (Basingstoke: Macmillan).
- Pinto, A. C., Eatwell, R., and Larsen, S. U. (2007) *Charisma and Fascism in Interwar Europe* (London: Routledge).
- Sang' Amin, Kapalanga Gazungil (1989) *Les Spectacles d'Animation Politique en République du Zaïre* (Louvain-la-Neuve: Cahiers Théâtre Louvain).
- Schatzberg, M. G. (1978) 'Fidélité au Guide. The J.M.P.R. in Zairian Schools', *Journal of Modern African Studies*, 16(3), 417–431.
- Schatzberg, M. G. (1988) *The Dialectics of Oppression in Zaire* (Bloomington: Indiana University Press).
- Sivry, J.-M. (1986) *Examen des Besoins et Analyse des Possibilités de Formation et de Développement des Ressources Humaines de l'Industrie du Livre au Zaïre* (UNESCO: Paris).
- Tucker, R. C. (1968) 'The Theory of Charismatic Leadership', *Daedalus*, 97(3), 731–756.
- Weber, M. (1978) *Economy and Society. An Outline of Interpretive Sociology* (Berkeley: University of California Press).
- Weber, M. (1994) *Weber. Political Writings* (Cambridge: Cambridge University Press).
- White, B. W. (2006) 'L'Incroyable Machine d'Authenticité. L'Animation Politique et l'Usage de la Culture dans le Zaïre Mobutu', *Anthropologie et Sociétés*, 30(2), 43–63.
- Young, C. and Turner, T. (1985) *The Rise and Decline of the Zairian State* (Madison: University of Wisconsin Press).
- Zinn, H. (1990) *The Politics of History* (2nd ed., Urbana: University of Illinois Press).

The “National Dream” to Cultural Mosaic: State-Sponsored History in Canadian Education

Lynn Lemisko and Kurt Clausen

INTRODUCTION

In Canada, two influential state agencies play significant roles in the creation and dissemination of state-sponsored history. One, found at the provincial level, is the Ministries of Education, which maintain general control over curriculum policy for publicly funded grade schools. This is supplemented by materials developed at the federal level through the publicly funded broadcaster, the Canadian Broadcasting Corporation/Société Radio-Canada (hereafter, CBC). But is there any unity to the state-sponsored story that these two agencies project? This is called into question by the decentralized model that makes up the Canadian confederation. Each of Canada’s ten provinces wields autonomy in its separate educational jurisdiction. At the same time, through artistic and journalistic license, the CBC has been able to avoid acting as an official organ of propaganda. Instead, this crown corporation has served as a relatively self-directed nationwide communication link since 1936, through radio, television and now the Internet.

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As is usually the case in Canada, there are many complexities that confound those who wish to produce a widely accepted meta-narrative. In a state as ethnically, linguistically and geographically diverse as Canada, with various state agencies at work in the effort to shape national collective memory through the teaching of history in grade schools, we question the certainty of a classic school history based on an official canon of historical issues and events that compose a singular national history. Specifically, in this chapter, we explore the extent to which three types of historical discourse appear in Canadian state-sponsored history by examining the products created by these government agencies, including the current grade-12 history curriculum documents (for students who are about 17 years old) from two provinces and teaching materials related to the CBC's 17-part documentary series, *Canada: A People's History*.

CONTEXT

As Peter Sexias (2015) pointed out, "states authorize and promote history in schools using a variety of mechanisms," including curriculum policy and the development of supporting teaching materials. In Canada, this is carried out in each Canadian province through its Ministry of Education. However, processes of curriculum development have taken different paths at different times depending upon local and regional perspectives, especially in relation to the particular political perspective of an incumbent provincial government. As well, particular textbooks and teaching materials may be approved by individual ministries, but there is room for school divisions and individual teachers to select materials that have been developed by "third parties," such as the CBC.

The grade-12 Canadian history curricula of Ontario and Saskatchewan were chosen as data sources in order to provide some breadth of insight into historical representations. The two provinces represent a range of Canadian contexts, which contributes to understanding how state-sponsored school history is or is not taken up in regionally unique ways.

Ontario, one of the four original provinces to join confederation in 1867, is Canada's most populated (about 10 million inhabitants) and industrialized province. Although the Liberal party currently forms the government, the structure of the 2015 history curriculum is largely based on a format set earlier by its political opponents, the Conservative party, who were also responsible for implementing the presently in-use review cycle and processes. The review of the 2015 history curriculum, which was based on these processes, began with "third-party research and benchmarking of the Ontario curriculum against curricula from across Canada and around the world."¹ Groups of experts in the discipline reviewed the document and provided feedback to a writing team. Sessions were then held to gather input from the public about the new draft, which was sent back for further revision. Finally, subject experts created a finished copy for distribution.

In contrast to Ontario, Saskatchewan, which achieved provincial status in 1905, continues to rely heavily on an agricultural and resource-based economy and has a population of just over one million people including a significant and rising percentage of Aboriginal peoples. Although Saskatchewan is currently governed by a center-right party, the curriculum document analyzed in this study was created in the mid-1990s by the left-leaning New Democratic Party, in power for over 40 of the last 60 years. The grade-12 history curriculum currently in use in the province is the result of an extended consultation process that began in 1981 and involved teachers, professors of history and education, representatives of Aboriginal groups, school division and Ministry personnel and the general public. Based on these consultations, the Ministry of Education adopted a resource-based instruction approach that encourages teachers to select a variety of resources suitable to meet the needs of their particular students (Saskatchewan Education, hereafter SKE 1997, p. 7) Also based on these consultations, the Ministry invited stakeholders to sit on a Social Sciences Reference Committee, which used findings from the consultation process to recommend directions for curriculum revisions. In 1994, the Ministry responded to recommendations by undertaking development of a new curriculum for grade-12 history, titled Canadian Studies, which was issued in 1997 (SKE 1997, p. 3).

As well as the provincially mandated curriculum documents, we also decided to examine material developed for use by teachers and students related to the CBC's series, *Canada: A People's History*. As a crown corporation the CBC relies on federal government funding, with 90–95% of the CBC's annual revenue provided by Canadian taxpayers and the remaining support coming from revenues raised from real estate, the sales of television and website advertising and CBC news network subscriber fees (CBC 2005/2006). However, the corporation is governed by a president and board of directors who are guided in their decision making by the *Broadcasting Act* of 1991, which mandates the CBC to provide programming in both English and French that is predominantly and distinctively Canadian, reflective of regional audiences and of the multicultural and multiracial nature of Canada (Government of Canada, 1991). Although the board of directors of the CBC is responsible to the federal parliament and the president is appointed by the governor general on the advice of the prime minister, the day-to-day operations of the corporation are not in the hands of the government. Government thus does not have direct control over the content of CBC programming.

STUDY FRAMEWORK AND METHODOLOGY

Although the production of a widely accepted meta-narrative has been fraught in Canada, a number of educational historians and citizenship educators have pointed out general patterns that exist among the varied academic resources produced by Canadian stakeholder groups as they attempt to shape national collective memory. For example, a pattern can be detected in the list

of eras, main events or issues that are to be explored in school history courses. Despite some minor differences in ways of referring to events, a review of the table of contents of Canadian history textbooks produced for schools (Connor, Hull and Anderson 2011) or the episode outline for *Canada: A People's History*,² reveals the following general pattern of eras and topics: Origins to 1770s—*Aboriginal peoples—Contact—Explorers—Fur Trade—New France—British Conquest of New France*; 1770s to 1867—*Loyalists—“Rebellions”—Confederation*; 1867–1945—*Settling the West—World War I—Great Depression—World War II*; 1945 to c. 1990s—*Cold War—Civil Rights Movements—“Bringing Home the Constitution”—Globalization*.

This story can be told in significantly different ways, however, researchers have also discovered general patterns in storyline types. For example, citizenship educators have noted patterns where history is used to support notions of “assimilational,” “pluralistic,” or “activist” citizenship (Sears, Clarke and Hughes 1999). For this study, we developed a framework for analysis based on the work of Joshee and Johnson (2007), who identify three historical discourses found in state-sponsored education in Canada: the commonwealth discourse, the mosaic discourse and the social action discourse.

The Commonwealth Discourse In an effort to create a unifying nationalist myth based on the criteria of a homogeneity of race, language and religion (McKillop 1987), this discourse portrays Canadians as upstanding members of the British Commonwealth who built the nation following a linear progression of important men, military and political exploits, victories and legislation. Issues of power, oppression and dominance are underplayed as the main theme characterizes European colonizers as settlers rather than conquerors (Pashby, Ingram and Joshee 2014). A prominent myth in this discourse is “The National Dream” story, in which “The mundane act of building a railway was transformed into a heroic narrative of nation building” (Francis 1997, p. 17).

The Mosaic Discourse Due to the great diversity of Canada’s population, a homogeneous commonwealth discourse has never been a comfortable fit for many of its citizens. Furthermore, in the last 40 years the federal and provincial governments have officially acknowledged the pluralistic nature of Canadian society through educational documents and legislative acts, such as the Charter of Rights and Freedoms (1982) and the Multicultural Act (1988). Various school curricula have come to promote the cultural mosaic storyline, which depicts Canada as a multicultural society with a long history of acceptance of cultural, linguistic and religious diversity. In the mosaic discourse inequities and injustices are seen as problems of the distant past: racism, gender and other inequity issues now appear resolved rather than as ongoing issues.

The Social Action Discourse Identified as a storyline that is recently emerging in Canadian school history, this emphasizes the importance of active participation in building equitable communities and demonstrating

the historical roots of social justice orientations to citizenship. This discourse offers a proactive social action narrative, addressing issues of power, oppression and dominance, with history revealing how individuals and groups challenged systemic inequities. This story attends to the ongoing struggles for inclusion by a range of marginalized groups such as the labor movement, women, Aboriginal peoples and immigrant populations (Francis 1997, p. 17). And, by examining Canada’s historically significant role within global international development institutions, for example, this storyline connects the valuing of human rights and peacekeeping to the idea that Canadian national identity is ever evolving rather than a *fait accompli*.

Using these three historical discourses as our analytical framework, we employed an interrogative approach to text analysis adapted from the work of philosopher and historian R.G. Collingwood (1946/1993). To compare the three document sets—that is, the two provincially mandated curriculum documents and the CBC teaching materials—we adapted Raymond Williams’ (1958/1983) approach to mapping key points in history by examining culturally and historically important words. In our adaptation, we selected salient topics (words) from the list of eras explored in Canadian school history courses, located the topic in each document, and examined the surrounding text to probe how language is used to unpack the dominant, residual and/or emerging storyline related to the topic. For this chapter, we focus on the topics: *Contact* (origins to 1770s) and *Confederation* (1770s to 1867). “Contact” refers to the time(s) when Aboriginal peoples and Europeans first had dealings with each other. “Confederation” refers to events leading to the agreement among the Canadian colonies, with consent from Great Britain, to join together in a political/economic union under a constitution within the British North America Act [BNA] of 1867. Finally, we compare the historical discourse(s) revealed through examination of the documents to determine if there is any unity to the state-sponsored storylines to determine if a singular national history is evident.

FINDINGS: CANADA—A PEOPLES’ HISTORY (CAPH)

Overview of the Documentary and Teacher Resources

Working in both English and French, experienced journalists, historians and archivists created the thirty-two hour documentary series *Canada: A People’s History* (hereafter *CAPH*). The series is offered as a dramatic chronological narrative, told as much as possible, “by the people who lived it,”³ with re-enactments based on primary source materials. The director of research for the project, Gene Allen, explained the thinking behind their choices regarding what to include: taking into account both English-speaking and French-speaking audiences, they chose “interesting human stories,” reflecting a variety of perspectives, and created a narrative spanning pre-history to the end of the twentieth century.⁴ Jean-Claude Robert, head of the history

department at the Université du Québec à Montréal and an advisor to the project, stated:

In Canada there are at least three versions of history: that of the English, that of the French and that of the Native peoples. Soon there will also be that of the immigrants, those who are neither French, nor English, nor Native. It's a matter of taking all these interpretations into account.⁵

The series, which was first aired over the 2000–2001 and 2001–2002 television seasons, was greeted with interest and enthusiasm, winning awards that honored both its cinematic and educational values. Series creators expected that *CAPH* would become an important resource for teaching history in Canadian schools (Bryant and Clark 2006, p. 1040). In 2001, teacher resources packages were published, designed to accompany a set of freely available website materials. The lesson plans, activity suggestions, additional background information and downloadable materials correlated with the seventeen episodes.

“CONTACT”: *CAPH*

The initial episodes of *CAPH* recognize North America as a “continent of nations” existing prior to the arrival of Europeans, reinforcing the mosaic discourse as the dominant storyline in the series. In highlighting the “electrifying moment of first contact” (Starowicz 2000), the story is told through the encounters of individuals from differing cultures: Jacques Cartier and Chief Donnacona, Chief Maquinna and John Jewitt, and Shawnadithit and William Cormack. To explore “contact,” the teachers’ resource package lessons focus on the Shawnadithit/Cormack and Maquinna/Jewitt stories. In this, the learning materials of *CAPH* address, to some degree, issues of power and oppression as told in the social action discourse. However, the dominant storyline is the mosaic discourse, which tells about how Canadian practices of pluralism and equity grew out of the historic challenges faced and resolved as diverse groups learned to live together.

The Maquinna/Jewitt story relates how insults to the Nootka chief, Manuina, issued while the Nootka traded with the crew of a ship named *Boston*, led to a massacre of the Europeans, and the enslavement of the crew-member, Jewitt. Jewitt’s memoirs describe how Manuina took him under protection and treated him “almost like a son” (Starowicz 2000). In the accompanying resource package, the main thrust of the lesson appears to be an examination of how Europeans and First Nations peoples can learn to live together.

The Shawnadithit/Cormack story describes the life and death of Shawnadithit, identified as the last of the Beothuks. Found by Cormack in a state of weakness and starvation, she was taken in as a scullery maid, and became a fountain of information about her disappearing people which she shared through her drawings. In describing Shawnadithit’s life history, the resource

package lesson indicates a focus on “human extinction” and “understanding bias,” asking that students consider the question: “Would you characterize the disappearance of the Beothuk as extinction or genocide? Why?” (CBC Learning 2001, p. 9), and suggests that students analyze statements written by Cormack looking for bias and prejudice. For example, Cormack wrote:

In Newfoundland, there has been a primitive nation, once claiming rank as a portion of the human race, who have lived, flourished and now become extinct in their own orbit. (CBC Learning 2001, p. 9)

These suggestions involve students in examining issues of power and oppression, but the activity leaves students with the impression that tensions between Europeans and First Nations peoples are primarily a problem of the past. While students are to “identify words or phrases that are emotionally charged or patronizing” when analyzing the quotations, they are also asked to consider: “How might the time period and circumstances colour Cormack’s views of the Beothuk and the British?” (CBC Learning 2001, p. 9). Students are not asked to ponder if views similar to Cormack’s remain in the present.

In the mosaic discourse of *CAPH* Episode 1 learning materials, the narrative emphasizes individual stories of “Contact,” showing students that members of diverse groups can learn to live together despite challenges, prejudices and inequities.

CONFEDERATION: *CAPH*

The story of Confederation, according to *CAPH* Episode 8: *The Great Enterprise*, concerns how, “In a few short years, a handful of small and separate British colonies are transformed into a new nation that controls half the North American continent.”⁶

Over the course of two hours, ending with the first “Canada Day” (July 1, 1867), the viewer is provided with background and context to the specific events that led to Confederation, including the Charlottetown and Quebec Conferences, the campaigns against Confederation in the four colonies, as well as details about the lives of John A. McDonald, George-Étienne Cartier, George Brown and Thomas D’Arcy McGee, four “Fathers of Confederation.” Alongside this, however, there is information about the:

...diverse people who make up the new Dominion of Canada: the railway magnates, the unwed mothers of Montreal, the nuns who provide refuge for the destitute, the prosperous merchants of Halifax, the brave fugitives of the Underground Railroad, and the tide of Irish immigrants who flood into the cities.⁷

The *CAPH* resource package lessons highlight three elements of the Confederation story. One lesson focuses on immigration, particularly the “refugees

from slavery,” asking students to address questions about “important” people involved (Harriet Tubman, slave rescuer) and “Why would escaped slaves want to come to Canada?” The immigration story here is clearly a mosaic storyline telling of pluralism and equity growing out of historic challenges Canadians faced as diverse groups learned to live together. The only hint of the social action discourse comes with one question students are to address: “Is the act of quarantine as enforced by the government of the Irish a question of health or one of intolerance? Explain.”⁸

The second and third lessons in the resource package focus on the Charlottetown and London Conferences, telling the Confederation story with a tinge of the commonwealth (“great men”) discourse along with the mosaic storyline. For example, students are to juxtapose the conferences of the 1860s with the Meech Lake Accord (1987), by comparing “the actions of Macdonald with those of prime minister Mulroney” (“great men” storyline) and are to “identify and explain the main issues of contention in both events, compare and contrast the reasons given by those oppose[d] to Confederation and Meech [and] ... suggest ways in which these diverse perspectives in our country can be brought to consensus”⁹ (a mosaic storyline).

In telling the story of Confederation as a tale of great/important men representing diverse perspectives and the building of consensus among diverse peoples, *CAPH* mixes elements of the commonwealth discourse with its primary mosaic discourse storyline.

FINDINGS: ONTARIO

Overview of Ontario Curriculum

The grade-12 history curriculum, (part of the larger *Canadian and World Studies* curriculum document) is entitled *Canada: History, Identity and Culture* (hereafter, *CH14U*) (Ontario Ministry of Education, hereafter OME 2015). It is organized around five strands of “expectations” (learning outcomes). The first strand, titled *A. Historical Inquiry and Skill Development*, highlights the concepts of historical thinking and development of inquiry skills. The remaining four consist of a chronological approach to content and include: *B. Canada, Origins to 1774*; *C. Canada, 1774–1867*; *D. Canada, 1867–1945*; *E. Canada since 1945*. Each content strand contains three “Overall Expectations,” a list of “Big Ideas” and “Framing Questions” that are intended to bring unity among the strands while bridging the gaps between eras (OME 2015, 370–371). “Specific Expectations” accompanying each content strand include examples and sample questions.

The overall aim of this grade-12 history course is to trace the evolution of Canada’s “national identity and culture,” but rather than telling a singular monolithic story, the curriculum acknowledges the distinct “identity and culture of various groups that make up Canada” (OME 2015, p. 369). The overall expectations indicate outcomes that ask students to analyze the

significance of various social/cultural, economic and political practices and developments in the various eras for different groups in Canada (OME 2015, 370–371).

“CONTACT”: ONTARIO

Pre-contact, first contact and continued interactions between First Nations and other cultural groups in Canada prove to be one of the most important aspects of this curriculum document. Of the 71 learning outcomes 28 are directly linked to relations between First Nations communities and colonizing powers, other cultural groups or the Canadian government.

A great deal is made of this interaction in *Strand B: Origins to 1774*, where the mosaic storyline, with a touch of the commonwealth discourse, is perpetuated. As the story of contact unfolds, students are expected to describe various colonial economic practices, key political events and the roles of various groups in the colony (OME 2015, pp. 375–376). Generally, students are expected to analyze how different factors affected relations between Aboriginal peoples and European settlers in colonial Canada prior to 1774, describe the involvement of First Nations in various military conflicts, describe some notable First Nation individuals and “analyse ways in which Aboriginal culture contributed to the development of Canada prior to 1774 as well as to the development of heritage and identity in Canada” (OME 2015, pp. 376–377). Finally, in this mosaic storyline that tells about how Canadian practices of pluralism grew out of historic challenges faced as diverse peoples learned to live together, students are asked to analyze “ways in which colonial policy and practices reflected ideas about rights, citizenship, and social status in Canada prior to 1774” [and] “how French and British colonial history has contributed to the concept of Canada as a product of “two founding nations” (OME 2015, p. 377).

Clearly, if the specified learning outcomes were the only components of this curriculum, we could conclude that the mosaic discourse is the dominant storyline, with significant aspects of the residual commonwealth discourse story also included. However, accompanying these outcomes are numerous examples and sample questions that make evident a subtle inclusion of the social action narrative. Teachers are not required to use the specified examples or sample questions, however, the wording of these emphasizes the importance of active participation in building equitable communities and of addressing issues of power, oppression and dominance. In this, the mosaic storyline, inferred through analysis of the learning outcomes, is challenged by an emerging social action discourse. For example, questions that subtly subvert mosaic and commonwealth discourse premises are:

Which Aboriginal contributions have received a meaningful place in the Canadian narrative? Why do you think those contributions are recognized, and not others? Who decides what is considered important?

What group or groups are missing from the idea of “two founding nations”? Why have they been excluded? What are the implications of their exclusion? How and why might the idea of two founding nations be changing? (OME 2015, pp. 376–377)

CONFEDERATION: ONTARIO

Where the Ontario grade-12 history curriculum seems awash in references to social issues in the story of “contact,” these aspects in the story of Confederation are very thin on the ground. Only six outcomes are directly related to this topic, and issues are dealt with in a perfunctory way. The story is contained within the *Strand C: 1774–1867*, and remains rather general in perspective. To achieve the first overall outcome, students are expected to “analyse various social/cultural, economic, and political events, trends, and/or developments that occurred in or affected Canada between 1774 and 1867, and assess their impact” (OME 2015, p. 378). The statement is so broad that teachers have almost complete leeway to deal with Confederation as they wish.

In four of the five remaining specific outcomes the commonwealth narrative is evident in the telling of the story of Confederation. For example, students are to:

- analyze how British colonial policies during this period affected the political development of Canada, including Confederation.
- explain how escalating demands for democratic reform during this period affected the evolution of Canada’s governmental system (OME 2015, pp. 379–380).

The examples provided also stick to rather traditional points in the Confederation story, highlighting the commonwealth narrative: there are references to the Constitutional Act of 1791, the Durham Report and the Act of Union, responsible government, political cooperation between Baldwin and LaFontaine or Cartier and Macdonald, the Confederation conferences, crafting the British North America Act and so on (OME 2015, pp. 379–380).

Although some sample questions hint at mosaic discourse in a storyline about how diverse peoples learned to live together (e.g., “What issues were of particular importance to Quebec politicians in the negotiations leading to the political union of Upper and Lower Canada and to Confederation? Why?” (OME 2015, p. 380)) most of the examples and sample questions look at the situation from a top-down position. For example, it asks, “Which British policy do you think had the greatest impact on the political development of Canada during this period? Why? In what ways did British policy contribute to the Confederation movement?” (OME 2015, pp. 379–380). Unlike the Contact storyline, the text here includes little in the way of underground springs to undermine the façade of the traditional commonwealth narrative.

FINDINGS: SASKATCHEWAN

Overview of Saskatchewan Curriculum

In general, the Saskatchewan grade-12 history curriculum “examines the historical forces between the Aboriginal peoples who have always been here and the many different immigrants who came to make a new life for themselves” (SKE 1997, p. 22). The curriculum is organized around the teaching and learning of core concepts, with six main concepts as this grade level’s foci: Worldview, Acculturation (vs. Assimilation), Sovereignty, Decision Making, Diversity and Environment. These concepts are to be understood and developed by achieving stipulated knowledge, skills and attitude objectives (learning outcomes) indicated in bold font in five units of study. The objectives are accompanied by a chronological storyline that highlights, using bold font, the historical content students are to focus on in their studies. The curriculum document also includes suggested activities that correspond with the skill and knowledge objectives of each unit.

“CONTACT”: SASKATCHEWAN

Because the importance of active participation by both Aboriginal peoples and immigrants during Contact is emphasized in this curriculum, the social action discourse is the evident storyline in the first unit of study in this program. To illustrate, the unit overview indicates that “students will learn that sustained contact between peoples of differing societies, is a catalyst that produces new realities of both peoples, and that the arrival of Europeans began a process of social change for both the Aboriginal peoples and the Europeans” (SKE 1997, p. 24). Specifically, in deepening their understandings of the concepts “worldview” and “paradigm,” students are to come to know:

that when two different societies come into sustained contact, the differences in the respective societal worldviews can shape the interaction of the two peoples [and that] Europeans operated with a set of paradigms concerning sovereignty, property, and equality of peoples and societies that differed greatly from those of the First Nations peoples. (SKE 1997, p. 24)

To highlight the differences in worldview, students are expected to examine a storyline about “Contact” that not only tells of European ways of thinking, but also of ways of thinking of Aboriginal peoples. For example, in learning about differences in worldviews regarding sovereignty and decision making, students are expected to learn about the Iroquois Confederacy’s decision-making processes that were governed by the “Great Law,” which “possessed an ‘inclusive’ character that stood in stark contrast to the hierarchical decision-making processes popular in Europe” (SKE 1997, p. 112). Students are expected to learn that in the Iroquois Confederacy, “There were provisions for referenda, recalls of leaders and publicly-sponsored initiatives [and that

decision making] was not solely a male prerogative as in Europe” (SKE 1997, p. 114).

In learning about ways of thinking about the land, students are expected to come to know that Aboriginal peoples believed that specific lands could be used by a particular First Nation, but that this First Nation could not “own” the land. Hence, treaties could not involve any notion of transfer of title to the land. In contrast, students are to learn that Europeans “viewed North America as being a vast reservoir of resources at the disposal of individuals, groups and nations” (SKE 1997, p. 118).

In addition, in telling the story of Contact, this history curriculum acknowledges relationships of power, oppression and dominance. For example, although students are to come to “know that acculturation is the process of two or more cultures adapting to each other” (SKE 1997, p. 112), they are also expected to learn that:

Sixteenth-century European societies were governed by elites who governed in a manner that served their interests and needs. Neither the general citizenry nor the Indigenous populations of distant lands were consulted over the “merits” of colonization. (SKE 1997, p. 112)

In fact, the curriculum refers to “Contact” as a “*collision* of peoples and paradigms” [emphasis added] (SKE 1997, p. 110), claims that societal relationships which guide the actions of members of societies are disrupted by “catastrophic events” and specifies that students are expected to learn that:

The European arrival and colonization of North America, in the sixteenth century, proved to be such a “catastrophic” event. It was to fundamentally change the lives of entire First Nations societies. (SKE 1997, p. 110)

In this social action discourse, the curriculum storyline shows students that “Contact” set up conditions in which systemic inequities emerged and implies that through development of their understanding of the clash of worldviews which Contact entailed, students should consider ways of taking action to ameliorate inequities that continue into the present.

CONFEDERATION: SASKATCHEWAN

In telling the story of Confederation, the Saskatchewan grade-12 history curriculum indicates that students should come to know

...that the process leading to implementation of responsible government involved an active debate among competing ideological paradigms, each defining the relationship between the individual and societal decision-making processes and institutions. (SKE 1997, p. 132)

This curriculum highlights various interest groups with “distinct economic and political agendas” (SKE 1997, p. 134) that emerged from the diverse peoples living in and immigrating to Canada between 1815 and 1855. As students explore the activities of these groups they are expected to examine issues of power, dominance and oppression, coming to know that:

political and economic elites held significant control over the decision-making processes in [the colonies] and were reluctant to entertain meaningful political change. (SKE 1997, p. 136)

As the storyline about Confederation unfolds in this curriculum, the struggle towards responsible representative government is eventually connected to debates about the possible political union of the colonies. When examining these debates, the curriculum indicates that students are to come to know that these discussions became “the prerogative of a governing elite in each of the colonies,” with women and Aboriginal peoples excluded from the deliberations (SKE 1997, p. 216). In stipulating what students should learn, the curriculum tells about how the BNA Act¹⁰ reflected the agendas of English-speaking and French-speaking populations of Central Canada, who would be the major economic benefactors of Confederation. This curriculum expects students to learn that passage of the BNA Act in 1867, and establishment of provincial governments with powers that reduced the dominance of a centralized federal parliament, meant better representation for other regions and populations of the nation. However, the curriculum also indicates that the birth of the nation on July 1st, 1867 was not the triumph of democracy in Canada. Students are expected to come to understand that:

The new nation possessed the parliamentary instruments necessary to establish a democratic society; however the new nation was not a democracy (SKE 1997, p. 230). ... Women were not permitted to vote. First Nations persons were also deprived of the right to participate in national decision making. In the first federal election, in November 1867, only a limited number of Canadians—males who owned property—could vote. (SKE 1997, p. 232)

In telling the story of Confederation as a tale that acknowledges power and oppression in the ongoing struggle for inclusion in decision-making processes and in the building of equitable communities, the Saskatchewan grade-12 history curriculum clearly manifests the social action discourse in the story of Confederation.

CONCLUSION

Our examination of the three products that represent school history in Canada, based on the framework we employed, reveals some interesting conclusions about the creation and dissemination of state-sponsored history in this

country. First, as noted by Thomas Peace (2015), we found a great deal of uniformity among the documents with respect to the pattern of eras, main events and issues that are to be explored in school history courses. Although we focused on “Contact” and “Confederation” as examples for this chapter, we could have chosen a dozen other vignettes as these appear in all three sources. In the linearity of this pattern, the canon of the commonwealth discourse lives on as a skeleton underpinning the storyline, and leads us to conclude that there is a degree of unity in these state-sponsored narratives that implies a type of singularity shaping our national collective memory.

However, our analysis does reveal that national history is told in significantly different ways. Clearly, the mosaic discourse is dominant in the *CAPH* and Ontario documents. These materials tell tales of diversity, with inequities and injustices, but these documents also show how such problems are largely a thing of the past, overcome through collaboration, tolerance and legislation. Systemic inequities of the present are generally unquestioned, with the object of study focused on how to be a good Canadian citizen now that diverse groups have learned to live together. Interestingly, however, the Ontario document seems to be at odds with itself in numerous points throughout the curriculum. Although the learning outcomes conspicuously represent the mosaic discourse, many examples and sample questions effectively subvert this storyline, challenging it with controversial ideas that resist the status quo. Teachers are not mandated to use these questions, but the social action discourse does emerge in these examples.

Residual elements of both the commonwealth and mosaic storylines are present in the Saskatchewan curriculum, but the social action discourse is dominant. The document emphasizes past and present struggles for inclusion and issues of power, oppression and dominance. This seems curious, considering that it is the oldest publication analyzed, but it might be explained by the fact that the other two documents were created by two centrally located state entities whereas Saskatchewan, on the periphery, felt further removed from the center of power. As such, the Saskatchewan government, advised by stakeholder consultants, may have been more attuned to feelings of marginalization and disempowerment than its two counterparts.

Nevertheless, our study reveals that although elements of the commonwealth discourse remain in the state-sponsored story in the products examined, the storyline of “great men and military exploits” retreats to a residual position, disrupted by the inclusion of the mosaic and social action dominant and emerging discourses. As in the Canadian Confederation itself, there is both unity and diversity in the state-sponsored school history that shapes national collective memory in Canada.

NOTES

1. <http://www.edu.gov.on.ca/eng/curriculum/secondary/subjects.html#display>.
2. <http://www.cbc.ca/history/EPISODESUM2LE.html>.

3. <http://www.cbc.ca/history/GENRIGHTSE4EP99CH5PA1LE.html>.
4. <http://www.cbc.ca/history/BTSCONTSE3EP1CH1PA1LE.html>.
5. <http://www.cbc.ca/history/BTSCONTSE3EP1CH1PA1LE.html>.
6. <http://www.cbc.ca/history/EPISODESUM2LE.html>.
7. <http://www.cbc.ca/history/EPISODESUM2LE.html>.
8. <http://www.cbc.ca/history/EPISODESUM2LE.html>.
9. <http://www.cbc.ca/history/EPISODESUM2LE.html>.
10. The British North America (BNA) Act consisted of legislation passed in the British parliament in 1867 which laid out the terms of Canadian confederation, including the division of powers between the federal and provincial governments.

REFERENCES

- Bryant, D. & Clark, P. (2006) ‘Historical empathy and Canada. A People’s History’, *Canadian Journal of Education*, 29(4), 1039–1064.
- Canadian Broadcasting Corporation (2001) ‘Episode Summaries.’ <http://www.cbc.ca/history/EPISODESUM2LE.html>. Accessed 15 September 2015.
- Canadian Broadcasting Corporation (2001) ‘Behind the Scenes.’ <http://www.cbc.ca/history/GENRIGHTSE4EP99CH5PA1LE.html>. Accessed 15 September 2015.
- Canadian Broadcasting Corporation (2001) ‘Step by Step.’ <http://www.cbc.ca/history/BTSCONTSE3EP1CH1PA1LE.html>. Accessed 15 September 2015.
- Canadian Broadcasting Corporation (2005/2006) *Annual Report 2005–2006*. <http://www.cbc.radio-canada.ca/annualreports>. Accessed 17 February 2016.
- CBC Learning (2001) *CAPH Teacher Resource Package, Grades 10–12* (Toronto: Canadian Broadcasting Corporation). <https://curio.ca/en/collection/canada-a-peoples-history-1268/>. Accessed 15 September 2015.
- Collingwood, R. G. (1946/1993) *The Idea of History, Revised Edition with Lectures 1926–1928*, with introduction by Jan Van Der Dussen (Oxford: Clarendon Press).
- Connor, L., Hull, B. and Anderson, C.W. (2011) *Shaping Canada. Our Histories from the Beginning to the Present* (Whitby: McGraw Hill Ryerson).
- Francis, D. (1997) *National Dreams. Myth, Memory, and Canadian History* (Vancouver: Arsenal Pulp Press).
- Government of Canada, *The Broadcasting Act 1991*. <http://laws-lois.justice.gc.ca/eng/acts/B-9.01/>. Accessed 17 February 2016.
- Joshee, R. & Johnson, L. (2007) ‘Historic diversity and equity policies in Canada’ in K. Tolley (ed.) *Transformations in schooling. Comparative and historical perspectives*, (New York: Palgrave Macmillan), pp. 111–121.
- McKillop, A.B. (1987) *Contours of Canadian thought* (Toronto: University of Toronto Press).
- Ontario Ministry of Education (2015) *Canadian and World Studies, CH14U*. (Toronto: Queen’s Printer), pp. 369–388.
- Pashby, K., Ingram, L. and Joshee, R. (2014) ‘Discovering, Recovering, and Covering-up Canada. Tracing Historical Citizenship Discourses in K–12 and Adult Immigrant Citizenship Education’, *Canadian Journal of Education*, 37(2), 1–26.
- Peace, T. (2015) ‘Truth and Reconciliation while teaching Canadian History?’, *ActiveHistory.ca*, <http://activehistory.ca/2015/11/truth-and-reconciliation-while-teaching-canadian-history/>. Accessed 17 February 2016.

- Saskatchewan Education (1997) *History 30, Canadian Studies. Curriculum Guide* (Regina: Queen's Printer).
- Sears, A., Clarke, G.M. and Hughes, A.S. (1999) 'Canadian citizenship education. The pluralist ideal and citizenship education for a post-modern state' in J. Torney-Purta, J. Schwille, and J. Amadeo (eds.) *Civic education across countries. Twenty-four national case studies from the IEA Education Project* (Amsterdam: International Association for the Evaluation of Educational Achievement), pp. 111–136.
- Sexias, P. (2015) *History in Schools, overview*. (unpublished).
- Starowicz, M. (Executive Producer) (2000) *Canada. A people's history*, (Toronto: CBC, episode 1, video).

China's History School Curricula and Textbook Reform in East Asian Context

Gotelind Müller

History textbooks have generated considerable debate and diplomatic friction since the 1980s in East Asia due to their perceived close relation with state politics and crucial role in socializing the next generation of national citizens, regardless of differing political systems in the region. Japanese textbooks usually draw the most public attention (and criticism by other East Asian nations) because of the country's role in World War II. This chapter, in contrast, concentrates on the less well-known case of Chinese history school curricula and their development since 1949. The chapter first provides a brief outline of the development of the Chinese history teaching system, textbook production, and examination system and then discusses more recent attempts at pluralization and the limitations of "reforms" in practice. Furthermore, beyond textbooks, state policies in history education also extend to other media. This means that a view to medial representations of history, including films and TV, but also museums, memorials and so on in the context of the ongoing state-induced patriotic education campaign (mainly, but not exclusively targeted at youth) is necessary to get a full picture of what is going on.

Although the People's Republic of China (PRC) is not a democratic country, putting it in the context of other East Asian nations shows that in the field of history teaching differences in the state's role across political systems (and ideological lines) are less clear-cut than is usually assumed. The de facto strong involvement and interest of the state in history teaching all over East Asia explains the high sensitivity of school curricula and history textbooks

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in the region that not only sees the often bemoaned frictions between the Japanese and the others but also, for example, between China and South Korea. On the other hand, also in nondemocratic China nonstate actors strongly involve themselves in discussions about history teaching, underlining the fact that history is not only a subject dear to government actors (and professional historians, of course), but of considerable interest also to the wider public which often uses social media to participate in the debate.

THE DEVELOPMENT OF CHINESE HISTORY TEACHING SINCE 1949

With the founding of the PRC, the Chinese educational system was newly set up after many years of war, first against the Japanese, then against the inner-Chinese rivals of the Communists: the Guomindang (Nationalist Party) which had dominated before and now had to retreat to Taiwan. Although the new system in the PRC owed much to the Soviet example (Cleverley [1985] 1991, ch. 8), it also inherited several features from the preceding Republican phase (Jones 2005). These included curricula set up by the central state with a normative canon, a centralized examination system, and for history teaching a bifurcation into national and foreign history, the latter now termed “world history” in accordance with Soviet practice (Kecheng jiaocai yanjiusuo 2001, p. 166). Textbooks were produced by the People’s Education Press (Renmin jiaoyu chubanshe) which guaranteed history taught all over China would be the same. Furthermore the examination system that focused on right-or-wrong questions for which pupils had to prepare by memorization implied there was just one “correct” reading of history. In fact, for decades Chinese pupils had to memorize the textbooks to the letter. To keep production cheap, textbooks usually had very few illustrations, which added to the text-oriented outlook of history education also in the layout.

In the early PRC, history was already taught in elementary school. However, with the increase of school enrollment rates and junior secondary attendance in the context of the subsequently implemented system of compulsory education (in the end settled as 6 years of elementary plus 3 years of junior secondary),¹ the subject could be shifted to the junior secondary level (with only a very brief step back to the elementary level in 1986–1988) (Kecheng jiaocai yanjiusuo 2001, pp. 440–447) and still reach every citizen, at least in theory. Teaching outlines detailed the objectives and the contents of history teaching. Early PRC teaching outlines focused on the objective to transmit history in Marxist class conflict fashion, highlighting the roles of peasants and workers, dwelling on uprisings and revolts. Though national history clearly remained the main concern and received the lion’s share in terms of teaching hours, world history was integrated too, with a focus on liberation movements around the globe. Significantly, for national history, mythical beginnings of “Chinese” culture were almost always addressed in this context

(and thus de facto “historicized”), in spite of all self-declared adherence to “historical materialism.”

Also, the objective of taking in ethnic minorities was clearly stated as a policy goal since the beginnings of the PRC, by this, in fact, continuing Guomindang policies to shore up the legitimacy of rule over the whole territory of China (and working against potential regionalism or even separatism). In fact, ethnic relations were a fairly thorny issue given the fact that curricula and textbooks were centralized and thus also used in minority areas. Whereas early PRC teaching outlines suggested transmitting to pupils the “contributions” of all peoples of the PRC to “Chinese” history because China was a “unified multi-ethnic state,”² later more radical leftist policies shifted their focus to class and away from ethnicity. The post-Cultural Revolution teaching outline of 1986 signaled a careful move back, however, now pointing out that the “unified multi-ethnic state” had the Han-Chinese majority as “the main subject” (Kecheng jiaocai yanjiusuo 2001, p. 449). In the early 1990s there was a shift back to the old formula and dropping Han dominance again as a gesture towards the minorities in tandem with a readjusted minority policy.

Addressing ethnic relations is historically especially sensitive in the description of pre-modern history because descendants of some of China’s earlier adversaries are part of “multiethnic” China today. This problem mostly revolves around ethnic relations in Northern and Western China. To give an example: the textbook portrayal of Yue Fei, a general of the twelfth century who wanted to fight back the “barbarian invaders” from the North, has become a controversial case. He used to be a stock “national hero” in Chinese history lessons. Given the heightened sensibility towards inner-PRC ethnic relations, this label has now been removed in this and similar cases of conflict between what nowadays are “inner-Chinese” ethnic groups, and shifted to those historical figures who embodied resistance against “real foreigners,” that is, the Japanese or the Westerners (Li 2011, p. 144). However, also in ancient history (in fact rather mythical “pre-history”) problems arose as the large Miao minority living in Southern China is said to have mythical Chiyou as its “ancestor,” and Chiyou (usually depicted as a half man/half buffalo tribal chieftain) was subjugated in the third millennium BC, the myth goes, by the Yellow Emperor who in turn is claimed as the “ancestor of the Chinese.” In fact, there have been attempts to solve the problem by either integrating Chiyou as an “additional” ancestor of China, for example, with a “hall of the three ancestors of China” built in the 1990s in Hebei province in the area where the defeat of Chiyou is said to have taken place, thus smoothly integrating Chiyou as one of the ancestors of “China” together with the Yan Emperor and the Yellow Emperor who won the mythical battle; or to argue that the Yellow Emperor is somehow ancestor to all “Chinese,” including the different ethnic groups in China, an argumentative figure already used by some in the Guomindang in Republican times and now again by some in the Communist Party (Leibold 2006).

Pre-modern history was taught throughout PRC times, but on balance the main focus in history education was on the modern era, that is, the period since the nineteenth century. This was further augmented for those going on to study at the senior secondary level where modern history dominated, to explain that only the Chinese Communist Party (CCP) was able finally to address the age-old plight of Chinese peasants and workers to overthrow the old “feudal” system successfully. Going along with Stalinist historical views, early (Maoist) PRC history textbooks took political events as periodization markers, whereas in post-Cultural Revolution times under Deng Xiaoping a more classical Marxist approach with explicit consideration of economic developments was used (Müller 2011, pp. 43–44).

RECENT ATTEMPTS AT CURRICULA AND TEXTBOOK REFORMS

Since the late 1980s, however, some pluralization has set in. As China became more and more receptive also to international trends, furthered by detailed examinations of best practice examples in other countries, some experimenting was allowed. Though curricula at first remained centralized, more publishers were officially admitted to the huge textbook market after having their textbooks approved (which of course were similarly based on the central curriculum; Su 2011, pp. 148–150). A new pedagogical focus on “competence education” (i.e., a focus on acquiring skills as opposed to mere memorization of “facts”) was introduced in the context of the new catchword of “quality education” (*suzhi jiaoyu*; Kipnis 2006; Dello-Iacovo 2009), in line with international trends. Furthermore, a new regional curriculum (in Shanghai) was added, and in the new millennium experiments were set up to be chosen from with different courses and respective curricula (Li 2011). For example, in junior secondary school, apart from a curriculum on “history” (Zhonghua Renmin Gongheguo Jiaoyubu 2001a),³ another one on “history and society” was tested even in competing versions (Zhonghua Renmin Gongheguo Jiaoyubu 2001b, c). In this new context historians were also allowed to experiment on the senior secondary level with a thematic approach (Zhonghua Renmin Gongheguo Jiaoyubu 2003), thus cautiously moving away from the standard chronological approach and also introducing more discursive, discussion-style forms of history teaching.

In the most recent years, however, these experiments have been partially cancelled because they were deemed unsuccessful (Li 2011, p. 145). In addition, because the final examination after senior secondary school (*gaokao*)—though mostly administered locally—is the crucial ticket for entering university (and is by millions of young Chinese and their parents perceived as the most critical point in their lives, as this decides where and what they might study in a highly stratified university system),⁴ the problem arises whether those students not having studied the “regular” course (or who might have had more “creative” teachers) could end up being

disadvantaged.⁵ This, in short, means parents above all prefer to see their children prepared well for the crucial exams on all levels of schooling, including those prior to the *gaokao*, as the competition to get into “good” secondary schools “backwashes” the problem also to lower levels of schooling. Parents and students are therefore generally not interested in any “experiments” on pedagogical or historiographical fronts, which also includes the recent multilateral history textbook attempts that have been undertaken in East Asia. In contrast to, for example, the French–German history textbooks often cited as an inspiration (notably conforming to the senior secondary school curriculum of both states) (*Histoire/Geschichte* 2006–2011, in three volumes), the East Asian ones have not made it into regular classes,⁶ precisely because they do not fully conform to the respective mandatory curricula. Furthermore, the huge mass of exams to be corrected makes it difficult in practice to move away from right-or-wrong questions (or at least a check for key words being there or not to “objectify” the assignments of points). In fact, as the *gaokao*-points are so decisive in life, any perceived malleability in the modes of their assignment will lead to protests.⁷

Historians have complained about this kind of history teaching (and some pupils as well in Internet blogs), not in the least because of some contents that are more akin to propaganda than to the state of the art in historiography (not only outside China, but also within).⁸ But the state’s interest in inculcating its history view in the citizenship clearly outweighs any professional’s (or critical pupil’s) arguments (though the pupils’ complaints hint at the undisputed fact that reception of those normative views of history might very well differ on an individual level).

In a more general vein, whether the envisaged reforms under the catchword “quality education” have fundamentally changed “the” Chinese learner as some scholars assume (Chan and Rao 2009) who basically subscribe to the so-called “CHC” (Confucian heritage culture) concept (which is supposed to characterize Chinese education),⁹ is open to debate. Interestingly, empirical studies by Chinese scholars in the PRC are often less optimistic in this regard than some Western-or Hong-Kong-based research (which also tends to cover the PRC and Hong Kong in one category of “the” Chinese learner in spite of quite different systems, histories and backgrounds).¹⁰ It might also be noted that Shanghai’s top scores in the international PISA tests since 2009 (although not covering “history” as a subject) generated more critical reactions than pride in the PRC precisely because they were seen as an indicator that the change of the educational system away from “exam centeredness” has yet to be implemented. Even recent comparative research on CHC and reform endeavors suggests implementation will continue to run up against obstacles on various levels as long as specific conditions and involved stakeholders’ interests are not taken into account.¹¹ The intention to implement reforms is indeed often blocked by practical and systemic circumstances in the field of education in general, and consequently in history teaching as well.

The above, in any case, should have made clear that it is not simply the state's interference in content matters but the whole educational system, above all the examination system, and its inherent logic that makes teachers, parents and pupils vest their respective interests in maintaining the status quo in history teaching, thus sustaining the state's official view, even if involuntarily and not necessarily with genuine "belief" in it. Therefore, even if one may attest to some pluralization in textbooks and to the introduction of some discursive or dialogical approaches suggested for teaching¹²: at a closer look variation is circumscribed and more to be found in layout (more illustrations, glossy covers etc.) than content.¹³

HISTORY IN OTHER MEDIA

Although school education is without question a central pillar in socialization, in today's mediatized world the subject matter "history" is not only present in class. A quick browsing through any Chinese bookshop shows a substantial offer on the subject which in turn bespeaks the fact that the populace is quite interested in historical publications, if mostly in the form of biographies and anecdotes or issues related to war, mainly the Second Sino-Japanese one (1937–1945). In TV and film, history is very much present, too. Quite naturally, the state uses its control over the key media to promote its own view of history. Already in the early PRC, when TV was not yet available to most, history was taught with films, following the Soviet example to use cinema for propagandistic reasons.¹⁴ Cinema per se insinuates a leisure context less rigid than formal education in class (and because of this is arguably more effective in disseminating official history views). In more recent times, going hand in hand with quickly spreading TV access now available to virtually all in China, the medial representations of history have grown exponentially, and the state strongly involves itself in this in various ways, for example, by actively soliciting certain productions, but of course also by ever-present censorship (Müller 2013). For present-day TV, the state has also set up rules that prime-time TV should offer "patriotic" programs, often related to the Second Sino-Japanese War or revolutionary history. Because of this, a zapping TV viewer in China will sooner or later come across some historical series, even if she or he did not look for it. By this multichannel lifelong exposition to "official" history views the state hopes to keep its monopoly on the interpretation of history.

In addition to books and films (and patriotic songs), in the context of the massive state-induced "patriotic education" campaign underway for roughly two decades now (Wang 2008),¹⁵ memorials and museums have also been integrated (Vickers 2007; Denton 2014). A whole net of so-called "model patriotic education bases" (memorials, museums, heritage sites etc.) extends over the country: from nationally classified ones down to the locally (provincial level or below) classified educational bases. They are to provide occasions for school outings, but also for work units or cadres or even individual

tourists to see the “great achievements” of the Chinese nation (with a strong focus on revolutionary history, and Chinese victimization and anti-Japanese resistance during the war). This already should have made clear that part and parcel of these different medial representations are definitions of China against some “other,” often the Japanese, sometimes “the West” (which, however, in contrast to the present-day predominantly negative image of the Japanese also sometimes figures as a model) (Müller 2013, ch. 2).¹⁶ In fact, representations of the Japanese are usually the best litmus test for the actual state of official history views in China that have oscillated in the last decades between a focus on revolutionary self-assertiveness, victimization history (Callahan 2010) and a new self-assertiveness now based on selected elements of “tradition.”¹⁷ And the claims by these patriotic education model bases, often “heritage sites,” also serve in several “frontier” areas as a reassertion of Chineseness in contested territories. This, for example, includes so-called “minority areas” where the sites are designed in such a way that they suggest to the visitor that these areas have somehow “always been Chinese,” even challenging neighboring countries by such claims. (One example of this is the challenge to Korea with the Chinese appropriation of the ancient Koguryo Kingdom in Northeast Asia (Ahn 2006)¹⁸; another is the challenge to Mongolia with Chinese attempts to even appropriate Genghis Khan for whom a huge mausoleum has been built in Inner Mongolia; Bulag 2010; Bilik 2013).¹⁹ But this also extends back in history to pre-historic sites that are claimed for “Chineseness,” declaring excavated Paleolithic or Neolithic human remains as unquestionably early “Chinese” because the site happens to be on today’s Chinese national territory.²⁰

THE CHINESE CASE IN AN EAST ASIAN CONTEXT

The above suggests that China’s state-sponsored history in education and the media is not only concerned with the Chinese nation but also involves images of and competing claims with other East Asian nations. However, apart from bi-or multilateral problems arising out of Chinese state-sponsored history views, a closer look at other East Asian nations reveals that across borders and political systems and in spite of all political rivalry, common traits arise as well. This includes structural similarities in educational systems such as the university entrance exam bottleneck.²¹ In other words, a neat division between non-democratic and democratic systems in East Asia does not seem so evident in the field of the state’s role in history education.

The most recent South Korean move to produce uniform state-sponsored or even state-authored textbooks, thus turning back the clock to the times of present-day President Park’s father’s dictatorial days, is nothing exceptional; neither is the given reason: a supposedly “masochistic” and “left-leaning” view of history in currency (Choe 2015). Rather this resonates with calls in Japan for many years to get rid of similarly supposedly “masochistic” and

“left-leaning” history views (again regaining force under a prime minister who has some personal stakes involved, in this case a militarist grandfather and former prime minister to defend).²² Ironically, the ways and arguments to shore up respective nationalisms (directed principally against the other East Asian nations!) are strikingly similar, in fact purposefully copied even to the letter. All East Asian nations claim they only want to instill “pride” in their citizens, and for this a version of history sanitized from any dark or potentially problematic aspects is needed for a clear-cut, “We were good; the bad ones were the others,” story. If in China this comes mainly under the label of “patriotic education,” in Japan there is the famous call by Prime Minister Abe to move “towards a beautiful Japan.”²³ “Patriotism” is in all East Asian countries a value highly cherished by the state (Rose 2000), aided by a stepped-up valorization of national symbols such as the flag or the national anthem that pupils everywhere are taught to revere even more now than earlier.

If these political moves resemble each other across political systems, there is on the other hand equally in all countries a societal discussion that includes oppositional voices. Professional historians state their varying opinions in China as they do in South Korea or Japan, but also the larger public involves itself, mostly via the Internet, though demonstrations on the streets against national textbooks have been (understandably) reported only for Japan and Korea; and Hong Kong where the attempts at inculcating a mainland history view have met with fierce opposition time and again (Denyer 2014). (Demonstrations against the textbooks of other countries and their assumed distortions are, of course, possible and reported in all countries, including China.) Last but not least in Taiwan textbooks have generated substantial debate as well (Chiao 2015), in this case above all because of the difficulty of deciding who represents “Taiwanese-ness”: the “Taiwanese,” meaning the Han-Chinese immigrants (whether speakers of Hokkien or Hakka dialects) before 1949, the “mainlanders” coming to the island and reigning over it since 1949, or even the so-called indigenous population which is not “Chinese” at all?

In sum, for all East Asian countries, there are some common factors that complicate a simple “national history” picture so prevalent and mostly taken for granted in the area, and show that each of them, for better or worse and if liked or not, cannot escape the regional context: how to deal with the East Asian neighbors and their historical role in one’s own history. Consider, for example, the impact of Chinese culture in the history of the other East Asian countries over many centuries. And how about the role of imperial Japan which subjugated the others in the twentieth century, and encountered not only resistance but also collaborators everywhere it went? The latter topic is, understandably, very sensitive to this very day and often tabooed in practice. Finally, how should one deal with the role of the United States (and to a lesser extent of the United Kingdom) in the area, namely during the Cold War? Japan, South Korea and Taiwan owe much to US support after WW II, although the relationship has not always been a rosy one in

everybody's eyes (especially as the United States is accused of having traded human rights for anti-communism), whereas the PRC had declared it the main adversary for most of the time (and now sees it as the main competitor on the global stage). And the Soviet Union/Russia is a further historical player, mostly—but not always—with the opposed role to that of the United States. The above should make clear at least that a look at history curricula and textbook reforms in China and by extension in East Asia today cannot leave out this larger, intraregional and international context, neither in education, nor in politics, and a state-sponsored view of history is clearly involved not only in education (including the “informal” one outside of school), but in politics as well.

NOTES

1. For the need to adapt the history teaching outlines to the final nine-year-system of compulsory education, see the preface to the 1990 outline (Kecheng jiaocai yanjiusuo 2001, p. 539).
2. See, for example, the 1956 teaching outline for history on elementary level (Kecheng jiaocai yanjiusuo 2001, p. 109).
3. In the meantime this has been regularized with some changes as a definitive version in 2011 (Zhonghua Renmin Gongheguo Jiaoyubu 2011).
4. The *gaokao* is therefore a recurrent topic. For example, the journal *Chinese Education and Society*, which introduces also Chinese-language scholarship to readers of English, has recently published two theme issues dedicated to the topic: July/August 2010 and January/February 2013 (Ross and Wang 2010 and 2013).
5. The dilemma of teachers, in turn, can be gleaned from some interview quotes: “The current situation is: high-sounding appeals to promote quality education, down to earth preparation for examinations.” “Schools can’t resolve the conflict between exams and the New Curriculum... If schools fail to achieve the college admission rate required by the education bureau, their reputation, ranking, income, and student enrolment will all be affected. So school principals have to focus their attention on exam results to keep their job” (Yan 2015, p. 13; see also Dello-Iacovo 2009, pp. 244–248).
6. See, for example, Iwasaki and Narita (2008), concerning the first trilateral Chinese-South Korean-Japanese history book (Chinese version: “*Dongya sanguo de jinxiandaishi*” *gongtong bianxie weiyuanhui* 2005). See also the comments by Mimaki in this volume. There has been a less-noted follow-up (Chinese version: *Zhong-Ri-Han sanguo gongtong lishi bianzuan weiyuanhui* 2013) in two volumes, though at closer inspection the members of the editorial group have changed in part, most notably on the Chinese side where the historians of the Chinese Academy of Social Sciences now dominate, a clear sign of streamlining the project from the Chinese side which is also the only one not including any schoolteachers. It might also be noted that whereas the German–French textbooks cover history since antiquity (as does the German–Polish textbook initiative of which the first volume of a projected four for junior high school just came out: *Europa: Unsere Geschichte 1* (2016)), both East Asian ones only

- address the “modern” era, significantly starting the “common history” with Japanese warlord Toyotomi Hideyoshi’s attacks on Korea in the late sixteenth century which also involved China militarily on the Korean side because of the tributary system.
7. Li Fan, personal communication, 2 December 2015. The fact that there have even been legal disputes in the last years over perceived unfairness in the *gaokao* reflects the high stakes involved.
 8. A cause célèbre in this regard has been the criticism of the Canton-based historian Yuan Weishi against “historical distortions” in Chinese textbooks. The newspaper supplement that had printed his criticism was censored and temporarily closed down in 2006.
 9. For a brief criticism of the latter, see Ryan and Louie (2007); see also Clark and Gieve (2006).
 10. See, for example, Yan (2015) on the critical assessments of implementation of “quality education” in class by PRC teachers, or the discussions on conflicting pedagogical and other aims with regard to the college entrance examinations in the theme issues guest-edited by Ross and Wang (2010 and 2013).
 11. See Thanh (2014), though somewhat problematically including Thailand and Malaysia beyond countries historically influenced by some variety of “Confucianism” (such as Korea, Japan, Vietnam in addition to the PRC, Taiwan, Hong Kong and Singapore) under the label “Confucian heritage culture.”
 12. For the case of world history, see the comparative look into different textbook versions in Müller (2014).
 13. Müller (2008) provides an analysis of the range of structural, textual and visual means employed in recent widely used textbooks on history that are less intended to open up real discussion, but rather to better “persuade” students of the normative historical interpretation provided.
 14. For Lenin’s later canonized opinion on cinema, see Lenin (1922) and Wade (1993, p. 332).
 15. Wang’s 2008 article has been reprinted also as a chapter in Wang’s 2012 book on historical memory in Chinese politics. I refer here to the original print.
 16. For the recent low point in Chinese perceptions of the Japanese see also the comments in Chap. 43 by Weber in this volume, and Wan (2016), especially Chap. 3.
 17. For some political uses of “tradition” in present-day China, mainly, but not only, by the party-state, see Ai (2015).
 18. See also Bae et al. in this volume. As some of the historical sites of the Koguryo kingdom are on PRC territory, others on North Korean soil, the UNESCO has opted for a “balanced” listing of two Koguryo sites in 2004, one Chinese and one North Korean. See UNESCO (n.d.).
 19. There is some dispute about the site of Genghis’ remains: various locations have been argued for, some on PRC soil, others in Mongolia. China constructed a mausoleum in Ordos in its province of Inner Mongolia, thus claiming Genghis for China. As might be noted, Chinese moves to claim Genghis for the Chinese had been undertaken already during Republican times to bolster multiethnic China’s fundamental unity, not the least also with a view to the Japanese who tried to use ethnic difference as an argument to push for independence of minority territories from Republican China, especially in the North. In that context, Genghis Khan was already redefined to be a “hero of

- the Chinese nation" (as a war-time pamphlet was called). During PRC times, this evaluation, however, went through several ups and downs (Bulag 2010, pp. 49–62).
20. In fact, because of this very political problem of how to define the borders of China throughout the times, map-making is a highly sensitive field, and history textbooks are not allowed to make maps on their own but have to take over maps provided by one specially approved (and very strictly monitored) source.
 21. For some further commonalities, such as with the state's role in providing and funding education across East Asia and the impact of globalization on educational systems in the region, see Mok (2006).
 22. See also Weber and Mimaki in this volume.
 23. Abe even came out with a book on the topic (*Utsukushii kuni e* [Towards a Beautiful Country]) in 2006.

REFERENCES

- Ahn, Y. (2006) 'Competing Nationalisms. the mobilisation of history and archaeology in the Korea-China wars over Koguryo/Gaogouli', *The Asia-Pacific Journal: Japan Focus*. <http://www.japanfocus.org/-Yonson-Ahn/1837/article.html>. Last Accessed 20 December 2015.
- Ai, J. (2015) *Politics and Traditional Culture. The political use of traditions in contemporary China* (New Jersey: World Scientific).
- Bilik, N. (2013) 'The Worship of Chinggis Khan. Ethnicity, Nation-State and Situational Relativity', *China: An International Journal*, 11(2), 25–41.
- Bulag, U. E. (2010) *Collaborative nationalism. The politics of friendship on China's Mongolian frontier* (Lanham: Rowman & Littlefield Publishers).
- Callahan, W. (2010) *China. The Pessimist Nation* (Oxford: Oxford University Press).
- Chan, C. K. K. and Rao, N. (2009) *Revisiting The Chinese Learner. Changing Contexts, Changing Education* (Hong Kong: Springer).
- Chiao, Y.-M. (2015) 'Curriculum guideline changes at a glance', *The China Post*, August 1. <http://www.chinapost.com.tw/taiwan/national/national-news/2015/08/01/442159/Curriculum-guideline.htm>. Last Accessed 20 December 2015.
- Choe, S.-H. (2015) 'South Korea to Issue State History Textbooks, Rejecting Private Publishers', *New York Times*, October 12. <http://www.nytimes.com/2015/10/13/world/asia/south-korea-to-issue-state-history-textbooks-rejecting-private-publishers.html?ref=topics>. Last Accessed 20 December 2015.
- Clark, Rose and Gieve, S. N. (2006) 'On the discursive construction of "the Chinese Learner"', *Language, Culture and Curriculum* 19(1), 54–73.
- Cleverley, J. [1985] (1991) *The Schooling of China. Tradition and Modernity in Chinese Education*, 2nd ed. (Sydney: Allen & Unwin).
- Dello-Iacovo, B. (2009) 'Curriculum reform and "Quality Education" in China. An overview', *International Journal of Educational Development*, 29(3), 241–249.
- Denton, K. A. (2014) *Exhibiting the Past. Historical Memory and the Politics of Museums in Postsocialist China* (Honolulu: University of Hawai'i Press).

- Denyer, S. (2014) 'Hong Kong Protests Spur Renewed Debate over Patriotic Education', *Washington Post*, November 20. https://www.washingtonpost.com/world/hong-kong-protests-spur-renewed-debate-over-patriotic-education/2014/11/20/41a736c6-6c69-11e4-a2c2-478179fd0489_story.html. Last Accessed 18 December 2015.
- 'Dongya sanguo de jinxiandaishi' gongtong bianxie weiyuanhui [Editorial common committee of 'Modern and contemporary history of the three East Asian countries'] (ed.) (2005) *Dongya sanguo de jinxiandaishi* [Modern and contemporary history of the three East Asian countries] (Beijing: Shehui kexue wenxian chubanshe).
- Europa. Unsere Geschichte 1* [Europe: our history 1] (2016) [German-Polish textbook], German edition (Wiesbaden: Eduversum).
- Histoire/Geschichte: Deutsch-Französisches Geschichtsbuch* [German-French History Textbook] (2006–2011), 3 vols., German edition (Stuttgart: Klett).
- Iwasaki, M. and Narita, R. (2008) 'Writing history textbooks in East Asia. The possibilities and pitfalls of History that Opens the Future' in S. Richter (ed.) *Contested Views of a Common Past. Revisions of History in Contemporary East Asia* (Frankfurt am Main: Campus), pp. 271–283.
- Jones, A. (2005) 'Changing the past to serve the present. History education in Mainland China' in E. Vickers and A. Jones (eds.) *History Education and National Identity in East Asia* (London: Routledge), pp. 65–100.
- Kecheng jiaocai yanjiusuo [Institute for Curricular Teaching Materials] (comp.) (2001) *20 shiji Zhongguo zhongxiaoxue kecheng biaoqun, jiaoxue dagang huibian. Lishi juan* [Collected twentieth century curriculum standards and teaching outlines for Chinese secondary and primary school: history] (Beijing: Renmin jiaoyu chubanshe).
- Kipnis, A. (2006) 'Suzhi. A Keyword Approach', *The China Quarterly*, 186, 295–313.
- Leibold, J. (2006) 'Competing narratives of racial unity in Republican China. From the Yellow Emperor to Peking Man', *Modern China*, 32(2), 181–220.
- [Lenin], Ilyich, V. (1922) 'Directives on the film business' (trans. Isaacs, Bernard) in *Lenin Collected Works* (1971), vol. 42, (Moscow: Progress Publishers), pp. 388b–389a. <https://www.marxists.org/archive/lenin/works/1922/jan/17.htm>. Last Accessed 20 December 2015.
- Li, F. (2011) 'New curriculum reform and history textbook compilation in contemporary China' in G. Müller (ed.) *Designing History in East Asian Textbooks. Shifting Images of Self and Other between Identity Politics and Transnational Aspirations* (London: Routledge), pp. 137–146.
- Mok, K. H. (2006) *Education Reform and Education Policy in East Asia* (London: Routledge).
- Müller, G. (2008) 'Wie sage ich's meinem Kinde? Strategien zur Vermittlung eines normativen Geschichtsbildes in zeitgenössischen chinesischen Schulbüchern' [How to tell my child? Strategies used in current Chinese school textbooks to transmit the normative view on history] in A. Chaniotis, A. Kropp and C. Steinhoff (eds.) *Überzeugungsstrategien* [Strategies of persuasion], *Heidelberger Jahrbücher*, pp. 189–206. (PURL: <http://www.ub.uni-heidelberg.de/archiv/15415>).
- Müller, G. (2011) 'Teaching "the others" history" in Chinese schools. The state, cultural asymmetries and shifting images of Europe (from 1900 to today)' in G. Müller (ed.) *Designing History in East Asian Textbooks. Identity Politics and Transnational Aspirations* (London: Routledge), pp. 32–59.

- Müller, G. (2013) *Documentary, World History, and National Power in the PRC. Global Rise in Chinese Eyes* (London: Routledge).
- Müller, G. (2014) 'World history education in the PRC between textbooks and television. Some observations on recent developments' in L. Xiangyu (ed.) *Tian ren gu jin. Huaren shehui lishi jiaoyu de shiming yu tiaozhan* [Nature and man, past and present. The mission and challenges of socio-historical education among Chinese] (Macau: Aomen ligong xueyuan), pp. 8–22. (PURL: <http://www.ub.uni-heidelberg.de/archiv/18291>).
- Rose, C. (2000) 'Patriotism is not taboo. Nationalism in China and Japan and implications for Sino-Japanese relations', *Japan Forum* 12(2), 169–181.
- Ross, H. and Wang, Y. (2010) 'The College Entrance Examination in China. An Overview of its Social-Cultural Foundations, Existing Problems, and Consequences', *Chinese Education and Society*, 43(4), 3–10.
- Ross, H. and Wang Y. (2013) 'Reforms to the College Entrance Examination in China. Key Issues, Developments, and Dilemmas', *Chinese Education and Society*, 46(1), 3–9.
- Ryan, J. and Louie, K. (2007) 'False Dichotomy? "Western" and "Confucian" concepts of scholarship and learning', *Educational Philosophy and Theory*, 404–417.
- Su, Z. (2011) 'The "others" in Chinese history textbooks. With a focus on the relationship between China and Japan' in G. Müller (ed.) *Designing History in East Asian Textbooks. Shifting Images of Self and Other between Identity Politics and Transnational Aspirations* (London: Routledge), pp. 147–162.
- Thanh, P. T. H. (2014) *Implementing Cross-Culture Pedagogies. Cooperative Learning at Confucian Heritage Cultures* (Singapore: Springer).
- UNESCO (n.d.) *World Heritage List*. <http://whc.unesco.org/en/list/>. Last Accessed 20 December 2015.
- Vickers, E. (2007) 'Museums and Nationalism in Contemporary China', *Compare: A Journal of Comparative and International Education* 37(3), 365–382.
- Wade, R. A. (ed.) (1993) *Documents of Soviet History*, vol. 2 (Gulf Breeze: International Academic Press).
- Wan, M. (2016) *Understanding Japan-China Relations. Theories and Issues* (New Jersey: World Scientific).
- Wang, Z. (2008) 'National humiliation, history education, and the politics of historical memory. Patriotic Education Campaign in China', *International Studies Quarterly*, 52(4), 783–806.
- Yan, C. (2015) '"We can't change much unless the exams change". Teachers' dilemmas in the curriculum reform in China', *Improving Schools*, 18(1), 5–19.
- Zhonghua Renmin Gongheguo Jiaoyubu [Ministry of Education of the Peoples Republic of China] (comp.) (2001a) *Quanri-zhi yiwu jiaoyu lishi kecheng biao-zhun (shiyangao)* [History curriculum standards for full-time compulsory education (provisional draft)] (Beijing: Beijing Normal University Press).
- Zhonghua Renmin Gongheguo Jiaoyubu [Ministry of Education of the Peoples Republic of China] (comp.) (2001b) *Quanri-zhi yiwu jiaoyu lishi yu shehui kecheng biao-zhun (yi) (shiyangao)* [History and society curriculum standards for full-time compulsory education (I) (provisional draft)] (Beijing: Beijing Normal University Press).
- Zhonghua Renmin Gongheguo Jiaoyubu [Ministry of Education of the Peoples Republic of China] (comp.) (2001c) *Quanri-zhi yiwu jiaoyu lishi yu shehui kecheng*

biaozhun (er) (shiyangao) [History and society curriculum standards for full-time compulsory education (II) (provisional draft)] (Beijing: Beijing Normal University Press).

Zhonghua Renmin Gongheguo Jiaoyubu [Ministry of Education of the Peoples Republic of China] (comp.) (2003) *Putong gaozhong lishi kecheng biao zhun (shiyangao)* [History curriculum standards for normal senior secondary school (provisional)] (Beijing: Renmin jiaoyu chubanshe).

Zhonghua Renmin Gongheguo Jiaoyubu [Ministry of Education of the Peoples Republic of China] (comp.) (2011) *Yiwu jiaoyu lishi kecheng biao zhun* [History curriculum standards for compulsory education] (Beijing: Beijing Normal University Press).

Zhong-Ri-Han sanguo gongtong lishi bianzuan weiyuanhui [Chinese-Japanese-South Korean trilateral common history compilation committee] (2013) *Chaoyue guojing de dongya jinxiaandai shi* ('A Modern History of East-Asia Beyond the Boundaries'), 2 vols. (Beijing: Shehui kexue wenxian chubanshe).

Teaching History in Israel–Palestine

Achim Rohde

Much has been said and written regarding the Israeli–Palestinian conflict, its political, geographic, military and economic dimensions. So-called soft issues such as educational policies and textbooks, too, have been contested among banner bearers of both sides, in the region itself and in international academia. Debates concerning educational issues in this context usually evolve around questions of representation and mutual recognition, often focusing on the humanities and social sciences, which are considered crucial disciplines for shaping pupils' worldviews and their sense of identity. Unsurprisingly in the context of this bitter conflict, both sides have been trading accusations regarding the content of teaching materials, which they criticised as being narrowly nationalist and ignorant towards the concerns and the history of the respective other side.

Indeed, the establishment of modern education systems in the Middle East in the course of the twentieth century formed part of a state- and nation-building agenda consciously followed by state-building elites in the region who tended to value education not least of all for its socialising function of producing loyal citizens willing to submit to centralised and often authoritarian government control. Such approaches were prevalent in countries such as Ba'athist Iraq and Nasserist Egypt, both of which played a crucial role in the expansion of education in the region. Yet, they were also applied by the Zionist movement during the Mandate era and by the Israeli authorities after the founding of the State of Israel. Since its inception in 1993, the Palestinian National Authority (PNA) has invested considerable energies in developing a national education system in the West Bank, Gaza Strip and East Jerusalem

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as part of its efforts at building the foundations of a future Palestinian state. In all these cases, the humanities and social science disciplines have served as a means to disseminate a national historical consciousness and a sense of identity favoured by the respective state elites. In the Israeli and Palestinian contexts, the common history of both societies and the history of the country itself are usually interpreted in competing and mutually exclusive ways, reflecting the on-going conflict of two nationalist movements claiming the same piece of land.

As state-sponsored authoritative narratives form only one component among several that shape the complex and multilayered process of identity formation of pupils, their effect is hard to measure. Additional factors linked to the social and political circumstances in which pupils grow up, the didactical approach that structures the curriculum and the implementation of textbook content in the classroom, including the possible ‘hidden curriculum’ of teachers, mass media and the Internet also play crucial roles (Repoussi and Tutiaux-Guillon 2010; Korostelina and Lässig 2013). In analysing textbook and curriculum revisions in Israel/Palestine over the last decades, this study therefore does not answer the question of what effect textbook narratives in these countries have (had) on their target group. Rather, this study examines how the changing political context shaped educational policies and history textbooks on both sides. It also discusses to what extent the textbooks in use in contemporary Israel/Palestine are conducive for furthering an agenda of pluralism, tolerance and reconciliation.

Within the Israeli–Palestinian context, the years of the Oslo process (1993–2000) initially seemed to open a window of opportunity for arriving at a sustainable de-escalation of the century-old conflict and preparing the ground for a comprehensive peace agreement. Unfortunately and for reasons beyond the scope of this study, Oslo proved to be a nonstarter (Ophir, Givoni and Hanafi 2009). Yet, these years saw some important developments in the education systems of both countries. Within the West Bank and Gaza Strip, education was one of the few areas where the newly established PNA was able to assert a meaningful degree of sovereignty, and it indeed managed within slightly more than a decade to develop a comprehensive curriculum and textbooks for all grades and disciplines that breathe the spirit of Palestinian national aspirations. By comparison, the Israeli education system is a long-established one that underwent a variety of stages regarding both structure and curriculum content, which are discussed below in more detail. Important differences exist between both education systems in terms of the availability of school buildings, class sizes, classroom equipment, availability of additional teaching materials and the quality of teacher training facilities, reflecting the socioeconomic gaps between an advanced industrialised and a still not independent developing country (Shinn 2012).

The following sections offer a historical survey of the development of modern education in Israel/Palestine from the early twentieth century until

today, with an eye towards structures and a particular focus on the contents of the history curricula.

THE EVOLUTION OF PALESTINIAN EDUCATION SYSTEMS

Elements of a modern education system had first been introduced to the region during the late Ottoman period (Ma'oz 1968; Fortna 2002). During the Mandate period, the British authorities built on this emerging infrastructure. Although they invested considerable energies to expand the Palestinian educational sector, they simultaneously strove to control the curriculum and to suppress the spread of nationalist sentiments in Palestinian Arab schools. Thus, the curricula introduced to Arab schools and colleges were clearly meant to distract students from dealing with Arab and Islamic history, let alone with contemporary developments in regional and local politics. They mirrored British models, with some adaptations to the local environment, such as the teaching of Islamic religion, or agricultural skills. The logic underlying British educational policies towards the Palestinian Arab population was to allow for the emergence of a limited, dependent and Europeanised Arab elite as well as an extended labour force sufficiently educated to suit the needs of the developing regional economy in the framework of the British Empire, while discouraging Arab or Palestinian nationalism. Nevertheless, schools became focal points of nationalist mobilisation among Palestinians (Tibawi 1956; Miller 1985; Mathews 2006).

The first Arab–Israeli war of 1948 and the ensuing Nakba (catastrophe), that is, the flight and/or forced emigration of some 750,000 Palestinians (about two-thirds of the total Palestinian population at that time) from their homes and the destruction that went along with it, disrupted the material infrastructure and the cohesion of Palestinian society. Its education system, too, disintegrated as Palestinians were scattered all over the region: The educational needs of the refugees and their descendants were taken up by the UN Working and Relief Agency (UNWRA), which to today runs the schools in Palestinian refugee camps in the West Bank, Gaza Strip, Jordan and Lebanon. These are subject to varying political, legal and curricular frameworks specific to each host country (Chatty and Hundt 2005). Within the segmented education system of the newly founded State of Israel, Palestinians were channelled into a marginalised sector of the state-run public school system that today remains reserved exclusively for Palestinian pupils. Palestinian schools in Israel use more or less the same curriculum as the Jewish secular public schools, and this includes the teaching of Jewish cultural heritage and Israeli history from a Zionist perspective, whereas the teaching of Arab, Islamic or Israeli history from a Palestinian perspective is deliberately prevented by the Israeli Ministry of Education (IMoE; Al-Haj 2002). With regard to its Palestinian citizens, Israeli educational policies resemble British educational policies from the Mandate era. Similarly, co-optation and repression were only

partly successful in preventing the emergence of an increasingly educated and self-conscious Palestinian minority that today demands recognition of its cultural and national identity by the Israeli state, an identity that distinguishes them from both Jewish Israelis and Palestinians living in the West Bank, Gaza Strip or elsewhere in the region (Al-Haj 1995; Abu-Saad 2006; Robinson 2006). The West Bank and Gaza Strip were until 1967 administered by Jordan and Egypt, who integrated Palestinian schools in these areas into their respective education systems. Since the beginning of the occupation, Israeli authorities kept the Jordanian and Egyptian curricula with only slight amendments. While allowing for a gradual expansion of the Palestinian educational infrastructure (schools, colleges, universities) in the West Bank and Gaza Strip, Israeli educational policies in the Occupied Territories strictly outlawed expressions of Palestinian nationalism, such as displays of the Palestinian flag on campus, or the teaching of Palestinian history in schools. Finally, East Jerusalem was annexed by Israel in 1967, but its status remained ambiguous, as the majority of Palestinian East-Jerusalemites refused to take up Israeli citizenship and preferred to keep their Jordanian passports. Until the 1990s Palestinian schools in East Jerusalem continued to follow the Jordanian curriculum and used Jordanian textbooks, after these had passed the Israeli censors (Alayan and Yair 2009; Abukhater 2011).

Thus, a high degree of fragmentation, external control and alienation characterised Palestinian educational institutions throughout most of the twentieth century. This situation remains unchanged today regarding the Palestinian citizens of Israel and the refugee populations residing in Jordan and Lebanon. A veritable Palestinian education system only emerged in the West Bank and Gaza Strip after the signing of the Oslo accords in 1993. Since then, a comprehensive national curriculum and textbooks for all disciplines and grades have gradually been devised and issued by the Palestinian National Authority's (PNA) Ministry of Education (PMoE), in cooperation with the Palestinian Curriculum Development Center set up in 1995, today a department within the Ministry (Khoury 2003). The system is centrally administered by the Ministry, which is subdivided into several regional districts: about 76% of all schools in these areas are public schools run by the PMoE, some 12% are UNWRA schools and about 12% are private schools run mostly by churches or Christian organisations.

All three school sectors in the West Bank and Gaza Strip follow the same national curriculum. Additional extracurricular teaching materials are principally allowed, but their use in class is limited due to the lack of ICT facilities and other equipment as well as the density of the curriculum that doesn't leave much space for extracurricular activities. There are important differences between the three school sectors as regards funding, the size of classes, teachers' wages, the availability of teacher training, equipment and so on. UNWRA schools offer the least favourable conditions, whereas private schools enjoy the support of Western sponsors and often offer state-of-the-art learning conditions. Due to the structural weakness of the PNA and its

financial difficulties in recent years, governmental schools also differ greatly from one another. There is a notable urban–rural divide within the governmental school sector, and much depends on each individual school principal. The daily experience of Israeli military occupation, the continuing land grab by Jewish settlers in the West Bank and their often violent behaviour towards Palestinian civilians as well as the exceedingly harsh military containment policies implemented by Israel vis-à-vis the Gaza Strip, put heavy strains on the Palestinian education system and negatively impact pupils' performance, particularly in areas of friction.¹

Even though Hamas took over control of the Gaza Strip in 2007, schools in Gaza continue to operate along the curriculum issued by the PMoE. Only minor differences in this respect evolved over the years between the two competing Palestinian administrations. In 2012 the Hamas-controlled Gaza branch of the PMoE introduced lessons for Hebrew as a foreign language, which does not form part of the PNA curriculum (Rudoren 2012). In 2013 the Gaza branch of the PMoE added a new teaching unit to 'patriotic education' classes for grades 8–10, which is meant to highlight 'the function of religious belief in the resistance' (Fawaz 2013).

Teachers' salaries in Gaza are still being paid by the PNA, but the PNA has habitually transferred these payments only to those civil servants who did not actually show up for work under Hamas authorities, and it resisted taking over the payment of salaries for those teachers (and other civil servants) who have been recruited by the Hamas administration since 2007 (Abu Toha 2015; O'Connor 2015). Such steps can be expected to have a negative impact on the motivation of teachers, on their job attendance rates and ultimately on the overall quality of education in Gazan schools. However, due to conditions on the ground, there is a dearth of reliable research concerning the current status of the education system in the Gaza Strip. For instance, it is not clear to what degree teachers in the Gaza strip actually implement the PNA curriculum in the classroom. Finally, Palestinian schools in East Jerusalem nowadays follow the Palestinian curriculum and use the teaching materials devised by the PNA, despite growing pressure on the part of Israeli authorities on East Jerusalem schools to apply the Israeli curriculum.²

Although clearly reflecting Palestinian national aspirations, the Palestinian curriculum, as one of the few more or less sovereign achievements of the PNA thus far, has habitually been misrepresented by some researchers and pro-Israel pundits in the context of the second Intifada and after, who accused the PNA of fostering hate against Israel and anti-Semitism through education (Alayan 2012; Eldar 2013). Such allegations could not be verified by sound scholarship. The Palestinian curriculum evades explicit discussions of certain thorny and politically unresolved issues such as the exact borders of the future Palestinian state, and it presents Palestinian national history as an autonomous development unrelated to external actors such as Israelis, who are rarely mentioned at all in the textbooks (Kriener 2003; Adwan 2004; Brown 2006). In fact, Palestinian pupils learn next to nothing in

school about Israeli and Jewish history, and on contemporary Israeli society, including its Palestinian minority (Alayan 2016). The history of the conflict and its main events, most notably the wars of 1948 and 1967 and the ensuing occupation are discussed at length in PNA textbooks from a Palestinian nationalist perspective. According to Alayan (2012, p. 230):

[T]he topics treated in this regard include the various United Nations resolutions pertaining to the Israeli-Palestinian conflict, from the partition resolutions (181, 194) to resolutions on the problem of the refugees, and resolutions 242 and 338 concerning the withdrawal of armed forces from the territories that were occupied in 1967 and the achievement of a just settlement to the problem of the refugees, the wars fought by the Arab countries and Israel, Palestinian resistance and its role in the conflict, the Sabra and Shatila massacres, the first and second intifadas and the suffering of the Palestinian people at the hands of Israeli forces and under military rule, the confiscation of land, settlement, the poverty and unemployment from which the Palestinians have suffered and continue to suffer and Israel's political control over the Palestinian economy and over economic and human resources. The books' coverage of events extends up to recent events like the construction of the partition wall. The density of information in the history books shows the importance attached to forming a collective memory and a national identity among students.

Palestinian society as presented in the textbooks is attached to conservative social norms and the Islamic religion, and it is clearly located within the West Bank and Gaza Strip. Thorny issues such as Palestinian land sales to Jews during the Mandate period are discussed in the textbooks (*ibid.*, 232), but more recent developments including internal divisions and political strife among the Palestinian factions within the PLO, or between the PNA and Hamas since the Oslo years, are shunned, probably in order to preserve a homogenising image of Palestinian national history in tune with the PNA's state- and nation-building agenda. Jerusalem is omnipresent in the textbooks as the symbolic capital of Palestine that, however, stays strangely out of focus when it comes to presenting the actual living conditions of Palestinians in Jerusalem, as in Israel in general. These voids seem at least in part to be an effect of Israeli pressure on the PNA not to show any sign of endorsing Palestinian irredentism regarding territories lost in 1948, and in particular concerning Jerusalem. In fact, the Palestinian curriculum has been criticised by Palestinian scholars from within the West Bank for failing to transmit what they termed a comprehensive and inclusive concept of Palestinian history and culture that would not be limited by political constraints (Al-Shaikh 2008).

NATIONALISM AND EDUCATION IN ISRAEL

In comparison, today's Israeli education system is the result of a far-longer history of independent development than has been the case regarding the Palestinian education system in the West Bank and Gaza Strip. During the

Mandate years, the Yishuv operated its own Hebrew language schools independently from the British authorities and imbued them with a Zionist pioneer ethos. Palestinians or Arabs in general were practically nonexistent in the formal teaching materials until 1930 (Firer 1985). Apparently, the principal “Other” against whom Zionism constructed its own self-image was the Jewish Diaspora in Europe, particularly in those early years of Jewish settlement in Palestine (Porath 2006, p. 56; Raz-Krakotzkin 1993 and 1994). Palestinians or Arabs in general were represented more frequently in textbooks and informal texts such as children’s and youth literature produced in the Yishuv after the ‘Arab Revolt’ of 1936, which disseminated negative stereotypes of Arabs as primitive, hostile and dangerous, thereby reflecting the increasing intensity of the conflict between the Yishuv and the Palestinian population (Cohen 1985; Bar-Tal and Teichman 2005, pp. 157–176; Darr 2006). After the establishment of the State of Israel in 1948, the education system was built along a consociational approach, similar to the Lebanese case, that granted a degree of educational autonomy to the various subgroups in the Israeli populace, thus circumventing potential conflicts between them. At the same time, this sectorial segregation institutionalised the fault lines between the social milieus comprising Israeli society and contributed to a growing distance between them (Sarfati 2008). This state of affairs also diminishes the power of the state to push through a unified nationalist agenda. There is no common understanding of Israeli citizenship among even the country’s Jewish population (Ichilov 2005).

The Jewish secular state schools constitute the biggest sector. In 2007–2008 it served about 45% of the pupils enrolled. About 13% of all pupils in 2007–2008 were enrolled in the state-run religious school sector (Ayalon and Yogev 1996). The equally state-run ‘Arab sector’ (including Beduins and Druze) catered to about 26%. About 16% of Israeli pupils were enrolled in independent but state-funded ultraorthodox schools affiliated with the religious political parties Shas and Agudat Yisrael (Hemmings 2010). Due to demographic developments in Israel, this equilibrium will change within the coming decades; the ‘Arab’ and ultraorthodox sectors will grow at the expense of the secular state school sector (Ilany 2009). In recent years, a growing number of private schools have been established in all these sectors (Ichilov 2010). Each enjoys a degree of autonomy regarding the implementation of the curriculum. Thus, compared to the mainstream Jewish secular state schools, religious state schools put a strong emphasis on teaching Jewish religion and heritage at the expense of the humanities and social studies, whereas the Arab schools put higher emphasis on Arabic language and sciences, also at the expense of the humanities and social studies. The independent religious schools take this trend to the extreme and often don’t even teach the disciplines belonging to the core curriculum (English, maths etc.), devoting most of the time to teaching religion.

These sectorial differences in implementing the curriculum have increased since the late 1980s, when the IMoE embarked on a policy of decentralising the education system and granted more power to local municipalities, individual schools and parents. This trend reflected international trends in educational policies as well as the diminished financial capabilities of the state that resulted from neoliberal reforms initiated by Israeli governments since the mid-1980s (Inbar and Choshen 1997; Resh and Benavot 2001). The 'Arab sector,' although receiving less funding than the Jewish sectors, is most strictly and directly controlled by the IMoE. Material conditions in the independent orthodox schools and in Palestinian schools are the least favourable compared to all other sectors, student achievements are lower than in other sectors and they have the highest dropout rates (Mazawi 1999; Human Rights Watch 2001; Resh and Benavot 2003; Golan-Agnon 2006).³

The development of curricula and teaching materials in Israel went through several stages (Podch 2000 and 2002). From the establishment of the state until the mid-1970s, curriculum and textbook development was concentrated in the IMoE. Scholars have characterised teaching materials issued during these years as reflecting the strong ideological impetus and emotional attachment to Zionist pioneer values that permeated Israeli society at that stage. The dense and normative narratives presented in textbooks issued during these years told a story of Jewish national awakening and return to their ancient homeland after two millennia of exile. They included outrightly negative stereotypes and sometimes contained racist language regarding Arabs (Matthias 2003). In the course of the 1970s Israel started to introduce market elements into the education system, when it allowed for some textbooks to be published by private publishing houses, whereas the majority of teaching materials were still issued by the IMoE itself. Still, this development reflected the evolution of competing agendas within Israel's educational establishment during this second stage, which lasted until the late 1980s. A certain polarity became visible during this phase between those who favoured a more academic approach regarding the content of history and civics curricula and textbooks, and those who prioritised value-oriented nationalist education on the other. In a new generation of textbooks published in the mid-1970s, Arabs tended to be represented in a less anonymous manner than before, and some textbooks treated the Palestinian-Israeli conflict up to 1948, including the mentioning of Arab viewpoints to some degree. However, although textbook narratives in this phase became more subtle and didactics more sophisticated, they clearly constituted a legitimising discourse regarding the past and present.

Since the late 1980s the IMoE has given up its former monopoly on textbook publishing and outsourced this function to a fast-growing private sector. As a result, teaching materials available on the market became more diverse. Debates between Israeli historians concerning the history of the Israeli-Palestinian conflict that ensued since the late 1980s ('new' vs. 'old' historians) called into question a variety of cherished 'foundational myths' of Zionist

historiography and validated some Palestinian viewpoints regarding 1948. These debates slowly trickled down into textbooks published during the late 1990s. Academic institutions such as the Van Leer Institute or the Hebrew University's Truman Institute as well as institutions of informal education such as the Kibbutz study centre Givat Haviva developed democracy and coexistence programmes and teaching materials that stressed the issue of civil rights, and some of them were introduced to the civics curriculum in schools, mostly in the state-run secular schools. During this third phase of its development, which corresponded to the above-mentioned policy of decentralising the education system, schools gained more freedom to develop individual profiles, and they could choose from a growing variety of teaching materials along their own political preferences and those of their constituencies. The IMoE keeps a degree of centralised control, as it still sets the curricular framework and organises the standardised and countrywide matriculation exams. It also issues a list of officially licenced textbooks to be used for the exams. A certain degree of diversity has always been inbuilt in these lists, as the Ministry habitually licences a variety of textbooks in each discipline in order to account for the diverse audiences and their varying agendas. In the 1990s it licenced several textbooks that were influenced by Post-Zionist scholarship despite criticism from conservative circles, and many schools also used non-licenced textbooks and other extracurricular teaching materials (Firer 2004; Naveh 2006; Raz-Krakovitzkin 2008).

A sign of the times, in the year 2000 then Minister of Education Yossi Sarid (belonging to the liberal Zionist Meretz party) briefly abolished standardised state matriculation exams for history and civics, enabling individual schools to run their own exams in these disciplines, but he withdrew from this decision after a heated public debate ensued over the issue. This move by Sarid was widely understood in Israel as recognition of the widening political gaps between the various segments and milieus comprising Israeli society, particularly concerning the contents of history and civics education. Sarid suggested solving this issue by disengaging the state from the whole debate. Some critics emphasised the loss of prestige for the two disciplines that went along with Sarid's decision, but others rejected the idea that the state should give up its authority to disseminate a normative 'truth' concerning these two disciplines, as such a move would endanger national unity and undermine Zionism (Firer 2004, pp. 32–33).

In a partial departure from the reforms that characterised the third phase in the development of the Israeli education system, the IMoE has since 2001 reasserted a greater degree of control over textbook production and their dissemination in schools than was the case during the 1990s. While keeping the market principle introduced to the system in the late 1980s, a special committee within the IMoE nowadays reviews every new textbook manuscript that is being prepared for publication and at times actively intervenes in the process of writing. Publishing houses tolerate this interference out of concern for their sales, as schools were simultaneously forbidden to use nonlicenced

textbooks.⁴ These new regulations signal a certain change of heart in the Israeli educational establishment regarding its agenda of decentralisation, presumably in order to control the centrifugal powers set in motion by such policies, which are understood to contribute to a growing distance between the various milieus constituting Israeli society.

Yet, the Ministry's policy remains contradictory in this regard: introducing stronger control mechanisms and standardising a core curriculum strengthens the central state's regulative power in the education system to some degree, but the continuous cuts in the IMoE's annual budget by subsequent Israeli governments drain the state's resources and weaken its ability to shape the education system actively and ensure its quality. Instead, these financial cut-backs actually widen the already existing gaps between the various school sectors, which overlap with the growing gaps between more and less affluent municipalities, thus intensifying the cleavages between the various segments of Israeli society.

Strengthening the Ministry's control over teaching materials introduced to Israeli schools also means that education again became more susceptible to the changing tides of governmental politics. Thus, in 2007 then Minister of Education Yuli Tamir (Labour Party) licenced a history textbook for use in primary schools in the 'Arab sector,' which noted, concerning the founding of State of Israel in 1948, that Palestinians commemorate these events as a national catastrophe (Nakba). Although the textbook was designed for use only in primary schools in the 'Arab sector,' it is remarkable that an officially licenced Israeli history textbook incorporated the Palestinian perspective on the most crucial event in the common history of both peoples. Tamir's successor Gideon Sa'ar (Likud Party) withdrew the licence for this particular textbook shortly after taking office in 2009, when the newly installed government under Prime Minister Netanyahu decided to outlaw commemorations of the Nakba by any publicly funded institution in Israel. In fact, some history textbooks licenced by the IMoE for the year 2009–2010 do refer to the Palestinian reading of 1948 as Nakba, but textbook authors need to manoeuvre cautiously in this regard, lest the Ministry withdraw the book's licence, as happened to a history textbook issued in 2009 by the Jerusalem-based Merkaz Shazar Publishing House, which contained a quote by the distinguished Palestinian historian Walid Khalidi concerning the Palestinian exodus of 1948.⁵ A rising level of state control and active involvement in shaping the content of textbooks has been registered regarding civics textbooks, leading to the rewriting of one civics textbook and the dismissal of the head of the civics department within the IMoE, Adar Cohen, on charges of promoting post-Zionist ideas in textbooks (Nesher 2012).⁶

In sum, after the establishment of the Israeli state the Zionist narrative and the Hebrew language helped to absorb various Jewish immigrant groups into a newly constructed Israeli *Leitkultur* that remained hegemonic until the mid-1970s, when it gradually disintegrated and gave way to the emergence of various distinct and competing subcultures, reflecting the religious–secular

divide, ethnic and cultural fault lines as well as class divisions. The formal curriculum, however, does not fully reflect this growing diversity. Despite the impact of education-reform policies of the 1980s and '90s towards multiperspectivity and world history, the curriculum still reflects Zionist values and a Eurocentric (secular) Israeli identity discourse (Raz-Krakotzkin 2004; Al-Haj 2005; Naveh 2006). In any case, the more innovative history and civics textbooks and curricular reforms enacted during the 1990s were implemented merely in parts of the secular Jewish state sector, not in the state religious and independent orthodox sectors. Palestinian perspectives on history and contemporary issues are rarely represented in the textbooks, and most Jewish–Israeli pupils learn neither the Arabic language (the second official language of the state next to Hebrew) nor about the lives of their Palestinian neighbours, be it within the State of Israel or in the West Bank and Gaza Strip (Peled-Elhanan 2012; Yogev 2014).

Illustrating the trend towards a Judaisation of Israel in recent years, an analysis of history matriculation exams for the Jewish secular education sector from 1993 to 2012 showed an increasing emphasis on local Jewish issues at the expense of regional and global issues. To some extent, this is a result of the merging of general history and Jewish history into one single discipline in 2001, and given the gradual and sustained character of this trend, it is not directly tied to any specific political actor. The simultaneous trend towards a greater degree of internationalisation within the Israeli school system, as expressed through directives issued by IMoE officials issued during the same period, refers merely to the introduction of globalised standards and the competitiveness of Israeli education in a globalised context (Yemini, Bar-Nissan and Shavit 2014).

CONCLUSIONS

In many aspects, the Israeli education system differs widely from its Palestinian counterpart developed by the PNA. The asymmetry of power that generally characterises the relations between both sides is visible also in the educational sector. After decades of external control, the Palestinian education system in the West Bank and Gaza Strip is still in the early stages of its development. Its centralised structure reflects the state- and nation-building agenda that is the priority of the PNA at this stage, while it is struggling against the limitations imposed on it by the occupation, by the structural weakness of the PNA and the fragmentation of the Palestinian polity resulting from the rift between Fatah and Hamas (Khan, Giacaman and Amundsen 2004). In contrast, Israel has been a sovereign state for 60 years and is listed among the world's advanced industrialised countries. Building on foundations dating back to the Mandate years, it has managed to build a sophisticated and diversified education system.

Despite these differences some remarkable similarities are visible on the level of textbook narratives concerning both sides' respective national history.

Both construct an independent and unique nation whose foundations date back to antiquity. The existence and the viewpoints of the respective Other are largely omitted, more so in the Palestinian than in some of the more recent Israeli textbooks. Based on a comprehensive analysis of Israeli and Palestinian textbooks across all school sectors and all disciplines except the natural sciences which were used in schools in 2011, an international team of researchers reached the following results:

Dehumanizing characterizations of the other are rare in both Israeli and Palestinian school books.

Both Israeli and Palestinian school books present unilateral national narratives that present the other as the enemy, chronicle negative actions by the other directed at their own communities, and present their own communities in positive terms. Historical events, while not false or fabricated, are selectively presented to reinforce each community's national narrative.

There is a lack of information about the religions, cultures, economies and daily activities of the other, or even of the existence of the other on maps. The absence of this kind of information serves to deny the legitimate presence of the other.

While present and problematic in all school systems, the negative presentation of the other, the positive, non-critical presentation of the self, and the absence of images and information about the other, are more pronounced in the Israeli ultra-Orthodox and Palestinian school books than in the Israeli State school books.⁷

Despite the study's comprehensive scope, its sound and transparent methodology, and the prestigious scholars involved, it was immediately rejected by the Israeli government and an array of pro-Israel scholars and pundits as biased and distorted (Eldar 2013). Indeed, the Israeli government's decision in 2009 deliberately to outlaw the teaching of the Nakba in Israeli schools and subsequent developments signalled the decline of liberalism in Israeli textbook policies and reflects the wider disengagement from any attempts at bridging the political cleavages that separate Jews and Palestinians in Israel and the Occupied Territories, at least for time being.

Both sides treat the conflict as something external to their own national history. It seems hard to consider the possibility that the history of each of the two nations might be inseparably linked to and shaped by the other side through a century of conflict. Instead, we encounter two more-or-less exclusivist and competing nationalist narratives. Under conditions of an ongoing conflict, it is impossible to integrate both sides' perspectives into a bridging narrative telling a multiperspective relational history, as this would not be acceptable to more than an avant-garde of critical intellectuals from both sides. This is not to say that such efforts are futile. On the contrary, they might prove crucial in preparing the ground for a day to come when

a bridging narrative might be more acceptable for larger audiences on both sides (Silverstein and Makdisi 2006; Pappe 2006).

Within the Israeli–Palestinian context, much would already be achieved by simply taking notice of the existence of the ‘Other’ and her or his understanding of the conflict. Along these lines, a history textbook that was developed in the 2000s by an Israeli–Palestinian NGO called PRIME (Peace Research Institute in the Middle East) presents the history of the Israel–Palestinian conflict from two competing nationalist perspectives that are juxtaposed within that textbook in order to foster mutual recognition and self-reflection among target audiences both in Israel and in the occupied territories. But both ministries of education prohibited the use of that textbook in schools (Rohde 2012, 2013; Yogev 2014, pp. 186–187).

NOTES

1. Personal observations made during field study trips to the West Bank between 2007 and 2009, including classroom observations and talks with school principals in some 20 schools, in co-operation with the PMoE.
2. Officially, Palestinian schools in East Jerusalem have to use the censored versions of the PNA textbooks supplied by the Israeli authorities. In practice, they are often bought directly in the West Bank and then smuggled into Jerusalem (interview with a Palestinian school principal from East Jerusalem, July 2009). For more recent developments, see, for instance, Kestler-D’Amours (2011), Eglash and Booth (2013), Wilson (2016).
3. Regarding drop-out rates, see, for example, Kashti (2010) as well as numerous other articles on related topics by Kashti, who is the Israeli daily’s educational correspondent; see <http://www.haaretz.com/misc/writers/or-kashti-1.520?type=news&page=0>.
4. Interview with Eyal Naveh, a historian from Tel Aviv University and author of history textbooks, July 2009.
5. Interview with Eyal Naveh, conducted in November 2009.
6. Generally regarding the Israeli civics curriculum, see Ichilov (2003), Pinson (2007). Regarding recent developments, see Kashti (2015), Cottler and Hai (2016).
7. https://d7hj1xx5r7f3h.cloudfront.net/Israeli-Palestinian_School_Book_Study_Press_Release-English.pdf. Accessed 1 December 2016. For the complete results of this study, see <https://israelipalestinianschoolbooks.blogspot.de/>.

REFERENCES

- Abukhater, J. (2011) ‘Israel Censors Palestinian Textbooks in East Jerusalem’, +972 blog, 22 October, <http://972mag.com/israeli-authorities-impose-censored-palestinian-textbooks-in-east-jerusalem/26137/>. Accessed 29 November 2016.
- Abu-Saad, I. (2006) ‘State-Controlled Education and Identity Formation among the Palestinian Arab Minority in Israel’, *Americal Behavioral Scientist*, 49(8), 1085–1100.

- Abu Toha, M. (2015) 'Working Without Pay in Gaza. Essential Employees Victims of Political Dispute', *Middle East Eye*, 11 September, <http://www.middleeasteye.net/news/working-without-pay-gaza-essential-employees-victims-political-dispute-1640427420>. Accessed 30 November 2015.
- Adwan, S. (2004) 'The Presentation of the Israeli-Palestinian Conflict in Palestinian Textbooks', in F. Pingel (ed.) *The Israeli-Palestinian Conflict in History and Civics Textbooks of Both Nations* (Hannover: Verlag Hahnsche Buchhandlung), pp. 97–150.
- Alayan, S. and Yair, G. (2009) 'Paralysis at the Top of a Roaring Volcano. Israel and the Schooling of Palestinians in East Jerusalem', *Comparative Education Review*, 53(2), 235–257.
- Alayan, S. (2012) 'History Curricula and Textbooks in Palestine. Between Nation Building and Quality Education' in S. Alayan, A. Rohde and S. Dhouib (eds.) *The Politics of Education Reform in the Middle East. Self and Other in Textbooks and Curricula* (Oxford: Berghahn), pp. 209–236.
- Alayan, S. (2016) 'The Holocaust in Palestinian Textbooks. Differences and Similarities in Israel and Palestine', *Comparative Education Review*, 60(1), 80–104.
- Al-Haj, M. (1995) *Education, Empowerment and Control. The Case of the Arabs in Israel* (Albany: State University of New York Press).
- Al-Haj, M. (2002) 'The History Curriculum for Jewish and Arab Schools in Israel. Ethnocentricity versus Imposed Multi-Culturalism' in A. Ben-Amos (ed.) *History, Identity and Memory. Images of the Past in Israeli Education* (Tel-Aviv: University of Tel-Aviv Press), pp. 137–153 [Hebrew].
- Al-Haj, M. (2005) 'National Ethos, Multicultural Education, and the New History Textbooks in Israel', *Curriculum Inquiry*, 35(1), 47–71.
- Al-Shaikh, A. R. (ed.) (2008) *Palestinian Textbooks. Issues of Identity and Citizenship* (Ramallah: Muwatin) [Arabic].
- Ayalon, H. and Yogev, A. (1996) 'The Alternative Worldview of State Religious High-schools in Israel', *Comparative Education Review*, 40(1), 7–27.
- Bar-Tal, D. and Teichman, Y. (2005) *Stereotypes and Prejudice in Conflict. Representations of Arabs in Israeli Jewish Society* (Cambridge: Cambridge University Press).
- Bekerman, Z. and McGlynn, C. (eds.) (2007) *Addressing Ethnic Conflict through Peace Education: International Perspectives* (New York: Palgrave Macmillan).
- Brown, N. (2006) 'Contesting National Identity in Palestinian Education' in R. I. Rotberg (ed.) *Israeli and Palestinian Narratives of Conflict. History's Double Helix* (Bloomington: Indiana University Press), pp. 225–243.
- Chatty, D. and Lewando Hundt, G. (eds.) (2005) *Children of Palestine. Experiencing Forced Migration in the Middle East* (New York: Berghahn Books).
- Cohen, A. (1985) *An Ugly Face in the Mirror. National Stereotypes in Hebrew Children's Literature* (Tel Aviv: Reshafim) [Hebrew].
- Cottler, A. and Hai, S. (2016) 'Civics Textbook Slammed. Focuses on Jewish, not Democratic State', *Ynet*, 6 January, <http://www.ynetnews.com/articles/0,7340,L-4749626,00.html>. Accessed 29 November 2016.
- Darr, Y. (2006) *Called Away from Our School-Desks. The Yishuv in the Shadow of the Holocaust and in Anticipation of Statehood in Children's Literature of Eretz Israel, 1939–1948* (Jerusalem: Magnes Press) [Hebrew].
- Eglash, R. and Booth, W. (2013) 'Israeli Officials Try Introducing Israeli Textbooks in East Jerusalem's Palestinian Schools', *Washington Post*, 14 September, <https://>

- www.washingtonpost.com/world/middle_east/israeli-officials-try-introducing-israeli-textbooks-in-east-jerusalems-palestinian-schools/2013/09/14/b2c3b9bc-1ca3-11e3-80ac-96205cacb45a_story.html. Accessed 1 December 2016.
- Eldar, A. (2013) 'Israeli Textbooks under Scrutiny,' *Al-Monitor*, 31 January, <http://www.al-monitor.com/pulse/originals/2013/01/israeli-and-palestinian-textbooks.html>. Accessed 29 November 2016.
- Fawaz. (2013) 'The Heroic Deeds of Hamas Entered the School Curriculum in Gaza', *Middle East Online*, 11 May, <http://www.middle-east-online.com/?id=165115> [Arabic]. Accessed 30 November 2016.
- Firer, R. (1985) *The Agents of Zionist Education* (Tel Aviv: HaKibutz HaMe'uchad) [Hebrew].
- Firer, R. (2004) 'The Presentation of the Israeli-Palestinian Conflict in Israeli History and Civics Textbooks' in F. Pingel (ed.) *The Israeli-Palestinian Conflict in History and Civics Textbooks of Both Nations* (Hannover: Verlag Hahnsche Buchhandlung), pp. 21–96.
- Fortna, B. (2002) *Imperial Classroom. Islam, the State, and Education in the Late Ottoman Empire* (Oxford: Oxford University Press).
- Golan-Agnon, D. (2006) 'Seperate But Not Equal. Discrimination Against Arab Students in Israel', *American Behavioral Scientist*, 49(8), 1075–1084.
- Hemmings, P. (2010) *Israeli Education Policy. How to Move Ahead in Reform*. OECD, Economics Department Working Paper No. 781. [http://www.oecd.org/official-documents/displaydocumentpdf/?cote=eco/wkp\(2010\)37&doclanguage=en](http://www.oecd.org/official-documents/displaydocumentpdf/?cote=eco/wkp(2010)37&doclanguage=en). Accessed 1 December 2016.
- Human Rights Watch (2001) *Second Class. Discrimination Against Palestinian Arab Children in Israel's Schools*. <http://www.hrw.org/legacy/reports/2001/israel2/>. Accessed 1 December 2016.
- Ichilov, O. (ed.) (2010) *Privatization and Commercialization in State Education in Israel* (Tel Aviv: Ramot) [Hebrew].
- Ichilov, O. (2005) 'Pride in One's Country and Citizenship Orientations in a Divided Society. The Case of Israeli Palestinian Arab and Orthodox and Non-Orthodox Jewish Israeli Youth', *Comparative Education Review*, 49(1), 44–61.
- Ichilov, O. (2003) 'Teaching Civics in a Divided Society. The Case of Israel', *International Studies in Sociology of Education*, 13(3), 219–241.
- Ilany, O. (2009) 'Secular Jews May Be Minority in Israeli Schools by 2030,' *Haaretz*, 3 June, <http://www.haaretz.com/secular-jews-may-be-minority-in-israeli-schools-by-2030-1.277177>. Accessed 30 November 2016.
- Inbar, D. and Choshen, M. (1997) *Decentralizing Educational Authority to Municipal Governments in Israel* (Jerusalem: The Milken Institute for the Research of Educational Systems).
- Kashti, O. (2015) 'More Judaism, Less Democracy. Israel's Education Ministry Rewrites High-school Civics', *Haaretz*, 15 November, <http://www.haaretz.com/israel-news/.premium-1.686096>. Accessed 29 November 2016.
- Kashti, O. (2010) 'Student Dropout Rate Jumps by nearly 40 Per Cent', *Haaretz*, 17 June, <http://www.haaretz.com/student-dropout-rate-jumps-by-nearly-40-per-cent-1.296633>. Accessed 1 December 2016.
- Kestler-D'Amours, J. (2011) 'Strikes likely as Israel Forces Curriculum on East Jerusalem Schools', *The Electronic Intifada*, 12 July, <https://electronicintifada.net/>

- [content/strikes-likely-israel-forces-curriculum-east-jerusalem-schools/10169](#). Accessed 30 November 2016.
- Korostelina, K. and Lässig, S. (eds.) (2013) *History Education and Post-Conflict Reconciliation. Reconsidering Joint Textbook Projects* (London: Routledge).
- Khan, M. H., Giacaman, G. and Amundsen, I. (eds.) (2004) *State Formation in Palestine. Viability and Governance During a Social Transformation* (London: Routledge Curzon).
- Khoury, M. (2003) 'On the Road to Self-Determination. The Development of the First Palestinian School Curriculum' in F. Pingel (ed.) *Contested Past, Disputed Present. Curricula and Teaching in Israeli and Palestinian Schools* (Hannover: Verlag Hahnsche Buchhandlung), pp. 59–82.
- Kriener, J. (2003) 'Palestinian School Textbooks. Between International Polemics and National Apologia', *International Textbook Research*, 25(4), 399–406.
- Ma'oz, M. (1968) *Ottoman Reform in Syria and Palestine, 1840–1861* (Oxford: Oxford University Press).
- Mathews, W. C. (2006) *Confronting an Empire, Constructing a Nation. Arab Nationalists and Popular Politics in Mandatory Palestine* (London: I.B. Tauris).
- Matthias, Y. (2003) 'The Thorny Way to Recognition. Palestinians and Arabs in the Israeli Curriculum' in F. Pingel (ed.) *Contested Past, Disputed Present. Curricula and Teaching in Israeli and Palestinian Schools* (Hannover: Verlag Hahnsche Buchhandlung), pp. 29–57.
- Mazawi, A. (1999) 'Concentrated Disadvantage and Access to Educational Credentials in Arab and Jewish Localities in Israel', *British Educational Research Journal*, 25, 355–370.
- Miller, Y. N. (1985) *Government and Society in Rural Palestine, 1920–1948* (Austin: University of Texas Press).
- Naveh, E. (2006) 'The Dynamics of Identity Construction in Israel through Education in History' in R. I. Rotberg (ed.) *Israeli and Palestinian Narratives of Conflict. History's Double Helix* (Bloomington: Indiana University Press), pp. 245–270.
- Nesher, T. (2012) 'Israel Education Ministry Fires Civics Studies Coordinator Attacked by Right', *Haaretz*, 6 August, <http://www.haaretz.com/israel-education-ministry-fires-civics-studies-coordinator-attacked-by-right-1.456182>. Accessed 1 December 2016.
- O'Connor, N. (2015) 'One Year on, Thousands of Civil Servants in Gaza still Working without Pay', *The National*, 11 May, <http://www.thenational.ae/world/middle-east/one-year-on-thousands-of-civil-servants-in-gaza-still-working-without-pay>. Accessed 30 November 2016.
- Ophir, A., Givoni, M. and Hanafi, S. (eds.) (2009) *The Power of Inclusive Exclusion. Anatomy of Israeli Rule in the Occupied Palestinian Territories* (Cambridge: MIT Press).
- Pappe, I. (2006) 'The Bridging Narrative Concept' in R. I. Rotberg (ed.) *Israeli and Palestinian Narratives of Conflict. History's Double Helix* (Bloomington: Indiana University Press), pp. 194–204.
- Peled-Elhanan, N. (2012) *Palestine in Israeli School Books. Ideology and Propaganda in Education* (New York: IB Tauris).
- Pinson, H. (2007) 'Inclusive Curriculum? Challenges to the Role of Civic Education in a Jewish and Democratic State', *Curriculum Inquiry*, 37(4), 351–382.
- Podeh, E. (2002) *The Arab-Israeli Conflict in Israeli History Textbooks 1948–2000* (Westport: Bergin & Garvey).

- Podeh, E. (2000) 'History and Memory in the Israeli Educational System. The Portrayal of the Arab-Israeli Conflict in History Textbooks (1948–2000)', *History & Memory*, 12(1), 65–100.
- Porath, D. (2006) 'Forging Zionist Identity Prior to 1948—Against Which Counter-Identity?' in R. I. Rotberg (ed.) *Israeli and Palestinian Narratives of Conflict. History's Double Helix* (Bloomington: Indiana University Press), pp. 47–71.
- Raz-Krakotzkin, A. (1993). 'Exile Within Sovereignty. Toward a Critic of the "Negation of Exile" in Israeli Culture' (part I), *Theory and Criticism*, 4, 23–56 [Hebrew].
- Raz-Krakotzkin, A. (1994) 'Exile Within Sovereignty. Toward a Critic of the "Negation of Exile" in Israeli Culture' (part II), *Theory and Criticism*, 5, 113–132 [Hebrew].
- Raz-Krakotzkin, A. (2004) 'Aus dem Lehrbuch. Geschichte des Zionismus und Geschichte des Landes', *inamo*, 10(38), 24–28.
- Raz-Krakotzkin, A. (2008) 'History Textbooks and the Limits of Israeli Consciousness', *Journal of Israeli History*, 20(2–3), 155–172.
- Repoussi, M. and Tutiaux-Guillon, N. (2010) 'New Trends in History Textbook Research Issues and Methodologies toward a School Historiography', *Journal of Educational Media, Memory, and Society*, 2(1), 154–170.
- Resh, N. and Benavot, A. (2001.) 'The Social Construction of Local Schools Curriculum. Patterns of Diversity and Uniformity in Israeli Junior High Schools', *Comparative Education Review*, 45, 504–536.
- Resh, N. and Benavot, A. (2003) 'Educational Governance, School Autonomy and Curriculum Implementation. A Comparative Study of Arab and Jewish School Sectors in Israel', *Journal of Curriculum Studies*, 35, 171–196.
- Robinson, S. (2006) 'Commemoration under Fire. Palestinian Responses to the 1956 Kafr Qasim Massacre' in U. Makdisi and P. Silverstein (eds.) *Memory and Violence in the Middle East and North Africa* (Bloomington: Indiana University Press), pp. 103–132.
- Rohde, A. (2012) 'Bridging Conflicts through History Education? A Case Study from Israel/Palestine' in S. Alayan, A. Rohde and S. Dhoub (eds.) *The Politics of Education Reform in the Middle East. Self and Other in Textbooks and Curricula* (Oxford: Berghahn Books), pp. 237–260.
- Rohde, A. (2013) 'Learning Each Other's Historical Narrative—A Road Map to Peace in Israel/Palestine?' in K. Korostelina and S. Lässig (eds.) *History Education and Post-Conflict Reconciliation. Reconsidering Joint Textbook Projects* (London: Routledge), pp. 177–191.
- Rudoren, J. (2012) ' Hamas-Run Schools Set Out to Teach "the Language of the Enemy"', *The New York Times*, 22 May, <http://www.nytimes.com/2012/05/23/world/middleeast/hamas-run-schools-in-gaza-set-out-to-teach-hebrew.html>. Accessed 1 December 2016.
- Sarfati, Y. (2008) 'Religious Schools as Vehicles for Religiopolitical Mobilization. Comparing the *Imam Hatip* Schools in Turkey and the *Ma'ayan* Schools in Israel', Paper prepared for delivery at the annual meeting of the American Political Science Association in August 2008, http://citation.allacademic.com/meta/p_mla_apa_research_citation/2/7/9/7/6/pages279765/p279765-1.php. Accessed 1 December 2016.
- Shinn, C. (2012) 'Teacher Education Reform in Palestine: Policy Challenges amid Donor Expectations', *Comparative Education Review*, 56(4), 608–633.

- Silverstein, P. E. and Makdisi, U. (eds.) (2006) *Memory and Violence in the Middle East and North Africa* (Bloomington: Indiana University Press).
- Tibawi, A. (1956) *Arab Education in Mandatory Palestine. A Study of Three Decades of British Administration* (London: Luzac).
- Wilson, N. (2016) 'Israel Tells Palestinians: Our Textbooks or no Funding', *Al-Jazeera*, 1 September, <http://www.aljazeera.com/news/2016/08/israel-tells-palestinians-textbooks-funding-160829114956237.html>. Accessed 1 December 2016.
- Yemini, M., Bar-Nissan, H. and Shavit, Y. (2014) 'Cosmopolitanism versus Nationalism in Israeli Education', *Comparative Education Review*, 58(4), 708–728.
- Yogev, E. (2014) 'Studying the Past in the Present Tense. The Dilemma of History Textbooks in Conflict-Ridden Areas' in J. H. Williams (ed.) *(Re)Constructing Memory. School Textbooks and the Imagination of the Nation* (Rotterdam: Sense Publishers), pp. 171–189.

PART V

Museums and Musealisation

History Museums

Ilaria Porciani

INTRODUCTION

Thirty years ago, including museums in a volume focusing on state-sponsored history would not have been obvious. The increasing attention to public history and to a plurality of institutions and strategies that states develop to construct their master narratives has changed the picture, so that museums now form the core of a flourishing literature also for historians (Starn 2005). Given their impressive growth after the Second World War and especially in recent decades, and given the large investments made in them, their importance has become self-evident.

State-funded national museums are often meant to represent the nation and celebrate its history (Boswell and Evans 1999; Aronsson and Elgenius 2011; Basso Peressut, Lanz and Postiglione 2013). They participate in the process of construction and consolidation of national heritage and contribute to the pantheon and the canon of the nation, propagating its master narratives and often even emphasizing its founding myths. These highly charged institutions portray stories that have always been influenced if not determined by the national agenda. They have done so even when they seemed to be universalistic, as in the case of the British Museum (1759), the Louvre (1793) or the Neues Museum (1855) in Berlin. Even these nominally universalistic museums have implicitly inscribed the nation within a broader panorama and frequently within a teleological or even Eurocentric development (Poulot, Bodenstein and Lanzarote Guiral 2011; Aronsson and Elgenius 2014). They

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have tended to be created with strong political aims, often with the intention of unifying the country or of countering centrifugal tendencies.¹

The history museum proper is not a recent creation: the first examples of history museums followed shortly after the birth of “national” museums and accompanied the growth of the discipline of history from its inception at the beginning of the nineteenth century (Porciani 2012a). They have grown enormously since the last decades of the nineteenth century and across the twentieth century. After World War II and especially since the 1970s they have experienced a worldwide boom. They are crucial institutions not only for putting history on display. They are active agencies in the process of history writing both with and without words. They write history through sequences of objects, videos, installations and documents, but often also produce historical research in their own right, or encourage it, and publish journals and exhibition catalogues. Thus, they participate in the larger field of historical production, in which nation-states have increasingly played a crucial role (in many cases an exclusive one), while shaping the professionalization of both historical disciplines (Porciani and Raphael 2010) and historical master narratives (Berger and Lorenz 2008; Berger 2015).

This chapter does not deal with national museums in general, but rather focuses on history museums proper, which still offers a broad enough picture. It also includes some information on the separate category of military museums, institutes usually run by the defense ministry or the military.

One final remark on the scope of this chapter concerns the aspect of the reception side: the museums’ impact on visitors. This essential aspect of museum studies still creates major empirical difficulties. Each case is different from the next and the existing literature is often based on only a handful of interviews of visitors and only covers a limited number of institutions and exhibitions. This makes it nearly impossible to draw bird’s-eye conclusions on this issue. I therefore focus on the creation of museums, on the projects behind them and their politics.

National Military Museums

It is useful to hint at least briefly about a specific kind of history museum: the military museum, usually run by the army. Wars are events of major importance for nations and states, and military museums have always played a key role in highlighting the history of the state, and later the nation under arms. It was already so with the *Heeresgeschichtliches Museum* in Vienna (1891; originally dealing with the empire) or the *Musée de l’Armée-Hotel National des Invalides* in Paris which arose from the first military retrospective held in 1888, or the British Imperial War Museum, created after WWII and recently amplified thanks to four new branches in London, Manchester and Duxton. War museums have had a powerful role in kindling the imagination of a nation consolidated by military efforts against the enemy, the “other.”

This happened at large in post-WWII Eastern European museums of the “Great Patriotic War.” In southern Europe, in the Greek part of Cyprus the museum of the nation coincides with the National Struggle Museum (Nicosia 1962; later renamed as Struggle Museum), currently under the Ministry of Education and Culture (Bounia and Stylianou-Lambert 2011 p. 181).

Among some Asian examples one could quote the imposing war museum of Seoul (created by the Department of Defence in the 1990s) celebrating the nation in opposition first to the Japanese and later to the North Koreans. At the entrance to this museum, visitors are confronted with a powerful geopolitical statement: the Dokdo Islands, still bitterly contended with Japan, are presented as belonging to Korea and visitors can take pictures in front of a replica of them, thus incorporating this territory into their personal experience and memory.

In Africa, it is military museums that put the history of the liberation wars on display. In Luanda, the Central Museum of the Army (1978) was the first museum in Africa to represent the war of national liberation and was built long before the project of a museum of the Popular Movement for the Liberation of Angola was ever imagined. In Zimbabwe the Museum of the Gweru Midlands (former Gwelo) was transformed in 1980 into a military museum where the memorabilia of the liberation struggle are kept. In 1977 Lieutenant General Danjuma, head of the army, opened a war museum in Umuahia, the old capital of the ephemeral Republic of Biafra (Gauge 1997, p. 89). In spite of being controlled by the national commission of heritage of Nigeria, the museum belongs to the army.

Anniversary Exhibitions

Jubilees are always catalysts and accelerators for the creation of large exhibitions or reorganization of already existing and ageing museums, as well as for public use (and sometimes abuse) of history. They also mobilize substantial public funding and are thus highly relevant to the field of state-sponsored history in museums. In Canada, it was the centennial year (1967) that started out the public engagement with the narrative focusing on the country’s national character. In Belgium the exhibition at the BELvue museum created in the year of the 175th anniversary of the foundation of the state (Bodenstein 2011) enlarged the scope of previous collections.

In 2005 *Das neue Österreich. Die Ausstellung zum Staatsvertragjubiläum Ostarrichi Urkunde 1955/2005* celebrated Austria’s past, emphasizing the medieval roots of the nation (Bentz and Raffler 2011), and in 1999, in a climate marked by the controversial political success and xenophobic position of Jörg Haider, the *Nationalraat* started to propose the creation of a *Haus of Tolerance/of History*.

In Italy, where no national history museum exists, the large exhibition organized with the help of prominent historians in Turin, *Fare gli italiani*

(2011), was the most comprehensive exhibition dedicated to the 150th anniversary of the creation of the Italian nation-state (Bertolotti 2012).

In 2010 the visual exhibition at Expo Shanghai and in 2015 the Anniversary Exhibition in Beijing presented the suffering and the resilience of the people and their glorious struggle in war and in building the country, and closed with the reconstruction after the 2008 earthquake.

Anniversaries can lead to positive innovations of existing museums. In 2010 the bicentennial of Colombia's independence afforded an opportunity for renovation of the Independence Museum (*Museo de la Independencia Casa del Florero*) in Bogota. From a "temple of the homeland" it became "a forum for reflection on history, independence and citizenry" (Vargas Alvàrez 2016).

Often—although not always—it is in national museums that large exhibitions of the history of a country take place. They can emphasize the millenarian history of the country, as in the permanent exhibition opened in 2011 at the Estonian History Museums entitled *Spirit of Survival. 11,000 years of Estonian History*. They may also pave the way to profound revisions of the history of the nation (sometimes still in nationalist terms) as is the case for *Crossroads of Czech and Czechoslovak Statehood in the 20th Century* installed in 2009–2010.

Public Funding and Joint Ventures

History museums have seldom been exclusively state-sponsored. Even the prominent *Germanisches Nationalmuseum* (1852) grew out of a private initiative. Recent surveys have pointed out that in France most of the existing 500 history museums are non-state-sponsored or receive little public funding. Moreover, some large history museums are not state-sponsored, or grew out of a public–private partnership. Last, but not least, the case of recent post-colonial African museums, such as the National Museum of Kenya in Nairobi, offer examples on the one hand of private sector involvement, with the clear aim of expanding tourism, and of backing by foreign institutions (such as the Smithsonian) or international organizations (Hugues 2014).

Unfortunately, the literature on museums is elusive about funding or even the specific status of the museums and the composition of their boards. It is therefore difficult to obtain a clear overall picture about the nature of museums and to know if they enjoy public funding (at a federal, national, regional or local level) or if their budget is a combination of public and private funding, and how this affects the museums' governing bodies in different combinations.

The situation is fairly obvious for communist countries: museums in these countries were generally public. Private intervention only began to enrich and complicate the picture after the fall of the Berlin Wall. In China, the growth of both public and private museums has been incredible in the last few years:

in 2008 museums numbered 2970, whereas in 2014 there were already 4500. In 2014 the number of visitors reached 718 million. Not all those museums are public: in 2014 there were 982 non-state-owned museums versus 3528 state-owned (Laishun 2016, p. 174).

The picture is less homogeneous in the Western world. Two surveys, published, respectively, in 1974 and in 2008, reveal how important public funding is for US history museums, in spite of the fact that some of the most well-known and visited museums resulted from private initiative. Colonial Williamsburg—still a private not-for-profit educational institution that does not receive regular state or federal funding—was created in 1926 by individuals and immediately strongly supported by Rockefeller. Likewise Plymouth Plantation, which recreates the life of the village in 1620–1690, or Mount Vernon, focusing on the domestic life of George Washington's plantation, are private, nonprofit organizations. However, museums that are very similar in design and program (although sometimes less rich in funding) such as Drayton Hall in South Carolina, the Farmers' Museum in Cooperstown NY, the historic St. Mary's City, which covers 400 years of the history of the city and of Maryland, are state museums (Krugler 1991, pp. 350–351).

The picture becomes even more complicated if we consider that the National Endowment for the Humanities finances large projects proposed by private museums (Krugler 1991, p. 730). Moreover, private museums often act as repositories of new archival material, documents, and oral history interviews and house rich libraries employing large staffs of educated historians, and produce sizable thematic or local history works. The available general survey data are unfortunately assembled in a way that does not allow one to go as deep as one could wish. However, in 1974 US history museums derived half their public support from state level: 82% of federal museums, 87% of state museums and 61% of municipal/county museums are history museums, and 15% of them are run by public educational institutions.

Numbers on their own can be misleading, of course: when it comes to the size and the financial effort to support those institutions, there are enormous differences. In 2008 history museums continued to receive public money at a federal, state and county level, and the average government contribution for history museums was 33%, but public investment was still lower than for science museums, in spite of their small number. Just to give an example, for science and technology centers comprised in the 2008 survey, the average public support was \$289,970. For history museums (110 historic houses and sites and 270 history museums), the average public support was \$32,182. US history museums are usually run by history societies, which are private, but receive the majority of their funding from the state.²

Even more complicated is the situation of the presidential museums and libraries, which mediates the image, and to some extent the cult, of the presidents of the United States (Hufbauer 2005). They are identified in the National Archive organization chart as individual units under the Office of

Presidential Libraries. However, for many years the National Archives had only “an advisory role in the establishment of these libraries by their foundations” (Fawcett 2006, p. 17).

The boundaries defining “state-sponsored” history museums are not clear-cut because different and often mixed kinds of management, governance and control coexist, expressed through various kinds of trustee or scientific boards. It would also be interesting to distinguish between the different types especially in the case of federal states, such as the United States (where in fact federal-state partnerships are common),³ India, or Brazil, but also Germany and the Swiss confederation, in order to understand from where the initiative comes. Last, but not least, not all states have set up a national history museum or even national museums encompassing the history of the nation.

Sometimes the first impulse to establish a history museum does not come from direct state intervention. Frequently, the state reacts to input stemming from other public bodies, or from various agencies rooted in civil society, or from a city government. In São Paulo it was Mayor Marta Suplicy (2001–2004) who announced plans for the creation of the AfroBrazil Museum, which constituted one of the “steps the government had taken since 1988, the country’s centenary of the abolition of slavery, to reexamine and recontextualize the social and cultural contributions that Africans and African descendants had made in Brazilian history” (Cleveland 2012, p. 197). In various countries critical, provocative and creative initiatives do not come from major state-sponsored central institutions, but from private, sometimes smaller institutions, which can be considered peripheral in many ways. Only think of District Six Museum (1994) in Cape Town, South Africa, the favela Cantagallo Museum in Rio de Janeiro (2008), museums and memorials dedicated to political repression, as in Latin America, or the NGO War and Women’s Human Right Museum (2013) in Seoul.

IN THE AFTERMATH OF WWII: THE COMMUNIST COUNTRIES

In the aftermath of the Second World War and during the entire period of the Cold War, state intervention in and control over history museums was massive and pervasive in the Soviet bloc. Museums and memorials of the Great Patriotic War had the aim of celebrating the role of the Soviet Union in the victory over fascism and its leading role in Eastern Europe, as well as strengthening the friendship between Moscow and the other socialist states.

A strong focus on the workers’ movement, socialism and Marxism informed school teaching, university teaching, research in the academies of science and permanent exhibitions. Museums were centralized and diffused, often inspired by the “Lenin corners” (the political shrines devoted to political propaganda and centering on the figure of Lenin) already existing as pedagogical tools in the Soviet Union. Museums disseminated the same historical narrative among soldiers—often obliged to visit them, unlike soldiers in non-communist countries—and schoolchildren, as well as workers.

National history in the countries of the Soviet bloc was often repressed or downplayed, though not always to the same extent. In Belarus, national history was repressed to the point where national textbooks were absent until the 1960s and museums suffered from this orientation (Zadora 2010, p. 84). In Bratislava, the museum of the Slovak national uprising opened its doors in 1955, 10 years later than the Museum of the Slovak Soviet Republic. In Sofia, a museum of National History was created 30 years after the Museum of the Bulgarian–Soviet friendship (1954) and 29 years after the museum of the Revolutionary Movement (Parusheva 2010). Moreover, the party opposed the proposal to create an open-air museum until 1963 because it was suspected of following Western models too closely.

In Bucharest a museum of the communist party was opened in 1954, 18 years earlier than the National History Museum, which would highlight the role of the Roman, Dacian and Greek civilization in the country. Museums paralleled a trend clearly visible in other kinds of cultural institutions: the institute for Soviet–Romanian studies preceded the one on purely Romanian studies, and was followed in 1951 by the Institute for the History of the Party, devoted to highlighting the few revolutionary episodes in the previous history of the country (Murgescu 2010, p. 100). In 1971 a phase of hypernationalism followed, which condemned cosmopolitanism and Western influence and promoted Romanian-ness as the linchpin of communist development (Durandin 2004). It is in connection with this turn that the Archaeology and National History Museum in Constantza opened its doors in 1977.

Orthodoxy was particularly evident in Bulgaria. In 1951 the newly created Committee for Science, Arts, and Culture was granted control over all museums in the country. Each local museum had to present a history section with spaces devoted, respectively, to local life before Ottoman domination, revolutionary activities of local people against the Ottomans and workers' revolutionary activities. A "socialist building" would deal with the development of socialism. The last section would be devoted to present-day activity of the socialist people. A natural history section was also included. This uniformity worked as a Procrustean bed and made it very difficult for museums with older institutional histories to be able to focus on their own treasures. Apparently, this uniformity was depressing: the response of the public was conformist, but the museums did not fulfill their mission of conquering the hearts of the young visitors (Petkova-Campbell 2009, p. 62).

In some eastern European countries, museums served to construct national history and conform with Stalin's classic formula "socialist in content and national in form" (von Klimó 2007, pp. 83–112). In Lithuania, where a chair of History of the LSSR was only re-established in 1966, the creation of the Trakai historical museum in 1948 by rebuilding a medieval castle as a museum on an island in the lake "can be seen as a small victory" (Selenis 2010, p. 84).

In China, imposing Soviet-style history museums were opened, starting from 1950. The Museum of National History and later the Mao Zedong

memorial building in Tienanmen Square in Beijing are easily recognizable by their architecture.

An opposite narrative was obviously produced in Taiwan (Chu 2014), where an equally state-centered and top-down historical narrative was presented in museums and history textbooks. Given the Guomindang's fragile position, it was imperative to show that Taiwan was part of China, and that the Republic of China (Taiwan) was the true and proper government of all of China. The historical narrative downplayed Taiwan's discontinuities with a Chinese past and "celebrated its Chineseness" (Greene 2006, pp. 88–90), imposing it on a population which in fact had no Chinese past. It was only the provincial museum, originally created by the Japanese in 1908 and renamed by the ROC in 1946, that focused on Taiwanese indigenous culture.

Socialist museology and interpretation of history enjoyed a long continuity at least until the fall of the Berlin Wall. After 1989 there was a phase of rooms being quickly emptied in socialist history museums. It was only 10 years later or more that critical exhibitions re-examined this experience. In 2007 one of them was organized on communist Romania 1945–1989 by the National Museum of Romania.

After 1989 in many countries that had been part of the Soviet Union anti-Russian feelings emerged along with a demand for new icons of nation-building. This was so in Turkmenistan, where under the USSR even mentioning the battle of Goek Tepe (1881) was considered a sign of chauvinism, whereas President Saparmyrat Niyazow renamed the event as a "great patriotic war" and annexed it to the "Turkmen memory," forgetting that only one tribe had fought the Russians.

A partly different history is found in Albania, which has been in complete economic and political isolation, especially since the end of the 1970s. There, the national focus was extremely pronounced, as was the cult of the national hero Georg Kastrioti, known as Skanderbeg, the leader of the Arbërs principalities. A first multivolume national history was published in the early 1960s, in parallel with the opening of the National Museum of Education and the renewal of the National Museum of Independence in Valona (respectively, 1960 and 1962) and the opening of the Museum of National Relics in the capital. In the 1970s that nationalistic propaganda reached its peak. In 1981 the National History Museum produced a more complex narrative including items from the Neolithic and the Bronze ages, as well as materials from the Hellenistic age attributed not to the Greeks but to the Illyrians. The Illyrian tribe of the Arbërs, considered ancestors of the nation, has been at the center of the picture, as in the 440 square-meter mosaic on the façade of the museum.

Altogether, in the communist countries many new museums were created from scratch, and a political dimension was immediately added. Moreover, centralization was quite effective in laying down patterns to be followed in the periphery, as was political control through specific political appointments. Yet some differences can be seen, as the German case shows.

A CRUCIAL CASE: DIVIDED GERMANY

Germany emerged from the war defeated, under Allied occupation, and had to face responsibility for the Nazi regime. Its history museums, such as the German National Museum in Nuremberg, and the many *Heimatismuseen* (Eisler 2015 and in this volume), heavily charged with Nazi propaganda, had played a major role in fostering nationalistic sentiments (Olsen 2015, p. 71) as well as supporting the regime's militarist, fascist and racist policies.

The Allied Control Board immediately included the museums in its de-Nazification measures, explicitly forbidding the display of materials that had previously belonged to propaganda exhibitions. The Soviets and Americans had different methods, and antagonistic projects (Benoit 2001, p. 251). In the USSR occupation zone, not only fascist museums and memorials were to be immediately erased, but the memory of politicians, scientists and entrepreneurs who had supported fascism. The board in charge of museums, which depended on the *Deutsche Verwaltung für Volksbildung*, integrated history museums into a broader plan of institutions for popular education and propaganda. Between 1945 and 1949 collections were reorganized to trace the long genealogy of the anti-fascist *Volk*. Twelve new history museums were created, and 80 were totally refurbished according to the new socialist paradigms. The US occupation authority clamped down exclusively on those museums that propagated military traditions, or the history and ideas of the NSPD. The British tried to involve the former staff, whereas the French focused on proposals such as the destruction of the Victory Column, whose steel was obtained by melting the cannons taken from the French in the Franco-Prussian war.

On both sides of the Iron Curtain the concentration camps became a crucial tool for denouncing the horrors of the regime, but with different versions. In the Soviet bloc only the political opponents of the regime received a mention, and the internment of the Jews and the Holocaust were passed over in silence. This happened in Poland at the camp of Majdanek, opened immediately after the end of the war in order to publicize the horrors of the Nazi regime. Auschwitz Birkenau was likewise opened immediately to a select public, becoming a memorial site in 1948. The permanent exhibition on display in Buchenwald (Engelhardt 2002) focused on national history. It started with German imperialism and ended with the present and the Buchenwald oath. Only 30 historical paintings on display depicted the camp: the other 40 focused on resistance (Benoit 2001, p. 508). The battle of Stalingrad was celebrated as the turning point. Visiting the camps was mandatory: every East German citizen was meant to visit this camp at least once in a lifetime.

In the Western zone it was the persecution of the Jews that formed the center of the picture. Immediately after the liberation, General Patton ordered the mayor to make the horror of the camps known to the Germans living nearby. About 1000 people aged between 18 and 40, half of them

women, from different social backgrounds (two thirds belonging to the upper middle classes, one third the lower classes) were immediately taken on a first detailed visit to Buchenwald which lasted six hours and involved a 25-kilometer walk (Wieviorka 2003).

The German National Museum of Nuremberg, considered to be a *summa* of the *Kulturnation*, reopened its doors in 1952. In the same year a *Museum für Deutsche Geschichte* was opened in the very heart of Berlin, capital of the DGR, with the aim of conferring legitimacy on the new socialist state through a thesis-driven historical paradigm based on historical materialism, Marxism, anti-fascism and the epiphany of a new people under socialism. In the GDR, emphasizing a German tradition of anti-fascist and worker movements allowed one to set aside the question of responsibility, skate over the German–Soviet pact and represent all the people living in the GDR as former anti-fascists.

In the eyes of USSR political authorities Germany was a special country: it had given birth to Marx and Engels, and was the cradle of the movement. The need hence emerged to rethink German history as a whole and not to separate the progressive narrative of the socialist and workers' movement from the negative representation of militaristic, imperialistic and later Nazi Germany. The need to incorporate the history of the workers' movement within a wider range of German history was reflected in the organization of history museums, most of which were created between 1950 and 1965.

In the first few years there was some room for discussion and (mild) criticism, and the director of the Berlin Museum even suggested that it was better to avoid "representing socialism and communism where they did not exist" (cited Benoit 2001, II, p. 496). Yet orthodoxy soon triumphed. A separate Museum of the Workers' Movement (*Museum der Arbeiterbewegung*) was created in Leipzig at the former monumental Court of the Reich, in strict symbiosis with the SED. Military museums of the GDR had the paradoxical goal of demonstrating the anti-militarist tradition of the German people, expressed in the Peasant Wars, the wars of independence against Napoleon, or the democratic revolution of 1848, as well as by the struggle of the working class. In Dresden, the *Marmorpalast* was turned into a war museum, and glorified the Paris Commune, the October Revolution and the Spanish war.

In 1949 history museums were officially nationalized and centralized. Three years later, the five older and larger *Länder*, often corresponding to previous historical regions, were abolished. Instead, smaller provincial units named *Bezirke* were created. Thus, the historic regional dimension vanished while the history on display in museums oscillated between the national and the local.

In the 1960s, shortly after the building of the Berlin Wall, the science of socialist museums became codified. Precise briefs for each museum left little room for individual or local initiative. Local museums of the workers' movement became the core of celebrations and *rites de passage*. The contemporary

sections of the refurbished *Heimatmuseen* became the place to learn about the new *Weltanschauung* of the working class.

In contrast to GDR centralization, in the Federal Republic museums largely depended on the *Länder*, and new public foundations flourished, such as the *Preussischer Kulturbesitz* or the *Stiftung Haus der Geschichte*.

The West German answer to the GDR Museum for German History was twofold. In West Berlin a project was started to create a Museum for German History. Being supported by the central government it was an innovative step in a country where cultural matters lie with the *Länder* and direct intervention by the central government is unusual. The project was immediately attacked by the Greens, while prominent historians such as Hans Mommsen pointed out the risks involved in an operation that might awaken German pride instead of prompting critical reflection.

In 1987, when the final hearings of the commission were held, the *Haus der Geschichte* was opened in Bonn. It aimed to focus on the period since 1945, and to go beyond the borders of the Federal Republic by encompassing the GDR as well.

THE UNITED STATES, COLD WAR ALLIES AND EUROPE

In the United States of the Cold War the master narrative was one of democracy, technological development and progress. Thus, it will not come as a surprise to see the Washington National Mall and the Smithsonian, with their stress on technology and the role of America in defense of liberty, at the forefront of museums dealing with the history of the country. However, the Enola Gay exhibition (1994–1995) caused bitter discussion by putting the plane that dropped the atomic bomb on display.

The color line mattered: the museum of Afro–American History (Detroit 1965), presented the history of the African–Americans as clearly separate from that of the whites, and displaced it out of the capital city. Among the directors of American museums only one was black. The history of African–Americans was utterly neglected as was that of the Native Americans until recent years. Notably, it was not until 2016 that the issue of Afro–American history was presented in an imposing history museum, which cost \$540 million, with \$270 million raised privately and the rest from federal funds. The museum came into being in a context of political animosity opposition, and the North Carolina Senator Jesse Helms was especially vocal in pointing out that such a museum for one of the “hyphenated identities” might pave the way for other claims from more ethnic groups.

In the United States the Cold War years were also characterized by the growing myth of the pioneers, which soon came to be the focus of a number of open-air or living museums, usually initiated with private donations and later increasingly publicly funded. The Harold Warp Pioneer Village in Minden, Nebraska, was founded in 1953 by Harold Warp, an inventor of devices

for chicken breeding. In 1960 Leo Stuhr, who descended from a pioneering family, donated land and \$25,000 to start a museum, which opened in 1967.

Given the role of the Korean War and the continuing threat by the North Korean government, it is hardly surprising that the Cold War master narrative is still present in Seoul museums, which represent an important case of investment in heritage and history in a divided country, marked by a bitter war. This holds true for the recent Museum of Korean Contemporary History (2012), located in front of the ancient palace of the dynasty and opposite the presidential house.

In Western European countries, history museums have grown slowly. In France after 1950 the Museum of French History was still open to students and scholars for no more than a few hours each week, and did not care to attract a larger public through attractive displays. Celebration of De Gaulle in state-sponsored museums would only take place on the eve of the third millennium, as a special section of the Musée de l'Armée.

In short, in some countries continuity with previous nineteenth- or twentieth-century institutions has been the rule, and the focus has been on celebration of nation-building, as in Greece or in Italy with the slow "freezing" of Risorgimento museums, which have become increasingly dusty and unattractive. Greece has avoided representing recent traumas and focused on the construction of the nation, leaving the period post World War II and the tensions with Turkey to the military museum. The period of dictatorship is skirted over in silence, as is the story of forced displacements of the population. In other countries, little happened in the field of history museums for many years. In Spain the Franco regime did not encourage critical history, and mainly celebrated its own memory places such as the *Valle de los caídos*. In Italy, a country that has not engaged as much as Germany in coming to terms with the experience of fascism, little or nothing has been done in the field of public museums of recent history, and the older museums have basically remained untouched.

In India

Colonial museums used to be one of the fields where colonizing powers exercised control over the indigenous people (Anderson 1983; Bennett 1995 and 2009): almost everywhere they adopted the same ethnographic or artistic approach to the colonized cultures, whose historical dimension was usually neglected if not completely ignored or erased. However, recent scholarship has partly corrected this picture and has pointed out that colonial museums were also places of important exchange and development of scholarship (Longair 2015, p. 2), and has highlighted a certain continuity.

In India after the Second World War the first important exhibition was opened. This exhibition, as well as the creation of a large National Museum in New Delhi in 1953, formed part of Jawaharlal Nehru's project to create a

moral teaching space. Both archaeology and anthropology, crucial disciplines of colonial culture, were to be reversed. Archaeology, which had played a role in post-mutiny colonial India, was now used to present vernacular art as one of the focuses of Indian identity. Thus museums played their part in this shifting of perspective which was so decisive for the construction of a national identity. The focus of archaeological discourse shifted to the inscriptions of the ancient emperor Ashoka, soon reproduced as replicas on the front of the new national museum. They were used to highlight the basic unity of Indian culture. Along those lines, the diverse cultural groups were presented as all originating from the same Brahmi language. Although the common origin of high Indian culture was stressed, the lower-class people were also celebrated in front of the museum completing this iconographic project: statues of Indians laboring and of a rural woman (the symbol of Gandhi's India) stood in front of the national gallery of art and of the national museum.

The history of the new Indian museums is interesting for two more reasons. It reflects a factor that deserves more attention from federal states or even larger states: tensions between the center and the periphery. As early as 1944 the general secretary of the Asiatic Society, Kalidas Nag, proposed a central national museum in Delhi, focusing on art, archaeology and anthropology (not on history) along with small, representative "travelling museums" (Roychowdhury 2009 and 2015, p. 343), and so did the Central Advisory Board of Archaeology in 1948. However, anxiety by the regions about a new central museum in the capital is clearly visible behind the creation of the Delhi museum and in attempts to reorganize the administration of the sector.

In the early post-independence years, the pattern of the socialist countries suggested having one central museum in the capital complemented by a series of satellite local museums. The report of the Indian museum committee (1956) went so far as to propose dismantling the collections of the colonial India Museum of Calcutta, which encompassed and still encompasses the field of natural history as well as the arts and anthropology. However, the risk of reactions in Kolkata during the difficult post-partition years suggested this project be dropped and the envisaged concentration of the most important archaeological heritage was abandoned.

Second, tension appeared between authenticity and nationalism on the one hand, and modernity on the other, and the solution arrived at came in a hybrid form. In order to modernize the new museum a curator from the United States, Grace McCann Morley, previously active in San Francisco, was chosen. She acted along the lines already evident in the museum policy and cultural policy of the United States, which entailed bringing gradual "modernization" to other countries and possibly downplaying the more "uncivilized" aspects of those countries. It was crucial to enable India to claim a place in the modern world of technology without losing the values of the past (Phillips 2006, pp. 151–155). Morley was a US citizen, but in press releases she was presented as a

mataji, that is, a former Indian. Thus, the tension between West and East was reduced, and the focus on Indian national culture and identity was confirmed.

Indian nation-building needed a canon and a pantheon. Hence, in the following years, other museums dealt specifically with contemporary history and with the key figures of the construction of independent India: Gandhi and Nehru. The theme of the partition was avoided in museums as in textbooks (Raychaudhuri 2012) and has only become an issue in the last few years.

A network of Gandhi museums, not directly state-funded, was created across the country, many of them presenting not only his historical profile, but also the objects testifying to his tragic death. In New Delhi alone, his glasses and his watch are to be seen in no less than two museums: the national and state-sponsored *Gandhi Smriti* (1971), “the place of Gandhi’s Martyrdom,” where his last bedroom is reconstructed and concrete steps mark his last walk to the very place where he was killed. This museum presents an awkward mix of old showcases, post-modern display, and commodification. Since the 1970s a series of dioramas has represented all the significant steps of the Mahatma’s life and deeds. This kind of display is completely reversed on the first floor where in 2005 the Eternal Gandhi multimedia museum (2005), a new exhibition of sounds, lights and special effects, appears quite disturbing to the visitors who are more interested in the moral and historical legacy of the Mahatma. In the same city, the *National Gandhi Museum and Library* (1951), which has a large book collection and a modest but touching display of pictures of Gandhi and objects supposedly belonging to the Mahatma, seems to achieve its mission better, despite probably insufficient funds. Other similar institutions exist elsewhere in the country. The *Gandhi Smarak Sangrahalaya* (*Gandhi Memorial Institution*) (1963) originally supported by a memorial fund from public institutions was created at Barrackpore, West Bengal, near Kolkata. Another memorial museum was unveiled in 1963 at Sabarmati Ashram, where Gandhi lived from 1917 to 1930, and originally encompassed 51 quite modern units, to which more were added later.

