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The Right to Commemoration and ‘Ideal Victims’: The Puzzle of Victim

Dissatisfaction with State-led Commemoration after 9/11 and 3/11

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Abstract

This article explores the puzzle of victim dissatisfaction with State-led commemoration following 9/11 and 3/11 by offering a cross-national case study through which to view key areas of theoretical debate in the sociology of human rights, cultural trauma and collective memory, and the politics of victimhood. Although State-led commemorative processes are often highly contested, we would expect them to be less so in the cases of 9/11 and 3/11, given broad social consensus about the victims' right to commemoration and the traumatic nature of the events, and especially the "ideal nature" of the victims who as symbolic representatives of the State are conferred with great moral authority. Drawing on primary and secondary data on the commemoration of the attacks of September 11th, 2001 and March 11th, 2004 we find that despite sharp differences between commemorative processes, three common key areas of contestation and dissatisfaction for victims emerge: political instrumentalization, hierarchies of worth, and exclusion. We show how the status of ideal victimhood for victims of transnational terrorism carries within it an inherent paradox which provides the key to their dissatisfaction: the moral authority conferred them as representatives of the State simultaneously depersonalizes them, excluding them as individuals with rights and needs.

Keywords

Transnational terrorism, victims, commemoration, human rights, taxonomies of worth

Introduction

On the fifth anniversary of the 9/11 attack, which left 2,749 people dead and 2,594 injured from the World Trade Center, thousands gathered at 'Ground Zero' in New York City for a ceremony attended by relatives, politicians, residents and onlookers that lasted more than four hours. Family members of the deceased lay wreaths and flowers in the two reflecting pools where the towers once stood. Over 200 people read the 2,973 names of the 9/11 deceased against a backdrop of classical music punctuated by silences at the four moments when the hijacked planes struck the towers and each tower fell. In the evening, the Tribute of Light, two bright beams that shine upward, marked the silhouettes of the fallen towers (McFadden, *New York Times*, 2006, 1). Five years after the 3/11 Madrid bombings, the largest terrorist attack to date in Europe, killing 192 people and injuring 1,847, there was no official national ceremony to commemorate the victims at all. Despite radical differences in commemorative processes, in *neither* case were the victims themselves satisfied with the commemorative process. This striking contrast of cases with significant differences yet similar outcomes (widespread victim dissatisfaction across three key master frames) provides fertile terrain to critically explore a common element of post-terrorist victim satisfaction enshrined in law, commemoration, from a victim centred perspective.

The comparison of the commemorative processes for 9/11 and 3/11, therefore, provide an intriguing puzzle: How is it that neither a commemorative process that fully engaged victims nor one that was primarily State-led managed to commemorate victims

to their satisfaction? What accounts for their deep dissatisfaction in both cases? What can this tell us about the relationship between acts of terrorism and victim commemoration? Within victimology, the empirical study of the satisfaction of victims of crime has a relatively long history, focused mainly on the satisfaction of victims with domestic criminal justice processes and outcomes (treatment by the police and courts) (see Kunst, Popelier and Varekamp, 2015). This body of research is related to a key concept in victimology, *secondary victimization*, whereby crime victims are said to be revictimized by the callous, ineffective or disrespectful treatment by the criminal justice system (Orth 2002) and the victim-blaming attitudes of society at large. The study of victim satisfaction is of theoretical and practical interest: theoretical frameworks are incipient, and where victims express dissatisfaction, policy and practice can be reformed.

At the international level, victim satisfaction is enshrined in the most relevant international human rights document to our study, General Assembly Resolution 60/147 of 2005, on Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles, hereinafter). Sections V-X outline the definition of and treatment to be afforded to victims, including access to justice, reparation (including restitution, compensation, rehabilitation, satisfaction, guarantees of non-repetition) and access to information. Although these Principles were drafted mainly for victims of internecine conflict,

where some actors seek either to deny commemoration or foster social ‘amnesia’ (Aguilar 2002), they are also applicable to victims of mass atrocities, including transnational terrorist attacks (Bassiouni 2006, 266). These principles are relatively unique international legal instruments in that they are explicitly victim-centered (Bassiouni 2006; van Boven 2009).

“Satisfaction” (Principle 22) includes truth-seeking, public apology, search for the disappeared, prevention of reoccurrence, the clearing of names of victims and judicial sanctions against the perpetratorsⁱ. Victim satisfaction is aimed at reducing the stigma attached to victims by society as well as countering impunity. Of particular relevance to our study is that it also includes ‘(g) Commemorations and tributes to victims’ an important and innovative aspect of these Basic Principles.

One would expect that the victims of transnational terrorist attacks would have few obstacles to a satisfactory commemorative process, especially compared to victims of internecine conflict: blame would seem to be straightforward, there is no ambiguity between victims and perpetrators, and social consensus exists regarding the harmfulness of the attacks. Yet in both cases, we find a gap between victims’ *right* to commemoration and victims’ *satisfaction* with the commemorative process.

Although there is much work on commemoration of human rights *violations*, such as the Holocaust or other mass atrocities, practically no work has been done on the

right to commemoration as included in international human rights law and its implementation by Nation-states. We focus on State-led commemoration because of the State obligation to commemorate victims of terrorism as defined under International Human Rights Law.

Human Rights, Society, the State, and Transnational Terrorism

A classic dilemma of human rights theory is overcoming the gap between universal rights and their application in particular State jurisdictional contexts. Sociological critique of human rights scholarship often centres on this problem of universality, arguing that the application of human rights law either masks Western imperialist colonizing projects, fails to take seriously legitimate cultural differences between nations, or falls into cultural relativism, using “cultural” arguments to legitimate the lack of fulfilment of human rights (Freeman 2011). These debates raise the question of whether in an individualistic, pluralistic and fragmented world there can even be such a thing as a universal human right.

Durkheim’s understanding of the relationship between law and society offers one possible answer. Durkheim takes *la personne humaine* as the object of collective worship that enables everyone to unite about their own particularistic (religious, ethnic and class) allegiances: the defense of the *personne humaine* is enshrined in universal human rights. Moral and cultural unity underlies a shared commitment to human rights law as laws themselves reflect society's cultural values. For Durkheim the very

definition of a crime is that which attacks the collective consciousness, ‘the totality of beliefs and sentiments common to the average members of the society that forms a determinate system with a life of its own’ (1997[1893], 38-39). Public opinion and beliefs constitute the crime, not the nature of the act itself. Durkheim’s understanding can be extended from national societies to ‘global’ civil society, with international human rights representing a sort of global consensus on the morality of the defense of the *personne humaine*. The institutionalization of rights in the United Nations charter can be seen as a central aspect of globalization (Robertson, 1990: 27) and international human rights as the world’s first universal ideology (Weissbrodt 1988, 1 in Turner 1993, 490).

