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DISSIDENCES

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Forgiveness and Reconciliation as Generational Questions, Argentina 1982-2011

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In an interview entitled Le Siècle et le Pardon, Jacques Derrida observes that the concept of forgiveness is shot through with paradoxes and tensions. The idea of forgiveness theorized by Derrida does not have a purpose and is not subject to conditions that would turn it into a calculated

act. Public officials' apologies for crimes against humanity perpetrated during dictatorships, civil wars or inter-state wars typically link forgiveness to a political aim such as national or international "peace", "reconciliation", "normalization" in the country or between countries (Derrida 2001: 31). No matter how noble their purpose their calculated character makes apologies of this kind fundamentally different from Derrida's forgiveness.

Similarly, in the last decades, heads of state have granted pardons and passed amnesty laws regarding crimes committed under authoritarian regimes in the name of reconciliation and peace. Apart from having a calculated goal, these measures imply the mediation of a third party between victims and perpetrators, which is irreconcilable with the concept proposed by Derrida. According to the philosopher, nobody can forgive in the name of the survivors of repression, much less in the name of the murdered and "disappeared" victims. He stresses that "the representative of the state can judge but forgiving has precisely nothing to do with judgment" or with the absence of judgment that accompanies amnesties and pardons (2001: 43).

Furthermore, the passage of time has demonstrated that these acts of absolution do not succeed in attaining their goal of reconciliation. For example, in Argentina, from the military junta's self-amnesty law (1982) to Menem's pardons (1989), forgiveness was instrumentalized to avoid prosecuting military perpetrators. Instead of facilitating reconciliation, this further angered the groups of survivors and relatives of "disappeared" prisoners. President Kirchner (2003-2007), conversely, put justice front and center, yet avoided conflating it with the notion of forgiveness and thereby enabled gestures that made reconciliation thinkable.

Next to legal action, gestures of reconciliation are also made easier by generational change. In an interview about the Shoah, Derrida states: "while for a generation that witnessed or participated closely in this trauma, forgiveness should be impossible, for the following generation,

forgiveness remaining still impossible, modes of reconciliation, of re-appropriation, of mourning become somewhat easier” (Ben-Naftali 1998: 7). A recent auspicious gesture of reconciliation between the son of a victim and the son of a perpetrator invites us to use Derrida’s perspective for understanding the post-dictatorship generation in Argentina. It took place during the public trial of a former soldier in the context of a new phase marked by the possibility of achieving legal justice for the human rights violations perpetrated during the dictatorship. This phase was made possible by the sons and daughters of the victims organized as H.I.J.O.S.: They played an important role in urging state institutions and judges to eliminate the obstacles for holding the trials, which shows the importance of both justice and generational change in embracing reconciliation.

Drawing on the Argentinean experience, I propose that reconciliation becomes possible as it is dissociated from forgiveness and linked to legal justice, crucial for re-dignifying the victims and for guaranteeing the right to life and identity in a society that has lost all confidence in state institutions. In this article, I analyze the process of political and generational change—from the end of the dictatorship to the present—that made possible emerging gestures of reconciliation between younger generations.

Reconciliation without Justice?

In 1983, shortly before its downfall, the junta passed the Law of National Pacification, which amnestied the “excesses” of the repression between 1973 and 1982. As its name indicates, the junta presented forgiveness of the human rights violations as a condition for social peace. The human rights associations, including the Madres de Plaza de Mayo, organized protests against this law. They added the demand for justice (“juicio y castigo”) to their traditional insistence on learning the truth

about the “disappeared” prisoners (“¿dónde están?”) and their return (“vivos los llevaron, vivos los queremos!”).

The first democratically elected president, Raúl Alfonsín (1983-1989) revoked the self-amnesty law and signed a decree to put the architects of the repression on trial. Additionally, he formed a commission to investigate the fate of the “disappeared.” The commission’s report, Never Again (CONADEP 1984), included numerous examples of torments inflicted on the prisoners in the detention centers and indicated that national reconciliation was contingent on the perpetrators’ repentance, truth-telling and conviction.

