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Cosmopolitan Memory and Gross Human Rights Violations in the
World

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In Broken Images

He is quick, thinking in clear images;
I am slow, thinking in broken images.

He becomes dull, trusting to his clear images;
I become sharp, mistrusting my broken images,

Trusting his images, he assumes their relevance;
Mistrusting my images, I question their relevance.

Assuming their relevance, he assumes the fact,
Questioning their relevance, I question the fact.

When the fact fails him, he questions his senses;
When the fact fails me, I approve my senses.

He continues quick and dull in his clear images;
I continue slow and sharp in my broken images.

He in a new confusion of his understanding;
I in a new understanding of my confusion.

Robert Graves

List of Abbreviation

- | | |
|---|---|
| <ul style="list-style-type: none"> . ECHR: European Council of Human Rights. . ECOSOC: Economic and Social Council. . ETA: Euskadi ta Askatasuna. . FGM : Female Genital Mutilation. . GA: General Assembly. . GDP: Gross Domestic Product. . GHRV: Gross Human Right Violation. . HR: Human Rights . IACHR: Inter-American Commission on Human Rights. . IACtHR: Inter-American Court of Human Rights . ICC: International Criminal Court. . ICC: International Criminal Court. . ICRC : International Committee of the Red Cross. . ICTR: International Criminal Tribunal for Rwanda. . ICTY: International Criminal Tribunal for the former Yugoslavia. | <ul style="list-style-type: none"> . IDC: Individualism vs. Collectivism. . IDR: Indulgence vs. Restraint. . IHD: Index of Human Development. . IL: International Law. . IO: International Organisation. . LDC: Least Developed Countries. . LTO: Long term Orientation vs. Short Term Orientation. . MAS: Masculinity vs. Femininity. . PDI: Power Distance Index. . PIOOM:Programma voor Interdisciplinair Onderzoek naar Oorzaken van Mensenrechtenschendingen. . TRC: Truth and Reconciliation Commission. . UAI: Uncertainty Avoidance Index. . UN: United Nations. . UN: United Nations. . UNHRC: Human Rights Council. UNSC: United Nations Security Council. |
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Abstract

This study marks a first attempt to investigate on the relation between memory and Human Rights. More specifically it aims to find out more about the relation between cosmopolitan memory and Gross Human Rights Violations (GHRV). As such, this thesis' purpose is to build a basis to the understanding of how the dynamic of cosmopolitan memorialisation works, when it comes to remembering GHRV. GHRV are seen here as the negative representation of the concept of HR. They are tangible realities, which make the study of their memorialisation process more concrete.

The present work is divided in three theoretical parts. The first one is dedicated to draw the lines of the different concepts used in the subject and their special relation. The second one is dedicated to the exploration of the effects of a GHRV at the national scale, in order to clear the path to fully understand the dynamics of cosmopolitan memorialisation. The last part is devoted to the explanation of the different factors influencing the process of cosmopolitan memorialisation after a GHRV. These analysis and findings relied on an extended literature research, aiming at scanning different fields of research in order to articulate them in a coherent framework to explain the dynamics.

It was concluded that three main factors play a role in the dynamic of cosmopolitan memorialisation: the cognitive, the operative and the emotional factor. These three elements of the dynamics are of equal importance, and have, if they enter in action all together, the power to extract the memory from its geographical and temporal bound to bring it into the cosmopolitan community. These memories are a support to foster HR in different part of the world, using a common set of references.

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INTRODUCTION

*“Remember! Souviens-toi! Prodigue! Esto memor !
(Mon Gosier de métal parle toutes les langues.)”^{1 2}*

Mnemosyne. Mother of all the muses. For the Greeks she is the one who invented every language, the one who named everything and gave to men the possibility to express themselves, but Mnemosyne is not a goddess. She is a Titaness, an allegoric divinity. She is the representation of memory in Greek mythology and her daughters, the muses, are the ones who help mankind to develop the arts. She is, therefore, the origin of the human civilisation. Along with the works of great thinkers, this attachment to the past has been transmitted from the Greek heritage. The fascination of men for the past is a constant in our society, and even though memory studies as such are quite a recent field, the topic has always been covered under other terms. It is this very same fascination that has led to the present work. The belief that memory is the key to the understanding of how the world works and the desire to learn more about this vast subject. However, the underlying work was also marked by a major drawback. HR (HR) and memory studies, two broad and deep subjects, appear to evolve along each other, with very rare encounters. While history, the ancestor of memory studies, lately managed to find a way to enter the field of HR with the exceptional work of Samuel Moyn and Lynn Hunt, memory is still waiting on the front porch. Nonetheless, memory matters to HR, just as it does to any other social sciences. It is the link between the past, the present and the future and it can assure the spreading and development of HR all over the world. But two major issues stand in the way of the reunion of these two fields of research. First, HR are universal, while memory is, in its classical conception, bound to a specific social group. In order to link these two subjects it is, in the first place, crucial to find a method to extend the concept of memory beyond its social border. Hopefully, the constantly changing reality of this world has inspired the concept of cosmopolitanism, a new social element that overcomes classical borders. Second, the

¹Baudelaire, 1996, p.118.

² Extract of the poem « The Clock ».

two subjects are so broad that their reunion produces an endless list of subject possibilities. It is impossible to tackle it without a clear angle. The second question is easier to answer, as it is, after all, a matter of choice. For the underlying work, the choice has been made to focus on Gross HR Violations and to the specific question of their memory. GHRV are the dark side of HR regime, but unlike HR, they have a physical representation. They are perpetrated by specific persons, in a specific place and concerned specific victims. In terms of memorialisation they are therefore, easier to conceptualised than the abstract implication of freedom of torture. Breaches of HR rules are representative of the HR' regime and the perception of the different rights. To follow the last example, one does not feel in his everyday life that he is protected of being tortured by international norms. However, when confronted to a case gross violation of this right somewhere in the world, this protection takes all its meaning. Thus talking about GHRV is not excluding the general concept of HR out of this work, rather setting for a type of concrete manifestation of HR and see how the memorialisation process works afterwards. Some of these violations seem to remain strongly bound to the memory of the region where they occurred. It is based on this observation that the idea of this thesis was born. Why do we forget about some of these terrible evens, while others seem to have a universal impact and enter into the cosmopolitan memory? The genocide in Rwanda can be quoted and will be used as an illustrative example in this work. This GHRV happened in 1994. Less than one year before, the neighbouring country of Burundi was the theatre for a similar event. Nowadays, Burundi is mostly forgotten, while Rwanda is still a sensitive an emotional topic. That is why, in the current work, we are trying to understand:

What are the factors that influence the classification of GHRV into
cosmopolitan memory?

To reformulate, we are here trying to understand the reasons that pushed some of the memories of GHRV to become symbols in the cosmopolitan society, while others remain geographically located. (As the reflexion is conveyed at the international scale, only the GHRV that implies Universal Jurisdiction will be considered here: the crimes

against humanity, War crimes and Genocides.) Why do we remember the events in Rwanda and how they could still trigger emotional response while nobody ever mentioned the genocide that happened in Burundi? These two neighbouring countries have known quasi-similar situation of ethnic cleansing, involving the same ethnic group and the same horrible methods of killing. If HR are universal and have equal importance, their violations should have the same effects on the memorialisation process. However, in social sciences the ideal conception very rarely matches the reality. The importance of this question has been proved in the preliminary research for this thesis, as the question has never been asked before, to the author's knowledge. However, the preliminary research in different domains, ranging from classical memory studies to legal theories, permitted to draw the hypotheses on the factors that might influence this dynamic. Three main factors have emerged from the preliminary researches:

1. The Cognitive factor.
2. The Operative factor.
3. The Emotional factor.

In order to develop this hypothesis, the theoretical background researches have been of utter importance. As it has been said, the topic is pretty new and only a few sources have directly treated this topic so far. This work will then focus on analysing the existing literature on the effect of GHRV and memory studies in order to provide a coherent theory on the dynamic of cosmopolitan memorialisation and its factors of influence. The adopted strategy implies a work centred on an extended bibliography to back up and prove the relevance of the three factors and the existence of the cosmopolitan memory. Its originality is based both on the link made with memory studies and the author's decision to go off the beaten tracks and propose an interpretation to a phenomena that have been observed but not yet explained.

This work will be divided in three parts, all three answering the problematic in a complementary way. The first part will be aimed to construct a theoretical framework

around the concept of cosmopolitan memory and GHRV, as these two concepts need to be defined in order to be able to explore their special connection. Once this is done, the second part of this study will focus on the specific memories of GHRV. Since not all of these memories become cosmopolitan, the first step will be to analyse the national pole and the dynamics of collective memorialisation of the GHRV in its local context. Understanding the local frame is crucial to move to the global pole afterwards. The last part of this study will aim at explaining the hypotheses in detail. The three factors will be analysed separately and illustrated by an example.

PART 1: BUILDING ON THE SOCIOLOGY OF HUMAN
RIGHTS.

The first part of this study will focus on building the theoretical frame necessary to develop later the hypothesis on the dynamics of cosmopolitan memory. In order to do so several key notions for the topic need to be defined more precisely than it has been done during the introduction. As such, the first concept to be studied will be collective memory in order to understand the mechanisms and the intellectual justification of the existence of a cosmopolitan memory, shared at the world scale by the cosmopolitan community. It will then be possible to move to a definition of GHRV; a term often used but that does not really have an international and univocal meaning. Once these two concepts are clear, it will be possible to explain the link between them. In other words this part present a state of the research in different domains that are linked to the subject of this study. In order to define the hypothesis about the dynamic of cosmopolitan memorialisation it is crucial to refresh certain notions, and to create others.

1. About Memory.

Memory is the central concept of this study, along with HR. Hence it is vital to precise what definition of the term will be used and how it has been created. The memory theory developed here takes into account the inputs of writers from different times. It extends from the particular and classical concept of the collective memory to the broader and more recent concept of cosmopolitan memory, and from the local to the global level.

a. History and Memory: Two different concepts.

“Memory and History are two conceptions of the past {...} that serve different functions.”³

³ Rousso, 1987, p 10.

With the development of Memory studies as an entirely new discipline, the question of a theoretical distinction from History has been raised. While it is clear nowadays that the two concepts diverge, it is necessary to recall on what grounds this distinction is based and what is the meaning of these two concepts that are crucial to the present study.

In the introduction of his book about the Vichy Syndrome, Henry Rousso developed a reflection on the interrelation between the concepts of history and memory. This reflection was not built upon a clear opposition of these two concepts, but rather on the blurry line that delimitates them. While memory is described as a subjective dynamic, history is rather described as a knowledge that is stable over time, and that was objectively and scientifically built. No doubt, and this is the theory that H. Rousso developed in his work, that the objectivity of history could be questioned. As Napoleon I once said: *“What then is, generally speaking, the truth of history? A fable agreed upon.”*⁴ None of the two concepts can be seen as depicting an objective reality. Having a universal and global history opposing several, group-linked collective memories are not the definitive proof of the objectivity of the first one. The difference does not lie in the essence, but rather in the way these two concepts are used. Memory is the essence of the social link as it assures the continuity of society⁵, spanning the bridge between the past, the present and the future. To paraphrase the P. Bourdieu’s definition of the *Habitus*⁶, we can say that collective memory is both, a structure created and structured by the society, and the structure that structures the society itself. It is therefore, in the classical vision, a concept that is closely bound to a certain social group. Even if outsiders can study the content and the effects, the essence of memory belongs to the social group and triggers particular reactions in their affect.

On the other side, History has a universalistic vocation. It is a science that takes into account all the elements leading to a particular event and studied the consequences of its aftermath. History can be defined as being past-oriented; it is seen as a reflective and intellectual process, rather than being rooted in emotional processes. To quote M.

⁴ Fauvelet de Bourrienne, 1823, p.151.

⁵ Hallbwach, 1997, pp.57-87.

⁶ Bourdieu, 1987.

Halbwachs History is a “dead memory” that no longer has the power to influence a group.⁷

As H. Rousso wrote, the difference can be really blurry and confused, leading sometimes to some clash in the historical debates. However, memory and history remain two different terms, even if it is sometimes difficult to distinguish one from another. Eventually, time always fixes the dilemma and decides what will be history and what will fall into oblivion.

However, it is important to mention another school of thought that depicts the relation between memory and history not as antagonistic but interrelated and complementary. P. Joutard, the precursor of oral history in France, believes that the two phenomena need each other in order to function efficiently. It is in other words the approach of oral history, based on the recollection of testimonies, a history based on the memory.⁸ The difference lays in the question of affects. While history is a “*narration of the past that directly installs a distance*”⁹ memory preserves a strong bound with emotions.

In terms of HR studies, the field of the history of the HR has known a noticeable development lately. Several famous scholars such as Lynn Hunt¹⁰ or Samuel Moyn¹¹ have dedicated their expertise to reinforce the diversity of the HR study, by adding the historical perspective. Analysing the history is an interesting approach to the justification and the nature of HR. By looking at the past and the dynamics that lead us to the creation of this *Last Utopia*, it is the essence of the concept that is eventually studied. Having an overview of all the events that have led to the HR regime as we have it today legitimates their existence by highlighting that they are the final product of a process that tends to ameliorate the condition of human life in dignity. On the other

⁷ Olick, 1998, p. 105-140.

⁸ Joutard, 2013, chapter 12.

⁹ Joutard, Idem, p.15.

¹⁰ See the book *Inventing Human Rights- A History*, 2008.

¹¹ See the book *The Last Utopia*, 2012.

hand, few scholars have studied the memory of HR. It seems paradoxical to associate these two terms, one belonging to the global stage and the other to the local one, as it will be shown in the next paragraph.

To summarise History is universal and scientific knowledge, while Memory is linked with affect and is tied to a subject, be it an individual or an entire social group. It is the concept of memory that will be developed here and more specifically the question: how can memory be universal?

b. From Collective Memory...

Talking about memory without evoking the work of M. Halbwachs is impossible. This student of E. Durkheim and H. Bergson is the father of memory studies and he is still after more than one century the reference for every work related to collective memory.

In *Les Cadres Sociaux de la Mémoire* he explains the mechanism of the collective memory, a memory that is tied to a specific group and somehow defines the features of this social construction. As such, the social group is given the attribute of an individual that can remember, create and select new memories and give them a specific meaning. This theory allows two different interpretations of collective memory. First, there is the idea that an individual inside a social group will remember an event according to the frame given by the group. Even if the event is something highly personal, the influence of the group will be noticeable in the way the person remembers. In other words: memory cannot exist in an “*empty vacuum*”¹², which means that personal memories are only personal up to a certain point. Second, this term refers to a group memory that overcomes the individual memory of each of the members and exists in an independent way. This memory bears the justification of the existence of the group itself. Therefore, collective memory is a phenomenon at the crossroads between the individual, the psyche and the society¹³. To illustrate the second interpretation, the existence of events

¹² Halbwach, idem.

¹³ Lavabre, 2016.

like the commemoration and the creation of memorials is a good example of acts of collective remembrance. The nation, acting as a large social group, chooses to remember and sacralise some part of their collective memory and attach a specific meaning to it. As P. Nora explains, these events are the visible part of the importance of memory over history in modern society: *"With the advent of society instead of the nation, legitimisation by the past, so by history, succumb to the legitimisation by the future."*¹⁴ Memory is in that sense the present of the past, as S^t Tomas Aquinas used to describe it. However, as P. Ricoeur explains in his book, collective remembrance usually recalls the souvenir of the emotions linked to a special event without automatically triggering the same passion for the group: memory can remember *"happiness, without feeling happy, sadness, without feeling sad."*¹⁵ The link between memory and emotion is not automatically expressed in an emotional way, but can be seen as the intellectual recognition of the existence of the emotion. This is one of the reasons why the individual can relate to an event and understand it even if he was not an actor or direct spectator of it. The souvenir of the emotion is present in the collective memory, therefore accessible to each of its members.

This notion of emotion opens the gate to the different kinds of remembrance and how they are triggered. As it must have been understood by now, memory is not just a single block, but it is a complex set of mechanisms. Bergson defined two opposite kinds of memory: the memory-habit and the souvenir-memory. They are both different in their temporality and function. While the memory habit is acquired through the rational process of learning, souvenir-memory is rather linked to emotion. The memory habit, by its repetitive character is anchored in the present. Something learnt is something learnt no matter where, why or how we have learnt it. It can be used everyday, therefore its links to the past does not really matter, what matters is how we use it in the present. It is a past experience but non-mentally framed with its past references. Whereas the souvenir-memory belongs to a specific place and date, even if it is evoked in the present

¹⁴ Nora, idem, p. xxv.

¹⁵ Ricoeur, idem, p 119.

it will always be linked to a past experience.¹⁶ It is in other words, the description of P. Ricoeur of the emotional side of collective remembrance. To summarise there are two kinds of memory: one is acquired by a learning process and belongs to everyday life in terms of habits or knowledge. The second type is emotional and belongs to the past; its manifestations in the presents are occasional and emotionally related. To these two types, one remark must be added: when both type of memory mix. For example when one action is out of the ordinary or one fact we were sure to know is proved wrong. In this case a memory-souvenir might be add to the memory-habit, creating a bridge between both. It will be a break of the habit creating an emotional response. In consequence we have three types instead of two: memory-habit (related to learning and to the norm), souvenir-memory (linked to emotions) and standing in between a mix of these two corresponding to emotional responses to the break of a habit.

To conclude on collective memory, the social effect of collective memory is both horizontal and temporal. Horizontal as it ties different people together and temporal as it links different time periods. According to this theory no memory can exist outside of its social group and thus it seems then impossible to consider a collective memory that has its area of influence at the global scale. Nevertheless, this view has been challenged lately by a new concept called the cosmopolitan memory.

c. ... Through Cosmopolitan Society...

“La question se pose alors de savoir si l’extension de l’idéalisme transcendantal à l’intersubjectivité permet d’ouvrir la voie à une phénoménologie de la mémoire commune.”¹⁷

Is it possible to consider a collective memory at the global scale? From the classical definition the answer seems quite simple and definitive: no. However, some

¹⁶ Bergson, 2012.

¹⁷ Ricoeur, idem, p. 143.

researchers started to consider a new field of research expanding the limits of sociological concepts to study them at a global scale.

i. About Cosmopolitanism.

This evolution toward cosmopolitanism has been notably possible due to the work of the famous German sociologist Ulrich Beck. Among all his works, he mainly contributed to the development of the definition of cosmopolitanism. To begin with, it is important to distinguish the two concepts used by U. Beck to construct his theory: “cosmopolitanism” and “cosmopolitanisation”. The latter is the process that is currently taking place while the first one can be both the result of the process and the nomination of a methodological approach. Both of these terms are important to this study. However to understand the process of cosmopolitanisation of the memories, cosmopolitanism must be previously defined in more details.

