

POLITICS OF MEMORY ON TREATMENTS OF HATE

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Abstract

The management of memory in the public sphere has followed historically, in democracies, three radically heterogeneous models which, in turn, have affected the way in which citizens are allowed or refused access to critical moments of "parole publique." The first model concerns the first known procedure amnesty, a decree taken in Athens in 403BC, following the tyranny of the Thirty and a civil war. A decree of amnesia-amnesty, the Athenian imperative of "I would not remember" goes against everything which we today regard as the duty of memory within the sphere of public deliberation. The second model is offered, in today South Africa and following the collapse of apartheid, by the Truth and Reconciliation Commission. Here amnesty opposes amnesia as a duty is placed on perpetrators to engage, by way of public rituals of narration, a non-criminal judicial process of "full disclosure". The third model is a procedure in use in most contemporary democracies in the management of sensitive archives (the case studied here is that of French laws regulating access files regarding World War Two and the Purge period in particular). 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. The Athenian amnesia on civil war, and its duty of silence, and the South African full disclosure on a quasi civil war, with its duty of narration, fall on the same side of a divide, that of a memory politically alive, while the French memory-archive regarding collaboration, another form of civil war, relies entirely on a written treatment of documents that aim to de-politicize memory. All three models carry different implications for what we consider "parole publique" in a democracy and how private citizens, not experts, can or cannot engage the public past, in order to make informed choices regarding the common good.

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In his *Life of Solon* (21) Plutarch notes: "And it is political to remove from hate its eternity."¹ 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 (in Athens, after the civil war, the decree of 403 BC, as far as we know the first procedure of amnesty; and the Truth and Reconciliation Commission in today's South Africa after the collapse of apartheid), and a third, "normal" procedure, that of the French management of sensitive archives (like those of WW2).² 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.

Athens – Amnesty – Amnesia

There is, at least in some languages, 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 BC. 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 re-conquest starts. As soon as the democrats, led by Thrasybulus, regain power in 403 BC, 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 it.

Stasis clearly is one of those Freudian Greek words names. It means an act which correspond to the root *estên* ("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 names the piece which the choir sings without moving), and "the fact of getting up," hence uprising, rebellion (*stasiôdes* qualifies the seditious). In political terminology the word came to signify at the public level the "State" (Polybus, 16,34,11) and at the individual level, the "position" of a person in the 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 (Thucydides, *History*, 3, 68-86). As if the State found itself neces-

sarily linked to insurrection, as to its shadow or its condition of possibility.

As for civil war, *stasis* is described as an "illness." Thucydides gives the tone with an analysis of the *stasis* of Corcyra (3, 69-86) with the words of the pest of Athens (2, 47-54). The "illness" (*nosêma*) 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 Lycurgus 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 who is in fact or commonly considered 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, is 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."³

Greek *stasis* is a public illness which, in its extreme 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 it 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."

"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, emigrate to Eleusis 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, *mnêsikakein*, glues together "memory" (*mnêmê*) 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 them, one exerts the reprisals.⁵ However, the decree does not aim at forbidding reprisals but to censure their memory and recall. A proof of it is provided by Plutarch when he cites, as two *exempla* of the same attitude susceptible of "forging a character" (*êthopoiein*) and a wisdom (*sôphronizein*) for those of today, the decree of 403BC and the fine imposed on tragic poet Phrynicos in 493BC for having represented

the taking of Miletus. The theatre broke out in tears and Phrynico paid a thousand drachmas for “anamnesia of the national evils” (*anamnêsanta oikia kaka*)⁶ – recalling public evils.

The decree’s modalities of application were by themselves drastic enough. Archinos, says Aristotle, *kalôs politheuesthai*, “practised well and true politics,” or (to make up a literal neologism, he practised magnificent “citizenship” (*Constitution*, 40). The elements of this practice are a ruse, a summary execution, or lots of realism. The ruse concerns extension for enlisting (“Many dreamt of emigrating, but postponed their inscription until the last day”). Archinos, having noticed their high number, wanted to retain them and suppressed the last days of the extension for enlisting. 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 (*mnêsikakein*). 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 it if we want to maintain democracy and respect the oaths; to discharge them 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 (*emnêsikakêsen*)” (*Constitution*, 40). Finally the decree is redoubled by an oath taken in the first person. Andocides⁷ cites the letter of this oath “which you all took after the reconciliation”: “And I would not recall the evils against any of the citizens (*kai ou mnêsikakêso tôn politôn 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 a shared amnesia. Is deliberation an aporia?