Consequently, in 1985, began what became known as the “Trial to the Juntas”: after eight months and 800 testimonies about torture and “disappearances”, the members of the juntas were convicted for 711 indirect crimes. This trail and the increasing number of charges presented against repressors independently of government action, provoked restiveness in the army (Lefranc and Talens 2004). Alfonsín tried to put an end to the avalanche of trials against repressors through the “Full Stop Law” (1986), which established a sixty-day limit for initiating new trials against alleged perpetrators, and the “Due Obedience Law” (1987), which exonerated of charges all those below the rank of colonel. Instead of appeasing the situation, however, this encouraged segments of the army and led to uprisings demanding the cessation of all legal action. Alfonsín resigned before the end of his term: The laws he enabled, aimed at reconciling the country, were critiqued by the human rights movement and referred to as “forgiveness or impunity laws”, displacing in its narrative the achievements of the “Trial of the Juntas.”

The next President, Carlos Saúl Menem (1989-1995), wanted to put an end to this conflict—which he termed “the military issue”—as quickly as possible. Also in the name of national reconciliation, he granted pardons to a large number of military personnel prosecuted for human

rights violations, including the very small group of officers serving sentences after the “Trial of the Juntas.” In Menem’s case, reconciliation was closely linked to the neoliberal turn he envisioned, since political stability was key for attracting foreign investment (Lvovich and Bisquert 2008).

Before granting the first round of pardons, he established the framework within which they should be interpreted. He talked about humbly accepting one’s own mistakenness and the adversary’s rightness to contribute with a truthful disposition to reconciliation and unity. He stressed that he “was willing to do his best so Argentines could leave behind resentment and distrust to enter a new era of authentic peace” (Lvovich and Bisquert 2008: 53, my translation and emphases). Thereby, he shifted the focus away from the existence of opposing interests regarding justice and explained the conflict in terms of feelings of hate and revenge between two groups, both of which had been equally “wrong” and harmed the adversary.

In the same fashion, Menem affirmed that he was “willing to pay all the political costs of the world if only Argentines were able to shake hands again and open their hearts” (Lvovich and Bisquert 2008: 53, my translation and emphases). Even though the terms emphasized resound with the idea of interpersonal forgiveness, Menem’s pardons mimic “the scene of ‘immediate’ and quasi-automatic forgiveness to escape justice” (Derrida 2001: 42). Accordingly, the groups of victims and their relatives viewed the pardons as an authoritarian gesture aimed at erasing what had happened, and making the victims “disappear” once more. Their motto “neither forgive nor forget” loudly accompanied their protests].

Sons’ and Daughters’ Justice

In response to Menem’s pardons, human rights associations, children of “disappeared” prisoners, center-left parties and their youth wings organized the largest protest since the transition to

democracy (200.000 participants; Ares 1989). Laura Soto, daughter of two “disappeared” prisoners, closed the rally by reading a letter that conveyed a generational perspective on the conflict: “Mr. President, as a young Argentinean, I want to tell you that I do not wish pardon or amnesty, but neither do I wish revenge. I just want justice, justice, justice” (Ares 1989, my translation). By proposing “revenge” as the alternative to pardons/amnesty, Soto exposed the conflation of legal procedures and affective processes in Menem’s rhetoric. In Soto’s argument, legal justice appears as the only and non-negotiable way of dealing with the physical, psychological and sexual torments inflicted to the victims. Soon, this would become the rallying cry of the sons and daughters of “disappeared” prisoners.

The years after Menem’s pardons, however, were marked by the decline and stagnation of the human rights narrative. The struggle over justice seemed to have reached an impasse that could only be overcome by a change in the political circumstances and the emergence of new actors ready to take the struggle to the next level. Both were about to happen. In 1995, Adolfo Scilingo, a retired navy officer, broke the army’s “pact of silence” regarding the repressive actions during the dictatorship: He publicly acknowledged the abduction, torture and murder of the “disappeared” and his own participation in the thus far denied “flights of death.” Although his confession was not driven by remorse but discontent about how promotions were handled, it turned the memory struggles upside down. Other officers soon followed in his footsteps, including the Chairman of the Joint Chiefs of Staff, presenting self-criticism on behalf of the institution and apologizing for their own actions, now no longer qualified as mere “excesses” or “mistakes.” In this context, the Mothers and Grandmothers of the Plaza de Mayo found ways to prosecute the perpetrators despite the “forgiveness laws” and pardons through the “Truth Trials and Identity Trials.”

