

Inaugural Lecture
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The (Dia)Logics of Recognition and Repair¹

Why History matters for Justice

Dear Rector magnificus, dear colleagues and students, family and friends, beste mensen,

Together we celebrate today the new chair for '*Historical Memory and Transformative Justice*'. Why is it necessary to talk about history and memory when it comes to justice?

Let me start with myself. *Learning from the Germans* philosopher Susan Neiman called her provocative book, a call for the United States to do more work on its slavery past. The German *Wiedergutmachungspolitik* (translated as 'the politics to make good again' - *slide*) embodies the idea, that German society has effectively processed its difficult past of National Socialism and the Holocaust – through a comprehensive programme of criminal trials, apologies, musea, monuments; attention to the past in education and politics; and its large financial reparation program to individuals as to the state of Israel.

This attempt to process this difficult past has inspired other post-conflict situations worldwide since the 1990s and has become *an ideal* within the rapidly growing field of *Transitional Justice*. *Transitional Justice* is about all the mechanisms by which a society tries to come to terms with a violent – or unjust - past. The Nuremberg trials are iconic, as is the Truth and Reconciliation Commission in South Africa.

As a German, I feel ambivalent about this idealisation of the German model. While as a teenager I used to be a bit ashamed of being German; I am now allowed to identify myself with a much applauded reparation model. Because, when I started working in this field, I saw the many shortcomings of reparation procedures. At the *General Settlement Fund for Victims of National Socialism* in Vienna - where we investigated restitution and compensation claims - we assumed 'doing something good', but soon I realized that the idealisation of the German model meant that too little attention was paid to its shortcomings; such as the reliance on imperfect archives, the exclusivity of measures and the use of criteria that reproduce social hierarchies and sometimes harmful labels. Why - I

¹ For the extended printed version, see: Nicole L. Immler, *De (Dia)Logics van Herkenning en Herstel. Het belang van geschiedenis voor rechtvaardigheid*. Oratie Universiteit van Humanistiek, Utrecht, 29 September 2022. <https://www.uvh.nl/actueel/nieuws/oratie-nicole-immler-om-historisch-onrecht-te-herstellen-is-het-nodig-om-onze-blik-te-verruimen>

often asked myself - have we learnt so few lessons from seven decades of recognition policies? There is a blind spot; how 'victims' experienced those reparation instruments; do they feel heard, seen and recognised?

Transitional Justice (slide)

Transitional Justice looks deeper into how these reparative measures really work. There is much belief in the power of these instruments, especially if they were combined. The idea of reparation has been given a central role, providing financial compensation (alongside an apology) is considered as crucial to restore victims' dignity, and has become a main feature in today's debates about how to address past injustices. While in fact, there is still little knowledge about the effects: do reparations lead to the kind of recognition desired by victims and their families? How restorative is this form of justice at individual, group and societal levels?

Academics argue for a more interdisciplinary approach, more empirical knowledge 'from the bottom up', and for a better use of this knowledge. It is precisely here that the new chair aims to make a difference.

Recognition as a theoretical framework

The chair responds namely to a growing criticism in literature in recent years. This criticism says that the 'struggle for recognition', which is seen as an emancipatory practice, allowing to raise one's voice, in practice often shows contrary results. That recognition tools might in fact rather be confirming than changing the status quo; bluntly said, keep victims in their marginalized position.

To give this phenomenon a name, political philosopher Nancy Fraser has come up with a crucial concept that guides our research. We use it as a lens to look sharply at the quality of recognition procedures. Fraser distinguishes between *affirmative recognition* and *transformative recognition*. While the former affirms certain power relations, the latter reorders underlying structural frameworks and relations.

To give a brief example – when some reparations for the Jewish community (MAROR) were established around the year 2000, it was a transformative experience for those members of the group who could themselves be involved at the table and could co-determine what recognition should look like. As such this becomes a crucial part of recovery.

