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About the way we have to think

Scope and meanings of justice and truth

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I would like to respond here to Lucas Martín's 2022 critique of a text I wrote in 2020; both of which were published in *HannahArendt.net*. Martín attributes to me a bias resulting from a political commitment he never specifies. Therefore, I begin by stating my commitment to state policies that uphold the principles of criminal justice in democratic re-founding processes following regimes marked by disappearance, torture, murder and the kidnapping of babies perpetrated by state agents, just as presidents Raúl Alfonsín and Néstor Kirchner did in Argentina by initiating the Trial of the Juntas[1] and reopening the prosecutions for crimes against humanity respectively[2]. Indeed, this commitment is shared by a large part of the transitional justice field worldwide (Sikkink 2016, Valencia Villa 2008). My text comments on the scope and the importance of such policies based on the issues raised by several texts which call for thinking about the limits of the criminal option in Argentina. I use the term "think" to underscore that I am not inclined towards approaches reliant on clichés, such as equating criminal justice with revenge. Such views are endorsed by various actors, ranging from criminals asserting innocence to those

1 Alfonsín's government decided to prosecute the military *juntas* that governed *de facto* Argentina from 1976 to 1983. Also, independently, but as part of a common strategy, it prosecutes seven *guerrilla* leaders, who would later be found guilty of engaging in organized crime and attacks against public order and domestic peace. This was unclear in my text: hence the clarification. I do maintain the idea that the judicial strategy was limited to very specific types of criminals and its objective was to be completed within a limited time frame. That is what Carlos Nino, one of the greatest intellectual authors of the Argentine "transition" says: "The lists of those who were marked [by the government] to be prosecuted were shorter" than he expected, and "this was the first sign of the difficulties that Alfonsín would encounter in communicating his intention of restricting the scope of the trials" (1997, 116-7).

2 Two laws promoted by Alfonsín's government meant the closure of this cycle of justice until its reopening in 2006: the Full Stop law of 1986, which established a deadline of a month's time for any legal action that was to take place, and the Due Obedience law, of 1987, which established that all crimes committed by members of the armed forces following orders were not punishable. I am not saying that these were Alfonsín's original ideas for circumscribing the reach of justice: they are the result of an articulation of this strategy with the demands of Human Rights organizations on one side, and the increasing pressure of the military sector on the other. Nino summarizes Alfonsín's difficulties by saying that he did not manage to convince all actors that "his intention was to prosecute dozens of people and not just a handful or hundreds" (1997: 118). In any case, it is clear that, from the beginning, the intention was to execute a short and exemplary judicial process. The mentioned laws were shortly followed by pardons decreed by president Carlos Menem in 1989 and 1990, which extended to commanders already sentenced by the Trial of the Juntas, the former minister of economy, Martínez de Hoz and the leaders of guerrilla organizations. It was not until 2001 that a judge deemed the 1986-87 laws unconstitutional, a measure sanctioned by the National Congress in 2003, enabling the reopening of lawsuits for crimes against humanity, which became regular from 2006 onwards. In 2010, the Supreme Court of Justice confirmed the sentences of lower courts which declared that all pardons were also unconstitutional and the convictions they had overturned were to be enforced.

advocating for a "non-vindictive reconciliation" in widely circulated newspapers[3]. Instead, I am interested in points of view based on inconclusive arguments which interpret Arendt in a new way in order to elaborate on experiences, like that of Argentina, which she did not directly address. In this sense, Martin's appeal to "textual truths" or to "factual truths of the text" (2022, 159-60) is foreign not only to Arendt, but also to Claudia Hilb, an author with whom I engage in a dialogue and whom Martín tries to protect from my alleged distortions. Both Arendt and Hilb have always gone beyond mere comment and we need to elaborate, with our own theories, experiences which have already been elaborated with other theories. Besides, our own theories always have many interpretations. The scholastic appeal to textual truths is the best way to close the debates that Martín claims to want to open in the Argentine intellectual world. The Arendtian "thinking without a banister" which Martín demands and cheers for, also concerns the ways of reading, which never have the answers given by tradition as guidelines. This is why Arendt supports the theoretical need to experiment (1969a), imagine (1994), and judge (1993). What insights can words like truth, justice, or memory offer us today, as understood through the lens of Arendt's perspective? Horacio González described her as "almost Argentinean" due to her book about the trial in Jerusalem. (2021, 351)?

