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The difficulty of unforgiving

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I shiver when I think how you can forgive on behalf of others. I can’t forgive. I don’t have
the permission.

(Jona Laks in Kor 2006)

Is it time to pardon, or at least to forget?... [ I]n relation to the infinite all finite magnitudes
tend to equal one another.... What happened is inexpiable.... Forgiveness died in the death
camps.... Father, do not forgive them, for they know precisely what they do.

(Jankelavitch 1996: 554, 558, 567, 564)

You can’t cover an elephant with a rice basket.
(Kav Savuth’s Cambodian defense of Kaing Guek Eav in Mydan 2009c)

My current plea is that I would like you to please leave an open window for me to seek
forgiveness.
(Kaing Guek Eav in Mydan 2009a)

Introduction
Much has been written on the gift, giving, forgiving. Even if we consider all giving to be a
conditional act, rather than a pure gift, forgiving poses a difficult task for finite human per-
sons. There is nothing wholly secular about unforgiving. Unforgiving is an excessive, saturated
phenomenon that engenders this postsecular meditation (Matuštík 2008). I use the locution
postsecular in a twofold sense: one, in the West, secularization refers to the historical Enlight-
enment whereby the vanishing point of modernity is envisioned to yield a full rationalization
of religious claims. Return of the religious after the process of rationalization of religious
claims (their translation without a remainder into one of the cultural spheres of modernity,
i.e., sciences, law, and aesthetics) would give birth to postsecular religiosity. Two, the post-
is not the same as anti-, and we must admit the possibility of new forms of understanding,
such as spirituality without religion, postmetaphysical religiosity, or new enlightenment that
includes both rationalization of traditional religious contents and spiritual mindfulness.
In the postsecular age, the binary secular-sacred has been emptied of signification it held during the process of rationalization of the sacred.

This is why there is nothing wholly secular about unforgiving. Forgetting the past requires no sustained effort, while forgiving trauma needs an ongoing effort at remembering something as otherwise than it was. If I cannot forgive, why not rather forget the whole thing? Why would the secular age want to hold on to a postsecular excess of unforgiving? If I could induce amnesia, modify my brain proteins that record a scene of trauma, why would I choose to cohabit my present with my unforgiving self? Unforgiveness separates the scene of trauma one recalls from forgetting oneself at that scene altogether. Walking away from or working through the scene differs from fleeing oneself from the scene. Forgetting does not require my whole self for its work; unforgiving consumes the self that one has been. A new self, albeit recognizable in remembering, arises in coming to terms with the traumatic past.

The scene of trauma choreographs three basic scenarios: the what, who, and how. The what—the deed—requires repair, repayment, sentence, punishment, and memorialization. The who—the doer—refers to the agent who harmed and the sufferers who were injured. The agent and the sufferer are pinned down by their unforgiving. The how—the intra—or impersonal address of unforgiving holds the doer and the sufferer bound to the lost possibility of oneself or another. The first scenario emerges in courts, moral repair, and struggles over memory. The second, interpersonal scenario implies that one never accepts, gives, or withholds gifts, even to oneself, wholly alone. In solitude, one never addresses oneself without addressing another. The third scenario brings out the curious insight that my capacity to give or refuse forgiveness does not come from another human or because of trauma. Unforgivingness reveals a vocative dimension of life—there is always a cosmic address to which one addresses this difficulty. Memory retraces the deed (what), hatred holds the doer and the recipient (who) in the difficulty, and the lost possibility of oneself or another (how) addresses unforgiving to intra- or impersonal address.

Postsecular meditations

Meditating on the difficulty of unforgiving as an interpersonal affair, the who in the second scenario, one apprehends the self and alters as either bound or released at the scene of trauma. Without postsecular unforgiveness surviving in the secular age, the death sentence would lose its repulsive sympathy and attractive antipathy. Are there conditions that allow for, though do not legislate, the possibility of forgiving? What does unforgiving require of perpetrators and sufferers?

Meditating on the lost possibility of oneself and another, the how in the third scenario, the unforgiving, appeals to an intra- or impersonal address. Even if one meets the moral, legal, and economic obligations of the first scenario, can one prosecute the irreparable? What does the remainder of unforgiveness reveal at the heart of justice?

In this meditation on the postsecular excess of unforgiving, I draw on the trial of Kaing Guek Eav—‘Duch’, who directed the Tuol Sleng prison during the Khmer Rouge reign. I focus in particular on the witness testimony of Vann Nath, one of the seven Tuol Sleng survivors.