Often however, we can observe the opposite; no, little or meaningless participation; the one in power deciding how the recognition should look like. Thus, the questions so central to the new chair are: In which ways is recognition of historical injustice considered to be problematic – and why? What should *transformative recognition* look like? How do we – as

individual and as a nation (or a globe) – think reparation and justice? And, what do those definitions and instruments actually say about us?

What can you expect in this inaugural lecture? (slide)

- 1) First of all I will use the example of the 'Dutch slavery past' to show how limited our imagination is about what recognition means, and how it could be broadened.
- 2) I then introduce a few cases of historical injustice taken from our broader research project *Dialogics of Justice*, to show the role current court cases have, to negotiate past injustices.
- 3) Then I will outline which theoretical approaches we bring together to further develop the new lens of *Transformative Justice*.
- 4) And finally, I look at what the ambition of the new chair of *Historical Memory & Transformative Justice* is. This ambition we translated in a *Voice-Ritual* which will conclude the lecture together with my words of thanks.

I. The Dutch slavery past – imagining recognition otherwise (slide)

The Dutch slavery past - not so long ago considered to be an historical era - is today all-over present in the Dutch public debate. I want to briefly show how views on recognition and reparation have changed over the last two decades because of hearing more from the groups involved.

Keti Koti - on 1 July the annual commemoration of the abolition of slavery in the former Dutch colonies (of Suriname and the Dutch Antilles) - has developed from a local event for the community of descendants to a public event taking place at the national monument in Amsterdam's Oosterpark; taken up on national television.

While in 2013, the 150th commemoration (in 1863), the presence of King Willem Alexander was purely symbolic, in 2020, the national commemoration went further and was followed by a debate on institutional racism in Parliament. Prime Minister Rutte established the Dialogue Advisory Group to find out what is needed that pays justice to the Dutch's slavery past.

More and more, dialogue with society is becoming a priority. Citizens are approaching their municipalities, demanding them to invest more in knowledge and awareness, monuments, and apologies. The links between past and present and the entanglements between the

'parties' are becoming more visible (for example when complicated family histories are told) and we are now increasingly speaking of 'our' history instead of 'their' history.

From reparations to repair

This has also influenced how reparation is talked about. For long a key challenge was to find the right language, the right terms; explains Kenneth Donau, a Dutchman with Surinamese roots, who participated – like myself – at the Reparation Summit in New York in 2015.

Reparations in Dutch (herstelbetalingen), has the idea of 'paying money' within the term, but this narrows down the idea of repair from the beginning and it causes resistance. ... Whereas if you talk about 'legal redress' (rechtsherstel), then the conversation is much easier.

While 'reparations' as a term is focused on the past, 'restoring rights' is more about the now and the future. What we have seen in recent years is that this language has changed. Whereas a few years ago the term 'reparations' (herstelbetalingen) was central, the debate is increasingly about 'restoring rights' (rechtsherstel); social repair in a far broader sense. In the words of anthropologist Francio Guadeloupe, instead of healing the trauma of victims, the struggle for equality became central.

There are several initiatives that were crucial to finding this language: the CARICOM claims, a 10-point reparation plan, filed by Caribbean countries against several European governments in 2013; the UN Decade of People of African Descent (2014-2024), which addressed racism, discrimination and economic inequality. The Black Lives Matter movement and the anti-Black Pete movement, both made that this language about *claiming rights* became more visible in the public space.

When we use the *continuum justice* model (by legal scholar Lisa Laplante - *slide*) to interpret those claims made; we see a shift from a minimalist to a maximalist justice claim; from reparations of a specific harm with a causal connection to a broader idea of equality and socio-economic redistribution.

