

ORIGINAL ARTICLE

INTERNATIONAL LEGAL THEORY

Social memory and the impact of commemorative remedies ordered by the Inter-American Court of Human Rights

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Abstract

Social memory studies start from the premise that people acquire their memories not only through individual means, but through social processes as well. Social groups often provide materials for memory, and prod individuals into recalling particular events. One of the distinctive differences between the practice of the Inter-American Court of Human Rights (IACtHR) and the European Court of Human Rights (ECtHR) concerns memory-related remedies. While the IACtHR quite frequently orders respondent states to commemorate grave violations of human rights (including the construction of monuments), the ECtHR has refrained from granting such commemorative remedies. Some organizations representing victims have called upon additional tribunals to embrace the IACtHR's remedial approach to address grave breaches of international law. Drawing on social memory scholarship, this study is aimed at empirically assessing the impact of four sites of memory in Colombia established by order of the IACtHR. The study's findings suggest that international tribunals alone cannot shape collective memories that are inconsistent with sociocultural features characterizing the local society. On the other hand, judicially-ordered sites of memory are meaningful for the victims' families and small-scale social units. These findings turn our attention to micro-level sociological perspectives, and particularly to the symbolic-interactionist approach to international law, highlighting the vital symbolic role of international tribunals for individuals and small social units. The valuable role of such memorial sites for the victims' relatives and related communities suggests that international tribunals addressing grave human rights violations should consider granting commemorative remedies.

Keywords: collective memory, international law; Inter-American Court of Human Rights; international human rights law; international tribunals; sociology of law

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1. Introduction

Social memory studies start from the premise that people acquire their memories not only through individual means, but through social processes as well. International tribunals are occasionally involved in the construction of collective memories and some tribunals directly aim at influencing memories of past events. Judicial commemorative remedies regarding grave violations of human rights are considered innovative,¹ and are not granted by most international tribunals.² One of the distinctive differences between the practice of the IACtHR and the ECtHR concerns memory-related remedies. While the IACtHR quite frequently orders respondent states to commemorate grave violations of human rights (including the establishment of monuments), the ECtHR has refrained from granting such commemorative remedies. Some organizations representing victims³ and scholars⁴ have called upon additional tribunals to embrace the IACtHR's remedial approach to address grave violations of international law. Drawing on social memory scholarship, this study aims at assessing the impact of four judicially-ordered sites of memory located in Colombia and explaining variations between their effects. An analysis of the findings of this study provides some initial indications concerning the limits and potential role of international tribunals⁵ in the field of social memory.

The establishment of memorial sites ordered by the IACtHR is designed to attain two major objectives: preserving the memory of the particular human rights violation (in order to avoid the repetition of such acts), and providing symbolic relief to the victims' families. To assess if, and to what extent, these objectives are realized, the research work included 168 personal interviews with people present at four sites of memory (located in Bogotá, San Gil, Bucaramanga, and Medellín), in-depth interviews with seventeen of the victims' relatives, and a survey of articles published in five major mass media outlets in Colombia. The findings indicate that the impact of these memorial sites on the Colombian collective memory and memory of people in physical proximity to memorial objects is generally limited. On the other hand, it is clear that these judicially-ordered sites of memory are meaningful for almost all victims' relatives and small-scale communities (local and professional communities). The restricted impact of these memorial sites on people present in their vicinity, and the varying memory rates detected in different locations, are explained by the sociocultural factors prevailing in Colombian society at large (prominently a culture of political violence) and certain features characterizing the respective small-scale communities (notably, dense social fabric and professional identity).

Although the research work focuses on the impact of four judicially ordered sites of memory in Colombia, an analysis of its findings can generate preliminary suggestions for other international tribunals. The discussion below underlines the limits of international tribunals in the sphere of social memory, suggesting that tribunals alone should not be expected to shape collective memories that are inconsistent with sociocultural features characterizing local societies. The findings also indicate that such memorial sites are of vital importance for the victims' relatives who often carry the heaviest burden of grave human rights violations involving death or forced

¹See, e.g., D. Shelton, 'Human Rights, Remedies', in R. Wolfrum (ed.), *Max Planck Encyclopaedia of Public International Law* (2006), para. 25; L. C. Chavez, 'New Remedial Responses in the Practice of Regional Human Rights Courts: Purposes beyond Compensation', (2017) 15 *International Journal of Constitutional Law* 372, at 388.

²But see the case law of the Extraordinary Chambers in the Courts of Cambodia (ECCC) that follows the approach adopted by the IACtHR (discussed below); *Case 001/18-07-2007-ECCC/SC*, Appeal Judgment of 3 February 2012, [2012] ECCC 1, at 304, paras. 683, 691; *Case 002/02*, Judgment of 16 November 2018, [2018] ECCC 1, at 2227, paras. 4461–4462.

³See, e.g., *The Prosecutor v. Jean-Pierre Bemba Gombo*, Public Document Submission by QUB Human Rights Centre on reparations issues pursuant to Article 75 of the Statute, ICC-01/05-01/08-3444, ICC Trial Chamber III, 17 October 2016, paras. 42, 47. See also *Case 001/18-07-2007-ECCC/SC*, *ibid.*, paras. 681, 710.

⁴See, e.g., F. Mégret, 'Of Shrines, Memorials and Museums', (2010) 16 *Buffalo Human Rights Review* 1, at 33 et seq.

⁵For a general discussion on the effectiveness of international courts see Y. Shany, 'Assessing the Effectiveness of International Courts', (2012) 106 *American Journal of International Law* 225.

disappearance. These findings suggest that tribunals should prefer the construction of memorial objects adapted to the emotional and cultural needs of the particular families (e.g., concerning religious features of the memorial sites). The significant meaning attached by small local communities and professional groups to sites of memory suggests that tribunals should prioritize memorial objects that are adapted to the special sociocultural features of such small-scale communities. Judicially ordered sites of memory cannot alone construct collective memories but, if carefully adapted to the sociocultural features of the families and related communities, they are more likely to provide significant relief for the victims' relatives and contribute to keeping the victims' memory alive. As elaborated below, these findings turn our attention to the micro-level sociological perspective, and particularly to the symbolic-interactionist approach to social memory.

Section 2 introduces the social dimension of human memory and concisely exposes some central concepts discussed in this literature; primarily 'collected memory', 'collective memory', and 'sites of memory'. Section 3 briefly discusses the practice of the IACtHR regarding commemorative remedies and their principal objectives. Section 4 presents the basic facts of the three judgments of the IACtHR (Case of the *Rochela Massacre*, Case of the *Nineteen Merchants*, and Case of *Valle Jaramillo*), as well as a depiction of the four sites of memory ordered by the Inter-American Court in those three judgments. Section 5 presents the main findings of the personal interviews and a survey of the mass media in Colombia. Section 6 explains the above findings, mainly concerning the limited impact of the judicially ordered sites of memory on people present in close proximity to the memorial objects, variations between the memory rates detected in the different locations, and the significant role of those sites for the victims' families. Section 7 highlights the limits of international tribunals in the field of social memory, the influence of sites of memory on families and small-scale communities, and offers preliminary suggestions for international tribunals active in this field. Section 8 concludes.

2. The social dimension of memory

Social memory studies⁶ highlight the social dimension of human memory. This scholarship starts from the premise that people normally acquire their memories not only through individual means, but through social processes as well.⁷ Social groups often provide materials for memory, and prod individuals into recalling particular events. Groups can produce memories of events that individuals have not directly experienced.⁸ It is noteworthy that the social study of memory does not imply that people's recollections are unaffected by personal factors, but rather highlights the social factors which influence memory (both individual and collective), emphasizing that what we remember includes more than what we have experienced personally.⁹ Remembering and forgetting are closely interlinked,¹⁰ and while some past occurrences enjoy multiple public

⁶J. K. Olick and J. Robbins define 'social memory studies' as the 'general rubric for inquiry into the varieties of forms through which we are shaped by the past, conscious and unconscious, public and private, material and communicative, consensual and challenged': J. K. Olick and J. Robbins, 'Social Memory Studies: From "Collective Memory" to the Historical Sociology of Mnemonic Practices', (1998) 24 *Annual Review of Sociology* 105, at 112.

⁷See, e.g., M. Halbwachs, *On Collective Memory* (1992), at 38.

⁸See Olick and Robbins, *supra* note 6, at 106; E. Zerubavel, 'Social Memories: Steps to a Sociology of the Past', (1996) 19 *Qualitative Sociology* 283, at 283, 286. J. K. Olick, 'Collective Memory', in A. Darity Jr. (ed.), *International Encyclopedia of the Social Sciences* (2008), 7–8.

⁹See Zerubavel, *ibid.*, at 289. See also R. Poole, 'Memory, History and the Claims of the Past', (2008) 1 *Memory Studies* 149, at 152.

¹⁰On the dynamics of remembering and forgetting see, e.g., A. Assmann, 'Canon and Archive', in A. Erll and A. Nünning (eds.), *Cultural Memory Studies: An International and Interdisciplinary Handbook* (2008), 97, at 97–8. See also Y. Zerubavel, *Recovered Roots* (1995), at 8–9.

commemorations, others attract little attention or are subject to ‘collective amnesia’.¹¹ Historical narratives occasionally convey a moral message and provide some normative guidelines regarding the appropriate behaviour.¹² The social context (including the political culture) in which collective memories emerge, affects social memories and commemorative practices.¹³

Social memory literature introduces the distinction between two interrelated concepts of ‘collected memory’ and ‘collective memory’. The notion ‘collected memory’ emphasizes the *individualistic* aspects of human memory. Although this concept acknowledges the significant influence of social groups on individuals’ memories, the emphasis here is on the central role of individuals: ultimately, individuals remember events. From this perspective, collective memory is an aggregation of memories of a group of individuals.¹⁴ The concept of ‘collective memory’ underlines the *collectivist* and societal aspects of human memory – highlighting the role of socio-cultural symbols, mass media, social institutions and practices, and the ways they shape shared accounts of the past.¹⁵ From this perspective, a group’s memory is qualitatively different from an aggregation of individuals’ memories. Collective memory involves the integration of various personal memories into a single common past; it is constructed via social processes (such as socialization or social control), and often expressed in collective narratives.¹⁶ Collective memories have an integrative influence that transcends individuals and confers on groups a sense of purpose and duty.¹⁷ Shared memories are significantly involved in the formation of collective identity of various social groups (including nations, and local or professional groups). Collective memories are substantiated and transmitted through a wide array of practices of commemoration, such as items in the mass media, monuments, memorial days, diverse rituals, or courts’ proceedings.¹⁸

While the analytical distinction between the individualistic and collectivist concepts of social memory is significant for our understanding of social memory, they are often intertwined and cannot be separated in the real life of human memory. As to empirical work in this field, Olick concludes his well-known essay by reminding researchers of the importance of being open to the different forms of memory, and that ‘memory occurs in public and in private, at the tops of societies and at the bottoms, as reminiscence and as commemoration, as personal testimonial and as national narrative, and that each of these forms is important’.¹⁹

The concept of ‘*site of memory*’ (*lieu de mémoire*) was famously developed by Pierre Nora in the late twentieth century.²⁰ The concept significantly overlaps with the notions of collected and collective memory, but emphasizes some of their distinctive features. Sites of memory are locations that materialize concrete historical experience.²¹ For Nora, such places are ‘sites’ in three senses: material (such as archives); symbolic (like a veterans’ reunion); and functional (such as a classroom manual).²² Sites of memory constitute a point of reference not only for those who

¹¹See Zerubavel, *ibid.*, at 8.

