

## 1 Introduction

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On December 7, 1970, German Chancellor Willy Brandt laid down a wreath at the memorial of the Jewish ghetto in Warsaw. He stepped back, and fell to his knees in front of the memorial, remaining completely still for half a minute on the wet stone floor. This small and spontaneous, yet powerful gesture was a changing moment in world history, seemingly opening up new possibilities for post-conflict reconciliation. Yet, 35 years later, on 11 July 2015, on the twentieth anniversary of the Srebrenica mass killing of 8,000 Bosnian Muslim men and boys, when Serbian Prime Minister Aleksandar Vučić came to pay respect to the Srebrenica survivors, instead of manifesting a moment of catharsis, he was forced to flee the memorial after being stoned by an angry Bosniak mob. They pelted him with stones, shoes and bottles as he arrived at the mass burial held to mark the atrocities. Prime Minister Vučić had been explicitly and heavily pressured by the international community, weeks prior to the event, to publicly apologise for the genocide committed in 1995.<sup>1</sup> But instead of finding the dignity accorded to the ‘Brandt moment’, a rock was thrown that struck him in the face, breaking his glasses. Why did those two events of public apology have such completely different outcomes? Why did the international community pressure Serbian Prime Minister Vučić into apologising in the name of the Serbian people? Most importantly, how did this gesture affect realities on the ground?

This book is about the rise of a new phenomenon worldwide – termed here *moral remembrance*. Moral remembrance prescribes standards for a ‘proper way of remembrance’ with which states are expected to comply when dealing with legacies of mass human rights abuses. It refers to a standardised, isomorphic set of norms, and is based on normative world-views of human rights that promote ‘facing the past’, ‘duty to remember’ and ‘justice for victims’ as its pillars. Moral remembrance points to the current preference, worldwide, for memory standardisation, institutional

<sup>1</sup> See all three Srebrenica Genocide Resolutions adopted on 7 July 2005, 15 January 2009 and 7 July 2015.

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homogenisation and norm imitation. It provides a technocratic-like set of policies and a tool kit of practices that aim to advance a human rights vision of memorialisation processes to promote democratic human rights values across the globe.

This book brings into question one of the most basic, deeply embedded assumptions in human rights and transitional justice: that ‘proper’ memorialisation is a crucial step in establishing moral responsibility for past atrocities and, consequently, human rights values in conflict and post-conflict settings. This study questions whether such standardisation is useful in achieving ‘reconciliation’ through close analysis of the actual effects – in real-life settings – of attempts to mandate history in, and after, ethnic conflict; it sees such standardisation as being generally ineffective at best and counterproductive at worst. The book argues that the human rights memorialisation agenda is constructed and adopted as a result of experiences based on historically grounded events that, once transformed into policy-oriented memorialisation efforts, translate into an oppressive force. Along the way, those de-contextualised memorialisation efforts produce a long list of false premises that, for the reasons elaborated in the book, in the long run end up enforcing divisions on the ground.

### **Standardisation of Memory at the World Polity Level**

Since the late eighteenth century, national memory has been largely regarded as an internal matter for nation-states. However, in the course of the past several decades, we have witnessed a growing global trend that promotes the idea that societies, just like individuals, inevitably need to face and deal with their troubled past to prevent a recurrence of violence and to promote democratic and human rights values. This notion argues that memorialisation has become ‘a critical element in current struggles for human rights and democracy’ (Brett et. al. 2007: 1). The term ‘memorialisation’ covers a range of initiatives that aim ‘to preserve the memory of past abuses for present and future generations, by such means as monuments, museums, commemorative ceremonies, and rituals’ (Blustein 2012: 19). Attempts, at the world polity level, to find and implement proper policies and modes of memorialisation for societies involved in massive human rights abuses, starting from World War II onwards, gave birth to myriad approaches and methods that promise to secure a sustainable peace and a gradual transition to democracy. The global memorialisation agenda, promoted through various institutions, policies, discourses and practices, is closely connected with, and gains its