One could say that the idea of *reparations* (herstelbetalingen) and *repair* in a legal and social sense (rechtsherstel) are quite diametrically opposed. One is coming from the idea of harm, the other from a standpoint of justice; one is about individuals, the other about society as a whole; one is about addressing past suffering, the other is about repairing social relations in the present. Instead of a binary idea – reparation payments from one group to another – we can now see an idea of *social repair* in a much broader sense. This notions of 'repair' we also see in other cases of historical injustice.

II. 'Dialogics of Justice' – a comparative research on (historical) injustice

We see here the civil court in The Hague (*slide*), where numerous special court cases, so-called landmark cases, have been heard over the last 15 years. All deal with recognition of historical injustice: *colonial war crimes in Indonesia, failed peacekeeping missions in Bosnia, institutional abuse in the church, human rights and environmental violations by multinational Shell in Nigeria*. And all are cases in which individuals bring a claim against powerful institutions (such as the Dutch government, the defense force, the catholic church, and Shell).

In these – often lengthy – court cases, we have recently seen landmark judgments that show that the law can facilitate truth finding, it can provide recognition, it can trigger a broader public debate; and even that the ‘law can move’; when for example colonial crimes are not any longer seen as too long ago to be addressed (time-barred).

At the same time, we witness an odd situation, that in court we listen to testimonies about mass violence or massive environmental pollution, but only few individuals are given attention and recognition. Because of the individual approach to justice in court, it is difficult to bring the collective and structural nature of the violence and the system behind it to the fore - a problem often raised by activists. A broader debate on alternative routes is missing.

Comparative research: Juxta-positioning

How can we see the bigger picture? In a comparative study, called *Dialogics of Justice* – a research cluster the new chair is based upon – we in a team, analyze these court cases addressing historical injustice side by side.

What is striking are the similarities: individuals oppose powerful institutions (a David versus Goliath setting), incidents and specific places are in the spotlight, while the victims testify to similar instances in many places. Apologies and financial compensation became the dominant instrument, a classic result of a court procedure; but there are more comprehensive demands being made; those however are difficult to pursue via legal procedures. Claimants however go to court not because they want to, but because the denial of institutions and governments leaves no other option. A lawsuit is their last resort. It is that via the judge they communicate to society - thus to us. (*slide*)

Let me take you through one example from our *Church case*. Here is the example of, let’s call her Susan, a woman in her early sixties, raised in a strict Catholic family, where ‘obedience’ was the most important virtue. She told how the war lived on in the family; how the mantra ‘doing your duty’ culminated in utter obedience to the church; in parents who did not believe and protected their child from the assaults of a resident priest. Only decades later Susan found the adequate words: ‘sexual abuse’. That the judge eventually told her: ‘*You are innocent. It is not your fault!*’ is for her the most important sentence that came out of the court hearing. The support of a peer group, finding the right words when writing the

complaint and her testimony during her moment in court was crucial for her to be able to tell her story. She said: '*I want those responsible to know what it did to me*'. That the judge could force the church to take responsibility gives Susan confidence in society. Because she knows: there are many 'Susannes' out there; and sexual abuse is not a story of the past.

Returning to our theoretical framework this raises the question: What are the parameters that make recognition a transformative experience?

III. Dialogical approaches – the new lens of Transformative Justice

To examine *the quality* of various recognition and reparation processes, we focus in our research not on the legal binary setting, but on the social dimension of recognition, on the dialogues involved in such reparative procedures; between individuals and their families, communities, and the institutions. This is needed to move beyond a victim-centered approach, and to address the bigger picture.

To study recognition as a dialogical process, we use several concepts. In the interest of time, I focus just on one: *Resonance*. That concept, developed by the sociologist Hartmut Rosa, gives us an analytical tool to explore the quality of these dialogues and to evaluate when an *affirmative* or a *transformative recognition* takes place. According to Rosa, *recognition is only felt when a mutual transformation* has taken place; when it has enabled both parties to overcome their original position; both parties must move. This dynamic he calls resonance.