¹²J. Assmann and J. Czaplicka, ‘Collective Memory and Cultural Identity’, (1995) 65 *New German Critique* 125, at 132; Poole, *supra* note 9, at 162; Zerubavel, *supra* note 8, at 6.

¹³V. Vinitzky-Seroussi, ‘Commemorating a Difficult Past: Yitzhak Rabin’s Memorial’, (2002) 67 *American Sociological Review* 30, at 45.

¹⁴J. K. Olick, ‘Collective Memory: The Two Cultures’, (1999) 17 *Sociological Theory* 333, at 338; A. Erll, *Memory in Culture* (2011), 97.

¹⁵Olick, *ibid.*, at 345.

¹⁶*Ibid.*, at 345–6, 341–2; Erll, *supra* note 14, at 98.

¹⁷J. K. Olick, V. Vinitzky-Seroussi and D. Levy, ‘Introduction’, in J. K. Olick, V. Vinitzky-Seroussi and D. Levy (eds.), *The Collective Memory Reader* (2011), 3, at 42.

¹⁸See Olick and Robbins, *supra* note 6; Vinitzky-Seroussi, *supra* note 13, at 51; B. A. Mistzal, *Theories of Social Remembering* (2003), 19–20.

¹⁹See Olick, *supra* note 14, at 346.

²⁰P. Nora, ‘Between Memory and History: Les Lieux de Mémoire’, (1989) 26 *Representations* 7.

²¹*Ibid.*, at 12–14, 18–19. See also Erll, *supra* note 14, at 23–4.

²²See Nora, *ibid.*, at 18–19.

experienced traumatic past events but also for those born long after them.²³ Such sites create a 'sense of historical continuance'²⁴ and an illusion of eternity.²⁵ As Nora stated: 'the most fundamental purpose of the lieu de mémoire is to stop time, to block the work of forgetting . . . to immortalize death, to materialize the immaterial'.²⁶ Interactions between social memory and sites of memory are often characterized by inverse logic: memorial sites originate from a sense that memory is not spontaneous, and without deliberately establishing such sites the accelerated pace of events will swipe memories away. Thus, where there is no anxiety concerning oblivion, there is no need to establish sites of memory.²⁷

Winter's scholarship underlines the nature of sites of memory as places where groups of people engage in public activities expressing collective shared knowledge of past events. A group of people convening at a memorial site inherits certain earlier meaning attached to the event and the particular site.²⁸ From this perspective, commemoration at memorial sites is an act arising out of a conviction shared by the community that the particular historical event is both significant and informed by a moral message; thus, sites of memory materialize a social message.²⁹

Equipped with these conceptual tools, this study explores the effects of judicially ordered sites of memory on both individuals' collected memory and societal collective memory.

3. The Inter-American Court, commemorative remedies and sites of memory

Law and social memory reciprocally interact, and diverse laws and legal institutions are occasionally involved in the construction of sites of memory.³⁰ International tribunals are occasionally involved in the construction of collective memories. For example, tribunals' archives often constitute a repository of knowledge that includes historical documents or witness testimonies. In some cases, tribunals' judgments present a detailed and influential historical narrative of past events.³¹ International tribunals may also aim at directly influencing memories of past events by granting unconventional remedies involving commemorative practices or the establishment of sites of memory. The IACtHR is the most active international tribunal in this sphere and it occasionally orders respondent states to commemorate grave violations of human rights and their victims.³²

²³J. Winter, 'Sites of Memory and the Shadow of War', in A. Erll, A. Nunning and S. B. Young (eds.), *A Companion to Cultural Memory Studies* (2010), 61, at 62; Nora, *supra* note 20, at 12.

²⁴See Nora, *ibid.*, at 7.

²⁵*Ibid.*, at 12.

²⁶*Ibid.*, at 19; see also Zerubavel, *supra* note 8, at 292. On constancy of place, locus of memories, and sense of permanence see E. Zerubavel, *Time Maps: Collective Memory and the Social Shape of the Past* (2003), at 41.

²⁷See Nora, *supra* note 20, at 12. See also Erll, *supra* note 14, at 23.

²⁸See Winter, *supra* note 23, at 61.

²⁹*Ibid.*, at 62. See also J. Winter, *Sites of Memory, Sites of Mourning: The Great War in European Cultural History* (2014), 113.

³⁰For a concise discussion of the interrelationships between law and collective memory (including sites of memory) see J. J. Savelsberg and R. D. King, 'Law and Collective Memory', (2007) 3 *Annual Review of Sociology* 89. On mutual interactions between international law and collective memory see M. Hirsch, *Invitation to the Sociology of International Law* (2015), at 46–88.

³¹M. Hirsch, 'The Role of International Tribunals in the Development of Historical Narratives', (2018) 20 *Journal of History of International Law* 391, at 402 et seq. See also B. Baade, 'Historical Truth Before the European Court of Human Rights', in H. P. Aust and E. Demir-Gürsel (eds.), *The European Court of Human Rights: Current Challenges in Historical Perspective* (2021), 221.

³²For a discussion on the IACtHR's commemorative remedies in the context of restorative justice see A. Huneeus, 'International Criminal Law by Other Means: The Quasi-Criminal Jurisdiction of the Human Rights Courts', (2013) 107 *American Journal of International Law* 1, at 23, 42 et seq.

The practice of the IACtHR: Unlike the reluctant attitude of the ECtHR³³ towards commemorative remedies, the IACtHR³⁴ is much more receptive³⁵ to requests ordering the respondent states to commemorate human rights violations and their victims.³⁶ Such judicial remedies embrace a variety of memory-related measures; for example, the Court ordered Guatemala (in the *Mack Chang* case) to create a scholarship in the victim's name;³⁷ directed Mexico (in the *Radilla-Pacheco* case) to prepare a 'bibliographical sketch' of the life of the victim;³⁸ and instructed El Salvador to film an audio-visual documentary on the facts and victims of the case (to be transmitted on a state TV channel with national coverage).³⁹ The Inter-American Court has also ordered some respondent governments to establish sites of memory; for example, the IACtHR directed Mexico (in the *Cotton Field* case) to erect a monument to commemorate the women victims of gender-based murder,⁴⁰ instructed Guatemala (in the *Rio Negro* case) to establish a museum,⁴¹ and (in the *Street Children* case) to dedicate an educational centre in the name of the young victims and to place there a plaque bearing the victims' names;⁴² as well as (in the *Diario Militar* case) to create a park or plaza to honour the memory of the victims.⁴³

The objectives of the IACtHR's commemorative remedies: An examination of the Inter-American Court's case law reveals that commemorative remedies aim to attain social objectives as well as providing relief to the individual⁴⁴ victims.⁴⁵ *The first objective* concerns the preservation of the memory of the particular human rights violation. The Court explained that adequate commemoration of grave human rights violations constitutes an instrument to combat oblivion

³³On the ECtHR's approach see, e.g., Schneider, *Reparation and Enforcement of Judgments: a Comparative Analysis of the European and Inter-American Human Rights Systems* (2015), 71, available at www.ssoar.info/ssoar/handle/document/45633?locale-attribute=en; Chavez, *supra* note 1, at 379 et seq.; G. Citroni, 'Measures of Reparation for Victims of Gross Human Rights Violations: Developments and Challenges in the Jurisprudence of Two Regional Human Rights Courts', (2012) 5 *Inter-American and European Human Rights Journal* 49, at 59–61.

³⁴On the evolution of the Inter-American Court's jurisprudence regarding commemorative remedies see M. C. Campisi, 'From a Duty to Remember to an Obligation to Memory? Memory as Reparation in the Jurisprudence of the Inter-American Court of Human Rights', (2014) 8(1) *International Journal of Conflict and Violence* 62, at 66.

³⁵For a perceptive socio-legal analysis of some differences between regional human rights courts (including the IACtHR and the ECtHR) see A. Huneeus and M. R. Madsen, 'Between Universalism and Regional Law and Politics: A Comparative History of the American, European and African Human Rights Systems', (2018) 16 *International Journal of Constitutional Law* 136.

³⁶On the practice of the IACtHR in this field see Campisi, *supra* note 34, at 64–8; A. Dulitzky, *Derechos Humanos en Latinoamérica y el Sistema Interamericano Modelos Para (Des) Armar* (2017), at 160 et seq; see also Huneeus, *supra* note 32, at 23, 42; Mégret, *supra* note 4, at 26–32.

³⁷*Case of Myrna Mack Chang v. Guatemala*, Merits, Reparations, and Costs, Judgment of 25 November 2003, [2003] IACtHR, 1, at 130, paras. 285–286. All IACtHR decisions are available at www.corteidh.or.cr/index.cfm?lang=en/jurisprudencia.

³⁸*Case of Radilla Pacheco v. Mexico*, Preliminary Objections, Merits, Reparations, and Costs, Judgment of 23 November 2009, [2009] IACtHR 1, at 99, para. 356.

³⁹See, e.g., *Case of Massacres of El Mozote and Nearby Places v. El Salvador*, Merits, Reparations, and Costs, Judgment of 25 October 2012, [2012] IACtHR 4, at 114, para. 365. See also *Case of Gudiel Álvarez et al. ("diario militar") v. Guatemala*, Merits, Reparations, and Costs, Judgment of 20 November 2012, [2012] IACtHR 1, at 117, para. 346.

⁴⁰*Case of González et al. ("Cotton Field") v. Mexico*, Preliminary Objection, Merits, Reparations, and Costs, Judgment of 16 November 2009, [2009] IACtHR 1, at 114, para. 471.

⁴¹*Case of Río Negro Massacres v. Guatemala*, Preliminary Objection, Merits, Reparations, and Costs, Judgment of 4 September 2012, [2012] IACtHR 1, at 95 et seq., paras. 279, 280.

