

## **The boundaries of *transitional justice* Jean Améry and Johan Degenaar on the tension between survival and justice**

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### **Abstract**

What can political philosophy, interested in the field of ‘transitional justice’ learn from dissident voices in states who try to define their future while dealing with a past where human rights were severely violated? In this article I discuss Jean Améry’s reflections on Germany’s handling of their national socialistic past and compare that with texts of the South African philosopher Johan Degenaar. My premise will be that with regard to a central point, Améry and Degenaar’s reflections on their nations’ respective political choices display a strong resemblance: both resisted the notion of the priority of the (quasi-) natural survival of the nation over the sake of justice. But I will indicate also that the resistance of Améry and Degenaar was partly in vain: mainly, survival triumphed over justice in both cases. This indicates the lasting meaning of ‘anamnestic reason’, a conscious, critical remembrance of the past.

### **Key words**

*(Transitional) justice; survival; resentment; Apartheid; National Socialism; anamnestic reason*

## **1. Two dissident voices**

Jean Améry (1912–1978) was born Hans Mayer, the son of a Jewish-Catholic Austrian family – Améry is an anagram of his original surname. After the *Anschluss* with Nazi Germany in 1938, Améry fled to France and from there later to Flanders. There he was arrested in 1943 as member of a resistance group. He was tortured by the Nazis, and eventually deported to Auschwitz and various other concentration camps, from where in 1945 –

in his own words – he, ‘suddenly re-emerged into the world – dressed in a zebra suit, and weighing forty-five kilos.’<sup>1</sup>

For over two decades this writer-philosopher was mute on his experience in the camps, until in 1966 his collection of essays entitled *Jenseits von Schuld und Sühne* (Beyond Guilt and Atonement) was published. The work’s subtitle – *Bewältigungsversuche eines Ueberwältigten* – may be translated as ‘an overwhelmed (person’s) attempt at coming to grips (with the past)’.<sup>2</sup> One by one the essays represent the painful self-investigations of a tortured human being (later, in 1978 – at the age of sixty-six – Améry would commit suicide) but also attest to great eloquence and moral incisiveness.

In this article I will discuss Améry’s reflections on Germany’s handling of their national socialistic past and compare that with texts of the South African philosopher Johan Degenaar (1926–2015) – a dissident political philosopher during the Apartheid era. I would like to start off with two remarks that may clarify what I have in mind.

First of all I shall explain from what point of view I question these two authors. I wonder what political philosophy, interested in ‘transitional justice’ – a fast growing field of research – can learn from dissident voices in states who try to define their future while dealing with a past where human rights were severely violated.

Secondly, I would like to make it clear from the beginning that I do not in any way see the personal fate of these two philosophers as comparable. Améry was a Jewish victim of the Holocaust. He survived and was left with lifelong emotional and mental wounds. Not only was his suicide an evidence of this. As we will see in this article, Degenaar can only be considered a victim of the apartheid system and the apartheid culture in a very limited way. He belonged to the group of people that was responsible for this apartheid’s culture and the injustice that was part of it. Inside this

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1 See Jean Améry, ‘Wieviel Heimat braucht der Mensch?’ in: Améry, *Jenseits von Schuld und Sühne. Bewältigungsversuche eines Ueberwältigten*, (Stuttgart: Klett Kotta, 1977 (orig. 1966)), 74–102. Also see Wikipedia entry ‘Jean Améry’ (page retrieved 08–4–2016).

2 The work has been translated into English as *At the Mind’s Limits: Contemplations by a Survivor on Auschwitz and its Realities* by Sydney and Stella Rosenfeld. (Bloomington, Indiana University Press: 1980,).

group, the Afrikaner, he represented a counter voice. For this dissidence (sometimes it was merely a Socratic way of questioning the assumptions of the Afrikaners) he paid for during the peak of Apartheid by being excluded from the political and intellectual elite. A price that cannot be compared to the price Améry had to pay just for being a Jew during the Second World War or the price black and coloured people had to pay for the colour of their skin during Apartheid.

I do not want to focus on the political biographical differences of these two authors, but would like to interrogate the ethical and philosophical content of their dissidence. Therefore, my premise will be that with regard to one central point, Améry and Degenaar's reflections on their nations' respective political choices display a strong resemblance: both resisted the notion of the priority of the (quasi-) natural survival of the nation over the sake of justice (2). In Améry's case, his resistance against 'mere survival' takes the form of a defence of a certain form of resentment (2.1 and 2.5). He tries to raise and highlight the moral meaning of the collective injustice of national-socialism – against the hope and expectation that the simple passing of time will erase the injustice (2.2). Degenaar's resistance against the priority of survival of the Afrikaners as a people also has a moral background. In his view, a survival that is based on racial characteristics of the "own people" people and of other parts of the population suppresses the moral dimensions of the crucial existential-political decisions of the Afrikaners (2.3). However, the temptation to legitimize a politics of survival that is linked to ethnical exclusiveness is not limited to the Afrikaner; one sees it currently in Europe with the (extreme) right political movements (2.4).