All the court cases we examine show however institutions that are unwilling to engage with citizens, invest a lot of money in lawyers to win their case instead of trying to find solutions together. Judges are increasingly forcing these institutions to take responsibility. These lawsuits – this 'juridification' of society that we currently observe – could be interpreted as citizen emancipation, but can also be seen as a reaction to the trend that governments, institutions and multinationals have distanced themselves from their citizens and customers. While individuals explicitly emphasize the *systemic* nature of violence, the institutions repeatedly dismiss their experiences by framing injustice as an 'incident' or 'excess' in an otherwise just system. This makes it so critical to look at deeply entrenched patterns of injustice inherent in the system. A basic problem is the incidental and fragmented responsibility taken by government, defence, the church or corporations like Shell. The system itself – its political, economic and legal structures – is not put into question even though it is this very system which allowed for these injustices in the first place.

This means that listening alone to victims is not enough, but looking at the institutional structures of power is needed, enabling - and often still maintaining - this sort of dehumanization. *Providing recognition* to victims and *taking responsibility* on institutional level belong together; yet are too often thought of separately. A Transformative Justice perspective allows a more systemic approach.

Schema (slide)

Transformative Justice has emerged within the realm of Transitional Justice, aiming to identify the '*root causes*' of structural and systemic violence, rather than addressing just the 'symptoms'. Our aim is to identify parameters when we can speak of justice in a more structural sense, where we can speak of changing power relations and deep change. Several authors are associated with the development of this movement such as Paul Gready and Simon Robins, who have called the 'turn' from Transitional to Transformative Justice a 'new agenda for practice', to strengthen the empirical approach.

For us, this means a shift in focus from the legal to the social - recognising the meaning and impact of legal processes on peoples' lives. According to Gready & Robins, transformative justice begs *a radical rethinking of participation in transitional and transnational justice interventions. It seeks a form of participation that engages with but transforms victimhood* (2014).

This also raises systemic questions: What is the quality of the participation? Did it create agency and change of power relations? Does it allow to deconstruct power relations and the hierarchical logics of 'who acknowledges' and 'who is recognized'?

According to Brianne McGonigle Leyh and Julie Fraser, the concepts of *Transformative Justice* and *Transformative Reparation* are particularly useful as a '*language of demand*' and as an '*advocacy tool*' to address structural situations of victimisation and marginalisation and to develop a 'shared, common understanding of a transformative purpose'. People need to know what they really want to achieve so that they can better articulate their demands. This means going beyond simply a criticism of existing measures and towards a formulation of positive alternatives. The concept of 'transformative justice' seems promising in this respect. This is what the new chair aims to explore.

IV. The Chair – Historical Memory & Transformative Justice

This brings me to the new chair: Historical Memory & Transformative Justice. Why this name, what will we do and why is UvH the perfect place for it?

The name of the chair is derived from the two disciplines I stand for as scholar: a historian who worked in Memory Studies and moved in the Transitional Justice field. For me, it was important to commit myself to the emerging field of *Transformative Justice*. The chair's name makes it clear that - when it comes to justice - the past has to be part of the conversation: History matters for the justice of today.

Without knowledge of the past, knowing the ‘root causes’, meaningful redress is impossible. The challenge is to find the right balance between past and future, between backward-looking accountability and a forward-looking responsibility; what political philosopher Janna Thompson has called *intergenerational responsibility* – a mechanism not just operating within families but also society and its institutions.

Therewith the chair will bring two major research and teaching areas of the University of Humanistic Studies closer together: an individual perspective on well-being and meaning-making and the institutional perspective on humanising society.