⁴²*Case of "Street Children" (Villagran-Morales et al.) v. Guatemala*, Reparations and Costs, Judgment of 26 May 2001, [2001] IACtHR 1, at 44 et seq., paras. 103, 123(7).

⁴³See *Gudiel Álvarez v. Guatemala* case, *supra* note 39, para. 349.

⁴⁴For an insightful analysis of tribunals' remedies directed at the particular society (and the respondent state) or the victims see V. Fikfak, 'Non-Pecuniary Damages before the European Court of Human Rights: Forget the Victim; It's All About the State', (2020) 33 *Leiden Journal of International Law* 335, at 337 et seq. On the case law of the IACtHR and ECtHR in this sphere see, e.g., J. M. Pasqualucci, *The Practice and Procedure of The Inter-American Court of Human Rights* (2012), at 209–10.

⁴⁵Where the particular human rights violations result in the death or disappearance of the victim, the IACtHR often considers the victim's relatives as the injured parties. See Pasqualucci, *ibid.*, at 193.

and prevent the repetition of such violations.⁴⁶ In line with sociological literature concerning collective memories' normative guidelines,⁴⁷ the IACtHR explicated that the moral message conveyed by such memory-related measures 'will contribute to raising awareness in order to avoid the repetition of harmful acts such as those that occurred in the instant case',⁴⁸ and warn future generations of the need to combat impunity.⁴⁹ With regard to Colombia, the IACtHR explained, for example,⁵⁰ in the *Mapiripán Massacre* case that '[t]he State must build an appropriate and dignified monument in remembrance of the facts in the *Mapiripán Massacre*, as a measure to prevent such grave events happening in the future'.⁵¹ This objective of sites of memory concerns people encountering the particular sites (thus more associated with 'collected memory') as well as the society at large (thus more associated with 'collective memory').⁵²

The second objective of commemorated remedies ordered by the IACtHR concerns the victims' relatives. Commemorating the deceased victims may provide the victims' families with a meaningful remedy, notably creating dignified places where the relatives can mourn and find some consolation.⁵³ Establishing sites of mourning and remembering is particularly important in cases of forced disappearance. As the IACtHR noted in the *19 Merchants v. Colombia* case:

... Sister of the victim, Luis Domingo Sauza Suárez, asked that, if it were not possible to deliver the remains of Luis Domingo in order to bury him, at least "a plaque or a monument" should be created to recall the disappeared.⁵⁴

The following section briefly presents the three judgments against Colombia and the four respective sites of memory ordered by the Inter-American Court.

4. Judicially ordered sites of memory in Colombia

4.1 The Inter-American Court's judgments and sites of memory

Thirty-two judgments were rendered by the IACtHR against Colombia during the period of 1995 to 2018 and they refer to 19 cases of human rights violations.⁵⁵ These decisions involve diverse

⁴⁶See, e.g., *Radilla-Pacheco v. Mexico* case, *supra* note 38, para. 356; *Case of Moiwana Community v. Suriname*, Preliminary Objections, Merits, Reparations, and Costs, Judgment of 15 June 2005, [2005] IACtHR 1, at 83, para. 218.

⁴⁷See Section 2, *supra*.

⁴⁸See *Street Children* case, *supra* note 42, at para. 103. See also, for example, *Moiwana Community v. Suriname*, *supra* note 46, at para. 191. On this objective see also J. Alsina de Mundi, *El Papel de la Corte Interamericana de Derechos Humanos en la Reconstrucción de la Memoria Histórica en América Latina* (2013), 61–4, available at www.repositorio.uchile.cl/handle/2250/116196.

⁴⁹See, e.g., *Mégret*, *supra* note 3, at 39. See also Campisi, *supra* note 34, at 65–6 and see the references therein.

⁵⁰In the case of *19 Merchants v. Colombia*, the Court explained that the duty to erect a monument in memory of the victims 'will also contribute to awakening public awareness to avoid repetition of acts such as those that occurred in the instant case and to keeping the memory of the victims alive'. *Case of 19 Merchants v. Colombia*, Merits, Reparations and Costs, Judgment of 5 July 2004, [2004] IACtHR 1, at 125, para. 273 (footnote omitted). Similarly, see, on the objectives of the commemorative remedies ordered by the IACtHR in the other two judgments addressed in this article, *Case of Rochela Massacre v. Colombia*, Merits, Reparations and Costs, Judgment of 11 May 2007, [2007] IACtHR 1, at 82, para. 280; *Case of Valle Jaramillo et al. v. Colombia*, Merits, Reparations, and Costs, Judgment of 27 November 2008, [2008] IACtHR 1, para. 290.

⁵¹*Case of Mapiripán Massacre v. Colombia*, Merits, Reparations, and Costs, Judgment of 15 September 2005, [2005] IACtHR 1, at 169, para. 315.

⁵²On the distinction between 'collected' and 'collective' memory, see Section 2, *supra*.

⁵³See, e.g., *Case of Pueblo Bello Massacre v. Colombia*, Merits, Reparations, and Costs, Judgment of 31 January 2006, [2006] IACtHR 1, at 132, para. 254; *Mapiripán Massacre* case, *supra* note 51, at 155, para. 282; IACtHR, *Informe Anual de la Corte Interamericana de Derechos Humanos* (2012), at 18, available at www.corteidh.or.cr/sitios/informes/docs/SPA/spa_2012.pdf. See also Pasqualuchi, *supra* note 44, at 204; Campisi, *supra* note 34, at 65–6; *Mégret*, *supra* note 3, at 32–3.

⁵⁴See *19 Merchants v. Colombia* case, *supra* note 50, para. 272.

⁵⁵In some cases more than one judgment refers to the same human rights violation; see, e.g., *Rochela Massacre v. Colombia* case, *supra* note 50.

types of commemorative remedies: 11 decisions involve long-term memory related measures (such as establishing monuments or plaques, naming streets, etc.); 12 decisions provide for shorter-term commemorative remedies (mostly relating to the publication of the essential part of the judgment on websites for 12 months,⁵⁶ or the preparation of an audio-visual documentary on the facts of the case and the victims),⁵⁷ while some decisions do not provide for commemorative measures.⁵⁸ The 11 decisions providing for long-term memory measures refer to nine cases of human rights violations.⁵⁹ This study is focused on three cases of human rights violations (the *Rochela Massacre* case, the *19 Merchants* case, and the *Valle Jaramillo* case) that led to the establishment of four sites of memory located in Bogotá, San Gil, Bucaramanga, and Medellín. Two commemorative sites (located in Bogotá and San Gil) are related to the same case of human rights violation – the *Rochela Massacre*. The sole selection criterion leading us to focus on these four memorial sites is the security of the investigators. The remainder of this part addresses the three judgments of the IACtHR and four respective sites of memory established by the IACtHR's orders.

4.2 Case of the *Rochela Massacre v. Colombia*

4.2.1 The court judgment

On 19 January 1989, 15 members of a judicial-investigative commission travelled from Barrancabermeja (Santander) to La Rochela for the deposition of some witnesses. While the commission was in the La Rochela area, 40 armed men belonging to the 'Los Masetos' paramilitary group arrived; pretending to belong to the FARC guerrilla (Revolutionary Armed Forces of Colombia), they deceptively convinced the judicial commission's members to disarm, to be taken by car, and later to be tied up. When they arrived at a place known as 'La Laguna', the paramilitary men shot at the car, and before leaving the scene, they took 23 case files carried by the judicial-investigative commission.⁶⁰ The Inter-American Court found that Colombia was responsible for this grave human rights violation, *inter alia*, because it had established a legal framework allowing the formation of self-defence groups (which later became paramilitary groups); enacted military regulations providing that the members of the army had to organize self-defence groups and assist them; the state's agents co-operated with 'Los Masetos' to commit the massacre; and the state failed to protect the members of the judicial commission.⁶¹

The Court ordered Colombia to undertake some measures, (prominently further investigation of the event and punishing the perpetrators) and to provide certain remedies to the victims' relatives.⁶² Concerning sites of memory, the Court approved the 'partial agreement' reached by the parties, which included the establishment of a plaque in the Paloquemao Courthouse in Bogotá, as well as a plaque and photo gallery in the Courthouse of San Gil.⁶³ This study focuses on the large plaques installed in the Paloquemao Courthouse in Bogotá and the San Gil Courthouse.

4.2.2 The site of memory in Bogotá

The plaque is quite large (100 cm high, 158 cm long) and is located at the left side of the entrance to the Paloquemao Courthouse, where some of the victims had worked. The plaque is situated in a

⁵⁶See, e.g., *Case of Vélez Restrepo and Family v. Colombia*, Preliminary Objection, Merits, Reparations, and Costs, Judgment of 3 September 2012, [2012] IACtHR 1, at 88, para. 317.

⁵⁷See, e.g., *Case of Rodríguez Vera et al. (The Disappeared from The Palace of Justice) v. Colombia*, Preliminary Objections, Merits, Reparations, and Costs, Judgment of 14 November 2014, [2014] IACtHR 1, at 216, para. 615.

⁵⁸See, e.g., *Case of Caballero-Delgado and Santana v. Colombia*, Merits, Judgment of 8 December 1995, [1995] IACtHR 1.

⁵⁹Two cases of human rights violations are discussed in two decisions of the Court; *Rochela Massacre* case, *supra* note 50; *Case of Escué-Zapata v. Colombia*, Merits, Reparations and Costs, Judgment of 4 July 2007, [2007] IACtHR 1.

⁶⁰See *Rochela Massacre* case, *supra* note 50, paras. 106–115.

⁶¹*Ibid.*, paras. 101–102.

⁶²*Ibid.*, para. 314.

⁶³*Ibid.*, paras. 377, 314.

crowded place which is visited mainly by judges, district attorneys, law-firm attorneys, public officials, law students, and victims of criminal activities. The text of the plaque reads:

The State of Colombia deeply regrets the events of January 18, 1989, known as “The Rochela Massacre”, which occurred in the Bajo Simacota, Santander Department, where the following people, who were part of the judicial commission, were murdered: Mariela Morales Caro, Virgilio Hernández Serrano, Pablo Antonio Beltrán Palomino, Carlos Fernando Castillo Zapata, Luis Orlando Hernández Muñoz, Yul Germán Monroy Ramírez, Gabriel Enrique Vesga Fonseca, Benhur Iván Guasca Castro, Orlando Morales Cárdenas, César Augusto Morales Cepeda, Arnulfo Mejía Duarte and Samuel Vargas Páez.

Three public officials survived the massacre: Arturo Salgado Garzón, Wilson Humberto Mantilla Castillo and Manuel Libardo Díaz Navas.

The State of Colombia acknowledges responsibility for its actions and omissions in these events, in accordance with the ruling of the Inter-American Court of Human Rights in its judgment of May 11, 2007.

