

HANDBOOK AND PRACTICAL GUIDE

History on Trial: A Framework for Dealing with Controversial Monuments

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INTRODUCTION

Monuments in Controversy

Controversial monuments are structures and statues that were originally intended to recognize the accomplishments, history, and sacrifice of people in the community or the country and of their leaders. Although in their time they were recognized for their grandeur, local contemporary communities can come to question the validity of the narratives and history that they present. **The debate can grow acrimonious and can become violent, and the institutions of law, order and local governance can find themselves embroiled in a difficult situation.**



Murch, Beatrice. (2006). *Santa Fe Plaza, NM* [Photograph]. Santa Fe Plaza, New Mexico. CC BY 2.0. <https://www.flickr.com/photos/82439748@N00/157779639>



Miller, Doug. (2021). *Santa Fe Plaza* [Photograph]. Santa Fe Plaza, New Mexico. Alliance for the Restoration of Cultural Heritage.

On the one hand, clearly the right to protest should not include the right to unilaterally destroy a structure without consideration of pros, cons, and different viewpoints. Besides leading to rampant disregard for the values of cultural heritage, this is also likely to engender greater conflict as subsets of the community align differently on the issue. On the other hand, communities and societies certainly have the right to determine the symbols that represent them, the values they admire and the way their history is told.

The Current Situation

1

The right to protest should not include the right to destroy a structure without consideration of pros, cons, and different viewpoints

2

Communities and societies have the right to determine the symbols that represent them, the values they admire and the way their history is told

We created this Handbook to propose a new method for coming to a judicious, systematic yet expeditious decision in situations when a monument becomes disputed.

We believe that by symbolically replicating the system of criminal law, all parties can have the opportunity to participate in a “trial” to weigh the ethics, relevance, and other tangible and intangible values of the respective monument, to consider their options and to come to an objective decision.

Our Mission

This handbook introduces a new perspective for managing contention between modern ideals and symbols of the past.

HANDBOOK - The Background

Among its many other dramatic events, 2020 was also a Year of Reckoning for statues and monuments. Protesters and activists challenged the way we choose whom to admire and whom to revile, what to remember, what to celebrate, what to consign to oblivion, and how to judge right and wrong across time.

It was startling to witness crowds taking it upon themselves to implement corrections to history in direct physical ways, smashing and pulling down monuments, heaving statues into the harbor, or spray-painting denunciations onto inscriptions. But the phenomenon itself is anything but new. People have been toppling edifices and chiseling each other's names and faces off monuments and plaques for thousands of years, to signal a shift in power and to deprive an enemy or a rival of fame and immortality.

In the U.S., to have portions of the public decide to take direct action in pursuit of instant historic revision, was unexpected. Municipal authorities and law enforcement were, in general, unprepared for this challenge.



Webster, Tony. (2020). *Christopher Columbus statue Torn Down at Minnesota State Capitol* [Photograph]. CC BY 2.0. <https://www.flickr.com/photos/diversey/50000129917/>, CC BY 2.0, <https://commons.wikimedia.org/w/index.php?curid=91204611>.

How to honor the demands for social justice and for an inclusive local and national narrative without condoning violence, law breaking and mob rule? **How to determine which demands are legitimate, when community opinion is divided, and emotions are running high?** How to develop a solution that is truthful, fair and conducive to social peace, while also respecting the principle of historic preservation?

The civil unrest of 2020 was ignited by several egregious police killings of black civilians. These had been recorded on film and widely viewed, and many people were understandably distraught and enraged. Demonstrations and riots followed, police stations and in some cities, entire neighborhoods were occupied by protesters. Soon this was felt to be insufficient, and the crowd felt impelled to address the deeper historic and systemic aspects of racism as well. But how to find a tangible manifestation of something so abstract? Enter the monument.

Statues of Robert E. Lee had been controversial for some years and had been the subject of desultory debates in various locations, but now his place of honor in public places was felt to be intolerable and in need of instant correction. As the protests spread to Europe, monuments to persons who had been involved in the slave trade were attacked, and other instances of injustice and discrimination were also tackled, such as the issue of colonialism, and the displacement and genocide of indigenous peoples.

While there was widespread sympathy for the principles and causes being championed, there was also broad agreement that **mob rule**¹ was not an acceptable method and that an angry crowd did not have the right to impose irreversible unilateral outcomes on their community or, for that matter, on historic memory.

