

Forgive and Not Forget: Reconciliation Between Forgiveness and Resentment

DANIEL LEVY AND NATAN SZNAIDER

“Who, after all, is left to remind the winners that someone else once owned these houses, worshipped here, buried their dead in this ground.”

—Ignatieff 1997, p. 177

Thus wrote Michael Ignatieff in connection with ethnic cleansing and its effect of eradicating the truth of the past. It speaks about a broader issue that has become a pervasive feature of both domestic and international politics. Namely, whether forgiveness, in light of state-sponsored mass atrocities and other severe human rights abuses, can be uttered in meaningful ways, both on a personal and a collective political level. This essay explores the theoretical underpinnings and manifestations of forgiveness against the backdrop of an emerging Human Rights regime, and memories of historical injustices in the second half of the twentieth century. A brief discussion of state-sanctioned restitution measures serves to highlight the ambiguous meanings forgiveness can assume, depending on the political and moral context within which it is articulated.

Most current debates about forgiveness start from an unquestioned assumption: namely, that forgiveness is the morally superior sentiment; resentment is atavistic, archaic, leading to revenge and renewed cycles of violence. On the one hand, uttering the truth about historical injustice and doing this in conjunction with the former enemy will set us free. Truth commissions, in particular, are said to have these redemptive qualities, but it is very much part of other forms that are celebrated because of their reconciliatory usages. History and politics are turned into trauma laboratories. Rather than presupposing these “healing effects,” we analyze these underlying assumptions by situating them in their respective philosophical and historical traditions.

In this paper we address the conceptual roots of forgiveness and how they relate to emerging conceptions of restitution. Who can tell what the right

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relation is between memory and forgetting, between punishment, revenge, and forgiveness? And what about those who do not want to forgive, who demand and insist on their right to resentment and retribution? The literature on these subjects has by now become a specialized field of its own, fusing moral and normative arguments. Sociological thinking counters the belief that politics should be guided by theoretical doctrine, universal principle, and appeals to abstract rights. On the other hand, it is this metaphysical zeal, which lies at the heart of the contemporary project of global justice. We seek to overcome this discrepancy by focusing on the politico-theoretical thoughts found in various works of Hannah Arendt. Expanding upon Arendt, we argue that the political significance of forgiveness is contingent upon a set of historical and institutional circumstances that condition the respective meanings forgiveness can (or cannot) assume.

1. Forgiveness as a Form of Politics?

Forgiveness constitutes the implied and often explicit background on which issues of restitution, the politics of memory, and other reactions to the uncovering of historical injustices are debated. It confronts us with difficult questions. Should we privilege memory over forgetting, punishment over amnesty, and resentment over forgiveness? Does it privilege former victims or does it abrogate the perpetrators? These and other questions have triggered a rich literature, which in the aftermath of the Holocaust and against the global backdrop of the Balkan conflicts during the 1990s, received renewed attention. At its core stand different perceptions of forgiveness. But behind all of them lies the alleged power to undo what has been done, that is, “the possible redemption from the predicament of irreversibility” as Hannah Arendt had already put it in the late 1950s (Arendt 1958, p. 236). It implies freedom for political action, to liberate oneself from the prison of time, to be born anew in politics. As she puts it, the opposite of forgiveness is vengeance, and vengeance can be predicted; it runs its due course, people acting as they were supposed to act, the past determining the present and the future. Forgiveness, on the other hand, is unpredictable; it is undetermined action, therefore, in Arendtian terms, true political action and an expression of political liberty (Ibid.). The alternative to it is punishment and trials, and Arendt shortly explores this connection by stating that “men are unable to forgive what they cannot punish and they are unable to punish what has turned out to be unforgivable” (Ibid., p. 241). Here, Arendt claims that such offenses can neither be punished nor forgiven and that they are outside of human affairs. As we

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shall see below, this view is somewhat modified when situated in the context of “Crimes against Humanity,” where it might be exactly the “unforgivable,” which seeks to be forgiven.

