

FROM THE BURDEN OF THE PAST TO SOCIETAL PEACE AND DEMOCRACY

COMING TO TERMS WITH THE PAST: WHY? WHEN? HOW?

 HEINRICH
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CONTENTS

Preface	5
<i>Ulrike DUFNER</i>	
Coming to Terms with the Past in the Process of Universalization	9
<i>Mithat SANCAR</i>	
The Contribution of the Restorative Justice Approach in the Context of Coming to Terms with the Past	20
<i>Turgut TARHANLI</i>	
Coming to Terms with the Past in Turkey: Being Realistic, Asking for the Impossible	29
<i>Mithat SANCAR</i>	
“Forgetting” as a Constituent Element of our National Identity	37
<i>Ayşe HÜR</i>	
Turkey’s Problem of Coming to Terms With the Past: What and How?	41
<i>Murat PAKER</i>	

PREFACE

COMING TO TERMS WITH THE PAST – WHY?

Doesn't this country have any other worries than coming to terms with the past? What do we care about history when we've got immediate and serious problems like poverty, lack of education, and drought? You won't gain anything from history either for your stomach or your pocket! So, what's the good in coming to terms with it? Don't you know that the ordinary citizen has other problems? This could be a newfangled trend among the intellectuals at best. We don't have the luxury of coming to terms with history. We don't have time for it. Our country has enough problems as it is. You want to burden us with another, for God's sake?

Yes, such arguments may cross your mind when coming to terms with the past is the issue. You may ask yourself, "What has coming to terms with the past got to do with my life?" I can give you a very clear answer: Coming to terms with the past is not a luxury and it is important to an individual's life – and very much!

When you look at the pavement outside many buildings in Berlin, you will see that some of the stones are made of solid gold. They are not there for ornament. They are memorial stones. They have been placed there in memory of Jews who lived in that buildings and were killed by the Germans during the Nazi period. These memorial stones symbolize the one-time presence of the German Jews and their subsequent annihilation.

You can still say, "I don't care" but that is not so easy. Just think, the grandchildren of that Jew who was killed may wish to visit the house where their grandparents lived many years ago. They may knock on your door to retrace their family roots and tell you about their destiny. Unless you have come to terms with your own history yet, your first reaction will probably be something in the way of "No, that's a lie, get out of my house!" Let me warn you, though, you may feel sort of uneasy afterwards. You may start asking yourself questions like, "What happened to this family? Who did what to them and when?" You may try to convince yourself and those around you by saying, "I didn't do it, we didn't do it" in an effort to ease your conscience. Perhaps you may console yourself with the thought, "It was done by others; I didn't do it; neither did my family." But denying is not easy. Your inner peace gets disturbed more and more. Things will be even more difficult for you if your neighbor is a Jew. First, you start avoiding your neighbor and next you start blaming him/her inside: "Why on earth didn't they defend themselves? Why didn't they resist?" But you can forget about your neighborly relationship now. You start mumbling to yourself, "I wish I hadn't found out. I wouldn't have had to go through this then... I wish I didn't know that my neighbor was a Jew."

But one moment, please, Sir or Madam! Didn't you already know that your neighbor had different customs? Besides, does he/she have to hide his/her life style from you just so that you'll feel more comfortable inside?

I have been constantly faced with this situation and others like it as a German. There is one incident in particular that I never forget. It was a New Year's evening in Cairo. I was about twenty-five. I met an Israeli youth for the first time in my life. I didn't know what to do. My feelings were so confused. I wondered what he was thinking about me. Did he think I was a murderer? Did he think I was a Nazi? Did his relatives live in Germany during the Nazi era? Were they among those that were killed in the gas chambers? What had made a mark in the memory of this young man? What did I represent for him?

Actually, we were both supposed to have sat down and shared our thoughts and what we knew about the past right there and then. I had to listen to what he had to say in person about what happened to his family and the consequences reaching to this day of what they went through. Only then could we develop an untroubled friendship. And that was the way it happened. This "first" experience was extremely important for me. I was able to establish relations more easily with the Israelites I met later. But even today, whenever I meet a Jew, I am taken by a special kind of curiosity as to the fate of the family of the person before me.

The traumas that the Jews went through because of the Germans developed a special bond between the two communities. Whenever Jews come together with Germans, the historical dimension in their memory comes to the fore – and that is the way it should be. The historical dimension should always be at the forefront in the memory of non-Jewish Germans, as well. History reminds us of the following: What has happened in the past should not be allowed to recur by any means and therefore should not be forgotten.

Viewed this way, the importance of coming to terms with history becomes clearer. If one part of a society has treated another of its parts in an unjust manner, treading human dignity underfoot, and has later decided to live side by side with the wronged part in peace, then coming to terms with the past is required for the sake of easing the consciences of both parties. I see coming to terms with the past as a prerequisite to being capable of safeguarding human rights, in a way. Otherwise, you may have to erase or deny an era in history and be reduced to the status of the German who saw his/her relationship with his/her Jewish neighbor go down the drain and is floundering in his/her disturbed inner world.

Or you can try to live on as if nothing has happened and none of this has any bearing upon you. If you confront history head on, you can say this time, "It's you who were guilty, not us. You treated us just as unjustly as we treated you." This would lead you to an impasse. The way out, actually, is to come to terms with history.

This, I think, explains the fundamental importance of coming to terms with the past. Coming to terms with the past plays a significant and determining role in building democracy. A society needs to come to terms with the past in order to safeguard the basic human rights and liberties of its citizens and individuals. Only when the illness of denying and blaming is cured and efforts are made for a dialogue will the foundations of democracy have been laid.

Why are there still incredible prejudices in Turkey against the Armenians? Why are the Armenians still accused of treason and the like? What prompts the immediate reaction of

“But they did injustices against us, too” whenever mention is made of the genocide committed against the Armenians? What is the real objective of this reaction? Does it mean, “If I have done ‘something wrong,’ acknowledge that you have also done something wrong and let’s turn over these pages in history”? We witness a similar reaction in the Kurdish issue, too. When the human rights infringements that the Kurds are subjected to are mentioned, the typical response is one that underscores how many soldiers the Kurds killed. I think the meaning of these responses should be understood well. Firstly, it is known in some way that there exists indeed an injustice or an infringement but there is a reluctance to accept this and recourse is therefore had to self defense. The real reason for this is not knowing how to deal with this injustice or human rights violation. Secondly, there is the reflex of avoiding an apology. Hundreds of excuses are made up in order not to apologize and feelings of hostility are recreated over and over again. There arrives a state where the mere existence of these people can hardly be tolerated let alone sharing their pains.

But there is another way to tackle this problem for a more sound and democratic future. A period of enlightenment can be initiated based on facts and historical data. Yes, our forefathers were involved in it and we are very sorry. Yes, there is a Kurdish issue; many human rights were violated and we are very sorry. If the human rights of the Kurds, Armenians, and others have been infringed upon, we must give these people all kinds of support to help them overcome the traumas they have experienced. This way, we will have created closer and stronger ties with them and we can build a more sound future by listening to each other on the basis of these ties. And we will disallow the recurrence of such incidents all together.

The essays in this book were the speeches of Turkish speakers in the conference “From the Burden of the Past to Societal Peace and Democracy-Coming to Terms with the Past” on February 24-25, 2007 and explain the importance of coming to terms with the past. We hope this book makes a productive contribution to Turkey’s coming to terms with its own history. We took special care to make sure that the book covered a major portion of the thoughts and concerns about the subject that are currently under discussion in Turkey.

As the Turkey office of the Heinrich Böll Foundation, we would like to offer this book to international public opinion for the purpose of contributing in the coming years to the democratization of this country and to a broader and deeper exchange of opinions on the ideas, concerns, and hopes existing in Turkey about coming to terms with the past or confronting history.

Finally, I am particularly indebted to Mithat Sancar, Ekrem Eddy Güzeldere, Şaban Dayanan, Christian Klasen, and Nükhet Ogan. I would also like to thank Forum Translation Office, who did the English-Turkish-English translations. All of them assumed incredibly important tasks in the global exchange of opinions and carried them out in an outstanding manner. Thanks!

Ulrike Dufner

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COMING TO TERMS WITH THE PAST IN THE PROCESS OF UNIVERSALIZATION

Mithat Sancar

In the aftermath of the Second World War, "coming to terms with the past," a concept derived from a specific context such as the endeavor of Germany and the Germans to cope with the multidimensional destruction wrought by Nazi violence, was regarded as an issue concerning practically only Germany, to a certain extent Japan that was Germany's wartime ally and political sibling, and partly a few European countries. Initiated in Germany and Japan immediately after the war at the insistence of the Allies and conducted largely perfunctorily, the process of coming to terms with the past started to become internalized in Germany in the 1960's despite Germany's early attempts at "suppression" and gradually took hold while in Japan it was soon replaced by a policy of "forgetting" and "suppressing" the past. In the years following the war, the atmosphere in the other European countries was determined mostly by an injured/victim rhetoric and myths of resistance; and questions about the past were relegated to secondary importance.

This outlook has changed radically since the mid-1980's and mainly the early 1990's.

The matter of how to deal with the serious crimes and human rights violations committed in the past stepped up from the status of a specifically European issue and entered a process of universalization particularly with the dissolution of the military dictatorships in Latin America, the collapse of the racist regime in South Africa, and the disintegration of the Soviet Union and the Eastern Bloc. At the early stages of this process, as a result of the major role that the change of system played in this development, the issue of "coming to terms with the past" was generally taken up in the context of what kind of a relationship to establish with the legacy of the former regimes in the societies that transited from dictatorship to democracy. Thus, coming to terms with the past became an all-encompassing concept denoting the activities intended to enable democratic political regimes to reckon with their former administrations whose records brimmed with serious human rights infringements.

However, the issue of relating to the heavy legacy of the past did not remain restricted to the societies going through a "period of transition." In certain countries, long after the times of violence, there began a questioning of those periods either for the first time or in a more far-reaching and in-depth manner, a coming to terms with their ramifications extending into the present. Following the transformation in Eastern Europe, for instance, most countries began not only to settle their scores with the former regime but also to deal with their responsibility associated with the Second World War.

The controversy spread also to France and Austria that were occupied by the Nazis and West European countries like Switzerland that remained "neutral" during the war. The myths and "national lies" that were fabricated during the war collapsed one after another. A process

described as “the redemption of historical pledges” was set in rapid motion. In Argentine and Chile, action to reckon with the past still continues including not only confrontation with the human rights infringements committed during the period of the military dictatorships but also initiatives to punish those who were responsible and measures to remedy the suffering and losses of the victims despite the passage of more than twenty years since the “period of transition.” In Spain, where nearly seventy years have passed since the civil war and almost thirty years since the “period of transition,” coming to terms with both the crimes against humanity committed during the civil war and the serious infringements of the Franco dictatorship is only just beginning.

One can easily mention a “global conjuncture” as regards coming to terms with the past today and it can be said that coming to terms with the past has become a key element of the political culture in today’s world.

I- THE LEVELS OF UNIVERSALIZATION

We can highlight the four following levels along the road to the universalization of coming to terms with the past:

1- From National Experiences to Universal Experience

At the national level, as mentioned above, the experiences in Latin America and South Africa in coming to terms with the crimes and violations of the past following the change of system particularly since the 1980’s started a tradition that the societies with similar circumstances could not ignore. The failure of the policy of “suppressing the past” in the countries that formerly pursued it and the initiation of the processes of reckoning and coming to terms with the past, however distant that past may be, consolidated this tradition.

In the memory exercises about the traumatic experiences of violence, a coming to terms with the national identity is basically the case. Hence, memory exercises primarily take the national framework as their reference as regards their motives and objectives. This was far more pronounced at the beginning of the period when memory exercises and the culture of remembering were revived. It was only later that international and comparative efforts came to the fore and began to spread. One of the reasons for this was that individual studies revealed great similarities between the countries studied. The discovery of a similar historical rhythm transcending the national borders of each state showed that explaining events and developments on the basis of national history alone would be inadequate.¹ Today, in the societies where coming to terms with the past is on the agenda, benefiting from the previous or ongoing experiences of other countries is accepted as a routine method and this is openly stated.²

1 Rousso, H. (2004): “Das Dilemma eines europäischen Gedächtnisses”, *Zeithistorische Forschungen/Studies in Contemporary History*, Online-Ausgabe, 1, H. 3, (<http://www.zeithistorische-forschungen.de/16126041-Rousso-3-2004>), p.6.

2 Cornelissen, C./ Klinkhammer, L./ Schwentker, W. (2004): “Nationale Erinnerungskulturen seit 1945 im Vergleich”, by the same authors (eds.), *Erinnerungskulturen. Deutschland, Italien und Japan seit 1945*, 2nd edition, Frankfurt am Main, p.14.