power and legitimacy from, the transnational human rights regime. Approaches such as peacebuilding, transitional justice and conflict transformation, management, resolution and reconciliation are, broadly speaking, offspring of the presumption, advanced by the human rights agenda (or regime), that the implementation of human rights values and norms is a condition for the proper memorialisation of atrocities. They are used and implemented under the assumption that a proper, morally driven memorialisation can transform and direct nationalist realities in conflict and post-conflict societies towards a non-violent course, simultaneously placing them on a safe path to a brighter democratic future. Memorialisation efforts have become core issues in the quest for post-conflict justice, peace and reconciliation, gaining significance and relevance and becoming an inseparable part of any human rights agenda. The overwhelming presence of memorialisation efforts and their ongoing embeddedness into organisations and institutions are phenomena of global proportions. The United Nations, Amnesty International, Human Rights Watch, the Organisation for Security and Co-operation in Europe (OSCE) and, in fact, every single non-governmental organisation (NGO) or human rights institution that deals with conflict areas, one way or the other, promotes an agenda grounded in the assumption that a 'proper memorialisation' is essential for 'healing' societies with a difficult past and moving beyond trauma and violence. Universities teach courses and have entire programs dedicated to peacebuilding, conflict resolution/management/transformation and transitional justice, feeding the need for dedicated professions that can fill numerous positions in the NGO sector, human rights institutions, international and domestic criminal tribunals and courts, local and international human rights campaigns, and even state-sponsored memorialisation efforts. All of those trained professionals, as well as enthusiasts and activists, irrespective of the sometimes substantial differences between their approaches and methods, are on the same mission: to direct and advocate for the parties involved to achieve a particular vision of the future by embracing certain ways in which they are supposed to frame, remember and commemorate their troubled past. This desired vision of remembering atrocities in a very particular way – atrocities committed by different parties in wars or under totalitarian regimes – is based on the assumption that a 'proper' framing of remembrance represents an effective means for promoting universalist human rights values in conflict and post-conflict settings (David 2017a). In other words, human rights advocates operate under an unquestionable assumption: that a proper memorialisation of a difficult past is essential for both democracy and human rights.

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The pressure to engage in particular forms of memorialisation after mass human rights abuses started to emerge in the 1980s, by which time a human rights vision of memorialisation as a process of remembering the wrongs of the past and honouring the victims had developed, together with the idea that public and official recognition of crimes is essential for preventing further violence in divided or post-conflict societies. In 2014, the United Nations (UN) adopted *memorialisation standards*, promoting Western memorial models as a template for the representation of past tragedies or mass crimes and, in so doing, requiring states with difficult pasts to adhere to prescribed *standards of memory* (UN General Assembly 2014). According to these standards, memorialisation may include sites such as ‘concentration camps, former torture and detention centres, sites of mass killings and graves and emblematic monuments of repressive regimes; symbolic sites such as permanent or ephemeral monuments carrying the names of victims, renamed streets, buildings or infrastructure, virtual memorials on the Internet, and museums of history/memory; and activities such as public apologies, reburials, walking tours, parades and temporary exhibits’ (UN General Assembly 2014: 5). These commemorations are mandated based on the assertion that ‘ensuring public recognition of past crimes is indispensable to the victims, essential for preventing further violence and necessary for redefining national unity’ (UN General Assembly 2014: 5).

Yet, how compelling are these claims? How sound is the causal logic? How valid are the theoretical and factual assumptions on which they are based? Can there be universally correct ways of remembering past atrocities? Most importantly, what are the possible negative side effects of the demands envisioned, regulated and imposed by the human rights regime upon conflict and post-conflict states for them to engage with their contested pasts in a particular manner and to compel standardised memorialisation practices? Can that bring human rights values? This book challenges those assumptions. It shows that the advancement of *moral remembrance* – the standardised set of norms, promoted through human rights infrastructures at the world polity level, in which societies are supposed to deal with the legacies of mass human rights abuses – does not stand up to its expectations. On the contrary, it often destabilises post and in-conflict realities, enforces animosities and strengthens ethnically based nationalism.

Hence, we need to understand how this massive promotion of moral remembrance became a top priority on the human rights agenda. How did we come to see moral remembrance with its unified discourses, with its same language phrases and practices, spreading around the world

(albeit unevenly), even to the most remote conflict areas? The reason for this memorialisation madness, I claim, lays in the fact that systematic, historical–sociological, comparative research has never been carried out that probes the fundamental assumption in which is grounded all the activism, advocating, policy-making and research that claims the inevitable causality between ‘proper memorialisation’ and human rights and democratic values.

