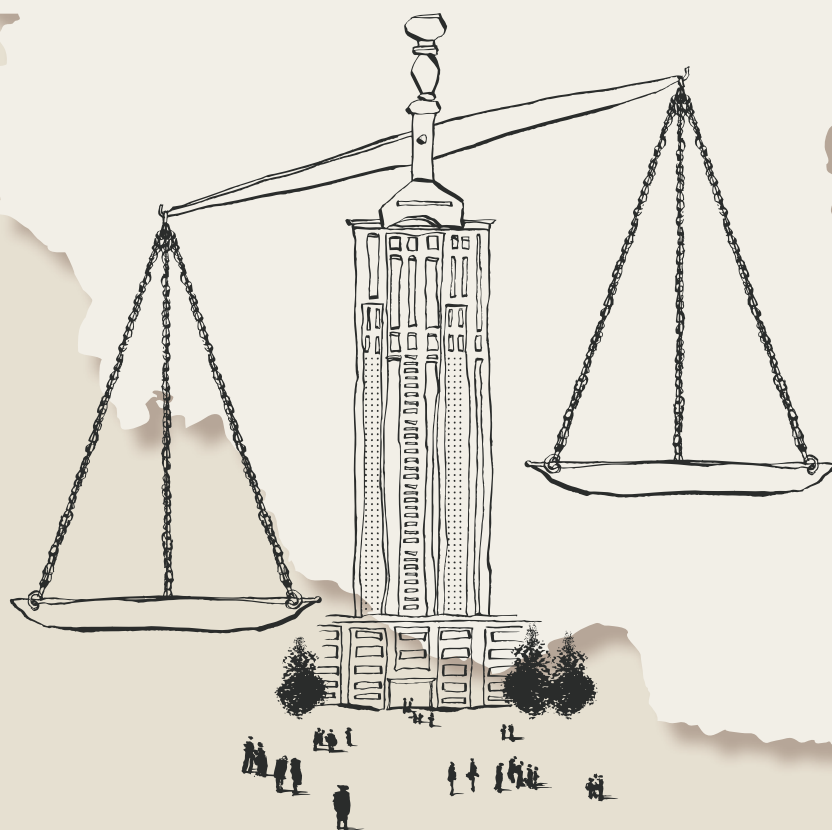


THE FUTURE OF IRAN: TRANSITIONAL JUSTICE

Reflections on Forgiveness and Transitional Justice in Iran

By Ramin Jahanbegloo



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INTRODUCTION

George Santayana once said: "Those who cannot remember the past are condemned to repeat it."⁽¹⁾ Santayana was one to believe that the possibility of human progress was dependent on our human potential to retain our historical memory and build upon it. Yet, if we consider the generations of Iranians who have endured political violence and tyrannical rule, it seems probable that the opposite holds more truth in the historical record of the Iranian nation. It might come to us as a question why a nation which remembers its past, lives its past, and honors its past is routinely repeating the repertoires of violence that constitute its legacy. After all, to remember an act of violence and to condemn it is to struggle against it, whether there are individuals who were directly or indirectly harmed by it or who directly or indirectly organized it. So, in the context of political violence in a country like Iran, how may remembering acts of violence make those affected more likely to repeat it? The answer to this question may have to do with the fact that political violence is not a genetic concept but a political one that is subject to intergenerational fading of historical memory and deliberate forgetting. Needless to say, as memories are being passed down from generation to generation, they seem to lose elements of suffering that were endured in a group at a certain point in history. Therefore, the way societies internalize their collective memories of political violence and overcome it through an act of truthfulness becomes a salient feature in considering the possibility of non-violent action among citizens. Simply put, one needs to explore the linkage between historical collective memory of violence and just how this figures in the violent practices of collective political action. The historical trauma of violence which is experienced by the Iranian collective memory seems to be rearticulated and reified onto and into Iranian political identity.