In Africa

Most African museums were established during the nineteenth and twentieth centuries when European imperialists were spreading their colonial power across the continent. The attainment of political independence has still done little to undo or correct this trend. Surprisingly, for many decades, national museums, especially when focusing on art and ethnography, have been marked by continuity with colonial museography (Mawere, Chiwaura and Panganayi Thondhlana 2015).

After independence directors and staff were usually not removed: thus, a remarkable continuity existed between colonial and post-colonial museum management. This was true in Zanzibar (Longair 2015), as well as in other

African countries in the first decade after independence (Gauge 1997, pp. 28–31) The original decision to focus on ethnological and artistic issues rather than on historical ones was therefore not abandoned, and the culture and the artifacts of the natives continued to be framed in a nonhistorical setting in which points of hiatus were underestimated and points of cultural continuity given the limelight.

In some cases, even national museums, created immediately after independence (as in Burkina Faso in 1962), existed for a long time only on paper.

Museums representing national history in the long term are extremely rare. According to Anne Gauge, in the entire continent in the late 1990s only seven museums aimed at representing a complete picture of the history of the country: Gaborone (Botswana), Dar es Salaam, Tanzania (1940 but reorganized in the 1970s), Banjul, Gambia (1985), Korhogo (Ivory Coast) and Gorée et Saint Louis (Senegal) (Gauge 1997, p. 34). Colonial history as a whole is seldom represented. More often the focus is the struggle against Europeans. Often colonial dominations are represented as parentheses.

It is easier to find museums devoted to specific glorious moments and turning points in the history of decolonization. This is the case with the Political National Museum or Memorial Museum (1971) of Lusaka (Zambia), or the Arusha Declaration Museum (1977), devoted to Julius Nyerere's formulation of African socialism. In independent Kenya, the national museum gives ample room to the most important achievements of the country.

A comprehensive report on African museums points out several shortcomings. First, history museums usually omit presenting the involvement of many African kingdoms in such a crucial issue as the slave trade (Gauge 1997, pp. 58–61). Second, they have problems in representing the multiethnic groups within each state and usually choose to emphasize the unity of the people, even when this is obviously fictitious. They may even try to display the unity of the African continent: this happens in Senegal's museums. In some cases, however, governments and museum management boards have feared the danger of investigations that might involve digging up highly controversial matters and traumatic events which are still far from being worked through (Hugues 2014; Kerega Munene 2011). This is probably the reason why the historical approach has been neglected in most national museums. For instance, in spite of the original plans, in the Kenya national museum no specialist was ever appointed for history, and in Botswana the national policy on museum development did not even mention a historical dimension (Grant 2004; Parsons 2006).

Unsurprisingly, outmoded paradigms have been more quickly reversed in public spaces, where new statues have taken the place of older monuments put up by the colonizers. Hence, by and large decolonization is mirrored in monuments and memorials rather than in museums. Yet, about 30 museums in Africa represent the history of their respective countries after independence. Namibia is a good case in point in which both attitudes are present.

The Independence Memorial Museum in Windhoek inaugurated in 2014 on the 24th anniversary of Independence shows a giant statue of the founding president Sam Nujoma holding the constitution and therefore celebrating the dignity and rights of the new citizens. This statue stands on the spot where the infamous Ritter monument stood for more than 102 years, symbolizing imperialist triumph over the indigenous people. Namibia has tried to develop a historical narrative not only through pictures or statues of heroes, but also in a section celebrating the Cassinga massacre (1978) in which hundreds of civilians were killed in a camp attacked by the South African Army. The Windhoek Memorial Museum keeps the focus on various phases of the country's history: colonial domination and repression, the African army's early resistance under South African Apartheid, and liberation, including SWAPO (South-West Africa People's Organization) activities and UN resolution 435 (1988) concerning cease-fire and UN-supervised elections in South African-controlled South West Africa which led to the independence of Namibia. One notes, too, that in the national museum of Namibia the earlier genocide perpetrated by German colonizers is encompassed in a master narrative which traces the origins of the national liberation struggle to times when no proper nation yet existed.

In many countries, however, there is a complete lack of state-sponsored history museums focusing on the liberation struggle. That story is partially told in smaller peace museums, or in private institutions. In Johannesburg, the Apartheid museum created in 2001 is private.

In some African States, museums featuring critical pasts have been opened in the last few years. In Rwanda, the Kigali Memorial Centre tries to depart from the one-sided perspective typical of genocide memorials. Yet it is not a state-sponsored museum: it was designed and sponsored by a British nongovernmental organization, and prepared to oppose the purely emotion-based project by Mayor Theoneste Mutsindashyaka. However, in spite of its comparative character, and the decision to encompass other genocides, the center seems to reinforce the government's hegemonic narrative (Sodaro 2011, p. 86).

UNPRECEDENTED BOOM: THE GULF STATES

In the Gulf States an unprecedented museum boom has been taking place since 1980 (Erskine-Loftus 2013, p. 2) which draws on almost unlimited resources but also on a global perspective, within a frame of brand-new cities and spaces, where the past is more than anywhere else a foreign country. The remaining older monuments, such as the forts now housing some minor public museums, have been cleaned up, and stocked with generic material relating to the older life of the area, severed from any connection with previous life in those places. Islamic art (often presented as a whole) and ancient archaeological heritage are the two pillars of this phenomenon, which aims to

attract global tourism, to be built *ex novo* in an area without previous traditions of museum attendance, and to create a feeling of shared pride within each of the Gulf States. Heritage and the history of the nation are part of soft power strategies of cohesion entailing creation and projection of “desired histories” (Erskine Loftus 2016, p. 1).

There are no museums specifically dedicated to history alone. However, recent studies have pointed at the presence of historical narratives in national museums as well as the different relations between history, heritage and museum philosophy in each of the Gulf States. Devotion to the Saudi authorities and reverence for Islam are crucial pillars of the Saudi Arabia National Museum. Islam is the thread that unifies and gives sense to the whole narrative. The museum tells the history of the first and second Saudi states and celebrates King ‘Abd al-‘Aziz. However, the focus is less on the creation of the modern state than on the process of transformation of the territory which is now Saudi Arabia, whose millenarian history is presented as a whole (Casola 2016, p. 188). The importance of Saudi Arabia and the deference shown to it by other Gulf States is so strong that the Museum of Islamic Art in Abu Dhabi went so far as to remove portraits of Ibrahim Pasha who notoriously defeated the Saudis, for fear that this “sensitive” object might disturb Saudi visitors.

The construction of new national citizenries is patently an attempt to fill the void due both to the lack of tradition of statehood, and to the recent disappearance of local values and culture. History, however, is lacking. The nomadic lifestyle of earlier tribes, their tradition of pearl-diving and fishing, and the strong maritime connections found in a port city like Sharjah would be completely unrepresented, if not for a new oral history project based on interviewing 80–90-year-old men (apparently not women). Concern about standardization of the varied cultures of the Gulf area has already been expressed (Schwarzer et al. 2013).

The master narrative of the National Museum of Bahrein, firmly directed by the Minister of Culture and Information, does not trace the origin of the state to independence from the British (1971) but goes back to the oldest civilizations supported by archaeological evidence in the area. Focusing on the Dilmun civilization (2300–330 BC), the Tylos era (330 BC to AD 630) and the later Islamic civilization, the museum claims that Bahrein has had an uninterrupted heritage for more than 7000 years (Jeong 2016, p. 164). Thus the master narrative is underpinned by myth, and on the other hand excludes all memory of the tribal society and the recent history of the complex transformation of power taking place in the last few decades.

Bahrain is presented as one of the earliest areas to accept Islam as its official state religion in response to a letter from Prophet Muhammad (AD 626) addressed to the ruler of the time. The general message is that Islam is the thread that connects the entire history of the country. The whole narrative “aims to dispel the fallacy that Bahrein is a young state or a modern invented

petro-state” (Jeong 2016, p. 171). For more recent years, the state-centered narrative emphasizes the continuity of the ruling Al Kalifa family, whereas no attention is given to the lower strata of the population. The life of the lower classes is only represented in an ethnology hall focusing on birth, childhood, traditional games, pearling, the souq and festivities.

In short, this is a somewhat facile model followed in many newer post-colonial national or ethnological museums in Africa, and also in Asia.

CONCLUSIONS: NEW TRENDS, MORE HISTORY AND MORE CONFLICTS

As for the thematic approach, the last two decades have seen the rise of a new genre in history museums, whether private, NGO-owned or state-sponsored: the museum of victimization and suffering. At the origin of this new pattern, which is spreading almost everywhere, were the museums of the Holocaust—in Israel (Yad Vashem; now followed up by the Holocaust History Museum also at Yad Vashem, 2015) and also in other countries—which focus on persecution, genocide, loss and mourning.

In the United States the much-debated New York 9/11 memorial museum also belongs to this genre, inasmuch as it focuses on the traumatic remains and the mourning of the victims. In Asia, the genre is gaining ground in countries such as China. The Nanjing Massacre Memorial Hall significantly shifts the narrative from the glorious martyrs and the success of the revolution still typical of the post-Mao period (Varutti 2014; Denton 2014) and counterbalances the narrative of progress present in cultural museums or in museums devoted to key factors of the Chinese economy and trade over time, or the traditional national narrative of the new history museums established in Hong Kong and Macao after their return to China (Law 2014).

In 2008 an article significantly titled, “The End of History Museums? What’s Plan B?” (Carson 2008), echoed anxieties already surfacing in the daily press. A crisis in the sector has indeed been detected especially in the United States, where the undue number of such museums and the decrease in ticket-paying visitors have created problems for many institutions, whether private or state-sponsored.

In Eastern Europe, 25 years after the fall of the Berlin wall, this kind of anxiety does not seem to be felt, since renovation and creation of history museums started up again. Latvia and Lithuania have started programs to recreate national identity as a response to previous Sovietization (Apor 2014, p. 57). It will be interesting to see how this issue will emerge in relation to the new National Museum in Tartu opened in 2016.

Nationalism has re-emerged not only as a counter-narrative to communism in post-communist countries (Lozic 2011, p. 151; Mazan 2011, p. 668). Both the national museum of Scotland (Clarke 2012) or the Catalanian museum in Barcelona present the nation as something that has always existed,

rooted in both the soil and ethnicity. Interwoven with this political criterion is a more expressly commercial motive: the need to present a national “brand” for touristic and commercial reasons is present both in Eastern and Western European countries. The same probably holds true of the quite recent Museum of Scotland, the Museum of National History in Reykjavik and the Museum of Wales (Mason 2011).

In Europe, a new interest in history is appearing. The Museum of National Antiquities of Sweden—where between the 1940s and 2002 innovation had been extremely limited—in 2010 changed its name into The National Historical Museum. It aimed to “give the public what they wanted, a neatly and chronologically structured exhibition ... that told the story of how the nation came into being and how the Swedes became what they are” (Hergardt 2012, p. 503).

The shift from culture to history (still so difficult to realize in African museums) has been a distinctive character of some major museums elsewhere in the world. The Ottawa Museum of Canadian Civilization used to mirror the history of the country by splitting it into two distinct floors representing, respectively, the First Nations and the settlers. Now, the process leading to the creation of the new museum significantly renamed as the Museum of Canadian history is characterized by an intense national dialogue through consultation of many different groups, and the First Nations have voice in a debate that used to be limited to the white settlers. Political correctness with regard to race and gender issues, and attention to the great trauma of the destruction of the First Nations were the guidelines. The fear of one-sidedness suggested that the members of the advisory committees should be chosen in order to represent different, sometimes even competing, views on Canadian history. In the context of state-sponsored history museums of Canada one should also remember that, at least in one particular case, African-Canadians joined the federal agency Parks Canada to create one of Parks Canada’s first exhibitions on the country’s black history (Ashley 2011).

In 1994, Sofia Correa Sintil, then the new director of the National Historical Museum in Chile proposed an “overhaul of the museum’s entire exhibition,” and “argued that the exhibition halls should provide a forum for debate by including multiple interpretations of historical events and a plurality of historical actors” (Crow 2009, p. 116), attempting to include the indigenous people, in this case the Mapuche. This trend may also be noticed in the New Zealand Museum *Te Papa Tongarewa*, opened in 1998 in the nation’s capital, Wellington. It was presented as the museum of the nation and for the nation, and has played a considerable role in reconfiguring the nation’s heritage in the context of biculturalism (Dyson 2005). The same goes for the National Museum of Australia (see the Chap. 23 by Christian Wicke and Ben Wellings in this volume): in its early exhibitions, the approach was extremely paternalistic (Trinca 2007); the killing, the forced displacement of Aborigines and the kidnapping of their children in order to raise them in brutal

educational institutions were completely glossed over. Things are changing now, and criticism of state-sponsored museums' representation of Aboriginal people lay behind a broad discussion that entailed a change of perspective, and ultimately more heed for the Aboriginals' negotiation for rights.

A profound change of perspective, although in different proportions and terms, is also affecting some of the earlier European colonial museums such as the Royal Museum for Central Africa in Tervuren (Belgium), which was closed in 2013 for renovation. In Paris a heavily charged space once devoted to celebration of colonial possession (and oppression), namely *Le Palais de la porte dorée*, hosts new institutions that open their premises to the *objets-témoins* of immigrants (but are silent about the former French colonies and the Algerian war).

In the last few years, state-sponsored projects for history museums have taken part in "history wars," and have generated heated debates in the public sphere, especially in Europe. The protest against former French president Nicolas Sarkozy's project to build a national history museum (which was to focus on the old perspective of the ethnic nation and disregard the multiethnic society) was so vocal that the project was abandoned. In The Netherlands, in Italy, and in Spain similar projects have also failed (Porciani 2012a, b, 2014).

The planned Gdansk World War II public museum is intended to become one of the largest museums on this issue, covering a surface of 5000 square meters at a cost of approximately 448 million zlotys (a little less than the proposed new museum for the history of Poland) and designed to be an important voice on the topic, including, as it does, a prominent international scientific advisory board. It is a museum of war, but not a military museum, because it aims to include issues such as the impact of the war on civilians, forced labor, and the setting of Poland's historical experience in the wider European and international context. In April 2016 the new minister of culture and national heritage, Piotr Gliński, abruptly proposed merging the new museum with the one in Westerplatte, in practice dramatically reducing the focus to Poland in 1939. What he is asking will reduce its scope from the comparative museum imagined by a large scientific board to a purely national and probably much less critical one. Historians from all over the world have expressed their support for the museum's director, Pawel Machcewicz, and the "affaire" is making the headlines. Once more, a museum is acting as a catalyst to a crucial issue for our societies, especially in states where authoritarian leanings might put democracy at risk. In this case it is the full state-sponsorship that makes the museum more vulnerable and totally dependent on public money and governmental support.

In recent years, especially in cases of authoritarian governments, a mixed partnership has proved to bolster the strength and independence of the scientific board, because clearly museums that are not totally dependent on state money and government decisions will be less vulnerable. This, for instance, is the case of the Polin, the Polish Jewish museum, which is financed by public

but also by private funding, and has a board that reflects this joint venture and is therefore able to act as a watchdog over the scientific independence of the institution. Another case in point, referring to quite a different area and situation, could be the *Parque de la Memoria* in Buenos Aires, initiated in 2009 by public authorities (the city council) and financed by a partnership of a private organization for human rights, the city government and the University of Buenos Aires. Once again, it is precisely this status that makes it independent of the changing orientations of governments.

It has been claimed that the past is too important to be left to the private sector. However, and almost paradoxically, in some cases it is public-private sponsorship that guarantees the independence of museums designed to serve the country.

Ultimately, what really counts is the scientific independence of such institutions and their ability not to act in a partisan way. The director of the Gdansk museum clearly stated that the museum's mission is a public service and the museum is "a national good that serves the country and not any particular milieu, political party, or government."⁴ These words' emphasis on history museums as a "public good" seems to be an apt conclusion for this chapter.

NOTES

1. This, for example, happened in Canada where the Museum of Civilization and the Canadian Museum of Science and Technology stemmed from former Prime Minister Pierre Trudeau's wish to enhance pride in the national culture and thus to compete with the French-Canadian independence movement.
2. *Museum Survey* 2000; <https://www.imls.gov/assets/1/AssetManager/MuseumPublicFinance.pdf> October 2016.
3. *Ibid.*: 90.
4. <http://www.usnews.com/news/entertainment/articles/2016-04-24/polish-leaders-threaten-fate-of-nearly-finished-wwii-museum>.

REFERENCES

- Anderson, B. (1983) *Imagined Communities* (London: Verso).
- Apor, P. (2014) 'An Epistemology of the Spectacle? Arcane knowledge, memory and evidence in the Budapest House of Terror', *Rethinking History*, 18(3), 328–344.
- Aronsson, P. and Elgenius, G. (eds.) (2011) *Building national Museums in Europe 1750–2010. Conference proceedings from EuNaMus, European National Museums. Identity Politics, the Uses of the Past and the European Citizen* (Linköping: Linköping University Electronic Press).
- Aronsson, P. and Elgenius, G. (eds.) (2014) *National Museums and Nation-Building in Europe 1750–2010. Mobilization and Legitimacy, Continuity and Change* (London: Routledge).
- Ashley, S. (2011) 'Negotiating Narratives of Canada. Circuit of Communication Analysis of the Next Stop Freedom Exhibition', *Journal of Canadian Studies/Revue d'études canadiennes*, 45(2), 182–203.

- Basso Peressut, L., Lanz, F., and Postiglione, G. (2013) *European Museums of the 21st century. Setting the Framework III* (Milan: Politecnico di Milano).
- Bennett, T. (1995) *The Birth of the Museum. History, Theory, Politics* (London: Routledge).
- Bennett, T. (2009) 'Museum, field, colony. Colonial governmentality and the circulation of reference', *Journal of Cultural Economy*, 2(1–2), 99–116.
- Benoit, I. (2001) *Politique de mémoire. Les musées d'histoire Français et Allemands 1945–1995* (PhD Thesis, Florence: European University Institute).
- Bentz, E. and Raffler, M. (2011) 'National Museums in Austria' in P. Aronsson and G. Elgenius, (eds.), *Building National Museums in Europe 1750–2010* (Linköping: Linköping University Electronic Press), pp. 21–46.
- Berger, S. (2015) *The Past as History. National Identity and Historical Consciousness in Modern Europe* (Basingstoke: Palgrave Macmillan).
- Berger, S. and Lorenz, C. (eds.) (2008) *The Contested Nation. Ethnicity, Class, Religion and Gender in National Histories* (Basingstoke: Palgrave Macmillan).
- Bertolotti, M. (2012) 'Fare gli italiani. 150 anni in mostra', *Passato e Presente*, 86, 95–106.
- Bodenstein, F. (2011) 'National Museums in Belgium' in P. Aronsson and G. Elgenius, (eds.), *Building National Museums in Europe 1750–2010* (Linköping: Linköping University Electronic Press), pp. 47–68.
- Boswell, D. and Evans, J. (1999) *Representing the Nation. A Reader. Histories, Heritage and Museums* (London: Routledge).
- Bounia, A. and Stylianou-Lambert, T. (2011) 'National museums in Cyprus. A story of heritage and conflict' in P. Aronsson and G. Elgenius, (eds.), *Building National Museums in Europe 1750–2010* (Linköping: Linköping University Electronic Press), pp. 165–202.
- Carson, C. (2008) 'The End of History Museums. What's Plan B?' *The Public Historian*, 30(4), 9–27.
- Cassola, V. (2016), 'The Saudi Arabia National Museum. Unexpected collections and narratives?' in P. Erskine-Loftus, M. I. Al-Mulla and V. Hightower (eds.) *Representing the Nation. Heritage, Museums, National Narratives, and Identity in the Arab Gulf States* (London: Routledge), pp. 175–190.
- Chu, C. (2014) 'Political change and the national museum in Taiwan' in S. Knell et al. (eds.) *National museums. New studies from around the world* (London: Routledge), pp. 180–192.
- Clarke, A. (2012) 'From Royal to National: The changing face of the National Museum of Scotland' in D. Poulot, F. Bodenstein and J. M. Lanzarote Guiral (eds.) *Great Narratives of the Past Traditions and Revisions in National Museums. Conference proceedings from EuNaMus, European National Museums: Identity Politics, the Uses of the Past and the European Citizen*, (Linköping University Electronic Press), pp. 169–178.
- Cleveland, K. (2012) 'The Art of Memory. Sao Paulo AfroBrazil Museum' in A. L. Araujo (ed.) *Politics of Memory. Making Slavery Visible in the Public Space* (London: Routledge), pp. 197–212.
- Crow, J. (2009) 'Narrating the nation. Chile's Museo Histórico Nacional', *National Identities*, 11(2), 109–126.
- Denton, K. A. (2014) *Exhibiting the Past. Historical Memory and the Politics of Museums in Postsocialist China* (Honolulu: University of Hawai'i Press).

- Durandin, C. (ed.) (2004) *Perspectives roumaines. Du postcommunisme à l'intégration européenne* (Paris: L'Harmattan).
- Dyson, L., (2005) 'Reinventing the Nation. British Heritage and the Bicultural Settlement in New Zealand', in J. Littler and R. Naidoo (eds.) *The Politics of Heritage the legacies of 'race'* (London: Routledge), pp. 115–129.
- Engelhardt, I. (2002) *A Topography of Memory. Representations of the Holocaust at Dachau and Buchenwald in Comparison with Auschwitz, Yad Vashem and Washington, DC* (Brussels: Peter Lang).
- Erskine-Loftus, P. (ed.) (2013) *Reimagining museums. Practice in the Arabian Peninsula* (Edinburgh: Museums Etc).
- Eisler, C. (2015) *Verwaltete Erinnerung-symbolische Politik. Die Heimatsammlungen der deutschen Flüchtlinge, Vertriebenen und Aussiedler* (München: Oldenburg-de Gruyter).
- Fawcett, S. K. (2006) 'Presidential libraries. A view from the center', *The Public Historian*, 28(3), 13–36.
- Gauge, A. (1997) *Les états africains et leurs musées. La mise en scène de la nation* (Paris: L'Harmattan).
- Grant, S. (2004) 'The National Policy on Museum Development', *Botswana Notes and Records*, 36, 160–169.
- Greene, M. L. (2006) 'The Historical Narrative and Taiwan Identity: State Sponsored Historical Enterprise in Taiwan in the 1950s and 1960s', *The Chinese Historical Review*, 13(1), 78–91.
- Hergardt, J. (2012) 'Narrating a (New) Nation? Temporary exhibitions at the Museum of National Antiquities in Stockholm, Sweden between 1990 and 2009' in D. Poulot, F. Bodenstein and J. M. Lanzarote Guiral (eds.) *Great Narratives of the Past. Traditions and Revisions in National Museums* (Linköping University Electronic Press), pp. 489–504.
- Hufbauer, B. (2005) *Presidential Temples. How Memorials and Libraries shape Public Memory* (Lawrence: University Press of Kansas).
- Hugues, L. (2014) 'The Production and Transmission of National History. Some Problems and Challenges' in A. E. Coombes, L. Hugues and K. Munene *Managing Heritage, Making Peace. History, Identity and Memory in contemporary Kenya* (London: I. B. Tauris), pp. 185–226.
- Jeong, H. W. (2016) 'National Identity and Performativity at Bahrain National Museum' in P. Erskine-Loftus, M. I. Al-Mulla and V. Hightower (eds.) *Representing the Nation: Heritage, Museums, National Narratives, and Identity in the Arab Gulf States* (London: Routledge), pp. 162–174.
- Law, K. (2014) 'The red line over European colonialism. Comparison of the Macao Museum and Hong Kong Museum of History after their return to China', *International Journal of Heritage Studies*, 20(5), 534–555.
- Krugler, J. D. (1991) 'Behind the Public Presentations. Research and Scholarship at Living History Museums of Early America', *The William and Mary Quarterly: A Magazine of Early American History and Culture*, 48(3), 347–386.
- Laishun, A. (2016) 'The Chinese Museum. Transformation and Change through Ethics Construction' in B. L. Murphy (ed.) *Museums, Ethics and Cultural Heritage* (Abingdon: Routledge), pp. 173–180.
- Longair, S., (2015) *Cracks in the Dome. Fractured Histories of Empire in the Zanzibar Museum, 1897–1964* (Farnham, Surrey: Ashgate Publishing Limited).

- Lozic, V. (2011) 'National Museums in Bosnia-Herzegovina and Slovenia: A Story of Making 'Us'' in Aronsson, P. and Elgenius, G. (eds.) (2011) *Building national Museums in Europe 1750–2010. Conference proceedings from EuNaMus, European National Museums. Identity Politics, the Uses of the Past and the European Citizen* (Linköping: Linköping University Electronic Press), pp. 69–96.
- Mason, R. (2011) 'Representing Wales at the Museum of Welsh Life' in S. J. Knell et al. (eds.) *National Museums. New Studies from Around the World* (New York: Routledge), pp. 247–271.
- Mawere, M., Chiwaura H. and Panganayi Thondhlana, T. (eds.) (2015) *African Museums in the Making. Reflections on the Politics of Material and Public Culture in Zimbabwe* (Mankon: Langaa Research and Publishing).
- Mazan, K. (2011) 'National Museums in Poland', in Aronsson, P. and Elgenius, G. (eds.) (2011) *Building National Museums in Europe 1750–2010. Conference Proceedings from EuNaMus, European National Museums. Identity Politics, the Uses of the Past and the European Citizen* (Linköping: Linköping University Electronic Press), pp. 667–687.
- Murgescu B. (2010) 'Romania' in I. Porciani and L. Raphael (eds.) *Atlas of European Historiography. The Making of a Profession 1800–2005* (Basingstoke: Palgrave Macmillan), pp. 98–100.
- Olsen, J.-B. (2015) *Tailoring Truth. Politicizing the Past and Negotiating Memory in East Germany, 1945–1990* (New York–Oxford: Berghahn).
- Parsons, N. (2006) 'Unravelling History and Cultural Heritage in Botswana', *Journal of Southern African Studies*, 32(4), 667–682.
- Parusheva, D. (2010) 'Bulgaria' in I. Porciani and L. Raphael (eds.) *Atlas of European Historiography. The Making of a Profession 1800–2005* (Basingstoke: Palgrave Macmillan), pp. 95–96.
- Petkova-Campbell, G. (2009) *A place in Europe. Bulgaria and its museums in 'new' Europe* (Oxford: Archaeopress).
- Phillips, K. K. (2006) *A Museum for the Nation. Publics and Politics at the National Museum of India* (dissertation Graduate School of Minnesota).
- Porciani, I. (2012a) 'Nations on Display. History Museums in Europe' in I. Porciani and J. Tollebeek (eds.) *Setting the Standards. Institutions, Networks and Communities of National Histoigraphy* (Basingstoke: Palgrave Macmillan), pp. 130–150.
- Porciani, I. (2012b) *History Museums and the Making of Citizens and Communities* in P. Aronsson and G. Elgenius, *National Museums and Nation-building in Europe, 1750–2010: Mobilization and Legitimacy, Continuity and Change*, (Milton Park: Routledge), pp. 119–141.
- Porciani, I. and Raphael, L. (eds.) (2010) *Atlas of European Historiography. The Making of a Profession 1800–2005* (Basingstoke: Palgrave Macmillan).
- Poulot, D., Bodenstein F. and Lanzarote Guiral, J. M. (eds.) (2011) *Great Narratives of the Past. Traditions and Revisions in National Museums. Conference Proceedings from EuNaMus, European National Museums: Identity Politics, the Uses of the Past and the European Citizen* (Linköping University Electronic Press).
- Raychaudhuri, A. (2012) 'Demanding the impossible. Exploring the Possibilities of a National Partition Museum in India', *Social Semiotics*, 22(2), 173–186.
- Roychowdhury, M. (2015) *Displaying India's Heritage. Archaeology and the Museum Movement in Colonial India* (New Delhi: Orient Black Swan).

- Roychowdhury, M. (2009) 'Locality, Province and the Nation. The Museum Story in India', *Calcutta Historical Journal*, 29(1/2), 7–36.
- Schwarzer, M., Deemas, A. and Markopoulos, L. (2013) 'Social change and the rules of the game. A conversation about museums values in the United Arab Emirates' in P. Erskine-Loftus (ed.) *Reimagining Museums. Practice in the Arabian Peninsula* (Edinburgh: Museums Etc), pp. 204–234.
- Selenis, V. (2010) 'Estonia' in I. Porciani and L. Raphael (eds.) *Atlas of European Historiography. The Making of a Profession 1800–2005* (Basingstoke: Palgrave Macmillan), pp. 80–81.
- Sodaro, A. (2011) 'Politics of the past. Remembering the Rwandan genocide at the Kigali Memorial Centre' in E. Lehrer, C. E. Milton, M. E. Patterson (eds.) *Curating difficult knowledge. Violent Pasts in Public Places* (London: Palgrave Macmillan), pp. 72–88.
- Starn, R. (2005) 'A historian's brief guide to new museum studies', *The American Historical Review*, 110(1), 68–98.
- Trinca, M. (2007) 'The national Museum of Australia' in H. M. Hinz and R. Beier-de Haan (eds.) *Nationalmuseen. Gedächtnis der Nationen. National Museums. The Memory of Nations* (Berlin, DMH), pp. 89–100.
- Vargas Álvarez, S. (2016) 'Resemantizing Independence and Reflecting on Citizenry. The Renovation Project of the Museo de la Independencia Casa del Florero', *Anuario de Historia Regional y de las Fronteras*, 21(2), 75–100.
- Varutti, M. (2014) *Museums in China. The Politics of Representation After Mao*, (Newcastle: Boydell and Brewer).
- von Klimó, A. (2007) 'Helden, Völker, Freiheitskämpfer. Zur Ästhetik stalinistischer Geschichtsschreibung in der Sowjetunion, der Volksrepublik Ungars und der DDR' *Storia della Storiografia*, 52, 83–112.
- Wieviorka, A. (2003) 'Le jour où l'on a découvert les camps de la mort. Exposition' *Histoire*, 275, 23–24.
- Zadora, A. (2010) 'Belarus' in I. Porciani and L. Raphael (eds.) *Atlas of European Historiography. The Making of a Profession 1800–2005* (Basingstoke: Palgrave Macmillan), pp. 85–87.

RECOMMENDED READINGS

- Aronsson, P. and Elgenius, G. (eds.) (2011) *Building national Museums in Europe 1750–2010. Conference proceedings from EuNaMus, European National Museums. Identity Politics, the Uses of the Past and the European Citizen* (Linköping: Linköping University Electronic Press).
- Basso Peressut, L., Lanz, F., and Postiglione, G. (2013) *European Museums of the 21st century. Setting the Framework III* (Milan: Politecnico di Milano).
- Denton, K. A. (2014) *Exhibiting the Past. Historical Memory and the Politics of Museums in Postsocialist China* (Honolulu: University of Hawai'i Press).
- Poulot, D., Bodenstein F. and Lanzarote Guiral, J. M. (eds.) (2012) *Great Narratives of the Past. Traditions and Revisions in National Museums. Conference proceedings from EuNaMus, European National Museums: Identity Politics, the Uses of the Past and the European Citizen* (Linköping University Electronic Press).

“State-Supported History” at the Local Level: *Ostdeutsche Heimatstuben* and Expellee Museums in West Germany

Cornelia Eisler

In a novel entitled *The Heritage* (in German: *Heimatmuseum*, 1978), Siegfried Lenz vividly described the flight of museum curator Zygmunt Rogalla from East Prussia to Schleswig-Holstein at the end of the Second World War.¹ Soon after his arrival in Northern Germany, Rogalla established a place to commemorate his former *Heimat* in Eastern Europe: the village of Lucknow. Among other artifacts, his new museum presented official documents, archaeological finds, weaponry, rugs, and toys, as well as a glossary of the Mazurian dialect. When a few years later he realized that members of the expellee organization, among them local National Socialists, intended to exploit the heritage for revisionist and nationalistic purposes, he destroyed his museum by setting fire to the building (Lenz 1978). Equivalents to Lenz’s fictitious heritage site continue to exist today. More than 500 museums related to villages, towns, and regions in Eastern and East Central Europe were founded in Germany after 1945. They constitute a specific type of museum in the Federal Republic of Germany known as *Ostdeutsche Heimatstuben*. The founders, German-speaking refugees and expellees, were passionate about finding objects and fragments of material culture related to their homeland (in German *Heimat*). They considered these relics to be essential, because of their territorial reference to lost municipalities and regions in Eastern and East Central Europe, their alleged demonstration of the Germanness

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of the newcomers from Eastern Europe, and the emotional value refugees and expellees had attached to them. As a result, collections of diverse objects of everyday life built up in the *Ostdeutschen Heimatstuben*, which served both as small homeland museums and as meeting places for refugees and expellees. Extensively visited during annual or bi-annual homeland gatherings in the 1950s, *Heimatstuben* enhanced a sense of belonging and consolation, in essence fostering the formation of “emotional communities” (Rosenwein 2002), because they offered a space and material culture that unified the people in their mourning of the lost homeland. And yet the question arises: why did this phenomenon expand and continue for several decades, showing similar patterns all over West Germany? As findings of a research project suggest, a unifying policy at the national level provided the basis for the museums’ dissemination, their trend to uniformity, and the phenomenon’s durability. This chapter presents the results of the project that aimed at investigating the historical and political context with respect to the formation of the expellee museums focusing on their function, concepts, perception, and the various narratives they offer (Eisler 2015). In the early stages of the research, priority was given to cultural aspects at the local and regional level by considering the records of the expellee organizations, local administrations, and interviews with refugees and expellees responsible for the museums. However, a few months into the investigation, the records of the Ministry of Expellee Affairs, the Ministry of Interior, and the Ministry for All-German Questions in the Federal Archives revealed that issues concerning the expellee museums in Germany were negotiated at higher government levels. As a result, it seemed inevitable to broaden the field and combine perspectives of political anthropology with approaches that memory studies, museum studies, and material culture studies as well as the concepts of identity formation and “situated ethnicity” provide at the microlevel in order to examine the phenomenon of *Heimatstuben* in relation to West German cultural policy.

THE FORMATION OF THE *OSTDEUTSCHEN HEIMATSTUBEN*

The term *Heimatstuben* developed at the beginning of the twentieth century within a widespread movement to “protect” the German homeland especially the borderlands (Ditt 1990). Much as in the sense of Alon Confino (1997) “[n]ation as a local metaphor,” the term referred to small local historical collections in villages that, regardless of their size, served as representations of national identity. After the Second World War, expellee organizations such as the homeland societies (*Landsmannschaften*) and the League of Expellees (*Bund der Vertriebenen*) revived the concept, using *Ostdeutsche Heimatstuben* as the umbrella term for their special memorial spaces within West Germany. The attribute *ostdeutsch*, “eastern German,” did not imply the territory of the former GDR, but comprised areas where Germans had settled in East Central and Eastern Europe before the First World War, the so-called “regions

of expulsion." This notion apparently derived from the Federal Expellee Law (1953, p. 203), which acknowledged as "homeland expellees" (*Heimatvertriebene*) not only the inhabitants of the former territories of the German Reich within the borders of 1937, but also the German-speaking people from "the entirety of regions that belonged to the German Reich or to Austria-Hungary" in January 1914. Thus, people were being accepted as expellees in West Germany, who obtained German citizenship not before their regional homeland was annexed by the national socialist government (e.g., the so-called "*Sudetenland*" at the end of the 1930s) and people who never did (such as German-speaking residents from Romania).

In the 1940s and at the beginning of the 1950s—a time that saw rising tensions between the resident population and the newcomers in Germany as described by Schraut (2000)—several politicians, members of the refugee administrations, and activists intended to improve the relationship between both groups by actively promoting the integration of refugees into West German society (Connor 2007). In co-operation with expellee functionaries, public authorities began to propagate a substantial register of integration measures nationwide and at all governmental levels. These were mainly provided by expellee-driven cultural policy. Historians and folklorists, mostly expellees or refugees themselves, advised them with regard to the support of the newcomers. Among other things, their recommendations included *Ostdeutsche Heimatstuben* and *Patenschaften* ("godfatherly sponsorship") provided by municipalities and federal states for former Eastern European communities. As the historian Andrew Demshuk (2014, p. 225) clarifies, "in contrast to a town or city twinning (*Partnerschaft*), forged between two real localities in distinct countries to further transnational ties and understanding, the postwar *Patenschaft* expressed a West German city or region's bond with a group of ethnic Germans expelled from an area now governed by a non-German Communist regime in Eastern Europe." Local, regional, federal, and national administrations in West Germany implemented a variety of those integration measures as part of their cultural support.

Officially, the homeland societies agreed and participated, although only a few representatives had accepted that the newcomers would stay permanently in West Germany, inasmuch as this would counteract their territorial revisionist aims towards Eastern European states. Julius Isaac, at that time serving as migration expert from the London School of Economics, had noticed an increasing opposition against assimilation and integration measures among expellee groups already in 1948 (Isaac 1950). Indeed, the majority of functionaries feared that well-integrated refugees and expellees would weaken their call for return to Eastern Europe and for the reunification of all parts of the former German state within the borders of 1937. Therefore, they accepted integration measures as a temporary means to consolidate their influence, but developed a rather different long-term strategy. Even though the expellee organizations operated as nongovernmental institutions, their

functionaries took positions of influence in the Federal Council of Germany, German Parliament, and administrative divisions at all levels. Their leaders participated in the legislation process and were deeply involved in drafting the above-mentioned Federal Expellee Law of 1953. Accordingly, the historian Karin Pohl (2009, p. 319) argues that the law has been the result of policy-making by expellees for expellees. At the national level, the law defined the legal status of German refugees and expellees, the guiding principles for their treatment as well as their special rights, benefits, and economic support, for example, tax incentives and social security.

Initially, the policymakers neglected a specific cultural support, but while consulting the Federal Council, Theodor Oberländer, the Bavarian state secretary for refugees at that time, proposed to add a cultural section in the draft of 1953. Oberländer, however, is regarded as a highly controversial figure: a member of the Nazi Party, he had been an *Ostforscher* (a researcher specialized in the East) and “expert for Eastern Europe” in the German Army until 1943. Ten years later he became federal minister for displaced persons, refugees, and victims of war (see Schröder 2007; see also Wachs 2008). He pursued his own agenda by proposing the cultural paragraph, which “promised support for spreading awareness of eastern German culture among expellees, western Germans and abroad, with special emphasis on initiatives to ‘secure, expand and utilize archives, museums and libraries, as well as support and ensure the creation of art and education’” (Demshuk 2014, p. 230, cited and translated a version of the paragraph from 1957; for the German original see: BVFG 1957, p. 1213). Instead of forming a new German national identity, Oberländer together with leaders of the homeland societies sought to foster newly arrived refugees’ self-awareness in order to separate them from West Germans. Along the quasi-ethnic lines of the homeland societies, they intended to cultivate various forms of distinctiveness and to establish identity-group categories. The homeland societies themselves constituted the result of an ethnicized group-formation process (see Holst 2015 for the concept of ethnicization). This strategy of cultural and ethnic differentiation provided the basis for a so-called *Recht auf die Heimat*, the “right” to territorial restitution and physical “return home” (“Heimkehr”; Demshuk 2014, p. 227). Hence, by forging “political ethnicities,” they strove to use ethnicity as a political and social resource.

The majority of West German officials and politicians apparently did not intervene, but agreed with these demands for various reasons. A primary fact may well be that many Germans approved of the political revisionist statements during the early years of the post-war period. Secondly, West German party members and politicians were motivated to establish a wide voter base, for which they were willing to make concessions to the expellee organizations (see Ahonen 2014, p. 609). But also the newly established rival political systems of the two Germanys furthered the development. Assimilation and integration of refugees, as the historian Volker Ackermann (1990, p. 18)

emphasizes, became synonymous with the concept of the former Soviet occupation zone, the GDR, as ideological opponent. Therefore, West German representatives began to distance themselves from the communist regime by supporting the autonomy of the various groups from Eastern Europe and thus relating refugee politics and policies with Cold War issues (see also Margalit 2010, p. 189).

Based on the cultural paragraph of the Federal Expellee Law, the *Ostdeutschen Heimatstuben* became part of the public obligation to preserve the cultural heritage of the refugees and expellees. After the law was enacted, the federal government and most of the federal states provided financial support and numerous municipalities allocated premises for the museums free of charge. However, at the same time the expected arrangements in the *Ostdeutschen Heimatstuben* posed a paradoxical challenge. They should first prove the "Germanness" of the newcomers for the initial purpose of integration and in order to legitimate claims for territory and border revisions they were likewise intended to provide evidence for the "German cultural achievements" in Eastern and East Central Europe. Secondly and simultaneously though, with the intention of strengthening the case against integration, but for return, the museums were to accentuate regional characteristics, for instance, particular clothing or different dialects, thereby fostering the idea of Eastern Germans' otherness in relation to West Germans. This approach, at first glance seemingly inconsistent, precisely reflects "the historically grounded inclination of Germans to seek the key to their national identity in the multiplicity of their provincial origins" that Celia Applegate (1990, p. 245) ascertains in her diachronic study about national belonging in southwest Germany. *Ostdeutsche Heimatstuben* therefore, became both the last sanctuary for private memorabilia of the lost homeland, illustrating it and its people in a nostalgic, quite picturesque manner, and a political repository for evidence of the "German" character of the lost regions. Corresponding with the actual goal that Oberländer pursued by implementing the cultural paragraph, they transformed, over a longer period of time, into symbolic statements for the political right of return and German reunification. Thus, the museums' history exemplifies how cultural issues can become an intrinsic part of politics.

GERMANDOM AND "GERMAN CULTURAL ACHIEVEMENTS"?

The people in charge of the *Ostdeutschen Heimatstuben* dealing with these political demands developed specific patterns for their presentations. Publications and meeting reports in archives indicate that the custodians oftentimes consulted not just spokespeople of expellee organizations, but historians and folklorists (*Ostforscher*) for guidance. These advised them repeatedly to collect everything that could substantiate "German achievements" and "German everyday life" in the Eastern territories, furthering a disproportionate

focus on Germandom, all reminiscent of the “ethnic struggle” in the interwar period (Eisler 2015, pp. 357–359, 505). To a certain extent national socialist and racist paradigms for exclusionary practice continued just as well after the war. Many West Germans refused to accept the declassed majority of expellees and refugees as Germans.

Consequently, the latter represented themselves even more as being part of the “German *Volk*,” thereby “forgetting” about their former neighbors of different ethnicity, nationality, or religion, a phenomenon that the historian Jutta Faehndrich (2010, p. 234) also observes in her study about *Heimat* books of expellees and refugees. *Heimat* books and museums both give the misleading impression that “exclusive” German settlements in Eastern Europe had existed and were lost due to flight and expulsion. This misconception partly derived from the inventive historiography that specialists in German studies and folklorists had established about the linguistic enclaves (*Sprachinseln*) of the Eastern territories since the nineteenth century. Explorers and scholars were searching for the inhabitants’ German roots, assuming that villages and provincial towns with a majority of German-speaking residents, often situated in the former Austrian-Hungarian monarchy or in Russia, had served as guardians for “original” German tradition. The thesis that Germandom “may be found in the relics of the linguistic enclaves [...] continued to be cited. [...] By assuming that traditions were preserved faithfully abroad one could argue that the home country—even after centuries of absence—was still the proper *Heimat*” (Köstlin 1990, p. 3. [Translation C.E.]). According to Gerhard Seewann (1992, p. 144), a historian of Southeastern Europe, the *völkisch* (racial) “concept of being a component and outpost of the German people has been the ideological justification for ethno-nationalistic movements and their politicians, drawing upon a usable past” throughout the first half of the twentieth century. Even though parts of the scientific community revised this biased approach during the 1950s, it remained in effect within the popular culture of remembrance.

The *Ostdeutschen Heimatstuben* present distinctive traces by depicting German-speaking settlers as “carriers of civilization and culture,” who brought “glory and richness” to the regions in the East. Settlement, cultivation, and land reclamation served as significant parts of the historical narrative, especially of Sudeten Germans and Danube Swabians, who together made up about a third of all refugees and expellees (see Reichling 1989, p. 30; another third has been Silesians and the remaining third came mainly from East and West Prussia, Pomerania, Transylvania and Danzig/Gdańsk). The German civilizing mission in Eastern Europe (see Wingfield 2005, p. 3), as a classic tenet before and after the Second World War, has still proven a widely held belief among the homeland societies in order to legitimate the return, claiming that the former German settlers’ achievements need to be preserved. As Seewann (1992, pp. 143–144) stresses, this sense of mission is founded in racial concepts, in a belief of ethnic superiority towards other

supposedly inferior ethnic groups, perpetuated by historians tied to expellee organizations.

The self-portrayal as cultural missionary has not only reflected their longing for a glorified past before leaving the Eastern territories, but has frequently been a way to establish continuity from past to present. It equally indicated the willingness of refugees and expellees to participate in Germany's rebuilding in the post-war period, a sign they have also intended to attain a better position within the oftentimes hostile West German society. Therefore, several expellee groups presented themselves as people who are able to start from scratch and contribute to a society wherever they ultimately settle down. The "German civilizing mission" served likewise as vantage point for the historical narrative of descent from a German native country or fatherland, based on tribal theories that had already been revised by academics in the 1930s. Nevertheless, West Germany was considered to be the so-called *Urheimat*, meaning original homeland, where migration processes towards Eastern Europe appeared to have started several centuries ago (Eisler 2012, pp. 115–117). Following this line of thought, the events of flight and expulsion could be interpreted as a homecoming or "return" of the people after the Second World War. Soon after the war, it seemed especially important to smooth out cultural differences, suggesting that the newcomers belonged to the same people and therefore never had been strangers. This kind of historiography was clearly exploited for what Bedřich Loewenstein (1999, p. 27 [Translation C.E.]) construes as a part of "integration ideology," when the "mythical return" is intended to "overcome the disruption" to form a new collective identity.

As a welcomed side effect, the arrival of the newcomers could be interpreted as a result of "natural" developments divorced from actual historical political cause and effect. Instead of considering the occupation regime, war crimes and atrocities by the German national socialist state and its supporters abroad, the expellee functionaries projected the question of guilt for the loss of the homeland on the foreign countries' leaders and inhabitants as well as the occupying Allied forces. This reinterpretation obscured the issue of responsibility for the war and its consequences, a tendency that the West German government in accordance with professional historians, supported during the 1950s in order to exculpate the general public (see Berger 2006, p. 213).

Both narratives of colonization and *Urheimat* fit well into the self-perception of expellee organizations to present their ancestors as innocent settlers, who were simply "caught up in the Nazi policy of expansion"² and later expelled, even though they supposedly had brought civilization to the Eastern territories. Although victim groups such as forced laborers for Nazi Germany, Sinti and Roma, homosexuals, and members of the resistance were disregarded for many years, the portrayal of refugees and expellees as victims had been widely accepted in post-war West Germany. Their collective victim status was not challenged until the late 1960s. In fact, the gradual

acknowledgment of guilt in West Germany with respect to the Holocaust in the 1970s apparently provoked a backlash within the groups of the expellee organizations (Thomanek and Niven 2001, pp. 81–82; see also Goschler 2005, pp. 126, 132f., 215). Instead of coming to terms with national socialism, organized expellees competed for attention and more than ever contrived to represent themselves as victim groups, to be acknowledged by state and society. Gilad Margalit (2010) has specified competitive forms of commemoration in Germany and with regard to expellee monuments Jeffrey Luppés (2010, p. 216) has analyzed this effect, arguing that the

[S]weeping political and social changes of the 1960s and 1970s altered discussions of guilt and victimization in West Germany and effectively marginalized the experiences of the expellee—and all other German victims—in official accounts of the past. [...] The historical counter-narrative these monuments articulate centers on German suffering and seeks acknowledgement of the expellees' plight and societal recognition of their victimization.

Beginning in the 1970s, many *Ostdeutsche Heimatstuben* changed their exhibitions by featuring a range of items symbolizing flight, evacuation, or deportation. In stark contrast to the homelike atmosphere created during the 1950s and 1960s, baggage used in flight, homemade tools, such as military items altered for civil use, and personal memorabilia from the camps found their way into the museums. Even though their influence had diminished in the 1970s and 1980s, compared to publications, movies, or TV shows on the lost territories, the museums became an element in the expellee organizations' struggle for an appropriate place in the evolving "memorial landscape" of Germany (Niven and Paver 2010, p. 4; concerning the issue of the museums' cultural influence, see Eisler 2015, pp. 171–172, 505).

DEMOCRACY AND MIGRATION ISSUES

The Ministries of Interior, of Expellee Affairs, and for All-German Questions officially supported the preservation of "eastern German culture" as a national duty, especially during the 1950s. Even though politicians were sometimes replaced in elections, the staff in government agencies usually gave continuity on national, federal states', and local levels. Administrative staff and functionaries of the expellee organizations remained well connected over long periods of time. Together with academics and politicians, they defined the *Ostdeutschen Heimatstuben* as honorary institutions solely established under great sacrifices of time and money by the people at the grassroots level, who had been dedicated to collect everything associated with their homeland and to create an atmosphere of what they believed had been lost or ought to be regained. In this respect, the people in charge of the museums felt vindicated in their cultural activities and narratives, even more so when they could claim that they were fulfilling the governments' own

statutory duties based on the cultural paragraph of the Federal Expellee Law. This interpretation gave the impression of a self-governing movement in a democratic society, yet it overlooked the prevalent nonpluralistic structures of the expellee organizations. Moreover, the organizations demanded support from West-German administrations and governments, thereby suggesting the assumed democratic approach would justify their long-term political and cultural commitment. In reverse, political consideration had been interpreted by expellee functionaries as general support to reunite Germany and to regain the lost territories. However, as Pertti Ahonen (1998, p. 48) analyzes, several politicians from various parties had already given up on reunification in the 1950s and intended to collaborate with the anti-communist West. Political stakeholders and in particular Chancellor Konrad Adenauer concealed this fact, yet intended to make official concessions to the expellee organizations in order to secure votes for general elections while also pursuing foreign policy strategies contrary to the expellees' expectations. Consequently, the cultural support for refugees and expellees, including for the *Ostdeutschen Heimatstuben*, can primarily be considered as the government's attempt to balance domestic expectations with expellee organizations' demand for influence in foreign affairs.

By the end of the 1960s and especially in the 1970s the reunification of Germany within the borders of 1937 had obviously become lip service for many politicians and irrelevant both for foreign policy and much of West German society. Expellee organizations nevertheless persisted in their viewpoint and asked for border revision, thereby isolating themselves, a development with consequences for how expellee functionaries handled expellee museums. Demanding more and separate spaces for their collections and controlling the access by their custodians, they established a manner of "proud isolation" (Gäßler 2009, p. 389). The number of visitors noticeably declined, but increasingly the locations were used as an opportunity for political retreat as the discourse of the expellee organizations drifted far more to the political far right. Due to the state's involvement and investment in the early stages, its representatives were generally hesitant to withdraw support at that time, although many of them no longer agreed with expellee organizations' political statements. In the midst of Willy Brandt's new *Ostpolitik* in the 1970s, state support for expellee organizations' cultural issues actually did not recede as it possibly should have; rather it had grown even larger. Supposedly, cultural support should compensate for the political shift in foreign affairs. (Brües 1972, p. 158). In the 1980s the growing support was accompanied by the then conservative government's renewed revisionist claims amid commemorations 40 years after the end of the Second World War (Ahonen 2014, p. 609). For Chancellor Helmut Kohl, the latter gave just as much reason to commemorate the integration of millions of German refugees and expellees in the post-war period, because it could be interpreted as a "German success story" under the government of Adenauer's Christian Democrats.

The political situation changed significantly after the revolutions of 1989 in Eastern Europe and after the German reunification. Even though one could assume that the *Heimatstuben* had lost their significance, they became part of a “counter-culture.” Certainly, they had lost their importance over the years, but some expellee functionaries continued to establish new ones because they considered them as symbols of opposition against the acceptance of Germany’s permanent eastern border along the Oder-Neisse line and the unification without the former German provinces. Moreover, the phenomenon of expellee museums expanded into new federal states including Thuringia and Saxony. Because the topic of flight and expulsion had not been as present in the GDR,³ the spokespeople sought to make up time. Although former refugees and expellees in the new Federal states welcomed the discussion and late manifestation of their specific history, the phenomenon showed little success. A few *Heimatstuben* were founded during the 1990s and 2000s, but shortly after, their initiators were awaiting the same problems already unfolding in West Germany: financial cuts and a noticeable decline in interest.

The *Heimatstuben* gradually disappeared. Meanwhile, public authorities in close cooperation with the homeland societies established new museums representing either a wider geographical scope, such as East and West Prussia, Pomerania, and Silesia or groups of ethnic German minorities from Eastern Europe, such as Danube Swabians and Transylvanian Saxons. Officially, these institutions are regarded as last resorts for the dispersed collections of the *Ost-deutschen Heimatstuben*, even though it is challenging to evaluate the material, especially with regard to the former homeland’s historical accounts. The collections first and foremost represent the material culture of remembrance in post-war West Germany. That is why West German museums and archives are prepared as well to take over the inventories of the expellees, incorporating their narratives as a national element within their historical displays of the post-war period. This tendency has coincided with the observation of a new or revitalized victims’ discourse at the end of the twentieth century. Caused to some extent by ethnic conflicts in the former Yugoslavia in the 1990s and justified by an assumed long-standing taboo about Germans as victims of the Nazi regime and the Second World War, the topic of flight and expulsion reappeared in public debates in Germany. Authors including W.G. Sebald (*Air War and Literature, On the Natural History of Destruction*) and Günter Grass (*Crabwalk*) sparked controversies about historical accounts of guilt and private memory of suffering at the turn of the millennium. Among scholars, there is reasonable concern that German victim narratives from the 1950s and 1960s will linger on (see Berger 2006; Margalit 2010, pp. 250–258, 274–288; Moeller 2003).

An indication of the long-lasting influence that the League of Expellees has on shaping memory and historical narratives is the state-authorized *Stiftung Flucht, Vertreibung, Versöhnung* (Federal Foundation Flight, Expulsion,

Reconciliation) as a Public Law Foundation of the Federal Government established in 2008. The foundation has been highly controversial ever since the Christian Democrat government made a concession to the privately run *Zentrum gegen Vertreibungen* (Center Against Expulsions), initiated and planned in 2000 by the former president of the League of Expellees, Erika Steinbach. The concept and temporary exhibitions of the Center Against Expulsions added to the portrait of Germans solely as victims of National Socialism and the Second World War, thereby downplaying their roles as perpetrators. To a certain extent, the *Ostdeutschen Heimatstuben* served as contributors.

CONCLUSION

The establishment and development of expellee museums can be regarded as an undertaking that benefited from diverse resources mobilized by the West German governments, the federal states, and regional or local governments. The *Ostdeutschen Heimatstuben* came into being for the most part as a result of negotiations between (1) the people concerned and their lobby; (2) the academics involved, who provided historical and cultural interpretations; (3) political stakeholders; and (4) administrative and public officials on every level. Among these protagonists remarkable interaction and close relations could be registered. Their intersecting motivations and political aims were pivotal to the development of the *Ostdeutschen Heimatstuben*. In addition, one has to acknowledge the complexity of the political situation, the affiliated agencies and organizations, different pressure or lobby groups and their intricate relation, not only with the government, but also with and within a consistent administrative substructure (see Haerendel 2000). That is why the main challenge for this research has been to identify the state's role and objectives. Considering the comprehensive network of individuals from different levels involved in decision making and in the legislative process, the state certainly cannot be approached as being a static, top-level structure. Instead of an apparatus, political sociologists foremost recommend understanding it as a practice of power to be analyzed through the functions of a state (see Abrams 2006 [1977], p. 115). For the social anthropologists Christian Krohn-Hansen and Knut G. Nustad (2005, p. 12), a state is a product of negotiations and everyday encounters at the local level and the "outcome of complex sets of practices and processes. State formation is the result of myriads of situations where social actors negotiate power and meaning." From this perspective the *Ostdeutschen Heimatstuben* represent a "local manifestation of the state" (Krohn-Hansen and Nustad 2005, p. 15) and a visual element within the interaction of state representatives, of the individuals concerned, and their supporting groups.

Though various accounts that the museums represented at the local level were consistent with contemporary national narratives over a specific period

of time, representatives of the federal and state governments, as well as the municipalities were far less interested in creating historical accounts or fond memories of the past. Independent of the museum presentations, their support in fact aimed foremost at stabilizing the nation in the post-war period and initiating social cohesion between people of German descent within West German society. Their integration effort paradoxically became manifest in the phenomenon of the *Ostdeutschen Heimatstuben* itself. Apparently, the quantitative success of *Heimatstuben* proved the governments' commitment to refugees and migration issues in general, thereby oftentimes disregarding the expellee organizations' tendency to social isolation or radicalization and ignoring the concerns of non-German refugee groups as well as issues of labor migration in the 1960s and 1970s from Greece, Italy, and Spain.

In some respects, it is necessary to question the existence of a "regime" that can be separated from society as a whole, given the interdependency of the political power structure, the intersecting political, social, and cultural spheres, and considering the negotiation processes as a basic principle of the democratic system (see Thomassen 2008, p. 264). As Stuart Hall (2006, p. 363) has explicated, the state is "both *of* and *over* society. It arises from society; but it also reflects, in its operations, the society, over which it exercises authority and rule. It is both part of society, and yet separate from it." In the case of the *Ostdeutschen Heimatstuben*, many protagonists did not impose a strategy, but supported developments and narratives that they could agree on for their own reasons. Every stakeholder eventually ascribed his or her own functionality to the museum presentations and pursued different, sometimes conflicting, objectives. Their least common denominator can be identified as the goal to preserve "cultural forms" of the refugees and expellees. As such the small museums filled a gap of cultural representation that has been rediscovered in recent years by conservative politicians and expellee organizations alike. Yet, the vague concept and ambiguity of the material culture presented in the *Ostdeutschen Heimatstuben* provided the basis for a variety of interpretations. In Lenz's novel, Zygmunt Rogalla refused to join the state's manifestation at the local level. He meant his heritage to remain a private endeavor until it disappeared.

NOTES

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Lenz refers to nonfictional events: About 10 million Germans from Eastern Europe fled or were forced out of their homeland due to the defeat of Nazi Germany and the "western shift" of Germany's eastern border to the Oder-Neisse

line as laid down at the Potsdam Conference, held by the Allied leaders of the Soviet Union, the United States, and Great Britain in 1945. As Ahonen (2014, p. 599) states, the German refugees were among many other people involved in mass migrations and deportations that already started during the Second World War, a war that a high percentage of German-speaking people had supported. For the historical background see also Connor 2007 and Bauerkämper 2011.

2. Center Against Expulsions: Exhibition: Called. German Life in Central and Eastern Europe. Epilogue, <http://www.ausstellung-diegerufenen.de/index.php?L=2>. Accessed 23 November 2015.
3. Flight and expulsion had been an ideological issue in the GDR, albeit not a general taboo topic. See Niven 2012; see also Eisler 2015, pp. 323–335.

REFERENCES

- Abrams, P. (2006 [1977]) 'Notes on the Difficulty of Studying the State' in A. Sharma and A. Gupta (eds.) *The Anthropology of the State. A Reader* (Malden: Blackwell), pp. 112–130.
- Ackermann, V. (1990) 'Integration. Begriff, Leitbilder, Probleme' in K. J. Bade (ed.) *Neue Heimat im Westen. Vertriebene, Flüchtlinge, Aussiedler*. (Münster: Westfälischer Heimatbund), pp. 14–36.
- Ahonen, P. (1998) 'Domestic Constraints on West German Ostpolitik. The Role of the Expellee Organizations in the Adenauer Era', *Central European History*, 31(1/2), 31–63.
- Ahonen, P. (2014) 'On Forced Migrations. Transnational Realities and National Narratives in Post-1945 (West) Germany', *German History*, 32(4), 599–614.
- Applegate, C. (1990) *A Nation of Provincials. The German Idea of Heimat*. (Berkeley: University of California Press).
- Bauerkämper, A. (2011) 'German Refugees and Expellees from Eastern, East-Central, and Southeastern Europe in Germany and Austria since the End of World War II' in K. J. Bade, P. C. Emmer, J. Lucassen and J. Oltmer (eds.) *The Encyclopedia of Migration and Minorities in Europe. From the 17th Century to the Present* (Cambridge: Cambridge University Press), pp. 425–430.
- Berger, S. (2006) 'On Taboos, Traumas and Other Myths. Why the Debate About German Victims of the Second World War Is Not a Historian's Controversy' in B. Niven (ed.) *Germans as Victims. Remembering the Past in Contemporary Germany* (Basingstoke: Palgrave Macmillan), pp. 210–224.
- Brües, H.-J. (1972) *Artikulation und Repräsentation politischer Verbandsinteressen dargestellt am Beispiel der Vertriebenenorganisationen* (Inaugural-Dissertation, Universität Köln, Köln).
- BVFG (1957) 'Zweites Gesetz zur Änderung und Ergänzung des Bundesvertriebenengesetzes' (2. Ändg Bvfg) vom 27.07.1957.
- Confino, A. (1997) *The Nation as a Local Metaphor. Württemberg, Imperial Germany, and National Memory, 1871–1918* (Chapel Hill: The University of North Carolina Press).
- Connor, I. (2007) *Refugees and Expellees in Post-War Germany*. (Manchester: Manchester University Press).
- Demshuk, A. (2014) 'Godfather Cities. West German Patenschaften and the Lost German East', *German History*, 32(2), 224–255.

- Ditt, K. (1990) 'Die deutsche Heimatbewegung 1871–1945' in W. Cremer and A. Klein (eds.) *Heimat. Analysen, Themen, Perspektiven* (Bielefeld: Westfalen-Verlag), pp. 135–154.
- Eisler, C. (2012) "'Ausdruck der Verbundenheit mit dem ganzen deutschen Volke". Die Heimatmuseen und -sammlungen der Flüchtlinge, Vertriebenen und Aussiedler aus Südosteuropa' in H. Heppner and C. Glass (eds.) *Museum und Minderheit: Vol. 6(53) Danubiana Carpathica*. (München: Oldenbourg), pp. 97–125.
- Eisler, C. (2015) *Verwaltete Erinnerung—Symbolische Politik. Die Heimatsammlungen der deutschen Flüchtlinge, Vertriebenen und Aussiedler* (München: De Gruyter Oldenbourg).
- 'Expellee Law, Federal Law on Refugees and Exiles (1953) / (Bundesvertriebenengesetz—Bvfg, Gesetz über die Angelegenheiten der Vertriebenen und Flüchtlinge vom 19.05.1953)', (1953) *Federal Law Gazette / Bundesgesetzblatt*, I(22), 201–221.
- Faehndrich, J. (2010) 'Die Kirche im Dorf. Bilderwelten im Vertriebenen-Heimatsbuch' in E. Fendl (ed.) *Zur Ästhetik des Verlusts. Bilder von Heimat, Flucht und Vertreibung* (Münster: Waxmann), pp. 221–237.
- Gäßler, E. (2009) 'Heimatspflege als gemeinsames Erbe' in H. U. Minke, J. Kuroпка and H. Milde (eds.) *"Fern vom Paradies—aber voller Hoffnung". Vertriebene werden neue Bürger im Oldenburger Land* (Oldenburg: Isensee), pp. 377–396.
- Goschler, C. (2005) *Schuld und Schulden. Die Politik der Wiedergutmachung für NS-Verfolgte seit 1945* (Göttingen: Wallstein).
- Haerendel, U. (2000) 'Die Politik der "Eingliederung" in den Westzonen und der Bundesrepublik Deutschland. Das Flüchtlingsproblem zwischen Grundsatzentscheidung und Verwaltungspraxis' in D. Hoffmann, M. Krauss and M. Schwartz (eds.) *Vertriebene in Deutschland. Interdisziplinäre Ergebnisse und Forschungsperspektiven* (München: Oldenbourg Verlag), pp. 109–133.
- Hall, S. (2006) 'Popular Culture and the State' in A. Sharma and A. Gupta (eds.) *The Anthropology of the State. A Reader* (Malden: Blackwell), pp. 360–380.
- Holst, F. (2015) 'More Than Meets the Eye. Analytical Frameworks Beyond Race and Ethnicity', *Ethnicity as a Political Resource. Conceptualizations across Disciplines, Regions, and Periods*. (Bielefeld: Transcript-Verl.), pp. 39–56.
- Isaac, J. (1950) 'Problems of Cultural Assimilation Arising from Population Transfers in Western Germany', *Population Studies*, 3, 23–37.
- Köstlin, K. (1990) 'Volkskulturforschung in Grenzräumen', *Jahrbuch für ostdeutsche Volkskunde*, 33, 1–19.
- Krohn-Hansen, C. and Nustad, K. G. (2005) 'Introduction' in C. Krohn-Hansen and K. G. Nustad (eds.) *State Formation. Anthropological Perspectives*. (London: Pluto Press), pp. 3–26.
- Lenz, S. (1978) *Heimatmuseum. Roman*. (Hamburg: Hoffmann und Campe).
- Loewenstein, B. (1999) 'Symbole, Mythen, nationale Integration. Anmerkungen zum Thema "Historische Feldbeherrschung"' in E. Behring (ed.) *Geschichtliche Mythen in den Literaturen und Kulturen Ostmittel- und Südosteuropas* (Stuttgart: Steiner), pp. 23–31.
- Luppés, J. P. (2010) *To Our Dead. Local Expellee Monuments and the Contestation of German Postwar Memory* (Dissertation, The University of Michigan, Ann Arbor).
- Margalit, G. (2010) *Guilt, Suffering, and Memory. Germany Remembers Its Dead of World War II* (Bloomington: Indiana University Press).

- Moeller, R. G. (2003) 'Sinking Ships, the Lost Heimat and Broken Taboos. Günter Grass and the Politics of Memory in Contemporary Germany', *Contemporary European History*, 12(2), 147–181.
- Niven, B. (2012) 'On a Supposed Taboo. Flight and Refugees from the East in GDR Film and Television', *German Life and Letters*, 65(2), 216–236.
- Niven, B. and Paver, C. (2010) 'Introduction' in B. Niven and C. Paver (eds.) *Memo-rialization in Germany since 1945* (Basingstoke: Palgrave Macmillan), pp. 1–12.
- Pohl, K. (2009) *Zwischen Integration und Isolation. Zur kulturellen Dimension der Vertriebenenpolitik in Bayern (1945–1975). Die Entwicklung Bayerns durch die Inte-gration der Vertriebenen und Flüchtlinge* (München: Iudicium).
- Reichling, G. (1989) *Die Deutschen Vertriebenen in Zahlen. Teil II: 40 Jahre Eingliederung in der Bundesrepublik Deutschland*. (Bonn: Kulturstiftung der Deutschen Vertriebenen).
- Rosenwein, B. H. (2002) 'Worrying About Emotions in History', *American Histori-cal Review*, 107(3), 821–845.
- Schraut, S. (2000) "'Make the Germans Do It". The Refugee Problem in the Ameri-can Zone of Post-War Germany', *Journal of Communist Studies and Transition Pol-itics*, 16, 115–124.
- Schröder, D. (2007) 'Ungebrochene Karrieren. Fälle Globke und Oberländer' in T. Fischer and M. N. Lorenz (eds.) *Lexikon der 'Vergangenheitsbewältigung' in Deutschland. Debatten- und Diskursgeschichte des Nationalsozialismus nach 1945* (Bielefeld: Transcript-Verl.), pp. 101–103.
- Seewann, G. (1992) 'Siebenbürger Sachse, Ungarndeutscher, Donauschwabe. Überlegungen zur Identitätsproblematik des Deutschtums in Südosteuropa' in G. Seewann (ed.) *Minderheitenfragen in Südosteuropa. Beiträge der Internatio-nalen Konferenz: The Minority Question in Historical Perspective 1900–1990, Inter University Center Dubrovnik, 8.–14. April 1991*. (München: Oldenbourg Verlag), pp. 139–153.
- Thomaneck, J. and Niven, B. (2001) *Dividing and Uniting Germany*. (London: Routledge).
- Thomassen, B. (2008) 'What Kind of Political Anthropology?', *International Political Anthropology*, 1(2), 263–274.
- Wachs, P.-C. (2008) 'Theodor Oberländer' in I. Haar and M. Fahlbusch (eds.) *Hand-buch der völkischen Wissenschaften. Personen–Institutionen–Forschungsprogramme–Stiftungen* (München: K. G. Saur Verlag), pp. 449–452.
- Wingfield, N. M. (2005) 'Introduction' in N. M. Wingfield (ed.) *Creating the Other. Ethnic Conflict and Nationalism in Habsburg Central Europe* (New York: Berghahn), pp. 1–16.

State Agency and the Definition of Historical Events: The Case of the *Museo de La Memoria Y Los Derechos Humanos* in Santiago, Chile

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Wars are not only carried out on battlefields, and history is not only written down in history books. What we assume to be the historical truth is the result of a highly complex interaction between various forms of social narrative that all contribute to our perceptions of the past. Semiosis, the social production of meaning through texts, narratives, images, spaces, practices, rituals and so on, determines in a crucial way everything we come to consider historical events, and the ways we perceive, represent and transmit them. This is why historical memory is not something fixed in any definitive form but is rather changing continuously over time: events are perceived and remembered differently according to different semiotic forms produced in relation to them. New images and representations acquire, in this way, a retroactive effect, becoming an integral part of the event they depict and modifying its very nature. We could say that the memory of the event becomes part of the event. It is thus of central concern to see how this process takes place, how memory is rewritten, elaborated and communicated, and especially by whom.

Semiotically, communication is not just a transfer of information from one subject to another, but rather a particular kind of action performed by an addresser on an addressee in order to produce changes or transformations in her attitudes, beliefs and/or behaviors. Communication becomes in

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this perspective something more, and different from, a simple circulation of knowledge that gets transferred to somebody; it is rather a much more complex action of persuasive nature that is defined as *manipulation*, “an action directed to other human beings in order to make them perform a given program” (Greimas and Courtés 1979, p. 220). A semiotic manipulation of this kind implies a multimodal transformation of the addressee, the subject that is target of the manipulative action, simultaneously on at least three different levels: at the cognitive level, on the plane of knowing, at the emotional level, on the plane of feeling, and at the pragmatic level, on the plane of doing.

Applying this general framework to museums, we can think of them as powerful persuasive devices, capable of modifying the epistemic, emotional and pragmatic attitudes of visitors rather than just a display of information and exposition of different kinds of objects. Such an approach appears comparable with, and close to, the idea of the performative museum nowadays often used in Museum Studies—for example: Andermann and Arnold-de-Simine (2012), Arnold-de Simine (2013), Violi (2014), Kirshenblatt-Gimblett (1997), Williams (2007)—as it aims to take into account also the performative side of communication processes and not only the informative one.

A museum can be seen, in this perspective, as a key cultural apparatus that may play the same role as a history textbook; memorials and museums appear to be relevant devices where the past is reconstructed, transmitted and narrated, especially in those cases in which the past to be remembered is a highly traumatic and contested one, as occurs in the aftermath of civil wars, dictatorships, and other social conflict situations. How are memories of particularly traumatic periods interpreted and utilized in museums and memorials? And, again, by whom? Which social actors or political forces promoted the constitution and institutionalization of a particular place of memory? With which goals and purposes? Addressing which kind of audiences? How do different agencies affect historical narration? Who makes the decisions about the design of the place, its architectural form, its aesthetics, and why? Who selects the images and the objects to be exhibited, their order, their disposition?

All these questions have something to do with agency, however, they refer to different levels of it, ranging from political decisions to more concrete choices at the level of practical realization. Although many different aspects of these places of memory have been investigated in recent years, from their historical evolution to the various forms of visitors’ involvement, from the use of digital and interactive devices to the multiplication of testimonies, the role of agency appears less often questioned, though it certainly deserves more attention.

In semiotic terms, agency can be individuated in the abstract role of the addresser, which is not only the principal initiator or “instigator” of the action itself, but, perhaps more important, also the instance that established the system of values underlying it. The addresser is responsible for the overall communicative scene of a museum, and in that respect overcomes that of a

“commissioning authority,” the figure who promotes and finances the operation, thus becoming responsible for the entire narrative a memory site conveys. Given this, a museum planned, constructed and organized by a state agency can be a very relevant facet in the complex fresco of the overall strategy of a state-sponsored history. Which master narrative is suggested by the state, which actors are brought into play, which values are implied, and from which perspective are the events reconstructed and their temporal delimitations fixed?

Today, there is a broadly shared understanding that events are not “natural” phenomena independent of the various ways in which they are reconstructed, narrated and memorized. According to Robin Wagner-Pacifici (2010) events are “restless” and unbounded in their temporal delimitations; they do not exhibit a natural structure with a clear-cut beginning and end, rather they are continuously reinterpreted, framed and reframed by the discourses, images, words, that construct and reconstruct their very meanings.

Within this framework, museums can play a very relevant role in stabilizing and privileging certain readings of the past over others, redefining the way events might be temporally delimited. Because, if it is true that events are indeed “restless,” there are nonetheless, at the same time, forms of retardation and stabilization within this seemingly endless process of production and interpretation of meaning. We certainly need forms of sedimentation in the dynamic of semiosis, forms of stasis where memories acquire a given shape, though never a permanent one. Museums and memorials are all some of these forms of sedimentation or stasis.

In this chapter, I analyze one such place, the *Museo de la Memoria y los Derechos Humanos* (MMDH from now on) in Santiago, Chile, in order to discuss some crucial questions related to state-sponsored history and its rewriting of the past.

MULTIPLE MEMORY AGENCY IN LATIN AMERICA

The MMDH is a very interesting example of a state-sponsored historical narration, planned and realized by the Chilean state during the first period of the left-wing Bachelet government (2006–2010).

The role of state agency in memorialization processes has not always been very notable in Latin America, a region that shares a common dramatic history of ferocious military regimes. In almost the entire area of the Southern Cone, periods of military dictatorships took place in the second half of the twentieth century, only coming to an end between the middle of the 1980s and the beginning of the 1990s.

Following this tragic period in Latin America many “sites of memory” have been created, often, although not exclusively, as site-based memorials, or *trauma sites* (Violi 2012, 2017) at the very spaces where detention, torture and mass violence occurred. In Chile alone there are today over two hundred

such places, associated in a network supported by private organizations¹ and representing a form of “diffused memory” spread in the territory to remind us of the preceding diffused geography of terror created by members of the military who often chose anonymous places as secret prisons so people would not know where the military may hide, and where innocent citizens may disappear.

Most of these places of horror today are turned into memory sites and small museums run by civil society organizations, without being state-sponsored institutions. Both in Chile and Argentina an exclusive state agency in the management of memory sites, without involvement of civil society, is an exception rather than the norm, with memorialization more often being directly carried out by grassroots instances.

In both countries, two competing, often contrasting, forms of agency are active in the battlefield of memory: public and state-sponsored agents and civil society, mainly in the form of human rights organizations and associations of survivors and relatives of victims.

These two agencies have both played a role in the debate over memory, although not necessarily with the same relevance and impact, sometimes co-operating, and sometimes opposing each other, as bearers of different memory politics, as happened in Argentina with the memorialization of the *Escuela Superior de Mecánica de la Armada* (ESMA) in Buenos Aires (Violi 2017; Andermann 2012a).²

In the rich and intense debate of the aftermath of military regimes in Latin America, state and civil society were not always characterized by opposition and contrast; often they complemented one another, and the state co-operated with associations and NGOs, or even delegated completely to them all decisions about restructuring memory sites. The latter happened in particular in Chile, where many memory sites are run by private associations of survivors, victims’ relatives, or human rights organizations. Especially since the beginning of the 2000s, with the socialist governments of Ricardo Lagos and Michelle Bachelet, new attention towards the traumatic heritage of the past emerged. Many memorial and commemorative sites of various kinds were opened, often involving contrasts and struggles among different civil society-driven groups, seeking recognition and realization of their projects. A central recurring theme of that period was precisely that of the “right relationship” (Collins and Hite 2013, p. 133) between state agency and private initiatives regarding the design, construction and overall interpretation of such memorials. Yet, even as early as 1990, during the first democratic government of Aylwin after the end of the dictatorship, civil society was already active in the creation of memorials and commemorative initiatives. In the *Informe Rettig*, the Report of the Commission on Truth and Reconciliation of 1991 (also see the Chap. 36 by Onur Bakiner in this volume), the need for complementarity between the two agencies is explicitly mentioned:

There are already a number of spontaneous initiatives and gestures of reparations through the country.... However it would seem that these things are not enough. Hence the state can take the lead in making gestures and creating symbols that can give a national impetus to the reparation process. (Report of the Chilean National Commission on Truth and Reconciliation 1991, Engl. Trans. 1993: 837–838)

Despite this recommendation, for almost two decades the presence of the state in commemorative actions was not very intense and there was no coherent state policy towards memory sites; initiatives of opening and conserving sites of memory were mainly left in the hands of civil society, and state intervention was limited to providing some funding and resources to answer the requests of private agencies, such as NGOs and associations of survivors and victims' relatives. The reason for this silence is certainly to be found in the difficult and controversial transition to democracy in Chile after the end of the dictatorship.

CONTESTED MEMORIES IN THE CHILEAN TRANSITION

The referendum of 1988 that put an end to the military regime did not yield univocal support for democracy: 44% of Chileans were still in favor of the junta and Pinochet remained commander of the army until 1998, clear signs of a highly divided and far from reconciled society. Facing such a difficult aftermath, the government's policy of the first period of renewed democratic life in Chile, from 1990 to the end of the 1990s, followed what could be defined as a highly cautious path. The government was more concerned with legitimizing its democratic leadership than dealing with the past in the fear that an all too decisive confrontation with it could destabilize a fragile transition to democracy (see: Drake and Jaksic 1995; Winn 2004; Portales 2000; Paley 2001; Richard 1998; Illanes 2002; Meade 2001; Gomez-Barris 2009; Hite 2005, 2011; Huneeus 2003).

Certainly, the Aylwin government understood the need for some symbolic distance from its predecessor and initiated a series of actions in that direction: first of all the already mentioned Truth and Reconciliation Commission chaired by Raul Rettig (1990–1991), and second, some selective prosecutions such as that of the former chief of the infamous DINA secret police, Manuel Contreras. Finally, the state promoted a range of policies to address the historical memory such as ceremonies at the National Stadium, a famous site of repression during the coup in 1973, the construction of a Memorial Wall in the Santiago General Cemetery and the reburial of Allende in the same cemetery.

The power of the political right and the army, however, was still very strong, preventing clear progress towards full democratization. Juridical prosecutions of perpetrators, for example, were made difficult by the still valid 1978 amnesty law wanted by the military junta, and the Rettig report was rejected by the army and the Supreme Court.

In the aftermath of the dictatorship Chile appeared to be a highly divided country with contrasting and competing memories that were not reconciled in a unified mainstream narrative able to include the large majority of society. This period has been defined as characterized by erratic “irruptions of memory” (Wilde 1999), “unbidden intrusions of past conflicts into public life that raised symbolic and moral issues that troubled its transition” (Wilde 2013, p. 33).

One such intrusion was the long and controversial discussion that took place among civil society organizations over the redesign as a memory site of Villa Grimaldi a villa transformed into a center of detention and torture by DINA and finally destroyed by the military. NGOs, human rights organizations and associations of survivors and victims’ relatives were engaged in long, and somehow difficult, participative processes that took more than seven years of negotiations among the different civil society agencies to reach a final shared decision (see Richard 2001; Lazzarra 2003; Baxter 2005; Violi 2012). Only in 1997 was the space of the former villa inaugurated as a public park named *Parque de la Paz*.

The year 1998 marked a radical shift in the Chilean situation: in March Pinochet resigned from his position as commander of the army and in October the same year he was arrested in London. Between the end of the 1990s and the first decade of the 2000s, first with the government of Ricardo Lagos (2000–2006) and then of Michelle Bachelet (2006–2010), a new era began. Wilde (2013) defined it as a real “season of memory,” characterized by a leading engagement of public policy in issues concerned with politics of memory and human rights. In 1999 a Human Rights Roundtable (*Mesa de Diálogo* 1999–2000) was created and in 2003–2004 a second official national truth commission was instituted, the Valech commission. This new commission was charged with the specific task to widen the investigations of the first Rettig report, which was only focused on crimes involving death and disappearance. The Valech commission investigated all kinds of violations during the dictatorship: not by chance was it named “National Commission on Political Imprisonment and Torture,” and its findings show beyond any doubt the systematic use of torture by the dictatorship, as well as the innumerable places where it was practiced (over 1100 throughout the national territory; Lira and Loveman 2013).

The disclosure of the magnitude of human rights violations and of the practices of torture, never mentioned before and not directly questioned even in the Rettig report, had an important impact on Chilean society and it was broadly accepted by both public opinion and fundamental public institutions, in contrast with the previous rejection of the *informe* Rettig by those same institutions.

In the same year the past was uncovered through the pursuit of justice and judicial truth, with a new politics of legal prosecutions and trials. Hundreds of individual cases and legal proceedings took place in the first decade of the 2000s. The trials were widely publicized in the media and transmitted into

national consciousness, although they often ended with light charges (Collins 2010, 2013).

The impact of memory on politics and public policy was extremely profound in these years: whereas at the time of Aylwin and the first post-dictatorship governments, the democratization process appeared to be in contrast with a thoroughly open politics of memory and rights, perceived as a still dangerous theme and thus treated with a certain caution, in the 2000s democracy and memory seemed to reinforce each other.

This did not imply, however, a direct and immediate state agency in promoting memorials or memory museums. The role of the state was rather to provide public funds to private commemorative projects without taking direct responsibility, or control, over them. Many different reasons can probably lie behind such a minimalistic role of the state: on the one hand a choice to allow freedom to grassroots initiatives, and a lack of determination or will on the part of the state to engage itself directly.

In any case, a similar aloofness on the part of the state resulted in a diffuse discontent among the most politically engaged social actors and activist groups towards the memory politics of the center-left governing coalition (Concertación), accused of having done too little. The *Museo de la Memoria y los Derechos Humanos* (MMDH) was the answer of the state to such a changed situation; constructed almost 35 years after Pinochet's coup, it marked a shift from previous narratives of reconciliation to a state-sponsored narrative of contrast.

A comparison with Villa Grimaldi (see above) is in this sense quite instructive. The Villa Grimaldi memorialization started in the almost immediate aftermath of the military regime, when a dominant preoccupation was to avoid exacerbation of conflicting memories in order to favor a narrative of reconciliation able to build national pacification and democratic life; it is not by chance that the former Villa was transformed into a park denominated "Park of Peace," and neither memory nor human rights were directly mentioned. Another relevant difference consists in the different timing of the two memory sites: the decision process for Villa Grimaldi took more than seven years, whereas the MMDH's realization timing was strikingly shorter, especially considering that it was necessary to plan and build a huge and impressive new building and to collect extensive documentation. The decision to open a museum was announced by Michelle Bachelet on the 21st of May 2007, one year after Pinochet's death. The same year a team of curators began collecting materials and documents. In December 2009 the museum was completed and it was officially inaugurated by Bachelet on the 11th of January 2010. As Andermann puts it, "[T]he museum emerged as the result of a tightly run commando operation, with hardly any prior debate over its purpose and form. Rather, its foundation was the outcome of a political decision taken at the highest level" (Andermann 2012b, p. 76). In this respect the MMDH is maybe one of the very few cases in the Latin America context

of a pure state-sponsored initiative with no involvement of civil society. The establishment of the MMDH marks a clear discontinuity with the previous public policy: the museum was announced and the construction started without any consultative process or negotiations with civil society actors, an exclusion that was the object of contestation by grassroots organizations, who contested its “elitist and behind-closed-doors” approach (Collins and Hite 2013, p. 154).

The absence of consultation with other agencies can be explained by the urgency of Bachelet’s government to leave a tangible trace before the end of her mandate. Yet, in this way the state was free to build its own narrative of the tragic recent Chilean past, not necessarily agreed upon and shared by other political actors.

THE MUSEUM

The *Museo de la Memoria y los Derechos Humanos* is a new construction that does not have any material continuity with any former place of trauma. The building was projected by a group of Brazilian architects from San Paulo (the private studio Mario Figueroa, Lucas Fehr and Carlos Dias) and is composed of a large parallelepiped posed on a basement with an open space on all sides around (Figs. 22.1 and 22.2).

The museum building is a construction of three floors, plus the entrance ground floor, in itself an important part of the museum discourse because it can be seen as setting the communicative scene where the addresser qualifies its legitimacy and authority to narrate, and establishes the set of values that will frame its narration. On the ground floor, immediately after the entrance and before moving up the main staircase to the first floor, the visitor can see a large map of the world where are displayed all the places where human rights violations occur, as well as a map of Chile indicating the many detention and concentration camps that were in operation all over the country during the military junta, and an extensive visual documentation of photos of the various memorials and sites dedicated to the victims.

A rich semantic frame is thus activated even before the visit to the museum starts: the recent history of violence is inscribed within a larger, and universal, set of values, referring back to the universality of human rights, and Chile too becomes inscribed into the larger geopolitical context of the whole world. In this way the communicative scene involves a more comprehensive addressee than only the Chilean society, ideally addressing an international audience.

Human rights discourse is here the dominant paradigm for historical reconstruction; emphasized in the very name of the museum, it recurs all through its narrative. As has been pointed out (Jelin 2013; Bianchini 2014, 2015) the human rights paradigm frames historical narration especially around victimhood, at the expense of other possible reconstructions, for example, more focalized on perpetrators and justice, or on political



Fig. 22.1 An outside view of the museum. Photographed by Patrizia Violi

reconstruction. Although the insistence on such a reading can give a more universal legitimacy, a possible consequence is to transform political subjects into mere victims, thus depriving memory of its political content.

The first floor of the museum is entirely dedicated to the September 11 coup and its repressive aftermath. The main showroom opens up with the attack of the militaries on La Moneda, exhibiting an impressive amount of documents, audio and video materials, newspapers and various reports of the battle and bombing of the government palace, some of them on display on the side walls, some others accessible on a series of tables with video screens and headphones, offering access to a large archive of footage of various TV transmissions and to Allende's famous last speech transmitted over the radio just before his death.

The second floor is dedicated to "the struggles for truth and justice," starting with the beginning of the dictatorship until the 1988 referendum and the return to democracy, and ending with Patricio Aylwin's victory speech at the national stadium. It is impossible to give a full account here of the richness and variety of the exposition, with all its documents and visual materials, as well as of its impressive setting (for a detailed description see Andermann [2012b](#)). I just mention the spectacular terrace-shaped glass box that leans forward in the hall at the second floor, lighted by electric candles



Fig. 22.2 The outside of the museum from another angle. Photographed by Patrizia Violi

and facing a wall of photographs picturing the victims. In the box an interactive touchscreen allows the visitor to read the life story of each individual victim, with a wealth of information about his or her life and death (Fig. 22.3).

The second floor exhibition ends with the room of the “*Nunca mas*” (never again), still a somewhat empty space that does not appear fully integrated with the main exhibition. I return later to this particular space.

The third floor has undergone various transformations since the opening of the museum. The first time I visited it, in January 2011, it was an open space for temporary exhibitions, with a gift- and bookshop and a café opening onto a magnificent view of the Andes. In 2015 the coffee shop and bookshop were relocated to the ground floor, close to the museum entrance. Now the whole third floor has been transformed into an open space with sofa and screen to access the material of the huge archive of the museum, located underground, and composed of thousands of testimonies, videos and other documents recorded and made accessible to visitors.

The museum certainly constitutes an enormous achievement from a financial, archivist, aesthetic and educational point of view: a beautifully structured space endowed with an extensive mass of documents of all kinds, it can undoubtedly be considered a very rich “text,” open to multiple readings and



Fig. 22.3 The terrace-shaped glass box on the second floor. Photographed by Patricia Violi

possible interpretations. Yet, what most interests me in the present context is the kind of historical narrative that this state museum endorses and the possible readings of the past it suggests. We already saw how the transition to democracy in Chile was a long and controversial process during which, at different stages, the state sponsored different narratives according to the changing political contexts. The MMDH, which it is worth remembering was the first and only entirely state-sponsored memory museum in Chile, marks the conclusion of 10 years of socialist governments. Its opening, at the very end of Michelle Bachelet's mandate had an obvious autocelebrative official character that did not go without criticism and discussion from the most politicized components of civil society.

Now, in order to better understand which narrative the state was promoting, which memory it was supporting and which roles it assigned to the opposite political forces, we first have to analyze what is the historic event constructed by the museum narrative.

As mentioned previously, events are not endowed with a natural fixed structure, rather they can be rewritten and redefined in different ways according to different political agendas. The main question is then how the MMDH "stabilizes" the events it represents. How does the museum fix their temporal

borders, framing the “restless” course of events in a story with a beginning and an end? In other words: what kind of “punctuation” is imposed by the museum discourse onto historical development?

The museum narrative is framed between a very clear-cut starting point and a similarly well-defined ending: the main exhibit of the first floor begins with the military coup of 1973 by Pinochet and the second floor ends with the success of democratic forces in the referendum of 1988 and the subsequent victory, the following year, of Patricio Aylwin for the coalition of parties of democratic oppositions, which closes the historical itinerary of the museum narration. The starting points mark a dramatic discontinuity between democracy before the coup and the military dictatorship after it. The end is a return to the democracy to which the museum implicitly claims a continuity and a direct inheritance. Therefore, the discontinuity of the referendum appears as a return to the pre-military democratic form, re-establishing the previous situation without relevant differences.

There are no hints, in such a historical narrative, of the political and economic contents that brought Allende to power, nor of the strong opposition that his economic policy aroused. The dictatorship in this way becomes an almost unexplainable pure evil: the authors of the coup seem to appear out of nowhere rather than being the result of a preceding chain of events. We could say that the plans and motivations of the military forces are missing: why was the coup initiated, to reach which objectives, on the basis of which underlying system of values, with which allies?

The coup did not come out of thin air, but as the neoliberal reaction to Allende’s attempt to reform Chilean society in a socialist perspective. What had to be put to an end was the social reform that Allende’s government tried to pursue, a political program that certainly raised a critical period of social convulsion because of the active opposition by the more conservative forces in society. A more contextualized reading would, of course, not justify the coup, as the right-wing partisans would like, but explain, together with the reason of its happening, the revolutionary, and obviously “dangerous” for some well-established powers, socioeconomic reforms that characterized the socialist government of Salvador Allende. In other words, a richer reading of the pre-coup situation, with all its contradictions, would not have needed to imply any “justification” of what happened, as was probably feared by the organizers of the museum. On the contrary it could have shown what was really at stake: an alternative view of the socioeconomic development of Chile, and the dramatic struggle that opposed such a change and brought dictatorship.

The choice of the official narrative constructed by the MMDH was different: privileging an almost incomprehensible military reaction, the focus became on human rights violations rather than on the political struggle among opposing political visions. As mentioned above, the human rights paradigm represents the main interpretative frame of the MMDH, with its

necessary corollary of victimhood: in such a frame political opponents are first and foremost victims, much more than active subjects engaged in a political struggle. This is not necessarily a criticism: as I have pointed out in the historical reconstruction of the dictatorship's aftermath, there might have been good political reasons for suggesting such an interpretative frame. My point is rather to offer other possible readings with which the state-sponsored historical narrative did not choose to engage.

Some analogous observations can be advanced about the way the museum chose to end its historical reconstruction. History is here foreclosed by what appeared to be a glorious and definitive "return to democracy," in total continuity with the period that preceded the coup. But things were more complicated than that. The return to democracy did not imply a return to the political attempt to transform Chilean society that characterized Allende's government. If, from the point of view of democracy, Aylwin certainly represents a discontinuity with the military regime, this is not the case from the economic perspective. The neoliberal "revolution" undertaken by Pinochet was not affected by the return to democracy, but developed in continuity with it, without any further development of the previous socialist reforms.

The museum does not document this aspect of the new democratic life, and does not reflect the controversial transition that followed the end of the dictatorship, nor the difficulties that a politics of memory, legal prosecutions and human rights encountered for many years after the return to democracy. One might well argue that all stories need to have an end, but there are other possible options a museum might take. The MMDH ends in the somewhat empty room of the *Nunca mas*, such a nondescript space that in December 2015 the director of the museum, Ricardo Brodsky felt the need to promote a working group to make suggestions for a new, more meaningful setting (Mauro and Mascareño 2016).

CONCLUSION

The MMDH constitutes a very interesting case of a historical narrative sponsored by the state and functional in reinforcing government positions. This is obtained by both the overall value-frame of the museum and the way historical events are delimited in time.

The museum narrative is inscribed within the general discursive frame of human rights violations, which appear to be the main topic of the museum, starting with its very name. The emphasis on human rights discourse implicitly legitimizes the government that promotes it, because it makes it part of a universal system of values, transcending any specific political positions. Moreover, the human rights frame depoliticizes the actors involved, hiding their reciprocal positioning in the political arena and simplifying their respective roles: we are only left with innocent victims on the one side and perpetrators on the other. Such a dichotomization is emphasized by the temporal

delimitation of the events that the museum suggests, starting with the coup and ending with the triumphant return to democracy, as if the military dictatorship was just an incomprehensible and tragic parenthesis in a linear and progressive democratic history.

A more detailed reconstruction of the historical context would have cast light on the complex reasons behind the conservative reaction that led to the military dictatorship and its difficult aftermath. The museum simplifies all these contradictions, constructing a much more linear and easier to read narrative where the roles are straightforward and unproblematic: the military's actions are not politically questioned, but mainly condemned from the point of view of human rights violations. In this way the fierce political struggle that took place during Allende's democratic government, as well as the continuity between the neoliberal economic policies of Pinochet and those of the post-dictatorship democracy, disappear. The reasons for such a somewhat partial reconstruction might be found in the need, on the part of the socialist government of Michelle Bachelet, to obtain a general legitimization from all sides of the political scene. If the decision to construct a museum of such magnitude at the very end of her mandate can be read as the will to leave a powerful trace of state engagement in a renewed politics of memory, the choice of framing the event of military dictatorship within a discourse of civil rights violations was probably meant to produce a unanimous consensus beyond any possible criticism.

It is not easy to conclude with a prevision of what the museum could become in the future. Will the *Museo de la Memoria*, as well as other memorials and sites, become "merely part of the landscape for younger generations who lack the connection of living memory to the conflicted past," as Wilde fears (Wilde 2013, p. 52), or will it be able to become a more dynamic living institution, questioning a contested past and capable of responding to the many challenges that that dramatic past poses to the present? It is perhaps too early to find a definite answer to such a question.

At the present time the museum is certainly a pole of attraction in Santiago, better known and more often visited than the many smaller sites of memory disseminated in the city run by private organizations. The MMDH also participates in a strong way in a pedagogical and educational mission not only with its main exhibition but also with the collateral initiatives directed towards schools and new generations.

Certainly the impact and effect of a museum, and the MMDH is not an exception, cannot be analyzed in itself. A larger context of social practices and discourses needs to be taken into account to evaluate its relevance. This holds even more truth for such a powerful work as the MMDH, at the same time a very biased state institution and an exceptional memory site. Its future life will depend in a crucial way on the capacity to make it a living organism of Chilean society, interacting with other social agents and open to rethink its destiny.

NOTES

1. www.sitiosdememoria.org/coalicion/, and <https://redlatinoamericanadesitiosdememoria.wordpress.com/sobre-la-red-latinoamericana-de-sitios-de-memoria/>.
2. The story of ESMA is emblematic of both the existence of competing memorialization models depending on different sources of agency, and at the same time of the role that different agencies have had as active subjects in dealing with traumatic memories in post-dictatorship societies in Latin America.

REFERENCES

- Andermann, J. (2012a) 'Returning to the Site of Horror. On the Reclaiming of Clandestine Concentration Camps in Argentina', *Theory, Culture and Society*, 29(1), 76–98.
- Andermann, J. (2012b) 'Showcasing Dictatorship. Memory and the Museum in Argentina and Chile', *Journal of Educational Media, Memory, and Society*, 4(2), 69–93.
- Andermann, J. and Arnold-de-Simine, S. (2012) 'Introduction. Memory, Community and the New Museum', *Theory, Culture and Society*, 29(1), 3–13.
- Arnold-de Simine, S. (2013) *Mediating Memory in the Museum. Trauma, Empathy, Nostalgia* (London: Palgrave Macmillan).
- Basaure, M. and Mascareño, A. (eds.) (2016) 'Reflexiones en torno a la sala Nunca Más del Museo de la Memoria y los Derechos Humanos', Serie Documentos de Trabajo COES, Documento de trabajo N.17, pp. 1–20.
- Baxter, V. (2005) 'Civil Society Promotion of Truth, Justice, and Reconciliation in Chile. Villa Grimaldi', *Peace and Change*, 30(1), 120–136.
- Bianchini, M.C. (2014) 'When Memory becomes Heritage. Experiences from Santiago, Chile', *Culture and History Digital Journal*, 3(2).
- Bianchini, M.C. (2015) 'De la represión al patrimonio. Vestigios de la violencia de estado en Madrid y Santiago de Chile', *Revista de Dialectología y Tradiciones Populares*, 70(2), 399–426.
- Collins, C. (2010) *Post-Transitional Justice. Human Rights Trials in Chile and El Salvador* (University Park: Pennsylvania State University Press).
- Collins, C. (2013) 'The Politics of Prosecutions' in C. Collins, K. Hite and A. Joignant (eds.) *The Politics of Memory in Chile. From Pinochet to Bachelet* (Colorado: Lynne Rienner Publishers), pp. 61–89.
- Collins, C. and Hite, K. (2013) 'Memorials, Silences, and Reawakenings' in C. Collins, K. Hite and A. Joignant (eds.) *The Politics of Memory in Chile. From Pinochet to Bachelet* (Colorado: Lynne Rienner Publishers), pp. 133–163.
- Drake, P.W. and Jaksic, I. (1995) *The Struggle for Democracy in Chile* (Lincoln: University of Nebraska Press).
- Gómez-Barris, M. (2009) *Where Memory Dwells. Culture and State Violence in Chile* (Berkeley: University of California Press).
- Greimas, A. J. and Courtés, J. (1979) *Sémiotique. Dictionnaire raisonné de la théorie du langage* (Paris: Hachette).
- Hite, K. (2005) 'Breaking the Silence in Post-Authoritarian Chile', M. P. Friedman and P. Kenney (eds.) *Partisans Histories. The Past in Contemporary Global Politics* (New York: Palgrave Macmillan), pp. 55–73.

- Hite, K. (2011) *Politics and the Art of Commemoration. Memorials to Struggle in Latin America and Spain* (London: Routledge).
- Huneus, C. (2003) *Chile un país dividido. La actualidad del pasado* (Santiago: Catalonia).
- Illanes, M.A. (2002) *La ballata de la memoria* (Santiago: Grupo Editorial Planeta).
- Jelin, E. (2013) 'Memoria y democracia. Una relación incierta', *Revista de Ciencia política de la Universidad de Chile*, 51(2), 129–144.
- Kirshenblatt-Gimblett, B. (1997) *Destination Culture. Tourism, Museums and Heritage* (Berkeley: University of California Press).
- Lazzara, M. J. (2003) 'Tres recorridos de Villa Grimaldi', in E. Jelin and V. Langland (eds.) *Monumentos, memorials y marcas territoriales* (Buenos Aires: Siglo XXI Editores), pp. 127–147.
- Lira, E. and Loveman, B. (2013) 'Torture as Public Policy, 1810–2011' in C. Collins, K. Hite and A. Joignant (eds.) *The Politics of Memory in Chile. From Pinochet to Bachelet* (Colorado: Lynne Rienner Publishers), pp. 91–132.
- Meade, T. A. (2001) 'Holding the Junta Accountable. Chile's "Sitios de Memoria" and the History of Torture, Disappearance, and Death', *Radical History Review*, 79, 123–139.
- Paley, J. (2001) *Marketing Democracy. Power and Social Movements in Post-Dictatorship Chile* (Berkeley: University of California Press).
- Portales, F. (2000) *Chile. Una democracia tutelada* (Santiago: Editorial Sudamericana).
- Richard, N. (1998) *Residuos y metáforas. Ensayos de crítica cultural sobre el Chile de la transición* (Santiago: Editorial Cuarto Propio).
- Richard, N. (2001) 'Sitios de la memoria. Vaciamiento del recuerdo', *Revista de crítica cultural*, 23, 231–271.
- Violi, P. (2012) 'Trauma Site Museums and Politics of Memory. Tuol Sleng, Villa Grimaldi and the Bologna Ustica Museum', *Theory, Culture and Society*, 29(1), 36–75.
- Violi, P. (2014) 'Spectacularising Trauma. The experientialist visitor of Memory Museums', *V&S*, 119, 51–70.
- Violi, P. (2017) *Landscapes of Memory. Trauma, Space, History* (London Bern: Peter Lang).
- Wagner-Pacifici, R. (2010) 'Theorizing the Restlessness of Events', *American Journal of Sociology*, 115(5), 1351–1386.
- Wilde, A. (1999) 'Irruptions of Memory. Expressive Politics in Chile's Transition to Democracy', *Journal of Latin American Studies*, 31, 473–500.
- Wilde, A. (2013) 'A Season of Memory. Human Rights in Chile's Long Transition' in C. Collins, K. Hite and A. Joignant (eds.) *The Politics of Memory in Chile. From Pinochet to Bachelet* (Colorado: Lynne Rienner Publishers), pp. 31–60.
- Williams, P. (2007) *Memorial Museums. The Global Rush to Commemorate Atrocities* (Oxford: Berg).
- Winn, P. (ed.) (2004) *Victims of the Chilean Miracle. Workers and Neoliberalism in the Pinochet Era, 1973–2002* (Durham: Duke University Press).

History Wars in Germany and Australia: National Museums and the Relegitimisation of Nationhood

Christian Wicke and Ben Wellings

Abbreviations

DHM Deutsches Historisches Museum
HGBD Haus der Geschichte der Bundesrepublik Deutschland
NMA National Museum of Australia

INTRODUCTION

This chapter examines the political controversies that surrounded the creation of national museums in Germany and Australia at the end of the twentieth century.¹ It argues that national museums in these two countries were a form of state-sponsored history that sought to relegitimise their respective nations: nations in which critical understandings of the past undermined the legitimacy of contemporary nationhood and nationalism. These arguments about the content and *raison d'être* of national museums played out within wider debates about the transcendence of nationalism and the future of the nation-state more broadly. Both museums became part of political projects that

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sought to ‘normalise’ or ‘mainstream’ nationhood, simultaneously ‘depoliticising’ nationalism and thereby ‘relegitimising’ the nation.

When viewed as part of a national and nationalist project, national museums become the arena for contestation about the past and in particular an attempt to re-establish a single national narrative. Situating this analysis of state-sponsored history since 1945 within the literature on nationalism, this chapter first examines the relationship between museums, state-sponsored history and the relegitimisation of nations, nationhood and nationalism. It then examines the political controversies surrounding the establishment and opening of the Deutsches Historisches Museum (DHM), the Haus der Geschichte der Bundesrepublik Deutschland (HGBD) and the National Museum of Australia (NMA), opened in 1990, 2006 and 2001, respectively. The political projects associated with their establishment represented a form of state-sponsored history that sought to relegitimise nation, nationhood and nationalism in Germany and Australia.

MUSEUMS, STATE-SPONSORED HISTORY AND THE RELEGITIMISATION OF NATIONS

Nationalists create narratives from the past to endow nations with legitimacy and thereby justify and prolong the existence of the nation. John Breuilly, a historian of both nationalism and Germany argued in *Nationalism and the State* (1983) that nationalism should be seen as an ideology that legitimises political projects that seek both to attain *and maintain* the nation-state. Furthermore, this need for the maintenance of the nation-state and nationalism is generated in response to potentially dislocating change rather than being an expression of timeless continuity (Wellings 2014, p. 45). Therefore the state—or more precisely governments that control it—needs to reproduce the nation daily to support the legitimacy of the nation-state itself.

More recent research suggested the way that ideas of nationhood have insinuated themselves in everyday lives and practices, often in ‘banal’ ways (Billig 1995; Edensor 2002; Sumartojo 2013). National symbols have been produced to generate loyalty and conviction across classes, genders, ethnicities and generations, functions that link nineteenth-century nationalism to its present day manifestations. But what is legitimised could also delegitimise. Although nations have required the construction of national narratives to exist, and those narratives endow nations with legitimacy, some historical narratives could also undermine the legitimacy of nations. With the past being such an essential element in national narratives, negative or catastrophic versions of history have had the potential to undermine the political project of the maintenance of nationhood.

In both Germany and Australia the history controversies in the late twentieth century were closely linked to controversies over the establishment of national history museums. The establishment of national history museums in both cases led to a clash of interpretations of the past. Partisan groups

comprising historians, politicians and intellectuals in both nations engaged in 'trauma' management (Alexander 2012) to (re)define their historical cultures. This clash of what Jörn Rüsen (1994) called *Geschichtskultur*, society's practically articulated historical consciousness, was argued out between political parties and politicised individuals. It was a controversy over the physical manifestations of state-sponsored museums of national history.

More broadly these debates took place during the constructivist turn in history, during which the work of historians and curators became increasingly politicised (MacIntyre and Clark 2004). Delegitimising critiques emanating from the historical profession made the relegitimation of the nation through state-run museums all the more urgent. Museums of national history play a crucial role in the official representation of nations to domestic and international audiences. With the growth of history-tourism and the popularisation of certain forms of history that occurred towards the end of the twentieth century, such as family history, museums enjoy more than a merely physical prominence in the metropolis. They also perform an educational or even didactic role, seeking to maintain a balance among informing, educating and entertaining. This balance is not easy when dealing with such disturbing subjects as genocide and dispossession (Lynch 2016). In politically charged atmospheres, curators also have to manage expectations and interests from historians, politicians and the wider public. Despite this, the 'new' national museums cannot help but symbolise a transcendental connection between generations, social groups and territories, and they teleologically endow nations with a tangible illustration of a common origin. In museums of national history, historical and national consciousness become materialised in the form of monumental buildings accommodating permanent and temporary exhibitions. As Benedict Anderson (1991, p. 178), concerned with this transcendental function of nationalism in modern societies, pointed out, 'museums, and the museumizing imagination, are both profoundly political.' With state-sponsored museums operating as highly political spaces for the recreation of the national past, they function as a crucial site for the on-going legitimisation of nationhood.

THE *HAUS DER GESCHICHTE DER BUNDESREPUBLIK*
DEUTSCHLAND, THE *DEUTSCHES HISTORISCHES MUSEUM*
 AND THE '*HISTORIKERSTREIT*'

The *Historikerstreit* and the 'History Wars' have been acknowledged as *the* key controversies in the post-war historiographies of Germany and Australia. However, the relationship between these public historical controversies and the controversies surrounding national museums deserves more attention. After 1945, as the Cold War hardened, Germans engaged in a culture of suppressing the past rather than coming to terms with it. Those historians who had accommodated themselves to or supported Nazism reframed the narrative of their past in accordance with the requirements of the two new systems

of government in the Federal Republic of Germany (FRG) and the German Democratic Republic (GDR) after 1949 (Hohls and Jarausch 2000). In West Germany the first history controversy challenging the legitimacy of Germany's national history emerged in the early 1960s, with Fritz Fischer's (1961) claim that German imperialism had been responsible for the First World War. Fischer took a *longue durée* perspective of German history, arguing that Protestant traditions in German culture ultimately led to the catastrophic trajectory of the first half of the twentieth century. The FRG government cut Fischer's funding, and conservative historians such as Gerhard Ritter opposed Fischer's thesis (Moses 1975). With a climate of political change from the late 1960s, critical views of Germany's past became more acceptable and post-war German national narratives became increasingly contested. In 1969, Social Democrat Willy Brandt, who had been in the resistance movement and exiled during the Nazi era, became Federal Chancellor. Despite (or because of) the climate of change, his historic gesture of apology at the Warsaw Ghetto in 1970, the genuflection or *Kniefall*, was disapproved of by almost half the West German population (*Der Spiegel* 1970). Brandt and the Social Democrats dominated federal politics in the 1970s but the social democratic era came to an end with the chancellorship of the Christian Democrat, Helmut Kohl, in 1982.

Kohl, like John Howard his Australian counterpart discussed below, was a social conservative. Kohl had a PhD in history and, despite his transatlantic and Francophile commitments, employed a more nationalist rhetoric than his predecessors. He marketed his chancellorship as a conservative 'spiritual-moral turn' (*geistig-moralische Wende*) which would repair the cultural damages of the post-1968 period and bring 'historical consciousness' back to the younger generations of the divided country, a country that Kohl claimed would one day be again territorially unified and maintain a thriving Western, republican tradition (Wicke 2015). Kohl was also concerned about the competition over national history with the antagonistic regime in East Berlin, which was simultaneously popularising its Prussian and Lutheran heritage (Wicke 2015, pp. 159–160). At the same time West Berlin pushed for a permanent exhibition on German history. The alliance between politicians and historians becomes evident, for example, in the relationship between the conservative historian Michael Stürmer, one of the most important voices during the *Historikerstreit* (Augstein 1993), and Chancellor Kohl. Stürmer acted as Kohl's advisor and was a key promoter of Prussian history as German national history (Stölzl 1988). In 1982, Stürmer, with three other historians, had published a memorandum for the establishment of a German Historical Museum in Berlin. Stürmer would remain an important actor in the conservative historical movement of the 1980s, warning that Germany was about to become 'a land without history' (Stürmer, 25 April 1986) and supported his Chancellor's controversial memory politics, which were of domestic and international significance (Maier 1988).

In 1982 Kohl announced his plan to create a 'collection' pertaining to Federal Republican history in Bonn (which would become the *Haus der*

Geschichte der Bundesrepublik Deutschland; Kohl, 13 October 1982). In 1983, he also announced the construction of a national museum in Berlin (*Deutsches Historisches Museum*, DHM; Kohl, 4 May 1983). Both museums were from then on presented and discussed as complementary. Kohl in the meantime fueled the political-historical debate, when in January 1984 he visited Israel where he claimed the 'grace of late birth' (*Gnade der späten Geburt*) for his supposedly guiltless generation (Kohl, 25 January 1984).

The political debate over the two museums began when the West German minister for internal affairs sought to justify the decision to establish a museum in Bonn and the establishment of an expert commission to outline the historical narrative underpinning the exhibition. The commission consisted largely of conservative historians, including Lothar Gall, Klaus Hildebrand and Horst Möller (HGBD 1991, pp. 6–7). It was obliged to publish its report on the plans and take a great number of external opinions into account. Social Democrat Freimut Duve, for example, questioned the necessity of such a museum in Bonn (HGBD 1991, pp. 9–10, pp. 18–19). Social Democrat Richard Löwenthal believed such a museum was necessary as younger Germans 'had the need for a secure self-consciousness' (HGBD 1991, p. 10). The ambitions for finding a consensus were relatively strong, though left-wing historians such as Hans Mommsen or Helga Grebing remained sceptical of the nationalist rationale behind plans for Bonn (HGBD 1991, p. 14). Grebing moreover warned of homogenising a plurality of historical interpretations (HGBD 1991, pp. 14–15), an argument mounted by the left in Australia in the 2000s. Kohl defended himself against the claims of imposing a unitary version of history in arguing that the plurality of views was reflected in the museum policy and asserting that there wouldn't be any 'official image of history' dictated for the museums (HGBD 1991, pp. 19–20).

In mid-1986, the clash in West Germany's historical culture peaked as the political controversy about the two museums was mounting. This was a year after Kohl and Ronald Reagan had visited the Bitburg cemetery where SS soldiers were buried and, on the same day, commemorated the victims of the concentration camp at Bergen-Belsen (Jensen 2007). In the meantime the expert commission for the DHM in Berlin had also developed a programme for the museum's exhibition. Jürgen Habermas' subsequent article on the apologetic tendencies in Germany in many ways triggered the *Historikerstreit* over the singularity of the Holocaust (*Die Zeit*, 11 July 1986). But it was not only a reaction to Ernst Nolte's revisionist attempts of constructing the Holocaust as an element of a European civil war against the pre-existing communist threat (*FAZ*, 6 June 1986), but largely also to what Habermas perceived as the Kohl government's hegemonic attempt to promote national unity through a conservative account of history. The words of Habermas that caused the complete eruption of the *Historikerstreit* were also a critique of the Museum policies:

If one looks at the composition of the commissions of experts that have elaborated the concepts for the museums planned by the Federal Government – the German Historical Museum in Berlin and the House of the History of the Federal Republic in Bonn – it is difficult to resist the impression that the New Revisionism's ideas are also intended to be translated into the shape of exhibits, of display objects with the appropriate effect of a national pedagogy. (*Die Zeit*, 11 July 1986)

The editors of *Die Zeit* had asked Habermas previously to skip a section, which he, however, published the following year in a book volume (Habermas 1987, pp. 120–136), stating: 'Whoever does Bergen-Belsen in the morning and in the afternoon arranges a meeting of war veterans in Bitburg has a different conception of things—one which did not simply form the background to the eighth of May events yesterday, but is also the inspiration today for the planning of new memorials and new museum building.'

Even though absolute post-nationalism was rare in any part of Germany, this ideology had a prominent and influential spokesperson. Habermas was strongly averse to conventional forms of national identity and introduced his concept of constitutional patriotism (*Verfassungspatriotismus*) into the debate of the German *Historikerstreit*, when he argued that this would be 'the only patriotism, which does not alienate us from the West' (*Die Zeit*, 11 July 1986). In his eyes, the museums were part of a neoconservative movement of revisionist historians, headed by the federal government with its apologetic and tendencies vis-à-vis the Nazi past. Despite employing a cultural understanding of the German nation, Habermas believed that 'a bond, rooted in convictions of universalist, constitutional principles, has unfortunately only evolved in the *Kulturnation* of the Germans after—and because of—Auschwitz' (ibid.). Many critical historians sided with Habermas, attacking the hegemonic cultural policies of the Government (see, e.g. a collection by the *Geschichtswerkstatt* Berlin of 1987). Around the same time, parts of the opposition (including members of the SPD and Greens) also sought to undermine and delegitimise Kohl's conservative idea of 'normality,' criticising his museum projects as an attempt to normalise right-wing perceptions of German history, but Kohl insisted that he only sought to save Germans from a loss of national identity during the difficult times of political division. The parliamentary *Kulturdebatte* (1986) in the *Bundestag*, discussing the museum policy of the government, can be seen as a parliamentary pendant to the academic *Historikerstreit*.

The process of the establishment of what today is the German Historical Museum seems much more chaotic than in the Australian case, especially with regard to the Berlin museum: the *Haus der Geschichte's* foundation in Bonn was established in 1986, but its director set an agenda in 1987 and the law for the Bonn museum was approved by the *Bundestag* (including the votes of the SPD) and by the *Bundesrat* in 1989 and 1990, respectively, enabling Kohl to open the museum's first permanent exhibition in 1994 while he was still chancellor. In 1987 the institution of the DHM was founded in Berlin

as part of the 750th anniversary celebrations of the city of Berlin, and the first exhibitions were displayed from 1989 in some industrial buildings in the district of Charlottenburg, followed by an exhibition in 1990 in the Gropius Building on 'Bismarck: Prussia, Germany and Europe' (Delius 1990), confirming the Habermasian fears of an overly teleological, nationalist and rehabilitating representation of the German past. The unification of Germany and Berlin was at that stage not expected. However, the realisation of its counterpart in Berlin was disrupted by geopolitical events. Instead of following the plan of establishing the museum next to the *Reichstag*, the fall of the Berlin wall opened the opportunity to use the old Prussian Arsenal at Unter den Linden. The DHM initially took over the former GDR 'Museum for German History' before new temporary exhibitions of German history were displayed from 2003. Chancellor Merkel finally opened the permanent exhibition space in 2006. Both museums can be seen as part of the rehabilitation of German 'normality.' The Habermasian faction of German historians was perhaps wrong in its anticipation of an overly conservative narrative that would promote an entirely positive national history and thus self-congratulatory national identity by exonerating Germans from their guilt for the Holocaust. The very existence of national museums and their representation of a cohesive national narrative, however, contradicts any claims to post-nationalism. Importantly, these museums were part of a political project that sought to relegitimise German history and German nationhood from its delegitimising genocidal past. Such a dynamic played out in Australia too as we show below.

THE NATIONAL MUSEUM OF AUSTRALIA AND THE 'HISTORY WARS'

Although not seemingly causally related, Australian historians made links and comparisons between the Australian 'History Wars' and the German *Historikerstreit* (Moses 2001; Bonnell 2004; Bendle 2009). The Australian 1990s are reminiscent of this German *Schlußstrich*-era, because, as with German politicians who sought exculpating treatment in the exposure of positive continuities in German history, the Australian Prime Minister John Howard sought to draw reassuring continuities from the Australian past. This was a past that the federal government presented in a positive light, in contrast to the 'negative' connotations of developments in Australian history coming from academia and especially when associated with the government-funded National Museum of Australia (NMA).

Based in Canberra, the federal capital, the National Museum of Australia opened to the public in 2001. It was considered the centerpiece of Australia's Centenary of Federation celebrations marked throughout that year. Yet even before it opened, the National Museum of Australia was criticised for presenting Australian history negatively. Rumours abounded that such negativity was even inscribed into the very fabric of the museum building, with an apology

to Australia's indigenous peoples inscribed in Braille on the museum's outer façade.

For some, however, the idea of a national museum offered the hope of redemption and renewal, rather than just a monument to a troubled past. Therefore, two years after its opening, the museum underwent a period of government review, in which a cohesive and positive national narrative was recommended in order to overcome the fragmentation of national consciousness that had been brought about by the so-called 'history wars' of the 1990s. The past had been fiercely contested in the years preceding the opening of the National Museum as noted above. This politicised history focused on the dispossession of land belonging to indigenous peoples during colonisation and, most damagingly, claims that Australian governments pursued eugenic and genocidal policies in the twentieth century towards Aboriginal peoples. It was for this reason that the NMA became a crucial site of state-sponsored history in Australia and the contested location of an attempt to relegitimise the Australian past.

The idea of establishing a national museum for Australia had been raised during the debates immediately before and after Federation at the turn of the twentieth century. However, the National Museum of Australia only began collecting artefacts once an Act of Parliament established it as a statutory authority in 1980. Thus the period of its existence coincided with a significant shift in understandings about Australia's past. From the late 1960s, historians in Australia increasingly concerned themselves with the effects of colonisation, but not as a celebration of the extension of civilisation into a far-flung part of the globe, but instead for its negative effects on Australia's indigenous peoples. This newer approach entailed criticism of prevailing narratives of the past that were increasingly seen as involving conscious or unconscious acts of forgetting with regard to the more disturbing aspects of Australia's history, dispossession, discrimination, exploitation, murder and even genocide (Reynolds 1981).

In 1945, the dominant national narrative in Australia was still predominantly one that stressed the civilising effects of hard-working, egalitarian white settlers in which Australia was a 'social laboratory,' pioneering innovations such as the secret vote, votes for women and wages set for working men that allowed them to support a family as the sole breadwinner. This narrative was given added legitimacy in the twentieth century by successful participation in the global struggles against totalitarian militarism. In contrast to German post-war national narratives, the dominant national narrative prior to the 1980s positioned Australians as *victims*: convicts as victims of empire, settlers as victims of the environment, and the Anzac troops as victims of British incompetence (Curthoys 2003, p. 188). This sense of victimhood made it difficult for many Australians to identify their forebears as *perpetrators*, tainting their ancestors with criminal, inhuman and immoral acts towards Australia's indigenous peoples. However, in the last decades of the twentieth century, it was exactly this that they were asked to do. By the 1980s, as the

Historikerstreit was gaining political salience in Germany, Australian historians were writing a version of history that challenged longer established national narratives of victimhood and civilisation in Australia.

In 1988, during the official celebrations in Sydney Harbour marking the Bicentenary of the settling of the Australian continent by the British, indigenous peoples and their nonindigenous supporters staged a counter-demonstration claiming the event as 'Invasion Day.' The counter-demonstration, attended by indigenous peoples who had travelled from across the Australian continent to attend, gave settler-indigenous relations a high public profile. Settler-indigenous relations gained political salience following an official enquiry into the disproportionately high number of Aboriginal deaths in police custody in 1991 that led to a decade-long political process of 'Reconciliation.' The following year the High Court of Australia's decision in the *Mabo* case overturned the legal notion of *terra nullius* meaning that Australia could not be claimed as empty land when the British arrived in 1788 and began dispossessing indigenous peoples of their land. In 1993 the prime minister and leader of the Australian Labor Party (ALP) acknowledged offences against the indigenous population carried out by state agencies, arguing that 'We [the settlers] took the traditional lands and smashed the traditional way of life. We brought the diseases; the alcohol. We committed the murders. We took the children from their mothers (Keating 1993 [1992], p. 4).

Settler-indigenous relations were further politicised by the publication of the *Bringing Them Home* report in 1997 by a parliamentary enquiry into the policies of indigenous child removal carried out by federal and state government agencies from 1901 until the 1960s that created the so-called 'Stolen Generations.' State Parliaments subsequently issued apologies for the past treatment of mixed-race children forcibly removed from their parents and brought up in 'civilised' (white) society. This politicisation of the past forced debates about history into the public realm just as construction on the National Museum in Canberra began.

But not everyone in the Australian community felt comfortable with the need to atone for past sins. In 1993, the conservative historian Geoffrey Blainey coined a term for the emerging revisionist attitudes to the past: 'black-armband history' (Blainey 1993). Blainey presented the dispossession of Aboriginal land, and the attack on Aboriginal culture, as inevitable vis-à-vis the technological superiority of the British: 'Here were the inhabitants of the land which had just invented the steam engine meeting people who making no pottery and working no metals, did not know how to boil water. Here was an utter contrast in peoples... even with goodwill on both sides they were incompatible' (Blainey 1994, p. 22). From the mid-1990s, the term 'black armband history' was broadly applied to any view of history that conservatives in Australia deemed unduly negative. Henry Reynolds, a leading figure on the left-liberal side of the spectrum in this debate, then attacked 'several generations of nationalist and self-congratulatory writing, which had banished the Aborigines from text to a melancholy footnote' arguing that

‘Black-armband history is often distressing, but it does enable us to know and understand the incubus which burdens us all’ (Reynolds 1999, p. 258).

It was the change of government in 1996 that truly began the ossification of political opinion about the past into a Manichean debate that pitted ‘black armbands’ against ‘white blindfolds.’ The new Prime Minister and leader of the Liberal Party of Australia, John Howard, was a neoliberal social conservative who sought to restore national pride by disassociating himself and the Australian people from more ‘negative’ aspects of the Australian past, just as Kohl had done for himself and Germany in the 1980s. As prime minister from 1996 to 2007, Howard made it clear that he did not support the critical view of Australia’s past that had emerged in the preceding decades. Importantly he refused to apologise to the ‘Stolen Generations’ on behalf of the nation because present-day Australians could not carry any culpability for past crimes (see the Chap. 44 by Francesca Dominello in this volume). Howard was supported by historians, politicians and public figures who sought to counter what they saw as the overly-negative and damaging view of Australia’s past stemming from the cultural left and left-wing-dominated faculties of arts including departments of history. It was the latter that provided the historical research on which the new exhibits at the NMA would have to be based with, critics claimed, a corrosive effect on national pride.

Evidence emerged that these debates about the past were entering national consciousness. Mark McKenna demonstrated that during the 1990s, remembering the past in Australia became more contested and traumatic characterised by guilt, pain, denial and defensive pride (McKenna 2002, pp. 202–215). In federal parliament, the right-wing populist Pauline Hanson was elected in 1996. Her One Nation Party entered the debate with racist views on settler-indigenous history that pushed the public debate to the right. Outside of parliament, the former academic, Keith Windschuttle, emerged as a key critic of Aboriginal history and the NMA. With support from the right-wing think tank the Institute for Public Affairs (IPA) and support within government, he criticised the methodology of Aboriginal history and the conclusions about massacres and genocide reached thereby. He claimed that ‘black armband history’ was too reliant on dubious oral history, that many of the claims about massacres could not be documented and that many allegedly genocidal moments in Australian history were ‘fabricated’ (Windschuttle 2002).

The stakes in the debate were high. Windschuttle claimed he was defending nothing less than ‘the legitimacy of the British occupation of the Australian continent and of its commitment to the rule of law and civilised values’ (Windschuttle 2000, p. 20). This growing polarisation of the debate placed those curating the exhibits at the soon-to-be-opened National Museum in a difficult position. The museum was a statutory authority; that is, it was funded by the federal government but was notionally independent of direct government control, although highly exposed to political scrutiny. As a

taxpayer-funded institution with an expectation of impartiality in its presentation of the past, it was not clear if 'impartiality' meant presenting all views potentially offending everyone; taking a median position between the increasingly opposed sides of the debate at the risk of pleasing no one; or imposing an institutional consensus at variance with the stated views of the government of the day.

In 2001 the National Museum opened its doors into this politicised atmosphere with three main galleries: *Tangled Destinies*, dealing with human interactions with the Australian environment; *Nation*, charting the development of Australian national identity from 1901; and *First Australians*, devoted to indigenous cultures of Australia. Windschuttle quickly paid a visit to the new Museum and described it as 'a profound intellectual mistake,' labelling it—and social history more generally—as 'a tasteless blanchmange of worthy sentiment' (Windschuttle 2001, p. 16).

Indigenous sovereignty and newer understandings of the past that stressed the dispossession and genocide threatened the legitimacy of the Australian nation and undercut the idea of a positive national narrative. But once nationalists have identified threats to the nation and identified potential or actual sources of division they then seek to overcome them. These divisions can be based on class, race, gender or age. In this case, the division to be overcome was between past and present, a division that reflected the fragmentation of ideas about nationhood. Therefore some conservatives did not reject the NMA in its entirety but thought that it held out the possibility of healing a divided nation by presenting the Australian past in a more cohesive and consensual way.

But to perform this function the NMA would first have to be removed from the intellectual grip of 'black-armband history' and be given a new purpose. In this emerging conservative view, the National Museum was the institution that would help transcend or even eradicate such 'rival symbolic repertoires' (Hutchinson 2005, p. 87), thereby strengthening the nation. The means of this transcendence was to shift the debate about history, and the museum's displays, away from a vision of plurality and towards one where an imposed consensus was paramount (Hansen 2005). Yet imposing such a consensus risked excluding marginal voices and opinions. Graeme Davison, historian and advisor to the museum's council and director during installation of the three galleries, posed a solution to balancing the tensions between the role of a government-funded national museum presenting a singular narrative and an institution representing the nation's diversity. Davison wondered whether 'rather than suppressing difference by imposing an institutional consensus, might it not be better if national museums recognised that the imagined community that we call the nation is by its very nature plural and in flux?' (Davison 2001, p. 26).

Conservative commentators and some museum council members close to the Liberal (conservative) government rejected this pluralistic vision.

A government-sponsored review of the NMA was delivered in July 2003 (*Review of the National Museum of Australia Its Exhibitions and Public Programs*, hereafter *Review*). It noted that the museum risked 'presenting an assembly of ill-coordinated fragments, merely serving to confuse the visitor' instead of telling a cohesive story of the nation. It recommended a curatorial approach to exhibits that emphasised European and broader Western and classical traditions embodied in and by the Australian nation-state. It also recommended drawing a stronger link between Australia's natural environment and its national character, a device it was suggested that could transcend pre- and post-European settlement and bridge the settler-indigenous divide (*Review* 2003).

In a political move designed to catch the NMA's supporters off-guard, the *Review* only dwelt briefly with Australia's darker past and instead directed its attention to the primacy of national unity and the lack of gravity in presenting Australian culture. It is important to note the *Review* misunderstood the concept of 'imagined communities,' a concept that had indeed underpinned one of the three main galleries concerning the development of the Australian nation since 1901, but in doing so revealed the concern of the government and conservative response to the NMA:

The Panel is inclined to read more consensus than plurality at the core of that national collective conscience. The concept of 'imagined communities,' which is drawn from Benedict Anderson's book of that title, implies that the national character is a sort of fictitious construct, fluid and subject to rapid change, and therefore ephemeral. (*Review* 2003, p. 9)

This perceived fragmentation and delegitimisation of the Australian nation was combatted through asserting a singular—and positive—national narrative through the National Museum of Australia; an approach that later broadened out into the teaching of history. Summing up the conservative victory in the 'History Wars' in 2006, Prime Minister John Howard argued that 'too often, history, along with other subjects in the humanities, has succumbed to a post-modern culture of relativism where any objective record of achievement is questioned or repudiated.' He warned that 'young people are at risk of being disinherited from their community if that community lacks the courage and confidence to teach its history.'² The politics of the past that played out at the National Museum of Australia was part of a wider project to relegitimise the Australian past and hence the nation.

CONCLUSION

The nation-state (or governments in control of it) engaged in a form of state-sponsored history by creating national museums in an era that some sought to characterise as 'post-national.' This was an attempt to reimpose a 'state-sponsored' consensus on a narrative that not only was portrayed as having become fragmented, but that also threatened the legitimacy of the nation

itself as heir to a genocidal past. In both Germany and Australia debates over different kinds of 'genocidal pasts' undermined the legitimacy of the nation. In both countries the New Left, the new social movements that came into existence after 1968 and the subsequent constructivist turn in academia, paved the way towards more pluralistic and critical views of national history. Thus state-sponsored history in Germany and Australia played out against the backdrop of wider social and political debates about the past. When viewed as part of a national and nationalist project, national museums became the arena for contestation about the past and in particular attempts by conservative governments to re-establish a single national narrative in response to pluralist 'post-national' reconfigurations of the recent past.

NOTES

1. We are grateful for the constructive feedback by the editors.
2. Howard (2006).

REFERENCES

- Alexander, J. (2012) *Trauma. A Social Theory* (Cambridge: Polity).
- Anderson, B. (1991) [1983] *Imagined Communities. Reflections on the Origins and Spread of Nationalism*. (Rev. ed. London: Verso).
- Augstein, R., et al. (1993) [1987] *Forever in the shadow of Hitler? Original documents of the Historikerstreit, the controversy concerning the singularity of the Holocaust* (Atlantic Highlands: Humanities Press).
- Bendle, M. (2009) 'History Wars and the Holocaust', *Quadrant*. <http://quadrant.org.au/opinion/history-wars/2009/10/history-wars-and-the-holocaust/>. Accessed 23 May 2016.
- Billig, M. (1995) *Banal Nationalism* (London: Sage).
- Blainey, G. (1994) *A Shorter History of Australia* (Milton's Point: Mandarin).
- Blainey, G. (1993) 'Drawing Up a Balance Sheet of our History', *Quadrant*, 37(7–8), 10–15.
- Bonnel, A. and Crotty, M. (2004) 'An Australian "Historikerstreit"? Review Article', *Australian Journal of Politics and History*, 50(3), 425–433.
- Curthoys, A. (2003) 'Constructing National Histories' in B. Attwood and S. Foster (eds.) *Frontier Conflict. The Australian Experience* (Canberra: National Museum of Australia), pp. 185–200.
- Davison, G. (2001) 'National Museums in a Global Age. Observations Abroad and Reflections at Home' in D. McIntyre and K. Wehner (eds.) *National Museums. Negotiating Histories* (Canberra: National Museum of Australia), pp. 12–28.
- Delius, E. (1990) *Bismarck. Preussen, Deutschland und Europa* (Berlin: Nicolai).
- Der Spiegel* (1970) 'Kniefall angemessen oder übertrieben?' 14 December.
- Edensor, T. (2002) *National Identity, Popular Culture and Everyday Life* (Oxford: Berg).
- Fischer, F. (1961) *Griff nach der Weltmacht. Die Kriegszielpolitik des kaiserlichen Deutschland 1914–1918* (Düsseldorf: Droste).
- Geschichtswerkstatt Berlin (ed.) (1987) *Die Nation als Ausstellungsstück* (Hamburg: VSA).

- Habermas, J. (1986) 'Eine Art Schadensabwicklung', *Die Zeit*, 11 July.
- Habermas, J. (1987) *Eine Art Schadensabwicklung* (Frankfurt a. M.: Suhrkamp).
- Hansen, G. (2005) 'Telling the Australian Story at the National Museum of Australia', *History Australia*, 2(3), 90.1–90.9.
- Haus der Geschichte der Bundesrepublik Deutschland [HGBD] (1991) *Einstellungen. Kritik. Kontroversen. Konsens* (Bonn: Stiftung Haus der Geschichte).
- Howard, J. (2006) 'A Sense of Balance. The Australian Achievement in 2006', 25 January, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FAZVI6%22>. Accessed on 31 January 2006.
- Hutchinson, J. (2005) *Nations as Zones of Conflict* (London: Sage).
- Jensen, R. (2007) *Reagan at Bergen-Belsen and Bitburg* (College Station: Texas A&M University Press).
- Keating, P. (1993) [1992] 'Speech by the Honourable Prime Minister, PJ Keating MP. Australian Launch of the International Year for the World's Indigenous People, 10 December 1992', *Aboriginal Law Bulletin*, 3(61), 4–5.
- Kohl, H. (1983) 'Regierungserklärung von Bundeskanzler Dr. Helmut Kohl in der 4. Sitzung des Deutschen Bundestages', 4 May, <http://www.helmut-kohl-kas.de/index.php?msg=1948>. Accessed 25 May 2016.
- Kohl, H. (1984) 'Ansprache in der Knesset am 25. Januar 1984', *Bulletin* Nr. 13, Bonn: BPA, 2 February.
- Kohl, H. (1982) 'Regierungserklärung von Bundeskanzler Kohl in der 121. Sitzung des Deutschen Bundestages', 13 October, <http://helmut-kohl.kas.de/index.php?msg=1934>. Accessed 25 May 2016.
- Lynch, B. (2016) 'Challenging Ourselves. Uncomfortable Histories and Current Museum Practices' in J. Kid (ed.) *Challenging History in the Museum* (Oxford: Routledge).
- MacIntyre, S. and Clark, A. (2004) *The History Wars* (Melbourne: Melbourne University Press).
- Maier, C. (1988) *The Unmasterable Past. History, Holocaust and German National Identity* (Cambridge: Harvard University Press).
- McKenna, M. (2002) *Looking for Blackfellas Point. An Australian History of Place* (Sydney: UNSW Press).
- Moses, D. (2001) 'Coming to Terms with the Genocidal Pasts in Comparative Perspective. Germany and Australia', *Aboriginal History*, 25, 91–115.
- Moses, J. (1975) *The Politics of Illusion. The Fischer Controversy in German Historiography* (London: Prior).
- Nolte, E. (1986) 'Vergangenheit, die nicht vergehen will', *Frankfurter Allgemeiner Zeitung*, 6 June.
- Hohls, R. and Jarausch, K. (eds.) (2000) *Versäumte Fragen. Deutsche Historiker im Schatten des Nationalsozialismus* (Stuttgart: DVA).
- Reynolds, H. (1981) *The Other Side of the Frontier: Aboriginal Resistance to the European Invasion of Australia* (Sydney: UNSW Press).
- Reynolds, H. (1999) *Why Weren't We Told? A Personal Search for the Truth About Our History* (Ringwood: Viking).
- Rüsen, J. (1994) 'Was ist Geschichtskultur? Überlegungen zu einer neuen Art, über Geschichte nachzudenken' in J. Rüsen, T. Grütter and K. Fußmann (eds.) *Historische Faszination. Geschichtskultur heute* (Cologne: Böhlau), pp. 3–26.
- Stölz, C. (1988) *Deutsches Historisches Museum. Ideen-Kontroversen-Perspektiven*. (Berlin: Propyläen Verlag).

- Stürmer, M. (1986) 'Geschichte im geschichtslosen Land', *Frankfurter Allgemeiner Zeitung*, 25 April.
- Sumartojo, S. (2013) *Trafalgar Square. Narrating Britishness, 1906–2012* (Bern: Peter Lang).
- Wellings, B. (2014) 'Lest You Forget. Memory and Australian Nationalism in a Global Era' in S. Sumartojo and B. Wellings (eds.) *Nation, Memory and Great War Commemoration. Mobilizing the Past in Europe, Australia and New Zealand* (Bern: Peter Lang).
- Wicke, C. (2015) *Helmut Kohl's Quest for Normality. His Representation of the German Nation and Himself* (New York: Berghahn).
- Windschuttle, K. (2000) 'The Myths of Frontier Massacres in Australian History Part I: The Invention of Massacre Stories', *Quadrant*, October, 8–21.
- Windschuttle, K. (2001) 'How Not to Run a Museum', *Quadrant*, September, 11–19.
- Windschuttle, K. (2002) *The Fabrication of Aboriginal History. Volume One: Van Diemen's Land, 1803–47* (Sydney: Macleay Press).

PART VI

Memorials, Monuments and Heritage

Memorials and State-Sponsored History

Shanti Sumartojo

INTRODUCTION

From inconspicuous plaques on the sides of buildings to expansive commemorative sites, memorials are material, narrative and affective reminders of state-sponsored histories. They are a well-established means of telling official versions of the past, powerful tools of expression and communication that lodge in the collective imagination at sites often purposefully designed to envelop visitors in atmospheres of reflection or remembrance. They provide destinations of pilgrimage and catalyse ongoing public debate about how, what and who the state should remember. Memorials may also, however, slip out of public attention as official priorities change, becoming architectural anachronisms that speak to obsolete versions of history, or take on new meanings as their contexts and contents are transformed. Writing on post-apartheid South Africa, Sabine Marschall (2009, p. 2) remarks on memorials' many roles: 'they are "public institutions" through which selected narratives and associated groups can gain visibility, authority and legitimacy, but they are also sites of contestation where perhaps previously invisible differences can become evident.' Memorials can challenge, complicate or nuance state-sponsored history when they present new ways of understanding the past, or when they recognise and legitimise previously disregarded or subaltern histories.

Since 1945, memorials have also become a means to try to understand complicated or problematic histories of violence and trauma, as part of a post-war 'memory boom' (Winter 2000) that has been articulated in many different forms of public history, including larger processes of 'coming to terms

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with the past' particularly stemming from the Second World War (Young 1993). They now increasingly adopt contemporary abstract forms that invite bodily engagement, reflect ambivalence about state history, or seek to open new routes to debating and understanding it. Indeed, James Young (1993) argues that public debate about the content and form of new memorials is a vital means to grapple with the past and its continuing impact on the state and its people. Like other cultural expressions of collective memory and state-sponsored history, memorials are mediated by 'ideological and political discourses that authorise their creation or which create the right ideological and political conditions for their conception and eventual inception' (Crownschaw 2014, p. 220).

Accordingly, intense state activity in constructing, activating or demolishing memorials can be linked to periods of political and social transformation, as these structures become a means for the state to reinforce its authority by taking hold of how history is publicly represented; the widespread iconoclastic removal of memorials in post-Soviet states after 1989 is an example. Indeed, they have a strong relationship to other articulations of state-sponsored history, as in processes of transitional justice (Buckley-Zistel and Schäfer 2014), as part of truth and reconciliation commissions (Marschall 2009), or as a backdrop to international 'memorial diplomacy' (Graves 2014). In these contexts, they have local, national and even global roles to play in representing the state to domestic and international audiences at moments of change. Their ubiquity, however, means that they can be defined very broadly, especially as they take on new forms and approaches to public engagement over time. To manage this, this chapter follows James Young (1993, p. 4) in focusing on what he calls a 'subset of memorials': 'the material objects, sculptures and installations used to memorialize a person or thing.' It also looks mostly at urban settings, because of the concentration of memorials in these landscapes and the size and diversity of different publics in the city. This focus has determined the choice of examples in this chapter, and also provides a springboard to consider the main actors and stakeholders involved in designing, making decisions and activating memorial sites, as well as the explicit aims of those different interests.

Overall, this chapter shows how memorials reflect and form part of global twentieth-century history, including two world wars, decolonisation, the end of Soviet communism and the ideological struggles that accompanied these political transformations. It considers how they continue to play a role in the ongoing identity politics that have accompanied urbanisation and multiculturalism, and the growing interest in surfacing 'unrecognised' histories. It also discusses how intervention by different levels of the state might pull against each other, creating complex or unexpected outcomes, and considers how memorials are received and used, which can be an extension of the contests they sometimes generate. Indeed, the way that people physically interact with memorials shapes their roles and meanings, and such engagements

are framed by built form, materials, symbolic vocabularies and visitor activities. These combine to conjure affective experiences, deepening or ameliorating official discourse. Here, their prominence in urban settings is significant. Their common use as national symbols punctuating the fabric of the city, particularly in the nineteenth century, provided a means for states to communicate with growing urban publics. Many of these structures still stand and, particularly in post-imperial capitals, their contemporary treatment reveals some of the malleability and contingency of state-sponsored history.

At the same time, memorials can carry meaning as sites where ‘a group’s or society’s memories collect, and where past events represented by those objects can be remembered by those who witnessed the events directly or who have no direct experience of them’ (Crownshaw 2014, p. 220). Thus, they help to communicate across time, forming a link between the national past, present and future and cohering national groups in time as well as place. They mark particular events as so significant as to be ‘beyond time’ through the construction of public structures that have the appearance of permanency, even if they might later be subject to removal, demolition or alteration.

To make these arguments, this chapter introduces a wide range of examples, asking how they engage historical narratives and what representational and spatial forms they use to do this, how decision making about memorials both determines built outcomes and reveals the complex multiscalar actors who make them, and how memorials’ meanings are constantly re-negotiated, augmented or altered through public use or physical change. In doing so, it demonstrates complex, contingent and often contested articulations of state-sponsored history.

MEMORIALS IN THE TWENTIETH CENTURY CITY: NARRATIVE, FORM AND PROLIFERATION

Memorials have a very long global history as a demonstration of political power, especially as an element of urban design, where they have been used to punctuate axial boulevards and provide landmarks (Kostof 1991). From the nineteenth century, their construction flourished as a means to narrate particular histories, most notably imperial and national ones, through representations of heroic figures, allegorical symbols of national power and explicit renderings of important battles or political events. Around the 1870s public monuments became ‘an artistic, political and social domain in [their] own right,’ rather than solely a method of lauding individual achievement (Michalski 1998, p. 8). Their use as an expression of official history, and through this, political power, was related to the development of the modern state and its ‘invention of tradition’ through the deployment of particular versions of history to cohere collective communities and reinforce state power (Hobsbawm 1983). A feature of the past 200 years, such ‘inventions’ have emerged with the rapid transformation of society that often results from conflict.

Accordingly, the end of the First World War saw an efflorescence of new memorials as communities and states sought to come to terms with the trauma and disruption of the conflict and the social change it precipitated. This extended a trend from the middle of the nineteenth century ‘away from the celebration of state power to the more complicated memorialisation of war through the sacrifices and lost lives of individual soldiers’ (Rodrigo 2009). The scale and extent of the First World War saw the creation of numerous new memorials at every scale, from small local plaques, honour rolls and statues to major national monuments. For British imperial forces this was in part because of the decision not to repatriate the bodies of the war dead, which meant that domestic memorials became proxy gravesites for mourning relatives who often did not have the means to travel to actual cemeteries (Ziino 2007). This was compounded by the large numbers of ‘missing’ dead whose bodies could not be recovered or identified and who were instead named at sites such as the Menin Gate in Ypres, Belgium or the Thiepval Memorial to the Missing of the Somme in France. At the level of the state, new national memorials became the focus of regular commemorative events. The most prominent British example is Edwin Lutyen’s Cenotaph, located in Whitehall, London (Fig. 24.1). The location of this rectilinear stone structure at the spatial heart of imperial government symbolised the central social and political importance of the war to the British Empire and served as a regular focal point for ceremonial recognition of its victims. The Cenotaph was erected to mark the first Armistice Day in 1919, but the ceremony proved so popular that the memorial was rebuilt for the 1920 anniversary in stone, replacing the temporary wood and plaster structure. An annual commemorative ceremony has been held there every 11 November since.

Jay Winter (2000) has identified the twentieth century as a period of particularly intense commemorative activity, a change that started with the First World War and that continued to increase after 1945, in particular with the gradual emergence of Holocaust remembrance and the ‘recovery of voices that had been there all along’ (Winter 2000, p. 374). Indeed, Tony Judt (2005) singles out the Holocaust as the central defining event of twentieth-century European history, generating numerous memorials and an accompanying vociferous debate about how its memory and history should be treated in the memorial record. Berlin’s *Memorial to the Murdered Jews of Europe* (2005), he argues, is evidence of a long process in Germany of recognising, debating and eventually coming to terms with the scale and impact of this traumatic and violent episode. James Young (1993) similarly identifies the memorialisation of the Holocaust as presenting unique narrative and representational challenges for the state and those it commissions to design its memorials. Holocaust memorialisation is one manifestation of an ongoing twentieth-century global attention to memorialisation that intensified after 1918 and continues to draw in new events and audiences.



Fig. 24.1 Edwin Lutyen's Cenotaph (1920) in Whitehall, central London. Photo: Author

If the two world wars generated a range of new commemorative structures around the world, then the political and cultural transformation that accompanied the end of communism in 1989 also led to widespread changes to memorials, especially in urban settings. Particularly evident in European post-Soviet countries, this included the removal of Soviet-era memorials and the gradual construction of new structures to represent the newly-imagined state (see Ochman this volume). In Budapest, for example, the well-known removal of forty-one Soviet-era statues to the privately-run 'Memento Park' denuded the structures of a great part of their original impact by separating them physically and symbolically from their former locations and associations, thus stripping them of narrative meaning and diminishing their emotional charge (Stevens and Sumartojo 2014; James 1999).

Extending arguments about the importance of memory and recognition that had been made in relation to the Holocaust, Doss (2012, p. 2) describes the early twenty-first century United States as in the grip of 'memorial mania: an obsession with issues of memory and history and an urgent desire to express and claim those issues in visibly public contexts.' She links this to 'heightened anxieties about who and what should be remembered,' based in part on the shock and subsequent public memorialisation of 9/11, but also based on the cultural diversity and identity politics of the United States. These comments encapsulate a general post-war trend, most evident after 1989, towards new alternative subjects of memorials and a greater diversity in the number, form and spatiality of new memorials.

Accordingly, the subjects represented and stories told by public memorials have become much more commonly about collective experience rather than the singular heroes of the nineteenth and early twentieth century whose figurative statues still dot many urban landscapes. Memorials to large groups, often nationally symbolic such as military personnel or civilians killed in war, have become more common since 1918. This trend to commemorate victims has more recently extended to smaller groups, including those killed by terrorism, violence or natural disaster; in these cases, national narratives can be less explicit. The 9/11 memorial in Manhattan (2014), London's memorial to the 7 July 2005 bombing victims in Hyde Park (2009), Mexico City's *Memorial to Victims of Violence* (2013) in Chapultepec Park, and the memorial to the victims of the earthquake in Christchurch, New Zealand (2017) are all examples. Memorials have also followed migrant groups to their new homes as a way to both recognise international historical events and demonstrate the significance of new immigrant communities: recent examples include the Irish Hunger Memorial in New York (2002) and the Ukrainian famine or Holodomor in Washington, DC (2015). These all demonstrate an increased focus on so-called 'victims' memorials. A related point is the transnational nature of such themes, obviously evident in victims' memorials, that recalls the cemeteries and monuments for imperial troops following the First World War. For example, in the case of the Washington, DC Holodomor memorial, the Ukrainian government was closely involved in implementing

and funding the structure, evidence of the extraterritorial construction of a state-sponsored memorial (Embassy of Ukraine 2013). For the hosting state, this demonstrates support for historical narratives that, although they may play a role in national identity, are not necessarily intrinsic to it. Here, the memorial plays a role in both recognising a migrant community and demonstrating commitment to an international relationship, a form of memorial diplomacy that Matthew Graves (2014) identifies.

