

tzvetan todorov  
MEMORY AS A REMEDY  
FOR EVIL

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WITH PHOTOGRAPHS BY VEEN KISHORE



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MEMORY  
AS A REMEDY FOR EVIL

THE FRENCH LIST



tzvetan todorov

MEMORY

AS A REMEDY FOR EVIL

TRANSLATED BY GILA WALKER

WITH PHOTOGRAPHS BY NAVEEN KISHORE



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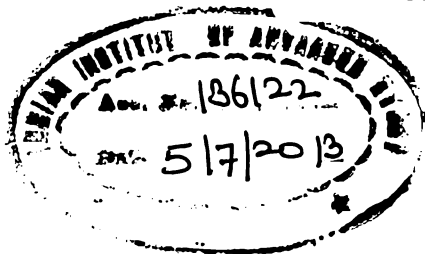


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The most frequently recited Christian prayer in the world, the one that begins with an address to God as ‘Our Father who art in heaven’ ends with a petition fraught with meaning: ‘Deliver us from evil’.<sup>1</sup> This implies that there

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<sup>1</sup> *Mattheu*, 6.13.

is an evil element in human nature from which God can free us and we pray that He will do so. Human beings, as we know, have sometimes been tempted to take upon themselves this purifying role, and we are well aware of the catastrophic results to which such ambitions have led in totalitarian regimes. Democracies do not engage in general in such projects of definitively eliminating evil. Yet impulses in this direction exist here and there, and one of them takes the form of an appeal to memory, the presumption being that if we remember the evil committed in the past then we can avoid it today. 'No forgiving, no forgetting' is often to be seen scrawled on city walls, 'Never again!' people shout in meetings, while on TV they



speak to us sententiously about the ‘duty to remember’, repentance and reparations—all in the hope that such gestures will redress a wrongful past.

Thus understood, memory has even had the good fortune of being introduced into the arena of law. A number of European countries have adopted ‘memorial’ laws (*lois mémorielles*) that inscribe the interpretation of one or another painful ordeal from the past into the code of criminal procedure, to safeguard its memory against attacks and maintain its effectiveness against evil. These laws abound in France in particular. The so-called Gayssot Law, adopted in 1990, punishes anyone who contests the existence of such crimes against





humanity as the Nazi extermination of the Jews. A law approved in 2001 states that the massacres of the Armenians in Turkey in 1915 must be qualified as a genocide; another declares that slavery and the slave trade are also crimes against humanity and that as such their memory is untouchable. Emboldened by this run of decisions, in 2005, the members of the French Parliament voted in a 'memorial' law that commemorated what was considered a praiseworthy rather than a painful event: to wit, the French colonization of North Africa.

As we can see, the appeals to memory as an effective cure against evil are not in short supply. The past is well preserved and commemorated. Yet if we shift our gaze to the pres-

ent, there is no reason to conclude that evil is generally on the decline on the surface of our planet. I hasten to add that 'evil', as I use the word, far from being a metaphysical or a theological entity, is merely a catch-all term for various types of violence. War, genocide, massacres, torture, rape, crime and other expressions of violence that men and women in different periods have usually designated by the term 'evil' seem to have survived intact from all the efforts to fight them with memory, and they continue today probably with even greater force. No sooner have they been stopped in one place than they start up in another, and one would be hard put to discern a collective moral progress in the march of humanity.

Thus the memory remedy seems to be ineffective. But before simply giving up on it, it may be worth examining more attentively. What if we were going about it the wrong way, and the problem resided not in recourse to memory and to the past but in the specific role that we want to make them play and in the conclusions that we draw from them?

To clarify the matter, let's first review the constituent components of narratives that take up the theme of good and evil. In them, we observe two processes, the production of evil and that of good, along with two protagonists, the one who acts and therefore conducts the process, and the one who endures it. This allows us to identify from the outset four main

roles: on the one hand, the *villain* and his/her *victim*, on the other, the *hero* and his/her *beneficiaries*. Two of these roles are regarded with respect and consideration: the hero and the victim. The former does good; the latter endures an injustice that must be righted. Two other roles are held in low esteem: the passive beneficiary of deeds accomplished by someone else and, especially, the villain, who serves as a foil. Add to this basic pattern the distinction between *us*—our community or simply those who resemble me or are close to me—and *them*—those who are foreign and different (enemies)—and you have the majority of uses of memory, which consist in attributing to ourselves the appealing, respected role of hero and victim and

confining others to the less glorious role of villain, criminal and executioner, or the passive recipients of our heroic deeds. There is something suspicious about this neat unanimity. What if the sterility of calls to remember was rooted in this constant identification with heroes or victims and the extreme distance we put between the miscreants and ourselves?

First, let's examine some recent uses of collective memory.

*In France*

In France, the debates with respect to memory are omnipresent and they have taken a wide variety of directions. There is, however, a common denominator—they all underscore the



difference between victims and aggressors, between heroes and villains. This tendency is manifest as much on the level of concrete legal and political acts as in decisions the thrust of which is symbolic. Let's consider, for example, the cases of those accused of crimes against humanity in the context of trials driven as much by memory as by justice: Klaus Barbie in 1987, Paul Touvier in 1994 and Maurice Papon in 1998. These trials, concerning acts committed during World War II, revived memories of events that had taken place about 40 to 50 years before. Since crimes against humanity are the only criminal offences that do not fall under the statute of limitations, the defendants were necessarily regarded as entirely different

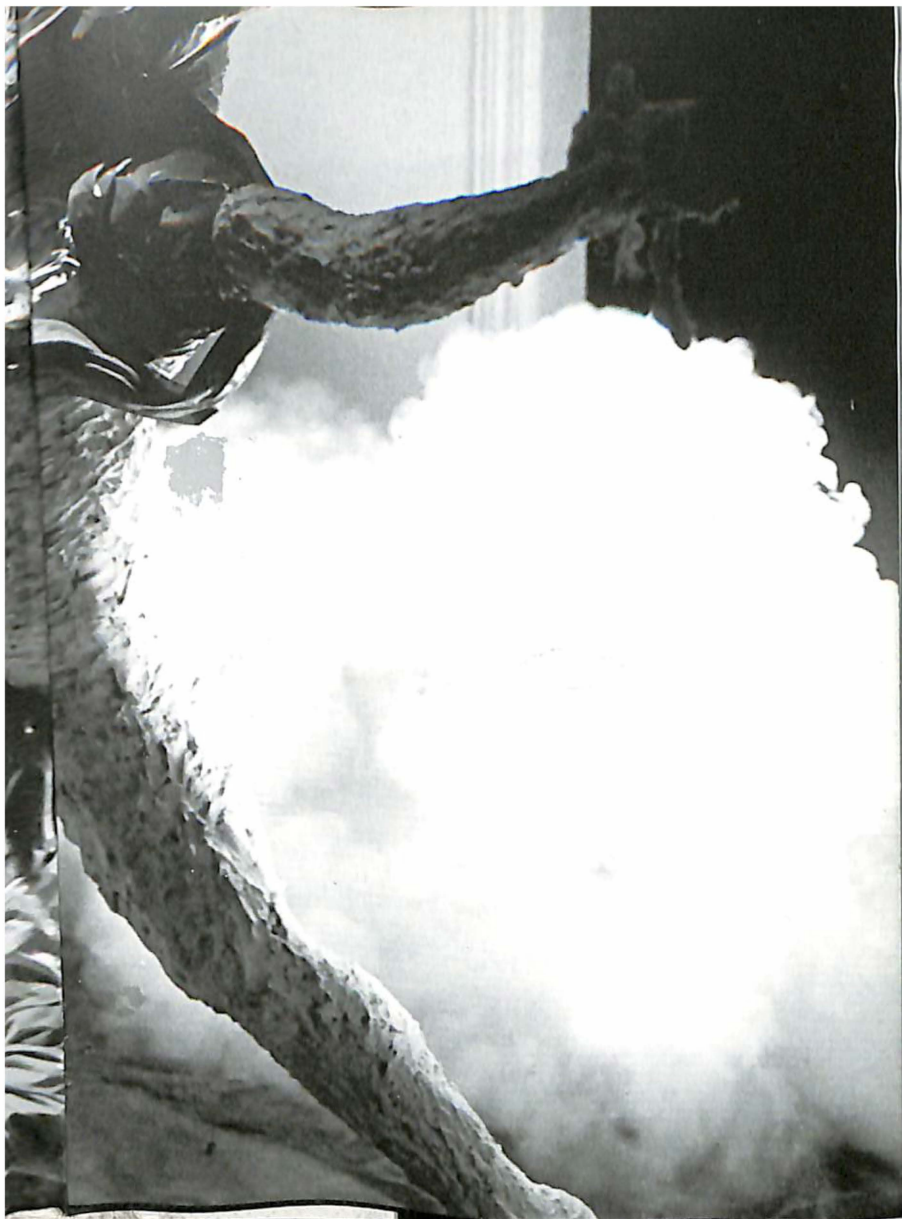
from other criminals, all the more so from the rest of humanity. Along similar lines, when Hitler is depicted in a movie, the question regularly arises of the risks of seeing him as a human being, as belonging to the same species as we do.

