

INTERNATIONAL INSTITUTE FOR THE SOCIOLOGY OF LAW
INSTITUT INTERNACIONAL DE SOCIOLOGIE JURIDIQUE



Apdo. 28 - 20560 OÑATI
Gipuzkoa – Euskadi
España / Europa

WORKSHOP ON:

**Sharing and Regulating Emotions in Legal Spaces:
Mediation, Restoration, and Reconciliation**

Coordinators: **Susanne Karstedt** (School of Criminology and Criminal Justice)
Darío Páez (University of the Basque Country)
Bernard Rimé (University of Louvain)

31 May – 1 June 2018

Programme

Meeting room: Karl Renner & Achille Loria

Wednesday, 30 May

Arrival

21.00 **Welcome reception**

Thursday, 31 May

Day 1: Law, Truth and Reconciliation: Emotions and its consequences

9.00 – 9.45 **Registration** at the IISL office

9.45 – 10.30 **Welcome** by the Scientific Director, **Prof. Dr. Vincenzo Ferrari**

Introduction by **Susanne Karstedt**, Griffith University, **Bernard Rimé**, University of Louvain, **Dario Rovira Paez**, University of the Basque Country

10.30 – 11.00 Break

11.00 – 12.15 **Truth and Emotions**

Chair: Susanne Karstedt, Griffith University

Darío Páez & Mathias Anderson, University of the Basque Country

Emotions and social sharing associated to Truth and Reconciliation Commissions in Latin America.

A meta-analytic synthesis is presented using the CMA of emotions and the social sharing of emotions about truth commissions in Argentina, Brazil, Chile, Ecuador, Paraguay, Peru and Uruguay. Based on public opinion surveys conducted in these countries during 2012–2016, it is found that the level of emotionality and sharing is low, that affected people report more emotions and social sharing. Feel more negative emotions like fear, sadness and anger than positive ones like hope, pride and joy. A positive evaluation of truth commissions is ambivalently associated with greater intensity of fear, sadness (though not anger) as well as more hope, pride and joy. The differences between countries, the contextual characteristics and the implication of the results for the understanding of the negative emotions of resignation and antagonists, the moral and positive emotions – in particular the hope are discussed.

Thursday, 31 May (Continuation)

11.00 – 12.15 **Truth and Emotions**
Chair: Susanne Karstedt, Griffith University

Stephan Parmentier, Leuven Institute of Criminology (LINC)

Dealing with the trauma of victims. Insights from truth commissions.

Truth commissions are non-judicial bodies set up in the aftermath of violent conflicts with the aim of providing a forum for victims to share their information and experiences of past human rights violations and sketching a general pattern of the violations committed. In recent decades, several truth commissions have allowed victims to speak out in public sessions, sometimes in the presence of perpetrators of the same crimes. Victims may run the risk of being re-traumatised when recalling their experiences of the past.

One of the pending issues in transitional justice is to understand how to deal with the trauma of victims in the context of truth commissions. In this paper, I will discuss the strengths and weaknesses of public forums inviting victims to share their experiences of past violations, and also sketch various models of dealing with victims' trauma in those contexts. I will illustrate these aspects through findings from various truth commissions around the world.

12.15 – 12.30 Break

12.30 – 14.00 **Carlos Beristain: Colombia's TRC experience and support to victims as witnesses in transitional justice activities (with translation).**

Chairs: Bernard Rimé and Dario Rovira Paez

14.15 – 15.45 Lunch

15.45 – 17.00 **Social sharing of emotions in post-conflict situations**
Chair: Roger Sebastian Giner-Sorolla, University of Kent

Bernard Rimé, University of Louvain

Emotional and social consequences of participation in the Gacaca Truth and Reconciliation process in post-genocide Rwanda.

I will first remind the theoretical views that guided the studies conducted on the Gacaca Truth and Reconciliation process held in the post-genocide Rwanda. I will then critically review the most characteristic findings of these studies with regard to emotional and social variables as well as with respect to the reconciliation process. These findings will be compared to those of similar published studies. They will be discussed under the perspective of formulation of recommendations for future investigations.

Julian Ibañez de Opacua Andueza, Bilbao

The Glenree Experience: Victims of Terrorism, Trauma, Reparation and Reconciliation.

