

“Removing the perpetuity of hatred”: on South Africa as a model example

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Abstract

Based on the example of the Truth and Reconciliation Commission in South Africa, the author analyses the conditions necessary from a philosophical and philological perspective — even if they are never enough — to move from war to reconciliation, and thus to deal with hatred: a policy of remembrance, a policy of justice and a policy of speech.



Introduction

Two quotes will help in siting my remarks. The first, by Plutarch, comments on a law of Solon, which forbade anyone to speak ill of the dead: “It is politic to remove the perpetuity of hatred” (*Life of Solon*, 21). The second is the graffiti on the wall of Desmond Tutu’s house in Cape Town: “How to turn human wrongs into human rights.” The first is considered by Nicole Loraux, for example, as a reflection on the first amnesty decree recorded in history, the decree that brought the Athenian civil war to an end in 403 BC after the tyranny of the Thirty. The second describes what is taking place in South Africa’s fraternal revolution, thanks in particular to the Truth and Reconciliation Commission (TRC). This analogy indicates how a work on Greek rhetoric, politics and sophistry can show the way to a better understanding of what is happening today.

The TRC was established to help South Africa avoid the blood bath expected at the end of apartheid and to promote what Tutu calls “the miracle of

the negotiated settlement” while contributing to the creation of a new nation of “rainbow people”.

The distance to be covered can be gauged from two texts: the Population Registration Act of 1950 — the law that was the foundation of apartheid — and the postscript to the 1993 Interim Constitution. Here is the first text, signed in actual fact by the King of England. Its convolutions give food for thought:

“On behalf of His Most Excellent Majesty the King, the Senate of the Assembly of the Union of South Africa, it is hereby promulgated that:

1. ... (iii) A “coloured” is a person who is neither white nor native. ... (x) A “native” is a person who is, or who is generally accepted as, a member of any aboriginal race or tribe of Africa. ... (xv) A “white person” is one who is in appearance obviously white or who is generally accepted as white, excluding any person who, although in appearance obviously white, is commonly accepted as coloured ...

5. ... (2) The Governor General can, by proclamation in the Gazette, prescribe and define the ethnic or other groups in which coloureds and natives shall be classed.”

And here is the second, the 1993 sunset clauses that form the birth certificate of the TRC:

“This Constitution provides a historic bridge between the past of a deeply divided society characterized by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex.

The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society.

The adoption of this Constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge.

These can now be addressed on the basis that there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu*¹ but not for victimization.

In order to advance such reconciliation and reconstruction, amnesty shall be granted in respect of acts, omissions and offences associated with political objectives and committed in the course of the conflicts of the past ...

1 “*Ubuntu*” is a term that belongs to the field of Bantu languages, rendered very broadly by the English term “fellowship”; it is used without translation in the eleven versions of the Constitution corresponding to the eleven national languages. It denotes the “quality inherent in the fact of being a person with other persons,” and Antje Krog comments on it as follows in *Country of My Skull*, Random House, Johannesburg, 1998: “We are, therefore I am.”

With this Constitution and these commitments we, the people of South Africa, open a new chapter in the history of our country.

May God bless our country.”

Apartheid, which the United Nations declared a crime against humanity in 1973, was abolished twenty years later, in 1993, a year before Mandela’s election. It was the TRC that made it possible to “amnesty apartheid,” the stark term chosen by Philippe-Joseph Salazar.²

From this perspective, three conditions seem necessary — even if they are never enough — in order to move from war to reconciliation and thus to deal with hatred: a policy of remembrance, a policy of justice and a policy of speech.

A policy of remembrance

I propose to make a distinction between two policies of remembrance that are quite separate but can be combined.

The first is the passive policy of keeping archives. Appeasement is entrusted to time. A period of abeyance fosters transition from an all too recent, fiery and highly emotive past — the past of the combatant, citizen, resistance fighter or collaborator — to a past that has cooled down, a subject for study by historians and specialists. Just as World War II, for instance, is now coming back to us in France as a history lesson.

The second is an active policy, which can be a policy of amnesia or of anamnesis.

First, the Athenian decree of 403, the decree of amnesty, was in fact a decree of forgetfulness (in ancient Greek “amnesty” and “amnesia” are the same words). It is an injunction: *mê mnêsikakein* — “thou shalt not remember the misfortunes, or the wrongs, of past events.” And the first person who tried to “recollect” — albeit on the stage of a theatre — was indeed put to death. But the fact is that everyone knew about the brief and terrible past, the civil war that had lasted for nine months and had killed 1,500 citizens (a considerable proportion of the population). It is, *mutatis mutandis*, the policy pursued in Algeria today, as shown in the *Libération* headline of 10 March 2006, “*Algérie, l’amnistie et l’amnésie*,” where the relevant article explains that the law makes a provision for “a heavy penalty” against anyone who refers to the national tragedy.