Today in the ‘West’ it is hard to imagine a crime that constitutes a greater attack on the collective consciousness than transnational terrorism. Durkheim argued that as societies become more complex and pluralistic, law becomes increasingly restitutive- -- concerned not so much with punishing the perpetrators as with repairing the social damage caused by the crime. The 2005 Basic Principles exemplify Durkheim’s argument: although they remind State parties to hold perpetrators accountable for their crimes, their main purpose is to clarify and detail the remedies and reparations due to victims, while also specifying preventative measures to ensure the non-repetition of international crimes.

Durkheim's analysis is an explicit rejection of the Enlightenment understanding of the atomized individual as a carrier of natural given individual rights (Cotterrell 2004). His understanding of the relationship between law and society stands also in sharp contrast to a Marxian view which would lead us to view the law, including 'universal' human rights, as serving and reflecting the interests of political or economic elites, with 'consensus' masking ideologies that extend and reinforce inequalities, or a Weberian approach viewing the law as both a manifestation of society's increasing rationalization and key to the legitimacy that is so crucial to political elites seeking to pursue power. In fact, in the complex dynamics of the commemoration processes analysed here, elements of all three approaches are found, as we show below.

Cultural Trauma and Collective Memory

Understanding victim (dis)satisfaction requires paying attention to the cultural nature of the construction of collective memory, and the socially produced construction of the trauma event, which can itself be a contested process (Smelser 2004, Savage 2007, Tyner et. al. 2014). Individual memories always function in a collective context, what we remember is shaped by social processes and frameworks. Yet collective memory is always selective, and differs according to social groups, provoking different modes of commemorative behaviour (Halbwachs 1925, 1950). Neal (2005) argues that the social disruption brought about by national trauma creates a situation through which the social order must be re-established and repaired, as Durkheim would argue. The collective memory response is key in this process. In "the social process of cultural

trauma" (Alexander 2004) different carrier groups, with different amounts of social and cultural capital, vie for control over the meaning assigned to the trauma event , its commemoration process, and ultimately the most permanent manifestation of this: the physical permanent memorial (Schwartz 1990; Zolberg 1998; Jedlowski 2001; Tota 2005; Alexander 2004; Smelser 2004). . Questions about the definition and nature of the victims and how they should be remembered is central to this process. The attention to carrier groups and material interests here fits with a more Weberian understanding of the law and its relation to victim commemoration. Mass media also play a key role in transmitting this process and its outcome to the wider audience, and therefore shape in significant ways the collective understanding of the trauma event. This wider social and cultural context also affects State-led commemoration of trauma events.

Trauma and State-led Commemoration

The literature on trauma and commemoration reflects two central tensions. The first is between individual versus collective rights to commemoration of traumatic events. The second is between commemoration as that which heals and unites society or reaffirms the nation-state project (Heath-Kelly 2016), and commemoration as a process that reflects competition between elites and other carrier groups seeking to have traumatic events interpreted in a particular way.

Ben-Amos (2000), Nora (1989) and Viejo-Rose (2011) lead us to expect that State-led commemoration of traumatic national events would primarily serve as a powerful and effective means of conveying significant messages about the polity, highlighting differences between the State and its enemies, excluding and punishing enemies or the defeated, and serving to highlight contemporary social cleavages. The sociological literature of post-trauma societies highlights the role of civil society, memory and commemoration in repairing the social fabric, but recognizes that these processes are fraught with contention, including debates about how victims should be remembered and what role they should play in the commemorative process (Alexander 2004). There is also a fundamental tension between individual victims' needs and the interests of wider society and political actors who seek to use commemoration to reinforce key cultural and national values and to further State agendas (Edkins 2003; Savage 2006; Heath-Kelly 2016).

However, as Butler (2009) argues, for victims to be recognized as legal subjects, they must first be defined and constructed as juridical subjects with rights, and seen as worthy of grieving and commemoration should those rights be violated. For this reason, the hundreds of thousands of victims of the War on Terror, for example, are not constituted as subjects/victims and are therefore *a priori* excluded from commemoration. As we argue below, within the narratives of 9/11 and 3/11, the immediate victims of these attacks are in many ways 'ideal victims' (Christie, 1986), fully visible, invested with moral legitimacy and worthy of State-led commemoration.

Whereas Butler focuses on the exclusion of victims– the literature on the politics of victimhood highlights the ways in which victims are used in political struggles and attributed different amounts of moral legitimacy, which in turn affects the relative resources they receive (Flesher Fominaya and Barberet 2012; Albrecht and Kilchling 2007; Barker 2007; Ochs 2006), and their inclusion or exclusion from the sphere of moral concern (Zeruvabel 1991). As “ideal victims” we would expect victims of transnational terrorism to be less subject to political instrumentalization and challenges to their moral legitimacy, yet as we found, this was not the case.

Ideal Victims and the Puzzle of Victim Dissatisfaction after 9/11 and 3/11

Christie’s (1986) classic typology describes ideal victims as those who are weak, carrying out a respectable activity somewhere they could not be blamed for being, and whose offender is ‘big and bad’ and unknown to the victim. Victims that fit this model are conferred moral legitimacy. However, victims of crime frequently find that to obtain redress, they must become politically active and make demands on those in charge of remedies. In so doing, they fail to adhere to the characteristics of Christie’s ‘ideal victim’.

The moral authority conferred to victims stems not only from their condition as victims, but in the nature of their victimization. In the case of 9/11 and 3/11, the victims of transnational terrorism become symbolic carriers of national sovereignty-

they “stand in” for the State (Ochs 2006) in a way that victims of other forms of terrorism do not.

As “ideal” victims of nationally traumatic events, we would expect to find strong State-led commemorative processes of victims in both cases. Although State-led commemorative processes are often highly contested, we would expect them to be less so in the cases of 9/11 and 3/11, given broad social consensus about the victims’ right to commemoration and the traumatic nature of the events, but especially about the blamelessness of the victims and the guilt of the perpetrators. In short, we would expect to find State-led commemoration to be minimally satisfactory for most victims.

Instead, we found first that there are major differences between the strength of commemorative processes in each case, with the U.S. displaying a “strong” commemorative process, marked by extensive, ostentatious, mass public ceremonies, and Spain displaying a “weak” commemorative process, marked by sombre, Spartan ceremonies and episodes of State “amnesia” toward the victims of 3/11. Second, we found a highly contested commemorative process in both cases, with high degrees of victim dissatisfaction despite the difference in strength of State-led commemoration. Third, we found that despite sharp differences between commemorative processes, three common key areas of contestation and dissatisfaction for victims emerged: political instrumentalization of the victims, hierarchies of worth, and exclusion.ⁱⁱ The precise nature of victim dissatisfaction with State-led commemoration forms the heart

of our analysis. We examine victim (dis)satisfaction with the implementation of State-led commemoration, specifically commemorative anniversary ceremonies and official monuments.

Methods

We followed a single “most dissimilar” case comparative method based on two paradigmatic cases of the same phenomenon (a foreign-perpetrated terror attack) and interpretivist process tracing through critical discourse analysis that enables a deep understanding of victim’s experience of commemoration across contexts (see Della Porta 2008).

