

## **"'Always historicize'. On the ethical and political implications of a 'historical' approach in the context of truth commissions and historical commissions"**

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### **Introduction**

According to the Dutch historian Antoon de Baets there are five basic strategies to deal with legacies of 'historical' injustice: forgetting, denying, explaining, purging and prosecuting.<sup>1</sup> In this paper I want to focus on another important socio-cultural mechanism for dealing with legacies of violent conflict which is seldom analyzed or recognized: a mechanism which one could describe as 'consigning to history', 'declaring to be past' or 'historicization'.

About this mechanism of 'historicization' I will argue that (1) it cannot be reduced to an issue of 'explaining' or 'understanding'; (2) it is a mechanism which is often used for dealing with historical injustices by both historians and other social actors; (3) it can have profound ethical and political implications; (4) it can be important or even indispensable for historians as well as for society at large, but it can also turn against the pursuit of justice; (5) it can never be legitimated merely on the basis of 'historical' arguments and should therefore never be considered as the exclusive or privileged domain of historians.

In the first part of the paper I will analyze the manner in which the technique and especially the ethics of 'historicization' is often presented by historians. In order to illustrate this I will mainly focus on the work of the French historian Henry Rousso and the Dutch historian Bob de Graaff. In the second part of my the paper I will argue for a radically different interpretation of the ethics and politics of 'historicization'. In order to do so I will focus on a series of practical examples taken from my own research. Finally, I will reflect on the question of how historians can engage the legacies of collective violence and injustice.

## **II. Historicizing: Rousso and De Graaff**

### **The proper time of humanism**

There is a long and honorable tradition which attributes to historians the emancipatory potential to resist both the tyranny of the past over the present as well as the totalitarian dominance of the present over past and future. Historians can do this, it is said, by mapping out and demonstrating the fundamental differences between past and present.

One prominent member of this intellectual tradition is Henry Rousso. According to Rousso the *métier* of the historian results in a liberating type of thinking, because it rejects the idea

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<sup>1</sup> Antoon de Baets, "Na de genocide: Waarheidsstrategieën van rechters en historici", *Tijdschrift voor Geschiedenis* 116, no. 2 (2003), 2: 212-230, 212. De Baets himself refers to Timothy Garton Ash as a source of inspiration here: Garton Ash T., The truth about dictatorship, In: *New York review of books*, (1998), 35-40

that people or societies are conditioned by their past without any possibility of escaping it. The historian can do this because, in contrast to the 'activist of memory' or the devotees of the 'religion of memory', he or she only brings the past into the present in order to demonstrate the fundamental 'distance' that separates these two realities.<sup>2</sup> While 'activists of memory' ignore the 'hierarchies of time' and do not seem to grasp the distance between past and present, historians observe the past where it belongs [*'à sa place'*] and are conscious of the fact that they do so from the present, where they belong [*'notre place'*]. One could paraphrase Rousso's argument as follows: the good historian inherently is an emancipator, because by measuring time he knows what is contemporary/actual and what is past or over and because he also knows what is their 'proper timing.' Proper because historians can correctly measure this timing, and proper because it is considered ethically responsible to do so

The same plea for a proper relation to time and timing also plays a prominent role in Rousso's famous refusal to function as an expert witness in the Holocaust trial of Maurice Papon.<sup>3</sup> The problem with this trial, which took place several decades after the facts, according to Rousso, was the great distance in time. Due to this distance, it tended to apply a 'presentist' ethical perspective to the historical events and become a trial of memory rather than a normal judicial process. In the context of the plea for a historiography that liberates the present by putting the past at a distance and by rejecting the 'religion of memory' it is significant that Philippe Petit writes about Rousso that he became a contemporary historian to 'accept the irreparable.'<sup>4</sup>

The Dutch historian Bob de Graaff -- known for his participation in the research team that was commissioned by the Dutch government to scrutinize Dutch responsibilities in the Srebrenica massacre -- holds similar ideas about the ethical value of historiography. He too, considers the historian to be an expert of proper times and timing and draws a contrast between the historian on one hand and (genocidal) victims and survivors on the other. For victims and survivors according to De Graaff, the difference between past and present is vague and they live in a synchronic rather than diachronic time or even live in an 'extra-

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<sup>2</sup> Henry Rousso, *La hantise du passé: entretien avec Philippe Petit* (Paris: Les éditions Textuel, 1998), p. 54.