Along with this tendency to set criminals at a distance, French political leaders readily evince their sympathy for heroes and victims. Sometimes the two roles are embodied by the same person, as is the case for Resistance members who died fighting the German occupying forces. The current president of the Republic, Nicolas Sarkozy, lavished praise, for instance, on Georges Mandel, a French politician who vigorously opposed the Nazis and was mur-

dered by French militia in 1944. Sarkozy's presidential campaign was also marked by a tribute to the *maquisards* [members of resistance movements] of the plateau of Glières, massacred in 1944. And after his election, he proposed that all high-school students read the last letter written by Guy Môquet, an adolescent Communist militant, taken hostage and executed by a firing squad in 1941.

Sarkozy announced an even more spectacular measure at the dinner of the Representative Council of French Jewish Institutions on 13 February 2008. He declared that 'the memory and transmission of the Shoah' constitutes 'our strongest weapon against racism and anti-Semitism, and our only protection against the





awakening of the foul beast and a repeat of events'. For this reason, he proposed that, starting in the fall of 2008, all 11-year-old schoolchildren be 'entrusted with the memory of one of the 11,000 French child victims of the Shoah'.

The presidential proposal sparked many negative reactions. It was criticized, to begin with, in terms of form. Was it really up to the President of the Republic to determine the school curriculum for 11 year olds? The omnipresence figure of a leader is disturbingly reminiscent of the totalitarian precedent, when the great father of the people resolved all problems, be they in the field of economics, linguistics, literature or music. Critics also questioned

whether the proposal was sufficiently grounded in the knowledge of early childhood psychology. Was it really good for the mental health of a child to identify with another child who was deported and killed at Auschwitz? In addition, the president's project evidenced a certain measure of contempt for history as a teaching subject since it isolated a past event from its context and was content with turning it into the starting point for an emotional identification. Neither is it certain that keeping the memory of the Shoah alive is the 'strongest weapon' and our 'only protection' against the revival of racism, since the latter assumes many different forms and, alas, as we know, preventing one form does not exclude the presence of

others. The president argued that ‘teaching the Holocaust and its specificity works to fight against all forms of racism’, but such a *petitio principii* is problematic: by teaching the ‘specificity’, we are renouncing the universal application of the lesson.

What interests us particularly in the present context, however, is the place attributed to the victims from the past. The 11,400 Jewish children deported from France (who, incidentally, were not all French citizens) are unquestionably victims; they and their loved ones deserve to be pitied, consoled and comforted, but what lesson do they transmit to us 60 years after the events? Their role was purely passive; they endured the violence without being able



to react in any way. To prevent a 'repetition of events' requires thinking about the circumstances of this barbarous act, the motivations of those who were responsible and the means they implemented. The total helplessness of child victims can move us to tears but it does not teach us how to act; for this reason, it cannot serve as the cornerstone of public morality.

*Genocide in Cambodia*

Now let us direct our attention away from the French and European theatre. One of the most traumatic events of the twentieth century was the genocide perpetrated in Cambodia between 1975 and 1979, in the course of which the Khmer Rouge killed nearly a quarter of the

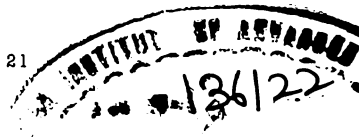
population. In 2008, a trial began in Phnom Penh for 'crimes against humanity' against some of the surviving senior members of the party and against a certain Duch (in a separate trial), the director of the sinister S-21 torture and execution camp located in Tuol Sleng. A very singular witness to these events was French ethnologist François Bizot, imprisoned by the Khmer Rouge in October 1971 while he was in Cambodia and working on Buddhist traditions in the Indo-Chinese peninsula. The Vietnam War was in full swing and the Khmer Rouge controlled only part of the territory. Bizot was accused of being an American spy and the leader of the group that detained him was none other than Duch. Under constant

threat of death, the French ethnologist was eventually subjected to an investigation, acquitted and released three months after his capture. Bizot was the only foreigner to have been so fortunate. Twenty years later, learning of the arrest of Duch, the memories came rushing back and he wrote a book about his experiences during that turbulent period.<sup>2</sup> Another 10 years went by, Duch's trial began and Bizot, who had seen his jailer several times in the interim, was called to testify.

The most disturbing experience that Bizot recounted of his capture was the closeness he felt to Duch. The latter was not yet the execu-

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<sup>2</sup> François Bizot, *Le Portail* (Paris: La Table Ronde, 2000); *The Gate* (Euan Cameron trans.) (New York: Alfred A. Knopf, 2003).



tioner responsible for the death of some 40,000 prisoners in the S-21 prison camp but he was already a ruthless Khmer leader. Yet, Bizot also had to admit, and this disturbed him immensely, that Duch was by no means a monster, a pervert or a madman; that he resembled other human beings and therefore Bizot himself.

It should be kept in mind, to attenuate this radical equation, that in Europe, at the beginning of the 1970s, the Khmer Rouge did not by any means trigger the same revulsion as today; they were, in fact, seen in a favourable light. During the Vietnam War, European public opinion was predominantly hostile to the Americans and, as a result, receptive to those who fought against them. The French govern-

ment supported the Khmer Rouge and the West applauded when they took power in 1975, seeing them as modern leaders who would pull the country out of its feudal backwardness. In addition, the enlightened young people in Europe at the time readily subscribed to Maoism and they too believed in a radiant future.

In Cambodia, Bizot had to acknowledge that the conduct of the revolutionary cadres stood out favourably against the behaviour of corrupt civil servants; that it demonstrated moral uprightness and integrity. In fact, he owed his freedom to this, as he later discovered: the decision to release him had been made by Duch's superior who had held on to his principles of fairness. This act of clemency was far





from the only proof of their human qualities. Duch 'was a serious young man, looking for truth, deeply concerned with justice, and ready to sacrifice his life for the goals of the Revolution', Bizot writes in a recent reissue of his book.<sup>3</sup> At the same time, being a soldier of the Revolution did not prevent him from acting like any other human being, with the ability to laugh merrily or to love. In different situations, the same individual can act in ways that are typically appreciated by others. In the years preceding his arrest, Duch had converted to Christianity and worked with humanitarian organizations.

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<sup>3</sup> François Bizot, *Le Portail* (Paris: Talents Hauts, 2007), p. 9.



