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BARCELONA

A bottom-up and citizen-centred approach to transitional justice: public opinion towards reparations in post-Franco Spain

Patricia Enssle

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Facultat de Dret

Programa de Doctorado en Derecho y Ciencia Política
Línea de Investigación: Ciencia Política

**A BOTTOM-UP AND CITIZEN-CENTRED
APPROACH TO TRANSITIONAL JUSTICE:
PUBLIC OPINION TOWARDS REPARATIONS IN
POST-FRANCO SPAIN**

PATRICIA ENSSLE

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Berlin, February 2021

Abstract

Forty-five years after the death of the Spanish dictator Francisco Franco dealing with the legacies of the country's repressive past and addressing the needs of the regime's victims of human rights violations continues to be a highly current and controversial topic in contemporary Spain. The exhumation of the former dictator from the mausoleum 'Valley of the Fallen', carried out by state authorities in October 2019, was praised as a long overdue step by relatives of victims, while right-wing conservative circles criticized it as an unnecessary resurgence of old supposedly overcome conflicts. However, what does the broader Spanish population think about repairing victims of Francoism? An open question in the research field of transitional justice remains the opinion of the public towards state-sponsored victim reparations including different measures ranging from material compensation payments and recognition of individual pension rights to symbolic and collective measures such as renaming of streets or the establishment of public memorial sites and places of remembrance. Using a qualitative bottom-up research approach applying a combination of online-survey and focus group methodology various forms of reparations are identified, which seem to meet with positive feedback from both the victims and the general public. Based on theoretical considerations of the academic literature on transitional justice such publicly supported reparations measures could possibly contribute to reconcile divided societies resurging from a conflicting past.

Cuarenta y cinco años después de la muerte del dictador español Francisco Franco, abordar los legados del pasado represivo del país y atender las necesidades de las víctimas de violaciones de los derechos humanos del régimen sigue siendo un tema muy actual y controvertido en la España contemporánea. La exhumación del ex dictador del mausoleo "Valle de los Caídos", llevada a cabo por las autoridades estatales en octubre de 2019, fue elogiada como un paso largamente esperado por los familiares de las víctimas, mientras que los círculos conservadores de derecha la criticaron como un resurgimiento innecesario de viejos conflictos supuestamente superados. Sin embargo, ¿qué piensa la población española en general sobre la reparación de las víctimas del franquismo? Una cuestión abierta en el campo de la investigación de la justicia de transición sigue siendo la opinión del público sobre las reparaciones de las víctimas patrocinadas por el Estado, que incluyen diferentes medidas que van desde el pago de compensaciones materiales y el reconocimiento de los derechos

individuales de pensión hasta medidas simbólicas y colectivas como el cambio de nombre de las calles o el establecimiento de lugares de conmemoración pública y lugares de recuerdo. Utilizando un enfoque cualitativo de investigación ascendente que aplica una combinación de encuestas en línea y la metodología de grupos de discusión, se identifican diversas formas de reparación que parecen recibir una respuesta positiva tanto de las víctimas como del público en general. Sobre la base de consideraciones teóricas de la literatura académica sobre la justicia de transición, esas medidas de reparación apoyadas públicamente podrían contribuir a reconciliar a las sociedades divididas que resurgen de un pasado conflictivo.

Quaranta-cinc anys després de la mort del dictador espanyol Francisco Franco, abordar els llegats del passat repressiu del país i abordar les necessitats de les víctimes de violacions dels drets humans del règim continua sent una qüestió molt actual i controvertida a l'Espanya contemporània. L'exhumació de l'exdictador del mausoleu "Vall dels Caiguts", duta a terme per les autoritats estatals a l'octubre de 2019, va ser elogiada com un pas esperat pels familiars de les víctimes, mentre que els cercles conservadors de dretes la van criticar com un ressorgiment innecessari dels vells conflictes suposadament superats. Però, què pensa la població espanyola en general sobre la reparació de les víctimes del franquisme? Una qüestió oberta en l'àmbit de la investigació de la justícia transicional segueix sent l'opinió pública sobre les reparacions de les víctimes patrocinades per l'Estat, incloent diverses mesures que van des del pagament de la indemnització material i el reconeixement dels drets individuals de pensions a mesures simbòliques i col·lectives, com canviar els noms dels carrers o establir memorials públics i llocs de record. Mitjançant un enfocament qualitatiu de recerca a l'alça que aplica una combinació d'enquestes en línia i metodologia de grup de discussió, s'identifiquen diverses formes de reparació que semblen rebre una resposta positiva tant de les víctimes com del públic en general. Basant-se en consideracions teòriques en la literatura acadèmica sobre justícia transicional, aquestes mesures de reparació recolzades públicament podrien ajudar a conciliar societats dividides que ressurgeixen d'un passat conflictiu.

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List of Abbreviations

ACHR	American Convention on Human Rights
AIHRC	Afghan Independent Human Rights Commission
ANADIR	Asociación Nacional de Afectados por las Adopciones Irregulares
AP	Alianza Popular
ARMH	Asociación para la Recuperación de la Memoria Histórica
CC	Coalición Canaria
CEAQUA	Coordinadora Estatal de Apoyo a la Querrela Argentina
CIS	Centro de Investigaciones Sociológicas
CiU	Convergència i Unió
CNT	Confederación Nacional del Trabajo
CSDP	EU's Common Security and Defence Policy
CSIC	Consejo Superior de Investigaciones Científicas
DDR	Disarmament, Demobilisation and Reintegration
EA	Eusko Alkartasuna
EEC	European Economic Community
ERC	Esquerra Republicana de Catalunya
ETA	Euskadi Ta Askatasuna
ECHR	European Convention for the Protection of Human Rights
ECtHR	European Court of Human Rights
EU	European Union
FET-JONS	Falange Española Tradicionalista y de las Juntas de Ofensiva Nacional Sindicalista
FGs	Focus Groups
FNFF	Fundación Nacional Francisco Franco
FNTT	Federación Nacional de Trabajadores de la Tierra
FRAP	Frente Revolucionario Antifascista y Patriota
GRAPO	Grupos de Resistencia Antifascista Primero de Octubre
IACHR	Inter-American Court of Human Rights
IPCPR	International Pact on Civil and Political Rights
ICC	International Criminal Court
ICTJ	International Center for Transitional Justice

ICTY	International Criminal Tribunal for the former Yugoslavia
ICTR	International Criminal Tribunal for Rwanda
ICV	Iniciativa per Catalunya Verds
ILC	International Law Commission
IU	Izquierda Unida
JSU	Juventudes Socialistas Unificadas
LGBTI	Lesbian, Gay, Bisexual, Transexual/Transgender und Intersexual
LOGSE	Ley Orgánica de Ordenación General del Sistema Educativo de España
NGO	Non-governmental organization
OHCHR	Office of the High Commissioner for Human Rights
OIM	International Organization for Migration
PCE	Partido Comunista de España
PP	Partido Popular
PSOE	Partido Socialista Obrero Español
SSR	Security Sector Reform
TJ	Transitional Justice
TRC	Truth and Reconciliation Commission
UCD	Unión de Centro Democrático
UGT	Unión General de Trabajadores
UN	United Nations
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNSC	United Nations Security Council

Introduction

In 2020, such an unusual year, certainly no piece of writing will be able to do without addressing the global Covid-19-pandemic that has so abruptly changed our lives in many ways. The coronavirus not only represents a worldwide public health emergency that shows us the limits of the modern globalised world, but also has long-term implications for political, economic and societal developments of the twenty-first century. This crisis is way more than just a health crisis, it is a crisis for human rights, peace, and justice. Because the worst affected by this exceptional circumstances are the most vulnerable, the poorest of the poor, no matter be they countries, societies or individuals. This becomes evident especially for civil societies in war zones, which are hit twice as hard by the spread of the virus. The repeated calls by United Nations (UN) Secretary-General António Guterres for a global ceasefire and the concentration of state activities on combating the virus have in many cases gone unheard (UN News, 23.03.2020). Demonstrated by the renewed fighting between Azerbaijan and Armenia in the Nagorno-Karabakh region or the recent military conflict over the northern region of Tigray in Ethiopia, coming along with grave human rights violations.

Besides affecting people in war areas, the pandemic puts already vulnerable societies at risk of an outbreak of social unrest and post-conflict regions of risk of a recurrence of conflict. The pandemic poses at the same time the danger of throwing from violence recovering countries in their development back by decades. As an instant, because of disrupting access to education and vital services for whole generations. In addition, new sources of conflict might arise from a shift in the geopolitical situation in favour of countries that emerge stronger from the pandemic, from travel bans and intensification of state border controls as also from possible vaccine distribution struggles. From this background, there will be globally an ongoing or even increased need to foster human rights and democratization processes. This encompasses to find responses to and to redress the legacies of large-scale human rights abuses occurred during war, authoritarian rule, occupation, oppression, and other forms of violent conflicts relying on different judicial and non-judicial instruments and processes. Dealing with past atrocities is moreover crucial for strengthening state institutions and the rule of law. These elements are essential in order for a state to be able to tackle crisis like the consequences of the Covid-19-pandemic that are in their magnitude still unpredictable. Therefore, studying such post-conflict and regime transition processes to governmental

systems based on rule of law and human rights is a timely and highly crucial topic the present thesis draws on.

Healing a society ravaged by atrocities of the past is a state's long-term task aiming to ensure accountability, finding the truth, do justice, provide remedies to victims, boost healing and reconciliation as well as restore confidence in state institutions, establish independent inspection of the security sector and promote the rule of law with the ultimate goal to prevent repetition. Such a process, which developed as a field of scholarly inquiry in the 1980s and 1990s, is understood as the concept of 'transitional justice' (hereinafter TJ) (Mihr, 2017). Addressing a country's past legacies of large-scale human rights violations after a transition from an authoritarian regime to a democratic one or in the aftermath of an internal violent conflict or civil war, became in the last decades a prominent approach within the wider field of peacebuilding theorists and practitioners.

Widely applied instruments include prosecution in form of national trials or the setting-up of international or hybrid tribunals holding accountable perpetrators of human rights violations, truth-seeking mechanisms as such a prominent form are truth commissions, vetting or lustration processes, reparations, as also institutional reform of the security sector and the judiciary. The UN Secretary-General recommends a holistic approach to combine several of these elements and strategies to also address the root causes of conflict (UN Secretary-General, 2004). Whatever measures chosen, they have to be in conformity with international human rights standards and obligations (UN Guidance Note of the Secretary-General, 2010). Publicly effective accusations are often made against offenders, while on the opposing side the victims themselves and their concerns receive less public and media attention. However, every massive violation of human rights raises the question of how the state can deal with the affected societal group, on the one hand, and with individual victims on the other. Victimization resulting from an authoritarian regime or violent conflict can be manifold. After a regime change or a peace agreement several issues arise, for example, what happens with former political prisoners, with persons injured due to torture or combat, and the families of persons disappeared or assassinated? Internationally there is consensus about the legitimacy of addressing victims' needs by means of truth, justice and reparations.

Repairing and providing redress for human rights violations is a commonly used and central tool within the framework of transitional justice applied to states in post-conflict and in

democratic regime transition contexts. Providing reparatory justice in the form of material, symbolic, individual, or collective reparations is by many considered an effective mean to address and recognize past wrongdoings of the state as well as a way to facilitate long-term reconciliation and peace (Verdeja, 2006). Whether in general TJ measures have a rather positive or negative impact and indeed foster reconciliation is however subject of controversial debates among academics and practitioners.

Focusing on reparations is of particular interest and importance since they constitute the most victim-oriented instrument. At first, it should be noticed that different concepts exist in respect to victim reparations. Thus, a distinction must be made between, on the one hand, a legal conception of reparations as understood in international law and, on the other hand, an operational one applied by practitioners. Nonetheless which conceptualisation is used, reparations are generally praised as the most direct form to address victims' needs. Reparations are even said to have the potential to act transformative by changing underlying social structures as for example influencing gender-relations in post-conflict societies (Björkdahl and Selimovic, 2015). In spite of this, scholars highlight several challenges in respect to the design and implementation of state-run reparative measures and extensive reparations programmes. Challenging are many aspects inter alia determining who is the target group, who are the victims and beneficiaries, to opt for the appropriate types of reparations, and to select an effective functional and institutional design for their implementation. Always keeping in mind, that lastly providing reparations is a public policy act and thus is strongly depended upon a country's specific context and its political and social (pre-)conditions (García-Godos, 2017).

Badly designed reparative measures can result in low support or even rejection of certain measures or the whole programme by parts of the society and/or the beneficiaries, the victims and their families themselves. Reparations that are not supported by a large part of society because they are considered as misguided are certainly not conducive to a social reconciliation process. From this background it seems crucial for the design of reparations policies, to collect the multiplicity of positions and opinions to comprehend what drives public attitudes and perceptions towards reparations (Samii, 2013). Drawing on public opinion by surveying citizens' attitudes and actively involving the civil society is also a way of approaching the repeated call for a more bottom-up approach to the implementation of policies.

Relevant scientific reading is rich in case studies that draw on countries from the Global South – except research dealing with the reparations efforts made by countries of the former Yugoslavia – ranging from the Sierra Leonean reparations programme endorsed by the country's Truth and Reconciliation Commission (TRC), over Guatemala's National Reparations Commission or Peru's collective reparations programme to victim participation in Cambodia's Khmer Rouge Tribunals. Whereby, there are European countries that are extremely interesting to study in terms of dealing with victims of state violence, repression, and injustices. One country that stands out in comparison to other European countries because having undergone a democratic transformation process only in the second half of the twentieth century is Spain. The Spanish Transition from the dictatorship of Francisco Franco (1939-1975) to a democratic system came along with some early measures to repair victims of the Civil War and Francoist repression, but was overall determined by the still in force infamous Amnesty Law which was initially directed to political prisoners, but ultimately also included officials of the old regime. During the Transition political elites from basically all political currents agreed on an informal consensus, not to look back, but to the future and to let the past rest for the sake of democratic consolidation and reconciliation among Spaniards. What has become known as the 'pact of forgetting' (pacto del olvido).

Spanish social scientist and journalist Emilio Silva Barrera, grandson of a victim of Francoist violence and pioneer of the civil society movement for the recovery of historical memory, published just recently a collection of articles under the title 'Holes in the silence. Pieces of memory against the impunity of Francoism (2000-2020)', which exemplifies the struggle of Franco's victims over the decades and clearly points on the persistent unresolved issues to this day. Which is why it is certainly worth to accompany this introduction with a few citations from his collection. In one of the first entries from the year 2000 Silva Barrera wrote:

“While post-dictatorship European democracies have been responsible and made every effort to solve the atrocities of totalitarianism, it is seen here [Spain] that to be silent is to forget” (Silva Barrera, 2020, p.36).

On the Spanish Transition he commented:

“(…) huge and countless human rights violations were supposedly settled in the transition. With the collaboration of the parliamentary left, which accepted the amnesty and hijacking of the debate on the model state, the Franco dictatorship became the perfect crime” (Silva Barrera, 2020, p.78).

“The Spanish elites (...) they made great efforts to turn the transition into a revolving door, where Francoists entered and Democrats came out” (Silva Barrera, 2020, p.152).

To date, no one has been held accountable for crimes committed during the dictatorship. Any attempts to re-investigate the Franco regime's human rights violations were rejected by Spanish courts, arguing with the Amnesty Law.

“Thousands of Spaniards participated in them [massive violations of human rights that took place after the Civil War], supported and applauded them, and with the advent of democracy the Amnesty Law permitted them [the ones who participated in the violations] to have no criminal responsibility. The right to know every corner of this that is our history did not prescribe with this political decision. If this would not be possible, we should rethink which democracy we have built that cannot bear to review the consequences of Francoism.” (Silva Barrera, 2020, p.39).

Given the fact, that no serious truth revealing nor any justice efforts have been made by the Spanish state institutions, Spain is occasionally referred to as a case of transitional justice without justice. The case of Spain is mainly regarded by TJ literature as an illustration for the use of the amnesty mechanism, but on closer inspection, there have also been some interesting developments with regard to victim reparations. Merely thirty years after the transition momentum, which began with the death of the dictator, the Spanish Government adopted policies in the field of the in Spain so-called 'historical memory' (memoria histórica). These measures culminated in the passing of the comprehensive but definitively not all-encompassing Historical Memory Law in 2007. However, in particular victim organizations were not satisfied with its provisions, as such Silva Barrera summarized:

“The so-called Historical Memory Law has not taken a single missing person out of a mass grave because of the repression of the Franco dictatorship. Faced with the responsibility that a democratic state must assume to guarantee human rights, its articulation speaks of 'facilitating' the search” (Silva Barrera, 2020, p.111).

“(...) just as it took to resolve the rights of the victims of the Franco dictatorship is political will and not a law. What was needed and is needed is the Spanish judiciary to investigate, judge and determine which reparation is entitled” (Silva Barrera, 2020, p.157).

Because of decades of omission and refusal to deal with the past, some scholars argue that there has been no coming to terms with the past in Spain so far (Bernecker, 2016, 2018). This also raises questions as to whether the reconciliation so vaunted during the Transition has

actually taken place. As a result, the debate on the past has not been able to reach an agreement among the society and so far could not create a common narrative of the past in Spain. Hence, memories of the Civil War and the dictatorial past are more topical today than ever. One can observe that in recent years the question of how to deal with the victims of human rights violations committed by the Franco regime is subjected to an increased politicisation. It seems the historical memory debate has gained a new momentum in politics with the long-planned exhumation of the remains of Francisco Franco from the mausoleum and monument Valley of the Fallen in October 2019, complying belatedly with a provision from the 2007 Law. On the occasion of Franco's exhumation, Spain's President Pedro Sánchez from the Socialist party (PSOE) twittered:

“With the exhumation of the remains of the dictator Francisco Franco, Spain is coming into terms with itself. It puts an end to a moral outrage, and takes a further step towards the reconciliation that can only be based on democracy and freedom. Today our democracy is gaining prestige in the eyes of the world.”¹

While Silva Barrera expressed on the event of Franco's exhumation:

“Franco's body has remained intact, like a relic, in the place he programmed himself, without democracy countering him or taking a vision of it. But memory recovery is, among many other things, a struggle for the meaning of the past, and in recent years the meaning of a monument like the Valley of the Fallen has been transformed into an uncomfortable reality for large social sectors. (...) Franco's body in the Valley Basilica is like a drain plug. It symbolizes many democratic deficiencies, many injustices (...) (Silva Barrera, 2020, p.200).

Despite all the government's rather half-hearted and hesitant efforts made so far, the victims' rights to truth, justice and reparations remain largely unfulfilled. Even 45 years after Franco's death, full public recognition by the State of the suffering of the victims and their descendants as well as the political will to assume governmental accountability to provide coherent and comprehensive reparations, are still outstanding. These gaps are now to be filled by a new law, which was presented by the Socialist governing coalition in September 2020.² The draft of the so-called Democratic Memory Law has of course already caused criticism from many

1 See Twitter @sanchezcastejon (24 October 2019). Available at: <https://twitter.com/sanchezcastejon/status/1187362709752430592> (Accessed 20 November 2020).

2 See La Moncloa (15.09.2020) 'El Gobierno aprueba el anteproyecto de Ley de Memoria Democrática'. Available at: <https://www.lamoncloa.gob.es/consejodeministros/resumenes/Paginas/2020/150920-cministros.aspx> (Accessed 25 November 2020).

sides. This is why it is timely to study the opinions of Spanish citizens in order to find out what attitudes and perceptions the civil society has towards the subject of reparations for the victims of Francoism, in addition to the loudly expressed opinions of politicians and those of victim associations. By doing so, this thesis has some broader practical and social relevance. On the one hand, to gain an in-depth understanding of Spaniards' attitudes in the current time. Thus, to update previous empirical studies in the field and to provide the public with a platform for discussion and interaction. On the other hand, to make recommendations to Spanish Authorities for the adoption of policy strategies on victim reparations that are based on new public opinion data.

To put in a nutshell, the presented train of thoughts argues that there is a high relevance to study the topic of reparations, within the framework of transitional justice, from a bottom-up and citizen-centred perspective, what means to necessarily involve public opinion. Adding to this, when regarding the state of the art there is a clear research gap in TJ scholar, in relation to several aspects: First, existing literature on cross-national transitional justice measures is mostly addressing the instruments of trials, truth commissions, and amnesties. A shift of attention towards reparations, being the key victim-centred measure, seems promising and potentially rewarding as bridging significant disconnect between transitional justice literature and practice. Second, most research on reparations focus on legal redress, institutional determinants, or normative discussions about desirability, rather than on empirical evidence. Still missing is a generalizable theoretical framework explaining the emergence, the design and implementation of reparations programmes. Third, public opinion as a factor detecting institutional determinants of reparations policies and as contributing element to the whole reconciliation process, is not considered directly (Adhikari, Hansen and Powers, 2012).

Methodological approaches are limited to mostly descriptive analysis and single case studies and the field of empirical studies and opinion-based surveys is scarce. This is even more the case in the event of Spain as only a handful empirical studies have been conducted, which can furthermore be considered as outdated.³ However, it is of importance for policymakers to better understand public opinion in order to issue the 'right' measures and thus support a true reconciliation process. Population-based research can bring unique insights into approaches and instruments for satisfying victims' needs and reconstruct a future for them and their

³ See for example the empirical study conducted by Aguilar, Balcells and Cebolla-Boado (2011) using data from the 2008 CIS-survey.

descendants (Parmentier and Weitekamp 2011, 2013). Asking for public opinion means also stimulating a national debate on public spending for reparations and involving citizens in the discussion about the design of the programme. Applying a bottom-up and citizen-centred approach values the reparations measures taken, and values their contribution to the reconciliation process. Given that, this thesis aims to fill the mentioned gaps by addressing the following two research questions:

- I. What are the public opinion, the attitudes, and the perceptions on reparations for victims of Francoism in Spain?
- II. What must be done: How do reparations (programmes) need to be designed and implemented to achieve public support?

With the first question inquiring into 'opinions, attitudes, and perceptions' towards victim reparations for the case of post-Franco Spain, this thesis seeks to shed light above all on the more subtle issue of: How Spaniards perceive it to address the needs of Franco's victims? What does the public in Spain regard as adequate and legitimate ways of providing reparations for past human rights violations? To which kind of reparative measures is assigned priority? What is the extent of agreement with what has been done by the Spanish State in terms of reparations so far? What is still missing? Subsequently, the second research question raises the matter to a more abstract level asking for what needs to be considered in the design and the implementation process in order for reparations to enjoy acceptance, or even popularity, and thus finding broad support in society. Important to highlight, the chosen approach focuses on analysing and understanding public opinions, attitudes, and perceptions and does not primarily aim to measure any form of success or effectiveness of reparations, such as the mentioned contribution to peace and reconciliation. Nevertheless, reparations that are supported by large parts of the society might be key to foster reconciliation processes and long-term peace.

The theoretical framework is built on various concepts related to the emergence, the design, and implementation of reparations programmes drawn from relevant TJ literature and previous empirical studies. Linking these concepts, dynamics, and underlying assumptions an analytical framework for the analysis of public opinion on reparations is proposed. This framework explores three sets of variables that are assumed to have an effect on the manifestation of public opinion and that might be responsible for an expression of rather

positive opinions, in form of support, or rather negative opinions, in form of non-support, towards reparations policies implemented by a state. The first set of variables, the 'contextual dynamics' is referring to the reasons and causes for the emergence of reparations encompassing variables of historical legacy, the legacy of the violence, the peace and/or transition process, the subsequent new political system, and the international context during the time period of the emergence of reparations. The 'programmatic horizon' as the second set encompasses variables accounting for the application of different TJ mechanisms, the timing and sequencing of these mechanisms, the concrete design of reparative measures or the reparations programmes, and the way the reparations measures are implemented. The third set of 'individual personality' variables includes personal experience during the violent past and socio-demographic characteristics of the individual, a person's socialization through the family identity towards the past, and personal political, religious, and ideological views. The framework does not display causal relationships and does not present an exhaustive list of possible determinants for public opinion, but it is rather a first attempt to offer a tool for systematically analysing public opinion on reparations. The proposed analytical framework aims to be applicable in other similar contexts for comparative analyses of several country cases. Nevertheless, given the general lack of grounded theoretical schemes on reparations, the proposed relationships of variables not only are to answer the research questions, but also seek to contribute to further theory development.

Suggested and believed as adequately for addressing the research questions is a cross-sectional research design applying a qualitative research strategy. Qualitative research is needed to gain in-depth insight into attitudes and perceptions of citizens concerning Spain's manner of dealing with its past, focusing on the mechanism of reparations. The methodological proceeding is to use a sequential mixed-methods approach for data collection by conducting a short online-survey in combination with two focus groups. The rationale behind is that the online-survey basically prepares the ground for the focus groups. The collected survey data is thought to function as a filter to narrow down the topic of reparations to main points of public concern, to identify critical issues and crucial variables from the introduced analytical framework. The focus group discussions are built on the survey findings and probe for previously raised points of controversies. Field work took place in a timespan of September to December 2019 for the online-survey and during May to June 2020 the focus groups were conducted. The analysis and interpretation of the collected data is done

exclusively qualitatively through frequencies and bivariate analysis of the survey data and by categorization of topics and identification of tendencies from transcripts of the focus group discussions. Solely qualitative analysis is carried out because of distinct reasons, among others, that a representative sample of the Spanish population could not be obtained.

The empirical analysis is further complemented by descriptive analysis of Spain's historical and political context of the repression and the human rights abuses committed during the Franco regime. Also, a profound overview is provided of what has been done in Spain since the Transition to democracy in terms of transitional justice efforts. Furthermore, a detailed summary on reparations laws, measures, and initiatives undertaken in the last forty-five years of Spanish democracy rounds off the analysis. Finally, the attempt of fitting the Spanish case within the proposed analytical framework, explaining citizen's support or non-support for reparations for victims of Francoism, yields interesting results. On this basis some general guidelines of best-practice, addressed to practitioners and policymakers, on what needs to be considered in the design and implementation of reparations that one may assure their public support, are deduced. Additionally, from the empirical results emerge a list of observations regarding reparations policies for the victims of the Franco regime, that should be considered to incorporate in the new Democratic Memory Law by the Spanish Authorities.

The thesis is structured as followed:

Chapter I introduces the concept of transitional justice drawing on the evolution of the research field, clarifies, and defines the mainly used concepts and terms. Beyond that, the main mechanisms from the TJ 'toolbox' are briefly introduced. Followed by outlining research on impact and effects of TJ as also on criticism of the TJ concept and practice.

Focusing on the instrument of reparations, Chapter II presents the notion of reparations from a historical, juridical, and a holistic perspective. Thereafter different factors for the emergence of reparations and the various options for a state to design and implement reparations programmes are described. Further, the Chapter clearly lays out the research gap and points on the unique relevance for studying public opinion towards victim reparations.

The theoretical Chapter III familiarizes the reader with the concept of public opinion and points on some main existent empirical research studies on the formation of public opinion towards reparations and their findings on determinants and manifestations of public opinion.

The second Chapter section establishes an analytical framework for public opinion on reparations and deduces from it some theoretical assumptions and expectations for the case of Spain.

Chapter IV presents the research design and methodology chosen for the empirical analysis conducted for the case of Spain. It explains in detail the research design, the operationalization of variables, the case selection process and the data used. The methodological proceeding including sampling strategies, research instrument design, and data collection as well as the procedures of analysis of the online-survey and focus group data is explained. The Chapter concludes with mentioning some challenges and ethical considerations related to the research design.

Chapter V analyses Spain's historical and political context as well as the repression and human rights violations committed during the Franco regime. Followed by a comprehensive account of the transitional justice measures taken and an even more detailed overview of reparations laws, measures, and initiatives issued by the Spanish state since the Transition up to nowadays.

Subsequently, Chapter VI gives a profound analysis of the online-survey respondents' and focus group participants' experiences, attitudes, and perceptions in relation to reparations for victims of Francoism. Lastly, the Spanish case is applied to the previously introduced analytical framework for public opinion on reparations.

The final Chapter VII discusses findings of the empirical research conducted for the case of Spain, from the background of the theoretical assumptions and the analytical framework. Main practical implications are compiled in form of some guidelines of best-practice addressed to practitioners and policymakers on what needs to be considered in the design and implementation of reparations in order to secure their public support. Additionally, the Chapter plugs back into the theoretical debate focusing on reparations' possible contribution to peace and reconciliation. A final section not only reflects on outstanding issues, theoretical as well as methodological limitations of this thesis, but also offers perspectives where future research could tie in. The Chapter concludes with outlining a list of concrete observations of future policy strategies on reparations to take into consideration by the Spanish Authorities.

1 Chapter I. The State of Art in Transitional Justice

Reparations as a way of dealing with a country's violent past form part of an extensive discussion about post-conflict justice, democratic transition, and reconciliation processes, covered by the so named transitional justice literature. Therefore, the Chapter introduces the concept of transitional justice by first drawing on the historical evolution of the research field, hereafter considers the development of the term towards a broader concept and then defines the basic terms used as they are understood in this thesis. Further, the most common TJ mechanisms are presented as well as empirical research explaining impact and effects of TJ. Lastly, critical views of TJ are discussed.

1.1 Transitional Justice: Coming to Terms with the Past

The discussion about transitional justice (hereinafter TJ) evolved within the field of peacebuilding activities. Post-Cold War peacebuilding and contemporary approaches are multifaceted activities including various aspects for the promotion of reconciliation (e.g. see Newmann, Paris and Richmond, 2009, theory of liberal peacebuilding and democratic peace). Although it is commonly acknowledged that the concept of transitional justice is quite a young one in the scholarly debate, introduced in the 1990s, its historical roots go back to World War II. Teitel (2003) establishes the first phase of his TJ genealogy from the postwar period after 1945 until the end of the Cold War. The postwar trials that criminalized a state's wrongdoing deeply established TJ within international law and provided historical precedent and legacy for human rights law (Teitel, 2003). Initially, the concept of transitional justice endorsed a rather legalistic understanding, focusing on the prosecution of perpetrators of grave human rights abuses. The Nuremberg and the Tokyo Trials exemplify the first attempts at institutionalizing criminal justice in the form of war tribunals. Above that, in the second half of the 1940s first attempts were made to publicly memorialize victims of war crimes and crimes against humanity when in all four occupied zones in Germany memorials were erected and commemoration were organized for the victims of Nazi Germany.

In contrast, the Cold War period was characterized by the employment of amnesties as the bipolar world order was contingent upon keeping authoritarian regimes stable. In the mid-1970s, momentum gained the worldwide passing of many countries from authoritarian regimes to democratic rule. This trend took its beginning with the Carnation Revolution in

Portugal 1973 and ended after the disintegration of the Soviet Union at first years of the 1990s. During this, by Samuel Huntington so-called 'third wave' of democratization (cited in Reiter, 2017), attention was drawn on other forms of TJ besides pursuing justice. This shift occurred from the background that in many transition countries, as for example in Brazil or Uruguay, amnesty laws were passed, what made putting to trial perpetrators impossible. Seen as an exception to this shift of attention can be considered the prosecutions and trials of the former military junta that had overthrown the democratic government in Greece and of the members of the political police in Portugal. Other countries, such as Spain, combined the amnesty with an approach towards forgetting the past for the sake of peace and democratic stability.

In this time first truth commissions were created in Latin America in the 1980s and 1990s (whereby the very first one was set up earlier, in 1974 in Uganda). Since fighting impunity and bringing perpetrators to justice was considered more and more as a necessary condition for the consolidation of emerging democracies, later truth commissions integrated the amnesty in the truth-telling process as occurred in the famous case of the South African Truth and Reconciliation Commission (Buckley-Zistel, 2007; Loyle, 2013a). Given that, since the 1980s there were growing demands for TJ, in particular victim-focused measures became prominent and the use of TJ instruments as apologies, truth commissions, that in many cases lead to reparations, spread across the globe. Teitel's (2003) second wave begins with the end of the Cold War and the 1989 wave of democratic transitions in Eastern Europe, Africa and Central America, characterized by a more diverse understanding of the rule of law tied to a particular community and local conditions, thus not only being understood in terms of accountability.

TJ has made another shift towards a process of combining both: deal with huge mass of perpetrators and address at the same time the needs of victims. Since the setting up of the South African Truth and Reconciliation Commission another trend was to combine truth telling and victim reparations with reconciliation between victims and perpetrators. Further, the upswings for TJ can be associated with growing influence of the human rights framework in the international arena, with the impact that prosecutions of state officials, for having committed human rights abuses, had on global politics (Sikkink, 2011) and with concerns of social justice in democracies (Neumann and Thompson, 2015). According to Khittel and Pospisil (2011, pp.6-8), TJ became a main sector of international development cooperation

and moved from the exception to being a benchmark paradigm of rule of law. Today's understanding of TJ – Teitel's (2003) third wave – stems from UN former Secretary-General Kofi Annan's (2004) report 'The rule of law and transitional justice in conflict and post-conflict societies' declaring that:

“Transitional Justice comprises the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof” (UN Secretary-General, 2004).

This short historical outline illustrates that the very concept of transitional justice has broadened over the years, both with reference to the terms 'justice' and 'transition' (Olsen, Payne and Reiter, 2010; Fischer, 2011).

1.2 Broader Concepts of Transitional Justice

When in 1999 Van Zyl (1999) wrote about the dilemmas of TJ, he already stated that only a past focused approach relying on prosecutions is not sufficient to avoid a recurrence of violations and to establish a human rights culture in a society. Hence, he listed some key components of a holistic approach to transitional justice including international prosecutions, domestic prosecutions, truth commissions, and other domestic human rights initiatives. In recent contexts, the term TJ does not solely refer to an authoritarian past, but also to transitions from internal violent conflicts and civil wars to peace (Buckley-Zistel, 2007; Engert and Jetschke, 2011). In a broad conceptualization TJ can be defined as an array of non-judicial and judicial instruments that are applied to address past human right violations in countries that emerge from violent conflict or authoritarian rule. Measures can include amnesties, criminal prosecutions, truth commissions, reparations programmes and apologies or institutional reforms (Buckley-Zistel, 2007; Kerr and Mobekk, 2007; ICTJ, 2016). Based on the assumption that coming to terms with the past is indispensable for the consolidation of peaceful, democratic societies (Fischer, 2011), academics and practitioners broadly agree that the aim of TJ should be *“the recognition for victims and promotion of possibilities for peace, reconciliation and democracy”* (Buckley-Zistel, 2007, p.2). Reconciliation exhibits a bridging

function between the often-postulated incompatibility of peace and justice (Mani, 2005, 2007). Scholars basically agree that nowadays, in an environment of complex forms of conflict, repression and the undermining of human rights, the meaning of what encompasses TJ needs to be expanded.

TJ measures are both judicial and non-judicial in their form, exhibiting either a retributive or restorative character of justice (Olsen, Payne and Reiter, 2010). Retributive justice emphasizes the need for punishment of crimes, while restorative justice seeks to re-establish the dignity of those who suffered from these crimes (Loyle, 2013b). Opinions differ in respect to which instruments exactly should be included under the 'umbrella term' of transitional justice and which different combinations of instruments maximizes the effectiveness of TJ (Buckley-Zistel et al., 2014; Mani, 2007; Ambos, 2013; Olsen, Payne and Reiter, 2010; Dancy and Wiebelhaus-Brahm, 2015).⁴ Mani (2005), for example, presents three dimensions of justice: rectificatory justice (direct consequences, crimes and genocide tried before trials and courts), legal justice (rule of law, legal injustices), distributive justice (structural and systematic injustices and distributive inequalities). Mani (2005) also recalls that, it is necessary to address justice in a holistic way, balancing positive and negative peace to secure sustainable peacebuilding. This train of thought is based on Galtung's peace theory defining negative peace as the solely absence of violence while positive peace goes beyond that incorporating notions of social justice, cooperation, harmony, and integration (Galtung, 1985). Drawing on this, Mani (2005) emphasizes a maximalist approach, including also reparative justice. Reparative justice address needs of all survivors, and society at large, implies positive and negative peace.

Likewise, Alexander L. Boraine, member of the South African Truth and Reconciliation Commission and co-founder of the 'International Center of Transitional Justice' (ICTJ)⁵, advocates for a holistic interpretation grounded on five principal pillars: accountability, truth recovery, reparations, institutional reform and reconciliation (Boraine, 2006). In a special edition of the 'International Journal of Transitional Justice', Mani (2008) sheds light on a broader concept of TJ and its nexus with development. Mani identifies four dilemmas

⁴ For example, Olsen, Payne and Reiter (2010) find that the best options for democratic consolidation are a combination of trials and amnesties or trials, amnesties and truth commissions providing a justice-balance. Dancy and Wiebelhaus-Brahm (2015) prove that amnesties and trials seem to be a sufficient condition for democratic consolidation.

⁵ For more information on the ICTJ see website, available at: <https://www.ictj.org/>.

concerning the complex relation between TJ and development. First, social injustices in the character of underlying causes of conflict, second, the expenditures of TJ measures, third exploitative and corrupt war economies, fourth post-conflict criminal and societal violence. Some suggestions Mani derived are: to consider social injustice as underlying causes of conflict, include community reparations as done for example in Peru. A truth commission should identify underlying injustices and should propose workable solutions. The fulfilment of the right to reparations must be made systematic practice in all TJ processes also for practices of social injustice included in development packages which should combine individual and community reparations. Further recommended is to use hybrid trials as when conducted within country this could reduce costs. However, there should be made no trade-off between development and justice. Accordingly, earnings from war economies should be used to pay reparations (e.g., in Sierra Leone earnings from diamonds directed to pay part of reparations), meaning to actively involve war economies. Truth commissions should investigate war economies and trials for unethical agreements set-up as also the industry should repay illegal profits. Criminal and societal violence should be addressed through institutional reforms and community-based reparation, such as combining effective community policing with social measures as such providing attractive alternative employment for youth or supporting cultural infrastructure, where special attention must be given to prevent and castigate violence against children and women. Galtung speaks in situations of woes and hunger about 'structural violence' as an “*unintended harm done to human beings*” (Galtung, 1985, p.145).

Sharp (2013) criticises that historical, liberal transitional justice approaches are too narrow leaving beside questions of economic justice and being a 'top-down' procedure of dealing with bargains of elites during political transitions, rather than building up democracy from the grassroots by applying a more participative approach. Since TJ has become part of the peacebuilding paradigm contributing to positive peace, TJ has to democratize and pluralize its approaches. More participatory and community-level approaches, overall a more holistic approach to the ambit of justice subjects dealt with in transition, along with issues of TJ generating economic justice, is needed. Therefore, Sharp (2013) calls for a fourth generation of TJ exploring its own peripheries, creating new approaches, being more forward-looking by commitments to strengthen democracy. Also, addressing economic injustices by dispensation of political and economic power in societies emerging from conflict and following “*fundamental*

commitments to local deliberation and political autonomy” (Sharp 2013, p.178). Preoccupations of fourth generation should question the conception of transitional justice as neutral mechanisms, the balance between the 'local' and the 'international', and question the place of economic violence and economic justice.

Building on a holistic approach towards TJ, Baker and Obradovic-Wochnik (2016) analyse the convergences and divergences with the field of peacebuilding. The peace versus justice debate links those fields showing an understanding of 'peace' in transitional justice and the concept of 'justice' in peacebuilding. They argue that overlaps of the field have been neglected by academics, but they are obvious. Because the aim of justice, peace and reconciliation is linked to the concept of positive versus negative peace, and because post-conflict peacebuilding is based on reparative justice. Many of Sharp's periphery issues mentioned are embedded in peacebuilding practices, such as *“socioeconomic justice, local projects ignored or dismissed as 'transitional justice', the attempts to re-establish the 'normal' after conflict, the religious, rural and gendered responses to formal justice, the impact of peacebuilding on local power relations, and the ways in which transitional justice projects can place war-affected groups into contexts where they must become lobbyists and bidders for their rights”* (Baker and Obradovic-Wochnik 2016, p.296). Hence, they conclude that:

“locally, 'peace' and 'justice' do not always look like the 'peace' and 'justice' drawn up by international donors and peacebuilders; and, despite the 'turn to the local' in international relations, it is surprising just how many local and everyday dynamics are (dis)missed as sources of peace and justice, or potential avenues of addressing the past” (Baker and Obradovic-Wochnik, 2016, p.296).

Khittel and Pospisil (2011) mention that problematic of such an inclusive TJ definition is that the analytical value is limited, as it could encompass nearly any measure, method or approach of dealing with a country's aftermath of massive violence. So, looking beyond is an important task also for analysing political power.

Other recent scientific literature regards TJ measures holistically in relation to the society (Ramírez-Barat, 2014; Schwelling, 2012; Gready and Robins, 2019). Being crucial for a successful TJ process, victim participation has become an established norm in scholarly writings and a sign of the due diligence and good faith of governments (Méndez, 2016; Robins and Wilson, 2015; Nickson and Braithwaite, 2014). In the broadening of the concept

of TJ, consideration should also be given to the field of memory politics. Authors such as Nuzov (2017) describing the dynamics of collective memory in Ukraine and Russia highlight the fact that TJ is of interdisciplinary nature what allows for the consideration of the effects of memory laws. *“TJ practitioners might turn to historians to recreate a chronology of abuses”* out of archived material, and on questions of state identity (Nuzov, 2017, p.135). He formulates the hypothesis that, *“timely and narrowly memorialization measures might help to further democratization, reconcile societies and even improve relations between states”* (Nuzov, 2017, p.136).

Furthermore, increased attention is paid by scholars to gender perspectives and TJ in the context of gender-based violence. TJ instruments need to be gender-sensitive meaning to offer specific measures and grant specific rights directed to address women's gender roles (Björkdahl and Selimovic, 2015; Simic, 2016). At large, Mihr (2017a) points on the mutual reinforcement between TJ measures and the institutions established for its purpose. Dependent on how policymakers use distinct TJ mechanisms, institution building reflects these processes. When an exclusive, selective and arbitrary TJ strategy is applied this might strengthen an authoritarian institution building. In contrast, when the TJ process is inclusive, diverse and pluralistic this might contribute to strengthen democratic institutions. Ultimately, what seems crucial to recommend to practitioners, a point emphasized by all authors, is the necessity to pay attention to the specific context in which TJ mechanisms should be applied as there is no 'one-size-fits-all' approach (Ambos, 2013; Buckley-Zistel, 2007; Kerr and Mobekk, 2007).

Given that, this thesis is paying attention to TJ in European countries, it is worth at this point to have a closer look on TJ policies of the European Union (EU). The 'EU's Policy Framework on support to transitional justice (2015-2019)' is part of the implementation of the 'EU Action Plan on Human Rights and Democracy 2015-2019'. The EU defines TJ in accordance to the previously introduced UN Secretary-Generals Report on the rule of law and transitional justice incorporating the four crucial elements: criminal justice, truth, reparations, and guarantees of non-recurrence/institutional reform. These elements are implemented with an aim to ending impunity, providing recognition and redress to victims, fostering trust, strengthening the rule of law, contributing to reconciliation. The basis for the EU's framework on TJ is: strong EU policy in support for the ICC, the Communication from November 2007 of the Council 'Towards an EU response to situations of Fragility – engaging in difficult

environments for sustainable development, stability and peace', the EU's comprehensive approach to external conflicts and crises as set out in the EU's Joint Communication of 2013 and the May 2014 Council conclusions, EU's Common Security and Defence Policy (CSDP) missions and operations, the EU concept for support to Security Sector Reform (SSR), and EU support to Disarmament, Demobilisation and Reintegration (DDR).

The EU Member States have a wealth of experience in dealing with the past and, according to the EU, the EU is one of the biggest financial sponsor of transitional justice initiatives worldwide. The position of the EU towards reparations is simple: *“The EU encourages a participatory, victim-focused approach to reparations policies with the aim of restoring justice and the full reintegration and rehabilitation of victims”* (EU's Policy Framework 2015-2019). As guiding principles the framework mentions that the process of TJ must be nationally and locally-owned and inclusive, participative with public acknowledgement being crucial. Further, an importance of involvement of victims, civil society in conjunction with other relevant actors, also encompassing appropriate outreach and communication activities. Above that, the framework negates a 'one-size-fits-all' approach and stresses out the importance for a flexible, context-specific approach where victims needs are considered. Also, a comprehensive approach including complementing mechanisms and adherence to international norms and standards is mentioned, as such stating that:

“The EU firmly believes in the principle that there cannot be lasting peace without justice. Therefore the EU supports the established United Nations policy to oppose amnesties for war crimes, crimes against humanity, genocide or gross violations of human rights, including in the context of peace negotiations” (EU's Policy Framework 2015-2019).

Additional guiding principles are applying a rights-based approach, encourage a victim-centred approach, integrate a gender dimension, adopt a child sensitive approach and recognize links between rule of law, peacebuilding, development and transitional justice as also the notion that TJ should be framed along with a long-term and consecutive development cooperation strategy.

Rather few scientific works dedicated to TJ in European countries exist. An exception is Nico Wouters' (2014) anthology about 'Transitional Justice And Memory in Europe (1945-2013)' comparing TJ experiences in ten European countries: Belgium, France, (West-)Germany, and the Netherlands after World War II; Greece, Portugal, and Spain in the 1970s; and Germany,

Hungary, and Poland in the post-1989 era. In this volume Huyse (2014) discusses “*recurring turning-points in European transitional justice decision-making*”, what accordingly means for governments to make decisions in respect to: punishment or “*let bygones be bygones*”, the exclusion or inclusion of perpetrators, respect for the rule of law versus victims justice expectations, a perpetrator or victim-centred focus, and forgetting or remembering (Huyse, 2014, pp.351-352). What differentiates TJ practices in Europe, from the Latin-American and African transitions, is that truth seeking has not evolved as a state-sponsored project in Europe and thus there has been an absence of truth and reconciliation commissions (Wouters, 2014).

Beyond the aforementioned aspects, scholars deal with question how TJ emerges and under which conditions different instruments develop. To illustrate, an empirical analysis aiming to shed light on factors that shape TJ strategies conducted by Fletcher, Weinstein and Rowen (2009) is presented. The authors analyse the presumptions of, first, that TJ in developed countries may diverge in crucial ways from that in less developed ones. Second, that the nature and length of the conflict and its finish vary and influence transitional justice mechanisms. Third, that cultures and traditions may be an essential factor in how transitional justice develops. Fourth, that international intervention brings unanticipated outside influences to take on post-conflict policies. And fifth, that compliance by a country with Western understandings of justice will influence the form that transitional justice takes and how it is perceived.

The cases chosen for their multi-factorial qualitative analysis are countries impacted by mass violence and repression, in concrete: Argentina, Cambodia, Guatemala, Timor-Leste, Northern Ireland, Sierra Leone, and South Africa. Examining the contexts of these countries the authors give special attention to the nature of conflict, historical culture, strength of Western legal tradition, length of conflict and the period of time since the conflict terminated, presence or absence of international intervention, political commitment to addressing the past, the type of transitional justice mechanism implemented including truth commission, truth and reconciliation commission, amnesties, or domestic trials. They are finding eight factors that are influencing states' response to past violations and the selection of TJ measures: (1) the strength and legitimacy of legal institutions, (2) the strength of democracy prior to the conflict, (3) the legacy of colonialism, (4) the character of the country as a failed or decimated state, (5) international intervention in the country, (6) the commitment of governing parties to confront the past, (7) interventions since the transition to democracy to address underlying

structures and power inequities that contributed to the conflict, and (8) the time since the onset of the transition period and its relevance to addressing the articulated needs of survivors (Fletcher, Weinstein and Rowen, 2009, p.190). In the discussion they further mention that the current context as well as historical inheritance of a country exercise a serious impact on the ability to respond to state repression or mass violence. Thus, applying early accountability mechanisms in a situation of weak legal institutions and democratic structures (e.g., as such identified in Cambodia, Sierra Leone, and Timor-Leste) constitutes a considerable challenge. For countries with strong domestic institutions internationally imposed mechanisms can lead to opposition by the very same institutions (e.g. in Argentina civil society achieved the reversal of the amnesty laws).

Above all, the pace and form of TJ is driven by political commitment to address injustices and correct the inequalities in the system. They also find that states that are determining their own TJ course independently from the international community have in common that they are provided with strong democratic institutions, rule of law, and political parties are devoted to a negotiated settlement. Coming along with this, wealthier countries in the case studies have stronger legal institutions, greater political power, and the capacity in the aftermath to provide social and political infrastructure for dealing with the past. In contrary, international-reliant countries (Cambodia, Sierra Leone, and Timor-Leste) are lesser developed and/or struggle with establishing a functioning government, with corruption, and with providing basic social infrastructure.

Another finding is that a relationship exists between the legitimacy of colonialism, international intervention, and the choice and implementation of TJ mechanisms. In countries as Cambodia, Guatemala, Sierra Leone, and Timor-Leste that have not “*overcome the imprint of a colonial sponsor to establish strong indigenous public institution*” (Fletcher, Weinstein and Rowen, 2009, p.213), TJ is initiated under international sponsorship. Additionally, countries chose different TJ instruments whereby criminal prosecutions are rather the exception. After the end of repression or massive violence, for example, Guatemala and South Africa opted for truth commission, Northern Ireland emphasized structural measures and restorative justice approaches. Whereas, more or less in time, Cambodia, Sierra Leone, and Timor-Leste initiated with considerable international support criminal trials. This represents the emergence of an international consensus, a norm of accountability, that massive violations of human rights should not go unpunished. Also, a finding is that state responses to the past

are dynamic and not static, thus time plays a crucial role in the development of TJ processes. Findings suggest that political conditions change and that political support, what is crucial, can be achieved over time as resistance to measures may soften. Finally, the capability of states to regulate their very special processes of transitional justice will be strongly determined by geopolitical realities.

Having been confronted with the wide range of literature on the research field of transitional justice, one might feel overwhelmed by the manifold labels and denominations. Therefore, towards the end of this section the basic terms are defined in the way they are understood hereinafter by this thesis.

Definition Post-Conflict and Democratic Transition

These terms represent the broader contextual setting all other concepts are based on. Olsen, Payne and Reiter (2010b, pp.129-130) find that the application of TJ is just as high in civil war contexts as in cases of democratization. Therefore, in both settings reparations is a measure that can be considered under the umbrella of transitional justice policies. 'Post-conflict' is referring to a country's situation following or occurring after a heavy conflict situation. According to Kumar (1999: v) post-conflict refers to:

“Countries in the aftermath of civil war. Such wars end as the result of negotiated peace accords or after the victory of one party. Such societies inherit a shattered political system, a fragmented society, and a devastated economy. A universal feature of post conflict societies is the pervasive antagonism, mistrust, and hostility between the former adversaries, even though peace has been brokered.”

Besides civil wars, post-conflict situations occur also after violent power struggles between antagonist politicians and their followers, in cases of violent territorial disputes, political, social, or economic opposition to a system demonstrated in separation self-declarations of independence. Each post-conflict situation is unique and often it is difficult to determine what does post-conflict mean, e.i. there can be an official peace agreement but the conflict is still ongoing for decades. Therefore, Brown, Langer and Stewart (2011) suggest to regard post-conflict not as just a clear defined period with specific events where a transition from conflict to peace happened, but as a process where countries can be ordered along a continuum of transition where they can move forward and backward according to the achievement of different peace milestones. Peace milestones on the continuum could be: *“cessation of*

hostilities and violence, signing of political/peace agreements, demobilisation, disarmament and reintegration, refugee repatriation, establishing a functioning state, achieving reconciliation and societal integration, and economic recovery” (Brown, Langer and Stewart, 2011, p.4). This thesis sticks to Kumar's (1999) definition and reduces the meaning of post-conflict to countries that have suffered from an internal conflict situation, that came along with widespread and grave human rights violations, such as civil wars.

Another setting where post-conflict measures are usually applied are regime transitions contexts towards a regime that is based on the rule of law and respect for human rights. Democratic transition countries can be understood as those “*emerging from a recent history of violence or repressive authoritarian rule moving in a broadly positive, liberal-democratic normative direction*” (Verdeja, 2006, p.449). However, it is crucial not to equate democratic transition with a consolidated and stabilized democracy. It is necessary to distinct between the transition period, the regime change itself, and the transformation period aiming for regime consolidation. Democratic consolidation and stabilization is a long-term process including several periods, not only involving a consolidation of the political system, but also of the civil society (Mihir, 2017; 2013). When talking about democratic transition countries, this thesis is exclusively referring to cases where a transition from an authoritarian rule to a democratic system of government occurred, independently from the current situation and quality of the democracy in the country.

Definition Transitional Justice (TJ)

The concept of 'transitional justice' has to be placed within the broader concept of peacebuilding and can be seen as a component of governance and the rule of law, which encloses human rights, reconciliation, truth and transitional justice (Newman, Paris and Richmond, 2009, pp.8-9).

“Transitional justice is a response to systematic or widespread violations of human rights. It seeks recognition for victims⁶ and promotion of possibilities for peace, reconciliation, and democracy. Transitional justice is not a special form of justice, but justice adapted to societies transforming themselves after a period of pervasive human rights abuse. In some cases,

6 Researcher's personal view: The denomination 'victim' is actually considered inadequate since it assigns to a person a passive status, of having been victimized, and contains the connotation of not being able to act against the injustice, the suffering or the harm experienced. It would thus be viewed as more appropriate to speak of a survivor, an injured or a beneficiary of reparations. Nevertheless, the usual terminology of 'victim' in this research area continues to be used by this thesis, too.

these transformations happen suddenly; in others, they may take place over many decades” (ICTJ, 2009, p.1).

From a more practical perspective the United Nations understand TJ as:

“(…) the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof” (UNSC, 2004, p.4).

In this thesis TJ is considered for post-conflict and democratic transition contexts without external involvement referring to human rights violations occurred due to civil wars, violent internal conflicts, or authoritarian rule. TJ processes for slavery, colonialism, or interstate war, everything involving outside forces, are not subject of this research because this would involve to consider a range of additional aspects and elements provoking the necessity to limit the field of investigation in a reasonable way.

1.3 Transitional Justice Mechanisms

Reviewing the TJ literature, a variety of terms and concepts are used in conjunction with transitional justice. Sometimes providing synonyms or referring to specific measures within the umbrella conception of TJ. A short overview and distinction of such terms is given at this point, before describing more in detail the different TJ mechanisms. Less commonly used terms are historical justice, the wider expression for addressing historical wrongs encompassing academic research fields of TJ and memory studies (Neumann and Thompson, 2015) and rectificatory justice, referring to rectifying the injustices that are direct consequences of conflict including human rights violations, war crimes, crimes against humanity and genocide (Mani, 2005). A more widely mentioned conception is retributive justice, implying the term retribution it refers to punishment for wrongdoing. Thus, retributive justice is to prosecute and punish the guilty and determine guilt and punitive sanctions, generally referring to measures taken against perpetrators. Including judicial methods such as formal prosecutions and trials at international tribunals or national courts, non-criminal sanctions, revenge, fines, withdrawal of pensions and other penalties as well as non-actions in

terms of pardons or amnesties. TJ literature considers retribution as opposite to forgiveness; thus retribution threatens peace and reconciliation and undermines rule of law (Stan and Nedelsky, 2013; David, 2017).

In contrast, the well-known concept of restorative justice is referring to non-judicial methods such as national truth commissions, traditional justice practices at community level with the aim of seeking truth, acknowledgement, reintegration, healing, and reconciliation. The underlying assumption is that physical, psychological and social harm must be recognized and addressed to reconcile and regenerate. Restorative justice responds to claims of injustice using measures such as reparations (Stan and Nedelsky, 2013; Cunneen, 2008; García-Godos, 2017). Parmentier and Weitekamp (2011) propose four key principles of restorative justice. First, personalism: crime is a violation of people and their relationships more than a violation of (criminal) law. Second, reparation: the first goal is to repair the harm of the victim in lieu of to punish the perpetrator. Third, reintegration: the aim is to lastly reintegrate the perpetrator into society instead of to alienate and isolate the perpetrator from society. Fourth, participation: the objective is to encourage the involvement of all direct and if possible also indirect stakeholders to deal with the crime mutually (Parmentier and Weitekamp, 2011).

Within the field of restorative justice, sometimes the term reparative justice appears meaning legal remedy for unjust losses and takings from victims of political violence. Being an ancient, universal and a basic institution of justice. Nowadays it refers to responsibility of states to make reparations for serious human rights abuses (Urban Walker, 2010). Sometimes the term reparatory justice is used instead of reparative justice. For example, David (2017, p.154) defines it as “*all measures that aim to redress the consequences of human rights violations for victims, empower them, and validate the experience of their victimhood*”. Further, the notion of revelatory justice can be found relating to measures which include different ways of truth revelation, as such truth commissions, and the opening of secret archives (David, 2017). And also the term reconciliatory justice which according to David (2017, p.154) encompasses “*measures that affect the social relationship between victims and transgressors and reconciliation in divided society*”, hence including apology, expressions of regret, and confessions.

Another concept references are made to quite often, is distributive justice. This justice concept addresses the structural injustices and distributive inequalities that constitute underlying

causes of conflict and are often overlooked. What counts hereby more are the experiences and feelings of exclusion than the sole level of poverty or the ethnicity (Mani, 2005). Along these lines, the rather newly emerged concept of transformative justice refers to “*transformation of political, economic and social societal structures and relationships*”. It encompasses “*recognising and addressing the multiple justice needs and expectations of the local population*” in a manner that it is based on “*the various cultural approaches that coexist with the dominant western worldview and practice*” (Lambourne, 2009, p.30).

To give an analytical perspective on what encompasses the various transitional justice mechanism and processes, David (2017) speaks about a dual nature of TJ because it does not only mean formal legal or quasi-legal instruments, but also non-legal mechanisms, such as apologies, or informal ways are a relevant source. Effects of informal and formal measures are not necessarily tangible, also intangible messages and unpredictable gestures form part of a symbolic meaning of TJ. Based on the direction of the effect of the respective TJ measure, David (2017) differentiates the following measures:

- reparatory justice measures (tools that are intended “*to redress the consequences of human rights violations for victims, empower them, and validate the experience of their victimhood*”)
- retributive justice measures (instruments issued “*against perpetrators, including criminal, noncriminal sanctions, revenge, fines, deprivations in pensions and other penalties*”; alike non actions “*in terms of pardons, amnesties, and conditional amnesties*”)
- reconciliatory justice measures (mechanisms “*that affect the social relationship between victims and transgressors and reconciliation in divided society [like] apology, expressions of regret, and confessions*”)
- revelatory justice measures (all forms of “*truth revelation, for instance, truth commissions, and the opening of secret archives*”) (David, 2017, p.154).

There is a great variety of classifications and typologies of TJ instruments to find in the literature. For example, a classification that distinguishes four elements is provided by the ICTJ: criminal prosecution, reparations, institutional reform, and truth commissions (ICTJ, 2016). International law scholars usually rely on the UN framework of transitional justice identifying the four pillars: truth, justice, reparation, and guarantees of non-recurrence (UN Guidance Note of the Secretary-General, 2010). Overall, a holistic approach towards transitional justice recommends the use of both judicial and non-judicial mechanisms.

Therefore, it is regarded as important to shortly present at this stage of the thesis the 'classical' instruments of the TJ toolbox without entering in the deeper scholarly discussion on each mechanism. To get a first overview, the mechanisms are outlined in accordance to their focus of being rather perpetrator or victim-centred or are directed to both. Mapping TJ tools on a continuum from victim-focused (restorative justice) to perpetrator-focused (retributive justice) within the interplay of justice and transition is a common approach in social sciences (see e.g., Engert and Jetschke, 2011; Olsen, Payne and Reiter, 2010a; or Stan and Nedelsky, 2013).⁷

Perpetrator and Victim Focus

Amnesties have been in the course of history extensively issued during transitions from authoritarian to democratic regimes or from conflict to peace. Operating in both ways, an amnesty can be seen as a legal mechanism of releasing victims of repressive regimes and human rights violations from prisons, cancelling charges brought against them, annulling court sentences, thus providing justice and redress to victims. In the other way, amnesties are “*an instrument for granting immunity and/or pardon to perpetrators of crimes*” committed during repressive regimes, what might finally also encompass impunity. There are cases when amnesty is granted simultaneously to victims and to perpetrators or at different times the law grants amnesty to one or the other group (Stan and Nedelsky, 2013, p.10). To notice here is, that a general amnesty can even be intended beyond the perpetrator-victim target and be directed to the whole society in the context of an unquestioned reconciliation between all societal groups. Amnesties are controversially disputed because allegedly violating international law, especially in regard to victims rights. Authors like Mallinder (2007) argue that amnesties should be acknowledged international courts when they have been approved on a democratic way and when coming along with other victim-centred mechanisms.

Perpetrator Focus

Accountability mechanism force former perpetrators to assume responsibility. As understood by Stan and Nedelsky accountability mechanism are “*institutionalized, procedurally shaped relationships between the wrongdoer and an authoritative domestic governmental or international institution, where the wrongdoer is duty-bound to explain his or her actions, while the authoritative institution has the right to pass judgement and impose sanctions on*

⁷ Another possible classification would be to rely on the four pillars of truth, justice, reparation, and guarantees of non-recurrence established by the UN framework of transitional justice (see UN Guidance Note of the Secretary-General, 2010).

the wrongdoer” (2013, p.6). The mechanisms can be judicial or non-judicial. Judicial accountability includes measures of prosecutions such as domestic, international or hybrid criminal tribunals. Non-judicial measures include the vetting methods of purges and lustration (Stan and Nedelsky, 2013).

Court trials for redress primary focus is on legal adjudication to prosecute the perpetrators of serious violations during a situation of conflict or mass atrocity, crimes can be human rights violations, ethnic cleansing, war crimes, crimes against humanity or genocide according to national or international laws and conventions. In order to provide redress, the trials should be public, recognize harms of victims, reveal the truth, as also some cases provide reparations. In order to be legitimate they must apply to rules of law with procedural and evidential fairness. It can be differentiated between ad-hoc, hybrid and international tribunals. To fill an impunity gap left by domestic judicial institutions, international judicial institutions are set-up. Most prominently the ad-hoc International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR) set-up through the adoption of two UN Security Council resolutions to maintain international peace and security, employing international judges and prosecutors located outside the territories of former Yugoslavia and Rwanda as an international response to atrocities (Stan and Nedelsky, 2013, p.23).

A hybrid trial form means that it combines domestic and international systems of justice to provide a mixed court system, also involving a mixture of judges, domestic and international law and the location is normally in the country where the conflict took place. These types of tribunals have a specific mandate limited to prosecute specific crimes from a particular conflict over a particular period. Hybrid tribunals are since the end of the last millennium the most commonly used criminal justice mechanism. In contrast, international criminal tribunals possess under international law a legal personality distinct from that of a particular state or group of states and can be located anywhere. International criminal tribunals are established by international treaties or by the United Nations (in form of an agreement between the state primarily concerned and the UN, for example). There are only few such courts and their mandate is strictly limited to gravest crimes under international law, such as genocide, crimes against humanity, and war crimes. These courts hear cases pertaining to individual criminal liability trying only persons bearing the greatest responsibility. The probably most significant development in international criminal law was the establishment of the permanent International Criminal Court (ICC) in 1998 in The Hague (Stan and Nedelsky, 2013, p.37, 42;

Kerr, 2017).

The non-judicial accountability mechanism of purges is a TJ method that involves removal of individuals from employment positions by dismissal, job transfer or forced retirement as well as bans of individuals from future employment or restraints on civil and political rights. The primary aim of purges is to punish individuals for their affiliation with a particular group or for past harmful behaviour, to prevent individuals from doing future harm, and to consolidate democracy in a new regime, thus they are administrative in their nature and do not consist of judicial proceedings. Traditionally purges have been used in post-conflict transitions or post-authoritarian democracies as a mean to consolidate power in a new regime (e.g. denazification after World War II in Germany banned individuals from public sector positions). Purges are often enacted through executive decree, peace treaties or policies promulgated by occupation forces and they are seldom based on constitutional legislative or parliamentary laws (Stan and Nedelsky, 2013, p.61).

Similarly but different, under lustration as another formate of vetting, is understood the ample set of parliamentary laws that impede members and collaborators of previous repressive regimes from staying in certain public offices, state management positions and also jobs with significant public influence, for example in the media. The term was first used in Eastern Europe post-communist contexts. Difference to purges, lustration programs are adapted with a future perspective for consolidating democracy, enhancing the rule of law, while purges are seldom linked to democracy. Besides that, lustration always rests on legislative laws, lustration does not necessarily result in job loss, lustrations targets not only the top political and military leaders, but broader segments of society, lustration affects current and future leaders, lustration have instituted the ban for a longer periods of time or for ever and not only for the transition (Stan and Nedelsky, 2013, p.46-47; Mayer-Rieckh, 2007).⁸

Victim Focus

Truth commissions are a TJ tool used by states, inter alia the ones that are transitioning from repression and/or armed conflict, to confront historical violations of human rights and grave abuses. They are short-lived “*state-sanctioned bodies investigating large-scale human rights violations committed over a specific period*” (Stan and Nedelsky, 2013, p.98). Hence, they do

⁸ An in-depth insight in the operating principles of the TJ mechanism vetting, including several case studies, delivers the anthology 'Justice as Prevention: Vetting Public Employees in Transitional Societies' edited by Alexander Mayer-Rieckh and Pablo de Greiff (2007).

not focus exclusively on victims but on the impacts past abuses, crimes and large-scale violations have had on the affected society as a whole. However, truth commissions, criminal inquiry commissions or history commissions are no accountability mechanism because they lack to impose sanctions in the sense that they investigate responsibility for crimes. Though, they can name perpetrators of human rights abuses and thus exercise sort of public pressure on them and the state to address these violations (also referred to as a principle of 'naming and shaming', see e.g., Krain 2012). Truth commissions primarily seek to reveal the truth about a violent period so that widespread and large-scale violations can be publicly acknowledged and morally condemned. Also, they aim to identify underlying triggers that facilitated that abuses did happen, identify motifs of the perpetrators, and determine groups of victims and forms of victimhood. The aim is to establish an inclusive historical narrative, which restores the dignity of victims while deterring future denial and repetition. Truth commissions consist of the following elements: they are sanctioned or established by the state, they are extrajudicial, so that they can make recommendations but do not pass sentences and have no enforcement power, they apply a retro perspective focus, they investigate a specific period thus constitute a temporary institution. Trends or patterns of past human rights abuses are explored rather than individual cases. And a final report containing recommendations regarding appropriate remedies to victims and institutional reforms to ensure non-repetition of violence is normally issued (Stan and Nedelsky, 2013, pp.98-99; Hayner, 2011).

In situations when truth commissions are not feasible or the government decides not to choose them, unofficial truth projects may represent a viable alternative strategy and be legitimate interlocutor for revealing the past. Unofficial truth projects are non-governmental initiatives geared toward revealing the truth about past crimes and serve as a component of a broader strategy of TJ. Thus truth projects are based in civil society and are set-up and coordinated by human rights organizations, victim groups, universities or other social entities. They can pave the way for official truth commissions or being a complement or replacement. Different types can be distinguished such as commission-like efforts resembling truth commissions, projects within documentation centres or non-governmental organizations (NGOs), 'mock-trials' or 'tribunals' modelled on criminal tribunals, but lacking the power to adjudicate. An illustration might be the Guatemalan 'Recovery of Historical Memory Project'⁹ that enriched the efforts of the official 'Commission for Historical Clarification' by collecting multitudes of victim

⁹ See REMHI website available at: <http://www.remhi.org.gt/portal/category/acerca-de/>.

testimonies. Another type could encompass art, theatre, and literature projects, memorials, museums, and exhibitions focused on revealing the truth about crimes committed in a past period (Stan and Nedelsky, 2013, pp.106-107; Bickford, 2007).

With the purpose of truth revelation, access to secret files can constitute a further mechanism of transitional justice. It means “*opening the files and documents compiled by the secret police of past authoritarian regimes to the general public*” (Stan and Nedelsky, 2013, p.2). This allows citizens to obtain information about the content of their own files (and of others). In order to qualify as a TJ method access must be granted to ordinary citizens and not just to historians, journalist or academics, further the files must have been compiled by secret intelligence service and regarded as secret and not by ruling parties or government. This method can also be used as basic for vetting of former elites by identifying of secret agents for prosecutions, when informations about human rights violations are used against former elites, and also it can lead to reparations if victims demand them. The method is known for being used over all in post-communist countries (Stan and Nedelsky, 2013, pp.1-5). This mechanism is like the others not exclusively directed to victims since it also offers historians the possibility to use the files for conducting research on the past happenings.

The TJ mechanism of apology is a speech act in which ideally an appropriate party addresses an appropriate audience – what could be only victims, distinct societal groups or also the wider public – on an appropriate occasion with appropriate words. For an apology to be legitimate it must include first acknowledgement that a wrongful act has been committed against victims and the apologizer takes responsibility for it. Second, that the apologizer feels regret or remorse and third, that it contains a commitment or promise not to repeat or recommit the offence (Neumann and Thompson, 2015, p.32), whereby the exact form naturally is depending upon the specific situation. It is a method of acknowledging past human rights violations (Stan and Nedelsky, 2013, p.13). In the context of public apology for serious human rights violations, Nobles (2006) identifies six categories of apologizers: Heads of states and government officials, governments (focusing on domestic population), religious institutions such as the Roman Catholic Church, organized groups and individual citizens, NGOs and institutions, and also private institutions.

Of course here named should be also the most victim-centred TJ tool of reparations. However, as special regard is given to this mechanism at a later stage, at this point, merely some

commonly mentioned measures that fall under the umbrella term of reparations are introduced. Primarily, compensation packages as a form of reparation, entails providing money or other benefits to victims. To count as a transitional justice mechanism, compensation packages should fund any economically calculable damage provoked by such violations as:

“Physical or mental harm; Lost opportunities, including employment, education and social benefits; Material damages and loss of earnings, including loss of earning potential; Moral damage; Costs required for legal or expert assistance, medicine and medical services, and psychological and social services” (UN, 2005, Basic Principles and Guidelines on the Right to Reparation).

Compensation packages have a long tradition dating back to German reparations for Jews persecuted under the Nazi regime. There are two main types of compensation packages, on the one hand, compensation packages can be funded by the government and the executive decides who is to receive compensation and on the sum that is providing a form of acknowledgement for the suffering. On the other hand, compensation can be ordered by courts and paid by perpetrators. Compensation packages can thus have also a symbolic meaning. The main challenges are to identify the victims to compensate and the assurance of availability of sufficient funding. Therefore, the nature, scope and level of compensation packages differ across countries (Stan and Nedelsky, 2013, pp.18-19; De Greiff, 2006).

Another form of reparation is property restitution. Property restitution is a largely politically process that post-authoritarian governments use to address current social concerns at least as much as to redress past injustices. An example is the prominent 2007 UN Declaration on the Rights of Indigenous People stating that *“indigenous peoples have the right to the redress of the lands, territories and resources which they have traditionally owned or otherwise occupied or used”* (UN, 2007, Declaration on the Rights of Indigenous Peoples, Art. 28). Property restitution consist of first, the acknowledgement of an unjust (but sometimes legal) appropriation of goods, second the moral and political imperative of dealing with this past, third the drafting of a legal framework allowing restitution, fourth the gradual implementation of existing legal framework. The property that falls under this can be everything from land, real estate, enterprises, art work, jewels, places of worship among others. The drafting and implementation of restitution programs are mainly political decisions made by parliaments and governments, are implemented by legal experts and bureaucrats, and can be transformed

into law (Stan and Nedelsky, 2013, pp.51-56).

Rehabilitation of political prisoners is another tool of reparations. Rehabilitation of former political prisoners comprises as set of formal and informal policies aimed at rectifying the consequences of imprisonment on the life of the former political prisoners and providing them with justice, financial compensation and social acknowledgement. Rehabilitation policies might include formal measures and policies adopted by governments, such as prioritized access to health and social services and psychological treatment, and informal processes and interventions taken by the civil society. Thus, rehabilitation encompasses more than financial compensation and medical rehabilitation. In general it is a complex process of legal rehabilitation measures (release from prison, cancellation of judgements and elimination of criminal records), individual compensation and empowerment measures (financial compensation, for time in prison, equalise the pension entitlement, reinstatement in previous employment and opportunity to complete studies, access to medical and psychological support, forum for truth telling), social empowerment measures (societal acknowledgment and acceptance, restore names and honour, equalizes state of political prisoners with other victims, invitations to state and government functions, local or national events, commemorative acts, celebrations, and public apologies) and political empowerment (institutional reforms and democratization, co-option of former political prisoners into administrative positions). The objective is, to the greatest extent possible, re-establish the status prior to the violation of human rights (Stan and Nedelsky, 2013, pp.74-77; David and Yuk-ping, 2005).

Other victim-centred measures that contribute to transitional justice are forensic investigations. There are two types of forensic investigations: First, international forensic investigations that might be commissioned by intergovernmental organizations such as the UN, in order to investigate allegations of genocide, crimes against humanity, and war crimes. Second, domestic forensic investigations are sometimes commissioned by state authorities or community-based non-governmental organizations to assist survivors in the identification and repatriation of the anonymous dead, to support truth commissions and domestic criminal proceedings. The primary unit of analysis for all forensic investigations is any mass grave, or mass-grave related site (as sites where executions occurred or bodies were deposited prior to burial) that result from mass atrocities. Ideally, international and domestic forensic investigations of mass human rights violations serve both legal and humanitarian aims. When

provided with appropriate mandate and resources, forensic investigations can provide scientifically rigorous evidence for the use in legal proceedings and in the creation of historically accurate record of events. And at the same time they can provide reparation to families and friends of victims of mass atrocities by allowing them to get to know the fates of their missing loved ones and rebury them according to tradition (Stan and Nedelsky, 2013, pp. 27-28).¹⁰

A so far less considered instrument for contemporary transitional justice is the method of rewriting history textbooks. As a TJ method it represents an attempt to acknowledge and deal with the past in the sphere of education of future generations. A society's memory, historical consciousness, and identity evolves in a considerable part from what is taught in schools' history education and what is written down in textbooks. Rewriting history textbooks has several aims: First, truth revelation and preservation of memory through the development and documentation of a narrative that incorporates painful truths. Second, official acknowledgement of harm when the state is involved in textbook approval. Third, political and societal reconciliation through a recognition of injustices that signals a break from the past. And fourth, the development of a new consciousness, vision, and identity as textbooks shape the way that the youth and societies see themselves, their communities, and the world. This method became prominent after World War I, whereby the lead was taken by the League of Nations and later the UNESCO, sponsoring binational or multinational textbook commissions (Stan and Nedelsky, 2013, pp.93-94).

1.4 Effects and Impact of Transitional Justice

The assessment of impacts of transitional justice mechanisms plays a central role in academic literature. The research question is hereby two-folded: On one side, if TJ processes and measures are having any effect on peace and reconciliation. On the other side, if this effect is necessarily positive. In the following an overview of empirical studies analysing effects of TJ will be given. The studies are classified according to their conclusions of having rather positive, negative, both or unclear effects. The listing of existing studies in the field is not

¹⁰ Ferrándiz, F. and Robben, A.C.G.M (2015) exploit in their anthology 'Necropolitics: Mass Graves and Exhumations in the Age of Human Rights', presenting various case studies from around the world, the links between forensic investigations and demands for transitional justice.

exhaustive since merely a few important ones are highlighted.

Positive Effects

A first qualitative study on effects of the ICTY realized by Akhavan (2001) demonstrates positive effects on peacebuilding as successfully marginalizing ultra-nationalism and encouraging the emergence of moderate leaders, setting of useful cooperation and Croatian integration into the European Union. For the mechanism of lustration, David (2003) in a qualitative comparison of lustration policies in Poland and the Czech Republic shows that those laws had positive effects. Regulated lustration prevented the old elite from undermining the new democratic system, reduced political tensions and thus contributed to democratization. Comparing eleven civil wars in ten countries that had reconciliation events from 1957 onwards, Long and Brecke (2003) find that truth telling was crucial gateway for reconciliation and durable peace settlements, since the peace settlements that did not contain truth telling did not endure. Nevertheless, they have not included control cases because just using data from countries that experienced civil wars. Further, Gibson's (2004a, 2004b, 2005) national representative, cross-sectional survey with 3727 individuals on the Truth and Reconciliation Commission in South Africa shows overall that there is no significant negative effect of truth commissions. Exposure to the past for all sides might have a positive effect since individual reconciliation (assessed by support for interracial reconciliation, rule of law, political tolerance and institutional legitimacy), is associated with support for the TRC. Later on Gibson notices that the TRC might have not caused societal reconciliation but rather reflected it.

A study Lie, Binningsbø and Gates (2007) conducted for the World Bank analyses trials, purges, reparations, truth commissions and amnesties on peace duration in 200 post-conflict cases, in 86 countries, between 1946 and 2003. Including several control variables they did not find statistically significance for any TJ mechanism, only when removing the control variable 'victories' from the equation, trials appeared to be significant. However, when the analysis was restricted to subgroup of democracies they find that reparations and truth commissions are positively linked with peace duration and that amnesty has the reversed effect. Thus regime type matters and they conclude that non-retributive TJ in countries with a democratization process promotes peace. Studying the emergence of trials and truth commission and their impact on human rights, conflict, democracy and rule of law in a cross-

country study involving 17 Latin American countries, Sikkink and Walling (2007) cannot confirm any pessimistic views of earlier scholars that trials undermine new democracies, exacerbate conflict and increase human rights violations. In contrast, using the method of bivariate associations and some before and after comparisons, they find no harmful effects of trials and no evidence that trials worsen democracy, extend conflict or worsen the human rights situation. Moreover, findings encompass as well that amnesties do not deter future human rights abuses, TJ strategies can be revised over time and that no single choice of measure is necessary since every country in Latin America using truth commission alike had trials, thus the classical dilemma of choosing between justice and truth seems redundant. Further, in a large N quantitative study Cárdenas et al. (2015) analyses perceptions about the truth and reconciliation commissions in Chile of people affected and unaffected by political violence. Conducting a multiple regression analysis, the results suggest that a commission plays a relative successful role as transitional justice ritual for reinforcing reconciliation. Above that, they show that TRCs act as social mechanism creating above all inter-group reconciliation and contributing to symbolic reconstruction.

Negative Effects

Some studies on different TJ tools also show negative and harmful impacts of TJ. Basically, it is questioned that TJ contributes to peace and reconciliation as there are no proven links and because there is insufficient evidence. In this way, Snyder and Vinjamuri's (2003) comparative analysis of the effect of trials and truth commissions in 32 post-conflict countries, conclude that these mechanisms have either negative or irrelevant effects. Trials only seem to have a positive effect on ending violence when the country's justice infrastructure is rather well and spoilers are weak. Truth commissions seem to be relevant or positive only when used in countries already on the way to democracy. Instead they are assigning more significance for ending violence and promoting democracy, human rights and rule of law to amnesties as the real facilitators of peace. Furthermore, David's (2006) analysis of Iraq's lustration systems shows harmful effects. The poorly designed lustration policies lead to conflict because they created the exclusion, marginalization and unemployment of the Baathists. Also, the lustration lead to a shortage in qualified administrative and security professionals, whereas there was no discussion on the influence of other factors.

Both or Unclear Effects

As seen above there are few studies clearly highlighting either positive or negative effects on peace and reconciliation, scholars tend to be careful with making conclusions about the impact of TJ. Most studies find that the direction of effects is vague or that there are negative as well as positive effects. Barahona de Brito, González-Enríquez and Aguilar (2001) are looking on the mechanisms of trials, truth commissions, purges and their impacts on democratization in a comparative analysis of 19 transitional societies in Europe, Latin America, and South Africa. They do not find an apparent link between past oriented truth and justice mechanisms and the functioning of democracy. In several cases democracy developed well without TJ (e.g. Hungary), while in others TJ apparently has contributed to democratization (e.g. Argentina). However, rather forward looking mechanisms as institutional reforms are more directly linked to democratization (not necessarily with the use of purges). They also show the endogenous effect of TJ policies that they are more likely to successfully contribute to democratization in countries that are already on the road to democracy. An individual within-case statistical regression analysis of time-series data conducted by Meernik (2005) in post-war Bosnia 1996-2003 reveals that ICTY's judicial actions do seem not to have a statistically significant effect on societal peace, what contradicts earlier conducted studies. Whereas prior degrees of conflict and cooperation, and the actions of the EU, are statistically significant and have stronger effects, the same counts to some extent for actions of the US and the NATO.

Hazan (2006) examining underlying processes and hypotheses of TJ, points on the need to establish evaluation processes in order to understand dysfunction of TJ, to sharpen the role of the international community and to figure out the potential of transitional justice for social transformation and democratization. Some negative aspects he finds are, that TJ may prove ineffective or become an alibi for paralysis or even cause a setback in social reconciliation. All in all, Hazan concludes that TJ is a highly ideological debate dealing with imprecise moral concepts like truth, forgiveness or reconciliation and therefore results are difficult to measure.

A qualitative study in post-war Bosnia of Mayer-Rieckh (2007) shows mixed and unclear effects, too. It is not clear if vetting of police and judiciary did improve police performance even if, according to surveys, confidence in police increased slightly during vetting period. Vetting of judges and prosecutors also seems to have improved ethnic composition and

confidence, but the author states that it is too early to assess improvements in the administration of justice and impacts are yet unclear.

TJ as independent variable effecting institution building and regime consolidation in post-Second World War Europe is analysed by Mihr (2017b; 2013). Her research interest is about, how TJ measures functioning as independent variables correlate with institution building after the destitution of dictatorships or conflict and thus have an impact on political regime consolidation and the quality of democracy. The outcome variable is two folded as TJ measure either can help during transition and transformation to establish a more pluralistic, diverse, and participatory democratic society or are used by policymakers to establish an autocratic society. Case study research of post-war Germany and post-dictatorial Spain and Turkey reveals that TJ works as external incentive, but the outcome depends on who runs the institutions and with what intentions. One of the main effects of TJ is to delegitimize old and legitimize new regime. More legitimization is achieved through public and inclusive participation of both victims and perpetrators. A crucial factor for democratic consolidation is that the new government is willing and able to transform in long-term perspective an exclusive TJ processes into a more inclusive one to ensure accountability and respond to pressure from international organizations.

Langer (2017) studies the effect of truth commissions on democracy, peace, and institutional reform. Based on qualitative case studies he analyses the (non-) implementation of recommendations in the final reports of Truth Commissions in Kenya, Sierra Leone, and Timor-Leste. In the four-step approach (developed by Skaar, Malca and Eide, 2015) first, the national, regional, and global context is analysed to understand root causes of the conflict. The second step is to assess the establishment including key actors involved, objective and scope, timing and sequencing. Followed by third, the evaluation which is differentiating between short-term and long-term goals, and lastly an impact assessment to understand achievements and effectiveness. Langer (2017) concludes that TC cause no harms, but also does not have a significant positive effect, and above that only little impact is possible. However, a more holistic approach towards trials, truth commissions and amnesties does have a positive impact on democracy and human rights. Another finding is that states sometimes simply ignore recommendations and only when civil society strongly supports the work of a truth commission there is a chance that past wrong-doing will be acknowledged and that institutional change will be realized to enhance peaceful coexistence (Langer, 2017).

Explicitly both, negative and positive, effects of TJ are found by David and Yuk-ping (2005) conducting a survey with former political prisoners in the Czech Republic. Focusing on victim reparations the regression analysis demonstrates that socio-political redress and inner healing are positively correlated “*with financial compensation and democratization*”, but “*negatively with public truth telling, lack of reconciliation and continued stigmatization of neighbours*” (David and Yuk-ping, 2005, p.393). Likewise, Olsen, Payne and Reiter (2010a) analysing the relationship between TJ and the improvement of human rights and democracy find positive and negative effects of TJ. From this they develop four main theoretical approaches: maximalist (address human rights violations with trials, hence from the justice side), moderate (critic of trials, emphasize on transition), minimalist (all depend on neutralizing spoilers, in favour of amnesties, need for economic reconstruction, feasibility issues e.g. for reparations), and holistic (to overcome shortfalls of one mechanism a need for combination of mechanisms). In order to improve respect for human rights and advance in democracy they argue for a specific combination of the mechanisms of trials and amnesties, and of trials, amnesties, and truth commission. Truth commissions alone are found to have a negative impact, thus should be combined with accountability mechanisms and amnesties.

Jones, Parmentier and Weitekamp (2012) have developed various theoretical models explaining key issues in transitional justice that go beyond traditional institutional approaches mainly focusing on retributive justice. They identify four key issues: searching for truth (T), ensuring accountability (A), providing reparation to victims (R) and promoting reconciliation. These are combined in the TARR model to examine specific procedures and institutions for dealing with the past. After having conducted a 2006 population-based survey in Bosnia-Herzegovina they developed the TARR-II model adding two major elements: coping with trauma of victims and fostering trust among each of the parties in a post-conflict situation. Further added was dialogue between individuals, groups and other sections of the society. On the basis of the theoretical model, using a structural equation modelling, they explore relationships between the components of the TARR-III model (independent variables: trauma, truth, imposed obligations, active responsibility, reparation, dialogue) and test effect on the outcome trust/reconciliation as dependent variable. Conclusions are that several variables show clear correlation with trust/reconciliation. Trauma is negatively correlated with the outcome, while dialogue and active responsibility are positively related. Other relationships are not statistically significant, such as “*truth and trust/reconciliation, reparation and*

trust/reconciliation and imposed obligations (as part of accountability) and trust/reconciliation” (Jones, Parmentier and Weitekamp, 2012, p.559). These findings are striking as often by TJ literature and practitioners those mechanisms, such as truth commissions, reparations, and accountability measures, are strongly associated with reconciliation (Jones, Parmentier and Weitekamp, 2012).

A meta analysis conducted by David (2017) reviews twenty-five studies that provided quantitative evidence about the effects of transitional justice gathered at the individual-level, analyses and situates them in the context of other studies on application of main transitional justice instruments encompassing truth commissions, international criminal tribunals, lustration (vetting), reparations, and apologies. The article concludes that: First, “*transitional justice matters in dealing with the past*”. Second, justice is understood as a social-political category more than a legal category. Third, “*past experiences affect attitudes to transitional justice as well as its outcomes*”. Fourth, different victims have needs for distinctive transitional justice measures. Fifth, “*the outcomes of transitional justice depend on its context and implementation*”. Sixth, truth-sharing could have both positive and negative effects. And ultimately, reconciliatory measures could foster positive social effects (David 2017, p.151).

Lastly, a recent publication on reconciliation barometers is worth to mention here. Cole and Firchow (2019) conducted a collection of barometers on reconciliation perception based on survey data at an individual level in ten countries. The longitudinal design through repeated waves of data collection and analysis aims to show trends over time. The barometers are assessing attitudes towards the conflict, its enduring challenges arising from it and changes in public opinion over time regarding the conflict's legacy. The barometers¹¹ all draw on surveys and quantitative methods, used mixed-methods, and own collected survey data. Based on distinct definition of reconciliation they differ in their context, purposes, and resource level. The findings from the barometers indicate that understanding of reconciliation changes over time, as well as there is a need for more subnational research to reflect on local differences. At

11 South African Reconciliation Barometer. Available at <https://reconciliationbarometer.org/>.

Australian Reconciliation Barometer. Available at <https://www.reconciliation.org.au/>.

Colombian Index for the Conditions for National Reconciliation and the Colombian Index for Reconciliation.

Available at: <http://confio.com.co/>.

Index of Arab–Jewish Relations in Israel: See, for example, Sammy Smooha, ‘Index of Arab–Jewish Relations in Israel 2003–2009,’ Jewish–Arab Center, University of Haifa (2010).

Social Cohesion and Reconciliation Index in Cyprus, Nepal, Bosnia and Herzegovina, Ukraine, Liberia, Eastern Ukraine, Moldova, Malaysia, Armenia and South Sudan. Available at: <https://www.scoreforpeace.org/>.

the end a crucial finding is that reconciliation barometers share more similarities than differences since all reconciliation barometers have the clear potential to contribute actively to peacebuilding.

1.5 Critical Voices on Transitional Justice

Besides asking about impacts and the distinct effects of TJ measures, there are also authors expressing a general critical view regarding the transitional justice concept in its entirety. On the one hand, the argumentation of proponents of TJ is that it is a long-term process in which benefits of the measures develop over time. Therefore, arguing that TJ measures can improve the quality of democracy over a long-term period, when linked with a country's attachment to international human rights norms, responsiveness and accountability of political elites, transparency, and participation by citizens (see e.g., Dancy et al., 2014; Mihr, 2013). On the other hand, critics are questioning the effectiveness of TJ in providing reconciliation (Buckley-Zistel, 2007; Fischer, 2011). They mainly point on the fact that, TJ does not work in practice as conflicts can re-emerge, adherence to human rights is not respected, justice is not realised because democratic reforms are not carried out and because implementing policies on national level is omitted (McCargo, 2015; Mutua, 2015; Kaminski, Nalepa and O'Neill, 2006; Gready and Robins, 2019).

Also, Mani (2008) points on the danger of a trade-off between development and justice measures. TJ needs to end the cycle of violence, but often the contrary happens when gender-based sexual violence and its underlying societal structures (e.g. abuses in the private sphere), which allow for its continuity after the cessation of hostilities, are ignored. Post-conflict peacebuilding fails in dealing with criminal violence and especially with violence against women when in the post-conflict era women continue to suffer from insecurity and violence. Above that, there is an ongoing truth versus justice debate, pointing on an incompatibility of the fundamental principles of retributive and restorative justice. Should we punish and prosecute perpetrators by establishing individual criminal liability or should we pardon perpetrators by establishing alternative forms of redress such as truth commissions? The critical point hereby is, if priority should be given to a country's stabilization by applying less radical measures to address the violent past, such as truth commissions, in expense of justice for the victims (David and Yuk-ping, 2005).

To illustrate, Wlaschütz (2011) after researching if TJ contributes to reconciliation in Colombia, analysing the 2005 Justice and Peace Law as also the 2011 Victim's Law, he questions that TJ contributes there to reconciliation. Apart from deficiencies in the application of various mechanisms, he mentions that the implementation of norms and a lack of political will is the overall issue. Truth is known, but there is no acknowledgement of states responsibility of the violation of human rights, and as to the time of his writing, no apology was made. Missing in the Colombian reparations-focused approach are measures to eradicate the systematic roots of violence and to transform the political and economic system by setting up measures such as land distribution (provided by the new Victim's Law which was adopted when the armed conflict in the country was still ongoing). All TJ measures applied are generally missing a participatory approach since reconciliation cannot be prescribed from above.

Further, Baker and Obradovic-Wochnik (2016) state that TJ shares the same shortfalls as peacebuilding. Among other things in fact depending on external funding or an unequal stratification of victim groups' access to resources. A narrow focus on state-building applied by international actors can contribute to failure of TJ, to marginalization of key groups and to local resistance to TJ measures. Relying on relevant peacebuilding literature, Obradovic-Wochnik (2018) problematise the fact of peacebuilding and TJ policies being top-down process. However, also local initiatives with a claimed inclusive approach can provide spaces for hidden power relations. Local transitional justice initiatives that are empowering local facilitator need to be seen equally critical as international initiatives in order to reveal their hidden politics and relations. Local agency and ownership projects reproduce power hierarchies. Manifested for example in the fact that grassroots organizations depend on external donations. Selective empowerment creates privileged local actors with an ability of the local institutional elites to capture or hijack TJ policies.

Also worth mentioning is here another point of criticism that is linked to the liberal peacebuilding paradigm, assuming that liberal societies with democratic political regimes and open market economy are more peaceful. Critics consider, on the one hand, the fostering of liberal democracies and market economy in unstable and fragile post-conflict societies as inappropriate. Political and economic liberalisation might have the contrary effect and is rising the probability of renewed violence (Newmann, Paris and Richmond, 2009). On the other hand, policymakers seem often to regard peacebuilding mechanisms, this includes

transitional justice, as a standardised packages, a 'one-size fits all' approach, which can be established in a top-down way. In order to strengthen states transition processes into liberal democracies, post-conflict states are “*expected, encouraged and even coerced*” to rely on the classical TJ 'tool-kit' package and to agree to implement justice, truth finding and other mechanisms (Subotic, 2009, p.21).

Moreover, TJ measures may have concrete negative consequences on democracy in unstable contexts where a real democratic transition has not occurred (Turner, 2013). Some scholars stress that TJ can be abused by authoritarian regimes for alternative objectives in order to stabilize and legitimise their powers (Wiebelhaus-Brahm 2016; Loyle and Davenport, 2015). Likewise, Mihr (2017a; 2017b) analyses that TJ mechanisms work as catalyst during regime change and regime consolidation. When TJ measures fails to delegitimize the old regime and legitimize the new one, they can be misused to help build exclusive autocratic societies. The civil society never takes real ownership of TJ, no inclusive participation (by victims and victimizers alike) and thus top-down TJ process instrumentalizes or suppresses citizens initiatives. The challenge is that the government is willing and able to transform the TJ process into an inclusive one that uses TJ to legitimize new democratic political system. Only if TJ is democratic it can fuel democracy and interrupt the “*vicious cycle of unconsolidated pockets*” (Mihr, 2017b, p.131).

Additionally, there are also some general critics on focusing current politics and policies on the past. Broad critics on TJ are the strong backward perspective with measures addressing the past and the missing of the forward looking element, whereby the guarantees of non-recurrence are an exception by being explicitly directed to the future. According to some scholars when the past becomes our obsession, then the past also dominates the present. Regarding the need for profound changes in a country's economic and social structure in a long-term perspective, recent academics critic the focusing of TJ to address violations of political rights, but omitting social, economic and cultural rights. Hence, authors such as Gready and Robins (2019) or Balasco (2018) demand and analyse new agendas to transform transitional justice to transformative justice. On this discussion is shed further light in the concluding Chapter.

Summing up, Nickson and Braithwaite (2014) conclude that TJ has two main problems: First, that it does not meet its expectations and victims hopes. And second, a general disconnect

between judicial institutions and citizens. Therefore, they as so many, demand first to broaden the justice term and theorize justice further (e.g. rebuilding), extend TJ time frames and include non-western concepts. In concrete, they suggest three steps: First, broadening justice (holistic approach, including local and traditional meanings of justice, e.g. such as the pan-African concept of Ubuntu), include multidimensionality in the conception of justice, acknowledge legal, religious and cultural pluralism in what is accepted as contributing to justice, include forward as well as backward looking not narrowing it to punishing past crimes, open to the possibility of 'justice as a better future'. Also, take restorative justice for real, whilst not regarding it as master narrative that disranges actual legal narratives of what justice is and tolerate incompletely theorized agreement on what makes for justice in a special context. Second, deepening justice (deeper survivor and citizen opportunities) encompassing responsiveness to stakeholder needs, citizen participation and proactive engagement of stakeholders. Third, lengthening justice meaning that transitional justice is not only transitional, but applied with long-term focus. This included that trials operating rather a short term are considered problematic while in contrast the establishment of permanent TRCs is favoured because conducting many years of reconciliation work also means deepening of the democracy (Nickson and Braithwaite, 2013, p.452).

2 Chapter II. Reparations: Providing Redress to Victims of Human Rights Violations

Within transitional justice processes reparations play a central role in recognizing the suffering of victims and in aiming to redress harms caused. First, the historical meaning and the development of the term, from 'classical' war reparations to victim reparations in post-conflict or democratic transition societies, is explained. Then, the juridical background, placing reparations within international law, is covered. Further, the extension of the understanding of reparations regarding them from a holistic perspective encompassing a broader set of different reparative mechanisms, is introduced. Subsequently, it is proceeded with explaining different factors for the emergence of reparations and with an analysis of the various options for a state to design and implement reparations programmes. This is followed by an examination of challenges and difficulties of designing and implementing reparations programmes. The concluding section, summarises the state of the art on reparations, identifies the research gap and points on the unique relevance for studying public opinion towards reparations.

2.1 History and Changing Contexts of the Term Reparations

Although reparations are one of the main TJ instruments employed in scholarly research, they remain understudied and need further attention (De Greiff, 2007). Whereas truth commissions and lustration policies represent a restorative form of justice, trials provide retributive justice, reparations aim for compensatory justice. Thus, reparations are regarded as the most victim-centred tool for TJ and play a special role within long-term reconciliation processes (Bloomfield, Barnes and Huyse, 2003; Minow, 1998; Torpedo, 2006; Wolfe, 2014). The concept of reparations is not clearly defined in theory or practice, it is still “*a term that is not settled*” (Stan and Nedelsky, 2013, p.84). Linguistically it describes an act of repairing for wrong or injury done.

Historically, reparations are mostly linked with war reparations claims such as in the by World War I followed prominent Treaty of Versailles (Teitel, 2000). During the post-World War II period, the term reparations changed both in its meaning and usage towards a much broader concept closer to the idea of restoration of the state before the violation occurred. Nowadays, reparations are not anymore understood as fixed agendas that had been negotiated between

states and are provided to states within a certain time frame, after the end of a war or cessation of hostilities, aiming to repair war-related damages. The term reparations has been more and more used in the sense of voluntary payments for moral and political purposes towards groups and individuals (Teitel, 2000). Torpey (2006) illustrates this shift in the meaning of reparations by mapping reparations politics in a series of concentric circles: moving from the classical justice perspective towards a communicative history, changes the focus from first being merely on the perpetrators towards the victims. This means reparations contain a message, they acknowledge that a violation or crime had happened. Hence, reparations have not only a political, but also a societal dimension in form of addressing individual victims' needs as well as involving society in the process of building a common narrative and remembrance. This sort of reparations has been first used from 1952 onwards by the Federal Republic of Germany when providing reparations to “*survivors of the Nazi extermination and concentration camps*” (Hazan, 2006, pp.44-45).

In fact, both terms reparation in singular and reparations in plural, refer still to a various meanings in international and human rights law. Commonly reparations are associated with monetary compensation, but it includes way more than material forms. A shift from interpreting reparations exclusively in financial terms towards the inclusion of symbolic dimensions was made when the South African TRC recommended financial compensation followed by symbolic forms of reparations. The UN defines reparation as a right to victims, including restitution, compensation, rehabilitation, satisfaction ,and guarantees of non-recurrence, what is further discussed below. Overall, claims for reparations can arise from different sources: the already mentioned acts of war injustice, in the aftermath of transition to democracy (e.g., occurred in Latin America or Eastern Europe), from colonialism (e.g., happened in Namibia), widespread political violence caused by apartheid (e.g., the case of South Africa), armed internal conflict (e.g., after the Colombian peace agreement with the FARC-guerilla) and other situations that leave a large universe of victims with diverse types of harms and suffering (Torpedo, 2006; Laplante, 2009). The reason for the development of the meaning of the term and the emergence of reparations is, according to Torpey (2015), the spread of juridification of international affairs. Thus, initially a deeper glance at the juridical development of the reparations concept within international law is necessary.

2.2 Juridical Perspective: Reparations in International Law

Since the aftermath of the Second World War and especially over the course of the 1990s there can be noticed an evolving jurisprudence of law regarding reparations. Specificities of reparations grow with each new legal decision, what moves reparations from being merely a legal good towards a legal obligation. Thus, state officials must consider these legal requirements when designing reparations programmes. And if programmes do not satisfy minimum legal standards victims and survivors may ideally resort to judicial remedies (Laplante, 2009). Human rights violations imply a duty of the state to provide on its behalf reparation and give a right to the victim to be repaired and seek redress from the perpetrator. In the recent years those rights and duties experienced growing recognition under international law.

The concept of reparation is nothing new in international law, as such the 1927 Permanent Court of International Justice, *Factory at Chorzów Jurisdiction* case, cited “*the breach of an engagement involves an obligation to make a reparation in an adequate form*” (Permanent Court of International Justice, 1927). Further, the principal of reparation has been laid down in the 2001 International Law Commission (ILC) Draft Articles on Responsibility of States for Internationally Wrongful Acts (Art. 34-37). These Draft Articles represent a highly important source of law since they include the obligation to make reparations in case of international responsibility of states. Thus being the clearest antecedent of reparations in the field of human rights and was later on also included in the UN Basic Principles and Guidelines. Official commentaries on Article 34 clarifies the notion of full reparations and that it can be achieved only in some cases by combination of various types of reparations:

“In certain cases, satisfaction may be called for as an additional form of reparation. Thus full reparation may take the form of restitution, compensation and satisfaction, as required by the circumstances. Wiping out all the consequences of the wrongful act may thus require some or all forms of reparation to be provided, depending on the type and extent of the injury that has been caused” (International Law Commission 53rd session 2001, cited in Correa, 2017, p.3).¹²

12 International Law Commission, Text adopted by the Commission at its fifty-third session, in 2001, and submitted to the General Assembly as a part of the Commission’s report covering the work of that session. The report, which also contains commentaries on the draft articles, appears in Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10 (A/56/10), Article 37.2. Annex to General Assembly resolution 56/83 of 12 December 2001, and corrected by document A/56/49(Vol. I)/Corr.4.

The adoption of the Rome Statute in 1998 established a permanent system of international criminal justice. Article 75 (1) of the Rome Statute demands the International Criminal Court to “*establish principles relating to reparations to, or in respect of victims, including restitution, compensation, and rehabilitation*” for victims of war crimes and crimes against humanity.

The focus of concern from disputes between sovereign states has shifted towards protection of individual human beings with the United Nations Set of Principles for the protection and promotion of human rights through action to combat impunity, developed by the UN Commission on Human Rights in the 1990s and updated in the 2000s. Principle 31, titled 'The Right to Reparations/Guarantees of Non-Recurrence', inherits a robust normative allegation that 'any human rights violation gives rise to a right to reparation' (Haldemann, 2018). Principle 32 'Reparation Procedures' is the right of victims to access remedial procedures that has been defined by national and international practice. The right implies that alleged violations must be examined by competent and independent authorities in an effective, timely, and thorough manner (states can choose between a variety of means detailed by Principle 32). Principle 33 stresses out the obligation of states to publicize 'ad hoc procedures' set up to distribute reparations. The 'publicity principle' obliges policymakers to enable victims to exercise their right, design outreach campaigns to inform victims of their rights and how to access them (Laplante, 2018, p.361). Principle 34 scope of the right to reparation should cover all injuries suffered and shall include measures of restitution, compensation, rehabilitation, and satisfaction.

The second paragraph states the “*content of certain rights owed to families of victims of forced disappearance*”. Firstly, “*the right to be informed of the fate or whereabouts of the disappeared*”, and second “*the right to obtain the body of the victim, once it has been identified*” (Grosman, 2018, p.369). Since these rights contain a substantial and remedial dimension, they add to reparation of harm (Grosman, 2018). These Principles first by Louis Joinet drafted Principles have been revised by Diane Orentlicher to adjust them to relevant developments in international law, international jurisprudence and State practices, as. e.g. the recognition of “*the central importance of promoting the broad participation of victims and other citizens, including in particular women and minorities, in the design and implementation of programmes for combating impunity*” (Orentlicher, 2005, p.2).

Above that, the juridical sources of reparations for conflict can be found in International Human Rights Law codified in the 'UN Basic Principles and Guidelines on the Right to Reparation for Victims of Violations of Human Rights and International Humanitarian Law' which were adopted by the General Assembly of the United Nations in 2005 (Wolfe, 2014). This document defines obligations of the state to provide reparations. When the state is responsible for gross violations of human rights, there are five forms of reparation mentioned by the Basic Principles:

- Restitution: return victim to the community without the legal or physical impediments to civic, economic, social and political life;
- Satisfaction: ending human rights violation, restore dignity, reputation and rights of the victim public apologies, and sanctions for perpetrators;
- Rehabilitation: medical and psychological care, legal, social services;
- Guarantees of non-repetition: actions of the state to ensure civilian control, defend state based on international law, law reform, independency of judiciary, human rights training, protect human right activists monitoring and prevention mechanisms;
- Compensation: financial reimbursement for mental or physical harm (UN, 2005).

Also, sixteen examples for different types of satisfaction and guarantees of non-repetition are listed which courts can order as non-material forms of reparations, such as the restoration of victims' names and measures to prevent future violations (UN, 2005). Reparation as a positive claim right, demanding provision of some good or service ('right to an effective remedy'), correlates with a duty to make reparation, but does this mean it exists a moral or legal claim? Principles are not legally binding themselves, but these principles and guidelines were adopted in the framework of the UN General Assembly and therefore reflect a broad international consensus. Besides that, they reflect existing international obligations and are therefore to some extent binding (Van Ness, 2014).

Affirming a right to reparation in human rights treaties is done in a rather limited and specific manner, such as the International Covenant on Civil and Political Rights (ICCPR) recognizes a right to compensation for persons subjected to unlawful arrest or detention or to miscarriages of justice (Art 9(5), 14(6)). Established by this covenant the UN Human Rights Committee comments that establishing effective mechanisms of reparations is a crucial element of the obligation to adhere to human rights, this obligation also includes other measures than compensation: obligations of investigating supposed violations, prosecuting

those responsible, and providing appropriate measures of satisfaction.¹³

The right to reparation in international human rights law is in practice derived from the general duty to provide 'effective remedy', that is stated in all human rights conventions. Besides the ICCPR (Art. 2(3)), the Committee against Torture considers the term redress in Art. 14 as broadly encompassing both 'effective remedies' and 'reparation' and thus confirms a comprehensive notion of reparations. Further, the amount of reparations is considered by stating “*monetary compensation alone may not be sufficient redress for a victim of torture and ill-treatment. The Committee affirms that the provision of only monetary compensation is inadequate for a State party to comply with its obligations under Article 14*”.¹⁴ Additionally, the Committee against Torture's General Comment No. 3 mentions considerations to decide on appropriate forms of rehabilitation to guarantee conditions for the person's full recovery and self-sufficiency in the long-term, relying on sources such as the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (The Istanbul Protocol) (Correa, 2017, p.8). Whereas, the International Convention for the Protection of All Persons from Enforced Disappearance Article 24(4) clearly states 'the victims of enforced disappearance have the right to obtain reparation and prompt, fair and adequate compensation'.

In addition, a more comprehensive notions can be seen in regional Conventions. Considering different world regions, international norms and mechanisms have been endorsed by the Organization of American States, the Council of Europe and the African Union. Art. 41 of the European Convention for the Protection of Human Rights (ECHR) and Art. 63(1) American Convention on Human Rights (ACHR) state 'fair compensation', a crucial element of the UN Basic Principles and Guidelines on the Right to Reparation that affirms that victim redress needs 'effectively ensure' human rights (Lessard, 2018).

At European regional level, the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed on 4 November 1950 (entered into force 3 September 1953), Art. 5 grants an enforceable right to compensation. However, the European Court of Human

13 Human Rights Committee, General Comment No. 31 [80] The Nature of the General Legal Obligation Imposed on States Parties to the Covenant adopted on 29 March 2004 (2187th meeting) CCPR/C/21/Rev.1/Add.13, 26 May 2004, para 16.

14 Committee against Torture, General Comment No. 3, Implementation of article 14 by States parties, U.N. Doc. CAT/C/GC/3, 19 November 2012, para 1 and 2.

Rights (ECtHR) has a more restrictive perspective unlike its American counter-part and there is no 'automatic right' to 'just satisfaction' and thus it cannot be spoken about a proper right to reparation. Regarding the European Union, EU external action is based on Article 21 of the Treaty on European Union that restates that the EU's action on the international stage is guided by the principles of human rights, democracy and rule of law. Recent EU policies, such as the strategic 'Policy Framework on Support to Transitional Justice' mentioned above, specifically reaffirm the strong political commitment from the EU that where violations exist, to make sure that victims have access to justice and redress, and that those responsible are held accountable.

The Inter-American Court of Human Rights (IACHR) offers the most innovative approach in respect to reparations, the probably most inclusive definition of victims that allows to provide reparation to communities as a whole without each individual has to individually be considered as victim. Also, the IACHR has used the definition of full restitution and developed broad remedial powers including specific provisions on how to provide rehabilitation, such as medical and psychological care. Further, the IACHR ordered education as form of reparation in one of its early cases dealing with relatives of forcible disappeared members of an ethnic community ordering the re-opening of school and health care centre in the isolated village (Haldemann, 2018; Correa, 2017). Based on Article 1 of the Protocol to the African Charter on Human and Peoples' Rights adopted by Member States of the Organization of African Unity in 1998, the African Court of Human and People's Rights has made decisions awarding reparations to victims of violations of the African Charter. Lately discussed has been the question, if there is a customary international right, what would made it opposable to a state, even if not part of a relevant human rights treaty. Proponents of this theory refer to the ILC Article, and the International Court of Justice, but it is questionable if possible to transpose this remedial logic to a relationship between state and citizen (Haldemann, 2018).

2.3 Restitutio In Integrum: Towards a Broader Approach to Reparations

Previously it has been discussed that the term reparations in international law shifted from a narrow meaning of providing material reparations to individuals towards a broader meaning encompassing forms of non-material reparations and collective reparations directed to parts of

or to the entire society. Hence, *restitutio in integrum* meaning full restitution – also referred to as full reparation in international law – is nowadays the guiding principle for reparations in international human rights law. Reparations should seek to return the victim to the *status quo ante*. Traditionally national and international courts have applied a material approach ordering monetary compensations for direct material harms (like expenses for a funeral or costs for medical treatment), loss of income (or the income sum the victim would have earned when the person would not have been killed or would not have suffered the harm), and moral harm, which is normally levelled with subjective hardship resulting from the harm. In cases of physical and psychological harm full restitution by providing material compensation is simply impossible. Exclusively individual material reparations are also impracticable in cases of massive violations with a large number of victims and because it bears the risk of excluding most vulnerable victims (the ones who do not have the means to demand legal redress, who fear reprisal, who are not educated, who are traumatized to undergo examinations and others). Therefore, other forms of reparations are needed, more flexible, inclusive measures not only applying to individual harm.

First and foremost, reparations are to be based on acknowledgement of responsibility and recognizing victims' dignity (Correa, 2017). The Handbook of Reparations edited by the former UN Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence Pablo de Greiff, provides a comprehensive recompilation of the debate on the amplification of the reparations term. De Greiff (2006) emphasizes that the term reparations is used in two different contexts:

First, in a juridical context, based on international law, that is being in line with UN principles and guidelines. Reparations encompass various forms that only together form a comprehensive approach: restitution, compensation, rehabilitation, satisfaction and guarantees of non-recurrence (see further above). The primary goal of reparations should be restitution, that means the re-establishment of the *status quo ante*. Obviously, this is only applicable for the restoration of citizens' rights, through reintegration of jobs or restitution of property. In cases where victims died, were severely injured or disappeared, the re-establishing of the *status quo ante* is not possible. When restitution is not possible, then it should be at least resorted to compensation. Compensation is understood as a measure that tries to make up for past wrongdoings through the quantitative assessment of harms. These harms are physical, mental or even moral injuries and hence going beyond pure economic loss. Rehabilitation includes

instruments that are to allow for social, medical, and psychological care and legal services for victims. Concretely, this also means to restore, as far as possible, victims' independence by providing rehabilitative services as medical, physical, and psychological assistance, re-integrative and social services, community and family-adapted aid and services, education, vocational training, and full inclusion and participation in society.

The meaning of satisfaction and guarantees of non-recurrence is rather broad aiming to re-establish the dignity of the victims and help in the recognition process of former crimes. Measures are basically symbolic, non-material forms of reparation, including “*cessation of violations, verification of facts, official apologies and judicial rulings that establish the dignity and reputation of the victim, full public disclosure of the truth, searching for, identifying, and turning over the remains of dead and disappeared persons*” (De Greiff, 2006, p.453). The application of administrative or judicial sanctions for perpetrators, and institutional reform is in practice meant by guarantees of non-repetition (De Greiff, 2006, pp.452-455; Torpedo, 2006; Duggan, Paz y Paz and Guillerot, 2008). As an illustration for satisfaction, the following examples show what kind of satisfaction measures courts have been decided:

“Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations; An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim; Public apology, including acknowledgement of the facts and acceptance of responsibility; Judicial and administrative sanctions against persons liable for the violations; Commemorations and tributes to the victims; Inclusion of an accurate account of the violations that occurred according to international human rights law and international humanitarian law, training and educational material at all levels” (Correa, 2017, pp.12-13).

Satisfaction can be also directed to communities by providing infrastructure for better living conditions and measures to strengthen the identity and culture of a community. For example, education as reparations can be viewed as a form of social rehabilitation and a form of compensation for singular consequences of violations or above that as sort of satisfaction by asserting the victim's dignity (Correa, 2017).

The second context De Greiff (2006) highlights the term reparations is applied, is the context

of design of programmes, meaning being a more or less harmonized set of reparative measures with extensive coverage. Like those carried out in Germany, Chile or Argentina (nowadays also the 2011 Colombian Victims' Law could be considered as such), where de facto reparations programmes have been designed. This definition is focusing on providing benefits directly to victims and not encompassing truth-telling, criminal justice or institutional reform. Within reparations programmes there are two elementary differentiations between material and symbolic, and between individual and collective reparations. Reparations programs should be thought, according to De Greiff, as part of a political project and related to a broader political agenda contributing to the reconstitution or constitution of a newly creating political society. A political project of reparations be based on a amplified conception of justice, that aims beyond repairing individual claims and comprises recognition, civic trust, and social solidarity.

Generally, the purpose of reparations is to bring justice to victims, ideally in the form of the above mentioned 'full restitution'. Also, a main aim is recognition by returning the status of citizens to individuals. Recognition is both a precondition and a consequence of justice, where reparations programmes aim to contribute to. Reparations constitute themselves a material form of recognition that the state owes to citizens whose fundamental rights have been violated. The formation or restoration of trust among citizens among political communities, is another legitimate aim of a reparations programme. Reparations can contribute to civic trust by including all citizens equally in a common political project. Material support can send a strong message to former victims that they are living under fellow citizens and trustworthy institutions. Further, social solidarity could be considered as another legitimate aim of reparations by offering sort of a new 'social contract' to former victims recognizing their dignity and interests. However, reparations rather catalyse then generate a sense of solidarity (De Greiff, 2006, pp.454-466).

Moreover, there are several additional aspects to consider in the debate about all-encompassing reparations. Among other things, when providing reparations, it is necessary to consider the individual characteristics of victims in order to identify victims that are affected differently by the violation, and that face special obstacles and difficulties to exercise their right to reparation. A special notion of victims' gender or special vulnerability, as child victims or victims from an indigenous group or the Lesbian, Gay, Bisexual, Transexual/Transgender and Intersexual (LGBTI) community, is important for being able to address the harms in a

appropriate way and to design specific reparations (Correa, 2017).

From an anthropological perspective, Johnston and Slyomovics (2009) view reparations as a way for states to make peace. With the adoption of Universal Declaration on Human Rights 1948 the concept of reparations was broadened in the sense of a need to repair human damage. Anthropologically reparations can be seen as a social construct referring to social movements and political actions seeking remedy for gross violations of human rights that voice social injustice, since “*reparation in the idealized form is both a plan for peace and the process that allows wounds to heal*” (Johnston and Slyomovics, 2009, p.15). Hence, reparations is a product of political negotiations, but reparation is about the process as much as it is about the outcome and overall it is about ensuring 'never again'.