By defining globalisation as a relationship between the local and the global level, instead of a one-way process, U. Beck opened the gate to an all-new method of research. After all, cosmopolitanism is rather described as a methodological concept than a tangible reality that tried to end the Eurocentric tradition of the sociological studies by including the “otherness of the other” in the equation¹⁸. The main theory is that “*under the condition of globalisation, the national is no longer the national. The national has to be rediscovered as internalized global.*”¹⁹ It is in other terms, the definition of the *Glocal* level given by R. Robertson²⁰. The international norms, tendencies and influences are taken into the national (local) level and internalised in a way that makes them coherent to the local culture and need. It has been studied for economical concepts, but it is also true for other forms of cultural exchanges. This simply means that there is not a polarization between the global and the local scale but that the two levels are in fact combined and evolving together. Two implications of this

¹⁸ Argyrou, 2015.

¹⁹ Beck, 2002.

²⁰ “means the simultaneity --- the co-presence --- of both universalizing and particularizing tendencies.” Roberston, 1997.

theory are crucial for this study. First, it means that the events that have an impact on the global scale have repercussions on the local scale. Second, the glocal theory allows a methodological approach that allows studying the impact of global events by looking at the effects they have on a local level. Understanding their significance can be done from inside the local frame without emptying them of their original essence.

Some critics have been raised about the cosmopolitanism. Notably by saying that the cosmopolitan approach could not be totally objective because it was impossible to get rid of the Eurocentrism and that the studying the global at the national scale was in fact just studying the national while calling it differently. It has also been argued that cosmopolitanism was a form of modern myth rather than a tangible fact²¹. While these criticisms are of course to take in consideration, they are not really relevant for the study of cosmopolitan memory for two main reasons. First of all, cosmopolitan memory has prove his existence by empirical fact, and if its mechanism are still to be defined, the reality is an evidence good enough to based this study on this concept. Secondly, the critic of being Eurocentric is an empty one. As it has been explained above, cosmopolitanism allows to study the global based on the local, so if Europe (or generally the West) is the setting chosen for a specific work, it does not question the results, as long as the frame is specified and explained. For the present study, it is also the Western Cosmopolitan memory that will be mostly studied. This is not due to Eurocentric belief but mainly because of the time and resources needed to convey a larger study would have gone beyond the format of a master thesis. However, it will be wrong to believe that there is a homogeneous cosmopolitan society ready to receive the cosmopolitan memory of the world. Not all the inhabitants of the geographical setting defined can be referred to as cosmopolitan society. Therefore, before seeing the notion of cosmopolitan memory, the cosmopolitan community must be defined.

ii. The Cosmopolitan Society.

²¹ Agyrou, idem.

As we have said the notion of collective memory is always linked to a defined group in its classical conception. In this study, one of the aims is to extend this concept beyond its classical border and show that a cosmopolitan memory, shared all over the world exists. If the creation of a cosmopolitan society can be defined as a goal in the current world, it is not totally achieved. However, a cosmopolitan community of people sharing values and concerns is already set. In the current study, the further references to a cosmopolitan community, public or audience will be referred to this specific type of people, regardless of their nationality, religion, ethnical group ...

Our world is submitted to contrary forces, the new ways of communication and connexion between human beings contributed both to shrink and expand our world. Our social environment is broader but easier to reach and connect with. The extension of the social forces that shape the personality of an individual resulted to an evolution in the process of identification of certain person, creating more fluid identity, multileveled and based on shared values and principles. Individual can identify themselves as part of an extended human family, the “*extension of the feeling of kinship many already feels for their nation, homeland and family.*”²² However, this extension does not mean the elimination of particular group identity or the abandonment of specific loyalty; it is a modification that takes into account the original identity of the individual who is becoming multi-dimensional. Nonetheless, these changes can have two different outcomes. They can provoke fear and lead to xenophobia and a national withdrawal, or brings hope and the will to construct a community life without border. It is on the latter option that this study is centred, to the community of people willing to be part of this cosmopolitan community and taking actions in order to do so. This means expressing their agency (the capacity of people to reflect, make choices, and act collectively to realize those choices) in an extended public sphere²³, the cosmopolitan one.

²² Kriegman, Almaric, Wood, 2006, p.5.

²³ Kriegman, Almaric, Wood, idem, pp.1-9.

The idea of a cosmopolitan sphere is an extension of the J. Habermas definition of the public sphere.²⁴ It refers to the arena in which the cosmopolitan society can express its agency. It does not need to be a geographical place. It is a virtual reality. People through dialogue use this sphere to shape the future of their community by creating a public opinion. It is in that arena that cosmopolitan memory are created, shared and kept alive.

All in all, the cosmopolitan community is defined by a choice, conscious or not, to exercise one's human agency into the cosmopolitan sphere. This creates a cosmopolitan community that is able to participate to the world and creates and shares cosmopolitan memory.

d. ... To Cosmopolitan Memory.

Now that the general definition of cosmopolitanism has been clarified and that we have specified the meaning of cosmopolitan society, it is time to define what is exactly the cosmopolitan memory, key concept of this study. In term of memory studies, the cosmopolitanism theory has already been used by two researchers: N. Sznajder and D. Levy. For them there is no paradox in the notion of a cosmopolitan memory. Even if they do not choose to have the same definition of the cosmopolitan society, their work in proving the existence of the cosmopolitan memory is vital to this study. However, before starting on Levy & Sznajder's theory, it is important to evoke a couple of other theories that have led to the development of a cosmopolitan approach of memory.

i. Memory without social borders.

The notion of a collective memory reaching beyond the borders of a social group has already been evoked in some works, notably by J. Assman²⁵. He contributed to the

²⁴ Habermas, 1991.

²⁵ Assmann, 1995.

revision of the definition of collective memory by the analysis of two new different concepts: communicative memory and cultural memory. While communicative memory is closer to M. Halbwach's definition (group linked, based on the interaction of its members, it is transmitted mostly orally and can be defined as short-term, up to three or four generations), cultural memory, on the other hand, can exist independently of the group members. This type of memory can be defined as the objective and institutionalized one, the one stored in museum for example. This specific kind of memory can be stored in the form of a symbolic common heritage that can be used throughout generations. The latter type is crucial to the formation of identity as it contains the basic knowledge and emotional package needed for its development. The other writer that contributed significantly to modern memory studies is A. Margalit, who made the distinction between shared and common memory. While common memory is the combination of the individual memories of the group members, shared memory is a process built on communication that allows trans-generational and horizontal transmission. By conveying explications and emotions, this form of memory can emotionally include to a specific event people that were not present, born or even concerned by it at the origin. It is an active process of inclusion that works through "*channels of description rather than through direct experiences.*"²⁶ Central to this theory is that memory can exist outside of a social group and independently of its members, as long as there is a perceptible and accessible transcription of this intangible reality.

Nevertheless, even if both of these works are useful for this study, it is still the theory of Levy and Sznajder that is the most important element because they based their work on the main concern of this research: HR and the cosmopolitan reaction to GHRV.

ii. The Concept of Cosmopolitan Memory...

²⁶ Margalit, 2002, p.54.

In theory, HR are universal, which means that they are meant for all human beings regardless of their nationality, gender, income, or any other factor. Opposed to this, as it has been mentioned above, collective memory is traditionally linked to a certain social group. It then seems paradoxical to associate these two terms. Nonetheless, with the development of the cosmopolitan methodological approach it became possible to construct a relation between them. They argue that the national receptacle of memory is slowly cracking down under international pressure and is therefore receiving and sending pieces of its collective memory. Of course the information and emotions conveyed by the international stage are not incorporated as such. Like every other element of the globalization process they are internalised and interpreted by the receptors. The example they chose to illustrate in their thesis is the Holocaust²⁷. Every country (or almost every) has incorporated a memory of this tragic event, setting the threshold of absolute evil in the collective consciousness of the world. Many studies have been dedicated to the particular memory of the Holocaust in different countries, H. Rousso who has already been evoked in this thesis is just one of the many examples (J.C. Szurek and A. Wieviorka could also be quoted for their work on the troubled Polish memory for instance²⁸). This collective memory has to be seen as a spider-web that connects human beings from all over the world by the feeling of sharing a same origin and being touched by the same events. However, it is important to precise that this evolution is not a threat to the notions of sovereignty and national identity (even though this reality is more and more questioned by the global age), but rather describes a reconfiguration of the concept. The cosmopolitanism of memory has not been seen as cultural imperialism but more as a multi-layered relationship²⁹ whose link is grounded in ontology rather than cognitive capacities.

iii. ... Based on Human Vulnerability.

²⁷ Levy, Sdzainder, idem.

²⁸ Szurek, Wieviorka, 2009.

²⁹ Ryan, 2014.

*“What is pain and humiliation for you
is bound to be pain and humiliation for me.”³⁰*

The second main source of their work is the theory of Human Vulnerability developed by Bryan S. Turner. According to Turner’s theory, this vulnerability is the basis of the HR and a crucial concept for the course of this study. The development of extreme forms of violence and the automatic maximization of pain and human suffering all over the world have raised the awareness and the range of the definition of humanity by constantly confronting it to inhuman acts³¹. This consciousness about the suffering of others and the dangerous environment in which we live nowadays, (see the recent terrorist attacks) created the basis for the advancement of HR and cosmopolitan memory. This consciousness has been created by the development of the “global risk society”³². The world is becoming more and more dangerous and unpredictable in spite of all the advances in technologies; the feeling of insecurity is rising everywhere. This is a reason why it would be wrong to consider the cosmopolitan conscience (and by extension, memory) to be only reduce to a feeling of shared humanity and somehow an idealist and poetic concept. Taking in consideration the other in my everyday life is a form of realism, even self-preservation in the global risk society. Even though there is not a specific date for the beginning of the global risk society, it is possible to date it at the end of the cold war without being totally wrong. The change of power balance in the world open the gate to new kinds of threats.

To conclude, the recognition of the other as equal, based on the ontological definition of a human being and their vulnerability, opens the collective minds to outside events. Cosmopolitan memory both structures this evolution and is structured by it. It is, in other words, the cognitive representation of the ontological reality.

All in all, the example of the Holocaust chosen by Levy&Sznajder is the most powerful one. The holocaust is a stain in the history of mankind and a puissant trigger to memory. This illustration of mass killing and committed atrocities is the

³⁰ Ignatieff, 2001, p.95.

³¹ Turner, 2006, p.17.

³² Beck, Levy, 2013.

representation of human vulnerability and the emotions it still generates all over the world can be seen as a proof of the reality and influence of cosmopolitan memory. It is a gross violation of HR that is often considered to be the starting point of the HR regime, which has been developed afterwards. Nonetheless, it would be a mistake, in terms of cosmopolitan memory study, to put the Holocaust on a pedestal. The global risk society has forced humanity to face more and more exceptional and life changing event without yet undermining their impact yet. In this study, the natural catastrophe will not be taken into account. The focus will be on GHRV, which by their really shocking character, sometimes find a way into the cosmopolitan memory, while other times they remain into their national/group frame. Before studying the dynamics of this “storage” of GHRV, this term needs to be defined in more detail.

2. Gross Human Rights Violation: a common term without common definition.

“Since 1945, it is estimated, than more people have perished as a result of gross human rights violations than the result of war.”³³

What is a GHRV? Everyone has already encountered this term and has a personal idea about its definition. In terms of official documents, a certain number of definitions exist, yet none of these are universally accepted yet. In order to be able to use this concept in the present study and work with it, GHRV must be defined it according to the specific setting that it is studied here in the first place. The reason why there is no agreement on a definition is hereby closely related to this work and as we are working on classification in cosmopolitan memory, it is useful to understand how the classification in the terms of law (or HR theory) works (or in this case does not).

a. The reasons for the absence of definition.

³³ Hey, 1995, p.1.

There is no official explanation concerning the lack of agreement on a definition of GHRV on an international scale. However, the reasons are quite obvious. First of all, as all the HR are, in theory, equal, it is impossible to determine the violation of which rights are the most severe. Qualifying the violation of some rights as GHRV, while the violation of others would just be perceived as normal breaches, would directly contradict a crucial element of the HR rhetoric (even if we included the notion of derogable vs. non-derogable rights in the equation). However, in practice it is of course not the case and some breaches are considered more serious than others. It appears that the nature of the rights that are at stake and the number of rights violated matters, even if there is no exhaustive list. For example, some violations such as torture and systematic rape are always considered as GHRV.

Secondly there is the on-going debate on the different interpretations and levels of acceptance. Even if the existence of a cosmopolitan society is accepted, it does not mean a society is automatically completely homogeneous. Therefore, the definition of what is considered as a gross violation can differ depending on the region or the people asked. The level of advancement of HR is not, in practice, the same all over the world, which means that the threshold fixed for GHRV is not the same. The context is also an element that matters. As such, the definition of a transgression (and the legislation applied to judge) can vary depending on whether a society finds itself in a time of armed conflicts (e.g. war), or in a period of so-called peace. Context can hereby also imply the historical evolution of HR in a specific country. For example, the IACHR is prompt to take cases related to forced disappearances and treat them as GHRV; while the ACHPR on the other side tends to take more cases related to mass killing. The history of these two regional courts has been punctuated with cases dealing with these tragic events.

Thirdly, the interpretation depends on the use that is to be made of this definition, and by which organ it is going to be used. No need to say that the UN must have a larger interpretation of GHRV than another organ that will have jurisdiction only in one aspect of the HR regime. It has to be stressed that we are talking about

interpretation and not definition; the nuance is important because the jurisdiction of some court can take advantage of this legal grey area. They have jurisdiction over GHRV, so the concept could be bent until it fits a specific cause.

Finally, the most obvious reason is the difficulty and danger it can have to determine a threshold of what is a GHRV. Creating a threshold would be the equivalent of denying the status of GHRV to certain crimes that are still very serious and could, as such, create a “negative” jurisprudence by giving way to “normal” HR violations. Having a certain liberty to qualify and determine what belongs to this category creates a deterrence effect, as these crimes have usually a special treatment in international procedures. Not saying here that the cases are randomly chosen, the flexibility of the concept just widens the range of possibilities. Interpreting case by case appears to be wiser for this specific category of violation. However, a term so commonly used calls for some specification. As it is mentioned above, some HR courts and international HR organisation have used this concept for specific cases. As often, if the court has not a clear answer, we have to look for it in the specific literature and study the academic point of view on the matter.

b. Sources of inspiration.

None of the existing definitions are clear enough to be used as reference in the present study. Nonetheless they give a general idea of what is usually meant by GHRV. It did not seem relevant here to make a “catalogue” of definition, but rather to draw the contour of the term by looking for similarities in different sources. These sources must be separated in two categories: on the one hand the one made by the practice and on the other hand the theoretical ones made by scholars.

To start on a global scale, the UN is using the term of GHRV on a regular basis, without yet answering clearly the question of the delimitation. Nevertheless some of their documents help to define its outline (see annex 1), and in particular the work of the

special rapporteur Theo Van Boven³⁴ and the resolution 1235 of the ECOSOC. Other documents came afterwards but these two will be considered as the most significant for the present study. T. Van Boven worked on the specific question of reparation in case of GHRV. In his study he had to define the GHRV concerned with the above-mentioned question.³⁵ While not giving a clear definition, he still managed to edit a suitable document to treat the cases of reparation. He managed to do so by breaking down the elements of a HR violation and analysing their components under the light of the reparation question. He mentioned, for instance, some non-exhaustive criteria as the type of HR violated, the seriousness of the violation (without however, defining “serious”) and the range of the violation: several victims need to be involved. He also gave a non-exhaustive list including some specific crimes such as genocide, slavery, and torture. This is the first official UN document that deals with the questions of GHRV. The resolution 1235 ECOSOC came afterwards, with the rationale of giving the commission the permission to investigate the countries where GHRV were suspected. In this specific case, it was not a question of genocide or mass killing, but the politic of apartheid in South Africa and Rhodesia (actual Zimbabwe).

On the local level, the regional courts of HR are also confronted to cases of GHRV. Nonetheless, none of them have introduced a definition of the term, even though the work of the IACHR and ACHPR has significantly helped to develop jurisprudence for this matter. On the other hand the ECHR is more advanced in individual cases and not used to deal with GHRV on a large scale³⁶. It is mostly due to the history of the region. However, some regulation like the HR trade clause in the EU contract (no commercial agreement can be passed with countries that violate HR) could be mentioned. By extension, the national level is also sometimes concerned by GHRV. The most famous

³⁴ Van Boven, 1993, pp.6-8.

³⁵ See annex 1.

³⁶ Geneva Academy of International Humanitarian Law and Human Rights, What amounts to ‘a serious violation of international human rights law’? An analysis of practice and expert opinion for the purpose of the 2013 Arms Trade Treaty, ISBN: 978-2-9700866-2-8, August 2014, available at http://www.geneva-academy.ch/docs/publications/Briefings%20and%20In%20breifs/Briefing%206%20What%20is%20a%20serious%20violation%20of%20human%20rights%20law_Academy%20Briefing%20No%206.pdf (consulted on 20 april 2016).

example would be the Leahy Law promoted in 1997 in the United States, prohibiting any form of arm trade in case of suspected GHRV. To conclude, the above-mentioned examples are useful to deepen the understanding of the concept, but rather in terms of academic use.

The academic definition seems to be more relevant and complete on this matter, as several scholars have dedicated books to this definition. If there are of course divergences in the definitions, some elements can be found in almost all the definition studied. So far can be summarised as it done by the 4 elements of definition spotted by C. Medida³⁷:

1) Element of quantity: number of victims.

For example, we can use the distinction created by the organisation PIOOM³⁸:

- i. *High Intensity*: more than 1000 deaths over a 12 months period.
- ii. *Low Intensity*: between 100 and 1000 deaths on a 12 months period.
- iii. *Violent Political Conflict*: fewer than 100 deaths on a 12 months period³⁹.

2) Element of time: need to be substantial. (There is no agreement about the meaning of “substantial” in that case. But taking into account the seriousness of the violation, one month will be understood as a substantial time in this study.)

3) Element of quality:
 i. type of rights violated.
 ii. character of the violation.
 iii. quality of the victim: It defers for example if it is mostly women, children and elderly view as more vulnerable people. The importance of the victims in the society can also be taken into account. For instance if there is a ethnic or religious

³⁷ Medida Quiroga, 1988, pp.30-31.

³⁸ Programma voor Interdisciplinair Onderzoek naar Oorzaken van Mensenrechtenschendingen ; Program for Interdisciplinary Research on Causes of Human Rights Violations.

³⁹ Smeuler, Gründfel, 2011, p.31.

criteria. But it can also be targeted to the political class in order to paralyzed the country or taking over the government.

4) Element of planning: The character intentional of the violation.

These elements can take different names (scope, intensity ...for instance) but seem to be (almost) always present in academic definitions. One element mentioned by A. Smeuler, and F. Gründfel, is however not fully covered in the list above. It goes beyond the element the element of planning by specifying the type of actor that has to be involved in the process. It is the quasi-systematic linkage of GHRV to form of “*collective violence where the state is involved*” and “*within a very specific political, institutional and ideological context.*”⁴⁰ In other words, what makes GHRV particularly serious is that the institution in charge of respecting, protecting and fulfilling the exact same set of HR are the one violating them. Therefore the victims are totally helpless and the basis of the HR regime itself is being questioned. It is curious to notice that the geographical area (in the sense of its wideness) is never mentioned.