Here the problem of the right mixture between what Max Weber called “*Verantwortungsethik*” (ethics of responsibility) and “*Gesinnungsethik*” (ethics of ultimate ends) sets in. Forgiveness might actually be a bridge between the two worlds of the sacred and the profane, and as such, it has the potential to become a recipe against Arendt’s aforementioned dictum of “irreversibility.” We do not want to be prisoners of the past because only our radical openness to the future makes political action possible. Political forgiveness is one path to this. Arendt emphasized that this political forgiveness should not be based on Christian Love, but on Greek Respect. It is highly political and not sentimental. Arendt does not care about how people feel in that process. She is against authenticity. And this is an important point, because many of the debates regarding political forgiveness are framed around the notion of whether people really meant and mean it. The debates regarding “*Wiedergutmachung*,” the monetary compensation the Federal Republic of Germany provided to Israel and the Jewish people, to be discussed below, are a good example of how intentions and actual consequences do not always mix. Accordingly, for Arendt, it is the moral equality between the forgiver and the recipient of forgiveness that matters. It is the sharing of a common world between two sides that voluntarily agree to break out of their prisons of the past (Digeser 2001). However, Arendt qualifies her view on forgiveness insofar as she relates it to the judicial and the political. Deeds, which are not punishable, cannot be forgiven. What she called “Radical Evil” needs to be excluded from the politics of forgiveness. Perpetrator and victim needed to share a common world, to be “at home in the world” in the words of Arendt. This living in plurality makes “politics” possible. “Radical Evil” (and even the “banality of evil”) destroys plurality and therefore politics. And it is clear that she was referring to the Holocaust when she wrote about “radical evil.” Former victims and perpetrators have stopped sharing the same world. Taking Arendt seriously poses a huge conceptual problem for theorists and activists of reconciliation.

What then has pushed forgiveness to the forefront of public and political attention? It is Christian morality, or rather its secular embodiments, which have raised forgiveness to the status of supreme, even constitutive value (for a development of this argument, see Heyd 2001). Not only has Christianity emphasized internal transformative capacities, but it has also put suffering and its redemption at the core. The cultural code of Christianity has also been

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diffused throughout the world through processes of cultural globalization. However, forgiveness as a cultural code does not need its Christian roots by now. As Arendt put it: “The fact that he [Jesus of Nazareth] made this discovery [of forgiveness] in a religious context and articulated it in religious language is no reason to take it any less seriously in a strictly religious sense (Arendt 1958, p. 238). This is especially true in global times where increased processes of universalization are at the same time processes of secularized Christianity.

Thus, in the late 1950s, Arendt already believed that a new politics could be constructed out of the Christian roots of forgiveness. It seems that she thought that as long as people understood Christianity in the correct political (and Greek) way, the roots do not matter. For her that meant first of all to de-privatize forgiveness and to make it public. Decisive for her was Jesus’s insistence that it is not true that only God has the power to forgive. For Arendt, what shocked people the most in Jesus’s message was that he believed in people’s “power to forgive” (Ibid., p. 239). Arendt, in an interesting turn, takes Kant’s rejection of moral sentiments like forgiveness and gives it a Kantian bent. Forgiveness is not moral sentiment for her, but part of politics and justice. One just has to look again at her criticism of Jaspers’ “On German Guilt” to see this clearly. Karl Jaspers, Arendt’s dissertation supervisor and long time friend, tried to deal in the first semester after Nazi Germany’s defeat with the “Question of German Guilt” (1946). This text can be read as a “founding text” for the new West German collective identity (Diner 2000, p. 219).

Jaspers’ distinction between criminal, political, moral, and metaphysical guilt is crucial for the issue at hand here. Especially “moral guilt,” where individuals subordinate their conscience to the demands of the state, seems problematic (Rabinbach 2001). It stipulates that *that* guilt demands to be forgiven after the deed, and it does not demand punishment. To place moral and metaphysical guilt outside the sphere of legal punishment individualizes crimes, which were conducted as a collective. This poses almost insurmountable problems for reconciliation. Locating “moral guilt” somewhere beyond judicial control shifts it into the realm of memory, of a dark shadow lying on the conscience of the former perpetrators—at least in the hopeful optimism of Jaspers in 1945, right after the German defeat; an optimism he soon came to abandon. He did reject the notion of “collective guilt,” and his attempts to outline different notions of guilt individualized (and humanized) the problem. However, the crimes we are dealing with here, crimes connected to historical injustice, even crimes against humanity and