<sup>3</sup> Maurice Papon was a civil servant in de Vichy-regime during the second world war. In the early 1980s it was revealed that he was responsible for the deportation of a great number of jews. After a very lengthy prosecution Papon was convicted in 1998. During the trial historians were engaged as expert witnesses. The provoked a heated debate about the question whether or not it was appropriate for historians to engage in this type of judicial context. See: R. J. Golsan, ed., *The Papon Affair. Memory and Justice on Trial* (New York: Routledge, 2000).

<sup>4</sup> Philippe Petit in: Rousso, *La hantise du passé*, p. 10. ('Pour accepter l'irréparable, il s'est fait historien du temps présent')

temporality'.<sup>5</sup> He refers to holocaust victims for whom, he claims, the "past remains present," and to whom it seems as if atrocities "only happened yesterday or even today". The task of historians, in contrast, is to place events, even genocidal ones, in their time; literally historicizing them. Historians have to do this by trying to "determine the individual character of particular epochs and by that demarcate one epoch vis-à-vis the other." As De Graaff puts it: "the historian historicizes" in the sense of "closing an epoch by recognizing its entirely individual/particular character." The historian recognizes the fact that the past can be "called up" again, but in contrast to the survivor he does this voluntarily. Moreover, he also "registers" that facts of the past are "bygone", "definitely lost" or have "come to a downfall."

Good historiography is therefore, according to De Graaff, *the* antidote for resentment. Much like Rousso, De Graaff considers the professional duty of the historian socially desirable: to "draw a line under victimhood." Sooner or later our gaze has to be redirected from the past to the future. De Graaff therefore approvingly cites the literary author Hellema that: "it has become about time [*hoog tijd*'] to put the past in its place."

I have long shared this vision of Rousso and De Graaff. It can hardly be doubted that the skill or *habitus* of historians forms an essential part of our critical thought and that, especially in these times of crisis or better crisis of time, it is potentially of great importance. Haven't we all started to feel uncertain about the borders separating present and past? Have we as historians and as citizens not collectively lost our ability to measure time and recognize or acknowledge the difference between 'today,' 'yesterday' and 'the day before yesterday;' and with that are we still able to distinguish between when we may hold on to things and try to intervene and when it is time for a more contemplative attitude?

### **Times of crisis/crises of time**

Times seem in many ways in crisis. On a social level, the temporal borders between what is contemporary/actual and what is past were until recently still to an important extent codified by socially prescribed periods of mourning.<sup>6</sup> Classic prescriptions on terms of mourning,

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<sup>5</sup> Bob de Graaff, *Op de klippen of door de vaargeul: De omgang van de historicus met (genocidaal) slachtofferschap* (Amsterdam, 2006).

<sup>6</sup> Rituals of mourning diverges from culture to culture but in most cultures religious or other traditions prescribe that close relatives of a deceased one have to observe a period of grieving during which they often withdraw from public events, wear a particular dress (often black, but sometimes also white) and have to observe certain practices and abstain from others (eg. having a new partner). Several religious traditions

however, have recently become faint in many modern societies. Many intellectuals report with dismay that, certainly in relation to massive violence, we should no longer take for granted that time heals all wounds.<sup>7</sup> These intellectuals posit that pain has no "expiry date" and that "everything passes by except for the past"<sup>8</sup> Neither politicians seem to be able to point to the shortest road to the future on the basis of their political agenda: they seem to need a long and toilsome detour via the painful past of historical injustices to reach something that resembles a project for the future.<sup>9</sup>

According to historian Charles Maier something is thoroughly wrong with politics in the Western world, which might even stand at the end of an age. For example, Maier speaks of 'the end, or at least the interruption, of the capacity to found collective institutions that rest on aspiration for the future' and he directly relates this phenomenon to an "obsession" with memory and a swift rise of a melancholic relation to the past.<sup>10</sup> To put it briefly: would it not be good if historians *could*, on the basis of their scientific contemplation, still point out the precise temporal demarcations separating present, future and past. If they thus could still tell with certainty when social, cultural and political phenomena turn from present into past?

### III. Historicizing and transitional justice: constraints and risks

I dwell upon this point because I am not convinced that this would amount to a desirable type of knowledge. Let us return once more to Rousso's plea to study the past where it belongs [i.e. in the past] and from where we [historians/contemporaries] belong and to De Graaff's citation that "it [is] about time to put the past in its place." I want to raise three questions on this issue: The first thing to ask Rousso and De Graaff is whether historians can simply 'observe' the borders between past and present and thereby, in Rousso's words, determine the place where they belong on the one hand and the place where their subject of study belongs on the other

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prescribe strictly defined periods of mourning -- regulating what has to be done and how many days after the funeral this has to be done-- and also include specific dates for memorial events.