All in all, if some tacit agreements appear to exist to define GHRV, both in the civil society and in the academic field; the lack of official definition allows a certain liberty to delimitate the outline of this term in the frame of this study.

c. The chosen definition.

*“In my opinion, an international consensus is to be found in the concept of GHRV and in the roster of rights subsumed under it. That is to say, agreement today exist that genocide, apartheid, torture, mass-killing and massive arbitrary deprivation of liberty are gross violation.”*⁴¹

⁴⁰Smeuler, Gründfel, idem, p.20.

⁴¹Buergenthal, 1978, p.17.

For the present study, the term of GHRV will be understood in a more generic meaning. As there is no official definition to refer to, GHRV will, in the context of this study, be linked to state violence, and used to cover genocide as well as cases of forced disappearance, rape, and mass killing (covering the category 1 and 2 defined by PIOOM) over a large period of time. We will retain the basic and common elements described above:

- 2) Element of quantity: Over 1000 deaths in a 2 months period, thus being above the PIOOM definition.
- 3) Element of time: we will focus on events that last at least more than a month.
- 4) Element of quality: Violation of the right to live, torture (including rape) and disappearances. The violation has to be systematic and directed toward a specific part of the population (religious, ethnic, politic...)
- 5) Element of planning: Element of planning including international supply support. We will add the political aim.

This is the conceptual setting we have chosen to use; we did not want to restrain the area of work to the mere analysis of genocide cases. GHRV are larger concepts that include genocide but also go beyond, including other forms of intense human suffering. This delimitation has the specificity to be powerful enough to trigger the special link existing between HR and memory.

3. GHRV and Memory: a sensitive link.

As we have said, since the Holocaust, this part of the cosmopolitan memory ties humanity together. However, this memory is not made of one single event. Through time, it has evolved to become a coherent web of events, concepts and sensations that

are shared on a global scale. Among these events, GHRV has a special place in memory.

a. The semiotic of the event probing the limits.

“The inhuman is here understood as a finite limit of man, a defective feature of human existence that is not proper to the true end of man but that we have thus far failed to control”⁴²

The term of “event probing the limit” comes from an article of S. Friedlander, quoted and developed in P. Ricoeur’s book⁴³. Used to describe the Holocaust, it outlines the “*unsurpassable uniqueness and incomparability dialectic inside the heart of the idea of singularity*.”⁴⁴ This quote embraces the complex relation between GHRV and memory, and does not work only for the Holocaust. It would be restricting to confine this definition to a single event, no matter how horrible it could be. The GVHR are all events out of the nature that present a breach in the historical continuity. Their dehumanizing character constitutes an offence to the entire human kind. The inhumanity of the acts made them ahistorical, which means that you do not have to belong to a specific time period (or even to mentally link them to this period) to understand their significance. As such, they are events standing between their historical and local setting, and the intrinsic universalistic value of their signification. They face, however, double barriers while entering memory: an internal one and an external one. The internal barrier resides in the uniqueness of these events; while the external one is how to find a spot for this uniqueness in the memory without crashing everything else. Abnormal events have to fight their way into the semiotic composure of the narratives and somehow fit their uniqueness and ahistoricity into memory. This is the paradox of every GHRV: they are probing the limits of both the conception and the remembrance, but have yet to be conceptualized and remembered. The urge to remember is a social

⁴² Cheah, 2006, p.2.

⁴³ Ricoeur, 2000, pp.329-339.

⁴⁴ Ricoeur, idem, p.335.

need but it can be facilitated by the intervention of outside forces that, consciously or unconsciously, help the social process.

b. The framed remembrance.

It can be briefly noted here, that this paradox can be overcome by the society only. However, some help can be received. This diffuse and confuse memory can be interpreted and canalized through some events or places. That is the theory developed in P. Nora's *Lieux de Mémoire*. This diffuse, ahistorical event is represented in a specific place or by a specific date and thus becomes the accessible transcription of the intangible reality that we were discussing earlier.

In other words, the reaction of the society after a GHRV is often uncertain, as the way a society deals with such events can vary from one time to another and from one place to another. However, even though the scale and the range may vary, coping with such events is essential for the well being of the society. Politics and cultural life can help as we have seen. Dealing with the trauma can be challenging; yet not dealing with it can be lethal. Hereby, we are not denying the phenomena of social amnesia, just its temporality. We do not believe that this stage should be the definitive one, but rather represents one step in the healing process. It is demanding to deal with GHRV memories, but societies will do it at some point. P. Ricoeur was treating in his book the dichotomy of the modern world that humanity has to deal with; some places are overcrowded with memory and other places are dying because of amnesia. We believe that somehow this is fixed by time and allows humanity to restore the balance between oblivion and memory, between evil and good.

All in all the importance of remembering GHRV as a collective defence mechanism is essential. It takes several elements to be done in an efficient way. Even if this work does not aim to assess the efficiency of the memory process in the healing of the society, it still seems important to mention the different problems and obstacles that the memorialization of GHRV could encounter. It facilitates the transition to the main

question of the present study about the tension between cosmopolitan and collective memory when it comes to GHRV.

We have now managed to construct a theoretical framework explaining the concepts of cosmopolitan memory and GHRV. As we have just seen, GHRV linked to memory in a special way. However, it has yet to be specified yet with what kind of memory. It appears that, when looking at the practice, the GHRV know different treatments when it comes to memory. Some of them remain linked to the specific group of the victims of these events, while others seem to enter in the cosmopolitan memory and become a reference point for the global society. We do not believe that this arrangement is random. Instead the hypothesis developed in this study is that there are some elements that force a specific GHRV into cosmopolitan memory, while some other would lock the event up in the collective one. So it is time to move on to the other parts of this study. In the next one, the functioning of the national pole after a GHRV will be studied. In other words, we will take a look at the work of the collective memory linked to a GHRV. Then we will be able to move on to the last part of this study, explaining the hypothesis in the context of the dynamics of cosmopolitan memorialisation.

PART 2: THE NATIONAL POLE.

The first part will be aimed to explain the link between GHRV and the national pole of memory, the collective one. This strong bound is not to be proved anymore and therefore, an overview about its strength and temporality will be given. The study of the dynamics of collective and cosmopolitan memory of GHRV cannot be done without a basic idea of how collective memory works after a trauma. If the dynamics of collective memory might appear simpler and quasi-automatic at the first glance, they are nonetheless consist a complex and multi-layered body of social dynamics. In the following section, we are going to expose the nature of the relation, rather than simply evoking the process of social memorialisation. More specifically, this section aims to explain the strength and durability of the memory bound among a given social group that appears in a society after a collective trauma, such as a GHRV. However, this link will not be complete without the study of the other side of memory. As it as been said, the truth has ways to come to light, but this process can be long. In this part, two situations in which the inscription in the collective memory is lost or prevented are going to be studied. This is an utterly important question, sometimes memory is not the solution for a society to heal, and in other situation it is just more convenient for the political class not to remember. Theses cases of denial are the link between the collective and the cosmopolitan memory. If politicians (or the society itself) can control and try to prevent the process of memory, it can just be done at the national scale. It will of course affect the process of cosmopolitan memorialisation, but the latter cannot control it in the same way as the national one.

1. A strong relation.

The entrance of a GHRV into memory has already been studied. However the specific relation that it has with collective memory has yet to be explained. GHRV inflict to the society both material and symbolic losses. Apart from the obvious loss of human lives and infrastructures, GHRV damage the social link among the society

members.⁴⁵ They therefore, represent a breach, an anomaly in the collective memory. The feeling of sameness that existed before has been destroyed when the notion of the other/enemy appears inside a given society and escalates to violence. Closure is needed. But closure does not necessarily means forgetting, but learning to live on. The GHRV is now a part of the society's past, as well as the changes it has provoked last. Reaching peace is not sufficient to reconstruct the society. It is not an easy task to live on together: victims, survivors, perpetrator, bystander... all these elements are part of the society and actors of the GHRV. The state, global instance supposed to be protector of the society, is often the first involved in the specific type of GHRV treated in this study. After such an event, a society can take two different paths. It can learn to be functional and achieve a state of positive peace, or fail this test and get stuck in a negative peace scenario⁴⁶. In both cases the remembrance of the GHRV will be part of the collective memory of the society, and by extension, become a part of the collective identity. How a society will remember this event is strongly linked to the questions of transition and institutionalization of the memories⁴⁷. Nonetheless, in some cases there is no official transition or institutionalization. It is amazing to realize that in spite of an official state of denial (the instrumental factor at the national scale can here be recognized), the GHRV still has an effect on the society and that the facts always manage to reach the consciousness. They cannot be forgotten, at least not forever.

However it is important to note that such violations do not only affect the persons that were present. As it has been said earlier, the specificities of these events make them ahistorical and therefore timeless. They are transmitted to the next generation; the intact and vivid memory of their horror is standing the test of the time.

2. A long-lasting relation.

⁴⁵ Hamber, 2015, p.10.

⁴⁶ Ramsbotham, O., Woodhouse, T., & Miall, H.; 2011.

⁴⁷ Hamber, idem.

The concept of chosen trauma tackles the subject of transition of the collective memory⁴⁸. Dr. Vamik Volkan is a specialist of conflict psychology and studied the intergenerational problem of the transmission of chosen traumas in large identity groups. When an identity group faces a disaster every member is affected. A situation like this deeply changes the people of the group. V. Volkan highlights three psychological impacts:

- The post-traumatic stress: classic problem of people who went through a violent situation. The problems related to this stress can include, but are not restrained to, a denial of the event, which is characteristic of partial amnesia.
- The apparition of maladaptive behavioural patterns: In the case of a GHRV the change can be really abrupt and painful for all the subjects.
- When the situation is unsolved and the mourning process unresolved, the traumas will be transmitted to the next generations. And the duty to heal the symbolic wounds of the group will have to be borne by the next generation.

The victims transmit to their children their feeling of humiliation, victimization and the guilt to be the ones who survived. These trans-generational traumas bear the roots of violence. There is of course also a transmission in the cases of the bystanders and the perpetrators, and the line between the different actors can become blurrier with time. However, it seems important to specify that not only the unsolved situations are to be transmitted to the next generation. If the society managed to make peace with their past, the transmission will follow the classical pattern exposed in the first part of this study, which is still traumatic but less violent when it comes to remembrance. This is again related to the concepts of positive and negative peace. It explains why the situation of negative peace can last for centuries and in spite of the healthy appearance of a society, this very same society can be on the verge of a massive civil conflict or provide the stage for new GHRV. This underlying situation reinforces the ontological feeling of

⁴⁸ Volkan, 2013.

vulnerability shared by the humanity and has an impact on every part of the society development.

The question of chosen traumas underlines the specific problematic of the enlargement of the actors. The next generations will still feel related to a past event. The enlargement is not always about time boundaries, but can also be asked about geographical ones. As it has been seen with the concept of shared memory, the transmission can also be horizontal and reach people that were not concerned by the GHRV in the first place. This concept is based on the hypothesis of a sort of social relation that allows the enlargement. This relation can take different forms. If we suppose that the relation is the human vulnerability, it is yet possible to enlarge the memory link much further than the social group.

This is again the question of the cosmopolitan memory. After all, the cosmopolitanisation of the memory is in itself an enlargement of the victim circle. Nevertheless, not all GHRV are part of our common cosmopolitan memory. After seeing the process of inclusion and transmission on the collective memory, and before moving on to the global stage, we must study the process that can block the memorialisation process at the national pole. The relation between GHRV and collective memory would not be complete without its corollary, the notion of oblivion, whether it is cast following social preservation instruments or political manipulations.

3. Social Oblivion.

“There is a degree of insomnia, of rumination, of historical sense which injures every living thing and finally destroys it, be it a man, a people, or a culture.”⁴⁹

The existence of a phenomenon like the social amnesia has already been attested. In some situation, in order to go on after a GHRV, the society needs to restore the social

⁴⁹ Nietzsche, 1980.

link and learn how to live together again. However there is not a general description of the process to achieve this. The closest thing existing nowadays is the empirical study of the variations of the memory in the French society after the Second World War. Henry Rousso has studied a phenomenon that he calls the “Vichy Syndrome” and described what he saw as a pathology of the collective memory. He pointed out the different steps that the French society undertook until the cycle of oblivion was fulfilled and the painful memories, in this cases the WWII, could come back to the public sphere and becomes official. For the GHRV the process is the same, even if the events are quite different. Before explaining the power of traumatic memories, such as GHRV, and the path they follow to come back into the light, it is important to understand that the society (victims, perpetrators, bystanders) is truly going through an amnesia phase. This can be explained and illustrated with the theory of the spiral of silence.

The spiral of silence is the visual representation of a theory explaining how different persons can reach a social agreement by silencing the dissident voices.^{50 51} An analogy can be made with the collective memory after a GHRV. Memories of a GHRV belong to the public memory as they affect the entire society. Therefore, their expression in the public place is governed by strict social rules and breaking them leads to the harsh sanctions. Each person needs to develop his personality while interacting with a social group that gives him the codes and helps him to behave in the society. It is a prerequisite to his integration. The biggest threat for a person is to remain isolated, being ostracized by his community or by. In order to prevent this from happening the human being has developed a sort of sixth sense that allow them to behave in a way that guarantees his belonging to the society. Noelle-Newman calls it the “censor organ”. The role of this organ is simple: the individuals have the capacity to scan the society and know what opinion they can express or not. To avoid to be ostracized they tend to express only their thoughts that are conform to the opinion of the majority. Breaking this rule will automatically lead to social sanctions that most of the individuals want to avoid. This tendency can lead the person to doubt their own opinion, history or prevent

⁵⁰ Noelle-Neumann, 1993.

⁵¹ See annex 2 for visual representation.

them for speaking their minds when they are in the public space. This doubt can change the behaviour of the person and can end up changing his opinion and not only the way he express it. In other words the individual has the capacity to feel what he can express or not in the public space without fearing retaliation or disturbing the order of the sphere. The spiral of silence is then the metaphor of what happens to the contradictory opinion in most of the cases. They enter with him into the spiral of silence are buried deeper and deeper until they are just fading away. The censor organ works in the same way and the vicious/virtuous circle of the spiral of silence is also a reality in this case. One striking historical example is the silence of the Holocaust survivors. They kept their testimonies during years before daring to speak up. No one wanted to listen to them and they feared no to be believed. Nevertheless, when the social context became more favourable, they did testify and revealed all the atrocities of the death camps, when the society was ready to listen to them and accept the historical events. The spiral of silence can make the memory fade away but not disappear. The social dynamic of self preservation that leads to social amnesia has now be explained. It is time to take a look at the path taken by the memory after a violent event (GHRV, war ...), to see how they will always find their way to be part of the collective memory again. This process is made of four different stages⁵².

The first stage of the cycle is the mourning phase. During this stage the tacit agreement begins: if ending the violence and mourning is the right solution the mechanism of the oblivion process would enter into action at that moment.

The second stage is the repression. It is in this stage that the new collective memory is created, the transitional one. This part of the process can be more or less long depending on the circumstances but the basic features remain the same. The first basic feature deals with the actual facts. Those that serve the national narrative are remembered, even stressed. The others will be carefully avoided as they are becoming a social taboo. To make an analogy with the psychoanalysis this phase of repression is when the memories linked to the pathogenic event are pushed away to the unconscious

⁵² Rousso, idem.

part of the mind. They do not disappear but they become temporarily inaccessible.⁵³ They do not respond to the will of the subject, he cannot recall them when he desires, in order to remember he needs an external simulation. The second basic feature regards the (re) interpretation of the past. This is the time of the creation of a certain mythology around the GHRV that tells the events under a certain light and a point of view that help to solve the national trauma. The importance is not that everybody believes in them, but that they make their way through everybody's mind and that the majority accept this interpretation. To go back to psychoanalysis, this is similar to what Freud calls "screen memories", modified souvenirs that take the place of the original ones, because they are too painful. All in all, this is the phase of smoke and mirrors in which the society creates an artificial collective memory suitable to the image they have of their national identity.

The third phase is the come back. The collective memory is now strong enough to question its foundations without crumbling down, and ready to accept the stimulus that will bring back the past. The trigger can take different forms: a movie, a trial, a book, a testimony ... and is generally followed by many others. It is interesting to notice that the first stimulus often comes from the cosmopolitan community rather than from persons emotionally involved in the process. The society is able to look back at its past and to regain interest in these events. The pathological past has now a direct way to express the truth and include it into the collective memory.

The last phase is the obsession. During this phase the society is eager to win back its past and is ready to accept it as it was, without any filter. The phase of information surplus is coming back, but with a certain detachment that time has given. The notion of responsibility is still present and the society experiences an obsession with memory. The concept of memory duty takes all its sense during this stage. The need to forget is replaced by the urge to remember. Once again the nation is overwhelmed with revelations about the past. Books, movies, documentaries... this reminds the description

⁵³ Freud, 1901.

of the memory made by Henri Bergson: the moment when the souvenirs are the present of the past.

The social cycle of oblivion is a complex but natural and beneficial way that the society has to deal with traumas. Nonetheless, the impeachment of memorialization is not always socially induced. It can be imposed to the society by higher authorities. It is a case of structural violence and what P. Ricoeur calls memory pathology.⁵⁴

4. Instrumentalisation of the Memories: Political denial.

A political institution has the power to control, at least superficially, the work of memorialisation. The most famous and efficient way is without a doubt denial. There are several stages, from the official denial to the social enforcement of a unique truth by violent ways. The reasons underneath can be plural but they all revolve around the same matter: the political authority needs to bend the truth in order to remain in charge. Several forms of the official denial technique can be used.⁵⁵ All of these are meant to have an effect on the cosmopolitan community and on the population at the same time.

The strongest one is the literal denial. In this case, the authorities will purely and simply deny the occurrence of the GHRV. Several techniques can be used, from the simple public announcement to the attempt to deprive the sources and the witnesses of all credibility. Even the allegiance to HR treaties and instruments can come to enforce the type of denial.⁵⁶ For example, if the country has ratified the convention against torture, there are cases when it denies the use of such practices, even if they have occurred. The main argument of this denial is that they were illegal, thus cannot have happened. However, it is important to mention that this type of obvious bad faith is more difficult to practice nowadays, with the intensification of international scrutiny on

⁵⁴ Ricoeur, idem, pp.84-112.

⁵⁵ Cohen, 2001, pp. 103-112.

⁵⁶ Risse, Ropp, Sikkink, 2008, p.29

HR matters. If literal denial fails to convince, the blamed political authorities will just move on to the second technique: interpretative denial.

We are talking about interpretative denial when political authorities try to diminish the gravity of a GHRV by simply changing its denomination. This implies the acknowledgement of the GHRV but the denial of its interpretative framework. For instance, explaining that the political opponents have not been tortured, but instead just submitted to some rough methods of interrogation. The semantics changes are really important for this type of denial as they change the liability of the political authority. Interpretative denial can also occur when a government acknowledges a GHRV but disavows the persons or organisation of the government that was in charge of carrying it out. More than the first type, this denial can be efficient on influencing the cosmopolitan community for a time.