Wearing Evil Politically Out

Aristotle’s judgement on this historical decree is revealing. The Athenians, he says, “thus wore out (*khêrasthai*) the preceding evils in private and in public (*kai idiai kai koinêi*) in the most beautiful and the most political way; not only, in effect, did they erase the accusations bearing on the past, but the also took charge in common (*koinôs*) of the loans (*ta khêmata*) 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 by which they would initiate consensus (*tês homonoias*).” In fact 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 more words.

The first refers to the method used by the Athenians: they “wear out,” *khêrasthai*, the key word of relativism, which evokes the substantive coming from the same root, *ta khêmata* (that of which we wear out the riches) – in this particular case the “loans.” Whatever the translation may be, the wording underscores what Protagoras speaks means in his well-known phrase: “Man is the measure of all things *panton khêmaton*.” 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 art 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 (*koinêi*), as the public, the common good, prevails, in the decision to enact financial solidarity and to treat loans taken by adversary parties as the same and only 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 politicise *politeuometha*, we "citizenise" 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 questions:

What Is a Political Act? And What of a Political Speech?

What do we learn from this first, Athenian model?

We can define political action as a seesaw point which "utilises" (*khresthai*) 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 judgement, 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 knows, literally, to devastate the devastation, and to make the evil irreversibly become a greater good.⁸

Such political act is in one way or another an act of speaking. Not only is the decree written and promulgated, but it has for effect to stop the characteristic words of the *stasis* (the "re-semanticisation" 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 *khresthai*, 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 (metaballôn), in such a way that it now appears and is good ... It is from a disposition to a disposition which is worth more 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 effect, we have never let a person pass to a true opinion ... The opinions are better (beltiô) the ones like the others, in nothing truer (alêthestera) ... Those of the orators which are wise good make that it is the useful things (khrestâ) in the cities in stead of the pernicious which to him seem just and beautiful.

This manifestation of relativism which collapses the one into the other, the sphere of being and that of appearance (“appearance-and-being”), refuses 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 exists two grand philosophical gestures, and two only, to articulate truth with public deliberative politics. The position just mentioned I call it “the autonomy of the political.” It denies that truth and good are identical or mutual inferences.⁹ 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 *theôria*, 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: In *Parmenides*, as Heidegger utters the word “*polis*” he lets resound at once the old 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 enabled to and did in fact found politics (Heidegger 1982, 142). In other words the essence of “the political” has nothing to do with politics, and the Greeks invented “the political” to that extent that they had first invented the thought of Being.

The second option may be called the “autonomy of the political.” It runs along another lineage in the philosophical tradition, beginning at the Sophists. At that initial and radical stage, the Sophists held that the orders of being and truth do not command the order of action, but are commanded by it, more exactly 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 – until now unheard of, paralysed 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 utilising the Sophists against Plato, a practical hierarchy: “The political is the supreme architectonic science ... The end is not knowledge but action.” (*Nicomachean 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).

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 partially, the intelligence of the original deliberative *dispositif* called the Truth and Reconciliation Commission?

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 able of receiving “amnesty.” We are then confronted with two opposite politics of deliberative memory: 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 *Vergangen*), or 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 a first 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, *alêtheia* – 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,” *koinônia* or *we-ness*. The TRC is the political act which, like the decree of 403BC, makes a cut (*a firm cut-off date*), and charges itself with using evil, to transform the misfortunes, mistakes and sufferings, to make goods from them, a past on which to construct the “we” of a “rainbow nation.”

This passage 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, we remember it, the *pharmakon* of the Sophist. At the same time¹⁰ it shows discourse as performance in all the senses of the term, from the pragmatic to the theatrical. It is thus, theatrically, 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 pragmatically 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 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 which constitutes itself through that, with “history-history” being unravelled from the “story-histories.”