The great crimes of the Khmer Rouge were not the work of sadists or the mentally ill but the result of reactions familiar to everyone. One of these stems from the feeling that you and your loved ones are in mortal danger, the conviction that at this very moment you have to kill to avoid being killed, that you may also have to torture to obtain information indispensable to protecting yourself and those who are close to you. Another comes from the desire to improve the current state of affairs for yourself and your community. If the goal is truly sublime, then it justifies all sacrifices and all suffering inflicted. The Khmer Rouge dreamed of a purified society, purged of its enemies, at long last 'delivered from evil'. The end seemed to

justify the means. To these reasons can be added the understandable fear of being destroyed by the very machine one is serving. If I disobey orders, won't I or my loved ones run the risk of becoming the next victims? Having come to understand the motivations of a man like Duch forced Bizot to change his mind about him—and at the same time about himself. As he expressed in his testimony at Duch's trial in 2009, 'Up until then, I'd been convinced that I was on the good side of humanity, and that there were monsters whom—thank God—I could never resemble.' Now he can no longer see monsters, only human beings.

Big criminals are often described as beasts. In point of fact, human beings find reasons for

the massacres they commit precisely in what distinguishes them from animals. It would be better to stop using the adjective 'human' as a compliment (which does not imply that it should be turned into an insult). Animals kill to eat and to defend themselves; people do so to protect themselves against dangers that often exist only in their imagination or to accomplish projects of their own devising. Revolutionary utopianism boils down to an invention of the mind that people try to turn into a reality by force. What people have over animals is the faculty of abstraction, of imagination dissociated from reality, of forming mental constructs unrelated to present-day experience. They can imagine other people's representations and ma-

nipulate them. This is also how they can become a danger for the survival of humanity. Of course, this is not the only source of behaviour we judge to be ‘inhuman’. These can also occur when we lose sight of the ends of our own actions—and this actually implies a certain *lack* of imagination. Such bureaucratic blindness, however, is no more ‘bestial’ than the dream of building a purified society.

Finding that the big criminals in history are as human as we are is one of the movements that allows us to get closer to them. The other consists in discerning what there is in us that is reminiscent of what we see in them. Seeing that they are ‘human’ or that we’re (capable of becoming) ‘inhuman’ amounts to the same thing. This was

Bizot's experience in captivity. Not knowing if he would be released, he decided to run away, at all costs. To defend himself during his flight, he managed to get a stone with a sharp edge that he kept carefully hidden. And he was prepared to use it. 'From the moment I decided to escape, I could not imagine encountering anyone—even a child—without killing him, or else running the risk of letting him escape and sound the alarm.'<sup>4</sup> And so to defend his own life he was ready to commit a murder, of a child if necessary. Is this so different from the state of mind of the Khmer Rouge? At another point, Bizot found himself taking malicious pleasure in manipulating his jailor: 'And with

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<sup>4</sup> Bizot, *Le Portail*, p. 92.

this enjoyment, it occurred to me that in his place, I too would have had what it takes to be a good torturer.<sup>5</sup>

If Bizot did not become a torturer or a murderer, it was not because he was not made of the same stuff but that he was lucky enough during his captivity not to have to kill, and for the rest of the time to live in a state based on the rule of law, alone empowered to use violence legitimately. He also had the good fortune not to believe that human beings should take God's place and create a new world, inhabited by a new species. In other words, the difference between executioners and victims

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<sup>5</sup> *Ibid.*, p. 118.

does not lie in the biological nature of individuals: there is no DNA specific to murderers. It proceeds from the differing circumstances in which the destiny of one individual or another unfolds. The individual past matters: people whose childhood was steeped in love and those who were brought up the hard way will not react in the same manner. Growing up in an atmosphere of political and social despair conditions you differently than if all the doors open easily before you. The present-day context also matters. We don't react the same way in a peaceful setting as we do when faced with the threat of death, be it real or imagined. Wars do not reveal the deep-seated nature of human beings; they generate attitudes that are absent in







other situations. Humans are all made of the same material, but they all have different stories.

Yet we have great difficulty accepting the identity of nature between the big criminals and ourselves. We'd rather think of Hitler, Eichmann, Mao and Pol Pot as monsters, alien to the human species. We feign—rather than feel—incomprehension. Probably, the only merit of the humiliating photos from the American prison of Abu Ghraib in Iraq was to show us that the torturers are not aliens from outer space or bloodthirsty monsters, but ordinary smiling boys and girls who could have been our children or our neighbours. This does not mean that the human species is utterly

dreadful and can only be deplored, but rather that we have an equal potential for good as for evil. The hope of attaining a state definitively free of evil is vain, and there is nothing war, executions or prison can do about this. But the acknowledgement that there is evil inside us and that we are obliged to live with it is difficult to accept. We would rather raise a high barrier between the 'monsters' and ourselves, holding them up to opprobrium in the belief that we are fundamentally different, and wondering how such beings could even have existed!

What good can come, in these conditions from the forthcoming trial against former Khmer Rouge leaders for crimes against

humanity? Thirty years after the events, all we have left are a few old men who will probably end their lives in prison. It will never be possible to punish them in a way commensurate with their crimes. Will this trial, which resembles no other, present them as individuals who are totally different from others? That would be a regrettable outcome. Bizot deems the condemnation necessary but he dreams of another kind of trial, one that will allow us to discover the true nature of the danger that threatens us and that lurks within. 'I see the crime against humanity as a gaze that can be suddenly pointed at us. I'd like us to have the audacity to humanize the torturers—without trying to forgive them or minimize their crimes—to see in them

what human beings are capable of being, what we are capable of being.’<sup>6</sup>

It is striking to note that those who are eager for the trial to take place are not necessarily those who suffered directly from the atrocities committed by the Khmer Rouge and who have been brought today to live alongside their former torturers; it is, rather, their children and children’s children (many of whom live abroad) and international public opinion that are intent on seeing ‘justice done’. A report of the Center for Human Rights (University of California at Berkeley) describes a study carried out in Cambodia in September 2008, using a sample of 1,000 people as representative of the

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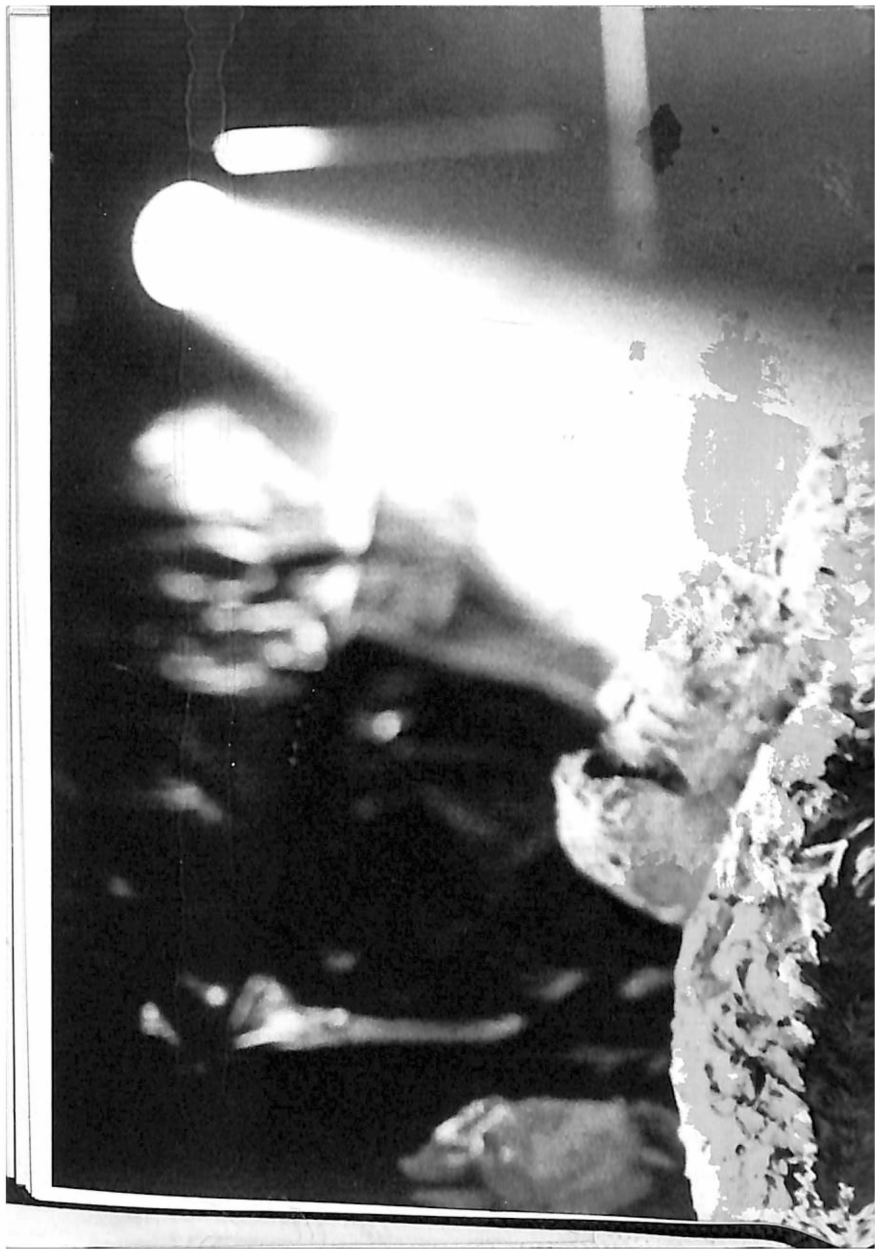
<sup>6</sup> *Le Soir* (20 September 2007).