<sup>7</sup> This was forcefully illustrated for the context of Latin America by Elisabeth Jelin in her work: *Los trabajos de la memoria* (Madrid: Siglo XXI, 2002). Ruti Teitel, too, remarks that the call for justice does not necessarily decrease with the passing of time. Transitional justice, for example, she claims, implies a non-linear notion of time. Ruti G. Teitel, "Transitional Justice Genealogy", *Harvard Human Rights Journal*, 16, p. 86. Zie ook: Berber Bevernage, *History, Memory and State-Sponsored Violence: Time and Justice* (New York: Routledge, 2012).

<sup>8</sup> Luc Huyse, *Alles gaat voorbij behalve het verleden* (Leuven: Van Halewyck, 2006). Zie ook: Michael Ignatieff, "Articles of faith", *Index on Censorship* 5, (1996), 110-122.

<sup>9</sup> John Torpey, *Making Whole What Has Been Smashed. On Reparations Politics* (Cambridge: Harvard University Press, 2006), 6.

<sup>10</sup> Charles S. Maier, "A Surfeit of Memory? Reflections on History, Melancholy, and Denial," *History and Memory* 5, no. 2 (1993), 136-151, 147.

(e.g. academic historiography, the archive, the historical museum, etc). Can we claim to 'know' the proper place of the past or is this place rather the product of an act of 'putting in its place' and thus constituted performatively?<sup>11</sup>

This question may seem sophistic. However, since the historical present can never be reduced to a single point in time its definition will always, as French historian Jacques Le Goff notes, remain a basic problem for historians, whether they recognize this or not. The definition of the present, Le Goff argues, is always bound up with ideology.<sup>12</sup>

This is certainly the case in truth commissions which are created in contexts of profound political, social and cultural transitions. In the context of transitions the borders between present and past are often vague. Because truth commissions make up an important part of these transitions, I have previously argued that truth commissions should not be considered as mechanisms which merely reflect on the past retrospectively but rather as actively constituting and regulating the categories of past and present.<sup>13</sup> The use of historical discourse in truth commissions and in so-called 'new' democracies in general form a part of a broader politics of time and historicity in which these countries attempt to exorcise the ghosts of the past by actively positing what belongs to their (judicial, political, social, cultural, etc.) present and what cannot or should not be considered part of this present. Historical discourse establishes what can be considered 'timely' or part of actuality and what should be considered anachronistic, old, 'over' or "definitely lost' or "downfallen." In order to understand this phenomenon and its important political and social effects, I advocate an analysis which interprets the use of historical discourse in transitional justice not just as a type of constative language, but also as a type of performative language..<sup>14</sup> I agree with the French historian Michel de Certeau when he claims that the differentiating division between past and present is not merely an absolute axiom of historiography but even the result of an 'act of separation' [*le geste de deviser*] which conditions the very possibility of (modern, Western) historiography.<sup>15</sup>

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<sup>11</sup> This question has been the central question of a collective volume which I co-edited with Chris Lorenz: Chris Lorenz & Berber Bevernage (eds.), *Breaking up time: Negotiating the Borders between Present, Past and Future*. Göttingen: Vandenhoeck & Ruprecht, 2013.

<sup>12</sup> Jacques Le Goff, *Histoire et Mémoire* (Paris: Editions Gallimard, 1988), 31.

<sup>13</sup> Bevernage, *History, Memory and State-Sponsored Violence*; Berber Bevernage, "Writing the Past Out of the Present: History and the Politics of Time in Transitional Justice", *History Workshop Journal*, 69 (2010), 111-131.

<sup>14</sup> Dit onderscheid tussen 'constative language' en 'performative language' werd voor het eerst in de taal filosofie geïntroduceerd door de Britse filosoof J. L. Austin. Zie: J. L. Austin, *How to do Things with Words* (Cambridge Mass.: Harvard University Press, 1962).

<sup>15</sup> Michel de Certeau, *L'écriture de l'histoire* (Paris: Éditions Gallimard, 1975), 16.