Forgiving

Forgiving seems to be more difficult than not forgiving. Human persons generally believe in human renewal, but sometimes one becomes unable or unwilling to forgive. Forgiving requires self-change. There is no normative or economic shortcut from traumatized self to
self-renewal. There is no foreseeable shortcut from doer of unforgivable deeds to person capable of renewal. Where forgiveness does not arise for some deeds, the punishment of the doer and sustained horror at the deeds do not settle the question of whether or not their originator is in principle forgivable.

Are crimes against humanity unforgivable? Unforgiving is a recognized dimension of such crimes against humanity—yet is it possible to subject this dimension to legal action; is it indeed punishable? Truth commissions can articulate political apology, ritualize pardon, declare amnesty, require reparations. But can anyone legislate forgiveness of crimes against humanity? Courts place no time limit on punishing certain crimes. But can anyone demand that they be forgiven in due time?

Walter Benjamin (1999: N7a8, p. 471) asked Max Horkheimer in their letter exchange of 16 March 1937, whether past suffering is closed to later generations. Are victims safe from posthumous victories of their oppressors if history of the past is complete? Rituals of political apology address intergenerational liability where interpersonal forgiveness is not available. Moral and political restoration may require the third party or intergenerational political apology. Even when we just remember the humanly unforgivable, we forbid ourselves conceiving of history as fundamentally closed. The categorical imperative of anamnestic solidarity with victims of history transmits this ‘messianic hope’ as a dangerous memory of those who have expected our coming (Benjamin 1968: 254). I am raising now new questions—is unforgiving transmitted through time that will not pass away, is there memory that can resist its erasure, are there repairs without measure?

_Humanly forgivable._ To admit that an offender may be humanly forgivable (Griswold 2007: 115) establishes three baseline conditions for forgiveness: if the injury is humanly forgivable, then both the victim and the offender must be willing to reframe their mutual self- and other relations. The wrongdoer and the victim, each, must meet certain conditions in order for forgiveness to take place. Those conditions must be met from each side. Whether one faces the difficulty from the side of the perpetrator or the harmed, one must retain and yet reframe the self at the scene of trauma. The victim's readiness for reframing of oneself, as well as of the perpetrator, exhibits a supererogatory (morally good but not strictly required) capacity for self-modification—a disposition and virtue of ‘forgivingness’ (17). In greater detail, Griswold (2007: 50–4, 149f., 174) enlists six conditions that, ideally and in a paradigmatic case of forgiving, must be met by an offender and six by the injured for forgiveness to take place.

A wrongdoer must enable but cannot require forgiving:

- Own up
- Repudiate the deed and oneself as its source;
- Regret the deed and oneself as its originator;
- Commit to lasting change in words and deeds;
- Take a sympathetic understanding of harm;
- From the victim's perspective offer a narrative account of one's own wrongdoing and future reframing.

And a victim must satisfy conditions of granting forgiving:

- Forswear revenge;
- Moderate resentment;
- Commit to giving up resentment;
- Reframe the self of the wrongdoer;
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- Reframe oneself as a victim;
- Communicate forgiveness to the offender.

In real life, these ideal requirements fall short. This deficit does not mean that one can take shortcuts. Griswold (2007: 118–29) describes imperfect approximations of the ideal-typical forgiveness. A third party may offer or receive forgiveness on behalf of someone else, but only indirectly. One must be related to the dead or to the one who cannot meet the conditions for some legitimate reason. A victim may forgive an unrepentant offender without waiting for all enabling conditions to be met.

Even when both sets of conditions are achieved, there is still the task of self-forgiveness. A victim need not wait on the perpetrator’s conditions to be satisfied. A victim’s path to freedom from trauma cannot be hostage to the perpetrator. Still self-forgiving requires that one foregoes a great deal of the resentment. Griswold’s virtue of ‘forgivingness’ (2007: 17) resembles interpersonal love in that one cannot forgive or be forgiven without relating to another. Neither self-love nor self-forgiving would make full sense without an interpersonal address. Even in the singularity of self-forgiving, one calls out aloneness not only interpersonally but also intra- or impersonally (appealing to an ideal other, deep self, a cosmic address).