Anamnesis, on the other hand, is quite the opposite, reflecting the TRC’s mandatory requirement of full disclosure. In this case, everything must be recalled and told, because, unlike the situation in Athens, it is known that nothing, or virtually nothing is known and that it is imperative to know. Apartheid continued for thirty years, and all of the archives were destroyed. It had not been a short war but a lasting crime against humanity. It was not a matter of forgetting in order to

2 *Amnistier l’apartheid, Travaux de la Commission Vérité et Réconciliation*, Ph.-J. Salazar, ed., Paris, Le Seuil, 2004. My quotations are drawn from Desmond Tutu’s Report as cited in that [bilingual] publication.

continue to live with one’s fellow citizens as in the past. Instead, it was about constructing a common past in order to form a community that did not yet exist, that of the “rainbow people”. Nor was it a matter of writing history as a historian but of obtaining “enough of the truth,” as the report puts it (I, 70), to live together.

In either case, amnesia or anamnesis is a construct in which, as Aristotle points out in the *Constitution of Athens* (40), misfortune can be used politically as the starting point for consensus — a fine anticipation of turning human wrongs into human rights.

A policy of justice

The choice of amnesty is obviously linked to those “crimes which can be neither punished nor forgiven” (the title of a work by Antoine Garapon, who himself used a phrase coined by Hannah Arendt). It is thus linked to a policy of justice.

Both in Athens and in South Africa the choice was made to stand back from a punitive, retributive form of justice, which is the norm, in favour of a justice of exception — a new form of justice termed “transitional” but to be understood as strongly positive, much in the sense where Protagoras speaks, for example, of “changing from a worse to a better condition” (Plato, *Theaetetus*, 167 a). It is also referred to as “restorative” in that it restores the community and should even be called “creative” in the case of the TRC, because it brought the new community of a rainbow nation into being.

I would like to dwell for a moment on the singularities of the TRC, set up by the sunset clauses that incorporated it into the constitution and shield it from any subsequent interference by an international court. The room for manoeuvre to avoid the “blood bath that virtually everyone predicted,” as Desmond Tutu wrote in his foreword to the final report, was very narrow and depended on what the Greeks called *kairos*: the choice of the right moment. That critical and propitious instant when the scales are about to tip is depicted on Grecian vases as a winged youth who is very handsome but without hair on the back of his head and thus all the more difficult to seize. In fact, the manoeuvring had to be done between two rejected options: that of Nuremberg, which the very moment chosen for negotiation rendered impossible because there were as yet “neither victors nor vanquished,” and that of amnesty-amnesia, in other words the general or blanket amnesty called for by those formerly in power. This very narrow room for manoeuvre determined the very nature of the TRC. It was not a tribunal but a sovereign commission, and it was chaired not by a judge but by a Nobel Peace Prize winner. It did not institute criminal proceedings or mete out punishments, but it heard evidence and granted amnesties.

Yet the conditions for granting amnesty were so well thought out that they sufficed to transform that limited leeway into a powerful tool. They were indeed ingenious.

First of all, “acts and omissions” (yes, omission is a criminal offence) or offences constituting “gross violations of human rights” were amnestied, not persons. For an act to be eligible to amnesty, and thus amnestied, it had to meet three conditions: 1. occurrence during the period under review (between 1 March 1960, shortly before the Sharpeville massacre, and the firm cut-off date of 10 May 1994, when Mandela came to power — thus the period known as the apartheid era); 2. linkage to a political objective; and 3. full disclosure.

The second condition, association with a political objective, was set so that a distinction could be made between ordinary criminal offences and political crimes. But it implied that a person who had killed or tortured in the name of a political ideology was “given preference” over one who had committed the same acts for other reasons, for instance because he was hungry or outraged. Thus a member of a recognized political organization, a civil servant who had carried out orders, all those who obeyed and all the “specialists” — all of the Eichmanns — were *de jure* susceptible to amnesty (which consequently meant that the only defence available to those who had had no superiors was to plead ignorance). To my mind, the reasoning behind this condition, in accordance with the Due Obedience Law that rightly shook Argentina, was as follows: one is not political all on one’s own, and amnesty is precisely not about morals but about politics. Crime against humanity is not a matter of Kantian morality — autonomy of the individual and universality of moral law, “what man does to man” — but of Aristotelian politics, according to which there is no “idio-cy” in politics (the primary meaning of *idios* is “private,” “own”), it is always a matter of “us,” we-ness, pluralities, communities, common factors and common action.