The victims of the Rochela Massacre are an example of courage, commitment to the defence of human rights, and conviction that justice is an indispensable value for the Social Rule of Law. This plaque is in their memory.⁶⁴

Some of the victims’ relatives and others who participated in the 30-year anniversary ceremony in 2019 added a ribbon to the higher part of the plaque, stating “The Rochela 30 years of impunity”.

4.2.3 *The site of memory in San Gil*

The plaque is relatively large (161 cm high, 102 cm long) and located in the San Gil Courthouse, where some of the victims had worked. Compared to the other three sites of memory, this one is visited by significantly fewer people, mainly by members of the legal-justice profession. The plaque is located on the right side of the inner square of the courthouse. Due to its central location in the courthouse, almost anyone who works in or visits the court has to pass by the plaque. The text reads:

The State of Colombia deeply regrets the events known as “The Rochela Massacre”, that occurred on January 18, 1989, at the La Rochela village, in the Bajo Simacota, Santander Department, where the following people, who were part of a judicial commission, were murdered: Virgilio Hernández Serrano, Pablo Antonio Beltrán Palomino, Carlos Fernando Castillo Zapata, Benhur Iván Guasca Castro, Luis Orlando Hernández Muñoz, Orlando Morales Cárdenas, Mariela Morales Caro, César Augusto Morales Cepeda, Yul Germán Monroy Ramírez, Samuel Vargas Páez, Gabriel Enrique Vesga Fonseca, Arnulfo Mejía Duarte.

Three public officials survived those events: Arturo Salgado, Wilson Humberto Mantilla, and Manuel Libardo Díaz Navas.

The Colombian State is responsible for its actions and omissions in these events, in accordance with the ruling of the Inter-American Court of Human Rights in the judgment of May 11, 2007.

⁶⁴Unofficial translation from Spanish.

For the full validity of the Social Rule of Law it is necessary that the Judicial Branch has full security to work in an independent and impartial manner.

San Gil, June 20, 2014.⁶⁵

4.3 Case of the Nineteen Merchants v. Colombia

4.3.1 The Court judgment

Members of a paramilitary group that controlled the Middle-Magdalena region decided, with the consent of the Colombian Armed Forces, to murder a group of merchants trading goods across the border between Colombia and Venezuela. The massacre was motivated (as the paramilitary group explained) by the victims' refusal to pay 'taxes' charged by the paramilitary group for traversing the region, and since they were suspected of selling weapons to guerrilla groups.⁶⁶ On 6 October 1987, the merchants were stopped by the army to inspect whether they possessed arms; although the soldiers did find a significant amount of smuggled goods, the traders were allowed to continue their journey.⁶⁷ Later that day, members of the paramilitary group stopped the traders, murdered the 17 merchants, quartered their bodies, and threw them into a river.⁶⁸ About 15 days later, two relatives of the victims went in search of the disappeared merchants, and they too were murdered by members of that paramilitary group.⁶⁹ On the date of the judgment (more than 16 years after the murder), the remains of the 19 victims had not been located.⁷⁰ The Court found that Colombia's authorities did not start investigating the case immediately, the delayed investigations were not exhaustive,⁷¹ and that the members of that paramilitary group were supported by senior military leaders in the activities preceding the murder.⁷²

The Inter-American Court ordered Colombia to adopt some measures, notably to investigate the above crimes and punish the perpetrators, search for the victims' remains, and provide certain remedies to the victims' relatives.⁷³ As to the site of memory, Colombia was ordered to establish a monument in memory of the victims (bearing a plaque with their names) to be located in a place agreed between the state and the victims' relatives.⁷⁴

4.3.2 The site of memory in Bucaramanga

The statue ordered by the IACtHR is located in the Children's Park in Bucaramanga (where some of the merchants lived and worked), next to one of the city's main avenues, surrounded by restaurants, apartment buildings, a university, stores and a hospital. The monument is the largest memorial object addressed in this study (5.20 m high, 3.21 m long, 2.87 m wide). There are benches around the monument where some people sleep at night, and it is well illuminated. The monument has been slightly damaged, mainly by scratches, remnants of adhesive tape, and stickers and flyers that were pasted to it. The text of the plaque attached to the monument reads:

⁶⁵Unofficial translation from Spanish.

⁶⁶See *19 Merchants case*, *supra* note 50, para. 85.b.

⁶⁷*Ibid.*, para. 85.d.

⁶⁸*Ibid.*, paras. 85.e–85.f.

⁶⁹*Ibid.*, para. 85.h.

⁷⁰*Ibid.*, para. 85.l.

⁷¹*Ibid.*, para. 85.m.

⁷²*Ibid.*, para. 86(b).

⁷³*Ibid.*, para. 295.

⁷⁴*Ibid.*, para. 273.

Monument to the 19 merchants

This monument was made in compliance with the reparations ordered by the Inter-American Court of Human Rights in the judgment of July 5, 2004 due to the events that occurred in October 1987.

Álvaro Lobo Pachecho, Gerson Javier Rodríguez Quintero, Israel Pundor Quintero, Ángel María Barrera Sánchez, Antonio Flórez Contreras, Carlos Arturo Riatiga Carvajal, Víctor Manuel Ayala Sánchez, Alirio Chaparro Murillo, Rubén Emilio Pineda Bedoya, Gilberto Ortiz Sarmiento, Reinaldo Corzo Vargas, Luis Hernando Jáuregui Jaimes, Luis Domingo Sauza Suárez, Juan Alberto Montero Fuentes, José Ferney Fernández Díaz, Juan Bautista, Alberto Gómez, Huber Pérez, Álvaro Camargo.⁷⁵

4.4 Case of Valle Jaramillo v. Colombia

4.4.1 The court judgment

Jesús María Valle Jaramillo was a well-known human rights defender in Antioquia who actively denounced crimes perpetrated by paramilitary groups, as well as the collaboration and acquiescence between the latter groups and members of the National Army, particularly in the municipality of Ituango. After having denounced the harassment suffered by the civilian population and the massacres that occurred during the mid-1990s in villages of the municipality of Ituango, he was warned by an emissary of the paramilitary chief that he should leave the country or remain silent; otherwise he would be killed. Despite these threats, Jaramillo continued working as a human rights defender. On 27 February 1998, two armed men entered Jaramillo's office in Medellín and shot him with a pistol, killing him instantly.⁷⁶ Although the murder was committed by individuals belonging to a paramilitary group, the IACtHR ruled that Colombia was responsible for its failure to adopt reasonable measures to protect Jaramillo in the special circumstances preceding the murder (particularly in light of the above threat), not taking adequate measures needed to prevent these groups from continuing to commit such human rights violations, as well as for its contribution to the establishment of these paramilitary groups.⁷⁷

The Inter-American Court ordered Colombia to provide various remedies to the victim's family and investigate the facts giving rise to the human rights violations in the instant case.⁷⁸ As to the site of memory, the Court ordered the installation of a plaque in the Palace of Justice of Antioquia 'in order to keep his memory alive and prevent violations such as those determined in the instant case'.⁷⁹

4.4.2 The site of memory in Medellín

The plaque ordered by the IACtHR is placed in the courthouse located at an intersection of busy avenues and streets in downtown Medellín (where Jaramillo lived and worked). The plaque (105 cm high, 90 cm long) is attached to a wall on the first floor of the courthouse (in a 27-floor building), and is well-illuminated. Due to its central location in the building's entry level (near the elevator and the exit), most people who visit the courthouse have to pass near the plaque. The text of the plaque reads:

Jesús María Valle Jaramillo

In memoriam 1943 – 1998

⁷⁵Unofficial translation from Spanish.

⁷⁶See *Valle Jaramillo case*, *supra* note 50, paras. 70–73, 93.

⁷⁷*Ibid.*, paras. 80–81, 92–95.

⁷⁸*Ibid.*, para. 252(14).

⁷⁹*Ibid.*, para. 277 (c)(2).

This plaque is installed in memory of Mr. Jesús María Valle Jaramillo, a criminal law attorney, defender of the universal principles of due process and the right to justice, persistent and brave defender of human rights.

The State of Colombia deeply regrets the events which occurred on February 27, 1998, when Mr. Jesús María Valle Jaramillo was murdered. It also asks for forgiveness from his family and society for the violation of human rights, for which it was declared responsible by the Inter-American Court of Human Rights in the judgment of November 27, 2008. Even though it acknowledges that nothing will repair the pain that his family has experienced, it aspires that this plaque should contribute to the search for justice, recognition, promotion and protection of human rights defenders, hoping that such events will never happen again.

Let this be a place to remember and renew the commitment for defending human rights with his phrase: 'Here we are and will always be. In the heat of the fight or in the stillness of death'.

Installed in 2013 in compliance with the judgment of the Inter-American Court of Human Rights due to the events that occurred in 1998.

Juan Manuel Santos. President of the Republic.

Grupo Interdisciplinario GIDH. Representatives of the victims.⁸⁰

5. Assessing the impact of sites of memory ordered by the IACtHR

5.1 Objectives and methodology

As noted previously, sites of memory ordered by the Inter-American Court aim at attaining two primary objectives: combatting oblivion of the particular human rights violation, and providing symbolic relief to the victims' families. The *first objective* concerns the memory of individuals who encounter these sites (associated with the above notion of 'collected memory') as well as the Colombian societal memory (associated with the concept of 'collective memory'). Such memorial sites are primarily aimed at influencing people who are present in their vicinity; mainly by prompting them to recall previously acquired information of the particular historical human rights violation, or through transmitting previously unknown information regarding the specific event (prominently through the text on the memorial object). Sites of memory can also influence (but commonly to a lesser extent) society at large, mainly through mass media coverage of these sites. To assess if, and to what extent, the first objective has been realized, the research work included interviews with people present near the above four sites of memory (to evaluate individuals' 'collected memory') as well as a survey of the mass media coverage of these human rights violations and their respective sites of memory (to evaluate society's 'collective memory'). To appraise if, and to what extent, the second objective has been attained, the research project included in-depth interviews with members of the victims' families related to the above human rights violations.

Personal interviews with 168 people present near the memorial sites (within clear sight of the memorial objects) were conducted⁸¹ between June 2019 and December 2019.⁸² Most interviews extended over 20–25 minutes and most interviewees (52.97 per cent) agreed to be recorded.⁸³ In terms of gender distribution, the interviewees were almost equally divided.⁸⁴ As to professional

⁸⁰Unofficial translation from Spanish.

⁸¹All interviews were conducted by Milad A. Said Barguil. Field visits were carried out by both co-authors.

