

...And if there was also a duty to forget, how would we think about history then?

David Rieff

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Abstract

Is remembrance an absolute moral duty or is it better thought of in more ethically constricted pragmatic and empirical terms? This essay argues that both individuals and societies should strive for remembrance where possible, but accept that there are times and places where more forgetting is the only safe choice to make. One may hope that at some point in the future the need to remember will sweep away a prudential decision to forget, but while we are within our moral rights to hope that, in a given case, forgetting itself will outlive its usefulness, conflating our wishes with teleological certainties is an exercise in hubris, not morality. But on no account should memory be thought of as a categorical imperative.

Keywords: memory, duty to remember, forgetting, history.

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We have no direct access to historical truth, and what we feel or assert to be true depends as much on our imagination as on our senses.

Oliver Sacks

Anyone who chooses to question the idea that both individuals and societies have an absolute moral obligation to remember the past, and above all,

never to let its horrors be forgotten, has an obligation whilst making such a case to recognize fully the hurt and offence that doing so is likely to cause, and how understandable it is that it should do so. Nanjing, Dresden, Hiroshima, Auschwitz – how could any person of conscience even fleetingly entertain the thought that any one of these paradigmatic twentieth-century catastrophes is better off forgotten? Surely, if there is a problem with contemporary attitudes toward remembrance and commemoration, it is not that we have become too obsessed with memory, but rather that we are not focused on it enough. But with apologies to Freud (and the political and ethical objections to forgetting are not without links to the psychoanalytic insight associating forgetting with the psychic dangers of repression), remembrance too has its discontents. It is all very well to speak of a duty to remember, and to correlate it with the exhortation “Never Again” – but to remember what, remember how, and remember for how long?¹

There is something unhelpfully Manichaean about the discourse of the partisans of “memory at all costs” in that for all intents and purposes they present remembrance as the party of the light struggling against the party of darkness that is forgetting, which is seen as memory’s immoral anti-principle, best shunned by all decent human beings. This sacralization of memory, whether in the literal sense or in the Kantian one of a categorical moral imperative that must never be evaded under any circumstances, serves as an effective prophylactic against thought. And as long as it persists, it is difficult to see how the current focus on the moral demands of memory could be enlarged so as to include a serious examination of the moral dilemmas of memory. To say this is emphatically not to claim that those who champion the duty of memory are blind to the difficulties inherent in their project. To the contrary, the best among them – Ricoeur, Nora, Todorov, Margalit – have understood perfectly that, no matter how important it is for a society to collectively remember,² there can be no guarantee that such remembrance will be appropriate and will not be an abuse, or at least a misuse, of the duty to remember.

Tzvetan Todorov was especially alert to this danger. In his pamphlet “The Abuses of Memory”, he warned that “in the contemporary world, the cult of memory does not always serve good causes”, and pointed out that an obsession with commemoration had been a hallmark of Fascist Italy, Nazi Germany and Stalin’s Russia.³ But Todorov argued that it was still possible to devise some sort of general moral paradigm that would allow one to distinguish the proper uses of memory from abuses of it. It is the weakest part of his argument. But in an email he sent to me in 2016 in response to my own book on collective memory and

1 Much as we might wish it otherwise, assuming human civilization survives for many millennia to come, there is simply no rational basis for believing that eventually even the greatest crimes and world historical tragedies that are of cardinal importance to us will never be forgotten as we ourselves will be forgotten.

2 My own view is that there is no such thing as collective memory in the strictly neurological sense as it is normally understood when speaking of individual memory, and that instead, collective memory is a metaphor for what past events the present finds relevant and how it interprets those events. But for the purposes of this discussion, the question of what we mean when we use the term “collective memory” is not as relevant as it is in other contexts.