TURNING HUMAN WRONGS INTO HUMAN RIGHTS

It took humanity a long time to embrace an accountability imperative instead of the extremes of vengeance—as the appropriate fate for perpetrators of political repression and mass murder. However, it goes without saying that this accountability imperative involves a complex blending of multiple mechanisms. Despite the creation of institutions, such as the International Criminal Court and the various ad hoc international or internationalized tribunals to harmonize modalities of justice and modalities of truth production, the preference, in many political cultures, for retributive trials calls for deeper interrogation insofar as it may facilitate new atrocities and endanger the democratic transition. Even more problematic is the connection between the cultural particularities of each transitional society and transitional justice mechanisms, such as truth commissions, vetting, reparations and memorialization. After all, transitional justice is more than a simple stoic co-existence or grudging co-habitation. Actually,

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transitional justice is about embracing the complexity of truth, justice, and transition in post-dictatorial societies from a non-violent perspective. The transitional justice project aims to confront centuries-old violent modes of behaviour—those of political repression, conflict and war, the abuse of women and children—and to contribute to the prevention of future violence and crimes. A now commonplace argument is that an inability, or unwillingness, to adopt truth and justice policies during transition periods means that the past will continue to haunt the present and that past mistakes will be repeated. The case of Iran is far more serious, however, than that of Spain's "Franco Syndrome" or Chile's "Pinochet Syndrome". Iran genuinely embodies Michel Foucault's idea that "memory is a struggle over power and who gets to decide the future." Its contemporary history underlines the dangerous ambivalence of memorialization processes: while some affirm democratic values, others may cultivate renewed violence.

Proceeding with transitional justice and recalling the horrors perpetrated in the Islamic Republic of Iran are no easy task. Where does one start? With the first executions of the dignitaries of the Shah's regime in 1979? With the war in Kurdistan in 1980? With the mass murders of 1987? Or with the killing of young Iranians during the post-presidential elections of 2009? Precise information about these crimes is difficult to obtain, as repression continues in Iran and many uncounted bodies still lie in mass graves. We do, however, have clear evidence of systemic terror and human rights violations on a massive scale in the Islamic Republic of Iran. Also, the case of Iran illustrates how distortions of history and memory can end up being used by a powerful state to create a national myth. But given the absence of any official efforts, initiatives undertaken by the Iranian civil society organizations to seek truth, defend victims' rights, and deal with the past on their own, are important and significant ways of implementing transitional justice for the future of Iran. However, pushing for justice and recognition for the victims

of the Iranian regime, while using mechanisms of transitional justice, requires the integration of local, customary and indigenous methods of justice into internationalized accountability norms.

It is hard, indeed, to imagine a transitional future for Iran in which the present state actors will not be held responsible and accountable for their criminal and anti-humanitarian actions. However, such a process of accountability cannot take place as long as the Iranian citizens do not feel the political necessity and the civic responsibility to confront the past and to advance transitional justice objectives within the framework of democratic reforms. As such, it is up to the Iranian civil society to deal with the ghosts of the past. Perhaps because truth appeals to individual memories in Iran, which to some extent do not require state intervention, transitional justice initiatives may rely a great deal on the relentless and courageous activities of civil society groups. Thus, the truth could emerge independently of any state action. Such an approach could show the world

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that Iranian society is not suffering from a total historical amnesia and there are too many pasts on which Iranian people can draw their non-violent transition to democracy. For this reason, it is not surprising that non-violence looms large in every discussion about the role of transitional justice in the aftermath of Islamic theocracy in Iran. Yet, recognition of this issue is only the beginning of a more complex debate about the culture of violence and non-violent strategies in contemporary Iranian society.

IS NON-VIOLENT TRANSITION IN IRAN POSSIBLE?