Discourses emerge within the framework of particular social institutions, structures, and events. Critical discourse analysis is concerned with exploring the role of power in shaping discourse and revealing the underlying ideas and assumptions that fuel particular agendas, and is also committed to social change (Fairclough 1992, Wodak and Meyer 2009). We seek to explore the underlying tensions and contradictions in discursive practices around these contested processes of commemoration of cultural trauma.

Data and Analysis

We used three data sources: news articles, semi-structured interviews with representatives of victims of terrorism associations, and for Spain, the webpage content

of victims of terrorism associations. Using Factiva, we conducted keyword searches using synonyms for commemoration and victims on the original dates of the attacks and for five years after 9/11 and 3/11. For 9/11 (2001-2006), this yielded approximately 1,300 articles, and for 3/11 (2004-2009), approximately 1,600 articles.ⁱⁱⁱ

News media provide the main source of information shaping collective memory of the event and its victims over time, simultaneously disseminating information and constructing meaning (Gamson, 1995). News media represent the dominant competing interests in society at play in the commemoration of our two cases, and provide a comprehensive if not exhaustive array of the dominant frames that shaped contests over commemoration. Given media framing and bias, we triangulated the news data with data from the victims associations' web-pages (for Spain) and with interviews with these organisations' leaders, which provided a unique data set.^{iv}

For Spain, we interviewed founding representatives of all three terrorist victims associations representing victims of 3/11 (*Asociación 11-M Afectados del Terrorismo*, A11MAT; *Asociación Víctimas del Terrorismo*, AVT; AAV11M, *Asociación de Ayuda a las Víctimas del 11-M*) and the President of the *Fundación Víctimas del Terrorismo*, FVT (Madrid, 3-12 July, 2011). For New York, we interviewed founding members of four major victims associations: *September 11th Families for Peaceful Tomorrows*; *September's Mission*; *Voices of September 11th*; and the *FealGood Foundation* (New

York City, Long Island and Connecticut, 8-13 August, 2011). Interviews lasted two to three hours and were transcribed.

We analysed the data using qualitative content analysis, focusing on discourse regarding commemoration as a process or event that is perceived as satisfying or dissatisfying to victims. We systematically coded the date, source, and identity of the actor and commemorative frame. Following Snow *et al.* (1986), our purpose was to analyse the ‘manner in which grievances are interpreted and the generation and diffusion of those interpretations’ (466). Because our two news sources for the Spanish case are closely aligned to the two main political parties (against whom the associations have expressed grievances) we coded the web-pages for the four Spanish victims associations, to check for reliability of news coverage in representing victims’ opinions. The web-pages contained more coherent and detailed information, but confirmed the news data findings. This created an inventory of commemorative frames (Snow and Benford 1992), from which we generated the three main master grievance frames discussed in our findings.

Finally, we coded our interviews using the same process, triangulating the three master victim grievance frames that emerged from the newspaper data with the interview data. While our interviews yielded richer data, they confirmed the news data findings, which may indicate the success victims’ groups have had in making their demands heard, if not satisfied. Textual quotes are representative of these three frames

and of the range of positions taken by the victims in each case and across cases. Although we did not systematically code data after five years, we followed media coverage closely up to the end of 2011, the year in which we also conducted our interviews.

Comparing the Trauma Events and the Political Contexts

The United States and Spain provide a fruitful comparative context within which to evaluate the importance of national cultural and institutional specificity in relation to the formulation and satisfaction of victims' commemoration. Spain and the United States are located at opposite ends of the spectrum with regard to historical experiences with terrorism, and the nature and history of their victims' rights movements. Yet as two developed Western democracies that were both victimized through their transportation systems by attackers tied to Al-Qaeda, the cases are sufficiently similar to provide for a meaningful comparison. The events in both countries were considered nationally traumatic events, and spurred national investigative commissions, changes in domestic and foreign policy, and the creation and expansion of civil society organizations to defend the interests of victims of terrorism. Although there are differences in absolute magnitude of harmfulness, relatively, the Madrid attacks were the deadliest against civilians on European soil since the 1988 Lockerbie airplane bombing.

There are important differences both in the features of the attacks and in the political context in which they took place that have implications for the later commemoration of the events and victim satisfaction. The symbolic and physical nature of the targets differed: whereas the Twin Towers stood as a symbol of U.S. wealth and power, and were located in a prime Manhattan real estate area, the Atocha train station (the intended target), while a central transportation hub, has no such symbolic connotations. Unlike 3/11 in Madrid, the rescue efforts for September 11 were inherently dangerous and provided ample opportunities for heroism on the part of rescue workers and civilians. In New York, it was impossible to locate or identify many victims' remains, whereas in Madrid all dead were quickly recovered. This conferred Ground Zero with a "sacred ground" status, a trope not invoked around Atocha. The destruction of the Twin Towers left a gaping hole, a devastated neighborhood, significant economic consequences and also posed a health hazard that claimed more victims. In Madrid, damage was quickly repaired and generated no new victims, and the surrounding neighborhoods were not significantly affected

The immediate political aftermath of the attacks was also very different, and had key implications for commemoration. In the U.S., the perpetrators were rapidly identified and major political parties displayed a show of unity in the face of the tragedy. Although some critical voices expressed a belief that U.S. foreign policy, including continued support for Israel, provoked the attack, in general most placed the blame for the attack squarely and unequivocally on "Al-Qaeda". U.S. public opinion

and political elites, with the active participation of mass media, immediately demonized the attackers, and nationalism, freedom, and democracy were invoked as core values around which to rally (Jackson 2005). The U.S. flag was displayed ubiquitously as a symbol of unity and national values.

Crucial in the Spanish attacks was their timing, just three days before general elections. Despite mounting evidence to the contrary, the then ruling party (the Popular Party) insisted on ETA's responsibility. Public opinion was deeply divided as to whether ETA or Al-Qaeda was responsible for the attacks, and the political parties were also deeply divided over this issue. Part of the public felt that the Popular Party was using the victims to win the elections, that they were lying to the Spanish people (Flesher Fominaya 2011), and that the media, especially government-controlled public television, were participating in a cover-up (Moreno 2005; Torcal and Rico 2004). In addition, unlike in the U.S. case, many linked President Aznar's support of Bush and the invasion of Iraq directly to the terrorist attacks, attributing part of the blame to Aznar and the Popular Party. In a context of unclear attribution of blame, Spanish nationalism was invoked by some (e.g. Aznar and members of the government) but it did not emerge as a core value. The contested nature of nationalism as a core value is a significant feature of Spanish political life that transcends this particular event and has its roots in the longstanding and unresolved political cleavages stemming from the Spanish civil war and Franco dictatorship, conflicts also deeply tied to contestations around collective memory and the commemoration of victims.