The Glenree Project took place between 2007 and 2012 in the context of the Basque Country conflict of violence and terrorism. Its initial objective was to check out the potentiality of a set up where victims of terrorism from "different sides" met and shared their feelings and experiences. As it happened that potentiality went far ahead from what it was initially thought about, and the Glenree Project became a meaningful political and social event. This paper will tell the tale of that experience but not just that. It will also aim at exploring some of the emotional consequences of trauma brought about by terrorism and political violence. The Glenree Project will be then looked at as a particular setting where concepts such as reparation and reconciliation were put to work.

Thursday, 31 May (Continuation)

17.00 – 17.30 Break

17.30 – 18.45 **Sharing emotions in victims narratives: Insights form the Basque country**
Chair: Stephan Parmentier, Leuven Institute of Criminology (LINC)

Magdalena Bobowik, University of the Basque Country
Miren Harizmendi Gonzalez, University of the Basque Country
Nekane Basabe, University of the Basque Country
José Joaquín A. Pizarro Carrasco, University of the Basque Country
Saioa Telletxea, University of the Basque Country

Bakeaz Blai: Social Sharing of the Victims' Narrations Towards Reconciliation and Forgiveness Attitudes.

In the last years, Basque country is involved in a Post–conflict Context. Political institutions and social entities impulse initiatives to recognize the memory of victims, and interventions on promoting peace attitudes. In post–conflict reconciliation, intergroup forgiveness may play a crucial role in helping groups and ‘humanizing the other’ (Tam et al., 2007). Remembering focused on ingroup sufferings would be in ambivalent consequences, exacerbating conflict between groups (Noor, et al., 2012; Wohl & Branscombe, 2008). Needlessness, social sharing of suffering and mutual forgiveness for the harm promote peaceful attitudes and behaviors (Kanyangara et al., 2014; Vollhardt & Bilali, 2015). A cuasi–experimental intervention was implemented with the participations of direct victims of terrorism and political violence in the Basque country (named Bakeaz Blai). Intervention include two sessions, one of them based on group’s dynamics and the other with the exposition of the personal experience and narration of a person victim that promote reconciliation. A total of seven groups and one control group participated (N=259; Age M = 19.89, ranged from 18 to 45, DT = 3.12; 69% women). Pre and post measures was taking. Measures include Emotions Scale (9 emotions, Fredrickson, 2009), Modified Geneva Emotional Music Scale (12 emotions, mGEMS; adapted from Zentner, Grandjean, & Scherer, 2008), Interpersonal and Intergrupual Forgiveness (7 items, Wohl, & Branscombe, 2005); Two question about Empathy to victims and perpetrators ((adapted from Noor et al., 2008), Emotions toward solution of the violence (hope and optimism), Quality of participation, satisfaction and importance of participation and Experience of victimizations. Hypothesis propose that participation in intervention will increase interpersonal and intergroup forgiveness and empathy to victims and hope toward solution of the violence in contrast to control group. These effects will be mediated by the transcendent emotions activate during exposition to narrative of victims, and moderated by the victimization. Results are analyzed and discussed by the light of Post–conflict Context in the Basque country.

Conference dinner

19.30 Reception

20.00 Dinner

Friday, 1 June

9.00 – 10.15 **The court and the justice process: Limits for emotions?**
Chair: Ivo Aertsen, Leuven Institute of Criminology (LINC)

Antony Pemberton, University of Tilburg

What's in a name? Sacrificing victims' emotions in justice processes.

It is no news that the space provide by the (criminal) law is not the best of environments for victims of crime. Trauma specialist Judith Herman (2003) once lamented 'if one set out intentionally to design a system for provoking symptoms of posttraumatic stress disorder, it might look very much like a court of law'. In an insightful analysis Jan van Dijk, following Rene Girard's scapegoat theory, suggested that the word victim might already be the culprit (see Girard, 1972, Van Dijk, 2009). Etymologically the word victim is derived from the latin vitima, the sacrificial lamb. Van Dijk found that much of the passivity and absence of victims from criminal justice policy might be derived from the use of this term for suffering the consequences of crime. They bear the 'mark of Abel' and are called upon to display the characteristics of the ultimate figure of sacrifice, that of Jesus Christ. Van Dijk expressed the view, and perhaps even the hope, that with secularization and a freeing from the term victim, the latter would be allowed to come into view fully and regain his or her position as an actor, rather than remain a passive object.

I am a good deal less optimistic than Van Dijk. The sacrifice requested from victims is not so easily remedied. In the paper I will argue that victimological experience is more fundamentally at variance with the way criminal justice processes frame social life, and that the same is true for alternatives like restorative justice. I make my case first using Judith Shklar's monumental analysis of the experience of victimhood in her *The Faces of Injustice* (1990), leading to the distinction between the activities of undoing injustice and doing justice and second by focusing on the manner in which justice processes restrict victims' emotions to fit their own purpose of 'well-oiled social functioning'.