Few observers could deny that contemporary Iran, in light of its religious and political characteristics, is a country of violence. An observation and analysis of this violence, however, should not be extended to a rapid conclusion that Iranian society is alien and resistant to any non-violent change. Since 1979, Iran's republican potential and civic capacities have been overshadowed by the “Islamic theocratic mantle”. For many analysts, Iran simply became a violent theocracy with no hope to forge a path towards non-violent and democratic change. A dark cloud has hovered over Iranian political consciousness for hundreds of years, if not for several thousand years. All through the ages, Iranian thinkers and mystics wondered whether anything mattered in a world where absolute violence was permitted. However, after the Iranian encounter with modernity Iranian intellectuals were forced to re-evaluate the idea of violence because of what this meant for modern politics. Therefore, they were confronted by the problem of justification of violence, of how to act toward others in the context of absolute theological rule or absolute secularization of the Iranian public sphere. More clearly, violence not only injured and annihilated them, but it also made them injure and annihilate others and, even worse, to betray their commitments to their own humanity. At this level, the ethical nature of consciousness among many Iranian intellectuals failed to oppose the historical course of violence. Accordingly, Iranian intellectuals have always

been face-to-face with the modern predicament of violence. It is within this predicament that remembering historical violence caused new violence.

Taken all together, the modern history of Iran has been a narrative of violence in the form of conflicting discourses between the religious and the secular or between the modernists and the traditionalists. As Iran encountered modernity, these discourses have competed and at different times, one or the other has prevailed, significantly changing the course of Iran's history. Each one of these changes linked for a short period of time the history of violence in modern Iran with the history-to-be-made of non-violence. True, non-violence in Iran has always been the call of a few; but it has always appeared as the wish of all. After all, non-violent action has always been a condition to a 'fresh start' in Iran where people need to confront the cycle of violence and hatred that often obscures democratic efforts and closes the doors to reconciliation and solidarity. During the last three decades the Islamic regime and its political and judicial structures have dominated all the spheres of Iranian life by imposing a high degree of violence. Despite this extreme violence and all the dangers that it implicated, women's rights activists, intellectuals and students groups found a voice in the Iranian public sphere and worked constantly to gain their freedom of expression and other basic rights. Principled preference for non-violence among all these civil society groups revealed a curiously persistent method of interacting with the prevailing authoritarian norms, values, and laws. Therefore, non-violence was employed by Iranian civil society with complete confidence and to its greatest moral advantage. Violence, on the other hand, was viewed both as immoral and impractical since it continued to generate new and more complicated problems than the ones it aimed to solve. It generated a legacy of negative sentiments that perpetuated conflict rather than peace. Interestingly, in today's Iran, non-violence is not only considered as a strategy for winning a conflict, but also as a mentality that makes it impossible for new arbitrary rulers to control the lives of Iranian citizens. An arbitrary ruler's vulnerability to non-violent resistance is rarely visible to those who underestimate the moral and political force of non-violence. Iranian people have an advantage in their non-violent struggle that many other countries in the region lack: they have democratic and non-violent memories to draw upon. The Constitutional Revolution of 1906, the Mossadeq movement and the Revolution of 1979 exemplify many of the non-violent attributes that can appeal to Iranian civil society.

Looking back, one can argue that non-violent action in many instances of these historical events has been a means of achieving change and the first line of defense of democracy. Four generations of Iranians had to use non-violent methods to show how morally different and how spiritually creative they were in comparison with the arbitrary leaders who oppressed them. As such, non-violent sanctions have been far more frequent and widespread in Iranian contemporary history than usually supposed. They continue to be crucial elements of history-making struggles in Iran today. Many continue to believe that violence is the ultimate form of politics in a country like Iran. Told that way, Iranian contemporary history would reinforce a terrible fallacy: that only violent action can overcome a violent regime; that democracy can only be gained by force of arms. If that were true, a non-violent politician like Mossadeq could not have come to dominate the

Iranian political landscape. However, one important point to recognize is that though the potential for democratization of Iran was present in figures like Mossadeq and in many Iranian non-violent movements, all the major nation-changing popular movements for self-rule ended tragically in violence and in a new arbitrary rule. The more that was given to Iranian tyrants, the more they fortified themselves and the more they asked for obedience. But violence is like non-violence in at least two ways: it does not always succeed, and it operates by identifying an opponent's weakest points. A political regime seeking to practice more control will often resort to extreme violence. However, violence is not a function of fate; it can fail and it usually does.

