

Towards a right to memory

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'History is not mute. However much they burn it, however much they break it, however much they lie about it, human history refuses to shut its mouth. Time past continues pulsating, alive, within time present, although time present doesn't wish it or doesn't know it. The right to remember does not figure among the human rights consecrated by the United Nations, but today it is more than ever necessary to claim it and put it into practice: not in order to repeat the past, but in order to avoid it being repeated' (Galeano, 1998: 216).

Memory enables and loss of memory disables. Aristotle thought of human beings as the 'animal possessing speech', but they are also the 'animal possessing memory' – the personal and social memories that structure their lives. While losing one's sight or hearing is a misfortune, loss of memory, occasioned by accident or disease, is a deeply personal tragedy. Equally tragic is the loss of memory of a collectivity such as a community or civilization.

Memory is defined as both the ability to recover and the process of recovering information and knowledge. It can be divided into short-term and long-term memory. Short-term memory retrieves recent events, while long-term memory recalls the more distant past. Memory is 'essentially that property, shared by a large number of living organisms, of storing information about past experiences so that these can be acted on later to improve the animal's chances of survival' (quoted in Smith, 1984: 167).

If survival were the sole criterion, human memory would still be astonishing, but life as we know it would be inconceivable without it. Each and every person learns and applies language and has the ability to recognise hundreds of faces, locations, sounds, and smells. We can usually tell if we have met someone before, been to a place before, seen a film before, or read a book before. Memory is essential to maintaining personal and social identity.

Neuropsychologist Alexander Luria wrote a case study of a soldier called Zasetzky wounded during the Second World War, who lost his ability to remember and who had to write down his thoughts and experiences in order to reconstruct his lost self. Zasetzky had suffered a bullet wound that severely damaged that part of the brain essential to making sense of the world, i.e. the combining of discrete bits of information to make a whole which can then be understood. He had no visual field on the right side and his left vision had gaps in it.

Initially, Zasetzky had no thoughts or memory at all, but gradually some things returned although not in the order expected. He began to remember his early childhood; images would flash in front of him but he could not recall them when he wanted to. He could not remember words – recognizing objects but not their names. As Luria described the dilemma:

'His only material consisted of fragmentary recollections that came to mind at random. On these he had to impose some order and sense of continuity, though every word he recalled, every thought he expressed, required the most excruciating effort... Writing was his one link with life, his only hope of not succumbing to illness but recovering at least a part of what had been lost' (Luria: 1987: xix-xx).

Remembering is seen as a virtue, but there may be circumstances in which forgetting is not only preferable but salutary. The Argentine writer Jorge Luis Borges, in *Funes el Memorioso* (1942), relates a real-life encounter with a teenage boy who loses his ability to walk after a fall from a horse. The boy suddenly acquires total recollection. He remembers, for example, the shape of clouds at any given moment, as well as the perceptions associated with that moment. In order to pass the time, Funes engages in projects such as reconstructing a day's worth of past memories (an effort which, he finds, takes him another full day), and building a 'system of enumeration' that gives each number a different, arbitrary name.

According to the narrator, Funes was incapable of dealing with generalities or abstractions and his world was one of intolerable details. He found it very difficult to sleep, since he recalled 'every crevice and every moulding of the various houses which surrounded him.' One is reminded of those few autistic savants (around 10% of people with autism according to the Autism Research Institute) who are brilliant mathematicians, linguists, or artists. Both Luria's case-study and Borges's short story illustrate Sue Campbell's observation that: 'Human memory is self-representational. It secures our identities, is at the core of our practices of responsibility, and is the basis of our sense of temporality' (Campbell 2008: 41).

If the inability to forget is problematic both for individuals and societies, imposed political, social, or cultural amnesia must be considered deliberately injurious and, in terms of human rights, unjust. One particularly insightful essay identifies a basic typology of forgetting, some aspects of which have largely negative or detrimental, and others positive or beneficial, implications (Connerton, 2008).

The seven kinds are 'repressive erasure' (obliteration, destruction, editing out); 'prescriptive forgetting' (erasure that is believed to be in the best interests of all parties); 'forgetting that is constitutive in the formation of a new identity' (forgetting is not a loss but a gain that facilitates new beginnings); 'structural amnesia' (the tendency to forget links that are socially undesirable); 'forgetting as annulment' (flowing from a surfeit of information, discarding or storing vast quantities of information); 'forgetting as planned obsolescence' (discarding as a vital ingredient of consumerism); and 'forgetting as humiliated silence' (collusive silence brought on by a particular kind of collective shame).