Truth Is a Debt Due to Narrative

I would like to reflect for a moment on the meaning that the injunction to speak the truth could have in this perspective. “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 *epistêmê*, the dialectics or science of being, but rather with the truth of narrative. Again at work is the *mimêsis*, which allows us to bring Aristotle’s *Poetics* and Karen Blixen’s *Out of Africa* together. Think of the fa-

mous Aristotelian motto: "Poetry is more philosophical than history," meaning that poetry makes the singular pass better to the plural, and its verification through the success of the *catharsis*. 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's pen, the term "reconciliation" comes naturally to relay, 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 us 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 judgement: "The political function of the story-teller is to teach the accepting of things as they are. From this accepting, which we can also call good faith, the faculty of judgement appears" (p. 334). This benevolence and this way of collapsing reconciliation into acceptance, that is resignation, yet does 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 aptaêsas*, on *apatê*, a Greek word, more Lacanian than Freudian, which we could attempt to render by the sequence "deception, illusion, cheating, ruse, artifice, pastime, pleasure") is more just that 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 as true; or more, it is the point of impact on the truth of that "pretty politicising" (Bentham 1997).

The civil war of Athens lasted nine months. Apartheid lasted some thirty years. It is without doubt apt to also measure the two treatments of memory with this yardstick. In the first case, no past to bring to light, everything is immediately known by everyone, it is forgetting that must be constructed. In the second 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 its common construction, to such an extent that "not having to answer to" is firstly the ruse and the plot requested, so that indeed accounts can finally be settled and the accounting report finalised (*logon didonai*, for Athenian magistrates; *accountability*, for the TRC).

Here are two opposed prescriptions, posited centuries from each other, but on the base of a common horizon of speech, of deliberation – of "parole publique" – and on the autonomy of the political leading up to an analogous finality. The political proximity of these two extreme treatments of memory appears even clearer when we confront them with a third figure, the ordinary French rules concerning Archives and of its dovetailing with public deliberation.

Latency in French Memory-Archives

The memory-archive which conserves traces, classifies and is there for being consulted is the normal and general memory of historical events, regulated by

laws which are by and large similar across the world, at least in Europe and the United States.

The regulatory structure of archiving follows a simple pattern: A latency period is imposed during which the archives may not be consulted. Let's call it, in contrast to historical time, "time of latency." The duration of this time of latency depends on the nature of the archives, themselves dependent on classification, and there is always room for infringements. This 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 Vietnam War). There is trend toward reducing the time of latency and making archives public sooner than before. (Clinton ordered declassification after ten years.)

The recent changes in French regulation are worth looking at.¹¹ 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, "liberalised" the rule down to 30 years. But simultaneously it instituted "special delays" in regard to documents listed in another executive order of December 1979. *De facto*, the orders increases to 60 years or sometimes 100 years everything which concerns the Second World War and is deemed "exceptional," in particular judicial records (these documents can only be consulted from 2000 or 2010). To sum up: The norm is 30 years, but for medical files the latency time 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. It concerns procedures of declassification. It establishes that preference must be given to short "delay" above long "delay"; in sorts, it makes the exception (asking for access within a latency 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* (in effect a researcher can gain access to a specific document for statistical purposes but not 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 procedure of request is rather complex (the request must be made jointly to the Archives of France and to the specific administration concerned). Today 90% of requests are allowed. 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 inventory), questioning of living persons and, in particular, persons at once "amnestied and living" (*amnistiées et vivantes*).

In the latter case the documents are *never* communicated.¹² This concerns all the postbellum "purification" files which are not accessible until the next generation so that children cannot have access to knowledge about their amnestied par-

ents as long as they are alive. In a general sense this remains the status quo of the programmed time of latency. This delay of access functions like a 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 them from the other side, that of the written treatment of the written, that aims to “disinterest,” to de-politicise memory. To rephrase this: 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; the Second World War is in the perfect tense, programmed in order never to be but a *has been*. The time of the public, of the citizen, is one with the community’s time (I keep silent before “us,” I tell before “us”), the time of the historian is one with a dichotomised they/us, “they,” the specialists, the decision-makers, those which have access to the files, and “we,” the generation kept in ignorance and denial, by forbidding the forgetting and the recollection to the profit of commemoration only.

