

INTRODUCTORY ESSAY

THE POLITICS OF MEMORY

HOW TO TREAT HATE

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ABSTRACT. This essay examines three heterogeneous models in the management of the relation between the past and the future which have decisive implications for the political present. These three different models refer to the Athenian civil war of 403 B.C., the Truth and Reconciliation Commission (TRC) of South Africa and the French management of classified archives such as during the Second World War. It is the author's view that these models shed light on certain relations between politics, discursive practices and deliberation.

For Nicole Loraux

In his *Life of Solon* (21) Plutarch notes: “And it is political to remove from hate its eternity”. The treatment of hate, which goes with civil war, is one of the most acute current problems in deliberative politics. Why is it that deliberating and shedding light on events and past actions may lead a political community, in its very attempt at a reconstruction, to implode?

The management of the relation between past and future, which is decisive for a political present, has followed historically some very different models. I would like to compare three radically heterogeneous models: Two procedures of exception:

1. in Athens, after the civil war, the decree of 403 BCE – it is as far as we know the first procedure of amnesty) and,
2. in today's South Africa, the Truth and Reconciliation Commission (TRC), following the collapse of *apartheid*, and finally
3. a third, “normal” procedure, that of the French management of sensitive archives (like those of World War II)¹.

I believe these three models help shed light on certain relations between politics, discursive practice and deliberation, and enable us gain insights into the ways in which truth and deliberative politics are linked.

¹ For Athens I draw on a remarkable article by Nicole Loraux (1988). For South Africa, on Philippe-Joseph Salazar's books (1998 and 2002). For the use of archives I derived much from: Association des archivistes français 1997.

Example 1. Athens – amnesty – amnesia

There is, at least in some languages,² an immediate connection between “amnesty” and “amnesia”. It has nothing to do with chance, as it is an etymological doublet. But a *decree of amnesia* is quite different from a *decree of amnesty*. The former goes against everything which we today regard as the duty of memory within the sphere of public deliberation.

The scene is in Athens at the end of the fifth century BCE. The Peloponnesian War between Athens and Sparta ends on Athens’ defeat. The city must demolish the Long Walls between the Acropolis and Piraeus. Democracy is rendered powerless. The Thirty seize power. They are not “oligarchs”, but well and truly tyrants. (Fifteen hundred Athenians, that is a considerable proportion of the citizens, perish.) The Thirty are Spartophiles, they are collaborators, and the enemy occupies the Acropolis. Civil war breaks out, bloody and brief (one year). It is from Piraeus that democratic reconquest starts. As soon as the democrats, led by Thrasybulus, regain power in 403 BCE, they promulgate a decree of amnesty.

Stasis and discursive troubles

In order for the facts to make sense it is necessary to explain how Greek and the Greeks represent *stasis*, or “civil war”, and the content of the amnesty decree invented to put an end to such *stasis*.

Stasis clearly is one of those Greek word names that have almost the inner contradictory complexity Freud taught us to associate with products of the subconscious. It means an act which correspond with the root *estēn* (“to hold straight, to be standing up”), signifying at once “the fact of standing up”, hence site, position, stability, firmness (*stasimos* is said of all that which is calm and well planted, just like *stasimon* in a tragedy denotes the text fragment which the choir sings without moving about), and “the fact of getting up”, hence uprising, rebellion (*stasiōdēs* means “seditious”). In political terminology the word *stasis* came to signify, at the public level, the “state” (Polybus, 16,34,11) – and at the individual level, the “position” of a person in society (Polybus, 10,33,6). *Stasis* refers therefore to state, estate, government, establishment, standing; sometimes the “party”, sometimes the “faction” (Herodotus, 1, 59), and, more generally, the “civil war” itself

² Notably, Western Indo-European languages that have inherited the Ancient Greek intellectual vocabulary. (Eds.)

(Thucydides, *History*, 3, 68-86). As if the state found itself necessarily linked to insurrection, as to its shadow or its condition of possibility.

As for civil war, *stasis* is described as an “illness”. Thucydides sets the tone with an analysis of the *stasis* of Corcyra (3, 69-86), employing the same words in which he described the pest of Athens (2, 47-54). The “illness” (*nosēma*) produces “disorder”, “illegality” (*anomia*; 2, 53); and in the civil war this anomie would go to changing the normal use of language: “We changed the usual meaning of the words with relation to the acts in the justifications that we gave of it” (3, 82).

When Philippe-Joseph Salazar evokes the South African *apartheid* legislation, the Population Registration Act 30 of 1950, he rightly pitches his analysis at the level of language itself:

One could admire the linguistic feats of the Lycurgus³ of Southern Africa (Salazar 1998: 27).

The South African Act is well and truly that of a “nomothete” which transforms the meaning of words:

In the name of his Very Excellent Majesty the King, the Senate and the Parliament of the Union of South Africa, it is promulgated that: (...) A “person of colour” designates a person which is neither white nor native. (...) A “native” designates a person which is in fact or commonly considered to be from one of the aboriginal races or tribes of Africa. (...) A “white person” designates a person which is evidently such or commonly accepted as a white person, with the exclusion of any person, even in appearance being evidently white, commonly accepted as a person of colour.