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genocide, are crimes committed by political groups, by collectives, against other members of groups. The question remains open if guilt serves to extirpate responsibility. Since the 1970s, Germany's official public culture seeks to distinguish between guilt and responsibility by refusing the former's collective character and insisting on its collective responsibility. Arendt seemed to be already aware of that problem in 1945 (see also Fine 2000). Guilt (and with it forgiveness) seems to be about inner attitude, while responsibility (and an Arendtian political notion of forgiveness) is about the outer sphere, the political public space. This problem seems to be amplified because, according to Arendt, in Germany one could not distinguish anymore between a "secret hero" and a "mass murderer" (Arendt 1945, p. 125). But Arendt enlarges the problem beyond its German boundaries: "For many years now we have met Germans who declare that they are ashamed of being Germans. I have often felt tempted to answer that I am ashamed of being human" (Ibid., p. 131). She accepts Jaspers' notion of moral and metaphysical guilt, but wants to politicize these notions. In clearly foreboding contemporary global politics she closes her essay: "For the idea of humanity when purged of all sentimentality, has the very serious consequence that in one form or another men must assume responsibility for all crimes committed by men and that all nations share the onus of evil committed by all others" (Ibid., p. 131). From here to the notion of "Crimes against Humanity," the way is short.

2. Resentment and Retribution: Antidotes of Forgiveness

This point will be made even clearer by studying two voices rejecting forgiveness and reconciliation. Expressions of national atonement, fiscal compensation, and other redemptive matters do not necessarily imply forgiveness. A look at the writings of especially Jean Améry and Vladimir Jankélévitch, both refusing forgiveness, both insisting on the moral worth and virtue of resentment, underscores this point. Their views express that the passage of time should be resisted and deny to time the power of moral and legal absolution. They want retribution not forgiveness. Are they wrong? It is clear that personally forgiving the people that murdered your family or put you to inhumane torture is a rare and heroic act that should not be expected of anyone. Another dimension of Améry and Jankélévitch's refusal to forgive is that it takes place completely within an individual perspective—it is about feelings. It has nothing to do with politics, because no punishment could possibly be enough. So if all punishment is meaningless and therefore all reconciliation is also meaningless, then there is only the feeling of resentment and the memory it

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keeps warm. The best that can be done in these circumstances is legal justice, even though both are very much aware that justice cannot be done anymore. Jankélévitch wrote his essay in the midst of the French debate regarding the imprescriptibility of Nazi Crimes. For him, pardon is equal to forgetting. Crimes against Jews are truly Crimes against Humanity, against the human essence. They cannot be pardoned. He also does not believe in German repentance: “German Repentance, its name is Stalingrad . . . it’s name is defeat” (Jankélévitch 1996, p. 566). For all these reasons, it may have nothing to do with reconciliation in the sense we use the term today, which is understood entirely in a social and political perspective that is completely independent of personal feelings. No one expects the victims to forgive anyone, but the social process of receiving restitution and processes of political forgiveness can still legitimately be considered part of a reconciliation process. However, Améry and Jankélévitch seem to be lonely voices in a global trend moving toward forgiveness and reconciliation. They insist on their resentment and their inability to settle the past: “Today when the Sophists recommend forgetfulness, we will forcefully mark our mute and impotent horror before the dogs of hate; we will think hard about the agony of the deportees without sepulchers and of the little children who did not come back. Because this agony will last until the end of the world” (Ibid., p. 572).

These voices represent resistance to a trajectory, defined by Jeffrie Murphy, a philosopher of forgiveness, as “the overcoming, on moral grounds, of the feeling of resentment, and it is particularly important in allowing human relations to continue that otherwise would be disrupted by resentment.” (Murphy 1988, p. 20). This view is echoed in Archbishop Desmond Tutu’s view of forgiveness as a civic sacrament as the basis for the South African Truth and Reconciliation Commission (2000).

Jacques Derrida’s essay “On Forgiveness” (2001) addresses similar problems. However, he puts forgiveness outside of politics and articulates it in the formula “forgiveness forgives only the unforgivable” (Ibid., p. 32 and passim). For Derrida, it is unconditional forgiveness and it must forgive the guilty as *guilty* without a reference to a request for forgiveness, without transforming the guilty into the innocent. It seems that Derrida is oblivious to the difference of legal guilt and moral responsibility. Or as put by Thane Rosenbaum in an article dealing with German attempts to memorialize the Holocaust: “Guilt is a legal term; responsibility is a moral one. Acknowledgment, truth, and apologies are moral imperatives; forgiveness is not, precisely because it suggests starting over with a clean slate, which, in this case, only the ghosts are empowered to grant” (Thane Rosenbaum, *New York Times*, November 8, 2003).