Additionally, five years after the pardons, many of the sons and daughters of victims (mostly born in the 1970s) had come of age and started to understand their parents’ past as their own history

that needed to be appropriated. This implied not only a need to know and interpret the national and family history from their subjectivity, but also to take a position on how to deal with the consequences of state terrorism in the present. The above-mentioned changes in the political scenario encouraged the emergence of H.I.J.O.S. (Sons and Daughters for Identity and Justice against Oblivion and Silence). Even though H.I.J.O.S. wanted the trials against the military to happen, they did not trust the good faith of the judges and decided to take justice in their own hands through a distinctive method: the “escrache.” As the group’s motto expresses: “if there is no [legal] justice, there is escrache.”

“Escrachar” is a practice of outing unpunished perpetrators and collaborators who live normal lives through an informational campaign in the neighborhood, followed by a programmed festive march and protest in front of his or her house. The more than thirty “escraches” were open to the general public and covered by the media. They pronounced a “guilty” verdict in the place of the courts that amounted to a conviction, in the sense of moral condemnation. As Kaiser (2008) explains:

Until the nullification of the impunity laws [...] and the consequent revitalized expectations for justice, H.I.J.O.S. should be credited with limiting the represores’ social and spatial freedom [...] Escraches trapped torturers and assassins by building metaphorical—and mobile—jails in neighborhoods throughout Argentina (2008: 187).

H.I.J.O.S. also played an important role during the presidency of Néstor Kirchner (2003-2007) and Cristina Fernández de Kirchner (2007-present). Néstor Kirchner expressed himself in favor of annulling the “forgiveness laws” and both the Congress and the Supreme Court declared them unconstitutional in 2005. In early 2006, more than a million cases were open and at the end of 2007 over 300 perpetrators had been put to trial, but only three of them were serving sentence.

Considering their age, if the trials moved forward at this pace, many perpetrators would go unpunished and die without telling the truth about “appropriated” children or the whereabouts of the disappeared. In addition to the bureaucratic obstacles put by some judges, the army tried to boycott to the trials by terrifying witnesses and judges. For instance, Julio López, a former prisoner, was abducted before testifying in a trial (he is still missing) and two officers charged with “appropriation” died mysteriously before being able to appear in court (Lvovich 2008).

In this context, H.I.J.O.S. reminded the public of the need for justice in the face of the army’s renewed threats. They denounced López’ disappearance and organized an extensive campaign supporting the trials based on the colloquial Spanish expression “ponerse la camiseta”. This translates as “to put the t-shirt on” and indicates adherence to a cause—figuratively represented by the t-shirt as a sign of belonging to a group with a shared goal and shared interests. Many famous artists, musicians, actors and athletes joined the campaign, taking the fight to an even more public level—which meant that threats would have been too risky—and creating alliances with people previously uninterested in the subject. Also, H.I.J.O.S. became the main source of information about when and where the trials were taking place, and encouraged people to attend since, as they claimed, the perpetrators “are found guilty by a court, but condemned by all”. Once again, public condemnation impelled the legal system to act in a more “just” way.

Néstor Kirchner has come to be remembered as the only President committed to the cause of justice for the “disappeared” prisoners and past human rights’ violations, even more so after his recent death [1]. Even though Kirchner in his speeches also mentions reconciliation, he does so in the context of the ongoing and future trails, i.e. linked to justice, not forgiveness. After asking the Supreme Court to review Menem’s pardons—which he considered unlawful—during the 30th commemoration of the coup at the Military College, he affirmed: “there cannot be reconciliation if there is one crumb of impunity” (Lvovich and Bisquert 2008: 87, my translation). On this occasion,

he also encouraged Argentines to construct the country they deserved: “with memory, with justice, with truth, but without hate and desire of revenge” (Lvovich and Bisquert 2008: 87, my translation and emphasis). By disassociating legal justice from revenge and hate, Kirchner is undoing Menem’s previous association of forgiveness and absence of legal justice, represented by the pardons. Reconciliation, then, appears as the result of justice: A way of re-dignifying the survivors, the dead victims and their families, who until then had been reduced to either accepting forgiveness or be seen as revengeful.