2- International Criminal Prosecution

It is possible to evaluate the developments in the field of international criminal prosecution also in this framework to a certain extent. It can be said that an evolution "from international law to the law of world citizenship"³ and a perspective of "the world society as a memory place" are inherent in these developments which started with Nürnberg, went on with the actions of the temporary criminal courts regarding the serious infringements and massacre that took place in the Former Yugoslavia and Rwanda, and reached their summit for the time being with the establishment of the International (Permanent) Criminal Court.⁴

The developments in the field of international criminal law, particularly the establishment of the International Criminal Court, are closely related to coming to terms with the past since they represent a very significant stage in the fight against "impunity." However, the coming to terms here appears not as a relationship a society builds with its own past but as having the score settled with this past from the outside. But the concept of coming to terms with the past expresses a certain version of the relationship a society builds with its own past and its settling the score of the crimes and violations in its own past mainly with itself as an outcome of this relationship. International criminal prosecution may play a part in setting off or deepening a society's process of coming to terms with its past as in the examples of Former Yugoslavia and Rwanda but does not serve as a substitute for it, does not have the same meaning, and does not yield the same results.

3- International Relations and the Culture of Apology

The relationship of a state with its own past gained importance in international politics, too. By association, denying historical crimes came to be regarded as an inconveniencing factor in international relations. Perceived as disrespect against injured groups, this approach causes political and moral quandaries for the state concerned.

The marked increase in the rituals of apology to the injured/victim groups for past crimes by the representatives of the perpetrating states can also be considered as a sign of universalization. Willy Brandt's apologizing in Warsaw in 1970 for the horrible crimes against humanity committed by the Nazi administration by kneeling before the monument erected for the Jews massacred before and during the Second World War has gone down in history as an expression of the "special German way" and "a unique ritual." Nearly thirty years after this event, apology has practically become one of the fundamental elements of coming to terms with the past today. An unprecedented increase is witnessed in the number of public political confessions to historical crimes and apologetic statements to the grandchildren of the victims. For instance, the German Foreign Minister Joschka Fischer issued a statement of apology for the colonialist policies enforced in Africa during the reign of Kaiser Wilhelm almost one hundred years ago. The Presidents of Canada and Australia apologized to the

3 See Habermas, J. (1997): "Kants Idee des ewigen Friedens – aus dem historischen Abstand von 200 Jahren", by the same author, *Die Einbeziehung des Anderen. Studien zur politischen Theorie*, 2nd edition, Frankfurt am Main, pp.207-208.

4 See Böhm, O. (1999): "Von Nürnberg nach Den Haag – Erfahrungen mit internationalen Tribunalen", von Arnim, G./Deile, V. (eds.), *Jahrbuch Menschenrechte 2000*, Frankfurt am Main, p.110.

natives for the cruelty their forefathers had inflicted on the latter. Canada also acknowledged the discrimination made against the Chinese immigrants during the period 1885-1923 and apologized. The Canadian Prime Minister Stephen Harper recalled that inordinately high taxes were levied upon the Chinese immigrants arriving in Canada under the name of 'capitation tax' a hundred years ago and that large numbers of immigrants had been deported; and said, "*What has been done is a great injustice and racism. I apologize on behalf of the government.*" Tony Blair apologized for the conquering policies of the United Kingdom. Pope Jean Paul II also joined the queue, apologizing for the witch hunts, the Inquisition, and anti-Semitism. In June 1999, some two thousand Christians set out on a march on foot to the "Holy Lands" for the purpose of apologizing for the Crusades that took place approximately nine hundred years ago.⁵

The United States Senate openly apologized to the American people for blocking a late-18th-century legislation initiative by the federal government intended to discontinue the practice of manslaughter by lynching. Approximately five thousand people most of whom were black are estimated to have been killed by lynch mobs in the United States from the 1880's to the 1960's. There are other statements of apology similar to this in American history, too. The US President Bill Clinton, for example, assumed responsibility for the movement of enslavement carried out in Africa by Americans nearly 250 years ago. In 1988, the United States Congress apologized to the Americans of Japanese ethnic origin for the treatment accorded them during the years of the Second World War. The latter had been forced to spend the war years in special camps. Congress also apologized to the native islanders of Hawaii in 1993 for the role of the United States in the dethroning of a Hawaiian king in the 19th century.

4- The "Europe Project" and the Collective Memory of Europe

The increasingly popular view that Europe ought to rely on a collective memory and a unified policy of remembrance makes a significant contribution to the universalization of coming to terms with the past. The European Union, which is in the position of an institutional address for the "Europe Project," is taking a number of steps that are tantamount to the concretization of this outlook. For instance, the acknowledgement of past crimes by the candidate countries has practically become an actual condition for getting an "admission ticket to Europe." The countries that were an accessory to the massacre of the Jews during the Second World War are asked to acknowledge this first of all. Of the countries seeking accession to the EU, Poland officially recognized the suffering of the Polish Jews during the war years and Poland's responsibility for this suffering through the words of President Alexander Kwasniewski in 2004 after long years of silence. And in Romania, to ensure admission into the EU accession process, the former President Ion Iliescu officially acknowledged the complicity of the Romanians in the massacre of the Jews although they had been steadily denying this for a long time. This condition is not kept restricted to the massacre

5 Seitz, N.: "Die Sorry-Kultur. Warum sich Politiker so häufig entschuldigen?" (www.frankfurter-hefte.de/ausschnitt/thema_12.html).

of the Jews alone. Serbia, for instance, was asked to take responsibility for the acts of genocide and massacre it committed during the war in Yugoslavia in order to be admitted to membership. Similarly, negotiations with Croatia for full membership were postponed on account of its non-cooperation with the International Criminal Court established for the purpose of trying the war crimes in the Former Yugoslavia. The arguments over Turkey's full membership are being carried over into this platform, too, and are deepening in such a way as to include the dimensions of the policy of the past and the culture of remembrance.

II- THE OPPORTUNITIES BEFORE UNIVERSALIZATION

It is possible to interpret these developments as the signs of a new transnational model in the struggle against serious human rights infringements and crimes against humanity. Various conceptualization experiments are carried out and proposals made about this subject even though the content matter and nature of this model have not yet been sufficiently defined. Let us take a brief look at some of them:

1- The Cosmopolitan Memory or the Critical Memory of the World

Some authors refer to the developments that occurred in the field of memory and remembering during the recent years as a "trend of transition from the national memory to the cosmopolitan memory."⁶ Levy and Sznajder, two of the leading champions of this thesis, take as their starting point the assumption that all living spaces have become increasingly cosmopolitan upon globalization and state that the collective memory has grown increasingly distant from the holy spaces of the nations and has departed from the coordinates of the nation state. According to these authors, this development, the basic characteristics of which can be clearly observed in the Holocaust example covers not only the levels of consciousness but also institutional levels.⁷ As a natural consequence of this, the nation state loses its interpretative monopoly over memory and remembering under the influence of factors both rising from within and forcing from the outside.⁸

Levy and Sznajder point out that what they are trying to do is to dissociate the concept of national memory from the purely national context it had so far and to complement it with the process of becoming cosmopolitan, they describe as "internal globalization." According to the authors, becoming cosmopolitan is a dialectic process, not a linear one. The "global" and the "local" coexist in this process not as cultural contrasts but as mutually requisite principles. Hence, the cosmopolitan memory is a structure that does not replace but transcends the national memory. Therefore, it is not a substitute for national memory but expands national memory by pulling down its boundaries. Collective memories becoming cosmopolitan also impacts the self-perceptions of the various groups whose identities are no longer determined exclusively by the nation state.⁹

6 Levy, D./Sznajder, N. (2001): *Erinnerung im globalen Zeitalter: Der Holocaust*. Frankfurt/M., p.10, p.21 ff.

7 Levy, D./Sznajder, N., p.14.

8 Levy, D./Sznajder, N., p.17.

9 Levy, D./Sznajder, N., pp.20-22.

As different from the authors who conceptualize the collective memory in the context of the nation state principles, Levy and Sznajder claim that it is possible and a must to find memory scenes meeting the requirements of the people of our era. In this context, electronic communication, by constantly feeding us with fresh images, shows us that the stories we tell about ourselves are not the only ones we can identify with. Even the audiences that do not wish to identify themselves with other stories are obliged to take these stories into account.¹⁰

In a conversation, Sznajder amplifies these observations and describes global memory firstly as an undertaking to separate the social or collective memory from its nation state framework and positioning. From this viewpoint, global memory now means that people will no longer define their identity through the history of the nation state alone. The best expression of global memory is the discourse on human rights. Here, faith in an abstract concept of man, one that is divested of his ethnic and national affiliations, is the case. The source of this extraordinary empathy is memory; namely, memories, remembrances of the situations where people were deprived of all their rights and annihilated without question. It is also with this reason that Sznajder associates their efforts to explain the emergence of the global memory in terms of the ways of remembering connected with the Holocaust. According to the author, a human rights regime that is not based on "negative remembering" about the Holocaust is probably unimaginable today. No one wants to be compared with the Nazis. But comparisons with the Nazis are made all the time because the Nazis and the Holocaust have become definitive symbols in the representation of evil. If we understand that the human rights discourse is liberating by its nature, meaning that it is a discourse that refuses people's being imprisoned within their historical contexts, we can also reach a better understanding of why the Holocaust has been stripped of its context as a symbol in the representation of evil, meaning that it is no longer a German and Jewish issue.¹¹

Otfried Höffe's conceptualization of a "critical memory of the world" would be helpful in describing these developments that opened the road leading to the universalization of coming to terms with the past. According to Höffe, "A 'critical memory of the world' can come into being out of the memories of massive acts of violence such as the conquests, oppression and exploitation, slavery, colonialism and imperialism, the Nazi brutality, and the victimization of countless human beings in the name of social and socialist revolutions. The prerequisite for this is that this memory not be selective but rather be based on a 'justice of remembering.' Only then would it not get stuck in remembering and help prevent the recurrence of such acts of violence in the future."¹²

2- The New International Morality

The new developments in the field of coming to terms with the past are considered as heralding a "new international morality." The American historian Elazar Barkan, one of the

10 Levy, D./Sznajder, N., p.34.

11 Weg vom Eigenen. Ein Interview mit dem israelischen Soziologen Natan Sznajder über »Globale Erinnerung«, *Jungle World*, issue 31, 21 July 2004.

12 Höffe, O. (2001): *Gerechtigkeit. Eine philosophische Einführung*, München, p.16.

leading champions of this view, argues that a “new international morality” that is growing increasingly more widespread has emerged from the demands of the communities that suffered genocide, massacre, and crimes against humanity in the past, from the attitudes of the states of which these demands were made, and from the global impact of the controversy on this subject. Barkan builds up this thesis firstly on the basis of the events pertaining to the Second World War. According to Barkan, the agreement Germany signed with Israel in 1952, calling for extensive compensation and remedies, marks the beginning of this epoch. Barkan includes in this framework the damages and rectification claimed from Japan on account of the sex slavery system it set up during the Second World War; from Switzerland on account of the “Nazi gold;” and from the United States of America that kept its citizens of Japanese origin in concentration camps throughout the Second World War. Devoting the second chapter of his book to the events related to colonialism, Barkan considers as being among the sources of the new international morality the claims, and the developments pertaining to these claims, of African and American black people for compensation and remedies originating from the system of slavery; and the demands of the natives in the USA, the countries of South America, Australia, and New Zealand for the return of their land and cultural values. According to Barkan, the commencement of a dialogue or a controversy between the grandchildren of the perpetrators and the victims would be accompanied by significant political consequences. The expansion of this dialogue and controversy would ensure the advancement of human rights awareness throughout the world and the strengthening of the “new international morality.”¹³

III- THE OBSTACLES BEFORE UNIVERSALIZATION

The issue has been clearly universalized in the sense that the culture of remembering and the programs of coming to terms with the past have grown out of the confines of specific regions and have seen implementation in various countries in different geographies and that the experience gained in this respect has become the subject matter of sharing that transcends national borders. It can not be denied, however, that there exist serious obstacles and formidable challenges as regards the other aspects and consequences of universalization. It would be worthwhile to briefly analyze these obstacles and challenges under a few headings:

1- Cosmopolitan Memory or the Limits to the Critical Memory of the World

There are a great many factors making it difficult to be optimistic about the creation of a “critical memory of the world” and an equally large number of questions to be answered. It is still uncertain, for example, how such a “world memory” will come about, what and where its memory places will be, and what social forces will serve as its bearers, and so on. But none of these justifies passing off this productive assertion about “world memory” as a simple philosophical speculation or merely a theoretical scenario and leaving it alone. For example, thanks to the developments in communication technologies, the human rights infringements and killings taking place in one part of the world can be transmitted everywhere, which gives rise to a common circumstance of knowing.¹⁴ This situation makes the various media the most

13 Barkan, E. (2002): *Völker klagen an. Eine neue internationale Moral*, Düsseldorf.

important pillars of the common world memory. With the knowledge and memories of human rights infringements and crimes against humanity becoming available in this way for all to share, a reference that is impossible to ignore comes into being regarding how political authorities should treat human beings and how human beings should treat each other. Global memory places appear as a result of this knowledge and memories being shared with a large public that is dispersed everywhere. Places that have come to be identified with serious infringements and crimes in a country break loose from their local associations and get emplaced in a context of significance at the global level, turning into common symbols for all of humanity; such as Auschwitz, Hiroshima, the National Stadium in Chile, the torture center ESMA of the Argentinean junta, and the killing fields in Cambodia.¹⁵ Such pillars of the global memory also form the strongest buttresses and liaisons of meaning of global solidarity in the face of all kinds of policies of brutality. For this reason, the human rights battle waged in Latin America in the 1970's and the 1980's against the military dictatorships and the movement of solidarity with the victims/injured that developed in the international domain, for example, can be regarded as the preliminary steps to this kind of a "critical memory of the world." This community of remembrance and solidarity taking action against serious violations of human rights makes one of the robust pillars of such a memory.