The complexity of what state-sponsored history might mean is further exemplified by ‘counter-monuments’ that explicitly question apparently settled historical narratives through new memorial forms and themes.¹ This has been particularly evident in Germany, as part of an ongoing process of trying to understand and come to terms with the Holocaust. For example, Quentin Stevens et al. (2012) discuss counter-monuments that seek to counter the conventional monumental logic of permanence or fixed narrative. An example was Jochen Gerz and Esther Shalev-Gerz’s *Monument against Fascism, War and Violence—and for Peace and Human Rights* (1986–1993), a column with a lead surface onto which people could inscribe their own messages. Located in Hamburg, it was lowered into the ground at regular intervals, submerging the old inscriptions and bringing the untouched surface into reach (see also Young 1992). A second type responds spatially to an existing memorial, critiquing ‘the purpose and the design of a specific, existing monument, in an explicit, contrary and proximate pairing’ (Stevens et al. 2012, p. 952). An example is Alfred Hrdlicka’s *Memorial against War and Fascism* (1985–1986), also in Hamburg, and its proximity to the pre-existing 1936 *Monument to the Fallen of Infantry Regiment No. 76*: ‘The juxtaposition of old and new works sought to produce a new, inter-dependent ensemble that warned of the consequences of glorifying war’ (Stevens et al. 2012, p. 964). Both types work with and against existing forms or narratives to complicate, challenge and reimagine the national past. James Young’s analysis of the counter-monument suggests that the process of reflection and debate over how best to represent the past is itself a potent form of memorialisation. Such sites are perhaps the most ‘brazen, painfully self-conscious memorial spaces conceived to challenge the very premises of their being’ (Young 1993, p. 27). Counter-memorials offer a way to think about post-war state-sponsored history that reveal it as complex and internally contested, rather than the settled and monolithic version of the past commonly represented in older memorials. That such structures can receive government support demonstrates ongoing official attempts to interrogate and account for the national past in new ways.

These examples also reveal another general characteristic of memorials post-1945: that their design has taken on a much wider range of forms, with a clear shift away from figuration and towards abstract, spatial forms. This derives from more nuanced approaches to multiple perspectives on state-sponsored histories, and also attempts to draw visitors into affective encounters that augment representation or narrative. Russell Rodrigo (2009, p. 1)

argues that the Second World War, and in particular the Holocaust and the nuclear bombing of Japanese cities, complicated the historical certainties of the treatment of war, problematising existing ways of representing the past in built form. Additionally, Quentin Stevens (2008, p. 2) identifies an increase in the number of abstract memorials since 1945, attributing this to a combination of trends towards abstraction in contemporaneous sculpture; a ‘developing interest in challenging the spatial relationships between the work, the viewer and site’; and a desire to try and address ‘problematic aspects of the past’ through creative representation. Abstract forms invite visitors to engage with memorials in more personal ways, but this does not necessarily mean that text and representation are absent, or that official historical narratives are ambiguous:

Many traditional memorial forms—figurative depictions of heroic leaders elevated on plinths and cloaked in allegorical symbolism—were designed to both humble and inspire their audiences...Contemporary memorials increasingly take wider, lower landscape forms that are closely integrated with everyday urban public space. They incorporate natural elements and encourage close multi-sensory engagement. Abstract and figural elements are often used in combination; sculptures tend to be less didactic than in the past. (Stevens and Sumartojo 2015a)

Accordingly, post-war memorials are more commonly designed to translate state-sponsored history into forms that invite bodily engagement. By placing visitors into particular physical relationships with memorials, history can be presented in a way that more readily acknowledges its complexity, and that foregrounds individual victims or heroes. One of the best-known examples is Maya Lin’s 1989 Vietnam Veterans Memorial (VVM) in Washington DC, an early ‘spatial’ memorial that invited visitors into an intimate interaction with the structure and the history it represents. The VVM is a reflective, black scar in the landscape of Washington’s central Mall that visitors approach along a path that dips down so that they are brought close to the rows of names engraved on the long wedge shape. Its shiny surface reflects their images back on them, forming a direct visual connection between visitors and the names of dead soldiers. In terms of state-sponsored history, this treatment of the Vietnam dead reasserts their individual sacrifices, going some way to repair the negative treatment that many returning veterans received in the late 1960s and early 1970s. At the same time, its abstract reflective form does not lead visitors towards particular representations of historical narratives, allowing scope for individual interpretation and experience (Rodrigo 2009).

A related aspect of memorial form is spatial context. Proximity to other monuments, central capital city sites, or remote rarely-visited battlefield locations all speak to the relative value of their narratives for the state in different ways, and the social and political power of the groups and histories they commemorate. Battlefield memorials, for example, draw attention to landscapes that have been scarred by war, reinforcing site-specific connections to



Fig. 24.2 *The Gilt of Cain*, City of London, Michael Visocchi and Lemn Sissay, 2008. Photo: Author

historical events, such as the major First World War memorials at Thiepval or Verdun. They can also draw in meaning from their surroundings in urban settings. The memorial to the 1807 abolition of the slave trade in the City of London is a contemporary example, installed around the 200th anniversary of this act. *Gilt of Cain* (2008; see Fig. 24.2) was a collaboration between a sculptor and poet, and is near the church of St Mary Woolnoth, the parish where slavery abolitionist William Wilberforce was active. It draws additional poignancy from its location because it is near a building called Plantation House, a spatial reminder of the slave labour that enriched the British Empire, making the City of London one of the most important financial centres in the world. The commissioners of the memorial at the City of London recognised this complex geography of trade, race, exploitation and political activism in sponsoring the new installation. Its abstract form is based both on the stems of sugar cane and the barrels that transported sugar and other goods from the West Indies, and the poetic text that accompanies it recalls the cruel treatment of humans as both cargo and wealth (Stevens and Sumartojo 2015b).

The siting of memorials in prominent locations has always been important, however, and site specificity has become critical for planners trying to manage ongoing demand for new memorials in increasingly crowded urban landscapes. Indeed, another general memorial trend since 1945 is their proliferation. Post-war histories, fueled by a public demand for commemoration, have seeded numerous new memorials, and the growth of more robust democracies has also facilitated demands from new groups to have their histories more formally recognised, as Erika Doss (2012) also observes. This

has resulted in growing concern about the saturation of some urban areas with memorials. For example, in Washington, DC, current regulations limit the construction of new memorials in designated central zones, reserving these sites for only the most nationally significant new structures (Stevens 2015). In London, the central borough of the City of Westminster (2010) has stringent urban planning rules for ‘saturation zones’ that stipulate strict conditions under which new memorials will be approved. In London’s Royal Parks, memorials are only allowed by exception, although this has not entirely prevented new memorials being built. Indeed, as the next section discusses, decision making at different scales of government about individual sites complicates the imperatives of state history and can create unexpected compromises in memorials’ narrative and form.

SCALES OF DECISION MAKING AND CHALLENGES TO STATE-SPONSORED HISTORY

As with all representations of history, memorials’ depictions of the past are never neutral or uncontested: as Duncan Bell (2008, p. 149) insists, ‘memory is employed in contemporary social and political thought in an often-bewildering variety of ways’ that obscures ‘vectors of power.’ This includes the official processes by which they are designed, constructed and maintained. To understand how states try to shape the historical record through memorials, we must consider how they are approved, who sponsors and pays for them, and the different scales of national, provincial or local bureaucracies that are involved. Other interest groups or landholders also often play a role, especially in fundraising and commissioning artists and architects, thus there is commonly a mix of state and nonstate interests that shape memorials’ built outcomes. The availability of sites in crowded cities and the competition for other land uses can create outcomes that appear to be related to historical priorities, but instead are compromises. In areas perceived to be saturated with memorials, this competition is particularly fierce. For example, the memorial to the 202 victims of the 2002 Bali bombing, including the names of twenty eight UK citizens, is located behind the Foreign and Commonwealth Office in London, the central government department that helped UK citizens following the bombings and provided funding for the memorial. Despite the appearance of site-specificity, the memorial was erected here because the installation of new security barriers freed up the space. Supporters of the memorial were content with this site and it was incorporated into the redesigned security measures; the location of the memorial was thus more of a pragmatic decision than a symbolic one (Stevens and Sumartojo 2015b). In this example, a memorial that appears to be purposefully positioned has instead been subject to contingency and compromise.

Furthermore, new memorials often commemorate events that are either recent or politically prominent, and because of their public nature, their

creation occurs in an extremely open, lively and contested arena for the articulation of historical narratives. A monument that exemplifies this is the 2009 Hyde Park memorial to the victims of the 7 July 2005 London bombing. As mentioned above, metropolitan bureaucracies often impose planning regulations on new memorials, and the growing public demand for these has led to specific policies in a few capital cities with high numbers of memorials, including Washington, DC and London. In London, new planning regulations specific to memorials make it difficult for sponsors to gain approval for new structures, and in practice, planning officers often try to divert new proposals to locations outside central areas that are less saturated. However, although the City of Westminster (the local government authority for central London, which has the most memorials and many other demands on urban space) has the power over city planning regulations, in many cases they must at least consult with other levels of government. This is because central London is both highly built up and symbolically important to the British state as a landscape of national power (Driver and Gilbert 1998; Sumartojo 2013), therefore the national government and other bodies such as English Heritage and The Royal Parks have a strong interest in the urban planning of central London.

However, in the case of the London bombings memorial, metropolitan planning regulations that heavily restricted the construction of new memorials were subverted by political decision making at the state level. Soon after the bombings, when fifty-two people were killed and over 700 injured, the 7 July memorial was commissioned by the British government. The design process drew together different national, metropolitan and local governments with representatives of the victims' families and architects. The location in Hyde Park was resisted by some authorities on the grounds that it was not site-specific to the bombings or the victims, and that it would degrade the valuable meadow garden at the proposed location; indeed, new memorials were usually prohibited in the park. Nevertheless, the site was chosen for its symbolic meaning as representative of the whole city, and the memorial was unveiled on the four-year anniversary of the 2005 attacks. It is located in the park's southeast corner, partially shielded from the adjacent, busy Park Lane by a low ridge and plantings that form a visual backdrop to the site and dampen the sound of nearby traffic noise. It is abstract and spatial, a closely-spaced group of four clusters of 3.5-m steel pillars, one for each bombing victim, arranged to allow visitors to move between them (see Fig. 24.3).

Although Westminster Council approved the site and structure in 2008, the planning documents reveal misgivings over the memorial's location over concerns about the 'proliferation of memorials in the park,' the 'potential impact of numerous new memorials' and a 'park already overburdened with monuments and memorials.' The proposed memorial had no direct relationship to the site in Hyde Park, usually a critical requirement, nor was it within an existing memorial precinct. Usually, objections such as these would



Fig. 24.3 *7 July Memorial*, Hyde Park, Carmody Groarke, 2009. Photo: Author

impede the development of new structures. However, the 7 July memorial enjoyed high-level political support from both the responsible government minister and the Prime Minister, and despite objections throughout the planning processes, Hyde Park was selected because of its ‘prominence, history and central London location,’ deemed appropriately significant to the memorial’s subject (BBC News 2007; Stevens and Sumartojo 2015b).² Here, the decision-making process, which usually discouraged any new structures, was swayed by highest-level government support underpinned by an argument for the national significance of a local event. This case demonstrates how the intervention of the central government in the construction of a new memorial can preference national interests over the concerns of local governments, or indeed the people who use local areas most frequently. It shows how the articulation of state-sponsored history, particularly in the contested realm of public space, is subject to a range of different priorities, and how the interests of cities can pull against the priorities of the central state.

This can also extend to other states, which have an interest in their own histories being represented in particular ways. For example in Budapest, a statue of former US president Ronald Reagan was unveiled in 2011 in Liberty Square (Szabadság Tér), oriented to face a First World War Russian Army memorial. Unveiled in 2011 by Hungarian Prime Minister Viktor Orban, it was installed with the support of the Hungarian state to credit Reagan’s contribution to the end of communism, and official US support for it was evident in the attendance at the unveiling of the US Ambassador to Hungary

and former Secretary of State Condoleezza Rice (Birnbaum 2011). Here, an articulation of state-sponsored history reinforced an international political relationship. This plays out depending on the relationships amongst different levels of government and the potential for memorial projects to support particular political agendas.³ Beyond the state, international actors can also be influential, whether as a result of bilateral diplomatic relationships or because commemorated events occurred outside state territory.⁴

Despite the appearance of permanency, existing memorials are often moved, sometimes multiple times, destroyed, altered or just left neglected as official commitment to versions of history represented in memorials changes over time, is diluted by other political priorities or is co-opted by other sources of decision-making power. The demolition or removal of memorials is a well-known accompaniment to twentieth-century political regime change, most recently since 1989 in post-Soviet states (Forest and Johnson 2002; Foote et al. 2000). This is because historical monuments and memorials symbolise political power and identity, with figures from the past used to 'articulate and legitimize present-day political circumstances' (Johnson 1994, p. 78). Memorials connect political power to collective identity, and thus are especially important in societies undergoing political change, when new rulers seek to declare their power and diminish the importance of previous regimes. The removal or alteration of old monuments, therefore, is as important as the erection of new ones. Some of the starkest twentieth-century examples were produced under National Socialism in the 1930s and in the post-war Soviet Union and its satellites (Taylor 1974; Dovey 1999; Fowkes 2002, 2004). The Nazi regime, for example, altered the war memorial at Berlin's *Neue Wache* to portray the Third Reich as a successor to the Holy Roman Empire and to sanctify soldiers' deaths as necessary for national renewal (Till 1999, 2005; Lane 1985). Similarly, James Young (1993) relates the purposeful destruction of Nazi monuments by occupying US military forces after the Second World War. In Russia, Lenin decreed the destruction or replacement of many tsarist monuments, and in Estonia where cultural assimilation was viewed as particularly necessary, hundreds of pre-Soviet monuments were destroyed and replaced in the early years of Soviet rule (Gamboni 1997, p. 56).

An example from Algiers, however, complicates somewhat the apparent irrevocability of memorial destruction. Following the First World War, sculptor Paul Landowski designed a memorial that depicted European and Muslim soldiers fighting together, a symbol of reconciliation intended to reinforce colonial power structures whilst recognising both communities in 1920s Algeria. With the arrival of independence, many such monumental symbols of the French state were removed, but the central Algiers memorial remained. By 1978, when Algiers hosted the All-Africa Games, Landowski's memorial was seen as too representative of colonialism, and its removal was proposed. However, it was retained thanks to the advocacy of a prominent local artist who valued its artistic merit; rather than demolish the structure, it was

completely encased in concrete, and new, anti-colonial symbolism added to the exterior. Thus, although the memorial remained intact, it was completely obscured, and its representations of French colonialism literally buried under new symbols of an independent Algeria. During renovations to this memorial in 2012, parts of the underlying First World War memorial were temporarily revealed, a reminder of history that had been sublimated but was still at the core of contemporary Algerian politics and identity (Hassett 2017; Grabar 2014).

As these examples show, the implied permanence of memorials is never guaranteed, and as Michalski (1998, p. 202) says of post-Soviet Eastern Europe, ‘many iconoclastic waves [have] successfully destroyed the myth of monumental eternalization’; Budapest’s Memento Park is perhaps the best-known example of this process on a citywide scale. Memorials intended to educate future generations about state history and identity were here subjected to ‘repressive erasure’: a type of forgetting with the ‘explicit purpose of casting all memory of [disgraced regimes] into oblivion’ (Connerton 2008, p. 60). Similarly, there is a long history of the destruction of architecture and other cultural artifacts as a tactic of violent conflict, a ‘means of dominating, terrorizing, dividing or eradicating’ opposing nations (Bevan 2006, p. 8). In terms of memorials, demolishing or altering them is a powerful means to both control historical narrative and create space for new hegemonies to be symbolised in public space. Such processes, however, are not perfect, and as the Algerian example shows, the past can peek through into the present through memorials’ materiality. However, memorials’ meanings are neither straightforward nor fixed, and are often subject to transformation or reinterpretation through direct alteration to their symbols or form, changes to their surroundings, or new activities and debates that animate their public significance in new ways.

THE EVOLUTION OF MEMORIALS’ MEANINGS

The location of memorial ‘memory spaces’ in the public realm makes them a form of address, a spatial text around which groups can coalesce (Warner 2002). Resonant with Nora’s (1989) expansive definition of what a ‘site’ of national memory might be, the public audience that ‘exists by virtue of being addressed’ is contingent, emergent, multivalent and changeable. It follows that memorials’ meanings are derived from political, spatial and historical contexts that extend far beyond their representations of history to their patterns of use, their physical surroundings and much larger currents of political and cultural change. Accordingly, memorials’ ‘unprescribed uses’ (Inglis 1998), those ways of encountering sites that have not been purposefully designed into them, are part of their role as public structures; visitors climbing on the stelae of Berlin’s Memorial to the Murdered Jews of Europe or rolling down the grassy hill at the Soviet memorial in Treptower Park are examples (Stevens and Franck 2016). Furthermore, symbols that last a

(relatively) long time in the built environment can change meaning over time, ‘even though within a given context the symbol may appear relatively fixed and communicate a small set of ideas, narratives and identities’ (Parkinson 2012, p. 78).

One way this occurs is through the weight of accumulated use that deepens the meaning of memorial places because they are ‘laden with authorial intentions, textual strategies and readers’ interpretations’ (Dwyer 2004, p. 422). Here, established sites are attractive for contemporary political users because of their potential to enrich new political activities through their historical and material associations. For example, in 2009 newly-elected US President Obama staged his inaugural celebrations at the Lincoln Memorial in Washington, DC’s Mall. The location drew inevitable comparisons with Martin Luther King’s historic 1963 speech there, and Obama himself alluded to this in his remarks, connecting to both the site, the historical narrative it symbolised and its well-known history of use by a similarly charismatic African-American leader. The memorial setting extended the impact of his inauguration by means of both the symbolic value of the memorialised historical figure (Abraham Lincoln), and the previous use of the site by a highly-respected civil rights leader (Martin Luther King). The text of the new president’s speech entangled the symbolism and use of the site with the physical presence of the monument to accentuate Obama’s unprecedented political achievement:

Rising before us stands a memorial to a man who led a small band of farmers and shopkeepers in revolution against the army of an Empire, all for the sake of an idea... Directly in front of us is a pool that still reflects the dream of a King, and the glory of a people who marched and bled so that their children might be judged by their character’s content. And behind me, watching over the union he saved, sits the man who in so many ways made this day possible. (Obama 2009)

If symbolism accretes through histories of use as much as through historical representations, then meaning is also burnished by the proximate installation of new memorial structures or facilities. For Australia, this was especially obvious in 2015, the 100-year anniversary of the Anzac landing at Gallipoli, an event commonly held as a generative moment of Australian nationalism (Holbrook 2014). Among the many new commemorative projects announced in 2015 was the General John Monash Centre, a new museum at the Australian National Memorial in Villers-Bretonneux, France.⁵ The federal government announced a budget allocation of \$100 million for the centre, an enormous amount for a site that is outside Australia and not even particularly well known in France. This expensive addition to the existing site highlights how memorial sites can be used to consolidate and legitimise existing state-sponsored histories. It also represents a policy change, led by former Prime Minister Tony Abbott, to foreground Australian activity on the Western Front, parsed as a



Fig. 24.4 The New Zealand National Memorial (Paul Dibble, 2006) in Hyde Park Corner. Photo: Author

victory, rather than the usual focus on the 1915 Anzac landing on the Gallipoli peninsula, which was eventually a military defeat. As Abbot said when announcing the new centre: ‘Gallipoli was a splendid failure but the Western Front was a terrible victory, and we should remember our victories as much as we remember our defeats’ (Gearin 2015). The allocation of such a large new project to a longstanding memorial site suggests a political recalibration of Australia’s official First World War history towards a new narrative of martial success, even if national failures are ‘splendid’ and victories ‘terrible.’

Other recent memorials similarly demonstrate the legitimising effect of physical addition. The recently added Australian (2003) and New Zealand (2006; see Fig. 24.4) war memorials at London’s Hyde Park Corner joined existing nearby memorials to the armed forces of the Indian subcontinent, Africa and the Caribbean from both world wars (2002) and a new Bomber Command Memorial (2012). These all continue the precinct’s existing military theme, evident in several First World War and Napoleonic memorials that reinforce and extend the memory of Britain’s imperial history by adding specific monuments to Commonwealth contributions (Stevens and Sumartojo 2015b). Such reinforcement of meaning with the addition of new structures helps the state to strengthen its version of history, recalling Anthony Cohen’s (1996, p. 806) remark that ‘[N]ational identity never seems to be so secure and so lacking in ambiguity and ambivalence that it can be left to look

after itself. So we find it ritualized, mythified, symbolized, emblemized—evidence that we are continuously working on and with it.’

Commemorative ritual is a further means for the state to do exactly this work on identity. Building on often well-established official historical narratives, commemorative events derive their impact in part from an affective charge that connects visitors to the past via a personal and emotional experience: this aspect of memorials is increasingly well recognised (Waterton and Dittmer 2014; Marshall 2004; Sakamoto 2015; Sumartojo 2015, 2016). Accordingly, a memorial can be understood as a stage for state-sponsored history, with attendees shaping discursive meaning by repeating specific, rehearsed postures in ‘rituals, festivals, pageants, public dramas and civic ceremonies [that] serve as a chief way in which societies remember’ (Hoelscher and Alderman 2004, p. 350). Such events are often depicted as anchored in deep national history, providing a means to connect past, present and future generations of co-nationals through static ‘national time’; indeed, Angharad Closs Stephens (2013, p. 17) remarks that ‘nations appear to have solidity because they give the impression of having a deep history,’ even though they are products of modernity, with most only assuming their current form in the twentieth century. Commemorative activity reinforces a sense of national longevity by enrolling participants in a ‘timeless’ activity that reaches beyond everyday life through the apparent permanence of both site and ritual. An Australian example of this is the Anzac Day Dawn Service, an annual national ceremony that takes place at memorial sites around the country on 25 April. The Service follows a regular and familiar rhythm of text, music and speeches that links the many thousands of early-morning attendees with soldiers from 1915, including through their location in nationally symbolic environments. This is done through evocations of the family connections to Australian military service, and the framing of Anzac ‘values’ in very general terms that are intended to make them accessible for all Australians (Sumartojo 2015).

Attempts to create a sense of personal connection to state histories, however, can obscure transformations in the use of such narratives to particular political ends. In Belgium, for example, the commemoration of the First World War has catalysed political struggle between the language communities, unmasking the competitive politics between the two groups, despite similar discursive content underpinning their approaches to commemoration (Wouters 2012). A site that exemplifies this is the Yser Tower in Dixmuide, the location of an annual pilgrimage purportedly in aid of First World War commemoration. For many years the site has been a symbolic asset supporting demands for increased autonomy for Flanders in Belgium. It was destroyed in 1946 and subsequently rebuilt with the support of public donations, but a 1992 decree by the Flemish government saw the allocation of government funds to protect and maintain it as part of a larger heritage landscape centred on Dixmuide (Shelby 2014, p. 173). Since 2012, changes to

the annual ceremony, including moving the date from late August to 11 November, have been criticised as an attempt to ‘relegitimize and popularize’ the political agenda of the Tower’s advocates (van Ypersele 2014, p. 147). The recasting of historical narrative by changing a commemorative date in this way is an example of how a memorial can be used to try to redefine state-sponsored history to advance contemporary political goals.

The political reinvigoration of memorial sites through such commemorative activity is also evident in ‘memorial diplomacy,’ the ‘instrumentalization of sites of memory, commemorative events and national days as a vehicle for international relations’ (Graves 2014, p. 169). Graves identifies an increase in this since 1945, as memorials involve ‘participants in carefully choreographed public ceremonies on the anniversaries of historic occasions at selected sites of memory...typically on the margins of international summits or intergovernmental forums.’ He describes these processes at work in recent First and Second World War commemorations, events that enjoy a repeated annual schedule that provides regular opportunities for high-level official international contact. The memorial sites, and the ceremonies that animate them, provide photogenic backdrops that act as predictably scripted ‘mood music’ for contemporary diplomatic labour. In 2014, for example, French President Hollande met German President Gauck to commemorate the centenary of Germany’s declaration of war on France at the Hartmannswillerkopf, an official French First World War cemetery site (DW 2014). Their speeches referenced the importance of Franco-German amity and the necessity ‘to transmit to coming generations the fragility of peace,’ using a commemorative ceremony at an almost hundred-year-old site to reinforce a call for European unity in the face of contemporary political and economic challenges.⁶

At the same time that they are activated for different purposes, however, memorials are also ignored or disregarded as they blend into our everyday surroundings or slip beneath notice, especially in busy cities. As such, they rely on ‘a constituency of visitors,’ without which their meaning would diminish, as ‘[T]he monument’s meaning is a process of dialogue between its intended meaning and those who visit it’ (Crownshaw 2014, p. 222). In 2000, then London Mayor Ken Livingstone admitted about Trafalgar Square that he had no ‘clue who two of the generals there are or what they did,’ demonstrating how the significance ascribed to state-sponsored histories can fade over time, and that public memorials in prominent sites are no guarantee of ongoing relevance of particular histories (Sumartojo 2012). On the other hand, Trafalgar Square’s specific symbolic history can still be evoked if necessary: when London won the 2012 Olympics, beating Paris by one vote, *The Sun* newspaper reported that Nelson looked down, pleased that ‘the French had been sunk again’ (Wheeler and Blair 2005). The Battle of Trafalgar may have been 200 years old, but it could still be mobilised to contemporary ends by way of a public memorial. Here, the example of Admiral Nelson was reinvoked at a moment that suited contemporary events, drawing a connection

between the national present and its past in triumphal terms.⁷ Thus, memorials' meanings are constantly evolving over time, not just as official versions of history change or as the past fades from individual experience, but also as states purposefully deploy memorials and commemorative events to different political ends to communicate state-sponsored history through their form, location and use.

This can also mean that problematic memorials can continue to exist for many decades, such as monuments of dictators or perpetrators of violence, because they are not a high priority for governments or do not attract powerful opposition. Particularly in crowded urban settings, memorials may simply not galvanise calls for their removal, as governments' and planners' attention are focused on other areas. Memorials' visibility, therefore, is related to how the official past is framed and represented more broadly; they are part of a much bigger and dynamic picture of ongoing and emergent state-sponsored history that valorises or delegitimises aspects of the past to affect new political outcomes. This can mean that memorials can quite suddenly spring into view, even after many years of virtual invisibility. Indeed, Kirk Savage (2011, p. 7) remarks that 'People and history get in the way, and they force the commemorative landscape to change and adapt...change keeps the monuments alive.' A new memorial can complicate or pull against state-sponsored histories, becoming a 'site of contested and competing meanings, more likely the site of cultural conflict than of shared national vales and ideals' (Young 2010, p. 80). Subject matter can be contentious, and this is especially the case for older memorials that no longer reflect contemporary, prevailing attitudes or politics. Even new structures can be accompanied by controversy or disagreement about their design, subject matter or location.

Budapest provides many examples of contested memorials that have been removed with major regime change or popular resistance, from the massive statue of Stalin on the Parade Ground that was demolished during the 1956 Uprising, to the many Soviet-era statues removed to Memento Park in the capital's suburbs (Stevens and Sumartojo 2014; Palonen 2013; Foote et al. 2000). The city's memorials continue to generate contest. There is longstanding debate over how to approach Hungary's wartime and post-war history, reflected in the combination of memorials in Liberty Square (Szabadság tér). For example, a bust of pre-1944 dictator Admiral Horthy stands on the grounds of a church that faces the Square. The conservative head of the congregation moved the bust from inside the church to the more prominent position outside, where it was unveiled by a right-wing politician in late 2013. Horthy, who allied Hungary with the Axis powers, has become associated with the anti-Semitic and extreme right-wing political group Jobbik. Demonstrators against the bust described Horthy as responsible for the Holocaust in Hungary, whereas supporters see him as an irredentist patriot who sought to restore Hungary to its pre-Trianon prominence.

Protests also accompanied the erection of another controversial new monument in the Square, this one to all victims of the 1944 Nazi occupation of Hungary. This structure was accused of shifting attention away from the murder and deportation of Jewish and minority Hungarians during the Holocaust and to obscure Hungarian co-operation with Nazi Germany. The memorial was ordered by the Office of the Prime Minister, and approved by the local city District V council in January 2014. The proposal immediately attracted criticism, particularly by Jewish groups that claimed it diverted attention from Hungarian government anti-Semitic laws and complicity in the deportation of Jews before the 1944 German occupation. The government was accused of ‘falsifying history’ through the construction of the memorial, especially in such a prominent central location, by suggesting that all Hungarians experienced the same suffering during the Nazi occupation. The final design was unveiled on Sunday 20 July 2014. Demonstrators regularly protested at the construction site, and responded to its completion with further demonstrations (Berend and Clark 2014; see also Stevens and Sumartojo 2014; Thorstensen 2012).

The ongoing controversy over the Horthy bust and the 1944 memorial in Budapest shows how decision-making about memorials has a social and political impact beyond the sites themselves. For the Horthy bust, its presence on private land meant it was not subject to planning approval that regulates structures in public space, even though the highly controversial figure was clearly visible from the Square. Although its location is not strictly public, its symbolism aligned with contemporaneous conservative political support for Hungarian irredentism. In the case of the 1944 memorial, the conservative national government ordered its construction and it was also supported by the government-aligned local metropolitan district, which had responsibility for the site. Legal opposition was thwarted on the basis that the national government had decreed the memorial a ‘project of primary importance for the national economy,’ thus circumventing local approval processes (Hungary Matters 2014). The monument helped consolidate conservative views of Hungarian history that served the political agenda of the government that approved it, and it shows how approval processes for memorials can be either controverted or manipulated to meet desired outcomes for the politically powerful, despite public opposition.

A final example of a contested memorial site with a meaning that has evolved in transformed political circumstances is the Voortrekker Monument (VTM) in Pretoria, South Africa. This massive hilltop monument was opened in 1949 and officially commemorates the journey of Dutch-speaking Boers from the Cape Colony beginning in 1835, but for many South Africans it is also a symbol of the racism and brutality of the Apartheid era. During the transition to democracy in the early 1990s, the discussion of the future of the VTM exemplified much larger debates about how to treat state-sponsored history in post-Apartheid South Africa. The post-1994 government decided

to maintain the VTM and other Boer sites and it was declared a National Heritage Site in 2011 in recognition of its significance for the Afrikaner community. It remains one of Pretoria's most popular tourist attractions. This example shows how memorials can be used to help integrate diverse populations by legitimising different groups' historical sites, particularly in post-conflict situations. Indeed, Annie Coombes (2003, p. 25) argues that '[T]he monument accrued significance supplemental to, and in some cases...directly at odds with, its intended symbolic presence.' Even though it had long served as a symbol for right-wing Afrikaner nationalism, she describes how its role in political narrative shifted in the late 1980s to laud the 'spirit of self-sacrifice and compromise' exhibited by the Voortrekkers, including in their relationships with various black African groups. This allowed the VTM to be rewritten by less radical political interests as a symbol of proud Afrikaans identity that was not oppositional to the unfolding political changes that led to the 1994 elections (Steenkamp 2006).

CONCLUSIONS

Large-scale changes to memorials in the second half of the twentieth century have accompanied much larger processes of democratic development or abrupt changes to regimes. In Europe and its colonies, many of these were linked to the First and Second World War, attempts to come to grips with violent and traumatic histories that affected many millions of people and the proliferation of memorials that these conflicts prompted. The trauma of these international conflicts, followed by the establishment of communist regimes, and their endings from 1989, drove the creation, destruction, alteration or reconsideration of many memorials. Relatedly, extended post-colonial processes around the world also saw changes to how state histories were presented symbolically, including through memorials.

Such twentieth-century shifts have also been accompanied by the representation of more diverse histories in memorial forms, as new, often subaltern, groups have found democratic outlets. In cities, planning processes have devolved decision making to substate levels of authority, which has meant that local and national demands for memorials do not always align in terms of the histories they want to represent. Furthermore, the form, subject matter and urban spatial distribution of memorials have diversified since 1945. Particularly evident in post-colonial or post-Soviet states, memorials have been a focus of public attention and a means by which new regimes can craft and promulgate new versions of national history through rejection of previous regimes. Moments of political conflict or regime change often see official and public attention focused on memorials. New conflicts, or new attention paid to older ones, have also driven the creation of new memorials to accompany processes of reconciliation, transitional justice or the extension of democratic inclusion.

Memorials reveal state-sponsored history as multiple, contested and changing. They are a powerful state resource to deploy official versions of history to contemporary political ends, and to cohere communities with shared understandings of the past and its relevance for the present. Governments regularly activate such sites, not least through public funding, by means of refurbishment or upgrade, regular ceremony or by pulling them into other forms of official culture such as education or popular history. Memorials thus retain political importance, although they are flexible in this regard: they can spring into view or slip beneath notice depending on the political, social or even built contexts in which they exist.

State-sponsored history, however, is not confined simply to the official activities and structures of the state. As with any other public dialogue, it seeps out into popular culture and practice, popping up in unexpected places. It is shaped and crafted at local, metropolitan and regional levels, and encountered and interpreted by all of us as individuals. The material presence of memorials reminds us of the complexity and contradiction within state-sponsored history, and our personal and collective relationships with it. Thus, the state narrative represented in memorials is ‘not an inert and passive thing, but a field of activity in which past events are selected, reconstructed, maintained, modified and endowed with political meaning’ (Said 2000, p. 185). Memorials materialise this narrative in built form, engaging visitors and enrolling them in the state project of meaning-making through their actions and perceptions, allowing visitors ‘the gaining of experiential insight... Through experiencing spaces, viewing and touching artifacts, moving in ritual patterns, and engaging in community activity, [and so] the viewer becomes an active participant in the experience of memory’ (Wasserman 1998, p. 43). Memorials structure visitors’ relationship with the commemorated subject matter through sensory engagement with the sites themselves, as well as inviting them to consider narrative and representational content. Whereas many expressions of state-sponsored history arguably carry affective impact, memorials are unique in the bodily, affective and sensory engagement that they offer visitors. When they are activated—by commemorative ceremony or protest, for example—their impact can be powerful.

This reveals the unique politics of memorial sites, and their contradictory relationship with state-sponsored history. Although they are indisputable examples of such histories, they rely on regular public visitors and commemorative rituals to remain relevant to contemporary citizens. They give an impression of permanency through their locations and use of materials, but they can be removed or relocated as state priorities and needs change. Furthermore, they connect contemporary national populations to past and future generations of co-nationals, through a sort of ‘national time’ that is renewed through annual ritual, such as days of national war remembrance. Political contest over what should be represented and how serves to keep history vital and present in these structures, and when additions, removals or new sites are

proposed, contemporary debates are often highly fraught. At the same time, even memorials that do not enjoy active use, or that appear to be ignored in their everyday public settings, tacitly legitimise state-sponsored histories. Whilst the social impact of their quiet presence is not straightforward to assess empirically, they undoubtedly connect contemporary populations to an official version of the past, even when they go largely unnoticed, particularly in their role as urban landmarks. Memorials' relationship with state-sponsored history is therefore a dynamic and highly variable one, and one that will continue to shape our shared built and symbolic landscapes in powerful and sometimes unpredictable ways.

NOTES

1. Stevens et al. (2012) identify the emergence of the term *Gedenkmal* in German scholarship to describe new types of counter-memorials in the 1980s. See also Springer (1989).
2. Memorial approval processes can also surface tensions between central and city governments, particularly when they are of different political orientations or have different views of how the cities should be represented, as when a city would rather it not be associated with the 'dark tourism' that can be associated with memorial visits.
3. External actors include international organisations with a stake in the successful outcome of peace processes. A notable example is the former Yugoslavia, where the Dayton Peace Agreement included the establishment of the Commission to Preserve National Monuments to identify and protect 'property of great importance to a group of people with common cultural, historic, religious or ethnic heritage' (Musi 2014).
4. First World War memorials are an obvious and widespread example of this. Anzac Cove on Turkey's Gallipoli Peninsula, which receives thousands of Antipodean visitors every year, is a case where access to an important Australian and New Zealand commemorative site relies on an amicable working relationship with Turkish authorities at every level.
5. This memorial here is the main Australian commemorative site on the Western Front. It was designed by Edwin Lutyens and unveiled in 1938. Comprised of a tower and two flanking monumental walls, it is inscribed with the names of almost 11,000 Australian soldiers from the First World War with no known grave. There is also a cemetery at the site. It hosts an annual commemorative service on Anzac Day, 25 April, the national war remembrance holiday in Australia.
6. In 2014, these challenges included tension with Russia over conflict in Ukraine and the Euro crisis.
7. Nelson's legacy was the subject of a major public artwork commissioned for Trafalgar Square in 2010, Yinka Shonibare MBE's *Nelson's Ship in a Bottle*. This work connected the trade and colonial expansion of the British Empire in the nineteenth century with contemporary London's 'super-diversity,' exemplified in the 2016 election of the city's first Muslim mayor, Sadiq Khan (Sumartojo 2012).

REFERENCES

- BBC News (2007) 'Hyde Park to Host 7 July Memorial', 15 February. http://news.bbc.co.uk/2/hi/uk_news/6364835.stm. Accessed 14 January 2016.
- Bell, D. (2008) 'Agonistic Democracy and the Politics of Memory', *Constellations*, 15(1), 148–166.
- Berend, N. and Clark, C. (2014) 'Not Just a Phase', *London Review of Books*, 20 November. <http://www.lrb.co.uk/v36/n22/nora-berend/not-just-a-phase>. Accessed 14 January 2016.
- Birnbaum, B. (2011) 'Statue in Budapest's Liberty Square credits Reagan for freedom', *The Washington Times*, 20 June. <http://www.washingtontimes.com/news/2011/jun/29/statue-in-budapests-liberty-square-credits-reagan-/print/>. Accessed 2 June 2016.
- Buckley-Zistel, S. and Schäfer, S. (eds.) (2014) *Memorials in Times of Transition* (Antwerp: Intersentia).
- City of Westminster (2010) 'Temporary Planning Applications Sub-Committee Report, 13 May 2010', http://idoxpa.westminster.gov.uk/online-applications/files/710ACDB67E5552CE1E0FECC4EFE6BDB3/pdf/10_00926_FULL-SUB_COMMITTEE_REPORT-2170772.pdf. Accessed 14 April 2014.
- Closs Stephens, A. (2013) *The Persistence of Nationalism. From Imagined Communities to Urban Encounters* (London: Routledge).
- Cohen, A. (1996) 'Personal nationalism. A Scottish view of some rites, rights, and wrongs', *American Ethnologist*, 23(4), 802–815.
- Connerton, P. (2008) 'Seven types of forgetting', *Memory Studies*, 1(5), 59–71.
- Coombes, A. (2003) *History after Apartheid. Visual Culture and Public Memory in a Democratic South Africa* (Chapel Hill: Duke University Press).
- Crownshaw, R. (2014) 'The Memorialization of History' in S. Berger and B. Niven (eds.) *Writing the History of Memory* (London: Bloomsbury), pp. 219–237.
- Dovey, K. (1999) *Framing Places. Mediating Power in Built Form* (London: Routledge).
- Driver, F. and Gilbert, D. (1998) 'Heart of Empire? Landscape, space and performance in imperial London', *Environment and Planning D: Society and Space*, 16, 11–28.
- DW (2014) 'Gauck and Hollande commemorate 100th anniversary of World War One', 3 August. <http://www.dw.com/en/gauck-and-hollande-commemorate-100th-anniversary-of-world-war-one/a-17828582>. Accessed 22 May 2016.
- Dwyer, O. (2004) 'Symbolic accretion and commemoration' *Social & Cultural Geography*, 5(3), 419–435.
- Embassy of Ukraine in the United States (2013) 'U.S. National Park Service issued a permit for the construction of the Holodomor Memorial in Washington, DC', 3 October. <http://usa.mfa.gov.ua/en/press-center/news/15268-shhodo-nadannya-nacionalynuju-parkovuju-sluzhboju-ssha-uryadu-ukrajini-dozvolu-na-budivnictvo-u-m-vashington-pamjatnika-zhertvam-golodomoru>. Accessed 11 June 2016.
- Foote, K., Tóth, A. and Arvay, A. (2000) 'Hungary After 1989. Inscribing a new past on place', *The Geographical Review*, 90(3), 301–334.
- Fowkes, R. (2002) 'The Role of Monumental Sculpture in the Construction of Socialist Space in Stalinist Hungary' in D. Crowley and S. Reid (eds.) *Socialist Spaces/ Sites of Everyday Life in the Eastern Bloc* (Oxford: Berg), pp. 65–84.

- Fowkes, R. (2004) 'Soviet War Memorials in Eastern Europe, 1945–74' in C. Benton (ed.) *Figuration/Abstraction. Strategies for Public Sculpture in Europe 1945–1968* (Aldershot: Ashgate), pp. 11–32.
- Gamboni, D. (1997) *The Destruction of Art. Iconoclasm and Vandalism since the French Revolution* (London: Reaktion Books).
- Gearin, M. (2015) 'Abbott unveils \$100 million Villers-Bretonneux educational centre to "remember our victories"', *ABC News*, 27 April. [http://www.abc.net.au/news/2015-04-27/abbott-introduces-\\$100m-wwi-educational-centre/6423286](http://www.abc.net.au/news/2015-04-27/abbott-introduces-$100m-wwi-educational-centre/6423286). Accessed 12 January 2016.
- Grabar, H. (2014) 'Reclaiming the City. Changing Urban Meaning in Algiers after 1962', *Cultural Geographies*, 21(3), 389–409.
- Graves, M. (2014) 'Memorial Diplomacy in Franco-Australian Relations' in S. Sumartojo and B. Wellings (eds.) *Nation, Memory, and Great War Commemoration. Mobilizing the Past in Europe, Australia and New Zealand* (Bern: Peter Lang), pp. 169–188.
- Hassett, D. (2017) 'A Tale of Two Monuments. The War Memorials of Oran and Algiers and Commemorative Culture in Colonial and Post-Colonial Algeria' in S. Sumartojo and B. Wellings (eds.) *Commemorating Race and Empire in the First World War* (Liverpool/Marseilles: LUP/PUP).
- Hobsbawm, E. (1983) 'Introduction. Inventing Traditions' in E. Hobsbawm and T. Ranger (eds.) *The Invention of Tradition* (Cambridge: Cambridge University Press), pp. 1–14.
- Hoelscher, S. and Alderman, D. (2004) 'Memory and place. geographies of a critical relationship', *Social & Cultural Geography*, 5(3), 347–355.
- Holbrook, C. (2014) *Anzac. The Unauthorised Biography* (Sydney: NewSouth).
- Hungary Matters (n.d.) 'Protest against monument to Nazi victims', http://hungary-matters.hu/images/download/hungary_matters/2014/morning/hm0721am.pdf. Accessed 29 July 2014.
- Inglis, K. (1998) *Sacred places. War memorials in the Australian landscape* (Melbourne: Miegunyah Press).
- James, B. (1999) 'Fencing in the past. Budapest's Statue Park Museum', *Media, Culture, Society*, 21, 291–311.
- Johnson, N. (1994) 'Sculpting heroic histories. Celebrating the centenary of the 1798 rebellion in Ireland', *Transactions of the Institute of British Geographers*, 19(1), 78–93.
- Judt, T. (2005) *Postwar. A History of Europe since 1945* (London: William Heinemann).
- Kostof, S. (1991) *The City Shaped. Urban Patterns and Meanings Through History* (Boston: Little Brown).
- Lane, B. M. (1985) *Architecture and Politics in Germany 1918–1945* (Cambridge: Harvard University Press).
- Marshall, D. (2004) 'Making sense of remembrance', *Social & Cultural Geography*, 5(1), 37–54.
- Michalski, S. (1998) *Public Monuments. Art in Political Bondage, 1870–1997* (London: Reaktion).
- Musi, M. (2014) 'The international heritage doctrine and the management of heritage in Sarajevo, Bosnia and Herzegovina. The case of the Commission to Preserve National Monuments', *International Journal of Heritage Studies*, 20(1), 54–71.

- Obama, B. (2009) 'Remarks at the Lincoln Memorial', 18 January. <http://www.presidency.ucsb.edu/ws/?pid=85440>. Accessed 16 September 2016.
- Palonen, E. (2013) 'Millennial politics of architecture: myths and nationhood in Budapest', *Nationalities Papers: The Journal of Nationalism and Ethnicity*, 41(4), 536–551.
- Parkinson, J. (2012) *Democracy and Public Space. The Physical Sites of Democratic Performance* (Oxford: Oxford University Press).
- Rodrigo, R. (2009) 'Spatializing Memory. Bodily Performance and Minimalist Aesthetics in Memorial Space', *Proceedings of the Australian Council of University Art and Design Schools*, <http://acuads.com.au/conference/article/spatializing-memory-bodily-performance-and-minimalist-aesthetics-in-memorial-space/>. Accessed 13 January 2016.
- Said, E. (2000) 'Invention, Memory and Place', *Critical Inquiry*, 26(2), 175–192.
- Sakamoto, R. (2015) 'Mobilizing Affect for Collective War Memory', *Cultural Studies*, 29(2), 158–184.
- Savage K. (2011) *Monument Wars. Washington, D.C., the National Mall, and the Transformation of the Memorial Landscape* (Berkeley: University of California Press).
- Shelby, K. (2014) *Flemish Nationalism and the Great War. The Politics of Memory, Visual Culture and Commemoration* (Basingstoke: Palgrave).
- Springer, P. (1989) 'Denkmal und Gegendenkmal' in E. Mai and G. Schmirber (eds.) *Denkmal—Zeichen—Monument. Skulptur und öffentlicher Raum heute* (Munich: Prestel), pp. 92–102.
- Steenkamp, A. (2006) 'Apartheid to democracy: representation and politics in the Voortrekker Monument and Red location museum', *Architectural Research Quarterly*, 10, 249–254.
- Stevens, Q. (2008) 'Vague Recollections. Minimalist Aesthetics in Public Memorials', *Proceedings of the XXVth International Conference of the Society of Architectural Historians, Australia and New Zealand, Geelong, Australia*, 3–6 July.
- Stevens, Q. (2015) 'Masterplanning public memorials: an historical comparison of Washington, Ottawa and Canberra', *Planning Perspectives*, 30(1), 39–66.
- Stevens, Q., Franck, K. and Fazakerley, R. (2012) 'Countermonuments. The anti-monumental and the dialogic', *The Journal of Architecture*, 17(6), 951–972.
- Stevens, Q. and Sumartojo, S. (2014) "'56 after '89. Re-Commemorating Hungarian History after the Fall of Communism' in C. Schnoor (ed.) *Proceedings of the Society of Architectural Historians, Australia and New Zealand* 31, (Auckland: SAHANZ), pp. 355–371.
- Stevens, Q. and Sumartojo, S. (2015a) 'Introduction. Commemoration and Public Space', *Landscape Review*, 15(2), 2–6.
- Stevens, Q. and Sumartojo, S. (2015b) 'Memorial planning in London', *Journal of Urban Design*, 20(5), 615–635.
- Sumartojo, S. (2012) 'The Fourth Plinth. Creating and contesting national identity in Trafalgar Square, 2005–2010', *Cultural Geographies*, 20(1), 67–81.
- Sumartojo, S. (2013) *Trafalgar Square and the Narration of Britishness, 1900–2012. Imagining the Nation* (Bern: Peter Lang).
- Sumartojo S. (2015) 'National identity and commemorative space. Co-national connections through time and site', *Landscape Review*, 15(2), 7–18.
- Sumartojo, S. (2016) 'Commemorative atmospheres: memorial sites, collective events and the experience of national identity', *Transactions of the Institute of British Geographers*, 41, 541–553.

- Sumartojo, S. and Stevens, Q. (2016) 'Affective atmosphere at the Anzac Day Dawn Service' in D. Drozdowski, S. de Nardi and E. Waterton (eds.) *Memory, Place and Identity. Commemoration and Remembrance of War and Conflict* (London: Routledge).
- Taylor, R. (1974) *The Word in Stone. The Role of Architecture in the Nationalist Socialist Ideology* (Berkeley: University of California Press).
- Till, K. (1999) 'Staging the past. landscape designs, cultural identity and Erinnerungspolitik at Berlin's Neue Wache', *Cultural Geographies*, 6, 251–283.
- van Ypersele, L. (2014) 'The Great War in Belgian Memories. From Unanimity to Divergence' in S. Sumartojo and B. Wellings (eds.) *Nation, Memory, and Great War Commemoration. Mobilizing the Past in Europe, Australia and New Zealand* (Bern: Peter Lang), pp. 133–148.
- Wasserman, J. (1998) 'To trace the shifting sands. Community, ritual and the memorial landscape', *Landscape Journal*, 17(1), 42–61.
- Waterton, E. and Dittmer, J. (2014) 'The museum as assemblage. Bringing forth affect at the Australian War Memorial', *Museum Management and Curatorship*, 29(2), 122–139.
- Winter, J. (1995) *Sites of Memory, Sites of Mourning. The Great War in European History* (Cambridge: Cambridge University Press).
- Winter, J. (2000) 'The Generation of Memory. Reflections on the "Memory Boom" in Contemporary Historical Studies', *GHI Bulletin* 27. http://www.perspectivia.net/publikationen/bulletin-washington/2000-27-2/winter_generation. Accessed 18 May 2016.
- Winter, J. (2006) *Remembering War. The Great War Between Memory and History in the Twentieth Century* (New Haven: Yale University Press).
- Wouters, N. (2012) "'Poor Little Belgium?" Flemish and French-language politics of memory (2014–18)' *Journal of Belgian History*, 42(4), 192–199.
- Young, J. (1992) 'The Counter-Monument. Memory against Itself in Germany Today', *Critical Inquiry*, 18(2), 267–296.
- Young, J. (1993) *The Texture of Memory. Holocaust Memorials and Meaning* (New Haven: Yale University Press).
- Young, J. (2010) 'Memory and Monument after 9/11' in R. Crownshaw, J. Kilby and A. Rowland (eds) *The Future of Memory* (Oxford: Berghahn), pp. 77–92.
- Ziino, B. (2007) *A Distant Grief. Australians, War Graves and the Great War* (Crawley: UWA Press).

ESSENTIAL READING

- Doss, E. (2012) *Memorial Mania. Public Feeling in America* (Chicago: University of Chicago Press).
- Inglis, K. (1998) *Sacred places. War memorials in the Australian landscape* (Melbourne: Miegunyah Press).
- Marschall, S. (2009) *Landscape of Memory. Commemorative Monuments, Memorials and Public Statuary in Post-Apartheid South Africa* (Leiden: Brill).
- Parkinson, J. (2012) *Democracy and Public Space. The Physical Sites of Democratic Performance* (Oxford: Oxford University Press).
- Savage, K. (2011) *Monument Wars. Washington, D.C., the National Mall, and the Transformation of the Memorial Landscape* (Berkeley: University of California Press).

- Stevens, Q. and Franck, K. (2015) *Memorials as Spaces of Engagement. Design, Use and Meaning* (London: Routledge).
- Thorstensen, E. (2012) 'The Places of Memory in a Square of Monuments: Conceptions of Past, Freedom and History at Szabadság Tér', *AHEA: E-journal of the American Hungarian Educators Association*, 5. Available at: <http://ahea.net/e-journal/volume-5-2012>. Accessed on 30 September 2017.
- Till, K. (2005) *The New Berlin* (Minneapolis: University of Minnesota Press).
- Warner, M. (2002) *Publics and Counterpublics* (Cambridge, MA: MIT Press).
- Winter, J. (2006) *Remembering War. The Great War Between Memory and History in the Twentieth Century* (New Haven: Yale University Press).
- Young, J. (1993) *The Texture of Memory. Holocaust Memorials and Meaning* (New Haven: Yale University Press).

Spaces of Nationhood and Contested Soviet War Monuments in Poland: The Warsaw Monument to the Brotherhood in Arms

Ewa Ochman

Abbreviations

| | |
|--------|--|
| EU | European Union |
| IPN | Instytut Pamięci Narodowej Institute of National Remembrance |
| NATO | North Atlantic Treaty Organization |
| NKVD | Narodnyi Komissariat Vnutrennikh Del People's Commissariat for Internal Affairs |
| PiS | Prawo i Sprawiedliwość Law and Justice |
| PO | Platforma Obywatelska Civic Platform |
| ROPWiM | Rada Ochrony Pamięci Walk i Męczeństwa Council for the Protection of the Memory of Struggle and Martyrdom |
| SLD | Sojusz Lewicy Demokratycznej Democratic Left Alliance |

Memorial landscapes are typically rooted in historical narratives endorsed by the state and reflect the state's ideological positions. Thus, state actors play a

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key role in shaping and controlling the construction of memorial landscapes. However, it has been convincingly argued that, in the last few decades, in democratic systems, central authorities' dominant position in constructing commemorative practices has been eroding (see Misztal 2003, pp. 15–22). First, the rise of new means of global communication, developments in media technologies and cross-cultural contacts have brought about a fragmentation of national memory. Second, the growth of new agencies of memory production and the increasing self-confidence of diverse communities of memory engaged in their own politics of identity has accelerated a decline in authoritative memories (Nora 1998; Huyssen 2003; Levy and Sznajder 2006). In this context the *memory work* undertaken by states that have recently undergone a regime change warrants particular attention. Securing political legitimacy involves a re-evaluation of the past (Hobsbawm 1983); accordingly, we can assume that “new” national regimes will redouble their effort in memory construction.

This chapter focuses on Poland, which became a democratic state in 1989 following over forty years of communist one-party rule. It explores the process of the de-communisation of Poland's public space that ensued. The state's overarching aim was to construct an ideologically coherent commemorative landscape that pays respect to the victims of both Nazi and communist totalitarian regimes and honors the memory of those who fought for an independent Poland against both Nazi and Soviet occupiers. And yet over twenty years after the fall of communism there were around 1200–1400 street and square names that “symbolised communism” (IPN 2012, p. 19) and in 2016 there still remained 229 Soviet war monuments commemorating the Red Army (Ukielski 2016). So what has prevented state memory actors from thoroughly revising the commemorative landscape? This chapter tries to determine the origins and trajectories of the conflicts over the memorial landscape in Poland and to explore the memory tensions between the state and others engaged in memory production. It seeks answers to the following questions. What means did the newly democratized state have at its disposal to exercise control over public space? What legitimation did it invoke when imposing a dominant narrative on communities that resist change? What kinds of practices and discursive strategies were used to influence different groups' attitudes towards the past and why were these not always successful? Finally, the chapter probes the larger issue of the specific characteristics of the decline of authoritative memories in a transitional state. The question is whether, and if so to what extent, transitional states are experiencing the same progressive erosion of the central authorities' dominant position in constructing commemorative practices as we have witnessed in mature democracies.

The focal point of this study is the Monument to the Brotherhood in Arms commemorating the contentious liberation of Poland by the Red Army in 1944–1945, erected in the capital, Warsaw, in 1945. Capital cities are close to central power: the president, the government, the national parliament and the most important state institutions of memory are located there. But at the

same time, a capital city is also the site of its own municipal government with a directly elected mayor who is accountable to his or her local electorate. The capital city also offers a platform on which diverse communities of memory are able to stage their politics of identity to a national rather than simply local audience. Thus, a recognition of the origins and trajectories of conflicts concerned with memorial landscape in a capital presents an opportunity to explore memory tensions between the state and other actors in a particularly interesting articulation.

COMMEMORATIVE LANDSCAPE AND THE POST-COMMUNIST TRANSFORMATION

The shift to democratic politics in Poland after the fall of communism in 1989 triggered an intensive re-evaluation of the national past. This was primarily driven by the new political elites who sought to legitimize their rule and wanted to dissociate themselves from the narrative of the past imposed by the communist regime and who strove to endow the new state with a different set of foundational values. This revaluation was framed as the democratic state's historical responsibility towards erstwhile discriminated-against patriotic Poles whose victimhood and contribution to struggles for national liberation merited official recognition. The embracing of heroes associated with anti-communist values was reflected in the historical resolutions adopted by the Polish parliament, the revision of officially celebrated holidays, the sponsoring of new monuments and the opening of new museums (Ochman 2013). At the same time, no state strategy with regard to the communist material heritage was formulated. According to the administrative legislation regulating the functioning of local governments in Poland, local councils are responsible for erecting and removing sites of memory and naming (and renaming) public space. Therefore, it rests with a local authority whether a Soviet site of memory is removed from public space.

In 1989 there were 476 Red Army monuments in Poland. Most had been erected in the wake of the Second World War following a nationwide campaign initiated by the Soviet military administration and later adopted by the Polish communist authorities (Czarnecka 2015, p. 336). The monuments were to commemorate the heroism of Soviet soldiers and to express Poland's gratitude for the liberation. They were placed in key locations, usually in the vicinity of important municipal buildings, and very quickly became a crucial element in communist propaganda. They were central to an annual commemorative cycle that included Victory Day parades, Armed Forces Day celebrations and the anniversary of the October Revolution. After the fall of communism many Soviet monuments disappeared from the central locations of towns and cities either as a result of acts of spontaneous vandalism or official removals initiated by members of former opposition groups. However, the outcome of this bottom-up de-communization campaign varied across the country and only 130 Red Army monuments were gone by 1993

(Czarnecka 2015, p. 336). Ultimately, there was no consensus on the extent to which the memorial landscape should be revised and whether all Soviet war monuments were to be regarded as propaganda relics of the previous regime. The 2007 national opinion polls (TNS OBOP, p. 4) show that fifty seven percent of respondents felt that Red Army monuments should not be removed, compared to thirty six percent of respondents who felt they should. At the same time, strikingly different geographical patterns emerged and results from local opinion polls displayed a division; some urban centers strongly supported and others clearly rejected the removal of their Red Army monuments (Zielkowski 2010, p. 3; Madeja 2007, p. 2).

The state's initially passive attitude towards Soviet sites of memory can be explained by the broader process of post-communist transformation. First, the transition to democratic politics had been negotiated with Polish communists in 1989, making difficult any comprehensive reckoning with the post-war communist past. Second, Poland's relationship with the post-communist Russian Federation in the 1990s was shaped by foreign policy priorities: joining NATO and the European Union. It was important to ensure, throughout the long accession process, that disagreements with Russia over Red Army monuments could not be used to hamper Poland's attempt to reorient itself towards the West. And finally, although the fall of communism was the outcome of popular opposition to the authoritarian communist state, there emerged no strong consensus over the assessment of the post-war era (especially the post-Stalinist era). An initial decline in living standards during the rapid transformation from a communist command economy to a capitalist market economy paved the way for the former communist party, now reformed as the Democratic Left Alliance (SLD), to seize power. The former communists won the parliamentary elections in 1993 and 2001. Although the party refashioned itself as a Western social democratic party, supporting Poland's membership of NATO and the European Union, favoring a free market economy, constitutional law and liberal social policies, it simultaneously tried to preserve the commemorative heritage of the previous regime.

The specificity of the Polish transition to democratic politics shaped the state's initial response to Soviet sites of memory. In consequence, monuments commemorating the contentious liberation of Poland by the Red Army have stood alongside newly erected monuments honoring Polish anti-communist fighters who lost their lives in operations conducted by Soviet military authorities. This ideological incoherence of the Polish memorial landscape—the so-called unfinished transition—has not been lost on Polish political elites and the state institutions of memory. The first attempt to intervene directly in the symbolic fabric of the memorial landscape took place in 2000. The post-Solidarity coalition government (which included former anti-communist opposition politicians) proposed a Bill on National Sites of Memory that was intended to strengthen the state's authority over Poland's commemorative landscape and to enforce the de-communization of public space. Each Voivode (the regional representative of the national government) would be

responsible for the mandatory removal of any remaining symbols “glorifying communism” (such as monuments, street names or plaques in public spaces) in their regions (Sejm 2000a, pp. 5–6). In the end, the Bill was not approved by a majority in parliament because it was perceived as too radical a form of state intervention in commemorative space. Although agreeing that symbols glorifying communism are inconsistent with the values of the new Polish state, many center-right politicians questioned whether a commemorative landscape could be “cleaned up” from above by administrative decree and they defended the autonomy of local councils to make decisions about their own sites of memory (Sejm 2000b, item 13). There was also uneasiness about the very process of identifying symbols “glorifying communism.” What were the historical parameters of this revision? Would the reassessment of the memorial landscape end in the removal of sites associated with leftist ideology in general?

For the next two decades the national-conservative Law and Justice party (PiS)—one of the two largest parties in parliament—would fight hard for the legislative de-communisation of public space and further attempt to introduce memory laws (Ochman 2013, pp. 75–89). But PiS failed to build the required cross-party support for its proposals. It also did not have full backing from the wider community of experts with many prominent Polish historians expressing concern that the removal of Red Army monuments orchestrated by the central government might further damage relations between Poles and Russians (Machciewicz 2007; Paczkowski 2007). It was only after PiS managed to win a majority of seats in the parliamentary elections of 2015 and the party’s candidate won Poland’s presidency that a bill on the de-communisation of public space was passed by parliament in 2016. This obliged local authorities to remove the names of public spaces that “symbolise communism” within a year of the enactment of the law (Dziennik Ustaw 2016). Further memory laws, this time regulating sites of memory including Soviet monuments, are likely to be introduced in the 2015–2019 parliamentary term (Mamątow 2016).

The party’s policy on sites of memory is rooted in the conviction that monuments have didactic functions; they should affirm national values, promote patriotic feelings and honor heroes who could serve as examples to the young (see Dziedziczak (PiS) 2014, p. 7). The survival of Soviet war monuments relativized the historical truth about the Soviet authorities’ post-war conduct and placed a question mark over the rejection of communist-era values (see Krajewski (PiS) 2015, p. 7). From the viewpoint of PiS, the state’s failure to de-communize public space was part of a much wider process that undermined the status of historical truth. In the words of Jarosław Kaczyński (2015, p. 59), the party’s leader: “Today, the question of facts, of the truth is a problem in many countries; one could say, it is the problem of [our] civilisation. We are dealing with a powerful philosophical trend, which justifies the nonexistence of the truth. There is no truth, there are only narratives ... And our response is that we don’t agree with this.” However, PiS’s reading

of the symbolic value of Soviet monuments as sites relativizing the deeds of communist rule or even sites glorifying communist atrocities has been challenged by other actors engaged in memory production in Poland. And that challenge was nowhere more significant than in Warsaw given that the memorial landscape of a capital city typically represents the state-endorsed narrative of a national past.

THE MONUMENT TO THE BROTHERHOOD IN ARMS AND THE FALLEN SOLDIERS

After the fall of communism Warsaw stopped celebrating the anniversary of the Red Army's liberation of the city and instead began to mark the anniversary of "the end of the fight for Warsaw." The imposing Monument to the Brotherhood in Arms, one of the first Soviet monuments erected in Poland, ceased to be a site of official commemorations (see Fig. 25.1). The narrative of "eternal gratitude" was challenged by recovered memories of the city's wartime past. Following the unsuccessful uprising that began on August 1, 1944, the Germans had expelled the city's population and razed Warsaw to the ground. The Uprising lasted 63 days while the Red Army, stationed on the banks of the Vistula River just 10 miles from Warsaw, made no attempt to storm the city to help the insurgents. The uprising's failure increased the



Fig. 25.1 The Monument to the Brotherhood in Arms, Targowa Street, Warsaw, 1950s. Photographed by Zbyszko Siemaszko, Courtesy of The National Digital Archive, Poland

chance of the Polish pro-Soviet administration gaining control over Poland. Red Army soldiers entered a ghost city on January 17, 1945.

And yet remarkably, the Red Army monument itself survived for almost two decades without being an object of major controversy. The two challenges to its future that eventually occurred have each time begun with the city transport authorities proposing improvement of the city's inefficient public transport system. In 2007 it was suggested that the monument be moved somewhere else to enable the building of a major tramway hub in Wileński Square. In 2011 the municipal council proposed the temporary dismantling of the monument and, following the completion of the metro line, its relocation to the north part of the square (Rada Miasta 2011, pp. 18–31). On both occasions PiS and its councillors from Warsaw City Council, supported by associations of the former victims of communist repressions, used these proposals as an opportunity to demand the permanent removal of the monument from the city's public space (Szpala and Śmietana 2007, p. 1; Rada Miasta 2011). The first controversy lasted several months but the second continued for four years and, accompanied by acts of vandalism, petitions, media debates and demonstrations, fit into a pattern seen previously in other Polish cities. And yet these campaigns were largely ineffective. The future of the monument was in the hands of a Warsaw City Council dominated by the center-right Citizens Platform party (PO). Its councillors went along with the post-communist SLD councillors and repeatedly voted against PiS motions proposing the permanent removal of the site.

Warsaw's Red Army monument was defended in the city council as a site honoring the memory of the fallen Soviet soldiers who lost their lives in the fight against Nazism. Councillors from the SLD argued that the monument did not glorify communism or Stalinism, it did not commemorate "the commanders, the marshals" but "the proverbial Sashas and Vanyas" who "were often conscripted to the Red Army by force" and who marched East in "leaky boots" (Golimont (SLD) 2011, p. 27). A strong defense was also put up by leftist ex-combatant organizations. The monument "is a tribute to the 600 thousand soldiers who died on Polish soil in the fight against the German invader" while Soviet soldiers "had fought and died not for a specific ideology but solely in order to destroy the occupier" (Rada Dzielnicy Targówek 2012, p. 9). And crucially, the monument was defended as a site preserving the memory of soldiers from the Polish Army, organized under Soviet auspices, who had fought alongside Red Army conscripts.

This shift of emphasis away from gratitude for liberation towards honoring the memory of the fallen was possible because of the particular materiality of the monument and its inscription. The Warsaw monument featured three bronze Soviet soldiers placed on a high pedestal in a combative pose and four further soldiers, two Soviet and two Polish, standing around the plinth with heads lowered as if watching over the bodies of their fallen comrades (Fig. 25.2). The stone base bore an inscription in Polish and Russian: "Honour to the



Fig. 25.2 The Monument to the Brotherhood in Arms, Wileński Square, Warsaw, 2006. Photographed by Ewa Ochman

heroes of the Soviet Army, brothers in arms, who gave their lives for the freedom and independence of the Polish nation.” The sculptural design allowed members of the ex-combatant organizations to question the reading of the site as a symbol of the Soviet Union’s domination over Poles. They argued that the

monument depicted “the two armies’ brotherhood in arms that was born on a battlefield in the fight against a common enemy” and that all soldiers who had lost their lives in the fight against the German occupier deserve respect (Lewandowski 2012, p. 10). The post-war communist practice of dividing ex-combatants who had fought against fascism into less and more worthy of respect, the veterans warned, should have no place in democratic Poland.

The “rank and file narrative” could not be dismissed outright by those arguing for the de-communization of public space. After all, the sacrifices made by ordinary Polish soldiers, even if they had fought alongside Soviet soldiers, could not be denied. Equally, the sheer number of Soviet soldiers who had died on Polish soil fighting Nazi Germans had to be recognized. In the past several meanings had been attributed to the Monument to the Brotherhood in Arms: it expressed gratitude for liberation to both Soviet and Polish soldiers; it signified Soviet domination; and it represented the ideological intentions of the communist state. The defenders of the monument tried to defuse the site’s old propaganda message and reposition it as a site of mourning. The sense of duty to honor the memory of the fallen soldiers was an important imperative behind their actions. But equally important was their need to secure recognition for their own reading of wartime events, to have their wartime memories legitimately represented in public space (Piechna-Więckiewicz (SLD) 2015, pp. 85–86). However, it has to be said, that with the number of veterans rapidly declining and the popularity of the SLD diminishing sharply from the mid-2000s onwards, the defenders of the monument as an active commemorative site were losing ground. Eventually, it was the ordinary Warsaw inhabitants’ attitude to the monument and the city’s urban heritage that were at the forefront of the debate about the future of the site.

“THE FOUR SLEEPERS” AND THE STATE INSTITUTIONS OF MEMORY

It was quite clear that over time the monument had lost its ideological connotations for the majority of Warsaw’s residents. Locally known as “The Four Sleepers” the monument was an orientation point in the topography of the city, a familiar sight, a meeting place, a transit area, a location in daily life (see Fig. 25.2). The site was also appreciated as a sign of the city’s turbulent history. The capacity of Warsaw, a rapidly developing capital, “to annex controversial sites” and “to rewrite their original meanings” and in the process enrich the urban heritage of the city was not lost on young artists working in Warsaw (Jakubczak 2015; see also Szajnoch 2008) (Fig. 25.3). And Berlin, the capital of Poland’s western neighbor, with its inclusive approach to the city’s multilayered past was a point of reference. In 2012 a public opinion survey commissioned by the Warsaw Mayor’s Office showed that seventy two percent of respondents felt that the monument should stay in Wileński Square and twelve percent felt otherwise (Centrum Komunikacji Społecznej 2012, p. 17). The outcome of the opinion poll was used



Fig. 25.3 Kamila Szejnoch, The Warsaw Monument to the Brotherhood in Arms, Carousel Visualisation, 2008. This poster was displayed on advertising pillars in Warsaw in 2008. Courtesy of Kamila Szejnoch

by the city council to justify its decision on the monument's future. In interviews given to the media by the city council's representatives the monument was defended as not only an integral part of the city's built environment but also as a site that testifies to Poland's recent history. Removal of the monument would be an act of erasing that history (Czarnecka 2015, pp. 202–203).

The public attitude to "The Four Sleepers" was of major concern to the Institute of National Remembrance (IPN), Poland's main state institution tasked with preserving the memory of the Polish nation's struggle with the Nazi and communist occupiers (on the IPN's areas of activity see Stola 2012). The IPN through its publications, exhibitions and educational initiatives has been one of the driving forces behind the de-communization campaign but its efforts have not brought about a major shift in attitudes towards the relics of the previous regime. For example, between 2007 and 2009 the IPN sent letters to local authorities explaining the "true meaning" of communist sites of memory and appealing to councils to "clean up" their commemorative landscapes. These appeals had little effect (only two out of 150 councils acted upon the appeal). This inaction, according to the IPN, could be traced back to councils' and the electorates' reluctance to shoulder the cost of the de-communization of public space (IPN 2012, p. 19). The view of the future of "The Four Sleepers" expressed by Warsaw's residents in the 2012 opinion poll was seen as yet more proof of the need to redouble educational efforts. Maciej Korkuć from the IPN's Public Education Office and the former chief coordinator of the IPN program on the de-communization of public space explained: "It is the state's responsibility to protect historical truth ... The truth is determined and either this truth reaches society, because society is properly educated in accordance with facts, with deference to truth and memory, or not" (Korkuć 2014).

The IPN's initial failure to educate Poles about the "true meaning" of the Warsaw monument was to some extent caused by the Institute's reluctance to accept that meanings originally intended for sites of memory are not frozen in time and that they are regularly reworked by people who engage with them. It was not that Warsaw's residents required more education on the subject of the Soviet repressions but they had to be convinced that the monument in Wileński Square was a symbol that glorified these repressions. Thus, the Institute's more recent education campaigns have focused on the reconstruction of the site's commemorative history. In 2014, for example, the IPN organized an education event in Wileński Square distributing leaflets that explained the history of the monument and naming some of the institutions which in 1945 had occupied the buildings situated in the monument's vicinity (see IPN 2014). These included, for example, the NKVD Headquarters in Poland and the municipal Polish Communist Secret Service. Poles were reminded on whose initiative the monument had been erected in the first place, who financed and unveiled it, and for what kind of ceremonies it had served as a focal point. The reconstruction of the commemorative history of the monument was seen as a way of combating the "unofficial engagement" with the

Soviet site and prompting the city council to reconsider its decision on the monument's future. At the same time, it was evident that there are limits to what can be achieved with educational campaigns and the IPN has been lobbying for memory laws that would enforce the mandatory removal of Soviet monuments from public spaces (IPN 2016, pp. 16–17).

The IPN has been charged with the task of constructing and promoting new historical narratives that reflect the post-communist state's ideological positions but thus far the Institute has been unable to assert its authority over Poland's commemorative landscape. PiS is the main advocate of the Institute's work and favors from this particular party did not help the IPN in its conflict with a Warsaw City Council dominated by political opponents of PiS (Warsaw's mayor was also a member of PO). But domestic power struggles were only one of the factors that influenced the local decision-makers' views on the monument. The local electorate's attitudes towards the monument were just as important and so were Polish–Russian relations.

SOVIET SITES OF MEMORY AND BILATERAL AGREEMENTS

In 2011 the Red Army monument was moved into storage for the duration of roadworks in Wileński Square and it underwent a major renovation that cost, according to media reports, the city council over 500,000 USD (Wojtczuk 2015). By autumn 2014 the metro line had been completed but it started to look unlikely that the monument would return to Wileński Square. In February 2015, the city council decided that the monument should remain in storage. It was clear to everyone that the decision had been made in the context of Russia's annexation of Crimea and Russia's support for the military conflict in Donbas. Warsaw's mayor, Hanna Gronkiewicz-Waltz (2015) explained, "[T]here is no will in the current historical situation for the monument to return." The Warsaw monument was not the only casualty of "the current historical situation" as other local councils reconsidered the future of their Soviet sites, too. This turn of events is not surprising. It is memory of past events that to a large extent shapes Poland's foreign policy and impacts on Poland's international affairs (see Langenbacher 2010). In 2014 Poland's deep-seated anxiety about Russia's dominance in the region and her imperial agenda surfaced again. The Polish authorities ardently supported Ukraine in the conflict with Russia and analogies were made between the communist takeover in Poland in 1944–1945 and the situation in Donbas.

When it came to explaining in the city council why Warsaw's mayor had suddenly changed her mind on the monument's location, PO councillors hid behind, and pointed to, the Council for the Protection of the Memory of Struggle and Martyrdom (ROPWiM) (Rada Miasta 2015, pp. 81–82). ROPWiM initiated and coordinated state-sponsored work of remembrance and was responsible for the protection of sites of memory and war graves.

In 1994, Andrzej Przewoźnik, ROPWiM's chairman negotiated a bilateral agreement signed by both Poland and Russia that obliged the signatories to protect and maintain each other's national sites of memory that are located on their territory (Dziennik Ustaw 1994). Following this agreement a procedure was put in place whereby local councils making decisions in the area were expected to consult with ROPWiM and ROPWiM in turn was to discuss the proposition with the Russian embassy. Many local councils had followed the procedure and successfully completed the removal of their Red Army monuments (usually the monument was relocated to a Red Army cemetery). But the agreement was not always respected and ROPWiM did not have any legal powers to enforce a council's compliance with the procedure.

Overall, however, ROPWiM's chairman thought that the agreement worked well, the Russian embassy was co-operative and a state-imposed obligatory removal of Soviet monuments would only antagonize local communities and cause conflict with Russia (Przewoźnik 2007). ROPWiM did not support the 2007 campaign demanding the removal of the Warsaw monument. Similarly, in 2011 ROPWiM's new chairman, Andrzej Kunert, backed up the city council's resolution to return the monument to Wileński Square, following the completion of the metro line. But three years later ROPWiM reversed its recommendation and suggested that the monument should remain in storage. In 2015, in response to Russia's official complaints that Red Army monuments were being disassembled without any consultation with the Russian embassy, ROPWiM (2015) issued a statement explaining that the Polish–Russian 1994 agreement applied only to war graves and that local councils were acting within the parameters of existing Polish law. Clearly, ROPWiM's interpretation of the Polish–Russian 1994 agreement had changed over time.

The Polish–Russian agreement had been a point of reference for ROPWiM for over two decades. Even though compliance with the procedure could not be enforced at local council level, not to consult at all with the Russian embassy seemed not to be an option for major urban centers. Their monuments were usually huge, imposing and figurative, placed on high pedestals and not in a dilapidated condition. By including the Russian embassy in the decision-making process and ensuring that monuments were relocated to Red Army cemeteries rather than demolished, “monument wars” with Russia were largely prevented. But by 2015, proponents of the de-communization of public space were finally able to “delegitimize” Soviet war monuments. As they were no longer entitled to the status of protected sites of memory under the bilateral agreement (as interpreted by Poland) the monuments seemed more than ever to be simply relics of the previous communist regime.

CONCLUDING REMARKS

The Polish state has not managed to monopolize or to control fully the commemorative landscape since the fall of communism. Conflict around the Monument to the Brotherhood in Arms, and the de-communization of public space more generally, shows that state intervention in the fabric of the memorial landscape has both met with resistance and also been self-limiting. There are a number of reasons why this has been the case. The specificity of Poland's transition to democratic politics initially made difficult any comprehensive reckoning with the post-war communist past. The production of new sites of memory that represented the ideological intentions of the newly independent state came much easier than the eradication of already established sites rooted in the specificity of the urban landscape or taken care of by associations that were not banned after the fall of communism. Equally, state institutions of memory had to reckon with the autonomy of local councils and their decision-making power in relation to the commemorative landscape. Although there had been repeated legislative attempts to restrict this autonomy, the view that public space should not be "cleaned up" from above by an administrative decree had majority support during a number of parliamentary terms. Eventually in 2016, twenty-seven years after the fall of communism, a memory law on the mandatory replacement of "communist names" of public spaces was enacted, though time will tell how this law will be implemented in practice.

The state institutions of memory themselves were generally unable to find sufficiently effective modes of action and discourse to be able to bring about change. Democratic transition which included administrative decentralization meant that local authorities and diverse communities of memory insisted on more pluralistic understandings of power relations. The IPN's claim to an exclusive right to assign symbolic value to sites of memory that had been erected by the previous regime was challenged and the IPN's attempts at establishing itself as a single authority on "historical truth" did not sit well with some sections of Polish society. Equally, the inconsistent implementation of the 1994 agreement on sites of memory shows that ROPWiM, the other main state institution of memory, also had limited control over the process of the construction of memorial landscapes. Its authority was not only eroded from below. Throughout the long period of post-communist transformation ROPWiM's position on "unwanted" sites of memory was driven by domestic and international pressures and ultimately difficult to discern. In such conditions building institutional trust (imperative to influence effectively how the past is represented in public space) has been challenging.

The conflicts around the Monument to the Brotherhood in Arms also show that many state actors active in the production of national memory have felt particularly threatened by the dynamic nature of meanings constructed around sites of memory. The ambiguity and transformability of meanings that have been constructed around Warsaw's monuments have been seen as

a threat to a single truth about the nation's history. The state actors' insistence on the fixed and stable meanings of the Red Army monuments can be understood in terms of Polish national-conservatives' anxiety over the growing decline of authoritative memories and an erosion of state-sponsored historical narratives.

REFERENCES

- Centrum Komunikacji Społecznej Urząd m.st. Warszawy (2012) *Barometr Warszawski* (17 November 2012).
- Czarnecka, D. (2015) "Pomniki Wdzięczności" Armii Czerwonej w Polsce Ludowej i w III Rzeczypospolitej (Warszawa: IPN).
- Dziedzicak, J. (2014) *Stenogram Pierwszego Czytania w Komisjach*. Sejm Rzeczypospolitej Polskiej. Druk 283 and 1651 (5 November 2014).
- Dziennik Ustaw Rzeczypospolitej Polskiej (1994) *Umowa między Rządem Rzeczypospolitej Polski a Rządem Federacji Rosyjskiej o grobach i miejscach pamięci ofiar wojen i represji*. Pozycja 543 (22 February 1994).
- Dziennik Ustaw Rzeczypospolitej Polskiej (2016) *O zakazie propagowania komunizmu lub innego ustroju totalitarnego przez nazwy budowli, obiektów i urządzeń użyteczności publicznej*. Pozycja 744 (1 June 2016).
- Golimont, A. (2011) *Stenogram z Obrad XVI Sesji Rady*. Rada Miasta Stołecznego Warszawy (26 May 2011).
- Gronkiewicz-Waltz, H. (2015) quoted in M. Wojtczuk, 'Rada Warszawy: "Czterej Śpiący" już nie wrócą', *wyborcza.pl*, 26 February. http://warszawa.wyborcza.pl/warszawa/1,34862,17486935,Rada_Warszawy___Czterej_Spiacy_juz_nie_wroca. Accessed 16 June 2016.
- Hobsbawm, E. (1983) 'Introduction. Inventing Traditions' in E. Hobsbawm and T. Ranger (eds.) *The Invention of Tradition* (Cambridge: Cambridge University Press), pp. 1–14.
- Huyssen, A. (2003) *Present Pasts Urban Palimpsests and the Politics of Memory* (Stanford: Stanford University Press).
- IPN (2012) *Uwagi Instytutu Pamięci Narodowej do projektu ustawy*, Druk Senacki nr 71, <http://orka.sejm.gov.pl/Druki7ka.nsf/0/383822C5B7FE6B50C1257BD4004AE6B4/%24File/1651.pdf>. Accessed 12 June 2016.
- IPN (2014) *Na co patrzyli "czterej śpiący"?*. IPN TV. <https://www.youtube.com/watch?v=KM2CSjygc48>. Accessed 18 May 2016.
- IPN (2016) *Stanowisko w sprawie projektu ustawy*. Druk nr 302. <http://orka.sejm.gov.pl/Druki8ka.nsf/0/E8F96D8970897231C1257F71002A6D7D/%24File/302.pdf>. Accessed 12 June 2016.
- Jakubczak, A. (2015) "Czterech śpiących". Od niechęci do sentymentu', interviewed by P. Siwek, Polskie Radio. Poranek Dwójki. <http://www.polskieradio.pl/8/404/Artykul/1499277,Czterech-spiacych-Od-niecheci-do-sentymentu>. Accessed 12 May 2016.
- Kaczyński, J. (2015) *Stenogram z Pierwszego Posiedzenia Sejmu RP*. Sejm Rzeczypospolitej Polskiej (18 November 2015).
- Korkuć, M. (2014) *Historia na cokole czy historia cokołu? Pomniki z lat PRL w przestrzeni publicznej*. Centrum Edukacyjne Instytutu Pamięci Narodowej. Przystanek Historia.

- IPN TV. <https://www.youtube.com/watch?v=RQWhicMGJbI>. Accessed 12 May 2016.
- Krajewski, J. (2015) *Stenogram z Obrad V Sesji Rady*. Rada Miasta Stołecznego Warszawy (12 February 2015).
- Langenbacher, E. (2010) 'Collective Memory and German-Polish Relations' in E. Langenbacher and Y. Shain (eds.) *Power and the Past Collective Memory and International Relations* (Washington, DC: Georgetown University Press), pp. 71–96.
- Levy, D. and Sznajder, N. (2006) *The Holocaust and the Memory in the Global Age* (Philadelphia: Temple University Press).
- Lewandowski, Cz. (2012) *Protokół z XXVI Sesji Rady*. Rada Dzielnicy Targówek Miasta Stołecznego Warszawy (15 March 2012).
- Machciewicz, P. (2007) 'Wojna z Rosją o pomniki nie jest potrzebna', *Dziennik*, 9 May.
- Madeja, J. (2007) 'Pomnik na placu Wolności. Jedni są za, drudzy przeciw', *Gazeta Wyborcza* (Katowice), 3–4 February.
- Mamątow, R. (2016) *Senat w lutym zajmie się projektem ustawy o dekomunizacji przestrzeni publicznej*. Senat Rzeczypospolitej Polskiej. <https://www.senat.gov.pl/aktualnosci/art,8422,r-mamatow-senat-w-lutym-zajmie-sie-projektem-ustawy-o-dekomunizacji-przestrzeni-publicznej.html>. Accessed 15 May 2016.
- Misztal, B. (2003) *Theories of Social Remembering* (Maidenhead: Open University Press).
- Nora, P. (1998) 'The Era of Commemoration' in P. Nora and L. D. Kritzman (eds.) *Realms of Memory. The Construction of the French Past*, vol. III (New York: Columbia University Press), pp. 609–637.
- Ochman, E. (2013) *Post-Communist Poland. Contested Pasts and Future Identities* (London: Routledge).
- Paczkowski, A. (2007) 'Symbole tyranii ZSRR trzeba usuwać' interviewed by W. Świątek, *Dziennik* 9 May.
- Piechna-Więckiewicz, P. (2015) *Stenogram z Obrad VI Sesji Rady*. Rada Miasta Stołecznego Warszawy, 26 February.
- Przewoźnik, A. (2007) quoted in W. Czuchnowski, 'Spory wokół pomników żołnierzy Armii Czerwonej', *Gazeta Wyborcza*, 30 April.
- Rada Dzielnicy Targówek Miasta Stołecznego Warszawy (2012) 'Stanowisko Społecznych Rad Kombatanckich prawobrzeżnej Warszawy w sprawie likwidacji Pomnika', *Protokół z XXVI Sesji Rady* (15 March 2012).
- Rada Miasta Stołecznego Warszawy (2011) *Stenogram z Obrad XVI Sesji Rady* (26 May 2011).
- Rada Miasta Stołecznego Warszawy (2015) *Stenogram z Obrad VI Sesji Rady* (26 February 2015).
- ROPWiM (2015) *Oświadczenie ROPWiM o Stanie i Statusie Rosyjskich Miejsc Pamięci w Polsce*. http://www.radaopwim.gov.pl/article_details/1806/r-warszawa/. Accessed 15 May 2016.
- Sejm Rzeczypospolitej Polskiej (2000a) *Sprawozdanie Komisji AiSW oraz Komisji STiPR o rządowym projekcie ustawy o miejscach pamięci narodowej*. Druk 1839.
- Sejm Rzeczypospolitej Polskiej (2000b) *Wypowiedzi na posiedzeniach Sejmu RP III kadencji*. 78 posiedzenie. punkt 13 (10 May 2000).

- Stola, D. (2012) 'Poland's Institute of National Remembrance. A Ministry of Memory?' in A. Miller and M. Lipman (eds.) *The Convulsions of Historical Politics* (Budapest: CEUP), pp. 45–58.
- Szajnoch, K. (2008) *Huśtawka Art Installation*. <http://www.kamilaszejnoch.com/pl/projekty.html>. Accessed 18 May 2016.
- Szpała, I. and Śmietana, K. (2007) 'Ponowne zakusy na pomnik "czterech śpiących"', *Gazeta Wyborcza* (Warszawa), 10 January.
- TNS OBOP (2007) *Raport. Pomniki i cmentarze żołnierzy radzieckich* (14 May 2007). <http://www.tnsglobal.pl/archiwumraportow/>. Accessed 12 July 2016.
- Ukielski, P. (2016) Deputy Chairman of the IPN as quoted in T. Urzykowski, 'IPN i muzeum chcą przejąć pomnik "czterech śpiących"', *Gazeta Wyborcza*, 5 July. <http://warszawa.wyborcza.pl/warszawa/1,34862,20350998,ipn-i-muzeum-chca-przejac-pomnik-czterech-spiacych-miasto.html>. Accessed 12 May 2016.
- Wojtczuk, M. (2015) 'Rada Warszawy. "Czterej Śpiący" już nie wrócą', *wyborcza.pl*, 26 February. http://warszawa.wyborcza.pl/warszawa/1,34862,17486935,Rada_Warszawy___Czterej_Spiacy_juz_nie_wroca. Accessed 16 June 2016.
- Zielkowski, D. (2010) 'Spór w Legnicy. Pomnik wdzięczności czy niezgody?', *Gazeta Wyborcza* (Wrocław), 4 January.

Heritage Statecraft: Transcending Methodological Nationalism in the Russian Federation

Gertjan Plets

As the sociopolitical enmeshments of the past have over the past three decades become a legitimate research interest, disciplines such as archaeology, history and art history have transformed from “past-oriented” fields into disciplines with one foot in the past and one firmly in the present. Social theories, ethnographic perspectives, sociopolitical discourse analysis, archival research and self-reflexivity have become integral parts of the intellectual toolkit of the contemporary heritage and memory researcher. However, despite growing awareness that the role of the past in the present requires a holistic understanding of the present, deeply obfuscating disciplinary taxonomies continue to distract us from fully understanding the sociopolitical practice of discursively and materially assembling the past in the present.

Disciplines such as history and literature studies have traditionally catalogued this “past in the present” interest under the rubric of memory studies and have focused on how selective historical narratives are woven into political discourse and are reproduced in popular culture (Assmann 2006; Erll 2011). At the same time, following a broader post-modern turn in the humanities, archaeology has coincidentally developed an interest in how material “things” (sites, monuments and objects) from the past have become encoded with sociocultural values and meanings and have become part of the material culture of the present. Following an influx of critical research from

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geography, art history and architecture, scholarship focusing on the material past has found its home in the highly desultory field of “heritage studies” (for elaborate critique see Meskell 2015a). This entrenchment of research in either the memory or heritage camp might make sense from an analytical perspective; on a broader conceptual level this bifurcation has been unproductive. Limited theoretical and methodological cross-fertilization, in concert with problematic self-referencing within our respective camps, has drastically ossified our analytical toolkit, making it increasingly difficult to grasp the constantly changing present in which the past culturally unfolds either in a tangible or intangible form.

One of the analytical lenses that has suffered considerably from this disciplinary entrenchment is the outdated conceptualization of the role of the nation-state in the “heritagization” of the past. Chiari De Cesari and Ann Rigney (2014) have critiqued how the nation-state has operated as the pre-eminent scale in memory analyses. They congenially connected this analytic predominance of the nation-state with the phenomenon of “methodological nationalism.” Methodological nationalism, as applied by De Cesari and Rigney in the context of heritage, refers to—often unconscious—use in human and social sciences of the “nation/state/society as the natural social political form of the modern world” (Wimmer and Schiller 2002, p. 302). Although De Cesari and Rigney convincingly remind us of the transnational nature of heritage and memory, calling us to look beyond the borders of the national polity, I believe that the problems with the nation-state as an analytical framework are much more extensive than the issue of scale alone. By applying anthropological theory about the nation-state (Ferguson and Gupta 2002; Gupta 2012; Mitchell 1999) on two ethnographic case studies from Russia (see below) where nontraditional players enter the heritage arena in an effort to perpetuate nonnationalistic agendas, in this chapter I contend we need to re-evaluate the nation-state on another two fronts. A first one is connected with how we innately conceive of the “state” as a distinct unitary political entity divorced from civil society that is the only protagonist in the selective mobilization of the past. A second issue relates to how “nation” is overemphasized in studies exploring the politicization of culture and history in the process of crafting the nation-state, a role that is now all too often singularly connected to the development of nationalist sentiments and reifying ethnic boundaries (Gellner 1983; Eriksen 1993).

A first central problem is related to how the “state” is conceptualized. Today, in both popular and academic discussions about the politicization of history, the state is often still reified in Weberian and Hobbesian terms as a monolithic—almost tangible—thing separated from and above (civil) society. Frequently uttered statements such as, “The state should ensure the preservation of monument x” or “Narrative y is favored by the state for agenda z” simplistically represent the state as an integrated container of institutions, a unitary force producing the heritage and memory arena. In many memory and heritage appraisals the state is popularly identified as the key actor

through which certain sociopolitical problems can be solved. Such a structuralist interpretation of the nation-state is, however, at odds with post-structuralist developments (Slaughter 2004; Ferguson and Gupta 2002; Mitchell 1999) that conceptualize the state as a disaggregated “composite reality and a mythicized abstraction” (Foucault 1991, p. 103). Contemporary literature outside the heritage and memory arena finds the image of the “state” as a discrete player divorced from civil society too simplistic. Instead it is argued that the state as an entity separated from society only comes to exist inside people’s minds through social disciplining (Mitchell 1999).

Underneath the abstraction that is popularly identified as the “state” lies, however, an intangible disaggregated network consisting of different subunits, various social actors and power structures (Gupta 2012; Slaughter 2004) who, driven by their own particular ontologies and agendas, craft specific institutional and legal landscapes. In my first case study, drawing on seven years of ethnographic fieldwork in the Altai Republic (semi-autonomous region in Russia), I spotlight how multinational Gazprom (world’s biggest gas company) uses heritage to reformulate and subsequently normalize an institutional landscape favoring resource extraction. This example underlines that in our investigations of the politicization of the past we should also spotlight how heritage and memory operate as disciplining techniques (Foucault 1975), projecting certain images of the state in the minds of its subjects. Perspectives from the Altai show that history is for both conventional state actors and nontraditional players one of the many statecraft mechanisms (see below) normalizing inherently subjective juridicopolitical structures and social hierarchies.

Second, the important groundwork by nationalism theorists (Hobsbawm and Ranger 1983; Anderson 1983; Gellner 1983) who brought the politicization of the past into the international limelight still perpetuates many interpretations and paradigms today. The past is first and foremost still conceptualized as the “raw material” for constructing meta-narratives and markers of identity legitimizing and buttressing the ethnic boundaries underlying the nation (Hobsbawm 1993). This predominance of the nationalism paradigm as the main driver behind memorialization and heritagization is, however, at odds with the suite of investigations looking at the nonnationalist dimensions of the past. Research into tourism economies (Salazar and Zhu 2015) and the role of heritage and memory in nation branding (Askew 2010; Andrew 2013), for example, have highlighted that heritage and memory occupy a central place in both economic development discourses and transnational image management.

This conceptualization that heritage and memory mainly serve nationalist ends is, today, especially difficult to sustain in the light of globalization and neoliberalism. Global interconnections, multilateral governance structures and international market logics increasingly implicate the actions of all players of the social arena. The first case study illustrates that heritage also operates

as a type of capital that can be traded to secure their energy-related interests. The second case from the Republic of Tatarstan (autonomous region in Russia) maps how heritage and historical linkages are increasingly mobilized for image management purposes in an effort to tap into global tourism economies and attract deterritorialized financial capital. As the World Heritage site “the Bolgar Historical and Archaeological Complex” in the Republic of Tatarstan illustrates, sites that seem to perpetuate nationalist linkages can be at the same time used as diplomatic platforms providing various economic players access to transnational markets and investments. Clearly heritage is as much about issues of political economy, as it is about “imagining communities.”

In both case studies ethnographic data are used to develop a more nuanced theoretical lexicon for heritage and memory studies. Instead of presenting heritage and memory as instruments of nationalism used by the state, this chapter presents them as technologies of governmentality (Foucault 1991), creating governable subjects within the process of rationalizing society (Scott 1998), ultimately presenting heritage and memory as *statecraft mechanisms* that can be used by a variety of players, for a variety of agendas, strategically to assemble and normalize the institutional and sociopolitical environments defining the state.

NORMALIZING THE CORPORATIST STATE: WELL-OILED HERITAGE MANAGEMENT IN THE ALTAI REPUBLIC

In 1993 archaeologists of the Siberian Branch of the Russian Academy of Science (SB-RAS) discovered a uniquely preserved frozen burial mound, yielding the intact body of a 2500-year-old mummy and numerous rich grave goods. When this unique discovery was made public in 1994, the Scythian find quickly became the center of a serious sociopolitical conflict between indigenous Altaians and state archaeologists of the SB-RAS, Russia’s most prestigious and state-controlled scientific institution.

The intelligentsia of the Altaian nation, a large non-Russian indigenous population dominating the rural parts of the Altai Republic, were quick to use this unique archaeological treasure as a national symbol (see Plets et al. 2013). The discovery was not only important because it could be connected to the rich Scythian Pazyryk period (Sixty-third century BCE), a moment where the Altai was a central region in the long-distance connections defining Eurasian steppe culture. Buried with her horses, the mummy also embodied nomadism. Today, nomadism is more than a livelihood strategy for many Altaians; it is an idealized lifestyle where people are ontologically one with their land, which is at the core of their shamanistic identity. Nomadism had, however, almost completely disappeared during the Soviet Union and was especially under threat during the late 1980s because of ecological problems and huge development projects. Throughout the 1990s, the mummy quickly

became known as the “Altai Princess”; represented as a nomadic warrior princess she was believed to be a progenitor of modern Altaians.

Controlling this unique find, both in a discursive and material sense, was extremely important for the Altaian elite in the midst of reviving Altaian culture and identity after almost seven decades of Soviet identity politics. This ethnocultural revival coincided with Altaian efforts to strengthen the status of the Altai administrative region within the federal structure of Russia. Since 1991 the region has held “republic” status, meaning that it has its own official language, constitution, parliament and president, a privileged position thanks to the well-directed ethnocultural activism of the predominantly Soviet-trained indigenous Altaian intelligentsia. Maintaining and expanding this, albeit limited, cultural sovereignty has been a key effort throughout the short history of the Altai Republic. Legitimation of de facto cultural autonomy was especially formed around national symbols and narratives textured by Soviet interpretations of nationality and ethnicity (Shnirelman 1996; Tishkov 1997). Consequently, Soviet markers of ethnicity (language, religion, livelihood, nativeness to the land and material culture) were perceived as imperative. Controlling the discourse over the Altai Princess was especially important as it could be used to objectify the Altaian’s deep historical ties to the territory of the Altai Republic and their specific nomadic ontology.

Repatriation of the mummy from the museum of the SB-RAS to the national museum in the capital of the Altai Republic has been a central demand throughout various local and regional election campaigns. Whereas the political use of the Altai Princess typifies indigenous nation building after the collapse of the Soviet Union, at the same time, the unresolved fate of the Altai Princess exemplifies the continuing ethnocentrism structuring heritage and memory politics in post-Soviet Russia, a reality that became especially dire when President Putin came to power in 1999. Not only have a long series of public protests, petitions and official demands from various Altaian civil society organization been ignored, but at the same time, a long list of legal changes and public statements by officials criticizing the Altaian’s politicization of the mummy exemplify the structural discriminations impeding non-Russian minorities to celebrate their heritage freely (see Plets 2016).

A pertinent event exemplifying this difficult political climate is when the excavators of the Altai Princess personally received the prestigious State Prize of the Russian Federation (*Gosudarstvennaya Premiia Rossiyskoy Federatsii*) from President Putin in 2004. During the award ceremony Putin praised the work of the archaeologists as “exceptional and bright events in Russian science and the arts; they are the pride and glory of our nation” (Putin 2005). Illustrative of the deliberate institutional estrangement of ethnic minorities in the heritage management and memory production field, are the many Russian governmental structures and legal frameworks impeding indigenous nationalities from controlling their own heritage. In addition to a series of highly contested legal frameworks curtailing the power of the non-Russian

minorities (Donahoe et al. 2008; Newcity 2009), cultural heritage legislation has been caught up in the careful subversion of regional power. Because of heritage's nationalistic and practical dimensions (heritage legislation can be used to influence spatial planning policies), the Kremlin has been skillfully undercutting regional heritage structures in the Altai Republic. In 2002 a new federal cultural heritage law was passed explicitly ascribing ownership over archaeological finds to the federal state (N73-F3, article 49). In the Altai Republic this law overruled the constitution, which defined Altaians as the privileged stewards over their heritage. In 2010, after a long legal battle, another important regional decree from 1997 that made excavations dependent on indigenous consent was found unconstitutional by federal court.

These legal changes and official statements legitimizing the Russian archaeological establishment over the indigenous titular inhabitants of the Altai Republic clearly represent Putin and his *nomenklatura* as quintessential nation-builders who use heritage legislation as part of their political portfolio. Thus far this reality corresponds to the popular image of the Russian Federation as a managed vertical democracy where there is only room for celebrating the ethnic Russian past and the intrinsically Russian victory during World War II (Linan 2010). This image of the Russian heritage and memory fields aligns with the above-critiqued research agendas, where a central state defines the "rules of the history game" for ethnonationalist interests.

There is no doubt that nation-building through carefully managing the different narratives and discourses in society is extremely important for the Russian establishment, but recent developments connected to the fate of the Altai Princess make a one-dimensional interpretation where the selective instantiation of national communities is the main driving force behind cultural politics impossible to sustain. In September 2012 the Altai Princess was repatriated to the newly constructed National Museum of the Altai Republic (see Plets 2016). This state-of-the-art museum not only holds the Altai Princess; as one of the most monumental, luxurious and expensive regional museums of Siberia it also celebrates Altaian culture and the deep archaeological links with their homeland. Such a tribute to the Altaian people and their rich culture is, however, at odds with the bleak political reality described above and other international repatriation examples. Compared to other repatriation cases in settler societies such as Australia and the United States, neither the Russian state nor Russian academia mediated this expansive renovation of the national museum or negotiated the repatriation in an effort to redefine the Russian nation and further a multicultural meta-narrative. Instead, a corporate player, Gazprom, realized the repatriation and reconstruction, serving an inherently economic agenda.

Gazprom has entered Altaian cultural politics when it made plans to construct a pipeline through the Altai Republic connecting Russia with the Chinese market. Constructing a direct connection to China would enable Gazprom to diversify its export and overcome its dependency on an



Fig. 26.1 Promo material celebrating Gazprom's accomplishments in the Altai Republic

increasingly skeptical European market. However, over the past three decades both the Altaian populace and local political elite have been critical of any major development project that could further degrade the fragile ecosystem of the Altai mountains. In a response to this local climate, Gazprom has used heritage in their Corporate Social Responsibility strategy in shaping new public opinion in favor of the construction of a mega pipeline (see Fig. 26.1).

Gazprom has been highly successful in normalizing their economic project. During many interviews in the newly constructed museum, both visitors and museum workers stressed how grateful they are that Gazprom has funded culture projects and public infrastructure (schools, roads, etc.). Not only does the museum receive very little opposition, there is a general dearth of opposition to Gazprom's construction plans in the Altai Republic. Today there is even grassroots support for the construction of the pipeline.

This conviction is highly remarkable, especially as in the past Altaians have opposed similar big projects. At the end of the Soviet Union they were among one of the first and most vocal voices opposing the so-called Soviet "mega projects." Supported by Russian environmental groups their protests against a large hydroelectric dam are still seen as a first major ecological victory and an important step in the struggle for indigenous stewardship over land (Filippov and Filippova 1994; Tyuhteneva 2009). This successful opposition against the dam is still popularly used by Altaians to discuss their unique relationship with the environment and defend their ongoing struggle against the construction of tourist infrastructure in the region. However, today, the pipeline doesn't receive any public scrutiny. Many respondents stressed that the pipeline is imperative for economic development and that Gazprom's "gasification" will advance ecological sustainability and reduce deforestation, corresponding to Gazprom's PR discourse. This is especially surprising inasmuch as the project has no projected long-term economic

impact and has a major projected impact on Altai's heritage, ecology and social fabric (Plets et al. 2011). Clearly, together with a variety of other initiatives, by playing an active role in the cultural heritage field through the repatriation of indigenous symbolic capital, Gazprom could cultivate a new neoliberal modernity. A new belief had been nurtured where the need to survive as a modern nation is coupled with the transport of resources.

In addition to conditioning public opinion by taking over key responsibilities of the local government, Gazprom was also able directly to co-opt the political elite of the republic and become part of the institutional fabric of the Altaian polity. By funding local social and cultural initiatives, which are usually the responsibility of the state, Gazprom was successful in co-opting local politicians and bureaucrats needing political capital in either regional elections or for maintaining their privileged bureaucratic positions. The best and most striking example, clearly showing the impact of Gazprom on local politics, is the recent re-election of the republic's president, Alexander Berdnikov. After a successful campaign in which he stressed his role in the repatriation of the Altai Princess, Berdnikov strategically reorganized local bureaucracies and, for example, ecological protection became a competence of the Ministry for Resource Development and Property Relations. At the same time locally administered ecological protection zones were also reorganized and local heritage protection laws were also revoked, creating a legal landscape favorable for Gazprom's construction plans (Plets 2016, pp. 372–378).

Such a changed institutional landscape where multinational corporations create zones of exemption where non-Russian pasts can be celebrated, is difficult to align with the image of the Russian state as a top-down polity where all subjects equally adhere to the same "rules of the game." Hydrocarbon corporations have become part of the sociopolitical fabric of the state, something we not only see in peripheral regions such as the Altai, but also in the Kremlin where private energy players, especially compared to Soviet times, now have a huge influence on federal policy (Gustafson 2012). Successful management of state affairs by the energy sector—using heritage as one their many statecraft tools—has ensured that this drastically reformulated institutional landscape with all its inconsistencies and paradoxical juridopolitical structures has become normalized and receives very little opposition on the ground, both by local politicians and the electorate. As I have noticed during ethnographic fieldwork, this contested political environment is still conceptualized as the Russian "state," a familiar political body that is perceived to govern objectively for the welfare of its subjects and to the best of their interest. Such a reality where a polity consisting of different players driven by neoliberal interests continues to be conceptualized on the ground as a distinct political body, called the state, that foremost serves the electorate is of course not new or limited to Russia. Economic interests and corporate players have always influenced politics and they have always attempted to become part of the fabric of the state (Rogers 2015). However, what this case study shows is

that heritage is not only a political tool primarily crafting the nation, but also the state.

HERITAGE BRANDING IN TATARSTAN: WORLD HERITAGE AS A TOOL FOR BUILDING ECONOMIC BRIDGES AT HOME AND ABROAD

The past is not only a resource that can be used by corporate players to normalize institutional landscapes and acquire a bottom-up “license to operate.” Heritage and memory can also play a pivotal role in the image management efforts of a locality, imperative for tapping into the increasingly important tourist market and attracting foreign investments. The logic behind “nation branding” has evolved over the past two decades and has become textured by neoliberal capitalist agendas, pivoting around the assumption that a successful image provides access to the global market, indirectly producing economic value through a nation’s “brand equity” (Andrew 2013; Arvidson 2006, p. 133; Anholt 2003). In the Republic of Tatarstan, an oil-producing Russian federal subject, history has been the lynchpin of such branding practices.

A central vehicle in this branding effort has been UNESCO’s World Heritage program. Three sites from Tatarstan have been submitted for nomination as World Heritage sites (The Bolghar Archaeological and Historical Complex, Kremlin of Kazan and Shivianzk) and have received significant financial support both by Russian and Tataran foundations, supplemented with direct funding by energy companies Tatneft and Gazprom who are active in the region. Together with unequaled diplomatic efforts where international support for certain nomination were “exchanged” for various geopolitical “gifts” (Meskell 2015b), investments have materialized and two sites have been inscribed on the World Heritage List (Kazan and Bolgar), despite serious concerns voiced by the independent expert committee advising UNESCO about monumental reconstructions and renovations flagrantly affecting the sites’ authenticity (see Plets 2015). The nation branding activity at the World Heritage Site of Bolgar has been especially fraught with contestation.

The Bolgar Archaeological and Historical Complex occupies a mythical role in Tatar historiography. The site is believed to be the administrative and economic center of the mythical Bulgar state (Seventh–thirteenth century AD). Perceived to be both westward- and eastward-looking, the Bulgars were one of the earliest cultures in Russian contemporary territory that adopted Islam (922 AD). In many official histories they are presented as a group that uniquely developed large cosmopolitan multicultural centers that played a central role in the trade between Asia and Europe (Faller 2011). The site was submitted by the Russian Federation for nomination as a World Heritage site in 1998 (see below). However, extreme mythologization of the site’s material fabric through lavish reconstructions and questionable new additions (e.g., a monumental white mosque) has ensured that the site would not receive World Heritage listing for over a

decade. Only after serious intervention by the Russian ambassador to UNESCO, involving unprecedented geopolitical pressure forcing the World Heritage Committee to brush aside the unequivocal critique of several independent expert commissions (see Plets 2015), was the site inscribed as the 1002nd World Heritage Site during the 38th World Heritage Committee meeting in 2014 in Qatar.

National heritage sites on the World Heritage List are especially important instruments in the process of nation-branding because they create and expand transnational socioeconomic platforms. Although insider perspectives teach us that the decision-making process at UNESCO about universal heritage values is heavily politicized (Meskell 2015b), being designated World Heritage status is still globally perceived as a moment where a nation's cultural legacy is universally acknowledged by a committee of experts. To the outside world a World Heritage site has a strong brand value, and is seen as "proof" that a nation is of historical importance to "humanity." Building on Larkin's (2013) appraisal of public state infrastructure; one could argue that World Heritage sites present themselves as semiotic vehicles through which the players defining the nation-state can, because of their universalizing status, objectively exhibit particular images of their nation-state to the outside world.

Tatarstan has successfully used heritage as one of their many branding tools in the management of relations both within Russia and abroad. Creating a multicultural image of Tatarstan through massively investing in sites where Islamic and Russian heritage are juxtaposed has played a significant role in managing Tatarstan's relationship with Moscow, to the extent that the Tataran political elite—who have direct ties to important Tataran energy, construction and manufacturing companies—were able to maintain unique budget relations within Russia. On the other hand, heritage has also been used to raise the global profile of Tatarstan as a trustworthy business partner. Tatarstan, and to a certain extent Russia, has especially used this Islamic heritage in expanding strategically important economic relations with Middle Eastern partners.

By selecting a site that exhibits a favorable past vis-à-vis Moscow, Tatarstan was subtly able to accentuate the legitimacy of Tataran political sovereignty without estranging the Russian political center. The selection of a site as World Heritage that embodies "civilized" multiculturalism, Westward-looking Islam and cosmopolitanism corresponds well with Russia's hesitant policy towards non-Russian minorities and religions. The selection of the Bulgar past is also important as a foundational meta-narrative and not the ensuing Golden Horde period (thirteenth–sixteenth century), despite the fact that Bolgar and Tatarstan were at the center of the enormous and powerful Golden Horde Empire. However, this period is conceptualized as a "dark" period in Russian history and refers back to a time when Tatar "savages" ruled Moscow (Faller 2011; Kondrashov 1999, pp. 66–69). Clearly, the politics of selecting a site embodying the Bulgar past as a central element of Tatarstan's symbolic repertoire aligns well with Tatarstan's elite's doctrine of

absorbing as much autonomy without alienating Russia (Faller 2011; Graney 2006). Ultimately, this policy has helped Tatarstan in expanding its unique cultural and economic privileges as an autonomous republic in the Russian Federation. When during Putin's first term federal taxation was imposed on oil production, as one of the only regions, Tatarstan's financial losses were compensated by the federal budget to an extent that it received almost three times as much federal funding than all other regions combined (Graney 2009, p. 123). These transfers not only benefited the Tataran government but also the political elite, who are known to tap successfully into the regional budget (Plets 2015, p. 81).

On the other hand, submitting a site of pilgrimage to the World Heritage list and labeling it as the place where Russian Islam was born, constructs an image of a climate where Muslim minorities have an important place and are not discriminated, representing not only Tatarstan, but also the Russian Federation, as states embracing their Muslim heritage. Such an image is imperative for Russia's and Tatarstan's concerted efforts in expanding geopolitical partnerships with its Islamic partners, especially in the light of smoldering conflicts in the Caucasus between Islamic separatists and pro-Russian elites. Robert Crews (2014) has recently drawn attention to how the Kremlin has worked hard in developing close synergies with Russian Islam for geopolitical and economic purposes, despite populist policies supporting the Russian Orthodox Church. Countries such as Syria, Libya, Iran and Iraq have become important partners of Russia, and Tatarstan's political elite has played a central role in further expanding diplomatic and economic ties. Maintaining these economic ties has been of strategic importance to Tatarstan and Russia. Especially as Tatneft, an oil producer owned by the Tataran government and complexly tied to a series of key political figures, has over the past decades successfully lobbied for major drilling contracts in Iran, Syria, Libya and Iraq. Furthermore, Russia's weapons industry, which is concentrated in Tatarstan, has become increasingly dependent on the Middle East. During a recent economic mission of the government of Iraqi Kurdistan to Kazan, for example, major industrial contracts between Tatarstan and Kurdistan were discussed, including the delivery of military material to Kurdistan (TatCenter 2015).

There is no doubt that heritage sites such as Bolgar are one of the many initiatives that help in (re)constructing a favorable image attracting international economic players from the Middle East. The World Heritage framework and UNESCO are great platforms to further spotlight this image, as they can be used as external voices objectifying these constructed images. When UNESCO Director-General Irina Bokova received the "Al-Fakhr" decoration (the highest distinction of the Russian Muslim community) for her contribution to the preservation of Muslim cultural heritage, she named Bolgar, despite being contested, a "symbol of tolerance and inter-cultural dialogue" (UNESCO 2014), a useful statement that was keenly reproduced in Russian and Tataran media. The recent archaeological exhibition "Journey

of ibn Fadlan: The Volga Route from Baghdad to Bolgar” in Kazan is yet another example of the very real role of heritage in cultural diplomacy and attracting international capital investment. Funded by the Tataran government, this exhibition was dedicated to the writings of Ibn Fadlan, famous Arab traveler and first ambassador to Bolgar in 921–922 and explores the contacts between Bagdad and the Bulgar people. Tataran, Russian and Iraqi officials attended the opening, transforming a seemingly innocent historical exhibition into a diplomatic arena. The speech of the Iraqi ambassador to Russia especially shows how history was used in forming and extending diplomatic ties:

[This e]mbassy ... was headed by Ahmed ibn Fadlan, who is considered the first Arab ambassador in your country. Since then, religious, cultural and historical ties between our people have grown only stronger. And today we are further witnessing the convergence of our customs and traditions. (Ismail Shafik Mushin, from: Gafiyatullina [2016](#))

HERITAGE STATECRAFT: BEYOND METHODOLOGICAL NATIONALISM

In contemporary Russia the past is one of the many political instruments used by a variety of players in drastically reformulating the institutional and economic fabric of the Russian state. The players engaged in this process are compared to traditional appraisals from heritage and memory studies to everyday “state-actors.” Instead, corporate players such as Gazprom and Tatarstan’s industrial elite are engaged in the strategic political process of discursively assembling heritage sites and museums for reasons transcending the scope of “imagining communities.” Within this process of “producing the present through the past,” these elites are not only creating governable subjects adhering to certain types of truth, but at the same time they are also discursively assembling the state through rationalizing inherently subjective politicized institutional structures, modernities and hierarchies.

Because heritage and memory politics are multidimensional and driven by more than merely nationalism and processes of identity negotiation, this chapter calls heritage and memory researchers to focus on broader issues of *statecraft*. The idea of “heritage statecraft” or “heritage *in* statecraft” is a productive and open way of describing history’s role in the management of the intricate domestic and transnational political landscapes defining a locality’s polity. This not only forces us to move away from a unitary model of the state towards a disaggregated understanding of the state where various social actors, each having different interests, define the institutional climate of the state and normalize its highly selective agendas. It also forces us to move beyond merely describing instances where the past is politicized, and explore the intricate statecraft mechanisms and power structures underlying it.

Both case studies clearly illustrate that the past is caught up in an intricate sociopolitical meshwork where neoliberal and global players (e.g., corporations, multilateral organizations, foreign actors) are increasingly challenging the authoritative position of traditional state actors (e.g., political elites, bureaucratic actors, state funded academic institutions) in the production of history. Charting the impact of these transnational players, however, does not mean that we should adhere to the popular “myths of state withdrawal” (Peck and Theodore 2012, p. 181) where the state has become an obsolete scale. Nor that nationalism and the process of politically imagining communities have no place in appraisals of heritage and memory. This plurality of actors and agendas might further complicate the picture we attempt to paint about the strategic use of the past in the present. However, by escaping the overly one-dimensional approach where nation-building stands central we will be able to engage fruitfully with broader debates outside the traditional boundaries of history, archaeology and art history.

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REFERENCES

- Anderson, B. (1983) *Imagined Communities. Reflections on the Origin and Spread of Nationalism* (London: Verso).
- Andrew, G. (2013) ‘Counterfeiting the Nation? Skopje 2014 and the Politics of Nation Branding in Macedonia’, *Cultural Anthropology*, 28(1), 161–179.
- Anholt, S. (2003) ‘Branding Places and Nations’ in R. Clifton and J. Simmons (eds.) *Brands and Branding* (London: The Economist), pp. 213–226.
- Arvidson, A. (2006) *Brands. Meaning and Value in Media Culture* (London: Routledge).
- Askew, M. (2010) ‘The Magic List of Global Status. UNESCO, World Heritage and the Agendas of States’ in S. Labadi and C. Long (eds.) *Heritage and Globalisation* (New York: Routledge), pp. 19–44.
- Assmann, J. (2006) *On Religion and Cultural Memory. Ten Studies* (Stanford: Stanford University Press).
- Crews, R. (2014) ‘Moscow and the Mosque’, *Foreign Affairs*, 93(2), 125–134.
- De Cesari, C. and Rigney, A. (2014) ‘Introduction. Beyond Methodological Nationalism’ in C. De Cesari and A. Rigney (eds.) *Transnational Memory. Circulation, Articulation, Scales* (Berlin: De Gruyter), pp. 1–25.

- Donahoe, B., Habeck, J. O., Halemba, A. and Santha, I. (2008) 'Size and Place in the Construction of Indigeneity in the Russian Federation', *Current Anthropology*, 49(6), 993–1020.
- Eriksen, T. H. (1993) *Ethnicity and Nationalism. Anthropological Perspectives* (London: Pluto Press).
- Erll, A. (2011) *Memory in Culture* (New York: Palgrave Macmillan).
- Faller, H. (2011) *Nation, Language, Islam. Tatarstan's Sovereignty Movement* (Budapest: CEU Press).
- Ferguson, J. and Gupta, A. (2002) 'Spatializing States. Toward an Ethnography of Neoliberal Governmentality', *American Ethnologist*, 29(4), 981–1002.
- Filippov, V. and Filippova, E. (1994) 'The Ethnic Aspect of Problems on the Katun Hydroelectric Station Construction Project', *Anthropology & Archaeology of Eurasia*, 33(2), 11–27.
- Foucault, M. (1975) *Surveiller et Punir* (Paris: Gallimard).
- Foucault, M. (1991) 'Governmentality' in G. Burchell, C. Gordon, and P. Miller (eds.) *The Foucault Effect. Studies in Governmentality* (Chicago: The University of Chicago Press), pp. 87–104.
- Gafiyatullina, I. (2016) 'М. Шаймиев: "Если бы не было записок Ибн Фадлана, мы бы не доказали, что в 922 году в Болгаре был принят ислам"', http://islam-today.ru/islam_v_rossii/tatarstan/m-sajmiev-esli-by-ne-bylo-zapisok-ibn-fadlanamy-by-ne-dokazali-cto-v-922-godu-v-bolgare-by-prinat-islam/.
- Gellner, E. (1983) *Nations and Nationalism* (Ithica: Cornell University Press).
- Graney, K. (2006) "'Russian Islam" and the Politics of Religious Multiculturalism in Russia' in D. Ruble and B. Ruble (eds.) *Rebounding Identities. The Politics of Identity in Russia and Ukraine* (Washington, DC: Woodrow Wilson Center Press), pp. 89–115.
- Graney, K. (2009) *Of Khans and Kremlins. Tatarstan and the Future of Ethno-Federalism in Russia* (Plymouth: Lexington Books).
- Gupta, A. (2012) *Red Tape. Bureacracy, Structural Violence, and Poverty in India* (Durham: Duke University Press).
- Gustafson, T. (2012) *Wheel of Fortune. The Battle for Oil and Power in Russia* (Cambridge: Harvard University Press).
- Hobsbawm, E. (1993) 'The New Threat to History', *New York Review*.
- Hobsbawm, E. and Ranger, T. (1983) *The Invention of Tradition* (Cambridge: Cambridge University Press).
- Kondrashov, S. (1999) *Nationalism and the Drive for Sovereignty in Tatarstan, 1988–92. Origins and Development* (New York: St. Martin's Press).
- Larkin, B. (2013) 'The Politics and Poetics of Infrastructure', *Annual Review of Anthropology*, 42, 327–343.
- Linan, M. Vazquez (2010) 'History as a Propaganda Tool in Putin's Russia', *Communist and Post-Communist Studies*, 43, 167–178.
- Meskel, L. (2015a) *Global Heritage. A Reader* (Oxford: Willey Blackwell).
- Meskel, L. (2015b) 'Transacting UNESCO World Heritage. Gifts and Exchange on a Global Stage', *Social Anthropology*, 23(1), 3–21.
- Mitchell, T. (1999) 'On Society, Economy, and the State Effect' in *State/Culture State-Formation After the Cultural Turn* (Ithica: Cornell University Press), pp. 76–97.

- Newcity, M. (2009) 'Protecting the Traditional Knowledge and Cultural Expressions of Russia's Numerically-Small Indigenous Peoples. What Has Been Done, What Remains to Be Done', *Texas Wesleyan Law Review*, 15, 357–414.
- Peck, J. and Theodore, N. (2012) 'Reanimating Neoliberalism. Process Geographies of Neoliberalism', *Social Anthropology*, 20(2), 177–185.
- Plets, G. (2015) 'Ethno-Nationalism, Asymmetric Federalism and Soviet Perceptions of the Past: (World) Heritage Activism in the Russian Federation', *Journal of Social Archaeology*, 15(1), 67–93.
- Plets, G. (2016) 'Heritage Statecraft. When Archaeological Heritage Meets Neoliberalism in Gazprom's Resource' *Journal of Field Archaeology*, 41(3), 368–383.
- Plets, G., Gheyle, W., Plets, R., Pavlovich Dvornikov, E. and Bourgeois, J. (2011) 'A Line Through the Sacred Lands of the Altai Mountains. Perspectives on the Altai Pipeline Project', *Mountain Research and Development*, 31(4), 372–379.
- Plets, G., Konstantinov, N., Soenov, V. and Robinson, E. (2013) 'Repatriation, Doxa, and Contested Heritages', *Anthropology & Archaeology of Eurasia*, 52(2), 73–98.
- Putin, V. (2005) 'Introductory Remarks at the Ceremony for Russian Federation National Awards in Science and Technology and Arts Presentation'.
- Rogers, D. (2015) *The Depths of Russia. Oil, Power, and Culture after Socialism* (Ithica: Cornell University Press).
- Salazar, N. and Zhu, Y. (2015) 'Heritage and Tourism' in L. Meskell (ed.) *Global Heritage. A Reader* (Malden: Wiley Blackwell), pp. 240–258.
- Scott, J. (1998) *Seeing Like a State. How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press).
- Shnirelman, V. (1996) *Who Gets the Past? Competition for Ancestors Among Non-Russian Intellectuals in Russia* (New York: The Woodrow Wilson Center Press).
- Slaughter, A. (2004) *A New World Order* (Princeton: Princeton University Press).
- TatCenter (2015) "Татарстан планирует поставлять 'КАМАЗы' и вертолеты Ми-8 и Ми-17 в Курдский район Ирака." <http://info.tatcenter.ru/news/146800/>.
- Tishkov, V. (1997) *Ethnicity, Nationalism and Conflict in and After the Soviet Union. The Mind Aflame* (London: Sage).
- Tyuhteneva, S. (2009) *емля, вода, Хан Алтай. Этническая культура алтайцев в XX веке* (Elista: Калмыцкий Государственный университет).
- UNESCO (2014) 'The Director-General Receives Distinction for Teh Preservation of Muslim Cultural Heritage', http://www.unesco.org/new/en/media-services/single-view/news/the_director_general_receives_distinction_for_the_preservation_of_muslim_cultural_heritage/#.VyFoBqODGko.
- Wimmer, A. and Glick Schiller, N. (2002) 'Methodological Nationalism and beyond. Nation-State Building, Migration and the Social Sciences', *Global Networks*, 4(2), 301–334.

PART VII

Courts, Tribunals and Judicial History

The State, the Courts, and the Lessons of History: An Overview, with Reference to Some Emblematic Cases

Richard J. Golsan

Since 1945 and the end of World War II, the world has witnessed an extraordinary proliferation of national and international trials and tribunals whose purpose has been to come to terms with and, it is hoped, move beyond, the crimes and traumas of the recent past. As part of this process, these legal proceedings have been obliged to put history itself on trial, most often with the aim of providing moral or political lessons for the public. In some notable instances, they have also sought to establish or consolidate foundational narratives of national (and occasionally ethnic) identity, or to facilitate the transition from dictatorship to democracy. Indeed the courtroom has often become a forum or a “theater” to quote Yasco Horsman (2011) where different versions of the past confront each other and where the scope of justice sought is not limited to the prosecution and punishment of the accused for his or her crimes. As part of their deliberate pedagogical function, these trials also aim to characterize, discredit, and contribute to the eradication of the political (or other) evil that the accused embodies and represents, in the name of preparing a better collective future for all.

From the outset, many if not most of these “didactic” trials have been plagued by legal and historical complications and contradictions that have, in different ways and to different degrees, tended to call into question the validity and accuracy of the historical and political lessons the trials have sought

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to convey, as well as the form and tenor of the justice being meted out. The reasons for these difficulties are many. The Nuremberg trials and the trial of Adolph Eichmann in Jerusalem in 1961, for example, attempted to prosecute unprecedented state crimes, as well as organizational and individual crimes, using newly minted international concepts and statutes. The latter included crimes against peace, crimes against humanity, and genocide and—in the case of the Eichmann trial—crimes against the Jewish people. The courts were also dealing with new kinds of criminals, whose psychology and motivations (especially in the case of Eichmann) have been the subject of debate and controversy for more than a half century. Finally, to the degree that, as Shoshana Felman has argued, these post- 1945 trials have constituted and constitute efforts to “restore the world’s balance by re-establishing the law’s monopoly on violence and by conceiving of justice not simply as punishment but as a marked symbolic exit from the injuries of traumatic history: as liberation from violence itself” (Felman 2002, p. 1), they have assumed the metaphysical and cathartic dimensions of tragedies. Any didactic intent, any historical lesson the state, the international community, or any other entity seeks to convey through these trials therefore risks being overshadowed by other potential interpretations and divergent, and diversionary, meanings, whose implications might be psychological, moral, metaphysical, or even aesthetic in nature. The latter are as much a function of the case being considered and the interactions of the trial’s participants (judge, jury, the accused, defense counsel, the witnesses, the prosecution, not to mention observers and commentators) as they are the staging of the trial itself. In the end, the discourses of history and the law are not the same, and make uncomfortable bedfellows.

In this chapter I explore some of these impediments to the didactic function of these trials whose importance, deliberately attributed to them by the state or the international community, often results in their being characterized in hyperbolic terms: the “trial of the century,” the “trial for memory,” and so on. I also examine what kinds of historical narratives are possible in the context of such trials, how they are articulated and imposed, and the circumstances and ways in which they are received and become meaningful to the public.

From the standpoint of their historical and legal impact, as well as their oft-contested and controversial political aims, there have been no tribunals or trials since 1945 more memorable than the Nuremberg trials (both the International Military Tribunal (IMT) and the Nuremberg Military Tribunal (NMT)) and the trial of Adolph Eichmann. The very idea of international tribunals being both necessary and empowered to override the claims of national sovereignty and punish political leaders previously immune to punishment for their crimes originated with Nuremberg. So did the conceptualization, definition and application of laws dealing with crimes against humanity and genocide. Both were essentially the “brainchildren” of members of the “epistemic community” (Priemel and Stiller 2014, p. 5) that shaped the legal and historical foundations that guided the Nuremberg prosecutions.

Where the Eichmann trial is concerned, due to its impact and its unprecedented reliance on witness testimony, we have now entered what Annette Wiewiorka (2006) has labelled the “era of the witness.” Indeed, in subsequent years, witness testimony has proven to be a central, if not *the* central component of international tribunals as well as regional trials and truth commissions. Also, thanks to Hannah Arendt’s controversial book *Eichmann in Jerusalem* (1963) the Eichmann trial has given us the concept of “the banality of evil.” Conceived by Arendt as a means to characterize Eichmann, his thinking, motivations, and actions, the idea that evil can be “banal” as well as radical or extreme has reshaped the way we think about and discuss political evil and bureaucratic crime, not to mention other egregious actions occurring even in our daily lives.

In the final part of the chapter, I consider three trials for crimes against humanity that took place in France in late 1980s and late 1990s. These trials involved the Nazi Klaus Barbie and two officials of the collaborationist Vichy regime in France, Paul Touvier and Maurice Papon. Why consider the French trials in this context? First, because these trials of what many commentators referred to as the second postwar “purge” also dealt, like Nuremberg and the Eichmann trial, with the crimes of Nazism and those complicit with it. But unlike many other post-war trials of the Nazis and their collaborators, the French trials occurred a half century after the crimes were committed. For this reason, they demonstrate the dangers of anachronism, which further complicate any state (or other) intent to convey a lesson about, or a better understanding of the past. Indeed, like Nuremberg and the Eichmann trial, the French trials also constituted “didactic” events: through them the French were to fulfill a “duty to memory” in making possible a better understanding of a very difficult period in French history, the so-called “Dark Years,” that had too long been occulted, often deliberately by government leaders and successive governments.

NUREMBERG

It is important to stress at the outset that although the Nuremberg trials are often thought of as a single continuous event in legal and historical terms, this is not the case. The most famous Nuremberg trial, the IMT took place immediately after the war and involved the prosecutions of the major surviving Nazi leaders. There were twenty two defendants in all. The remaining twelve trials took place between October 1946 and November 1949, and were known collectively as the Military NMT. These trials focused on Nazi state entities or partners including the Nazi judiciary, the SS *Einsatzgruppen* and the IG Farben Corporation, to name a few.

In their book, *Reassessing the Nuremberg Tribunals: Transitional Justice, Trial Narratives, and Historiography*, Kim Priemel and Alex Stiller (2014) stress that as a general rule the NMT trials, the so-called “Subsequent Trials,” have been overshadowed by their “more glamorous” predecessor, the IMT

with its “all-star” cast of the top Nazi leaders who survived the war. This was the case for a variety of reasons discussed shortly. But as Lawrence Douglas (2014) points out in his contribution to the volume in question, in terms of their lasting impact on international law and subsequent international tribunals at The Hague and elsewhere, the NMT trials have proven more influential in the long run in their emphasis on atrocity as opposed to wars of national aggression and crimes against peace. The latter had been the primary focus of the IMT.

As the first great post-war international tribunal, what were the aims of the IMT and what were the historical lessons it sought to convey? Also, what were the legal instruments, what new laws, were developed for use by the prosecution, and how were these laws articulated in relation to efforts to understand and represent the Nazi state and Nazi crimes? Finally, what risks were involved in undertaking a didactic trial of this sort?

Given Nuremberg’s extraordinary historical standing, it is important to remember that the trials, and the IMT in particular, were conceived against the backdrop of Allied leaders and others initially calling not for a trial of Nazi leaders but for their summary executions. In fact only a few years before the end of the war the three major Allied leaders—Roosevelt, Stalin and Churchill—entertained thoughts of exemplary executions of Nazi leaders. Churchill opted for fifty such executions, and Stalin and Roosevelt at the Tehran conference discussed a figure many times higher. Stalin proposed a figure of 50,000 (Goldensohn and Gellately 2004, pp. vii–ix). Over the course of the final years of the war, however, attitudes changed in favor of some sort of trial or tribunal. The Soviet Union was supportive of the idea early on because, as Soviet territory was retaken from the Axis powers, such trials were already taking place in some of these territories. For their part, Great Britain and the United States worried about the impact of these trials, potentially reminiscent of the infamous Soviet show trials of the 1930s. Additionally, the spectacle of these trials might inspire Hitler to order retaliatory show trials against American and British POWs, which he in fact did, although these trials were not carried out.

In stressing the complicated path to the Nuremberg trials, I want to underscore a growing recognition of the need for the application of due process as the war progressed. Assuring due process was, as Donald Bloxham has written, “morally unimpeachable” (Bloxham 2001, p. 9) and also served as a means of distinguishing the Allies from Nazism. More broadly (theoretically at least) it served to demonstrate a fundamental difference between democracy and dictatorship.

But in framing the purpose of the IMT and drawing up the laws with which Nazi crimes would be tried another, more practical aim was prioritized. In his opening statement at Nuremberg, American prosecutor Robert Jackson affirmed: “This inquest represents the practical effort of four of the most mighty nations, with the support of seventeen more, to utilize international law to meet the greatest menace of our times—aggressive war.” Therefore,

the laws defined in the Charter of the International Military Tribunal signed in London in August 1945 were designed to underscore Nazi transgressions along these lines. In the event, four crimes were articulated: crimes against peace, aggression, war crimes, and crimes against humanity. The Charter further stipulated that “the official position of defendants, whether Heads of State or responsible officials of Government Departments, shall not be considered as freeing them from responsibility or mitigating punishment” (quoted in Reisman and Antoniou 1994, p. 320). Moreover, organizations, like individuals, could be declared criminal, thus allowing in principle for blanket prosecutions of organizations such as the SS.

Although the implications of the Charter’s legal innovations were problematic on several counts and the political goal of ending aggressive war sadly unrealistic and unrealizable, the didactic and pedagogical potential of the trial was clear. From the outset, both in the writing of the laws used in prosecution and in the presentation of evidence and interrogation of the witnesses, a central aim was to paint a portrait of the Nazi regime and to underscore its most salient, and criminal, features. To this end, as Priemel and Stiller point out, an “epistemic community” of sorts, consisting of jurists, political historians and others was assembled early on in order to make clear the most fundamental characteristics of the Nazi state, and to expose these in the courtroom itself. Two of the most important members of this “epistemic community” were Franz Neumann, author of the seminal work on the Nazi state, *Behemoth*, and Raphael Lemkin, author of *Axis Rule in Occupied Europe* and remembered primarily for coining the term “genocide.” As Priemel and Stiller note, these specialists adumbrated four crucial characteristics of the Third Reich and of the modern German culture from which it arose. These characteristics were “a tradition of authoritarianism; a corresponding lack of liberal, democratic, and free market institutions; a racialized worldview...; and a vicious onslaught on multilateralism” (Priemel and Stiller 2014, p. 6).

But in drafting the laws and prosecuting the cases around a broad if generally succinct conception of the Nazi state, cognitive and interpretive failings and shortcomings that challenged the trials’ didactic function were inevitable. Many of these were revealed in the courtroom, in some instances benefiting the accused. Some also fostered the creation of long-time and widespread misinterpretations and caused historical myths to linger, and indeed prosper. For example, as Priemel and Stiller note, the Charter’s deliberate and explicit focus on criminal organizations, and specifically the SS as a “state within a state” allowed defendants who were not part of the organization thereby to proclaim their innocence. Also, the trials’ emphasis on SS members as “the main, if not the sole agents of racial and genocidal crimes” (p. 12) helped to perpetuate the falsehood that only those Germans (and others) involved in that organization were guilty of such crimes. More generally, what Priemel and Stiller label Nuremberg’s “institutional approach” left “little room for individual scope of action or reflection” (p. 12). Also, the IMT’s strategy of avoiding the testimony of Nazism’s victims in order to rely on

documentary evidence meant that it could not do justice to these victims, and in the process better expose the horror of Hitler's "Final Solution." And where international law was concerned, although the IMT was innovative in "punctur[ing] the shield of national sovereignty" in prosecuting the Nazis for crimes against peace and aggressive war, the ultimate goal was hardly revolutionary in the long run. In fact, according to Lawrence Douglas (2014, p. 281), it was fundamentally conservative in that its purpose was to preserve, not to supplant, "the larger system of sovereign nation-states."

More crucially, what of the realities of the Holocaust and Nazism's radical anti-Semitism? At the moment the IMT took place much remained to be learned about both, especially the former. But even acknowledging the cognitive and historical shortcomings of the moment, there were severe impediments to even a preliminary comprehensive "first take" on these crimes. These were structural and legal, on the one hand, and also a function of the "way in which Anglo-Saxon culture related to Jews" (Bloxham 2001, p. 57). On the first score, as the "fundamental aim was to show that war crimes and crimes against humanity derived from a conspiracy to aggression, establishing the link became in practice more important than charting the multitude of crimes" (p. 62). Among the latter, of course, were the unprecedented horrors of the Holocaust. But the legal impediments, and what Bloxham labels felicitously "the tyranny of a construct" were enhanced and seconded by deep-seated attitudinal considerations that prevented anything resembling a concerted focus on Nazi crimes against Jews. These included a "liberal-universalist refusal to single out the treatment of any group as unique." Therefore "the Jewish fate" required no "specific consideration over and above that of other groups" (p. 66). Additionally, there were fears on both sides of the Atlantic about the consequences of allowing Jews to air their grievances. These included concerns that "anti-Semitism would be stirred up in those countries whose nationals were to be subjected to what might be attributed to Jewish vengeance," and, relatedly, that a strong moral claim might well support demands for the creation of separate Jewish state (p. 66). As a consequence of these anxieties Robert Jackson, for example, wished to limit the testimony of the victims, because so many were Jews, and also refused to allow Jews to serve as prosecutors. Implicitly, at least, this reinforced the stereotype of the vengeful Jew, according to Bloxham. But as Bloxham also stresses, the recognition of the uniqueness of Nazi persecution of the Jews and the "virulence" of Nazi hatred of them was signaled by the decision to include the race-baiting Julius Streicher among the accused (p. 65).

If many of the historical and legal failings of the IMT could ultimately be traced back to the decision to build the prosecutions around crimes against peace and the Nazis waging a war of aggression, the subsequent NMT trials were, in legal terms at least, unfettered by these constraints. Lawrence Douglas (2014) notes that these latter trials were in fact carried out under the auspices of a legal document signed by the Allies in December 1945 that differed in important ways from the IMT Charter. Known as the Control Council

Law number 10 (CCL 10), the law expanded the definition of crimes against humanity to include atrocities and offenses such as imprisonment, torture and rape. As Douglas (2014, p. 282) writes, CCL 10 also “severed the nexus requirement that conditioned the justiciability of crimes against humanity to their link to crimes against peace.” The implications of this were, first, that Nazi crimes against German nationals which pre-dated the outbreak of the war and were thus not part of a war of aggression or a crime against peace could in fact be prosecuted. In historical terms, this was necessary to paint a fuller portrait of Nazi criminality, and not just during wartime. Second, convictions for war crimes and crimes against humanity committed during the war could now be secured without also securing convictions for crimes against peace and the pursuit of aggressive war. Douglas (2014) notes some of NMT trials remained reluctant to break with the broader framework established by and for the IMT, however, he also quotes Telford Taylor’s assertion that of the defendants sentenced in the NMT trials, “[n]o defendant was convicted of conspiracy, and only five of fifty-two defendants tried for war-making were convicted” (p. 282).

In historical terms, Douglas concludes that “the NMT program ... produced a thicker and richer understanding of the meaning and processes of extermination and genocide than did the IMT.” And, “in moving toward an atrocity paradigm, the NMT trials anticipated and arguably influenced the subsequent development of international criminal law” (Douglas 2014, p. 285). Thus it appears that the NMT trials were a pedagogical success, while also proving to be successful in concrete legal terms as well. But over the long run, such lessons can be compromised and undermined by subsequent events, many of which had nothing to do with the workings of the trials themselves. Douglas notes that following the conclusion of the IMT trial the American Supreme Court Chief Justice Fred Vinson barred federal judges from serving as judges in the NMT trials, consigning these cases to state court judges who lacked the expertise, and especially the prestige of Supreme Court Justices such as Robert Jackson. Also, the US Congress cut the budget of the NMT trials, including in some instances the cost of translating judgments into German. This was especially unfortunate in the High Command case. As Valerie Hébert (2014, p. 197) stresses, unlike the *Einsatzgruppen* or the industrialists’ trials, where the accused consisted of relatively small German elites, this trial implicated the “breadth of the German people’s participation in Nazi crime. Twenty million citizens had served in the ranks of the Wehrmacht, and many of them had participated in the crimes ordered or authorized by the men in the dock.” Moreover, the judgment exposed the genocidal practices of the *Wehrmacht*, practices that in large part, because the judgment was not translated, would not become fully exposed and widely known in Germany until the scandal erupted over *Wehrmacht* crimes in the 1990s. Finally, and most egregiously, the sentences of those convicted in NMT trials were relatively quickly commuted as part of the American effort to secure German support as the Cold War heated up.

In fact, by 1958 all those convicted by the NMT were free men. This tended to suggest, especially to Germans who might have preferred to ignore what the trials revealed, that the whole exercise was a “waste of time and money” to quote Douglas (2014, p. 278), and at least arguably illegitimate in the first place. So much, sadly, for the trials’ potential for a long-term, wide-ranging pedagogical impact.

THE EICHMANN TRIAL

If, as noted earlier, the trial of Adolph Eichmann in Jerusalem in 1961 ushered in the “Age of the Witness” in global terms, what does this mean, precisely? In positive terms, David Cesarani (2007) stresses in *Becoming Eichmann* that for the first time the courtroom became a “forum” in which the victims could be heard. For Cesarani the implications of this transformation of the role of the court after Nuremberg cannot be overstated. In Israel during the Eichmann trial the procession of Holocaust survivors in the courtroom who recounted, often dramatically, their tales of horror encouraged other survivors to come forward with their own testimonies. This was beneficial not only in personal terms for these survivors, but also in social and historical terms as well. In addition to enhancing historical understanding of the Holocaust (although by no means in every instance) the emergence of these witnesses broke a sort of social and cultural taboo according to which survivors of the Holocaust had kept largely silent, in deference to the sufferings of other Israelis, whose own travails were part of the price of Israeli independence and nationhood.

Beyond the borders of Israel and more recently, the hegemony of witness testimony established in the Eichmann trial has had a global impact. Virtually every subsequent trial, tribunal or commission, national or international, dealing with state-sponsored crimes has followed the Eichmann prosecution’s reliance on witness testimony. This has been done not only in order to seek justice for perpetrators and victims but also to establish context and, it is hoped, at least support whatever didactic lesson the court (and through it, the state) is attempting to convey. To varying degrees, the strategy has been followed in the Truth and Reconciliation hearings in South Africa as well as in international criminal tribunals dealing with crimes committed by Serbs and Croats during the break-up of the former Yugoslavia in the early 1990s, as well as during the 1994 Rwandan genocide. Similarly, witness testimony has been crucial in legal efforts to come to terms with Argentina’s Dirty War, and also in the French trials of the 1980s and 1990s for the crimes of Vichy and the Nazis during World War II.

But in the Eichmann trial as well as in other historical trials, the reliance on witness testimony has also proven to be a double-edged sword. At times such testimonies, or the uses to which they are put, run counter not only to the aims of the law and justice, but also to any legitimate pedagogical lessons the trial might convey. During the Eichmann trial, for example, some

commentators present at the trial or writing in its wake remarked on the “anesthetizing effect” of the endless stream of witnesses recounting their tales of horror. Rather than encouraging those present to try to better understand the historical and moral nightmare to which these witnesses had fallen victim, or to empathize with them, the flood of testimonies merely produced boredom among some of the spectators. The “anesthetizing effect” was enhanced moreover, by the longwinded lectures and disquisitions of the prosecution. Present at the trial, Telford Taylor described being “bored to tears by long lectures and legal argument” (quoted in Cesarani 2007, p. 328). Where the testimony of Eichmann himself was concerned, Harold Rosenberg wrote in November 1961 in the American review *Commentary* that the “necessary coolness of the courtroom” paradoxically favored the accused because it cast into sharp relief what Cesarani (2007, p. 330) describes as his “punctilious, dispassionate persona.”

At other times the testimony “overflowed” so to speak, the purpose for which it was intended. Chief Prosecutor Gideon Hausner’s interrogation of the witness K Zetnick (the camp name of the writer Yehiel Dinur), intended to impress the court with the specific and concrete horrors of camp life, instead produced a gripping and deeply moving poetic reflection by the witness on the “planet Auschwitz.” Hausner’s efforts to get the witness back on track proved futile. Following his testimony, Zetnik collapsed in the courtroom, and had to be taken to the hospital to recover. As Hausner wrote in *Justice in Jerusalem*, “I did not dare to put him on the stand again” (Hausner 1966, p. 171).

A more crucial failing of witness testimony in the Eichmann trial, both from a legal as well as a pedagogical perspective, had to do with the prosecution’s overall aims as well as its strategy in selecting survivors to testify. Many if not most of those chosen had no direct, or in many instances, even indirect links with the accused or knowledge of his specific crimes. This of course called into question the appropriateness of their testimony in a court of law whose purpose, generally speaking, is to address and punish the specific transgressions of the accused. But then as Hausner revealed in his opening statement, his purpose was never simply to prosecute Eichmann for his crimes alone. Rather “the whole somber panorama of German Nazi oppression was to be revealed ... in all its fiendishness” (Hausner 1966, p. 3). And in the courtroom witnesses and accusers invoked by Hausner (1966, p. 4) included the “wraiths of the millions of victims, men, women and children: the accusers, not the accused; the innocents who had been butchered methodically, insensately, inhumanly, in a vast blood bath which to this day numbs the imagination.”

More broadly still, Hausner’s aim was to put the entire history of global and western anti-Semitism on trial. Eichmann’s trial represented simply a culminating moment. Hausner’s intentions along these lines were, moreover, shared by others, and most notably Israeli Prime Minister David Ben Gurion. The historical logic guiding these aims was perhaps best articulated by the

historian of Jewish-Christian relations James Parkes, for whom the “historic guilt” Eichmann embodied “lies on the whole of Christendom.” Where anti-Semitism was concerned, Parkes added, “[T]here is an unbroken chain which goes back from Hitler’s death camps to the denunciations of the early Church” (quoted in Cesarani, p. 329).

It was precisely these sorts of globalizing and even transhistorical lessons to which Hannah Arendt objected in *Eichmann in Jerusalem: A Report on the Banality of Evil*. For Arendt, the grandiose pedagogical and historical lessons Hausner sought to draw from the trial had nothing to do with the course of justice, which in many ways was being perverted by the narrative the prosecution was seeking to construct. Even a “show trial” such as the Eichmann trial needed to focus exclusively on the crimes and punishment of the accused. All other questions being asked, “Why the Jews?” and “Why the Germans?” among them, needed in Arendt’s (1994, p. 5) words, to be “left in abeyance.” In addition, offering the world a lesson on the dangers of anti-Semitism was in Arendt’s (1994, p. 10) view “superfluous” in that it had been “discredited, thanks to Hitler, perhaps not forever, but certainly for the time being.”

But if Hannah Arendt trenchantly called into question the problematic historical narrative Hausner and the prosecution were attempting to convey (approved and seconded by Ben Gurion) Arendt’s own historical “lessons” articulated in *Eichmann in Jerusalem* contributed greatly to the book’s extraordinarily controversial reception. Arendt’s narrative is built around two highly contested claims. The first concerns the “banality of evil” which in her view characterized Eichmann’s actions, gestures, speech, and thought processes (or the lack thereof). For Arendt, Eichmann’s stilted and formal language, his ready recourse to clichés betrayed an innate inability to *think*, that is, to think in the place of others, to be *empathetic*. Given these characteristics, as well as the extent and horror of his crimes, the evil he represented was not the radical evil that the monstrosity of Nazi crimes seemed to embody, but rather something new and ultimately more terrifying: a pedestrian or “banal” form of evil.

Arendt’s second claim, and certainly the more incendiary one at the time, concerned the passivity and indeed cooperation of the Jewish leadership when faced with their own destruction at the hands of the Nazis. In a highly provocative passage in *Eichmann in Jerusalem*, Arendt (1994, p. 125) wrote:

Wherever Jews lived, there were recognized Jewish leaders, and these leaders, almost without exception, cooperated in one way or another, for one reason or another, with the Nazis. The whole truth was that if the Jewish people had really been unorganized and leaderless there would have been chaos and plenty of misery but the total number of victims would hardly have been between four and a half and six million people.

I have discussed Hannah Arendt’s views expressed in *Eichmann in Jerusalem*, first, because unlike the other “trials of history” starting with Nuremberg,

only in the case of the Eichmann trial has one book devoted to its failures as well as its moral and historical lessons come so completely to dominate discussion and debate surrounding the trial and the person of the accused. Indeed, in the initial firestorm of debate and controversy following its publication in 1963 David Cesarani, for one, locates the origins of what are today called “Holocaust studies.” Moreover, the phrase the “banality of evil” and what precisely Arendt meant by it has sparked continuing discussion and analysis. Today, of course, the phrase is trotted out, used and abused in any number of contexts, legitimately as well as illegitimately.