Unforgiving seems humanly easier to harness than fulfilling Griswold’s conditions. Even half-baked forgiving and its weaker forms, apology, or reconciliation require a degree of self-modification. In a truly secular age, why should we prolong unhappy unforgiving and rather strive for happy forgetting? The secular mind suspects forgiveness of superstition, while it embraces hatred as an ordinary worldly attitude. If the secular ear is tone-deaf to spiritual music, how can its mindset raise a faith claim whereby unforgiving endures now and forever (saecula saeculorum)? When victims fail to reframe the self of a wrongdoer, how is it their weighty memory is not performing spiritual underwriting? Withholding forgiving, rejecting its offer, hardening one’s heart—why remembering these very states of mind should not require a degree of self-modification? Indeed, sidestepping oneself while persisting in unforgiviness, this attempt as erasure of traumatic memory traces is a self-contradictory performance. Un/forgivingness is a Janus-faced phenomenon, the vocative who, that un/binds the selves of the wrongdoer and the victim. This double difficulty attests to the interpersonal requirement of self-modification.

The difficulty of unforgiving presents us with three distinct outcomes of trauma:

- Forgiving is achieved when the full double set of six conditions (the self- and other relations between the perpetrator and sufferer) is met; or
- Only unforgiving is humanly possible (the self- and other relation remains unchanged); or
- Self- and other relations no longer pose the difficulty of forgiving (one has forgotten the scene of trauma or become otherwise than human).

I either struggle with myself and another, the who, at the scene of trauma; or I modify the what, sidestepping the who and the how. Skipping myself and another, I win but a pyrrhic victory.

The high stakes of unforgiving

Imprescriptible means forever punishable. There is a shared normative intuition that only transgressions that admit punishment can be repaired. The twentieth century set aside a special category of misdeeds we call the crimes against humanity. These crimes are in legal terms imprescriptible, that is, there is no time limit on punishing their perpetrators.
Imprescriptibility carries two peculiar outcomes. First, there is no time limit on punishment as long as perpetrators live. It is as if infinity immigrated into imprescriptibility. A suprahuman temporal weight sinks into crimes against what it means to be human. However, this expanded secular time limit, boasting an imagined infinity, exceeds only the passing away of finite time. Imprescriptibility does not inscribe human law into the messianic now-time of redemption. The imprescriptible is saturated by another excess—the unforgivable—though it is not identical with it. I use the locution unforgivable to infinitize temporality of unforgiving. Only crimes that are unforgivable in principle can also come under the rubric of imprescriptible. Punishment does not require forgiving; the latter cannot be legislated.

Second, victims of history can be memorialized in public dramatizations of reconciliation, healing, and coming to terms with the past. Yet, legally punished misdeeds do not restore shattered human solidarity. There is no human-type contrition that by itself expiates evil deeds. Their postsecular excess tone-deaf ears cannot hear, but phantom limbs of the secular age suffer it even if all dastardliness could be punished and morally repented in time.

Both outcomes of imprescriptibility bring us to the threshold of unforgivingness. Crimes against humanity have become legally imprescriptible: There is no time limit on their prosecution. In a truly secular age, why should we prolong unhappy unforgiving and rather than striving for happy forgetting? Imprescriptibility is saturated by what is humanly unforgivable. Evil crimes must be in principle always already punishable, though not necessarily forgivable. Forgiving them introduces the possibility of redemptive critical theory. The imprescriptible is not the same as the unforgivable. If a criminal deed does not expire with time, we know what it means to call it in principle imprescriptible and punishable. These are the high stakes of un/forgiving such crimes. Punishable imprescriptibility of crimes does not provide any warrants that they may be forgivable in time. Punishability of imprescriptible crimes cannot require or legislate their forgiveness in principle. The imprescriptibility of crimes, at best, means that their perpetrators must never be granted a posthumous victory (Fackenheim 1996). The judgement on this type of crime (the what) never expires with time, the deed must never be forgiven. Indeed, sidestepping oneself while persisting in unforgivingness, this attempt at erasure of traumatic memory traces is a self-contradictory performance.

Critical theory can articulate reparations, moral restoration, public performances of amnesty, pardon, and reconciliation. We can identify negatively the publicly recognizable features of unforgiving: It breaks the bounds of mere reasonableness, it exceeds the bounds of the legally imprescriptible, and it negatively saturates the bounds of economic, legal, political, and moral repair. Redemptive critical theory points to what lies outside of the secular 20/20 vision. What are the sources of healing that cannot be legislated? What is forgiving that is not morally categorical? From where is hope derived that is assumed in public settings yet whose promise has been lost in time?

There are two questions in play. Critical theory asks about the what: the deed to be punished and its effects to be repaired. Redemptive critical theory asks about the who and the how: self-modifications of the doer and sufferer. The imprescriptible crime describes the ‘what’ of the unforgivable deed and in that sense assigns punishment to its agent. The unforgiven address concerns the selves of the perpetrator and sufferer. Must doers of imprescriptible crimes who are punished yet unforgiven in their lifetime become in principle unforgivable? This ‘in principle’ tweets the secular age with a postsecular hashtag.