Connerton describes his typology as work in progress. Two of his types are important to the formulation of a right to memory both for individuals and for collectivities. They are 'repressive erasure' and 'prescriptive forgetting', usually carried out by States, governments, and ruling parties. We shall return to these types later, but first we should look at what is generally understood by collective memory.

Collective or social memory

'Collective memory' is an umbrella term that shelters diverse socio-cultural practices and structures such as myths, monuments, historiography, ritual, conversational remembering, configurations of cultural knowledge, and neuronal networks. It has been critiqued as merely transferring concepts from individual psychology to the level of the collective, yet it is a concept that helps to identify functional, analogical, and metaphorical relationships between phenomena such as ancient myths and the personal recollection of recent experience.

Collective memory has been provisionally defined as, 'The interplay of present and past in socio-cultural contexts' (Erll, 2008: 2). It comprises 'social memory' (the starting point for memory research in the social sciences), 'material or medial memory' (the focus of interest in literary and media studies), and 'mental or cognitive memory' (the field of expertise in

psychology and the neurosciences). All three dimensions are implicit in the construction of cultural memory and all three share porous boundaries.

In *De Memoria et Reminiscentia* (350 BCE) Aristotle distinguished between sense perception and memory to assert that 'memory relates to the past'. Philosophers and sociologists had no reason to quarrel with this view, which has been explored in magisterial depth by Paul Ricoeur (2004) and, in the context of the 20th century, both by Maurice Halbwachs (1925) and Pierre Nora (1984), pioneers in the field of memory studies. Recent scholarly thinking, however, proposes abandoning the dichotomy between history and memory in order to focus on 'different modes of remembering' in culture:

'This approach proceeds from the basic insight that the past is not given, but must instead continually be re-constructed and re-presented. Thus, our memories (individual and collective) of past events can vary to a great degree. This holds true not only for *what* is remembered (facts, data), but also for *how* it is remembered, that is, for the quality and meaning the past assumes' (Erll, 2008: 7).

The reconstruction and representation of the past take place on different levels and within different frameworks. Individual memory stores up occurrences and incidents in the family and the home, in the school and local community, in the workplace and a person's sociocultural environment. Memories acquire place – Pierre Nora's *lieux de mémoire* – which can be intensely personal or talismanic, as well as moment – which may be less fixed and precise.

In contrast to individual memory, collective memory is usually formalised and ritualised, recording occurrences and incidents within the wider community or nation, but from the grander perspective of 'history' inflected by many different points of view, insights, prejudices and – occasionally – values such as impartiality, balance, and diversity. Collective memory varies over time and involves numerous different people, practices, materials, and themes, producing what may only be historical 'shells on the shore when the sea of living memory has receded' (Nora, 1989: 12).

Collective memory also encompasses a wide range of *products* (stories, rituals, books, statues, presentations, speeches, images, pictures, records, historical studies, surveys, etc.) and *practices* (reminiscence, recollection, commemoration, celebration, renunciation, denunciation, denial, rationalization, excuse, acknowledgement, etc.) It is a highly complex process or series of processes, none of which is entirely independent.

For some, collective memory is the heritage, patrimony, and national character that form the bedrock of a continuity of identities. For others, collective memory is manipulation and deception, a tool in the arsenal of power characterized as a politics of negotiation between the desires of the present and the legacies of the past. This suggests that power relationships always lie at the heart of the construction of memory whether within the family, community, nation, or between families, communities, nations.

The concept of historical memory is familiar, especially the official history and mythology of a nation or a community that justify its existence and its actions. Crafting history has been 'standard practice' from ancient times right up to the present and today there are many revisionist historians anxious to set the record straight. As the character Mirek observed in Milan Kundera's novel (1979) and the 20th century has confirmed:

'The first step in liquidating a people is to erase its memory. Destroy its books, its culture, its history. Then have somebody write new books, manufacture a new culture, invent a new

history. Before long the nation will begin to forget what it is and what it was. The world around it will forget even faster... The struggle of man against power is the struggle of memory against forgetting.'