Whereas in the United States a discourse that demonized the attackers (e.g. axis of evil) quickly flourished, care was taken to avoid xenophobic reactions in Spain and there was no *axis of evil* or public anti-Islamic discourse to any significant degree. Bush used the attacks to justify the launching of a war on terror, but in Spain the new Socialist government complied with their (pre-attack) electoral promise to withdraw Spanish troops from Iraq and committed to an “alliance between civilizations” (*Alianza de Civilizaciones*) as the cornerstone of President Zapatero’s foreign policy program.

Because Spain displayed a weak commemorative process, which would lead us to expect greater dissatisfaction, we begin with that case before turning to a discussion of 9/11.

Politics of Commemoration of 3/11 and Ideal Victim Grievances

Victim dissatisfaction with commemoration in both cases rested on three master grievance frames: the political instrumentalization of victims, hierarchies of worth between victims, and marginalization and exclusion from the commemorative process. The degree to which these were salient in each case, however, differed. In Spain, the strongest element of the three was political instrumentalization.

Political instrumentalization of victims

The commemoration of 3/11 has been overshadowed by partisan instrumentalization of the victims. The timing of the bombing, before a general election

which resulted in an unexpected change of government, opened a bitter breach between the two major parties (Spanish Socialist Workers Party, *PSOE* and Popular Party, *PP*) that continued over the following eight years and resurfaced at every commemorative event and anniversary (Flesher Fominaya 2011; Flesher Fominaya and Barberet 2012). Whereas the governing party (PP) blamed the Basque nationalist terrorist group ETA, international media provided a counter narrative that pointed to Al-Qaeda linked authorship, leading part of the public to believe the PP government was lying to win the elections, and also blaming the PP for their involvement in the invasion of Iraq, which many felt provoked the attack. From just a few days after the attack, victims became caught up in partisan disputes, which eventually encompassed the victims associations, who, despite attempting to maintain neutrality were aligned more closely with one party or the other. This had a long-lasting impact on victim commemoration. Politicians attended, avoided, or boycotted commemorations to make political points, sometimes for reasons unrelated to the event of 3/11. For example, in 2009, on the fifth anniversary, PSOE members angry over a corruption scandal decided to boycott *all* acts convoked by the PP, including the 3/11 commemoration (El País, 11 March 2009). In striking contrast to the situation in the U.S., the political fallout generated by 3/11 commemorations also prompted the PSOE government to forego *any* State-led commemorative act on the fifth anniversary, often considered a milestone anniversary.

Asked to comment on the lack of a national fifth year commemoration, A11MAT President Manjón, said:

The victims are worse off than before, the only change is that now there is no photo op - we have fallen into the background. I guess that after five years of throwing our dead at each other's feet they [the political parties] have come to a cordial understanding. (Ximenez, *El País*, 11 March 2009)

FVT President Pagazuartundúa explained the lack of an official State commemorative act as follows:

It's because of politics... in Spain those first years of commemoration were tremendously difficult, because some of the associations did not feel emotionally connected to the institutional State commemorative acts. Of course, it is really complicated to do something if the majority of those affected don't like it, or feel it is cold...there was booing ...and all of that just generated a profound sense of malaise, it did not serve to unite society. (Interview, 8 July 2011)

In Pagazuartundúa's telling, far from uniting society, (repairing the social fabric in a Durkheimian sense) the commemoration was actually contributing to conflict. Victims' association leaders have repeatedly complained of being used as pawns in the struggle between parties, but have also been deeply divided over appropriate forms of commemoration.

Hierarchies of worth

Commemorative struggles also manifested themselves in the emergence of hierarchies of worth: the issue of *which* victims should be commemorated and *when* led to conflicts and disputes (Flesher Fominaya and Barberet 2012). In this case we can see a dynamic consistent with Weber's analysis emerging immediately following the attacks, where different carrier groups sought to control the commemoration process in order to increase their symbolic capital and ownership of the trauma event, inscribing it with the meaning that served their political interests. In this process they established hierarchies of worth and legitimacy of victim's claims to commemoration and representation, (Albrecht and Kichling 2007; Biner 2006; Barker 2007; Flesher Fominaya and Barberet 2011; Ochs 2006), and mechanisms of inclusion and exclusion from the sphere of moral concern (Zeruvabel 1991; Robinson 2009).

Whereas initially commemoration was to be for the actual victims of 3/11, sectors in the PP and the AVT (which has a majority of victims of ETA) claimed that the commemoration should encompass *all* victims of terrorism and not only those killed on 3/11. Because some sectors of the PP, the AVT, and the AAV11M believed that ETA was the intellectual author of the attack, extending commemoration to all victims makes additional sense to them. The European Parliament's decision to make March 11 the European Day of Victims of Terrorism, lent legitimacy to the claim to expand commemoration to encompass all victims. In 2010, the Spanish parliament established a national day of commemoration of all victims of terrorism as 27 June,

symbolic as the date of ETA's alleged first victim in 1960. The decision not to make it the same day as the European Day (11 March) can be seen as an attempt to appease ETA victims. However, subsequent dissatisfaction with the commemorative process led the AVT and the AAV11M to boycott the June 27th ceremony. Ironically, the A11MAT, which represents the majority of 3/11 victims, and has always regarded any alleged involvement of ETA as a conspiracy theory, now attends the Parliamentary June 27 ceremony.

Despite initially publicly expressing satisfaction with the date of the parliamentary commemoration, AVT President Pedraza changed her views by the second year:

We are really angry because they just had the commemoration on June 27 and we always had it on March 11. Last year all the associations went...but we said that we thought it was fine that the King would be there and the President of Congress, but we wanted a victim to speak. And this year we said the same thing and since they didn't let us, 90 per cent of the associations didn't go. We are grateful to the [Royals]... who are at almost every event, but if they are just going to have their picture taken we don't really need that... We want affection, we want them to be there when we invite them to our events on the 11th of March... to really be there for us when we need them. (Interview, 6 July 2011)

Victims were angry at commemoration dates and forms being manipulated to serve partisan interests. Pedraza's statement shows that even victims who are sympathetic toward State-led commemoration, and "grateful" for it, still yearn to be participants in the process and to have their voices heard. Although less overtly critical than President Manjón of AAV11M, (the largest 11-M victims' association), and despite open conflict between the two associations, Pedraza nevertheless shares Manjón's critique of feeling side-lined or excluded, and her anger over the date change also reflects that.

Exclusion

The third commemorative grievance master frame was exclusion. By exclusion we mean not only the absence of victims from commemoration, but their exclusion or marginalization throughout the commemorative process. Our data indicate victims' sense of exclusion is due to insufficient consultation on the design of the monument and the ceremonies, denial of permission to speak at their own commemorative events, physical exclusion of victims from the Atocha monument at official ceremonies (they were told to stay outside), and the lack of an official national commemoration on the fifth anniversary of the bombing.