Some words about the chair structure: As our research *Dialogics of Justice* is at the heart of the chair, the chair will be structured in a similar way; studying (*slide*):

- 1) typical and atypical cases of historical injustice, inside and outside the courtroom
- 2) the role of claimants and institutions/government; to reach beyond a victim approach
- 3) use dialogical approaches to look into power inequalities in these social spaces;
- 4) use responsive evaluation, to ensure that our research is not about, but with those groups involved
- 5) we work on a toolkit to translate knowledge into practice

The team (*slide*) consist of the PhD candidates Obiozo Ukpabi and Naomi Ormskerk studying the Shell and the church case, Postdoc Niké Wentholt scrutinizing the Bosnia case and the socio-legal side of those cases, myself, I am responsible for the colonial case and the overall synthesis. We were previously supported by Marrit Woudwijk and Luna Bonvie; hopefully many more will join to take up our concerns.

The research has already led to a master's course '*Human Rights and Transitional Justice from an Interdisciplinary Perspective*', which we hope to develop further into a fully-fledged master's program.

Talking about outreach: Our aim is not only to create synthesized knowledge on recognition and repair procedures, but also to translate this into practice: to develop a toolkit that provides guidance for governments and other institutions on how to improve their recognition and repair practices. As we know, currently many institutions in the justice, health and care sectors are in need of more effective procedures (just think of the cases: Toeslagen affaire, gas extraction in Groningen or forced adoptions). We hope our research can contribute to these discussions in a constructive manner and help to develop new practices, meaningfully also to the ‘new’ field of Transformative Justice.

The Multivoiced Archive – Voicing Unheard Voices (*slide*)

Next to the analysis of our interview data, we are building also *what we call a Multivoiced*

Archive, an interview archive, making unheard voices accessible to broader audiences. As the sociologist Abram de Swaan so poetically put it: *If a story cannot be told, the deficit must be with the speaker as with the listeners. If one cannot speak, other apparently cannot listen.*

One could say that the oral history archive is the place where the memory of historical violence lives and materializes. By building this archive we address what political philosopher Miranda Fricker has called '*epistemic injustice*', the structural injustice that certain knowledge is not yet available in society. This is because certain people have been silenced because they are not perceived as 'knowledgeable' (due to prejudices), or whose stories are not yet understood (due to a lack of collective consciousness). For example, when political, social or normative frameworks make it difficult to really hear what is being said.

For example it is difficult for a soldier to tell an experience of war when his mission was labeled a 'peace mission'; which asks from him not just to process the experience of violence itself, but also its silencing afterwards.

We want to make sure to share such stories and therewith a different knowledge; which supplements classical archives, but also what Gloria Wekker has called 'our cultural archive', a metaphorical archive of how we view ourselves and others. This leads me to the last part of my lecture; namely *voicing those voices*.

An inaugural lecture is a ritual with a clear message; giving weight to a theme and to all the voices speaking alongside me in this inaugural lecture. To voice their voices and honor those voices we have created a *Voice Cloud* of those, who, in two decades of interviewing have so generously shared their experiences and knowledge with me and my team, and thereby with all of us. Its these voices – read by our students – that make it possible for us here today to connect with their stories, their experiences, their knowledge. These voices show us why recognition matters and what constitutes justice for them.

Listening to the Voice Cloud: Voicing unheard voices (10 min intermezzo)

Like all the voices we just have heard, we also carry stories that often go unheard. (Pause)
For all those voices present in this room, for all of us, there is a stone on our chairs. A stone can signify a burden on our shoulders, but also a foundation we stand on. I invite you to hold this stone in your hand and think of a voice that you carry with you. A story that has not yet been shared, but longs to be listened to. Please take it home and give it a place, full of light, where the voice will find some resonance.

Thank you

Finally, the thank you section. (*slide*) Academic success is only partly an individual achievement; it is made possible by so many people; I would not be standing here without you. Now is the right time to express my sincerest thank you to *you*, who have helped and influenced me along the way.

This chair is founded on my research '*Dialogics of Justice*', funded by a VICI grant from the Netherlands Organisation for Scientific Research (NWO), and an Aspasia grant, which promotes appointments of female professors. I would first of all like to thank NWO for the enormous trust placed in me and my research.