3 Tzvetan Todorov, *Les abus de la mémoire*, Arléa, Paris, 2004, p. 27 (author’s translation).

commemoration, *In Praise of Forgetting*, which contains a long discussion of his work, Todorov ended his lengthy critique of many of the book's key propositions with these sentences:

I accept your critique of my effort to find some sort of formal test for separating the good and bad uses of memory. I grant you: it unfortunately doesn't exist. In reality, [such uses] are good or bad solely as a function of their context. One must therefore resign oneself to judging on a case by case basis.⁴

It was a characteristically generous concession on Todorov's part, but at the same time, from my perspective it raised more questions than it answered. Above all, who was this "one" or this "we" who was going to do the judging? It is not that Todorov was unmoved by this problem. In *The Abuses of Memory*, he himself offers the example of the Serbs during the wars in the former Yugoslavia, who used history as one of their most important justifications for "their aggression against the other peoples of ex-Yugoslavia".⁵ And Todorov cited two other emblematic cases of the dangers of memory weaponized: Northern Ireland and Israel-Palestine. On the latter, Todorov quoted approvingly the terms of reference of a meeting in 1988 between Israelis and Palestinians which had included these words: "in order to begin to talk, the past must be put in parentheses".⁶

Todorov's case-by-case basis turns out no better than his general rule in determining who will have the legitimacy to decide when what is taking place constitutes a morally licit use of historical memory and when it is a morally impermissible one. The problem is as obvious as it is intractable. Todorov is certainly not suggesting that governments can be relied upon to adjudicate wisely, as is clear from his stern critique of the *Loi Gayssot* in France criminalizing any public denial of the reality of the Shoah.⁷ But if it is not to be governments, it is even less likely that the pronouncements on a given case by a group of philosophers, ethicists, historians or activists would enjoy any substantial legitimacy with the parties concerned. Was the Irish Republican Army (IRA) a legitimate military force fighting for the just cause of the unification of Ireland against an illegitimate colonial power, or was it a terrorist group made up of unlawful combatants whose cause was unjust and whose methods in waging their armed struggle breached the Geneva Conventions in innumerable ways? And the same sorts of questions can be posed with regard to the former Yugoslavia, Israel-Palestine, Kashmir or Sri Lanka, to name only a few of the conflicts whose opposing parties have not just conflicting but utterly incompatible visions of the rights and wrongs both of the past and of the present.

To be sure, there will always be circumstances in which a determination of who was in the right and who was in the wrong can be imposed on a community by a hegemonic force, be it internal or external, forcing that community to lay down

4 Private email communication from Tzvetan Todorov, 17 January 2016. On file with author.

5 T. Todorov, above note 3, p. 26 (author's translation).

6 *Ibid.*, pp. 26–27.

7 The Gayssot Law was passed on 13 July 1990.

not only its weapons but its narratives. An obvious example of the former was post-Second World War Germany in which the victorious occupying powers were in a position to in effect implant a repudiation of Nazism into the DNA of the two German successor States, the Bundesrepublik and the DDR.⁸ As for the latter, contemporary Rwanda provides an example of how the victorious side in an ethnically driven civil war succeeded in imposing on the Rwandan people as a whole an anti-ethnic vision both of Rwanda's past and of its future. And legitimation crises tend to dissipate or at least go very deep underground when a State or an occupier not only has a virtual monopoly of force but also demonstrates its ability and willingness to use it.

But this "total victory" model is only one of several. This is why it is so profoundly misleading to generalize about post-war settlements, including the moral settlement that the duty to remember is supposed to lead to. For it tells us virtually nothing about what is to be done after a war in which there has been neither a clear victor nor a clear loser, a conflict that ends with a messy, more often than not unjust peace accord that leaves both sides seething, unreconciled, nursing their grievances, cultivating their hatreds. This is what one sees when one crosses from Loyalist East to Republican West Belfast, from Tel Aviv to Hebron, or from Sarajevo to Pale. And in these contexts, no outsider's judgments, no matter what their merits, are likely to carry much weight, for they share neither the same starting point nor the same ethical basis. Insiders are a different matter, of course, but the problem is that in most intractable conflicts the cosmopolitans, the activists of "enlightened" civil society, find themselves politically marginalized and too often dependent on outside institutions for funding, which is itself delegitimizing in the eyes of many of their fellow citizens for whom they hope to offer humane alternatives to the rule of the gun, the plutocrat, or the populisms of either the right or the left.