Subsequently, I will indicate that the resistance of Améry and Degenaar was partly in vain. Améry realized that already in his writings (3). In the case of South Africa was the TRC a serious attempt to give the moral dimension of Apartheid public attention. Still this happened within a frame where the narrative of the national reconciliation (and therefore the national survival) was established in advance (3.1). This triumph of survival above justice, probably typical of the modern national state, indicates the lasting meaning of what Jürgen Habermas has called 'anamnesic reason', a conscious, critical remembrance of the past. I conclude with an example of the fruitfulness of this attention for 'origins' (*Herkunft*) in addition to a

concern for the future (*Zukunft*)<sup>3</sup> – especially for countries with a history of major injustice currently in search of transitional justice (3.2).

## 2. Survival and justice

### 2.1 Jean Améry's resentment

To start with: what exactly are these feelings of rancour – resentment – Améry says to suffer from?<sup>4</sup> I think a distinction made by Jean-Jacques Rousseau two and a half centuries earlier in *Émile* (his famous treatise on education published in 1762), could help us to understand this, taking in mind Rousseau's distinction between love of the self (*amour de soi*) and love of the own (*amour propre*). Under the former he understands our fundamental and natural strivings, those for self-preservation and happiness – 'to take proper care of oneself', as we would nowadays say. According to Rousseau, this love of self is satisfied as soon as its basic needs have been met. The love of the own on the other hand, is 'never satisfied', for it remains continuously obsessed by the gaze and judgement of others.<sup>5</sup> Those in the grip of love of the own resemble a 'paradoxical Narcissus'.<sup>6</sup> While they may well be *self-absorbed*, they are continuously comparing themselves to other people. They become more concerned with the perceived obstacles frustrating their strivings than the actual objects of their strivings; in the end finding satisfaction in one's own well-being no longer matters – satisfaction is now only sought in the misfortune of others, enjoyed in purely negative terms. Thus, according to Rousseau, love of the own gives rise to rancorous and wrathful effects. The unnamed narrator in Dostoyevsky's *Notes from the Underground* is a famous example of a literary character that so to speak embodies *amour propre*.<sup>7</sup>

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3 In the sense of Odo Marquard's device 'Zukunft braucht Herkunft', in: id., *Philosophie des Stattdessen*, Stuttgart: Reclam, 2000, 66–79.

4 Also see J.M. Bernstein, 'Améry's Devastation and Resentment. An Ethnographic Transcendental Deduction', in: *Tijdschrift voor Filosofie*, 76/1, 2014, 5–30.

5 Jean-Jacques Rousseau, *Émile*, Tome II, (Paris: Librairie Larousse, 1972), Livre IV, 'Les passions: 1. Amour-propre et amour de soi', 14–17.

6 Alain Finkielkraut, *Un coeur intelligent*, (Paris: Stock/Flammarion, 2009), 226.

7 Thus according to Finkielkraut's – very accomplished – interpretation of Dostoyevsky's work in his 'L'enfer de l'amour propre. Lecture des Carnets du sous-sol, de Fédor Dostoïevski', *Un coeur intelligent*. 211–239.

Améry frankly admits that he suffers from feelings of wrathfulness – of ‘reactive’ or ‘existential’ wrath, as he himself puts it – and we will still see to which extent this coincides with Rousseau’s *amour propre*. In ‘Ressentiments’ he decided to investigate this rancour more closely, because he himself did not fully comprehend it either. To start with, the wrath he was feeling as a victim of the Nazis was only partly explained by his observation that those who had close ties with the executioners back then have already been rehabilitated to German public life.

Améry wanted to dig deeper, not only to present an introspectively derived analysis of rancour as ‘existential dominant’, but also to ‘justify’ it.<sup>8</sup> And this precisely while realizing that rancour – resentment – is judged as a shortcoming by moral theorists, regarded as a kind of illness by psychologists.

For some time after the liberation, he writes, he was in a state of near-intoxication, one brought about by his status as former member of the resistance and persecuted Jew, and also by the fact that Germany’s ‘collective guilt’ was being generally acknowledged. The last point both corresponded to his own experience – he always experienced the crimes of the Nazi regime as the expressions of a *community* – as well as his sense of justice: collective expiation would rebalance the scales of morality.