⁸²Forty-five interviews were conducted in Bogotá, on 17–19 June 2019; 40 interviews were conducted in San Gil on 26–29 August 2019; 41 interviews were conducted in Bucaramanga on 7–10 October 2019; and 42 interviews were conducted in Medellín on 10–13 December 2019.

⁸³The answers provided by the interviewees who were *not* recorded were written down during the interview and immediately afterwards.

⁸⁴Overall, 50.77% of the interviewees were males and 49.23% were females. In Bogotá, 44.44% of the interviewees were females; in San Gil 50%; in Bucaramanga 52.5%; and in Medellín 50%.

background, with one exception in Bucaramanga's site of memory, most of the interviewees (58.66 per cent) belonged to the legal-justice profession. This professional feature is related to the location of three sites of memory in court complexes, and its impact on the memory of the respective human rights violations is addressed in Section 6.3 below.

To assess to what extent the four sites of memory influence the Colombian collective memory, the research work included a mass media survey. It examined the coverage of the three human rights violations, as well as the coverage of the respective sites of memory, in five major mass media outlets: two major national newspapers (*El Tiempo* and *El Espectador*), a major weekly national magazine (*Semana*), and the two most-visited news websites in Colombia (*Pulzo* and *Las 2 Orillas*)⁸⁵ during 2018–2019. The survey examined how many articles discussed the particular human rights violations and whether those articles featured pictures or descriptions of the related sites of memory.⁸⁶ To appraise the significance of the four sites of memory for the families, the research work included in-depth interviews with 17 relatives of victims.⁸⁷ All interviewed relatives agreed to be recorded and the average duration of the interviews was 42 minutes.

5.2 Findings

5.2.1 Memory of on-site interviewees

On-site interviewees were asked whether they knew⁸⁸ about that particular event commemorated in that memorial site, and were also asked six specific questions concerning essential facts of the commemorated event.⁸⁹ We adopted a lenient standard, and interviewees who reported that they knew about the event and knew at least one essential fact about it were classified as remembering the particular human rights violation. Besides the interviews held in San Gil, the memory rates of the commemorated events were quite low; between 12.19 per cent and 33.33 per cent.⁹⁰ Concerning the *Rochela Massacre*, 58.53 per cent of the interviewees in San Gil and 33.33 per cent of the interviewees in Bogotá remembered the event; 16.66 per cent of the interviewees in Medellín remembered the murder of Jaramillo; and 12.19 per cent of the interviewees in Bucaramanga remembered the *massacre of the nineteen merchants*. The significant variations between these findings are discussed in Section 6.

The above findings regarding the generally low memory rates of the specific human rights violations raise the question of whether there are *other* historical events that are significantly better-remembered in Colombia. To answer the latter question and compare our findings with the memory of a different major event in Colombia's recent history, we also asked on-site interviewees about the attack on the Supreme Court of Colombia⁹¹ in

⁸⁵Los Portales Noticiosos Más Visitados o Influyentes, Según el Buscador de Alexa', *La Otra Cara*, 4 February 2020, available at www.laotracara.co/destacados/los-portales-noticiosos-mas-visitados-o-influyentes-segun-el-buscador-de-alexa/.

⁸⁶The survey of the mass media was carried out by Ana María Aranda Castillo (of Pontificia Universidad Javeriana Law School) in September – December 2020 and we are very grateful for her valuable assistance.

⁸⁷Eight interviewed relatives are related to the *Rochela Massacre*, six relatives are related to the *murder of the nineteen merchants*, and three relatives are related to the *assassination of Jaramillo*. All interviews were conducted by Milad A. Said Barguil.

⁸⁸On knowledge of historic events as a form of memory ('semantic memory') see K. M. Galotti, *Cognitive Psychology: In and Out of the Laboratory* (2018), 141–2. See also Erl, *supra* note 14, at 93.

⁸⁹The specific questions were: 'What happened in that event? Who were the victims? Who were the killers? Why were the victims killed? When did the event take place? Was the State involved in this event?'. The expected answers were derived from the IACtHR's judgments.

⁹⁰No significant gender difference was discerned from the interviews held in three (out of four) sites of memory. The only place where we discerned a significant gender difference was Bucaramanga's Children's Park where only five interviewees (both females and males) knew about the particular human rights violation. Thus, the limited data does not allow us to draw a plausible conclusion regarding gender differences.

⁹¹It is worth emphasizing that we do not assume that the attack on the Supreme Court is similar to the above three human rights violations addressed by the IACtHR. These events are different but the findings regarding the attack on the Supreme

Bogotá (in 1985).⁹² Unlike the memory rates pertaining to the above three human rights violations addressed by the IACtHR, a significant majority of interviewees in *all four sites* remembered the attack on the Supreme Court (65.85 per cent–88.88 per cent).⁹³ It is noteworthy that significantly more interviewees in *each* site of memory remembered the attack on the Supreme Court than the particular human rights violation commemorated in the nearby memorial site. These findings (and the following findings arising from the mass media survey) indicate that some historical events which took place during the recent armed conflict play a more significant role in Colombians' memory, and that the memory of the three human rights violations commemorated in the above judicially-ordered memorial sites is relatively low.

5.2.2 Collective memory and the mass media

The survey of the mass media enables us to assess the Colombian collective memory of the three human rights violations commemorated in the four sites of memory ordered by the IACtHR. As noted previously, collective memory is reflected and transmitted through various mediums, prominently by the mass media, monument construction, and a variety of rituals.⁹⁴ Although the mass media is usually associated with reporting on current events, it is considered a significant carrier of collective memory in modern societies.⁹⁵ The significance of the mass media lies in its ability to reach huge communities simultaneously and its widespread influence on many people.⁹⁶

The survey of five major mass media outlets in Colombia indicates that the collective memory of the above three human rights violations is generally low. Overall, 187 articles published in the five major mediums of communication (during 2018–2019) discussed the attack on the Supreme Court in a non-incident or non-marginal manner;⁹⁷ 45 articles discussed the *Jaramillo* assassination,⁹⁸ 17 articles discussed the *Rochela Massacre*,⁹⁹ and only six articles discussed the murder of the nineteen merchants.¹⁰⁰ Similar findings arise from examining the articles' titles: overall, 97 article titles mention the attack on the Supreme Court,¹⁰¹ 15 article titles mention the *assassination of Jaramillo*,¹⁰² six article titles mention the *Rochela Massacre*,¹⁰³ and only one article title mentions the *murder of the nineteen merchants*.¹⁰⁴

These findings suggest that the collective memory rates of the three human rights violations addressed by the IACtHR are considerably lower than that of the benchmark event of the attack

Court indicate that significantly more people in Colombia remember some *other* historical events that took place during the conflict in Colombia.

⁹²On the centrality of the attack on the Palace of Justice in the Colombian collective memory see, e.g., Leal-Guerrero, 'The Holocaust' or 'The Salvation of Democracy': Memory and Political Struggle in the Aftermath of Colombia's Palace of Justice Massacre', (2015) 42 *Latin American Perspectives* 140.

⁹³88.88% of the interviewees in Bogotá, 82.50% in San Gil, 80.05% in Medellín, and 65.85% in Bucaramanga knew about the attack on the Supreme Court.

⁹⁴See Section 2, *supra*.

⁹⁵B. Zelizer, 'Why Memory's Work on Journalism Does not Reflect Journalism's Work on Memory', (2008) 1 *Memory Studies* 79, at 79–81.

⁹⁶D. Fernández Pedemonte, 'Media Cases and Social Memory in Argentina Post 2001', (2012) 5 *Journal of Communication Studies* 61, at 67–8; J. Hume, 'Memory Matters: The Evolution of Scholarship in Collective Memory and Mass Communication', (2010) 10 *Review of Communication* 181, at 187.

⁹⁷The 187 articles that discussed the attack on Colombia's Supreme Court are divided as follows: 64 articles were published in *El Espectador*, 47 in *Semana*, 41 in *El Tiempo*, 20 in *Las 2 Orillas*, and 15 in *Pulzo*.

⁹⁸Nineteen articles were published in *El Espectador*, ten in *El Tiempo*, eight in *Semana*, four in *Pulzo*, and four in *Las 2 Orillas*.

⁹⁹Ten articles were published in *El Espectador*, three in *El Tiempo*, three in *Semana*, one in *Las 2 Orillas*, and none in *Pulzo*.

¹⁰⁰Three articles were published in *El Espectador*, one in *Semana*, one in *Las 2 Orillas*, one in *Pulzo*, and none in *El Tiempo*.

¹⁰¹Thirty-seven articles were published in *El Espectador*, 27 in *El Tiempo*, 19 in *Semana*, nine in *Pulzo*, and 5 in *Las 2 Orillas*.

¹⁰²Seven articles were published in *El Espectador*, three in *El Tiempo*, three in *Semana*, and two in *Las 2 Orillas*.

¹⁰³Three articles were published in *El Espectador*, one in *El Tiempo*, one in *Semana*, and one in *Las 2 Orillas*.

¹⁰⁴That article was published in *El Espectador*.

on the Supreme Court; articles discussing the *assassination of Jaramillo* constitute 24.06 per cent of articles discussing the attack on the Supreme Court; articles discussing the *Rochela Massacre* – 9.09 per cent; and articles discussing the *murder of the nineteen merchants* constitute only 3.20 per cent of articles discussing the attack on Colombia's top court. The significantly lower collective memory rates of the three human rights violations are explained in Section 6 below.

Sites of memory may also influence wider society through mass media coverage of the *sites of memory* (rather than the particular event). The survey of the above-mentioned major mass media outlets indicates that the coverage of the memorial objects ordered by the IACtHR is marginal. Only five articles published in the major five mediums of communication during 2018–2019 described *one* of the above memorial objects ordered by the Inter-American Court: three articles described the plaque commemorating the Rochela Massacre, two articles described the *nineteen merchants'* monument, and no article described the *Valle Jaramillo* plaque.¹⁰⁵ Only one article contained a picture of the site of memory ordered by the Inter-American Court.¹⁰⁶

5.2.3 The impact on the victims' families

To assess the significance of the sites of memory ordered by the IACtHR for the victims' families, in-depth personal interviews were held with 17 relatives. The victims' relatives were asked if and to what extent the particular site of memory was significant for them. A large majority of the interviewed relatives (14 out of 17) stated the particular memorial site was 'very significant' for them. One relative answered that the site of memory was 'significant' for her/him, and two relatives reported that it had 'some significance' for them. Annual ceremonies held in the four sites of memory (in which the victims' relatives participate) are discussed in Section 6.3 below.