The third and last kind of official denial is the implicatory one. In other words, changing the facts in an attempt to make the GHRV look justified. It can be done for instance by blaming the victim or the circumstances. What is important here is that these strategies of denial can be seen in democratic countries. In fact, the reputation of the country matters in the efficiency of the denial.

All in all, the mere fact that a state uses one of these techniques reveals clearly its intentions. Some states have been using several of these techniques for a long period of time. It is for example the case with Turkey. After seeing that literal denial was not efficient at the international stage, Turkey started to regularly use the second and the third type of official denial to treat the genocide of the Armenians. These manipulations directed over decades towards the international community are the empirical evidence that, when it comes to memorialisation processes, the international community plays an important role. If the cosmopolitan society manages to free the memories of the GHRV from the national cage, a change can be seen at the global scale as well as at the national one. This is one of the reasons why it is important to understand what are the mechanisms that allow this displacement of memories.

In conclusion of this part, the link between GHRV and collective memory, by its strength and temporal resistance, can defeat all the obstacles and find its right place in the national memory. As it has been seen, international pressure is often a key element to fight the different forms of oblivion. This leads to the conclusion that the national pole is not the only receptacle available for the shared memories of a GHRV. The cosmopolitan community is also an available and legitimate space to store and use the memories of a GHRV. The effort that some governments make to try to prevent the memories to reach the cosmopolitan public sphere is the perfect evidence of both its existence and its power. However, not all memories of these types of events become elements of significance on the global scale. Some are destined to remain part of the collective memory only. It is time to move to the third and last part of this study now. It will focus on determining the factors that influence the durable insertion of a GHRV into the cosmopolitan memory.

PART 3: THE DYNAMICS OF COSMOPOLITAN MEMORY.

*“Gedanken ohne Inhalt sind leer,
Anschauungen ohne Begriffe sind blind. »*^{57 58}

Now that the general relation between GHRV and the national pole have been clarified, It is time to take a closer look at the mechanism of cosmopolitan memory. The central part of this work is to try to figure out which are the factors that could influence the classification of the memory of similar events into two different settings. A theory is defined as *“any systematic set of ideas that can help make sense of a phenomenon (...)”*⁵⁹ And this is what we are trying to build here. How can the located memory of a GHRV be extracted from its geographic and temporal boundaries to become an event of international significance? By answering this question, the goal is to address both the dynamics and the reasons as to why some events do not pass the group borders and manage to make their way into cosmopolitan memory. To do so, factors of influence have been determined and sorted into three general categories.

The first category will be the factor of presumption. The hypothesis here is that the more an event is considered to be in “the norm” for a certain region, the less likely it is to leave a trace in the cosmopolitan memory. This could be referred to as the cognitive component of the dynamic.

The second category will treat the internationalisation, treating to what extend the international community has been involved in the event, by taking material or immaterial actions. The hypothesis here is that the more participation the international community has had in an event, the more it is prone to remember it at the global stage and create its own narratives of the GHRV. This could be referred to as the operative segment of the dynamic.

The third category will tackle the empathy. The role of the media will be crucial in this part however it is not the only aspect that will be dealt with. The vital importance

⁵⁷ “Thoughts without content are empty intuitions without concepts are blind.”

⁵⁸ Kant, 2011, B33.

⁵⁹ Mc Quail, 2010, p.13.

of both the victimhood and the spectatorhood of the GHRV are believed to vastly influence the cosmopolitanisation of the memory. The hypothesis here is that the more the spectatorhood is capable to relate and to feel empathy towards the victimhood the more the event will become a cosmopolitan milestone. We find here the classical pattern of communication, with the suffering of fellow human beings being the message conveyed and received. This factor could be referred to as the emotional component of the dynamic.

The methodological settings of this part are now clear. They correspond to the three types of memory (defined in the part 1 section a.i) and are based on the observations that we have made earlier. This part is going to be focus on constructing the framework of the dynamic of cosmopolitan memorialisation, starting with the first factor.

N.B.: To illustrate this theory, the case of Rwanda will be used. It is, after the holocaust, one of the best examples of successful cosmopolitan memorialisation. This will only be a brief overview of the tragic events that happened in Rwanda in 1994 and their aftermaths, focusing on the aspects fostering the process of cosmopolitan memorialisation.

FACTOR 1: Presumption: assessing the shock.

Every country, every region⁶⁰ has its own features, history, political system... It is the mixture of these features that makes it unique and gives it a special identity. These facts explain the existence of international norms, “*collective expectations about proper behaviour for given identity*”⁶¹. The globalisation trend has been seen as a menace for these identities. It is not totally true. Changes do not mean risks and the evolution is still made in accordance to the former country’s characteristics. Nor is cosmopolitanism a threat to this sovereignty⁶², but rather a positive evolution. To fully understand the range of the GHRV the country’s situation must be studied following some general guidelines. This section starts with an inconvenient truth: some regions of our globe are more prompt to be the theatre for GHRV and the international and unequivocal realm of HR is still a utopia. To follow a realistic line of thought concerning the HR theory, we find here the conception of Bentham and Arendt; HR are in fact reduced to the rights accorded by the state to the citizens in some parts of our world. Moreover, in spite of the horrifyingly high number of GHRV that we have witnessed in the XXth century, each and every one of them is unique. Therefore, the paradox of this study is that it is necessary to define the GHRV in its original setting, in order to understand its global impact on the cosmopolitan world. Thus, the characteristic of the country must be studied, putting the emphasis on 3 different elements: the geographical one, the sociological one and the political element.

1. Geographical considerations.

At the first glance the link between GHRV, memory and geography does not seem obvious. However, geography must be understood here as a complex set of elements, which goes from the location in the globe to the economical resources of the country. These elements influence the view that the cosmopolitan community has of a country or a region. This perception can be true or wrong, and is often stereotyped. But

⁶⁰ N.b: in this part the notion of country and region can be swapped. Country is not understood in the sense of nation but as a land geographically determined. Region refers to the same entity but without it being officially recognised e.g. referring to Tibet as a region is a way of avoiding the criticism about its international recognition.

⁶¹ Risse, Ropp, Sikkink, idem, p. 234.

⁶² Levy, Sznajder, 2010.

as Lippmann exposed in his book⁶³ about public opinion, the large public is not a specialist in every subject (Lippmann did not have a lot of faith in the crowd, the underlying idea being that the public is not very bright) and that the complexity of everyday life forces us to create stereotypes in order to facilitate our understanding. As we are working here on the cognitive side of our problematic, using several stereotypes is a fake problem. The underlying geographical aspects of the environment of the GHRV are studied to demonstrate how it influences the cognitive dynamic of cosmopolitan memory.

a. Physical Geography.

The first element that comes into mind while talking about a country or a region is of course its geographical situation. The term geography is defined, by the oxford dictionary, as: *“The study of the physical features of the earth and its atmosphere, and of human activity as it affects and is affected by these, including the distribution of populations and resources and political and economic activities.”* This is the broad definition of the term, thus in the frame of this section; it has been decided to narrow it down and to separate its main elements.

Addressing the question of GHRV, Physical geography serves as an explanatory factor. The first point obviously relates to the status of the region, more precisely whether a country is officially and internationally recognised or not. The question of the legitimacy of the land is important in legal terms as it tackles a large range of GHRV related issues, from accountability to intervention.

The second point to take into account is the location of the country and its material accessibility. The more accessible a country is the more chance there is to see an international presence and interest. For example countries such as Burundi or

⁶³ Lippmann, 1922.

Swaziland are locked up in land and really difficult to access, which restrains the possibility of interaction with distant countries. Furthermore, the continent where the country is located can serve as a general indicator on its condition. It can be said that countries of Africa, South-East Asia and South America for example are more likely to share the same characteristics than a country of the EU. For instance, when it comes to the question of resources and their repartition. Then, the physical features of the countries can be sources of inequality, tensions and lead to resentment and hatred.

Needless to say, the lack of resources or their unequal repartition is a main source of conflict. Thus it is important to look at the statistic of the resource repartition for a country. Not in terms of wealth but for access to food and clean water for example. It is somehow also an indicator of wealth. The idea underneath the question of resource is that a country is more likely to be the theatre of tensions and violence if there is a scarcity of vital supplies (food, water, sanitation...). This element can determine the economic wellbeing of a country.

b. Economical environment.

In a world of global exchanges and market profit, the economical features of a country are of vital interest for this investigation. Once again, economy is a very wide subject but two main elements are believed to be determinant to the presumption factor. First, there is the GDP of the country and its rank in the global and regional ranking. To be more specific, the data that must be taken into account is the GDP per capita, in other words the GDP divided by the number of inhabitants. This way of measuring is better to have an idea of the wealth of the country as it weighs the official number with the actual population. However, this instrument is not perfect and must be handled with caution. It presents an average and not the actual repartition of wealth within the population, meaning that even the GDP/capita is not able to assess the true repartition of economic resources within the region. Nonetheless it is a fair comparison tool with other countries at the international scale.

The second and last point for the economy would be the main source of income of the country. It is an interesting point because it indicates both the level of economical vulnerability of the country along with its dependency to foreign supplies. There are three main sectors of the economy: The primary sector is concerned with the exploitation of the natural resources, the secondary sector with their transformation, and the tertiary sector regroups the services activity. All three are necessary to a healthy economy. Nowadays however, with the increase of global exchanges and dependency, countries tend to specialise themselves in one of these sectors⁶⁴. To simplify, it is known that the developed countries base their economy on the tertiary sector, developing countries tend to be specialised in the secondary sector and LDC in the tertiary one. Of course the most vulnerable one is the tertiary sector, as it is more affected by the climate and the economic crisis. With uncertainty and poverty leading to desperation, it would be redundant to further explain the link that exists here with GHRV.

To summarise, the geographical factor is divided into two elements. Their existence and intensity plays an important role in the presumption factor. However, they are not sufficient to be the only elements that trigger this factor. The question of the characteristics of the land and how its resources are handled goes along with the ones about the inhabitants of the country.

2. Sociological considerations.

Sociology is considered here in a broad definition, taking into account the historical considerations. Even if it is quite unorthodox, history is deemed as the influences of the past on the present sociological pattern. Subsequently taken into account, the two factors of the social diversity and organisation are more of a classical approach. Sociology is obviously included in the presumption factor because of its ability to spot malfunctions and violent behavioural patterns in a society. This increases,

⁶⁴ Johansson, Olaberria, 2014.

of course, the likeliness of witnessing a violent event such as a GHRV in the given society.

a. History.

The human being at his natural stage is a wolf for other men, as it has been theorised by some of the enlightenment philosophers^{65 66}. That is one of the explanation used for the justification of the creation of a social structure: to prevent the human to prey on their neighbours by instituting security and a social order. However, if the social contract theories are brilliant, sometimes this order is breached and the true and violent nature surfaces. On other occasions it is the structure itself that fails men and becomes the source of violence. This history of conflicts and malfunctioning of societal order matters to the present study, as it is believed to influence the cosmopolitan opinion about a given country. In a cynical way, the history is mixed with the nature, and a tradition of bloodshed increases the feeling of considering these horrible practices to be “in the norm”. (N.b.: We are not in any case trying to diminish the monstrosity of a GHRV, only exposing the fact that the frequent occurrence of this kind of events in some regions of the globe makes them less noticeable for the cosmopolitan community.) Therefore, this point will entirely focus on studying the occurrence of violence in a specific country over the last decade. Again this criterion must be divided into two types of violence. The first one is the state violence against its citizens and the second one describes the external conflicts. The former being a quasi-systematic element of GHRV, as it has been explained in the first part I of this study. The latter one is also important in terms of indicating the occurrence of violent events and the relation of the state with neighbouring powers. Together they indicate to what extent the population of this area has been exposed to violence, and therefore is prone to consider it as a legitimate conflict solving tactic and how the cosmopolitan community considers the country. Extreme violence in a country is often caused by so called irreconcilable

⁶⁵ It is one among the many theories we could for example also quote Rousseau's “Good Savage” development on the matter.

⁶⁶ See the theories of Rousseau, Hobbes, Locke... about social contract.

differences within its population. This fact leads the line of thought to the question of the social diversity.

b. Social diversity.

The composition of a country's population can be very diverse. It can be composed of various nationalities⁶⁷ (in the sense of a social group) or ethnic groups, as well as diverse religions. This is nowadays considered as strength and is the departure point of the construction of a cosmopolitan society. However, it can also be seen as a weakness and be the fertilizer of violence and HR abuses.

The first point to look upon is the ethnic repartition of the land. It is important to specify that ethnic group is understood here as a social construction rather than an intrinsic reality. Sometimes this ethnic differences have been totally made up without a clear ground of definition, with the most famous example remaining the one of the Hutu and Tutsi, who were just the victims of the colonialist system even long after it was officially over. This does not prevent tensions between different ethnic groups. We are unfortunately not lacking of examples of exactions committed on the basis of ethnicity. Thus it is crucial to know what are the different ethnic groups that live in these regions and what is the proportion of each compared to the entire population. The question of minority and majority matters while tackling the question of ethnic diversity, for obvious reasons, that ranges from discrimination to ethnic cleansing. Nonetheless, it is sometimes difficult to know exactly, however some statistics are available and can help to have a global image. Nowadays too often mistakenly confused with the question of ethnic diversity, the one of religious variety must now be treated.

In order to deal with this matter, it is vital to know if a society is multi confessional. There is no choice but to accept that religion can be source of violent behaviour. The proportion of each confession in the population is a matter of importance for as long as the question of the existence of a dominant or established

⁶⁷ Smith, 1986, pp.21-41.

religion persists. A few countries in the world are secular while more often there is an established religion. In some part of the globe it can lead to violent repressions and bloodshed in the name of this religion. Besides, even if the religion is not institutionalized there is always the matter of the tradition. There is absolutely no paradox in saying that France is a secular country of Judaeo-Christian tradition. Here the religious feeling is rather linked to the culture and the tradition than to the traditional worshipping interpretation. Convenient for both of the former criteria is that very often statistics about one of these two points exist, which can give the reader pretty accurate indications about the second one.

Regardless of the ethnic group or the religion, there are other differences in a society. We have already mentioned the questions of the economical differences above, but the sociological differences are lacking. The ones that will be taken into account in this study is the level of education and the life expectancy. Together with the GDP/capita, they form a well-known indicator of development: the IHD. As the GDP/capita is already used in another part of the calculation, the element must be decomposed to avoid redundancy. The life expectancy is considered important to have a general idea of the health situation in the country as well as the rapport of the population toward death that could be deduced. This rapport influences the social link and the capacity to relate to other people. Last but not least, there is the question of the general level of education. A society with a higher level of education is prone to have a fair and universal access to it. An educated population will be more likely to protest and report the GHRV occurring, they will also be more resilient to believe everything that the state might say concerning those events. In other words, an educated population is a population that got the capacity to resist more. Education is also both influenced by and a factor of influence of the next point of this study: the social organisation and the diaspora.

c. Social organisation and diaspora.

The first element to treat in this part is the literal interpretation of social organisation. The question is very simple: is there a defined and fixed social organisation? Every society is, by definition, organised, but some are more flexible than others. Here we could quote for instance the caste system in India, which in spite of having been officially abolished decades ago, still rules the society. In other words, we are wondering about the level of rigidity of the society. In this category it is also possible to include the gender-based relations, especially the role of women in the society. Nevertheless, a society can be officially organised or this organisation can be related to cultural values. This is exactly what the sociologist Hofstede explained when he exposed his method to define the general characteristic of a society⁶⁸.

There are six criteria and all of them are relevant to this study. The first one is the Power Distance Index (PDI): *“the extent to which the less powerful members of organizations and institutions (like the family) accept and expect that power is distributed unequally.”* In other words it assesses the degree of resilience of a society towards a given situation. The Individualism vs. Collectivism (IDC) criterion measures the *“degree to which people in a society are integrated into groups”*, or to put it differently, the existence and the intensity of the social link. The Uncertainty Avoidance Index (UAI) gauge describes *“a society's tolerance for ambiguity”* that tackles the tendency of a society to evolve or on the contrary be fixed in regulations or dogmas, avoiding all new ideas. The next criteria deals with a society's *“preference (...) for achievement, heroism, assertiveness and material rewards for success”* or on the contrary *“a preference for cooperation, modesty, caring for the weak and quality of life”*. These are believed to be related to the dominant gender in the society; it is therefore referred to as the Masculinity vs. Femininity criteria (MAS). Under the MAS hypothesis, feminine societies tend to be more solidary. Long Term Orientation vs. Short-term Orientation (LTO) is the penultimate component of the list. It deals with the adaptability of a society to deal with time-related changes. For instance, it takes into account if the traditions are still alive and carefully respected in the country. Last but not least comes the Indulgence vs. Restraint (IDR) element that determines if we face *“a*

⁶⁸ Hofstede, 2011.

society that allows relatively free gratification of basic and natural human desires related to enjoying life and having fun” or on the opposite if it is *“a society that controls gratification of needs and regulates it by means of strict social norms.”* In others words, it could be said that this factor determines the level of freedom (in the broad sense) of the society. Taken together, these criteria give a solid image of the social organisation of the country, as the individuals living in the country interiorize them through socialisation. However, some persons belonging to a culture are not living in their country of origin. In the frame of this study, the diaspora is of utter importance.

The notion of diaspora is defined by the Oxford dictionary as: *“People who have spread or been dispersed from their homeland”*. While it is normally used to describe forced dispersion, it is now commonly used for all situations. To this general description, we must add that the concept of diaspora implies the maintenance of powerful economical, affective, political and cultural bounds with their country of origin⁶⁹. They are therefore actively involved in the life of their homeland. Not all immigration can be considered as diaspora⁷⁰. (Of course it takes a certain number of people to constitute a diaspora.) This concept is known to be particularly important while talking about the soft power of a country. The notion of Soft Power has been defined for the first time by Joseph Nye.⁷¹ Opposite to Hard Power, which would be the use of force, soft power defines the capacity of the country to influence the world without using harsh methods. The culture and the reputation that the country has in foreign land are crucial to this matter. And it is at this point, that the diaspora can become vital to a country. People living abroad can influence positively or negatively the perception that the cosmopolitan community has of a population. It can also raise the awareness about an urgent matter in the countries. It is not question here of diplomats or other governmental puppies, but *real* people that live their daily life in another land and export some of their country doing so. In the frame of this study, the existence of diaspora plays a crucial role for the cognitive dynamic by its capacity to raise the awareness of the cosmopolitan community.

⁶⁹ Wihtol de Wenden, 2005. p. 14-15.

⁷⁰ Chabanel, 2011.

⁷¹ Nye, 2005.

3. Political considerations.

The last part of the cognitive side of memorialisation deals with the political questions. This is one of the country's features that can greatly influence the perception of the cosmopolitan community. Thus it has the power to shape the presumption factor. It is divided in three distinct parts, each of them giving a hint about the general political situation of the country and its level of democratization.

a. Political system.