Thus the founding law of *apartheid* shows, among others, *stasis* as discursive anomie. Inversely, consider how the new president of Algeria appeals to “civil harmony”:

We must (...) *reinvent semantics*, find the words which are not injuring neither for the one nor for the other. Civil harmony is neither national reconciliation, nor eradication. It is simply to ask the Algerians: Do you have a spare country? No, therefore admit that you are different. Accept it (*Le Monde* 1999).

Greek *stasis* is a public illness which, in its terminal phase can be translated as “language trouble”, akin to what the French call *la langue de bois*, a totalitarian speech artefact. In the new South Africa language was taken in charge very scrupulously at this level by the TRC which acknowledged a recourse to everyday words, to the story-telling, as an integral part of a “process of national healing”.

³ Lycurgus was the legendary law-giver of Sparta in Ancient Greece, dated to the ninth or eighth century BCE. (Eds.)

“And I would not recall...”

Aristotle gives the full text of the amnesty decree in the *Constitution of Athens* (39).⁴ The decree begins with a regulation of emigration, proper to assuring civil peace. Those who had remained in Athens and collaborated with the Thirty could, if they wished to, move to Eleusis (a nearby community well within the Athenian state boundaries) and keep their citizenship rights, their full and entire freedom and “the pleasure of their goods” on the only condition that they enlist within ten days and leave Athens within twenty days. However, the last paragraph of the decree is concerned with a radical regulation of memory:

The past events, it is not permitted to anyone to recall them ‘against’ anyone.

The verb used, *mnēsikakein*, glues together “memory” (*mnēmē*) and “evils” (*kaka*). It is a linguistic construct made of the genitive case of the thing and the dative case of the person: when one recalls the evils, one always recalls them “against”, one reproaches somebody for them, one meets out reprisals for them.⁵ However, the decree does not aim at forbidding reprisals but to censure them from being recalled. A proof of this is provided by Plutarch when he cites, as two *exempla* of the same attitude conducive to “forging the character (*ēthopoiein*) and the wisdom (*sōphronizein*)” of those of today, the decree of 403 BCE and the fine imposed on the tragic poet Phrynicos in 493 BCE for having represented on stage the sack of Miletus. The theatre broke out in tears and Phrynicos paid a thousand drachmas for “anamnesia of the national evils” (*anamnēsanta oikia kaka*) – i.e. for “recalling home evils”.

The decree’s modalities of application were in themselves drastic enough. Archinos, says Aristotle, *kalōs politheuesthai*, “practiced well and true politics”, or “magnificent citizenship” (*Constitution*, 40). The elements of this practice include a ruse, a summary execution, and lots of realism. The ruse concerns extension of the deadline for enlisting (“Many dreamt of emigrating, but postponed their registration until the last day”). Archinos, having noticed how numerous they were, wanted to keep them from leaving,

⁴ See also Isocrates, *Against Callimachus*, 25; and Andocides, *Mysteries*, 90, 31. The decree (*hai suntēkai*, “the conventions”) is sometimes designated (Aristotle) as *hai dialuseis*, “the decollation, the solution, the outcome”, as if the *stasis* was particularly a blurring of boundaries, sometimes (Isocrates, Andocides) by *hai diallagai*, “the exchanges, the circulation” (which we translate as “the reconciliation”), as if it was about re-establishing a circuit.

⁵ See Plato, *Letters* 7, 336 e-337 a:

a city in *stasis* does not know the end of its evils (*kaka*) but when its conquerors ceases to *mnēsikakein* by expulsions or by cutting throats.

and cut short the originally extended period during which people could still register. Many people were then forced to stay, in spite of themselves, until they were reassured”. The exemplary execution: One of those who came back began to recall the past (*mnēsikakein*). Archinos dragged him in front of the Council and persuaded them to put him to death without a hearing.

It is now that we must show that we want to maintain democracy and respect the oaths; to let him go is to encourage the others to act like him, to execute him is an example for all. It is that which took place. Afterwards, no one ever again recalled the past (*emnēsikakēsen*) (ibid.).

Finally the decree is reinforced by an oath taken in the first person. Andocides⁶ cites the text of this oath

“which you all took after the reconciliation”: “And *I would not recall* the evils against any of the citizens (*kai ou mnēsikakēsō tōn politōn oudeni*)”.

Moreover, this oath is constantly renewed, because it is this oath, falling within the obligations of his task, that each Athenian judge must take regularly before taking seat.

Amnesty is there to construct a community and its institutions on the basis of shared amnesia. Is deliberation an *aporia*?