That is why pardon and amnesty do not necessarily go together. A crime can be legally amnestied without being morally forgiven. In André Van In’s fine film *The Truth Commission*, the lawyer Bheki’s widow testifies to what she saw (pieces of Bheki’s body strewn all over the garage). “How could I ever forgive that cruel murderer?” she asks (or words to that effect). And Yasmin Sooka, who was conducting the proceedings, replies very gently with something like this: “It is true that these people are requesting amnesty, but you are not obliged to forgive them.” You are not obliged to forgive them, but we are going to grant amnesty. The dissociation of the ethical from the politico-legal was essential to the mechanism. In fact, I find it essential in general, for it alone can rule out the very syntagm of “just war,” which to my mind is one of the most violent threats of our time, be it the jihad or the war of good against evil.

With the third condition we enter the core of the mechanism. Only an act that is “fully disclosed” can be amnestied. “Tell your story,” so the expression goes. History is made up of stories, those of victims and tormentors alike, and with the telling both are at once perceived again as human beings. The definition of amnesty thus becomes “freedom in exchange for truth” (Report I, 29). This major prerequisite for amnesty is “ironic” in the Socratic sense of the term, and Tutu uses the word several times: it makes the criminal, the bad person, play the role of public minister, the good person. Amnestied criminals, individual civilians or corporate bodies (firms, universities, newspapers and parties) were not defendants

who were dragged to court and from whom confessions were extracted. Instead, they were petitioners or “applicants” who came forward of their own accord and in whose interests it was to disclose (“un-cover”) the truth. Since what was told could be amnestied, they would only be condemned for what they concealed, and that was bound to become known as it was in everyone’s interest to tell all. Their interests thus merged with those of the new community seeking to establish it and of which they consequently became, in some way, the founding fathers (perpetrators who, construed according to the etymology underlined by P.-J. Salazar, commit crimes, perform and act as fathers).

“It thus follows that the truth does not exist prior to the proceedings. Apartheid is not an original truth but a resulting truth. Nothing is already there, has “always-already” been there, on the philosophical lines of Heidegger’s *alétheia*: there is no starting out from what is, and then proceeding to tell of what is, in conformity with the faithful and destinal “onto-logy” first expressed in Parmenides’ Poem. On the contrary, truth is produced by the process of speaking, as a provisional and sufficient culmination linked to the moment of reversal, the Commission’s *kairos*. Thus, instead of “onto-logy” it is a performative process of construction, a process in which the fact of being should be an effect of the telling of it.”

According to the report itself, the TRC did in fact work with four intermeshed, explicitly rhetorical concepts of truth, each defined by the situation in which it was voiced. The first was “factual” or “forensic” truth, a court truth, referring to the reasoned decisions of the Amnesty Committee. The second was “personal and narrative” truth, the truth expressed in practical terms by each person during the hearings and individual testimony. The third was referred to as “social” truth, a truth of dialogue obtained through the process of confrontation or verbal exchange between victims and tormentors. And finally, the fourth truth was “healing” and “restorative” truth, the truth where it was decided to draw the line, the truth that was enough to bring about a consensus upon what and with what the rainbow nation could be built. These were the stages in the discursive construction that put in place an effective truth by suspending the difference between the real truth, which is objective, and false truths, which are subjective.

The truth produced in this manner was itself determined by its effects. It was neither historical (it was not the TRC’s task to write the country’s history), nor epistemological (it was multi-dimensional, plural); it was simply “enough”. “We believe that we have provided enough of the truth about the past for there to be consensus about it” (I, 70). Strictly speaking, it was an effect of discourse, a fabrication based on the accounts that were recorded and published, or a “fixion,” to adopt Lacan’s spelling.

A policy of speech

This form of justice is built on a policy of speech, or attention paid to language. Here, too, I think that the privilege of the performative dimension of speech and language must be stressed.

This privilege is obtained on the basis of four components.