In the same direction, Dundes Renteln (2009) explains why the anthropological approach matters by looking on how repair can be provided in culturally appropriate ways. She notes that a holistic approach is more than compensation and includes measures beyond cash such as housing, medical care, public commemoration of dead or public apologies on part of the wrongdoers. What kind of reparations depends on the type of trauma individuals have experienced and on the nature of the damage caused. Linked to this is the discussion on top-down or bottom-up reparations processes. Viaene (2010a, 2010b) notices that TJ is perceived and understood locally and culturally very differently. What makes it crucial for TJ to be build on local perspectives of justice, truth, reparations and reconciliation. In the last years there has been mobilization of traditional and informal justice approaches (e.g the Gacaca courts in Rwanda as a local dispute settlement mechanism to turn on the legacy of the genocide or the 'mato oput' rituals as a component of the Acholi justice system in northern Uganda as well as the embodiment of traditional leaders in the TRCs in Sierra Leone and Timor-Leste). Nevertheless, Viaene criticises that culturally sensitive approaches remained so far on a rhetorical level (Viaene, 2010a, 2010b).

Furthermore, the thematic of remembrance within reparations and how the past matters has to be taken into account in a holistic approach. Remembrance is obligatory as being also a matter of justice. Reparative justice explains how the duty of remembrance can be a duty of justice. Remembrance itself is not punitive but forms part of reparative justice in the sense that one of its purpose is to secure a kind of justice for victims. Reparative justice provides this with focus on needs and dignity of victims. Ethics of remembrance imply individual and

collective obligation. Individual obligation in sense of imperative use of moral language and the obligation of collective entities (e.g. nations, religious communities) is the duty of memory; being one of the principles of the UN's fight against impunity. Individual and groups are liable to moral praise and censure for remembering or blame for forgetting as a failure to fulfil moral obligations. Collective obligation can be exerted in two ways: Either the civil society and survivor communities might take lead in proposing, designing and implementing memorials and commemoration and the government is acting as strategic facilitator. Or, the state initiates the process of memorization and the civil society and community of survivors acting as consultants and apply pressure. When memorials are established the state and the civil society distribute roles accordingly to organize memorial activities. This ethic of remembrance implies notion of appropriateness and adequacy (Blustein, 2015).

Above that, Villa-Vicencio (2014) present a meta-ethical perspective on the restorative justice and reparations debate. Besides the victims, also non-victims in post-conflict societies have to be considered in the reparations debate. Non-victims responsibility is addressing four interrelated aspects of the reparations debate: the way we view others, the need to take a second look at ourselves, what it means to live between promise and non-delivery regarding basic human rights and the payments of reparations. Hereby, it is of great importance to see reparations within the context of development theory as part of a long-term process. Providing reparations and restoring victims dignity is a slow and contested process and tests the patience of victims. The attempt to respond to the demands from various sides reflects the power struggle between the political, and economical influence of former oppressors and those in power. It is nowadays widely agreed that reparations should function as a tool to address historical and structural social-economical injustices.

Going a step further, Balasco (2017) proposes a theory of reparative development and thus closely linking transitional justice measures with development. In the context of reparations this means that restitution not only should address past damages, but include a future perspective by restituting also lost life opportunities. This means reparations provided on individual and community level, involving additional policy actions that are necessary to allow them to be adequate and responsive to actual human vulnerability as well as involve local organizations and grass root movements in the implementation process. This demand is also part of recent research suggesting a shift from transitional to transformative justice. In the transformative justice approach reparations play a central role, authors like Harris (2008) see

in transformative justice a transformation of restorative justice. As already mentioned above, this debate is dealt with in more detail in the final Chapter VII.

Based on the introduced theoretical background, in practice countries can design various reparations programmes consisting of material and symbolic, individual and collective measures. There is no conflict of interest between these different measures if these measures are balanced. Verdeja (2006, p.450) regards these different dimensions more as a system of coordinates with two axes, one showing a “*typology of acknowledgment (symbolic and material)*” and the other representing a “*typology of recipients (individual, collective)*”.

Material measures can be divided into two sub-categories of individual grants and service packages. Services packages consist of medical, educational or housing assistance, whereby individual grants respect personal autonomy of victims and aim to compensate for the loss of relatives or severe physical injuries (Duggan, Paz y Paz and Guillerot, 2008).

- On collective level, material reparations could be services in form of housing, medical, educational assistance or building up infrastructure for education, health services or community centres. Collective instruments constitute the advantages that they satisfy true needs, may have a positive effect in regard to equal treatment, may result cost-effective when build on earlier existing institutions, may promote the development of social institutions. However, disadvantages include that they do not maximize individual autonomy, may reflect paternalistic structures, and the benefits' quality will be dependent on the services provided by recent institutions. The greater the programme focuses on a basic service package, less strength the reparations will have, given that citizens will understand that the benefits being distributed are benefits they receive as citizens and not because counting as victims.
- On individual level, grants can be granted in form of one-off payments, or long-term payments, such as pensions. Advantages are that they respect personal individuality, fulfil perceived needs and desires, stimulate the recognition of individuals, could enhance the quality of life of the beneficiaries and might be more simple to administer than other methods of distribution. Disadvantages might be if they are viewed purely as a manner of quantifying the harm, they will be perpetually perceived as unsatisfactory and inadequate. When payments fall below a certain amount, they will not meaningfully affect victims' quality of life of victims. Beyond that, this manner of

distributing benefits assumes a particular institutional structure when they are not planned along a comprehensive framework of reparations. Grants might also be viewed as method to obtain by literally 'buying' the silence and consensus of the victims. Also, grants sometimes might be politically critical to realize, since the payments would challenge alternative pressing required programmes, could be costly, and controversial when for instance they include as beneficiaries ex-combatants from both warring sides.

A bunch of different symbolic measures exist of which some are illustrated below.

- On a collective level, public acts of atonement, the erection of monuments, a day of commemoration, renaming street names and public places or establishing a museum dealing with the violent past aiming to promote collective memory of the society. Advantages of these forms are they promote the buildup of collective memory, social solidarity and a critical viewpoint toward the past, and a surveillance of state institutions. Nevertheless, there is a risk that these symbolic measures could be 'misused' for political aims. Memory can become a political issue when, for example, out of political opportunism, the changing of street names is used as an act of revenge to win votes. Hence, symbolic measures in general are very dependent on political conjunctures.
- On individual level, symbolic measures encompass offering proper burial for the victims, granting victims status or as well an official apology from the head of state can count as symbolic reparations. Advantages are that symbolic measures offer the possibility to express respect for individuals, demonstrate recognition for the harm suffered and at the same time entail relatively low costs. Disadvantages are that they may be socially at odds, in societies or social sectors with a disposition toward feeling victimized, this perception may be enhanced, and may create the impression that they on their own compose sufficient reparations (De Greiff, 2006, pp.468-470).

Altogether, policy makers have many options to design a reparations programme. The decision-making on reparations is a complex process that is done by the ones who have the main stake in the outcome. One of the greatest stakeholders is the international community involving the UN Office of the High Commissioner for Human Rights (UN OHCHR). Reparations are a key strategy of the human rights tool kit with the UN Basic Principles and

Guidelines on the Right to Reparation that can be used to put the right to remedy into praxis (Dundes Renteln, 2009).

Generally speaking, in the academic discussion the term 'reparations' is collegial understood as a form of redress for past harms and can imply several meanings from the traditional term of war reparations to nowadays framing within reparative justice for violations of human rights and international humanitarian law. In short, the goals of reparations are acknowledging the subjective rights of victims and compensate for the objective law which has been violated in order to achieve a balance between the victim and the perpetrator by reintegrating both in the society. Also, helping the victim to overcome the distress caused by the violation, preventing the perpetrator from enjoying the fruits of the violation, expressing society's solidarity with the victim and deterring future violations (Sassòli, 2009, p.281).

In summary, the term reparations is again clearly defined below as it is hereinafter understood in the context of this thesis.

Definition Reparations

Miller and Kumar (2007) distinguish between reparations for indigenous people,¹⁵ reparations for slavery, reparations for colonialism and reparations for conflict. The term *reparations for conflict* can be better framed as *victim reparations*. Victims of human rights violations are the main subject and actor of victim reparations, intending to repair for disappearance of a loved one, for torture, for internal displacement in the aftermath of repression, and mass violence. Thus, victim reparations are an important and desired way to address victims' needs, and function as a means to reconciliation and peace (Roht-Arriaza, 2004). This thesis refers to Miller and Kumar's terminology of reparations for conflict in the sense of victim reparations in post-conflict and democratic transition contexts.

As explained above, De Greiff (2006) makes a crucial differentiation between reparations in juridical terms according to international law, where the umbrella term reparations includes the components of restitution, compensation, rehabilitation, satisfaction, and guarantees of

¹⁵ Using TJ measures independently from a transition context, to respond to human rights violations occurred to indigenous people and historical injustices, is a growing trend for example in Canada. However, defining the term 'indigenous peoples' is still a controversial debate among theorists of indigenous rights and practitioners of international law. Also, the 2007 UN Declaration on the Rights of Indigenous People is lacking a clear definition (Chen, 2017). For further discussion on the topic see e.g. Tsosie, R. (2007) 'Acknowledging the past to Heal the Future: The Role of Reparations for Native Nations', in Miller, J. and Kumar, R (eds.) *Reparations – Interdisciplinary Inquiries*. New York: Oxford University Press, pp. 47-68.

non-repetition (see UN 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) and the design of reparations programmes, where benefits are directly provided to victims. When a coordinated set of reparative measures with vast coverage and with the attempt to provide benefits directly to victims is established, it can be spoken about a reparations programme. Reparations programmes are referring to a specific target group (victims) and a specific type of human rights violation, thus this definition does not encompass truth-telling, criminal justice, or institutional reform. This operational definition is based on two dimensions: types of reparations provided (material or symbolic) and the forms of distribution applied (collective or individual).

To be clear, under study in this thesis are not reparations in an exclusive juridical sense bound to international law. The definition applied goes beyond the ambit of traditional legal obligations by considering reparations as public policy and regarding them from a social science perspective. The beforehand mentioned reparations for conflict or respectively victim reparations, in form of a set of reparative measures or large-scale reparations programmes set up and implemented only by the state or state actors and not provided by individual perpetrators or companies, to address needs of victims of human rights violations, is the understanding this thesis is based on. Hereinafter referred to simplified as reparations with the plural form being used to reflect their manifoldness. The with the concept of reparations associated question of its contribution to social and political reconciliation is not in the centre of attention. However, since it has come up during the empirical analysis the reconciliation topic is taken upon again in the concluding Chapter VII.

2.4 Emergence of Reparations

The earlier presented literature review outlined that transitional justice is not a fixed set of various instruments operating in a vacuum. Reparations cannot be regarded without considering the circumstances under which TJ emerges. Reparations processes are highly dependent on social, political, and historical contexts. For example, Huyse (2014) in an analysis of TJ experiences in Europe identifies four contextual factors, that shaped different approaches that were taken in TJ policies: the preceding regime, earlier experiences, the type of transition, and the international context. Whether and why reparations programmes emerge

is thus dependent on a set-of external factors and dynamics (Cunneen, 2008), as also on country-specific determinants. Explanations of transitional justice literature, in respect to what determines a country's decision to adopt or not adopt TJ mechanisms, are assumed to apply also to the single mechanism of reparations. Looking further into the academic writings explaining causes and reasons for transitional justice policies, the following factors are used to explain the emergence of TJ in post-conflict and democratic transition contexts: norm development, pressure by international community, historical legacy and path-dependency, the power exercised by the civil society, the process of the regime transition, the characteristics of the new regime, interests of key stakeholders, timing and sequencing of different TJ instruments, and economic factors.

First, literature raises the point that TJ developed into a self-standing new norm. Resulting from an international normative development, the legal fundament for a right to remedy and reparation is nowadays established within international human rights instruments. This new norm represents an intrinsic power derived from the support of a broad range of individuals, NGOs, and a coalition of like-minded states. By the end of the twentieth century a trend of holding accountable individual state officials, referred to as the '*justice cascade*' (Sikkink, 2011, p. 5), took its dynamic. This trend evolved when the former military dictator of Chile, General Augusto Pinochet, was 1998 arrested in London to stand trial in Spain for crimes committed during the dictatorship. And when one year later Slobodan Milosevic, President of Yugoslavia, became the first sitting head of state to be prosecuted for war crimes before the International Criminal Tribunal for the Former Yugoslavia (Lutz and Reiger, 2009). The rise of the transitional justice and memory discourse is closely parallel to the evolution of the human rights movement in the 1980s and 90s, whereas in contrast to human rights the concept of TJ is oriented to the future (Huysen, 2015, p.29).

Empirical evidence for an existing justice cascade is given, for example by Sikkink and Walling (2007), studying the growth of the use of trials and truth commissions and its impact on democracy, human rights, conflict, and rule of law. Hazan (2006) postulates the emergence of TJ through the institution of norms and the internalizing of external constraints. This evolves from a process of alliance forming between NGOs and certain states through strategic bargaining. These formed alliances of 'guardians of moral values' achieve with the support of international organizations step by step universal recognition of norms. Likewise, Torpey (2015) argues that the reparations idea developed because of the spread of juridification of

international affairs.

This process of juridification of reparations and human rights happened because of distinct influencing factors. Ideological factors of the idea of human rights, economic factors in form of a transformation from industrial to post-industrial society, because computerization drive towards individualization, due to military factors (transition from mass conscription to nuclear weapons and vastly professionalized commands with unmanned and abstract forms of warfare, drones and cyberwarfare) as well as political factors as such the geopolitical dominance of the United States in post-World War II times. Further, the support for decolonization, the importance for the creation of the UN, and because United States court suits for crimes are taking place anywhere around the globe under the Alien Tort Statute. Consequently, reparations are nowadays institutionalized as part of customary international law since the obligation to make reparation at the international level was well established by the Permanent Court of International Justice of the League of Nations in 1927. And as UN soft law, although mainly reflecting already existing international obligations, in form of the Principles and Guidelines on Reparations adopted by the UN General Assembly in 2005.

Related to this, growing pressure in form of 'naming' and 'shaming' is exercised by the international community to apply the evolving norms and transform them into legal obligations. Naming and shaming governments that do not abide is done through media coverage and through direct dialogue with policymakers (Wolfe, 2014; Camins, 2016; Hafner-Burton, 2008). NGOs, news media, and international organizations forming, transnational advocacy networks, publicize states' violations of human rights, demand a halt and national reforms. Thus, being in the spotlight of international critics, the assumption is that perpetrators step back from those practices to save their reputation and maintain international legitimacy. Some studies confirm that this method brings ameliorative effects on the severity of gross human rights violations (see e.g., Krain, 2012). Other scholars question if governments really change their human rights practices as an answer to those efforts. Governments sometimes continue or even intensify some forms of human rights violations while reducing others after they were brought in the spotlight. The reason is that governments are using violations (e.g. police violence) sometimes strategically to counteract other reforms that had been implemented under international pressure (e.g. realizing elections), and that the capacity of enhancement depends on the type of violations (see e.g., Hafner-Burton, 2008). The role of international actors often extends beyond direct forms of advocacy, organizational

and financial support. The international community often exhibits a more indirect role working with a system of incentives for benefits such as trade relations, humanitarian aid, or membership in an international organization.

Beyond that, such actors constitute a transnational advocacy network and act as an agent pressuring for norm diffusion of TJ. A concentration of certain mechanisms in certain regions might be an evidence for this kind of diffusion, demonstrating a domino effect of spreading the use of TJ in one country to its neighbours. A good illustration might be Latin America where several countries have employed similar TJ measures since the beginning of the political transition processes in the 1980s (Kim, 2012; Jervis and Snyder, 1991). Similarly, Barahona de Brito and Sznajder (2010) argue for a contagion-learning effect as know-how spread from previous transitions to recent democratising political systems. In turn, Olsen, Payne and Reiter (2010b) using regional indicators as control variables when measuring the effect of TJ instruments on human rights and democracy find that regional effects and membership in international organizations not have a significant effect in predicting TJ. Whereas, they find that advocacy networks indeed play a critical role for trials since international NGOs foster with their pressure the prosecution of perpetrators by exercising pressure on states to pursue trials. Therefore, it can be argued that reparations emerge backed on the normative basis that justice needs to be done for victims along with the pressure of the international community to comply with norms and moral standards (Camins, 2016; Sikink, 2011).

Furthermore, historical legacy of authoritarianism or the violent conflict and path-dependency of the political and juridical system are stressed as very country specific factors. The historical legacy is referring to democracy and rule of law traditions, traditions of political culture and civil society participation, traditional power of societal actors such as the church and religious leaders (Barahona de Brito and Sznajder, 2010). Path-dependency is more referring to the institutional context including legal and national institutions like constitutions and justice systems, and local institutions or community-based justice and reconciliation practices. Institutions can shape or be shaped by TJ processes depending if they are strong or, what is often the case in transition situations, are rather fragile since being corrupt. This creates opportunities or challenges for the emergence of TJ measures and institutional reforms (Waldorf, 2017).

Barahona de Brito and Sznajder (2010) differentiate between, on the one hand, a country's historical legacy and, on the other hand, the legacies of dictatorship. The legacies of the dictatorship, meaning the duration and institutional penetration of the authoritarian rule with legacy of a weak or even absent opposition, legal, constitutional, and institutional legacies inherited from laws, also the nature of the authoritarian repression and legacies of a civil society either with a tradition of participation or of being apathetic and the existence of a strong human rights movements with a clear agenda (creating a winner and loser situation). Likewise, Olsen, Payne and Reiter (2010b) raise the importance of authoritarian regime factors such as regime duration, degree of repression, the timing of transition, and leadership of old regime. These factors are highly relevant to the Spanish case with its nearly 40-year long dictatorship and an amnesty law still in force, as will be examined later on. It is argued that a strong culture of fear and powerful regime supporters, prevent new democracies from confronting perpetrators and leads to the use of amnesties. However, when the old regime collapsed and has lost its legitimacy it created the environment to put past human rights violations' perpetrators on trial.

The findings, on the contrary, do not confirm the legacy of authoritarianism since e.g. amnesties are correlated with the shortest authoritarian regimes, whereas are twice as long in countries that adopted reparations. Important results to be regime duration. The longer a regime held power the less likely it is to receive amnesty for its abuses, whereas when height of repression is higher it is more likely to grant amnesty. To notice here is that despite the fact that the author's sample consisted of all transitions to democracy between 1970 and 2004, it is necessary to analyse case by case. For example, the Spanish case does not fit within this line of argumentation as illustrated later on (Olsen, Payne and Reiter, 2010b, pp.43-46, p.58). In addition, the time when the worst atrocities took place during a regime influences the intensity of the demands for retribution after the transition, according to Elster (2004). The nature of conflict and violence as a crucial contextual factor encompasses the type and scope of violence and human rights committed, the variance of armed actors involved and their motives. Whereby, violence is widespread during armed conflict it can persist in various forms in the aftermath of the conflict and thus challenging accountability, acknowledgement, and reform processes. Focusing on reparations measures, they might emerge when the legacy of the dictatorship is less authoritarian, or for the post-conflict situation, the violence during conflict is grave and widespread, but does not continue in the aftermath. And if the new

regime is less contingent upon the old one but can rely on previous traditions of strong democratic institutions and rule of law.

Special regard must be given to the historical power of the civil society since the desire of certain societal groups for proper recognition of past wrongs motivates the demands for TJ. Civil society in transitional justice contexts is understood not only in the classical understanding of “*a set of organisations and institutions and ‘spaces’ of social relations which mediate between the individual and the state*”, but civil society goes beyond and “*also transcends values of civility and notions of a single, inclusive public sphere*” (Gready and Robins, 2017, p.3). Social movement, such as the 'Madres de la Plaza de Mayo' in Argentina and the Khulumani Support Group in South Africa, have played a crucial role in past transitional justice processes. “*Social movements are ‘collective challenges by people with common purposes and solidarity in sustained interactions with elites, opponents and authorities’ through which it is argued the marginalised or otherwise disenfranchised can challenge the dynamics of power in society*” (Gready and Robins, 2017, p.3). What mainly distinguishes social movements from NGOs is the way collective identity is involved and formed. NGOs provide a platform to share identities whereas social movements create identities, thus become a source of it.

Besides the described forms of civil society, Gready and Robins discuss a new form of civil society referring to contemporary activism that was evolving during the Arab Spring and in Southern Europe during the worldwide bank crisis. New forms often reject mainstream NGOs and can be defined in terms of “*the plural nature of the justice*” (Gready and Robins, 2017, p.4). The influence and real power of victim groups is exercised through a collective narrative (Ramírez-Barat, 2014; Olsen, Payne and Reiter, 2010b). Neumann and Thompsen (2015) argue that favourable conditions for historical justice policies depend on the ability of oppressed people to successfully challenge the political status quo and its underlying historical narratives. Skaar (1999) finds support for the argument that governments' choice of human rights policy depends on relative strength of the public's demand for truth and justice, since governments want to please the electorate. Hence, reparations programmes are issued because of a strong internal support from individual victims or victim organizations, which can prove the committed injustices in a well-documented way (Bloomfield, Barnes and Huyse, 2003). Scholars also argue that the influence of previous movements affects reparations claims by ever new groups (Harring, 2002; Howard-Hassmann and Lombardo,

2011; Craemer, 2009). It is approved that domestic propagation plays a significant part for criminal prosecutions of high-profile state officials, too (Kim, 2012). Overall, it can be argued that reparations emerge when there is a traditional powerful civil society and strong demands by victim groups.

Also, the political context the transition takes places in has to be considered as well as the transition process itself. There is consensus among scholars that the distribution of power during regime change crucially affects the policy of dealing with the past. An example, mentioned by David and Choi Yuk-ping (2005), after the fall of the communism in the Czech Republic, in contrast to other Central European countries, the old elite lost control of decision-making at the central governmental level which rapidly offered possibilities to the new government to make greater progress in dealing with the past. Moreover, Olsen, Payne and Reiter (2010b) differentiate three types of transitions: a clean break transition, a negotiated transition or creation of a new state. They take also into consideration democratic governance factors such as background of new democratic leaders and experience with democratic rule of law. Strong evidence is found that clean break transitions facilitate TJ in general. As both mechanisms amnesties and trials are significant, the way the transition took place may have less influence on the type of mechanisms that emerge. State creation makes applying TJ less likely and a negotiated transition is only correlated with truth commission. In addition, trials are used more in countries with a strong democratic history and countries with no democratic experience seem to omit TJ. Once more these observations have to be regarded case by case. For example, throughout its history Argentina had many dictatorships, yet it has been the country with the most trials against those responsible for crimes committed during the last dictatorship.

During the transition of crucial importance is the balance of power or correlation of forces between those favouring and opposing transitional justice. Relevant hereby are the political loyalties and values of political parties and the human rights background of new leaders. Depending on motivation and aims of the new leaders it is either opted for truth without justice or leaders with a strong human rights background are more likely to opt for trials (Olsen, Payne and Reiter, 2010b; Barahona de Brito and Sznajder, 2010). Additionally, some authors mention spill over effects, regional proximity and lessons learned, especially for the case of South American countries and their ways of dealing with the past (Zalaquett, 1992, Pion-Berlin, 1994). Even if transfer of ideas and policies seems important, always ethical

principles are bound on actual political opportunities and constraints during the country's transition. Hence, in a political context of a clean break transition and the existence of possible regional role models for transition, the emergence of reparations seems to be more likely.

In the transition process the nature of the new political system, the process of democratization and state actors' motivation play a crucial role. Changes in the political context and disputes over power dynamics have significant impact on the feasibility and the way of dealing with past violations (Duthie, 2017). The new democratic government wants ideally to show commitment to upholding human rights and acknowledging responsibility for the past. Whereby, this is often only done superficially, giving the country a democratic touch to obtain international funds and attract foreign investment. Though, old elites continue to control the country and structural reforms are missing to establish a real democratic regime based on the rule of law and respect for human rights. In the ideal case, by establishing TJ measures, the new government demonstrates its serious will to shape the political identity and by providing reparations to give victims a role in the transitional justice process. Political commitment to design and implement with public budget a reparations programme might result in public support and gives legitimacy to the new regime.

However, government's primary aim and the political strategy could also be to use TJ mechanisms as a pre-emptive strategy replacing tougher measures e.g. tribunals (Jiwon, 2015). Reparations can emerge with the aim of a compromise the state is making with the victims, such as compensating the victims for an amnesty law (Bloomfield, Barnes and Huyse, 2003). Olsen, Payne and Reiter (2010b) make in this respect the findings that regime type affect lustration policies and that fractionalization affects the use of reparations. Only for reparations there is significant correlation in the direction that reparations are less likely in countries where fractionalization is high (Olsen, Payne and Reiter, 2010b, pp.53-58). Nevertheless, it can be argued that the emergence of reparations measures is linked to the true democratic nature of the new regime.

Related to the political context, it is also crucial to look at interests and incentives of key stakeholders, meaning not just the new government, but also non-state groups, as such political parties, civil society as also victim groups, labour unions, and religious actors as well as international donors. Khittel and Pospisil (2011, p.13) raise the important point that “any

process of transitional justice will consist of negotiations between different groups of actors acting on different levels” from international to local. All actors see different opportunities in the workings of transitional justice and try to influence the process to their advantage. To ensure that transitional justice can work reasonably well and is not doomed to fail, one has to understand the concerns, motivations, interests and intentions of all actors involved. Considering all perspectives and satisfying needs of all stakeholders seems however leading to an insolvable trade-off. Nickson and Braithwaite (2014) analyse this expectation management problem and suggest as a solution for satisfy stakeholders to broadening (meaning of justice includes other forms as such e.g. Islamic justice), lengthening (long-term measures such as TRCs), and deepening justice. Deepening justice might be in the stakeholder context the most relevant as this means give actors opportunities of shaping justice and remedies through participation. Nickson and Braithwaite (2014) are referring to survivors' and citizens' opportunities of participation. Involving actively other actors as such perpetrators, too, could also influence the emergence of TJ measures.

What might additionally come into play when regarding interest in and incentives of the civil society to form groups that advocate for TJ policies, are effects of generational changes. To illustrate, Aguilar and Ramírez-Barat (2019) investigating factors for rising memory politics in Spain, found that generational change is a main argument. In Spain third and fourth generations were the driving forces behind a historical memory movement and in drawing attention to the legacy of the past. But this must be treated with caution since generational cohorts are not always internally homogenous, as often assumed. Depending on socialization and personal experiences with the past violations, an intergenerational transmission of political identities and transmissions of trauma to subsequent generations takes place. This is a well-known phenomenon in the field of political science (see e.g., Styskal and Sullivan, 1975; Jennings, Stoker and Bowers, 2009 or Balcells, 2012) as well as a widely studied one in psychology (see e.g., Danieli, 1998; Fromm, 2012 or Adonis, 2015).

Moreover, especially to consider are individual preferences of key decision-makers and elites, in power during the transition process. Pion-Berlin (1994, p.118) makes a stance for the importance of leadership preferences by explaining that Uruguay's first democratic elected president showed a preference for pragmatism over pursuing 'moral agendas', thus issuing an amnesty law instead of trials justified by the possible risk of a military coup. In detail, Pion-Berlin investigates why human rights trials were held in Argentina and not elsewhere in the

Southern Cone. He mentions six potential causes of human rights policies: legacy of human rights abuses, balance of power that emerged through the transition between civil and military, elite preferences, organized interest group pressure, strategic calculation of cost and benefits, and contagion effect of spill over from one country to another e.g. Argentinian human rights policies on Uruguay. The analysis results in the findings that legacies of state terror do not account for the significant divergences in human rights strategies, further power shows capacity but does not explain why one government follows a stronger approach than another. While leadership preferences of the president such as pragmatism over 'moral agenda' seems to be decisive, also calculations of risks and benefits, e.g. a risk scenario of a military coup was portrayed by Uruguay's president Sanguinetti and used as a justification for amnesty. Furthermore, in all the countries human rights movements were strong and new democratic governments had a popular mandate to investigate human rights abuses, as well as spill over effects had no influence on Uruguayan and only some on Chilean decision-makers.

The author concludes that the legacies of authoritarianism, the terms of transition to democracy and the balance between military and civilians of the respective countries creates the boundaries for political action, but within those boundaries perceptions, calculations and commitments of individual political leaders strongly determined the policies (Pion-Berlin, 1994). Additionally, stakeholders might even become 'spoilers' to transitional justice institutions when e.g. political leaders leave TJ mechanisms without financial or political support because they see themselves and their supporters threatened by truth-seeking measures (Waldorf, 2017). Considering the above, reparations can be assumed to emerge when this is in the interest of various actor groups (not only victims), but also in the interest of powerful actors, namely key decision-makers and the country's elites.

Interconnected with the nature of the transition and the democratization and stabilization processes of the new political system, is a temporal dimension, the timing and sequencing of TJ mechanisms. Being a long-term process, TJ emerges in different phases of post-conflict and democratic transition. Hazan (2006) differentiates between four phases in the wake of TJ depending on the country's context: first the armed conflict or repression phase, second the immediate post-conflict period, third the medium term (five to twenty years) and fourth the long-term phase. Sequencing of TJ mechanisms over time is often demonstrated in time lags of the use of trials and truth commissions such as in Latin America when over time a shift in power relations and norms made trials in Latin America more likely (Sikkink and Walling,

2007). Given there is no predetermined sequence, each country chooses a distinct order of instruments or right away establishes several mechanisms concurrently. The emergence and implementation of reparations depends on specific timings and sequencing of mechanisms. Thus, possibilities for reparations might arise during a short-dated window of opportunity.

Furthermore, economic factors are linked with the emergence of reparations programmes in mainly two ways. First, underlying economical, and social structural issues of inequalities, marginalization and discrimination are root causes for conflict. Often provoking massive human rights violations and also afterwards hindering to address those violations. Notions and necessities of development and social transformation can drive and determine the extent of TJ processes and reparations programmes (Sandoval, 2017). Second, funding is a central issue as cost constraints might determine that only less expensive TJ measures (e.g. amnesty), and not reparations are applied. The relative high costs of TJ raise the question if some TJ mechanisms are only available to countries that can afford them. Often international and domestic pressure for TJ arises when new democracies face financial needs. From a rationalistic view to avoid state break down and losses of legitimacy, resources are then directed towards TJ (Elster, 2006). This stands in contrast to the argument that international norms and domestic demands for justice override economic constraints (Lutz and Sikkink, 2002).

Further, domestic political economy in the form of a trade-off between economic and justice concerns has an effect. TJ might suffer from a setback when it is perceived by domestic actors that measures are established against national will and in place of important economic reforms (Subotic, 2009). Olsen, Payne and Reiter's study shows that political economy and economic health have a significant influence on countries decision since poorer countries are less likely to adopt TJ. Also, the level of economic growth influences the policy makers, because e.g. providing the capacity to develop and enforce a dynamic TJ process. However, in the approximation of relative costs, reparations are not included, as they are too broad of a range in costs to categorize (Olsen, Payne and Reiter, 2010b). Despite this, it can be argued that a strong and growing economy facilitates the emergence of reparations.

2.5 Design and Implementation of Reparations

After analysing the emergence of reparations, it is necessary to determine who are the beneficiaries, what are the criteria to be taken into account for the creation of reparations programmes, and finally how these programmes are implemented. Applying reparations in some form is a consideration that is made by nearly every post-conflict and democratic transition country, however which concrete measures from the government's menu of material, symbolic, individual, and collective reparations are finally included in the programme, and why, varies significantly between countries. Despite of international law making some prescriptions, as previously outlined, the ultimate task to design and implement reparations programmes lies with policymakers. Because of this, regarding reparations as a political issue, makes it crucial to respect national realities in the design choice (Hayner, 2011). Inherent in the reparations transaction is a set of power relations existent that sets the rules of compliance and the form and extent of reparation. The implementation of TJ measures, which also applies to reparations, highly depends on institutional structures and actors involved, such as the role of international, national and local peacebuilding actors. Also a crucial role play the interests of victims and communities in peacebuilding institutions (Firchow and Mac Ginty, 2013).

After having decided to issue a reparations programme policymakers have to decide in which form and to which degree victims of human rights violations are to be repaired. Decisions on the design should be made considering who the victims of the past violations are, what types of victimhood they have experienced, and what their current needs are (García-Godos, 2017). Scholars on victimhood dealing with the task to identify victims, point on the difficulty of defining victims, as the mere fact of having experienced violations of human rights, is necessary but not sufficient for being classified as 'victim'. This can be approached rather with an interplay of external identification, done e.g. by institutions, and a processes of self-identification with the condition of victimhood (De Waardt, 2016). Resulting from political and social negotiations victim hierarchies are created and commonly the 'innocent' victims are on the top of this and can claim true victim statues. Despite of often blurred lines between victims and victimizers in post-conflict societies (McEvoy and McConnachie, 2012), the question of who counts as a 'legitimate' victim also unveils political divisions within a society, denies victimhood to those who suffered due to their background or conduct, and is used to legitimize violence against groups or individuals (Druliolle, 2015). To overcome the socially-

constructed picture of an 'ideal' victim (the one who is innocent, vulnerable, good citizen), Moffett suggest to consider complex victims as eligible for reparations meaning that “*complex victims may be responsible for committing atrocities, this does not place them outside the law or beyond access to an effective remedy for their suffering, as they still have 'moral worth and dignity'*” (2016, pp.151-152). Nevertheless, the term 'victim' is ambivalent, it seems the only label affected persons can draw on to identify themselves when making reparations claims to the state (De Waardt, 2016).

Besides different views on the use of specific measures, scholars commonly agree on the fact that reparations programmes have to be designed in a 'complex' way meaning to distribute a variety of benefits including a mix of judicial and non-judicial, symbolic and material, as well as individual and collective measures (international law speaks about full reparation encompassing restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition). And, in a 'coherent' way referring to the development of a close relationship between the different benefits and to combining reparations with other TJ instruments, such as truth commissions. Additionally, “*great attention should be paid to inclusiveness, appropriateness and effectiveness as guiding principles*” (Bloomfield, Barnes and Huyse, 2003, p.162).

To give a practical example, the ICTJ and the Human Rights Association APRODEH published in 2002 the report 'Design Parameters for a Reparations Program in Peru' (ICTJ and APRODEH, 2002). Just to mention some of its relevant points as such the definition of minimal criteria a reparations programme should meet. These criteria are having an individual component, being external and internal integral, and satisfying the principle of non-discrimination and equal treatment. Further, they are summarizing suggestions for some procedural lessons on designing a successful reparations program. Namely, strategies of scope in the sense to avoid converting it into a development programme without reproducing unjust structures, to define types of violations, to institutionalize reparations by enacting a special law, to assign adequate sources and a strategy of financing (main source should come from the General National Budget), to devise and implement a political strategy including an ongoing dialogue and a public relations strategy.

Coming once again back to De Greiff (2006), he presents in 'The Handbook of Reparations' a series of case studies to deal with questions of design and implementation of large-scale

reparations programmes. By analysing several country cases he shows that the design of reparations programmes varies across countries (e.g. naming Chile with an all-embracing reparations programme versus the less ambitious Brazilian programme). According to De Greiff designing reparations programmes inherits several challenges in respect to eight characteristics.

First, a programme can vary in its design of having a greater or lesser *scope* in regard to the total amount of grantees it covers. This must be distinct from, second, a programme's *completeness* which means the attempt to cover the whole universe of potential beneficiaries. Completeness is regarded as impossible, since it is impossible to define a full set of potential beneficiaries and select all rights available for reparations. Also, because of evidentiary standards which can be set very high so excluding many persons and because of structural issues depending on outreach efforts such as information, deadlines, and personal requirements to fill in the applications.

In a related way, the third characteristic of *comprehensiveness* refers to the different types of crimes or harms a programme covers. This is mainly guided by international law thus limited to the set of civil and political rights. For example, agreement exists about reparations for disappearance or death. However, other violations are still in discussion, such as territorial displacement. Often the decision which harms to include in the programme's design, in the end leads to the exclusion of traditionally marginalized groups namely women or minority groups. Nevertheless, many programmes progressively increase in their comprehensiveness by developing their own dynamics. This allows for the issue to be continuant on the political agenda, but also leads to undermining the stability and reliability of the reparations accord.

The fourth characteristic which accounts for the way the reparations efforts are carried out is *complexity*. Complexity measures the character itself, being more complex means benefits of various types are distributed in more different ways. In contrast, simple programmes might distribute just money in one-off payments. Whereas, complexity raises when monetary compensation and other measures such as memorials, health care services or pension reforms, are applied. Complexity brings with it flexibility and so can respond more to victims' needs. Moreover, reparations programmes vary in the coherence they display regarding the fifth characteristic of *internal coherence* and the sixth of *external coherence*. Internal coherence means the relation between a programme's different types of benefit including material, and/or

symbolic measures, distributed individually, and/or collectively, and that these measures support each other. External coherence refers to the need for reparations efforts to be designed in tight relationship with other TJ mechanisms, at least with criminal justice and truth telling.

Designing reparations as a coordinated programme and part of a whole TJ policy can provide better satisfaction of victim expectations. Further, the seventh characteristic addresses *finality* of whether excluding other paths towards civil redress or not. Reparations programmes are not necessarily final, what in general negatively affects their stability. Finally, the eighth characteristic constitutes a programme's magnitude of benefits considered from an individual beneficiary's perspective, the so-called *munificence*. There exists no manner to measure absolute value of a benefit and compare it across countries, but can be approximated by measuring the real money values of material reparations programmes (De Greiff , 2006, pp.6-13).

A less complex approach takes Verdeja (2006) by presenting a normative theory of reparations with a four-dimensional typology: *Acknowledgement dimension (symbolic, material) and recipient's dimension (individual, collective)*. All four dimensions must be included in a reparations programme to successfully restore victim's dignity and achieving kind of a 'status parity'. This implies to always include material and symbolic reparations to address both non-recognition and economic maldistribution. But at the same time any model for victim reparation should beware of claims based entirely on ethical self-realisation. Further, since violence is mostly targeted towards one type of group e.g. gender, there is a need of a collective element to enhance the treatment of victims as equal citizens. Equally important is to recognize individual victims as individuals victimized are often in a situation of economic vulnerability. Symbolic recognition is crucial to restore sense of dignity. While the collective material dimension focus on distributive justice such as rural education and infrastructure. Nevertheless, issues remain that reparations might be replaced by general development policies.

Also, Laplante (2009) stresses out these challenges of designing reparations. For example, a focus on collective reparations leads to a mix-up with development projects, but investing into infrastructure, health and education in poor regions are duties the government anyhow must do. The danger is that the nexus between harm and the original human rights violations gets lost. Regarding individual reparations, they always come along with the danger of exclusion

of victims because of difficulty in defining who qualifies as a victim, as not being a victim means not receiving reparations. Reparations thus turning into a new source of exclusion. Failing to respond to the duty to reparation, the state is violating another human right. This issue is also addressed by the UNDG ECHA Working Group's Framework for Conflict Analysis in Transition (2004) stating that “*transitional justice and reparations programmes should aim at 'doing no harm' and minimising unintended negative impacts*”.¹⁶ The strongest challenge for material reparations programmes is to design them in a way that they are not perceived as 'blood money', while the main challenge for symbolic reparations is that they are really addressing injuries.

Overall, reparations programmes face the issue that laws are passed, and programmes are designed, but they have never been implemented and instituted, therefore finally not reaching out to the victims. To conclude, reparations cannot function as a single measure addressing the past but have to be set up within a broader transitional justice strategy. Then reparations can unfold their benefits of returning victims moral worth and dignity, showing need to re-conceptualise a society's sense of itself, strengthening public trust in state institutions, helping to undermine the justificatory narratives of the perpetrators and providing an alternative, critical interpretation of the past (Verdeja, 2006). This thesis uses Verdeja's four dimensions and De Greiff's eight characteristics as benchmarks for comparing the design of reparations programmes.

After deciding on the design, the types of reparations and the form of distribution, policymakers have to determine how to implement reparations. Most reparations programmes are established within national legislation and operated as administrative programmes. The operation of such reparations programmes prescribes the existence of an already identified universe of beneficiaries, properly registered and accredited in a victims' registry, and the proper set-up of specific measures to be provided to beneficiaries. Because of logistical problems, complex political issues, difficulties of institutional coordination and cooperation between government agencies this is however often not the case in a transition context and thus challenging an effective implementation. Funding is hereby another challenge to consider. Most administrative programmes are fund by public funds, often supported by

16 UNDG/ECHA (2004) '*Interagency Framework for Conflict Analysis in Transition Situations*', UNDG/ECHA Working Group on Transition (United Nations Development Group/Executive Committee on Humanitarian Affairs). Available at: <https://gsdrc.org/document-library/interagency-framework-for-conflict-analysis-in-transition-situations/> (Accessed 28 November 2020).

international bilateral and multilateral donors, and development cooperation agencies. This can lead to difficulties when the government is not complying with certain criteria linked to the provision of the funds (García-Godos, 2017).

During the implementation process of reparations programmes in particular legitimacy is a crucial aspect, meaning to rely on local and bottom-up approaches. When reparations are regarded as being inflicted by an external actor or as being part of a retaliatory strategy, then they are unlikely to contribute to peace or democratic consolidation. On the contrary, if they are regarded as a locally negotiated package that engages reciprocity between the victims and perpetrators alike as local oversight, then reparations find higher degrees of public acceptance (Firchow and Mac Ginty, 2013). Therefore, during implementation processes the political and societal dimension of reparations should not be neglected as effectiveness and acceptance of reparations can only be achieved when involving, on the one hand, individual attitudes and choices of victims and, on the other hand, when involving the society as a whole (Hazan, 2006).

Further, it must be asked when the government and alike which government strives for the implementation of reparations. Are reparations instrumentalized to repair and highlight suffering of the own group? This can be the case when certain political parties, that were repressed under authoritarian rule, come to power after the transition to democracy and foster during their mandate reparations policies. An example hereof might be the ruling of the Uruguayan 'Frente Amplio' party from 2005 to 2019, whose members suffered imprisonment and torture during the military dictatorship, and the implementation of transitional justice policies since 2005 culminating in the passing of a reparations law in 2009. Likewise, in Spain it can be observed that reparations measures for victims of Francoism have been implemented during government terms of the Socialist party, since their members represents one of the largest victim groups that had been persecuted in the post-Civil War period and suffered repression during the decades-long dictatorship of Francisco Franco. Event though, as later discussed, the Socialist party's efforts to repair victims of Francoism were quite limited during the more than thirteen-year term of office of Felipe González. Further, Raimundo (2017) finds indications that in Portugal the reparative measure of an honorific Order of Freedom, awarded to those who fought for freedom and democracy, being the anti-Salazar opposition, was instrumentalized as a political reward instead of used as a symbolic gesture by the Portuguese presidents governing after the transition.

Hence, newer TJ approaches are demanding transformative elements in the transition process, as such adherence to good governance what is more in detail taken up by the concluding Chapter VII. Concretely, reparations should be designed to tackle root causes of conflicts among others by including socio-economic rights. And should be designed with a long-term perspective to break the cycle of conflicts Reparations are to be implemented as a democratic and inclusive process in cooperation with local people and civil society. Being understood as a bottom-up process evolving from people's needs and not as a top-down imposition of a legal framework, it similarly fosters the achievement of legitimacy for reparations legislation among the population (Gready and Robins, 2019; Urban Walker, 2015 or Balasco, 2018). The need of a bottom-up perspective is also emphasized by Ottendoerfer (2018) who argues that victims' perceptions of a reparations programme determine the impact these reparations have, and that victims' perceptions are in turn influenced by the design and the implementation of the respective programme. This assessment represents a perfect door opener to what will be examined more closely in the next section.

2.6 Challenges of Reparations Programmes

What gets evident during the previous analysis is that the whole process of reparations is highly complex, involves many stakeholders and faces several obstacles. Obstacles can be attitudinal barriers and political will, generation time lack, practical issues of documenting harms, how to protect witnesses, and that jurisprudence reflects preoccupation with individual harms, but not with harm to group identity (Dundes Renteln, 2009). Looking at the recent scholarly debate on reparations, the focus is mainly on the reasons for success or failure of reparations in terms of contributing to reconciliation and in terms of their shortfalls since few programmes are fully satisfactory in the eyes of victims (Waterhouse, 2009). In the following positive contributions as well as challenges or difficulties of reparations programmes are resumed.

On the one hand, scholars positively ascribe reparations programmes as they support the recognition process of crime and victims, promote civic trust and foster solidarity (De Greiff, 2006; Torpedo, 2006). Of course alone reparations measures cannot eradicate the root causes of violations such as gender discrimination. Notwithstanding, they can contribute to foster or spark the ample change necessary or at least evade fostering such discrimination by the way

reparations programmes are designed and implemented (Duthie, 2017). A cross-national study conducted by Lie, Binningsbø and Gates (2007) for the World Bank finds that countries that have applied a set of TJ measures, such as reparations, show a statistically significant peace prolonging effect. Whereby to mention is that the results are weak as a clear causal relationship couldn't be established. On the other hand, designing and implementing reparations programmes comes along with several challenges.

First, a challenge might be to identify the target group meaning the recipients or beneficiaries of the reparations. Making clear distinctions between who can count as a victim and who is a perpetrator is sometimes impossible. For example, violations against women or minority groups are often not recognized by reparations efforts (Duggan, Paz y Paz and Guillerot, 2008; Nedelsky, 2013). Nonetheless, reconciliation is only possible if the state makes sure “*that every individual who suffers from mass atrocities has access to an effective remedy*” (Moffett, 2015, p.167). Another challenge is to assess the value of the losses and translate them into money, an immensely difficult task. Offering for example individual grants in form of one-off payments for violations such as loss of a family member or for physical injuries is not calculable in monetary terms. Above that, challenging is to adequately consider individual and collective claims as well as claims arising from economic, social and cultural rights (Barkan, 2000; Hayner, 2011). Granting only individual grants in form of payments can be perceived by the victims as “*blood money*” received from the government (De Greiff, 2006, p.469). Therefore, it is important to look on the underlying structures of harm done and the reasons for violence in order to address the injustices that caused the conflict (Gready and Robins, 2019). When individual reparations do not deal with the discrimination or prejudices that have overcome victims or do not consider the relevance of restoring links within a community, bring forth merely a limited impact.

Only individual reparations can even be counterproductive, as stigmatization and rejection of victims could increment (Correa, 2017). To illustrate, Miller and Kumar (2007) show in interviews with Holocaust survivals, analysing the effect of the German Federal Compensation Law 1965, since only monetary compensation was provided no restoration of dignity happened. The reasoning behind this finding is, that victims claiming reparations had to undergo humiliating investigations (psychiatric examinations that were held in german language only), had to prove damage (a minimum of 25 percent damage had to be proven in order to receive pension), and claims were rejected because of bureaucratic deadlines and

fighting for process absorbed victims' energy (Miller and Kumar, 2007, pp.311-314). Because of this, some approaches suggest fostering non-judicial mechanisms by setting more focus on collective reparations and involving low-level perpetrators into the reparations process through community services (NoPeaceWithoutJustice, 2010) or to apply more individual measures when dealing with a victim's physical harm. Others suggest that reparations should also be used in the context of gender and sexual-violence (see Eboe-Osuji, 2011; Ni Aolain, O'Rourke and Swaine, 2015; Rubio-Martín, 2006; Urban Walker, 2015) or even to consider asylum seeking as a form of reparations for refugees (Samy, 2010).

Furthermore, it is criticized that reparations are limited as they don't provide redress of structural imbalances in the form of distributive justice, and so they are not able to tackle a general sense of victimhood (De Greiff, 2006). Thus, the importance of bringing back the justice component of reparations (Gray, 2010) and a justice-continuum theory of reparations ranging from reparative justice, to restorative justice, over civic justice until socio-economic justice, is suggested (Laplante, 2014). As an illustration, reparations claims in Nicaragua raised from sense of social class grievances as in Nicaragua peasant refugees and demobilized former Sandinista and resistance fighters demanded land and credit since having received no assistance after winning the US-backed counter revolutionary war in the 1980s. Phillips (2009) evaluates that the problems of establishing satisfactory reparation among Nicaraguans continued to hinder real reconciliation among major sectors in the country until nowadays.

However, reparations may be limited in their capability to influence material resources and the distribution of wealth at national levels, but might exercise real impact at lower levels of gathering. Alike, collective reparations can support communities with the provision of health care and education, whereas individual assistance can strengthen household resilience. Providing reparations to marginalized populations may improve the building of upward social capital and fosters connections between citizens and state institutions (Duthie, 2017). D'Argent and De Ghellinck (2018) conclude that no reparations procedure judicial or administrative has succeed to reach completeness (reach all victims of violations) and comprehensiveness (redress all violations). This might be because of the various definitions of victims and perpetrators applied, eventually excluding some victims groups. Obviously, because of financial and practical limitations reparations programmes must select violations that can be redressed since it is literally impossible to address all violations.

In addition, scholars highlight the challenges of applying a bottom-up perspective by giving victims a part in the design and implementation of reparations (Dixon, 2015; Eijkman, 2010; Waterhouse 2009). A common critic is that reparations programmes in the past have led to negative perceptions since a lack of outreach, communication to and participation of victims was apparent (D'Argent and De Ghellinck, 2018).

“Reparations negotiations require the political formation and effective action of affected peoples, in partnership with advocates (legal, scientific, political), with a heavy reliance on public campaigns, and the public sympathies that such a campaigns deliver to place this grievance issue on the state or international agenda.” (Johnston and Slyomovics, 2009, pp.19-20).

Hence, a bottom-up perspective also means engaging victims in anthropological process, as documenting and communicating abuses and injustices in various forms and arenas. Aiding the ability of victims to voice their complaints. Also, substantiating and interpreting complaints by providing evidence analysis (e.g exhumation and forensic analysis), oral testimonies, ethnographic analysis, supporting efforts to build political capacity and strengthen victims' rights, receive and adjudicate complaints, determine meaningful remedy and implement remedial actions. Thus, restructuring the loci of power and respect dignity of communities, such as written down in the UN Declaration on the Rights of Indigenous Peoples (Johnston and Slyomovics, 2009).

Beyond that, one of the most common criticism of reparations is that they are often misused to achieve political ends by governments in order to silence victims, prevent further claims and so end the transition process, or by interest groups to enhance their powers and advance their interests (Schwelling, 2012; Nobles, 2006). An often cited example, where an extensive reparations programme was used to stabilize an authoritarian regime, is the Kingdom of Morocco. In 2004, King Mohammed created the Equity and Reconciliation Commission in order to respond to demands from civil society and victim groups. Establishing the truth about past violations, providing reparations to victims and families, and recommending measures for the prevention of future violations encompassed the mandate of the Equity and Reconciliation Commission. Critics are saying that in Morocco money was exchanged for forgiveness. Providing mass restitution, the government is now acting as if past sufferings never had happened. At the same time, the continuing reparations demands show that the state has proven unable to address the wide range of human rights violations (Kastner, 2015;

Slyomovics, 2009).

The main challenge reparations programmes face is related to its implementation. Historical, political, economic, social, and cultural realities complicate the enforcement of victims right to reparations. One of the key aim of reparations is to facilitate trust in institutions that have either victimized individuals or failed to protect victims. Whereas an implementation gap has left many victims disappointed in countries such as Peru and South Africa. As a result, disappointment is likely to mean that trust in state institutions has not been augmented (Waldorf, 2017). For example, in Peru the truth commission provided a comprehensive plan for a national reparations programme, but many types of problems arose during implementation. It took several month since the TRC had presented its Final Report before Peru's then President respondent to this report by promising only a program of social development, hence reparations receded into the background. Alike, the special commission's presented 'Plan of Reparations 2005-2006' finally did not reflect the ambitious TRC's reparations plan because especially funding for its implementation fell short. Besides that, civil society organizations criticized that the legal framework is dependent upon the commitment of individual ministers to comply with the obligations. After the passing of the Law of Reparations in July 2005 the state confronted victims and civil society organizations with several technical obstacles to its implementation, like the necessity for a national victims registry. So that at the end there was not much left from the initially ambitious programme (Laplante, 2009).

For reparations, a shortfall of implementation is frequently the result of limited institutional capacity, missing technical resources, low fiscal magnitude, and other structural factors (Duthie, 2017). Institutional preconditions as fiscal integrity and administrative competence are essential. In weak institutional environments having the capacity to provide services or distribute benefits to individuals is a challenge. Segovia (2006) points on the fact that reparations are difficult to design and establish because besides they are requiring considerable volume of public resources, they need the presence of qualified technical resources, public and private institutional resources, and reliable statistical data, all this is often not reguarly at hand in transitional societies. Segovia observes that: *“fiscal capacity was higher in countries like post-authoritarian Chile than in many conflict-affected states, and that one of the lessons of Haiti's failed reparations effort is that effectively implementing a reparations policy is intimately connected with structural factors, such as the functioning of*

State institutions” (2006, p.150).

Similarly, Sirleaf (2014) observes that truth commission recommendations for reparations are less likely to be established in weaker states. In her comparative survey of Ghana, Liberia, and Sierra Leone, the weakest state (Liberia) was the one which did not implement reparations. However, also fact is that the implementation gap rather than caused by resources, it is caused by political will. Truth commission recommendations for mass reparations programmes are frequently ignored (as for instance in El Salvador and Liberia) or hesitantly implemented merely under pressure from civil society organizations (as in the case of Sierra Leone) (Waldorf, 2017). Likewise, in Guatemala almost ten years since the peace accords of 1996 passed when the National Reparations Program was finally set-up. Reparations had been recommended already in the 1999 report of the UN-sponsored Commission for Historical Clarification but its implementation was dawning to geopolitics and the state's failure to establish rule of law (Dill, 2009). Hence, for reparations to be effective it requires political will because rebuilding trust has to be seen as a political project by the state (Moffett, 2015).

2.7 Relevance and Research Gap

Putting the previous discussions in a nutshell, transitional justice as such and reparations programmes specifically, are the current paradigm of how to deal with countries in transitions or post-conflict situations having experienced large-scale human rights violations. Providing state-sponsored reparations to victims of gross human rights violations is an internationally recognized standard in such contexts. Taking into account the fact that intrastate conflicts became the most common form of violent conflict the world has to deal with nowadays, the concept of reparations '*is an idea whose time has come*' (Miller and Kumar, 2007, p.v). Reparations as the most powerful re-compensation tool of transitional justice, initiate a long-term process, which is after decades still in discussion, play an important role in a holistic approach towards peace and reconciliation. Within a peacebuilding concept that is forward looking (comprising guarantees of non-repetition), not to provide reparations to victims of past happenings could not be imagined.

Hence, it is of high importance to further study forms of designing reparative measures within

the state's menu of options, as also ways of implementation and the associated effects that reparations programmes have on victims as well on the society. Regarding the literature review, it becomes evident that there is broad research and extensive publications have been produced in the last two decades on the concept of transitional justice, and some on the single mechanism of reparations. Nevertheless, looking on the state of the art there is a clear research gap in relation to several aspects:

First, reparations within the TJ framework are the least studied mechanism and have received significantly less attention in scientific literature compared to the well-known tools of amnesties, trials, and truth commissions. Many analysis and studies focus on amnesties, trials and truth commissions, but omit to discuss reparations. Besides De Greiff's (2006) Handbook of Reparations there is no comprehensive work written on reparations. However, a shift of attention towards reparations – as the key victim-centred measure – seems promising and potentially rewarding as bridging significant disconnect between transitional justice literature and practice.

Second, methodological approaches are limited to mostly descriptive analysis and single case studies of a small number of well-known cases. Existing scholar focuses on single case studies or few country comparisons, what makes it difficult to draw generalizable conclusions and makes it impossible to identify main common challenges of reparations (Dundes Renteln, 2009). No transition or post-conflict society can claim that its reparations actions have been a clear success. Thus, there is a strong need for knowledge of if and how TJ mechanisms could contribute to sustainable and substantial foundations for long-term peace to demonstrate that “*nunca más*” really means never again (Firchow and Mac Ginty, 2013, p.232). Especially, additional research is needed to study the issues of timing and sequencing, when reparative measures demonstrate the strongest positive impact and how to sequence them within different elements in a peacebuilding packages.

In general, research on reparations focus on legal redress, institutional determinants or normative discussions about desirability, rather than on empirical evidence. There are few rigorous cross-national analyses and insufficient empirical evidence on the contribution of TJ to peace, justice and reconciliation. What is missing is systematic evidence for reparations explaining when do they achieve their goals and it is not clarified why and how they do so. International and local policymakers have to base TJ questions on systematically collected

and analysed evidence. Since the field is recently more driven by principal rather than data, policy-practitioners are not provided with empirical foundations to make informed decisions. The general conclusion that TJ has an overall positive effect on human rights and democracy within the holistic approach goes in the right direction, but remains underspecified and understudied (e.g. the analysis of the combination of mechanism by Olsen, Payne and Reiter (2010a) does not include reparations as possible mechanism within a set of TJ measures).

For example, Hazan (2006) develops a framework for evaluating transitional justice, however it remains only descriptive and is not measuring or really evaluating because solely describing dimensions and phases of TJ, explaining mechanisms and identifying indicators for effectiveness. Hence, there is a strong call for systematic comparative work to identify multiple causal dynamics through which TJ as the general framework helps or hinders stabilizing democracy, human rights, and contributing to reconciliation and long-term peace. Within the reparations debate specifically a generalizable theoretical framework, which explains the emergence and the implementation of reparations programmes, is what is due to be aim of future research. Important to notice for future academic work on reparations is, the considerable importance to take into account the view of those who experienced the atrocities. Hereby, obvious is that there is no one single victim or survivor position and there a multiplicity of responses on how to deal with the violent past (Verdeja, 2006).

Third, what is often missing within the research of reparations is surveying public opinion towards reparations programmes, meaning involving society and victims from a bottom-up and citizen-centred perspective. Overall, the field of empirical studies and population-based research is scarce. Public opinion as a factor explaining institutional determinants of reparations policies, and as contributing factor to the whole reconciliation process, is often not considered directly. Thoms, Ron and Paris state that listen to people is crucial, but “*little rigorous research on public TJ attitudes in transitional countries*” is done (2008, p.7). Each country’s transitional justice involvement is very particular and is shaped by its historical legacies along with its present economical, political, legal, and social circumstances. Correspondingly, understanding local populations’ needs, perceptions and opinions of transitional justice and social reconstruction is elemental to the evolution of legitimate processes that help safeguard stability, peace, and justice (ICTJ and Human Rights Center, 2004). Why is it crucial to understand the reasoning behind public opinion towards reparations in post-conflict and democratic transition situations?

Analysing public opinion is crucial because mass opinion are one of the chief conditions shaping contexts of democratic processes, public opinion as basis on which international brokers can judge responsible national policymakers and the quality of the democratization process and accountability. Further, public opinion function as a measure of worthiness of a given approach to reparations. Besides that, surveys on public opinion yield further information on the strategies and mechanism of reparations hereby identifying grievances and the types of reparative policies needed (Samii, 2013). Thus, for policymakers it is essential to better comprehend public opinion in order to facilitate a true peacebuilding and reconciliation process. Asking for public opinion means stimulating a national debate on public spending for reparations, involving citizens in the discussion about the direction of reparations and the design of the programme. Applying a bottom-up and citizen-centred approach values the reparations measures taken, and also values their contribution to the reconciliation process.

Surveys are fruitful because they measure individual attitudes and understandings in distinct times and settings, and because they can provide more information on sub-groups. Quantitative and qualitative studies give a better understanding of how pro- and anti-reparations or general TJ opinions develop in countries of interest and how opinions change when people getting informed and learn about the concepts and processes of dealing with the past (Thoms, Ron and Paris, 2008). Many surveys show that the way people form opinions is more complex and cannot be identified by a single quantitative study, thus it is need to use also findings from political persuasion and deliberation research. Scholar on public deliberation, discursive participation and citizen engagement consider public opinion necessary as an extension of representative democracy that works through activity of discourse and talk. This helps in the context of reconciliation when ordinary people get involved into the discussion and set conflicts aside as they realize that they are tight to each other. Clearly, participation can lead also to dissatisfaction (Delli Carpini, Cook and Jacobs, 2004).

Moreover, there is an important link between public opinion and public policy, when an issue is salient to the public, the government responds, at least should respond, to the wishes of its citizens (Dahl 1956 cited in Bromley-Trujillo, Poe and Leising, 2020). Issue salience is generally defined as a level of concern, attention or importance placed on a given issue. While the precise definition of salience varies within scholarly work, the basic expectation is always the same: the likelihood of government responding to an issue increases with that issue's

saliency. Hence, issue saliency and issue attention plays a crucial role in policy-making (Bromley-Trujillo, Poe and Leising, 2020). Furthermore, the question how human beings deal with massive violence, the voting behaviour after violence, and the effect on voter turnout, political activism, among other things, is touched by some scholars from psychology literature. Several authors find that traumatic events and especially collective violence have long-term consequences on political attitudes, personal emotions, social beliefs, and the orientation of collective emotional or emotional climate (see Laufer and Solomon, 2011; Punamaki, 2011, Bar-Tal, Halperin and de Rivera, 2007). Beyond that, the rather few existing studies analysing public opinion towards TJ, or in particular reparations, show an unclear picture. Some studies find rather supportive opinions other rather rejecting opinions on TJ measures. Above that, interestingly surveys show across countries different preferences and varying levels of support for different reparations measures.

To give some illustrations of what will be explored in the following Chapter III, some important work in the field of researching public opinion on TJ, is mentioned already at this point. For example, a large-scale population based survey was conducted by Pham et al. (2007) in Northern Uganda in 2005 and in 2007 asking about attitudes on peace, justice and social reconstruction. Likewise, Backer (2010) conducted a panel survey with 153 victims of South African Apartheid regime in 2002 to 2003 and 2008 in order to analyse if and why victims' perceptions changed during the time following the TRC's closure. Questions include the adequacy of reparations received, efficiency of reparations and fairness of reparations.

Particularly relevant for the present thesis is a the empirical study conducted by Aguilar, Balcells and Cebolla-Boado (2011) analysing individual-level attitudes towards truth commissions, trials, and symbolic reparations based on a representative sample from Spain in 2008. One of the most recent studies is Hall et al. (2018) surveying population attitudes, differentiating between victims and non-victims, towards alternative TJ policies in Bosnia in 2013. In sum, among reparations research more attention should be paid to the formation of political views, opinions, attitudes, and perceptions of victims and equally of not-affected by the human rights violations affected population, the general public. It is necessary to systematically analyse different views on reparations, and to find out the underlying mechanism, relationships and determinants when and why reparative measures or full reparations programmes are supported or not supported. Concluding the literature review, in spite of the fact that there has many research been conducted on the concept of transitional

justice, including the mechanism of reparations, clear theoretical and systematic grounded analyses based on empirical research are missing. Empirical studies involving public opinion towards reparations, especially qualitative micro-level approaches, have been lacking so far. Therefore, this present thesis aims to address this gap.

3 Chapter III. Theoretical Reflections on Public Opinion

The Chapter first defines the concept of public opinion. Then, the Chapter draws on some main existent empirical research studies investigating the formation of public opinion towards TJ mechanisms including an analysis of determinants, timeframe, and manifestation of public opinion. In the subsequent Chapter section, the thesis's analytical framework for public opinion on reparations is established. Lastly, on the basis of the previously introduced analytical framework, theoretical assumptions and expectations are derived for the specific case of Spain, which are later to be verified on the basis of the results of the empirical investigation.

3.1 Definition Public Opinion

Merriam-Webster offers for the term 'public' the definition “*relating to, or affecting all the people or the whole area of a nation or state*” and in respect to public measures “*accessible to or shared by all members of the community*”.¹⁷ Public opinion is often in the focus of interest in political sciences, especially in comparative studies of (democratic) systems. There are different ways to obtain public opinion. By formal methods such as surveys, focus groups or content analysis. Or informal methods, that include elections, interest groups and lobbying, protest marches, media coverage or letters from constituents. The issue with informal methods is that public opinion is skewed towards the well-off segments of the informed and active public. Generally, qualitative data shows the individual differences of unique human beings and quantitative data gives overall the big picture and shows trends. In peace and conflict studies public opinion is researched from the background of peacebuilding in war torn societies.

When speaking about public opinion in this thesis, it is meant that attitudes, opinions and perceptions of all or at least a majority part of the society, population or citizens is taken into consideration. Public opinion can be positive, neutral, or negative. Above all, public opinion is not unique, public opinion is diverse, can even be strongly divided. Overall, public opinion is something dynamic that can continuously change; hence it is very time sensitive. Depending not only on the subset of citizens, but also on the point of time surveyed, public

¹⁷ See Merriam-Webster available at: <https://www.merriam-webster.com/dictionary/public> (Accessed 20 November 2020).

opinion can differ greatly in respect to another sample subset or the same subset surveyed at another point of time. For this thesis it is assumed that positive public opinion is expressed by support for the idea of repairing victims and the issuing of a reparations programmes, support for the way the government addresses victims' needs and the manner of implementing reparative measures. Negative opinions are assumed to be expressed in form of non-support for the idea of reparation in general, the measures' design and the implementation process. And neutral opinions are expressed in form of showing no view or no interest about reparations at all.

3.2 Formation of Public Opinion Towards Reparations

Having outlined the emergence, the various possible design types and the ways of implementation of reparations, this section is dealing with the outcome of interest in other words the expressed opinions, attitudes, and perceptions towards the implemented reparative measures or the reparations programme. Public opinion can be expressed in various forms such as support as a positive stance, non-support as a negative stance or a neutral stance towards reparations. Questionable is what causes support or respectively non-support for reparations, what makes citizens content or not content? Assessing public opinion is of crucial importance in order to evaluate support or non-support for a reparations programme and/or for specific reparative measures. Support among the public is critical for the success of the politics and institutions to gain legitimacy and to be able to realize objectives such as promoting peace and reconciliation (Meernik, 2015). Once again, important to notice hereby is that opinions are multiple, and context and time bound (Nussio, Rettberg and Ugarriza, 2015). Hence, the point in time when public opinion is examined needs to be taken into account in the analysis and when drawing conclusions in respect to support or non-support. Given the fact that there are very few empirical opinion studies directly involving reparations, in the following studies investigating opinions on any other TJ mechanisms are presented, too. Some studies investigate exclusively victims' attitudes and perceptions,¹⁸ while others survey

¹⁸ For a large study see for example: Kiza, Rathgeber and Rohne (2006) collecting international comparative empirical data on victimization experience (war and armed conflict) and on attitudes of dealing with the past from around 1,000 war-victims from twelve regions in Africa, Asia, and Europe. Regarding reparations, the study showed overall high level of support for reparative measures. The most crucial measure was monetary compensation, followed with relatively large distance by the construction of a memorial for victims, an apology by the offender and an apology by an official. No confirmation for effects of degree of victimization, on type of reparative measure favoured, is found (only weak effect on favouring apology).

the general population.

The subsequent Chapter section aims to give an overview of so far detected determinants and factors that can have an impact on public opinion towards reparations. As also to give insights into popular opinions, attitudes, and perceptions manifested over the course of existent population-based research studies.

3.2.1 Determinants of Public Opinion

Past empirical studies have analysed various determinants for opinions towards TJ policies whereby only a few of them directly covering attitudes towards reparations (both are presented by this section). First there are authors who refer to contextual factors, like Thoms, Ron and Paris (2008) who mention the ethnicity or region, while also raising the issue that citizen's opinions react towards contemporary events and happenings thus opinions change over time. For example, perceptions on reparation measures can vary depending on whether surveyed before or after their implementation. Also, Aguilar, Balcells and Cebolla-Boado (2011) find importance for contextual factors of political community, locality/region and political identity, when analysing public attitudes towards TJ relying on a representative survey sample from Spain. Samii's (2013) survey on public attitudes towards TJ in Burundi shows a wide preference for 'forgive and forget'. Data collection for this survey had been taken place in 2007, two years after the end of the civil war and the elections, at a time when no formal TJ processes had been commenced and political elites were merely debating with the international community over the establishment of a truth commission and a 'special chamber' to deal with those responsible for genocide. The TRC demanded by the Arusha Peace and Reconciliation Accords in 2000 was only established in 2014 and implemented in 2016. The findings, on the reasons why 'forgive and forget' is preferred, suggest that:

“partisan motivations associated primarily with ethnicity, and to a lesser extent region, are key determinants of an expressed desire to forgive and forget. Specifically, the tendency to forgive and forget is concentrated among those who identify as Hutu and come from regions outside of the South of Burundi. The group characterized by these identity markers consists of those who had been subject to considerable abuse and deprivation prior to the war, but gained substantially in political status after the war (...) a sense of political gain may compensate for debts owed due to past abuses and induce a preference to avoid the pursuit of truth or punishment” and to avoid that political gains being threatened (Samii, 2013, p.220).

Secondly, the design and implementation of reparations programmes might play a key role in how reparations are perceived by the public, thus determining public opinion. Some authors emphasize the importance of design and implementation aspects to achieve public support for reparations. For instance, Viaene (2010b) conclude that reparations programmes need to be more inclusive and culturally sensitive, they need to gain understanding of beneficiaries, and communities aspirations and need to be on community-level locally adapted to achieve public acceptance. Just as, Ottendoerfer (2018) finds by conducting interviews with beneficiaries of reparations in Sierra Leone that issues in the design and a problematic implementation of the reparations programme influenced victims' overall negative perceptions of the programme. Further, Saywer and Kelsall (2007) carried out qualitative and quantitative survey on the Special Court and the TRC in Sierra Leone in 2005 and concluded that there was support for the complementary of different TJ mechanisms.

Analysing determinants of approval of truth commissions with a comparative study in Argentina (TRC established in 1983), Chile (TRC established in 1990), and Peru (TRC established in 2001), Cárdenas et al. (2016) confirm among other factors (like political ideology as a significant determinant for approval of TRCs what is related to the right-wing nature of the dictatorships and the identification of most of the victims with leftist ideas) the role of institutional variables that is to say when the mechanism is perceived to indeed fulfil its functions and tasks such as providing knowledge of the truth. This is reflected by the fact that in Peru the lowest levels of approval are achieved, what is consistent with the weak impact of the country's TRC. Among other factors, resulting from institutional dysfunctionality and not meeting victims' expectations. Whereas, Argentinians are the ones who evaluate the country's TRC most positively; related to this observation might be the fact that the TRC's published report 'Nunca Más' ('Never Again') became a bestseller and was integrated school curriculum. Related to these findings, also Nalepa (2012) demonstrate in a study of opinion poll data in Poland, Hungary and Czech Republic that attitudes towards the prevalent used measure in post-communist Europe of lustration vary in accordance with how citizens perceive the TJ procedures as being fair, while past experiences and grievances does not seem to be important. If citizens' perceive that errors like false conviction have been made, the demand for more such lustration procedures is lower.

Thirdly, authors mention individual personality factors stating that public opinion is influenced by personal experience (Thoms, Ron and Paris, 2008). Aguilar, Balcells and

Cebolla-Boado (2011) highlight individual determinants of age, education, socialization, and family factors for the case of Spain. In respect to reparations, they are finding a linear association between family partiality in the civil conflict and respondents' attitudes towards symbolic reparations (withdrawal of symbols of Francoism). So, respondents claiming their family fought on Republican side are more likely to approve symbolic reparations, whereas support decreases when respondent declares to have family with a Francoist past. Likewise, Meernik's (2015) theory of public attitudes towards international criminal justice has the underlying assumption that two factors are critical in opinion formation: individual's outlook regarding the present and the future and individual's view of the morality and legitimacy of the law. Ethnicity plays a key role in filtering this information. This means that present and future views depend first on salience of topics and cues regarding personal circumstances and conditions. And second, the individual evaluates TJ policies based on morality and legitimacy of laws. Also, strength of ethnic identity and group narratives, impact of present and future conditions vary across cultures and identities.

Furthermore, Bratton (2011) claims from a national probability sample survey followed by focus groups, conducted in the aftermath of election campaign violence in Zimbabwe in 2008, that individual's personal experience (directly affected by violations) and political partisanship are significant for the demand of retributive types of TJ mechanisms. Addressing the topic from an evolutionary psychological approach, Hall et al. (2018) find equally significant *“impact of wartime experiences and war-related losses on attitudes towards transitional justice”* (using seven indicators for providing a comprehensive perspective on respondent's preferences for retributive or restorative justice) (Hall et al., 2018, p.352). They also mention that attitudes are formed on group level and different groups have different attitudes. The data supports that individual experiences affect TJ preferences following a 'tit-for-tat' logic of deterrence, what is seen as a clear policy lesson that the implementation of specific measures or reparations at best for some groups of victims could make a positive contribution to peace (Hall et al., 2018, p.357). Thus, an emphasis on addressing victims' needs contributes to a pass from negative to positive forms of peacebuilding (Galtung, 1985).

Adhikari, Hansen and Powers (2012) researching individual demands for reparations in Nepal found that, when the Nepali government granted in 2007 monetary compensation to victims of the decade-long civil war, the factors personal risks for seeking redress and individual grievances encompassing material and personal losses determine if reparations claims were

filled by victims or not. Also, Berndsen and McGarty (2012) focus on the individual with the finding that perspective taking from persons who suffered harm changes not only social behaviour (e.g., empathy), but also opinions on reparations; changing the mind on issues such as the entitlement to compensation for victims. Also, that self-image shame rather than group-based guilt or anger predict support for reparations. Regarding further the factor of victimization, Arnoso and Da Costa observe that, people in Uruguay affected by political repression perceive higher efficacy of transitional justice procedures and that in comparison to indirect victims, the direct victims “*show a more critical appraisal of President Mujica's apologies for the role of the State in the past repression*” and consider the apologies less useful for fostering intergroup relations (2015, p.186).

Further, Nussio, Rettberg and Ugarriza (2015) are measuring the victim/ non-victim effect in Colombia in respect to attitudes towards transitional justice measures adopted in the country (relying on the 2012 Colombian Justice and Peace Survey commissioned by the International Organization for Migration, after the passing of the Law for Victims and Land Restitution in 2011 and the 2005 Law for Justice and Peace). The findings suggest that there is no statistically significant differences in attitudes of victims and non-victims. Concretely, they are checking the victimization effect against several control variables the literature is commonly using like age, gender, education, religion, including favourability “*toward the main illegal conflict actors (guerrillas and paramilitaries) that are eligible for transitional justice mechanisms*”. Since transitional justice is designed to come along peace processes with the non-state armed groups, the view people have “*toward these groups might have a large influence on their general attitudes toward transitional justice*” (Nussio, Rettberg and Ugarriza, 2015, p.349).

Geographic context, economic and institutional conditions might be accompanied by favourable attitudes caused by satisfaction or resentment with the state and the overall well-being due to satisfaction of basic needs and institutional capacity. The results show that the hypothesis, that victims think differently than non-victims, does thus not be confirmed by empirical evidence from Colombia, deduced from a controlled regression. Interestingly, Catholic “*religion is positively related to stronger support for punishment and lower support for deferential treatment for victims in terms of reparations*”. For the socio-demographic variables “*men rather than women are the ones who tend to pursue more actively the implementation of truth and memory mechanisms. Additionally, in places with a higher*

institutional capacity people tend to support to a lesser degree favourable treatment of victims in terms of reparations” (Nussio, Rettberg and Ugarriza, 2015, p.351). This is here explained with the resilience literature, victims over time overcome their pain and traumatic experiences do not determine views.

Nussio, Rettberg and Ugarriza (2015, p.351-352) also make the suggestions for future research to include *“questions about persisting trauma and related emotions of fear, hatred and vengeance that might determine attitudes of victims, and also nonvictims”*. In contexts where citizens have been educated about transitional justice, social desirability might shape responses, especially affecting the need for victim reparations (distrust for opportunistic behaviour cause bias for non-victim answers and social status of perpetrators might cause bias of victim answers). Yet another explanation is the long duration of the Colombian armed conflict that *“may have contributed to a consistent and broad effect on people's views, blurring the line between formally recognized victims and indirectly affected nonvictims”* and thus moving their attitudes in the same direction (Nussio, Rettberg and Ugarriza, 2015, p.352). As well as social proximity among victims and perpetrators produce common frameworks of social reference related to armed conflict, this idea would need to be further investigated in ethnic conflict contexts.

Different from the conclusions of Nussio, Rettberg and Ugarriza (2015) for Colombia, Cárdenas et al.'s (2015) findings from a population-based survey in Chile suggest variation in views between victims and non-victims. In Chile the 'Truth and Reconciliation' and the 'Political Imprisonment and Torture' commissions are more positively evaluated by indirect victims than by direct victims (the victim categorization is drawn from questions aimed at differentiating between 'direct victims', 'indirect victims' and individuals 'unaffected' by political violence) (Cárdenas et al., 2015).¹⁹ Above that, awareness of the commissions' work is related to affected by violence, as direct victims reporting greater knowledge. Statistical significant difference they also find in perceptions towards apologies with direct victims perceiving apologies as less sincere and effective. For emotions related to the collective past

¹⁹ Categories were drawn from respondents' answers to the following two questions: 'Do you consider yourself a victim of the violence perpetrated by the state or its agents between 1973 and 1989?' (yes/no) and 'Are there any victims of state violence or its agents between 1973 and 1989 among your family members or close friends?' (yes/no). Participants who responded affirmatively to the first question or to both questions were categorized as direct victims, those who responded affirmatively only to the second question were considered indirect victims and those who responded negatively to both questions were considered 'unaffected' (Cárdenas et al., 2015, p.519).

and the attitudes towards the commissions, there was no interaction with exposure to violence. In general, respondents supporting the commissions showed more negative and positive emotions, as such to sadness, anger, shame, hope and pride, and reported higher social sharing. Respondents supporting the commissions seem to see the possibility that victims forgive perpetrators, whereby exposure to violence had no effect. Also, no effect was discovered between exposure to violence and the attitude towards the commissions in relation to achievement of the truth commissions' objectives. People with positive attitudes towards the commissions stronger believe that the commissions helped families to discover the past, that they generated a comprehensive common history, and that they brought justice, as well as that human rights violations would not occur again in Chile.

Additionally, the authors test variables of emotional climate and values. Positive perceivers of the commissions also perceive a more positive emotional climate, as such they are more likely to stress the fact that political, ethnic and religious groups feel inter-group trust. Asking about values those people were more likely to accept the need to understand people with different opinions and the notion of universal 'justice for everybody', also here no interaction effects with exposure to violence are detected. Further, a global index of socio-emotional climate and reconciliation have been regressed inter alia on exposure to violence using multiple-regression showing a significant effect of positive appraisal of apologies and truth commissions, “*low exposure to violence, low negative emotions, and high positive emotions*” related to the commissions' activities and past violence (Cárdenas et al., 2015, pp.521-525).

Summarizing these rather few empirical studies that are researching determinants for public opinion in the context of TJ, it seems to be overall plausible that not a single factor, but a combination of different contextual, programmatic, and individual factors determines public opinion towards TJ mechanisms. Just like the research of Aguilar, Balcells and Cebolla-Boado (2011) explaining the formation of public opinion in Spain with a combination of several factors: individual factors (age, education, socialization and family factors), contextual factors (political community, locality/region), and political identity. These findings being of particular relevance for the thesis's further line of argument.

3.2.2 Timeframe: Cross-Sectional versus Longitudinal Data

Public opinion can be measured at a given time or at multiple instances. Existing public

opinion studies on transitional justice policies use a wide range of different data. The tables below do not claim to be an exhaustive list, but merely to present some crucial studies in this field.

On the one hand, there are a several cross-sectional studies measuring public opinion. A few studies are conducted directly after the end of the conflict or the transition before transitional justice processes had been officially implemented.

Table 1. Overview Public Opinion Studies on TJ Measures I

Author (year)	Country: Transition/End of conflict	TJ measures implemented	Research objective	Data collection method/date
ICTJ and Human Rights Center (2004)	Iraq: After the 2003 US-led invasion attempts to implement TJ were made	Vetting, prosecutions	Local populations needs, attitudes, and perceptions on TJ and social reconstruction	Extensive interviews and focus groups conducted in summer 2003 with a broad cross-section of Iraqi population before the capture of Saddam Hussein and the setting up of the Iraq Special Tribunal
AIHRC (2005)	Afghanistan: National discussion on justice issues started in 2001 with the establishment of the Afghan Independent Human Rights Commission (AIHRC), which was set-up in the course of the Bonn Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institution from December 2001	None at the time of the study; on the basis of the AIHRC's consultation the Afghan government drafted an 'Action Plan for Peace, Reconciliation and Justice'; amnesty	National consultation on past human rights violations; preferences and perceptions if Afghans want the past to be addresses and how	Quantitative population-based survey and qualitative focus group discussions (over 200) in 2005
UN OHCHR (2007)	Northern Uganda: 21 years of armed conflict; Juba Peace Talks between the government of Uganda and the rebel group Lord's Resistance Army took place from 2006 to 2008; 2007 Agreement on Accountability and Reconciliation was reached	Amnesty Act (2000) for immunity for non-state combatants; domestic prosecutions of int. crimes and involvement of ICC (arrest warrant for LRA commanders in 2005); local reconciliation mechanism	Victims' perceptions of accountability, reconciliation, and TJ	Qualitative study with focus groups and key informant interviews in 2007

Author (year)	Country: Transition/End of conflict	TJ measures implemented	Research objective	Data collection method/date
		'mato oput'; National Transitional Justice Policy passed in 2019		
Bratton (2011)	Zimbabwe: Political transition, violence during 2008 presidential election-campaign and the power sharing accord between rivalling political elites in 2009; Organ for National Healing, Reconciliation and Integration was set-up in April 2009 by the Government	No comprehensive TJ policy	Determinants of public support for punishment of human rights violators/retributive justice; popular preferences towards different models of TJ	National probability sample survey conducted in autumn 2009
Samii (2013)	Burundi: Arusha Peace Accord of 2000; 2005 elections marked the end of over a decade of civil war	2016 launch of TRC	Public opinion towards TJ policies	Data taken from the survey of 'Wartime and Postconflict Experiences in Burundi' considering only respondents from the civilian stratum, survey was conducted in summer 2007 immediately prior to the set up of formal TJ processes, but when the discussions was already ongoing

Other studies were conducted shortly after transitional justice measures were implemented.

Table 2. Overview Public Opinion Studies on TJ Measures II

Author (year)	Country: Transition/End of conflict	TJ measures implemented	Research objective	Data collection method/date
International Center for Transitional Justice (2005)	Colombia: After 50 years of violent conflict, negotiations of the Colombian Government with the guerilla forces 'Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo' (FARC-EP) resulted in a peace agreement which was signed in September 2016. It contains a	Criminal prosecutions, reparations, truth-seeking mechanism	Perceptions of Colombians on justice, truth, reparation and reconciliation	Quantitative survey conducted in spring 2006 after the passing of the 2005 Justice and Peace Law with Colombians in urban zones and with persons directly affected by violence of the armed groups

Author (year)	Country: Transition/End of conflict	TJ measures implemented	Research objective	Data collection method/date
	Comprehensive System of Truth, Justice, Reparation and Non-Recurrence. In July 2005, the 'Justice and Peace Law' (Ley 975) was passed being the regulatory framework for the demobilisation and reintegration into civilian life of members of illegal armed groups			
Centro de Memoria Histórica (2012)	Colombia: See previously	See previously	Opinions and perceptions of Colombians on truth, justice, reparation, and reconciliation	Survey with households in urban centres around the country, in 2006
Nussio, Rettberg and Ugarriza (2015)	Colombia: 'Law for Victims and Land Restitution (Ley No. 1448)' was passed in 2011	See previously	Differences in attitudes towards TJ between victims and non-victims	Data taken from the quantitative Justice and Peace Survey conducted in 2012 after the passing of the 2011 Victims' Law
Saywer and Kelsall (2007)	Sierra Leone: 10 year civil war brought to an end by the Lomé Peace Agreement in July 1999	TRC, Special Court, amnesty, reparations	Popular views on the TRC and The Special Court	Qualitative and quantitative questionnaire, fieldwork in summer 2005
Viaene (2010b)	Guatemala: 36 year-long internal armed conflict ended in 1996 with Peace Agreements signed between the Guatemalan Government and guerilla forces; reparations programme decree was signed in 2003 and implemented since 2005	Amnesties, trials, TRCs, reparations	Opinions of Mayan Q'eqchi' on the Guatemalan National Reparations Program	Ethnographic field research relying on focus groups and interviews with Mayan Q'eqchi' victims during 2007-2009
Aguilar, Balcells and Cebolla-Boado (2011)	Spain: In 2007 the Spanish Socialist Government issued the 'Law of Historical Memory', designed to prove restitution for victims of the Spanish Civil War (1936-1939) and the Franco dictatorship (1939-1975)	Amnesty, reparations	Measuring citizen's attitudes towards restorative policies in Spain	Data from 2008 representative survey of CIS conducted a year after the passing of the 2007 Law
Adhikari, Hansen and Powers (2012)	Nepal: Decade long civil war ended with signing of Peace Accords between the Government and the Maoist insurgent group in	Reparations, TRC	Determinants for individual-level demands for reparations	Public opinion survey, two years after the end of the conflict

Author (year)	Country: Transition/End of conflict	TJ measures implemented	Research objective	Data collection method/date
	2006. In 2007 partial reparations programme was issued providing foremost compensation; 2014 Transitional Justice Act			

Further there are studies that were conducted some years after transitional justice measures were implemented.

Table 3. Overview Public Opinion Studies on TJ Measures III

Author (year)	Country: Transition/End of conflict	TJ measures implemented	Research objective	Data collection method/date
Parmentier, Valiñas and Weitekamp (2009a; 2009b); Parmentier and Weitekamp (2011); Jones, Parmentier and Weitekamp (2012)	Bosnia-Herzegovina: 1992-1995 Bosnia War ended with the Dayton Peace Agreement in December 1995	ICTY, reparations, vetting	Attitudes and opinions of individual citizens of Bosnia-Herzegovina on dealing with the past, especially on restorative justice	Self-administered quantitative survey of the population and in-depth structured interviews in 2006
Parmentier and Weitekamp (2013)	Serbia: Disintegration of former Yugoslavia, Yugoslav Wars between 1991 and 1999	ICTY, TRC	Serbian opinions on 'dealing with the past', specifically on criminal prosecutions and truth commissions	Quantitative survey conducted in 2007
Meernik (2015)	Former Yugoslavia: See perviously	See previously	Public opinion on international criminal justice/support for ICTY	Survey data from Southeast Europe Social Survey Project (SEESSP) conducted with population of former Yugoslavia 2003-2004
Hall et al. (2018)	Bosnia-Herzegovina: See previously	See previously	Impact of wartime experiences and war-related losses on attitudes towards TJ	Representative survey conducted in summer 2013 on general population attitudes towards TJ in Bosnia
David and	Czech Republic:	Lustration,	Victims'	Survey and in-depth

Author (year)	Country: Transition/End of conflict	TJ measures implemented	Research objective	Data collection method/date
Choi Yuk-ping (2005)	Communist regime (1948-1989)	reparations programme (only for violations committed by the communist regime between 1948 and 1989)	perceptions on TJ measures, especially reparations	interviews with former political prisoners during 1999-2000
Nalepa (2012)	Poland, Hungary, Czech Republic: Communist regimes for nearly half a century ended with transitions in 1989	Lustration, amnesties (not Hungary), reparations	Impact of citizen's perceptions of procedural fairness on preferences for TJ	Opinion poll data obtained by large amount of face-to-face interviews conducted in 2004-2005
Arnosso and Da Costa (2015)	Uruguay: Military dictatorship from 1973-1985; 1985 elections transition to democracy; Reparations law passed in 2009	Reparations, TRC, apology, trials, amnesty	Perceptions on efficiency of TJ measures	Self-administered survey in 2015
Cárdenas et al. (2015; 2016)	Argentina, Chile, Peru: Transitions to democracy after military dictatorships in Argentina (1976-1983) and Chile (1973-1990); internal armed conflict in Peru between the Government and communist guerillas since 1980s	Argentina (TRC established in 1983), Chile (TRC established in 1990), and Peru (TRC established in 2001); amnesties, trials, reparations	Determinants on approval of truth commissions in Argentina, Chile, Peru	Quantitative survey conducted in 2010-2013 in Argentina, Chile, Peru

On the other hand, there are a few longitudinal studies measuring public opinion at several points in time.

Table 4. Overview Public Opinion Studies on TJ Measures IV

Author (year)	Country: Transition/End of conflict	TJ measures implemented	Research objective	Data collection method/date
UNDP (2007)	Kosovo: Armed conflict in 1998-1999 between the Serb administration and the insurgent Kosovo Liberation Army	ICTY, (initiative to establish a TRC by Kosovo's President in 2017)	Kosovo citizens' perceptions on TJ	UNDP 2007 opinion poll data compared to data from a 2012 public opinion survey and focus group discussions with TJ 'experts'
Pham et al. (2007)	Northern Uganda: 21 years of armed conflict; Juba Peace Talks between the government of Uganda and the rebel group Lord's Resistance Army took place from 2006 to	Amnesty Act for (2000) immunity for non-state combatants; domestic prosecutions of	Popular attitudes on peace, justice, and social reconstruction	Population-based survey in 2005 while peace talks were taking place and in spring-summer 2007 supplemented by in-

Author (year)	Country: Transition/End of conflict	TJ measures implemented	Research objective	Data collection method/date
	2008; 2007 Agreement on Accountability and Reconciliation was reached	int. crimes and involvement of ICC (arrest warrant for LRA commanders in 2005); National Transitional Justice Policy passed in 2019		depth qualitative interviews
Backer (2010)	South Africa: Transition from Apartheid Regime to democracy in 1994; TRC part of deal on Interim Constitution; TRC was set-up in 1995 and completed its work in 2003, first monetary reparations were paid out in 2003	TRC, reparations, prosecutions, amnesty	Victims' individual attitudes and preferences towards TJ	Panel survey with 153 victims of South African Apartheid regime from Cape Town during 2002-2003 and in 2008
Northern Ireland Life and Times Survey (NILT, 2004)	Northern Ireland: The Belfast Good Friday Agreement signed in 1998 ended the violent conflict on the constitutional status of Northern Ireland lasting since the 1960s	TRC, prosecutions, reparations	Attitudes, values, and beliefs of the people in Northern Ireland inter alia, within the module of political attitudes, about Truth Commission, memorials and victims	Yearly survey since 1998

3.2.3 Manifestation of Public Opinion

What does the general population and the victims think about reparations? Do they express mainly positive or negative opinions? Even though, after the examination of existing studies, it is demonstrated that public opinion often varies in the level of support for transitional justice polices, including reparations, a clear trend can be observed towards positive opinion and support for repairing victims of human rights violations and for the corresponding measures taken. Whereby there are also a few studies that show negative opinions towards governmental TJ programmes. To look deeper into the dimensions and manifestations of public opinion, in the following the above introduced population-based research studies conducted in different countries dealing with a violent past are regarded more profoundly. This section is not aimed at systematically comparing different opinion studies, which would be not feasible as each country's violent past and historical context is too specific, but rather

to get a general overview of popular perceptions of transitional justice measures, with a particular focus on reparations. First, public opinion studies showing a rather positive attitude towards TJ, which are the majority, are named and then those studies are listed whose results show rather negative perceptions and critical views. Within the two groups the studies are clustered by region – MENA, Asia, America, Africa, Europe – and are not ordered by TJ measures as each country applied a very unique own TJ approach and many studies do not research a single TJ instrument, but address popular views on how to deal with the past in general.

Positive Public Opinion

The study 'Iraqi Voices' conducted with a broad cross-section of Iraqi population (ICTJ and Human Rights Center, 2004) concludes that there is widespread support for material compensation and symbolic reparation, broad support for an official process of truth-seeking and preservation of historical memory. Emphasis is given on support for assistance in social reintegration, recuperation of lost livelihoods, need of programmes for compensation and rehabilitation, need for restitution of lands and property, as well as on symbolic measures aimed at restoring victims' dignity and social esteem. There is broad support that government should pay reparations programme, including provision for physical and mental health services, access to education and employment, and assistance to meet basic needs for food and shelter (ICTJ and Human Rights Center, 2004, p.54).

Results from another study, the Afghan Independent Human Rights Commission's 2005 Afghan population-based survey, shows that 88 percent of respondents “*indicated that reparations should be awarded to victims of past crimes (...) [only] nine percent of respondents did not agree with the granting of support to victims*” (AIHRC, 2005, p.33). Although many had identified themselves as victims, “*participants focused on the neediest members of society (those who are disabled, who have lost relatives or heads of house-holds, etc.). Participants were distinctly selfless in their perspective. Rather than viewing reparations as an opportunity to ask for compensation, there was a prevailing view among participants of a more charitable notion of reparations that should be given to the community or spent on the greater social good*” (AIHRC, 2005, p.34).

Moreover, the 2005 ICTJ survey in Colombia shows that a huge majority of local respondents support material reparations for victims. Overall priorities are given to education, provision of

employment, and medical and psychological attendance. The least valued reparations are monuments of memory (ICTJ, 2005). Also, Nussio, Rettberg and Ugarriza (2015), using the International Organization for Migration (OIM) Justice and Peace Survey 2012, find that Colombians in general hold broadly favourable attitudes toward transitional justice. With no statistically significant differences in attitudes of victims and non-victims, support for reparations remains overwhelming high and over 70 percent state that reparations contribute to reconciliation. Half the sample even favoured raising taxes to fund reparation efforts. These findings can be confirmed by a study conducted by the Centro de Memoria Histórica (2012) in Colombia. 71 percent stating that reparations contribute to reconciliation and when asked for measures contributing to reconciliation reparations were the mostly favoured (after justice and peace processes, tribunals, and knowing the truth). Asking how much progress was made after the reparations law has been passed, 44 percent were saying there was some progress made.

Positive attitudes are also the outcome from Cárdenas et al. (2015) population-based large-N analysis when comparing social beliefs, attitudes, and emotions of people who agreed and disagreed with the activities of the two truth commissions in Chile identifying and collecting information on human rights violations occurred during the Pinochet dictatorship (the 1991 'National Commission for Truth and Reconciliation' and the 2004 'National Commission for Political Prison and Torture'), and those people affected and unaffected by past political violence in Chile. Findings of the quantitative analysis are that there is general agreement with the work of the truth commissions (three-quarters of the sample are in favour of TRCs, particular indirect victims) correlated with a better perception of the social and emotional climate, simultaneously coming along with a critical view of social forgiveness. Direct victims are more critical as not believing in the ability of the truth commission to bring justice. Therefore, they “*manifest a problematic and vigilant attitude of fighting to defend the memory of the victims*” (Cárdenas et al. 2015, p.525). Further, the Chilean population expresses the view that the commissions have helped to reveal the truth and that learning from the past can prevent future violence. Chileans also agree on the necessity to compensate victims and their families for harm done. People who support the commissions' work also see the future more optimistic and give better rating for the country's social climate. High general approvals for TRCs are found also by Cárdenas et al. (2016) comparative study of Argentina, Chile, and Peru.

Shifting now to positive public opinion shown by studies conducted in African countries. In Pham et al.'s 2007 Northern Uganda study, direct compensation of individuals including financial compensation was mentioned by 52 percent of respondents, 95 percent of respondents expressed the wish that memorials be erected to remember, whereas apologies, justice, or reconciliation was mentioned by only ten percent of respondents. In a study by the UN OHCHR, conducted in 2007 in Northern Uganda, focus groups respondents described truth and compensation as the elements they lacked most because of the conflict. What they most expected from transitional justice mechanisms to provide is psychological support during truth telling processes and compensation for loss of property. Further, Backer (2010) conducted a panel study with victims in South Africa 2002 to 2003 and 2008 about transitional justice. The data analysis demonstrates that support of the single conditional amnesty offered by the TRC was at first remarkably strong, with many respondents backing its practical approach, but it went down strongly by 2008. This decline in approval is comes along with an increased awareness of the malpractice of amnesty and frustration with the scope of truth recovery. The results indicate a greater desire for accountability, even at the risk of instability. However, the multivariate analysis fall short to demonstrate a clear link between the strongly descending support of amnesty in the group of the survey respondents and the government's policies about reparations, prosecutions, and pardons (Backer, 2010).

Looking at European countries, Aguilar, Balcells and Cebolla-Boado (2011) find support for TJ measures and symbolic reparations in Spain (it was not asked about material reparations). Accordingly, *“those who are more likely to support these measures are people who are closer to the left, younger, and nonreligious, but also people whose families sided with the Republicans during the Civil War and/or were victimized during the dictatorship”*, as well as some contextual differences were found for the region of Basque country and Catalonia stronger support (Aguilar, Balcells and Cebolla-Boado, 2011, p.1420). They conclude that *“policies that are perceived as being less offensive”*, such as withdrawing symbols of the past being an action that does not involve digging into the past for the identification of human rights violations and the respective perpetrators, *“are more widely supported by the citizenry”*. On the contrary, measures considered as riskier like the setting-up of truth commissions and holding of trials, *“are less widely supported by citizens”*(Aguilar, Balcells and Cebolla-Boado, 2011, p.1420).

Similarly, David and Choi Yuk-ping (2005) find in their victim study with political prisoners

in the Czech Republic support for financial compensation, but not for public truth telling. Further, The Northern Ireland Life and Times Survey (NILT, 2004) demonstrates clear importance of support for victims, compensation, and memorials or centres of remembrance. Meernik (2015) measures support for the ICTY in former Yugoslavia. The conclusion is that support for TJ measures varies, for example there is high support of ICTY by Bosnian Muslims versus low support from Serbs. Findings are also that most individuals require evidence or reason for optimism, this reason might be reconstruction and post-war rebuilding. Therefore, support for the ICTY occurs in the shadow of past and in the context of the post-war environment. What varies across people is the degree to which these forces, good and bad, hold sway over their interpretation of international justice. Also, Hall et al. (2018) find variance in support for TJ measures when assessing impacts using data from a 2013 representative survey on general population attitudes towards transitional justice in Bosnia. Exposure to direct violence and losses is aligned with more support for retributive justice measures, while greater present-day interdependence with perpetrators is associated with more support for restorative justice measures.

Jones, Parmentier and Weitekamp (2012) are looking, with data from the 2006 Bosnian survey, on what achieves trust and reconciliation. Offender accountability is seen in general as a component of achieving victim reparation for suffering. Statistically not significant is the relationship reparation and trust/reconciliation. But if offenders are actively admitting their guilt by confessions or apologies, this increases participants' perceptions of the possibilities for achieving trust/reconciliation. Above that, Parmentier, Valiñas and Weitekamp (2009a)/Parmentier and Weitekamp (2011; 2013) conducted a Bosnia-Herzegovina and Serbia study during 2004 to 2008 asking about opinions on restorative justice (reparation assumed as both a major issue in transitional justice and as key to the restorative justice approach). Answers given in respect to reparations are that 62 percent stated *“a memorial should be built in honour of those who suffered the violence”*. A similar amount of respondents (61 percent) said they *“would feel better if they could know what happened to their relatives and friends that are still missing”*. A little more than half of the respondents (56 percent) said they *“would like to know the reasons why those who caused them to suffer did that to them”* and 54 percent said they *“would feel better if their suffering during the war would be acknowledged”* (Parmentier, Valiñas and Weitekamp, 2009a, p.40). Asking for preferences of accountability measures, the favoured mechanisms are restitution of property and goods, confession by the

perpetrator, domestic prosecutions, apologies by the perpetrators and monetary compensation. Beyond that, results from the Serbian survey indicate a clear support for establishing the truth.

These positive opinions towards TJ also confirms the Kosovo survey from the United Nations Development Programme (UNDP) conducted in 2012, where 81 percent of respondents fully agree with support for civilian victims in form of material reparations (same level as in 2007). For symbolic reparations most preferred measures are rehabilitation and socialization programs, followed by public apologies, acknowledgement of victim status and establishment of memorial monuments (UNDP, 2012).

Negative Public Opinion

Besides those generally positive perceptions of transitional justice and of reparations, fewer studies demonstrate rather negative and critical views and less support for such measures. For example, Samii (2013) finds that in Burundi 2007 majorities preferred forgiveness over punishment and forgetting the past over seeking the truth, thus measures as trials or truth commissions probably would not be positively evaluated.

The study conducted in Uruguay 2015 by Arnoso and Da Costa (2015) did not ask specifically about reparations, but for transitional justice processes and the violent past more generally. Results demonstrate a high level of information about the past, but a low level of social sharing of experiences, a general few knowledge of transitional justice measures and low perceived efficacy of transitional justice procedures. People affected by political repression perceived higher efficacy of transitional justice procedures but showed a more critical appraisal of President Mujica apologies for the role of the State in the past repression. Participation in human rights activities seems in general very low.

In addition, several studies conducted by Viaene in Guatemala show in general no support for the international justice instrument of prosecuting perpetrators by the local Mayan Q'eqchi' population but support for local traditional accountability mechanisms (Viaene, 2010a). In semi-structured focus groups and interviews with victims, Guatemala's National Reparations Program is critically viewed by Mayan Q'eqchi' victims. It looks like it rather caused further frustration and suffering as it intends to repair the irreparable, because of the inadequacy of financial priorities, and incompatibility with fundamental norms and values of the Q'eqchi culture. There was no discussion, negotiation during implementation process and cultural

understanding was under-evaluated (Viaene, 2010b). Likewise, a study on the impact of financial reparations on the Mapuche communities in Chile conducted by Lira (2006) reports that these reparations distorted family relations and negatively affected family and community networks. It is also mentioned that the culture's notion of reparation were disregarded (Lira, 2006).

What conclusion can be taken in respect to reparations from these opinion studies?

When people know about the measures taken in the aftermath of violent regimes or conflicts – knowledge definitively is an issue in many countries – research shows that reparations, especially in form of restitution of property and material goods, as well as monetary compensations, and apologies by the perpetrators are ranked high, in comparison to other TJ mechanisms such as prosecutions. Many public opinion studies show that reparations in general are popular not exclusively among survivors. Some people might pretty much support the idea of reparations itself, also specific measures, but are dissatisfied with the government's design of reparations programmes because falling short to cover certain types of violence or groups of victims. Others might support rather material than symbolic measures since considering them as useless or inappropriate, and yet others support only symbolic ones as pointing on the deficit of material ones as such coming along with high public spending or being sort of 'buying victims silence'. Even more nuanced people might support the reparations programme issued, but depreciated the way the government implemented reparative measures like not involving a public information campaign and public consultations. Moreover, all aspects of design and implementation might find support, but people even though question the success of these programmes in the way they really contribute to peace and reconciliation, whereas many existing empirical research studies show effective contribution is attributed to reparations.

3.3 Analytical Framework of Public Opinion on Reparations

Having clarified relevant terms, described in detail the emergence, the design and implementation, as also the formation of public opinion towards reparations, the following section now links these concepts, dynamics and underlying assumptions and builds a framework for a systematic analysis of public opinion on reparations. This framework

explores sets of variables that impact the manifestation of public opinion and might be responsible for an expression of rather positive opinions in form of support or rather negative opinions in form of non-support towards reparations (programmes). This framework intends to systematically structure and encompass a variety of possible factors influencing public opinion towards victim reparations, but of course does not display an exhaustive list of all kinds of determinants. Highly important is that the framework does not show causal relationships between the various independent variables and the outcome variable, but rather gives an idea of possible correlations. After conducting an empirical analysis even some variables might prove to be irrelevant or it results that new variables must be included. Hence, this framework is just a first attempt to offer a tool for systematically analysing public opinion on reparations. The framework is envisaged to be then applied to other country cases or be checked for its transnational validity on the basis of comparative analyses of country cases. The following analytical framework aims to analyse the public opinion, attitudes, and perception on reparations for victims of Francoism in Spain and how reparations (programmes) need to be designed and implemented in order to achieve public support.

The Dependent Variable(s)

The outcome variable(s) of interest encompass 'Public Opinion, Attitudes and Perceptions' towards reparations at a given time in the aftermath of the implementation of the reparations measures or programmes (meaning when reparations became integral part of national legislation). Asking from a retro-perspective about reparations that have been implemented since several years, can be useful to get a full picture about opinions on different symbolic, material, collective and individual reparative measures and policies implemented over the years. As defined at the beginning of this Chapter, public opinion can be positive, neutral, or negative, but is overall diverse and varies over time. For this analytical framework, it is assumed that positive public opinion can be expressed in form of support for the idea of repairing victims and the issuing of a reparations programmes, support for the way the government addresses victim needs and the manner of implementing reparative measures. Negative opinions can be expressed in form of non-support for the idea of reparation in general, the measures' design and their implementation. Neutral opinions can be expressed in form of no view or no interest in discussions on the reparations' topic at all. Of special interest for answering the research questions, is the characteristic of the dependent variable of 'positive public opinion', that is expressed in form of 'public support' for the idea, the design

and implementation of reparations.

The Independent Variables

When describing reparations' emergence, design and implementation as well as the formation of public opinion, a variety of factors that might shape opinions towards reparations have been highlighted in the previous sections. The basic assumption of the analytical framework is that the outcome variable(s) 'Public Opinion, Attitudes and Perceptions' is formed as an answer to an interconnected set of on a macro-level country contextual factors, on a meso-level the programmatic horizon of the country's policy of dealing with the past, and on a micro-level individual personal characteristics of the person or the group of persons expressing opinions. Hence, the suggested framework proposes the following sets of independent variables:

Set A) Contextual Dynamics

The contextual dynamics are the reasons and causes for the emergence of reparations (programmes). The following contextual dynamics are set in a timely sequence and formulated as independent variables. These independent variables are assumed to vary from case to case, as they are very country specific, even though at the first glance they might seem very similar.

1. **Historical Legacy Variable:** The pre-violent conflict situation in respect to political, economic, and social-cultural structure of the country including the political power structure, the functioning of institutions, rule of law and the role of the civil society, as well as the world region.²⁰
2. **Legacy of Violence Variable:** The nature of the violent conflict itself, which type of violent conflict, referring to an internal civil war or an authoritarian regime, which actors were involved, e.g. solely internal or involvement by outside forces, the reasons for the violence and the motives of the actors, as well as the type and degree of violence, and the human rights violations occurred.
3. **Peace and Transition Variable:** The end of the violent conflict as a negotiated peace

²⁰ In contrast to above mentioned scholars, region referring to a country's territory and ethnicity is regarded by this thesis as an individuals personal characteristic, like socio-demographics are. Hence, not understood as a contextual variable.

with a formal peace agreement, or a negotiated transition and regime change, or a clear-break with the old regime, or even a new state creation. The important question is here, if a transition took place or not and what is the perception of key actors, e.g. the transition is considered as a win-win situation.

4. **New System Variable:** The nature of the new, post-violence system, meaning if there was a transition towards a more democratic and human rights respecting system or is the transition still ongoing, is the democracy consolidated or is the country still in a stabilization period. Besides that, also the economic situation, the political power structures including preferences of key stakeholders, institutions, rule of law and civil society of the post-violence area have to be taken into account.
5. **Window of Opportunity Variable:** Another element is the international context at the point of time when a reparations programme is launched, considering how is the international power balance and the crucial actors on the international platform and which international laws and obligations are existent, what are the paradigms on the international agenda. Also, to consider here are possible regional spill over effects.

Set B) Programmatic Horizon

The programmatic horizon refers to the ideas and concepts of how to deal with a country's violent past encompassing the reparations programme launched, the way it is designed and implemented.

1. **TJ Mechanisms Variable:** Which transitional justice mechanisms are applied: perpetrator and victim-focused measure like amnesties (for victims or perpetrators only or for various groups), only perpetrator focused measures such as trials including domestic, international, hybrid trials and tribunals, vetting in form of purges or lustration, reintegration of former combatants, and the victim-centred measures of truth commissions, unofficial truth projects, access to secret files, apology, and any other forms of victim reparations.
2. **TJ Timing and Sequencing Variable:** What is the timing and sequencing of the different TJ mechanisms: are first victim and then perpetrator focused mechanisms implemented, or the other way around and what is the reasoning and the strategy behind implementing a certain sequence.

3. **Reparations Design Variable:** How is the reparations programme designed in respect to two aspects: first, the programme encompasses the dimensions of material/symbolic and individual/collective reparative measures. Second, fulfilment of the characteristics of scope, comprehensiveness, completeness, complexity, internal and external coherence, munificence, finality.
4. **TJ Legitimacy Variable:** What is the process of implementation rather top-down or bottom-up, is it an exclusive or inclusive process, is a consultation of the public and the victims during design and implementation foreseen, and is there provision of information, public outreach and media coverage.

Set C) Individual Personality²¹

1. **Personal Experience Variable:** Exposure to violence and losses in form of direct (individual) or indirect (family/ancestors) victimization or not being affected at all
2. **Socio-Demographics Variable:** Gender, age, region, education
3. **Socialization Variable:** Family identity during the violent conflict or authoritarian regime and parental ideology
4. **Individual Views Variable:** Political interest, political ideology, religiosity

This analytical framework (see Figure 1.) is built on several premises, first and foremost that transitional justice is somehow a normative, but overall a moral-idealistic theory aiming for reconciling societies and contributing to long-term peace. Second, within the TJ framework reparations (programmes) have been implemented by states in post-conflict or democratic transition contexts. Third, the contextual dynamics are closely correlated to the programmatic horizon, as contextual factors determine the design of the reparations programme issued, that is the economic performance of the new political system provides the boundaries for the type of reparations that are financially possible, affecting thus if a more or less complex and coherent programme can be implemented.

²¹ Most of these independent variables are drawn from Aguilar, Balcells and Cebolla-Boado (2011, p.1404) model of 'determinants of TJ policies'. However, out of the set of variables proxying family characteristics and socialization, there is taken only the variables of family identity during the Civil War, parent's ideology and family or individual victimization. The variable 'family talked about politics' is excluded because of its assumed endogenous relationship with family victimization and/or parental ideology, thus this variable is considered as less relevant and therefore not taken into account for the present research.

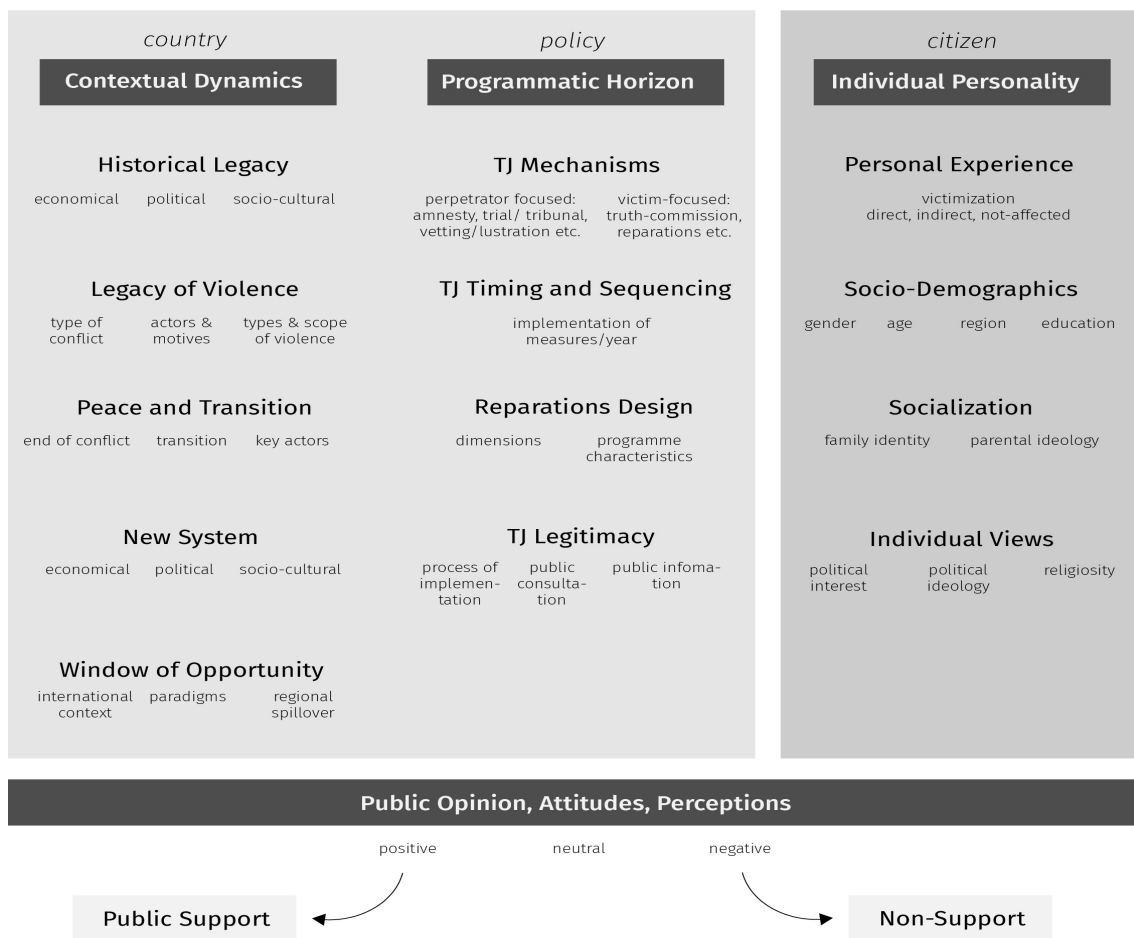


Figure 1. Analytical Framework for Public Opinion on Reparations (own depiction, no causal relationships are assumed)

3.4 Theoretical Assumptions and Expectations

Given the challenges and limits of an analytical framework trying to introduce a 'one-size-fits-all' approach for reparations (programmes), this section formulates theoretical expectations on what could be the main crucial determinants and influencing factors of public opinion towards reparations for the case of Spain. Having in mind the contextual, programmatic and individual factors and relying on findings from the previously presented existent population-based research studies in the field of TJ, the following assumptions are deduced.

When regarding public opinion on the reparations efforts made in Spain, first it is expected that opinions of course vary across Spaniards, that they are very mixed, and also that there cannot be detected a clear polarized picture that citizens either strongly favour or strongly

reject reparations for victims of Francoism. This being in contrast to what one might get as impression from Spanish media debates on the subject of how to deal with the legacies of the dictatorship.²² Reparations as being related with a country's violent past and a former conflict within the society, is a topic of tension that has a social impact. Often it is perceived as a sensitive topic, thus people rather prefer not to speak about the past and their personal or families suffering. Research has shown that not only political identities, but also psychological trauma can be transmitted from generation to generation. Cause of this it can be assumed that the Civil War and the dictatorship, the violence and the long-lasting repression, is still present in nowadays generations of Spaniards, but the will to revive or to talk about the past might be generally low.

Furthermore, it might happen that opinions are neutral because of several reasons: the mechanism of providing reparations is not understood conceptually, people do not know about reparations programmes and/or specific measures taken. In line with this, some population-based studies show that knowledge of transitional justice mechanisms is rather low as respondents cannot remember any public initiatives or programmes (see e.g., Sawyer and Kellsal, 2007). Hence, it is assumed here that knowledge on reparations legislation and implemented measures is in Spain low, too.

One can get a first concrete idea about support for reparations in Spain when considering the research conducted by Aguilar, Balcells and Cebolla-Boado (2011) investigating attitudes towards symbolic reparations. Regarding the answer to the question “*Symbols that pay tribute to Franco and Francoism should be withdrawn from public spaces?*”, posed in nationwide survey in 2008, over 50 percent of the respondents answered with agree, around ten percent with indifferent, and a bit more than 20 percent with disagree (Aguilar, Balcells and Cebolla-Boado, 2011, p.1408). An assumption is made from this, that reparations in general are supported by Spaniards and are more popular than other TJ measures. Nonetheless, not only if reparations for Franco's victims are still supported today, but also what types of reparative instruments are stronger supported than others is studied in detail by this thesis. What brings one back to the analytical framework pointing on three sets of independent variables possibly influencing public opinion.