can help appease that suffering, but no trial will bring the dead back to life. As for the perpetrators of the crimes, it is a matter not so much of keeping them in prison until the end of their lives (these old men are no longer a threat to anyone) as of inscribing their conviction in collective memory by stigmatizing the crimes they committed. If in addition to this we could, as Bizot suggests, attract attention to the mechanisms of the production of evil, the trial will have effectively attained its goal.

*The South African Truth  
and Reconciliation Commission*

There are other areas in the world where people have deliberately chosen to emphasize not the sentencing of criminals by trial but the rec-

conciliation of formerly opposed populations. To achieve reconciliation, some 20-odd countries, recently liberated from dictatorial regimes, in Latin America, Africa and Asia, have set up committees of sages mandated to find out the truth about what happened in the past. Among them, the Truth and Reconciliation Commission (TRC) in South Africa has become the most renowned. After the abolition of apartheid and the first free general elections in 1994, the TRC was set up under the presidency of the Anglican archbishop Desmond Tutu and held hearings from 1995 to 1998. Its way of treating collective memory—and in this case, a particularly painful memory—is worthy of attention. Here I will







mainly follow Desmond Tutu's account of its work.<sup>7</sup>

The new leaders of the country quickly made a twofold decision: to look the past in the eye and to do so without recourse to the usual solutions in such cases. On the one hand, what can be called the 'Nuremberg Trials' option was not an example to follow, not only due to its intrinsic flaws (the presence among the judges of Soviets, no less criminal than the Nazis, or the inclusion of charges of 'crimes against peace') but also because South Africa was an altogether different context. In Nuremberg, the victorious Allies had judged the van-

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<sup>7</sup> Desmond Tutu, *No Future Without Forgiveness* (New York: Doubleday, 1999).

quished Germans and punished them for the suffering they had inflicted. The victors had chosen a small group of people in charge and executed them, after which they left the Germans to themselves. In South Africa, there had been no military victory and the apartheid had been brought to an end on the condition that there would be no settling of scores. The dominators and the dominated, those who had profited from the old regime and those who had suffered from it, had to continue living with one another. In addition, the apartheid regime had lasted much longer than Nazism and a very large part of the white population had been implicated in what could be regarded in hindsight as reprehensible acts; punishing

them all was impossible. Their crimes were committed in agreement with laws and according to government directives. To bring the perpetrators to justice, the state would have had to cover the costs of judging a huge number of people.

On the other hand, an 'Edict of Nantes'-type solution was equally undesirable. This term describes the attempt, following Henry IV's example in 1598, to impose not only general amnesty but also collective amnesia: 'Let the memory of all things that have taken place on both sides (. . .) remain extinguished and dormant as something that has not occurred.' This option was impossible because apartheid had filtered into every nook and cranny of co-

existence between Whites and Blacks to a much greater degree than the religious conflicts had penetrated sixteenth-century society. This option was also undesirable because it is hard to imagine that such a deliberate collective suppression could really transform memory and bring peace.

Apartheid lasted nearly 50 years in principle, and much longer in practice. Opposition to it was itself very old and the struggles between the two sides belong to its history. For this reason, the oppressed have often played the part of fighters and their acts require scrutiny in turn. At one of the hearings, Methodist bishop Peter Storey declared, ‘The primary cancer may be, and was, and will always be the

apartheid oppression, but secondary infections have touched many of apartheid's opponents and eroded their knowledge of good and evil. And one of the tragedies of life, sir, is it's possible to become like that which we hate most.<sup>8</sup> Judging the perpetrators would be all the more difficult inasmuch as their victims had committed comparable crimes.

The African National Congress (ANC), the party that had struggled against apartheid, did not deem itself guilty of wrongdoing: its militants thought it legitimate to use the same means as the enemy because the cause they were defending was different. Since the war conducted by the ANC was just, they could not

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<sup>8</sup> Quoted in *ibid.*, p. 137.

have violated human rights and had nothing to justify before the panel. But the members of the TRC did not agree. In keeping with the Geneva Conventions that regulate the conduct to be observed during war, they demanded that the means employed be legitimate. TRC vice-president Alex Boraine noted that unjust acts can be committed during a just war and just acts during an unjust war. Everyone is responsible for what he or she did.

If the victims were sometimes guilty, the culprits for their part had motives that were readily understandable in context. The country was at war and the government had asked them to fight the enemy. 'We did not enjoy doing this, we did not want to do this, but we had to

stop them from killing innocent women and children.”<sup>9</sup> Once down this road, it was easy to accept mutilating the bodies (to camouflage the origin of the killings) or torturing prisoners (to get information and prevent new attacks). The enemies were presented as inhuman, bloodthirsty individuals taking part in a final Communist assault on the last bulwark of the free world in Africa (torture and killing took place in Cambodia in the name of Communism, in South Africa in the name of anti-Communism). Fighting was necessary to defend one’s own life and the lives of other members of the community and to neutralize ‘terrorists’. The pressure on soldiers and policemen was such

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<sup>9</sup> *Ibid.*, p. 127.