As Levi and Sznajder pointed out, memory's becoming cosmopolitan offers the possibility to create new forms of solidarity based on the common remembrance of barbarism. The transnational culture of remembering that will appear in this manner may strengthen the foundations of the global human rights policy.¹⁶

On the other hand, a common terminology facilitating a global communication on coming to terms with the past is appearing as the experiences of various countries accumulate in a common inventory. Normative concepts such as "truth," "social integration," "mourning exercise," and "recognition of suffering" may be regarded as the principal elements of such a terminology that embodies the promise of making a significant contribution to the efforts to build the common idiom of the demand for justice.

2- The "Double Morality" versus the "New International Morality"

Miscellaneous reasons may be found in order to be optimistic about the development of a "new international morality." The advancements achieved at the level of international law and society since 1945, the consciousness created through the tough struggle of the human rights movement, the sensitivity created by the "global civil society" taking shape with the possibilities offered by communication technology¹⁷ can be taken as the strong foundation of such a "morality" while the "memory conjuncture" and "the wave of reckoning" can be taken as a new phase of the construction rising above this foundation.

14 Levy, D./Sznajder, N., p.48.

15 Arenhövel, M. (Winter 2002/2003): "Tendenzen der Erinnerung an Diktatur und Bürgerkrieg – auf dem Weg zu einem Weltgedächtnis?" *WeltTrends*, issue 37, p.22.

16 Levy, D./Sznajder, N., pp.10-11.

17 See Sancar, M. (February 2000): "Global Sivil Toplum mu?" *Birikim*, issue 130, p.19 ff.

Nevertheless, the *Realpolitik* of many nations that have signed and ratified the human rights documents shows that this optimism should not be exaggerated. Doubtless, the USA has a special position and role among these states. The USA's stance that renders the UN nonfunctional, totally disregards international law, and blocks the operation of the International Criminal Court comes foremost among the most serious obstacles preventing the "new international morality" from becoming widespread and firmly taking hold.

Actually, "negative remembering" has become a major normative element in the policies of many states as of the end of the 20th century; but this normativeness appearing in the relationship of states with serious human rights infringements can also be employed as an instrument in the legitimizing of military interventions. This instrumentalizing approach has become quite evident particularly in the Kosovo operation and the invasion of Iraq. In these events, first NATO and then the USA and its allies tried to legitimize the military intervention by making references to Auschwitz.

It is possible to see the same trend in the aggressive policies of Israel. Israel's strategy of making the Holocaust a part of the "Palestine Issue" as of 1973 is built on the rhetoric that "the criticism directed against Israel has nothing to do with the policies of the state of Israel but are caused entirely by the Holocaust's being forgotten." Thus, the war Israel is waging has no other purpose than preventing the Holocaust from happening again. As such, the Arab-Israeli conflict is presented not as a product of clashing interests that needs to be settled through negotiations but the struggle of a people that was subjected to the greatest human catastrophe in history, a "unique" genocide, to protect its existence from the recurrence of the same peril. Clearly, all would be fair in such a struggle. Aiming to disgrace and weaken its rival or adversary by identifying it with the most ruthless figure in history; and to rally the entire Jewish community and the Western public opinion that feels responsible for the Holocaust in its very conscience behind Israeli policies and the Middle East schemes that the US is trying to turn into reality through Israel, this strategy has been constantly pursued so far, albeit at varying degrees of intensity, as witnessed in Israel's most recent attack against Lebanon.

This instrumentalizing approach we have explained briefly is an inauspicious example of "double morality" preventing the "new international morality" from becoming widespread and firmly taking hold because it reorients the memory exercise and the culture of coming to terms with the past, which ought to be serving such purposes as recognizing and sharing the sufferings of others, acknowledging our responsibility for them, and creating a universal sensitivity towards the injustices causing these sufferings in the exactly opposite direction of denying historical cruelties and legitimizing those to possibly happen.

There is no reason to desperately accept as a "one-way street" this path opened by the instrumentalizing strategies. In fact, in spite of all these adversities, we see that the efforts that embrace the memory exercises based on the Holocaust as the foundation of the universal discourse on human rights and the global regime of human rights are far more widespread and the gains achieved in this respect much more deep-rooted and comprehensive. Indeed, the

remembrance of the situations where people were deprived of all their rights and annihilated without question forms the most important source of the extraordinary empathy lying at the core of the universal discourse on human rights. The transformation, in the course of time, of the remembrance of the Holocaust which was initially limited to an act of remembering; the target of which was the victims of this brutality, the survivors, and their children; into an activity questioning this specific act of brutality, its perpetrators, their accomplices, their successors, and their objectives played a determining role in this.¹⁸ Thus, the "Auschwitz code" ceased to be the symbol of a sad event involving none other than the historical victims and their grandchildren and came to be perceived as "a global point of reference"¹⁹, "the sign, the distinguishing mark of an entire era;"²⁰ the universal source of the production of ideas and actions about what "humanity" should do to make sure what should happen "never again" and why.²¹

We must point out that "negative remembering" plays a very important part in this development. An author describes "negative remembering," which is a key concept in the functioning of the culture of remembering in keeping with the motto of "never again," as "*thinking the unthinkable, learning to pronounce the unpronounceable, and trying to imagine the unimaginable*" and points out that "negative remembering" will not become collective just by keeping the suffering of the victims in memory; and that ways and means are required in order to ensure that the perpetrators, the acts, and their objectives are remembered at all times.²²

3- The Value and Effect of Apology

These developments, also called the "culture of apology," may be argued against from several angles, chief among them intention and function. It can be claimed, for example, that these rituals are based on instrumentalist motives of interests and not on a goal of a solidarity of true regret and heartfelt mourning. In fact, according to an author who appraises the developments by the criterion of "intention," the wealthy states want to free themselves of the burden of a guilt-filled past, step onto the stage in ethically absolved form, and build moral support for globalization.²³

It must be acceded that there is plenty of truth to that view. Nevertheless, it cannot be denied that apologizing by the high level political representatives of a society to the injured/victims of

18 Uhl, H. (2003): "Einleitung", by the same author (ed.), in *Zivilisationsbruch und Gedächtniskultur. Das 20. Jahrhundert in der Erinnerung des beginnenden 21. Jahrhundert*, Innsbruck/Viyana/Münih/Bozen, pp.7-8.

19 Kirsch, J.H.: "Rezension zu: Daniel Levy / Natan Sznajder, Erinnerung im globalen Zeitalter: Der Holocaust", (<http://hsozkult.geschichte.hu-berlin.de/rezensionen/GA-2002-020>).

20 Habermas, J. (1987): "Geschichtsbewusstsein und posttraditionale Identität. Westorientierung der Bundesrepublik", by the same author, in *Eine Art Schadensabwicklung. Kleine Politische Schriften VI*, Frankfurt am Main, p.161 ff.

21 For details, see Sancar, M. (November 2006): "Geçmişle Hesaplaşma: Bir Adalet ve Özgürleşme Sorunu", *Birikim*, issue 211, p. 21 ff.

22 Koselleck, R. (2002): "Formen und Traditionen des negativen Gedächtnisses", Frei, N./Knigge, V. (eds.), in *Verbrechen Erinnern. Die Auseinandersetzung mit Holocaust und Völkermord*, München, p.27 ff.

23 Branscheidt, H.: "Aufarbeiten? Vergeben? Versöhnen?" (<http://www.medico.de/rundschr/rs399.htm>).

the crimes against humanity committed in that society sometimes by the society itself in such a way as to constitute a "collective crime" and in most cases in the name of that society serves positive functions whatever the intention behind the ritual. Foremost among these functions comes the strengthening of a global political culture resting on the prerequisite that policies of repression, oppression, and annihilation can not be legitimized by any means and viewing such policies as a disgrace and a crime against humanity. For instance, Elazar Barkan claims that the US Government's statement of apology to the indigenous Japanese citizens of the USA that were kept in concentration camps from 1941 until the end of the war and its decision calling for the payment of damages had an effect precluding further discrimination against the Muslims after September 11th. Barkan believes that this is evidenced by the frequent use, during the debate on the issue, of the caveat that the mistakes made in the relations with the indigenous Japanese citizens during the Second World War not be repeated with the Muslims.²⁴

On another note, for the victims and their children/grandchildren, such gestures also amount to a sort of "moral damages" for the injustices they were subjected to in the past and "moral satisfaction" for the suffering they experienced. The words of Doria Johnson, the great-great granddaughter of Anthony Crawford who was lynched by a white mob in the State of South Carolina in 1916, on the resolution of the US Senate can be regarded as a plain expression of this: *"The Senate's apologizing in this way is very important for African Americans and for the common history we share as Americans. People's being lynched by their neighbors without a trial was a practice that horrified the American blacks."*

The real danger here is in the appearance of an environment where apologizing would be considered enough to get rid of the political and moral burden of the crimes in the past; namely, the turning of apologizing into a kind of hollow "civil religion." One of the possible consequences of this is the interpretation of coming to terms with the past as a process that can be reduced to the simplicity of "speak up and get done with it" or "confess and find absolution" and its resulting corruption. Therefore, against the strategies designed to have the apologetic gestures adopted as an act marking the completion of the processes of coming to terms with the past, one must keep reminding and insisting that the demands for coming to terms with the past are a struggle to build the present and that statements of apology should find their counterpart in daily policies.

24 Welt am Sonntag, 28.7.2002

THE CONTRIBUTION OF THE RESTORATIVE JUSTICE APPROACH IN THE CONTEXT OF COMING TO TERMS WITH THE PAST

Turgut Tarhanlı

I am not going to discuss directly the policies of looking into the sufferings of the past or reckoning with the burden of the past in this brief essay.¹ Rather, I am going to dwell, in the light of the two different approaches of the theory of justice to criminal justice, upon how these policies could end up reaching different targets using different means and how this situation could change the positions of the parties to the relevant negotiations. What I will try to achieve by this will be a comparative, albeit somewhat schematic, evaluation of the two said approaches to justice. An attempt will be made to briefly look into the kind of results these differences in approach yield in coming to terms with the past at the conclusion of this abstract evaluation.

Standing out behind the expressions like settling the score for the sufferings sustained in the past or reckoning with the burden of the past is an effort to hold another party or oneself accountable in the final analysis. This may not necessarily assume concreteness in the form of "punishment" at the present time. Besides, in certain situations, it may not be practicable, either. Consequently, the stand to be taken for remedying the injury begins to take on greater importance.