My 2020 text dialogs with Hilb, who I respect for assuming this challenge. This is a challenge that applies to Arendt's work itself and anyone else's: all readings are comprised of what Martín (2022: 159-60) identifies as lacking in my own: shifts, reinterpretations, omissions, creations; not the attainment of some elusive "factual truth of the text." We never fully own our texts: we always say more than what we say, or else we say different things than those we originally intended to say. Perhaps this is obvious, but the fact is Martín is convinced of something Hilb never claimed: that her texts contain a set of uncomfortable truths we must accept, and that those of us who discuss some of her ideas are either denying or distorting these truths. To be clear: there is a reflexive-speculative exercise in Hilb's thinking which I celebrate and emphasize because Martín does not seem to understand that Hilb's ideas are simply ideas, not "factual truths of the text". What is indeed valid in the face of speculation is to ask for clarifications or interpret the text's indeterminacies. In this case, those of Hilb's texts, its sources and inspirations. My 2020 article tackles a set of texts in which Hilb reflects about the limits of criminal trials for crimes against humanity committed in Argentina, inspired by Arendt's work and a certain interpretation of the Truth and Reconciliation Commission of South Africa's experience.

Hilb's thesis is that Argentina "opted for justice", and that, perhaps (and perhaps because of this), a price was paid in terms of truth: "It is likely that in one case —that of Argentina— the resolution paid a price in truth; it is likely that in another case —that of South Africa— a price was paid in justice" (2013a, 44). While the *tertium comparationis* (in relation to *what* would be "gained" or "lost") remains to be clarified here, the idea is understood: in Argentina, a "sufficient truth" was obtained to administer justice by punishing those main responsible for crimes against humanity (Hilb 2012, 196; 2013a, 46), but there was a loss in "truth." In analyzing the TRC's South African experience, Hilb seems to understand "truth" as something that could emerge from the collaboration of the

3 See references to the emblematic *La Nación* newspaper edition in the bibliography.

perpetrators by publicly exposing their crimes to "produce truth". And I do not use the word "seem" ironically as Martín states, seeking only to remark that my interpretation is merely an interpretation (Hilb 2012, 199). This truth would have two forms: "The necessary truth (about the) fate of the disappeared, the identity of the illegally appropriated children" (*id.*), and that which stems from "the confrontation of the perpetrators themselves (…) with their crimes" (*id.*). It is mainly to talk about this latter type of truth —a "moral" truth, which operates within the realm of theoretical interpretation and possibility— that Hilb appeals to Arendt's moral vocabulary (terms such as forgiveness, dialogue with oneself, repentance) to complete her analysis. In 2020, I did not focus on this interpretation, because a previous task seemed relevant: to assess with further precision, also with Arendt, the institution of justice itself and its potential contribution to the ideas of truth and reconciliation, something that may help to think about the Argentine case in a different way. I did not criticize the attempt to articulate the normative claim of the South African model and some of Arendt's concepts. Instead, I tried to complexify the question of what is to be lost if impunity (or reduced sentences: we will see) were to be exchanged for the *possibility* of a "truth" spoken by the perpetrators. I highlight the word *possibility* because my text does not dive into what *might happen*, as Martín claims. It could be argued that Hilb appeals to South Africa's specific case, and that her argument is based on the factual events of this case, but the truth is that what actually happened in that case was far from getting the major agents of evil to publicly tell the truth. This must be taken into account before adventuring on the field of the potential capacity this spoken truth may have of provoking repentance, forgiveness and reconciliation.[4] (I do not doubt, as Martín claims in horror, the good example set by Mandela's "new beginning": that is not the point, not for me and not for Hilb. But if his argument appeals to this specific experience, then his defense of the "disregard for empirical evidence" [2022, n.] is problematic —as well as curious coming from a reader of Arendt. *Effectiveness*, *exemplariness* and *justification* of the South African model are subject to controversy. This model was not based on Arendt's ideas, but rather on a religious vocabulary with limits that Arendt mentioned many times[5])