But the success of *Eichmann in Jerusalem* and the (contested) views expressed therein have also effectively displaced debate around the trial and in the process in many ways overshadowed the historical lesson the prosecution, and the state of Israel, wished to communicate, as discussed above. In addition, some of these “lessons” now appear untenable and anachronistic. For example, few if any historians today would characterize Hitlerian anti-Semitism as either a variant or culmination of traditional Christian anti-Semitism.

That said, there can also be little doubt about the truly foundational role the trial played in unifying Israeli society, and establishing and cementing a national psyche that until then had been rather fluid. Although international interest in the trial ebbed and flowed as the trial progressed, interest within Israel was intense and sustained throughout. Cesarani reports that over 83,000 Israelis attended the trial, and hundreds of thousands more followed the proceedings closely in the media. For Israeli youth, the capture and trial of Eichmann was a “revolutionary” event, bringing them to understand for the first time the “horrible dilemmas [of] their elders in Europe” (Cesarani 2007, p. 331). And again, according to Cesarani, the memory of the trial would later “come into” with the collective national experience of “diplomatic isolation and military peril” leading up to the 1967 and 1973 wars to reinforce the notion that Israelis stood alone and could rely on no one.

THE FRENCH TRIALS

Between summer 1987 and spring 1998, three trials and one failed prosecution for crimes against humanity took place in France. The accused in the first trial, which took place in Lyons in 1987, was Klaus Barbie, former Gestapo chief in that city during World War II and known as the “Butcher of Lyons” for his brutality against Resistance fighters and Jews alike. Seven years later in spring 1994 in Versailles, Paul Touvier, a former member of Vichy’s paramilitary police force, the *Milice*, stood trial for the 1944 murder of seven Jewish hostages at the cemetery of Rillieux-la-Pape. From October 1997 to April 1998 Maurice Papon, the former Secretary-General of the Gironde prefecture during the Nazi occupation, stood trial for crimes against humanity for the round-up and deportation of Jews from Bordeaux between July 1942 and January 1944. A third Frenchman, René Bousquet, who of the three had played by far the most significant role in France’s participation in the Nazi

Final Solution, was assassinated in his home by a crazed publicity-seeker in July 1993. The murder occurred just as all legal obstacles were being cleared so that Bousquet could be tried.

The trials of Barbie, Touvier, and Papon, and the short-circuited prosecution of Bousquet all took place against the backdrop, and in many ways at the height of what Henry Rousso famously labeled the “Vichy Syndrome” in his 1987 book by that name. The Vichy Syndrome refers to France’s ongoing preoccupation/obsession with the memory of the so-called “Dark Years,” the period beginning with France’s catastrophic May–June 1940 defeat, the advent of the Vichy regime and the occupation of part and later all of the country by Nazi Germany, and ending four years later with the liberation of France by the Allies.

From the Liberation on, successive French governments have sought to shape public perceptions and understanding of both the status and impact of the Vichy regime and the Dark Years themselves. As part of an effort to put France back on its feet and restore national pride following the post-war purge trials of collaborators and Vichy leaders, Gaullists and others sought through a variety of methods to impose the idea that most of the French were resisters and only a small criminal element had supported Vichy. In early 1950, the passage of amnesty laws sought further to put the past to rest by pardoning many collaborators and essentially imposing a gag order on divisive, further public discussions of the Dark Years.

By the late 1960s and early 1970s, however, and following the student revolts of May 1968 and de Gaulle’s fall from power shortly thereafter, challenges to what had been a largely whitewashed and ultimately false image of the World War II past began to emerge, and indeed capture the public imagination. Films such as Marcel Ophüls, *The Sorrow and the Pity* (1971) and Louis Malle’s *Lacombe Lucien* (1974) helped shatter the Gaullist myth of national resistance to Vichy and the Nazis by exposing widespread acquiescence to and also support for Pétain’s and Hitler’s regimes. At the heart of the changing perception was an increasing recognition not only that the majority of the French had not been heroic resisters, and that Vichy had not acted as a “shield” to de Gaulle’s “sword” as the historian Robert Aron had earlier argued in his influential work, but, more wrenchingly, that Vichy and many French had willingly cooperated with the Nazis in implementing the Final Solution in France. By the late 1980s and early 1990s, the public memory of the Dark Years had become increasingly “judeocentric,” that is, focused on French official (and unofficial) complicity in the Nazi plans to exterminate Europe’s Jews. And it is against this backdrop that France’s “second Purge” occurred. Whereas the 1987 trial of the Nazi Klaus Barbie dealt largely with Nazi crimes against the Resistance and Jews, the trials and attempted prosecutions of the three Frenchmen focused explicitly on *French* crimes against Jews, and French complicity in the Holocaust.

To the degree that these trials and prosecutions were intended to be pedagogical exercises, each case constituted an instance of “state-sponsored

history.” Indeed the trials of Touvier and Papon were referred to in the press as trials for “History” and “Memory.” For some, this pedagogical function alone justified their taking place. But from the outset, the hoped-for objective lessons in history were compromised by the competing demands and exigencies of memory, problematic moral impulses, and also controversial judicial decisions, political manipulations, as well as emotionally charged reactions inside and outside the courtroom. The historian Emmanuel Leroy-Ladurie warned that the Barbie trial would be “an enormous national psychodrama, a psychoanalytical cure for the entire country” (quoted in Baruch, p. 47) and in many ways this was not an overstatement. Perhaps most crucially, a half century had passed since the commission of the crimes for which these men were put on trial. By definition, this meant that the trials were functioning anachronistically in trying to come to terms with a past long since “past” (and arguably completely inaccessible to judges and juries for whom historical context was crucial for understanding the crimes and judging the guilt or innocence of the accused). Moreover, forty to fifty years of intervening events had come between the crimes and their prosecution. These events did occasionally muddy the historical waters, and thereby complicated the didactic intent of the trials themselves. Especially in the Papon case, this is precisely what happened.

Before addressing these issues in relation to each case individually, some further observations are helpful to understand why these exercises in state-sponsored history were vexed from the outset. First, when crimes against humanity were incorporated into French law in 1965, *no specific definition* of these crimes was elaborated, and no permanent jurisdiction or court identified to try individual cases. This meant in effect that crimes against humanity law could be rewritten and revised, potentially in accordance with the demands of each individual case. This is in fact what happened. Even before the Papon trial got underway in 1997, the French jurist Christian Guéry, reflecting on what had transpired in the Barbie and Touvier cases, wondered if crimes against humanity had any substance in French law. Second, retroactive as it was, the 1965 law incorporating crimes against humanity into French law courted the same criticism made of the Nuremberg statutes, only more so. The latter were written into law after the crimes were committed, and thus violated a fundamental principle of jurisprudence as well as justifying for some the charge of “victor’s justice.”

As for nonlegal concerns, because these trials took place forty to fifty years after the crimes were committed, many questioned the morality of trying an individual for a crime dating from so long ago. That individual might have changed to the extent that he or she was not even the same *person* as the one who had committed the crime. Moreover, in all the French cases, the accused were very old, and Touvier was also ill. For some the demands of humaneness in these cases should trump those of justice, and the trials should not take place.

THE BARBIE TRIAL

When Klaus Barbie was arrested in South America in 1983 and brought back to France to stand trial, he was remembered by the vast majority of French as the Nazi responsible for the death of France's greatest martyr of the Resistance, Jean Moulin. Barbie had captured and tortured Moulin, who later died of his wounds. As the symbol of the French Resistance, Moulin's remains had been entombed at the *Panthéon*, the resting place of France's greatest heroes, in 1963. Shown on national television, the ceremony of Moulin's entombment featured a memorable speech by de Gaulle's Minister of Culture, André Malraux. In 1983, President François Mitterrand sought to renew the legacy and glory of the Resistance in ordering Barbie's arrest, and contemplated showing the trial on French television, as had been done in the Eichmann trial. The plan was later abandoned.

Because the statute of limitations had run out on war crimes, trying Barbie required that he be tried for crimes against humanity. But at the time of Barbie's arrest, his crimes against the Resistance were considered war crimes and the Resistance fighters, enemy combatants. Therefore in order to try Barbie for crimes against humanity, he needed to be tried for crimes committed against Jews as part of the Nazi Final Solution. Specifically, according to the initial indictment, Barbie would be tried for the ordering the deportation of Jewish children hidden in the village at Isieux.

But if the trial of Barbie were to stand trial *only* for crimes against Jews and civilians, his Resistance victims, in the name of whom he had been arrested, would be forgotten under the law. In order to avoid this eventuality, Resistance groups (and government officials) lobbied to have the statutes on crimes against humanity modified to include Barbie's crimes against the Resistance. Accordingly, in December 1985 a decision by the Court of Appeals modified crimes against humanity statutes to include crimes committed against the Resistance. In effect, this collapsed war crimes into crimes against humanity and changed the status of the Resistance fighter from "combatant" to victim. This also blurred the distinction between Jews and civilians on the one hand and Resistance fighters: a crucial difference indeed!

As the prosecution proceeded other embarrassing historical details emerged. The fact that Barbie had worked for US Intelligence after the war and that his escape from Europe to South America was aided and abetted by US intelligence and officials of the Catholic Church complicated the case in moral terms, something the French government did not intend. Second, in his choice of cocounsel for the defense and through other strategies Barbie's lawyer, Jacques Vergès (paid for by the Swiss fascist financier François Genoud) sought to shift the focus of the trial onto French crimes against its formerly colonized people. This was done to make the Holocaust appear to be merely "a drop in an ocean of human suffering, of interest to only white people" (Fienkielkraut, p. 25). Also, Vergès' tactics were intended to suggest that the French were deliberately ignoring their own crimes against

humanity against formerly colonized peoples in trying Barbie. Third, the fact that Jean Moulin and the other members of the Resistance arrested with him were betrayed by one of their own inevitably re-emerged, and opened old wounds. Therefore, to the degree that the trial was intended to celebrate the Resistance, and at least implicitly the unity of its members, this did not occur. Finally, once the trial got underway, after the first few days the accused absented himself from the courtroom, only appearing again at his final sentencing. Barbie thus deprived his victims, primarily in the Resistance, of confronting their tormentor.

To say that the Barbie trial was a “failure” as commentators including Finkelkraut suggested, is perhaps to overstate the case. But in historical and even moral terms, it did expose the dangers of trying an individual forty years after his crimes were committed. If Mitterrand’s government sought to try Barbie to celebrate the Resistance, this was a strategic error in historical terms. And in legal terms, it resulted in a dubious redefinition of crimes against humanity under French law, unfortunately the first of several.

THE TOUVIER TRIAL

As with the prosecution of Klaus Barbie, the effort to prosecute Paul Touvier for crimes against humanity was fraught with controversy from the outset. In fact, it did not even get underway until a misguided 1971 decision by President Georges Pompidou to pardon Touvier for other crimes committed during the Occupation backfired, stirring national outrage when the pardon was revealed. Following this incident, the first charges of crimes against humanity were brought against Touvier. But what followed over the next decade clearly revealed that there was no adequate legal or jurisdictional structure to handle these as well as subsequent charges. Examining magistrates declared themselves incompetent to draft the indictment. At one point, the indictments division of the Paris Court of Appeals declared itself competent, but then declared that the statute of limitations had run out on the crimes in question. Delays and further legal wrangling continued until 1981, when the Parisian investigating magistrate Martine Anzani indicted Touvier on charges of crimes against humanity. It would be eight more years before Touvier, who went into hiding following the indictment and also planted a fake obituary for himself in 1984, was finally arrested with his family in a right-wing Catholic monastery in Nice in 1989.

It would be an additional five years before Touvier stood trial for crimes against humanity. Yet, in the interim, French law would once more be egregiously and deliberately misread, and the history of the Dark Years grossly distorted when, in April 1992, the Paris Court of Appeals stunningly dropped all charges against Touvier. The court argued that the crimes for which he was being charged—the murder of seven Jewish hostages at the Cemetery of Rillieux-la-Pape in June 1944—were not a crime against humanity under French

law. Referring to the 1985 court decision prior to the Barbie trial which stipulated that crimes against humanity can only be committed on behalf of a regime practicing a “politics of ideological hegemony,” the Appeals court argued that because Vichy’s *Etat Français* was *not* such a regime, and because Touvier was an agent of that regime, his crimes could not be considered crimes against humanity. Therefore, Touvier could walk.

To make this argument the court rewrote history. And, as the French jurist Jean-Denis Bredin lamented at the time, the entire text of the decision seemed “slanted toward an acquittal” (quoted in Golsan 1996, p. 110). Where history was concerned, the appeals court argued that Vichy was not inherently racist and anti-Semitic and therefore, unlike Nazi Germany, did not practice a politics of ideological hegemony. This argument ignored the most fundamental proofs of Vichy’s culpability along these lines. These included the anti-Jewish statutes of 1940 and 1941, which among other abuses, largely barred Jews from practicing their professions. They also included the official spoliation of Jewish possessions in accordance with Vichy’s “aryanization laws.”

Although the Appeals court decision was partially overturned by the French Supreme Court in November 1992, the higher court did not reverse the lower court’s revision of history. Rather, it argued, ironically, following some of the accused’s own claims, that the murder of the Jews at the Rillieux-la-Pape cemetery had been ordered by the *Germans*, and therefore, as a “German crime” *could* be tried as a crime against humanity.

The deliberations of the trial itself two years later revealed the fallacy of this claim. Touvier had in fact not acted on German orders at Rillieux. So as a means of overcoming this new obstacle, another twist, again involving the manipulation of history and the law, was introduced by one of the civil parties’ lawyers.¹ Because Touvier’s superior and the head of the *Milice*, Joseph Darnand, had sworn an oath of loyalty to Hitler, the *Milice* itself, *ipso facto*, could be considered a Nazi organization and therefore one practicing a politics of ideological hegemony. Having found a dubious strategy for confirming Touvier’s guilt, the court convicted him of crimes against humanity.

THE PAPON TRIAL

Despite warnings by figures such as Christian Guéry noted earlier that the continued massaging of French law governing crimes against humanity was stripping them of meaning, between the end of the Touvier trial and the beginning of the trial of Maurice Papon some three years later, crimes against humanity statutes continued to be revised to facilitate an eventual prosecution of the accused. For example, after initially requiring that Papon have *full knowledge* of Nazi intentions in collaborating with them in the deportations of multiple trainloads of Jews between 1942 and 1944 (a claim that would be hard to prove, and that the accused would surely deny) the court backtracked

under pressure. It declared that the accused did not have to “adhere to the politics of ideological hegemony” of the Nazis—code for knowing their ultimate aims—in order to be charged and convicted of crimes against humanity. On this fragile basis, the trial of Maurice Papon proceeded.

From the outset what Marc Olivier Baruch has described as the “temptation to confuse myth and history, symbol and reality,” and the procedural necessity of “leafing through the past” willy-nilly marred the proceedings of the Papon trial (Baruch, pp. 85–88). Unlike Barbie and Touvier who had effectively become historical and political nonentities after the war, Maurice Papon went on to have a distinguished political career in the post-war years, primarily as a servant and representative of Gaullism. As such, according to ludicrous testimony of some former Gaullists reading backwards in time at his trial, Papon was not a criminal against humanity under Vichy but an important servant of the Fifth Republic and even an admirable representative of the Free French. For these witnesses, the trial itself was not about Papon’s crimes under Vichy. It was rather an attempt to put Gaullism and France itself on trial.

Before the trial in Bordeaux was a week old, perhaps the most memorable moment in the entire proceedings occurred, and one that also underscored the dangers of anachronism. Moreover, the legacy of this moment still resonates today, although not in relation to French complicity with Nazism, but rather in relation to French Fourth and Fifth Republican crimes during decolonization. The moment in question was the discussion, during the required review of the accused’s CV, of the murderous repression of Algerian protesters by Parisian police under Papon’s command on the night of October 17, 1961.

In many ways the deliberations inside the courtroom and the controversy that swirled outside concerning Papon and October 17, 1961 serve as a perfect microcosm of the complications and paradoxes inherent in France’s crimes against humanity trials. More so than the trials of Barbie and Touvier, the Papon trial was the quintessential trial of “History” and “Memory.” But, one should ask, whose memory? The victims of official French complicity in the Nazi Final Solution deported by Papon during the Occupation, or his Algerian victims in the streets of Paris almost two decades later, and by extension, all those who had experienced the brutal realities of French colonialism? And what History? During his testimony Papon claimed that all the protestors killed were not killed by the police but rather died as a result of violent clashes between rival factions of the Algerian liberation movement. He testified, first, that not one Algerian was killed by police fire, but rather all those shot died at the hands of assault groups of the FLN. Papon went on to claim, all the while diminishing their number, that the bodies recovered from the Seine in the days following October 17 all belonged to the PPA, the *Parti du peuple algérien* [The Party of the Algerian People], the FLN’s fierce rival (*Le Procès de Maurice Papon*, p. 198). Then Papon’s lawyer Jean-Marc Varaut introduced into the record a letter written at the time from then Prime Minister Michel Debré congratulating Papon and his men for their

courage in protecting the security of the capital. Following this, the historian Jean-Luc Einaudi testified, on the basis of years of research, that the Algerians killed *were* in fact the victims of the police rather than of rival Algerian factions. Moreover, Einaudi testified, Papon had already given ample proof of his brutality while serving as prefect in Algeria before its independence. As the journalist Eric Conan wrote following these testimonies: "A beautiful demonstration of the fate of History before the tribunal: one day it goes in one direction, the following day in another direction" (Conan, p. 29). And because, as Michel Zaoui observes, in a French criminal trial such as this only the judges, and not the jury get to see the dossiers containing evidence, the latter are at the mercy of, and indeed can be more influenced by, the oratorical skills of the witnesses and the attorneys than by the facts of the case themselves. And unlike the American system, where the accused and witnesses swear an oath to tell the truth, the French justice system has no such requirement. As a result, the accused can say anything he or she wants with relative impunity, as Papon amply displayed (Zaoui, pp. 79–80). Meanwhile, outside the courtroom, the distinguished historian Pierre Vidal-Naquet took the debate beyond the realm of history and to the heart of the legal issue at hand. In an article in *le Nouvel Observateur* Vidal-Naquet argued that Papon's crimes against the Algerians in 1961 were also crimes against humanity, and that Papon should be tried in Bordeaux for these crimes as well (pp. 56–57).

In the end, Papon was sentenced to ten years in prison, a "bastard decision" according to his lawyer, and one that seemed to underscore the paradoxes and ambiguities of the trial itself. How does one receive a sentence of only ten years' imprisonment for the worst crimes imaginable, when much lesser crimes receive lengthier sentences? The answer lies in the verdict handed down by the court. Papon was found guilty of complicity in the "illegal arrest" and "arbitrary sequestration" of Jews during the deportations from Bordeaux between 1942 and 1944. But he was acquitted on all counts of "complicity to murder" or "attempt to murder" in his involvement in implementing the Final Solution. Although this verdict satisfied some, including especially the lawyers and activists Serge and Arno Klarsfeld, who from the outset sought to make the trial a "pedagogical" exercise for the French people (Klarsfeld, *Mémoires*, p. 576), others saw it as yet another failure of crimes against humanity law in France. In an essay published in *Le débat* shortly after the conclusion of the trial entitled, "What is the purpose of the Papon trial?" Jean de Maillard argued that the verdict was "rational" in its acknowledgment of the facts presented. But it was also "contradictory" in that without Papon's knowledge of the fate of those Jews rounded up and deported, that is, their extermination, the other crimes he committed and for which he was convicted hardly seemed to amount to crimes against humanity. As the defendant himself testified in his closing remarks, a crime against humanity cannot be "sliced up," and one cannot be a "criminal against

humanity at fifteen, or thirty, or sixty percent (quoted in Conan, p. 311). In the end, the verdict was one of “compromise” in legal terms, a “mixed one” at best, according to the legal expert Leila Sadat-Wexler (quoted in Golsan 2000, p. 148).

What of the justice of the verdict? Although no one knew what Maurice Papon actually knew during the Occupation except, obviously, the accused himself, Zaoui for his part remains reluctant to accept the idea of Papon’s ignorance of the Nazis’ intentions and therefore unconvinced by his acquittal on charges of complicity in murder. Zaoui notes that in Bordeaux during the Occupation Papon voluntarily served as the individual in the *prefecture* in charge of the “service for Jewish questions.” And, Zaoui writes, “To direct such a service in itself implies assuming responsibility for a program which, if its objective was evidently not the physical elimination of Jews, still had as its final aim the implementation of a shared Franco–German will, made concrete through signed agreements, whose end was to get rid of all Jews, seize their belongings, and deport them to a “cruel fate” (p. 114).

If the law and justice were ill-served by the Papon verdict, at least for some history and historical understanding were served worst of all. According to Conan, the fact that the trial of Papon was cast as the “symbolic trial of Vichy” meant that the verdict constituted a “trap”: the judgment of Papon would also constitute an historical judgment of Vichy. In acquitting Papon on the charges of complicity to murder, the court in Bordeaux thereby in effect diminished the crimes of Vichy, suggesting that Pétain and the *Etat Français* were less knowingly responsible for their complicity with the Nazi Final Solution than they were. As Conan argues, “this constituted a *formidable regression* (my italics) where recent developments in the historiography of the Occupation are concerned” (p. 315).

For Jean de Maillard, the historical “regressions” implicit in the verdict in the Papon trial were symptomatic of even grosser historical distortions suggested by the proceedings themselves. According to Maillard, what the latter accomplished was to offer a perverse, global/historical pedagogical lesson whose purpose was to “make future generations believe that [during World War II] there existed only, on one side, the Nazis and their accomplices, whose energies were totally given over to the elimination of the Jews and their friends [which constituted the other side], and that everyone was obliged to pick sides, *in full knowledge of the meaning and implications of his or her choice*” (pp. 36–37). For Maillard, this “strange and disquieting vision of History,” this Manichaeism imposed a posteriori for expiatory purposes” occulted specific historical issues at stake at the very heart of the trial, not the least of which was French anti-Semitism, and the anti-Semitism of the accused himself. Although the trial made it seem that Papon’s willingness to load the trains in Bordeaux with Jews sprang from a racial hatred akin to that of the Nazis, in reality it sprang from a “French anti-Semitism, with different origins and significations but about which one never speaks” (p. 37).

CONCLUSION

Based on the cases just described, it would be hard to argue that in these instances at least the law's interventions in history, whether sponsored by the international community in the case of the Nuremberg trials, or by individual states such as Israel and France in the other trials discussed here, have unequivocally produced positive and lasting pedagogical lessons for the audiences for which they were intended. Indeed, if their critics are to be believed, in many ways the historical lessons they have sought to convey have been challenged, compromised or egregiously simplified by prosecutorial strategies and the vicissitudes of courtroom testimony. They have also been affected by external factors, from the manipulation of the laws by higher courts, leading up to the proceedings to the inadequate dissemination of facts uncovered in the courtroom after the conclusion of the trial. What is striking, and perhaps even shocking in the trials discussed here is that the fifty year gap between Nuremberg and the French trials of a half century later did not result in the latter in a more lucid, thorough, and comprehensive elaboration of the realities of World War II in these trials. Despite the testimony of world-renowned historians of the period, and a much richer historical knowledge resulting from fifty years of "scientific research," the legal necessities and vicissitudes during the trials—the need to present Touvier as a German agent, the right under French law for Papon to lie at will, for example—all conspired to limit and even compromise the clarity of any historical message the trial was intended to convey.

There were, and are, other difficulties as well arising from the courtroom serving as a forum, or "theatre" of history. For example, the Papon trial was the longest trial in modern French history (some seven months) and by the end virtually everyone involved was heartily sick of the entire ordeal. Many of the French and international commentators on the trial had long since quit attending the proceedings, and therefore wrote the books they were contracted to write based on scant direct observation of the trial; the newspapers served these supposed "experts" as they did the general public. In her remarkable reflection on the Nuremberg trials, and the IMP in particular, Rebecca West noted that by the end of the trial prosecutors, witnesses and journalists covering the trial, as well as the accused themselves succumbed to lethargy and indifference as a result of the seeming endlessness of the proceedings. She adds that only the accused wished it to continue on, because of course once the trial was over many would be executed shortly afterwards (pp. 3–7).

In his book, *Hope and Memory*, the French–Bulgarian philosopher and historian Tzvetan Todorov remarks on another failing of international tribunals such as Nuremberg, that nationalist resentments are an almost inevitable outcome when even that nation's worst criminals are being judged by "outsiders" who in the view of many citizens have no business in that nation's affairs. Todorov was referring in his book to the hostile reactions of many Serbs and

Croats to the trial of Serb and Croat war criminals by international judges at The Hague, but other nationalist resentments were stirred up in other international tribunals and prosecutions as well. Nuremberg was no exception, and although these nationalist sentiments may be objectionable in both political and moral terms, they nevertheless serve as obstacles to any historical lesson the trial seeks to convey to the nation where the trial occurred.

In his essay, *Memory as a Remedy for Evil*, Todorov emphasizes another, more structural impediment to the courtroom being used as a forum to convey historical lessons: that by its very structure the court encourages a Manichaean interpretation of right and wrong, of guilt and innocence. By definition, the accused in the box is (or are) the sole carrier(s) of violence, and also the sole target(s) of moral condemnation. Structurally at least, everyone else is "innocent" by virtue of the fact that they are *not* in the box of the accused. They are the arbiters of justice or "innocent bystanders." By definition, this scenario is misleading in historical terms, according to Todorov: one only has to consider the IMT for a striking example of how this distorts or falsifies history. The Soviets were of course central players in the prosecution and judgment of Nazi criminals, but they themselves had been involved in monstrous and arguably genocidal crimes, most notably the massacre of tens of thousands of Poles and Polish officers in the Katyn forest in Spring 1940. It is now widely acknowledged that the Allied leaders knew of Soviet responsibility of these murders at the time, but allowed the crime to be passed off as a Nazi crime.

None of this is to suggest of course that *no* historical truths emerge from these historical trials. Such a claim would be implausible, not to say ludicrous, in light of the fact that historic trials such as Nuremberg, as well as others, have unearthed and disclosed enormous amounts of documentary evidence which historians and others have exploited to reconstruct the past and in many instances to offer richer and more nuanced accounts of what occurred. Also, specific documents have come to light in the context of these trials which are absolutely crucial to understanding the conceptualization and implementation of events such as the Holocaust itself. For example, the Wannsee protocol was discovered by investigators seeking documentary evidence of Nazi crimes at Nuremberg. In the Papon trial, revelations and debate concerning Papon's role in the brutal suppression by Parisian police of Algerian protestors in October 1961 may have roiled the legal and historical waters of the trial itself, but there can be no doubt that the revelations and controversy that ensued have created a veritable flood of interest in the events among historians, journalists, novelists, and others, on both sides of the Atlantic. As a result, much more is understood not only about what happened on October 17, 1961 but also about the circumstances leading up to and, more broadly, the difficult circumstances of Algerians living in France at the time. In the final analysis, vexed as they often proved to be, the state-sponsored international and national trials discussed here have ultimately made invaluable contributions to our understanding of mass crimes in historical, political, and moral terms.

REFERENCES

- Arendt, H. (1994) *Eichmann in Jerusalem. A Report on the Banality of Evil* (New York: Penguin Books).
- Bloxham, D. (2001) *Genocide on Trial. War Crimes Trials and the Formation of Holocaust History and Memory* (New York: Oxford University Press).
- Cesarani, D. (2007) *Becoming Eichmann. Rethinking the Life, Crimes, and trial of a "Desk Murderer"* (Cambridge: De Capo Press).
- Douglas, L. (2014) 'From IMT to NMT. The Emergence of a Jurisprudence of Atrocity' in K. C. Priemel and A. Stiller (eds.) *Reassessing the Nuremberg Military Tribunals. Transitional Justice, Trial Narratives, and Historiography* (New York: Berghahn Books), pp. 276–295.
- Felman, S. (2002) *The Juridical Unconscious: Trials and Traumas in the 20th Century* (Cambridge: Harvard University Press).
- Goldensohn, L. and Gallately, R. (eds.) (2004) *The Nuremberg Interviews* (New York: Alfred A. Knopf).
- Golsan, R. J. (ed.) (1996) *Memory, the Holocaust, and French Justice: The Bousquet and Touvier Affairs* (Hanover: University Press of New England/Dartmouth Books).
- Golsan, R. J. (ed.) (2000) *The Papon Affair. Memory and Justice on Trial* (New York: Routledge).
- Hausner, G. (1996) *Justice in Jerusalem* (New York: Harper & Row).
- Hébert, V. (2014) 'From Clean Hans to *Vernichtungskrieg*. How the High Command Case Shaped the Image of the Wehrmacht' in K. C. Priemel and A. Stiller (eds.) *Reassessing the Nuremberg Military Tribunals. Transitional Justice, Trial Narratives, and Historiography* (New York: Berghahn Books), pp. 194–220.
- Horseman, Y. (2011) *Theaters of Justice: Judging, Staging, and Working Through in Arendt, Brecht, and Delbo* (Stanford: Stanford University Press).
- Priemel, K. C. and Stiller, A. (2014) 'Introduction. Nuremberg's Narratives. Revising the Legacy of the "Subsequent Trials"' in K. C. Priemel and A. Stiller (eds.) *Reassessing the Nuremberg Military Tribunals. Transitional Justice, Trial Narratives, and Historiography* (New York: Berghahn Books), pp. 1–22.
- Reisman, W. J. and Antoniou, C. T. (eds.) (1994) *The Laws of War. A Comprehensive Collection of Primary Documents on International Laws Governing Armed Conflict* (New York: Vintage Books).
- Wieviorka, A. (2006) *The Era of the Witness* (Ithica: Cornell University Press).

The Historian's Trial: John Demjanjuk and the Prosecution of Atrocity

Lawrence Douglas

INTRODUCTION: LAW TURNS TO HISTORY

In the classic model of retributive punishment that found its most enduring exposition in the works of Kant, punishment is seen as a *just dessert*. In this view, punishment is something the criminal has *earned*; its purpose is not to rehabilitate or correct the wrongdoer, but to restore the moral imbalance caused by his crime. Nazi atrocity introduced a radical disequilibrium into this Kantian equation. Writing about the Nuremberg trial, Hannah Arendt famously observed, “For these crimes, no punishment is severe enough. It may well be essential to hang Göring, but it is totally inadequate. That is, this guilt, in contrast to all criminal guilt, oversteps and shatters all legal systems. ... We are simply not equipped to deal, on a human level, with a guilt that is beyond crime” (1992, p. 39).

The problem of the inadequacy of punishment was hardly a trivial matter; to the contrary, as Arendt suggested, it raised profound jurisprudential questions. Incriminations such as “crimes against humanity” and “genocide” may have enabled prosecutions of perpetrators of Nazi atrocity, but if such crimes exploded classic theories of retributive justice, then what purpose exactly did the trials serve? As Arendt understood it, the problem was not that the law would fail to do justice to the defendants; instead, it was that no juridically sanctioned punishment could serve as a coherent response to mass atrocity. Such crimes exposed the limits of law as a retributive scheme.

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In an earlier book, I argued that jurists sought a solution to this dilemma by reconfiguring the basic purpose of the atrocity trial (Douglas 2001). In researching the records of Holocaust trials, I was struck by the fact prosecutors often defended the proceedings as “didactic” or “pedagogic” exercises. Eichmann prosecutor Gideon Hausner was perhaps most explicit in this regard, noting, “I knew we needed more than a conviction; we needed a living record of a gigantic human and national disaster” (Hausner quoted in Douglas 2001, p. 106). Hausner’s words were hardly anomalous; we find American prosecutors at Nuremberg, German prosecutors at the famous Frankfurt–Auschwitz trial (1963–1965), and French prosecutors at the Klaus Barbie trial (1987) sounding many of the same chords. Although all these prosecutors saw the atrocity trial as serving the conventional function of ascertaining guilt and assigning punishment, they also saw the trial as a means of teaching history and history lessons.

The atrocity trial as didactic exercise has not escaped criticism. Oddly and disappointingly, the most influential criticism came from Hannah Arendt herself in *Eichmann in Jerusalem*. There Arendt insisted, “[T]he purpose of a trial is to render justice, and nothing else; even the noblest of ulterior motives—the making of record of the Hitler regime which would withstand the test of history ...—can only detract from the law’s main business: to weigh the charges against the accused, to render judgment, and to mete out due punishment” (1963, p. 223).

In making this argument, Arendt appeared to forget what she herself had written about Nuremberg: that Nazi atrocities had so distorted the fabric of justice that no amount of “due punishment” would suffice to “render justice.” Arendt was certainly correct that the primary responsibility of any criminal trial is fairly to present and weigh the evidence against the accused, however, her insistence that all other purposes are impermissible betrayed an odd shortsightedness. Far from serving merely “ulterior motives,” the didactic trial represented a solution to the very problem that Arendt herself first identified.

Arendt, of course, worried about what the didactic impulse might do to law. One might just as well worry about what using trials to teach about the past might do to history. Consider an incident that took place during the trial of Slobodan Milosevic before the International Criminal Tribunal for the former Yugoslavia (ICTY). The prosecution had called to the stand Morten Torkildsen, an expert in tracing financial transactions, to testify about transfers of funds that took place between the Serb Republic and the Republika Srpska, the breakaway Bosnian Serb territory, between the years 1991–1995. Arguably without this financial support and flow of funds, the Republika Srpska would never have been able to perpetrate the atrocities that it did. But during his time on the stand, Torkildsen was asked a question that clearly caught the expert off guard. One of the tribunal’s three judges asked Doctor Torkildsen if he had compared these financial transactions to transfers

between the Serb Republic and the Republika Srpska from an earlier period, say 1985–1991 (*Prosecutor v. Milosevic*, pp. 19048–19049). The witness, visibly stunned, politely informed the judge that that would be difficult inasmuch as an independent Serbia and the Republika Srpska did not exist at the time.

Far from idiosyncratic, we might observe that this incident highlights a problem of using trials to teach history. After all, jurists—prosecutors, defense lawyers, and judges, both on the trial and appellate level—are experts in law, not history; it is unsurprising that they would betray ignorance about the workings of the past.

We might go further still, arguing that the differences between the jurist and the historian extend beyond a matter of core competencies. In play are two fundamentally different discourses, controlled by different methodologies, norms and professional grammars. In 1997, Henry Rousso, a prominent French historian of Vichy, refused to testify in the trial of Maurice Papon, the former French budget minister who in 1998 was convicted of complicity in crimes against humanity for his actions as a police official during the Nazi occupation of France. Rousso worried about what he called a “judicialization of the past.” Rousso objected to trials in which “beyond the judgment of particular individuals, the declared goal is to illuminate an entire era and its politics” (2002, p. 56). Rousso’s concern has been powerfully amplified by Michael Marrus, another prominent Holocaust historian, who likewise has worried about what happens to the fluid and provisional discourse of history when forced to speak through law’s rigid categories (Marrus 2002).

Whatever we might think about this call to cabin history from law, it has consequences that extend far beyond the controversy over the didactic use of atrocity trials. Indeed, it highlights a problem that inheres in the very effort to bring perpetrators of mass atrocities to justice. Crimes of mass atrocity, which involve actions perpetrated over broad swaths of space and time, necessarily usher complex histories into courtrooms. In the case of Nazi atrocities, the subject of much of my scholarship, the crimes were spread over a continent and committed over the course of years, enlisted the support of tens of thousands of perpetrators and collaborators, and were supported by an extensive organizational and bureaucratic apparatus.

Mastering the legal challenges posed by crimes of mass atrocity requires far more than an exceptional commitment of legal resources. Rather, it requires nothing short of a fundamental conceptual and structural shift in the basic model of prosecuting wrongdoing. Wading through hundreds of thousands of pages of official documents and intercepts demands a sophisticated understanding of bureaucratic and military organization, not to mention a knowledge of several languages and the codes in which criminal plans are expressed. To put it another way, it is not the pressure of legal didactics that push atrocity trials toward making sense of history: the requirement lies at the core of the proceeding itself. Trials of perpetrators and collaborators of

mass atrocities by their very nature require an unprecedented collaboration between jurists and historians.

What I have in mind even goes far beyond some of the conventional examples of historians aiding prosecutors. In the 1961 Jerusalem trial of Adolf Eichmann, the first independent witness called by the Israeli prosecution was Salo Baron, a prominent historian of Jewish history at Columbia University. Over the course of several hours, Baron essentially delivered a lengthy lecture on the history of anti-Semitism, in which the professor sought to distinguish Nazi atrocities from past spasms of anti-Jewish violence. “[O]ne fundamental difference,” Baron emphasized, “between the millennia of anti-Semitism and the manifestations of the Nazi-era is this: Never, not even during the many pogroms, did anti-Semitism result in mass-murder and genocide” (*TAE*, vol. 1, session 12–13). Baron thus performed the very function that Rousso demurred from performing several decades later. And yet both Baron and Rousso were asked to perform a conventional function as historical experts: they were asked to supply background and context, to sketch a general picture and draw distinctions.

What I show in this chapter is that atrocity trials have revolutionized the relationship between jurists and historians in a manner left untouched by the terms of the Baron–Rousso colloquy. Using the legal saga of John Demjanjuk as my focus, I show that in cases involving mass atrocity, basic legal questions are *unanswerable* without the insights of professional historians. If Rousso worried about what happens to history when enlisted in the service of the state, Demjanjuk’s historic Munich trial showed how a highly granular historical understanding of an elaborate exterminatory practice was responsibly enlisted to illuminate the guilt of the collaborator in Nazi genocide. To put it somewhat differently, Demjanjuk’s Munich trial provides strong support for two propositions: that it is impossible to cabin history from law in trials of mass atrocity, and that the state is capable of deploying history in a sophisticated fashion to frame a satisfactory juridical understanding of such crimes.

TRIALS WITHOUT HISTORIANS, THE DEMJANJUK DEBACLE

The Demjanjuk case represents the longest and strangest legal saga to emerge from the Holocaust. John (Ivan) Demjanjuk was born in Ukraine in 1920; he survived a childhood of privation before being drafted into the Soviet Red Army in the wake of the German invasion of the Soviet Union. Taken as a prisoner of war by the Germans in the spring of 1942, Demjanjuk was soon plucked from his POW camp and sent to a very different kind of camp. *Ausbildungslager Trawniki der SS* was an SS-run facility located on the outskirts of Lublin that trained “foreign units”—largely East European POWs deemed dependably anti-semitic—to serve as death camp guards and perform other “auxiliary” duties in genocide.

After the war, Demjanjuk worked in several displaced person camps in occupied Germany before gaining entry to the United States in 1952. He settled in the Cleveland area, where he worked for Ford in a unionized blue collar job that supported a comfortable middle-class life for him and his family. He became a naturalized US citizen in 1958, officially changing his name from Ivan to John. But by the late 1970s, American prosecutors had come to identify Demjanjuk as a former Treblinka guard, and not just any guard. This was a guard whose legendary cruelty and wanton acts of sadism had earned him the sobriquet, Ivan *Grozny*, "Ivan the Terrible." In the most highly publicized denaturalization proceeding in American history, Demjanjuk was stripped of his citizenship and extradited to Israel, where he was tried as Treblinka's Ivan the Terrible.

In 1988, a special Jerusalem court convicted Demjanjuk and sentenced him to death. In the summer of 1993, after years of appeals, the Israeli Supreme Court tossed out the conviction: newly gathered evidence from the unraveling Soviet Union made it clear that the Israelis had the wrong Ivan. All the same, the evidence recovered from KGB files was less than exculpatory; indeed, it indicated that Demjanjuk had served as a guard at Sobibór, an equally lethal Nazi death camp. Still, after the Israeli acquittal, Demjanjuk was permitted to return to the United States and even had his American citizenship reinstated. Subject to a fresh round of denaturalization proceedings, in 2001 Demjanjuk earned the distinction of being the only person in American history to be stripped of his citizenship twice. In 2009 he was deported to Germany; in May 2011, a Munich court convicted the then 91-year-old defendant of being an accessory to the murder of 28,060 Jews during his time as a guard at Sobibór. Ten months later, Demjanjuk died in a Bavarian nursing home while his appeal was still pending.

For present purposes, we can divide the Demjanjuk case into two halves: the disastrous first phase, when Demjanjuk was misidentified as Treblinka's Ivan the Terrible and nearly executed in a case of mistaken identity; and the successful second phase, culminating in Demjanjuk's conviction in Munich. Both phases powerfully illustrate how two domestic national legal systems, the American and German, struggled to master the complex histories involved in trials of mass atrocity.

In the early decades after the war, the problem of the former Nazis in America barely registered as a legal problem. It was not until the early 1970s that Jewish-American politicians, such as Joshua Eilberg and Elizabeth Holtzman, began to take up the cause of ferreting out collaborators who had entered the country in the post-war years. The goal was not to file criminal charges, as American courts lacked jurisdiction over the extraterritorial crimes of former Nazis and their collaborators. This, however, did not leave domestic prosecutors entirely powerless. Section 340(a) of the Immigration and Nationality Act of 1952 authorized denaturalization proceedings in cases in which citizenship was "illegally procured or ... procured by concealment of

a material fact or by willful misrepresentation” (Pub. L. No. 414 §340(a)). This law empowered prosecutors to bring civil immigration charges against former Nazis and Nazi collaborators; in a civil trial, the government would argue that the defendant had lied on his immigration form and thus deserved to be stripped his citizenship. The ultimate goal was to deport the defendant to a country that could bring criminal charges against him.

Several early botched cases, however, made it abundantly clear that investigators and prosecutors were utterly unequipped to deal with the historical and evidentiary complexities posed by Nazi collaborator cases. The basic problem was conceptual and organizational, as government lawyers treated collaborator litigation as essentially no different from any other civil case. Power to investigate remained decentralized within the Immigration and Naturalization Service (INS), which was nominally responsible for researching and preparing cases. The INS, however, lacked authority to bring charges and try cases; this power was vested in the local US attorneys of the district in which the accused resided. This organizational structure was ill-equipped to deal with the historical and evidentiary complexities posed by Nazi collaborator cases. In order to prevail in denaturalization proceedings, the government would have to create something akin to a domestic war crimes unit, a centralized dedicated office capable of handling state-sponsored crimes perpetrated decades ago on a different continent.

The year 1977 marked the first step in the right direction with the creation, within the INS, of the Special Litigation Unit (SLU), a small office dedicated to dealing with Nazi-era denaturalization cases. In addition to its own staff of lawyers, the SLU was also able to hire several graduate students with a knowledge of German, though none of these students had any particular knowledge about the Holocaust. The SLU also continued to be handicapped by the division of labor between itself and the local US attorneys, who remained responsible for filing charges and trying cases. Then, in 1979, the SLU was formally moved out of the INS and into the Justice Department, where it was renamed the Office of Special Investigations (OSI) and given the remit to try its own cases; no longer would one branch investigate cases and another press charges.¹ In the decades following its creation, the OSI conducted hundreds of investigations, and successfully denaturalized and/or removed some one-hundred former Nazis and collaborators from the country, a modest number, but not unimpressive given the difficulty of mounting successful denaturalization cases.

The OSI's successes were the fruit of experimentation and innovation. In a sharp departure from Justice Department organizational practice, the OSI essentially got rid of its staff of traditional case investigators and replaced them with academic historians. These historians, in the words of one of former OSI staffer, came to “educate the attorneys so they could educate the judges.”² But even this formulation fails to do justice to the contribution of the historians, who worked closely with the lawyers in every aspect of case

preparation. Indeed, over the years, the OSI assembled an impressive team of historians whose archival work and expertise did not merely enable the Office to prevail in court; they redefined historical understanding of the SS's process of recruiting and training the auxiliaries who crucially assisted in genocide. And so the OSI came to function as a kind of institute for advanced studies of Nazi genocide, with the work of its historians finding its way not only into briefs but also into leading scholarly journals.

Unfortunately, many of these changes came too late to save the government from catastrophe in the first phase of the Demjanjuk case. Indeed, when the government mounted its first denaturalization case against Demjanjuk, it had yet to dedicate a historian specifically to the litigation. This is not to suggest that a PhD alone could have prevented the calamitous misidentification. But it is fair to say that Demjanjuk's first denaturalization case was placed in the hands of prosecutors who lacked the tools necessary to master a complex case in which documentary evidence contradicted survivor identifications. By the time that the Demjanjuk case returned to the OSI for a second go-round, the Office had a staff of professional historians who pushed for a rejection of witness-based proof in favor of trial by document; minor as it might sound, this move from privileging the witness to privileging the document represented a fundamental reorientation in the government's approach to collaborator trials.

GERMANY AND THE TRIAL BY HISTORY

Despite Germany's well-earned reputation for addressing the difficult collective task known as *Vergangenheitsbewältigung*—confronting the past—with impressive thoroughness, when it came to bringing Nazi perpetrators and collaborators to justice, the Federal Republic's legal system amassed a pitifully thin record that stretched back to its founding days. In the years directly following the war, German courts conducted over 4600 trials of crimes committed during the Nazi period, a number that sounds impressive but obscures two crucial facts: first, that German courts until 1949 were operating under the watchful eye of Allied occupiers; and second, that the majority of these cases involved relatively trivial property crimes committed in the last months of the war, when Germany witnessed a collapse of public order (Rückerl 1982, p. 111).

In the early years of the Federal Republic, trials involving Nazi atrocities came to a virtual standstill. In 1955, for example, West German courts managed 21 convictions (Rückerl 1982, 111). We should not be entirely surprised by this record of disappointment. Post-war Germany [henceforth I use "German" and "Germany" to refer specifically to the Federal Republic] was full of former Nazis. Many occupied leading positions in government and the judiciary. Few, even those who quickly adjusted to the new realities of a liberal democratic Germany, welcomed the aggressive prosecution of their

former confederates. Also contributing to Germany's failure to prosecute Nazi crimes aggressively was the judiciary's rejection of law imposed by the Allies during Germany's occupation. This rejection fueled the conclusion that trying Nazis for crimes against humanity or genocide would represent an impermissible, indeed, unconstitutional, violation of the bar against retroactivity. As a practical matter, it meant that crimes against humanity and genocide—the very incriminations designed to facilitate the prosecution of Nazi exterminators—were, for German prosecutors, off the table.

Given this constraint, German jurists came to rely on the ordinary murder statute in effect during the Third Reich as the charging instrument to be used in post-war trials. This, of course, assumed that in ordering genocide, Hitler had made himself a murderer under then-existing German law, a legal conclusion that overlooked the discomfiting fact that, in the words of one expert, "In the Third Reich, the will of the Führer was recognized as a source of law" (Werle 1995, p. 35). At the very least, then, German post-war prosecutions indulged the legal fiction that "the legal standards of *damals* (back then) could supply a proper ground for [postwar] prosecutions" (Werle 1995, p. 37).

The need to pigeonhole Nazi atrocity into the ordinary German law of murder long contributed to a torturing of history that confirms the fear of those who doubt the capacity of trials to frame responsible representations of a complex past. For one thing, German law had long maintained a bewildering subjective standard of perpetration. This doctrine held that a person who engaged in the physical act of murder could only be considered a perpetrator (*Täter*) if he acted out of "inner conviction" (Freudiger 2002, p. 169). Those who satisfied this standard tended to be a select group of monsters, fanatics and "bloodthirsty sadists," sociopaths such as the real Ivan Grozny, whose cruelty and murderous zeal exceeded the logic of the order to exterminate.

By contrast everyone else, that is, those who engaged in hands-on killing by order, were treated as mere accessories to murder. Gustav Münzberger was an SS guard at Treblinka responsible for herding Jews into the gas chamber. In one clearly documented instance, Münzberger shot and killed a mother and her two children who could not fit into the packed chamber. Nonetheless, the court in the Treblinka trial in Düsseldorf (1964–1965) reasoned that Münzberger had not internalized the "will of the perpetrator" and so had acted as an accessory. This jurisprudence effected, then, something of a double shift. Because the category of perpetrator came to be reserved for a select group of excess killers like Ivan Grozny, courts treated persons directly responsible for hands-on, ordered killing, those who shot Jews in mass graves and pushed them into gas chambers, as mere accessories. In turn, those whom we might have expected to be treated as true accessories—"ordinary" members of killing units or guards at death camps—were treated as guilty of nothing at all. In cases involving these persons, evidence of specific individual acts of killing, assumed to be required for a successful prosecution, was

difficult to come by. And so although the majority of hands-on killers could only be convicted as accessories, the vastly larger group of death camp guards, for whom evidence of personal acts of killing was lacking, was never even prosecuted in the first place.

This jurisprudence thus shielded thousands of collaborators from prosecution. At the same time, it framed a highly distorted history, in which Nazi genocide was seen as almost exclusively the work of sociopaths and fanatics. It would, of course, be wrong to see this distorted history as simply a product of an instrumental effort on the part of the German state to shield former Nazis from prosecution. All the same, it seems fair to say that doctrinal quirks gave jurists powerful tools with which to avoid a nuanced and responsible reckoning with the history of Nazi mass crimes.

Demjanjuk's trial in Munich marked a historic break with this jurisprudence. By the time that the trial started in November 2009, prosecutors had incontrovertible documentary proof that the native Ukrainian had served as a guard at the Sobibór death camp during a five-and-a-half-month period in 1943. The only problem was that there was no evidence whatsoever about Demjanjuk's personal behavior or conduct during his tenure at the camp. Fewer than ten survivors of Sobibór remained alive by the trial's start, and none could reliably identify Demjanjuk. At trial, two Sobibór survivors took the stand, but following the revamped approach of the OSI, they were called to perform more of a memorial function, to establish a living connection to the victims of the camp, not to identify the accused. Whether Demjanjuk had ever killed with his own hand, was, then, impossible to say. This would have created an insuperable obstacle to prosecution under the model that for decades had controlled German prosecutions.

But the prosecution in Munich succeeded in maneuvering around this obstacle. Relying on a theory developed by lawyers at the Central Office for the Investigation of Nazi Crimes in Ludwigsburg, a German state organization analogous to the OSI, German prosecutors offered an argument that had the simplicity of a syllogism:

All Sobibór guards participated in the killing process

Demjanjuk was a Sobibór guard.

Therefore Demjanjuk participated in the killing process.

The beauty of the argument lay in its insistence that the court could convict Demjanjuk as an accessory to murder even in the absence of evidence that he had killed with his own hand. As the minor premise, that Demjanjuk had served as a Sobibór guard, was solidly established by documents, it was the major premise that commanded the attention of the court: *all Sobibór guards participated in the killing process*. However straightforward a proposition, its truth could only be proved by a comprehensive historical study of Sobibór

and its guard force. And so professional historians provided the trial with its most important testimony, turning the Munich proceeding into a trial by history.

Dieter Pohl, presently a professor at Klagenfurt, supplied the narrative that subtended the prosecution's theory of guilt. This testimony established, first, that Sobibór was a death camp. Although hardly a novel insight, the distinction between concentration camps, such as Dachau; hybrid camps, such as Majdanek and Auschwitz; and pure death camps, such as Treblinka, Belžec and Sobibór, had often been blurred in the minds of jurists, both in the United States and in Germany.

As a second matter, Pohl attested that all guards at Sobibór were generalists. Sobibór was a small camp; its entire supervisory force consisted of no more than twenty or so SS men, and 100 to 120 Trawniki-trained guards. (In addition, about 600 *Arbeitsjuden*, "work Jews," were forced to assist the process of destruction.) When transports of Jews arrived, the entire bare-bones operation was mobilized. Some guards would have continued to man the guard towers while the rest were dispatched to the train ramp to manage the well-rehearsed process of destruction (LG München II, p. 28 ff.). This point was crucial: if the defense had been able to demonstrate that some Trawniki worked, say, exclusively as cooks, the prosecution's case—which, after all, turned not on what Demjanjuk personally did, but on the function he must have performed—would have been considerably weakened. By establishing that Sobibór was a killing machine and that *all* guards participated in the machine's killing operation, Demjanjuk's complicity followed in lockstep. At Sobibór all Trawniki men were accessories to murder because *that was their job*.

This theory of functional guilt represented a crucial prosecutorial breakthrough; still, it did not end the inquiry. For even if the court accepted the prosecution's novel theory of criminal liability, it still had to conclude that Demjanjuk had served voluntarily. Here again previous court decisions had erected formidable obstacles for the prosecution, and in so doing, had grossly distorted the historical record. For decades, German courts in Nazi atrocity cases had been exceptionally receptive to the defense of "putative necessity," the notion that the accused had been forced to engage in the criminal act out of a perceived absence of choice. In 1966, a German court acquitted five of eleven former SS functionaries at Sobibór on grounds of putative necessity. Among those acquitted was Erich Lachmann, formerly the head of the camp's Trawniki-trained guard force. In other words, Demjanjuk's own senior commanding officer had been acquitted of all charges decades before the underling was put on trial (*Justiz und NS-Verbrechen* Lfd. Nr. 641-642; pp 227-230).

But here again, the work of historians made possible a fundamental shift in court decisions, as an extraordinary research effort was dedicated to exploring the question of duress. The results were astonishing. Historians failed to uncover so much as a single instance in which a German officer or NCO

had been executed or even severely punished for opting out of genocide (Browning 1998, p. 170). *Not one*. It seems fair to say that opting out would not have been a promising career move. One faced being ostracized from the group, branded a coward, transferred to a position on the front, or even in the rare case tried before an SS court. (In cases that went to trial, the punishments were invariably minor.) None of these consequences would have been pleasant. Yet as one commentator has observed, "...humiliation, damage to one's reputation, or unpleasant treatment by superiors" does not a defense of putative necessity make (Jäger 1982, p. 81).

As historians came to better understand SS culture and practices, German courts became far less receptive to the putative necessity defense of former members of the SS. Indeed, although some have questioned the justice of trying an aging perpetrator or collaborator for crimes committed decades earlier, the German experience suggests that when it comes to state-sponsored atrocities, decades may have to pass before historians can properly digest the documentary record. In this regard, Lachmann's acquittal was less the result of the court's bad faith, and more the predictable outcome of a proceeding that lacked a proper understanding of the constraints and freedoms that came with death-camp service. For in the absence of historical evidence to the contrary, the court had little choice but to accept the defendant's defense of putative necessity. German courts were, then, perhaps not laggard in trying former Nazis; if anything, one could argue that the trials of those such as Lachmann came too *early*, before historians had delivered a precise understanding of SS culture.

Still, this material did not necessarily address the special case of the Trawniki-trained guards. After all, guards such as Demjanjuk had first been taken as POWs before being selected to assist in genocide. As a result, German courts had for decades simply avoided trying non-German auxiliaries like Demjanjuk, assuming that all such cases remained vulnerable to a putative necessity defense (Freudiger 2002, p. 200). But here again, historical studies carefully challenged the assumptions that had informed juridical thinking, prompting a radically new view of the status and tasks of the Trawnikis. In the most exhaustive study to date, Peter Black demonstrated the "stark and unequivocal" difference between the Trawnikis and the Jews they guarded (Black 2011, p. 15). Trainees received uniforms and firearms, typically rifles captured from Russians, but sometimes German automatic rifles and pistols (Black 2011, pp. 12, 13). They were paid; during Demjanjuk's tenure at Sobibór, the Trawniki guards received an across the board wage increase. They received regular days off and drew paid home leave (Black 2011, 14). Black even located the case of a guard named Victor Bogomolow, who successfully requested discharge on grounds that, "I'm not suited to guard service" (Black 2011, pp. 14, 15).

All the same, the Trawnikis suffered from a wide range of disciplinary problems. Cases of drunkenness, theft and curfew violations abounded. But

most of all, they deserted. Black estimated that of the 5000 Trawniki, at least one-fifth, fully 1000 men, deserted. These astonishingly high desertion rates may have had little to do with moral qualms about genocide. As the winds of war shifted, many Trawniki guards presumably came to reconsider the wisdom of collaborating with the SS. And although Trawniki who fled with their weapons only to be caught faced draconian punishment from the SS, likely execution, those who left their weapons behind and later were caught typically suffered far less severe punishment, indeed were soon able to resume their guard duties.

For the prosecution, the fact that Demjanjuk continued to work as a death camp guard while so many of his colleagues deserted showed that he chose to remain and that his choice was voluntary. Not all observers were convinced by this argument, though in crucial respects the defense made life easy for the prosecution. Demjanjuk's first line of defense was always to insist that he had never served as a guard anywhere, at any time; in a sense he never backed off from the defense that fortuitously worked in Israel, that he had been the victim of mistaken identity. In Munich, however, this defense made it difficult to plead putative necessity. For it makes little sense to argue, "I never served as a guard, but even if I had, I did so out of fear of life and limb." The logic failed to parse.

CONCLUSION

And so Demjanjuk was convicted, the first non-German auxiliary ever to be convicted in a German court, and the first to be convicted in the absence of any evidence of a specific act of killing. Armed with this belated precedent, German prosecutors promptly began investigating dozens of guards and low-level killers whom the old jurisprudential model had shielded from legal scrutiny (Wiegrefe 2014). To date, two former SS men, Oskar Gröning and Reinhold Hanning, have been convicted based on the theory pioneered in the Demjanjuk case (*Anklageschrift* 27 Ks 9/14). But even if the Gröning and Hanning convictions remain, the first and last applications of the Demjanjuk decision, the importance of the breakthrough in Munich remains undiminished. For the significance of this jurisprudential correction should not, I believe, be measured simply in terms of the prosecutions it sponsors or the convictions it secures; its importance lies in the sophisticated understanding of collaboration in genocide expressed in the court's judgment.

In convicting Demjanjuk, the Munich court understood that when it comes to state-sponsored atrocities, guilt is not to be measured in terms of hands-on acts of cruelty; guilt follows *function*. Yet this simple and great conclusion, I have argued, could not have been reached without a remarkable collaboration between jurists and historians. Demjanjuk could never have been tried in Germany, much less convicted, absent a sophisticated granular understanding of the operation of death camps, the role that guards

performed, the training they received, and the rewards and penalties that conditioned their service. This was history commissioned by the state and its legal instruments. Yet this was also history that served to dispel myths of camp culture that had been produced by earlier court decisions—that guards were either clinical sadists or ordinary men impressed into service out of fear for their life—and that delivered a nuanced and exacting understanding of the culture and practices of those trained to serve as the SS's facilitators of genocide.

If Demjanjuk's Munich trial performed a didactic function, it was, then, of a provocatively self-referential nature, as it served to demonstrate the capacity of legal systems to self-correct, to use history responsibly to recenter doctrine. Those inclined to cynicism might consider it telling that this correction came so very belatedly, after the generation of perpetrators and collaborators had essentially passed. And yet, as I've tried to suggest, this correction would never have occurred at all without the collaboration of jurists and historians. Earlier German trials may have excused perpetrators and tortured history, however, the Demjanjuk trial shows how a remarkable collaboration of jurist and historian advanced understandings of the past and the case of justice.

NOTES

1. In 2010 the OSI was officially renamed Human Rights and Special Prosecutions (HRSP) and given expanded authority to investigate and prosecute any US resident suspected of serious human rights violations, such as torture, war crimes, and genocide, wherever those atrocities were perpetrated.
2. Peter Black interview with the author, February 2014, Washington, DC.

REFERENCES

- Anklageschrift in der Strafsache gegen Oskar Gröning, LG Lüneburg. 27 Ks 9/14, 1191 Js 98402/13. On file with author.
- Arendt, H. (1963) *Eichmann in Jerusalem. A Report on the Banality of Evil* (New York: The Viking Press).
- Arendt, H. (1992) *Hannah Arendt/Karl Jaspers Correspondence, 1926–1969* (New York: Harcourt Brace Jovanovich).
- Benz, A. (2011) *Der Henkersknecht. Der Prozess gegen John (Iwan) Demjanuk in München* (Berlin: Metropol-Verlag).
- Black, P. (2011) 'Foot Soldiers of the Final Solution. The Trawniki Training Camp and Operation Reinhard', *Holocaust and Genocide Studies* 25(1), 1–99.
- Bönisch, G. et al. (2009) 'Ein ganz gewöhnlicher Handlanger', *Der Spiegel*, June 22.
- Browning, Ch. (1998) *Ordinary Men. Reserve Police Battalion 101 and the Final Solution in Poland* (New York: Harper).
- 'Ehemaliger Richter sagt im Verfahren gegen Demjanjuk aus' *T-Online*, April 21, 2010. http://www.t-online.de/regionales/id_41366780/ehemaliger-richter-sagt-im-verfahren-gegen-demjanjuk-aus.html.

- De Mildt, D. (1996) *In the Name of the People. Perpetrators of Genocide in the Reflection of Their Post-War Prosecution in West Germany: The "Euthanasia" and "Aktion Reinhard" Trial Cases* (Leiden: Springer).
- Douglas, L. (2001) *The Memory of Judgment. Making Law and History in the Trials of the Holocaust* (New Haven: Yale University Press).
- Douglas, L. (2016) *The Right Wrong Man. John Demjanjuk and the Last Great Nazi War Crimes Trial* (Princeton: Princeton University Press).
- Freudiger, K. (2002) *Die juristische Aufarbeitung von NS-Verbrechen* (Tübingen: Mohr Siebeck).
- Friedlander, H. (2008) *Nazi Crimes and the Law* (Cambridge: Cambridge University Press).
- 'Für Völkermord gibts es keine Verjährung', *Der Spiegel*, October 3, 1965. <http://www.spiegel.de/spiegel/print/d-25803766.html>.
- Golsan, R. (ed.) (2000) *The Papon Affair. Memory and Justice on Trial* (London: Routledge).
- Grabitz, H. (1985) *NS-Prozesse. Psychogramme der Beteiligten* (Heidelberg: C.F. Müller).
- Immigration and Nationality Act of 1952, Pub. L. No. 414 §340(a), 66 Stat. 163, 260 (1952) (codified as amended at 8 USC §1451(a) (1982)).
- Jäger, H. (1982) *Verbrechen unter totalitärer Herrschaft. Studien zur nationalsozialistischen Gewaltkriminalität* (Frankfurt: Suhrkamp).
- Justiz und NS-Verbrechen* Lfd.Nr.641 und 642, LG Hagen vom 20.12.1966, 11 Ks 1/64; BGH vom 25.03.1971, 4 StR 47-48/69.
- Lemkin, R. (1944) *Axis Rule in Occupied Europe. Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington: Carnegie Endowment for International Peace).
- LG München II, Urteil von 12.5.2011, Az.: 1 Ks 115 Js 12496/08, p. 28 ff.
- Lichtblau, E. (2014) 'Philadelphia Man Accused in Nazi Case Dies', *The New York Times*, July 23. <http://nyti.ms/1sUx0to>.
- Marrus, M. (2002) 'History and Holocaust in the Courtroom', *Yad Vashem Studies*, 5, 215-239.
- Prosecutor v. Slobodan Milosevic IT-02-54, 10 April 2003, 19048-19049. *Publishing on the Internet*. Online. Available HTTP: http://icr.icty.org/exe/ZyNET.exe?ZyActionD=ZyDocument&Client=LegalRefE&Index=TranscriptE&Query=morten+torkildsen&File=E%3A\Legal_Ref\BatchStore\Transcript\English\ExportedText\00000000\00005U90.txt&QField=DocumentId^2000047514&UseQField=DocumentId&FuzzyDegree=1&ImageQuality=r85g16%2Fr85g16%2Fxl50y150g16%2Fi500&Display=hpfrw&DefSeekPage=f&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results+page&MaximumPages=1&ZyEntry=1&SeekPage=f&User=ANONYMOUS&Password=ANONYMOUS. Accessed 2 February 2011.
- Roussio, H. (2002) *The Haunting Past. History, Memory and Justice in Contemporary France* (Philadelphia: University of Pennsylvania Press).
- Rückert, A. (1982) *NS-Verbrechen Vor Gericht. Versuch einer Vergangenheitsbewältigung* (Heidelberg: C.F. Müller Juristischer Verlag).
- Schabas, W.A. (2000) *Genocide in International Law* (Cambridge: Cambridge University Press).

- Snyder, T. (2010) *Bloodlands. Europe between Hitler and Stalin* (New York: Basic Books).
- Teicholz, T. (1990) *The Trial of Ivan the Terrible. State of Israel vs. John Demjanjuk* (New York: St. Martin's Press).
- The Trial of Adolf Eichmann: Record of the Proceedings in the District Court of Jerusalem [TAE]*. Jerusalem: Trust for the Publication of the Proceedings of the Eichmann Trial, 1992, vol. I.
- Trial of the Major War Criminals before the International Military Tribunal, Nuremberg, 14 November 1945–1 October 1946* (Nuremberg, Germany), vol. II.
- Vogel, R. (ed.) (1969) *Ein Weg aus der Vergangenheit. Eine Dokumentation zur Verjährungsfrage und zu den NS-Prozessen* (Frankfurt: Ullstein).
- Werle, G. (1995) *Auschwitz Vor Gericht. Völkermord und bundesdeutsche Straffjustiz* (Munich: C.H. Beck).
- Wiegrefe, K. (2014) 'The Auschwitz Files. Why The Last SS Guards Will Go Unpunished', *Der Spiegel*, August 28. <http://www.spiegel.de/international/germany/the-german-judiciary-failed-approach-to-auschwitz-and-holocaust-a-988082.html>.

RECOMMENDED READINGS

- Arendt, H. (1994) *Eichmann in Jerusalem. A Report on the Banality of Evil* (New York: Penguin Books).
- Bioxham, D. (2001) *Genocide on Trial. War Crimes Trials and the Formation of Holocaust History and Memory* (New York: Oxford University Press).
- Cesarani, D. (2007) *Becoming Eichmann. Rethinking the Life, Crimes and trial of a "Desk Murderer"* (Cambridge: De Capo Press).
- Douglas, L. (2001) *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (New Haven: Yale University Press).
- Finkelkraut, A. (1992) *Remembering in Vain. The Klaus Barbie Trial & Crimes Against Humanity* (New York: Columbia University Press).
- Golsan, R. J. (1996) *Memory, the Holocaust, and French Justice. The Bousquet and Touvier Affairs* (Hanover: University Press of New England).
- Golsan, R.J. and Misemer, S.M. (2017) *The Trial That Never Ends: Hannah Arendt's Eichmann in Jerusalem in Retrospect* (Buffalo: University of Toronto Press).
- Osiel, M.J. (2001) *Mass Atrocity, Ordinary Evil and Hannah Arendt. Criminal Consciousness in Argentina's Dirty War* (New Haven: Yale University Press).
- Priemel, K.C. and Stiller, A. (eds.) (2014b) *Reassessing the Nuremberg Military Tribunals. Transitional Justice, Trial Narratives, and Historiography* (New York: Berghahn Books).
- Wiewiorka, A. (2006) *The Era of the Witness* (New York: Cornell University Press).

Germany Versus Germany: Resistance Against Hitler, Postwar Judiciary and the 1952 Remer Case

Vladimir Petrović

Treason doth never prosper: what's the reason?

Why, if it prosper, none dare call it treason.

Sir John Harington (1551–1612), *Epigrams*, Book IV, Epistle 5

Show trials have no friends. Guided by bare political interests and conducted with disrespect for the rule of law, show trials are mostly considered, and rightfully so, as a perversion of the legal system typical of repressive states. General weariness toward extralegal functions of criminal trials owes much to such experiences. However, a booming literature on transitional justice has emphasized the importance of didactic elements of trials in international criminal law, as long as they do not infringe upon due process (Douglas 2000; Wilson 2005 and particularly Osiel 2008). Less so on a level of national jurisdiction, as such trials are by definition state-sponsored, and therefore prone to fortify dominant political narratives through whitewashing, scapegoating or revanchism, or at best, they function under significant constraints (Simpson 1997; Rousso 2002; Pendas 2006). This distrust increases if the case is launched in a politically charged atmosphere and framed around highly perspectivist charges, such as treason or libel. However, the

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debate could benefit from counter-examples, to which end this contribution scrutinizes didactic aspects of proceedings against Major General Otto Ernst Remer (1912–1997) held in 1952 in Braunschweig. Well researched in Germany (Fröhlich 2006, pp. 31–128; Burghardt 2012, pp. 47–92; Searle 2016, pp. 97–128), but largely sidetracked otherwise, this case contains many of the aforementioned elements, yet it represents a successfully conducted liberal show trial, if there ever was one.

POLITICAL CONTEXT: THE PENDULUM OF VERGANGENHEITSBEWÄLTIGUNG

Post-war Germany is a true laboratory for studying the origins, functions and effects of didactic trials. There was no shortage of legal activity in the immediate post-war period. Hundreds of trials were held in each of the four occupation zones, resulting in over 5000 convictions in Western zones, and perhaps over 13,000 convicted under Soviet control (Cohen 2006, p. 63; Frei 1998, p. 422). Towering over this process was the famous Trial of Major War Criminals before the International Military Tribunal (IMT) in Nuremberg, whose chief architect, Robert Jackson, seized an opportunity for “the establishment of a well-documented history of what we are convinced was a grand, concerted pattern to incite and commit the aggressions and barbarities which have shocked the world” (Jackson 1945, p. 11). His successor, General Telford Taylor, who was a Chief Prosecutor in no less than 12 subsequent trials in front of the Nuremberg Military Tribunal, was even more zealous in using the trials to “to promote the interest of historical truth and to aid in the reestablishment of democracy in Germany.” However, noting the importance of the trials, he acknowledged, “[T]o be sure, that the reorientation of German thought along democratic lines must ultimately be accomplished by the Germans themselves” (Taylor 1949, p. 101). Whichever hopes they had about an immediate effect of the trials on German public opinion were quickly challenged. In the words of *Newsweek*’s correspondent, “[P]robably there is no city in the world in which people on the street talk less about the trials than Nuremberg, and no country in the world in which less is known about the trials as Germany” (Kroesche 2008, p. 134).

With the foundation of Federal Republic of Germany (FRG) in 1949, it became clear that the desired pedagogical function remained undereffective. Public opinion surveys conducted in 1950 by the US High Commission revealed that no more than 38% of the population in Germany considered the IMT proceedings to be fair, compared to 78% four years earlier (Kroesche 2008, p. 140). Reasons for this reversal were many. Restoring German statehood was followed by an abrupt transformation of the state from an occupied enemy into a military ally of the West. Under the chancellorship of Konrad Adenauer, this process came with the policies of clemency (Frei 2002). Such hints were particularly quickly understood within the judiciary, which by and

large belonged to the more conservative part of German society, burdened with a number of troubling personal continuities with the Nazi era, coupled with inertia that hindered the investigation of wartime criminality (Wittmann 2008, pp. 211–217). Readiness to process war crimes in front of German courts was dwindling. The statistics of war crimes-related judgments in post-war Germany were telling: before FRG was created, 1819 persons were convicted for war crimes at its territory. The year after, this number was 809 and fell even to 259 convictions in 1951 (Rückerl 1982, pp. 329–332; Eichmüller 2008, pp. 621–640). These trials were alarming not only in numbers, but also in content, as they were mostly dealing with crimes committed by Nazis against Germans, frequently ending with acquittal. Sensing an opportunity, many former Nazis were coming back to public life, their ideological agenda barely changed to fit into a new political framework.

Among the most notorious comebacks was the one of Major General Otto Ernst Remer (1912–1997). This young officer was in many ways a quintessential product of the Third Reich. A prominent member of the Hitlerjugend, he was admitted into the Wehrmacht in 1933. He rose to the rank of major serving on the Eastern front, in the *Großdeutschland* division. As a commander of its elite infantry battalion, he was stationed in Berlin in the summer of 1944, at the time when resistance efforts in Germany were reaching their peak. Its epicenter was also in Berlin, where the leadership of the Reserve Army was devising a bold plan to assassinate Adolf Hitler and Heinrich Himmler, arrest their closest circle, disarm the SS and create conditions for pre-war politicians opposed to Hitler to take over the government. The plan was set in motion on July 20, 1944, the day charismatic staff officer of the Reserve Army Colonel Claus Schenk Graf von Stauffenberg planted a bomb in Hitler's headquarters in East Prussia. During that day, the conspirators succeeded in seizing many of the vital points in Berlin. However, they started to lose ground when the news spread that Hitler was wounded, but not killed in this attempt. Major Remer stood at the brink of these shifting loyalties. Ordered to arrest Joseph Goebbels, he disobeyed after the propaganda minister put him in touch with Hitler directly. Reversing against the conspirators, Remer decisively contributed to crushing the rebellion, arresting its leaders (Finker 1971, pp. 336–338). As the conspirators were ruthlessly eliminated in the following months, he was promptly promoted to Major General, but was ultimately imprisoned by American forces and released in 1947 without standing a trial.

After the creation of the Federal Republic of Germany, Remer decided to take part in political life, cofounding a Socialist Reich Party, which won 11% of votes on regional elections, entering the parliament of the Niedersachsen state, also gaining eight seats in the parliament of Bremen (Fröhlich 2006, p. 32). This success was building on revanchist feelings and resentment. The party was clearly benefiting from Remer's profile and exposure. His booklet about participation in the events of July 20 was circulated in five editions by 1951 (Remer 1951). In May that year he created an outrage at

one of his party meetings in Braunschweig, publicly labeling leaders of the resistance he crushed as traitors on the foreign payroll: "These conspirators were in great part traitors of the country, paid from abroad (...) The time will come when they will be shamefully silent about belonging to 20 July 1944" (Fröhlich 2006, pp. 32–33). Finding such utterances both hurtful and threatening, families and friends of executed resistance members sought legal protection. Coming from the opposition circles himself, Federal Minister of Interior Robert Lehr filed a criminal complaint against Remer for slandering (*Verleumdung*, article 187 of the German Criminal Code, StGB). Tellingly of the contradictory tendencies in the early Federal Republic, the designated prosecutor's office in Braunschweig was initially disinclined to push the case further, as acting prosecutor Erich Günther Topf, former NSDAP member and SA troop leader saw "no prospect of success" (Fröhlich 2006, p. 34). The uncertain future of this criminal complaint was reflecting well the ambiguities and limitations of Germany overcoming its recent past (*Vergangenheitsbewältigung*).

A MAN AND HIS PLAN: FRITZ BAUER BRINGS HISTORY TO TRIAL

In an astonishing twist, the almost shelved criminal complaint was transformed into one of the first opportunities for wide reckoning with Nazism in German courtrooms. This was largely the doing of Fritz Bauer (1903–1968), a German Jewish lawyer who was disbarred in 1933 and emigrated to Denmark after time spent in a concentration camp. He returned to Germany in 1949: "I came back, because I believed I could bring (...) some of the spirit and determination of resistance in the emigration in their fight against governmental injustice with me. (...) I wanted to be a lawyer who would not just pay lip service to the law and to justice, to humaneness and peace" (Wojak 2009, p. 363). However, soon upon return, although appointed to lead public prosecution in Braunschweig, he discovered that his views were quite atypical for his surroundings, and was blunt about it: "In the judiciary, I feel like living in exile" (Wojak 2009, p. 232). Dissatisfied with a stalemate in legal reactions to the issue of Nazi criminality, for some time he sought a breakthrough launching a set of initiatives towards the prosecution of Nazi war criminals. Therefore he could not disagree more with Topf about handling the Remer case, and went as far as transferring him from the Braunschweig prosecutor's office and taking the case personally (Fröhlich 2006, pp. 58–61). Bauer's understanding of the case and its implications was clear: it was to be a "rehabilitation of the Resistance, and nothing else" (Wojak 2009, p. 267). The motivation was even clearer: it was "an occasion to clarify the history and problematic of 20 July 1944" (Fröhlich 2006, p. 34).

Fritz Bauer approached the Remer case not only with determination but also with considerable legal imagination. The indictment against Remer was

changed; instead of slandering, he was charged for defamation (*übler Nachrede*, article 186 of the German Criminal Code, StGB). The difference was significant: whereas a slanderer consciously offended with full knowledge about the untrue nature of his allegations, in defamation, the state of the knowledge of the accused about the allegations was irrelevant. It was a lighter offense, with a maximum of one year provided for, as opposed to the two years envisaged for slander. However, it was easier to substantiate, as it did not call for investigation into the state of mind, level of knowledge, and intent of the offender (Serwe 1984, pp. 146–149). Therefore Bauer showed that he was not primarily interested in punishing Remer personally, as much he intended to send a wider message about the justifiability of the right to resist against Hitler. Bauer understood that this was a topic on which it was possible to forge a unique consensus among large segments of German post-war society, from the left to the right of the political spectrum. He intended to use this case to draw public attention and to exonerate the German resistance legally once and for all. His choice of witnesses for the prosecution, resistance members and the relatives of the most prominent conspirators, such as Countess Marion Yorck von Wartenburg, Alexander von Hasse, Dr. Otto John, Dr. Fabian von Schlabrendorff, and others, reflected this intent.

Furthermore, in his desire to both legitimize and contextualize the resistance, Bauer resorted to a rather unorthodox method of commissioning reports (*Gutachten*) from the field of humanities, whose authors were to appear in court as experts (*Sachsverständigen*). They were not only supposed to assist the factual reconstruction of the events relevant to the case, because Bauer wanted the court to address a number of issues, including the right to resist tyranny and the military situation in Germany in 1944. To that end, he planned on introducing experts from the field of humanities to write reports and to appear as experts along with eyewitnesses of the events. This was an unconventional choice, as until then the German judiciary had rather limited experience with experts coming from the humanities and social sciences. This was the realm of technical and medical experts, rarely confronting the court with anything more exotic than psychiatry (Dippel 1986). Consciously striving to broaden that horizon, Bauer used legal options that allowed for the prosecutor to suggest experts to the court. He hoped that the judges would accept his unconventional choice of forensic disciplines, as well as his choice of experts who would not only provide forensic contributions, but also reflect a wide coalition on the issue of the rehabilitation of the July plotters.

Precisely to this end Bauer's choice for expertise fell on the more traditional parts of academia, such as theology and historiography. He left nothing to chance; he was certain to consult one Catholic and one Lutheran theologian, whereas among historians he was searching among more conservative segments of academia. He initially contacted Hans Rothfels, who had just returned from exile to assume a chair at the University of Tübingen and who had become director of the newly founded Institute for Contemporary

History in Munich. He authored one of the first comprehensive accounts of German resistance against Hitler, praising their resoluteness and courage (Rothfels 1949). Surprisingly, Rothfels declined Bauer's offer to appear in court as an expert for contemporary history with a curious explanation, writing to Bauer:

I assume it is well known that I hold the memory of the resistance fighters in very high esteem (...) as well as their deep-seated patriotism, which was at the same time German and European. As a layman I cannot judge on the legal matter. But if I would be asked by the defense, as is to be expected, about the facts, I do not see how I could dispute that in the sense of positive law, people of July 20 did commit high treason, with some of them being also traitors of the country. (Fröhlich 2006, p. 48)

The topic of resistance was apparently more controversial than Bauer had thought, but he continued to search for experts and eventually contacted Professor Percy Ernst Schramm, a well-known medievalist, and Dr. Hans-Günther Seraphim, both from the University of Göttingen. Seraphim was a twice-wounded former officer on the Eastern front. After the war, he became a member of a commission assembled in 1946 to publish documents of the IMT. He also served as an advisor to the defense in the Nuremberg Medical Case Trial. Eventually, in 1951, he was entrusted with the creation of the Department for Contemporary History of the Institute for International Law in Göttingen, where he dedicated much of his time to relativizing the achievements of the Nuremberg trials (Seraphim 1954, pp. 436). Schramm was hardly less conservative than Seraphim. He was a First World War veteran and had volunteered in the Second World War, becoming a diarist of the German High Command. He was also a witness in the Nuremberg trial in the defense of General Alfred Jodl, and had lost tenure at Göttingen due to his Nazi affiliation. Alongside retired Major General Helmut Friebe, one of the leaders of the Alliance of German Soldiers, the prosecution's expert list was not the most typical thing a German judge would see. Yet, judges accepted all the proposals. In contrast, the judges declined the application by the defendant's attorneys to call former field marshals Alfred von Kesselring and Erich von Manstein, Admiral Doenitz, General Guderian, and other military figures as expert witnesses on "the scope and meaning of the soldier's oath," claiming that the issue was covered by expert reports (Kraus 1953, p. 112).

A WEEK IN BRAUNSCHWEIG, MARCH 1952: DEAD MEN ON TRIAL

Consequently, on March 7, 1952 rather unusual proceedings started in front of the Third Criminal Chamber of the Braunschweig District Court (*Strafkammer des Landgerichts Braunschweig*). However, once the proceedings started it became clear how different pieces of Bauer's puzzle were

coming together. The first witnesses were expert theologians, Professors Rupert Angermair and Professor Hans Joachim Iwand, followed by a historian of the church, Professor Ernst Wolf. They testified in general terms about the moral and theological understanding of the resistance according to Catholic and Lutheran creed (Kraus 1953, pp. 9–40). It became clear that resisting the tyranny was not in collision with any of the interpretations of Christianity. On the next day General Friebe testified on the content of his report about the officer corps and the July 20, 1944 plot. He firmly concluded that during the seven post-war years former soldiers and officers of the Third Reich had had their eyes opened by revelations that put resistance leaders in a favorable light. He ended his account with the conclusion directed to Remer personally:

We, his former comrades, have deeply regretted that destiny confronted this young officer in July 1944 with a situation with consequences the bearing of which I should assume are beyond the powers of any human being. No judgment will be made here as to whether his decision on 20 July was right or wrong. But the consequences of his decision were so terrible, and have cost so much of the best German blood, that we old soldiers had expected that a man to whom destiny gave such a burden to carry until the end of his life would recognize this, and would thereafter live quietly and in seclusion. We, his former comrades, lack any sympathy for the fact that Herr Remer fails to summon up this attitude of self-effacement. (Kraus 1953, p. 85, 103)

The old soldiers therefore had had their day in court, depriving Remer of the support he might have expected from veterans.

The other related item with which Bauer wanted to contend was the emerging *Dolchstosslegende*, a narrative that the German wartime effort was significantly disturbed by the conspirators. One way to counter it, as Bauer saw things, was with the testimony of Professor Schramm, who explained about the general military situation in summer 1944, in order to answer the question: “What was the military position on 20 July 1944?” He depicted the hopelessness of the German military position through a detailed overview of the situation in the frontlines, and came to the conclusion that by that time “the war was inevitably lost.” Hence, in his view, “[T]he outcome of the war can be explained neither with sabotage nor with treason” (Kraus 1953, p. 80). This was a highly relevant conclusion, as Bauer hoped that such a credible account would dispel the myth that the conspirators had stabbed Germany in the back and hence contributed to the military defeat in the Second World War. The success of this strategy was instant with the press, as *Frankfurter Allgemeine Zeitung* related that “[T]he treason did not play a great part in the loss of war. The expert therefore refuted the stab-in-the-back legend propagated by the party of the extreme right” (Fröhlich 2006, p. 67).

Eventually, the time had come for the prosecution to say what the conspirators, increasingly known in German as “people of the July 20” (*die*

Männer des 20. Juli) were doing. This was the task of Bauer's other choice: Seraphim, who testified about two subjects that were topics of his report: the motives of the resistance of July 20, 1944, and the description of the course of events on that day with special emphasis on the role Major Remer played. And indeed, Seraphim was able to reconstruct the events of the conspiracy by making full use of the legal material deposited over the last few years in Göttingen's *Institut für Völkerrecht*, including the Nuremberg trials documents, as well as the stenographic notes of the trial against Witzleben and others at the notorious *Volksgerichtshof* (Nazi People's Court). The documentary approach was supplemented with the personal recollections of Ludwig Beck and Henning von Tresckow from the military side, as well as Ulrich von Hassell and Carl Friedrich Goerdeler. With reservations regarding the unavailability of many other sources, Seraphim concluded that although the German resistance was a heterogeneous phenomenon, the aspiration to remove the regime was by and large motivated by patriotic reasons, with "[T]he intent to reestablish legal order in Germany and preserve the freedom and independence of the German people and state." He had no doubts that the event was "a German endeavor"; he also concluded that the conspirators were inspired by "the hope that the success of the act would show to the world that even under the most difficult circumstances they could affect change in the rule of law, morality and orderly relations of Germans. In the case of failure, this beacon of the other Germany was supposed to prove that the German people and National Socialism were two different things" (Kraus 1953, 49–60).

As representative after representative of this "other Germany" was taking the stand to testify about efforts to topple Hitler which predated July 20, about the peril of the conspirators and their often tragic fate, it indeed seemed that an epoch was fully resurrected, with all its contradictions and uncertainties. On March 9 and 10 no fewer than 23 witnesses, family members of conspirators or resistance members who survived and were now holding offices of importance and repute in the Federal Republic were on the stand. Meanwhile, Fritz Bauer was preparing closing arguments, intending not to leave anything uncertain. Presented evidence was summarized in his spirited *plaidoyer* given on the last day of the trial, March 11, 1952. He reiterated that the purpose of the trial was "to explain if the people of July the 20th were traitors of the country, or not." In his view, in "legal terms this was not high treason" and that "a political regime embodying injustice such as the Third Reich cannot be the object of high treason at all." Therefore, "the task of the prosecution and the judges of the democratic state is to rehabilitate without reservations and reductions the heroes of 20 July, on the basis of facts which are now known to us, and on the basis of the binding law, both of today and of back then" (Bauer 1998, pp. 169–179). The deliberation lasted for four days, a time filled with uncertainties. As Ernst Friedländer wrote in an emotional article appropriately entitled *Dead Men on Trial*:

It was highly symptomatic that after the prosecutor's speech the presiding judge said he was still in a conflict of conscience as to what had been said about treason. He himself, so he declared, had been taken prisoner by the Russians at Stalingrad and had experienced afterwards how a number of German Generals and other officers had joined the pro-Soviet committee "Free Germany." "I could not approve of this conduct," the judge said. And he added that it was extremely difficult for a German court of law to reach a decision on the question of treason in connection with July 20th. The Court adjourned. (Friedländer 1952, p. 6)

THE JUDGMENT IN AND OUT OF THE COURT

The judges reconvened on March 15 to read out their lengthy verdict which offered a detailed scrutiny of the events of July 20 and analyzed the motivations of its participants. Their judgment opened with a significant chronological step back, describing the events from 1933 and the subsequent

[D]evelopment of suppression of all oppositional expression which opened the door and gate to the politically directed terror (...). Starting with the Reichstag fire, through June 30, 1934 and November 9, 1938, what German people had to go through was a screaming injustice [*schreiendes Unrecht*], whose purging is necessary. It is difficult and bitter for a German court to have to pronounce something like this,

the judges admitted. This historical excursion was based on the accounts of eye-witnesses and expert witnesses, whose contribution the judges fully acknowledged: "The general knowledge of Professor Doctor Schramm is beyond any doubt," notes the judgment, which also incorporates the basic conclusions from "the detailed report of historian expert Dr. Seraphim on the motives of the resistance fighters of July 20, 1944." On the basis of their findings and the statements of witnesses, they concluded that the conspirators "consistently acted out of burning patriotism, showing selfless sacrifice and a sense of responsibility towards their people." Their convictions by the Nazi *Volksgerichtshof* were dismissed as irrelevant and "irreconcilable with the legal thinking of today." That allowed the court to conclude that Otto Remer did indeed defame the resistance fighters and to sentence him to three months of imprisonment. In the word of the judges, "[H]e had proved himself to be a brave officer in war at the front. On the other hand, it was found that the accused was still living in the worldview of 1944, and still had not rid himself of these notions even seven years after the war. What had then on 20 July been an understandable mistake, was to be seen today as incorrigible spite" (Landgericht Braunschweig 1953, pp. 112, 122, 125, 128, 136). And indeed, Remer's defense was spiteful, stubbornly insistent on demonstrating that the conspirators broke the oath given to Hitler (Fröhlich 2006, pp. 85–86). Remer himself explicitly stated that he was not withdrawing a single word and was embarking on an appeal. After the *Bundesgerichtshof* (Federal Court of Justice)

confirmed this judgment in December 1952, Remer fled the country to avoid serving the sentence and starting a decades-long career of a renegade extremist. In the meanwhile, in a parallel proceeding, in October 1952 the Federal Constitutional Court banned the Socialist Reich Party, finding its program and activity unconstitutional (Fröhlich 2006, pp. 119–121). In the courtroom, the prosecution achieved all its goals.

However, from Bauer's point of view, it was not only the judges, but also the wider public that needed to be convinced. Public interest in this trial was undisputable. As reported by a contemporary journalist, "In front of the courthouse each morning, one hour before the opening of the courtroom, there was a long, human snake. The entrance tickets were in high demand. In the wide and bright courtroom, witnesses and experts were making their statements into the microphone" (Fröhlich 2006, 115). To be sure, not all in the courtroom, or outside of it, were convinced of Remer's guilt. Press coverage was initially ambiguous. Some pointed out, such as Tilo Bode that Remer remains a scapegoat, a marginal figure in this legal undertaking (Bode 1952). Others tended to question the necessity of historical expertise and the very motivation of the judges, such as Josef Schmidt in an article entitled, "A Tribunal is Supposed to Write History?" (Schmidt 1952). In a subsequent debate, Ernst Friedländer picked up exactly this point:

This law-court struggled with Germany's recent history as the German people themselves are still struggling with their recent history. The dark years from 1933 to 1945 were the real issue at Brunswick. One might say that a criminal court is not the right place to teach or to re-teach history. But who else is there to do the job? Altogether too many Germans have been under the spell of Nazi propaganda during the war. They have their own history wrong.

For Friedländer, this was "a case of dead men on trial. For those really accused and condemned in this case were Hitler and the Nazi leaders. It was their lawlessness and their crimes that stood accused. And they were found guilty. In the struggle of the German people with their own history this trial was only one step. But it was a step in the right direction" (Friedländer 1952, 6–7). Guenther Lewy arrived at a similar conclusion through the much more sober tool of a legal analysis:

The court in its verdict accepted the opinion of the prosecutor that the Third Reich represented a state devoid of justice [*Unrechtsstaat*], but it refused to deny the Nazi regime all lawful status.... The resisters were cleared of Remer's accusation of high treason on narrower grounds. The decisive question, declared the verdict, was the motives and intentions of the conspirators.... In a formal sense the plotters had committed high treason by taking up contact with Germany's enemies. Yet, this had been done not in order to harm their country but to serve it.... They had done all this for the sake of "the preservation of the German people and state in freedom and independence. (Lewy 1960, pp. 581–582)

These were impressive achievements, yet their stabilization and integration into wider segments of German society was another concern for Bauer, resistance members, their sympathizers and even the experts who took part in the trial. Historian Seraphim, concerned with incoming hate mail he was receiving, recommended that “one should as soon as possible attempt to educate as much as possible people who are open-minded on this issue ... through as wide a distribution of an authentic account as feasible” (Fröhlich 2006, p. 126). Bauer was of the same mind, and he negotiated with a number of publishers for a book containing the material from the Braunschweig trial. These negotiations ultimately failed, but *Bundeszentrale für Heimatdienst* (since 1963 *Bundeszentrale für politische Bildung*) published a special volume dedicated to the trial, and Seraphim’s own institution, *Institut für Völkerrecht*, published the expert reports and the judgment (Osas 1954; Kraus 1953). In that respect, Bauer’s temporary alliance with conservatives paid off. The director of the Institute, Herbert Kraus, who was defense counsel in Nuremberg and remained highly suspicious towards legal interventions into Germany’s recent past, prefaced this volume, expressing the hope that the book would “contribute to clarifying our assessment of the martyrs of July 20th and their ethos” (Kraus 1953, p. 8).

And indeed, the trial did contribute to the reassessment about this part of German recent history. It was unrealistic to expect that a verdict of the court, no matter how decisive, on such a perspective-dependent crime as treason, would settle the debate. Still, public equation between the Nazi regime and German state could no longer be maintained and growing numbers of opponents of the regime felt encouraged to step forward without fear of legal prosecution or social marginalization. Certainly, there were still dissenters, contesting this development from a legal, political or historical point of view, such as Albert Mergeler, Michael Freund and Ernst Forsthoff (Moras 1954, pp. 298–348). However, they were increasingly getting sidetracked, as much as the resistance was increasingly being vindicated. Of particular impact in that regard were workshops convoked by Hermann von Witzleben, assembling historians, jurists, officers and theologians, tasked to “investigate the history of military resistance against national socialist rule through available documents and the questioning of remaining witnesses” (Witzleben 1956, p. 9). This volume was prefaced by none other than the President of the Federal Republic of Germany, Theodor Heuss. Not the least due to such endorsement, the vindication of the resistance survived the test of time.

Fritz Bauer Versus Germany?

The Remer case was a model of didactic proceeding. From the choice of the defendant, nature of the charges, legally imaginative techniques used in the courtroom and the careful political brinkmanship outside of it, it is apparent that the prosecution was led by a simple goal, the stabilization of a narrative of heroic resistance against Hitler. Finding in this a lowest common

denominator over which post-war German elites from the right to the left could agree upon, Fritz Bauer's strategy of building a consensus around this question is typical for the limitations of *Vergangenheitsbewältigung* in Adenauer's Germany and underscores the importance of political context for the success of such a venture.

The utilization of legal processes to promote a certain interpretation of past is one of the realms in which practice predates theorization. Bauer's launching of the Remer trial occurred a good decade before first Otto Kirchheimer's *Political Justice: The Use of Legal Procedure for Political Ends* (1961) and Hannah Arendt's *Eichmann in Jerusalem: A Report on the Banality of Evil* (1963), probably for the better, as these early contributions served as deterrents to didactic trials. Each for their own reasons, Arendt and Kirchheimer insisted on the minimization of extralegal effects of a criminal trial, and both warned against the role of judicial proceedings in collective memory making. They both agreed that such undertakings lead to the politicization of trials and erosion of the rule of law. Kirchheimer was explicit: "German authorities had a full decade to get busy, and, official assertions to the contrary, could have undertaken many more prosecutions than they managed to do. At best, uncertain shifts in public appreciation were not good enough reason to withdraw from anybody the benefits of the statute of limitations" (Kirchheimer 1961, 336 f49). For fellow émigré from Germany Hans W. Baade, "[T]he lesson seems clear: judicial pronouncements on political history are fraught with unusually grave dangers and should be avoided wherever possible" (Baade 1961, p. 468). Hannah Arendt expressed a similar opinion in a generalizable manner which became a powerful dictum: "[T]he purpose of the trial is to render justice, and nothing else; even the noblest of ulterior purposes—the making of a record of the Hitler regime which would withstand the test of history—can only detract from the law's main business: to weigh the charges brought against the accused, to render judgment, and to mete out punishment" (Arendt 1963, p. 233). Understandably, they all saw Pandora's box opening if the state were to stage criminal trials for pedagogical purposes.

How come that Bauer, with his impressive human rights record, seemed undeterred with such concerns? Unlike these political scientists who worked from the outside, perceiving Germany as a unified actor, Bauer was working in the German legal system, attempting to produce a change within. He was in a position to observe that after such violent conflict, regardless of the change of regimes and ideologies, many lines of division inherited from wartime persist into the post-war period. Embodied in the expression "Two Germanies," these factions could clash even in a system as hierarchical as the judiciary. *The State against Fritz Bauer* was the title of a 2015 feature film that portrayed him as a lone quixotic figure acting against the prevailing prosecutorial policies. However, there is more. Undoubtedly swimming against the current, Bauer successfully used an opportunity to drive a wedge right into the contradictions of the post-war German state. Himself a former

political emigrant, Bauer forced Remer into emigration. Furthermore, using innovative technics in the courtroom, he brought German resistance against Hitler to public attention. Understanding that such cases are fought both in the courtroom and outside it, he molded the defeat of July 20 into a historical victory, and helped place it as one of the foundational pillars of post-war German democracy.

However, it would be as tempting as it would be incorrect to conclude that the Remer trial was a turning point, directing Germany towards a thorough legal reckoning with its atrocious past. Actually, statistics in this field reveal a consistent downward tendency, with 123 convictions of Nazi perpetrators in 1952 and in 1953 as well, 44 in 1954, and only 21 in 1955 (Rückert 1982, pp. 329–332). However, from this low point a trend started slowly to reverse. The change is frequently attributed to the advent of a new unburdened generation coming to the fore to ask unpleasant questions. This interpretation rests on a mechanical vision of the passage of time as a generator of change. Without a number of events taking place in the seemingly dormant period of the 1950s, and without an engagement of personalities like Bauer, the next generation would simply have nothing on which to build. The Remer trial definitely belongs to this powerful undercurrent, which alongside the Ulm trial and the creation of the Ludwigsburg Central Office (Tobin 2011) fostered a transition from rendering justice on an international level to a domestic program of war crimes prosecution (Haberer 2005). Although not dealing with war crimes, the Remer case is an integral part of this process, and its indispensable precondition. Legal vindication of the resistance and condemnation of Hitler's regime offered a coherent narrative for a newly founded state, broad enough to encompass both the moderate left and the moderate right, yet ethical enough to open the way for further examinations of the Nazi past.

REFERENCES

- Arendt, H. (1963) *Eichmann in Jerusalem. A Report on the Banality of Evil* (London: Faber and Faber).
- Baade, H. (1961) 'Social Science Evidence and the Federal Constitutional Court of West Germany', *The Journal of Politics*, 23(3), 456–468.
- Bauer, F. (1998) 'Eine Gränze hat Tyrannenmacht. Plädoyer in Remer-Prozess' in F. Bauer, *Die Humanität der Rechtsordnung* (Frankfurt: Campus), pp. 169–179.
- Bode, T. (1952) 'Remer wird zur Randfigur des Prozesses', *Frankfurter Allgemeine Zeitung*, March 10.
- Burghardt, B. (2012) 'Vor 60 Jahren. Fritz Bauer und der Braunschweiger Remer-Prozess. Ein Strafverfahren als Vehikel der Geschichtspolitik', *Journal der Juristischen Zeitgeschichte*, 6(2), 47–92.
- Cohen, D. (2006) 'Transitional Justice in Divided Germany after 1945' in J. Elster (ed.) *Retribution and Reparation in the Transition to Democracy* (Cambridge: Cambridge University Press), pp. 59–88.

- Dippel, K. (1986) *Die Stellung des Sachverständigen im Strafprozess* (Heidelberg: Dekker).
- Douglas, L. (2000) *The Memory of Judgment. Making Law and History in the Trials of the Holocaust* (London: Yale University Press).
- Eichmüller, A. (2008) 'Die Strafverfolgung von NS-Verbrechen durch westdeutsche Justizbehörden seit 1945. Eine Zahlenbilanz', *Vierteljahrshefte für Zeitgeschichte*, 56(4), 621–640.
- Finker, K. (1971) *Stauffenberg und der 20. Juli 1944* (Berlin: Union-Verlag).
- Frei, N. (1998) 'Die Rückkehr des Rechts. Justiz und Zeitgeschichte nach dem Holocaust / eine Zwischenbilanz' in A. Bauerkämper, M. Sabrow and B. Stöver (eds.) *Doppelte Zeitgeschichte. Deutsch-deutsche Beziehungen 1945–1990* (Bonn: Verlag JEW Dietz), pp. 417–431.
- Frei, N. (2002) *Adenauer's Germany and the Nazi past. The Politics of Amnesty and Integration* (New York: Columbia University Press).
- Friedländer, E. (1952) 'Dead Men on Trial', *The Spectator*, March 28, 6–7.
- Fröhlich, C. (2006), 'Wider die Tabuisierung des Ungehorsams'. *Fritz Bauers Widerstandsbegriff und die Aufarbeitung des NS-Verbrechen* (Frankfurt: Campus Verlag).
- Haberer, E. (2005) 'History and Justice. Paradigms of the Prosecution of Nazi Crimes', *Journal for Holocaust and Genocide Studies*, 19(3), 487–518.
- Jackson, R. (1945) *Letter from to Harry S. Truman*, War Crimes File, Harry S. Truman Presidential Museum & Library, pp. 1–15.
- Kirchheimer, O. (1961) *Political Justice. The Use of Legal Procedure for Political Ends* (Princeton: Princeton University Press).
- Kraus, H. (1953) *Die im Braunschweiger Remerprozess erstatteten moraltheologischen und historischen Gutachten nebst Urteil* (Hamburg: Girardet co).
- Kroesche, H. (2008) 'Der Nürnberger Prozess gegen die Hauptkriegsverbrecher 1945/46 im Spannungsfeld von veröffentlichter Meinung und Bevölkerung', *Juristische Zeitgeschichte*, 16, 133–145.
- Landgericht Braunschweig (1953) 'Urteil des Landgerichts Braunschweig vom 15. März 1952 in der Strafsache engen Generalmajor a. D Remer wegen übler Nachrede' in H. Kraus, *Die im Braunschweiger Remerprozess erstatteten moraltheologischen und historischen Gutachten nebst Urteil* (Hamburg: Girardet co), pp. 9–40.
- Lewy, G. (1960) 'Resistance to Tyranny. Treason, Right or Duty?', *The Western Political Quarterly*, 13(3), 581–596.
- Moras, J. (ed.) (1954) *Deutscher Geist zwischen Gestern und Morgen* (Stuttgart: Deutsche Verlags Anstalt).
- Osas, V. (1954) *Die Wahrheit über den 20. Juli 1944 mit Dokumenten* (Hamburg: Bundeszentrale für Heimatsdiens).
- Osiel, M. (2008) 'In Defense of Liberal Show Trials–Nuremberg and Beyond' in G. Mettraux (ed.) *Perspectives on the Nuremberg Trial* (New York: Oxford University Press), pp. 704–726.
- Pendas, D. (2006) *The Frankfurt Auschwitz Trial, 1963–1965. Genocide, History, and the Limits of the Law* (Cambridge: Cambridge University Press).
- Remer, O. (1951) *20. Juli 1944*. (Hamburg-Neuhausen: Verlag Deutsche Opposition).
- Rothfels, H. (1949) *Die deutsche Opposition gegen Hitler* (Krefeld: Scherpe).
- Rouso, H. (2002) *The Haunting Past. History, Memory, and Justice in Contemporary France* (Philadelphia: University of Pennsylvania Press).

- Rückerl, A. (1982) *NS-Verbrechen vor Gericht* (Heidelberg: Müller Juristischer Verlag).
- Schmidt, J. (1952) 'Ein Landgericht soll Geschichte schreiben', *Süddeutsche Zeitung*, March 11.
- Searle, A. (2016) 'Die unheilbare Wunde. Der 20. Juli im kollektiven Gedächtnis der Wehrmachtsgeneralität (1949–1969)' in *Verräter? Vorbilder? Verbrecher? Kontroverse Deutungen des 20. Juli 1944 nach 1945* (Berlin: Frank & Timme), pp. 97–128.
- Seraphim, H. (1954) 'Nachkriegsprozesse und zeitgeschichtliche Forschung' in H. Kruse and H. Seraphim (eds.) *Mensch und Staat in Recht und Geschichte. Festschrift für Herbert Kraus* (Kitzingen/Main: Holzner-Verlag), pp. 436–455.
- Serwe, L. H. (1984) 'Zum Unterschied zwischen übler Nachrede (§ 186 StGB) und Verleumdung (§ 187 StGB)', *Schiedsamts Zeitung*, 55(10), 146–149.
- Simpson, G. (1997). 'Didactic and Dissident Histories in War Crimes Trials', *Albany Law Review*, 60(3), 801–839.
- Taylor, T. (1949) *Final Report to the Secretary of the Army on the Nuremberg war crimes trials under control council law no.19* (Washington DC: U.S. Government Printing Office).
- Tobin, P. (2011) 'No time for "old fighters". Postwar West Germany and the origins of the 1958 Ulm Einsatzkommando Trial', *Central European History*, 44, 684–710.
- Wilson, R. (2005) 'Judging History. The Historical Record of the International Criminal Tribunal for the Former Yugoslavia', *Human Rights Quarterly*, 908–942.
- Wittmann, R (2008) 'Tainted Law. The West German Judiciary and the Prosecution of War Crimes' in P. Heberer et al (ed.) *Atrocities on Trial. Historical perspectives on the Politics of Prosecuting War Crimes* (Lincoln: University of Nebraska Press), pp. 211–230.
- Witzleben, H. (ed.) (1956) *Vollmacht des Gewissens* (Frankfurt am Mein: Europäischen Publikation).
- Wojak, I. (2009) *Fritz Bauer 1903–1968. Eine Biographie* (München: C.H. Beck).

Historical Testimony for the Government in *US v. Philip Morris, et al.*

Ramses Delafontaine

HISTORICAL TESTIMONY FOR THE STATE

Historians are testifying as expert witnesses in court in increasing numbers on a variety of subjects all over the globe since the end of the Second World War. This is especially the case in the United States where historians testify on a wide variety of subjects ranging from product tort liability to the interpretation of Indian treaties. European countries with a civil law tradition have employed common law inspired forms of historical expert testimony in a number of politicized cases that sought to confront the Second World War and the Shoah. Supranational institutions, international ad hoc tribunals, and national historical commissions adjudicating genocide and other crimes against humanity have enlisted historians as providers of historical evidence.

In *US v. Phillip Morris, et al.*, a civil case filed in 1999 in the District Court of the District of Columbia, the Department of Justice [DOJ] sued six major American tobacco companies. All parties in this case sought historical testimony that would, respectively, prove or refute that these companies had organized a conspiracy since the 1950s to defraud the American public at the expense of the public's health. Lawyers, politicians, historians, and the tobacco control movement had had suspicions about elements of the conspiracy for decades but had lacked the documents to prove its existence. In 1999 internal company documents that had only recently become available through whistleblowers, congressional hearings, and previous litigation allowed

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historians and lawyers to supplement the published histories of the cigarette with the theretofore unknown internal history of the tobacco industry. The documents containing the most inculpatory statements were published widely by the press. The public outrage that followed allowed more politicians to advocate government regulation of cigarettes and the tobacco companies (Kessler 2001; Brandt 2007; Proctor 2012).

Tobacco litigation in the United States and the role of historians therein has a complex history of its own (Delafontaine 2015; Proctor 2012, Chap. 24; Kyriakouides 2006). For this chapter I have focused on the extent, if any, to which the historical testimony of the government's two historians was determined or influenced by DOJ lawyers and administration politics. Because of this focus I address little of the tobacco companies' historical narrative and the testimonies of the three historians hired by the defendants. I have focused on the construction of, form of, possible adjustments to, reasoning behind, and effects of the historical testimony of the governments' witnesses rather than laying out the details of the history to which these historians testified.

Expert witnesses stand apart from fact witnesses because they are allowed to include an opinion in their testimony in addition to and based on the facts of the case. Expert witnesses are extended this courtesy in order to help the jury and/or the judge to better interpret complicated issues. In other words, expert witnesses are called upon to explain and give their opinion on matters that neither the judge nor the jury can understand without advanced knowledge and expertise in that subject matter.¹ In *US v. Philip Morris*, et al. both the defense and the plaintiff disclosed several potential witnesses with expertise in medicine, economy, chemistry, biology, psychology, and history.

METHODOLOGY

I reconstructed the interaction between the following key actors: the Clinton and Bush administrations, the DOJ lawyers (particularly Stephen Brody and Sharon Eubanks), the historians disclosed as experts for the government (Prof. Allan Brandt and Prof. Robert Proctor), defense lawyers, and Judge Gladys Kessler. All of these actors have been contacted by the author, if contact information was available, enquiring whether they were willing to answer questions on *US v. Philip Morris*, et al. Positive replies resulted in exchanges via mail, over the phone, or during interviews.² The most important primary sources were the court documents relating to the DOJ's case, Brandt's and Proctor's respective expert reports and depositions, Brandt's written direct testimony, and daily court records of Brandt's cross- and redirect examination, as well as Judge's Kessler's court orders and opinion. Secondary sources included the monographs published, respectively, by Brandt and by Proctor as well as the book by former DOJ lawyer Eubanks.

GOOD POLICY AND GOOD POLITICS

On the evening of January 19, 1999 before a joint session of the 106th United States Congress, Democratic President Bill Clinton announced that his Department of Justice was “preparing a litigation plan to take the tobacco companies to court.” The president of the United States had just singled out the American tobacco industry to recover hundreds of billions of dollars taxpayers had spent under Medicare and other programs to pay for the cost of lung cancer, emphysema, and other smoking-related illnesses (Clinton 1999).

Surely no applause was to be heard at the corporate offices of American Tobacco, Brown & Williamson, Liggett, Lorillard, Philip Morris, and R.J. Reynolds. The industry had gone through a challenging decade. The 1990s had been marked by increased litigation, a stronger plaintiff’s bar, the industry’s first losses in litigation, potent federal attempts to regulate cigarette marketing and manufacturing, and a deteriorating public image due to a combination of scientific progress and publications of damaging internal company documents. But the tobacco companies were nonetheless ready for another fight. Scott Williams, tobacco industry spokesman, was quoted in the *New York Times* arguing that the administration’s legal initiative was “blatantly political” (Meier 1999a, b).

President Clinton’s anti-smoking initiatives were good policy as well as good politics (Connolly and Mintz 1998). The timing of the announcement of the plans for litigation in the State of the Union was arguably strongly influenced by the latter, rather than by opportune legal timing. With ongoing impeachment proceedings before the Senate, it is not unreasonable to assume that the administration hoped that the announcement to sue the tobacco companies would deflect some attention from the hearings. So unexpected was the move that the DOJ only began to assemble a team to prepare the case in the days following the State of the Union (Eubanks 2013, pp. 3, 7). It would take the DOJ over eight months to file its suit.

ALLEGING THE TOBACCO CONSPIRACY

After filing the complaint on September 22, 1999, US Attorney General Janet Reno held a press conference. Reno declared that the United States alleged that “for the past forty-five years the companies that manufacture and sell tobacco have waged an intentional and coordinated campaign of fraud and deceit. ... designed to preserve their enormous profits whatever the costs in human lives, human suffering, and in medical sources.” She added that: “Each year 400,000 Americans die from smoking cigarettes. And as a result, each year the federal government alone spends more than \$20 billion in taxpayer money just to treat diseases caused by cigarettes” (Reno 1999). The complaint alleged that this coordinated and collective campaign of disinformation was perpetrated in three ways, namely (1) by not sharing internal scientific findings that displayed cigarettes as the cause of disease and addiction,

(2) by actively combatting scientific research that came to a similar conclusion in order to maintain the idea that the science was contested and therefore could not warrant any action while admonishing the companies from any legal liabilities if the product turned out to be harmful, (3) by repeatedly proclaiming an interest in the public's health to convince consumers to trust the companies. All these efforts sought to keep smokers and new smokers to continue their habit and in doing so caused disease and death (Ogden et al. 1999a, pp. 13–49). The appendix of the complaint details 116 racketeering acts that were dated from 1953 up to 1999 (Ogden et al. 1999b). The complaint names eleven defendants: the previously mentioned six tobacco companies, three parent companies, as well as an industry-controlled public relations office fronted as an independent research center called the Council for Tobacco Research [CTR] and the tobacco industry's Washington-based lobbying association known as the Tobacco Institute [TI] (Ogden et al. 1999a, pp. 5–13).

The DOJ's complaint was based on four counts. The first one was based on the Medical Care Recovery Act [MCRA] (42 U.S.C. §§ 2651–2653). The second was pursued under Medicare Second Payer provisions of the Social Security Act [MSP] (42 U.S.C. § 1395y). The third and fourth counts were both pursued under the civil provisions of the Racketeer Influenced and Corrupt Organizations Act [RICO] (18 U.S.C. §§ 1961–1968). Enacted in 1970, RICO had originally been conceived to prosecute organized crime and more precisely mob families. Civil provisions in RICO allowed the DOJ to prosecute entities that acted as an enterprise with intent to profit of a pattern of racketeering activity consisting of acts that constitute mail and wire fraud that affected interstate and foreign commerce (18 U.S.C. § 1962(c), § 1962(d), § 1964(a)). The defendants had allegedly acted as an enterprise as described in RICO to conceal information of an unreasonably dangerous product (Ogden et al. 1999a, pp. 49–82). The DOJ sought restitution under the first two counts to compensate the expenditures the government had made or would make on hospital, medical, surgical, and dental care and treatment of cigarette-caused diseases. Under RICO the DOJ sought to disgorge the defendants of their allegedly ill-gotten gains (Ogden et al. 1999a, pp. 83–87).

THE TOBACCO LITIGATION TEAM'S MULTIPLE TRIBULATIONS

The DOJ's Tobacco Litigation Team [TLT] faced several challenges that can be divided along three lines: political, scale of the case, and scorched-earth litigation tactics employed by the defense.³ The TLT's struggles with political appointees at the top of the DOJ is the main story of *Bad Acts*, a memoir written by the TLT's director Sharon Eubanks. There were two important moments when political influence left noticeable footprints. The first was the decision by political appointees of the Clinton administration to remove

issues on secondhand smoking from the complaint only the night before the day the complaint was filed. According to Eubanks, the decision was made because the representatives of the administration felt that “the science wasn’t there” (Eubanks 2013, pp. 24–25). The second instance occurred when political appointees of the Bush administration forced the TLT to lower the figure the DOJ sought from the defendants to fund certain remedies such as smoker cessation programs from \$130 billion to \$10 billion (Eubanks 2013, pp. 217, 234–236). George W. Bush had been sworn in on January 20, 2001 and the Bush administration considered the case to be an annoying relic bequeathed to them by the Clinton administration (Eubanks 2013, p. 154). The other political challenge the TLT faced under both administrations was to get funding for the trial from Congress (Eubanks 2013, pp. 30, 72, 95). Yet, despite all the political intrigue the TLT lawyers struggled with, the team seemed to have been able to work relatively independently in handling the case and proving the allegations their complaint had made. I have not found any indication in this case that an administration actively sought to promote a certain version of history at the cost of the testifying historians’ independence or history itself. The TLT’s strategy was to find historians who through independent research had come to similar results as the historical story the TLT wanted to tell in court.

The TLT needed every dollar that Congress would allocate for the trial in order to manage the ever-increasing cost of the case. The TLT numbered between 15 and 35 lawyers over the course of the trial whereas the tobacco companies hired hundreds of lawyers all from firms experienced by their decades-long involvement in tobacco litigation (Eubanks 2013, pp. 42, 59, 77, 156). The tobacco lawyers tried to overwhelm the TLT by filing motion after motion, numerous briefs, and by bending the rules of discovery and client-privilege in order to problematize and prolong the discovery process (Eubanks 2013, pp. 4–5, 43, 49, 62–69, 102–105, 191–193, 210–211).⁴

In September of 2000, Judge Kessler partly granted the defendants’ motion to dismiss all four counts of the complaint. The court found that the recovery as argued in the government’s complaint was not intended under both MCRA and MSP statutes. This meant that counts one and two of the complaint were dismissed. Counts three and four were not dismissed and as such the government was now pursuing a fraud case hinging solely on the RICO act (Kessler 2000). To prove their allegations, the TLT faced 73 billion potentially relevant pages of internal industry documents (Eubanks 2013, p. 112). Their original exhibit list for trial encompassed 85,000 documents (Eubanks 2013, p. 167). Although now available online, these documents were at the time only in a very small part available in digital format and only a handful of people had worked with these massive stacks of documents. Having a historian testify as an expert witness would allow the introduction of these documents as evidence and provide the court with scientifically based expert testimony that proved the DOJ’s position. Expert historical testimony

would allow for what Eubanks described as telling the story “through the witness’ eyes” (Eubanks 2013, p. 169).

ALLAN BRANDT AND ROBERT PROCTOR BECOME EXPERT WITNESSES FOR THE DOJ

The TLT sought historical testimony that proved seven pillars of fraud. The DOJ alleged that the tobacco companies had collectively decided to deny falsely the adverse health effects of smoking; to deny falsely that nicotine and smoking were addictive; to deny falsely that they manipulated cigarette design and composition so as to assure nicotine delivery levels that create and sustain addiction; to represent falsely that light and low-tar cigarettes deliver less nicotine and tar and therefore present fewer health risks than full-flavor cigarettes; to deny falsely that they market to youth; and to suppress documents, information, and research all the while declaring an interest in the health of their customers.

Both Sharon Eubanks and Steven Brody recall that it was clear that the allegations which the DOJ had levelled against the tobacco companies could best be proven by means of expert historical testimony that properly interpreted the inception of the conspiracy by the tobacco companies and their creation of a campaign of doubt on the dangers of their products as well as to deny and attack those scientific findings that linked their products to disease.⁵ Despite the fact that the DOJ itself had collected the previously mentioned newly uncovered internal documents and other available literature to formulate their complaint and present therein a timeline with summaries of the history of the alleged RICO enterprise, the TLT now felt that, to allow the court to understand the complexity of the conspiracy fully, it needed expert historical testimony. Not the political synthesis, nor the legal exposition but a historical analysis had the potential to do full justice to the cigarette conspiracy. The TLT contacted two historians: Prof. Allan Brandt and Prof. Robert Proctor who were both working with the formerly secret documents.

Brandt is a professor of the history of medicine at Harvard. He had been researching and had published on the history of tobacco-related diseases since 1990. During the 1990s Brandt was working on a book on the cultural history of American perceptions of the cigarette in the twentieth century. He had been contacted by defense and plaintiff’s lawyers to testify as an expert witness during the 1990s and had refused every proposal. Russel Kinner, a member of the TLT, had inquired towards the end of 2001 whether Brandt would be willing to testify for the DOJ but Brandt turned him down as well. Brandt had several reasons for refusing these offers. First, he was not convinced that a “historian’s perspective would carry much weight in a courtroom, where the combat scarcely resembles the staid academic debates.” Second, Brandt did not think the adversarial context of the courtroom was the best place to explain his argument in full detail. Third,

he worried about the loss of control over his work and research autonomy (Brandt 2007, pp. 494–496). In February 2002, Stephen Brody, the TLT’s deputy director, visited Brandt at Harvard. Brody listened to the findings and theories Brandt had on the history of the scientific knowledge on cigarettes and disease in the twentieth century. Brody found that Brandt’s findings were similar to the story the DOJ wanted to prove. In addition, Brody had brought copies of the expert statements submitted to the court by the three historians the tobacco companies had disclosed. Brandt knew two of them personally, Kenneth Ludmerer and Peter English who were medical historians as well as practicing physicians. Brandt was “astounded” and “appalled” by their statements. These historians had never published on what they now claimed to have an expertise. Brandt found their statements “poorly researched, inaccurate in their historical assessments, and highly selective in the questions they raised. By asking narrow questions and responding to them with narrow research, they provided precisely the cover the industry sought” (Brandt 2007, p. 497). It was the sense that these inaccurate accounts could not go unopposed that, Brandt says, finally compelled him to become an expert witness for the DOJ.⁶

Proctor was a professor of the history of science at Pennsylvania State University (now at Stanford). Proctor had researched and published on the history of the knowledge of disease causation characteristics of cigarettes in the United States and Germany. In his book *Cancer Wars* (Proctor 1995, pp. 101–132) from 1995 Proctor included a chapter entitled “Doubt It Is Our Product” referring to a famous line from a Brown & Williamson document entitled *Smoking and Health Proposal* from 1969. In the document tobacco lawyers discuss the companies’ public relations strategy to discredit and contradict all research that linked cigarettes to disease in order to create doubt with the consumer (Brown and Williamson 1969). This early discussion of internal tobacco documents also drew attention from the plaintiff’s bar. When Proctor testified in 1999 in *Ironworkers v. Philip Morris*, he was the first historian ever to testify as an expert witness for the plaintiff’s side in tobacco litigation. *Ironworkers* was a class-action lawsuit filed in 1997 by unions who sought to recover funds that had been spent on treating members suffering from cigarette-caused disease (*Ironworkers v. Philip Morris*, 35 F. Supp. 2d 582 1999). In 2000, Proctor noted in an article published in *Nature*, which discussed his involvement in *Ironworkers* and other litigation that

[H]istorians may welcome to play a growing role as expert witnesses in US courts, especially in product liability, where it is often crucial to establish whether or not it was reasonable to have known that a product could have posed a hazard. Scientific practices change over time, as do perceptions of what is an acceptable risk; historians are often in a good position to judge how and perhaps even why such changes have occurred. (Proctor 2000, pp. 15–16)

It was as if Proctor was foreshadowing his own continued involvement in tobacco litigation as an expert witness. Proctor accepted to be disclosed as an expert witness for the DOJ in early 2002 after being contacted by the TLT's Russel Kinner.⁷

The timing of Brandt's and Proctor's engagements as well as their respective backgrounds provides us with additional clues as to why the TLT decided to enlist historians as expert witnesses. The team's second attempt in February of 2002 to convince Brandt to testify hints that historical testimony became a *conditio sine qua non* for the DOJ's legal strategy after the defendants had disclosed on February 1 that they were offering three historians of their own as potential witnesses. The DOJ could not allow the tobacco industry's legal counsel to dominate the historical narrative. In addition, the TLT was inspired by the plaintiffs' bar, which had recently started calling Proctor as an expert witness. Proctor and Brandt were now asked, respectively, to write an expert report in which they had to set out their opinion as well as a rebuttal of the reports submitted by the historians disclosed by the defense.

An expert report forms the basis of the testimony and allows the parties and the judge to get an understanding of the expertise of the witness as well as of the opinion the witness has formed. An expert report responds to a broad question relevant in the litigation. The reports were submitted to the court as well as to the defense on May 10, 2002. Both Proctor's and Brandt's expert reports focused on the evolution of the scientific knowledge of the dangers of smoking and the tobacco industry's coordinated efforts to respond to the growing consensus. Both reports make ample use of internal industry documents. The TLT had provided Brandt and Proctor with several of the recently uncovered documents. The reports are very detailed and touch on all major parts of the conspiracy. Proctor's report also addresses problems with the reports submitted by the historians of the defense, whereas Brandt's clearly did so in substance but he did not mention them by name. Both historians declare that they were both free to write their reports and had no contact with the TLT while writing their report. Although Brandt's report is at times cautious in its conclusions, Proctor's report is more outspoken. Proctor published his report online in *The Journal of Philosophy, Science & Law* in 2004 (Brandt 2002a; Proctor 2002a, 2004). Brandt's report remains unpublished but is publicly accessible through the legal database Pacer and its content has been incorporated into his book, *The Cigarette Century*.

The next step in the discovery process after the submission of the expert reports are the depositions. A deposition is an interrogation of the witness by opposing counsel in the presence of counsel of the party for whom the witness is testifying. The deposition happens under oath with a court reporter present. Depositions are part of discovery and serve to let opposing counsel learn more about the testimony of the witness as well as to determine possible weak points in the opinion of the witness. This opportunity also serves to ascertain what sort of witness the expert will make on the stand.

Opposing counsel will allow the witness to answer at length during deposition as they seek as much information on the expert's opinion as possible. Opposing counsel may use statements made during the deposition on cross-examination.

DEPOSITIONS

Proctor was deposed three months after he had submitted his expert report. Before the deposition there was preparation with TLT lawyer Russel Kinner who repeated the main points on which the defense would be focusing. On July 11 and 12, 2002, Proctor and Kinner and four tobacco lawyers sat in Senate Suite II of the Penn State Conference Center. After being sworn in by the court reporter, Proctor was questioned by Douglas Smith, a lawyer at Kirkland & Ellis who represented Brown & Williamson. Smith asked questions about Proctor's CV and credentials as an expert in the history of cigarettes and the scientific debate on cigarettes as a cause of diseases. After this Smith questioned Proctor on his use of secondary sources. By pursuing this line of questioning the defense sought to establish that Proctor had used more secondary than primary sources. This would then in turn serve to establish that Proctor was just basing his opinion on the opinions of other historians and not on his own research. This discussion led Proctor to explain historical methodology in which he argued that the use of secondary sources is an important part of historical research. Smith also asked Proctor to read and interpret several statements from documents Proctor had used in his expert report. The same can be done when the witness is on the stand in court in the hope that the witness might contradict himself. In addition, Proctor was asked to confirm that he was not an expert in a whole series of subjects. Arguably the defense's main strategy against Proctor was to discredit him as a partisan crusader. Smith asked Proctor about all the grants he had received during his academic career and if any were from the federal government. The defense reasoned that if Proctor had received grants from any federal agency he could no longer be regarded as an impartial witness. The following is an example of that line of questioning:

- Q. So in total, you've received monetary payments from four different agencies or entities within the U.S. government?
- A. That's correct. Yes. Fortunately, the national—the government is one of the ways a scholar can get some funding.
- B. And you're grateful for all the money that You've been provided from the U.S. government; right?
- A. That's true.

(Proctor 2002b)⁸

Reading Proctor's deposition, it is clear that he has experience in his interaction with lawyers as well as with testifying and handling difficult or insinuating lines of questioning.

Brandt had never testified before. He and Stephen Brody also prepared his deposition. Brody explained to Brandt the rules and goals of a deposition after which they went over the important subjects that were going to be brought up during the questioning. Brandt was deposed on August 15 and 16 of 2002 in a court reporting office in Boston. Douglas Smith would also do the questioning while a lawyer for Philip Morris listened in over the phone. Smith went through Brandt's credentials and curriculum vitae relatively quickly. After this he questioned Brandt on how much he was paid to prepare his testimony and how much time he had spent on the case. The defense lawyers followed a similar pattern they had followed when questioning Proctor. They also sought all the possible fields that Brandt was not an expert in. Further inquiries questioned Brandt on the use of primary and secondary sources and historical methodology. Also similarly to the strategy in Proctor's deposition, Smith sought to depict Brandt as a hired gun. In addition to questions on federal funding, Smith asked Brandt about his role in advising the Surgeon General Report of 2000 and other reports in an effort to find material to allege successfully that Brandt was an anti-tobacco advocate working for the government. Smith also sought to let Brandt acknowledge that several of the tobacco companies' witnesses were experts in their field. The most dominant overall theme of the deposition was the defense's strategy to get Brandt to acknowledge that the government was the one who had done the deceiving by allowing the tobacco companies to sell a product that the government had known was harmful. This strategy was not convincing (Brandt 2002b).⁹

Remarkably little attention went to questions on the actual reports and opinions of the witnesses. The defense focused on tactics that sought to lay the groundwork for discrediting the witness on cross-examination. In deposition, opposing counsel controls the narrative leaving little to no room for the DOJ to influence the answers by the historians.

BRANDT TAKES THE STAND

More than two years later, in September 2004, the trial began. Only Brandt was to testify in the actual court case. The precise motives for this decision remain unknown, yet there are indications: Eubanks and Brody acknowledge having a witness whom the tobacco lawyers knew was a liability. In addition, Brandt did very well during his deposition, was writing a book on the subject, and was a professor at Harvard. All these elements probably played a role in the TLT's decision to select Prof. Brandt as their trial witness. He was the second witness out of 33 expert witnesses the DOJ called at trial, which indicates the importance the TLT attributed to the historical testimony.

Considering that this was a bench trial and in order to save time Judge Kessler opted to have the direct testimony in written form. The direct testimony is the opportunity for the lawyers to present a strong story in the courtroom that fully supports their case. Brandt's direct testimony is an expansion of his expert report. Brandt's opinions expressed therein are the same as those represented in his report and during deposition. Brody mentions that this direct testimony was a somewhat artificial Q & A, which missed the performance that the courtroom requires (Brandt 2004a). The written direct testimony was constructed in collaboration with the lawyers of the TLT.

The evening before Brandt's cross-examination he and Brody were discussing his testimony and the points on which the defense lawyer was probably going to focus. Shortly before finishing, Sharon Eubanks, who led the TLT, passed by and asked whether Brandt understood what happens during cross-examination. Brandt answered that he "realized that the industry lawyers would try to make me look as bad as possible." "No," Eubanks responded, "That's not it. They want to destroy you and leave you in a pool of blood" (Brandt 2007, pp. 500–501).

Brody would later recall how he afterwards urged Eubanks not to increase the nervousness of his already nervous witness.¹⁰ On cross-examination Bernick, a defense lawyer, had indeed only one goal: to discredit the witness and his testimony. On September 27, 2004, more than two and a half years after having agreed to testify for the DOJ, Brandt took the stand. Gene Borio, who was present in the courtroom and posted daily blogposts on the case described Prof. Brandt's testimony as follows:

Dr. Allan Brandt was sworn in. Brandt was dressed in a dark suit and dark tie; he comes off as quite intelligent and very composed—like a more handsome but certainly less theatrical Richard Dreyfuss. He is extremely knowledgeable about his subject. His Direct Testimony was powerful and clear, detailing development of a consensus in the medical world that smoking caused lung cancer. He also detailed the industry's reaction to this developing consensus in 1954, i.e., the formation of the TIRC (later, CTR). (Borio 2004)

Bernick had a clear strategy to enervate Brandt by schooling him and cutting off his answers, demanding that Brandt answered only with "yes" or "no" to what Brandt described as "long and involved questions" (Brandt 2007, p. 500). Similar to what Smith had done during the deposition, Bernick sought to paint Brandt as a partisan advocate (Brandt 2004b).

JUDGE KESSLER'S OPINION

On August 17, 2006, Judge Gladys Kessler delivered her final opinion in *US v. Philip Morris*, et al. More than seven years had passed since President Bill Clinton's State of the Union Address when Judge Kessler ruled in favor of the government. In a 1683-page opinion, Judge Kessler detailed how "[O]

ver the course of more than 50 years, Defendants lied, misrepresented, and deceived the American public, including smokers and the young people they avidly sought as ‘replacement smokers’” (Kessler 2006, pp. 1500–1501). Kessler found that the DOJ had successfully proven the conspiracy’s seven pillars of fraud. The opinion detailed the conspiracy’s history with impressive precision (Kessler 2006, pp. 1505–1526). The verdict relied in 125 instances on the testimony of Allan Brandt, a number only surpassed by the references to the testimony of expert witness William Farone, who as a chemist and former director of applied research at Philip Morris from 1977 to 1984 had inside information on the conspiracy. Kessler’s opinion referred more to the testimony of historians than to the individual testimony of the DOJ’s experts on nicotine addiction, pulmonary medicine, and epidemiology. It is clear that the historical testimony delivered by Allan Brandt had a significant impact on the final opinion of Judge Kessler. In my opinion, the historical testimony in this case—by both Brandt and Proctor—confirmed the DOJ’s argument and allowed Judge Kessler to understand the conspiracy in its complexity and historical context.

HOW HISTORICAL TESTIMONY INFLUENCED *US V. PHILIP MORRIS, ET AL.*

In *US v. Philip Morris, et al.* the US federal government sought to find historians that could help them prove their allegations. The government’s initiative seems to be limited in this case in the sense that the lawyers for the DOJ found historians who arrived at their research results independently and previous to their involvement in the case. Although there were probably more informal conversations on the testimony between the TLT lawyers and the historians than described here, the documents show these testimonies to be independent scholarly research that should be regarded as excellent scientific work that directly led to the publication of two books. Brandt’s *The Cigarette Century* and Proctor’s *Golden Holocaust* are now both standard works on the history of the cigarette, the tobacco industry, and the cigarette conspiracy.

As Milner Ball notes in his *The Promise of American Law*, facts and law interact in the courtroom with a third element “the potential presentation in court” (Ball 1981). What the deposition, direct- and cross-examination represent is the translation through questioning from fact to metaphor, from scientific conclusions to relatable story. The metaphor that Lon Fuller has called a legal fiction is a constructive notion that allows lawyers and judges to communicate on complex realities (Fuller 1967). It is up to the lawyers to make this translation, to make a new legal representation of the facts, and to make conclusions that convince. The courtroom is thus a fact-making and performative theatre. Part of the performance element in the courtroom exists in the lawyers’ obligation to convince, to prove a case by persuasion, and to do so openly. The expert report is far removed from this performative persuasion.

The deposition and the testimonies are part of the performative element in the legal proceedings. The challenge for testifying historians is to accept these performative elements as another representation of the story they are telling in their scientific publications. This should not be problematic when the rhetorical form of history is the best way to describe history even if that does not correspond to the idea of history as a positivist science. Historians can be rhetorical advocates of the position they believe is the most truthful version of history without being biased advocates even in a government-controlled environment. The most challenging narrative technique for the historian presents itself during deposition and testimony. These stages should be seen in the light of translating one story-telling mode to another. The legal mode seeks a definitive answer formulated in generally applicable and strictly defined concepts whereas the historical mode is more descriptive and *sui generis* while remaining open to new interpretations.

Although Judge Kessler in the end ruled in favor of the government, no money would be paid by the tobacco companies and the remedies are still disputed in court. Two feats should be considered. First, that the tobacco companies' traditional legal defense which was increasingly relying on historical testimony did not succeed because of Brandt's and Proctor's testimonies. Second, that the opinion produced by Judge Kessler relied heavily on the historical story the government alleged. Kessler's ruling convicted the largest American tobacco companies for racketeering and two historians and their research had an important part in that.

NOTES

1. The legal rules that govern the admission and testimony of expert witnesses are set out in Fed. R. Evid. 702–706 and determined according to the following case law *Frye v. United States*, 293 F. 1013 1923; *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 1993; *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 1999. The specific qualifications these rules describe have yet to become stringently enforced in American courts for historians. In this case historians as expert witnesses were conceived in the broad terms as I have described above.
2. I particularly want to thank Allan Brandt, Stephen Brody, Sharon Eubanks, and Robert Proctor for taking the time to answer my questions.
3. Scorched-earth litigation tactics are generally used by the party with the most financial and legal means to pressure the other party into giving up the case. There are three main areas. The first is to make use of the rules of legal procedure to lengthen the trial. A second is to increase the complexity of a case by using, for example, expert witnesses with whom smaller and less experienced law firms and lawyers might have trouble. And third, the efforts to overwhelm opposing counsel with endless motions, disputes, interrogatories, and document requests. The previous three strategies contribute to the ultimate goal which is to make the whole trial so expensive that trying the case will make the

other side go broke or so frustrating that settling or giving up will seem the most reasonable solution.

4. Discovery precedes the actual trial and allows opposing parties to determine what evidence parties have and which they plan to use in court.
5. Personal correspondence with Stephen Brody and Sharon Eubanks.
6. Personal correspondence with Allan Brandt and Stephen Brody.
7. Personal correspondence with Robert Proctor.
8. Personal correspondence with Robert Proctor.
9. Personal correspondence with Allan Brandt and Stephen Brody.
10. Personal correspondence with Stephen Brody.

REFERENCES

- Ball, M. (1981) *The Promise of American Law. A Theological, Humanistic View of Legal Process* (Athens, Georgia: University of Georgia Press).
- Borio, G. (2004) Monday, PM: Bernick v. Brandt, *Blogging Tobacco On Trial*, September 27. www.tobacco-on-trial.com/2004/09/27/92704-pm-session-no-am-session. Accessed 14 September 2016.
- Brandt, A. (2002a) Expert Report Submitted by Allan M. Brandt on Behalf of the Plaintiffs in *US v. Philip Morris, et al.*, May 10.
- Brandt, A. (2002b) Deposition of Allan M. Brandt, in *US v. Philip Morris, et al.*, August 15–16.
- Brandt, A. (2004a) Written Direct Testimony of Allan M. Brandt, in *US v. Philip Morris, et al.*, September 20.
- Brandt, A. (2004b) Testimony of Allan M. Brandt, in *US v. Philip Morris, et al.*, September 27–28.
- Brandt, A. (2007) *The Cigarette Century. The Rise, Fall, and Deadly Persistence of the Product that Defined America* (New York: Basic Books).
- Brown & Williamson. (1969) Smoking and Health Proposal. www.industrydocumentslibrary.ucsf.edu/tobacco/docs/#id=psdw0147. Accessed 14 September 2016.
- Clinton, W. (1999) State of the Union Address. Speech presented to a Joint Session of Congress, House of Representatives, Washington DC, January 19.
- Connolly, C. and Mintz, J. (1998) Unlikely Alliance Enlisted President for Tobacco War, *Washington Post*, March 31.
- Delafontaine, R. (2015) *Historians as Expert Judicial Witnesses in Tobacco Litigation. A Controversial Legal Practice* (New York: Springer International Publishing).
- Eubanks, S. (2013) *Bad Acts. The Racketeering Case Against the Tobacco Industry* (Washington: APHA Press).
- Fuller, L. (1967) *Legal Fictions* (Stanford: Stanford University Press).
- Kessler, D. (2001) *A Question of Intent. A Great American Battle With a Deadly Industry* (New York: Public Affairs).
- Kessler, G. (2000) Memorandum Opinion, September 18.
- Kessler, G. (2006) Final Opinion in *US v. Philip Morris, et al.*, August 17.
- Kyriakouides, L. (2006) ‘Historians’ Testimony on “Common Knowledge” of the Risks of Tobacco Use: a Review and Analysis of Experts Testifying on Behalf of Cigarette Manufacturers in Civil Litigation’, *Tobacco Control*, 15, 107–116.

- Meier, B. (1999a) State of the Union. The Proposals; Clinton's Lawsuit Threat Shocks Tobacco Industry, *The New York Times*, January 20.
- Meier, B. (1999b) U.S. Takes Step Toward Tobacco Suit, *The New York Times*, April 7.
- Ogden, D., Lewis, W., Schultz, W., Glynn, J., Perrelli, T., and Eubanks S. (1999a) Complaint for Damages and Injunctive and Declaratory Relief in *US v. Philip Morris, et al.*, September 22.
- Ogden, D., Lewis, W., Schultz, W., Glynn, J., Perrelli, T., and Eubanks, S. (1999b) Appendix to Complaint, *US v. Philip Morris, et al.*, September 22.
- Proctor, R. (1995) *Cancer Wars. How Politics Shapes What We Know and Don't Know About Cancer* (New York: Basic Books).
- Proctor, R. (2000) 'Expert Witnesses Take the Stand', *Nature*, 407, 15–16.
- Proctor, R. (2002a) Expert Report Submitted by Robert N. Proctor on Behalf of the Plaintiffs in *US v. Philip Morris, et al.*, May 10.
- Proctor, R. (2002b) Deposition of Robert N. Proctor, July 11–12, in *US v. Philip Morris et al.*
- Proctor, R. (2004) 'Tobacco and Health', *The Journal of Philosophy, Science & Law*, 4.
- Proctor, R. (2012) *Golden Holocaust. Origins of the Cigarette Catastrophe and the Case for Abolition* (Berkeley: University of California Press).
- Reno, J. (1999) Press Conference, Robert F. Kennedy Main Justice Building, Washington DC, September 22.

A One-Sided Coin: A Critical Analysis of the Legal Accounts of the Cypriot Conflicts

Nasia Hadjigeorgiou

INTRODUCTION

This chapter seeks to compare and contrast the series of legal cases that were launched by the Republic of Cyprus (hereafter, Republic or RoC), both in domestic and international courts, in response to the coup d'état and the Turkish military invasion of 1974. An analysis of this case law suggests that the RoC reacted to the two events in very different ways: although the response to the coup was sporadic and disorganised, the legal action taken against Turkey concerning the consequences of the invasion was well-planned and executed. Additionally, the ways in which the cases have been subsequently used by the state in order to shape the popular narrative concerning the two historical events also differ.¹ The tendency discussed here—to use the law in order to provide greater or lesser authority to historical claims—is not unique to Cyprus.² However, the close temporal proximity between the two events in question, both taking place in 1974, and the strikingly different responses to them by the state make for a particularly interesting comparison. The contrast between these varied state reactions offers a partial explanation for why the two events are remembered so differently by the Greek Cypriot (henceforth, GC) public: barely in the case of the coup and vividly in that of the invasion.

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A VARIED REMEMBRANCE OF THE CYPRIOT CONFLICTS

On 15 July 1974 a GC paramilitary organisation staged a violent coup d'état against the legitimately elected and very popular president of the RoC. Because the objective of the coup was to unite Cyprus with Greece, which was at the time a right-wing military dictatorship, the main victims of the violence were Turkish Cypriots and leftist GC. During the week that followed, the president, who had escaped and was being harboured abroad, was replaced by Nikolaos Sampson, the owner of a virulent nationalist newspaper and a puppet of the Greek junta government (ICG 2008, p. 1). Sampson's supporters responded violently against anyone opposing the new regime, enforced military curfews on the entire population and prevented the publication of oppositional newspapers (*Liasi* 1975, p. 564). This illegitimate, and largely unpopular, government collapsed 8 days later when Turkey, claiming that the coup posed a threat to the survival of the Turkish Cypriot minority, militarily invaded the island (Negatigil 1989). As a result of the Turkish invasion, approximately 165,000 GC were displaced (Global IDP Database 2003, p. 6), almost 1500 went missing³ and thousands were killed. Since 1974, Turkey has military, political and economic control over the north of the island, with the RoC exercising effective control only in the south (*Loizidou* 1997, para. 56).

These twin events—the coup and the military invasion that followed immediately after—are recalled in vastly different ways by the GC population, with the remembrance of the former being overshadowed by that of the latter. Debates about the comprehensive settlement of the 'Cyprus problem,' the shorthand name given to the invasion and ongoing occupation of the island by Turkey, dominate everyday discussions both between politicians and lay people (Christophorou et al. 2010, p. 4). These discussions, among GC at least, almost always start from the premise that Turkey has illegally invaded Cyprus and that a solution to the Cyprus problem should address and respond to this (Lordos et al. 2009, p. 31). Moreover, the state has taken extensive action to remedy victims of the invasion and public events are often organised, either in commemoration of the dead or in remembrance of that day.⁴ The invasion is a key theme of the educational curriculum and pictures of the occupied territories appear on the front page of all textbooks, together with the slogan, 'I don't forget' (Zembylas et al. 2016). Conversely, there is little, if any, discussion about the coup, with the official state policy being one of forgiving and forgetting.⁵ Part of the reason for these very different ways of remembering the two events of 1974 is the contrast between the short duration of the coup, with the legitimate government returning to power within days after its violent overthrow, and the long-term effects of the invasion, which are still experienced by GC today. Not only are the consequences of the invasion more long-term than those of the coup, but they are also more extensive. Although these are not wholly accurate,⁶ according

to official statistics, 19 people died during the coup (Cassia 2005, p. 73) and 5000–6000 during the invasion (Cassia 2005, p. 52).

However, an additional explanation for this one-sided remembrance concerns the way in which the RoC has used the law to sanction history by projecting the public's memories of the invasion, while downplaying those of the coup. In particular, the state has influenced the way each of the two events is remembered: first, by responding to them through different legal procedures on the one hand, and second, by using the outcomes of these procedures in varying ways. It has punished the putschists' actions by criminally prosecuting their leader and launching an administrative process that resulted in the (temporary) purging of 62 individuals from the civil service. On the other, it has been condemning the effects of the invasion by resorting to a number of international bodies, most notably the European Court of Human Rights (henceforth, ECtHR).⁷ The RoC's administrative and legal responses to the coup and the invasion (and the effect these have had on the remembrance of each by the GC public) are discussed in section 3 of this chapter.

Instead, the remainder of this section focuses on the varying ways in which the state has used these legal and administrative decisions in order to shape how the twin events of 1974 are remembered. Most notably, the state has disseminated through a wide range of media, such as school textbooks, the decisions of international bodies that condemn the consequences of the invasion (see, for instance, Pantelidou and Hadjicosti 1992, p. 303). The most overt example of this is a section on the website of the RoC Ministry of Foreign Affairs entitled 'The Cyprus Question.'⁸ This section extensively refers to two ECtHR cases, 'the well-known case of Titina Loizidou,' and *Cyprus v. Turkey*, 'a case that proved to be of great importance for the people of Cyprus and their struggle for the just solution of the Cyprus problem.' The ECtHR's legal findings in these cases are presented as authoritative pieces of evidence for all the allegations made against Turkey and as proof of the fact that the invasion was an illegal action under international law. Similarly, GC politicians often use ECtHR judgments and UN resolutions as evidence of Turkey's illegal presence in Cyprus before proceeding to argue that any solution to the Cyprus problem should undo the injustices caused by the invasion and comply with international law (UN Secretary-General 2003, para. 22).

The effects of seminal ECtHR judgments on GC's perception of history have not been researched in much detail; nevertheless, their impact on GC society as a whole is palpable. The importance that the state has attached to these legal cases has resulted in the general population being fairly familiar with the Court's main findings, especially in the case of *Loizidou v. Turkey* (Zembylas et al. 2016, p. 26). References to this 1995 judgment were made in the media even as late as 2014 (Hazou 2014) and public events have been organised in honour of Mrs Loizidou.⁹ Ultimately, the *Loizidou* judgment, which is discussed in more detail in section 3, has become part of the GC's struggle against the Turkish invasion and occupation and a source of pride

for them. This is confirmed by the fact that at one point approximately 1400 cases with identical facts to, and having been inspired by, *Loizidou* had been launched by individual GC applicants to the ECtHR (*Xenides-Arestis* 2007, para. 38).

Conversely, the use of Court cases or administrative decisions, either directly by the state or indirectly by other stakeholders, such as the media, to bolster the public's remembrance of the coup has been nonexistent. Sampson's criminal prosecution and the administrative purge of the 62 putschists have received very little mention in legal textbooks and are only rarely considered in history textbooks or the popular literature (see, e.g. Melides 2010). The coup is almost never discussed in public affairs and even its anniversary tends to be overshadowed by commemorations of the Turkish invasion. Moreover, the website of the Ministry of Foreign Affairs, which so extensively discussed the case law relating to the invasion and occupation, makes no reference at all to the coup in its 46-page review of Cyprus' modern history. Unlike the invasion which has resulted in the unanimous condemnation by all Greek Cypriot political parties, they—and the media that support them (Papadakis 2003, p. 256)—have been divided as to how they should respond to the coup. Right-wing parties, which advocate a strategy of amnesia in relation to the coup (*President of the Republic* 1991), only organise commemorations of the invasion and view the coup as a largely insignificant pretext that Turkey used in order to implement her already existing plan to invade the island (Papadakis 2003). On the other hand, left-wing parties argue that the coup and the invasion are inherently connected and press for the remembrance and commemoration of the coup's victims. Nevertheless, even the communist party, whilst eager to blame the right for the coup, rarely mentions the legal proceedings against the putschists due to concerns that these will provide support to Turkey's claim that its military invasion of Cyprus was a legitimate way of protecting Turkish Cypriots from the violence that had erupted on the island (Cassia 2005, p. 73).

WRITING HISTORY BY USING THE LAW

Over the years, several ECtHR cases against Turkey have condemned the human rights violations that took place on the island as a result of the invasion and ongoing occupation.¹⁰ The leading ECtHR case on this issue is *Cyprus v. Turkey*, in which the former successfully argued that the consequences of the latter's invasion (among others, mass displacement and the continuing lack of access to information about the fate of missing persons) constituted violations of human rights. Importantly, this interstate application to the Court from Cyprus against Turkey was in fact, not the first, but the fourth attempt to use the European human rights mechanisms in order to showcase the effects of the Turkish invasion. The first three applications were made, for procedural reasons, not to the European Court, but to the European Commission of Human Rights instead. Although the Commission had

decided in favour of Cyprus, its decisions, unlike those of the Court, were not legally binding. The fourth interstate application therefore, was a strategic and well-calculated decision on behalf of the government to invest further state resources and risk a negative outcome in the Court in order to express in an even more authoritative forum its grievances against Turkey. This is evidence of the RoC's belief that a favourable judicial pronouncement could further legitimise its historical claims.

The ECtHR is not the only international forum that Cyprus has approached in order to confirm the illegality of the Turkish invasion and its aftermath. There are also UN General Assembly resolutions urging the withdrawal of all foreign armed forces from Cyprus,¹¹ UN Security Council resolutions condemning Turkey's recognition of the 'Turkish Republic of Northern Cyprus'¹² and recommendations of the Parliamentary Committee of the Council of Europe expressing concern about the transfer of Turkish settlers in the north of Cyprus (Parliamentary Assembly 2003). These resolutions, lobbied for by RoC officials, confirm the existence of a consistent belief among GC policy makers that pronouncements by international organisations are an effective way of recording the consequences of the military invasion and ongoing occupation and establishing an official narrative. The state's use of the law to make its historical claims even more authoritative is further illustrated by the decision of the Republic to become involved as an intervening party in cases brought to the ECtHR against Turkey by individual applicants. The most well-known individual application is *Loizidou v. Turkey*, in which the ECtHR held that the continuing prohibition of the applicant by Turkish troops to access her property in the occupied part of Cyprus resulted in a violation of her right to property (*Loizidou* 1997).