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However, for Derrida forgiveness is not a system of exchange. And it has nothing to do with reconciliation. And he refuses, of course, to accept Jankélévitch's point that "forgiveness died in the camps." Derrida wants to bring back "radical evil" to dimensions where forgiveness is possible. It tries the impossible, namely to reconcile the universal and the particular, and the public and the private. It is salvation translated into politics. But if it lies outside political action, what is it good for? Are we just playing deconstructive games? Or even messianic ones? In Derrida's world, we base ourselves on some transcendent human substance that needs to be saved. "A Dream for Thought" (Derrida 2001, p. 60) in his own words. In this sense, he wants to politicize even more than Arendt the Christian roots of forgiveness. Arendt's strict political separation between private sentiments and public action is being put away by Derrida. The demarcation line between the private and the public spheres is abolished. Private and public forgiveness become the same.

But then, what is it we are trying to nurture and preserve? If we are now dealing with de-centered quasi-subjects of which no one can definitively say what they are or what they ought or want to be, then what is the inviolate essence our institutions should be set up to protect? On what grounds can we guarantee that we will not be hauled off, tortured, and killed? Just on the grounds of humanity? Is that enough? The abolishment between the private and the public does away with the demarcation between the particular and the universal as well. Humanity and particular human groups are being collapsed into the same conceptual framework.

This puts us into the classical modernist's problem of which forgiveness has to give an account. It revolves around notions of individuality and collectivity, and thus is about modern politics. Political forgiveness acknowledges that all are equal and therefore share a common sense of humanity. That seems to be the unconditionality—even the metaphysical—Derrida talks about. The transcendental—or even religious part of our human existence—explicates why, according to Derrida, "forgiveness" is Abrahamic, because it is connected to the notion of "One God," which makes the "human" possible. Thus, "Crimes against Humanity" is basically a religious-sacred conception in which—as Derrida puts it—we accuse ourselves of crimes against ourselves—but without the notion of the sacred—humanity could not be the subject of crimes—but only a specific group of people (which again makes it conditional). But besides the principle that "all men are equal and share a common sense of humanity" there is the other principle that views "every individual as unique and irreplaceable." Here starts the reconciliation between the two principles. They do not need to contradict. But this

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reconciliation is in need of a mechanism connecting the two through an “ethics of responsibility.” Thus, although both principles are logically exclusive, their opposition is constantly overcome in our lives. Here, we are again closing in on the limits of universal forgiveness.

This tension between individuality and collectivity is also mirrored in the emerging legislative language of international law, especially if it comes to crimes against humanity (references from our sovereignty article). The individual autonomy is taken away from victims of genocide and other atrocities where people are targeted because of their group (that is, not individual) characteristics. Ironically, their subsequent attempts to redeem their individuality also involve a collective approach (for example, class action suits, which place the emphasis on that which is collective and categorical). This in turn leads to the recognition of the individual and the abstraction of the crimes and the ensuing processes. And that is why the “law” is so problematic in that respect. How can judicial procedures deal with big questions like “humanity” and crimes against it? This is a concern echoed in many of Arendt’s deliberations.

This concern also leaves open the precise nature of the transition from forgiveness to restitution. Legislation (and profanization) of matters indicates such a shift. It may start with forgiveness and end up with restitution, possibly leaving the alleged paradox between the individual autonomy and the moral conscience intact, insofar as the act of forgiveness becomes secondary. In effect, it is the victim giving forgiveness, while restitution is provided by the perpetrator. This is the translation from the metaphysical level to the mundane one. This is how forgiveness is translated into money. Even looking at crimes against humanity directly, one can argue that there is the event—may be beyond understanding, beyond witnessing—when only the dead could have known what happened—and then there is representation. Derrida talks about the crimes against humanity as crimes “we” committed against ourselves, meaning we are all responsible. Thus, again, the crimes and the victims are individualized. The victims are “humanity” and not the “Jews,” for instance. What does this mean for forgiveness and testimony? The relationship of testimony and representation is mutually constitutive. Questions of truth or authenticity are secondary, especially since the impact of representation on recreated memory and testimony in no way implies that they are untrue.

