



**HAL**  
open science

## Special Series “ States of Impunity ”, Open Democracy, May 2015

Shilpa Jindia, Chowra Makaremi, Pardis Shafafi

► **To cite this version:**

Shilpa Jindia, Chowra Makaremi, Pardis Shafafi. Special Series “ States of Impunity ”, Open Democracy, May 2015. Truth Telling and truth Seeking in Contexts of Impunity, Oct 2014, London, United Kingdom. hal-03038875

**HAL Id: hal-03038875**

**<https://hal.science/hal-03038875>**

Submitted on 3 Dec 2020

**HAL** is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

# States of impunity

[www.opendemocracy.net/opensecurity/pardis-shafafi-chowra-makaremi-shilpa-jindia/states-of-impunity](http://www.opendemocracy.net/opensecurity/pardis-shafafi-chowra-makaremi-shilpa-jindia/states-of-impunity)

Shilpa Jindia , Chowra Makaremi , and Pardis Shafafi

openSecurity's [new series](#) explores how the violence of state crimes endures. How and when does the fight against impunity open up an arena for action and change?



*Blindfolded prisoners contort under guards. Parastou Forouhar, Panorama, Serie II, 2009. All rights reserved.*

As new configurations in the world order are pledged through an agreement on the Iranian nuclear programme, a common point shared by the two main negotiators, Iran and the United States, was their enduring records of impunity for torture and extrajudicial killings that have both been eluded or justified by global power politics. How should we respond to torture when it is committed by the most powerful nation in the world? How should we react to such crimes when they are committed by countries whose recent history has been written over mass violence, and whose ruling elite are made up of past perpetrators?

openSecurity's new series, ***States of Impunity***, explores how state crimes endure and are covered-up within the geopolitics and micropolitics of impunity, and how wounded societies work in response to untie the knot of violence and silence. Organized into four sections, and launched over two weeks, the series brings together a range of scholars and practitioners to share their insight on the internal workings of power, truth and justice, in situations where forecasting is difficult and conflicts are ongoing.

## Politics of Impunity

Impunity is a global narrative, through which injustice, domination and violence are channelled in a world marked by a global discourse that purports to recognize human and universal rights as the highest values. We start the series with *Politics of Impunity* by exploring this gap between the principles, international standards and practices—between the law and politics. The esteemed and subversive jurist, [Baltasar Garzón](#), analyses the politics of amnesties looking at how denial, amnesia and claims for justice are negotiated

in the interplay of domestic and international law. Anthropologist [Kimberly Theidon](#) examines the “architectures of impunity” within which state violence enfold, exposing the startling scale and reality of forced sterilization programmes in Peru.

[Susan Kemp](#) and [Martha Dietrich](#) further develop discussions on the lasting grey zones of violence and intimidation in transitional justice settings like Guatemala or Peru, and illustrate the challenge of establishing truth-seeking processes in situations where perpetrators are still in power. [Andreas Schüller](#) confronts this question explicitly while discussing the path to accountability for CIA torture in Iraq and Aghanistan. This inspires multiple lines of further inquiry, begging questions such as how are justice mechanisms implemented, subverted, or invented from scratch within local and international power relations and in situations of economic inequalities? These complex realities challenge transitional justice as the clear-cut line between liberal and violent, authoritarian regimes.

## People's Tribunals

---

Through the themes introduced through Politics of Impunity, we intuitively arrive at our second theme, [People's Tribunals](#). We consider how communities claim ownership of international law by setting up ‘unofficial’ courts that reproduce judicial grammar and procedures without a legal or state mandate. [Richard Falk](#) explores how these ad hoc civil-society initiatives, modeled upon the 1960’s Russell Tribunal on American war crimes in Vietnam, emerged to fill a normative vacuum in a world pervaded by double standards. He addresses the critiques levied against these truth-seeking initiatives: one-sidedness, the lack of formal authority and formal legal competence. [Sévane Garibian](#) elaborates this discussion of competence and authority by drawing a genealogy of people’s tribunals. From the need for justice to the emerging ‘right to truth’, she establishes ‘recognitive’ and societal justice as a space that fundamentally challenges the state and its hold over justice. [Ustinia Dolgopoi](#) documents this creative transformation of international law through the procedures and achievements of the Tokyo Women’s Tribunal, which addressed the long-standing suffering of the ‘comfort women’ forced into sexual slavery by the Japanese military during the second world war. By focusing on gender and sexual violence, the tribunal went further than a strictly penal approach, exposing the social dynamics of domination entwined with impunity.