The first step on the road to restitution is to resurrect or rehabilitate a people's memory. In Latin America, where pre-Columbian civilizations and contemporary nations that suffered dictatorship have been deprived of public memory, this process has become known as *reivindicación de la memoria*. The problem is that memory is fragile. The extent of that fragility depends on the historical timeframe, the political and sociocultural context, and the motives and susceptibilities that prompt resurrection, recollection, and rehabilitation.

Obstacles to rehabilitating public memory

The history of censorship runs from its legitimisation as an instrument for regulating the moral and political life of ancient societies to its anathematization in the face of freedom of expression and opinion today. While the struggle for freedom of expression is as ancient as the history of censorship, sustained suppression can be said to have begun with the invention of the printing press and, notably, with the Roman Catholic Church's *index librorum prohibitorum* – a list of books banned for their heretical or ideologically dangerous content.

The first list was drawn up in 1559 by Pope Paul IV and the last in 1948, being finally withdrawn in 1966. From 1543, licenses to print were issued by the Catholic Church and from 1563 by Charles IX of France. Secular rulers followed suit and systems of government control have been in evidence until the present day. In addition to licensing publication or broadcasting, or obstructing access to new technologies of information and communication, government authorities have carried out silencing by destruction.

Libraries, archives, and museums are memory's patrimony, preserving history and symbols of cultural identity. Destroying cultural artefacts intimidates and demoralizes people and erases their cultures from public memory. In 1562 most of the codices of the Mayan people in Central America were burned by Bishop Diego de Landa, who was later tried for authorizing a savage Inquisition. De Landa destroyed the codices because, 'They contained nothing in which there was not to be seen superstition and lies of the devil' (quoted in Whitlock, 1976: 106).

The codices were the primary written records of the Mayan civilization, together with many inscriptions on stone monuments and stelae. Only three codices and possibly a fragment of a fourth survive. They are The Madrid Codex, The Dresden Codex; The Paris Codex, and The Grolier Codex or Fragment. The destruction of the other codices was a deliberate attempt to obliterate a history and culture in the name of Christianity and Western 'civilization'. Paradoxically, Bishop de Landa later wrote the *Relación de las cosas de Yucatán* in which he catalogued the customs, beliefs, and writing system of the Mayan people.

In 1933, in a similar attempt to expunge Jewish life and culture from Germany, the Nazis organized the mass burning of 'un-German' books. It is often forgotten that in 1946 in retaliation, the Allied occupation authorities drew up a list of over 30,000 titles, ranging from school books to poetry, and millions of copies of these books were confiscated and destroyed. The representative of the Military Directorate admitted that the order in principle was no different from the Nazi book burnings.

In 1991 the Serbian government banned Albanian as a language of instruction at all levels of education. From 1990 to 1999 all the libraries in Kosovo were subjected to the burning or destruction of their Albanian-language collections as part of the government's 'ethnic cleansing' campaign. And in Afghanistan in 2001 the destruction of the 6th century

sandstone Buddhas of Bamyan was ordered by the Taliban, who declared they were ‘idols’ and forbidden under Sharia law.

These are just a few examples to highlight ‘repressive erasure’: the deliberate attempt by means of policies and actions to expunge from public memory the history and socio-cultural identity of a particular people or community. If censorship were confined to books, artworks and languages, the loss might not be irreparable. But in every act of repression people have also been murdered or made to ‘disappear’. In the Soviet Union, Nazi Germany, China, Cambodia, the countries of Latin America under the dictatorships, Rwanda, and Iraq under Saddam Hussein, thousands of intellectuals, writers, publishers, editors, and teachers were killed.

In addition to ‘repressive erasure’, there is ‘prescriptive forgetting’, also carried out by States, governments, and ruling parties. ‘Prescriptive forgetting’ is characterized as being in the best interests of all parties to a conflict. A modern example is the formulation of peace agreements that contain implicit requirements to forgive and forget. In this regard, ‘Societies where democracy is regained after a recent undemocratic past, or where democracy is newly born, must establish institutions and make decisions that foster forgetting as much as remembering’ (Connerton, 2008: 62).