ARCH International is a cultural heritage organization working on historic sites internationally, specializing on conflict and post-conflict locations where we have frequently witnessed comparable dilemmas and controversies. We have also encountered a number of highly innovative solutions, some of which we describe in the second part of this paper.

¹ “Mob rule” is referencing the level of escalation where protestors begin to assault or destroy.

But first, we will be proposing a **paradigm change** in the way this problem is understood and approached. We believe that by adopting the template of Criminal Law, it instantly becomes much easier to define, categorize and evaluate any specific monument, statue, site or narrative; clarify the available options; give a voice to all stakeholders; and come to the optimal final decision.

HISTORY ON TRIAL

Places and objects become popular, sometimes for themselves, because people admire them or grow fond of them, or sometimes just because they make for a convenient orientation point to meet up with people. Sometimes they are ignored, becoming virtually invisible as locals go about their business without giving them another glance.

But with some regularity, one of these edifices will become the subject of contention. This happens even to explicitly non-political art works, which can inspire controversy when some members of the public find them unsightly or inappropriate or too expensive or if they wanted something different in that spot. This can be unsettling enough, but the far



DoulosBen. (2020). *Abandoned Statue of David of Sassoun* [Photograph]. California, United States of America. CC BY-SA 4.0. <https://commons.wikimedia.org/w/index.php?curid=90011490>.

more difficult controversy arises when some part of the public or a civil society organization determines that a public monument is insulting, inaccurate, or racist. Their critique can build up to emotional and physical responses. **The most difficult situation occurs when there is disagreement over the message or purported message of the edifice, with the degree of difficulty directly related to the level of emotion the issue incites, and the presence or absence of consensus regarding the ethical or political values at stake.** In such a case, how does one decide? Through reference to known standards that are broadly accepted as fair. We will be suggesting a framework that offers such standards.

Subjects of Contention

1

Disagreement over the message or purported message of the edifice; complicated by the level of emotion the issue incites

2

Disagreement over the presence or absence of consensus regarding the ethical or political values at stake

PROPOSING A NEW METHOD

At the heart of such controversies is the issue of judgment. A particular person or event or group has at some point in the past been judged worthy of admiration and was given (or gave themselves) a public spot of honor. Later this comes under dispute and the person, event or group now stands accused of conduct or actions that are immoral or criminal and thus undeserving of fame and glory. In the ensuing debate, four levels of argument come into play, as the matter is defined to touch upon:

Community Relations Issues

Social Justice Issues

Political Issues

Aesthetic Issues

Each of these can have its own standards, considerations, and advocates, leading to acrimony and gridlock.

This process can be simplified, made transparent and straightforward. We must merely recognize that what we are dealing with is an accusation, requiring judicious review and concluding in a judgment. We therefore propose to cast this matter in terms of criminal justice. To be clear, we are not proposing a literal criminal trial. We are suggesting, rather, that we draw on this analogy, because it has the significant merit of providing us with the conceptual framework, the process and the vocabulary to deal with the matter of contested monuments and sites objectively, systematically and consistently.

- With the goal of a fair trial in mind, there is no need for a random outraged group to storm or destroy a monument; they have a “due process” methodology by which they can make their case.
- This template also eases the burden on local and municipal authorities, who will no longer be caught by surprise when such a controversy arises and will not be obliged to improvise a response.
- The analogy of a criminal case provides a familiar logical set of steps and assigns every involved party an appropriate role.

STEP I - The Accusation

Once there is an accusation, the process commences. **The first step is to ascertain the validity of the accusation.** Has the guilty party been correctly identified? Has the offense in question indeed been committed? Is there sufficient evidence for an “arrest”?

In Dunn, North Carolina, a statue of General Lee was set on fire and significantly damaged by a group of protesters. Just one problem: they got the wrong General Lee. The statue, as should have been obvious from its clothing, was of a WWII General named William Lee, the commander of the 101st Airborne Division. He was responsible for training and leading the paratroopers who landed in Europe on D-Day. His statue shows him wearing a modern uniform, and the fact that such a mistake was made illustrates why you do not want to rely on information from or decisions made by an angry mob².