Evidence from the difficult freedom of unforgiving

The ‘who’—case file 002/14-08-2006 filed in Extraordinary Chambers in the Courts of Cambodia—contains crimes against humanity and grave breaches of the Geneva Conventions
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of 12 August 1949. The accused is Kaing Guek Eav alias ‘Duch’ who directed the Tuol Sleng Prison under the Khmer Rouge in Cambodia (1975–1979). From 1975 to 1979, between 17,000 and 20,000 people were imprisoned at Tuol Sleng (these are estimates). From the records of 14,000 prisoners who passed through Tuol Sleng, there were twelve known survivors: seven adults and five children. There is no time limit on prosecuting the living doer who has been in hiding for 20 years under another name (1979–1999). ‘Duch’ was arrested in May 1999, and indicted on 8 August 2008. His trial concluded on 27 November 2009, with the prison term of 35 years, of which he had already served 16 (Mydans 2010a).

The ‘who’ calls out the addressee of unforgivingness that attaches to the verdict. A juridifiable address is the material case. A non-juridifiable address is the ‘who’. The latter address keeps unforgiving alive. In this imprescriptible case, some mail might have been forwarded from one address to the other. In February 2008, ‘Duch’ was taken, with his consent, to the scenes of trauma. Witnesses were shocked by an extra-judicial act, choked by great emotions: ‘I ask for your forgiveness—I know that you cannot forgive me but I ask you to leave me the hope that you might’, ‘Duch’ cried out, then collapsed in tears on the shoulder of one of his guards. A survivor of Tuol Sleng exclaimed back: ‘Here are the words that I’ve longed to hear for 30 years!’ (Bizot 2009).

In April 2009, ‘Duch’ offered an 18-minute non-juridifiable court plea: ‘I would like you to please leave an open window [possibility 1] for me to seek forgiveness [possibility 2]. I would like to express my regret and heartfelt sorrow’ (Mydans 2009a). He presented the court with a pencil sketch of men at desks and piles of skulls that, he said, explained the workings of the regime’s hierarchy. Nic Dunlop, a biographer of this case, discovered ‘Duch’ living incognito 10 years before that moment. He said that even had it been merely tactical, this apology would be significant. ‘Duch’s’ cooperation and truth-telling would offer some of the historical clarification that Cambodians have been seeking. At a news conference, the defence lawyer, Martine Jacquin, noted: ‘the most important thing is that he spoke today and expressed regret, remorse, and sought forgiveness, which was something the civil parties have been waiting for [for] a long time’. This defence suggested that ‘Duch’s’ apology addressed traumas that had not been publicly acknowledged for three decades. But Robert Petit, one of the prosecutors, objected that ‘Duch’s’ contrition had come too late.

The accused was knowingly and intentionally in control of the entire Tuol Sleng criminal enterprise. Rather than a victim of fear, he was the one who created fear. Fifteen years later the accused would supervise the torture and execution of Chay Kim Huor, teacher and mentor [who recruited him into the Communist Party in 1964]. That single fact I submit as highly revealing.

(Mydans 2009a)

But then ‘Duch’s’ non-juridifiable address becomes the elephant in the room. Who is ‘Duch’?

I wanted to be a well-disciplined boy who respected the teachers and did good deeds. I never believed that the confessions I received told the truth. At most, they were about 40 percent true. Whoever was sent to S-21 was considered to be already dead. The work expanded, people were arrested illegally, right or wrong. I considered it evil eating evil eating evil.

(Mydans 2009c)

In April, ‘Duch’ pleaded for the possibility: (1) that a window may be left open for the possibility; and (2) for him seeking forgiveness. Two days before the end of the trial,
Kav Savuth pursued for ‘Duch’ the Albert Speer defence, contradicting the plea (Cambodian Defense 2009):

You can’t cover an elephant with a rice basket, [but] Duch acted under duress obeying superior orders. We cannot ask for acquittal of the accused as well as enter a guilty plea for him. We are in the Albert Speer defense now. At Nuremberg, Speer did not plead guilty but he acknowledged his responsibility… Can ‘Duch’ still be useful to humanity?

Next day, the international defence counsel, François Roux, gave a witness account of ‘Duch’s’ death and apparent resurrection. Because he will never be forgiven, ‘Duch’ should be sent home:

But can we look ‘Duch’ in the eye and see him for the human he is? Will you bring “Duch” back into the fold of humanity? “Duch” is dead. Today his name is Kaing Guek Eav. He is no longer the “Duch” of the Revolution.