Regarding the Atocha monument, a joint venture between the national and city governments and RENFE (the train company), A11MAT President Manjón said:

...they showed me a project...and what they built looks nothing like what they showed me...the plastic membrane that was supposed to be inside seems to have deflated 3 or 4 times, you can't even read what it says, it is all torn—I've never been eh? This is just what they tell me. The names of the victims were supposed to be on the membrane ... Then [Madrid President] Mrs. Esperanza Aguirre insisted that there be sentences on it instead—listen I couldn't care less right, whatever they put, I'm not going there. But ...they had a problem because the King was going to visit ...and how can you have a monument with no mention of the victims? So they added a little plaque with the names... The thing is it belongs to no-one ...no one wants it, no one claims it ... not even we want it. (Interview 5 July 2011)

This quote from the President of the major 11-M victim's association expresses a deep sense of dissatisfaction due to the lack of consultation, a lack of care and respect for the monument, a strong rejection of the idea that the monument belongs to or represents the victims, and the feeling it was built for political reasons rather than for the victims. The degree of alienation from State-led commemoration is powerfully expressed by the fact that Manjón has never even visited the monument ("I've never been –eh?"). Yet the monument doesn't serve to exalt the State either: "no-one wants it, no-one claims it...not even we want it".

Interestingly, given the lack of victim consultation with regard to the monument and the physical exclusion of the victims from the official ceremony in the Atocha monument, in the case of 3/11 the issue of exclusion is not as pronounced in terms of victim dissatisfaction as in the case of 9/11 (below). Some victims expressed disdain for the way they were treated in the ceremonies, but at the same time did not claim that victim consultation was a right. This may reflect significant differences in cultural expectations around victims' rights in the two cases given the much less developed victim's rights culture in the Spanish case. This highlights the extent to which the wider cultural context influences and shapes commemorative processes (Smelser 2004; Savage 2006). Instead, there was strong lack of identification with the official monuments and ceremonies, the belief they served as platforms for politicians to further their own agendas, and a sense of resignation and exhaustion at the emotional costs of commemorative conflicts.

The victims realize how difficult it is to have a commemorative process that satisfies everyone. The strategy adopted by the FVT, charged with representing all victims' associations, is summarized by FVT President Pagazuartundúa:

Two years ago we managed to organize an event in Congress that brought all the associations together, but it was extremely difficult. In order to avoid problems, we had a reading of the Declaration of Human Rights by the Presidents of the three associations and children, who were family members.

And there was no other speech so that (lowers her voice) there wouldn't be conflict between them. The emotional costs were very high, so we decided it would be better to organize our annual concerts... (Interview, 8 July 2011)

It is striking that in the midst of contention, human rights discourse was invoked here both in articulating an appeal to the defining moral element of democratic societies, and as a proxy for a common bond that unites disparate and competing actors. However, this appeal had little effect on diminishing the deep cleavages between victim's associations.

The commemorative case of 3/11 is one deeply marked by political divisions, instrumentalization of victims, and conflicts which pit victims associations and parties against each other and there is no consensus on who or what should be commemorated, , or when. Durkheim's vision of the defense of the *personne humaine* arising as a consequence of an increasingly complex and pluralistic society is not borne out here. The inability to collectively construct a unified commemoration of a universal victim that represents the threat to collective social cohesion means that far from providing restitution of the damaged social fabric, the commemorative process has served to reinforce social and political cleavages. Manjón contrasts her disdain for the State's commemorative response with her appreciation for the warmth of society and grassroots commemoration:

The warmth we received from society was wonderful, the sites of the tragedy became real sanctuaries of remembrance ... The Atocha monument will never be my monument ... on the other hand the El Pozo monument [built by her association] will always be our monument because we built it stone by stone, through ... the trickery, the arguments...the insults... even on the inaugural day they tried to screw us over, but they didn't manage it... The '11's and the 'M's must be erased-when they make a monument it must be to all victims of terrorism and then they don't invite us, and when we try to make our own, they try to stop us. (Interview, 5 July 2011)

Her narrative reveals a profound sense of alienation from the State, where the commemorative project not only doesn't offer solace, but rather the official memorial confronts her as a hostile and alien object, to paraphrase Marx. Her words tie together the partisan instrumentalization of victims, the hierarchy of worth between different victims depending on which political interests are being served, and the sense of exclusion from the commemorative process. They also echo a theme that crosscuts both cases: monuments are meaningful to victims to the extent that they actively participate in their development and execution. Whereas State-led commemorations serve to convey political messages to the general public about the State and the polity (Ben-Amos 2000), victim designed monuments attempt to make a meaningful personal statement, reflecting Nora's (1989) distinction between dominant and dominated sites

of memory, where the former are spectacular, triumphant, imposing and imposed, and the latter are places of refuge, sanctuary and silent pilgrimage.

Deep political cleavages in the Spanish context meant that there was not a unified State agenda to restore the institutional political project that the trauma event put into jeopardy, as Edkins (2003) argues took place in the U.S. after 9/11. In lieu of a Durkheimian broad social consensus, we find instead different carrier groups competing about both the nature of the crime itself and the right to commemoration, pitting victims against each other and marginalizing them from the commemorative process. Their status as ideal victims is eroded in the political fray around disputes over who was responsible, increasing their vulnerability and subjecting them to secondary victimization. Through the sombre State-led ceremonies, commemoration becomes a strategy of reaffirming State legitimacy, but the overall commemorative process following 3/11 primarily manifested the relative power and status of competing political parties, more consistent with a Weberian analysis than a Durkheimian one. In the process, different carrier groups aligned more or less with one political party or the other, and holding different amounts of symbolic, social and political capital, compete to inscribe the event with a particular meaning as manifested in the forms of commemoration, including the memorial itself. Yet precisely due to this conflict there was no grand lasting memorial to the State either, and the victims were quite literally erased, barring a small plaque with their names added as an afterthought to the Atocha memorial. In stark contrast to the highly personalized commemoration of victims' lives

in the 9/11 memorial discussed below, there is no testament to the lives lost in the attack.

Politics of Commemoration of 9/11 and Ideal Victim Grievances

In the U.S. case the master frame of political instrumentalization is less salient than in Spain. Striking here, however, was the extent to which hierarchies of worth are defined and how these directly impacted on victim satisfaction with commemoration. Despite less severity of attacks on victims' moral legitimacy in the U.S., those victims differing from State agendas were subjected to backlash for questioning dominant narratives about 9/11 and the response to it.