The first and most far-reaching is related to how the world is built, to the “world-effect” of performance. From Gorgias (who wrote in the fifth century BC), through the words of the sacrament (“This is my body”) and the performative utterance reinvented by Austin (*How to Do Things with Words*, 1955), it brings us to Desmond Tutu, with the sole idea that speaking produces reality. Allow me to draw an analogy between *The Encomium of Helen*:

“Speech is a powerful master, which, by means of the smallest and most invisible body, accomplishes most divine deeds. For it can put an end to fear, remove grief, instil joy, and increase pity ...” (Gorgias, 82 B 11 D.K., § 8)

and this passage, no less powerful, from the TRC’s report:

“It is commonplace to treat language as mere words, not deeds ... The Commission wishes to take a different view here. Language, discourse and rhetoric, *does* things: it constructs social categories, it gives orders, it persuades us, it justifies, explains, gives reasons, excuses. It constructs reality. It moves certain people against other people.” (Tutu, III, § 124)

We see that language acts here, “does things,” “constructs reality,” while at the same time has an effect on the listener and no doubt also on the speaker, according to the generalized appeal that Jean-François Lyotard speaks of in *The Differend*.

The second component takes us from the Sophists and Aristotle to Tutu via Arendt. It is related to the nature of man, no longer in terms of his psychological “otherness” but precisely as a member of humankind and thus to his nature as a political being. The TRC was Aristotelian and Arendtian in that it restored the human aspect to everyone who appeared before it by giving them the opportunity to speak. It made them, both victims and perpetrators, creatures endowed with *logos*, speech-reason and thus political animals — “more political than the others,” to quote Aristotle. They were again endowed with the quality of being human. They were neither “baboons” nor passers-by mired in their silence, nor were they tormentors struck dumb by the horror of the crimes that they had to deny in order to continue to exist. Here the vast difference between the TRC and a commission such as that recently set up in Morocco becomes clear: the “Equity and Reconciliation Commission” gives only the victims the opportunity to speak, and it forbids them to name their tormentors. This smallest share of truth is perhaps “enough truth” for the Moroccan monarchy to progress, but it is not enough truth for everyone to become human or political again. The comparison brings home the degree of genius there is in the political invention of the amnesty conditions in South Africa.

The third component is cathartic and therapeutic, and it leads from Protagoras (“changing from a worse to a better condition”) or Gorgias to Tutu via Freud. I simply wish to stress the importance of this *logos-pharmakon* throughout antiquity and to refer discursive therapy to its original expression, which again is obviously related to the “world-effect” of rhetoric in Gorgias’ *Encomium of Helen*:

“The power of speech (*hê tou logou dunamis*) has the same relation (*logos*) to the order of the soul (*tên tês psukhês taxin*) as the order of drugs (*hê tôn pharmakôn taxis*) has to the nature of bodies (*ên tôn sômatôn phusin*): for as different drugs expel different humours from the body, and some put an end to sickness and others to life, so some speeches cause grief, others joy, some fear, others render their hearers bold, and still others drug and bewitch the soul through an evil persuasion” (Gorgias, 82 B 11 D.K., §14).

It is not difficult to draw a parallel between the logical pharmacy of Gorgias and the watchwords of the TRC, which travelled from town to town throughout the country as though in a great theatre and rebroadcast the key moments every Sunday evening, with “Revealing is healing” on the cover of the files it was investigating, and “Healing our land” on the placards at the public sessions. In the rather obsessive metaphorical terminology of apartheid, the therapy was deployed against an illness of the social body with syndromes, symptoms, wounds, antiseptics and medicines. “Speak,” “tell the story,” “tell your story” and “full disclosure” chanted a campaign of healing that was both individual and collective (“personal and national healing” and “healing through truth-telling” V, §5), in which the truth became the “essential ingredient of the social antiseptic” (V, § 12). But since the illness to be healed is an illness of the soul, and it is healed through speaking, it could be compared to psychoanalysis on the scale of an entire country that, moreover, met the cost.

Creating a common world, making people into political animals and healing by giving a voice to each and every person are the processes involved in bringing about a better city or state.

This discursive deal is ultimately related to a policy of attention to language that could be described as semantic responsibility. Wars, crimes, all violations are also linguistic violations, which can render a language alien to itself.

It is striking to see how this observation has been repeated time and again through the ages, irrespective of context. Analysing the civil war in Corcyra with words he used to describe the plague in Athens, Thucydides demonstrates how the anomie of *stasis* completely alters the very use of words: “And people altered, at their pleasure, the customary significance of words to suit their deeds” (3,82). Twenty-five centuries later, the philologist Victor Klemperer sensed the rise of Nazism in the German language: “Words can be like tiny doses of arsenic: they are swallowed unnoticed, appear to have no effect, and then after a little time the toxic reaction sets in after all.”³ In *Eichmann in Jerusalem*, Hannah Arendt, in turn, describes Eichmann’s heroic fight with the German language, which invariably defeats him. He apologized, she continues, “saying, “Officialese [Amtssprache] is my only language.” But officialese became his language because he was genuinely incapable of uttering a single sentence that was not a cliché.”⁴ And the same

3 *The Language of the Third Reich: LTI: Lingua Tertii Imperii, A Philologist’s Notebook*, transl. by Martin Brady, Athlone Press, London and New Brunswick, 2000.