However, ultimately the various constraints and opportunities forgiveness imposes on both collective and individual practices cannot be determined in a metaphysical vacuum, but are greatly shaped by historical junctures and how they are collectively remembered. Here, the Holocaust in particular

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posed a challenge to the universal Enlightenment premises of reason and rationality. Paradoxically, the Holocaust functioned simultaneously as the source for a critique of Western universalism and the foundation for a cosmopolitan desire to propagate human rights universally. The central question here is whether the Holocaust is part of modernity or the opposite, a return to barbarism, representing the breakdown of modernity—a question that connects to the broader debate about whether barbarism constitutes a separate breakdown of civilization or whether it is very much part of modern rationalization and bureaucratization itself. According to Theodor Adorno and Max Horkheimer’s study of the “Dialectic of Enlightenment” (1944), barbarism is an immanent quality of modernity, not its corruption. In their view, civilizational ruptures inhere, at least potentially, in the processes of rationalization and bureaucratization that characterize modernity.

For Arendt, however, the Nazis represented the breakdown of the Enlightenment and democracy, of critical judgment and of reason. The ambivalence between the above-mentioned frames of civilization and barbarism remained the primary organizing principle for her thoughts on the Holocaust. Nazism, for her, was nothing particularly German, but rather a manifestation of totalitarianism. Universalizing the phenomenon did not preclude her from recognizing its singular features. She perceived the uniqueness of the Holocaust not only to consist in the scope and systematic nature of the killings, but also in the very attempt to deny humanity as such. Conventional categories of crime become irrelevant, a view that was later incorporated into the legal canon through the concept of “crimes against humanity” (Levy and Sznajder, 2004).

3. The Politics of Restitution

One symptom of these developments relates to the emergence of a discourse about restitution measures that are no longer confined to relations between states but also involve individuals. This is exactly what Crimes against Humanity mean. Individuals and not states are turned into legal subjects. Questions of restitution stand at the intersection of memory, forgiveness, and justice. Whether restitution (especially for individuals) could serve as an adequate matter in the moral equation of victim and perpetrator has remained a thorny issue. A paradigmatic case is the abovementioned German-Israeli story of “*Wiedergutmachung*” (Barkan 2000). Although it is now often mentioned as an exemplary case for the healing effects of restitution measures, the respective reactions the agreements caused in Germany and Israel are instructive

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for our argument about the difficulty to disentangle the reconciliatory effects generated by official forgiveness and its actual connection to intentions (by the perpetrators) and willingness to accept (by the victims). Controversial at the time, a mere seven years after the Holocaust, the agreement almost caused a Civil War in Israel (Segev 2000). Moreover, the measure was highly unpopular among the German population and Germany's chancellor, Konrad Adenauer, put his political career at stake by pushing the measures through.

In Israel, the opponents often used the notion of "blood money" when talking about it. On a deeper level, there seems to be a problem with money and reconciliation. However, principles of market society do not have to contradict moral concerns (Sznajder 2000). The German Jewish agreements can serve us to see how money can have a meditative function in the new equation of moral equivalency. Moreover, it serves also as the limiting case for forgiveness and restitution and should be a cautious reminder for those who take it as a model case for other historical contexts.

4. Honor and Money

There is a reason for this widespread opposition between morality, often connected with honor and money. Honor and money, like fire and water, cannot exist together. They are the circulatory media of two very different systems of behavior that are distinguished in both our historical memory and in social theory. Economic behavior is supposed to be self-regarding, rational, and calculative. Honorable behavior is supposed to be undertaken without thought of gain, to be based on intrinsic values, and to be other-regarding. In common parlance, to act honorably is to override one's personal interest and to act on principle. But restitution, by its very nature, must mix the two together.

Honor is appropriate to a world of social hierarchies, which no longer exist. Its attraction lives on even though the world it once regulated is dead. But it is important to emphasize how the concept of honor is inextricably linked to inequality. Charles Taylor makes this point quite clearly in his extended analysis (Taylor 1992). For some to have honor, it is necessary that others must not have it. The bourgeois concept that is analogous to honor is the concept of "dignity." Unlike honor, it applies to everyone. Everyone can have it, everyone can lose it, and everyone can fight for it. It is an egalitarian concept, and is therefore compatible with democratic society. And it is a universalistic concept that is, therefore, compatible with money. Money makes

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very different things equal. That is the whole point. But it is also exactly what romantics of the left and right hate about it.