However, only during (West) Germany’s economic, industrial and military recovery – and with her politicians’ ability to seemingly effortlessly switch from a vision of Hitler domination to one of European cooperation – did Améry’s feelings of rancour start taking shape. He recalls a conversation with a German trying to convince him that racial hatred was outdated in Germany, and well-known philosophers publicly uttering words of condemnation in Germany for those still clutching on to their past and still harbouring feelings of hatred. In short, it started to seem the he *himself* had become the problem. Améry resists these judgements – those of psychologists to whom he is a sufferer of ‘concentration camp syndrome’, and those of such an influential moral philosopher as Friedrich Nietzsche. In Nietzsche’s definition, rancour or resentment is ‘characteristic of people for whom the actual reaction – going over into the deed – is impossible,

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8 Améry, ‘Ressentiments’, 105.

and who then seek to get even through imaginary vengeance.<sup>9</sup> However, in his defence of rancour he nevertheless wants to avoid the pitfall of self-pity. Thus, in his apology of rancour Améry refuses to have his feelings medicalized or reduced to a hidden thirst for vengeance, while at the same time remaining mindful not to retreat into self-consolation.

## 2.2 Resentment against oblivion: moral time

The core of his self-investigation was formed by his observation of the rancorous victim's particular *sense of time*. In his resentment, he longed for two impossible things: a return to times past, and simultaneously an erasure of the events, which had taken place. The unclouded view of the future, which apparently came so easily to his erstwhile enemies, he admitted, was for himself an impossibility. To him, what is required is that the 'unresolved conflict is fought out on the level of historical praxis'.<sup>10</sup> With this, he explicitly does not mean that society should permit him to harm his erstwhile torturers in return, but that the *moral truth* of the conflict has to be addressed. But this demand puts him at loggerheads with both his former torturers as well as post-war society. For society is only concerned with its own self-maintenance and survival, while those who tortured Améry were so steeped in the values of Nazi Germany that their acts had no moral dimension to them themselves, and were mere facts within a physical system.<sup>11</sup> What a conciliatory-minded post-Hitler society and the Nazi's former henchmen have in common, is the primacy both give to the purely physical event and the natural sense of time. As folk wisdom would have it: 'time heals all'. It is precisely against this which Améry protests. This wisdom only holds for those thinking of themselves as not as unique

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9 Améry, 'Ressentiments', 109–110. Also see Friedrich Nietzsche, *Zur Genealogie der Moral*, Sämtliche Werke Band 5 (Hrsg. Colli & Montinari), 1980.

10 Améry, 'Ressentiments', 112.

11 Améry, 'Ressentiments' 113. Because this thesis is of such crucial importance to Améry, I here quote from the original text: 'Massenmord, Folter, Versehrung jeder Art sind objektiv nichts als Ketten physikalischer Ereignisse, beschreibbar in der formalisierten Sprache der Naturwissenschaft: Es sind Tatsachen innerhalb eines physikalischen, nicht Taten innerhalb eines moralischen Systems. Es hatten die Verbrechen des Nationalsozialismus auch für den Täter, der sich allerwegen dem Normsystem seines Führer und seines Reiches anheim gab, keine moralische Qualität. Der Untäter, der nicht durch sein Gewissen an seine Handlung gekettet ist, kennt sie von sich aus nur als Objektivation seines Willens, nicht als moralisches Ereignis.'

beings, but as ‘functions of social life’, and for a society ‘purely focused on her own survival’.<sup>12</sup> Likewise, the principle of placing a time limitation on crimes against humanity is in his view derived from a physiological or natural sense of time, one that emphasizes ‘letting bygones be bygones’ and a belief in the healing power of the passage of time.

To Améry any reconciliation with the perpetrators is only possible ‘when the crime becomes a moral reality to the perpetrator, whereby the truth of his crime becomes fully evident to him, and he confesses his guilt.’<sup>13</sup> Put differently: the person who is not purely a natural but also a moral being, demands an ‘abolition of (physiological) time – in this particular instance: by nailing the criminals to their crimes. Once this has happened and the moral inversion of time had taken place, these former perpetrators may again become the victim’s fellow beings.’<sup>14</sup> To Améry, incidentally, it would also mean an escape from the extreme feeling of ‘being abandoned’ (*Verlassensein*) which had accompanied him since the start of his persecution.<sup>15</sup>

### 2.3 Johan Degenaar on survival and justice

On the point of Améry’s revolt against a purely physical sense of time and the primacy of purely physical survival, I see a clear parallel with the thinking of Johan Degenaar, philosopher at the University of Stellenbosch from the early 1950’s until his retirement in 1991 – in other words, for most of the timespan of institutionalized Apartheid.<sup>16</sup> ‘Is there any right to pure self–preservation without justice?’ is the core question in many of the texts which Degenaar with some regularity presented to his fellow–Afrikaners. As point of departure here, I take his text ‘Die spanning tussen voortbestaan en geregtigheid’ (‘The tension between survival and justice’).