Wearing evil out politically

Aristotle’s judgment on this historical decree is revealing. The Athenians, he says,

thus wore out (*khresasthai*) the preceding evils in private and in public (*kai idiai kai koinēi*) in the most beautiful and the most political way; not only, in effect, did they erase the accusations bearing on the past, but they also took charge in common (*koinōs*) of the loans (*ta khremata*) made to the Lacedemonians by the Thirty, although the two parties (Athens and Piraeus) would repay the debt separately. In effect they reached the conclusion that it was in this manner that they would initiate consensus (*tēs homonoias*).

Thus, amnesty worked as an “eraser” – names were erased, memory was erased –, which is the main consequence of the prescription of amnesia. But I would like to dwell on two other words as well.

The first refers to the method used by the Athenians: they “wear out”, *khresasthai*, the key word of relativism, which evokes the substantive coming from the same root, *ta khremata* (that of which we wear out the riches) – in this particular case the “loans”. Whatever the translation may be, the wording underscores what Protagoras says in his well-known phrase:

⁶ *De Mysteries*, 90-91.

“Man is the measure [touchstone] of all things [*pantōn khrēmatōn*]”.⁷ The Athenians use evil to make beautiful politics out of it and this transformation or transmutation (as the adverbial adjective signifies in “the most beautiful way”), is lifted from the artistry of metallurgy to a major work of art: aesthetic politics.

The second term defines the aim: to initiate “consensus”, “concord”, *homonoia*, literally the sameness (*homo-*) of minds and sensitivities (*-noia*). This takes place through a convergence of the private (*idiai*) and the public (*koinēi*), as the public, the common good, prevails, in the decision to enact financial solidarity and to treat loans taken by adversary parties as an integral part of the public debt.

Isocrates confirms the intelligence and political beauty of this use of evil in a passage in *Against Callimachus* (46). Literally he says:

Since, converging towards the same, we have mutually given each other the marks of confidence, we politicize [*politeuometha*, we “citizenize”, to make up a neologism] with so much beauty and so much community that it is as if no evil ever struck us. Before, everyone judged us to be the most foolish and the most unhappy, at present it well seems that we are the happiest and wisest of the Greeks.

Which leads us to the following question: What is a political act? And what is political speech?

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What do we learn from this first, Athenian example?

We can define political action as a seesaw point which “utilizes” (*khrēsthai*) an old state to pass towards a new state. Here, the old state is the stasis, the civil war, and the new state is the *homonoia*, consensus. To produce the transformation one has to see the “opportunity”, the “occasion”, the “right moment” (or *kairos*), at the moment of *krisis*, by an act of distinction and judgment, which marks the crisis, the critical moment, like in medicine, when the decision between fatal outcome and healing is produced. This *krisis* is in the event the decree of amnesty, a dated text which, like it is stipulated with regard to the TRC, proposes “a firm cut-off date”, a before and an after (Report). A political act par excellence is the one which manages, literally, to devastate the devastation, and to make the evil irreversibly become a greater good. We could propose several versions of

⁷ The imagery derives from metallurgy: by scratching a coin over a suitable touchstone, the specific trace left would indicate the quality of the gold or silver alloy of the coin. (Eds.)

this. The “onto-theological” version is represented by the poetical lines constantly cited by Heidegger:

Wo aber die Gefahr ist wächst das Rettende auch (“There where the danger is, that which saves also grows”).⁸

But I much prefer the nicely punning graffiti I read on the walls of Desmond Tutu’s house in Cape Town:

How to turn human wrongs into human rights.

Such a political act which devastates the devastation, is in one way or another an act of speaking. Not only is the decree written and promulgated, but it has the effect of stopping the characteristic words of the *stasis* (the “re-semanticization” of Bouteflika in Algeria) *and* to give them back their performative power: “I would not recall the evils”. This reassurance of speech on its semantic and pragmatic bases produces a common language; and it is that itself which permits the passage from the “I” to the “we”, the constitution of a “with”, of an “together”, of a *con-sensus*.

What is then the exact place of the truth in such a context? The reply is to be searched, once again, on the side of the *khrēsthai*, of use and utility. Let us return to Protagoras and to the apology which Socrates proposes for him, explaining, as if he was Protagoras himself, the phrase on the man-measure in Plato’s *Theaetetus* (166-167):

See how I define the wise man: all that which appears to one of us and which is evil, inverts the meaning of it (*metaballōn*), in such a way that it now appears and is good... It is from a given disposition to a disposition of greater value that the inversion must be made; but the doctor produces this inversion by his remedies, the sophist by his discourse. From a false opinion, in fact, we have never let a person pass to a true opinion (...). The opinions are better (*beltiō*) than the others, in nothing truer (*alēthēstera*) (...). Those of the orators which are wise good make that it is the useful things (*khrēsta*) in the cities, in stead of the pernicious ones, which to him seem just and beautiful.⁹

⁸ From Hölderlin, *Vaterländische Gesänge*, Patmos (Eds.)