4 Hilb already knows this, but she says that the South African device allows this chain of effects to be possible-conceivable, while the Argentine device makes it impossible-unconceivable: in South Africa, "individuals guilty of the most horrific crimes voluntarily appear before the Commission to recount, in the most complete manner, before their victims, the families of their victims, but also before their own community, the crimes perpetrated. It is they, the perpetrators, who are most interested in exposing the whole truth —it is the guarantee of their amnesty." (2013a, 49). This is where Arendtian semantics come into play: this complete exposure, even though it may have come from a calculation, can morally transform the criminals, who can repent and be forgiven. The scene itself may eventually result in reconciliation. Hilb moves rapidly from possibility to empirical evidence: "Neither repentance nor forgiveness are conditions for amnesty, we said. But in light of the multiple testimonies, we discovered that there were, on significant occasions, expressions of remorse, and there were also, on many occasions, instances of forgiveness" (*id.*).

5 Ross mentions that the TRC fostered a "restoration model, based on Christian, biomedical and psychotherapeutic premises" (2006, 65). I do not intend to analyze the religious roots of the South African option. However, I do point out that there is more than one similarity with the idea of equality enabled from heaven in our equal condition as "sinners". Ross indicates that the TRC "employed a notion of 'tie' based on the premise that there were 'equal' parts engaged in a struggle against *Apartheid* and that both parties committed similar atrocities" (*íd.*). Of course, we are discussing an institutional device, not a "natural equality": similar to the Christian confession, it only makes sense if the individual acknowledges their sins or crimes. On the political problems of Christian equality: Arendt, 2002, I [1].

Therefore, in 2020 I focused on two things: the trials held in Argentina, attempting to provide a different framework to analyze their scope and meanings in matters of "truth," and the assumptions that lead to consider the limitations of the judicial option, which I think is not the right approach. Of course, these limitations exist, but I believe they are not the ones described by Hilb. At this point, I shall reverse the argumentative process: I will start from my interpretation of Hilb, which is the main target of Martín's critique. To this end, I will analyze his combined interpretation of Arendt and the South African experience, and then I will briefly resume the analysis of the trials held in Argentina. Hilb's starting point is assuming that, in the Argentinean judicial scene, the public disclosure of everything that should have ideally been said never happened. In the perpetrators' case, because it incriminated them. In the case of insurrectionary forces – among whom, she says: "most of the victims were counted" (2012, 191)–, because their very position as victims prevented them from revealing the truth of their responsibility in the *advent* of terror.[6] The challenging phenomenology she proposes stems from the following hypothesis: connecting Arendt's work in the 50s, particularly the *Denktagebuch*, the article "Understanding and Politics" and her writings about forgiveness in *The Human Condition,* with that of the 60s, especially the idea that thinking implies a moral relationship with ourselves and the things we have done, which can manifest as "repentance", Hilb argues that in Argentina, the judicial scene has brought punishment to the greatest criminals (2012, 199), but was unable to produce an institutional device capable of articulating a moral truth about what he have done (to ourselves). This involves a sort of public confession which could enable the possibility of repentance (for those capable of thinking, or in other words, engaging in dialogue with themselves), of forgiveness and of the acknowledgment of a common responsibility—the very basis for reconciliation. The latter, according to Hilb, remains "unthought of in post-dictatorial Argentina" (*ibid.*, 196).