Åsa Wettergren, University of Gothenburg

Judges' professional emotion management: Contrasting civil case mediation with criminal case presiding. (Together with Stina Bergman Blix)

The emotive–cognitive judicial frame postulates positivist objectivity; the performance of justice as pure instrumental rationality. This paper analyses results from the qualitative research project, *Emotions in Court*, with a focus on different emotive–cognitive orientations of the frame depending on the type of case. In criminal cases, the judge performs objectivity by taking on a passive stone–face, aiming to achieve procedural justice. This contrasts starkly with performance in preparatory negotiations of civil cases, where the aim is to reach settlement and potentially avoid a trial. Here the emotive–cognitive frame allows (demands) deviation from the stone–face, rather a poker face; the judge can be an active mediator, employing strategic emotion management techniques. These different styles of 'objective' emotion management reveal tacit normative underpinnings of the emotive–cognitive judicial frame; e.g. moral evaluations of types of conflict and their respective claims on the court's resource.

10.15 – 10.45 Break

Friday, 1 June (Continuation)

10.45 – 12.00 **Restorative justice: A better place for emotions?**
Chair: Åsa Wettergren, University of Gothenburg

Ivo Aertsen, KU Leuven Institute of Criminology

Moral learning in the space between places: the role of emotions in restorative justice.

This paper will focus on the role of moral emotions in the process of restorative justice. Both in theory and practice, the impact of participation in practices such as victim-offender mediation or conferencing is mostly approached from a cognitive-psychological angle. In the quasi-legal setting of restorative justice we will look at appropriate spaces where moral emotions can be expressed. In particular the interactive character of the setting will be investigated in order to develop a better understanding of how emotions evolve dynamically when people meet. Hereby also the role of the mediator/facilitator comes to the fore, namely on how (s)he supports or regulates the process of working through emotions.

Meredith Rossner, London School of Economics

Mainstreaming Emotions with Restorative Justice.

Restorative justice has long been positioned as a justice mechanism that prioritises emotion and its expression. It is also unique in its ritual elements, such as the ritualized expression of anger and the symbolic exchange of apology and forgiveness. This paper explores the current landscape of restorative justice as it operates in criminal justice systems. I draw on observations and interviews with participants in a pre-sentence restorative justice programme in New South Wales. In particular I examine how both anger and symbolic reparative acts, such as the expression of apology and forgiveness, can contribute to a judicial process. Drawing on recent work on forgiveness and the law, I provide an empirical analysis of restorative justice processes in Australia and the UK, focusing on the micro-level dynamics of the apology-forgiveness exchange.

12.00 – 12.15 Break

12.15 – 13.30 **Forgiveness and vindictiveness in restorative justice**
Chair: Miren Harizmendi Gonzales, University of the Basque Country

Bas van Stokkom, Radboud University

Restorative justice and the containment of vindictive emotions.

Restorative justice schemes represent a 're-emotionalization' of settling a conflict - admitting emotional responses into the meeting. In many serious cases the participants cannot escape the thorny issues of moral indignation, anger and retribution. In these cases victims may confront their offenders and some welcome the chance to 'let the bastard have a piece of my mind' (Sherman & Strang, 2011: 156). Some research findings show that expressing anger - learning the young offender a lesson; putting pressure to come to terms - may obstruct the communication process (Presser & Hamilton 2006). Other findings show that the expression of vindictive feelings may contribute to the wellbeing of victims (raise their moral status; bring therapeutic relief) (Sherman & Strang 2011). In this contribution the question is raised in which respects vindictive emotions can and should be contained by participants. This is a delicate issue: because the victims of serious crimes have suffered enough, their desires are often considered as the norm. In which ways do they respond? Are they (too much) focussed on their own feelings, eager to vent their story of rage and suffering? Do they respond in reasonable ways? How do they stylize their agitation? How do other participants moderate victims' vindictive feelings and demands?

Friday, 1 June (Continuation)

12.15 – 13.30 **Forgiveness and vindictiveness in restorative justice (Continuation)**
Chair: Miren Harizmendi Gonzales, University of the Basque Country

Tamera Dawn Jenkins, Griffith University

The meaning and salience of forgiveness in the lives of criminal offenders.