6. Explaining the impact of judicially-ordered sites of memory

The on-site interviews indicated that the memory rates of people visiting these sites of the respective human rights violations are quite low. With the exception of San Gil, on-site interviewees' memory rates range from 12.19 per cent to 33.33 per cent. The above survey of the five mass media outlets suggests that these human rights violations do not play a significant role in the Colombian collective memory; the memory rates of the particular human rights violations range from 3.20 per cent to 24.06 per cent of the memory of the attack on the Supreme Court.¹⁰⁷ The following discussion sheds light on the generally low memory rates and variations between the memory rates detected in four memorial sites.

6.1 Culture of political violence and memory of violent attacks

The low memory rates of the *Rochela Massacre*, the *murder of the nineteen merchants*, and the *assassination of Jaramillo* (both among on-site interviewees and in the mass media outlets) can be explained by the prevailing culture of political violence in Colombia. Historical literature on Colombia highlights the coexistence of long-term constitutional democracy with prevalent patterns of political violence.¹⁰⁸ The long conflict (spanning more than 'one hundred

¹⁰⁵As to the *Rochela Massacre*, three articles published in *El Espectador* described the plaque and one article published in *Semana*. Regarding the murder of the 19 merchants, two articles described the monument – both published in *El Espectador*.

¹⁰⁶One article included a picture of the Rochela memorial site, and it was published in *El Espectador*.

¹⁰⁷See Section 4.2.3, *supra*.

¹⁰⁸See, e.g., D. Bushnell, *Colombia una Nación a Pesar de sí Misma* [Colombia a Nation Despite Itself] (2007), 436–9; M. Palacios, *Between Legitimacy and Violence: A History of Colombia, 1875–2002* (2006), at 214, 259; M. J. Larosa and G. Mejía, *Historia Concisa de Colombia* [Concise History of Colombia] (2017), at 108. See also W. Avilés, 'Institutions, Military Policy, and Human Rights in Colombia', (2001) 28 *Latin American Perspectives* 31, at 48.

years of intermittent conflict')¹⁰⁹ is characterized by numerous massacres,¹¹⁰ assassination of human-rights defenders,¹¹¹ and forced disappearances.¹¹² The numerous massacres and assassination of human-rights defenders tend to relegate such violent acts to the background,¹¹³ and explain the low memory rates of the events commemorated in the above sites of memory.

Some on-site interviewees spontaneously deplored the reality of repeated massacres and killings of human rights defenders or social leaders. An interviewee in Bogotá stated (with regard to the *Rochela Massacre*):

It is very sad that in Colombia we are still seeing such massacres, which take place for years and years and never end, and we will continue to see. At this time, we haven't stopped, we haven't stopped with so much violence.¹¹⁴

And an interviewee in Bucaramanga explained with regard to the *murder of the nineteen merchants*: '[w]ell, it's unfortunate . . . I mean, it hurts me, my country hurts me, it hurts me that these things happen in Colombia; although it was in [19]87 we know that even today they continue to happen',¹¹⁵

Some interviewees underlined the routinization of political violence. An interviewee in San Gil lamented regarding the *Rochela Massacre*, '[r]egrettable, sad, at the end one already gets used to that kind of news . . . one is already falling into a habit, and what is supposed to be bad and reprehensible becomes like something normal'.¹¹⁶ In light of the numerous acts of political violence and their routinization in Colombia, such widespread events are not significantly marked out and often forgotten after a relatively short period.¹¹⁷ Thus, for example, in view of numerous assassinations of human rights defenders, it is unsurprising that the memory of the murder of Jaramillo (a human-rights defender) is remarkably low even among the people present at his site of memory in Medellín. These findings highlight the limits of international tribunals in the field of social memory.

6.2 Close-knit communities and memory

The memory rate detected in the interviews held in San Gil is strikingly divergent from memory rates detected in interviews conducted in other sites. Unlike the low memory rates among on-site interviewees in the three other memorial sites (ranging from 12.19 per cent to 33.3 per cent) – 58.53 per cent of the interviewees in San Gil remembered the commemorated event. Considering that the sites of memory located in Bogotá and San Gil refer to the *same* event (the *Rochela Massacre*), the difference between the memory rates detected in the

¹⁰⁹R. C. Williamson, *Latin America: Cultures in Conflict* (2016), 262.

¹¹⁰See, e.g., OHCHR, Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, A/HRC/46/76 (2021), paras. 6, 9, 13. For a definition of 'massacre' see ECOSOC, Report of the United Nations High Commissioner for Human Rights on the Office in Colombia, E/CN.4/2000/11 (2000), para. 27.

¹¹¹See, e.g., OHCHR Colombia Report 2021, *ibid.*, paras. 6, 10, 21.

¹¹²See, e.g., 'Justicia, Una persona Desaparece Cada Tres Días Desde el Acuerdo de Paz [A Person Disappears Every Three Days Since the Peace Agreement]', *El Tiempo*, 28 August 2020, available at www.eltiempo.com/justicia/conflicto-y-narcotrafico/desde-el-acuerdo-de-paz-el-cicr-registra-466-desaparecidos-534292.

¹¹³On interactions between ordinary/salient events and backgrounding/foregrounding see E. Zerubavel, 'Foregrounding and Backgrounding', in W. H. Brekhus and G. Ignatow (eds.), *Oxford Handbook of Cognitive Sociology* (2019), 567 at 568–9.

¹¹⁴Interviewee Bogotá No. 26. All interviews were conducted in Spanish and the following citations are translated.

¹¹⁵Interviewee Bucaramanga No. 19.

¹¹⁶Interviewee San Gil. No. 28.

¹¹⁷On the tendency to forget common events see, e.g., W. H. Brekhus, *Culture and Cognition: Patterns in the Social Construction of Reality* (2015), 108.

interviews held in Bogotá (33.33 per cent) and San Gil (58.53 per cent) is conspicuous. In both sites, the large plaque is located within a court complex. The exceptional level of memory noticed in San Gil can be explained by the distinctive social fabric characterizing this community, and professional ties with the victims. This part focuses on the distinctive local ties typifying this community.¹¹⁸

While the other sites of memory are located in large metropolitan cities, the population of San Gil is estimated at 50,000 (compared to approximately 8 million in Bogotá, 2.5 million in Medellín, and 580,000 in Bucaramanga). San Gil is located in the Santander Department but it is situated in the Andean Santander region, which is geographically and culturally different from other parts of Santander. Among the distinctive features of this community¹¹⁹ are typical food, special ceremonies, and the formal personality attributed to the inhabitants: this community projects a special sense of local pride.¹²⁰ The region's Superior Tribunal is located in San Gil and it plays a significant role in the town's image.¹²¹ The inhabitants' sense of distinct local identity¹²² is discerned, for example, from the way interviewees referred to other members of their community as 'los sangileños' (or virtually identical terms) and the way they present themselves as part of 'the San Gilian community'. When asked about the significance of the particular site of memory in San Gil, a local resident uttered 'here... Sangileños fell'.¹²³

Some of the judicial investigators murdered in the *Rochela Massacre* lived in San Gil or worked in its Criminal Investigative Court. Many inhabitants of this small town knew the victims or their relatives,¹²⁴ and almost a quarter of the interviewees were personally acquainted with the victims or their families. In all other three sites of memory, only one interviewee personally knew the victims or their families. Some interviewees in San Gil demonstrated their knowledge of the details of the massacre and the fateful chain of events leading the local victims to participate in their last investigatory mission. Some interviewees talked with affection about the victims (for example, by using their nicknames) and their families. During conversations about the massacre, some of the interviewees suggested to the interviewer that he visit the victims' families and directed him to their addresses in town.

The Rochela Massacre and its aftermath left a scar on the San Gil community. The dramatic arrival of the bodies to the town and the funeral procession were distressing¹²⁵ and vividly described by a local resident. And another local inhabitant stated '[u]s that are distinctly Sangilians, have it fixed in our memory and we relive it year after year'.¹²⁶ The community of San Gil expressed its grief in a collective manner¹²⁷ and as described by a local interviewee, some inhabitants spontaneously named their local sport club after one of the local victims.¹²⁸

¹¹⁸On the interaction between memory and professional ties see Section 6.3, *infra*.

¹¹⁹For a concise history of San Gil and its socioeconomic features see D. S. Ardila, *San Gil, Credencial Historia* (2020), available at www.banrepcultural.org/biblioteca-virtual/credencial-historia/numero-363/san-gil; J. M. María González Benito, 'Autobiografía de José María González Benito' [Autobiography of José María González Benito], (2018)19 *Revista Memoria* 62, at 76.

¹²⁰CNRR – Grupo De Memoria Histórica, *La Rochela: Memorias De Un Crimen Contra La Justicia* [La Rochela: Memories of a Crime Against Justice] (2010), at 33–4.

¹²¹On the Superior Tribunal as a 'moral fortress ... which the whole city is proud of', see R. Rueda, *Presencia de un Pueblo: Reminiscencias de la Ciudad de San Gil* [Presence of a Population: Reminiscences of the City of San Gil] (1968), at 256.

¹²²On celebrating a special day ('the Sangilian day') and the sense of belonging in this community see, e.g., Morales, 'Se Celebrará el Día de la Sangileñidad' [The Sangilian Day Will Be Celebrated], *Vanguardia*, 4 May 2016, available at www.vanguardia.com/santander/guanenta/se-celebrara-el-dia-de-la-sangilenidad-ADv1357061#success=false.

¹²³Interviewee San Gil No. 30.

¹²⁴See CNRR – Grupo de Memoria Histórica, *supra* note 120, at 34, 216.

¹²⁵See, e.g., *ibid.*, at 215.

¹²⁶Interviewee San Gil No. 39.

¹²⁷See, e.g., CNRR – Grupo de Memoria Histórica, *supra* note 120, at 216.

¹²⁸Interviewee San Gil No. 30.

A Facebook page dedicated to the history of San Gil includes various items (including the victims' photos and a picture of the shattered bus) and comments made by local inhabitants and relatives regarding the Rochela Massacre and commemorative ceremonies.¹²⁹ The Facebook page commemorating the massacre states: '[t]he tragedy affected in one way or another all the people in San Gil'.¹³⁰

Memories of past events are more likely to be nurtured and retained for a longer period in smaller communities that share a similar experience. Unlike mass societies that link groups whose relations are often characterized by anonymity, smaller communities which frequently maintain closer social ties and share a traumatic history are more likely to develop and maintain long-term ('vernacular') memories.¹³¹ Such a dense social fabric and a sense of shared trauma emerge from the interviews held in San Gil.