The first consideration is obvious and easy to explain; yet it has to be taken into account. The political regime of a country can greatly influence the image that the cosmopolitan world has of it. No need to say that non-democratic systems and unperfected democracies are more likely to be the scene of GHRV. In a way their entire system is based on HR violations and its survival on constant oppression. This does not imply that such events cannot happen in democratic states. Such an assumption would be foolish. However, the odds for it to happen are lower in a functioning democracy and the eventuality of such an event would automatically fit the criteria of the cognitive dynamic due to its "abnormal" character. Within the question about the political system, the question of the opposition is included. However, it is question of the pure political opposition, which is sometimes not even existent or just smoke and mirrors. There is another opposition that does not belong to the political sphere but is built in the public opinion.

b. Opposition.

Apart from the purely political opposition, the society can also play the role of the counterpart to the political power⁷². Thus it must be informed of what is happening in its country. That is why the question of the freedom of the press must be introduced

⁷² Arato, Cohen, 1992.

here. A free press is essential to educate the citizen to public life participation. Furthermore, a free press also ensures the diffusion of information from the country to the cosmopolitan society; therefore, it is an important element of the cosmopolitan cognition dynamic. No need to further explains or describes the importance of this criterion. The last criterion will deal with a geopolitical aspect of the country at the time of the facts.

c. Peace or War?

The perception of a GHRV can also be shaped by the geopolitics at the time it happens. A country undergoing a period of violence, such as a war or and uprising, is of course perceived as more likely to be the scene of a GHRV. Even the criteria to judge such actions are different in International law. This is the difference between *jus ad bellum* and *jus in bello*. It is interesting to see that the latter rules are applied to all the parties involved, regardless of the justification of their fight, while the first ones are specific to states.⁷³ In other words, in a situation of war, internal or external, the perception criteria of GHRV can lower or change, as such describing the principle of the *jus in bello*. Nonetheless, some situations that are not in the frame of a conflict can also raise the presumption factor of a GHRV. The Oxford dictionary defined a country as: “*A nation with its own government, occupying a particular territory* “. Nevertheless, the last element is sometimes blurrier than expected, referring to the question of the disputed territories. The dispute can occur with neighbouring states or with a particular fringe of citizens, it does not change the matter. For its stability, the country needs to have clearly defined and internationally recognised borders. In other words, disputed territories are never a proof of stability and rather inauspicious when it comes to HR. These two causes are shaping how the country is perceived in terms of geopolitics. Besides, the way the country will deal with this problem is crucial for our problematic. It is important to precise that it is not because a country is democratic that

⁷³ Comité International de la Croix Rouge (ICRC), *Jus ad Bello and Jus im Bellum*, 2010, available at <https://www.icrc.org/fre/war-and-law/ihl-other-legal-regmies/jus-in-bello-jus-ad-bellum/overview-jus-ad-bellum-jus-in-bello.htm>, (Consulted on 3 June 2016).

GHRV in disputed territories cannot happen. The case of the democratic Spain dealing with E.T.A by relying on state sponsored assassinations^{74;75} is still well remembered and a part of the cosmopolitan memory.

4. Partial conclusion.

The explanation of the cognitive factors of the dynamics is now done. It comprises three different categories. It is also crucial to note that not all of the factors have the same temporality. Some are related to the situation at the exact time of the GHRV (War or the economical conjuncture for instance) others can be seen from an actual perspective.

The cognitive factor of the dynamic of cosmopolitan memory calculates the presumption that a GHRV could have happened in the country, but it is absolutely not a tool to predict the occurrence of a GHRV. It also somehow assesses to what extent the situation of violence is understandable for the cosmopolitan community.⁷⁶ It is based on the memory-habit, it is a learning process that we acquire. It is important to notice that, like in the case of Rwanda, the presence of a UN peacekeeping mission on the field can undermine this factor. The violence would be perceived as less likely to happen as the situation is handled by an international organisation. However, it is believed that this factor cannot function independently. To fully understand the dynamic of cosmopolitan memorialisation, we need to add two factors to the predictions one. The next one is related to the operative capacity of the cosmopolitan community.

Under the consideration of the cognitive factor, the analysis of Rwanda is quite surprising. It is a small country (26 338 km²) in the region of the Great Lake in Africa that was known for its great instability and violence. The country was divided into two ethnical groups, the minority of Tutsi and the majority of Hutu. The Tutsi community

⁷⁴ 25 assassinations and more than 30 persons injured in 27 months.

⁷⁵ Raufer, 1995.

⁷⁶ Cohen, idem, p. 196.

was believed to be superior to the Hutu one and made to rule the land. This distinction was made up during the colonial times and absolutely not based on any objective criteria. However, the government in 1994 was in the hands of the Hutu community. Tensions between these two ethnical groups had already been the cause of violent deaths in Burundi, the neighbouring country, in 1972 and 1993. The perilous situation in Rwanda was well known by the international community and the possibility of arising genocides had already been evoked several times. The political regime was far from being democratic; it fostered the interethnic hatred among the population, using the medias. Some Tutsi that had been displaced were trying to come back to their homeland, which lead to more heinous behaviour from the Hutu community brainwashed to believe that this rebellion was the begging of an ethnic cleansing program directed toward them. This rebellion, cause of a civil war, was going on since 1990. French military forces were present to try to protect the French and other international citizens living there⁷⁷. International actors monitored the peace negotiations, known as the Arusha agreement, with the support of UN forces present in a peacekeeping mission, decided by the resolution 872,⁷⁸ since the signature of the treaty. This international presence was supposed to prevent the country from actions such as they had occurred in Burundi. The failure of international forces is surprising; it changed the setting of the presumption factor by making believe that such a GHRV could never happen under international watch.

All in all it seems that the knowledge of the upcoming catastrophe did not really manage to prevent the cognitive factor to play a role in the dynamic of cosmopolitan memorialisation. In this specific case, the presence of the international peace keeping forces seems to have high jacked the cognitive factor. Even while all the warning signs were present, the presumed certitude that the situation was brought under control by the UN changed the cognitive setting about the country, leading to an underestimation

⁷⁷ M Archives, RWANDA La France a Envoyé Deux Compagnies Militaires Supplémentaires, 23 February 1993, available at http://www.lemonde.fr/archives/article/1993/02/23/rwanda-la-france-a-envoye-deux-compagnies-militaires-supplementaires_3919538_1819218.html#Df0DLLZEW7FWQwRr.99, (consulted on 9 July 2016).

⁷⁸ S/RES/872, 1993.

of the situation. This failure plays an even more important role for the two others factors.

**FACTOR 2: Internationalisation: delocalizing the
GHRV.**

*“I don’t really fill my mind much with what one
set of foreigners is doing to another.”^{79 80}*

The second factor of the dynamic of cosmopolitan memorialisation is concerned with actions, and more precisely with actions taken on an international level. The cosmopolitan community is not only an intellectual reality, but also a complex and multilevel network of interactions. Different actors play a role: States, International Organisations, NGOs, Scholars ... In other words the international public sphere is fairly accessible to different protagonists, regardless of their judiciary status. These different participants can be classified following the categories defined by the political scientist Richard Ned Lebow⁸¹: transnational, International and cross-national. Transnational refers to NGOs and professional groups, such as scholars and HR in this situation. International concerns the behaviour of other states, while cross-national tackles discussions and experiences of citizens abroad, and international media⁸². In the frame of this part, only the two first categories will be used, the third has already been partially explained (in the cognitive part, especially with the role of the diaspora) and the question of media coverage belongs to the emotional part, therefore it will be treated in the next chapter.

So how are the actions of the international community a trigger to the process of cosmopolitan memorialisation? The hypothesis presented here is that the cosmopolitan community is more likely to remember a GHRV if it has taken a part in it, for example through institutions, states, NGOs... More over the recuperations of these events on a global level trigger the mechanism of delocalization that is essential to the dynamic of cosmopolitan memorialisation.

⁷⁹ Response of Ms. Thatcher’s defence minister, A. Clark during a session in the Chamber of Deputy after being harangued about the situation in East-Timor in 1975.

⁸⁰ Nevins, 2005, p.65.

⁸¹ Lebow, Kansteiner, Fogu, 2006, pp. 25– 26.

⁸² Stocker, 2013, p.25.

The question of the international actions will be treated in four parts that correspond to different stages of the GHRV. First we have to look at the condemnations and the reports of the GHRV, so as to be able to move on to the interventions. The two following parts will tackle the work of justice and the official acknowledgement policies. (N.B.: this part does not aim at listing all the possible ways that the international community have at disposal to react to a GHRV, but rather gives an explanation of the effects of these categories of action on the process of cosmopolitan memorialisation.)

1. Reports and Condemnations.

GHRV are events that test the limits of human understanding by their violence and special character. They are intrinsically condemnable. However, we have no other choice but to admit that all GHRV have not been treated in the same way. That is why it is important to look at the condemnation of specific events. Condemning is here considered as an action, as it forced the actor to take position against the GHRV. The pendant side of condemning is reporting. Even if a condemnation can be done without first drawing a report, it helps to know what the exact situation is that we are dealing with. Furthermore, a report is a permanent trace of the GHRV and can thus be used to trigger the cosmopolitan memory long after it occurred.

a. Reporting.

The action of reporting marks the juncture between the cognitive and the operative factor of the dynamic. However, it still belongs to the second category. In terms of HR, the act of reporting is a powerful tool, used by international, regional, and national systems as well as NGOs. It is the classical action of “naming and shaming” with the effect of printing a stigma on the wrongdoer.⁸³ The NGOs have a special role in this mechanism. As they are generally present on the field, they are the watchdogs of

⁸³ Cohen, *idem*, p. 232.

GHRV all over the world. The work of scrutiny of an NGO like Amnesty international for example, is primordial to report HR abuses and makes them visible. As Arthur Miller put it: “*Amnesty, with its stream of documented reports forms all over the world, is a daily, weekly, monthly assault on denial.*”⁸⁴ In other words, they constitute a red light for international institutions that something is going on and that they should intervene or further investigate. Of course Amnesty is not the only important organisation when it comes to reporting HR abuses. Others could have been quoted as well, like HR Watch or the International Federation for HR (with their emblematic motto, “Keep your eyes open”). These reports create space for a transnational arena of expression dealing with the question of GHRV.⁸⁵ It is actively fostering the dialogue inside and outside the region where the events happened, giving the first impulse to the delocalization process. The next one will be given by institutions themselves.

The UN for example, has been sending experts on the grounds to assess situations. These experts are called special rapporteurs; they go on fact-finding missions and evaluate the situation. These rapporteurs can be mandated for specific countries or for a specific thematic. Even if the HR mechanisms of the UN have evolved since its creation, the presence of these rapporteurs has always been a powerful tool to detect and archives the GHRV situations. These mechanisms have also been working at the regional level. The amazing work of the IACHR could be quoted here. However, reporting is not a satisfying solution by itself. Something should be done when facing an obvious GHRV situation, even if it is just a public condemnation.

b. Condemning.

The condemnation is a type of official acknowledgement, thus it can be done at any time. It is considered here as a political statement by which a given institution or state speaks publically against a GHRV. In this case the organisation needs to have a certain authority; therefore it cannot be an NGO. It is hereby not understood as the

⁸⁴ Miller, A., 1991, p.5.

⁸⁵ Risse, Ropp, Sikkink, idem, p.22.

judicial condemnation, which is the result of a trial. A condemnation, as it is a public intervention, leaves a trace both material and immaterial. It is done on the basis of shared values, in this case the defence of the realm of HR everywhere in the world⁸⁶. The condemnation matters in terms of the dynamic of cosmopolitan memorialisation because it implies an agreement. In other words a politician or the member of a delegation at an IO would talk on the behalf of the nation he represents. It gives a line of conduct and of thought about the GHRV (of course there are, as always, dissident voices. However, an official condemnation uses the common values of the community and therefore has a gathering effect.) Moreover, it opens the debates on the international political sphere. Now that the situation is known (cognitive factor) and that the firsts action have been taken (reporting condemning), it is time to decide what would be the next step that the cosmopolitan community could take to deal with this violation of common values. The UN often adopts resolutions formally condemning HR violations. It is always done on the basis of the conventions and declarations signed by the member states. In this case, the basis of common values is even stronger as there is a text to prove it. It is meant both as an acknowledgement and a formal warning for the state concerned. It means that the international community has already taken active steps against the perpetrators of GHRV. However, condemnation alone is often proved to be rather inefficient. For example the UNHRC has already cast several condemnations⁸⁷ for the HR situation in Syria since the beginning of the conflict, without taking more concrete actions.

This last point brings the study on the next level, while the two first parts tackle more symbolic actions; it is time to look at the material part of the operative factor of the dynamic.

2. Intervention.

⁸⁶ Fortman, 2011.

⁸⁷ A/HRC/RES/31/17 ; A/HRC/RES/30/10 ; A/HRC/27/60 ; A/HRC/25/65 ... The list goes on for several pages...

*“There are either no geopolitical interest or they are too strong to be sacrificed”*⁸⁸

First of all, the term “sanction” is absent from the UN vocabulary. It is talked of “actions” or “measures”, the term sanction being saved for the doctrine. These actions must therefore not be seen as being aimed against the government, but as supporting HR. There is a full range of actions that could be taken: from the most diplomatic and symbolic ones, to the military and more intrusive ones. They are supposed to not have the same effect on the memorialisation process. Furthermore, to have an effect they do not have to be fully legal in terms of IL, but rather need to have an important range and lasting effects (even if those effects were not the one planned). The specificity of this factor is that it has to be contemporary to the GHRV. However, it is important to note that the mechanisms described below respond to specific violations of IL and are carefully regulated. They are normally not always applicable to an isolated event. The mere fact that they are triggered is *per se* an indication of the seriousness of the GHRV.

a. The Soft Methods.

The international coverage that HR ensures, in theory, makes every breach an offense to all human beings. The morality of the state committing GHRV is questioned and, by association, the other states and institutions still having contacts with it the guilty party. This could be referred to as the soft power of HR⁸⁹, or a constructivist analysis of their effect. Thus, in theory, states and institutions have a moral duty to react to GHRV on the basis of the shared values and their concern about their soft power. A range of tools is at their disposal in order to do so. However, it is important to note that these measures have to be taken in accordance with the UN rules in order to be legal. Without resorting to force, UN members have both, the positive obligation to assist the UN in the measure taken and the negative obligation not to help the country guilty of violations.⁹⁰ Therefore, the international community can take different actions (ranked

⁸⁸ Cohen, *idem*, p12.

⁸⁹ Ahmed an-Na‘im, 2010.

⁹⁰ UN Charter Chapter 2 paragraphe 5.

from the less restrictive to the most)⁹¹: cultural (banishment from the international competition, like for example the South-African rugby team was not allowed to participate to the world cup during the Apartheid), the exclusion (once again South-Africa could be quoted), the diplomatic sanctions (withdrawal of the ambassadors of all members and reduction of the presence of the country delegation in member states, as for example Afghanistan during the Taliban regime 1999)⁹², military embargo, and economical ones. All in all there is a whole range of measures (all of them are not listed here) that do not require the use of force, yet all of them have been used at least once. The advantages of these actions are that they do not require a legal background to understand how they basically work. In the frame of a state acting alone, the notion of offensive HR can be used. It has a focus on the action of the violator's state. In practice it is censuring as much as possible any attempt of the other states to act at the international level through IO. The best example of this practice remains the actions of the USA against Cuba for decades.⁹³

In terms of memorialisation dynamics, these measures have two main effects. First, it created a precedent. This is to say that this type of measures remains strong enough to be remembered and the evocation of a similar situation can easily recall them. They are likely to create mind-bridges, and therefore could be a mental tool to assess the gravity of the GHRV in the cosmopolitan community. Besides, because of the positive and negative obligation towards the UN, these measures are truly cosmopolitan. They are exercised in collaboration with the fellow members and give a general feeling of participating in the fight against GHRV. The combination of the great inclusion and the recalling power of these “soft” interventions make them an important component of the operative factor of the dynamics. However, the other method of intervention including the use of force has an even greater influence when it comes to the dynamics of cosmopolitan memory, because they are less common and more radical.

⁹¹ Idem, p.7.

⁹² S/RES/1267, 1999.

⁹³ Fortman, idem.

b. The Use of Hard Power.

We are talking here about serious cases that are only used when facing a threat to international security, as planned in the Chapter 7 of the UN Charter. A “simple” GVHR is not sufficient to justify and legalize an armed intervention. As it has been said below, the mere fact that an armed intervention is triggered is *per se* a memorable event for the cosmopolitan community. It is crucial to note that we are not talking about the peace building operations lead by the UN forces. These interventions are usually used in the aftermath of a conflict This study refers to interventions taken in order to prevent or to stop a situation of GHRV; often in the frame of a much larger conflict. In any case, the presence of the blue helmets means that some work has to be done in conflict prevention, even if only to prevent the re-escalation of violence. Two cases will be exposed here. To begin with, the operations of conflict prevention lead by the blue helmets must be evoked. There are currently 16 peacekeeping missions deployed all over the world (principally in Africa).⁹⁴ Several countries are participating and sending troops to participate in these actions. Therefore these missions can be referred to as being a participation of the cosmopolitan community. The second case is more interesting in the frame of this study. It is when the UNSC decided to send troops on the ground to resolve a certain situation. These troops are mandated by the UN, and therefore legal, but it is the decision of the states to participate or not. In both cases the armed intervention is to remain exceptional and therefore is a powerful trigger of the operative factor of the dynamic. Important to note is that this case of figure never happens between two democratic states. It is a general rule: democracies respecting HR do not strike each other⁹⁵. (This fact can easily be linked to the cognitive factor of the dynamic.)

In conclusion, intervening directly or indirectly to prevent or stop a GHRV is a factor of memorialisation for the international community. This is, because the active

⁹⁴ UN, Current Peacekeeping Operations, 2015, available at <http://www.un.org/en/peacekeeping/operations/current.shtml>, (consulted on 12 June).

⁹⁵ Tomz, Weeks, 2014.

participation of the cosmopolitan community triggers the memorialisation process and favours the delocalization process, as the incident is not only limited to one or two countries, but entire cosmopolitan community. As mentioned before, the intervention is not systematic. And even if it takes place it is not the end of the active participation of this international community. The work of justice and accountability for the crimes has to be done.

3. Justice and guiltiness.

The question of justice after a GHRV is a really complicated one, both on the theoretical and the legal plan. Countless of scholars have written about the questions of prescription, jurisdiction, and accountability, debating as such the best way of administering justice (retributive, punitive). In the frame of this study, these technical and philosophical debates are not the principal matter as we are essentially focusing on the effect of these HR trials on the cosmopolitan community and their memorialisation of GHVR. However, some of the points mentioned above are of some importance in the context of the debate, as they can influence the process studied here. Therefore, without entering the academic debate on the subject, we are going to briefly describe the features of the international judiciary system that are believed to have the greatest influence on the memorialisation process. After all, E. Durkheim believed that trials were an expression of social solidarity and the resulting punishment the “social conscience at work”.⁹⁶ By analogy, an international trial is the expression of the international or cosmopolitan solidarity and the result of our shared social conscience, as their ruling is based on internationally recognised laws. International trials are therefore the most important component of the operative factor of the dynamic of cosmopolitan memorialisation.

a. Accountability, prosecution: identification.