However, there is another tradition in social theory, which tries to come to terms with money from a completely different angle. It was Georg Simmel who, in his *Philosophy of Money* (1900), identified money as the means and expression of social abstraction. The abstraction of personal relations results in the much wider nexuses of impersonal relations. Historically, money has been a universal solvent that has replaced personal obligations with services purchased in the market, and thereby freed individuals from particular others by making them more dependent on the whole. This replacement of one large, unbreakable bond by a thousand little bonds is real freedom. It is the history of an increase in the individual's scope of action. At the same time, the extension of the money economy tends to erode inequality through the same process of making people substitutable. It is hard to maintain the ideal of inequality—with some people born to rule, and others born to serve—when people are functionally interchangeable. Money, therefore, tends to extend the concept of equality, insofar as the legitimacy of inequality was based upon a perception of essential differences in the person.

The hatred of the bourgeoisie and its spirit was clear in the works of conservative and leftist thinkers. They denounced the modern world as a world of strangers. Simmel characteristically turned their idea on its head and defended strangerhood as one of the most positive features of the modern world. He thought indifference was a great cultural and historical achievement, and thought that strangership made a positive contribution to the social order. And this brings us straight to the modern global world. When people are strangers, each person gives signs to the others to let them know that he has recognized their existence, but signs which also makes clear in the same instant that the other person is not a special target of curiosity or design. But we only need to add that concept of “civil society” to see what an epochal turning away this is from warrior society. Now we are in a world where people are constantly, without thinking about it, assuring each other of their non-hostile intentions. And this might just be the cultural and social underpinning of the current reparation movement.

At the level of states and ethnic collectivities, money is exchanged for forgiveness. Legal and politically consequential forgiveness are distinct from feelings of forgiveness. And at the level of individuals, the act is one of closure. Money symbolizes the irrevocable admission that a crime has been committed. As Marcel Mauss had already stated in 1925 in his analysis of *The Gift*, symbolic exchanges are relations between people as much or more than they

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are relations between objects. In the case of restitution, the acceptance of the money symbolizes the acceptance of the giver. And that is an acceptance that would never be possible on the basis of personal relations. Who can forgive the murderer of his grandparents?

5. Forgiveness in Transitional Justice

The question of forgiveness takes on different meanings when situated in the context of state practices. Despite, or maybe because of the pervasive trend for public apologies and forms of national introspection, we need to differentiate the political circumstances under which these practices take place. The relative success of restitution measures greatly depends on particular regime constellations. Especially countries (most prominent are the post-communist cases) under conditions of transitional justice and faced with the daunting task of becoming stable democracies, frequently need to strike a balance between the search for justice and the need for civil and political stability (Mansfield and Snyder, 1995; Snyder and Vinjamuri, 2003). The example of post-war Germany underscores how official restitution attempts did have little effect on preventing former Nazis to play a part in rebuilding the country. It was only later, during the late 1960s, when successful reconstruction and political stability were achieved, that the pervasive failure to punish former Nazis became unacceptable. And it took another two decades before the historical spotlight focused directly on the deeds of the perpetrators (as opposed to the routinized official ritual of mourning its victims).

The political expediency of this development is not confined to Germany or the post-war context. Discussing the recent initiative to create a “Museum of Baathist Crimes” in Iraq, Elizabeth Cole writes: “Numerous studies have shown that reconciliation—the rebuilding of deeply damaged relations between nations, peoples, or faiths—can begin only when peace and stability have been achieved. Once the right conditions are in place, a nation can begin to debate its past. Countries acquainted with difficult transitions can provide expertise on the traditional tools of reconciliation, from the establishment of truth commissions (South Africa, Guatemala), to the creation of documentation centers (Cambodia) on the years of violence [...] In the early days of reconstruction, might Iraq in fact be better off focusing on its distant rather than recent past?” (“Shop of Horrors,” *New York Times*, October 21, 2003). There is, in other words, another memory practice, namely that of “restorative forgetting” (Booth 2001).

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Thus the question shifts from a quest for absolute justice to one in which states look for the best outcome possible at a given time and in light of available resources. With “best” being measured only against the alternatives, and not in terms of how far they fall short of ultimate goals like “human rights” or justice. There is no internal contradiction between humanitarian goals and the principles of *Realpolitik*, but there could be one between human rights and *Realpolitik*. They may be at antipodes. Human rights are an absolutist framework whose principles admit of no compromise. It provides a set of standards against which all governments can be measured, and against which all will fall short. Arguably, that is appropriate and effective in its proper context. But it is completely inappropriate to the context of providing peace and stability. This could be one of the fundamental reasons why the successor government must always be made out of at least some preexisting elements. The basic strategy will almost always be to back some horses, make acceptable compromises with others, and arrest and exclude entirely a small minority that make compromise impossible. This last group must by definition be small or the operation cannot possibly be accomplished in a limited period of time. Thus, at times, amnesties appear as the right political choice.