6.3 Professional communities and memory

Though the memorial object in Bucaramanga is much larger than those established at the other three sites of memory, and situated in a central location accessed by more people – the memory rate among on-site interviewees regarding the commemorated event was the lowest one (12.19 per cent).¹³² As to the 'comparative advantage' of smaller communities (like in San Gil), Bucaramanga is considerably smaller than Bogotá or Medellín,¹³³ but the memory rates of the human rights violations detected in the two larger cities were higher. Memories of historical events are significant not only for local or national groups but also for professional communities,¹³⁴ and the lower memory rate detected in Bucaramanga can be explained by the professional background of people present in the vicinity of that large memorial site. The memorial sites in the *other* three sites are located in court complexes, and most on-site interviewees (54.05 per cent – 64.44 per cent) belong to the legal-justice profession,¹³⁵ composed of lawyers, judges, prosecutorial staff, police officers, court workers, and law students. On the other hand, only a small minority of the on-site interviewees in Bucaramanga (12.19 per cent) belongs to the commercial-business profession practiced by the victims commemorated in Bucaramanga. The predominant professional ties between the interviewees in the *other* three sites of memory (not in Bucaramanga) and the victims, shed light on the higher memory rates found in the legal-justice community.

A significant majority of the interviewees who remembered the particular human rights violation in *each* of the other three courthouses belongs to the legal-justice group (65.21 per cent – 85.71 per cent).¹³⁶ Similarly, a comparison of the memory rates of the particular human rights violations between the two groups in each of the three sites reveals that the memory rate in the legal-justice group is significantly higher than in the non-legal-justice group.¹³⁷

¹²⁹See, e.g., SAN GIL, 'Nuestra Historia', 19 January 2016, available at www.facebook.com/SAN-GIL-Nuestra-Historia-118795318176479/photos/916493731739963.

¹³⁰SAN GIL, 'Nuestra Historia: Masacre La Rochela', 19 January 2017, available at www.facebook.com/SAN-GIL-Nuestra-Historia-118795318176479/photos/1210479902341343 (translated from Spanish).

¹³¹On differences between 'official memory' and 'vernacular memory' associated with first-hand experience in small-scale communities see J. Bodnar, *Remaking America: Public Memory, Commemoration, and Patriotism in the Twentieth Century* (1992), at 14–18; S. Marschall, 'Collective Memory and Cultural Difference: Official vs. Vernacular Forms of Commemorating the Past', (2013) 14 *Safundi -The Journal of South African and American Studies* 77, at 81.

¹³²Similarly, the collective memory of the murder of the 19 merchants (reflected in the five major mass media outlets) was the lowest among the three human rights violations. See Section 5.2.2, *supra*.

¹³³Bucaramanga is a midsize city and its population is estimated to be 580,000 inhabitants, while the population of Bogotá includes approximately 8 million, and 2.5 million in Medellín.

¹³⁴On collective memories of professional groups see, e.g., Halbwachs, *supra* note 7, at 139.

¹³⁵64.44% of the interviewees in Bogotá, 54.05% in San Gil, and 56.09% in Medellín belong to the legal-justice profession.

¹³⁶85.71% in Bogotá, 83.33% in Medellín, and 65.21% in San Gil.

¹³⁷In Bogotá, while 48.00% of the interviewees belonging to the legal-justice group knew about the massacre, 15% of the interviewees belonging to other professions knew about the massacre; in San Gil, 75% in the legal-justice group knew about the

The victims of the Rochela Massacre were murdered and Jaramillo was assassinated because of their legal activities. Those human rights violations have been widely framed as attacks on the legal-justice system, and the respective commemorative practices highlight the ties between these events and the legal-justice community. The subtitle of the official report on the Rochela Massacre is ‘Memories of a Crime Against Justice’,¹³⁸ that report¹³⁹ and the famous general report of the Colombian Historical Memory Group underline the links between the massacre and the harmful effects on the legal-judicial system.¹⁴⁰ Highlighting the reaction to the massacre in the legal community, the general report states that ‘everyone remembers La Rochela as one of the cases of victimization of judicial officials that generated utmost mobilization in the judicial community’.¹⁴¹ An article published a short time after Jaramillo’s assassination in a major newspaper in Medellín included statements of condolences and solidarity expressed by the Council of the Judicature of Antioquia (the local Directorate of the Judicial Branch) and a long list of human rights associations.¹⁴²

Legal mediums of communication addressing the *Rochela Massacre* underscored that the victims were members of the judicial-legal system.¹⁴³ Similarly, legal publications discussing the *assassination of Jaramillo* emphasized that the victim was a lawyer and human rights defender.¹⁴⁴ The direct link between Jaramillo and the administration of justice system was emphasized in a bulletin published by the Superior Tribunal of Medellín regarding the memory of Jaramillo. The Tribunal stated that the plaque installed in Medellín’s courthouse and the official apology constitute a contribution to human rights protection.¹⁴⁵

Collegial ties between the victims of the *Rochela Massacre* and *Jaramillo* assassination and the legal-justice community were also echoed in many personal interviews conducted in Bogotá, San Gil, and Medellín. On-site interviewees emphasized that the victims in both cases were members of the justice administration system, and that they were murdered because they were implementing their legal duties. The language employed by the interviewees conveyed a sense of professional affinity; e.g., by describing the victims of the *Rochela Massacre* as ‘companions’ in the legal-judicial apparatus, or expressing the legal-judicial community’s affection towards the late Jaramillo. Collegial ties were especially pronounced in the interviews held in San Gil, where some interviewees expressed their conviction that the victims sacrificed their life for the legal-justice system. A member in the legal-justice profession explained with regard to the nearby memorial object: ‘[i]t is ... a kind of remembrance so that ... the people who enter the judicial complex here ... read and learn that some people offered their life for ... what was ordered by

event, and 47.5% in the non-legal justice group knew about the event; in Medellín, 21.73% in the legal-justice group knew about the event, and 5.55% in the non-legal justice group knew about it. As to on-site interviewees in Bucaramanga, while 40% of the interviewees belonging to the commercial-business group knew about the massacre of the nineteen merchants, 8.33% of the interviewees belonging to other professions knew about this massacre.

¹³⁸See CNRR – Grupo de Memoria Histórica, *supra* note 120, at 1.

¹³⁹See *ibid.*, at 1, 309.

¹⁴⁰*Grupo de Memoria Histórica, ¡Basta Ya! Colombia: Memorias de Guerra y Dignidad: Informe General [Enough Already!; Colombia: Memories of War and Dignity: General Report] (2016)*, at 214.

¹⁴¹See CNRR – Grupo de Memoria Histórica, *supra* note 120, at 128. Unofficial translation from Spanish.

¹⁴²*Repudio General [General Repudiation]*, *El Colombiano*, 1 March 1998, at 8A. See also 7A.

¹⁴³See, e.g., ‘Homenaje: Tres Décadas de la Masacre de La Rochela, ¿Hubo Justicia?’ [Tribute: Three Decades After the Rochela Massacre, Was There Justice?], *Ámbito Jurídico*, 18 January 2019, available at www.ambitojuridico.com/noticias/general/constitucional-y-derechos-humanos/homenaje-tres-decadas-de-la-masacre-de-la.

¹⁴⁴See, e.g., López, ‘Tribunal Ratifica Condena a Los Asesinos del Abogado Jesús María Valle Y Vincula A Álvaro Uribe’ [Tribunal Affirms Sentence Against the Murderers of the Lawyer Jesús María Valle and Links Álvaro Uribe], *Asuntos Legales*, 6 February, 2018, available at www.asuntoslegales.com.co/actualidad/tribunal-ratifica-condena-a-los-asesinos-del-abogado-jesus-maria-valle-y-vincula-a-alarvo-uribe-2596720.

¹⁴⁵Tribunal Superior de Medellín (Sala de Justicia y Paz), ‘Jesús María Valle; in Memoriam’ [Jesús María Valle; in Memoriam], *Boletín*, March 2015, available at www.ramajudicial.gov.co/documents/6342975/6754549/boletin6.pdf/48fa08da-c8b3-43a7-a5fa-57d974a72acd, at 15.

law . . . and that they are not forgotten'.¹⁴⁶ And a lawyer in the Medellín courthouse explained: 'for the legal community . . . all of us who are affiliated with the legal community . . . know what that plaque represents, well, it does influence workers . . . everything in the legal community'.¹⁴⁷

The national judicial employees association (ASONAL)¹⁴⁸ was involved in the establishment of the Rochela sites of memory and in commemorative activities held at the two respective sites.¹⁴⁹ Interviewees from the legal-justice community argued that the victims of the *Rochela Massacre* and *Jaramillo* had not been adequately protected by the government, and that the members of the legal profession are under constant threat of violent attacks.¹⁵⁰ Such external threats and the memory of the above attacks tend to reinforce the collective identity¹⁵¹ of the legal-justice community. The three sites of memory located in court complexes also serve as a meeting place where members of the profession and relatives convene annually to commemorate the violent attacks on their colleagues.¹⁵²

As to the lower memory rate detected in Bucaramanga, the victims of the massacre commemorated in the Children's Park were also murdered while exercising their profession (as traders). While clearly identified by their profession in the site of memory and legal proceedings,¹⁵³ professional ties played a significantly *weaker* role in the construction of the memorial monument and commemoration than in the other cases involving attacks on the legal-justice community. Interviews held with merchants in Bucaramanga's shopping mall associated with the murdered merchants' activities ('Sanandresito, La Isla') did not reveal a sense of professional affinity with the victims or a sense of shared pain. The relatives of the 19 murdered merchants were involved in the construction of the monument in Bucaramanga but the merchants' association had no significant role in the establishment of the monument or annual ceremonies held there. A report on the massacre of the nineteen merchants remarks that the victims belonged to 'modest families' without access to the spheres of power.¹⁵⁴ The absence of significant involvement of professional ties – or links with another powerful group¹⁵⁵ – sheds light on the lowest memory rate detected in the mass media and among on-site interviewees at the memorial site in Bucaramanga.

6.4 Symbolic relief for victims' families

A considerable majority (88.23 per cent) of interviewed relatives reported that the sites of memory ordered by the Inter-American Court are 'very significant' or 'significant' for them.¹⁵⁶ Thus, for example, a relative explained why the memorial plaque in San Gil is so significant for her/him: '[i]t is very honorable . . . As time goes by, it is not forgotten and the memory of

¹⁴⁶Interviewee San Gil No. 20.

¹⁴⁷Interviewee Medellín No. 5.

¹⁴⁸Asociación Nacional de Trabajadores y Empleados de la Rama Judicial [National Association of Workers and Employees of the Judicial Branch].

¹⁴⁹See, e.g., Juan David Moreno, 'Conmemoración de los 30 Años de la Masacre de La Rochela' [Commemoration of the 30 Years Since the Rochela Massacre], *Anadolu Agency*, 1 January 2019, available at www.aa.com.tr/es/pg/galer%C3%ADa-im%C3%A1genes/conmemoraci%C3%B3n-de-los-30-a%C3%B1os-de-la-masacre-de-la-rochela.