⁹⁶ Durkheim, 2013, livre I, chap 2 IV.

The question of accountability that has been mentioned before is crucial here. In terms of IL only persons can be held responsible for GHRV, while States perceived as moral persons can be accused, but not prosecuted. A human perpetrator must be found; somehow a face and a name must be found responsible of these horrible actions. It is known that Serbia is responsible for what happened in Kosovo, but it is the name Milosevic that comes into our mind when evoking the ethnic cleansing. That is the difference between the cognitive factor, the two first criteria sus-mentioned and the judicial part. It is not here about a state, but about specific persons in that state. Therefore, their guiltiness must be proved in order to judge them in consequence. In terms of cosmopolitan memory, this fact helps to create a “symbol of evil”, to make of a group of human beings the personification of the horror that was witnessed. The active prosecution of these persons on the basis of IL then becomes a sort of catharsis, a re-enactment of the horrible event under the scrutiny of the cosmopolitan world, waiting for its judgement. The most quoted example for the cathartic function of trials remains, even after years, the Eichmann’s trial in Jerusalem.⁹⁷ In terms of the dynamics of memorialisation these international trials are very important. Besides defining a responsible, it is also both a proof of the active participation of the community and a way of ending with the impunity. In terms of delocalization these trials are often held outside of the countries where the GHRV took place. However, some GHRV are so extended and intense that they need a special care, making them even more important in the whole process.

b. Delocalization.

Not all the GHRV are judged following the same pattern. Over the years, several ways of dealing with the past have been developed, when it comes to GHRV. In terms of delocalization, the most powerful remains the international trials. Several types exist. First, there are the special tribunals. They have been created after the WWII to judge the crimes committed by the Nazis and Japanese. They are commonly referred to as the

⁹⁷ United States Holocaust Memorial Museum, War Crimes Trials, 2016, available at <https://www.ushmm.org/wlc/en/article.php?ModuleId=10005140>, (consulted on 14 June 2016).

Nuremberg and Tokyo trials. If these trials are important in terms of defining the criminal accountability for HR violations, such events have not been repeated for decades.⁹⁸ The next time these trials occurred was after the events in Rwanda (ICTR) and ex-Yugoslavia (ICTY), when the international court was created under an UN mandate. If the state is not willing or capable of prosecuting the perpetrators, the trial can be held at the international level. In this case, the delocalization is literal, just as well as the active participation of the international community. However, an international criminal court is not created every time a GHRV occurs. Other forms of international prosecution fostering delocalisation and cosmopolitan memorialisation exist. First of all, there is the ICC that has the jurisdiction to investigate and rule over the worst cases of GHRV (War crimes, Genocides, Crimes against Humanity). Situated in the Netherlands, it can summon, judge and sentence individuals accused of these crimes. It is currently investigating the situation in 10 countries and running 7 trials.⁹⁹ As long as the country has recognized its jurisdiction, the court can prosecute. 124 countries have signed and ratified the Rome Statute and 31 still have to ratify it. The ICC has then an extended jurisdiction. The other case of figure interesting in the frame of this study is the question of the international jurisdiction of these types of crimes, without being attached to the ICC; it is the concept of Universal Jurisdiction. According to this concept, certain types of crimes can be prosecuted by everyone, regardless of the country in which they have been committed. Considering that some rights (including certain HR) are *erga omnes* everyone is entitled to ask for reparations if they are breached. The type of culpability in cause here (as well as in the other cases of this section) is the criminal responsibility to acts violating “*unequivocal laws*”¹⁰⁰ as defined by Jasper. The most famous example of this branch of IL remains the Pinochet’s trial by the Spanish Judge, Balthazar Garzón in 1998¹⁰¹. As long as there is an accusation and sufficient charges against someone, this procedure can be triggered (nevertheless, it does not function every time). Thus the internationalisation process is strongly triggered

⁹⁸ Ratner, Abrams, Bischoff, 2007.

⁹⁹ Comité International de la Croix Rouge (ICRC), *Jus ad Bello and Jus im Bellum*, 2010, available at <https://www.icrc.org/fre/war-and-law/ihl-other-legal-regimes/jus-in-bello-jus-ad-bellum/overview-jus-ad-bellum-jus-in-bello.htm>, (Consulted on 3 June 2016).

¹⁰⁰ Ricoeur, *idem*, p109.

¹⁰¹ Cornett, Hooper, Beaumont, 1998.

with the sus-mentioned types of criminal prosecutions. However, further types of trials have to be mentioned for its great influence in the memorialisation process. These are the Truth commissions.

4. Truth and Archives: the conceptualisation of evil.

The different roles of transitional justice have been mentioned in the introduction of this part; the truth commissions' main difference from the "regular" trials is that they are not an instrument of retributive justice, but rather focus on restorative justice.¹⁰² They are meant to heal the wounds of both the victims and the society as a whole. Victims and perpetrators are reunited in a truth-seeking quest where everyone has the opportunity to speak. Testifying, with the double assertion of the reality of the event described and the person presence is an act meant in this case to re-establish the fiduciary link in the society and foster it as a *habitus*.¹⁰³¹⁰⁴ In exchange for their collaboration, perpetrators are granted with reduction of their sentence or even amnesty in certain cases. Talking about the Jasper's class of culpability, these forms of trials ask and reveal about the moral culpability of the nation, in other terms "*the sum of the acts, majors or minors that have contributed, by their tacit or express agreement to the criminal culpability of the politicians or (their) political culpability (...)*".¹⁰⁵ In terms of memorialisation, these commissions are of utter importance as they manage to record as clearly as possible the GHRV, by receiving a large number of testimonies. For example, the TRC in South Africa ended with the publication of a 3 500 pages report just dealing with the major political players during the apartheid.¹⁰⁶ One of the main advantages of these commissions is that the testimony is done in the social setting of the events, allowing the participants to express themselves as a group. As it has been said, memory does not exist in an empty vacuum. Thus these collaborative commissions are

¹⁰² Quinn, 2009.

¹⁰³ Ricoeur, idem, p.207.

¹⁰⁴ Here understood as « structure structurante.»

¹⁰⁵ Ricoeur, idem, p.616.

¹⁰⁶ Lekha Sriram, 2004, p.159.

believed to receive more accurate testimonies than classical form of justice do.¹⁰⁷ Afterwards, these testimonies are converted into an archive of the event.

As described by Paul Ricoeur, the archive is “*not only a physical, a spatial place, but also a social one.*”¹⁰⁸ This social space both, allows the memory to be accessible and bring closure when the “work” of testifying with the written transcriptions of the narrative comes to an end. Of course, as it has been seen in the first part, the GHRV violations as “events testing the limits” are particularly tough to transcribe, first in words and eventually in paper. However, contrary to the purely judicial archives, these only serve the purpose of memory and not sentencing.

The international intervention is subtler in this kind of trials. However, it is present as these transitional periods are often (almost always) carried out under the patronage of an external mediator^{109 110}. This is the case, either because of a lack of will, means or expertise or because the presence of a third and neutral party is considered as necessity to prevent the reescalation of violence. So all in all, the cosmopolitan community is also part of these processes. This part was based on the example of TRC in South Africa but we could have quoted more examples, including the Gacaca court in Rwanda or other truth commissions all over the world.

To conclude this section, it is important to remind that the search for justice when it comes to GHRV is a universal action. Both, because of the symbolic value of these violations that touch the humanity in its whole, but also from a legal point of view according to the concept of *erga omnes*. In terms of cosmopolitan memorialisation, this factor is extremely important, as M. Oisel explains: trials are a mean to establish collective memory¹¹¹ (in this case cosmopolitan because of the material and immaterial setting of these trials). Moreover, they are both creator and created by the cosmopolitan

¹⁰⁷ Lopez, 2015.

¹⁰⁸ Ricoeur, idem, p.210.

¹⁰⁹ Lekha Sriram, idem, pp. 21-39.

¹¹⁰ 19 out of the 25 cases studied.

¹¹¹ Oisel, 1997.

memory as they in the same time assess our definition of the bad and the good and contribute to further precise it.¹¹²

5. Acknowledgement.

“Le pardon s’adresse à l’impardonable ou il n’est pas.”¹¹³¹¹⁴

This is the last part of the operative factor of the dynamics. If the steps that we have studied before could be seen as some form of acknowledgement of the GHRV, they are often not formal ones. By acknowledgement we mean an official statement by a state authority, recognizing the events and, if it was the case, their responsibility. It is not automatically happening after the events. The case of the official recognition of the participation of the state during the infamous *Rafle du Vel’d’Hiv* by the former French President Jacques Chirac in 1995, more than 50 years after the actual events, is a clear example of that. It is a striking example of late closure and acknowledgement.¹¹⁵ What was already known by everyone has entered the public discourse, marking the limit between knowledge and acknowledgment¹¹⁶. In other words, it marks the difference between the cognitive and the operative part of the same reality. It sets a public record of culpability, emanating from the one of the actors that could not be held legally responsible. The type of responsibility following Jasper’s classification, is the political one, resulting in the fact of belonging to the citizens of the political states during the time of the events, by acknowledging its responsibility that states do not only speak for themselves, but for the whole nation. This responsibility is the “lightest” one. It cannot be criminalized, as there is no such a thing as an entire nation being guilty.¹¹⁷ Contrary to the accusation, condemnation and testimony, no denial is possible in this case. The acknowledgement can bring a formal closure to the memorialisation process or in contrary re-open it by allowing further investigations, debates and prosecutions. This

¹¹² Misztal, 2003.

¹¹³ « Forgiveness addresses the unforgivable, otherwise it is not forgiveness. »

¹¹⁴ Derrida, 2001, p.122.

¹¹⁵ Rousso, Conan, , 2013.

¹¹⁶ Cohen, idem, p13.

¹¹⁷ Ricoeur, idem, pp.615-616.

endorsement is actively meant so as to draw a special attention to the GHRV, giving it a special status.¹¹⁸ That is a crucial point in the dynamics of cosmopolitan memorialisation.

However, it is important to note that acknowledgement can also be understood in a broader sense. It can also be done by another international actor. It will also have the same affect in the cosmopolitan memory, but be of less consequential significance for the collective one. It is, to quote a recent case, the official recognition of the Armenian Genocide by the State of Germany. This acknowledgement has given a renewal to the topic, as long as the reaction of the state of Turkey going on with their policy of systematic denial.

All in all, acknowledgement is a very powerful component of the operative factor of the dynamic, as it triggers memorialisation and a certain form of closure by endorsing (or making symbolically endorse) the responsibility for an event in the international public sphere.

6. Partial conclusion.

The operative factor of this dynamics is composed of four different components: two belonging to the discursive field and two to the active. Two of them have a specific temporality: the reporting and condemning as well as the and the interventional one that are usually happening at the same time as the GHRV; the two others, notably due to the imprescriptible nature of GHRV and their strong and lasting link with memory are not timely bound.

The operative factor of the dynamic is the second one described here. The hypothesis attached to it is that it triggers the internationalisation, thus the delocalization of the memory. In other terms it strips the memory from both geographical and social

¹¹⁸ Olesen, 2012.

boundaries. It has been said before that due to their special nature, the GHRV are timeless, if some doubt about this fact remained, it should now have been wiped off by the development of this factor. Liberated of all its classical bounds, local and social memories of the GHRV have been transposed by international operation to the cosmopolitan sphere. This factor is the link made between memory-habit and souvenir-memory. It constitute a breach of the memory habit, therefore provokes and emotional response of the cosmopolitan community. However, the cognitive and the operative factor are not sufficient to justify the dynamic of cosmopolitan memorialisation. The emotional factor has now to be defined.

The role of the operative factor is really determining for the case of Rwanda. The cosmopolitan community, in this case, has been an active part of the events before, during and after the GHRV. As it has been evoked, they have participated in the negotiations of the Arusha peace agreement and forces were sent in the country to make sure the agreement will be respected.¹¹⁹ The element of the intervention, the UN peacekeeping operation, has already been explained with the cognitive factor. As it has been said the three factors are complementary and sometimes their elements do not strictly follow their theoretical classification. Furthermore, the failure of president Haibarimana to respect this treaty has been strongly criticized by various sources. After his plane accident and the start of the violence, the inaction of the UN forces to protect the civilians has been a big shock for the cosmopolitan community and can be considered as an action out of the ordinary that made the memory even stronger than a successful intervention would have. Picture of international soldiers standing still and not even trying anything to protect the civilians have shock the mentalities.¹²⁰ In the aftermath of the conflict, on the 8th of November 1994 the UNSC adopted the resolution 855, creating the ICTR¹²¹. It was the second international tribunal created after the ICTY. The tribunal stopped its mandate on the 31 of December 2015 with a record of 93

¹¹⁹ S/RES/872, 1993.

¹²⁰ See annex 3.

¹²¹ S/RES/955, 1994.

prosecutions issued.¹²² The impact on the memory is as strong as was the shock of the violent images. However, the sad reality in Rwanda is that due to the high participation to the genocide, the number of guilty individuals was tremendous. National courts used to prosecute them, but the real innovation here was the use of a traditional Rwandese justice system: the Gacaca court. This mode of prosecution is really similar to the one used for the truth commission and even if it has some weaknesses; it was a good instrument to construct a narrative of the conflict. Therefore, with the case of Rwanda we have two levels of archives, the national and the international one. The operative factor is central in the case of Rwanda, as the cosmopolitan community has been a part of every phase of the GHRV. The cosmopolitan memorialisation is thus really strong.

¹²² United Nation Mechanism for International Criminal Tribunals, The ICTR in Brief, available at <http://unictr.unmict.org/en/tribunal>, (consulted on 9 July 2016).

**FACTOR 3: Empathy: Mediation, reception and
subject.**

The empathy factor relies on psychological and sociological concepts. It is a fact; we remember better what touches us. GHRV, as we have seen, are assaults on every human being on the ontological bases of our shared vulnerability. However, as not all receive the same treatment when it comes to cosmopolitan memorialisation, it is important to wonder what the emotional factors are that play a role in this selection process. Of course, the GHRV we are dealing with here are, for a time, bound to a specific social group. Following, the elements that push the cosmopolitan community to relate to a specific group and make the memories of their tragedy a part of their memory will be presented. In other terms, the question as to how this distant suffering reaches the cosmopolitan public and to what extent would the public identify themselves with it, will be treated. To answer this question, three different elements must be carefully looked at. First of all the specificity of the victimhood must be studied. From the gender to the social functions, a lot of elements are determining the opinion that the cosmopolitan community would have of the target of the GHRV and it is believed to greatly influence the memorialisation process. In a second time, there is the crucial question of the mediation. How did this event reach the international public sphere? Some might argue that this point is the only one that matters. It would be given too many credit and power to the media and give a really demining and annihilated image of the human kind. It is believed here that, in spite of their vital importance in the current matter, media are just an element among many and not the principal motor of the dynamic. Then of course the question of the spectatorhood must be asked. In a classical communication scheme they are the last component: the receptors. If the two first elements matter, the moment of the reception is crucial. What will remain of the message is after all, determined by the reception phase.

The hypothesis leading the emotional factor of the dynamic of cosmopolitan memory is that, the more the victims are considered, portrayed and perceived as “worthy of our attention” the more the dynamic will be triggered. At this point, it is important to emphasize that neither the victims, the media, nor the spectators are judged pejoratively in this study. Grading, and subsequently rating, the victimhood (based on a number of criteria) might appear as a heartless notion, especially as all life matters and a

GHRV is always a tragic event. It is not, in any case, meant as such in the underlying study. However, as we have seen with the cognitive factor, the perception influences the memorialisation a great deal. After dealing with the cognitive and operative processes, it is time to study the emotional process linked to them.

1. The Power of Victimhood.

By victimhood we mean the people that have suffered directly from a GHRV. Some intrinsic characteristics of the group can influence the level of empathy the cosmopolitan community will feel toward them. This criterion will be referred to as the credibility of the victimhood. Then the survivors must be taken into account. As it has been mentioned above, relating to the problematic of justice and testimony, survivors are a key element of the dynamic, as they will actively convey the message and the memory of the GHRV. Both of these elements of the definition of the victimhood greatly influence the level on which the cosmopolitan community will relate to the GHRV. Some of them can be found in the qualification of a crime as a GHRV.¹²³

a. Legitimacy.

“Some people make more suitable and memorable victims than others.”¹²⁴

At the first glance, the term victim and its definition seem to be a universal and unequivocal one. A victim is “*a person harmed, injured, or killed as a result of a crime, accident, or other event or action.*”¹²⁵ The term of victim automatically conveys the reader to a position of diminished social power.¹²⁶ However, not all victims receive the same treatment when it comes to memory. Some touch the feelings of the cosmopolitan community more than others. If it can be argued that this selection process is highly

¹²³ See part 1 Section 3-2.

¹²⁴ Cohen, *idem*, p.12.

¹²⁵ Oxford dictionary.

¹²⁶ Hamber, 2015, p.10.

personal, there are however some general criteria that can be evoked to prove wrong this assumption.

The first one would tackle the legitimacy of the victim. This refers to the (subjective) perception, and not to the actual intrinsic qualities of the victim. But what determines if a victim is perceived as legitimate? Firstly, by looking at the nature of the victim's function. As it has been said, there is a distinction in IL between *jus ab bello* and *jus im bellum*. In times of war, the distinction between a combatant and a civilian is crucial¹²⁷. This legal distinction can be applied to the victims to make the distinction between persons that were actively fighting and "pure" victims, helpless and disarmed. N.B. it is not restricted to conflict situations, the legal definition is just used as a support to make the differences between civilians (not participating to the fight and seen as unable to defend themselves) and the military (not just the function but the persons able to fight back), in IHL the fact of carrying a weapon can change the way a person is categorized therefore his status as legitimate/legal target. The important point is that this definition contains the notion of choice. If a person chooses to fight, they must know the consequences and therefore their victim status can be undermined by this fact. However, this component can be counterbalanced. Above all by another reference to the legitimacy, only this time not to the victim, but to the greater cause.

There is not only the question of fighting or not. The reasons underneath are also of some importance. The perception of the legitimacy of the cause plays a great deal in the identification of the victim as legitimate.¹²⁸ The respect of HR, and by extension the fight for their respect, is largely considered as a legitimate cause in the western world. Thus, some causes regrouped into general concepts like "freedom", "civil rights" etc. will be considered as greater causes, triggering the perception of those fighting for their defence as legitimate victims. In contrary, there is an existing phenomenon of blaming the victims (e.g. "they deserved their fate"), if the cause is not recognized as legitimate

¹²⁷ ICRC, Civil Defence in International Humanitarian Law, Advisory Service On International Humanitarian Law, Geneva, 2001, available at <https://www.icrc.org/en/download/file/1039/civil-defence-in-ihl.pdf>, (consulted on 5 June 2016).