The de facto amnesty granted to Nazi officials after the war cannot possibly be squared with the demands of justice, and of course, always looms in the background of such processes. Again, this needs to be decided case by case. Adam Michnik and his fellow activists, who engendered the transformation in Poland, operated with the slogan “Amnesty Yes. Amnesia No” (Michnik and Havel, 1993). Current debates in Argentina (and Peru) about the acceptable balance of memory and prosecution are ultimately decided under the requirements of social and political stability. Amnesties will always contain groups and members of the former regime that are seriously tainted in human rights terms. And this is also where forgiveness as a political principle may come in. A human rights framework that knows no compromise or that sees any trade-off as a damnable dilution of its principles is completely unsuited to apply such a strategy. This is especially important in ethnic struggles all over the globe today. Human Rights principles, we should not forget, are principles of truth. And like the truth, these principles are indivisible.

Could it be that states after transition will grant amnesties and forgive political criminals in the name of peace and stability? Should we allow these decisions to be overturned by an international tribunal? Here one faces the fundamental Hobbesian situation, where civil peace is often more important than morality—where it is often the only precondition that would make real morality possible. This is fundamentally the opposite perspective to that of

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human rights, which essentially assumes civil peace can never be endangered by its activities—that any amount of mobilization, polarization, and condemnation will never bring about a complete breakdown of the state, but always only purify it. The ultimate reality of the situation is the needs of peace, which means the realities of power. And this is why we need flexible principles, whose essence is to find the best solution given the limits of the situation, and the possibilities at any point of making things worse or not lasting. These principles are designed to lead to the best compromise. They are the right principles to guide our choices even when we are trying to reach humanitarian goals, that is, a society in which people live better, safer, freer, less fearful lives. They are the right principles to organize our thought on such matters. Human rights principles, which are not designed for compromise, may not be. This also leads to a tentative solution to the problem of saving what is good in the human rights tradition, while purifying it of what is often wrong and abused.

6. The Mnemonics of Forgiveness

By the early 1990s, the Nuremberg principles were looming large in both the international reaction to mass atrocities as well as their legal inscription in the International Criminal Court (Levy and Sznajder, 2004). However, the broader significance of these trials and the emerging legalism cannot be reduced to its adjudicatory functions. For Jankélévitch and Améry, trials are not arenas of forgiveness, but a forum where “justice and memory resist the passage of time and deny to it any power of moral/legal absolution” (quoted in Booth 2001, p. 779). In this view, “justice becomes the memory of evil, and it fights a desperate battle against the oblivion that always threatens to engulf it, that gives sanctuary to the perpetrators and a victory to injustice” (Ibid.).

In many ways legal manifestations of forgiveness are but one facet. No less important are memories of justice. W. James Booth suggests that “justice is, in part, a form of remembrance: Memory occupies a vital place at the heart of justice and its struggle to keep the victims, crimes, and perpetrators among the unforgotten” (Ibid., p. 777). In this view, “justice as the institutionalized remembrance of the past is seen here, as in other truth commissions, as a duty to the dead and as a condition of reconciliation” (Ibid., p. 778). Contrary to those who view memory as merely ephemeral, Booth argues “that this memory-justice at once informs core judicial practices and ranges beyond them in a manner that leaves judicial closure incomplete. It reminds us of a duty to

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keep crimes and their victims from the oblivion of forgetting, of a duty to restore, preserve, and acknowledge the just order of the world” (Ibid., p. 777).

This view is evidenced in the “mnemonic turn” that we observe during the last decade or so. New concepts began floating into the discourse about forgiveness. Concepts like healing, reconciliation, restitution, peace, and truth. Trauma and its overcoming, take over the place of justice and its administration. Memory is turning into a key-organizing concept of those processes. Political and legal theory has done a decisive Freudian turn (Teitel 2003). Truth commissions, public debates, and restitution claims, and not the courtroom alone, became models for this process. Let us briefly elaborate on the relationship between law and memory as it casts an important light on the possibilities of justice and forgiveness.