Foremost, the set of individual personality variables is expected to be the most determining

²² For example see a heated debate on the Historical Memory Law in LaSextaNoche (05.02.2018, 19:11min.).

one in influencing public opinion because opinions, attitudes, and perceptions is something very related to personal characteristics and experiences. This assumption is paying tribute to the findings from Aguilar, Balcells and Cebolla-Boado (2011) who are advocating for drawing more attention to family and personal experiences in the forming of political views. Many psychological studies show long-term relevance of exposure to violence, and losses, and a transmission of the victimhood to the descendants as a phenomena (see e.g., Pham, Weinstein and Longman, 2004; Jennings, Stoker and Bowers, 2009). Hence, being themselves or ancestors victimized during the time of the Franco dictatorship is expected to have a positive impact on support for reparations because of intergenerational transmission of the trauma. Generally, being supportive to governments efforts to repair harms suffered is surely the case for survivors and former victims of state violence by the Franco regime whereby the types of reparations carried out might be more or less supported or not be welcomed at all. Lump sum payments for example might be considered as 'blood money' buying victims' silence by Franco's victims and their families. Aguilar, Balcells and Cebolla-Boado (2011) find that victimization (caused by the Francoists, the Nationalist side during the Civil War or caused by the dictatorship) is more significant related to attitudes towards reparations than to attitudes towards trials and truth commissions. They conclude that Spaniards victimized during the dictatorship are more likely to support symbolic reparations. Important to notice, for victimization is it is not found an interaction effect with age, thus meaning that family victimization experiences have led to an intergenerational transmission of attitudes.

Socio-demographic variables of gender, age, education and region are expected to be also relevant. Reparations is a generation question, support for reparations might be linked in Spain to age since older generations that lived during the Franco regime perceive the issue of victim reparations quite differently than generations born after that period. Aguilar, Balcells, and Cebolla-Boado (2011) resumed that younger people are more likely to support symbolic reparations. Hence, it is expected that support for reparative measures is stronger between younger generations as older ones often favour to leave the past rest or fear of reprisal, by those negatively affected by the policies, or due to older generations' general fear of a return of the conflict. Education is assumed crucial as it affects the way Spaniards have the capacity to evaluate reparations policies. Gender is expected not to impact support. Regarding regional effects, Aguilar, Balcells and Cebolla-Boado (2011) analysed regions within the national territory because the Francoist regime suppressed cultural and linguistic minorities what led to

a mutual feeling of victimization in some regions, that has persisted over time. Hence, a stronger support for removal of symbols was found for the Basque country and Catalonia, particularly in the country's territories of the where heavy ethnic or national identities are predominant. Similar results are expected from the research of this thesis.

Socialization variables are assumed to influence Spaniards' views on TJ policies since intergenerational transmission of political identities are playing a role. Thus, TJ policies are favoured by individuals to the extent that their parents do so. Family identity during the Civil War and the Franco regime is expected to have a negative effect on support when identified with the Francoist side. Aguilar, Balcells and Cebolla-Boado (2011) find a nearly linear correlation amid family leanings in the Civil War and respondents' attitudes. Thus, they conclude that people whose families sided with the Republicans during the Civil War are more likely to support symbolic reparations. Parental ideology is expected to have a negative influence on support when being right-wing. Further, political interest is expected to be linked to express clear opinions: either supportive or not. Religiosity plays a crucial role in many conflicts, also in Spain's former dictatorial regime. It is expected that Spaniards considering themselves religious negatively impacts support for reparations. Likewise, right-wing ideology is clearly expected to have a strong negative impact. Aguilar, Balcells and Cebolla-Boado (2011) conclude that people who are closer to the left and nonreligious are more likely to support symbolic reparations.

Maybe of secondary importance for public opinion are the variables of programmatic horizon that have been discussed within the theoretical assumption for a publicly supported reparations programme. As stated above applying different mechanisms in a adequate time sequence, implying an all-embracing reparations programme consisting of symbolic, material, collective and individual reparations, meeting the eight criteria ranging from scope to finality, and finally implementing the programme in a participative and inclusive way for the public. Research for the case of Spain by Aguilar, Balcells and Cebolla-Boado (2011, p.1420) shows *“that policies that are perceived as being less aggressive, such as withdrawing symbols of the past (something that does not entail digging into the past to identify human rights violations and perpetrators), are more widely supported by the citizenry”*. On the contrary, it can be expected that measure seeming to be more risky, as monetary compensation or granting of pensions might be less supported by Spaniards because perceived as very costly for the state.

Even though influencing the design and implementation of reparations, the variable set of contextual dynamics is assumed to be rather indirectly linked to public opinion, thus it might also seem for the Spanish case that these are less relevant variables for determining public opinion. However, historical legacy, the legacy of the violence, the peace process and the transition, the new system itself, and the short-dated window of opportunities all these provide the context within reparations emerge and are implemented. Contextual variables are the most country specific and unique ones, thus comparison between countries is difficult. Nevertheless, a favourable political, economic and social context at the time legislation on reparations has been passed and/or at the point in time public opinion is surveyed in Spain might determine support.

A 'favourable context' can be that prior to the violent conflict a country had, firstly, a good economic performance, the political situation was stable, the institutions were strong with a democratic tradition of rule of law and a strong opposition and a participative civil society. Also that the country's population has a high literacy rate and education level, measures such as life expectancy are high. Further, that violating human rights and oppressing civil liberties was led by a small elite of an repressive regime that was during the transition process eliminated from power. The transition towards a democratic system took place in the form of a clear-break with the past regime. All these possible 'favourable conditions' are not assumed to apply to the case of Spain. What indeed is expected to apply to a certain degree to Spain is the context of the new political system being a consolidated and stabilized democracy respecting human rights and the rule of law. And the economy is growing and funding for implementing public policies is available. Within this context not assumed to apply to the Spanish democracy is that the new democratic system can rely on functioning historical structures, the institutions existent prior to the authoritarian regime, and a strong civil society tradition. In the same way not expected to fit the case of Spain is the context that the transition is perceived as a win-win situation by all relevant actors involved and supported by key decision-makers. Besides these conditions, it is also not assumed that Spanish reparations legislation was issued during a time where the international arena was especially favouring and pushing for the use of transitional justice or that ideas of how to deal with the past have spilled over from other Western European countries.

Summarizing some boundaries on the proposed framework, above all it has to be taken into account the difficulty to construct a general applicable theoretical framework, because each

transition and each post-conflict situation is unique, so that each analysis needs to be precisely context-specific and generalization is thus not feasible. Another critical factor is the point of time when it is asked about public opinion. Widely known is that public opinion can change over time in response to changing contexts, policies and individual situations. The reparations topic is strongly subjected to time shifts, as reparations measures and programmes are issued and implemented over time (in some cases rather long-term). And reparations are not only backward looking (repairing individual victims and survivors), but also forward looking with including community and symbolic reparations. Hence, public opinion can vary depending on when it is asked about them, so support might be significantly stronger or weaker in different time points. This is because new policies, laws or additional measures might be issued or because public discourse goes into a certain direction.

When asking about reparations people might look often beyond the specific reparative measures and consciously or unconsciously base opinions on the whole discussion about peace and, reconciliation. As a result, their expressed attitudes are not solely on the instrument of reparations. Therefore, it is a challenge to separate opinions and measure them specifically for the mechanism of reparations. Nevertheless, given the general lack of a grounded theoretical framework on reparations programmes, the proposed relationships of variables not only aim to answer the research questions, but also seeks to contribute to further theory development.

4 Chapter IV. Research Design and Methods

Having set up an analytical framework for public opinion on reparations, an empirical study is conducted to first, investigate public opinion, attitudes, and perceptions towards reparations, using the example of Spain. And second, to identify determinants for publicly supported reparations (programmes), in order to give practical suggestions how to optimally design and implement reparations policies. The chosen research approach is a cross-sectional design using mixed-methods by combining online-survey with focus group methodology. This research approach aims to study opinions at micro-level therefore analysing data with a qualitative research lens. The dependent and independent variables that are assumed to have an effect on public opinion are drawn from the theoretical framework and, as far as possible, operationalized in a way that they are measurable by a standardized self-administered questionnaire and by questions included in the focus group moderator's guide. The formerly identified independent variables in respect to the contextual dynamics and the programmatic horizon are analysed descriptively studying the historical and political context of the country, here for the case of Spain.

The following Chapter describes, in its first section detailed the research design, the operationalization of variables and the case selection process. The second Chapter section draws on the methodological proceeding explaining sampling strategies, research instrument designs and data collection as well as the applied procedures of data analysis, for each the online-survey and the focus group methodologies. The Chapter concludes by pointing out some challenges of qualitative research and important ethical considerations related to the research design.

4.1 Research Design

This thesis is based on the philosophical assumptions of *constructivism* because the topic of reparations is addressed from a bottom-up and citizen-centred perspective by inquiring individual views on reparations. Human beings pursue meaning of the universe in which they live and strive, form subjective understandings of their experiences, directed to specific objects or things, and those meanings are diverse and multiple. Therefore, social constructivists seek to look for complexity of views and not so much narrow categories. With the objective to rely the most possible on participant's view of the setting studied in discussion

or in interaction with others. The subjective meanings are studied within specific contexts people live and labour in so that one may understand historical and cultural settings. In the process of making sense of or interpret the meanings others have, the researcher acknowledges that his or her personal background shapes the interpretations.

Constructivist do not start with theory but, based on the data collected in the field, generate or inductively develop a theory or pattern of significance; what is typically seen as an approach to qualitative research. Besides constructivism, a pragmatic view seems important too as considering that researchers are free to opt for the methods, techniques, and procedures that best meets the research criteria. Hence, researchers can mix methods and use qualitative, as well as quantitative data to offer the most comprehensive understanding of the research problem. For pragmatists it is clear that research without exception takes places within different political, social, and historical contexts thus reflecting this in mixed methods. In short, applying also *pragmatism* allows for using multiple methods, different world views, diverse assumptions along with various ways of data gathering and analysis (Creswell, 2014).

Moreover, an inductive approach to the relation between theory and research is chosen. Since the field of reparations is still missing grounded theories, contributing to theory development is aimed to be a contribution of this thesis. Whereby it is only limited possible to draw generalizable inferences out of observations made (further discussed below). This approach involves also a deductive element as from the empirical analysis further data can be collected, to establish conditions in which theory will and will not hold. An appropriate strategy, for the mentioned settling in of the role of theory in respect to research, is a qualitative research strategy. Emphasis is placed on the ways in which individuals interpret the topic of reparations. And it is taken into consideration that public opinion is constantly shifting since being a creation of aggregated individuals views (Bryman, 2008). The chosen research questions are first and foremost descriptive describing what are the public opinion, attitudes and perceptions towards reparations. While the second question goes beyond mere description of the phenomenon by trying to find out why reparations (programmes) are publicly supported or not.

Answering questions and building theory is made from observations. Ex-post-facto theorizing makes sense for observations of public opinion because it explores more general factors behind attitudes and if observation fits within a pattern (De Vaus, 2001). Further, given the

fact that it is not possible to have control over exposure to different values of the three sets of independent variables, because they occur naturally, the procedure of inquiry to chose is an *observational study*. This implies to take the reality as it is, observe it and make comparison between individual units. The conditions of having some variability within the independent variables as well variation in the dependent variable is given when using the introduced framework to compare country cases.

Variables of contextual dynamics and programmatic horizon are always very country specific whereas individual personality variables are distinct for each individual. The same applies to the dependent variable of public opinion, attitudes, and perceptions since fluctuations occur depending on the time and the sub-population surveyed. Since there is no random assignment to treatment groups, as in experiments the case, some scholars claim that this makes it unreasonable to speak about causality, but correlation can be observed. While others do not support that view and argue that if sufficient attention is paid to accounting for all of the other viable causes of the dependent variable that are indicated by current understanding, then claims can be made that a specific independent variable causes the outcome (Kellstedt and Whitten, 2009).

There are two types of observational studies: cross-sectional and longitudinal studies. This thesis use the inquiry procedure of a cross-sectional research design. Bryman offers the following definition:

“Cross-sectional design entails the collection of data on more than one case and at a single point in time in order to collect a body of quantitative or quantifiable data in connection with two or more variables, which are the examined to detect patterns of associations”(Bryman, 2008, p.44).

In other words, a cross-sectional research design comprises data gathering on a series of variables at a single point of time for each unit to explain the variation in the dependent variable across them. Regarding the present thesis, this is done by the collection of data on public opinion, attitudes and perceptions for a certain time point, in the aftermath of by a country implemented reparations programme. Hereby, the researcher is investigating correlations between the three sets of independent variables and the dependent variable(s) by relying on existing differences. A cross-sectional design explains variation in the dependent variable by seeing if this variation is systematically linked to variation in the independent variable.

Typically, cross-sectional observational design is ideally suited for descriptive analysis or data because it explores interrelations and tries to make statements about causal relationships. Drawing flow charts or path diagrams as causal model, might demonstrate where a causal relationship does exist or not exist and derive which a priori theoretical assumptions made fit the data best (the causality issue is further discussed below). A qualitative strategy within cross-sectional design is used if a researcher operates unstructured or semi-structured interviewing including a few participants (e.g., focus groups) at a single point in time, as applied by this thesis.²³ The choice of research groups is based on existing differences rather than random allocation (Bryman, 2008; De Vaus, 2001).

From the background of an overall qualitative approach within a cross-sectional research design, the method of data collection selected is a *mixed-method* combining multiple forms of data gathering. In concrete, the quantitative data collection method of a short online-survey is complemented with obtaining qualitative data from focus groups (FGs). All methods of data collection have bias and weaknesses, and the collection of both quantitative and qualitative data can counterbalance the shortcomings of each form of data. It further provides a more thorough comprehension of a research problem than each of the two strategies alone. There are several reasons why it is useful to link within this research design quantitative and qualitative data collection. Primarily, often mentioned is that mixing methods enables confirmation or corroboration of each other via triangulation,²⁴ that is the enhancement of data comparing opinions from online-survey and focus groups. Also, to elaborate or develop analysis providing richer detail since quantitative data gives an overview, but qualitative data reveals a more complex and nuanced set of attitudes and perceptions. Further, to initiate new ways of thinking through attention to astonishments or paradoxes, turning ideas around, and providing fresh insights. Additionally, quantitative data can help qualitative data during the sample process since by conducting a survey access to qualitative data can be assured. This can be to find a representative sample, locate deviant cases, and during data collection by supply background data, get overlooked information, and help to avoid elite bias.²⁵

23 For qualitative research approach within a cross-sectional design see, for example, Beardsworth and Keil (1991) who carried out a study of dietary beliefs and practices of vegetarians. With seventy-six respondents that were identified through snowball sampling they conducted unstructured interviews that were taped and transcribed resulting in a large set of qualitative data.

24 Conceptualisation of different forms of triangulation was first introduced by Denzin (1978).

25 For example Laub and Sampson (1998) were using quantitative data on criminal activity as a means of selecting people for a subsequent study.

As one of the aims for this thesis is to make a contribution to theory development, a sequential mixed-method design is applied, using first an online-survey to prepare the ground for the focus groups. Concretely, the collected survey data is thought to function as a filter to narrow down the topic of reparations to main points of public concern, to identify critical issues and crucial variables from the introduced analytical framework with its three sets of independent variables. Thus, in practice, creating the base for further probing during the qualitative method of data collection. A sequential sampling frame with a nested relationship is chosen to facilitate the selection of adequate participants for the groups. This implies that sample members selected for the focus groups represent a subset of participants chosen for the preceding research method of the online-survey. Above that, during data analysis, on the one hand, quantitative data could help qualitative data by showing the generality of specific observations, correcting the holistic misconception, and verifying or shedding new light on qualitative findings. On the other hand, qualitative data supports the utility of quantitative data by creating data that is of practical use for policymakers (Bryman, 2008; Miles and Huberman, 1994; Creswell, 2014).

Several researchers in the field of TJ used a mix-methods approach in designing their empirical studies or they point on this method as might being useful for future research. Thoms, Ron and Paris (2008) call for research on both societal (macro) and individual (micro) levels mentioning that population-based surveys and interviews or focus groups with key stakeholders and special interest groups will give a better understanding of how pro- and anti-TJ opinions arise in countries of concern. Special need they see for data that is collected over-time, thus panel studies. To illustrate, the Afghanistan Independent Human Rights Commission opted in their national consultation on past human rights violations in Afghanistan, using a representative sample of the population, for a mixed approach of a quantitative survey (2,000 respondents) allowing to test for preferences and priorities, and the qualitative methodology of focus groups discussions (50 focus groups) for capturing the details (AIHRC, 2005). Similarly, David and Choi Yuk-ping (2005) utilized a cross-sectional survey among 826 former political prisoners in the Czech Republic; supplementing these results with fourteen oral in-depth interviews, eighteen correspondence interviews, other narrative materials and observations for analysing the role of reparations for healing victims of political violence.

Important to notice is, that this research approach does apply for the analysis and

interpretation of the data collected only a qualitative perspective. A qualitative lens of data analysis is chosen because it is necessary for answering the descriptive research question as also the second, rather explanatory, research question. The aim of the analysis is to get a deeper understanding of what shapes public opinion, attitudes and perceptions and not to establish clear causal effects between distinct variables. Additionally, a crucial and practical reason for qualitative data analysis is that for this thesis it could be foreseen that it won't be probable to achieve a representative large-N sample for Spain that would allow for a quantitative analysis of data. Further, the qualitative perspective of data analysis and interpretation pays tribute to the consideration of the temporal dimension of public opinion and reparations.

It goes without saying that opinions can change over time, but as well the design of a reparations policies or the programme can develop over time (issuing new laws and initiatives that might expand the group of addressees or add new types of reparations). A qualitative lens allows to check for timing and sequencing effects. Regarding timing effects it is not recommendable to put data from different time points together and create averages, but instead, like historians, split the world in periods and compare average for periods. Since this project cannot rely on panel data a qualitative analysis allows to take into account shaping contexts, such as technological development and the way the world functions now and then. The analysis might result in the fact that historical changes might or might not have an effect on public opinion or explain asymmetries. Further, by studying which TJ instruments were implemented when and at what point in time reparations have been added to the mix of measures, mutual interrelation of conditions, and the need for a specific order of implementing policies might be demonstrated (Hancké, 2009).

4.1.1 Operationalization of Variables

A crucial issue within each research design is how to measure the dependent and independent variables of interest. It is of high importance to think carefully about how to operationalize variables so that they really measure what they should measure. From a qualitative perspective within a cross-sectional research design relying on mixed-method data collection, operationalization is complex and manifold. The analytical framework is composed of the dependent or outcome variable(s) '*Public Opinion, Attitudes and Perceptions*' and three sets of independent variables (see Analytical Framework Subchapter 3.3). In the following the

proceeding of operationalizing these variables is presented. Variables or characteristics of variables are operationalized in form of questions (in the online-survey questionnaire and focus group moderator's guide) as well as in descriptive analysis of respective TJ scholar and historical scientific literature. The suggested measurement is attached to countries as superior unit of analysis.

To note is that such an operationalization of variables is mainly common in quantitative research, nevertheless the operationalization is presented here with the objective to show that the analytical framework is based on systematic grounds and thus offers the possibility that it not only can be used for qualitative research, but also be applied to a future quantitative research approach. As well as offering the possibility of a systematic comparison of public opinion on reparations for several country cases. In addition, the operationlization is carried out to pay tribute to the mixed-methods approach of combining survey methodology with focus groups by giving a clear idea how to identify and measure the variables within the different methodological strategies.

The Dependent Variable(s)

The overall outcome variable is measured in form of questions in a self-administered online-survey and in the moderator's guide for the focus group discussion. Of special interest to the research question is the characteristic of the dependent variable of positive public opinion expressed in form of '*public support*' for the idea, the design and implementation of reparations (programmes). Hence, public opinion, attitudes, and perceptions are broken-down and formulated in questions that measure in different ways different directions of support. Important to recollect, public support is measured at a single point of time in the aftermath of a country's implementation of reparations (programmes). In concrete, public opinion, attitudes, and perceptions are operationalized as follows:

1) Support for the idea of providing reparations:

- Online-survey questionnaire: Q16. *Do you belief there should be state-sponsored reparations (e.g. monetary compensation) for victims?* With response categories of: Yes, for individual victims/Yes, for the community/Yes, for individual victims and the community/No, no measures should be taken at all/ I don't know.
- Focus Group Moderator's Guide: *Do you belief in general there should be reparations*

for the victims of the Franco regime?

2) Support for a certain design (material, symbolic, individual, collective) of reparations:

- Online-survey questionnaire: Q20. *In general, what do you think which are the most adequate measures to repair victims of human rights violations in {country}? With response categories of: Monetary payments (e.g. one-off lump sums, pensions)/Public apologies by perpetrators (e.g. by Head of State)/Health care and medical assistance (e.g. free treatment, psychological support)/Education (e.g. free education for children of victims, scholarships)/Erection of memorials, museums of remembrance and removal of symbols, renaming of public spaces/Acknowledgement of victim status and proclamation of commemoration day/Rehabilitation of civil and political rights (e.g. reinstatement at workplace)/Restitution of property and land/Search for disappeared persons and exhumation of mass graves/Collective reparations (e.g. community development programmes).*
- Focus Group Moderator's Guide: *Do you think the following measures are adequate to repair the victims in {country}? (asking for the same types of reparations as in the online-survey).*

3) Support for the implementation:

- Online-survey questionnaire: Q21. *Overall, would you say that you ... the reparations laws, initiatives, and programmes implemented in {country}? With response categories of: Strongly support/Support/Oppose/Strongly oppose/I don't know.²⁶*
- Focus Group Moderator's Guide: *Overall, would you say that you support or oppose the reparations laws, initiatives and programmes implemented in {country} and why?*

Even though, the research interest of this project lies specifically within reparations, the online-survey addresses additional aspects of TJ beyond reparations. While the focus group discussion is narrowed down to solely questions on reparations. The reason for amplifying the online-survey questionnaire is that it is necessary for the profound understanding of the context reparations are embedded. Also out of interest to capture public opinion on the violent past and the human rights violations occurred as well as the country's outlook for the future in

²⁶ Q21. is NOT asked for respondents who do not know about reparations legislation (Q17.), nor about material (Q18.) nor about symbolic (Q19.) reparations implemented.

respect to peace and reconciliation. Additionally, questions asking about knowledge of reparations legislation and different types of reparative measures are included to double check if respondents are aware of the topic and if it is known what the state has done so far in respect to reparations.

Therefore, also the following is measured by the online-survey questionnaire:

- The perceptions of the violence (questions Q12. - Q15.)
- Knowledge of reparations programme and specific types of reparative measures (questions Q17. - Q19.)
- Opinions on reconciliation and guarantees of non-repetition (questions Q22. - Q26.)

The legislation on reparations mentioned and surveyed in Q17. is taken from the database 'Transitional Justice and Memory in the EU',²⁷ however this is not representing an exhaustive list. Asking participants for the main legislative measures is considered as sufficient in order to get an idea what is the range of public knowledge on reparations in the country (for the full battery of questions asked see the paper version of the questionnaire in the APPENDIX A). As mentioned earlier during the further research process, the focus group discussions draw on the questions of the online-survey, but with a focus to the TJ instrument of reparations. The concrete design of the online-survey questions and their answer categories as well as the moderator's guide is addressed by Subchapter 4.2.2.

The Independent Variables

Independent Variables from *Set A) Contextual Dynamics* (macro-level country) and *Set B) Programmatic Horizon* (meso-level policy) are measured by descriptive narrative analysis from academic literature on the respective country case of Spain. Besides this, some measurement indicators are introduced that might constitute general useful operationalizations of the independent variables, however for rather quantitative research. Therefore, for this thesis, these operationalizations play a minor role within the descriptive analysis. Independent variable *Set C) Individual Personality* (micro-level respondent) is measured in form of questions in the online-survey questionnaire by the socio-demographic and screening sections. Some of these questions are utilized as screener in the selection process of focus group

²⁷ CSIC (2013) *Transitional Justice and Memory in the EU*. Available at: <http://www.proyectos.cchs.csic.es/transitionaljustice/content/spain> (Accessed 2 December 2020).

participants. The three sets of independent variables can be operationalized as followed:

Set A) Contextual Dynamics

1. Historical Legacy Variable

The variable historical legacy includes various aspects of a country's political, economic and social-cultural structure of the pre-violence times including the political power structure, the functioning of institutions, rule of law and the role of the civil society as well as the geographical factor of world region. Not all of these factors can be strictly operationalized and are rather covered by descriptive analysis. Nevertheless, some measurements are introduced that could function as useful operationalization of distinct aspects of the historical legacy variable. To select the information relevant to historical legacy, the time point of up to five years before the outbreak of a violent conflict or the authoritarian regime is considered. Five years are seen as appropriate distance for measuring the pre-conflict situation as it is separated enough from the turning point being it the outbreak of violence or the regime change towards an authoritarian rule. Also, relying on Olsen, Payne and Reiter (2010b, p.52) five years is sufficient time to assume one round of successful democratic elections in which power is handed over within the established rules of the game.

For measuring the economy situation of a country in the pre-conflict situation, the Gross Domestic Product (GDP) per capita could be used, what can be retrieved from UNData.²⁸ However, there is only data available from 1970 onwards. Also, the state of the country's social and economical development could be measured by the Human Development Index (HDI).²⁹ The HDI is a compound index assessing average performance in three basic aspects of human development: life expectancy, education and per capita income. The HDI is measured only since 1990. Measuring the regional aspect, the historical geographical location of the country, information of the UNStats division sorting countries into geographical regions, could be taken into account.³⁰

For the measurement of the level of democracy, before the violent conflict, the index from the

28 UN Data. Available at: <http://data.un.org/Data.aspx?q=GDP+per+capita&d=SNAAMA&f=grID%3a101%3bcurrID%3aUSD%3bpcFlag%3a1> (Accessed 2 November 2019).

29 UNDP Human Development Index (1990-2017). Available at: <http://hdr.undp.org/en/data> (Accessed 2 November 2019).

30 UN Statistics Division, Geographic Regions. Available at: <https://unstats.un.org/unsd/methodology/m49/> (Accessed 2 November 2019).

Polity IV project could be taken. Polity IV consist of annual scores on the level of democracy for all major independent countries in the world (with a total population of minimum 500,000) covering the years 1800 to 2018.³¹ Relevant hereby is the democracy indicator measured on an additive eleven-point scale (0-10). This index is based on codings of the competitiveness of political participation, the openness and competitiveness of executive recruitment, and constraints on the chief executive. Contrary, the eleven-point institutionalized autocracy indicator is calculated from codings of the competitiveness of political participation, the regulation of participation, the openness and competitiveness of executive recruitment, and constraints on the chief executive. Further, the Combined Polity Score is measured through subtracting the autocratic from the democratic score; the resulting unified polity scale ranges from +10 (strongly democratic) to -10 (strongly autocratic). Other measurements of the quality of governance and institutional quality could be considered, whereby to consider that there is no data prior to the 1990s (e.g., the Corruption Perceptions Index first measured by Transparency International in 1995;³² the Freedom House index of political freedoms and civil liberties data on Freedom in the World Comparative and Historical Data available from 1973 onwards)³³. Likewise, the level of democracy could be measured with the QoG Basic Data index for Level of Democracy, but data collection is conducted only for the time 1972 to 2017.³⁴ The index uses the average of Freedom House (political rights and civil liberties are computed on a one-to-seven scale, whereby one standing for the highest degree of freedom and seven for the lowest) and Polity which are both transformed into a scale from 0-10, and then averaged into 'fh_polity2'. The scale ranges from 0 least democratic to 10 most democratic. According to Dahlberg et al. (2016) this average index seems to act better in respect to validity and reliability than its components.

2. Legacy of Violence Variable

This variable is composed of several aspects, namely the nature of the violent conflict itself,

31 Center for Systemic Peace. *POLITY IV PROJECT Political Regime Characteristics and Transitions, 1800-2018 Dataset Users' Manual*. Available at: <http://www.systemicpeace.org/inscrdata.html> (Accessed 2 November 2019).

32 Transparency International Corruption Perception Index. Available at: https://www.transparency.org/research/cpi/cpi_early/0 (Accessed 2 November 2019).

33 Freedom House: Freedom in the World Data and Resources. Available at: <https://freedomhouse.org/content/freedom-world-data-and-resources> (Accessed 2 November 2019).

34 QoG Basic Data. Available at: <https://qog.pol.gu.se/data/datadownloads/qogbasicdata> (Accessed 2 November 2019).

which type of violent conflict an internal civil war or an authoritarian regime, which actors were involved, e.g. solely internal or involvement by outside forces. Further, the reasons for the violence and the motives of the actors as well as the type and degree of violence and the human rights violations occurred. Type of violent conflict can be operationalized with Olsen, Payne and Reiter (2010b) regime types variable. Using this variable is plausible because their study is about TJ mechanisms, too. Distinguished first are civilian and military regimes. Military rule means the leaders also held position in the military. Further, regime's leadership is classified into individual or institutional rule. Individual rule means the leader operates independently from the party or the military and has personal decision control over decisions, whereas in institutional regimes a single party or (military) group holds exclusive power and does not share it with other political actors. Moreover, to get an idea of the duration and the extend of the violence, the Armed Conflict Dataset (UCDP/PRIO)³⁵ could be used, however only useful for analysing post-conflict societies as not coding violence provoked by authoritarian regimes. The dataset which was the latest updated in 2009, singles out armed conflicts in countries and territories occurred from 1946 to 2008.

Additionally, the Political Terror Scale measuring levels of political violence and terror that a country experiences in a certain year from 1976 onwards is built on a 5-level 'terror scale' at first developed by Freedom House (Gibney et al., 2019). The data used for composing this index comes from three different sources: the yearly country reports of Amnesty International, the US State Department Country Reports on Human Rights Practices, and Human Rights Watch's World Reports.³⁶ Above that, to get a deeper insight into the type of human rights violations, the CIRI Human Rights Dataset by Cigranelli, Richards and Clay (2014) could give an index for physical integrity rights, formed from indicators of disappearance, extrajudicial killings, political imprisonment, torture measuring with scores 0 occurred frequently, 1 occurred occasionally, and 2 did not occur in a given year, from 1981 to 2011.³⁷ For other factors, concrete measurement are not existent, as such the actors involved in the conflict, the types of human rights violations happened, and the scope of victimhood, the information is taken from descriptive analysis based on relevant scholar.

35 PRIO. Available at: <https://www.prio.org/Data/Armed-Conflict/?id=348> (Accessed 2 November 2019).

36 PTS Data Table. Available at: <http://www.politicalterroryscale.org/Data/Datatable.html> (Accessed 2 November 2019).

37 CIRI Human Rights Data Project. Available at: www.humanrightsdata.com (Accessed 2 November 2019).

3. Peace and Transition Variable

This variable is referring to the end of the violent conflict and the way it was ended. Was it a negotiated peace with a formal peace agreement, or a negotiated transition and regime change, or a clean-break with the old regime, or even a new state creation? The important question here is if a transition took place or not and the perception of the key actors, e.g. the transition perceived as a win-win situation. For measuring the transition, it can be used Olsen, Payne and Reiter's (2010b) transition type variable. Coded is the pace of transitions which can be a sudden break with the authoritarian regime when the regime collapses because it is overthrown by domestic forces. Another possibility is that the transition takes place because of negotiations between regime and opposition forces. Alternatively, a new state might emerge during the transition. The situation of key actors in the transition, if they have been satisfied and thus perceive the transition as a win-win situation or not, is descriptively analysed relying on relevant scholar in the field.

4. New System Variable

Similarly, to the historical context variable, the new system encompasses the political, economical, and socio-cultural structure of the post-violence regime. Main question is here, if there has been a transition towards a more democratic and human rights respecting system or if the transition is still ongoing, meaning. is the democracy consolidated or is the country still in a stabilization period. These aspects are measured five years after the end of the violent conflict or the transition, to avoid measuring the transition period or the immediate aftermath, but in stead indeed evaluate the state of the new regime. The economy in the post-conflict situation is measured by the GDP per capita of the country that is retrieved from UNData. In addition, the state of the country's social and economical development is measured by the Human Development Index. To measure the level of democracy five years after the violent conflict, the index from the Polity IV project can be taken. Other measurements of the quality of governance and institutional quality that can be used, are the Freedom House index of political freedoms and civil liberties (from 1973 onwards) and the QoG Basic Data index for Level of Democracy (1972-2018). Additionally, the Corruption Perceptions Index could be considered, available from 1995 onwards. Regarding the situation of human rights, this can be measured with the Political Terror Scale (available from 1976 onwards) and the CIRI human rights dataset (from 1981 to 2011). Furthermore, Olsen, Payne and Reiter (2010b, p.52) the

measurement of the human rights background of new democratic political leaders could be used. Evaluated is the background of those leaders who held power during the first five years of the post-transition democracy. Leaders who worked actively in human rights as lawyers, activists, or advocates during the authoritarian regime are defined as having a human rights background.

5. Window of Opportunity Variable

This variable can be operationalized rather from descriptive analysis based on academic literature on the world's situation, which international standard, norms and paradigms are widespread at the time the country is issuing the reparations programme. It can be checked for example which human rights treaties and institutions are in place and if the country recognizes them or is member of it.³⁸ Further, accession to international organizations and regional organizations such as OSCE, NATO, The Council of Europe and the European Union is considered. The situation in the region, especially in neighbouring countries, is also taken into account in order to look for possible spill over effects.

Set B) Programmatic Horizon

1. TJ Mechanisms Variable

This variable is dealing with the different TJ measures that are available to the state and can be chosen by the government as means to deal with the country's violent past. The mechanisms have been classified in Subchapter 1.3 according to their focus of destiny. Therefore in concrete, this variable can be measured by double checking which mechanisms out of the menu of perpetrator and victim-focused measures of amnesties (for perpetrators/for victims/for both/no), only perpetrator focused measures such as trials/tribunals (domestic, international, hybrid), vetting (purges, lustration), reintegration of former combatants (yes/no), and the victim-centred measures of truth commissions (yes/no) or unofficial truth projects (yes/no), access to secret files (yes/no), apology (yes/no), and any form of reparations (symbolic/material/individual/collective), are issued.

2. TJ Timing and Sequencing Variable

³⁸ OHCHR UN Treaty Body Database. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=163&Lang=EN (Accessed 11 November 2019).

Timing and sequencing is referring to the time when and the sequence in which the TJ mechanisms are implemented. If first perpetrator focused mechanism and then victim-centred mechanisms are implemented or the other way around and what is the reasoning and the strategy behind a certain sequence. This can be measured by checking the dates for the implementation of the different mechanisms (e.g., laws entering into force, public announcements) and by relying on descriptive analysis of relevant scholar.

3. Reparations Design Variable

Reparations (programme) design can be measured based on two aspects: First, if different types of reparations are designed based on the four dimensions of material and symbolic, individual and collective measures, checking for the country's reparations legislation. And second, measuring to what degree De Greiff's (2006) characteristics of scope, comprehensiveness, completeness, complexity, internal and external coherence, munificence, and finality are fulfilled. It is assumed that each of the characteristics can be fulfilled, partially fulfilled or not fulfilled at all. Evaluating this is dependent upon subjective assessment of the researcher, relying on respective literature, since no standard criteria nor measurement exists.

4. TJ Legitimacy Variable

This variable is addressing the process of implementation if it is rather top-down or bottom-up, an exclusive or inclusive process. This can be measured by looking on the institutions and actors involved in the implementation process. Also, measured is if the public and the victims have been consulted on the topic and their opinions have been taken into account during design and implementation process. Has the public access to information, is the launch of reparative measures or programmes complemented with a public outreach campaign and is the topic covered by the media channels. Like before, this can be carried out with descriptive analysis of relevant scholar, newspaper and government sources.

Set C) Individual Personality

1. Personal Experience Variable

Exposure to violence and losses in form of direct (individual) or indirect (family/ancestors/close friends) victimization or not being affected at all is measured by a screening question in the online-survey questionnaire in accordance with how Cárdenas et al.'s measurement (2015, p.519). The classification is drawn from respondents' answers to the

following two questions: Q9. *Do you feel like a victim of violence by the State or its agents in the violent period during the {conflict/authoritarian regime}? (yes/no)* and Q10. *Are there any victims of State violence or its agents during the {conflict/authoritarian regime} among your relatives or close friends? (yes/no)*. Participants who responded affirmatively to the first question are classified as 'direct victims', individuals who responded affirmatively only to the second question Q10. are categorized 'indirect victims' and individuals who responded negatively to both questions are considered 'not-affected'. The term 'state violence' is used in the questions phrasing interchangeable for the concept of 'human rights violations' given the fact that for many people human rights violations might be an abstract concept whereas state violence might be more a more visible concept facilitating better understanding. Victimization is further defined by question Q11. *The violation of human rights was related to...?* With the presented response categories of political imprisonment / torture / disappearance / assassination / displacement or exile / others. Here indeed the term human rights violation is used, together with an explanation, that this follow-up question is referring to the personal history of the respondent what had happened to him/her in order to facilitate understanding. Additionally, this variable is included in the focus group screener using the same survey questions Q9. and Q10. as an additional criteria for the selection of participants.

2. Socio-Demographic Variable

The socio-demographics are first measured by questions in the online-survey asking about gender (Q1. *Male/Female/Other*), age (Q2. *Under 18 years/18-24 years/25-34 years/35-44 years/45-54 years/55-64 years/65-74 years/74 and older*), region (Q3. *In which region are you born?*), and education (Q4. *What is the highest educational level you completed/you are about to complete? Secondary school / High school / Professional degree / University degree / Doctorate or professor degree / Other*). Second, in the focus group screener the same questions are used in order to achieve a good mix of relevant participants in respect to socio-demographics. Education is considered merely an additional interesting information to know about the selected participants rather than a selection criteria.

3. Socialization Variable

The socialization variable is measured using the question about family identity during the violent conflict and/or the time of the authoritarian regime in the online-survey questionnaire. The question is formulated according to Aguilar, Balcells and Cebolla-Boado (2011, p.1424):

Q8. *As far as you can remember, which of the two sides that were involved in the {conflict/authoritarian regime}, did your family most identify with?* Answers categories are adapted to the country context: Side A / Side B / Both / Neither. Family identity is also considered by the focus group screener as additional criteria in the selection of relevant participants, relying on the survey question. Parental ideology is not considered in the questionnaire, because of practical considerations to keep the online-survey as short as possible. An idea about parent's ideology is assumed to be able to deduce from the answer to the question about the family identity during the violent conflict/the authoritarian regime. Ideology is likely to be linked to the side that an individual has taken during a conflict (this counts especially for the chosen country case of Spain).

4. Individual Views Variable

Individual views are measured by asking questions about political interest, political ideology, and religiosity of the respondent. The online-survey question for political interest is taken from Aguilar, Balcells and Cebolla-Boado (2011, p.1424): Q5. *Could you tell me if you are interested in politics in general?* (Not at all/A little/Quite a lot/ Very much). This variable is not considered by the focus group screener. The online-survey question for political ideology is constructed based on Cárdenas et al. (2016, p.431): Q6. *In political matters people frequently speak of left and right. Where you would place your ideas on the following scale?* With an answer scale from one 'extreme left' to seven 'extreme right'. Ideology is also a key criteria in the focus group screener for the selection of relevant participants based on this very same survey question. Likewise, religiosity is measured relying on Cárdenas et al. (2016, p.431) by asking Q7. *How important are religious ideas for you?* The answer scale ranges from one 'not important', to seven 'very important'. In the focus group screener religiosity is only an interesting additional information and not a selection criteria.

Table 5. Operationalization of Independent Variables Set A), B) and C)

Independent Variable	Measurement
Historical Legacy	GDP per capita, HDI (if available), Polity IV, FreedomHouse (if available), CPI (if available), QoG index level of democracy (if available), Geographic Regions UNStats
Legacy of Violence	Olsen, Payne and Reiter (2010b) regime type, Armed Conflict Dataset

Independent Variable	Measurement
	(UCDP/PRIO), PTS (if available), CIRI (if available)
Peace and Transition	Olsen, Payne and Reiter (2010b) transition
New System	GDP per capita, HDI (if available), Polity IV, FreedomHouse (if available), CPI (if available), QoD index level of democracy, PTS, CIRI, Olsen, Payne and Reiter (2010b) new democratic leaders
Window of Opportunity	OHCHR institutions/treaties, IO memberships
TJ Mechanisms	Amnesties (for perpetrators/for victims/for both/no), trials/tribunals (domestic, international, hybrid), vetting (purges, lustration), reintegration of former combatants (yes/no), truth commissions (yes/no), other truth projects (yes/no), access to secret files (yes/no), apology (yes/no), reparations (yes/no)
TJ Timing and Sequencing	Year of implementation/victim-centred versus perpetrator focused mechanisms
Reparations Design	Dimensions (material/symbolic, individual/collective measures), Characteristics (scope/comprehensiveness/completeness, complexity/internal/external coherence/munificence/finality)
TJ Legitimacy	Implementation process, Public consultation, Public information
Personal Experience	Victimization (direct/indirect/not-affected)
Socio-Demographics	Gender, age, region, education
Socialization	Family identity during conflict/authoritarian regime, (parental ideology)
Individual Views	Political interest, political ideology, religiosity

4.1.2 Case Selection: Post-Franco Spain

After having introduced the qualitative research design applying a mixed-method approach of data collection, and the operationalization of variables, now the focus is on the process of selecting the objective of study. The superior unit of analysis are countries. There are 195 countries in the world, but because of feasibility reasons and the qualitative approach of this thesis a small sample needs to be chosen. The qualitative approach of the thesis requires to work with small samples nested in the context and studied in-depth. The initial idea was to select few countries for comparison. Considering the fact that there is no well-established theory on the assumptions that positive or negative opinion emerge as a result of combinations of possible explanatory factors (complex causation) and taking into account that

public opinion can result from different combinations of factors (case of equifinality). Alike, the fact that public opinion as dependent variable is very diverse and varies over time, makes it hardly possible to conduct a systematic comparison, as for example based on the English philosopher John Stuart Mill's, in his in 1843 first published book 'A System of Logic', presented so-called methods of difference and of agreement. Given these difficulties, it is opted to chose a single case for the empirical study. The selection of the case under study is based on the following criteria and selection process:

The first imperative selection criterion is that the country must have implemented reparations in a post-conflict or democratic transition context. Only a country that has implemented an amplified reparations programme or a set of different reparative measures is to qualify, meaning necessary condition is having at least implemented some sort of symbolic and material, as well as individual and collective measures. To keep in mind as previously defined, implemented is referring to implemented by the state or state actors and meaning that reparations became integral part of national legislation. Therefore, it is sourced for information on transitional justice mechanisms by country using the 'Transitional Justice Research Collaborative Database' (Dancy et al., 2014) as the most up-to-date and complete dataset available for research in the field of TJ. This database includes mainly information on prosecutions (international criminal trials, foreign criminal trials, domestic criminal trials, civil trials, customary justice), truth commissions, and amnesties, but also on reparation and vetting, for 109 democratic transitions in 86 countries worldwide from 1970 to 2012. Filtering for reparations, the dataset lists 31 post-conflict and democratic-transition countries with reparations programmes.

Additionally, another database is regarded in order to identify countries that implemented reparations (programmes): The database of the project 'Transitional Justice and Memory in the European Union'.³⁹ This project is funded by the 'Ministerio de Ciencia e Innovación' of the Spanish Government, with copyright from 2013. The project website provides relevant information on 'justice for the victims or reparations' as well as on 'memorialization' adopted by EU countries. The database lists for the section 'justice for victims or reparations' 19 EU countries that have granted some form of compensation to victims of repressive policies (compensations is referring to packages of benefits, indemnities, special payments, pension

³⁹ Transitional Justice and Memory in the European Union. Available at: <http://www.proyectos.cchs.csic.es/transitionaljustice/> (Accessed 14 November 2020).

rights), while 17 countries adopted official policies on restitution of confiscated properties. 16 countries offered rehabilitation measures referring to the process of reinstalling a person in her/his personal or professional situation held before the actuation of the repressive regime and 15 countries are listed that have issued public and official apologies for their responsibility in the commission of serious crimes against their citizens during the twentieth century. In the 'memorialization' section, 18 countries are shown that have adopted as commemoration day the UN declared 27th of January as International Day of Commemoration in Memory of the victims of the Holocaust or have adopted other national remembrance days whereas 23 EU countries are named that have established memorial museums that commemorate the victims of the repressive past, help to know the horrors of the repressive regimes and to prevent their occurrence in the future.

Second imperative criterion is the timeframe, the time during which reparations programme having been implemented need to be limited to the 1970s and later, because of the crucial necessity for the human rights violations, the reparations are issued for, having been occurred in a timespan where now contemporary witnesses and survivors that can participate in the research are still alive. Looking again on the databases, the 'Transitional Justice Research Collaborative Database' displays 31 countries with reparations legislation not older than 1970. And the 'Transitional Justice and Memory in the European Union' database, for category of compensations, shows for countries having initiated the first reparations legislation from 1970 onwards and not earlier 14 EU countries.

Thereafter, is coming the third criteria into play, the research interest in European post-conflict or democratic transition cases since past empirical studies have often relied on cases of Latin American and African TJ processes. Less studies have been conducted considering European countries. Combing back therefore to the 'Transitional Justice and Memory in the European Union' project, which provides some information to narrow down the amount of possible country cases by clustering (European) countries. This information is data on duration and type of repressive regimes as such the database demonstrates that Europe has witnessed repressive regimes during much of the twentieth century and there are only few countries that have had stable democratic regimes (UK, Ireland and Sweden). Further, the database makes a distinction between European countries that were occupied by the Nazis (Belgium, Denmark, France, Luxembourg, and the Netherlands), where repression was organized together with the occupiers. In contrast, to the countries Greece, Spain and Portugal

that experienced authoritarian regimes. While the states from Eastern Europe went through communist regimes and the Baltic States that were annexed to the territory of the Soviet Union.

In addition, special interest of the researcher lays in Southern European transitions from dictatorial regimes to democracies, as the case in Spain, Portugal and Greece of the 1970s, because not yet many TJ research has been done in these countries even if they were subjected to long-lasting repressive regimes that came along with massive human rights violations. Lastly, Spain is chosen as the country to study in-depth, on the one hand, since at least some academic research has been conducted on the TJ process in Spain, more than as on the Portuguese or Greece transitions. Up to nowadays at least one empirical study exploring public opinion of Spaniards exists (representative study of the Spanish population conducted in April 2008 by the 'Universidad Nacional de Educación a Distancia' on behalf of Spain's 'Centro de Investigaciones Sociológicas' (CIS)).⁴⁰ On the other hand, because practical considerations including language, locality, access to sources and prior knowledge, are clearly speaking in favour to decide for Spain.

4.2 Research Methodology

Within the cross-sectional research design applying a qualitative perspective, this Chapter section specifies the used data collection methods. A combination of quantitative and qualitative data gathering is carried out in form of a self-administered online-survey in combination with focus groups. The initial online-survey allows to gather a respondent's general perception towards the violent past, its knowledge about the reparations programme and specific measures as also opinions on reconciliation and guarantees of non-repetition. Survey results are useful because they portray individual attitudes and experiences for a quantity of respondents, in specific times and places. These insights then justify the selection of relevant topics for the focus groups discussions and allows for a targeted recruitment of FG participants. Two qualitative focus groups complement the survey to get deeper insights in the reasons behind respondents' opinions and give a better understanding of how pro- and anti-

⁴⁰ CIS Estudio No. 2.760 (April 2008) *Memorias de la Guerra Civil y el franquismo*. Available at: http://www.cis.es/cis/opencm/ES/1_encuestas/estudios/listaMuestras.jsp?estudio=9220 (Accessed 20 November 2020).

reparations attitudes emerge in Spain. In the following, first the online-survey and then the focus group methodology is introduced addressing sampling strategies, design of the research instrument as well as data gathering and processing.

4.2.1 Online-Survey

The total sample size of the study is N=206 respondents from all over the territory of Spain. Respondents' demographic characteristics are illustrated by the subsequent section of the Chapter. The scope of the empirical study is aimed to be population-based, meaning that it has to be ensured that the online-survey indeed surveys opinions of the general public. The population of interest accordingly are Spanish citizens. The present Chapter section starts off by explaining how adequate respondents for the online-survey are selected, which sampling technique is used, how the research instrument is designed, and finalizes with a first analysis of the survey data.

Sampling Method

The way to select individuals for the survey is by applying a non-random sampling frame, that is a non-probabilistic sampling frame selecting individuals purposefully. What kind of sampling frame is used depends on the aim of the research, especially in respect to if it is aimed for making generalizable claims from the study results or to obtain insights into a phenomenon (Palinkas et al., 2015). This thesis aims for a descriptive, and some explanatory analysis, maximizing understanding of the underlying phenomenon and thus to study public opinion, attitudes and perceptions rather in-depth than in general. Thus, in line with a qualitative approach, samples are purpose driven rather than random since the initial definition of the universe of possible respondents is more limited or the universe is not clearly specified.

Besides that, random sampling is here not appropriate because social processes have a logic and coherence that random sampling could destroy and with small number of cases random sampling can even cause a bias when missing important cases in the sample (Miles and Hubermann, 1994). Concretely, the sampling technique of individuals for the online-survey is constructed differently depending on the target group of 'victim' (direct or indirect) and 'not-affected'. The distinction of target groups is based on the 'Personal Experience Variable' operationalized by the questionnaire in Q9. and Q10. Using another non-random sampling

technique for 'not-affected' than for 'victims' is necessary, since the universe of victims is very specific and access to target respondents might be otherwise too difficult, due to the sensitivity of the research topic (this has been at least previously assumed to be the case).

To gather individuals falling into the 'victim' target group, criterion sampling technique is applied. Criterion sampling as a purposeful sampling frame is aimed to narrow the range of variation and concentrate on similarities. It involves to select cases that meet some predetermined criteria of importance: the direct or indirect victimhood. This is useful since it allows to select individuals that have most probably a deep understanding of the reparations topic, are rich of information and maybe eager to share this information, where space for open-answers is given. Thus, providing the important qualitative component to the quantitative online-survey. Additionally, criterion sampling is useful for identifying cases from the standardized online-questionnaire that might be interesting to follow-upon in the focus groups (Patton, 2001; Palinkas et al. 2015). The practical approach is to contact victim organizations and ask them to send the survey link to their members; doing so paying tribute to the sensitivity of the research topic. In concrete, emails were send for example to the Spanish organization 'Foro por la Memoria' (see Table 6. below). Also, personal contacts to individuals knowing possible respondents falling into the victim target group were used to enrich the victim sample. Of course, it has to be taken into account that any respondent can classify as victim if the victim filter questions are answered respectively. Because of this, beforehand estimating how many victims can be reached seems to be impossible. Nevertheless, it is aimed to achieve a minimum of n=30 completed survey questionnaires for the victim target group (for the final numbers of completes see further below).

A sampling method available and convenient for surveying general population not directly or indirectly affected by human rights violations is a combination of so-called snowball and convenience sampling (Eck, 2011).⁴¹ Crucial to notice, relying on these sampling strategies means that the sample compiled does not reflect a representative sample for the Spanish population. For the snowball sampling method, the researcher starts with initially getting in contact with a few people who fit the research topic and then take advantage of the contact to these people to establish contacts with others. The underlying assumption is that individuals with special characteristics of interest know other individuals with similar characteristics and

⁴¹ For a combination of convenience and snowball sampling see for example Parmentier, Valiñas and Weitekamp (2009, p.12.).

so forth (Palinkas et al., 2015). In other words, participants were asked to recruit individuals to join the survey, here in concrete to share the link to the online-survey. This is done since no accessible sampling frame for the population from which the sample is to be drawn is available and as this is the only feasible way to get as most as completes as possible.

The practical approach for snowball sampling is to reach a greater and diverse public by starting the snowball with sending the survey link to members of NGOs, foundations,⁴² political organizations and parties, labour unions, churches, universities, cultural centres, and libraries all over the territory of Spain. Additionally, for convenience the online-survey link is distributed to persons, known to the researcher, that are assumed to fulfil the criteria of being 'not-affected', thus counting as general population. Alike as for the 'victim' target, for the target group of 'not-affected' a minimum of n=30 completed survey questionnaires is aimed for (again for the final numbers of completes see further below).

Table 6. *Sampling Frame Online-Survey*

Victims (direct/indirect)	Not-affected
National victim associations (inter alia Asociación de Relativos de Víctimas, Foro por la memoria, ARMH)	Right-wing foundations (inter alia Fundación Francisco Franco, Fundación FAES)
	Human rights, humanitarian organizations and NGOs (inter alia Amnesty International, Red Cross, Greenpeace)
Regional victim associations per Autonomous Communities (inter alia Foro Ciudadanos para la Recuperación de la Memoria Histórica de Andalucía, Asociación de Víctimas del Genocidio en Donostia, or Asociación Recuperación Memoria Histórica de Extremadura)	Political parties (represented in the Congress in 2019) per Autonomous Communities
	Labour unions per Autonomous Communities
	Bishoprics, dioceses per Autonomous Communities
	Universities per Autonomous Communities
	Public libraries and cultural centres per Autonomous Communities

⁴² Email addresses are publicly available on the website of the 'Spanish Association of Foundations' (Asociación Española de Fundaciones). Available at: <http://www.fundaciones.org/es/fundaciones-asociadas> (Accessed 20 November 2019).

Victims (direct/indirect)	Not-affected
	Foundations retrieved from the website of the 'Spanish Association of Foundations' per Autonomous Communities (members are inter alia from health, animal, environment, sports and leisure, education, research, housing, social services, emergency and relief sectors)

Moreover, desirable to achieve, like in most survey research, is a good mix of socio-demographic characteristics within the sample, particularly in respect to gender, age, and region. A good mix of women and men, different age groups, and the distinctive regions is desirable to get a differentiated picture, and to check if these characteristics have any effect on the responses given. However, no proportion or quotas are fixed in numbers since, especially when applying snowball sampling, quotas are not manageable. Also, receiving screen-outs because of closing quotas would complicate to get to the desired number of survey completes. Crucial to reflect is that both sampling techniques do not produce a representative sample and no sampling error can be calculated because statistically it can be only claimed that a sample is representative of the sampled population when the sampling process gives each individual chosen a known probability of selection (Flyod and Fowler, 1993). Therefore, it is not acceptable to compute the standard error of mean because of the non-random method of selection. The produced non-random samples are often biased as some people might be under-represented as such people from lower social strata, people working in private sector or over represented are often women in households. Nevertheless, criterion or snowball sampling techniques are useful for conducting development work on new measures or on research instruments, in respect to exploratory research from which new theoretical propositions might be generated. Overall, it is enormously unlikely that a researcher achieves an indeed representative sample even when probability sampling is utilized (Bryman, 2008).

The Questionnaire

After having decided on the sampling techniques, it has to be decided on the research instrument. This implies various points that need to be considered: the content and target group of the survey, cost, time and practicability are main aspects. As the topic of the survey,

talking about physical and psychical harm done to a person, is quite personal and sensitive a survey involving an interviewer, as a computer-assisted telephone interview or a pen-and-paper survey, do not seem to be an appropriate instrument. Besides this, reading and writing skills is, in the case of the target population of Spaniards, is very likely to be encountered. Regarding participation, given the specific topic of the research that for some respondents is even personally affecting, an intrinsic motivation to participate is assumed. Consequently, the instrument of data gathering chosen is a *self-administered online questionnaire*.⁴³ Important to consider in the design of a self-administered questionnaire is to add a covering letter, give clear instructions and an easy-to-follow design, use fewer or no open questions.

Beyond that, the questionnaire needs to be shorter than not self-administered ones, eventually there is a need to follow-up with individuals and to provide incentives. There are several advantages for using a self-administered questionnaire, namely it is cheaper and quicker to administer, there is an absence of interviewer effect (interviewer effect means that respondent answers in accordance what he/she thinks the interviewer is expecting), no interviewer variability (each interviewer asks questions differently), and the convenience for respondents as the survey can be conducted from home or from the work place. Disadvantages are that there is no interviewer who could probe answers and clarifies misunderstandings of questions. It cannot be asked many questions that are not salient to respondents cause respondents then might not anymore pay attention. Also, it is difficult to ask other question types and a lot of questions as such open-ended. The researcher does not know who really answered the survey and it cannot be collected additional data. There is an overall greater risk of missing data and achieving only a lower response rate. Further, it might not be appropriate for some kind of respondents as e.g. illiterate (Bryman, 2008; Berinsky, Margolis and Sances, 2014).

In order to design a good survey instrument – the self-administered questionnaire – the questions selected need to meet the research objective. A test is run to make sure the survey can be asked and answered as planned, and to find out if survey instruments and data gathering protocols work under natural conditions. Other common methods of testing questionnaires, however that are within this thesis not feasible, are conducting cognitive laboratory interviews or using observation to find out how people fill out forms trying to spot unclear or confusing questions and instructions. Next are addressed issues of design, format

43 For an example of a self-administered quantitative survey see Jones, Parmentier and Weitekamp (2012).

and layout of the questionnaire. The goal of self-administration is to make the questionnaire simple to use. The questionnaire should be self-explanatory as instructions are often not read. Also, the questionnaire should be typed and laid out in a clear and tidy manner with attractive space over more pages. Skip patterns are to be kept to a minimum, whereas this does not apply here as the self-administered questionnaire is created with an online tool conducting skips automatically.

Some other points to consider are: the order of questions, generally it is important to communicate without verbal instructions and provide redundant information to respondents (as done e.g. in the introduction by giving examples for reparations and explaining what is meant with material and symbolic reparations). In addition, it is recommended to start with easier and straightforward questions (the questionnaire starts off with socio-demographic questions everyone can answer), sensitive questions or questions that require thought are reserved for middle or later sections (sensitive questions are the screening questions and the perceptions about the violent past coming after the socio-demographic ones; the subsequent sections are the main questions about reparations that require thought) as well as restrict questions to closed answers, and sticking generally to the same form of asking questions makes it easier for respondents (Flyod and Fowler, 1993; Eck 2011).

The structure of this questionnaire surveying public opinion, attitudes, and perceptions on reparations is designed in the following manner. The questionnaire consists of a total of 28 questions what amounts to a duration of seven to ten minutes. It consists of pre-coded closed ended questions and one real open-ended question. Some questions have mutually excluding answers, some others offer multiple available answers and still others ask respondents to rank importance or the support attributed. The questionnaire starts off with an introduction text explaining the background of the survey, assuring voluntary participation and confidentiality.

The first section of questions (I) is asking about *socio-demographics* including gender, age, region, education, about *individual views* of interest in politics, ideology, religiosity and about *socialization* by surveying family identity.

This is followed by section (II) the *screening questions* assigning respondents to the target groups by asking about the respondent's personal experience in form of direct (e.g., physical injuries) and indirect victimization (e.g., having lost family members) or of not being affected directly nor indirectly. This section takes into account the impact of each respondent's

personal and their relatives experience during the respective authoritarian regime or violent conflict the questions are referring to. It is asked for the type of violence and the extent of victimization suffered.

The next section of the questionnaire is the main part containing the content related questions, grouped under three different headings: (III) *perceptions of violence* (four questions), (IV) *attitudes towards reparations* (six questions, eventually because of a filter only five), (V) *opinions on reconciliation and guarantees of non-repetition* (five questions, eventually because of a filter only four).

Ultimately, the questionnaire contains a *final section* (VI) with two items.

The most detailed section is the one dealing with attitudes towards reparations asking specifically about support for the idea of providing reparations to victims, surveying knowledge about such measures and the legislation in place, enquiring views on different types of reparations, and overall poll support for the country's reparations (programme). The questions of the main part are asked to all respondents, not differentiating between the target groups of 'victims' (direct/indirect) and 'not-affected'. The questionnaire concludes with final questions giving space for additional remarks, views and comments. The last question is recruiting possible respondents for a focus group discussion.

To analyse more profoundly the way question items are designed, first some aspects of questions' design need to be considered. The questions have to mean the same thing to every respondent in order to achieve consistent data. Thus, the questions must be fully scripted and prepare respondents to answer. The kinds of responses that embody a suitable response to the question must be disclosed coherently to all respondents. To help understanding questions, definitions can be provided. For ensuring reliability, it has to be decided on which type of scale the variable can be measured: nominal, ordinal, interval and ratio (most often nominal and rational when collecting factual data, while for report of subjective data nominal and ordinal data is used). Further, the type of questions available are closed ended, when a list of distinct response options is provided, and open when no list of answer options is provided. For nominal data open or closed can be chosen. This questionnaire contains only one completely open-ended question asking views on what is needed to reconcile the society. While for some closed-ended questions, some answer options are followed by a 'please specify' open-answer like follow-up question. This question type is used as it has the

advantages to catch unanticipated answers, motivate respondents to state opinion and describes more closely the real views on this complex topic.

In contrast, the great part of the questions is designed closed-ended with given response alternatives in order to make sure the respondent performs more reliably the task of answering the question. Also, the meaning of answers can be interpreted more reliable and the likelihood that there will be enough people giving any particular answer to be analytically interesting is increased. Several of the closed-ended questions are rating questions (e.g., for support/importance/agreement). The disadvantages are that rating scales sort respondents into categories, to be interpretable they are asked only about extremes (e.g., agree and disagree), but respondent might find it confusing since with what to agree or disagree is often not clear. Thus, for validity of subjective questions when putting people into ordered classes along a continuum, it is better to have more than few categories because validity increases along with real variation among respondents measured.

Another way is to include various questions asked in a different manner, but that measure the same personal stance towards something and afterwards combine the answers into a scale (Flyod and Fowler, 1993). This is done for example by the Likert-scale designed by the US social scientist Rensis Likert,⁴⁴ that is one of the most frequent formats to measure attitudes (Bryman, 2008). The Likert-scale puts the question in the form of a statement with which the respondent is asked to scale their agreement or otherwise. Likert-scales sum rating scales for several items. Likert originally proposed seven alternatives, that were later reduced to five or four eliminating the middle category. The scales can be either semantically autonomous, so each category has its own intrinsic and complete meaning (produces ordinal variables) or particular semantic autonomy, as such responses listed in order (produces quasi interval variables). The present questionnaire is not aiming for collecting data for a quantitative analysis therefore is applying only some Likert-scale items and no batteries providing for example answer scales: from very important to not important at all; from strongly agree to strongly disagree; from strongly support to strongly oppose; from definitively yes to definitively no.

Another aspect to deal with in the questionnaire design is the discussion about the provision of a neutral response option. There is no agreement of researchers on the issue if respondents

44 See Likert, R. (1932) 'A technique for measurement of attitudes', *Archives of Psychology*, 140, pp. 5-55.

should be forced to take side. However, it appears preferable to offer a neutral option, unless the intention is to force a choice. Above that, advisable is to provide always a 'don't know' option in order to avoid pseudo opinions (Corbetta, 2003; Pierce, 2008). This questionnaire gives always the option of 'I don't know' except for the socio-demographic and screening questions as they are assumed to be always known by the respondents. A neutral option is avoided for the questions with rating scales as only four answer categories are offered. In general, to avoid non-response in online surveys, it must be made sure that the task is clear to the respondent and that the task to carry out itself should be easy in form of checking a box, circle a number or other simple tasks (Flyod and Fowler, 1993).

Furthermore, special attention must be paid to avoid a social desirability bias what occurs when questions are normatively loaded. Hence, it is necessary formulating questions in a way to give the impression of equal social legitimacy to alternative viewpoints by including arguments from different perspectives (Samii, 2013). Questions in this questionnaire are self-administered this at least excludes a social desirability bias caused by an interviewer or researcher. Moreover, questions are intended to be formulated as neutral and objective as possible as such, for example, using the formulation of 'some people are saying that...', giving the impression that some persons might but others might not think like this.

This questionnaire designs the questions by taking inspiration and by adopting items from previous population-based studies conducted in the field of TJ (for the full battery of questions asked see the paper version of the questionnaire in the APPENDIX A).

Questionnaire section (I): socio-demographics, individual views and socialization

As stated in the Chapter's section on the operationalization of variables, the socio-demographic section (I) is measuring the independent variables from the *Individual Personality* set of the analytical framework. Some questions and their answer options are taken from Aguilar, Balcells and Cebolla-Boado (2011) and Cárdenas et al. (2016). In concrete, item Q5. interest in politics and Q8. the item family identity during the conflict are adapted in accordance to Aguilar, Balcells and Cebolla-Boado (2011). Item Q6. ideology and item Q7. religiosity are adapted based on Cárdenas et al. (2016). Other existent studies in the field included similar socio-demographic control variables, too. For example, Parmentier, Valiñas and Weitekamp (2009a; 2009b) asked about geographical distribution, religious affiliation, age and gender in their Bosnia study. Alike in Samii's (2013) Burundi survey

included gender, ethnicity, and education. And Backer (2010) asked about gender, age, education, work status, and racial group in his South African victims study.

Questionnaire section (II): screening questions on personal experience

The screening questions Q9. and Q10. from section (II), grouping respondents into 'direct victim', 'indirect victim' or 'not-affected', is drawn from Cárdenas et al. (2016). While here an additional question with multiple answer options (political imprisonment / torture / disappearance / assassination / displacement, exile / others) is added, polling the type of violence a person, the family or relatives suffered. From the background to make the list of answer options not too long, only the gravest human rights violations are listed there. The 'others' option is collecting here additional information on the type of violations in order to get a deeper insight into the human rights violations occurred during the conflict or the authoritarian regime.

Questionnaire section (III): perceptions of violence

Section (III) of the questionnaire enquiring about perceptions of the violence, contains four items. The first question Q12. is asking about the respondents' perception of the past in respect to the gravity of human rights violations occurred. To answer a four point Likert-scale ranging from 'strongly agree' to 'strongly disagree' is offered. The next question Q13. asking about the perceived responsibility of the committed human rights violations is inspired by the Afghanistan Independent Human Rights Commission (2005, p.12) survey using the question of “Which parties or individuals do you think are responsible for violations?”. In contrast to the Afghanistan survey, the answer options given here are held more general: by the state and government in power, by opposing forces, by rebel groups or guerillas, by outside forces interfering in the conflict, by all of them, by unidentified groups. To make sure respondents identify the main perpetrator, the answer allows for a single choice only.

After the question on the responsibility, the next question Q14. addresses the types of human rights violations that occurred and the respondent is aware of. This questions is similarly asked in the ICTJ and Human Rights Center University of California (2004) study on Iraq, however within individual interviews thus with an open-ended answer. Answer options provided in the present questionnaire are political imprisonment / torture / assassination / displacement, exile / restrictions of civil and political rights / others. To get somehow

differentiated answers and to avoid that respondents are choosing all available options, a restriction is made to a maximum of three priorities. The last question from this section Q15. asks about respondents' opinion on the general importance to address victim needs pointing already towards the topic of reparations. But on the same time leaving it open to think of different forms to deal with victims' needs, also including various sources of reparation not exclusively state-sponsored reparations, as subsequent questions are directed to. Answer categories are offered on a sort of four point Likert-scale ranging from 'very important' to 'not important at all'. To poll perceptions on dealing victims' needs is done at the end of this section with the purpose of measuring general views towards victims and finding out if there is a general understanding that victims have certain needs in the aftermath of violence.

Questionnaire section (IV): attitudes towards reparations

Section (IV) of the questionnaire dealing with attitudes towards reparations starts off with question Q16. asking about overall support for the idea that the state is responsible to provide reparations to victims of human rights violations. There are four answer options: yes, for individual victims/yes, for the community/yes, for both/no, no measures should be taken at all. This is done to measure support for reparations programmes in general but also to measure support for individual and collective reparations. A similar question has been applied for example by Nussio, Rettberg and Ugarriza (2015, p.346) in the Colombia study using the question “*Do you agree that ... It is unfair that victims receive reparation, while the rest of the people in the country are suffering from many unsatisfied needs?*”. Nussio, Rettberg and Ugarriza point on the fact that this variable measures whether directing the nation's resources to repair war victims could be considered fair or not and that this “*binary measure directly addresses the question of whether Colombians do not just agree with reparation in a general sense, but are also willing to assume the economic burden it requires*” (2015, p.348).

After asking about overall support for reparations, three questions follow considering if national legislation and the implemented measures are to some extent known by the respondents. Q17. is asking for knowledge of several legislation allowing multiple answers to say 'yes'. Surveying level of information on TJ measures has been previously done by Cárdenas, Páez and Rimé (2013) when asking whether respondents know of the work of truth commissions. Instead of offering binary yes/no options as done by Cárdenas, Páez and Rimé (2013), this questionnaire probes knowledge for specific legislation and also for different

types of measures. Thus, Q18. deals with respondents' information about material reparations offering only a clear binary response option of 'yes' (followed by probing further for the known measures) or the 'no material reparations are implemented' response option. Likewise, Q19. inquires the knowledge of any symbolic measures that have been implemented with binary response of 'yes', followed by probing for known measures, or the option of 'no'.

Next, Q20. is asking about attitudes towards the usefulness of different measures. As list of different options covering all aspects of reparations (including apologies, community development programmes and others) is offered to answer the question. Similarly, this has been done in the ICTJ Colombia survey from 2005 asking respondents to rate various measures that repair the harm done. The last question in this section, Q21., polls for overall support of the reparations laws, initiatives, and programmes implemented in the country. Answers are rated on a four point Likert-scale type of response ranging from 'strongly support' to 'strongly oppose'. Measuring support for TJ was done in a similar way for example by Cárdenas et al. 2016 investigating support for truth commissions in Chile, where the global attitude has been measured with the question “*Would you say that you: strongly approve of what the TRC has done/somewhat approve/somewhat disapprove/strongly disapprove*” (Cárdenas et al. 2016, p.430).⁴⁵ Important to notice, this question is not asked to respondents that previously have chosen 'I don't know' in Q17. and Q18. and Q19. since these respondents cannot support or not support something they do not know and they are not aware of.

Questionnaire section (V): opinions on reconciliation and guarantees of non-repetition

Last but not least, section (V) of the questionnaire deals with opinions on reconciliation and guarantees of non-repetition. Q22. polling on possible needs for reconciliation is designed according to a question from the survey Iraqi Voices: “*Is there a need for reconciliation within Iraq?*” (ICTJ and Human Rights Center University of California, 2004, p.70). The response scale is in the present questionnaire adapted to David and Choi Yuk-ping's (2005, p.411) question on social-political redress “*Do you feel rehabilitated?*” with the answer allowing four categories of 'definitively yes', 'rather yes', 'rather no' and 'definitively no' and the 'I don't know' option. If a respondent answers with one of the 'yes' options, the follow-up question Q23. is probing for what the respondent thinks is needed for reconciliation. The

⁴⁵ Cárdenas et al. (2016) combine two items to measure approval and appreciation of importance (the second item is ‘*It is often said that the TRCs meet important goals. In your opinion the TRC did a job: very badly/badly/quite well/excellently*’). The mean for these two items is calculated and used as dependent variable.

answer to this question is open-ended as reconciliation is something that can be understood by each individual very differently. By giving space to answer this question in form of a written text, it is aimed to catch also the respondent's personal understanding of reconciliation. The subsequent question Q24. is further asking about measures for reconciliation by letting respondents rate different measures in respect to the degree they contribute to social reconciliation with the rating scale ranging from 1 'does not contribute at all' to 5 'does contribute very much'. Measures to rate are international tribunals prosecuting perpetrators/national trials prosecuting perpetrators/amnesty for all actors/truth commissions investigating the past/reparations programmes for victims/'I don't know'.

Thereafter, Q25. is considering the performance of the state in dealing with the past asking for agreement to one of the three statements: The state has performed exceptionally/they have done everything they could, the topic is closed now./The state has performed partially well/there was done something but more has to be done./The state has not performed well; they missed their responsibility and nothing is achieved so far./I don't know. This question is designed relying on the UNDP Kosovo survey (2012, p.49): "*How would you rate the work of the following officials working in Kosovo, related to war crimes?*", 'I don't have knowledge about their work', 'they performed exceptionally', 'they have performed partially well', 'they have not performed well'. The final content related question Q26. is taking on the views on the guarantees of non-repetition asking what the respective state should do to avoid repeating the past. It is asked to indicate three priorities between the options offered. The options are taken, but simplified, from the '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', UN General Assembly resolution 2005. An additional answer option and the possibility to say 'nothing at all' is included.

Questionnaire section (VI): final questions

The questionnaire concludes with the final section (VI) giving space for additional opinions, comments, and views respondents might want to share in Q27.. Lastly, Q28. is querying willingness for voluntary participation in a focus group discussion related to the reparations topic. The aim of the question is to take the advantage and recruit participants for the focus groups. It is clearly indicated that in the case of agreement, the information provided in the survey will be used as basis for the further research.

To conclude the proceeding of questionnaire design, from the background of preparing the questionnaire for data analysis, codes are assigned to each question and the answer options based on a set of rules translating answers into numbers. The questionnaire's paper version highlights the clear rules of what number is to be assign to each answer whereby always the same code (99) is used for the 'I don't know' answer option. Ultimately, it is to say that the formulation of question texts and answer options is not country specific. This is to allow for the questionnaire to be used as a scheme applicable to different country contexts. Thus, the original questionnaire was written in English. To ensure efficient field access in Spain, the questionnaire was subsequently translated into Spanish. The translations were thoroughly checked by native speakers and only after their approval the questionnaire was programmed with the help of an online tool.

Data Collection and Processing

The questionnaire is programmed with the cost free online web survey tool '1KlickSurvey'.⁴⁶ Field work has been conducted from September to December 2019. The field access has been made by sending an email – containing a short introduction what the survey is about and the survey link – to the mail contacts from the sample list. To a total of 3,903 email addresses an email with the survey link had been sent. 826 sample contacts opened the link, 315 partially completed the survey and 206 persons completed the survey what amounts to a response rate of 24.9 percent.⁴⁷

Dropouts happened continuously in the course of the survey, especially during the last part from Q22. onwards. However, there is no special question identifiable that sort of impeded respondents from continuing the survey. After realizing that way more than the anticipated minimum number of $n=30$ completes per target group could be reached, the field work time has been extended to run over a timespan of three month. The great interest in the survey could have been caused by the actuality of the topic, since on 24 October 2019 the Spanish

46 1KlickSurvey available at: <https://www.1ka.si/d/en/web-surveys><.

47 A recording to track which sample contact completed the online survey was not made due to concerns about the European Data Protection Regulation. It was merely tracked which survey completes came about via snowball sampling and which came about from the victims associations sample as different survey links had been sent to the persons who were supposed to start the “snowball” and the list of victims associations. Among the 206 completes, 28 were recruited through snowball sampling and only 1 came from the victims associations sample. Since the data from these respondent groups resulted to be not significantly different from the other respondents, it was not regarded as necessary to consider them separately in the subsequent data analysis.

government executed the long taken decision to exhume the former dictator Francisco Franco from the mausoleum Valley of the Fallen and bury him in a common grave at the cemetery El Pardo-Mingorrubio in Madrid (in detail discussed in Chapter V). When surpassing 200 completes, the field work has been put on a hold.

The data was exported from the survey tool into a SPSS file.⁴⁸ The quality of the data has been ensured through conducting plausibility checks, cleaning data and cancelling out cases with unlogical answers. Most importantly was checking if the datafile is complete and if only legal codes occur. Afterwards some overall distributions has been run in order to check if there are reasonably focused questions and if code categories were conceptually clear (Flyod and Fowler, 1993). The usual process of coding open answers, is not done here, as the aim is not to quantify open answers. Keeping in mind that this research focuses on qualitative analysis and the purpose of the online-survey is to give some first insights into the main issues that are subsequently to be addressed by the focus groups, it was not aimed for and also not considered necessary to poll a representative subset of the Spanish population. Because the total of N=206 respondents is not a representative sample, only some descriptive statistics are run. This allows to get an overview of respondents' characteristics and the general distribution of opinions, attitudes, and perceptions.

The subsequent analysis of the data collected by the non-representative online-survey is carried out in successive steps. First, the description of the demographic structure of the sample, in order to get to know the composition of the group of respondents and their distribution. An univariate analysis is done for the main socio-demographic variables drawn from the questionnaire's socio-demographics (I) and screening (II) sections. Second, frequencies for questionnaire sections perceptions of violence (III), attitudes towards reparations (IV) and opinions on reconciliation and guarantees of non-repetition (V) are presented. Third, to get a deeper insight into the data, bivariate analyses are conducted by working with cross tabulations. The variables from *Set C) Individual Personality* reflecting main socio-demographic characteristics, individual views, socializations and personal experience are cross-tabulated with main crucial variables assumed to measure attitudes and opinions on reparations (the dependent variables of support for the idea of providing reparations Q16. and of support for implementation Q21.). Lastly, some statistical artefacts,

48 IBM SPSS Statistics is a computer software package used for statistical analysis.

misunderstandings and other curiosities of fieldwork are mentioned.

It should be noted that a more in-depth and analytical-descriptive analysis of respondents' experiences and attitudes towards the idea of reparations, the design of reparations and the implementation of reparative measures, as well as in relation to perceptions of the violence and societal reconciliation, is conducted in Chapter VI, which draws on both the online survey and focus group methods and interprets the results based on the analytical framework.

The Respondents

To get an overview of the sample structure for the N=206 valid and completed online questionnaires, in the following various graphs illustrate frequencies for the socio-demographic characteristics, individual views, socialization and personal experience of the respondents.

To start off, the gender distribution looks quite balanced with the sample containing n=107 male (52 percent), n=94 female and n=5 choosing other.

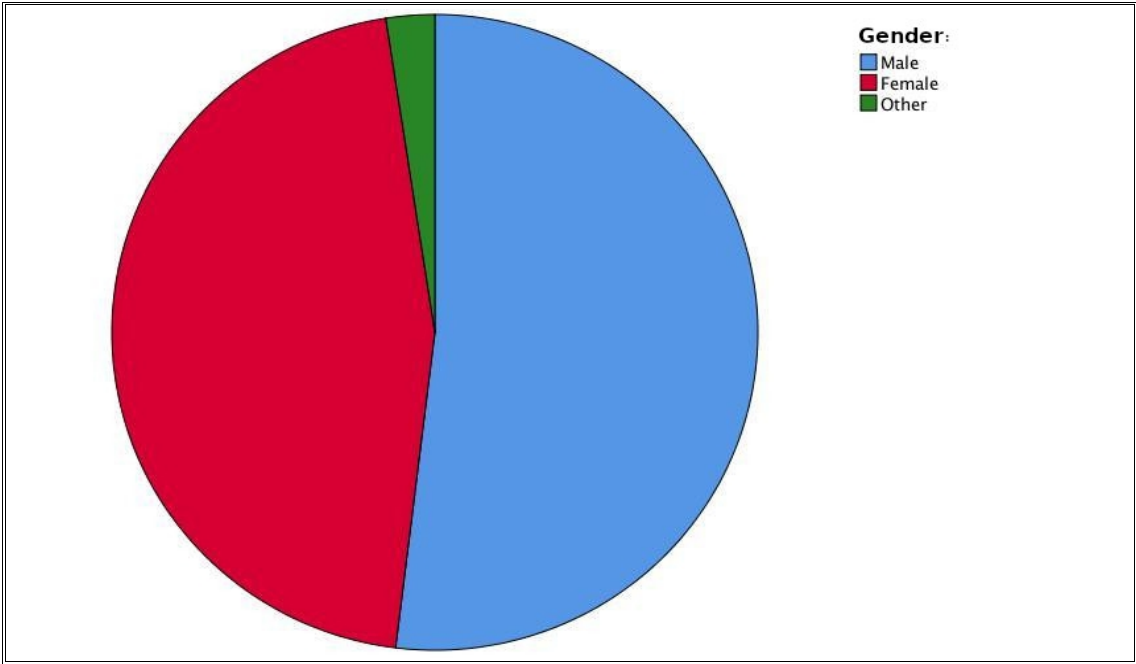


Figure 2. Gender

Regarding age, the main age groups represented in the sample are 45-54 years and group 55-64 years of age both respectively with n=49 respondents. Few young people from age group

18-24 are represented (n=12) and very few n=7 from the age range of 75 years or older.

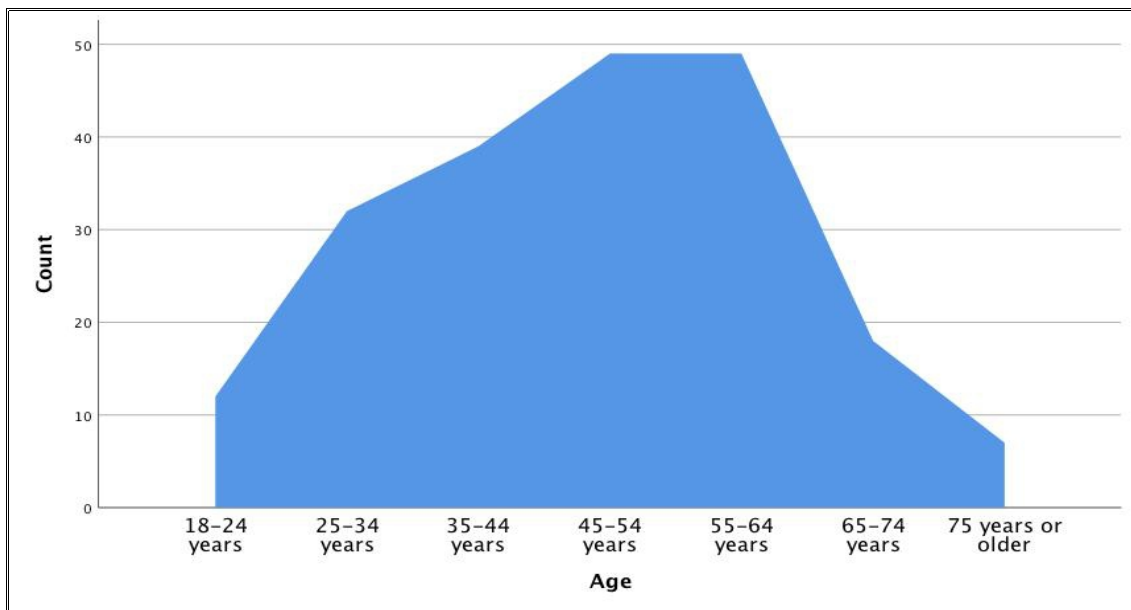


Figure 3. Age

Main regions the respondents were born are: the Autonomous Communities of Madrid (n=42), Andalusia (n=25) and Catalonia (n=24). Very few people were born in Castilla-La Mancha, Cantabria and only one respondent in the region La Rioja. However, all seventeen Spanish Autonomous Communities are represented within the sample.

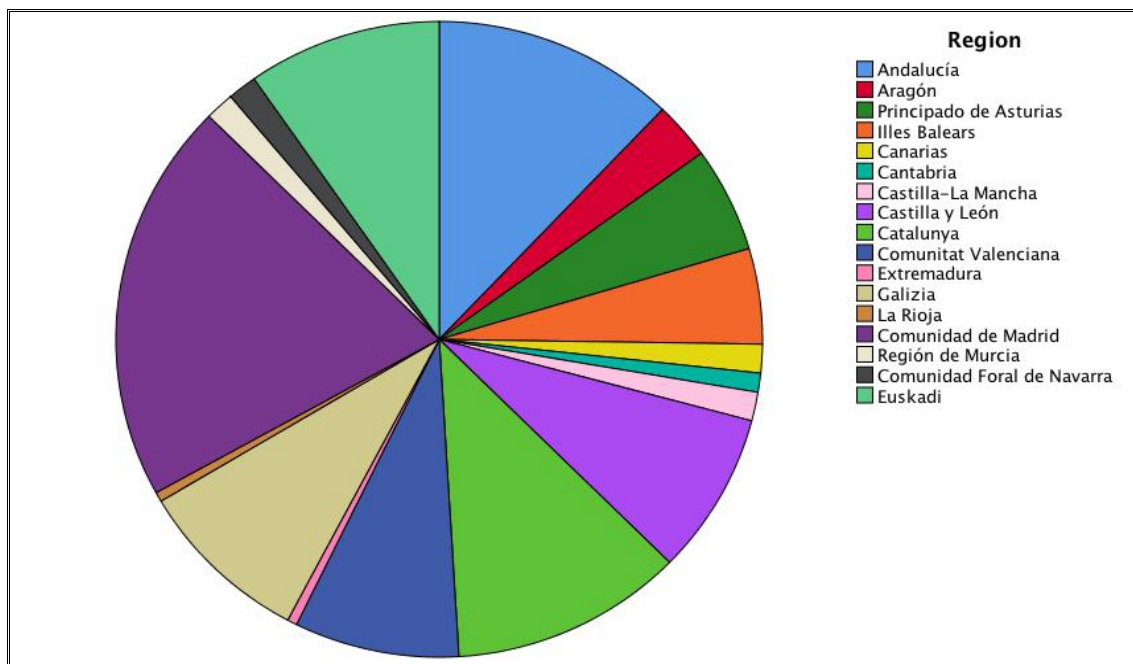


Figure 4. Region

Considering the level of education, a clear bias in favour of highly educated participants could not be avoided. 66 percent of the respondents answer they have a university degree whereas not more than three participants state secondary school as their highest educational level completed. This might be cause of the sampling methods. On the one hand, the convenience sampling where first contacts are made with people known to the researcher, thus these people are more likely having an academic background, too. As well as the snowball sampling method contacting people working at non-governmental organizations or public entities like civil centres and working at such institutions might require a certain educational degree.⁴⁹

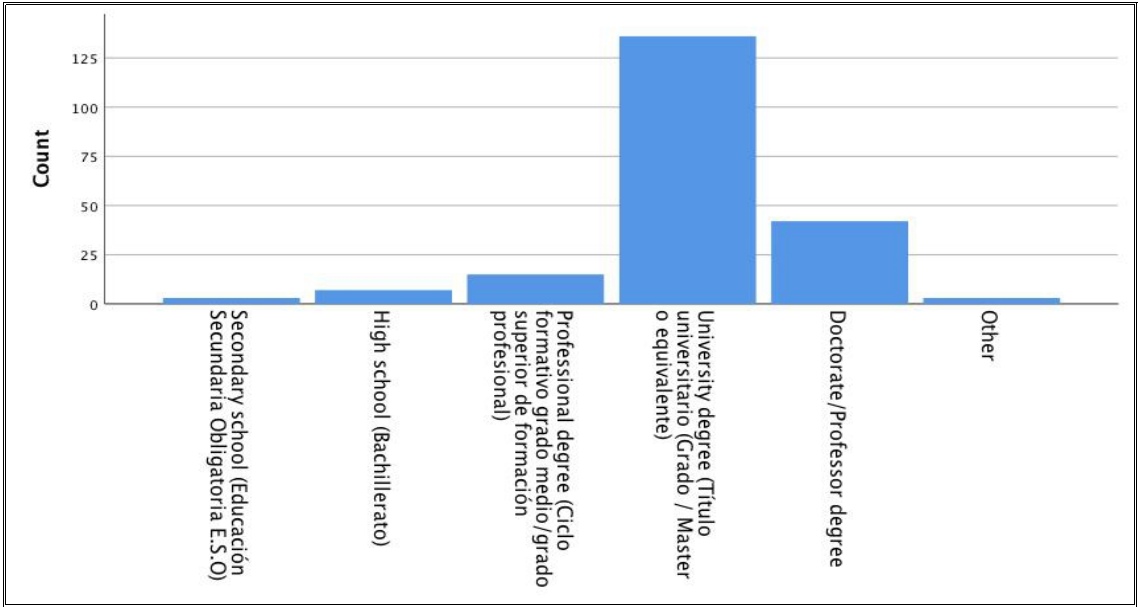


Figure 5. Education

The answer to the question asking for interest in politics, shows a majority of respondents being quite a lot interested in politics, this answer option is chosen by n=115 respondents, while only two respondents state they are not at all interested in politics. Together 79 percent of respondents say that they are either quite a lot or very much interested in politics. This seems quite a high percentage. Probably this is the case due to the fact that the survey topic is

49 The fact that there is a bias is evident when comparing this results with the ones from the Spanish CIS Barometer of July 2019 (study no.3257). Looking on Question 42aa the distribution between secondary, high school, professional degree and university degree is way more equal. Available at: http://www.cis.es/cis/open/cm/EN/1_encuestas/estudios/ver.jsp?estudio=14462 (Accessed 20 November 2020).

politics, so rather people already interested in political issues answer the survey till the end.

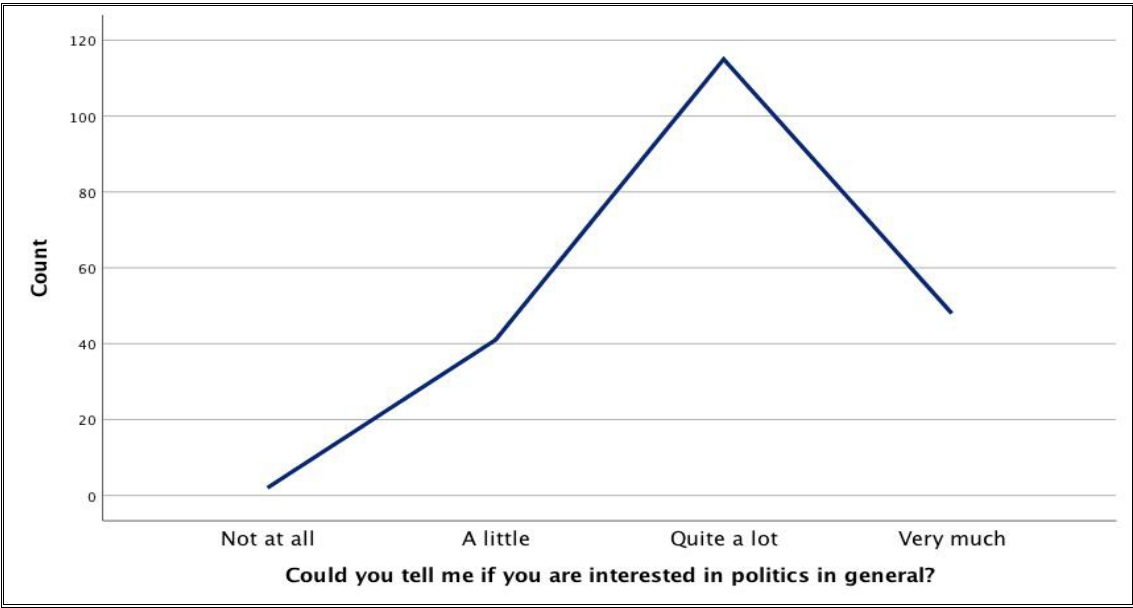


Figure 6. Interest in Politics

For the next question on ideology, measured on a left to right spectrum of political ideas ranging from one to seven, 43 percent of the respondents place their ideas on number two, followed by 23 percent on number four. Only three respondents respond number seven on the scale meaning 'extreme right'. Summing up participants placing their ideas either on one, two or three 67 percent of respondents place their ideas rather on the left side of the spectrum. Whereas participants answering five, six or seven, meaning ideas placed on the right, make up not even 10 percent. This might demonstrate another bias that is attributable to the topic of the survey. However, that in Spain more people consider themselves having left wing political ideas than right wing, seems to be confirmed when checking the very similar question for the CIS Barometer of July 2019: on a scale from one to ten 43 percent of respondents place their ideas on the left (sum of one to four) and 22 percent on the right (sum of six to ten).⁵⁰

50 CIS Barometer July 2019, Question 34. Available at: http://www.cis.es/cis/open/cm/EN/1_encuestas/estudios/ver.jsp?estudio=14462 (Accessed 20 November 2020).

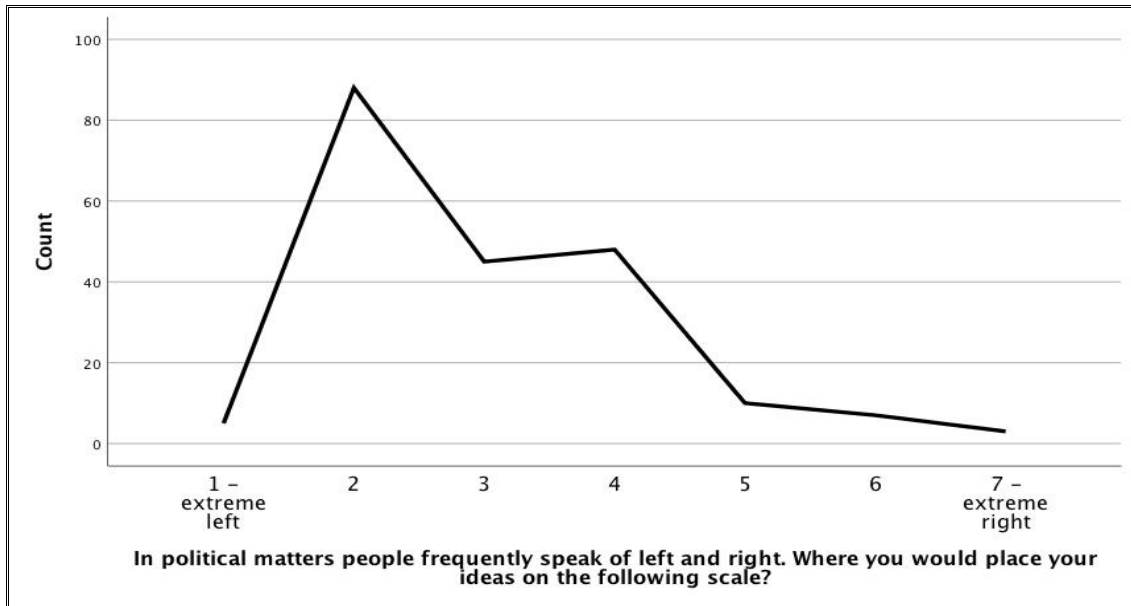


Figure 7. Ideology

Regarding religiosity most of the respondents, 30 percent, place their religious ideas on the extreme end of the scale on 'not important', while only 5 percent consider religious ideas as 'very important'. Overall, religious ideas are not of importance for 60 percent when summing up answer options one, two and three. 17 percent choose the middle category of four and 22 percent give importance to religious ideas when summing up answer options for five, six and seven.⁵¹

⁵¹ Here also a similar question posed in the CIS Barometer of July 2019 that indicates that around 66 percent of the Spaniards do not give importance to religion, see Question 43. Available at: http://www.cis.es/cis/open/cm/EN/1_encuestas/estudios/ver.jsp?estudio=14462 (Accessed 20 November 2020).

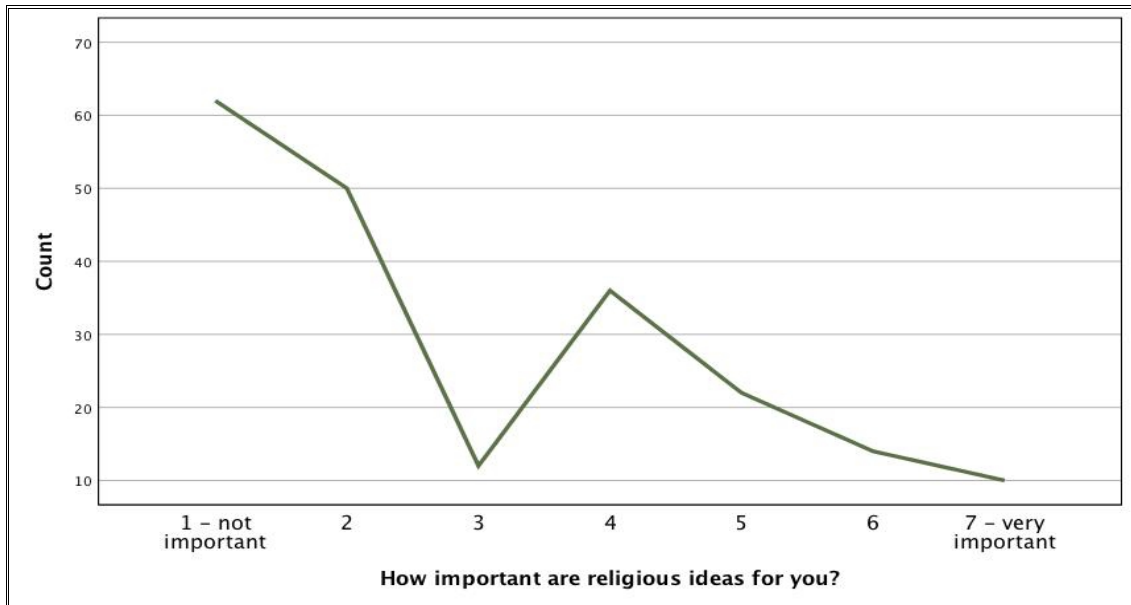


Figure 8. Religiosity

Looking at socialization, measured with the question with which side (the Republican or the Nationalists) during the Spanish Civil War the family sided with, 39 percent of respondents answer on opposition side to the Franco regime, meaning the Republicans. 23 percent state on neither side, 21 percent say on both sides and 17 percent remember on the side of Francisco Franco. A comparison with the April 2008 CIS-survey on 'Memories of the Civil War and Francoism' shows a similar picture: 17.6 percent chose as well on the National side, 28.2 percent the Republican side, 14.6 percent some with the Nationals and other with the Republicans, and 12.7 percent with none of them, while 25.2 percent state they don't know (this answer option is not available in the present survey).⁵² Interesting is that every year more respondents claim that their family sided with the Republicans, fewer with the Nationalists, and less people do not answer the question. In comparison to data from the CIS-survey 1980 when 24.3 percent sided with the Nationalists, only 15.6 percent sympathized with the Republican side, and 35.9 percent did not know.⁵³

52 See Question 9, CIS Estudio No. 2.760 (April 2008) *Memorias de la Guerra Civil y el franquismo*. Available at: http://www.cis.es/cis/opencm/ES/1_encuestas/estudios/listaMuestras.jsp?estudio=9220 (Accessed 20 November 2020).

53 See Question 41, CIS Estudio No. 1237 (01.07.1980). Available at: http://www.cis.es/cis/opencm/GA/1_encuestas/estudios/ver.jsp?estudio=229&cuestionario=276&muestra=2413 (Accessed 20 November 2020).

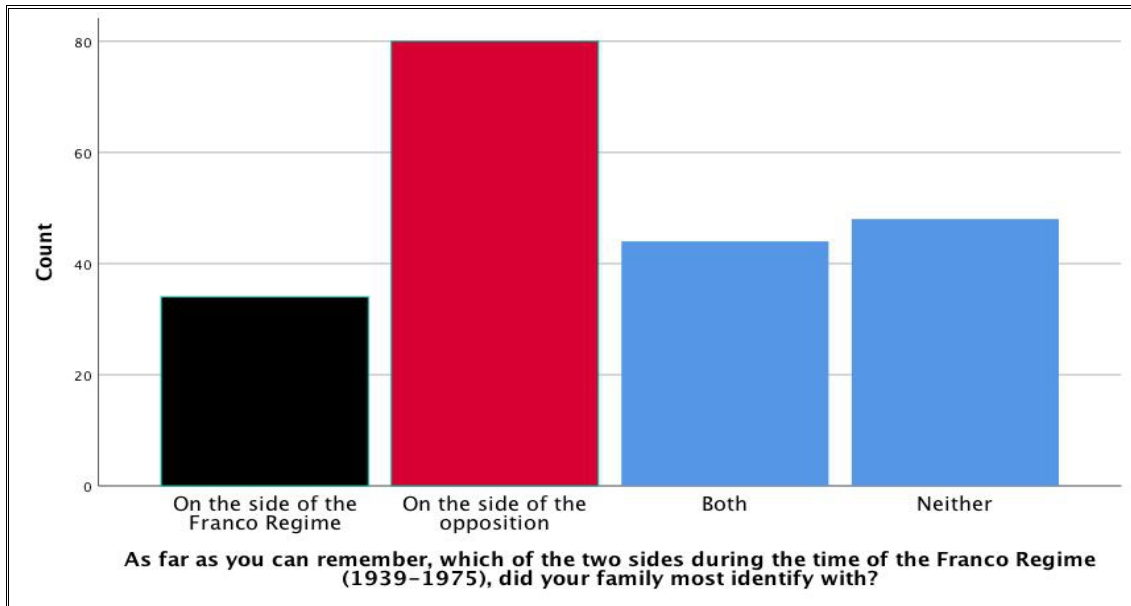


Figure 9. Socialization

Lastly, considering the personal experience question, which subordinates respondents into the target groups of 'victims' (direct or indirect) and 'not-affected'. The sampling techniques applied are intended to achieve an equal amount of responses from both target groups. Nevertheless, as the assignment to the target groups is based on the answers respondents give to certain questions, the researcher has no power over the final assignment to the target group. The results of this self-perception are: 33 percent declare they feel themselves as a victim of human rights violations occurred during the period of the Franco regime and basically the same percentage (32.5 percent) feel like an indirect victim since among their family members or close friends are victims, while 34 percent classify themselves as 'not affected' meaning not feeling to be either a direct nor indirect victim. It is a highly interesting observation that two-thirds of the respondents are (still) feeling victimized nowadays. This finding is further discussed in Chapter VI.

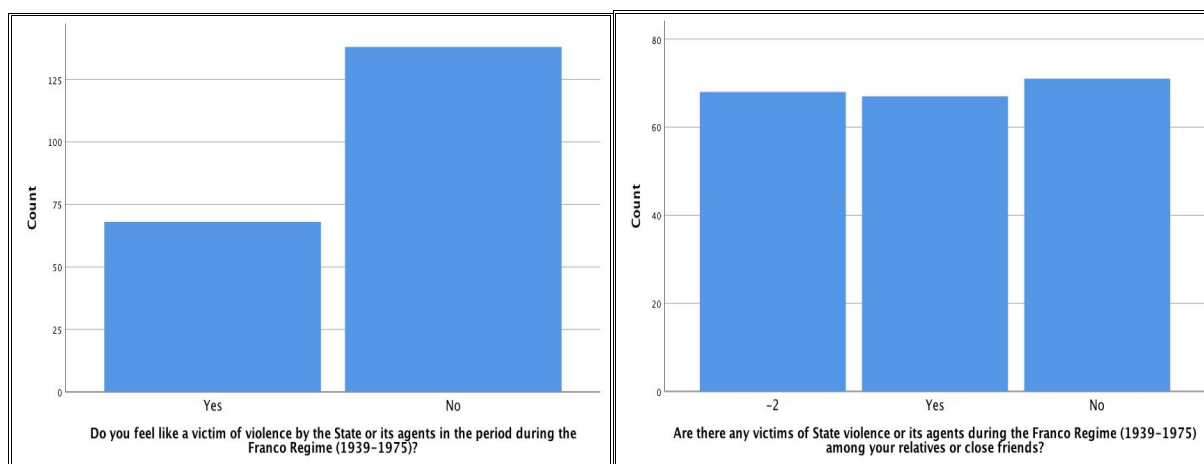


Figure 10. Victimization

The violations of human rights mostly mentioned are 'political imprisonment', 'others', and 'displacement/exile'. However, when regarding only the 'direct victims' group, mostly chosen is the 'others' option. For the 'others' option, no freedom of expression, forms of social and cultural repression and forced labour in the Valley of the Fallen are the most frequent mentions in the open answer field. The April 2008 CIS-study also asked a similar question only to people over 45 years. The most frequent chosen answer was that as a consequence of their political ideas they were detained during Francoism (2.1 percent of respondents) as well when asking for family members, again detained was the most frequent answer (12.2 percent of respondents).⁵⁴

Table 7. Question 11. The violation of human rights was related to...? (multiple answers)

Type of violation	n mentions (total victims)	n mentions (direct victims)
Political imprisonment	62	26
Torture	20	8
Disappearance	21	12
Assassination	30	13
Displacement/Exile	40	16
Others	45	36

⁵⁴ See Question 20 and 20a, CIS Estudio No. 2.760 (April 2008). Available at: http://www.cis.es/cis/open/cm/ES/1_encuestas/estudios/listaMuestras.jsp?estudio=9220 (Accessed 20 November 2020).

Frequencies

In the second section of the questionnaire asking about perceptions of violence, first polled is agreement to the statement that during the time of the Franco regime widespread human rights violations occurred. The results show that a great majority of respondents namely 76 percent strongly agree that widespread human rights violations occurred, 17 percent agree, 3 percent disagree and equally 3 percent strongly disagree, while 1 percent expresses don't know. For an overwhelming part of respondents it seems clear that violations of human rights were common during the Franco regime.

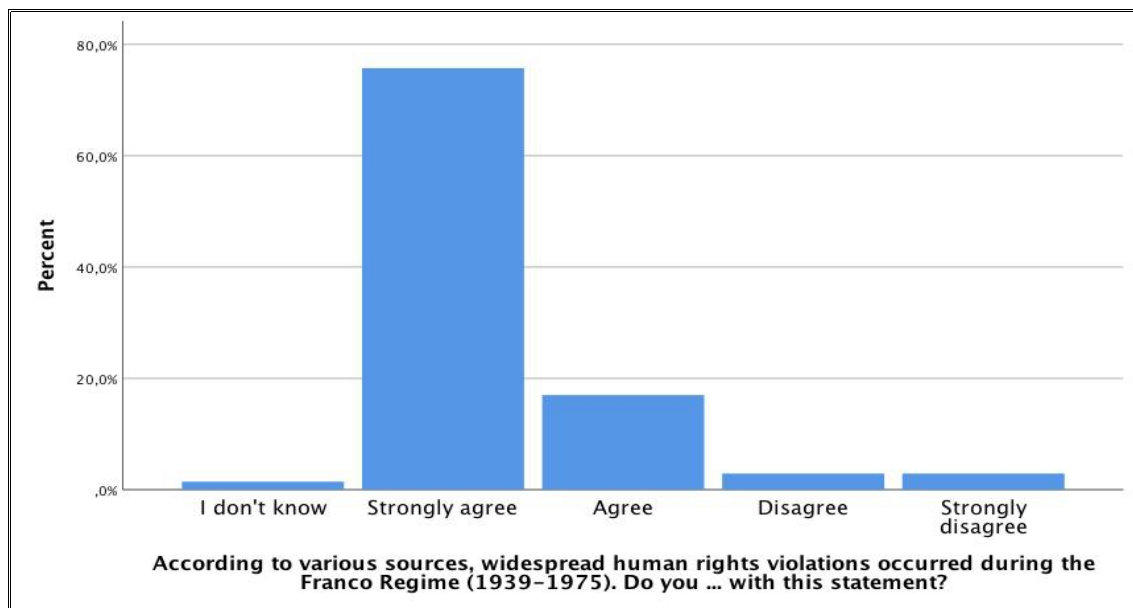


Figure 11. Question 12.

Further, regarding who committed the human rights violations 73 percent state that the responsibility for the human rights violations laid by the state and government in power, 3 percent chose the opposing forces, rebel groups or guerillas, while less than one percent consider outside forces interfering in the conflict, 20 percent think all of them were responsible and less than one percent state unidentified groups.

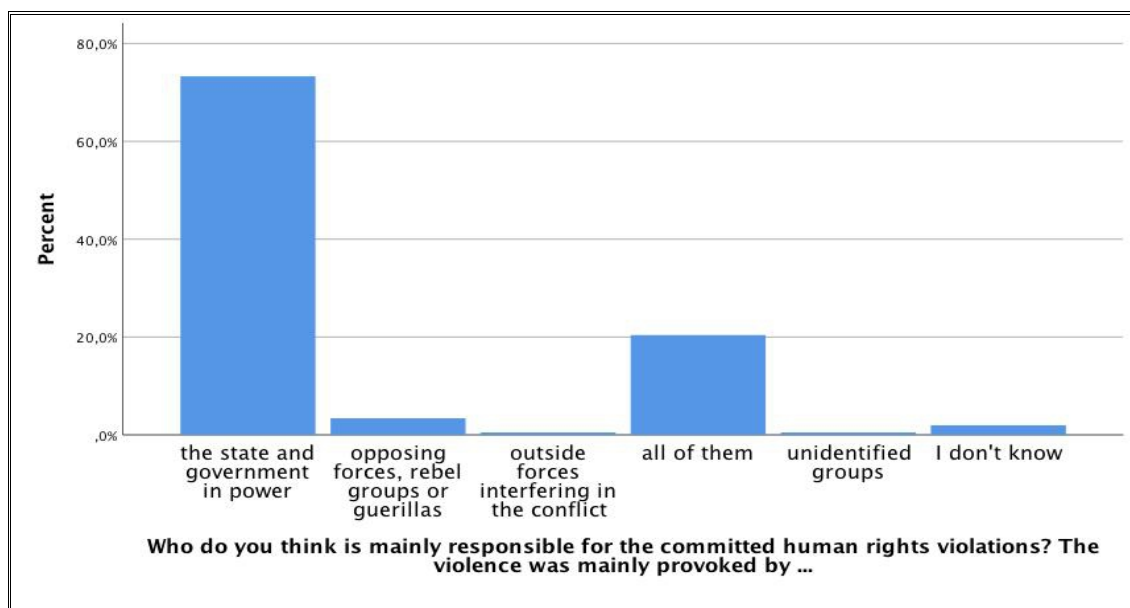


Figure 12. Question 13.

Asking about type of human rights violations occurred, respondents are to chose three priorities. The most frequent human rights violation occurred during the Franco regime that is mentioned by respondents is political imprisonment with n=123 mentions, followed by restrictions of civil and political rights n=112, and assassination n=107. Less frequent is mentioned torture, displacement/exile, and disappearance. Two respondents write no human rights violations occurred in the open answer field following up on the 'others' option. And five were not able to decide on three priorities thus state in the open answer field that all of them occurred.

Table 8. Question 14. What kind of violations of human rights occurred you are aware of? (three priorities)

Type of violation	n mentions
Political imprisonment	123
Torture	86
Disappearance	51
Assassination	107
Displacement/Exile	81
Restrictions of civil and political rights	112
Others	11
I don't know	4

When asking about victims of human rights violations and their needs, 72 percent of respondents are of the opinion that it is very important that victims' needs are addressed, somewhat important say 14 percent, meanwhile 6 percent consider it as not so or not important at all.

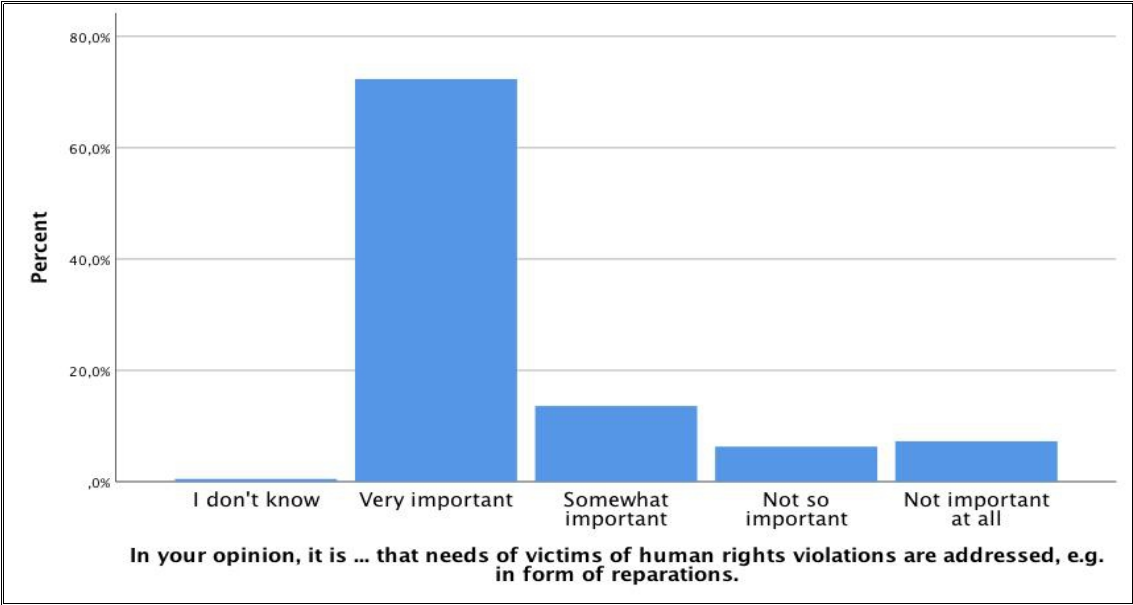


Figure 13. Question 15.

The section of the questionnaire assesses attitudes towards the mechanism of reparations. Asking to whom reparations should be provided, who should benefit from state-sponsored reparations, a majority of 41 percent of respondents consider individuals and the community should be the beneficiaries, 26 percent think individuals only, while 9 percent see the community as addresses. 11 percent state that no measures should be taken at all and 11 percent don't know.

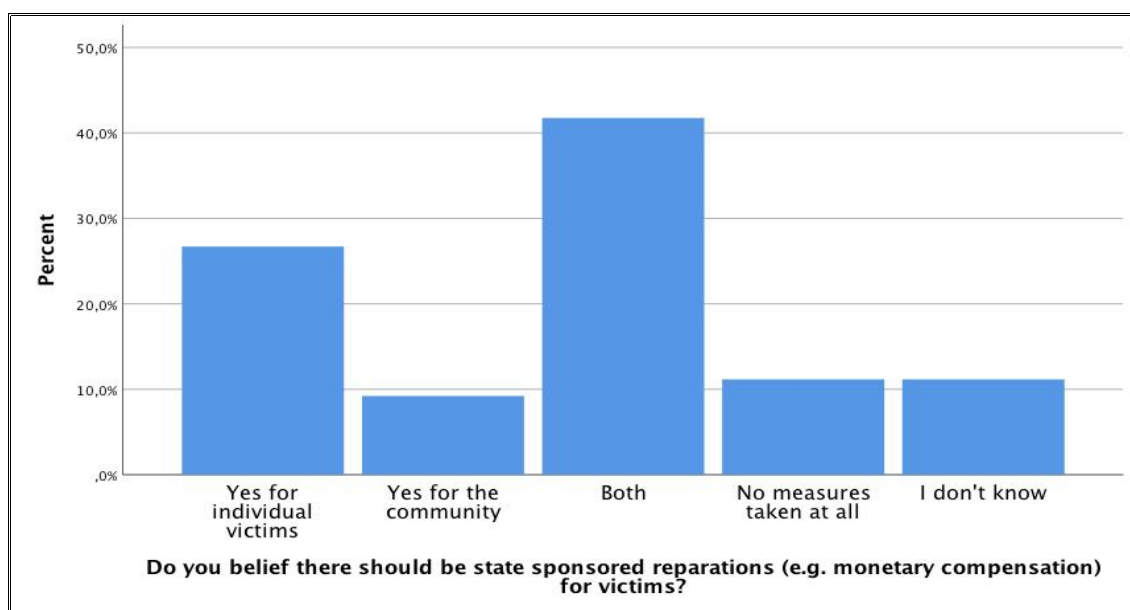


Figure 14. Question 16.

When surveying knowledge of the different Spanish legislation concerning reparations, the Law 52/2007 of Historical Memory is the most widely known with n=177 mentions. This is followed by n= 71 the Royal Decree 1791/2008, and with n=58 mentions the Royal Decree 1803/2008 as well as the Law 18/1984. N=24 times it is said I don't know.