The two fundamental areas of interest of the theory and practice of criminal justice that deals with being wronged, the causes thereof, and the reparation of this result focus on the positions of the perpetrator and the victim. It is, in fact, this relationship that exists between the perpetrator and the victim. There is even a communication issue hidden in this relationship,

1 The following sources may be referred to in this connection: Casey, C. and Edgerton, R.B. (Eds.) (2005): *A Companion to Psychological Anthropology: Modernity and Psychocultural Change*, Blackwell, particularly pp. 417-494; Barkan, E.(2000): *The Guilt of Nations: Restitution and Negotiating Historical Injustices*; The Johns Hopkins University Press; Thompson, J. (2002): *Taking Responsibility for the Past: Reparation and Historical Justice*, Polity; Douglas, L. (2001): *The Memory of Judgment: Making Law and History in the Trials of the Holocaust*, Yale University Press; Sriram, C.L. (2004): *Confronting Past Human Rights Violations: Justice vs Peace in Times of Transition*, Frank Cass; Van Ness, D.W. (1996): "Restorative Justice and International Human Rights", B.Galaway and J.Hudson (Eds.), in *Restorative Justice: International Perspectives*, Kugler, p. 17. The discussions on coming to terms with the sufferings of the past are generally an area backed with works on "memory" or "public memory" in general. Mentioning the availability of broadly comprehensive writings on this subject, I would like to cite also some additional sources published in Turkish: Connerton, P.(1999): *Toplumlar Nasıl Anımsar?* (How Societies Remember), trans. A.Şenel, Ayrıntı; Huyssen, A.(1999): *Alacakaranlık Anıları: Bellek Yitimi Kültüründe Zamanı Belirlemek* (Twilight Memories: Marking Time in a Culture of Amnesia), trans. K.Atakay, Metis; Nora, P. (2006): *Hafıza Mekânları* (Les Lieux de la Memoire), trans. M.E.Özcan, Dost. Also, I would like to mention the following works of Mithat Sancar who has made a guiding contribution to the debate on this topic in Turkey with his essays in the recent years: "Geçmişin Hesabı, Geleceğin İnşası" (Reckoning with the Past, Building the Future), *Birikim*, issue 134-135, June/July 2000, p. 92; "12 Eylül Vesilesiyle: Geçmişle Hesaplaşma Kültürü Üzerine 'Bir Daha Asla!' Diyebilmek İçin" (On the Occasion of September 12th: On the Culture of Reckoning with the Past: In Order to Be Able to Say 'Never Again!'), *Birikim*, issue 198, October 2005, p. 27; "Geçmişle Yüzleşme: Bir Adalet and Özgürleşme Sorunu" (Coming to Terms with the Past: An Issue of Justice and Emancipation), *Birikim*, issue 211, November 2006, p. 18.

without ignoring the social consequences associated with it. The determination of the positions of “perpetrator” and “victim,” and the attachment of certain legal consequences to this, can be established by means of justice approaches based on various foundations. The most common outlook among these in our country, as in the rest of the world, is what is called “retributive justice.” The outlook that tries to shape relationship between the perpetrator and the victim and the justice system’s approach or reaction to it with the concept of “restorative justice” as opposed to retributive justice is relatively more recent.²

THE IMPORTANCE OF RESTORATIVE JUSTICE

Although relatively recent, the approach of “Restorative Justice” can offer valuable contributions compared to its predecessor as regards reckoning with the past or how to come to terms with the burden of the past that impacts also the present and what kind of a policy to develop. In saying this, I will try to underline the subject of what kind of a point of departure or course of action to determine regarding the expression and strengthening of the efforts to come to terms with the burden or the sufferings of this past. This, of course, is a look that ascribes importance to the goal of a solution to these problems. However, drawing attention per se to this kind of an approach may not be sufficient for it to be defined as a solution. In short, the solution or the settlement of a problem is related to a situation or outcome other than the method of approach itself. But the particular method selected may facilitate a true approach to this. Or the opposite may be the case.

While mention is made of the fact that the concept of “reckoning with the past” assumes importance as a justice policy at the same time, such an evaluation may not be expected to be derived from a policy of justice in the narrow sense. Briefly, although the goal desired to be reached by this path is not uncertain, the stage that really matters in this connection is the initial choice of policy and the effort to be made for discussing and developing this policy.

In this context, the presence of two basic approaches to criminal justice that seek an answer to the question of what kind of an equation to set up in the relationships between crime, injury, and reparation; namely, the broadly practiced “retributive” approach and its alternative, the “restorative” approach that is seen to draw upon traditional experience, as well; show that there is no single way regarding the method of discussing issues of an individual and social nature. In such a framework, it is important to analyze the parties or the actors involved in this relationship; the connections between the state, the society, and the individual; the types of efforts made to determine, recognize, and repair the injury; or making do with an assumption thereof.

2 There is a growing body of literature in the fields of “retributive” and “restorative” justice. Not all of these sources may be related directly to the title of this essay as regards the topics they address because the research on criminal justice approaches and the various types of crime in various countries may include analyses of highly specific cultural, social, political, and economic relationships; or grand historical issues (such as colonialism, slavery, racial discrimination, systematic and widespread massacres, etc.) may appear in the same context. Although not directly related to the factors determining these specific relationships, the experiences in which the ways of practising a “restorative” justice approach to these relationships were evaluated have been taken into consideration in this work in parallel to the sources of a theoretical nature. – T.T.

The objective to be reached thanks to the foregoing is restricted to demonstrating that it is also possible to make use of a new lens in scrutinizing the issue of coming to terms with the burden of the past. It would be futile to hope for a magical solution from such "new" approaches as it would be from the traditional ones we are familiar with. What is essential is to be able to set up a framework of understanding, evaluation, and negotiation in order to see the extent to which the truth – the legally defined truth – coincides with the realities outside the realm of law. All approaches of justice other than this are deficient and inadequate in my opinion.

CRIME, PARTIES TO CRIME, THE STATE, AND THE INDIVIDUAL

The modern state is accepted as having the capability and the power to regulate all legal interactions occurring inside its borders, to try to settle any disputes arising in connection with these interactions, and to prevent other states and entities other than itself from exercising the same or similar powers on the same country. The most readily visible appearance of this power in the field of law can be measured in terms of the reaction or the enforcement of sanctions that needs to be practiced against an act that is defined as unfair, wrong, or a crime in the relations between people.

This is so because the consequence and impact of such breaches of the legal order of a state are ultimately explained in terms of acts against its legal order. Therefore, the intervention that needs to be made by the mechanisms of the state against an act that constitutes a crime comes to assume significance within the framework of the relationship between the person who commits this act and the authorities of the state: Crime is an act against the legal order of a state. So, the state has to decide and implement certain measures against the person (perpetrator) who commits this crime through its own mechanisms.³

The clearest and most common explanation of the concept of "retributive justice" is in terms of the requirement for preventing and sanctioning crime since it is a violation of the legal rules and therefore an act that could result in the disruption of the legal order of the state. The taking of action by the mechanisms of the state to impose sanctions against the person or persons responsible for this act is a natural outcome of this concept. Thus, the parties to such a relationship to be established on account of the existence of the act defined as a "crime" will essentially be the state and the perpetrator.⁴

It is also possible to say that the establishment of this relationship somehow presupposes the "injury" of the state – although not in the real sense.⁵ On the other hand, the punishment that is adjudged by the authorities of the state for the said act of the perpetrator in this relationship defined within a system calling for the perpetrator to be subject to a sanction can

3 Zehr, H. (2003): "Retributive Justice, Restorative Justice", Johnstone, G. (Ed.), in *A Restorative Justice Reader - Texts, Sources, Context*, Willan Publishing, p. 69; Marshall, T. F. (2003): "Restorative Justice: An Overview", Johnstone, in *A Restorative Justice Reader*, p. 28; Johnstone, G. and Van Ness, D.W. (2007): "The Meaning of Restorative Justice", G. Johnstone and D.W. Van Ness, in *Handbook of Restorative Justice*, Willan Publishing, pp. 5-6.

4 Zehr, H.: "Retributive Justice, Restorative Justice", in *A Restorative Justice Reader*, p. 71 ff.

5 Roche, D.: "Retribution and Restorative Justice", in *Handbook of Restorative Justice*, pp. 77-79.

also be explained in terms of an attempt by the mechanisms of the state to restore the order of relationships that was disrupted because of the crime.⁶ But there is no room for the true victim of the crime in a relationship designed in this manner. The victim is not an actor that can be effective in this justice system based on the relationship established between the state and the perpetrator in connection with the crime. The victim ultimately faces the assumption that the "loss" sustained by him/her and his/her immediate environment is compensated for by the functioning and results of the sanction mechanism and he/she has to settle for this state of affairs.⁷

The distinguishing feature of the "restorative justice" concept as far as the parties to the crime are concerned, however, is that it does not restrict this relationship to the state and the perpetrator. The way this matter is appraised in the restorative justice approach can be explained as follows: Crime, first of all, is a phenomenon existing between people. Its active and passive parties are only people. Therefore, before viewing an act of crime as an uprising against the law of the state or a violation of the legal order, it must be taken into consideration that the rights of another person are, in fact, infringed upon as a result of that act.

Thus, while in the retributive justice approach the parties in this relationship that appears as a result of an act that constitutes a crime are accepted as being limited to the state and the perpetrator, in the restorative justice approach the presence of the perpetrator and the victim makes it necessary to consider them together. The efforts to be spent for determining the parties to the act of crime and their positions associated with the act are important because the positions of injury and liability have to be clearly determined in order to remedy or resolve the situation causing the injury. In this framework, the presence of both parties will be needed for a solution just as it will be needed for determining a problem, a dispute or an injury. However, the equation may change depending on the approach.

The first result to be reached by means of the restorative justice approach may be summarized as follows: Crime is a phenomenon that has to be evaluated primarily not as a violation of the law of the state but from the viewpoint of the relations between the perpetrator and the victim.⁸ Therefore, it is generally harmful to social relationships and social communication. But it can be said that the restorative justice approach has a stronger human focus and is more realistic compared to the retributive justice approach in which the perpetrator is held liable for an act that only results in the violation of the law of the state and the victim accedes to the consequences of the operation of a mechanism based on the criminal jurisdiction of the state and has to assume that his/her injury is compensated for or remedied.

Doubtless, injury, the position of the victim, is not a clear-cut situation that can be measured only as the law has defined it. Nor can injury be restricted by defining it as the product of a conflict with the legal order of the state alone. Stepping beyond the definition of the scope of

6 Barnett, R.E.: "Restitution: A New Paradigm of Criminal Justice", in *A Restorative Justice Reader*, p. 46 ff.

7 Zehr, H.: "Retributive Justice, Restorative Justice", in *A Restorative Justice Reader*, pp. 70-71.

8 Zehr, H. and Mika, H. (2004): "Fundamental Concepts of Restorative Justice", E.McLaughlin, et.al. (Ed.), in *Restorative Justice: Critical Issues*, Sage and Open University, p. 41.

injury by the mechanisms of the state in accordance with legal rules in a manner suitable to the style of legal abstraction preferred in the retributive justice approach and making an evaluation in consideration of the fact that the victim is a human being is an endeavor to comprehend first of all the human being in concrete terms.

RIGHT, INJURY, AND LIABILITY

Trying to determine the circumstances under which an act that allegedly constituted a crime in the retributive justice approach took place is a retrospective job. It is the process of deciding whether the act in question fits the definitions in positive law. The evidence and indications of whether that crime was committed become important in this kind of a legal effort. The need arises, therefore, to focus on that act of the suspect in the past and his/her relevant behavior. If these efforts yield results that lend credibility to the allegations that a crime has been committed, the suspect is charged with committing a crime. Thus, the scope and degree of his/her liability towards the state and the society are determined. The basis of the punishment to be given to the perpetrator is determined by taking into account the seriousness of the crime according to the criterion of "proportionality" or "moderation" which is a product of the age of Enlightenment.⁹ The purpose here is to preclude arbitrariness. Although this approach involves making the perpetrator suffer by the execution of the sentence pronounced on the perpetrator within the justice system,¹⁰ there must be a predetermined limit to this.

Viewing the same act through the lens of restorative justice does not mean supporting an act that would immediately result in criminal charges. It is more important to make sure that the suspect is aware of his/her obligations and that he/she feels liable for his/her act than to charge him/her with committing a crime. Regretting an injury caused by an act that happened in the past is considered more valuable than focusing on how it happened and investigating it. Therefore, for the perpetrator, it becomes important to be engaged in an effort to find ways to redress the injury together with the victim.¹¹ The restorative justice approach upholds behavior that does the right thing by ensuring communication between the victim and the perpetrator rather than meting out retribution for the act that caused the injury entirely in the form of punishment. What is meant by doing the right thing is to be actively and effectively engaged in an effort to restore the violated rights of the victim.

I mentioned that focusing on how the crime was committed was important in the retributive justice approach. This endeavor is defined totally in a legal context. An effort is made to diagnose the criminal act in its legal form isolated from moral, social, political, and economic factors. Trying to determine the criminal act retrospectively and defining it legally is not a priority in the restorative justice approach. Instead, emphasis is placed on heading for a solution the problem. This orientation can not be restricted solely to how the act in question

9 Zehr, H.: "Retributive Justice, Restorative Justice", in *A Restorative Justice Reader*, p. 73; Roche, D.: "Retribution and Restorative Justice", in *Handbook of Restorative Justice*, pp. 77-78.

10 Zehr, H.: "Retributive Justice, Restorative Justice", in *A Restorative Justice Reader*, p. 71.

11 Zehr, H. and Mika, H.: "Fundamental Concepts of Restorative Justice", in *Restorative Justice: Critical Issues*, p. 41.

occurred because redressing and trying to restore the damaged relationship or communication at any level require an approach that exists not in the past but in the present and looks to the future above all. And for this reason, it is not possible to suffice with trying to solve the issue stemming from the said act exclusively with the rules and principles of positive law. Such an effort is a requisite of being aware of the existence also of a reality other than the legal. Besides, it is impossible to define injury only by laws.

In this context, the most outstanding distinguishing characteristic between the approaches of retributive justice and restorative justice is the former's looking into the past while the latter prefers to look at the present but actually attaches importance to the future.

The retributive justice approach advances in a contentious process after the determination made on the act in question; and its structural elements include the existence of two adversary parties. Referred to as the "perpetrator" and the "victim" and positioned against each other, the two sides wage a legal battle to overcome each other's opposing legal arguments so that this contentious process will be concluded in their favor. Retributive justice is therefore competitive and its essence is to prove the superiority of individual rights and interests over the rival ones.