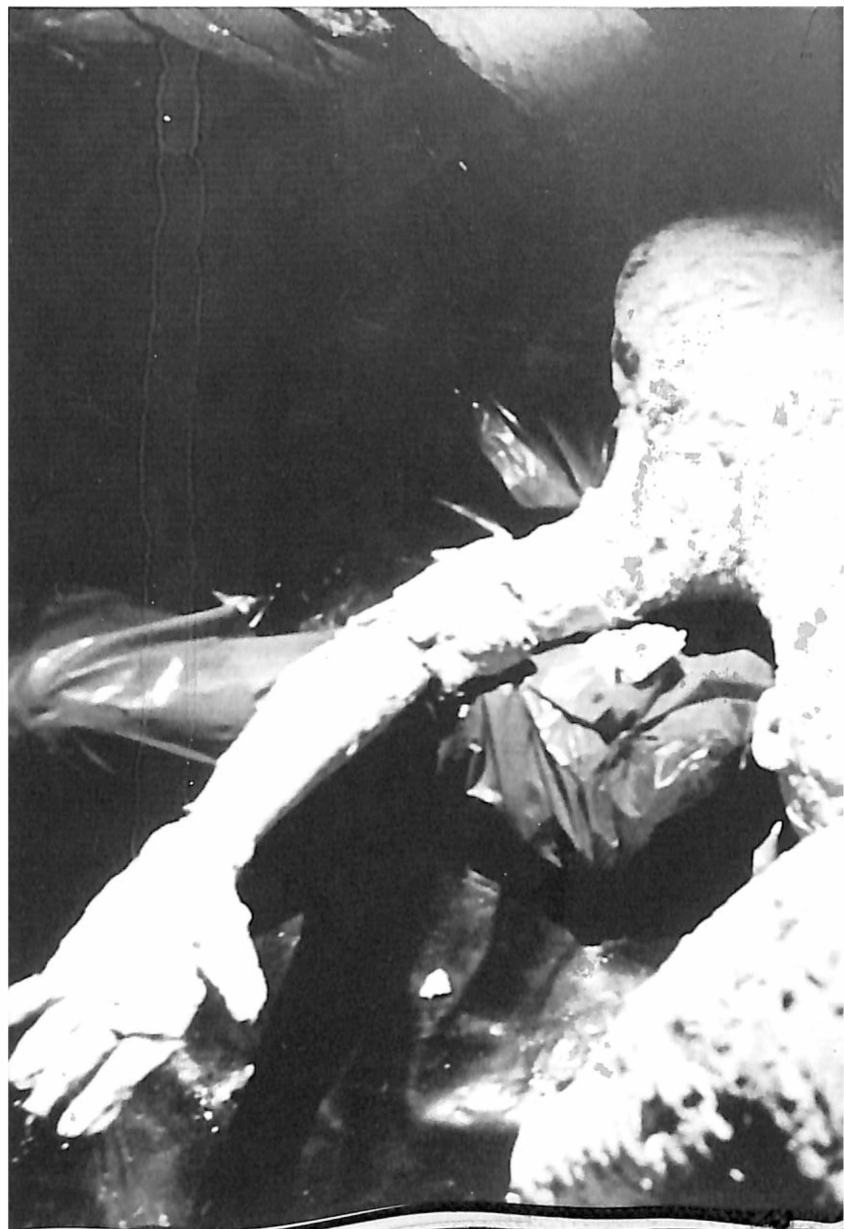


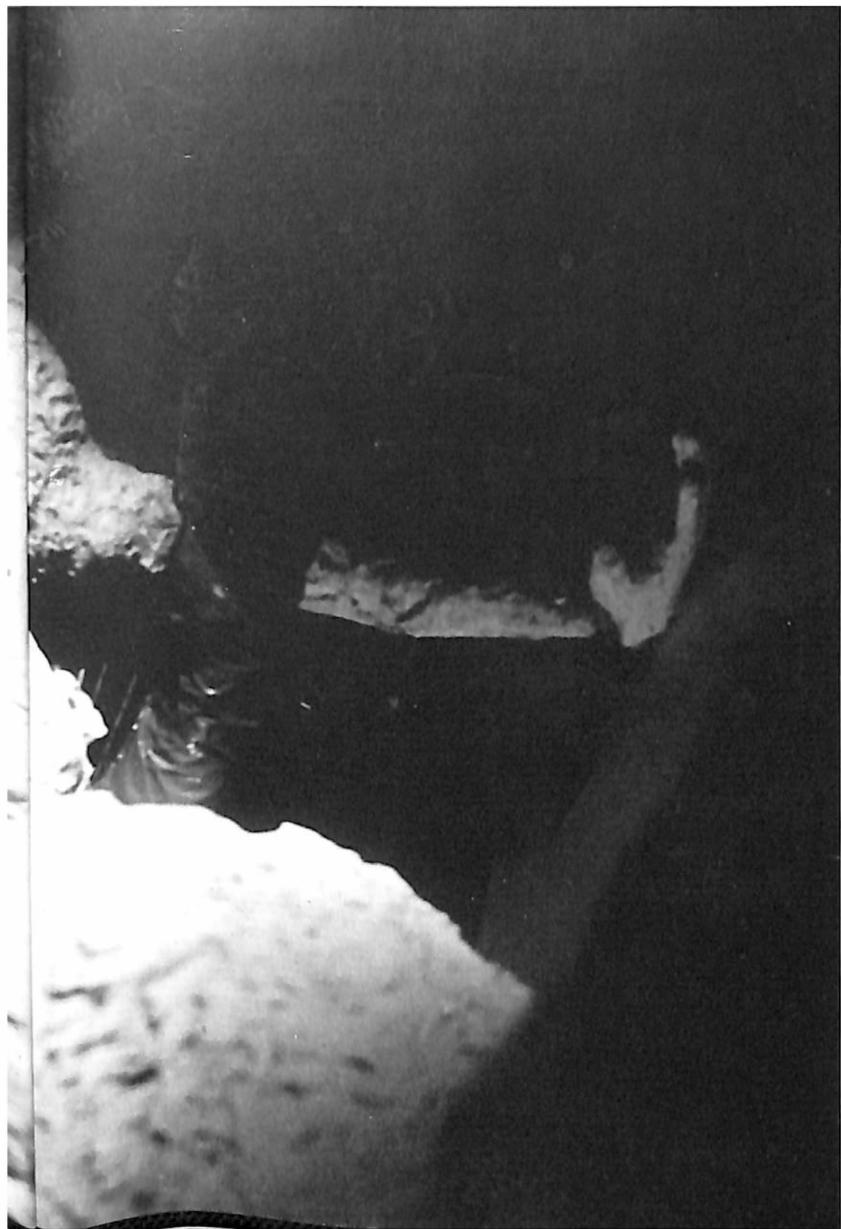
that they were conditioned to strike and kill. Which did not mean that they ceased being ordinary people with reactions that we can all understand. Tutu concludes: 'As I listened in the Truth and Reconciliation Commission to the stories of perpetrators of human rights violations, I realized how each of us has this capacity for the most awful evil—every one of us.'<sup>10</sup> What he deduces from this is not that the crime does not deserve punishment but that the crime is not to be conflated with the criminal. 'We had to distinguish between the deed and the perpetrator, between the sinner and the sin, to hate and condemn the sin while being filled with compassion for the sinner.'<sup>11</sup>

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<sup>10</sup> Ibid., p. 85.

<sup>11</sup> Ibid., p. 83.





What remains to be done when legal condemnation and imposed forgetting have been rejected? The TRC proposed the following response: the victims would appear before it with their testimonies, and, if the latter were corroborated, they would receive compensation from the state. Perpetrators of human rights violations and of political crimes would be encouraged to appear and publicly confess their crimes. If corroborating evidence showed that they had told the whole truth, they would be amnestied and could no longer be brought to court for these acts. Testimonies and confessions played a cathartic role: victims received public recognition, while offenders were humiliated before the nation (the hearings were widely reported in the papers and broadcast on

radio). Thus the first goal of the enterprise was attained, namely to establish the truth, not a scientifically or legally confirmed truth based on collecting material evidence but one that resides in an agreement between the two parties. In its turn, this consensus, this image adopted by the collectivity, opened the way to the ultimate goal of forgiving and ‘reconciliation’—the state in which a part of the population, the ‘white’ minority, publicly accepted its past guilt and the other part, the ‘black’ or ‘coloured’, tried to overcome its resentment. One might add that, in the eyes of the TRC members themselves, part of this agenda—the payment of compensation—was far from being sufficiently carried out by the government.

Thus the path chosen by the TRC firstly opposed forgetting, insofar as the suffering of the victims and the crimes of the offenders were divulged in public rather than kept within courtroom walls. At the same time, it opposed sentencing in court, and gave priority to establishing truth over legal guilt (or innocence). Summoned to appear in court, the accused think only of saving their own hide and will not hesitate to resort to lies and deceit for this purpose. Called to testify before the TRC, the same people had every interest in confessing their crimes; only through full disclosure could they obtain amnesty. This proved true on several occasions when the very same people who had denied their acts before a judge disclosed the truth to Tutu

and his colleagues. On the other hand, those who the TRC suspected as still concealing facts were not granted amnesty and were sent before the court for trial.

This solution, original in comparison with the legal traditions of other countries in the world, was provided for by the interim Constitution of South Africa and justified by Tutu on the basis of a traditional African conception of the human being as existing not as a separate individual but within a network of human beings. Other people are part of the individual and the individual is part of them. 'We are human because we belong. We are made for community, for togetherness, for family, to exist in a delicate network of interdependence.