¹⁵⁰For ASONAL an officer's view regarding such threats see 'La Justicia Masacrada' [The Massacred Justice], *Revista Semana*, 4 October 2005, available at www.semana.com/nacion/articulo/la-justicia-masacrada/71895-3.

¹⁵¹On the role of collective memory in the formation of collective identity, see Section 2, *supra*.

¹⁵²See Section 6.4, *infra*.

¹⁵³See *19 Merchants v. Colombia* case, *supra* note 50, para. 126.

¹⁵⁴Comisión Colombiana De Juristas, *La Masacre De Los 19 Comerciantes; Sentencia De La Corte Interamericana – La Responsabilidad Del Estado Colombiano Frente Al Paramilitarismo* [The Massacre of the 19 Merchants; Judgment of the Inter-American Court – the Responsibility of the Colombian State for the Paramilitarism] (2004), at 12, 16, 1, available at www.coljuristas.org/documentos/libros_e_informes/la_masacre_de_los_19_comerciantes.pdf.

¹⁵⁵On interactions between power relations and social memory see, e.g., M. Foucault, *Society Must Be Defended: Lectures at the Collège de France 1975-1976* (2003), at 68; B. Molden, 'Resistant Pasts Versus Mnemonic Hegemony: On the Power Relations of Collective Memory', (2016) 9(2) *Memory Studies* 125.

¹⁵⁶See Section 4.2.2, *supra*.

the person is kept alive'.¹⁵⁷ And a member of the family of a murdered merchant also underlined the role of the monument in preserving the memory of the victim:

[O]f course it is significant for us . . . Keeping the memory of the brother alive, that is, not the monument as such, no, because for us . . . he is there, that monument reminds us of that person who 32 years ago was taken away.¹⁵⁸

Another relative explained the multiple meanings attached to the plaque commemorating Jesus Valle Jaramillo:

First, there is a family theme to highlight, it is the plaque of Jesus [the victim], the affection and love that we had for Jesus . . . And the second is that . . . it represents the dignity of Antioquia,¹⁵⁹ let's put it this way, the issue of human rights and the issue of the legal profession, it represents the dignity of the victims.¹⁶⁰

The significance of sites of memory ordered by the IACtHR for the families is related not only to symbolizing the deceased victims and their ever-physical presence (and the latent aspiration to transcend the limits of time),¹⁶¹ relatives also participated in the design of the commemorative objects and the text they bear. The four memorial sites constitute a focal point for annual ceremonies at which relatives, friends, and colleagues cherish the memory of the victims, *inter alia*, by bringing the victims' photos, and jointly reprocess their traumatic death. Asked whether the monument in Bucaramanga is significant for her/him, a relative of a murdered merchant replied:

[F]or me it is highly significant . . . last year I went with my daughter, with my husband and with my grandchildren and . . . we were at the monument, we were remembering, reading the names, remembering the story a little, telling the grandchildren a little bit of the story about everything that happened with their grandfather. So, for me it is very significant.¹⁶²

A relative of a victim murdered in the *Rochela Massacre* explained '[e]very year we commemorate, every year we meet, and the many or few who come make a very significant ceremony'.¹⁶³

The periodical ceremonies held at these memorial sites enable relatives, friends and colleagues to share memories of the victims and collectively reprocess the traumatic events. Such collective activities cannot eliminate the relatives' painful suffering but they convey social support and can alleviate the emotional burden. Recognizing the important role of the sites of memory for the victims' families leads to certain suggestions regarding judicial commemorative remedies (see Section 7 below).

7. The limits and potential role of international tribunals: Memory in small-scale communities

The above discussion suggests that judicially ordered sites of memory generally have limited influence on memories of on-site visitors as well as on societal collective memory. Apart from the

¹⁵⁷Relative Rochela No. 3.

¹⁵⁸Relative Nineteen Merchants No. 2.

¹⁵⁹Medellín is the capital of the Department of Antioquia.

¹⁶⁰Relative Jaramillo No. 1.

¹⁶¹On sites of memory and the aspiration to stop time see Nora, *supra* note 20, at 19; Winter, *supra* note 23, at 113.

¹⁶²Relative, Nineteen Merchants No. 5.

¹⁶³Relative, Rochela No. 3.

memorial site in San Gil, a significant majority of the people in physical proximity to memorial objects do not remember the commemorated human rights violation.

These findings, and the variations between memory rates detected in the different memorial sites, are explained above by the size of the community and the density of its social fabric, professional identity, and a pervasive culture of political violence. The highest memory rate discerned from interviews conducted in San Gil can be explained by a combination of dense social ties in a small community, as well as significant professional ties between the victims and their colleagues. On-site interviews indicate that the memory rates detected in Bogotá and in Medellín are significantly linked to professional ties between the legal-justice community and the victims. The memorial statue in Bucaramanga is clearly the largest one but the memory rate revealed by the interviews held there is the lowest one. The absence of dense local ties or significant professional links with a professional (merchants) community sheds light on the lowest memory rate among the interviewees in Bucaramanga. As to the influence of these sites of memory on the broader Colombian *collective* memory, the survey of the mass media indicates that this objective of the IACtHR has *not* been realized. The second objective of the Inter-American Court's commemorative remedies – providing symbolic relief for the victims' families – has been clearly realized. Interviews with the relatives reveal that the memorial sites are very significant or significant for a considerable majority of the victims' relatives.

Though it is impossible to generalize with certainty from the above findings about other memorial sites in other places, the previous analysis may provide some preliminary indications concerning the limits and potential role of tribunals in the sphere of social memory. On the societal level of collective memory, our findings cast considerable doubt on the capacity of tribunals to construct widespread memories that are inconsistent with the sociocultural features characterizing the particular local community (such as a culture of political violence). Thus, while tribunals' commemorative orders can lead to the establishment of physical memorial objects, they are unlikely to result in the construction of significant collective memories.

The previous discussion also indicates that judicially ordered sites of memory are more significant for small-scale social units, prominently families,¹⁶⁴ small communities marked by closer social ties (as in San Gil) and professional communities (like the legal-justice community). The meaningful role of sites of memory ordered by the IACtHR for families and smaller-scale groups turns our attention to the micro-level sociological perspective, and particularly to the symbolic-interactionist approach to social memory.¹⁶⁵ An exhaustive discussion on the symbolic-interactionist approach exceeds the limits of this study but it is sufficient to note that, unlike the macro structural-functional approach (which focuses on an entire society or large-scale social patterns), this micro-sociological perspective emphasizes interactions between individuals in society, the distinctive meanings that individuals and groups attach to objects or behaviour (prominently, symbols and rituals), and is primarily concerned with the behaviour of individuals in small groups.¹⁶⁶ This perspective is also echoed in Winter's scholarship emphasizing the significance of meaning that communities attach to particular sites of memory and the shared conviction of groups regarding the social message conveyed by such memorial sites.¹⁶⁷ As Winter explains, '[p]ublic reinforcements may help keep alive the ritual ... But the event becomes hollow when removed from the myriad small-scale social units that breathed life into it in the

¹⁶⁴For an insightful discussion of family memory as a significant type of collective memory see A. Erll, 'Locating Family in Cultural Memory Studies', (2011) 42 *Journal of Comparative Family Studies* 303, at 306 et seq.

¹⁶⁵See also G. A. Fine and A. Beim, 'Introduction: Interactionist Approaches to Collective Memory', (2007) 30 *Symbolic Interaction* 1, at 1–5; J. K. Olick, 'Collective Memory and Nonpublic Opinion: A Historical Note on a Methodological Controversy About a Political Problem', (2007) 30 *Symbolic Interaction* 41, at 42–3.

¹⁶⁶See, e.g., G. Ritzer and J. Stepnisky, *Sociological Theory* (2013), at 350–1. See also M. Dillon, *Introduction to Sociological Theory: Theorists, Concepts, and Their Applicability to the Twenty-First Century* (2020), at 261 et seq.

¹⁶⁷See Section 2, *supra*.

first place'.¹⁶⁸ The above effects of memorial sites ordered by the IACtHR are particularly consistent with the symbolic-interactionist approach to international law, highlighting the vital symbolic role of international tribunals, particularly for individuals and smaller social units.¹⁶⁹

Recognizing that the comparative advantage of international tribunals lies in their influence on small-scale social units can generate some suggestions for tribunals active in the field of social memory. First, since judicially ordered sites of memory are meaningful for the victims' relatives, who carry the heaviest burden of grave human rights violations involving death or disappearance, it is desirable to adapt the particular memorial sites to the emotional and cultural needs of the specific families. Such relatives' needs could relate, for example, to certain religious, linguistic, or other symbolic features of the memorial object. Second, the significant meaning attached by local and professional communities to sites of memory suggests that tribunals should prioritize memorial objects adapted to the sociocultural features of such small-scale groups. Judicially ordered sites of memory that are carefully adapted to the features of the families and small-scale communities with which the victims were affiliated are more likely to provide significant symbolic-emotional relief, and are more likely to preserve the memory of the victims in the long term. Third, the above findings highlight the limits of judicially ordered sites of memory on large-scale collective memory, and indicate that international tribunals alone cannot shape collective memories that are inconsistent with central sociocultural features characterizing the particular society. International tribunals may take part, together with significant local agents of memory, in the development of collective memories of grave human rights violations, but they cannot do it alone.

8. Concluding remarks

The analysis of the impacts of four judicially ordered sites of memory in Colombia suggests that though international tribunals cannot be expected to shape large-scale collective memories, they may contribute to the formation and maintenance of memories of grave human rights violations in small-scale social units (prominently, victims' families and the small communities with which the victims identified). Judicially ordered sites of memory provide a significant remedy for the victims' families and, where adapted to the emotional and sociocultural needs of the families and such communities, they are more likely to contribute to keeping the memory of the victims alive. The valuable role of such memorial sites for the victims' relatives and related communities suggests that international tribunals addressing grave human rights violations (prominently massacres or forced disappearances) should consider granting commemorative remedies.

Further studies may explore the effects of memorial sites ordered by the IACtHR in other countries, and the impacts of additional commemorative remedies extended by other international tribunals. Finally, research work could examine interactions between legal agents of memory (such as tribunals) and other agents of memory (such as governmental agencies) and their influence on social memories relating to grave breaches of international law.

¹⁶⁸J. Winter, 'Sites of Memory', in S. Radstone and B. Schwarz (eds.), *Memory: Histories, Theories, Debates* (2010), 312, at 324.

¹⁶⁹See, e.g., M. Hirsch, 'Introduction: Sociological Perspectives on International Tribunals', (2020) 34 *Temple International & Comparative Law Journal* 193, at 197–200.