This contentious process is conducted in accordance with the procedures prescribed within the limits of authority of the legal order. In this sense, it is not of a flexible nature. It targets determining in the light of the rules of positive law the role of the suspect in the act under prosecution. But this result can not be claimed to mean a "remedy" or a "solution" in its own right. On the other hand, the means of this game that the victim also plays within the same procedural framework can not possess a constituent and creative flexibility because they have to have a given playground and stay in it.

A procedure that is generally, although not always, accepted and encouraged in the restorative justice approach is "coming to terms." This is a process of dialogue or negotiation. It is intended to elicit understanding rather than competition. In this context, the requirements of the victim as well as the perpetrator are attributed prime value. Both the perpetrator and the victim are an active party to this process, not peripheral to it. As different from the retributive justice approach, the perpetrator and the victim are expected to try constructively and creatively to reach the conclusion of understanding each other (and themselves) in this process.¹²

The procedure of negotiation/coming to terms that is conducted in accordance with the restorative justice approach; as different from the approach where justice is assumed to be served by having the mechanisms of the state exhibit a censuring, precautionary, or punitive stance toward the perpetrator; also aims essentially to lay the groundwork for starting communication between the adversaries unless this meets with resistance.¹³ This is not a naive

12 Zehr, H.: "Retributive Justice, Restorative Justice", in *A Restorative Justice Reader*, p. 75 ff.; Johstone, G. and Van Ness, D.W.: "The Meaning of Restorative Justice", in *Handbook of Restorative Justice*, pp. 9-12; Sharpe, S.: "The Idea of Reparation", in *Handbook of Restorative Justice*, pp. 30-32.

13 Marshall, T.F.: "Restorative Justice: An Overview", Johstone, G. in *A Restorative Justice Reader*, p. 32 ff.

effort at communicating. On the contrary, it can help the perpetrator to realize the consequences of his/her act and the victim to discern the reasons that led to this situation of his/hers. This particular functionality of the procedure of negotiation/coming to terms may contribute to the restoration of the power and confidence that the adversaries (both of them) lost because of the act that led to the injury¹⁴ because it is believed that these adversaries that embody both the causes and the effects of the crime in their person will try to find ways to work off the effect of the blow they received because of this incident, depending on their getting to know the opposite party and becoming aware of its particular reality. This outcome is explained as the "transformative" effect of the procedure of negotiation/coming to terms.¹⁵

While the retributive justice approach finds it important to deal with the declaration of the crime and the charging of the suspect, depending on the qualification of the act, the restorative justice approach tries to keep the act causing the injury in the foreground. This is an effort about understanding the effects of that act that are still in existence. The goal here is not limited to determining the circumstances under which this act took place in the past and measuring its retribution by the legal rules in effect. The persistence of the injury despite all efforts made within the system, the existence of the particular position of the victim, and the argument that something has to be done to counter its adverse effects is a prominent feature of the restorative justice approach.¹⁶ This is clearly quite a different option than the retributive justice approach which places greater stock in the perpetrator's punishment and assumes that the injury is remedied in this manner.

A concept of punishment in proportion to the act of the perpetrator is the basis of the retributive justice approach. The adjudication of a sentence matching the magnitude of the loss sustained by the victim and its execution is regarded as justice being served. Also, it is hoped that this will have a deterrent effect on similar possible cases.¹⁷ This situation that is determined as a result of a contentious process will have meaning only along the axis of winning vs. losing as far as the positions of the adversaries are concerned.

The endeavor to restore things to their former state or to seek ways to somehow return to a former state, which is considered important in the restorative justice approach, denotes a process where the adversaries try to determine on a common platform the objective to be reached and where they need to make a joint effort to reach it although this may not always be possible in the true sense of the word. While this approach may not always prove sufficient to reach such an objective, it may be an incentive for the adversaries both to understand each other and to look inwardly at themselves. This attitude is expected to be effective on social relationships, too, as much as it should be socially supported.¹⁸ Compared to a lose-win

14 For an analysis about the empowerment of the adversaries involved in this process in particular and a criticism thereof, see Sawin, J.L. and Zehr, H. "The Ideas of Engagement and Empowerment", in *Handbook of Restorative Justice*, pp. 41-55.

15 Johnstone, G. and Van Ness, D.W.: "The Meaning of Restorative Justice", in *Handbook of Restorative Justice*, pp. 15-16.

16 Braithwaite, J.: "Restorative Justice and a Better Future", in *Restorative Justice: Critical Issues*, p. 57.

17 Barnett, R.E.: "Restitution: A New Paradigm of Criminal Justice", in *A Restorative Justice Reader*, pp. 46-49.

18 Braithwaite, J.: "Restorative Justice and a Better Future", in *Restorative Justice: Critical Issues*, pp. 57-58.

relationship, this situation may make it easier to arrive at a restorative solution of the win-win type which finds it more convenient to make sure that both sides end up winning.

Recourse may be had to both justice approaches as regards the policies of reckoning with the sufferings of the past or the burden of the past. The commonly preferred stance in the debate on this issue today seems to be taking the "retributive justice approach" as its basis.

In this approach, as done in the traditional manner of reasoning/justification, a stance that calls for administering suffering to the party that is described as the "perpetrator" and held liable for the suffering in question, after the logic of the traditional fashion of sanctioning, will only have value in a "retributive justice" approach. This is an effort to be conducted in the direction of legally investigating the causes of the suffering, obtaining evidence, determining the reality surrounding the act, and holding the suspected party liable for this act before the law.¹⁹

This debate generally does not originate as being really subject to such a legal procedure; it originates on a platform of political relations, but in a style having the appearance of the latter. This situation will cause all the weaknesses of the "retributive justice" approach that stand out in a litigation initiative subject to a real legal procedure to readily grow and multiply because the party facing such an accusation will try to fortify its position from which it will attempt to ward off the allegations directed against it. This situation is the essence of a juridical type of struggle. However, defending this approach on a platform relying entirely on power relationships may produce the result that the principle of adhering to procedure, which is important in the retributive justice approach, may be inclined largely towards power. Doubtless, this does not mean a solution or a remedy for the injury.

On the other hand, the effort to look into the sufferings of the past with a "restorative justice" approach will treat the existence of an injury as paramount instead of focusing on determining the legally defined positions of the adversaries vis-à-vis each other. This is an approach that values the adversaries' discerning the causes of the injury in question and its persisting effects as different from the retributive justice approach that aims to have one side punished by all means. Thus, it is interested in the present rather than the past. It does not insist on having one side, liable as it may be, pay for its misdeed necessarily through "punishment."

This approach may be said to be encouraging an outcome of the following kind: The adversaries' acting with such foresight in the course of their undertakings to deal with the existence of an injury and the removal of its consequences or the efforts they make for this purpose may facilitate their developing a growing faith in their equality rather than their superiority over one another.²⁰ It may thus become more clear that beyond a way of thinking that the problem will be terminated only when the liability of one of the adversaries before the

19 Zehr, H.: "Retributive Justice, Restorative Justice", in *A Restorative Justice Reader*, pp. 74-78.

20 For an analysis on this subject, see Pranis, K.: "Restorative Values", in *Handbook of Restorative Justice*, p. 63 and p. 66 ff.

law is established, attention should actually be focused on a remarkable act and that this act should be the appreciation of the consequences that are described as injury.

The stance of reckoning with the sufferings or burden of the past with a restorative justice approach ought to be viewed as the expression of a responsibility that must be demonstrated "today." Therefore, it is oriented towards the future rather than being focused on the past. That future, however, becomes visible by treating as important and valuable a medium of communication and relationships the common and equal responsibility of which the adversaries first present to each other and can share with each other.

COMING TO TERMS WITH THE PAST IN TURKEY: BEING REALISTIC, ASKING FOR THE IMPOSSIBLE

Mithat Sancar

A PAST THAT WILL NOT LET US GO

For some time now, Turkey has been beating around the bush of issues like “coming to terms/reckoning with the past” and “social/collective memory” without calling a spade a spade. But this activity does not mean that an intention and will to come to terms/reckon with the past have developed in the society and the state. Therefore, the situation we are going through now would be more appropriately described as the past dealing with us rather than us reckoning with it.

Every person and every society has a past, along with a relationship with the past. Individuals and societies either take their past into account or shape their relationship with their past themselves by means of mutual interaction with it or the past takes action of its own accord, tracking them down, and occupying the present. The more they insist on pretending the past is not there, the more the effect of the past on the present grows so that eventually the present becomes a product of the past that is feared and avoided.

This is what is happening with us now. The “past” will not let us go. The more we ignore it, the more rebellious and stubborn it becomes. We, however, had grown very accustomed to treating the past as an obedient servant. We used to summon it any time we wished, use any part of it that we saw fit as we pleased, and send it back to that bottomless pit of darkness when we got done with it.

That was the way the relationship of all nation-states with the “past” essentially fared until recent times. The developments that took place in the last two or three decades, however, shook this traditional paradigm about relating with the past to its very foundations. With the various events that transpired as of the early 1980’s, there began a period defined in such terms as “memory explosion,” “the uprising or vengeance of memory,” or “memory conjuncture.” And the concept and phenomenon of reckoning with the past broke off from or superseded its initial German and Second World War context and entered a process of universalization.

A WORLD THAT WILL NOT LET THE PAST GO

This situation is directly related to the collapse of the military dictatorships in Latin America, the dissolution of the racist administration in South Africa, and the disbanding of the Eastern Bloc. With these developments, the concept of reckoning with the past, regardless of how it has been translated into any language, assumed a universal content matter pointing to the issues of how to cope with the burden of the past and how to build a social peace relying on human rights values and a democratic political culture in the aftermath of dictatorial

governments teeming with grave human rights violations and/or widespread civil strife. The meaning, importance, circumstances, and consequences of reckoning with the past became the central topic of increasingly diverse disciplines.

As these developments were taking place in the world, reckoning with the past in Turkey was neither able to find its way into the sphere of knowledge of the general political public nor to be accorded any attention by the academic circles. So far, not only do we lack any experience that could be construed as coming to terms with our troubled past(s) but we also miss debates addressing the subject in depth on the academic platform outside of the routine narrow political patterns. But we have to start somewhere.

OPPORTUNITIES THAT GROW – TARGETS THAT BECOME MORE VISIBLE

A society can come to terms with its past in various dimensions and by various methods. The content of the concept of coming to terms with the past became richer in every respect since Auschwitz which stands at the origin of coming to terms with the past and is still one of its principal symbols. Briefly, coming to terms with the past in a far-ranging and effective manner involves numerous aspects such as the legal, political, moral, cultural, scientific, pedagogical, and aesthetic; and different techniques come into play in connection with each. Countries with a troubled past now have a wide option to choose from among these techniques one that suits their particular social and political circumstances.

In this framework, we can outline the objective of coming to terms with the past as follows: Acknowledging the existence of the crimes against humanity or serious violations of human rights committed in the recent or distant past; punishing the perpetrators of the crimes in the recent past in particular; offering material and moral redress to the victims; questioning the reasons, structures, and mentalities that caused these crimes or violations; making the necessary arrangements to ensure that the violations happen “never again.”

The crimes or violations in the past can also be described as a problem of “violence causing a traumatic effect.” Of course, trauma associated with violence primarily denotes a situation experienced by the individuals subjected directly to this violence. But there is another dimension to the experiences of violence that is explained in terms of the concept of “collective trauma” and it is the processes developing around this dimension that coming to terms with the past often has to do with.

The experience of widespread violence may appear in miscellaneous ways in a society. In dictatorships, for instance, it is the systematic violations committed by the state or by its direct or indirect involvement that are more frequent. What happens here is a process of inflicting violence that works from the state to the whole society or to certain portions of it, namely “vertical violence.” Examples of this are the military dictatorships in Latin America and the 12 September period in Turkey. Another type of widespread violence experiences is the internal conflicts. What is experienced in such conflicts that often take the shape of a “civil war” although they do not necessarily have to end up in this state is a process of violence that emerges between certain sections of the society and gradually expands to involve others, namely the phenomenon of “lateral violence.” Here, the forces of the state are

generally a party to the strife and therefore “vertical violence” is also present; however, the expansion of violence across the social stratum gives rise to a situation that is different from the aforementioned possibility as far as the effects of the trauma are concerned. El Salvador, Guatemala, and Rwanda are examples of this.

Coming to terms with the past involves confronting the structures and circumstances causing the vertical and lateral violence and settling the accounts. The purpose for this is to create the structures and circumstances to preclude the recurrence of the violence and this can only be achieved by deviating from the line of legitimacy of the past. To have recourse to railroad terminology, coming to terms with the past is a “switching” operation of sorts.