Table 9. Question 17. Have you ever heard of the following legislation establishing the reparations programme in Spain? (multiple answers)

Legislation	n mentions
Royal Decree 1803/2008	58
Royal Decree 1791/2008	71
Law 52/2007	177
Law 24/2006	54
Law 4/1990	46
Law 18/1984	58
I don't know	24

Specific questions regarding knowledge of different types of reparations give the following results: First, for material reparations a majority of 57 percent answer the question with don't

know, only 18 percent state they know some material reparations. The most frequent material reparations named under please specify are pensions and indemnities for imprisonment, forced labour and assassination. While 24 percent think that no material reparations are in place.

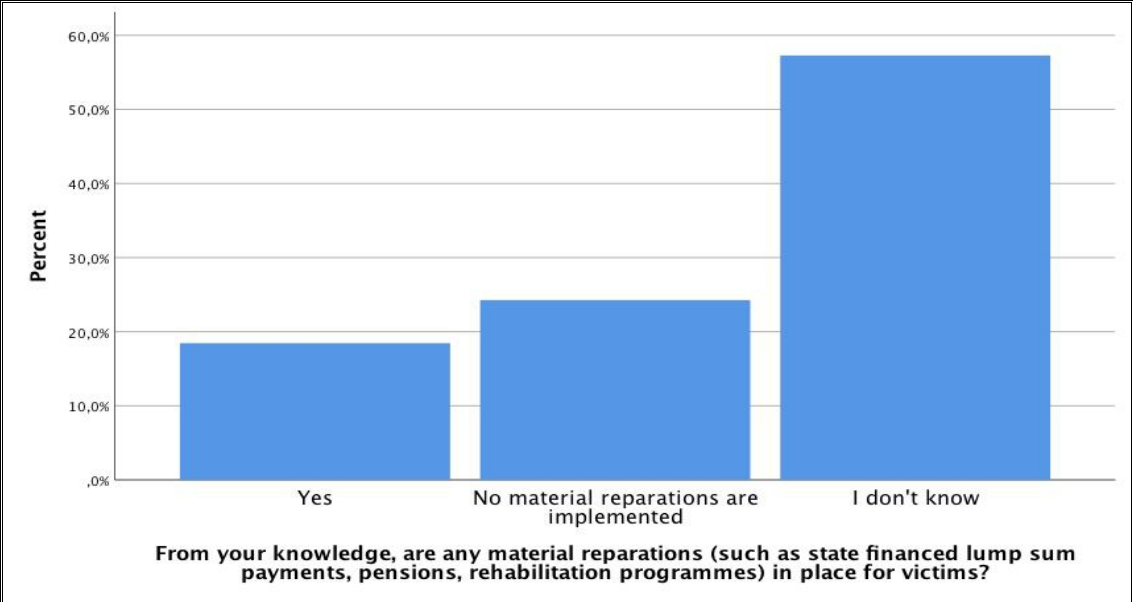


Figure 15. Question 18.

Table 10. Question 18. From your knowledge, are any material reparations (such as state financed lump sum payments, pensions, rehabilitation programmes) in place for victims?

Yes, please specify	n mentions
Pensions	19
Indemnities/compensation for political prisoners, assassination, forced labor, disabilities	12
To open mass graves	2
Recognition as civil servants in the Republic and restitution of Republican military hierarchy	1

The picture looks quite different when asking for knowledge of symbolic reparations. 48 percent state they know some symbolic measures, naming quite a range of different things. Mostly mentioned are acknowledgement of victim status and commemorations, withdrawal of Francoist symbols, memorials and monuments for victims, and renaming street names. Quite often mentioned is as well the Law of Historical Memory. Some mentions are on exhumations of mass graves and also the quite recently carried out exhumation of the dictator Francisco Franco from the Valley of the Fallen. Not more than 14 percent of respondents state that they don't know because no measures are taken, whereas 38 percent don't know the answer to the question.

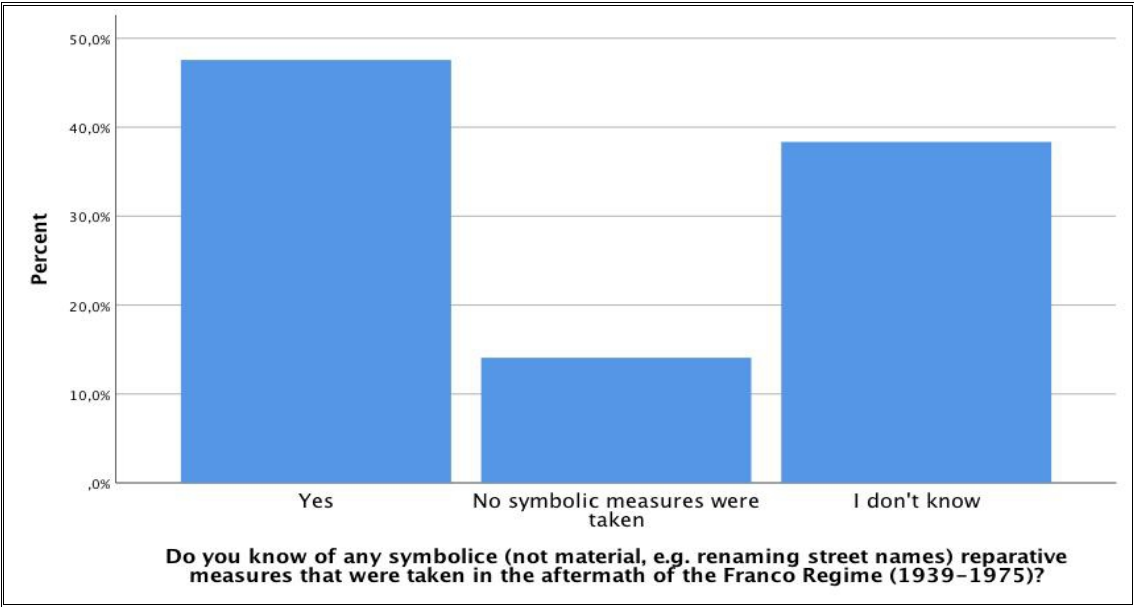


Figure 16. Question 19.

Table 11. Question 19. Do you know of any symbolic (not material, e.g renaming street names) reparative measures that were taken in the aftermath of the Transition to democracy?

Yes, please specify	n mentions
Renaming streets	13
Withdrawing of Francoist symbols	14
Acknowledgement of victim status and commemoration	17
Memorials and monuments for victims	13
Law of Historical Memory	11
Exhumation of Franco	10
Exhumation of mass graves	8

For the question participants have to rate measures to repair victims of human rights violations occurred during the Franco regime in accordance to their adequateness, the most often rated measure with a five, on the scale from one 'not adequate' to five 'very adequate', is search for disappeared persons and exhumations. This is followed by restitution of property and land, and public apologies by perpetrators. These three measures also received overall the three largest numbers of mentions. The least often rated measure with a five is education and also this is the measure having received most frequent the rating of one, two (together with monetary payments and erection of memorials/museums of remembrance/removal of symbols/renaming public spaces) as well as rating three. The measure most often having received rating four are monetary payments and collective reparations. In general, it is to say that overall measures are the most often rated with a five 'very adequate', followed by a rating with four and third most common is the rating of one meaning 'not adequate'.

Table 12. Question 20. In general, what do you think which are the most adequate measures to repair victims of human rights violations in Spain? (1=not adequate; 5=very adequate)

Rating	1	2	3	4	5	I don't know
Monetary payments	33	20	34	46	61	12
Public apologies by perpetrators	42	13	16	29	100	6
Health care and medical assistance	32	14	32	43	75	10
Education	45	20	42	32	53	14
Erection of memorials, museums of remembrance, removal of symbols,renaming of public spaces	34	20	30	37	81	4
Acknowledgement of victim status and proclamation of commemoration day	31	19	23	38	84	11
Rehabilitation of civil and political rights	25	10	17	45	96	13
Restitution of property and land	27	9	17	29	115	9
Search for disappeared persons, and exhumation of mass graves	21	7	16	21	138	3
Collective reparations	42	14	28	46	65	11

Coming to the core of the questionnaire, the item polling support for the officially implemented reparations laws, measures and initiatives. Fifteen respondents didn't receive this question since they answered don't know for all of the previous questions on reparations legislation and knowledge of material and symbolic reparations. An overwhelming majority of respondents show support for the reparations implemented, so respectively 30 percent strongly support and 42 percent support the laws, measures and initiatives. A minority oppose them with 8 percent saying oppose and 6 percent strongly oppose, while 7 percent answer don't know.

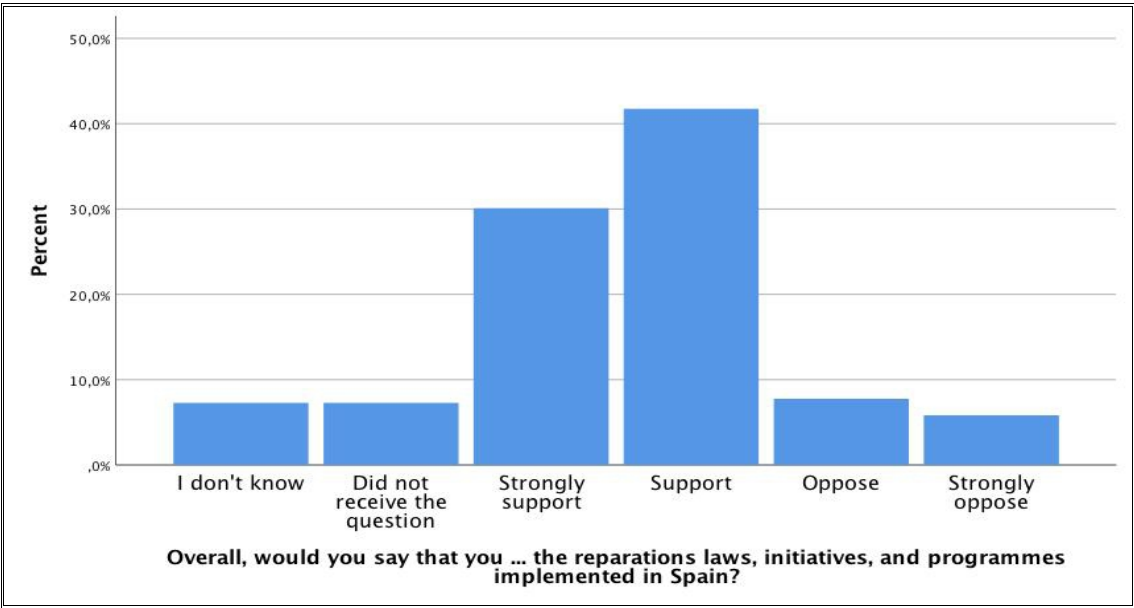


Figure 17. Question 21.

The ensuing section of the questionnaire is dealing with opinions on reconciliation and guarantees of non-repetition. It starts off with asking if there is a need for reconciliation in Spain, explicitly referring to social reconciliation between groups of the society. The result is that a clear majority of 51 percent of respondents think that there is definitively a need for reconciliation in Spain and 24 percent think there is rather a need for reconciliation. Contrary, 16 percent of respondents are of the opinion that there is rather no need and a minority of only 6 percent think that there is definitively no need for reconciliation in Spain. Less than three percent say that they don't know.

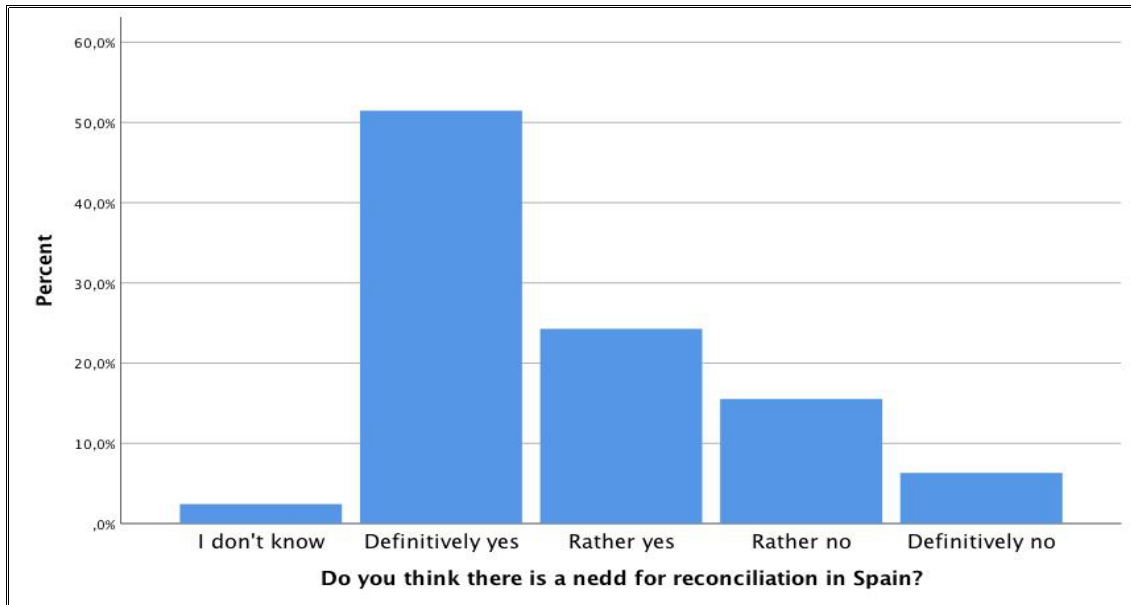


Figure 18. Question 22.

For those answering 'definitively' or 'rather yes', an open-ended follow-up question surveys what the respondent thinks is needed to reconcile the society. Of course a variety of different issues are tackled, however more than less it can be reduced to some aspects. Overall various forms of reparations to victims are mentioned with a clear focus on acknowledgement of the suffering, restoring victims dignity and memorialization of human rights violations occurred. Also, the issue of revealing the truth of what had happened, public information and education in order to create a common memory, hereby especially education, is highlighted by many respondents. Besides this, dialogue, tolerance, a culture of mutual understanding, consideration of reparative measures for both sides are very often stated. Several respondents mention the classical triad of truth, justice and reparation. Eleven respondents think pardon, looking to the future and not opening old wounds would reconcile the society. Six respondents directly name the repeal of the Amnesty Law, two respondents mention Germany as an example for creating documentary centres and prohibiting exaltation, and two respondents see the abolishment of the monarchy in favour of a republic as a necessary measure.

Table 13. Question 23. *What do you think is needed to reconcile the society?*

Open answers grouped	n mentions
Reparations for victims (acknowledgement of suffering, restitution, apologies, exhumations etc.)	45
Narrative of history, knowledge of truth, information and education	34
Dialogue, mutual understanding, political culture, tolerance, consideration of victims from both sides	28
Education direct mentioned (included also within other answers)	19
Look to the future, not open old wounds, pardon	11
Truth, justice and reparations	8
Repeal the Amnesty Law	6
Mention of Germany as example (documentary centres, prohibition of exaltation of Francoism)	2
Change of political system, abolishment of monarchy	2

Another rating question is surveying what respondents consider to best contribute to reconciliation. The measure most frequent rated with five, meaning 'does contribute very much', and with four is reparations programmes for victims (also being the measure receiving the overall highest number of mentions on the rating scale). This is followed by truth commissions investigating the past, and national trials persecuting perpetrators. Amnesty for all actors is assigned, with a big difference to other measures, most often the rating of one 'does not contribute at all' as also the rating two. The measure most common rated with three are national trials for prosecuting perpetrators. The ratings five and one are most often awarded by respondents.

Table 14. Question 24. In your opinion, do you think that the following contributes to social reconciliation? (1=does not contribute at all; 5=does contribute very much)

Rating	1	2	3	4	5	I don't know
International tribunals prosecuting perpetrators	38	21	26	35	78	8
National trials prosecuting perpetrators	33	21	33	25	86	8
Amnesty for all actors	105	36	26	11	10	18
Truth commissions investigating the past	31	12	23	38	97	5
Reparations programmes for victims	24	7	17	40	113	5

Last but not least, the performance of the state dealing with the past is evaluated by choosing between three different answer options. Most of the respondents, respectively 50 percent, say the state has performed partially well/there was done something, but more has to be done. 35 percent evaluate the state has not performed well/they missed their responsibility and nothing is achieved so far. While a minority of 11 percent agree with the statement the state has performed exceptionally/they have done everything they could, the topic is closed now and 8 percent do not know.

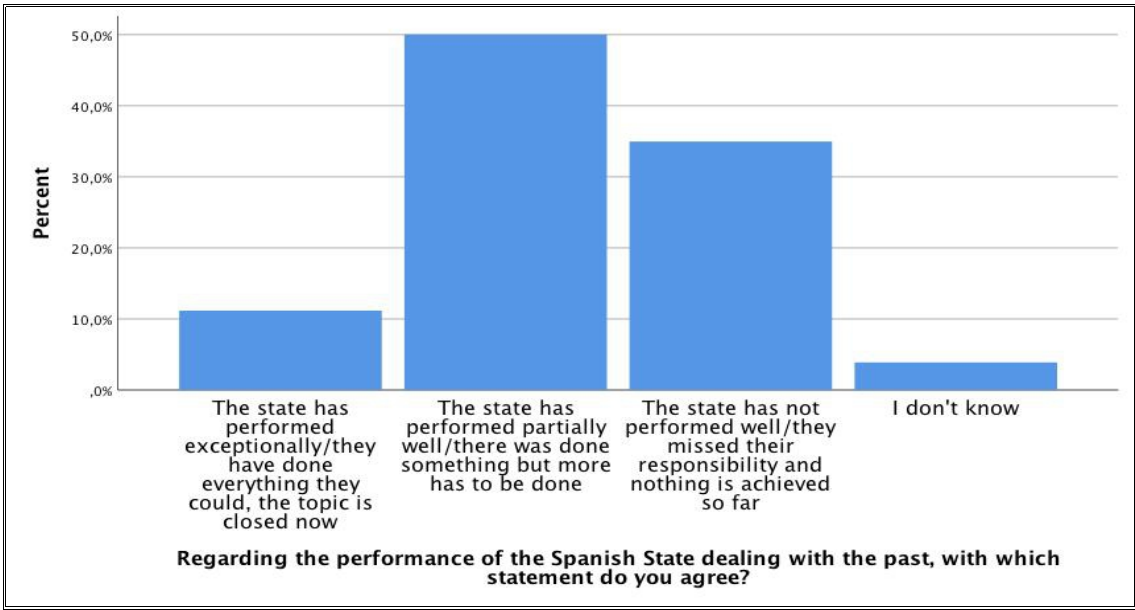


Figure 19. Question 25.

Finally, it is asked about non-repetition of the past and what the state could do to avoid repeating it, three priorities are to chose. The first priority mostly chosen is strengthening the independence of the judiciary, second the reforming of laws in accordance to international human rights and humanitarian law standards, and third human rights education and training for all state officials. Least often is mentioned protection of professionals in legal, medical, health-care, media and human rights defenders. Even less the 'other' option is chosen naming basically education of history in an objective way, human rights education, as also further democratization of the Spanish system, upholding freedom of expression and strive for peace as well as forgetting about old divisions. Five respondents express nothing at all should the state do, the same amount of participants state they don't know.

Table 15. Question 26. What do you think the Spanish State should do to avoid repeating what had happened in the past? (three priorities)

Guarantees of non-repetition	n mentions
Ensure civilian control of military and security forces	63
Human rights education and training for all state officials	102
Protection of professionals in legal, medical, health-care, media and human rights defenders	53
Reforming laws in accordance to international human rights and humanitarian law standards	107
Strengthening independence of the judiciary	115
Providing mechanisms for preventing and monitoring social conflicts and their resolution	59
Other	27
Nothing at all	5
I don't know	5

Bivariate Analysis

From the background of a cross-sectional research design, that is exploring relationships not causality, a bivariate analysis of two variables, to detect if they are related or not can be

carried out. In theory, there are different measures available: contingency tables, Pearson's r for examining relationships between interval/ratio variables (coefficient between 0 and 1 indicating strength of relationship, positive or negative indicates direction of relationship), Spearman's rho (when pairs of ordinal variables or one ordinal and the other interval/ratio, like Pearson), Phi (two dichotomous variables, like Pearson) and Cramer's V (nominal variables but only positive values, thus no indication of direction only of strength of relationship), comparing means or eta (interval/ratio and a nominal variable, eta is always positive) (Bryman, 2008). Quantifiable measures are not applied in this research as the focus is set on a qualitative analysis and interpretation of data. On the top of that, as already mentioned, the number of cases is too small for reliable conducting quantitative analysis and the sample is not representative for the Spanish population due to its methods of data collection.

However, contingency tables, also known as cross tabulations, a method for analysing the correlation and not causation between different variables, is possible to conduct with the given dataset. Cross tabulations are a two-dimensional comparison of the frequencies of two characteristics X and Y at any scale level. Thus, function as a simple illustration of the correlation between two variables. In detail, cross-tabulated are the characteristics of respondents in respect to socio-demographics, individual views (interest in politics, ideology, religiosity), socialization (family identity) and personal experience (victimization), equaling the analytical framework's independent variable set *Individual Personality*, with the main content questions on victims' needs, necessity of state-sponsored reparations (meaning the dependent variable support for the idea of providing reparations), and support for the in Spain implemented reparations measures and initiatives (meaning the dependent variable support for implementation). In the following not an in-depth analysis is presented, but some interesting patterns and significant correlations are set out (see cross tables for Q15., Q16., and Q21. in the APPENDIX B).

Crosstabs Q15. and socio-demographics

In a first step, cross-tabulating question Q15. “*In your opinion, it is ... that needs of victims of human rights violations are addressed, e.g. in form of reparations?*” with socio-demographics. The results show: slightly more men than women are to say that it is 'not important at all'; for age there is no significant variation to detect for the different ages, as all

age groups mainly state 'very important'; the same is true for region since the Autonomous Region with the most counts for 'not important at all' is Madrid, however it is the region where most respondents come from; similar for education no significant differences are to be detected since most often chosen is 'not important at all' by respondents with university degree, but overall a huge majority of participants have a university degree.

Crosstabs Q15. and individual views

Cross-tabulating Q15. with individual views gives the following results. Regarding interest in politics it might be said that respondents with no or little interest in politics are more prone to say that addressing victims needs is 'not important at all' or 'not so important', nevertheless number of cases are here way to low to be able to talk about significant results. When cross tabulating with political ideology on a left-right scale, variations between groups can be distinct more clear, so from five respondents considering themselves as extreme left with choosing a one on the scale, all opted for 'very important' in regard to address victims' needs. Further, from the majority of 88 respondents considering themselves as left (opting for a two on the scale) 79 see addressing victims needs as 'very important' and eight as 'somewhat important'. From the total of 138 participants having chosen one, two or three on the scale, nobody sees victims' needs as 'not important at all' and only two participants 'not so important'. Meanwhile, the three respondents considering themselves as 'extreme right' choosing seven on the scale, all of them saying addressing victims' needs is 'not important at all', also from the seven respondents considering themselves as right with opting for the six, three say 'not important at all' and three 'not so important' (one is saying 'very important'). When also checking for the ten respondents having chosen five on the scale, half of them also state 'not important at all' (two are saying 'very important'). The interaction with religiosity shows a quite similar picture, respondents with high importance of religious ideas attribute less importance to addressing victims needs and vice versa. However, here the variation is not as strong as for political ideology. From the total of 124 respondents not attributing importance to religious ideas and opting for one, two or three on the scale, 103 state 'very important' and only two see victims' needs as 'not important at all', but also for the group of 46 respondents rating five, six or seven, most of them see victims needs as 'very important' (21 respondents), whereby more than for the non-religious respondents state 'not important at all' (10 respondents).

Crosstabs Q15. and socialization

Now cross-tabulating Q15. with socialization taking into account family identity during the conflict (the Franco regime), there is no significant variation between the groups. The majority of respondents from all groups consider victims' needs as 'very important'. From 34 respondents remembering the family sided with the Franco regime, 20 opting for 'very important, while 5 state 'not important at all'. The 80 respondents their families sided with the opposition, 68 opting for 'very important' and only one for 'not important at all'. For the groups of respondents their families sided with both sides or neither side the results are pretty much the same.

Crosstabs Q15. and personal experience

Lastly, cross checking Q15. with personal experience, the victimization of respondents, there seems to be no highly significant difference between 'direct victims', 'indirect victims', and 'not-affected'. All three respondent groups consider with great majority addressing victims' need as 'very important'. The category 'not important at all' is chosen by three respondents from the 'direct victim' group (from total of 68), by two respondents from the 'indirect victim' group (from total of 67) , and more frequent with ten respondents from the 'not-affected' group (from total of 71).

Crosstabs Q16. and socio-demographics

In a second step, cross-tabulation of the same respondents' characteristics with the question Q16. “*Do you believe there should be state sponsored reparations (e.g. monetary compensation) for victims?*” is carried out. Socio-demographics as gender, age, region and education show quite homogenous results, so there is basically no significant variation between the different characteristics of the variables. Overall, 'yes, for individual victims and the community' is mostly chosen, followed by 'individual victims', and 23 respondents respectively think that no measures should be taken at all and do not know the answer to the question. The least often chosen option is reparations for the community. To notice might be that more women than men favour 'individual victims and the community'. The age group of 65 to 74 years and more respondents from the Andalusian region are favouring 'individual victims' than 'individual victims and the community' as beneficiaries of reparations. Also, when looking on education, the option of 'individual victims and the community' is far the

most frequent in all educational levels, followed by 'individual victims' only.

Crosstabs Q16. and individual views

Regarding cross-tabs of Q16. with individual views, for the variable political interest is no specification to report, however when cross-tabulating with political ideology it results that participants ordering themselves on the left spectrum on the scale, are more likely to chose the option 'individual victims and the community' or only 'individual victims', while a the majority of participants seeing themselves on the right spectrum of the scale (number five, six or seven) state that 'no measures should be taken at all'. In respect to participants considering themselves as religious, choosing six or seven on the scale, it could be similarly said that they are more prone to opt for 'no measure should be taken at all'.

Crosstabs Q16. and socialization

Checking Q16. with socialization, the family identity variable, it seems no variation is to observe because for respondents their families sided with Franco, as also with the opposition or with neither side, mostly chosen is for 'individual victims and the community', while respondents their families sided with both sides are mainly saying 'individual victims'.

Crosstabs Q16. and personal experience

Finally, cross-tabulating Q16. with the personal experience of victimization, it gets clear that respondents considering themselves as 'direct victims' clearly favour reparations for 'individual victims and the community', but also as the 'indirect victims' favour this option. Unlike to the answer option 'individual victims', the same counts for the group of 'not-affected'. It seems obvious that most responses for 'no measures should be taken at all' come from the group of 'not-affected' (15 out of 23 respondents choosing this option), also they show the highest number of don't knows.

Crosstabs Q21. and socio-demographics

In a third step, conducting cross-tabulations with the same respondents' characteristics for the question Q21. "*Overall, would you say that you ... the reparations laws, initiatives, and programmes implemented in Spain?*".⁵⁵ This question represents the operationalization of the main dependent variable measuring support for reparations. Socio-demographics seem also

⁵⁵ Here to remember is, participants answering 'I don't know' in Q17. and Q18. and Q19. do not receive question Q21. Thus, the sample is with N=191 smaller for this question.

here not to play a significant role in respect to support: males and females mostly state 'support'; for all age groups the mostly chosen answer is 'support', except the age group 35 to 44 years mostly state 'strongly support', while for the age group 75 years and older no participant opt for 'oppose' or 'strongly oppose' (however only seven respondents fall in this age group); alike for region as respondents from all regions mainly chose 'support' followed by 'strongly support', while the region with the highest numbers for 'oppose' is Castilla y León (five votes out of seventeen respondents) and for 'strongly oppose' Madrid (whereby this are only four votes out of 42 respondents); between the different levels of education there does not seem to be variation since 'support' and 'strongly support' is what all respondents most frequently say while 'strongly oppose' is most often stated by respondents with university degree, however a great majority of the respondents have an university degree.

Crosstabs Q21. and individual views

Cross-tabulating Q21. with individual views, first the political interest variable shows no variation of interest within the distinct groups, as for each group most respondents state 'support' or 'strongly support'. Respondents being 'quite a lot' interested in politics are most often saying 'oppose' or 'strongly oppose' reparations in Spain (respectively eleven and six out of 115), but a majority of respondents fall into this group of interest, so not being surprising. Like before political ideology seems to show some correlations. Respondents ranging their political ideas on a two of the scale are the ones mostly stating 'strongly support', while respondents from group three and four on the scale mainly answering 'support'. From scale group six or seven nobody is saying 'strongly support' or 'support', and all three respondents from the group of political ideas on the extreme right state 'strongly oppose'. Regarding the importance of religious ideas, it seems that respondents for which religion is not important at all 'strongly support' reparations. When the importance of religion is growing there is a shift to most respondents choosing 'support', this is to observe until the six on the scale. Solely participants stating that religion is 'very important' seem to 'strongly oppose' the Spanish reparations measures (six out of ten state 'strongly oppose').

Crosstabs Q21. and personal experience

When cross-tabulating Q21. with the personal experience of victimization, it can be observed that most of the participants from all groups – 'direct/indirect' victims and 'not-affected' – state most common 'support', followed by 'strongly support'. The highest number receives 'strongly

support' from the group of 'direct victims', while 'strongly oppose' is chosen the most frequent by respondents from the 'not-affected' group.

Crosstabs Q21. and socialization

Cross-tabulations of Q21. with socialization, the family identity variable, demonstrates that all four respondent groups (on the side of the Franco regime, on the side of the opposition, both sides, and neither side) are mostly showing 'support'. Second often chosen is 'strongly support' by all groups. The in Spain implemented reparations are 'strongly opposed' by not a single respondent from the group of the 'on the side of the opposition'. In contrast, most often chosen is 'strongly oppose' by respondents from the group of 'on the side of the Franco regime' (but not very often since only five out of 34 respondents strongly opposing Spain's reparations laws, measures, and initiatives).

To sum up, cross-tabulations conducted for the three main questions operationalizing the dependent variable of support for addressing victims' needs, the idea of providing reparations and the implementation of reparations in Spain, show no significant correlation with neither socio-demographic variables, nor political interest or religiosity. Socialization and personal experience of victimization might be somehow correlated to support for reparations, but also not showing a strongly significant relation. Nevertheless, it is of interest to further investigate if people belonging to the group where the family sided with the Franco regime or the group considering themselves as 'not-affected' by human rights violations occurred during the Franco dictatorship, are more prone to oppose issues of addressing victims' needs, providing state-sponsored reparations and less support the reparative measures taken by the Spanish State. The probably only significant variable here might be the political ideology variable, since real differences in respondents' answers, depending on the self-placing on the left-right scale of political ideas, can be observed (for some cases it might be that religiosity is linked to political ideology, thus behaving similarly). It can be concluded that people being more leftist stronger support addressing victims' needs, the provision of state-sponsored reparations and the implemented reparations laws, measures, and initiatives in Spain. Also, this finding is further discussed in the course of the thesis and it needs to be broader studied in order to be proven.

Statistical Artefacts

The expectation that some of the variables and items of this questionnaire produce statistical artefacts that are of no use for the analysis, resulted to be not the case. Since most of the questions are adapted from earlier studies conducted in different countries around the world, the way questions are formulated and the answer options provided seem clear to respondents and generally result in appropriate answers. Occasionally some confusion occur in question Q9. identifying 'direct victims'. It happens that, when asking about the direct violation of a respondent's human rights, the respondent considers itself affected by such, but when it is asked for the specification of the violation occurred, it is written in the 'others' field that the violations named occurred to family members (this is the case for three respondents).

Another smaller issue appears in question Q11. asking for the type of violations, some respondents using the 'others' option to describe crimes occurred during the Civil War such as bombings or starvation, thus ignoring the reference to the indicated time period of the Franco regime from 1939 to 1975 not including the timespan of the Civil War. Probably the fact that no distinction between human rights violations occurred during the Civil War and the post-war period of the Franco regime is made by the respondents might be a general issue affecting the whole online-survey questionnaire. Even if instructions nearly under each question refer to the timespan of 1939 to 1975, respondents might not realize this distinction given that fact that in Spanish collective memory the Civil War overlaps with Franco's authoritarian regime. Historically this is correct since the Civil War conditioned the rise of Franco's dictatorship, but the main focus of this thesis lies on investigating public opinion towards reparations that a granted after a democratic transition for human rights violations occurred during an authoritarian regime and not for 'war crimes' committed during a civil war. Chapter V draws deeper on Spain's particular historical context.

Above that, some respondents mix up material and symbolic reparations as naming for example pensions in question Q18. and at the same time in question Q19. when asked about their knowledge of certain types of reparative measures. The question that receives the highest amount of non-responses with $n=118$ out of the sample of $N=206$, is question Q18. enquiring knowledge of material reparations. There is no specific explanation apart from the fact that the concept of material reparations might not be well known or understood although an example is given along the question. When regarding the comment option provided at the end

of the questionnaire, 48 respondents use the opportunity to comment. Some interesting things to mention here are that respondents highlight the importance to investigate the topic and are thankful for the interest in it, some express that Spain is still stuck in the transition process and built on the old political systems. Mentioning hereby issues as such that the role of the Catholic church is not dealt with, impunity persists with the Amnesty Law and justice is not achieved. Others think it is not opportune to further deal with the topic since a long time has passed, no old wounds should be opened again, reparations will never satisfy all needs. Also, very few consider the survey as being biased. When lastly, asking for interest to participate in a focus group discussion, surprisingly twenty-six respondents affirm this and provide their contact details.

To conclude the section dealing with the online-survey, it is emphasized again that the idea behind applying a qualitative mixed-method research design and conducting in a first step an online-survey, is to identify relevant topics, crucial factors and correlations that can be studied in-depth during the second step of the fieldwork, the focus groups. The online-survey allows to narrow down the set of independent variables and hereby identifies the focus of the focus group discussions. As a result of the bivariate analysis of the survey data (see APPENDIX B), the following independent variables are not of relevance for the analysis, thus not further included in the fieldwork: the socio-demographics of gender, age, region, and education as also for individual views the variables of political interest and religiosity.

4.2.2 Focus Groups

The second step within the sequential mixed-method approach of the cross-sectional research design, is the conduction of focus groups. FGs are a technique for the collecting of qualitative data. As being sort of group interviews (normally with six to ten participants) FGs combine elements of individual interviews and participant observation, but they have a distinctive identity of their own, thus being useful at virtually any point in a research programme. FGs are often used early in a research project and followed by other types of research, but at the same time frequently used following the analysis of a large-scale quantitative survey. Hence, focus groups are either of use as self-contained means of data collection or as a supplement to both quantitative and qualitative methods. In social science there is no a priori reason to assume that FGs require supplementation or validation with quantitative techniques. They are helpful for orientating oneself to a new field, for generating hypotheses based on insights

from participants, for evaluating distinctive research situations or researched populations as well as evolving interview set-ups and questionnaires. Also, for obtaining participants interpretations of result from earlier studies, so to say to gather grass-root perceptions, motivations, and assessments. They are practical as well for stimulating new ideas, insights, and creative concepts. Or for generating research hypotheses for further research and heuristics for theory development (Stewart and Shamdasani, 1990; Söderström, 2011).

Focus groups have some strengths in respect to other methods, as they are easy, quickly to conduct, and relatively cheap. Procedurally, focus groups offer the ability to explore topics and generate new hypotheses. There is little direct input from the researcher required as the data is collected from the group interaction and discussion on the topic of interest. Especially useful is that respondents can react and build on responses of others and thus could create synergistic effects that might not have be come up in an interview. Another advantage is that groups are more controlled then observations as the researcher can interact directly, clarify responses, and follow-up to questions. Thus, the moderator controls the data collected and can direct the data towards the research objective. Above that, non-verbal responses such as gestures can be observed even if more difficult as in individual interviews. When used after surveys, focus groups facilitate the interpretation of quantitative results, since verbal responses are often easier to understand, and adds depth to the responses while also making it possible to obtain data from non-literate people.

Of course, this method also has some weaknesses, as such being able to cover only a small number of participants what limits the ability of generalization to a larger population. Besides that, in comparison to interviews, the researcher has less control over data collected as for the case when group interaction gets a problem, because data gives not a general insight but mirrors individual behaviour. This is happening because participants are not independent from each other, there might be not sufficient involvement of some participants in the discussion. Also because participants are not enough knowledgable about the topic or when a topic is highly controversial participants might not feel comfortable to reveal their opinion or different opinions together even cause conflict. Suggested is always to do a pretest to check if the topic is working or not, how is the tone of group and if the discussion provides useful clues. Finally, the open-ended nature of responses makes summarizing and interpretation of results difficult and the moderator might bias results by providing cues of desirable answers (Morgan, 1988; Stewart and Shamdasani, 1990). Moreover, some implications for the usefulness and validity

of FGs is that the outcome is dependent on the degree to which participants appear comfortable about openly communicating beliefs, views, and opinions. This is influenced by intrapersonal factors (demography, e.g. gender composition, physical and personality characteristics) and interpersonal factors (social power, general pleasantness of FG environment, e.g. seating arrangement and general proximity affect). A frequent assumption is that results are better when members are strangers (theory of group dynamics) (Stewart and Shamdasani, 1990, pp.33-40).

Deciding for focus group methodology within the research on reparations, is not done out of the blue, but because of the appropriateness and advantages of this method, mentioned above, for getting deeper insights, understanding dynamics and exploring (new) issues on the topic of reparations. Often focus groups are applied to study attitudes and opinions, perspectives and experiences, behavioural choices and motivations. Given that, transitional justice is applied in a post-conflict context, entails a research interest in a rather sensitive topic. Hence, it might make it easier for participants to divulge sensitive information being among peers than in a one-to-one interview situation (Söderström, 2011). That FGs are valuable within the field of TJ is shown by different empirical studies in place using focus group methodology.

For example, Viaene (2010) shows with an ethnographic study different narratives and the role of cultural context in TJ, investigating macro and micro-level of conflict and the local understanding and perceptions by using a combination of methods including focus groups and in-depth interviews. Likewise, a qualitative research study by the OHCHR, conducted in 2007, carried out 69 focus groups in Acholiland, Lango and Teso sub-regions in order to explore perceptions among Northern Ugandans on accountability, reconciliation and transitional justice. Another study relying on focus groups is the ICTJ and Human Rights Center 2004 study in Iraq. Analysing opinions and attitudes of national and community leaders, civil society representatives, and the general population, concerning past human rights violations and possible responses to the history of abuses by conducting interviews and 49 focus groups. In concrete, the points below justify why focus groups are chosen by this thesis as the follow-up methodology to the online-survey:

The survey gives some first insights, facts and figures on public opinion towards reparations in Spain, however for the interpretation of the results deeper insights on peoples' thoughts and attitudes are needed in order to complete the picture. Focus groups are valuable to explain

why certain reparative measures achieve support and others fail to do so. Sharing and comparing views among participants assists in clarifying crucial turning points in participants' beliefs. As findings from the survey data indicate, opinions seem to be influenced inter alia by respondents' individual views, especially by political ideology. Views is something socially constructed formed by society, thus also reflects certain societal dynamics. Consequently, a discussion might better explain how these views influence attitudes towards reparations and helps to track the line of argument. Linked to this focus group methodology is here actively used to study the degree of consensus-forming tendencies and mutual understanding on the reparations topic. Since it is assumed that publicly supported reparations are likely to contribute to the ultimate goal of reconciliation, the degree to which groups tolerate different narratives of the past or try to create consensus is of theoretical interest. Additionally, some maybe rather unexpected survey results, as such that it seems family identity does not play such a crucial role in regard to support for reparations, could be better understood with data from focus group discussions. Similarly, during the discussions new aspects of the reparations topic might pop-up that could be relevant to include in the theoretical framework, therefore contributing to the development of new items for future research studies.

Most notably, focus group methodology is considered the optimal path to follow for this thesis because of the specific way transitional justice and the whole issue of dealing with the past is addressed in contemporary Spain. Against the background that the Franco regime and its legacy is since the Transition to democracy considered a 'closed chapter' of the country's history, many things are untouched, forgotten or silenced. Open discussions on the repression and victimization involving a wider public, not merely special interest groups, is barely taking place. Therefore, a real need to put forward a discussion and openly talk about reparations issues is detected. To make clear at this point this is the researcher's personal impression before conducting field work. Though these perceptions and feelings of a strong necessity for an open discussion on the issue, results to be confirmed by many online-survey respondents, manifested in the open answers (and later on also by the focus group participants).

Given that, the time period the field work was planned to be conducted, felt together with the spread of the Covid-19 virus and the outbreak of the global pandemic in spring 2020, field research had to be rethought. Due to travel restrictions and containment measures taken by the governments it seemed impossible to conduct focus groups in-person, as it originally was thought to do so in Barcelona and Madrid. Because of the uncertainty when such activity

could be resumed, it has been decided to find a digital solution. After the realisation of a successful pilot focus group session via the online video chat tool Skype it became evident that this is an alternative that works sufficiently well. Of course, interaction is not the same as for an in-person group, but participants are online able to express their opinions and respond to others, too, so that a genuine debate is indeed possible. Further, Skype recordings turned out to have an enough well quality for producing transcriptions. Opting for the format of online FGs has of course also an impact on the size and composition of the groups as explained hereinafter.

Group Composition

The number of focus groups is commonly determined by the aim of achieving theoretical saturation, that is the point where an additional group does no longer produce different findings compared to the ones emerging from earlier groups (Söderström, 2011; Guest, Namey and Mc Kenna, 2016). For this thesis two focus groups with four participants are planned to be conducted (over-recruitment five for four). This being a lesser number than the initially considered six participants (over-recruitment eight for six) due to the digital formate. The pilot group demonstrated that, in order to produce an audible recording, the number of participants need to be minimised. In addition, only two groups are conducted because of time and budget constraints, and the difficulty to recruit suitable and knowledgeable participants. Nevertheless, getting insights in the topic from a small amount of people can still produce valuable and significant data as thematic saturation is achievable with two to three groups (Guest, Namey and McKenna, 2016). The small group size is also appropriate because it is a rather sensitive topic related to personal experiences and that is why participants might elaborate quite a lot on it.

Furthermore, literature often suggest for the composition of the groups to make them as homogeneous as possible, with respect to the criteria considered to matter in the particular case, in order to make participants feel of being in a group of peers. For example, Söderström conducted internally homogenous focus groups with ex-combatants in Liberia on perceptions attached to the 2005 elections (Söderström, 2011, pp.151-152; Söderström, 2010). However, for this research homogenous groups are not considered as being adequate because a discussion between participants with different characteristics of the independent variables, e.g. belonging to different sides of the political left-right spectrum, heightens the level of

diversity and thus deepens the understanding of why some people support reparations and others not. Above that, because of researching public opinion of the general public, what is a peer cannot be clearly defined. Thinking about a peer in the context of this research could be for example to belong to the 'direct' or 'indirect' victim group versus being 'not-affected'. Though, given that this characterization is attached to participants due to self-assessment during the online-survey, it cannot reliably function as a peer group selection criteria since participants might have understood the question differently and consider themselves as victims, even if in the research's logic they wouldn't count as one or the other way around (see paragraph on statistical artefacts above).

Notwithstanding, the topic is rather sensitive, in the case of Spain, there seems to be a desire to talk about the past and how to address it, so stated by many online-survey respondents. It seems there is a need for dialogue among Spaniards. This thesis wants to account for that and facilitate with the focus group discussions a platform for dialogue. Therefore, here rather homogeneity is important for the composition across the groups. Both groups should be composed with participants of different characteristics, as such representing among others variation of political ideology, age, gender, or region.

Recruitment

Sampling for focus groups, better referring here to the recruitment and selection of participants, is most commonly done by convenience sampling and is a strategically guided process. Strategies of sampling can also be similar to procedures as for surveys (e.g random digital dialling). List of potential participants can be maintained from organizations or if no pre-existing lists are available, individuals can be contacted by phone, by mail or by intercepting in public places additionally asking brief screening questions, that may include demographic characteristics, personality factors or other variables. It is essential that the group consists of representative members of the larger population. To illustrate, if the research question is related to specific types of individuals (e.g., men, children), the participants of course must reflect these characteristics. Also, a certain mix of people in terms of age and gender might be desirable because the composition of the group has important implications for the outcome of the discussion and the research might need to assure a certain level of homo or heterogeneity. To avoid missing data because of non-show ups over-recruitment of participants is a habitual strategy, here over-recruitment is done selecting five for four

participants. During the recruitment process normally also information on incentives is given, carried out here by survey question Q28. offering an incentive of twenty Euros for participation (Morgan, 1988; Stewart and Shamdasani, 1990).

Within this thesis the sampling frame is taking into account the sequential and nested mixed-method relationship meaning to recruit participants from the preceding online-survey. In general the target population for the focus group remains the same as for the survey, the general public, meaning Spanish adult citizens. Starting point for recruitment is the affirmation to the survey question Q28. and with this the willingness to take part in a focus group discussion, what has been expressed by n=26 survey participants. Then, it is double checked if the question on support of reparations Q21. is answered, since this question appears only to respondents that have knowledge of different types of reparations and pertinent legislation. Thus, it is assumed that these persons have at least some information and background knowledge on the topic making sure that all participants can follow and contribute to the discussion on reparations. Applying this criteria one volunteer needs to be excluded, remaining n=25 possible participants. Thereafter, a stratified purposeful sampling technique is used to get sort of a small sample within a sample by selecting particular individuals that vary according to key dimensions. This technique makes sense since enough information is known to identify characteristics that may influence how the phenomenon is manifested (Patton, 2001).

The focus group screener asks for some key criteria of variance in accordance to the significance the variables seemed to play based on the bivariate analysis of the online-survey data: The variable assumed to be most relevant to explain variations in support for reparations is political ideology, followed by victimhood and family identity. Other variables are not considered as so important to screen for them. Further, socio-demographics of gender, age, region are included in the screener not because of their significance for influencing opinions on reparations, but in order to achieve a good mix of participants in respect to social strata. Additional information as level of education and profession, interest in politics and religiosity is recorded in the screener just to get a more complete picture of the participants. An ideal distribution of participants per group (five for four participants) could look like the following.

			Min. Requirements		Key Criteria	Additional Criteria		Socio-demographics		
GR	QNR ID	Part. No	Q28	Q21	Q6 Ideology	Q9, Q10 Victimhood	Q8 Family identity	Q1 Gender	Q2 Age	Q3 Region
1		1	yes	answered	left (scale 1-3)	direct/indirect	Franco Regime	good mix		
		2	yes	answered	right (scale 5-7)	not-affected	Franco Regime			
		3	yes	answered	middle (scale 4)	direct/indirect	Opposition			
		4	yes	answered	middle (scale 4)	not-affected	Opposition			
		5	yes	answered	left (scale 1-3)	direct/indirect	Both			
		6	yes	answered	right (scale 5-7)	not-affected	Both			
		7	yes	answered	right (scale 5-7)	direct/indirect	Neither			
		8	yes	answered	left (scale 1-3)	not-affected	Neither			
2		9	yes	answered	middle (scale 4)	direct/indirect	Franco Regime	good mix		
		10	yes	answered	middle (scale 4)	not-affected	Franco Regime			
		11	yes	answered	right (scale 5-7)	direct/indirect	Opposition			
		12	yes	answered	left (scale 1-3)	not-affected	Opposition			
		13	yes	answered	left (scale 1-3)	direct/indirect	Both			
		14	yes	answered	right (scale 5-7)	not-affected	Both			
		15	yes	answered	right (scale 5-7)	direct/indirect	Neither			
		16	yes	answered	left (scale 1-3)	not-affected	Neither			

Table 16. Example Focus Group Screener

At this point it needs to be clearly highlighted, that final recruitment depends on the availability of participants and their willingness to participate in an online focus group. This led to the fact that ultimately the ideal screener criteria could not be entirely met as also participants not fulfilling the criteria had to be recruited in order to fill the groups (see the completed screener for the actual focus group participants in the APPENDIX C).

Moderator's Guide

A moderator's guide is designed to determine the topics of the discussion and the level of moderator involvement. Developing the interview guide means to set the agenda for discussion that grows directly from the research question. The FG guide in comparison to a structured interview guide has far less structure in questions and provides no responses. Unstructured FGs have between two to three questions and structured usually four to five distinct issues to discuss in a two-hour session. A mix is applied for this research creating a semi-structured interview guide with three main topics with one to two probes for each. There are recommend two principles to adhere, first questions should be ordered from the more general to the more specific, and second questions are to be ordered by their relative importance to the research agenda so that important questions come early and the group takes on its own flow. Also to consider in the design is the amount of effort required to discuss for a topic (e.g., for an emotional topic, as such reparations might be for some participants because of personally affected). When high effort of participants is required a shorter guide and fewer questions are needed. In practice, a guide has normally fewer than dozen questions to have

enough time to probe and add new questions on side. Here, in total the guide consist of ten items including the ice breaker, introduction and final questions. When conducting several groups, a rolling interviewer guide makes sense, revising the guide after each group. However, revising seemed to be necessary only after the pilot group.

In the moderator guide unstructured questions are used (e.g., How do you fell about ...?, What thoughts went through your head while you ...?, What did you think about first when ...?). To bring in structure in the guide, asked are questions about a particular dimension of the stimulus object in the question (e.g., How do you feel about the ... of X ...?) or attention is drawn to a particular type of response to the stimulus object (e.g., Did you find the X believable?, What did you learn from X that you didn't know before?). Asking this sort of questions the moderator has to be very careful not to provide cues or information since the moderator should not lead the respondent. To prevent this, a possibility is to rephrase the question and ask it again. Moreover, questions that can be answered with yes or no should be avoided. Instead topics are to be probed asking how, why, under what conditions to provide complexity to and facilitate the discussion. It is needless to say that questions need to be worded in a clear way and placing respondents in embarrassing situation needs to be evaded (Stewart and Shamdasani, 1990; Morgan, 1988). Doing so, the guide is pre-tested in mock groups.

In detail, the discussion guide is based on the online-survey questionnaire and takes into account the survey results for identifying crucial questions that need further attention. Hereby, the focus is set on the questions of section (IV) of the survey questionnaire: the attitudes towards reparations. The focus group guide does not include specific questions on social reconciliation or guarantees of non-repetition. From the background that, after conducting a pilot group with a group of Spaniards, it became evident that it is difficult to discuss reconciliation as this is such a broad topic meaning something different to each person. Also, during the discussion flow of the pilot group the usefulness of reparations, for achieving reconciliation and for avoiding to repeat the past, was mentioned by participants automatically, hence it does not seem necessary to include a direct question on reconciliation.

The moderator's guide operationalizes the outcome variable in form of three main headings: questions on (1) opinions on the issuing of state-sponsored reparations for victims of human rights violations, (2) opinions on the different types of reparations (design) and (3) opinions

on the implementation of reparative measures. Those headings are similar to the questions Q16., Q20., and Q21. from the online-survey questionnaire, however the wording has been adopted to make them easier understandable when hearing questions only verbally as well as adopting them in a way to better facilitate conversation, taking into account the specific country context. The title of the moderator's guide is taken from the survey questionnaire, too, but the reference to the victims, here to the victims of the Franco regime, is added: “*Opinions, attitudes, and perceptions towards reparations for victims of human rights violations occurred during the {conflict/authoritarian regime}*”.

The guide starts off with an introduction section where the moderator welcomes the participants, explains the purpose of the study, and the reason for the members to be selected. Also it is pointed on the recording of the session assuring the confidentiality of participants identities. Further, mentioning the time the session is going to take and making sure that participants have read the general rules and handed-in the signed consent form, which has been sent previously to participants via email. This is followed by an *ice breaker*. Here in this concrete case the moderator shares a twitter post displaying a photomontage of Franco when he was exhumed from the Valley of the Fallen in October 2019. Participants are asked to shortly present themselves and express what comes first in their minds when seeing this post. Thereafter, an *introduction question* leads to the actual topic. Concretely, the question is here sticking to the Franco image explaining that this could be an illustration for symbolic victim reparations. At the same time asking what participants think, what should be done with the Valley of the Fallen after the exhumation of Franco.

The *first block of main content questions* is asking if there should be in general reparations the victims, here for the victims of Francoism in Spain. By this question opinions on the importance of addressing victims' needs are researched. Probing on the question is done by raising the question who are the 'victims', and to whom should the reparations be directed. Above that, some noteworthy quotations taken from the answers to the online-survey's question on reconciliation (Q23.) can be useful for probing on this occasion. Here it is raised the question, what participants would answer if someone says “*recognize victims from both sides*” or “*forgive not repair*” (both quotations are respondents' answers from the online-survey).

The *second block of content questions* aims to enquire opinions on different types of

reparations, hence investigating views on the design of programmes. For a list of various material, symbolic, individual and collective measures it is asked if they are considered as adequate to repair victims. In this concrete case, it is purposefully not said the victims of Francoism, but the victims in Spain, since during the discussion about the previous question some participants might have considered as victim not exclusively the ones suffering during the Franco regime. Hereby, leaving it more open to what would be generally adequate to do in Spain in terms of reparations. Also, important here, clearly stated by the moderator, is that the measures being read-out not necessarily really had been taken by the Spanish State. The list of measures presented is adapted from the online-survey question Q20., however a bit restructured to put more emphasize on types of reparations that have been more often mentioned by the online-survey respondents. Therefore, removal of symbols and renaming of streets and public places is given separate consideration, whereas the seldom mentioned rehabilitation of political and civil rights is now listed together with restitution of property and land. The list is not exhaustive and has to be adopted to the flow of the discussion. It might happen that not all reparations types can be addressed during the debate, e.g. due to time constraints. When the moderator presents the distinct measures they are always illustrated by examples. Beyond that, the moderator probes if there are any other measures coming into participants' minds.

The *third block of content questions* deals with opinions on the implementation of reparations asking participants, from what they know, if they support or oppose the reparations laws, initiatives and programmes implemented in the country and why they do so. Here, needlessly to say, referring to Spain's reparations efforts. Probing is carried out for the role of public information and the media involved in the measures' implementation process. Though, these questions function merely as a buffer in case some discussion time is left.

At the end, a *final question* is asking what is the most important thing that has been said in the discussion or what else participants might like to add. This last questions is optional and can be easily skipped in the case of time constraints. Finally, the moderator thanks the participants and informs them about how to obtain the incentive. For the entire Focus Group Moderator's Guide used for the two focus group discussions with Spanish citizens please see APPENDIX D.

The Sessions

Considering the circumstances of the spread of the global pandemic, field work needed to be adapted to this exceptional situation. Therefore, as mentioned above, the groups were conducted online using the video chat tool Skype instead of meeting in-person at a facility. Initially, a pilot study with four persons, personally known to the researcher, was conducted in mid April 2020. This trial study already gave interesting insights on the topic, confirmed the feasibility of conducting the groups online and led to a slide adaptation of the moderator's guide, foremost in terms of question order and timing. Ultimately, a total of eight people participated in the focus groups divided into two sessions. For the first group all of the five recruited and confirmed participants at the end attended the session. While from the second group out of five recruited finally solely three people were able to attend.

Unfortunately, because of the online format, one senior participant aged 77 could not participate since not being able to properly handle the technological requirements of the Skype tool. However, this person answered the questions from the moderator's guide in written and handed in his answers by email. Since other potential participants who indicated interest in a discussion after completing the online-survey and who did meet the screener criteria, not responded to emails anymore, an additional person that had not been contacted through the online-survey, needed to be recruited. This was done by re-contacting an initial contact who had been one of the starting points of the snowball sampling, asking this person to recruit another person that fits the screener criteria, but importantly is not personally known to the researcher.

The chosen potential participants received the online-survey link and completed the survey before participating in the group in order to have the same 'pre-knowledge' like the other participants. As soon as everybody confirmed their participation and the dates were scheduled, participants received further information and instructions via email before the sessions took place. The mail contained the link to access the online group on Skype, also a test link to the online-survey in case someone wanted to check on it again, and information on the ground rules that apply to the discussion (thus it was not necessary to read them out at the beginning of the session). Furthermore, they received beforehand an informed consent form which explains the purpose of the study, what is expected from the participants and assures the confidentiality. This form had to be signed and handed-in by the participants before the

sessions. The consent form was distributed to the participants upfront to ensure agreement and completion with ethical standards and European data protection legislation. Also, information on how to obtain the incentive was provided with the email.

The two sessions took place in the afternoon of 22 May and 3 June 2020 and were discussing the topic of reparations during 90 minutes. Sessions were audio-video recorded with previous consent of the participants. In both groups, participants showed great interest in the topic, being really enthusiastic to share their opinions and views as well as their families' personal stories. Even after ending the official session and the recording stopped, participants stayed online commenting and asking about further things related to the research. Before continuing with the analysis of the data collected, some reflections on the composition of the groups and the moderator's identity might be appropriate.

Firstly, the recruitment process of inviting interested participants from the online-survey to participate in the groups might have resulted in a bias in two ways: On the one hand, it seemed that interest in the topic is linked to familiarity with it as so people working at NGOs and institutions dealing with the issue were more likely to participate. On the other hand, people's interest in the topic might be related to their political ideology, in concrete people with rather leftist ideas show greater interest since they are linked to the looser side of the Civil War and hence have still a stake in solving the issues of the past, while the mainstream conservative and right-wing attitude is rather characterized by disinterest. Therefore, in the groups was an over-representation of participants with high level of knowledge on the topic of transitional justice and memory politics as well as overrepresented were participants showing leftist political ideas.

Secondly, reflecting on the researcher's own involvement in the process of data collection. It seemed that the researcher's gender had no impact on the discussion whereas the nationality, being not a Spaniard but from Germany, transmitted a sense of objectivity and credibility of the research to the participants. This could be due, among other things, to the fact that Germany is often cited as an example of coming to terms with its past, as also happened in this online-survey and in the focus group discussions in several places. Additionally, being a young researcher from another European country that is interested in Spain's fate might have further facilitated an open, pro-active and engaged discussion.

Data Analysis

After having conducted the two groups, presenting group dynamics and interactions as well as the environmental conditions of the research and the naturalness of the process form part of the writing up and data analysis process. During the groups audio-video recordings and some moderator field notes had been taken to make sure as much data as possible was collected. Generally, for getting valuable data for analysis it is crucial to collect data over just a maximum range of relevant topics. And the data needs to be as specific as possible. Here the focus of the discussions was clearly set on the design and implementation of reparations programmes as also participants feelings towards the appropriateness and usefulness of different types of reparative measures. At the same time considering the personal context of participants, as e.g. the victim background. Further, some authors (see e.g., Pierce, 2008) suggest a split-half strategy to follow-up focus groups, what means that half the group is interviewed individually before the group, half the group is interviewed after the group in order to learn about individual views and how these views relate to the group consensus. What also allows to better identify the role of the groups in developing new perceptions or understanding.

However, because of time and other practical considerations resulted not feasible to apply such a strategy for this thesis. For the analysis of the collected data theoretically two basic approaches exist: A strictly qualitative or ethnographic summary with the idea to construct an index of central themes and sub-themes relying more on direct quotation. And a systematic coding via content analysis in form of numeric descriptions, e.g. counting the mentions of words or terms and compare between groups (Morgan, 1988; Stewart and Shamdasani, 1990). The way to go within this research is a qualitative approach, in a systematic way organizing and interpreting information applying categories, themes, and concepts that detect patterns and relationships, but also complementing this with identifying general tendencies by using some coding. The data analysis process requires in practice three main steps:

First, data reduction what implies the writing-up of the focus group discussion's audio-video in format of an annotated two-columned transcription that is supported by quotations and indications who is speaking. Not reflected in the transcription are non-verbal communication, gestures, and behavioural responses. Second, the amount of data is reduced to a more manageable level by identifying and extracting the most important, meaningful, and

interesting parts of the discussion, by that way discovering what is in the material. Independently from the questions, the material is screened for similarities, differences, patterns and thematic connections with regard to what is generally said about reparations and other any aspects of transitional justice. Beyond that, it is looked for perceptions on the violence occurred, here during the Franco regime, on major opinions and attitudes that are expressed regarding reconciliation and issues of non-repetition. Since having been asked as the ice breaker question, participants' opinions on Franco's exhumation and on what to do with the Valley of the Fallen are identified, too.

The transcribed text for the three content questions is coded. Coding means breaking down the text material and assigning it to different categories according to the variable to which it relates. The three most common means of coding are: To note each mention of a given issue (what is applied here), to note each participant's mention of the issues (how many people within the group mention the issue), and to note each focus group's discussion of the particular issue, meaning the level of interest generated. Some basic remarks about coding include that every line and paragraph is coded. When themes are developed the researcher must assign a working definition to the theme. This definition can be modified when going further as coding is not a linear process but a constant comparison, the process is ongoing until saturation reached when no new codes or categories emerge. Further, codes might be replaced with concepts and categories from the literature, and researchers must make choices which aspects of the data should be emphasized, minimized or set aside completely. Thus, one should be aware that extracting codes disrupt or lose the narrative flow of what was said in the discussion.

The coding frame for this research is based on the expression of participants' opinions towards the idea of reparations, the different types of reparations and the reparations measures implemented by the Spanish State. It is differentiated between and assigned codes to rather positive, neutral or negative opinions, whereby also assigning a code to 'other' mentions related to the question. For the question to whom reparations should be issued, codes are based on the categories of Republicans, Francoists, both, none, direct victim, indirect victim or other (similarly to the values of the socialization and victimization variables from the online-survey). At all stages it is crucial to probe for generalisability, reliability, and validity, using the research question and hypothesis as a guide. For the transcribed and coded material of the focus groups conducted see APPENDIX E-G.

The third step includes the analysis and reporting of the transcribed and coded data. The sequences of texts marked with the same code are collected together what brings into focus a web of meanings. The form of data reporting chosen is dependent on whether the research is exploratory or hypothesis testing, on the level of moderator involvement intended to produce structured or unstructured discussions, and if the analysis relied on qualitative/ethnographic or numeric summaries (Bryman, 2008). Here the form of reporting is the following: giving initially a rough tendency of participants attitudes and thematic summaries on participants' perceptions of the past, of the violence and repression of the Franco regime, of the subject of reconciliation and non-repetition as well as attitudes towards the recent happening of the exhumation of Franco from the Valley of the Fallen. This information is extracted from the whole course of the discussion. Subsequently, providing comprehensive summaries of topics addressed by the coded questions and subquestions on the idea of providing state-sponsored reparations in Spain, the different available material, symbolic, collective and individual types of reparations as also participants' satisfaction with the so far in Spain implemented reparations measures. Relevant direct quotations of participants' personal histories complement the thematic comprehensive summaries. The data analysis is carried out in Chapter VI.

4.3 Challenges and Ethical Considerations

Putting together the pieces of the research puzzle, it is important to critically question key challenges of qualitative research in respect to generalisation, validity and reliability and how these challenges have been dealt with in this research approach. The cross-sectional research design using sequential mixed-methods of online-survey and focus groups from a qualitative perspective, is mostly preoccupied with seeing through the eyes of the general public or victims their perceptions on the reparations topic, providing descriptive details of different reparations measures and being concerned with explanation of public opinion towards these instruments. Hereby, emphasize is placed on the contextual understanding in which reparations emerge since also remarking that processes are affected by changes in time. Thus, combining survey methodology with more flexible semi-structured approach of data collection of FGs seemed the adequate way to go. Nevertheless, these preoccupations are legitimate goals to achieve, what counts for qualitative research in general, they face critics of

being too subjective, difficult to replicate, implying problems of generalization, and a lack of transparency.

To begin with issues of *generalization* meaning that, on the one hand, the research findings are empirical generalizable as utilization of findings from the qualitative study to populations or settings apart from the distinct sample and, on the other hand, theoretical generalisability referring to the generation of theoretical concepts or propositions that can be used for wider universal application. This issue is widely discussed if applicable for qualitative research, however transferability of data to other settings should be somehow possible. It can be argued that this depends on the congruence of the settings established and the one the findings are to be applied. As sufficient detailed description of the observations on public opinion (especially for the FGs) and the environments (as such are the independent variables), is given, it is possible for other researchers to assess similarities and differences between settings. Also, the transferability of samples to wider populations cannot be assessed from a quantitative view, since small samples for the survey and the FGs are involved that are not selected to be statistically relevant.

At the level of categories, concepts and explanation, generalisation takes place, factors and circumstances can be inferred to the researched population not on statistical basis but on the prevalence of particular views and experiences. Important therefore is the accuracy with which the phenomenon has been captured, as such inter alia several previous studies on public opinion towards TJ are analysed, and the degree of which the sample represents the population, meaning a symbolic representation of inclusivity and diversity of all relevant dimensions and constituencies central to the explanation, is done by combining techniques of criterion, snowball and stratified purposeful sampling in order to cover all different and relevant stakeholders. Thus, applying the findings for Spain to another population, e.g. to Portugal or Greece, might be fruitful in order to prove or disapprove findings related to the different contextual dynamics, reparations' programmatic horizon and the role of a person's individual personality.

Theoretical generalization is taken into account in the sense of exploring the issue of public support towards TJ in-depth and tells something about the underlying social processes and structures of post-conflict justice, thus contributes inductively to developing theories on the specific measure of reparations and broader on bottom-up approaches towards TJ. Also, it

gives theoretical insight in individual behaviours and the perspectives on reparations from different participants (Ritchie and Lewis, 2003). Linked to different forms of generalisation are the concepts of validity and reliability which were developed in the natural sciences. Hence it is questionable to which degree they are applicable, but in a wider sense of meaning well-grounded and sustainable they have clear relevance for qualitative research in allowing to define the strength of the data.

Validity stands for whether the concepts as defined are correctly expressed in the measurement used. Internal validity related to issues of causality is the case if a conclusion on a causal relationship between variables holds, if the researchers' observations equal the theoretical ideas developed. To mention here, observational studies, in contrast to experimental research designs, suffer from issues in internal validity as not applying random assignment to treatment groups limits the researcher to know if other factors interfere in the relationship between independent and dependent variable. Of course working hard to identify but being unable to perfectly catch all other possible causes, the analysis must be more tentative in its pronouncement about causality. External validity is dealing with the issue if a study's results can be generalized apart from the particular context of the research. Qualitative methods are mostly concerned with external validity issues what is directly related to the above mentioned issues of the scope to which findings can be generalized beyond social contexts.

To think about is the sample coverage and if there is any bias, what is surely the case for this research because of the sampling techniques, e.g. the snowball sampling, starting with selected organizations and institutions leads, to a certain bias towards members of these organizations and institutions. Furthermore, the following checks are necessary: the capture of the phenomenon what is addressed above when writing about generalisation; identification or labelling is certainly done by categorizing reparations types and identification of the phenomenon by participants; also enough evidence is collected for meaningful interpretation; and the data is displayed transparently and close to the original data. To internal validate findings, in the discussion and conclusions it is checked for the possibility of Spain to be a deviant case that is not to be forced into a category but as an outlier instead aiding understanding and theory development. For external validation method triangulation is applied, meaning comparing data generated by different methods, as such is done with the data collected from the online-survey and the FGs.

The concept of *reliability* basically refers to applying the same procedure several times gives the same results. Under external reliability is understood the degree to which a study can be replicated by other researchers. Fact is that it is impossible to freeze circumstances and social settings and thus reliability might not be applicable in qualitative research or is even not desirable. Internal reliability is concerned with the situation when there is more than one observer, if research team members agree on what they see and hear. In order to address replicability it is necessary to ensure that the research is robust as done here by carrying out internal checks on the quality of data and the interpretations (as e.g. looking for alternative publicly available source, research material, that corroborates or indirectly supports statements of survey respondents and FG participants). And also assure access to the information about the research process. This is provided as the present Chapter clearly explains how it is moved from concept to operationalization, how the sample is selected, how the fieldwork is carried out, how the analysis is done systematically and comprehensively, how efforts are made to create opportunities for all perspectives to be included and that the interpretation is directly based on the empirical evidence. For validation documentation of all steps of the research and conceptual process is provided in the appendix to allow for transparency and so-called 'thick description'⁵⁶ (Bryman, 2008; Ritchie and Lewis, 2003; Kellstedt and Whitten, 2009).

Ethical Considerations

Another aspect of every research process and design are ethical considerations. It is said that a good researcher is maximizing positive outcomes, avoids costs, and deals with everyone in a honest way (Flyod and Fowler, 1993). This implies several things to consider when conducting the research. First, an informed consent to participate is obtained from sample members. This includes an understanding that participation is voluntary. Information about consent is given in the survey introduction and for FG sessions consent forms for video/audio recording were signed. Also, participants were provided with information about the purpose of the study, the funder, the researcher, how the data will be used, and what participation will require of them, subjects to be covered, and the duration of the survey and the focus group.

Second, anonymity meaning the identity of those taking part is not known outside the research

⁵⁶ See for the introduction of the term 'thick description' Lincoln, Y.S. and Guba, E. (1985) *Naturalistic Inquiry*. Beverly Hills, CA: Sage Publications Ltd.

team and confidentiality is assured to avoid the attribution of comments to identify participants. There is a clear confidentiality statement at the beginning of the survey questionnaire and in the FG's consent form confidentiality is ensured. Practical consequences are that respondents were protected by different means, such all people that have access to data signed a confidentiality agreement, names and addresses were not included in public material and contact email addresses are listed separately from the data. For the data analysis ID numbers are given to each survey respondent and focus group participant. During data analysis it is taken care not to make identification of individuals possible when presenting data for small categories of people. Regarding the data storage, it is also taken care of anonym labelling of tapes and transcripts, that the sample is stored separately from data, and only most relevant sampling information is archived (no names and personal contact data from focus group participants). All survey and focus group related information is carefully stored and not used for any other purpose than this research. A third aspect is protecting participants from harm.

The basic guidelines of this research is to make sure that no individual suffers any adverse consequences as a result of the self-administered online-survey or the online focus group discussion. The topic of reparations for victims of past human rights violations might be a sensitive issues as having suffered personally or knowing people that suffered from physical and psychological harm during the authoritarian regime in Spain. Therefore, being asked about the violations might provoke that very personal details of a person's life, its relationships and memories come-up. The topic is clearly indicated and explained in the introduction of the online-survey, likewise this is done in the information email sent out before the focus group discussions took place.

About the issue of victimhood and the violations occurred it is asked through clear questions, to avoid confusing participants and draw them into subjects they do not want to speak about. Also being alert of signs of willingness to continue or not and the possibility to stop the field is indicated in the online-survey, as also mentioned during the FG introduction words. The opportunity to further comment after the end of the focus group sessions is offered, but with carefully avoiding to give advice nor comment in any way. It is assumed there is no risk implied to persons for participating in the study for Spanish citizens. Fourth, protecting researchers from harm is another point to consider. For fieldwork in Spain there is no risk for the researcher assumed, that could stem from travelling to public or private places with

different modes of transport. Also, it is not foreseen that the FG discussion content and dynamic sparks any anger and raises feelings, that cannot be avoided by changing the topic, and thus might cause harm. When conducting the FGs other researchers are informed about venue and dates (Ritchie and Lewis, 2003; Flyod and Fowler, 1993).

5 Chapter V. The Case of Spain

In the aftermath of conducting the empirical study for the case of post-Franco Spain, this Chapter first presents the context and setting the empirics are embedded in. Speaking in terms of the earlier presented analytical framework, the first section of the Chapter draws on the independent variables – set A) *Contextual Dynamics* and set B) *Programmatic Horizon* – by descriptively studying in the first section Spain's historical and political context of repression and the violations of human rights committed during the Franco regime. This is followed by an account of what has been done by the Spanish State since the Transition to democracy, in terms of dealing with the country's past from the viewpoint of transitional justice research. Thereafter the last Chapter section focuses in detail on state-sponsored reparations laws, measures, and initiatives for the victims of Francoist repression, issued in the last forty-five years of Spanish democracy.

5.1 Spain's Repressive Past: The Dictatorship of Francisco Franco (1939-1975) and its Legacy

With a military coup on 18 July 1936 by anti-democratic and anti-communist generals against the government of the Second Republic (1931-1939) the three-year long Spanish Civil War installed. The coup was supported by monarchists, right-wing Republicans, large landowners, Falangists and the Spanish Catholic Church. In September 1936, the strongly anti-liberal, anti-communist, conservative, patriotic and deeply religious general Francisco Franco y Bahamonde was appointed generalissimo and head of government of the 'National Spain' (*el Caudillo*) (Fusi, 1992). On 1 April 1939, the national troops had achieved their final military objectives and the army of the 'Reds' defending the Republic had been captured and disarmed. This day became officially victory day, nevertheless the state of war continued until April 1948 (Tamarit Sumalla, 2013). The victory of the 'Nationalists' marked the beginning of the dictatorship of general Franco that lasted until his death on 20 November 1975.

According to Aróstegui (2012) the coup d'état from 18 July was not the source of new law, but the origin of an oppressive power, legitimized by a kind of conquest right, the right to occupation. The military coup was based on the ideology of the sacred right of rebellion upheld by the Spanish Catholic legal tradition: 'the holy rebellion', against a supposedly plan of a Bolshevik revolution in Spain. Hence, the military coup was seen as a rising (*alzamiento*)

and since it was supported by the Church, the Civil War was legitimated as a 'crusade against communism' to rescue Spain and the world from communism (Boyd, 2008; Eiroa San Francisco, 2012, p.133). In socio-economic terms the uprising maintained the predominance of the traditional oligarchy and an economic system based on the structures of the Ancient Regime.

Franco's political system with its anti-liberal and restorative spirit aiming at the elimination of the project of the Second Republic was based on coercion, violence and practiced the exclusion of a great part of the governed. In his attempt to turn the wheel of the country's history back, various forms of annihilation of the enemy were applied and repression became the fundamental characterization of the regime even if it always pretended to be a state of rule of law. Some scholars speak about 'rule by law' because of its appearance of legality, although it was in fact an authoritarian regime. The regime originally represented an apparatus of systematic destruction of the social forces that had starred in the mobilization of the 1930s and in that sense the repression was widespread and not selective, while over time it became to represent a model of controlled socioeconomic growth controlled by a more selective apparatus and less visible victims.

“The Franco regime is among the political regimes that in a more permanent, systematic, institutionalized and efficient way for their purposes, practised coercion, political violence and exclusion among all those that were instituted as totalitarian power” (Aróstegui, 2012, p.21).

Franco's regime can be considered a special form of governmental system within the European fascist regimes that existed in the 1930s, the time between the World Wars. Dependent on a changing international context the Franco regime evolved from a regime with clear fascist elements towards a classical conservative military-clerical one (Aróstegui, 2012). To distinct from other regimes are its origins that laid in a civil war and its long duration. However, it always showed connotations of being a system *sui generis* as it never claimed to be a fascist regime. After the Second World War the allusions to Nazi-fascist regimes disappeared from Franco's discourse. In December 1937 Franco stated about his plans for the new state in the New York Times:

“(...) it will be similar to the regime of Italy and Germany in that it strengthens the hierarchical principle, exalts the love of the Fatherland, realizes social justice and forms the well-being of the measured and working classes. It will not be a dictatorship, which is not compatible with the desire and aspirations of our nation.” (Carney, 1937, cited in Eiroa San Francisco, 2012, pp.137-138).

The ideology of the regime was characterized by the rejection of democracy and parliamentarianism, a cult of the traditional family, anti-intellectualism, ultraconservative, traditionalist, ultra-nationalist ideas, adapting the different elements of the ideologies from the Falange Española, la Comución Tradicionalista, the Catholics of monarchical orientation and the Asociación Católica Nacional de Propagandistas (Eiroa San Francisco, 2012, p.123). This came along with an exaltation of violence against those who, from their perspectives, embodied anti-Spain and threatened the integrity of the race, patriotism, and the most conservative Catholicism. Eiroa San Francisco (2012, p.146) created a list of Franco's enemies containing the following categories. First, forms of government: Republic, Democracy, Communism, Liberalism; Second, concepts of the marxist theory: struggle of the classes, marxism, materialism; Third, countries: Russia; Fourth, institutions: Freemasonry, Soviets; Fifth, personification of institutions or concepts: freemasons, Bolshevists, communists, Bolshevist materialism; Sixth, culture: encyclopedist, intellectuals, separatism; Seventh, spiritual attitudes: atheism, laicism; Eights, the 'non-national': strangers, internationals.

Hence, not only after the coup d'état repression was seen necessary to maintain control over the society, but also after the Civil War was over (spirit of words from Generals Queipo de Llano and Mola in 1936)⁵⁷ to put an end to the political enemy and to eradicate all the 'evils' of the Republic and its memory (Tamarit Sumalla, 2013). A system of systematic political violence was created. Violence as norm of power based on a permanent use of systematic socio-political repression as an exclusive instrument of power masked by a permanent claim to natural and Christian law. According to Aróstegui:

⁵⁷ See for example General Emilio Mola Vidal stated in July 1936 *“This war has to end with the extermination of the enemies of Spain”*, cited in Preston (2019, p.334).

“(...) the repression, the plan of elimination, and not merely the defeat, of the enemy faced in a civil war, his progressive and persistent annihilation beyond this, was the objective and the most comprehensive characterization that can be attributed to the regime of General Franco during all the time of its existence” (Aróstegui, 2012, p.52).

Due to the support of the fascist regimes and the outcome of the Second World War, Franco's regime was initially internationally isolated. Against the backdrop of the emerging Cold War, the regime was able to work towards its international recognition from the 1950s onwards. In 1953 agreements were concluded with the United States to establish military bases in Spain in exchange for economic and military aid. This development culminated in Spain's admission to the United Nations in 1955.

5.1.1 The Dimensions of the Repression

It goes without saying, that during the Civil War both sides committed grave human rights violations. Nevertheless, the repression under the Franco regime *“was systematic and especially cruel”* and continued after the war, with varying intensity during the nearly four decades enduring dictatorship (Alija-Fernández and Martin-Ortega, 2018, p.53). The violence and repression were most extensive during and immediately after the war up to 1942 and during the 'triennium of terror' (1947-1949). The system of repression was marked by a brutal programme of mass persecution of political opponents between 1936 and 1945 with summary trials and executions. In the aftermath of the war the 'purification' campaign of Spain continued with the repression of any dissidence relying on methods as extrajudicial killings, arbitrary arrests, detentions and mass imprisonment of opponents in concentration camps, prisons and forced labour battalions.

The main objective was not only the physical elimination, but also the removal from power of anyone and anything related to the Second Republic and the eradication from the people's minds of liberal, democratic, socialist and communist ideas. Thus, purges and lustrations of civil servants were carried out, civil and political rights as freedoms of press and assembly were strongly restricted, political parties were banned and their property confiscated. Further, the regime inflicted on the country an official narrative of its own exaltation and a narrative of Franco as the savior of the nation was created (Alija-Fernández and Martin-Ortega, 2018; Tamarit Sumalla, 2013). The logic of the repressive system foresaw initially the characterization of the enemy and the elimination of the most dangerous ones by means of the

summary military trials, this continued by the establishment of a doctrine of guilt and sanctions by the main political laws and the building up of the necessary institutions, the respective tribunals, and finally the execution of the repressive act through the criminal laws and the prison policy. Three main laws formed the basic of the legal system of repression.

The Legal Framework of the Political Repression

The Law of Political Responsibilities of 9 February 1939:⁵⁸ This law declared politically liable those who had assisted or participated in the 'red subversion' prior to the Civil War or resisted the 'National Movement' in the aftermath of the war's outbreak in form of certain acts or obvious passivity (Alija-Fernández and Martín-Ortega, 2018). Álvaro Dueñas highlights that this law, in force until 1966, created “*a diffuse responsibility of almost all Spaniards*” (2012, p.92). The law contained seventeen political crimes, applied retroactively till 1 October 1934. The law contemplated in the first place the opposition to the military uprising, hereby some of the crimes were formulate so generic as for example the wording “*having carried out any other acts aimed at effectively strengthening the anarchic situation in Spain*” (Álvaro Dueñas 2012, p.99). Basically, any person who fought against nationalists was found guilty of crime of military rebellion. It also included some provisions that affected Spaniards in the exile (Álvaro Dueñas 2012, pp.101-104). From February 1939 till 1945 around 400,000 people were investigated under that law. The penalties were of economic nature and persecuting those linked with workers and revolutionary organizations, political parties, trade unions and organizations that supported the Republic. People could be sanctioned twice for the same delict if previously been condemned by a military court and the penalty of economic sanction could be transformed to heirs. This law shows exemplarily the multiplying effects of the repression and its social implications. Since the process often begun automatically or by complaint, the accused could use a lawyer and seek positive reports about conduct. This game of favours can be considered as a non-judicial form of repression that frequently families suffered from, often women, and what led to economic hardship, as also sexual violence towards women (Tamarit Sumalla, 2013).

The Law for the Repression of Freemasonry and Communism of 1 March 1940:⁵⁹ It created a

58 BOE Ley de Responsabilidades Políticas (13.02.1939). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1939-1451>.

59 BOE Ley sobre represión de la masonería y del comunismo. (02.03.1940). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1940-2123>.

Special Court and the penalties that the law established covered a spectrum from longer imprisonment to the seizure of property. Freemasons, independently of other people, were automatically excluded from any public job or position. Investigations and prosecutions lasted until the early 1960s and it was in force until 1963.

The Law of State Security of 29 March 1941 and the revised Criminal Code Law of 24 January 1941:⁶⁰ It introduced a number of new crimes and included long list of crimes against the nation's reputation, security, and unity. Besides crimes as sedition, rebellion and illegal political activities, the possession and use of weapons, insulting national associations and posting illegal advertisements, defending opinions that threatened the unity of Spain, and making attacks on and threats against authorities and officials were included. Also punishing armed robbery and kidnapping with harsh penalties and giving extensive recourse to the death penalty. Additionally, it severely punished abortion and promotion of contraception (Aróstegui, 2012; Álvaro Dueñas, 2012; Stan and Nedelsky, 2013, Tamarit Sumalla, 2013).

Besides these three laws, which functioned as backbone of the repressive system, further legislation facilitated the political repression.

Decree 108 of 13 September 1936 of the 'Junta de la Defensa Nacional': It began the purge of all public employees, the outlawing of political parties and unions and pointed to the legal start of the seizures of property of political opponents, groups and parties as well as individuals. Inter alia seizure of the assets of the Popular Front parties and other organizations opposed to the uprising, the removal of public officials and employees of companies subsidized by the State and the adoption of precautionary measures on all who acted in opposition to the 'National Movement' were justified.⁶¹ As a systematic policy of the New State, seizure of goods and property financially punished adversaries, ranging from farmland to shops or work tools. Affected were people condemned by war tribunals and the ones responsible for harm or damage caused to Spain, thus by these measures the repression was extended to the families, the kids, or the spouse. The civil governors sent circulars to the town halls of each province so that the mayors would comply with the provisions of the decree and provided detailed information on all the assets within their municipality that were the property of the political and union groups declared outside the law.

60 BOE Ley para la seguridad del Estado de 29 de marzo 1941 (11.04.1941). Available at:<https://www.boe.es/buscar/doc.php?id=BOE-A-1941-3408>.

61 See Eiroa San Francisco (2012, p.94) for the full list of affected parties and organizations.

A Decree of 23 September 1939 established that all the rural and urban properties seized by the State and coming from the extinct Marxist and anarchist trade union organizations be handed over to the National delegation of the 'Falange Española Tradicionalista y de las Juntas de Ofensiva Nacional Sindicalista' (FET-JONS) trade unions (Vega Sombría, 2012).

Further, the Law for the Purge of Public Employees of 25 August 1939. Purges happened at all institutional levels with lustration of judges, university lecturers, teachers, and public employees (e.g., Education Department Order of 28 January 1939). According to Vega Sombría (2012), absolutely all teachers were subjected to the debugging process and many were victims of extrajudicial killings. 80 percent of positions in Spain's public institutions were assigned to nationalist veterans and others belonging to the national cause, the 'Nationalist Movement' (Tamarit Sumalla, 2013). The Decree of 5 December 1936, authorized the State Technical Board and other bodies created by the Law of 1 October 1936 to permanently remove from service all public employees of any type and function, considered contrary to the military movement, according to their previous or subsequent conduct to the 'National Movement'. Some estimations speak about more than 200,000 public employees were purged (Vega Sombría, 2012, p.165).

The Decree of concentration of powers in the Head of State, the Union Unity Law and the Press and Printing Law or the Jurisdiction of the Spanish were the adaptations of the doctrine to the practice in the labor, economic and cultural sector (Eiroa San Francisco, 2012, p.159).

In the New Penal Code of 1944 crimes of blasphemy and attempting to abolish the Catholicism as state religion were introduced and the Act of May 1942 introduced crimes of adultery and concubinage or cohabiting without being married. Abortion was punished and could result in the most serious case in prison sentences of twelve to twenty years (Tamarit Sumalla, 2013, p.58).

The legal Decree of 18 April 1947 defined and repressed crimes of banditry and terrorism and the Law of Public Order of 30 July 30 1959 including a list of acts that are contrary to public order, among others, such as threatening the spiritual, national, political, and social unity of Spain or provoking collective strikes and illegal closures or suspensions of companies.

For completeness, to mention is, that in 1969 Franco approved Decree-Law 10 of 31 March prescribing all crimes committed before April 1939 what basically amounted to an amnesty.

State Institutions of Repression (inter alia)

In 1963 the 'Tribunal de Orden Público' (Public Order Court) was created. With this tribunal, which was dissolved only in January 1977, civil jurisdiction gained ground on military jurisdiction in the field of political repression. It criminalized strikes and unauthorized associations and meetings. Its police arm the Political Social Brigade of the Police were the regime's main repressive instrument in the later years (Sagués, 2013, pp.37-38).

The regime established an extensive network of concentration camps, prisons, and labour battalions. Scholars agree that a huge number of people passed through any form of imprisonment in Spain during the war and the post-war period. Whereas the exact number is not known, clear is that it represents the highest number of prisoners in the country's history. Estimated is that closely 500,000 political prisoners during 1936 and 1942 traversed more than 100 concentration camps (other scholars name 180 concentration camps for the timespan 1936-1947)⁶². At the end of the Civil War Spain's prison population was around 270,000 inmates (other authors speak about 280,000), approximately 10,000 were deported to Nazi camps between 1940 and 1945, and other 10,000 are estimated to have died of sickness, hunger, and due to inhumane treatment (Aguilar and Ramírez-Barat, 2014, p.207; Alija-Fernández and Martín-Ortega, 2018). For the after-war period some authors calculate that between 1939 and 1944 around 140,000 persons died in prisons.⁶³ Further, Gómez Bravo names 90,000 prisoners in labour battalions and in disciplinary battalions of worker soldiers around 1940 (2012, p.232). The singularity of the Spanish case manifests itself in the fact that war prisoners had been transferred from the concentration camps to normal prisons and thus passing from being war prisoners to civil prisoners. On 9 October 1945 a total pardon was announced, officially ending imprisonment of the prisoners of war (first revisions of the sentences imposed by the military jurisdiction for crimes related to the military rebellion were announced by Franco only ten month after the end of the Civil War, what was by the regime's propaganda exploited as the Caudillo's generosity). The concentration camp Miranda de Ebro (Burgos) was the last one closed in 1947.

62 For example, see research Javier Rodrigo (2005) *Cautivos. Los campos de concentración en la España franquista (1936-1947)*. Barcelona: Crítica.

63 For example, see Paul Preston (2004) 'Las víctimas del franquismo y los historiadores', in Emilio Silva, Salvador Pancho, Esteban Asunción and Javier Castán (eds.) *La memoria de los olvidados: un debate sobre el silencio de la répresion franquista*. Valladolid: Ámbito, pp. 13-24.

The economic exploitations of prisoners as semi-slave labourers working in the labour battalions (after closing of concentration camps called disciplinary battalions of worker soldiers) for the needs of the State, represented a rich source of capital accumulation especially for the construction companies and contributed to the economic awakening of the country in the 1960s (Tamarit Sumalla, 2013). The prisoners were employed to build public works as dams, canals, prisons, viaducts, railway lines and factories as also monuments as such the 'Valle de los Caídos' (the Valley of the Fallen) being the most prominent one. This monument is a gigantic mausoleum above which a huge cross on the hill looms located near Cuelgamuros in the Sierra de Guadarrama. It was erected between 1940-1958 by the repressed of the Franco regime commemorating the Civil War dead (only the ones that sided with Franco), icon of the dictatorship and tomb of the dictator until his exhumation in 2019 as well as tomb of the executed leader of the Falange José Antonio Primo de Rivera. It houses a huge crypt with the remains of originally 33,847 victims (number from the Expert Commission of 2011, a few had been exhumed meanwhile), from both opposing sides of the Civil War. From 1959 to 1983 remains were moved from mass graves and cemeteries from throughout Spain, whereby the remains of nearly all of the Republican victims were transferred without the approval of the families (Aguilar and Ramírez-Barat, 2014, pp.228-229; El Mundo, 24.09.2019). The use of forced labour was based on the order of 7 October 1938 regulating the use of prisoners as workforce at the price of a pawn. Officially justified was it with an existing social debt for unilateral destructions during war of the Republican side, hence it was said to be fair that prisoners contribute with their workforce to reconstruct the damages caused by their participation in the 'red rebellion'.

The regime pursued a strategy of defamation and therefore did not name those prisoners as political prisoners but attributed to them criminal conduct and later on framed them as common criminals in the regime's propaganda. Also, a considerable number of women were arrested and sentenced to prison, mostly for being married or for being the daughters, girlfriends or simply friends of men fighting on the Republican side. Like men their sentences meant a minimum of six years in prison with the official cause conviction saying 'joining the rebellion'.⁶⁴ Even after the prisoners were released the regime continued with detentions, visits, searches, tension and permanent fear. The released prisoners had to face social rejection, silence, and to hide their past if they wanted to rejoin society and the labour market

64 See for an overview of the crimes and penalties Marco (2012, pp.205-206, p.209).

(Núñez Díaz-Balart, 2012). In all kinds of detention facilities maltreatments resulting in death were frequent and did not imply responsibilities for the perpetrators of any kind. An especially cruel way to systematically reduce the prison population were extrajudicial killings based on the 'escape law'⁶⁵ and the Decree of 24 July 1936 on parole resolution, with those liberties amounted directly to the death sentences. In practice this meant: with the excuse of transferring prisoners from one prison to another or an order of liberty the so-called 'sacas' (taking-outs) took place. A patrol or squad waited for 'released' prisoners at the exit and fired on the allegedly 'escaping' inmates. In the cemeteries the prisoners taken from the prisons were buried without any type of registration of the deceased, besides the victims of firing squads in cemetery walls. Also not registered where victims of executions that took place in any gutter, pine forest, open field or river. As a consequence the lack of official registration of most of the deaths forced the victims' relatives to initiate the slow and complicated judicial process of the declaration of disappearance or death (Gómez Bravo, 2012, pp.230-364).

The Cultural and Social Repression

The cultural repression was based on burning of publications, censorship and the control of information. After the military coup, the focus was set on operations of destruction and seizures of books from individuals and institutions, together with the purification of public and private libraries. This was based on a Decree from December 1936 declaring illegal all types of socialist, communists, liberal, and pornographic publications. Managed were these provisions by the 1937 formed National Delegation of Press and Propaganda and the in April 1937 created Anti-Communist Propaganda and Research Office. Martínez Rus calls these happenings the Spanish 'bibliocausto' (2012, p.368). At the same time, the documentary mass seized from organizations listed as communist facilitated the persecution of its members. Moreover, many librarians, publishers and booksellers suffered from persecution or were shot. There were two types of forbidden books, the ones who were prohibited temporarily, including non-political publications of authors opposing the 'National Movement', and on the other hand the ones who were prohibited permanently, including among other works expressing opinions against the 'National Movement', anti-catholics and masons. In force was also still the prohibition of publications listed in the list called *Index librorum prohibitorum et*

65 Most famous example for the application of the law 'ley de fugas' was the escape of nearly 800 prisoners from the prison Fuerte de San Cristóbal in Pamplona on 22 May 1938. See Alforja, I. (2006) *Fuerte de San Crstóbal, 1938: la gran fuga de las cárceles franquistas (testimonios y documentos)*. Pamplona: Pamiela.

Expurgatorum which was created by the Church in the XVI century. Its last updated index was published in 1948 containing more than 4,000 censored titles. An illustration of the book burns is the library of Pompeu Fabra that was burned on a public square in Badalona. Sometimes the libraries were destroyed by their owners to avoid retaliation. In contrast to the censorship during the dictatorship of Primo de Rivera, Franco's censorship tried to be implacable and very strict. In the postwar years was boosted the proliferation of religious titles as well as those related to the regime's official version of the Civil War (Martínez Rus, 2012, pp.365-415).

The repression suffered by peasants during and after the Civil War affected this societal group more than any other. Overall because all invocations of the Agrarian Reform initiated during the Second Republic were turned back (among others e.g., the Order and the Decree 71 of 28 August 1936). To give an example, in the Province of Granada studies show that 65 percent of the victims of Francoist terror had as main devotion the 'field tasks' and the majority was affiliated with the federation 'Federación Nacional de Trabajadores de la Tierra' (FNTT) (Cobo Romero and Ortega López, 2005, cited in Riesco, 2012, p.430). In short, the misery of the peasants manifested itself in the absolutely conservative recomposition of local powers under the control of civil governments, the control of peasant labour through the Civil Guard, in the annihilation of any vestige of labor parity between employers and workers and in the recourse to civil jurisdiction to condemn the eviction of all those non-proprietary peasants who did not stick to the rules of submission by the New State (Riesco, 2012, pp.416-435).

The Consequences of Institutionalized Repression

Due to the systematically planned and structured repression, the regime achieved two of its great successes: the social demobilization because of fear and imposed terror, and the definitive burial of the Second Republic, thanks to the 'involuntary silence' of its protagonists (Eiroa San Francisco and Egido, 2012, p.364). Equally, Tamarit Sumalla concludes: “*Franco's project of 'social cleaning' enjoyed long-term success*” (2013, p.174). Basic for this was that there was the obligation to report certain moral and political conduct and the necessity of signing guarantees of good conduct for exculpation. Because of fear members of civil society often collaborated. From the beginning the Catholic Church supported the New State as they shared the idea that a salvation of Spain is only possible with a re-catholisation of the fatherland and by recuperating the traditional social order. After the end of the war the

New Regime did not aim for a reconciliation of the Spaniards but applied a strategy of vengeance. Tamarit Sumalla recapitulates “(...) *accepting reconciliation would have implied making sacrifices, giving pardons and recognising blame, all of which were essentially incompatible with the basic nature of the dictatorship*” (2013, p.35).

The legal framework of the Franco regime opened the doors for punishments, detentions without any legal guarantees, torture, imprisonment, executions, fines, professional disqualifications, and depurations. Judicial and police authority were able to act with almost total impunity and arbitrariness. Therefore, executions, arbitrary detention, summary trials before military judges without guarantees and right to appeal were common alike death sentences and torture became routine.

The total number of deaths associated with Francoist repression during the war and after has proven difficult to exactly determine. The total number of fatalities is still not known. The Spanish Government has not yet established official numbers of victims the Civil War and Francoist repression left behind (Aguilar and Ramírez-Barat, 2014, pp.211-213). Scholars' estimations are set around 500,000 to 600,000 total deaths, whereof 'only' around 100,000 to 150,000 people had fallen in combat, while approximately 300,000 to 400,000 people died due to political murder of Francoists between 1936 and 1944 (Bernecker, 2018, p.330). Others estimate 130,000 deaths were caused by Francoist repression, including some 50,000 after the Civil War, and 50,000 by Republican repression (Vega Sombría, 2012, p.164; Aguilar and Ramírez-Barat, 2014, p.207). To this numbers need to be added thousands of fallen in the prisons, hundreds of assassinated in the persecution of the anti-Francoist guerilla, and victims of police torture and during detentions by the Civil Guard or the Police (Vega Sombría, 2012, p.164). Hence, some authors argue that the real number is closer to 150,000⁶⁶ to 200,000 (Foltz, 1948, p.97, cited in Bernecker, 2018, p.331) deaths due to the repression.

Additionally, Alija-Fernández and Martin-Ortega (2018) name more than 130,000 enforced disappearances whereas the Spanish Judge Baltasar Garzón speaks about 114,266 disappearances occurred during the Civil War and Francoism (cited in Aguilar and Ramírez-Barat, 2014, p.232). Furthermore, Aguilar and Ramírez-Barat (2014, p.207) mention that some sources reveal that between 1958 and 1975 the military jurisdiction enforced thirteen

66 For example, see: Espinosa Maestre, F. (2010) *Violencia roja y azul: España, 1936-1950*. Madrid: Crítica. Or Rodrigo, J. (2008) *Hasta la raíz: violencia durante la Guerra Civil y la dictadura franquista*. Madrid: Alianza Editorial.

court-martial death sentences. The British historian Paul Preston names the atrocities and violence committed 'the Spanish Holocaust' because Francoists, in contrast to the Republicans, had a clear goal: the complete annihilation of the political opponent, which also continued in the post-war period.⁶⁷

The first victims of extrajudicial executions in form of shootings were the crowd of grassroots militants of the Republican Union, Republican Left, Juventudes Socialistas Unificadas (JSU), PSOE, Partido Comunista de España (PCE), Unión General de Trabajadores (UGT), Confederación Nacional del Trabajo (CNT), military authorities and the civil governors who defended the Republic, deputies to the Cortes, mayors and councillors of the Popular Front, presidents and managers of the 'Casas del Pueblo', intellectuals and professionals that pronounced in favour of the Republic, as well as anyone from the opposing side who were carrying arms. In non-war zones the Falange carried out the extrajudicial killings and robberies, acting with total impunity (Vega Sombría, 2012). Besides them, many ordinary civilians were persecuted and killed on the reasons to be accused to help the escaped Republicans that were hiding in the hills after the end of the Civil War and later the Maquis, the exiles who started to re-enter Spain after the end of the World War II trying to topple the Franco regime (Encarnación, 2008).

Alija-Fernández and Martin-Ortega conclude that “*this repression disposed those on the losing side [of the Civil War] of their status as victims*” (2018, p.55). During the time of the Franco regime there was a clearly different legal and social treatment between victims of the Civil War as the category of 'victim' was assigned to those who actively sided with or those who showed clear sympathy for the Francoist side since they were considered as the ones 'Caídos por Dios y España' (Fallen for God and for Spain). Remembrance by religious celebrations, political rallies and commemorative plagues was thus only done for the supporters of the 'Nationalist Movement'. Whereas investigating into the atrocities committed took place solely for violations caused by the 'hordas rojas' (red hordes) as such in 1940 the Ministry of Justice created the 'General informative case of criminal acts and other aspects of life in the red zone from 18 July 1936 until liberation' which included a detailed compilation of violent and revolutionary acts committed in the Republican-controlled territory (Tamarit Sumalla, 2013). In an extensive process of inquiry led by Eduardo Aunós the Minister of

⁶⁷ For example, see: Preston, P. (2012) *The Spanish Holocaust: Inquisition and Extermination in Twentieth-Century Spain*. London: Harper Press.

Justice in the Franco Government until the 1960s information on abuses and crimes against people and property during the war in the Republican zone and also any actions taken by the left-wing authorities, supporters, security and armed forces since 1931 were collected.

The Franco regime conducted exhumations of the victims of this 'revolutionary repression' and made the bodies available to their families (e.g., Law of 16 May 1939) (El País, 01.03.2009). At a later time a mausoleum was built in the Valley of the Fallen which was inaugurated on 1 April 1959 (the work started in 1940 and it was constructed with forced labour of Republican prisoners). As mentioned earlier, transferred to the mausoleum and buried were 33,847 corpses (El País, 10.05.2017) including the remains of the repressed that were removed there with or without consent of the families (exact number not known as in the mass grave 12,410 corpses correspond to unidentified remains), from different battle fields of the Civil War (Alija-Fernández and Martín-Ortega, 2018). The families of the fallen from the Nationalist side received special status and reparations while no compensation or pensions were granted to war mutilated widows and orphans of the defeated side (Alija-Fernández and Martín-Ortega, 2018; Aguilar and Ramírez-Barat, 2014).

A further consequence of the repression was forcing citizens into exile. During the war around 30,000 children in the Republican side were sent abroad, many never came back, and at the end of the war hundreds of thousand people were forced to go into exile (Aguilar and Ramírez-Barat, 2014, p.207). Some scholars estimate half a million Spaniards were exiled (Vega Sombría, 2012, p.165). Emigration was not exclusively politically motivated, but also economically, fleeing clandestine from an oppressive political and social environment.⁶⁸

Franco's 'lost children' (*niños perdidos*) reveals another aspect of Francoist repression. It refers to the state policy of the abduction of younger children from 'improper' parents, which was carried out by Francoist organizations (the Falange aid agency El Auxilio Social de Falange) and church institutions.⁶⁹ The practice of taking away children and newborns from 'Republican' mothers in the prisons and giving the stolen children a new identity, was juridically based on the Order of the Ministry of Justice of 30 March 1940 establishing that

68 For example, see Richards, M. (2008) *A Time of Silence. Civil War and the Culture of Repression in Franco's Spain, 1936-1945*. Cambridge: Cambridge University Press.

69 Historian Ricard Vinyes investigated how children were affected by the repression and his book was the first to draw attention on this topic. See Vinyes, R., Armengou, M., and Belis, R. (2003). *Los niños perdidos del franquismo*. Barcelona: DeBolsillo.

children could remain with their mothers in prisons until the age of three, after which the state could remove them from their mother's custody. This was followed by a Governmental Decree of 23 November 1940 that indicated that all children whose parents had been imprisoned, executed or had disappeared would be placed under the guardianship of the state (Decree on Orphans, Protection of those from the Revolution and War) and on Law 4 of 16 December 1941 on registration of repatriated and abandoned children, that allowed the state to change the name of these children. Therefore, the way was paved for thousands of legal but irregular adoptions. How children were affected is not finally counted till today (Druliolle, 2018, pp.80-81). The judge Baltasar Garzón estimated, when he declared himself competent to investigate the crimes of Francoism, that 30,000 children were placed under the guardianship of the Francoist state until 1954 (Garzón, 2008, p.61), while the organization 'Asociación Nacional de Afectados por Adopciones Irregulares' (ANADIR) estimates that 300,000 babies were stolen between 1940 and 1990 in Spain (RTVE.es/AGENCIAS, 08.10.2018).

5.1.2 The Transition to Democracy

With Franco's death on 20 November 1975 the main political actors agreed on a transition of the political system towards democracy. Historians agree that with Franco's death the period of the 'transición democrática' (democratic transition) begun, whereas the endpoint is disputed. Some set the end of the Transition at the date of the first democratic elections on 15 June 1977 or the day when the new Constitution was adopted on 8 December 1978. Others see it in the first election based on the new Constitution in March 1979, while further scholars consider the failed coup d'état from 23 February 1981 or the elections of 1982, with the winner being the Socialists from the PSOE, as the end of the Transition phase. Few go so far to see the accession of Spain to the European Economic Community (EEC) in 1986 as time point the Spanish Transition to democracy came to its end. Moreover, in discussion is a second transition period, that started when the first real steps were made to deal with the past, during the government of the Conservatives (1996-2004) or after the subsequent Socialist government (2004-2011) (Tamarit Sumalla, 2013).

The peculiarity of the Spanish Transition lies in the fact that the political actors not only agreed and were able to agree on a political transition, which should be characterized by compromise and consensus and should avoid a public debate about the dictatorship, but also

in the fact that this took place formally within the legality established by Franco. Thus, there was no break with the authoritarian constitutional law of the Franco regime, whereby a new form of government based on democratic principles was thought to be installed (Bernecke, 2016). The Transition took place in a tense social and political environment since from the 1960s the working class movement became more militant and took on political dimensions. To illustrate, in 1973 strike days had increased by 84 percent in the last decade of the Franco's regime (Maravall, 1982). This was answered by the regime with increased repression in the last years of the dictatorship, with imprisonment of leaders, dismissals and workers laid off without pay as well as executions of radical leftist and anarchist political militants.⁷⁰ Above that, between 1975 and 1980 more than 460 violent deaths for political purposes were registered and about 400 people died in right-wing and left-wing terrorist acts as the spiral of violence and repression even intensified in the first year's after Franco's demise (most prominent is the deadly attack on Prime Minister Carrero Blanco in 1973 by Euskadi Ta Askatasuna (ETA), the terrorist arm of the Basque separatist movement. The years from 1969 onwards can be described as the preliminary phase of the Transition, the state of emergency was declared and Franco appointed Prince Juan Carlos de Borbón, the grandson of the last King Alfonso XIII, as his successor.

Finally, Franco's death did not mean the end of the regime, but it turned out to be a catalyst for reforms within institutional continuity. Between the government and representatives of the old regime as well as the forces of the democratic opposition a rupture with the old political system was agreed, the so-called 'ruptura pactada', which however took place within the framework of the Francoist legislation and its institutions (Bernecker and Collado Seidel, 1993). King Juan Carlos, the new Head of State and Commander of Armed Forces, did not condemn Francoism, but called for reconciliation among Spaniards and announced his support for democratic reform of the country. The King appointed in 1976 the, from the old elites, but reform-minded Adolfo Suárez as Prime Minister. The government proposed in 1976 the Law on Political Reform (Law 1/1977 of 4 January), which was passed by the Francoist institution 'Cortes Generales' and affirmed in a popular referendum with more than 95 percent of approval. This law paved the way for the return and promotion of political and social

⁷⁰ Regarding the last executions of Francoism see for example: Publico.es (27.09.2020) *45 años de los últimos fusilamientos del franquismo, uno de los últimos coletazos más duros del régimen*. Available at: <https://www.publico.es/sociedad/memoria-historica-45-anos-ultimos-fusilamientos-franquismo-ultimos-coletazos-duros-regimen.html> (Accessed 1 October 2020).

groups persecuted by the Franco regime. Democratic reforms included that almost all political parties were legalised and allowed to run for elections, and the 'National Movement' (sole party FET y de las JONS during the regime), and the 'Sindicatos Verticales' (state-controlled labour unions) were dissolved. Political amnesties were granted (partial Amnesty Law 30 July 1976 and Amnesty Law 15 October 1977) with the general amnesty concurrently covering persons condemned by and officials of the Franco regime.

Even if the reform process was seen ambiguously by Spain's traditional democratic parties the PSOE, PCE and the moderate nationalist parties of the Basque Country and Catalonia, they finally participated in the reform process because being aware that the old elites still controlled the military and civil power. This fact gave additional legitimization to the democratization. Elections to a new, democratic and representative parliament with two chambers, the Congress of Deputies and the Senate, took place in June 1977 and afterwards the drafting process of a new Constitution started. With the intention not to continue with the sort of a traditional procedure of imposing a new constitution on political rivals after a successful political change, the Constitution of 1978 was supposed to be built on a consensus supported by a broad majority of Spaniards. In a public referendum on 6 December 1978 a decisive number of 87.8 percent of the 15.8 million voters supported the Constitution and with only 7.8 percent of voters nationwide opposing it, the new Constitution came into force on 29 December 1978 (Maravall, 1982; Christiansen, 2018; Bernecker and Collado Seidel, 1993).

Spain became a parliamentary monarchy. Democratic standards were adopted as including social rights, removing the death penalty, giving jurisdiction over the constitutionality of laws and supervising human rights to the Constitutional Court, and a territorial structure of seventeen Autonomous Communities with varying degrees of autonomy was established (Tamarit Sumalla, 2013). The new Constitution also underlines the spirit of national reconciliation and peaceful coexistence. Preston concludes that the Spanish parliamentary elections on 15 June 1977 ended the Franco regime, but not Francoism, because forty years of brainwashing would have guaranteed the survival of the Francoist attitudes for decades (2019, p.520).

National reconciliation, which came along with the mentioned consensus on leaving the past behind and not reopening old wounds, the so-called 'pacto de silencio' (pact of silence) in

order not to endanger the Transition, was seen as a top priority not only among all democratic political forces, but also the Catholic Church and other social actors (Nohlen and Kölling, 2020). The, historically only partially applicable, basis was the historical-political reinterpretation of the Civil War as a collective misfortune for which both sides are responsible and which now need to be held in abeyance by all sides (Heydemann, 2016). Consequently, the consensus meant that Spaniards could come to widely accepted agreement regarding their history as it seemed necessary to demonstrate to the national and international public that Spaniards can live in peace and that the violence of Spain's contemporary past (with four civil wars between 1833-1936 and many political and social conflicts) would not be repeated.

For many years, the dominant contemporary historical discourse saw the transition to democracy and the socio-political consensus for peace and national reconciliation predominantly positive and often presented it as a role model for other transitions.⁷¹ However, since the end of the nineties there has been increasing criticism⁷² of the fact that socio-political peace and democratization had their political and moral price, because the so much praised consensus was achieved with a silencing of the past and a taboo of the Francoist crimes. The informal agreement among political elites during the Transition to leave the past behind, causes discussions among scholars, some even speaking about a 'pacto de olvido' (pact of forgetting), an active process of collectively ignoring the past.⁷³ In the same way, it is criticized that the amnesty granted, celebrated at that time as an pact of reconciliation among Spaniards, came along with a collective amnesia, which prevented a social and political coming to terms with the past and constitutes a deficit of the current Spanish democracy.

The Spanish historian and sociologist Santos Juliá contradicts the myth of a collective amnesia and declares that the story of silence is false, because it was always without pause and interruptions spoken about the past in Spain, so first publications emerged right after Franco's death. The consensual demand for an amnesty is thus derived from the collective memory of horrors of the Civil War and the Republican defeat (Juliá, 2003). Furthermore,

71 For example see: Linz, J.J. and Stephan, A. (1996) *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*. Baltimore, MD: The Johns Hopkins University Press.

72 For an early critic see for example: Morán, G. (1991) *El Precio de la Transición*. Madrid: Akal.

73 For an account on how the memories of the Civil War impacted the Spanish Transition see for example: Aguilar, P. (1996) *Memoria y olvido de la Guerra Civil española*. Madrid: Alianza Editorial.

scholars question the claim of a peaceful transition showing that it not only failed to provide accountability, but also that it was not such a peaceful transition as it has been often presented.⁷⁴

A few public opinion surveys conducted at the end of the 1970s and in the 1980s indicated great support for the decision to avoid an official reckoning with the past.⁷⁵ The evaluation of the Transition is always related to the different perspectives of people on the Civil War and the post-war period. The war split Spanish society into two camps, the 'victors' and the 'defeated' of which the psychological and in particular the ideological consequences are still felt today. Nohlen and Kölling believe that “*for the sake of the country's democratic future, the past was frozen, it remained unresolved, with the result that the historical 'two Spains' were subliminally upheld*” (2020, p.56). In any case, anti-Francoism could therefore not become the founding myth of the new Spanish democracy (Bernecker, 2016).

To put it in short why the Transition in Spain took place as it did, several reasons can be mentioned. First, at the time of the Transition there was a strong fear felt by the society and the elites alike of returning to civil confrontation resulting from the horror of the Civil War and a desire to base the future on reconciliation because of the existence of certain feelings of guilt with respect to acts of mutual aggression. Second, no pressures were exercised from foreign powers to push national politicians to apply retrospective justice, so no window of opportunity opened for dealing with the past. Third, the probably most decisive factor, the weakness of the democratic forces because the power remained in the hands of Franco's old elites and its institutions. In particular, a coup d'état by sections of the military that opposed political changes was widely feared.

5.2 Dealing with the Past in Spain: A Unique Approach to Transitional Justice?

This section is giving an overview on the debate how Spain, after the Transition to democracy up to nowadays, dealt with the past, attempted and still attempts to come to terms with its legacy of gross human rights violations. The topic of reparations for the victims is touched

74 For example see: Aguilar, P. and Sánchez-Cuenca, I. (2009) 'Terrorist Violence and Popular Mobilization: The Case of the Spanish Transition to Democracy', *Politics&Society*, 37(3), pp. 428-453.

75 For example see: Wert Ortega, J.I. (1985) 'Public Opinion Among the Spanish Population from 1977-1979', in Penniman, H.R. and Mujal-León, E.M. (eds.) *Spain at the Polls*. Durham, NC: Duke University Press, pp. 74-75.

merely superficial as the next Chapter's section will entirely focus on many forms of reparations based on the research project's broad definition encompassing a set of reparative mechanisms consisting of symbolic, material, individual and collective measures. November 2020 marked the 45th anniversary of the death of the Spanish dictator Francisco Franco. But even almost half a century after his death, his shadow still remains over the country.

The controversial discourse about coming to terms with the Francoist crimes and dealing with the four decades of dictatorship in public is far from over. As the highly media-present and partly polemical debate about the exhumation and relocation of the dictator's remains from the mausoleum Valley of the Fallen in October 2019 showed, the topic is coming up again and again in Spanish politics and societal debate. Thus, it can be by no means considered as closed. What has happened in the forty-five years since the peaceful transition to democracy in respect to coming to terms with the country's past, justice for victims and the culture of remembrance? In this respect, Spain is often considered to be a special case compared to other European or Latin American countries with similar dictatorship experiences. Some authors speak of a case of 'late TJ' (Tamarit Sumalla, 2013) while others call Spain a case of 'partial TJ' (Stan and Nedelsky, 2013).

The consensual reform character of the Transition has set the framework for the politics of the past in post-Francoist democratic Spain (Bernecker, 2016). Spain seemed to apply its very own approach on how to transform from dictatorship to democracy. Especially because of the late start of the process of addressing the past and against the background of an amnesty law that is still in force and because measures taken being mainly reduced to symbolic ones, there is also spoken of a 'transition without justice' (Tamarit Sumalla, 2013). Since the beginning of the new century Spain has moved from a consensus among political actors on a forgive and forget principle towards efforts of reparatory justice providing restitution, rehabilitation and compensations to victims, and tackling symbolic measures, however with except to criminal justice. A process that started to grow stronger in the 2000s, under pressure from civil society organizations that were promoting exhumations and left-wing parties, culminated in the 2007 Law on Historical Memory. This law provided for the first time a comprehensive approach and proposed several measures but did not come close to satisfy demands of victim associations. Recent scholars of comparative politics keep on pointing on the failure to provide accountability, in form of truth and justice, during the Transition as well as with the passing of the 2007 Law. Criminal justice has been so far and is absent in Spain till today

(Aguilar and Ramírez-Barat, 2014; Stan and Nedelsky, 2013).

5.2.1 Victimhood

Before addressing the different mechanisms of TJ, that were implemented or not in Spain, the question of for whom truth, justice and reparation is demanded is to be briefly touched. The Franco regime caused many forms of victimisation ranging from deaths to wounded and tortured to psychologically damaged. Also, the multitude of persons who lost their loved ones or do not know the fate of their relatives in cases as such mothers deprived of their children or children deprived of or removed from their parents as well as the ones exiled. Besides the traumas, the bodies of those people remained in mass graves, and their families suffered further repression as such deprivation of property and purges as also loss of job opportunities. This caused economic losses that were transmitted to subsequent generations. Humiliation of the vanquished by the victors included stigma and personal degradation, the denial of status of being Spanish, and discrimination in the enjoyment of benefits of the regime. This was coming along with a persistent climate of intimidation. After the long period of the dictatorship, it results impossible to measure, classify or quantify the social costs of the loss of social foundation and social order (Tamarit Sumalla, 2013, pp.171-184).