4 Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, Viking Press, New York, 1963, p. 48.

observation is echoed again in the sober and thus all the more moving first-hand accounts compiled by Jean Hatzfeld for his work *Into the Quick of Life: The Rwandan Genocide — the Survivors Speak*.⁵ Hatzfeld tells how a survivor made an important point when she said that the genocide had changed the meaning of certain words in the survivors' language and had entirely removed it from others, so that the listener had to watch out for these shifts of meaning. Here we have a circular process involving speech practices and an entire language, which is how language evolves.

The TRC, likewise, sharply criticized the civil war of words. The security forces, for instance, "failed to exercise proper care in the words they used" (II, 90), and persons guilty of acts of terrorism as well as those who fought "by legal and peaceful means" were indiscriminately referred to as "terrorists" and lumped together in one single category as "persons to be killed". That is why young conscripts complained to the psychologist that "the present [had] destroyed the foundations of the meaning [they had] adopted to cope with their traumatic experiences" (V, 26). The discourse of apartheid was thus bad medicine, which exploited the "poison" sense of *pharmakon*: "In the opinion of the Commission, the kind of rhetoric used by politicians and SSC [security forces] functionaries was reckless, inflammatory and an incitement to illegal acts" (II, 90). Like the euphemism of the "final solution," it enabled certain officials to maintain that they never gave the order to kill, that "eliminate," "take out," "wipe out" and "eradicate" did not mean "kill," and that there had been a misunderstanding, overzealous conduct, blunders and ill will on the part of subordinates. The TRC replied: "One must conclude that these words were intended to mean exactly what they said" (II, 97). Antje Krog, the remarkable Boer journalist and writer who followed the TRC's proceedings, cites the letter addressed by magnate Anthon Rupert to President Pieter Botha in January 1986, in which he appealed to the president to reaffirm his rejection of apartheid, saying that it was pillorying them and destroying their language. And the president replied to the effect that he had had enough of the parrot-cry of "apartheid" and had said many times that the term meant neighbourly relations. Krog begins by asking herself: "history veers easily from politics to language and asks what is to be done with the Boer language."

Utmost vigilance is the only way to avoid extremes of prejudice. It is essential both in electoral speeches and in everyday language to beware of obedience and banality of evil conveyed insidiously by clichés whose danger must be constantly stressed.

So what of "reconciliation"? "... [T]his horrible gift for consoling himself with clichés," Arendt exclaims in *Eichmann in Jerusalem*.⁶ "Of course" he had played a role in the extermination of the Jews; of course if he "had not transported them, they would not have been delivered to the butcher." "What," he asked, "is

5 Jean Hatzfeld, *Into the Quick of Life: The Rwandan Genocide — the Survivors Speak*, Serpent's Tail, UK, 2005.

6 Arendt, above note 4, p. 55.

there to “admit””? Now, he proceeded, he “would like to find peace with [his] former enemies” — a sentiment he shared not only with Himmler [...] or with the Labor Front leader Robert Ley (who, before he committed suicide in Nuremberg, had proposed the establishment of a reconciliation committee consisting of the Nazis responsible for the massacres and the Jewish survivors) but also, unbelievably, with many ordinary Germans, who were heard to express themselves in exactly the same terms at the end of the war. This *outrageous cliché* was no longer issued to them from above, it was a self-fabricated stock phrase, as devoid of reality as those clichés by which the people had lived for twelve years; and you could almost see what an “extraordinary sense of elation” it gave to the speaker the moment it popped out of his mouth.”⁷

Is reconciliation an “outrageous cliché”? Yes, for how are Nazis to be reconciled with smoke and ashes? And no, if it is a question of reconciling enemies who in one way or another are obliged to live together. It is not a matter of being hagiographic. The South African experiment is far from being only a success story. “Black is not even a colour of the rainbow and neither is white.” Reparation payments are lagging behind, and reconciliation is fading without any economic redistribution or social equity. AIDS, which despite his tergiversations Mbeki has helped to have recognized as being also a virus of poverty, is taking over the harsh discrimination of apartheid. But the TRC will have demonstrated at least this — which to my mind is an incomparable achievement: it is politic to treat language with care. Speech, which Lyotard, reflecting on sophistry, called “the force of the weak,” is a fine way of removing the perpetuity of hatred.

7 Ibid., pp. 52–53.