De Certeau has a point when he argues that the idea of a strict division between present and past, which most historians take for granted, is founded on a socio-political logic and in its turn has important political implications. The following citation about the practice of historiography also holds true for the use of historical discourse in truth commissions:

Within a socially stratified reality, historiography defined as 'past' (that is, as an ensemble of alterities and of 'resistances' to be comprehended or rejected) whatever did not belong to the power of producing a present, whether the power is political, social, or scientific. (...) Historical acts transform contemporary documents into archives, or make the countryside into a museum of memorable and/or superstitious traditions. Such acts determine an opposition which circumscribes a 'past' within a given society (...).<sup>16</sup>

Our knowledge on the general efficiency of the use of historical discourse in truth commissions is limited.

While historical discourse might help transitional countries in their search for social closure, it can also introduce an 'allochronist' practice (a term from Johannes Fabian): in transitional countries one often finds a tendency to (symbolically) allocate into another time or treat as living anachronism those people who refuse to participate in the process of reconciliation or nation building.

In South Africa and Sierra Leone for example, one often represents forgiveness and reconciliation as defining characteristics of the present while rancor and revenge are represented as belonging to the past. Due to this tendency people who do not want or are not able to forgive or reconcile are often considered as not fully 'contemporaneous' with the rest of the nation. A similar mechanism is at play, for example, in Desmond Tutu's famous slogan 'no future without forgiveness'.<sup>17</sup> A powerful formula, because it implicitly accuses those unwilling to forgive not merely of obstructing one specific future but the future in general -- as if they threatened to bring time itself to a standstill.

Kader Asmal, one of the intellectual fathers of the South African Truth and Reconciliation Commission (TRC), similarly hoped that this commission would bring 'proper historical

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<sup>16</sup> Michel de Certeau, "History: Science and Fiction." in: *Heterologies. Discourse on the Other*. Michel de Certeau (Minneapolis: University of Minnesota Press, 2006), 216. Dit essay verscheen oorspronkelijk in het Frans als: Michel de Certeau, "L'histoire, science et fiction," *Le genre Humain*, 7-8 (1983).

<sup>17</sup> D. M. Tutu, *No Future without Forgiveness* (New York: Doubleday, 1999).

consciousness' to those who clung to the past. After the TRC, he argues, only 'ahistoric hermits' could still deny the new reality, 'looking backwards at ghosts, unaware of the exorcism so decisively under way'.<sup>18</sup> The allochronic property of modern historical discourse allows Asmal to pose the following rhetorical question:

Exactly where (and when) are those few people living who still carry the old South African flag to sporting events in the new South Africa? Where (and when) are those (...) living, still oblivious that the old H. F. Verwoerd dam (...) is now called the Garieb in honour of the area's inhabitants. Where (and when) are those people living (...) What time are some of us living (...)?<sup>19</sup>

Besides the allochronistic tendency described above, the use of historical discourse -- or more specifically the stress on the (quasi-spatial) separation between past and present -- can have two other negative effects which are each other's exact opposite: the first one can be described as a sort of 'temporal Manichaeism' which can lead to a 'hyper-moralism'; the other one can be described as 'temporal relativism' which can lead to a 'hypo-moralism' or an incapacity to form ethical judgments. A criticism often formulated against truth commissions and historical commissions is that they pay little attention to the continuity of certain phenomena because they focus on a strictly delimited period of the past. Thus, they do not sufficiently combine their retrospective focus with a critical analysis of the present.

The South African historian Colin Bundy, for example, strongly criticized the TRC in his country because it, according to him, focused too strongly on the strictly delineated period of Apartheid, which it described as the 'beast of the past' while it hardly took notice of continuities with the periods before and after.<sup>20</sup> Other commentators too deemed the strict focus of the truth commission a missed chance for a more critical analysis of the 'new' South Africa.<sup>21</sup> The lack of a critical scrutiny of the present can indeed result in the emergence of an ethical double standard whereby a sometimes moralistic condemnation of past injustice is combined with inertia or even blindness to present injustices. Worse even, the past can even

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<sup>18</sup> Kader Asmal, L. Asmal & R. Suresh Roberts, *Reconciliation Through Truth. A Reckoning of Apartheid's Criminal Governance* (Cape Town: David Philip Publishers, 1996), 52.

<sup>19</sup> *Ibid.*, 209.

<sup>20</sup> Colin Bundy, "The Beast of the Past. History and the TRC," In: *After the TRC. Reflections on the Truth and Reconciliation Commission in South Africa*. W. James & L. van de Vijver L. eds. (Claremont: David Philip Publishers, 2001), 9-20.