Kirchner’s words, aimed at developing a sense of collective accountability for the past, were accompanied by meaningful gestures of symbolic reparation. Perhaps the most significant was the foundation of an institution devoted to commemoration and reflection in the former clandestine detention center at the Escuela de Suboficiales de Mecánica del Armada (ESMA), infamous for the cruelty of its tortures. In the opening speech, Kirchner stated: “I have come to apologize, on behalf of the State, for having shamefully remained silent about so many atrocities during twenty years of democracy” (Lvovich and Bisquert 2008: 82, my translation). Then, together with survivors of this detention center and representatives of human rights groups, he entered the building. In this speech, forgiveness is an end in itself rather than a means and the President addressed the victims directly instead of mediating between them and the perpetrators.

A Glimpse of Reconciliation

In 2009, trials started taking place throughout the country on an unprecedented scale, organized in cases and “megacausas” (mega-cases) for each detention center or repressive event. This allowed courtroom encounters between the victims’ and repressors’ families. In July 2010, Mariano Tripiana, son of Francisco, a former house painter and member of a non-violent left-wing movement

attended the trial of Aníbal Guevara, accused of abducting his father and participating in his “disappearance”. During the recess, Federico, Guevara’s son, approached Mariano to congratulate him for the integrity shown during a recent press conference in which he affirmed that he was seeking justice, not revenge. Federico felt relief that Mariano was not driven by hate for those who deprived him of his father and introduced the violence of torture and “disappearance” in his life (Martin 2010).

During the conversation, they expressed a common interest in finding out the truth and agreed that the trial would end well for everyone regardless of their opposite interests. Mariano was positively surprised by Federico’s “very brave” gesture (Calivares 2010, my translation). They talked about the need for mutual respect between the families (which had been lacking in most trials) in order to stop reproducing pain and violence across generations. However, Federico also expressed in an interview that he was at the trial supporting his father, “without judging him and believing that he did the best he could during the dictatorship”—back then his father was a twenty-four year old lieutenant from a military family (Calivares 2010, my translation). At the end of the dialogue, both sons shook hands, wishing each other luck and strength.

Because it interrupts the expected logic of the events, this encounter encourages reflection. As Derrida observes, forgiveness is impossible for the victims and the subsequent generations alike because crimes of this kind are unforgivable. However, later generations inherit the outcomes of the first generation’s memory struggles, which can help attenuate suffering, thereby allowing an intensification of the fight and this kind of gesture. In fact, Mariano affirms that the trials, but also the new collective approach to the dictatorship since the late 1990s were fundamental for dealing with the marks left by state terrorism: “In the past we could not say freely, in public, that we were children of the disappeared, now we are even respected for that” (Plataforma 2010, my translation).

Even though the crimes of torture and “disappearance” will never be punished appropriately by the sentences assigned by law, the trials introduce the ideal of justice as an event that, going beyond forgiveness and revenge, restores the truth and the dignity of the victims and their families. Unlike the reactions provoked by the previous political attempts at reconciliation in which legal justice was marginalized, Federico’s and Mariano’s gesture does not try to erase the abyss between the two sides of the conflict but, on the contrary, it is grounded in an awareness of their differences as well as of the incurable character of the wounds of the past. Only then, reconciliation can give place, in Derrida’s words, “to another peace, without forgetting, without amnesty, fusion, or confusion [...]” (2001: 50).

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Notes:

[1] The recent deaths of Alfonsín (+05/31/ 2009) and Kirchner (+10/27/2010), lead to a re-evaluation of their role in the fight for truth and justice which produced confrontations since many affirmed that the “Trial of the Juntas” in its time was a unique achievement and that the invaluable contribution of the CONADEP Never Again report were unjustly forgotten, and Kirchner remembered as the only President engaged for the cause of the “disappeared”.

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