⁹ Reflecting Professor Cassin’s expert familiarity with the original Ancient Greek, but filtered through the modern French in which this paper was originally written, and through the subsequent translation into English, her rendering of Aristotle’s text here differs considerably from the published English standard translations, e.g. Jowett’s, a sample of which we include here (Eds.):

And I am far from saying that wisdom and the wise man have no existence; but I say that the wise man is he who makes the evils which appear and are to a man, into goods which are and appear to him. And I would beg you not to my words in the letter, but to take the meaning of them as I will explain them. Remember what has been already said, – that to the sick man his food appears to be and is bitter, and to the man in health the opposite of bitter. Now I cannot conceive that one of these men can be or ought to be made wiser than the other: nor can you assert that the sick man because he has one

This manifestation of relativism which collapses the one into the other, the sphere of being and that of appearance (“appearance-and-being”), refuses to accept that truth could be the supreme moment (Nietzsche 1952: 109). Simultaneously it questions the oneness and unity of good (something like the Idea of the Good, which could provide a Platonic guarantee to the oneness and unity of truth) to the profit of the “best”. Yet “the best” is no longer a comparative but a relative comparative – a best is “best for” someone, man or city, in such a circumstance and not in another.

In my opinion there exist two grand philosophical gestures, and two only, to articulate truth with public deliberative politics. The position just mentioned I call “the autonomy of the political”. It denies that truth and good are identical or, by implication, that they are mutual inferences.¹⁰ The second option, quite popular among philosophers, could be called “the heteronomy of the political”. Here ontology determines politics. Being and truth are the key criteria to assign value. This paradigmatic position is Plato’s with his philosopher-king, for whom *theōria*, the contemplation of ideas and dialectical science, is the only condition for good government. This option, *strictu sensu* metaphysical, runs from Plato to Heidegger. In this regard Heidegger’s perception of the Greeks and of their “grandeur”, including political grandeur, is revealing. When Heidegger in his *Parmenides* uses the word “*polis*”, he lets resound at once the Ancient Greek verb *pelein*, which signifies *einai*, “being”. He then infers that the *polis* in itself is but the pole of the *pelein* and, consequently, that “it is only because the Greeks are an absolutely non-political people” that they were able to found politics, and did in fact do so (Heidegger 1982: 142). In other words, the essence of “the political” has nothing to do with politics, and the Greeks invented “the political” to the extent that they had first invented the idea of Being.

The second option may be called the “autonomy of the political”. It runs along another lineage in the philosophical tradition, beginning with the Sophists. At that initial and radical stage, the Sophists held that the orders of

impression is foolish, and the healthy man because he has another is wise; but the one state requires to be changed into the other, the worse into the better. As in education, a change of state has to be effected, and the sophist accomplishes by words the change which the physician works by the aid of drugs. Not that any one ever made another think truly, who previously thought falsely. For no one can think what is not, or think anything different from that which he feels; and this is always true. But as the inferior habit of mind has thoughts of kindred nature, so I conceive that a good mind causes men to have good thoughts; and these which the inexperienced call true, I maintain to be only better, and not truer than others.

¹⁰ See, for more details, Cassin 1995: 237-271.

being and truth do not command the order of action, but are commanded by it, more precisely created by it. The Sophists proposed something like “the heteronomy of ontology”, a logology. With the Sophists, in effect and in action (in particular, discursive action), “rhetoric” indeed produces Being, produces reality and, notably, produces *this* reality, now and here – a reality that was until now unheard of, paralyzed by discourse and continuously performed – which is the *polis* and its consensual deliberation. If Aristotle carefully distinguished between ontology and logology in order to keep open a place for a science of being as being, at the same time he proposed, in utilizing the Sophists against Plato, a practical hierarchy:

The political is the supreme architectonic science (...) The end is not knowledge but action. (*Nicom. Ethics* I, 1, 1094a 25-30).

Among contemporary philosophers, Hannah Arendt, in opposing Heidegger, explicitly sides with the Sophistic-Aristotelian tradition when she stipulates that

to consider the political in the perspective of the truth means to set foot outside the domain of the political (Arendt 1972: 13);

or when she refuses, for herself, to let her work be subsumed under the term “political philosophy”:

The difference, you see, belongs to the thing itself. The expression “political philosophy”, which I avoid, is already extraordinarily charged by the tradition (...). He [the philosopher] does not maintain himself in a neutral way facing the political: since Plato this is no longer possible (Arendt 1964: 20).

Example 2. The South African TRC and full public disclosure

How do these few remarks on the Greek tradition regarding public deliberation, and truth, allow us to better apprehend, even if partially, the rationale behind that original arrangement for deliberation called the Truth and Reconciliation Commission (TRC), in modern South Africa?

At a first glance the contrast with the Athenian decree of amnesty is stark. Whereas in Athens one must “not remember” nor “recall”, in South Africa the imperative is one of “full disclosure”. Only that which forms the object of such a move is capable of receiving “amnesty”. We are then confronted with two opposite politics of deliberative memory:

1. the failure to make a claim within the statutory time-limit or anamnesia, the silence or the story, the closure of the past in the present, with an

- outdated past (in German *Vergangenheit*), or
2. the construction of the future by means of a living and active past faced with the present (a *Gewesen* faced with a *Gegenwart*).