Political instrumentalization of victims

While less partisan than the Spanish case, 9/11 victims' memory was invoked to further political agendas and to reaffirm core values in the United States. The invasion of Iraq and the 'War on Terror' were repeatedly linked discursively, but not without political and media debate, to a retaliation for the 9/11 attack and the memory of the victims. In the context of 9/11, commemorative discourse emphasizes the United States as a principled democracy, based on the value of American freedom. The attacks themselves are associated with fighting terror through patriotism and the defense of freedom and democracy. Victims' bodies were clearly used to perform national identity, and political careers were launched or solidified on the backs of the 9/11

victims. President Bush clearly identified patriotic duty with 9/11 by renaming September 11th Patriot's Day. He also frequently spoke of what we 'owe' victims:

We resolved a year ago to honor every last person lost. We owe them remembrance and we owe them more. We owe them, and their children, and our own, the most enduring monument we can build: A world of liberty and security made possible by the way America leads, and the way Americans lead our lives... (*New York Times* 2002: 8)

Mayors Giuliani and Bloomberg also repeatedly linked the victims' memory to the war on terror at commemorative events, accentuating the terrorism-freedom binomial and linking freedom to the supremacy of human rights (Gittrich, *New York Daily News*, 2002). Mayor Giuliani spoke of patriotism: "It was a situation of complete desolation turned into one of the most patriotic days in the history of this country. A day of great devastation and great generosity. Tremendous lessons can be learned about the spirit of people who live in freedom" (Sforza, *The Record*, 2002).

Giuliani, Bloomberg and New York Governor Pataki all realized the political importance of commemoration and throughout the long process to construct a memorial and memorial museum, took stands that alternatively sided with and against the wishes of victims' families. Pataki, in particular, made the shrewd decision to create the Lower Manhattan Development Corporation (LMDC), the agency to take the lead on the reconstruction of the World Trade Center site, part of the state-run Empire State

Development Corporation, whose purpose is to advance economic development in the state. The ESDC enjoys a high level of autonomy without requiring state legislative approval. Pataki and his allies wanted to ensure that business interests were promoted at the site (Aronson 2016).

It is with the Bush administration's justification of the war in Iraq as a means to avenge 9/11 that some victims rebelled. *September Eleventh Families for Peaceful Tomorrows* (SEFPT), a group of about 80 relatives of attack victims, were highly critical of the attempts to politicize Ground Zero at the 2003 Republican Convention held in New York City and actively resisted the linking of the memory of the victims to the War on Terror. Rita Lazar, a founder of SEFPT, said: The unifying theme about the Republic convention next year is keep your hands off ground zero. Do not make a political football out of this. This is a place where very close, dear relatives died. It's not the backdrop for a political campaign. (Archibold 2003)

Colleen McCarthy, a founder of SEFPT, said:

...when the bombing campaigns started in Afghanistan..., for me that was [...] not part of what I want to be done for my brother's death. Many family members came to this much more quickly and some were writing letters by 9/14 – do not do anything in our loved one's name. And that is when it started to hit me -it didn't make sense to me that what just happened to our city, and what we

had just experienced, this murder on a massive scale of violence...how could we do this somewhere else? (Interview, 8 August 2011)

These victims' struggles to contest the political use of the deaths of 9/11 came at significant personal cost, as they were subjected to strong backlash:

... in 2004, *Peaceful Tomorrows* very publicly made a stance that there should be absolutely no campaign by any political candidate at Ground Zero. There was huge push back, we were slammed in the Wall Street Journal, we were slammed everywhere, I got hate mail, I got death threats, because it was ...interpreted as a swipe to President Bush. (Colleen McCarthy, Interview, 8 August 2011)

While State actors largely maintained themselves above the political fray, victims' families were nevertheless subject to political backlash when their views diverged from State interests. The defense of State interests is not restricted to State actors. State interest is actively reinforced by members of the public invested in the State's political agendas. Hate mail from members of the public to victims who do not align their interests with particular State political agendas (i.e. The war on Iraq) are therefore attempts to erode victims' moral legitimacy by questioning their patriotism and commitment to the nation.

Explicitly linking the deaths of 9/11 to the deaths of the victims in Iraq and Afghanistan violated the binary between what Butler (2009) calls grievable and non-grievable lives. It closed the gap between victims who deserve to be included in the moral sphere of concern and those who do not and provoked accusations of treason, death threats and hate mail from those anxious to keep this binary intact. Indeed as foreign non-white victims who some saw as part and parcel of the axis of evil, the victims of the War on Terror did not require commemoration by the wounded State following 9/11. Political instrumentalization of 9/11 victims led to conflict that ruptured the social consensus about the universal ideal victims, yet it was not the only form of classification between victims in the post- 9/11 commemorative scenario, which disaggregated ideal victims into multiple hierarchies of worth.

Hierarchies of worth

9/11 victims expressed dissatisfaction with and contested the multiple hierarchies of worth that were established between different categories of victim that arose after 9/11. A distinction was made between ‘heroic’ victims, a status reserved for rescue workers who died in their course of duty on 9/11, and non-hero victims (everyone else). This was manifested through such items as medals and the ‘Heroes of 2001’ commemorative U.S. postage stamp which honoured First Responders on 9/11. Some victims bitterly resented this distinction and argued that the heroic frame should be extended to encompass all who died (Flesher Fominaya and Barberet 2012). Jennifer Jacobs, the widow of a worker for Fiduciary Trust Co. International, said “My husband

had a uniform too... It was a shirt and tie... The postage stamp is a slap in the face...Everyone in their own way acted heroically.” (Zaslow, 5 September 2002).

In addition to conflict over hero attribution, throughout the years of negotiation on the memorial design at Ground Zero, there was intense discussion on how to order the names of the deceased (i.e. by employer, rank, age) (Aronson 2016). While some family members of victims felt strongly about this issue as a means of individualizing commemoration, others sought even more personalized ways to remember their loved ones, as Mary Fetchet of *Voices of September 11th* explained:

I thought it was more important to not get involved in all that debate [about the arrangement of the names on the memorial] but to rather focus on how can we commemorate the lives, how can we help tell that story beyond how the names are listed... you can show your picture, you can show your story and commemorate your loved one in a meaningful way. (Interview, 13 August 2011)

A further distinction was made between the deceased and those that survived. Nearly absent from media attention are those who survived the Twin Towers attack, including the injured. Survivors’ names are not read at commemoration ceremonies.

Even those rescue workers who managed to save lives and survive were not attributed hero status as were their counterparts who perished in the attacks. Anne-Marie Baumann of the *FealGood Foundation*, which works to gain recognition and satisfaction of the ongoing physical, psychological and economic needs of First Responders following 9/11, describes the common reaction to First Responders:

‘Wow, you were down there? Thank you very much.’ What are you thanking *me* for? You were home, watching the TV, and that was their jobs. They chose that, so they’re not looking for the medals. They’re not looking for the recognition. They want help. Maybe you want to consider that the same thing.

I don’t consider that the same thing. (Interview, 10 August 2011)

Baumann’s narrative highlights that conflicts over the commemoration of trauma events are not restricted to the commemoration of the deceased (Aronson 2016), but that depending on the *nature* of the trauma event, the recognition and commemoration of survivors is also important to victims, as is the case with veterans of war. Yet the commemoration of survivors, especially those with on-going illnesses, counters the narrative of closure and successful restoration of the State project that Edkins (2003) argues is needed to repair the social fabric in the Durkheimian sense.