Despite extensive research on the significance of forgiveness in the lives of victims of crime, comparatively little is known about offenders' perceptions of forgiveness. Through phenomenological in-depth interviews with 19 offenders, this study examined offenders' understandings of forgiveness, the degree to which their lives were [or were not] impacted by forgiveness and whose forgiveness mattered most to them. The saliency of forgiveness for offenders who viewed it through a victim or 'forgiver' perspective lay primarily in its personal healing capacities. However, receiving forgiveness has varied relevance and meaning to offenders depending on the circumstances of the offence and/or the one offering forgiveness. Self-forgiveness has value depending on whether it was person or crime-focused.

13.30 – 14.00 Information about publication by conveners

14.15 – 15.45 Lunch

15.45 – 16.00 Information about publication by **Leire Kortabarria, IISL**

16.00 – 17.15 **Collective emotions: Apologies and Forgiveness**
Chair: Darío Páez, University of the Basque Country

Roger Sebastian Giner-Sorolla, University of Kent

Expressing feelings in collective apology.

Members of victimized groups have varied reactions to wrongdoer group members who express negative emotions, such as regret, guilt, and sadness. Such emotions communicate the wrongdoer's suffering over the misdeed, and responsibility-taking for it. In two experiments we tested our model among non-smokers who read a smoker's statement regarding health damage from cigarette smoke, varying only the emotion term used. The two inferences were instrumental in distinguishing emotional statements (such as regret, shame, or guilt) from a statement of indifference (Study 1) or an unemotional apology (Study 2), with the latter conveying less suffering (but not less responsibility-taking) than the emotional statements used. Suffering and responsibility-taking also predicted the perceived sincerity of different emotional expressions, which in turn accounted for positive evaluative reactions to them.

Magdalena Bobowik, University of the Basque Country

Institutional apologies and socio-emotional climate in the South American context.

This study examined perceptions of institutional apologies related to past political violence and socio-emotional climate among victims and non-victims in Argentina (n = 518), Chile (n = 1,278), and Paraguay (n = 1,172) based on quasi-representative samples. The perceptions of apology as sincere and efficient in improving intergroup relations were associated with a positive socio-emotional climate across the three nations. Victims evaluated apologies more positively and perceived a more positive socio-emotional climate compared to non-victims in Paraguay and Argentina, whereas the opposite was true in Chile where the government opposed the victims' leftist political orientation. The evaluations of apologies also mediated the effects of exposure to violence on the perception of socio-emotional climate, but these effects were moderated by the context. Together, these findings suggest that apologies reinforce positive sociopolitical climate, and that, personal experience of victimization is an important factor determining these effects.

Friday, 1 June (Continuation)

17.150 – 17.45 Break

17.45 – 19.00 **Transcending the limits of law: Spaces for emotions in post-conflict societies**
Chair: Magdalena Bobowik, University of the Basque Country

Jill Stockwell, The Swinburne Institute for Social Research
The Affective Economy of Transitional Justice in Sri Lanka.

Following a war that lasted almost 30 years, Sri Lanka has embarked on a process of transitional justice to deal with the trauma resulting from decades of violence. This attempt at dealing with the past is not the first. Sri Lanka has witnessed several Commissions of Inquiry aimed at promoting national unity and reconciliation among communities, which went nowhere. Despite these past failed attempts, foreign funding continues to pour into Sri Lanka to support initiatives that educate the wider public about transitional justice processes to garner its support. Families of the Missing are mobilised to participate in these public activities and to once again share their emotional narratives as a way of moving the process forward. This paper explores the emotional economy of transitional justice and the role of families' affective investment to keep the process alive.

Gema Varona Martínez, University of the Basque Country

On the ubiquity of justice spaces in terms of reconciliation: Restorative dialogues between Victimology students and victims of terrorism in the Basque Country.

Using focus groups analysis results as secondary sources, developed by the Basque Institute of Criminology since 2012, this paper will explore the experiences of justice as narrated by victims of terrorism in the Basque Country in their dialogue with students of victimology. This dialogue includes the participation in artistic and pedagogic projects in 2015 and 2016. Those experiences, including emotions, will be contrasted to the ones narrated by students. Finally the overall results will be examined in terms of reconciliation and restorativeness, in a broader context, by distinguishing between making sense and giving a meaning.

19.00 – 19.15 **Conclusion**
Susanne Karstedt, Griffith University, Bernard Rimé, University of Louvain, Dario Rovira Paez, University of the Basque Country

20.30 Dinner