It is in these places – the Northern Irelands, the Israel-Palestines, the Bosnias and the Colombias – that the moral superiority of memory over forgetting which Ricoeur and Margalit largely taken for granted needs to be questioned.⁹ To make this claim is not at all an effort simply to invert George Santayana's celebrated contention that "those who cannot remember the past will

8 This is obviously a gross oversimplification in the sense that the work of de-Nazification, begun by the occupying powers, was completed by Germans themselves; indeed, one can make a pervasive claim that the so-called successor trials of Auschwitz concentration camp guards did more to alter German public opinion away from any lingering Nazi sympathies far more effectively than the Nuremberg Trials did.

9 Todorov is more cautious. In a public conversation he had shortly before his death with the psychiatrist and writer Boris Cyrulnik, Todorov not only warned against "the Manichaeism of judging" but went on to insist that "the temptation of the good is much more dangerous than the temptation of evil", presumably Todorov's own gloss on Pascal's aphorism "Whoever wants to act the angel, acts the beast." See Boris Cyrulnik and Tzvetan Todorov, *Le tentation du bien est beaucoup plus dangereuse que celle du mal*, Nouvelles Editions de l'Aube, La Tour d'Aigues, 2017; Avishai Margalit, *The Ethics of Memory*, Harvard University Press, Cambridge, MA, 2000; Paul Ricoeur, *Memory, History, Forgetting*, University of Chicago Press, Chicago, IL, 2006.

be condemned to repeat it”.¹⁰ To the contrary, where it is feasible during wars and dictatorships and in their aftermaths, it is clearly preferable to remember (though the advantages and risks of commemoration in such periods are less clear-cut). The reasons for this are obvious, even to this sceptic of a categorical imperative to remember. To begin with, remembering thwarts the efforts of totalitarian and other tyrannical regimes guilty of crimes against their own people to conceal what they did.¹¹ It provides victims of these regimes, as well as the family and friends of those victims who were murdered, with both information about what happened and State acknowledgment that it happened, which is of benefit not only to those immediately concerned but to society as a whole. Finally, it opens the possibility that those who committed these crimes will be tried for them.

The experience of the countries of the Southern Cone of Latin America – Chile, Argentina and Uruguay – shows clearly that although the process was in none of these three instances a smooth or a linear one, it is absolutely possible to secure truth, justice and peace without making any significant concessions to either the leaders or the foot soldiers of their respective dictatorships (or, for that matter, the very substantial part of their citizenries that supported them).¹² In short, everything else being equal, remembering is to be preferred both because memory facilitates *criminal* justice (whereas forgetting facilitates impunity for the perpetrators of crimes or injustices) and because forgetting stands in the way of the sorts of political and economic change that are needed if there is ever to be *social* justice.

But note the caveat: everything else being equal. For that is precisely the point – when *is* everything else equal? Take South Africa, for example. At first glance, the defeat of the Apartheid regime in 1994 and the establishment of a democratic government for the first time in the country’s history should have been at least as promising a context for truth with justice as that which obtained in Chile, Argentina or Uruguay. For unlike the countries of the Southern Cone, where, depending on the period, a majority or near-majority supported the dictatorships or were at a minimum ambivalent about them, the overwhelming

10 See George Santayana, *The Life of Reason: Introduction and Reason in Common Sense*, Charles Scribner’s Sons, New York, 1905.

11 If forgetting is, as I believe it to be, still judged by the great majority of people of conscience to be, well, unconscionable, this is at least partly because the imperative to forget in the name of a particular society “moving on” has been the last moral refuge of some of the vilest people on Earth, from South Africa to Chile. It is not only invariably in the service of the goal of securing legal impunity but is often (as in the case of South Africa) also an effort to protect from legal and political challenge the economic benefits those who served the dictatorship accrued from that service, and more generally “muzzling black pain and easing white guilt”, as the South African writer Pearl Boshomane has described it. See Pearl Boshomane, “20 Years after the TRC Hearings South Africa’s Pain Persists”, *Sunday Times*, 10 April 2016, available at: www.timeslive.co.za/sunday-times/opinion-and-analysis/2016-04-10-20-years-after-the-trc-hearings-south-africas-pain-persists/ (all internet references were accessed in December 2018).