Many scholars claim that public discourse in Spain is lacking a recognition of the unbalanced treatment of the defeated and a recognition of their legal rights as victims. The political, social and legal societal structure that proceeded from the Civil War deprived the victims of Francoism of a victim status and up to this day official narratives and the Amnesty Law in force deny them the legal status of victim. The Transition missed the opportunity to provide them legal status and to develop politics of victimhood. Alija-Fernández and Martin-Ortega (2018) argue that this is often accompanied by a refusal to self-define as victim (one the one hand to avoid repression the condition as victim was hidden, on the other hand, those who actively opposed the regime define themselves as fighters for freedom and democracy) and social exclusion through silence. In addition, “*others perception of someone as a victim that deserves recognition*” is seen as equally important (Alija-Fernández and Martin-Ortega, 2018, p.54). Hence, Alija-Fernández and Martin-Ortega point out that there is a need for policies of victimhood considering the social factor of self-censorship, and silence and also victims' vulnerability towards social pressure. In concrete, they suggest a legal definition that legitimates victims' identity and the provision of social recognition to back their struggle

(Alija-Fernández and Martín-Ortega, 2018, p.68).

5.2.2 The Amnesty Law

As starting point for the whole discussion about transitional justice processes in Spain, it is necessary to have a closer look on the highly praised as well as much criticized amnesty laws passed during the Transition period. The amnesties granted after the end of the Franco regime had not been the first ones in the Spanish history. Aguilar and Ramírez-Barat (2014) analyse first transitional justice measures in the period prior to Franco (September 1923 to July 1936). After the end of the dictatorship of Primo de Rivera the first initiative of the Provisional Government of the Republic was to declare amnesty for political prisoners. Article 102 of the Second Republic Constitution of 1931 provided the legal framework for amnesties and pardons, stating that amnesty can exclusively be passed by the Parliament and no general pardons are granted, while the Supreme Court and President could grant individual pardons under particular circumstances. Above that, a special commission for the endowment of political accountability and the prosecution of the former regime was set-up by the Second Republic (Law of 27 August 1931) and later a special Accountability Tribunal was established. An amnesty law was passed for everybody, except the former King, who had been tried by the Responsibility Commission after the parliamentary elections were won by the right, also including anarchist insurgents because of pressure by the left. The Responsibilities Commission was abolished and the rest of the work was delivered to the Supreme Court. After the failed coup d'état of General Sanjurjo in August 1932, he and his followers were imprisoned. Once an amplify coalition of leftist parties, named the Popular Front, did win the general elections in February 1936, in the parliament a general amnesty was passed for all political crimes committed from the 1933 elections onwards. The intention behind was to free the revolutionary miners from the October 1934 strikes in Asturias. Later, only two months after the beginning of the Civil War, Francoist forces passed Decree 109 that granted amnesty to the participants in the coup of General Sanjurjo in 1932 and in the military coup from 18 July 1936.

As soon as the Civil War had ended the Amnesty Law of 23 September 1939 nullified all crimes that had been committed by the victors from 1931 until April 1939. In contrast, all amnesties issued by the Republican authorities during the war were declared null and void by Decree of 30 December 1939. During Francoism pardons and amnesties were governed by

Article 6 of the Organic Law of the State (10 January 1967) that stated that the Head of State possesses the prerogative of clemency. Several pardons were granted, the most known is the pardon issued by Decree of 31 March 1969 passed on the 30th anniversary of the end of the Civil War. Declared was the prescription of all crimes committed prior to 1 April 1939 (Aguilar and Ramírez-Barat, 2014, pp.200-206).

After the death of Franco, issuing an amnesty had been one of the main demands by democratic forces. On Juan Carlos coronation on 25 November 1975 a general pardon to convicts under the Penal Code, the Code of Military Justice and special criminal laws was granted. However, this amnesty was very limited as less than 10 percent of the released had been imprisoned for political reasons. Therefore, political as well as civil society actors demanded a wider amnesty to free all political prisoners. The subsequent step was the Amnesty Decree Law of 30 July 1976 covering crimes of political intentionality if the person has not endangered or injured the life or integrity of persons or the economic patrimony of the Nation. The law was restrictively interpreted by the Judiciary and only around 330 prisoners were released (RTVE.es/EFE, 15.10.2017). Moreover, in January 1977 the 'Tribunal de Orden Público' (Public Order Court), the former instrument to repress dissidents, was dissolved. In May 1977, the Council of Ministers approved the release of a significant number of Basque prisoners that mostly remained in jail because of accusations of terrorism (El País, 10.06.1977).

The first law that was approved by the Parliament, after the democratic elections of 15 June, was the Amnesty Law on 15 October 1977.⁷⁶ This far-reaching law was based on an initiative agreed by the main democratic forces in the parliament (first proposed by the Socialist, Communists, Catalan and Basque groups and joined by the Unión de Centro Democrático (UCD)). Almost all parties supported the act, while the Alianza Popular (AP) abstained, as also some abstentions came from the radical right and small parties from the left. The law provided an amnesty for all criminal actions due to political reasons, whatever their nature or their results, also including murder by terrorist organizations and all crimes committed by public servants of the previous regime. Around 4,000 prisoners could benefit from this amnesty. The intention of the parliament was to promote with this law national reconciliation and leave revengeful transition approaches behind. The decision at that time not to take

⁷⁶ BOE Ley 46/1977 (15.10.1977). Available at: www.boe.es/buscar/pdf/1977/BOE-A-1977-24937consolidado.pdf.

punitive action and fully dismantle Francoism was accompanied by the passing of several reparations policies for the defeated of the Civil War (Tamarit Sumalla, 2013, pp.63-66), what is in detail discussed by the next Chapter's section.

What becomes evident is that this Amnesty Law cannot be considered to be a law for victims because victims, that were not regarded as political prisoners, did not benefit at all from the law. Instead, the amnesty underlined the official narrative of silence and leaving the past behind for the sake of political stability. In contrast, persons that held positions under and obtained political responsibility during the Franco regime benefited from the Amnesty, some scholars argue even more the latter than the ones who directly suffered from the regime's retaliation.⁷⁷ Article 2 e) and f) of the Law contains “*a general clause of amnesty for crimes committed by civil servants and agents of the public order against the enjoyment of human rights*” (Alija-Fernández and Martin-Ortega, 2018, p.59). The UN Human Rights Committee in its fifth periodic review report of Spain from October 2008 warns in its final observations that the crimes against humanity cannot prescribe and that amnesties for serious violations of human rights are not compatible with the International Pact on Civil and Political Rights (IPCPR), thus stating that Spain should consider repealing the 1977 Amnesty Law.⁷⁸

5.2.3 The Special Course of Transitional Justice in Spain

During the Transition, besides the amnesty laws no vetting of officials of the Franco regime and no elimination of the regime's symbols from the public space took place. In the late 1970s family members of Republican victims organized some private exhumations of mass graves, but without any political or technical support and with absence of a scientific protocol. Basically, no attention from media accompanied these exhumations, thus it gave no rise to a public debate (El Diario.es, 06.09.2020). First restorative and reparative measures, as such reintegration of civil servants and military, restitution of property to political parties, recognition of the right to state pensions of Republican heirs, among others, were taken in the 1980s. But these measures did not constitute part of a comprehensive programme of reparations. On the occasion of the 50th anniversary of the outbreak of the Civil War in 1986,

77 For example see: Aguilar, P. (2008) *Políticas de la memoria y memorias de la política*. Madrid: Alianza.

78 CCPR/C/ESP/CO/5 (5 February 2009). Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/ESP/CO/5 (Accessed 5 October 2020).

Prime Minister Felipe González still justified the non-celebration by not reopening old wounds of the war and instead placing the emphasis on reconciliation, because the war is now 'finally history' (El País, 19.07.1986). The ruling socialists “*fell back on the legacy of fear as a result of the war*” (Bernecker, 2016, p.70) and proceeded politically cautiously so as not to endanger the stability of the new democracy. Political elites of all kinds exercised restraint and the vast majority of society also considered it advisable not to talk about the conflicted past.

By the end of the 1990s during the government of the party 'Partido Popular' (PP) under José María Aznar (1996-2004), the first political and civil society debates about the Civil War and Francoism commenced in media, scholars and in the parliament. In wide sections of the population historical-political debates emerged about how to deal with the past criticizing the decades of silence. New research and publications from historians put the Second Republic in different light. Archival research on Francoist repression with statistics showing that the victims of Nationalist repression vastly outnumbered those killed by the Republicans appeared. Also, the issue of the past was addressed in a variety of exhibitions, novels, and concerts. The democratic consolidation made it possible to break with the consensus on the memories of the Civil War and the myth of collective responsibility for it and to re-assign the responsibility of the outbreak to the military uprising against the Republic in July 1936.

There was rising support also among Spanish civil society for a kind of coming to terms with the past, named 'memoria histórica' (historical memory), in the sense of advocating for an alternative reconstruction of the country's past. However, the movement to 'recover' Spain's memory caused discomfort, not only for the perpetrators or their families, but also for nostalgic of the Franco era, and for the broader sectors of society that benefited from the dictatorship over time. This social group had been supported in their attitudes, by a series of polemic authors who called themselves 'revisionists', that the plight of the republican victims is nothing more than exaggeration resulting from a “*sinister conspiracy of politically correct historians*” (Preston, 2019, p.589). Authors of the new critical historiography were vilified by them as liars.

The ruling PP-party presented themselves “*from the beginning in contemporary historical and historical-political questions as administrator of the Francoist legacy*” (Bernecker, 2016, p.264) and insisted that the Civil War represented a phase of Spanish history that had been

overcome. This attitude triggered increased activities in this area among the opposition, so that they repeatedly presented legislative initiatives for the compensation and rehabilitation of various groups of victims. For example, in September 1999, the PP was the only party in Congress to refuse to sign a non-legal proposal that expressly condemned 'the military-fascist coup against the republican legality' for the first time in twenty-two years of Spanish democracy (El País, 15.09.1999). Above that, at the end of the millennium private groups, associations and non-governmental organizations, many of them led by grandchildren of the victims, that strongly campaigned for the rehabilitation of the Republican victims and the recuperation of the silenced memory. Particularly for the locating of remains of the disappeared still buried in mass graves all over Spain by conducting further exhumations. The symbolic power of exhumations gave a drive to historical memory causing not only social acknowledgement of their victimhood, but also a search for truth, justice and reparation. The widely spread images of mass graves containing mutilated bodies showed for the first time to many Spaniards the scope and cruelty of the repression exercised by the Franco regime and thus undermined to some extent the moral authority of the Transition.

In the 2000s, the historical memory movement gained momentum after media attention was drawn on the first exhumation and identification of a cadaver through scientific methods with an archaeological-forensic team relying on DNA-analysis. The exhumation was conducted by the organization 'Asociación para la recuperación de la memoria histórica' (ARMH),⁷⁹ which was founded in 2000 by the already earlier named sociologist and journalist Emilio Silva Barrera after the citizen initiative exhumed in October 2000 in the town of Priaranza del Bierzo (León) the remains of Barrera's grandfather, who was shot by Falangists in the first year of the Civil War, from a mass grave that contained thirteen bodies. Silva Barrera about this movement in an article on elDiario.es in 2019:

“When at the beginning of this century the grandchildren and granddaughters of people disappeared by the repression of the Franco dictatorship began to dig up their grandparents to find out what happened to them, denounce their murder and give them a dignified burial, they were opening in every pit a source of the river of memory, a channel, a powerful flow that could anchor society of a new meaning. Historical memory recovery causes, among many other effects, a change in meanings. That alters society's gaze to its present” (Silva Barrera, 2020, p.193).

79 For more information see ARMH website. Available at: <https://memoriahistorica.org.es/>.

This exhumation provoked a heated debate among historians and politicians. Boyd sees reflected in the emotive name “*recuperation of historical memory*” the depth of the social trauma (Boyd, 2008, p.143). During that time all over the country small associations and groups using the same name and numerous internet-based initiatives emerged. These strong but fragmented grassroots movements developed ties to the left and the nationalist parties. The organization 'Foro por la memoria',⁸⁰ linked to the Spanish communist party PCE, collected information from family members or friends of disappeared and created a database with information. Whereas the 'Aranzadi Scientific Society'⁸¹ from the Basque Country undertook excavations in areas occupied by Francoist forces during the war. The growing civil society organizations in the field of historical memory (the number increased from around 30 to almost 170 between 2003 and 2005) finally achieved to insert the matter of the past in Spain's political agenda. Because at this time point they managed to overcome the weakness of Spanish civil society during the Transition. Civil society has been weak for many years among other reasons due to a lack of democratic culture, long-term consequences of repression and fear. This is considered by scholars as an important difference to the Argentinian and Chilean transitions, where stronger social pressure resulted in greater activism of the State. The initiatives not only shed light on the repressive past and created a public consciousness, but also were taken up especially by leftist parties in the Parliament, as such 'Izquierda Unida' (IU) or 'Esquerra Republicana de Catalunya' (ERC). The political response on the changing perceptions towards the past were also reflected in a storm of books, exhibitions, documentaries on TV and radio programmes, what fostered the integration of historical memory issues into the political agenda.

Academics mention several reasons why in Spain, after the 'pacted Transition' to democracy, ideas of transitional justice emerged with a time-lag of around thirty years after the transition moment. First, many families still did not know the details of what had happened to their missing ones and dead and felt the need to exhume their remains for reburial in their home towns' cemeteries or family graves. Also, in many parts of Spain Francoist symbols and memorials remained present in public since they had not been removed. Further, there was an increasing demand for a revision of sentences and the overturning of legal judgements, as such death sentences passed against political opponents of Franco, reparations were still

80 For more information see Foro por la Memoria website. Available at: <https://www.foroporlamemoria.info/>.

81 For more information see Aranzadi website. Available at: <http://www.aranzadi.eus/>.

partial and insufficient, and the dictatorship still had not been explicitly rejected. Those demands arose because the new generation of Spaniards, the 'grandchildren of the Civil War', not having been directly involved in either the war nor the dictatorship period, felt itself not bound to the commitments of the Transition and did not share the fears of their parents. Wherefore this generation claimed answers and demanded more courageous attitudes from politicians, basing their ideas on principles of universal justice. To illustrate, former Spanish President José Luis Rodríguez Zapatero is a politician from this generation with being the grandson of a Republican army officer executed by Nationalists during the Civil War.

In addition, recent developments in international human rights and criminal law, and the lobbying of international NGOs and multilateral organizations as the UN, the Council of Europe or the European Parliament further pushed the Spanish government to act. Concretely, Amnesty International published in 2005 and 2006 three reports on the situation of the victims of the Civil War and Francoism,⁸² the UN Human Rights Council in 2003 put Spain in the list of countries having cases of enforced or involuntary disappearances and called on Spain in 2008 to revoke the Amnesty Law.⁸³ The Permanent Commission of the Parliamentary Assembly of the Council of Europe, on 17 March 2006, in unison condemned the human rights violations committed by the Franco regime from 1939 to 1975 (based on a report listing executions, torture, political prisoners and other abuses committed by the regime) and urged the Spanish government to investigate violations of human rights and honour its victims.⁸⁴ The majority of political groups in the European Parliament, against the votes of the PP and right-wing representatives from several other countries, expressed on 4 July 2006 their condemnation of the Franco regime 70 years after Franco's coup d'état⁸⁵ (Tamarit Sumalla, 2013; Aguilar and Ramírez-Barat, 2014; Alija-Fernández and Martín-Ortega, 2018).

Moreover, Golob (2008) points on the case of the former Chilean dictator Augusto Pinochet,

82 For example see: Amnesty International Spain (November 2006) '*Victimas de la guerra civil y el franquismo: No hay derecho*'. Available at: <http://www.todoslosnombres.org/content/materiales/amnistia-internacional-victimas-la-guerra-civil-del-franquismo-no-hay-derecho> (Accessed 6 October 2020).

83 See UN Working Group on Enforced or Involuntary Disappearances concludes 69th session (25.04.2003). Available at: <https://newsarchive.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=5957&LangID=E> (Accessed 6 October 2020).

84 See Council of Europe Parliamentary Assembly (17.03.2006). Available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17417> (Accessed 6 October 2020).

85 For the debate see European Parliament Strasbourg (04.07.2006). Available at: <https://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20060704&secondRef=ITEM-004&language=EN> (Accessed 7 October 2020).

who was arrested in London in 1998 after a complaint was brought by the Spanish human rights lawyer Joan Garcés and jurisprudence on universal jurisdiction was assumed by the Spanish Judge Baltasar Garzón. Golob refers here to social movement scholars that would call this the emergence of a 'political opportunity structure', meaning a change in the political setting that boosts the surge of collective action. Moreover, he sees a link between the emergence of historical memory and the 2004 terrorist attacks on the Madrid metro stating that the newly elected Socialist government of José Luis Rodríguez Zapatero (PSOE)

“coming into office under the banner of telling the truth about who had perpetrated the bombings, the (...) government moved quickly to take advantage of the political moment of disjuncture to advance a project redefining Spanish citizenship through policies which resonated with the contours of, and social norms embedded in, transitional justice culture” (Golob, 2008, p.133).

Beyond that, the upcoming important anniversaries of the 25th, 30th and 35th anniversary of Franco's death, the 70th anniversary of the end of the Civil War, and the 75th and 80th anniversaries of the Second Republic's manifesto, might have created a special incentive to deal with the country's conflictive past. Main steps towards a policy of the past are briefly mentioned at this point, whereas provisions containing reparations are discussed in detail by the subsequent Chapter.

On 20 November 2002, Franco's death anniversary, the Spanish Parliament took the decision to officially condemn Francoism. However, it resulted to be a rather symbolic declaration, presented by leftist and socialist parties and passed by the Congress, giving moral acknowledgement to the Civil War victims and the followed repression, but not assigning responsibility for the war to the military uprising of 18 July 1936 and not explicitly condemning the Franco regime. The unanimously approbated declaration states that *“no one could feel legitimated to use violence with the aim of imposing political convictions and establishing totalitarian regimes”* and urges the government *“to develop an integral policy of recognition for those exiled as consequence of the Civil War”*.⁸⁶ An initiative submitted in October 2003 by the Basque party 'Eusko Alkartasuna' (EA) and endorsed by the PSOE, 'Convergencia i Unió' (CiU), 'Coalición Canaria' (CC) and 'Izquierda Unida' (IU), requested *“the government to assist and provide recognition to the victims of the Civil War and the*

⁸⁶ See Congreso de los Diputados (20.11.2002). Available at: www.congreso.es/public_oficiales/L7/CONG/DS/CO/CO_625.PDF (Accessed 6 October 2020).

dictatorship, facilitate the access to the archives containing information about the war, support the exhumation of the remains buried in mass graves and reassess the pensions of the so-called 'children of the war'” (Aguliar and Ramírez-Barat, 2014, p.217). It was opposed, like some others, by the PP majority.

Only after the Socialist government under Rodríguez Zapatero came into office in March 2004 did the government take seriously the issue and lastly addressed it given that the anterior Aznar government had obstructed any work of remembrance. In 2004, a few months after the new president Zapatero took over his first term in office, the Congress approved a non-law proposition requesting the government to conduct a study regarding the rights of the victims of the Civil War and the dictatorship's repression to identify gaps in the legislation. Thus, the government established the so-called 'Inter-ministerial Commission for the Study of the Situation of the Victims of the Civil War and Francoism' with the task to undertake a study, recommend measures to compensate and provide suggestions for the moral and juridical rehabilitation of victims of political repression to the parliament and draft a bill (Royal Decree 1891/2004, Art.2). The Commission was chaired by the vice-president, then María Teresa Fernández de la Vega, and a budget of five million Euros was granted of which a part was to be directed to fund exhumation activities. Setting-up this Commission was a first step to acknowledge a historical debt that the Spanish State owes to its citizens that had been damaged by the military coup 1936 and the consequences.

In July 2006, two reports were presented by the Commission, one of them shedding light on the situation of the victims of the war and the dictatorship,⁸⁷ and the other regarding the situation of the archives. The report recognized the injustice suffered by victims, the need to establish a way of ensuring individualised reparation and compensation, the need to honour and support associations engaged in the task of searching for the truth and recovering the historical memory, to recognize those who were exiled, provide economic aid and reparations through legislative reforms, improve the pensions already granted to the 'war children', and recognize and provide reparation for those who died defending democracy between 1968 and 1977. The report also included a set of proposal to be further developed through a future legal document and presented in a draft law. A long and complex negotiation process between the governing PSOE and the other parties were initiated.

⁸⁷ See Inter-ministerial Commission report (28.07.2006). Available at: www.todoslosnombres.org/sites/default/files/documento7_0.pdf (Accessed 6 October 2020).

On the one side, the PP strongly opposed the draft law, accused the government of breaking with the spirit of reconciliation of the Transition and of utilizing the country's past for political objectives. On the other side, leftist parties, human rights and victim organizations denounced it as being incomplete. Almost two years later the government presented the proposal for a 'Ley de Memoria Histórica'⁸⁸ (Historical Memory Law as abbreviation of the full title 'Law for the recognition and broadening of rights and establishment of measures in favour of those who suffered persecution or violence during the Civil War and the Dictatorship'),⁸⁹ which was an amended version of the original text including some recommendations from the Commission's report. The Congress approved it on 31 October 2007 with the opposition of the PP (they did not vote for the Act in its entirety in the final vote, but did vote in favour of Articles 5, 6, 8, and 9, the ones not so directly linked to the revision of the past) and the ERC (they originally supported it, but at the end rejected it since sentences of Franco regime trials were not declared as null and void) (Alija-Fernández and Martín-Ortega, 2018).

When briefly resuming the provisions of the 2007 'Ley de Memoria Histórica', first and foremost it gets clear that it inherits a forward looking narrative, the Transition's spirit of reconciliation, and it maintained the rule of impunity by not questioning the Amnesty Law. By its promoters the Law was a pending response of the State to its debts due in the last thirty years. However, the law was highly disputed, on the one hand, by victim associations, especially because of the following shortfalls: It did not include an explicit legal definition of 'victims' and the burden to prove the condition relied on the victims, also no official endorsed truth commission was considered to be set up hence no public policy on memory was designed, the identification, location of victims' remains was recognized as the government's duty but at the end the responsibility for the exhumations was subjected to regional authorities or remained by private organizations, reparations continued to be incomplete (e.g., the insufficient acknowledgement of the exiled persons, their suffering and the loss that this represented to the country), and the propositions lacked a real restorative character as they were not grounded on the recognition of the existence of human rights violations instead they were based on a sort of compensatory or equating instrument.

88 For a critic on the term 'memoria histórica' see Juliá, S. (02.06.2006) *Memorias en lugar de memoria*. El País. Available at: https://elpais.com/diario/2006/07/02/domingo/1151811033_850215.html (Accessed 7 October 2020).

89 BOE Ley 52/2007 (26.12.2007). Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2007-22296> (Accessed 7 October 2020).

Further, the law did not meet the demands of civil society to declare the judgments of Franco's military and special courts to be null and void (Gil Gil, 2009). To illustrate, the Supreme Court rejected so far any petitions from victims or families to review sentences from the Francoist times (e.g., the case of Francisco Granados Gata and Joaquín Delgado accused of terrorism and sentenced to death in 1963 or Salvador Puig Antich, member of the Iberian Liberation Movement, who was found guilty of the death of a policeman and sentenced to death in 1974). Despite of the fact that legal scholars and NGOs as Amnesty International⁹⁰ argue that sentences passed during the Civil War and Francoism are in fact mistaken and that the remedies require to declare them null and void, the Law left this issue unsolved (Tamarit Sumalla and Beltrán Montoliu, 2013, p.96). Therefore, the Historical Memory Law remained essentially limited to the symbolic realm (Bernecker, 2016). On the other hand, a few sectors of the society, mostly conservatives and parts of the Catholic Church, rejected the basic messages cause blaming the Law to break the historic consensus the Transition was based on. A more detailed analysis of the Historical Memory Law's provisions is performed by the next Chapter's section.

The Law had some impact on important regional state initiatives and legislation such as the creation of the public unit 'Memorial Democràtic'⁹¹ of the Catalan self-government. Also, in 2009, the Catalan Parliament passed a law obliging regional government to locate and exhume mass graveyards. And a census of the disappeared in form of a public register was created, while already in October 2007 Catalonia had passed the Democracy Memorial Act. Another regional example is the creation of the project 'Todos los Nombres'⁹² and the creation of a Technical Committee for identification of victims and their exhumation in Andalusia. The Basque Country created an Inter-departmental Commission for the location and identification of the disappeared during the Civil War in 2002 and also Galicia created a Council for Memory to prepare recommendations related to historical memory and to function like a channel with civil society organizations.

Some governments of Autonomous Communities contributed to further bolster the historical

90 For example see: Recomendaciones de Amnistía Internacional a las Cortes Generales para una realización efectiva del derecho a la verdad, la justicia y la reparación de las víctimas de la Guerra Civil y el franquismo (08.11.2017).

91 For more information see: <http://memoria.gencat.cat/ca/inici>.

92 For more information see: <http://www.todoslosnombres.org/>.

memory movement with documentaries, research projects or exhibitions and also supported an increasing number of initiatives of symbolic memory in streets, squares, and cemeteries (e.g., the Catalan government created the Memory Spaces Network in 2010,⁹³ the university research project 'La Memoria Recuperada' by the University of Alicante⁹⁴ or the project 'Recuperación de la Memoria Histórica de Extremadura' supported by the Government and the University of Extremadura⁹⁵). Nonetheless, hopes for implementation of the Law were dashed because conservative town councils often refused to finance the exhumations and the Spanish judiciary was unwilling to investigate the fate of the tens of thousands of people who had disappeared (Preston, 2019). Further, it should be noted that for groups and organizations carrying out their work was and still is made difficult due to a lack of state funding, a lack of judicial cooperation, harassment from the authorities and access to archives due to a law from the Franco era that protects state secrets (Law 9/1968). In 2009, the Senate rejected a proposal of an amendment law to the Historical Memory Law of 2007 that proposed to include the provision that the State is the one who investigates the whereabouts of the victims and assumes the exhumations of the graves.

After the PP came into power again in November 2011, the conservative government under Mariano Rajoy (2011-2018) closed the Office of Attention to Victims of Civil War and the Dictatorship. And deleted from the general budget items for the implementation of the Historical Memory Law (for 2012 allocations to support activities related to the recovery of historical memory were reduced by 60 percent and the budget was only devoted to exhumations, thus cutting out complete support to other means like commemorations, tribute or research activities). The general budget of 2013 literally left the Historical Memory Law without funding, consequently victim associations had to conduct exhumations solely with private funds (Aguilar and Ramírez-Barat, 2014, p.241).

At a commemoration act for the victims of the Civil War, in September 2012 in Madrid, Spanish judge Baltasar Garzón requested during a public speech the creation of a truth commission at a national level. This proposal had been followed-up up by several victim

93 Red de Espacios de Memoria de Catalunya (18.02.2010). Available at: <http://memoria.gencat.cat/ca/que-fem/banc-memoria-democratica/fons/xem/> (Accessed 7 October 2020).

94 See for example the research project 'La Memoria Recuperada'. Available at: <https://memoriarecuperada.ua.es/presentacion/proyecto/> (Accessed 9 October 2020).

95 For more information see PREMHEX website. Available at: <https://premhex.es/el-proyecto/> (Accessed 16 October 2020).

organizations forming 2013 a 'Plataforma Comisión de la Verdad'⁹⁶ (a Platform for the Creation of a Truth Commission) (Aguilar and Ramírez-Barat, 2014, pp.211-213, p.241). After his visit to Spain in 2014,⁹⁷ Pablo de Greiff, the UN Special Rapporteur for the promotion of truth, justice, reparation and guarantees of non-repetition, has urged Spain to increase the resources dedicated to the victims of the Civil War and the Franco regime, to annul the Amnesty Law of 1977 so that the crimes can be investigated and to 'reconsider' the Valley of the Fallen. In addition, he recalled the 'outrage' of the victims at the commemorative plaques and insignia of high officials of the dictatorship that remain in the Spanish streets. He also criticized the 'total cut' in subsidies due to the 'reluctance' of the State to assume responsibilities in this matter, the privatization of exhumations and advocated for expanding the coverage of reparations to include victims who have been excluded, such as some categories of prisoners or detainees in concentration camps. The Special Rapporteur also stated his surprise that only 1,576 statements of reparation and personal recognition had been issue so far (El Mundo, 03.02.2014). The final report was presented at the 27th session of the UN Human Rights Council in Geneva in September 2014.

At the same time, a report from the UN Working Group on Forced or Involuntary Disappearances mainly recommended that Spain should give priority to the search for forced disappearances during the Civil War and the Franco regime. The experts criticized that the Historical Memory Law lacks financing and they urged the necessity of a national plan to search for missing persons (La Vanguardia, 12.09.2014). The UN Human Rights Council, in its sessions from 11 to 29 September 2017, reminded observing little progress in the implementation of the recommendations made by the Working Group and the Special Rapporteur after their visits to Spain. Also, recommendations from the Universal Periodic Review of Spain in January 2020 continues to demand the ensuring of the right to the truth, to justice and to reparation, and the guarantee of non-repetition for all the victims of the Civil War and of the dictatorship, also including to investigate the crimes committed in accordance with international law (UN News, 24.01.2020).

Nowadays, 45 years after the end of the dictatorship and 80 years after the end of the Civil

96 For more information see website Plataforma Comisión de la Verdad. Available at: <https://comisionverdadfranquismo.com/> (Accessed 24 October 2020).

97 ONU Consejo de Derechos Humanos, Informe del Relator Especial sobre la promoción de la verdad, la justicia, la reparación y las garantías de no repetición, Pablo de Greiff: Misión a España, A/HRC/27/56/Add.1 (22 Julio 2014). Available at: <https://www.refworld.org/es/docid/543fc3914.html> (Accessed 13 October 2020).

War, the conservative political forces still refuse to take part in coming to terms with the past and are hindering any reappraisal where possible, probably for electoral and political reasons. The PSOE government, retaking office in 2018, have made funds for the Law again available, have initiated the reburial of Franco and have presented a draft for a new memory law, now called Democratic Memory Law, in September 2020.⁹⁸ However, the German historian Walter L. Bernecker claims that “*to this day, coping with war and dictatorship is not a matter of course in the country's political culture*” (2018, p.265).

5.2.4 Trials, Tribunals and Criminal Justice

Criminal justice for crimes committed during the Civil War and the resulting regime of the general Franco had been avoided during the Spanish Transition to democracy. No criminal prosecutions have been brought by judges, prosecutors or political authorities against those who were responsible for crimes attributable to the victors of the Civil War (Tamarit Sumalla and Beltrán Montoliu, 2013). In November 1978, the promotion of the creation of an International Civic Tribunal of Francoist Crimes resulted in the arrest of its promoters (El País, 28.11.1978). The first efforts to start criminal investigation and acquire legal status of victims through judicial recognition were made by the for the application of universal jurisdiction famous Spanish National Court Judge Baltasar Garzón. He took action on 16 October 2008 to start criminal investigations of crimes against humanity committed between 1936 and 1951. The claim promoted by thirteen civil society organizations, the union CNT and various individuals, “*did not seek individual criminal accountability but rather a judicial enquiry over the fate of the missing*” (Alija-Fernández and Martin-Ortega, 2018, p.64).

Garzón declared himself competent to conduct judicial investigations of thousands of disappeared during the Franco regime since the military coup of 17 July 1936 till December 1951 (investigating into 114,266 cases of enforced disappearances occurred during the Civil War and Francoism)⁹⁹, relying on the International Criminal Law framework. Garzón also ordered the exhumation of nineteen mass graves but admitted in his ruling that the exhumations were not be able to be conducted directly under the competence of Garzón's

98 See proposal of the new law: Consejo de Ministros (15.09.2020). Available at: <https://www.lamoncloa.gob.es/consejodeministros/Paginas/enlaces/150920-enlace-memoria.aspx> (Accessed 13 October 2020).

99 JUZGADO CENTRAL DE INSTRUCCION Nº 5 AUDIENCIA NACIONAL (16.10.2008). Available at: https://e00-elmundo.uecdn.es/documentos/2008/10/16/auto_memoria_historica.pdf (Accessed 7 October 2020).

central court but rather falls into the competence of the local courts at the locations where the graves are located (Alija-Fernández and Martín-Ortega, 2018, p.64). However, the Criminal Chamber of the High Court ruled the National Court incompetent to continue the case of the enforced disappeared and decided to declare that the judge Garzón did not have jurisdiction to investigate crimes of the Civil War and the Franco regime, since it is the ordinary courts that are responsible for investigating such cases. At the end, the Supreme Court affirmed the infeasibility of prosecuting the crimes of Francoism, based on the argumentation that the acts were not crimes against humanity when committed, that they are under prescription, and that they are covered by the Amnesty Law.

The decision has been reaffirmed several times and consequently closed the judicial avenue for victims on the domestic level. Above that, two right-wing organizations initiated at the Supreme Court proceedings against the judge Garzón of having knowingly issued an unjust decision. Very important from victims' point of view is that during the trial against Garzón, which claims were later dismissed, for the first time the victims of Francoism could tell their stories before a court. This subsequent prosecution of Garzón demonstrated publicly the limits of the Historical Memory Law of 2007 (Tamarit Sumalla and Beltrán Montoliu, 2013, pp.107-132). The victims then recurred unsuccessfully to the European Court of Human Rights (ECtHR) that declared the complaint inadmissible because the applicants had waited too long with their complaint basing the decision on the principle of due diligence in judicial procedures. In its efforts to achieve a repeal of the Amnesty Law, the Spanish memory movement is guided by international human rights norms and the coming to terms with the dictatorships in Latin America, whereby support was found by the Argentine human rights movement.

Consequently, other complaints were filled in Argentina (Querrela 4591/2010)¹⁰⁰ by relatives of enforced disappeared during or shortly after the war as also political activists, persecuted opponents during late years of the dictatorship. The Judge in Argentina admitted the complaint and subsequently requested international cooperation that resulted in the first instance that a mass grave was opened under authorisation of a Spanish judge in January 2016. Besides that, Spain so far has refused to extradite the accused persons (Alija-Fernández

100 Querrela 4591/2010 nominated 'N.N. por genocidio y/o crímenes de lesa humanidad cometidos en España por la dictadura franquista entre el 17 de julio de 1936, comienzo del golpe cívico militar, y el 15 de junio de 1977, fecha de celebración de las primeras elecciones democráticas' (2010). Available at: <https://www.ceaqua.org/querrela-argentina/> (Accessed 8 October 2020).

and Martin-Ortega, 2018, pp.64-67). In April 2010, the court case against Garzón resulted in another peak in terms of confrontation with the past, with around 60,000 people demonstrating in Madrid and twenty-one other cities in the country against the continuing impunity of the Francoist crimes and in support for Garzón (El País, 25.04.2020). Even though Spain ratified in 2009 the International Convention for the Protection of All Persons from Enforced Disappearance,¹⁰¹ the government still ignores UN-recommendations on the issues of the disappeared and the derogation of the Amnesty Law. And Spain has not signed the Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity which came into force in 1970.¹⁰²

The system of human trafficking, the abduction of minors, and unlawful adoptions, is the only crime of the Franco regime that is being investigated by the Spanish judiciary, though for pure criminality because systematic participation of the state is not clear. In June 2011, the Public Prosecutor's Office announced investigations into 849 cases of alleged 'stolen children' from private and public hospitals, after their birth, all over the national territory from 1950 to 1990 (El Mundo, 17.06.2011). These claims about children separated from their parents in a fraudulent manner are not defined as political crimes with a clear political motivation behind it since the ones considered having been committed for political reasons are covered by the Amnesty Law. In October 2012, a Court sentence made clear that the crime of stealing babies does not prescribe (Aguilar and Ramírez-Barat, 2014, pp.237-238; Antena3, 05.10.2012). To conclude, Brescó de Luna (2019) stresses out that the persistent pressure of the relatives of those who had been affected by the Francoist abuses and the repression during the Civil War and its aftermath, and first and foremost their struggle to locate, identify, exhume and rebury the remains of their family members, had been key in pushing forward a process of truth finding and justice.¹⁰³ Given that, the Constitutional Court has begun to reject the appeals for protection by several of these victims against the dismissals issued by the examining

101 See UN treaties. Available at: https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-16&chapter=4&clang=_en#EndDec (Accessed 8 October 2020).

102 See UN OHCHR. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/WarCrimes.aspx> (Accessed 8 October 2020).

103 For example see the Platform Against Impunity of Francoism available at: <https://plataformacontralaimpunidad.wordpress.com/about/>; Plataforma por la Comisión de la Verdad sobre los Crímenes del Franquismo available at: <https://comisionverdadfranquismo.com/>, CEAQUA available at: <http://www.ceaqua.org/> or human rights organizations as the Asociación Española para el Derecho Internacional de los Derechos Humanos (AEDIDH) available at: <http://aedidh.org/es/> or Rights International Spain available at: <http://www.rightsinternationalspain.org/en/quienes-somos> (Accessed 8 October 2020).

magistrates, based on the doctrine of the Supreme Court, on the grounds that their legal proposals have no constitutional relevance (e.g., occurred to complainants against ex-policemen Pascual Honrado and Antonio González Pacheco alias 'Billy El Niño' for torture and to city councils that have filed criminal complaints in 2016 and 2017 to investigate Franco's crimes committed in their municipalities). Organizations as Trial International and the 'Coordinadora Estatal de Apoyo a la Querrela Argentina' (CEAQUA) denounced the impunity of Francoist crimes before the UN Human Rights Council claiming violations of the International Covenant on Civil and Political Rights, that Spain had ratified in April 1977 before the Amnesty Law was passed (Público.es, 25.08.2019).

5.2.5 Memory Politics

In Spain, the term 'memoria histórica' (historical memory) is commonly used when referring to politics of memory. Martin-Ortega and Alija-Fernández (2015) point on the fact that memory and history are indeed contradictory concept, thus historical memory being a paradox. Memory being a process of both individuals and groups constructing their personal narratives of the past, what supports their identities in the present. Memory is multiple, collective and is a product of active creation not passive inheritance. In contrast, history is based on critical inquiry and on rules of evidence and argumentation. A historian is obliged to study happenings objectively and distance itself from the own subjectivity. In Spain historical memory is tightly linked to the civil society movement for the 'recovery' of the historical memory, emerged around the turn of the last millennium. Grandchildren of missed persons from the Civil War and the post-war period started searching for their ancestors' bodies, advocating for the opening of mass graves and conducting exhumations on their own imitative. Linked to this archaeological aspect, the process of 'recovering historical memory' is meant to break through the historical narrative created by the Franco regime and to create a new official memory. Using this term is also an attempt to break through 'the pact of silence' and to foster a “*renewed process of negotiation over a new shared collective memory*” (Alija-Fernández and Martin-Ortega, 2018, p.62; Martin-Ortega and Alija-Fernández, 2015).

The emergence of a memory movement of Francoism is according to Aguilar and Ramírez-Barat (2019) fundamentally influenced by generational dynamics in Spain. Third as also more and more fourth generations, the grandchildren generation and the great-grandchildren generation of those who experienced the Civil War (not only those from Republican families),

gave the movement for truth, justice and reparation for the victims of Franco regime a drive from the bottom-up. Aguilar and Ramírez-Barat observe that a considerable majority of the Spanish citizenry from the second generation rather believe that the accord to leave the past behind was crucial during the Transition and paved the way for a successful Spanish democracy, whereas a significant part of the third generation thinks that the Spanish democracy is imperfect and would do well to respond to victims' needs as also provide truth and justice. Nevertheless, Aguilar and Ramírez-Barat argue that this grandchildren generation is internally more heterogeneous than other authors have suggested¹⁰⁴ and is “*probably not strong enough to radically change, at least in the short term, the politics of memory in Spain*” (Aguilar and Ramírez-Barat, 2019, p.214). The heavy repression and continual stigma the defeated suffered after the Civil War had long-term consequences on political identities. Not only trauma and fear left psychological traces in many families, but also the social and economic discrimination affected the opportunities of subsequent generations. The veiling of unspeakable secrets is often so much present, that Aguilar and Ramírez-Barat point out that descendants of Republican families inherited the condition of 'victim' (2019, p.218). Even if they do not assume the age effect to be linear, the second generation that has grown up in an authoritarian regime and had present the memoirs of the violent past, clearly prioritised peace and supported a forgetting of the past to prevent another violent conflict.

Also, the second generation meaning the children of those who experienced the Civil War is, when relying on the results of the 2008 CIS-survey, least willing to support the recognition and reparation of victims, while the third and fourth generations, the grand- and great-grandchildren, are shown to be more sensitive to victims' demands and favour reparation. Paradoxically, the second generation has mostly considered the best way to show loyalty to the first generation consists in respecting their silence, while the third generation rather feels that the first generation had been treated unjustly, were thinly compensated and the best way to honour them is to officially acknowledge their suffering and pursue truth and justice (Aguilar and Ramírez-Barat, 2019, p.220). As also other scholars highlighted, the collaboration between different generations strongly contributed to the emergence of the exhumations, judicial and cultural initiatives of historical memory in Spain at the beginning of

104 For example, Renshaw (2011, p.33) considers that “*the condition of postmemory identified amongst the children of the Holocaust survivors*” can be applied to the descendants of the Republican victims of the Spanish Civil War.

And Miñarro and Morandi (2009, p.448) claim that the traumas do not die “*with the generation that directly suffered the experience but are transmitted to their descendants, affecting second, third and fourth generations*”.

the twenty-first century.

Notwithstanding, Aguilar and Ramírez-Barat resume that different generations have different approaches and that generations are not such a homogenous cohort as they are sometimes presented. Besides that, generational change had been crucial in Spain to bring attention to the legacy of the past, however hitherto they could not achieve that truth and justice has been obtained, as crimes of Francoism have not been investigated nor the State has assumed full responsibility for the search of the disappeared. The implementation of memory policies reached its limits because of persistent opposition of large sectors of Spanish society unwilling to “*dig up the past*” (Aguilar and Ramírez-Barat, 2019, p.223). Applying an infrastructural approach to memory politics, Rubin concludes that the reason of so much controversy in Spain about memory politics, is not because of changing narratives of the past, but “*how these institutional, material, and social infrastructures enable and constrain the circulation of past experience and horizons of political expectation*” (2018, p.223). He argues that even after Franco's and the regime's demise the infrastructures of memory perpetuate the power of the dictatorship, thus Spanish democracy continues to be influenced by its precursor regime. In addition, he claims that memory activists would call this an “*ideological', 'psychological', or 'sociological' Francoism that continues to affect the lives of Spaniards*” (2018, p.217).

An illustration how controversial memory politics and narratives of the past are in Spain might be this event: Spain's Royal Academy of History released in 2011 the first edition of its 'Diccionario Biográfico Español' (Spanish biographical dictionary) which caused widespread critics because of its positive portrayal of Franco. The entry on Francisco Franco Bahamonde had been assigned to Luis Suárez Fernández, a historian linked to the Francisco Franco Foundation. Meanwhile the statements that Franco was a 'worthy military man' and that the dictatorship was 'authoritarian' but by no means 'totalitarian' have since been changed. Now he is described as former Head of State and dictator, however the coup d'état of July 1936 continues to be referred to as a 'military movement against the Republic' or as a 'military uprising' and not as a coup. Still completely missing in the entry is a mention of the regime's handling of the defeated of the civil war and the systematic repression and discrimination against them. There is also no mention of Franco's concentration camps, practices of forced labor or on the issue of thousands of Republican bodies still remaining unidentified in mass

graves (Rubin, 2018, p.214).¹⁰⁵

Another example of the controversy memory politics cause in Spain and with which difficulties memory initiatives are confronted on local level, is the presentation of a municipal motion by Unidos Podemos (sponsored by the Forum for the Memory of Guadalajara) to place a plaque at a building which today is located close to what was once a concentration camp, in memory of the prisoners of Francoism in Guadalajara. The motion was rejected in the municipal plenum by the conservative-right wing parties PP, Ciudadanos and Vox. And beyond that was used by Vox to insult the victims, as some sources report (elDiario.es, 29.11.2019).

Beyond that, Martin-Ortega and Alija-Fernández (2015) claim that the 2007 Historical Memory Law considers memory as a merely private issue and gives priority to individual over collective memory. The Law regards memory as a right of individuals to tell their personal stories free of fear without making provisions that individual memories enter public sphere and contribute to build a shared memory of the past. Thus, the Law avoids confronting the official discourse of reconciliation, which is related to the during the Transition from above imposed collective memory of the Civil War as a social tragedy all sides are to blame for. Also, the Law does not offer any framework for the development of a public policy on memory. Given this, Martin-Ortega and Alija-Fernández (2015) argue there should be public support for strategies to incorporate individual testimonies into a more widely accepted collective memory. Protected spaces to share memory are needed to initiate a social process to bargain a collective dimension of memory in order to allow for the society's healing.

5.2.6 Is Spain a Case of Late or Post-Transitional Justice?

The Spanish way of dealing with its past indeed shows some singularities when comparing to other transitions from authoritarian regimes to democracies at that time, in Southern Europe and Latin America, and the measures adopted in the aftermath. Three characteristics can be highlighted:

First, the time with a long-lasting dictatorship (1936-1975) and a long transitional period. Given the fact, that the most serious human rights violations occurred in the early years of the

¹⁰⁵ Real Academia De La Historia, DB online. Available at: <http://dbe.rah.es/biografias/9565/francisco-franco-bahamonde> (Accessed 12 October 2020).

dictatorship, at the time of the 'pacted' Transition, demands for justice were quite moderate. This resulted in a time-lag or prolongation of the 'post-transitional' period coming along with a culture of 'post-transitional justice' politics. This converts Spain into an example that democratization and TJ can operate fully autonomous and that TJ measures might be pursued besides the transition moment (Golob, 2008, p.128). Second, the presence of both symmetric horizontal violence during the Civil War and an asymmetry of victimisation, vertical violence after the war exercised, on the hands of the dictatorship (as an exception could count the guerilla forces Maquis and the terrorism groups such as ETA, Grupos de Resistencia Antifascista Primero de Octubre (GRAPO), Frente Revolucionario Antifascista y Patriota (FRAP), but their actions are not comparable to the systematic repression exercised by the Franco regime over four decades). Third, a smooth and non-violent transition organised within the framework of and by the Francoists institutions so that democracy was not established by revolution or collective activist movement, unlike e.g., in Portugal. That this meant instead of a break continuity with old elites keeping a significant degree of power similarly, manifested the weakness of democratic forces. This was upheld by a consensus of basically all democratic forces which is reflected in the new Constitution and became the 'founding myth' of the Spanish democracy as well as a society that favoured a peaceful and non-violent transition supporting the credo of reconciliation and silencing the past (Tamarit Sumalla, 2013).

These peculiarities of the Spanish case resulted, on the one hand, in the persistence of, as Tamarit Sumalla calls it, “a 'sugar-coated' and even positive image of Francoist dictatorship” (2013, p.26) and, on the other hand, as Golob sums up:

“Keeping individual memory out of the public sphere and collective memory in the 'deep freeze' was widely viewed as the formula which produced the Spanish success story: reconciliation without truth, transition without transitional justice” (2008, p.127).

Some scholars further argue that the Transition failed to foster a process of political and social reconciliation, given that State institutions have demonstrated little support for the recovery of the historical memory and civil society organizations have received little official support. Thus, continuously creating a necessity to reopen old wounds.¹⁰⁶ As being a precondition and

106 For example see: Gallego Margaleff, F.J. (2008) *El mito de la transición. La crisis del franquismo y los orígenes de la democracia*. Barcelona: Crítica.

requirement to achieve justice for victims, authors claim that a truth commission to investigate historical events, as such what led to the war, to establish the role and moral responsibility of organizations, institutions and individuals of the repression and identify the ones who opposed the violence and the regime, has not been considered by political parties nor strongly demanded by victim organizations. This being a crucial deficiency of the Spanish TJ process (Gil Gil, 2009). Furthermore, academics raise the fact that Spain contemplates a transition without justice since criminal proceedings had been avoided, therefore the country being situated in a permanent state of transition. Tamarit Sumalla, when comparing the Spanish transition to the transitions in Greece and Portugal is summarizing that “*Spain was the only case in which a decision was taken to avoid transitional justice. This sometimes has been praised, but never copied*” (2013, p.2).

Regarding reparations first measures were taken during the Transition and enhanced with the Historical Memory Law of 2007. Above that, the law acknowledges a right to memory for victims, the social and public validation of their memories as well as is aimed towards a broader societal inclusion of Francoist victims. In addition, the memory law was setting up a narrative of transitional justice culture, re-framing the historical discourse and proposing a new narrative in which those who suffered are regarded as both victims and defenders of a legitimate cause (Violi, 2015, p.129). At the same time, the law represents a lost opportunity for prioritizing state accountability, finding the truth and to investigate the massive human rights violations of Francoism. Consequently, victims and their descendants continue to demand truth, justice, and reparation from the Spanish State. Notwithstanding that Golob believes that the Historical Memory Law's main legacy was the “*defrosting of Spain's past*” (2008, p.138), the memory of past trauma keeps on being highly controversial. Nohlen and Kölling using the same metaphor of the frozen past, state that “*for the sake of the country's democratic future*” the past had remained 'unresolved', though they conclude from this that the “*historical 'two Spain' were subliminally maintained*” (2020, p.56). Attributing this to the fact that the politics of dealing with the past were not used to seek for a common base, but rather for current party-political interests resulting in the country being anew typified by political polarization (Nohlen and Kölling, 2020, p.57).

Similarly, Kühn (2012) observes a return of 'the two Spain' in almost all areas of social coexistence and speaks of a new edition of the historical conflict with unprecedented quality and intensity. Since Aznar's time in office, when it became known that the conservative ruling

party had granted subsidies to the 'Fundación Nacional Francisco Franco' (FNFF), the politics of remembrance had been “*established as a regular line of conflict in party-political competition*” (Kühn, 2012, p.23). According to his findings, the main reason for the rise in attention during the last decade consists in a political instrumentalisation of the past in which politics of the past have substituted other central political questions in the party-political competition. To add is an aspect recently raised by Preston, that the 'endemic' problem of the corruption of politicians of all colours and the lack of a clear separation between the political elite and the judiciary are consequences of Francoism and as long as these issues are not resolved, society and Spanish politics will remain divided (Preston, 2019, p.607).

5.3 Reparations for Franco's Victims: Laws, Measures and Initiatives

Since reparations are at the centre of attention of this thesis, in the following section it is further examined what kind of measures the Spanish State has adopted since the Transition in terms of victim reparations. Crucial is, that a deeper view is taken on reparations laws, initiatives, and measures implemented by the government in place and not by civil society organizations or individuals¹⁰⁷ because the research's aim is to analyse state-sponsored measures addressed to the victims of the Franco regime. When process tracing the emergence of reparations since the Transition to democracy until today, it becomes evident that Spain has so far not implemented a comprehensive 'reparations programme' according to the earlier introduced definition of De Greiff (see Subchapter 2.3) because there is no visible coordinated set of reparative measures with no intention of a massive coverage encompassing all kinds of victims. In the subsequent an attempt is made to reconstruct the chronological trajectory of material, symbolic, individual, and collective reparative measures that were directed to victims of the Civil War and the dictatorship and were implemented by the Spanish State since Franco's demise in November 1975.¹⁰⁸ The focus is set on the national state level as it

107 As mentioned earlier there is a variety of civil society groups, platforms, networks, associations, foundations and some university research projects dealing with victim reparations, especially in respect to efforts to identify and search for the disappeared and exhumations of mass graves as well as carrying out tribute acts of commemoration, often organised regional or locally.

108 Presented is not a complete and exhaustive list of all legislative initiatives and measures, rather it is an overview of the most crucial ones. See for the main legislation e.g. the Consejo Superior de Investigaciones Científicas (CSIC) research project available at: <http://www.proyectos.cchs.csic.es/transitionaljustice/content/spain> (Accessed 9 October 2020). And the ARMH website available at: <https://memoriahistorica.org.es/2-2-pensiones-e-indemnizaciones/> (Accessed 9 October 2020).

would be impossible within this thesis to trace all the different laws and initiatives undertaken by the governments of the Autonomous Communities, given that on regional level quite a lot has been done to reckon with the past in some regions as the Basque Country, Navarra, or Catalonia.

5.3.1 Early Reparations Efforts

Transitional justice scholars argue that even if during the first twenty-five years of democracy (1977 to 2000) different laws on reparations were passed to economically compensate victims of the repressive past and correct a few injustices of Francoism. These reparative measures were of only a very limited, timid and fragmentary nature. Certainly, the measures taken were unstructured and did not constitute part of a broader comprehensive and coherent policy directed to deal with past legacies. Beyond that, these early reparations efforts were certainly not aimed to establish the truth nor to obtain justice (Aguilar and Ramírez-Barat, 2019). The idea to provide any kind of reparations to victims of Francoist repression was on the agenda directly after Franco's death. The first measures dealt with compensating the victims of the Civil War, that were given unequal discriminatory treatment and thus not repaired during the Franco regime. Victims of the dictatorship that followed the war, were subject of reparations laws only from the 1990 onwards (Tamarit Sumalla, 2013, pp.68-74; Aguilar and Ramírez-Barat, 2014, pp. 208-211, 2019).

Rehabilitation and Compensation of Civil War Victims

On 5 December 1975 Decree 3357/1975¹⁰⁹ was passed on the revision and nullification of administrative sanctions established by the Decree of 10 February 1939, on the purging of officials, imposed by the government of the rebelling Francoist forces (Decree 840/1976¹¹⁰ of March 18, extending the effects of the Decree of 5 December 5 1975 to the officials of Corporations and Public Service Concessionary Companies). Other initial measures aiming for the rehabilitation of civil rights, were reinstating public servants and military personnel who had been affected by sanctions because of their opposition to the regime, as such Royal Decree of 2 June 1977¹¹¹ which reinstated teachers of public schools that had been expelled

109 BOE (05.12.1975). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1975-26549>.

110 BOE (18.03.1976). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1976-8643>.

111 BOE (02.06.1977). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1977-15125>.

from their profession by the Decree of 10 February 1939.

In a second step, privileges of the public officials of Franco regime were extended to those who had served the Republic. The Decree of 5 March 1976¹¹² entitled the war wounded and in consequence disabled from the Republican side for the first time to receive pensions for their mutilations received during the Civil War (this Decree was completed with Royal Decree 3025/1976 of 23 December). The Royal Decree of 6 March 1978¹¹³ granted retirement pensions to members of the Military and to the Republican Forces of Public Order who served as such already before the coup in 1936 and took part in the Civil War (later on complemented and developed by Defence Ministry Order 13 April 1978, Royal Decree Law 46/1978 of 21 December, and Law 10/1980 from 14 March modifying the 6 March 1978 Decree). Royal Degree 1081/1978¹¹⁴ passed on 2 May 1978 regulated the application of amnesty to public servants of the Generalitat, the Catalan autonomous government (Aguilar and Ramírez-Barat, 2014).

Further, the Royal Decree Law 35/1978¹¹⁵ from 16 November granted pensions to relatives of Spaniards who died because of the Civil War from 1936 to 1939. In concrete, it was aimed to families their relatives had died as a result of war actions or as a result of the wounds in campaign in the Civil War and to those it had not been recognized to date. That is, to the relatives of the victims of those who were part of the Republican army, either in regular units or in voluntary militias. With the same purpose and scope of application the Royal Decree-Law 43/1978,¹¹⁶ of 21 December, which recognized economic benefits to those who suffered injuries and mutilations in the Spanish Civil War amplified the benefits.

Also, on 21 December Royal Decree-Law 44/1978¹¹⁷ was approved to extend an amnesty to the officials of the Judiciary who suffered purges during the dictatorship stating that personnel who, having held in Courts and Tribunals the positions or functions of an Officer, Auxiliary or Sheriff, and who were purged from the service for political reasons or because of a

112 BOE (05.03.1976). Available at: <http://www.boe.es/boe/dias/1976/04/07/pdfs/A06967-06982.pdf>.

113 BOE (06.03.1978). Available at: <http://www.boe.es/boe/dias/1978/03/07/pdfs/A05384-05384.pdf>.

114 BOE (02.05.1978). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1978-13668>.

115 BOE (16.11.1978). Available at: <http://www.boe.es/boe/dias/1978/11/18/pdfs/A26245-26246.pdf>.

116 BOE (22.12.1978). Available at: <http://www.boe.es/boe/dias/1978/12/22/pdfs/A28932-28933.pdf>.

117 BOE (21.12.1978). Available at: <https://boe.vlex.es/vid/auxiliar-separados-hechos-motivaciones-255476874>.

condemnatory sentence, could request from the Ministry of Justice, within one year, the incorporation into the current Corps of Officers, Auxiliaries or Agents of the Administration of Justice.

Law of 18 September 5/1979¹¹⁸ provided pensions, medical-pharmaceutical assistance and social support to the widows, children, and other family members of those who had died as a consequence of the Civil War (size of pensions updated by Law no. 26 of 23 December 2009). However, this law did not recognize the right to a pension for family members of those who had been extrajudicially executed, or those who had been victims of enforced disappearance, or those who had died in prison or in police stations as a result of the subsequent repression during the Franco regime (later on the Historical Memory Law of 2007 overcame this limitation, although without applying retroactive effects to the pensions recognized from this extension of assumptions, since it has economic effects as of 1 January 2008). Further, Law 35/1980¹¹⁹ of 26 June established pensions for the mutilated ex-combatants of the Republican zone (amount updated Law no. 26 December 23rd 2009). This Law seeks to achieve greater equality in the legal regime applicable to the military, combatants and relatives, regardless of whether they fought in defence of the Republic or on the revolting side.

Other reparations laws passed during the 80s were the 8 June 18/1984 Law¹²⁰ formally acknowledging years spent in prison, for causes included in the provisions of the 1977 Amnesty Law, as contributions to Social Security meaning that prison terms are considered as periods of situation assimilated to that of registration in the general Social Security system. Law Ley 37/1984¹²¹ of 22 October awarded pensions and assistance to people who had served in the Republican Army, including those that were not professional soldiers. It granted these people the same legal rights as other military personnel had at that time, referring only to the time of the Civil War. Also, the December 1986 Law 24/1986¹²² allowed for the rehabilitation of professional members of the military who were convicted under Francoism and regained their rights of reincorporation into the army. Whereby dissident military servicemen of the Francoist army could not return to their posts under the terms of the Amnesty Act of 1977

118 BOE (18.09.1979). Available at: <http://www.boe.es/boe/dias/1979/09/28/pdfs/A22605-22606.pdf>.

119 BOE (26.06.1980). Available at: <http://www.boe.es/buscar/pdf/1980/BOE-A-1980-14756-consolidado.pdf>.

120 BOE (08.06.1984). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1984-13156>.

121 BOE (22.10.1984). Available at: <https://www.boe.es/eli/es/l/1984/10/22/37>.

122 BOE (24.12.1986). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1986-33753>.

(Aguilar and Ramírez-Barat, 2014).

Initial Symbolic Steps

A few symbolic acts were taken by the early 1980s with the withdrawal of the national flag with Franco's coat of arms, coins, and stamps featuring Franco and other authoritarian symbols (see e.g., Law of the Flag 39/1981). A symbolic act of generally memorizing victims of the war, was the re-inauguration of the Monument to the Fallen for Spain, known as the 'Obelisco', a monument in Madrid located at 'Plaza de la Lealtad', originally devoted to the heroes of the Peninsular War. In November 1985 it was re-inaugurated by King Juan Carlos I as a memorial to all those who gave their life for Spain, including those that died in other conflicts. Above that, restitution of property was done first to trade unions, approved by Law 4/1986¹²³ of 8 January on the transfer of accumulated trade union assets. However, this law did not recognize the need to repair injustice caused by illegitimate decisions under the previous regime.

Up to this time, several groups of victims had received compensation and payments from the State, but deficiencies persisted in respect to moral reparations since no declaration was made on the injustices that had occurred or on the responsibility of the regime for the harms. Also, in material terms not addressed had been so far the harm and suffering of people who fought for the establishment of a democratic system, nor for those who had been tortured or died for political reasons during the period of the dictatorship and not the Civil War. Legally considered was the period of the Franco regime, the dictatorship, only from the 1990s onwards.

First Compensation for the Victims of the Dictatorship

For the first time monetary compensation was granted in June 1990 by Law 4/1990¹²⁴ (State General Budget Law) which awarded limited monetary reparation to those who suffered imprisonment for political reasons. It was implemented through an additional disposition included in the State's legal budget. This one-off payment was granted for people that had been three or more years subjected to deprivation of liberty in prisons or disciplinary battalions and completed 60 year of age within the year of 1990 (for three or more years

123 BOE (08.02.1986). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1986-905>.

124 BOE (29.06.1990). Available at: <http://www.boe.es/buscar/pdf/1990/BOE-A-1990-15347-consolidado.pdf>

6,010.12 Euros were granted and for every additional full three years 1,202.02 Euros). In case the person had already died the spouse was able to receive the payment. In cases of persons having suffered deprivation of liberty for less than three years but had been sentenced to death and the penalty actually had been executed, the surviving spouse was eligible to a compensation of 9,616.18 Euros. The discrimination that occurs with respect to those who had not reached the aforementioned age was appealed to the Constitutional Court. The Court rejected the appeal in its Judgment 361/1993 of December 3 based on the criterion of the limitation of public spending and available resources.

The Law 43/1998¹²⁵ from December 15 (modification by Law 50/2007 of 26 December) provided compensation or restitution to political parties of seized property and rights in application of the regulations on political responsibilities of the period 1936 to 1939. The law only considered political parties no other organizations, entities or individuals. Returning the property of the political parties confiscated by the victors of the Civil War took twelve years to be resolved. However, different to the 1986 Law for the return of patrimony to the trade unions, this Act recognized the need to repair the injustice caused by illegitimate decisions and accepted that an unfair law had been operational under the previous regime. Injustices and discrimination in respect to restitution of property to private owners and non-political actors nevertheless is still an existent issue.¹²⁶

Recognizing the Victims of the Dictatorship

One of the first symbolic gestures, was an institutional declaration¹²⁷ approved in November 1990 by the Congress of Deputies on the 50th anniversary of death in the French exile of Manuel Azaña, former President of the Second Republic, to receive institutional homage. In January Royal Degree-Law 39/1996¹²⁸ was passed awarding former combatants of the International Brigades the Spanish nationality. On the occasion of the law a commemoration act with 300 'brigadist' veterans was organised in the Congress of the Deputies in November 1996 (only some members of the PP party did attend the event) (El País, 07.11.1996).

125 BOE (15.12.1998). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1998-28993>.

126 In absence of any legislation some decisions of recovery of property for private individuals and entities had been initiated by the Supreme Court, see Tamarit Sumalla (2013, p.71).

127 See Congreso de los Diputados (26.11.1990). Available at: http://www.congreso.es/public_oficiales/L4/CONG/BOCG/E/E_102.PDF.

128 See BOE (19.01.1996). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1996-5091>.

Dealing with the Past in Education

Looking behind the more 'classical' forms of reparations (often subsumed under guarantees of non-repetition), in view of the narrative of the Spanish past, crucial to analyse is also how history school textbooks portrayed and portray the country's past, as done by Byod (2008). After the Transition when centralized state control was abandoned, the history textbooks presented more variety of ideological perspectives on the Spanish past. However, clearly reflected was the commitment to the consensus of the Transition, mostly “*registered the hegemonic memory of the Civil War as a fratricidal tragedy and remained silent on events whose recollection might serve to revive the profound conflicts that had led to war in 1936*” (Byod, 2008, pp.138). The Republic, Civil War, and dictatorship was placed in the broader context of a “*difficult modernization*” with emphasis on the political and social conflicts caused by economic transformation (Byod, 2008, pp.138). None withstanding books differently evaluated the reforms of the Second Republics, basically all texts transmitted the dominant historical memory of the 1930s as a time when the political centre was overpowered by left and right extremists. Thus, the “*failure of mutual respect, the absence of a 'democratic culture' and the resulting disorder led first to military intervention and then to war*” (Byod, 2008, p.138). Basically, the textbooks created a memory of democratic failure with simultaneously silencing the memory of authoritarianism. The silence with respect to political violence, underlined the assumption both sides were responsible for the war.

In October 1990, the educational reform law LOGSE (Ley Orgánica de Ordenación General del Sistema Educativo de España)¹²⁹ was passed under the Socialist government. The new textbooks for the first time broke with the consensus of the Transition and the silence on the violence Spaniards committed against each other, explaining “*the origins, evolution, and significance of the dictatorship in terms of the relations of power in Spanish society*” in the past and also nowadays (Boyd, 2008, p.139). Nevertheless, books edited by conservative publishers stucked to the “*myth of the war as a 'collective tragedy' in which moral culpability was evenly distributed*”, while rather leftist publishing houses abandoned that in favour of an honest account of the rebellion by the military and making comparisons of political violence committed during the war by each side (Boyd, 2008, p.139). The account of the dictatorship varied as well since progressive texts centred around the post-war repression, whereas

129 BOE (03.10.1990). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1990-24172>.

conservative texts placed emphasize on economic and social progress in the second half of the Franco regime. Regional editions of the textbooks distributed to the different Autonomous Communities added information on the local experience of larger historical process. In some extreme examples, books from regional publishers subordinated the history of the 'Spanish State' to the history of region or national community denouncing the centralized Spanish State for continuously repressing and victimizing Catalan and Basque peoples.

Boyd concludes that after the passage of the LOGSE most history books prioritized historical knowledge over myth creation and historical disassociation over didactic. Even if selective and divergent interpretations of the past were offered, scholarly standards of objective analysis and argument were clearly upheld. Further, Boyd states that “*in revising the historical memory of the war to include its forgotten victims, they helped close the chasm that during the dictatorship divided individual memories from official memory*” (Boyd, 2008, p.140). Some changes had been made, as for example Royal Decree 1467/2007¹³⁰ establishing the structure of the Baccalaureate. Regulating for secondary schools the curriculum for the subject history of Spain, students are asked to examine the factors that contributed to the start of the Civil War, whereas the period of the dictatorship is rather presented as economic history and most textbooks do not refer to the systematic repression of the Franco regime (Stan and Nedelsky, 2013). Till today nearly completely missing in textbooks is the role of the Spanish Catholic Church in the repression, the struggle of the guerillas the Maquis in the post-war period, women in the anti-Francoist resistance movements as well as all the current work of the movement for the recovery of historical memory. In secondary school, students might come across the topic of the dictatorship, while only in the second high school class (*bachillerato*) meaning with seventeen or eighteen years the topic is really treated in class (Público.es, 18.10.2019).

5.3.2 The Path Towards the Historical Memory Law

The turn of the century brought movement in Spain's TJ politics, especially in the symbolic reparations sphere of dealing with the victims of the country's dictatorial past.

Rehabilitation and Recognition Endeavours

In May 2001, the Congress of Deputies approved a motion to morally rehabilitate the Maquis,

¹³⁰ BOE (02.11.2007). Available at: <https://www.boe.es/buscar/pdf/2007/BOE-A-2007-19184-consolidado.pdf>.

the isolated guerrilla groups that after the Civil War fought against Franco, by purging from their records the terms 'bandoleros' (bandits) and 'malhecheros' (malefactors), thus erasing the qualification as common criminals (El País, 17.05.2001).

After several years of various proposals, the governing party acclaimed a resolution condemning the military uprising against the legality of the Republic in 1936, after the ruling PP party decided to present their own motion, that was then supported by the other parties. On 20 November 2002, the day of Franco's and the founder of the Falange José Antonio Primo de Rivera deaths a Declaration from the Congress of the Deputies condemned the military uprising of 18 July 1936 (El País, 21.11.2002). Nevertheless, it resulted to be a rather symbolic declaration giving moral recognition to the victims of the Civil War and the followed repression, but not assigning responsibility for the war and not explicitly condemning the Franco regime. The unanimously approved declaration stated very generally that *“no one could feel legitimated to use violence with the aim of imposing political convictions and establishing totalitarian regimes”* and urged the government *“to develop an integral policy of recognition for those exiled as consequence of the Civil War”*.¹³¹

On 1 December 2003, enclosed to the commemoration of the 25th anniversary of the Spanish Constitution, the Congress organised on 1 December 2003 an act of tribute to the victims of the dictatorship, handing over to representatives of groups who suffered the repression of the Regime certificates recognising their role in the 'battle for freedom'. This homage was not endorsed by the governing PP of José María Aznar (Aguilar and Ramírez-Barat, 2014; El País, 01.12.2003; The Guardian, 01.12.2003).

After the newly elected Socialist President José Luis Rodríguez Zapatero took office in April 2004, he paid as the first Spanish President in December a visit to the Republican 'children of the war' in Moscow (again in May 2005) (El Mundo, 09.05.2005). And in May 2005 Zapatero visited the Mauthausen concentration camp in Austria where he met with survivors of the more than 10, 000 Spaniards who had crossed the camp (of whom only a quarter survived) till their liberation in 1945, most of them fleeing Republicans (Golob, 2008; El País, 08.05.2005).

On 1 June 2004, the Congress approved a non-legislative proposal on the recognition of the victims of the Civil War and the Franco regime that urged the government among other things

131 See Congreso de los Diputados (20.11.2002). Available at: www.congreso.es/public_oficiales/L7/CONG/DS/CO/CO_625.PDF (Accessed 6 October 2020).

to carry out a study on the damages caused by the conflict and the subsequent repression of the dictatorship, to study the rights that had been recognized so far by national and regional legislation and to make proposals for moral reparation. Also urging the government to submit to Congress a bill of solidarity with those people who suffered personal injury in the exercise of fundamental rights and public freedoms prohibited by the Franco regime, pay them a tribute of recognition and justice and establish financial aid. Further, the proposal urged to establish financial compensation for those who died in a violent manner at the time of the transition to democracy, to be paid only once, when the causal event occurred between 1 January 1968 and 6 October 1977. Some weeks later the Council of Ministers entrusted the First Vice President of the Government and Minister of the Presidency with the creation of a Commission that would carry out an in-depth study on what had been done to date, that report about the archives and prepare a preliminary draft law.

Consequently, Royal Decree 1891/2004¹³² from 10 September established the Inter-ministerial Commission to investigate the situation of the victims of the Civil War and of Francoism. Victim groups and affected associations had been invited from November 2004 onwards to give testimony to the Inter-ministerial Commission (36 associations participated and 14,000 individual letters were sent). The general report, published on 28 July 2006,¹³³ informed that the government had spent a total of 16,356 million Euros until 2005 to provide indemnities or pensions for the victims of the Civil War on the Republican side. 95,943 beneficiaries of pensions were counted for the year 2006. Additionally, 5.1 million Euros were declared that had been spent to pay indemnities to prisoners in Francoist prisons. In total the Spanish State had spent a bit over 16,361 million Euros of reparations payments to both victims of the Civil War and Francoism. On the one hand, the report points on the important effort done but, on the other hand, recognizes that there are several categories of damages that were still left disregarded and that should be addressed by future laws (Golob, 2008).

Subsidies and Monetary Compensation

Since 2005, the government is providing economic support to activities related to the victims

132 See Royal Decree 1891/2004 (10.09.2004). Available at: www.boe.es/buscar/pdf/2004/BOE-A-2004-16360-consolidado.pdf.

133 INFORME GENERAL DE LA COMISIÓN INTERMINISTERIAL PARA EL ESTUDIO DE LA SITUACIÓN DE LAS VÍCTIMAS DE LA GUERRA CIVIL Y DEL FRANQUISMO (28 DE JULIO DE 2006). Available at: <http://www.todoslosnombres.org/content/materiales/informe-general-la-comision-interministerial-para-el-estudio-la-situacion-las> (Accessed 12 October 2020).

of the Civil War and Francoism by opening an annual call for applications for subsidies.¹³⁴ The subsidies are addressed to foundations, determined groups, associations, trade unions, and since 2010 also to universities to finance various kinds of projects, including the compilation of a census of the disappeared, exhumations, celebrations of commemorations, collection of documents and oral testimonies, creation of documentaries, exhibitions, and publications (Aguilar and Ramírez-Barat, 2014). Between 2006 and 2010 the government had granted 19,475.985 Euros to fund 642 different projects of historical memory or moral recognition of victims (Público.es, 01.12.2010).

In March 2005, Law 3/2005¹³⁵ provided economic compensation for the so-called 'children of the war', for those who had fled Spain during the Civil War as a minor and spent as a consequence most of their life time outside Spain and had their personal and professional expectations dashed by a military coup against a legitimately constituted government which subsequently resulted in the Civil War. The law recognized the historical debt to the affected by providing payments of an amount annually calculated (the differences between the sum of 6,090 Euros and the benefits that each beneficiary already received from pensions and/or other sources; the basic amount was increased in 2010 to almost 7,000 Euros).

Restitution of Archives, Commemoration and Acknowledgement

A next step was the restitution of documents and archives to the Catalan Government that had been seized by Franco's Army. Law 21/2005¹³⁶ approved the transferral of the institutional documentation of its governing bodies, directors and subsidiaries, and also that of the Parliament of Catalonia, of the Generalitat de Catalunya from the General Archive of the Civil War to the Catalan authority as well as the transferral to the Catalan Government of all documents, and effects seized from individuals or public institutions in Catalonia by the State Delegation for the Recovery of Documents based on Decrees from 1936 and 1938. This decision was controversial and publicly disputed and only in 2008 the documents were finally transferred to Barcelona. The law made also provisions of the creation of the Documentary Center on Historical Memory that transformed the General Archive of the Civil War (it keeps all documents related to Francoist repression) into the Documentary Centre for Historical

134 BOE Orden PRE/3945/2005 (16.12.2005). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-2006-1313>.

135 BOE (18.03.2005). Available at: <http://www.boe.es/buscar/pdf/2005/BOE-A-2005-4618-consolidado.pdf>.

136 BOE (17.11.2005). Available at: <http://www.boe.es/buscar/pdf/2005/BOE-A-2005-18934-consolidado.pdf>.

Memory and General Archive of the Civil War located in Salamanca accessible to all citizens (elDiario.es, 17.06.2019).

Another symbolic and collective form of reparation was the declaration of 2006 as the 'Year of Historical Memory' to commemorate the 75th anniversary of the proclamation of the Second Republic. The proposition presented by IU and 'Iniciativa per Catalunya Els Verds' (ICV) in the Congress was supported by all parties, except the PP, and was approved in July 2006 by the Parliament (Law 24/2006).¹³⁷ The Year of Historical Memory was declared:

“(...) as tribute and recognition to all the men and women who were victims of Civil War, or later on, the repression of Franco's dictatorship, for their defence of democratic principles and values as well as those who by their effort in favour of human rights, and the defence of public liberties and reconciliation among the Spanish people, made possible the democratic regime established with the Constitution of 1978” (Aguilar and Ramírez-Barat, 2014, p.219).

In June 2007, before the passing of the Historical Memory Law, the Ministry of Culture and Sport fulfilled one of the provisions of the law by creating the 'Centro Documental de la Memoria Histórica' (Historical Memory Documentation Centre)¹³⁸ in Salamanca with the task to gather, organize and recover all documentary collections in any medium relating to the historical period between the Spanish Civil War (1936-1939) and the post-war period, up to the 1978 Constitution. Among others it comprises collections from the Special Tribunal to Repress Masonry and Communism and digitalised archives from the Spanish Civil War Collection of the International Committee of the Red Cross in Geneva. A Portal for Victims of the Civil War and Reprisals of the Franco regime facilitates access to documents relating to the victims of the Civil War, the exile and its consequences, and the repression during the Franco dictatorship. Also, the public can consult on the website of the Ministry of Culture and Sports a database of dead and disappeared Republican soldiers from the army of the Spanish Republic (1936-1939)¹³⁹ and a database on Spaniards deported to Nazi concentration camps offering information on the people who between 1940 and 1945 were deported to different concentration and extermination camps, containing more than 8,000 records (Tamarit

137 BOE (07.07.2006). Available at: <http://www.boe.es/buscar/pdf/2006/BOE-A-2006-12309-consolidado.pdf>.

138 BOE (01.06.2007). Available at: <https://boe.es/buscar/pdf/2007/BOE-A-2007-11751-consolidado.pdf>.

139 See Ministerio de Cultura y Deporte/mh. Available at: <https://www.culturaydeporte.gob.es/cultura/areas/archivos/mc/archivos/cdmh/bases-de-datos/muertos-y-desaparecidos.html>.

Sumalla, 2013; Aguilar and Ramírez-Barat, 2014; 2019).¹⁴⁰

The Catholic Church's Stance

The Spanish Catholic Church considering themselves for decades victim of the Second Republic, vehemently opposed the removal of Francoist symbols and “*petitioning the papacy to beatify priests, monks and nuns who had fallen victim to anticlerical violence during the 1930s*” (Pope John Paul II beatified 233 'martyrs' in March 2001 and 498 more were beatified in October 2007 (Boyd, 2008, p.145)). In November 2007, bishop Ricardo Blázquez ending his term at the head of the Episcopal Conference surprised with a disruptive discourse asking forgiveness for 'concrete actions' of members of the Church during the Second Republic and the Civil War as also remembered Cardinal Vicente Enrique y Tarancón for his reconciling role in the Transition period after the death of Franco (El País, 20.11.2007). The Church in Catalonia asked for forgiveness in 2011, what was stressed out by the abbot of Montserrat Josep Maria Soler when he again apologized for the role of the Church during Francoism on the occasion of a thanksgiving mass for the beatification of the martyrs of Montserrat who died in different circumstances before and during the Civil War, in October 2013 (La Vanguardia, 20.10.2013).

The Controversial Historical Memory Law

After tough negotiations, the Spanish Parliament passed, with the support of almost all democratic parties the Law 52/2007¹⁴¹ on 'Recognizing and Expanding the Rights and Establishing Measures in Favour of Those Who Suffered Prosecution or Violence during Civil War and the Dictatorship', known as Historical Memory Law, was passed on 26 December 2007. Maintaining the spirit of reconciliation the law is centred around the acknowledgement and honour of those who suffered the consequences of the Civil War and the subsequently four decade enduring authoritarian regime and its repression, a recognition of the historical memory and a moral obligation to provide reparation. Being the first time that a national Spanish law recognized the human rights violations committed during the period of the Franco regime. First to mention is, that the law does not at all uses the term 'victim', instead of this referring to 'those who suffered the consequences of the Civil War and of the dictatorship'.

140 See Ministerio de Cultura y Deporte/mh. Available at: <http://pares.mcu.es/Deportados/servlets/ServletController?accion=2&opcion=10>.

141 BOE (26.12.2007). Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2007-22296>.

Tamarit Sumalla and Beltrán Montoliu (2013) identify rehabilitation of condemned persons, reparation and the identification and exhumation of the victims as the Law's main provisions, while Aguilar and Ramírez-Barat (2014, p.221) add the removal of Francoist symbols with especially considering the Valley of the Fallen, the regulation of the conservation and access to private and public archives. From a holistic approach towards reparations, applied by this thesis, all these measures form part of what is understood as reparations. Going further into detail on the Law's provisions:

Article 1 states that the objectives of the law are “*the recognition and extension of rights in favour of those who suffered persecution or violence, for reasons of politics, ideology or religious beliefs, during the Civil War or the dictatorship and to adopt complementary measures designed to suppress elements of division between citizens, all this with the object of fostering cohesion and solidarity between the various generations of Spaniards with respect to principles, values and constitutional liberties*”. Based on those objectives the Law makes provisions for a series of measures to provide moral, economic and symbolic rehabilitation, and to establish mechanisms to facilitate the discovery, identification and exhumation of victims, nevertheless assigning a limited role to the public administration.

Article 2 recognizes and declares that all condemnations, sanctions and all forms of personal violence produced for political, ideological or religious reasons are fundamentally unjust (this is referring to having links with political parties, trade unions, religious or military organizations, ethnic minorities, secret societies, masonic lodges and/or resistance groups, and/or behaving in a way associated with unorthodox cultural, linguistic and/or sexual orientations). In the same way unjust is declared the exile of thousands of Spanish citizens during the Civil War and the dictatorship. Article 3 declares illegitimate courts, military trials and other criminal or administrative bodies created during the Civil War,¹⁴² which used to impose personal sanctions based on above mentioned reasons (specifically declaring illegitimate the Tribunal for the Repression of Masonry and Communism, the Tribunal of Public Order, the Tribunal of Political Responsibilities and the War Councils).

Article 4 recognizes the right of the victims to obtain a 'declaration of reparation and personal

142 Using here the term 'illegitimate' was disputed since some actors demanded to declare those trials and decisions null and void. See for example report by Equipo Nizkor (April 2004) '*The question of impunity in Spain and crimes under Franco*'. Available at: <http://www.derechos.org/nizkor/espana/doc/impuspa.html> (Accessed 14 October 2020).

recognition'. This Declaration is compatible with any other form of reparation, but not constitutes a certificate for the recognition of the economic responsibility of the State or of any public administration, nor does it prompt any economic or professional redress or compensation. Hence, this declaration resulted to be an exclusively symbolic declaration, recognizing the moral restitution and the recovery of the persons personal and family memory. It can be requested from the Ministry of Justice and in the case of death, the spouse or people with emotional close connections as ascendants, descendants and any collateral relatives up to the second degree can request it. Also authorised as applicants are public institutions with prior consent of their appropriate governing body, and done only in the case of those who had held a relevant office or performed a relevant activity within the institutions, but did not have any authorised relative or a spouse.

Further, Article 15 declares that the Public Administration will take the appropriate measures for the withdrawal of coats of arms, insignia, plaques and other objects or mentions commemorating personal or collective exaltation of the military uprising, the Civil War and the repression of the Dictatorship (exceptions are if symbols entail a historical, artistic or religious-artistic value, or are architecturally crucial). These measures may include the withdrawal of public subsidies or aid. Specifically referring to the monument of the Valley of the Fallen. Article 16 is declaring that no acts of a political nature or acts that exalt the Civil War, its protagonists, or Francoism can be carried out on its premises. Article 17 provides that a census of buildings and works carried out by members of the Disciplinary Battalions of Working Soldiers as well as by prisoners in concentration camps, Working Battalions and prisoners in Militarised Prison Colonies will be drawn up (not complied with up to date). The Articles 20 to 22 make provisions for the conservation and access to public and private archives that contain information of the war.

Article 20 establishes the setting up of the Documentary Centre of the Historical Memory and the General Archive of the Civil War, and declares it as part of the documentary and bibliographic national heritage. Article 22 gives a right to free access to archives and to copies of their contents, but not establishes a formal procedure. Providing access to archives might be an important measure for victims to recover a sense of control over their own lives (experiences for instance come from Germany citizens' access to the Stasi archives). Above that, the Act improved some existing compensatory measures in Article 5, by extending the compensation provided to the widows, children, and other family members of Spanish Civil

War victims. The crucial novelty hereby was that the extension of its scope to include now all of the victims who died after the Civil War, instead of only those who had died up to two years after the end of the war (updating Law 5/1979). Article 6 established a modest increase in the pensions granted to orphans (updating Law 5/1979 and Law 35/1980). Article 7 extends the group of people who receive an indemnity, a one-off economic compensation, for having suffered deprivation of liberty in prisons or in disciplinary battalions (updating Law 4/1990).

Another important new provision is Article 10 that introduced a monetary indemnity of 135,000 Euros to be provided to the beneficiaries of those who had died between 1 January 1968 and 6 October 1977 as a consequence of their activism defending democracy. The reason for this was to reduce the differences between the victims of terrorism and those indicated by the article. One of the key elements of the Law was the localization and identification of the bodies from thousands of disappeared that had been buried nameless all over the country's territory, what had been since years one of the main demands by civil society organizations. Until then related activities by those organizations had been carried out privately together with the families and with the lack of any state funding or administrative support. Article 11 determines now the collaboration of public administrations with individuals for the location and identification of their loved ones. Administrations are to facilitate the work of the victims' descendants in finding graves and identifying remains, by means of subsidies financing the cost of the work. The government and public administration are designated the task to take measures to facilitate the localisation and identification of victims as such the drafting of scientific protocols for the exhumation process (Article 12) and public maps of graves and locations of remains for the whole Spanish territory (Article 13).

Article 14 regulates the authorisation of the temporary occupation of public or private land because of the public and social interest in these activities. What gets clear from the wording of the articles is, that the identification of victims and establishing the truth was not intended to be a the responsibility of the State, but rather the right of individuals to their personal and family memory. After the Law was passed, further governmental resolutions established the proceedings for the application of the foreseen benefits. The process of implementation of the Act was complex as involving five ministries, the Ministry for the Presidency, of Culture, of Justice, of Economy and of Defence. It caused criticism for the slow and hesitant implementation of the legal provisions (Tamarit Sumalla and Beltrán Montoliu, 2013, pp.98-99). The mode of implementation and enforcement of the Law was not the same in all

Autonomous Communities of Spain (see below).

A new Royal Decree, of 3 November 2008,¹⁴³ based on the provisions of the Historical Memory Law, expands the right of the International Brigades volunteers, who did fight with the Republican side during the Civil War, to Spanish nationality by eliminating the requirement of having to renounce their previous nationality (this recognition has already been stated in 1996 by Royal Decree of 19 January¹⁴⁴ assigning them the right to acquire Spanish nationality by letter of nature, but with the requirement of having to renounce the previous one).

The Struggle with the Removal of Francoist Symbols

Likewise, based on the provisions of the Historical Memory Law, the Order of 6 November 2008¹⁴⁵ published the Agreement of the Council of Ministers issuing instructions for the removal of Francoist symbols on the property of the General State Administration and its dependent public bodies. The Council of Ministers agreed on the withdrawal of all the symbols to which Article 15.1 of Law 52/2007 is referring to and which is found in a property owned by the General State Administration or its dependent public bodies, except of those symbols found on a property classified as a property of cultural interest. To classify as such the assumptions of either historical significance or artistic or artistic-religious value has to be met. Further an exception can be made due to technical criteria of the symbol constituting a fundamental element of the structure of the property whose removal could endanger the stability of the same or any other aspect related to its adequate conservation. For the evaluation of those criteria, case by case, a Technical Commission of experts was constituted for this purpose by the Ministry of Culture (Order of 2/19/2009 which creates and regulates the Technical Committee of Experts for the assessment of the supposed determinants of exceptionality in the removal of symbols). “According to data provided on the website of the Ministry of Defence, after producing a catalogue between 2009 and 2010, the Ministry has either modified or removed around 410 symbols and changed the names of 11 military outbuildings” (Aguilar and Ramírez-Barat, 2014, p.228).¹⁴⁶

143 BOE (03.11.2008). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-2008-18495>.

144 BOE (19.01.1996). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-1996-5091>.

145 BOE (07.11.2008). Available at: <https://www.boe.es/eli/es/o/2008/11/06/cul3190>.

146 Ministerio de Defensa/mh (2011). Available at: www.defensa.gob.es/memoriahistorica/actuaciones.html.

Those symbolic reparations of the removal of Francoist or Falangist monuments and statues, renaming of streets and squares had progressed in the last years, but keeps on being a tough project in Spain, despite the provisions of the 2007 Historical Memory Law. Some scholars addressed the topic as such Rubin writes about “*Franco’s undying material infrastructures: Street names, monuments, and mass graves*” (2018, p.217). The last equestrian statues of Franco were removed in 2008 in Santander and 2010 in Melilla, but the Francoist symbol system survived in many places like the triumphal arch 'Arco de la Victoria' in Madrid with which the victory of Franco's troops over the Republicans is commemorated. A last statue of Franco showing him as legionary commander adorned in a public square in the port of Melilla is recently announced by the regional government to be in process of withdrawal (El Faro de Melilla, 07.02.2020). Also, the renaming of streets and public squares is far from over.¹⁴⁷ So there are said to be still streets in over 650 villages that are named after Franco, the generals and dignitaries of the Franco era (Neue Zürcher Zeitung, 31.10.2019). In some villages exist a 'Plaza de Caudillo' or 'Plaza del Generalísimo', even in Madrid the street 'General Varela' was renamed to 'Julián Besteiro' street only in 2017, and the 'Franco' street still does exist. A particularly inglorious example is the village called 'Llanos del Caudillo' in Ciudad Real which has so far successfully refused to be renamed (El País, 07.02.2020).

Above that, various monasteries as also churches continuously exhibit Francoist symbols, clouding the words 'Caídos por Dios y España' (Fallen for God and Spain) and the coat of arms of the regime. The Catholic Church refuses to allow the eradication of Falangist and Francoist symbols from churches and properties by making use of a loophole in the 2007 Law that makes exceptions for “*buildings of historical or cultural significance*”.¹⁴⁸ This practice being even denounced by a complaint from 2015 to the Representation of the Vatican in Spain (elDiario.es, 15.07.2015). Moreover, the Francoist coat of arms is also continuously present at some barracks of the Civil Guard. Recently the symbolic provisions of the Law are not only ignored, but intentionally violated by some towns that are governed by a conservative-right-wing majority as happened in the city of Córdoba when in July 2019 streets were renamed to fascist leaders (El País, 25.06.2019). In response to a parliamentary question, the government published in April 2020 a new list of streets with Francoists names that persist in Spain. In

147 See for a list of fascist symbols still existent in Andalusia: elDiario.es (05.05.2017).

148 An illustration is the rejection of the withdrawal of the Francoist coat of arms from the facade of the IES Santa Irene in Vigor (Galicia), see 20minutes (26.06.2020).

comparison to the previous version from 2017, around 2,000 street names and symbols had been withdrawn from over 500 municipalities in the meantime.¹⁴⁹

Further Moral Reparations Efforts

Royal Decree 1791/2008¹⁵⁰ from 3 November aims to regulate the procedure for obtaining the 'Declaration of Repair and Personal Recognition', foreseen in Article 4 of the Historical Memory Law, by which rights are recognized and expanded and measures are established destined to those who were affected by persecution or violence during the Civil War and the dictatorship. The Department of Justice was declared as the competent agency for delivering the declaration and the proceedings had to be addressed to the Division of Procedures for Prerogative of Mercy and other Rights, what might seem to the victims kind of cynical. Given that, it is clearly stated that this law will not constitute a title for the acknowledgement of patrimonial responsibility of the State or of any Public Administration, nor will it give rise to effect, reparation or compensation of an economic or professional nature. Therefore, as earlier mentioned, it was limited to moral reparation. While Royal Decree 1803/2008¹⁵¹ regulates the conditions and the procedure for the payment of compensation, recognized in the Historical Memory Law, in favour of deceased persons or with disabling injuries due to their activity in defence of the democracy. In addition, the passing of the Royal Decree 2134/2008¹⁵² on 26 December, which regulates the procedure to be followed for the restitution to individuals of documents seized due to the Civil War, established the procedure (regulated by first additional provision of the Law 21/2005) by which the Autonomous Communities, upon request to participate in it, may carry out restitution to private individuals or legal entities, or to their legitimate successors, of those documents, documentary funds and other effects that had been seized from them due to the Civil War.

Addressing the Issue of the Disappeared

In December 2008, the Office of Victims of the Civil War and the Dictatorship was launched by the PSOE Government of Zapatero, serving as a focal point for information on the rights

149 See website [todoslosnombres](http://www.todoslosnombres.org) (15.04.2020). Available at: <http://www.todoslosnombres.org/content/noticias/nuevo-callejero-franquista-todo-el-estado-confirma-la-retirada-cerca-2000-mil> (Accessed 9 October 2020).

150 BOE (03.11.2008). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-2008-18494>.

151 BOE (03.11.2008). Available at: <https://www.boe.es/buscar/doc.php?id=BOE-A-2008-18413>.

152 BOE (26.12.2008). Available at: <https://www.boe.es/buscar/pdf/2009/BOE-A-2009-441-consolidado.pdf>.

granted by the Law. One of its activities carried out was the elaboration of a grave map for the national territory¹⁵³, a provision of the Historical Memory Law, where the geographical location, characteristics and other relevant data of the burial places are listed. To do this, initially in November 2009 the Aranzadi Society of Sciences was commissioned with a project to create a database of already exhumed mass graves. Thereafter, in order to receive the data of mass graves located in the distinct regions, collaboration agreements with the Autonomous Communities were signed. The Ministry of Justice (nowadays the Ministry for the Presidency, Relations with the Courts and Democratic Memory) integrated the data into a national map, which took until May 2011 when a still incomplete mass graves map was published by the Government. Further, the office developed an 'interdisciplinary' scientific action protocol to carry out the exhumations of mass graves.¹⁵⁴ Set up are the steps to follow and the material and human technical requirements, which were agreed with all the ministries involved (Justice, Interior, Culture and Public Administrations).

A draft version of the protocol was provided to the Autonomous Communities, the Spanish Federation of Municipalities and Provinces, and at the national level formed historical memory associations. The final protocol was then approved in September 2011. Having established this 'road map' the governments of the Autonomies Communities were responsible for applying and promoting exhumations. The Victims Office also carried out tasks of information of public administrations, organizations, associations or individuals about the Historical Memory Law and the guidelines for victims to recognize their rights. After the PP government of Mariano Rajoy took over state affairs, the Office was closed in spring 2012 and its function passed to another department of the Ministry of Justice (El Mundo, 02.03.2012).

153 See Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática. Available at: https://mapadefosas.mjusticia.es/exovi_externo/CargarInformacion.htm;jsessionid=7F2F7FBD19E7D5C5C78D8960B5294D5B.vi07_inst2.

154 See Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática. Available at: <https://ley memoria.mjusticia.gob.es/cs/Satellite/LeyMemoria/es/inicio>.

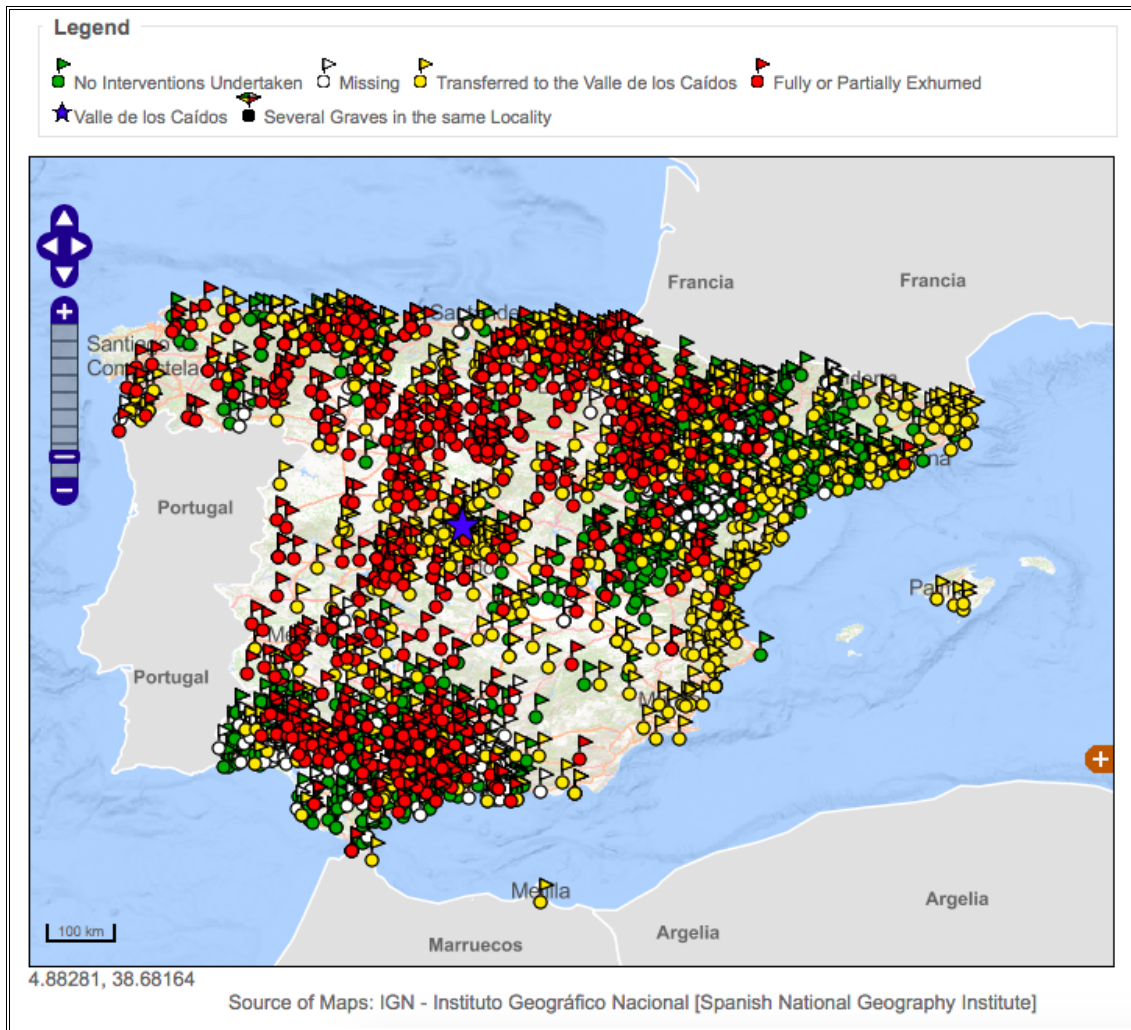


Figure 20. Map of Graves (Ministerio de Justicia España)

Extension of Compensations to Other Victim Groups

The eighteenth additional provision of the General State Budget Law for 2009 regulated the granting of compensation in favour of those who have been imprisoned for their homosexuality in application of the Law of 15 July 1954, which modified the 'Ley de Vagos y Maleantes' (Vagrancy Law) of 4 August 1933, or of the Law 16/1970 of 4 August 'Ley de Rehabilitación y Peligrosidad Social' (Dangerousness and Social Rehabilitation Law). This was further developed by Decree 710/2009 of 17 April,¹⁵⁵ that created the Commission of Compensation in favour of socially excluded persons. Later on, the twenty-fifth provision of

¹⁵⁵ BOE (17.04.2009). Available at: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2009-7194.

the General State Budget Law for 2013, established the date 31 December 2013 as a limit to submit the applications for compensation (Público.es, 02.10.2012).

Access to Archives

Royal Decree 1816/2009 of 27 November¹⁵⁶ which approves the Regulation of the Military Judicial Archives recognizes the right to consult data of “*those who were involved in judicial military proceedings or who have a legitimate interest*”. These archives contain documentation of the summary judgements during the war and dictatorship located at the Ministry of Defence.¹⁵⁷ Additional important archives include the General Archive and the Police and Prison Archives located in the Ministry of Interior and the Central Archive of the Ministry of Economy and Treasury with documentation from the Civil War and the purges carried out by Francoism. Access to State Archives was regulated finally by Royal Decree 1708/2011¹⁵⁸ of 18 November (Aguilar and Ramírez-Barat, 2014, p.231).

The Fate of Francoist Monuments

Concerning the issue of the widest known monument from Francoist times the Valley of the Fallen, which is in the Historical Memory Law explicitly addressed, some so far rather unsuccessful attempts had been made to convert the Valley in a site of common memory and reconciliation. Up to today 33,833 bodies continuously remain buried in that place, including 12,410 bodies the identity is still unknown (El Mundo, 24.09.2019). In February 2011, a not undisputed forensic assessment concluded that it seems impossible to exhume and identify the bodies for technical and economic reasons¹⁵⁹ (Aguilar and Ramírez-Barat, 2014, pp.228-229). In May 2011, the Council of Ministers created an 'Expert Commission for the Future of the Valley of the Fallen' (Order PRE/1396/2011) that had the task to present a report that elaborates options of how to transform the monument into a site of common memory and reconciliation. Some basic guidelines of the Commission, consisting of eleven experts from different disciplines, were to preserve the monument and the giant cross at the top of the Valley as well as the Benedictine community's perpetuation that administers the Abbey.

156 BOE (27.11.2009). Available at: <https://www.boe.es/buscar/pdf/2010/BOE-A-2010-593-consolidado.pdf>.

157 See Ministerio de Defensa/mh. Available at: https://www.defensa.gob.es/memoriahistorica/a_militares.html.

158 BOE (18.11.2011). Available at: <https://www.boe.es/buscar/act.php?id=BOE-A-2011-18541>.

159 See Bedate Gutiérrez, A. (15.02.2011) '*Viabilidad de identificación en el enterramiento del Valle de los Caídos*', Madrid. Available at: <http://www.todoslosnombres.org/content/materiales/ministerio-justicia-informe-sobre-viabilidad-identificacion-en-el-enterramiento> (Accessed 15 October 2020).

The final report of the Commission included among others a recommendation on the relocation of the remains of Francisco Franco to a private cemetery (not subscribed by three members of the commission). Also, the relocation of the remains of José Antonio Primo de Rivera is recommended, to place his body at the Valley with the other bodies and not in a pre-eminent place which his tomb currently occupies.¹⁶⁰ After the re-election of the PP party in November 2011 not any of the recommendations of the Commission had been completed. In contrast, restoration projects of the monument had been carried out. The restoration of the basilica's portal where Franco was interred and the Funicular added up to the total costs of some 1.8 million Euros between 2012 to 2017 (La Vanguardia, 16.02.2018). Moreover, very few private exhumations had been admitted by the public authorities in the course of the time (Público.es, 04.06.2019).

Memory and Rehabilitation

In June 2011, the Ministry of Justice announced the creation of a census of stolen children (El País, 15.06.2011), “to allow to cross information of parents looking for children and children looking for their biological parents”, also containing “data regarding the name of the baby, the date, place of birth, and DNA information” (Aguilar and Ramírez-Barat, 2014, p.238).¹⁶¹ Furthermore, with the Law of 21 July 2011 of the Civil Registry a long-standing demand by the civil society organizations regarding the legal status of the disappeared, in order to comply with international rules regarding disappeared and the right to personal and family memory, had been satisfied. According to the new provision of the Act, the registration of the deaths of those who disappeared during the Civil War and the political repression in the post-war period had to be made without the need for a judicial decision, while in contrast previously if no judicial decision existed the person was considered legally as 'absent'. Also, it was declared not any more necessary to present absolute proof of death, as before there needed to a corps, but merely to establish its certainty based on the assessment of all the circumstances and indications abducted in the administrative proceedings (Tamarit Sumalla, 2013, p.105), as such the eight additional provision on the registration of the death of disappeared persons during the Civil War and the dictatorship states:

160 See CSIC (29.11.2011) 'Informe'. Available at: digital.csic.es/bitstream/10261/85710/1/INFORMECOMISIONEXPERTOSVALLECAIDOS PDF.pdf (Accessed 15 October 2020).

161 See Ministerio de Justicia. Available at: <https://www.mjusticia.gob.es/cs/Satellite/Portal/es/servicios-ciudadano/servicio-informacion#ofrece>.

“The registration file, resolved favourably, will be sufficient title to practice the registration of the death of persons disappeared during the Civil War and the immediate subsequent political repression, always that, from the evidence provided, his death can reasonably be inferred, even if not immediate to it. In evaluating the evidence, the time elapsed, the dangerous circumstances and the existence of signs of persecution or violence will be especially considered”.¹⁶²

People with legitimate interest as also authorities can initiate the administrative proceeding (Tamarit Sumalla and Beltrán Montoliu, 2013, p.105).

The Congress declared in September 2017 the conviction of Lluís Companys, former president of the Generalitat the Catalan Autonomous Government, void after taking into consideration a non-legislative proposal to invalidate the death sentence from 1940 (El País, 17.09.2017). The proposal insists on the illegitimacy of the Courts of Public Order, of Political Responsibilities and of the War Councils.

5.3.3 Recent Reparations Developments

Since the PSOE took over power in June 2018, the historical memory topic was put up again on the political agenda, as such the government under President Pedro Sánchez set-up a Directorate General for Democratic Memory, subordinated under the Ministry of the Presidency, Relations with the Courts and Democratic Memory, that among other things coordinates now the government's reparations efforts.¹⁶³

Latest Legal Initiatives

The new governments' very first executive act in this respect, was that the Council of Ministers approved on 24 August 2018 the Royal Decree-Law 10/2018¹⁶⁴ to modify the Historical Memory Law in order to facilitate the exhumation of Francisco Franco from the Basilica of the Holy Cross of the monument Valley of the Fallen. The Royal Decree-Law modifies the Historical Memory Law stating that only those who have died as a result of the Spanish Civil War may be buried in the Valley of the Fallen. Further, the decree intends to

162 BOE (21.07.2011). Available at: <https://boe.es/buscar/act.php?id=BOE-A-2011-12628>.

163 See overview of reparative measures: Ministerio de la Presidencia, Relaciones con las Cortes y Memoria Democrática. Available at: <https://www.mpr.gob.es/memoriademocratica/ayudas-a-las-victimas/Paginas/index.aspx>.

164 BOE (25.08.2018). Available at: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2018-11836.

consecrate the Valley 'as a place destined to honour and rehabilitate the memory of all those who died in the war and in the subsequent political repression'. A few weeks later, the Congress approved the exhumation of Francisco Franco from the Valley of the Fallen with 172 votes in favour, 164 abstentions and two votes against (coming from the PP) (elPeriódico, 13.09.2018). Once more it was debated what should happen to the Valley afterwards.¹⁶⁵

Besides that, a law of the 'stolen babies' was unanimously admitted for processing by Congress on 20 November 2018 but was never passed. Only in June 2020, the Congress approved the norm that obliges the State to investigate the illegal abduction of children during Francoism (elPeriódico, 23.06.2020).

In March 2019, the government announced that the Ministry of Justice is preparing a royal decree to create a national census of victims of the Civil War and Franco's dictatorship, with a central database of forced disappearances that allows to know details of the different types of repression carried out in that period (La Vanguardia, 02.03.2019).

Condemnation and Commemoration

The plenary session of the Senate condemned in November 2018, a year before Franco's exhumation, the Franco regime as well as 'any act of exaltation of it'. This motion of the PSOE had gone ahead by the abstention from the PP and Ciudadanos and without any vote against (El País, 22.11.2018).

In February 2019, President Sánchez visited the tombs of the former president of the Second Republic, Manuel Azaña, in the Montauban cemetery, and the tomb of the poet Antonio Machado, in Cotlliute. Afterwards, Sánchez visited Argelès-sur-Mer, the place where the Spanish refugee camp was located after the Civil War, and apologized to the exiled (La Vanguardia, 25.02.2019). An act of homage and tribute to the victims of the Franco dictatorship was celebrated in the Senate in September 2019 initiated by a motion of the Socialists, including a condemnation by the Senate of the military coup, the dictatorship and the gross violations of human rights committed.¹⁶⁶

The Exhumation of Franco

¹⁶⁵ For example, the historian Santos Juliá argued that the Valley of the Fallen was a monument to the victory and triumph of the Crusade, hence it can never become a place of reconciliation (Juliá, S., 19.03.2018).

¹⁶⁶ See El Senado (17.09.2019). Available at: www.senado.es/legis13/publicaciones/pdf/senado/bocg/BOCG_T_13_22.PDF.

More than a year after the passing of the Royal Decree-Law, and after the Supreme Court cleared numerous legal obstacles raised by the Franco family and after the prior of the Abbey of the Valley of the Fallen surrendered its resistance, the former dictator was finally exhumed from the Valley of the Fallen on 24 October 2019. Accompanied by a great media spectacle, the dictator's remains were transferred by helicopter to the El Pardo-Mingorrubio municipal cemetery in Madrid where the coffin was received by nostalgic of the dictatorship. The act was carried out without any state honours for Franco, a demand by the family that had been rejected by the government (El País, 24.10.2019a). On the occasion of the exhumation, Spain's Socialist President Sánchez stated that: *“Today's Spain is the fruit of forgiveness, but it cannot be the product of oblivion”* and he declared Franco's mausoleum *“an affront to democracy”* (El País, 24.10.2019b). Likewise, many citizens considered it as a long overdue necessary move of the government paying tribute to the victims of Francoism. On the same day, President Sánchez visited the Almudena cemetery in Madrid, where he placed flowers at the monument to the 'Trece Rosas' (Thirteen Roses), the thirteen women from the Socialist Youth shot by the Franco regime in 1939. After Franco's exhumation National Heritage authorized another 31 exhumations in the Valley of the Fallen requested by families of inhumed persons.

After the ex-inspector of the national police Antonio González Pacheco, alias 'Billy el Niño', accused of crimes against humanity for torture during the last years of the Franco regime, had died of Coronavirus still obtaining his medals of police merit, privileges and pensions and without being judged (El Mundo, 07.05.2020). In June 2020, Unidos Podemos, PSOE, ERC and Ciudadanos have signed an agreement in Congress (PP abstained and Vox voted against it) to urge the Government to withdraw the medals from Francoist torturers with the wording: *“to regulate the withdrawal of medals and decorations from people and authorities of the Francoist era who had behaviour and attitudes typical of torturers”* (La Vanguardia, 11.06.2020). The proposal also includes to review and invalidate other distinctions granted during the Franco regime and catalog the noble titles granted to adherents of the regime between 1948 and 1978.

Consequences for Perpetrators

Lately, some investigations into the heritage of the Franco family lead to a sentence on property that Franco family acquired outside the law. The Court of First Instance of A Coruña,

declared in September 2020 that the Pazo de Meirás belongs to the State and not to the Franco family and ordered its return, declaring invalidity the donation made to Franco in 1938 (elDiario.es, 02.09.2020). The family finally had to abandon the property. Beyond that, the Ministry of the Presidency, Relations with the Courts and Democratic Memory announced in September 2020 subsidies for activities related to the recovery of Democratic Memory and the victims of the Civil War and the Dictatorship for the year 2020. Stating that those subsidies are aimed to promote the implementation of projects and actions in the area of Democratic Memory, confirming the Ministry's full support for memorial organizations and associations and reaffirming its commitment to the victims, a total of 750,000 Euros are granted. 60 percent of this amount is aimed to be allocated to activities destined to the investigation, location, exhumation and identification of disappeared persons remaining in graves and of graves of the people who died in exile.

The New Law Project

On 15 September 2020, the Council of Ministers approved a Draft Bill of the 'Ley de Memoria Democrática' (Democratic Memory Law), after the PSOE had already presented to the Congress a proposal for a new memory law in January the same year.¹⁶⁷ The first vice president, Carmen Calvo, from whose department this new law emerged, stated in the press conference: *“we are talking, in short, of an urgent law, democracy could not allow itself to continue another day without having a law like this on the table”* (La Sexta, 15.09.2020). The draft law, that is to replace the Historical Memory Law from 2007, consist of 66 articles that are group into five headlines: preliminary/objectives/purpose, the victims, comprehensive policies of democratic memory, memorial movement, and sanctions regime.¹⁶⁸ The main new provisions of the draft law, planned to be approved by summer 2021, in comparison to the 2007 Law it encompasses the following novelties (elPeriódico, 15.09.2020).

- A sanctioning regime for breaches of the rules between 200 and 150,000 Euros (such as the exaltation of Francoism or the destruction or impairment of places declared as democratic memory).

¹⁶⁷ This was preceded by a public consultation open from 26.06.2020 to 11.07.2020. Available at: <https://www.mpr.gob.es/servicios/participacion/consultaprevia/Paginas/2020/LeyMemoriaDemocratica.aspx>.

¹⁶⁸ See La Moncloa (15.09.2020) 'Anteproyecto de Ley de Memoria Democrática'. Available at: <https://www.lamoncloa.gob.es/consejodeministros/Paginas/enlaces/150920-enlace-memoria.aspx>.

- The outlawing of entities that promote totalitarianism or glorify dictatorial figures (directed at the FNFF).
- A declaration of nullity of the resolutions and sentences issued by the Francoist repressive organs, which are also declared illegitimate (the sentence of the former Catalan President Lluís Companys will be annulled).
- The taking on of the search for missing persons as consequence of the Civil War and the dictatorship will correspond to the General State Administration (and not to the memorial entities) coming along with measures as such a national DNA bank or an official census of victims. The big difference to the 2007 Law is that the State that will take the lead for the recovery of those retaliated by the Franco regime. Until the approval of the draft law, the Government will allocate resources for the opening of graves in the form of subsidies. The law will draw up four-year plans for the search, location and exhumation of graves and identification of the victims, before that funding was included in the annual state budget.
- The draft law plans a Prosecutor's Office of the Democratic Memory and Human Rights Chamber in the Supreme Court for the investigation of the events, that occurred in the Civil War and in the dictatorship, until the entry into force of the Constitution, and constitute violations of Human Rights and International Humanitarian Law. This Prosecutor's Office should function as a promoter in the search of the disappeared.
- Withdrawal of public symbols and elements directed against the democratic memory, as such regulating the revocation of 'distinctions, appointments, titles and institutional honours, decorations and rewards or titles of nobility, which have been granted or imply the exaltation' of the Civil War or the Franco regime (e.g., the Duchy of Franco currently held by Carmen Martínez-Bordiú will disappear).
- The re-signification of the Valley of the Fallen for a pedagogical purpose. The ossuary will become a civil cemetery that can only accommodate the corpses of those killed by the Civil War. The founder of the Falange, José Antonio Primo de Rivera, will be relocated.
- Under the premise of 'never again', the duty of memory as a guarantee of non-repetition, adopting necessary measures for the withdrawal of Francoist symbols, the

curricular contents for secondary and high school will be updated, access to archives will be assured, and contemplates the constitution of a public foundation, to make known, disseminate and promote the history of Spanish democracy.

- Two remembrance days, 31 October as tribute to all victims and 8 May as tribute to the victims of exile as a result of the Civil War and the dictatorship.
- The role of women in the struggle for democracy and those who suffered particular repression due to ethnicity or sexual orientation are recognized. To repair the exiled, the acquisition of Spanish nationality will be facilitated for those born outside Spain of fathers or mothers, grandmothers or grandfathers, exiled for political, ideological or belief reasons.
- An inventory of the property plundered, including assets seized from political organizations, during the Civil War and the dictatorship, and the recognition and reparation of the victims who carried out forced labour will be promoted.
- A Democratic Memory Council will be created as a consultative and participatory body for memorial entities and a state commission for Memory and Reconciliation with the Gypsy People in Spain is foreseen.

5.3.4 Symbolic Reparations in the Autonomous Communities

As already indicated the implementation of reparative laws, measures, and initiatives had been very distinct in each Autonomous Community. Some communities funded even before the passing of the Historical Memory Law in 2007 projects to recuperate the historical memory, granted subsidies for the location, identification and exhumation of disappeared, set-up a DNA database or passed their own historical memory laws. During the presentation of the new Democratic Memory Law the first vice-President Carmen Calvo recalled that there are twelve regional laws in force, and the Government thus wants with the new law to give a legal framework in collaboration with all administrations (elPeriódico,15.09.2020). As it would go beyond the scope of this research, it is not gone into more detail on the relevant legislation. Instead two aspects around symbolic reparations that have not been considered so far, as they do not exist at the national level, are examined.

On the one hand, monuments, memorials and places of remembrance for the victims of the

Civil War and the Francoist repression (most of them being for the victims of the Civil War, very few for victims of the dictatorship). On the other hand, documentation centres, museums and similar institutions that deal with the repressive past. Except for the discussion about a re-signification of the Valley of the Fallen and its transformation into a centre of interpretation and homage to the victims of the Civil War and the dictatorship (El País, 25.10.2019), there are neither memorial sites nor public memory centres built and run by the national Government. On the contrary, quite a lot has been done at regional level in this respect, though varying between the Autonomous Community. Thus, only symbolic measures taken by some Autonomous Communities – Andalusia, Aragon, the Basque Country, Extremadura, Madrid, Navarra, and Catalonia – are presented in the following.