A further controversial issue is the non-investigation of crimes carried out by Western leaders or by non-Western leaders propped up by the West. The administration of George W. Bush sanctioned numerous dubious acts. They include serious moral and ethical questions about torture, rendition, wiretapping, political appointees reserving non-political jobs for ‘right-thinking Americans’, giving cronies key positions in occupied Iraq, handing billions of dollars in no-bid contracts to politically connected companies, and allowing government agencies to survive major scandals. In early January 2009 President Obama was asked if he would pursue the investigation of such crimes. He responded, ‘I don’t believe that anybody is above the law, but we need to look forward as opposed to looking backwards’ (*The New York Times*, January 16, 2009).

Of course, societies do make explicit attempts to remember by establishing truth and reconciliation commissions, and setting up public memorials that are simultaneously painful and cathartic. Such memorials ask, ‘How much should we remember? How much should we forget? How much should we forgive? How much should we continue to resent? To what extent can reconciliation take place?’ (Lee, 2004: 47). Writers and artists also play a key role in challenging public amnesia.

In several cities in Germany, artist Gunter Demnig has put down more than 20,000 *Stolpersteine* (stumbling stones) to commemorate people who died in the Holocaust. His project involves replacing ordinary cobblestones with ones bearing a simple inscription – a person’s name, date of birth, and the date and place of death, if known. The stones are placed outside the houses of Jews, gypsies and others persecuted, deported, and murdered by the Nazi regime. Stumbling over the stones prompts questions and memories.

A curious omission

Given all of the above and the centrality of memory to the human condition, it is a curious fact that the right to memory is not enshrined in any international declaration or convention. It is arguable, however, that the attainment of many objectives contained in instruments establishing international standards actually depend upon a right to memory.

The Universal Declaration of Human Rights (1948) recognises the inherent dignity and the equal and inalienable rights of all members of the human family. Inter alia it declares that everyone has the right to a nationality (Article 15), to freedom of thought, conscience and

religion (Article 18), to freedom of opinion and expression (Article 19), to education (Article 26), and to freely participate in the cultural life of the community (Article 27). None of these rights can be enjoyed to the full without access to collective memory.

The Convention on the Prevention and Punishment of the Crime of Genocide (1948) asserts that genocide, whether committed in time of peace or war, is a crime under international law. It focuses on causing serious physical (*actus reus*) or mental (*mens rea*) harm to members of a group. In recent years, the International Criminal Court and other international tribunals examining evidence of genocide have attempted to define ‘serious mental harm’ in the context of genocidal actions.

In other contexts, it seems obvious that ‘mental harm’ would include the ‘repressive erasure’ of the sociocultural memories that bind a group together. In Rwanda, the nation’s history has been ‘rewritten’ depending on the government in power. Recently, in a spirit of reconciliation, a controversial new history of the country has been put forward which has been criticised for significant misrepresentation. Other examples of mental harm caused by ‘repressive erasure’ include such policies as the ‘protection of Aborigines’ in Australia (leading to the ‘stolen generations’ controversy) and church-run, government-funded residential schools in Canada.

The International Covenant of Economic, Social and Cultural Rights (1966) recognises the right to self-determination (Article 1), including the right to freely determine political status and to freely pursue economic, social and cultural development. It places particular emphasis on the right of everyone to education (Article 13) so that ‘education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.’

The Declaration on Social Progress and Development (1969) sets international standards for social development policies. Affirming the right to live in dignity and freedom, it seeks the ‘immediate and final elimination of all forms of inequality, exploitation of peoples and individuals, colonialism and racism, including Nazism and apartheid, and all other policies and ideologies opposed to the purposes and principles of the United Nations’ (Article 2). It underlines the need for ‘enlightened public opinion’, the ‘dissemination of national and international information for the purpose of making individuals aware of changes occurring in society as a whole’, and equal opportunities for disadvantaged or marginalized sectors ‘in order to achieve an effectively integrated society’ (Article 5).

The Declaration on the Right to Development (1986) confirms that equal opportunity for development is a prerogative both of nations and of individuals who make up nations. Mainly concerned with the human person as the central subject of development (Article 2), it also calls for ‘popular participation in all spheres as an important factor in development and in the full realization of all human rights’ (Article 8). Full participation is a basic tenet of communication rights, but it implies access to public and social memory.

The International Covenant on Civil and Political Rights (1994) strengthens and elaborates much of what was articulated in previous international instruments, paying particular attention to torture, slavery, arrest, detention, and criminal proceedings. It specifically protects the right of ethnic, religious and linguistic minorities ‘in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, and to use their own language’ (Article 27).