¹²⁸ Boltanski, 2004, pp.5-6.

by the cosmopolitan community. The effect of recognizing the legitimacy can then be reversed, with the victims losing their status of pureness. To reverse the latter example, a fight against the shared HR values, to sustain a dictatorship or cultural practices as Female Genital Mutilation for instance.¹²⁹ This is the question of the ability to relate to the victim that will be further developed in the section about spectatorship.

Last, there is the question of the method. A recent survey could demonstrate that, against the odds, this element was more important for the identification as victim than the actual number of deaths.¹³⁰ To summarise, brutal and bloodier methods of killing, involving dozens of victims, were ranked as more severe than the shooting of hundreds of victims. This proves that when it comes to perception of the victimhood, the figures matter less than the facts.

b. Credibility.

The second consideration tackles the credibility of the victim. As such, the intrinsic characteristic of the victimhood will now be considered, starting with the perceived vulnerability. It is a fact that some parts of the population are perceived as more vulnerable than others. This distinction can be based on gender, age, physical condition ... to name a few: women, children, elderly, disabled people for instance. They are usually the first victims in a time of conflict with a special need for protection¹³¹. Children are particularly important here. Commonly seen “*as the symbol of common humanity, a child may be the bearer of suffering with no responsibility for its cause.*”¹³² The vulnerability of the victims increases the level on which the cosmopolitan community can relate to it. More than other they trigger the will to help, along with the feeling of unfairness if they are armed.

¹²⁵ Tomz, Weeks, *idem*, pp. 21-26.

¹³⁰ Cohen, *idem*, p.211.

¹³¹ Dignan, 2005, p.15.

¹³² Cohen, *idem*, p.178.

The second characteristic influencing the credibility is the belonging to a group. Here the argument will be divided in two parts: the understanding of a group in its social function on one side, and in its cultural, religious and ethnical function on the other side. . The targeting of a special group increases the assignment of the victim status, depending on whether the group is based of intrinsic qualities or just on social functions.¹³³ It is in other words the underlying idea of the general concept of genocide (and cleansing), regardless whether based on political appurtenance, ethnical group, sexuality ... the variations are unfortunately, endless. These types of crimes are recognized as particularly heinous, in popular culture as well as in legal terms, and can influence the perception of the victim. To quote a really recent example: the day of the Orlando shooting there were 42 other shootings happening in the US, provoking 18 deaths including at least 5 children.¹³⁴ The fact that the Orlando Shooting was especially targeting the LGBT community makes it even more shocking to the cosmopolitan community.

This makes the link with the last point, the question of the symbolism. As it has been said, the identification as “victim” is not automatically applied to every person victim of an assault, GHRV or any other violent situation. In fact, the definition of the perfect victim, symbol of the entire concept, has already been written down. Reunited in 6 criteria that summarise the whole definition of victim given earlier, they have originally been defined by N. Christie in 1986:¹³⁵

- “1.The victim is weak in relation to the offender – the ‘ ideal victim’ is likely to be either female, sick, very old or very young (or a combination of these).
2. The victim is, if not acting virtuously, then at least going about their legitimate, ordinary everyday business.
3. The victim is blameless for what happened.

¹³³ Govier, 2015, pp. 19-43.

¹³⁴ Crockett, 2016.

¹³⁵ As quoted in Dignan, idem, p.17.

4. The victim is unrelated to and does not know the ‘stranger’ who has committed the offence (which also implies that the offender is a person rather than a corporation; and that the offence is a single ‘one-off’ incident).
5. The offender is unambiguously big and bad.
6. The victim has the right combination of power, influence or sympathy to successfully elicit the victim status without threatening (and thus risking opposition from) strong countervailing vested interests.“

Apart from point 5, this categorization can be transposed to GHRV victims. The existence of such a victim circumscribes the perfect representation for the cosmopolitan community, as it is both highly credible and legitimate in its role. But this definition also underlines and explains another element that needs to be added to the considerations about the victimhood, the definition of the perpetrator. In a Manichean conception, the perpetrator is supposed to be the representation of evil¹³⁶. As we have seen with the cognitive factor, when it comes to state induced violence, certain characteristics are believed to be found in the definition of the perpetrator. It is again the question of the stereotypes, which has already been mentioned. The credibility of the victimhood needs to fit, as much as possible, the symbolic description of the “perfect victim”, be it as a group or just one visible part of the group.

There is one point that has not been covered yet in the definition of victimhood. It is the question of the survivors. Indeed the points developed earlier were not only focused on the dead. However, survivors have a particular importance in the dynamic and must be treated as a separated group. This consideration leads as well to more trivial one, as for example the numerical considerations of the victimhood

c. Survivors, victim population.

The number of victims is of little importance to the perception of another group as victims. However, in certain situations like mass killings, the number obviously

¹³⁶ Arendt, 1963.

matters regardless of the method, credibility or legitimacy considerations.¹³⁷ It appears that there exists a threshold of victims. We will not go into more detail on the description. This study is focused on GHRV and one element of the definition of this concept is the number of victims. The three categories have already been defined and will be used in the frame of this study.

The question of the survivors has thus to be treated. Their importance is actually linked to a point that has been studied before. We are referring to their role as witness of the GHRV that later could be transposed as witness at the trial. The characteristics of the victims are in this case transposable to the survivors; they are after all former victims, with their status changing in the perception of the cosmopolitan community. In a way, it is empowerment technique for both the person designed under this denomination and for the cosmopolitan community that will fade the feeling of diminished social power that the notion of victims automatically convey.¹³⁸

In conclusion, several elements of the definition of the victim can influence the perception that the cosmopolitan community has. Some persons that would be literally defined as victims can not be perceived as such, because they are considered less legitimate or less credible. However, this question is just the first element of the memorialisation chain. In order to be really efficient, it has to be combined with the other elements of this factor, the first one being the mediation, or in other words, how this image of the victim reaches the cosmopolitan public.

2. The Question of the Mediation.

In the modern world, the importance of the media is not to be explained. “*People are bombarded with far too many stimuli for the mind to process.*”¹³⁹ The world of mass communication brought the humanity into a new area where ignoring a GHRV

¹³⁷ Cohen, *idem*, p.210.

¹³⁸ Hamber, *idem*, p.10.

¹³⁹ Cohen, *idem*, p.13.

situation is a question of choice, be it conscious or unconscious, ours or someone else's, the media's or political authorities'. This is not just the case for HR issues. However, HR issues do have a special significance in this world. Talking about human suffering, even though it is distant, is a special issue to be treated with extra care. The question of the role of the media is a special one. They are one of the most important links between "us" and the rest of the world. In terms of cosmopolitan memory, the media are the popular archives as well as the watchdog of HR violations (along with the NGOs, international organisation and all the instruments we have seen in chapter 3 section 1 and 2). Media and communication theory is a large subject. To understand the special link it has with HR, a detour must be taken first to some of the most famous media theories.

a. What we can learn from classical media theory.

The general considerations clear the way to understand the role of media in the dynamics of cosmopolitan memorialisation of GHRV, as they are the literal mediator between the events and the victims on one side and the cosmopolitan society on the other. Media, in this interconnected world, bring people together by attenuating the distances, both emotional and physical, between them. This part is described here because it is believed to be really important. However, no one managed so far to give an unequivocal and complete way of assessing the influence, therefore it cannot be taken into account in a master thesis. In the frame of this study we will focus on international media.

The work of W. Lippmann has already been evoked before. To sum it up: the world is far too complex for the general understanding; therefore the "commoners" need specialists to explain the reality in a way they could understand. To make the analogy with hard sciences: this is the humanist version of the vulgarisation, and the scientists are the journalists. To do so, they need to use stereotypes and easy images. In a way, they need to make a pre-selection of what is going to be said to the world, in order to

make it understand the message. In terms of GHRV, described before as events testing the limits, the work is difficult. These events already carry an important emotional package that often overcomes or bypasses the understanding. Therefore, their explanation needs to rely on the cognitive factor to trigger the emotional one. The more the cognitive factor will be powerful the easier will be the work of the specialist to convey its message. The information content that gets to us is supposed to be understandable and accessible to each and everyone. Thus, these information that affect the cosmopolitan public are put in a way that everyone has the ability to fully understand them and react to them. By their work, the media create a bridge between cultures fostering a better understanding, and thus a better ground to relate to other people's situation. But this action of connecting the international community has not only an intellectual connotation but also a spatial one.

Space *“readily becomes a theoretic dimension in a world where space can be constituted by communication processes that may be quite indifferent to space.”*¹⁴⁰ Media create a public sphere that does not mind distance and bring the cosmopolitan society together. The perception of distance is reduced and a public arena where this matter can be discussed is created. Of course, this does not refer to an international forum, but rather to the possibility for everyone interested to take over the problem given by the media and to apply its own understanding to it. They create a global and cultural citizenship.¹⁴¹ Besides, it has been proved that international media do not adapt their message to the international public; it remains the same for everyone at the international scale. It is afterwards that the public has to take over the message and apply its own identity to it in order to make it really meaningful, as a pure example of a cosmopolitan practice.¹⁴²

When it comes to GHRV, the issue is more sensitive. Unfortunately, the abundance of these horrific events nowadays force the journalist to make an extra effort to make sure that the GHRV receives the attention it deserves.

¹⁴⁰ Dahlgren, 2009, p.151.

¹⁴¹ Dahlgren, Idem, p.141.

¹⁴² Bisht, 2013, p.18.

b. The GHRV's and Media's special relation.

GHRV have a special place in the media landscape. They are good stories, meaning horrible stories with great potential. They picture human suffering and cruelty in their climax. The media are just the intermediary step between the victims and the cosmopolitan public. Nonetheless, their work is really important in order to allow a true emotional relation between victims and spectators. They are the “*mediators of moral affairs*”¹⁴³ essential to a true cosmopolitan community based on shared values. They are the vectors of the shared-memory described by A. Margalit. However, there are certain elements that determine the efficiency of their actions.

First of all, there is the question of the narrative and how they are conveyed. A GHRV does not happen out of the blue, there is an entire narrative in it. The efficiency of this story telling relies on the utilisation of shared cosmopolitan values.¹⁴⁴ Emotional understanding can be done only if one recognizes the legitimacy of the narrative (it is the same problematic that could be seen for the question of the victimhood). In order to do so a common ground needs to be used. The concept of narrative and story telling is simple; an event makes sense and is better remembered if it is embedded in a more general and understandable context; it has been one of the remarks of the ICHRP about reporting HR issues.¹⁴⁵ In the case of GHRV this statement is even more relevant as “*the transmission of knowledge and the moral repercussion of the atrocities figured as crime's echo across national borders.*”¹⁴⁶ A GHRV will take its definitive moral meaning once it has been delocalized and shared among the cosmopolitan community. There is a creation of a hyper reality, made of the memories and the narratives of GHRV shared among the international community and easily accessible by the media.¹⁴⁷

¹⁴³ Levy, Sznajder, 2005, p 10.

¹⁴⁴ Levy, Sznajder, 2010.

¹⁴⁵ ICHRP, Journalism, Media and the Challenge of Human Rights Reporting — Summary, Geneva, 2002, available at http://www.ichrp.org/files/summaries/22/106_summary_en.pdf, (consulted on 20 June 2016).

¹⁴⁶ Payne, 2012, p. 43.

¹⁴⁷ Cohen, idem, p.168.

However, a common critic is that not all the GHRV situations receive the same attention from the media. There is no possible denial of this assertion. In a cynical way, the former head of Médecins Sans Frontières, R. Brauman published some tips about how to get attention from the media when facing a GHRV,¹⁴⁸ where he outlined, amongst other criteria, the importance of the pictures and to have international actors involved. The importance of conveying good visual representations for the media can be easily understood. A picture speaks more than words to the spectatorship. This is the idea of a symbolic representation of the suffering to go along with the narrative. Both are mutually enhancing each other, talking to different areas of the mind. This allows a further identification and an isolation of the GHRV from its general context. It is not a contradiction here. Media, when it comes to GHRV treatment, need to be able to contextualize and isolate at the same time. Pictures have the power to transform an incident into an event and consequently giving it a singularity inside the general context and the parallels incident happening in the same time.¹⁴⁹ In other words, pictures are the perfect support to carry on the classical scheme of association-dissociation, and are thus remembered by the cosmopolitan audience.¹⁵⁰

All in all, the special treatment of GHRV must be done following the general rules of media theory. Here, we have only highlighted the most important points of the role of the media in the emotional factor of the dynamic. The theory of the mediation of GHRV possesses a large and controversial literature that goes far beyond the limits we have imposed to the present subject. Nevertheless, the emotional factor of the dynamic will not be completed without the consideration of the other actor of the cosmopolitan memorialisation, the cosmopolitan community.

3. The Reception of Spectatorhood.

¹⁴⁸ Brauman, 1993, pp.149-158.

¹⁴⁹ Cohen, *idem*, p.176.

¹⁵⁰ Chouliaraki, 2006, p.40.

By asking the question of the reception of GHRV information by the spectatorhood we go beyond the definition of cosmopolitanism given in the first part of this study. We shall attempt to further understand what the mechanisms are that influence the reception, and thus the memorialisation, of GHRV from the inside of the cosmopolitan community. To do so, instruments and theories will be borrowed from the field of social psychology. The studies of the mechanisms of reception face the same problems than the ones about the media. It is impossible yet to have a really definitive theory on the effects of the reception. Moreover, it is impossible to predict the reaction of each individual. The theories presented here are just to give a general understanding of the mechanism of the reception. Nonetheless, this part is crucial for the understanding of the dynamics and must be explained in the present work. First, we are going to see what the two sides of the emotional reception from the cosmopolitan community are, to then talk about the crystallization of these emotions.

a. Pity vs. Compassion.

Our morality and shared humanity prevent us from remaining totally hermetic to the suffering of others. However, our reactions can differ while being exposed to the image of suffering. Of course, this development comes to enforce the theories about human vulnerability that have been developed in the first part of the current study.

Pity and compassion are really similar emotions at the first glance. Nonetheless, they both have a different temporality and range. Compassion is concerned with the local scale and a punctual emotion. It is an emotional reaction that does not have the capacity to be spread at a large scale, and therefore cannot be felt for a global situation. However, compassion implies a larger and deeper relation with the subject of suffering. The identification with the victim is done on a purely emotional level, while the feeling of pity is based both on emotion and on morality. The inclusion of morality is the basis of the extension of the local feeling of compassion along with the element of its transformation. The emotional reaction of the cosmopolitan community to the image of

suffering is thus pity and not compassion.¹⁵¹ In terms of the dynamic of cosmopolitan memorialisation this distinction is crucial. The feeling of pity towards the victim infiltrates the personal sphere of the audience. Pity is a complex emotional response. To be triggered, it needs to relate to the singularity of a case and to generalise it. In other words, pity is inspired by a general situation, but to become a fully resented emotion it needs to frame this emotion into a larger reality; as we have seen, the media reporting on GHRV are submitted to the same dilemma in the transmission process. Therefore, it is simple to conclude that the reaction of pity is induced by the media and reinforced by the cosmopolitan audience. Here, it is the generalisation process that really matters. Through the emotional reaction of the public it offers a frame to the GHRV. Thus it allows an emotional analogical bridging based on the notion of human suffering that helps the memorialisation procedure. Pity therefore can be seen as the positive aspect of the spectatorhood's emotional reaction. This is, because pity is a feeling directed towards the other, the subject of the suffering. The second aspect is the self-centred notion of culpability.

b. Culpability: The Other Side Of Vulnerability Theory.

The mechanics of the spectatorship of suffering are quite complex. Being exposed nearly everyday to images of fellow human beings in pain triggers reflexions about our own living condition. Compared to these victims, the cosmopolitan audience will always be the fortunate ones, on the other side of the television screen or the newspaper. They have the advantage of benefiting from a holistic point of view of the range of the GHRV.¹⁵² They are able to see without being seen. This tension between the subject of suffering and the object conveyed by the media, can lead to a feeling of culpability. Nonetheless, the type of culpability that is evoked here is quite different from the others that were sus-mentioned. As Jasper qualified it, the culpability at stake here is the metaphysical one. It has the specificity to not need a direct or indirect

¹⁵¹ Boltanski, 2004, pp.26-33.

¹⁵² Boltanski, idem, p.47.

implication of the subject. It is induced by the “*only fact of belonging to mankind facing the trans-historical tradition of evilness.*”¹⁵³ This culpability can stand the test of the distance, and as the evilness it is about it is also trans-historical. GHRV have been described in the first part of this study as a-historical events. Adding that to the obvious evilness that they bear, they are the perfect trigger to induce metaphysical guilt into the cosmopolitan audience.

c. Cultural recuperations.

“les trois oeuvres qui ont le plus compté pour la connaissance de l’extermination des juifs ne sont pas le fait d’historiens, mais l’oeuvre de Primo Levi (romancier), Raoul Hilberg (politologue) et Claude Lanzmann avec le tournage de Shoah.”^{154 ;155}

The question of cultural recuperation is a very large one but relatively easy to treat. It tackles the cultural appropriation and the institutionalisation of the memories of a GHRV. It is in other words the tangible reality on which memories can rely; that is the definition of cultural memory created by J. Assman that we can find again here, both symbolic and lasting. For the institutional part it concerns all the actions taken by the official government in order to pay a tribute to the GHVR, be it a monument or a commemoration. The creation of a museum or the institutionalization of the remembrance day for the victims catalyse the memory of the events and help the cosmopolitan community to recall them easier. For the holocaust for instance, several museums all over the world allow the cosmopolitan public to test and enforce their memory, while the 27th of January, day of remembrance of the victims, gives a special occasion to discuss and share the memory within the public sphere. It creates a unity of thoughts gathered around a place or a day and is a true reminder of our shared humanity.

¹⁵³ Ricoeur, idem, p.609.

¹⁵⁴ Vidal-Naquet, 1991, p. 223-234, as quoted in Dosse, 1998, p.9.

¹⁵⁵ “The three pieces that mattered the most for the awareness of the Jews extermination are not due to historians, but the work of Primo Levi (writer), Raoul Hilberg (Political scientist) and Claude Lanzmann with the movie Shoah.”

As for the purely cultural recuperations such as books, movies and any other art manifestations, they are the popular counterparts of the institutionalisation. Artistic representations are an efficient way to project our own sensibility and interpretation of the events. In a way, it is also a type of vulgarisation of the event (see part II of this section for Lippmann's theory) by adapting it to a specific public. In a way, it shows both the interest and a manifestation of the cosmopolitan memory. The event is taken from its original place and the value system of another country is used as a filter to allow this particular event to fit better into the collective memory of the nation. These acts of collective remembrance through institutional or cultural vectors recall the souvenir of emotions linked to the specific event more than actual facts.¹⁵⁶

All in all, the reception of the spectatorhood is not to be seen as the last link of the transmission channel, but rather as the beginning of the cosmopolitanisation of the GHRV's memories. The spectatorhood is crucial, as it is the receptacle of the cosmopolitan memory and will be in charge of keeping it alive.