### **The Intersection between Memory and Human Rights**

Despite the fact that memory studies have been one of the most popular areas of research in recent years, memory as a subject of social inquiry had been greatly neglected until relatively recently. There are several reasons for this omission. Not long ago, memory as a subject wasn't perceived as a sociological issue. It had been pushed aside and often treated as a ‘soft’ issue, something that did not have a significant impact on societal organisations and structure. In 1925, one of Émile Durkheim's students, Maurice Halbwachs (Coser 1992), coined the term ‘collective memory’, asserting that individuals are incapable of remembering in a coherent manner outside the connections and constraints of their group and, therefore, it is society that determines and fashions their memories. This term only gained momentum in the 1980s. Durkheim himself, in *The Elementary Forms of Religious Life* (1976 [1915]), addressed memory only briefly in relation to commemorative rituals. Historians, anthropologists and psychologists addressed this subject separately, placing their focus on different aspects of memory. The anthropologist E. E. Evans-Pritchard (1940) developed the notion of ‘structural amnesia’ in his famous study of the Nuer. Frederic Bartlett (1932) was amongst the first modern psychologists to attend to the social dimensions of memory, attributing decisive importance to group dynamics in individual remembering. Historians, for their part, have their own long-standing history–memory division, in which memory has often been reduced to a complementary methodological tool, introduced through ‘oral histories and severely influenced by the role of historiography and its rise within nation states. John Gillis (1994) rightly pointed out that history had taken celebratory, sacralising functions previously assigned to memory.

Within the discipline of history, the history–memory nexus gained attention due to the ‘history of mentalities’ that has dominated French historiography since the 1960s. Historians like Philippe Ariès (1974) and Maurice Agulhon (1981) began to study the history of commemorative practices, which they saw as mechanisms of political power, thus shifting

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historiographical interest from ideology to imagery and from meaning to manipulation. Later on, historians such as Assmann Aleida, Pierre Nora, David Lowenthal, Patrick Hutton and many others wrote extensively on the rift between history and memory. Barry Schwartz (1996) ascribes this increased interest in the social construction of the past to three historical processes. First, he claims, it has to do with identifying historiography as a source of cultural domination; second, it's due to the postmodernists' attack on linear historicity – thereby linking history with memory and power; and third, it reflects the production of a class-based account of the politics of memory, that highlighted memory contestation and the instrumentalisation of the past.

It was actually one of the greatest sociologists of the twentieth century, Theodor Adorno, who paved the way for an uncritical adoption of the assumption that societies need to honour the memory of those who died, since a 'duty to remember' is an insurance policy against the repetition of massive human rights abuses (David 2017a). Adorno (1986 [1959]), in his famous article 'What Does Coming to Terms with the Past Mean?', elaborated in length about how post-conflict societies need to readdress their difficult past, arguing that a culture of forgetting threatens democracy because real democracy requires a self-critical working through of the past. Adorno's approach was backed up both by the famous and publicly well-mediated historian debate (*Historikerstreit*) which took place in media outlets in West Germany (focusing on a process of returning remembrance into public awareness) and by the discussions of human rights activists in Latin America that explored how to deal with former right-wing regimes. Adorno, however, wrote his article not as a sociologist but as an engaged intellectual and philosopher, aiming to promote a desired vision of social reality, which was also strongly influenced by a wave of growing popularity for psychoanalysis.