² <https://www.cnn.com/2019/02/21/us/general-lee-statue-north-carolina-trnd/index.html>

STEP II - The Arrest

In an actual criminal case, the accused may be incarcerated, because they are deemed dangerous, or to prevent them from fleeing or, in some cases, also for their own protection from the angry public or the victim's incensed friends and family. They must get their day in court before a judge and jury. They have a right to mount a defense, and if they are unable to do so on their own, a court-appointed lawyer will be provided to them.

In our analogous process, the incarceration of the subject has its equivalent in the displacement or isolation of the object. This is being done already in some cases and for similar reasons: either to protect the public from any negative feelings that the ongoing display could cause them, or to protect the object from angry violence until a decision can be reached.

STEP III - Jury Selection

In a criminal case, a judge with a vested interest or an existing bias must recuse him- or herself from presiding. And the jury selection, too, aims at obtaining a group of individuals who can be fair, who have not already made up their minds, and who have not been unduly influenced by what the press has been reporting. In a cultural heritage trial, we have the added challenge of needing to take into account the dimension of time: the past and what we know of it, but also the future, because we are proposing to deprive our descendants of an object that may have value to them.

Those with strong pre-formed views and a direct personal involvement in the outcome are not best placed on a jury. Their role – and it is an essential one – is in the **witness stand** and during the phase of **victim impact statements**. On the jury, you need those who are a step removed and able to dispassionately review the full picture. **Similarly, cultural heritage experts do not belong on the jury; their role is to be called to testify as expert witnesses by one side or another. The jury should consist of ordinary citizens.** If the accusing party fears that local ordinary citizens will not be able to be objective, because emotions have run too high or because they are likely to side with the accused for sentimental reasons, then as in a criminal trial, the prosecution can

request a **change of venue**. For example, the prosecution could argue that a case involving a Confederate monument should not be heard in the Deep South but needs to be moved to a different jurisdiction.

Call on witnesses for the defense

The case of Robert E. Lee is interesting. At the start of the Civil War, he was asked to command the Union army. He chose to throw in his lot with the Confederate side instead. And now is not the first time he is being harshly judged for that decision. After the South's defeat, his fate was hotly debated, with his life literally on the line: even some of his former closest personal friends thought he deserved the death penalty for treason. President Lincoln chose to pardon him instead.

The Civil War remains America's bloodiest war, with three quarters of a million men killed. The country, and many families, had been torn apart, cities burned. When it was finally over, there needed to be healing and re-unification and for that, there needed to be national reconciliation. **The Confederate soldiers had to accept that they had lost and lay down their arms.** They were required to apply for amnesty and had to officially request to have their citizenship reinstated. Lee lent all his influence to that effort. He ensured that the Confederate army disbanded when many of his officers wanted to switch to guerrilla warfare and keep fighting. He publicly requested amnesty and asked for his own citizenship back, to set an example. And then, he removed himself from public view and lived out his life quietly as president of Washington College. His home and lands had earlier been confiscated by the federal government and converted into a graveyard -- today's expansive and iconic Arlington Cemetery. His application was mislaid, until it was found during the Presidency of Gerald Ford. Responding to a Congressional petition, he pardoned him posthumously.

In an interesting twist, **Robert E. Lee would have been a witness against his own statues. He was explicitly opposed to Southern irredentism** and in 1869, he advised against putting in place any Confederate monuments, arguing that it was best “not to keep open the sores of war but to...obliterate the marks of civil strife.”³

STEP IV - The Plea

Next, the accused – or their lawyer on their behalf – pleads guilty, not guilty, or not guilty by reason of insanity. This is fairly straightforward in the case of most disputed monuments. There is no question that Colby – who had a stately monument and multiple buildings named after himself in the British city of Bristol – had acquired his wealth through the slave trade. Only one way to plead: guilty. Robert E. Lee, despite having been asked to command the Union Army, chose instead the path of sedition and accepted command of the pro-slavery Confederate Army instead. No question. Guilty.



Perna, Algerina. (2018). *Confederate monument removed* [Photograph] Baltimore, Maryland. Baltimore Sun.<https://www.baltimoresun.com/maryland/baltimore-city/bs-md-confederate-statues-20180813-story.html>

³ <https://www.nytimes.com/2017/08/18/us/robert-e-lee-slaves.html>

STEP V - Deliberations Begin

It is also necessary to establish the credibility of the accuser and the witnesses. If this has not already been done in advance of the trial by the prosecution, while they were confirming the strength and viability of their case, it will be done when they are called to testify, when opposing counsel will seek to show the other side's witnesses as unreliable.