Tokyo shows that, deprived of legality, peoples’ tribunals ground their legitimacy and efficiency in solid fact-finding procedures aimed at creating a fuller and more accurate historical record. [Pardis Shafafi](#) questions these issues of history and memory through the Iran Tribunal, which sought to address the legacy of 1980s state violence committed by the Islamic Republic. Shafafi makes a compelling observation that witnesses wanted acknowledgement that their situation had not simply been ‘unseen’ but had actively been ignored by the international community. And while traditionally functioning as a response to historical accountability and truth, peoples’ tribunals also address current and urgent cases of impunity. [Tatiana Coll](#) shows how an ongoing people’s tribunal in Mexico

became a space in which the kidnapping of 43 students in Ayotzinapa in late September 2014 was immediately addressed, alongside the deteriorating situation of education and labor rights it was originally tasked with investigating.

## ¡Basta Ya!: Civil Society Protests and Activism

---

Our third theme examines the way that struggles for justice directly confront state impunity through *Civil Society Protests and Activism*, challenging the role of powerful perpetrators through a range of potent campaigns. How are these demands for state accountability and justice transformed into specific civil society movements, as the words ¡Basta Ya! sum up, in different parts of the world?

Raluca Roman explores the relationships between the justice system and structural inequality and exclusion in the European rule of law, through the case of the Finnish Roma. Illustrating how marginalized ‘minority’ groups are persistently approached via their lack of, or counter-position to, mainstream understandings of justice and morality, she shows how structural exclusion is framed in culturalist terms, and how Roma civil society responds to this. Nicky Rousseau builds further on the relations between justice and structural violence in a post-transition context. While the inability to address legacies of poverty is increasingly regarded as one of the failures of South Africa’s transition, several civil society hearings such as “Speak Out Against Poverty”, carried out alongside the Truth and Reconciliation Commission, attempted to place this question centrestage, making apparent more pervasive and normative forms of impunity. She asks, then, why these initiatives have mainly gone unnoticed, and why their more comprehensive approach to issues of economic violence in the apartheid has remained inaudible?

Inversely, what makes a makes claims of justice audible? José Carlos Hesles takes this question through a specific form of protests called popular trial or citizen trial in Mexico. He further shows how these court-theatres convey major political protest by making sensible and visible the frontier between “the legality with which the justice system operates and popular or citizen legitimacy”. While justice and accountability is a shared horizon of action, civil society initiative can take other forms than that of the judiciary hearing. Documentation, access and diffusion of information are another major action in this field. Shadi Sadr reflects back on the achievements and challenges of Justice for Iran’s Data Bank of Human Rights Violators, gathering information on perpetrators of State crimes in Iran. She unfolds how such needed initiatives are dependant on western political will—and lack thereof that perpetuates a culture of impunity. While the Iranian case shows a documentation initiative taking place from the outside, Ali Ali explores the challenges of such initiatives when they are carried within a risky and life-threatening situatino situation. He analyzes how, in order to document state crimes in Syria, human rights activists have used a mixture of advanced and low-tech information communication technology, both empowering and exposing them.

## Violence and Silence

---

The fight against impunity is linked to a space of justice, be it local or international, sanctioned by punishment or symbolic. However, we can't restrict our understanding to legal imperatives, architectures and instruments. Impunity is also shaped by situations of denial which are deeply rooted within the social body, involving cultures of silence and ideological framing. The relationship between state violence, consent and the crafting of silence is a complex and multidimensional one. In response to these mechanisms, [Chowra Makaremi](#) looks at how memories of a collective experience of violence are transmitted through written testimonies. These writings reveal a human geography of silence and memory: between the spheres of the private, the public, and the collective; between the inside and an outside that is exiled. [Omar Dewachi](#) reflects on how literary fiction has been able to capture the depth of human experience and the complexities of notions of justice under the extreme violence of the US-led wars in Iraq. Beyond normative narrative mediums, our last section, [Violence and Silence](#), looks at storytelling and narratives, the act of remembering, naming and describing, as political weapons. How and when do narratives of violence enter into collective memories? And in a process of truth telling, what kind of 'truth' are we talking about? What relationship to the political, the collective and the law does the enunciation of truth entail? [Mariella Pandolfi](#) and [Laurence McFalls](#), explore this question further by exposing how the work of Michel Foucault can help us grasp the meaning, implications and demands of “speaking the truth” to power.

---

*This series is a collaboration between openSecurity and the conveners of the [“Truth Telling and Truth Seeking In Contexts of Impunity”](#) conference and workshop, held in London in October 2014.*