<sup>21</sup> Jacobus A. Du Pisani & Kwang-Su Kim, "Establishing the Truth about the Apartheid Past. Historians and the South African Truth and Reconciliation Commission," *African Studies Quarterly* 8, no. 1 (2004), 77-95.

come to function as a 'storehouse' for all evil, which consequently no longer seems part of the present, or in comparison with which contemporary evil seems to belong to the class of featherweights.

When this is the case, a tendency toward 'temporal Manichaeism' emerges which unburdens the present by burdening the past and which could be described with the following formula: 'the past is evil/evil is past.' Richard Wilson formulated such a critique, although without naming it so, against the South African TRC which he criticized for condemning violence of the past while identical violence still continued in prisons only a few miles away.<sup>22</sup> The limited attention paid to the continuation of the past in the present and the related tendency toward temporal Manichaeism can partly be explained by referring to the specific political and ideological context in which most truth commissions function. Yet, the postulate of the division of past and present and the taboo on presentism that underpins the dominant currents of Western historiography also play a central role here. Temporal Manichaeism is moreover reinforced by a series of widespread tendencies in contemporary historiography which, as Pieter Lagrou appropriately remarks, increasingly focuses on horror and crime in the past and tends to evolve from a '*histoire du temps présent*' [history of the present] into a '*histoire des autres*' [history of the other].<sup>23</sup>

Paradoxically the logic of historicization can also lead to a moral relativism and an incapacity for ethical judgment. This especially is the case when the absolute particularity and singularity of historical events and context are stressed. In order to formulate an ethical judgment we are in need of a set of a-historical standards which transcends the case to be evaluated. A radical stress on the unicity of each historical situation can lead to a 'hypo-moralism'.<sup>24</sup> Most historians will not consider this a problem, but in the context of truth commissions and historical commissions this can be highly problematical. This certainly is the case if one agrees with Antoon De Baets, that even if historians *qua* historians should not judge, then at least their insights should enable others to do so in an informed way.<sup>25</sup>

The problem of hypo-moralism by historicization has, for example, taken place in the parliamentary commission which had to inquire into the Belgian responsibility in the murder

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<sup>22</sup> Richard A. Wilson *The Politics of Truth and Reconciliation in South Africa. Legitimizing the Post-Apartheid State* (Cambridge: Cambridge University Press, 2001).

<sup>23</sup> Pieter Lagrou, 'De l'histoire du temps présent à l'histoire des autres: Comment une discipline critique devient complaisante', *Vingtième Siècle: Revue d'histoire*, 118 (2013) p. 101.

<sup>24</sup> This is most probably, the sort of mechanism Hayden White refers to when he rather enigmatically claims that 'In a sense, ethics ended with the historicisation of human life'. Hayden White, *The Practical Past*, *Historiein* 10 (2010), 10-19, 15.

<sup>25</sup> De Baets, *Na de genocide*, 225.



on the first Congolese prime minister Patrice Lumumba. When writing their final report the Belgian MP's fell back on research that was done by a specially appointed team of expert-historians and also took over the their taboo on 'presentism'. This taboo on presentism, or as the MP's put it, the fear to 'analyse and comment the facts from a present-day worldview', resulted in a great reluctance to formulate an ethical judgment among the politicians. This eventually lead to a situation in which the Belgian role in the murder of Lumumba was morally condemned in a nominal way, but whereby a series of disclaimers about the difference between 'norms concerning public morality of today' and 'personal moral considerations at that time' immediately 'defused' or even canceled this nominal condemnation on a political level.<sup>26</sup>

For another example of hypo-moralism by historicization I want to turn for a moment to the Minority Position in which the Afrikaner member of the South African Truth and Reconciliation Commission (TRC), Wynand Malan, turned against the conclusions, especially concerning the moral condemnation reprehensibility of Apartheid, which his colleague commissioners formulated in their final report. Malan criticizes the report of the TRC on a methodological plane because the commission, according to him, made too much use of oral history, a type of history which he regards as untrustworthy.