In our circumstance, it obviously is not and should not be enough for some person or group to simply assert that a monument or statue is offensive or insulting to them. Do they even have the right General Lee? Why do they believe that this object is detrimental to their interests or in violation of some established principle, such as social justice?

The Reasonable Person Standard

In some cases, the "evidence" of guilt will be abundantly clear. But in other instances, a minority's claim may be a new and unfamiliar one, regarding which no societal consensus has yet evolved.

Here, we can borrow some guidelines from lawsuits pertaining to HR. When an individual files a grievance claiming a hostile workplace environment or sexual harassment, and the circumstances are unclear, the law has something called a "reasonable person standard." **This approach⁴ considers whether your average person – if gender is an issue, then a person of the same gender – would in probability interpret the situation in the same way as the complainant.** The EEOC (Equal Employment Opportunity Commission) clarifies that this is necessary because legal and social protections should not be used "as a vehicle for vindicating the petty slights suffered by the hypersensitive."

⁴ The standard is used by both the EEOC and courts. According to the EEOC: In determining whether harassment is sufficiently severe or pervasive to create a hostile environment, the harasser's conduct should be evaluated from the objective standpoint of a "reasonable person." Title VII does not serve "as a vehicle for vindicating the petty slights suffered by the hypersensitive." *Zabkowicz v. West Bend Co.*, 589 F. Supp. 780, 784, 35 EPD ¶ 34, 766 (E.D. Wis. 1984). See also *Ross v. Comsat*, 34 FEP cases 260, 265 (D. Md. 1984), rev'd on other grounds, 759 F.2d 355 (4th Cir. 1985). Thus, if the challenged conduct would not substantially affect the work environment of a reasonable person, no violation should be found. The EEOC guidance provides the following example:

Charging Party alleges that her coworker made repeated unwelcome sexual advances toward her. An investigation discloses that the alleged "advances" consisted of invitations to join a group of employees who regularly socialized at dinner after work. The coworker's invitations, viewed in that context and from the perspective of a reasonable person, would not have created a hostile environment and therefore did not constitute sexual harassment.

Obviously, this mechanism only comes into play if no overt, objective law, rule, regulation or prevailing standard has been violated.

STEP VI - The Closing Arguments

Once all the evidence has been reviewed and the Prosecution has rested its case - or if a guilty plea was entered and no trial was necessary - the Defense lawyer can bring up **mitigating circumstances**. In a modern-day criminal trial, this includes the insanity defense, or diminished responsibility for a range of reasons such as the effect of prescription drugs on the perpetrator's state of mind, PTSD, childhood trauma and much more.

In a posthumous trial aiming to dethrone a long-dead hero, mitigating circumstances that might be raised typically include the argument that the ethical, social and political standards during that person's lifetime were different and that what he did was not considered wrong at the time; or that he did many positive things that also should be weighed in the balance; or that he showed remorse and was reformed during his lifetime (for example, by freeing all his slaves in later life or in his will).



The Sentencing

As a cultural heritage organization, we – like many people in our analogous domain of criminal justice – oppose the **first option: the death penalty**. And for similar reasons. The death penalty means that if a mistake is made and someone is later found to have been unfairly dispatched, it can never be corrected. It does not allow for redemption. It reflects vengeance more than justice.

The second option: a life sentence avoids those problems while still removing the offender from society and taking away their ability to do further harm. This can be implemented very easily by placing the statue or monument in a closed storage facility.

The third option: public shaming is no longer openly described as such in the modern justice system, but it is absolutely still practiced. From the “perp walk” to the treatment gleefully accorded to fallen celebrities or once-successful individuals in the media, the social media and even in their sentencing, to the non-judicial consequences to their careers and status, today’s corollary punishments of prominent offenders are not dissimilar to the earlier practice of putting someone in the stocks to expose them to general ridicule.

The fourth option: Obligate them to make restitution. For the conventional offender, this can mean a monetary fine, the loss of a professional license such as the right to practice medicine, or a specified number of court-ordered community service hours.

There are many ways for a monument to rehabilitate itself by contributing materially to the welfare of the community. In Glasgow, a statue of the Duke of Wellington not only had itself taken down a few pegs, it also became an iconic landmark and a source of significant income through the sale of associated T-shirts and other souvenirs, through the simple expedient of having an orange traffic cone placed on its head. That bit of irreverent humor has been amusing the locals and attracting tourists for more than thirty years now.