THE PAST IS TODAY

A society’s coming to terms with the past does not mean that it has to lay its entire past on the operating table. What is determinative in coming to terms with the past is not a research into history or a historical science discussion but a demand for truth and justice for, as Marcuse said, *“the suppression of history [also] is not an academic issue but a political one. It is the suppression of the society’s own past and therefore its future.”*

Thus, the words “let us come to terms with our past” should not be taken to mean pulling our entire past into pieces in an effort to scrutinize it. The struggles concerning the relationship with the past are basically arguments intended to determine the political and cultural texture of the present along the axis of legitimacy and identity. These arguments are the most vital means and indicators of questioning and rendering ineffective the cruel and repressive policies of the past the effects of which are reflected pronouncedly on the present; and therefore they are about the emplacement of democratic values in the present far more than they are about the past. As Nietzsche said, *“we do need history but our need for history is a different kind of need than that of the arrogant and irresponsible vagrants in the garden of knowledge. (...) We need history in order to live and to act; not in order to turn away smugly from living and acting – much less to cover up the disgrace of selfish lives, lowly conduct, and evil deeds. We want to serve history only to the extent that it serves life.”*

So, what matters in coming to terms with the past is to discuss, question, and account for the violence-filled traumatic past.

SOCIAL DEMAND – POLITICAL WILL

The processes of coming to terms and reckoning do not set off on their own in societies with a traumatic past. The cultural composition of the society concerned its political customs, and its balances of political power play a determining role in this respect. For example, getting the process of coming to terms with the past started is much more difficult in a state that employs “letting forget” or even “forbidding to remember” certain things as “an administrative technique” and where the civil society is not sufficiently strong, either. On the other hand, the efforts and the power of subjects that carry on remembering and invite the society to remember is one of the key factors influencing the choice between remembering and forgetting. Those that are in the position of the victims/the wronged of the past, in particular,

can pull the society in the direction of remembering and reckoning if they are strong enough and persevering in their struggle. Actually, coming to terms with the past is an issue directly related to the political sphere. Here, different actors act with different reasoning. Many issues, chief among them the very decision to come to terms with the past, are determined under the influence of the balances of political power. If the will to come to terms with the past has gained strength in the society, what methods and techniques to use to what extent is determined according to the nature of the trauma in the past, the political culture, and the balances of power in the society. Therefore, the relationship between the "political will" and the "social reality" plays a crucial role in deciding whether a coming to terms with the past is to take place and, if so, determining its scope and method.

This complex ensemble of factors may cause the manner, method, and outcome of coming to terms with the past to show differences depending on the countries because each country would have a different "past," different qualities that would make coming to terms with this past possible, and different conditions to consider in identifying the methods to be used in the reckoning process. There are a great many countries in various regions of the world today that are going through a systematic reckoning with the past. In fact, we can say that there are almost no countries left that had a past filled with violence and violations and did not embark on an undertaking to come to terms or reckon with them in one way or another since the late 1980's. A list of examples would naturally start with Germany, followed by a major portion of the countries of Latin America from Chile to Argentina and from El Salvador to Guatemala, South Africa that forms a turning point in the controversy on coming to terms with the past, and various countries of Africa from Rwanda to Morocco. Mentionable in this context is West European countries such as Austria, France, and Switzerland which, after the Second World War, tried to cover up their wartime crimes with myths of resistance and the victim only to have to face them again after 1990; Spain which almost never talked about either the civil war between 1936 and 1939 or the forty-year-long Franco dictatorship but started looking into the past as of the early 2000's; and the countries of Eastern Europe which had to confront both their recent past and their records from the Second World War following the disintegration of the Eastern Bloc. As can be seen, these are all countries with different pasts and characteristics and it is not possible to speak of a single common model for all of them. But there is already a universal experience accumulated for the use of each country. If a country is going to start coming to terms with the past, looking at the experiences of other countries is quite normal, if not inevitable, today. A typical instance of this is South Africa where all the major countries of the world were studied and an original model was created in the process of deciding on the framework and methods of the reckoning to be done with the past.

TURKEY'S SPECIFICITY

What I have said generally about every experience bearing certain specificity is true for Turkey, too, except that Turkey possesses other traits diverging from the general case. Of the countries I listed, some experienced only a period of military dictatorship while others went through widespread domestic conflict and yet others suffered a massacre or mass killings. In Turkey, though, we have a case where experiences resembling all of these have happened in

succession and become intertwined, resulting in layer upon layer of troubled pasts. Some of these periods have remained long in the past such as the deportation and massacre of the Armenians in 1915. This matter remained absolutely unspoken for nearly ninety years; it never became a central topic of public debate outside certain official clichés. A subject that is well known in the rest of the world was assumed to be nonexistent in the country where it really had to be talked about in earnest. Now that a debate is in the offing, most people are hearing these things for the first time and the self-perception fabricated until that time gets a sudden jolt, which results in a kind of shock, even a traumatic effect. Furthermore, there is the 6-7 September incident, 27 May and the hangings, 12 March and the hangings, the massacre of 1 May 1977; the massacres in Maraş, Çorum, and Sivas; many "cold case" murders in the 1970's, 12 September, the violence and conflicts experienced since 1984 in connection with the "Kurdish issue" and the resulting losses, the policy of killing and systematically burning down villages that intensified in the 1990's, and many other happenings I cannot list here. None of these has been openly confronted with or systematically reckoned with. Consequently, an extremely hardened crust woven with the violence-filled periods of the past envelops our present. Even a small crack appearing anywhere in this crust can turn out to be very cataclysmic because a hard crust hurts very badly when it breaks. Now, as we look for appropriate ways to confront and come to terms with our past traumas, we also have to deal with the new traumas that our confrontation with the old ones is going to cause. To make matters worse, we can neither speak of a strong social demand for a reckoning nor of a sincere political will. In all of the examples around the world, though, these two factors have either coexisted or one has given rise to the other. And the bodies of the state have either supported or participated in all of these cases, be it voluntarily or unwillingly, sincerely or perfunctorily.

On the other hand, the processes of coming to terms with the past in the world generally got rolling after a development in the nature of a "turning point" such as an end to a war, a mutual cessation of domestic hostilities, a military dictatorship being forced to abdicate, or a replacement in the system. Open developments analogous to these do not exist in Turkey. So, all of these factors make Turkey unique in its circumstances and necessitate a quest for original ways and methods it can use.

To make this quest less traumatic and more constructive, we need above all an environment where we can discuss things freely. This discussion would facilitate the search for a consensus that there were indeed troubled periods in the past and that we have to come to terms with them. To achieve this, we must be able to get the message across that these discussions are not ills inflicted upon us by foreign powers and that the whole world has been dealing with them for some time now. This conference has been an extremely valuable stride in this direction. Knowing the terminology, the main elements of the theory, and the general outline of what has been experienced elsewhere in the world are greatly important for shattering the dogmas.

The way to start the processes of coming to terms with the past in Turkey passes through generating a strong public demand. Such a way can only be opened by creating an idiom addressing the society as a whole. The primary requirement for creating such an idiom is to

avoid viewing pain one-sidedly and making the position of the victim absolute. In the societies that have a past burdened with terrifying experiences of violence and have not come to terms with them systematically, there emerges a serious polarization, an open split, or even a deep chasm since the groups of the injured and the perpetrators and their supporters have their positions marked by far more pronounced boundaries. Coming to terms with the past and democratization are both experienced as highly laborious processes under such circumstances where the crimes that were committed in the past are so horrendous as to tie the tongues of the perpetrators along with the victims, the wounds so deep, and the moral norms in total disarray. The construction or the reconstruction of the "demos" which is a prerequisite of democracy becomes a priority requirement in such situations where the odds of encountering conditions describable as "social disintegration" or "the fall of the social" are not negligible at all. It is here that the meaning of frequently referring to the concept of "consensus" along with "truth" in the transitional processes mainly lies. And this demonstrates the vital importance that coming to terms with the past bears for remaking a "society" out of disintegrated communities and rebuilding "the social."

A RECOMMENDATION FOR A STARTING POINT: THE HRANT DINK ASSASSINATION

Yet another important problem area in countries like Turkey where traumatic experiences of violence pile up on top of one another is the choice of what past to start with to come to terms with and what methods to use. Unless an idiom addressing the whole of the society has been developed, each group of victims may easily gravitate towards an attitude claiming that its particular trauma is heavier and more determining and that it should therefore be given precedence in the process of coming to terms with the past. Building a hierarchy among the traumas and making one's own injury absolute run the risk of sacrificing the demand for reckoning to the open or covert conflicts between the injured groups.

Actually, there is nearly always a tight bond and even a certain determinist relationship between the various past experiences of violence of a society. Each traumatic experience that has not been reckoned with makes up the cause of the next similar one because refraining from reckoning means the perpetuation of the patterns of legitimacy and the mental/institutional structures causing the traumatic experience. Therefore, it is highly likely that a comprehensive reckoning backed with a strong public support, regardless of where it starts, could create dynamics we could call a "snowball effect," namely, expand by enveloping all of the traumatic experiences of violence in the past.

Still, this process has to be started somewhere and my recommendation is to put the Hrant Dink murder at the starting point because this murder seems like a summary of the murky periods in our past. To begin with the most recent past, the web of relationships involving the state grouped under the title of Susurluk could be reexamined in connection with this murder. It does not necessarily have to be assumed that this murder was plotted within this particular web of relationships; but the facts that spilled out into the open in the aftermath of this murder and the attitudes of certain state officials before and after the killing have shown once

again how deeply ingrained the so-called Susurluk mentality was. Likewise, the outlook that legitimizes all sorts of illegalities "in the name of the state" and "for the nation" and makes the most brutal instances of manslaughter appear permissible forms an inseparable element of this mentality; and it does not take much probing to pinpoint its reflection in the assassination of Hrant Dink. From here, we reach 12 September, the crux of the whole affair, which played a determining role in turning the mentality in question into a routine administrative technique. 12 September is not just any way station in this process; it is the main station. The side tracks to be laid from this station will allow a descent to the very heart of the traumatic experiences of violence in Turkey.

If we consider that the persons whose names were part of the leading cast in all of the dark, calamitous incidents of the pre-12 September period reappeared before us in Susurluk, we can move out from here to that particular era. A connection must also be established between the 6-7 September incidents and the lynching attempts that multiplied over the recent years. And finally, Hrant Dink was targeted and murdered because of his Armenian identity, as well. If we combine this with the nationalist/racist reaction to the slogan "We are all Armenians" chanted during that spectacular funeral, we can see the connection between the "Armenian Issue" as a whole and the assassination of Hrant Dink. This way, we can reach the deepest undercurrent in the voyage starting from the most recent trauma.

The Hrant Dink assassination can be made into a "breakpoint" to start the process of coming to terms with all these periods and to diverge from the line of legitimacy they feed. Many activities may be programmed at the civil level for this purpose. I think a demand that would include the murder in this process would be of special importance: the establishment of an "Independent Investigation Commission" with official status and broad powers that would deal with the murder in these contexts. A commission of this kind, to be composed of respectable names trusted for their impartiality, must investigate the connections of the assassination in all their dimensions and expose for debate the mental and institutional structures that made this murder possible. I realize that I am talking about a demand that is well near impossible to satisfy but "the policy of the possible" may sometimes commence by demanding what seems to be impossible. The experiences of countries such as Chile and Argentina may be of help regarding such a commission.

FOR SOCIAL PEACE AND DEMOCRACY

In conclusion, we must move away from our complexes and fears and reckon with our past if we are sincere about coming to terms with our history, hence with ourselves and with the peoples we lived together with in the past and the present; and if we want to build a solid social peace, a democratic political culture, and a state of law that works.

It is obvious that this would be a tough and long journey in a society that has plenty of traumatic experiences of violence in its past but has based its relationship with them mainly on "forgetting" or, more accurately, "suppressing;" and in a state that employs "letting forget" or even "forbidding to remember" certain things as "an administrative technique." But this does not justify giving up the efforts to ensure the blossoming of the "culture of

remembering" and its gradually taking root and constantly voicing the demand for "coming to terms with the past." Because such a resignation would mean giving up also the goal of becoming a "normal" society delivered from a government mentality that sees total disregard for human beings and human rights as its right when it so wishes, from the "culture of hatred and lynch," and from the threat of mass conflict and killing; and the struggle to democratize the political culture. Rebuilding a relationship with the past through remembering and coming to terms with it may be seen as a very remote possibility and a n unadulterated dream but an all-out hopelessness also seems unwarranted when one looks at the developments in the world.

Let us lend our ears to a distinguished voice rising from the Chilean society that experienced one of the painful examples of prolonged traumatic experiences of violence, Ariel Dorfman: *"Destroying the past is not as easy as some of those in power claim. Totally extinguishing the light glowing inside the men and women who give their lives for what they believe in is not possible as long as there remains one human being who still wants to remember them and keep them alive. That is enough; a human being screaming in the moral wilderness, first one, then another, that is enough to prevent the spark of justice from dying out. ... Sometimes, what is right is to dream of the impossible, to ask for the impossible, and scream for the impossible. History may be listening to us. History may give us an answer."*

“FORGETTING” AS A CONSTITUENT ELEMENT OF OUR NATIONAL IDENTITY

Ayşe Hür

Why do Turks¹ refrain from discussing their history and themselves? That is a question asked increasingly more often. In my opinion, “forgetfulness” as a publicly shared state of mind exhibits so much resistance both because of its cultural and religious origins and because historically it is a constituent element of our national identity.