(Mydans 2009c)

If one does not die, can one live? The difficulty of resurrecting the living dead resurfaced on the last day of the trial when Kav Savuth challenged the imprescriptibility statute that expired in 1989: ‘This is like a person dying and then Resurrecting a dead body—that is impossible’. But it was the international counsel who proclaimed on a previous day an impossible death of this same agent who sought acquittal and resurrection in forgiveness. Negating the time limit on punishing crimes against humanity (their imprescriptibility) inscribes certain temporal infin- ity into the law. The capital punishment of genocidal offender betrays an already-vanishing limit of the imprescriptible law. Just as there is no positive time limit on achieving conditions for forgiving, so there is no secular ‘quickie’ resurrection or cheap grace at a non-juridifiable address, especially for a doer who is an elephant trying to hide under the rice basket.

Roux pressed on with precisely this theology of resurrecting the ‘who’ hidden under the rice-basket. He stressed the impact of dehumanization on the living person. Before dehumanizing their victims, executioners dehumanize themselves. Roux’s claim echoes deeper existential truth: ‘No one is born an executioner, one becomes so’. I am not a Christian, I am trying to become one (Kierkegaard); I am trying to become an atheist (Sartre); one is not born a woman, one becomes one (de Beauvoir). Roux reminded the court that he had declared ‘Duch’ dead on Thursday. Why should that unaccounted for dying be enough to underwrite ‘Duch’s’ new life now? The court faced suddenly a former math teacher, who was not a torturer, Roux insisted. The co-prosecutor, William Smith, underscored the two self-contraindicating defence strategies advanced *uno tenore*. ‘If his request is for an acquittal, that undermines his pleas of remorse and invites a longer sentence … He comes to court but he is not facing up to what he was!’ The perpetrator is hiding under the rice basket, and that is how the secular age blushes in embarrassment at hidden postsecular sensibility suffusing its rationalized sacred contents. ‘Duch’ did not challenge the material case of 12,380 deaths at S-21. ‘I am responsible for crimes without any denial. I’m responsible for crimes as part of a criminal party [CPK]. I acknowledge that these people died at S-21’. But he conceived of his redemption without dying to his criminal self: ‘I have learned from the psychiatrists that I need to be restored into the ambit of Humankind … My ability to analyze is limited to what I can report. I would like the Chamber to release me’ (Mydans 2009c). Can one live if one is not there (non-juridifiable address is lacking) to die?
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Humanly unforgivable or the unforgivable in principle?

I would like to make the following claims:

- **Critique**: There is nothing redemptive or holy in conducting a war on the unforgivable in principle. The unforgivable deeds are not committed by moral monsters.
- **Moral restoration and punishment**: There is nothing wholly secular about irreparable violence and inexpiable destruction of hope. The infinite immigrates into the imprescribable dimension of crimes against humanity.
- **The humanly unforgivable**: Even as the humanly irreparable exceeds moral repair and punishment, its painful face remains recognizably human, and it is this struggle with trauma that cannot remain unforgivable in principle.
- **Redemptive critique as a margin of hope**: There is nothing humanly satisfying in self-modifications that would no longer grapple with unforgiving.

There are radically evil deeds. Humans live and die unforgiven or unforgiving. Is unforgivingness same as the unforgivable in principle? ‘ Forgiveness forgives only the unforgivable’. ‘Forgiveness must announce itself as impossibility itself’ (Derrida 2001: 32, 33). Unforgiving calls one to struggle with rather than flee or forget the scene of trauma. Forgiving the humanly unforgivable is beyond ordinary human capacity, yet a wrongdoer, to be recognisable as a human doer of crimes against humans, cannot be regarded as an address that is unforgivable in principle. Such a doer beyond the reach of un/forgiving could not be faced as a human transgressor. She or he would be a member of a devilish race from another planet. Induced amnesia, willed forgetting, ideological modifications of historical transmission of trauma, management of brain proteins—these options for removing trauma do not satisfy the post-secular hope living at the address to which un/forgiving appeals. Struggling with one’s and another’s unforgivingness, whether it is therapeutic and spiritual change awaited at the scene of crime, invokes the dangerous memory of an agent with a human face.

Why does forgiving seem not only paradoxically impossible but also exceedingly difficult? The possibility of redemptive critical theory emerges when we articulate the publicly recognizable, yet untranslatable, asymmetries of unforgiving.