I would like to very warmly thank our esteemed rector magnificus Joke van Saane as well as the Executive Board, for the trust they place in me; and for this wonderful opportunity to share my vision of a future UvH. I am also indebted to former rector magnificus Gerty Lensvelt; at a time when I was a nomadic postdoc, she gave me an academic home.

Over the years, I had several intellectual fathers and mothers who shaped me – to all of you a big thank you: to my own father, who taught me to live passions, to never give up and to reach mountain tops; important values for academic life. My 'doktorvater' Moritz Csaky, who taught me all about interdisciplinarity. Thank you too, the Institute für Kulturwissenschaft in Vienna (Heidemarie Uhl and Johannes Feichtinger) for all your vibrant spirits; also my colleagues at the *General Settlement Fund* for sharing all their knowledge with me.

After moving to Utrecht, I owe much to Ann Rigney, who included me in her warm Memory Studies group at Utrecht University; and to Selma Leydesdorff, who encouraged my first steps into the world of education in her Oral History Class. My thanks also to the Human Rights Institute, SIM, which taught me the interdisciplinarity of law; and to the Duitsland Instituut, Ton Nijhuis, for your active support and our joyful reading club.

When a fellowship took me to NIOD, the Institute for War, Holocaust and Genocide Studies in Amsterdam, it felt like I had 'finally arrived' in the Netherlands where I became part of an ambitious Transitional Justice program under the caring leadership of Nanci Adler. Many thanks are also due to my inspiring Transitional Justice reading group, the Tilburg 'apology group', the VU 'Victimology group', KITVL colleagues and especially Wouter Veraart, Thijs Bouwknecht and Stef Scagliola for generously sharing all your expertise.

When I ended up at the University of Humanistic Studies., for the first time it felt as no longer sitting in-between disciplinary chairs. I would like to thank Hans Alma, Carolien Suransky and Laurens ten Kate for bringing me on board of the Globalisation and Dialogue program, our Simagine program is a great inspiration for me; as our PhD Joandi Hartendorp.

Many thanks to Carmen Schumann for introducing me into the world of spiritual guidance; and Joanna Woitkowiak for having brought me into the world of ritual studies, where a Ritual Studies program got off the ground. Focusing, among other things, on new rituals (as you just have been witnessing). Many thanks go also to Eric Vermetten, Siri Driessen and Jeannette van Brenk, who introduced me in the world of the military.

A big thank you also to my own chairgroup: Evelien Tonkens for your substantive enthusiasm and your generous support, intellectually and practically, and the good atmosphere you create; and to all my colleagues for the many inspiring moments: we share so much more than an office in the same corridor.

Many thanks are also due to my fellow readers of this inaugural lecture: Hans, Niké, Evelien, and Bas van Stokkom. I greatly appreciate your critical input.

Dear *Dialogics of Justice* team (Niké, Naomi, Obiozo, and Jake) – thank you for your enthusiasm, intellectual curiosity and drive, and commitment to develop this chair with me; your creativity and team-spirit will bring it alive. I enjoy working with you. I also hope that together with Paul Gready and his Institute for Human Rights in Practice at York we can further develop this new field in theory and practice.

Both academic and personal: Katrien, Stef, Tina and all my Viennese friends, many thanks for blurring those lines. Thanks also to Petra, your voice work taught me to find my own. Jaqui, many thanks for sharing your language skills with me.

Liebe Familie - Papa, Julie, Margit, Papa Hans, Weitschie, Mechtold – SEHR schön dass ihr da seid und diesen Moment mit mir teilt. Rituele sind kein Talent unserer Familie - ich bin stolz auf euch! And finally; the most weighty: dear Hans, without you I would certainly not be standing here. Not in Utrecht, not at this university, not on this stage. Your creativity stimulates mine, your humor relieves academic heaviness, your peace feeds my soul. Merci for your daily care and living this life with me.

Ik heb gezegd.