I would like to start with the latter. Forgetting was a platform on which the Turkish identity was built by the founding elite of the Republic. First, they taught us that historically we were not the continuation of the Ottoman Empire. Next, attempts were made to consolidate this breakup by means of contrivances like the Turkish Thesis of History, the Solar Language Theory and the “revolutions” made in fields such as the alphabet, the way of dressing, law, weights and measures, calendar, and secularism. Another reason for these was to get rid of the Eastern codes of thinking that were believed to be a retarding factor in the society’s progress but that is not our subject.

Not only were the events in history “forgotten,” they were consciously distorted. Thus, we never talked either about our joining the First World War or the Sarıkamış disaster², the Armenian massacre of 1915-1916, and the defeats sustained in the Caucasus, Palestine, and Iraq that followed in succession because they were “parts of a history that was not ours.” So, a project was launched to create a “self-confident and healthy nation” out of an “exhausted and injured religious community” remaining from a collapsed empire. Not only the former Ottoman Committee of Union and Progress cadres that made a soft landing in the Republican era but also the conservative circles and those that described themselves as communists wholeheartedly took part in this process because the ones that were injured, disgraced, and had their pride broken were not the people, they were the intellectuals of the former Ottomans and the new Turkey. This way, the “Turkish nation” and the “Republic of Turkey” were fabricated as “pristine”, “sinless” and “immaculate” beings like the Phoenix rising from its ashes. However, while this “saintly” national identity was based on “not remembering,” “keeping silent despite remembering,” and “denying if speaking at all,” the society, just like the individual people, felt disturbed by the pressure swelling from its subconscious. This pressure made the Turkish intellectual who, in a sense, had been an accessory to the “crime of letting forget” irritable and aggressive so that in the end he/she had no choice but seek the feeling of safety under the wings of the state who was the plotter of this crime in the first place.

1 The term “Turks” here is not merely a nomenclature used by others but a vulgarization that I will, of necessity, have recourse to in order to schematize the subject. I am aware of the fallacy of such generalizations but I hope that you, the audience, will understand why I am doing this.

2 The Sarıkamış disaster: The defeat of the Ottoman army on February 25, 1915, which led to the death of about 175.000 soldiers and is considered the starting point for the massacres against the Armenians (ed.).

THE SCHIZOPHRENIC RIFT OF SAYING “NO” AND “YES” AT THE SAME TIME

The stance towards the Armenian massacre has a special place in this process of “integration.” Interestingly, the Turkish society has moved from saying previously that such an incident never happened to declaring that it was such a reasonable policy. In other words, it experienced the schizophrenic rift of saying “no” and “yes” at the same time. Moreover, a big burst of anger came to break out every time the subject was broached. When asked the reason for this, the answer is given that “the Turks are unjustly blamed.” In the proper way of things, a person, society, or state that is unjustly blamed would be expected to confront the accuser, demand evidence, and offer its side of the case against the allegations. Apparently, the Armenian massacre is a kind of collective secret of the Turkish society.

But what we are forgetting is not just this particular period in history. We never talked about our Republican history, either. We have not talked about the coups we experienced since 27 May 1960 let alone the Kurdish uprisings between 1925 and 1940. We are not talking about our civil war against the PKK, either. The state’s systematic policies of suppression and intimidation naturally play a major role in this but it is also clear that we, as a nation, are not particularly eager to remember. On the contrary, every step taken to bring these incidents to the level of the conscious, every urging in that direction is described as “a sign of the West’s intention to break us apart.”

THE RESPONSIBILITY OF THE INTELLECTUALS

As was the case throughout the history of the Republic, intellectuals of miscellaneous ideological formations unfortunately account for a major portion of the circles that nurture fear today. Sadly, a large portion of the Turkish intellectuals have yet to sever their umbilical cord to the Kemalist ideology. As for the part I may refer to as Islamist, they refrain from taking any steps at present because they view the policies of “remembering” as things of the West. Perhaps the Turkish intellectuals left and right are trying to protect their offspring with the attentiveness of parents who realize how brittle is the falsehood-based identity of their only child that they brought up with their own hands. But in doing this, they overlook the fact that the society, just as human beings, can not continue to live with suppressed traumas.

Actually, we could have carried on in this “unhealthy social state of mind” of ours for longer if it were not for the macro-framework that the twentieth century drew as an age of apologies by many actors from individuals to states and from commercial organizations to religious institutions for their political, economic, cultural, or social wrongdoings. There are a variety of opinions about the reasons lying behind this apology explosion, chief among them globalization, the demise of the nation-state, and the effect of the Nazi Genocide. Elazar Barkan, one of the scientists working on this subject, explains the “apologizing” policies with the concept of “international morals” as a new phenomenon. According to Barkan, “the knots made on a local scale mean weaving the fabric of international morals on a global scale.” John Torpey thinks the horrible experience of the Holocaust has a great share in the

development of this new sensitivity and that the Holocaust has set "a global criterion." While Jürgen Habermas, Jacques Derrida, and Immanuel Levinas address the issue entirely from the viewpoint of moral obligations, disciples of the realist school such as Alexandre Kojève and Stephen Walt point to the importance of coming to terms with the past with respect to international security. According to Bernard Giesen, the way people and societies watched each other changed so much as a result of globalization that it no longer makes any sense to talk about the pride we feel at humiliating the enemy or our glorious history seated on the annihilation of others in order to preserve out ethnic purity. While Ian Buruma believes that always seeing unjust treatment when looking at history and continually apologizing are equally unhealthy, Michel-Rolph Trouillot, who sees the wave of apologizing as the triumph of individual liberties over collective ones at the political level, thinks that in our globalized world we inadvertently treat collective identities as if they were individual ones and address them in terms of concepts such as "shame," "crime," "honor," and "pride" that are actually the province of individual identities. According to Trouillot, apologetic policies are efforts in vain when viewed from this angle.

Jeffrey K. Olick and Brenda Coughlin take things farther and see the growth in the sentiments of regret, grief, or remorse as a sign of the collapse of the nation state. Whatever the reason, the various societies living in Turkey felt the impact of this change. The groups that were wronged or thought they were wronged; Armenians, Kurds, Alawis, Arameans, September 12th victims and numerous others began to demand more "remembrance" from both the state and the other sections of the society. But this demand is received with resistance by not only the state (understandably) but also by the sections of the society one would hardly expect. I have been thinking for quite a while that this stems not only from the historical and political causes I mentioned in the beginning but also from cultural and religious causes.

THE CULTURES OF WRONGDOING AND SHAME

One of the views that led me to think this way belonged to the anthropologist Ruth Benedict. In her book *The Chrysanthemum and the Sword*, in which she collected her theses on the Japanese culture she developed in the 1940's, Benedict divides the societies of the world in two; namely, the cultures of "wrongdoing" and the cultures of "shame." Populating the first group with the examples of the "Western" societies coming from the Christian and Jewish culture and the second with the Muslim, Buddhist, etc. "Eastern" societies, Benedict describes the cultures of "wrongdoing" as autonomous ones respecting human rights, independence, the right to determine one's own destiny, and freedom. She goes on to say, "For a member of these societies, it is a person's inner voice and not the pressure of society that matters. He/she hears this voice all the time, however low it may be. If he/she has committed a mistake, he/she says, 'I sinned,' or 'I have done wrong' without anyone having to warn him/her and seeks ways to redeem himself/herself."

Benedict describes the cultures of "shame" as the societies in which the individuals judgment of what is right and wrong is determined by external factors. According to her, what matters to a Japanese is not personal autonomy, independence, or freedom but living up to the

expectations others, reciprocity, the sense of belonging, and social duties. The individual lives in the anxiety of being rejected by his/her social environment, being ridiculed, and being blamed. If he/she has done something wrong, his/her only hope is that this would not be noticed by others. In fact, despite his/her wrongdoing, he/she carries on living an honorable life until someone blames him/her.

True, such categorizations are utterly false in an age when interactivity between societies is so strong but I find it beneficial to delve deeper into this thesis for I have long been observing that an overwhelming number of Turks have adopted an outlook of the kind Ruth Benedict described. In my opinion, the reason why apologizing policies are generally successful in the Western societies which Benedict views as "societies of wrongdoing" may have to do with Christianity. It may be that in the West, the individual and society feel themselves obliged to fulfill the moral task of deliverance from wrongdoing – chiefly the Original Sin – at least contemplate their actions, and figure out their respective shares in the responsibility. The Turks, on the other hand, who I think exhibit rather the characteristics of a "society of shame," feel no need for such confession, affected as they are by both the culture of their Central Asian forefathers and the theology of Islam of which they have been devout practitioners since the 9th century.

YESTERDAY IS GONE

As is well known, one of the most significant aspects of the legacy that our culture inherited from our Central Asian past is the custom of dealing with history as a pile of heroic anecdotes and legends. The Turkish culture which produced its first written work in the 7th century relies on the verbal tradition and, like all verbal traditions, is open to simplifications, clichés, and distortions. Islam provides the ways, the theological justifications for cleansing this past totally of its faults because according to Islam, God gave Adam and Eve a chance to atone for their sin and they, realizing what they had done, repented. Thus, the Original Sin remained confined to the sinners and did not pass on to the newborn. No one can be held responsible for the sins of another in Islam because doing wrong is personal. Therefore, things like posterity being held responsible for the deeds of the past generations and apologizing on their behalf are foreign to the Islamic culture. A middleman like a priest is not needed, either, while asking for forgiveness for today's sins. Only the people who caused the incidents that happened in history are responsible for those incidents. Thus, history turns into an anonymous area "to derive lessons from the anecdotes of and then forget." The "yesterday is gone" outlook of folk Islam, i.e., the thought of Sufism, which represents an important tradition in Anatolian territories, is an expression precisely of this.

This evaluation, however, does not mean that our culture lacks the capability of fighting against evil. What I mean to say is that we must also address the cultural and religious reasons for our keeping silent about the issues in our history, chief among them the Armenian issue, and in particular not giving any thought at all to apologizing for them as well as their historical and political reasons. I think that performing this memory exercise, which I wholeheartedly believe to be a requisite for a healthy society, using our own cultural codes would yield better results than using codes like "confession."

TURKEY'S PROBLEM OF COMING TO TERMS WITH THE PAST: WHAT AND HOW?

Murat Paker

Turkey's problem of *coming to terms with the past/confrontation with her history* looms before us as a multilayered, complex, and consequently rather formidable challenge.

We are proceeding with difficulty – groping in the dark, as it were. We have to because Turkey has not come across an obligation for confrontation due to changing political conditions like the other countries that have trodden this path before. What we have here is neither a courtroom ordeal in the manner of Nuremberg and Tokyo experienced by the Second World War losers Germany and Japan nor an official Truth Commission that came up as a result of a serious change of regime or a radical political upheaval as in the Republic of South Africa, in particular, or in numerous South American countries. In this sense, we do not fit either of these two basic models the likes of which we have seen in abundance throughout the world as far as confrontation is concerned. Not only that, none of the mainstream political actors views this confrontation problem with sympathy. On the contrary, they are all making an effort to avoid a confrontation to varying degrees. (Could it be that) a very small minority among us is chasing illusions (?).

The confrontation problem is also multilayered because, contrary to the examples of confrontation across the world, there is no single event or epoch that needs to be confronted in Turkey. Our history is quite rich in periods/happenings involving persecution and/or massacre and none of them has been properly confronted. We cannot avoid the unsavory question, "Which one can we start with and how?"

The problem of Turkey's confrontation with her history is a complicated matter from another viewpoint, as well, because what has to be confronted is not history alone. A great many burning issues, chief among them the Turks vs. Kurds dichotomy, that Turkey currently has await confrontation after being stripped clear of historical lies and denials – they await a solution here and now. If the problem is not merely one of confronting history, if the present is also included in the confrontation, and if we are talking about a series of events/periods the common denominator of which is the state dealing out illegal persecution to its citizens, then it may perhaps be more appropriate to call this "Turkey's confrontation with herself" rather than "Turkey's confrontation with her history." Doubtless, there are plenty of individual historical or current events that must be confronted but what really counts is that the dominant political culture, which cut across all these events and caused them, confronts itself or, better yet, that it is made to confront itself. Hence, speaking of "confrontation," its parallel meaning in Turkey today is inevitably "democratization."

THE PROCESS OF UNOFFICIAL CONFRONTATION IS UNDER WAY

Can we still nurture hope if this confrontation is such a far-ranging and tough prospect to handle? I would like to recommend a prudent and patient optimism however difficult it may be.