Truly, “it is not good for man to be alone,” for no one can be human alone.’<sup>12</sup> To condemn, punish and exclude someone from this network is painful for the person but also for oneself. ‘In the process of dehumanizing another, in inflicting untold harm and suffering, the perpetrator was inexorably being dehumanized as well.’<sup>13</sup> Those who are unreceptive to the other, because he is a former criminal, are mutilating themselves. On the contrary, those who acknowledge this need to keep the network alive possess a precious quality known in the languages of the Nguni group as *ubuntu*. This can be translated as ‘civilized’, understood as

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<sup>12</sup> Ibid., p. 196.

<sup>13</sup> Desmond Tutu, with Douglas Abrams, *God Has a Dream: A Vision of Hope for Our Times* (New York: Doubleday, 2004), p. 50.



the capacity to be open to other people, to offer them our goodwill even when they are not close to us.

*Punishment and Restoration*

It is common these days to pit vengeance against justice, and to prefer the latter to the former. But in the South African case, the opposition was between two types of justice: punitive justice, which uses means such as execution and imprisonment and aims exclusively at the application of the law, and restorative justice, which uses other means of punishment and which pursues the welfare of the community. ‘Social harmony is for us the *summum bonum*—the greatest good. Anything

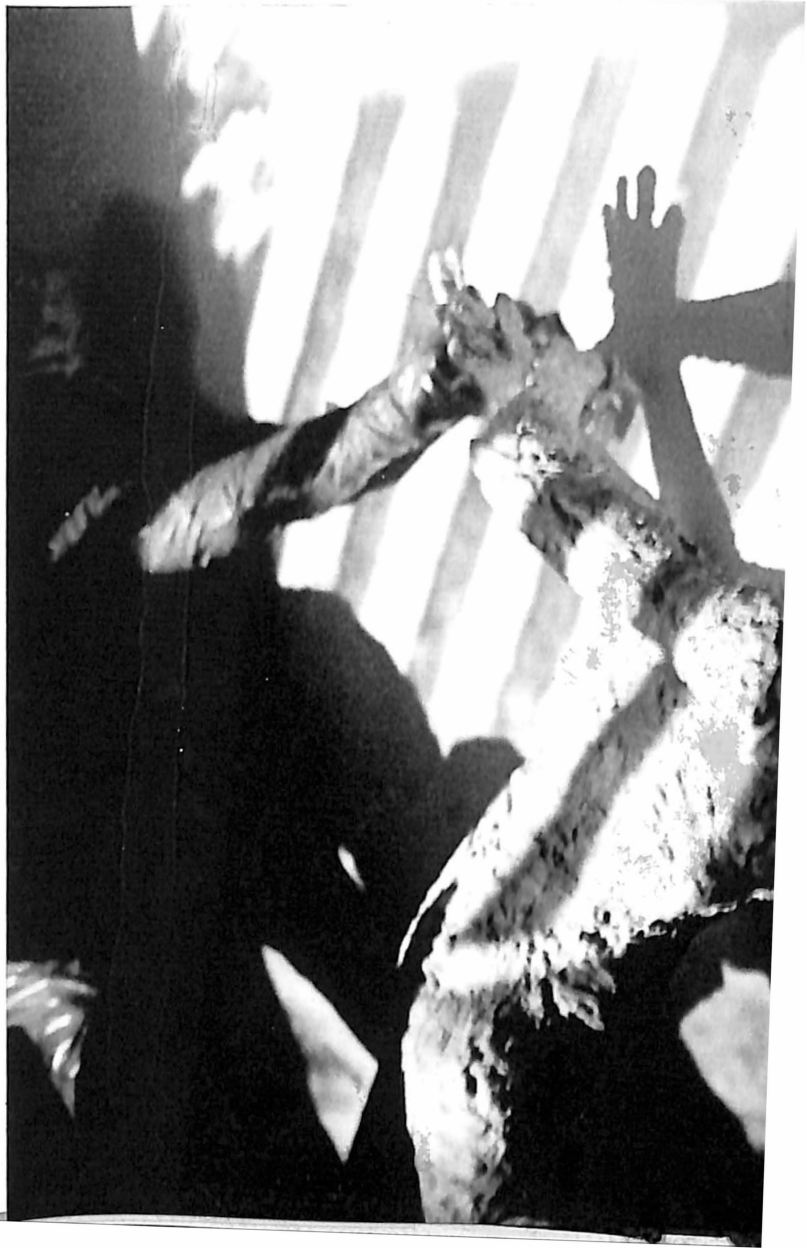
that subverts, that undermines this sought-after good, is to be avoided like the plague.’<sup>14</sup>

Punitive justice is both similar to revenge and distinct from it. The differences are of two types. Firstly, instead of punishing a community (family, clan or tribe), justice limits itself to the evildoer’s individual responsibility. Secondly, the punishment itself is inflicted not by individuals (the parents of the murder victim, for instance) but by representatives of the community (the State). Neither the judge nor the prison director are personally affected by the crime; they act in the name of an abstract law, identical for all. Their declared goal is not to avenge the injured party but, rather, to re-

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<sup>14</sup> *Ibid.*, p. 27.

pair the social order. Thanks to this, justice (unlike revenge) can put an end to the vicious circle of retaliation. However, as far as the nature of the punishment goes, the two are often similar—*lex talionis* is not abandoned. Those who kill must be killed, those who inflict suffering must be made to suffer and so forth: a tooth for a tooth, an eye for an eye, a life for a life. When one considers what goes on in prisons in a country like France, it rapidly becomes clear that deprivation of freedom is but one of their functions; another is the infliction of suffering symbolically equivalent to that endured by the victim. In this perspective, revenge can be seen as private justice, whereas justice can be seen as public revenge. The fact that individual





will presides over one and universal law over the other does not suffice to distinguish them, for law itself, being human and not divine, is the expression of the collective will.

Punitive justice privileges the respect of abstract law and the institution that represents it, which is, in the final analysis, the state. Restorative justice is concerned first and foremost with the individual people who make up the society. Its purpose is not to protect an impersonal order but to enable former perpetrators and former victims to live side by side. It seeks not to punish but to restore relations that should never have been interrupted. Another illustration of the contrast between the two types of justice can be found in a speech US President Barack Obama gave to the Turkish

Parliament in April 2009. Broaching the topic of collective memory, he began by pointing out that ‘the US is still working through some of our own darker periods of our history.’ Then he moved on to a controversial issue in Turkish history: was the massacre of the Armenians in 1915 a genocide? Before his election, Obama had answered yes to this question. Before the Turkish Parliament, however, he expressed himself differently. Without going back on his earlier opinions—and thus the interpretation of the event from the standpoint of abstract justice—he preferred to say that the matter had to be settled by the Turkish and Armenian peoples themselves, with their own present well-being as their main criterion. In other words, the creation of harmony in the present should

take precedence over the strictly legal judgment of a past action.

The TRC's work in South Africa cannot be said to have been crowned with unflawed success. As could be expected, some reproached it for its excessive stringency, others for its excessive leniency. The revelations brought appeasement to some but revived the wounds of others. Racial tensions between Blacks and Whites did not vanish after the hearings. Some critics challenged its working principle. Was there not a risk that granting amnesty for crimes from the past on the strength of an expression of public repentance whose sincerity could not even be ascertained would absolve members of society of responsibility for the pos-



sible criminal acts that they committed? Can we still speak of *justice* when everything is subjected to the need for *restoration*?

Nonetheless, the positive effects were also certain and it is not clear what other means could have achieved better results. Restorative justice aspires to keep an equal distance from two extremes: on the one hand, from vengeance, or *lex talionis*, whereby the initial crime is duplicated by an equivalent act; on the other hand, from total impunity, based on the premise that individuals are not responsible for their acts, that they obey economic or psychological forces over which they have no control. Here, the offenders are recognized as such and publicly exposed and blamed but they expiate their acts within the

context of social life rather than in prison. The path chosen by the TRC also presented the advantage of not concealing the evil—quite the opposite; neither did it give the impression that one can be delivered from it completely and definitively. Evil remains present in memory but at the same time it is kept under control; it is dominated thanks to the social consensus that is achieved.