Both in *Loizidou* and *Cyprus v. Turkey*, the applicants faced formidable procedural hurdles in convincing the ECtHR to hear their complaints. For instance, it was necessary to respond to Turkey's argument that it could only be responsible for human rights violations that took place within its own territory. Because in these cases the alleged violations took place in Cyprus, Turkey submitted that either the RoC or the unrecognised 'Turkish Republic of Northern Cyprus' should remedy them (*Cyprus* 2002, para. 69). Moreover, the applicants' lawyers had to address Turkey's argument that it could not be liable for alleged violations that took place in 1974, inasmuch as the Court only had jurisdiction to hear cases against it for events that occurred from 1990 onwards (*Loizidou* 1997, para. 41). The RoC, directly in the interstate case and as an intervening party in *Loizidou*, successfully responded to both of these procedural hurdles and broke new legal ground in the process. The complexity of the legal arguments made in the two cases, together with the immense amount of information that had to be gathered in order to prove the substantive allegations, illustrate the professionalism and commitment with which the state approached the exercise of recording the history of the invasion in a court of law.

Like the invasion, the government's response to the coup has been to turn to the law. Thus, in 1977, the executive prosecuted and the judiciary eventually convicted Nikolaos Sampson, the man who replaced the legitimate president during the 8-day duration of the coup (*Sampson* 1977). On the one hand, Sampson's punishment and the Supreme Court's declaration that the actions of the illegitimate government had no legal effect, could be seen as an effective response to the coup by the state, comparable to the RoC's submissions in the ECtHR cases. However, the decision to prosecute just a single individual, implicitly sent the message that there was no one else to blame for the coup. By punishing only Sampson, other GC, who either knew about or supported the coup, were exonerated (Karstedt 2009, p. 1).¹³ An additional problem with this prosecution concerns the historical fact, which was discussed by the Supreme Court in the case itself, that although Sampson was involved in the coup, he was not the mastermind behind it.¹⁴ This consideration is arguably reflected in the fact that Sampson only served approximately six years out of his 20-year sentence (Lewis 2001). The ambivalence of the state through its judicial and executive branches to punish Sampson is reflected today in the public's perception of his person. Some GC remember and condemn his actions and those of the organisation he represented, but most have either simply forgotten about him or excuse his activities by portraying him as a misguided puppet of the Greek junta government. Most problematic, is the small but vocal part of GC society which views Sampson as an unsung national hero. The existence of such views among the public can partly be attributed to the state's reluctance to condemn in the clearest terms the organised attack against its sovereignty.

This reluctance is also reflected in the lukewarm stance the state adopted against 62 identified putschists. Originally the government had reacted to the coup by passing a series of laws that were intended to identify, investigate and put on trial those who had actively contributed to it.¹⁵ However, due to significant delays in their implementation, which themselves point to the state's reluctance to punish the perpetrators, an additional law was passed which empowered the executive through the Council of Ministers to terminate the employment of civil servants who were believed to have been actively involved in the coup.¹⁶ Using this law, and relying on an administrative process (instead of a trial) that suffered from significant procedural limitations, the Council dismissed 62 civil servants (*Anastasiades* 1988). It is not clear what evidence the Council relied on in order to identify the 62 and whether there were others in the civil service who were also involved in the coup. Moreover, because the law empowered the Council to dismiss only civil servants, no action was taken against putschists who were working in the private sector. Most problematically, the 62 were not put on trial and were not given the opportunity to present evidence to the Council of Ministers in their defence. Despite these serious deficiencies, the Supreme Court ruled in *Christodoulides* (1983) that the Council of Ministers' decision to terminate the

services of the 62 was done for public interest reasons, rather than in order to punish them. Because the dismissals were not the results of disciplinary proceedings, the Court was able to gloss over the lack of procedural safeguards and argue that it was not necessary to comply with these in the first place.

The RoC's decision to empower the Council of Ministers, rather than the judiciary, to punish the putschists resulted in three problems which directly affected the way in which the coup is remembered by the GC public. The first problem was that the administrative process followed by the Council, which fell far below any fair trial requirements, made it necessary to label the dismissals as public interest decisions. Although this served as a useful shortcut inasmuch as it allowed the government to act quickly, it failed to send the message that the putschists' actions were deplorable and in need of punishment. In fact, one could argue that because the very premise of the Court's decision was that the dismissals were not the result of disciplinary proceedings, the 62 had done nothing wrong or worth disciplining. As a result, this could be perceived as a message from the state that the actions of the putschists were not blameworthy enough to deserve the censure of the law through criminal proceedings. The second immediate problem with the decision was that failing to rely on normal criminal proceedings was to the detriment of individual justice for the 62. In turn, this made it both possible and plausible for them to argue that the government was so determined to punish someone for the coup that it scapegoated them in the process. In the end, the lack of transparency that characterised the Council's proceedings made it difficult to determine whether such allegations were true and clouded the contribution they could have made to an accurate historical account of what happened during, and who was to blame for, the coup.¹⁷ Scapegoating defendants is a danger that exists whenever alleged perpetrators are punished for a historical wrong, but is particularly serious when minimum fair trial requirements have not been met (Buruma 1995, p. 142; Koskiennemi 2002).¹⁸

The third problem with the state's decision to rely on administrative, rather than judicial procedures, was that it encouraged a range of ill-suited government bodies to take justice into their own hands. Illustrative of this are the decisions of the Educational Service Committee (*Mylonas* 1982) and a local Bar Commission (*In re X Y* 1981) to discipline, respectively, a head teacher and a lawyer who had been allegedly involved in the coup. The state's decision to rely on an administrative process, which was by its nature less likely to capture the public's attention than a high-profile legal case, undermined from the very start the objective of sending a message of condemnation against the coup. However, this became even harder to achieve when obscure bodies such as a Bar Commission, the very existence of which is often unknown to the general public, took the unilateral initiative of punishing the putschists. Moreover, because it was never these bodies' job to punish their members for such offences, they lacked the appropriate procedural safeguards to hear the allegations, which in turn, undermined the legitimacy of their

decisions and made their findings vulnerable to attack. Thus, the method that the state decided to use when responding to the coup—namely, relying on an administrative rather than a judicial process, which had an ad hoc, opaque and decentralised nature—directly affected how this historical event has been recalled by the GC population at large.

Less than 10 years after *Christodoulides*, the case that confirmed the constitutionality of the Council of Ministers' decision to dismiss the putschists, a differently composed Council of Ministers revoked the dismissals of the 62 and asked them to return to their positions in the civil service.¹⁹ In response, a month later, the House of Representatives passed a law which annulled the new Council of Ministers decision and amended the state budget in order to prevent the payment of the 62's salaries. This law was challenged in *President of the Republic v. House of Representatives* in which the majority of a divided court held, contrary to *Christodoulides*, that the law preventing the 62 from returning to their posts was unconstitutional. Thus, even as late as 1994, and in stark contrast to the unanimously supported efforts that were simultaneously taking place at the ECtHR in relation to the Turkish invasion, the political and legal elite of the country remained divided in its response to the coup. As a result, the only clear message sent to the public was that the state was unwilling to condemn unequivocally the illegal acts of the putschists and punish them in a paradigmatic and meaningful way.

THE REASONS BEHIND THE SELECTIVE AMNESIA

At least to some extent, the varied remembrance of the historical wrongs of 1974 among the GC community is state-sanctioned: it has been caused both by the different legal treatment the two have received and by the way the legal sources relating to each have been used by state organs and broader society since then. The reason the state has taken an interest in shaping the way these historical events are remembered is because this suits its two main political objectives. First, it is in the RoC's interests to preserve and build unity among its population. The ambivalence in the state's response to the coup stems from a legitimate disagreement between the political parties as to whether this objective is best addressed by forgetting about the divisive coup and moving on or by directly acknowledging and addressing the harm that has been done to the coup's victims.²⁰ Conversely, the ECtHR case law against Turkey has received so much attention and support because the political parties agree that one of the best ways to unite the GC public is by creating a common external enemy. Second, because the Republic's objective is to negotiate a settlement to the Cyprus problem that undoes the effects of the Turkish invasion as much as possible, it is in its interests to present GC as being exclusively the victims of belligerent actions.²¹ An acceptance of this narrative makes it easier to argue that the international community should push Turkey to adopt a more compromising stance at the negotiating

table. The RoC has projected the ECtHR case law to such an extent precisely because it contributes to the building of this narrative (Christophorou 2010, pp. 64, 83). Conversely, inasmuch as the administrative and judicial decisions concerning the coup paint a more nuanced picture, with some GC being both victims and perpetrators of actions that took place in 1974, it has been in the interests of the state to ignore them.

At the same time, however, it is conceivable that factors that were beyond the state's control have also affected the extent to and way in which the legal cases and the events relating to them are remembered. One such factor concerns the fact that the invasion cases were litigated at the ECtHR, whereas the coup was addressed by the Cypriot judiciary and administrative bodies.²² This difference between the organs dealing with the two events has influenced the way each is remembered in two ways. The international presence of the ECtHR has given its decisions greater legitimacy and visibility than those of the Supreme Court. Both *Loizidou* and *Cyprus v. Turkey* were heard and decided by the Grand Chamber of the European Court. The success of the applicants to convince this international and impartial group of judges, rather than any domestic decision maker, that Turkey was responsible for human rights violations in Cyprus added legitimacy and persuasiveness to their complaints. Moreover, the fact that this decision was delivered in Strasbourg and was communicated through the different mechanisms of the Council of Europe to all the member states of the organisation, gave it a lot more visibility than any domestic judgment could have received. Conversely, Sampson's prosecution was a much more discrete state of affairs and the punishment of the 62 putschists through administrative action even more quiet still. As Mark Osiel (1995–1996, p. 505) argues, in order for a legal case to make history, the hearings must capture the public's attention. Arguably, it was much easier to achieve this through the prominent stage provided by the ECtHR, rather than in the more humble setting of the domestic courts and administrative organs.

On the other hand, the different rules of procedure in domestic and international bodies have determined who can be brought to justice as the alleged wrongdoer in each case. The ECtHR is an international court, therefore the respondent to any allegations of wrongdoing had to be the state of Turkey itself. Conversely, dealing with the coup through Cyprus' criminal and administrative law systems meant that only individual defendants could be brought to justice. Thus, the litigation of the two events in different courts sent varying messages about the status of the perpetrator and the seriousness of the wrongdoing in each case: because the respondent in the ECtHR cases was the state, the invasion and its consequences were understood as the responsibility of Turkey and were therefore more easily perceived as a well-coordinated and deliberate attack from one country against another. Opposing this, by only prosecuting Sampson, it became possible to present the coup as an instance of one person breaking the law, rather than as another

orchestrated threat to the sovereignty of the Republic. In turn, the collectivisation of the blame in the case of the invasion and its individualisation in that of the coup, affected the seriousness of each crime in the eyes of the people and the way in which they remember it (Osiel 2014).

CONCLUSION

The two sets of legal responses that have been explored here are not always easy to compare: the cases concerning the invasion were litigated in an international court during the 1990s and 2000s, whereas those dealing with the coup were the outcomes of domestic bodies in the 1970s until the 1990s. Yet, the attitudes of the GC political elite that the two sets of cases reflect have been consistent over the years: although RoC representatives have been shouting loudly and clearly (both during and after the adjudication of the cases) that the Turkish invasion is an illegal foreign attack on Cyprus, they have been mostly silent about the attack to the government that came from within. It is partly as a result of this that the GC public is suffering from a type of selective amnesia about one of the two historical wrongs of 1974.

The purpose of this chapter has not been to criticise the RoC's attempts to condemn the invasion by applying to the ECtHR. Despite limitations in the process, it has also not been the intention to criticise the Republic's response to the coup. Especially the latter needs to be seen in light of the context that prevailed at the time, with GC being deeply divided among themselves and in urgent need to rebuild their country following the catastrophic Turkish invasion. Rather, the objective of this chapter has been to illustrate that decisions of the government to use the law in a particular way can significantly affect how given historical events are remembered by the population at large. Whether a historical event is subject to a judicial or administrative process and whether that takes place on the international or domestic plane can have a sizable impact on the establishment of a well-remembered official narrative. At the same time, it is necessary to acknowledge that it is not only the legal or administrative processes that are important, but also how these are subsequently utilised by the different stakeholders.

NOTES

1. In this chapter, the word 'case' always refers to legal cases.
2. Similar attempts to use the law in order to establish an authoritative historical record took place, for example, in Israel (*Eichmann*, 1962).
3. Committee on Missing Persons in Cyprus, 'Figures and Statistics of Missing Persons up to 29 March 2016', available at http://www.cmp-cyprus.org/media/attachments/Quick%20Statistics/Facts_and_Figures_29-3-2016.pdf. Accessed 5 April 2016.
4. See, for example, the commemorations that took place for the 40th anniversary of the Turkish invasion (Associated Press 2014).

5. This policy was first introduced with the speech delivered by President Makarios, immediately after the coup, when he declared that 'it is not my intention to [...] bring to justice those [...] who took part in the coup against me. I [...] grant them amnesty in the hope that the desired concord and unity among our people will come about' (speech cited in *Sampson*, 1977).
6. Victims' family members have often (successfully) argued that their relatives were killed during the Turkish invasion and not the coup; this is because family members of those who died during the invasion receive economic benefits and public recognition that are not shared by the relatives of those who died during the coup (Cassia 2005, p. 73).
7. The reason the RoC has focused on the illegality of the effects of the invasion, rather than that of the invasion itself was because the ECtHR does not have jurisdiction to hear cases against Turkey, whose events took place in 1974.
8. Ministry of Foreign Affairs of the Republic of Cyprus, 'The Cyprus Question,' available at http://www.mfa.gov.cy/mfa/mfa2006.nsf/cyprus01_en/cyprus01_en?OpenDocument. Accessed 31 March 2016. Similar information is also offered on the website of the RoC Press and Information Office, available at http://www.moi.gov.cy/MOI/pio/pio.nsf/a_problem_en/a_problem_en?OpenDocument. Accessed 31 March 2016.
9. 'Titina Loizidou: The people behind the cases' (Event at the University of Cyprus, 14 October 2015).
10. See note 7 above.
11. UN General Assembly Resolution 3212 (XXIX) (1 November 1974); UN General Assembly Resolution 'Question of Cyprus' A/RES 37/253 (16 May 1983).
12. UN Security Council Resolution 550 (11 May 1984).
13. It is unclear how many people were involved in the planning of the coup, but the purging of the 62 suggests that it was definitely more than a single individual.
14. As the Court noted in the *Sampson* case, the masterminds behind the coup were generals of the Greek army, who were never brought to justice.
15. Laws Concerning Some Disciplinary Offences (Conduction of Investigation and Trial) 1977 until 1978 (No. 3/77, 38/77 and 12/78) [in Greek].
16. Law Concerning the Termination of Procedure Provided in Laws Concerning Some Disciplinary Offences (Conduction of Investigation and Trial) 1977 until 1978 (No. 57/78) [in Greek].
17. Good practice suggests that where purging of civil servants will take place, 'the right of defence, the presumption of innocence until proven guilty, and the right to appeal to a court of law must be guaranteed' (Parliamentary Assembly 1996, para. 12).
18. The obligation that a public body complies with fair trial requirements exists when that body affects an individual's civil rights and obligations and irrespective of whether this body is integrated within the standard judicial machinery of the country (*Rolf Gustafson* 1997, para. 45). Even if these legal requirements do not apply to the Council of Ministers, there are good public policy reasons why such a body should nevertheless respect the rule of law (Brems and Lavrysen 2013).

19. This has been criticised by families of the coup's victims because it sends mixed signals about the culpability of the 62. It should be noted, however, that the reinstatement of purged civil servants has also taken place in other European states, such as France in the 1950s, where immediate post-Second World War sanctions were softened (Baruch 2014, p. 76).
20. This disagreement has been widely discussed in the literature. For an overview, see McEvoy and Mallinder (2012).
21. In the negotiations for the Cyprus problem the RoC primarily represents the interests of the GC community, with the interests of the TC community being represented by Turkey and the TC leadership (Michael 2009).
22. Where each case was to be litigated (i.e. on the international or the domestic level) was determined by the existence of procedural rules, rather than the political objectives of the RoC.

REFERENCES

- Associated Press (2014) Cypriots Mark 40th Anniversary of Invasion. <http://www.dailymail.co.uk/wires/ap/article-2698968/Cypriots-mark-40th-anniversary-invasion.html>. Accessed 5 April 2016.
- Attorney-General of the Government of Israel v. Eichmann* (Israel Supreme Court 1962), *Intinternational Law Reports* 36: 277.
- Baruch, M. O. (2014) 'Changing things so everything stays the same. The impossible "épuration" of French society, 1945–2000' in N. Wouters (ed.) *Transitional justice and memory in Europe (1945–2013)* (Cambridge: Intersentia), pp. 63–93.
- Brems, E. and Lavrysen, L. (2013) 'Procedural justice in human rights adjudication. The European Court of Human Rights,' *Human Rights Quarterly*, 35, 176–200.
- Buruma, I. (1995) *The wages of guilt. Memories of war in Germany and Japan* (London: Vintage).
- Cassia, P. S. (2005) *Bodies of evidence. Burial, memory and the recovery of missing persons in Cyprus* (New York: Berghahn Books).
- Christodoulides and others v. The Republic of Cyprus, through the Council of Ministers* (1983) 3 CLR 1297.
- Christophorou, C. Sahin, S. and Pavlou, S. (2010) *Media narratives, politics and the Cyprus problem* (Nicosia: Peace Research Institute Oslo).
- Cyprus v. Turkey* (2002) 35 E.H.R.R. 30.
- Global IDP Database (2003) *Profile of internal displacement: Cyprus* (Geneva: Norwegian Refugee Council).
- Hazou, E. (2014) ECHR ruling unprecedented. Cyprus Mail: Nicosia, 14 May. <http://cyprus-mail.com/2014/05/14/echr-ruling-unprecedented/>. Accessed 31 March 2016.
- In re X Y an Advocate* (1981) 1 CLR 401.
- International Crisis Group (ICG). 2008. Cyprus: Reversing the drift to partition. Nicosia/Istanbul/Brussels: International Crisis Group.
- Karstedt, S. (2009) 'Introduction. The legacy of Maurice Halbwach' in S. Karstedt (ed.) *Legal institutions and collective memories* (Oxford: Hart Publishing), pp. 1–26.
- Koskienniemi, M. (2002) 'Between impunity and show trials', *Max Planck Yearbook of United Nations Law*, 6, 1–35.

- Lewis, P. (2001) 'Nikos Sampson, 66, Cyprus President after coup, dies', *New York Times*, 11 May.
- Liassi and others v. Attorney General of the Republic* (1975) 3 CLR 558.
- Loizidou v. Turkey* (1997) 23 E.H.R.R. 513.
- Lordos, A., Kaymak, E. and Tocci, N. (2009) *A people's peace in Cyprus. Testing public opinion on the options for a comprehensive settlement* (Brussels: Centre for European Policy Studies).
- McEvoy, K. and Mallinder, L. (2012) 'Amnesties in transition. Punishment, restoration and the governance of mercy,' *Journal of Law and Society*, 39, 410–440.
- Melides, C. (2010) 'Constitutional Law' in A. Neocleous (ed.) *Neocleous' introduction to Cyprus Law*, 3rd edn. (Cyprus: Neocleous Publishing), 87–117.
- Michael, M. S. (2009) *Resolving the Cyprus conflict. Negotiating history* (New York: Palgrave Macmillan).
- Mylonas v. The Educational Service Committee* (1982) 3 CLR 880.
- Negatigil, Z. (1989) *The Cyprus question and the Turkish position in international law* (Oxford: Oxford University Press).
- Osiel, M. J. (1995–1996) 'Ever again. Legal remembrance of administrative massacre', *University of Pennsylvania Law Review*, 144, 463–704.
- Osiel, M. J. (2014) 'Who are atrocity's "real" perpetrators, who its "true" victims and beneficiaries?', *Ethics and International Affairs*, 28, 281–297.
- Pantelidou, A. and Hadjicosti, C. (1992) *History of Cyprus. Medieval to modern (1192–1974)* (Nicosia: Ministry of Education).
- Papadakis, Y. (2003) 'Nation, narrative and commemoration. Political ritual in divided Cyprus', *History and Anthropology*, 13, 253–270.
- Parliamentary Assembly (1996) *Measures to dismantle the heritage of former communist totalitarian systems. Resolution 1096* (Strasbourg: Council of Europe).
- Parliamentary Assembly (2003) *Colonisation by Turkish settlers of the occupied part of Cyprus. Recommendation 1608* (Strasbourg: Council of Europe).
- President of the Republic v. House of Representatives* (1991) 3 CLR 252 [in Greek].
- President of the Republic v. House of Representatives* (No. 4) (1994) 3 CLR 157 [in Greek].
- Republic of Cyprus, through the Council of Ministers v. Andreas Anastasiades and Others* (1988) 3 CLR 633.
- Republic v. Nicolaos Sampson* (1977) 2 C.L.R. 1.
- Rolf Gustafson v. Sweden* (1997) 25 E.H.R.R. 623.
- UN Secretary-General (2003) *Report of the Secretary-General on his mission of good offices in Cyprus* (New York: UN).
- Xenides-Arestis v. Turkey* (2007) 44 E.H.R.R. SE13.
- Zembylas M. et al. (2016) 'Human rights and the ethno-Nationalist problematic through the eyes of Greek-Cypriot teachers', *Education, Citizenship and Social Justice*, 11, 19–33.

PART VIII

Truth Commissions
and Commissioned History

Truth Commissions and the Construction of History

Eric Wiebelhaus-Brahm

INTRODUCTION

In delicate political transitions from war to peace and/or from authoritarianism to democracy, new regimes often must decide whether and how to confront a legacy of state-sponsored terror and/or mass violence. The term transitional justice is commonly used to refer to the variety of formal and informal processes that are ostensibly designed to address past human rights violations.

There is disagreement as to whether the truth commission (TC) phenomenon emerged in Idi Amin's Uganda in the early 1970s or in Bolivia and Argentina in the early 1980s. The idea took firm root in Latin America where many countries created TCs in the context of democratic transitions in the 1980s and 1990s. As democratization spread to Asia and Africa, it became increasingly common there as well. In particular, the South African Truth and Reconciliation Commission (TRC) in the late 1990s brought global attention to the TC model. In the 2000s, the model has been increasingly used in the absence of a political transition, either by authoritarian regimes or by more well-established democracies addressing more historic wrongs. As of 2016, roughly three dozen TCs have been established around the world.

Since the 1990s, a growing normative consensus that transitional justice is desirable if not necessary has led the international community to promote a variety of transitional justice mechanisms, including TCs, domestic trials and

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international tribunals, vetting processes, and reparations programs, that are intended to meet the perceived needs of these societies. This trend has been referred to as a “justice cascade” (Lutz and Sikkink 2001; Sikkink 2011). Commissioners and staff from earlier commissions have often been active promoters of the TC model.¹ The United Nations (UN) also supports the TC model and has worked to incorporate one into virtually every peace agreement it has been involved in since the early 1990s.² In fact, influential jurists argue that international law articulates a state obligation to provide the (historical) truth regarding past human rights abuses, to victims and the general population, that is independent of any obligation to punish those responsible (Joinet 1997).

TCs are touted for several reasons. They often officially acknowledge what many in society already perceive to be the truth about the past. During delicate political transitions, new governments may gain legitimacy by creating a body that is often connected to victim empowerment and social and individual healing. The recommendations of TCs, if implemented, also may promote human rights, democracy, and the rule of law. In circumstances where demands for the past exist but prosecuting individuals is difficult, TCs may represent a middle ground. Although full reconciliation may not be possible, at least not achievable by TCs alone, TCs may help challenge the normative acceptability of violence and promote basic notions of due process, what Bhargava (2000) has called minimal decency.

However, TCs are not without their critics. The general population, as well as human rights advocates, often expect too much from them. In fact, few of the TCs that have existed around the world are lauded as unequivocal successes. Evidence in support of TCs is often based upon psychological studies of grief management. Yet, studies reveal that victims have varied needs and respond to TCs in diverse ways (Backer 2007; Hamber and Wilson 2002; Hamber 2001). Moreover, studies of post-traumatic stress disorder and empirical cases of peaceful transitions where transitional justice was avoided, such as Mozambique, point to the potential danger of reopening old wounds. In fact, it is unclear precisely what effect TCs have on transitional societies. Although the range of hypothesized effects has been wide ranging, Borer (2006) identifies more than two dozen truth commission aims identified in the literature, studies of the societywide impact of TCs reach contradictory conclusions.³ There is a clear need for more careful research regarding the individual and national level effects of TCs.

Beyond this empirical gap, TCs face several criticisms. First, they may have an impossible mission in that the needs of victims may be incompatible with the needs of society. Second, some argue that TCs do not go far enough in dealing with the past or generating reconciliation. They do not have the power to punish and have no authority to implement reforms on their own. Third, as Berber Bevernage (2011, pp. 86–87) has argued, TCs seek to create an artificial break with the past. Wiping the slate clean by forgoing punishment, however, benefits those who have committed human rights violations.

This may damage victims' self-esteem and denies them (retributive) justice. Finally, and by extension, TCs write history. They vary in terms of the degree of emphasis placed on the investigation of specific events and cases versus a broader history that attempts to explain the factors and circumstances behind the gross human rights violations the country experienced. The history produced is critically shaped by the political circumstances in which the commission operates, the mandate it was given, and the profile of commissioners and staff (Grandin 2005; Bakiner 2016). These critics point to the fact that expectations surrounding TCs have often been too lofty.

TCs continue to proliferate despite these theoretical and empirical controversies because actors often find them useful in advancing their political agendas. This chapter provides an overview of the TC as a tool of state-sponsored history. In particular, I emphasize the ways in which TCs become centers of contention through which diverse political actors seek to shape the past, present, and future. The first section reviews efforts to define what a TC is, something that bedevils their study. Next, I outline the principled and practical reasons why TCs are created. Then I discuss how design and operational decisions shape the history that is produced, highlighting the strategic behavior of governments, victims, activists, and external interests as they advocate for or attempt to obstruct TC processes. I conclude by reflecting upon the lasting impact of TC processes.

WHAT IS A TRUTH COMMISSION?

Most empirical research adopts Priscilla Hayner's (1994, p. 558) seminal definition of TCs "as bodies set up to investigate a past history of violations of human rights in a particular country—which can include violations by the military or other government forces or armed oppositions forces." Elsewhere, she highlights four main characteristics of TCs that distinguish them from other types of investigative bodies (Hayner 2001, p. 14). First, TCs focus on the past. The events may have occurred in the recent past, but TCs do not examine violations that occur after they are created.

Second, TCs investigate a pattern of abuse over a set period of time rather than a specific event. They are designed to reveal how past violations of human rights were carried out. In its mandate, the TC is given the parameters of its investigation both in terms of the time period covered as well as the types of human rights violations to be explored.

Third, a TC is a temporary body. Commissions have typically operated for six months to two years, with more recent cases trending longer (Dancy, Kim and Wiebelhaus-Brahm 2010). They complete their work by submitting a report documenting their findings and outlining their recommendations to the state. The details uncovered may educate the public and provide an authoritative history upon which society can rebuild. Reports also outline reform recommendations that are designed to prevent a repetition of such behavior in the future. Commission recommendations often target judicial

reform and structural change within the military and police, for example. By analyzing a broad pattern of abuses over time, TCs may be superior in revealing the institutional failings that allowed the crimes to occur. In fact, TCs may be more effective than trials in promoting social change by focusing on institutions rather than on individual perpetrators (Minow 2000, 1998).

Fourth, TCs are officially authorized by the state. In theory, this gives the commission greater access to information, greater security, and greater assurance that its findings will be taken under serious consideration. Official sanction from the state also may be crucial for victims because it represents an acknowledgment of past wrongs. Whereas trials are often perceived as protecting the rights of the accused, TCs are often touted for providing a more comfortable environment in which witnesses can tell their stories, which may be therapeutic.

Despite the prominence of Hayner's work, definitional problems continue to plague the study of TCs (Stewart and Wiebelhaus-Brahm 2017; Brahm 2009). No definitive list of cases exists, which raises questions as to whether studies are comparing apples to apples. For instance, scholars have dealt differently with the temporal relationship between TCs and political transition. Most TCs have been created in the midst of a transition. However, some investigative commissions have come long after or in the absence of a transition. For example, the Canadian government established its Truth and Reconciliation Commission (TRC) in 2008 to investigate the government's Indian Residential Schools that operated from the 1870s until 1996. The Bahrain Independent Commission of Inquiry (BICI) was created by the monarchy in mid-2011 to examine the government's response to pro-democracy protestors earlier in the year. Depending on the research goal, the Canadian TRC and BICI may be qualitatively different from what are typically thought of as TCs. Another question relates to what is necessary to constitute a pattern of abuse. Some studies include an investigation of a week of electoral violence, yet others judge that qualitatively different. Subnational investigations of past human rights violations, such as the Tulsa Race Riot Commission and the Greensboro TRC, also pose difficulty for comparison purposes. These definitional issues aside, in political discourse, politicians and activists sometimes call for a TC in instances where more information about any kind of clandestine government activity is desired.

WHY DO GOVERNMENTS CREATE TRUTH COMMISSIONS?

Truth commissions are established for a variety of pragmatic and principled reasons. For better and worse, TCs are often contrasted with trials. Though prosecution may be desirable for many, sometimes perpetrators remain too influential after the transition, the number of crimes committed too large, or the judicial system ill-equipped to deal with such crimes (Chapman and Ball 2001; Greenawalt 2000). Several studies have identified the balance of power

among competing actors as the most significant variable affecting the way in which a society deals with its past (Ash 1997; Barahona de Brito, Aguilar and Gonzalez Enriquez 2001; Chapman and Ball 2001; Pion-Berlin 1994). Generally, when perpetrators lack control over the new political landscape, they are more likely to be prosecuted. By contrast, TCs are more likely when the balance of forces is relatively even. In democratic transitions, new governments must balance the demands for amnesia from perpetrators able to disrupt the transition against domestic and external pressure to deal with past crimes. In war-to-peace transitions where atrocities have often been committed by all sides, warring factions seek ways to placate pressure for accountability while insulating themselves from potential punishment. In both circumstances, TCs often provide a compromise solution.

In addition, trials may not be a viable alternative. As a result of violence and repression, courts may be decimated or complicit. The sheer number of cases may overwhelm a fragile judicial system. Justice may be served in a few select cases, but TCs may serve the greater number of people more expeditiously. Where the court system is functioning, it may be tainted by past abuses and not trusted by the population to administer justice fairly.

In fact, some are puzzled by the continued interest in TCs because, in a world of international criminal tribunals, hybrid courts, and an emergent International Criminal Court, there is a greater possibility of punishing human rights abusers than ever before (Brody 2001; Fitzpatrick 1995). These critics charge that TCs remain popular because they are less costly for abusive governments and the international community alike.

By contrast, some believe TCs possess several benefits over trials for societies emerging from periods of violence and repression. As a result, a principled defense of TCs as superior to trials in some ways has emerged (Roht-Arriaza 2006, pp. 3–4). TCs may reach a broader group of both perpetrators and victims than lengthy trial procedures, which may result in broader political and cultural change (Goldstone 1996; Mamdani 2001). As Popkin and Roht-Arriaza (1995, p. 80) summarized their potential contributions, TCs seek to contribute to transitional peace by “creating an authoritative record of what happened; providing a platform for the victims to tell their stories and obtain some form of redress; recommending legislative, structural or other changes to avoid a repetition of past abuses; and establishing who was responsible and providing a measure of accountability for the perpetrators”.

In sum, actors promote or obstruct TCs for a variety of principled and practical reasons. The mere decision to create a body to investigate past human rights violations is the result of a conviction that producing an official history of that past advances a combination of altruistic and self-interested goals. The next section explores in greater depth how the history produced is shaped by a range of TC design issues and choices made by commissioners, governments, and other stakeholders in their contestation over a history of abuse.

WHAT TRUTH COMMISSION CHARACTERISTICS SHAPE THE HISTORY PRODUCED?

The history a truth commission produces is a result of strategic choices made by its designers, commissioners, and staff, and an array of domestic and international stakeholders. How the commission is constructed, both in terms of its composition and mandate given, is important in setting the tone. Its operation, in terms of how the investigation is conducted and whether it conducts public hearings, also is significant. Finally, the commission's final report is where history is explicitly created. What is said and unsaid, and the degree to which the findings are publicized, shape how the past is remembered. In this section, I illustrate the ways in which actors seek to advance their interests at various points throughout the phases of a TC's existence.

Establishment of a Truth Commission

Most argue that TCs should be established soon after the political transition in order to help promote change. It is certainly true that witnesses and evidence become more difficult to find over time. Still, circumstances may not be ripe, as was true in Brazil where the National Truth Commission was set up nearly three decades after the country's democratic transition. Over time, fears of a return to military rule receded. Moreover, Brazil was increasingly an aberration as arguably a TC norm took root in Latin America, which may have put some pressure on the government to act. Thus, TC timing reflects changing local, regional, and global normative consensus and strategic calculation of different political actors. Because most TCs have been created at the time of political transitions, much of the discussion below is premised on the assumption that this is the case.

TCs are typically created by presidential decree. Because transitional countries often have power heavily concentrated in the executive, this is expeditious. However, this potentially increases the risk of the mandate being politically manipulated. The 1986 Ugandan Commission of Inquiry into Violations of Human Rights and the 1991 Chadian Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories are emblematic of TCs that represent a milder form of victor's justice.

It may be more effective to have the legislature create the body because it is theoretically more representative of society and this may legally permit granting stronger powers to the commission. However, this has been rare. The South African TRC and the Tunisian Truth and Dignity Commission are two examples of commissions established legislatively and through processes that were broadly consultative with society. Although the parliamentary creation of a TC may aid in its legitimacy, there are not enough cases to conclude this with certainty. Where TCs are established through inclusive processes, it is more likely to engage actively in controversial debates about historical

memory and produce a history with a multiplicity of voices and perspectives (Bakiner 2016, Chap. 7).

Regardless of how the commission is created, two issues that must be addressed upon its foundation are critical in shaping the history that is eventually produced. Not necessarily in this order, first, commissioners must be appointed. Second, the mandate, which specifies the commission's goals and powers, must be determined. Below, I discuss each in turn.

Composition of the Commission

How a TC functions is highly dependent upon who runs it. The conventional wisdom is that commissioners should be representative of broad sections of society in order for their findings to enjoy wide credibility. The most common method is to appoint well-respected members of society to commissions. For example, to chair their commissions, Argentina selected well-known author Ernesto Sabato and South Africa named Archbishop Desmond Tutu. Being perceived as unaffiliated with one side of a conflict can make an individual an ideal choice to begin building bridges across social divides, though they need not be strictly impartial.

Nonetheless, commissions are sometimes structured to reflect the distribution of power at the time. In cases where one side emerged victorious, presidents have sometimes set up investigations that were, in fact, highly partial. Deby's government in Chad, for example, revealed in the name of the TC that its goal was to discredit the old regime and legitimize itself.

More rarely, commissions have been evenly divided among representatives of former opponents. This may lend the investigation credibility with all sides as some have asserted Chile's National Commission for Truth and Reconciliation (popularly known as the Rettig Commission after its chairperson) did (Weissbrodt and Fraser 1992). As part of Chile's democratic transition in the early 1990s, the old regime retained significant power. General Pinochet remained the head of the military and was to be given a lifetime senate seat after his scheduled retirement in 1998. Moreover, the plebiscite that led Pinochet to make way for democratization was closely contested and indicated he enjoyed support among a large minority of Chileans. As a result of this distribution of power, commissioners were evenly split between Pinochet supporters and the opposition. Consequently, Rettig produced "a relatively narrow historical narrative that avoids politically divisive issues and shuns the opportunity to produce a comprehensive account of the underlying causes of political violence and violations" (Bakiner 2016, p. 186).

In a few cases, governments have sought foreigners to serve as commissioners. In El Salvador, for example, the violence was so polarizing that no Salvadorans were believed able to fairly assess the country's civil war. The UN secretary-general, with the agreement of the Salvadoran government and the FMLN rebels, selected a former Colombian president, a former Venezuelan foreign minister, and a former president of the Inter-American Court of

Human Rights to conduct the Salvadoran Commission on the Truth. Relying on outsiders may broaden the commission's credibility, but may result in an investigation that is ignorant of local circumstances and remote from local populations. The Sierra Leonean TRC's commissioners were a mix of nationals and foreigners in an attempt to get the best of both worlds.

The Mandate

When a TC is established, it is given a specific mandate. The mandate covers how long the commission will operate, as well as the time period open to its investigation. As such, the construction of the mandate is important politically and often reflects the strategic interests of its architects. The mandate also specifies what type(s) of violations may be examined. In Chile, for example, the decree establishing the Rettig Commission permitted it to investigate only "disappearances after arrest, executions, and torture leading to death committed by government agents or people in their service, as well as kidnappings and attempts on the life of persons carried out by private citizens for political reasons" (reprinted in Kritz 1995, p. 102). Thus, their mandate did not include cases of torture unless the victim died. Those who survived were not categorized as victims by the TC.⁴ In multiple ways, the details of the mandate have important implications for the history produced. Below, I provide more examples of how TC mandates shape their work and outputs.

Truth Commission Operations

Clearly, the TC's work shapes the history produced. Sometimes, the population knows that mass abuses occurred and, in these instances, TCs serve as an official acknowledgment of this. In some cases, even when the broad "truth" is known, TCs uncover critical information about specific events and the fate of loved ones. TCs have varied considerably in the amount of information they have been able to uncover. Aside from the mandate, other factors shaping the scope of truth revealed include the degree of co-operation from domestic and international actors and the amount of resources at its disposal. Furthermore, TCs have differed markedly in the degree to which their operations engaged the public. There is relative consensus that a truth commission should conduct its work for a relatively short time (Shea 2000; Hayner 1996), probably about two years depending on the scope of its mandate. This allows sufficient time for significant investigation, yet better ensures that the findings can contribute to the transition process.

Public Hearings

One TC variable is whether its proceedings are public. TCs can potentially serve as costly signals of government commitment to human rights, democratization, and the empowerment of marginalized populations among other

things (Pion-Berlin 1994). Public proceedings draw the attention of the population even if not always prompting active participation. The more open the process is, the more costly the signal is likely to be given that media attention and TC outreach provide the public with frequent reminders of the government's stated intention for creating the commission. Consequently, governments may be more likely to act upon the commission's findings if they are widely known.

Commissions have had very different degrees of connection to the public. Early TCs operated largely outside the public eye, though local media typically reported on their activities extensively. In general, it has been more common for African TCs to conduct public hearings. Whenever public, the population has typically observed with rapt attention. For example, a weekly summary of the TRC's activities was one of the most popular TV programs in late-1990s South Africa. The South African TRC was not the first to conduct public hearings, but its iconic status globally led more subsequent TCs around the world to follow suit.⁵ Public hearings risk the leveling of unsubstantiated accusations and may increase the probability of vigilante violence against victims, alleged perpetrators, and commission staff. However, public proceedings also lend the commission greater public legitimacy. The public can see how the commission is operating and there is less opportunity for governments to suppress the commission's findings.

The way in which hearings are conducted shapes history in other ways. For example, with several clergy on South Africa's TRC, including Chairman Archbishop Desmond Tutu and Vice-Chairman Alex Boraine, commission hearings often had a religious tone to them. Tutu typically began each session with a prayer. He also heavily emphasized a confessional redemptive narrative. Claire Moon (2008) shows how the discourse of the TRC, its confessional nature in particular, shaped history to support a reconciliation narrative. As Richard Wilson (2001) has pointed out, this language of reconciliation sought to build "the Rainbow Nation," but did not resonate with many South Africans.

Although closed hearings mean the public will likely be more out of touch with day-to-day operations, this does not mean such a TC cannot connect with the public, provided the report is widely distributed (Hayner 1994). The widespread release of a report focuses attention, both domestic and international, on crimes of the past. If revelations and recommendations are more widely known, greater pressure will likely be placed on the government to respond to the report and to enact the commission's recommendations. Of course, in both reporting on commission proceedings and findings, the presence of independent media is critical (Shea 2000).

Connections to Prosecutions

Given the frequent demand for retributive justice for past human rights abuses, TC processes are often at least implicitly connected to (potential)

trial processes. In some instances, such as during Raúl Alfonsín's post-junta administration in Argentina, governments see TCs' collection of evidence and testimony as a precursor to trials. In other cases, due to indigenous norms or to practical and political obstacles, TCs are viewed as an alternative to trials. At the same time, commissions often operate in environments where pardons or amnesties have been granted or are being discussed. The presence or possibility of trials and/or amnesties shapes the history produced by TCs in important ways.

In general, TCs avoid individual blame. Sometimes their mandates expressly forbid it; other times, commissioners decide not to. Rather, TCs point to institutional factors that allowed human rights abuses to occur in order to instigate reform of the judiciary, police, military, and the like that make such crimes less likely in the future. The standards of evidence are not as high as in court proceedings, thus TCs often are not engaged in assigning individual responsibility. Only a few, such as those in El Salvador, Chad, and South Africa, have "named names" of individuals who commissioners concluded were responsible for crimes (Hayner 2001, p. 107). Having said that, TCs frequently recommend that prosecutors take up the evidence they have collected to pursue retributive justice. Naming names can be risky. The Salvadoran commission fled to UN headquarters in New York to write their report because they feared for their safety. Those publicly named also may become victims of vigilante violence.

Sometimes, TCs and trial processes have operated side by side, though rarely have they been designed to work in tandem. For example, the Special Court for Sierra Leone (SCSL) and the Sierra Leone TRC worked simultaneously, but ambiguity in their relationship with one another affected what the TRC learned about the past. Although reportedly several high-level government and rebel officials were interested in talking to the TRC, fears that their testimony could be used by the SCSL led them not to appear before the commission (Schabas 2004).

Moreover, often TCs operate in environments in which perpetrators have been or may be granted amnesty. Abusive regimes often grant themselves immunity to prevent future prosecution, and sometimes offer such incentives to rebels to lay down their arms. In Argentina, for example, the military enacted a self-amnesty while in power. After the transition, the new democratic government rescinded the law, only to enact a new amnesty in 1986 when the military threatened a military coup. Amnesties sometimes follow TCs when the investigation proves too threatening. In their final report, the Salvadoran commission recommended that a number of individuals be tried for their role in the violence. The military protested vehemently. Within five days of the release of the report, a sweeping amnesty law was passed by El Salvador's legislature to prevent anyone from being tried. Several top military leaders named were eventually eased out of the government, but they were given full pensions (Hayner 2001, p. 40).

The South African TRC represents an unprecedented attempt to balance the demands for truth, impunity, and retributive justice. Perpetrators could receive amnesty from the commission if they provided the complete truth of what they had done and demonstrated a political motive for their crimes. The TRC's interest in information took clear priority over punishment. Yet, court cases shaped the truth that was uncovered. When Eugene de Kock, commander of the South African police's counterinsurgency unit, was convicted in 1996, many police officers came to the TRC to confess in pursuit of amnesty. By contrast, when former Defense Minister Magnus Malan and other top-ranking defense officials were acquitted of human rights violations, few members of the military came before the TRC. To determine whether to grant amnesty, commissioners made judgments as to whether confessions were truthful and complete. Furthermore, testimony was cross-checked with other interviews to determine whether it was genuine before amnesty was granted. The fact that fewer than 900 of more than 7000 applicants received amnesty is taken as evidence that the TRC carefully scrutinized every application. Furthermore, the TRC went out of its way to appear impartial by inviting non-Black witnesses far out of proportion to their percentage of the population (Chapman and Ball 2001).

Evidence

TCs construct history by collecting evidence from a variety of sources. Information from official sources may exist. However, even when a TC has subpoena powers or the government pledges to co-operate, it still may face obstruction. Government cooperation with TC investigations has been highly variable. The military, in particular, is often less than forthcoming with information that will reveal its misdeeds. Moreover, events may have taken place in the distant past, which could make finding evidence and testimony extremely difficult.

TCs often are stifled in investigating the international role in human rights violations. The Salvadoran and Guatemalan commissions, for example, received little assistance from the United States in their investigations, despite the fact that the American government played key roles in those conflicts. This necessarily limits the history produced.

Despite these obstacles, TCs often struggle to process the volume of data they receive. Commissions process information in different ways; some observers distinguish between legal and social science approaches to data collection and analysis (Chapman and Ball 2001). The approach taken shapes history. Legal approaches tend to focus on the construction of a database. Over time, TCs have used increasingly sophisticated databases to manage evidence and testimony and to facilitate analysis. However, configuring data to fit a database often decontextualizes the evidence. The how and why of past events may be lost. The database, through the categories constructed in it,

sets the parameters of truth. A social science approach, by contrast, focuses more on individual stories. The inclusion of quotes from testimony in the final report is characteristic of this approach. A potential problem with this is that too much attention to individual stories is not only costly in terms of resources, but also inhibits finding patterns to human rights abuses.

Most TCs have sought a balance between these approaches. Commissions' staff have varied significantly in terms of their size and skillset. Staff are hired by the commission, often temporarily to do tasks at particular points in the process. Some are hired to conduct outreach, to make the public aware of what the TC is designed to do and how they can participate in the process. TCs also need expertise in collecting forensic evidence. Perhaps the most crucial and most powerful form of evidence is through testimony. Therefore, interviewing skills are essential. Victims telling their stories play a central part of most commissions' missions. Yet, doing so can be traumatic for statement-givers and statement-takers. TCs have generally done a poor job of providing psychological support to victims appearing before the commission and to commission staff (Hayner 2011). In general, the form(s) of evidence emphasized by the TC will affect the type of truth produced.

Resources

In order to complete its task, a TC must be granted sufficient resources. This is not an easy proposition for transitional states, many of which are poor and facing tremendous rebuilding costs after restoring relative peace. Most TCs find themselves short of the resources necessary to conduct a full investigation. Choices must be made as to what will be given priority.

Among other things, commissions need to hire staff to conduct interviews and collect data. Staff size and budgets have varied considerably. The South African TRC, for example, had a staff of 300 and a budget of USD 18 million per year for its two-and-a-half year existence (Hayner 2001, p. 41). By contrast, due to lack of office space, Chad's TC was forced to set up its headquarters within the former secret detention center of the security forces (Hayner 2001, p. 58). To put it mildly, this was not a welcoming environment for those who were urged to come testify to past abuses, many of which took place in the same facility. TCs in Bolivia and the Philippines closed down prior to fulfilling their mandates when commissioners resigned to protest the lack of funds and co-operation they were receiving.

Investigating hundreds, if not thousands, of human rights violations across many years and large geographic areas is costly. Investigators often need to reach remote areas to interview witnesses and visit sites of key events. This is often costly and time consuming due to poor infrastructure and security. Yet, failing to collect this information will warp the history of the conflict that is presented by the commission. In recent years, the international community has often provided significant financial support to TCs (Muck and

Wiebelhaus-Brahm 2016). However, this may raise questions about the legitimacy of the commission as observers increasingly fret about transitional justice processes reflecting Western rather than local needs and demands (Kent 2012; Robins 2009; Gready and Robins 2014).

Findings: The Truth Commission Report

To date, governments have invested significant resources in TC archives to make the commission's work accessible to society in the future (Peterson 2005). As such, the commission's final report is typically the main means through which TCs shape history in the long run. It is a summary of the key findings. Patterns of abuse are outlined. Often, emblematic cases are recounted. The report seeks to construct an authoritative history of the past. The commission's report also provides recommendations for rebuilding society. One of the key aspects of the report is highlighting the institutional factors that facilitated human rights violations. Recommendations often center on designing ways to prevent a repetition of such crimes in the future, such as by making the military more accountable to civilians. In addition, the judicial system typically needs to be strengthened and made more independent.

There have been no systematic studies of the implementation record of reform recommendations, though Hayner (1996) contended in the mid-1990s that it was generally poor at that point. Most analyses, in fact, have focused on the initial reception of a commission's work and not what might be termed its longer-term effects. However, if, as hoped, the commission does succeed in influencing public debate and shaping how the past is viewed, it may perhaps take time for momentum to be built. At the same time, one could equally imagine that, should the recommendations not be acted upon immediately, they will be lost in the morass of pressing issues facing a rebuilding society.

Governments and opposition groups sometimes agree that the commission's recommendations will be mandatory. However, there is often little to compel them to live up to these commitments. Follow-up bodies have been created in some instances at the behest of the commission to oversee such things as reform enactment, reparations distribution, or continued investigations, but the commission itself is not around to see its recommendations put into place. As a result, the impact of the commission is largely contingent on its ability to serve as an authoritative moral voice and to set an agenda around which domestic and international actors can exert continued pressure.

Therefore, it is likely that certain political conditions are more conducive to recommendations being taken seriously. For example, more competitive electoral systems appear to improve the implementation record as parties use recommendations as a means to differentiate themselves (Wiebelhaus-Brahm 2010). TCs may promote reform by providing "a pressure point around

which civilian society and the international community can lobby for change in the future” (Hayner 1994, p. 609). Some assert that TC findings can discredit institutions and individuals found responsible for crimes (Abrams and Hayner 2002). Individuals rarely face jail time or pay restitution, but in principle the revelations harm their image and they may suffer social stigma. Logically, the strength of civil society has been implicated in the impact of TCs (Crocker 2000; Barahona de Brito, Aguilar and Gonzalez Enriquez 2001). Civil society may pressure the government to implement commission recommendations. Where a stronger interest by external actors is exhibited, governments also seem more likely to enact TC recommendations (Barahona de Brito, Aguilar and Gonzalez Enriquez 2001).

In order to have a substantial impact, the report should be widely disseminated. In Argentina, for instance, the wide availability and low-cost *Nunca Mas* report was a best-seller. When officials fear instability or that revelations may damage their reputations, however, governments sometimes withhold commission reports. In the twenty-first century, the Internet has been a vehicle to propagate reports officially or unofficially. In the early 2000s, for example, Nigerian NGOs posted the Human Rights Violations Investigation Commission’s final report online when the government refused to release it.

It seems unlikely a TC can be considered a success if its findings are not made public. It is important that the entire population has access to the findings to understand better the trauma they have experienced and to facilitate a national conversation on what further should be done to address the past and to ensure nonrepetition. Moreover, if a report is kept out of public view, it will raise suspicions about the government’s role in the violence.

Reports may have wider ramifications for the future pursuit of justice. Chile’s Rettig Commission illustrates this nicely. The military and the Supreme Court rejected the commission’s findings. After Pinochet ally Jamie Guzman was assassinated shortly after the report’s release, an uneasy silence about the past settled in. Nonetheless, in line with Rettig’s recommendation, the government established a follow-up body, the National Corporation for Reparation and Reconciliation, which managed a generous package of benefits for victims including pension, health, and education benefits. The past resurfaced when Pinochet was arrested in London in 1998. As has occurred in other cases of domestic and international human rights trials, the TC’s report was used by Spanish Judge Baltasar Garzon in issuing the arrest warrant for Pinochet. Pinochet’s arrest helped to instigate the creation of the National Commission on Political Imprisonment and Torture (popularly known as the Valech Commission) that documented further abuses and a proliferation of domestic court cases covering alleged human rights violations during Pinochet’s regime. This whole episode and the resulting re-examination of the past by Chileans point to the fact that the impact of TCs is often indirect and unfolding over long periods of time.

WHAT ARE THE LONG-TERM IMPACTS OF TRUTH COMMISSIONS?

Only relatively recently have academics and policy makers raised the question of the long-term effects of TCs. Given variation in commission structure and powers, the environment in which they operate, and the nature of the crimes they are to investigate, some assert the success of each TC should be judged on its own terms (Chapman and Ball 2001). To be sure, each has a slightly different mandate based upon past and present circumstances and operates within particular social, economic, and political environments. In light of this, it is useful to distinguish between whether the TC has been a success, the degree to which it fulfilled the duties assigned it, and whether it has had an important impact on the society in which it operated (Brahm 2007). Based on many of the criteria for TC evaluation put forward, it is entirely possible to have a successful TC that has minimal impact on post-transition society.

The process of coming to terms with the past may psychologically benefit victims. Advocates of TCs often point to research that, in many cases, telling one's story is therapeutic for victims. Because it has official status, TCs can represent an official acknowledgment of responsibility. For others, however, telling one's story has quite different effects. The benefit a crime victim receives from retelling his or her story is often part of a long-term treatment process. With TCs, however, victims usually have only a few minutes. More important, reliving the experience can trigger post-traumatic stress (Minow 2000). Hayner (2001) describes individuals interviewed by the South African TRC who needed psychiatric treatment after the experience. Because one can only guess who may be more susceptible to such episodes, testifying can be risky.

Other potential benefits are at the societal level. TCs may promote stability, reduce future levels of violence, and advance the rule of law. Yet, because TCs are one component of social and political transformation, it is difficult to disentangle the effects of TCs from other factors. At the aggregate level, Hayner (2001) suggests three indicators of whether TCs promote reconciliation: how the past is dealt with in the public sphere; whether relations between former opponents have improved; and whether there is one version of the past or many. As Michael Ignatieff (1998, p. 188) famously put it, TCs can "reduce the number of lies that can be circulated unchallenged in public discourse." Yet, as Erin Daly (2008, p. 38) notes, a TC "can establish facts and provide information, but it cannot always change people's beliefs, affect how people interpret the information or establish the moral common ground necessary to promote reconciliation." In South Africa, for example, a survey conducted as the TRC was finishing its report in mid-1998 found that relations between groups had actually worsened (Hayner 2001, p. 156). The survey found that 23% felt the TRC would cause more hurt and pain; only 17% predicted people would become more forgiving as a result of the TRC. Nonetheless, intercommunal violence has not resumed. In fact, Gibson (2004) finds that South Africans who were more attentive to the TRC's work were more likely to have attitudes supportive of reconciliation.

Reconciliation may be the ultimate implicit or explicit goal of TCs, but it is an ill-defined concept that often occurs over years if not generations, which makes it difficult to examine empirically (Freeman and Hayner 2003; van der Merwe 1999). That TCs foment discussion about the past rather than closing the book is natural and, under many circumstances, desirable. As Nico Wouters (2014, p. 17) notes, continued debates and controversies over history “should not be considered as failures of the work of a TRC, but should be accepted as unavoidable steps.”

Others see reconciliation as too much to ask for given TCs’ relative weakness. They put forward “peaceful coexistence, cooperation, and tolerance” as a milder, more reasonable alternative (Ash 1997; Norval 1999). Some minimal level of trust would seem an important pre-condition for former enemies to live together peacefully (Govier and Verwoerd 2002). This likely involves both building trust in one’s fellow citizens as well as in political and governmental institutions. It has been argued that TCs are more useful where existing institutions are not trusted by the population (Mendez and Mariezcurrena 2003). One common suggestion for assessing TCs has been to examine how the past is dealt with in the public sphere (Weissbrodt and Fraser 1992; Ignatieff 1996; Hayner 1999), which has implications for trust. As José Zalaquett has argued, “[A] society cannot reconcile itself on the grounds of a divided memory” (Boraine, Levy and Scheffer 1997, p. 13). Whether we are seeking tolerance, trust, or reconciliation, though, TCs are unlikely to facilitate it unless the history produced is credible to all major social groups.

A range of other claims has been made about TC impact ranging from the promotion of human rights to peace and democracy. Some see TCs, and transitional justice writ large, as potentially dangerous because they have the potential to generate resentment and insecurity.⁶ After all, “truth” has been the cause of much violence historically (Dimitrijevic 2002). There is skepticism that a TC can put to rest the competition over writing history between conflicting groups, between victim and perpetrator. Based upon Latin America’s experience, one observer concluded that, at least as of the early 2000s, “[T]he ability of truth commissions to put the past to rest by making it a matter of public record is illusory. Indicative of the fact that truth commissions by themselves have been unable to bring closure is that...a rash of new trials addressing government-sponsored criminality has recently broken out...” (Lean 2003, p. 170). For victims, the lack of punishment symbolized by creating a TC may seem a travesty of justice. For perpetrators, by contrast, TC proceedings may be perceived as a threat to their reputations and social position. As a result, both sides may find extra-constitutional tactics in support of their interests appealing.

In reality, the empirical picture of what effects TCs have is not clear-cut. Many of the factual and theoretical claims about TCs have been called into question (Mendeloff 2004). These divergent expectations are driven

by several factors. On a basic level, any claims about TC impact are further complicated by the fact that they are relatively limited institutions that rely on other actors and circumstances to see most of these goals realized. They also are one factor in a complex, rapidly changing sociopolitical situation. Depending on the situation, TCs may either be part of a broader effort or the only means of addressing past crimes that are created at the time of transition.

As a result, some critics have perhaps unfairly judged TCs based in part on developments beyond the commission's scope or that occurred after it completed its work. Hayner (2000, p. 370) contends that "[P]olitical realities and outside actors should be recognized for the failure or success of a commission's long-term impact, as much as the work of the commission itself." As a result, the question of what effects TCs have remains unsolved. Although there is growing recognition that more methodological sophistication is needed to make more definitive judgments as to whether and how TCs help societies make a break with their pasts (Thoms, Ron and Paris 2010; van der Merwe, Baxter and Chapman 2009; Mendeloff 2004, 2009), debate continues to wage.

NOTES

1. Given its global prominence, it is not surprising that commissioners from South Africa's Truth and Reconciliation Commission (TRC) have been some of the most important. For example, former TRC commissioner Alex Boraine went on to establish the International Center for Transitional Justice (ICTJ) with support from the Ford Foundation and others. The ICTJ has become the world's premiere transitional justice consultancy. A brief examination of their website at <http://www.ictj.org/> reveals the global reach of their consultation and training activities. Although lower profile, a number of others involved in the TRC have gone on to do important work throughout Africa with the Centre for the Study of Violence and Reconciliation (CSVR), among other groups.
2. Of UN peace operations conducted in recent years, truth commissions emerged in El Salvador, Haiti, Guatemala, Sierra Leone, East Timor, and Liberia. For a UN statement on truth commissions, see Office of the United Nations High Commissioner for Human Rights (2006).
3. To take the effect of truth commissions on human rights, for example, Kim and Sikkink (2010) conclude they are beneficial, whereas Olsen et al. (2010) and Wiebelhaus-Brahm (2010) conclude they have negative effects on their own.
4. The later National Commission on Political Imprisonment and Torture, which operated from September 2003 to June 2005, addressed these crimes, but there were no plans for this investigation during the time of the Rettig Commission.
5. It is in part an illustration of the dramatic impact of the South African Truth and Reconciliation Commission that Peru strayed from the regional norm and modeled many of their procedures after South Africa, including public hearings.
6. At the same time, Snyder and Vinjamuri (2003/2004) argue that trials are more inflammatory than truth commissions.

REFERENCES

- Abrams, J. S. and Hayner, P. B. (2002) 'Documenting, Acknowledging and Publicizing the Truth' in M. C. Bassiouni (ed.) *Post-conflict justice* (Ardsey: Transnational Publishers).
- Ash, T. Garton (1997) 'True Confessions', *The New York review of books*, 44(12), 33–38.
- Backer, D. (2007) 'Victims' Responses to Truth Commissions. Evidence from South Africa' in M. Ndulo (ed.) *Security, Reconstruction, and Reconciliation. When the Wars End* (London: University College London), pp. 165–196.
- Bakiner, O. (2016) *Truth commissions. Memory, power, and legitimacy* (Philadelphia: University of Pennsylvania Press).
- Barahona de Brito, A., Aguilar, P. and Gonzalez Enriquez, C. (2001) 'Introduction' in A. Barahona de Brito, C. Gonzalez Enriquez and P. Aguilar (eds.) *The politics of memory. Transitional justice in democratizing societies* (Oxford: Oxford University Press), pp. 1–39.
- Bevernage, B. (2011) *History, memory, and state-sponsored violence. Time and justice* (New York: Routledge).
- Bhargava, R. (2000) 'Restoring Decency to Barbaric Societies' in R. I. Rotberg and D. Thompson (eds.) *Truth v. Justice. The Morality of Truth Commissions* (Princeton: Princeton University Press), pp. 45–67.
- Boraine, A., Levy, J. and Scheffer, R. (eds.) (1997) *Dealing with the past. Truth and reconciliation in South Africa* (Cape Town: Institute for a Democratic Alternative for South Africa).
- Borer, T. A. (2006) 'Truth Telling as a Peace-Building Activity. A Theoretical Overview' in T. A. Borer (ed.) *Telling the Truths. Truth Telling and Peace Building in Post-Conflict Societies* (South Bend: University of Notre Dame Press), pp. 1–58.
- Brahm, E. (2007) 'Uncovering the Truth. Examining Truth Commission Success and Impact', *International Studies Perspectives*, 8(1), 16–35.
- Brahm, E. (2009) 'What is a Truth Commission and Why Does it Matter?', *Peace and Conflict Review*, 3(2), 1–14.
- Brody, R. (2001) 'Justice. The First Casualty of Truth?', *The Nation*, April 30.
- Chapman, A. R. and Ball, P. (2001) 'The Truth of Truth Commissions. Comparative lessons from Haiti, South Africa, and Guatemala,' *Human Rights Quarterly*, 23(1), 1–43.
- Crocker, D. A. (2000) 'Truth Commissions, Transitional Justice, and Civil Society' in R. I. Rotberg, R. I. and Thompson, D. (eds.) *Truth v. Justice. The Morality of Truth Commissions* (Princeton: Princeton University Press), pp. 99–121.
- Daly, E. (2008) 'Truth Skepticism. An Inquiry into the Value of Truth in Times of Transition', *International Journal of Transitional Justice* 2(1), 23–41.
- Dancy, G., Hunjoon K. and Wiebelhaus-Brahm, E. (2010) 'The Turn to Truth. Trends in Truth Commission Experimentation' *Journal of Human Rights*, 9(1), 45–64.
- Dimitrijevic, V. (2002) 'Facts versus Truth. The Dilemmas of a Reluctant Member of a Truth and Reconciliation Commission' in O. Enwezor, C. Basualdo, U. M. Bauer, S. Ghez, S. Maharaj, M. Nash and O. Zaya (ed.) *Experiments with truth. Transitional justice and the processes of truth and reconciliation. Documenta 11*Platform 2* (Ostfildern-Ruit: Hatje Cantz), pp. 205–212.

- Fitzpatrick, J. (1995) 'Impunity and Human Rights in International Law and Practice', *Michigan journal of international law*, 16(3).
- Freeman, M. and Hayner, P. B. (2003) 'Truth-Telling' in D. Bloomfield (ed.) *Reconciliation after violent conflict. A handbook* (Stockholm: International Institute for Democracy and Electoral Assistance), pp. 122–144.
- Goldstone, R. J. (1996) 'Justice as a Tool for Peace-Making. Truth Commissions and International Criminal Tribunals', *New York University Journal of International Law and Politics*, 28(3), 485–503.
- Govier, T. and Verwoerd, W. (2002) 'Trust and the problem of national reconciliation', *Philosophy of the Social Sciences*, 32(2), 178–205.
- Grandin, G. (2005) 'The instruction of great catastrophe. Truth commissions, national history, and state formation in Argentina, Chile, and Guatemala', *American Historical Review*, 110(1), 46–67.
- Gready, P. and Robins, S. (2014) 'From Transitional to Transformative Justice. A New Agenda for Practice', *International Journal of Transitional Justice*, 8(3), 339–361.
- Greenawalt, K. (2000) 'Amnesty's Justice' in R. I. Rotberg and D. Thompson (eds.) *Truth v. Justice. The Morality of Truth Commissions* (Princeton: Princeton University Press), pp. 189–201.
- Hamber, B. (2001) 'Does the truth heal? A psychological perspective on political strategies for dealing with the legacy of political violence' in N. Biggar (ed.) *Burying the past. Making peace and doing justice after civil conflict* (Washington, DC: Georgetown University Press), pp. 131–148.
- Hamber, B. and Wilson, R. (2002) Symbolic closure through memory, reparation and revenge in post-conflict societies. *Journal of Human Rights*, 1(1), 35–53.
- Hayner, P. B. (1994) 'Fifteen Truth Commissions—1974 to 1994. A Comparative Study', *Human Rights Quarterly*, 16(4), 597–655.
- Hayner, P. B. (1996) 'Commissioning the Truth. Further Research Questions', *Third World Quarterly*, 17(1), 19–29.
- Hayner, P. B. (1996) 'International Guidelines for the Creation and Operation of Truth Commissions. A Preliminary Proposal', *Law and contemporary problems*, 59(4), 173–199.
- Hayner, P. B. (1999) 'In Pursuit of Justice and Reconciliation. Contributions of Truth Telling' in C. J. Arnson (ed.) *Comparative Peace Processes in Latin America* (Washington DC: Woodrow Wilson Center Press), pp. 363–383.
- Hayner, P. B. (2000) 'Past Truths, Present Dangers. The Role of Official Truth Seeking in Conflict Resolution and Prevention' in P. C. Stern and D. Druckman (eds.) *International conflict resolution after the cold war* (Washington, DC: National Academy Press), pp. 338–382.
- Hayner, P. B. (2001) *Unspeakable Truths. Confronting State Terror and Atrocity* (New York: Routledge).
- Hayner, P. B. (2011) *Unspeakable Truths. Transitional Justice and the Challenge of Truth Commissions* (2nd ed. New York: Routledge).
- Ignatieff, M. (1996) 'Articles of Faith', *Index on Censorship*, 25(5), 110–122.
- Ignatieff, M. (1998) *The warrior's honor. Ethnic war and the modern conscience* (1st American ed. New York: Metropolitan Books).
- Joinet, L. (1997) 'Question of the Impunity of perpetrators of human rights violations (civil and political). Revised final report prepared by Mr. Joinet pursuant to Sub-Commission decision 1996/119' (New York: United Nations).

- Kent, L. (2012) *The Dynamics of Transitional Justice. International Models and Local Realities in East Timor* (New York: Routledge).
- Kim, H. and Kathryn S. (2010) Explaining the Deterrence Effect of Human Rights Prosecutions for Transitional Countries, *International Studies Quarterly*, 54(4), 939–963.
- Kritz, Neil J., (ed.) (1995) *Transitional Justice. How Emerging Democracies Reckon with Former Regimes* (Vol. 3.) (Washington, DC: United States Institute of Peace Press).
- Lean, S. F. (2003) ‘Is Truth Enough? Reparations and Reconciliation in Latin America’ in J. C. Torpey (ed.) *Politics and the past. On repairing historical injustices* (Lanham: Rowman & Littlefield Publishers).
- Lutz, E. and Sikkink, K. (2001) ‘The Justice Cascade. The Evolution and Impact of Foreign Human Rights Trials in Latin America,’ *Chicago Journal of International Law*, 2(1), 1–33.
- Mamdani, M. (2001) *When victims become killers. Colonialism, nativism, and the genocide in Rwanda* (Princeton: Princeton University Press).
- Mendeloff, D. (2004) ‘Truth-Seeking, Truth-Telling and Post-Conflict Peacebuilding. Curb the Enthusiasm?’, *International Studies Review*, 6(3), 355–380.
- Mendeloff, D. (2009) ‘Trauma and Vengeance. Assessing the Psychological and Emotional Effects of Post-Conflict Justice’, *Human Rights Quarterly*, 31(3), 592–623.
- Mendez, J. E. and Mariezcurrena, J. (2003) ‘Unspeakable Truths. Facing the challenge of truth commissions’, *Human Rights Quarterly*, 25(1), 237–256.
- Minow, M. (1998) *Between Vengeance and Forgiveness. Facing history after genocide and mass violence* (Boston: Beacon Press).
- Minow, M. (2000) ‘The Hope for Healing. What Can Truth Commissions Do?’ in R. I. Rotberg and D. Thompson (eds.) *Truth v. Justice. The Morality of Truth Commissions* (Princeton: Princeton University Press), pp. 235–260.
- Moon, C. (2008) *Narrating political reconciliation. South Africa’s Truth and Reconciliation Commission* (Lanham: Lexington Books).
- Muck, W. and Wiebelhaus-Brahm, E. (2016) ‘External Transitional Justice Funding: Introducing a New Dataset’, *Journal of Peacebuilding & Development*, 11(2), 66–71.
- Norval, A. (1999) ‘Truth and Reconciliation. The birth of the present and the reworking of history’, *Journal of Southern African Studies*, 25(3), 499–519.
- Office of the United Nations High Commissioner for Human Rights (2006) *Rule-of-Law Tools for Post-Conflict States: Truth commissions* (New York: United Nations).
- Olsen, T. D., Payne, L. A. and Reiter, A. G. (2010) *Transitional Justice in Balance. Comparing Processes, Weighing Efficacy* (Washington DC: United States Institute of Peace Press).
- Peterson, T. Huskamp (2005) *Final Acts. A Guide to Preserving the Records of Truth Commissions* (Baltimore: Johns Hopkins University Press).
- Pion-Berlin, D. (1994) ‘To Prosecute or to Pardon? Human Rights Decisions in the Latin American Southern Cone’, *Human Rights Quarterly*, 16(1), 105–130.
- Popkin, M. L., and Roht-Arriaza, N. (1995) ‘Truth as Justice. Investigatory Commissions in Latin America’, *Law & social inquiry*, 20(1), 79–117.
- Robins, Simon. 2009. Whose Voices? Understanding Victims’ Needs in Transition. *Journal of Human Rights Practice* 1 (2).

- Roht-Arriaza, N. (2006) 'The new landscape of transitional justice' in N. Roht-Arriaza and J. Mariezcurrena (eds.) *Transitional justice in the twenty-first century. Beyond truth versus justice* (New York: Cambridge University Press), pp. 1–16.
- Schabas, W. A. (2004) 'Conjoined Twins of Transitional Justice? The Sierra Leone Truth and Reconciliation Commission and the Special Court', *Journal of International Criminal Justice*, 2(4), 1082–1099.
- Shea, D. C. (2000) *The South African Truth Commission. The politics of reconciliation* (Washington, DC: United States Institute of Peace Press).
- Sikkink, K. (2011) *The Justice Cascade. How Human Rights Prosecutions are Changing World Politics* (1st ed. New York: W. W. Norton & Co).
- Snyder, J. L. and Vinjamuri, L. (2003/2004) 'Trials and Errors. Principle and pragmatism in strategies of international justice', *International Security*, 28(3), 5–44.
- Stewart, B. and Wiebelhaus-Brahm, E. (2017) 'The Quantitative Turn in Transitional Justice Research: What Have We Learned About Impact?', *Transitional Justice Review* 1(5), 97–133.
- Thoms, O. N.T., Ron, J. and Paris, R. (2010) 'State-Level Effects of Transitional Justice. What Do We Know?', *International Journal of Transitional Justice*, 4(3), 1–26.
- van der Merwe, H. (1999) 'The Truth and Reconciliation Commission and Community Reconciliation: An Analysis of Competing Strategies and Conceptualizations' (PhD, Institute for Conflict Analysis and Resolution, George Mason University, Fairfax).
- van der Merwe, H., Baxter, V. and Chapman, A. R. (eds.) (2009) *Assessing the Impact of Transitional Justice. Challenges for Empirical Research* (Washington, DC: United States Institute of Peace Press).
- Weissbrodt, D. and Fraser, P. W. (1992) 'Report of the Chilean National Commission on Truth and Reconciliation', *Human Rights Quarterly*, 14(4), 601–622.
- Wiebelhaus-Brahm, E. (2010) *Truth Commissions and Transitional Societies. The Impact on Human Rights and Democracy* (New York: Routledge).
- Wilson, R. A. (2001) *The politics of truth and reconciliation in South Africa. Legitimizing the post-apartheid state* (New York: Cambridge University Press).
- Wouters, N. (2014) 'The Use of History in the Field of Transitional Justice: A Critical Introduction' in N. Wouters (ed.) *Transitional Justice and Memory in Europe: 1945–2013* (Cambridge: Intersentia).

SUGGESTED READING LIST

- Ash, T. G. (1997) 'True Confessions', *The New York review of books*, 44(12), 33–38.
- Bakiner, O. (2016) *Truth Commissions. Memory, Power, and Legitimacy* (Philadelphia: University of Pennsylvania Press).
- Chapman, A. R. and Ball, P. (2001) 'The Truth of Truth Commissions. Comparative lessons from Haiti, South Africa, and Guatemala' *Human Rights Quarterly*, 23(1), 1–43.
- Dancy, G., Kim, H. and Wiebelhaus-Brahm, E. (2010) 'The Turn to Truth. Trends in Truth Commission Experimentation', *Journal of Human Rights*, 9(1), 45–64.
- Gibson, J. L. (2004) *Overcoming Apartheid. Can Truth Reconcile a Divided Nation?* (New York: Russell Sage Foundation).

- Hayner, P. B. (2011) *Unspeakable Truths. Transitional Justice and the Challenge of Truth Commissions* (2nd ed. New York: Routledge).
- Mendeloff, D. (2004) 'Truth-Seeking, Truth-Telling and Post-Conflict Peacebuilding: Curb the Enthusiasm?', *International Studies Review*, 6(3), 355–380.
- Rotberg, R. I. and Thompson, D. (eds.) (2000) *Truth v. Justice. The Morality of Truth Commissions* (Princeton: Princeton University Press).
- Wiebelhaus-Brahm, E. (2010) *Truth Commissions and Transitional Societies. The Impact on Human Rights and Democracy* (New York: Routledge).
- Wilson, R. A. (2001) *The Politics of Truth and Reconciliation in South Africa. Legitimizing the Post-Apartheid State* (New York: Cambridge University Press).

Truth Commissions and the Politics of History: A Critical Appraisal

Stephan Scheuzger

Historians' relationship to truth commissions is complex, not to say contradictory. When such bodies emerged in the 1980s as a new means of dealing with past injustice, and gradually became, over the following decade, an almost standard tool for governments faced by the political and moral imperative to confront atrocities committed under an earlier regime or in the course of an internal armed conflict now over, the professional expertise of historians had largely no role in their activities. As official bodies, truth commissions were established from the very start as mechanisms for the production of authoritative knowledge about conflictual pasts. Nevertheless, by the turn of the century, only in a few exceptional cases had historians come to play an important role in the commissions' production of knowledge: on the whole, they had no significant role in planning the commissions' investigations or identifying appropriate methods of work, nor in the conduct of the inquiries or in writing the reports in which these bodies were invariably obliged to present the results of their fact-finding missions.

The most prominent exception is represented by the crucial role played by Gonzalo Vial in the Comisión Nacional de Verdad y Reconciliación (CNVR) created in Chile by a decree of the newly elected President Patricio Aylwin in 1990, immediately after the end of the military dictatorship. Faced by a public opinion highly polarised with regard to the fallen military regime, Aylwin decided to appoint members of the commission to reflect equally the centre-left now in government and the right of the political spectrum.

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Although the CNVR became popularly known as the Comisión Rettig after its almost 81-year-old president, the conservative historian Vial would be one of the most influential members of the commission. The other was José Zalaquett, former general secretary of Amnesty International, law professor and architect of the CNVR. As well as Zalaquett, no fewer than six of the eight commissioners were lawyers by profession, as was the commission's executive director. Though not all truth commissions of the 1980s and 1990s had such a high proportion of jurists, this was indeed typical, especially of the more important and more internationally visible commissions, such as the Comisión Nacional sobre la Desaparición de Personas (CONADEP) in Argentina (1983–1984), the Comisión de la Verdad para El Salvador (CVES, 1992–1993), the South African Truth and Reconciliation Commission (TRC, 1995–1998/2002), and the Comisión para el Esclarecimiento Histórico (CEH) in Guatemala (1997–1999). When truth commissions came to take their place in the emerging field of transitional justice in the 1990s, commissioners shared the same professional backgrounds as the scholars and practitioners (often scholar-practitioners) in the field, transitional justice being shaped by legal scholars, social scientists—especially political scientists—and human rights activists. Even in the biggest, most organisationally complex and best-resourced truth commission to date, the South African TRC, the expertise of historians was concentrated in a subordinate unit of the organisational structure. The Research Department, as it was called, headed by Charles Villa-Vicencio, yet another theologian alongside commission chairman Desmond Tutu and vice-chairman Alex Boraine, was responsible for the provision of knowledge about the historical context of the events under investigation. Although many of the Department's staff had taken their jobs in the expectation that the TRC was to write a historical account of the Apartheid regime, they very soon had to revise their ideas drastically.

Yet the history of the relationship between truth commissions and historical scholarship has not been, or has not only been, a history of exclusion. It is indeed remarkable how the governments, parliaments and experts responsible for organising truth commissions and setting their terms of reference believed it possible to mount an effective and trustworthy inquiry into the most controversial aspects of the recent national past without making any serious call on historians' professional expertise, a habit most evident in the late twentieth century but one that often continued in the next. But academic historians themselves frequently kept their distance from the work of the commissions, considering the activities of such bodies to be alien to their own scholarly mode of knowledge production. The eminently political nature of these inquiries into the past was one important reason for this attitude, and the positivist notion of truth that frequently marked the commissions' approach to the past another. Such tensions between commissions and historians were particularly evident in the case of the South African TRC; these have been discussed in a series of articles (Du Pisani and Kim 2004; Lalu and Harris 1996; Verbuyst 2013; Verwoerd 1996). The reservations widespread

among academic historians have not, however, prevented them from regularly relying on truth commission reports in their own studies of repression under authoritarian regimes (as in Argentina, Chile or South Africa) or of atrocities committed in civil wars (as in El Salvador, Guatemala or, later, Sierra Leone). They have used commissions' representations of the political violence of the past as an authoritative source, especially for the quantitative aspects of mass human rights violations (e.g. Ensalaco 2000, pp. 22–46; Figueroa Ibarra 2002, p. 153; Marx 2000, pp. 261, 265; Policzer 2009; Roniger and Sznajder 1999, p. 21; Root 2012, pp. 15–40; Wright 2007, pp. 47–137).

Yet these appropriations of central elements of commissions' historical accounts have been remarkably uncritical. Historians and social scientists have hardly ever attended to the ways in which truth commissions generated their knowledge. The few exceptions only confirm the rule. They have focused above all on the South African TRC, the most pertinent coming from disciplinary backgrounds other than history (e.g. Wilson 2001; Posel and Simpson 2002). It is only recently that any comprehensive historical study has offered a detailed analysis of the knowledge production of truth commissions beyond the South African (Scheuzger, forthcoming). Based on the work done for that exploration of the entangled history of truth commissions, this chapter discusses just one specific aspect of such commissions' endeavour to present, on behalf of a government or parliament, a public account of criminal political violence on a mass scale. The discussion here considers the nexus between the 'truth' of the truth commissions and their function as an instrument of a state-sponsored 'politics of history.'

'POLITICS OF HISTORY'—*GESCHICHTSPOLITIK*

There have been a number of attempts to define what a truth commission is. All the most-cited definitions, at least, have been presented by authors with a more or less explicit interest in generating normative knowledge about this instrument for dealing with the past and the ways to use it best (Hayner 2011; Freeman 2006; Dancy, Kim and Wiebelhaus-Brahm 2010). Ultimately, the goal of the social sciences' treatment of the subject has almost always been, as Priscilla Hayner explains in outlining the aim of her classic study *Unspeakable Truths*, 'to better understand how states and individuals might reckon with horrible abuses of the past, and specifically to understand the role played by truth commissions' (Hayner 2011, p. 4). Such an analytical approach, intended to draw out the lessons to be learned for future attempts to confront massive human rights violations in the recent past, cannot do without a clear definition of the object under study, and it goes without saying that the definitions of truth commissions proffered by international organisations (UN 2004; Amnesty International 2007) have been even more directly informed by the intention to influence political processes. From a historical point of view, however, none of the available definitions is able to embrace the wide variety of official bodies that have been designated

as truth commissions, and at the same time to distinguish these commissions convincingly from other, similar bodies such as commissions of historians, commissions of inquiry, parliamentary fact-finding commissions and the like. This is even true of the definition recently proposed by Onur Bakiner, conscious as he is of the problem (2016, pp. 24–27). Since the establishment of the first truth commissions *avant la lettre* in the 1980s—the Comisión Nacional de Investigación de Ciudadanos Desaparecidos in Bolivia (1982), the CONADEP in Argentina and the Comisión Investigadora sobre la Situación de Personas Desaparecidas y Hechos que la Motivaron in Uruguay (1985)—set up exclusively to investigate the fate of the victims of forced disappearances under military rule, they have undergone so many significant developments and differentiations that any static definition is doomed to fail. Historicising the phenomenon, it becomes clear that a distinctive feature of these commissions, at least until a few years ago, was their specific function. Governments or parliaments created truth commissions as temporary bodies in the context of transitions to democracy and the rule of law in the hope of supporting the process by investigating and officially acknowledging criminal political violence on a mass scale committed under previous regimes, not least by representatives of the state. In other words: truth commissions were established by states to do politics with history.

Timothy Garton Ash was certainly right when he said many years ago that truth commissions produced ‘history lessons’ for the national—and it should be added, also the international—public (1998, p. 38). There are two ways in which we can develop Garton Ash’s observation. Firstly, with regard to the nature of the ‘lessons’: the work of truth commissions has never been limited to merely documenting human rights violations. As already witnessed by the emblematic title of the CONADEP report in 1984 (*Nunca más*, Never Again), the fact-finding has always been related to prevention. In order to contribute to the prevention of human rights violations in the future, commissions have always had to demonstrate patterns in the criminal political violence under investigation and identify its causes and circumstances. As a result, they have had to present historical narratives of the breakdown of democracy and the rule of law. Secondly, the political function of these public history lessons can be specified: a state-sponsored account of the most severe injustices committed under a previous repressive regime or in the context of internal armed conflict is intended to have a positive effect on a society’s memories and historical narratives and so on, the prospects of peaceful cohabitation in a democratic order, with many actors and scholars even speaking of reconciliation.

In his article, a review of a number of books dealing with the ways in which societies had sought to come to terms with the legacies of repressive and violent pasts, Garton Ash faced the challenge of naming the phenomenon the four publications under review reflected. He perspicaciously took a rather sceptical stance toward the notion of ‘transitional justice.’ An expert in contemporary European history, he correctly pointed out that the field that

might be designated in English as ‘dealing with the past’ had a number of different names in German, indicating ‘that this is something of a German specialty’ (1998, p. 35). Indeed, political and academic discussions of *Vergangenheitsaufarbeitung* or *Vergangenheitsbewältigung* or *Vergangenheitspolitik* in German differ considerably from those on ‘dealing with the past’ or ‘transitional justice’ in English. The different terminologies are the product of the different histories of the debates on how to confront past injustice. And the question of translation is complex. In his enumeration of German terms, Garton Ash also included *Geschichtspolitik*, which he translated literally as ‘politics of history’ (1998, p. 35). Both *Geschichtspolitik* and ‘politics of history’ refer to a variety of forms that the endeavour to do politics with history can take. But they differ significantly in their connotations. Although there is clearly a long tradition of debate on the political use of history in the English-language literature (although the term ‘politics of history’ features in the title of only a few major publications (e.g. Zinn 1990)) there has hardly ever been serious discussion of the precise meaning of the term, its difference from such related categories as ‘politics of memory,’ ‘politics of the past,’ ‘historical consciousness’ or ‘public history,’ and its appropriate use in analysis. The present reflections on truth commissions and the politics of history are rooted in the German discussions of the notion of *Geschichtspolitik*, but are offered in the conviction that they are highly relevant to an adequate understanding of truth commissions’ work in general.

The notion of *Geschichtspolitik* emerged in the context of the German *Historikerstreit*, the mid-1980s historical controversy over the singularity of the Holocaust, and it did so as a pejorative (Schmid 2009; Kohlstruck 2004, pp. 179–180). Semantic transformations since then notwithstanding, the term is still used by some to designate an ideological abuse of history, Reinhard Koselleck and Jürgen Habermas being only the most prominent of those attesting to the continuing currency of such an understanding, even in the academic world (Koselleck 2006, pp. 19–20; Habermas 2000, p. 23). In this sense, *Geschichtspolitik* is conceived as antagonistic to historical scholarship. The most important contribution to the establishment of a more nuanced concept of the term has been made by Edgar Wolfrum (1999a). Nevertheless, it can be argued that even Wolfrum’s treatment of the notion hardly reflects the complexity of the relationship between scholarship and politics. Wolfrum defines *Geschichtspolitik* as a field in which political actors invest the representation of the past with specific interests and struggle for public recognition of their interpretations (1999b, p. 58), making history a contested resource, especially in pluralistic societies. Wolfrum admits that there is a variety of ways in which politics, journalism, scholarship and public opinion interact with one other. But from his point of view, politics and scholarship still follow different epistemological paths. Despite their reciprocal influence, the basic difference between the two spheres, he says, is the fact that the question of truth is not essential to *Geschichtspolitik* as opposed to historical scholarship (1999b, p. 59). This understanding has since been

supported by several authors, among them Erik Meyer, who stressed in a handbook article that '[c]onflicts within the field of "politics of history" deal less with the facticity of historical reconstructions and the appropriateness of resulting interpretations than one might assume for discussion [sic] within the academic community. ... In this perspective, the question is not if the image of history communicated is scientifically truthful.' (2008, p. 176). This idea of *Geschichtspolitik* has not been questioned, nor has there been any discussion of the politics of history that has proposed a fundamentally different relationship between politics and historical truth. The need to go beyond such a dichotomous concept can be strikingly illustrated by the case of the truth commissions.

NOTIONS OF TRUTH AND THE POLITICS OF HISTORY

Notwithstanding the vast number of books and articles that have been published on truth commissions, the notion of truth that is crucial to these bodies' work has been analysed in a remarkably superficial and unnuanced manner. The exceptions are few, most dating to the second half of the 1990s (Ignatieff 1996; Parlevliet 1998). These were the years when the early truth commissions' positivist notions of truth came in for growing criticism. And it was the time, too, when truth commissions were just about to become a conventional recourse for states faced by a legacy of mass crime following the fall of a repressive regime or the end of civil war. There was no causal connection between the two developments, but the experience of the South African TRC underlies them both. The TRC soon came to be seen as the basic model for future truth commissions, and as such it was also an important influence on the discussion of the 'truth' of truth commissions. It did so, in particular, by introducing four distinct categories of truth said to be relevant to its work. The distinctions between a 'factual or forensic truth,' a 'personal and narrative truth,' a 'social truth' and a 'healing and restorative truth' that the Commission drew in its final report (Truth and Reconciliation Commission of South Africa, Vol. 1, 1998, pp. 110–114) would prove highly influential. Publications that later discussed the concept of truth as it related to truth commissions' activities did so in most cases by referring to these four notions, and this hardly ever in critical fashion. Even the entry on 'Truth' in the *Encyclopedia of Transitional Justice* was structured in terms of the TRC's typology (Daly 2013).

The fact that the categorisation of truths suggested by the TRC could become a central analytical tool in transitional justice studies sheds another light on the lack of solid theorisation that for a long time characterised the field. The TRC's four kinds of truth were in fact the result of the commission's attempt to react ad hoc to a fundamental contradiction that emerged in the course of its work: the tension between the claim to produce reliable findings regarding past human rights violations on the one hand and the function of the public hearings. The latter had been introduced by the

TRC as an innovation in truth commission practice, so as to afford the victims of human rights violations under the Apartheid regime an opportunity to speak of the injustice they had suffered not just behind closed doors but in public, thereby restoring their 'human and civil dignity' as required by the Promotion of National Unity and Reconciliation Act by which the TRC had been established (1995, p. 2). The TRC's assertion in its final report that the distinction between the four kinds of truth was the result of wide discussions before and during the inquiry (TRC, Vol. 1, 1998, p. 110) has to be described as an exaggeration. Even though it is true that the TRC could refer to earlier debates among nongovernment organisations and political parties on what it could mean for a state body to establish the truth about the crimes committed under Apartheid, the Commission's records document no significant internal discussion of the concept of truth. On the contrary, an internal paper intended to provide 'Guiding Principles' for the drafting of the final report offered a relatively detailed consideration of the category of truth without making any reference to a typology of the kind later presented (TRC 1997, pp. 3–4). Moreover, there is no evidence that the distinction between four types of truth served to shape the commission's activities in any significant way. This accords with the fact that the TRC's presentation of the four notions was somewhat superficial, leaving many questions open.

The TRC's typology was thus not so much the result of thoroughgoing reflection on epistemological matters as an attempt at an *ex post* rationalisation of fundamental tensions in the commission's process of knowledge production. That the TRC's four truths should nevertheless have proven so highly influential in the scholarship on transitional justice and truth commissions may be attributed not least to the widespread impression that they represented the overcoming of the positivist concept of truth that had characterised earlier commissions. Paradoxically perhaps, whereas the TRC's differentiated concept has been seen as effecting a rapprochement between the truth commissions' idea of truth and the more nuanced understandings of truth in the social sciences and humanities, the scholarship on truth commissions has itself addressed the problem of truth in a rather unsubtle fashion, generally judging the commissions' truth, if not based upon a professed constructivism, to be no more than naively positivist. As a result, important aspects of the truth commissions' politics of history have not been adequately analysed in the majority of publications on the topic.

As was said earlier, truth commissions emerged in the 1980s as an instrument to investigate the fate of the 'disappeared' under Latin American military dictatorships in the previous decade. They came into being as a reaction to a technology of repression whose terroristic effects had been crucially based on the denial of what had happened, on the manipulation of information about victims and their fate. The commissions were thus the product of a political will to establish the facts about the past events, to know what had occurred. Although the work of truth commissions has frequently been associated with the fabric of 'collective' or 'social' memories, their basic concern

was with knowledge, as it was too when their mandates were extended to the investigation of other forms of ‘gross human rights violations,’ first with the creation of the CNVR in Chile in 1990. In situations where divisions provoked or worsened by the acts of criminal political violence committed under repressive regimes or in civil wars persisted after the return to democracy and the rule of law, constituting antagonistic communities of memory, such knowledge was intended to facilitate a minimal social consensus regarding the facts of the most serious crimes of the past. In the context of transition, ‘[t]he past is an argument and the function of truth commissions, like the function of honest historians, is simply to purify the argument, to narrow the range of permissible lies,’ as Michael Ignatieff put it some time ago (1996, p. 113). The truth commissions’ representations of the past were intended to be authoritative not just on account of their official character but chiefly by virtue of their objectivity. It was knowledge—the ‘truth’ that had been the central demand of human rights and relatives’ organisations in South America—that undergirded the commissions’ promise to create consensus in the service of democracy and peaceful coexistence, and even, as many have asserted, of national reconciliation in the wake of authoritarian rule or civil conflict. The element of the absolute in knowledge, its ‘objectivity’ in the sense of knowledge’s independence of the observer’s point of view, is decisive for the political role played by truth commissions and their representations of the past.

This is significant at least in two ways. The role of the truth commissions makes it clear that there still is a fundamental shortcoming in common understandings of ‘politics of history.’ Contradicting the well-established belief in an epistemological divide between scholarship and politics on which these understandings are based, it shows that facticity and objectivity are fundamental to doing politics with history. The truthfulness of historical knowledge is a crucial resource in the public use of history for political ends. And truth commissions are far from being the only instruments of politics of history that suggest a need to revise the established, still too unnuanced understanding of the concept. Recent attempts by historians to contribute to conflict resolution or reconciliation among nations ‘by playing an adjudicatory role in the creation of ... narratives’ about the past ‘while maintaining the highest professional standards’ provide another example. As a participant in such initiatives observed: ‘scholars and scholarly “truth” carry weight in society that cannot be easily monetised or manipulated by political pressure’ (Barkan 2009, p. 900). This gives historical argument great political purchase, which is why discussions of the politics of history should attend to the specific interactions between the supposed objectivity of historical knowledge and the political use of history rather than assuming or emphasising an essential difference between them.

However, insight into the crucial role of knowledge production in the political function of truth commissions also suggests a more differentiated analysis of these official bodies’ representations of the past. The question of

the commissions' capacity for truth should not be neglected in the name of an ultimately undemanding relativism, as has been done in most publications on the subject over the last two decades. Not only has the constructivist argument that has undergirded nearly all scholarly discussion of truth commissions in recent years proved to be too narrow, on its own, to generate productive research perspectives, but the focus on the commissions' 'narrative truths' (Buckley-Zistel 2014) has led to losing sight of the fundamental rationale prompting the creation of the first truth commissions, which is still governments' chief motivation in turning to them: their role in producing knowledge of past human rights that is authoritative and thus politically effective on account of its supposed objectivity.

It can be argued that the very limited scholarly interest in the precise ways in which truth commissions produce their knowledge is one result of such a lopsided approach to the question of truth. And this neglect, in turn, has been a major cause of widespread fundamental misunderstandings of the commissions' *modus operandi*. Notwithstanding certain common features in their ways of proceeding, the concrete methods adopted to generate truthful representations of the past can vary considerably between commissions. Of them all, it was the Chilean CNVR whose investigation was most decisively informed by the ambition to give as incontrovertible as possible an account of past crimes. Even if the example of the CNVR can be said to be exceptional in this respect, it greatly influenced the idea of the truth commissions over the decades to come, as notably evidenced in the case of the South African TRC.

THE TRUTH OF THE TRUTH COMMISSIONS

Chile's transition after more than 16 years of military rule was shaped by the armed forces' continuing capacity not necessarily to reverse but seriously to destabilise the process of democratisation. Augusto Pinochet lost the 1988 plebiscite on his continuation in government for a further eight years by only 54–43%. Unlike the situation in neighbouring Argentina, the armed forces in Chile were far from discredited when they finally gave up power in 1990. Pinochet in particular continued to enjoy strong support from broad sectors of Chilean society. Moreover, the military regime used the time between the plebiscite and the transfer of power to limit its democratic successor's room for manoeuvre with a series of legislative measures. These had tangible effects on the democratic state's ability to prosecute security and service personnel responsible for human rights violations. The centre-left government of the Concertación notably faced serious obstructions to the repeal of a 1978 amnesty law that protected the perpetrators of most of the severe violations of human rights committed under military rule. In addition, open threats—not least from Pinochet himself, who continued as commander in chief of the army—helped convince the democratic government to refrain from taking legal steps against those responsible for the crimes of the past, in order

to ensure a stable transition. In this context, the CNVR was the state's main instrument for dealing with the past in the early years of restored democracy. It was not, however, intended to provide a substitute for judicial proceedings, as scholars have very often argued. In Argentina, where in 1983 the first democratic government's political decision to try at least a selected group of those responsible for the atrocities committed under dictatorship preceded any consideration of setting up the CONADEP, the commission had been established exclusively to investigate the fate of the disappeared, whose relatives were neither able nor willing to wait for the courts to do so. In Chile, however, the mandate of the CNVR was no longer strictly limited to this type of crime (though there too it represented the vast majority of incidents to be investigated) but extended to 'gross violations of human rights' more generally. It was with the Chilean CNVR that the truth commission developed from a specific tool to investigate the fate of the disappeared into a general instrument to be deployed by states confronted by a legacy of serious past injustice. This was a first important Chilean contribution to the development of the truth commission.

However, the commission's terms of reference did essentially limit the inquiry to three types of crimes: forced disappearances, extra-legal executions, and torture in cases where it had led to the death of the victim. Based on a legalistic argument, the decision to only investigate fatal violations of human rights resulted from the highly politically polarised situation in the country. The main argument for excluding nonfatal torture from investigation alleged the difficulty of establishing the facts about this kind of violation years after the abuse had occurred (CNVR 1996, Vol. 1, p. 16). And working in circumstances of profound political division with regard to the dictatorial past, the commissioners were also very aware that a single case in which the CNVR's declaration of a person's having died in consequence of being 'disappeared' could be proven wrong would be enough to detract seriously from the inquiry's intended political effects. The CNVR, the first commission officially designated a 'truth commission,' thus opted to examine each case as rigorously as possible. The possibility of detailed case-by-case inquiry relied on two important preconditions. The first was the number of incidents: the 3400 cases of which the commission was aware (CNVR 1996, Vol. 1, p. 5) still represented a manageable workload for a staff of 60. The second was the commission's access to the archives of the *Vicaría de la Solidaridad*. During the years of dictatorship, this ecclesiastical organisation had documented human rights violations in such comprehensive and ample fashion that the CNVR could proceed with its work almost without making any inquiries of its own to identify possible victims. Given this substantial body of data, its role was essentially one of verification. For this, different kinds of documents were still accessible in state institutions, despite the wide-ranging destruction of records by the military regime before the change of government and the armed forces' very limited willingness to provide information afterwards. The hearings held by the commission (behind closed doors) were mainly another

mode of verification. Although the commissioners were very aware of how important it was to the relatives of the disappeared and murdered to be able tell their stories (which was why there were some half-dozen social workers on the CNVR's staff) such accounts played only a marginal role in the generation of knowledge about the past human rights violations.

Having conducted a case-by-case inquiry in the manner of a pre-trial investigation, the CNVR presented a report that documented 2115 victims of fatal violations of human rights and 164 victims killed by other forms of political violence (CNVR 1996, Vol. 2888–2889). The fact that these events had occurred was afterwards no longer denied by any of the relevant political actors, including the armed services and the security forces, despite their heavy criticisms of the report. And it is important to stress that the consensus-creating effect of the historical knowledge the commission produced, which can be meaningfully referred to as 'truth' went well beyond answers to the question of who did what to whom. The CNVR's meticulous study also enabled it to refute two major arguments advanced by the armed forces. Firstly, the sheer number of documented cases showed that these violations were systematic in nature and not the excesses of a few misguided individuals. And secondly, the report made clear that the killings could definitely not be considered the concomitant of a war between the state and an armed opposition, given the fact that state agents were the perpetrators in 2025 of the 2115 cases.

The positivist and legalist notion of historical truth on which the CNVR's work was based, dominated as it was by lawyers among both commissioners and staff, also led to significant silences and omissions. As has been said, the commission did not deal with cases of torture that had not led to the death of the victim. And it refused to identify perpetrators by name in its report, the result of the commissioners' strenuous effort, in accordance with their official mandate, to distinguish its work from any kind of criminal inquiry into past injustice. Because the commission's work was also to have preventative function for the future, it had been asked to 'establish as complete a picture as possible of those events, as well as their antecedents and circumstances' (*Report of the Chilean National Commission on Truth and Reconciliation* 1993, p. 25). The broader picture that was presented was not at all the outcome of the commission's own investigations, just as it was not in the case of most other truth commissions. The chapter on the political context of the violence was written by historian Gonzalo Vial and based above all on his personal knowledge and individual point of view, probably together with a secondary literature (CNVR, Vol. 1, pp. 34–42; Correa Sutil 2008; Zalaquett 2008; Cavallo 1998, pp. 89–90). But the lacunae in the CNVR's 'history lesson' on the causes of the criminal political violence are to be explained not only by the fact of individual authorship but also by the specific circumstances of the Chilean transition, which saw the new government undertake not to challenge existing economic policy fundamentally. In presenting the reasons for the breakdown of the rule of law in 1973, the commission's report

focused almost exclusively on ideological polarisation in the international context of the Cold War and so on exogenous factors. The text's failure to take account of the country's social and economic situation and domestic developments is matched by similar lacunae in other truth commissions' final reports (the South African TRC being another instance) to be attributed not least to a fundamental affinity between legalism and human rights discourse and the liberal political project. As Greg Grandin observed, the CNVR presented, as had the CONADEP before, a moral rather than a historical narrative (Grandin 2005).

Ultimately, all truth commissions developed their own specific methods of producing knowledge about the past. And no other commission carried out so rigorous an investigation into past injustices as did the CNVR. But despite such differences, the work of truth commissions—established in the context of an increasingly global circulation of knowledge about dealing with the past, and informed by 'lessons learned' from the experiences of earlier commissions—still shares a number of fundamental features. Most important among them was the goal of establishing the facts about past events generally addressed in terms of the violation of human rights. The South African TRC is another example. And this has frequently not been adequately taken into account, in the literature on the TRC in particular or on truth commissions in general. A fundamental general problem in most academic work on truth commissions is the neglect of the historicity of the phenomenon. Prevailing ahistorical notions about truth commissions take as their model the South African TRC, the best known internationally, which also served as a reference in the gradual standardisation of the institution from the late 1990s onwards. A corresponding limitation of most understandings of the TRC is the analytical isolation of the South African case from the broader developmental history of the truth commission. This deficiency is further aggravated by the problematically limited set of sources on which the most publications on the TRC are based. These very, very rarely go beyond the study of material published by the commission itself, a state of affairs that is, admittedly, also a result of the South African Department of Justice's highly questionable past policy of hardly allowing access to the TRC archive. It is certainly true that the TRC brought important innovations to the institution of the truth commission. Although the right to grant amnesty for full disclosure was important in the specific circumstances of the South African transition, the introduction of public hearings, which shaped the public's idea of the TRC, would be significant beyond the national context in influencing the organisation of many later truth commissions. But it is also true, as is shown by a thorough, source-based analysis of the processes that led to the creation of the TRC, that it was the CNVR that served as the most important reference for the architects of the South African truth commission (Scheuzger, forthcoming). It is important to stress that, despite the final report's emphasis on the four different types of truth and despite the commission's (self-)representation as an official stage for the speech of those denied a voice under the

Apartheid regime, the TRC similarly understood its main task to be the establishment of the truth, in the positivist sense of determining what had happened in individual cases of the violation of human rights. The Investigation Unit, responsible for corroborating the information provided in testimony before the TRC, was the largest single unit within the commission's complex organisational structure. And the notorious changes made to the statement-taking process as the TRC's work proceeded were aimed at improving efficiency in the production and evaluation of findings, palpably reducing the scope for personal narrative in statements made to the commission. These modifications were explained in terms of the requirements of the TRC's fact-finding mission, mandated as it was 'to establish as complete a picture as possible of gross human rights violations' (among others Ball 1996, p. 1; see also Promotion of National Unity and Reconciliation Act 1995). Although the TRC introduced important changes in the idea of the truth commission and to the ways in which the notion of truth was understood in this context, and although vice-chairman Alex Boraine would not unjustifiably describe the public hearings as the 'secret of the Commission' (Boraine 2000, p. 99), the TRC's goals and operations were based in the first instance on the idea of establishing the facts about at least the most serious acts of criminal political violence committed under the Apartheid regime, as an important step in the political transition to a new, democratic political order and the rule of law.

There is no need for new definitions of the truth (Shapin 1999, p. 1). It is much more a matter of studying the ways in which truth is socially ascribed. In this respect, a closer look at the history of the truth commissions reveals that the rather simplistic relativist argument that dominates discussion of the truth of truth commissions (e.g. Buckley-Zistel 2014; Daly 2008, pp. 25–27; Hunt 2004; Phelps 2004, pp. 61–67) has fallen short of providing an adequate understanding of their work in dealing with the past. And it shows too that objectivity, in the sense the term has in historical scholarship, is by no means of secondary but of primary importance in the public use of history for political ends, whether state-sponsored or otherwise.

REFERENCES

- Amnesty International (2007) *Truth, Justice and Reparation. Establishing an Effective Truth Commission* (London, 11 June).
- Bakiner, O. (2016) *Truth Commissions. Memory, Power, and Legitimacy* (Philadelphia: University of Pennsylvania Press).
- Ball, O. (1996) *Evaluation of TRCSA Information Flow and Database, with Recommendations* (8 September; University of Cape Town, Manuscripts & Archives Department: Mary Burton Papers: BC 1065: P1.2.2/5).
- Barkan, E. (2009) 'Introduction. Historians and Historical Reconciliation. AHR Forum "Truth and Reconciliation in History"', *American Historical Review*, 114(4), 899–913.
- Boraine, A. (2000) *A Country Unmasked. Inside South Africa's Truth and Reconciliation Commission* (Oxford: Oxford University Press).

- Buckley-Zistel, S. (2014) 'Narrative Truths. On the Construction of the Past in Truth Commissions' in S. Buckley-Zistel et al. (eds.) *Transitional Justice Theories* (Abingdon: Routledge), pp. 144–162.
- Cavallo, A. (1998) *La historia oculta de la transición. Chile 1990–1998* (Santiago de Chile: Grijalbo).
- Comisión Nacional de Verdad y Reconciliación (1996, 2nd ed.) *Informe final*, 3 vols. (Santiago de Chile: Corporación Nacional de Reparación y Reconciliación, originally published in 1991).
- Comisión Nacional sobre la Desaparición de Personas (1984) *Nunca más. Informe de la Comisión Nacional sobre la Desaparición de Personas* (Buenos Aires: Editorial Universitaria de Buenos Aires).
- Correa Sutil, J. (2008) *Interview of the author with Jorge Correa Sutil, Santiago de Chile*, December 5.
- Daly, E. (2008) 'Truth Skepticism. An Inquiry into the Value of Truth in Times of Transition' *International Journal of Transitional Justice*, 2(1), 23–41.
- Daly, E. (2013) 'Truth' in L. Stan and N. Nedelsky (eds.) *Encyclopedia of Transitional Justice* (Cambridge: Cambridge University Press), pp. 259–266.
- Dancy, G., Kim, H. and Wiebelhaus-Brahm, E. (2010) 'The Turn to Truth. Trends in Truth Commission Experimentation' *Journal of Human Rights*, 9(1), 45–64.
- Du Pisani, J. A. and Kim, K.-S. (2004) 'Establishing the Truth about the Apartheid Past. Historians and the South African Truth and Reconciliation Commission', *African Studies Quarterly*, 8(1), 77–95.
- Ensalaco, M. (2000) *Chile under Pinochet. Recovering the Truth* (Philadelphia: University of Pennsylvania Press).
- Figueroa Ibarra, C. (2002) 'La desaparición forzada en Guatemala (1960–1996)' *Estudios Latinoamericanos*, 9(18), 151–171.
- Freeman, M. (2006) *Truth Commissions and Procedural Fairness* (Cambridge: Cambridge University Press).
- Garton Ash, T. (1998) 'The Truth About Dictatorship', *The New York Review of Books*, 45(3), 35–40.
- Grandin, G. (2005) 'The Instruction of Great Catastrophe. Truth Commissions, National History, and State Formation in Argentina, Chile, and Guatemala', *American Historical Review*, 110(1), 46–67.
- Habermas, J. (2000) 'Über den öffentlichen Gebrauch der Historie. Warum ein "Demokratiepreis" für Daniel Goldhagen?' in *Aus der Geschichte lernen. Verleihung des Blätter-Demokratiepreises 1997* (Bonn: Blätter-Verlagsgesellschaft), 15–37.
- Hayner, P. B. (2011) *Unspeakable Truths. Transitional Justice and the Challenge of Truth Commissions* (second edition, New York / London: Routledge).
- Hunt, T. (2004) 'Whose Truth? Objective Truth and a Challenge for History' in *Criminal Law Forum*, 15(1–2), 193–198.
- Ignatieff, M. (1996) 'Articles of Faith', *Index on Censorship*, 25(5), 110–122.
- Kohlstruck, M. (2004) 'Erinnerungspolitik. Kollektive Identität, neue Ordnung, Diskurshegemonie' in B. Schwelling (ed.) *Politikwissenschaft als Kulturwissenschaft. Theorien, Methoden, Problemstellungen* (Wiesbaden: Verlag für Sozialwissenschaften), pp. 173–193.
- Koselleck, R. (2006) 'Der 8. Mai zwischen Erinnerung und Geschichte' in R. von Thadden and S. Kaudelka (eds.) *60 Jahre nach dem Mai 1945* (Göttingen: Wallstein), pp. 13–22.

- Lalu, P. and Harris, B. (1996) 'Journeys from the Horizons of History. Text, Trial, and the Tales in the Construction of Narratives of Pain', *Current Writing*, 8(2), 24–38.
- Marx, C. (2000) 'Folter und Rassismus. Südafrika während der Apartheid' in P. Burschel, G. Distelrath and S. Lembke (eds.) *Das Quälen des Körpers. Eine historische Anthropologie der Folter* (Köln: Böhlau), pp. 257–279.
- Meyer, E. (2008) 'Memory and Politics' in A. Erll and A. Nünning (eds.) *Cultural Memory Studies. An International and Interdisciplinary Handbook* (Berlin: Walter de Gruyter), pp. 173–180.
- Parlevliet, M. (1998) 'Considering Truth. Dealing with a Legacy of Gross Human Rights Violations', *Netherlands Quarterly of Human Rights*, 16(2), 141–174.
- Phelps, T. G. (2004) *Shattered Voices. Language, Violence, and the Work of Truth Commissions* (Philadelphia: University of Pennsylvania Press).
- Policzer, P. (2009) *The Rise and Fall of Repression in Chile* (Notre Dame: University of Notre Dame Press).
- Posel, D. and Simpson, G. (eds.) (2002) *Commissioning the Past. Understanding South Africa's Truth and Reconciliation Commission* (Johannesburg: Witwatersrand University Press).
- 'Promotion of National Unity and Reconciliation Act 34 of 1995' (1995) in *Government Gazette, Republic of South Africa*, 16579, 26 July.
- Report of the Chilean National Commission on Truth and Reconciliation* (1993) (Notre Dame: University of Notre Dame Press) (English translation of Comisión Nacional de Verdad y Reconciliación: *Informe final*).
- Roniger, L. and Sznajder, M. (1999) *The Legacy of Human-Rights Violations in the Southern Cone. Argentina, Chile and Uruguay* (Oxford: Oxford University Press).
- Root, R. K. (2012) *Transitional Justice in Peru* (New York: Palgrave Macmillan).
- Scheuzger, S. (forthcoming) *Wahrheitskommissionen: Der nationale Umgang mit historischem Unrecht im Kontext des sich universalisierenden Menschenrechtsdiskurses* (Göttingen: Vandenhoeck & Ruprecht).
- Schmid, H. (2009) 'Vom publizistischen Kampfbegriff zum Forschungskonzept. Zur Historisierung der Kategorie "Geschichtspolitik"' in H. Schmid (ed.) *Geschichtspolitik und kollektives Gedächtnis. Erinnerungskulturen in Theorie und Praxis* (Göttingen: Vandenhoeck & Ruprecht), pp. 7–20.
- Shapin, S. (1999) 'Rarely Pure and Never Simple. Talking about Truth', *Configurations*, 7(1), 1–14.
- Truth and Reconciliation Commission of South Africa (1997) *The Final Report. Some Guiding Principles*, [January] (University of Cape Town, Manuscripts & Archives Department: Mary Burton Papers: BC 1065: P1.2.2/7).
- Truth and Reconciliation Commission of South Africa (1998 / 2003) *Report*, 7 vols. (Cape Town: Truth and Reconciliation Commission).
- United Nations, Secretary-General (2004) *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies*, 3 August, S/2004/616.
- Verbuyst, R. (2013) 'History, Historians and the South African Truth and Reconciliation Commission', *New Contree*, 66, 1–26.
- Verwoerd, W. (1996) 'Continuing the Discussion. Reflections from within the Truth and Reconciliation Commission', *Current Writing*, 8(2), 66–85.
- Wilson, R. (2001) *The Politics of Truth and Reconciliation in South Africa. Legitimizing the Post-Apartheid State* (Cambridge: Cambridge University Press).

- Wolfrum, E. (1999a) *Geschichtspolitik in der Bundesrepublik Deutschland. Der Weg zur bundesrepublikanischen Erinnerung 1948–1990* (Darmstadt: Wissenschaftliche Buchgesellschaft).
- Wolfrum, E. (1999b) ‘Geschichtspolitik in der Bundesrepublik Deutschland 1949–1989. Phasen und Kontroversen’ in P. Bock and E. Wolfrum (eds.) *Umkämpfte Vergangenheit. Geschichtsbilder, Erinnerung und Vergangenheitspolitik im internationalen Vergleich* (Göttingen: Vandenhoeck & Ruprecht), pp. 55–81.
- Wright, T. C. (2007) *State Terrorism in Latin America. Chile, Argentina, and International Human Rights* (Lanham: Rowman & Littlefield).
- Zalaquett, J. (2008) *Interview of the author with José Zalaquett, Santiago de Chile, December 11.*
- Zinn, H. (1990) *Politics of History*, 2nd edition, with a new introduction (Urbana: University of Illinois Press).

The Brazilian National Truth Commission (2012–2014) as a State-Commissioned History Project

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Focusing on the Brazilian National Truth Commission (2012–2014; hereafter: NTC), this chapter asks what this empirical case reveals about the processes and outcomes of state-commissioned history in the particular form of a truth commission. To what extent may the Brazilian example serve to challenge accepted concepts and assumptions about state-commissioned history?

In order to answer these questions, we focus on the variety of mechanisms of state control from the formulation of the law that established its legal mandate in 2011 to the months following the commission's formal extinction in December 2014. In the Brazilian case, the state tried to restrain the commission's work from the outset through subtle legal, political and financial means. On a few occasions, NTC commissioners and civil society organizations found ingenious ways to overcome these limitations, whereas at other times the barriers proved insurmountable. These instances of circumventing state control demand a more sophisticated reading of truth commissions, one that recognizes the dichotomy between the state and civil society in all its complexity. Within this more complex reading, state-commissioned historical writing can best be conceptualized as

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a process that involves several state and non-state protagonists who interact and negotiate with each other.¹ This chapter provides a very brief critical introduction to the NTC's outputs, and offers a preliminary assessment of the NTC's short- and medium-term impact on what is known as "national historiography" and "collective memory."²

Before we can analyze to what extent and by what mechanisms the Brazilian state sought to control the NTC, we need to problematize briefly the state as a category of analysis. After a decade of completely ignoring the dictatorial past (1985–1995), various state actors in Brazil—who represent a far from homogeneous interest group—have been grappling with the question of what kind of official memory politics to adopt. Since 2008, in particular, contrasting opinions among civil servants about *whether* to address the past and if so *how* to do it, have come to the fore.³ To provide a key example, one of the most contentious points has been the punishment of perpetrators. To this day, the 1979 Amnesty Law is used to shield former officials involved in state violence from criminal prosecution (not a single perpetrator has yet been punished in Brazil). Although it is beyond the scope of this chapter to discuss who has or not demanded that the state address the dictatorial past (Schneider 2013), it is important to bear in mind that when we use the term "state" we are dealing with a complex and multiform entity that to a certain extent remains an abstract category. As becomes clear in this chapter, the Brazilian state is heterogeneous in nature, a body comprised of agents with diverging objectives.

THE CONTEXT OF THE NTC'S EMERGENCE

In 1964, a military coup took place in Brazil, marking the start of an authoritarian regime that violated the human rights of tens of thousands of citizens. After the return to formal democracy in 1985, successive democratic governments avoided addressing the country's violent past, and reaffirmed their commitment to the so-called "transitional pact." This pact, supposedly devised to reinstate democracy by balancing the demands for truth and justice from organized civil society with appeasing conservative sectors of society and the military has effectively protected perpetrators of human rights violations. Thus, in the years following redemocratization, scant attention has been paid to the human rights crimes committed by agents of the state.

In order to understand the context of its emergence, it is important to remember that the NTC was preceded by both private and official initiatives designed to provide a narrative of the dictatorship. The 1985 report *Brasil Nunca Mais* ("Brazil: Never Again," BNM) first documented the systematic use of torture during the military dictatorship.⁴ This landmark project coordinated by the Catholic Church was based on documents pertaining to military trials secretly copied during the regime. The first official report on state-sponsored violence was only published years later (Secretaria Especial dos Direitos Humanos 2007) and largely drew upon

investigations conducted by the families of victims. Both initiatives are acknowledged in the NTC report. Another key resource for NTC researchers (Comissão Nacional da Verdade 2013, p. 3) was the work of the federal Amnesty Commission, the Brazilian organ responsible for financial and moral reparations. Since 2002 the Amnesty Commission has decided upon individual cases of financial compensation and collected substantial evidence of human rights violations committed during the dictatorship (Abrão and Torelly 2011). The case files of thousands of individuals who applied for reparations are expected to be integrated into a new archive and museum currently under construction in the city of Belo Horizonte, the Amnesty Memorial.

For nearly three decades, the Brazilian state refused to heed calls for a systematic and state-led investigative project, and only reluctantly conceded under a complex set of external and domestic pressures. The primary source of external pressure came from the Inter-American Court of Human Rights (IACHR), a supranational body that in late 2010 condemned the Brazilian state for crimes committed during the dictatorship in the Araguaia region. This ruling classified them as crimes against humanity and, as such, Brazil is obliged to investigate and prosecute the perpetrators. From that perspective, the NTC can be portrayed as a diplomatic project with the primary goal of appeasing the international human rights community rather than clarifying crimes, rehabilitating victims, and writing a new “national history” (Schneider 2013). International recognition is vital, because Brazil has recently been striving to raise its profile within international politics, including making a bid for a permanent seat on the United Nations’ Security Council. In addition, the international human rights community has been promoting truth commissions as part of a larger accountability movement. This global trend towards accountability (famously dubbed the “justice cascade” by Kathryn Sikkink 2011) has been accompanied by the rise of truth commissions as a model institution with which to address violent pasts, a development that may have increased the pressure on the Brazilian state.

Domestic demands mostly came from the families of victims and human rights activists who had been campaigning for truth and accountability for decades (Santos MacDowell et al. 2009; Mezarobba 2007; Teles 2001). Pressure on the state mounted from approximately the mid-2000s onwards when demands received the backing of key protagonists from within the state, probably influenced by global accountability discourses and norms (Schneider 2014). Members of the Amnesty Commission have frequently collaborated with international scholars and practitioners promoting accountability measures and the spread of international human rights law. To summarize, nearly three decades after the formal return to democracy, the NTC was formed as a result of a lengthy negotiation process rather than an immediate concerted response at the moment of political transition. The families of victims had long struggled for human rights crimes to be clarified, however, the NTC only emerged once their demands were supported by

pro-accountability officials within the state apparatus and the international human rights community (the IACHR, the United Nations and nongovernmental organizations).

STATE CONTROL FROM THE OUTSET

In the Brazilian case, the state constrained the work of the NTC from the outset by the very process of its formal institution. The commission was to be ratified by Congress rather than formally inaugurated by presidential decree, yet even its installation was contested among different groups within the state (civil servants within the legislative, judiciary and executive bodies; political parties; and the armed forces). Consequently, the initial law proposal had to be amended and watered down in order to secure its approval (Schneider 2011a). Its legal mandate was therefore shaped by the political pressure to ensure the law's ratification. To provide an example, condemnatory terms such as "political repression" were replaced with the more neutral "political conflict."

The state reduced both the material and temporal scope of the commission's powers of inquiry in the legal mandate (Brazil 2011, Law No. 12.528), which decreed that seven commissioners would have two years to investigate gross violations of human rights committed between 1946 and 1988, a period that extended beyond that of the dictatorship (1964–1985). It seems likely that the timeframe for investigation was deliberately widened to appease the military, but it meant that, from the outset, the focus of the commission was unclear. The extended timeframe also put a strain on the human resources (seven commissioners) required for a project of this scale. Most commissioners (five) were legal experts, but historians, investigative journalists and experts for the Armed Forces were conspicuously absent.⁵ The designated period of two years (eventually extended by seven months) proved insufficient to allow for a thorough investigation of all the human rights violations committed in a country of continental proportions. However, the NTC overcame that limitation by declaring soon after the investigation was launched that it would focus solely on the dictatorship years. A further restriction lay in the fact that the NTC was not given any time to prepare for its work, and took about a year just to develop a *modus operandi* and set up a support team.⁶ The initial lack of a permanent co-ordinator prevented the adoption of a consistent working strategy. The mandate specified tangible targets by prioritizing research into the crimes of torture, executions, forced disappearances, the concealment of remains and identifying the bodies of the disappeared as well as uncovering the institutions, locations and state representatives involved in those crimes. Neither civil society collaboration nor the private funding of repressive organs was included in this remit.

The mandate was imprecise in relation to key points. Once again, the strategy of omitting the most controversial issues served to ensure the law's

ratification by Congress. It was unclear, for example, whether it fell within the commission's remit to investigate crimes committed by opponents of the regime, and so the commissioners themselves took the decision. The commission declared that it would only investigate violations by state officials, but would not re-examine cases already dealt with by other bodies such as the Amnesty Commission.

The mandate not only limited the NTC's elaboration of a state-commissioned historical account, but also provided the legal tools to facilitate its research work: the two most important being a clause compelling public sector workers (civilians and military) to co-operate with the commission, and the Freedom of Information Act (LAI), passed on the same day as the NTC law. The LAI established that any documentation relating to human rights abuses must be declassified, and would later provide NTC commissioners with the legal framework to demand the handover of documents. As she inaugurated these laws, President Rousseff highlighted their joint contribution towards the "consolidation of Brazilian democracy."⁷

Despite the legal provisions, one of the main problems faced by the NTC was that certain state actors refused to abide by these rules, yet another illustration of the divergence between state agents. While the institutions of the Armed Forces refused to comply with the law and provide evidence relating to the location of the bodies of the disappeared, the NTC—ultimately, a state organ itself—unsuccessfully tried to obtain that information from military officials. Although a discussion of the military's refusal to co-operate falls beyond the scope of this chapter, it can be said that the armed forces consistently failed to provide the missing pieces of information necessary to locate bodies and clarify the circumstances of death.⁸ As the NTC coordinator Pedro Dallari repeatedly stated, the armed forces always formally responded to the NTC's requests, but the information provided was superficial and occasionally contradictory or false.⁹

BEYOND STATE CONTROL: THE IMPACT OF CIVIL SOCIETY

From the outset, the NTC was subject to criticism by nonstate actors from within civil society, the media and, to a more limited extent, academia (Schneider 2013). Here, we focus on conceivably the most important actor: the varied and heterogeneous civil-society organizations. Those who did not reject the NTC from the beginning, as did the leading NGO *Tortura Nunca Mais* ("Torture Never Again"), for example responded by launching local commissions. Brazil thus pioneered a system of local truth commissions that is a new development in the history of truth commissions.¹⁰ The dynamics between the local and the national commission were case-specific and developed over time. Many local commissions supported and provided information to the NTC and broadened the scope of its work, however, others challenged and contested its findings.¹¹ Many of the local commissions later formalized

their partnership with the NTC. Among the organizations that formed local commissions and actively engaged in gathering information about the dictatorship period were universities, municipal and regional government bodies, as well as trade unions. It is thus vital to acknowledge that the final report of the NTC—as a state-commissioned national history—is unique, for it emerged from a dialogue with the local truth commissions, many of them run by civilians. The Brazilian case of state-commissioned history writing is also peculiar because the National Truth Commission (a state organ at the federal level) was complemented and, to some extent, contested by local commissions at the regional or municipal state level.

A prime example of a dispute between the national commission and a local state-level commission involved the Vladimir Herzog municipal truth commission of São Paulo, which raised doubts about the circumstances of death of former president Juscelino Kubitschek. Commonly believed to be caused by a car accident, following a number of hearings and an analysis of evidence collected in 1996, the local commission reached the conclusion that Kubitschek was in fact murdered in a politically motivated crime.¹² The NTC final report rejected the findings of the local commission and argued that the homicide thesis lacked sufficient proof (Comissão Nacional da Verdade 2014, p. 75).¹³ The conflict escalated and a judicial order was filed in 2014 that accused the national commission of abusing its power. Following the denial of its request by a federal court, the local commission criticized the NTC for upholding the narrative of JK's death as an accident, a story forged during the military period, and for "closing the debate on JK's death" (Gombata 2014). The incident illustrates certain things: first, that different state-level commissions (imbued with varying levels of state authority) fiercely disputed how the official history of the dictatorship ought to be told; and second, that although state-sponsored commissions may narrow the range of permissible lies (as Ignatieff 1996, p. 113 reminds us), they may also reinforce long-held myths.

THE OUTCOME AND POSSIBLE IMPACT

The NTC produced a variety of immediate outputs including the final report; a well-documented webpage with hyperlinks to documents, video and audio recordings, and archival material gathered by the NTC, which will be integrated into the Brazilian National Archives. If outputs not commissioned by the state are also taken into consideration, a larger set includes the reports of local commissions, artistic and cultural events in response to the NTC and the media coverage of the truth commission.¹⁴ Here we focus our attention on the two most important state outputs: the collection and disclosure of archival material; and the final report with its recommendations.

The NTC generated archive material that includes documents pertaining to its own inner workings and to the recent history of the country, either

in the form of historical material retrieved during its research or in the form of video footage of public hearings.¹⁵ This material is expected to be further scrutinized and should herald a renewed interest in the history of the dictatorship period. The head of the NTC's historical research team, Heloísa Starling, expects a paradigm shift in Brazilian historiography in the coming years, and reports that a large number of documents have been unearthed by the commission.¹⁶

The NTC's main output, however, is its 3383-page final report, which is divided into three volumes:

- The first volume is a collective text signed by all six commissioners. It includes a historical overview of the military period and an analysis of the crimes perpetrated by agents of the state. It reveals the military chain of command and is the first published source to link the crimes to high-ranking officials, including Brazilian presidents.
- The second volume presents findings that either derived from the commission's working groups or external experts. This collection of essays highlights new topics such as crimes against women, lesbian, gay, bisexual, and transgender (LGBT) persons or the indigenous and rural populations. No consensus was reached for these findings among the commissioners, hence their relegation to the second volume.
- The third volume offers a case-by-case analysis of crimes committed against political dissidents. It presents 434 cases and lists the names of 377 perpetrators. Both numbers are conservative estimates, and are expected to increase if further research is undertaken.

The privileged position given to those who were killed or disappeared for political reasons has long been the subject of public debate. Some critics have raised the question of whether the NTC has used too narrow a concept of victimhood and reinforced the notion that the victims consisted only of those 434 individuals. The Brazilian historian Carlos Fico has repeatedly pointed out that the NTC has focused mostly on high-profile cases, and thereby lost the opportunity to stress the wider impact of the dictatorship on the lives of ordinary citizens (Arakiki and Kmitta 2014; Martins 2014). The number of citizens tortured, raped or illegally imprisoned is not estimated in the report. On the other hand, it is praiseworthy that the NTC denounced violence against Brazil's indigenous populations during the dictatorship for the first time, even if the issue appears only in the report's second volume.

Overall, the NTC made 29 recommendations, many of which denounce the persistence of human rights violations (Comissão Nacional da Verdade 2014, p. 964). The recommendations are divided into three sections: institutional measures (17 recommendations), constitutional and legal reform (8 recommendations) and follow-up measures (4 recommendations).

Although the state has not yet addressed the report's key recommendations, it is currently responding to some of the less central ones. The "happy coincidence" of those recommendations that had already been partially addressed upon the release of the NTC's report should not, however, be interpreted as a sign of success. Rather, the report highlights actions that were already being carried out by the state.¹⁷ No new action has ensued as a result of the report, hence its direct policy impact has been nonexistent.

The NTC's first recommendation is that the armed forces acknowledge their responsibility for the gross human rights violations between 1964 and 1985 (Comissão Nacional da Verdade 2014, p. 964). Commissioners have criticized the military's institutional silence on countless occasions. The NTC argued that without the armed forces officially acknowledging its past acts of violence, Brazil's reconciliation process would remain incomplete.

Next, the commission recommended the suspension of the blanket amnesty for crimes against humanity under the 1977 Amnesty Law (Comissão Nacional da Verdade 2014, p. 965). The illegality of that law had already been established by the IACHR, and it was to be expected that the NTC would reinforce this interpretation. What remains to be seen is whether this contentious policy will be upheld. The Brazilian Supreme Court intends to review the legality of the Amnesty Law in response to the IACHR's 2010 ruling against the country.

Nowhere is the emphasis on current human rights violations clearer than in the recommendations concerning public security, which include suggestions for reforms in the armed forces, law enforcement and the criminal justice system. They range from changes in internal regulations, recruitment (recommendation 5, p. 967) and military education (recommendation 6, p. 967) to the formal separation of certain services (such as the institute of forensic medicine [recommendation 10, p. 968] or the decoupling of military and state police [recommendation 20, p. 971]).

Finally, the commission recommended the creation of a body to oversee the implementation of the recommendations (Comissão Nacional da Verdade 2014, p. 973). This crucial follow-up step could make a permanent difference to whether the NTC recommendations are enforced by the state authorities.

CONTENT AND FORM OF THE FINAL REPORT

Focusing on the report *itself* rather than its conditions of production, we now offer three preliminary statements relating to: the report's content (historical fact-finding), its impact on what is commonly labeled "collective memory," and its overall narrative form and style. In relation to its content, we agree with the assessment of most scholars and activists that the report offers little in terms of new information. Rather, it seems largely based on previous human rights accounts such as the 2007 report of the Special Commission. From a historian's perspective and with regard to the expectation that this

state-sponsored history project should contribute to historical fact-finding, the report can be said to make only a limited contribution to knowledge about the dictatorship. This, however, seems to have been due less to faults within the commission itself, but more a result of the military's refusal to cooperate. It should also be borne in mind that historical fact-finding might not have been the NTC's primary goal (Schneider 2013). Nonetheless, it is remarkable that the report makes hardly any reference to research conducted by professional historians. Starting in the 1990s and increasingly since the new millennium, the military dictatorship has been the subject of numerous historical studies.¹⁸ The lack of references to academic historiography seems to suggest that the NTC did not study the subject matter (the conditions under which the report was written cannot be scrutinized here, but lack of time and human resources would seem a plausible explanation). For all these reasons we suspect that the report's impact on the historiography of the military regime will be limited.

Concerning collective memory, the report denounces a number of myths about the military dictatorship that have continued to prevail. It deconstructs the portrayal by the military institution of a "war" provoked by the Left and clearly argues that state-sponsored violence took place right from the outset of the military period. Crucially, the report refutes the military's claim that state violence was carried out without the knowledge of high-ranking officials. On the contrary, it confirms that human rights violations were part of a systematic policy by the Brazilian state (Comissão Nacional da Verdade 2014, pp. 962–963). If the report were to be read widely, it may have a significant impact; yet, as we argue in the remainder of the chapter, the dissemination and circulation of the report has thus far been modest.

Regarding the overall narrative form and style, critics may claim that the voluminous report is too long and, perhaps more important, that the use of legal jargon (at least in the first volume) makes it a challenging read that a wider audience could find intimidating. Probably due to a lack of editorial consensus, the final report does not contain an Executive Summary. This suggests that the report was not written with a mass audience in mind. Critics may argue that other truth commissions have shown greater commitment to releasing more accessible reports: the Argentine *Comisión Nacional sobre la Desaparición de Personas* (CONADEP) report became a bestseller when published in book format in 1984 (similar to the BNM report of 1985), the Sierra Leonean Commission (2004) developed a version for schools, and the 2015 Canadian Truth and Reconciliation Commission report offers a reader-friendly Executive Summary.

Many points of criticism (both positive and negative) have also been raised by national and international commentators. National media coverage was relatively extensive by Brazilian standards, and acknowledged the contribution of the NTC's work.¹⁹ The most important daily newspapers reprinted the commission's key findings and recommendations, and the report's release

was even headline news. It received a mixed reception from victim groups, but on the whole their views were more positive than initially expected. Most praised the fact that the commission had completed its work and produced a report. In 2014, the NTC faced a major internal crisis leaving many observers to doubt that it would survive the two-year period, let alone produce a report. Most surviving victims welcomed the recommendations, the fact that the report named names and included the chain of command, and praised the official acknowledgment of systematic state violence. However, many disagreed with the conservative estimates of the numbers of victims and perpetrators, complaining that names of proven torturers had been omitted from the report, and found it too conservative overall. Some victim organizations such as Torture Never Again openly expressed their disappointment.

The international human rights community praised Brazil's efforts and the NTC's report. A member of the IACHR, José Henríquez, hailed it as "a fundamental step to reach truth regarding human rights violations in the recent past" (IACHR 2015). The UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein commended the commission's report, but pointed out that perpetrators of crimes against humanity cannot be protected by amnesty laws, an allusion to Brazil's lack of response to the 2010 condemnation by the IACHR.

To hypothesize about the report's impact is very challenging because it is not an exact science. As many scholars have argued (Olsen, Payne and Reiter 2010; Wiebelhaus-Brahm 2010), we lack quantitative or qualitative methods with which to measure the impact of truth commissions, and the few studies available on this topic are inconclusive.²⁰ However, two of the most reliable indicators of a commission's impact are to what extent its recommendations have been implemented, and whether it has generated (or even shifted the focus of) public debate.

To their credit, the commissioners were sufficiently independent to criticize the Brazilian state for its systematic involvement in human rights violations. The problem was not so much the content of the final report (the aforementioned criticisms notwithstanding), but rather, the report's limited circulation and the state's complete failure to respond to the recommendations, let alone comply with them, yet another means of exerting state control.

Empirical evidence from Brazil seems to suggest that the question of what may be called "discursive formation" (Foucault 2002)—the power entailed in whether to disseminate a narrative or silence it, and of whether recommendations are carried out—is central when analyzing the impact and relevance of state-sponsored history initiatives. It was in this respect that the Brazilian government most visibly displayed its power by completely ignoring the report, failing to issue any kind of public response to it or to enforce its recommendations. It also did nothing to ensure that this state-commissioned and partly revisionary national history reached a wide audience.²¹

With regard to the report's lack of circulation, however, we have to distinguish between two levels of responsibility. First, although the NTC has fulfilled its duty in making the report freely available online, the text is not being actively promoted and distributed in the form of a public awareness campaign.²² Second, circulation depends on the existence of an interested audience providing a demand for the product. The majority of Brazilians appear to have little interest in human rights violations and efforts to raise public awareness of this topic have been very limited.

At this point, civilians have intervened in the debate by organizing public events and inviting former NTC staff to give talks explaining the content of the archival material sent to the National Archives. Human rights activists (including both state officials and civilians) are currently developing ways to encourage wider discussion of the report and promote its content, particularly within educational and academic institutions.²³

CONCLUSION

What, to conclude, does the Brazilian National Truth Commission reveal about processes and outcomes of state-commissioned history in the particular form of a truth commission? Empirical evidence from Brazil challenges a series of assumptions about state-commissioned history and raises new questions: first, is the primary purpose of a truth commission report to try to establish a new national history, or to officially acknowledge formerly silenced public crimes, and to what extent is a TC merely a cosmetic fix? In order to answer this question, it seems that the importance of *circulating* the findings cannot be underestimated, and ought to be included in any analysis of state-commissioned history projects as well as the question of the state censoring and shaping content. Second, is a truth commission authoritative or can its recommendations be completely ignored, as in the case of Brazil (at least as of April 2016, the time of writing)? Again, this shows that the “state” is composed of officials with varying political views; whereas some ideas and practices are supported and developed within the state apparatus, others are ultimately barred. Conceptually, the Brazilian case has helped to provide a more nuanced understanding of state-commissioned history projects. Although the NTC has been shaped and limited by various mechanisms of state control (legal mandate, refusal to grant access to military sources) since its inception, the commissioners have succeeded in circumventing certain constraints and the commission has, over time, been able to navigate its way around the obstacles placed in its path. Importantly, the NTC and its report resulted from a complex and dynamic process of negotiation between state officials with divergent views and the local commissions, both of which also had to respond to demands from civil society.

This chapter has argued that a more differentiated understanding of the state is crucial, as specific state representatives (e.g., the armed forces) refused

to abide by the law. During the ratification process the law proposal was diluted, because sectors of the military disagreed with its content and the proposal had to be approved by Congress. The commissioners themselves disagreed over the appropriate strategy to pursue, and hence negotiated with other state institutions, most important, the armed forces. Upon the publication of its final report, the NTC argued that without the armed forces officially acknowledging its past acts of violence, Brazil's reconciliation process would remain incomplete. The municipal truth commission of São Paulo launched a federal lawsuit against the NTC disputing the commonly accepted historical version of JK's death. All these examples show that the state (and hence state-commissioned history) is a complex and multiform entity and remains an abstract category that requires both empirical and theoretical scrutiny. Finally, the Brazilian case shows that the processes and outcomes of state-commissioned history can be significantly shaped by non-state actors. Whether the report will have a long-term impact on Brazilian "national" history writing or collective memory will largely depend on civil society: on its social movements, educational professionals, intellectuals, and artists.

NOTES

1. The Brazilian case confirms the findings of previous studies, notably, Elizabeth Jelin's work on Argentina (2007) and Steve Stern's study on Chile (2006) that likewise highlighted the dynamic and contingent nature of justice-seeking processes.
2. The term "collective memory", introduced by Maurice Halbwachs, emphasizes the collectively forged, mediated memory of a society. For a thorough debate, see Assmann (2006, pp. 29–36).
3. The reasons for this shift are complex: see Mezarobba (2007), Schneider (2011b, 2014), SEDH (2007).
4. The documentation has meanwhile been published online and is available at: <http://bnmdigital.mpf.mp.br/>. Accessed 4 February 2016. An English version was published as Archdiocese of São Paulo. 1998. *Torture in Brazil*. Austin: University of Texas.
5. Rousseff appointed the following respected members of society to the commission: Rosa Maria Cardoso, José Paulo Cavalcanti, José Carlos Dias, Gilson Dipp, Claudio Fonteles, Maria Rita Kehl and Paulo Sérgio Pinheiro. In May 2013, after being on medical leave for over seven months, Dipp left the NTC and was never replaced. In June 2013 Fonteles quit over internal conflicts regarding the commission's methodology: the group disagreed over whether to present only its findings in the final report or to expose the process as a whole, including public hearings and civil society participation. Fonteles was replaced in September by Pedro Dallari (who was pivotal as coordinator of the NTC towards the end of the mandate).
6. By the end of the first year, the commissioners were responsible for overseeing the work of about 70 researchers and 14 consultants, who were organized in thematic working groups (ISER 2013, pp. 35 and 96).
7. Rousseff at the ceremony announcing the NTC, Brasília, 18 November 2011.

8. For more information on the relation between the commissioners and the armed forces, see Mezarobba (2015) and Figueiredo (2015).
9. Official speech by Dallari at the Brazilian Bar Association (OAB) on 10 December 2014.
10. In a complex development that has yet to be studied in depth, local truth commissions quickly spread throughout the country. At the time the NTC report was drafted, there were over 100 such commissions (Comissão Nacional da Verdade 2014, p. 23). These local processes have followed their own timeline, continuing or even starting their work long after the delivery of the NTC report.
11. Twenty-nine local commissions signed co-operation agreements with the NTC (Comissão Nacional da Verdade 2014, p. 10).
12. The evidence consisted of metallic material in the cranial area of the coffin of the former president's driver. The local commission maintains it could be the remnants of a bullet, while the NTC maintains that it came from the nails in the coffin.
13. See also: CNV online (2015).
14. See Rebecca Atencio's, "Beyond Official Truth-Telling: Bernardo Kucinski's Fiction and Its Real-World Synergies with the National and Local Truth Commissions in Brazil," presented at the symposium *The Brazilian National Truth Commission in the Context of Latin America: Local, National, and Global Perspectives* by the Volkswagen Foundation held in Hannover, Germany, October 15–17, 2015. Available at: <https://brtruthcommission.wordpress.com>. Accessed 10 November 2015.
15. Documents include exchanges with the armed forces and other truth-seeking bodies such as the Amnesty Commission, publications in the Official Federal Gazette (Diário Oficial da União), communications sent by civilians to the NTC, and more mundane items such as employment contracts and other documents relating to staff and their responsibilities. Also forming part of the NTC documental footprint are the websites created for the communication of its activities (most importantly, the Web portal www.cnv.gov.br) and two-way communication with the public, such as the commission's Facebook page. PhD candidate Ana Migowski (University of Giessen, Germany) is currently developing a study on the NTC's use of social media.
16. Interview with H. Starling on December 4, 2014 by Gisele Iecker de Almeida. The archival fund amassed by the NTC is expected to be integrated into the Brazilian National Archives, which received the first set of 47,000 items in July 2015.
17. Some examples of recommendations already partially or fully addressed by the state before the NTC report was published include the prohibition of official celebrations of the 1964 coup (a ruling made by Rousseff in early 2014); the inclusion of human rights both in the national curriculum (recommendation 16, p. 970) and in the military academy (recommendation 6, p. 967), and the call for the creation of a museum and other sites of memory (recommendation 28, p. 974). Anthony Pereira presented a paper entitled "The Truth Commission and Institutional Reform" on this topic in the aforementioned symposium organized by the Volkswagen Foundation. Available at: <https://brtruthcommission.wordpress.com>. Accessed 10 November 2015.

18. For recent historiographical overviews see: Araujo (2015), and Ridenti (2016).
19. By contrast, media coverage of the first accountability measure, the 1995 Law of the Disappeared, was minimal. See Schneider (2014, pp. 69–71).
20. Currently, Leigh Payne and Kathryn Sikkink (and team) are producing a joint database and will shortly be publishing new quantitative findings on the effects of truth commissions.
21. A narrative that explicitly assumes state responsibility for systematic violence up to and including the president's office and that includes the perspectives of victim groups such as the indigenous or rural populations can be considered, at least in part, a revision of the official narrative.
22. Interviews with NTC staff conducted between 2014 and 2015 by Nina Schneider have shown that many officials favored educational follow-up projects, but lacked financial and operational support.
23. For example, Carolina de Campos Melo, former leading NTC assistant and law professor, has been systematically discussing the report with her students. She commented on her work at the international symposium by the Volkswagen Foundation where she presented a paper entitled "The Writing up of the Final Report: Conclusions and Recommendations." Available at: <https://brtruth-commission.wordpress.com>. Accessed 10 November 2015.

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REFERENCES

- Abrão, P. and Torelly, M. D. (2011) 'The reparations program as the lynchpin of transitional justice in Brazil' in F. Reátegui (ed.) *Transitional Justice. Handbook for Latin America* (New York: Ministry of Justice and International Center for Transitional Justice), pp. 443–485.
- Arakiki, S. and Kmita, I. R. (2014) 'Entrevista com o Professor Dr. Carlos Fico', *Revista Eletrônica História em Reflexão*, 8(15), 1–10.
- Araujo, M. C. D. (2015) 'Taking Stock (with discomfort) of the Military Dictatorship fifty years after the 1964 Coup. A bibliographical Essay,' *Brazilian Political Science Review*, 9(3), 143–163.
- Assmann, A. (2006) *Der lange Schatten der Vergangenheit. Erinnerungskultur und Geschichtspolitik* (Munich: Beck).
- Brazil (2011) Law n. 12.528. Official Federal Gazette. Available at: http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2011/Lei/L12528.htm. Accessed 4 February 2016.
- CNV online (2015) 'Caso JK.' Available at: <http://www.cnv.gov.br/outros-destaques/564-caso-jk-justica-federal-extingue-acao-movida-pela-comissao-da-verdade-de-sao-paulo-contra-a-cnv.html>. Accessed 10 December 2015.

- Comissão Nacional da Verdade (CNV) (2013) *Balanço de atividades; 1 ano de Comissão Nacional da Verdade* (Brasília: CNV).
- Comissão Nacional da Verdade (CNV) (2014) *Relatório/Comissão Nacional da Verdade* (Brasília: CNV).
- Figueiredo, L. (2015) Lugar nenhum: militares e civis na ocultação dos documentos da ditadura (São Paulo: Companhia das Letras).
- Foucault, M. (2002) *The Archaeology of knowledge* (London: Routledge).
- Gombata, M. (2014) 'O descompasso das comissões da verdade', *Carta Capital*. Available at: <http://www.cartacapital.com.br/sociedade/o-descompasso-das-comissoes-da-verdade-5152.html>. Accessed 12 December 2015.
- IACHR (2015) Audience held on March 20, 2015 (video file). Available from: <https://www.youtube.com/watch?v=RrFmhA3Q1kU>. Accessed 15 December 2015.
- Ignatieff, M. (1996) 'Articles of Faith,' *Index on censorship*, 25(5), 110–122.
- ISER (2013) *Um Ano de Comissão da Verdade. Contribuições Críticas para o Debate Público* (Rio de Janeiro: ISER).
- Jelin, E. (2007) 'Public Memorialization in Perspective. Truth, Justice and Memory of Past Repression in the Southern Cone of South America', *The International Journal of Transitional Justice*, 1(1), 138–156.
- Martins, R. (2014) 'Especialistas criticam foco excessivo da CNV em casos já sabidos', *Carta Capital*. Available at: <http://www.cartacapital.com.br/sociedade/especialistas-criticam-foco-excessivo-da-cnv-em-casos-ja-sabidos-1125.html>. Accessed 18 November 2015.
- Mezarobba, G. (2007) *O preço do esquecimento. As reparações pagas às vítimas do regime militar (uma comparação entre Brasil, Argentina e Chile)* (PhD Dissertation, University of São Paulo).
- Mezarobba, G. (2015) 'Lies engraved on marble and truths lost forever,' *Sur: Revista Internacional de Direitos Humanos*, 12(21). Available at: <http://sur.conectas.org/en/lie-engraved-marble-truths-lost-forever/>. Accessed 26 June 2016.
- Olsen, T. D., Payne, L. A. and Reiter, A. G. (2010) *Transitional Justice in Balance. Comparing Processes, Weighing Efficacy* (Washington, DC: United States Institute of Peace).
- Ridenti, M. (2016) 'The Debate over Military (or Civilian-Military?) Dictatorship in Brazil in Historiographical Context' in R. Atencio, A. Schneider and N. Schneider (eds.) 'Special Issue: Reflections on Repression and Resistance—The Vivid Legacy of Dictatorship in Brazil', *Bulletin of Latin American Research*, early view <http://onlinelibrary.wiley.com/doi/10.1111/blar.12520/full>. Accessed 26 December 2016.
- Santos MacDowell, C., Teles, É. and Teles de Almeida, J. (orgs.) (2009) *Desarquivando a ditadura. memória e justiça no Brasil*, vol. 1 e 2. (São Paulo: Hucitec).
- Schneider, N. (2014) 'Waiting for (an) "Apology": Has Post-Authoritarian Brazil Apologized for State Repression?', *Journal of Human Rights*, 13(1), 69–84.
- Schneider, N. (2013) "'Too little too late" or "premature"? The Brazilian Truth Commission and the Question of "best timing."', *Journal of Iberian and Latin American Research*, 19(1), 149–162.
- Schneider, N. (2011a) 'Truth no more? The Struggle over the National Truth Commission in Brazil', *Iberoamericana*, 42, 164–170.

- Schneider, N. (2011b) 'Breaking the "Silence" of the Military Regime. New Politics of Memory in Brazil?', *Bulletin of Latin American Research*, 30(2), 198–212.
- Secretaria Especial dos Direitos Humanos (SEDH), Comissão Especial Sobre Mortos e Desaparecidos Políticos (2007) *Direito à memória e à verdade* (Brasília: SEDH).
- Sikkink, K. (2011) *The Justice Cascade. How Human Rights Prosecutions are Changing World Politics* (New York: Norton).
- Stern, S. J. (2006) *Remembering Pinochet's Chile. On the Eve of London 1998*. vol. 2. (Durham: Duke University Press).
- Teles, J. (2001) *Mortos e desaparecidos políticos: reparação ou impunidade?* (São Paulo: Humanitas FFLCH/USP).
- Wiebelhaus-Brahm, E. (2010) *Truth Commissions and Transitional Societies. The Impact on Human Rights and Democracy* (New York: Routledge).

The 9/11 Commission Report: History Under the Sign of Memory

Oz Frankel

The 9/11 attacks in New York and Virginia engendered a crisis of historical imagination in the United States. They triggered recollections of past calamities such as Pearl Harbor or the Kennedy assassination. Some went further, placing 9/11 in a larger metahistorical plot, whether as a divine response to the sins of New York City or, conversely, as punishment for American ungodly aggressions abroad. On the other hand, 9/11 was frequently deemed a cataclysmic rupture, an event without precedent, without history.