Turkey has been going through a process of unofficial confrontation for the last five or ten years although it may be far removed from an official and systematic process of confrontation. Things have shifted as never before in the issues of Turks vs. Kurds, Turks vs. Armenians, Cyprus, minority rights, torture, and so on in the recent years and many more people had the chance to hear discourse other than the official dogma and to break through the official boundaries. The democratic reforms in the EU-process helped increase these opportunities for unofficial confrontation albeit on a very limited scale. At least partially, it is this process of unofficial confrontation and the coming off of the polish on the official untruths that lie behind the rising trend and tempera mentality of nationalism lately. I say "unofficial" because the crimes of today and yesterday have not been delved into with boldness and a will for confrontation/absolution – be it by means of official courts or official truth commissions. Such a political will is non-existent in Turkey for the time being. On the other hand, we should note Turkey's repeated convictions at the European Court of Human Rights as a part, however small, of the official process of confrontation.

THERE IS A PSYCHOLOGICAL, IF NOT FACTUAL, REALITY TO DELIRIUM

Even such miniscule and often unofficial confrontation drills draw widespread and harsh nationalistic reaction in Turkey. To put it bluntly, the stance taken by all manner of nationalist circles in the face of all the attempts at democratization and confrontation may be summed up briefly in the statement, "they are trying to divide us, to destroy us just as in the Sèvres era," which we call the "Sèvres paranoia."

"Paranoia" is believing in things that do not exist in reality, do not agree with truths, and are therefore factually false on the basis of excessive/irrational suspiciousness. We call these things "nonsense". Trying to ascribe meaning to Turkey's current needs for democratization/confrontation through the circumstances of ninety years ago and developing a destruction/survival anxiety for this reason is clearly a delirious situation; and in this sense, one of the core attributes of the dominant political culture in Turkey may be said to be a paranoid organization. When we speak of "paranoia" or "delirium," though, we are saying that there is something that is not working at the level of factual reality only. The "Sèvres paranoia," however, does have a *psychological reality* that should not be belittled and this appears to be associated with the unbemoaned collapse trauma of the Ottoman and ultimately with the destruction/survival anxiety experienced upon the termination of the First World War. The era of the Ottoman collapse is not understood properly or in a well-digested manner in this society. It is almost entirely dissociated from the political culture. The nationalist circles will stand up in delirious reaction at every possibility of confrontation; it would not be quite realistic to expect this to change. But we can hope and try to make sure that the sections of the society that prick up their ears to the nonsense pumped up by the nationalists and enter the orbit of this delirium are as small as possible. Whatever happens, confronting its history

will be rather painful and prolonged for a country that is highly heterogeneous and has a history full of traumas like Turkey.

CONFRONTATION IN WHAT ORDER?

What events will be dealt with first and in what order in confronting history is inevitably a psychoanalytic debate in essence – one thinks in terms of certain concepts and templates borrowed from psychoanalysis here even though one may not be openly aware of it. Are we going to start with the oldest nucleus of a trauma that seems to be the perpetrator of all evil and assert that confronting it will make confrontation with the subsequent traumas possible or, on the contrary, claim that the confrontation process should advance from the latest to the oldest? Possibly, what has to be said first is that whatever option we take theoretically, the social/political actors may not be expected to behave in an “ideal” manner as though we were in a laboratory environment and that both options could work simultaneously albeit at varying degrees. For some time now, Turkey exhibits a picture wherein these two options are both in operation. Still, it would be greatly beneficial if those in and outside Turkey who find the issue of Turkey’s democratization and its confrontation with its present and past important pondered what option would be the most productive and built their strategies/expectations accordingly. To put the matter in concrete terms, here is an example:

One of the several most fundamental asymmetries between the two sides in the Turkish-Armenian controversy is the different degrees of importance that Armenians and Turks attach to what transpired in 1915 and thereafter. 1915 always tops the list of important items in the Armenians’ domestic and foreign political agendas. As for Turkey, a country grappling with myriad problems, 1915’s topping the agenda does not seem quite possible. A country that has failed to solve the Kurdish issue, Susurluk, democratization, and poverty (or to cover serious ground in these issues) cannot push the burning issues of today aside and put a massacre from ninety years ago at the top slots of its agenda. Rightful parallelisms may be constructed between the state wisdom of 1915 and that of the present time and it may be alleged that a solution to the Turkish-Armenian problem could ease the solution of today’s problems. Such a claim seems to be based on the catharsis model that Freud used in the early years of psychoanalysis and later abandoned partially (and which is hardly ever mentioned in modern psychoanalysis). According to this model, in order to heal, one must develop an insight into a past traumatic memory (or memories) believed to cause problems and through this insight purge the spiritual energy (catharsis) that is tied up / blocked and is causing problems. The basic assumption underlying this model is that what is termed a traumatic memory is a memory capsule with defined boundaries and that the encapsulated poisonous memory may be digested by dissolving the capsule by means of an operation finding its equivalent in surgical or archaeological metaphors. This assumption is false in two fundamental premises. Firstly, catharsis (*i.e.*, the development of an insight into a traumatic memory, thereby achieving an emotional discharge) occurs extremely rarely, and when it does, it seldom amounts to a permanent state of well-being. The reason for this is that the vast majority of traumatic memories do not operate in the form of capsules with defined boundaries but with a fluidity affecting an entire system / basic networks. Therefore, surgical strikes will prove unproductive

and a systemic intervention is necessary. The second reason related to this is the requirement that the systemic intervention starts with the issues that can be best related to / addressed and are the most current/immediate/burning. If this is not done, and if addressing with priority the old and distant issues/situations is imposed at a time of least preparedness – however important and determining this may be believed to be – a tough opposition will develop, the process will be cut off, and a setup even more rigid than before may emerge. If we translate this framework to the Turkish-Armenian issue, a Turkey that could not confront the Kurdish issue, Susurluk, and 12 September and could not carry its democratization process to a certain level of maturity should not be expected to confront 1915 and to take radical steps in this area. The transformation in this matter will be a gradual one that extends over a longer term and is tightly linked to Turkey's democratization. Turkey's being forced to take a hasty step without remedying to a great extent the burning problems it is experiencing today and the tensions they cause would serve no other purpose than playing into the hand of the pro-fascist rise in Turkey. Saying all this is by no means tantamount to postponing dealing with 1915 and its accompanying issues or putting them to sleep. The Turkish-Armenian issue will necessarily remain a salient agenda item, if not the topmost / highest emergency one, in Turkey's agenda and continue taking up part (not the major part) of the work of the democratic opposition. Being aware of the asymmetry between the opposing parties as regards these degrees of priority is important for developing more realistic expectations and thereby avoiding disappointments that can be destructive. When pro-dialogue Armenians and citizens of Turkey come together, for instance, the asymmetry in expectations is readily noticeable. Most of the Armenians want an immediate solution to this long-ignored and long-denied issue, join the dialogue-seeking efforts with great expectations, and expect the citizens of Turkey, and eventually Turkey itself, to raise this issue to the highest place in their agenda as did the Armenians. That such an expectation is not realistic should be insistently underlined if the efforts at a dialogue and a solution are to proceed in a sound manner. On the other hand, Turkey should realize that it can not procrastinate for another ninety years the solution of this issue that has already been put off for ninety years, that it can not leave it well enough alone, and that it should walk briskly if not run.

FOR MORE CONFRONTATION IN UNOFFICIAL CHANNELS

Turkey does not appear close to an official process of confrontation. An unofficial process, on the other hand, is moving forward albeit slowly. I would like to conclude with several concrete recommendations to help deepen the latter.

- The ECHR (European Court of Human Rights) process can be utilized to much greater effect. Legal actions that have been taken to the ECHR and their outcomes may be made far more easily available to the public. The topic may be covered more frequently and in greater detail in the media.
- The currently experienced racist nationalist aggression may be exposed much more widely through initiatives with a preponderance of human rights activists and lawyers and with media support; accompanied by a persistence and shrewdness to bring them before courts.

- A comprehensive examination with relentless follow-up action on how other societies deal with controversial issues such as national identity, minority rights, Article 301¹, etc. would be helpful. In this connection, it must be explained over and over again what kind of rights the Turks living in other countries enjoy and how they would feel if these rights were not granted them.
- There is an embarrassing lack and pollution of information on the dark pages of our present, our recent past, and our relatively distant past. This information has to be made readily accessible especially to younger generations by using all manner of resources available (books, the media, the Internet, lectures, etc.) without expecting miraculous results in the short term and knowing that this would take endless patience. This society needs to get informed, get curious, and ask questions above all.
- An unofficial truth commission may be established. It may prepare comprehensive fact files from archive material and testimonials, make them interactively accessible over the Internet, and publish them.
- Works of art about these issues would probably be more effective than everything else in helping the society come to terms with itself for this process is as much emotional as it is cognitive, perhaps more so. Societies express, work out, and transform their emotions best by means of works of art. Cinema and the novel should be considered as the two most effective channels.
- Confronting the past is not only about confronting evil. There are many good people of ours who stood up against evil when these evil deeds were being done and suffered for it. While perceived as an act of reckoning with the evildoers, the process of confrontation should also be regarded as one of honoring those that stood up against evil. The people living today should be made to identify themselves with those that opposed evil rather than those that committed evil deeds. Therefore, we are badly in need of finding out about the stories of the opponents of evil, watching their movies, and reading their novels.
- Another very crucial aspect of this project is that while confronting the traumas it caused, *i.e.*, the traumas it was involved in as a perpetrator, Turkey should also face its own fears, the traumas that befell it, the traumas it experienced as a victim or those that brought it losses. This may even be necessary if Turkey is to be able to go through its confrontation with confidence. What comes to mind first at this point is the colossal trauma of the Ottoman collapse that has not been properly lamented and digested. This period of collapse and the losses sustained at the time are not known in Turkey as well as they should be – they are always obscured. Unless we know, understand, and digest this period, that is, unless we work its grief out of our system, we will never realize that it has remained in the past and that today is a new day, which will provide fertile ground for the persistence of what we call the “Sèvres paranoia.”

1 Article 301 of the Turkish penal code makes it a crime to “insult Turkishness”.

CVS

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Ayşe Hür was born 1956 in Artvin. She took her bachelor degrees in History, International Relations and Political Sciences at the Boğaziçi University, Istanbul. She took also her master degree at the same university. The title of her thesis is "Historical Reconciliation Policies of the European Union. A Comparison: The Beneš Decrees and the Armenian Issue". Right now she is doing her PhD at the Atatürk Institute at the Boğaziçi University. She earns her living with social science- and market researches. Besides that she writes article for different newspapers such as *Radikal*, *AGOS* and *Toplumsal Tarih*.

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Mithat Sancar was born in 1963 in Nusaybin, Turkey. He got his degree in 1984 from the Faculty of Law at Ankara University and worked afterwards at Dicle University in Diyarbakir for five years. From 1987-1988 and 1990-1991 he worked at the Westfälische University in Münster, Germany. After his publication "State of Law" he became assistant professor in 1999. In addition to two books he wrote many articles about state theory, constitutional law and human rights. Together with Tanil Bora he translated Jürgen Habermas' "*Strukturwandel der Öffentlichkeit*" into Turkish. Today, Mithat Sancar is a professor at the Faculty of Law at Ankara University. He is also founder of the Turkish Human Rights Foundation (TIHV) and a member of the editing board of the journal *Toplum ve Bilim* (Society and Science).

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Ulrike Dufner has been the director of the Heinrich Böll Foundation's office in Istanbul since January 2004. She is an expert on foreign policy and international relations, conflict resolution and management as well as on Turkey and the Near and Middle East. Ulrike Dufner previously served for one and a half year in the Foreign Office of the Federal Republic of Germany at the Turkey and South-Caucasus desks. During the years 1999-2002, she was director of the parliamentary office of the former Minister of State in the Foreign Office, Dr. Ludger Volmer. Prior to that, Ulrike Dufner served as advisor on international politics, conflict management and resolution as well as international human rights issues with special emphasis on the Near and Middle East as well as Maghreb countries in the German Bundestag. In 1996 she wrote her PhD in Political Science, Turkology and Modern History.

If one part of a society has treated another of its parts in an unjust manner, treading human dignity underfoot, and has latter decided to live side by side with the wronged part in peace, then coming to terms with the past is required for the sake of easing the consciences of both parties. Coming to terms with the past plays a significant and determining role in building democracy. A society needs to come to terms with the past in order to safeguard the basic human rights and liberties of its citizens and individuals. Only when the illness of denying and blaming is cured and efforts are made for a dialogue will the foundations of democracy have been laid.

The essays in this book were the speeches of Turkish speakers in the conference "From the Burden of the Past to Societal Peace and Democracy – Coming to Terms with the Past" on February 24-25, 2007 and explain the importance of coming to terms with the past. We hope this book makes a productive contribution to Turkey's coming to terms with its own history. We took special care to make sure that the book covered a major portion of the thoughts and concerns about the subject that are currently under discussion in Turkey. As the Turkey office of the Heinrich Böll Foundation, we would like to offer this book to international public opinion for the purpose of contributing in the coming years to the democratization of this country and to a broader and deeper exchange of opinions on the ideas, concerns, and hopes existing in Turkey about coming to terms with the past or confronting history.