Never in the past hundred years did the Iranian people possess any military advantage over the regimes they confronted. But this military weakness never dissuaded Iranians from rising against different forms of injustice. The non-violent action they took had a moral value and legitimacy in overcoming the violence of a government that had lost all moral and political legitimacy. At each crossroad of history it undermined the regime's claim to moral legitimacy and it diminished its political control over people's fates. In her incomparable essay, "On Violence", Hannah Arendt argues that violence is "utterly incapable" of creating power—that, "the danger of violence, even if it moves consciously in a non-extremist framework of short-term goals, will always be that the means overwhelm the end. If goals are not achieved rapidly, the result will be not merely defeat but the introduction of the practice of violence into the whole body politic."⁽²⁾ Arendt explains perfectly how violence diminishes the power of those who use it. This has always been the case in Iranian contemporary history. But the power of Iranian civil society has never grown out of the barrel of a gun. It has removed tyrants and changed social values by using its moral capital and practicing non-violence. The uncertainty of the final outcome of political struggle in Iran today should lead us to underline the primacy of non-violent means over the contingency of ends. Today, the Gandhian moment of non-violence has become an ethical standard around the world, and with a few exceptions like the Islamic theocracy in Iran, its enemies are gone. More than a hundred years after the Constitutional Revolution of 1906, Iranian people are still in quest of a social covenant through which they can acquire and practice public freedom. This is their hope. But it is also their faith in the future of Iran. With this faith they will be able to work together, to struggle together and to stand up for freedom together. But it is only when they shall take no part in violence and shall be ready to forgive and to reconcile, but not to forget truth and justice, that their disavowal of violence will bring them a freedom that will ring from the snow-capped heights of Mount Alborz. As Archbishop Desmond Tutu affirmed in the context of the South African Truth and Reconciliation Commission, "It is ultimately in our own best interests that we become forgiving, repentant, reconciling and reconciled people, because without forgiveness, without reconciliation, we have no future."

A NON-VIOLENT APPROACH TO TRANSITIONAL JUSTICE IN IRAN

In a violent political society like Iran in which most of the ethical values have been largely discarded the choice of non-violent action by the Iranian civil society is a proof of its political maturity and moral integrity. As such, since much of the pressure for non-violent social change has emanated from local civic actors, therefore, it makes sense that the sociological actors of the Iranian civil society themselves take primary responsibility over the establishment of transitional justice as part of a broader democratization process, deciding what type of non-violent intervention might be suitable, who is going to be involved, which values will guide their work and what benchmarks should be used to evaluate the progress of transitional justice in Iran. Actually, those with the greatest stake in transitional justice building—often those who have been on the receiving end of violence from the state and its paramilitary and security arms and indeed local—should themselves be direct participants in the process as innovators, planners and implementers. Hence, top-down initiatives need to be accompanied by culturally appropriate grassroots programs such as the efforts that took place in East Timor, Rwanda and South Africa.

What is needed now is not only the courage to challenge the moral and political illegitimacy of the Islamic state in Iran, but also the possibility of forgiveness and reconciliation as a forward-looking type of political change. Such a change will happen not solely through mediation or casework, but also through advocacy. The significance of moral leadership provided by political ex-prisoners and civil society activists such as students, intellectuals and women's rights associations is central here, particularly in promoting acceptability of transitional justice in Iran. The challenge here would be the interface between community restorative justice and the future state retributive system, where informal bottom-up meets formal top-down. Some of the key issues in this debate in the future of Iran will most likely relate to establishing a common definition of transitional justice, forgiveness, reconciliation and non-violence. Issues of trust and mutual respect are core values of this exercise in transitional justice building, within a process of wider democratic transition in Iran.

Iranian civil society needs to develop a specific strategy in dealing with past human rights abuses in Iran by building its proposed transitional justice approach using a bottom-up model and avoiding pre-arranged processes. As such, when we talk about transitional justice in Iran we should not reduce it to a victor's justice since the price of victor's justice is a continued violence. Instead we can suggest what we can call a "non-violent justice" that does not embrace exclusion and murder but it is, on the contrary, a form of inclusiveness, reconciliation and forgiveness. What is suggested herewith is not a revengeful punishment of perpetrators of violence, but the formation and education of human rights culture in order to avoid new criminal trials based on revenge. One cannot, however, underestimate the difficulties of such a process, especially because the experience of justice in Iranian society in the past 34 years has been equated to that of revenge and death penalty. But the move to the idea of a non-violent justice in Iran can promote the idea of justice as recognition and restoration that helps to transform Iranian

society from an unjust society into a more just one. And if this is right, most of the debate about transitional justice should be boiled down to one: how to turn past human wrongs in Iran into future human rights?