Andalusia

In Andalusia the government facilitated a 'Catálogo de Lugares de Memoria Histórica'¹⁶⁹ a map of memory sites containing places since the military uprising until the new Constitution came into force, to remember the victims of Francoism. The memorial route marks places like the house of the executed politician Blas Infante in Coria (Sevilla), a wall at the cemetery in Granada where thousands had been shot by the Francoists, the air raid shelter in Jaén, the monument in Almería to those murdered in the concentration camp of Mauthausen (Austria), the Huelva island of Saltés which functioned as a concentration camp for war prisoners and forced labourers, prisons like the one in La Ranilla, Sevilla, and mass graves, like the largest in Spain in the San Rafael cemetery in Malaga. Above that, after the exhumation of Franco, a discussion on the exhumation of General Queipo de Llano from the Basilica of the Macarena in Sevilla is ongoing in the Andalusian parliament (Público.es, 28.11.2019; La Razón.es, 14.09.2020).

Aragon

The Government of Aragon established the project 'Amarga Memoria' (2004-2011)¹⁷⁰ which among many other things organised expositions, conferences and congresses, and the identification and location of military remnants as well as mass graves creating a 'Ruta Vestigios de la Guerra Civil y la Posguerra' (route of remains of the Civil War and the post-

¹⁶⁹ See Junta de Andalucía. Available at: <https://www.juntadeandalucia.es/organismos/presidenciaadministracionpublicaeinterior/servicios/mapa/lugares-memoria-historica.html>.

¹⁷⁰ See Gobierno de Aragon. Available at: <http://www.patrimonioculturaldearagon.es/amarga-memoria>.

war period),¹⁷¹ in order to disseminate knowledge about the historical period. Further, a project was launched to dignify mass graves through the installation of a memorial made by Ricardo Calero, which recovered the place of memory of those people murdered during the Civil War and the dictatorship. At the beginning of 2020, the first memory site of Aragón was assigned to the 'Barranco de la Bartolina' (the canyon of Bartolina), a place of mass shooting, according to studies more than 400 people lost their lives there during the Civil War, in the region of Calatayud (elPeriódico Aragón, 02.01.2020).

The Basque Country

The Basque Country developed a wide scope of measure on truth, justice and reparation for victims of Francoism. Regarding reparation, a focus is set on a personalised recognition of the injustice of the suffering and on the promotion of acts of public recognition and tribute to the victims and the elimination of symbols of offences to the victims.¹⁷² In 2014, the Institute for Memory, Coexistence and Human Rights (Institute Gogora) was set up with the mission of preserving and transmitting the democratic memory of the country. The institute inter alia organizes expositions, collects testimonies, presents a map showing the places bombed during the Civil War in the Basque Country, and carries out acts of commemoration and homage.¹⁷³ Further, in 2003 the Gernika Peace Museum was established, subsidized by a foundation whose founding patrons are the City Council of Gernika-Lumo, the Provincial Council of Bizkaia and the Basque Government. Also a Documentation Centre on the Bombing of Gernika, was initiated by the municipality of Gernika.¹⁷⁴ The city of Victoria inaugurated 2013 in front of the Church of San Francisco a memorial dedicated to five people killed by the police on 3 March 1976 in a police action of evicting the church. The sculpture 'Arrazoiaren Indarra' (the Force of Reason), work of the sculptor Iñigo Arregui, contains the words 'Oroimena, Egia, Justizia' (Homage, Truth, Justice). It aims to be a memory that explains what happened on that day in March 1976 and it further names the two persons who later died in Basauri and Tarragona due to police violence repressing the solidarity demonstrations (Gasteiz Hoy, 16.11.2013).

171 Curiously, not part of the list is the by Franco's troops in August 1937 completely destroyed and never rebuild old village of Belchite (Zaragoza).

172 See Gobierno Vasco. Available at: <https://www.euskadi.eus/reparacion/web01-s1lehmeme/es/>.

173 For more information see Gogora. Available at: <https://www.gogora.euskadi.eus/aa82-home/es/>.

174 For more information see Museo de la Paz. Available at: <https://www.museodelapaz.org/noticias.php>.

Extremadura

A memorial in form of four human sculptures dedicated to the forgotten victims of the Spanish Civil War and Francoism as well as all those who were imprisoned, tortured, exiled or displaced, called 'El Mirador de la Memoria', located at the Jerte Valley in the town of El Torno (Extremadura) was established by the Jerte Valley Regional Youth Association with the permission of the municipality in 2009. A few days after its installation the monument was shot by an unknown person, but the sculptor did not want to repair the bullet holes stating that the shooting had finished his work (elPeriódico de Extremadura, 26.01.2009).

Madrid

In terms of memorials the city of Madrid installed some, though their destiny is constantly bound to the changing political responsibilities in the town hall. The memorial 'El brazo' (the hugh) or also-called the 'Monument to the Atocha Lawyers', at the Antón Martín square in Madrid (close to the location of the massacre at Calle Atocha 55), is a three-dimensional rendering of Juan Genovés' painting¹⁷⁵ of the same name, commemorating the massacre of five lawyers that were killed in 1977 by right extremist groups. This memorial, initially an initiative of the trade union federation Comisiones Obreras, was inaugurated in 2003 and received on the 30th anniversary of the attacks an additional commemorative granite plaque (El País, 22.11.2002; El Mundo 24.01.2007). Moreover, in the Cemetery Fuencarral several memorials were installed for the international brigadiers who still remain as a memory of those who fell defending the Republic, specifically, there is a wall area that has a number of plaques placed by various embassies, in memory and homage to their compatriots who fought with the International Brigades. The Commissioner for Historical Memory proposed in January 2017 to start with fifteen places of memory in defining a 'catalogue of places of memory' in the city of Madrid.¹⁷⁶ Among others was the installation of a memorial in homage to those shot between 1939 and 1945 in the cemetery La Almudena by the Franco regime, for which the work started in May 2018.

175 After the death of Juan Genovés in May 2020, Vox vetoed a statement at the Congress in memory of the Valencian painter. See ABC (22.05.2020).

176 See Ayuntamiento de Madrid. Available at: <https://www.madrid.es/portales/munimadrid/es/Inicio/El-Ayuntamiento/Derechos-Humanos-y-Memoria/Memoria/El-Comisionado/Informes-y-propuestas/?vgnnextfmt=default&vgnnextoid=10a1f0d4079b2610VgnVCM2000001f4a900aRCRD&vgnnextchannel=aa78c6036bd11610VgnVCM1000001d4a900aRCRD>.

However, after the new Mayor of Madrid from the PP party took office, the construction was stopped in October 2019 before it was finished. On the grounds that it allegedly not complied with the guidelines of impartiality. Thereafter, the municipal government of Madrid City Council has started to remove the plaques from the Almudena Memorial, containing the names of 2,934 victims, with the aim of 'unifying the recognition of the victims of both sides' during the Civil War in compliance with the recommendations of the Commissioner for Historical Memory (RTVE.es, 26.11.2019). The new memorial is not to contain names of the individual victims and no inscriptions of words (one of it was planned to be the farewell letter of one of the Thirteen Roses), but it consists of one unique monument with a plaque attached with the inscription: *“The people of Madrid to all the people of Madrid who, between 1936 and 1944, suffered violence for political or ideological reasons or because of their religious beliefs. Peace, piety and forgiveness”* (elDiario.es, 17.02.2020).

Similarly, a memorial in the prison of Carabanchel in homage to the anti-Francoist struggle, that was proposed by the Commissioner for Historical Memory and planned to be built by the former Mayor of the city from the Podemos party, will not be built as announced the governing PP in August 2019 (elDiario.es, 02.08.2020). This has been preceded by the demolishing of the prison in 2008, despite protests from the local community. Since then, several associations belonging to the 'Plataforma Salvemos Carabanchel' have been calling for a memory centre to commemorate the old prison. And in December 2019 they installed their privately financed memorial, a tribute wall the Centro Memorial Carabanchel commemorating the more than 2,000 political prisoners during the Franco regime (madriddiario.es, 24.01.2020).

Foral Community of Navarra

In Navarra the implementation of symbolic reparations went far beyond. The 'Instituto Navarro de la Memoria' (Navarran Memory Institute) was found in regional capital city Pamplona as a public entity. It houses a Documentation Centre and a Library specialized in Memory and Human Rights with the aim of giving institutional value to the preservation of memory, and being the basis for policies of diffusion and dissemination of memory through programmes as Schools with Memory, for Peace and Coexistence; Local Entities for Peace and Coexistence Programmes; exhibitions and congresses.¹⁷⁷ Moreover, in 2018 the

177 For more information see Gobierno de Navarra. Available at: <https://pazyconvivencia.navarra.es/es/inm>.

Government of Navarra established the project 'lugares de memoria' (memory sites),¹⁷⁸ for which thirteen sites have been chosen so far including for example the Sartaguda Memorial Park in memory of and in homage to the more than 3,500 people killed by fascism in 1936. Emerged by popular initiative, it occupies an area of more than 6,000 square meters where memory is modelled, sculpted and carved. Not only those who were murdered, but also the other victims, the widows, survivors and the humiliated, are honoured. The park is also part of the town's 'memory walk'.¹⁷⁹

The former Francoist prison 'Fuerte de San Cristóbal', near Pamplona on Mount Ezkaba, known for the famous escape of nearly 800 prisoners in 1938, is nowadays closed to the public and the Military Command of Navarra only occasionally authorises visits for victim associations. Both the territory where it is located and the building belong to the Ministry of Defence, which has the final say in deciding its fate. Many proposals have been made by civil society organizations and initiatives to rehabilitate the fortress and to give a new use to it, for example as a memory museum (Navarra.com, 31.05.2018). Another well-known monument, a Francoist memorial for the Fallen in Pamplona called 'Navarra a sus Muertos en la Cruzada Nacional', is in discussion of re-signification. At the end of 2016 the remains of the Francoist generals Emilio Mola and José Sanjurjo and six other Francoist fighters were exhumed and Francoist symbols and emblems outside and in the building had been covered (actually they should have been removed according to the Navarran Historical Memory Law) (El País, 01.09.2016).

Catalonia

Looking a bit more into detail on Catalonia, the involvement of institutions went in this region further than in most other Autonomous Communities of Spain. The in November 2007 created public institution 'Memorial Democràtic de Catalunya' with the objective to preserve the democratic memory of Catalonia (1931-1980), the Civil War and its victims as well as the repression of the Franco dictatorship (including repression of the Catalan language and culture), exile and deportation, covers a wide scope of activities, including a bank of democratic memory, an information and documentation centre, an international colloquium or

178 For more information see Gobierno de Navarra. Available at: <https://pazyconvivencia.navarra.es/es/lugares-de-memoria>.

179 For more information see Ayuntamiento de Sartaguda,. Available at: <https://sartaguda.net/la-memoria/>.

expositions.¹⁸⁰ Two projects are especially interesting when regarding symbolic reparations: 'Espais de Memòria' and the art project 'Stolpersteine'. 'Stolpersteine'¹⁸¹ is an art project from the German artist Gunter Demnig commemorating victims of national socialism by installing commemorative brass plaques in the pavement in front of their last address of choice all over Europe. The Catalan Government has already installed more than 250 plaques in over thirty-five cities, towns and villages, lastly a plaque was installed for Lluís Companys in front of the Palace of the Generalitat.¹⁸²



Figure 21. Memorial Democràtic Catalunya project Stolpersteine (@catmemoria, 2020)

The 'Xarxa d'Espais de Memòria Democràtica' de Catalunya (Network of Democratic Memory Sites of Catalonia) creates a network of sites of interest constituting the memorial heritage, both tangible and intangible, and representing the struggle and conflicts to achieve democratic rights and freedoms, from the proclamation of the Second Republic to the

180 For more information see Generalitat de Catalunya. Available at: <http://memoria.gencat.cat/ca/que-fem/>.

181 For more information see project Stolpersteine. Available at: <http://www.stolpersteine.eu/en/home/>.

182 See Generalitat de Catalunya. Available at: <https://gen.cat/2T0rSpC>.

democratic transition. The network includes exhibition centres as such the Exile Memorial Museum, heritage recovered on sites as bunkers, trenches, mass graves, as also memory trails (exile routes, freedom trails and others), spaces and sites of resistance, archives and documentation centres and memorial monuments.¹⁸³ A map of the entire Catalan territory allows to search for sites of the Civil War, sites of the anti-Francoist struggle and recovery of democracy, sites of frontier and exile, and sites of the Second Republic.

For example, the old town of the village Corbera d'Ebre and the documentation centre 'Centro de interpretación 115 Días' are marked as a memory site of the Civil War and the Battle of the Ebro river. Situated at the top of the Montera hill and destroyed by the aerial bombardment and artillery of the former Franco regime starting on 25 July 1938, the old town of Corbera d'Ebre has become the most emblematic site of the Civil War's Battle of the Ebro. At the same time, it also represents the abandonment after the war and the difficulties of the people who remained alive, the ones who used the remains of the Old Village to build the New Village, just off the road. On this site is also installed the artistic initiative 'Alphabet of Peace'



Figure 22. Corbera d'Ebre Poble Vell (own photographs)



183 See Xarxa d'espais de memòria. Available at: <http://memoria.gencat.cat/ca/que-fem/banc-memoria-democratica/fons/xem/>.

Another memory site, located in the city of Barcelona is the 'Camp de la Bota', a historic shanty town that grew up around a nineteenth-century military castle. During the Civil War the parapet was briefly used as a place for firing squads and, during the post-war period, the parapet became the place in Barcelona where the Franco dictatorship systematically executed nearly 1,700 people between 1939 and 1952. In the Fraternitat monument, a work by the Valencian artist Miquel Navarro, at whose feet one can read a dedication to the Republicans who were shot on this site, accompanied by some verses by Màrius Torres, was inaugurated in 1992. Later on, at what is today the Forum areal the memorial 'Parapet de les executades i executats' (Parapet of executions in Barcelona 1939-1952) was installed in February 2019. It is a huge wall measuring 55 metres long and 3.5 metres high, featuring the wall where the executions were carried out, designed by the artist Francesc Abad. It bears the names and surnames of the 1,706 people shot by firing squads. Some were shot at Montjuïc Castle, others in the Prison Modelo, but the majority, over 1,600 people, died at the parapet at Camp de la Bota, next to the beach, that is now under water.¹⁸⁴



Figure 24. *La Fraternitat, Barcelona*
(own photograph)



Figure 23. *Camp de la Bota, Barcelona* (own photograph)

Beyond that, the city council of Barcelona was setting up 2019 a new map that locates places selected as the city's democratic memory which are marked in the public space. There are

¹⁸⁴ See Ayuntamiento de Barcelona. Available at: https://www.barcelona.cat/infobarcelona/en/remembering-those-executed-by-francoist-firing-squads-at-camp-de-la-bota_771538.html.

currently 30 lecterns and 53 plaques, distributed around the streets and squares of all the districts, explaining episodes linked to the struggle for freedom and equality.¹⁸⁵



Figure 25. *Places of Memory, Barcelona (own photographs)*

To put it in a nutshell, even though victim reparations, including a range of different material and symbolic measures, are the most significant elements of what be considered as Spain's transitional justice policy, it cannot be said that these reparations are complete and form part of a comprehensive programme as there are still many gaps. First and foremost, because a policy of reparations for the victims of Francoism depends on the state's memory politics and policy of historical remembrance. In the case of Spain, the process of democratization did not come along with the emergence of a predominantly self-critical view of history. Hence, coping with the violence and repression during the Civil War and the Franco dictatorship is even today not a matter of course in Spain's political culture, in contrast to many other post-authoritarian European countries. Public critics in Spain of the state-sponsored reparative measures repeatedly point on this aspect. Essentially, main criticism of the existing legislation voiced by victims associations, revolves around the fact that the 2007 Historical Memory Law did not allow for the possibility to declare null and void the judgements passed by criminal and military tribunals during the dictatorship, that the Spanish State did not take on the

¹⁸⁵ For more information see Ayuntamiento de Barcelona. Available at: <https://ajuntament.barcelona.cat/memoriademocratica/es/mapa/>

responsibility to search for the missed persons, and that the application of the Law is not enforced, for example in terms of removal of Francoist symbols, therefore the Law is not sufficient to comply with international humanitarian and human rights law standards. Further raised is, that the Law created an asymmetry in the State's treatment of the victims of Francoism and the victims of terrorism, since the latter is granted full access to generous compensation even if they were directly involved in human rights violations during the Franco regime (Law 32/1999 and Law 29/2011), while compensation under the Historical Memory Law introduces the condition that the victims died defending democracy, to prevent any terrorists to possibly benefit from it.¹⁸⁶

Criticism has also been voiced on the Draft for the new Democratic Memory Law. The victim organization ARMH complains on the aspects of reparations that the law is insufficient because the text does not clarify what the family of a disappeared person has to do in order to address the State and obtain the reparation to which they are entitled, the model of subsidising exhumations is criticized because the State has to directly attend the families since only state institutions can give them the official status of victims and not the associations, also the two chosen commemoration days are viewed implausible and wrongly selected. Denounced is further that the Draft Law is missing not only an office that attends victims and their families (something that exists for descendants of missed soldiers of the 'Division Azul' (Blue Division) who fought in World War II on the side of Nazi Germany against Russia (elDiario.es, 28.12.2014)) and a centre for the interpretation of Spanish fascism. But also a public act, on Spanish territory, by the President with the victims of Francoist repression.¹⁸⁷ Furthermore, the organization 'Foro por la Memoria' adds to this criticism, in the area of reparations and besides denouncing the persistence of the 'Spanish model of impunity', that they miss a much stronger and more explicit condemnation of the military coup of 1936 and the dictatorship and at the same time a clear declaration of the legitimacy of the Second Republic. Also, that the economic responsibility of the State or of individuals who have benefited from seizure of goods or theft during Francoism is not recognized, nor does it recognize the responsibility of the State, companies and individuals who have benefited from forced labour, hence the draft law lacks here of material reparations. Further, that all

¹⁸⁶ See for further information on the rights of victims of terrorism and the application of transitional justice measures Tamarit Sumalla (2013, pp.72-74).

¹⁸⁷ See ARMH Silva Barrera, E. (17.09.2020) or Silva Barrera, E. (06.10.2020).

sentences, courts and the repressive legislation of Franco's regime is not declared illegal and void, but 'illegitimate', the issue hereby is that this is not a legal term. As missing are denounced, too, specific measures of recognition and reparation for the anti-Francoist Guerrilla and the collective of women who suffered humiliation, persecution, rape or punishment for having exercised their personal or professional freedom during the Second Republic, or for the mere fact of being partners, wives or daughters of such Republicans.¹⁸⁸

Having said this, apart from the victim organizations, what does the general public think of the state of reparations in Spain? This question is going to be addressed by the subsequent Chapter.

¹⁸⁸ See Federación Estatal de Foros por la Memoria Arturo Peinado (05.10.2020).

6 Chapter VI. Empirical Results: Public Opinion on Reparations in Spain

This Chapter looks closer into the empirical findings on public opinions towards reparations as well as analyses and identifies conditions and determinants of public support for reparations within the Spanish context. In detail, a profounder and more analytical descriptive analysis of online-survey respondents' and focus group participants' experiences is provided, in terms of: socialization and victimization, perceptions of the human rights violations occurred, the need of victims and especially opinions, perceptions, and attitudes on the idea, the design and implementation of reparations also including issues of reconciliation and guarantees of non-repetition. Finally the Chapter is concluded with the findings being summarized in form of an exemplary attempt to fit the empirical results for the Spanish case in the analytical framework and hereby explain support or non-support for victim reparations in post-Franco Spain.

Asking Spanish citizens for their opinions on transitional justice measures in general and on reparations for victims of Francoism in concrete, has been done only on a few occasions. To get an idea what previous empirical research on public opinion in Spain could find, below the results of existing public opinion studies are shortly introduced. First, respective surveys demonstrate that memories of the Civil War and the Franco dictatorship are still present in Spain. According to a survey from the Spanish survey centre CIS, conducted in December 2000, only 42.7 percent of the respondents thought the divisions and resentments of the Civil War had been forgotten, but even if it had been forgotten the profound marks of Francoism are still alive expressed 66.9 percent.¹⁸⁹ The only monographic and for the whole population representative survey (also containing additional representatives samples of the Catalan and Basque populations) exploring Spanish attitudes to the memories of the Civil War and the dictatorship, the legacies of them, transitional justice measures and mechanisms of socialization is the (previously already in Chapter IV mentioned) CIS-survey 'Memories of the civil War and Francoism' from April 2008.¹⁹⁰

189 See Question 4, CIS Estudio No. 2.401 (09.12.2000) '*25 Años Después*', N=2486. Available at: http://www.cis.es/cis/opencm/GA/1_encuestas/estudios/ver.jsp?estudio=1384 (Accessed 19 October 2020).

190 CIS Estudio No. 2.760 (April 2008) '*Memorias de la Guerra Civil y el franquismo*', N=2935. Available at: http://www.cis.es/cis/opencm/ES/1_encuestas/estudios/listaMuestras.jsp?estudio=9220 (Accessed 19 October 2020).

In this last study conducted on the topic by the CIS, the number of people who thought that the divisions and resentments which in the past led to the Civil War are forgotten even decreased to only 36 percent. While at the same time a slightly lower percentage of 57.5 respondents thought that the memories of Francoism are still alive among Spaniards. In Spain exists still fear to talk about the past confirmed 30.5 percent of the respondents.¹⁹¹ When asking about the most significant event/happening in the last 100 years of Spanish history, from an amplified list of events, including e.g. the War in Iraq, the Madrid terrorist attack, the ETA terrorism, or women's rights, with large difference three events were chosen as the most significant ones: 28 percent for the answer 'the 1936 coup d'état and the Civil War', followed by 'the Transition to democracy' with 23.4 percent and 'the current democracy and its achievements' with 20.2 percent.¹⁹²

Regarding memories of the past, the Civil War is evidently seen as a tragedy in which both sides committed atrocities, while the evaluation of the long-lasting dictatorship remains ambiguous. Hence, still 58.2 percent of respondents chose that Francoism had good and bad things, and 31.5 percent thought during Francoism was more peace and order than nowadays. However, in the very same question 88.2 percent said that while Franco was alive people did not express their opinion freely because of fear of what could happen, also 79.6 percent agreed that during Francoism basic human rights were violated.¹⁹³ Further, 72.2 percent of respondents agreed that victims of the Civil War were treated differently during Francoism dependent on the side they belonged to and 55.7 percent agreed that the victims of the Franco regime did not obtain the acknowledgement they deserve. It is better to forget the past because, if it is removed, the Civil War could be repeated, was agreed on by 33.9 percent of respondents.¹⁹⁴

Moreover, when surveying opinions on the transition, the question if Spain can be proud of the way the Transition to democracy took place, a huge majority 73.8 percent agreed whereas 15.7 percent disagreed.¹⁹⁵ Regarding the issue of mass graves, 50.2 percent were of the opinion that the mortal remains of the defeated of the Civil War, that still remain in common

191 See Question 16, CIS Estudio No. 2.760 (April 2008).

192 See Question 5, CIS Estudio No. 2.760 (April 2008).

193 See Question 21, CIS Estudio No. 2.760 (April 2008).

194 See Question 19, CIS Estudio No. 2.760 (April 2008).

195 See Question 29, CIS Estudio No. 2.760 (April 2008).

graves, should be identified and transferred to a cemetery, whereas 26.3 percent responded that nothing should be done. For the ones who were thinking there is a necessity to reburial, a great majority of 83.8 percent attributed this task to the State.¹⁹⁶

Additionally, it was asked about the reasons for the absence of criminal justice of the perpetrators of human rights violations. 38.4 percent stated that the politicians of the Transition decided not to do it and 21.4 percent claimed that trials would provoke new conflict between Spaniards.¹⁹⁷ Another question was formulated on the need to create an independent commission to investigate and clarify the human rights violations of the Franco regime whereby 40.8 percent answered with yes and 42.2 percent with no (in comparison the same question asked for the Civil War resulted in 38.9 percent yes and 44.8 percent no).¹⁹⁸ When regarding questions on different TJ measures, 50.4 percent of respondents agreed to annulate the political judicial processes of the Franco regime, 48.7 percent stated agreement to bring to Court the authorities having violated human rights during Francoism, while higher support was expressed for the withdrawal of symbols honouring Francoism with 55.8 percent (55.4 percent for the symbols of the Civil War), and a monument dedicated to all victims of Francoism found support by 61 percent. Whereas a monument for all victims of Civil War received the highest approval rate of the question with 70.7 percent.¹⁹⁹

Lastly, there was clear support for the 2007 Historical Memory Law with 39.7 percent of the respondents considered it as 'good', 17.1 percent as 'regular', and 12.8 percent as 'very good'. A huge majority of 40.8 percent agreed that the Law was a “(...) *necessary measure, as democracy had an outstanding debt to the victims of the Civil War and Francoism*”.²⁰⁰ To conclude, according to these survey results it seems that Spaniards are quite in favour of transitional justice policies, in particular symbolic reparations achieve high agreement rates whereas truth finding seems to be more controversial. Nevertheless, those attitudes had been measured shortly after the passing of the Historical Memory Law in 2007, more than a decade ago. Therefore, it is necessary to have a look on more recent data to determine if opinions have changed in the last years. Before analysing the thesis's own empirical data, a quick view

196 See Question 18, CIS Estudio No. 2.760 (April 2008).

197 See Question 22, CIS Estudio No. 2.760 (April 2008).

198 See Question 24, CIS Estudio No. 2.760 (April 2008).

199 See Question 25, CIS Estudio No. 2.760 (April 2008).

200 See Question 23a and 23c, CIS Estudio No. 2.760 (April 2008).

on a survey conducted on occasion of the exhumation of Franco from the Valley of the Fallen might give some first new indications. For example, the survey conducted by GESOP with 1,504 respondents in October 2019, for the newspaper elPeriódico, shows that still an important part of Spaniards, namely 38 percent, think that exhuming Franco would open the wounds of the past. Nonetheless, a clear majority of 54.8 percent of respondents expressed support for the exhumation.

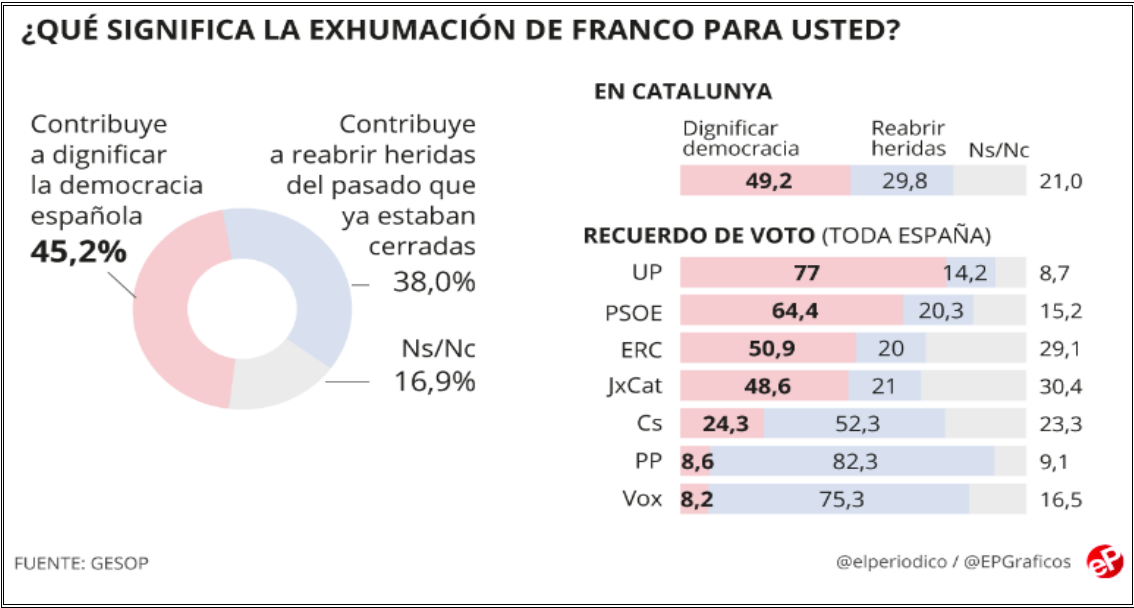


Figure 26. Survey elPeriódico I (15.11.2019)

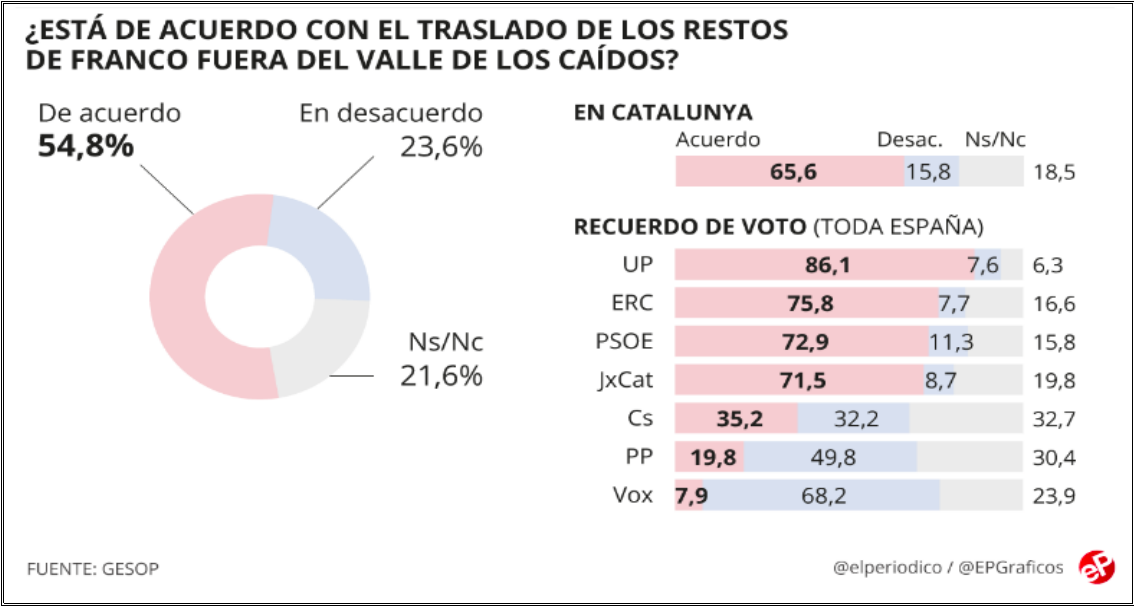


Figure 27. Survey elPeriódico II (15.11.2019)

6.1 Findings from the Online-Survey

Data from the online-survey on opinions, attitudes, and perceptions towards reparations, conducted in the course of this thesis from September to October 2019 (for descriptive statistics see Chapter IV), give quite a similar picture in many aspects to what was surveyed by the CIS in April 2008. Some crucial conclusions, not to forget generalisation of results for the whole of the Spanish population is not possible since not being a representative study, are: It seems the 'trend' that with passing of the years more and more people declare that their family sided with the Republicans and fewer with the Nationalists continues. Respondents stating Republican side increased from 28.2 percent in 2008 to 39 percent in 2019, while the percentage of declared Nationalist basically remained the same when comparing 2008 with 17.6 percent to the 17 percent in 2019.²⁰¹

Another interesting observation is that in 2019 still two-thirds of the respondents are considering themselves as victims in the present online-survey, of whom around a half feeling directly and the other half feeling indirectly victimized (no comparison with the CIS-survey possible as no question of this kind has been asked). To better understand this high number of 'victims', it must be regarded what means for someone to be a victim? Based on which occurrences someone self-defines as a victim? Open answers from some respondents on the human rights violation occurred to them might give an insight into this phenomenon. Mentioned in the open answers was among other things the absence of freedom of speech, civil and political liberties, repression at the workplace and purges from the profession, economic sanctions, robbery and destruction, social and cultural repression, repression of students, fear, concealment and double life, police violence and surveillance, public humiliation, the inequality and the unequal treatment, hunger and poverty or death due to the Civil War (the question actually only refers to the dictatorship). Exemplary, ID_568 stated: *“I have only been a citizen who has suffered from being trained in the dictatorship and growing up there with all that it entails to live in ignorance and repression”*.

Regarding the memories of the violent past, a significant majority of 76 percent strongly agreed in the present online-survey that widespread human rights violations occurred during Francoism, for which the government and state institutions were made in the same great majority responsible. This observation is similarly to the high agreement on this matter from

201 See Question 9, CIS Estudio No. 2.760 (April 2008).

the 2008 CIS-survey with 79.6 percent and the overwhelmingly majority of 88.2 percent that believed in the CIS-survey that as long as Franco lived, people did not state their opinion freely because of fear of the consequences.²⁰²

Further, conclusions are that a majority of 51 percent of respondents were in the present online-survey the opinion that there is definitively a need for reconciliation in Spain. Adding up the 24 percent that thought there is rather a need for it, makes clear that this continues to be a concern for Spaniards in 2019, eight decades after the end of the Civil War (no comparison with the CIS-survey possible as no question on this matter was asked). Interestingly, hereby it seems that Spaniards consider reparations programmes for victims as the measure that best contributes to social reconciliation followed by truth commission and national tribunals, what rather contradicts the findings of the 2008 CIS-survey, where support for a truth commission seemed low.²⁰³ As an example of what is seen mostly necessary in order to reconcile the Spanish society, ID_808 declared:

“Let the whole truth come out: that the actions carried out are known with contrasting data and details and that reparations are made to the victims, whatever side they may be on. I consider the exhumation of mass graves to be very important, because we all have the right to know where the remains of our ancestors lie. The famous phrase 'people who do not know their history are condemned to repeat it' makes sense: only such measures can help to avoid repeating the same mistakes of the past”.

ID_808 added at a later stage that:

“Although there were members of both sides in my family, I unequivocally sympathize more with the losing side, because it was the one that suffered the most from the consequences of an unjust dictatorship by definition. It does not seem correct to me that the people and organizations that carried out atrocities such as those that have been known do not suffer the consequences of their actions due to an amnesty that seeks to erase disputes and the only thing that it achieves is to revive resentments that will not be eliminated until the perpetrators of crimes pay for their crimes (or publicly acknowledge what they did, as many have died). Justice must be restorative and show that it is on the side of the weakest, of those who lost everything at the hands of an intransigent dictatorship and who have also had to endure the treatment of true murderers and torturers as heroes. Society deserves to know the TRUTH in capital letters, and not the sweetened version that, in pursuit of a misunderstood reconciliation, was sold to us by the Transitional governments. It is not about opening wounds, but about healing them (...)”.

202 See Question 21, CIS Estudio No. 2.760 (April 2008).

203 See Question 24, CIS Estudio No. 2.760 (April 2008).

In contrast, an example of what only very few others believed is reflected in the statement of ID_445:

“Knowledge of history, not its reinvention. Abstaining from policies, and rules, that encourage 'civil war' and promote confrontation. To learn from the generosity of our immediate predecessors (parents and grandparents), who bet on the reconciliation that some politicians try to prevent in a miserable way”.

In terms of transitional justice mechanism, it could be concluded that most Spaniards know the 2007 Historical Memory Law, what has been also demonstrated by the CIS-survey with 62 percent knowing the Law, but respondents rather do not know any other legislation.²⁰⁴ Knowledge of material reparations is quite low in the present online-survey with 18 percent and some 24 percent thought there are no such reparations in place. On the contrary, symbolic reparations are widely known by 48 percent and only 14 percent of respondents believed no measures are in place. Above that, focusing on reparations, in general to address victims' needs is considered as very important by a great majority of 72 percent and that such reparations should be directed to individual victims and to the community received the greatest support with 41 percent. According to the present online-survey, in 2019 the most prominent and adequate measure seem the search for the disappeared and exhumations, followed by restitution of property and goods, and public apologies by perpetrators. The CIS-survey indicated among several measures in 2008 the highest rates for a monument dedicated to all the victims of the Civil War (however this data is not directly comparable as questions were asked differently).²⁰⁵

Evaluating what the Spanish government has carried out so far in terms of victims' reparations, it seems there is great support for the reparations laws, measures, and initiatives implemented with the present online-survey showing respectively 30 percent of strong support and 42 percent of support. Finally, the overall evaluation of the way the Spanish State dealt with the past is mainly regarded ambivalent, as such 50 percent of respondents said the state has performed partially well and there was done something, but more must be done. To illustrate, one of the few negative comments made by respondents of the present online-survey. ID_294 commented at the very end of the survey:

204 See Question 23, CIS Estudio No. 2.760 (April 2008).

205 See Question 25, CIS Estudio No. 2.760 (April 2008).

“The problem was resolved until Zapatero's ill-fated Historical Memory Law and its deranged application. The Transition effort was commendable and the populist-left drift of recent years has unnecessarily reopened wounds. There have been populations in which both the descendants of both sides have refused to apply it in an admirable exercise of reconciliation and common sense. Nowadays, there are hardly any survivors of that fratricidal conflict to implement measures that are more than compensatory rather of historical revenge; which, the only thing they arouse is the uplifting of spirits in generations of Spaniards who have lived in peace and have not met Franco. There was a war and the war was followed by a dictatorship that eventually led to an authoritarian regime. Although in the last two decades of that regime there were no civil and political liberties, a large part of the reconciliation between Spaniards had been achieved. Drawing back on these questions looking for, 44 years after Franco, victims of his political regime, does not exactly contribute to social peace. And the conclusions that can be drawn from this investigation will not provide, with today's eyes, data that truly illuminate what happened so long ago, the same as if we were looking for victims of the reign of Fernando VII”.

Besides the mentioned findings, the bivariate analysis to check for correlation between support for the idea as well as for the implementation of reparations for Franco's victims, and the political ideology of a person, revealed some however not robust relations. It could be assumed that Spaniards being more leftist, stronger support addressing victims' needs, the provision of state-sponsored reparations and the implemented reparations laws, measures, and initiatives. The influence of the fact that the family having sided with the Republicans or the Nationalists has on a Spaniard's opinion towards reparations is more questionable, since the bivariate analysis showed only a weak relation. The same can be said for the condition of Spaniards considering themselves as a victim or not, given that only a weak relation between support and being affected or not by human rights violations could be registered. Despite these objections, information on participants' political ideology, family identity and victimization played a role for the composition of well-mixed focus groups. The findings from this online-survey on opinions, attitudes, and perceptions towards reparations in Spain, provides the big picture of the current main issues and concerns of Spaniards and therefore paved the way for the focus group discussions.

6.2 Findings from the Focus Groups

The focus groups, conducted in spring 2020, aim to dig deeper into the opinions of Spaniards

and to gather grass-root perceptions towards reparations the Spanish State has so far provided and should still provide to the victims of Francoist repression. By this the focus groups are to create an added-value to the interpretation of the online-survey results. The results of two separately conducted focus group discussions are presented in form of thematic comprehensive summaries of what was discussed, for each main content question of the moderator's guide. Additionally, summaries of information extracted from the entire course of the debate regarding perceptions on the violence and repression of the Franco regime, on reconciliation and non-repetition, and the exhumation of Franco from the Valley of the Fallen are provided. Some direct quotations from participants' personal histories complement the summaries. To get a first overview of what has been debated, word clouds deliver a first insight.²⁰⁶



Figure 28. Word Cloud Focus Group I

206 The word clouds display words with a minimum of two mentions, exclusively nouns, words not directly related to the topic were deleted. Extracted from <https://www.wordclouds.com/>.



Figure 29. Word Cloud Focus Group II

To begin with what had functioned as an ice breaker at the very beginning of the group sessions. When regarding a Twitter photomontage which portrayed in an ironic way the exhumation of Francisco Franco from the Valley of the Fallen, what first came into the minds of the participants and what was named in its respect, is summarized in the following:

Stance on the Exhumation of Franco from the Valley of the Fallen

On the one hand, the exhumation of Franco was in the first group associated with a historical nonsense that should not have happened and is not well reflected in the country's history. The exhumation is seen as a historical milestone, a very important moment, good news. Something that seemed to be overdue but happened better late than never, and a joy was expressed to see something was achieved what was thought to never would be seen. But it was also mentioned that it reflects the penury of Spain's own democratic basis, and marks in

the country's history what meant the dictatorship. Further stated was that the topic affects more than the state, it affects the democratic basis. Behind the whole topic is the substantial not solved issue of the victims, the victim reparations as an existing debt. On the other hand, someone expressed that the exhumation is good, but should be paid with private funds from people who are interested in that, as it is not liked that the state used the money from the people's taxes, hence that it is an undesirable state intervention, and that it is nothing that interests certain persons in special. This argument was countered by reminding that Franco was a state figure so it should be paid by the state. Moreover, someone emphasized that the Valley of the Fallen was constructed with the use of slave workers, political prisoners of whom many died to construct it. And that the remains of Republicans were transferred to the Valley without the consent of the families by a order of Franco. Thoughts from the second group were that the discussion around the exhumation causes feelings of injustice and sadness that after so many years the topic is still actual.

Views on the Fate of the Valley of the Fallen

Tying in with this, opinions on the question of *what to do now with the Valley of the Fallen* were distinct. In the first group they ranged from: give it a performance so that it would be more profitable for the state, not exalt any neutral position make out of it a museum of the Civil War, whereby not knowing how to do that, to a participant who said that he/she never liked to pay not a single euro as citizens should not pay to remove it since it was enough they were obliged to construct it and it has to be dynamited once the remains of the 30,000 and more Republicans have been exhumed. This person further emphasized, that the remains must be exhumed and need to be given back to the families, and then maybe it could be turned into a space/ a site of memory, however it will never be a site of memory for the Republicans, the victims of the Civil War, and never ever it will be considered as a memory place for all. Because of this the Valley should rather be destroyed after having exhumed and returned the remains to the families. Further, someone expressed the view that it is absolutely not a private subject, but first the identification and relocation of the bodies has to be done, then maybe what in its days the Parliamentarian Commission suggested a memory site could be an option. Similarly, the second group expressed ambivalent thoughts. On the one hand, the desire to destroy it, to see it exploding. While, on the other hand, since it is a great monument that stands for the country's past, the thoughts to renovate it and re-module it completely to make a space where the past is denounced and information about what had happened is spread.

Helping to create knowledge of the past with a museum where photos are shown, something like what was done with some former Nazi concentration camps, was raised. However, as it is still a place where people come to remember Franco, someone added, it needs to be recomposed completely to become a place of democratic memory and remove the symbology standing for pro-Francoism and above all first exhume all Republicans who are buried there.

Perceptions of the Violence and Repression During the Franco Regime

Second, summarizing participants' perceptions of the violence and repression occurred during the Franco regime, expressed during the course of the one hour and a half long debate. The *Civil War* and its aftermath are considered as a historical injustice, something that had been terrible for many years. It should not be forgotten that Spain had a legitimate, democratic, Republican government that was assaulted by militaries, and that the war installed due to a military assault. The legitimate government of the Republic was ousted by a coup d'état, thus there were no 'two sides', that is why a participant claimed not liking to speak of 'sides'. The losers suffered from a huge injustice.

The *Franco dictatorship* was described as being responsible for hundreds of thousands of deaths, half of the country exiled, coming along with imprisonment and shootings, what had been adopted to normality within the country's history. Another person stated that not liking the person Franco, that he was a horrible person as well as mentioning that the whole period of Francoism was a regrettable and sad period wishing it had never happened. It was the darkest period in Spain's history and hopefully there will be never something similar was stated, too. Added was, what Franco did during the war and Francoism was a genocide of the state. Francoism had such a strong impact on the family environment so that it destroyed all of what was the social structure of the family. Francoists robbed and plundered, took away land, houses and properties from suspected Republicans, based on a decree that legitimated the robber. Further, mentioned were things as: when voting at elections ballots were opened or Republicans had to work for the others as no one gave them work. Someone else expressed that the Franco regime had been bad in several sense, the worst the deaths, while also bad was the deprivations of liberty, dozen thousands of victims remain in mass graves and gutters, torturers like Billy El Niño receive extra payments, and heritage from the unions had been seized. This was pure robbery, until robbery of children, the stolen children show the degree of inhumanity, was said. Also, the Church was directly united with Francoism and also has not

apologised. Additionally, stated was that there was fear and it was not possible to talk openly on the streets. 500,000 people were forced into exile, torture in prisons happened under the umbrella of the state, and 100,000 had fallen in the concentration camps. Beyond that, a cultural transmission had been annulled in Spain by 40 years of an implemented culture, as such what women are now is also a consequence of the dictatorship and the war. Another opinion was that the military coup and a dictatorship is something execrable, the winners write the history and after so many years the history is so infected by the construction of the winners. A different view was expressed by one participant. Even though saying if there wouldn't have been Francoism Spain would be a more developed country, he/she stated that the violations occurred is something that was committed by persons two generations ago and he/she personally did not participated in that. The people who did the bad things were the state, an illegitimately constituted state that was constituted by a dictator. During the second focus group additionally mentioned was that the dictatorship was not good for anybody.

Three exemplary quotations give not only further insights into personal histories of the participants, but also into the systematic repression of Francoism:

ID_351: *"(...) because my grandfather still remains in a mass grave, and he is missing (...) they took him out of his house and shot him in a cemetery and he is in a mass grave which we have not yet been able to access due to multiple circumstances"*.

ID_581: *"There is an anecdote that my grandfather told me, that at twelve years old he went fishing with his father and... shortly after the Civil War ended... bodies floated from time to time in the Vigo estuary and his father he said to him never talk about this because the next one that could appear floating would be him, the father"*.

ID_848: *"(...) they [my family] say they were apolitical, but in the end I think they sided with those who were winning, right? (...) the fact that my grandmother only knew how to speak Catalan and only knew how to write in Spanish that is an effect of the dictatorship"*.

Opinions on Reconciliation in Spain

Third, summarizing opinions on social reconciliation among Spaniards and on issues of non-repetition expressed during the course of the debate. Raised was, that a society must do training and education and to create a different attitude towards what had happened. People have to feel as part of human beings and they have to know where they come from, thus knowledge of this part of the history is crucial. When it is analysed, it can be learnt a lot and

one can be better. Only few time has passed since people had been detained and the violations happened quite recently. Fundamental is the knowledge therefore the society needs to be set up in different manner and empathy is needed towards the own people. Also raised was, that there is no conscience of the Spanish State of the necessity of a historical reparation for what was the Francoism. Happenings as such when in the Senate many deputies vote against the recognition of victims of Francoism, generate a DNA in Spain's society extraordinary dangerous amid totalitarianism. Further expressed was that the topic still hurts, the society has not matured in political and memorial sense because empathy is missing. When an artist gets not recognized by the Parliament because being considered leftist this says it all, interjected a participant. The polarization of the society is still existent and that is why people vote for Vox. Above that, stated was, there is a need to adopt a more moderate position by both sides, because make justice is impossible and vengeance drives the society to confrontation and radicalise the other side. As can be seen nowadays, people do not think they are ignorant, there is no knowledge, no respect for memory, justice and reparation because Spain's history has not been drained and cleaned and the people did not share the history and their stories. Hence, it is difficult to change the victor's construct, the fault is of those who did not enhance an education.

Further said was, the Spanish society needs to be more tolerant to not repeat the past and respect the others more. During the second focus group was expressed the thought that in other countries state-sponsored museums and those kinds of things can be visited while in Spain installing such a thing would cause a controversy and the party in the opposition would always be against it, if the government proposed it. Spain remains divided on the topic of the past, there is no consent on the past what also affects how the history is taught in schools, as also education is something it cannot be trusted in, assured someone else. Also, participants said they do not have a lot of faith in the country that anything will change, and that something is going wrong because if not there would not be the current political situation and the fact that the Vox party had gained many seats in the last general parliamentary elections. Beyond that, it was mentioned, that the State has the responsibility to facilitate the reconciliation and that recognizing what had happened to the victims could be the solution for not being such a divided country.

Attitudes Towards Reparations for Victims of Francoism

Fourth, the results from the discussions of the three main content questions, that asked for opinions on the idea of providing reparations, on different types of reparations, and on the implementation of reparations in Spain, are presented below. Thanks to coding of these main questions, some general tendencies can be identified.

1) Opinions on the Idea of Providing Reparations to Victims of Francoism

Do you believe in general there should be reparations for the victims of the Franco regime?

A great majority of the participants from both groups answered this question positively using expressions as such: what Franco did was a genocide and that is why it is the State who has to do all what is related to reparations in the wider sense, the State has to assume reparation in the broad sense of the word, it is a clear debt of the State to do reparations, those are tasks and obligations of the State, the State has to take care of it. It is basic to repair victims and indispensable, it is an obligation to be able to heal wounds and move forward in coexistence as it is a fundamental democratic principle, it is something victims were fighting for long time. A complete reparation in an all-encompassing sense is necessary, reparation is like a philosophical recognition, something at a concrete level should be done, the central topic (of how to deal with the past) are the victims and with many of them remaining in mass graves is a task the State has to deal with. It is not vengeance; it is reparation and right now the key issue are the victims.

However, also some negative points were mentioned: persons are different, and it is not possible to apply the same concept of justice to all, it is good to pay reparations to victims but it is not justified that someone has to pay for things one did not do and is not responsible for, it is unfair paying any type of reparation with public funds and thus with citizens' taxes. Reparations is good when it is done voluntarily, but if Spaniards are forced to pay reparations it is repeated what had been done by Franco, of course on another scale. This is an harmful attitude of the State as it reproduces another injustice and takes away citizen's liberty. Hence, people who were not involved in the past should not be obliged to repair. Imposing vengeance would lead to more confrontation. Besides that, it unfortunately comes forty years late.

Other comments related to the question included: We are all fruits of a historical aberration that is why many times it is asked for pardon. We need education and an attitude towards what

had happened as it happened quite recently and it is still very recent. Fundamental is the knowledge, the understanding for the others, the state also creates values and the values are responsibility. The first reparation that should be done is recovering the bodies of the missing. The aspects of how to repair is open to discussion. Something had been done already by the Historical Memory Law.

Reparations should be for whom, who are the victims?

Mentions were here, without doubt by both groups, in favour of the Republicans as the victims to consider for reparations. Negatively mentions were made in respect to war victims of Franco's side receiving reparations. Most often were reparations stated, by one focus group, in the context with the indirect victims' concept, even more often than for direct victim concept. Whereas the other group did not really talk about this distinction, however when referred to victims meaning rather the direct ones. That both 'sides' should receive reparations was expressed only once in each group. Among other things it was for example commented: the victims are clearly the ones from one single 'side' as those are the ones who remain in the mass graves, the ones who had suffered nearly 40 years of repression during the dictatorship, them being the looser side of the Civil War. 90 percent of the resources should be dedicated to the 'side' where had been more victims and repression, what is obviously not the Francoist side. It can be seen clearly who the victims are and how it happened, the inequality is brutal as the winners could celebrate homages, funerals and they know where to visit their ancestors, but the defeated side not. The Francoist side had been repaired already (Franco passed a decree in the 1940s), the Franco side is yet more than repaired. If they still would miss something they could also ask for reparation, but the Republican side is still waiting for all-encompassing reparations, thus the centre of attention should be on them.

Some participants mentioned a distinction of victims: people born after the end of the regime are indirect victims because if there would not have been Franco, Spain would be a more developed country. There should be reparations for the very same fallen and disappeared as well as for their families. The concept of victims are direct victims who are the ones who had been shot or disappeared and then the families of the victims including the ones who are third generation because Francoism had such a strong impact on the family environment and destroyed social family structures. Another aspect raised was, that it is not understandable why in Spain this discussion exists, whereas in Germany no-one is considering the Nazis to be

victims. It is unacceptable to treat both 'sides' equally, injustices committed against the right-wings basically happened in the context of a war thus they cannot be considered 'victims of Francoism'.

Some quotations of participants' personal histories give an insight into the various forms of victimization:

ID_351: “(...) my family... my aunt was 12 years old, my mother was 9 and up to 5 children... they had to drop everything... drop out of school, drop everything and start serving, undoubtedly those who had won the war. Therefore the concept of victim, is a broad concept”.

ID_176: “I am the daughter of a NO (...) Because she is a woman... well, very brave and very everything... so brave that in the year 40 and little, that a referendum was held in Spain on Franco yes or Franco no. My mother in a town with very few inhabitants had the nose to vote no. The civil guard, the mayor and the priest opened their little paper when she was going to put it in the box and since it was the NO's (their family had already had their land taken away, their houses because they were alleged Republicans), they no longer they had nothing, in different ways... some more profane, others more direct had nothing and worked for others... and she had the bad idea of voting NO. (...) well, in '47, she had to leave town, because they told her that no one was going to give her a job there, and she left that town. She went to another town, where she met my father. So I say that I am the daughter of NO (...)”.

ID_176: “(...) we are victims, Franco dies 5 months after I left Yaserías²⁰⁷. I am one of the last people who, at just 18 years old, being a minor and a woman, I have been arrested by Billy el Niño, punched I am deaf in one ear and I have been in Yaserías and that happened a quarter of an hour ago”.

ID_351: “(...) my grandfather is still in a mass grave and he is a disappeared, he was taken from his house and shot in a cemetery and he is in a mass grave which we have not yet been able to access due to many circumstances, therefore it is a state problem”.

How would you respond if someone is saying: “pardon not repair”?

This question was not asked in the first group due to the flow of the conversation and time constraints. The second group's participants stated that pardon seems to be not very useful as often it is not meant sincerely. It could help, but is not sufficient, it seems a Christian concept, and it is not the same as reparation since reparation means to publicly acknowledge the damage caused by the state. To pardon someone there need to be an apology first and this has

²⁰⁷ Yaserías is a former female prison situated in the district of Arganzuela of Madrid.

not been done so far, the government never apologized to the families whose family members are still in the mass graves. The most important thing is to recognize victims and their suffering, and then reparation, that not necessarily has to be economic rather symbolic. And importantly is education, to tell the history from the point of view of the victims. Further, it was added that maybe it should not be only pardon or reparation, but maybe pardon, reparation, apologies, and fifty other things more.

2) Opinions on Different Types of Reparations

Do you think the following measures are adequate to repair the victims in Spain?

Payments and Pensions

Opinions had been rather negative than positive in the first group and in the second group the feeling was rather ambivalent: it has not liked them to be paid with the taxes of the citizens only with private funds, there should be no obligation to contribute by paying taxes only voluntarily and this should be paid with parts of the heritage. In contrary, mentioned was that for the victim this is very useful, and the State should be responsible. At the same time, opposed was that former Francoist personal revives extra payments from the State (e.g., the ex-policeman Billy el Niño). Said was also, that economical reparation is not the terminus of memory as the terminus of reparation is something more. Lower level of importance of economic reparations, they are not the most important, overall nowadays as it is very late. Thus, another doubt is to whom they should be paid nowadays, only to the spouse or also to children and grandchildren? Pensions for widows would have been back in that times very important, directly after a conflict, but this is now not the case anymore. Also often it is tried to close a topic with by providing economic reparations and to cover up for other things. Above that, frequently this type of compensation is falling short as the amount paid is rather ridiculous. For victims this is mostly not the crucial thing neither, therefore on material reparations should not be set the focus, was resumed by a participant.

Restitution of Property and Land

Opinions had been mainly positive, but there were also some ambitious mentions during the first group, while in the second group participants exclusively expressed

positive feelings towards this type: at least victims should receive any material reparation for disappeared property and the State is responsible as the Francoist state legalised the robbery. Another participant considered this a good form of reparation as this has no costs for others, it is just and very good. But it is exceptionally difficult to do that now, because even it was in practice nearly impossible for the labour unions to get back seized property, it is even more difficult for individuals, it is highly difficult when there is no prove. Suggested was, that it could be addressed in the framework of tribunals, but from the viewpoint of restitution and historical restoration there are symbolic elements that are more substantial at this moment and overall that pay tribute more to collective than individual reparation, thus it should be not the first in the list. Contrary, it was mentioned that it is the first thing to do as it is super basic to restore property and land since the injustices happened are transferred from generation to generation. It is a shame that the family of Franco possesses still property that had been expropriated. It is fundamental that also on the individual level restitution will be done, as so far only trade unions and parties could recuperate property. Also, to consider is the symbolic effect this would have to the families to re-posses the grandparents house for example, since the injustice was so big it has a high symbolic value to victims and it helps symbolically a lot. Some personal stories of participants related to restitution portray the difficulties of this issue:

ID_351: *“(...) for example they took a house from my grandfather, a shack that had a herd of sheep in El Rocío... in short, a series of things that I have requested from the Ministry of Justice and they have answered that well... that they can no longer be repaired”.*

ID_563: *“I know a family here, well, for him there was a painting in his family's house that was stolen and it was in the living room of a house of a Francoist in the town for many years and he knew where that painting was and it is still in hands of that family. And he always has... well, in his heart, doesn't he? That painting belongs to my family, doesn't it?”.*

Health Care and Medical Assistance

Opinions were rather doubtful and ambivalent, some positive as also negative points were raised (not asked for this reparations type in the first group due to the flow of the conversation and time constraints): this cannot be done today, that could have been done only for the directly affected Francoist generation, nowadays it is too late.

Instead of something like this rather things on a societal level should be done with experts and psychologists, to create an action plan for accepting what had happened in the past to be able to look forward. Further, in Spain exists universal access to health care, there should be invested rather, this for medical assistance, a participant said. In respect to psychological assistance, it can be important for families who still have members missed and in the mass graves as this is a long-lasting trauma. Further, it could be useful during the exhumation process to offer psychological assistance as this could cause anxiety attacks and these kinds of things, also given that there are few psychologist in public health care.

Free Education and Scholarships for Victims' Ancestors

Opinions raised included some positive as well as negative points (not asked for this reparations type in the first group due to the flow of the conversation and time constraints): it should be done something compared to what is offered to the victims of ETA terrorism and gender-based violence. Among other things, the university matriculation fee should be reduced for their children, but hereby questionable is how long back should this be provided, also grandchildren and generations after, this would not make sense. Again, the time factor is crucial so that it would have made sense back then for children of the fusilladed in the 1940s. In addition, it was said that reparation is not done with the grandchild getting free education. Emphasis should be rather put on education and the curriculum so that people get to know what had happened.

Acknowledgement of Victim Status, Commemoration and Public Apologies

For this kind of reparations clear and strong support was expressed in both groups. The only negative mention from one participant was that a public apology by a state is not liked because this is done also in the name of people who had nothing to do with the happenings of the past. Besides this it was said: public acts and homages are fundamentally important, as the dignity is important, it is indispensable, but it comes late. It is not only necessary, but it is also healthy for democracy, it is was most helps to re-establish and to socialize. It is what most fulfils the victims and also the civil society can get involved when it is made participatory. Symbolic reparations is what still is possible to do, a resolution of recognition could give a juridical pact, from points of view of the UN on enforced disappearances. Another point raised was, that it

is very important to do it and it costs less. The politics of memory have been done in one Autonomous Community more than in others and it had been done with quite fear at the agenda, with fear of the media, of the reaction of the right and the Church, mentioning that the Church never did a public apology. Especially that is what should be done, public commemoration to the victims, even if done already by the Senate and the Parliament it would need a public act with wider scope. So far symbolic reparation has been done late and nearly hidden because there is no awareness of the Spanish State of a need for historical repair. For example, mentioned by a participant was that it was something very unusual that a President visited the grave of the poet Antonio Machado or visited the location of Argelès-sur-Mer where thousands of Spaniards died in a concentration camp (La Vanguardia, 25.02.2019) as happened in February 2019. Associations of exiled Spaniards in France still keep the flame alive, something that had not been possible in Spain. Many years had been lost because of fear, now first should come symbolic recognition and institutional acts.

A participant illustrated that the government of Navarra for example launched a project that is called 'Places of Memory' and has recognized by law some places as places where heinous acts were committed during the Civil War and acts of homage were made on this occasion not only for the fusilladed, but also for the exiled as well as emphasis was put on the role of the women who had to deal with the precarious situation raising the children. Furthermore, the government of Navarra published the names of citizens from Navarra who died in the Nazi concentration camps. Also, it was said that a national holiday would be a very good idea to recognize the suffering of the victims and their families. Another participant criticized, if members of the right-wing parties not appear at acts of commemorations nothing happens, while it should be a shame for them. At this point someone else raised the fact that in Spain it is still possible to go out on the street with Francoist symbols and still propagate Franco. Hence, at least for some years or decades, it should be forbidden. Additionally, in the second group it was raised the topic of certificates of victim status and a central register of victims. This was seen as rather useful from a collective point of view to provide access to this information to those who were affected and to put the maximum information on the cases publicly, hereby fighting disinformation and negligence of the past happenings. Countered was this, that the certificate does no function as

recognition because this must be made on a more global and public way. Participants' personal experiences illustrate well what had been done in terms of recognition so far:

ID_785: *“I was in the act of the Senate where they recognized victims of Francoism and the anti-Franco struggle... there was a very emotional act, but it went very unnoticed, but what was terrible is that it was approved with 166 votes in favour and 90 against... 90 senators who voted against the recognition of the victims of Francoism... this generates an extremely dangerous DNA in our society with respect to totalitarianism”.*

ID_563: *“I have had to organize two events of this type and it is super exciting, the people who were victims are very grateful that you are making a recognition from an institution... that as a people you recognize that not everything was done properly, that there was a lot of forgetfulness... in my municipality (...). My municipality is called [...], it is right on the border with France and Guipúzcoa and it is one of the municipalities in Navarra where there were more victims, but most were not local inhabitants, but were from the San Sebastián prison, They brought prisoners in trucks and shot them in the town's quarry, which is just outside the town. Then, the quarry became a point where hundreds of people were shot, most of them prisoners and later they were buried in a mass grave inside the municipal cemetery. Within the municipality, those who confessed in front of the priest just before being shot and outside the cemetery those who did not confess. This was something very well known vox populi in the whole town but nothing had ever been done... and in 2004 as a councillor of the city council I started to move the issue and well we opened the mass grave, the cemetery had in the 70s a fairly large reform so that not all the bodies appeared, but many of them could be removed, DNA tests were done so that in the future they can be identified,... we tried to make lists of the people who had been shot in the quarry, we had... we got a list a little limited because someone was very good in destroying the documentation, but we managed to contact about 25 relatives who came to that act... we invited all the municipalities where they were originally from those people, with what was no longer an act of our town hall, but of ten or twelve town halls that paid tribute to those 200..., with names and surnames we had about 25 or 27 more or less... they were recognized and a public tribute... a lithography was presented in remembrance..., a tribute was paid. And recently, we have obtained more information and more names (...), it was a very beautiful act, very emotional and as always the right was missing”.*

Search for Disappeared and Exhumations

Most of the participants showed a strong positive attitude towards this, in the first group, and in the second group exclusively positive opinions were expressed. Negatively mentioned had been only the costs and the dislike of paying exhumations

with public funds. Apart from this it was stated: the state must assume the responsibility of reparations inter alia by means of exhumations and recuperation of victims. A participant told, that one thing that had been done in Andalusia, by the associations, with subsidies from the regional government was a map that identifies mass graves all over Spain. The associations also put pressure on the regional government so that the government undertook exhumations, but now since the PP is governing the process is set on a hold and probably they are not going to do any exhumations. Other mentions encompassed that, the whole process of identification, the burring of the human remains, the certain emotional reparation this should do the state undoubtedly together with the associations and the families, but the state must lead. Even the civil society is quite weak for realizing the tasks, the central state did so far no opening of mass graves. It was expressed that it is impossible that nowadays there are still people who do not know where their family members are and cannot do the burying they deserve.

In addition, in the second group it was pointed out that it is the very principal thing to do, the most important thing is to find, dig up the bodies and return them to their families and everything else are things that can accompany and improve. Also it was mentioned that there are Autonomous Communities where opening a grave is very difficult and even more when the PP was governing on the national level. It is not that there is no funding, but besides that administrative obstacles hinder the associations, overall, in Madrid, Castilla y León, and nowadays also in Andalusia. Another participant mentioned that it is also very important that the government offers DNA banks to identify the human rests from the mass graves. Catalunya, the Basque country and Navarra they offer this and as far as known by the participant in the other communities it does not exist. Some personal histories show the struggle of families to search for their loved ones:

ID_351: “I have a resolution from the Ministry, considering my grandfather as missing and based on what the UN is proposing about enforced disappearance groups... until the body appears and the identification is made my grandfather is still with all his active legal rights”.

ID_563: “(...) my great-uncle is the link I have with Catalonia is that my great-uncle had married in Manresa, disappeared during the Civil War... about a year ago, thanks to the work of the Generalitat and, after a historian from Manresa, I managed to locate the municipality where he died, in Artesa

de Segre in Lleida, what was his last job, the documentation and others... the body has not yet arrived, but at least I know in which municipality he died after ten years of investigation... and the Generalitat offered us to do the DNA tests, we have done them”.

Removal of Symbols and Renaming Streets and Public Spaces

Opinions were briefly expressed positively by the first focus group in the sense that it should be assumed by the state in the context of amplified reparations. Whereas some ambivalent points were raised by the second group: it is something the state is doing and even the law obliged the state to do so, but e.g. in Córdoba since the right-wing is governing they put back the Francoist street names. The Córdoba example was also used during the second group, a participant stated that it depends which party is governing at the local level and that, for example, in Cordoba the PP with the support of Vox is actually acting against the Historical Memory Law and the State allows this incompleteness of the law while with other laws implementation is strictly observed and sanctioned. Here the State must be stricter and take away the street names, like done with the yellow loop at the town hall of Barcelona. The same happens with statues of Franco, mentioned is the example of Ferrol²⁰⁸ and Melilla having still a statue of Franco. In this context it is commented by another participant that other types of reparations are thus even more important because the families that have more money and more power are those that were on the Franco side and obviously they will continue to push so that certain things do not change, it is a vicious cycle that has to be interrupted.

Monuments, Memorials and Places of Memory

Basically, there were only positive mentions for this form of reparations, whereby this reparations type was less discussed by the second group: leave concrete sides in Madrid like for example the prison Carabanchel for a memorial, because only the symbolic reparations is the option left. Raised was, that some maturity is needed to visit a memorial and their might be immediately strong reactions against it. Further, said was that many regions and cities have done their own small memorial, but all very in silence to not offend anyone from one or the other 'side' and to not lose votes.

²⁰⁸ The equestrian Franco statue was removed in Ferrol in 2010. However, in Melilla still remains the last statue of the dictator but its removal is planned, see El Mundo (18.03.2010).

Hence, the society still has not matured to be able to do such a memorial such as in Germany. A participant mentioned for example that there had been a monument in the cemetery of Almodena²⁰⁹ in Madrid for some shot leftists with all their names and the new Mayor removed it, destroyed it, what is terrible, as the memorial was for this group of people specifically. This shows that the society still has not grown and needs to keep on working on the topics of memory. A participant from the second group told the story of a woman who was arrested for having an abortion. Her crime was having an abortion and she was retaliated, she fled to France, she managed to escape but later during the Nazi German invasion of France the Nazis stopped her and she was prisoned in a concentration camp and disappeared, arguing that therefore there is still a lot to do for the victims, as such to name a place or a park after this woman.

Museums and Documentation Centres

Opinions were throughout positive in the first and in the second group stating: The society needs education of the history for recognition, knowledge of the history of the country and of what one ancestor lived through is crucial. The State is responsible as it educates in one manner or another, but in this country it does not exist an education on the topic of memory. Further raised was, that it is interesting to do this kind of things, but first a social introspection is necessary and a recuperation of what is the memory for the society must be done. A certain maturity is needed for going to a museum. Something must be done a memorial or a museum even if there will be a strong reaction against that. Someone else said that, first the acknowledgement of the own history and the errors is crucial and then on a later stage museums can be set-up. Second group participants also expressed that it is clear that museums and these things are needed, and that it is sad that so far they don't exist. They exist in other countries, but also in Spain it should be something consensual and normal. There should be something level to bring the past closer to the communities, like an information centre or a big museum. While even more crucial hat there is something like a memory space on local level within the Autonomous Communities. Here for example named by a participant was the Fort of San Cristóbal in Navarra which is owned by the Defence Ministry and the Navarran Government. Civil society and victim organizations had

²⁰⁹ For example see ABC Madrid (28.11.2019).

asked several times to use it as a memory centre, but it is not given access by national authorities. One concern was raised on the issue that, when installing a museum, it could be for the government a mean to clean its hands following the logic there is a museum and hence victims are repaired. That is why these measures should be accompanied by others.

Community Development Programmes and Cultural Memory Work

Opinion on such measures were ambivalent (not asked for this reparations type in the first group due to the flow of the conversation and time constraints), as such participants stated: There was done a lot on private and individual level and there the administration must not enter. Overall, know are movies, theatre plays, dancing spectacles and so on, from the Basque country. Further, it was said, that it is a very useful tool to explain what had happened, to disclose, to educate and to do pedagogy, as it is maybe easier to reach out to another and wider public. Art could have the potential to help making this transition or to talk about how everything what happened is still affecting the society. Someone else admitted not to know any cultural work. Reflecting that this might be because there is not done enough diffusion and publicity for it as e.g. books are not on the best-seller lists. However, another participant clarified that done was quite some significant work during the last ten to fifteen years. A further comment was that this kind of work is telling the past stories, but often there is nothing how it affects nowadays. Another comment was, why nobody tried yet an art work for example in the Valley of the Fallen bringing people together who are defending the values of Vox and some people who are clear victims of Francoism, so there could be exchange and discussion, and it could be for example written a diary about this encounter.

Other Types of Reparations

Many other things had been mentioned in relation to reparations, hereby mentions mainly pointed on measures that had been omitted and are still pending, some going beyond the topic of reparations. One comment was made in relation to the situation of women nowadays and back then, mentioning the forgotten history of female prisoners at the prison Yeserías. It was said that it is still missing to recognize this part of the history, to analyse it and learn from it, what comes along with respect and empathy for

a quite recent and less antique history. Further, it was pointed on a deficit in the field of education, since it never had been achieved to properly explain what the dictatorship meant. Because there is no strong memory education, a regrowth of the extreme right was facilitated. For this the blame take the ones who never potentiated a strong education overall in topics of reparations and memory. Children should already learn empathy in school through transmitting knowledge. The topic of the victims and their suffering should be integrated in the school curriculum, explaining what had happened to many Spaniards. A participant complained about the personal experience from school: “(...) *all the Spanish of the resistance in France, everything they had done in the fields, especially in Mauthausen... it seemed to me like it was impossible that they were hiding it from us*” (ID_884).

Besides that, it was said that it is crucial that also textbooks had to be adjusted as some of them are still omitting the subject. The last years many documentaries, audiovisuals, books, and movies were published, but the professors need to be sensitized to take on the topic according to the age of the students. Someone expressed that there is not a lot of faith that in future there will be a consensus neither on the past nor on what to teach. Above that, it was criticised that foundations financed by public funds exist, vindicating the figure of Franco. Also mentioned was that under the principles of truth, justice and reparation there is a necessity to create a platform of truth. To resume activities, such as a platform of the truth commission, there need to be a lot of will from everyone. Nonetheless, there is a need to achieve valuable agreements upon them a narrative could be build that would be accepted by all, such a platform could provide a truth commission. Given the fact that in Spain there had be no independent truth commission where a profound debate of what had happened on one 'side' as well as on the other 'side' can take place. Another point raised was the annulment of Francoist judgements since people judged back then are still condemned and keep being illegal elements contrary to the State. Justice is a fundamental subject thus justice needs to be done through annulling Francoist judgements and sentences. Moreover, someone said that the victim discourse should be at the centre and that there should be more collective than individual reparations. There are forms of reparations that can be made more immediately and efficient, but with costs for the state and other things are more complex like the subject of the judgements. However, crucial is a reparations

programme that is vital and substantial and there should be no forgetting.

3) Opinions on the Implementation of Reparations

Overall, would you say that you support or oppose the reparations laws, initiatives and measures implemented in Spain and why?

Basically, all opinions had a negative tendency in the first group and in the second group, the views expressed were rather ambivalent and critical, too: what had been done is absolutely insufficient, it was reached only ten to fifteen percent of what should have been reached. Others said they do not oppose the measures taken, but the Historical Memory Law felt short and its implementation felt even shorter. The Law was a good start, but then it remained without funding as the PP government of Mariano Rajoy withdraw funds. Also, it should go much further and above all the state must be much more proactive and has to take the initiative, it literally has to be demanded from the state to be more proactive, the state is to facilitate the reconciliation and to open the mass graves, for example governments could open ten mass graves every day. Given the current situation, still thousands of cadavers remain unidentified in mass graves and therefore there is a strong gulf between what was done and what should be done. From the qualitative and quantitative viewpoint it is insufficient. Economic reparations are still pending, but fundamental is the 'big hole' the 40 years dictatorship created in the Spanish culture. Someone else said it is doubtless that very few was done as still there are so many mass graves, still so many memories to repair and the people die. Many work to do remains as such on symbolic reparations. Unfortunately, when right-wing governments get to power in the Autonomous Communities or on central state level, they paralyse all memory politics. Also mentioned was that in the field of education the battle has been lost, the quality of the education is not complete because there is ignorance for the own country's history and what had happened. There is no respect for memory, justice and reparation, there has been no pedagogy and no didactic of a cultural country.

Further it was complained that the guilty persons did not pay for what they caused. Another participant stated basically nothing had been done and what had been done was just done for the facade to satisfy some voters. Hence, it remains so much to do. Someone else also claimed it necessary to keep on working on the topics of memory and suggested that this should be done in the following order: first, symbolic recognition, institutional acts including subjects of justice; second, didactic work of the society, truth commissions to reconstruct what is the true

history; third, the exhumations; fourth, education like museums or didactic work at schools; fifth, the subject of economic reparation, but this is quite on a lower level of urgency. Similarly, another comment was that nearly fifteen years have passed since the passing of the 2007 Historical Memory Law and still there is a long way to go, thus it should be given now another spin by putting money and taking another step forward. Resumed was by participant ID_198:

“The problem is that the right does not understand that this issue is not a question of right or left, but of authentic democratic justice and that it is contained in what is called transitional justice and the right that the victims of Franco have to the truth, justice, reparation and guarantee of non-repetition”.

Furthermore, a participant's personal story gives an example of what has been implemented on the regional level together with the civil society:

ID_351: “(...) we here in Andalusia made two magazines (...) this one called 'All the names' and this second magazine which is also 'All the names' that somehow the idea is of this magazine, is well, tell the story and repair a little, right? And here each one's story is explained well I wrote about my grandfather and many people wrote stories and somehow that was no longer done, the last one was in 2009”.

What role do public information and the media play in the implementation process of the measures?

Opinions expressed on the media landscape in Spain were rather negative (this question was not asked in the first group due to the flow of the conversation and time constraints): What is written there cannot be trusted, the press is more gossips about celebrities than any other thing.

Dynamics and group interaction had been quite differently in the two groups. Interaction in the first group was high and intense, and during some discussion points even confronting when four participants were agreeing on certain reparations mechanisms, while one participant often showed opposing views, especially when it came to the implementation of measures that need financing. Consensus could be achieved only on types of reparations that do not involve many costs for the state. In contrast, the dynamic of the second focus group was less intense, discussion was smooth and very consensus driven, as the three participants agreed on the considerations and discussion points in relation to all forms of reparations.

To sum up, the main findings from the focus groups are the following: There is a clear tendency of positive attitudes towards repairing victims of Francoism. The idea of providing state-sponsored reparations to the Republican victims is highly supported. Reparations are seen as something the Spanish State owes to the descendants and families of Republican victims. Regarding the different types of reparations, a clear trend in favour of symbolic forms of reparations is identifiable. The measure that seems to generate most consensus are museums and documentation centres, similarly to monuments, memorials and places of memory. Also, high priority is assigned to moral recognition as such acknowledgement of victim status, public acts of commemorations and public apologies, for instance by the Head of State. Though, official apologies caused one controversy because it is automatically done on behalf of citizens not having been involved in the repression. Likewise, the search of the disappeared and exhumations is considered as indispensable and highly important, but not being entirely uncontroversial concerning its financing.

The reparations laws, initiatives, and measures implemented by the Spanish State, the things that have been done so far, tend to be supported, but the performance of the Spanish Government and state institutions in the implementation of the measures is considered as absolute insufficient. And it is clearly highlighted that much remains to be done. Finally, these findings build on what was discovered by previous public opinions surveys and by the preceding online-survey. In particular, that even though the time has passed Spaniards have not forgotten the past. Overall, the focus groups confirmed the fact that Spaniard's are quite supportive to victim reparations and even ask for a more ambitious legal framework.

6.3 The Analytical Framework: Public Support or Non-Support for Reparations?

After having presented and analysed the empirical results, the case study Spain is now applied to the analytical framework earlier developed in the theory Chapter. This is done to review if the theoretical framework results useful in practice for analysing a concrete country case. Keeping in mind that this framework is merely a first intend of offering a tool for systematically analysing public opinion on reparations. It does assume correlations of determinants, but does not display causal relationships, hence further modifications and adaptations might be necessary. Conducting the operationalization of the independent and outcome variables in accordance to the outline presented in Chapter IV (see Table 5.), the

analytical framework for the case of Spain is as follows:

The Independent Variables

Set A) Contextual Dynamics of Spain

1. Historical Legacy

Given that the period of the Franco dictatorship, especially the post-war period with high intensity of repression and violence, lies many years in the past, not all proposed indicators are here available. To get an idea of Spain's political, economic and social-cultural structure of the pre-violence times – within the scope of this research project it is not possible to conduct a comprehensive narrative of Spain's post-Franco past – some of the indicators and operators are presented. More precisely, a measure for the level of democracy before the outbreak of the Civil War, the Polity IV, shows for Spain in the years of the Second Republic and during the war (1931-1938) for the institutionalized democracy indicator a value of 8 and for the institutionalized autocracy a value of 1. The Combined Polity Score for this period is thus 7 on a scale from +10 (strongly democratic) to -10 (strongly autocratic). This changes with the year 1939 (end of the Civil War and beginning of the Franco regime), with an democratic value of 0 and autocratic value of 7, hence resulting in a polity score of -7. The numbers remain constant till the regime change in 1975 with Franco's death. After three years of regime change that are not scored, then from 1978 on Spain receiving a policy score of 9 and since 1982 scoring 10 'strongly democratic' (with institutionalized autocracy equals zero). When looking at the scores for the Second Republic it can be concluded that there was a clear democratic system in power before the victory of the Nationalists in the Civil War. This can be underlined by comparing the Second Republic with other European republics during the 1920s and 1930s, as for example the German Weimarer Republic got with 6 a lower policy score (zero for institutionalized autocracy), but is generally acknowledged as a democratic system. Whereas France and United Kingdom showed at that time already polity scores of 10.²¹⁰

Even if the Second Republic was a true democratic system it cannot be said that Spain has a long democratic tradition, but rather a monarchic tradition supported by large landowners, the military and the Catholic Church, a tradition of institutionalized corruption instead of the rule

²¹⁰ See Center for Systemic Peace. Available at: <http://www.systemicpeace.org/inscrdata.html> (Accessed 2 November 2019).

of the law, and a tradition of oppressing social unrest with violence, described for example by Preston (2019). Further, Spain was at that time not yet an industrialized country since the economy of the pre-war period, with the exception of some urban regions in the North and the Northeast of the country, relied mainly on agriculture coming along with semi-feudalistic structures. At the same time, the growth of a marginalised agricultural and industrial workers class brought the social question more and more into the centre of political events. Regarding geographical location in the world, Spain belongs to the Southern European countries according to UNStats,²¹¹ bordering the Mediterranean Sea, thus the country has been traditionally influenced by the happenings in neighbouring European countries, but also by the countries sharing the oversea borders.

2. Legacy of Violence

Olsen, Payne and Reiter (2010b, p.175) classify the Spanish Franco regime as a 'military/individual' regime type, meaning that the leader Franco also hold a position in the military. While individual rule means Franco operated independently from the party or the military and had personal decision control over decisions. The violence started with a military coup against the legitimate Government of the Second Republic, what caused the Civil War and resulted in a four decades enduring dictatorship. The main actors involved in the violence were the military, the political organization Falange, conservative elites, and the Catholic Church who sided with the insurgent generals. The type of human rights violations ranged from disappearance, extrajudicial killings, political imprisonment, torture, forced labour to expropriations, and restrictions of civil and political liberties among others. The scope of victimhood is still controversial, according to newer research results, the overall death toll varies around 500,000 and around half a million Spaniards were forced into exile (Bernecker, 2018, p.330).

3. Peace and Transition

According to Olsen, Payne and Reiter (2010b, p.175) Spain is a 'negotiated' transition type, as there was no clear break with Franco's death there was no clear break with his regime, but instead institutional continuity with reform from within and from above arranged by the King and supported by a consensus of all democratic forces, perceiving a smooth transition as a

211 See United Nations Statistics Division: Geographic Regions. Available at: <https://unstats.un.org/unsd/methodology/m49/> (Accessed 2 November 2019).

win-win situation and precondition for reconciliation of Spaniards.

4. New System

After Franco's death a new political system, a parliamentary monarchy, was created based on a new Constitution guaranteeing fundamental democratic rights and liberties. Spain's GDP per capita five years after the death of Franco lied according to UNData at 6,141 US-Dollar. In comparison with the year 1975 of 3,182 it nearly doubled since the Transition to democracy. However, comparing the GDP with its western neighbour France showing a GDP per capita of 12,669 in 1980, it was still very low.²¹² As mentioned already above, from the Polity IV measurement Spain is from 1978 onwards receiving a policy score of 9 and since 1982 scoring 10 strongly democratic (with institutionalized autocracy equals zero). Looking at the FreedomHouse index it reveals for the year 1980 the political rights score 2 and the civil liberties score 3 (with 1 being the highest degree of freedom) assigning 'free' to the country. In comparison to the first year when the index was measured, in 1973, Spain was classified as 'not-free' with scores 5 and 6 (out of 7 being the score for least degree of freedom). Also, the QoD index level of democracy, which uses the average of Freedom House and Polity, is in 1980 for Spain 9 (out of 10 most democratic),²¹³ thus clearly identifying the new system five years after the transition as free and democratic. When additionally considering levels of political violence and terror that Spain experienced in 1980 the Political Terror Scale (PTS) measures the levels 3 from Amnesty International and 2 from the US State Department (5 being the highest level of political terror), with the same levels reported for the first year of data available in 1976. Level 2 means *“there is a limited amount of imprisonment for nonviolent political activity. However, few persons are affected, torture and beatings are exceptional. Political murder is rare”* and level 3 says *“there is extensive political imprisonment, or a recent history of such imprisonment. Execution or other political murders and brutality may be common. Unlimited detention, with or without a trial, for political views is accepted.”* (Gibney et al., 2019). This shows the violence went beyond the immediate transition period and lasted till the democratic consolidation after 1982 (in the year 1991, for

212 See UNData. Available at: <http://data.un.org/Data.aspx?q=GDP+per+capita&d=SNAAMA&f=grID%3A101%3BcurrID%3AUSD%3BpcFlag%3A1> (Accessed 2 November 2019).

213 See QoG Basic Data. Available at: <https://qog.pol.gu.se/data/datadownloads/qogbasicdata> (Accessed 2 November 2019).

the first time, both sources assigned a level of 1 to Spain).²¹⁴ Further, Olsen, Payne and Reiter (2010b, p.52) criteria of a human rights background of the new leaders, can be confirmed to be the case for Spain's democracy.

5. Window of Opportunity

During the same time when the Amnesty Law was passed in 1977, Spain had also become member of international human rights treaties. Spain signed in 1976 and ratified 1977 the CCPR (International Covenant on Civil and Political Rights) and the CESCR (International Covenant on Economic, Social and Cultural Rights). In the following years until 2007, when the Historical Memory Law was passed, Spain had joined the CAT (Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment), the CAT-OP (Optional Protocol of the Convention against Torture), the CCPR-OP2-DP (Second Optional Protocol to the International Covenant on Civil and Political Rights) dedicated to the abolition of the death penalty, the CEDAW (International Convention of Elimination of All Forms of Discrimination Against Women), the CRC (Convention on The Rights of The Child), the CRC-OP-AC (Optional Protocol to the Convention on the Rights of the Child) on the involvement of children in armed conflict, CRC-OP-SC (Optional Protocol to the Convention on the Rights of the Child) on the sale of children, child prostitution and child pornography, and the CRPD (Convention on the Rights of Persons with Disabilities) signed and ratified in 2007. However, the CED (Convention for the Protection of All Persons from Enforced Disappearance) was signed in 2007, but not ratified until 2009. Till today Spain is not member of the CMW (International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families).²¹⁵ Further, Spain was one of the founding members of the Organization for Security and Cooperation in Europe (OSCE) in 1975. Spain became in 1977 member of the Council of Europe, member of the NATO in 1982, and in 1986 member of the European Community.

Regarding possible spill over effects from what had occurred in the region at the time of the Spanish Transition it can be observed that during the mid 1970s there was the so called 3rd

214 See PTS Data Table. Available at: <http://www.politicalterroryscale.org/Data/Datatable.html> (Accessed 2 November 2019).

215 For completeness: The CERD (International Convention on the Elimination of All Forms of Racial Discrimination) has been already ratified by Spain in 1968. See OHCHR website. Available at: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=163&Lang=EN (Accessed 11 November 2019).

wave of democratic transitions that has started with Portugal's Carnation Revolution in 1974 and has been followed by more than 60 countries in Europe, Latin America, Africa, and Asia. Southern Europe seemed to be in a period of transition, as also Portugal and Greece overcame their authoritarian regimes. The Portuguese right-wing military dictatorship lasted over twenty years, during more than less the same decades from 1926 to 1974). Whereas the Greece regime begun decades later in 1967 till 1974. Greece and Portugal took after their transitions several TJ mechanisms to overcome the past, however the measures' focus was quite differently. A mechanism used in by all the three countries are amnesty laws for perpetrators and political prisoners (Greece only for political prisoners). Interestingly is the use of other TJ mechanisms, so e.g. Portugal employed lustration mechanisms, a truth commission, and trials whilst Spain relied on amnesties, some public apologies, and reparations only. Regarding especially reparations in the three Southern European countries, according to the 'Transitional Justice and Memory in the European Union' project, material reparations as such providing compensation (Greece did not provide them) and measures of personal rehabilitation were established. Spain also took measures for the restitution of property. Within symbolic reparations, all countries e.g. declared commemoration days. However, museums of memorial were only established in Portugal.²¹⁶

Set B) Programmatic Horizon of Spain's Policy of the Past

1. TJ Mechanisms

In Spain so far the following TJ measures had been taken: Amnesties for Francoist personnel and for political prisoners, some material and incomplete symbolic reparations had been implemented, access to secret files had been facilitated. Not applied had been any trials or tribunals, vetting, purges nor lustration (though some “*very limited and belated measures*” as the “*early retirement of some judges and military personnel, and the reallocation and institutional reforms of the police forces*” (Aguilar and Ramírez-Barat, 2014, p.211), no restitution of confiscated property to individuals, as also no truth commission or any other official truth project had been established.

2. TJ Timing and Sequencing

The very first measures were victim-centred, the restitution of civil and political rights and

²¹⁶ See CSIC project '*Transitional Justice and Memory in the EU*'. Available at: <http://www.proyectos.cchs.csic.es/transitionaljustice/content/portugal> (Accessed 24 October 2020).

rehabilitation of public servants, followed by the granting of pensions and economic compensation to Republican war victims and their families. Of these timid reparations followed in 1977 the passing of the Amnesty Law, initially thought as directed to the political prisoners of Francoism, but in the end also being taken advantage of by public officials of the Franco regime. With the time some additional material reparations had been offered, some first acts of moral recognition took place, property was restituted to parties and labour unions, and subsidies for project to recover the historical memory were granted. However, until 2007 there was no comprehensive policy of dealing with the past. The Historical Memory Law than improved and widened the scope of the material reparations, as well as implemented measures as the access to files, the official recognition of the victim status, ordered the removal of Francoist symbols and names from the public space. The later culminated in the removal of the grave of Franco from the monument Valley of the Fallen in 2019. Perpetrator-focused measures as trials and tribunals had not been installed at any point, nor any institutions had been set up to carry out an official truth finding mission.

3. Reparations Design

Table 17. Classification of Reparations in Spain

Dimensions	Material	Symbolic
Individual	Pensions and economic compensation to: civil servants, professional military, family members of professional military, military not professional, deceased or disappeared, families of deceased or disappeared, mutilated ex-combatants, families of mutilated ex-combatants, civilian mutilated, families of civilian mutilated ²¹⁷	Restitution of civil and political rights
	Medical and social assistance to the Civil War victims' relatives	Rehabilitation of public officials (reinstatement and inclusion purged time for pension benefits)
	Economic compensation and contribution of prison-terms to social security for political prisoners	Recognition of victim status (certificate of recognition as a victim of the Franco regime)
	Economic compensation 'children of the war'	Right to moral recognition and recovery of personal and family memory

217 See INFORME GENERAL DE LA COMISIÓN INTERMINISTERIAL PARA EL ESTUDIO DE LA SITUACIÓN DE LAS VÍCTIMAS DE LA GUERRA CIVIL Y DEL FRANQUISMO (28.06.2006). Available at: <http://www.todoslosnombres.org/content/materiales/informe-general-la-comision-interministerial-para-el-estudio-la-situacion-las> (Accessed 24 October 2020).

Dimensions	Material	Symbolic
	Economic compensations to those who suffered injuries or disabilities in the defence of democracy	Dual citizenship for members of the International Brigades
	Pensions for orphans	Civil Registry reform of status of disappeared
	Economic compensation to imprisoned for their homosexuality	Moral rehabilitation of the Maquis
		Conviction of Lluís Companys declared void
Collective	Restitution of property and economic rights to unions and political parties	Public condemnation of Francoism by the Spanish Parliament in 2002/ by the Senate 2018
	Restitution of documents to the Generalitat of Catalonia	Declaration Year of Historical Memory 2006
	Subsidies for activities related to the recovery of historical/democratic memory and the victims of the Civil War and the dictatorship	President visits Nazi concentration camp Mauthausen
		Removal of Francoist symbols and names from public spaces
		Recognition of the work of the victim associations
		Access to State archives and documents of the Civil War and the dictatorship
		Public apology to exiled by the President in 2019
		Exhumation of Franco from the Valley of the Fallen
Removal of medals and benefits from Francoist torturers		

Table 18. *De Greiff's Characteristics of Reparations Programmes*

Reparations Programme Characteristics	Spain
Scope (total amount of beneficiaries)	not
Completeness (whole universe of potential beneficiaries)	not
Comprehensiveness (different types of harms covered)	partially
Complexity (various types of measures distributed in different ways)	partially
Internal Coherence (types of benefits support each other)	partially
External Coherence (reparations measures close relationship to other TJ)	not

Reparations Programme Characteristics	Spain
mechanisms)	
Munificence (magnitude of benefits from beneficiary's perspective)	partially
Finality (excluding other paths of civil redress)	not

The tables show that Spain did implement a various range of material, symbolic, individual and some collective measures, but according to De Greiff's (2006) characteristics, Spain has not yet implemented an all-encompassing reparations programme.

4. Legitimacy

The implementation of respective legislation on reparations had been implemented top-down following the regular Spanish legislative process. However, an issue seems the implementation and enforcement of the Historical Memory Law. Some provisions of it are still pending to get implemented, for example Article 17 a census of buildings and works carried out by forced labourers. Or as victim associations frequently criticise the collaboration of the public administration in the location, identification and exhumation of the disappeared. Other provisions like the above mentioned half-hearted execution of the removal of Francoist symbols from the public spaces lack enforcement. Public consultation took place very limited, during the work of the Inter-ministerial Commission in 2004 associations dealing with or develop activity in the field of the Civil War and the dictatorship had been heard and could present their views, offer testimonials, proposals and general considerations. A public consultation was opened for the new Draft Law of Democratic Memory in July 2020, which allowed the general public, anyone interested, to send via email remarks, proposals and recommendations of what should be included in the draft.²¹⁸ Nonetheless, victim associations and organizations often complain that they are not getting consulted and involved in the design process of historical memory related legislation and measures. Public information through media coverage is usually given, whereby mostly reduced to a few newspapers regularly covering topics of historical memory.²¹⁹ While on great events such as the

218 See Gobierno de España (26.06.2020). Available at: <https://www.mpr.gob.es/servicios/participacion/consultaprevia/Paginas/2020/LeyMemoriaDemocratica.aspx>. Recommendations for the new Draft Law have been submitted by the author of this thesis based on first results of the present empirical study.

219 For example, see the online newspaper Público.es, which is also having an active Twitter account solely on 'public memory'. Available at: <https://www.publico.es/politica/memoria-publica>, Twitter @Memoria_Publica.

exhumation of Franco from the Valley of the Fallen the media coverage and public information was enormous, other historical memory measures' implementation not received any attention, for example the act of homage to the victims of the dictatorship in the Senate in September 2019.

Set C) Individual Personality of Spaniards

Exemplarily assuming here for respondents' individual personality the nine focus group participants. The information on their personal characteristics is taken from the focus group screener which had been built upon the online-survey's socio-demographic and screening questions (see APPENDIX C).

1. Personal Experience (direct or indirect victimization or not-affected)

Seven out of nine participants considered themselves as direct victims of the Franco regime, one person as indirect and another one as not-affected. When following up on the human rights violations occurred to them or their loved ones, it was chosen three times political imprisonment, twice each assassination and torture, one time each disappearance and displacement/exile. Other forms of victimization mentioned were police control and observation, inequalities among neighbours, see hunger, and oppression of language.

[2. Socio-demographics (gender, age, region, education): These variables had been cancelled out after the online-survey because they did not show any significance, hence were not further considered.]

3. Socialization (family identity)

Two participants' families sided with the Franco regime, six participants stated their families sided with the opposition, one person said the family sided with neither side during the time of the dictatorship.

4. Individual Views (political interest, political ideology, religiosity)

Participants were either quite a lot, four participants, or very much, five participants, interested in politics in general. Regarding political ideology on the scale from 1 'extreme left' to 7 'extreme right'. Most participants located their political ideas on the 2 of the scale (six participants), while another two participants located their ideas on the 4, and one participant located its ideas on the 1 the 'extreme left'. The participants' evaluation of importance of

religious ideas on a similar scale from 1 'not important' to 7 'very important', revealed a more mixed picture. So, two participants chosen the 1 meaning 'not important', three participants said 2 on the scale, further two chosen on the scale the 3, and one each was placing its religiosity on 4 and 5 respectively.

The Dependent Variable(s): *Opinions, Attitudes, and Perceptions Towards Reparations for Victims of Human Rights Violations Occurred During the Franco Regime in Spain.*

Querying for the nine focus group participants their opinions, attitudes, and perceptions towards reparations for victims of Francoism, their answers given on the related online-survey questions as well as the focus group discussions is considered. First, support for the idea of providing reparations was expressed in the online-survey by all participants except one who indicated 'I don't know'. State-sponsored reparations should be directed to individual victims and the community said a majority of seven participants, whereas one participant did chose the option for individual victims only. During focus group discussions, widespread support for repairing victims of Francoism in general was expressed. It was seen as the Spanish State's long overdue duty to fully repair victims, while a single critic point was raised on the financing of measures with public funds.

Second, support for a certain design (material, symbolic, individual, collective) was surveyed by the online-survey on the basis of evaluating on a scale from 1 'not adequate' to 5 'very adequate' the adequateness of different measures to repair victims in Spain. Here presented are the results only for the extreme values because they being more illustrative. Rated by the focus group participants as not adequate, with a 1, were the following measures, only one time each of them: monetary payments, health care and medical assistance, free education for descendants, rehabilitation of civil and political rights, search for disappeared persons and exhumations of mass graves, and collective reparations. On the contrary, considered by participants as very adequate rated with a 5 was: eight times restitution of property and land as well as search for disappeared persons and exhumations of mass graves; six times public apologies by perpetrators and erection of memorials/museums/removal of symbols/renaming of public spaces; five times acknowledgement of victim status and proclamation of a commemoration day; four time rehabilitation of civil and political rights as well as monetary payments; three times health care and medical assistance as also free education for

descendants; one time collective reparations. This tendency of preferences for certain measures could be confirmed by what was stated during the focus group discussions. The group sessions gave highest priority to the search of disappeared, the identification and exhumation of remains from mass graves (a single critic on the costs for the taxpayers was in the air). Equally, when discussants considered points of feasibility, some highly ranked measures as the restitution of property and land, was scored than worse. This ultimately led symbolic measures, especially museums and documentation centres or monuments, memorials and places of memory, on the whole to be the most commonly favoured types of reparations for victims of Francoism.

Third, support for the implementation of reparations laws, initiatives and measures in Spain was expressed in the online-survey by nearly all focus group participants, with four people having chosen 'strongly support' and another four 'support'. However, one participant replied with 'oppose'. General support for what has been done so far in Spain, as e.g. with the passing of the Historical Memory Law or the exhumation of Franco from the Valley of the Fallen, was also underlined during the focus group discussions. Nevertheless, participants made clear that this is far from being enough. Therefore, many participants demanded more ambitious and all-encompassing reparations for Franco's victims.

7 Chapter VII. Conclusion

This final Chapter is drawing in its first section on the results of the previously presented empirical analysis conducted for Spain and discusses its findings. This is carried out from the background of the theoretical assumptions and the analytical framework, also taking into consideration already existing empirical research on Spain. Specifically discussed are conclusions that can be drawn related to Spaniards' opinions on reparations laws, measures, and initiatives for victims of Francoism as also for the broader field of how Spain dealt with its past and the transitional justice measures applied. Ultimately, practical implications are drawn from these results and are formulated in form of some guidelines of best-practice for TJ practitioners and policymakers on what needs to be considered in the design and implementation of reparations in order to facilitate their public support. At the same time, by doing so, also providing answers to the research questions.

The second section plugs back into the theoretical debate by focusing on possible contributions of victim reparations to peace and reconciliation and placing reparations within the field of conflict management and peacebuilding. Finally, another section reflects on outstanding issues, theoretical as well as methodological limitations of this thesis. But also offering perspectives where future research could tie in, such as touching upon the linkage of symbolic reparations and memory politics. Given the occasion of the presentation of a draft for a new Democratic Memory Law by the Spanish Government in September 2020, the final section formulates concrete observations for future policy strategies on reparations that should be taken into account by the Spanish Authorities. Outlined are some general considerations and different reparative measures that should be included in the provisions of the new Law.

7.1 Findings and Discussion

This section discusses the main findings from the empirical study, the online-survey and focus groups conducted with Spanish citizens. The discussion of results is based on the analytical framework and its deduced theoretical assumptions. Further, considering earlier empirical studies on Spain in this field. With this proceeding it is also aimed to find answers to the research questions posed at the beginning. The first research question inquiries current public opinion towards reparations for victims of Francoism in Spain, thus requires to be answered by a descriptive analysis of the phenomenon at a specific moment.

I. What are the public opinion, the attitudes, and the perceptions on reparations for victims of Francoism in Spain?

The analytical framework, presented in Chapter III, assumes that public opinion, attitudes, and perceptions towards reparations are formed as an answer to an interconnected set of: on a macro-level country contextual factors, on a meso-level the programmatic horizon of the country's policy of dealing with the past, and on a micro-level the individual personal characteristics of the person or the group of persons interviewed or surveyed (see Chapter III, Figure 1.). When recalling the theoretical expectations and assumptions that had been deduced from this analytical framework and formulated for the case of Spain (see Subchapter 3.4), the question is now, if empirics allow to confirm or reject certain assumptions?

Initially, it has been expected that opinions in Spain vary, that they are very mixed and that there is no clear black or white picture to be detected. The online-survey results as also the focus group discussions clearly suggest, and thus speak in favour of the assumption that especially on symbolic forms of reparations, provided to victims of Francoism, opinions are less divided than often portrayed in public discourses and the media. To illustrate this, the in fall 2019 conducted online-survey results show that a huge majority of respondents considered it important to address the needs of victims and more than two-thirds thought that there should be state-sponsored reparations for the victims of the Franco dictatorship (directing reparations to individuals and to the community). Additionally, the focus group discussions from spring 2020 have put clear emphasis on the importance and necessity for repairing the direct victims as also their families and descendants for the injustices and violations occurred to them during the Franco regime. Above that, confirmed can be that attitudes vary, this is especially the case in respect to various forms or types of reparations the Spanish Government applied or should still apply.

Further, the theoretical assumption that in Spain the past is still present in today's generations because the trauma of the past and political identities had been transmitted to subsequent generations, can be regarded as confirmed by this empirical study. It has to be said, that neither the online-survey nor the focus groups discussion directly researched on this aspect, even though from respondents' and participants' narrative of personal family memories and their respective perceptions on how to deal with the past and the victims in Spain, illustrated in many cases these transgenerational effects. The striking example here is that in the online-

survey two-thirds of the respondents were considering themselves as 'victims', of whom around a third part felt directly and the other third felt indirectly victimized. Besides the fact that probably for everyone being a victim means something different, these results give rise to the crucial question: Why do so many Spaniards still feel like victims of the dictatorship?

This observation might be linked, among other things, with the fact that the topic is far from being 'closed' since many issues of the past are considered unsolved, what keeps up a high relevance for the issue of the incomplete victims' reparations provided by the Spanish State. Simultaneously, this argument could counteract the related theoretical assumption that the past is still alive, but today's generations do not want to dig in the past and do not want to bring the subject back up. The finding that so many respondents described themselves as victims can only be explained with the reason that many of them have adopted the victim role of their ancestors. The intention behind the self-attribution of victim status surely is rather to continue to stand up for justice and reparations in the name of their ancestors than to consciously let the past rest. Beyond that, what could have been experienced during the fieldwork for this thesis is clearly contrasting to the theoretical assumption of not wanting to look back. There had been great willingness to talk about the violent past and to share personal histories, people were eager to express their opinions on reparations for Franco's victims and to comment on policies like the omissions of the 2007 Historical Memory Law. Likewise, persons who experienced personal victimization had been very thankful to get offered a forum to tell their personal stories and that they were listened to seriously. This was not the case only for older generations of participants, but equally for middle-aged and younger ones. What also implies that a frequent and a broader debate involving the general public and individual victims on issues of dealing with the past would be very useful and even necessary for inspiring policy-making on transitional justice in Spain.

The theoretical assumption that there is a low level of knowledge of reparations legislation and of reparative measures among Spaniards cannot be exactly confirmed in that generalised way by empirics. The online-survey found that a large majority of respondents had heard about the 2007 Historical Memory Law, while any other legislation mentioned was known only by around one quarter of all respondents. Regarding reparations measures, material ones as pensions or monetary compensations seem not to be widely known since more than half of the respondents didn't think they exist. Whereby, there were more people who thought that no such measures are in place than people who could name some examples of material

reparations in place. Knowledge of symbolic measures resulted to be way higher since nearly half of the respondents could name some measures. Frequently named here were recognition, commemoration, memorials, removal of symbols, and renaming of streets and public spaces as also the exhumation of Franco from the Valley of the Fallen. Whereas significantly less respondents thought no such symbolic measures were taken than persons who did not know them at all. All these findings seem to suggest that Spaniards' general knowledge of reparations legislation and different types of measures is 'average'. What might play a role hereby is probably also the educational background and/or the person's interest in history and politics, something that could be interesting to explore further.

Focusing on the core interest of this thesis, the assumption that reparations for victims of Francoism generally find support among Spaniards can be confirmed by this empirical study. In concrete, the online-survey questions related to different aspects of support for reparations were all answered by a substantial majority of respondents positively. As also all focus group participants demonstrated support for the general concept of victim reparations and emphasised the need for repairing victims of the Francoist repression. Some participants went even further considering it a duty of the Spanish State and an absolute priority for the political agenda. Based on the reason that one is running against the clock since many possible beneficiaries of reparations have already passed away or will die in the next couple of years.

The claim made by Aguilar, Balcells and Cebolla-Boado (2011) that symbolic reparations like the removal of Francoist symbols are more popular in comparison to other as riskier perceived TJ measures, such as trials or truth commissions, has not been studied directly by this thesis. However, at this point is worth to mention that Spaniards considered in the online-survey reparations programmes for victims the measure that best contributes to social reconciliation, followed by a truth commission and national tribunals, while an amnesty for all actors was rated as the least contributing measure to this purpose. Reconciliation was regarded by an overwhelming majority of three-quarters of respondents as needed for in Spain. From this finding it can be suggested that, if there is a strong need for social reconciliation in Spain and victim reparations are seen as the measure that best supports such a process, there might be a clear demand for more government action in terms of repairing victims of Francoism.

Regarding support for different types of reparations, it is shortly re-emphasized what already has been highlighted by the previous Chapter VI. From the government's menu of distinct

material, symbolic, individual, and collective measures – independently if these measures have been issued or are considered by the Spanish Government – a clear tendency in favour of symbolic forms of reparations is identifiable by empirics. The most prominent and adequate measure to repair Franco's victims, according to the online-survey, is the search for the disappeared and exhumations from mass graves, followed by restitution of property and goods, and public apologies by perpetrators. The measure that appeared to generate most consensus in the focus group discussions are museums and documentation centres, alike monuments, memorials and places of memory.

Also, high priority had been assigned by participants to moral recognition as such acknowledgement of victim status, public acts of commemorations and public apologies, although the latter caused a bit of controversy because automatically done on behalf of citizens not having been personally involved in the repression. Likewise, the search of the disappeared and exhumations had been considered by focus group participants highly important, but it resulted not to be entirely uncontroversial concerning its financing (issues of state-financing were also criticized in the context of material forms of reparations). Besides that, some measures as economic compensations or medical assistance for directly victimized persons were less prominent because regarded as coming too late for most of the possible beneficiaries.

A similar picture arises out of the questions on support for by the government implemented reparations laws, measures, and initiatives in Spain. Empirics underpin positive attitudes towards the implementation of reparations. The online-survey found that there is great support for the reparations laws, measures, and initiatives implemented by the Spanish Government with nearly three-quarters of respondents demonstrated either support or strong support. A little more restraint were opinions in the focus group discussions. What Spain has done so far in terms of reparations tended to be supported, but the performance of the Spanish Government and state institutions in terms of implementation of reparative measures was considered by most of the focus group participants as absolute insufficient and it was highlighted that much remains pending. It got evident that many participants demanded even a more ambitious legal framework.

Taking all these expressed attitudes together and regarding them as the public opinion for the group of Spaniards that participated in this research. Now the analytical framework comes

back into play in order to explain which factors might have determined these opinions. Since this thesis was methodically approached with a qualitative lens and therefore no representative studies were carried out, the framework's variables could not be tested statistically. In order to systematically prove the validity of this analytical framework in its entirety, not only a quantitative approach would need to be used, but likely a comparative country study, too. Therefore, only a first impulse is given at this juncture, on the basis of the variables that could have been measured by the online-survey, analysing which factors could possibly stand out influencing public opinion towards reparations for Franco's victims and which ones could rather be neglected. At the same time, the findings from the focus groups are also included in the contemplation.

In the theoretical assumptions it has been expected that the set of individual personality variables is the most important one in influencing public opinion, followed by the programmatic horizon set of variables. While for the set of contextual dynamics rather an indirect influence on public opinion was assumed. The programmatic horizon as also the contextual dynamics variables had not been operationalized neither in the online-survey nor by the focus groups moderator's guide, so no statistical correlations can be demonstrated here. Nevertheless, some general aspects from the descriptive analysis and the focus group discussions might draw attention to some crucial interrelations.

Starting with the set that is forming the starting point of the whole framework, the *country's contextual dynamics*, consisting in detail of Spain's pre-Franco legacy meaning the political, economical and socio-cultural structure of the Second Republic, the legacy of the four-decades enduring dictatorship with its systematic repression of the Civil War's vanquished, the negotiated Transition to democracy based on a spirit of reconciliation and a consensus to leave the past behind, the new democratic system that stabilized over time and was backed by large public support, but is suffering over the year more and more from political polarization as well as the window of opportunity on the international arena which was opened during the transition period when Spain accessed to several international human rights treaties and became member of several multilateral organizations. All this provided the context within reparations policies, as for example the 2007 Historical Memory Law, emerged and were implemented.

Overall, these contextual dynamics might be indeed less relevant than other determinants in

shaping opinions of Spaniards, but two factors stand out that are essentially relevant: the legacy of the violence and the Transition to democracy. What is distinct for the case of Spain is that a civil war marked the beginning of a several decades-long dictatorship, that during many years spread an understanding of the Civil War as a national catastrophe, in which both warring parties committed atrocities and grave human rights violations. This interpretation is forgetting or even neglecting that the war was followed by decades of repression, of the part of society which was linked to the defeated, exercised by the new regime. This Francoist-influenced understanding of the past still prevails in a smaller part of Spanish society, mostly in right-wing conservative circles. In addition, the Transition is likely to be the most decisive factor in shaping Spaniard's opinions. Empirics can tie in here, as such the Spanish Transition was mentioned during the focus groups a lot, like in connection with impunity for human rights violations committed during the Franco regime. Also, on the Transition was pointed as a missed opportunity to recognize what had happened in the past and for failing to provide truth, justice and reparations to the victims of Francoism.

Continuing with the *programmatic horizon* set of variables, encompassing an account of the TJ mechanisms implemented by the Spanish State, the timing and sequencing of these victim or perpetrator-focused TJ measures, the design of the Spanish reparations' laws, measures, and initiatives classified within four dimensions of material, symbolic, individual, and collective as well as evaluated on the basis of De Greiff's (2006) eight characteristics of reparations programmes, and lastly the legitimacy achieved through the process of implementation of respective policies. The theoretical assumption that these factors might be of secondary importance, cannot be said to be proven by the empirical findings. In particular, the two factors of timing and sequencing of various TJ mechanisms and the design of the reparations laws, measures, and initiatives appear to be highly crucial.

Focus groups discussions, but also online-survey responses, showed that on the one hand, the topic of reparations was throughout the discussions linked to the wider field of TJ mechanisms. On the other hand, the issue of timing of different types of measures was raised by participants several times, such as the need for the interplay of truth, justice and reparations. Hereby, the necessity to launch first and foremost an in-depth discussion of what had happened during the Civil War and the dictatorship, to initiate a truth finding process investigating into the human rights violations occurred during Francoism and the victimization caused, including naming perpetrators, was highlighted more than once.

Participants with these views also expressed the wish to reconstruct the history, to create a type of history as a common narrative of the past, that might be accepted by all and to acknowledge the suffering of so many victimized Spaniards and their families. Therefore, the fact that there has been no such thing as a truth commission in Spain was criticized. After a truth finding process, even more important than justice, were considered forms of symbolic recognition and acknowledgement of the victims, for example in form of public acts, and the recovery of victims still buried in unknown places. The existing impunity for Francoist crimes, based on the Amnesty Law in place, and the continuant injustices as legacies of Francoism were strongly denounced and it was claimed that this should not exist in real democratic countries. Justice was regarded as fundamental, but at the same time also seen as a complicated issue, since bringing to trial perpetrators is currently impossible under the Spanish justice system.

Mentioned was by participants also that justice is not only impossible, but also if revenge is imposed it would lead to further confrontation, what even seems to be already the case nowadays. Demanded was at least the annulment of the trials of Francoism and the respective judgements to rehabilitate the, from today's perspective, unlawfully convicted and to solve in courts the issue of Francoist 'robberies' of property, goods and lands for restitution to their original owners. Regarding timing, many victim-focused mechanisms, including forms of material reparations or medical care for torture victims were, as mentioned earlier, regarded as coming too late and that they should have been taken in the early years of the Transition. The same could count for applying nowadays perpetrator-focused TJ mechanisms since their absence allowed already that well-known torturers of Francoist prisons took their awards to their graves. Similar opinions would probably be expressed for taking now measures of vetting and lustration (these measures have not been discussed by the focus groups).

Coming back only to the programmatic of victim reparations. Empirical evidence clearly shows that a central role is assigned to this TJ mechanism and that reparations need to be officially granted by the Spanish State and the implementation is considered unquestionable a public duty. De facto the previous analysis demonstrates that a combination of different material and symbolic as well as individual and community measures have been implemented in Spain, mainly through the 2007 Historical Memory Law. Empirics underline that a mix of different measures is crucial, however always considering the appropriate timing for the respective measures. For example, from today's perspective, some individual material forms

as such exemption from school fees for children or children's children of those victimized were no longer considered appropriate by focus group participants. Symbolic measures of recognition, such as memorials, was therefore clearly given priority because of their timely feasibility, while the search for the disappeared and the recovery of their bodies was also assigned high priority. Furthermore, the importance of (school) education was pointed out to prevent forgetting of past happenings, thus for example dealing with the past in documentation centres was demanded. The focus group discussions in general dealt more with the aspect of how to repair than to whom reparations should be granted. There seemed to be consensus that the victims to repair being the ones that fought during the Civil War on the Republican side, their families and descendants who suffered under the consequent repression of the Franco regime.

In respect, to De Greiff's (2006) characteristics of reparations programmes, as mentioned already, the Spanish reparations efforts cannot be considered as a genuine reparations programme since there are too many deficits. Especially because the scope, the total amount of beneficiaries, remained rather low because access to economic compensation and pensions was tied to certain conditions (e.g., compensation for political imprisonment was only granted to persons having been imprisoned for at least three years) And because completeness is not given since the different measures that had be applied did not reach out to the whole universe of potential victimized persons (there are still groups of victims that had not been included for illustration women suffering repression or forced labourers). Moreover, external coherence, the reparations measures came only along with an amnesty but were not tied to any other TJ mechanisms as such a truth commission. Further, only partially fulfilled had been the criteria of comprehensiveness and complexity as just some types of human rights violations have been covered (political imprisonment, imprisonment for homosexuality, being injured or disabled in the defence of democracy, children grown up in exile). The 2007 Historical Memory Law added some complexity providing various types of measures that were distributed in different ways as such one-off payments, pensions, but also symbolic forms as the withdrawal of Francoist symbols and the symbolic recognition of the victim status. Also, partially fulfilled are internal coherence as newer laws built on and improved former legislation, even if types of benefits do not directly support each other. The magnitude of benefits from beneficiary's perspective seemed not to cause many complaints in public discourse, thus considered as partially fulfilled. Regarding finality, the access to other paths of

civil redress is not closed, except criminal justice due to the Amnesty Law. The so far implemented measures are not final since many demands by civil society remain unaddressed (e.g., declaring Francoist trials and judgements null and void or the restitution of property and goods). These findings are also highly supported by empirics as the Spanish reparations' efforts were evaluated by focus group participants as a first step into the right direction, but being absolutely insufficient and far from complete.

The factor legitimacy does not seem particularly important for shaping opinions on reparations for victims of Francoism, even though implementation of some measures and law enforcement of the Historical Memory Law's provisions remain an issue. It appears that civil society actors rather think that no more public consultations are necessary, even a new law is not considered as necessary. For example, to fulfil the repeated demands that the Spanish State carries out the task of exhumations, since it is clear what is required of the state and which tasks are outstanding in terms of reparation.²²⁰ It should be basically fulfilled what was recommended and urged in reports of UN-bodies and by the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. The political will to implement the provisions of the already existing legislation is the sticking point. Some remarks on this were made during the focus group discussions, as such that the implementation of some historical memory measures by the government were almost carried out in the hidden to literally not 'offend' anyone. It was recalled that still Francoist symbols and street names remain in the public space demonstrating the unwillingness of the local state institutions and public administration to comply with historical memory regulations.