There will be some instances in this category where it is appropriate to draw on legal principles of the past for a **fifth option**. The term **damnatio memoriae** or “cursing of the memory” describes the practices used by the ancient Egyptians, the Greeks and the Romans, of demolishing the memory of a particular person or regime that had done evil things. The goal was to make them lose their chance at immortality and be deprived of the things they prized most: fame and honor. When the Romans imposed this punishment, it was forbidden to ever mention that person’s name again. Any statues or inscriptions honoring him were removed, and even the furnishings of his house were rearranged to eliminate the space that had been home to him.

Death Penalty

Life Sentence

Public Shaming

Obligatory Restitution

Cursing of the Memory

Guidelines for Determining the Appropriate Sentence

In reviewing the available options during the “sentencing phase” of the trial, several questions need to be asked, including:

Is the conflict to which this monument relates still ongoing in some form, with lingering consequences, or is it entirely in the past? Was there a clear outcome or is it still simmering? Are members or descendants of the conflict parties still existing or is this ancient history? If still existing, do they still care? If ancient history, does the monument nonetheless carry some meaning or message that affects a contemporary conflict? Were the adversaries engaged in a formal war or civil war that had a defined outcome? Or was this an instance of oppression of members of a lower caste, a lower class, another race, a different ethnic group or religion? Are the parties to the conflict obliged to live in shared geography (district, city, country)? Is this a good time to be making a permanent decision, or is it better to shelve the matter for now? What are the pros and cons of the available options? Will removing an object put an end to a source of irritation? Or will one also be removing an opportunity to educate? Would adding more information to the monument, in the form of a plaque or informational board or some other method, help contextualize the existing edifice?

In this next section, we review selected examples of solutions developed elsewhere. They point to a broad range of options for a problematic monument, beyond the either-or of letting it stand or tearing it down. And this is just a small selection, there are many more - with countless others yet to be invented by creative communities.

CREATIVE SOLUTIONS

If they can't educate, let them entertain

The Duke of Wellington

In front of the Museum of Art in Glasgow, Scotland, stands an otherwise unremarkable “man on horse” statue, featuring the Duke of Wellington. At some point during the 1980’s, bar-hopping revelers decided that it would be amusing to



Collins, Maureen. @maureenmckendry. (2020). *Glasgow's Duke of Wellington* [Tweet]. Glasgow, Scotland. <https://twitter.com/maureenmckendry/status/1271574829133676548>.

put an orange traffic cone on his head. The next morning, a city cleaning crew removed it. In short order, a group of drunken revelers put it back. And so it went, until the city tired of the exercise and decided to increase the height of the pedestal as a deterrent. Predictably, increasing the level of difficulty only made the challenge more

fun. Then a camera was installed to catch the perpetrators and a stiff fine was announced. This inspired a Facebook campaign to “keep the cone,” which got 75,000 likes in 24 hours. This was followed by a petition to officially allow the cone, easily garnering 10,000 signatures. With that, the cone was here to stay. A wise move for Glasgow tourism, as there was soon a flourishing business in T-shirts, bookmarks, postcards, keychains and the like, all featuring the Duke wearing the orange cone. Lonely Planet placed him on the list of their “ten most bizarre monuments in the world.”

Over the years, the Duke became something of a canvas for self-expression. He wore a gold cone when there was something to celebrate. On one occasion he was dressed in a tutu of white balloons. He’s been keeping up with the times. When COVID started, he was outfitted with a face mask, and when the social justice protests arose in 2020, the orange cone was replaced with a black cone marked with the letters BLM. Instead of being beheaded, this member of the aristocracy was allowed a second life as an income-generating, useful member of the community.

Just let the story be told

The Battle of The Little BigHorn

The Battle of The Little BigHorn in Montana, Texas, 1876, immortalized two men: General Custer, the American legend, and Crazy Horse, the iconic Native American leader. The main participants of this battle were the U.S. Military commanded by Custer, the Native American tribal alliance under Crazy Horse, and the various Native American scouts that allied with Custer. Custer was killed in this battle, which is why it is also known as Custer's Last Stand. Today the site is a National Monument maintained by the U.S. Park Service. There is a visitor center, and a series of informative placards spread across the site explain the course of the battle; tours are offered and there is a memorial.