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12 Améry, ‘Ressentiments’, 113.

13 Améry, ‘Ressentiments’, 113.

14 Améry, ‘Ressentiments’. 115 and 116.

15 Améry, ‘Ressentiments’, 114.

16 See W.L Van der Merwe, ‘Inleiding’, in: J. Degenaar, *Tweede Refleksie. ’n Keur uit die denke van Johan Degenaar*, W.L Van der Merwe en P. Duvenage (editors), Stellenbosch: Sun Press, 2008, III–VIII, for a short biography of Degenaar. This issue also contains a list of Degenaar’s publications (339–353). Amongst others because of his passion for dialogue (in the first place: with his students) he was known as the ‘Socrates of Stellenbosch’ for decades.

Published in 2000, it has its origins in a lecture (also published as a separate booklet) given in Amsterdam in 1999, in which he examined the actuality of this problem, also with regard to the Netherlands.<sup>17</sup> However, the topic already features in Degenaar's earlier writing, in texts from 1980 and 1982.<sup>18</sup>

Just like Améry, Degenaar characterizes his reflections – in this text partly in discussion with the political thinking of the poet–essayist N.P. van Wyk Louw – as a 'moral reflection', in this instance on Afrikaner politics before and after 1994 (the year in which the first democratic election was held in South Africa). Just like van Wyk Louw, he ascribes moral-existential attributes to a people's 'dynamic of survival'. Such a dynamic is marked by events that require a people to make important but risky decisions. With regard to the Afrikaner, van Wyk Louw mentions three: the so-called Great Trek, the Second Anglo-Boer War, and the decision 'to replace Dutch with Afrikaans as written language and language of culture'.<sup>19</sup>

To Degenaar, the element of risk in these decisions – those who made them had no guarantee of their outcome; dissenting views and alternative options were always at play – is cause for modesty when passing judgement in hindsight.

The dynamics of survival, he summarizes, 'lies in the dramatic nature of these tied choices within a state of ignorance and uncertainty about the future'.<sup>20</sup> Thus, according to van Wyk Louw, the choice for Afrikaans – an emerging language without an established literature of its own – instead of the established Dutch with its established literature, was 'a gamble' – albeit one with a successful outcome. In time, Afrikaans would become of central importance in forging a national Afrikaans culture. It gave rise to an Afrikaans literature, a nationalism of language, culture, and eventually

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17 Johan Degenaar, 'Die spanning tussen voortbestaan en geregtigheid'. Lecture given at the annual meeting of the Nederlands-Zuid-Afrikaanse Vereniging, Amsterdam, 17–04–1999. (NZAV Booklet). I quote from the following version: 'Die spanning tussen voortbestaan en geregtigheid', in: *South African Journal of Philosophy*, 19/4, 2000, 307–320.

18 J.Degenaar, 'Maatstaf vir politiek: volkssoewereiniteit of regverdigheid', in: id., *Keuse vir die Afrikaner*, 1982, Pretoria: Taurus, 41–57. And J. Degenaar, *Voortbestaan in geregtigheid. Opstelle oor die politieke rol van die Afrikaner*, (Kaapstad: Tafelberg, 1980).

19 Degenaar, 'Die spanning tussen voortbestaan en geregtigheid', 308.

20 Degenaar, 'Die spanning tussen voortbestaan en geregtigheid', 308.



the conquest of political power in 1948 and the introduction of a policy of Apartheid.

Degenaar situates the awakening of his own ‘political awareness’ within this period, for, as he writes, in this period the tension between survival and justice was ‘abolished’, particularly through the logic of an ethnically defined people’s sovereignty being implemented within South Africa’s pluralistic context. His political awakening had ‘moral grounds’, he again emphasizes, for in its choice of the means with which to preserve its own culture and language, the Afrikaner had yielded to the ‘easy criterion of racial discrimination’, one which ‘affects the dignity of both victim and perpetrator.’<sup>21</sup> Also this critique one already finds in van Wyk Louw’s writings, Degenaar notes, be it that van Wyk Louw initially espoused an ‘aesthetic nationalism’ in which the survival of the Afrikaner people was legitimized by the beauty of Afrikaans and the quality of Afrikaans literature. Later he corrected this with an ‘ethical nationalism’, based on a ‘respect for people’, and which he indicated as ‘the small core of humanity’ at the foundation of a universal duty to justice.<sup>22</sup> In 1958 van Wyk Louw spoke of an ‘ethical national crisis of the Afrikaner’, which may become activated ‘when a large part of our people may become in danger of thinking that we are not obliged to live *in justice* with our fellow peoples in South Africa: this could mean that *mere survival* – not a just existence – becomes of overriding importance (...).’<sup>23</sup>

#### 2.4 The seduction of ethnically based politics: South Africa and the Netherlands

I would like to pose two questions here. What exactly makes differentiation by race an ‘easy’ criterion to Degenaar, and why is it a dangerous seduction – possibly today still, and not only to Afrikaners?