12 This was done more successfully in Chile and Uruguay than in Argentina, where even today, though the governments of Nestor Kirchner (2003–07) and Cristina Fernandez de Kirchner (2007–15) overturned amnesty laws instituted by their predecessors and restarted the trials of those who had committed crimes during the dictatorship, many of the relatives and friends of the victims are no wiser about how their loved ones died or what was the fate of many of the children they bore in captivity than they were in the immediate aftermath of the restoration of democracy in Argentina.

majority of South Africans were jubilant at the end of Apartheid.¹³ In political and judicial terms, the victory of the democratic forces was a crushing one, but in military and constitutional terms, it had been nothing of the kind. Loyalists of the dictatorship still controlled the army, while the new South African Constitution was the product of a negotiation between the National Party that had ruled under Apartheid and the African National Congress (ANC). These were the realities that informed the lacerating conclusion drawn by Nelson Mandela's new government that it would be impossible for it to impose either transformative economic change or criminal justice towards the butchers of the former regime. As critics of the Truth and Reconciliation Commission (TRC) argued at the time, the process was one that traded truth for justice. A torturer could present himself before the Commission and, provided he admitted what he had done and replied truthfully to the commissioners' questions, he would be immune from prosecution no matter how grave his crimes.¹⁴

Mandela's reasoning for why this was necessary was quite straightforward: the risk of an uprising by diehard whites for whom amnesty for the crimes of Apartheid was the *sine qua non* for acquiescing to a democratic South Africa was simply too great.

As a result, Mandela found himself faced with the worst-case scenario that Ricoeur had warned against in *Memory, History, Forgetting*, one in which what he called "the thin line of demarcation separating amnesty from amnesia" would be crossed, and in which "private and collective memory would be deprived of the salutary identity crisis that permits a lucid reappropriation of the past and of its traumatic charge".¹⁵ This certainly does not mean that the TRC served no useful purpose. To the contrary, a central moral purpose of the duty to remember is to enable the relatives of the victims of criminal regimes to finally learn what actually happened to their loved ones. But those who champion the moral imperative of remembrance make a wider claim, which is that collective memory serves the goal of human emancipation and not further enslavement.¹⁶ Given the realities of present-day South Africa, it is difficult to see how the TRC did anything of the sort.

And at least some accountability, however insufficient, was a realistic expectation in the South African case; the victory of the ANC had made that possible, if little else. But when one shifts focus to other post-conflict societies such as Bosnia or Northern Ireland – that is, to cases in which there is neither a

13 White South Africans were the sole exception, for obvious reasons, though at least a substantial minority of whites accepted that the end of Apartheid was inevitable, and a small but not insignificant minority believed it to be desirable.

14 Many of those who were granted amnesty were wholly unrepentant, as in the case of Jacques Hechter, formerly a captain in the Northern Transvaal police, who admitted to the TRC that he had murdered twenty-six people but also said, "I did a good job, and I'd do it again." See Susie Linfield, "Trading Truth for Justice? South Africa's Truth and Reconciliation Commission", *Boston Review*, 1 June 2000, available at: <http://bostonreview.net/world/susie-linfield-trading-truth-justice>.

15 See P. Ricoeur, above note 9, p. 456.

16 The formulation, slightly paraphrased, is Jacques Le Goff's in his *Histoire et mémoire*, Gallimard, Paris, 1988.

clearly victorious nor a clearly vanquished side – even lower expectations are required regarding what remembrance can achieve. If in South Africa the duty to remember had failed to live up to the claims made for it, in Northern Ireland and the former Yugoslavia the duty to remember had been viewed as having been incompatible with securing a peace agreement in the first place, and as remaining immiscible with the continuation of that peace. In Bosnia, the dominant view in each of the three principal communities – Bosniak, Serb and Croat – about what happened during the war is quite irreconcilable with those in the two others. In theory, it's possible that had the European Union, the United Nations or NATO chosen to maintain Bosnia-Herzegovina indefinitely as some sort of colony, a single version of the past could eventually have been imposed on all three groups. But there was certainly no willingness on the part of the major outside actors to make such a commitment. Nor was success assured, and if the last fifteen years have taught us anything, it is that occupations are wickedly difficult to get right.