It is important to stress that the social approach to memory developed in parallel to the development of the human rights memorialisation agenda and became deeply influenced by, and embedded in, the same agenda, becoming overwhelmingly burdened by the normative approach and enthusiastic support for human rights. The vast majority of researchers within the field of memory studies are conducting their research not from a standpoint of critical thinking, wherein they try to untangle often-hidden relationships between power, societal structures and agency, but rather as devoted activists who tend to promote a certain desired (in this case, human rights) vision of social reality. Indeed, it is a great challenge in the field of memory studies to resist sliding down the slippery slope of 'the world as it should be', with all its normative baggage (even when morally speaking, this seems the right thing to do), instead of critically

engaging with 'the world as it is', without any attempt to fit the research to a certain political agenda.<sup>2</sup>

On the one hand, the intersection between memory and human rights is often perceived as detached from any historical roots and widely seen as apolitical, morally superior (Talal 2000) and even 'natural, self-evident, and essential' (Elliott 2014: 408). It takes for granted notions that, in fact, have very particular historical and political roots, such as the alleged imperative to 'face the past', assuming a very particular framing of the past based on purified categories of victims, perpetrators and bystanders. This omnipresent approach suggests that society as a whole, like individuals, needs to face its troubled past and remember it in a particular way. However, to start with, viewed through sociological instead of ideological lenses, individuals and societies are nothing alike. 'Facing the past', though perhaps useful to individuals, is hardly applicable for entire communities or societies. The reasons for that distinction are numerous, as Brandon Hamber and Richard Wilson (2002: 35) have shown. They convincingly demonstrated that nations are not like individuals in that they do not have collective psyches, that nation-building discourses on reconciliation often neglect individual needs, and that individual and collective processes of healing work on different timelines. What we today perceive as a 'logical' and 'natural' way to deal with past atrocities is actually historically rooted and contextualised in the post-World War II experience, better known as the 'German model' (Gabowitsch 2017). This model, through the institutionalisation of discourses, practices and policies, became a backbone agenda for the human rights regime. Historically bounded ideas, borrowed from psychological (psychoanalytical, in particular) and intellectual discourses, were uncritically translated into the human rights activist sphere, which gradually gained organisational power. In the process of ascribing morality to memorialisation practices and processes, what was lost was their deeply historical, cultural and societal context. Moreover, the three main guiding principles of moral remembrance – 'facing the past', 'duty to remember' and the 'justice for victims' approach – all have their own historical roots that need to be properly understood, conceptualised and contextualised (David 2017a).

On the other hand, human rights promoters are interested not only in justice and punishment, but, more importantly, in the transformation of values. This transformation is based on human rights moral views, as

<sup>2</sup> That is not to say that social sciences are ideology-free, or even that such a state is entirely possible to achieve, but that the conclusion we reach must be grounded in a theoretical and methodological framework instead of an ideological one.

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sketched in the UN Charter (1945) and the Universal Declaration on Human Rights (1948), wherein human rights are a peculiar sort of rights with special moral weight. Despite the fact that different people hold different concepts of human rights (Dembour 2010), these rights are generally understood as universal and moral principles or norms, embedded in the idea that certain rights are inherent to all human beings, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language or any other status, and they should be protected as legal rights in municipal and international law. Though rights are individual, they can only be appreciated in a collective setting where those rights are recognised communally. Thus, the argument is not (only) about individuals who are obliged to face and remember their misconducts, but about entire communities and societies. Cementing human rights values in remembering past human rights abuses turns memorialisation into a pivotal process in achieving a human rights vision of the world.

The assumption that transformative acts exist, which human rights advocates believe are accomplished through the processes of ‘proper memorialisation’, gradually became the force majeure in policing memory around the globe. To understand those macro processes at the world polity level and their impact on different political settings, one must question how social structures, which many regard as natural, are shaped by complex social processes in the long run. This book is precisely about the impact that the accumulative process of worldwide institutionalising of standardised and isomorphic forms of memorialisation, along with its naturalisation (that has been transformed from an isolated, contextually and historically bounded idea into taken-for-granted standardised memorialisation policies and practices), have on the ways in which in-conflict and post-conflict societies comprehend their difficult past.

**Moral Remembrance: The Three Processes  
of Ideologisation**

To understand the emergence of moral remembrance and its impact on the ground, I analyse the human rights memorialisation agenda through three separate but interrelated processes, conceptualising it not in a normative fashion, but as an ideological force. Opposite to the lay understanding of human rights, where the agenda is presented as apolitical or above politics, universal and morally superior (often endorsed as such by human rights activists), I analyse and treat human rights as an ideology.