4. Partial Conclusion.

The emotional factor of the dynamics is the most difficult to assess efficiently, because, apart from the first element about the victimhood that, in spite of being linked with emotional responses, can be looked at in a more rational way, it does not rely on facts, but on feelings. The capacity to emotionally relate to a GHRV, or any other event, creates a strong and lasting memory bound. The theory of the ontological link between human beings based on vulnerability is really important at this place. It is one of the bases of the emotional factor but also one of its results. The emotional factor triggers a virtuous circle that strengthens the cosmopolitan networks with each of its manifestations. We are here in presence of a manifestation of souvenir-memory, linked to the emotion and anchored in the past. This type of memory is powerful and cannot be controlled as easily by the society as the first two types described along with the two

¹⁵⁶ See part I section 2 for more specifications.

first factors. This remembrance can be catalysed as we have seen, however it can also arise unexpectedly. `

The emotional factor is particularly strong. During the genocide in Rwanda the victimhood had almost all the qualifications of the perfect victim, as they were both legitimate and credible. A single ethnic group was targeted, the Tutsi, women, children, elderly... it did not matter for the killers. The horrible methods use to perpetuate this genocide were a strong trigger of cosmopolitan remembrance. The existence of a Tutsi rebellion did not undermine the legitimacy because of the disproportion of the violence, with 80% of the ethnic group cut off the map. Moreover, several persons that were present to help the population and belonged to the cosmopolitan community were slaughtered.^{157;158} Pictures of dead bodies abandoned in the gutter or piles of human bones published in the press, became symbols of the atrocities that happened in Rwanda. The images of the suffering of children and women were particularly unbearable.¹⁵⁹ Survivors testified during the regular phase of prosecution and the Gacacas, keeping alive the memory and the horrors of the GHRV. As for the media, they were often criticised as being partially responsible for the events in Rwanda, as they mistook the events for a simple war and did not understated or reported the reality of the situation there. This is a proof that the media coverage, even if it is an important element is not the main factor of cosmopolitan memorialisation as some might think. In fact this quote from A. Chaon sum up the situation perfectly: “a study by Garth Myers and colleagues (1996) compared news coverage of Rwanda and Bosnia in six major American newspapers: The New York Times, Los Angeles Times, Washington Post, Chicago Tribune, Christian Science Monitor and Boston Globe. In April 1994, there were twice as many articles about the conflict in Bosnia as Rwanda. In all of 1994, the

¹⁵⁷ M Archives, Des Dizaines de Collaborateurs Locaux de l'ONU et de la Croix-Rouge ont été Victimes des Massacres, 16 April 1994, available at http://www.lemonde.fr/archives/article/1994/04/16/des-dizaines-de-collaborateurs-locaux-de-l-onu-et-de-la-croix-rouge-ont-ete-victimes-des-massacres_3831020_1819218.html#ZDXA6LrCt7Ms5bmk.99, (consulted on 10 July 2016).

¹⁵⁸ M Archives, RWANDA Huit Collaborateurs de l'UNICEF Massacrés avec leurs Familles, 15 April 1994, available at http://www.lemonde.fr/archives/article/1994/04/15/rwanda-huit-collaborateurs-de-l-unicef-massacres-avec-leurs-familles_3830360_1819218.html#WDdpZk3w7LjtH5Yt.99, (consulted on 10 July 2016).

¹⁵⁹ See annex 3.

*French daily Le Monde published 1,665 articles on Bosnia and only 576 on Rwanda. And the Rwanda tally includes coverage of the evacuation of foreigners and the outbreak of cholera in June and July in the Zaire refugee camps (Rabechault 2000). Among the articles in Le Monde, more than 60 per cent were short pieces, mainly news agency dispatches. In other words, some 220 articles on Rwanda that appeared in Le Monde that year were not by-lined pieces by the newspaper's own journalists, nor their own analyses or commentaries.*¹⁶⁰ *This statement tackles both the question of the mediation and the reception. However, as we have said the temporality of the reception of the spectatorhood does not matter to the cosmopolitanisation of the memories. Pictures have reached the international sphere and became symbols of the horror of Rwanda.*¹⁶¹

*For the questions of cultural recuperation, the case of Rwanda is relatively easy to treat. The question of the Rwandese genocide has been vastly used in the cultural industry. It would be impossible to list all the movies and books about the events in Rwanda. For the question of remembrance, there is even an international day for the victims of the genocide since 2003 on the 7 of April, the date that marks the beginning of the tragic events.*¹⁶²

All in all, the emotional factor is still present in the international community due to the intensity of the primary emotion and to the cosmopolitan remembrance process.

¹⁶⁰ Chaon, 2007, p.160.

¹⁶¹ See Annex 3.

¹⁶² Outreach Program on the Rwanda Genocide and the United Nations, Annual Commemoration, available at <http://www.un.org/en/preventgenocide/rwanda/commemoration/annualcommemoration.shtml>, (consulted on 10 July 2016).

GENERAL CONCLUSION

The analysis of the emotional factor was the last step of the present work. The existence of the cosmopolitan memory, the special link between GHRV and memory and the dynamics of cosmopolitan memorialisation have been explained and analysed. By using the case of Rwanda we have been able to illustrate how the three factors work together in a complementary way. In the two last factors, in the case of Rwanda, did compensate the apparent weak score of the first one. However, it is interesting to noticed that the presence of a peace keeping operation did change the setting of the first factor, giving the impression of a controlled if not solved situation in the country of the thousand hills. The comparison with the neighbouring country of Burundi has been evoked several times in this work. Unlike Rwanda, Burundi is the example of a GHRV that did not managed to enter into the cosmopolitan memory. Looking at the situation of the two countries nowadays, we are forced to wonder if the process of cosmopolitanisation of the memory would not be a positive factor for the transition of a country to a positive peace, and on the contrary if its failure could not influence negatively the reconstruction of the country and the durable peace.

The world has known great changes for the last decades, some in the good way, some in the bad. The emergence of new threats has forced humanity to entered in the global risk society, where the feeling of vulnerability is highly spread. However, this same global risk society also managed to tighten the links between the human being by the same exact feeling of vulnerability that highlight the ontological sameness of all human beings. It is a double edge sword, if this feeling remains mainly link to terror it leads to xenophobia and national withdrawal, on the opposite, if one is able to see over the fear, the feeling of hope and sameness between men is the outcome. This is the true root of cosmopolitanism, the cosmopolitan community and cosmopolitan memory. GHRV by their violent and ahistorical nature are, paradoxically, a perfect root to foster this memory. The extreme suffering of other human being is the constant reminder of our vulnerability and the hope and willingness to stop this actuation and to remember them if a basis of the cosmopolitan community. Unfortunately, their exponential

augmentation since the end of WWII seem to have forced the cosmopolitan community to focus on a few number of them, letting the other fall into cosmopolitan oblivion. However, this selection should not be seen as something bad. Some cases have a higher cosmopolitan score than other which does not mean that they are less important. The factors that could have pushed them into the cosmopolitan memory were just absent, thus they remains in the national pole, growing strong there.

This will of highlighting the process of memorialisation of a GHRV by a social group in this work relied on the belief that the process of cosmopolitan memorialisation could not be explained or understood if the national pole remained a mystery. The powerful link between a GHRV and collective memory was stated in the first part but further explanations were needed to truly understand its intensity and durability. The pathologies of memory that can be encountered after such an event were also an important part of this work. They both underline the different functions of the collective memory and the cosmopolitan one and give a hint about the question of temporality.

If the at the national pole, collective memory serve a role of social cohesion it is not the same for cosmopolitan memory. With no direct link with the GHRV (apart from the symbolical and emotional one felt in response of this violation of the rights of human beings), the cosmopolitan memory is able to reach us it in a way that the collective one cannot. It is seek for justice, a fight against oblivion whatever is the situation of the country. Two famous examples that have already been evoked in this work can be used as illustration here: the Armenian Genocide and the French Vichy regime reality that were both reveal by cosmopolitan observer. The two cases differ afterwards, while France bowed to international pressure and was force to take the truth about its dark days out of oblivion, Turkey is still fighting for this memory to remain buried. Then the long lasting relation between GHRV and collective memory allow a hope for the GHRV to enter into cosmopolitan memory long after it happens. The memory remains vivid inside the community and this memory can trigger the factor of the dynamics of cosmopolitan memorialisation even decades after the events. Cosmopolitan memory has the role of a protector of the HR regime all over the world.

By keeping the violations in mind, the cosmopolitan community reaffirm the importance of the rights violated and the necessity of a work of justice.

The three factors described and analysed in the current study are of equal importance. Each of them triggers a specific part of the memory process therefore the efficiency relies on the cognitive, active and emotional work of memorialisation. However, the specificity of cosmopolitan memory requires these factors to work together in order to trigger the dynamic, to overcome the distance both physical and emotional. The idea is to create a strong bound with the GHRV it as to mark the conscience in order to enter the memory. Nonetheless, it is interesting to remark that even though all the three factors are crucial for the process of cosmopolitan memorialisation, the third one is the most important to make the memory last. It is to say that after a time the emotional factor is more likely to be remembered. The cognitive one is linked to memory habit, something that we have acquired. If it is important to assess the original shock, the new knowledge of the country will come to modify the previous one. The conception of the country will change and the GHRV, as the origin, will be part of our knowledge about the country. The active factor, as the break of the habit, will be remembered as souvenir-memory, link with emotions. So in definitive, it is the emotional part that will be stored in the cosmopolitan memory, whether it is related to the memory of actions or memory of emotions.

The UNESCO has declared memory as the intangible patrimony of the humanity. It is what it is constructed here. The memories of GHRV are the intangible patrimony of all human kind as they affect each and every one of us. However, it is important to precise that those memories are not necessarily the bad memories. Even though they were born out of terrible events, it is the memory of the solidarity and the reinforcement of the human bond that is often remembered. To take the recent example of the attacks in Lebanon, Brussels and Paris, the solidarity and worldwide support and compassion will be remembered more than the heinous act that ended the life of all the innocent victims. Following the same idea, even this work focused on GHRV, the important steps of the HR regime are also potentially part of the

cosmopolitan memory. They are also related to the three factors and can therefore become milestones in the memory of the cosmopolitan community. This is the all power of this memory without social or time borders that have a federator effect surrounding HR, as the true essence of the cosmopolitan society. GHRV are the negatives representations of the HR concerned, and the memorialisation of the breaches enforces the HR power in the cosmopolitan community. It enforced the fact by showing in a brutal way that these liberties that we take for granted are, in fact fragile realities that we must protect and foster. Memory is therefore the common reference that we can use as a pedestal to empower the HR regime.

This will be the conclusion of this work, rather on a positive and hopeful note than on the horrible events and their aftermath that have been analysed here. Nevertheless, it is not the end of the work on cosmopolitan memory and GHRV. As it has been specified several time in this study, the format of a master thesis only allow us to propose a theory about the dynamics of cosmopolitan memorialisation. This theory is believed to be strong enough to support the test of an application to real cases, which could unfortunately not been done here. The three factors that had been spotted during the preliminary researches have proved their relevance and the dynamics of cosmopolitan memory have been clarified, as far as practicable. The aimed fixed for this work seems to be reach. However, it opens the gates to a endless list of possibilities of further researches and to a strong will to be part of the person that might participate in them.

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I. PURPOSE AND SCOPE OF THE STUDY; SPECIAL ISSUES OF INTEREST AND ATTENTION

Purpose

6. Pursuant to the mandate for this study, the Special Rapporteur was requested to explore the possibility of developing basic principles and guidelines with respect to the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms (Sub-Commission resolution 1989/13). This purpose has been constantly in the mind of the Special Rapporteur and in this final report he is now in a position to offer a set of basic principles and guidelines which, it is hoped, may commend themselves to the United Nations and all other interested parties.

7. When preparing this study the Special Rapporteur was in a number of cases approached by organizations and persons who assumed that the Special Rapporteur was also entrusted with the task of dealing with specific claims for compensation. This assumption was based on a misunderstanding about the nature and the purpose of the Special Rapporteur's mandate. He believes, however, that the general thrust of this study, its conclusions and recommendations and the set of basic principles and guidelines may be of help to all those who are seeking reparation for injury suffered as a result of gross violations of human rights and fundamental freedoms.

Gross violations

8. One of the determining factors for the scope of the study is that the mandate makes explicit reference to "gross violations of human rights and fundamental freedoms". While under a number of international instruments any violation of provisions of these instruments may entail a right to an appropriate remedy, the present study focuses on gross violations of human rights as distinct from other violations. No agreed definition exists of the term "gross violations of human rights". It appears that the word "gross" qualifies the term "violations" and indicates the serious character of the violations but that the word "gross" is also related to the type of human right that is being violated. 1/

9. In this respect useful guidance may be found in the work of the International Law Commission regarding the draft Code of Crimes Against the Peace and Security of Mankind. Relevant among the draft articles provisionally adopted by the Commission on first reading are for present purposes those articles which pertain to genocide (art. 19), apartheid (art. 20) and systematic or mass violations of human rights (art. 21). 2/ In the latter category are listed by the International Law Commission: murder; torture; establishing or maintaining over persons a status of slavery, servitude or forced labour; persecution on social, political, racial, religious or cultural grounds in a systematic manner or on a mass scale; deportation or forcible transfer of population.

10. Guidance may also be drawn from common article 3 of the Geneva Conventions of 12 August 1949, containing minimum humanitarian standards which have to be respected "at any time and in any place whatsoever" and which

categorically prohibits the following acts: (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) taking of hostages; (c) outrages upon personal dignity, in particular humiliating and degrading treatment; (d) the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples. 3/

11. While the above-cited categories of gross violations of human rights were taken from an existing or emerging body of international criminal law and from the law of basic humanitarian standards applicable in international and non-international armed conflicts, similar categories were drawn up from the perspective of State responsibility for violations of human rights based on customary international law. Thus, according to the Third Restatement of the Foreign Relations Law of the United States (Section 702), "A State violates international law if, as a matter of State policy, it practices, encourages or condones: (a) genocide; (b) slavery or slave trade; (c) the murder or causing the disappearance of individuals; (d) torture or other cruel, inhuman or degrading treatment or punishment; (e) prolonged arbitrary detention; (f) systematic racial discrimination; (g) a consistent pattern of gross violations of internationally recognized human rights".

12. It should be noted that virtually all examples of gross violations of human rights cited in the previous paragraphs and taken from different sources are equally covered by human rights treaties and give rise also on that basis to State responsibility on the part of the offending State party and to the obligation to provide reparations to the victims of those gross violations. Given also the indivisibility and interdependence of all human rights, gross and systematic violations of the type of human rights cited above frequently affect other human rights as well, including economic, social and cultural rights. Equally, systematic practices and policies of religious intolerance and discrimination may give rise to just entitlements to reparation on the part of the victims.

13. The scope of the present study would be unduly circumscribed if the notion of "gross violations of human rights and fundamental freedoms" would be understood in a fixed and exhaustive sense. Preference is given to an indicative or illustrative formula without, however, stretching the scope of the study so far that no generally applicable conclusions in terms of rights and responsibilities could be drawn from it. Therefore it is submitted that, while under international law the violation of any human right gives rise to a right to reparation^{*} for the victim, particular attention is paid to gross violations of human rights and fundamental freedoms which include at least the following: genocide; slavery and slavery-like practices; summary or arbitrary executions; torture and cruel, inhuman or degrading treatment or punishment;

* The word "reparation" in this study denotes all types of redress, material and non-material, for victims of human rights violations. Consequently, the terms "restitution", "compensation" and "rehabilitation" cover particular aspects of reparation.

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enforced disappearance; arbitrary and prolonged detention; deportation or forcible transfer of population; and systematic discrimination, in particular based on race or gender.

Individuals and collectivities as victims

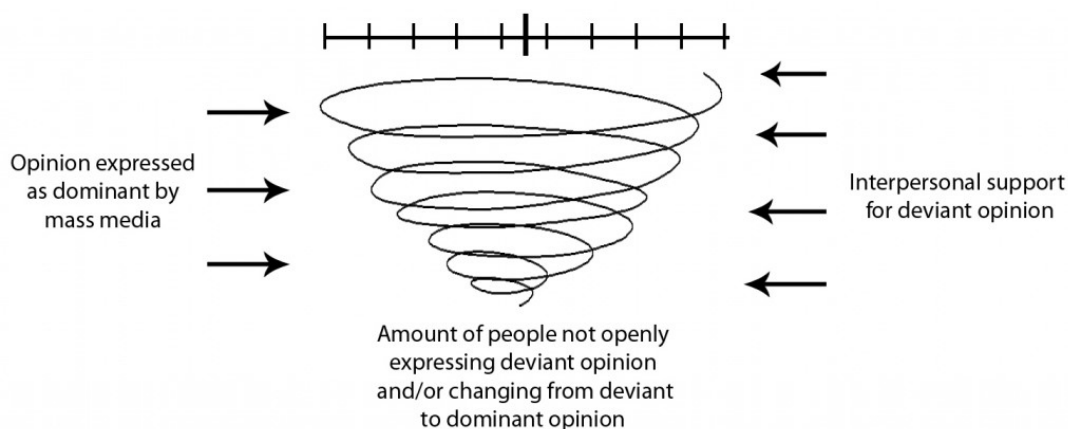
14. It cannot be denied that both individuals and collectivities are often victimized as a result of gross violations of human rights. Most of the gross violations listed in the previous paragraph inherently affect rights of individuals and rights of collectivities. This was also assumed in Sub-Commission resolution 1989/13 which provided some useful guidelines with respect to the question of who is entitled to reparation. In this regard the resolution mentions in its first preambular paragraph "individuals, groups and communities". In the next part of this section, which will deal with some special issues of interest and attention, the individual and collective aspects of victimized persons and groups are in many instances closely interrelated. This coincidence of individual and collective aspects is particularly manifest with regard to the rights of indigenous peoples. Against this background it is therefore necessary that, in addition to individual means of reparation, adequate provision be made to entitle groups of victims or victimized communities to present collective claims for damages and to receive collective reparation accordingly.

15. For the sake of determining the notion of victim, both individually and collectively, it is useful to refer to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power ^{4/} and in particular to the following phrases from paragraphs 1 and 2 of the Declaration:

"'Victims' means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights (...).

"... The term 'victim' also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization".

Annex 2 :



Elisabeth Noelle-Neumann's Spiral of Silence

© Communication Theory

Annex 3 :



28 May 1994: Displaced Tutsis wait for food at Kabgayi refugee camp, south of the capital.
©Alexander Joe/AFP



Shelves of skulls are pictured at one of the many genocide memorials in Rwanda.
©Reuters



8 May 1994: Dead bodies lie along the side of a road about 70 kilometres north of the Rwanda/Tanzania border.
©Corinne Dufka/Reuters



28 July 1994: A Rwandan woman collapses with her baby on her back along a road connecting Kibumba refugee camp and Goma in Zaire. Aid officials said that refugees were dying at a rate of 1,800 per day.

©Ulli Michel/Reuters.



27 June 1994: French soldiers pass Hutu troops from the Rwandan government forces near Gisenye, about 10km from the border with Zaire. The French military was later accused of ferrying extremist Hutu militiamen to a mountain hideout in Rwanda to slaughter thousands of ethnic Tutsis.

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