As against such anxious incertitude *The Final Report of the National Commission on Terrorist Attacks Upon the United States* (2004), known simply as the *9/11 Commission Report*, stood firm as an ostensibly dispassionate and authoritative account that sought to place that violent day under the sign of painstakingly researched and rationally recounted “History.” A sleek corporate artifact marketed through commercial venues as a \$10 book, the *Report* fared improbably well in the literary marketplace. Its publisher, W.W. Norton quickly sold more than a million and a half copies. Other publishers offered their own editions. And, seven million copies were soon downloaded off the Internet. Ultimately, the *Report*, which was reworked and repackaged under different guises, including a best-selling graphic novel, has served as the archive upon which films, TV docudramas, and literary pieces rely.

The *Report*’s unusual format and unique publishing history exemplify the open-ended nature of public investigations conducted by commissions. Although formally serving as an extension of the state, these bodies still

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retain a modicum of independence. The following discussion explores, first, the writing and publication of the *9/11 Report* as a civic performance, an attempt to reconstitute the American public as a reading public. I argue that the *Report's* book-like format, conception as historical work, and collective authorship were intrinsic to public tasks the commission undertook beyond its nominal purview. Second, the article examines the underlying ideas about historical representation and the purpose of history that this foundational document of the post-9/11 era propagates. Thus, the *Report* constitutes an unexpected—and, as I show, somewhat troubling—permutation of the push to globalize history, a drive that over the past two decades has gained substantial purchase in academic historiography. Most important, whereas the commissioners couched their report as *history* their prose attests to the predominance of commemorative practices and of the discourse of *memory* in contemporary public engagements with the past.

Often praised for its clarity, the *Report*, nevertheless, is a complex assemblage of contending political and aesthetic sensibilities, manifested in its reception as both a book of facts and a highly stylized literary work. Similarly, although it prescribes means to secure the American homefront, waxing patriotic with expressions such as “unity of purpose,” the *Report's* compilers pride themselves on the attention, even *voice*, their account gives to the perpetrators of the attacks. In the political field, the 9/11 Commission purported to launch a vigorous public debate over America's national security, but also shared in the neoliberal suspicion of politics and ideological disagreements.

The effort to investigate 9/11 was a politically charged endeavor as the United States invaded Afghanistan and Iraq and a presidential election was looming. President George W. Bush's administration resolved to affix the meaning of the attacks onto the ahistorical landscape of America's mythological struggle against “evil” and remained hostile to the textuality of history writing, weary of the consequences of formulating chains of causality and threads of responsibility. Thus whereas the 9/11 investigation curiously qualifies the adage that history is written by victors, it nevertheless confirms the ties between the production of history (or, conversely, the refusal to historicize) and power, the power of the state or, in this case, a blue ribbon panel that ambitiously conceived of its labor as a means to remake the state.

THE COMMISSION

Public pressure, especially vociferous demands by the victims' bereaved families, forced the administration to appoint the 9/11 Commission on November 27, 2002. Former New Jersey Governor Thomas Kean as chair and former Representative Lee Hamilton as vice chair led a team of five Republicans and five Democrats. With a research apparatus of 80 staffers, the commission combed 2.5 million pages of documents, interviewed 1200 witnesses, including Presidents George Bush and Bill Clinton, and conducted public hearings, which invariably turned into attention-grabbing public spectacles.

The investigation skirmished with the administration over access to information. It subpoenaed the Federal Aviation Administration (FAA) and North American Aerospace Defense Command (NORAD) for evidence and threatened a similar move against the White House. House Majority Leader Tom DeLay accused the panel of endangering the lives of Americans serving abroad. Nonetheless, the commission was able to chip away at executive privilege, for instance by securing an unprecedented public testimony under oath from Bush's National Security Advisor Condoleezza Rice (Fenster 2008). Despite the administration's concerns, the panel decided not to draw personal conclusions about the performance of government officials, leaving that evaluatory task to the discretion of the *Report's* readers. Moreover, its policy recommendations were largely noncontroversial and administrative in nature.

Clad in a red, white, and blue softcover, the 567-page *Report* is organized in thirteen sharply titled chapters, adorned with fourteen photos, tables, and charts as well as five textbook-like, mini-essays. The volume identifies ten missed "operational opportunities" that might have disrupted the plot, for instance, the CIA's failure to share information with the FBI about hijackers Nawaf al-Hazmi and Khalid al-Mihdhar it had pursued in Asia prior to their arrival in San Diego in early 2000. The commissioners outlined forty-one measures to address defects in foreign strategy, public diplomacy, and the organization of American intelligence, for instance, bringing the entire system under a National Intelligence Director. It also recognized, somewhat opaquely, an American "failure of imagination," a failure of government agencies and society at large to appreciate the magnitude of the al-Qaeda threat.

9/11 AS HISTORY

What was at stake in couching 9/11 as history? Certainly, the professional authority of key members of the commission was strongly linked to historiography. Kean, who earned an MA in history from Columbia's Teachers College, fashions himself "a historian who went into politics" (Shenon 2008, p. 60). The commission hired another historian, Phillip Zelikow, as its executive director. Early on Zelikow proposed to frame the report as an easy-to-peruse historical narrative in a book form that would be widely available through the venue of a private publisher rather than the Government Printing Office. The *Report* was designed, rather grandiosely, as a definitive account that would stand the test of time. Kean explained, "[W]e want a report that our grandchildren can take off the shelf in fifty years and say, 'This is what happened'" (May 2005). The panel sought to profit from the cultural currency of history, especially history ensconced in books, its association with facticity, finality, and the authority of distance.

Systematizing the knowledge the commission aggregated as history served to legitimize the commission's policy recommendations for it constructed

and affirmed diachronic continuities, a flow between past failures and future reform. Kean would maintain, “To succeed, *The 9/11 Commission Report* had to be a historical document, not simply a government report with a list of conclusions ... every single recommendation that we made had to spring from the story of 9/11” (Kean and Hamilton 2006, p. 6). The report underscored its empirical foundation by equipping readers with footnotes and appendixes “so [they] could find where each conclusion had come from” (Kean and Hamilton 2006 p. 28). Nevertheless, several critics would maintain that there is no strong connection between the *Report’s* narrative and its recommendations (Rovner and Long 2005).

History also appears in the inquiry’s rhetoric as an instrument of normative rationalization, deployed to clarify and demystify, and to dispel rumors and confusion. The *Report*, for instance, puts to rest the notion that selecting 9/11 as the date of the attack carried some hidden symbolic meaning. (Yet, the commission partook in fixing the nomenclature of al-Qaeda’s operation as 9/11 and framing it as a coherent, singular “event” (Wagner-Pacifici 2017)). History’s chief *other*, in this context, was conspiracy theories alleging government involvement in the attacks. The commissioners repeatedly raised the specter of such tales to bolster their request for greater access to classified information. The final report would prompt a new barrage of publications accusing the commission of a cover-up.

Historian Ernest May, Zelikow’s mentor and collaborator, joined the inquiry as a senior advisor. Together, the two drew an initial book outline, a historical arc that shuttles, chapter by chapter, between the hatching of the 9/11 plot and the American counter-terror campaigns. January 1998 was selected for the beginning of the full-scale research. That year witnessed the bombings in Kenya and Tanzania and Osama Ben Laden’s anti-American fatwa. But pushing the narrative’s bookend into the late 1990s appeared also to be politically motivated for it implicitly assigned responsibility to both Bush’s and Clinton’s administrations.

In the minds of the inquiry’s leaders were also the ghosts of official investigations past, the Robert Commission on the Pearl Harbor attack that all but overlooked the Japanese side, and the Warren Commission on JFK’s assassination whose ignorance of key information—such as the schemes to assassinate Castro—nourished decades-long doubts. Senator Howard Baker’s iconic Watergate question, “[W]hat did the president know and when did he know it,” returned with the ferocity of the repressed.

USEFUL HISTORY

To a great extent, the *Report* implements, on a mass scale, May and Zelikow’s concept of *useful* history: history in the service of policy-making. In their scholarly work, the two reason that state leaders act, sometimes unwittingly, on the basis of analogies drawn from the past, and should, therefore, be

properly trained to think historically, not by exercising the deceptive power of hindsight. Case studies in diplomatic, political, or military history thus simulate contemporaneity, ostensibly enabling readers to “participate in the case,” and ask, “What would I have done if I had been a character in this story and had had to take or recommend action on the basis of no more evidence than is here?” (May and Zelikow 2007, p. 3). In fact, they wish to coach decision makers to observe the scene from the vantage points of many characters. Zelikow, for instance, admires President John F. Kennedy for his extraordinary ability, during White House deliberations over the Cuban Missile Crisis (1962), to be empathetic, to place himself in the proverbial shoes of different domestic and foreign actors (PBS 1997).

Such an approach foregrounds narrative as the discursive bedrock of history writing. In *Thinking in Time*, May (and coauthor Robert Neustadt 1986) advocate that policy matters should be thought of in temporal terms, literally as stories with a clear beginning and sense of progression. Accordingly, Zelikow asked the 9/11-inquiry’s research teams to forge enormous timelines, sometimes incorporating the fruits of other investigations such as a mammoth 9/11-related chronology prepared by the CIA. Known as the “the Scroll,” the composite timeline was printed on thick butcher paper rolls measuring 150 feet across (Shenon 2008, p. 137).

CRITICAL HISTORY

Narrational strategies alone do not account for the historiographical aspirations of the commission. Beyond documenting operational fiascos, the *Report* formulates historical arguments and employs the past to critique American society, providing what Lydia Goehr (2007, p. xxii) labels, “History as transformational narrative.” The commission identifies a phenomenon it termed, “New Terrorism,” radical networks that no longer depend on the facilities of the state and are symptomatic of a larger historical development, the onset of *globalization*. It urges Americans to think in deterritorialized categories, outside the nation-state box: “In the post-911 world, threats are defined more by the fault lines within societies than by the territorial boundaries between them,” the commissioners write, “the challenges have become transnational rather than international” (9/11 Report, pp. 361–362).

Paradoxically, the commission that prescribed remedies to strengthen and centralize the federal government also aligned itself with Negri and Hardt’s *Empire* (2000) and a slew of other turn of the millennium reflections on the descent of the nation-state. But the United States appears to be lagging behind the globalization curve. “To us Afghanistan seemed very far away, to members of Al-Qaeda, America seemed very close” (p. 340). Whereas the panel explains the background of Islamic fundamentalism through the familiar trope of strained Middle Eastern modernization processes, reminiscent of the failure to modernize thesis, its criticism of Americans may be

characterized as a failure to think globally. This incapacity is implicitly tied to the commission's invocation of "failure of imagination," for both failures are diagnosed with a range of spatial-ocular metaphors, such as the inability to "connect the dots." Americans failed to see, to recognize the globe's new intimacies, and, as important, to capture the enemy/other's point of view in its full destructive intensity and inventiveness. In the case of the two terrorists who found their way to San Diego, they remained there unobserved even as they were hiding in plain view, using their real names, and their actual passports.

The breakdown of vision intersects with another affliction, the failure to communicate, to share information. Al-Qaeda engaged in entrepreneurial merging and networking while the pre-9/11 FBI was still foreign to the connectivity of emails and the Internet. Much of the historical narrative in the *Report* describes miscommunications among government agencies, their blotched sense of boundaries, and narrow outlook. In contrast, the heroism of the hijacked passengers is rooted in their determination to communicate, either among themselves or by phone with the ground. As I show, there is a slip-page in the commission's thinking between the threat of bureaucratic fragmentation and the predicament of political fragmentation, or partisanship.

MISSIONARY ZEAL

The 9/11 panel promoted its recommendations with a missionary zeal, and its members continued to proselytize long after their tenure was concluded, establishing the privately funded 9/11 Public Discourse Project and issuing government periodic "report cards" on its reorganization progress. Yet, beyond advancing specific policy prescriptions, a capacious set of missions is evident in the commission's work. For one, assuring the universal circulation of their account, the commissioners presumed that the public required mass education, or, mass reading. Their wish to deposit a book in the hands of each and every citizen echoes the American originary myth of national birth through extensively circulated printed texts, such as the Declaration of Independence and the Constitution. As Trish Loughran argues, print is "American nationalism's preferred techno-mythology" (2007, p. 3). The association of citizenship with the reading of government publications further developed in the nineteenth century when Congress became, for all practical purposes, a publisher, sponsoring and circulating large editions of patent office reports, presidential messages, expedition accounts, and other state papers, some of which became popular reading material (Frankel 2006).

Critics have noticed that the *Report* begins with "we," and throughout the volume the plural pronoun both stands for the commission's voice and summons the American people, on whose behalf the panel asks rhetorical questions such as "Why do 'they' hate us?" (9/11 *Report*, p. 51; Warren 2007). In that vein, *Publisher's Weekly* compared the *Report* to the *Federalist Papers*

(1787–1788) that promoted the ratification of the Constitution, “[T]he book is designed to foster the debate by which the country will reimagine itself through its bureaucracy” (*Publishers Weekly*, 22 July 2004).

Policy investigations launched to garner facts, recommend policy, and publish hefty accounts epitomize the modern, information-laden, governing process. However, the 9/11 Commission operated at a historical moment during which the ethos of the liberal state was under attack as evident in the Bush administration’s precarious relation to facts and hostility to the dynamics of open public debate. The commission undertook governance assignments the administration ostensibly abandoned: representing the victims’ families, informing citizens, and authoring official history. In doing so, it promoted rather traditional values such as transparency, civic duty, and research-based legislation. Thomas Kean, a pro-reproductive rights, pro-gay rights, pro-gun control Republican who relishes his Mr.-Smith-Goes-to-Washington image embodied this yearning to employ 9/11 to return to older modes of governmentality (Felzenberg 2006, p. 411). Only during the Bush years in the White House could such notions seem, somehow, *subversive*.

Moreover, the panel sought to mend by action, or by gesture, what it viewed to be injurious to American public life. Whereas the report documents endemic miscommunication, the panel is eager to connect. If America is lacking awareness of the outside world, the commission is equally keen on consciousness-raising. Further allying fact-finding with action, the investigation on occasion assumed the trappings of a tribunal, a place to render justice, historical justice. Staffers working on the al-Qaeda plot were directed to garner evidence as though they were preparing for a jury trial. Commissioners maintained that a precise sorting out of the 9/11 puzzle, or setting the record straight (e.g., proving false the government tale that Air Force jet fighters heroically chased United Flight 93) was a debt owed the 9/11 victims and their families. In one of its public hearings, the commission played the audio recordings of flight attendant Betty Ong (American Airlines Flight 11) transmitting vital information about the hijacking. News reports had labeled Ong hysterical, but the recordings proved her to be calm and self-possessed. The commission flew Ong’s siblings to Washington for the hearing, and in line with the Victims’ Rights Movement practices made sure they were seated in the front row (Kean and Hamilton 2006, p. 107 & p. 140).

MAKING HISTORY

Ultimately, Kean, Hamilton, and Zelikow perceived of themselves as making history, not merely documenting it. They toyed with the idea of keeping the commission a permanent body. The two chief commissioners titled their memoir, *Without Precedent*, branding the attack and the ensuing inquiry unique historical events. They saw in their labor a model of patriotic collaboration across political lines, a paradigm for a new public ethos. At the onset of

their tenure, Kean offered Hamilton full partnership in hiring personnel and organizing the inquiry. Joined at the microphone, they appeared side by side on TV Sunday shows and press conferences. They substantially disagreed only once, over the matter of issuing a subpoena to NORAD. At that juncture, they crossed party lines, Kean voting in favor with the Democrats and Hamilton against. Colleagues began referring to them as “the twins” (Felzenberg 2006, p. 412). A sense of camaraderie became ever more palpable after Attorney General John Ashcroft attacked Commissioner Jamie Gorelick, alleging that as a Deputy Attorney General in the 1990s, she had been the architect of the “Wall,” the policy that separated law enforcement and foreign intelligence gathering. When several Republicans called for Gorelick’s resignation, her colleagues, Republicans and Democrats alike, rushed to her defense, fending off the allegations as preposterous. Gorelick claimed she found she had nine brothers and resolved to stay on (Shenon 2008, p. 337).

Dreading the prospects of dissent or even minority reports, Kean and Hamilton strove to assure unanimity. They found the historical genre attractive to begin with because they believed that collective labor over the factual details of the narrative would push aside ideological disputes and cement a consensus. The quest for unanimity was helped by the fact that, largely by happenstance, most of the Republican commissioners had meager ties with President Bush’s political circles and on the Democratic side, former senator Max Cleland, a strong critic of the administration, left the commission early on.

Another casualty of the drive for consensus was Hamilton’s proposal that the account acknowledge that American foreign policy and military presence in the Middle East contributed to al Qaeda’s motivation and that settling the Israeli–Palestinian conflict was paramount to America’s relationship with the Islamic world (Kean and Hamilton 2006, p. 284). Several commissioners, however, preferred to focus on extreme Islam as the driving force behind al-Qaeda. May would argue that the account he helped craft, “skirts the question of whether American policies and actions fed the anger that manifested itself on September 11,” and, in doing so, reneges on the promise to tell the story in its entirety (May 2005; Shenon 2008, p. 391).

PUBLICATION AS RE-ENACTMENT

The circulation of the *Report* appeared both to reenact and redress key features of the attack itself. Descriptions of the book’s publication read like a military operation, though outsourced to private corporations. Norton had five days to print and bind 600,000 copies. The contracted production company was known for the massive editions of the *Harry Potter* series. Two printing plants worked 24 hours a day. Circumventing ordinary channels of distribution, books were shipped overnight directly to stores. Norton’s spokesperson channeled greater historic moments when she declared, “The whole nation got [the *Report*] at roughly noon Eastern time” (*SF Gate*, 1

August 2004). These paperbacks kept moving. On the first day, 150,000 copies came off the shelves. Stunned by the overnight success, Norton's president Drake McFeely reflected, "For \$10, it's a quick impulse buy, to buy a piece of history, and then they start reading it and find out they have a lot to learn" (*Albuquerque Journal*, 27 July 2004). The concurrent publication of the *Report* reproduced certain phenomenological features of 9/11 as a national and nation-making event, especially its collectivity, simultaneity, and perhaps even sense of surprise. On September 11th, 2001 the American public ostensibly shared the experience of viewing the attack on TV screens. On publication day July 22nd, 2004, the entire country was expected to pursue the *9/11 Report* whose content had been kept a secret.

Another point to consider is that as against the millennial prophecies about the imminent death of the *book*, post-9/11 culture has demonstrated the enduring vitality of books in American public life. The attacks inspired commemorative albums, literary responses, and investigative journalism. Kean was reportedly influenced by Steve Coll's *Ghost Wars* (2004) and George Crile's *Charlie Wilson's War* (2003). The commissioners took note of Bob Woodward's ability to publish classified information in *Bush at War* (2003), and at one point considered issuing a subpoena for the manuscript of former counter-terrorism advisor Richard Clarke's *Against All Enemies* (2004), whose publication coincided—not by chance—with his public testimony. The success of the *Report* served as a model for the Iraq Study Group, a Congress-appointed bipartisan panel whose policy recommendations on the situation in Iraq, *The Way Forward: A New Approach* (2006), would also become a bestseller.

"A LITERARY TRIUMPH"

The cultivated readability of the *Report* surpassed any methodological emphasis on narration and timelines. Kean remarked, "[T]he writing had to grip like something that people would not only buy, they would read" (*New York Times*, 24 Oct. 2004). Zelikow who once referred to himself as the *Report's* "surrogate author" (*New York Times*, 24 Oct. 2004) encouraged staffers to relegate to footnotes details that obstructed the narrative stream and to avoid long cumbersome sentences, technical language, and excessive use of acronyms. The commission's "front office" later began revising chapters, establishing a unified, purposefully journalistic "house style." Commissioners then joined the rewriting process. Each chapter was circulated at least six times. According to May (2005), "Everyone became a storyteller."

The prose's literary properties drew immediate attention. The volume was compared (sometimes admiringly, at other times dismissively) to the writings of Tom Clancy and John Grisham. Reviewers labeled the report, "a literary triumph," "novelistically intense," and even "a Shakespearean drama" (*New York Times Book Review*, 29 Aug. 2004; *New Republic*, 9 Aug. 2004; *Publisher's Weekly*, 22 July 2004). *Time Magazine* opined, "[O]ne of the most

riveting, disturbing and revealing accounts of crimes, espionage and the inner workings of government ever written" (2 Aug. 2004). John Updike went so far as to link the *Report* to the *King James Bible* as the only two English-language masterpieces written by committee. In Crawford, Texas, President Bush told an Associated Press journalist, "It reads like mystery, a novel" (27 July 2004). And, the *Report* was nominated for the National Book Award, in the nonfiction category.

The *Report's* prose satisfies the contemporary taste for blurring the fact/fiction divide in genres such as "creative nonfiction," which are predisposed to foreground the narrator's standpoint. A degree of stylistic surplus could therefore pass as yet another form of truth-telling and candor whose subjectivity is offset by the much commented upon absence of a singular author, turning the "written by committee" sneer into an asset. The *Report's* transgression against the formalities of bureaucratic writing also supports the panel's tacit objective to speak for the *people* rather than for *Washington*. However, despite the panel's struggle to break away from "bureaucratese," official discourse is already drawn to fiction and prone to a certain rhetorical flair as manifested in fanciful code names, such as the "Blue Sky" memo, or the "Afghan Eyes" task force. Clarke who was one of the main "characters" of the *Report* would later become a fiction writer himself.

The text is replete with bold quotations from Clarke and others. This is likely the only published official record to cite a president using an expletive. Clinton tells General Hugh Shelton, "You know, it would scare the shit out of al-Qaeda if suddenly a bunch of black ninjas rappelled out of helicopters into the middle of their camp" (p. 189). Shrewdly, the account records both Clinton's and Bush's hard-hitting, oracular pronouncements, but otherwise, handles both presidents with caution.

The narrative's literariness is best exemplified in the decision to forgo linear chronology in favor of a more enticing plot line. The commissioners swapped chapters in the original draft because they considered the opening chapter in the final version, which describes the story of each of the four planes that crashed on 9/11, more dramatic. The first chapter effectively establishes the 9/11 time/space matrix or chronotope in a muscular, verb-heavy prose. Titled, "We have some planes," it is followed by chapters that return to the 1990s and later to the aftermath of the attack. Commissioner Bob Kerrey explains this switch as a device to help readers place themselves in the story (Kerrey, Interview, 22 March 2007).

MEMORY WORK

The opening chapter thus takes off where countless photos and the few endlessly repeated video clips left viewers on September 11, 2001. It vies to ameliorate the inherent incompleteness of these sketchy images and promises to reveal in detail what happened *inside*: inside the airplanes, and later, inside

the buildings, and inside the Clinton and Bush administrations. The chapter is framed in line with the fundamental modes of what Marita Sturken (1997) associates with the televisual structuring of cultural memory: repetition, re-enactment, and docudrama. The subsequent historical narrative is thus cast as an analepsis, a flashback.

The decision to abandon linear narration thus distances the *Report* from May and Zelikow's (debatable) conception of history as a simulation of past events as they progressed and brings it closer to the notion that we all experience and re-experience history—directly or vicariously—as trauma. As critic Philip Kennicott argued, the *Report* assumes the tone of the “trauma memoirist” (*Washington Post*, 1 Aug. 2004). It crosses the divide between the capacity to observe and comprehend history and witnessing as the predominant engagement with the past. At key moments throughout the narrative, witnessing is signified by swift, adjective-lean passages, which, however, are not affect-free and often indicate that the authors are watching the scene from close proximity, laboring to restrain themselves emotionally, as in the following description of New York Police Department's Emergency Service Unit:

Eventually, when no one else appeared to be descending, the ESU team exited the North Tower and ran one at a time to 6 WTC, dodging those who still were jumping from the upper floors of the North Tower by acting as spotters for each other. They remained in the area, conducting additional searches for civilians; all but two of them died (*9/11 Report*, p. 310).

The commemorative or mnemonic aspects of the commission's endeavor appear even more clear when we place the *Report* among the commission's investigative practices. Its public hearings, for example, followed at times the cathartic dynamics of truth and reconciliation committees, which have operated in post-civil conflict societies across the globe. Most famous was the apology former counter-terrorism advisor Clarke offered in March of 2004 when he declared to the bereaved families and the American public, “[Y]our government failed you” (Strasser 2004, p. 175). The investigation itself has been the subject of commemoration, for instance, through Kean and Hamilton's (2006) memoir about the inside story of the commission. The book opens with personal testimonials about 9/11 as the day in the life of the two chief commissioners and points throughout to other intimate connections between the investigation and its subject matter.

Pierre Nora maintained that in modernity *memory* falls under the sign of a critical, scientifically-inclined, and slavishly temporal *history* (Nora 1989). But the commission's efforts (and, arguably, post-9/11 culture as a whole) suggest the opposite turn: history that gravitates toward the sign of memory. This is not the spontaneous, indigenous mnemonic environment of the pre-modern world, but the extremely self-conscious, increasingly professionalized

memory discourse that had already become a cultural juggernaut before 9/11. Often guided by therapeutic expectations as well as an emphasis on ceremony and site, personal experience and affect, this culture spurred the frantic rush to commemorate and build museums and monuments in the wake of the attacks. The *Report* should be considered one of those memorials.

CONNECTING DOTS

With the graphic adaptation of the *Report*, the ballast further shifts from text toward image. No wonder that Kean and Hamilton, hungry for additional readers, approved and even authored a preface for the graphic reworking of their account. Ernie Colón, one of the creators commented, “I found that by the time I got to page 50 or 60 [of the *Report*], I had forgotten all the Arabic names and all the times and places... we could make [it] more informative, more available, and, to be frank, more likely to be read in its entirety” (*Rocky Mountain News*, 9 Sept. 2006).

The graphic version provides a valuable commentary on the cultural labor of the 9/11 investigation and participates in its visual didacticism. Comic strips, after all, depend on and enhance readers’ capacity to translate visual language into focused ideas, to hop over empty spaces between panels (known as “gutters”) and weld together disparate perspectives (McCloud 1994, p. 31). It is the ultimate art of connecting dots and converting temporality into spatial relations. Indeed, one of the graphic novel’s striking features is the four timelines of the hijacked plans rendered in long, laconic charts that allow readers to compare the whereabouts of all four flights at a glance.

Similarly, the adaptation literalizes the commission’s critique in space. For instance, Chap. 1 opens with a formation of four commercial airplanes and a parallel image of four jetliner-shaped blips on an old radar screen, ostensibly standing for the “signs on the wall” that remained unread. In the tradition of Art Spiegelman’s influential grappling with the Holocaust in *Maus* (1986), the commissioners bear witness to a difficult history that calls for unique representational techniques (Versaci 2007, p. 83). The challenge of representation the creators faced was not how to illustrate terrorist action, for that purpose they mined the recognizable comic strip vocabulary—“RRRUMBLE,” the South Tower collapses, “FLAMM,” Flight 93 crashes into a field in rural Pennsylvania—but how to portray government inaction and ineptitude. The book features teams of American officials engaging in futile, sometimes belligerent exchange, or staring blankly into empty screens. Like the original document, however, the graphic iteration is deferential toward American leaders. Even when Vice President Richard Cheney is reduced to watching the historic events in New York sitting in front of a large TV screen, he is not entirely passive for he screams, “How the hell could a plane—oh, No! A Second one!” (Jacobson and Colón 2006, p. 27).

THE PERPETRATORS' POINT OF VIEW

It is the *Report's* authority and detail that encourage its use as a source-book for cinematic expressions, for instance, *United 93* (2006) and *The Path to 9/11* (2004) as well as literary work. Alternatively, the text invites its own completion or reiteration. In fact, one of the narratives spawned by the *Report* takes as its starting point what the commission admits it does not know. Martin Amis's short story, "The Last Days of Mohammad Atta," (*The New Yorker*, 24 April 2006) opens with a statement made in a footnote in the *Report* that there is no definitive explanation for why hijackers Mohamed Atta and Abdulaziz al-Omari drove to Portland, Maine, on the morning of September 10, only to return to Logan Airport (Boston) on the morning of the following day. Amis's story fills in the blank.

John Updike who utilized the *Report* for his novel *Terrorist* (2007) said that, "The 9/11 Commission gives you kind of a feeling for the personalities of those terrorists" (*L.A. Weekly*, 31 May 2006). Kean and Hamilton concur. "We planned to write a report populated by characters," they clarified, "human beings who struggled, and continue to struggle, on both sides of the war on terror" (Kean and Hamilton 2006, p. 125). This statement further associates the *Report* with the clichés of popular fiction, at the same time addressing the perpetrators as human beings pressed against the grain of post-9/11 political discourse, which cast them as monsters.

The *Report* provides biographical sketches of three major figures in the al-Qaeda network and constructs, rather in passing, a composite portrait of the hijackers' origin, education, and physical attributes as well as the class distinctions between the more Westernized, English-speaking "Hamburg Cell" and the so-called "muscle hijackers." We learn about relationships with family members, undisciplined somewhat odd behavior, and other dead-end, sideways-shifting episodes. The banality of the details, rather than any Arendtian "banality of evil," individuates and resizes the perpetrators closer to the eye and closer to *normal*. For instance, the *Report* follows the trials and tribulations of Ziad Jarrah's (the pilot of Flight 93) relationship with his German-Turkish fiancé Aysel Senguen. In another episode, Ramzi Binalshibh, who helped coordinate the operation from Europe, delivered to Atta men's necklaces and bracelets. Atta had asked him to obtain these accessories in Bangkok, explaining that if the hijackers would be well attired, they would be identified as rich Saudis and left alone (*9/11 Report*, p. 245). This is an intriguing anecdote, involving male adornment as well as a likely erroneous assumption about a shared cultural reference with the American everyman. We later learn that Atta communicated the attack's date to Binalshibh with a riddle: two branches, a slash, and a lollipop (p. 249).

Crisscrossing between al-Qaeda and its American nemesis, the narrative accentuates differences but also tenders means to bridge the gap. As a mystery it assigns the perpetrators and the *Report's* readers similar positions of

knowledge. Both groups either know or anticipate the conclusion of the pre-9/11 preparations while federal officials are in the dark. The plotters seize their “historical moment” (p. 48). From Washington’s perspective, in contrast, the account points toward the counter-factual, the *what if*.

In the morning-in-America description of the idyllic 9/11 early hours—“Tuesday, September 11, 2001 dawned temperate and nearly cloudless in the eastern United States” (p. 1)—both hijackers and Americans, including President Bush, pursue their respective roles. If simultaneity generates the kind of imagination that props up communities, as Benedict Anderson theorized, then it is of some importance that the *Report* asks Americans to become aware of their and the perpetrators’ parallel, concomitant lives that morning (Anderson 1983). The commission’s declaration that “the American homeland is the planet” may be construed both as a call for American global empire or, alternatively, a demand that Americans see themselves, for their own safety, as citizens of the world.

The commission offers its inquiry as a model for observing the erstwhile outside world, mitigating its incongruities and forestalling future threats. In this spirit, Kean and Hamilton celebrate their *Report* as a tapestry of many authors and many voices, including those al-Qaeda affiliates now in American custody. “[Their] voices are joined with the thousand other voices that we heard from inside and outside the government” (Kean and Hamilton 2006, p. 125). They fashion the detainees to be participants in the collective compiling of the *Report* and consequently to be—implicitly—a part of *us*.

The irony (and the tragedy) behind this surprisingly inclusive pronouncement is that the detainees’ perspective and testimony might have been obtained by means of torture. As the public and reportedly the commissioners learned only after the conclusion of the investigation, the detainees were subjected to water boarding and other forms of “enhanced interrogation techniques.” The administration rebuffed the commissioners’ request for direct interviews, agreeing only to address the commission’s questions to those in custody. According to NBC News, at least a quarter of the *Report*’s footnotes refer to material obtained from the CIA interrogations of al-Qaeda operatives (Shenon 2008, p. 424). These revelations cast doubt on the credibility of the *Report*. Beyond matters of veracity or authenticity, they expose the aggression already embedded in conflating utterances and *voice*, in voicing the enemy. The ambiguities dominating the place the 9/11 *Report* allots the perpetrators therefore far exceed Zelikow’s notion of empathetic imagination, which in itself is inherently ambiguous, insinuating the wish to commandeer the subject position of others.

CONCLUSION

Throughout its tenure, the commission wavered between ideals of state building that hark back to the early twentieth century Progressive Era in U.S. history and a neoliberal mindset that, wary of the state, wishes to depoliticize

public life looking to the marketplace for models of publicity, exchange, and freedom. The commissioners invited citizens-readers to partake in the policy-making process, but with all of their confidence in the power of facts and the rhetoric of open debate, they resorted to aggressive marketing techniques, assuming that unless seduced by a well-designed product citizens would not pay attention.

As a history book, the *9/11 Report* rests on variegated notions of history as a form of rationality, an instrument of justice, and a tool for teaching and minting citizens, as well as on history in the service of commemoration and recovery. In addition to the published report, Kean and Hamilton view the extensive interviews the panel conducted (now in the U.S. National Archives) as the oral history of 9/11 and the material for books to come (Kean and Hamilton, p. 108). The commissioners' decision to globalize their account, to narrate 9/11 from the perspectives of both the United States and al-Qaeda together with their expectations about the *Report's* redemptive possibilities is typical of the post-9/11 engagement with the grand meaning of history. And yet, although the account sometimes trends toward the totalizing narratives of the "war on terror," it also documents a long series of mishaps, blunders, and accidents, and a multitude of other contingencies that resist totalization and are generative of other stories. This might be the narrative's most important contribution to historical thinking in the post-9/11 era.

REFERENCES

- Anderson, B. (1983) *Imagined Communities. Reflections on the Origin and Spread of Nationalism* (London: Verso).
- Fenster, M. (2008) 'Designing Transparency: The 9/11 Commission and Institutional Form,' *Washington and Lee Law Review*, 65(4), 1239–1321.
- Felzenberg, A. S. (2006) *Governor Tom Kean. From the New Jersey Statehouse to the 9–11 Commission* (New Brunswick: Rivergate).
- Frankel, O. (2006) *States of Inquiry. Social Investigations and Print Culture in Nineteenth Century Britain and the United States* (Baltimore: Johns Hopkins UP).
- Goehr, L. (2007) 'Afterwords. An Introduction' in Danto, A. *Narration and Knowledge* (New York: Columbia University Press).
- Jacobson, S. and Colón, E. (2006) *The 9/11 Report. A Graphic Adaptation* (New York: Hill and Wang).
- Kean, T. H. and Hamilton, L. H. (2006) *Without Precedent. The Story of the 9/11 Commission* (New York: Knopf).
- Loughran, T. (2007) *The Republic in Print. Print Culture in the Age of U.S. Nation Building, 1770–1870* (New York: Columbia UP).
- May, E. (2005) 'When Government Writes History. The 9–11 Commission Report,' *The New Republic*, 232 (4,175), 30–35.
- May, E. and Zelikow, P. (2007) *Dealing with Dictators. Dilemmas of US Diplomacy and Intelligence Analysis, 1945–1990* (Cambridge: MIT University Press).
- McCloud, S. (1994) *Understanding Comics* (New York: Harper).

- Neustadt, R. E. and May, E. (1986) *Thinking in Time. The Uses of History for Decision Makers* (New York: Free Press).
- Nora, P. (1989) 'Between Memory and History: *Les Lieux de Mémoire*,' *Representations*, 26(2), 7–24.
- PBS (1997) 'Charlie Rose with Ernest May and Philip Zelikow, etc.' Public Broadcasting Service, 22 Oct. 1997. DVD.
- Rovner, J. and Long, A. (2005) 'The Perils of Shallow Theory. Intelligence Reform and the 9/11 Commission,' *International Journal of Intelligence and CounterIntelligence*, 18, 609–637.
- Shenon, P. (2008) *The Commission. The Uncensored History of the 9/11 Investigation* (New York: Twelve).
- Strasser, S. (ed.) (2004) *The 9/11 Investigations* (New York: Public Affairs).
- Sturken, M. (1997) *Tangles Memories. The Vietnam War, the AIDS Epidemic and the Politics of Remembering* (Berkeley: University of California Press).
- Versaci, R. (2007) *This Book Contains Graphic Language. Comics as Literature* (New York: Continuum).
- Wagner-Pacifici, R. (2017) *What Is An Event?* (Chicago: Chicago University Press).
- Warren, C. A. (2007) "It Reads Like a Novel". *The 9/11 Commission Report and the American Reading Public*, *Journal of American Studies*, 41(3), 533–556.

Truths of the Dictatorship: Chile's Rettig and Valech Commissions as State-Sponsored History

Onur Bakiner

INTRODUCTION

Human rights initiatives have become increasingly influential in revising, rejecting, and reforming official historiography. Human rights trials and truth commissions are acknowledged for their role in making sense of national tragedy in contexts as diverse as Guatemala and Timor-Leste, former Yugoslavia and South Africa (Maier 2000; Bevernage 2010; Moon 2008). Critical scholarship has problematized the historical narratives emerging from these initiatives (Grandin 2005; Mamdani 2002; Wilson 2011). The historical narratives produced by truth commissions especially carry the promise of receiving official sanction; yet, these narratives also spark controversy; they often elicit angry responses by groups that sympathize with alleged perpetrators, and even by human rights defenders, public intellectuals, and the same politicians who sponsor these commissions.

This chapter investigates the sources of variation in historical narratives of official truth-finding commissions. Using the case of Chile, where the chapters contextualizing human rights violations in the final reports of two consecutive truth-finding panels reveal significant differences, I examine the social and political determinants of writing history through truth commissions. Chile has had two state-sponsored truth commissions: the 1990

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National Commission on Truth and Reconciliation (also known as the Rettig Commission after its chairperson, Raúl Rettig)¹ and the 2003 National Commission on Political Imprisonment and Torture (also known as the Valech Commission after its first chairperson, the late Sergio Valech).² Whereas the first commission was tasked to investigate forced disappearances and extrajudicial killings under Augusto Pinochet's brutal military dictatorship (1973–1990), the second one set out to examine categories of human rights violations that were left out by the former, namely torture, imprisonment, and sexual violence. Both commissions fought against a legacy of denial and organized lying. Although the commissions shared similar tasks, their approach to the nation's history differed in fundamental ways. This chapter seeks to document the different ways in which the military dictatorship was characterized by these two commissions, and to explain the sources of this divergence.

The Valech Commission has been much more daring in its portrayal of the military coup as a morally and politically questionable act. Whereas the Rettig Commission blends in sensitivity towards human rights with a right-leaning historiography that blamed the coup's onset on the political crisis during the socialist Allende government (1970–1973), the Valech Commission refuses to make rhetorical concessions to the right-wing narrative. Defying the earlier commission's claim that the political climate was "objectively favorable to civil war" before the military coup, the Valech Report finds no evidence of civil war conditions during this same period. Even though the latter commission does not defend the socialist legacy by any means, it also does not blame it for the political context in which the coup took place.

What explains this fundamental difference in historiography? The chapter argues that Pinochet's 1998 arrest in London was an influential but not entirely determining event in explaining the variation. The London arrest weakened the conservative grip on Chile's politics and state-sponsored historiography; however, other forces were also at play: long-standing activism on the part of left-wing historians, the intergenerational transformation of memory struggles, and the election of a socialist-dominated government in 2000 were all crucial causal factors. As a result, the Valech Commission was staffed by public figures who were less sympathetic to the conservative, pro-military worldview. Unlike the Rettig Commission, in which conservative historian Gonzalo Vial played a crucial role in drafting the historical narrative, the participants in the Valech Commission were willing to refute conservative arguments, including those inserted by Vial into the first commission's narrative. In addition, they did not face the political constraints faced by the predecessor commission. The differences in how these two commissions portray the same period, therefore, reveal the extent to which commissions exercise agency in how they narrate the past.

The chapter is organized as follows: the first section discusses the promises and challenges of coming to terms with the past through truth commissions. The second section provides an overview of the human rights issue in

the wake of the military dictatorship in Chile. The fourth and fifth sections provide a detailed analysis of the historical narratives of the Rettig and Valech Commissions, with particular attention to the notable differences. The sixth section explains the political and generational shifts that made this historiographic divergence possible. The conclusion offers reflections on the implications of the Chilean case for the stakes of state-sponsored historiography in general.

WRITING HISTORY IN TRUTH COMMISSIONS

Truth commissions are primarily tasked with conducting an investigation into past human rights violations (Wiebelhaus-Brahm 2009; Hayner 2011; Bakiner 2014). Their forensic task is often complemented by an inquiry into the causes and consequences of political violence and human rights violations, which has led most commissions to include in their final reports chapters contextualizing past wrongs. Commissions exhibit considerable variation in their interest in contextualizing the nation's past: the context chapters can be as short as a few paragraphs (e.g., Argentina) or as long as several volumes (e.g., Peru).

Proponents of truth commissions justify these interventions into social memory and official history by linking the goals of societal reconciliation and conflict prevention to a deeper and more self-reflective understanding of the country's political past. "*Never Again!*" it is claimed, will be a lived reality when the official propaganda and lies about past violence are exposed by a truth commission's findings and historical narrative. Furthermore, truth commissions are claimed to provide an opportunity for otherwise-excluded individuals and groups, such as victims and their relatives, to have a say in how a society remembers and narrates its collective past. They can occasionally include narratives from perpetrators, as well.³ Thus, rethinking the past through truth commissions can have a democratizing effect.

Despite all their claimed salutary effects, however, commissions' historical narratives have also received criticism for their shortcomings. Commissions often investigate a circumscribed list of human rights violations, which sets limits on their claim to broad-based representation. For example, the South African Truth and Reconciliation Commission's restrictive focus on the most hideous Apartheid crimes, such as torture, forced disappearances, and politically motivated killings has been criticized for failing to describe the injustices resulting from the everyday functioning of Apartheid (Mamdani 2002). Furthermore, victims' narratives of violence and violations often guide the writing of history only indirectly; the commissioners exercise considerable discretion in shaping the voice and silences of a context chapter (Bakiner 2015). In the end, truth commission narratives serve to deepen, rather than resolve, the controversies around the meaning of the past. They almost always alienate presumed perpetrators and their allies, but at times, victims' groups and human rights organizations may express serious disagreements with a truth commission's narratives, as well. For example, victims' groups in Argentina

have long questioned the truth commission's characterization of the onset before the 1976 coup as a conflict between the Left and the Right. Even though the commissioners announced publicly that they did not endorse the "Two Demons Theory," protests continued, and eventually succeeded in having references to violence on the Left and Right deleted in the 2006 edition of the final report (Galak 2006).

In other words, the historical interpretations produced by truth commissions often provoke new disagreements over the meaning of the past, even as they rectify the organized lies of an outgoing regime. The context chapters of truth commissions' final reports are characterized as much by their exclusions and silences as their actual content (Bakiner 2015). As described above, the disagreements over historiography cannot be reduced to a mere divide between truth commissions' critical, rights-centered narratives and interpretations of history that relativize or deny human rights violations; truth commission narratives often upset, disappoint, and alienate sympathetic individuals and groups, as well.

Is there an underlying logic to truth commissions' representations of the past? The sheer variety of contexts in which truth commissions operate makes it difficult to conduct comparative studies and develop an overarching framework. Nonetheless, based on my case study of Chile, where two truth commissions produced historical narratives to describe the same historical period (i.e., the onset of the 1973 coup and its aftermath), I argue that presentist considerations dominate a truth commission's narrative. The political and legal context in which the commission operates shapes the narrative powerfully. However, presentism should not be understood as catering to immediate political needs; rather, commissions are attentive to, and a product of, the ongoing struggles for rights, memory, and justice. As the case of Chile illustrates, the accomplishments of the country's human rights movement are crystallized in the composition of a later truth commission, as well as its historical narrative.

THE CASE OF CHILE: DICTATORSHIP, DEMOCRACY, AND THE HUMAN RIGHTS QUESTION

Massive human rights violations took place in Chile during the military dictatorship led by Augusto Pinochet, which had overthrown the democratically elected Popular Unity [*Unidad Popular*] government of Salvador Allende. The Pinochet dictatorship sought to eradicate the political leadership and the grassroots organizations of the left through extrajudicial killings, forced disappearances, widespread imprisonment and torture, exile, and sexual violence. In addition to massive bodily integrity rights violations, the regime closed Congress, banned political parties, criminalized civil society organizations, and ended many of the social programs that had begun under the Allende government.⁴

Throughout the dictatorship, the military and its civilian allies portrayed the violent repression of the leftist opposition as a war against the threat of Marxist tyranny. According to this vision, Chile found itself on the brink of civil war as a result of the misguided and ill-intentioned policies of the late Allende government, at which point the military took the responsibility for restoring institutional order and eradicating the source of evil. Pinochet and his allies calculated that emphasizing the Marxist character of *Unidad Popular* would legitimize the coup and the ensuing repression in the eyes of Chile's conservative sectors as well as the United States. The dictatorship often boasted of its "heavy hand" in dealing with dissent, but also denied or belittled allegations of massive human rights violations. Later, it was proven beyond any doubt that the regime had detained thousands of dissidents without formal arrest warrants and disappeared their bodies after torturing and murdering them, but throughout the dictatorship the regime kept claiming that there were no disappearances, and that politically motivated murders were committed mostly by leftist militants (Huneus 2007).

It was in this context of violence and organized lying that the first attempts to uncover the facts took hold. Relatives and friends of the disappeared began to organize in a desperate effort to discover what happened to their beloved ones. As it became increasingly evident that the disappeared could not be found alive, the relatives undertook a series of marches, protests, hunger strikes, and publicity campaigns to find out the fate of their beloved ones, and seek accountability for those responsible for disappearing them. Even though these initiatives did not alter the attitude of state officials during the dictatorship, victims' organizations and their allies (such as the Vicariate of Solidarity established by the Catholic Church) formed the first organized opposition against the dictatorship, built a global network of solidarity around the issue of human rights, and documented many (if not most) abuses committed by state agents.⁵

The transition to democracy was a slow process. After eliminating political opposition in the first five years of the dictatorship and ensuring impunity for human rights violations through an amnesty law in 1978, Pinochet sought to institutionalize his rule.⁶ The 1980 Constitution, drafted by his trusted advisors and revised by Pinochet himself, entrenched his power for at least another eight years, while allowing for limited political opening. Throughout the 1980s, opposition groups voiced grievances around human rights violations, economic crisis, widening socioeconomic inequality, and the authoritarian character of the regime, while the Pinochet dictatorship ignored and repressed these demands. Yet, a unified opposition bloc called *Concertación* that brought together erstwhile rivals, the Socialists and the Christian Democrats, managed to force the regime to accept a referendum for democratization in the context of growing domestic and international impatience with the regime.⁷ The Chilean public went to polls for the first time in 15 years, on October 5, 1988, either to accept another eight years of

Pinochet presidency, or to open the doors to multiparty elections. Much to Pinochet's dismay, around 56% of the voters chose the latter. In December 1989, the Chilean people elected Patricio Aylwin, from the Christian Democrat Party, as president. A new beginning was under way.

Yet, Pinochet ensured that the democratic transition would be negotiated with him. The existing constitution allowed him to handpick a number of senators, which gave his supporters the edge in the upper legislative chamber; constitutional amendments were thus made difficult, if not impossible. The electoral system gave undue advantages to minority parties, which at the time were *Pinochetista* right-wingers. Likewise, the self-amnesty law of 1978 could not be amended in the *Pinochetista*-dominated Senate. In addition to all these procedural limits, Pinochet clearly stated that the rule of law in Chile would be over if the incoming government "touched one of [his] men" (Roniger and Sznajder 1999, 94). The quest for truth, justice, and reconciliation had to advance under these constraints.

The constraints on criminal accountability pushed the incoming Aylwin government to seek justice "within the possible," while satisfying the victims' and relatives' demand for truth through a truth commission. One month into assuming office, Aylwin established the National Truth and Reconciliation Commission, chaired by Raúl Rettig, to discover facts about forced disappearances and extrajudicial killings. The choice of creating a truth commission reflects the highly constrained nature of the political transition in which punitive measures against the perpetrators of the outgoing regime were not an option.⁸

THE RETTIG COMMISSION (1990–1991)

The idea of establishing a truth commission in the wake of a dictatorship, along the lines of neighboring Argentina, found strong support in the parties that made up the government. Victims and victims' relatives lent critical support, but many of them expressed the worry that the commission would detract from criminal accountability.⁹ Right-wing sectors aligned with Pinochet's regime were extremely critical of this effort, questioning the commission's legal basis, usefulness, and political motivations. In order to win over the *Pinochetistas*, Aylwin appointed four right-leaning public figures.¹⁰ Chairman Raúl Rettig was a center-left politician and former diplomat. An ideologically balanced truth commission would, it was hoped, reconcile the nation in light of truth, dialogue, and tolerance.

The findings of the Rettig Commission laid bare many of the lies that circulated during the military dictatorship: about 93% (all but 164 of the 2279) of all politically motivated killings between 1973 and 1990 were attributed to members of the military, police, and intelligence organizations (Chilean National Commission on Truth and Reconciliation 1993, 1122). Of those killed, nearly half of them were disappeared. Extrajudicial killings and

disappearances were not isolated excesses, but rather, systematic practices. In addition, the commission found evidence of massive torture, even though it was not tasked to investigate individual cases of torture. All in all, the commission's findings confirmed what political dissidents and human rights groups always knew: the Pinochet dictatorship had been killing, disappearing, and torturing mostly unarmed individuals in an effort to eradicate organized opposition to the dictatorship.

The Rettig Commission was also asked to describe the context in which the human rights violations took place. Providing a historical narrative of the coup onset, the coup itself, and the post-coup developments was a daunting task in a country divided over the legacies of the *Unidad Popular* government and the military coup. The fact that 44% of the electorate voted to keep Pinochet as president in 1988 meant that his regime enjoyed support beyond the civilian and military elites. Right-leaning social sectors tended to agree with the portrayal of *Unidad Popular* as a period of institutional crisis and decline, and the coup as an act of salvation. Many thought the allegations of massive human rights violations were exaggerated at best, and the ongoing attention to violations was interpreted as a campaign to discredit the armed forces.

The divide over memory did not merely reflect attitudes towards the military regime, however. Memories of the 1970s could destabilize the governing coalition between the leftists and center-right Christian Democrats because the leadership of the Christian Democrats had withdrawn from the parliamentary bloc supporting the Allende government in the run-up to the military coup in 1973, and had initially held a positive attitude towards the military regime. The Christian Democrats only distanced themselves from Pinochet's regime once they realized that the military leadership would entrench itself in power rather than return power to civilians, and would not stop committing abuses against perceived political rivals, including several high-ranking Christian Democrats. In other words, dealing with the past presented difficulties on multiple fronts in Chile's political landscape (Bakiner 2015).

The Rettig Commission's historical narrative represents an uneasy compromise between a human rights lawyer's outlook on the country's human rights question and a right-wing historian's views on the onset of the 1973 coup. The tendency to present human rights violations as incontrovertible facts that transcend the memory divide is embodied by human rights lawyers, and especially by the commission's architect and member José Zalaquett, who believed the publication of mass human rights violations would go furthest to discredit the *Pinochetista* propaganda machine. The tendency to vindicate the conservative interpretation of Chile's history is represented by historian Gonzalo Vial, the commissioner who drafted the final report's historical narrative chapter (Stern 2010). These two outlooks combine to produce a narrative that expresses disinterest in adjudicating the controversies surrounding the nation's history, yet still passes judgments on some of those controversial historical junctures.

For instance, the final report states that it has refrained from passing judgment on the legitimacy of the use of violence during and after the military coup, both by the coup plotters and the defenders of the Allende government (Chilean National Commission on Truth and Reconciliation 1993, 44). Yet, it decides to participate on the controversy over the coup onset:

... the Commission believes it must take into account the situation of the country leading up to September 11, 1973. That situation led to a break in our institutional life and a deep division between Chileans which made it more likely that human rights would be violated. One of this Commission's assigned tasks is to propose preventive measures, that is, to suggest what should be done so as to prevent the recurrence of the kinds of infractions we have investigated. (Chilean National Commission on Truth and Reconciliation 1993, 48)

What is the final report's diagnosis on the breakdown of democracy? The narrative suggests that ideological polarization, political radicalization, and a willingness to use any means (including violent ones) to achieve political ends have led to political and institutional collapse. The chapter also refers to the Cold War context as a contributing factor. None of the causal explanations addresses deep socioeconomic inequality or class conflict as potential factors that may have triggered political tensions. By emphasizing political polarization and radicalization, the final report casts aside causal factors that might underlie the immediate political-institutional breakdown. Yet, it states that all the political-institutional factors taken together "led to a climate that by 1973 was objectively favorable to civil war" (Chilean National Commission on Truth and Reconciliation 1993, 70).

The rest of the chapter offers a damning account of the human rights violations under the military regime. The authoritarian nature of the regime, its elimination of rivals, the use of a secret intelligence agency to detain, torture, and disappear victims, and the systematic manner in which the atrocities were undertaken, are described in detail. The commissioners reserve their criticism of the Pinochet regime to human rights violations without passing judgment on the political, legal, economic, or cultural transformations under military government. This could be considered consistent with the Rettig Commission's commitment to addressing human rights concerns, but given the commissioners' willingness to engage policy failures during the late Allende government, one clearly observes selective political commentary, rather than the absence of political judgment in the final report.

FROM THE RETTIG COMMISSION TO THE VALECH COMMISSION

The Aylwin government implemented most of the recommendations of the Rettig Commission. A reparations program registered the relatives of the disappeared between 1992 and 1997, and provided monthly salaries as well as health and education benefits.¹¹ Aylwin's highly emotional televised apology

soon after receiving the final report of the commission was considered a significant gesture to transcend the military government's policy of denial. Despite these positive developments, however, the much sought-after reconciliation did not take place, in great part because the military, high courts, and right-wing political parties chose to deny or relativize the human rights violations under the military regime (Loveman and Lira 2002). The air force acknowledged the commission's work in generic terms, but all other branches of the armed forces condemned it.¹² The Supreme Court went further, claiming that the commission had jeopardized the country's institutional stability.

The Rettig Commission was not the last word on Chile's human rights problem. The human rights community and victims' groups campaigned for trials, as well as for more extensive reparations programs throughout the 1990s. However, the presence of the amnesty law and the overall reluctant attitude of the judiciary meant that only a small number of prosecutions reached the sentencing stage. Most famously, the former head of the state intelligence agency, Manuel Contreras, was sentenced in 1993 by a Chilean court for his role in the 1976 assassination of former ambassador Orlando Letelier in Washington, DC, but the verdict, made possible by the exclusion of this crime from the 1978 amnesty law, did not trigger more prosecutions. Victims' groups representing a broad range of issue areas continued to bring rights-related concerns before the government, with little or no luck.

What changed this state of affairs was the arrest of Pinochet in London on the orders of a Spanish magistrate on October 16, 1998. Recognizing the futility of initiating lawsuits against Pinochet inside Chile, some victims' groups had taken their grievances to Baltasar Garzón, a judge in Spain's *Audiencia Nacional* who invoked the principle of universal jurisdiction to try the former dictator in Spain. His request for extradition made the headlines around the world. In the end, Britain's House of Lords upheld the arrest and possible extradition of Pinochet, but he was released on health grounds in March 2000 (Roht-Arriaza 2005).

The Pinochet arrest drew worldwide attention to Chile's unresolved human rights problem, emboldened domestic efforts to seek retributive justice, and pushed the domestic political elite to take steps. Following an invitation from the military, the government of Eduardo Frei brought together a number of human rights lawyers and high-ranking military personnel in a Dialogue Roundtable [*Mesa de Diálogo*] in 1999 (Díaz Gallardo 1999). The members from the military acknowledged for the first time that human rights violations had occurred during the military regime. However, the absence of an apology, the exclusion of most victims and victims' relatives from the dialogue, and the initiative's overall indifference to the victims' demands for retributive justice served to fuel more discontent.

As Pinochet was facing extradition and trial on charges of torture (and other crimes) in Britain, torture victims rose to prominence inside Chile. It was known that tens of thousands of individuals had been detained and

tortured by the military dictatorship, but the grievances of the victim-survivors were unaddressed, as the Rettig Commission investigated forced disappearances rather than torture,¹³ and the human rights issue received little, if any, attention throughout the 1990s. Organizations of torture survivors campaigned for the creation of a truth commission and the legislation of a reparations program (Madariaga 2005). Their efforts bore fruit: the National Commission on Political Imprisonment and Torture, chaired by Sergio Valech, was created on November 11, 2003.

THE VALECH COMMISSION (2003–2004)

The Valech Commission was mandated to identify victims of political imprisonment and/or torture, and recommend a reparations program to the president. Unlike the Rettig Commission, there was no explicit effort to nominate right-wing individuals as commissioners. Most commissioners were lawyers, but psychology and social work were also represented as professions. The Rettig Commission had one professional historian (Gonzalo Vial); however, the Valech Commission had none. The commission found that torture was a massive and systematic policy: 94% of those arrested by the military and the police were subjected to torture. Although the commissioners did not ask the victims about past political affiliation, most of the interviewees self-identified as former Socialist Party or Communist Party members (Centro de Ética, Universidad Alberto Hurtado, *s.d.*, p. 29). The Commission declared that about 80% of the more than 35,000 testimonies fell under the mandate,¹⁴ a figure that victims' groups found too modest. Immediately following up on the commission's work, a new reparations law (Law No. 19,992) enabled monthly payments, pensions, and health and educational benefits for registered victims. Follow-up commissions have been established since 2004 to register applicants who had not testified during the Valech Commission.

Unlike the Rettig Commission, whose findings had been rejected by the military and the right-wing sectors in the early years of the democratic transition, the context in which the Valech Commission operated enabled broader transformations. Emilio Cheyre, commander-in-chief of the army, took institutional responsibility for all the "punishable and morally unacceptable events of the past" weeks before the publication of the Valech Commission's final report in November 2004, although the statement did not contain an apology (La Tercera 2004). Likewise, right-wing political parties acknowledged the significance of the commission's work. Part of this shift is owed to generational changes: most of the military officers and right-wing politicians who were active in the early 2000s had no personal connection to the human rights abuses of the 1970s and 1980s. However, a changing political climate in which complete denial of past violations was no longer considered legitimate also made this relatively more open-minded attitude possible.

The Valech Commission's analysis of the political context leading up to the human rights violations, contained in the final report's third chapter, differs significantly from the Rettig Commission's. In fact, both commissions declare unwillingness to pass judgment on the nature of the crisis that led to the breakdown of democratic institutions in 1973, but whereas the Rettig Commission discusses the perceived policy failures of the late Allende government, the Valech Commission does not offer any explanations on Allende; rather, it limits its criticism to historical narratives that sought to justify the military coup. Although the 1991 commission's final report refuses to justify human rights violations with reference to a civil war threat, it nonetheless concedes that the objective conditions for a civil war existed in 1973. In a way, it advances a conservative interpretation of Chile's political history, excludes alternative formulations, yet refuses to justify the human rights violations that followed the coup. The final report of the latter commission explicitly says it is "difficult to find grounds for the 'civil war' thesis" (Comisión Nacional sobre Prisión Política y Tortura 2004, 174). Likewise, it does not seek to explain the coup onset. All in all, the Valech Commission makes no attempt to appeal to any interpretation of Chile's history, conservative or otherwise.

The Valech Commission's narrative is an indirect response to the Rettig Commission's, because the "civil war thesis" that was found in the former commission's final report develops out of a claim, shared among right-wing historians of Chile, that the military coup was in response to an alleged leftist plot to consolidate authoritarian government, called *Plan Z* (Comisión Nacional sobre Prisión Política y Tortura 2004, 171). This alleged plot forms the backbone of the *White Book on the Change of Government in Chile*, published right after the military coup to justify the military's conduct. Although the publication did not list the names of authors, it is widely believed that Gonzalo Vial, the same person who drafted the context chapter of the Rettig Commission's final report, was the author or one of the authors. Needless to say, the Valech Commission's complete dismissal of *Plan Z* as propaganda angered Vial, who continued defending the thesis that a leftist coup plot existed before 1973 in his *La Segunda* column (Vial 2004).

To sum up: Chile's two truth commissions had much in common. They were mandated to investigate human rights abuses (forced disappearances and torture, respectively), draw lists of victims, recommend reparations programs, and offer explanations to place the violations in historical context. Both commissions published short context chapters in which they repudiated the Pinochet regime's excuses to kill, torture, and exile Chileans. Yet, a close reading of the context chapters reveals key differences. The Rettig Commission sought to accommodate the conservative theses on Chile's political history without fully identifying with the Pinochet regime, in great part because conservative historian Gonzalo Vial played an active role in writing the context chapter. The Valech Commission, by contrast, invalidated many of the central claims made by conservative historians.

EXPLAINING THE DIFFERENCES IN TRUTH COMMISSION NARRATIVES

What accounts for the historiographical differences between two truth commissions, both of which received official recognition? Gonzalo Vial's agency in the first commission is mentioned above, but it would be a mistake to attribute all differences to one individual for two reasons. First, the members of the Rettig Commission agreed on the unanimity rule to validate most, if not all, findings and explanations, so the final report should be considered as the outcome of a collective decision. Second, even when individuals play key roles in truth commissions, the social, political, and legal processes through which individuals are selected into these panels remain to be explained.

In 1990, President Aylwin appointed a panel of four individuals associated with human rights defense and/or centrist tendencies and four right-wingers to strike what he considered an ideological balance and to facilitate reconciliation between the left and the right. Even though the Rettig Commission claimed that the validity of its findings regarding human rights violations were beyond dispute, it was much more flexible with respect to historical narrative in the context of a difficult political transition. It was in this context that Gonzalo Vial injected the narrative of policy failure, institutional decline, and political radicalization under the late Allende government into the context chapter. By contrast, the Valech Commission was created by a socialist president, Ricardo Lagos, after a decade of successful democratization, and when Pinochet was facing numerous court cases for human rights violations. Ideological balance was not the government's priority; as a result, there was no counterpart of Gonzalo Vial to use the commission as a platform to advance conservative historiography.

The differences in historical narratives are owed in part to profound societal and political transformations. Although Pinochet's arrest in London in 1998 is rightly regarded as a watershed moment for the human rights struggle, a host of factors had been in effect already. The judicial and military institutions did not necessarily want to contradict *Pinochetista* narratives throughout the 1990s and early 2000s, but many individuals inside those institutions, especially those who were not complicit in the abuses, were ready for gestures that would build bridges with centrist and left-leaning sectors, and "normalize" these institutions. These institutional and generational transformations explain the speed with which lawsuits against Pinochet advanced once he was released on health grounds in Britain (Bakiner 2010).

The unreconstructed *Pinochetista* narrative that denied the existence of systematic human rights violations lost much of its appeal during these transformations. As explained earlier, the political crisis triggered by Pinochet's arrest in a foreign country pushed the military and its allies to at least acknowledge the existence of human rights violations, even if they did not take moral responsibility for those violations. These sectors increasingly realized the futility of denying or justifying the abuses of the military regime. Even the Independent Democratic Union party, known for its more extreme

positions in its defense of the military regime, began to meet victims of violations and hold seminars on reconciliation in the early 2000s. It was in this context of an increasingly discredited *Pinochetista* narrative that the Valech Commission questioned the fundamental premises of conservative historiography, as well as some of the explanations of the Rettig Commission.

CONCLUSION

The labeling of ad hoc fact-finding panels as *truth* commissions has raised eyebrows for its Orwellian connotations all around the world. Despite the authoritative-sounding title, however, truth commissions never bring disagreements about the nation's past to an end. Perhaps it is wise to consider truth commissions as a critical, (almost always) honest, and (usually) rigorous contributor to public debates on the meaning of the past. They discredit elements of the previous official history, but their limited interventions also leave considerable room for historiographical debate after the commission's work.

The interpretive leverage of truth commissions becomes more apparent when two commissions, created thirteen years apart, narrate the same set of events that led to human rights violations. Chile's Rettig Commission and Valech Commission are both recognized as meticulous fact-finding efforts that have produced impeccable forensic investigations. Their historical narratives have much in common, as well. However, when it comes to the characterization of the late Allende government, the two commissions could not be farther apart, as evidenced by the criticisms levied against the latter commission by an influential member of the former one. The differences reveal the extent to which the revision of official history through truth commissions depends on the social and political transformations that shape a commission's personnel, as well as its goals, powers, and constraints.

I hope this comparison of two truth commissions in Chile guides future research on the relationship between human rights institutions and historiography. First and foremost, these institutions produce history! Even though a truth commission's work consists of human rights reporting primarily, and even though most commissioners are not professional historians, their contextualization of history shapes, and is shaped by, professional historians' efforts to come to terms with the past. The same can be said about human rights tribunals, and the judges and prosecutors who work in them. Therefore, their interventions into historiographical debates should be taken seriously. Second, the context matters: the political and judicial atmosphere shapes the selection of narrative frames and substantive explanations. However, this contextual effect is indirect, as social and political transformations do not shape a truth commission report's content by themselves. The mandate and the selection of members of a memory and truth initiative, such as a truth commission, are influenced by the constellation of political forces at play, the human rights sensitivities of the present generation, and the political-institutional setup; the mandate and commissioners in turn shape the

initiative's historical narrative. And finally, individuals matter: the educational and professional background, interests, and values of the individuals who staff human rights initiatives should be examined in further detail to understand better how these initiatives make sense of violent divisive pasts.

NOTES

1. The full report is available in English translation here: http://www.usip.org/sites/default/files/resources/collections/truth_commissions/Chile90-Report/Chile90-Report.pdf. Accessed 11 April 2016.
2. Information about the Valech Commission and follow-up commissions can be found at: <http://www.indh.cl/informacion-comision-valech>. Accessed 11 April 2016.
3. For a critical account of perpetrators' narratives, during truth commission processes or elsewhere, see Payne (2008).
4. For a general overview of the dictatorship, see Constable and Valenzuela (1991) and Ensalaco (2000).
5. For an overview of the human rights movement in Chile, see Loveman (1998).
6. The Decree-Law No. 2, 191 removed all sorts of criminal acts that took place between September 11, 1973 and March 10, 1978, including grave human rights violations, from the jurisdiction of the courts. The only major exception to the amnesty law was the prosecution of the 1976 murder of former Chilean diplomat Orlando Letelier in Washington, DC. Pressure from the United States is said to have led to the exclusion of this crime from the amnesty law.
7. For a critical evaluation of civilian-military relations in the early *Concertación* governments, see Silva (2002).
8. It is worth noting, however, that the truth commission itself was not a negotiated outcome, as it was in El Salvador in 1992. One of the leading members of Aylwin's transition team, José Zalaquett, was behind the idea of creating a truth-finding body even before Aylwin's inauguration. The members of the outgoing regime neither wanted nor supported a truth commission.
9. For an evaluation of the human rights movement's views on the truth commission, see *El Mercurio* (2001).
10. Ricardo Martín was the chairman of a government-appointed human rights commission under Pinochet, and a designated senator at the time of his appointment to the commission. Gonzalo Vial served under the Pinochet regime as minister of education. José Luis Cea and Laura Novoa Velázquez were likewise known to have supported the military government.
11. For updated information on the reparations program, see <http://prais.redsalud.gob.cl>. Accessed 11 April 2016: <http://prais.redsalud.gob.cl>.
12. The statements of the different branches can be found at: <http://www.archivochile.com/entrada.html>. Accessed 11 April 2016.
13. The Rettig Commission did state that torture was an institutional and systematic policy under the military dictatorship, but it did not investigate specific instances of torture.
14. The mandate includes only cases of politically motivated torture and mistreatment, and sets evidentiary standards that many victims found too restrictive to meet nearly three decades after the alleged events happened.

REFERENCES

- Bakiner, O. (2010) 'From Denial to Reluctant Dialogue. The Chilean Military's Confrontation with Human Rights (1990–2006),' *International Journal of Transitional Justice*, 4(1), 47–66.
- Bakiner, O. (2014) 'Truth Commission Impact. An Assessment of How Commissions Influence Politics and Society,' *International Journal of Transitional Justice*, 8(1), 6–30.
- Bakiner, O. (2015) 'One Truth Among Others? Truth Commissions' Struggle for Truth and Memory,' *Memory Studies*, 8(3), 345–360.
- Bevernage, B. (2010) 'Writing the Past out of the Present. History and the Politics of Time in Transitional Justice,' *History Workshop Journal*, 69(1), 111–131.
- Brahm, E. (2009) 'What is a Truth Commission and Why Does it Matter?,' *Peace and Conflict Review*, 3(2), 1–14.
- Centro de Ética (2005) Universidad Alberto Hurtado, s.d. "¡Nunca Olvidar! ¡Jamás Repetir!," *Informe Ethos*, No. 39.
- Chilean National Commission on Truth and Reconciliation (1993) *Report of the Chilean National Commission on Truth and Reconciliation*, Volume I (Notre Dame: University of Notre Dame Press). Available at: http://www.usip.org/sites/default/files/resources/collections/truth_commissions/Chile90-Report/Chile90-Report.pdf.
- Comisión Nacional sobre Prisión Política y Tortura (2004) *Informe de la Comisión Nacional sobre Prisión Política y Tortura* (Santiago: Ministerio Secretaría General de Gobierno).
- Constable, P. and Valenzuela, A. (1991) *A Nation of Enemies. Chile Under Pinochet* (New York: W.W. Norton & Company).
- Díaz Gallardo, J. L. (1999) 'Mesa de diálogo. ¿vía chilena de solución a las violaciones a los Derechos Humanos?,' *Fasoc*, 14(3).
- El Mercurio (2001) 'Realizan balance a 10 años de Informe Rettig,' *El Mercurio*, March 3.
- Ensalaco, M. (2000) *Chile Under Pinochet* (Philadelphia: University of Pennsylvania Press).
- Galak, O. (2006) 'Controversia por el prólogo agregado al informe 'Nunca más': Rechaza la teoría de los dos demonios,' *La Nación*, May 19.
- Grandin, G. (2005) 'The Instruction of Great Catastrophe. Truth Commissions, National History, and State Formation in Argentina, Chile, and Guatemala,' *American Historical Review*, 110(1), 46–67.
- Hayner, P. B. (2011) *Unspeakable Truths. Confronting State Terror and Atrocity* (New York: Routledge).
- Huneus, C. (2007) *The Pinochet Regime* (Boulder: Lynne Rienner Publishers).
- La Tercera (2004) 'El fin de una visión,' *La Tercera*, May 11.
- Loveman, B. and Elizabeth L. (2002) *El espejismo de la reconciliación política. Chile 1990–2002* (Santiago: LOM Ediciones).
- Loveman, M. (1998) 'High-Risk Collective Action. Defending Human Rights in Chile, Uruguay, and Argentina,' *American Journal of Sociology*, 104(2), 477–525.
- Madariaga, C. (2005) 'El Informe Valech, otra tarea a medio terminar,' *Revista Reflexión* 31, 4–8.
- Maier, C. S. (2000) 'Doing History, Doing Justice. The Narrative of the Historian and of the Truth Commission' in R. I. Rotberg and D. Thompson (eds.) *Truth v. Justice. The Morality of Truth Commissions* (Princeton: Princeton University Press).

- Mamdani, M. (2002) 'Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa,' *Diacritics*, 32(3/4), 33–59.
- Moon, C. (2008) *Narrating Political Reconciliation. South Africa's Truth and Reconciliation Commission* (Maryland: Lexington Books).
- Payne, L. A. (2008) *Unsettling Accounts. Neither Truth nor Reconciliation in Confessions of State Violence* (Durham: Duke University Press).
- Roht-Arriaza, N. (2005) *The Pinochet Effect. Transnational Justice in the Age of Human Rights* (University of Pennsylvania Press).
- Roniger, L. and Sznajder, M. (1999) *The Legacy of Human Rights Violations in the Southern Cone. Argentina, Chile, and Uruguay* (Oxford: Oxford University Press).
- Silva, P. (2002) 'Searching for Civilian Supremacy. The Concertación Governments and the Military in Chile,' *Bulletin of Latin American Research*, 21(3), 375–395.
- Stern, S. J. (2010) *Reckoning with Pinochet. The Memory Question in Democratic Chile, 1989–2006* (Durham: Duke University Press).
- Vial, G. (2004) 'Especial de Gonzalo Vial sobre el Informe de la Tortura (I). Su valor probatorio para una convicción moral,' *La Segunda*, December 1.
- Wiebelhaus-Brahm, E. (2009) *Truth Commissions and Transitional Societies. The Impact on Human Rights and Democracy* (New York: Routledge).
- Wilson, R. A. (2011) *Writing History in International Criminal Trials* (New York: Cambridge University Press).

PART IX

Historical Expert Commissions and
Commissioned History

Historical Expert Commissions and Their Politics

Eva-Clarita Pettai

In February 2015 a group of Colombian historians presented their joint findings ‘on the origins, causes, aggravators and consequences of the 50-year long armed conflict’ in their country.¹ The report came in the middle of ongoing peace talks between the Colombian government and the main rebel organisation FARC-EP. The twelve historians of mostly Colombian background had been appointed by both negotiating parties six months earlier as part of an agreement to engage in victim-oriented justice and to reconcile the war-torn country. The Historical Commission on the Conflict and its Victims (CHCV) was expressly framed as a step towards truth and justice and the sponsoring parties emphasised the ‘academic and historic nature’ of the expected input to the negotiations, as well as the political independence and scientific impartiality of the academics (Joint Communiqué no. 40, 05.08.2014).² The 800-page final report contained twelve separate accounts, each written by one of the commissioners, and a summary report that demonstrated the divergence of views regarding historical events and causalities, including differences over the very origins of the conflict and its main aggravators over time. In the joint press conference, the two rapporteurs emphasised the complexity of the conflict and related responsibilities, as well as the hope that this plurality-embracing historical analysis would ‘contribute to the peace talks, and [to] multiple and plural debates [about] what happened, why it happened, what consequences it had and, more importantly, how to overcome it and how to avoid repetition’ (cited in Alsema 2015).

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The Colombian commission, discussed in more detail in the chapter by Martha Cecilia Herrera, José Gabriel Cristancho Altuzarra, and Carol Juliette Pertuz in this volume epitomises at least two important aspects of Historical Expert Commissions (HEC) that are the subject of this overview chapter. First, HECs are usually the result of some kind of political agreement between different parties in a conflict or dispute that involves strongly polarised collective perceptions of a common past. In most cases, the dispute is taking place in a nonviolent manner; however, it usually harbours considerable political volatility for the government or other institutions of the state thus requiring some form of resolution. In this sense, the CHCV is arguably unusual as it was set against the backdrop of a still-ongoing violent conflict. Yet, it is also a symptomatic case in that its institution marks an important step towards resolving a conflict that originates in the more distant past and produces grievances and mutual accusations that constrain present-day politics and social relations. By commissioning a re-examination and evaluation of the historical facts, the parties to the dispute not only gain time to calm down the public controversy; ideally, the results of this inquiry will also put the situation on a new footing on the basis of which moving on becomes easier. Indeed, there are often high political stakes involved in such historical ‘truth-seeking’ and historical experts appointed to these commissions have been variably seen as ‘troubleshooters’ or ‘mediators’ in often extremely polarised public debates (Ludi and Dreyfus 2001; Karn 2015). With its often ad hoc character and explicitly political mandate the HEC thus clearly differs from other, more permanent state-funded historical research institutions.

Second, the Colombian case also reminds us that HECs should not be confused with truth commissions (TC). Although both types of investigative bodies are concerned with past wrongdoing, their investigative work is based on distinctly different epistemological underpinnings and serves different political purposes. The Colombian negotiators made this very clear when they stressed that:

[T]he parties decide to create a historical commission of the conflict and its victims, made up of experts, which does not replace the mechanism for determining the whole truth, which shall include universal participation, in particular of the victims. (Joint Communiqué no. 40, 05.08.2014)

This phrasing makes indeed an important conceptual distinction: whereas the TC’s investigations are fundamentally about the victims, based on victim accounts and framed in the vocabulary of justice, the HEC’s inquiry is primarily about understanding the structural conditions and underlying processes that led to and followed past injustice, based on a thorough reading of mainly archival sources. TCs have often been described as ‘bring[ing] justice to victims’ and of ‘serving a “cathartic” purpose in society’ by way of public story-telling or otherwise mass-scale statement taking, resulting in a report that makes clear policy recommendations regarding state redress measures

(Hayner 1996, p. 21). HECs, on the other hand, are described as mostly academic, as working outside the public eye embarking on a process of re-evaluating facts and evidence and writing a narrative informed by methodological and ethical standards of (historical) scholarship, usually not including policy-related recommendations (Karn 2006). In epistemological terms, two fundamentally different approaches to the establishment of ‘truth’ can thus be observed, one that places high value on the authenticity of subjective truths and the other that seeks to objectivise truth, that stresses the relative value of historical facts, and the complexity and contingency of historical developments (Pettai 2015a).

Needless to say that such neat distinctions between HECs as primarily historiographical operations and TCs as victim-centred justice operations often become much less clear when confronted with empirical evidence. Indeed, the ‘historiographical function’ of many transitional TCs is being increasingly recognised by transitional justice scholars (Bakiner 2015, p. 62). Moreover, recent years have seen the emergence of several state commissions of inquiry into mostly historical (i.e. distant) wrongs that operated in nontransitional contexts, yet not only carried the name of Truth and Reconciliation, but also adopted some of the practices of human rights investigation that were long associated with transitional TCs. A good example in this context is the Canadian TRC of 2008 that actively employed both the language of victim trauma and the methods of organising widely visible public hearings and story-telling, yet in its final report these victim narratives played less of a role (James 2012). Instead the commission embraced a much more historiographical approach that exposed the underlying structural conditions and sociohistorical processes that led up to the massive violation of indigenous rights thus challenging established national narratives (TRC Final report 2015). The numerous Holocaust-related commissions that emerged after 1990 across Europe are usually treated as historical commissions, yet several of them have combined academic historical research with a claim to restoring justice; they involved not only historians and scholars, but also victim representatives and judicial experts and, sometimes, made recommendations with regard to reparation and redress policy (Karn 2015).

Yet, as with every social science categorisation, conceptual differentiation can offer important analytical nuance and sharpen our understanding not only of the underlying processes involved in the work of official commissions, but ultimately also about their broader role in the politics of the past (Barkan 2016). An understanding of historical expert commissions as composed primarily of professional historians and driven by the epistemology as well as the methodology of historical scholarship foregrounds a number of questions that are arguably less relevant in the study of TCs. Thus it highlights the age-old question about the role (and perhaps agency) of historians vis-à-vis the state and contemporary political and social processes and conflicts (Fink 2005; Barkan 2009; Maier 2000). It also forces us to interrogate once

again the intricate relationship between historical scholarship and collective memory (Assmann 2008). The causes of contemporary conflicts often reach deeply into the history of state abuse, war, or intergroup violence. Over the course of time, the memories of these events are kept alive and shaped not only through social interaction, but also often through political propaganda, legal acts, and institutions. Part of the HEC's task, therefore, involves having to navigate between upholding the standards and ethics of scholarly research, accommodating strong identity-informing social memories of trauma and suffering, and interrogating long-standing national histories (or myths) of victimhood and/or heroism that form part of the state/regime legitimacy (Pettai 2015a). The role of 'responsible historical scholarship' has been debated in this context as a 'mediating' force able to build deeper and more long-lasting reconciliation in societies with a history of violence and abuse (Karn 2015).

It is not my ambition here to make a final claim on what exactly defines a HEC, and the following overview of cases includes a number of commissions the classification of which may be further debated. These short introductory remarks nevertheless highlight the importance for a more clear-cut conceptualisation as a precondition for any more meaningful comparative analysis. Indeed, such comparison may yield important insights to the question of under what conditions such a commission may be the better mechanism for achieving dialogue and rapprochement between previously antagonistic groups or nations. Is a specific contemporary conflict better addressed through collecting testimonies (often relating to trauma) and/or engaging in semi-judicial investigations aimed at making policy recommendations with regard to the victims? Or does it require a 'deeper' scholarly analysis of the violent past that may challenge established narratives and memories, yet does not pretend to own the truth and thereby opens new avenues for dialogue? When is the establishment of a HEC simply a way of 'outsourcing' important historical debates and thus avoiding confronting past wrongs (through legal means or through public hearings) and when is it, indeed, the more appropriate mechanism for overcoming divisions in society (Barkan 2016)?

Given the still-nascent conceptual debates about HECs and the enormous variation in commission formats, mandates, operative modalities, and outcomes, the modest aim of this chapter is to offer a way in which we may begin to study this mechanism of state-sponsored history in a more systematic way. After briefly reviewing the history of HECs since WWII, I provide a basic framework that allows us to sort historical experts commissions along different historical situations and along their basic organisational features. Based on this, the discussion of various cases is then structured along three key stages of a HEC's lifespan: its establishment, its process, and its conclusion and final product. Throughout this discussion, and following the fundamental aim of this volume to examine the different forms of state influence

over the creation of history and historical memory, the discussion pays attention to the complex interactions between the historical experts and ‘the state’ in the framework of a HEC. The overview chapter ends with reflections on possible ways in which we may start to analyse both, the success of a state-commissioned historical inquiry and its possible impact on societies and politics haunted by the ghosts of the past.

A BRIEF GENEALOGY OF STATE-COMMISSIONED HISTORICAL RESEARCH AND TEXTBOOK REVISION

Calling on experts to inquire into historical incidents that cause grievances and political contention in the present is by no means a new phenomenon. Governments in the former Commonwealth world, for example, look back on a long tradition of ad hoc public inquiries in the form of Royal Commissions, set up ‘to investigate political wrongdoing and to make recommendations regarding policy reform’ (Marchetti 2005, p. 103). This wrongdoing could concern state policies, constitutional matters, or other matters involving private and public actors and are often semi-judicial in character as transgressions or failures are revealed and reforms recommended. Rarely did these commissions, however, carry out scholarly historical research or debate contrasting historical perceptions and narratives. In other parts of the world, in particular in continental Europe, the first officially convened commissions of historians, geographers, and educators emerged soon after WWI, when the realisation grew among international political actors that narrow nationalist historiographies had been one of the root causes of the war. Under the auspices of the League of Nations, scholars from different, previously adversary, countries were asked to devise recommendations jointly for school textbook revisions. The declared aim of these expert groups, the earlier precursors of later bilateral textbook commissions, was ‘to combat mutual xenophobia and to help with avoiding stereotypes’ between former enemies (Pingel 2010, p. 9; Cattaruzza and Zala 2007). Important expert networks emerged thanks to these initiatives across Europe and a first set of recommendations was formulated by the late 1930s. Alas, they came too late as Europe was sliding back into war.

After 1945 concerned historians, teachers, and geographers, particularly from France and West Germany, were among the first to revive these pre-war connections and, once again, to engage in textbook revision and historiographical conversation. During annual joint meetings that continued until 1967, the experts developed recommendations on how to ‘harmonise’ divisive national narratives taught at schools in both states, and how to address controversial issues. Driven mostly by academics and nonstate activists the bilateral expert co-operation became increasingly official, receiving state funding and recognition. Moreover, the educational efforts were further undergirded by interstate treaties on cultural co-operation and reconciliation in the

1960s and their continuation was ensured throughout the 1960s and 1970s (Defrance and Pfeil 2011, p. 2).

On the positive example of the German–French commission, a similar dialogue, this time between German and Polish historians and educators, was sought in the early 1970s with the creation of the German–Polish Textbook Talks. Bolstered by Willy Brandt’s new Ostpolitik, experts from both countries met frequently, now under the institutional auspices of the newly founded Georg Eckert Institute for Textbook Research (GEI) in West Germany (Ruchniewicz 2015).³ Students of bilateral textbook commissions usually emphasise their significant share in improving bilateral relations between Germany and its neighbours (Gardner-Feldman 2010a; Faure 2015). Yet, one should not forget that these commissions were accompanied by multiple other efforts at co-operation and exchange over historical matters (beyond textbook revision) carried out by both state institutions and civil society organisations. Thus in addition to textbook-oriented consultations, numerous institutions emerged after 1945 across Europe that actively engaged in cross-border co-operation and research about the horrors of WWII and its origins.

After 1990 and the opening of archives in the former communist bloc states, the mechanism of convening bilateral expert commissions received renewed attention as historians flocked to recover previously unknown data about the wartime and post-war years. Several new bilateral Commissions of Historians emerged, this time often initiated and supported by foreign ministries or state presidents, to engage in dialogue over controversial historical issues of mutual concern and serve as consultants for policy makers on both sides (Schulz 2009). By now, the model had also spread beyond the particular German context, as numerous bilateral commissions of joint historical research or textbook revision emerged between different European and East Asian states (see, e.g. the Chap. 40 by Seiko Mimaki in this volume).

As an instrument of domestic politics, the practice of commissioning expert inquiries into distant wrongs has gained global momentum only after the end of the Cold War. However, it is worth looking into some early cases as well. Thus, in 1950 the German Federal Ministry for Displaced Persons, Refugees and War Victims established a commission of renowned German historians, the so-called Schieder Commission named after its chairman Theodor Schieder. This commission was charged with investigating and documenting the post-war expulsion of Germans from Central Europe. In ten years of painstaking investigations, constrained by Cold War geopolitics and limited access to sources behind the Iron Curtain, this commission was surrounded by public controversy. On the right, its research was consistently torpedoed by expellee organisations that tried to defame the inquiry as ‘unscientific’ and written in the spirit of the expellers. From the left, the commission’s work was questioned as some of the commissioners were blamed for having been ideologically entangled with the Nazi regime. Finally, the ministry itself took offence at the commission’s insistence to consider the broader historical

circumstances, in particular Nazi Germany's *Volksstums- und Umsiedlungspolitik* during 1939–1945, as possible causes of the expulsions. This was considered dangerous in a political atmosphere that was marked by denial and revisionism. As a consequence, the results of this commission were long neglected and its contribution to the historical discourse underestimated (Beer 1998).

Another interesting case of an early historically-focused commission is the 1980 US Commission on Wartime Relocation and Internment of Civilians (CWRIC), that investigated the circumstances surrounding Executive Order 9066 which led to the forced internment of Japanese US citizens during WWII. Consisting mostly of public figures, including state senators and justices, and engaging in statement-taking from victims as well as in policy recommendations, the commission arguably resembles more of a nontransitional TC than an academic commission, as discussed earlier (Maki, Kitano and Berthold 1999, pp. 85–116). However, the CWRIC also involved historians and its final report took pains not only to document the violations of constitutional rights, but also to reconstruct the deeper causes and circumstances of Order 9066, concluding that it was rooted in a history of a more systemic racial prejudice as well as war hysteria in American society. Its results were much noticed and led to the adoption of several justice measures, including reparations and official apologies.

The vast majority of 'national commissions' of historical inquiry emerged after the end of the Cold War. The discoveries made in the newly opened archives, especially with regard to the war in Eastern Europe and the Holocaust, challenged some of the existing truths and national narratives. There was a great need to re-discover 'historical truth' after decades of ideological distortion, and expert investigations were formed to report on and document crimes and damages inflicted on the societies by the communist regime, such as was done by commissions in the Baltic states and Romania. In many cases this was part of a broader, largely symbolic 'retrospective justice process' that allowed new democratic governments to condemn the previous communist regime, expose its most prominent representatives and to establish new normative frameworks of accountability and truth (Pettai and Pettai 2015; Stan 2009).

New revelations, however, also often challenged emerging master narratives of national victimisation and heroism as they spoke about local involvement in mass atrocities during the Nazi era. Several heads of states and governments saw themselves prompted into commissioning expert investigations to assess local responsibilities for these mass atrocities, for example, in Poland and the three Baltic states. These commissions operated as separate, independent bodies of inquiry, often involving experts from outside the countries, as in the cases of the Jedwabne investigation in Poland or the Romanian Wiesel commission. In the three Baltic states commissions emerged in the late 1990s that had a combined mandate to investigate crimes committed under both the Nazi and Stalinist regimes.

In Western Europe as well the removal of the ideological straightjacket of the Cold War resulted in the re-emergence of memories and grievances that related to WWII, occupation, and the Holocaust and had long been neglected by the political world. Confronted with transnational legal, political, and grassroots campaigns requesting reparations, or at least an official acknowledgment of past wrongdoing, pressures grew on several national governments to engage in more self-critical retrospection. Here as well, numerous official Holocaust-related commissions emerged that aimed at clarifying contrasting claims and interpretations. Some of them remained narrowly focused on the issue of reparations and return of stolen assets; others seized the opportunity and engaged a wider public with deeper questions about their country's entanglement with the Nazi regime or with the crimes of the Holocaust, thus challenging long-held truths and national myths of wartime neutrality, heroism, or victimisation (Barkan 2009; Karn 2015).

Outside of Europe, in the United States and elsewhere, officials have turned to experts to start investigating the legacies of colonial policies and slavery still controversially discussed. In the United States the focus of such inquiries has often been on incidents of racial violence and discrimination; in Canada and Australia commissions focused on abusive state policies towards indigenous peoples, also often reaching far back in time. It is most difficult to estimate the total number of such official historical inquiries to date. This notwithstanding, scholars have come to talk about a 'global trend ... in the investigation of local histories' (Barkan 2009, p. 901) embedded in a global culture of remorse and a 'new international emphasis on morality' (Barkan 2000, p. xvii; Torpey 2006). An inspiration also came from the results of truth commission processes in some post-conflict and regime transition contexts leading governments in well-established democracies to frame official historical inquiries in the terminology of 'truth and reconciliation,' hence the establishment of nontransitional TRCs in Canada, the United States, Brazil, and South Korea.

In their methods of inquiry, many of these latter commissions remained narrowly focused on documenting past crimes, following a more judicial approach by using forensics and witness testimonials as primary sources. Many of them also make recommendations concerning future policies and reparations to victims and their descendants. Their engagement with broader sociohistorical and structural contexts remained rather limited and professional historians played a lesser role in these commissions that were often headed by public figures, judicial experts, and victim representatives. Considering the conceptual distinction made in the beginning, many of them should thus be rather considered a subform of 'truth commissions,' working in nontransitional contexts and focused on often distant wrongs. However, in some cases, such as that of Canada or also Mauritius, these commissions nevertheless produced rather comprehensive historical narratives and the revelations made by these bodies about often distant state-inflicted harm on

minorities contributed to a process of reconciliation that would involve both the rewriting of the national histories and change in public remembrance culture. Although strictly speaking these historical TRCs do not constitute ‘full-fledged’ historical expert commissions as defined here, some of them have therefore still been included in the following taxonomy of HECs.

BRINGING ORDER INTO THE UNIVERSE OF CASES: SITUATIONS AND ORGANISATIONAL FEATURES

The brief genealogy of HECs since 1945 allows us to draw two conclusions. First, we are dealing with a phenomenon that has gathered momentum after the end of the Cold War and still seems to gain in importance in bilateral as well as domestic politics. It is therefore important to get a better comparative understanding of this state mechanism’s relative potential as well as limitations in achieving historical clarity and dialogue within and between states. Second, we realise that the discursive frameworks in which these commissions have been placed have shifted (or rather expanded) over time from seeing them as vehicles of cultural and academic exchange that contribute to overcoming narrow nationalist narratives, to increasingly seeing them also as agents of human rights advocacy and tools of conflict resolution (Barkan 2005). Finally, we realise that HECs are very much the product of often unique historical circumstances, memories, and political legacies, which renders any generalisation or even meaningful comparison of these state bodies extremely difficult.

To bring order into the multitude of cases and thereby provide a more systematic basis for comparative case selection, I suggest, first of all, differentiating between commissions based on the original historical conflict situation that they investigate. On a very basic level we can distinguish between historical situations that involve an outside state and those that do not. Under each of the two broad categories we can then identify distinct historical situations.

Starting with the first broad category of historical conflicts that do not involve another state, we find a rather diversified set of possible historical situations. Official investigations have been launched, first, into acts of violence and abuse committed by a repressive past regime against its own citizens. One example is the so-called Tismaneanu Commission of 2006, the mandate of which included the ‘analysis of the Communist dictatorship in Romania’ (Ciobanu 2008); another one is the Enquete Commission of the German Bundestag investigating the wrongdoings of the GDR regime (Beattie 2008).

Second, internal colonisation has resulted in a number of abusive policies against indigenous populations, the revelation of which has had considerable political reverberations, resulting in several official investigations decades later. The example here would be the already discussed Canadian TRC of 2008.

Third, the history of civil or ethnic conflict forms a separate situation with an often painful and deeply divisive legacy in society. The Colombian case

discussed in the beginning is illustrative in this context, as is the Spanish case where repeated demands to commission an official inquiry into the deaths and horrors of the civil war and the crimes of the Franco regime have thus far failed to materialise due to deep political divisions on these matters (O'Neill 2013). An arguably unusual HEC that could be placed under the category of ethnic war is the so-called NIOD Srebrenica Commission established in 1996, a year after the mass killings of Muslims in Srebrenica took place under the eyes of Dutch UN soldiers. The rather 'contemporary' nature of the research matter caused some scholars to wonder about 'the chronological limits of the exercise of history as a scientific discipline' (Lagrou 2003). Indeed, the Dutch historians appointed to this commission seemed to have overcome this conundrum by writing a report that provided a broad analysis of the historical circumstances and international policy failures that preceded this episode of ethnic mass violence, yet remained vague on politically more sensitive issues of responsibility (see also the Chap. 38 by Erna Rijdsdijk in this volume).

Fourth, we find the historical situation of racial violence to be, again, a separate situation within this category, forcing commissions to confront the historical roots of present-day structural inequality, racism, and systemic discrimination, in addition to trying retrospectively to determine responsibilities for the violence. Perhaps the most well-known case is the Tulsa Race Riot Commission of 1996. But there have been many more such commissions in different US states, varying considerably in the degree to which they were supported by local authorities and state governors as well as how much they truly engaged with the broader history of racial relations in the United States (Collins and Watson 2015).

The last historical situation in this category poses somewhat of a challenge to straightforward categorisation as it rests awkwardly between a domestic (internal) conflict and one involving a foreign power. It concerns the historical situation of wartime collaboration with the Nazi regime. The dozens of Holocaust-related commissions that have emerged over the past 25 years looking into their countries' complicity in Nazi-era anti-Jewish spoliation or into local collaboration in the mass-murder of Jews belong in this category (Karn 2015). No doubt, this situation fundamentally involves an external state, Nazi Germany. Whether we have a case of independent governments or private companies' profiteering from the anti-Jewish policies of the Nazi regime, as in wartime Switzerland, Liechtenstein, or Sweden; or a situation involving collaboration in the discrimination and spoliation of Jews under conditions of occupation, as in many Western European countries; or the collaboration under conditions of occupation involving actual participation in mass murder, as in many countries of Eastern Europe, the Nazi-German regime provides the backdrop against which 'Holocaust-related collaboration' occurred. However, in this taxonomy it is still considered a fundamentally domestic historical situation. Historical research into Nazi

collaboration in all these diverse forms and contexts has revealed that in most cases sociostructural conditions such as ethnocultural segregation and prejudice or deep-seated anti-Semitism precipitated Nazi rule and formed a fertile environment (though not the main cause) for later collaboration. The specific racial underpinnings of the historical wrongdoing also make Nazi-era collaboration different from other situations of local collaboration with a criminal occupation regime, such as during Stalinist occupation in the Baltic states or Japanese occupation in Korea. The official *Aufarbeitung* of these historical episodes, therefore, becomes a very domestic matter of often painful historical introspection.

Moving to the other broad category of historical conflicts that did involve an external power, we find a somewhat less diversified set of historical situations that have been investigated by HECs, involving first, wrongs committed under imperial and/or colonial rule, mostly in overseas colonies in Asia and Africa and, second, state aggression (or war) against and occupation of neighbouring states. Among commissions falling under the former situation, we find, for example, the Lumumba Commission set up by the Belgian parliament in 2009 to investigate the possible involvement of the government in the murder of the first Congolese Prime Minister in 1961 (Bustin 2002). Also the Mauritius Truth and Justice Commission of 2009 set up ‘to examine slavery and indentured labor since the colonization of the island in 1638’ would belong here (US Institute of Peace 2012). Among the latter cases we find, for example, the Estonian parliamentary commission of 1992, named after its chair Vello Salo, that estimated the human, economic, and cultural damages caused by Stalinist aggression and forced incorporation of the pre-war independent republic into the Soviet Union (Pettai and Pettai 2015, p. 252). There have also been bilateral attempts jointly to research the war and post-war periods in the region, involving the Russian Federation. So far only one of these has produced results, the Polish–Russian Group on Difficult Matters that operated between 2008 and 2012 (Rotfeld and Torkunov 2015).

Finally, we find wrongs committed in the aftermath of occupation and war to fall within this same historical situation, among them state-organised policies of mass deportation or expulsion, but also abusive policies by post-war states against certain groups associated with the former occupiers, or the outbreak of violence as a result of post-war border shifts. Ukraine and Poland have, for example, repeatedly tried to address their contrasting official narratives of the post-war interethnic conflict that waged in Volhynia during 1944–1947 (Kuzio 2002); and Norwegian ministries have sponsored an official inquiry in 2001 into past abusive policies by authorities against persons whose father had been a *Wehrmacht* soldier (Ericsson and Simonsen 2005).

As we see in Fig. 37.1, one and the same HEC can occur in more than one of these situational categories due to commission mandates spanning different periods or regimes. The South Korean TRC of 2005, for example,

| | | Unilateral | | Bilateral/bipartisan |
|---|--|---|---|--|
| | | Mono-national | Multi-national | Bi-national |
| Domestic historical conflict | State repression | <ul style="list-style-type: none"> • RO Tismaneanu com • ROK TRC • GER Enquete com (1994) | | |
| | Internal colonization | <ul style="list-style-type: none"> • CN TRC | | |
| | Civil/ethnic conflict | <ul style="list-style-type: none"> • Colombia CHCV • NL Srebrenica com | | |
| | Racial violence | <ul style="list-style-type: none"> • US Tulsa Race Riot com • US Internment com | | |
| | Holocaust-related wrongdoing/collaboration | <ul style="list-style-type: none"> • Historians of Latvia (after 2008) • Mattéoli com FR • Skarpnes com Norway | <ul style="list-style-type: none"> • EE Jakobson com • Historians of Latvia (until 2008) • LIT International com • Swiss Bergier com • RO Wiesel com | <ul style="list-style-type: none"> • Vatikan Com |
| Historical Conflict involving other state | Imperial/Colonial rule | <ul style="list-style-type: none"> • Belgian Lumumba com | <ul style="list-style-type: none"> • Mauritius Truth and Justice com | <ul style="list-style-type: none"> • Japan-ROK com • Sino-Japan com |
| | Agression(war)/occupation, and its aftermath | <ul style="list-style-type: none"> • EE Jakobson com • Historians of Latvia (until 2008) • LIT International com • EE Salo com • ROK TRC • Schieder com | | <ul style="list-style-type: none"> • PL-Rus Group... • Austria-CZ com • Ger-CZ/SLK com • Ger-PL com • Sino-Japan com • Japan-ROK com |

Fig. 37.1 Basic taxonomic model for Historical Expert Commissions

investigated atrocities committed under Japanese colonial rule, wartime occupation, and the post-war South Korean dictatorship. Likewise, the three Baltic presidential commissions were charged with investigating crimes against humanity committed under both Stalinist and Nazi occupations, the latter involving also the question of local collaboration in the mass murder of Jews. Such multiple appearances, however, do not diminish the overall analytical value of differentiating in this way, as much of the political constellations as

well as the source situation a commission finds itself in, informed by the very nature of the original historical conflict.

Having thus determined the specific historical situation that forms the subject matter of official inquiry, another dimension involving the commission's organisational format needs to be considered in order to make sense of the multitude of cases around the world. A look at existing and previous cases reveals at least three such formats: (1) unilateral commissions that involve experts from the same country, (2) unilateral commissions that include experts from outside the country, and (3) bilateral commissions with a bipartisan membership.⁴ Whereas the categories along the first, situational dimension of our matrix are given at the start of the commission's operation, this second, organisational dimension involves political choices and thus points at the politics involved at the state level in the establishment and framing of a HEC, as further discussed below. Put together, as done in Fig. 37.1, both dimensions form a useful framework for differentiating between HECs and can, indeed, serve as a structural variable for understanding the specific political, practical, and mnemonic constellations and dynamics that condition a commission's establishment, later operation, and outcome.

THE POLITICS OF ESTABLISHING HISTORICAL EXPERT COMMISSIONS

It is not always an easy task to determine clearly what caused a state leader or other officials to commission an official investigation into a disputed past. One reason may be that previous attempts to resolve historical claims through litigation or other settlements failed, yet the historical issues remain a source of grievances and contention in society. In other instances, politicians may be moved by new revelations about past wrongdoings made by historians, human rights activists, or journalists who challenge seemingly long-known historical truths and instigate claims with political reverberations. A change in domestic party-political constellations may also open up new opportunities to address previously neglected issues of the past. Finally, increased pressure from outside, from international human rights bodies or other state governments may force political elites to pay attention, as they fear about the country's image abroad. Yet, whatever the precise circumstances, those who commission an official inquiry have to make a number of initial choices that often reveal an underlying political (or state) agenda and can considerably influence the course of the subsequent research and evaluation carried out by the HEC.

As discussed in the framework of the taxonomy above, one of the first such choices involves the decision on commission format. In cases where leaders are faced with histories of colonialism, aggression, or occupation, this decision involves whether to engage in bilateral joint research and dialogue with the historical adversary, or whether to 'go it alone' and establish a unilateral HEC without involving experts from the other state to any significant

degree. Needless to say that where the successor to a former aggressor state refuses to confront past wrongdoing, to push for historical dialogue on an interstate level becomes a futile venture. In other cases, however, the decision is of more strategic character. An interesting case here is that of Turkey and Armenia where thus far all efforts to engage in reconciliatory dialogue over the mass atrocities against Armenians on Turkish territory in 1915 remain on the academic and grassroots level. A Turkish proposal in 2005 to establish an official joint commission of historians failed mainly due to Armenia's rejection of the idea, as leaders there saw the proposal as merely an attempt to silence those who called for a political condemnation of the crimes as genocide and to divert international attention. Indeed, Turkish authorities remain particularly sensitive towards anyone, whether foreign or local, academic or politician, who uses the term genocide when referring to the events of 1915, thus rendering any officially endorsed, yet open investigation and dialogue rather difficult (Sunny 2009).

Where the historical situation does not involve an outside state, the initial choice of format involves the question of whether to invite experts from outside the country to the commission or entrust only local experts with the inquiry. This decision hinges on the deeper motives and political calculations behind the commission. In the case of the Mauritius TJC that involved mostly Mauritian experts, the appointed Chair, former Deputy Chair of the South African TRC, Alexander Boraine, for example, signaled the victim-centred and justice-oriented purpose of this historical inquiry. In the case of the Estonian Presidential Commission of 1999, the arguably radical choice by then president Lennart Meri not to appoint a single Estonian historian to the commission revealed the primarily diplomatic function of this commission as Estonia was faced with massive criticism from outside about its handling of historical questions regarding the Holocaust (Pettai 2015b).

Needless to say, that membership appointment is not limited to the question of the experts' national backgrounds, as we see in the case of the Colombian CHCV, the membership appointment of which was a careful balancing act (see the Chap. 39 by Martha Cecilia Herrera, José Gabriel Cristancho Altuzarra and Carol Juliette Pertuz in this volume). Through the appointment of an expert group that involves diverse national, biographical, political and professional backgrounds, state actors can send out a signal to both the commission and outside audiences about the degree to which they wish the commission to engage with potentially conflicting perspectives. Thus, the initial membership appointment can stir the inquiry in a particular direction. Given the particular party-political constellations in post-communist Romania, for example, the dominance of former dissidents or strongly anti-communist individuals among the experts appointed to the Tismaneanu Commission was read by many as a clear signal that the outcome of this inquiry was to discredit certain parts of the political elite rather than to serve 'national reconciliation,' despite its sponsor's announcements to the contrary (Ciobhanu 2008).

Whatever the initial choice regarding organisational format and membership, it precipitates a number of important follow-up decisions. One of them relates to the question of how to garner political support for the project among national legislators and the public. A way of ensuring broad support is, for example, firmly to institutionalise the inquiry through legislative procedure: either by way of making it a full-fledged parliamentary committee, or by otherwise making its institution dependent on a legislative vote. The failure to ensure broad political support at the beginning of a commission process can backfire later on, as commissions become over-dependent on a particular political office or they lack sufficient political backing to ensure continuous funding or to protect them from attacks from outside.

Another important decision that unravels some of the dynamic interactions between state agency and historical experts concerns the choice of institutional setting for the inquiry. Although many commissions operate outside established public institutions, we also find many cases where a commission operates within the vicinities of a state-funded research institute. Often this is for pragmatic reasons as it saves costs for organisational overhead and research. Moreover, the reputation of a research institute as a politically independent agency may further boost the authority with which a commission appears in public. However, the choice of location can also backfire, as state institutes may not enjoy equal acceptance among all parties invested in the inquiry; or the very fact that an inquiry is delegated to a historical research institute raises questions about the actual intentions of the sponsor. The case of the NIOD Srebrenica Commission is instructive here. The fact that the inquiry was delegated to a historical research institute rather than affiliating it with a state institution, made some observers suspect a deliberate political strategy to “bury” the affair in a long-term historical investigation’ (Delpla et al. 2012, p. 72).

The Dutch case also points to another issue, namely the framing of a commission mandate and mission. These can considerably vary both in the degree of operative prescription and in thematic scope. It is especially with regard to the former that the state has considerable leverage to control the experts’ ability freely to determine research directions based on facts and scientific criteria of research. The Colombian negotiators, for example, dictated the experts’ work all the way down to the exact research questions to be answered and the size of the individual reports. Although this is certainly extreme, other commissions are given rather restrictive timeframes for delivering their final reports, which likewise significantly constrains the quality of the inquiry. Finally, the state can be more or less permissive regarding experts’ rights to consult diverse sources or to access classified documents relevant to the inquiry. Regarding the thematic focus of an inquiry, many commissions are given either broad mandates or considerable freedom that allows them to determine the exact formulation of research goals and scope themselves. This can nevertheless become a source of considerable political contention.

In the case of the International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation Regimes (for short, Lithuanian International Commission) with its dual mandate to investigate Nazi- and Stalinist-era crimes, the experts decided early on to split the research up among two subdivisions of the commission, one focusing on Stalinist, and the other on Nazi crimes. This, however, did not prevent the commission from becoming the target of public attacks by commentators in- and outside the country. By Jewish commentators the commission was seen as a dangerous attempt to conflate distinct historical crimes and relativise the Holocaust; by Lithuanian nationalist-minded actors it was denounced as an externally imposed attempt to discredit Lithuanians and ignore their past suffering (Sužiedelis 2014). Whatever way, the dual mandate did the experts a disservice as they found themselves soon in an impossible political situation that ultimately resulted in the interruption of research in 2007.

STATE-EXPERT INTERACTIONS AND INTERNAL COMMISSION DYNAMICS

The above discussion about the politics involved in the initial creation, membership appointment, mandate formulation and other modalities of a HEC reminds us once again of the crucial differences between a historical inquiry done in the context of ‘normal’ academic research and that carried out in the framework of an official commission. Both rely on public funding and may even take place in the same research institution. Yet, the latter kind of inquiry is based on a political mandate with a primary goal to ‘bridge the scholarly and political discourse’ through utilising the methodology of scientific research (Karn 2015, p. 17). This observation still raises questions about the degree of autonomy and political independence of the experts on such commissions. According to Barkan (2009, p. 902), ‘participants [to state commissions] are explicitly motivated by politics,’ whereas Karn (2006, p. 32) speaks in this context about the ‘activist historian,’ who deliberately engages in the politics of the past. To what extent this really corresponds with the perception of the experts may be debated in each case. Still, it remains a relevant question, to what extent the experts on a commission manage to retain a strictly impartial position vis-à-vis highly politicised historical questions and polarised public debates.

Regardless of the institutional standing, breadth of political support, length of inquiry or other modalities, historical experts participating in a state-sponsored HEC are treading a fine line between upholding their professional integrity and succumbing to the political imperatives of their sponsor(s). As Berber Bevernage (2011, p. 301) discusses in the context of the Belgian Lumumba commission, the ‘independent’ work of the experts can easily, and often unintentionally, emerge into what he calls a ‘translation struggle,’ meaning that ‘existing historiography [is being] “re-phrased” or

“re-styled” in order to fit the procedure of parliamentary decision-making’ or a partisan political agenda.

A commission process is, in fact, a rather dynamic interaction between the historical experts and ‘the state’ in the form of institutions and actors, which constrain, intervene or otherwise influence the outcome of the inquiry in different ways and to varying degrees. Indeed, almost none of the seemingly settled early provisions just discussed are necessarily cast in stone. Especially where expert inquiries span several years, many of the initial stipulations may be renegotiated, timelines extended, commissioners and researchers replaced and the questions that are being pursued might be narrowed down, expanded or otherwise shifted. As the example of the Swiss Bergier Commission shows, mandates can be considerably broadened during the commission’s term to include new questions and sources, or to engage in educational activities previously not included (Ludi and Dreyfus 2001, see also the Chap. 41 by Alexander Karn in this volume). They can also be narrowed down or otherwise reframed to avoid potential destabilising or uncomfortable confrontation.

In some cases, shifts in operative modalities or thematic scope are closely connected to political developments such as national elections or changes in government or presidential office. Such events can open up new opportunities for both politicians and experts to renegotiate the conditions under which an official inquiry takes place with both positive and limiting consequences for the research endeavour. To some extent, this takes us back to the earlier discussion of commission institutionalisation and political support. Indeed, where the degree of institutionalisation is low and sponsors and experts have failed to ensure broad political support for the HEC, the dependency on political office increases, making the inquiry more vulnerable to the cycles of electoral politics. This can lead not only to a temporary or permanent curbing of resources, but also result in a shifting of commission mandate and overall mission. Again, the Estonian international presidential commission, the so-called Jakobson Commission, is an example here. Its operations almost completely seized after its founder, president Lennart Meri, left office in 2001. His successor in office, president Arnold Rüütel, a former Communist Party apparatchik, did not object to the existence and work of the commission, but his political priorities clearly lay somewhere else. Only with the election of President Toomas Henrik Ilves in 2006 could the commission take up its work again and issue a final report in 2008.

Apart from political and institutional factors constraining commission inquiries and outcomes, the interactions among the experts and researchers involved in the process also require attention if we want to grasp fully how HECs operate and produce results. As we noted before, most HECs enjoy considerable freedom to determine their research agendas and goals. After all it is the scholarly independence of its experts that forms the core legitimising ingredient of this kind of state-initiated operation. Not surprisingly, therefore,

some scholars of cultural communications have discovered the HEC as an interesting object for discussing the interactional dynamics that enable 'complex collectives' to arrive at 'robust solutions' for most difficult political questions (Schulz 2009, p. 59). Thus far such research has been limited to bilateral HECs, but the insights are equally valid in commission contexts defined by expert heterogeneity with regard to personal background, political views and academic socialisation.

Indeed, the internal dissonances and cultural clashes can considerably hamper processes of consensus-building. In the Sino-Japanese Joint History Research Committee this occurred in the form of an 'ontological split over one another's understanding of history.' The Chinese historians' Marxist views on history as being determined by 'objective "laws" and "necessities,"' clashed with the more circumstantialist approach to the past advocated by their Japanese colleagues (Wang and Okano-Heijmans 2011, p. 135). In the case of the Commission of Historians of Latvia, to name another example, the experts' views diverged on the very nature of 'doing history.' Whereas some historians believed their task to be limited to retrieving 'hard evidence' from archival documents, others embraced a more sceptical and 'narrative' approach towards investigating the past, stressing both the relative value of facts and the need to engage in interpretive as well as comparative discussion (Plakans 2016, p. 130; Pettai 2011).

Whether and how the experts resolve these predicaments is often reflected in the final outcome of the inquiry, if a commission manages to reach that point at all. Thus turning to commission results, we can observe that they often mirror some of the internal disagreements and cultural clashes, while still aiming to find a common and authoritative voice about past events and circumstances. Commission outcomes vary considerably in format, size, timing and quality of contents rendering it almost impossible to make any generalised statement about them. Some commissions never actually publish a concise final report, but rather choose to issue research findings continuously, sometimes accompanied by dissenting statements or critical reviews; other commissions publish intermediate reports on specific historical issues or periods accompanied by a final summarising conclusion. Yet other HECs produce teaching material or publish facsimiles of archival material as well as academic studies in electronic or paper form, thus functioning more as editorial boards and facilitators of academic debate rather than as a collective author. Where commissions do conclude their operation with a final and jointly written account, this in turn can also vary considerably. Some final reports present a dry, linear record that 'remains on the factographic surface' (Brüggemann 2007, p. 461) without offering any deeper analysis or interpretation; others settle on presenting 'parallel histories' thus reflecting on irreconcilable divergences among the experts; yet others present a joint historical narrative that engages both diverging interpretations as well as drawing moral and political lessons from the past.

Opinions diverge with regard to how far HECs should, in fact, practice what Alexander Karn (2006, p. 32) has termed a ‘jurisprudential history,’ passing moral judgment or even assuming a quasi-judicial stance on past wrongs. The previous discussion showed that much depends on the level of ambition both on the side of the state sponsors and the experts themselves. Indeed, many historians would argue that it is not at all the task of an expert commission to render moral judgment or even to engage in public debate on issues of historical memory. Instead they see the task of the commission to sift through the archives dispassionately and to present the facts as cleanly as possible for future use that is, however, beyond commission control. In the end, whether a HEC yields any public impact and leads to the kind of historical introspection or critical *Aufarbeitung* so often expected from it, only partly depends on the format, methodology or narrative strength of its final product. A close reading of this product can nevertheless yield important insights in terms of the politics of historiography and of the power of narrative framing and representation in public discourses.

SUMMARY REMARKS ON HECs’ SUCCESS AND IMPACT

This overview chapter has touched upon a very diverse set of cases that operated, or still work in very different political and historical contexts, thus inevitably it remains sketchy and unspecific. By providing a basic taxonomy that sorts HECs along the different historical situations they address as well as along commission formats, however, the chapter proposed an original and empirically informed way of making sense of the multitude of cases that may further advance deeper comparative analysis. Indeed, while leaving the task of devising a precise analytical framework and providing a more nuanced and in-depth discussion of individual cases to the following chapters in this volume, this overview chapter is primarily meant to make scholars of state-commissioned expert inquiries aware of the many facets of this particular state mechanism and to start the conversation about possibilities for future comparative research and analysis.

Such comparative research will most likely focus on evaluating the factors that contribute to the commission’s operative success; or focus on determining the extent to which the research findings of a HEC led to discursive or policy shifts vis-à-vis the nation’s past. It is, indeed, paramount to distinguish analytically between explaining the success of a commission’s operation on the one hand and evaluating its impact (Wiebelhaus-Brahm 2010). Methodologically speaking, the study of a commission’s success treats the commission itself as the dependent variable, asking under what conditions its experts are able to arrive at joint conclusions or ‘deliver’ an outcome. This line of inquiry takes as its point of departure the declared goals of the commission (either formulated by its sponsor or by the experts themselves) and focuses on issues of institutional and legal standing, mandate, membership, competencies or

operative resources as factors that enable or constrain commissions to reach these goals. Indeed, achieving results is by no means an easy task as the many failed attempts at creating and carrying out official historical inquiries show. The examples referenced here concerned mostly successful (or at least productive) cases, but also several still ongoing and struggling cases, thus demonstrating the many hurdles and challenges that HECs face in their effort to revisit historical facts and engage in interpretative negotiations.

The quality of the ‘deliverable,’ of course, can also be a measure of success, forcing researchers to go deep into the historical narrative developed in the commission reports or to assess the methodological standards by which sources were selected and scrutinised as well as conclusions drawn. It would be short-sighted, however, to assess a commission report only against strict standards of academic history and, thus, lament its limited value to further historiographical debate. Contributing to academic history is not the primary purpose of a HEC, as this discussion of the politics involved in its establishment and the complex interactions between the state and the experts during the process amply revealed. A critical evaluation of reports as part of assessing commission success should thus not only scrutinise whether and how it manages to accommodate contrasting perspectives, while clearly presenting facts and revealing the methodological challenges and basic agreements that guided the analysis (Karn 2015). It should also assess to what extent the commission was able to define its own research questions, perhaps diverging from the research agenda originally assigned, how it did so and to what effect with regard to its findings and narrative outcome.

Those interested in the impact of a state-commissioned historical inquiry treat a commission process and product as the independent variable, looking at post-commission political reactions, debates, civil society activities or policy decisions. Rather than judging a HEC on its own terms, the focus thus shifts to its afterlife in various political, societal, judicial or academic contexts. This is arguably a far more difficult undertaking as causal claims are much harder to make. As discussed earlier, HECs do not operate in a historiographical, political or mnemonic vacuum and changes in social or political relations can be as much the consequence of a commission’s negotiation as they may be caused by other, unrelated factors and processes.

Despite the fact that any generalised statement on HECs’ impact is thus marred by case variation and by the relative contingency of political and social processes, recent literature on historical commissions is replete with normative claims about the ‘mediating’ power of ‘responsible historical scholarship’ and about the effects of HECs on human rights and conflict resolution in societies haunted by histories of mass atrocities and injustice (Karn 2015; Barkan 2009). Empirical studies of individual commissions also show the high stakes and expectations that state actors and civil society activists place on historical inquiries with regard to their longer-term effects. Thus, many founding documents assign an expert commission the ability to overcome

widespread collective stereotypes and popular prejudice about minorities or other nations; their inquiries are destined to ‘reveal the truth’ on the basis of which ‘reconciliation’ and renewed co-operation between groups and nations will occur. Against this normative backdrop, the question remains, however, how we can actually empirically determine whether state-commissioned historical inquiries have this kind of effect. In lieu of a final conclusion to this chapter, I, therefore, end with a number of practical suggestions on how to assess HEC impact that should be seen as tentative and not necessarily relevant in every case.

To begin with, it seems useful to differentiate between the impact of a commission’s operative process and that of a commission’s outcome (product). The impact of the operative process of a commission becomes an issue in cases where there is continuous reporting and interaction between commission and media, or the commission publishes intermediate findings and organises public events. Continuous engagement with the public or with outside stakeholders of various kinds can be reasonably expected to yield an effect on historical perceptions and discussions. At the same time, such activities also keep the inquiry under intense public scrutiny, which can result in recurrent political contestations and certainly add pressure on the experts involved. Not always does a commission process, thus, have a constructive impact. Again, a look at the Lithuanian International Commission that made every intermediary report easily accessible via an online database and responded to public criticism of its dual mandate by strictly separating research into Nazi and Stalinist crimes, was still faced with an ever-deepening division in society along diverging mnemonic communities (Budryte 2013). In fact, it is perhaps this potentially divisive impact of an open research and negotiation process that makes many experts wary of too much media attention and to stress the deeply apolitical and academic nature of their inquiry, which is not to be scrutinised until joint conclusions or the full report can be released.

Thus turning to the impact of a HEC’s final product, it is important to differentiate between different spheres in which this can take place, including politics and legislation, the judiciary, education and academia as well as between the more short-term aftermath and the more long-term afterlife of a final product.⁵ As noted, a HEC’s final product does not necessarily include concrete policy recommendations along which one could measure the degree of government responsiveness and thus immediate commission impact. This does not exclude the possibility, however, that law makers or governments react to a commission’s report on past injustice and amend public policies or commemorative practices. Moreover, where expert commissions undertook primary archival research or revealed hitherto unknown evidence about past rights abuses, state prosecutors may react to a report by opening criminal investigations. Even though HECs are fundamentally nonjudicial bodies and rarely, if ever, directly co-operate with prosecutors or courts, their findings

can thus have judicial repercussions. Cases of such ‘retrospective’ criminal justice effects can be found in many different historical contexts around the world, including Argentina, Chile, Germany and the Baltic states.

Tracing down references to a commission report in political speeches, media outlets, or court rulings is, no doubt, a rather impossible undertaking and may not yield much analytical insight if the report is merely used as a source of information about historical facts and figures. Moreover, in some cases researchers have found that the final outcome of a HEC did not actually reveal any genuinely new facts about the past, but rather presented new ways in which to make sense of those already known (Karn 2015). The impact of such an interpretive and discursive outcome is arguably much more difficult to pin down. How do we, for example, establish that it was the particular interpretation of events proposed by an expert commission that enabled previously hostile parties to become open for dialogue? How do we measure the relative importance of a commission’s findings in raising ‘public historical awareness’ about past wrongdoing?

One way to approach this conundrum is to focus on what I call ‘the after-life’ of a commission report. As said, a HEC’s final product can be seen as an offer to look at historical events and circumstances in a new way, to consider previously neglected perspectives or to draw lessons from past behaviour or developments that are considered wrong and in violation of present-day norms and values. Like every good story, these narrative offerings, once they are released, become the subject of more or less intensive scrutiny and debate as well as interpretive appropriation, thus acquiring a life of their own. For those who are interested in studying the impact of HECs it is thus interesting to examine how the interpretive frames and narrative propositions made by a HEC are received by various political and societal actors, how they are being appropriated or adopted and for what purposes. Do the commissions’ explanations and conclusions become a reference for those who emphasise historical commonalities or are they used as prompts for bolstering exclusionary narratives or to discredit political opponents?

Another sphere in which the more long-term processes of adaptation or appropriation may be studied is in the area of history education at schools. To what extent and how do the interpretive frames offered by a government-sponsored report enter the official canon reflected in history textbooks and other materials?

Finally, the arguably most tangible impact of a commission’s product can be found in academic discourse. Whether a commission’s interpretations of past events are seen as a welcome addition to historiographical discourse or dismissed as politically biased ‘commissioned history,’ the HEC results can trigger important historical and methodological debates. Moreover, where commissions have undertaken primary archival work and present a thorough account of their findings, their product often serves as a starting point for further historical analysis. However, as Karn (2015, p. 7) points out, ‘[I]f the

work of the commissions would resonate only with scholars, there would be little point in probing their significance for the larger public.⁶

To sum up, on a theoretical level, the work of historical commissions has certainly attracted much reflection and some innovative ideas about the uses of historical scholarship beyond the ivory towers of universities. On an empirical level, a growing number of case studies have enhanced our understanding of the different ways in which these state bodies can operate and with what results. However, much still needs to be done in terms of comparative analysis as only through comparison can we truly assess the value and effectiveness of this state mechanism of engaging history.

NOTES

1. This work was supported by the Estonian Research Council under grant no. IUT 20–39.
2. For a full documentation of the Joint Communiqués, among them those regarding the work and mandate of the Historical Commission, see: <https://www.mesadeconversaciones.com.co/documentos-y-comunicados>. Accessed September 2016.
3. There was also a joint GDR–Polish commission of historians in operation between 1956 and 1990. Its official mandate involved ‘harmonizing the historical images [between Germans and Poles] in the spirit of socialism’ (Guth 2009).
4. There are arguably other possible formats such as bilateral commissions with experts from more than just the two states involved or full-scale multilateral commissions. However, these constellations appear to be rather rare among existing cases. Moreover, in some cases the national background of commissioners was less important than their racial/ethnic belonging or religious beliefs. A HEC such as the *International Catholic-Jewish Commission* of 1999 fits such an understanding of a strictly bipartisan commission (Karn 2015, p. 213).
5. The following suggestions arguably concern mostly cases in which there is a clearly identifiable commission product in the form of a final report or publication that summarises main findings. This to some extent excludes commissions that primarily serve as facilitators of historical research and conversation, both among academics and through school education and public history, but never produce final joint conclusions or reports. Many of the more permanent bilateral (textbook and expert) commissions between Germany and its neighbours fall in this category, so does the unilateral Commission of the Historians of Latvia (Pettai 2015b).
6. This by no means implies that HECs make no valuable contribution to advancing scholarly research and discourse. One example to the contrary is the controversial Schieder Commission discussed earlier. If we follow Beer (1998, p. 385) then the academic community for far too long overlooked the commission’s most original and, at the time, methodologically innovative propositions with regard to utilising oral testimonies and accounts for historical research and to conceptually informed historical scholarship.

REFERENCES

- Alsema, A. (2015) 'Historic Commission Releases Report on Causes of Colombia Conflict.' Colombia Reports, 11 February 2015, available at: <http://colombiareports.com/historic-commission-releases-report-causes-colombia-conflict/>. Accessed February 2016.
- Assmann, A. (2008) 'Transformations between History and Memory', *Social Research*, 75(1), 49–72.
- Bakiner, O. (2015) *Truth Commissions. Memory, Power, and Legitimacy* (Philadelphia: University of Pennsylvania Press).
- Barkan, E. (2000) *The Guilt of Nations. Restitution and Negotiating Historical Injustice* (New York: Norton).
- Barkan, E. (2005) 'Engaging History. Managing Conflict and Reconciliation', *History Workshop Journal*, 59, 229–236.
- Barkan, E. (2009) 'Historians and Historical Reconciliation', *American Historical Review*, 114(4), 899–913.
- Barkan, E. (2016) 'Memories of Violence. Micro and Macro History and the Challenges to Peacebuilding in Colombia and Northern Ireland', *Irish Political Studies*, 31(1), 6–28.
- Beattie, A. H. (2008) *Playing Politics with History. The Bundestag Inquiries into East Germany* (Oxford: Berghahn Books).
- Beer, M. (1998) 'Im Spannungsfeld von Politik und Zeitgeschichte. Das Großforschungs-projekt, Dokumentation der Vertreibung der Deutschen aus Ost-Mitteleuropa', *Vierteljahreshefte für Zeitgeschichte*, 46(3), 345–389.
- Bevernage, B. (2011) 'History by Parliamentary Vote. Science, Ethics and Politics in the Lumumba Commission', *History Compass*, 9(4), 300–311.
- Brüggemann, K. (2007) 'Review of 'Estonia 1940–1945. Reports of the Estonian International Commission for the Investigation of Crimes Against Humanity,' *Zeitschrift für Ostmitteleuropa-Forschung*, 56(3), 460–461.
- Cattaruzza, M. and Zala, S. (2007) 'Negotiated history? Bilateral historical commissions in twentieth-century Europe' in: H. Jones, K. Ostberg and N. Randerad (eds.) *Contemporary history on trial. Europe since 1989 and the role of the expert historian* (Manchester: Manchester University Press), pp. 123–143.
- Collins, B. and Watson, A. M. S. (2015) 'Examining the Potential for an American Truth and Reconciliation Commission', *Carnegie Ethics Online*, 5 February.
- Delpla, I., Bougarel, X. and Fournel J.-L. (eds.) (2012) *Investigating Srebrenica. Institutions, Fact, Responsibilities* (Oxford: Berghahn books).
- Ericsson, K. and Simonsen, E. (eds.) (2005) *Children of World War II. The Hidden Enemy Legacy* (New York: Berg).
- Faure, R. (2015) *Netzwerke der Kulturdiplomatie. Die internationale Schulbuchrevision in Europa, 1945–1989* (Oldenbourg: De Gruyter).
- Fink, C. (2005) 'A New Historian?', *Contemporary European History*, 14(1), 135–147.
- Gardner-Feldman, L. (2010a) *Germany's Foreign Policy of Reconciliation. From Enmity to Amity* (Lanham: Rowman & Littlefield).
- Gardner-Feldman, L. (2010b) 'German-Polish Reconciliation in Comparative Perspective: Lessons for Japan?', *The Asia-Pacific Journal*, April 19.
- Guth, S. (2009) 'Erzwungene Verständigung? Die Kommission der Historiker der DDR und der Volksrepublik Polen 1956–1990', *Vierteljahreshefte für Zeitgeschichte*, 57(4), 497–542.
- Hayner, P. B. (1996) 'Commissioning the Truth. Further Research Questions', *Third World Quarterly*, 17(1), 19–29.

- James, M. (2012) 'A Carnival of Truth? Knowledge, Ignorance and the Canadian Truth and Reconciliation Commission', *International Journal of Transitional Justice*, 6(2), 182–204.
- Karn, A. (2006) 'Depolarizing the Past. The Role of Historical Commissions in Conflict Mediation and Reconciliation', *Journal of International Affairs*, 60(1), 31–50.
- Karn, A. (2015) *Amending the Past. Europe's Holocaust Commissions and the Right to History* (Madison: University of Wisconsin Press).
- Kuzio, T. (2002) Ukrainian–Russian Historical Commission Raises Storm. RFERL (Poland, Belarus, Ukraine Report), 4(26), 2 July.
- Lagrou, P. (2003) 'Het Srebrenica-rapport en de geschiedenis van het heden' *Low Countries Historical Review*, 118(3), 325–336.
- Maier, C. (2000) 'Doing History, Doing Justice. The Narrative of the Historian and of the Truth Commission' in R.I. Rotberg and D. Thompson (eds.) *Truth v. Justice. The Morality of Truth Commissions* (Princeton: Princeton University Press), pp. 261–278.
- Maki, M. T., Kitano, H. H. L. and Berthold, S. M. (1999) *Achieving the Impossible Dream. How Japanese Americans Obtained Redress* (Urbana: University of Illinois Press).
- Marchetti, E. (2005) 'Critical Reflections Upon Australia's Royal Commission into Aboriginal Deaths in Custody', *Macquarie Law Journal*, 5, 103–125.
- O'Neill, E. (2013) 'Spaniards want truth on Franco's crimes', *The Volunteer*, 14 September 2013, available at: <http://www.albavolunteer.org/2013/09/spaniards-call-for-truth-commission-on-francos-crimes/>. Accessed September 2016.
- Pettai, E.-C. (2011) 'Convergence of Two World. Historians and Emerging History in the Baltic States' in M. Housden and D. J. Smith (eds.) *Forgotten Pages in Baltic History. Themes of Diversity and Inclusion* (Amsterdam: Rodopi), pp. 263–280.
- Pettai, E.-C. (2015a) 'Interactions between History and Memory. Historical Commission and Reconciliation' in S. Kattago (ed.) *The Ashgate Research Companion in Memory Studies* (London: Ashgate), pp. 237–250.
- Pettai, E.-C. (2015b) 'Negotiating History for Reconciliation. A Comparative Evaluation of Baltic Presidential Commissions', *Europe–Asia Studies*, 67(7), 1079–1101.
- Pettai, E.-C. and Pettai, V. (2015) *Transitional and Retrospective Justice in the Baltic States* (Cambridge: Cambridge University Press).
- Pingel, F. (2010) *UNESCO Guidebook on Textbook Research and Textbook Revision* 2nd ed. Braunschweig: Georg Eckert Institute.
- Plakans, A. (2016) 'History, the Remembered Past and Master Narratives: The case of Latvia' in M. Ilic and D. Leinarte (eds.) *The Soviet Past in the post-Socialist Present. Methodology and Ethics in Russian, Baltic and Central European Oral History and memory Studies* (New York: Routledge), pp. 129–147.
- Rotfeld, A. D. and Torkunov, A. V. (eds.) (2015) *White Spots–Black Spots. Difficult Matters in Polish-Russian Relations 1918–2008* (Pittsburgh: University of Pittsburgh Press).
- Ruchniewicz, K. (2015) 'Why We Still Need Textbook Commissions?', *Public History Weekly, The Multilingual Blogjournal*, 3(12).
- Schulz, M. (2009) 'Kann man komplexe transnationale Kollektive beschreiben, ohne unzulässig die Komplexität zu reduzieren? Einige Anregungen zu einem neuen Modell zur Kollektivbeschreibung', *Interculture Journal*, 8(8), 59–85.
- Stan, L. (2009) 'Truth Commissions in Post-Communism. The Overlooked Solution?', *The Open Political Science Journal*, 2, 1–13.
- Suny, R. G. (2009) 'Truth in Telling. Reconciling Realities in the Genocide of the Ottoman Armenians', *American Historical Review*, 14(4), 930–946.
- Sužiedelis, S. (2014) 'The International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation Regimes in Lithuania. Successes, Challenges, Perspectives', *Journal of Baltic Studies*, doi: 10.1080/01629778.2014.937906.

- Torpey, J. (2006) *Making Whole What Has Been Smashed. On Reparations Politics* (Cambridge: Harvard University Press).
- Truth and Reconciliation Commission of Canada (2015) *Final report*, available at: <http://www.trc.ca/websites/trcinstitution/index.php?p=890>. Accessed 5 December 2016.
- United States Institute of Peace (2012) 'Truth Commission: Mauritius' Available at: <http://www.usip.org/publications/truth-commission-mauritius>. Accessed September 2016.
- Wibbelhaus-Brahm, E. (2010) *Truth Commission in Transitional Societies. The Impact on Human Rights and Democracy* (New York: Routledge).

RECOMMENDED READINGS

- Berg, M. and Schaefer, B. (eds.) (2009) *Historical Justice in International Perspective. How Societies are Trying to Right the Wrongs of the Past* (Cambridge: Cambridge University Press).
- Budryte, D. (2013) 'International Commission for the Evaluation of the Crimes of the Nazi and Soviet Occupation Regimes in Lithuania', in L. Stan and N. Nedel-sky, (eds.) *Encyclopedia of Transitional Justice*, Vol. 3, pp. 218–222.
- Bustin, E. (2002) 'Remembrance of sins past: unraveling the murder of Patrice Lumumba', *Review of African Political Economy*, 29(93/94), 537–560.
- Ciobanu, M. (2008) 'Criminalising the Past and Reconstructing Collective Memory: The Romanian Truth Commission'. *Europe—Asia Studies*, 61(2), 313–336.
- Defrance, C. and Pfeil, Ul. (2011) *Eine Nachkriegsgeschichte in Europa 1945 bis 1963*. Darmstadt: Wissenschaftliche Buchgesellschaft (WBG Deutsch-Französische Geschichte, Bd. 10.).
- Johnstone, G. and Quirk, J. (eds.) (2012) 'Repairing Historical Wrongs', *Social & Legal Studies*, 21(2). [Special Issue].
- Little, A. and Maddison, S. (eds.) (2017) 'Reconciliation, Transformation, Struggle' *International Political Science Review*, 38(2). [Special issue].
- Ludi, R. (2012) *Reparations for Nazi Victims in Postwar Europe* (Cambridge: Cambridge University Press).
- Ludi, R. and Dreyfus, J.-M. (2001) 'Historians as political trouble-shooters: Officially Commissioned Surveys of Holocaust Legacies in France and Switzerland', *Center for European Studies Working Paper Series*, No. 80.
- Maoz, A. (2000) 'Historical Adjudication. Courts of Law, Commissions of Inquiry, and "Historical Truth"', *Law and History Review*, 18(3), 559–606.
- McGrattan, C. (2014) 'Policing Politics. Framing the Past in Post-conflict Divided Societies', *Democratization*, 21(3), 389–410.
- Miller, A. and Lipman, M. (eds.) (2012) *The Convolutions of Historical Politics* (Buda-pest: CEU Press).
- Pingel, F. (2008) 'Can Truth Be Negotiated? History Textbook Revision as a Means to Reconciliation', *The ANNALS of the American Academy of Political and Social Science*, 617 (March).
- Rathkolb, O. (2000) 'Die späte Wahrheitssuche. Historikerkommissionen in Europa', *Historische Anthropologie*, 8(3), 445–453.
- Torpey, J. (ed.) (2003) *Politics and the Past. On Repairing Historical Injustice* (Lan-ham: Rowman & Littlefield).
- Wang, M. and Okano-Heijmans, M. (2011) 'Overcoming the Past in Sino-Japanese Relations?', *The International Spektator*, 46(1) 127–148.

Reconstituting the Dutch State in the NIOD Srebrenica Report

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It has often been said that governmental inquiries serve no other purpose than silencing the public debate by delay and by drowning it in a sea of facts.¹ The report of the Netherlands Institute for War Documentation (NIOD) that was commissioned by the Dutch government a year after the failed peace-keeping mission in Srebrenica, also received this criticism. NIOD took more than five years, from November 1996 to April 2002, to publish its report, *Srebrenica*, a “Safe Area” (NIOD 2002b, c). During that period requests for a parliamentary inquiry were waved away or postponed by referring to the investigation. And, indeed, the excessive volume of the report of more than 6000 pages makes it hard to have an in-depth political debate on its content (Lorenz 2005, pp. 267–268; Lagrou 2012, p. 86). It has even been said that the ‘closely printed volumes of the report repeat what Dutchbat was supposed to do: to deter attacks by presence’ (Runia 2004, p. 316). Pieter Lagrou goes one step further. He states that reading the report seems ‘like a battle of attrition. Like a steamroller, the accumulation of data finishes by crushing the reader’ (Lagrou 2012). Others argue, however, that governmental inquiries do *more* than silencing the debate. Adam Ashforth points out that governmental inquiries ‘perform roles fundamental to the legitimation of States’ by empowering those who act in name of the state by distinguishing their roles and goals (Ashforth 1990, p. 4). In other words, it is not only the state that defines the inquiry—or in this case the historical research project—it is also

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the framework of knowledge provided by the report that defines the state and its roles.

This understanding, in which the state does not have a natural identity, but is thought of as the effect of citational processes (Weber 1998, p. 79) informs my analysis of the government-commissioned NIOD report. I first explore the research conditions set by the state for NIOD and argue that the power relations between NIOD and the state should not be sought primarily in the research contract. Furthermore, I argue that NIOD's representation of the Dutch state and its roles speak as much to the research centre's research tradition as it says about the Dutch role in Srebrenica. The Cabinet's resignation that followed shortly after the report's presentation is far less significant than the image of the Dutch state that NIOD produced. The disciplining effects of this state image and the report's archival function stretch out in Dutch foreign policy and law cases.

RESEARCH CONDITIONS SET BY THE STATE

In July 1995, during the Bosnian War, a Dutch UN battalion (Dutchbat) was stationed in 'Safe Area' Srebrenica when Serb forces overran the enclave, forcibly removed the Bosnian Muslims and killed more than 8000 of the men. The events in Srebrenica came to be known as 'Europe's worst massacre since the Second World War' (Rohde 1997) and in several cases at the International Criminal Tribunal for the Former Yugoslavia (ICTY) it was confirmed that genocide had been committed. The public debate on the role of the Dutch in the failed UN peacekeeping operation destabilised the Dutch self-image as occupying a moral high ground in international affairs (Zarkov 2002; Dudink 2002, p. 160; Rijdsijk 2014). Moreover, as the European Parliament would later state in a resolution, Srebrenica became 'a symbol of the impotence of the international community to intervene in the conflict and protect the civilian population' (European Parliament 2009). The Srebrenica genocide provoked a debate on international responsibility that has not been quieted ever since.

Almost a year after the fall of the UN enclave, it became clear that questions about the role of the Dutch peacekeepers in Srebrenica had not been settled and suggestions about organising a parliamentary inquiry were made. In the view of the Dutch Cabinet, the Srebrenica mission had not been a Dutch *national* responsibility but an *international* UN-responsibility.² Therefore, the Dutch Cabinet initially tried to move the investigation to the United Nations. It sent the Minister of Foreign Affairs Hans van Mierlo to inquire informally whether the United Nations would be prepared to start such an investigation. It was concluded, however, that such an international investigation was not a feasible option.³ Subsequently, the Cabinet turned to the national historical research institute NIOD and found it prepared to take up the investigation.⁴ This turn, however, does not imply that the question of a

Dutch responsibility to the failing peacekeeping mission and the Srebrenica genocide would be central to the research assignment. Van Mierlo reported after his visit to the United Nations that he expected ‘the international community to be more [willing] to cooperate with a national investigation than initiating such an investigation via the UN’ (Van Mierlo 1996).⁵ In other words, it was expected that a *national* research institute would be in a better position to map out the failed peacekeeping mission as an *international* responsibility. From the beginning it was clear that the Cabinet was not only concerned about the image of the Dutch state on a national level, but also, and perhaps even primarily, about its international image.

The process of drafting the research assignment was coordinated by the Ministry of Education, Culture and Science (OCW) but it was formulated in cooperation with the Ministry of Foreign Affairs and the Ministry of Defence. The final text of the research assignment left it almost completely up to NIOD how to design the project. NIOD was asked ‘to collect the relevant data’ in order to explain ‘from a historical perspective in both a national and international context, the events that have led to the fall of Srebrenica and the dramatic developments afterwards’ (OCW 1996).⁶ Furthermore, the Cabinet promised a maximum effort to provide access to all sources that NIOD would deem relevant for the project. Only in exceptional cases that were related to binding international agreements and legal restrictions could the Cabinet refuse access. In some cases, it could be decided that NIOD would be allowed to see the documents, but not to cite or refer to them explicitly (OCW 1996; Tweede Kamer [Dutch Lower House] 1996b).⁷ The Minister of OCW Jo Ritzen explained in Parliament that this implicit use of sources meant that the material would be used to ‘build up firm evidence on other fronts. It could be used as a supplement and sometimes as the only material (Tweede Kamer [Dutch Lower House] 1996b).’ Ritzen admitted that this could lead to conclusions that had no references, but believed that this omission would be compensated by the good reputation of the NIOD institute. There were no financial restrictions mentioned in the research commission assignment, nor restrictions on the number of researchers that would be involved. It just said that the researchers should undergo a security screening and some security procedures had to be implemented at NIOD (Van Mierlo 1996).

There was some debate in Parliament about one of the assigned researchers who was also an employee of the Ministry of Defence. According to Minister of Defence Joris Voorhoeve, the Ministry of Defence would not interfere with the composition of the research team. It had only been on request by the director of the NIOD institute that this researcher would be involved. He explained that NIOD wanted to have this military historian and former marine officer on board because of his expertise on peacekeeping missions and the defence organisation (OCW 1996). Some questions were asked during the parliamentary debate about the lack of time restrictions, but

according to Minister Voorhoeve, an exhaustive academic research project should not be limited in time (Tweede Kamer [Dutch Lower House] 1996a). The Cabinet succeeded in convincing the Parliament and the commissioning of the research to NIOD was approved in Parliament on 19 November 1996.⁸ From the point of view of the contract with the government, NIOD thus had practically received a *carte blanche* for their historical research on the Srebrenica genocide, albeit that the Dutch role explicitly was to be researched in an international context.

NIOD'S WEBERIAN REALISM AND THE GENDERED IMAGE OF THE DUTCH STATE

Since 1945, NIOD has played a central role in the creation of state-commissioned historiography in the Netherlands. After the war, the institute started with the documentation of the Second World War and the Dutch colonial past. In 1955, the Dutch Cabinet commissioned an extensive research project on the Netherlands and the Second World War. This research was published as *The Kingdom of the Netherlands during World War II* (hereafter referred to as *The Kingdom*) in 14 volumes between 1969 and 1991 (De Jong 1969–1991). Loe de Jong, director of NIOD between 1945 and 1979, wrote most of these volumes and his work reached a very broad audience in the Netherlands. Not at least because, in the Sixties, he personally presented a series of TV documentaries based on his research (De Jong 1967–1968). His work was very influential for the construction of the Dutch self-image based on the evil of Nazism as a constitutive outside. In establishing this image, Dutch war crimes in the former colony of Indonesia and some forms of collaboration with the Nazi Germany were positioned as ‘excesses’ or simply ignored (Lorenz 2005, p. 254). In 1996, five years after the completion of NIOD’s *Kingdom*, Hans Blom started as director of the institute. By accepting the Srebrenica research assignment in the same year, NIOD broadened its research field to the Dutch involvement in international peacekeeping.

In 2007, Blom published a book in which he explicitly relates his research perspective to that of De Jong (Blom 2007). He says to appreciate De Jong’s work, which he calls ‘impressive’ and praises it for its ‘vast unity in the elaborateness of the fourteen parts and thirty bands’ that is provided by its research perspective on ‘repression, collaboration and resistance.’ Yet, he also criticises De Jong’s work for creating a ‘myth of the war.’ According to Blom this myth comprises a perspective of good and bad, new heroes and new villains, a foreign long-time enemy and domestic accomplices. Good and bad coincide with resistance and collaboration. Moreover, the myth created a new experience of time in terms of a divide between a pre-war and post-war period. According to Blom, the myth also served as a taboo for those historians who, like himself, aimed to disconnect the practice of analysing from that of moralising (Blom 2007, p. 157). Blom positions himself as an historian who has

broken that taboo (Blom 2007, p. 158). He qualifies De Jong as a ‘people’s educator’ and rather sees himself and other historians who share his point of view as ‘professional historians’ who have a more distant relation to the public because, according to Blom, the ‘public sector’ is still attached to the close connection between analysis, moralising and politics (Blom 2007, p. 157). The presentation of NIOD’s Srebrenica report as an ‘analytical explanatory report without political judgements’ (NIOD 2002b, Prologue), thus reflects a research perspective that implicitly distances itself from its historiographic predecessor *The Kingdom*. Moreover, as I argue, the ideal type of the state against which the Dutch state’s acts are measured in the report, very much resembles Blom’s Weberian ideal type of the professional historian.

NIOD explains its aim as wanting to relate ‘the Dutch will to action’ to its ‘(predictable) effectiveness’ in the Yugoslav war (NIOD 2002b, Part I, Introduction). The report sets out by emphasising that Dutch influence in international affairs should not be overstated, though. ‘Needless to say, as far as decision-making in the Netherlands is concerned, it is essential to examine the Dutch context in all its facets as well. It should however be borne in mind, that decisions taken in the Netherlands sometimes had only a marginal influence internationally’ (NIOD 2002b, Prologue). Furthermore, Dutch foreign policy is described as having a ‘moralistic’ tendency and as not primarily concerned by the consequences of its actions:

Dutch foreign policy is often described as motivated by ethical considerations, among others. ... it is claimed that this foreign policy is often (maybe even too often) characterised by a belief in the moral superiority of the Netherlands compared with other countries and a disinclination to get down to the nitty-gritty of power politics. ... Both the Dutch decision-makers concerned and observers have made similar comments about the policy concerning Yugoslavia in the period from 1991 to 1995. The above-mentioned moralistic tendency led in the Netherlands to a call ‘to do something,’ on the basis of the idea that doing something is better than doing nothing. (NIOD 2002b, Introduction to Part I)

NIOD would rather see the Dutch state acting more realistically in a Weberian moral sense, that is, acting rationally while taking responsibility for the consequences. The Report approvingly quotes Max Weber’s lecture *Politics as a Vocation* (1919) in which he states that a man cannot call himself a real politician until he:

also takes the *responsibility* for this cause as the main guideline for his action. And to this end, one needs *discernment*, the most important mental property of the politician. This is the ability to absorb the impress of reality calmly and deliberately, i.e. to *distance* oneself from things and people. The inability to do this is in itself already a deadly sin for any politician ... For in the final resort there are only two kinds of deadly sins in the field of politics: an unbusinesslike approach and—often but not always identical with this—irresponsibility. (NIOD 2002b, p. 124)⁹

This is, as Roslyn Wallagh Bologh notes, a masculine ascetic image representing an ideal masculinity that differs from the image of masculinity as mere aggressiveness or glorification of strength and power (Wallagh Bologh 2009). It is a patriarchal view of political life that requires repressing emotions and the 'feminine' illusion of love in the public arena and replace it with the 'masculine' striving for control in selflessly exploring and mastering a loveless reality at the cost of the renunciation of personal feelings and emotions. In the view of NIOD the Srebrenica mission failed, because the Dutch state did not live up to that ideal. The authorised press summary of the Report states that:

[I]n 1993 a combination of humanitarian motivation and political ambitions led the Dutch government, on its own initiative and without prior conditions, to make an Air Battalion available for the UNPROFOR mission in Bosnia. The Netherlands could use this to show its worth, and Dutch prestige would be enhanced in the world. This took place amid wide political and media support and without a proper analysis of the far-reaching consequences beforehand. These were among the factors which led to the Netherlands being destined for Srebrenica, which had been turned down by other countries with arguments to back up their refusal. (NIOD 2002a)

The state and its politicians are not only portrayed as moralistic in the report, but also as overtly emotional:

A further remarkable fact is that Dutch politicians, in hindsight too, so emphatically retained the right to showing emotions with regard to the humanitarian problem as posed in the former Yugoslavia. ... The admission of emotions, including into the field of foreign policy, meant that in the Netherlands the concept of national interest or some other form of etatism was not very strongly developed. 'In the Yugoslav case ... Western media ... failed to penetrate the armoury of "national interest" which continues to shield foreign policy-making from appeals to humanitarianism.' According to Rob de Wijk, the lack of a developed feeling of national interest explains why, in the Netherlands, emotions are so often decisive in deploying units in a crisis area. But it would seem fairly clear that not much penetration was required in the Netherlands. (NIOD 2002b, p. 562)

Thus, NIOD's Dutch state and its politicians do not look like the Weberian 'real politician' at all. In fact, NIOD portrays the Dutch state as an emotional and ambitious figure vulnerable to appeals of humanitarianism and media 'penetration' because of an underdeveloped understanding of national interest. This attitude resulted in deploying troops to UN 'Safe Area' Srebrenica that had been turned down by other countries. According to NIOD, it was a 'mixture of compassion and ambition' that led to the uncontrolled effects of the state's behaviour (Blom 2002). The effects of these Weberian deadly sins of Dutch politics are relativised, though. The report argues that 'the Bosnian Serb army's attack on Srebrenica in July 1995 came as a surprise

to all concerned' (NIOD 2002b, Epilogue). Moreover, the 'massacre'¹⁰ was an 'excess' in the Bosnian War which happened 'outside Dutchbat's field of vision' (NIOD 2002b, Epilogue).¹¹ Because surprises and excesses cannot be predicted by definition, Dutch state responsibility is limited as well.