The issue of turning human wrongs into human rights is partly to establish reparations and accountability of state crimes in Iran as political realm that has a capacity of producing and institutionalizing violence, but there is also the question of producing and maintaining a moral capital among Iranian citizens as a promising foundation for responsible public action given the fragilities of public life in Iran. The international institution of justice and accountability in Iran is one of the institutional orders that can mediate and organize the effort for taming of violence in the Iranian society. This perspective of institutionalizing international humanitarian rights may also serve to criticize not only current power structures in Iran, but also the basic capabilities of political and public violence making in the Iranian society. A structural change in the process of state violence in Iran is not only possible by moving Iranian politics gradually into the framework of international approach to justice, but also by demanding and educating Iranians to face their political traumas and revisit their historical identity as standard of responsibility. That is the reason why, if the “who” of democratic transition in Iran is certainly a complex issue, the “how” of this transition is even more problematic. As such, the process for non-violent and democratic change in Iran is also a matter of Iranian people to have the courage and suggestiveness to seek the truth. It is, therefore, important that we regard the justice of the transition in Iran not only in relation with the inner morality of the human rights but also in continuity with the moral capital of Iranian civil society. If this is the case, the assumption that transitional justice in Iran is supposed to be a radical break with the past is replaced by the argument that we could continue to live with the remembrance of the injustice of the past through the work that forgiveness and reconciliation do in the present. Put differently, the motor of the future transitional justice in Iran should include not only the principles of human rights constructed as a universal ethics but also apply forms of non-violent reciprocity and empathy experienced during the dark times of dictatorship by the Iranian civic actors.

IS FORGIVENESS POSSIBLE IN IRAN?

The challenge in a country like Iran is to combine the call for truth and the demand for accountability with the act of forgiving and breaking the cycle of violence. Forgiveness in some ways makes transitional justice possible against what Hannah Arendt calls the “predicament of irreversibility.”⁽³⁾ As Arendt says, without “being forgiven, released from the consequences of what we have done, our capacity to act would, as it were, be confined to one single deed from which we could never recover; we would remain the victims of its consequences forever.”⁽⁴⁾ This is to say, forgiveness is essentially a non-violent strategy that breaks the cycle of violence by avoiding new forms of violence and new victims. It goes without saying that forgiveness is not capable to render the harm caused by the wrongdoer, but it can shape transitional justice in a politically and effective manner. It is true that forgiveness can never be a legal norm imposed by a democratic state but it could be an ethos of hope and solidarity. As Charles

Villa-Vincencio suggests, forgiveness in the context of the Truth and Reconciliation Commissions (TRC) requires “convincing evidence that the majority of citizens endorse the TRC as a mechanism of transitional justice.”⁽⁵⁾

Fundamentally, forgiveness cannot be prescribed as a normative model, but it can be recommended as a moral imperative that takes us out of the entanglement of memory and vengeance. As Jose Zalaquett, a Chilean human rights activist affirms, underneath forgiveness lie the “twin goals of prevention and reparation in the process of moral reconstruction.”⁽⁶⁾ Forgiveness in this sense need not to be a substitute for transitional justice, but a way to renounce resentment, re-establish the dignity of the victims and forge new social solidarities. Actually victims of violence have much to gain from being able to let go of resentment and vengeance. However, forgiving the recalcitrant wrongdoer is not necessarily forgetting the fault. In other words, transitional justice should not be considered as a lawful amnesia of a nation. But a nation flushed with the enthusiasm of democracy and stung with the horror of violence cannot submit its captive enemies to the sole judgement of revenge and vengeance in order to retaliate to the wrongs done in the past. The only way to avoid such escalating violence is to make new powers pay tribute to ethics by promoting and facilitating acts of personal or group forgiveness. This role can certainly be played by a new democratic state in Iran, but the role of non-state actors in creating a climate conducive to human rights and a shared narrative of forgiveness and reconciliation is even more crucial. The wager is based at least in part on deterring a culture of violence in Iranian society that has the potential to create future dictators or leaders of mass destruction.