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21 Degenaar, ‘Die spanning tussen voortbestaan en geregtigheid’, o.c., 308.

22 For Degenaar’s analysis of van Wyk Louw’s political thinking, also see J. Degenaar, ‘Die politieke filosofie van N.P van Wyk Louw’, in: id, *Moraliteit en politiek*, (Kaapstad: Tafelberg Uitgewers Beperk, 1976), 55–92.

23 Degenaar, ‘Die spanning tussen voortbestaan en geregtigheid’, o.c., 311.

Degenaar himself, neither in this text, nor in others on the matter never explicitly answers the first question.<sup>24</sup> Nevertheless, an answer may well be drawn from his ethical-political thinking: Racism is the reduction of a ‘who’ to a ‘what’, in other words to the physical attributes which makes that person different, other. In one of his texts on Emmanuel Lévinas, the Belgian philosopher Rudi Visker gives an example from Richard Attenborough’s 1987 film *Cry Freedom* on the anti-Apartheid activist Steve Biko. In this film, a white policeman points out a black domestic worker as *Bantu-female*, and Visker adds: ‘Had I asked my father in law for the hand of his daughter simply by saying “you have five lovely daughters, I want the second oldest”, he would have considered me an unworthy suitor’.<sup>25</sup> In the same way, Levinas protests against the above-mentioned reduction: the other is ‘not different as a result of his properties, his alterity is his property’.<sup>26</sup> With such a reduction we make things ‘easy’ for ourselves, as Degenaar writes, for the other becomes an example of a type, which can be more or less exhaustively described and has thereby lost his or her moral-political unpredictability. And we have seen that exactly this is of crucial importance in the thinking of van Wyk Louw and Degenaar (but for instance also that of Hannah Arendt, Levinas and Jacques Derrida). Van Wyk Louw and Degenaar’s *risky* dynamic becomes mute in racist politics – decision-making is here reduced to establishing a physical fact: is the person White or Non-white? In addition, the realization of national sovereignty becomes primarily a bio-political task – just like in the national-socialist social order, which had confronted Améry. Thus van Wyk Louw protests against linking the Afrikaans language to having a white skin, exclaiming: ‘The Coloured people are our own people, they belong to us!’<sup>27</sup> The other as

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24 Also see J.Degenaar, *Keuse vir die Afrikaner*, (Pretoria: Taurus, 1992), especially ‘Maatstaf vir politiek: volkssoewereniteit of regverdigheid’, 41–57; id., *Moraliteit en politiek*, (Kaapstad: Tafelberg, 1976); id., *Op weg na ’n Nuwe Politieke Lewenshouding. Filosofiese Opstelle*, Kaapstad: Tafelberg Uitgewers, 1963; id., WL van der Merwe & P. Duvenage (editors), *Tweede Refleksie. ’n Keur uit die denke van Johan Degenaar*, (Stellenbosch: Sun Press, 2008), especially Part IV: Politiek, 221–311; and J.J.Degenaar, *Power of Imagination*, (Stellenbosch: Grafixit, 2011).

25 Rudi Visker, ‘De Goede Ander: hoe vreemd is de multiculturele Ander? In L Jansen & N Oudejans (ed.), *De Vreemdeling*, (Budel: Damon, 2003), 87–107, 9 5.

26 Levinas, quoted in Visker, o.c., 92.

27 Degenaar, ‘Die spanning tussen voortbestaan en geregtigheid’, 312.

speaking (and contradicting) being cannot be negated on the basis of skin colour; we are not merely physical examples of types, but also moral beings.

On the basis of this reconstruction of Degenaar's critique of Apartheid, I can now establish the resemblance with Améry's revolt: not only national-socialism but also the post-war German culture of forgive and forget paid allegiance to the primacy of physical survival and the natural course of time, and thereby still continued to negate humanity's moral nature.