Exclusion

The memorial site at Ground Zero in particular was highly politicized, contentious and litigious. Throughout the process, many victims felt excluded from the

decision making processes or insufficiently consulted. From the moment the first New York advocacy group for victims and victims' families was founded, there was skepticism about the memorial and whether the voices of families would be heard. Marian Fontana, President of the *9/11 Widows and Victims' Family Association*, said:

This could be a final resting place for a lot of our loved ones. We feel very strongly that we should be part of the decision-making in what is going to happen at the site after they're done with the retrieval. My fear is that financial motivations would override sensitivity to the victims, and we want to make sure that doesn't happen. (Barry, *New York Times*, 2001)

This quote illustrates the urge to rebuild and erase the destruction site as the chimera of resilience (Heath-Kelly 2015, 83). Only when destroyed sites (such as Ground Zero) are reconstructed can a security failure be resignified as productive, through 'retrospective and future gazes'. Retrospective, because the security failure can be resignified as one of heroism or grit; and future-oriented, because the security failure can be resignified as something that can be prevented in the future via a society's (Heath-Kelly, 58-59).

Over time, the number of groups grew and the conflict between them and the developers increased. In 2002, the Lower Manhattan Development Corporation, the agency overseeing the rebuilding, formed two panels to plan the memorial. Family

members were named to one-third of the 21 positions. There were as many representatives of arts and design groups as there were relatives of those killed. Monica Iken, founder of September's Mission, an advocacy group that has focused on the creation of a memorial, said, 'I think the governor needs to explain this. Now, right after the election, they're going to dispose of the people who were there from Day 1?' (Wyatt 2002). The memorial design was finally selected by a 13-member jury that included only one family member of a 9/11 victim.

Although efforts were made to include families of victims, finding representatives of the many families was difficult, and thus there was always discontent as decision making moved forward. Monica Iken, the founder of September's Mission, questioned whether the process was truly inclusive or not:

I think they wanted to look like they were doing that. I don't know if per se that's really what they wanted to be doing. They wanted to make it look like there was a process involved. (Interview, August, 2011)

In 2002, families were disappointed to learn that construction on the transportation hub had already begun; many had opposed the idea of subways and trains running beneath Ground Zero. Sally Regenhard, of the Skyscraper Safety Campaign, whose son died on 9/11, said: 'Oh, please, they say they are inclusionary. And they take everyone's opinion, that's true. But then they put it in the circular file' (Sontag, *New York Times*, 2006). The *Coalition of 9/11 Families* filed suit seeking an

injunction to halt construction in 2006. It argued that the LMDC and the Port Authority, the site's owner, had failed to consult with the group. Sally Regenhard said, This building would be 70 feet below ground – and bury visitors once again. It's not safe there is one way in and one way out. All we want is an above ground, safe memorial. I couldn't save my son, but I want to save other mothers' sons. (Greene and Topousis, *New York Post*, 2006)

The physical design of the memorial was an important site of conflict, with struggles over size, location and ownership, among other disagreements. Finally, designs for an International Freedom Center and Drawing Center as part of the Memorial were not favoured by the families because they would distract from the memorial and be a potential source of politicisation. Leaders of several family groups started a 'Take Back the Memorial' campaign in 2005, saying that including any museums other than one memorialising 9/11 was inappropriate (Dunlap, *New York Times*, 2005). Involvement in the commemorative process was seen by victims as their moral right. The lack of remains uncovered for a great many victims (1,200) of 9/11 means a lack of closure marks the entire process and heightened the moral legitimacy and the emotional impact of the victims' families' claims.

As the Memorial Museum was being planned, another issue ensured regarding the storage of unidentified remains. These were slated to be stored in the museum within the slurry wall at bedrock where only families and the Office of the Chief

Medical Examiner would have access to them, not the general public. Some families who felt excluded from this decision protested vehemently. They claimed that the location of the remains in the museum was paramount to selling dead bodies for tourist revenue (Aronson 2016). One family member, Diane Horning, wrote to Alice Greenwald, head of the museum leadership team:

...I know the memorial foundation is very fond of pointing out that this is NOT the families' memorial (or museum) and we are only one of many "stakeholders". But, when it comes to the dead, there can be no question of who owns the dead... and that is not you or the entities you defer to. It is the surviving families. The plan to display the dead is an obscenity and an indignity that cannot be tolerated (as cited in Aronson 2016, 233).

As we have argued elsewhere (2012), in order to be commemorated or to receive other forms of satisfaction or redress, victims must first be recognized as such. While the family members of the deceased mobilized on their own behalf, other victims have not been so fortunate. Butler (2009) has highlighted two exclusions from the commemorative 'frame': the victims of the War on Terror in Iraq and Afghanistan and the illegal workers who died in the Twin Towers. We would like to highlight another significant exclusion here, the injured survivors of the attacks, including those rescue and recovery workers who survived but later died. These survivors in both cases are either marginalized or erased from commemoration, and continue to suffer from multiple physical and psychological after effects^v. These victims fit uncomfortably with

the dominant narrative that is constructed around commemoration, which defines victims as those who died for the nation, democracy and freedom (Edkins 2013). The ongoing needs of these victims are insufficiently met according to the associations who try to serve them. For Baumann, family members of First Responder survivors suffered a loss poorly understood by the public:

[People say] Enough is enough [...] When my husband got hurt [people said] 'Get over it. He's fine. At least he came home.' That really bothers us, the wives, and I'm gonna speak for the wives. My husband did not come home. His body came home but my husband did not come home and he will never come home. (Interview, 10 August 2011)

First responders and their families also felt excluded from most commemoration processes:

[Being part of] the tenth anniversary is only allowed the family members, respectfully and rightfully so, however, these guys dug for their family members and brought their family members out of that mush, okay? Only 75 people were invited? How do you have all the 10,000, 20,000 responders and only invite 75 people? How do you do that? (Baumann, Interview 10 August 2011).

This quote recalls Heath-Kelly's analysis of the anniversaries of disaster events (2016, 61), as inherently problematic for the sovereign: The memory that death broke into the polity and demonstrated the impotence of supposed sovereign actors still haunts

politics.” The responders, with their intimate knowledge of the death site and their many visible wounds and illnesses, are clearly an uncomfortable presence for the sovereign at anniversaries.

The U.S. case does not present the deep cleavages in political elites around 9/11 that we find in the Spanish case, so we find a greater social consensus about the nature of the crime and who is responsible for it. Yet the construction of the collective memory of the cultural trauma event is still fraught with tensions, exclusions, and contradictions that prevent an effective repairing of the social fabric and victim satisfaction. The U.S. case shows a State-led commemoration process that while not seeking partisan agendas to the extent we saw in Spain, nevertheless holds commemoration as key to State attempts to restore legitimacy and attempt to repossess the power that had been usurped by the terrorists (Edkins 2003) as well as justify their “War on Terror”.