The case of Northern Ireland has been even less promising. Ever since the Good Friday Agreement of 1998 brought the fighting to an end, it has been clear to everyone but the most diehard human rights fundamentalists that there was no realistic possibility in the near or medium term of arriving at a consensus about what happened during the thirty years of low-intensity guerrilla war that is rather euphemistically known as “The Troubles”.¹⁷ If in Bosnia the uneasy Bosniak–Croat condominium got one statelet and the Serbs the other, in Northern Ireland the price of peace was the handing over of political control of the province to the belligerents themselves, with the political leader of the leading Unionist party becoming first minister of Northern Ireland and the former commander of the IRA becoming his deputy. To emphasize this point is in no way to belittle the civil society initiatives aimed at fostering reconciliation, almost all of which have been constructive and some of which have been absolutely heroic. But even today, a full two decades after the Good Friday Agreement, and at a moment when the Loyalist–Republican coalition has rarely been more dysfunctional, few people believe that the time is yet right to break the *de facto* public silence about the past. To do so would simply be too great a risk to what social harmony has been forged in post-war Northern Ireland.

This is certainly the view of the belligerents themselves, and that of a wide cross-section of the civil society out of which they emerge and on whose loyalty their legitimacy is based.¹⁸ But the conviction that peace is best served by forgetting rather than remembering is grounded in history as well as ideology. In his 2010 book *The Imperative to Forget and the Inescapability of Remembrance*, the German classicist Christian Meier looked at post-war settlements going back to the conclusion of the Peloponnesian War, and passing through the unsuccessful effort by Henri IV

17 Speculating on what may happen in any given society in the very long run is best left to soothsayers.

18 The concept of civil society is too often misrepresented as describing those non-governmental groups that *bien-pensant* people think well of – an Amnesty International, say, or the food rights group Via Campesina. But as a descriptive term rather than a prescriptive one it surely applies just as much to Protestant lodges in Ulster that supported the Loyalist paramilitaries or to the civic groups in Serb areas of Bosnia that supported the Siege of Sarajevo.

of France to end the Wars of Religion in sixteenth-century France through the issuing of the Edict of Nantes in which the French people were commanded to forget, and the Treaty of Münster in 1648 that successfully ended the Thirty Years' War by decreeing "*perpetuaoblivio et amnestia*", up to and including our own era. What he found was that it has been an imposed public silence about the past and not public remembering that has promoted the peace and kept renewed conflict at bay.¹⁹ To believe otherwise either presupposes that war has become an atavism destined to disappear – which, given that historically war and not peace has been the constant in human history, requires one to believe that our era represents the most radical break imaginable with the species' entire past – or is just wishful thinking, pure and simple.

But it is precisely this view of our own time as being *sui generis* that informs much of the contemporary human rights movement, with its adherence to the view best expressed by Michael Ignatieff that the post-1945 era had been one in which a largely successful "revolution of moral concern" had taken hold of humanity's collective conscience. On this view, it is anything but magical thinking to insist that Martin Luther King was right when he said that "there can be no justice without peace and there can be no peace without justice".²⁰ But even Human Rights Watch, which has advanced the most uncompromising case for refusing to forego justice in the name of peace, has acknowledged that "there is not one formula that is suitable to all situations", and that "well-known counter-examples do exist".²¹ The example that Human Rights Watch cites is Mozambique, which it concedes never meted out any form of justice for the crimes committed during the civil war but has remained stable since the peace agreement of 1992 that ended the conflict. My own view is that Northern Ireland and Bosnia are equally powerful counter-examples. But even if I am wrong about both, the fact that counter-examples exist – as, per Human Rights Watch, they undeniably do – radically undermines the case for the duty to remember being regarded as a categorical moral imperative.