It is this Weberian view on the Dutch state and its Dutchbat soldiers and their positioning as outsiders instead of bystanders to a last-minute planned mass murder, which broadly structures the report's wealth of information on the Dutch role in the Bosnian War. The crucial question is, however, whether this vision is the result of an analysis of the facts, or if that vision has configured the reconstruction of events. The problem of the report's Weberian realism is that it produces a representation of reality that too easily disqualifies other possible perspectives on the course of events as induced by emotions or moral reasoning.¹² This problem became clear as soon as the report was presented.

On 10 April 2002, Blom finally presented the report in a public ceremony that was broadcast live on national TV. A group of survivors attending the presentation left the room during Blom's presentation speech at the moment that he said Dutchbat had played no role in separating the Muslim men from the women before their deportation (Blom 2002). Their host to the Netherlands of the interreligious NGO IKV, Mient Jan Faber, who had joined them in their protest, explained afterwards that the survivors found that NIOD had given them hardly any chance to tell their version of the events. Twelve years later, a Dutch court judged that the survivors—who call themselves The Mothers of Srebrenica—were right. The court decided that the cooperation of Dutchbat with the deportation of the three hundred and twenty male refugees who had sought refuge on the compound was a crime for which the Dutch state was responsible (Rechtbank Den Haag [The Hague Court] 2014).

THE CABINET'S RESPONSE TO THE REPORT

Six days after the presentation of the NIOD report, and seven years after the fall of Srebrenica, the Dutch Cabinet resigned. One may question the significance of the resignation of a Cabinet less than a month before its term of office would end anyway. Nevertheless, the Cabinet's resignation over a UN peacekeeping mission was world news. Prime Minister Kok explicitly referred to the report when he resigned and stated that his Cabinet agreed with the main findings of the report. He said that the problems of Dutch politics in the failed peacekeeping mission were related to a *series* of events and a *series* of policy mistakes over the years which were made by different Cabinets. However, he deemed the resignation of the present Cabinet necessary in order to take responsibility for the 'accumulation of international and national shortcomings' (Kok 2002).¹³ The International Community had failed to protect the so-called safe areas sufficiently and the Netherlands

was part of that community. By not only taking responsibility for the *national* shortcomings, but also for the ‘accumulation’ of *international* shortcomings, the responsibility of the Dutch state is positioned as a *substitute* for the responsibility of the international community, just as the NIOD research was commissioned as a substitute for a UN investigation. And, not only the state is positioned as substitute, Minister President Kok takes *personal* responsibility, because—as he says—‘[T]he international community is anonymous and can’t take responsibility for the victims and survivors in a visual way. I can—and do—so.’ In this martyr-like gesture, Kok symbolically took the sins of the international community upon his shoulders in a move to claim back the international moral high ground for the Dutch state. The Cabinet’s resignation shortly before its formal term end was considered an empty gesture by many because it did not have any concrete consequences for the victims of the genocide. Moreover, while attributing an abstract responsibility to the Cabinet and to himself, Kok represents responsibility for the Dutch as diffused. The failed peacekeeping mission was described as the outcome of a ‘series of events’ and a ‘series of policy mistakes’ by ‘different cabinets ... over the years.’ On the other hand, however, there is no such diffusion of responsibility ascribed to the Bosnian Serbs. Kok states that ‘the NIOD report is completely clear about the question of who should be held responsible for the fall of Srebrenica and the mass murder that followed: the blame lies with the Bosnian Serbs, in particular with General Mladic’ (Kok 2002).¹⁴

WHO IS DISCIPLINING WHO?

The answer to the question of whether the state-commissioned NIOD report can be seen as a tactic of governance with NIOD as its instrument, is ambivalent. Commissioning the Srebrenica report may have been an attempt to restore an image of international and national accountability of the Netherlands. Independent of the outcomes of the report, the Dutch Cabinet tried to restore an image of the Dutch state as committed to truth and justice by having enabled this fact-finding investigation. By its resignation, the Cabinet reaffirmed this commitment. It claimed back a moral high ground by taking a symbolic responsibility for the failures of the international community, while downplaying its own role. This martyr-like gesture by the Dutch Cabinet can be read as a reaffirmation of NIOD’s image of the Dutch state as overtly emotional and humanitarianist, which NIOD saw as the core of the problem. It is unlikely that NIOD’s image of the state as too emotional, too ambitious, too little concerned about factual analysis and its national self-interest, was *intended* by the state. At most we can say, that it is a reaffirmation of an image which has a long tradition and was already part of the political elites’ self-image of the state. Nevertheless, this image helped to (re)affirm the idea that the state was intrinsically good in terms of its intentions; it had just been too emotional and too ambitious, with terrible results.

I have argued elsewhere that the influence of Dutch international diplomacy in the Bosnian War, in terms of a proposed enclave politics that saw ethnic homogenisation as a pragmatic solution to the conflict, was much more substantial than suggested by NIOD (Rijdsdijk 2012, pp. 75–92). In that respect it is justified to say that NIOD's image of the state helps to cover up bad decisions by more or less excusing them as the result of good intentions and ambition. We have also seen parallels with the report's predecessor, *The Kingdom*. NIOD tried to overcome its shortcomings by disconnecting moralising from analysing, but it ultimately, and I would say, inevitably, failed to do so. It may even have some parallels in the way that De Jong framed Dutch crimes in their former colony Indonesia as 'excesses' and the report framed the violence in Srebrenica as a surprise and an 'excess' in the Bosnian War. Moreover, there are parallels in the way NIOD portrays their ideal of the state, and Blom's ideal of the professional historian. Both ideals are based on a Weberian realism that closes off more conceptual discussions on the Dutch role in the failed peacekeeping operation, as well as a possibility to use the 'emotional' experiences of witnesses as a useful source of knowledge. Even dissenting voices *within* NIOD's research team have become unrecognisable as such in the final report. There was a centralised editing process that required the authors to agree on the interpretations. Research director Blom took responsibility for the final decisions and for the complete report (Lagrou 2012, p. 91). In the positivist logic of this report, truth becomes self-evident, 'as one and indivisible,' when a team of experts establishes 'what really happened' (Lagrou 2012, pp. 90–91). In general, pluralism may be valued in the academic debate, and even in the judgments of the ICTY there is room for dissenting opinions of the judges, but NIOD's research team speaks with one 'authorised' voice.

Yet, neither the NIOD report, nor the Cabinet's resignation settled the questions on the role of the Dutch in Srebrenica. Nor did the parliamentary inquiry that was organised shortly afterwards as a 'supplement' to the conclusions drawn in the NIOD Srebrenica Report.¹⁵ Its aim was to 'enable the Parliament to issue a *definitive judgment* on the conduct of the Parliament,¹⁶ the Dutch Cabinet and of those responsible in both the civil service and the military for the events prior to, during and after the events in Srebrenica' (Parlementaire Enquêtecommissie Srebrenica 2003). Notwithstanding this aim to deliver 'the definitive judgment,' many did not accept it as such. Srebrenica survivors as well as former Dutchbat soldiers successfully filed judicial claims against the Dutch state and, at the time of writing, some of those cases have not been concluded and new ones may follow.¹⁷ Moreover, in response to new media reports on the events, in 2016, the Dutch Cabinet commissioned a follow-up 'exploratory' research to the NIOD Srebrenica Report, which was published the same year (NIOD 2016a).¹⁸

It remains to be seen how NIOD's image of the Dutch state lives on. Although the Cabinet's resignation and the parliamentary inquiries did not

settle the questions on Dutch responsibilities in the failed peacekeeping mission, the NIOD Report does live on in legitimising a greater emphasis on ‘robustness’ and self-interest in Dutch military missions at the expense of humanitarian concerns (Rijsdijk 2014). The significance of the report can also be found in its archival function and its use in legal cases. Judicial use of the report took place within different jurisdictions, including the International Court of Justice (ICJ), the ICTY and various Dutch national courts.¹⁹ Larissa van den Herik argues that the NIOD report shows that certain forms of involvement with the crimes are better framed in the nonlegal frames of responsibility of the inquiries. She calls the diffused picture of responsibility that NIOD paints a picture of a ‘shattered responsibility’ and welcomes the use of it in legal processes. She believes it offers a more comprehensive account of events (Van den Herik 2015). As I have shown, the use of the NIOD report as an authoritative source and ‘comprehensive account’ on responsibility for the Srebrenica genocide is not uncontested, however.

NOTES

1. I am grateful to Berber Bevernage, Nico Wouters, Chris Lorenz, Laura Boerhout and Maja Lovrenović for their comments on earlier versions of this chapter.
2. Legal claims by survivors against the State of the Netherlands have long been rejected by the argument that the performance of the Dutch battalion in Srebrenica was a UN responsibility and not a responsibility of the State of the Netherlands, until the High Court of the Netherlands decided differently in two law cases in 2011 (Gerechtshof’s-Gravenhage–Court The Hague 2011a, b).
3. In 1999, the United Nations published a report on Srebrenica in which it encouraged Member States to engage in a process of reflection and analysis, focused on the key issues that are addressed in the report (UN 1999, p. 111).
4. At the time, the name of the institution was *Rijksinstituut voor Oorlogsdocumentatie* (RIOD). In 1999, the institute became part of the Royal Netherlands Academy of Arts and Sciences (KNAW) and its name was changed into Netherlands Institute for War Documentation (NIOD) and in 2010, after a merge with the Centre for Holocaust and Genocide Studies (CHGS), it was renamed as NIOD Institute for War, Holocaust and Genocide Studies. I refer to the institute as NIOD in this text.
5. My translation.
6. Within this context the NIOD report was also expected to include the ‘background of political and military events in Bosnia-Herzegovina and international diplomacy... the UN concept of ‘Safe Areas,’ the actions and chain of command of the UN peacekeeping mission, the decision-making process of the United Nations and NATO, the Dutch decision-making process and the role of the parliament, the performance of Dutchbat, the deployment of the NATO air weapon, the blocking positions, the siege of Srebrenica and the performance of the Bosnian Serbs after the fall of the enclave. Within this framework NIOD was free to design the research project (OCW 1996)’.
7. The quotes of the Dutch Lower House documents are my translation.

8. During the research project, in 1999, the ties between the management of NIOD and the Dutch State were loosened by transferring the institute to the Royal Netherlands Academy of Arts and Sciences (KNAW). This is why the institute changed its name from Rijks Institute for War Documentation (RIOD) to NIOD.
9. Translation by NIOD.
10. The report says not to have used the term 'genocide' to describe the violence in order to avoid any 'misunderstandings' by 'intermingling with international criminal justice' (NIOD 2002b, Prologue). See for an elaboration on how this reduces the Bosnian Serb 'will to action' to a rather technical military affair (Rijdsijk 2012) and for the politics of genocide in the larger context of the war and the role of international diplomacy in it (Campbell 1998).
11. See for an analysis of NIOD's construction of the Srebrenica genocide as surprise and as an 'intelligence failure,' *Rijdsijk* (2012, pp. 93–112).
12. See Runia (2004) for NIOD's responses to criticism in which only a critique on details is accepted.
13. My translation.
14. The NIOD Report was not so clear about this responsibility of the Bosnian Serbs and General Mladic as suggested by Prime Minister Kok. Although avoiding the term 'genocide' throughout the report, the Report states that 'there can be no doubt whatsoever that the executions were carried out by the Bosnian Serbs' (NIOD 2002b, Epilogue, 16). However, it also suggests that 'in addition to motives of ethnic cleansing, hate and revenge,' the breakout of the Bosnian Muslim men trying to escape from the enclave on 12 and 13 July, 'may even be regarded as the unintentional and unforeseen *trigger* of the mass murders which followed.' The NIOD report concludes that 'in any event, the main responsibility lays in military circles, in which Mladic clearly played a central role. This much is beyond all doubt' (NIOD 2002b, Epilogue, 17). See also for a discussion on the susceptibility of NIOD researchers to Serb nationalist arguments Delpla (2012, pp. 156–157).
15. The Parliamentary Inquiry also built on the conclusions of a report on the process of decision making on participation in peacekeeping operations (Tijdelijke Commissie Besluitvorming Uitzendingen 2000). This report was published in 2000 and it focuses on the deployment to Srebrenica, but also considers the missions to Cambodia, Cyprus, the Gulf states, Haïti and Angola.
16. My emphasis.
17. See, for example, the cases of *The State of the Netherlands (Ministry of Defence and Ministry of Foreign Affairs) v. Hasan Nuhanović and v. Mehida Mustafić-Mujić*, Damir Mustafić and Alma Mustafić and the judgments by the Supreme Court at 6 December 2013, the case of the Mothers of Srebrenica vs the Dutch State and the judgment of the Court The Hague of 16 July 2014. In 2016, former Dutchbat soldiers filed a complaint against the Dutch State for having sent them on a 'mission impossible' (De Zeeuw 2016; Pijpker 2016).
18. A summary of this study is available in English from <http://www.niod.nl/sites/niod.nl/files/Summary%20English.pdf> (NIOD 2016b).
19. See no. 17.

REFERENCES

- Ashforth, A. (1990) 'Reckoning Schemes of Legitimation: On Commissions of Inquiry as Power/Knowledge Forms', *Journal of Historical Sociology*, 3(1), 1–22.
- Blom, H. (2002) 'Presentation Speech of the Srebrenica Report', 10 April.
- Blom, J. C. H. (2007) *In de ban van goed en fout. Geschiedschrijving over de bezettingstijd in Nederland* (Amsterdam: Boom).
- Campbell, D. (1998) *National Deconstruction: Violence, Identity and Justice in Bosnia*. (Minneapolis & London: Minnesota Press).
- De Jong, L. (1967–1968) *De bezetting [The Occupation] TV Series in 21 parts*.
- De Jong, L. (1969–1991) *Het Koninkrijk der Nederlanden in de tweede wereldoorlog [The Kingdom of the Netherlands during World War II]*. 14 vols: (Den Haag: Staatsuitgeverij).
- De Zeeuw, H. (2016) 'Veteranen Dutchbat starten rechtszaak tegen de Staat', *NRC.nl*, 30 June. Available from <https://www.nrc.nl/nieuws/2016/06/30/veteranen-dutchbat-starten-rechtszaak-tegen-de-staat-a1406186>.
- Delpla, I., Bougarel, X. and Fournel, J.-L. (eds.) (2012) *Investigating Srebrenica. Institutions, Facts, Responsibilities* (Oxford: Berghahn Books).
- Dudink, S. (2002) 'The Unheroic men of a Moral Nation: Masculinity and Nation in Modern Dutch History' in C. Cockburn and D. Zarkov (eds.) *The postwar moment. Militarities, Masculinities and International Peacekeeping* (London: Lawrence and Wishart), pp. 146–161.
- European Parliament (2009) 'European Parliament Resolution on Srebrenica' *P6_TA(2009)0028*, 15 January.
- Gerechtshof 's-Gravenhage–Court The Hague (2011a) 'Judgement Case No. 200.020.173/01 Mustafic c.s. vs Staat der Nederlanden (LJN BR0132).' 5 July.
- Gerechtshof 's-Gravenhage–Court The Hague (2011b) 'Judgement Case No. 200.020.174/01 Nuhanovic vs De Staat der Nederlanden (LJN BR0133).' 5 July.
- Kok, W. (2002) 'Verklaring van Minister-President Kok over de ontslagaanvraag van het kabinet [Declaration by Minister President Kok on the resignation of the Cabinet]', *De Volkskrant*, 16 April.
- Lagrou, P. (2012) 'Reflections on the Dutch NIOD Report' in I. Delpla, X. Bougarel and J.-L. Fournel (eds.) (2012) *Investigating Srebrenica. Institutions, Facts, Responsibilities* (Oxford: Berghahn Books), pp. 86–103.
- Lorenz, C. (2005) 'Het "Academische Poldermodel" en de *Westforschung* in Nederland [The Dutch Academic "Poldermodel" and the *Westforschung* in the Netherlands]', *Tijdschrift voor Geschiedenis*, 118(2), 252–270.
- NIOD (2002a) 'Authorised Summary for the Press of the Srebrenica Report.'
- NIOD (2002b) *Srebrenica, a 'Safe' Area. Reconstruction, Background, Consequences and Analysis of the Fall of a Safe Area*. Available from <http://www.niod.knaw.nl/en/srebrenica-report/report>.
- NIOD (2002c) *Srebrenica, een 'veilig' gebied. Reconstructie, achtergronden, gevolgen en analyses van de val van een Safe Area* (Amsterdam: Boom).
- NIOD (2016a) *De val van Srebrenica. Luchtsteun en voorkennis in nieuw perspectief. Verkenning door het NIOD Instituut voor Oorlogs-, Holocaust- en Genocidestudies* (Amsterdam: Boom).
- NIOD (2016b) *Summary Exploratory Survey Assignment and Historical Background*. Available from <http://www.niod.nl/sites/niod.nl/files/Summary%20English.pdf>.

- OCW (1996) Onderzoeksopdracht inzake Srebrenica [Research Commission on Srebrenica by Ministry of Education Culture and Science] 18 October, kst-25069-1.
- Parlementaire Enquêtecommissie Srebrenica (2003) 'Missie zonder vrede: Eindrapport Parlementaire enquête commissie'.
- Pijpker, J. (2016) 'Veel meer veteranen sluiten zich aan bij claim Dutchbat', *NRC.nl*, 26 September.
- Rechtbank Den Haag [The Hague Court] (2014) 'Judgement Mothers of Srebrenica v. State of the Netherlands.' 16 July.
- Rijdsijk, E. (2012) *Lost in Srebrenica. Responsibility and Subjectivity in the Reconstructions of a Failed Peacekeeping Mission* (Amsterdam: VU University).
- Rijdsijk, E. (2014) "'Forever Connected". State Narratives and the Dutch Memory of Srebrenica' in D. Zarkov and M. Glasius (eds.) *Narratives of Justice In and Out of the Courtroom. Former Yugoslavia and Beyond* (London: Springer), pp. 131–146.
- Rohde, D. (1997) *A Safe Area. Srebrenica: Europe's Worst Massacre Since the Second World War* (London: Pocket Books).
- Runia, E. (2004) "'Forget about it". "Parallel processing" in the Srebrenica Report', *History and Theory*, 43(3), 295–320.
- Tijdelijke Commissie Besluitvorming Uitzendingen. (2000) *Voortgangsrapportage Rapport Besluitvorming uitzendingen*. (KST47349_2). Tweede Kamer.
- Tweede Kamer [Dutch Lower House] (1996a) 'Onderzoeksopdracht inzake Srebrenica. Verslag van een algemeen overleg' [Research commissioning on Srebrenica: Report on general discussion] 31 October, kst-25069-6.
- Tweede Kamer [Dutch Lower House] (1996b) 'Parliamentary Debate in response to discussion on Research Commissioning on Srebrenica to NIOD of 31 October 1996', 13 November, Handelingen TK, 1996–1997, No. 25.
- UN (1999) *Srebrenica Report. Report of the Secretary-General Pursuant to General Assembly Resolution 53/35 (1998)* (New York: United Nations).
- Van den Herik, L. (2015) 'Accountability Through Fact-Finding: Appraising Inquiry in the Context of Srebrenica', *Netherlands International Law Review*, 62(2), 295–311.
- Van Mierlo, H. A. F. M. O. (1996) 'Brief van de Minister van Buitenlandse Zaken: Onderzoekopdracht inzake Srebrenica' [Letter by the Minister of Foreign Affairs: Research assignment on Srebrenica] 28 October, kst 25069-2.
- Wallagh Bologh, R. (2009) *Love Or Greatness: Max Weber and Masculine Thinking* (New York: Routledge).
- Weber, C. (1998) 'Performative states', *Millennium: Journal of International Studies*, 27(1), 77–95.
- Zarkov, D. (2002) 'Srebrenica Trauma. Masculinity, Military and National Self-image in Dutch daily Newspapers' in C. Cockburn and D. Zarkov (eds.) *The Postwar Moment. Militaries, Masculinities and International Peacekeeping* (London: Lawrence and Wishart), pp. 183–203.

Memory Institutions and Policies in Colombia: The Historical Memory Group and the Historical Commission on the Conflict and Its Victims

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Abbreviations

CNRR Comisión Nacional de Reparación y Reconciliación
GMH Grupo de Memoria Histórica
CNMH Centro Nacional de Memoria Histórica
CHCV Comisión Histórica del Conflicto y sus Víctimas

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INTRODUCTION

Before the 1960s, the armed conflict in Colombia took place between the traditional political parties: the Liberals and the Conservatives.¹ Since this time, the 1960s, the armed conflict in Colombia has been characterized by revolutionary and insurgent violence on the one hand, and state-led suppression of social mobilizations, leftist groups, and counterinsurgency actions. In the last decades of the twentieth century and the first decades of the twenty-first, the armed conflict was exacerbated and became more complex through the intensification of drug trafficking, paramilitarism and the expansion of insurgent actions in central zones of the national territory. All of this illustrates the complexities characterizing the Colombian state, and its fragmentation and uneven spatial and temporal presence in the national territory (González Posso 2014).

During the first decade of the twenty-first century, there were several attempts to end, or at least soften, the conflict. Between 2002 and 2011, a door was opened to negotiation with the paramilitary groups. Yet, at the same time the military policies against the guerrillas intensified. From 2012 on, a new process of talks was initiated between the state and the guerrilla organization, the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*, FARC). In October 2016, the agreements were submitted to endorsement by the civil society: the No side won the plebiscite and a renegotiation between the FARC and the government took place. At the end, the Constitutional Court stated that the renegotiated agreements that won the plebiscite should be endorsed by the congress. Presently, the agreements are being implemented.

Although at the international level many hold great expectations, at the national level there is still a great deal of doubt and skepticism. At the same time, talks between the government and the National Liberation Army (*Ejército de Liberación Nacional*, ELN) have also been taking place. The aim of these talks is to involve the ELN in a lasting peace process and to put an end to the Colombian armed conflict, which remains the longest running conflict in Latin America. These efforts constitute a historical and unprecedented development in the region.²

In this context, the Colombian state has implemented different memory policies. Some of these policies materialized in the National Commission for Reparation and Reconciliation (*Comisión Nacional de Reparación y Reconciliación*, CNRR) established in 2007; the Historical Memory Group (*Grupo de Memoria Histórica*, GMH) established in 2008, and the National Center for Historical Memory (*Centro Nacional de Memoria Histórica*, CNMH), established in 2011. These institutions were Colombian state initiatives in the context of the recovery of the truth about paramilitarism. In 2014, as part of the agreements between the government and FARC, the Historical Commission of the Conflict and Its Victims was implemented (*Comisión Histórica del Conflicto y sus Víctimas*, CHCV) with a predetermined duration of four months starting on August 22, 2014. All of these institutions foresaw the creation of a Truth Commission, once the different warring parties signed the final agreement.

This chapter reviews the different initiatives of the Colombian state to deal with the legacy of the armed conflict, focusing on the GMH and the CHCV because of their importance in the current situation in Colombia. It also analyzes the tensions that these initiatives provoked among the different social and political forces. Lastly, it examines the emerging struggles around public memory (Vinyes 2009; Jelin 2002). In fact, the Colombian case has a peculiar importance because it is not in a “classic” post-conflict transitional situation, but a context where armed conflict is still taking place.

Methodologically, the chapter proceeds through an investigation of the texts of the most relevant reports of the aforementioned commissions, as well as the official documents giving them their legal foundation. It also examines the different discussions around these reports in periodical publications of the private media. This work builds on two studies in the field of memory policies and their impact on the configuration of political subjectivities, with a focus on social and cultural history.

The chapter has three parts: the first part sets out the historical and legal context in which the GMH and the CHCV emerged and the institutional demands that spurred their activities. The second part discusses some of their findings as well as the debates around them. In the third part we reflect on the state and Colombian public policies on conflict memory and its effects on the tropes of identity of the Colombian people. We also discuss the importance of implementing a pedagogy of memory of recent history. At the end of this chapter we close with conclusions or perspectives.

THE HISTORICAL CONTEXT AND THE INSTITUTIONAL DEMANDS MADE TO THE COMMISSIONS

Colombia has been one of the countries with the largest number of official commissions studying violence since the second half of the twentieth century. Nevertheless, state-led attempts to establish the official truth on the cycle of violence brought about by the emergence of guerrillas and paramilitaries in Colombia have been rather limited. The Colombian state never supported these commissions to a sufficient extent, and, as a result, their mandates and the subsequent diffusion and appropriation of their nonconsensual findings and noncanonic accounts have had little impact on memory policies and on the general public. Moreover, these commissions have largely operated in the middle of the conflict itself and thus their possibilities for political action have been limited (Jaramillo 2011).

Only in 2000, the issue of how to deal with, or care for, the victims of the armed conflict began to appear on the political agenda of the state. At the same time, different civil society actors made efforts to collect the memories of these victims (MOVICE 2012). This took place in the context of state initiatives to come to an agreement with the different armed groups, including the paramilitaries, the FARC and ELN guerrillas. In this scenario, Alvaro Uribe (president of Colombia from 2002 to 2010) promulgated the Justice and Peace Act, and Juan Manuel Santos (currently the president of

Colombia for a second term) passed the Law of Victims and Restitution of Lands. Both are essential legal frameworks for the implementation of commissions of experts, such as the GMH and the CHCV, which are responsible for reporting on the armed conflict. Yet, although these two commissions operated within the same legal framework and were both created to search for solutions to the conflict, they emphasized different points of view regarding public policy. The interaction between both would prove problematic.

The Historical Memory Group and the Demobilization of the Paramilitary Groups

By the end of 2002, Uribe's government—which maintained a policy of total war with the guerillas—began negotiations with the United Colombian Self-Defense Groups (*Autodefensas Unidas de Colombia*, AUC), an association of different paramilitary groups. The sociopolitical and historical context of the demobilization of the paramilitaries brought about the promulgation of the Justice and Peace Act (975 of 2005) mentioned above. In the period leading up to the issuing of this law, there were heated debates about its contents (Forero 2005; Semana 2005). In principle, the state was merely interested in providing a legal framework for the demobilization of the paramilitaries, but due to tensions with civil society organizations and the Supreme Court it was gradually forced to deal with the issues of truth and reparations for the victims.

The act also brought into legal existence the CNRR and the GMH, the latter devoted solely to research. The GMH was created to ascertain the facts of the armed conflict, a task that involved the identification of perpetrators and damages done as well as an assessment of the effects of the conflict on the general population. The result of their work was the publication of more than 20 specific reports, as well as a global report named *¡Basta Ya! Colombia: memorias de guerra y dignidad* (GMH 2013a) and a documentary film entitled, *No hubo tiempo para la tristeza* (GMH 2013b).

The GMH's global report was published by the time Act 1448 of 2011 (on reparation for the victims and restitution of land) was put into effect. This new legislation represented a sudden shift away from previous policies on memory. This shift was reflected in the rhetoric of politics and in this new legislation: in the period of government of President Uribe, he did not accept that there was an armed conflict in Colombia, but his stance was that there was a terrorist threat.

The Historical Commission of the Conflict and Its Victims and the Talks Between the Government and the FARC

After Alvaro Uribe's two terms in government, the country elected Juan Manuel Santos as president of Colombia. Santos, who would also remain president for two consecutive terms, had been the Minister of Defense under the former president. During his campaign he promised to keep Uribe's policies regarding the peace process. Once elected, however, Santos implemented

different policies, some of them contradicting those of his predecessor. Whereas Uribe attempted to submit and defeat insurgent groups in the battlefield, Santos proposed a negotiated agreement with them. As a result, Uribe and his followers became opponents to the peace process efforts proposed by Santos. The distance between the positions of Uribe and Santos regarding the armed conflict expresses the oscillations and sudden changes in the orientation of public policies throughout the twentieth century.

As mentioned above, Act 1448 focuses primarily on the rights of the victims. By this time (June, 2011), the Colombian government and the FARC began to investigate the possibility of negotiating. The *General Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace* (Mesa de conversaciones 2012) was issued on August 26, 2012. The delegates of the Colombian government and the FARC, as well as deputies of the governments of Norway and Cuba acting as guarantors (Semana 2016), signed the document in Havana in 2014.

The delegations of the national government and the FARC agreed “to establish the Historical Commission of the Conflict and its Victims (CHCV) with the aim of contributing to the understanding of the complexity of the historical context of the internal conflict ... And to provide input for the delegations to discuss the different points of the general agreement pending” (Mesa de conversaciones 2014). This decision demonstrated the lack of consensus on the *¡Basta Ya!* report produced by the GMH. In turn, the CHCV produced a report of its own, as discussed in the following section. But the CHCV was the subject of much debate throughout its existence, a matter also discussed below.

STRUGGLES OVER HISTORICAL MEMORY IN THE NARRATIVES OF THE COMMISSIONS ON THE CONFLICT

Memory Policies in the Narratives of the Historical Memory Group

As already mentioned, the GMH’s research process focused on the analysis of the memory of the victims, stating that the memory of the victims was a key component in understanding the conflict. In this sense, the GMH went beyond the mandate of Act 975, 2005 (on Peace and Justice, see above) and constituted a precedent for the Act 1448, 2011 on victims and the restitution of land. The GMH was committed to finding a way to work simultaneously with the concepts of history and memory and thereby to meet the state mandate (Herrera and Cristancho 2013). By 2010, the GMH included intellectuals from different disciplines (sociology, history, psychology, philosophy, anthropology, political sciences, social work, law): Gonzalo Sánchez (coordinator), Andrés Suárez, César Caballero, Fernán González, Iván Orozco, Jesús Abad Colorado, León Valencia, María Emma Wills, María Victoria Uribe, Martha Nubia Bello, Nubia Herrera, Patricia Linares, Pilar Gaitán, Pilar Riaño, Rodrigo Uprimny, Tatiana Rincón and Álvaro Camacho, among others.

The scholars who worked in the GMH have a background in history and memory studies but these scholars drew on insights from the fields of political history, sociology, and anthropology, as well as gender studies, among others. The GMH worked with what they took to be emblematic cases that highlighted patterns of violence and the victims affected by it. Such cases were defined as follows:

Sites of condensation of multiple processes characterized not only by the nature of the facts, but also by their explanatory force... Every case was established through consultation and negotiation processes with the victims and had their decisive participation as witnesses and researchers. (GMH 2013a, p. 19)

In practice, the work of the GMH covered more than just these emblematic cases, as the researchers included more material than they had initially envisioned. The work of the GMH is very extensive and thus impossible to summarize here. Unlike other committees, whose duration tended to be rather short, the GMH has been working from 2007 to today. During this time it has succeeded in fueling the public memory on the conflict in different ways while simultaneously widening the margin of its analyses and promoting memory efforts in the regions on which they were working.³

¡Basta ya! was a compilation of seven years of work by the GMH published under the Santos government and the framework of the Victims Act. This report represented a turning point in public policy on the conflict. In accordance with international policies driven by the victim paradigm the investigations of the GMH focused on those most affected by the conflict and the possibility of reconstructing their memory (Wieviorka 1998; Vinyes 2009).

The report refers to the importance of promoting political education for “social conversion.” This will allow citizens to value dissent and controversy as the essence of a democratic system and promote the conviction that the state should guarantee both (GMH 2013a, p. 14). The document recommends the adoption of the conclusions of the GMH (2013a, p. 91) in “curricula, educational projects and history and social science books.” In collaboration with the Ministry of Education, pedagogical materials were developed seeking “to position the educational sector as a fundamental vehicle for the construction of citizenship and awareness of the impact of the armed conflict” (Centro Nacional de Memoria Histórica 2015).

Camilo González Posso (2014), coordinator of the Center for Memory, Peace and Reconciliation (a local government institution from Bogotá) questioned the report. He reflected on the lack of analysis of the political system and the fact that the report used an arbitrary periodization of the conflict that was based on the cycles of formation of guerrilla and paramilitary groups (p. 21). Likewise, he criticized the fact that the report limited its research to the armed conflict instead of looking at political violence as a whole. For him this should be the priority of a future Truth Commission (p. 32). The Minister of Defense at the time, Juan Carlos Pinzón, criticized what he felt to

be biases of the report in its account of the conflict. According to Pinzón it is not possible to “accept a memory based on the hypothesis of radical sectors” (El Tiempo 2013). In a similar vein, the newspaper columnist Alfonso Monsalve (2013) stated that “[A] subject as delicate as historical memory should be addressed by intellectuals of all tendencies and not only by those close to the left. This leads to a biased analysis, regardless of what those writing the report believe.” The FARC, in turn, referred to the report as “an input to promote a social and political debate over the war, its origins and its solutions, [which is] also suitable for designing and implementing actions and institutional transformations to guarantee the road to peace and reconciliation” (Giraldo 2013, p. 2). The report attempted to respond to the bitter criticisms raised by rightist intellectuals and sectors: “Rightist groups deride and undermine a task they themselves demanded from the State six years ago” (Giraldo 2013, p. 5). Finally, it was suggested that the report should be supplemented by a further investigation expanding its timeframe and allowing for “a more precise qualification and quantification of the victims and the impact of a war waged by the State.” To this end, it was considered imperative to implement “a large Historical Truth Commission” (p. 4).

Memory Policies in the Narratives of the Historical Commission of the Conflict and Its Victims

It was in this political environment that the CHCV was implemented: it was created as a response to the demands of the FARC in the Havana talks. The FARC requested that an analysis of the conflict should be undertaken by a group of intellectuals and experts chosen by mutual agreement between themselves and the government. The duration of the CHCV was limited to less than one year: from August 2014 to February 2015. The Havana Table appointed 12 commissioners and two rapporteurs with outstanding credentials and different views on the conflict. The commission included intellectuals and scholars (historians, sociologists, political scientists, economists and philosophers) and other outstanding personalities, all of whom received broad public recognition for their work on political violence, regional dynamics of agricultural and territorial conflicts, public policy, drug trafficking and the construction of local memories. It was in the interest of the parties, claimed Eduardo Pizarro, one of the rapporteurs, to show differing views and a “multiplicity of perspectives” on the conflict to be represented in the CHCV. At the same time, Pizarro made clear that the CHVC was not to replace the Truth Commission stipulated in the legislative act of 2011.

The CHCV’s account is 806 pages long and contains two reports and 12 *expert* papers written by each commissioner or expert (CHCV 2015). Although the two rapporteurs were supposed to present a synthesis of the papers, they ended up writing nonconsensual separate documents and publishing all of the commissioners’ papers individually. The lack of agreement and the different interests at stake contributed, among other things, to the invisibility

of the victims: even though the third demand that the guerillas made at the Havana Table called for the examination of the processes of victimization, in the reports that were eventually produced, the victims themselves remained in the background. According to Pizarro, “only some authors addressed the issue (of the victims) and showed the figures of horror with factual data especially from the National Registry of Victims” (Pizarro 2015, p. 75).

The fact that the Commission did not succeed in creating a single report undoubtedly had to do with the different political commitments of the commissioners. Some commissioners emphasized the state’s responsibility for the lack of equal opportunities for all in Colombia, or even for the criminalization of political participation (Giraldo 2015; Gutierrez 2015). Others focused on the interference of the United States in the conflict (Estrada 2015; Vega 2015).

The members of the CHCV did not come to an agreement about the periodization of the conflict either. For practical purposes, they agreed that the current conflict had its origin in the 1980s. However, the individual reports show differences concerning periodization. There was also no agreement on the “names of the war in historical memory,” to cite González Posso. Thus, as the website *Verdad abierta* put it: “A long time shall pass before Colombia comes to a consensus on the history of the armed conflict. For the time being, on the Havana Table of Talks, there are 14 documents interpreting this war” (Verdad abierta 2015).

Some of the commissioners referred sporadically to the works of the GMH and *¡Basta Ya!*, in order to support their analysis, whereas others did so in order to distance their own views from those expressed in the GMH report.⁴ The rapporteurs, meanwhile, never said *¡Basta Ya!* was the basis of their document. In general, they used the GMH reports as bibliographic resources for their papers and nothing more.⁵

The overlap between some members of the two commissions, and some of their tensions, are a clear expression of the public disputes concerning the configuration of public memory in Colombia and the role of the state. Different stakeholders struggle to participate in this contest over public memory. This situation is exacerbated by the fragility of the Colombian state, which is still in the process of stabilization. The Colombian state is still characterized by its lack of presence throughout the national territory. This situation requires a joint effort between the different sectors that are committed to finding nonviolent ways to solve political conflicts and to institute the historical narratives that would make peace possible.

The work of the GMH transcends this juncture, however. The validity of their research is proven by the professional independence of its members and their steady effort to systematize the voices of those most directly affected by the armed conflict and to accompany them in the reconstruction of the social fabric. The CNMH (formerly the GMH) is currently leading a project to create a National Museum of Memory. A human rights archive and files on the

reintegration of paramilitaries (Agreements of Truth) based on testimonial sources are now also available for public consultation. At the time of writing, the GMH continues to work on new reports based on ongoing research. The sources for this research have already been established, and it is hoped they will become more accessible in the future. All of these efforts have collected a basis of documentary heritage that should be maintained by a future Colombian Commission of Historical Truth, to be established once the total cessation of the conflict has been declared.⁶

THE IMPORTANCE OF IMPLEMENTING A PEDAGOGY OF MEMORY

In his classic work on the realms of memory, Pierre Nora refers to the profound transformations that have taken place over the last two centuries regarding the way societies relate to the past. These transformations have led to the questioning of the official histories disseminated by state actors, and to the growing importance given to public memory and the struggles around its narratives. In turn, these developments have led to the creation of new narratives by different stakeholders, not only the historians who previously monopolized these narratives and who formerly played a crucial role in the consolidation of nation-states. There is currently a tension, in many societies, between historians' narratives and those of other actors from different academic fields, civil society and social movements. According to Nora (1984, p. xxii), the end of the historic approach contributed to the production of reports based on memory.

States no longer successfully monopolize the narratives of national communities and historians are no longer the gatekeepers of their interests. Different stakeholders strive to promote their own points of view. In a historical context marked by the emergence of new stakeholders and social subjects, this situation has become all the more complicated. Given these developments, one wonders if it is still possible to write an official history of Colombia. It is not clear if the state has succeeded in monopolizing the macro-narrative of the political violence and armed conflict. Nor has the state been able to control the role of the GMH and the CHCV, and/or the challenges related to the design of educational policies for a pedagogy of the memory of Colombia's recent history. These are extremely difficult issues and this chapter has highlighted several of their complexities.

First, although the political elites claim that the official account of the conflict was to be regarded as a universal truth, the disputes emerging around this "truth" prove that it is not that universal. To some extent, the effects of the armed conflict, the Havana peace negotiations and the analytical diversity of the GMH and the CHCV as well as the discussions generated around their findings all demonstrate in different ways that the intellectual and political sectors of society, at least, believe the state has failed to set up a single official narrative. Nevertheless, the centrality of the conflict is such that, although

there is no agreement on the origin, periodization or solutions to the conflict, the conflict has contributed to tropes of identity of the country, almost as important as the tropes of the colonial, independence or republican periods (Cristancho 2013).

Second, the social and cultural effects of the commissions need to be analyzed while taking into account the context of the different conditions that brought them about. Indeed, the GMH and the CNMH managed to maintain their work for nearly a decade and their publications remain relevant, however, CHCV's work was much more constrained, and ran for a much shorter time period. Furthermore, the methodology of the former is supported by the work with local communities, but the latter has been dominated by academic work, the commissioners' own personal backgrounds in studying social conflict and their experiences dealing with specific communities. In some sectors of Colombian society that were not directly affected by the armed conflict, the work of these commissions and their products are filtered by mass media or influenced by specific interests. In this regard, the state has recognized the need for a pedagogical approach, targeting the general public, that would explain the process of negotiation with the guerrillas and the emerging challenges in the possible post-agreements context.⁷ Unfortunately, an in-depth discussion of this pedagogy is beyond the scope of this chapter.

Finally, an important question remains unaddressed here, namely, what other institutions or individuals have played a significant role in the configuration of narratives with overtones of official history. Who else has been involved in promoting hegemonic memories? Both the school system and the media, television in particular, have played an important role in the socialization and configuration of political subjectivities in the country.

As for the school system, the state has proposed competence standards in social sciences courses concerning the conflict. These standards place more emphasis on general procedural and disciplinary aspects rather than on actual historical contents (Cristancho 2012). Both Act 975 and 1448 prompted the need for educational work on the armed conflict. Act 1732 of 2014 and Decree 1038 recently established that a Peace Chair should be implemented in all basic education institutions in the country.

Meanwhile, on Colombian television, there has been a proliferation of soap operas and series addressing recent history (*El Capo*, *El patrón del mal*, *Los tres Caines*, *Commando élite*, and *Alias el Mejicano*, among others). The broadcasting of these TV programs—both nationally and internationally—has fueled public debates about the country's image and the predominance of the perpetrators over the victims. As a counterpart to these televised representations of the conflict, there has also been a growing production of narrative testimonials in both written and audiovisual formats, although their circulation is still somewhat limited in comparison to the TV shows just mentioned.

A serious and thorough study of both content and audience of the initiatives at the level of the school system and consumers of these television series

would definitely be of great value. Unfortunately such a study exceeds the scope of this work. Yet, we can say that in both cases, the state has only partially assumed its responsibility in the configuration of history. This is mainly because of tensions relating to the process the country is experiencing and the multiplicity of forces, subjects and stakeholders struggling to promote their version of history. We cannot neglect the ongoing process of configuration of the national state and its different presence in the central, regional and local levels throughout its historical development. The state's presence has contributed to the political violence in different parts of the national territory and has hence made it difficult for the state to present itself as a stakeholder that would be able to settle political conflicts and to propose a historical memory that would merge the different representations of the conflict.

A pedagogy of the memory of this recent history and its influence on the current political culture might be able to decipher this complex panorama and to analyze the different stakes, forces and actors working on the construction of historical narratives of the conflict. Ideally this pedagogy would encourage citizens to think critically while simultaneously promoting their agency as autonomous political subjects who are able to question and have an impact on public policy and the configuration of historical memory (Herrera and Velez 2014).

CONCLUSIONS

In this chapter, we discussed the most meaningful Colombian memory policies implemented in the first decades of the twenty-first century against the background of the recent initiatives for a ceasefire. We showed how these policies materialized through CNRR and GMH in 2007 (ascribed in 2011 to CNMH) and, in 2014, with a predetermined duration, and the conformation of CHCV, two formulae in which we find persistent expectations on the creation of a Truth Commission.

We also reviewed the historical context of these commissions. The CNRR and GMH were established in the context of Uribe's mandates (2002–2010) when negotiations with paramilitary groups took place and the “democratic security” policy was implemented. This policy was characterized by an anti-terrorist discourse and by confrontations with the guerrillas. In the meantime and in the framework of the talks between FARC and the government, CHCV aimed at finding a negotiated cessation of the conflict, a process that has been taking place since 2012 during Santos' mandate. This policy led to the signing of the agreement in August 2016 depending for its ratification on a national plebiscite. Although the No side won the plebiscite, the agreement was renegotiated with the leaders of the social sectors that opposed the agreement and, at the end, the Constitutional Court gave way to the endorsement via the congress. Presently FARC are in the process of abandonment of arms.

The GMH has privileged the victims' narrative and has published, among others, the global report *¡Basta Ya! Colombia memorias de guerra y dignidad*

(GMH 2013a). The CHCV, a bilateral commission with more credibility was proposed by the government and FARC (Mesa de conversaciones 2014).

These reports show that in spite of the efforts to produce an inclusive narrative, the task has not been accomplished. In fact, the political debates around the statements of the commissions show different visions and interests in the analysis of the armed conflict. The state does not monopolize the narrative on the conflict and historians are not the gatekeepers anymore. There is an ongoing struggle for the positioning of each point of view in the context of the emergence of new social stakeholders.

In any case, it is evident that there is an urgent need for a shared narrative of the conflict and for a pedagogy of memory with the possibility of affecting Colombian political culture.

NOTES

1. Translated by Miriam Cotes.
2. As a result of the current conflict, Colombia ranks first in the world in cases of forced displacement and deaths caused by landmines.
3. Due to limited space, it is not possible to refer to them here, but they can be found at <http://www.centrodememoriahistorica.gov.co/>.
4. In the report, there are around 20 references to *¡Basta Ya!* Nine of those are from two rapporteurs.
5. There is no reference to this in four of the papers.
6. We are unable to refer to other important efforts made by nongovernmental organizations contributing to the knowledge of political violence and the recent armed conflict because this falls outside the main aim of this chapter.
7. No academics specialized in education and/or pedagogy participated in the commissions.

REFERENCES

- Act 1732 of 2014, September 1 (Republic of Colombia).
- Centro Nacional de Memoria Histórica (2015) *Caja de Herramientas. Un viaje por la memoria histórica. Aprender la paz y desaprender la guerra* (Bogotá: Puntoaparte).
- Comisión histórica del conflicto y sus víctimas (2015) *Contribución al entendimiento del conflicto armado en Colombia* (Havana: Mesa de conversaciones para la terminación del conflicto y la construcción de una paz estable y duradera en Colombia), February.
- Cristancho, J. G. (2012) 'Escuela y políticas de la memoria de la violencia en Colombia. Una mirada a los estándares de competencias en ciencias sociales' (Paper presented at the XVII Jornadas Argentinas de Historia de la Educación, San Miguel de Tucumán, October 17–19).
- Cristancho, J. G. (2013) 'Tigres de papel, recuerdos de película. Memoria, oposición y subjetivación política en el cine argentino y colombiano' (PhD diss., Universidad Pedagógica Nacional (Colombia)).
- Decree 1038 of 2015, May 25. Republic of Colombia.
- El Tiempo (2013) 'Mindefensa lanzó críticas al libro de Memoria Histórica', *El Tiempo*, September 23. Accessed 13 May 2015. <http://www.eltiempo.com/archivo/documento/CMS-13078302>.

- Estrada, J. (2015) 'Acumulación capitalista, dominación de clase y rebelión armada' in Comisión histórica del conflicto y sus víctimas, *Contribución al entendimiento del conflicto armado en Colombia* (Havana: Mesa de conversaciones para la terminación del conflicto y la construcción de una paz estable y duradera en Colombia), February.
- Forero, J. (2005) 'New Colombia Law Grants Concessions to Paramilitaries', *The New York Times*, June 23. Accessed 26 June 2015. <http://www.nytimes.com/2005/06/23/world/americas/new-colombia-law-grants-concessions-to-paramilitaries.html>.
- Giraldo, F. (2013) 'Consideraciones Generales alrededor del informe ¡Basta Ya! del Grupo de Memoria Histórica GMH', *Resistencia Colombia*, August 31. Accessed 15 October 2014. <https://resistencia-colombia.org/index.php/pccc/2973-consideraciones-generales-alrededor-del-informe-basta-ya-del-grupo-de-memoria-historica-gmh>.
- Giraldo, J. (2015) 'Aportes sobre el origen del conflicto armado en Colombia, su persistencia y sus impactos' in Comisión histórica del conflicto y sus víctimas, *Contribución al entendimiento del conflicto armado en Colombia* (Havana: Mesa de conversaciones para la terminación del conflicto y la construcción de una paz estable y duradera en Colombia), February.
- Gutiérrez, F. (2015) '¿Una historia simple?' in Comisión histórica del conflicto y sus víctimas, *Contribución al entendimiento del conflicto armado en Colombia* (Havana: Mesa de conversaciones para la terminación del conflicto y la construcción de una paz estable y duradera en Colombia), February.
- GMH (2013a) *¡Basta Ya! Colombia. Memorias de guerra y dignidad* (Bogotá: Imprenta Nacional de Colombia).
- GMH (2013b) *No hubo tiempo para la tristeza* [Documentary film] (Bogotá: Centro Nacional de Memoria Histórica, 65 min).
- González Posso, C. (2014) 'Los nombres de la guerra en la memoria histórica', *Punto de Encuentro*, 66, 14–32.
- Herrera, M. and Cristancho, J. G. (2013) 'En las canteras de Clío y Mnemosine: apuntes historiográficos sobre el Grupo Memoria Histórica', *Historia Crítica*, 50, 183–210.
- Herrera, M. and Vélez, G. (2014) 'Formación Política en el tiempo presente: Ecologías violentas y pedagogía de la memoria', *Nómadas*, 41, 131–123.
- Jaramillo, J. (2011) 'Expertos y comisiones de estudio sobre la violencia en Colombia', *Estudios Políticos*, 39, 231–258.
- Jelin, E. (2002) *Los trabajos de la Memoria* (Madrid: Siglo XXI).
- Justice and Peace Act 975 of 2005, July 25 (Republic of Colombia).
- Law of Victims and Restitution of Lands Act 1448 of 2011, June 10 (Republic of Colombia).
- Mesa de conversaciones para la terminación del conflicto y la construcción de una paz estable y duradera en Colombia (2012) *Acuerdo General para la terminación del conflicto y la construcción de una paz estable y duradera* (Havana: Mesa de conversaciones para la terminación del conflicto y la construcción de una paz estable y duradera en Colombia), August 26. Accessed 15 October 2013. <https://www.mesadeconversaciones.com.co/sites/default/files/AcuerdoGeneralTerminacion-Conflicto.pdf>.
- Mesa de conversaciones para la terminación del conflicto y la construcción de una paz estable y duradera en Colombia (2014) *Comunicado conjunto*, August 5. Accessed

- 15 January 2015. <https://www.mesadeconversaciones.com.co/comunicados/comunicado-conjunto-la-habana-05-de-agosto-de-2014>.
- Monsalve, A. (2013) 'El informe ¡Basta Ya! no basta,' *El Mundo*, July 28. Accessed 15 October 2013. http://www.elmundo.com/portal/opinion/columnistas/el_informe_basta_ya_no_basta.php#.VmbozWTqiko.
- MOVICE (2012) 'Historia', *MOVICE*, July 24. Accessed 15 October 2015. http://www.movimientodevictimas.org/versionantigua/index.php?option=com_k2&view=item&layout=item&id=2685&Itemid=322.
- Nora, P. (1984) *Les lieux de mémoire* (Paris: Gallimard).
- Pizarro, E. (2015) 'Una lectura múltiple y pluralista de la historia' in Comisión histórica del conflicto y sus víctimas, *Contribución al entendimiento del conflicto armado en Colombia* (Havana: Mesa de conversaciones para la terminación del conflicto y la construcción de una paz estable y duradera en Colombia), February.
- Semana (2005) 'Se calienta el debate por el proyecto de Justicia y Paz,' *Semana*, April 3. Accessed 15 October 2015. <http://www.semana.com/noticias/articulo/se-calienta-debate-proyecto-justicia-paz/71788-3>.
- Semana (2016) 'Colombia bajo los ojos del mundo,' *Semana*, January 23. Accessed 23 January 2016. <http://www.semana.com/nacion/articulo/dialogos-lo-bueno-lo-malo-de-la-verificacion-de-la-onu/457692-3>.
- Vega, R. (2015) 'Injerencia de los Estados Unidos, contrainsurgencia y terrorismo de Estado' in Comisión histórica del conflicto y sus víctimas, *Contribución al entendimiento del conflicto armado en Colombia* (Havana: Mesa de conversaciones para la terminación del conflicto y la construcción de una paz estable y duradera en Colombia), February.
- Verdad Abierta (2015) 'Desacuerdos sobre la guerra', *Verdad Abierta*, February 11. Accessed 15 August 2015. <http://www.verdadabierta.com/procesos-de-paz/farc/5613-desacuerdos-sobre-la-guerra>.
- Vinyes, R. (2009) *El Estado y la memoria. Gobiernos y ciudadanos frente a los traumas de la historia* (Barcelona: RBA).
- Wieviorka, A. (1998) *L'ère du témoin* (Paris: Plon).

Diversified and Globalized Memories: The Limits of State-Sponsored History Commissions in East Asia

Seiko Mimaki

THE RISE OF HISTORY PROBLEMS IN EAST ASIA

One of the largest puzzles regarding so-called East Asian “history problems” is the fact that they emerged only in the early 1980s, almost 30 years after the end of WWII. Why did the Chinese and South Korean governments, who had long been silent on this issue, suddenly begin to accuse Japan harshly of ignoring its wartime atrocities? What domestic and international social forces pushed them to be confrontational? This chapter argues that the rise of “history problems” in the 1980s reflects substantial changes both in the international relations and domestic politics of China, Korea and Japan.

Although Japan had suffered “history problems” throughout the post-war period, at first they remained essentially domestic issues. On August 15, 1945 Japan surrendered to the Allied Powers, a process which led the US occupation forces to undertake sweeping changes in every aspect of Japanese society. The School Education Law was enacted in 1947, which replaced the former system for approving textbooks. Under the new system, nongovernmental publishers created textbooks and submitted them for official examination and approval by the Ministry of Education (MOE). The publishers had freedom to include their own learning methods and ideas in the material, as long as their books met the requirements of the Curriculum Guidelines, a set of curricular standards for Japanese schools.

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As the Cold War intensified, US occupation policies shifted from demilitarization and democratization to economic recovery and social stabilization in order to make Japan a reliable ally in Asia. This policy shift also affected the textbook authorization system. After 1955, the MOE tended to exclude descriptions of the previous war, due to concerns that there might be overemphasis on its atrocities and the suffering it had caused.

Alarmed by the increasing government interference in history education, liberal scholars criticized the MOE textbook screening process for violating basic rights of freedom of thought, expression, and academic freedom. In 1965, Saburo Ienaga, the author of one of the first textbooks on post-war Japanese history, refused to revise his textbook manuscript, which according to the MOE contained too many illustrations of the “dark side” of WWII. He subsequently filed his first lawsuit against the government to prove the unconstitutionality of the MOE textbook screening process. Afterwards, he filed a second lawsuit in 1967 and a third in 1984 (Nozaki and Inokuchi 2000).

In the early 1980s, MOE “censorship” of Japanese history textbooks attracted critical international attention and caused diplomatic frictions with China and South Korea. When the MOE announced the results of the 1981–1982 textbook screening in June 1982, the major Japanese media reported that the term “invasion” toward northern China was replaced by the more moderate term “advancement” during the textbook screening process. Though the information turned out to be wrong, the report prompted official protests from China and South Korea, escalating into a diplomatic conflict. Since then, people in neighboring countries started to investigate the contents of Japanese history textbooks critically and demand “incorrect” texts be revised, asserting that Japan’s school textbooks failed to present adequate accounts of Japan’s responsibility for its colonization of and aggressive war toward its Asian neighbors between 1937–1945.

This incident reflected the intensifying battle between Japanese progressives and conservatives over war history. Since around the 1980s, the conservative politicians in the Liberal Democratic Party, the ruling party since 1955, began to attack school textbooks that they saw were heavily influenced by leftist views, and sought to tighten the textbook screening process (Rose 1998, pp. 68–71). The Japanese media were increasingly wary of governmental intervention in the textbook authorization process.

SOCIAL FORCES BEHIND THE RISE OF EAST ASIA’S HISTORY PROBLEMS

China

The 1982 history debates reflected fundamental changes both in international relations and in the domestic politics of China and South Korea. James Reilly (2011, pp. 468–470) characterized China’s attitudes toward Japan’s wartime

atrocities before the 1980s as “benevolent amnesia,” which was motivated by strategic interest in the survival situation during the Cold War, and by the urgent necessity of deepening economic exchange with Japan through normalizing bilateral relations. In pursuit of industrializing China, the Chinese Communist Party (CCP) began private sector exchanges toward Japan as early as the 1950s. CCP leaders emphasized that the wartime atrocities perpetrated by Japan should be blamed on a small group of militarists, not ordinary Japanese people, who had been the victims of militarism.

Until the 1970s, the CCP retained tight control of collective memory, and even suppressed popular attempts to investigate Japanese war crimes in order to safeguard the Sino–Japanese friendship. There was virtually no public commemoration of the Nanjing Massacre (1937–1938). Japanese atrocities were only briefly mentioned in Chinese high school and college history textbooks, which also contained no mention of Chinese comfort women. Filmmakers and scholars who tried to document Japan’s wartime cruelties were criticized for stirring up unnecessary hatred (Yang 1999, p. 858).

However, such lenient attitudes toward Japanese wartime atrocities drastically changed after the 1982 textbook controversy. Since then, the CCP began bitterly criticizing Japan’s historical amnesia or distortions of history. As Yinan He (2007, pp. 51–55) points out, such a drastic change of China’s attitudes toward Japan’s wartime atrocities should be understood in light of the larger political and socioeconomic context. In 1982, the CCP’s new leader, Deng Xiaoping, was under political and great social pressure. After the end of the disastrous Cultural Revolution, the CCP confronted, in the words of General Secretary Hu Yaobang, a threefold crisis of faith, belief, and trust in its relations with the Chinese people. Deng urgently needed to restore people’s trust in the party in order to further implement his economic reforms and open door policy to the West, which had stirred public resentment through causing economic instability, social inequality, and industrial pollution. The CCP’s legitimacy was further questioned after the violent crackdown of the 1989 Tiananmen Square Incident. With the decline of communist ideology as a source of legitimacy, the CCP desperately needed a new ideological framework to re-establish the regime’s legitimacy and consolidate the nation. They discovered that patriotism could be a useful tool to achieve this goal.

In 1990, the State Education Commission launched the “Patriotic Education Campaign,” which was designed to present youth with detailed information about the so-called “100 years of national humiliation” from the outbreak of the first Opium War in 1840 until the end of World War II in 1945, and the role of the CCP in China’s long struggle for national independence. The Sino–Japanese War from 1937 to 1945, previously regarded as one of many conflicts, was highlighted as the war that led to China’s ultimate victory after its long resistance (He 2007, p. 57). Since 1949, the Chinese history textbooks that adopted Marxist historiography had portrayed Japanese workers and peasants as fellow victims of militant imperialists.

Now this “class struggle narrative” was replaced by the “patriotic narrative,” which emphasized invasions by foreign powers (Wang 2008, pp. 791–792).

Since the late 1980s, museums and public monuments also played significant roles in commemorating national humiliation. The Memorial Hall for the Victims of the Nanjing Massacre was established in 1985, and the Memorial Hall of the Museum of the War of Chinese People’s Resistance Against Japanese Aggression was built in Beijing on July 7, 1987, the 50th anniversary of the Marco Polo Bridge Incident that initiated the Sino–Japanese War. On September 18, 1991, the 60th anniversary of the Manchurian Incident, the September 18 Historical Museum was built in Shenyang, a city in north-east China.

The CCP’s attempts to arouse people’s sense of humiliation succeeded, perhaps too well. Though the essential purpose of the CCP’s patriotic campaign was to stabilize Chinese society, people’s anger toward Japanese historical injustice developed far beyond their expectations. People came to see the entire Japanese nation as “guilty” and “unapologetic,” and increasingly demanded that Beijing take a hardline stance toward Japan over history problems. Irritated by the CCP’s pragmatic approach to Japan, which stopped demanding historical justice to avoid the risk of severely damaging bilateral relations, some historians became activists who vigorously scrutinized Japan’s wartime atrocities. They continued to discover neglected victims, such as Chinese comfort women and forced laborers, and demand official apologies and compensation from the Japanese government even at the cost of Japan–China diplomatic relations.¹

The spread of the Internet and the rise of commercial mass media since the 1990s made it even more difficult for the CCP to control China’s collective memory. In these new media, black-and-white views on wartime history attracted more people than nuanced understanding of history. Seeking commercial profits, these commercial media increasingly focused on Japanese wartime evil-doings with sensational captions and images (Reilly 2011, pp. 485–490).

Korea

Among the numerous controversial issues between Japan and Korea regarding Japan’s wartime atrocities and colonial violence, the comfort women issue has proved the thorniest issue for the last several decades. “Comfort women” refers to young females of various ethnic and national backgrounds, with the majority being Korean, who were forced to offer sexual services to the Japanese military before and during WWII.

Though the existence of the comfort women has long been known, it was only in the 1990s that the problem was recognized as a serious war crime requiring Japanese governmental acknowledgment of Japan’s responsibility. From 1946 to 1948, the International Military Tribunal for the Far East, commonly known as the Tokyo Tribunal, did not punish any Japanese leaders

for their sexual violence. Neither the Japanese nor the Korean governments raised the issue of comfort women during 14 years (1952–1965) of negotiations to conclude their normalization treaty.

In the 1990s, the comfort women issue finally gathered serious attention both within and outside Korea. Pushed by the changing international trends of the post-Cold War period, democratization in South Korea gained momentum, which in its turn empowered civil society and provoked renewed attention to Japan's wartime atrocities. In August 1991, Kim Hak-sun became the first former comfort woman to testify in public about her suffering during WWII. In December 1991, supported by South Korean and Japanese feminists, the first suit by three Korean former comfort women was filed against the Japanese government. In 1993, the Japanese government conducted a hearing of testimonies given by 15 Korean former comfort women in Seoul, which ultimately led to a historical statement by then Chief Cabinet Secretary Yohei Kono. In this statement Kono acknowledged the Japanese military's involvement in setting up wartime brothels before and during WWII, and apologized to the former comfort women.

The renewed attention to the comfort women in East Asia coincided with a global shift in attitudes towards sexual violence (Mimaki 2016). Only relatively recently has rape been recognized as a grave violation of human rights and as a crime against humanity. Large-scale sexual violence in the Yugoslav conflict, which lasted from 1991 to 2001, created international awareness of the need to build a prohibition regime against rape as soon as possible. The 1993 World Conference on Human Rights in Vienna, the International Criminal Tribunal for the former Yugoslavia (ICTY) and for Rwanda (ICTR), which were established in 1993 and 1994, respectively, as well as the Rome Statute of the International Criminal Court (1998) all prosecuted rape as a war crime and a crime against humanity.

The emergence of the comfort women issue, which has increasingly been regarded as a universal human rights issue, posed serious challenges for Japanese school teachers: how can the comfort women issue be taught in the classroom? Even among progressive teachers who had long experience teaching about the Asia-Pacific War from critical perspectives, there were initial reservations regarding the inclusion of the comfort women issue in their curriculum. As Yoshiko Nozaki (2001, pp. 179–180) points out, in order to handle the comfort women issue, which lies at the intersection of nationalism and feminism, teachers needed to overcome not only racial and ethnic prejudices but also gender prejudices, and for most of them it was not an easy task.

THE CREATION OF STATE-SPONSORED HISTORY COMMISSIONS

After the 1982 history disputes, the pendulum swung to the left. In pursuit of harmony with neighboring countries, then Chief Cabinet Secretary Kiichi Miyazawa issued a statement promising to add a "Neighboring Countries Clause" to the screening criteria. This clause requires textbooks

to show understanding and co-operation in their treatment of modern and contemporary historical events involving neighboring Asian countries.² Since the mid-1980s, Japanese history textbooks have increasingly paid attention to Japan's wartime misconduct. In 1997, all of the Japanese junior high school textbooks approved by the Ministry of Education included references to comfort women and a detailed description of the Nanjing Massacre (Beal et al. 2001, p. 178). To stop the further deterioration of regional relations, in 1997 the governments of Japan and Korea established a Joint Committee to Promote Historical Research in Japanese and Korean History, which invited prominent historians from both countries to conduct history dialogues.

Since the mid-1990s, however, Japanese history education has witnessed a nationalist backlash. Irritated by the government's "capitulations" to Chinese and South Korean pressure since the mid-1980s, a group of Japanese nationalists maintained that Japanese history education should belong to the Japanese only, and should not allow foreign interference in the field. One of the vocal proponents of patriotic education, Nobukatsu Fujioka, Professor at the University of Tokyo, established the Liberal View of History Study Group. Its purpose was to "reform" Japanese history education in order to make young people proud of their country, and its members saw extant history education as having imposed a "masochistic" view of modern Japanese history on students through exclusively focusing on its dark side. In 1996, Fujioka and others founded the Japanese Society for History Textbook Reform (*Atarashii Rekishi Kyokasho wo Tsukuru Kai*), and began to compile a history textbook that glorified the Asia-Pacific War as having "liberated Asia from Western imperialism" and honored Japanese soldiers for having selflessly sacrificed their lives for their country.

After requiring over hundred corrections, in April 2001, the Ministry of Education finally approved the *New History Textbook*, published by the *Fusōsha* Company. Originally, the textbook screening process aimed at preventing excessive governmental intervention in creating textbooks, and giving nongovernmental publishers more freedom in choosing their teaching methods and materials as long as they met the MOE Curriculum Guidelines. However, it enabled these nationalists' publication of their history textbook as long as they made the necessary corrections.³ The approval of an apparently revisionist textbook immediately generated a great deal of civic protest in China and South Korea. These protestors insisted that even after numerous corrections, the contents of the textbook remained fundamentally jingoistic. The Chinese and Korean media also highlighted Japan's "significant move toward historical revisionism."

The *Fusōsha* textbook was eventually adopted by fewer than 0.04% of junior high schools in 2002. In addition to civic protests in various regions, the Japanese Teachers' Union, the largest and oldest labor union of teachers and school staff in Japan, denounced the *Fusōsha* textbook, which made it difficult for schools to adopt the book. With the co-operation of progressive

media such as the *Asahi Simbun*, the majority of Japanese historians criticized the *Fusōsha* textbook, which might also have influenced the decision of local school boards (Kim 2008, pp. 103–104; Mitani 2008, p. 86).

Nevertheless, the *New History Textbook* gained a wide range of grassroots support. Though textbook publishers were subject to restrictions on distributing and advertising textbooks to the general public during the period when local school boards selected their books, *Fusōsha* went ahead and publicized the *New History Textbook*. Justifying their actions, *Fusōsha* insisted that “the text has been the victim of selective quotes by critics in the media” and that they “wanted to make it available to be judged in its totality.” As a result, the *New History Textbook* climbed to near the top of the best-seller list (Ashby 2001).

The *Fusōsha* textbook crisis made political leaders aware of the menace of history disputes. Immediately, Japanese Prime Minister Koizumi Junichirō and South Korean President Kim Dae-Jung agreed to handle this crisis via official institutions, which led to the creation of the bilateral Joint History Research Committee in 2002. Subsequently, Japanese and Chinese governments launched another official history commission in 2006. This initiative came at a moment when Japan–China relations were even more adversely impacted after Prime Minister Koizumi in 2005 paid a visit to the Yasukuni shrine, which honors war criminals alongside Japan’s other war dead, and the second edition of *Fusōsha*’s textbook was published.

This trend continued into the 2010s. Although we should not undervalue the significance of how governments institutionalized East Asian history dialogues in the 2010s, the results revealed a deep gap between Japan and its former victims in their understanding of modern history. The 2010 reports issued by the Joint History Research Committee revealed rifts between Japanese and Korean views on modern history. Though both sides agreed in principle that each should acknowledge multiple interpretations of history and respect the other’s views (Japan-ROK Joint History Research Committee, 2010a, p. 4), actual discussions showed otherwise. The South Korean group criticized how none of the Japanese history textbooks had referred to the 1910 Japanese annexation of Korea as illegal (Japan-ROK Joint History Research Committee, 2010b, pp. 343–346). The Japanese group pointed out that Korean history textbooks had neither referred to Japan’s Peace Constitution reflecting the anti-war sentiment of Japanese people, nor to Japan’s publicly expressed remorse for past wrongdoings such as the 1995 official government apology for pre-war Japan’s colonial rule and aggressive war issued by then Prime Minister Tomiichi Murayama (Japan-ROK Joint History Research Committee 2010b, pp. 381–382).

The dialogues between Japan and China also faced numerous difficulties. Both sides disagreed over specific issues such as the number of victims in the Nanjing Massacre, and also over the fundamental purpose of the commission. Although Chinese participants emphasized that each side should

aim at sharing the “right” historical perception, the Japanese side stressed the need to “agree to disagree,” saying that the study of history should allow for diverse perspectives, and therefore that the goals of the research should be to understand and respect the other side’s position rather than to confirm one “correct” interpretation of history (Kawashima 2010, pp. 26–27; Shoji 2008). They also split over methodology. The Japanese side insisted on the importance of exploring counterfactual possibilities other than the Sino–Japanese war, and the Chinese side stressed an inevitable flow of events, and depicted modern Sino–Japanese history as Japan’s constant “invasion” and China’s persistent “resistance” (Shoji 2008, p. 3).⁴

In addition, the Japan–China commission faced an additional difficulty of involving a democratic country where freedom of the press is guaranteed and a nondemocratic country where the media are heavily influenced by the state. After the final draft for public release was completed by the scholars and handed over to both governments, the Chinese foreign ministry requested the Japanese side to make large revisions in their wording and content, much of which they regarded as requiring secrecy. Eventually, significant portions of the comments originally supposed to be made public were not released, and the final report failed to contain fundamental information as to what was discussed, to what extent the two sides compromised, and what challenges remained (Kawashima 2010, pp. 33–34, 38–39).

NONGOVERNMENTAL HISTORY COMMISSIONS AND THE PUBLICATION OF *A HISTORY THAT OPENS TO THE FUTURE*

At the nongovernmental level, there were more fruitful moves toward closing the gaps in historical understanding among East Asian countries. With the intent of producing an alternative to the revisionist *Fusōsha* textbook, teachers and activists from Japan, China, and Korea gathered at Beijing in 2001. Their efforts finally led to the publication of *A History That Opens to the Future* (2005), a jointly written supplementary history textbook, which covers the modern period and the numerous wars East Asia experienced in it.

The content of *A History That Opens to the Future* is path-breaking in numerous ways. In addition to frankly admitting Japan’s wartime atrocities and Japan’s responsibilities, it introduces the concept of individual responsibility. In the writing process, Japanese authors raised the question of the responsibility of ordinary Japanese people, emphasizing that WWII was a “total war” where not only combatants but civilians got involved in war efforts (Saito 2008, pp. 60–67).⁵

The other important discussion was held over the description of the US atomic bombings of Hiroshima and Nagasaki, which major Korean history textbooks have not even briefly mentioned (Shin and Snider 2011, p. 36). At the beginning, both the Chinese and Korean authors insisted that references to Japanese victimhood would obscure Japan’s war responsibility, implying

that the use of the atomic bomb contributed to the end of the war and saved many Asians from being killed by the Japanese military. After a lengthy discussion, they eventually agreed to include detailed accounts of the devastation of Hiroshima and Nagasaki (Saito 2008, pp. 76–80). In addition to Japanese victims, *Future* draws attention to non-Japanese victims including Allied POWs, Chinese, and Koreans, emphasizing that most of these non-Japanese victims have not received enough medical care and compensation (Nichi Chū Kan Sangoku Kyōtsu Rekishi Kyōzai Iinkai 2005, p. 157).

Significant progress was also achieved in critical analysis of the Nanjing Massacre. Under government pressure, the textbook's Chinese authors prepared detailed descriptions of the atrocities that included vivid pictures of victims and emphasized “300,000” as the number of massacre victims, reflecting the official estimate engraved on the entrance to the Nanjing Massacre Memorial Hall. Over the course of the discussion, however, Chinese participants finally agreed on the importance of understanding the whole context of the incident, rather than simply emphasizing the massive death toll and the savagery of the imperial Japanese military (Saito 2008, pp. 52–59).

A History That Opens to the Future, as the first common supplementary textbook in East Asia, gathered considerable public attention in each country upon its release. In China, it was featured by more than sixty newspapers, both national and local, and received the prize for the best educational book in 2005 from the *People's Daily*. In Japan, it was covered by about twenty newspapers as well as on TV, and received a special award from the Japanese Journalists Association in 2005. In Korea, then-President Roh Moo-hyun praised the book in a special message delivered at a party to celebrate its publication, and reportedly recommended the book to Japanese Prime Minister Junichiro Koizumi. By the end of 2007, the total circulation figures for the textbook amounted to around 270,000–130,000 in China, 60,000 in Korea, and 79,000 in Japan (Saito 2008, pp. 81–84; Yang and Sin 2013, pp. 220–222).

However, there are still many obstacles to effecting real change in history education within East Asia. Though *A History That Opens to the Future* has been occasionally used in university courses on East Asian history or Japanese language, it has seldom been used in schools thus far. Regarding the content, the majority of the historians welcomed its publication as a symbol of the three countries' cooperation, yet regarded it as a product of compromise that partly sacrificed academic rigor (Saito 2008, p. 85). Even bigger challenges lie in the gaps among the three countries in their textbook system and the educational system. In theory, the current Japanese textbook system is open to any publisher as long as their textbook meets the MOE criteria. However, the final decision on which books to use rests with local boards of education in the case of public schools, and with the schools themselves in the case of private institutions. This provides newly approved textbooks with few opportunities to be adopted. In the case of China, modern and contemporary

Chinese history, as an essential part of its “Patriotic Education,” is a required core course in high school, and for each textbook, the Ministry of Education formulates detailed curricular standards to exercise direct authority over its educational content and teaching methods (Wang 2008, p. 792). This makes it extremely difficult for schools to use an internationally written history textbook. Moreover, in Korea, the recent situation is becoming more like China’s. In October 2015, the South Korean President Park Geun-hye endorsed the Ministry of Education’s plan to establish a single, state-produced history textbook system with the purpose of preventing political strife and ideological conflicts over history. Considering these current situations, at least in the foreseeable future, it is highly unlikely that a jointly authored history textbook in East Asia will be widely circulated.

HISTORY PROBLEMS *WITHIN*

Certainly, *A History That Opens to the Future* demonstrated the possibility of building a transnational historical understanding between China, Korea, and Japan through listening to the other’s voices on controversial issues such as the Nanjing Massacre and the United States dropping of the atomic bomb. Nevertheless, many topics remain in need of further discussion.

Throughout modern history, East Asia has suffered not only interstate violence, but also state violence against its own citizens. Critically reflecting on previous attempts at East Asian historical reconciliation, Hiroshi Mitani (2014), one of the most active participants in a series of dialogues on this topic, pointed out that the previous dialogues focused almost exclusively on the atrocities by Japanese military, while giving scarce attention to the victims of mass murder by one’s own states or one’s compatriots during the post-war period. For example, huge numbers of people suffered unnatural deaths in the 10 years of the Cultural Revolution, but their victimhood has gone largely unremarked. It is absolutely true that the scale of Japanese atrocities during WWII was appalling. Still, he argues, from a humanitarian perspective, that the victims of mass murders committed by compatriots also require attention.

In East Asia, each country has huge debates over state violence toward its own citizens. In the case of China, as far as the CCP leaders are concerned, they still continue to avoid talking about the horrendous sufferings caused by their policies such as Mao’s “Great Leap Forward” policy, the Cultural Revolution, and the violent government crackdown on the Tiananmen Square protests. At the level of civil society, however, the discourse of some intellectuals and former Red Guards shows attempts to reflect critically on their actions during the Cultural Revolution, thereby shedding light on their own country’s role as a perpetrator of violence (Chung 2013).

South Korea has also witnessed a widening divide over violence committed against fellow Koreans. In 2013, a history textbook written by “New Right”

scholars was published by the *Kyohak* Publishing Company. This textbook had been criticized by mainstream historians for numerous factually wrong descriptions, but it passed the final review for authorization. The textbook emphasized the accomplishments of the post-WWII authoritarian military regimes led by Syngman Rhee and Park Chung-hee, while saying little about how democracy was repressed during their terms. It also justifies state violence against civilians—such as the April 3 Massacre in Jeju in 1948 and the Gwangju Massacre in 1980—by describing the civilian resistance as “riots” (*Hankyoreh* 2013; Denney 2015).

Japan also has serious domestic history problems over the Battle of Okinawa in 1945, the only conflict during WWII on Japanese soil that involved a large number of civilians. Its description has caused fierce debates in Japan since the 1982 textbook screening process, during which the MOE asked several publishers to revise the assertion that the Japanese military forced people in Okinawa to commit mass suicide. The debate still continues today. In March 2007, the MOE ordered textbook publishers to delete passages stating that the Imperial Army ordered civilians to commit mass suicide during the battle of Okinawa. In explaining its order, the MOE said that it had not been confirmed whether the Japanese Army coerced the mass suicides, which immediately invoked vocal criticism not only from Okinawan people but from those abroad who had been concerned with Okinawan people’s plights (Onishi 2007; Sieg 2007).

Recently, Okinawan people have increasingly strengthened their appeal to the world to gain worldwide sympathy with their historical and ongoing plights. The *Ryūkyū Shimpō*, a leading Okinawan newspaper, constantly reviewed the annual textbook screening by the MOE. In 2014, they published *Descent into Hell: Civilian Memories of the Battle of Okinawa*, which contains dozens of wartime accounts by Okinawan people. In the spring of 2015, they reported that although seven out of eight Japanese history textbooks mentioned “group suicide” during the Battle of Okinawa, none referred to “forcible suicide” (*Ryukyu Shimpō* 2015).

NEW DYNAMISM—GLOBALIZATION OF MEMORY

Since the mid-1980s, historical dialogues have accumulated among China, Korea, and Japan at both the governmental and nongovernmental levels. However, neither kind of dialogue has succeeded in improving the situation. It is high time to reflect on what has been wrong in East Asian history dialogues.

First, we should understand that not only in a democratic state such as Japan and South Korea, but also in a communist country like China, it is no longer possible for a state to control collective memory entirely. It is true that, as many Japanese participants in history dialogues observed, CCP’s heavy influence on Chinese participants in the history dialogues obstructed

progress in building transnational understanding. Nevertheless, it is wrong to regard state control on history education as the sole cause of the problems. Though people often optimistically assume that democratization and liberalization can promote international understanding, East Asian history problems show the opposite of this assumption. The problems have been intensified and complicated with progress in democratization and liberalization, which have unleashed long-suppressed or marginalized voices in society.

Second and more fundamentally, previous dialogues, whether at the governmental or nongovernmental level, tended to confined their attention to the school textbooks themselves. As this chapter shows, East Asian history problems have never been a debate purely over how to interpret the past events. The rise and fall of history problems have been closely intertwined with substantial changes in domestic and international situations since the early 1980s. Nevertheless, neither kind of dialogue has paid sufficient attention to these complicated domestic or international surroundings.

Today we are witnessing the emergence of another new dynamic, that of universalization and globalization of East Asian history problems. In our age of globalization, phenomena that move across borders include not only people, commodities, technology, and capital, but also ideas, images, and memories. In 2015, UNESCO added Nanjing Massacre documents to its Memory of the World Register, a program established in 1992 to preserve and ensure access to documentary heritage of “world significance and outstanding universal value.” The UN Human Rights Committee increasingly emphasized that the wartime system of sexual enslavement is an issue of universal human rights present on almost every battlefield today, and that, therefore, the comfort women issue should not be relegated to history. In 2015, Okinawan Governor Takeshi Onaga delivered a speech at the UN Human Rights Council in Geneva, where he insisted that historically, Okinawan people’s right to self-determination and human rights have been neglected, and that the world must pay attention to the situation at Henoko, where a US base has been expanded against local will.

Previously, at both governmental and nongovernmental levels, most history dialogues in East Asia have been conducted among nationals of the three countries on the assumption that the Nanjing Massacre, the comfort women, and other atrocities and violence conducted by the imperial Japanese military were primarily an issue of Japan as perpetrator and China and South Korea as victims. However, that assumption is under fundamental questioning today, as these tragedies have increasingly been shared and recognized as a genre of suffering that exists globally. Given this situation, a better pathway toward East Asian historical reconciliation can be found in further sharing tragic memories beyond national borders rather than in burying them within the same lines.

NOTES

1. On the various forms of their activities, see Reilly (2006).
2. Ministry of Education, Culture, Sports, Science and Technology http://www.mext.go.jp/b_menu/hakusho/html/others/detail/1318346.htm. Accessed on 30 August 2016 (Japanese).
3. To overview Japanese textbook system, see Mitani (2007).
4. For more details on the discussions of Japan–China joint history research committee, see Ministry of Foreign Affairs (2011), Kitaoka (2007, 2010).
5. On the novelty of *A History That Opens to the Future*, see also Otsuki (2011). The English version, translated by a group of scholars at the University of Hawaii, is now available. China-Japan-Korea Common History Text Tri-National Committee (2015).

REFERENCES

- Ashby, J. (2001) 'Controversial Textbooks are Big Sellers for *Fusosha*', *Japan Times*, July 15. <http://www.japantimes.co.jp/culture/2001/07/15/books/book-reviews/controversial-textbooks-are-big-sellers-for-fusosha/>. Accessed 30 August 2016.
- Beal, T., Nozaki, Y., and Yang, J. (2001) 'Ghosts of the Past. The Japanese History Textbooks Controversy', *New Zealand Journal of Asian Studies*, 3(2), 177–188.
- China-Japan-Korea Common History Text Tri-National Committee (2015) *A History to Open the Future. Modern East Asian History and Regional Reconciliation* (Honolulu: The University of Hawai'i at Mānoa School of Pacific and Asian Studies).
- Chung, C. K. M. (2013) 'Rethinking, Reflection, Repentance. Comparing "Coming to Terms with the Past"' in *Europe and China. Paper for European Union Academic Programme Hong Kong*, 1–23. http://europe.hkbu.edu.hk/euap/publication/Europe-China%20VgB%20paper%20draft_17dec2013.pdf. Accessed 30 August 2016.
- Denney, S. (2015) 'South Korea's Other History War', *Diplomat*, October 16. <http://thediplomat.com/2015/10/south-koreas-other-history-war/>. Accessed 30 August 2016.
- Hankyoreh (2013) "New Right" Textbooks Present a Distorted View of History. June 1. http://www.hani.co.kr/arti/english_edition/e_national/590046.html. Accessed 30 August 2016.
- He, Y. (2007) 'Remembering and Forgetting the War. Elite Mythmaking, Mass Reaction, and Sino-Japanese Relations, 1950–2006', *History and Memory*, 19(2), 43–74.
- Japan-ROK Joint History Research Committee (2010a) 'Minutes of the Second Round General Meeting (Japanese)'. <http://www.jkcf.or.jp/projects/kaigi/history/second/>. Accessed 30 August 2016.
- Japan-ROK Joint History Research Committee (2010b) 'Minutes of the Textbook Subcommittee (Japanese)'. <http://www.jkcf.or.jp/projects/kaigi/history/second/>. Accessed 30 August 2016.
- Kawashima, S. (2010) 'The Three Phases of Japan-China History Research. What Was the Challenge?', *Asian Perspective*, 34(4), 19–43.
- Kim, M. (2008) 'Myths, Milieu, and Facts. History Textbook Controversies in Northeast Asia' in T. Hasegawa and K. Togo (eds.) *East Asia's Haunted Present*.

- Historical Memories and the Resurgence of Nationalism* (Westport: Praeger Security International), pp. 94–118.
- Kitaoka, S. (2007) 'Nitchū Rekishi Kyodō Kenkyū No Shuppatsu. Jijitsu No Tankyū Ni Motozuite' ['Launch of the Japan-China Joint History Research. Based on the Search for the Truth'], *Gaiko Forum*, 20(5), 14–20.
- Kitaoka, S. (2010) 'A Look Back on the Work of the Joint Japanese-Chinese History Research Committee', *Asia-Pacific Review*, 17(1), 6–20.
- Mimaki, S. (2016) 'Norm Dynamics and Reconciliation-Japan, US, and East Asia' in P. Tolliday, M. Palme and D. Kim (eds.) *Asia-Pacific Between Conflict and Reconciliation* (Göttingen: Vandenhoeck & Ruprecht), pp. 266–274.
- Ministry of Foreign Affairs (2011) 'Japan-China Joint History Research Report', March. http://www.mofa.go.jp/region/asia-paci/china/pdfs/jchrr_mch_en1.pdf. Accessed 30 August 2016.
- Mitani, H. (2007) *Rekishi Kyōkasho Mondai* [History Textbook Problem] (Tokyo: Nihon Tosho Center).
- Mitani, H. (2008) 'The History Textbook Issue in Japan and East Asia. Institutional Framework, Controversies, and International Efforts for Common Histories' in T. Hasegawa and K. Togo (eds.) *East Asia's Haunted Present. Historical Memories and the Resurgence of Nationalism* (Westport: Praeger Security International), pp. 83–93.
- Mitani, H. (2014) 'Why Do We Still Need to Talk about 'Historical Understanding in East Asia'', *The Asia-Pacific Journal: Japan Focus*, August 11. <http://www.japan-focus.org/-Hiroshi-Mitani/4161>. Accessed 30 August 2016.
- Nichi Chū Kan Sangoku Kyōtsu Rekishi Kyōzai Iinkai (2005) *Mirai wo Hiraku Rekishi* [A History to Open the Future. Modern East Asian History and Regional Reconciliation] (Tokyo: Kobunken).
- Nozaki, Y. and Inokuchi, H. (2000) 'Japanese Education, Nationalism, and Ienaga Saburo's Textbook Lawsuits' in L. Hein and M. Selden (eds.) *Censoring History. Citizenship and Memory in Japan, Germany, and the United States* (Armonk: M. E. Sharpe), pp. 96–126.
- Nozaki, Y. (2001) 'Feminism, Nationalism, and the Japanese textbook Controversy over 'Comfort Women' in F. T. Winddance and K. M. Blee (eds.) *Feminism and Antiracism. International Struggles for Justice* (New York: New York University Press), pp. 170–189.
- Onishi, N. (2007) 'Japan's Textbooks Reflect Revised History', *International New York Times*, April 1. http://www.nytimes.com/2007/04/01/world/asia/01japan.html?_r=0. Accessed 30 August 2016.
- Otsuki, T. (2011) 'A Point of Connection through Transnational History Textbooks? An Examination of History that Opens to the Future, the Joint History Textbook Initiative of China, Japan and South Korea' in Paulson J. (ed.) *Education, Conflict and Development* (Oxford: Symposium Books), pp. 145–164.
- Reilly, J. (2006) 'China's History Activism and Sino-Japanese Relations', *China: An International Journal*, 4(2), 189–216.
- Reilly, J. (2011) 'Remember History, Not Hatred. Collective Remembrance of China's War of Resistance to Japan', *Modern Asian Studies*, 45(2), 463–490.
- Rose, C. (1998) *Interpreting History in Sino-Japanese Relations. A Case Study in Political Decision-Making* (London: Routledge).

- Ryūkyū Shimpō (2015) 'None of the Textbooks Selected for Junior High Schools Referred to "Forcible Suicide"', April 7 (Japanese).
- Saito, K. (2008) *Chūgoku Kyōkasho to Higashi Ajia Rekishi Taiwa* (*Chinese History Textbook and Historical Dialogues in East Asia*) (Tokyo: Kadensha).
- Shin, G. and Snider, D. (2011) (eds.) *History Textbooks and the Wars in Asia. Divided Memories* (New York: Routledge).
- Shoji, J. (2008) 'Outlook for the Japan-China Joint History Research Committee', *National Institute for Defense Studies News*, 127, 1–5.
- Sieg, L. (2007) 'Historians Battle over Okinawa WWII Mass Suicides', *Reuters*, April 6. <http://www.reuters.com/article/us-japan-history-okinawa-idUST29175620070406>. Accessed 30 August 2016.
- Yang, D. (1999) 'Convergence or Divergence? Recent Historical Writings on the Rape of Nanjing,' *American Historical Review*, 104(3), 842–865.
- Yang, D., and Sin, J. (2013) 'Striving for Common History Textbooks in Northeast Asia (China, South Korea and Japan). Between Ideal and Reality' in K. V. Korostelina and S. Lässig (eds.) *History Education and Post-conflict Reconciliation. Reconsidering the Joint Textbook Project* (New York: Routledge), pp. 209–229.
- Wang, Z. (2008) 'National Humiliation, History Education, and the Politics of Historical Memory. Patriotic Education Campaign in China', *International Studies Quarterly*, 52(4), 783–806.

Switzerland's Independent Commission of Experts: State-Sponsored History and the Challenges of Political Partisanship

Alexander Karn

The exposure in 1995–1996 of so-called “dormant accounts” retained by Swiss banks in the aftermath of the Holocaust provoked a series of bitter, but ultimately revealing, debates concerning Switzerland’s wartime activities and the obligation of states to investigate and remedy historical injustices. As questions and criticism mounted concerning the fate of Jewish assets and the role that Switzerland allegedly had played in their spoliation, Swiss banks at first took cover behind institutional secrecy covenants, before issuing a series of increasingly strenuous denials. Frustrated by the crescendo of complaints, one bank official railed, “The Jews murdered in Auschwitz were barefoot; they didn’t have bank accounts in Switzerland” (Levin 1999, p. 1).

Political leaders, too, were initially adamant that Switzerland had done nothing wrong and had nothing to hide. In response to claims made by the World Jewish Congress (WJC) that their investigators had received a trove of documents and artifacts suggestive of wrongdoing, Swiss President Jean-Pascal Delamuraz fired back in late December 1996, calling the WJC’s demand for compensation “nothing less than extortion and blackmail” (*New York Times*, 1 January 1997). Highlighting a “sweeping study,” which his government had commissioned two weeks earlier to investigate the fate of Jewish assets transferred to Switzerland before, during, and immediately after the Second World War, Delamuraz promised “dogged

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research into the historical truth,” but he also claimed that the whole “affair” had been manipulated by the WJC to “demolish the Swiss financial center” and “destabilize and compromise Switzerland.” Coming at the end of his term, Delamuraz’s comments sparked a political and diplomatic crisis, which quickly escalated when it was revealed that a security guard, Christopher Meili, had stumbled across and “rescued” documents marked for the shredder at the Union Bank of Switzerland (UBS) in Zürich, which dated to the 1930s and reportedly related to the forced auction of Jewish properties in Berlin (*New York Times*, 15 January 1997). Although a spokesman for the bank insisted that the documents were not relevant to the larger debate concerning Switzerland’s role in the Holocaust, outsiders were not always convinced. Alfonse D’Amato, who advocated on behalf of Holocaust survivors as a member of the United States Senate Finance Committee, was especially incredulous: “[I]t seems pretty remarkable that they let this stuff sit around for fifty years and then start shredding this month.” In fact, Switzerland’s parliament had passed a law less than one month earlier banning the destruction of any document related to Holocaust-era financial transactions (“Prohibition to Destroy Files”). The purpose of this law, as D’Amato knew, was to ensure that government-commissioned researchers would have full access to all relevant material connected to the search for lost and stolen Jewish assets. Whether UBS deliberately undertook to shred evidence of past wrongdoing, the optics surrounding these revelations were unflattering to say the least, and things would get worse for Switzerland before getting any better.

Not quite two weeks later, Switzerland’s Ambassador to the United States, Carlo Jagmetti, was forced to resign when a leaked document emerged in which he urged his government to “wage war” against D’Amato and the “Jewish circles” who had pressed for compensation (*New York Times*, 28 January 1997). If the specter of shredded documents had cast a shadow of impropriety over the Swiss banks, Jagmetti’s memo threatened to engulf the government in a full-blown scandal and push Switzerland into the category of international pariah. Jagmetti complained that his words had been taken out of context, but many saw his comments as reflecting and feeding a rising wave of public anti-Semitism. By this time (i.e., late-January 1997), the pressure to address the unresolved legacies of the Holocaust in Switzerland had reached a tipping point, and the Swiss would have to grapple not only with a high-profile public relations crisis, but also with painful and difficult questions regarding their nation’s collective memory and self-perception. In this context, state-sponsored history became an important, though by no means perfect, tool for Switzerland to mediate both its external and internal conflicts.

COMMISSIONED HISTORY: SWITZERLAND AND THE HOLOCAUST

The “sweeping study” cited by Delamuraz in his response to the WJC was delegated to a government-appointed panel of historians. The first in a flurry of so-called “Holocaust commissions,” the Independent Commission of Experts (hereafter ICE) was established through a legislative decree of Switzerland’s Federal Council on December 13, 1996. The measure to create this panel received unanimous support in both houses of Parliament, and the commission was given generous funding for a period of five years.¹ The Swiss Council selected Jean-François Bergier, professor of history at the Federal Polytechnical Institute (Zürich), to serve as chairman of the commission. Eight more historians were appointed, including four Swiss (Georg Kreis, Jacques Picard, Jakob Tanner, and Joseph Voyame) and four non-Swiss (Władysław Bartoszewski, Saul Friedlander, Harold James, and Sybil Milton). All were chosen for their expertise in specific aspects of Holocaust history, and two were selected specifically on the basis of their knowledge of Switzerland’s economic history. The commission received a broad mandate, which allowed for significant investigative freedom and flexibility: “to obtain the historical truth and to shed light on the extent and fate of assets which reached Switzerland as a result of the National-Socialist regime” (“Decree and Mandate”). Official communications regarding the creation and launch of the commission highlighted its independence, and commission members, including Bergier, repeatedly stated in their subsequent reports and personal writings that the government upheld its promise of autonomy, despite attempts by some interest groups, both in Switzerland and abroad, to co-opt and influence the investigation for political purposes (Bergier 2002).

The ICE, as previously noted, was the first of several dozen historical experts’ commissions that were convened in Europe during the second half of the 1990s and the early 2000s to deal with contested legacies and injustices stemming from the Holocaust (Karn 2015). Some of these commissions, like the ICE, were state-sponsored, whereas others arose through unofficial (i.e., non-governmental) channels. The genealogy and genesis of these commissions cannot be easily summarized or reduced to a single scenario, however, most appeared in countries where difficult and potentially shameful historical episodes (e.g., entailing evidence of complicity and collaboration with the Hitler regime) had been suppressed in the public discourse, or where contested memories linked to episodes of collaboration had become the object of destabilizing political debate.

In Switzerland, the controversy over dormant accounts and other ill-gotten gains challenged a longstanding myth of “benevolent neutrality” and a widely embraced narrative that painted Swiss national policy during the Second World War in terms of steadfast resistance in the face of an unprecedented threat. Although there had been brief and relatively tame scholarly debates within Switzerland during the 1960s and 1970s that challenged

specific aspects of the neutrality myth, Swiss politicians, and the public at large, mostly resisted what the historiography had started to make clear, that is, Switzerland, in key respects, had been other than (i.e., less than) neutral during the war. Even as new evidence of collaboration with the Nazi regime started to accumulate, Swiss leaders toyed with a doctrine of historical determinism aimed at exculpation. In a speech given in May 1995 to mark the fiftieth anniversary of VE-Day, Switzerland's president, Kaspar Villiger, apologized for the role that Switzerland had played during the Holocaust (e.g., by requesting that Germany identify and stamp with a "J" the passports of its Jewish emigrants) but, in doing so, he conjured a choice-less past, in which Swiss authorities acted according to the imperatives of political realism, while the Jews who suffered in direct consequence, faced what was for the Swiss also an overwhelming, existential threat. "We are guilty of having supported that policy towards the persecuted Jews," Villiger conceded. "But it would be wrong to blame the Swiss authorities in charge at that time. All those in positions of responsibility for the country then acted solely for its well-being, according to their lights. Therefore to nail them to the pillory today would be quite unjust" (Scham 1998).

Failure to abide by the nation's highest ideals is bracketed and offset here by the anarchic and amoral conditions of a world at war. To ensure their own survival, the Swiss had charted a course, which, unfortunately, did not allow for unlimited humanitarian action. The ICE, however, would bring this claim (and its various moral corollaries) in for close examination and reappraisal. Ultimately, the work of the ICE would show that Switzerland's "boat" was not full² and that Swiss authorities failed to abide by values and principles, which, even if they had not yet been fully elaborated and institutionalized during the Nazi era, have become engrained in Swiss political and civic identity in the years since. Some have criticized this project as illiberal and ahistorical (i.e., retrospective justice), but it could also be construed, less rigidly, as an example of "amending the past," that is, standing in a new relation to historical injustice without holding the perpetrators to standards that either did not exist at the time or cannot be applied in any straightforward legal manner (Barkan and Karn 2006; Karn 2006, 2015).

Over five years, the ICE published its findings in 25 volumes, filling more than 11,000 pages. The commission's final report (597 pages) was published in four languages and released to the public in March 2002 (Independent Commission of Experts 2002). Although the members of the ICE did not always agree completely on the complex questions raised in the course of their investigation, their findings converged to a remarkable degree on the four biggest issues: (1) Swiss banking and commercial practices, (2) Switzerland's refugee policy and its consequences for European Jewry, (3) the overall relationship between Swiss industry and the Axis war economy, and (4) the scope and details of Switzerland's post-war restitution programs. In all four areas, the ICE determined that the available evidence pointed to "egregious failure" on the part of the Swiss government and its officials. As Bergier

explained at the commission's final press conference in 2002, "Our task was to shed light upon certain controversial or insufficiently analyzed aspects of history, aspects in which it appeared that [Switzerland's] political authorities and economic decision-makers had perhaps been derelict in assuming their responsibilities" ("Introductory Speech"). Although his qualifier, "perhaps," softens the evaluation and analysis, and although political leaders, including Villiger, had previously acknowledged the "needlessly restrictive" quality of Switzerland's policies concerning Jewish refugees (Ludi 2004), the final report of the ICE (and the strong endorsement it received from the Swiss government at the time) effectively overturned, in ways that previous examinations of the past had not, the myth of neutrality that dominated the public discourse after 1945.

In order to accomplish this, the ICE developed a nuanced concept of guilt and wrongdoing, which focused on impropriety and uncharitable self-interest rather than malfeasance or racist conviction. The final report emphasized that the Swiss could have done more to shield and assist the victims of Nazi persecution, and it acknowledged that Swiss policies contributed in a substantial way to the objectives of the Nazi regime. Yet, the commission also concluded that these mistakes were not the result of malicious intent. Switzerland's errors, according to the ICE, "could not be imputed to a desire to capitalize on the misfortune of the victims." Rather: "The recurrent theme, that runs like a red thread through the thousands of pages of analysis is, indeed, that of a 'business logic first' attitude. The consequence was at best myopia, but more often blindness, with respect to the ... rights of persecutees of the Nazi regime" (Junz 2002). Determined not to paint with an overly broad brush, the ICE was also careful to make allowances for exceptional cases and countervailing evidence. For example, on the question of Swiss refugee policy, the commission found that "large segments of the population" had tried to soften the government's stance, but, ultimately, "they were unable to bend it." Although the commission did not offer an exact tally for the number of refugees turned away, they estimated that an approximately equal number were likely given entrance. Similarly, in the case of post-war restitution of Jewish assets, although the pace had been exceedingly slow, this was due to a misperception regarding the scale of the problem rather than any deliberate wish to deprive victims and their families of what was rightfully theirs. The key principle in this mediating framework was the ICE's readiness to document and acknowledge wrongdoing without imputing a vicious criminal motive to those who may have benefited from such infringements.

Whether we call this a process of negotiation or mediation, or simply see it as a kind of balancing act in a politically sensitive matter, this willingness to explore Swiss guilt in an explanatory framework built on rich and nuanced contextualization is the overarching characteristic of the ICE's work. Based on its examination of bank archives, the ICE concluded: "It was partly due to the conduct of the banks and the federal government that assets belonging

to victims of National Socialism remained in Swiss banks throughout the entire post-war period.” Despite a promise, codified under the terms of the Washington Agreement (1946), to aid in the tracing of victims’ assets at the end of the war, the Swiss banks were less than forthcoming when relatives and heirs of Holocaust victims stepped forward to claim their family property. Although the commission found that there was some truth to the banks’ complaints that records had been badly disheveled before and during the war, making the reconciliation of older accounts difficult, there were also instances of deliberate interference. According to the commission:

There is evidence that banks withheld information about their former clients from these heirs, pointing out that client documents were only kept for ten years after the closure of the account. While the restoration of communications after the war allowed contact to be re-established, this was made more difficult not only by the restrictive information practices of banks but also the Cold War which began in 1948, preventing many clients or their heirs from having access to Swiss accounts. (“Dormant Accounts in Swiss Banks”)

When the banks were pressed to provide additional information in the 1950s and 1960s, procedural errors and inefficiencies concealed many of the “dormant” accounts. In general, the ICE found that banks did as little as possible, as late as possible, to rectify or improve their own methods of accounting, which they knew to be flawed.

The ICE’s report also included findings that might be viewed as mitigating factors for the Swiss banks. Before taking up any of their post-war failings, the commission first reported on conditions between 1931 and 1945.³ This portion of the report refers to the foreign exchange controls enacted in Germany after 1931 and the effects these had on the Swiss banks. Despite efforts to protect their clients’ privacy (not to mention the “balance-sheet relevant” deposits which were crucial to their lending operations), Swiss banks were forced to surrender substantial capital after the Nazi regime enacted punitive measures to combat “capital flight” (i.e., German investments deposited in foreign banks). Although the Swiss sought compensation for funds withdrawn from their “frontier banks” (i.e., Swiss banks along the German and Austrian borders), a great deal of wealth simply disappeared into Germany as a consequence of these policies. This included, of course, many of the assets belonging to Jewish depositors. In other words, the commission found justification for the claims made by some banks that wartime contingencies had made a wreck of their accounts and ledgers. The ICE also acknowledged and accepted the difficulties surrounding the valuation of long-dormant accounts. In certain cases, banks had been ready to disgorge and pay back lost and stolen assets, but then found themselves accused of “low-balling” the victims. As the ICE noted, however, there can be significant fluctuation in the value of certain assets, as a result of legitimate bank and management charges. In other words, the ICE accepted what some banks had claimed regarding real

ambiguities, which made repayment and remediation matters of considerable difficulty. Suggesting that early estimates were clearly too low,⁴ the ICE was not able (or not willing) to propose any estimates of “fair market” value. “On the basis of current sources,” the ICE determined, “it is no longer possible to assess the value of unclaimed assets of victims with the Swiss banks at a specific time after 1945.” Instead, the commission proposed that the final settlement of these claims could be made on the basis of negotiation.

A PLAYTHING FOR POLITICAL INTEREST GROUPS?

There is a growing body of scholarship (e.g., Karn 2015; Pettai 2015; and Barkan 2009) on the politics that surround official (i.e., government-sponsored) historical clarification commissions. Clearly, when governments invest large sums of money (and political capital) in the reappraisal of the past, there is an expectation that the state’s interests will be served in the process. At the same time, the legitimacy of these commissions, as Robert Rotberg (2006) has written, “depends entirely on [their] ability to sift the often contentious and muddled record objectively.” In different ways and to varying degrees, recent historical experts’ commissions have been shaped and constrained by this combination of political expectation and the need to assert themselves as impartial evaluators of the record. Bergier and other members of the ICE have insisted that their work was not unduly influenced by the Swiss government, but with so much at stake, it is not surprising that the commission, at times, threatened to become a “plaything for the political parties and different domestic and foreign [interest] groups” (Bergier, p. 44). Although the Swiss parliament unanimously supported the resolution to launch the commission, showing, in Bergier’s words, “panic-like enthusiasm” for what many MPs regarded as both an option of last resort and a last-ditch effort to save the country’s reputation, rival political groups sought to steer the process and control the conversation surrounding the commission’s research and findings. With so many competing interests trying to shape the outcome, Bergier and the ICE endeavored to ensure that their work would not be seen as the “government’s truth” either by political opposition parties or those who sympathized with them. Without denying or glossing over the effects of subjectivity and ideology on social scientific inquiry, Bergier maintained throughout the process and afterwards that the commission discharged its duties responsibly: “We brought—I hope—clarity to those questions that the mandate posed to us. No less, but no more.” This emphasis on refining and clarifying the questions, as opposed to providing definitive and unassailable answers, served the commission well as both a talking point and a general principle. It helped to dampen some of the controversial aspects of the commission’s work, and it put the investigation into an open framework of transparent research and future-oriented education. As Helen Junz put it, “[t]he main value-added was in putting earlier findings on a firmer basis, adding perspectives, and

providing a broader context” (Junz 2002). Of course, these declarations did not (and do not) completely solve the problem of political partisanship and the encroachment of politics into historical discourse, and the ICE was forced to take additional steps to mitigate the interference from outside interests.

To raise their work above the political fray to the greatest extent possible, Bergier and his team encouraged transparency, and, when necessary, they engaged the media to expose the political interference of outside interest groups. The commission planned and managed its work independently and took no outside advice on the preparation of its public communiqués. Commission members took responsibility for crafting a timetable, research program, and specific work-plan(s) for each aspect of the project, and much of this information was disseminated to the public through a simple, but also content-rich, website. In addition, the ICE took steps to protect against leaks, and personnel attached to the commission signed a confidentiality agreement, which required that the documents and records they examined be kept secret until the publication of the interim and final reports.

The confidentiality agreement actually served a dual purpose. First, although the ICE strove for transparency and public accountability, confidentiality and secrecy in certain sensitive areas helped to ensure that its members would not work at cross-purposes. Conflicts and disagreements within the commission were addressed, by and large, behind closed doors so that the official reports would be written in a unified voice. In this way, the ICE avoided what other Holocaust commissions (e.g., the Skarpnes Commission in Norway) sometimes found necessary: the publishing of separate majority and minority reports (Karn 2015, pp. 28–30). In addition to limiting the potential for public rifts, the confidentiality agreement also helped the ICE gain access to potentially embarrassing and/or incriminating archival records. Concerns that the ICE would expose more damaging evidence were quite real both within the Swiss government and among the leaders of large firms, who had legally binding, fiduciary duties to their shareholders. To win the trust and gain the co-operation of key stakeholders, it was essential for the ICE to avoid any appearance of political score-settling or ideological (e.g., anti-corporate) activism. This was especially true for the commission’s relationship with the banks, which, as Helen Junz observed (2002), had maintained a defensive posture for decades leading up to the ICE’s inquiry:

[T]he question of unclaimed assets in Swiss banks did not come suddenly to the fore in 1995: the preceding fifty years tell a story of how Swiss banks, through obfuscation, non-compliance, and *de minimus* action, successfully fought off continuous efforts for the release of more than token information on victims’ dormant accounts.

The ICE worked to build trust with Swiss firms who stood to lose both prestige and money, whether they co-operated or not. It was the commission’s job, as well as the government’s, to convince these companies that the

costs of non co-operation would be higher than the costs of any additional revelations.

Although Bergier characterized the demand for an investigative commission as primarily “an internal development,” the ICE also benefited from external pressure (e.g., in the form of pending class-action lawsuits in the United States), which had built up against Swiss firms, especially banks, who were now seen as stonewalling in the face of uncomfortable questions and inconvenient truths. Clearly, without the added pressure of those class-action lawsuits, and the determination of groups such as the WJC to hold the Swiss government’s feet to the fire, it is difficult to imagine the ICE’s investigation unfolding in the way that it did.

Perhaps the most decisive factor, however, was the negotiated agreement, signed by the Swiss government in March 1997, to establish a new “superfund” for Holocaust survivors. Although this decision was undertaken on the basis of *both* internal and external considerations (i.e., less than voluntary, but not entirely a matter of coercion either), it gave to Swiss firms, in any event, the financial cover they needed and the insulation they desired against new claims of liability, so that they could face the ICE squarely and unburden themselves of any dormant accounts or improperly absorbed assets. What the creation of the ICE did, therefore, was persuade those who might otherwise have resisted, that it would be better to confront the truth all at once than allow the facts to come out in drips and drops.

This framework of mutual reassurance among the government, the corporate sector, and the commission, was, arguably, the single most important factor in encouraging and enabling the Swiss to confront the “dark chapters” of their past. After years of negative attention, the Swiss government had a strong interest in repairing the nation’s battered image, and for Swiss corporations, the promise of legal peace provided a strong incentive to co-operate with the commission’s inquiry. Without the government-backed “superfund” and a strong desire (i.e., need) to defuse external pressures such as the class-action lawsuits filed in the United States, it is unlikely that Swiss firms would have co-operated with the ICE to the extent that they did. Similarly, without the investigatory powers granted to it by the government (“Decree and Mandate”), the ICE would not likely have arrived at the answers they did. This synergy could be construed as compromising the commission’s independence, but it was, in any case, a necessary ingredient for success.

Another important challenge for the ICE (and, indeed, for all of the Holocaust commissions) pertains to the dissemination of research findings. Unlike some of the truth and reconciliation commissions they partially resemble, historical commissions struggle to engage the public for long stretches of time. Public interest and enthusiasm tend to drop off following the initial announcement of their launch, and this problem is exacerbated by the long periods of investigative silence prior to the release of any published report(s). Moreover, because they generally rely on written records rather than oral

testimonies, historical commissions typically do not produce gripping scenes for broadcast media; as a result, historical commissions hold limited potential for the kinds of collective therapy or mass catharsis that advocates of the truth commissions have, at times, claimed for their enterprise. In general, the historical commissions do not have the dramatic impact, which one might expect (or wish), given the amount and intensity of political skirmishing that surrounds them. But neither are they impotent. In the case of the ICE, the research reports contained relatively little that was new or startling. Instead, the commission recontextualized and thickened the outlines of what Holocaust scholars had already come to understand on the basis of their previous research. This does not mean that the commission failed to fulfill its mandate or deliver something valuable, merely because its reports contained fewer “bombshells” than some may have liked; it only means that these commissions do not always satisfy the public appetite for scandal, which might explain why the international press sometimes ran their stories about the ICE under bombastic headlines seemingly written to spark outrage, whereas the information referred to in actual articles was relatively sedate. A *Reuters* article published in 2002, for example, which was picked up by major outlets in North America and Europe, claimed that the ICE’s final report had “slammed” and “blasted” Switzerland’s wartime policies and that the commission had “heaped scorn” on Swiss authorities both for their complicity in the Holocaust and their unwillingness to remedy the injustices that had been uncovered (*New York Times*, 22 March 2002). Reading the article, one has little sense of the careful contextualization and sober language that are the hallmarks of the ICE’s research reports. Indeed, the cautious tone and academic “flavor” of these reports may have been one of the commission’s principal weaknesses.

THE QUESTION OF IMPACT: MORE ON DISSEMINATION AND OUTREACH

Reflecting on the commission’s work in 2002, Bergier worried that the final report was not written in a style that lay readers would find engaging. There is, of course, no expectation of literary flourish for such reports, however, the ICE seems to have gone out of its way, in some respects, to report on their findings in a tone of exaggerated detachment. Although the ICE probed weighty moral questions concerning Switzerland’s refugee policy, the relationship of Swiss industry to the Nazi economy, and the intricacies of Jewish property restitution in the post-war era, much of its published research dealt with technical topics of little interest outside a small circle of academic specialists. For example, Volume Five of the ICE report, titled *Swiss Electricity and the Third Reich*, consisted largely of tabulated energy transfers between Switzerland and Germany and the industrial benefits derived from these by German interests. No data are available to show how many read this report

but one can assume that the numbers were modest. What is clearly missing from these sections of the report is the human factor, for example, the way(s) these energy transfers and “kilowatt hours”—and Switzerland’s economic ties with Germany, more generally—played themselves out at the level of lived experience. Instead of developing a narrative with historical actors and agency (i.e., perpetrators, victims, and bystanders), these sections become merely long recitations of statistics and sterile data points. The commission details what happened in narrow quantitative terms, but the implications and consequences for real people are muted or missing. Bergier seems to have recognized the shortcomings and limitations of this approach, but by the time he did, it was too late to change course. In an interview from 2003, Bergier ventured that “a shorter version [of the report] is necessary if we’re to make the findings accessible to young people,” but by that time the ICE had already dissolved.

Fortunately, the Ministry of Education in the canton of Zürich stepped in where the ICE stopped. In 2003, the ministry commissioned a new history textbook for secondary school students, which was prepared specifically to present the findings of the ICE and to “teach the debate” surrounding the commission’s work. In Switzerland, educational policy is the purview of the cantons. This is an important consideration when thinking about the reach and impact of state-sponsored history. Whether national governments take the lead in bringing clarity to difficult episodes from the past, the success or failure of these endeavors will play out, in many cases, at the local level.

Co-authored by two professors in the field of history education and two researchers who had worked for the ICE, the new textbook, *Looking Closely and Inquiring: Switzerland in the Period of National Socialism* (Bonhage et al. 2006), was approved for use in the canton of Zürich, although teachers there were not required to adopt it. In response to criticisms that had been directed at the ICE by right-wing politicians and media outlets, who felt that the official report overstated and exaggerated the unflattering aspects of Switzerland’s history, the ministry created an advisory board to oversee the writing and editorial process. This was a five-person committee composed of four trained historians and one former member of the Swiss Parliament, a staunch conservative born in 1923, whose participation was intended to represent “the generation that lived through the war” (Schär and Sperisen 2010). The inclusion of a nonspecialist, and, moreover, one whose views were in sharp contrast with the ICE’s overall framework, was important to the initiative, insofar as it signaled the ministry’s desire to give a balanced account of Switzerland’s past rather than indoctrinate students through the assertion of a single unchallengeable perspective. Although the creation of the advisory board did not satisfy all of the textbook’s critics, the ministry could at least claim that the writing reflected different political viewpoints. In their preface, the authors assert that the textbook was written to lead students through a set of specific questions: “How did people in Switzerland behave after a friendly

neighboring state turned into a dictatorship, suppressed its political opposition, and discriminated against, expelled, and eventually murdered Jews and other minorities? Could or should government, businesses, or private individuals have acted differently than they did? Who carries which responsibilities, and why did decision makers act as they did?" (quoted in Schär and Sperisen, p. 655). However, despite their claim that the textbook provides no "ready-made answers," in the end, the ICE's interpretations of the past are presented as authoritative. It touts itself as a neutral resource, which aims to sharpen critical thinking and teach historical methodology, however, the textbook mirrors the presentation and perspective of the ICE and the politicians, primarily from the left-center parties, who embraced their work.

This raises an important question about the value and utility of state-sponsored history initiatives, as well as how to manage the politics that surround historical experts' commissions. If these commissions are seen as validating the pre-conceived positions of the political majority at the expense of serious consideration for other perspectives, then what utility can they have in terms of political trouble-shooting and conflict mediation? Moreover, if one looks to these commissions to help promote an ideological agenda, for example, normalization of new and emergent positions within the human rights discourse, then it is worth asking whether these goals can be achieved on the basis of historical interpretations and narratives that inspire strong backlash. The problem, of course, is that the coupling of historical clarification to any kind of political program risks undermining the legitimacy of the historians who are involved in these initiatives and, more importantly, of the historical knowledge they seek to impart or promote. This does not mean that there is no place for political advocacy within historical interpretation or that historical objectivity is achieved purely on the basis of strict political neutrality (as if this were really possible). Rather, historical commissions will need to be attuned to the ways in which their representations of the past interact with and impinge on the strongly ideological narratives that already infuse social and national memory. Or, at any rate, if historical clarification is to be something more than mere presentation of facts, that is, if clarification also aims to be a methodology for mediating between divergent memories and conflicting views of the past, then care must be taken not to reinforce the existing partisan dynamics.

Despite certain flaws, the ICE performed admirably in this regard. For reasons that have already been explored, Bergier tended to downplay the magnitude and originality of the commission's findings. Far from overturning the historical discourse, the ICE, according to Bergier, "could only confirm [what was already known] and make it more precise." He added: "We did not destroy the picture, we added some nuances and we even filled it out, made some contrasts: in addition to the lights that are present in our collective memory we reintegrated—we had to—the repressed shadows

that are part of the history of every people" (Bergier, pp. 45–46). These comments dovetail with the commission's overall sobriety and judiciousness, yet they unfortunately also make it easy to underestimate the importance of the ICE's work. By combing the archives and assembling evidence that implicated the Swiss government and Swiss firms without unjustly measuring them against standards that did not exist at the time, the ICE was able to substantiate a picture of the past that had emerged previously, but failed, for the most part, to penetrate the consciousness of ordinary Swiss citizens. Bergier opined that the ICE had recovered "repressed memories," as if such narratives were prefabricated and stored intact for easy retrieval. But this paints the commission's work too simply. Few events have been as thoroughly documented and studied as the Holocaust, however, this history has also been susceptible to partisan memory and political manipulation. Scholars have, at times, invoked the "limits of representation" (e.g., Friedlander 1992) in their discussions of historical epistemology and more specifically, the potential meaning(s) of the Holocaust, but this has not prevented politicians, journalists, and others who influence public opinion from making of the Holocaust whatever they wanted or deemed expedient. Commissions such as the ICE can expose and undercut the crudest attempts at manipulation by setting a high standard for empirical research and by working to present their findings in a style and format that the mainstream public recognizes as authoritative. Even if the ICE did not win over all of its critics or fully tame the counter-histories that feed and sustain the parties and proponents of the far right, there are still accomplishments worth noting. Not only did ICE break the silence around Switzerland's unsavory history, it challenged the longstanding nationalist mythology of a country, which, thanks to a policy of "standing aside, neutral, decent, innocent," had come through the war unscathed and unsullied (Junz). Second, by depicting the past in a way that accepted responsibility for ethical and moral lapses, the ICE created an opportunity for the Swiss government to restore its standing in the international community as a credible liberal democracy. If, at a crucial moment, "Switzerland did not show enough solidarity," then the work of the ICE provided a chance, not to change the past, but to stand in a new relationship to it. By confronting their failures and moving to remediate the damages that had resulted from these, the Swiss recommitted themselves to both established and evolving principles of justice on which their democratic identity is partly constituted. And, finally, by making their research process a vital part of their published reports, the ICE laid a useful foundation for scholars who might wish to carry their work forward. These accomplishments, and the pioneering role that it played in instigating a thorough reappraisal of the Nazi past throughout Europe, make the ICE one of the more successful of the so-called "Holocaust commissions."

NOTES

1. The commission was initially provided a budget of five million Swiss francs. An additional 17 million francs were granted the following year for a total operating budget of 22 million CHF.
2. This is a reference to Alfred Häslers's widely read book, *Das Boot ist voll: Die Schweiz und die Flüchtlinge, 1933–1945* (Zurich: Ex Libris 1967).
3. This periodization relates to an oft-repeated narrative that connects the rise of Nazism to the crash of the US stock market and the ensuing global depression.
4. In 1964, forty-six Swiss banks registered 739 assets worth SF 6.2 million.

REFERENCES

- Barkan, E. (2009) 'Historians and Historical Reconciliation', *American Historical Review*, 114(4), 899–913.
- Barkan, E. and Karn, A. (2006) 'Group Apology as an Ethical Imperative' in E. Barkan and A. Karn (eds.) *Taking Wrongs Seriously. Apologies and Reconciliation* (Palo Alto: Stanford University Press), pp. 3–30.
- Bergier, J-F. (2002) 'Commissioned History in Switzerland' in O. Rathkolb (ed.) *Revisiting the National Socialist Legacy* (Vienna: Studien Verlag), pp. 43–50.
- Bonhage, B. et al. (2006) *Hinschaun und Nachfragen. Die Schweiz und die Zeit des Nationalsozialismus im Licht aktueller Fragen* [*Looking Closely and Inquiring. Switzerland in the Period of National Socialism*] (Zurich: Lehrmittelverlag Zürich).
- 'Decree and Mandate', Independent Commission of Experts, <https://www.uek.ch/en/auftrag/erechtgr.htm>.
- 'Dormant Accounts in Swiss Banks', Independent Commission of Experts, <https://www.uek.ch/en/schlussbericht/Publikationen/zusammenfassungen/15narilo.htm>.
- Friedlander, S. (ed.) (1992) *Probing the Limits of Representation. Nazism and the 'Final Solution'* (Cambridge: Harvard University Press).
- Häslers, A. (1967) *Das Boot ist voll. Die Schweiz und die Flüchtlinge, 1933–1945* (Zurich: Ex Libris).
- Independent Commission of Experts (2002) *Switzerland, National Socialism, and the Second World War. Final Report* (Zurich: Pendo Verlag).
- 'Introductory Speech by Prof. Jean-François Bergier', Independent Commission of Experts, <https://www.uek.ch/en/presse/pressemitteilungen/220302redebergier.htm>.
- Junz, H. (2002) 'The Bergier Commission.' Lecture, Yad Vashem, Jerusalem, 29 December.
- Karn, A. (2006) 'Depolarizing the Past. The Role of Historical Commissions in Conflict Mediation' *Journal of International Affairs*, 60(1), 31–50.
- Karn, A. (2015) *Amending the Past. Europe's Holocaust Commissions and the Right to History* (Madison: University of Wisconsin Press).
- Levin, I. (1999) *The Last Deposit. Swiss Banks and Holocaust Victims' Accounts* (Westport: Praeger).
- Ludi, R. (2004) 'Waging War on Wartime Memory. Recent Swiss Debates on the Legacies of the Holocaust and the Nazi Era', *Jewish Social Studies*, 10(2), 116–152.
- Pettai, E-C. (2015) 'Interactions Between History and Memory. Historical Truth Commissions and Reconciliation' in S. Kattago (ed.) *The Ashgate Research Companion to Memory Studies* (London: Ashgate), pp. 239–250.

- 'Prohibition to Destroy Files', Independent Commission of Experts, <https://www.uek.ch/en/presse/pressemitteilungen/970129e.htm>.
- Rotberg, R. (2006) 'Apology, Truth Commissions, and Intrastate Conflict' in E. Barkan and A. Karn (eds.) *Taking Wrongs Seriously. Apologies and Reconciliation* (Palo Alto: Stanford University Press), pp. 33–49.
- Scham, A. (1998) 'A Survey of Nazi and Pro-Nazi Groups in Switzerland, 1930–1945.' Report to the Simon Wiesenthal Center.
- Schär, B.C. and Sperisen, V. (2010) 'Switzerland and the Holocaust. Teaching Contested History', *Journal of Curriculum Studies*, 42(5), 649–669.

PART X

Official Apologies and Diplomatic History

Historical State Apologies

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This chapter provides a broad overview and analysis of public apologies made by state representatives for past human rights violations to individuals and groups. The emergence and the spread of such apologies since the end of the Cold War, as well as the growing number of demands for apologies by groups with historical grievances, led some to proclaim that the world has entered the “age of apology” (Brooks 1999, pp. 3–12; Gibney et al. 2008; Berger 2012, p. 8). Presumably, what remains to be done at the so-called “end of history” is to reassess the past mistakes and wrongdoings and compensate their victims. Whether one subscribes to the enthusiastic view of state apologies and their positive function, it is clear that historical apologies have now become part of the standard political repertoire of liberal democratic states.

Historical apologies by state representatives, as well as some refusals to apologize, represent a form of state-sponsored history. Regardless of the aims underlying the calls for historical apologies by various national and transnational groups, such calls may be seen as demands for a reassessment of the meaning and the consequences of past events, actions, and policies in terms of the present human rights norms. Correspondingly, regardless of its actual motivation for responding to such calls, in apologizing the state not only affirms the universal validity of human rights but also (re)constructs its identity by rewriting history. Apologies for a past wrong entail endorsements of a particular historical narrative, whereas some necessitate an inclusion of a previously marginal or absent perspective.

Understanding the logic, the modalities, and the multifaceted consequences of historical revisionism inbuilt in state apologies requires a foray into

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the theoretical study of apologies. Historical apologies attracted substantial interest from scholars in linguistics, psychology, sociology, philosophy, history, law, political science, and their various subdisciplines. Despite the diversity of approaches and methods, most of the research on the subject revolves around three sets of questions: the criteria for a good apology, the meaning and significance of historical apologies, and their impact.

This chapter therefore surveys the existing literature to first provide a discussion of the phenomenon of apology as such, as well as what counts as a proper apology. Apologies are speech acts, linguistic events that are related to but distinct from certain processes that may or may not accompany them (e.g., reconciliation or reparations). Second, the chapter offers a brief classification of apologies. The “age of apology” features different types of apologies, not all of them relevant for state-sponsored history. The true significance of the recent wave of apologies for past wrongs becomes clearer when historical apologies are compared to the longer and well-established practice of diplomatic state-to-state apologies. The appreciation of the normative framework underlying historical apologies allows offering some provisional remarks on the less-studied issue of why historical apologies became widespread only after the Cold War, and why they remain a predominantly Western phenomenon. The chapter then examines the functions and effects of historical apologies with a particular focus on their role in the (re)construction of state identity, understood as narrative identity, the core part of which consists of the officially endorsed national history. The overview of historical apologies concludes with a brief discussion of the limits of apologies as state-sponsored history.

UNDERSTANDING APOLOGIES

Existing definitions of apology are greatly influenced by the disciplinary perspective and the scope of a particular research. However, the most influential framework for the study of apologies was offered by a British philosopher of language, John Austin, in his 1955 lectures at Harvard University. According to Austin, an apology is a type of speech act: an act performed by the use of an utterance. Apologies belong to a category of utterances concerned with reactions to behavior and intended to express attitudes and feelings (Austin 1962, p. 83). Specific semantic formulas for apologizing that would apply in all contexts, languages, and cultures do not exist. In English, a verbal realization of the act of apologizing usually involves the use of a performative verb in a routinized formulaic expression of regret (e.g., be sorry, apologize, regret, excuse, etc.), although other strategies are also possible (Blum-Kulka and Olshtain 1984, pp. 206–207; Meier 1998). Such performative utterances are neither true nor false but can be felicitous or infelicitous, depending on whether they meet certain conditions. Speech acts are infelicitous (“misfire”) if they are not uttered in a conventional procedure at the appropriate

circumstances and by appropriate persons or if the procedure is not executed correctly and completely (Austin 1962, pp. 25–38).¹ Speech acts performed by persons who do not have the requisite thoughts, feelings, and intentions (e.g., insincere apologies) are not invalid but are less than felicitous (“abuse”). A speech act can be rescinded, thereby canceling the commitments engendered by its performance, and its effects can be abrogated or superseded by contrary acts (Sbisà 2007, p. 466).

It should be noted that, whereas most research on apologies builds on the linguistic understanding of apologies implicitly or explicitly, there are alternative views. Some scholars suggest that apologies can also be nonverbal events, as in the case of Willy Brandt’s genuflection during his visit to a monument to the Warsaw Ghetto Uprising in 1970 (Rauer 2006; Horelt 2012, 2014). However, even if nonverbal symbolic actions can sometimes successfully substitute for apologies, their ability to do so largely depends on the prior existence of the concept of (verbal) apology and its requirements.

Following Austin, an apology may then be provisionally defined as a speech act that expresses regret over a violation of a social norm. In contrast to some other types of speech acts (e.g., declaring a war, naming a ship, or getting married), conventional procedures for apologies are context-dependent and often rudimentary or altogether absent, which complicates the assessment of their “felicitousness.” Attempts to solve this problem have ranged from conducting empirical studies of interpersonal apologies (Schlenker and Darby 1981; Scher and Darley 1997) to working out the criteria of a “genuine” apology, an ideal type of apology against which actual apologies can be judged.

The various lists of components that must be present in a proper apology typically draw heavily from the Judeo-Christian understandings of repentance and confession. The basic shared elements of repentance in Judaism, Christianity, and Islam are awareness of sin, genuine remorse for it, confession, the resolve not to repeat the sin, as well as restitution for any damage done (Etzioni and Carney 1997; Celermajer 2009, pp. 65–141). Very similar elements have been argued to be necessary in “genuine” apologies (Goffman 1971, pp. 113–114; Kort 1975; Gill 2000; Govier and Verwoerd 2002; Battistella 2014). Thus, for example, Davis (2002, pp. 169–173) claims that a “consummate” apology consists of the belief that one has transgressed, the feelings of self-reproach, and the disposition to avoid this transgression in future.² Tavuchis (1991) argues that an “authentic” apology must contain an acknowledgment of full responsibility for the transgression, an expression of sorrow and contrition for the harm done, a request for forgiveness from the offended party, and an implicit or explicit promise not to repeat the transgression in future.

The philosophical discussions of the standards of apology reveal a range of requirements, where an acknowledgment of responsibility and regret form the conceptual threshold, whereas other components (e.g., identification of

harms, full explanation, satisfying the psychological needs of the victim, reparations, etc.) are seen to make apologies more genuine, more meaningful, or more effective. An ideal apology seeks to eliminate or at least reduce ambiguity; the clearer it is as to who apologizes, to whom, for what, and why, the better. According to Smith (2005), who provides the most elaborate and nuanced list of requirements, a “maximally meaningful” (“categorical”) apology must be performed orally or, preferably, in writing by a responsible person for noninstrumental reasons and contain a corroborated factual record, acceptance of causal responsibility, explicit identification of the violated norms, a statement of shared commitment to violated norms, categorical regret, as well as a promise to reform behavior and provide reparations.

Few individual and still fewer collective apologies meet these standards. If individual apologies can at least in theory attain “maximal meaningfulness,” it is doubtful whether this is possible in the case of state apologies for past wrongs. Should heads of state necessarily deliver historical apologies, and are they less meaningful when made by heads of government, legislative bodies, and ambassadors? For example, does an apology count if the president performs it but the prime minister or the parliament immediately challenges it directly or indirectly, through contrary symbolic or legislative acts? Can collective apologies ever be sincere and how do we know it when they are? Are insincere collective apologies less meaningful and do they necessarily represent an “abuse”? Furthermore, most state apologies that have been delivered to date are brief and often lack clarity as to who apologizes for what. The theoretical and practical issues concerning the form and content of state apologies for past wrongs have generated lively scholarly debates but the lack of satisfactory answers and agreement has hampered the assessment of both the scale and the implications of the phenomenon.

CLASSIFICATION

The taxonomy of apologies usually depends on research goals and it is not possible to provide a complete survey of all available classifications. Most classifications are built by looking at who apologizes to whom, how, and for what. First, distinction may be made between individual and collective apologies, which are always delivered by proxy. Although apologies issued by individuals are usually not seen as problematic, despite the extensive ongoing philosophical debates on the concept of self, vicarious apologies are suspect, either because they cannot meet the standards of a genuine apology or because they involve some notion of collective responsibility or even transgenerational collective responsibility, which are seen as controversial (May and Hoffman 1991; Gilbert 2000; Thompson 2002; Abdel-Nour 2003; Erskine 2004; Miller 2007). Second, within the category of collective apologies, distinction may be made between apologies given on behalf of states and those given by representatives of all other groups, organizations,

or companies. Many scholars in various disciplines have been arguing for decades that the state is withering away under globalization (Cerny 1990; Sassen 1996; Strange 1996; Creveld 1999; Kahler and Lake 2003), however, the state still remains the locus of politics as the supreme source of legitimate authority in most parts of the world and the core organizing unit of the international system. Therefore, apologies by states are arguably more significant and more consequential than apologies by other entities (companies, churches, organizations, etc.).

In terms of how apologies are delivered, the most important distinction is between public and private state apologies. Public apologies have a broader audience and can be expected to have a much wider impact. The mass media and the Internet ensure that virtually all public state apologies have a global audience, irrespective of their intended recipients.

Public state apologies may be further differentiated into interstate, national, and transnational on the basis of their addressees. Apologies delivered by one state to another (interstate) differ from apologies delivered to groups (national and transnational) in that they are routinized and involve a different set of norms. Interstate apologies very often function just outside the conceptual boundaries of apology by expressing regret without explicitly accepting responsibility, but this rarely causes a misfire. Furthermore, the issue of sincerity is mostly irrelevant in interstate apologies. In contrast, apologies offered to domestic groups or individuals (national) share a lot of similarities with apologies given to groups or individuals outside the state (transnational) but differ in at least one key regard: transnational apologies do not involve the issue of membership in a political community. For this reason, national apologies tend to be the outcome of long-lasting domestic political debates and can be expected to have serious material and symbolic consequences, whereas transnational apologies are sometimes given as a result of external pressure and take place as elite-driven events, rather than processes that involve the entire society.

Finally, the most important distinction concerns the reason for the apology. In this regard, two basic types of state apologies can be distinguished: those involving the norms of classical international law (diplomatic), and those involving the norms of human rights and humanitarian law (historical).³ Interstate apologies are usually also diplomatic apologies, whereas national and transnational are almost exclusively historical apologies and deal with ordinary and gross human rights violations and war crimes.⁴ This distinction is critical for understanding the timing of the emergence of a wave of apologies for past wrongs, as well as their significance and impact, and it is worth describing the difference in more detail.

Diplomatic interstate apologies must have existed in some form in even the earliest international systems, for any regular interaction is bound to produce rules and those rules are likely to be violated sooner or later, necessitating some kind of action with an apologetic goal.⁵ The contemporary set of

norms underlying the practice of diplomatic apologies evolved from the rules of etiquette guiding personal relations between sovereigns in Europe to the principles governing interactions between sovereign states, and paralleled the processes of the emergence of the modern state (Mann 1986) and the spread of international law (Grewe 2000; Bull and Watson 1992). The practice took its present shape around the late nineteenth century and by now has solidified enough for attempts to codify it. The International Law Commission conceptualized diplomatic apologies as a rare and exceptional form of reparation for injury caused by an internationally wrongful act, which is appropriate when damage is not financially assessable and other remedies (restitution, compensation) are therefore inadequate or unavailable (ILC 2008, pp. 105–107). Examples of nonmaterial damage include insults to the symbols of the state, violations of sovereignty or territorial integrity, attacks on ships or aircraft, ill-treatment of official representatives of the state, and violations of the premises of diplomatic missions. In short, diplomatic apologies reaffirm the validity of the idea of sovereign equality, which serves as the foundation of the modern international legal system.

Historical state apologies may actually be seen as a modification of the practice of diplomatic apologies; the actor (state) and the action (apology) are the same, and only the norms change, albeit with profound consequences. The normative framework within which these apologies are given and within which they should be understood is provided by the international human rights law. Most transnational apologies to date have been given in relation to the Holocaust, crimes against humanity, and war crimes. Most national apologies concern violations of human rights, minority rights, and indigenous rights. In short, in contrast to diplomatic apologies, historical apologies affirm the value of the protection of the rights of individuals and certain groups (national, ethnic, racial, or religious) against states.

Analyzing historical apologies in the context of changes in the international legal system following World War II gives a number of insights into the nature of the phenomenon. First, it explains why the practice has been largely limited to the Western world (North America, Europe, and Australia) in which the new norms originate. Transnational apologies by Japan (Yamazaki 2006; Dudden 2008; Togo 2013) and domestic apologies in some Latin American states could be seen as a measure of their integration to the Western-centric international legal system. The spread of human rights norms is likely to share similarities with the exportation of the previous set of international norms (Koskeniemi 2002; Anghie 2007; Jouannet 2007), which by now have taken root in almost all parts of the world. Thus, for example, the protection of human rights and, subsequently, the ability to “face the past” may now be seen as the new “standard of civilization” (Donnelly 1998; Fidler 2001). In this regard, Russia and Turkey, which have institutionalized but have not internalized the “new” norms, represent particularly interesting cases for the study of historical apologies (Zarakol 2010; Engert 2015).

Second, comparing diplomatic with historical apologies highlights the transformative power of the latter. Diplomatic apologies can sometimes acquire visibility, generate controversy, and indirectly contribute to the development of international norms (Bilder 2006). Well-known examples include the U-2 spy plane incident in 1960, the Whiskey on the Rocks incident in 1981, the Rainbow Warrior Affair in 1985, NATO's bombing of China's Belgrade embassy in 1999 (Gries and Peng 2002), and the Hainan Island incident in 2001 (Zhang 2001; Avruch and Wang 2005). However, most diplomatic apologies are routine and low-profile events, often delivered in writing through diplomatic channels, and they do not seek to transform relations between states but rather to restore the *status quo ante*. In contrast, both national and transnational historical apologies entail a reassessment of past policies and are often judged on the basis of the magnitude of changes that are expected to follow it. Furthermore, diplomatic apologies function within the traditional regime of ordinary state responsibility, according to which an obligation to provide satisfaction (apologize) exists only towards the state that was wronged. Meanwhile, many cases of historical apologies involve what is today understood as international crimes (genocide, crimes against humanity, war crimes) that entail a serious breach of obligations owed to all states or to the international community as a whole (Hoogh 1996). This means that, at least theoretically, any and all states can demand a response from the responsible state and the latter's response will be addressed to the entire international community and not only to the party that was directly injured. This logic is clearly visible in the demands by the legislative bodies of various states that Turkey acknowledge the Armenian genocide, although in principle the expanded notion of state responsibility could apply to many more cases of historical apologies. In short, the nature of the norms underlying historical apologies radically expands their relevance and, potentially, impact.

TIMING

Placing historical apologies within the context of changes in the international legal system also allows understanding their timing better. How can the emergence of historical apologies in the 1990s and their proliferation during the last decade be explained? The basic normative framework for most historical apologies (the Genocide Convention of 1946, the Universal Declaration of Human Rights of 1948, and the Fourth Geneva Convention of 1949) existed since the end of World War II. What accounts for the absence of historical apologies during the Cold War? Although the literature on apologies is virtually silent on this issue, three distinct but mutually compatible arguments can be advanced.

First of all, the proliferation of apologies seems to coincide with what Pierre Nora (2011) calls a "world-wide upsurge in memory," the increased

concerns by countries, social, ethnic, and family groups about the recovery and preservation of collective memories, including initiatives to “settle scores with the past.” According to Nora, this change in the relationship with the past has been shaped by the intersection of two phenomena: the acceleration and the democratization of history. Fast and continuous changes in the modern world prevent the selection of a past that will be relevant in the future and lead to indiscriminate stockpiling of all memories, as well as increase the importance of memory for the present. On the other hand, decolonization, the collapse of ideological regimes, and the empowerment of social, sexual, religious, and provincial minorities led to the “explosion of minority memories” and protest against official histories. The upsurge of memories that have not been incorporated into a country’s history leads to increased domestic, international, and transnational challenges to the official historical narrative in the form of demands for apologies.

Another approach would be to focus specifically on the impact of the Holocaust on the development of the practice of historical apologies. All European states have apologized for complicity in the Holocaust more than once and Holocaust apologies form the largest group of historical apologies. The Holocaust has played a role in the emergence of the international human rights law (Levy and Sznajder 2004) and, more generally, provides a symbolic common point of reference. There might be debates about the ranking, the scope, or the applicability of some human rights but there is a universal consensus on the prohibition of genocide as a fundamental rule in contemporary international society (Gallagher 2013). In discussing “reparation politics,” John Torpey (2003, pp. 49–55) argues that the Holocaust serves as both a standard for judging the seriousness of past injustice, and a template for claiming material compensation. A similar argument could be made for the Holocaust as the “central metaphor” for historical apologies, which represent a form of symbolic reparation. And if so, then the emergence of historical apologies could be analyzed in relation to the process of diffusion and institutionalization of the idea of the Holocaust as a universalized symbol of suffering and radical evil (Alexander 2002). In the United States, the Holocaust had already acquired such symbolism by the 1970s and the 1980s (Novick 1999), becoming part of its cultural exports henceforth. In Europe, this process has differed from country to country and is not yet complete (Pakier and Strâth 2013; Mark 2010; Kattago 2009; Mäklsoo 2012). As in the case of historical apologies, “Holocaust consciousness” is largely confined to the West.

Finally, the emergence of historical apologies can be explained in terms of the spread and consolidation of human rights norms and, more generally, liberal norms. Although there has been growing international consensus on the core definition of universal human rights since the 1970s, the development of human rights was in many ways frozen during the Cold War and its end gave a new impetus, which resulted in a wide range of new agreements, policies, and institutions, as well as the growth of transnational human rights networks

(Iriye et al. 2012; Sellars 2002; Moyn 2010). By the mid-1990s, the international human rights norms had acquired a largely unchallenged status as a standard of international behavior. One key factor in this process has been the increase in the number of liberal democratic regimes, which according to the Polity IV Project grew from about 40 in 1980 to well over 90 in 2010. Although the interaction between domestic and international norms and the mechanisms of norm diffusion and state socialization are subject to scholarly debates (Finnemore and Sikkink 1998; Risse-Kappen et al. 1999; Goodman and Jinks 2004), it will suffice here to note the link between the ideological victory of liberalism in the Cold War and the beginnings of the practice of historical apologies.

These three perspectives on the timing of historical apologies (memory, the Holocaust, and human rights and liberal norms) are not mutually incompatible, although the diffusion, internalization, and institutionalization of liberal norms could be seen as a precondition for both the “upsurge of memory” and the sacralization of the memory of the Holocaust. Each captures an important aspect of the normative framework introduced by the post-war American-led liberal order, which went through changes in the 1970s and became truly global at the end of the Cold War in the 1990s.

The following simplified account could be useful in summarizing what has been discussed in the preceding pages. Apologies are speech acts that acknowledge responsibility and express regret for a violation of a social norm. In the case of apologies by states, two sets of social norms are found: those based on the idea of sovereignty (Westphalian), and those based on the realization of the limits of sovereignty (Cosmopolitan). The new norms appeared at roughly the time when the Westphalian system reached its peak in the late nineteenth century, and were expanded, codified, and formally embraced in the aftermath of a major systemic crisis, World War II. To a significant extent, the ultimate winner of this crisis—the United States—was also responsible for shaping the content, scope, and subsequent development of the new normative framework, including its symbolism (the Holocaust), while remaining largely outside it. At the present time, the Westphalian and Cosmopolitan norms co-exist precariously in international law. Yet, the new Cosmopolitan human rights norms are incompatible with the older Westphalian norms both ontologically (basic units are no longer states but individuals) and ideologically (basic value is no longer security but freedom).⁶

It was argued earlier that apologies functioning within the old set of norms serve to restore the status quo, whereas the new type of apologies entail an expanded notion of responsibility and seek to transform relations. In the larger context sketched above, one of the functions of historical apologies is to contribute to the slow ongoing transformation of the international legal system, either by serving as sources of human-rights based customary law or as unilateral declarations of values.⁷ It should be noted, however, that historical apologies are not merely declarations on contemporary norms but also

involve the retroactive application of these norms to past events. It is certainly not the most straightforward or effective way of affirming the validity of human rights standards by a state (Bentley 2015). Historical apologies do more than reflect or contribute to international law.

FUNCTIONS AND EFFECTS

What exactly do historical state apologies do? The most popular theoretical approaches for analyzing the functions and the effects of apologies can be grouped into the following categories: (1) image, (2) therapy, (3) justice, and (4) identity. The studies employing these approaches are usually rooted in particular disciplines, but they are not incompatible with each other. A brief overview of each theoretical approach is provided below.

According to “image restoration” theories, a violation of a social norm disrupts relations by changing the social standings of the offender and the victim, which an apology seeks to repair. The interaction that takes place has been usefully captured by the concept of “face.” According to Goffman (1955), face is a public self-image, and it can be maintained, gained, or lost in social encounters. Although the maintenance of face is normally a condition of interaction, it can become an objective in response to events that threaten face, for example, misconduct. To apologize is to engage in a corrective process whereby the offender gives face to the victim in order to restore equilibrium. Brown and Levison’s (1987) politeness theory introduced “positive face” (the desire to be approved by others) and “negative face” (the desire to have her actions and thoughts unimpeded by others), and conceptualized apology as a speech act that is intrinsically face-threatening. As an admission of guilt, apology is threatening to the apologizer’s positive face, and as a request for forgiveness it threatens the recipient’s negative face. This conceptual framework can be equally usefully applied to individual and collective, as well as diplomatic and historical apologies. From this perspective, historical state apologies can be seen as attempts to improve public image (Benoit 2014), to restore honor (O’Neill 1999; Gries 2004), or to manage threat perception (Lind 2010).

According to “therapeutic” theories, violations of social norms (e.g., physical or sexual abuse) involve psychological damage to the victim and apologies can and should seek to contribute to emotional healing (LeCouteur 2001; Lazare 2004; Weisband 2009; Paez 2010). A key concept in such theories is trauma, which refers to an individual’s experience of extreme events that exceed his or her emotional, cognitive or physical ability to cope and may lead to psychological disorders (Herman 1992). Recovery from trauma is believed to be dependent upon the ability of the victim to reconstruct the traumatic experience in a narrative form, giving it context and organization, and ultimately leading to catharsis. A sincere apology may facilitate recovery by providing the perspective of the perpetrator (context, motives), confirming

facts, and assigning blame. On the other hand, apologizing enables offenders to show remorse, relieve feelings of guilt and restore their social identity (Schlenker and Darby 1981; Lazare 1995, pp. 40–42).

“Therapeutic” theories are not applicable to diplomatic apologies, and their utility in explaining the functions of historical apologies varies from case to case (Pupavac 2004). Although they may be readily applicable in cases of state apologies given to direct victims of past policies, their validity in apologies to descendants of victims or apologies to groups requires further articulation and depends on the acceptance of such concepts as “societal wounds” (Droždek 2010), “collective trauma” (Alexander et al. 2004; Neal 1998), “intergenerational trauma” (Mucci 2013), “collective guilt” (Branscombe and Doosje 2004) or “collective healing” (Amstutz 2005). From this perspective, historical apologies are usually seen as part of the processes of national or international reconciliation, rather than singular events (Barkan 2006; Hutchison and Bleiker 2008).

According to “justice” theories, a violation of social norms also means that the victims have suffered injustice. In the case of injustices that took place a long time ago, there are limited legal venues for legal redress, and apologies can serve as symbolic redress by establishing a public record of events and their judgment, as well as a common narrative. One of the aims of restorative justice may be to “heal the wounds” caused by a past injustice, but the primary function is to transform a political community (Thompson 2012; Borneman 2005; Teitel 2006; Verdeja 2010). According to Mihai (2013), historical apologies can be seen as “exemplary political judgments” that engage moral imagination, enlarge communal self-understanding and, on that basis, trigger shifts towards more inclusive institutional arrangements. Similarly, Nobles (2008) argues that national apologies serve as sites for negotiating the terms and meanings of membership in a national community. The content of such negotiations varies from case to case. Many apologies to minority groups are given for racist, assimilationist, and discriminatory policies (e.g., Edwards 2011) and, in addition to upholding the principles of legal and cultural equality, may justify or facilitate calls for reparations and positive discrimination. As Nobles notes (2008, pp. 18–19), some indigenous groups are opposed to formal equality and seek special status (e.g., “differentiated citizenship”), whereas others envision the establishment of some “nation-to-nation” arrangement. In any case, national apologies represent an attempt by political elites to “redefine, restore or extend popular accounts of who constitutes the political community and how they do so” (Bastian 2013, p. 96). As such, national apologies and even demands for apologies may generate substantial resistance and serve as sources of conflict, rather than reconciliation (Hartley et al. 2013), whereas a redefinition of community may also involve exclusion, rather than inclusion (Lofstrom 2011). Although “justice” theories typically deal with national apologies, they can in principle be usefully applied to transnational apologies as well.