The first asymmetry opens between the depth of the wounding and the height of forgiving required for its healing. Healing cannot be redressed by a repayment schedule. There is no economy of exchange and no measurable moral debt that can be repaid to purchase healing once and for all. Healing can neither be commanded politically nor translated into publicly accessible procedural language. There is no juridifiable economy between crime against humanity and forgiveness, albeit there is a juridified economy between crime and punishment.

The second asymmetry lies between punishment that repays the imprescribable deeds, morally and economically repairs the harm (the ‘what’) — and forgiveness. The latter unbinds the criminal and the victim (the ‘who’) from despair over the unforgivable. The matter of unforgiving lives like a remainder within the harm even when the deed is otherwise repaired.

The third asymmetry lies between the wounded moral, political, and legal space and hope lost in time. The irreparable and the imprescribable pertain to the deeds; the unforgivable addresses the persons. The fault, its bearing, and admission as well as absolution speak to the unforgivable which consumes the self.

Redemptive critical theory articulates the boundaries between the publicly recognizable features of unforgiving and untranslatable asymmetries of transitive and intransitive hope. We require and assume hope as a necessary condition of our practical intent. But we
cannot require forgiveness categorically or legislate it politically. How do we respond to the unforgivable—how is one responsible—without invoking theodicy or committing idolatry? One must neither translate hope into critique (I must resist idolatry), nor translate moral and legal repair into hope (I must not underwrite remembrance with theodicy). Redemptive criticism resists hopelessness as well as the destruction of hope. This critical awareness is post-secular in that after the crisis of modernity we must articulate hope after hope has been lost.

The difficulty of unforgiving reveals itself through excessive human cruelty with no tangible material economic, political, legal, or moral purpose (the ‘what’). The works of cruelty sow gratuitous destruction of hope in oneself and another (the ‘who’). This difficulty testifies to a very human breed of spiritual violence. Making humans superfluous, as Hannah Arendt says, must be registered at non-juridifiable addresses of the crime scene. If unforgiveness is not definable as mere absence of forgiveness, then human cruelty must not be ascribed to some metaphysical principle. Being like an elephant hiding under a rice basket, a self-envisioned as something ‘in principle’, one could never suffer difficulty of withholding or granting forgiveness. Un/forgiving always resides at some human address.

What do we learn from the Albert Speer defence strategy? Can a perpetrator claim resurrection without dying to the criminal self? The question of forgiving cannot be settled at a juridifiable, that is, purely secular, address. If the claim is nonetheless made within the legal proceedings (e.g., I am guilty and yet I merit forgiveness), then I cannot resurrect myself while under the rice basket. The one ‘who’ wills to be oneself in this manner does so in defiance, that is, wills to be oneself cruelly (Kierkegaard 1983). Cruelty is a positively enacted, that is, willed and self-accountable act. But then, at this cruel address, one finds no fast track to forgiving via the presumed Speer defence. There is no address at which one could cheaply resurrect the living dead. The difficulty of granting or withholding forgiveness is a human-all-too-human phenomenon. Even if there were no forgiving forthcoming or possible, the very act of unforgiving is a postsecular, that is, legally imprescriptible yet spiritually non-juridifiable phenomenon. The ‘who’ of trauma calls for more than moral or political repair, more than legal or economic reparation, more than a metaphysical deduction of the first principle. Un/forgiving is not something one catches or cures as flu. Or as Kierkegaard shows, the opposite of despair is not moral virtue (or reparations), but faith. Yet faith in this sense is a qualification of the self, and so faith must be distinguished from beliefs. Faith is a postsecular modality of existence, and beliefs are sacred contents that in the West have been rationalized (secularized) in one of the validity spheres of culture.

What does unforgiving do that other repair cannot?

Vann Nath (1998, 2002), one of the adult survivors of Tuol Sleng prison, served as a monk from the age of seven to twenty-one. Before enrolling in a private painting school in 1965, he became interested in painting while still attending school. ‘I became very attracted to painting when I went into the pagoda and I saw people painting a picture on the side of the wall of a temple’. Vann Nath was arrested on 7 January 1978, while working in a rice field. The Khmer Rouge took him to Wat Kandal, the Buddhist temple used as a concentration camp. After a week of torture, he was sent to Tuol Sleng prison. ‘Duch’ made Vann Nath paint pictures of propaganda for the Khmer Rouge. Among them were several portraits of Pol Pot, the Khmer leader of Cambodia between 1975 and 1979, who died on 15 April 1998. Vann Nath was released from Tuol Sleng one year after his arrest, on 7 January 1979. He was on the list of the dead, but ‘Duch’ wrote next to his name, ‘keep the painter’.
Another survivor, Bou Meng, was singled out from a row of shackled prisoners to produce portraits of Pol Pot. Chum Mey was spared because the torturers needed him to repair typewriters used to record the confessions that they extracted from prisoners like himself. Nhem En was spared as a photographer. He would say to the newly arrived prisoners as he removed their blindfolds and adjusted the angles of their heads: ‘I’m just a photographer [one of six]; I don’t know anything’. Every one of them would be killed. ‘I had to clean, develop and dry the pictures on my own and take them to Duch by my own hand. I couldn’t make a mistake. If one of the pictures was lost I would be killed’ (‘Conscience of Nhem En’, 2009).