But let me attempt to reconcile both models.

The very order of the words, “Truth and Reconciliation”, is by itself already a strong indication of a possible synthesis of opposing models. The finality is in effect not the truth, but the reconciliation. We do not search truth – disclosure, *alētheia* – for truth, but with a view to reconciliation – *homonoia*, *koinon*. The “true” here has no other definition and, in any case, no other objectifiable status, than that of the “best for”. This “for”, in its turn, is explicitly a “for us”, *koinōnia* or *we-ness*. The TRC is the political act which, like the Athenian decree of 403 BCE, makes a cut (“*a firm cut-off date*”), and charges itself with using evil, to transform the misfortunes, mistakes and suffering, to make *something good* out of them, notably a past on which to construct the “we” of a “rainbow nation”.

This transition from a less good to a better state is analogous to the treatment of an illness: *What is therefore envisaged is reconciliation through a process of national healing*. It thus comes close to the discourse as remedy – it is there, said Protagoras, that we remember the *pharmakon* of the Sophist. At the same time¹¹ it shows discourse as performance in all the senses of the term, from the pragmatic to the theatrical. It is more specifically in the theatrical sense that one must interpret the spectacular character of this commission, sitting *urbi et orbi* from city to city, for one and all, with a televised re-broadcast every Sunday evening. It is more specifically in the pragmatic sense that one must understand the repeated and nearly “incantatory” exigency to “*tell the truth*”, “*tell their story*”. Just as the discourses, deliberations, epideictic and judicial speeches performed in the Ancient Greek city – this “most talkative of all” worlds (to use a phrase of Burkhardt) – the act of story-telling performs the as yet unheard history of the South African community; and this community constitutes itself through this process, with “history-history” being unraveled from the “story histories”.

Truth is a debt due to narrative

I would like to reflect for a moment on a further question: in this

¹¹ The idea that discourse is essentially performative (the Sophistical *epideixis*) is related to its *pharmakon* status, “poison-remedy”, by contrast with the *organon* status of “instrument” of Platonic-Aristotelian orthodoxy (see “Du pharmakon” in Cassin 2000).

perspective, what could be the meaning of the injunction *to speak the truth*?

Who says that which is (*legei ta eonta*) always recounts a story, and in this story the particular facts lose their contingency and acquire a meaning that is humanly comprehensible (Arendt 1972: 333).

Arendt is very close, in a certain way, to tying Africa and Greece. She does not deal here with philosophical truth, that of the *epistēmē*, the dialectics or science of being, but rather with the truth of narrative. Again at work is the *mimēsis* which allows us to bring Aristotle's *Poetics* and Karen Blixen's *Out of Africa* together. Think of the famous Aristotelian motto: "Poetry is more philosophical than history", meaning that poetry better facilitates the transition from the singular to the plural, and its verification through the success of the *katharsis*. It is attune to what the novelist says: "Me, I am a storyteller and nothing but a storyteller", and, "All travails can be borne if we transform them into story, if we tell a story on them". Under the novelist's pen, the term "reconciliation" comes naturally to whisk away, to suppress and overcome, a statement about truth:

To the extent where the one who tells the truth is also a story-teller, he accomplishes that "reconciliation with reality" which Hegel, the philosopher of history par excellence, understands as the ultimate goal of all philosophical thought and which, assuredly, has been the secret engine of all historiography which transcends pure erudition (Arendt 1972: 334).

Truth is certainly, for Arendt, of the order of good faith, in line with Kantian judgment:

The political function of the story-teller is teaching to accept things as they are. From this acceptance, which we can also call good faith, the faculty of judgment springs (*ibid*).

This benevolence and this way of collapsing reconciliation into acceptance, that is resignation, yet do not appear to be the only possible connotations, nor the most appropriate. A decisively more Sophistic, and less Judeo-Christian approach, would be to accept the violence of having fiction constitute such narrative; or, to resort to a Lacanian orthography, to talk of the "fix(at)ion" of fiction – the decided, desired and accepted fabrication of the past and of a common history. This is also what Gorgias says, in his own way:

He that deludes [*hō aptaēsas*, from *apatē*, a Greek word, more Lacanian than Freudian in association, which we might render by the sequence "deception, illusion, cheating, ruse, artifice, pastime, pleasure] is more just than he who does not delude, and he who he is deluded is more just than he who is not deluded" (B23 D.K.).

Fiction is in this sense the trope by which the best (citizens) among us, in the sense of the "most useful" ones, make us take something to be true; or what is more, it is the point where that "pretty politicizing" (Bentham 1997)

makes an impact on the truth.