More interestingly, however, he also set up a historiographic argument against what he considers to be the commissions all too moralist approach. He does this by interpreting the commission's moralist approach as the result of the absence of a profound historical analysis or as he puts it: the lack of a 'real historical evaluation'. Whoever engages in a 'real historical evaluation of Apartheid, according to Malan, cannot but recognize this existence of historical perspectivism: i.e. the fact that each historical phenomenon can become the subject of different legitimate perspectives which should all be integrated if one wants to arrive at a 'shared history'. Malan therefore criticizes the fact that the TRC in its report, and in line with a previous decision of the UN, refers to Apartheid as a crime against humanity. For Malan this clearly is a continuation of an old historical narrative and a 'battle of the past' since the UN took this decision back in 1973 while Malan in line with his historicist approach stresses that 'moral imperatives are phenomena of their times and locations'.<sup>27</sup>

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<sup>26</sup> Berber Bevernage, *Geschiedenis in overheidsopdracht: wetenschap, ethiek en politiek in de Belgische Lumumba-commissie*, *Tijdschrift voor geschiedenis* 125, no. 1 (2012), 81-96.

<sup>27</sup> TRC, *Report* (Volume 5), 448.

The appellation as crime against humanity has great practical importance because criminal prosecution then remains a possibility, due to the imperceptibility of that specific type of crime.

Malan regrets that his colleague commissioners do not reject this and therefore implicitly argues that they are obsessed with the past. He poses the rhetorical question ‘whether an investigation of apartheid under international law would have any present or future legal or political value’. This possibly might have been the case if it concerned a genocide, because genocides remain a potential threat for many societies, but ‘apartheid as a system is dead and buried forever.’<sup>28</sup> He therefore concludes that attempts to retroactively prosecute war crimes can only be considered as an anachronistic and senseless stirring up of the past.<sup>29</sup>

One might ask Rousso, de Graaff and Malan why historians should have the authority to ‘put in its place’ or ‘close off’ something of such great weight as the past, and this merely on this basis of scientific contemplation. Would it not be worrying if historians would thereby only have to present their skill of measuring time? And what should we think of the relation between the professional duty of historians to historicizingly ‘close off’ epochs by demonstrating their ‘entirely particular/typical character’<sup>30</sup> and the social justification of this act of closure? Can these two actually be differentiated and if so, is it not often the case that historians tend to see closed, bygone or definitely ‘lost’ and clearly identifiable epochs where this is deemed socially desirable? Certainly historians dispose of a reasonable margin for demarcating one period in relation to the other. This margin makes it hard to speak about the ‘observing’ or ‘recognizing’ of different epochs.

I do not have the space here to elaborate on this issue, but it is important to remark that several researchers have argued that historical periodisation, rather than merely being a heuristic device or merely resulting from scientific observation is often thoroughly political, primarily legitimating claims for autonomy and sovereignty. These researchers therefore speak about a ‘periodisation politics’.<sup>31</sup> This politics of periodisation is highly relevant in the

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<sup>28</sup> TRC, *Report* (Volume 5), 449.

<sup>29</sup> TRC, *Report* (Volume 5), 445.

<sup>30</sup> De Graaff, *Op de klippen of door de vaargeul*, 29.

<sup>31</sup> Zie bijvoorbeeld: Hans Blumenberg, *Die Legitimität der Neuzeit* (Frankfurt: Suhrkamp, 1983); Kathleen Davis, *Periodization and Sovereignty: How Ideas of Feudalism and Secularization Govern the Politics of Time* (Philadelphia: University of Pennsylvania Press, 2008); Olivia Harris, “‘The Coming of the White People’: Reflections on the Mythologisation of History in Latin America,” *Bulletin of Latin American Research* 14, no. 1, (1995), 9-24; Matt Hodges, “The time of the interval. Historicity, modernity, and epoch in rural France,”

case of so-called transitional countries or new democracies who often base their national identity and international legitimacy on an (alleged) break with a dictatorial or violent past and thus on a 'discontinuous historicity'.<sup>32</sup> The choice for a particular temporal demarcation is thereby never neutral but can directly contribute to the legitimacy of the new regime.<sup>33</sup>

I want to return a last time to the citation that 'the time has come to put the past in its place' to raise a last question about it: how can one know that this time has come? Can a historian say something about such an inherently ethico-political or even quasi-religious question?<sup>34</sup> Even when we are convinced that at some point in time a line has to be drawn under the past, does the central question not still remain at which point in time exactly this line has to be drawn?