With regard to the second question, I can be brief here. In multi-cultural societies, racism and 'culturalism' (the reduction of the other to his or her cultural or religious attributes) remain perennial seductions. During the struggle against Apartheid, a country like the Netherlands according to Degenaar, gained the 'ambiguous title of "the pulpit of Europe"'.<sup>28</sup> The Dutch's erstwhile enthusiasm for the Afrikaners' freedom struggle against British Imperialism had made way for indignation over its Apartheid politics. Rightly so, according to Degenaar writing in 2000, but he also points to – and very accurately, when now looking back to the period around the turn of the millennium – a new task for Dutch culture. It has 'to determine its relationship towards a plurality of cultures both within and outside her borders, and with regard to its status within the European Union, which, amongst other things as a result of the imperium of market forces, limits the sovereignty of national states'.<sup>29</sup> In retrospect, the question is whether the Dutch have not already played out their credit as far as the Afrikaners' ethnocentric politics are concerned. 'Henk and Ingrid', the imaginary Dutch couple Geert Wilders and his *Partij voor de Vrijheid* (PVV) ('Party for Freedom' – a party which, according to polls, currently enjoys significant popular support) claim to represent, are ethnic (white) stereotypes, while Wilders himself openly dreams of a country with 'less Moroccans', ethnically more homogenous – in other words, Afrikaner nationalism's Apartheid ideal.

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28 Degenaar, 'Die spanning tussen voortbestaan en gerechtigheid', 313.

29 Degenaar, 'Die spanning tusswen voortbestaan en gerechtigheid', 315.

## 2.5 Améry's defence of 'slave morality'

I briefly return to Améry. His longing for reparation implies that national-socialism has not been 'neutralized' by the passage of time; that his wrath gains an 'historical function', is adopted into national consciousness and thus becomes a kind of 'negative possession'. Were 'the henchmen and their victims to meet in a shared desire to reverse time and moralize history', he writes, it would already suffice to restore the balance.<sup>30</sup>

Now we can also establish where Améry's wrath differs from Rousseau's *amour propre* and Nietzsche's 'resentment'. It cannot be denied: just as with Rousseau's love of the own, Améry is unable to detach himself from the impulse to compare his own fate with that of others, from the gaze and judgement of society, from the Germans after the demise of the Nazi order. In short, he nurtures his reactive feelings. Unlike with obsessive love of the own, he does not seek the satisfaction of his wrath in the misfortunes of the other, however. He only refuses to forget and forgive the injustices he had suffered for as long as its truth has not been acknowledged. And unlike Nietzsche's resentment, it is not a matter of an impotent execution of imaginary retribution – even if Améry does undeniably envisage a reunion of victim and henchman. Against Nietzsche's contempt for the slave morality which he traces back to the Jews, Améry expressly defends the vengeful feelings of the maltreated slave – according to him, it may even be the emotional wellspring of all real morality.<sup>31</sup>

I myself am partial to concur with Améry's apology for the remembrance of past injustices, and to admire him for his heroic refusal to abide by what he called 'the enormous and dreadful power of the natural sense of time'. Améry would have drawn strength from the *Truth and Reconciliation Commission* (TRC), which made a serious attempt at defining the future of a new South Africa by means of establishing the truth concerning Apartheid's victims and perpetrators. There is also a clear link to Améry's resistance to the oblivion brought about by the passage of time, and to the basic points of departure of the global *restorative justice* movement.<sup>32</sup>

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30 Améry, 'Ressentiments', o.c. 124.

31 Améry, 'Ressentiments', 129.

32 Gerry Johnstone & Daniel W. van Ness, 'The Meaning of Restorative Justice'. In *id.*, *Handbook of Restorative Justice*, (Cullompton, Devon: Willan Publishing, 2007), 5–23;

### 3. The triumph gained by survival over justice

To me there seems to be a second parallel between the German and South African problems concerning the tension between survival and justice. By means of clarifying this statement, I would like to discuss a second insight from Améry's essay on wrath, an insight that on first hearing may come across as somewhat pessimistic, even bitter. I myself would prefer to call it realistic and lucid, and like all true realism, even liberating in a certain sense.

In his essay Améry hints at a realization that his obstinate longing for a reversal of time, the precondition for true reconciliation with his perpetrators, would never be fulfilled – a victory for 'natural time', as he calls it. 'Time does its work', he writes towards the end of his essay: 'in all silence'.<sup>33</sup> In the absence of such a reversal, the generation of former Hitler-supporters was meanwhile 'growing old with dignity', he notes. And what about the new generation of Germans? Améry quotes from a letter sent in by a young German writing that his generation 'is sick and tired of forever having to hear that our parents' generation had killed six million Jews'.<sup>34</sup> And in conclusion, also the outside world – all too eager to reintegrate Germany within Europe – resolutely chose for those to whom the future belongs, and against people like himself who still cherished feelings of wrath. Améry therefore has to establish that 'all recognizable omens point towards the fact that natural time will reject the moral demands of our resentment and eventually silence them'.<sup>35</sup>