Elsewhere we have discussed in detail the seminal role of Holocaust representations and the emergence of what we call “cosmopolitan memories” (Levy and Sznajder, 2002, 2005). We analyzed the distinctive forms that collective memories take in the age of globalization, focusing on the transition from national to cosmopolitan memory cultures. Cosmopolitanism refers to a process of “internal globalization” through which global concerns become part of local experiences of an increasing number of people. Global media representations, among others, create new cosmopolitan memories, providing new epistemological vantage points, and emerging moral-political interdependencies. We traced the historical roots of this transformation through an examination of how the Holocaust has been remembered in different countries. Nothing legitimizes human rights work more than the slogan “Never Again!” And behind that imperative is the memory of the Holocaust. It is a mark of just how deeply that memory has saturated our everyday consciousness that the phrase “Never Again” does not require any further specification for us to know what it refers to. The very notion of these rights grew directly out of what was then considered its worst breach, namely the crimes of the Nazis. Hence, the United Nations Universal Declaration of Human Rights from the year 1948 says in its preamble: “whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind...” And this connection between Human Rights and the Holocaust, especially in the European and American contexts, poses problems of compromise and power politics. Judicialism will, therefore, face the problem of being part of politics and be part of morality at the same time. The Rule of Law might not be the last answer.

It is precisely the abstract nature of “good and evil” that symbolizes the Holocaust, we argue, which contributes to the extraterritorial quality of

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cosmopolitan memory. The historical details of this development cannot be discussed here. What matters, for our purpose, is to direct attention to how the Holocaust has been remembered through institutions and the ritualistic power of criminal trials. These memories, based on a shared negative sentiment of the catastrophe, are not only able to produce despair at the modern world, but also actually help enlightened ideas to come to the fore (Rorty 1993). It is a sentiment based on a universality that is not derived from reason, but rather based on common experiences of human wrongs. “Human wrongs are everywhere; all societies find it easier to recognize and agree upon what constitute wrongs elsewhere than they do rights; wrongs are universal in a way rights are not” (Booth 1999, p. 62), and as such they are “a new, welcome fact of the post-Holocaust world” (Rorty 1993, p. 115).

At this point, the Holocaust has been reconfigured as a de-contextualized event. Memories of the Holocaust shape the articulation of a new rights culture. Once this new rights culture is in place, it no longer needs to rely on its original articulation (in this case, the memory of the Holocaust), but it assumes strong normative powers. The Holocaust memory and the new rights culture are, in other words, mutually constitutive. To be sure, this is not by necessity but as the result of particular historical conjunctures (the end of the Cold War, the Balkan wars of the 1990s, as well as the failed attempts by this new human rights regime to prevent acts of ethnic cleansing and genocide). The term Holocaust has passed from an abstract universal, to a set of very particularistic and/or national meanings, back to what we have elsewhere referred to as cosmopolitan memories. The Holocaust is now a concept that has been dislocated from space and time precisely because it can be used to dramatize any act of injustice, racism, or crime perpetrated anywhere on the planet. The anti-Communism that justified intervention during the Cold War had to be replaced with something after its end. And in this new context, human rights seem to be fitting the bill. The idea of genocide contains the admonition that a moral world cannot stand idly by, while others are destroyed.

7. Conclusion

Despite its European origins and a western dominance, it would be erroneous to conceive of these developments as a new form of “moral Imperialism.” Judging by the multitude of experiences in different parts of the world, global discourse about forgiveness and restitution does not seem to be based on an absolute universalistic ethic. It is the product of negotiations with the respective

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other. The recent case of Rwanda is a case in point. It shows that even an internationally established tribunal, such as the International Criminal Tribunal for Rwanda, recognizes the need to adjust to local jurisprudence, as is evidenced in recognizing the decision of the Rwandan government to work together with civil society on the implementation of the informal “gacaca” courts. Ultimately, this entails the coexistence of local and global standards of jurisdiction.

This dialogue, therefore, entails a reassessment of prevalent dichotomies such as the local and the global or the juxtaposition of the universal and the particular. Forgiveness and debates about restitution do not presume a universally valid legal or normative notion, but it is the mutual recognition that provides the basis for reconciliation and the foundation for a shared experience. In other words, it is not a universal morality, but instead we are witnesses to a global genesis of conditions of forgiveness that are shaped through the dialogue with the local. It is, oftentimes, an ad hoc conception of justice that incorporates a globalized Human Rights culture into respective local and particular negotiations.

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