The civil war of Athens lasted nine months. *Apartheid* lasted some forty years. It is without doubt apt to also measure the two treatments of memory with this yardstick of extension over time. In the former case, the issue is not how to bring the past to light, everything is immediately known by everyone, it is *forgetting* that must be constructed. In the latter case, on the contrary, the past is a hole or a series of distortions which cannot be shared. *Full disclosure* and *to tell the story* are the instruments of the common construction of the past, to such an extent that “not having to answer to”, “not having to expect retaliation”, is a prerequisite for accounts to be finally settled and for the report to be finalized (*logon didonai*, for Athenian magistrates; *accountability*, for the TRC).

Here are two opposite prescriptions, posited centuries from each other, but on the base of a common horizon of speech, of deliberation – of *parole publique* – and leading up to the same kind of finality by virtue of the autonomy of the political. The political proximity of these two extreme treatments of memory appears even more clearly when we confront them with a third figure, the ordinary French rules concerning Archives, and how these rules intersect with public deliberation.

Example 3. The closed period in French memory-archives

The memory-archive that conserves traces, that classifies and that is there for being consulted is the normal and general memory of historical events, regulated by laws which display considerable similarities at least in Europe and the United States.

The regulatory structure of archiving follows a simple pattern: A closed period is imposed during which the archives may not be consulted. Let us call it, in contrast to historical time, “closed period” (when time has gone latent). The duration of this closed period depends on the nature of the archives, themselves dependent on classification, and there is always room for infringement. In this connection, regulation is not a mere administrative act, it is a political act and as such subject to change. Changes generally happen under the pressure of crises (like in the case of sensitive archives in the United States, the Pentagon Archives and those of the Vietnam War). There is a trend toward reducing the closed period and making archives public sooner than before. (Clinton ordered declassification after 10 years).

The recent changes in French archival regulation are worth looking into. Before 1979 a 50-year rule applied. Documents concerning the war period of

1939-1940 have been open for consultation by the public since 1990. A 1979 decree (executive order), still in force, “liberalized” the rule down to 30 years. But simultaneously it instituted “special delays” in regard to documents listed in another executive order of December 1979.¹² *De facto*, the orders have the effect of increasing to 60 years or sometimes 100 years everything that concerns the Second World War and is deemed “exceptional”, in particular judicial records (these documents can only be consulted from 2000 or 2010). The norm may be 30 years, but for medical files the closed period is 150 years (counting from the date of birth), for personal files 120 years (counting from the date of birth), down to 100 years for notary records, registry files, records of census and intelligence; also 100 years (counting from the date of the last document, that is from the date of closure of a given file) for all justice files, including *pardons*; finally 60 years for everything concerning private life, the security of the state and national defence. The 1979 executive orders were supplemented, but not repealed, by a 1998 decree under the Jospin administration. The decree concerns procedures of declassification. It establishes that preference must be given to short “closure” above long “closure”; in a way, it makes the exception (access granted within a closed period) the rule. As a result researchers’ access has significantly improved. The *status quo* (1979) nevertheless remains in force:

- a. Clauses of secrecy or restrictive dispositions *ad actum* remain (interest of the state, private life, industrial and commercial secrets of businesses);
- b. Partial lifting of restrictions is given on personal request or *ad personam* (as a result, a researcher can gain access to a specific document for statistical purposes, but a member of the public who wants to know “who did what in my village” will be refused access to the same document);
- c. The application procedure is rather complex (the request must be made jointly to the Archives of France and to the specific administration concerned). Today 90% of all requests are granted. The remaining 10% relates to unilateral archiving (the archives of the defence and foreign affairs ministries, the contested archives of the Paris police prefecture), practices of obstruction (slowness, default of

¹² Loi du 79-18 of 1979/1/3 and Décret d’application of 3/12/1979. I thank Mr Jean Pouëssel from the French National Archives, who facilitated access to documents and explained to me the regulations and their perverse effects.

inventory), inquiries concerning living persons and, in particular, persons at once “amnestied and living” (*amnistiées et vivantes*).

In the latter case the documents are *never* communicated.¹³ This concerns all the postbellum “purification” files which are not accessible until the next generation so that children cannot have access to information about their amnestied parents. In a general sense this remains the status quo of the programmed closed period. This delay of access amounts to suppression which keeps the “hot” information in limbo. The past never arrives directly in the present: it is a differed, disinfected dead past. Deliberation is stifled. To put it crudely: a past so regulated is a past for historians and statisticians, never a past for the citizen.

This is why the Athenian imperative of “I would not remember” and the South African *full disclosure* – the silence and the story – fall on the same side of a divide, that of a memory politically alive, while the memory-archive is staring at the two of them from the other side, that of the written treatment, that seeks to “dis-interest”, to de-politicize memory. In other words, the Athenian *stasis* is in the past tense, a past definitively closed yet achieved in its present; South Africa’s *apartheid* is in the future perfect (anterior) tense, inasmuch as its future is constructed at present in the past; World War II is in the perfect tense, programmed in order never to be anything but a *has been*. The time of the public, of the citizen, is the same as the community’s time (I keep silent before “us”, I tell before “us”), the time of the historian is one with a dichotomized they/us, “they”, the specialists, the decision-makers, those who have access to the files, versus “we”, the generation kept in ignorance and denial, by forbidding the forgetting and the recollection for the benefit of commemoration only.