One can hardly deny that it is socially necessary to make a certain distinction between victimship and 'former victimship' as de Graaf suggested. The same seems to be true for the distinction between perpetratorship and 'former perpetratorship' as well. The question, however, is whether this distinction between victims or perpetrators and *former* victims or perpetrators isn't primarily an ethico-political difference, instead of a historical or chronological one. When historians make this sort of demarcations they force us to make the leap from a chronological, descriptive time to an imperative, prescriptive time. Such a leap is problematic because each chronological moment can be appointed by anyone as the time to draw a line under the past -- by the 'good historian' as well as the perpetrator or the politician with less noble intentions. This indeed is the logic which underpins many pleas for amnesia and amnesty: a logic which posits that there will never be a more timely moment to draw a line under the past than the moment when it is still present. How then do we reassure ourselves that we are not prematurely closing off the past?<sup>35</sup>

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*American Ethnologist* 37, no. 1 (2010), 115-131; Constantin Fasolt, *The Limits of history* (Chicago: Chicago UP, 2004).

<sup>32</sup> De uitdrukking 'discontinuous historicity' ontleen ik aan Richard Wilson: *The politics of Truth and Reconciliation in South Africa. Legitimizing the Post-Apartheid State* (Cambridge: Cambridge University Press, 2001), 16.

<sup>33</sup> De logica van het historiseren kan via de *periodisation politics* functioneren zoals de rechtshandeling die een nieuwe soevereine staat creëert waar die daarvoor nog niet bestond en waarover de rechtsgeleerde Mark Osiel waarschuwt dat ze kan bijdragen tot de waan dat het verleden niet langer doorwerkt in het heden en waardoor ze een 'serious moral reckoning' in de weg kan staan. Mark Osiel, *Mass Atrocity, Collective Memory and the Law* (London: Transaction Publishers, 2000), 166.

<sup>34</sup> Zie bijvoorbeeld de Zuid-Afrikaanse religieuze groep KAIROS die onder andere via het manifest "Now is the Time" argumenteerde dat het hoog tijd was de Apartheid te beëindigen. Eric Doxtader, "Making Rhetorical History in a Time of Transition. The Occasion, Constitution, and Representation of South African Reconciliation", *Rhetoric & Public Affairs* 4, no. 2 (2001), 223-260.

<sup>35</sup> Dit is een van de centrale vragen die bijvoorbeeld door Brandon Hamber en Richard Wilson worden gesteld in hun analyse van de recente omgang in Zuid-Afrika met de erfenis van het geweld en onrecht van de Apartheid.

On previous occasions I have referred to the so-called Documento Final issued in 1983 by the Argentine military Junta as a perfect example of this perverted use of the logic of historicization for prematurely closing of the past.<sup>36</sup>

Although the Documento Final was essentially concerned with self-amnestying, and although the propaganda piece was televised during the military dictatorship and before the transition to democracy, it was conceived as historical documentary. The military leaders referred to the piece as a 'historical synthesis of the painful and still nearby past'. The viewer gets to hear that 'the moment has come to heal the wounds [...] to enter with a Christian spirit to the dawning of a new epoch, and to look with humility to the day of tomorrow.'

At the end of the documentary the military leaders proclaim the end of the dirty war and grant themselves an extensive amnesty. The entire document can be seen as a drama of closure which has to lead to one central conclusion: that the dirty war was bitter, but that now it is history and the nation should look forward to better times. It is clear that many (ex-)dictators and war criminals are suspiciously fond of making us of historical discourse.

The issue of the proper time to close off the past is not restricted to the perverse or cynical cases of self-amnestying however. Hamber and Wilson remark that governments often want to close off pasts far earlier than the individuals involved are willing or able to do: 'For survivors, the state's desire to build a new post-conflict society often means sloughing off the past too easily, and asking survivors to engage in a premature closure before all the psychological processes of truth and recompense are fully internalised.'<sup>37</sup>

It is therefore important that chronology or the fact that events belong to the chronological past are not instrumentalized as an alibi for claiming that these events also belong to the past in a more substantive sense, that they are *passé* or *history* in the pejorative sense. This is the danger that often lurks in the use of historical discourse by truth commissions.

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Zij stellen dat overheden na periodes van dictatuur of gewelddadig conflict vaak veel sneller een soort afsluiting of 'closure' van het verleden nastreven dan individuele slachtoffers kunnen of willen aanvaarden: "For survivors, the state's desire to build a new post-conflict society often means sloughing off the past too easily, and asking survivors to engage in a premature closure before all the psychological processes around truth and recompense are fully internalised." Brandon Hamber & Richard Wilson, "Symbolic closure through memory, reparation and revenge in post-conflict societies", *Journal of Human Rights* 1, no. 1 (2002), 35-53.