Regardless of whether they are aimed at image repair, therapy, or justice, all state apologies involve the construction of state identity in more than one way. First, in admitting responsibility for something done in the past, the state is making a claim about its unity, continuity, and sameness in time. For example, when the president of Lithuania Algirdas Brazauskas apologized in 1995 to the Jewish people “for those Lithuanians who ruthlessly killed, shot, deported, and robbed Jews” during World War II, the speech act involved implicit claims that the entity called Lithuania in some sense possesses sufficient unity to be represented and that this unity is continuous enough to include not only “those who killed” 50 years ago but to also make those who were born much later in some sense accountable. Second, in expressing regret towards its actions in the past, the state is also asserting its moral superiority over its past self. Elucidating these effects of historical apologies will require a theoretical account of state identity and its relation with history.

STATE IDENTITY AND HISTORY

The possibility of any apology as a meaningful action presupposes a large number of assumptions made by both speakers and hearers: for example, that the apologizer is the same individual who caused harm, that the apologizer is an intelligent agent capable of moral actions, or that the recipient is the same individual who was harmed by the apologizer, and so on. Many of these assumptions about apology concern ideas about moral agency that are partly captured in the notion of “personhood” (Dennett 1976). Although, for the sake of sanity and convenience, most human beings in most situations are routinely assumed to be persons, the ontological status, the agency, and the personhood of collective entities composed of human beings are controversial and contested issues (Erskine 2004; List and Pettit 2011; Passoth et al. 2012). In what sense does the state exist and act? Can the state be regarded as a person? What makes the state the same throughout time? A range of positions on the ontological status of the state exists, and historical apologies appear meaningless or paradoxical according to some of them (Thompson 2000).

It is possible to bypass these philosophical debates without making a commitment to any metaphysical view of individual and collective selves by taking the linguistic turn and focusing on representation, rather than the nature of that which is represented (Ringmar 1996a). State identity can be understood as narrative identity, as an activity of self-constitution and self-understanding articulated narratively (Atkins 2008, p. 7; Berenskoetter 2014; Ringmar 1996b; Bially Matern 2005). In other words, narrative identity is a story or stories that one tells about oneself, which provides unity and continuity of self by emplotting a sequence of events, characters, means, motives and perspectives into a meaningful whole (Ricoeur 1991, pp. 21–25). A different

emplotment of the same events, as well as the inclusion of a different set of events, may lead to a different story and, consequently, a different identity.

The main story constituting a state's identity is its history, and, because modern states are nation-states, in many cases it coincides with national history. Although the construction of narrative identity will depend on the particular context and the length of time under consideration, it is the nation's official or predominant version of its history that generally provides answers to the question, "Who are we?" by circumscribing origins and membership, identifying the "founding fathers" and defining moments, linking territory and population, constructing images of national character and thereby establishing the unity and continuity of its self in the flux of events and changes. Other stories relevant to the self-constitution, told in particular contexts or spanning shorter periods of time, for example, the history of a state's foreign policy, can be expected to be dependent on or aligned with the master-narrative of national history.

A number of scholars have pointed out the importance of the stability of self-narratives (Giddens 1991). According to Steele (2008), the need to maintain a self-concept that is consistent with actions can be more important for states than even their physical security. However, the desired and required stability is subject to constant internal and external challenges. The state's identity narrative is told in first-person plural (Neumann 2004, p. 259) and there are many possible stories that are competing for primacy within a state at any given time. Although the state has vast resources to assert its superiority in the emplotment, stabilization, and naturalization of the self-narrative, the plurality of voices participating in the construction of "we" ensures that national identity is a continuous and dynamic process. Individuals and collectivities have multiple and conflictual identities (class, regional, ethnic, religious, etc.) that can never be fully reconciled, and thus the national identity construction process can never be completed. As Hutchinson (2005, pp. 103–108) suggests, nations can be viewed as zones of conflict, where rivals validate their stories and visions by reference to an authentic past, prominent figures or practices, thereby defining, codifying and elaborating the characteristics of nation and contributing to the internalization of national values (see also Smith 2003). In addition to domestic sources of discordance, nation-state identities can be challenged from outside, particularly because the significance of the boundary between the inside and the outside of the state is being progressively diminished by technological changes. Inasmuch as all strategies of emplotment entail selectivity and thus exclusion of certain events and perspectives, the truthfulness of narrative identity is a relative category subject to negotiation. In extreme cases, when the narrative endorsed by the state is not representative or contradicts the narratives told by a significant part of its population or when the chosen strategy of emplotment excludes events, agents, motives and the like considered significant by others from the story, it may lead to an identity built on self-deception and

delegitimize the state as a key site for the articulation of national identity or cripple the state's authentic agency, that is, the state's ability to act as a self.

Viewed from the perspective outlined above, what is the effect of historical state apologies on state identity and the writing of national history? Theoretically, because an apology requires a common point of view between the speaker and the hearer on the events that constituted an offense, all apologies entail an accommodation of the victim's point of view within the self-narrative of the state and may require changes in the emplotment strategies and thus the story that the state tells about itself. To put it somewhat differently, given their normative framework (human rights), historical apologies could generally be expected to initiate a shift from epic to tragedy in the self-narrative of a state (its official history). For example, Australia's history now starts 50,000 years ago, and not in the eighteenth century. The symbolic meaning of Australia Day celebrations had to change upon realizing and acknowledging the adverse effects of British settlement on indigenous people. In practice, however, there are differences between national and transnational historical state apologies and, in general, the impact of apologies on national histories is, at best, ambiguous.

In the case of national apologies, national history may need to be rewritten to include the stories of the victims of discrimination, assimilation, or systematic human rights violations. Many national apologies were preceded by governmental historical commissions, publications of historical studies or court proceedings that brought new or previously ignored facts to light or highlighted their discrepancy with contemporary norms. For example, the apology to Japanese-Americans in 1988 for incarceration in internment camps during World War II came after a decade-long campaign, which resulted in a congressional study commission, public hearings of testimonies, and a class-action lawsuit against the government. The Danish apology to Inughuit people for Thule relocation in 1953 came as a result of an official inquiry and a Danish court's finding that the relocation had been unlawful. The publicity surrounding such inquiries, proceedings and publications makes it difficult for the state to ignore the challenge to its self-narrative.

THE LIMITATIONS OF HISTORICAL APOLOGIES AS STATE-SPONSORED HISTORY

In practice, however, the acknowledgment of past human rights violations against some group by means of an apology does not necessarily lead to the incorporation of that group's perspective into the official history. Even national apologies that appear to be exemplary by the standards of "maximum meaningfulness," such as Australian Prime Minister Kevin Rudd's 2008 apology for the removal of Aboriginal and Torres Strait Islander children from their families, can be criticized as falling short of the kind of revision of history that would be necessary for the inclusion of the victims' narrative (see the Chap. 44 by Francesca Dominello's in this volume for a discussion).

Most apologies do not meet these standards and have a limited impact on official histories for a number of reasons.

First of all, national historical apologies are typically given for specific incidents, rather than long-term processes or perpetuating conditions, and often tend to be fairly vague. Thus, when Norwegian Prime Minister Kjell Arne Bondevik apologized to the so-called war children in 2000, he did not elaborate on what exactly the apology was for, who exactly was responsible for it, or how the systematic abuse of the children of German soldiers and their Norwegian mothers related to Norway's history during World War II. Or, for example, the Czech prime minister could express regret over the policy of forced sterilization in 1971–1991, which affected about 90,000 Roma women, without addressing the deeper issue of ongoing discrimination. Both the specificity and the vagueness of national apologies can control the impact they have on national history by minimizing or obscuring the significance of past human rights violations, thereby shielding the historical master narrative.

Secondly, as any other type of apologies, national apologies can be retracted through subsequent discourse or actions, thus canceling or reversing any impact on national history. Because, as mentioned before, the construction of a nation's narrative identity is a continuous and contested process, retractions are to be expected, especially in cases where the international liberal norms have not been fully internalized or where the politics of history and memory have become a polarizing ideological issue.⁸ Furthermore, national apologies are often calibrated with a view to avoiding or minimizing subsequent claims to material compensation. Because the acceptance of responsibility is part of the conceptual core of the apology, apologies containing explicit reservations about liability, such as found in the congressional resolutions apologizing for slavery in the United States, do not merely raise doubts about their sincerity but seem to undermine their validity and impact. Similarly, the failure to follow up national apologies with concrete steps to rectify the wrongs for which they are given may also be seen as a type of retraction that minimizes or extinguishes their transformative impact on national history.

States generally find it easier to resist or ignore external calls for an apology, unless it concerns universal internalized symbols of evil (the Holocaust, genocide), affects important relations or finds significant domestic political support. When given, transnational apologies are usually brief and vague, and are far more vulnerable to retraction than national apologies. The Japanese apologies for wartime crimes provide a case in point (see the Chap. 43 by Torsten Weber's in this volume for a discussion). Transnational apologies are also usually preceded by the work of historical commissions, national or international court proceedings, as well as popularization by means of advocacy or best-seller books. Various international governmental and nongovernmental organizations almost invariably play an important role in building up and maintaining pressure on a state to "face its past" by acknowledging the facts and compensating wronged individuals or groups.

Nevertheless, the number of unmet or rejected demands for transnational apologies exceeds those that were offered. If those demands represent pressure for the alignment of national histories by means of “coming to terms with the past” and a movement towards the emergence of a global history and a “world society” (Buzan 2004, pp. 27–87; Linklater 1998; Caney 2006) on the basis of human rights norms, then this process appears to be at its very beginning even in Western countries. Neither the colonial histories of European states, nor their participation in slavery, and not even their behavior during World War II have been “revised” in accordance with the human rights standards.

Although the very appearance of transnational apologies is a portentous development in international relations and indicates deeper internalization and institutionalization of human rights values, the competing “Westphalian” normative framework remains strong. In the international realm, the logic of consequentiality still usually trumps the logic of appropriateness. Revisions of history by means of transnational apologies are often subjected to cost–benefit calculations and issued with a view to national interests in addition to or over the concerns of image, justice or therapy. The United States will not apologize for the firebombing of Japanese cities or the use of nuclear weapons against the civilian population in Japan not only because it would challenge its largely heroic and self-righteous narrative of the Pacific War but also because such an apology could have implications for the use of nuclear and incendiary weapons, as well as relations with Japan. A formal apology for the use of Agent Orange in Vietnam is very unlikely due to the potential legal and political consequences. Russia will not apologize for the occupation of Poland in 1939 and the annexation of the Baltic States in 1940 not only because the required revision would challenge one of the key foundational narratives of the Soviet Union’s role in World War II, open unwelcome domestic issues and undermine the basis of Russia’s international and regional status, but also because of the threat of large outstanding reparation claims.

However, although transnational historical apologies for anything other than participation in the Holocaust remain rare, explicit refusals to apologize can also be seen as a form of state-sponsored history. Articulated refusals to apologize or to even consider an apology sometimes signal the state’s decision to defend the existing official narrative. For example, although it would be difficult to interpret Germany’s reluctance to apologize for the massacre of the Herero people in 1904 as anything more than unwillingness to pay reparations, it is an entirely different case with Britain’s refusal to apologize for the bombing of Dresden. Britain may be willing to contribute in raising funds for rebuilding Dresden’s historical *Frauenkirche* but calls for an apology or apologetic statements by public figures meet with censure. For example, when the Archbishop of Canterbury expressed a “profound feeling of regret and deep sorrow,” speaking “as a follower of Jesus” in a Dresden church on the anniversary of the bombings in February 2015, his remarks caused public outcry in the United Kingdom. In response, Prime Minister David Cameron

stated that “the people who served in Bomber Command are heroes of our country” and that the proper day for World War II commemorations is VE Day in May. If any generalization can be ventured on the basis of very diverse cases of refusals to apologize, it is that the more central to the nation-state’s identity is the narrative challenged by a demand for an apology, the less likely is the state to offer a transnational apology.

CONCLUDING REMARKS

In light of the above, what is the future of historical apologies? A bird’s-eye view and a note of caution may be offered in conclusion. “War made the state, and the state made war,” argued Tilly (1975) in his landmark study on the formation of the modern state. For reasons that are beyond the scope of this chapter, war is no longer an acceptable mode of conducting international politics. Democratic states do not fight each other (Ray 1995; Russett and Oneal 2001), and when they use armed force, it is ostensibly in self-defense or for protecting their nationals, enforcing international norms, preventing genocides and crimes against humanity, and other noble and legitimate causes. Coupled with the growing inability to exercise control over the economy under the conditions of globalization, the obsolescence of war puts the state’s *raison d’être* into question, thus creating the conditions for a legitimacy crisis and a perpetual existential angst of the liberal democratic state.

Because states made war, their histories have until fairly recently been histories of wars and, more often than not, contain a virtually endless supply of events that are, from the point of view of human rights standards, horrifying or at least regrettable. Nationalism—an ideology that was produced by the rise of the industrial (war-making) state, as Gellner (1983) has argued persuasively—may well have lost much of its utility, if not political appeal, in many Western liberal democratic states. Whatever nationalism’s prospects for continuing relevance in political life, it is no longer able to provide a legitimate excuse for the more ignominious episodes of national histories. Indeed, national histories as such may be suspected to be on their way out, replaced by global, supranational, regional or simply people’s histories, memories and their fragments.

Viewed from this high above, it could appear that all the conditions are in place for the continuation of the “age of apology.” Historical apologies may be seen as either attempts to reposition the state as a moral entity that is no longer a war machine and more concerned with justice, and that supplements or, if it comes to that, substitutes welfare with therapy. They may also be seen as largely defensive responses to ontological challenges from without, maintaining the stability of the state’s self-narrative by revising it or by refusing to do so, depending on what is at stake.

However, it is too soon to tell whether the “age of apology” will be a lasting phenomenon that fundamentally transforms national and world politics or if it is connected to the transitional post-Cold War period and will fade away

as a new world order takes shape. The conspicuous absence of a “perfect” or “consummate” apology should ring a warning bell for the optimists. The apology as a practice has unmistakable Western conceptual and cultural roots, less compatible with or acceptable to some non-Western cultures. Even if the return of total or even major wars in the nuclear age appears to be unlikely, some refusals to apologize indicate the perseverance of the Westphalian mode of thinking, in which the narrative structures that support war (glory, honor, sacrifice, etc.) are preserved and war remains an option. And, perhaps most important, the future of historical apologies is largely dependent on the future of international human rights norms, which in turn may ultimately depend on the distribution of power in world politics. If, or when, power shifts away from Western states to the East, where both the understanding of human rights differs and their internalization and institutionalization are often altogether absent, this may either limit or even end the “age of apology” and this form of state intervention in history.

NOTES

1. Subsequent works on speech act theory have occasionally modified this list of conditions, yet Austin’s contribution can still serve as a useful starting point. The most influential refinement can be found in Searle (1969).
2. Compare this to the requirements for a verbal confession written down by Maimonides in the twelfth century: “How does one confess? By saying, I beseech Thee, O Lord, I have sinned, I have acted perversely, I have transgressed before Thee, and have done thus and thus, and lo, I am contrite and ashamed of my deeds and will never do this again.’ This constitutes the essence of confession.” Cited in Peli (2000, p. 228).
3. This labeling comes with the caveat that “diplomatic” apologies can in principle be given for events long in the past, whereas “historical” apologies may be given for fairly recent violations. For example, the 1983 apology by the United States to France for hampering the extradition of Claus Barbie after World War II falls into the category of diplomatic apologies, whereas Bulgaria’s apology in 1997 for the treatment of its Turkish minority in the 1980s should be seen as an historical apology. In general, however, diplomatic apologies are given for recent events, and historical apologies to date have typically concerned violations that are decades or even centuries old.
4. All generalizations on historical apologies in this chapter are based on a sample of 100 historical apologies that meet the basic criteria (acknowledgment of responsibility and expression of regret) and cover the period through to 2015.
5. Thus, for example, Amarna tablets from mid-fourteenth century BC contain an apology by the king of Alashya to the king of Egypt for sending a smaller than usual tribute. See Cohen and Westbrook (2000).
6. This tension accounts for a large part of developments in international law after World War II and, especially, after the Cold War. Illustrations can be found in the discussions of the concepts of international crimes, humanitarian interventions, the “Responsibility to Protect” or the entire branch of the international refugee law.

7. Gibney and Roxtrom (2001, p. 915) suggest that, under certain circumstances, apologies may contribute to the formation of customary international law, help interpret the content of obligations arising from treaty law, and serve as unilateral declarations that are binding on states issuing apologies.
8. Few studies examine the relations between state apologies and party politics or political ideologies. In one such study, Cunningham (2011) argues that apologies are theoretically incompatible with the socialist tradition, problematic within the liberal tradition, and most compatible with the conservative tradition of political thought. In practice, however, those on the liberal left are usually disposed to apologize, whereas those on the right tend to be hostile towards the apology precisely because of the challenge that apologies pose to the dominant narrative of the nation's history.

REFERENCES

- Abdel-Nour, F. (2003) 'National Responsibility', *Political Theory*, 31(5), 693–719.
- Alexander, J. C. (2002) 'On the Social Construction of Moral Universals. "The Holocaust" from War Crime to Trauma Drama', *European Journal of Social Theory*, 5(1), 5–85.
- Alexander, J. C., Eyerman, R., Giesen, B., Smelser, N. J. and Sztompka, P. (eds.) (2004) *Cultural Trauma and Collective Identity* (Berkeley: University of California Press).
- Amstutz, M. R. (2005) *The Healing of Nations. The Promise and Limits of Political Forgiveness* (Lanham: Rowman & Littlefield Publishers).
- Anghie, A. (2007) *Imperialism, Sovereignty, and the Making of International Law* (Cambridge: Cambridge University).
- Atkins, K. (2008) *Narrative Identity and Moral Identity. A Practical Perspective* (New York: Routledge).
- Austin, J. L. (1962) *How to Do Things with Words* (London: Oxford University Press).
- Avruch, K. and Wang, Z. (2005) 'Culture, Apology, and International Negotiation. The Case of the Sino-U.S. 'Spy Plane' Crisis', *International Negotiation*, 10(2), 337–354.
- Barkan, E. (2006) *Taking Wrongs Seriously. Apologies and Reconciliation* (Stanford: Stanford University Press).
- Bastian, M. (2013) 'Political Apologies and the Question of a 'Shared Time' in the Australian Context', *Theory, Culture & Society*, 30(5), 94–121.
- Battistella, E. L. (2014) *Sorry About That. The Language of Public Apology* (New York: Oxford University Press).
- Benoit, W. L. (2014) *Accounts, Excuses, and Apologies. Image Repair Theory and Research* (Albany: State University of New York Press).
- Bentley, T. (2015) 'The Sorrow of Empire. Rituals of Legitimation and the Performative Contradictions of Liberalism', *Review of International Studies*, 41(3), 623–645.
- Berenskoetter, F. (2014) 'Parameters of a National Biography', *European Journal of International Relations*, 20(1), 262–288.
- Berger, T. U. (2012) *War, Guilt, and World Politics After World War II* (New York: Cambridge University Press).
- Bially Matern, J. (2005) *Ordering International Politics* (London: Routledge).

- Bilder, R. B. (2006) 'The Role of Apology in International Law and Diplomacy', *Virginia Journal of International Law*, 46(3), 437–473.
- Blum-Kulka, S. and Olshtain, E. (1984) 'Requests and Apologies: A Cross-Cultural Study of Speech Act Realization Patterns (CCSARP)', *Applied Linguistics*, 5(3), 196–213.
- Borneman, J. (2005) 'Public apologies as Performative Redress', *SAIS Review of International Affairs*, 25(2), 53–66.
- Branscombe, N. R. and Doosje, B. (2004) *Collective Guilt. International Perspectives* (New York: Cambridge University Press).
- Brooks, R. L. (1999) 'The Age of Apology' in R. L. Brooks (ed.) *When Sorry Isn't Enough. The Controversy Over Apologies and Reparations for Human Injustice* (New York: New York University Press), pp. 3–12.
- Brown, P. and Levinson, S. C. (1987) *Politeness. Some Universals in Language Usage* (Cambridge: Cambridge University Press).
- Bull, H. and Watson, A. (1992) *The Expansion of International Society* (Oxford: Clarendon Press).
- Buzan, B. (2004) *From International to World Society? English School Theory and the Social Structure of Globalisation* (Cambridge: Cambridge University Press).
- Caney, S. (2006) *Justice Beyond Borders. A Global Political Theory* (Oxford: Oxford University Press).
- Celermajer, D. (2009) *The Sins of the Nation and the Ritual of Apologies* (Cambridge: Cambridge University Press).
- Cerny, P. G. (1990) *The Changing Architecture of Politics. Structure, Agency and the Future of the State* (London: Sage).
- Cohen, R. and Westbrook, R. (2000) *Amarna Diplomacy. The Beginnings of International Relations* (Baltimore: The John Hopkins University Press).
- Crevelde, M. van (1999) *The Rise and Decline of the State* (Cambridge: Cambridge University Press).
- Cunningham, M. (2011) 'The Ideological Location of the Apology', *Journal of Political Ideologies*, 16(1), 115–122.
- Davis, P. (2002) 'On Apologies', *Journal of Applied Philosophy*, 19(2), 169–173.
- Dennett, D. (1976) 'Conditions of Personhood' in A. O. Rorty (ed.) *The Identities of Persons* (Berkeley: University of California Press), pp. 175–196.
- Donnelly, J. (1998) 'Human Rights: A New Standard of Civilization?', *International Affairs*, 74(1), 1–23.
- Droždek, B. (2010) 'How Do We Salve Our Wounds? Intercultural Perspectives on Individual and Collective Strategies of Making Peace With Own Past', *Traumatology*, 16(4), 5–16.
- Dudden, A. (2008) *Troubled Apologies Among Japan, Korea, and the United States* (New York: Columbia University Press).
- Edwards, J. A. (2011) 'Redress for Old Wounds. Canadian Prime Minister Stephen Harper's Apology for the Chinese Head Tax', *Chinese Journal of Communication*, 4(1), 73–89.
- Engert, S. (2015) 'Turkey-Armenia. From Denial to Excuse?' in C. Daase, S. Engert, M. A. Horelt, J. Renner and R. Strassner (eds.) *Apology and Reconciliation in International Relations. The Importance of Being Sorry* (New York: Routledge), pp. 218–236.

- Erskine, T. (ed.) (2004) *Can Institutions Have Responsibilities? Collective Moral Agency and International Relations* (New York: Palgrave Macmillan).
- Etzioni, A. and Carney, D. E. (eds.) (1997) *Repentance. A Comparative Perspective* (New York: Rowman & Littlefield).
- Fidler, D. (2001) 'The Return of the Standard of Civilization', *Journal of International Law*, 2(1), 137–157.
- Finnemore, M. and Sikkink, K. (1998) 'International Norm Dynamics and Political Change', *International Organization*, 52(4), 887–917.
- Gallagher, A. (2013) *Genocide and Its Threat to Contemporary International Order* (Basingstoke: Palgrave Macmillan).
- Gellner, E. (1983) *Nations and Nationalism* (Ithaca: Cornell University Press).
- Gibney, M. and Roxstrom, E. (2001) 'The Status of State Apologies', *Human Rights Quarterly*, 23(4), 911–939.
- Gibney, M., Howard-Hassmann, R. E., Coicaud, J. and Steiner, N. (eds.) (2008) *The Age of Apology. Facing Up to the Past* (Philadelphia: University of Pennsylvania Press).
- Giddens, A. (1991) *Modernity and Self-Identity* (Palo Alto: Stanford University Press).
- Gilbert, M. (2000) *Sociality and Responsibility. New Essays in Plural Subject Theory* (Lanham: Rowman & Littlefield).
- Gill, K. (2000) 'The Moral Functions of an Apology', *Philosophical Forum*, 31(1), 11–27.
- Goffman, E. (1955) 'On Face-Work. An Analysis of Ritual Elements in Social Interaction', *Psychiatry: Interpersonal and Biological Processes*, 18(3), 213–231.
- Goffman, E. (1971) *Relations in Public. Microstudies of the Social Order* (New York: Basic Books).
- Goodman, R. and Jinks, D. (2004) 'How to Influence States. Socialization and International Human Rights Law', *Duke Law Journal*, 54(3), 621–703.
- Govier, T. and Verwoerd, W. (2002) 'The Promise and Pitfalls of Apology', *Journal of Social Philosophy*, 33(1), 67–82.
- Grewe, W. G. (2000) *The Epochs of International Law* (New York: Walter de Gruyter).
- Gries, P. H. (2004) *China's New Nationalism. Pride, Politics, and Diplomacy* (Berkeley: University of California Press).
- Gries, P. H. and Peng, K. (2002) 'Culture Clash? Apologies East and West', *Journal of Contemporary China*, 11(30), 173–178.
- Hartley, L. K., McGarty, C. and Donaghue, N. (2013) 'Understanding Disagreement Within the Majority About Action to Atone for Past Wrongs', *Journal of Applied Psychology*, 43(2), 246–261.
- Herman, J. (1992) *Trauma and Recovery. The Aftermath of Violence—from Domestic Abuse to Political Terror* (New York: Basic Books).
- Hoogh, A. de (1996) *Obligations Erga Omnes and International Crimes. A Theoretical Inquiry into the Implementation and Enforcement of the International Responsibility of States* (The Hague: Kluwer International Law).
- Horelt, M. (2012) 'Performing Reconciliation. A Performance Approach to the Analysis of Political Apologies' in N. Palmer, P. Clark and D. Granville (eds.) *Critical Perspectives on Transitional Justice* (Cambridge: Intersentia), pp. 347–370.
- Horelt, M. (2014) 'The Power of Ritual Ceremonies in State Apologies. An Empirical Analysis of the Bilateral Polish–Russian Commemoration Ceremony in Katyn in

- 2010' in M. Mihai and M. Thaler (eds.) *On the Uses and Abuses of Political Apologies* (Basingstoke: Palgrave Macmillan), pp. 76–95.
- Hutchinson, J. (2005) *Nations as Zones of Conflict* (London: Sage Publications).
- Hutchison, E. and Bleiker, R. (2008) 'Emotional Reconciliation. Reconstituting Identity and Community after Trauma', *European Journal of Social Theory*, 11(3), 385–403.
- ILC (2008) 'Draft Articles on State Responsibility for Internationally Wrongful Acts, with Commentaries', *Yearbook of the International Law Commission 2001*, Vol. II (Part 2).
- Iriye, A., Goedde, P. and Hitchcock, W. I. (eds.) (2012) *The Human Rights Revolution. An International History* (New York: Oxford University Press).
- Jouannet, E. (2007) 'Universalism and Imperialism. The True–False Paradox of International Law?', *European Journal of International Law*, 18(3), 379–407.
- Kahler, M. and Lake, D. A. (2003) *Governance in a Global Economy. Political Authority in Transition* (Princeton, NJ: Princeton University Press).
- Kattago, S. (2009) 'Agreeing to Disagree on the Legacies of Recent History. Memory, Pluralism and Europe after 1989', *European Journal of Social Theory*, 12(3), 375–395.
- Kort, L. F. (1975) 'What is an Apology?', *Philosophical Research Archives*, 1(1055), 78–87.
- Koskeniemi, M. (2002) *The Gentle Civilizer of Nations. The Rise and Fall of International Law 1870–1960* (Cambridge: Cambridge University Press).
- Lazare, A. (1995) 'Go Ahead, Say You're Sorry', *Psychology Today*, 28(1), 40–42.
- Lazare, A. (2004) *On Apology* (New York: Oxford University Press).
- LeCouteur, A. (2001) 'On Saying 'Sorry': Repertoires of Apologies to Australia's Stolen Generations' in A. McHoul and M. Rapley (eds.) *How to Analyse Talk in Institutional Settings* (London: Continuum), pp. 146–158.
- Levy, D. and Sznajder, N. (2004) 'The Institutionalization of Cosmopolitan Morality. The Holocaust and Human Rights', *Journal of Human Rights*, 3(2), 143–157.
- Lind, J. M. (2010) *Sorry States. Apologies in International Politics* (Ithaca: Cornell University Press).
- Linklater, A. (1998) *The Transformation of Political Community. Ethical Foundations of the Post-Westphalian Era* (Cambridge: Polity Press).
- List, C. and Pettit, P. (2011) *Group Agency. The Possibility, Design, and Status of Corporate Agents* (New York: Oxford University Press).
- Lofstrom, J. (2011) 'Historical Apologies as Acts of Symbolic Inclusion—and Exclusion?', *Citizenship Studies*, 15(1), 93–108.
- Mälksoo, M. (2012) 'Nesting Orientalisms at War. World War II and the 'Memory War' in Eastern Europe' in T. T. Barkawi and K. Stanski (eds.) *Orientalism and War* (New York: Columbia University Press), pp. 177–195.
- Mann, M. (1986) *The Sources of Social Power. Vol. 2: The Rise of Classes and Nation-States, 1760–1914* (Cambridge: Cambridge University Press).
- Mark, J. (2010) *The Unfinished Revolution. Making Sense of the Communist Past in Central-Eastern Europe* (New Haven: Yale University Press).
- May, L. and Hoffman, S. (eds.) (1991) *Collective Responsibility. Five Decades of Debate in Theoretical and Applied Ethics* (Savage: Rowman and Littlefield).
- Meier, A. J. (1998) 'Apologies. What do we know?', *International Journal of Applied Linguistics*, 8(2), 215–231.

- Mihai, M. (2013) 'When the State Says "Sorry". State Apologies as Exemplary Political Judgments', *Journal of Political Philosophy*, 21(2), 200–220.
- Miller, D. (2007) *National Responsibility and Global Justice* (Oxford: Oxford University Press).
- Moyn, S. (2010) *The Last Utopia. Human Rights in History* (Cambridge: Harvard University Press).
- Mucci, C. (2013) *Beyond Individual and Collective Trauma. Intergenerational Transmission, Psychoanalytic Treatment, and the Dynamics of Forgiveness* (London: Karnac).
- Neal, A. G. (1998) *National Trauma and Collective Memory. Major Events in the American Century* (Armonk: M.E. Sharpe).
- Neumann, I. B. (2004) 'Beware of Organicism. The Narrative Self of the State', *Review of International Studies*, 30(2), 259–267.
- Nobles, M. (2008) *The Politics of Official Apologies* (Cambridge: Cambridge University Press).
- Nora, P. (2011) 'Reasons for the Current Upsurge in Memory' in J. K. Olick, V. Vinitzky-Seroussi and D. Levy (eds.) *The Collective Memory Reader* (New York: Oxford University Press), pp. 437–442.
- Novick, P. (1999) *The Holocaust in American Life* (New York: Houghton Mifflin).
- O'Neill, B. (1999) *Honor, Symbols, and War* (Ann Arbor: University of Michigan Press).
- Pacz, D. (2010) 'Official or Political Apologies and Improvement of Intergroup Relations', *Revista de Psicologia Social*, 25(1), 101–115.
- Pakier, M. and Str  th, B. (2013) *A European Memory? Contested Histories and Politics of Remembrance* (Oxford: Berghahn Books).
- Passoth, J., Peuker, B. and Schillmeier, M. (eds.) (2012) *Agency Without Actors? New Approaches to Collective Action* (London: Routledge).
- Peli, P. H. (2000) *On Repentance. The Thought and Oral Discourses of Rabbi Joseph Dov Soloveitchik* (Northvale: Jason Aronson).
- Pupavac, V. (2004) 'War on the Couch. The Emotionology of the New International Security Paradigm', *European Journal of Social Theory*, 7(2), 149–170.
- Rauer, V. (2006) 'Symbols in Action: Willy Brandt's Kneefall at the Warsaw Memorial' in J. C. Alexander, B. Giesen and J. Mast (eds.) *Social Performance. Symbolic Action, Cultural Performance, and Ritual* (New York: Cambridge University Press), pp. 257–283.
- Ray, J. L. (1995) *Democracy and International Conflict. An Evaluation of the Democratic Peace Proposition* (Columbia: University of South Carolina Press).
- Ricoeur, P. (1991) 'Life in Quest of Narrative' in D. Wood (ed.) *On Paul Ricoeur. Narrative and Interpretation* (London: Routledge), pp. 20–33.
- Ringmar, E. (1996a) 'On the Ontological Status of the State', *European Journal of International Relations*, 2(4), 439–466.
- Ringmar, E. (1996b) *Identity, Interest and Action. A Cultural Explanation of Sweden's Intervention in the Thirty Years War* (Cambridge: Cambridge University Press).
- Risse-Kappen, T., Sikink, K. and Ropp, S. C. (1999) *The Power of Human Rights. International Norms and Domestic Change* (Cambridge: Cambridge University Press).
- Russett, B. and Oneal, J. R. (2001) *Triangulating Peace. Democracy, Interdependence, and International Organizations* (New York: Norton).

- Sassen, S. (1996) *Losing Control? Sovereignty in the Age of Globalization* (New York: Columbia University Press).
- Sbisà, M. (2007) 'How to Read Austin', *Pragmatics*, 17(3), 461–473.
- Scher, S. J. and Darley, J. M. (1997) 'How Effective Are the Things People Say to Apologize? Effects of the Realization of the Apology Speech Act', *Journal of Psycholinguistic Research*, 26(1), 127–140.
- Schlenker, B. R. and Darby, B. W. (1981) 'The use of apologies in social predicaments', *Social Psychology Quarterly*, 44(3), 271–278.
- Searle, J. R. (1969) *Speech Acts. An Essay in the Philosophy of Language* (Cambridge: Cambridge University Press).
- Sellers, K. (2002) *The Rise and Rise of Human Rights* (London: Sutton Publishing).
- Smith, N. (2005) 'The Categorical Apology', *Journal of Social Philosophy*, 36(4), 473–496.
- Smith, R. M. (2003) *Stories of Peoplehood. The Politics and Morals of Political Membership* (Cambridge: Cambridge University Press).
- Steele, B. J. (2008) *Ontological Security in International Relations* (London: Routledge).
- Strange, S. (1996) *The Retreat of the State. The Diffusion of Power in the World Economy* (Cambridge: Cambridge University Press).
- Tavuchis, N. (1991) *Mea Culpa* (Stanford: Stanford University Press).
- Teitel, R. (2006) 'Transitional Apology' in E. Barkan and A. Karn (eds.) *Taking Wrongs Seriously. Apologies and Reconciliation* (Stanford: Stanford University Press), pp. 101–114.
- Thompson, J. (2000) 'The Apology Paradox', *The Philosophical Quarterly*, 50(201), 470–475.
- Thompson, J. (2002) *Taking Responsibility for the Past. Reparation and Historical Justice* (Cambridge: Polity Press).
- Thompson, J. (2012) 'Is Political Apology a Sorry Affair?', *Social & Legal Studies*, 21(2), 215–225.
- Tilly, C. (1975) *The Formation of National States in Western Europe* (Princeton: Princeton University Press).
- Togo, K. (ed.) (2013) *Japan and Reconciliation in Post-war Asia. The Murayama Statement and Its Implications* (New York: Palgrave Macmillan).
- Torpey, J. (2003) 'Reparations Politics in the 21st Century', *Third World Legal Studies*, 16(3), 43–63.
- Verdeja, E. (2010) 'Official Apologies in the Aftermath of Political Violence', *Metaphilosophy*, 41(4), 563–581.
- Weisband, E. (2009) 'On the Aporetic Borderlines of Forgiveness. Bereavement as a Political Form', *Alternatives*, 34(4), 359–381.
- Yamazaki, J. W. (2006) *Japanese Apologies for World War II. A Rhetorical Study* (London: Routledge).
- Zarakol, A. (2010) 'Ontological (In)security and State Denial of Historical Crimes. Turkey and Japan', *International Relations*, 24(1), 3–23.
- Zhang, H. (2001) 'Culture and Apology. The Hainan Island Incident', *World Englishes*, 20(3), 383–391.

RECOMMENDED READINGS

- Barkan, E. and Karn, A. (eds.) (2006) *Taking Wrongs Seriously. Apologies and Reconciliation* (Stanford: Stanford University Press).
- Brooks, R. L. (ed.) (1999) *When Sorry Isn't Enough. The Controversy Over Apologies and Reparations for Human Injustice* (New York: New York University Press).
- Celermajer, D. (2009) *The Sins of the Nation and the Ritual of Apologies* (Cambridge: Cambridge University Press).
- Cunningham, M. (2014) *States of Apology* (Manchester: Manchester University Press).
- Gibney, M., Howard-Hassmann, R. E., Coicaud, J. and Steiner, N. (eds.) (2008) *The Age of Apology. Facing Up to the Past* (Philadelphia: University of Pennsylvania Press).
- Nobles, M. (2008) *The Politics of Official Apologies* (Cambridge: Cambridge University Press).
- Smith, N. (2008) *I Was Wrong. The Meanings of Apologies* (Cambridge: Cambridge University Press).

Apology Failures: Japan's Strategies Towards China and Korea in Dealing with Its Imperialist Past

Torsten Weber

INTRODUCTION

Celebrations and commemorations on the occasion of the 70th anniversary of the end of the Second World War in Japan, South Korea, and the People's Republic of China saw many instances of state-sponsored history, including military parades and public statements by political leaders. They also served as a reminder of the difficult legacy of Japanese imperialism, with which the three nations have failed to come to terms. In fact, since the early 1990s the interest of those governments in utilizing history for political purposes and as a means of social engineering has increased. They have actively fueled the so-called history problems or "history wars."¹ Consequently, issues of historical dispute are omnipresent, or "current" (Heisler 2008) in public debate throughout East Asia. They include controversies about history textbooks (school history education), the treatment of historical issues in the mass media (TV, films, magazines), the portrayal of history in museums, the creation and celebration of memorial days and so on.²

Because of its role as imperialist perpetrator from the late nineteenth century to the end of the Second World War (including its colonization of Taiwan in 1895 and annexation of Korea in 1910), Japan is at the center of these international disputes over state-sponsored history in East Asia. In 2015, China³

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and South Korea have celebrated the 70th anniversary of Japan's defeat in 1945 as national liberation, however, the Japanese government under Prime Minister Abe Shinzō has seized the opportunity also to emphasize once again positive aspects of the war. Admitting that Japan eventually "took the wrong course," Abe nevertheless repeated his assessment of Japanese imperialism (a) as an act of self-defense against Western imperialism and (b) as having also made a positive contribution to the liberation of Asia from this Western imperialist oppression (Statement by Prime Minister Shinzo Abe 2015).

These irreconcilable overall official interpretations of the war both influence and are influenced by diverging views on specific key events that have become the main sites of the "history wars" between China and Japan as well as between South Korea and Japan. In the case of Japanese–Chinese disputes, the most controversial event is the Nanjing Massacre committed by the invading Japanese troops in the winter of 1937–1938. In particular, the number of victims and the nature of the atrocities are disputed issues. Historical scholarship has confirmed the historicity of the event but disagrees with the number of victims given by the Chinese government as exceeding 300,000 (Askew 2004). The Japanese government, in contrast, downplays the extent of the massacre by referring to it as the "Nanjing Incident" or "so-called Nanjing Massacre." It also openly embraces views held by deniers of the massacre in order to cast doubt on the historicity of the event.⁴ In the public disputes regarding the modern history of Japanese–Korean relations, the system of wartime sexual exploitation of Korean women by Japanese soldiers ("comfort women") has been the most controversial topic. It remains so despite the 2015 Japanese–Korean agreement in which Prime Minister Abe apologized to the victims and both governments agreed "to refrain from accusing or criticizing each other" regarding this issue (Announcement by Foreign Ministers of Japan and the Republic of Korea 2015). In this dispute, the number of victims, the assumed voluntary or forced character of the system, and the role played by the Japanese government in maintaining the system are controversial topics of debate among the different parties. Historical evidence for the state involvement and forced character of the system is weaker (compared to evidence of the Nanjing Massacre) and largely relies on oral history, that is, reports of witnesses, perpetrators and victims. Yet scholarship has produced a solid and stable narrative and several Japanese governments have also admitted Japan's guilt and have apologized to Korea and the Korean victims (Yoshimi 2000).

The dividing lines in these historical disputes do not neatly run along national borders. To a lesser degree, this applies to China, where public discourse has limited leeway to move beyond official narratives.⁵ In Japan, which—as the historical perpetrator and expected apologizer—is the focus in this chapter, two competing master narratives that are basically extensions of views already held during the war have coexisted: whereas for some, Japan's war in Asia was an "invasion" and "wrong," for others it was a "just war," fought either for the right cause of national self-preservation or on

behalf of Japan's oppressed Asian neighbors to liberate them from Western imperialism. With few exceptions, most Japanese post-war governments have either adopted a position close to the latter as their overall interpretation of the past or have avoided taking a clear stance. Since Prime Minister Abe took office in 2012, an affirmative view of the war has been actively promoted by politicians of his ruling Liberal Democratic Party (LDP), supported by some media (e.g., the monthly *Sapio*, the daily newspaper *Sankei Shinbun*) as well as by some political and academic groups (e.g., Japan Conference, Society for the Dissemination of Historical Fact [sic], Society for History Textbook Reform). On the other hand, the self-critical master narrative is usually associated with left-wing politicians (including former Prime Ministers Hosokawa and Murayama), political and academic groups or individual scholars (e.g., Ienaga Saburō, Honda Katsuichi, Yoshimi Yoshiaki, Nakano Kōichi), and media (e.g., the monthly *Sekai*, the daily newspaper *Asahi Shinbun*). In public discourse in Japan, the historical view held by the first group is usually referred to as "patriotic" and "healthy" (by supporters) or "revisionist,"⁶ "nationalistic" and "right-wing" (by critics), whereas that of the second group is often called "treacherous," "anti-Japanese," "masochistic" and "leftist" (by critics) or "reconciliatory" and "correct" (by supporters).⁷

The bilateral history-related disputes have damaging effects in at least two fields. First, the mutual perceptions of Japanese and Chinese as well as of Japanese and Koreans have been extremely negative in recent years.⁸ In polls, history issues are given as key reasons for these negative perceptions: although a majority of Japanese appear to be dissatisfied with what they perceive as exaggerated and never-ending criticism of Japanese attitudes towards history, a majority of Chinese and Koreans feel that the way the Japanese address their historical guilt is inadequate. In particular, the sincerity of Japanese repentance is questioned. Second, the history-related disputes also have damaging effects in the field of diplomacy. Whereas economic relations are hardly ever touched by the political tensions between Japan and China or Korea, respectively, diplomatic relations suffer to the point that even an outbreak of war has been feared imminent more than once since the Senkaku/Diaoyu island dispute between China and Japan intensified in 2012 (Gries et al. 2016).

The following sections focus on the problem of Japanese apologies to South Korea and to China for Japan's imperialist past. Both the Japanese willingness to apologize and the Korean and Chinese demands for apologies have changed considerably over time. These changes indicate how the political instrumentalization of historical issues, including the question of apologies, has been considered a useful tool in international, bilateral, and domestic political discourse to different extents at different times by different actors. When Japan normalized its bilateral relations with the Republic of Korea (South Korea) in 1965 and with the People's Republic of China in 1972, statements were issued that included expressions of regret but no explicit

apologies.⁹ Instead of offering an “apology” (*shazai* or *owabi* in Japanese), the terms used to convey notions of self-critical reflection were “true regret” (*makoto ni ikan*) in the Korean case, as well as “deep remorse” in both the Korean and Chinese cases (Yamazaki 2006, p. 34).¹⁰ These phrases were apparently regarded as sufficient by the respective state leaders, who prioritized receiving Japanese economic assistance over emphasizing Japan’s historical guilt (Lind 2008, pp. 55–56, 160–161).¹¹ With the absence of a notable critical public discourse in China and South Korea under the authoritarian regimes of Mao and Park there was also little room for public dissent (e.g., from victim groups) in either country (Yamazaki 2006).

JAPANESE APOLOGIES TO KOREA AND THE COMFORT WOMEN ISSUE

In the following decades, Japanese expressions of remorse and regret—but not apologies—became frequent, in particular towards South Korea. For example, in 1984, during a state visit to Japan by the South Korean President Chun Doo Hwan, the Japanese Emperor Hirohito made reference to an “unhappy period” in Japanese–Korean relations for which he felt “true regret” (*makoto ni ikan*). It is reported that at the time the emperor’s statement was welcomed in Korea as an apology (Yamazaki 2006, pp. 35–38). This statement was repeated and slightly amended in 1990 by the Emperor Akihito, Hirohito’s son, on the occasion of the visit to Japan of South Korean President Roh Tae Woo. In what has become a strategy of expressing regret mainly indirectly, Akihito quoted his father’s words and added another expression to convey his feeling of “deep regret” (*tsūseki*). During the same state visit, Japanese Prime Minister Kaifu Toshiki expressed “remorse” (*hansai*) and, for the first time ever, also offered an apology in the real meaning of the term (*owabi*). However, Kaifu did not make this statement publicly but in a private meeting of both leaders. Therefore, it is not usually regarded as an official apology by Japan to Korea or to the Korean people. Nevertheless, the apology issue was considered settled by the political leadership in both countries. Roh, in response to Akihito’s statement of remorse in 1990, recommended that “the Korean people cannot remain bound up forever in the past ... we must begin a new age of friendship and cooperation” (Yamazaki 2006, pp. 38–41). In fact, Roh explicitly expressed his satisfaction with the Japanese attitude:

In the first summit meeting, PM Kaifu repeatedly apologized frankly. The emperor too, in comparison with the apology to President Chun in 1984, apologized clearly, to the extent that he may have gone beyond internal government limitations. Based on these things, the basic problem has been resolved. (Cited in Yamazaki 2006, p. 51)

Roh’s interpretation is remarkable because it credits the Emperors Hirohito and Akihito with an apology that they did not offer. Apparently, their

phrasing, together with the accompanying attitude, was sufficient to convey an apologetic mood that placated Roh, who focused on the promotion of economic relations with Japan instead. According to polls, however, 79% of Koreans expressed dissatisfaction with Japan's apologies for wartime actions. The gap that remained after President Roh's visit to Japan in 1990 was therefore less one between the governments of Japan and Korea than one between Roh's own perception (or the attitude of the Korean government) and those of the Korean people at home.

The context and urgency of the apology question changed dramatically, however, in the early 1990s because of two unrelated events. First, in 1991 some of the Korean women who had served against their will in brothel-like institutions for the Japanese military between 1932 and 1945 spoke out in public for the first time (Yoshimi 2000). This so-called comfort women issue has dominated the historical dispute between Japan and Korea ever since and continues to overshadow bilateral relations today. It is in this context that Japanese state leadership first openly and directly offered explicit apologies to Korean victims. Second, the LDP in Japan lost power in the 1993 general elections and for the first time since 1955 became the opposition party. This came as a huge shock to the party leadership, even though the LDP would stay out of power for only ten months.

Following the public coming out of former Korean comfort women in the early 1990s, Japanese Prime Minister Miyazawa Kiichi (in 1992) and the Chief Cabinet Secretaries Katō Kōichi (in 1992) and Kōno Yōhei (in 1993) issued similar statements that contained phrases of direct apology to the victims. In January 1992, during a state visit to Korea, Miyazawa expressed his feelings of "remorse" (*hansei*) and publicly offered an "apology" (*owabi*) as Japan's prime minister to the people of Korea in general:

Never should we allow ourselves to forget the fact that, at certain moments in the history of our relations with your country for the past couple of millennia, Japan was the assailant and Korea was the victim. Allow me to take this opportunity to express our sincere remorse (*hansei*) and apology (*owabi*) for Japanese past actions which inflicted unbearable suffering and sorrow on the people of the Korean Peninsula. (Policy Speech by Prime Minister Kiichi Miyazawa 1992a)

This terminology was repeated during the following 18 months in statements by the successive Chief Cabinet Secretaries Katō and Kōno. In July 1992, Katō repeated the standard expression of "deep remorse" (*fukai hansei*) and included the phrase "apology from the bottom of my heart" (*chūshin yori owabi*; Statement by Chief Cabinet Secretary Koichi Kato 1992b).¹² Shortly after the election but before the new, non-LDP government took office, Chief Cabinet Secretary Kōno Yōhei admitted for the first time that the Japanese Imperial Army had forced women to work in military-run brothels during the Second World War. The so-called Kōno statement resembled the

statement by Katō and included an apology phrased as “[t]he Government of Japan would like to take this opportunity once again to extend its sincere apologies and remorse to all those, irrespective of place of origin, who suffered immeasurable pain and incurable physical and psychological wounds as comfort women” (statement by the Chief Cabinet Secretary Yohei Kono 1993). The well-established term remorse (*hansei*) was accompanied by offering a sincere—literally “from the heart”—apology (*kokoro kara owabi*) and was exclusively directed at the former comfort women.

These statements clearly indicate that the new historical revelations changed the way the Japanese government approached the issue of apology to South Korea, even before the LDP lost power in summer 1993. However, what could have become a broad consensus on how to address Japan’s historical legacy turned into a heavily politicized issue, because, among other reasons, right-wing and revisionist forces immediately tried to cast doubt on the historicity of the evidence presented (Saaler 2005, ch. 1). Politicization increased after the long-term ruling LDP was ousted from power after the elections in August 1993. In that year, for the first time since 1955, a non-LDP-led government was formed and led by Prime Minister Hosokawa Morihiro of the moderate Japan New Party. Hosokawa took the comfort women issue as an opportunity to change the general evaluation of the war. In his first press conference after his inauguration in August 1993, Hosokawa stated that “I myself believe it was a war of invasion, a war that was wrong” (Saaler 2005, p. 71). This overall interpretation of the war as negative, as a mistake, and as aggression was immediately criticized by right-wing publicists and factions within the LDP. In reaction, politicians, journalists and academics close to those factions started a political attack, dressed in semi-academic clothing, on the so-called Tokyo Trial view of history¹³ and demanded that Hosokawa withdraw his statement. Hosokawa, however, confirmed his critical view of Japan’s past and continued to offer apologies, similar to those made by Miyazawa, Katō, and Kōno (all members of the LDP), in public statements during the following weeks.

THE MURAYAMA STATEMENT AND REVISIONIST RESPONSES

This new approach, resulting from pressure on the Japanese government to react to the new historical insights regarding the comfort women, was further confirmed in 1995, on the occasion of the 50th anniversary of the end of the Second World War. Murayama Tomiichi became the third Japanese prime minister within three and a half years to offer a general and public apology, albeit without clearly specifying an addressee (Statement by Prime Minister Tomiichi Murayama, July 1995a). The so-called Murayama Statement emphasized once again that Japan’s wartime policy had been wrong and was characterized by “colonial rule and aggression.” For this, he expressed his deep remorse and offered a “heartfelt apology” (*kokoro kara no owabi*) (Statement by Prime Minister Tomiichi Murayama, August 1995b).¹⁴ As

Togo writes, “the Murayama Statement represents the pinnacle of Japan’s post-war apology” and it is “generally seen as the most unambiguous expression of Japan’s contrition since World War II” (Togo 2013, p. 2). To be sure, the Murayama Statement was given in a specific historical context (heated comfort women controversy; important anniversary of the end of the war; non-LDP government) and by a rather atypical Japanese politician (socialist; unlike most post-war Japanese prime ministers not the progeny of a family of career politicians). His statement was challenged by both the right and the left in Japan, as either exceedingly self-critical of Japan’s wartime actions or as not going far enough in expressing regret for Japan’s aggression (Togo 2013, pp. 13–19). Yet, until recently, it was upheld and confirmed by all subsequent prime ministers. Even Prime Minister Koizumi Jun’ichirō, during whose tenure Japan’s relationship with its Asian neighbors reached a historic low, adhered to the phrasing of the Murayama Statement in his own statement on the occasion of the 60th anniversary of the end of the Second World War ten years later. However, it was also during Koizumi’s premiership that the Japanese government sent out increasingly ambiguous messages regarding its attitude towards Japan’s wartime past. The biggest issues of contestation were Koizumi’s regular visits to the controversial Yasukuni Shrine, where the souls of Japanese soldiers, including war criminals, are enshrined, and the history textbook controversy (Seraphim 2006, ch. 8 and 9). Both can be seen as official state-sponsored history activities: Koizumi visited Yasukuni in his official capacity as Japan’s prime minister (until this was ruled unconstitutional in 2004 because it violated the separation of religion and politics: Kingston 2011, ch. 9) and the revisionist textbooks produced by the Society for History Textbook Reform were approved by the Ministry of Education in a screening process in 2001 and 2005 (Saaler 2005 and Chap. 40 by Seiko Mimaki in this volume). When the LDP lost power again in the 2009 general elections, another revisionist group, called the “Society for the Dissemination of Historical Fact” (SDH) in English, increased its activities. Originally formed in reaction to the more proactive stance regarding history issues by the Korean and Chinese governments, this group rallied support from Japanese politicians to criticize both the so-called “masochistic view of history” (Tokyo Trial view of history) in Japan and the “strategic use of history” directed at Japan by foreign countries (Society for the Dissemination, undated). Unsurprisingly, one important matter for the SDH was the comfort women issue. When in 2012 a Korean group campaigned internationally for “a heartfelt apology from Japan” to the surviving victims, the SDH started a counter-campaign that did not address the apology issue as such but aimed at dismissing evidence that the Japanese government bore any responsibility in the comfort women system. This counter-campaign was signed and supported by Abe Shinzō and Shimomura Hakubun, among others. A few months later Abe became Japan’s prime minister for the second time and Shimomura became minister of education in Abe’s cabinet.

Not surprisingly therefore, on the occasion of the 70th anniversary of the end of the Second World War, Abe became the first prime minister to depart from the Murayama Statement by not offering an apology at all. Abe wrote:

In Japan, the postwar generations now exceed eighty per cent of its population. We must not let our children, grandchildren, and even further generations to come, who have nothing to do with that war, be predestined to apologize. (Statement by Prime Minister Shinzo Abe 2015)

This de facto departure from the Murayama Statement was well received by the Japanese right. Their prominent front-woman Sakurai Yoshiko enthusiastically welcomed the Abe Statement at a speech at the Yasukuni Shrine on August 15, 2015 as a long-awaited liberation from the need to apologize for Japan's wartime deeds.¹⁵

THE ABSENCE OF APOLOGIES TO CHINA

Compared to its relatively reconciliatory attitude towards Korea, the Japanese government's attitude towards China is characterized by reluctance and refusal to offer apologies. In fact, only one Japanese prime minister has ever explicitly and directly offered an apology in public to China and the Chinese people for Japanese behavior towards China during Japan's imperialist period: Prime Minister Koizumi during his first visit there in 2001 offered a "heartfelt apology" (*kokoro kara no owabi*) to the Chinese victims of "[Japan's] invasion [of China]" (Statement by PM Koizumi 2001). The effect, however, of this apology was minimal, because two months earlier Koizumi had started his official yearly visits to the controversial Yasukuni Shrine. Seaton has characterized this ambiguous public official behavior towards recognizing Japan's war guilt as "apology nullification" (Seaton 2007, pp. 81, 84). In other words, if verbal prime ministerial apologies are accompanied by gestures that signal the opposite of remorse and contrition, the apology itself becomes void.

This missed chance to set up a precedent of apology to China in 2001 is particularly significant because all other public statements have stopped at expressing "deep remorse." This is also the term used in the *Joint Communiqué of the Government of Japan and the Government of the People's Republic of China* which normalized the post-war relations of the two countries in 1972. The phrase was also used repeatedly after 1972 until the Murayama Statement was issued in 1995. From then onwards, Japanese prime ministers would usually refer to the wording of that Statement. The closest attempt to offering an apology to China (before 2001) occurred in 1998 when, according to a report published by the Chinese Foreign Ministry (Visit to Japan by President Jiang 1998) and a press conference given by the Japanese government's press secretary, in a nonpublic meeting with Chinese President Jiang Zemin the Japanese Prime Minister Obuchi Keizō "stressed the Japanese

Government would once again express its remorse (*hansei*) and apology (*owabi*) to the Chinese people.” However, the Japanese side insisted that this phrase would not become part of the written text of the Joint Declaration of the Jiang–Obuchi meeting and therefore would not constitute an official and direct apology by Japan to China. Instead, the Declaration contained the sentence: “The Japanese side is keenly conscious of the responsibility for the serious distress and damage that Japan caused to the Chinese people through its aggression against China during a certain period in the past and expressed deep remorse (*fukai hansei*) for this” (Japan–China Joint Declaration 1998a). Journalists later inquired about why there was “not a direct apology to China in the communiqué.” The replies given by the Japanese government’s press secretary (“certain things are best conveyed orally”) show the government’s reluctance to offer in writing anything more than words of regret to China (Press Conference by the Press Secretary 1998c).¹⁶

Obuchi’s reluctance is particularly surprising as he had had no problem with offering an explicit and direct apology to Korea just a few weeks earlier in a meeting with the Korean President Kim Dae Jung. The written Joint Declaration of October 1998 included an expression of “deep remorse and heartfelt apology” by Obuchi for “the fact of history that Japan caused, during a certain period in the past, tremendous damage and suffering to the people of the Republic of Korea through its colonial rule” (Japan–Republic of Korea Joint Declaration 1998b). In a joint Obuchi–Kim press conference, Obuchi himself repeated orally a similar statement including his “profound remorse (*hansei*) and heartfelt apology (*owabi*).” To emphasize the weight of his statement he added his belief that “many of the Japanese people will share this feeling” (Records of the Joint Press Conference 1998).

In general, the Murayama Statement had left an ambivalent legacy to the succeeding prime ministers of Japan, not only because it could please neither the right nor the left in Japan. In fact, the Murayama Statement had also not directly mentioned China or the Chinese people but only vaguely referred to the victims of Japanese imperialisms as the “people of many countries, in particular Asian countries.” In other words, the shift from vague statements and relatively light terminology (regret, remorse) to a new standard of offering explicit apologies (*owabi*, *shazai*) which characterizes the Japanese–Korean case from the 1960s through the early 2010s did not occur in the Japanese–Chinese case. Why not?

The absence of Japanese apologies to China is usually explained by a Japanese–Chinese consensus to avoid public disputes about history issues in favor of building and strengthening economic relations (He 2013, pp. 7–16). This changed, however, when (1) China economically became less dependent on Japanese Official Development Assistance, (2) Chinese communist rhetoric was replaced by increasingly nationalist rhetoric and patriotic education campaigns (Callahan 2010) and (3) Japanese politicians and right-wing activists started their own history campaigns from the mid-1990s onwards. As outlined above, the revisionist historical activism after 1993 and increasingly

in the 2000s created a mood in which public apologies became regarded in Japan as inadequate or even unnecessary. Instead, the combined and often intertwined activities of governments and right-wing publicists have created a mood in which it has become acceptable, for example, to deny the Nanjing Massacre. Public office holders, including mayors, members of parliament, and even ministers have since the 1990s publicly called the massacre a “fabrication,” “lie,” or “invention”¹⁷ (Lind 2008, p. 75). They are supported by right-wing writers, public critics, and some academics who have repeatedly denied that any massacre occurred in the Japanese takeover of Nanjing (Yoshida 2000, pp. 70–132). Linked to the apology issue, the questions that these people pose are: why apologize for something that did not happen? And: why apologize to a country that forges history in order to blackmail Japan?

IN LIEU OF A CONCLUSION: WHY AND HOW SHOULD STATES APOLOGIZE?

This last section discusses the case studies presented above in a theoretical framework of how apologies work or do not work and why apologies may be important or not quite as important as is sometimes believed within the East Asian context. Since the mid-1950s, Japanese leaders have expressed “remorse” (supplemented in some cases, as discussed above, by apologies) for general conduct or specific events during the imperialist era on more than 50 occasions (Dudden 2008, p. 6). The main consensus in international scholarship is that these statements of regret have been unsatisfactory (Jeffery 2011, p. 608), either because they are accompanied by contradictory behavior (partial denials, visits to the Yasukuni Shrine, revisionist history textbooks, etc.) or because they have been phrased in rather vague terminology that suggests they are not meant sincerely. If “political apologies” may be defined as official apologies “given by a representative of a state, corporation, or other organized group to victims, or descendants of victims, for injustices committed by the group’s officials or members” (Thompson cited in Jeffery 2011, pp. 608–609), then credibility largely hinges on the behavior of those representatives in related contexts on different occasions. In other words, only a stable narrative of past events, a broad consensus on the interpretation of these events, and mechanisms of punishment of members of the perpetrators’ group that deviate from that narrative or interpretation, may guarantee that the victim group accepts apologies as sincere and is also willing to neglect deviations as wrong but unavoidable in pluralistic and democratic societies. The question of credibility, however, also depends on the intentions and the willingness to acknowledge efforts to deal with one’s own past appropriately and, eventually, the willingness to accept apologies. This is what Yamazaki calls “receptivity of the audience” (Yamazaki 2006, p. 21) and Burkman refers to as proactive “acceptance and forgiveness” (Burkman 2014, pp. 87–88). Therefore, not only the refusal to apologize or to apologize properly and sincerely

but also the refusal to accept apologies can become an obstacle in the “two-way street of apologies” (Burkman 2014, p. 83). This is a second dimension of the instrumentalization of history-related apologies, and of history more generally, in the East Asian context. As a consequence, the issue of interstate apologies today cannot simply be solved by Japan’s “apology diplomacy,” which had worked relatively well in East Asia until the 1980s (Lind 2008, p. 31). Rather, the apology issue has become an important part of domestic history politics where history is used as a tool to generate or intensify nationalist sentiments and to distract from other issues of domestic concern. Occasional anti-Japanism, for example, which can easily be mobilized in China and South Korea by the ruling elites in relation to historical issues, serves as a welcome means of domestic political legitimization (Wang 2012; Park 2007). This pattern, of course, also applies to Japan (as anti-China and anti-Korea discourse).

To view the apology issue in a completely different light, Lind and Burkman have suggested that contrition and apology are much less relevant to solving “history problems” and to promoting reconciliation than is often thought. Lind gives the example of German–French reconciliation, which, as she argues, first bore fruit before German apologies became commonplace in the late 1960s (Burkman 2014, p. 83; Lind 2008, p. 126). Burkman has transferred this argument to the Asian context and observed:

No Japanese apologies are recorded in the restoration of Japan’s relationship with Thailand or Singapore. Moreover, the national reconciliation process that has proceeded successfully between Japan and the United States after a bitter war has never seen an official apology, not for Pearl Harbor and not for Hiroshima. (Burkman 2014, p. 83)

Like Lind, Burkman argues that “forgiveness does not require an apology” (Burkman 2014, p. 84). Although this may be true, it may be equally true that forgiveness does at the very least require a historical consciousness on the part of the perpetrator nation that does not allow for continuous public denials of atrocities committed by representative members of and in the name of that nation. In other words, as Alexis Dudden has observed, “Japan’s apology failure” is not necessarily its failure to apologize but rather its failure to produce an apology that is credible because it is based on a widely acceptable master narrative of modern Japanese history that fully includes the less pleasant details of the nation’s actions towards its Asian neighbors from the late nineteenth to the mid-twentieth centuries (Dudden 2008, p. 33).

NOTES

1. This term has recently become frequently used, above all in Japanese rightist media, to characterize Chinese and Korean criticism of Japanese historical consciousness as an extremely aggressive strategy resembling war-like attacks. See, for example, Kuroda (2011). For an academic discussion of the ‘history wars’

- in postwar East Asia see Duus (2017) and, for case studies focusing on Japan and Korea, several other chapters in Lewis (2017).
2. For a recent comprehensive study in English of different aspects of this process in Japan—the spatial focus of this chapter—see Hashimoto (2015). For the sake of convenience of the reader, most references are given in English (rather than Japanese or Chinese).
 3. In this chapter China refers to the People’s Republic of China. In the case of Taiwan partially positive evaluations of Japan’s imperialism are comparatively widespread. See Lee and Han (2013).
 4. For example, the position paper by the Japanese Ministry of Foreign Affairs that criticized UNESCO’s decision to include the Nanjing Massacre in the Memory of the World Register cited the revisionist writer Higashinakano Shūdō, one of the most prominent Japanese deniers of the massacre; see “Kioku Isan Ikensho” (2015).
 5. Divergent narratives, however, are occasionally sanctioned in South Korea too. In 2016, Park Yuha, a professor at Seoul’s Sejong University, was sued for alleged defamation of former victims of the comfort women system. Park argues that the role of Japan’s government was less direct than claimed by victim groups and the Korean government. See Togo (2016) and Kitahara and Kim (2016).
 6. The labels “historical revisionism” or “revisionist” refer to the attempted revision of the historical narratives that the US occupation forces (through the Tokyo Trial) and some Japanese historians established after the end of the war and which emphasized Japan’s guilt and responsibility for its imperialist wars. See Hashimoto (2015, Chap. 3).
 7. It should not be assumed that either of the two groups representing the two opposing master narratives is internally homogeneous. Regarding the history disputes under discussion here, however, their views are relatively consistent and uniform within each camp.
 8. Data from 2015 (joint survey by *China Daily* and the Japanese NPO Genron) show that 78% of Chinese hold negative images of Japan and as many as 89% of Japanese hold negative images of China. The top reason given by both Chinese and Japanese for the mutual negative image of the neighbor is history controversies. See *The 11th Japan-China Public Opinion Poll* (2015). The figures for Japan and Korea have slightly improved from 2015 to 2016 but still remain relatively high at 45% (Japanese negative feelings toward Korea) and 61% (negative Korean feelings towards Japan); see *The 4th Japan-South Korea Joint Public Opinion Poll* (2016). Both groups name historical issues as the top reason for mutual negative impressions.
 9. This overview section is based on Yamazaki (2006) and Lind (2008).
 10. For the different nuances of these terms in Japanese, Chinese, and Korean see Morris-Suzuki (2015).
 11. The normalization statements included agreements on Japanese economic help, such as foreign investment and low-interest loans.
 12. The statement reads: “The Government again would like to express its sincere apology and remorse to all those who have suffered indescribable hardship as so-called ‘wartime comfort women,’ irrespective of their nationality or place of birth. With profound remorse and determination that such a mistake

must never be repeated, Japan will maintain its stance as a pacifist nation and will endeavour to build up new future-oriented relations with the Republic of Korea and with other countries and regions in Asia.”

13. The Tokyo trial view of history is a derogatory term used by revisionists to criticize those who accept the judgments made in the International Military Tribunal for the Far East (also called Tokyo Tribunal or Tokyo Trial) held 1946–1948.
14. The statement reads: “During a certain period in the not too distant past, Japan, following a mistaken national policy, advanced along the road to war, only to ensnare the Japanese people in a fateful crisis, and, through its colonial rule and aggression, caused tremendous damage and suffering to the people of many countries, particularly to those of Asian nations. In the hope that no such mistake be made in the future, I regard, in a spirit of humility, these irrefutable facts of history, and express here once again my feelings of deep remorse and state my heartfelt apology. Allow me also to express my feelings of profound mourning for all victims, both at home and abroad, of that history.” (excerpt).
15. Speech attended by author (audio-visual recording, August 15, 2015); Sakurai summarized the meaning of the Abe Statement as follows: “there is no need for apologies any more.”
16. For the aftermath of the 1998 apology controversy, see Gries (2004, Chap. 8).
17. In May 1994, Justice Minister Nagano Shigeto called the Nanjing Massacre a “fabrication”; see Lind (2008, p. 75). On June 19, 2007, a group of 100 LDP lawmakers used the same term to denounce the historicity of the massacre. They accused Beijing of using the alleged incident as “political propaganda.”

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REFERENCES

- Askew, D. (2004) ‘New Research on the Nanjing incident’, *The Asia-Pacific Journal*, 2(7), <http://www.japanfocus.org/-David-Askew/1729>. Accessed 27 April 2017.
- Burkman, T. W. (2014) ‘Can Nations Forgive? Japan, Korea, and China remember the past and face the future’, *Review of Asian and Pacific Studies*, 39, 67–88.
- Callahan, W. A. (2010) *China. The Pessoptimist Nation* (Oxford: Oxford University Press).
- Dudden, A. (2008) *Troubled Apologies Among Japan, Korea, and the United States* (New York: Columbia University Press).
- Duus, P. (2017) ‘Introduction: History Wars in Postwar East Asia, 1945–2014’, *‘History Wars’ and Reconciliation in Japan and Korea. The Roles of Historians, Artists and Activists*, (ed.) Michael Lewis (New York: Palgrave Macmillan), 1–16.
- Gries, P. H. (2004) *China’s New Nationalism. Pride, Politics, and Diplomacy* (Berkeley: University of California Press).
- Gries, P. H., Steiger, D. and Wang, T. (2016) ‘Popular Nationalism and China’s Japan Policy. The Diaoyu Islands protests, 2012–2013’, *Journal of Contemporary China*, 25(98), 264–276.

- Hashimoto, A. (2015) *The Long Defeat. Cultural Trauma, Memory, and Identity in Japan* (Oxford: Oxford University Press).
- He, Y. (2013) 'Forty Years in Paradox. Post-normalisation Sino-Japanese relations', *China Perspectives*, 4, 7–16.
- Heisler, M. O. (2008) 'The Political Currency of the Past. History, Memory and Identity', *The ANNALS of the American Academy of Political and Social Science*, 617(1), 14–24.
- Jeffery, R. (2011) 'When is an apology not an apology? Contrition chic and Japan's (un)apologetic politics', *Australian Journal of International Affairs*, 65(5), 607–617.
- Kingston, J. (2011) *Contemporary Japan. History, Politics, and Social Change Since the 1980s* (Malden: Wiley-Blackwell).
- 'Kioku Isan Ikensho. Nihon, "Nankin" hiteiha o inyō' [Memory Heritage Opinion Letter. Japan cites a "Nanjing" denier], *Mainichi Shinbun*, 6 November 2015, <http://mainichi.jp/select/news/20151106k0000m010135000c.html>. Accessed 9 November 2015.
- Kitahara, M. and Puja, K. (2016) 'The Flawed Japan–ROK Attempt to Resolve the Controversy Over Wartime Sexual Slavery and the Case of Park Yuha', *The Asia-Pacific Journal*, 14(5), 1–9, <http://apjif.org/2016/05/Kitahara.html>. Accessed 27 April 2017.
- Kuroda K. (2011) 'Higashi Ajia Rekishi sensō ni sansen seyo' [Let's participate in the East Asian History War], *Rekishi Tsū*, November, 80–91.
- Lee, I-Y. and Han C. (2013) 'Politics, popular culture, and images of Japan in Taiwan' in P. Morris, N. Shimazu and E. Vickers (eds.) *Imagining Japan in Post-war East Asia. Identity Politics, Schooling and Popular Culture* (London: Routledge), pp. 49–67.
- Lewis, M. (ed.) (2017) *'History Wars' and Reconciliation in Japan and Korea. The Roles of Historians, Artists and Activists* (New York: Palgrave Macmillan).
- Lind, J. (2008) *Sorry States. Apologies in International Politics* (Ithaca: Cornell University Press).
- Ministry of Foreign Affairs (Japan) (1992a) 'Policy Speech by Prime Minister Kiichi Miyazawa during His Visit to the Republic of Korea (Seoul, January 17, 1992)', <http://www.mofa.go.jp/policy/other/bluebook/1992/1992-appendix-2.htm>. Accessed 27 April 2017.
- Ministry of Foreign Affairs (Japan) (1992b) 'Statement by Chief Cabinet Secretary Koichi Kato on the Issue of the so-called "Wartime Comfort Women" from the Korean Peninsula' (6 July), <http://www.mofa.go.jp/policy/postwar/state9207.html>. Accessed 27 April 2017.
- Ministry of Foreign Affairs (Japan) (1993) 'Statement by the Chief Cabinet Secretary Yohei Kono on the result of the study on the issue of "comfort women"' (4 August); <http://www.mofa.go.jp/policy/women/fund/state9308.html>. Accessed 27 April 2017.
- Ministry of Foreign Affairs (Japan) (1995a) 'Statement by Prime Minister Tomiichi Murayama on the occasion of the establishment of the "Asian Women's Fund", July 1995', <http://www.mofa.go.jp/policy/women/fund/state9507.html>. Accessed 27 April 2017.
- Ministry of Foreign Affairs (Japan) (1995b) 'Statement by Prime Minister Tomiichi Murayama "On the occasion of the 50th anniversary of the war's end"' (15 August);

- <http://www.mofa.go.jp/announce/press/pm/murayama/9508.html>. Accessed 27 April 2017.
- Ministry of Foreign Affairs (Japan) (1998a) 'Japan–China Joint Declaration: On Building a Partnership of Friendship and Cooperation for Peace and Development' (26 November), <http://www.mofa.go.jp/region/asia-paci/china/visit98/joint.html>. Accessed 27 April 2017.
- Ministry of Foreign Affairs (Japan) (1998b) 'Japan–Republic of Korea Joint Declaration: A New Japan–Republic of Korea Partnership towards the Twenty-first Century' (8 October), <http://www.mofa.go.jp/region/asia-paci/korea/joint9810.html>. Accessed 27 April 2017.
- Ministry of Foreign Affairs (Japan) (1998c) 'Press Conference by the Press Secretary 26 November', <http://www.mofa.go.jp/announce/press/1998/11/1126.html>. Accessed 27 April 2017.
- Ministry of Foreign Affairs (Japan) (2001) 'Statement by PM Koizumi after his visit of the Memorial Hall of the Chinese War of Resistance against Japan', 8 October, http://www.mofa.go.jp/mofaj/kaidan/s_koi/china0110/hatsugen.html. Accessed 27 April 2017.
- Ministry of Foreign Affairs (Japan) (2015) 'Announcement by Foreign Ministers of Japan and the Republic of Korea at the Joint Press Occasion, 28 December 2015', http://www.mofa.go.jp/a_o/na/kr/page4e_000364.html. Accessed 27 April 2017.
- Ministry of Foreign Affairs (PRC) (1998) 'Visit to Japan by President Jiang', http://www.fmprc.gov.cn/mfa_eng/ziliao_665539/3602_665543/3604_665547/t18038.shtml. Accessed 27 April 2017.
- Morris-Suzuki, T. (2015), 'Japanese war apologies lost in translation', *East Asia Forum*, 26 April, <http://www.eastasiaforum.org/2015/04/26/japanese-war-apologies-lost-in-translation/>. Accessed 27 April 2017.
- Office of the Prime Minister (Japan) (1998) 'Obuchi naikaku sōri daijin, Kim Daichū Kankoku daitōryō kyōdō kishakaiken roku [Records of the Joint Press Conference by Prime Minister Obuchi and the Korean President Kim Daejung]' (8 October), <http://www.kantei.go.jp/jp/obutisouri/speech/1998/1008nikkan.html>. Accessed 27 April 2017.
- Office of the Prime Minister (Japan) (2015) 'Statement by Prime Minister Shinzo Abe, Friday, August 14, 2015' on the occasion of the 70th anniversary of the end of World War Two, http://japan.kantei.go.jp/97_abe/statement/201508/0814statement.html. Accessed 27 April 2017.
- Park, S.-W. (2007) 'The politics of remembrance. The case of Korean forced laborers in the Second World War' in G.-W. Shin, S.-W. Park and D. Yang (eds.) *Rethinking Historical Injustice and Reconciliation in Northeast Asia. The Korean Experience* (London: Routledge), pp. 55–74.
- Saaler, S. (2005) *Politics, Memory and Public Opinion. The History Textbook Controversy and Japanese Society* (Munich: Iudicium).
- Sakurai Y. (2015) *Speech at Yasukuni Shrine*, audio-visual recording, 15 August.
- Seaton, P. A. (2007) *Japan's Contested War Memories. The "Memory Rifts" in Historical Consciousness of World War II* (London: Routledge).
- Seraphim, F. (2006) *War Memory and Social Politics in Japan, 1945–2005* (Cambridge: Harvard University Press).
- Society for the Dissemination of Historical Fact (undated), 'Mission statement', <http://hassin.org/01/about/>. Accessed 27 April 2017.

- The 11th Japan-China Public Opinion Poll: Analysis Report (2015), http://www.genron-npo.net/en/opinion_polls/archives/5315.html. Accessed 27 April 2017.
- The 4th Japan-South Korea Joint Public Opinion Poll (2016): Analysis Report (15 August 2016), http://www.genron-npo.net/en/opinion_polls/archives/5305.html. Accessed 27 April 2017.
- Thompson, J. (2008) 'Apology, justice, and respect. A critical defense of political apology' in M. Gibney et al. (eds.) *The Age of Apology* (Philadelphia: Pennsylvania University Press), pp. 31–44.
- Togo, K. (2013) *Japan and Reconciliation in Post-war Asia. The Murayama Statement and its Implications* (New York: Palgrave Macmillan).
- Togo, K. (2016) 'Park Yuha indictment risks hindering ROK–Japan reconciliation', *East Asia Forum* (14 January), <http://www.eastasiaforum.org/2016/01/14/park-yuha-indictment-risks-hindering-rok-japan-reconciliation/>. Accessed 27 April 2017.
- Wang, Z. (2012) *Never Forget National Humiliation. Historical Memory in Chinese Politics and Foreign relations* (New York: Columbia University Press).
- Yamazaki, J. W. (2006) *Japanese Apologies for World War II. A Rhetorical Study* (London: Routledge).
- Yoshida, T. (2000) 'A Battle over History. The Nanjing Massacre in Japan' in J. Fogel (ed.) *The Nanjing Massacre in History and Historiography* (Berkeley: University of California Press), pp. 70–132.
- Yoshimi, Y. (2000) *Comfort Women. Sexual Slavery in the Japanese Military During World War II* (New York: Columbia University Press).

The “Apology to Australia’s Indigenous Peoples” in Its Historical Context

Francesca Dominello

Apologies can serve different purposes. In the political context they can serve to correct the historical record of the nation through the acknowledgment of past injustices committed against oppressed groups in society (Minow 1998, p. 116). In this way a political apology can also serve as a measure of justice for victims in accepting that their treatment was wrong and providing a forum for the offer of additional forms of redress for harms suffered (Thompson 2008, pp. 41–42).

Using these observations as a starting point, this chapter aims to demonstrate the importance of history to the making of political apologies. The focus is on the “Apology to Australia’s Indigenous Peoples” delivered by former Labor Prime Minister Kevin Rudd in 2008 (Rudd 2008). The chapter begins by tracing some of the main historical events leading to the making of the Apology. This provides a framework for its analysis. As is evident, the meaning of the Apology cannot be separated from this historical background. As an example of “state-sponsored history,” the Apology reflects what the government under Rudd was prepared to accept was wrong. Ultimately, however, this approach did not capture the full meaning of the wrongdoing as understood by Indigenous peoples, and thereby undermined its potential for justice.

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BACKGROUND OF THE APOLOGY

The Apology, although addressed to “Australia’s Indigenous Peoples,” is specifically addressed to the “Stolen Generations—this blemished chapter in our nation’s history” (Rudd 2008, p. 167). The Stolen Generations relates to the many Indigenous peoples in Australia affected by the state-sanctioned practice of forcibly removing Indigenous children from their families. Initially this practice was pursued as part of a policy of protection that was officially adopted by the various Australian jurisdictions at around the turn of the twentieth century. In the mid-twentieth century the protection policy was replaced with the policy of assimilation. The practice of forcibly removing children from their families continued during this time and it was not until the 1960s and 1970s that the legislation authorizing the practice was repealed.

Originally the policy of protection applied to “full blood” Aboriginal people as they were then called. The common view among settlers was that they belonged to a superior race in comparison to Indigenous peoples who they thought were on the lowest scale of civilization, existing without any laws or organized society. Accordingly, Indigenous peoples’ lands were classed as *terra nullius*, as land belonging to no one. This construction served to legitimize dispossession and as the catastrophic effects of colonization spread, settlers came to the conclusion that the Aboriginal race was doomed for extinction (Behrendt 2010, p. 186).

Under the protection policy reserves were established designed to segregate Indigenous peoples from the broader white population. These reserves were established, euphemistically, to help “smooth the dying pillow” (HREOC 1997, p. 28). However, it soon became clear that the Aboriginal race was not dying out. The sexual exploitation of Indigenous women by white men had resulted in the birth of so-called “half-caste” children. Their increasing number was perceived to be a threat to the stability of broader settler society. To deal with this “problem,” protection legislation authorized the forcible removal of Indigenous children from their families whereupon they would be trained for low-level employment. The theory behind the policy was that “full blood” Aborigines would die out, the “half-caste” children would be absorbed into white society and the Aboriginal race would “disappear” forever (Renes 2011, p. 33).

Overall the absorption of Indigenous peoples in white society was considered best for them and best for the Australian nation-state. In reality, however, the process of colonization served to promote the interests of white Australians and not Indigenous peoples. Ultimately, the removal of Indigenous children from their families sought to promote national unity by eliminating the racial characteristics of Indigenous peoples. This approach has been described as a form of cultural genocide, the effects of which have resulted in “the loss of language, family dispersion and the cessation of cultural practices” (Dudgeon et al. 2010, p. 30).

The policy of protection was eventually abandoned in the mid-twentieth century in favor of assimilation. At the Native Welfare Conference in 1961 assimilation was defined to mean that:

[A]ll aborigines and part-aborigines are expected ... to attain the same manner of living as other Australians and to live as members of a single Australian community enjoying the same rights and privileges, accepting the same responsibilities, observing the same customs and influenced by the same beliefs, hopes and loyalties as other Australians. (Hasluck 1961, p. 1)

Evidently, in promoting equal rights and privileges, assimilation was underpinned by the principle of formal equality. This principle adopts a color-blind approach in promoting the equal treatment of everyone in society; but in practice where differences exist among individuals and groups in society, the values and norms of the dominant sections of society prevail. In the Australian context, white Australian customs and beliefs set the standard against which Indigenous peoples were measured. Thus, their purported deficiencies could still legitimize adverse treatment. Children, for example, continued to be removed at disproportionate rates. During this period lack of conformity to the ideal Western nuclear family model among Indigenous families provided sufficient justification for the removal of their children (Royal Commission into Aboriginal Deaths in Custody 1991, 23.3.10–23.3.15).

INDIGENOUS POLICIES FROM THE 1960s

In the 1960s there were signs to suggest that white Australian attitudes towards Indigenous peoples were changing and a period of notable political wins and setbacks for them began. In 1967 the Australian Constitution was amended by referendum. The effect of one of the amendments was to give the Commonwealth Parliament power to make laws with respect to Indigenous peoples at the national level. Supporters of the change thought that Commonwealth oversight of Indigenous affairs could guarantee equal rights for Indigenous peoples, bring an end to their discrimination, and improve their standard of living. None of these things happened.¹ The election of Labor Prime Minister Gough Whitlam in 1972 also marked the introduction of a national policy of self-determination for Indigenous peoples that resulted in the introduction of a range of Indigenous focused structures and measures, including some statutory land rights schemes. However, the policy of self-determination did not extend to the recognition of Indigenous sovereignty and laws. In the 1980s Indigenous groups sought a treaty with the Commonwealth government to give effect to their aspiration for complete control over their own affairs and finally recognize Indigenous sovereignty and rights (Northern and Central Land Councils 1988). A treaty never eventuated due to a lack of political consensus on the issue under the then Hawke Labor Party.

It was in the 1980s that academic interest in the history of forced child removals also began to generate. The term “Stolen Generations” was first used by historian Peter Read in writing on the history of the removal of Indigenous children in New South Wales (Read 1982). In fact since the 1960s historians had shown an increasing interest in the history of settler-colonizer relations. Their work has been vital in exposing the violence of dispossession in the initial stages of colonization (Reynolds 1982), and in identifying the racism that underpinned the policies of protection and assimilation that created the Stolen Generations (Markus 1987). The work of these “new historians” has been particularly significant, not only in breaking the silence that shrouded the history of colonization in Australia, but also in bringing into question particular understandings of settler-colonizer relations, especially the image conveyed in settler accounts that suggest settlement was peaceful and benevolent towards Indigenous peoples.

Indigenous academics and activists made vital contributions to this research in writing about their cultures and the nature of their laws and customs and in seeking justice for violations of their cultural rights caused by the colonization process (Langford 1983). These efforts are testimony to their resistance and survival in asserting their own cultural identities and norms. A notable example is the role that Murray Islanders, Eddie Mabo, David Passi, and James Rice played in bringing proceedings in the High Court of Australia, where they sought a declaration on behalf of the Merium people for recognition of their rights to the their islands, the Murray Islands, in the Torres Strait. They were successful, and in the landmark *Mabo* decision, the High Court for the first time gave legal recognition to the concept of native title which has its origins in the laws and customs of Indigenous peoples.² The Court also overturned the *terra nullius* doctrine that had been applied to deny Indigenous peoples were the original owners of their lands. Despite this apparent victory, the Court refrained from examining the issue of Indigenous sovereignty and made it clear that native title was subordinate to Australian law, most evident in how it could be subject to extinguishment.

Indigenous peoples also played a crucial role in raising awareness of the plight of those affected by the forced child removal practice. The effects of this practice were highlighted by the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) which had been appointed by the Commonwealth government in 1987 to inquire into the causes of the high number of Aboriginal deaths in police custody. In its 1991 report the RCIADIC found that among the 99 deaths in custody studied, 43 persons had been separated from their families (RCIADIC 1991, 2.2.9). The report was significant in providing the most comprehensive overview of the injustices experienced by Indigenous peoples in Australia up to that time. A notable outcome of the report was the adoption of a national policy of reconciliation under the leadership of Labor Prime Minister Paul Keating in 1991. In adopting this policy the government was responding to the RCIADIC’s recommendation that:

[A]ll political leaders and their parties recognise that reconciliation between the Aboriginal and non-Aboriginal communities in Australia must be achieved if community division, discord and injustice to Aboriginal people are to be avoided. (RCIADIC 1991, 38.32)

In 1995 the Keating government also initiated a national inquiry into the separation of Indigenous children from their families from 1910 to 1970. The inquiry was a response to the calls of prominent Indigenous agencies and individuals for greater awareness and support for Indigenous peoples who had been removed as children. It was conducted by the Commonwealth government body formerly called the Human Rights and Equal Opportunity Commission (HREOC) and was led by the President of HREOC, Sir Ronald Wilson, and Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Dodson.

The report, *Bringing Them Home* (BTH), was the product of the HREOC inquiry. The report contained the testimonies of hundreds of Indigenous people affected by the forced child removal practice. These testimonies revealed the devastating consequences that the practice had, not only on the individuals who had been removed, but also on their families and communities, and with continuing intergenerational effects on Indigenous communities across Australia.

In the report it was estimated that 10% of Indigenous children were removed between 1910 and 1970. Often, they were not told the truth about the circumstances of their removal; denied knowledge of their Indigenous identity; forbidden to practice their traditions and speak their languages, and would be punished if they did so. They often were also subjected to racism, neglect, and physical and sexual abuse. The long-term effects included loss of cultural knowledge, loss of language, and loss of Indigenous identity. In these respects the practice of removal contributed to further dispossession of Indigenous lands evidenced by the difficulties now facing Stolen Generations members seeking native title rights to land. The practice of removal was also found to have affected the ability of Indigenous peoples to form personal attachments which impacted on their parenting skills and resulted in a cycle of children being removed from one generation to the next (HREOC 1997, Chap. 2). The impact was also evident on a number of social indicators where Indigenous peoples were found to be significantly worse off than their non-Indigenous counterparts with respect to poverty, domestic violence, alcohol and substance abuse, mental and physical health, housing, employment, income and education (HREOC 1997, Chap. 25).

In light of this evidence the report set out a number of recommendations aimed at making reparations to those affected by the child removal practice. Using the van Boven principles as a framework,³ these included acknowledgment and apology; guarantees against repetition; restitution; rehabilitation; and monetary compensation (HREOC 1997, p. 651). In total BTH made 54 recommendations that related to a range of issues facing Indigenous peoples.

These also included recommendations relating to child welfare laws and juvenile justice regimes in line with international human rights principles, and specifically, the right of self-determination. In framing the future response to Indigenous affairs according to these principles the aim was to prevent repetition of past practices; address the present over-representation of Indigenous children in the child welfare and juvenile justice systems; and thereby ensure the wellbeing of Indigenous children and young people in the future (HREOC 1997, Chap. 26). The adoption of self-determination as the principle to guide these areas was a significant acknowledgment of the understanding held by Indigenous peoples generally that:

[o]nly Aboriginal people can find solutions to the problems which confront them, and that Aboriginal people have the right to make decisions concerning their own lives and their own communities and the right to retain their culture and develop it. (HREOC 1997, p. 436, citing Queensland Government final submission, p. 18)

In accepting this premise, BTH surmised that the way forward was to entrench within the broader Australian system of government greater Indigenous political autonomy and decision making over their own affairs to ensure the continued survival and protection of their cultures (HREOC 1997, Chap. 26).

In addressing the ongoing effects of the forced removal of Indigenous children on Indigenous communities in these ways, BTH could have made a significant contribution to the resolution of past wrongs experienced by Australia's Indigenous peoples by advancing their claims for political autonomy and rights protection. This seemed particularly so considering that at the time of the inquiry self-determination was still official government policy. Thus, the time seemed ripe for the resolution of Indigenous peoples' outstanding claims for justice, particularly because justice for Indigenous peoples was framed as commensurate with the national interest in achieving reconciliation (Deane 1996).

However, after BTH was tabled in Parliament in 1997, it attracted mixed reactions, and some vehement attacks (Wootten 1998). The most controversial findings of the report were that the forced removal of Indigenous children was genocide (HREOC 1997, pp. 270–275); and the recommendations relating to reparations calling for a national apology (HREOC 1997, p. 287), and the payment of monetary compensation to the Stolen Generations (HREOC 1997, p. 282). The Labor Party that could have been more receptive to these findings was no longer in power. In 1996 John Howard, leader of the Liberal-Coalition government, was elected prime minister. Almost immediately it became clear that the Howard government was not prepared to accept these particular findings.

The government's objections were interrelated. It rejected the finding of genocide, claiming that according to its summation of the historical facts,

the past treatment of Indigenous peoples was lawful and, at the time, these actions were thought to be in the best interests of the children concerned. Indeed, in reaction to the "new historians," a movement of New Right historians had emerged for whom the whole idea of a "Stolen Generations" was considered to be a myth (Manne 2001, p. 82). At an official level, this interpretation of history seemed also to be supported by decisions of the Australian courts where it was accepted that the laws which had authorized the removal of children were lawful and in their best interests.⁴ The argument that the practice amounted to genocide was also rejected.⁵

The government's view on an apology was that it would have legal implications to pay compensation and the government did not think it should have to offer either of them. In maintaining this stance, the government strictly adhered to liberal principles on establishing responsibility for wrongful actions. It maintained that an apology to Indigenous peoples would imply that present generations of Australians were responsible for the actions of earlier generations. This would create an injustice for ordinary Australians in the present time, particularly because it was not so clearly apparent that the past treatment of Indigenous peoples was wrong (Govier 2006, pp. 217–218).

The government did acknowledge that the past treatment of Indigenous peoples was regrettable. However, the way forward was not to dwell on the past through symbolic gestures such as an apology, but to introduce practical measures that would address the social disadvantages now facing Indigenous peoples. Thus, the government's response to BTH was to offer a \$63 million package to provide practical assistance to those affected by the child removal practice. In actuality these measures did not comply with BTH. They formed part of the government's broader political strategy in which it abandoned the policy of self-determination and replaced the policy of reconciliation with its own brand of "practical reconciliation." This policy reflected the government's ideological stance that it was:

committed to common rights for all Australians. ... The Government supports additional measures to ensure equality of opportunity ... necessary to overcome specific disadvantages experienced by Indigenous people. Neither the Government nor the general community, however, is prepared to support any action which would entrench additional, special or different rights for one part of the community. (Commonwealth of Australia 2002, pp. 1, 17)

In this respect the refusal to set up a compensation fund was consistent with the refusal to accord Stolen Generations members special rights when the ordinary course for other Australians was to claim compensation in court.

But the government's stance on an apology reflected much deeper ideological concerns about the effect that revelations of past injustices could have on the image and identity of the nation. In the history wars between "new historians" and the "New Right historians" that had escalated in reaction to

Mabo, BTH, and the reconciliation movement more generally, John Howard made no secret that he shared the same ideological views as the New Right historians. These historians sought to reinvigorate an idealized version of Australian history as one of progress and peaceful settlement and reject what they described as the “black armband history” of the new historians (Blainey 1993). Howard, also explicitly rejected the “black armband” view of history which in his view:

reflects a belief that most Australian history since 1788 has been little more than a disgraceful story of imperialism, exploitation, racism, sexism and other forces of discrimination. I take a very different view. I believe that the balance sheet of our history is one of heroic achievement and that we have achieved much more as a nation of which we can be proud than of which we should be ashamed. (Howard 1996)

Even so, the government did not have universal support from the Australian public. With respect to the issue of an apology, this was most evident in the popular support shown for the commemoration of a National Sorry Day on May 26, 1998 as part of National Reconciliation Week; the millions who signed sorry books at the time; and the People’s Walk for Reconciliation on May 28, 2000 which saw hundreds of thousands of Australians walk across the Harbour Bridge in support of an apology and reconciliation. Indeed, Howard’s refusal to apologize was seen as unjust by non-Indigenous supporters, not only because it was a refusal to acknowledge that the past treatment of Indigenous peoples was wrong, but more pertinently, his refusal brought shame on the entire nation and “deprived white Australia of its ability to declare its pride in itself to others” (Ahmed 2004, p. 112). Thus, it could be said that those Australians who supported an apology had their own political agenda in seeking to relegitimize the nation and their place in it by offering an apology to Indigenous peoples. Rudd harnessed this sentiment during the 2007 election campaign, promising to make an apology the first item on the agenda of his government if elected.

THE RUDD APOLOGY

This background is vital to understanding the significance of the Rudd Apology when it was made, but also why it ultimately failed as a response to the claims of Indigenous peoples for justice. This section makes evident that the significance of the Apology cannot be separated from the history of the Stolen Generations and the history of the movement for an apology. In unequivocally accepting that the treatment of the Stolen Generations was wrong Rudd may have set the record straight; he may also have distinguished himself from his predecessor, John Howard. Nevertheless, this was not true of every aspect of the Apology, especially in relation to the practical measures of redress he offered to Indigenous peoples.

Considering Howard's vehement opposition to making an apology, Rudd, in finally offering an apology where he acknowledged and accepted responsibility for the harm suffered by the Stolen Generations seemed particularly significant:

To the stolen generations, I say the following: as Prime Minister of Australia, I am sorry. On behalf of the government of Australia, I am sorry. On behalf of the parliament of Australia, I am sorry. I offer you this apology without qualification. We apologise for the hurt, the pain and suffering that we, the parliament, have caused you by the laws that previous parliaments have enacted. We apologise for the indignity, the degradation and the humiliation these laws embodied. We offer this apology to the mothers, the fathers, the brothers, the sisters, the families and the communities whose lives were ripped apart by the actions of successive governments under successive parliaments. (Rudd 2008, pp. 169–170)

Rudd (2008, p. 168) was also conscious of the controversy that surrounded the making of an apology in that he focused most of the Apology on addressing what '[s]ome people have asked, 'Why apologise?'' In responding to this question Rudd began by considering the evidence that proved what had happened to the Stolen Generations was wrong and demanded an apology.

First he referred to the personal experience of Stolen Generation survivor, Nanna Fejo, who, according to Rudd, had been wrongly removed from her warm and loving family at age four in 1932. The veracity of her story is further evidenced by Rudd (2008, p. 168) who identified it as one of the "thousands, tens of thousands, of them: stories of forced separation of Aboriginal and Torres Strait Islander children from their mums and dads over the better part of a century." These stories are further substantiated by Rudd's (2008, p. 168) reference to BTH that contains first-hand testimonies of Stolen Generation survivors. After setting out these facts he declared:

There is something terribly primal about these firsthand accounts. The pain is searing; it screams from the pages. The hurt, the humiliation, the degradation and the sheer brutality of the act of physically separating a mother from her children is a deep assault on our senses and on our most elemental humanity. ...These stories cry out to be heard; they cry out for an apology. (Rudd 2008, p. 168)

He then continued, claiming that "should there still be doubts as to why we must now act, let the parliament reflect for a moment on the following facts":

that, between 1910 and 1970, between 10 and 30 per cent of Indigenous children were forcibly taken from their mothers and fathers; that, as a result, up to 50,000 children were forcibly taken from their families; that this was the product of the deliberate, calculated policies of the state as reflected in the explicit powers given to them under statute; that this policy was taken to such extremes

by some in administrative authority that the forced extractions of children of so-called “mixed lineage” were seen as part of a broader policy of dealing with “the problem of the Aboriginal population. (Rudd 2008, pp. 168–169)

Rudd (2008, p. 169) then turned to consider another objection used to argue against giving an apology: “the argument of intergenerational responsibility.” Rudd dealt with this issue by reminding his audience that:

[T]he forced removal of Aboriginal children was happening as late as the early 1970s. The 1970s is not exactly a point in remote antiquity. There are still serving members of this parliament who were first elected to this place in the early 1970s. It is well within the adult memory span of many of us. The uncomfortable truth for us all is that the parliaments of the nation, individually and collectively, enacted statutes and delegated authority under those statutes that made the forced removal of children on racial grounds fully lawful. (Rudd 2008, p. 169)

Finally, Rudd (2008, p. 169) acknowledged there was a further reason for an apology and that was because “reconciliation is in fact an expression of a core value of our nation—and that value is a fair go for all. There is a deep and abiding belief in the Australian community that, for the stolen generations, there was no fair go at all. There is a pretty basic Aussie belief that says it is time to put right this most outrageous of wrongs.”

The significance of this point was to stress how an apology was a necessary measure to redress an injustice for Indigenous peoples and to reconcile the nation with the truth that their treatment was wrong. In taking this course Rudd was explicit in distinguishing his approach from the former Howard government:

[F]rom the nation’s parliament there has been a stony and stubborn and deafening silence for more than a decade; a view that somehow we, the parliament, should suspend our most basic instincts of what is right and what is wrong; a view that, instead, we should look for any pretext to push this great wrong to one side, to leave it languishing with the historians, the academics and the cultural warriors, as if the stolen generations are little more than an interesting sociological phenomenon. But the stolen generations are not intellectual curiosities. They are human beings; human beings who have been damaged deeply by the decisions of parliaments and governments. But, as of today, the time for denial, the time for delay, has at last come to an end. (Rudd 2008, p. 168)

He continued, claiming:

This is not, as some would argue, a black-armband view of history; it is just the truth: the cold, confronting, uncomfortable truth—facing it, dealing with it, moving on from it. Until we fully confront that truth, there will always be a shadow hanging over us and our future as a fully united and fully reconciled

people. It is time to reconcile. It is time to recognise the injustices of the past. It is time to say sorry. It is time to move forward together. (Rudd 2008, p. 169)

Nevertheless, although Rudd (2008, p. 169) seemed adamant in his conviction that it was time to deal "with what has become one of the darkest chapters in Australia's history," it was evident that to do this he was prepared to maintain political consensus and pursue the same course set by the Howard government. Before delivering the Apology, the government announced that it would not offer a compensation package to the Stolen Generations,⁶ a decision that was also supported by a majority of the Australian public.⁷ In the Apology, Rudd (2008, p. 169) also steered clear of naming the forced child removal practice as genocide even though there was opportunity to when, for instance, he referred to examples during the protection era where it was envisaged by government officials that the way to deal "the problem of the Aboriginal population" was to ensure they were "eradicated" and "eliminated." When asked why he had not used the word "genocide," Rudd replied that genocide "has a specific definition in international law and I don't believe [it] is either appropriate or helpful in describing the event[s] as they occurred or ... in taking the country forward."⁸

Furthermore, the main form of reparation Rudd offered in the Apology was the "closing the gap" policy, which, like Howard's practical reconciliation, is underpinned by the principle of equality of opportunity and aims to address socioeconomic disadvantage of Indigenous communities in areas such as health, education, and employment. As Rudd surmised in the Apology, the Stolen Generations have been denied "a core value of our nation—and that value is a fair go for all," which by implication alluded to their inequality of treatment that required redress and nothing more.

However, if the Apology was concerned with acceptance of responsibility for the harm caused to the Stolen Generations (which Howard had refused to accept), in adopting a collectivist approach, the closing the gap initiatives failed to provide specific or individualized redress for the injustices experienced by Stolen Generations members. Indeed, when Rudd (2008, p. 169) refuted the claim that the "the policy of generic forced separation was somehow well motivated, justified by its historical context," an offer of compensation should have logically followed. Instead, he confirmed the legal position that "the forced removal of children on racial grounds [was] fully lawful." Evidently, although he may have morally condemned the practice, at no time did "he resile from the power of the state to enact laws of removal or its power to enforce them" (Reilly 2008, p. 14). In the absence of a law reform agenda to prevent such laws from being enacted again, this contradicts what an apology should do: guarantee nonrepetition.

Even as a group-based measure, the closing the gap policy falls short of providing complete redress for institutionalized cultural harms such as loss of cultural heritage and land. Rudd elided this issue by generalizing the harm suffered as mainly related to the pain and suffering associated with loss of

family ties, “the sheer brutality of the act of physically separating a mother from her children.” However, this approach did not sufficiently account for the cultural costs of the removal of children for Indigenous peoples and of the need to redress these losses as had been envisaged by BTH.

Moreover, as a group-based measure the closing the gap policy clearly signaled that Indigenous peoples’ broader claims for a treaty and rights protection would not be put on the political agenda under Rudd. Instead, by introducing “closing the gap,” Rudd envisaged that Indigenous peoples would attain the same living standards as other Australians and in that way justice for them and reconciliation for the nation would be achieved. However, in the nine years that this policy has been in place there has been little improvement in Indigenous peoples’ life chances because it has not sufficiently departed from the original policy of absorption that underpinned the removal of Indigenous children. In fact, both sides of government have continued to pursue a policy of intervention that had been introduced by Howard and is reminiscent of the era of protection (Howard-Wagner and Kelly 2011). Most notably, in this time the number of children in child protection and juvenile detention has continued to grow disproportionately compared to non-Indigenous children, resulting in renewed calls by Indigenous peoples for recognition of their right of self-determination and protection of their cultural rights.⁹

CONCLUSION

When Rudd delivered the Apology it was generally received with relief and thanks. However, little has changed for Indigenous peoples since the Apology. It would seem that the issues turn on the interpretation of history. Ultimately Rudd demonstrated a limited understanding of the history of the injustices experienced by Indigenous peoples by confining them to loss of family and not acknowledging how they infringed their rights. But to frame the wrongdoing in this way would suggest that Indigenous cultural rights are valuable and worth protecting, and this has never been easy to accept in Australia. Colonization depended on the denigration of Indigenous peoples and the denial of their culture and laws. And as was evident during Howard’s term in office protecting Indigenous rights was portrayed as divisive. The same attitudes can be seen reflected in the Apology. The preference has always been for Australian governments to devise solutions for Indigenous “problems” according to state norms and practices, and to valorize these standards as Rudd did by reference to, the “Aussie” fair go. This has been the approach even though adherence to Indigenous norms and ways of doing things could provide better solutions for them. Thus, in the absence of commitment and implementation of Indigenous self-determination and protection of their rights, Rudd continued on the course of colonization in Australia by contributing to the nation-building exercise where the dominant hegemony remained undisturbed.

NOTES

1. <http://ergo.slv.vic.gov.au/explore-history/fight-rights/indigenous-rights/1967-referendum>. Accessed 11 September 2016.
2. *Mabo v Queensland [No. 2]* (1992) 175 C.L.R. 1.
3. These principles have since been adopted by the UN General Assembly resolution 60/147 of 16 December 2005, *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*.
4. *Kruger v Commonwealth* (1997) 190 C.L.R. 1; *Cubillo v Commonwealth* 174 A.L.R. 97.
5. *Kruger v Commonwealth* (1997) 190 C.L.R. 1.
6. <http://www.abc.net.au/7.30/content/2007/s2133493.htm>. Accessed 11 September 2016.
7. <https://www.creativespirits.info/aboriginalculture/politics/compensation-for-stolen-generation-members#toc2>. Accessed 11 September 2016.
8. <http://www.abc.net.au/lateline/content/2007/s2163296.htm>. Accessed 11 September 2016.
9. <http://stopstolengenerations.com.au/>. Accessed 11 September 2016.

REFERENCES

- Ahmed, S. (2004) *The Cultural Politics of Emotion* (Edinburgh: Edinburgh University Press).
- Behrendt, L. (2010) 'The Doctrine of Discovery in Australia' in R. J. Miller, J. Ruru, L. Behrendt and T. Lindberg *Discovering Indigenous Land. The Doctrine of Discovery in the English Colonies* (Oxford: Oxford University Press), pp. 171–186.
- Blainey, G. (1993) 'Drawing Up a Balance Sheet of Our History', *Quadrant*, 38(7/8), 10–15.
- Commonwealth of Australia. (2002) *Commonwealth Government Response to the Council for Aboriginal Reconciliation Final Report—Reconciliation Australia's Challenge* (Canberra: Australian Government Publishing Service).
- Deane, W. (1996) *Some Signposts from Daguragu. The Inaugural Lingiari Lecture* (Kingston, ACT: Council for Aboriginal Reconciliation).
- Dudgeon, P., Wright, M., Paradies, Y., Garvey, D. & Walker, I. (2010) 'The Social, Cultural and Historical Context of Aboriginal and Torres Strait Islander Australians' in N. Purdie, P. Dudgeon and R. Walker (eds.) *Working Together. Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice* (Canberra: Australian Institute of Health and Welfare), pp. 25–42.
- Govier, T. (2006) *Taking Wrongs Seriously. Acknowledgement, Reconciliation, and the Politics of Sustainable Peace* (New York: Humanity Books).
- Howard, J. (1996) 'The Liberal Tradition. The Beliefs and Values Which Guide the Federal Government'. Lecture Presented at the Annual Sir Robert Menzies Lecture, Monash University, Melbourne.
- Howard-Wagner, D. and Kelly, B. (2011) 'Containing Aboriginal Mobility in the Northern Territory. From "Protectionism" to "Interventionism"', *Law Text Culture*, 15, 102–134.

- Hasluck, P. (1961) 'Native Welfare Conference'. Statement by Leave by the Minister for Territories in the House of Representatives. Series A1838, File no. 557/1, pt. 2, 20 April 1961 (Canberra: Australian Archives).
- Human Rights and Equal Opportunity Commission (HREOC) (1997) *Bringing Them Home* (Sydney: Sterling Press).
- Langford, R. (1983) 'Our Heritage—Your Playground,' *Australian Archaeology*, 16, 1–6.
- Manne, R. (2001) *In Denial. The Stolen Generations and the Right* (Melbourne: Schwartz Publishing).
- Markus, A. (1987) 'Under the Act' in B. Gammage and P. Spearritt (eds.) *Australians 1938* (Sydney: Fairfax, Symes and Weldon Associates), pp. 47–54.
- Minow, M. (1998) *Between Vengeance and Forgiveness. Facing History After Genocide and Mass Violence* (Boston: Beacon Press).
- Northern & Central Land Councils. (1988) 'The Barunga Statement', *Land Rights News*, 2(9), 22–27.
- Read, P. (1982) *The Stolen Generations. The Removal of Aboriginal Children in New South Wales 1883 to 1969* (New South Wales: Ministry of Aboriginal Affairs).
- Reilly, A. (2008) 'The Inherent Limits of the Apology to the Stolen Generation'. University of Adelaide Law Research Paper No. 2009-002. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1294101. Accessed 11 September 2016.
- Renes, M. (2011) 'The Stolen Generations, a Narrative of Removal, Displacement and Recovery' in M. Renes (ed.) *Lives in Migration: Rupture and Continuity* (Barcelona: University of Barcelona), pp. 30–49.
- Reynolds, H. (1982) *The Other Side of the Frontier* (Ringwood, Victoria: Penguin).
- Royal Commission into Aboriginal Deaths in Custody. (1991) *National Report* (Canberra: Australian Government Publishing Service).
- Rudd, K. (2008) 'Apology to Australia's Indigenous Peoples'. Commonwealth, House of Representatives *Parliamentary Debates* (13 February 2008), pp. 167–171.
- Thompson, J. (2008) 'Apology, Justice, and Respect. A Critical Defense of Political Apology' in M. Gibney, R. E. Howard-Hassmann, J. Coicaud and N. Steiner (eds.) *The Age of Apology. Facing up to the Past* (Philadelphia: University of Pennsylvania Press), pp. 31–44.
- Wootten, H. (1998) 'Ron Brunton & Bringing them Home', *Indigenous Law Bulletin*, 4(12), 4–8.

Narrative Robustness, Post-Apology Conduct, and Canada's 1998 and 2008 Residential Schools Apologies

Matt James

On two separate occasions, Canada has made official apologies in response to its past policy of using mandatory residential schooling to separate indigenous children from their families, communities, languages, and cultures.¹ More fulsome in its historical accounting and admissions than the first, the second apology involved a significant improvement in what I call narrative robustness. To speak of narratives, in apologies or otherwise, is to speak of accounts that make connections between or among events.² An apology of improved narrative robustness, therefore, is one that surpasses a predecessor apology in terms of the detail and connection-making that it provides in relation to the wrongdoing that it addresses, say, by doing more to identify specific wrongs that were done, to outline their impact on victims, or to identify and indict broader ethical failings that led those wrongs to occur.

Now the value of these kinds of improvement may seem obvious to some. After all, an apologetic narrative that obfuscates, temporizes unduly, omits crucial particulars, or otherwise resists “coming clean” in its account is unlikely to serve well the classic apologetic goal of taking regretful responsibility for wrongdoing (Tavuchis 1991). At the extreme, and to invoke the three central considerations identified in Ažuolas Bagdonas’s overview Chap. 42 on the topic, we might expect such an apology to fail on criteria of detail or fulsomeness, to be rejected as meaningless or insignificant by its

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intended recipients, and, for these reasons, to be disappointing or even pernicious in its impact.

However, the Canadian case raises tough questions about this presumptive emphasis on narrative robustness. It does so because the second, more narratively fulsome apology was followed not by reconciliation but rather by heightened levels of acrimony and indeed Canadian oppression against indigenous peoples. Some might cite this perverse sequencing as warrant for dismissing political apologies entirely, seeing them as ineffectual political theatre (“just words” or “merely symbolic,” as the charges go) or perhaps even as categorically devious tools of ideological legitimization (e.g., Trouillot 2000). This essay explains why I disagree.

RESIDENTIAL SCHOOLS AND THE STRUGGLES FOR COMPENSATION AND APOLOGY

Run by Canada’s major Christian denominations, the residential schools were mandated, funded, and regulated by the Canadian federal government.³ Over the course of the twentieth century (the last residential school closed in 1996), they separated over 150,000 children from their families, denied them access to their languages and cultures, instructed them that their communities and life-ways were inferior, and exposed them to disease-ridden environments with rampant levels of physical and sexual abuse. Unsurprisingly, the schools are linked to a range of intergenerational problems, including family dysfunction, community conflict, poor health, and over-incarceration. The 2015 final summary report of the Truth and Reconciliation Commission of Canada (2015), an independent body convened as part of a court-ordered class-action settlement involving Native litigants, the churches, and the Canadian federal government, concluded that the system constituted cultural genocide: a deliberate, systematic, and sustained assault on indigenous cultural and social reproduction.

This finding has significant implications. The TRC’s cultural genocide framework situates the residential schools not as manifestations of some singular wrongful policy but as reflections of a broader settler-colonial drive to dispossess indigenous peoples of their treaty rights, sovereignty, and land. The Truth and Reconciliation Commission of Canada (2015, p. 3) explained the linkages as follows: “The Canadian federal government pursued this policy of cultural genocide because it wished to divest itself of its legal and financial obligations to Aboriginal people and gain control over their land and resources. If every Aboriginal person [were assimilated via residential schools], there would be no reserves, no Treaties, and no Aboriginal rights.” I return to discuss the narrative robustness of Canada’s residential schools’ apologies in light of the TRC’s finding that the schools were instruments of cultural genocide aimed at indigenous dispossession.

Former residential school students and their descendants began to mobilize in the early 1990s. With some success, abuse survivors pressed for criminal charges against specific abusers and then launched civil suits seeking compensation from the state and churches for that abuse (Feldthusen 2007). Next came class-action claims, involving tens of thousands of plaintiffs, billions of dollars in prospective damages, and a much broader spectrum of alleged harms, the most commonly cited being family separation and loss of language and culture (Stanton 2011). By the time these class actions achieved court certification in the early 2000s, the survivors and descendants were also mobilized politically. The leading groups were the Indian Residential Schools Survivors Society and Canada's largest Aboriginal organization, the Assembly of First Nations; although their emphases at times differed, they pressed in the main for financial compensation for all former students, a nonadversarial compensation process for specific abuse claims, a TRC, and an official apology (Nagy 2014).

Drafted in late 2005, finalized in early 2006, and court approved in fall 2007, the Indian Residential Schools Settlement Agreement suspended the class actions and forced Ottawa and the churches to accept all these demands, save the demand for an apology.⁴ Although Ottawa had already issued a weak apology for residential schools abuse in 1998, and the churches had made scattered apologetic offerings starting in the late 1980s (Bavelas 2004), the survivors, families, and communities continued the fight for an apology after the Settlement Agreement. On June 11, 2008, Conservative Prime Minister Stephen Harper delivered a parliamentary apology that many observers, including indigenous ones, viewed positively (Nobles 2014).

As we have just seen, the 2008 apology came after decades of struggle on multiple fronts by oppressed communities against recalcitrant institutions that were overwhelmingly superior in conventional resources. Two broad clusters of factors seem pertinent to the result. First, the survivors and families benefited from the prior use by indigenous nations of confrontation and direct action at a time of heightened political opportunity (Coulthard 2014b). In 1990, indigenous opposition helped to block the Meech Lake Accord, a failed intergovernmental response to Quebec's historic grievances that excluded Native representatives and ignored their longstanding constitutional concerns. Throughout that same summer, the Canadian military and Kanien'kéha:ka (Mohawk) warriors engaged in an armed standoff sparked by the attempt of the town of Oka, Quebec to build a golf course on an unceded traditional burial ground.

In this fraught context, the Canadian federal government established the Royal Commission on Aboriginal Peoples (RCAP).⁵ RCAP documented the long history of injustice behind the conflicts, including residential schooling, in a multivolume 1996 report that called for nation-to-nation relations, land restitution, sovereignty-sharing, and a residential schools apology and inquiry.

Prompted by the earlier militancy, the RCAP report thus gave heightened visibility and expert sanction to the demands of the families and survivors.

The second overarching factor leading to the 2006 Settlement Agreement and subsequent apology was the success of residential schools activists in uniting the persuasive power of first-hand trauma testimony with the coercive force of law (Niezen 2013). After repeated failures to block the class actions, Ottawa and the churches relented rather than face potentially ruinous damages awards and the full airing in court of the litigants' claims, which included genocide (Stanton 2011; Thielen-Wilson 2014). The suits also generated considerable media coverage and political debate. For example, in the context of a shaky minority parliament in early 2005, survivors used public hearings of Canada's House of Commons Standing Committee on Aboriginal Affairs to mete out a high-profile shaming to embarrassed government representatives and officials; the draft Settlement Agreement was reached later that year (Nagy 2014). As Paulette Regan (2010, p. 142), a former research director of the TRC, observes, these events revealed "the power of survivor testimonies to break through the silence of our denial." By May 2007, all four of Canada's major political parties had voted in parliament to support a full residential schools apology (Curry 2007).

CANADA'S RESIDENTIAL SCHOOLS APOLOGIES

Let us now consider the two apologies. Titled the "Statement of Reconciliation" and offered in a low-key office ceremony in 1998, the "quasi-apology" issued by Liberal Indian Affairs Minister Jane Stewart focused primarily on physical and sexual abuse.⁶ Although Prime Minister Jean Chrétien was in Ottawa that day, he did not attend; the Statement of Reconciliation was not made part of the official parliamentary or legal record, either. It declared that "[W]e are burdened by past actions that resulted in weakening the identity of Aboriginal peoples, suppressing their languages and cultures, and outlawing spiritual practices." It also acknowledged that residential schools "separated many children from their families and communities and prevented them from speaking their own languages and from learning about their heritage and cultures." But it did not describe in detail any of these actions, explain which institutions or policies might have been responsible, acknowledge that the state intended them to happen, or indeed "say sorry" for them.

Instead, the 1998 statement took responsibility only for "the tragedy of sexual and physical abuse." Immediately after acknowledging "the role [that the federal government] played in the administration and development of these schools," the minister declared of the abuse, "[W]hat you experienced was not your fault and should never have happened. ... [W]e are deeply sorry." Stewart also announced a \$350 million "healing fund" to support the health needs of abuse survivors.

The more fulsome 2008 apology of Conservative Prime Minister Stephen Harper came ten years later.⁷ Broadcast live on national television, it was made in the House of Commons, was supplemented by separate apologies from the other party leaders, and—in an unprecedented break from parliamentary protocol—was followed by responses on the House of Commons floor from the leaders of Canada’s main indigenous organizations. Several survivors were also seated on the House floor for the event.

Harper immediately went beyond the 1998 Statement of Reconciliation by admitting that the “two primary objectives of the residential schools policy were to remove students from ... their homes, families, traditions, and cultures and to assimilate them into the dominant culture.” Acknowledging that this course of action was driven by the assumption that Native cultures were “inferior and unequal,” he declared that the “policy of assimilation ... was wrong, has caused great harm, and has no place in our country.”

Harper also exceeded the 1998 statement in making clear that deliberate state actions were responsible for grave harms to all residential school students, not only those who were physically or sexually abused. As he put it, “The Government of Canada built an education system in which ... students were forcibly removed from their homes ... inadequately fed and housed [and] deprived of the care and nurturing [of their] parents, grandparents, and communities. First Nations, Inuit, and Métis languages and cultural practices were prohibited.” Further, and in contrast to the restrictive focus of the 1998 statement, the prime minister framed residential schooling as more than a matter of individual past suffering. Acknowledging residential schooling as an intergenerational harm plaguing communities, he lamented the “profoundly negative” consequences of the schools, including the loss of “Aboriginal culture, heritage, and language [which] has contributed to social problems that continue to exist in many communities today.”

Finally, Harper restated the apology’s three main narrative admissions. These were that the residential schools policy constituted a deliberate assault on indigenous cultures and languages, that it inflicted grave suffering on students and families, and that it continued to cause individual, collective, and intergenerational harm. The prime minister capped each admission with an identical coda declaring Canada’s regret and its acceptance of causal and moral responsibility: “[W]e apologize for having done this.”

ANALYZING APOLOGIES IN THE AFTERMATH OF 2008

Therefore, with its ceremonial vigor, inclusion of indigenous responses, detailed accounting of many relevant wrongs and harms, and acceptance of responsibility, the 2008 case satisfies many of the most commonly noted criteria for political apologies (James 2008; Lightfoot 2015; Regan 2010, pp. 189–190). As a foray in state-sponsored history, it broadened Canada’s official narrative about the residential schools: from unfortunate sites of

physical and sexual abuse to manifestations of an agenda of cultural assault that was abusive in its very conception.

Yet the 2008 apology did not seem to lead to any corresponding transformation in Canada's engagement with indigenous peoples. Throughout its subsequent seven years in office, the Conservative government failed adequately to fund Native education; loosened environmental protections for indigenous territories; linked, in rhetoric and security directives, indigenous activism with jihadi terrorism; increased significantly the incarceration of Native offenders; pursued resource extraction on traditional Native territories in defiance of the wishes of many of the affected communities; refused to address Canada's shockingly high rates of violence against indigenous women and girls; ignored the pervasive scandal of unsafe drinking water on First Nation reserves; acted with truculence in its dealings with the TRC; and attempted repeatedly to evade its Settlement Agreement obligations of document provision and disclosure (Truth and Reconciliation Commission of Canada, 2015, pp. 185, 209; Coulthard 2014a, pp. 127–128; Kino-nda-niimi Collective 2014; Wakeham 2012).

JUDGING THE 2008 APOLOGY: NARRATIVE ROBUSTNESS AND THE RECORD

So what to make of this contrast between increased narrative robustness and a shameful post-apology record? One might say that it highlights the disingenuousness of the very idea of political apology (Trouillot 2000). On this view, apologies are for states that say, "corporate social responsibility" policies (Bakan 2015) are for business: stratagems to legitimate pathologically amoral entities by endowing them with the moral aura of trustworthy personhood.

There is undeniable merit in this view. But there are other ways of understanding the relation between the Canadian apology and the Canadian record. One involves emphasizing not the disingenuousness of political apology in general but rather the continued narrative silence in the 2008 apology on Canadian settler colonialism's core injustice, which is land and sovereignty dispossession. Political scientist Melissa Nobles (2014) takes something of this approach in addressing the apparent challenge posed by the Canadian case to her "membership theory" (2008) of political apologies. The membership theory argues that political apologies are significant because states use them to "support group rights and ... advance group claims" (p. 119). This, of course, the Harper government did not do. Thus, Nobles defends the membership theory by turning to matters of narrative robustness, arguing that the 2008 apology was crafted specifically to leave the terms of Canadian membership untouched. As she puts it, Ottawa avoided matters of land and sovereignty in its apologetic narrative because it did not wish to encourage "broader changes in Crown-Aboriginal relations" (pp. 134, 124).

Philosopher Cindy Holder (2014) also emphasizes the narrative limitations of the 2008 apology in order to better understand the post-apology record. As she observes, although it was in many respects “extensive, comprehensive, and specific” (p. 207), the 2008 apology failed to contextualize residential schooling as part of a broader, long-run assault on indigenous sovereignties. For Holder, the problem was not just that Harper failed to “get his history right.” It was that he neglected to identify the core ethical deficiency behind the relevant past actions, which was their attempt to erase indigenous nationhood. Silent in this way, the apology was a poor candidate for reorienting Canadian officialdom in decolonizing directions. Francesca Dominello’s Chap. 44 in this volume on Australia’s “stolen generations” apology exposes strikingly similar interrelationships between narrative weakness, colonial silence, and a shabby post-apology record in that country.

These interrelationships exemplify what I think the Dene nation political theorist Glen Coulthard (2014a, pp. 25–49) means when he criticizes what he calls the colonial politics of recognition. Colonial recognition aims to defend state legitimacy, contain indigenous struggles, and maintain unjust relations by combining limited forms of redress for particular wrongs with silence about the ongoing system of settler domination that produces them. Thus, as the literary and cultural critics Jennifer Henderson and Pauline Wakeham (2009, p. 3) put it, the moves of “strategic isolation and containment” in the 2008 apology reflected a polity interested in burnishing its “global image as a progressive beacon” but uninterested in relinquishing its control over indigenous bodies, resources, and territories.

These relations between colonial recognition, narrative stinginess, and settler attachments cannot plausibly be denied. Yet I still want to argue that the narrative improvements of Harper’s 2008 apology gave the act political value. I will defend this judgment and the more general standpoint on political apology to which I think it leads it after applying two more perspectives from the apology literature to the Canadian case.

JUDGING THE 2008 APOLOGY: REPARATION, RECONCILIATION, AND THE RECORD

I call the first perspective the conduct perspective. Rather than judging political apologies as singular performances, it treats them as ongoing deeds; rather than narrative robustness, it emphasizes post-apology results. In its strongest form, it suggests that regretful statements unaccompanied by appropriate action are not apologies at all. We can distill a version of the conduct perspective from philosopher Nick Smith’s (2013, p. 33) criticism of approaches to apology that are silent on matters of “reform, redress, or other future behaviour.” As Smith (p. 22) points out, on such approaches, an offender can “apologize” fulsomely, immediately recommit the identical offense, and yet

still receive “full credit.” This perverse sequencing is what colonial recognition may hope to effect.

Anishinaabe political scientist Sheryl Lightfoot’s (2015) framework for studying settler-state apologies has the dangers of colonial recognition in mind. It scrutinizes settler-colonial apologies not only for their contents or performative symbolism but for their *meaningfulness* to indigenous peoples. A meaningful settler-state apology, Lightfoot argues, is one that is “employed in a way that moves beyond rhetoric and helps reset the relationship between the state and indigenous peoples away from hierarchical and colonial power relations and toward one grounded in mutual respect” (p. 17). As she explains further, settler-colonial dispossession means that this kind of movement will tend to require substantive reparation in matters of political power and land (p. 24).

Thus, Lightfoot’s meaningfulness approach is a variant of the conduct perspective because it takes substantive reparation as a metric of apologetic adequacy. It certainly provides further warrant for scepticism about settler-colonial apologies. After applying the meaningfulness framework to five different cases, Lightfoot (pp. 33–34) shows that even settler-state apologies that she judges to have been narratively and ceremonially robust—and Harper’s 2008 apology is among them—were major disappointments in substantive terms.

Perhaps more damning is that, even if we abandon the insistence on substantive change, Harper’s narratively improved apology still fares poorly when judged on his government’s subsequent record. Consider political scientist Michael Cunningham’s (2014) approach. Wondering if the search for conclusive criteria with which to judge political apologies is fruitless, Cunningham suggests that we might scrutinize political apologies for their success in effecting reconciliation instead (pp. 10–15; cf. MacLachlan 2010). Canada is not a hard case in this regard; Harper’s defiant neocolonialism in the years after the apology caused new lows in indigenous–state relations. Thus, on the reconciliation perspective the 2008 apology was a failure.

But I have doubts about judging exclusively political apologies on either the reconciliation or the conduct perspectives. The point is not that post-apology results or behavior are irrelevant, particularly when it comes to evaluating the apologizer. My concern is instead twofold. First, there are important analytic reasons for distinguishing strongly between the apparent robustness of an apologetic act, and the adequacy of the apologizer’s subsequent record or the apology’s role in effecting reconciliation. At the extreme, making reparation or reconciliation part of the criteria for political apology risks establishing a tautology in which the relation between apologetic robustness and results disappears as a research question.⁸ Second, and this is why I think we should be particularly wary of collapsing judgments about the act and the record into a single judgment about the apology: even an apology

that fails quite glaringly on reconciliatory or conduct terms may still have lasting value *as an apologetic narrative*.

POLITICAL APOLOGIES AS POLITICAL RESOURCES: THE 2008 CANADIAN CASE

If reparation or reconciliation are criteria for judging acts of political apology, then we are presumably to classify apologies that are unaccompanied by such outcomes as failed, meaningless, or simply as nonapologies. By contrast, I want to insist on the distinction between apology and record in order to highlight the underappreciated role of political apologies as officialized symbolic resources for calling out malfeasance and hypocrisy. This emphasis is not only important analytically. It can also attune us interpretively to something of quintessentially political significance: the charged and potent space of contradiction that may unfold in the gap between a robust apologetic act and a shoddy post-apology record.

Both the analytical and interpretive significance become clearer if we consider the following findings from a comprehensive search of major Canadian print media for invocations of the 2008 residential schools apology between January 1, 2009 and October 19, 2015.⁹ In 154 instances of individuals either directly invoking the apology in opinion pieces or doing so when quoted or cited in news items, we see two major patterns. First, some speakers or writers, many of them state or Conservative party spokespeople, used the apology to somehow praise or defend the government's record. More specifically:

- 20 claimed the apology demonstrated the government's goodwill.
- 10 stated that the apology stood on its own and required no follow-up.
- 5 described the apology as a Harper accomplishment.
- 3 even criticized indigenous peoples for insufficient post-apology gratitude.

Second, and conversely:

- 46 argued that bad post-apology conduct made the apology meaningless.
- 33 used the apology to criticize specific aspects of the post-apology record.
- 26 demanded that Ottawa do more to live up to the apology.
- 11 invoked the apology to demand some specific course of action.

In short, whereas 38 media references used the apology as a prop for quiescence, 116 used it to expose Canadian failings. The apology's role as a tool for exposing hypocrisy seems particularly significant given the right-wing

bias of the big Canadian print dailies, which were virtually unanimous in endorsing Harper's Conservatives in the 2011 and 2015 parliamentary elections (Tencer 2015). The Harper apology has been significant in other ways as well. In particular, as I now suggest, its improved narrative robustness contributed to broader changes pushing Canadian discourses of residential schooling towards acknowledging settler colonialism.

THE STRUGGLES SURROUNDING THE 2008 APOLOGY

There has been no shortage of shady dealing when it comes to apologies in settler-colonial Canada. Consider the 1998 Statement of Reconciliation. It came after Ottawa had waited two years to respond to the 1996 RCAP report, which called for a new relationship based on major restitution, reinvigorated treaties, and nation-to-nation relations. Instead of heeding the call, the Liberal government offered the quasi-apology and \$350 million healing fund as fig leaves for its inaction on RCAP and its ignoble role in fighting residential school compensation cases in the courts.

But the Statement of Reconciliation failed to silence the struggles over land, governance, and resources that had necessitated the creation of RCAP in the first place (Kino-nda-niimi Collective 2014). As state-sponsored history, Canada's residential schooling narrative did not unfold in the way that Ottawa might have hoped, either. After winning the largest class-action settlement in Canadian history (Nagy 2014), the mobilized survivors went on to achieve via the 2008 apology what its quasi-apologetic 1998 predecessor had refused to provide: an official narrative admission declaring that the schools were instruments of a deliberate Canadian assault on indigeneity that was directly responsible for continued intergenerational suffering. As for the narrative failings in the June 2008 apology, although observers noted its silence on colonialism and genocide, these objections were relatively muted at first (but see Chrisjohn and Wasacase 2009). Indeed, despite the markedly similar silences in Australia's February 2008 "Stolen Generations" apology, Canada's largest indigenous organization, the mainstream AFN, cited Australia's as a model for Ottawa to follow (Nation Talk 2008).

The major public disputes preceding Canada's June 2008 apology were instead over matters of timing, procedure, and recognizing the intergenerational nature of residential school harms (e.g., Curry 2008b). After being embarrassed into supporting a May 2007 opposition parliamentary resolution favoring an apology, the Conservative minority government then insisted on waiting until after the TRC's proceedings, which were slated to conclude in 2014 (Curry 2007). But this insistence crumbled just weeks later. Thereafter, public debate was dominated by the insistence of indigenous leaders and survivors on being present on the House of Commons floor for the event and having the immediate opportunity from that location to respond

(Curry 2008a; Regan 2010, p. 178). Ottawa eventually relented to these procedural and ceremonial demands as well.

In short, therefore, other than the matters of intergenerational trauma and culture and language loss, which Harper's apology was forced to address, narrative robustness was not a major subject of public dispute in the key public debates in the months preceding it. At least as far as my research has made me aware, indigenous actors did not target Ottawa in the run-up to the apology to demand admissions of responsibility beyond abuse, family separation, deculturation, language loss, and intergenerational suffering. For their part, right-wing politicians and conservative academics failed to rise up against the apology as well; there was no Canadian version of the German or Australian "history wars" (MacDonald 2015).¹⁰ This interesting nonhappening was probably a legacy of the 2006 Settlement Agreement. With the narrative substance of the apology's admissions already *de facto* conceded in a court-supervised agreement, reactionary mobilization in 2008 was blatantly a lost cause.

THE ITERATIVE DEVELOPMENT OF CANADA'S RESIDENTIAL SCHOOLS NARRATIVE

At least one of the class-action lawsuits had argued that residential schooling constituted an act of genocide; the ground for the claim was that the system forcibly removed children from their parents in a program of cultural assault that aimed to eliminate indigenous peoples as distinctive groups (Thielen-Wilson 2014). Ignored by the mainstream Canadian media, the claim was further submerged when the 2006 Indian Residential Schools Settlement Agreement ended the class actions. But as we have already seen in the work of Coulthard (2014a) and Lightfoot (2015), indigenous critics were keenly aware of the colonial recognition dynamic. For example, Kanien'kehaka (Mohawk) political scientist Taiaiake Alfred (2009, p. 181) called out state-led reconciliation initiatives as "weak-kneed ... half-hearted measures," and Athabaskan feminist theorist Dian Million (2013, p. 8) warned that the new developments were part of a broader discourse of trauma and healing that fit ambiguously with the politics of collective self-determination. This kind of critical awareness intersected with the 2008 apology, in both its significant narrative limitations and its significant narrative improvements, in ways that facilitated a new stage of struggle.

Let me draw on Jennifer Henderson's (2013) work to develop the point. Citing Million, Henderson observes that settler Canada was disposed to be more receptive to discourses of residential schooling trauma and healing than to claims of colonial dispossession. But Henderson also notes the discursive availability of residential schooling as a synecdoche, an educative shorthand referent, for Canadian colonialism *tout court* (pp. 66–69). To move from the language of literary theory to communications studies and social psychology,

residential schooling could serve as a condensation symbol (Edelman 1964, pp. 6–9): an evocative discursive tool for amplifying deeper, interlinked clusters of claims. We can explicate this role further by returning to the question of narrative in the 2008 apology.

Thanks to the struggles of the mobilized survivors, the 2008 apology declared officially that the schools were manifestations of a deliberate assault on indigenous cultures, languages, and families. Resisted for more than a decade by the Canadian state, this move facilitated subsequent narrative reconsiderations. In the first instance, the apology helped to do so by moving public opinion. As Regan (2010, p. 179) reports on one company's series of related polls on the topic, only 42% of respondents supported the idea of an apology in March 2008; in May, as the political momentum for apology increased, the figure rose to 53%; two months after the June 2008 apology a full 67% of respondents were in support.

Now let us turn to more qualitative considerations. Although the shift was sometimes tentative and contradictory, transitional justice scholars Rosemary Nagy and Emily Gillespie (2015) find that, during the life of the 2009–2015 TRC, the mainstream media began to abandon the former tendency to treat the schools solely in terms of abuse. Indeed, in contrast to earlier treatments, which were often disbelieving, patronizing, and outwardly racist (Henderson 2015), some of the new mainstream media representations situated the schools as tools of colonial violence whose project of dispossession could be seen in the over-incarceration, systemic poverty, treaty-breaking, and undressed land theft of the present day (Nagy and Gillespie 2015, p. 22). Thus, my claim is that the apology helped to facilitate the narrative advances of the TRC. The 2008 apology helped not only to raise awareness and advance public opinion; by redressing the narrative silences in the 1998 quasi-apology about government responsibility, deculturation, and intergenerational suffering, it helped to open space for new criticisms and concerns. To cite the 2015 Final Summary Report of Truth and Reconciliation Commission of Canada (p. 268), it “created an opening for Canadians to begin a national dialogue.”

Recall the expansive understanding of residential schooling from the TRC report (Truth and Reconciliation Commission of Canada, 2015, p. 3) quoted at the outset of this chapter:

The Canadian federal government pursued [a] policy of cultural genocide because it wished to divest itself of its legal and financial obligations to Aboriginal people and gain control over their land and resources. If every Aboriginal person [were assimilated via residential schools], there would be no reserves, no Treaties, and no Aboriginal rights.

Now recall Canada's earlier official narratives, that is, its earlier discursive offerings of historical detail and connection-making in relation to the schools. Regrettable sites of abuse in the 1998 quasi-apology, the schools were resituated in the 2008 apology as deliberate, state-inflicted instruments of family

separation, deculturation, and language loss. This narrative expansion, driven by the creative and tenacious work of survivors, was a vital bridge to the expressly anti-colonial understanding in the TRC report.

CONCLUSION

It is true that these moves towards increased narrative robustness had not at the time of writing led to major substantive change from the Canadian state. They also had their own internal limitations. For example, they were silent on the patriarchal character of Canadian colonialism and its implications for indigenous women (Grey and James 2016). The use of the qualifier “cultural” before “genocide” in the TRC Final Report also fails to summon the international legal censure that leading experts believe Canada deserves (Hinton et al. 2014). But I think the narrative improvements have been significant.

In a profoundly unfavorable political environment (the right-wing Conservative minority government was re-elected with a parliamentary majority in 2011 and the national press was resolutely pro-Conservative throughout), the 2008 apology served as a valuable symbolic resource for exposing hypocrisy. As the Final Summary Report of the Truth and Reconciliation Commission of Canada (2015, p. 268) observed: “In their evaluation of where things stood in the years immediately following the apology, Aboriginal leaders identified a post-apology gap between the aspirational language of Canada’s apology and Aboriginal peoples’ continuing realities. Closing this gap is vital to reconciliation.” We have also seen that the TRC built on the post-apology context, which was one of heightened public awareness of Canadian wrongs and of intensified indigenous criticism of settler-state duplicity. As a result, there has been made available for further struggles an official Canadian narrative that recognizes residential schooling as part of a cultural genocide framework for dispossessing Native peoples of their lands, cultures, governance structures, and treaty rights.

Thus, I have argued for an iterative view of political apologies as narrative admissions that can be used to hold apologizers to account and to produce more adequate collective understandings of injustice. This view differs from both the conduct and the reconciliation perspectives. These perspectives see heightened post-apology acrimony and the absence of appropriate restitution, respectively, as evidence of failure or meaninglessness in the 2008 apology. Where they judge the apology by the record, therefore, I suggest that the record can also be judged against the apology. Certainly, the iterative view may be thin gruel against colonialism’s ongoing wrongfulness. But changing a system of domination built over hundreds of years requires multifaceted conflict; better official narratives that provide better normative benchmarks can be useful tools in the struggle.

Let me conclude by noting how the TRC Chair, Murray Sinclair, invoked the 2008 apology at the formal unveiling of the Final Summary Report.

Sinclair accused the federal government of “failing the apology.”¹¹ I find the accusation striking. In a world of limited attention spans, information saturation, and the ubiquitous double-speak of officialdom, the occasional yardstick of moral clarity—which improvements in apologetic narrative robustness can provide—seems no small thing.

NOTES

1. For helpful comments on this chapter, thanks to Joel Bakan, Sam Grey, Cindy Holder, Sheryl Lightfoot, Rosemary Nagy, and the editors of this volume. For research assistance, thanks to Janice Dowson and Mark Willson.
2. For a brief introduction to the concept from the standpoint of literary theory, see Eagleton (1983, esp. pp. 105–106).
3. Unless otherwise noted, all information about residential schooling in this chapter, as well as numerous useful further citations, can be found in Canada, Truth and Reconciliation Commission of Canada (2015), http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec_Summary_2015_05_31_web_o.pdf. Accessed 03 February 2017.
4. The Settlement Agreement is at <http://www.residentialschoolsettlement.ca/IRS%20Settlement%20Agreement-%20ENGLISH.pdf>. Accessed 03 February 2017.
5. See Royal Commission on Aboriginal Peoples (1996).
6. This and the following paragraph are adapted from James (2007); the Statement is at <https://www.aadnc-aandc.gc.ca/eng/1100100015725/1100100015726>. Accessed 03 February 2017.
7. The text of the apology is at <https://www.aadnc-aandc.gc.ca/eng/1100100015644/1100100015649>. Accessed 03 February 2017; a video is at <https://www.youtube.com/watch?v=e72Z-XGk7Jc>. Accessed 03 February 2017. I treat the video version as definitive.
8. In past work (2008) I treated reparation as a criterion for judging the sincerity of an apology at its issuance which is different from using reparation to judge *post facto* an apology's meaningfulness.
9. The search was performed by Janice Dowson between October 7–15, 2015. It used the ProQuest Canadian Newsstand Major Dailies Database to study opinion pieces or news stories yielded by the search command, residential schools apology (quotation marks were not used in order to garner the largest possible sample). The search yielded 154 instances in 131 stories or opinion pieces that involved individuals somehow invoking the 2008 residential schools apology to make or buttress a political claim (defined here as a claim for or against a particular course of public action or inaction or for or against the conduct or record of a person, institution, or group).
10. In fact, a Conservative parliamentarian who spoke about Native peoples in racist terms just days after the apology was forced to apologize; see Lightfoot (2015, p. 19).
11. Author's notes from public session, “Release of TRC findings on Indian residential schools,” June 2, 2015, Delta Hotel, Ottawa, Ontario.

REFERENCES

- Alfred, G. T. (2009) 'Restitution is the real pathway to justice for Indigenous peoples' in G. Younging, J. Dewar and M. DeGagné (eds.) *Response, Responsibility and Renewal* (Ottawa: Aboriginal Healing Foundation), pp. 179–190.
- Bakan, J. (2015) 'The invisible hand of law. Private regulation and the rule of law,' *Cornell International Law Journal*, 48, 279–300.
- Bavelas, J. (2004) 'An analysis of formal apologies by Canadian churches to First Nations' (University of Victoria Centre for Studies in Religion and Society) Occasional paper no. 1, July.
- Coulthard, G. (2014a) *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis: University of Minnesota Press).
- Coulthard, G. (2014b) '#IdleNoMore in historical context' in The Kino-nda-niimi Collective (ed.) *The Winter We Danced. Voices from the Past, the Future, and the Idle No More Movement* (Winnipeg: ARP Books).
- Chrisjohn, R. and Wasacase, T. (2009) 'Half-truths and whole lies. Rhetoric in the "apology" and the Truth and Reconciliation Commission' in G. Younging, J. Dewar and M. DeGagné (eds.) *Response, Responsibility and Renewal* (Ottawa: Aboriginal Healing Foundation), pp. 217–232.
- Cunningham, M. (2014) *States of Apology* (Manchester: Manchester University Press).
- Curry, B. (2007) 'House apologizes to residential school students,' *Globe and Mail* (Toronto), 2 May, A6.
- Curry, B. (2008a) 'Plan for residential schools apology criticized,' *Globe and Mail* (Toronto), 6 June, A4.
- Curry, B. (2008b) 'Natives say they're shut out of apology process,' *Globe and Mail* (Toronto), 11 February, A4.
- Eagleton, T. (1983) *Literary Theory. An Introduction* (Minneapolis: University of Minnesota Press).
- Edelman, M. (1964) *The Symbolic Uses of Politics* (Urbana: University of Illinois Press).
- Feldthusen, B. (2007) 'Civil liability for sexual assault in Aboriginal residential schools. "The baker did it,"' *Canadian Journal of Law and Society*, 1, 61–91.
- Grey, S. and James, A. (2016) 'Truth, reconciliation, and "double settler denial." Gendering the Canada-South Africa analogy,' *Human Rights Review*, 17(3), 303–328.
- Henderson, J. (2013) 'The camp, the school, and the child. Discursive exchanges and (neo)liberal axioms in the culture of redress' in J. Henderson and P. Wakeham (eds.) *Reconciling Canada. Critical Perspectives on Canada's Culture of Redress* (Toronto: University of Toronto Press), pp. 63–86.
- Henderson, J. (2015) 'Residential schools and opinion-making in the era of traumatized subjects and taxpayer-citizens,' *Journal of Canadian Studies*, 49, 5–43.
- Henderson, J. and Wakeham, P. (2009) 'Colonial reckoning, national reconciliation? Aboriginal peoples and the culture of redress in Canada,' *ESC: English Studies in Canada*, 35, 1–26.
- Hinton, A. L. Woolford, A. and Benvenuto, J. (eds.) (2014) *Colonial Genocide in Indigenous North America* (Durham: Duke University Press).
- Holder, C. (2014) 'Reasoning like a state. Integration and the limits of official regret' in M. Mihai and M. Thaler (eds.) *On the Uses and Abuses of Political Apologies* (Basingstoke: Palgrave Macmillan), pp. 203–219.

- James, M. (2008) 'Wrestling with the past. Apologies, quasi-apologies, and non-apologies in Canada' in M. Gibney, R. E. Howard-Hassmann, J.-M. Coicaud and N. Steine (eds.) *The Age of Apology. Facing up to the Past* (Philadelphia: University of Pennsylvania Press), pp. 137–153.
- Kino-nab-niimi Collective (ed.) (2014) *The Winter We Danced. Voices from the Past, the Future, and the Idle No More Movement* (Winnipeg: ARP Books).
- Lightfoot, S. (2015) 'Settler-state apologies to Indigenous peoples. A normative framework and comparative assessment,' *Native American and Indigenous Studies*, 2, 15–39.
- MacDonald, D. B. (2015) 'Canada's history wars. Indigenous genocide and public memory in the United States, Australia, and Canada,' *Journal of Genocide Research*, 17, 411–431.
- MacLachlan, A. (2010) 'The state of "sorry". Official apologies and their absence,' *Journal of Human Rights*, 9, 373–385.
- Million, D. (2013) *Therapeutic Nations. Healing in an Age of Indigenous Human Rights* (Tucson: University of Arizona Press).
- Nagy, R. L. (2014) 'The Truth and Reconciliation Commission of Canada. Genesis and design,' *Canadian Journal of Law and Society*, 29, 199–217.
- Nagy, R. and Gillespie, E. (2015) 'Representing reconciliation. A news frame analysis of print media coverage of Indian residential schools,' *Transitional Justice Review*, 1, 3–40.
- Nation Talk (2008) 'AFN National Chief congratulates Australia's Indigenous peoples on government apology to its Stolen Generations,' *Nation Talk*, 13 February. <http://nationtalk.ca/story/afn-national-chief-congratulates-australias-indigenouspeoples-on-government-apology-to-its-stolen-generations>. Accessed 4 February 2017.
- Niezen, R. (2013) *Truth and Indignation. Canada's Truth and Reconciliation Commission on Indian Residential Schools* (Toronto: University of Toronto Press).
- Nobles, M. (2008) *The Politics of Official Apologies* (Cambridge: Cambridge University Press).
- Nobles, M. (2014) 'Revisiting the "membership theory of apologies." Apology politics in Canada and Australia' in M. Mihai and M. Thaler (eds.) *On the Uses and Abuses of Political Apologies* (Basingstoke: Palgrave Macmillan), pp. 119–137.
- Regan, P. (2010) *Unsettling the Settler Within. Indian Residential Schools, Truth Telling, and Reconciliation in Canada* (Vancouver: University of British Columbia Press).
- Royal Commission on Aboriginal Peoples (1996) 'People to People, Nation to Nation: Highlights from the Report of the Royal Commission on Aboriginal Peoples' (Ottawa: Supply and Services Canada). <http://www.aadnc-aandc.gc.ca/eng/1100100014597/1100100014637>. Accessed 4 February 2017.
- Smith, N. (2013) 'An overview of challenges facing collective apologies' in D. Cuypers, D. Janssen, J. Haers and B. Segaer (eds.) *Public Apology between Ritual and Regret. Symbolic Excuses on False Pretenses or True Reconciliation out of Sincere Regret?* (Amsterdam: Rodopi), pp. 29–44.
- Stanton, K. (2011) 'Canada's truth and reconciliation commission: Settling the past?', *International Indigenous Policy Journal*, 2(3), 1–18.
- Tavuchis, N. (1991) *Mea Culpa. A Sociology of Apology and Reconciliation* (Stanford: Stanford University Press).

- Tencer, D. (2015) 'Canada's newspapers were in the tank for Harper, media analysis finds', *The Huffington Post Canada*, 10 November. http://www.huffingtonpost.ca/2015/11/10/newspaper-endorsements-harper-study_n_8523676.html. Accessed 5 February 2017.
- Thielen-Wilson, L. (2014) 'Troubling the path to decolonization. Indian residential school case law, genocide, and settler illegitimacy,' *Canadian Journal of Law and Society*, 29, 181–197.
- Trouillot, M.-R. (2000) 'Abortive rituals. Historical apologies in the global era,' *Interventions*, 2, 171–186.
- Truth and Reconciliation Commission of Canada (2015) 'Honouring the Truth, Reconciling for the Future. Summary of the Final Report of the Truth and Reconciliation Commission of Canada.' http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Exec_Summary_2015_05_31_web_o.pdf. Accessed 4 February 2017.
- Wakeham, P. (2012) 'Reconciling "terror". Managing Indigenous resistance in the age of apology,' *The American Indian Quarterly*, 36, 1–33.

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