#### 3.1 South Africa and the TRC

Also with regard to this insight of Améry – that Germany's survival will triumph over justice – I see a parallel with South Africa's post-Apartheid history. As is widely known, during the late 1980s and early 1990s South Africa was frequently on the brink of the catastrophe of full-blown civil war. The difference with the time of High Apartheid lay therein that that all

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and Howard Zehr, *The Little Book of Restorative Justice*, Revised and Updated. (New York: Good Books, Skyhorse Publishing, 2015)

33 Améry, 'Ressentiments', 126.

34 Améry, 'Ressentiments', 121.

35 Améry, 'Ressentiments', o.c., 126.

participants in the conflict were now experiencing what the French thinker Derrida had called the ‘experience of the *aporia*’<sup>36</sup> – and to which van Wyk–Louw and Degenaar referred as the ‘risky’ dynamic of survival (namely to have to make a decision in a politically and morally aporetic situation). As point of departure, let’s take a well-known statement of President FW de Klerk from this time: ‘We do not want to replace one form of dictatorship with another’. In this statement, directed towards the *African National Congress* (ANC), de Klerk in so many words admitted to the illegitimacy of his own government: it was itself a ‘dictatorship’. His statement underlined the seriousness of the situation in South Africa: a vacuum of legitimacy now existed. In such a situation, the paradox which Derrida had defined as follows (the remarks in parenthesis are mine), comes into play: ‘On the one hand, it seems *simpler* to criticise the founding power (the power which is initiating change in South Africa), because it is unable to appeal to a given legality, unable to justify itself, and as such appears unrestrained and wild (a ‘dictatorship’, in de Klerk’s words). On the other hand, it is *more difficult* to criticise the founding power, because it cannot be summoned to any existing court; the moment it acknowledges an alternative law, it rejects the existing (after all, the ANC regarded the incumbent government as an illegitimate ‘dictatorship’)’.<sup>37</sup>

During the transition to a non-racial democracy (undisputedly the Afrikaner people’s fourth major risky decision) the agreed upon parliamentary–constituted *South African Truth and Reconciliation Commission* (TRC) – which during the late 1990’s organized a public ritual around the revelations of the ‘truth’ of Apartheid’s victims and perpetrators – drew deserved global interest.<sup>38</sup> After all, it involved a new kind of reparative-judicial experiment in dealing with a violent past, which had partially perforated the framework of (punitive) justice.

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36 Jacques Derrida, ‘Force de Loi. Le “Fondement mystique de ‘l’Autorité”’, in: *Cardoso Law Review*, Vol II, 1990, 5/6, 920–1038.

37 Derrida, o.c., 1000–1001.

38 Alex Boraine provides a good overview of the TRC in *A country unmasked*, (Oxford Oxford University Press, 2000). Reflection continued after the hearings stopped – see for instance W. James & Linda van de Vijver (ed.), *After the TRC. Reflections on truth and reconciliation in South Africa*, Cape Town: David Philip Publishers, 2000).

However, as especially the analyses of the South African philosopher Leonhard Praeg have shown<sup>39</sup>, in the TRC's admirable method also lay the problematic aspect of the whole undertaking. For how could the *singular* stories of victims and perpetrators help fuel *collective* reconciliation, nation building and a new respect for the law in the non-racial democracy South Africa was on the cusp of becoming? How could these utterly gripping but personal narratives simultaneously generate a meta-narrative of national reconciliation? In other words, how to bring about a just 'exchange'<sup>40</sup> between truth and amnesty, the acknowledgment of stories of suffering and forgiveness? Only by betraying the very victims who the TRC gave the chance to tell their harrowing stories. A *necessary* betrayal, Praeg repeatedly emphasizes.<sup>41</sup> Because the necessity of national reconciliation was given as framing narrative (the alternative was a regression to the 'natural state' of civil war – here Praeg refers to Thomas Hobbes' differentiation between a *status naturalis* and a *status civilis*),<sup>42</sup> it was inevitable that individual narratives had to be made subservient to it. Therefore, as he shows in detail, some narratives were more or less silently found more useful by the Commission than others, while there were also narratives (for instance ones detailing unimaginable acts of cruelty) which were unanimously regarded as disturbing, and therefore had to be sacrificed to oblivion.<sup>43</sup>

### 3.2 The anamnestic reason

Just like Améry in post-war Germany, Praeg in post-Apartheid South Africa thus observes the (partial and provisional) triumph of survival over justice. Both are in fact noting that the state is above all predisposed to ensure its own survival and that of the nation, even when at the cost of moral and not

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39 Leonhard Praeg, *African Philosophy and the Quest for Autonomy: A Philosophical Investigation*, (Atlanta/Amsterdam: Editions Rodopi, 2000), especially Chapter 4, 'Truth and Reconciliation: a social contract', 220–300.