The South African TRC was seen very favourably throughout the world and several foreign countries contributed to its funding. Its foremost protagonists, Mandela and Tutu, acquired the status of exceptional sages. Yet, surprisingly enough, no one seems to have felt the urge to follow their example and set up a system

of restorative rather than punitive justice. South African journalist Antjie Krog, author of a seminal book on the TRC's work,<sup>15</sup> had this to say about admirers of the experience, among them, many heads of state: 'Although they themselves will leave no stone unturned to haul "offenders" before their courts, they hug Mandela for forgiving those who murdered his people.'<sup>16</sup> Bringing home a picture of themselves next to Mandela seems to have been the only ambition of the chiefs of state.

Their practice is something else entirely, as is evidenced in the way they handle 'crimes

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15 Antjie Krog, *Country of My Skull: Guilt, Sorrow, and the Limits of Forgiveness in the New South Africa* (Canada: Random House, 1999).

16 Antjie Krog, 'Address with Poetry and Song: African Forgiveness—Too Sophisticated for the West', *Fourth International Literature Festival Berlin* (2004). Published in *Blesok*, 38 (September–October 2004). Also available at: [www.blesok.com.mk/tekst.asp?lang=eng&tekst=640](http://www.blesok.com.mk/tekst.asp?lang=eng&tekst=640)

against humanity' from the past and deal with today's 'terrorist crimes'. The execution of Saddam Hussein and several of his close collaborators after the fall of the Baathist dictatorship in Iraq is further proof that the South African example has not taken hold. The need for vengeance prevailed over the spirit of reconciliation, even though it is highly likely that, by acting in this way, the Iraqis have sowed the seeds of conflict for decades to come.

It is hard to find a general explanation for the difference in reactions to evil. The refusal to follow the South African example transcends cultural and political boundaries. Apparently, it cannot be explained by the religion of the population or the political system in which it lives.

Consider the death penalty, the perfect example of sheer punitive justice, since the culprit who is declared incorrigible is permanently removed from the human community. Three countries hold the record of executions: the United States, Iran and China, that is to say, a democracy dominated by the Christian religion, an Islamic theocracy and a Communist dictatorship. Yet the practices are the same. Are we to evoke the superiority of the Black race or the wisdom of African traditions? But the massacres in Rwanda and Burundi, and the interminable vendettas in Nigeria, seem to evidence the contrary as do the conciliatory reactions of the Cambodian peasants. The reasons for these divergent attitudes are no doubt more indirect and are to be sought





in the social structures that are present here and there and in the very nature of human relationships that develop in them.

It is by no means clear that restorative justice must supplant punitive justice at all times. Tutu himself argued that it is applicable only in specific cases, in particular when the crimes have been committed in accordance with legislation (rejected after the collapse of a totalitarian or military dictatorship) and are part of a mass phenomenon. Even when both conditions are fulfilled, there can be exceptions, like in the case of crimes against humanity, of genocide, and when the accused are not merely executing orders but are instrumental in the conception of the massacres—heads of state that set them in motion



and their closest collaborators. In such cases, a public confession can seem to be of little account. How should they be punished? The summary executions of Nicolae Ceausescu and Saddam Hussein do not seem more satisfying to me than the impunity enjoyed by Pol Pot and Pinochet. I wonder sometimes if it wouldn't be better, as a punishment for crimes against humanity, to hand such great slaughterers over to the United Nations, which would confiscate their property and put them together on some desert island in the middle of the ocean, like Saint Helena where Napoleon was exiled in the nineteenth century . . .

As for the perpetrators of ordinary crimes who crowd prison cells, it may be worthwhile

to broaden the sphere of application of the restorative option to cover their cases too: crimes that are in no way political could also be expiated in society rather than by imprisonment. Such an extension of its application presupposes that these criminals no longer represent a threat to society, and are incapable of committing further crimes. In order for them to avoid the usual punishment, they would also need to admit their responsibility, express regret for their deeds and manifest the desire to repair the damage they inflicted. True, in this case as elsewhere, there is no guarantee against lying or hypocrisy on the part of the accused; yet we shouldn't underestimate the impact of public confession, even when carried out with no great conviction, on a person's conscience.

Incarceration, on the other hand, makes such a realization virtually impossible, for prison conditions are often so inhuman that prisoners see themselves as pure victims, forgetting the damage they inflicted on others.

The goal of prison should be, firstly, to protect society, and, secondly, to prepare former criminals to return to it—not to inflict suffering upon them. Thus, the two paths could become complementary rather than mutually exclusive.

*The Memory of Evil*

The memory of the past will serve no purpose if it is used to build an impassable wall between evil and us, identifying exclusively with irre-

proachable heroes and innocent victims and driving the agents of evil outside the confines of humankind. This, though, is precisely what we usually do. In everyday life too, we easily forget the harm we've inflicted but hold onto the memory of the harm we've endured. And for good reason: we do not feel the suffering of others! Therefore the remedy we are seeking will not consist in merely remembering the evil to which our group or our ancestors were victims. We have to go a step farther and ask ourselves about the reasons that gave rise to the evil. Once the crime has been committed, we can only console the victims, not undo the crime. But we can have an effect on the criminals, on those who committed crimes in the past, so that they don't repeat their crimes, and on future criminals.

The 'foul beast' is not in some remote place outside of us: it is within. Romain Gary, who fought against the Germans as a pilot, already reached this conclusion in the immediate aftermath to World War II. 'The criminal element in the German is Man,'<sup>17</sup> he wrote, later adding, 'What's dreadful in Nazism, they say, is its inhuman side. True. But let's face the facts: this inhuman dimension is part of what's human. As long as we refuse to recognize that inhumanity is a human thing, we'll remain caught in a pious fraud.'<sup>18</sup> The word 'human' is not a suitable synonym for 'generous' or 'merciful'.

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17 Romain Gary, *Tulipe* [Tulip] (Paris: Gallimard, 1970 [1946]), p. 85.

18 Romain Gary, *Les Cerfs-volants* [The Kites] (Paris: Gallimard, 1980), p. 265.

This is why human beings will never be delivered from evil. Our only hope is not to eradicate it definitively but to try to understand it, to contain and to tame it, recognizing that it is also present in us. In fact, the Gospels themselves suggest a prudent interpretation of the prayer. Rather than asking God to *deliver* human beings from evil once and for all, Christ asks him to *keep* them from evil.<sup>19</sup>