The factors that are theoretically assumed to have the greatest influence on opinions are from the *individual personality* set of variables. These variables have been systematically measured by the online-survey's socio-demographic and screening section of the questionnaire. This information at a later stage had been used as filter for the selection of adequate focus group participants. Nevertheless, the bivariate analysis of survey data identified as the only significant factor the individual view variable of political ideology. Depending on the respondents' self-placing on a left-right scale of political ideas, differences in respondents' answers to questions on support for reparations could be observed. Additionally, it was assumed that in some cases religiosity might be closely linked to political ideology, thus

220 For example see Silva Barrera (ARMH) (radiocable.com, 06.07.2020).

maybe similarly influencing opinions. Whereas political interest resulted to be not significant at all. The conclusion taken from these observations were that Spaniards being more leftist stronger support addressing victims' needs, stronger support the provision of state-sponsored reparations and the implemented reparations laws, measures, and initiatives in Spain. This is a plausible finding given the fact that people with leftist, anarchist or socialist ideas, in any case the ones directly or indirectly supported or are still supporting the Second Republic, formed the main target of the repression exercised by the Franco regime.

The effect of transgenerational transmission of political identity, here the political ideology, might cause that today's generations, the ones with leftist ideas, feel still closely bound and sympathize with the democratic period of the Second Republic, its advocates and defenders. Hence, strongly favouring reparations for them and their families and pushing for more ambitious measures. This tendency may also be confirmed in general by the focus groups. A majority of participants placed their political ideas on the left side of the scale on political ideas (on one and two out of seven), during the discussion they argued then for the need of wide-ranging victim reparations of all kinds and considered the reparations topic an urgent task of the State. In each focus group one person respectively rated its political ideas as middle-right (a four on the scale out of seven). Observed was that these two individuals raised more concerns regarding the feasibility and adequateness of different types of reparations as well as one sharply criticized public financing for the implementation of reparations. Whereas the need to repair victims of Francoism was clearly supported by everyone, independently of their political ideology. Religiosity cannot be said to be linked to political ideology in the case of the focus group participants. As an illustration, participants with very leftist political ideas at the same time assigned high importance to religious ideas and vice versa. No relation of political interest with opinions could be detected, as all participants were more than less equally strong interested in politics. Anyway, political interest might rather influence knowledge of reparations laws than opinions on it.

Moreover, the personal experience factor of victimization seems to be just weakly correlated to support for reparations, according to the online-survey results. If Spaniards consider themselves as 'victims' or 'not-affected' by State violence during Francoism, the bivariate analysis of the online-survey data, showed only a weak relationship with support. Nonetheless, the effect of transgenerational transmission of the trauma resulted evident based on the online-survey findings that a high number of people still feel like directly victimized by

Francoism, also including younger respondents who obviously could not have experienced the physical violence and the repression themselves because born after the end of the regime. An influence of victimization on opinions towards reparations, as such that people having been not-affected by human rights violations a more prone to oppose reparations, could on the whole not be observed during the focus group discussions. Neither it could be deduced from participants filter questions as, among other examples, a 'not-affected' person overall strongly supported the implemented reparations in Spain. While contrary an 'indirect victim' opposed their implementation. Nevertheless, direct victimization might influence which type of reparations is supported or which is given priority. To illustrate, during the focus groups a victim of torture viewed medical assistance as a relevant measure, while for a victim of who's a family member is a disappeared, the most pressing issue was the search, identification and exhumation of remains of the missing body.

Likewise, for socialization measured in form of family identity, the online-survey results indicated some correlation with support for reparations, but not a significant relation. If individuals their families had sided with the Franco regime are more prone to oppose issues of addressing victims' needs, of providing state-sponsored reparations, and less support certain types of reparations and the in Spain implemented measures is questionable. In the focus groups, no proof could be found for this assumption. For example, one participant who indicated the family having sided with the Franco regime was indeed more critical towards the State's role in the provision of different types of reparations, but another person whose family also sided with Franco or, as was stated by the participant, the family came to terms with the regime, clearly saw reparations as a necessary duty of the Spanish State to be provided to the victims of Francoism.

Above that online-survey findings assigned no importance to socio-demographic variables of gender, age, education and region, contrasting the preceding theoretical assumptions. From the focus groups no relevant patterns could be identified neither. Just to give an example for socio-demographic variable of region: the participant having been the most critical and opposing several types of reparative measures and their implementation with public funding, was from the Autonomous Region of Catalonia. While the assumption was contrary, that persons from regions that suffered stronger repression, foremost in the cultural sense, are more prone to support a wide range of measures financed by the national government.

All these presented conclusions are not generalisable because based only on the opinions, attitudes, and perceptions of the respondents and participants from this specific empirical study. The conclusions are limited also in the sense that they apply only towards the special TJ mechanism of reparations and only to the context of reparations for victims of Francoism. Widening a bit the horizon and discussing what conclusions could be drawn from this specific study for the general way of coming to terms with the past in Spain and the application of distinct TJ instruments, hereby also building on what was discovered by previous population-based research. When drawing on public opinion of Spaniards towards the wider field of TJ it is worth to have once again a look at the empirical analysis conducted by Aguilar, Balcells and Cebolla-Boado (2011) which has been introduced during this thesis at several stages. Their main findings on determinants of popular attitudes towards TJ in Spain for the year 2008 (data came from the 2008 CIS-survey), were that policies that are perceived less aggressive as removing symbols are more widely supported by Spaniards than the ones that are perceived as riskier, such as the setting up of trials for perpetrators of past human rights violations or the creation of an independent investigation commission clarifying violations.

A comparison of the present study to Aguilar, Balcells and Cebolla-Boado's research is as such not possible, since other TJ mechanisms apart from reparations have not been directly studied and because the present study not being a representative one of the Spanish population. In contempt of these limitations, a few similarities and contradictions are highlighted. In the first place, open answers to the online-survey as well as many comments during the focus group discussions revealed highly supportive attitudes towards ending impunity and bringing to trial the crimes of Francoism just as for mechanisms of truth finding identifying human rights violations and perpetrators in today's Spain. Further Aguilar, Balcells and Cebolla-Boado (2011) observed more than a decade ago, that variables which appeared to be highly relevant in explaining individual attitudes towards TJ policies are a combination of individual and socialization variables. Positive effect on support for TJ they claimed is caused by family victimization experience during the dictatorship, family sympathized during the Civil War with the Republicans, younger age, ideology closer to the left, and non-religious feelings. Some, for support positive, regional effects for the Basque Country and less strong for Catalonia had been found by them, too. This seems not to be the case for contemporary Spain, at least as far it concerns reparations laws, measures, and initiatives within the scope of this present empirical study. No real influence for age, nor religion or region in shaping

citizens opinions could be detected. Hence, considering the years 2019/2020, those Spaniards who are more likely to support reparations for victims of Francoism (counting exclusively for reparations, not for any other TJ mechanism) are people whose political ideology is closer to the left. Additionally, but less relevant, who or whose families were victimized during the dictatorship and/or whose family opposed the Franco regime and (rather) sided with the Republicans during the Civil War.

Despite all, several conclusions from Aguilar, Balcells and Cebolla-Boado (2011) have not ceased to apply, thus the trend can be confirmed by the present empirical study. First, Spaniards have not forgotten the past nor had been able to leave the past behind. Relevant for this seems to be the effects on political identities of long-term transmissions of family identities and victimization experiences. This manifests in the fact that true reconciliation does not yet seem to be achieved. As already indicated above, according to the online-survey, still in 2019/2020 a great need for social reconciliation among Spaniards is expressed. Various forms of victim reparations, truth finding and dialog are considered by the online-survey respondents to contribute to this aim, whereby reparations programmes for victims were the most frequent named, followed by truth commissions investigating the past. An amnesty for all actors was considered as not contributing at all to reconciliation. The focus groups confirmed the impression that Spain remains divided on the topic of the past and put further emphasise on the need of knowledge of the past happenings and education, whereby also more tolerance and empathy was demanded from the society.

Recognizing victims and their suffering as also their memories is regarded by participants as a solution to overcome divisions. As far as known, up to date, no other survey exists asking about reconciliation in Spain, therefore no comparisons can be made. Since reconciliation appears to be something many Spaniards consider as a necessity, further research on this aspect would be needed. Moreover, Aguilar, Balcells and Cebolla-Boado's conclusion that Spaniards are in general supportive for a more ambitious legal TJ policies can only be confirmed by this empirical study as such manifested by the online-survey result.

Hence, respondents evaluated the way the Spanish State dealt in general with the past only as partially well because something had been done, but more has to be done. The same perception and a demand for further measures, especially dealing with the issue of impunity and providing justice for victims, emerged from the focus groups. That is why, according to

the results of this empirical study, it appears that there is not any support for a continuation of the Spanish Government's approach towards the past consisting in a combination of the Amnesty Law with incomplete material and symbolic reparations for victims, with the absence of any truth finding efforts. This conclusion can be further substantiated by findings from the online-survey on guarantees of non-repetition where strengthening the independence of the judiciary and reforming laws in accordance to international human rights and humanitarian law standards resulted to received clear priority.

Finally, it can only be stated that there are many demands in civil society for comprehensive measures for an all-encompassing transitional justice policy, which are and would be supported by a large part of the population, but there is still a lack of political will to transform them into serious policies. The reasons for this may be manifold. But one thing is certain, the struggle of coming to terms with the past has become a political issue in Spain, what still divides many Spanish minds and is therefore as explosive as ever. The political polarisation and politicisation of the issue of historical memory hinders not only a coming to terms with the past, but also a final processing of the reparations issue. Although the new Draft Law gives hope for an expansion of measures, especially with regard to outstanding victim reparations, it already indicates that the government's traditional approach to the issue of dealing with the past will not be broken with. What implies that impunity for Francoist crimes will not be challenged as also no inquiries into the past will be conducted in the country's near future.

7.2 Practical Implications

After drawing conclusions for public opinion on reparations for victims of Francoism in Spain and how the Spanish State performed in this respect, some general lessons-learned and guidelines of best-practice in terms of designing and implementing publicly supported reparations shall be presented below. Given the limited generalisability due to the methodical approach, no conclusions can be drawn from the Spanish case to other countries, but some general aspects might have universal validity. Doing so at the same time allows to answer the second research question:

II. What must be done: How do reparations (programmes) need to be

designed and implemented to achieve public support?

From the background of what has been done in Spain in terms of victim reparations, policymakers and governments should take the following into account in the design and implementation of reparations:

a) Identify the human rights violations occurred, recognize the victims and acknowledge their suffering. Also, adhere to the right of reparations and consider it as a State duty, thus proactively address victims' needs early after the end of a conflict or the transition towards a democratic system. Put first and foremost the focus on victim-centred measures of dealing with the past because victims, their families and descendants will not forget what had happened to them in the past. The hope for oblivion is not a card a state should play since even some generations later the memories of the past are mostly still alive.

b) Provide a comprehensive and complex, but coherent set of reparative measures, including individual, collective, material, and symbolic types of reparations. Special attention should be paid to install a wide variety of symbolic and collective measures, especially such measures that maintain the memory and impart knowledge about the past to future generations, as e.g. museums or documentations centres. When issuing individual measures, care must be taken to ensure that they are implemented right in time; so that to beneficiaries of economic compensation or medical assistance can be really reached out before they might pass away. Overall, aim for a wide scope to include all potential victims and aim for complete measures covering all possible victim groups of various kind of human rights violations. Strive for the establishment of a final complete and all-encompassing reparations programme and avoid separate single measures, that are only gradually implemented over long periods of time. The reason is that if reparations are perceived by victims as incomplete or insufficient new demands will pop-up constantly.

c) Use additionally the 'UN 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' as a tool for victim-oriented policies and practices basing the design of reparations programmes on principles of restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

d) In any case, link reparations to other TJ mechanisms, in particular paying attention to an

adequate timing and sequencing of different measures. In an early period combine reparations with truth finding mechanisms, inquiries into the violations and efforts to establish a common narrative of the past. When applying an amnesty make sure it is a victim-focused amnesty for political prisoners and does not open the door to impunity for perpetrators. On the contrary, facilitate victims the access to criminal justice. Only that way it can be assured that state action is in accordance with international human rights and humanitarian law standards.

e) Apply a bottom-up and citizen-centred approach in the design and implementation process of reparations. Conduct upfront consultations with victim groups, open a public consultation for citizens, survey public opinion and integrate results in the design process. Also consider the use of new technologies to make consultation processes more inclusive and publicly accessible. Establish an expert commission, consisting of independent experts from the civil society and academia with different backgrounds, which makes recommendations on the reparations programme to the government. Lastly, launch public information campaigns, also involving social media campaigns for publicly disseminating the reparations programme. By this not only making sure that information is distributed to addressees of the measures, but also to draw public attention and arouse interest in the topic among a wider audience. All this fosters legitimacy.

f) Regard reparations as an integral part of the country's peace and reconciliation process, and as a crucial tool for guaranteeing non-recurring. Reparations programmes that are supported by large parts of the society might help to heal wounds or to overcome divisions and prevent the desire for revenge, thus promoting social reconciliation and ultimately long-term peace.

g) Ensure that providing reparations is for the State, independently of the government in office, a matter of course. At the same time, keep reparations and the whole topic of dealing with the past out of the political game. This also means that reparations issues and discussions on implementation of measures must not be allowed to be hijacked by certain parties or politicians and used for driving forward their personal political agendas. Therefore, also deploy law enforcement mechanisms and a sanctions regime for non-compliance with the provisions of reparations legislation.

7.3 Contribution of Reparations to Peace and Reconciliation

After discussing and summarising how reparations should best be designed and implemented in order to gain popular support, it is now returned to theoretical approaches of peace and reconciliation in order to figure out at which point reparations could come into play. What role reparations programmes might play in peace and reconciliation processes, in what way and to what extent they could enhance these processes or rather hinder them? An analysis of this interplay seems crucial, given that the results of the empirical study in Spain clearly indicate that victim reparations have a high relevance within a country's whole process of dealing with the past and for social reconciliation. Therefore, in this final review respective theories are only very briefly discussed and attention is drawn only to some scholars as this field of research is enormously comprehensive and extremely diverse. The intention here is to provide no more than an overview of possible starting points for future research and not to undertake an analysis of the topic.

One objective of reparations programmes within the transitional justice framework is “*to provide the necessary structural and restorative elements to facilitate the process of reconciliation and the consolidation of peace*” (Firchow and Mac Ginty, 2013, p.234). Some authors believe that it exists a clear role of reparations in post-conflict contexts as a potential tool for peacebuilding practitioners. And in the attempt of theorizing reparations a nexus between transitional justice theories and traditional conflict management and peacebuilding theories has to be made (Baker and Obradovic-Wochnik, 2016). In the praxis of conflict resolution and management there exists no clear difference between peacebuilding and transitional justice, as peacebuilding involves practices of transitional justice such as funding truth commissions. Transitional justice measures are often supported by traditional peacebuilding agencies such as the World Bank, what shows that TJ has become a crucial part of liberal peacebuilding activities.

Reconciliation is more a process than an end state, which tends to develop over a longer time period (Fischer, 2011). According to Kriesberg (2004) an ideal strategy for reconciliation needs four dimensions: truth, justice, regard (recognize humanity and identity of others) and security. He gives an overview of several international relations approaches and concludes that they are not sufficient, proposing a social conflict approach. Such an approach explains that related to the conflict are grievances between groups, relative power of groups depending

on institutional structures, historical experience of relation with each other, internal conflict and ethnic, linguistic or other communal identities. From an anthropological perspective reconciliation is produced locally at community level and reconciliation processes can only be facilitated, or even hindered, by state policies. What is required for initiating reconciliation process is a shared truth since reconciliation is an ongoing process replacing recent hostile and violent memories with memories of previous social bonds and longstanding practices of community (Theidon, 2006).

Social-psychological perspectives on reconciliation are based on the concept of an identity change, the metamorphosis of a collective national identity based on a revision of each, in the conflict involved, party's identity just 'enough to accommodate' the identities of others meaning to accept or acknowledge their legitimacy (Kelman, 2004, p.119). The objective is 'national reconciliation' a process whereby former enemies manage to coexist without violence. Therefore, for Kelman (2004) reconciliation goes beyond conflict resolution. He is differentiating between three in their quality different processes in peacemaking, that are related in a sequential way: conflict settlement, conflict resolution, and as the last step reconciliation. *"This calls for a new societal pact to be drawn up which breaks 'the cycle of violence and vengeance'"* (Hazan, 2006, p.26). According to Cárdenas et al. the aim of transitional justice mechanisms such as truth commissions, apologies and analogue also reparations is *"to overcome the negative impact of past collective violence promoting inter-group empathy, trust and forgiveness, and reinforcing instrumental and socio-emotional reconciliation"* (2015, p.516).

Reconciliation, as being even a broader concept than forgiveness, implies first *"the construction of a common integrative narrative of past collective violence"*; secondly, it implies *"overcoming revenge and negative emotions such as anger, fear and sadness, and changing the out-group image, increasing inter-group trust and forgiveness as well as positive collective emotions such as hope"*; thirdly, implying *"increasing confidence in institutions"* and fourthly *"increasing values of tolerance and universal jurisdiction"* (Cárdenas et al. 2015, p.517). Cárdenas et al. (2015) use the case of Chile to show that neither victims nor the general public believe that forgiveness can be achieved. Thus, the *"idea of a reconciliation model that does not include interpersonal forgiveness and that focuses more on restoring the adequate functioning of the institutions, creating a common narrative and increasing the confidence between groups"* seems more realistic (Cárdenas et al., 2015,

p.526). Therefore, applying an approach focusing on political or social reconciliation seems to be more rewarding.

Political reconciliation as repair of political and institutional relationships governed by rules and structures of the state. This relationship needs to be reconstructed when reciprocity and respect for agency is missing. Murphy (2010) takes an individualistic approach, since individual demands give internal reasons to adhere to political institutions, interpersonal engagements affect political institutions. Relationships that are law-based (legality), that foster attitudes of trust (since in a typical transition situation exists deep distrust,) and respect capabilities (social group identities, experience of violence and repression is group differentiated) need to be established (Murphy, 2010). Also, Wringe (2016) differentiates interpersonal from political reconciliation, but emphasizes the relationship between groups. Views involved in first punishment and second reconciliation can be attributed to the same topic at distinct moments. In this process of reconciliation Wringe highlights the role of forgiveness as groups forgiving one another and achieving attitudinal change among members of groups. Political reconciliation, besides forgiveness, must contain political regret in form of public acknowledgement of wrongdoing. Two aspects of the expression of regret are important a backward and a forward looking dimension. The expression of regret has to be made on behalf of the public and it has to be made to the public (Moellendorf, 2007).

The role of forgiveness in reconciliation has been touched upon also from a Christian theological perspective. Pope (2014) points out that an ethic of forgiveness gives rise to the promotion of distinct forms of reconciliation. It can promote social reconciliation, understood as a broader and deeper form of reintegration within civil society, hereby restorative justice plays an integral role. And political reconciliation, which implicates the establishment of equal rights within a political community.

Tying in with the mention of restorative justice Llewellyn and Philpott (2014) regard restorative justice and reconciliation as dual frameworks for peacebuilding. Since both being based on relational concepts of justice, relational conception of people and the world they inhabit, they can provide a holistic framework of peacebuilding and have the capacity to connect justice and peace. The authors call for an inclusive approach of peacebuilding integrating a range of activities and actors (Llewellyn and Philpott, 2014). An exploration of a transformation of restorative justice into transformative justice, meaning a wide-ranging

concept that encompasses paying attention to social, community, structural, and economic levels, and personally and directly considering parties to crimes and conflicts, is done by Harris (2008) in Sukkivan and Tiff's 'The Handbook of Restorative Justice'.

Another, relevant legal approach is the so-called *Jus Post Bellum* framework. *Jus Post Bellum* can be defined as “*the body of provisions, both of a legal and of a soft law nature, of best practices and recommendations, be they binding in a strict sense or not, that regulate the process of the transition from armed conflict to sustainable peace that is felt to be just by the main parties involved*” (Hilpold, 2015, p.292). These norms are to contribute to the creation of sustainable peace and reconciling war-torn societies, despite of being still a rather unclear concept. May and Edenberg (2013) explore common concepts and differences of *Jus Post Bellum* and Transitional Justice. While for both concepts the achievement of retribution through measures as criminal trials is considered important, the way they are conceptualized is different. Given the reason that over the years TJ appeared to not have provided the desired outcomes, inter alia reconciliation, newer approaches are demanding more and more the inclusion of socio-economic rights in the transition process and extending transitional justice to a form of transformative justice (also referred to by scholars as distributive justice).

For example, Lambourne (2009) developed a 'Transformative Justice Model of Transitional Justice' consisting of six principles and four elements of transformative justice. Displaying that to support peacebuilding, TJ needs to include besides accountability and justice, the political and socio-economic context and conditions as also psycho-social processes (Lambourne, 2009, pp.46-47). Alike, Gready and Robins (2019) argue for the need of a 'new agenda for practice' with a more 'transformative' concept of justice based on a shift from imposing top-down international legal frameworks and institutional concepts to a bottom-up understanding of peoples' everyday life concerns and needs of the population (2019, p.32). In the TJ context the mechanism of reparations is the one which has the greatest possibility of impacting socio-economic structures, transform victim's life circumstances and thus address route-causes of the conflict. Reparations as forming part of transformative justice should be based on considerations of how to address not only past sufferings, but also current and possible future needs of victims. Fulfilling socio-economic rights might be the guiding principle for the creation of transformative measures, containing elements as re-distribution of land, property, economic and political power. Transformative reparations should be designed with a long-term perspective to break the cycle of conflicts and implemented as a democratic

and inclusive process in cooperation with local people and civil society (García-Godos, 2017). For fostering long-term reconciliation reparations are to be included in the democratic consolidation process in order to be able to contribute to the building of trust between the government and the governed (Laplante, 2009).

Additionally, Hulme (2017) states that the broader landscape of peacebuilding and conflict management frameworks, engaging in post-conflict societies, position human rights at their nucleus. Thus, arguing for the use of a human rights framework as body of law since there is a set of comprehensive, universal binding obligations and a “*well-developed system of international mechanisms for redress*” (Hulme, 2017, p.120). Hulme suggests the strategical use of the human rights framework in peacebuilding through transitional justice mechanisms for long-term solutions, breaking cycle of conflict and fostering stable peace.

Finally, examining the contribution of TJ to peacebuilding from the background of the well-known concept of negative and positive peace. peacebuilding pursues both negative peace tasks, preventing relapse into violence, as also positive peace tasks, tackling underlying causes of a conflict. Reconciliation, as for example in the manner of Kelman's (2004) understanding of a changing relationship between former conflicting parties, is a pathway to positive peace. Reparative justice addressing needs of victims and the society, encompasses negative and positive peace aspects, while trust building measures and transformative reparations form part of positive peace (Mani, 2005). Bringing all these approaches together, Seul (2019) makes a call to human rights and conflict resolution professionals to create processes, based on the legal existing framework, in order to work better together “*in the design and implementation of context-sensitive approaches to transitional justice*” (2019, p. 9).

What has become apparent in the presentation of the theories on reconciliation is that, since TJ is applied in post-conflict and democratic transition contexts, reparations are indirectly or directly integral part of every conflict management and peacebuilding activity. Whereby it also becomes evident that reparations cannot be applied within a 'one-size fits all' approach of peacebuilding since the contexts of the conflict, the human rights violations occurred, and the group of victimized strongly differ in each case. Hence, reparations have within a peacebuilding framework to be closely adopted to the specific circumstances and in particular to the needs of the vulnerable groups, the victimized. For contributing to social reconciliation

reparations have to be balanced among the from the violence affected population and not provided exclusively to a certain group of victims, e.g. the one that could expressed their claims for reparations the loudest. As also reparations need to be combined with other perpetrator-focused TJ measures, especially of great importance with truth searching and truth telling mechanisms.

A recent empirical study in the peace psychology field conducted by Cehajic-Clancy and Brown (2019) measures, relying on an experimental design, impacts of reparations, apology, and articulation of emotions on intergroup forgiveness in Bosnia and Herzegovina. Forgiveness is hereby regarded as an indicator for a reconciliation process. Intergroup contact seems to be a successful way to overcome negative perceptions and emotions of the other group, but only when the needs of both the victim and perpetrator group had been satisfied, and the perpetrators acknowledge the past, that is when reparations are provided and apologies are issued. These possible shortfalls of intergroup contact are found by the study to be possibly levered out by setting a focus on moral exemplar stories, positive stories from prevailing conflict or war. What they show is that narratives of the past, in particular about moral heroic behaviour of the other group (e.g., during war saving the life of someone from the opposing group), fosters the restoration of broken relationships and creates a common base for reconciliation.

Once again coming back to the case of Spain, the empirical study conducted by this thesis confirms that reconciliation is still an enduring process that according to the perceptions of many Spaniards has not been achieved so far. Greater and, above all, serious efforts from the government to provide reparations to the victims of the Franco dictatorship is regarded as central by many citizens. Nevertheless, the uncompleted victim reparations efforts do not appear to be the only obstacle to reconciliation in Spain. A politicisation of the issue of coming to terms with the past, which leads to a strategic political commitment to further reparations measures expressed exclusively by some political parties, tends to have the opposite effect and wider divides the society. In Spain, the step towards a clear depoliticisation of the past coming along with a recognition of past human rights violations and its victims by political actors and social elites of all political colours seems necessary to promote genuine reconciliation. Civil society participation is also essential in such a process, which can be achieved by creating a common culture of remembrance, where symbolic and collective forms of reparations like museums and documentation centres could contribute to

substantially. All in all, the precise relationship and the causal interactions between reparations and reconciliation, what kind of reparations actually contribute to reconciliation and in what contexts, in post-conflict only or also applying for post-transition, remains to be explored by future research.

7.4 Limitations and Outlook

The present thesis aimed to analyse public opinion, attitudes, and perceptions towards reparations and to identify determinants for publicly supported reparations, in order to give practical suggestions how to optimally design and implement reparations policies. For this a comprehensive and complex analytical framework had been developed and an empirical study combining an online-survey with focus group methodology was conducted. Both the theoretical framework and the research methods entail certain limitations and strengths that are worth mentioning. Starting with the limitations, a general issue exists with using public opinion as the outcome variable because of the difficulties surrounding the measuring of public opinion. This is mainly because attitudes in general, therefore also towards reparations programmes, are multiple and vary over population and time. In addition, positive opinions, considered as public support were aimed to only be measured for the TJ instrument of reparations, however perceptions of online-survey respondents and focus group participants were often considering the entire process of the country's dealing with its past, what made it challenging to distinct opinions directed specifically towards reparations.

Beyond that, another general challenge is to construct a universally applicable theoretical framework given that each transition and each post-conflict situation is unique. Surely the main theoretical shortfall consists in the analytical framework representing only a sequence of variable sets for studying associations and not for establishing causal relationships between variables allowing to draw causal inferences. Based on this, the qualitative research approach chosen not demanded a comprehensive operationalization of variables which may limit the usefulness of the framework for quantitative research projects. Furthermore, there are methodological shortcomings of the applied qualitative, small-N research methods about the generalizability of the results to the Spanish population. On the one hand, regarding drawing out of this study conclusions for general influencing factors being related to public support for reparations programmes. On the other hand, difficulties exist with making conclusions beyond

the respective country context.

Notwithstanding these limitations, the thesis is characterized by a respectable number of strengths. First, this research contributes to theory development in the field of transitional justice focusing on reparations, hence contributing to close the gap of the understudied mechanism of reparations. Existing literature has explained demand for TJ and determinants of attitudes by focusing either on the experiences of the war violations, the authoritarian regime repression, perceptions of threats in the aftermath of a transition or contextual factors of region and ethnicity or on the transitional justice process itself or on the specific provisions of individual measures. The analytical framework presented here offers a novel approach combining contextual, programmatic and individual sets of variables from macro-, meso-, and micro-levels of analysis within one analytical framework. The results of the empirical study also show that this framework seems to be quite complete and is as such well applicable.

A second strength is that this thesis is paying tribute to the current debate on a stronger bottom-up and citizen-centred approach towards TJ. Not only by stressing out the importance of relying on public opinion and making suggestions for improvement in this area, but also by carrying out population-based research with an own public opinion study. In addition to be a method of data collection, the chosen research methodologies also provided to interested Spanish citizens a platform for discussion. Thirdly, as regards the case of Spain, insights into micro-level perspectives on a range of issues related to reparations could be provided. What included perceptions from both victims of Francoism and of those not having been directly or indirectly affected by the regime's repression. Therefore, facilitating the compilation of many recommendations to the Spanish Government that are directly based on the opinions of Spaniards.

In view of the challenges and limits of the present research, some indications for future research perspectives and emerging fields of study are made in respect to three aspects: need for further empirical research, for new approaches to increase bottom-up TJ, and for considering synergies with memory politics.

Further Empirical Research

The so far on TJ conducted quantitative and qualitative opinion studies have all led to different results and no clear overall picture can be drawn. Among other things, some found

victimization to be important others the contrary, some showed preferences for more victim-centred measures others for rather perpetrator-focused ones, some demonstrated strong support for TJ in general while others indicated low levels of support. The same applies to the mechanism of reparations where no clear trend in terms of different types of reparations can be detected neither. Some studies point to a preference for material reparations, while other studies find more support for symbolic forms. From this it can be concluded that each situation is unique and a 'one-size-fits-all' approach does not fit, but also that there is a need for additional empirical research, particularly on reparations, on a wider scale and in distinct settings. Given that, the main value of empirical studies is to generate additional information and knowledge, contribute to further debate when yielding controversial and contradictory results, and inspire policy-making (Parmentier, Valiñas and Weitekamp, 2009b).

There is a special need for panel studies since very few data exists that is collected over-time in order to document changes in public attitudes. For reparations it might be interesting to survey public opinion before a reparations programme is issued and this to be followed by a post implementation survey, to allow comparing expectations. Besides panel data, also other comparative data might be useful to further identify general lessons-learned. In the case of Spain, a comparative empirical study with other authoritarian to democratic regime transitions in Southern Europe in the 1970s, to be precise Portugal and Greece, could add interesting results. Such a comparative study could reveal crucial core issues since there is quite some variance to the Spanish case in respect to the way the transitions took place, how the respective governments addressed violations, with regards to the design of victim reparations, and the public discourse on the past. Most interestingly, in Greece and Portugal in contrast to Spain the past does not seem to cause many controversies in current debates and is not a topic on the agenda of current politics.

New Approaches for Increased Bottom-Up TJ

The long-standing call for a bottom-up approach towards TJ should finally be considered. Alongside classical tools as public opinion surveys, public consultations, dialogue with affected communities, grass-root movement participation and the involvement of traditional forms of dispute settlements. Researchers should also give consideration to how new technologies could be used by transitional justice practitioners as also governments to facilitate a more inclusive and accessible TJ process. Many emerging technologies offer the

unique chance to interact directly with the affected population, on a wide scale, to impart knowledge of the past atrocities and the repression or to educate people about still persistent injustices and human rights violations. In line with this, Pham and Aronson summarize: “technologies such as video, audio, interactive media and artificial intelligence have the potential to broaden the justice agenda and to democratize the documentation and communication of injustice as well as the delivery of justice (e.g. through virtual tribunals and truth commissions)” (2019, p.5). Concrete practical examples might be such as the use of artificial intelligence for assisted digital focus groups and online mass consultations or advance victims' story-telling through virtual reality (what could be then used as briefing material e.g. for the council of minister or during parliamentary sessions) and crowdsourced mapping of issues relevant to transitional justice. Or the digitalization of archives to create access to documents, spread narratives in social media and create digital memorials. Further, social media might have a great potential, of course besides its risks, to leverage public inclusiveness in TJ processes because of its public nature. Regarding this, for example Vinck (2019) gives an overview of scholars and presents conceptualizations for TJ and social media.

Synergies with Memory Politics

As the present study has shown, symbolic forms of reparation are of particular importance. Following the argumentation of Heydemann (2016) the central starting point in dealing with the needs of victims must be the question whether the state and the society consider resistance to an authoritarian regime was worth because of its contribution to democratization. Therefore, the first measure should be the moral recognition that the victims did a service to their contemporaries. Thus, affected persons should get rid of the stigma of supposedly having committed a crime, what implies a juridical rehabilitation. Thereafter victims should receive an adequate material and financial compensation. Apart from this sequence, the crucial point Heydemann (2016) makes, however, is that when a state finally issues such reparations, they depend on the history and memory policy practised in each case, which in turn depends on the attitude of a country's leadership and political elites towards its own past. The implementation of a reparations programme is finally depending on the state's self critical historical image coming along with a majority of the population accepting it. Often without a change in societal norms, mentalities and the historical narrative no recognition of victim's rights emerge. Hence, there should be more thoughts given to how symbolic reparations measures could be linked to or framed within the research field of memory politics. From the backdrop

that memories of a violent past are often root causes or continuations of conflicts, addressing the past with conventional conflict resolution and transitional justice instruments focusing on accountability or material victim reparations, but overlooking or ignoring the past, is often inadequate; in Spain the past is still 'hunting' the country. Barkan (2015) suggests therefore to apply historical dialogue as a new methodology in conflict resolution. To use the rewriting of history and shared narratives as a space and discourse for reconciliation aiming for reconfiguration of collective memory and a shift in public opinion. By recognizing that history is political, raising historical grievances and addressing manipulation by leaders, structural historical disputes can contribute to a better understanding among elites, and could help to disband sectarian identities and hatred (Barkan, 2015).

Moreover, memorialization is a component of TJ aiming for linking the past with the present by pointing on 'not to forget' and 'never again'. To illustrate, tangible or intangible forms of memorials fulfil crucial functions of acknowledgement of crimes and moral recognition of victims, return their dignity, and thus form part of symbolic reparations. Memorializations open possibilities of inclusion of victims in memorial creation processes and stimulating civil engagement. A special effect is that by communicating narratives of the past to the public, memorials introduce new an actor to the field of TJ, the visitor, who displaces the victim-perpetrator antagonism. Nevertheless, memorials suffer from the same shortfalls as other symbolic reparations that they can be politically used by power holders and can cause divisions when there is a contradictory narrative of the past. Excluded groups create thus sometimes non official counter-memorials (Buckley-Zistel and Björkdahl, 2017). Pendleton (2015) offers a more critical view and signs on the danger of 'obligated memory', a culture for the sake of memory and an obsession with remembrance. He analyses relationships between duty of memory and the idea of justice. Memory as justice and potential abuse of memory as injustice are demonstrated on the example of post-World War II Japan. Wouters (2014) sums up, after having compared memory policies of nine European countries, that the nature of TJ including the design of specific measures, the overall coverage, the timing and sequencing, their long-lived effects and their political usage, had in Europe a lasting impact on subsequent memorial regimes and continue to shape collective memory.

From a historical memory approach, memory is regarded as a historical political, cultural, and social process. Therefore, what is the case in most European countries, TJ policies got strongly interconnected with national politics of memory from early stage. And most countries

were able to develop a strong central politics of memory build on a political consensus between left and right, on a national project of reconciliation, and a unifying national narrative or myth related to the authoritarian past. Further, Wouters argues that the majority of memory 'irruptions' can be traced back to 'unresolved TJ-issues' that were caused mainly by 'elite-complicity' with the dictatorial regime and 'elite-continuity' after the transitions (Wouters, 2014, p.410). This line of argument fits perfectly with the Spanish case as illustrated by the present research.

7.5 Observations on Future Policy Strategies for Reparations in Spain

In July 2020, the Spanish Government opened a public consultation in the context of the drafting process for a new Law of Democratic Memory, which is planned to be passed in summer 2021. A first outline of recommendations for the new Law's provisions – similarly to what is set out in the following – had been compiled in the context of the aforementioned public consultation. Observations are made solely in respect to reparations and not for other TJ instruments. The in the following presented recommendations are all based on the results from the present empirical study. Many proposals stem directly from ideas developed by participants during the focus group discussions, like those on the fate of the Valley of the Fallen. The proposals presented below thus reflect the views and wishes of Spanish citizens, regardless of their actual political feasibility. The implementation of these recommendations is ultimately always contingent upon the current political and social circumstances in Spain.

Observations on General Aspects of Reparations and Their Implementation

- When addressing Spain's dictatorial past take up a victim-centred or better survivor-centred perspective, referring hereby to victims of human rights violations occurred in the post-War period and during the dictatorship of Francisco Franco. The Civil War defeated and their ancestors have suffered a nearly forty year long discrimination and marginalization during Franco's regime. Therefore, reparations have to be at the centre stage of each transitional justice policy or, when using the in Spain more common term, of a historical memory policy. Consequently, below are listed some very concrete tools and mechanisms that have resulted from this thesis and are considered

by many Spaniards as indispensable, appropriate and nowadays still urgent as well as possible measures to be taken in Spain.

- Recognize and guarantee to the victims of Francoism, Nazism and the Spanish political Transition the rights to truth, justice and reparation as required by the international treaties and agreements signed by the Spanish State and requested by international organizations, based on international human rights and humanitarian law standards.
- Approach reparations as a holistic concept encompassing various material, symbolic, collective, and individual measures with the objective to repair harms and suffering caused by the Spanish State and state actors. At the current point of time, many citizens and Francoist victims consider, as most feasible and most urgent, symbolic forms of reparations especially those providing a benefit to the whole society.
- Carry out the implementation process from bottom-up and apply a citizen-centred approach. This means to involve beneficiaries of reparations, victim associations as also the civil society and the general public in all stages of the implementation process. The public consultation for the new Democratic Memory Draft Law has been a first step. However, more must be done. For instance, conduct a nationwide public opinion survey in order to get an insight into citizens' views on historical memory issues in Spain (since the only existent survey on the topic is from 2008). The idea developed by the ARMH to include certain questions on the topic in the monthly CIS barometer could present an useful alternative.²²¹ Asking frequently questions on the adequateness of different measures for repairing Franco's victims and on the measures contribution to reconciliation would surely result in pertinent indications of Spaniards' preferences. Further, use social media campaigns to draw attention to the possibilities of participation in these surveys or in current open consultations. After the first Draft Law is presented, convene a hearing for concerned stakeholders so that to them is given the possibility to make comments and proposals for improvement. Beyond that, install a law enforcement mechanism and monitor the implementation of the Law.

²²¹ The ARMH suggested to the CIS to include in the September 2020 CIS-barometer the question, if a condemnation of Francoism should be included in the Spanish Constitution, see ARMH (13.08.2020).

Observations on the Design of Reparations

The here listed concrete measures are assigned to the dimensions from the perspective of victims, that is what kind of reparation it might mean to be for them. Under each dimension the measures are ordered according to a logical sequence of steps that ought to be taken and according to its importance for satisfying victims' needs.

Symbolic Reparations (individual and collective)

- As the very first step, make official and public apologies in order to stimulate a transformative effect by symbolically breaking with the past. The Head of State, the Government, all political parties as well as the Church need officially condemn human rights violations committed in the Civil War by both warring sides and overall explicitly condemn the military coup d'état of 18 July 1936 and the consequent repression exercised by the dictatorship of Francisco Franco y Bahamonde. Importantly, include in any apology the acknowledgement of victims and their suffering.
- Clearly and explicitly express the political will of the Spanish Government to assume responsibility for past human rights violations and victimizations. This can be done in form of a public act of the government, including the President, with the victims and their descendants.
- Urgently deal with the issue of still hundreds of thousand disappeared of the Civil War and the post-war period, as claimed by the reports of the United Nations' Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence Pablo de Greiff's mission to Spain in 2014 and the 2014 Report of the Working Group on Enforced or Involuntary Disappearances. Include into the annual State Budget the recovering of the identities of the disappeared through forensic anthropology and finance the conduction of exhumations in all Spain until all mass graves are exhumed. Ensure that it is clear which institutional body assumes responsibility for taking decisions regarding the search for and identification of remains. Set-up the possibility of exhumations to be ordered and directed by a court or specialized prosecutor's office. By providing subsidies do not 'outsource' the State's task of carrying out the identification and exhumation of bodies to private civil society

organizations. The State must assume the responsibility beyond the financing because exclusively official state institutions can grant the status of victim to the disappeared and their families. To facilitate these tasks, create with public funding a nationwide census of disappeared and a nationwide central DNA database.

- Re-open an Office for Victims as existed prior to 2012 to offer a central contact point for victims and their descendants. The office must coordinate tasks such as exhumations with all government delegations and sub-delegations, which are to be located in all provincial capitals.
- Include in the Law a definition of victims by directly naming forms of victimization based on victim status only and not on faction. This must be done from a moral reparation and not from criminal justice perspective.
- To recognize victims and give them 'victim status' create a nationwide register of victims. Based on investigations into human rights violations occurred, including a gender perspective, categorize them in groups and assign adequate reparations to each group (e.g., political prisoners, expropriated, professionally discriminated).
- For rehabilitation of victims' civil and political rights not only annul Francoist legislation and sentences, especially with regard to sentences for political reasons and to expropriation, but also declare them null and void.
- Establish a special taskforce to investigate into and create an account of the topic of the so-called 'stolen children'. Acknowledge their right to identity and create a central DNA database for allegedly affected in order to identify their biological family ties.
- Forbid the exaltation of Francoism and the denying of human rights violations of the Franco regime as well as forbid associations and foundations associated with the Franco regime, as such the Fundación Nacional Francisco Franco.
- Remove all still persistent monuments, memorials, and monuments related to or exalting the Franco regime. Rename all remaining street names, names of public places, and public buildings named after elites of the Franco regime.
- Adopt an explicit 'memory policy' that sets out guidelines for the national government's memory activities.

- Set-up a governmental fund for memorialization work that is administered by a Historical Memory Foundation. Assign to the foundation the task to work on the country's memorialization process, to conduct objective historical investigation (take-up the work of the Inter-ministerial Commission), to manage a fund for memorials and monuments, realize exhibitions and documentary work as well as involve and reach out to the general public. Crucial is to ensure that the memorialization work aims to reconcile not divide the society.
- Establish a National Museum of Historical Memory in Madrid which informs the public from an objective historical perspective about the Second Republic II, the Civil War and the Dictatorship (likewise to the Chilean one in Santiago de Chile). And provide funding for documentations centres all over the territory of Spain.
- Turn prisons and Franco's concentration camps into publicly accessible memory sites or museums as done with the prison Modelo in Barcelona.
- Make public access to all State archives containing information on the Civil War and the dictatorship even simpler and ensure the collaboration of public administration.
- Finance memorials and acts of commemoration. Hereby, considering to not only include names of victims, but also names of the perpetrators thus not fostering a one-sided remembering of the past. Also, notice the importance of designing memorials inclusive, hence include during the design phase victim organizations and later on provide participation possibilities to visitors (e.g., post-its for leaving comments). Hereby, consider upfront possible pitfalls, e.g. writing names in stone are an acknowledgement of death thus might be refused by families of disappeared. Ensure easy access to memorials by providing respective infrastructure, offer guided visits and make them publicly known through publicity.
- Finally address the question of the fate of the Valley of the Fallen. Exhume immediately all unidentified bodies and hand them over to their families. Relocate the body of José Antonio Primo de Rivera. Thereafter, transform the Valley of the Fallen not into a memorial site, as at this place commemoration for both sides won't be possible, but into a museum which is critically dealing with the monument's history embedding it into a critical account of the Civil War and the dictatorship.

- Sensitize the younger generation on the topic of Spain's past by including in the school curriculum obligatory school visits to museums, memory sites as such to concentration camps and documentation centres offering special age-appropriate exhibitions including interactive methods. Above that, revise textbooks and implement a critical narrative of Spain's recent past in all school history books nationwide.
- Create incentives for institutions such as public libraries, documentation centres and galleries to host temporary exhibitions dealing with memories of the past or facilitate that cultural institutions take up own action to treat the topic in a creative artistic way.
- Finance regional and local micro-memory projects. For example, turn local clandestine detention centres into markers of the repressive past, conduct excavations, mark and signal the sites with plaques containing background information and install plaques with names of victims thus make mourning possible. Also, facilitate projects to mark the neighbourhoods by laying 'baldosas' with the names of disappeared in front of what used to be victims' homes (like the project 'Stolpersteine') or finance local projects to plant trees, street art paintings on walls or zebra crossings, among other things.

Material Reparations (individual and collective)

- Restitute property, land and goods to previous owners when identifiable. If it is not possible anymore to legally claim the ownership, pay an amount of compensation or hand-out a voucher that allows to acquire new property or land.
- Align economic compensations for victims of Francoism to those being granted to victims of terrorism and gender-based violence in order to equal all victims and eradicate the 'two class system' of victims.
- Provide monetary compensation to so far omitted victim groups like forced labourers and consider a re-opening of the registration period for already compensated victim groups as such those suffered injuries or disabilities in the defence of democracy.
- Keep on paying pensions to spouses of Civil War deceased, to orphans, and physical or psychological injured.
- Recognize privileges to direct victims of Francoism as such lowering their tax

payment obligations, offer them to use public transport for free or the option of an earlier retirement.

- Provide public health and welfare services like cost-free psychological support to victims and their descendants acknowledging that traumatic memory can be intergenerationally transferred and provide free psychological support to families during exhumations.

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APPENDIX A Paper Versions Online-Survey Questionnaire

QUESTIONNAIRE ONLINE SURVEY - ENGLISH Opinions, Attitudes, And Perceptions Towards Reparations Programmes

Introduction

Hello, my name is Patricia Enssle and I am a PhD student in political science at the University of Barcelona (Spain). As part of my research about transitional justice dealing with countries in post-conflict and democratic transition situations, I conduct this very short online survey about reparations programmes for victims of human rights violations in the aftermath of *{insert conflict/violent regime}*. The aim of the survey is to identify citizens' opinions, attitudes and perceptions on the reparations programme in place in your country. Your views will help to determine current issues and identify necessities for new policies. It will take you not more than 5 to 10 minutes to complete the survey.

Consent and Confidentiality

Participation in the survey is voluntarily. If you decide not to participate there will not be any negative consequences. Please be aware that if you decide to participate, you may stop participating at any time and you may decide not to answer any specific question.

The questionnaire is asked anonymously, no names and personal information will be recorded. Demographical questions such as gender or age will be asked for statistical purpose only. Confidentiality of all information provided will be assured. (In accordance with the EU Data Protection Legislation).

Instructions

Please answer the following questions in the most honest and comprehensive way possible. Sometimes you may not feel that any of the options provided is the answer you would ideally like to give. In this case, please choose the most obvious answer among the options offered.

I. SOCIO-DEMOGRAPHICS

1. Gender

(Single Answer) Please tick the appropriate response

1	Male
2	Female
3	Other

2. Age

(Single Answer) Please tick the appropriate response

1	Under 18 years old	<i>Screenout</i>
2	18 – 24 years old	
3	25 – 34 years old	
4	35 – 44 years old	
5	45 – 54 years old	
6	55 – 64 years old	
7	65 – 74 years old	
8	75 years or older	

3. Region: In which region are you born? *(country specific adaptations)*

(Single Answer) Please tick the appropriate response

1	Region A
2	Region B
3	Region C
N	Region N

4. What is the highest educational level you completed/you are about to complete?

(Single Answer) Please tick the appropriate response

1	Secondary school
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2	High school
3	Professional degree
4	University degree (Bachelor/Master or equivalent)
5	Doctorate/Professor degree
6	Other, please specify _____

5. Could you tell me if you are interested in politics in general?

(Single Answer) Please tick the appropriate response

1	Not at all
2	A little
3	Quite a lot
4	Very much

6. In political matters people frequently speak of left and right. Where you would place your ideas on the following scale?

(Single Answer) Please rate on the scale from 1 ('extreme left') to 7 ('extreme right')

1 – extreme left	2	3	4	5	6	7 – extreme right

7. How important are religious ideas for you?

(Single Answer) Please rate on the scale from 1 ('not important') to 7 ('very important')

1 - not important	2	3	4	5	6	7 - very important

8. As far as you can remember, which of the two sides that were involved in the *{insert conflict/violent regime}*, did your family most identify with?

(Single Answer) Please tick the appropriate response

1	Side A
2	Side B
3	Both
4	Neither

II. SCREENING

Code	N	Target Group
1	min. 30	Victim (direct/indirect)
2	min. 30	Not-Affected

9. Do you feel like a victim of violence by the State or its agents in the violent period during the *{insert conflict/violent regime}*?

Please tick the appropriate response

1	Yes	<i>TG: Victim (direct) / Go to Q11</i>
2	No	

10. Are there any victims of State violence or its agents during the *{insert conflict/violent regime}* among your **relatives** or **close friends**?

Please tick the appropriate response FILTER: Only if Q9=2

1	Yes	<i>TG: Victim (indirect) / Go to Q11</i>
2	No	<i>Go to Q12</i>

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11. The violation of human rights was related to ...?

Explanation: This question is related to the previous one and likes to get to know what had happen in your case.

(Multiple Answer) Please tick all options that apply FILTER: Only if Q9=1 / Q10=1

1	Political imprisonment
2	Torture
3	Disappearance
4	Assassination
5	Displacement/Exile
6	Others, please specify _____

III. Perceptions of Violence

The following questions refer to the time of the {insert conflict/violent regime}.

12. According to various sources, widespread **human rights violations** occurred during {insert conflict/violent regime}. Do you ... with this statement?

(Single Answer) Please tick the answer that comes closest to your view

1	I strongly agree
2	I agree
3	I disagree
4	I strongly disagree
99	I don't know

13. Who do you think is mainly **responsible** for the committed human rights violations? The violence was mainly provoked by...

(Single Answer) Please tick the answer that comes closest to your view

1	... the state and government in power.
2	... opposing forces, rebel groups or guerillas.
3	... outside forces interfering in the conflict.
4	... all of them.
5	... unidentified groups.
99	I don't know

14. What **kind of violations** of human rights occurred you are aware of?

(Multiple Answer) Please chose top 3 priorities {RANDOMIZE}

1	Political imprisonment	
2	Torture	
3	Disappearance	
4	Assassination	
5	Displacement/Exile	
6	Restrictions of Civil and Political Rights	
7	Others, please specify _____	
99	I don't know	<i>Exclusive</i>

15. In your opinion, it is ... that **needs of victims** of human rights violations are addressed, e.g. in form of reparations.

(Single Answer) Please tick the answer that comes closest to your view

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1	Very important
2	Somewhat important
3	Not so important
4	Not important at all
99	I don't know

IV. Attitudes Towards Reparations

The following questions refer to victims of human rights violations of the *{insert conflict/violent regime}*.

16. Do you believe there should be **state sponsored reparations** (e.g. monetary compensation) for victims?

(Single Answer) Please tick the answer that comes closest to your view

1	Yes, for individual victims
2	Yes, for the community
3	Yes, for individual victims and the community
4	No, no measures should be taken at all
99	I don't know

17. Have you ever heard of the following **legislation** establishing the reparations programme in *{insert country}*?

(Multiple Answer) Please tick the box for all options you want to answer with 'yes'

1	<i>{country specific legislation}</i>
2	<i>{country specific legislation}</i>
n	<i>{country specific legislation}</i>
99	I don't know

18. From your knowledge, are any **material reparations** (such as state financed lump sum payments, pensions, rehabilitation programmes) in place for victims?

(Single Answer) Please tick the answer that comes closest to your view

1	Yes, please specify which_____
2	No, no material reparations are implemented
99	I don't know

19. Do you know of any **symbolic** (not material, e.g. renaming street names) reparative measures that were taken in the aftermath of *{insert conflict/violent regime}*?

(Single Answer) Please tick the answer that comes closest to your view

1	Yes, please specify which_____
2	No, because no symbolic measures are taken
99	I don't know

20. In general, what do you think which are the **most adequate measures** to repair victims of human rights violations in *{insert country}*? *{RANDOMIZE}*

Please rate the following measures on a scale from 1 (not adequate) to 5 (very adequate).

		Ratings				
		1	2	3	4	5
1	Monetary payments (e.g. one-off lump sums, pensions)					
2	Public apologies by perpetrators (e.g. by Head of State)					
3	Health care and medical assistance (e.g. free treatment, psychological)					

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	support)					
4	Education (e.g. free education for children of victims, scholarships)					
5	Erection of memorials, museums of remembrance, removal of symbols, renaming of public spaces					
6	Acknowledgment of victim status and proclamation of commemoration day					
7	Rehabilitation of civil and political rights (e.g. reinstatement at workplace)					
8	Restitution of property and land					
9	Search for disappeared persons and exhumation of mass graves					
10	Collective reparations (e.g. community development programmes)					
99	I don't know	<i>Exclusive</i>				

21. Overall, would you say that you the reparations laws, initiatives, and programmes **implemented** in {insert country}?

FILTER: Not asked if Q17 & Q18 & Q19 = 99

(Single Answer) Please tick the answer that comes closest to your view

1	Strongly support
2	Support
3	Oppose
4	Strongly oppose
99	I don't know

V. Opinions on Reconciliation and Guarantees of Non-Repetition

The following questions refer to aftermath of the {insert conflict/violent regime}.

22. Do you think there is a **need for reconciliation** in {insert country}?

Explanation: The question refers to social reconciliation meaning a process of restoring shattered relationships between groups of the society.

(Single Answer) Please tick the answer that comes closest to your view

1	Definitively yes
2	Rather yes
3	Rather no
4	Definitively no
99	I don't know

23. **What** do you think is needed to reconcile the society? *FILTER: only if Q22 = 1 or 2*

1	Open Answer: _____ (max. 500 words)
---	-------------------------------------

24. In your opinion, do you think that the following **contributes to social reconciliation**?

Please rate all options on a scale from 1 (does not contribute at all) to 5 (does contribute very much)

		Ratings				
		1	2	3	4	5
1	International tribunals prosecuting perpetrators					
2	National trials prosecuting perpetrators					
3	Amnesty for all actors					
4	Truth Commissions investigating the past					
5	Reparations programmes for victims					
99	I don't know	<i>Exclusive</i>				

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25. Regarding the **performance of the {insert country} state** dealing with the past, with which statement do you agree?
(Single Answer) Please tick the answer that comes closest to your view

1	The state has performed exceptionally/they have done everything they could, the topic is closed now.	
2	The state has performed partially well/there was done something but more has to be done.	
3	The state has not performed well/they missed their responsibility and nothing is achieved so far.	
99	I don't know	<i>Exclusive</i>

26. What do you think the {insert country} State should do to **avoid repeating what had happened** in the past?
(Multiple Answer) Please chose top 3 priorities

1	Ensure civilian control of military and security forces	
2	Human rights education and training for all state officials	
3	Protection of professionals in legal, medical, health-care, media and human rights defenders	
4	Reforming laws in accordance to international human rights and humanitarian law standards	
5	Strengthening independence of the judiciary	
6	Providing mechanisms for preventing and monitoring social conflicts and their resolution	
7	Other, please specify _____	
96	Nothing at all	<i>Exclusive</i>
99	I don't know	<i>Exclusive</i>

VI. FINAL

You are at the end of the survey ...

27. Do you have any other views, opinions or comments you want to share?

1	Yes, please specify: _____
2	No

28. Would you be interested in participating in a focus group discussion (120min) about this topic?* **

1	Yes, please indicate a contact email address _____
2	No

*(Please note: Participating in a focus group implies that the information you have provide in this online survey will be used for further discussion)

** There will be an incentive of €20 per person

Thank you very much for participating in this online survey

ENCUESTA EN LÍNEA - ESPAÑA

Opiniones, actitudes y percepciones hacia los programas de reparaciones

Introducción

Mi nombre es Patricia Enssle y soy estudiante de doctorado en ciencias políticas en la Universidad de Barcelona (España). Como parte de mi investigación sobre justicia transicional que trata con países en situaciones de transición democrática y post-conflicto, realizo esta breve encuesta en línea sobre programas de reparaciones para víctimas de violaciones de derechos

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humanos de la dictadura militar del Régimen Franquista en España (1939-1975). El objetivo de la encuesta es identificar las opiniones, actitudes y percepciones de los ciudadanos sobre el programa de reparaciones en vigor en su país. Sus puntos de vista ayudarán a determinar los problemas actuales e identificar las necesidades de nuevas políticas. Le llevará no más de 5 a 10 minutos completar la encuesta.

Consentimiento y Confidencialidad

La participación en la encuesta es voluntaria. Si decide no participar, no habrá consecuencias negativas. Tenga en cuenta que si decide participar, puede dejar de participar en cualquier momento y puede decidir no responder una pregunta específica.

El cuestionario se realiza de forma anónima, no se registrarán nombres ni información personal. Las preguntas demográficas, como el sexo o la edad, se realizarán únicamente con fines estadísticos. Se garantizará la confidencialidad de toda la información coleccionada. (Conforme con el Reglamento General de Protección de Datos de la Unión Europea).

Instrucciones

Responda las siguientes preguntas de la manera más honesta y completa posible. Es posible que algunas veces no sienta que cualquiera de las opciones provistas es la respuesta que le gustaría dar. En este caso, elija la respuesta más obvia entre las opciones ofrecidas.

I. SOCIO-DEMOGRAFICOS

1. Genero

(Respuesta única) Por favor, marque la respuesta apropiada

1	Hombre
2	Mujer
3	Otro

2. Edad

(Respuesta única) Por favor, marque la respuesta apropiada

1	Menos de 18 años	Screenout
2	18 – 24 años	
3	25 – 34 años	
4	35 – 44 años	
5	45 – 54 años	
6	55 – 64 años	
7	65 – 74 años	
8	75 años o más	

3. Región: ¿En qué región nació?

(Respuesta única) Por favor, marque la respuesta apropiada

1	Andalucía
2	Aragón
3	Principado de Asturias
4	Illes Balears
5	Canarias
6	Cantabria
7	Castilla-La Mancha
8	Castilla y León
9	Catalunya
10	Comunitat Valenciana
11	Extremadura

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12	Galizia
13	La Rioja
14	Comunidad de Madrid
15	Región de Murcia
16	Comunidad Foral de Navarra
17	Euskadi

4. ¿Cuál es el nivel educativo más alto que completó / que está por completar?

(Respuesta única) Por favor, marque la respuesta apropiada

1	Educación Secundaria Obligatoria E.S.O
2	Bachillerato
3	Ciclo formativo grado medio/grado superior de formación profesional
4	Título universitario (Grado / Master o equivalente)
5	Doctorado / Profesorado
6	Otro, por favor especifique _____

5. ¿Podría decirme si le interesa la política en general?

(Respuesta única) Por favor, marque la respuesta apropiada

1	En absoluto
2	Un poco
3	Bastante mucho
4	Muchísimo

6. En asuntos políticos la gente habla frecuentemente de izquierda y derecha. ¿Dónde ubicaría sus ideas en la siguiente escala?

(Respuesta única) Por favor califique en la escala de 1 ('extrema izquierda') a 7 ('extrema derecha')

1 – extrema izquierda	2	3	4	5	6	7 – extrema derecha

7. ¿Qué importancia da a las ideas religiosas?

(Respuesta única) Por favor califique en la escala de 1 ('no importante') a 7 ('muy importante')

1 – no importante	2	3	4	5	6	7 – muy importante

8. Hasta donde puede usted recordar, ¿durante el período de la dictadura militar del Régimen Franquista (1939-1975) con que lado se identificó más su familia?

(Respuesta única) Por favor, marque la respuesta apropiada

1	del lado del Régimen Francisco Franco
2	del lado de la oposición
3	ambos
4	ninguno

II. FILTRO

Code	N	Target Group
1	min. 30	Victim (direct/indirect)

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2	min. 30	Not-Affected
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9. ¿Se ha sentido víctima de la violencia del Estado o sus agentes durante el periodo de la dictadura militar del Régimen Franquista (1939-1975)?

Por favor, marque la respuesta apropiada

1	Sí	TG: Victim (direct) / Go to Q11
2	No	

10. ¿Han habido víctimas de la violencia del Estado o de sus agentes durante el período de la dictadura militar del Régimen Franquista (1939-1975) entre sus familiares o amigos cercanos?

Por favor, marque la respuesta apropiada FILTER: Only if Q9=2

1	Sí	TG: Victim (indirect) / Go to Q11
2	No	Go to Q12

11. La violación de sus derechos humanos estaba relacionada con ...

Explicación: Esta pregunta está relacionada con la pregunta anterior y quiere especificar lo que ocurrió en su caso.

(Respuestas múltiples) Marque todas las opciones que correspondan FILTER: Only if Q9=1 / Q10=1

1	Encarcelamiento político
2	Tortura
3	Desaparición
4	Asesinato
5	Desplazamiento / Exilio
6	Otro, por favor especifique_____

III. Percepciones de la Violencia

Las siguientes preguntas todas se refieren a la hora del periodo de la dictadura militar del Régimen Franquista (1939-1975).

12. Según varias fuentes se produjeron **violaciones de derechos humanos** extendidas durante el periodo de la dictadura militar del Régimen Franquista (1939-1975). ¿Usted está ... con esta declaración?

(Respuesta única) Marque la respuesta que se acerque más a su punto de vista

1	Totalmente de acuerdo
2	De acuerdo
3	En desacuerdo
4	Totalmente en desacuerdo
99	No lo sé

13. ¿Quién cree usted es el **principal responsable** de las violaciones de derechos humanos cometidas? La violencia fue provocada principalmente por ...

(Respuesta única) Marque la respuesta que se acerque más a su punto de vista

1	... el estado y el gobierno en el poder.
2	... grupos de la oposición, rebeldes o guerrilleros.
3	... fuerzas externas que interfirieron en el conflicto.
4	... todos ellos.
5	... grupos no identificados.
99	No lo sé

14. ¿Sobre que **tipo de violaciones** de derechos humanos que ocurrieron usted tiene conocimiento?

(Respuesta múltiples) Por favor, elija las 3 prioridades principales {RANDOMIZE}

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1	Encarcelamiento político	
2	Tortura	
3	Desaparición	
4	Asesinato	
5	Desplazamiento / Exilio	
6	Restricciones de los derechos civiles y políticos	
7	Otro, por favor especifique _____	
99	No lo sé	<i>Exclusive</i>

15. En su opinión, es... que se aborden **las necesidades de las víctimas** de violaciones de derechos humanos, por ejemplo en forma de reparaciones?

(Respuesta única) Marque la respuesta que se acerque más a su punto de vista

1	Muy importante
2	Algo importante
3	No tan importante
4	Nada importante
99	No lo sé

IV. Actitudes hacia las Reparaciones

Las siguientes preguntas se refieren a víctimas de violaciones de derechos humanos de la dictadura militar del Régimen Franquista (1939-1975).

16. ¿Cree usted que debería haber **reparaciones** (p.ej. compensaciones monetarias) **patrocinadas por el estado**?

(Respuesta única) Marque la respuesta que se acerque más a su punto de vista

1	Sí, para víctimas individuales
2	Sí, para la comunidad
3	Sí, para víctimas individuales y la comunidad
4	No, no se deben tomar medidas en absoluto
99	No lo sé

17. ¿Alguna vez ha oído hablar de las siguientes **legislaciones** que forman el programa de reparaciones en España?

Explicación: Están listados aquellos leyes que específicamente se dirigen a la cuestión del Régimen Franquista y no hacen referencia exclusivamente al periodo de la Guerra Civil.

(Respuesta múltiple) Marque la casilla para todo lo que desea responder con 'sí'

1	Real Decreto 1803/2008, de 3 de noviembre, por el que se regulan las condiciones y el procedimiento para el abono de las indemnizaciones reconocidas en la Ley 52/2007, de 26 de diciembre, a favor de personas fallecidas o con lesiones incapacitantes por su actividad en defensa de la Democracia
2	Real decreto 1791/2008 sobre la Declaración de Reparación y Reconocimiento personal a quienes padecieron persecución o violencia durante la Guerra Civil y la Dictadura
3	Ley 52/2007 - Ley de Memoria Histórica
4	Ley 24/2006, de 7 de julio, sobre declaración del año 2006 como Año de la Memoria Histórica
5	Ley 4/1990, de presupuestos generales del estado para 1990 (indemnizaciones a favor de quienes sufrieron encarcelamientos en establecimientos penitenciarios)

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6	Ley 18/1984, de 8 de junio, sobre reconocimiento como años trabajados a efectos de la Seguridad Social de los períodos de prisión sufridos como consecuencia de los supuestos contemplados en la Ley de Amnistía de 15 de octubre de 1977
99	No lo sé

18. Según su conocimiento, existen reparaciones **materiales** (como pagos de sumas globales financiadas por el estado, pensiones, programas de rehabilitación) para víctimas?

(Respuesta única) Marque la respuesta que se acerque más a su punto de vista

1	Sí, por favor especifique cuales ____
2	No, no se han implementado reparaciones materiales
99	No lo sé

19. ¿Conoce alguna de las medidas reparadoras **simbólicas** que se han tomado después la transición hacia la democracia?

(Respuesta única) Marque la respuesta que se acerque más a su vista

1	Sí, por favor especifique cuales ____
2	No, porque no se han tomado medidas simbólicas
99	No lo sé

20. En general, ¿cuáles cree usted que son **las medidas más adecuadas** para las víctimas de violaciones de derechos humanos en España?

Por favor, califique las siguientes medidas en una escala de 1 (no adecuada) a 5 (muy adecuada) {RANDOMIZE}

		Clasificaciones				
		1	2	3	4	5
1	Pagos monetarios (p.ej. sumas únicas, pensiones)					
2	Disculpas públicas por parte de los perpetradores (p.ej. por el Jefe del Estado)					
3	Atención médica y asistencia médica (p.ej. tratamiento gratuito, apoyo psicológico)					
4	Educación (p.ej. educación gratuita para los hijos de las víctimas, becas)					
5	Construcción de monumentos, museo del recuerdo, retiro de símbolos, cambio de nombre de espacios públicos					
6	Reconocimiento como víctima y proclamación de un día de conmemoración					
7	Rehabilitación de los derechos civiles y políticos (p.ej. reincorporación en el lugar de trabajo)					
8	Restitución de bienes y terrenos					
9	Búsqueda de personas desaparecidas y exhumación de fosas comunes					
10	Reparaciones colectivas (p.ej. programas de desarrollo comunitario)					
99	No lo sé	<i>Exclusive</i>				

21. En general, ¿diría usted que (a) las leyes, iniciativas y programas de reparaciones **implementadas** en España?

FILTER: Not asked if Q17 & Q18 & Q19 = 99

(Respuesta única) Marque la respuesta que se acerque más a su punto de vista

1	Apoya fuertemente
2	Apoya
3	Se opone
4	Se opone fuertemente
99	No lo sé

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V. Opiniones sobre Reconciliación y Garantías de No Repetición

Las siguientes preguntas están relacionadas con las secuelas que dejó la dictadura militar del Régimen Franquista (1939-1975).

22. ¿Cree usted que hay una **necesidad de reconciliación** en España?

Explicación: la pregunta se refiere a una reconciliación social que significa un proceso de restauración de relaciones rotas entre grupos de la sociedad.

(Respuesta única) Marque la respuesta que se acerque más a su punto de vista

1	Definitivamente si
2	Mas bien si
3	Mas bien no
4	Definitivamente no
99	No lo sé

23. ¿**Qué** cree usted que se necesita para reconciliar a la sociedad?

FILTER: only if Q22 = 1 or 2

1	Respuesta abierta: _____ (max. 500 words)
---	---

24. En su opinión, ¿cree que lo siguiente **contribuye a la reconciliación** social?

Por favor califique todas las opciones en 1 (no contribuye en absoluto) a 5 (contribuye mucho)

		Clasificaciones				
		1	2	3	4	5
1	Tribunales internacionales que procesan a los perpetradores					
2	Tribunales nacionales enjuiciando a los perpetradores					
3	Amnistía para todos los actores					
4	Comisiones de la verdad investigando el pasado					
5	Programas de reparaciones para víctimas					
99	No lo sé	<i>Exclusive</i>				

25. Respecto a la **actuación del Estado** Español frente al pasado, ¿con qué afirmación está de acuerdo?

(Respuesta única) Marque la respuesta que se acerque más a su punto de vista

1	El estado se ha desempeñado / ha hecho todo lo posible, el tema está cerrado ahora.	
2	El estado ha actuado parcialmente bien / algo se ha hecho, pero no es suficiente.	
3	El estado no ha actuado bien / ha negado su responsabilidad y nada se ha logrado hasta ahora.	
99	No lo sé	<i>Exclusive</i>

26. ¿Qué cree usted que debería hacer el Estado Español para **evitar repetir** lo que sucedió en el pasado?

(Respuesta múltiple) Por favor, elija las 3 prioridades principales

1	Seguir garantizando el control civil de las fuerzas militares y de la seguridad	
2	Educación y capacitación en derechos humanos para todos los funcionarios estatales	
3	Protección de los profesionales de la defensa jurídica, médica, de la salud, de los medios de comunicación y de los derechos humanos	

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4	Reformar las leyes en conformidad con las normas internacionales de derechos humanos y derecho humanitario	
5	Fortalecimiento de la independencia del poder judicial	
6	Proporcionar mecanismos y controlar los conflictos sociales y su resolución	
7	Otro, por favor especifique _____	
96	Nada en absoluto	<i>Exclusive</i>
98	No lo sé	<i>Exclusive</i>

VI. FINAL

Está al final de la encuesta ...

27. ¿Tiene alguna otra opinión o comentario que quiera compartir?

1	Sí, por favor especifique: _____
2	No

28. ¿Estaría interesado en participar en una discusión en un grupo de reflexión (120min) sobre este tema?* **

1	Sí, por favor indique una dirección de correo electrónico de contacto _____
2	No

*(Por favor, tenga en cuenta lo siguiente: Participar en un grupo focal implica que la información dando en la encuesta en línea estará usada para la discusión en el grupo.)

** Habrá un incentivo de 20 € por persona.

Muchas gracias por participar en esta encuesta en línea!

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APPENDIX B Cross-Tabulations

Question Q15. / Socio-demographics:

Q15. In your opinion, it is... that needs of victims of human rights violations are addressed, e.g. in form of reparations.

Q1. Gender		I don't know	Very important	Somewhat important	Not so important	Not important at all	Total
Gender:	Male	1	71	15	9	11	107
	Female	0	75	12	4	3	94
	Other	0	3	1	0	1	5
Total		1	149	28	13	15	206

Q15. In your opinion, it is... that needs of victims of human rights violations are addressed, e.g. in form of reparations.

Q2. Age		I don't know	Very important	Somewhat important	Not so important	Not important at all	Total
Age:	18-24 years	0	9	2	1	0	12
	25-34 years	0	22	6	2	2	32
	35-44 years	0	30	4	2	3	39
	45-54 years	0	35	5	3	6	49
	55-64 years	1	35	6	3	4	49
	65-74 years	0	13	3	2	0	18
	75 years or older	0	5	2	0	0	7
Total		1	149	28	13	15	206

Q15. In your opinion, it is... that needs of victims of human rights violations are addressed, e.g. in form of reparations.

Q3. In which region are you born?		I don't know	Very important	Somewhat important	Not so important	Not important at all	Total
Region:	Andalucía	0	18	4	1	2	25
	Aragón	0	4	1	1	0	6
	Principado de Asturias	0	8	2	0	1	11
	Illes Balears	0	7	2	0	1	10
	Canarias	0	2	1	0	0	3
	Cantabria	0	1	0	1	0	2
	Castilla-La Mancha	0	2	1	0	0	3
	Castilla y León	1	9	3	2	2	17
	Catalunya	0	20	2	2	0	24
	Comunitat Valenciana	0	12	3	1	1	17
	Extremadura	0	1	0	0	0	1
	Galizia	0	13	4	0	1	18

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La Rioja	0	1	0	0	0	1
Comunidad de Madrid	0	27	4	4	7	42
Región de Murcia	0	3	0	0	0	3
Comunidad Foral de Navarra	0	2	0	1	0	3
Euskadi	0	19	1	0	0	20
Total	1	149	28	13	15	206

Q15. In your opinion, it is... that needs of victims of human rights violations are addressed, e.g. in form of reparations.

Q4. What is the highest educational level you completed/you are about to complete?		I don't know	Very important	Somewhat important	Not so important	Not important at all	Total
Education: Secondary school		0	3	0	0	0	3
High school		0	6	0	0	1	7
Professional degree		0	11	2	1	1	15
University degree		1	95	19	9	12	136
Doctorate/Professor degree		0	31	7	3	1	42
Other_		0	3	0	0	0	3
Total		1	149	28	13	15	206

Q15. In your opinion, it is... that needs of victims of human rights violations are addressed, e.g. in form of reparations.

Q5. Could you tell me if you are interested in politics in general?	I don't know	Very important	Somewhat important	Not so important	Not important at all	Total
Not at all	0	1	0	0	1	2
A little	1	25	7	4	4	41
Quite a lot	0	81	18	8	8	115
Very much	0	42	3	1	2	48
Total	1	149	28	13	15	206

Q15. In your opinion, it is... that needs of victims of human rights violations are addressed, e.g. in form of reparations.

Q6. In political matters people frequently speak of left and right. Where you would place your ideas on the following scale?	I don't know	Very important	Somewhat important	Not so important	Not important at all	Total
1 - extreme left	0	5	0	0	0	5
2	0	79	8	1	0	88
3	0	35	9	1	0	45
4	1	27	10	6	4	48
5	0	2	1	2	5	10

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6	0	1	0	3	3	7
7 - extreme right	0	0	0	0	3	3
Total	1	149	28	13	15	206

Q15. In your opinion, it is... that needs of victims of human rights violations are addressed, e.g. in form of reparations.

Q7. How important are religious ideas for you?	I don't know	Very important	Somewhat important	Not so important	Not important at all	Total
1 - not important	0	56	5	1	0	62
2	0	39	6	3	2	50
3	0	8	2	2	0	12
4	1	25	5	2	3	36
5	0	16	4	0	2	22
6	0	4	4	2	4	14
7 - very important	0	1	2	3	4	10
Total	1	149	28	13	15	206

Q15. In your opinion, it is... that needs of victims of human rights violations are addressed, e.g. in form of reparations.

Q8. As far as you can remember, which of the two sides during the time of the Franco Regime (1939-1975), did your family most identify with?	I don't know	Very important	Somewhat important	Not so important	Not important at all	Total
On the side of the Franco Regime	0	20	4	5	5	34
On the side of the opposition	0	68	8	3	1	80
Both	0	34	5	1	4	44
Neither	1	27	11	4	5	48
Total	1	149	28	13	15	206

Q15. In your opinion, it is... that needs of victims of human rights violations are addressed, e.g. in form of reparations.

Q9. Do you feel like a victim of violence by the State or its agents in the period during the Franco Regime (1939-1975)?	I don't know	Very important	Somewhat important	Not so important	Not important at all	Total
Yes	0	58	7	0	3	68
No	1	91	21	13	12	138
Total	1	149	28	13	15	206

Q15. In your opinion, it is... that needs of victims of human rights violations are addressed, e.g. in form of reparations.

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Q10. Are there any victims of State violence or its agents during the Franco Regime (1939-1975) among your relatives or close friends?		I don't know	Very important	Somewhat important	Not so important	Not important at all	Total
-2 (not received question)		0	58	7	0	3	68
Yes		0	51	7	7	2	67
No		1	40	14	6	10	71
Total		1	149	28	13	15	206

Question Q16. / Socio-demographics:

Q16. Do you believe there should be state sponsored reparations (e.g. monetary compensation) for victims?

Q1. Gender		Yes, for individual victims	Yes, for the community	Yes, for individual victims and the community	No, no measures should be taken at all	I don't know	Total
Gender:	Male	32	10	39	15	11	107
	Female	23	9	44	7	11	94
	Other	0	0	3	1	1	5
Total		55	19	86	23	23	206

Q16. Do you believe there should be state sponsored reparations (e.g. monetary compensation) for victims?

Q2. Age		Yes, for individual victims	Yes, for the community	Yes, for individual victims and the community	No, no measures should be taken at all	I don't know	Total
Age:	18-24 years	3	3	6	0	0	12
	25-34 years	8	2	14	3	5	32
	35-44 years	6	2	22	4	5	39
	45-54 years	14	6	15	9	5	49
	55-64 years	14	3	20	7	5	49
	65-74 years	7	2	6	0	3	18
	75 years or older	3	1	3	0	0	7
Total		55	19	86	23	23	206

Q16. Do you believe there should be state sponsored reparations (e.g. monetary compensation) for victims?

Q3. In which region are you born?		Yes, for individual victims	Yes, for the community	Yes, for individual victims and the community	No, no measures should be taken at all	I don't know	Total
Region:	Andalucía	9	3	7	2	4	25
	Aragón	1	0	3	1	1	6

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Not at all	1	0	0	1	0	2
A little	8	3	14	7	9	41
Quite a lot	33	15	44	11	12	115
Very much	13	1	28	4	2	48
Total	55	19	86	23	23	206

Q16. Do you believe there should be state sponsored reparations (e.g. monetary compensation) for victims?

Q6. In political matters people frequently speak of left and right. Where you would place your ideas on the following scale?	Yes, for individual victims	Yes, for the community	Yes, for individual victims and the community	No, no measures should be taken at all	I don't know	Total
1 - extreme left	0	0	5	0	0	5
2	23	9	51	1	4	88
3	17	8	13	0	7	45
4	12	2	16	7	11	48
5	3	0	0	7	0	10
6	0	0	1	5	1	7
7 - extreme right	0	0	0	3	0	3
Total	55	19	86	23	23	206

Q16. Do you believe there should be state sponsored reparations (e.g. monetary compensation) for victims?

Q7. How important are religious ideas for you?	Yes, for individual victims	Yes, for the community	Yes, for individual victims and the community	No, no measures should be taken at all	I don't know	Total
1 - not important	15	6	35	0	6	62
2	19	4	18	2	7	50
3	3	2	5	1	1	12
4	9	3	16	5	3	36
5	7	1	9	3	2	22
6	2	1	3	6	2	14
7 - very important	0	2	0	6	2	10
Total	55	19	86	23	23	206

Q16. Do you believe there should be state sponsored reparations (e.g. monetary compensation) for victims?

Q8. As far as you can remember, which of the two sides during the time of the Franco Regime (1939-1975), did your family most identify with?	Yes, for individual victims	Yes, for the community	Yes, for individual victims and the community	No, no measures should be taken at all	I don't know	Total

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On the side of the Franco Regime	8	2	13	8	
On the side of the opposition	18	8	46	2	
Both	19	5	11	5	
Neither	10	4	16	8	
Total	55	19	86	23	

Q16. Do you believe there should be state sponsored reparations (e.g. monetary compensation) for victims?

Q9. Do you feel like a victim of violence by the State or its agents in the period during the Franco Regime (1939-1975)?	Yes, for individual victims	Yes, for the community	Yes, for individual victims and the community	No, no measures should be taken at all	I don't know	Total
Yes	15	5	41	3	4	68
No	40	14	45	20	19	138
Total	55	19	86	23	23	206

Q16. Do you believe there should be state sponsored reparations (e.g. monetary compensation) for victims?

Q10. Are there any victims of State violence or its agents during the Franco Regime (1939-1975) among your relatives or close friends?	Yes, for individual victims	Yes, for the community	Yes, for individual victims and the community	No, no measures should be taken at all	I don't know	Total
-2 (not received question)	15	5	41	3	4	68
Yes	23	5	26	5	8	67
No	17	9	19	15	11	71
Total	55	19	86	23	23	206

Question Q21. / Socio-demographics:

Q21. Overall, would you say that you... the reparations laws, initiatives, and programmes implemented in Spain?

Q1. Gender	I don't know	-2 (not received question)	Strongly support	Support	Oppose	Strongly oppose	Total
Gender: Male	8	8	33	41	11	6	107
Female	6	7	27	44	5	5	94
Other	1	0	2	1	0	1	5
Total	15	15	62	86	16	12	206

Q21. Overall, would you say that you... the reparations laws, initiatives, and programmes implemented in Spain?

Q2. Age	I don't know	-2 (not received question)	Strongly support	Support	Oppose	Strongly oppose	Total
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Age:	18-24 years	1	1	4	4	2	0	12
	25-34 years	5	1	6	15	3	2	32
	35-44 years	4	4	16	10	2	3	39
	45-54 years	1	4	17	21	2	4	49
	55-64 years	3	4	12	22	7	1	49
	65-74 years	1	1	4	10	0	2	18
	75 years or older	0	0	3	4	0	0	7
Total		15	15	62	86	16	12	20

Q21. Overall, would you say that you... the reparations laws, initiatives, and programmes implemented in Spain?

Q3. In which region are you born?		Spain?					Total	
		I don't know	-2 (not received question)	Strongly support	Support	Oppose		Strongly oppose
Region:	Andalucía	3	1	9	10	0	2	25
	Aragón	0	0	0	5	0	1	6
	Principado de Asturias	0	2	3	4	2	0	11
	Illes Balears	2	1	2	4	0	1	10
	Canarias	0	1	1	1	0	0	3
	Cantabria	0	1	1	0	0	0	2
	Castilla-La Mancha	0	0	0	3	0	0	3
	Castilla y León	3	0	4	5	5	0	17
	Catalunya	3	2	8	8	2	1	24
	Comunitat Valenciana	1	2	3	8	2	1	17
	Extremadura	0	0	1	0	0	0	1
	Galizia	1	0	5	9	1	2	18
	La Rioja	0	0	0	1	0	0	1
	Comunidad de Madrid	1	3	14	17	3	4	42
	Región de Murcia	0	0	1	2	0	0	3
	Comunidad Foral de Navarra	0	1	0	2	0	0	3
	Euskadi	1	1	10	7	1	0	20
Total		15	15	62	86	16	12	206

Q21. Overall, would you say that you... the reparations laws, initiatives, and programmes implemented in Spain?

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Q4. What is the highest educational level you completed/you are about to complete?

	I don't know	-2 (not received question)	Strongly support	Support	Oppose	Strongly oppose	Total
Educational: Secondary school	0	0	2	1	0	0	3
High school	0	1	2	2	2	0	7
Professional degree	1	2	4	7	0	1	15
University degree	9	10	40	55	12	10	136
Doctorate/Professor degree	4	1	14	20	2	1	42
Other_	1	1	0	1	0	0	3
Total	15	15	62	86	16	12	206

Q21. Overall, would you say that you... the reparations laws, initiatives, and programmes implemented in Spain?

Q5. Could you tell me if you are interested in politics in general?

	I don't know	-2 (not received question)	Strongly support	Support	Oppose	Strongly oppose	Total
Not at all	0	1	1	0	0	0	2
A little	7	3	5	20	3	3	41
Quite a lot	7	11	34	46	11	6	115
Very much	1	0	22	20	2	3	48
Total	15	15	62	86	16	12	206

Q21. Overall, would you say that you... the reparations laws, initiatives, and programmes implemented in Spain?

Q6. In political matters people frequently speak of left and right. Where you would place your ideas on the following scale?

	I don't know	-2 (not received question)	Strongly support	Support	Oppose	Strongly oppose	Total
1 - extreme left	0	1	3	0	1	0	5
2	4	5	36	33	7	3	88
3	3	2	11	27	2	0	45
4	6	4	11	23	3	1	48
5	1	1	1	3	2	2	10
6	1	2	0	0	1	3	7
7 - extreme right	0	0	0	0	0	3	3
Total	15	15	62	86	16	12	206

Q21. Overall, would you say that you... the reparations laws, initiatives, and programmes implemented in Spain?

Q7. How important are religious ideas for you?

	I don't know	-2 (not received question)	Strongly support	Support	Oppose	Strongly oppose	Total
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1 - not important	2	4	27	23	5	1	62
2	3	2	18	21	5	1	50
3	1	0	3	7	1	0	12
4	3	4	9	16	1	3	36
5	3	2	3	12	2	0	22
6	2	1	2	6	2	1	14
7 - very important	1	2	0	1	0	6	10
Total	15	15	62	86	16	12	206

Q21. Overall, would you say that you... the reparations laws, initiatives, and programmes implemented in Spain?

Q8. As far as you can remember, which of the two sides during the time of the Franco Regime (1939-1975), did your family most identify with?

	I don't know	-2 (not received question)	Strongly support	Support	Oppose	Strongly oppose	Total
On the side of the Franco Regime	0	4	10	12	3	5	34
On the side of the opposition	5	3	32	36	4	0	80
Both	3	2	11	20	5	3	44
Neither	7	6	9	18	4	4	48
Total	15	15	62	86	16	12	206

Q21. Overall, would you say that you... the reparations laws, initiatives, and programmes implemented in Spain?

Q9. Do you feel like a victim of violence by the State or its agents in the period during the Franco Regime (1939-1975)?

	I don't know	-2 (not received question)	Strongly support	Support	Oppose	Strongly oppose	Total
Yes	4	1	25	28	6	4	68
No	11	14	37	58	10	8	138
Total	15	15	62	86	16	12	206

Q21. Overall, would you say that you... the reparations laws, initiatives, and programmes implemented in Spain?

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Q10. Are there any victims of State violence or its agents during the Franco Regime (1939-1975) among your relatives or close friends?	I don't know	-2 (not received question)	Strongly support	Support	Oppose	Strongly oppose	Total
-2 (not received question)	4	1	25	28	6	4	68
Yes	5	5	21	31	4	1	67
No	6	9	16	27	6	7	71
Total	15	15	62	86	16	12	206

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APPENDIX C Screener Focus Groups: Actual Focus Group Participants

		Min. Requirements		Key Criteria		Additional Criteria			Socio-demographics			Additional Information		
GR	QNR ID	Part. No	Q28	Q21	Q6 Ideology	Q9, Q10 Vic-timhood	Q8 Family identity	Q1 Gender	Q2 Age	Q3 Region	Q4 Education	Q5 Interest in politics	Q7 Religiosity	Profession
1	42	1	yes	oppose	4	indirect	Franco Regime	m	25-34	Catalunya	Doctorate	3	2	PM Camara de Comercio
	351	2	yes	support	2	direct	Opposition	m	55-64	Andalucía	Doctorate	4	2	Dr. medicina
	176	3	yes	strongly support	1	direct	Opposition	f	55-64	Asturias	ESO	4	5	editor (jubliada)
	581	4	yes	strongly support	2	not-affected	Neither	m	35-44	Galizia	University	3	3	autonomo
	785	5	yes	strongly support	2	direct	Opposition	m	65-74	Madrid	University	4	2	ayuntamiento (jubliado)
2	537*	6	yes	strongly support	2	direct	Opposition	m	35-44	Galizia	University	4	1	socio despacho
	563	7	yes	support	2	direct	Opposition	m	35-44	Navarra	University	4	1	concejal
	848	8	yes	support	4	direct	Franco Regime	f	25-34	Catalunya	Doctorate	3	4	investigadora uni, medicina
	884	9	yes	support	2	direct	Opposition	f	25-34	Catalunya	University	3	3	psicóloga
	198**	10	yes	strongly support	2	direct	Opposition	m	75+	Murcia	University	4	1	maestro (jubliado)

* could not participate finally
 ** submitted answers in written

APPENDIX D Focus Group Moderator's Guide

Online Focus Group Moderator's Guide

- “Opinions, attitudes and perceptions towards reparations for victims of human rights violations occurred during the Franco Regime in Spain” -

Information About the Focus Group:

Group: _____ Moderator: _____

Date: _____ Time: _____ 90min.

Place: _____

Participants: _____

1. Introduction, Process, Consent [3 min.]

- Moderator introduces herself: *Nombre, nacionalidad, universidad*
- Explain study purpose, plans for using the data and access to the results: *Este grupo focal forma parte de mi investigación sobre la opinión pública hacia las reparaciones para víctimas de violaciones de derechos humanos ocurridas durante el Régimen de Franco en España; los datos recogidos se usaran para identificar mejores-practicas cómo diseñar y implementar programas de reparaciones.*
- Explain why they are selected to participate and what is expected from them and how long the session will take: *Ustedes están participando en el grupo porque han realizado anteriormente mi encuesta y han mostrado interés en una discusión; la duración será de unos 90min.*
- Note interview will be audio and video recorded, assure participants identity stays confidential: *Importante, se grabará esta sesión; por supuesto su identidad se mantendrá anónima y se les asegurará la confidencialidad de lo que se hablará.*
- Check if everybody handed-in and signed the previously mailed consent form and read the ground rules: *Antes de seguir, me gustaría asegurarme que todos me han firmado y entregado el formulario de consentimiento y han leído las reglas básicas?*

2. Ground Rules [3 min.] [SEND BEFOREHAND TO PARTICIPANTS]

- Everything that is said during the discussion is kept confidential by all members: *Los miembros se comprometen a no compartir or publicar nada de lo que se discutirá.*
- There are no wrong answers, all group members have a right to their viewpoints and opinions without being interrupted or disrespected: *Todos los miembros tienen derecho a expresarse con total libertad y ninguna opinión se considerará incorrecta.*
- Group members will avoid dominating the conversation and will allow time for others to speak: *Los miembros respetarán los tiempos para que cada uno pueda expresarse y deje tiempo para hablar a otros.*
- For online groups speak with a clear voice into the microphone; one person speaks only at a time: *Al ser una discusión online, se agradecería que hablaran de forma clara y concisa y solo una persona hablará a la vez.*
- The moderator guides the timing and flow of the session topics, thus might interrupt and shorten the conversation at a certain point: *La moderadora controlará los tiempos para asegurarse que todos tengan las mismas oportunidades de expresarse y en caso necesario podría interrumpirles.*

3. Questioning Sequencing [80 min.]

- **Ice Breaker** [5-7 min.]: Tell your name and say what first comes into your mind when you see this Twitter post? [SHARE GRAPHIC of Franco's Exhumation / go around “table” pointing out someone to start/ Short pause to think!]: *Para romper el hielo, por favor digan su nombre y ¿que es lo primero que se les pasa por la cabeza al ver esta imagen extraída de Twitter?*
- **Introductory Question** [5-7 min.]: To stick with the topic, the exhumation of Franco could be seen as an illustration for symbolic victim reparations. *What do you belief should be done with the Valley of the Fallen after the exhumation of Franco?: Seguimos con este tema, la exhumación de Franco se podría considerar como un ejemplo de una reparación simbólica para víctimas. ¿Qué piensan que se debería hacer con el Valle de los Caídos después de la exhumación de Franco?*
- **Content Questions** [65 min.]: Now, I want to go more into detail: *Ahora, me gustaría entrar un poco más en detalle.*
Content #1 Opinions on the idea of providing reparations to victims of Francoism [20 min.]

APPENDIX

(I) Do you believe in general there should be reparations for the victims of the Franco Regime?: *¿Creen ustedes que en general deberían haber reparaciones para las víctimas del Régimen Franquista?*

(i) Probes

- Reparations should be for whom, who are the victims?: *¿Para quién deberían ser las reparaciones, quien son las víctimas?*
- How would you respond if someone is saying [QUOTES SURVEY RESPONSES]?: *¿Cómo responderían si alguien dice “perdonar no reparar” / “reconocer víctimas de ambas partes”?*

Content #2 Opinions on different types of reparations (design) [30 min.]

(II) Do you think the following measures are adequate to repair the victims in Spain? [Measures not necessarily taken in Spain! Give examples from other countries or if there are then from Spain!]: *¿Creen ustedes que las medidas siguientes serían adecuadas para reparar las víctimas en España? [No tienen que ser las que se habían tomado en España!!! Dar ejemplos de otros países o sí los hay de España]*

- payments and pensions: *pagas y pensiones*
- rehabilitation of civil and political rights: *restitución de bienes y terrenos y derechos políticos y civiles (p.ej. recuperar puesto de trabajo)*
- free health care and psychological assistance: *atención médica y asistencia psicológica gratuita*
- free education and scholarships for victims' ancestors: *educación gratuita y becas para los descendientes de las víctimas*
- acknowledgement of victim status, commemoration and public apologies: *reconocimiento como víctima (p.ej. en un registro), conmemoración y disculpas públicas*
- search for disappeared and exhumations: *búsqueda de personas y exhumaciones (como tarea del estado)*
- removal of symbols and renaming streets and public spaces: *retiro de símbolos y cambio de nombres de calles o plazas*
- monuments, memorials and places of memory: *monumentos, memoriales y lugares de memoria*
- museums and documentation centres: *museos de memoria y centros de documentación*
- community development programmes and cultural memory work: *programas de desarrollo comunitario, obras culturales de memoria (p.ej. teatro, películas etc.)*

(ii) Probes

- Are there any other types of reparations for individual victims or the society you can think of?: *¿Hay algún otro tipo de reparación - para víctimas individuales o la sociedad - que se les ocurra?*

Content #3 Opinions on the implementation of reparations [15 min.]

(III) Overall, would you say that you support or oppose the reparations laws, initiatives and measures implemented in Spain and why?: *En general, ¿dirían que apoyan o se oponen a las leyes, iniciativas y programas de reparaciones implementadas en España y porqué?*

(iii) Probes

- What role do public information and the media play in the implementation process of the measures?: *¿Qué papel juegan la información pública y los medios en el proceso de implementar las medidas?*
- **Final Question** [5-7 min.]: What is for you the most important thing that have been said in the discussion or what else would you like to tell me about the topic? [Go around the table]: *Para finalizar me gustaría saber ¿Cual ha sido para ustedes el punto más importante de la discusión? ¿Tienen algo más que añadir?*

4. Wrap Up and Thank You [1 min.]

- Thank you very much for your time today. I appreciate hearing your insights on this topic: *Muchas gracias por su tiempo hoy. Les agradezco haber podido escuchar sus opiniones sobre este tema.*
- Tell about how to get the incentive: *El incentivo de 20€ se va ingresar a sus cuentas bancarias en los próximos días.*

APPENDIX E Focus Group Transcripts

Transcript - Focus Group I

Date: 22.05.2020, 7pm - Video 01:31:08min.

Moderator (MOD): Patricia Enssle

Participants: ID_42, ID_351, ID_176, ID_581, ID_785

Transcript text

MOD: Empezamos quizás ahora con... veis la imagen, está esta extraída de Twitter de octubre del año pasado y viene en el contexto de la exhumación de Franco así que bueno quizás empiezas tu [ID_176], di muy breve tu nombre y que te viene a la cabeza cuando ves esta imagen.

ID_176: Ehh, bueno...mi nombre es [ID_176] y que me viene a la cabeza, que es un despropósito histórico, mejor que no hubiera existido nunca, pero bueno existió y lo que se ha hecho se ha hecho tarde, mejor tarde que no se haya hecho nunca, que no debió de haber estado ahí y creo que no esta bien reflejado en la historia.

MOD: Vale, pues si, luego vamos a seguir más con el tema, así que bueno...hacemos ahora [ID_351] quizás....

ID_351: Bueno, yo soy [ID_351] he estado/estoy en el movimiento de memoria, he sido presidente de la Asociación de Memoria Histórica y Justicia de Andalucía muchos años, 14 o 15 años. Y bueno esta imagen ehmmm me parece que es un tratamiento burlesco de lo que realmente ha sido un hito histórico en el sentido de sacar a Franco del Valle de los Caídos con honores de estado, y a mi me parece que bien como dice [ID_176] más vale que tarde que nunca, pero el tema de la exhumación de Franco era algo que el movimiento de memorialista venia planteando y exigiendo al estado que nunca se ha comprometido o se ha comprometido en poco, venía exigiendo al estado desde el principio del movimiento, yo estoy desde el principio que es el año 1998-99 y en fin en ese sentido no sé, me produce una sensación un poco contradictoria, por que es que hacéis el jueves yo salgo no? como si fuera algo... en fin un poco de cachondeo de burla, cuando yo creo que la exhumación de Franco fue, ha sido un momento muy importante de la historia de este país.

ID_176: No había yo leído esto de "Que hacéis el jueves? Yo salgo!"

MOD: No pasa nada, bueno seguimos con [ID_581].

ID_581: Si hola, me lamo [ID_581], bueno hago trabajo cultural principalmente y gestión de eventos y similares, lo que yo veo al ver esta imagen es que de alguna una manera una injusticia histórica como todo lo que sucedió en la Guerra Civil y en la postguerra se intenta de alguna manera buscar un referente humorístico, el humor sirve como defensa ante algo que es...contra una injusticia, en este caso que saliera por fin el dictador del Valle de los Caídos, era una buena noticia y el humor se utiliza pues como un elemento para pasar pagina, para normalizar ya la situación. Evidentemente es eso el humor se utiliza siempre de una forma defensiva contra algo que fue terrible durante muchísimos años, es lo que yo veo ahí.

MOD: Vale gracias, seguimos con [ID_785].

ID_785: Bueno, ahora ya si se me escucha?

MOD: Si si, muy bien.

ID_785: Vale, genial, soy [ID_785], soy presidente de la Fundación Andreu Nin y además trabajo o trabajamos en la plataforma de la verdad y de otras organizaciones memorialistas. La imagen yo creo lo habéis dicho todos bien, por un lado refleja una alegría de conseguir algo que parecía que no lo íbamos a ver nunca pero a la vez refleja la penuria de nuestras mismas bases democráticas no?, es incomprensible que un dictador con cientos de miles de muertes a sus espaldas, con media parte del país exiliado, con prisión, cárcel y fusilamientos, sin embargo se ha asimilado como normalidad dentro de la historia. Yo creo que por ejemplo el déficit en el campo educativo respecto a las generaciones posteriores es terrible, o sea...nunca se acaba de estudiar el franquismo a fondo y nunca se acaba de situar lo que significó el dictador no? o que persistan con fondos públicos fundaciones que reivindican la figura de Franco, pero no solamente eso, la reivindicación sino que tengan fondos documentales del estado no?, es lo que es bastante inadmisibile. Entonces, yo creo que esto si que...el que se haga con humor o no, bien, todo es posible... no está mal, el humor es sano muy sano, pero fundamental es marcar en nuestra historia lo que ha significado el franquismo.

MOD: Si vale, muy bien. Y finalmente [ID_42].

ID_42: Pues, yo me llamo [ID_42], a mi me gustan muchos los memes y estas bromas me encantan, pero esta en concreto pues no me hace...no me hace ninguna gracia, no me gusta por ningún motivo, ni la veo graciosa ni me gusta el personaje... Y de hecho bueno, yo ehh...veo que el grupo esta formado por gente que ehh...con toda convicción reniega del franquismo, lo cual me parece muy bien, por que fue un período lamentable, tristísimo y ojalá que no hubiera pasado nunca. Pero yo no soy tan... vamos a decir radical en este sentido, yo me considero muy liberal, y yo creo que la intervención del estado, para mi, siempre se tiene que reducir al mínimo posible. Aquí, se están...o sea a mi no gusta que se utilice el dinero de mis impuestos, que es mi dinero, que me lo gano con mi trabajo, para hacer actos que son prescindibles, para mi, vale? Y tampoco me gusta que mi nombre, porque cuando un estado hace declaraciones las hace en nombre de los ciudadanos, no me gusta que en mi

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nombre se pida perdón por cosas que yo no tengo culpa, ni he apoyado, ni me gustaron ni nada. Como, que se pida perdón por el franquismo, la conquista de América o por cualquier otra cosa. A mi, no me gusta el intervencionismo del estado, ni en este caso, ni en ningún otro vale? Y he empezado diciendo que no me gusta, bueno que evidentemente fue horrible tanto este señor como el período franquista y acabo diciendo lo mismo, fue un periodo de lo más negro que ha habido en España y ojalá que nunca haya nada parecido.

MOD: Vale, así que ya estamos un poco entrando en la discusión con lo que has dicho tú últimamente, no sé si alguien tiene una idea, que se puede hacer con el Valle de los Caídos o mejor que debe hacer el estado con el Valle? Ahora abro la discusión, quien quiere...

ID_176: Oye, yo ofrezco que el liberal que no quiere que nadie hable en su nombre, igual tiene la mejor idea él?

ID_42: Si, yo en mi linea liberal yo diría que si el Valle de los Caídos que yo no estoy muy informado porque no es un tema que me interese especialmente ...

ID_176: El liberalismo en general no esta bien informado de nada, o sea que estás dentro de tu salsa.

ID_42: Bueno, pero yo verás que la hora o lo que dure esto voy a ser super educado eh?

ID_176: Oye, yo no he sido mal educada eh? Estoy hablando de un concepto, estoy hablando de un concepto vale? Y el concepto en si...

ID_42: A mi ha parecido interpretar una ironía, pero bueno...

MOD: Sí, bueno escuchamos lo que quiere decir [ID_42] sobre el Valle de los Caídos.

ID_42: Lo que yo digo, que haría con el Valle de los Caídos? Pues si es un buen publico, que no lo sé...si es de propiedad pública, que imagino que si...que se le de el rendimiento que sea más provechoso para el estado, mmm... y que no exalte ninguna posición, neutro, neutralidad y luego a mi me esta exhumación me parece la mar de bien pero a mi me parece que se debería pagar con fondos privados, de la gente que le interese hacer esto. Y ya está.

ID_581: Yo no estoy de acuerdo en ese aspecto, ya que Franco fue una figura de estado, por lo tanto al ser una figura del estado, tiene que...si la decisión es sacarlo de ahí, por la razón que sea, tiene que ser pagado por el estado no hay otra..., es como, bueno...como cualquier otro lado. Creo que el Valle de los Caídos es propiedad pública, pero está gestionado por los Franciscanos, lo que yo diría sería un museo de la Guerra Civil, vamos, no sé como es el espacio nunca he estado, la verdad porque nunca me apetecía pagar ni un solo euro por visitar ese espacio...

ID_351: El Valle de los Caídos es patrimonio del Estado. Y tiene una parte que está gestionada por los Franciscanos pero está claro que esta hecho con trabajos de esclavos, en fin que allí hubo presos políticos, que fueron los que levantaron con muchísimo esfuerzo y con muertes de muchos, el Valle de los Caídos.

ID_176: Ahí, es donde está la parte privada de la construcción, yo creo que con eso ya es bastante, ya creo que no debemos de costear el sacarlo, ya con haber tenido que construirlo por obligación es suficiente no?

ID_351: Bueno yo creo que el Valle de los Caídos ...habría que dinamitarlo una vez que se exhumen los restos de los 30 y tantos miles de republicanos que hay allí enterrados sin el consentimiento de sus familiares, hubo una orden de Franco a los gobernadores civiles de su época, pidiéndoles que se exhumaran cuerpos de republicanos y se llevaran al Valle de los Caídos, sin autorización de los familiares y sin nada... esta gente... yo conozco mucha gente, muchas familias que han intentado de exhumar restos de allí sin identificar y hasta hace poco no se ha permitido la exhumación e identificación de algunos de los restos... por lo tanto habría que que exhumar e identificar los restos, devolverlos a los familiares y una vez devuelto a los familiares... o bien convertirlo en un lugar de memoria..., que no va ser nunca un lugar de memoria de nosotros, de la gente que somos víctimas de la Guerra Civil, y que no, aquello nunca va a ser, nunca se va a considerar un lugar simbólico de la memoria de todos... por lo tanto, yo desde mi planteamiento, y no quiero ser radical, porque yo no lo soy... yo destruiría el Valle de los Caídos porque una vez identificado los restos de todos los republicanos y devueltos a sus familiares...eso es mi intervención. Y lo que dice [ID_42] del liberalismo, bien yo respeto las ideas, pero lo que hizo Franco durante el franquismo durante la Guerra Civil es un genocidio de estado, y por lo tanto es el estado el que tiene que hacer la reparación a las víctimas del franquismo todo lo que significa la reparación en el amplio sentido de la palabra... porque mi abuelo aun permanece en una fosa común, y está desaparecido... lo sacaron de su casa y lo fusilaron en un cementerio y está en una fosa común... a la que todavía por múltiples circunstancias no hemos podido acceder, por lo tanto es un problema de estado.

MOD: Sí... [ID_785]?

ID_785: Yo creo que con claridad el tema del Valle de los Caídos es un tema que afecta algo más que el estado, afecta a la base democrática de un estado, o sea... es casi primigenio y por ese sentido si es el estado el que tiene que reabordar la reasignación, esto no es un problema en absoluto privado. En primer lugar hay que... reasignar como ha dicho ahora mismo el amigo todo el tema de la identificación ya hecha de los cadáveres republicanos que hay allí, y la reubicación de los restos de todos los sitios. De entre todas las propuestas la que hizo en su momento la Comisión Parlamentaria, de reasignación de un sitio de memoria puede ser quizá... en todos los países con tradición histórica, sea el holocausto, sea de fascismo etc, ahí hay no solo monumentos, sino instrumentos de recuperación de la historia común... y eso yo creo que es vital para la salud democrática de un país. Yo creo que... después de hablar del Valle de los Caídos lo que aflora es el problema substancial no resuelto, junto a muchos otros... que es el tema de las víctimas, o sea... la reparación de las víctimas es una tarea clarísimamente de estado, no es individual y es una deuda existente.

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MOD: Sí...en este momento ehmm...quiero solo interrumpir por un momento porque [ID_785] ha justo mencionado algo que también quería preguntar yo. El primer paso antes de que nos vamos a meter más en los temas de los diferentes tipos de reparaciones. Debería de haber reparaciones que estén pagadas por el estado y quienes sean las víctimas que haya que reparar?

ID_351: Bueno... si quieres, queréis yo... bueno, si conocéis la ley andaluza, en el artículo 1 de la ley andaluza o 2 no sé... describe muy bien el concepto de víctima, y si habéis leído Reyes-Mate, en un libro sobre el deber de la memoria, describe magníficamente el concepto de víctima. El concepto de víctima para mí son víctimas directas que fueron la gente que fusilaron o desaparecieron... en fin, y luego hay muchas víctimas familiares... incluso nosotros que somos tercera generación... yo soy un nieto... pues también somos víctimas. Y porque? Porque el franquismo tuvo tal consecuencia en el entorno familiar, en lo que fue la familia, que destruyó todo lo que era la estructura social de la familia. Y en el caso concreto mío, mi familia... mi tía tenía 12 años, mi madre tenía 9 y hasta 5 hijos que tenían... tuvieron que dejarlo todo... dejar la escuela, dejarlo todo y ponerse a servir, indudablemente a los que habían ganado la guerra. Por lo tanto el concepto de víctima, es un concepto amplio, y yo... lo ampliaría hasta las familias de las víctimas, que son víctimas indirectas del franquismo... y habría víctimas directas y víctimas indirectas. En ese sentido yo creo que el concepto de víctimas es amplio. Y la reparación habría que hacerla en todo lo que ya... el movimiento memorialista... y [ID_785] creo que también está en ello... venimos peleando desde hace mucho tiempo no? Que era todo lo que era la recuperación, la reparación, porque por ejemplo a mi abuelo le quitaron una casa... una choza que tenia en el Rocío una piara de borregas...en fin una serie de cosas, que yo he solicitado al Ministerio de Justicia y me han contestado que bueno... que ya no pueden repararse, pero.. pero la reparación es todo no? Robaron y expoliaron... a las víctimas del franquismo las expoliaron en el amplio sentido de la palabra.

MOD: Si, y bueno si alguien dice, algo que se escucha muchas veces también, “reparar las víctimas de ambos partes”?

ID_351: Bueno, las víctimas de la otra parte fueron ya reparadas. Franco en el año 40 hizo un decreto de reparación de esas víctimas en la que se nombraron, se dieron plazas en los institutos, se les dieron estancos, se les dió apoyo del estado... a las viudas les pagó, a los hijos se les pagó también una pensión... en fin, eso se reparó, y hasta primeros años de la democracia no se empezó a pagar una pequeña pensión a las víctimas... que lo cobró mi abuela por el franquismo. Por lo tanto, la reparación de ellos, ya se hizo. Indudablemente, yo no tengo problema de que ellos exijan lo que quieran al Estado... pero nosotros tenemos que seguir una reparación completa en el amplio sentido. Yo tengo una resolución del ministerio, considerando a mi abuelo como desaparecido... y en base a lo que plantea la ONU... de grupos de desaparición forzada... hasta que no aparezca el cuerpo y se haga la identificación... todavía mi abuelo está con todos sus derechos legales activos.

MOD: Mmmm... creo que [ID_176] también querías decir algo no?

ID_176: Si, cuando el ha hablado... que ha dividido lo de las víctimas y lo de las reparaciones me ha parecido muy interesante lo que ha dicho digamos... de víctimas desde una manera casi novelesca, histórica familiar, por sagas.... cada uno de nosotros somos frutos de una aberración histórica, por eso es por lo que se pide perdón muchas veces.... En unas situaciones concretas históricas... porque se ve muy claro, se ve muy claro, quien es la víctima y como ha ocurrido, y eso no quiere decir de que todo el mundo se tenga que sentir culpable de algo que no estuvo allí y no lo hizo. Sino, que es un reconocimiento digamos de tipo filosófico, intelectual... que los seres humanos tenemos que tener una formación, una educación y una actitud ante la vida diferente a eso que ha ocurrido. Eso lo digo, perdona... por el primero... el que te has quedado como liberal, como te llamas?

MOD: [ID_42].

ID_42: [ID_42]...

ID_176: Quiero decir que me entiendas, que esto es lo que yo entiendo que tiene que hacer una sociedad cuando ocurren cosas... y bien tu no quieres que en tu nombre se diga eso... pero si me has oído como lo he querido expresar, creo que ahí entramos todos. Todos, aquellas personas que se sientan parte del ser humano... del futuro, del proyecto... de donde venimos? Donde estamos y lo que queremos ser, no? Entonces, por ahí es por donde vienen un poco, ese tipo digamos de divagares históricos que tu dices que no has estado allí, que porque yo tampoco estuve cuando lo de América y se hicieron unas barbaridades tremendas...pero, yo creo que ahí tenemos que estar reconociendo esa parte de la historia, analizándola...lo bueno de todo eso, es que igual podemos aprender mucho y ser mejores. Y cuando, el ha dicho lo de la familia... es que si hay unas víctimas familiares... yo no existiría si no hubiera habido una guerra civil... yo no existiría. Yo soy hija de un NO. Osea mi madre que ha fallecido... meto a mi madre y perdonadme porque ha fallecido el 18 de Julio de este año, que si ella llega a saber que se va a morir el 18 de Julio, yo creo que elige otro día. Porque es una mujer... bueno muy valiente y muy todo... tan valiente que en el año 40 y poco que se hizo un referéndum en España sobre Franco si o Franco no. Mi madre en un pueblo de muy pocos habitantes... tuvo las narices de votar que no. El guardia civil, el alcalde y el cura... abrieron su papelito cuando la iba a meter en la caja... y como era la del NO (a su familia ya le habían quitado sus tierras, sus casas porque eran de posibles republicanos), ya no tenían nada, de diferentes maneras... unas mas soeces, otras más directas no tenían nada y trabajaban para los demás... y tuvo la mala idea de votar que NO. Y siempre le pregunto... y que conseguías tú votando que NO? En esas... las primeras elecciones que se hicieron para una ley orgánica... no se, una historia. Bueno, en el 47 bien, se tuvo que ir del pueblo, porque la dijeron que ahí ya no le iba a dar trabajo nadie, y se fue de ese pueblo. Se fue a

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otro pueblo, donde conoció a mi padre. Por eso digo, que yo soy hija del NO, vale? Yo soy hija de un NO. De un NO...así! Por eso quería explicarlo, entonces soy víctima, en ese sentido... pero toda mi familia, ella, su futuro... o sea no solamente la guerra y la postguerra sino es lo que decía antes... es que eso se ha arrastrado, se ha arrastrado. Y fíjate tú, si somos víctimas, que Franco se muere 5 meses después de que yo salga de Yeserías. Yo soy de las últimas personas que con 18 años recién cumplidos, siendo menor y mujer he sido detenida por Billy el Niño, pegada, soy sorda de un oído y he estado en Yeserías... y eso ha pasado hace un cuarto de hora eh? Eso no ha ocurrido...mmm... la guerra es reciente, pero esto último es todavía más reciente. Entonces, que entiendo yo por reparación? Yo ya no puedo ir, a la reparación de los bienes de mi familia...

[INAUDIBLE]

MOD: Uy... algo no se escucha bien.

ID_581: Ahora si!

ID_176: Vale, yo soy una persona que ha tratado de resumir un poco, por hacer un honor a mi madre... un homenaje, ya está fallecida... a su familia y a la historia más reciente. Estoy hablando del 75 eh? O sea, no estoy hablando de lo último ya eh? Entonces, yo si que soy una gran partidaria de que hay que hacer algo a nivel muy concreto de organizaciones que tienen objetivos muy concretos, y ahí estoy yo y los apoyo. Pero creo, que lo fundamental es el conocimiento.

MOD: Sí, de los diferentes tipos de reparaciones vamos a hablar en algunos minutos... solo quería que los otros también tienen la posibilidad de hablar un momento sobre quienes son para ellos las víctimas... No sé, [ID_581], [ID_785], [ID_42] ... también quieren comentar algo?

ID_42: Si queréis empiezo yo, ya que se han dirigido a mí en las 2 intervenciones. Ehhh... bueno yo lo primero que quiero decir es que os habéis centrado en el terreno personal...., entiendo que habéis... bueno... habéis perdido familiares y bueno incluso directamente habéis sufrido la dictadura de Franco y yo lo siento mucho, ehmmm... yo he nacido en el 87 no he sufrido ninguna consecuencia de la dictadura directa..... indirecta si, porque España sería un país más desarrollado sino hubiera habido franquismo... no quiero que en ningún momento mi posición menos... como lo digo? partidista? No quiero decir partidista, porque yo realmente estoy en contra de Franco, o sea si yo además soy Republicano.... lo que... será por mi formación.. yo he estudiado Derecho, estuve especializado en derecho internacional... para mi la rama del derecho que más me gusta es la filosofía del derecho... y yo llevo ehh... bueno los años de vida que yo tengo preguntándome sobre la justicia. Que es la justicia? Y que deja de ser la justicia. Es un concepto mucho más difícil de lo que parece... y yo a la conclusión que llego es que es imposible... que es imposible de alcanzar... todas las personas somos diferentes y no es posible aplicar un mismo concepto de justicia y ser justo con personas desiguales...entonces para ser justos, han habido víctimas..., bueno vosotros sois dos de ellas y quizá [ID_785] y [ID_581] pues quizá dirán mas atentados que ellos o sus familias han sufrido por culpa de Franco... por lo cual yo vuelvo a decir que lo lamento... pero yo no he sido el culpable de eso, por mucho que lo sienta... no me parece justo que yo tenga que estar obligado... y la obligación aquí es el elemento clave... que estar obligado a reparar algo que yo no he hecho, cuando se hace en el nombre de estado, parece curioso que el liberal sea el que más se siente como propio lo que es público... pero a mi cuando el estado hace algo o se gasta un dinero... o hay un bien público... una carretera... yo lo siento como mío. No es mío 100%... pero una parte muy pequeña es mía. Y... que se me obligue a mi a reparar... porque si el Estado repara a mi me está obligando a reparar... porque no me lo pide que lo haga voluntariamente. Si a mi me parece genial que se haga voluntariamente, y está muy bien que las víctimas sean reparadas. Pero, que la obligación de reparación la tenga quien tiene culpa. Quien hace una cosa mala... tiene que pagar por ello... y quien no ha hecho una cosa mala pues no tiene que tener la obligación. Si quiere contribuir con la causa, pues me parece genial... ya voy a acabar porque no quiero ser yo el que hable. Ehmm... el régimen de Franco fue malo por muchos sentidos, las muertes evidentemente es la peor de todas, pero una muy mala que se hizo fue la privación de libertad. La libertad es un bien muy importante... cuando a mi el Estado me obliga a intervenir en una reparación de algo que yo no tengo culpa... se me está quitando mi libertad, con lo cual se está reproduciendo en mucha menor escala y de manera mucho menos dañina una actitud nociva del régimen de Franco vale? Y dicho esto, bueno que... acabo diciendo que evidentemente yo me pongo en vuestra situación... no quiero haceros cambiar de opinión ni mucho menos... yo desde mi posición, que entiendo que es bastante amigable puedo entender todas las demás y además acabo diciendo que me parecéis todos personas muy inteligentes y que vuestra inteligencia os permite defender vuestro posicionamiento de manera muy bien como lo estáis haciendo.