With reference to the Pentagon archives and the MacNamara Report, Arendt emphasizes the double danger of such a policy of specialists. On the one hand, in her view, the public or its elected representatives are denied the possibility of knowing what they should know in order to make an informed decision: the “we” is disabled. On the other hand, those in charge, who have access, continue to reside in their ignorance (Arendt 1972: 7-51). Without “us” and with none of “them” being informed (because their knowledge or ignorance escapes control), a politics based on non-facts is put in place, performed into a historical narrative by singular rather than public agents. As Arendt cruelly emphasizes, France, thanks to De Gaulle, is part of the

¹³ There is the case a legal journalist, amnestied and alive, who wins all his court cases on the basis of this regulatory clause.

Second World War victors while, thanks to Adenauer, National-Socialist barbarism has only affected a small part of the German population. In this world of specialists, let us think of Braumann's film on the archives of the court case of "Eichmann, a specialist".¹⁴

Conclusion: pardoning, repenting, and the public "we"

In conclusion, let us consider a couple of points regarding reconciliation and the relationship between reconciliation and pardoning, which would allow us to come back to the question of the autonomy of the political in relation to what deliberation may be. At the beginning of a Memorandum on the Report of the TRC we read:

It is based on the principle that a reconciliation depends on forgiveness and that forgiveness can only take place if gross violations of human rights are fully disclosed. What is therefore envisaged is reconciliation through a process of national healing. The promotion of National Unity and Reconciliation Bill, 1995, seeks to find a balance between the process of national healing and forgiveness, as well as the granting of amnesty as required by the interim Constitution.

Reconciliation and pardoning, *forgiveness*, are presented as closely allied through *full disclosure*. An equilibrium is to be found between national health and pardoning on the one hand, and amnesty on the other. However, when we look at the Committee of Amnesty's three conditions with which an amnesty application must comply before it can at all be considered, the term of "pardoning" does not appear. The necessary and sufficient conditions are that:

1. the deed is associated with a political motive;
2. the deed took place between 1 March 1960 and the cut-off date;
3. *full disclosure* has been made.

But full disclosure itself apparently does not require pardoning or repenting. In fact: "Full disclosure (...) demands an inquiry into the state of mind of the person responsible for the act". One of the most controversial issues faced

¹⁴ These are home truths to West European readers of a mature vintage, but need spelling out for readers from other continents and other age cohorts. Charles de Gaulle, later President of France, owed his popularity to his command of French formal military forces in exile, confronting the forces of Nazi (National Socialist) Germany during World War II. After that war, Germany regained its international respectability under Adenauer as head of state. Eichmann was a high-ranking Nazi officer in charge of industrialized mass murder especially of Jews; he was tried and executed in Jerusalem, Israel, in 1961. (Eds.)

by the TRC had to do with this question of pardoning: faced with his victims or the families, must or must not the perpetrator ask for pardon? Can anyone tell a perpetrator to ask for pardon?

As far as I am concerned I would like to plead for the practical wisdom and the political beauty of not making repenting and pardoning compulsory. Here we find the autonomy of the political again, without any reference to ontology, but with reference to religion and ethics, enacting the difference between Plato and Aristotle. Think of it: there is only one *Republic* by Plato, but there are two clearly distinct works of Aristotle, *The Nicomachean Ethics* and the *Politics*. In my opinion, reconciliation – effectively the production of a “we” – is not an ethical affair but a political affair. A clear distinction must be made between the recognition of a fact – *full disclosure* – and contrition. The recognition of a fact is in itself a sign of belonging to a political community, while repenting and pardoning forms part of an entirely different sphere, ethical or religious. This is where Protagoras’ myth comes in handy, as told by Plato in *Protagoras*.

The myth tells how the human species, badly equipped on the day of its birth by Epimetheus the Improvident, was going to disappear from the face of the earth when Prometheus gave it the *entechnos sōphia sun puri* (“artistic – technological – wisdom and fire”); how humans, now equipped to produce and manufacture, proceeded to kill each other as they lacked “political wisdom”; how Zeus then gave the human species a “supplement”: *aidōs* (“scruple” or “respect” – the feeling of what one must do towards one self and under the gaze of the other) and *dikē* (“justice” – the public norm of conduct); how Hermes asked whether *aidōs* and *dikē* should be shared among all humans or given to experts, like medicine or the art of making shoes. As a reply, Zeus ordered that “to all and that all share them” and added: “that those who do not share them be put to death as an illness of the city” (*Protagoras*, 320c-322d). A paradox indeed: If everyone has it, what exceptions could there still be? Protagoras, in the ensuing speech explains and interprets his myth (*Protagoras*, 323b-c):

It is about justice and, more generally, about political virtue, if a man whom we know to be unjust publicly comes to state the truth on his own account, that which we previously judged to be common sense (to tell the truth) we know judge to be mad, and we affirm that everyone has to confirm being just, whether they are or not, or even more that *the one who does not infringe justice is a fool* – in the idea that there is necessarily nobody who does not in a certain way (*pōs*) have justice in common without which he does not count among the number of men.¹⁵

¹⁵ Again, in Jowett’s standard English translation (Eds.):

The key to Protagoras' paradox here ("everyone has justice, and those who do not have it must be killed") is the following: *Everyone is just, even those who are not*. They must pretend to be just and that is all they need to be just "in a certain way". In affirming that they are just, they recognize justice as constitutive of the human community and by so doing justice itself is integrated in the city – in a way, it is the praise of virtue by vice that universalizes virtue.