Vann Nath has been working after his release from the Tuol Sleng as a painter. He began painting scenes from the Tuol Sleng prison in Cambodia in late 1979 and early 1980. One of several torture scenes by Khmer Rouge shows waterboarding. Another scene recalls a month in the D room on the third floor where about 50 people were shackled together. Nath was forced to lie down and could only sit if he asked the guard for permission: ‘It was like hell I can’t describe it. At that time, in that condition, the hope that I had earlier had disappeared’. Many people died, and at night guards would come to remove the bodies. When Tuol Sleng prison became a Genocide Museum, Vann Nath wanted people to know what happened there: ‘What I saw while we were in the prison was those people who used to scream for help. But we could not help them. I would like their souls to get something from what I paint’. The other two survivors, Bou Meng and Chum Mey, have continued to return to the scene of their imprisonment and torture as if their souls remained trapped there together with the souls of the dead. Some of Vann Nath’s paintings hang now in the Tuol Sleng’s D room as part of the historical evidence.

Some believe and some do not believe, but they can come and look at my paintings as evidence, and make up their own minds. They can look at my pictures as testament to the atrocities carried out at Tuol Sleng.

(Vann Nath 1998)

The Museum houses Nhem En’s photograph portraits of the Tuol Sleng victims and other documents kept by the Khmer Rouge of the tortured confessions obtained by them from the prisoners before they were executed.

Un/forgiving defines the dual possibilities of bondage and releasement. I may be bound by despair, suffering, loneliness, and cruelty. I may be released by healing, mending the world, soundings of silence, and unconditional love. Four Hebrew words express such modalities of hope. Teshuvah unbounds the humanly unforgivable when I know that I have but one self-defence, ‘I am more responsible than all the others’ (Levinas 1981: 146 with reference to Dostoevsky 2003: 374, 386). Tikkun olam mends the unjust world. Chasmal (chash-silent, mal-to speak) addresses silence of unspeakable suffering. Berakhah/Barakah restores with unconditional love those who were wounded by wanton cruelty.

On 1 July 2008, Vann Nath opened his gallery and exhibition space at his Kith Eng Restaurant in Phnom Penh, displaying paintings documenting his time at Tuol Sleng (S–21) prison. The gallery is a permanent installation at the Kith Eng Restaurant at 33B Street 169. Nath hoped to build a retirement centre in Battambang where people who survived the Khmer Rouge regime can spend their last days in peace.

Sentencing the irreparable/punishing the immeasurable

‘Duch’s’ case started with hearing on February 17 and 18, lasted from 30 March to 27 November 2009, and concluded with sentencing on 26 July 2010. The court heard 9 expert
witnesses, 17 fact witnesses, 7 character witnesses, and 22 Civil Parties. More than 31,000 people followed the proceedings at the court building (see Mydans 2009b, 2017b). After the sentencing, Vann Nath’s words choked in disbelief:

It was just like a shock when I go there to the court and see him. When I tell them the truth they doubt me, ask me a lot of questions. I don’t feel the trust when I tell them, and that makes me feel bad. It seems like the accused person has more rights than the civil parties do, and I’m really not satisfied with that. The verdict should be balancing what Duch has done, how many people he killed and how many he caused suffering. For me, I can’t forgive.

(Cambodia’s Khmer Rouge Trial 2010, my emphasis)

At the conclusion of the trial on 27 November 2009, ‘Duch’ asked for an acquittal and release. With no death penalty in Cambodia, the prosecutors sought 40 years. ‘Duch’ was sentenced on 26 July 2010, and found guilty of crimes against humanity and war crimes. His sentence amounts to 35 years, of which 16 years were deducted from his sentence for the time already served. Should one outline one’s time in prison for imprescriptible crimes (Mydans 2010a)? The survivors were disheartened by the numerical value of years in prison for crimes that were not only imprescriptible but also beyond any satisfying temporal metric to punish proportionately (Mydans 2010b). ‘Duch’ and prosecutors appealed the sentence, the former for harshness, the latter for leniency. ‘Duch’s’ sentence was changed to life imprisonment (McDonald 2012).