40 Praeg, *ibid.*, 247.

41 Praeg, *ibid.*, 240.

42 Praeg, *ibid.*, Chapter III, 1.1, 'Leviathan: Intervention in the state of nature', 138–147; and Chapter I, 'The social contract', especially B1, 'Leviathan and the right to self-defence', 41–44, and Chapter II, C, 'Leviathan: a politics of return', 89–121.

43 Praeg, *o.c.*, 252 ff.

infrequently historical truth.<sup>44</sup> Therefore, to the state and the (new) ruling powers the memories of past injustices is somewhat dangerous, irritating and subversive. For it brings about unrest and discontent – something clearly grasped by a sensitive mind like Améry's.

This problem not concerns states with an extremely violent past in search of *transitional justice*, but in essence also to each modern ideology of emancipation. Various members of the *Frankfurter Schule*, which themselves espoused a Neo-Marxian ideology of emancipation, realized this – of them, perhaps Max Horkheimer and Walter Benjamin the most clearly.<sup>45</sup> In both instances this realization lead to an appeal to philosophical and theological traditions of thinking collectively termed 'anamnesic reason' (*anamnetische Vernunft*) by Jürgen Habermas.<sup>46</sup>

I myself have always understood the *memoria passionis* (to start off with the memory of the innocent suffering of Jesus of Nazareth) of which the German theologian Johan Baptist Metz has been speaking of since the 1970s' in this sense: this kind of anamnesis engenders annoyance, for it disrupts and brings into question the staunch belief in progress which is of such crucial importance to the legitimacy of especially modern states.<sup>47</sup> Metz's definition of religion is closely linked to this: 'the most concise definition of religion is disruption'.<sup>48</sup>

Nevertheless, concern for the future does not necessarily need to be blind, and the establishment of a link between the future and the anamnesis of

44 Also see Th.W.A. de Wit, 'De lompverzamelaar en het libretto van de geschiedenis. Walter Benjamin en de neoconservatieve revolutie', in: *Armada* 12Jg/ nr. 45, deek. 2006, 27–42. The Regnant massacre committed by Dutch troops in Indonesia in January 1949, but which was only recently been brought to light by archival research, serves as a good example from the Netherlands. See Anne-Lot Hoek, 'Ook op Sumatra Richtten de Nederlanders een bloedbad aan', in: *NRC-Handelsblad* 13–14–02, 2016, 24–25.

45 For an overview, see Christian Lenhardt, 'Anamnesic Solidarity: The Proletariat and its *Manes*', in: *Telos*, 25, 1975, 133–154.

46 J.Habermas, 'Israel oder Athen: Wem gehört die anamnetische Vernunft? Johan Baptist Metz zur Einheit in der multikulturellen Vielfalt'. In id., *Vom sinnlichen zum symbolischen Ausdruck*, (Frankfurt am Main: Suhrkamp, 1997), 98–112.

47 Johann Baptist Metz, *Memoria passionis. Ein provozierendes Gedächtnis in pluralistischer Gesellschaft*, (Freiburg: Herder, 2006), especially 'Zweiter Teil, Memoria passionis – Perspektiven in Begründungsverfahren', 215–258.

48 Johann Baptist Metz, *Glaube in Geschichte und Gesellschaft*, (Mainz: Grünewald, 2<sup>nd</sup> Edition 1978).



a partially violent past could be positively fruitful in modern times, and particularly outside of the context of the state.<sup>49</sup> The South African based Dutch journalist Fred de Vries recently gave the example of Solms-Delta Estate in the Dwars River Valley near Stellenbosch. In 2002 the neuropsychologist Mark Solms started an alternative farm, one where his (Coloured) labour force was not only given partial ownership of the land and encouraged to manage their own affairs, but also to dig into their own pasts.<sup>50</sup> For this purpose Solms even employed an historian. Her research confirmed – including by means of archaeological remains found on Solms-Delta – that the area had been inhabited by the San and later the Khoi for thousands of years before White settlement in the late 17<sup>th</sup> century, and that the whites were genealogically speaking far less white than previously thought. To be succinct: the proud ‘white Afrikaner’ with his people’s nationalism and frontier religion is not much more than a narrative closure of the ferment of a confusing and complex web of (ethnic) relations. Also Solms-Delta is a way of restoring the dynamic of the adventurous political-moral survival which Améry and Degenaar both wanted made possible for their own contexts.

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49 O. Marquardt, ‘Zukunft braucht Herkunft’. In id., *Philosophie des Stattdessen*, (Stuttgart: Reclam, 2000), 66–79.

50 Fred de Vries, ‘Masters en bastaards’. In *De Groene Amsterdammer*, 17–12–2015, 84–89.

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