Meier's work largely vindicates this view, but with the notable exception of Auschwitz, which he presents as an exceptional case.²² In this, he approaches the view expressed by Hannah Arendt when she laid down as a necessary prerequisite that "[i]n fear and trembling finally to grasp all that humanity is

19 For a brilliant discussion of Meier's position and the arguments against it, see Aleida Assmann, "To Remember or to Forget: Which Way Out of a Shared History of Violence?", in Aleida Assmann and Linda Shortt (eds), *Memory and Political Change*, Palgrave Macmillan, Houndsmills, 2012. See also Christian Meier, *From Athens to Auschwitz: The Uses of History*, Harvard University Press, Cambridge, MA, 2005.

20 Martin Luther King, "I'm Sorry Sir You Don't Know Me", speech recorded at Santa Rita, California, on 14 January 1968, produced by Colin Edwards, KPFA, BB1460 Pacifica Radio Archives, 15 January 1968, available at: www.youtube.com/watch?v=RvymnF-_Pf8.

21 The most compelling and detailed iteration of Human Rights Watch's position on this matter can be found in Human Rights Watch, *Selling Justice Short: Why Accountability Matters for Peace*, 7 July 2009, available at: www.hrw.org/report/2009/07/07/selling-justice-short/why-accountability-matters-peace.

22 See C. Meier, above note 19.

capable of – that is indeed a precondition of modern political thought”.²³ Implicit in this view is the idea that it is a precondition of any decent modern political *order* as well. This Auschwitz exception is one that many people of conscience and historical sophistication continue to insist upon without any illusions, *contra* the Human Rights Watches of this world, about what the immediate effects of memory on peace are likely to be.²⁴ And on one level, the claim is unarguable in that it is a metaphysical assertion, and as such immune to falsification. A moralist is perfectly within his or her intellectual rights to say: “It doesn’t matter whether remembering will help communities formerly at one another’s throats to reconcile; remembering is a moral imperative whatever its practical effects, even if those effects historically have often been negative for the at-risk polities in question.” Indeed, while I do not share it, it seems to me that only the moralist’s claim and not the pragmatist’s, let alone the legalist’s,²⁵ supports the assertion that there is a blanket duty to remember.

Where does all this leave those of us who are not confident about what is an absolute moral duty and what must be thought of in admittedly more ethically constricted pragmatic and empirical terms? The short answer, I think, is that one should strive for remembrance where possible, but accept that there are times and places where more forgetting – by which, again, I mean silence in the public spaces and contexts of the State and of civil society – is the only safe choice to make. One may hope that at some point in the future the need to remember will sweep away a prudential decision to forget. But while we are within our moral rights to hope that, in a given case, forgetting itself will outlive its usefulness (something that seems to have been taking place in Spain over the course of the past decade with regard to the memory of the Civil War), conflating our wishes, however well-intentioned, with teleological certainties is an exercise in hubris, not morality. So no, no sacred duties, no categorical imperatives – either for memory or for forgetting.

23 See Hannah Arendt, “Organized Guilt and Political Responsibility”, in Jerome Kohn (ed.), *Essays in Understanding, 1930–1954: Formation, Exile, and Totalitarianism*, Hannah Arendt Bluecher Literary Trust, New York, 1994.

24 Annette Becker’s work is a fine articulation of this view.

25 Despite being the intellectual rock upon which the human rights movement has founded its church, the claim that memory is a moral requirement for all societies at all times because a swelling canon of international law mandates justice for perpetrators of genocide, crimes against humanity and grave breaches of international humanitarian law is actually an extremely weak justification for the duty to remember. The most obvious (of several) problems with this position is that it attempts to present the law as being above or beyond politics and ideology, thus conflating law and morality to a degree that even Carl Schmitt would have found caricatural. This reliance on the law as morally unchallengeable is also what has led to the current crisis of international humanitarian law, which seems quite incapable of adjusting to the fundamental changes in the nature of warfare that we are witnessing today.