Moral remainders are the postsecular phenomena that remain in the secular age. Multiple layers of inverse evidence from the difficulty of unforgiving accumulate at the heart of justice and mercy. We confront the firewall of unyielding moral remainders just as we try to sentence the irreparable and punish the immeasurable. Running up against the fury of these moral remainders, why does human imaginary produce theologies of eternal punishment? Must there be hells worse than any life sentence? Should there be? Must there be dying more difficult than death? Should such living deaths last for eternity? In these imaginary constructions, we wrestle with difficult forgiveness. How are justice and mercy dispensed? How should they be?

Insofar as humans remember shame, they will have remembered hope. Aristotle praises shame as a quasi-virtue that safeguards our humanness. As long as humans struggle with the past, they retain umbilical ties to what Bernard Williams named ‘moral remainders’. Williams would insist that if not all ‘moral conflicts are systematically avoidable’, then not all moral problems are ‘soluble without remainder’ (1973: 179). Card (2002: chap. 6) joins Aristotle’s quasi-virtues of moral guilt with Williams’ moral remainders. Victims, survivors, and their descendants embed the supra-locutionary power of moral remainders.

In punishing the immeasurable, I am offended by the heart of justice that fails to produce temporal payment schedules that could satisfy human retributive scales. ‘No sentence could measure up to the atrocities Duch committed’, said one eye witness. ‘To come up with a number doesn’t seem to make sense’. ‘I’m not sure how you come up with a number’. Justice is not only blind, but is also late and lame (Mydans 2010b, 2017a).

In sentencing the irreparable, one is shocked by infinite woundings at the heart of justice. The heart of justice is wounded by infinite remainders of mercy. Can there be a satisfying substitution of another’s suffering for my own to balance injustice? Can I extract such suffering for satisfying a just punishment? May the other offer sufferings to warrant redemptive repair? ‘Even if we chop him [“Duch”] up into two million pieces’, will justice be free of woundings?
In confronting my unforgiving, one shudders with infinite woundings of the heart of mercy. The heart of mercy is wounded with every cry for mending and healing. Is there an inward or therapeutic measure for healing wounded justice and suffering mercy? Is there a definitive measure how to address calls for mending and healing? 'I’m not sure how I should feel [after the sentencing of “Duch”]. I’m not happy, not sad, just kind of numb’ (Cambodia’s Khmer Rouge Trial 2010).

Conclusion

Withholding forgiveness requires equal if not greater strength than forgiving. When forgiveness seems performatively impossible, when perpetrators and sufferers live and die without it, then unforgiving is a curiously worthwhile difficulty to have even without imprescriptibility. Unlike Griswold (2007: 92f., 212f.), I do not hold that everything is humanly forgivable. The criminal self is not necessarily renewed in innocence when Griswold’s (2007: 94) baseline conditions for forgiveness are met from each side. Must victims be culpable if they refuse to forgive after asked to do so three times? One may still suffer forgiveness as something humanly impossible.

Yet I do not claim that persons can ever become in principle unforgivable or that they would have to be consigned to the inner circles of eternal hell. To accept the possibility of lasting human unforgiving is human—all-too-human. Not withholding forgiving, but rather undoing its difficulty by other means (e.g., erasure of trauma from the brain paths), runs the greater danger of producing a posthumanist monster (Griswold 2007: 72–6, 94). We must, therefore, contend with a traumatic infinity, a postsecular reminder of something that may not be solvable by moral and legal means. Still from the dark side of unforgiving we glean this uncanny hope of the ultimate frontier that saves the human possibility in us.

Further reading


In his last novel, the author articulates radical vision of forgiving and loving unconditionally. This work greatly impacted Levinas’s supra-ethical response to the Holocaust to be compared with those given by Jankélévitch, Derrida, and Hannah Arendt.


Eva Mozes Kor underwent in Auschwitz Josef Mengele’s medical experiments on twins. Surviving the camp, she later forgives Mengele in order to heal herself.


The author ponders his wartime encounter with a Nazi soldier who asked him for forgiveness on behalf of all Jews. Later, he poses a question to moral and religious leaders whether or not he should forgive.

References


——— (2017a) ‘11 Years, $300 million and 3 convictions: was the Khmer Rouge tribunal worth It?’, *New York Times*, 10 April.