Human rights, just as any other ideology, tend to homogenise and monopolise the vision of the world as it should be. All ideologies, including that of human rights, 'seek to establish their hegemony by presenting themselves as the only right way to look at social reality' (Malešević 1999: 580). The success of human rights as an ideology can be measured exactly by the degree to which certain meanings and practices are almost universally seen as innocent, natural, clear and apparent.

Borrowing from the sociology of ideologies, in particular from the vast literature on nationalism, I follow (1) the institutionalisation of its organisational power that grows through human rights institutions, discourses and practices; (2) the institutionalisation of its dogmatic (ideological) power that relates to the particular content and reasoning that has shaped moral remembrance at the world polity level; and finally, (3) the forging of attachments of solidarity between group members that can push them into a moral action based on the ideological reception. In other words, both organisational and ideological power are necessary but not sufficient preconditions to make human rights an emotionally recruiting ideology. It is vital to understand that the persistence and the success of any ideology lie in its capacity to ideologically and organisationally penetrate people's feelings of attachment and mutual solidarity and link them into a relatively coherent and potentially recruiting ideological meta-narrative (Malešević 2013b). Hence, once the discourses, practices and logic of moral remembrance hit the ground, the question becomes: do people internalise human rights values in the long run?

In this book, I explore the ways in which human rights gained organisational and ideological power over the years, enabling it to promote a particular, historically contextualised, memorialisation agenda across the world in general and in conflict and post-conflict settings in particular. In other words, the focus in this book are questions that, in today's ideological turmoil, bear much political, moral and policy-making weight: Can the promotion of particular memorialisation standardised norms in conflict and post-conflict settings ensure the adoption of human rights? Can it defeat or at least dissolve nationalist-driven conflicts and bring a lasting change?

Based on accounts from Serbia, Croatia, Bosnia and Herzegovina (BiH), Israel and Palestine, I demonstrate here that the outcome of such external mandating of memorialisation standards has quite disturbing results – it rarely has transformative power on the ground. In fact, very often, the forging of feelings of solidarities in small groups, a key to the ideological implementation of human rights, is harvested back by the nation-state to promote nationalist, ethnically based agendas. The

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comparison between Israel and the Palestinian National Authority<sup>3</sup> and Serbia, Croatia and BiH<sup>4</sup> is not random. For Israel and Palestine, the centrality of the Holocaust legacy serves as a diversion from Palestinian suffering, a fundamental issue in their already seven-decades-long conflict. For Serbia, Croatia and BiH, contested memories from different historical layers affect the region in every possible sense, putting it a spark away from yet another conflict. In both settings, attempts to mandate the remembrance of past human rights abuses, through the global human rights infrastructure, actually end up perpetuating their conflicts, rather than promoting human rights.

### Major Claims

Let me make clear at the outset that I do not claim that human rights fail to produce significant changes for many around the globe. Nor do I reject human rights as an ideal. On the contrary, it is, by far, the best ideal to strive for. However, human rights also produce undesired outcomes that are too often discredited and overlooked, that stay either completely ignored or are treated as minor setbacks.

I do not seek to undermine the unprecedented achievements of human rights that have made a real difference on the ground – from social equality issues to gender, political and cultural rights. However, I engage here critically in one particular area of human rights – where advocates of human rights attempt to coerce a ‘proper’ way of remembrance, which has tremendous and far-reaching consequences on the ground. Hence, my focus in this book is not primarily on the fact that human rights are often a tool for powerful states to enforce their political goals (Chomsky 1999; Herman and Peterson 2010; Žižek 2005). Nor does my critique deal, per se, with the ‘paradox of empty promises’ wherein governments often adopt human rights norms of behaviours as a matter of window dressing, radically decoupling policy from practice and, at times, exacerbating negative human rights practices (Hafner-Burton and Tsutsui 2005).

<sup>3</sup> Palestine is certainly not a state in a narrow sense, since it has neither a well-defined territory nor internationally recognised sovereignty. However, since Palestine does have a recognised government, it is still useful to work with the assumption that Palestine is a state, especially since the diplomatic practice seems to be the most important argument for viewing Palestine as a state.

<sup>4</sup> Bosnia is a unique case: there is no single state actor and no single official history accepted in Bosnia, but rather narratives divided across ethnonational lines – Serbian, Croatian and Bosniak.