While victims’ moral legitimacy was not as questioned as in Spain, the degree to which victims were differentiated into hierarchies of worth (themselves deeply tied to cultural constructions of heroicism and survivor/victim narratives), as well as exclusions from these categories, increased their dissatisfaction with State-led commemoration.

Conclusions

Given the striking differences in commemorative processes across these two cases, we would expect to also find significant differences in victim satisfaction and yet we do not. Despite taking different forms, victim dissatisfaction with State-led commemoration in both cases stemmed from their experience of political instrumentalization, contestations over definitions of victim worthiness to commemoration, and marginalization and exclusion. The right to commemoration is thus extremely difficult to implement in a 'satisfactory' way. Not only are victims subject to instrumentalization by political elites, but they have multiple and conflicting understandings of appropriate commemoration. States seeking to fulfil their legal and moral obligations to commemorate victims may be able to actively work to limit the instrumentalization of victims, but will still face the almost impossible task of satisfying their multiple and contradictory demands. For victims, commemoration is often a double edged sword: they want to remember but find that commemorative events force them to relive the trauma of the events and exacerbate their feelings of grief and loss.

Our cases show that in the case of victims of transnational terrorism, the shift from international human rights law to the specific application of the law in a given nation state is paralleled by a transition from a Durkheimian understanding (in which broad social consensus exists about both the nature of the crime and the right to commemoration) to a more Weberian one in which different carrier groups, with

differing amounts of political, social and cultural power and resources compete to inscribe the event with a particular meaning and to have it commemorated in a particular way. The linking of victims' memory to justify the 'War on Terror' is also compatible with a Marxian understanding of the application of human rights discourse.

In both cases commemorative processes were subject to contention and competing interests that characterize the social construction of the collective memory of cultural trauma (Schwartz 1990; Zolberg 1998; Jedlowski 2001, Tota 2005, Alexander 2004, Smelser 2004). Victims' groups, often in conflict with each other, frequently voice their feelings of marginalization from the commemorative process. In both sites some victims struggle to maintain the commemorative focus on the actual trauma event and not have it extended to encompass other claims and victims. The desire to avoid politicization and instrumentalization is also present in both cases, as are victim hierarchies of worth and exclusion. Whereas partisan divisions and instrumentalization emerge as the strongest category of victim dissatisfaction in the case of 3/11, lack of consultation and meaningful input come through as the strongest category in 9/11. Nevertheless despite the very different natures of the commemorative processes, there are strong shared categories of dissatisfaction across cases, and in general, victims felt strong dissatisfaction or lack of identification with State-led institutional commemoration.

Victims in neither case frame their need or desire for remembrance or commemoration in terms of a human right. As ‘ideal’ victims this is not surprising-only those victims who are not recognized as worthy have to mobilize for their right to be remembered. Perhaps, as Viejo-Rose (2011) argues, we, and they, should not expect meaningful commemoration from the State or political elites. Certainly, the analysis here provides compelling evidence for the problematic nature of victim ‘satisfaction’ with commemoration of transnational terrorism. But these victims *do* mobilize for their right to be commemorated in a certain way, to participate in the terms of commemoration, and to have commemoration that is meaningful to them. Clearly, victims are political actors in their own right, and they will use their moral capital and access to media to mobilize around commemoration issues that are important to them. The tension between State and victims’ interests in commemorative battles echoes strongly Nora’s (1989, 15) discussion of the transformation of memory in the contemporary world, which ‘implies a decisive shift from the historical to the psychological, from the social to the individual...’ Whereas the State continues to hold on to commemorations and monuments that in order to communicate the neoliberal concept of resilience (Heath-Kelly 2016), victims want to mark the event within their own individual histories.

When victim and State interests diverge, the moral legitimacy accorded these victims of transnational terrorism is suspended. Such is the case in both 9/11 and 3/11, where victims who criticized the government for politically instrumentalizing the

attacks were subjected to death threats, hate mail and other backlash^{vi}. When victims explicitly linked the deaths of 9/11 or 3/11 to the deaths of the victims in Iraq and Afghanistan they violated the division between ‘grievable’ and ‘non-grievable lives’ (Butler 2009), and closed the gap between victims who deserve to be included in the moral sphere of concern and those who do not.

Despite the creation of international human rights law, and the widely shared ideal of a universal subject with a right to commemoration, these cases show that the national political context, and specifically State and political interests, clearly influence who has a right to commemoration, who gets remembered and how, and who gets excluded from the public construction of memory.

While this in itself is not surprising, what this analysis shows is that victims of transnational terrorism have an inherently paradoxical status with implications for their treatment, including commemoration, and this helps us understand the puzzle of their dissatisfaction with State-led commemoration. Unlike victims of internecine terrorism, victims of transnational terrorism are targeted by terrorists as random representatives of the State, and their special status also derives from their symbolic representation of the State. The paradox is this: they are simultaneously invested with great moral authority as representatives of the State, yet depersonalized to the extent that they become symbolic carriers for the nation rather than individuals with rights and needs. This in turn guarantees them great attention from the State and the public, yet ironically

subjects them to public backlash and instrumentalization as pawns in partisan struggles for State power. Therefore, although as “ideal” victims they are conferred great attention, moral legitimacy and the unquestioned right to commemoration (in stark contrast to many victims of internecine conflict), the conflict between State and individual interests means that many victims will not be, and maybe never can be, satisfied with State-led commemoration.

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ⁱ See <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>

ⁱⁱ We define victims here in accordance with V.8 of the Basic Principles, as persons who 'individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law...and immediate family or dependants...' (United Nations 2005)

ⁱⁱⁱ For Spain, we searched in *El País* (EP), Spain's center-left national newspaper, and in ABC, the center-right national newspaper, using the terms '11-M' and at least one of 'homenaj*', , 'Atocha', 'conmemora*', 'aniversario', , 'monumento'. For the United States, we searched within news publications of the New York City area, including *The Daily News*, *The New York Post*, *The New York Sun*, *The New York Times*, *Newsday*, *The Wall Street Journal*, *the Village Voice* , and also the *Star-Ledger*, using the terms '9/11' and at least one of '*memor*', 'anniversary' 'monu*' along with either Ground Zero', twin towers, 911 or WTC . Because of the greater number of publications searched for the New York dataset, we limited the search to those articles where the keywords appeared in the headline or lead paragraph.

^{iv} For a detailed review of the centrality of use of newspaper data in event analysis, and how to overcome attendant bias problems, see Earl et al. (2004).

^v The victims associations devote significant time and resources to these ongoing problems as documented on their web-pages, in interviews and in the press.

^{vi} After criticizing President Aznar's involvement in the invasion of Iraq, A11MAT President Manjón was sent emails of the corpse of her son; she reported that she and

other members of her association also received death threats and were told to ‘shove their dead up their ass.’ She had a police escort in 2005 due to death threats. (*ABC* 2005; *El País* 2011; Cadena SER 2004).