Twenty-first century enlightenment

With the object of encouraging dialogue, fostering interculturality, reaffirming the link between culture and development, and strengthening international cooperation and solidarity, the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) still fails to link collective memory to the cultural heritage of humanity.

The Convention calls for the creation of an environment that encourages individuals and social groups to 'create, produce, disseminate, distribute and have access to their own cultural expressions' (Article 7) and to 'take all measures to protect and preserve cultural expressions' (Article 8). 'Cultural expressions' are defined as resulting from the creativity of individuals, groups and societies and as having symbolic meaning, artistic dimension and cultural values.

Finally, the Declaration on the Rights of Indigenous Peoples (2007) – in a spirit of securing freedom from discrimination and historic injustices – asserts indigenous peoples' right to 'maintain and strengthen their distinct political, legal, economic, social and cultural institutions' (Article 5).

Specifically, the Declaration confirms that 'indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature' (Article 11).

Furthermore, the Declaration protects indigenous peoples' right to 'revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons' (Article 13). The latter is the closest formulation of a fledgling right to memory to date, which should encompass other provisions that protect cultural heritage, traditional knowledge, and traditional cultural expressions (Article 31).

What would a right to memory guarantee?

Existing human rights law – specifically Article 19 of the Universal Declaration of Human Rights and Article 19 of the International Covenant of Economic, Social and Cultural Rights – protects the right to freedom of opinion and expression. It might be thought that freedom of opinion and expression are sufficient to ensure adequate protection for collective memory. However, as has been persuasively argued in regard to the right to communicate (Hamelink, 2003), and as can be inferred from the examples outlined above, the right to memory is also a fundamental right of all human beings that goes to the heart of human dignity, of political and sociocultural identity, and, therefore, of democracy.¹

The question arises, what would a right to memory guarantee? Article 19, which leads a global campaign for freedom of expression, believes that laws which impose blanket prohibitions on the denial of genocide or of other crimes breach international guarantees of freedom of expression. It rests its case on the existence of generic hate speech laws that already prohibit incitement to hatred and the potential abuse of stifling legitimate historical debate and research.

However, as with the debate between proponents of the right to communicate and proponents of freedom of expression, the former is seen as broader and more radical than the latter. In the same way, the right to memory is broader and more radical than 'memory laws' that might define historical truth or undermine intellectual freedom. 'Memory laws' are negative in the sense that they prohibit, providing for penal sanctions against those who contravene the law. The right to memory is positive in the sense that it affirms and protects

those 'frameworks of collective memory' (Halbwachs, 1925) that ensure the physical survival and moral well-being of a people.

Above all, the right to memory is a matter of justice. In all communities and societies, the choice of what is recorded in the public memory and the way it is represented is not neutral but happens in accord with predetermined perceptions and policies. This politics of remembering or forgetting essentially constitutes a struggle for power. Wherever justice is absent, wherever a politics of enforced amnesia reigns, it falls to civil society organisations to be the spokespersons of history and public memory, even if that means being in conflict with the particularities of deep trauma. In such cases, the right to memory is in symbiosis with the right to justice.

One of the most useful contributions that the field of memory studies could make is to articulate the specific provisions of a right to memory and the kinds of protections needed. This will require a cross-disciplinary approach that would see sociologists, anthropologists, psychologists, ethicists, gender specialists, and political scientists working together to map the contours and define the characteristics of the terrain. It will need to pay particular attention to the impact of digital communication technologies, virtual realities, and the ever changing demands of global and local 'information societies'.

If Richard Holloway is right to assert that, 'The cruellest act in the vast repertoire of human cruelty is the denial of hope and the kindest act its restoration' (Holloway, 2008: 139), then we might paraphrase him to say that the denial of memory – which contains the hope of a better future – is an act of barbarism, and its restoration through the right to memory an act of justice.

Note

1. I am aware that there are risks in adding to a set of human rights that are often widely ignored in practice and suffer from lack of enforcement, especially as the unique moral framework of the Universal Declaration of Human Rights should not be tampered with. I am aware, too, of the complexities facing adequate codification and implementation of a 'right to memory'. However, none of this should be allowed to negate the essential notion.

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