Those managing this historic site had choices. One option would have been to consign this physical location to oblivion, which would have been easy since it is essentially just a large grassy plain. Another option was to highlight it as the location where the revered General Custer and the nearly 300 men in his cavalry detachment were killed. Alternatively, it could have been a marker condemning the displacement of Native Americans from their ancestral lands. Or a minimalist plaque could have just stated that a battle took place here on this and this date with so and so many casualties. Here is the approach they chose instead:

The Native American alliance had its back to the wall, since the white newcomers who were aggressively expanding into their ancestral lands and forcing the original inhabitants into reservations, had much greater firepower. The struggle was desperate and, one could rightly say, tragic.

The Native Americans attained a clear victory at Little Big Horn, but this caused no real rejoicing on their part, because they well knew that a much larger army was poised to follow and that in the long run, they were outgunned and outnumbered.

Custer, meanwhile, was defending the westward drive of a young American nation. That was his responsibility as an officer, and



Winkelvi. (2017). *Memorial Marker as seen from the west* [Photograph]. Crow Agency, Montana. CC BY-SA 4.0. <https://commons.wikimedia.org/w/index.php?curid=70428121>

in any event, nothing was going to stop that expansion. The Crow scouts who had sided with him did so not only to thwart their local adversaries, but because they had come precisely to this assessment: that the white invaders could not be stopped. They had concluded that the best way to safeguard at least a portion of their lifestyle, culture and standing was to ally themselves with the inevitable victors. And these perspectives

are portrayed in full honesty at the site. The website of the official U.S. Park Service states that “this area memorializes the U.S. Army’s 7th Cavalry and the Sioux and Cheyenne in one of the Indian’s last armed efforts to preserve their way of life.”

The monument consists of a circle of plaques upon which are inscribed the names of the fallen, and quotations from their leaders that speak to their motives and their perception of the event. **Each plaque was designed by descendants of the respective combatant group, and they are worth a closer look.** One set of plaques lists the names of Cheyenne, Arapaho, Lakota and Sioux fighters who fell during this battle. Another records the names of the Crow scouts who fell on the U.S. side. An additional plaque explains why this tribe was fighting against its fellow Native Americans:

“Our leading chiefs saw that to help the white men fight their enemies and ours would make them our friends...We had always fought the three tribes, Sioux, Cheyenne and Arapaho...Our decision was reached because we plainly saw that this course was

the only one that might save our beautiful country for us.”

The perspective of the Sioux, Cheyenne and Arapaho is expressed on a plaque with a quotation from Sitting Bull: “They attacked our villages and we killed them all. What would you do if your home was attacked? You would stand up like a brave man and defend it.”

The final summation is offered on a plaque quoting the Lakota leader Red Feather, who noted that:

“It was a terrible battle...a hard battle, because both sides were brave warriors.”

During the course of our work, we have seen numerous battleground memorials in many countries. This one stood out in its willingness to give space and a voice to each of the adversaries. This is a grim but universal ethical and societal fact: we kill each other, displace each other, destroy each other’s way of life, and are left with deep feelings of revenge, hate and resentment. And at some point, we are left with the necessity to reconcile or at least to accept, if we are to go forward.

Have the last word – or the last laugh

Abandoned Torture Facilities of Sulaymaniyah and Erbil

Iraq's dictator Saddam Hussein inflicted terrible persecution against his country's Kurdish minority, who live in the northern part of Iraq. Attacking them with chemical warfare, murdering and maiming thousands and devastating their farms and villages; his actions have officially been classified as genocide. His dreaded police and secret police and system of informers served to intimidate and root out any criticism.

After Saddam's overthrow, two Kurdish cities found themselves with abandoned police stations, complete with prison cells and torture rooms and massively bad karma. Sulaymaniyah and Erbil both pondered the problem, and came up with opposite, but equally compelling, solutions.



Khursheed, Sarchia. (2011). *A lake inside Sami Abdulrahman Park* [Photograph]. Erbil, Kurdistan. CC BY-SA 4.0. <https://commons.wikimedia.org/w/index.php?curid=34569915>.