One hopes that a number of Iranian cultural and spiritual influences could help to resist a future national temptation to dehumanize the perpetrators of past crimes. It is true that there are no simple answers to the violence from the past, but there are the countering forces in Iranian civil society that could remind their community of what can, and cannot, be measured as non-violent justice, common humanity, and empathy. Perhaps the challenge here is to meet and emphasize on the historical and cultural elements of non-violence in the Iranian culture. As such, just as a culture of violence can undermine the intense need of justice, peace, and reconciliation in the Iranian society, a non-violent reading of Iranian history can also potentially contribute to the goals of transitional justice in Iran.

Moreover, introducing non-violent thought and strategy at the Iranian secondary school level conceptually fits into the work of the future process of transitional justice in Iran. In other words, culture and education should have an important place at the table of justice planning in the future of Iran. The challenge here is to provide teachers and students with pedagogical methods and facts on the culture of non-violence so that they could become agents of non-violent social change. The evidence from South African and Latin American TRCs, as how different transitional justice mechanisms were reflected in classrooms, can contribute to the educational possibilities of non-violent justice in Iranian society. All this will have important implications for young Iranian citizens in their first encounters with transitional justice. Ultimately, perhaps, reflect a practical view about the recognition of non-violent moments of Iranian history that could help Iranians in the path of facing who they are and what they could become.

CONCLUSION

Many Iranians rightly believe that they are not responsible for the crimes that were committed by the Iranian state. But many Iranians are responsible for the culture of violence which produced it. The unfortunate reality is that Iranian politics has been shaped and practiced over centuries within a culture of violence that too often rewards unjust and criminal behaviors. This should capture our urgent attention. What causes this violence? Most responses start to list many things like religion, poverty, illiteracy, patriarchy, and male tendencies. Most of us also believe that this violence is the result of greed for power among unscrupulous leaders. But the point remains that the unethical climate that produces past, present and future assassins in Iranian society is a familiar one. It is an unethical climate not because of Iranians who perpetrate violence, but because of Iranians who view it as a normal process. The danger in countries such as Iran is that punishment remains imprisoned within the repetition of vengeance and violence. For this reason, I believe two things should be taken into consideration for a society like Iran. The first is to address the whole base of civil society and its role in the process of democratization. Second, and more important, is to make the whole Iranian society accountable, and not only the offenders with how knowledge of repression was and is represented and how the structures of violence were and are accepted in the Iranian society.

We can make here a comparative analysis of the concept of “Iranian guilt” with what the German philosopher, Karl Jaspers, called The Question of German Guilt. Jaspers very correctly stressed the importance of prosecuting Nazi war criminals as an element in a more general re-evaluation of responsibility after Nazism. He argued that the Nuremberg trials made a necessary distinction between those who were criminally guilty and the indefinite number of others who were capable of cooperating with Nazism under orders. Jaspers rejected the defense advanced by the Nazi defendants as an evasion of their responsibility, because as he said the institution of crimes against humanity insists not only on the political structures in which violations of human rights happen, but also it refers to the moral responsibility of a nation in its tiny acts of indifference which make injustice and crime possible.

What Iran will need in the future is a “third way” between the extremes of vengeance and national amnesia, consisting of judicial mechanisms that would allow the victims of state crimes and abuses to tell their stories in their own words. All things considered, victim involvement in the future process of transitional justice would be a positive action for national healing in Iran. National healing speaks to something larger than any particular political offense and works its magic by a kind of therapeutic power that cannot be understood merely in terms of transition to democracy. After all what is important for Iran is not only to attain victory for democracy, but also to be mindful of the terrible past from which this democracy will come one day.

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