MOD: Vale pues, [ID_785] o [ID_581], si también quieren comentar algo antes que pasemos a la siguiente pregunta...

ID_176: Si, si me dejáis un pequeño inciso del abogado... que has estudio derecho no? Bueno, que has estudiado no, que eres abogado has dicho no? El que has intervenido...

ID_42: No, no soy abogado, estoy especializado en derecho internacional. Yo empecé el doctorado pero no lo acabé... algún día espero acabarlo...

ID_176: Me resulta curioso... que teniendo una especialidad en derecho que digas que el estado... el estado como tal, como ente, como paraguas, está obligado a salvaguardar los derechos de todos los individuos que están en ese país... por lo tanto, cuando toma una decisión sobre algo el Estado tiene un margen de equivocación, porque claro, evidentemente esto no es matemática pura... puede haber un margen de equivocación pero dentro de ese margen... y que tu no te quieres sentir parte de ese estado... es un sentimiento tuyo, pero es una forma de organización, con unos deberes y unas obligaciones...

ID_42: Pero, yo no he dicho nada de eso eh? Yo no he dicho ni que soy abogado... ni que el Estado tiene la obligación de

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salvaguardar derechos, que no lo he dicho en ningún momento... ni ninguna cosa que estas diciendo. Yo digo que el Estado tiene que intervenir lo menos posible... porque no es nadie para decirme lo que puedo o no puedo hacer y que se producirán injusticias, pero la injusticia forma parte de la naturaleza... igual que el león se come al conejo y es una injusticia... yo no tengo culpa de las injusticias que se producen y puesto eso yo sufro las injusticias...

ID_176: Estamos hablando de tu Estado, de tu forma de Estado...

ID_42: En España, cada año 10000 personas mueren por contaminación, 10000... son datos reales, y mi vida se va a acortar 3 años por culpa de la contaminación... a mí nadie me va a reparar...

MOD: Bueno son temas ya... dejamos a [ID_581] y a [ID_785] opinar sobre el concepto de víctima para ellos.

ID_785: Si bueno, yo quiero..., yo quiero señalar y seguro que lo conocéis, hay como un lema del movimiento de la memoria que desgranado nos aporta luz, verdad, justicia y reparación... al redor de la justicia podríamos discutir con [ID_42] y posiblemente llegaríamos a más acuerdos de los que aparece... y la verdad, es un elemento que se viene luchando a través de la necesidad de generar una plataforma de la verdad... y esto hay un movimiento importante incluso el Senado lo ha reconocido... y esperamos que en la legislatura pueda plasmarse... las plataformas de la verdad, es algo que sucede en prácticamente todos los procesos postdictatoriales no? Desde el informe Sábado en Argentina, a los elementos en Alemania, Italia o Francia no? Con el tema del colaboracionismo. Está el tema de la justicia, que es muy amplio... pero hay un elemento de la justicia que yo quiero rescatar... que es el tema de la anulación de los juicios del franquismo... o sea no puede ser, que los que fuimos juzgados bajo el franquismo, estemos todavía dentro, como elementos ilegales... o aún más, como elementos contrarios al Estado no? al gobierno. Entonces, yo creo que el tema de la justicia es amplísimo pero es fundamental... y el tercer elemento la reparación. La reparación tiene muchos gradientes vale? Podemos hacer, la discusión de [ID_42] que si hay que pagarlo entre todos o no... yo opino que este es un problema global de toda la sociedad... la totalidad de la sociedad en sus instituciones eh? Porque el Estado no solo financia carreteras... también genera valores, y los valores son responsabilidad global, colectiva y eso es importantísimo. Yo en el tema de reparación, quiero situar un tema solo... hay más... pero ahora mismo el tema clave es las víctimas, de nuevo el tema central es las víctimas... no puede ser decenas de víctimas y miles de personas sigan en fosas comunes... en las cunetas... es que este es un problema básico... y eso hay que abordarlo. Según el informe de la Secretario de Estado... ahora es Secretaria de Estado antes era de Dirección General de Memoria Democrática... hay ya, por los movimientos de tierras y desapariciones... hay ya miles y decenas de miles que no se podrán recuperar nunca... pero hay un grueso de 22000 y 25000 personas identificadas... es que esto hay que hacerlo. Porque ahí si que la desigualdad es brutal... o sea el bando vencedor ha hecho homenajes, funerales y todo lo que quiera... y sabe adonde visitar a su padre, a su abuelo o a su bisabuelo... pero las familias... y son por miles... que no pueden recuperar... ha habido la historia esta maravillosa de la mujer que acaba de morir y que toda la vida luchando por recuperar a su padre... que en Guadalajara al final lo logró recuperar no? Entonces yo creo, que el foco de actuación pública esencial... en primer lugar, luego se puede hablar de lo otro... es la reparación de las víctimas, y la primera reparación que hay que hacer es la recuperación de los restos de las víctimas.

MOD: Vale... [ID_581] creo que también quieres expresar algo no?

ID_581: Si, sobre el tema de las víctimas, hombre en mi caso particular, en mi familia no hay ningún caso de víctima por lo menos directa, del tema de la Guerra Civil. Si hay una anécdota que me contaba mi abuelo... que él con 12 años se iba a pescar con su padre y... poco después de que acabara la Guerra Civil... en la ría de Vigo aparecían de vez en cuando cuerpos flotando... y el padre le decía que nunca hablara de eso porque el próximo que podría aparecer flotando sería él, el padre... Entonces, es como para contextualizar mi anécdota. Las víctimas, evidentemente, como ha dicho [ID_785]... es lo básico que debe ser reparado, vamos... es algo indispensable. La familia, los propios fallecidos y desaparecidos, así como sus familias. Ehmmm, a que alcance, en que aspectos deben ser reparados, eso es algo que está abierto a discusión evidentemente, pero con respecto al tema económico si que hay que decir una cosa... o al tema de la responsabilidad de Estado, no al tema económico. Si yo tengo una deuda y fallezco... si no tengo ningún tipo de seguro asignado, mis herederos van a tener que pagar esa deuda, aunque sean inocentes... ya sé que es un poco burdo esta comparativa pero el Estado si debe hacerse cargo de las reparaciones.

MOD: Vale perfecto, ya hemos hablado un poco sobre el concepto de las víctimas y ahora me gustaría que vamos considerando un poco los diferentes tipos de reparaciones que hay... ya se han dicho varias... cómo por ejemplo las exhumaciones. Ahora voy a leer una lista de diferentes tipos de reparaciones que existen y bueno me gustaría que me digáis si son adecuadas para las víctimas... y si deberían ser tomadas por el Estado español. Algunas si se han hecho de las que voy a decir... otras no... así que se puede hablar un poco sobre eso, si tiene sentido hacerlas o no. Me gustaría empezar, con las pagas y pensiones... por ejemplo para las familias de fallecidos. Que piensan ustedes, esto sería adecuado o no?

ID_42: Bueno mi opinión creo que está clara... no se si queréis que la haga por escrito... creo que las víctimas, hay que hacer justicia con ellas y yo no debo ser el que responda de esas pagas... por lo tanto, que a mi con mis impuestos se utilicen para reparar un daño que yo no he hecho pues me parece mal... creo que no hace falta que me extienda más...

ID_176: Pero la pregunta es, estás de acuerdo?

ID_42: No, estoy en desacuerdo.

ID_176: Que tienen derecho pero no tu dinero...

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ID_42: Tienen derecho a recibirlas de fondos privados, y vosotros que estáis completamente a favor de las reparaciones... pues aportáis parte de vuestro patrimonio a estas reparaciones y... y yo también quizá puedo aportar, si a mi veo que me apetece... pero que me obligue el estado a reparar pues me parece mal. Entonces, la respuesta es no.

ID_581: El problema es que fue el propio Estado el que arrebató, no solo la vida sino muchos casos propiedades a esas familias, por lo tanto deben ser reparadas. Si ya no, de la misma manera, porque ya no se puede... porque han desaparecido esos bienes o ya están consumidos en otros... en otras familias... porque muchas veces las recibían familias franquistas o lo que sea... por lo menos que reciban algún tipo de compensación económica para limitar ese... ese... fue el Estado el que se los arrebató, por lo tanto el Estado debe reponer, si no ya a sus... a las personas porque ya están muertas... si a sus descendientes...

ID_42: Sí, no me enrolló mucho eh? Mmm en medio minuto.... el Estado no existe, el Estado es un sujeto interpersonal... o sea suena en nuestra cabeza. En este ordenador, donde estoy haciendo ahora la video llamada existe, lo puedo tocar y si viene cualquier otra persona lo ve. Una... opinión personal, si a mi me gusta este ordenador, si me disgusta... eso está en mi cabeza. Pero, lo que es interpersonal, que existe en todas nuestras cabezas, pero en realidad no existe... eso es muy dañino cuando lo consideramos como real. El Estado, en tanto en cuanto tiene valores por las personas que hay en el Estado, entonces estos, estas... crímenes con los que yo no estoy a favor, se produjeron... lo hicieron las personas del Estado que había dos generaciones anteriores. Yo nací en el 87... o sea nadie me puede acusar a mi de que yo haya participado en eso... y por lo tanto tampoco se me puede obligar a mi a que repare. Ehmm del punto...

ID_176: [ID_42]... a estas personas lo que les daba el poder para hacer esas cosas era el Estado. O sea, el Estado existe. El símil que has hecho, no te lo compro. El Estado existe, existe en el momento que la sociedad compuesta por personas, eligen una manera de manifestar su poder, sus decisiones y sus jerarquías...

ID_42: Yo estoy en Cataluña... para aclarar esto eh? Yo estoy en Cataluña y aquí me han dicho que estoy en un Estado catalán... no sé si estoy en un Estado catalán, español... pero esto simplemente es un ejemplo para que veas lo relativo de la cuestión...

MOD: Pero [ID_42], independientemente de si tu crees [que hay un Estado o no... desde tu punto de vista, tu piensas que pagos monetarios, como las pensiones... serían útiles para las víctimas?

ID_42: Sí, para las víctimas super útil... y además que si las reciben estarán mal recibidas... lo que está mal es de donde salga...

ID_176: Como voy yo... a mi familia que le roban todo, le quitan todo... surgen de la nada, se recorren media España, Europa... consiguen tener esta pequeña casa, cualquier cosa... vendo yo esta casa para yo indemnizar yo a las víctimas de Franco? Es que no te entiendo [ID_42]... no se por donde...

ID_42: Yo te lo explico... mira que sencillo. Hay guerras, guerras se han producido en España tropecientas... y por desgracia las guerras son horribles... yo no estoy a favor de ninguna guerra... pero después de una guerra... hay vencedores y perdedores... y los perdedores sufren una injusticia muy grande... que los que no son culpables no tienen porque repararla. España perdió Cuba, Filipinas y Puerto Rico. Alguien va a indemnizar a España por eso? Cataluña perdió, según cuentan aquí la guerra dels Segadors... Cataluña tiene que estar en España porque perdió esa guerra?

MOD: Mejor que no empezamos con el tema de Cataluña porque sino...

ID_42: Ha habido muchas injusticias, y no tengo porque repararlas.

ID_581: La diferencia es que existía un Estado ilegalmente constituido y fue constituido por un dictador. Esa es la diferencia, que se configuró el Estado como persona-Estado. Por lo tanto, el Estado debería ser responsable, es responsable.

ID_351: Yo pienso que vaya... no quiero entrar en una discusión con [ID_42], porque yo creo que él nos está llevando a una parte de la memoria que a mi no me interesa... el Estado en tanto que es estructura de organización política existe. Y yo me imagino también, que él estará en contra de que se le pague a Billy El Niño, las pagas estas extraordinarias que le dan...

ID_42: Por supuesto.

ID_351: Y que se le dan a todas las víctimas y a todos los dictadores, a todos los fascistas que fusilaron... gente que... estará de acuerdo... no sé si estará de acuerdo o no?

ID_42: Estoy más en contra todavía que de reparaciones a víctimas...

ID_176: La que no está de acuerdo con esta equiparación soy yo. No puedes equiparar lo que estás diciendo con...

ID_785: Oye... por que no volvemos a recentralizar la discusión? Porque estamos centrados en el papel del Estado y es algo más...

ID_351: Bien, yo pienso que el Estado indudablemente tiene que hacer una reparación. Y nos ha preguntado Patricia, el tema de pagos y pensiones... las víctimas del franquismo hasta el año... ya prácticamente en democracia no se les empezó a pagar a las viudas de guerra, a las viudas... que se les llamaron viudas de guerra, se les pagó una pequeña pensión de viudedad, durante 40 años de dictadura no se les pagó absolutamente nada. Yo creo, que aparte se hizo también un decreto de preno, se hizo varios decretos de reparación en el sentido económico de reparar un poco ese daño... que yo creo que ese daño no le repara que le dirán a los presos en aquel año 2001/2002 creo... que se les dieran unos 5 o 6 mil euros en función de... yo creo que no, lo importante en ese caso no es... esto no es un sentido económico, no es el término de la memoria y el término de la reparación para mí es algo más. Eh... yo ya he dicho antes que mi abuelo sigue aún en una fosa común. Yo llevo, llevo

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mucho tiempo intentando que se haga la exhumación, la dignificación y la identificación y eso aún no lo he conseguido... se escucha un ruido?

MOD: Sí, como aplausos...

ID_42: [ID_176] que ha salido a aplaudir...

ID_351: Pero bueno [ID_42], que yo... a mi abuelo como ya he dicho antes les quitaron todo lo que tenía... llana y simplemente todo. Y eso fue el estado, y el Estado hizo en el 39 un decreto de legitimación o de... ehmm... regulación de lo robado...

ID_42: Pero el Estado también me quita eh?

ID_351: Si a mi también... yo no digo que...

ID_42: Yo digo, que tengo 33 años... me gustaría formar mi familia, tener hijos... tener una casa... no tengo nada de esto y no tengo, por culpa de lo que me quita el Estado. Porque si el Estado no me quitará, para pagar cosas que a mi no me interesa pagar... podría... o sea de entrada me está quitando mi libertad.

ID_351: A mi no me interesa pagar pero esto es una democracia y en la democracia gana la mayoría... lo que pasa que es verdad que los partidos de izquierdas con el tema de la memoria han hecho una política bastante chapucera... porque hasta el año 2007 que se hizo la ley de memoria... una ley que simplemente hacía que la reparación de las víctimas... en ese sentido que tu dices mas liberal que social... socialista... yo creo que independientemente de esto, el Estado tiene que asumir la reparación en el amplio sentido de la palabra. Mediante exhumaciones, mediante las fosas y en toda aquella simbología... la eliminación de la simbología... lo que ha dicho antes [ID_785]... el tema de las víctimas... el tema de los juicios... es una vergüenza que aún vayas a un juicio con las cosas que hizo en juicio Miguel Hernández... y que no hayamos sido capaz en este país de eh... en ese juicio se anule... y eso me parece a mi tremendo no? A mí lo que más me interesa es el discurso de las víctimas... y yo creo que el Estado tiene que reparar, porque el Estado es una organización política responsable en ese momento y en el actual...

MOD: Y que piensan si se hace restitución de bienes, propiedades y terrenos... a la gente que se había expropiado anteriormente durante el franquismo, también es algo muy debatido,... no se que piensan ustedes de eso... ?

ID_42: Pues eso me parece bien a mí... porque como eso no tiene ningún coste para el Estado... o sea para mí... pues me parece muy bien.

ID_176: Disculpádmelos podéis repetir esto último de que te parece muy bien?

MOD: La restitución de propiedades... y de terrenos. O sea devolver terreno, propiedades... esto le parece bien. [ID_785] también querías decir algo...

ID_42: Digo, que me parece bien, porque como yo no tengo ningún terreno de ningún republicano y no me lo van a quitar... pues me parece bien. Eso, no tiene ningún coste para mí. Entonces, adelante, me parece muy justo y muy bien.

MOD: Vale, [ID_785] quería decir algo?

ID_785: Yo creo que lo que sucede... es que este tipo de reparaciones sobre propiedades son a estas alturas... extraordinariamente complicadas. No ha habido prácticamente ni posibilidad de reparar el patrimonio a los sindicatos que le fue incautado por el franquismo... y lo que se hizo fue un sucedáneo... interesante... para darles una parte del patrimonio del Estado para su usufructo... sin embargo, esto es extraordinariamente complicado. No significa que no sea de justicia... que es evidente, que el robo fue salvaje, fue total... y fue puro robo además de eso. Pero daros cuenta, que ni siquiera... hasta el robo de niños ha podido ser restaurado... para que veamos hasta donde llega el grado de inhumanidad de un sistema no? Entonces, yo creo que en ese sentido, reclamaciones fundamentadas, se podrían abordar en el marco de los tribunales, ehh... pero yo creo que desde el punto de vista de la restitución y la restauración histórica hay elementos simbólicos más sustanciales en estos momentos... más sustanciales... y además que hace mención a derechos más colectivos que individuales. Yo estoy completamente a favor, de que cualquier persona que tenga eh... la reclamación de un bien que lo haga. No tengo ningún tipo de duda. Pero estamos hablando de una política general del Estado para 40 y tantos años después... entonces, hay cosas sobre las que se puede actuar de forma inmediata y eficiente... y aunque no le guste a [ID_42] con coste para el Estado... y hay otras cosas que son más complejas... por ejemplo hay cosas que se puede actuar... por ejemplo el tema de los juicios... que tienen que ver con una tremenda injusticia, que es la famosa Ley de Amnistía. O sea, resulta que yo... Billy el Niño, se va con sus medallas a la tumba, y aquellos que hemos sido torturados por Billy El Niño no hemos tenido ninguna reparación... ni siquiera moral... porque no queremos ninguna reparación de ningún otro tipo... que nos da lo mismo. Entonces, nosotros que hemos presentado querrelas... éstas han sido todas denegadas... y este es un problema que afecta a una impunidad... que en un Estado democrático profundo no debe producirse. Lo que no significa que no se produzca... porque elementos de impunidad ha habido en todas las transiciones políticas... incluso en aquella, en la que acabaron con una guerra, que fue la guerra mundial no? Ehh... la impunidad de los nazis sobrevivió dentro de la estructura de Estado... eso hay que ser plenamente consciente no? Yo creo, que hay que situarse un programa de reparaciones que sean vitales y sustanciales no? Y no olvidarnos de esto.

MOD: Sí. Y si pensamos un poco en reparaciones simbólicas no? Ahora puedes tu [ID_581], empezar con esto... reparaciones más simbólicas cómo una disculpa pública de parte de un Gobierno, de un presidente... un acto de conmemoración... reconocimiento como víctima... un certificado... cosas así simbólicas... ustedes las ven adecuadas para

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las víctimas en España o... que opinan? [ID_581]... puedes empezar.

ID_581: Sí, eso es indispensable... llega tardísimo... llega 40 años tarde... pero no solo es necesario, es sano para la democracia actual que haya este tipo de reparaciones simbólicas. Y ya está, no digo más... con respecto a lo anterior... que estaba totalmente de acuerdo con [ID_785]... que el tema de las propiedades y eso si que es hartamente complicado... desconozco como está el tema legislativo, pero salvo que haya pruebas muy evidentes es muy difícil... entonces, no está el primero de la lista la verdad. Ya está, solamente decir eso.

ID_351: No además... en el año 40 hay un decreto del franquismo regularizando todo lo expropiado... y ahora es muy difícil, porque yo reclamé... en el Rocío... mi abuelo lo fusilaron en el Rocío... y yo reclamé una casa que le quitaron... que ahora es la Hermandad de San Lúcar la Mayor y ellos tienen una escritura... yo busqué la trazabilidad de la escritura y ellos tienen una escritura... desde el año... no me acuerdo... pero tienen una escritura legal... de traslado de... que no se puede. Y fui al ministerio de Justicia... y en fin, hice mucho, pero no podía recuperarla... no he podido recuperarlo. Y después, el robo de patrimonio... bueno más efímero, como eran caballos, esto lo otro... propiedades de otro tipo... eso indudablemente tampoco. Eso es difícil. Yo estoy con [ID_785] y con [ID_581]... que el tema de la reparación simbólica yo creo que es necesaria no? Sobretudo porque al menos nos queda la reparación simbólica. Yo tengo además... un tema por un ministro de un gobierno socialista... la condición de desaparecido. Sabéis que en el año... no me acuerdo... año 2000 y algo... se hizo un movimiento de denuncia por desaparecidos... nosotros denunciábamos a la ONU al grupo de desapariciones forzadas... en Argentina... en fin, una serie de cosas... y a mí me mandaron... bueno, una resolución de reconocimiento de desaparecido no? Con lo cual esto bueno... te da... te puede dar, desde el punto de vista de desaparecido de la ONU, te puede dar un pacto jurídico. Pues yo creo que la reparación simbólica es importante hacerla... y bueno, cuesta menos no? Sin embargo, ni esta no? Que no cuesta prácticamente ningún dinero... se ha hecho de forma unánime... de forma consciente. Porque es verdad que la política de memoria del Estado y de las CCAA, en algunas más que en otras... se ha hecho con bastante miedo a la agenda, a los medios de comunicación... a la reacción de la derecha, la reacción de la Iglesia... que por cierto la Iglesia, estaba unida directamente con el franquismo... y tampoco ha pedido disculpas por de alguna manera todas las cosas que la Iglesia hizo apoyando al franquismo no? Entonces, o creo que la reparación simbólica es importante que se haga... no cuesta dinero hacerla... para tranquilidad de [ID_42]... y bueno yo creo que es importante que se haga. Sobretudo que se haga un reconocimiento público de las víctimas del franquismo. Que aunque se ha hecho en el Senado... y se ha hecho en el Parlamento, pero... necesitaría un acto de más envergadura para el reconocimiento de las víctimas del franquismo.

MOD: Y que piensan..., si vamos un poco más allá de las simbólicas, ...que piensan sobre un museo de memoria histórica, como existe en Chile, en Argentina... como piensan de centros de documentación... con información sobre el período de la dictadura... o también memoriales, como en Alemania, en Berlín hay un enorme memorial de las víctimas... de los judíos... y algo así?

ID_176: Yo creo que en Berlín... de lo que habéis hablado ha habido un momento que yo no he estado... que no he estado porque he salido al balcón a aplaudir eh? Es por eso. Entonces, lo siento, pero es una cuestión ya de disciplina porque tengo familia sanitaria eh? Mi hermana es residente... y tengo un conocimiento directo de la situación, o sea que no puedo obviarlo... por lo tanto voy a decir algo, no sé que habéis dicho antes... si me repito en algún momento o digo algo que habéis dicho... me lo decís y ya está sin ningún problema. Pero, voy a hablar de mi opinión, o sea hay una parte de mí, que pide a gritos que si fuera posible antes de que yo me fuera al huerto de los callaos, ver que la sociedad se configura en otra manera... en la medida de la formación, de la educación de la historia del reconocimiento... de dar un giro total... porque la gente tiene un gran desconocimiento de la propia historia de su país... que la cuentan de una manera, que yo digo, eso no es así... y eso está ocurriendo en los colegios. Eso se está dando en los colegios, pero a nivel de historia. Pero tampoco hay empatía, tampoco hay de tu propio... es tu propio pueblo. Cuando tú [ID_42] hablas de que tu no eres responsable de lo que ocurrió allí... es que tu eres parte de aquello que ocurrió allí... porque tu familia... tu familia existió y tu educación y donde tu estás ahora mismo... es como un árbol que va bajando de todo eso... cuando ese árbol más sano sea, más claro tenga si es un olmo o un olivo... más claro tenga que es... más sano es su vida, su empatía, su generosidad... su manera de entender la vida, que eso no significa que tú tengas que ser idéntico a otro no? Pero si que tengas un conocimiento, la palabra conocimiento, CONOCIMIENTO. Conocimiento de tu país, de los tuyos, de lo que han vivido y de la realidad... y luego ya ahí ves con total libertad... pero con mucho respeto y empatía porque eres fruto de una circunstancia y de una historia, como de todas... pero de una más reciente y menos antigua. En mi casa, se ha vivido un silencio cuando yo era pequeña... somos 4 hermanos, unas cosas muy raras pasaban... y tal y que cual, unos miedos, unas situaciones, unas cosas que se vivían... por miedo a que nosotros al salir a la calle contáramos o dijéramos... tontería eh? Que mi madre conectaba radio pirenaica... había unos ruidos muy raros en mi casa... y yo decía, escondidas en la habitación, y esos ruidos descubrí lo que eran, cuando estuvimos viviendo en otro país. Entonces yo, en otro país veo a mi madre haciendo esos ruidos con una radio... y yo dije para mí misma... estoy hablando con 13 años... una niña..., esto es lo que oía yo en Asturias... o sea la casa de Avilés, esto es lo que yo oía, porque yo no sabía aquellos ruidos y no preguntabas. Hacían las cosas a escondidas... yo soy como soy, tu eres como eres... somos fruto de ese entorno, de ese entorno social... de ese entorno social que crea una configuración social, que es el Estado el que manda y es el que educa de una manera u otra... ensambla, el Estado son los clavos, donde los seres humanos vamos colgando nuestra ropas... vale? Y cuando esos clavos mejor estén apuntalados, y estén mejor

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repartidos en cantidad... las personas, los seres humanos que pertenecemos a ese Estado, vivimos con más derechos, con más sabiduría, con más conocimiento y con más responsabilidad para los que fueron y para los que vendrán...

MOD: Y para ti... que reparación sería la mejor no? Que dirías es para ti... el tipo de reparación más importante, simbólico o material...?

ID_176: Lugares... por ejemplo la cárcel de Carabanchel se debió de dejar siempre un trozo... no toda, si no quieren, porque el otro trozo se lo den a los liberales y hagan allí lo que quieran. Allí queda otra parte de Carabanchel que era del Estado... pero un trocito, haberla dejado con un este... de memorial porque allí... no voy a contar detalles, porque allí yo no he estado... pero al chico que estuvo conmigo y le detuvieron, pues... le han pasado muchas cosas... y él tenía 17 años... quiero decir, que estamos hablando de hace un cuarto de hora y de criaturas... y eso ocurrió bajo el paraguas de un Estado. El Estado era consciente de que eso estaba ocurriendo y daba posibilidades... dinero... armas, situación y de todo... para que alguien... otros humanos, lo ejecutaran. Porque el Estado si que es verdad que no es un hombre, hasta ahí estamos de acuerdo en esto. Entonces por ejemplo dejar lugares muy concretos de Madrid... eh bueno... los que están ahí muchos más de ellos sabrán más... pero bueno hasta en Yserías... que hay ahí unas mujeres, hay ahí una historia también... mira el simbolismo estoy yo sola... no se si has tenido mas video conferencias y ha habido más mujeres... aquí mira 3... son 4 contra 1... bueno no digo nada...

ID_42: Lo de cuatro contra uno va en otro sentido eh? Y si hubieran puesto a un franquista... ya ni me quiero imaginar como hubiera sido esto...

ID_176: No, no... estoy hablando que el sentido de humor no se puede perder nunca... estoy hablando pues de mujeres no? También las mujeres, su educación, su formación... el resultado quienes son ahora... también es resultado de esa dictadura y de esa guerra...

MOD: Y que dirías que sería para... estas mujeres por ejemplo... que les ayudaría... que podría hacer el Estado? Alguna reparación en plan... de asistencia psicológica quizás... asistencia médica...?

ID_176: Es que ahora ya...

ID_785: Es que lo que debían hacer sobre reparación de personas concretas, víctimas... era de la generación franquista. No queda otra... eh... de la guerra tiene mucho que ver con el simbolismo, la recuperación de las víctimas y la justicia, punto. El resto... por ejemplo, la reparación simbólica de la que has hablado. El tema de la reparación simbólica primero es que se ha hecho y se hace muy tarde... y casi de tapadillo, seamos claros. O sea, no hay una consciencia en el Estado español de esta necesidad de reparación histórica de lo que significó el franquismo. Por ejemplo, se ha ido avanzando... la ley de memoria que se hablaba antes del 2007, el año pasado por ejemplo que fue el aniversario de la retirada... 500.000 compatriotas que tuvieron que salir al exilio, y donde se perdió lo mejor de la capacidad investigadora y cultural de nuestro país. Yo recuerdo, que fue un hecho inusitado, que un presidente del gobierno español visitase la tumba de Machado o el túmulo en la playa de Argelès-sur-Mer donde estaban 100.000 españoles que fallecieron en un campo de concentración. Nosotros organizamos como fundación una serie de jornadas... sobre la retirada en Perpiñán... y era impactante como los nietos de los exiliados seguían manteniendo la llama viva, cuestión que aquí ni siquiera ha sido tan posible... por ejemplo, la asociación de hijos y nietos del exilio de Perpiñán tiene 800 miembros... cuantas asociaciones memorialistas españolas en nuestro lugar tienen esos volúmenes? Es decir, ha habido una transmisión cultural extraordinariamente importante que en nuestro país, dentro de nuestro país ha sido completamente anulada... antes hablaba...

ID_176: Había mucho miedo...

ID_785: No, no... evidentemente y esto sigue habiendo... antes lo situaba Rafa también. Yo estuve en el acto del Senado donde se reconoció víctimas del franquismo y la lucha antifranquista... ahí fue un acto muy emotivo, pero pasó muy desapercibido... pero lo que fue terrible es que eso se aprobó con 166 votos a favor y 90 en contra... 90 senadores que votaban en contra del reconocimiento de las víctimas del franquismo... esto genera un ADN en nuestra sociedad extraordinariamente peligrosa respecto a los totalitarismos... entonces yo creo en ese sentido que se están incumpliendo con la educación no?

[INAUDIBLE – VARIA GENTE HABLANDO AL MISMO TIEMPO]

ID_351: Lo estamos viviendo... este crecimiento de la extrema derecha y todo lo que está pasando con el tema de la desescalada... porque dice [ID_176] que ella tiene familia sanitaria... yo soy médico, médico de familia... y trabajo bueno... en el servicio andaluz de salud... y sé lo que está pasando desde el punto de vista sanitario no? En definitiva, a lo que voy, el recrecimiento de la extrema derecha y todo lo que esta pasando es consecuencia porque en este país no se ha hecho una educación... eh... una educación potente en el tema de memoria. Decía antes Patricia, el tema del museo de la memoria... de los memoriales y tal... a mi me parece interesante que se haga esto, pero para hacer esto primeramente hay que hacer una introspección social... si esa palabra se puede aplicar, y eh... hay que hacer una recuperación de lo que es la memoria como sociedad. Porque claro, se necesita una cierta madurez como sociedad, para ir a un museo... a un memorial de estas características porque conociendo y viviendo en el país que vivimos eso inmediatamente iba a tener una reacción importante en contra no? Aunque yo soy consciente, y además definiendo, de que hay que hacer algo de memoria. Un memorial, un museo de la memoria... algo hay que hacer y que de alguna manera... en muchos ayuntamientos y en muchos lugares de Andalucía, muchos ayuntamientos han hecho su pequeña recuperación... su pequeño memorial... pero todo muy... de cara casi en

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silencio no? Para que no molestara a uno, no molestara al otro... el otro por aquí... y no perder votos por allí no? Porque todavía duele mucho el tema este no? Y todavía la sociedad no ha madurado en un sentido político y memorial... memorialista, para que podamos hacer un memorial como el que hay en Alemania, como el que hay en otros sitios no? Del mundo...

MOD: Sí... En este sentido que importancia daría a cosas como renombrar calles, plazas, quitar los nombres fascistas... eso también viene un poco...

ID_351: Eso es, eso se está haciendo... y además la ley andaluza lo obliga... , pero sin embargo el ayuntamiento de Córdoba que ha pasado del PSOE a la derecha... está volviendo a poner los nombres franquistas a las calles...es decir que...

ID_176: Y aquí en Madrid... se había construido un parte donde habían sido fusilados unos en concreto los de la izquierda... con todos los nombres, y los han quitado, el alcalde los quitó hace unos meses no?

ID_785: Han destruido el monumento, con lo cual es terrible.

MOD: Algo en la calle de Atocha no?

ID_785: En la Almudena... ahí es donde se fusiló.

ID_176: Y lo siento porque se habían gastado el dinero de [ID_42] y de todos nosotros... y se habían gastado el dinero... y luego van y lo destruyen... pero y como vamos luego a poner el nombre de los del otro lado, de la derecha... si todos los que mataron allí en ese momento y en ese memorial eran esos hombres, esas personas... no eran las otras no? Quiero decir, que se escudan en unos argumentos, en unas cosas... que yo creo que no hemos evolucionado. Yo creo, cuando vuelvo a lo anterior... es que yo creo que no hemos evolucionado en el conocimiento. Lo importante que es el conocimiento, de cuanto nos aportaría a cada ser humano... tener CONOCIMIENTO de nuestra propia historia, de los propios errores... no solo de los ajenos, también de los tuyos... y de evolucionar con eso. La empatía que eso da, lo bueno que es eso para los niños, que empiecen ya a aprenderlo... pero claro si desde preescolar, bueno preescolar no, pero desde la educación básica, luego lo que es la secundaria y tal... se hacen de tipo transversal... o se hacen bueno... de tipo dinámico, dinámicas en... cosas... que adquieran ese conocimiento, ya van algunos a decir que es eso que algunos dicen... adoctrinamiento, y no, yo estoy hablando de conocimiento, que nos haría mejores a todos.

MOD: Sí, la educación es super importante.

ID_785: Como anécdota... lo que ha sucedido antesdeayer en el Parlamento... que un Parlamento no sea capaz de reconocer a una figura de un artista universal como es Juan Genovés... porque una parte de la cámara no quiera porque era un hombre de la izquierda... es definitivo. Es decir, es la misma lógica, ante una propuesta de declaración institucional de reconocimiento de Juan Genovés... se negaron a votarla.

ID_176: Pero, es que mi opinión es que lo hemos perdido muchos años por miedo... por miedo ha esto, por miedo a lo otro... por miedo para que esto no pase... para que no se qué... se ha perdido un tiempo en la cual, la cicatriz se ha encallado... como se llama eso? Que está aquí el médico, como se llama eso? Se ha quedado, se ha hecho eso... y es difícilísimo ahora hacer... es tremendo, porque no puedes hacer... retomarlo desde un lugar... hay que tener mucha voluntad por parte de cada uno. En esto igual la plataforma... ehh... alguien ha hablado que era de la Plataforma de la Comisión de la Verdad o de que... estaba allí o algo?

ID_785: Sí, sí... yo.

ID_176: Ahí... ahí... se podría utilizar eso, una Plataforma de la Comisión de la Verdad... ahí todos tienen que poner mucho de su parte... quiero decir que hay que dejar un campo muy amplio en el centro no? Para llegar a acuerdos con peso... con peso y con poso, para que de ahí se pueda construir un tipo de historia que sea aceptada por todos, y de esa parte... desde ahí, desde esa aceptación un poco general, crear algo... bueno pues lo de la Plataforma de la Comisión de la Verdad es algo... no sé si costará dinero o no costará dinero ahí yo ya tengo...

ID_351: Eso costará costará...

MOD: Bueno, antes de que vamos a pasar a la última pregunta... ehmm no hemos hablado aún sobre las exhumaciones, las exhumaciones no financiadas y realizadas por parte de fundaciones y asociaciones privadas, pero como tarea del Estado. Ya me imagino [ID_42], que las tareas financiadas por el Estado sería un no... pero quizás me sorprendes y tienes otra opinión.

ID_42: No, no va a haber sorpresa, ehmm... yo vuelvo a decir lo mismo, yo no he hecho ningún mal... ni tengo porque responder ante ningún mal. Y como mi intervención es muy breve aprovecho para decir que ehm... bueno... Franco murió en el 75 aquí se aprobó la Constitución en el 78... de un día para otro no ha dejado la gente de ser franquista... vamos a ver si hubo una guerra, es porque más o menos había un equilibrio de las ideas de extrema derecha, fascistas, franquistas y otra mitad... que era todo lo contrario. Esa polarización de la sociedad... sigue existiendo, y por eso la gente vota a Vox... y la gente hace estas agresiones contra símbolos como ha comentado antes [ID_785]. Yo... no soy nadie para decirle a la gente lo que tiene que hacer... yo... lo que haría es intentar adoptar una postura más moderada tanto de un lado como del otro... porque hacer justicia es imposible... y si imponemos la venganza al otro bando... pues nos va a llevar a la confrontación como lo tenemos ahora... lo vamos a radicalizar más a la otra banda... y que no nos sorprenda lo que pueda venir en el futuro. Y lo digo yo... que... ahora [ID_176] dime lo que quieras... si si puedes decirme lo que quieras, pero que yo que me siento...

MOD: Dejamos acabar a [ID_42]...

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ID_176: No, perdóname es que quiero hacerte una pregunta... no quiero decir nada, cuando has dicho lo de imponer la venganza, no se a que te refieres de imponer venganza nosotros...

ID_42: Vale..., aquí lo que se quiere... habéis sufrido un daño... yo os incluyo porque habéis hablado de temas personales... entonces habéis recibido un daño, y queréis responder a ese daño... o a mí al menos es la sensación que yo tengo, tampoco voy yo a...

ID_581: A ver, la venganza es responder al daño con otro daño. Esto no es venganza eh? Es reparación... son dos cosas completamente distintas...

ID_42: ...si a mi, se me obliga a reparar sin haber producido ningún daño... como puedes imaginarte, pues no me sienta... demasiado bien.

ID_581: No se produce un daño de la misma manera que se lo produjeron a ellos vamos... es que para nada...

ID_42: Yo, eh... vuelvo a decir lo mismo, no... yo no he tenido nada que ver con esta guerra, no es mi guerra... desde luego siento mucha más simpatía por el bando republicano que por el franquista... pero no tengo yo porque meterme en este asunto, ni pagar con mis impuestos reparaciones de ningún tipo.

ID_351: Muy bien...

MOD: Exhumaciones, [ID_581] querías...

ID_176: Patricia, Patricia... perdóname un momentito, una pregunta cuando ocurre un daño en una calle, hay un robo, un asesinato o no se qué... tu estás pagando... ese Estado está pagando el juicio, las reparaciones, el no se qué y no se cuanto... se gasta un dinero en eso y tu no has sido el asesino... como, como... arreglamos eso?

ID_42: Sí.. bueno no creo que sea de mucha utilidad para la tesis doctoral de Patricia, pero yo te puedo responder muy fácilmente a eso...

MOD: Brevemente...

ID_42: Quieres que lo responda? O lo dejamos aquí...

ID_176: No, es que no tiene que ver nada contigo lo que ha ocurrido... lo mismo que no tiene nada que ver conmigo lo nuestro. Sin embargo, lo nuestro... no es algo inmediato que es acto y acción... es algo...

ID_42: No, no... pero es que has comparado dos supuestos... o sea jurídicamente no se pueden comparar porque eh... bueno tu Patricia interrumpe cuando quieras...

MOD: Bueno, yo creo que mirando la hora centramos en las exhumaciones y dejamos esto del...

ID_42: Sí, lo dejo ahí pero aseguro que tengo una respuesta muy buena

[INAUDIBLE – VARIA GENTE HABLANDO AL MISMO TIEMPO]

MOD: Vamos a volver a las exhumaciones y creo que [ID_581] estaba al punto de decir algo sobre las exhumaciones...?

ID_581: No sobre las exhumaciones, pero considero que el Estado debería hacerse cargo, por supuesto... algo que ya... hemos hablado.

MOD: Tiene alguien algo de decir sobre las exhumaciones como tarea del Estado?

ID_351: Si, nosotros en Andalucía hemos hecho dos... hicimos en su momento dos hitos importantes entiendo yo... uno era el mapa de fosas, era identificar fosas en todas las provincias de Andalucía, eso llego a ... probablemente a 615-620 fosas... y no estaban todas... y eh... y eso lo hicimos las asociaciones con subvenciones de la Junta... es decir del estado no? Y después, las asociaciones también hemos hecho un movimiento de exhumación de las fosas a través de subvenciones del Estado... porque las asociaciones no tienen poderes económicos... ni poder jurídico y tal... para poderlo hacer... y después se ha hecho también de alguna manera presionar al Estado... a la Junta en este caso... para que la Junta como Estado asumiera las exhumaciones. Yo creo, que ahora mismo desde que está gobernando el PP en Andalucía... todas las exhumaciones se han paralizado... no se ha exhumado todavía a ninguna en estos dos años que llevan ya prácticamente en el gobierno... yo creo que no van a exhumar nada, porque eh... lo que han hecho es un poco eh... paralizar todo lo que ya se había hecho... pero indudablemente yo pienso que la exhumación de las fosas, la identificación de las fosas... y todo lo que implica el entierro... la reparación de alguna manera emocional... todo eso tiene que hacerlo el Estado, indudablemente con las asociaciones, con los familiares... pero eso lo tiene que dirigir el Estado. Y creo, que actualmente el gobierno actual, y la dirección general de memoria actual va en esa dirección. Con lo cual nosotros... al menos en las asociaciones en las que yo estoy... estamos de acuerdo indudablemente, eso tiene que ser eh... realizado por el Estado, porque eh... la sociedad civil, desgraciadamente es bastante débil para eso.

MOD: Vale, pues mirando la hora quiero pasar a la ultima pregunta: En general de lo que se ha hecho en España, diría usted que está de acuerdo o se opone a lo que se ha hecho de reparaciones en España y porque?

ID_785: Bueno yo creo que de la charla en el grupo las cosas quedan claras, estamos de acuerdo en que lo que se ha hecho es absolutamente insuficiente, o sea yo creo que se ha llegado... a un 10-15% de lo que se debería haber llegado... o sea el que haya 22000 cadáveres identificados o posiblemente identificados, todavía en cunetas y fosas comunes... que se han localizado por el trabajo de la sociedad civil, esencialmente demuestra el abismo que hay entre lo que habría que hacer y lo que se ha hecho y... entonces una cuestión es estar de acuerdo y materializar tal o cual opción, pero desde el punto de vista cuantitativo y cualitativo es insuficiente. Y luego hay otros aspectos de estos temas que ni siquiera se han querido abordar... como el tema de la justicia, el tema de la reversión de los tribunales especiales del franquismo y sus sentencias y algunos

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temas de reparación económica también pendientes... pero fundamentalmente, yo creo que es el primero de los puntos, es el gran agujero... aparte de todos los temas culturales de los que hemos hablado... 40 años no generando una cultura clarísima, implantada en la sociedad... en fin una dictadura post un golpe militar... es algo execrable tanto por las consecuencias humanas, como por las consecuencias de todo tipo.

ID_351: Si sí, yo estoy de acuerdo con [ID_785], yo creo que lo que se ha hecho bueno... estamos con matizaciones, pero bueno estamos de acuerdo que... indudablemente se ha hecho muy poco de todo lo que se debiera o si tiene que hacer no? Porque es verdad que hay muchísimas fosas todavía por abrir... hay muchísima memoria que reparar... se está muriendo la gente... Yo tengo, la fosa donde está mi abuelo... hay otro hombre que es Antonio Rodríguez que tiene tres hijos... que tienen 90, 94 y 96 años... los tres hijos, y están los pobres diciendo, oye mira [ID_351] que tal, que mira... o sea, que queda mucho trabajo por hacer y yo creo, y estoy absolutamente de acuerdo con [ID_785], lo que ha dicho del tema de los juicios franquistas... la reparación simbólica... todo el tema de fosas, de exhumaciones... la Comisión de la Verdad... no se ha hecho, no se ha hecho en España una Comisión de la Verdad independiente, en el que se haga un debate profundo de lo que sucedió... tanto de un bando como del otro... yo... no me gusta hablar de bandos porque realmente bandos no fueron... hubo un gobierno legítimo que es la República y un golpe de Estado... por lo tanto dos bandos no eran. Y ehh... en fin, hay mucho que hacer, y desgraciadamente cuando llegan los gobiernos de derecha, tanto a la comunidad como al Estado, paralizan todas las políticas de memoria. De hecho, Rajoy se jactaba de decir... yo no he derogado la ley de memoria... pero no he puesto ni... 0 euros, 0 euros he puesto en la memoria no? Y aquí en Andalucía está pasando algo... lo lleva Cs... con lo cual es lo mismo... porque Cs... en fin... lo mismo. Es una posición liberal dicen los de Cs...

ID_176: Bueno, yo vuelvo a decir de lo que dicho antes, yo me relaciono con gente, ... no voy a decir la palabra... nada más quiero decir que mi vida no es en conjunto todo el mundo que piensa y habla cómo yo... si es del mismo lado, pero por diferente partido, además de eso, por diferentes razones, me relaciono muchísimo con todo tipo de gente. Gente que piensa de otra manera... y sobretodo gente que no piensa, que no tiene ningún pensamiento, lo que tiene es una gran ignorancia. Mmmm... no hagas un comentario, o una pregunta porque no saben que contestar, y lo que contestan o dicen es una barbaridad. Y estoy hablando de gente joven, adolescentes... hasta gente con mucha edad también no? Creo... yo creo que ahí es donde se ha perdido la batalla. La batalla se ha perdido, en el que en España hemos creado... o sea, hemos repartido mucho titulitis, o sea mucho título... en los últimos 40 años hubo un avance... en las universidades entraron los hijos... hubo un avance tremendo... y además lo aplaudo eh? Lo aplaudo porque mucha gente ha podido estudiar, pero la calidad de toda esa formación y toda esa educación no ha sido completa, porque tienen una ignorancia tremenda sobre su propio país, su propia... historia... y lo que ha ocurrido. No tienen ese conocimiento. Si no tienes ese conocimiento, y en el humanismo... que ya no damos humanismo y apenas en ningún sitio... de las carreras... pues yo creo que por ahí es por donde se ha perdido todo. Entonces, cuando unos y otros plantean algo... cuando digo unos y otros no digo diferentes... si no respecto a la memoria, la justicia y la reparación... esto lo otro y lo de más allá... por el otro bando, salen por peteneras, diciendo unas barbaridades... esto lo otro y lo de más allá... y yo cuando oigo esas respuestas... lo único que veo es ignorancia, esas respuestas... porque no saben ni que están respondiendo ni a qué. Y si que se está creando, como un enfrentamiento otra vez... ahora mismo... estamos volviendo a una situación... pero es que yo creo que es debido a que no se ha drenado, no se ha limpiado nuestra propia historia. No la hemos compartido, o sea no la hemos compartido la historia. Cada uno, tenemos una historia... y creemos que esa hay que compartirla, y hay que compartirla entre todos, y tiene que haber una pedagogía... una didáctica y un esfuerzo en un país cultural que aquí no se ha hecho.

MOD: Pues [ID_42] que opinas tu, lo que ha hecho el Estado de acuerdo o no de acuerdo y porque?

ID_42: Sí, bueno creo que la pregunta era si se... si creo que se ha hecho justicia no? Cuál era la pregunta exactamente?

MOD: Justicia directamente no, pero lo que se ha hecho de reparaciones, pues retirada de símbolos por ejemplo y cosas así, estas de acuerdo o no...?

ID_42: No, yo creo que desafortunadamente, los que infligieron mal y los culpables no han pagado por ello, y es una circunstancia que lamento... y espero que los no culpables no deban responder en lugar de aquellos que fueron culpables. Yo creo que debemos ser unos y otros más tolerantes para no repetir los errores del pasado y bueno y respetar más a los de más.

MOD: Vale, pues quien me falta, [ID_581] no?

ID_581: Sí, yo solo quiero decir que los vencedores escriben la historia y después de tantos años la historia ya está tan eh... infectada de todo el constructo de los vencedores, que es muy difícil de cambiarlo, ehh... en cuanto a lo de que si estoy de acuerdo en lo que se hizo y no se hizo... ehh no se hizo nada. Lo que se hizo básicamente, es de cara a la galería para contentar a pues... algunos votantes, pues queda muchísimo por hacer... y aparte por este orden. Primero los reconocimientos simbólicos, actos institucionales, incluso temas de justicia... luego el trabajo didáctico de la sociedad... comisiones de la verdad para que haya una reconstrucción de lo que es la historia de verdad... en tercer lugar las exhumaciones, que como es posible que todavía haya gente que sabe donde están enterrados sus familiares y no pueda darle la sepultura que merecen... y luego ya entramos en temas de educación, como museos... o mm... cosas didácticas para los colegios. Y ya por último, el tema de la reparación económica que... pero eso ya está en un nivel mucho más abajo. Por lo tanto, queda muchísimo por hacer en este orden vamos, yo es lo que considero.

ID_351: Quería enseñaros que nosotros aquí en Andalucía hicimos dos revistas... no sé si se ven..., esta que se llama "Todos

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los nombres” y esta segunda revista que es también de “Todos los nombres” que de alguna manera la idea es de esta revista, es... que bueno, contar la historia y reparar un poco no? Y aquí se explican historia de cada uno... que bueno yo escribí de mi abuelo y mucha gente escribió historias... y de alguna forma, eso ya se dejó de hacer... la última fue en el 2009... ya ya no se ha hecho más... porque bien no... la asociación desapareció, la de memoria y justicia de Andalucía y... en fin, yo estoy en otras, pero... en definitiva, yo estoy de acuerdo en que... bueno hay que seguir trabajando en los temas de memoria... y es verdad, como dice [ID_176], de alguna manera el momento... la culpa la tienen los que no han potenciado una educación... una educación potente... y sobretodo en los temas de reparación de memoria.

MOD: Bueno pues muy bien, mirando la hora yo creo que lo dejamos así, si no hay ningún otro comentario? Nada. Pues les quiero agradecer mucho su tiempo, creo que ha sido una discusión interesante, hemos tocado varios temas [...].

Transcript – Focus Group II

Date: 03.06.2020, 7pm - Video 01:23:00 min.

Moderator (MOD): Patricia Enssle

Participants: ID_848, ID_884, ID_563

Transcript text

MOD: Bueno, pues me presento muy rápido. Soy Patricia y soy doctoranda en la UB en Ciencias Políticas... estoy en mi último año de la tesis, ojalá... al final de este año la voy a entregar, a ver, a ver... pero bueno, lo estoy haciendo solo a tiempo parcial porque trabajo en una fundación aquí en Berlín, y bueno... ahora mismo no vivo en Barcelona, pero estuve viviendo 3 años y medio en Barcelona y ahí empecé con el doctorado y bueno... voy a seguir y acabarlo ojalá, algún día. Y el tema, es lo que pasó durante el franquismo y como España trata el tema no. Sobretudo el enfoque es en las reparaciones para las víctimas del franquismo, y de eso quiero saber la opinión pública, y por eso estoy haciendo estos grupos... para saber la opinión pública de gente normal y corriente, no... tienen que ser expertos ni nada, para saber un poco que piensan, que medidas pueden estar bien... que puede ayudar a las víctimas... que se podría hacer... que no se podría hacer... etc. Y de eso vamos a hablar un poco.

Para romper el hielo, tengo aquí una imagen, que voy a compartir ahora. Y ahora, tendríais que ver una imagen... que quizá os suena... y bueno, la primera cosa sería que cada uno dice brevemente su nombre... y que es lo primero que le viene a la cabeza cuando está viendo esta imagen. Quizá empezamos primero con [ID_848]...

ID_848: Soy [ID_848], y la primera, que has dicho reacción? O pensamiento? Que me sale es réirme, y luego como no se... repulsión... o incluso cansancio de ver otra vez, o de tener que ver otra vez Franco... pensar en el franquismo y en la dictadura.

MOD: Vale, sí, seguimos con [ID_563]?

ID_563: Muy bien soy [ID_563], soy de un pueblo de Navarra... y a mí lo que me viene a la cabeza... me revuelve mucho... todo, y sobretudo igual es injusticia la palabra que me produce.

MOD: Muy bien, [ID_884]?

ID_884: Hola, soy [ID_884] y bueno soy también de un pueblo cerca de Barcelona, y a mi bueno también al principio pues... risa, y luego pues un poco de rabia, tristeza de seguir con el tema aún después de tanto tiempo.

MOD: Sí, y alguien de vosotros tiene alguna idea... que se podría hacer con el Valle de los Caídos? Porque obviamente, esta imagen está extraída de Twitter, del año pasado, de Octubre... cuando se sacó Franco del Valle de los Caídos... y bueno... ha sido una gran cosa también en la prensa española y tal... y que se puede hacer ahora con el Valle de los Caídos ahora que ya no está Franco... quizás alguien tiene alguna idea o pensamiento... que se podría hacer... ahora abro la discusión y quien quiera empieza a hablar, vale?

ID_848: A mí, sinceramente me viene un link un poco... estrambótico, raro, como que tengo un conocimiento del mundo un poco... dispar, porque me viene a la mente lo que han hecho en Camboya, que es un sitio como super lejano... pero que han convertido al menos... el campo de concentración que yo visité, realmente en un espacio de denuncia y de información sobre lo que pasó. Por un lado me viene eso, y por el otro lado me viene pensar que el Valle de los Caídos debería ser destruido... o modificado enormemente. O sea, hay como una parte de monumentalidad, como que es un gran monumento... que a mi me causa un poco de dificultad.

ID_563: A mí también me genera esos dos sentimientos no? Por un lado, me gustaría verlo derruido, y además me salta el verlo explotar no? Pero es verdad, que hay algunas personas que consideran que no, que sería mejor reformarlo por completo y convertirlo en un espacio para la memoria. Y no me parece tan mala idea, en Navarra hay también un monumento para los caídos, con una gran iglesia... y hay el mismo debate y eh... y bueno pues es importante también que haya sitios para la memoria. No sé, si tienen que ser justo estos donde estuvo el dictador y que se construyeron por él o tienen que ser otro tipo, pero bueno a veces me viene a la memoria también que por ejemplo, se pueden visitar los campos de concentración donde los nazis... otro espacio de un horror tremendo, pero que eh... que sirven a su vez pues para conocer todas las atrocidades que se

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realizaron en esos espacios, y es importante también no? Sobre todo las generaciones que no vivimos aquello, o que hemos percibido la historia de otra manera podamos conocerlos. Entonces bueno, me divido un poco entre el deshacer del todo ese tipo de vestigios, o de mantenerlos... habría que recomponerlos por completo para que sean espacios para la memoria democrática.

ID_884: Bueno, a mi tampoco en... similar a lo que han dicho ellos... cuando lo has preguntado lo que primero que me ha venido a la mente ha sido explotarlo por los aires... pero tampoco no creo que se pueda hacer... pienso también que sería importante sacar a republicanos que están enterrados allí con los propios que los asesinaron y luego... pues es que la única opción que veo así mas factible es pues rollo los campos nazis, aunque son muy diferentes... porque esto es como un sitio donde la gente va a recordar y a recordar el régimen y es muy diferente de los campos, pero creo que es la única cosa que al menos... para quitarle este símbolo no? Me parece muy fuerte, que siga habiendo un símbolo donde la gente pueda ir a adorar a esta persona. Entonces, lo único que creo es esto, que un monumento donde se puedan ver fotografías... como hay allí en Berlín por ejemplo, donde la casa de las SS... o algo así.

MOD: Vale si... es que Berlín se ha mencionado varias veces no? Hay muchas de estas cosas por ejemplo... sí. Eso es verdad. A ver, voy a mirar solo un momento si antes que empezamos... porque esto ha sido un poco para romper el hielo no? Con la primera pregunta, si está el último participante ahora..., no creo..., un momento... No. Bueno seguimos, a ver si va a venir luego o no. Bueno ya hemos entrado un poco en el tema... bueno voy a dejar de compartir la pantalla para que nos vemos... esto va... creo que ahora debería estar normal no? Como antes... bueno, ya hemos entrado un poco en el tema... que podrían ser reparaciones para las víctimas del franquismo... si vamos un paso atrás y pensamos en general en el concepto de reparar víctimas. Que creéis vosotros, muy en general, se debería reparar o hacer reparaciones para las víctimas del franquismo? Y porque?

ID_563: Sí obligatoriamente. Por un concepto de derechos y de... y yo creo que es un principio democrático fundamental. Para mí es obligatorio para poder cerrar heridas y poder eh... bueno, que se reconozca el daño causado y que podamos seguir adelante con una convivencia. Creo que la situación política actual se debe en gran medida a que durante la transición no se cerró esa herida... y estamos en esa situación sin una... sin el reconocimiento por una parte del dolor causado con miles de víctimas aún desaparecidas... y para mí eso es fundamental. Es básico, es el principio básico.

ID_848: Total... Me pregunto incluso, lo siento soy super ignorante eh?, de que estamos hablando porque o sea... hay como una parte... lo que se dice de buscar donde están esas víctimas y devolverlas a sus familias... eso es como antes de que haya una reparación no? O es parte de la reparación?

MOD: Se puede considerar parte de la reparación también, si..., bueno, de los diferentes tipos vamos a hablar en la próxima pregunta pero... ahora era muy general, porque en España hay la discusión de quien son las víctimas no? Porque siempre se dice que hay víctimas de dos lados, quizás hay que reparar víctimas de ambas partes... si pensáis un poco en eso también.

ID_884: Yo bueno, también estoy totalmente de acuerdo, pero creo que llegamos 40 años tarde con eso... y que muchas de esas personas ni lo van a ver y gente que no ha vuelto nunca más a su país... es que me produce... por no hablar, bueno es que eso es tan amplio el tema de la reparación... ya ni una disculpa, ni un homenaje... ni devolver lo que se les quitó a nivel de casas y cosas... o sea... bueno, que todo esto supongo que es la siguiente pregunta, pero que una reparación tiene que haber. Total.

MOD: Y si alguien dice esto de... reparar las víctimas de ambas partes, que pensáis vosotros sobre eso? Hay como víctimas de dos partes? O solo de una parte... quien son para vosotros las víctimas?

ID_848: Bueno, yo creo que si puedo llegar a pensar que... el franquismo desde mi punto de vista, la dictadura no fue buena para nadie... mi familia por ejemplo no? Era... ellos dicen que eran apolíticos pero al final yo creo que se pusieron del lado de los que iban ganando no? Aún así, yo creo que el hecho de que mi abuela supiese solo hablar en catalán y supiese solo escribir en castellano... ese es un efecto de la dictadura. Pero, aún así cuando pienso en reparaciones, o quien son las víctimas... lo primero que me viene a la cabeza y en quien realmente se tienen que enfocar... no se, el 90% de los recursos y esfuerzos en reparar lo que pasó... o el 95% es en eh... en el lado que hubo más víctimas y mas represión que no fue en el lado que estaba con Franco no?

ID_884: Sí, yo también pienso así. Hace poco, leí un libro que hablaba también de los momentos de la guerra que bueno... se habla también de lo que se hizo en el bando republicano... pero bueno, eso me parece más en temas de una guerra donde hay muertos en los dos bandos... pero esos 40 años de dictadura y todo lo que hicieron los franquistas con la gente que perdió demuestra que el 95% de las víctimas son de ese bando. El resto... no se, porque para mi está ya más que reparado... consiguieron muchas cosas, mucho dinero... y muchos monumentos... y no creo... no sé, tampoco hablo sin saber porque... no conozco a nadie del bando ganador que me diga... pues mira, yo también me siento víctima. Entonces, como todo mi alrededor es más del otro bando... no lo sé.

ID_563: Bueno, en una guerra se cometen muchas atrocidades y seguramente en ambos bandos se habrían cometido y no dudo que por igual, para nada. Pero... eso no quiere decir que si el bando republicano saqueó y mató a tu familia tu no tengas derecho a ser reconocido como víctima, pero cuando hablamos del franquismo y de todo un régimen y de una guerra civil que fue un golpe militar, que no tenemos que olvidar que en España había un gobierno democrático republicano, que fue asaltado por unos militares... por lo que yo creo que hay que tener en cuenta esa base y entonces a partir de ahí... las

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víctimas son claramente las de un bando y son las que siguen en las cunetas, son las que siguen... no han tenido ningún reconocimiento público... las que fueron sobretodo de un único bando no? Yo creo que en Alemania, este debate no se da no? En Alemania nadie entiende a los Nazis como víctimas... por lo menos a nivel público no. Y no entiendo, porque en España hay quien cuestiona... bueno si lo entiendo, pero... es que desde un punto de vista moral, ético, pero también político es inaceptable el que se trate a los bandos por igual. Entonces, yo cuando se habla de víctimas lo tengo claro. Otra cosa es, y lo puedo entender... yo conozco a una persona en la que... a su familia por ser de derechas, bueno les quitaron sus bienes... y yo puedo entender que esa persona se sienta agredida, se sienta violenta... pero no es víctima del franquismo. A lo sumo habría sido víctima de una atrocidad ocurrida en un contexto de guerra.

MOD: Si, y bueno... y aparte de eso de las víctimas también hay gente que dice que en lugar de dar reparaciones o de reparar... lo que hay que hacer es perdonar. No sé como es vuestro punto de vista, de eso... de perdonar en lugar de reparar?

ID_563: El perdón yo creo que se habla muy... no sé... me parece como muy... una moral muy cristiana en primer lugar, y creo que sirve de bien poco sobretodo si no es sincero no? Y yo creo que muchas veces el perdón... pues tu puedes hacer una declaración diciendo perdón pero si queda en eso... para mí desde luego, no es suficiente no? Bueno, puede ser un gesto que ayude, pero no creo que sea suficiente. Yo creo que no es lo mismo el perdón que la reparación. La reparación estamos hablando de reconocer públicamente el daño causado, la reparación no tiene que ser económica puede ser de varias maneras pero eh... que en el espacio público, que en la historia en las escuelas, cuando se cuenta la historia... se cuente desde ese punto de vista de sufrimiento de un bando... para mi reparación es todo eso. Y a mí que me salga... me da igual quien, a leer en un acto... a pedir perdón y se quede en eso... me sirve más bien de poco o de nada.

ID_884: Sí bueno, yo igual... además es que ni siquiera sé... perdón, primero alguien tendría que dar disculpas que ni siquiera se ha hecho... que siguen los abuelos, los padres de militares franquistas en instituciones cuando ni siquiera se ha pedido perdón... disculpas, o sea como vas a pedir perdón... y lo que se ha intentado hacer en este país durante la transición ha sido olvidar, no mirar y mira donde estamos en cosas que pensábamos que estaban más que aceptadas... y que ya no íbamos a volver para atrás... y se están volviendo a debatir esos temas. Entonces, un poco en la línea de lo que ha dicho [ID_563], ya no es una reparación a nivel económico, que creo que es lo de menos, si no, un reconocimiento... una cultura y una formación. Sobretodo para mí lo más importante es un reconocimiento como víctimas y por todo lo que pasó esa gente. Como mucha gente no es consciente de lo que pasaron en los campos de concentración de Alemania, Polonia... bueno reconocer todo lo que lucharon por sus ideales y todo lo que les hicieron.

ID_848: A mí incluso me parece como una de estas dicotomías que no se si últimamente o en nuestra sociedad especialmente... parece no se que se pone muy de moda y que nos ponemos ahí a pelear entre que tiene que ser blanco o gris... y quizá es que el tema debería ser rosa y ya está. O debería de ser los dos colores mezclados. Sinceramente, me parece una distracción del argumento eh... que algunos seguramente les va muy bien... genial, tenernos en este loop no? En este bucle de si debería ser el perdón o la reparación cuando quizá debería ser perdón, disculpas, reparación y bueno vamos a hacer babababa... 50 cosas más.

MOD: Sí, eso es verdad. Bueno... hemos hablado ya de los diferentes tipos de reparaciones no? Alguno de vosotros ha dicho que no tienen que ser necesariamente económica la reparación... puede ser también simbólica... sobretodo después de que han pasado tantos años de la dictadura. Por eso, quiero hablar ahora sobre éstas diferentes cosas que se podrían hacer... algunas se han hecho en España, otras no... voy a leer ahora una lista de cosas. Independientemente de eso, me gustaría saber de vosotros si este tipo de reparación puede ser adecuado para las víctimas en España. Y discutir un poco las ventajas y desventajas de cada tipo de reparación. Me gustaría empezar con las pagas y las pensiones... pues unas pagas a las familias de la gente que se ha fusilado durante la dictadura por ejemplo, que luego se les paga a la familia no? Una paga monetaria y también esto junto con las pensiones que si se pagan o no las pensiones... esto en plan reparación económica. Pensáis que esto es adecuado para las víctimas... hablar un poco de vuestra opinión sobre este tipo.

ID_848: Puedo preguntar... esto es algo que se paga a lo largo de X años o es una dotación económica que se da y ya está?

MOD: Bueno, lo que se ha hecho en España... había una ley y se hizo una paga no? Y se siguió pagando para algunas víctimas... a la esposa por ejemplo se le seguía pagando las pensiones. No había una indemnización que fuese una paga unitaria. Pero eso se podría hacer ahora no? Que una parte de la discusión se dice que para pagarlo una vez no vale. Habrá que seguir pagando... bueno lo que se ha hecho en España era una ley y se les pagó algo... pero han pasado años también de eso. Un poco independientemente de lo que se ha hecho en España... la gente no conoce las leyes así que... solo un poco la opinión de si es adecuado o no es adecuado algo así para las víctimas.

ID_884: A ver... yo creo que sí. Lo único que claro... llega tan tarde, que hasta donde... que familiares, hasta que punto... porque mujeres de los que tuvieron que irse quizá están también muertas. Hijos... nietos... me parece un poco complicado... pero creo que sí que se debería, igual que las víctimas de terrorismo o de violencia de género pues tienen la matrícula de universidad gratuita o diferentes ayudas... pues reconocerlos también como víctimas no de terrorismo... pero ponerlos en algo en relación a este tema. No lo veo como lo más importante, pero si que me parece bien si se hace. Es que tampoco creo que tengo mucho conocimiento a nivel económico de lo que se podría hacer.

ID_563: Sí, para mí tampoco es lo más importante... no me opongo a ello, pero creo que muchas veces se pretende tapar todo lo demás con el dinero no? Y es lo que se ha hecho en gran medida. Te pago... te doy una paga, te doy una

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compensación económica y con eso ya he reparado el daño no? Y precisamente puede ser bastante perverso, porque además las compensaciones de ese tipo suelen ser escasas o ridículas... por lo que eh... si solo se va a quedar en eso desde luego, sería totalmente contrario... y lo que digo, seguramente a la mayoría de las víctimas es lo que menos les importa una compensación económica eh... sin lugar a dudas es muy tarde, pero en aquel momento que se reconociera una pensión de viudedad es ehh... habría sido fundamental para muchísimas personas... y en conflictos muy recientes puede ser un mecanismo muy importante, pero en este caso... yo creo que en este momento, no deberíamos poner el foco ahí.

ID_848: Lo siento, pero es que creo que no tengo una opinión... muy fuerte. Creo que sí, que evidentemente se debería hacer y realmente yo entro un poco en el bucle de... ya se que inicialmente has dicho que no era tan importante una única paga o un único depósito de dinero o una paga a lo largo de X, pero a mi me parecen cosas no tan triviales... y quizá me quedo ahí un poco en el loop de decir quizá... inicialmente debería de ser una paga una vez y punto, porque si no parece que están constantemente ahí poniendo el freno a que no te quejes porque te estoy dando dinero cada mes y así te tengo la boquita tapada sinceramente...me quedo un poco con esa sensación de que no es algo tan trivial.

MOD: Si... es que siempre hay ventajas y desventajas y bueno... es eso un poco. Aparte de eso, también hay cosas que se hizo menos que más en España... restitución de bienes y terrenos a los propietarios que se les ha expropiado durante el franquismo. Que os parece eso? Podría ayudar a las víctimas? Sería posible de hacerlo aún? Que opinéis?

ID_848: Me parece super básico eso. Más importante aún que lo que estábamos hablando antes, por el efecto que puede tener a lo largo de generaciones y de patrimonio general... y como de injusto es y hasta que punto ha significado la acumulación de bienes en determinados... familias en nuestra sociedad... o sea, me parece super importante esto.

ID_884: Sí, a mi también me parece super básico y me da vergüenza pensar que en 2020 aún no se haya hecho y la familia Franco tenga aún bienes que no... que expropiaron... es que... es totalmente surrealista. O sea lo veo básico pero lo primero.

ID_563: Sí, para mi también es fundamental y diría que solo se ha hecho en alguna medida con partidos políticos, sindicatos y organizaciones de ese tipo... pero a nivel particular yo diría... no tengo un conocimiento absoluto pero diría que ha sido uno de los temas olvidados... y a nivel simbólico para esas familias hubiera sido... pues imagínate que aquel al que le quitaron la casa pues que... aunque sean tus abuelos no? Pues que te la devuelvan no? Es algo en lo que se debería de trabajar. Y hablamos de una casa igual como algo simbólico, pero incluso unos terrenos o... yo conozco una familia aquí que bueno, para él había un cuadro en su casa de su familia... que fue robado... y estuvo en el salón de una casa de un franquista del pueblo durante muchísimos años y él sabía donde estaba ese cuadro y sigue estando en manos de esa familia. Y él siempre tiene... bueno, en el corazón eso no? Ese cuadro pertenece a mi familia no? Para mí creo que es fundamental, es... ayudar a nivel simbólico muchísimo.

ID_884: Se me pone la piel de gallina de verdad... cuando has contado esto.

ID_563: Sí, que parece que un cuadro... la vida no te va a cambiar por un cuadro no? Pero la injusticia es tan grande que... esos elementos simbólicos a su vez tienen mucha importancia no?

MOD: Sí, y bueno es que se escucha no? De mucha gente que siguen intentando, luchando de recuperar sus terrenos de antes... y bueno si... tienes razón de casos individuales... yo creo que hasta ahora nadie lo ha recuperado. Eran los partidos políticos y los sindicatos creo que algunos también. Por eso, eso es una cosa que queda pendiente aún. Si pensamos un poco en la víctima en si misma... también se hace esto en otros países, por ejemplo puede ser que también en Camboya que tu has mencionado antes, se hace esto de dar atención médica y asistencia psicológica gratuita a las víctimas... que pensáis sobre eso?

ID_848: A mí, se me hace un poco raro pensar, y más como que quizá serían herramientas a plantearnos más a nivel como sociedad que a nivel psicológico o con expertos en psicología se tiene que plantear un plan de acción para realmente reparar y aceptar lo que pasó y movernos hacia adelante... o sea me parece... no se si me explico, como que a nivel individual o a nivel más particular me cuesta bastante.

ID_563: Sí, a día de hoy yo creo que no tiene sentido. En conflictos recientes tiene sentido... en la situación de Camboya es relativamente reciente y ahí tiene mucho más sentido que en el caso del franquismo no? Además estamos en un país donde existe una sanidad universal... bueno, no creo que sea donde haya que poner el foco e invertir no?

ID_884: Mi opinión a nivel médico es eso... tenemos un sistema de salud público, a nivel psicológico si que creo que a lo mejor estaría bien sobretudo estas familias que siguen teniendo mucha gente en las cunetas y si esto se pudiera hacer y sacarlos de las cunetas... estaría bien que durante el proceso que se sacara hubiese alguien ayudándolas... porque al final es algo que llevas dentro... y de golpe desenterrar a un familiar tuyo puede desembocar en muchas cosas... yo que sé, ataques de ansiedad, recordar... bueno depende del familiar que sea, no es lo mismo tus abuelos que tu pareja... o yo que sé. Entonces pienso que a nivel psicológico si que estaría bien, además hay muy pocos psicólogos en la sanidad pública.

MOD: Sí, es un punto que también es interesante eso de las exhumaciones y la asistencia psicológica es algo que hasta ahora nadie ha dicho y estoy sorprendida...

ID_884: Bueno, yo soy psicóloga!

MOD: Aaah ok.

ID_884: No lo quería decir porque queda muy snoop, pero ahora que lo has dicho... ya lo he dicho por eso.

MOD: Ahh ahora tiene sentido eso, porque yo he pensado ahh guay es una idea que nadie hasta ahora ha pensado en eso...

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pero es verdad, es interesante. Es un buen punto definitivamente. Y bueno... tu has hablado antes de la educación... y bueno que pensáis de si se ofrece educación gratuita y becas para los descendientes de las víctimas?

ID_884: Bueno, yo lo que he dicho no sé si tiene mucho sentido porque que se va a hacer para siempre? Es que no sé, yo no... no sé como se hace con las víctimas del terrorismo hasta que punto... sé que con las de violencia de género, los hijos también y las mujeres también las reciben. Pero el terrorismo no lo sé... si se hiciese quizá en la línea de las víctimas del terrorismo, pero no lo sé. Yo no tengo muy claro, la verdad.

ID_563: Para mí, eso tendría sentido... estamos de nuevo con el factor tiempo. Eso tiene sentido... por ejemplo para los hijos no? Pero ya, nietos, bisnietos... es que estamos tan lejos del momento en que sucedieron los hechos que yo en materia educativa me voy al currículum, que toda la gente sepa que ha ocurrido... creo que es donde hay que poner el foco. Que yo, que puedo ser... que un tío abuelo mío hubiera desaparecido... yo... bueno, mi familia nos podemos considerar víctimas pero la reparación no viene porque yo tenga los estudios universitarios gratuitos, que además ya llega tarde pero no, quiero decir que no tiene mucho sentido... ya estamos hablando de terceras, cuartas, quintas generaciones que para mí no tendría que ir por ahí la reparación. Tendría sentido, en el caso de los hijos de los fusilados en aquel momento, en los años 40... pero no hoy en día.

ID_848: Totalmente de acuerdo con lo que habéis dicho.

MOD: Sí... eso del tiempo siempre es una cosa no? Y si se hiciera... bueno eso también existe en España, un reconocimiento como víctima, que puedes obtener un justificante que eres víctima y con esto como un reconocimiento no? Que se te reconoce como víctima. Pensáis que esto es útil? Que una persona tiene un papel que dice que es una víctima... o es menos útil?

ID_848: Pero, tiene algo más de función aparte de ser solo un certificado como víctima?

MOD: Sí, el reconocimiento como víctima. Oficialmente hay un registro por ejemplo, que tiene registrado cuantas víctimas hay y quien es víctima no? Y luego tu con esto obtienes un papel y si luego esto va más allá con las reparaciones... pero el primer paso es obtener un certificado entre comillas de ser reconocido como víctima, si esto pensáis que ayuda a las víctimas o sería útil que se hiciera algo así? Bueno, en España se hizo como un pequeño hueco que te podías registrar como víctima... pero no era muy amplio así que se pudo registrar poca gente y hay muchas gente que no se ha reconocido nunca como víctima. Si esto podría ser útil...

ID_848: A mi lo único que me parece interesante es lo que decías que acabaría habiendo un registro de las víctimas, que esto... soy ignorante total, diría que ni existe realmente en España... y me parecería super interesante como para luchar un poco contra la desinformación o los negacionistas sobre lo que pasó realmente no? Que hubiese un registro completo de quien murió, quien fue afectado... y bastante como amplio y con el máximo de características que se pudieran tener como para realmente tener el máximo de información de lo que pasó y que todo el mundo pudiese acceder a esto... osea me parece más interesante desde el lado de sociedad, de como se educa o como se pasa la información... que no del nivel de las víctimas como eso puede realmente repararlas a ellas a modo individual o familiar... desde mi punto de vista.

ID_563: Yo completamente de acuerdo.

ID_884: Sí, yo igual. Un papelito... me parece interesante el tema del registro. Un reconocimiento tiene que ser a nivel más global y público.

ID_563: Sí, y sobre todo a estas alturas de la película eh? Quiero decir que...

MOD: Y si se hacen como... conmemoraciones de las víctimas? Por ejemplo, en el Parlamento... que se invita a las víctimas... o que hay un día de memoria a las víctimas o conmemoraciones públicas. ¿Que pensáis de eso?

ID_848: Eso si que me parece bien.

ID_563: Para mí es fundamental. Ese tipo de homenajes... de actos públicos y sociales es de lo que más se restablece y ayuda a socializar lo que ocurrió y a unir a las personas que sufrieron... yo... a mí me ha tocado organizar dos actos de este tipo y... es super emocionante, las personas que fueron víctimas lo agradecen muchísimo... que estás haciendo desde una institución un reconocimiento... que ya como pueblo pues reconoces que no todo se hizo de la forma adecuada... que hubo mucho olvido... en mi municipio en este caso, se ha hecho un espacio para la memoria, se abrió una fosa común y en la fosa se hizo también un acto... entonces yo de lo que he vivido, para mi es de lo que más llena a las víctimas y... a mi como sociedad es también de lo que mas me reconforta el ver que... además si los haces de forma muy plural con participación de gente de diferentes sensibilidades... con gente de colectivos sociales, sindicales, movimiento populares... es super enriquecedor y muy emotivo.

MOD: Podrías ir ahí un poco más en detalle? Porque me acuerdo que me escribiste un correo explicando lo que pasó en tu pueblo y para ellas también puede ser esto muy interesante... si quieres ir un poco más en detalle que habéis hecho...

ID_563: Sí, mi municipio se llama Bera, está justo en la frontera con Francia y con Guipúzcoa y es uno de los municipios de Navarra donde más víctimas hubo, pero la mayoría no eran habitantes locales, sino que eran... desde la cárcel de San Sebastián se traían en camiones a prisioneros y los fusilaban en la cantera del pueblo, que está justo a la salida del pueblo. Entonces, la cantera se convirtió en un punto donde fusilaron a cientos de personas, prisioneros la mayoría de ellos y con posterioridad fueron enterrados en una fosa común dentro del cementerio municipal. Dentro del municipio, los que se confesaban delante del cura justo antes de ser fusilados... y fuera del cementerio los que no se confesaban. Esto era algo

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muy conocido vox pópuli en todo el pueblo pero nunca se había hecho nada... y en el 2004 siendo yo concejal del ayuntamiento empecé a mover el tema y bueno... abrimos la fosa común, el cementerio había tenido en los años 70 una reforma bastante grande con lo que no aparecieron todos los cuerpos... pero si que muchos de ellos los pudimos sacar, se hicieron pruebas de ADN para que en un futuro puedan ser identificados, eh... intentamos hacer listados de la gente que había sido fusilada en la cantera, habíamos... bueno conseguimos un listado un poco... limitado porque alguien se encargó muy bien de destruir la documentación... pero bueno, conseguimos contactar a unos 25 familiares que vinieron a ese acto... invitamos a todos los ayuntamientos de donde eran originarias esas personas, con lo que ya no fue un acto de nuestro ayuntamiento, sino de 10 o 12 ayuntamientos que homenajearon a esos 200... que bueno, con nombre y apellido teníamos unos 25 o 27 más o menos... se les hizo un reconocimiento y un homenaje público... se les entregó una litografía en recuerdo... bueno, se hizo un homenaje. Y recientemente, hemos obtenido más información y más nombres... y el gobierno de Navarra ha puesto en marcha un proyecto, que se llama "Lugares de Memoria" y ha reconocido por ley, a unos lugares como lugares donde se cometieron actos atroces durante la Guerra Civil, y unos de ellos es evidentemente esta cantera, con lo que se aprovechó para volver a hacer un homenaje... y se aprovechó no solo a aquellas personas fusiladas, sino también represaliadas que tuvieron que huir y algunas volvieron y algunas no... y se quiso destacar también el papel de la mujer, porque aunque la mayoría de los fusilados fueron hombres, quienes se quedaron al cuidado de los hijos en una situación totalmente precaria fueron las mujeres... y se quiso aprovechar también para visualizar esa otra realidad no? Se recogieron testimonios, se hizo un vídeo y bueno se invitó a colectivos, personas... bueno, fue un acto muy bonito, muy emotivo y como siempre faltó la derecha.

ID_884: Que chulo!

MOD: Y la idea de quien ha salido? O de donde vino el impulso?

ID_563: Bueno, el primer impulso yo diría... bueno, yo como concejal lo propuse al ayuntamiento y el ayuntamiento lo impulsó. Somos un pueblo que ha promovido siempre mucho la participación ciudadana y entonces hicimos un grupo amplio de personas para organizar y darle forma a todo esto, en el que participaron sobre todo asociaciones culturales, todos los partidos políticos que estábamos representados en el ayuntamiento en aquel momento... y luego gente, bueno... o bien represaliadas, familiares de represaliados, gente que tiene interés por la memoria histórica, historiadores y bueno... de hecho sigue funcionando un grupo que organiza de vez en cuando o conferencias o exposiciones... o algún tipo de actos. Un grupo totalmente informal, no es una asociación cultural, pero bueno que reúne a gente que tiene interés por el tema y trabajar de vez en cuando algún tema no? Recientemente el gobierno de Navarra también ha publicado el nombre de todas las personas navarras que estuvieron en los campos de concentración nazis... entre ellas hay varias de nuestro municipio... y gracias a ellas hemos podido conocer la historia de una mujer que fue detenida por haber abortado. Su delito fue haber abortado y estuvo represaliada, se fugó a Francia, consiguió escaparse... pero allí luego los Nazis cuando la invasión alemana a Francia los Nazis la detuvieron y estuvo en un campo de concentración y desapareció... bueno, es una historia muy dura pero la acabamos de conocer, que todavía es que hay mucho por hacer y bueno pues queremos ahora... que lo que quizá hemos conocido una veintena de personas sea más conocido en el pueblo, y porque no, no? Que haya un espacio, no sea una plaza, un parque... que lleve su nombre no? O sea, que una mujer abortara en 1939 en una situación de guerra y que eso la condujera a acabar en un campo de concentración Nazi... pues es tremendo no?

MOD: Sí..., creo que [ID_884] tu querías decir algo no? De los actos de conmemoración y te he interrumpido...

ID_884: No, no te preocupes. Pues ahora ya se me ha ido con todo lo que ha contado, que es super chulo. Bueno, si a mi me parece super bien que hubiese un día, o que hubiese un festivo nacional en vez de otros que hay... y el hecho del reconocimiento, el reconocimiento es así. El hecho es que esta gente pasó 40 años donde nadie les reconoció obviamente porque estaban en una dictadura y luego les hicieron como mira para otro lado y olvida. Nadie ha validado tu dolor, nadie ha validado lo que has sufrido que has perdido familiares y eso..., para mi a nivel de reparación es básico. O sea, ni dinero ni nada... decirte sí, has padecido, reconocemos todo lo que has hecho... todo lo que han hecho tus familiares que se han perdido los buscamos... me parece lo principal. Y creo que hubiese sido la solución para que no estuviéramos un país tan dividido. Y luego me ha parecido muy curioso lo que ha dicho de que no fue la derecha para variar... y esto no pasa en ningún lado. No creo que en Alemania hagan una conmemoración de las víctimas del nazismo y no vayan los partidos de derecha, aquí es como que...

ID_563: Bueno ahora... la ultraderecha no?

ID_884: Ya... es como, que pasa aquí? Hemos hecho todo tan mal que está bien visto, no pasa nada que no vayan a esto. Es que les tendría que dar vergüenza... tendría que ser algo que hiciesen para ganar votos, pero no para ganar votos al revés... o sea, me parece... entonces, todo esto lo veo... bueno, para mi es lo principal que tendrían que haber hecho. Y luego... aquí, en el pueblo donde vive mi abuela, en Viladecans hicieron algo mucho más light... pero si que todos los vecinos del pueblo que habían desaparecido tanto durante la guerra o después del franquismo... en este caso mi abuela tiene un tío que no saben nada... y ella ha intentado moverse pero no han sabido nada... pues con todos los vecinos del pueblo hicieron una placa en el ayuntamiento... como una sepultura y un acto y eso, ya está.

ID_848: A mí, algo de lo que no hemos hablado y no sé si es una de las preguntas o es demasiado fuera del tema, pero algo que me ralla mucho es vale, reparaciones super eh? Pero... esto de que se pueda salir a la calle con simbología franquista y

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esté bien? Esto...

ID_563: Sí, cuando estaba hablando Brugés me ha venido no? No es solo que no vayan a un acto sino que puedan seguir haciendo apología de ello no?

ID_848: Y me parece también como la otra cara de la moneda no? Hablamos de reparación pero es que para mí eso es continuar haciendo daño...

ID_563: Es muy flagrante sí.

ID_848: No se, me parece increíble. Aunque entiendo que en una sociedad educada, evolucionada... no debería haber esta prohibición... pero estamos demostrando, creo que al menos necesitamos como sociedad tenerlo prohibido durante unos años o décadas... porque no sé... a mi alucina, la verdad.

MOD: Sí, o la fundación Francisco Franco, siempre lo menciono.

ID_884: Dinero público.

MOD: Sí bueno..., lo que has dicho tú [ID_848] nos lleva un poco al hecho de los símbolos... la retirada de símbolos es un gran tema no? El otro día leí yo que en Córdoba se están ya cambiando el nombre de las calles otra vez por nombres de generales militares. Lo quitaron, lo pusieron a gente... a nombres más o menos neutral o que lucharon por la democracia... y ahora el gobierno otra vez está cambiando los nombres de las calles y pone nombres de militares franquistas.

ID_563: Sí, estuve yo hace poco en Córdoba y justo al poco tiempo salió la noticia, eh... la cuestión es que en Córdoba ha gobernado durante muchos años la izquierda, y con la ley de memoria histórica cambiaron todo, las calles que llevaban el nombre de algún general, militar o demás franquista... y ahora está el PP gobernando pero con el apoyo de Vox, y ha sido una de las condiciones que ha puesto Vox y están volviendo a poner aquellos nombres, es decir... de hecho va en contra de la ley. La ley prohíbe... primero está en contra de la ley pero la ley tampoco se hace cumplir. Y yo creo que el Estado ahí tendría que ser mucho más duro. En otros temas no se perdona un incumplimiento de ley y en este caso... y quizá en la nomenclatura de calles es algo simbólico... pero las trabas que ponen algunos gobiernos es tremenda. Hay comunidades autónomas donde abrir una fosa es difícilísimo y más cuando estaba el PP en el gobierno de Madrid. Una cosa es que no se subvencionen esos actos..., pero que se pongan trabas administrativas para que no puedas ir a abrir una fosa común no? Ehh.. hay una sociedad aquí en Gipúzcoa Aranzadi que es la que más fosas comunes ha abierto en todo el Estado español. Es un equipo de voluntarios que se dedica todos los fines de semana a abrir fosas comunes... es gente... profesores universitarios... es decir, es gente preparada que tienen una trayectoria con reconocimiento internacional... porque de hecho Paco Etxeberria, el presidente fue llamado a que abriera la fosa de Pinochet y de víctimas de Pinochet... es una entidad que está haciendo un trabajo inmenso y de hecho ellos abrieron la fosa aquí en Bera y conozco de primera mano los obstáculos y las dificultades que tienen sobre todo en Castilla y León, en Madrid y hoy en día también en Andalucía.

ID_884: Como se llama?

ID_563: Aranzadi.

ID_884: Vale, es que lo quería apuntar. A mi parece que tendría que estar prohibidísimo.

ID_563: No eso, que no se cumple la ley, pero tampoco se hace cumplir. Y yo creo que ahí el gobierno del Estado tendría que ser mucho más exigente no? Y ver todavía estatuas de Franco... creo que en Ferrol sigue habiendo la estatua de Franco sobre el caballo, en Santander creo que ya se quitó...

ID_884: Y en Melilla creo que también.

ID_563: Sí, también.

ID_884: Sí, yo creo... es que no lo sabía lo de Córdoba y me parece... no tengo palabras, tendría que estar prohibidísimo y no solo prohibido porque ya está la ley de memoria histórica, sino llevado... igual que se ha llevado lo del lazo en el ayuntamiento de Barcelona. Es que... no tengo palabras. Indignante. Bueno, es lo que he dicho antes, cosas que yo tenía más... que pensaba que estaban superadas como esto, estamos volviendo atrás.

ID_848: Pero al final supongo que por eso... no sé quizá visión naive total pero por eso es tan importante la otra parte de las reparaciones que estábamos hablando no? Porque al final supongo que si las familias que tienen más dinero y más poder son las que estaban en este bando... pues evidentemente continuarán empujando para que no cambien determinadas cosas. Lo veo como... es chungo realmente porque todo está interrelacionado y cuando empiezas a cortar este círculo vicioso es difícil...

ID_563: Yo otra idea que quisiera añadir es ligado con la recuperación de fosas, son los bancos de ADN para identificar las víctimas. Cataluña fue pionera en este ámbito... ahora la ha seguido Euskadi y Navarra y creo que las demás comunidades todavía no lo están haciendo... y es super importante, es fundamental para poder identificar a la víctimas del registro que decíamos antes. De hecho, *mi tío abuelo es la vinculación que tengo con Cataluña es que mi tío abuelo se había casado en Manresa, desapareció durante la Guerra Civil... hace un año aproximadamente he conseguido gracias primero al trabajo de la Generalitat y luego de un historiador de Manresa, localizar donde murió... el municipio donde murió... en Artesa de Segre en Lleida... ehh cual fue su último oficio, la documentación y demás... todavía el cuerpo no ha llegado, pero por lo menos sé en que municipio falleció después de 10 años de investigación... ehh y la Generalitat nos ofreció hacerle las pruebas de ADN, las hemos hecho... todavía los resultados son pocas familias las que consiguen encontrar a sus familiares a través de las pruebas de ADN, pero son fundamentales y facilitar ese tipo de medios también es super importante.*

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ID_848: Puedo preguntarte ID_563, como funciona? O sea, una vez localizan una fosa, hacen lo que comentabas por ejemplo que habéis hecho en el pueblo donde resides no? Que es coger muestras de ADN, y luego solo si las familias saben que su familiar murió en esa localidad o en esa región se les hacen pruebas?

ID_563: No, puede ser anterior. Tú, proactivamente puedes... es decir yo... desde el momento que sé que tengo algún familiar desaparecido, las administraciones que admiten caso de Cataluña, Euskadi y Navarra es más fácil, yo sabía que había desaparecido en Cataluña por lo que fui directamente a la Generalitat. Primero, hacen la investigación documental de si existe algún rastro... o bueno de hecho ellos consultaron en unos 20 archivos sobre mi tío abuelo y luego toda esa documentación me la mandaron a mí. Para mí eso fue super gratificante... y luego ellos te ofrecen si quieres hacerte la prueba de ADN para que esté en un banco, según vayan abriendo las fosas y haciendo las pruebas de ADN, mezclan los datos que ellos tienen, los que tú ya has dado con los que van saliendo de las fosas y si hay coincidencia pues te llaman. Te dicen que es muy difícil que haya coincidencia, creo que está en un 1% o así... pero sobre todo porque hay miles y miles de cuerpos todavía bajo tierra, que si se abrieran y se hicieran masivamente esa cantidad aumentaría y muchas familias seguramente se animarían mucho más a hacerse las pruebas de ADN que es super sencillo. Ellos te mandan un kit por correo a casa, es lo que estamos viendo ahora con los PCR del coronavirus, un palito que tienes que chuparlo... de hecho el familiar más próximo era mi padre que está con una demencia... que el ya no puede hablar pero le hice la consulta y no había ningún problema en que pudiera hacerlo. Es el palo de un helado, él tenía que chuparlo durante 15 segundos, y le puse para que lo chupara y luego un bastoncito que hay que meterle en la nariz para recoger una muestra en los tubos que ellos te mandan, y volver a mandarlo por correo. Super sencillo, es barato, es una prueba relativamente barata... pero que mucha gente no sabe que se puede hacer y el promover esto sería también muy importante para ampliar esos registros, para identificar a víctimas y demás no? Y en este momento, que yo sepa solo Euskadi, Navarra y Cataluña ofrecen esa posibilidad.

MOD: Bueno, para acabar un poco esto de los diferentes tipos de reparaciones... finalmente quizá pensamos un poco en los museos de memoria y centros de documentación. Algo así... a nivel estatal digamos o central de España no hay, ya puedo decirlo. En Cataluña por ejemplo hay el memorial democràtic, en Barcelona, esto como ejemplo. Pero en muchos otros países como seguro sabéis, hay unos museos enormes... en Chile hay un museo enorme de la memoria histórica sobre la dictadura..., en Alemania hay un montón de museos que están financiados por el estado y que el gobierno lo ha organizado y lo ha puesto en marcha este centro o este museo, y que opináis sobre esto?

ID_884: Bueno, yo creo que es básico y haría falta y muy triste que no haya esto. Que vayamos a otros países a ver estas cosas y aquí no lo tengamos... y lo más triste aún es que si el gobierno actual que es de izquierdas lo hiciese... toda la oposición se negaría. Entonces, creo que es algo que tiene que ser super consensuado y visto normalizado por toda la población, y lo que me crea más pena es que no se ve así. Que en España no lo veamos así... y sigamos divididos en este tema. Entonces, me parece básico... es que tendría que haber.

ID_563: Sí, para mí también es fundamental. Esto junto con introducir el tema en el currículum escolar para mí es de lo más necesario. Y además creo que habría que hacer un gran centro, museo o como quieras llamarlo a nivel de estado, pero que luego también tendría que haber más a nivel de cada territorio o espacios de memoria. Por ejemplo en Pamplona, hay un gran fuerte en el que se dió una de las mayores fugas de prisioneros... que además la mayoría de ellos luego fueron fusilados... que pertenece al Ministerio de Defensa. Una y otra vez, desde movimientos, familiares de víctimas, el gobierno de Navarra... han exigido que se convierta este fuerte, que además naturalísticamente es muy bonito, que se convierta como centro de memoria... y el Ministerio de Defensa lo tiene cerrado a cal y canto y no lo cede para ese uso... es decir, es que solo con cederlo... el gobierno de Navarra estaría dispuesto a construir ahí un memorial no? Y que pueda conocerse lo que sucedió y poner caras a esas víctimas no? Que es fundamental, es muy necesario.

ID_848: Sí, a mí, super de acuerdo con todo lo que habéis dicho. Quizá, a medida que lo voy pensando voy decantándome más por lo que hemos hablado al principio para finalmente demoler totalmente el Valle de los Caídos, y pienso que es super importante como sentir... quizá vale, como un museo, un memorial central es importante... pero me parece super interesante esto de llevarlo a cada territorio para que realmente sea algo cercano, no algo que queda allí, que pasó... y que hay un museo no se donde. Y relacionado con esto también... desarrollando más, me pone un poco en plan atención el tema... porque me parece que podría ser una manera muy fácil de limpiarse las manos, decir que se ha hecho un museo o un memorial y ya está. O sea, me parece que tiene que estar super claro que es importante, pero debe de ir acompañado de otras cosas que desde mi punto de vista son mucho más importantes, como todo lo que [ID_563] estaba contando. Creo que es de las cosas más importantes encontrar a... desenterrar los cuerpos y devolverlos a sus familias eso es que me parece... que es lo que se tiene que hacer, y todo lo otro son cosas que pueden acompañar y mejorar, que de hecho es el principal. No sé, lo digo porque no tengo mucha fe en el país que vivimos sinceramente... son de decir hemos hecho esto y ya está.

ID_884: Somos de limpiarnos las manos... Sí, yo quería añadir que... no sé si es una pregunta para después pero el tema de integrar en el currículum escolar no sé si lo vas a preguntar o...

MOD: No, adelante.

ID_884: No, es que me parece a modo de contar mi experiencia... es que me parece básico y se tendría que contar bien contado. Que se explica un poco el tema pero por encima... y yo aquí en Cataluña hacemos... que no sé si se hace ahora eh? Pero para acabar 2º de Bachillerato se hace un trabajo que se llama "Treball de recerca", que es rollo como el final del grado

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o del máster. *Y yo lo hice sobre... bueno se llamaba los españoles y catalanes en los campos nazis. Pero yo esta historia la descubrí porque en literatura catalana nos hicieron leer el libro de Primo Levis... porque yo fui a literatura catalana, si no no se explica esto. Mis amigas lo saben porque soy muy pesada con el tema y lo fui cuando hice el trabajo... pero yo cuando leí ese libro y luego cuando empecé a leer mucho sobre todos los españoles de la resistencia en Francia... todo lo que habían hecho en los campos, sobre todo en Mauthausen... me parecía como imposible que nos lo estuvieran como escondiendo, porque al final me parece, que pasa? Porqué no se cuenta? Porqué se pasa todo tan por encima? O al menos cuando yo hice la ESO y Bachillerato. Y me parece hasta un insulto a la memoria de esta gente.*

ID_848: Yo quizá no tengo esta percepción, pero todo acaba siendo por una percepción muy personal del profesor que te toque o... no sé. No sé como de significativo es lo que cuentas o como de significativa ha sido mi experiencia, sinceramente. Esta claro que algo falla, porque sino no tendríamos la situación que tenemos ahora políticamente no? No tendríamos Vox en el congreso de los Diputados con 54 diputados, o sea esta claro que algo está pasando y algo está mal.

ID_563: Sí, pero para mí es fundamental que cuando se da Historia de España en cualquier escuela eh... se cuente lo que ocurrió. Y coges los libros de texto y muchos de ellos son... bueno, es una vergüenza lo que se cuenta y como se cuenta. Y hay material muy bueno a su vez... sobretodo los últimos años se han publicado muchos documentales, audiovisuales, películas, libros... que pueden facilitar mucho ese aprendizaje... pero hay que sensibilizar mucho al profesorado, hay que generar materiales educativos y orientados al alumnado de diferentes niveles... y tiene que estar presente. Pero, igual como la cuestión de género si lo metes en el currículum se monta tal follón... lo último sería que hubiese un consenso, pero precisamente en educación tampoco somos un país... que como decían antes... no confío mucho para este tipo de cosas, pues por desgracia seguiremos en la misma línea no? Y al final, pues de lo que cultivas, pues recoges no?

MOD: Y si pensamos un poco más allá? Yo creo que lo has mencionado ya un poco antes en el tema de la cultura... que papel podría jugar no? La cultura, las obras de artes, las películas... cosas así un poco de desarrollo comunitario... quizás hay algunas ideas más sobre eso...

ID_563: Bueno, ahí algo se ha hecho pero... normalmente a nivel muy... iniciativas más particulares o privadas no? Hay desde obras de teatro, películas, libros de literatura... novelas... pero bueno no creo si ahí tiene que entrar ya la administración, en apoyar y ayudar el fomento e... yo quizá ahí conozca mucho más la cultura vasca... y ahí si que ha habido muchas obras en euskera, desde recuperación de canciones populares que hablan de la guerra ehm... recuperación de textos, se han generado muchos espectáculos de danza, de teatro y tal... y bueno yo creo que es una herramienta muy útil y muy apta para dar a conocer lo que sucedió no? Y para divulgar, para educar y para hacer pedagogía. Para mí es algo que ayuda mucho, y que quizá es más fácil llegar a otros públicos a través de esos lenguajes. Y me consta que en Cataluña si que ha habido... seguramente sean los dos territorios, y no es casualidad... que más se haya trabajado este tema.

ID_848: Lo que me viene a la mente es no sé... seguro que vosotros conocéis más que yo pero cuando Patricia ha hecho la pregunta inicialmente me ha parecido como que quizá lo que yo conozco es muy... extremo o muy estereotipado, como muy centrado en escribo un libro sobre la Guerra Civil, o escribo un libro centrado en el franquismo o una obra de arte tal... y me estaba a medida que ibas hablando [ID_563], como pensando el potencial que podría tener el arte para ayudar a hacer esta transición o hablar de como todo lo que pasó está afectando aún a nuestra sociedad... y yo es algo que no conozco que se esté produciendo... pero no sé quizá está pasando y yo lo ignoro totalmente.

ID_563: O quizá no se le está dando la difusión que merece o... no está en los principales circuitos no? Quizá en el entorno que me muevo yo... la cultura vasca ha encontrado un hueco, pero a nivel estatal en el animalario con Alberto San Juan y Willy Toledo ese equipo se ha... de los pocos que se ha llenado en el teatro, en el cine si que hemos conocido más películas relacionadas con el tema... y en literatura pues Almudena Grandes o Dulce Chacón... hay algunos autores pero si que es verdad que no se les da muchas veces mucho bombo ni son los best-sellers más conocidos no? Pero bueno, yo si que diría en eso los últimos 10-15 años la producción ha sido bastante significativa, otra cosa es como se promociona.

ID_884: Bueno, creo que has dicho una cosa muy interesante [ID_848], que es si que los libros de Almudena Grande si que lo has dicho, explican que están basados en esa época, o post o durante... pero es verdad que no hay nada de como está afectando ahora. Y es un poco explicar un cuento, una historia un poco fantasía, pero no hay nada de lo que hay afectado ahora y lo que decías es verdad [ID_563], que yo creo que en el tema de cultura quizá es donde hay más libros... Julia Navarro también ha escrito algunos, hay bastantes. Pero eso al final, si a ti te interesa el tema te los lees, o te los hacen leer en la escuela, pero es muy a nivel personal y privado. Ya está, no hay nada más ahí.

ID_848: No sé, es que me pregunto incluso... nadie ha intentado a través de un proyecto de arte... juntar a alguien que ahora está defendiendo los valores de Vox volver a... no sé al Valle de los Caídos con alguien que claramente fue una víctima y ver no sé... que cada uno se exprese... e intercambien sus obras, no sé.. o que escriban un diario o sus obras no sé... seguro que a alguien se le ha ocurrido, o incluso alguien lo ha hecho y no tengo ni idea y me estoy rallando porque no tengo ni idea...

MOD: Sí, seguramente de esto podría haber ideas... bueno, sí yo creo que también es una cosa... la información pública en esto, porque los medios juegan un papel clave, si no se publican estas cosas no se entera nadie...

ID_563: Y los medios no están muy por la labor...

ID_848: Es mejor saber que Nacho Vidal ha sido detenido que muchas otras cosas...

MOD: Sí bueno, mirando la hora creo que pasamos a la última pregunta. Y esto sería, en general de lo que sepáis, de vuestro

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conocimiento, lo que ha hecho el Estado español hasta ahora en el plan de reparaciones lo apoyáis? U os oponéis a lo que se ha hecho, y porque?

ID_848: Solo hay estas dos opciones? O apoyáis u os oponéis?

MOD: Bueno, también hay como gris no?

ID_563: Yo no me opongo pero creo que por un lado la ley de memoria histórica se quedó corta y su implementación aún más corta. Por lo que yo exigiría que fuera mucho lejos, mucho más osado y que fuera sobretodo mucho más proactivo, porque con la aprobación de la ley se permite, se da acceso... pero no, tiene que ser en este caso el estado el que ayude en esa reconciliación, en ese reconocimiento, el que debería estar abriendo fosas comunes... que es mucho más barato que construir cualquier autopista. Que hubiera... por que no puede haber diez equipos del Gobierno abriendo fosas comunes todos los días y que al cabo del año se abrieran... creo que son 5000 las fosas que quedan identificadas sin abrir, más todas las que habrá sin identificar... y si consiguiéramos abrir 500 al año pues por lo menos si en diez años abrimos las 5000... yo creo que hay que exigirle al gobierno que sea mucho más proactivo, que no sea solo dar permiso sino que sea él quien tome la iniciativa.

ID_884: Y yo también no me opongo pero... un poco en la misma línea. Creo que la ley de memoria histórica fue en 2006 o así... creo que en su momento para hacerlo estaba bien para empezar, pero luego no se ha dado dinero ni nada... si no me equivoco, que lo leí... pero a veces tampoco me fío de lo que leo en las noticias... Rajoy le quitó todo el tema de la subvención, así que es una ley que está ahí sin dinero ni nada... así que hay que bueno... en su momento estuvo bien pero hay que... habrán pasado ya 15 años y hay que avanzar bastante, darle otra vuelta, poner dinero y dar un paso más hacia delante.

ID_848: Sí bueno, yo no puedo aportar nada más. Siento incluso que yo no tenía ni idea de que año era la ley, no sé ni que dice la ley... o sea lo digo con sinceridad, no tengo ni idea. Pero claramente si pienso que conozco, que se ha hecho... veo que no se ha hecho suficiente, por eso al principio preguntaba solo hay estas dos opciones? Me opongo o justifico... me quedo un poco...

MOD: Bueno, yo creo que si no hay ningún otro comentario que queréis compartir de vuestra parte... es la hora. Es que ha pasado rápido no? Porque alguien al principio me preguntó que en una hora y media de que vamos a hablar no? Al final pasa super rápido y agradezco mucho vuestro tiempo y creo que ha sido una conversación fluida y he sacado bastantes cosas interesante. Ideas vuestras, opiniones... y bueno si estáis interesados cuando un día lo acabo esto... os puedo mandar la tesis si os interesa y si tenéis algunas preguntas seguimos en contacto así que...

ID_563: Bueno, gracias por el trabajo que estas haciendo y para mí ha sido un placer.

ID_884: Sí, para mi también muy interesante.

ID_848: Sí, muchas gracias a Patricia y también a [ID_563] y a [ID_884] que he aprendido un montón en una hora así que muchas gracias.

ID_884: Yo también, han sido muy interesantes las aportaciones.

Focus Group II – Email Participation: Participant ID 198

Written text

I) ¿Cree usted que en general deberían haber reparaciones para las víctimas del Régimen Franquista?

Respuesta ID_198:

A la primera cuestión es un poco complicado responder porque han pasado más de ochenta años desde el inicio del golpe de estado y más de cuarenta años desde el fin de la dictadura con la muerte del dictador. Hay dos tipos de reparaciones: Morales y económicas. Morales, indudablemente sí, porque los que defendieron al legítimo gobierno de la república merecen que se les devuelva su dignidad, que nunca perdieron, mediante un reconocimiento a nivel de estado. Los que lucharon por recuperar las libertades una vez instaurada la dictadura se encuentran en la misma situación y merecen ese reconocimiento público. En definitiva políticas públicas de memoria democrática. Las reparaciones económicas es un poco más complicado por el tiempo transcurrido, aunque algo se ha hecho en estos años de democracia, pero no lo suficiente.

II) ¿Cree usted que las medidas siguientes serían adecuadas para reparar las víctimas en España?

- pagas y pensiones
- restitución de bienes y terrenos y derechos políticos y civiles
- atención médica y asistencia psicológica gratuita
- educación gratuita y becas para los descendientes de las víctimas
- reconocimiento como víctima (p.ej. en un registro), conmemoración y disculpas públicas
- búsqueda de personas y exhumaciones (como tarea del estado)
- retiro de símbolos y cambio de nombres de calles o plazas
- monumentos, memoriales y lugares de memoria

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- museos de memoria y centros de documentación
- programas de desarrollo comunitario, obras culturales de memoria (p.ej. teatro, películas etc.)

Respuesta ID_198:

Sobre el listado de medidas a considerar como adecuadas para reparar a las víctimas del franquismo considero que por el tiempo transcurrido las cuatro primeras medidas no tienen mucho sentido. Estas medidas debieron implementarse con la conquista de la democracia, que como he dicho anteriormente algo se hizo. En todo caso, en lo que hace referencia a la restitución de bienes y terrenos se podría habilitar algún tipo de indemnización. Ya se hizo con el patrimonio sindical en parte porque creo que el sindicato anarquista quedó al margen de estas restituciones. Por lo que hace referencia al resto del listado sigue estando vigente su implementación y es una deuda que los demócratas de este país deberíamos tener con los que sufrieron sistemáticamente la violación de los derechos humanos.

III) En general, ¿diría que apoya o se opone a las leyes, iniciativas y medidas de reparaciones implementadas en España y por qué?

Respuesta ID_198:

Con respeto al tercer punto, apoyo y, además activamente, las leyes, iniciativas y programas de reparaciones adoptadas en mi país, aunque queda mucho por hacer a este respecto. El problema es que la derecha no entiende que este tema no es una cuestión de derechas o izquierdas, sino de auténtica justicia democrática y que está contenida en lo que se llama justicia transicional y el derecho que tienen las víctimas del franquismo a la verdad, justicia, reparación y garantía de no repetición.

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APPENDIX F Coding Frame

Coding Frame - Focus Groups

“Opinions, attitudes and perceptions towards reparations for victims of human rights violations occurred during the Franco Regime in Spain”

Question	Answer	Code
Content #1 Opinions on the idea of providing reparations to victims of Francoism		
Q1. Do you believe in general there should be reparations for the victims of the Franco Regime?	+	11
	+/-	12
	-	13
	other	14
Q1.2 Reparations should be for whom, who are the victims?	Republicans	15
	Francoists	16
	both	17
	none	18
	direct	19
	indirect	120
	other	121
Q1.3 How would you respond if someone is saying: “pardon not repair”	+	122
	+/-	123
	-	124
	other	125
Content #2 Opinions on different types of reparations		
Q2. Do you think the following measures are adequate to repair the victims in Spain?		
Q2.1 payments and pensions	+	21
	+/-	22
	-	23
	other	24
Q2.2 restitution of property and land / rehabilitation of civil and political rights	+	25
	+/-	26
	-	27
	other	28
Q2.3 free health care and psychological assistance	+	29
	+/-	210
	-	211
	other	212
Q2.4 free education and scholarships for victims' ancestors	+	213
	+/-	214
	-	215
	other	216
Q2.5 acknowledgement of victim status, commemoration and public apologies	+	217
	+/-	218
	-	219

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	other	220
Q2.6 search for disappeared and exhumations	+	221
	+/-	222
	-	223
	other	224
Q2.7 removal of symbols and renaming streets and public spaces	+	225
	+/-	226
	-	227
	other	228
Q2.8 monuments, memorials and places of memory	+	229
	+/-	230
	-	231
	other	232
Q2.9 museums and documentation centres	+	233
	+/-	234
	-	235
	other	236
Q2.10 community development programmes and cultural memory work	+	237
	+/-	238
	-	239
	other	240
Q2.11 other type	+	241
	+/-	242
	-	243
	other	244
Content #3 Opinions on the implementation of reparations		
Q3. Overall, would you say that you support or oppose the reparations laws, initiatives and measures implemented in Spain and why?	+	31
	+/-	32
	-	33
	other	34
Q3.1 What role do public information and the media play in the implementation process of the measures?	+	310
	+/-	311
	-	312
	other	313

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APPENDIX G Coding Focus Group Transcripts

Coding – Focus Group I

Question	Answer	Code	Count
Content #1 Opinions on the idea of providing reparations to victims of Francoism			
Q1. <i>Do you believe in general there should be reparations for the victims of the Franco Regime?</i>	+	11	19
	+/-	12	3
	-	13	13
	other	14	12
Q1.2 <i>Reparations should be for whom, who are the victims?</i>	Republicans (+)	15	4
	Francoists (+)	16	(3 -)
	Both	17	1
	None	18	0
	direct	19	6
	indirect	120	8
	other	121	3
Q1.3 <i>How would you respond if someone is saying: “pardon not repair”?</i> [NOT ASKED]	+	122	0
	+/-	123	0
	-	124	0
	other	125	0
Content #2 Opinions on different types of reparations			
Q2. Do you think the following measures are adequate to repair the victims in Spain?			
Q2.1 payments and pensions	+	21	4
	+/-	22	2
	-	23	5
	other	24	5
Q2.2 restitution of property and land / rehabilitation of civil and political rights	+	25	5
	+/-	26	3
	-	27	1
	other	28	4
Q2.3 health care and medical assistance	+	29	0
	+/-	210	1
	-	211	0
	other	212	1
Q2.4 free education and scholarships for victims' ancestors [NOT ASKED]	+	213	0
	+/-	214	0
	-	215	0
	other	216	0
Q2.5 acknowledgement of victim status, commemoration and public apologies	+	217	9
	+/-	218	0
	-	219	1
	other	220	13

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Q2.6 search for disappeared and exhumations	+	221	8
	+/-	222	0
	-	223	3
	other	224	3
Q2.7 removal of symbols and renaming streets and public spaces	+	225	1
	+/-	226	0
	-	227	0
	other	228	1
Q2.8 monuments, memorials and places of memory	+	229	4
	+/-	230	1
	-	231	1
	other	232	5
Q2.9 museums and documentation centres	+	233	9
	+/-	234	1
	-	235	1
	other	236	2
Q2.10 community development programmes and cultural memory work [NOT ASKED]	+	237	0
	+/-	238	0
	-	239	0
	other	240	0
Q2.11 other type	+	241	33
	+/-	242	0
	-	243	0
	other	244	2
Content #3 Opinions on the implementation of reparations			
Q3. <i>Overall, would you say that you support or oppose the reparations laws, initiatives and measures implemented in Spain and why?</i>	+	31	0
	+/-	32	1
	-	33	7
	other	34	11
Q3.1 <i>What role do public information and the media play in the implementation process of the measures?</i> [NOT ASKED]	+	310	0
	+/-	311	0
	-	312	0
	other	313	0

Coding – Focus Group II

Question	Answer	Code	Count
Content #1 Opinions on the idea of providing reparations to victims of Francoism			
Q1. <i>Do you believe in general there should be reparations for the victims of the Franco Regime?</i>	+	11	7
	+/-	12	1
	-	13	0

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	other	14	6
Q1.2 <i>Reparations should be for whom, who are the victims?</i>	Republicans (+)	15	6
	Francoists (+)	16	0
	Both	17	1
	None	18	0
	direct	19	2
	indirect	120	0
	other	121	3
Q1.3 <i>How would you respond if someone is saying: "pardon not repair"?</i>	+	122	0
	+/-	123	1
	-	124	4
	other	125	4
Content #2 Opinions on different types of reparations Q2. Do you think the following measures are adequate to repair the victims in Spain?			
Q2.1 payments and pensions	+	21	2
	+/-	22	6
	-	23	5
	other	24	4
Q2.2 restitution of property and land / rehabilitation of civil and political rights	+	25	9
	+/-	26	0
	-	27	0
	other	28	8
Q2.3 health care and medical assistance	+	29	3
	+/-	210	0
	-	211	3
	other	212	4
Q2.4 free education and scholarships for victims' ancestors	+	213	3
	+/-	214	3
	-	215	4
	other	216	2
Q2.5 acknowledgement of victim status, commemoration and public apologies	+	217	12
	+/-	218	0
	-	219	0
	other	220	10
Q2.6 search for disappeared and exhumations	+	221	5
	+/-	222	0
	-	223	0
	other	224	5
Q2.7 removal of symbols and renaming streets and public spaces	+	225	1
	+/-	226	2
	-	227	0
	other	228	2

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Q2.8 monuments, memorials and places of memory	+	229	1
	+/-	230	0
	-	231	0
	other	232	0
Q2.9 museums and documentation centres	+	233	5
	+/-	234	1
	-	235	0
	other	236	5
Q2.10 community development programmes and cultural memory work	+	237	4
	+/-	238	2
	-	239	1
	other	240	5
Q2.11 other type	+	241	11
	+/-	242	0
	-	243	0
	other	244	4
Content #3 Opinions on the implementation of reparations			
Q3. <i>Overall, would you say that you support or oppose the reparations laws, initiatives and measures implemented in Spain and why?</i>	+	31	0
	+/-	32	3
	-	33	1
	other	34	5
Q3.1 <i>What role do public information and the media play in the implementation process of the measures?</i>	+	310	0
	+/-	311	0
	-	312	2
	other	313	0