Erbil decided to level the facility that was associated with so much pain and grief and replace it with a place of joy: an expansive public park with a children's library, picnic areas, a jogging trail, and green spaces. To

visit here is uplifting, **conveying a message of hope.**



Levclancy. (2016). *Red Security Building (Amna Suraka Museum) in Sulaymaniyah, Kurdistan Regional Government (Iraq)* [Photograph]. Sulaymaniyah, Kurdistan. CC BY-SA 4.0. <https://commons.wikimedia.org/w/index.php?curid=51039501>

Sulaymaniyah left the buildings and torture cells in place and intact. The desperate messages that prisoners had scratched into the walls of their cells can still be viewed, and in the former interrogation rooms, even bits of the recovered authentic recordings of the secret police's torment of prisoners are played in a loop. To visit here is a powerful, heart stopping experience, **conveying remembrance and warning.**

A subtle reminder can be powerful

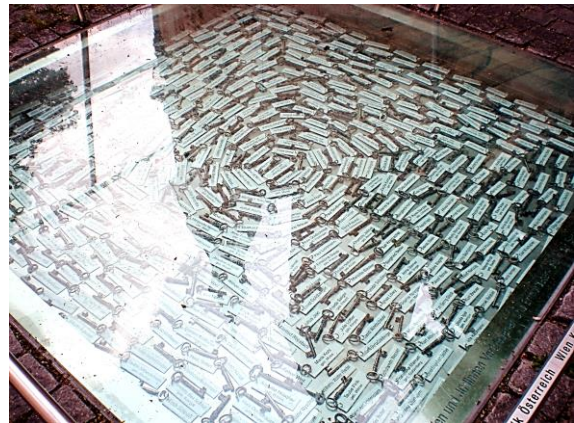
Vienna Memorial: Keys Against Oblivion

Jewish residents have been part of the history of Vienna, Austria since the 12th century. Since that time, their situation was marked by periods of toleration, times of great cultural influence, and episodes of terrible persecution. Street names (such as Judenplatz) and remaining buildings attest to a well anchored Jewish neighborhood in today's first district. Later, there were clusters of Jewish residences in other city districts too. One such was the ninth district, which was near to several major hospitals and clinics and thus was a favored neighborhood for medical doctors who typically had their practice in rooms adjoining their private residence. Medicine was one of the preferred Jewish professions and therefore, a significant proportion of the ninth district was inhabited by Jews. Consequently, that district was especially affected when the persecution and deportation of Vienna's Jews by the Nazi regime commenced. Their property was confiscated, and their apartments were given to people who could prove an Aryan lineage.

Much later, a sociologist at the University of Vienna was conducting research about deported Jews and was shocked to discover how many of them had originally lived in "her" neighborhood in the ninth district, and to find that she and her neighbors were living in these dispossessed homes. This ultimately led to several commemorative efforts. The most striking of these is the installation *Schlüssel gegen das Vergessen: Keys Against Oblivion* (2007), a community-based artwork by Julia Schulz that forges historical data into a think piece. One of several sites featured by the Servitengasse Project Group, the initial design for the monument

was pooled from a university competition with criteria such as the inclusion of the names of every displaced or murdered Jewish resident in the ninth district of Vienna, and specifically of one of its premier streets, Servitengasse.

Schulz took first place for her whirlpool-like arrangement of the men and women that lived on Servitengasse into a series of 462 keys. Resting in the heart of the district, just off the church square that even in modern days remains an event and gathering space for the community, this provocative monument **facilitates an encounter** between the contemporary local community and the residents of the past. Although the Vienna Memorial is subtle in its appearance, its location on a highly frequented pedestrian



RogerSandega. (2013). *This is a photo of public art indexed in a public art catalogue of Vienna (KÖR) (Austria) under the url: schlüssel-gegen-das-vergessen (commons, de)*. [Photograph]. Vienna, Austria. CC BY 3.0. <https://commons.wikimedia.org/w/index.php?curid=25895075>

street also makes it inescapable. Those that brave an encounter may question the fate of the old neighborhood.

Hoist the false heroes on their own petard

Budapest Memento Park

After freeing itself from Communism, Hungary found itself with quantities of statues of Soviet era dictators. Melt them down? Take them to the dump? The decision was made **to send them into exile**: and relocate them to one park, the Memento Park in Budapest. Here they all stand, Lenin and Stalin and various Hungarian Marxists, atop their plinths, frozen in their overly dramatic, surreal poses of leading nonexistent masses into battles long since lost. It's amazing how seeing them in sum like that, reverses the intended effect of admiration or inspiration and just makes them all look pompous.

