

A Particular Responsibility

Claudia Hilb: *¿Por qué no pasan los 70? No hay verdades sencillas para pasados complejos* (*Why the 70s do not pass? There are no simple truths for complex pasts*), Siglo XXI, 2018

Hannah Arendt said that truth can indeed be described in different ways from a variety of angles. The leaden years that Argentina lived in the 1970s seem to be fixed in a present made up of few, compact and stony visions. Why do the seventies go on in the nine chapters from which *¿Por qué no pasan los 70? No hay verdades sencillas para pasados complejos?* There are no simple truths for complex pasts, Claudia Hilb offers exercises in political thinking to open a gap between past and future.

How can we comment on a book that in the cadence of its writing shows the movement of thought, a book in which the reader together with the author progresses in the adventure of thinking without a banister, and where this path to go is more relevant, much more relevant than any thesis or conclusion that can be drawn? We should emulate Borges and do the same to Pierre Menard, the author of *Don Quixote*: literally rewrite it. Why don't the 70s pass by? But in these short paragraphs I would like to focus on just two of the themes that run through the book: the problem of the relationship between right and evil and the question of forgiveness and reconciliation.

The first relates to the problem facing political communities when they have to judge inhuman crimes. While “the law”, according to Hilb, “moves between crime and virtue”, “this side of good and evil” (the title of chapter 2), radical or absolute evil - like elementary good - attacks permanent institutions and is anti-political in nature. Conversely, human laws are not sufficient to provide an adequate response to that which goes beyond the human. On the one hand, this fact explains one of the ideas that emerge from Hilb's works, namely that there is no perfect solution in what has come to be called “transitional justice” and that we often have to be satisfied with less than a fair trial; and on the other hand, it also explains the other side of this observation: the relentless appeal to the exceptional nature of laws and institutions in coming to terms with criminal pasts.

Hilb's reference to the Arendtian analysis of *Billy Budd* in *On Revolution* helps us to understand the first point of this theme: There we find good-hearted Billy, who punishes the malicious Claggart with a fatal blow, and Captain Vere, who, determined to protect the institutions, sentences Billy to the gallows, despite the fact that Claggart had morally received his punishment and Billy embodied absolute innocence. Faced with the tragic dilemma between recognising Billy's moral innocence and sentencing him according to human laws, Captain Vere tends to choose the solution most appropriate to the political community. Hilb no longer finds the flipside of the coin in fiction, but in political reality: in the will to adapt human institutions to the morally justified goal of punishing the agents of evil. In fact, the recourse to the exception in Nuremberg, in the Eichmann case and in the trials in Argentina appears to involve the suspension of elementary principles of modern criminal law such as legality, non-retroactivity of the law, *res judicata* or

criminal will of the perpetrator (*mens rea*). Especially in Argentina, according to Hilb, the initial exemption in 1983-85 to restrict trials because they were impractical and threatened democratic stability was reversed, according to Hilb, and in 2005 was reinforced by a kind of celebration of the justice of the victors, which lifted all legal barriers to restricting trials with the conviction of knowing where good and evil is (see, for example, Chapter 1 “That is why you must be hanged, Mr. Eichmann”). In a word, in the latest Argentina, Billy Budd replaces Captain Vere, and Claggart is punished on the basis of supra-political knowledge, regardless of human laws.

With regard to the second issue, and also as a result of the above, it can be said that Argentina has adopted criminal justice predominantly as a preferred strategy for dealing with the criminal legacy, and that forgiveness and reconciliation have become taboo subjects. As an illustrative example for the reader unfamiliar with the Argentinean case, the historical slogans of human rights organisations “truth”, “trial and punishment” and “neither forgotten nor forgiven”, which were early characterised by the demand for retribution, have been joined in recent years by “shared prison” and “neither reconciliation” (speculatively, the discourse of forgiveness and reconciliation was considered the flip side of criminal justice every time it had public resonance or political relevance: as amnesty, as pardon, as impunity and as simple forgetting). Against this background, and drawing on other experiences such as those in South Africa after apartheid or the Colombian experience with the “peace agreement”, Claudia Hilb proposes that the foundations of this conclusion be reviewed in public debate.