<sup>36</sup> Berber Bevernage, *History, Memory and State-Sponsored Violence*.

<sup>37</sup> Brandon Hamber & Richard Wilson, "Symbolic closure through memory, reparation and revenge in post-conflict societies," *Journal of Human Rights* 1, no. 1 (2002).

The mechanisms of the politics of time described above do not remain uncontested however. In South Africa for example the Khulumani Support Group -- a member organisation which represents over 55.000 victims and survivors of Apartheid violence -- very explicitly criticize the politics of time used by both the TRC as well as the ANC-government. They criticize the 'unfinished business' of the TRC and the 'folly to think that the demand for accountability will fade with time'. 'It is not perpetrators who should be announcing that it is time to move on from the horrors of a past that continues to live in the present,' they argue, 'it is victims who should announce that time.' While they, do not reject the aims of nation building and reconciliation in principle, they 'declare that the past is in the present' and call on all South Africans to accept 'that the past is not yet past'.<sup>38</sup>

The most radical and fascinating resistance against the logic of historicization and against chronological notions of time can undoubtedly be found with the Argentine *Asociación Madres de Plaza de Mayo*. The Madres have a perfect insight into the functioning of historical discourse and its potential effects on the dealing with injustice. Because they fear that this logic of historicization will indirectly legitimize a situation of impunity, they radically resist each metaphor that refers to an absent, distant or dead past. The madres' best known strategy to do this is their stress on the ghostlike figure of the *desaparecidos* (disappeared) who are neither alive nor fully dead and who blur the borders between past and present. Despite the more than thirty calendar years that have 'passed' since the disappearance of their children the Madres deny the 'pastness' of this event.<sup>39</sup>

## Conclusion

The debate about the possibilities, limitations and desirability of the contribution of historians and historiography to transitional justice up to now has primarily focused on the aspects of 'truth' and the contrast between remembrance and forgetting. Both the proponents as well as the opponents of the use of history in the context of transitional justice have primarily focused on the tenability of popular transitional justice-claims about the reconciliation by truth telling and about remembrance as an alternative form of justice and have therefore conceived the use of historiography in terms of a search for 'objective truth' or as struggle against 'forgetting'. This approach is important and also yields a number of very interesting questions. The focus

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<sup>38</sup> De persberichten en charters van de 'Khulumani Support Group' zijn te vinden op hun website: <http://www.khulumani.net/>

<sup>39</sup> Berber Bevernage & Koen Aerts, "Haunting Pasts: Time and Historicity as constructed by the Argentine Madres de Plaza de Mayo and radical Flemish nationalists," *Social Time* 34 (2009), 4, 391-408.

on the dimensions of the process of establishing truth and the tension between remembrance of forgetting remain limited if one wants to understand the ethical implications of the use of history in transitional justice and in *Vergangenheitsbewältigung* in general.

One should also pay attention to another aspect of the relation between historiography and transitional justice: that of the politics of time as it manifests itself in the practice of historicizing. The role of historiography and historical discourse within the field of transitional justice should not merely be related to its traditional functions of representing the past, of searching for truth or even of generating meaning or identity, but also to its concept of time and the specific way in which it conceptualizes the relation between present and past.

Historical discourse and the logic of historicization can be attractive in the context of transitional justice and truth commissions because of its ambivalent tendency to divide present and past merely by 'diagnosing' its 'division', in other words its alleged capacity to put the past in its place simply by recognizing or acknowledging this place. While the logic of historicizing can be of great importance in dealing with historical injustice, it can also have a series of negative consequences. For example, it can tend towards hyper-morality as well as hypo-morality and can be abused to prematurely close off the past or even legitimize impunity.

Does this mean that I see not ethical mandate for historians and think that historians should not engage with transitional justice or truth and historical commissions at all? No, they certainly should because historical discourse and the logic of historicization are already used in transitional justice without historians being present. Historians can and even should play an important ethical role but primarily an indirect one. They should not claim that they can solve complex ethical or political dilemmas simply on the basis of their expertise in measuring time and determine the 'hierarchy of time'. In that case chronology would indeed serve as an alibi for escaping ethico-political responsibilities. Historians can, however, play a critical role precisely by reflexively pointing out the use and abuse of historical discourse and politics of time in such a way that ethical and political dilemmas are sharpened and the need for taking responsibility is made manifest.