The background of the myth and of the whole dialogue between Protagoras and Socrates is the question of knowing "whether virtue can be taught". Protagoras maintains that everyone is naturally virtuous *and* that virtue is taught according to the exact model of the mother-tongue. Everyone has it, and *yet* we do not stop teaching it, from the nanny to the teacher. This is why Athenian democracy is properly founded as it gives everyone *isēgoria*, equality of speech, freedom for everyone to speak in front of the assembly. Everyone speaks, everyone is just, everyone is a citizen. Public deliberation, *parole publique* at its best. But the fact is that some are better at it than others – for Protagoras they are the Sophists or politicians, and one had better place oneself under their tutoring, at least temporarily. Protagoras' analysis goes beyond being applicable to the TRC's practice and to the TRC as a model for deliberation within reconciliatory politics. It shows two things. Firstly, that repenting, the apology or the request of pardon, is that much less necessary since "the one who does not infringe justice is a fool". The perpetrator who speaks in front of the TRC could well argue that his past acts, even if barbaric, show justice, that consistency is still interpretable *ad majorem communitatis gloriam*¹⁶ as an indication that s/he did never cease to act as a member of the community, thus attempting to further the transition from a worse to a better state. Secondly, what counts in *full disclosure* is not that one declares one's *injustice*, it is that one *declares* one's injustice.

This is the condition for membership of a deliberative community. Shared language is the minimum requirement for a "we" to appear. Such sharing even implies that one consents to practices such as the TRC itself,

...but when honesty is in question, or some other political virtue, even if they know that he is dishonest, yet, if the man comes publicly forward and tells the truth about his dishonesty, then, what in the other case was held by them to be good sense, they now deem to be madness. They say that all men ought to profess honesty whether they are honest or not, and that a man is out of his mind who says anything else. Their notion is, that a man must have some degree of honesty; and that if he has none at all he ought not to be in the world.

¹⁶ "To enhance the glory of the community" (Eds.)

that one forms part of a new given. From this point of view it is fundamental that instances such as the TRC are not given the format of a tribunal and that one does not have to submit oneself to its verdict. It is this transcendental turn, according to which speech suffices to constrain to a “we”, which is comforted by the effective creation, a fixing through story-telling, of a shared past.

To return to my opening quotation from Plutarch: Speech, *la parole*, is indeed a beautiful political means to remove from hate its eternity.

(Translated from the French by Johann Rossouw, revised by Wim van Binsbergen).

References

- Arendt, Hannah, 1972, *La Crise de la Culture*. French Trans. Paris: Gallimard.
- Arendt, Hannah, 1985, “Only the mother tongue remains”. *Esprit* 6, 19-38.
- Association des archivistes français, 1997, “Transparence et secret: l'accès aux archives contemporaines, actes du colloque organisé à Paris en 1996”, *La Gazette des archives*, 177-178, 2e-3e trim. 1997.
- Bentham, J., 1997, *De l'ontologie et autres textes sur les fictions*. Paris: Seuil.
- Blixen, Karen, 2001, *Out of Africa*, New York: Vintage, first published 1938.
- Cassin, Barbara, 1995, *L'Effet sophistique*. Paris: Gallimard.
- Cassin, Barbara, 2000, *Voir Hélène en tout femme, d'Homère à Lacan*. Paris: Sanofi-Synthélabo.
- Heidegger, Martin, 1982, *Gesamtausgabe*. Frankfurt an Main: Klostermann. Vol. 54
- Le Monde*, 1999. Wednesday 15 September.
- Loraux, Nicole, 1988, “De l'amnistie et de son contraire”, In: Yerushalmi, Y.H et al., *Usages de l'oubli*. Paris: Seuil.
- Nietzsche, Friedrich, 1952. *Le crépuscule des Idoles*. Paris: Mercure de France.
- Report of the Truth and Reconciliation Commission, 1998; available, with related documents, at: www.truth.org.za .
- Salazar, P.-J., 1998. *Afrique du Sud, La révolution fraternelle*. Paris: Hermann.
- Salazar, P.-J., 2002. *An African Athens. Rhetoric and the Shaping of Democracy in South Africa*. Mahwah & London: Lawrence Erlbaum Associates.

Classical sources are given in the text according to standard usage and therefore are not listed here.