This is the direction in which the patient analytical work is heading, which is the textual development of Arendt’s famous sentence - which gives the title to chapter 3 - that there are crimes beyond the human condition that cannot be punished or forgiven. Against the automated, dogmatic and instrumental use made of this sentence, which has become a cliché, Hilb emphasizes the impasse into which Arendt fell during her encounter with Eichmann, and the subsequent exploration through which Arendt herself revised her own sentence, which, as Hilb emphasizes, had “previously said” but with which she no longer agreed. In this way Hilb demonstrates the possibility that opens up for the idea of an undiscrimination between an unforgivable crime and a criminal who, through repentance, transformation or some other form of new beginning, resumes the inner dialogue with himself that he had broken off with the crime, testifies to his own actions (i.e. contributes a complex and complete truth), condemns the crime and can finally be forgiven. This argument, which is in line with earlier works in which Hilb asks the question of whether the truth can be obtained from the perpetrators in exchange for some kind of punitive relief, is complemented by the question put to the camp of those who in Argentina have insufficiently, if not altruistically and deceptively, promoted forgiveness and reconciliation as a form of simple forgetting, without offering truth or repentance: “to reconcile... with whom?” (Chapter 6).

Both the moral certainty that justifies resorting to a new exceptional phenomenon each time because the crimes were exceptional, and the impossibility of reflecting on what forgiveness and reconciliation might ultimately lead to, whether to settle the debt in truth or to explore a restorative justice such as South African - the two issues we are addressing here - contribute to a new penitivism of the moral substrate that speaks the language of

human rights. But this language and the penitivism underlying it is spoken in a compact, simple, binary, convenient and unquestioned way, without regard to the dilemmas of grey areas and political responsibility for human institutions.

Here and there Hilb points out the blind spots of the prevailing “simple truths”, the weak seam they provide to complex political problems in their relationship to the moral, political and legal. He shows how these problems recur each time one tries to adapt the laws to moral certainties in the political situation, but also to political-party interests: the retroactive exclusion of criminals against humanity from a criminal law that would impose penalties (exception), e.g. a general with pending proceedings for crimes against humanity who is an established army chief (exception to the exception, the subject of Chapter 4); or the wish of a son of the disappeared and grandson of Estela de Carlotto, President of the Grandmothers of the Plaza de Mayo, to protect his foster family from legal prosecution; these are, among other things, examples of crimes left behind which require debate and reflection, but which are always ended with the force and simplicity of dogma.

These and other questions, in which political theory is tied to thinking about criminal legacies, are discussed in *Why Don't the 70s Pass?* with the same zeal to open a gap and oxygenate a debate practically stifled by clichés, dogmas, atrocities and party-political instrumentalizations (what the author calls in one of the many phrases “the ravages of an impoverishment of reflection in the contemporary context”, and what is at the heart of the book in the central chapter on “A common scene of public interest”). This is nothing new for Claudia Hilb, who, at least since the return to democracy in 1983, has maintained this zeal in the thinking of the Latin American left, as already seen in her books *La nueva izquierda argentina: 1960-1980 (política y violencia)* (1984, written in collaboration with Daniel Lutzky), *Silencio, Cuba!* (2010) (1984, written in collaboration with Daniel Lutzky), *iSilencio, Cuba!* (2010) and *Usos del pasado. Qué hacemos hoy con los setenta* (2013).

Once again thrown into the adventure of thinking without railings, Claudia Hilb calls on others to take on the same “special responsibility” to open a pluralistic and complex debate on the event of terror in Argentina. In the midst of an overpopulation of well-thinking intellectuals, this call is a tribute thinking pays to courage.

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