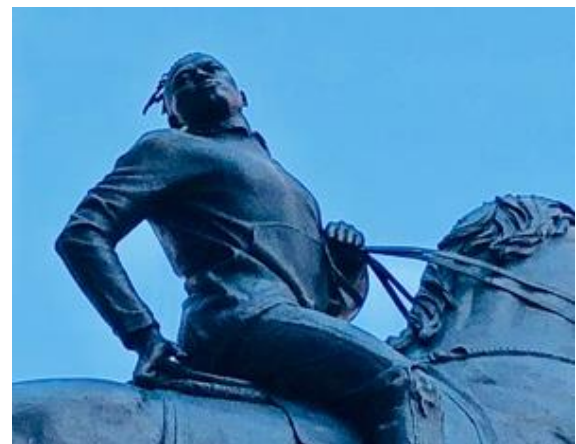


Cornellà, Ferran. (2011). *The Republic of Councils Monument* [Photograph]. Budapest, Hungary. CC BY-SA 3.0. <https://commons.wikimedia.org/w/index.php?curid=15554614>

Two can play the appropriation game

Rumors of War

The destruction and erasure of history is only a wall-thin solution to a complex struggle. **In situations where neither side can compromise on what figures should represent the community, a subversive approach is another option.** Artist Kehinde Wiley unveiled his statue *Rumors of War* in the familiar style of heroic Confederate Statues, a man on horseback. However, the figure was an enigma to the stalwart and serious aesthetic of the trope. A slender figure deliberately designed to appear androgynous, sits astride a steed and invites onlookers to project onto it whatever rebellion they choose.



Benard, Cheryl. (2019). *Rumors of War Unveiling* [Photograph]. New York City, New York. Alliance for the Restoration of Cultural Heritage.

Wiley's figure adds a new representation to the historical template of Southern leaders and heroes. *Rumors of War* was specifically designed as an answer to the row of Confederate statues on Richmond's Monument Avenue. The animated, energetic rider steals any attention that might still be given to the formulaic procession of generals, with no further commentary, spray paint or protest required. He or she automatically has the last word and captures all the interest. Who would ever expect General James Erwell Brown to grace the battlefield with an animated expression? Taking an additive approach on depictions of the Civil War recontextualizes the debate of Southern excellence versus American values.

CONCLUSION

By addressing controversial monuments with this paradigm shift in methodology, we instantly acquire a toolkit that individuals, communities, and municipalities can use in finding reconciliation of the past with the present, and to work towards a solution for the future.

Our criminal justice system of “innocent until proven guilty” grants a solid foundation for the judgment of controversial structures and statues, and we can apply its formalities to build a platform for discussion on contemporary issues and future impact. Individuals may not have the same background information or adverse relationship with the immortalized figure or site, and that is why the approach should include all voices, the ones opposing a monument and the ones who advocate for its “right to exist.”

Due to our differences in reception, utilizing a criminal case approach supports a step-by-step examination of community relations, social justice issues, free political expression and aesthetic criteria. Additional case studies and statutes of criminal law can provide insight and direction on decision-making roadblocks. The creative solutions presented above are a combination of national and international strategies. Incorporating case studies from around the world will further sharpen the effectiveness of committee and community participation.

Destruction only provides a temporary gratification but is no solution for the larger and more complex issues faced by diverse communities today. Arbitrary destruction by self-appointed vigilantes is not the way and renders any structure or statue vulnerable to a bandwagon of hate.

ARCH International continues to stress the necessity of compromise because we value conservation, uplift local initiatives, and embrace unique solutions to the many facets of cultural heritage preservation. The groups and individuals that participate in protests and demonstrations are welcome to collaborate with a capable committee to give their opinions in a structured debate.

The end goal for this handbook is to inspire and help structure a transparent process for a local committee of stakeholders and community leaders. Doing so will foster a deeper connection between the populace, their heritage values, and historical narratives.

Applying the objective steps of criminal law grants us the opportunity to view the representations, criticisms, and protests with clarity and compromise. Additionally, the sentencing concepts that we introduced influence both tangible and intangible factors. By contrast, the destruction of historical figures risks preventing further discussion of community values and stifling the potential for local reform. But, simply enduring the continued prominent presence of an offending person or topic is not the right thing to do, either. Fortunately, there are many alternatives to be selected - or invented - on a case-by-case basis.

We anticipate that this handbook will contribute to the implementation of new creative solutions that address the complex nature of the debate.