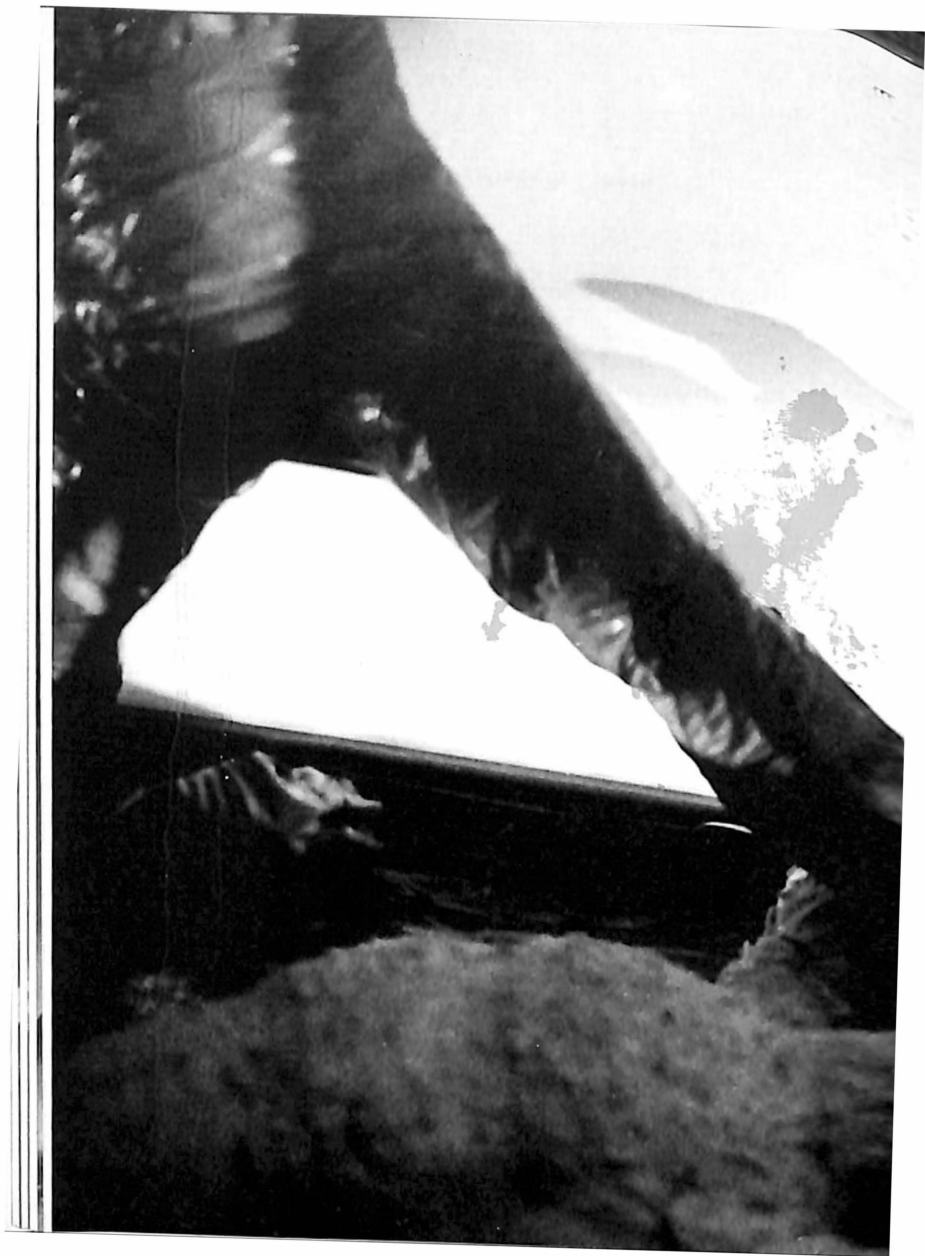
This does not mean that we should direct all our vindictiveness against ourselves, as individuals or as a people, remembering only the dark pages of our past, overburdening ourselves with reproaches, and condemning ourselves to

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<sup>19</sup> *John*, 17.15.

live in penitence and to demonstrate continual contrition. Evil is not to be identified with us more than with others, and good itself is omnipresent and even commonplace.

Even less does this mean that we should refrain from moral judgement. Our adversary here is not morality but egocentricity and Manichaeism. Simply put, it is not individuals or groups of individuals who are bad but their deeds. The memory of the past could help us in this enterprise of taming evil, on the condition that we keep in mind that good and evil flow from the same source and that in the world's best narratives they are not neatly divided.







ABOUT THE PHOTOGRAPHS

How close do you get to your 'subject'?

Proximity.

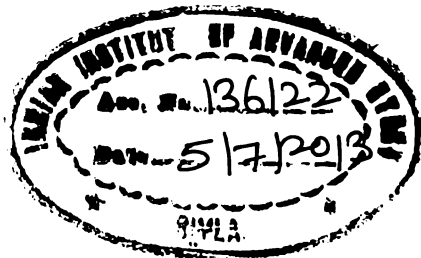
To observe. To keep a distance. To create without being in the 'thick of it'. To document. To achieve 'objectivity'.

To be moved in a manner that invites anger. Shame. Horror. Paralysis. Capture 'despair' on film. Select the frame-after-frame of anguish. Of 'bafflement'. Frustration?

In February 2002, Hindu fundamentalists carried out a genocidal, ethnic cleansing of Muslims in Gujarat, India. Between 2,000 and 5,000 Muslims were slaughtered, and more than 150,000 rendered homeless.

I created this set of images as a personal response to this tragedy.

*Naveen Kishore  
December 2009*



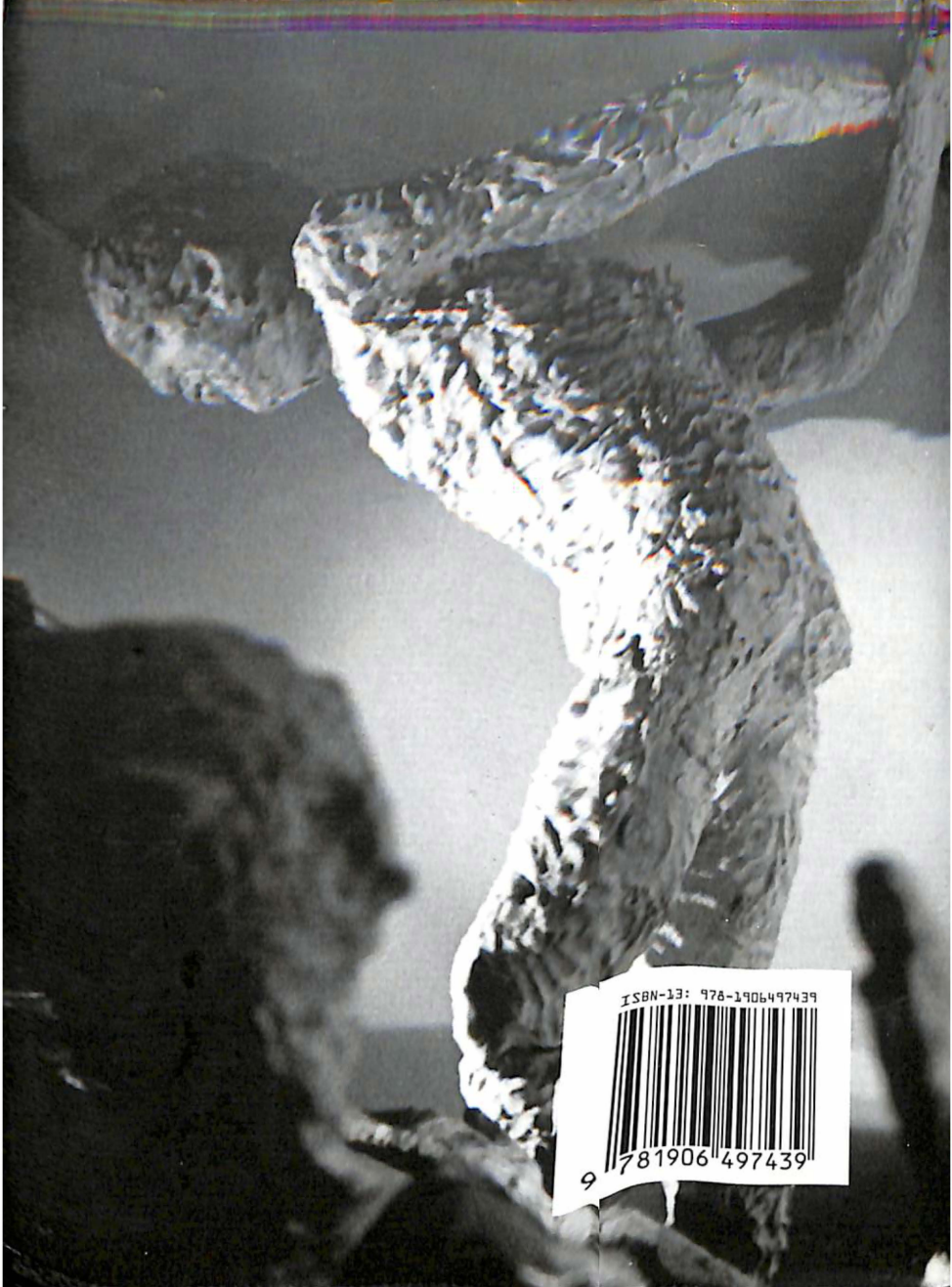


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