Arendt emphasises, with reference to the Pentagon archives and the MacNamara Report, the double danger of such a policy of specialists. On the one hand, to paraphrase Arendt, the public or its elected representatives are denied the possibility of knowing what they should in order to make an informed decision: The “we” is disabled. On the other hand, those in charge, who have access, remain 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 on non-facts is put in place, performed into a historical narrative by singular rather than public agents. As Arendt cruelly emphasises it, France, thanks to De Gaulle, is part of the 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.”

Conclusion: Pardoning, Repenting, and the Public “We”

As a 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 effect: "Full disclosure ... demands an inquiry into the state of mind of the person responsible for the act." One of the most controversial issues faced 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 request 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 a non-requisition of repenting and pardoning. 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 Platonic *Republic*, but 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 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 *enteknos sophia 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": *aidôs* and *dikê* ("scruple" or "respect" – the feeling of what one must do towards one self and under the gaze of the other – and "justice" – the public norm of conduct); how Hermes asked whether *aidôs* and *dikê* 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 which 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 that 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 which does not infringe justice is a fool – in the idea that there is necessarily nobody which does not in a certain way (pôs) have justice in common without which he does not count among the number of men.

The key to this Protagorean paradox (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, and in effect it suffices that they, pretend to be just for being just “in a certain way.” In affirming that they are just, they recognise justice as constitutive of the human community and by so doing justice itself is integrated in the city – it is in some way the praise of virtue by vice that universalises 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 *isêgôria*, 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, under whose tutoring it is better to, at least temporarily, to place oneself. Protagoras’ analysis goes beyond being applicable to the TRC’s practice and 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 which does not infringe justice is a fool.” The perpetrator who speaks in front of the TRC could well argue that his past acts, even barbaric, show justice, that consistency is still interpretable *ad majorem communautatis gloriam* as an indication that s/he did never ceased acting as member of the community, passing from a worse to a better state. A further argument could be made that 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 of possibility for membership of a deliberative community. This shared language is the minimum requirement for a “we” to appear. In effect this sharing implies that one consents to the fact of practices such as the TRC itself, that one forms part of a new given. From this point of view it is fundamental that instances such as the TRC do not behave like 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 fixation by way of stories, of a shared past.

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

Notes:

1. Classical sources are given in the text according to standard usage and therefore not included in the list of references at the end of the article.
2. For Athens I draw on a remarkable article by Nicole Loraux, “De l’amnistie et de son contraire” (Loraux 1988). For South Africa, on Philippe-Joseph Salazar’s books (Salazar 1998; 2002). For the use of archives I drew a lot from “Transparence et secret. L’accès aux archives contemporaines,” *La Gazette des Archives* 177-178, 1997.
3. *Le Monde*, Wednesday, 15 September 1999.
4. See also Isocrates, *Against Callimachus*, 25; and Andocides, *Mysteries*, 90, 31. The decree (*hai suntêkai*, “the conventions”) is sometimes designated (Aristotle) as *hai dialuseis*, “the decollation, the solution, the outcome,” as if the *stasis* was too fusional link, 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, 336e-337a: “A city in *stasis* does not know the end of its evils (*kaka*) but when its conquerors ceases to *mnesikakein* by expulsions or by cutting throats.”

6. Plutarch, *Political Precepts* 17; to be completed by Herodotus, 6, 21. I would voluntarily like to deduct from this that Phrynicos was a bad poet, who presented instead of “re-presenting.” Without *mimesis*, that is to say in the distance of the “as if” which the imitation-representation introduced, there is no *catharsis* possible. The passions of hate and terror are summoned, they clutter up like non-exorcised phantoms, but they are not “purged.” This question relates directly to the inherent theatricalisation of the TRC, as well as the symbolic consistency of the staging of the general elections.

7. *Against the Mysteries*, 90-91.

8. We could propose several versions of this. The “onto-theological” version is represented by the phrase constantly cited by Heidegger “There where the danger is, that which saves also grows.” But I much more prefer the graffiti which I read on the walls of Desmond Tutu’s house in Cape Town: “How to turn human wrongs into human rights.”

9. See, for more details, Part II of *L’Effet sophistique* (Cassin 1995, 237-271).

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

11. 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.

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

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