I believe I have faithfully restored Hilb's argument, both in 2020 and now, by attempting to grasp its meaning and its consequences. In spite of this, Martín accuses me of a false reconstruction, especially regarding the specific action Hilb would propose regarding the criminal law device: he claims I said that Hilb proposes a "suppression" of the effects of applying this device (2022, 166). Simply reading my text is evidence enough to prove I did not use that word. I did say that Hilb suggests the convenience of a potential "suspension" of this device or its effects (Hunziker 2020, 95). I will later resume this idea, but first there is something else to consider: I do not believe it is fair to say that

6 Hilb does not equate the violence of armed organizations with that of the Terrorist State. Martín's position is less clear. For example, he sees the distinction between crimes subject to the statute of limitations and those that are not as an obstacle, as revealed when he says, having misunderstood my text, that "perhaps it would have been interesting to elaborate on the obstacle of the statute of limitations of criminal action for the crimes that these organizations committed. What would be the incentive for these actors to tell the truth about their crimes, to take responsibility for their past, without the threat of an already time-barred criminal prosecution if they did not? Hunziker briefly mentions the issue of the statute of limitations and dismisses it right away" (2022, 170). For me there is no obstacle there. There is a distinction between crimes against humanity and revolutionary violence and any possible discussion of the latter must be based on that distinction.

this device has obstructed or closed off other paths that could have otherwise been taken.[7] Hilb says that in Argentina

> the possibility of forgiveness is obstructed because the same applies to the possibility of repentance, and the possibility of reconciliation is obstructed because the same applies to the possibility of taking responsibility. While the trials impose punishment for actions as the exclusive option, the public acknowledgment of those actions and their detailed account are not only not required, but also contrary to the accused party's interest: their confession can only increase punishment (2012, 198-9).

This is an underlying logic about the trials that requires justification. As Martín states, Hilb bases her argument on certain "factual" statements. Martín is particularly interested in the one about the perpetrators' silence regarding their crimes (2022, 163). As Martín states, this is never denied in my text. What I do deny is the notion of the unquestionable existence of a correlation between the application of justice to these crimes and the perpetrators' silence. Martín needs to attribute one of Hilb's thesis to me in order to ascertain that I am not consistent with it: this would be true if I was the one upholding the notion of the existence of a "solidarity shown so far (…) by the punitive paradigm and the perpetrators' silence in a sort of unbreakable *statu quo*" (*id.*)[8]. However, this is Hilb's assumption, not mine: "In Argentina, the implemented judicial device had as its fundamental effect the imprisonment of the main responsible parties, but also the almost unanimous silence of the perpetrators" (2012, 197). Only starting from the assumption of a correlation between the choice for trials and the silence of the criminals can one understand the proposal —which would be, according to Martín, difficult for me to hear— to review the criminal justice device in order to achieve this objective through some explicit intervention in it. I have attempted to reconstruct Hilb's position on what is to be done if the alleged solidarity between the legal device and the perpetrators' silence is verified. Nowhere in the text have I stated that the author proposed a "suppression" of the legal device. Rather, I had to grapple, in my gloss, with Hilb's great indetermination on the way in which the State should intervene when applying justice, a matter on which she only hints at the idea that an incentive should be established to encourage criminals to speak the truth, something that should emerge with more probability if they are offered,

7 "The arrangement of the trial scene hindered the possibility that the military themselves could contribute to producing the truth about their crimes"; "the possibility of unveiling a more complex truth was obstructed"; "in the insistence on the work of justice, there is also a refusal to assume our responsibility" (2012, 199-200).

8 "Even when, under this paradigm, the missing truths stated are still missing, as Hunziker suggests, that criminal judicial policy must be kept, apparently, without any modification whatsoever" (2022, 163). No. My idea is that there is much more than a "punitive paradigm" in every scene of justice, and that this should be taken into consideration before moving on to any other question. The one that Martín says I ask myself, and which he believes he can summarize "without betraying the meaning" of my text, is (would be): "what should the State do in order to achieve truths of utmost importance (the fate of the bodies of the disappeared and the whereabouts of the victims' children born in captivity) if forty years later, the perpetrators are still silent?" (*id.*). I quote the question I actually asked myself in my text, which is different from Martín's interpretation: "is this silence a valid argument to elaborate a critique of the option for justice?" (2020, 92), and I also quote the opening question, which is not about what the State can do, but about its scope and limits: "What roles or functions may the institutions in a democratic state assume (and which they may not) in order to process, elaborate, this past…'?" (*ibid.*, 83).

in exchange, a reduced sentence[9] or amnesty like in the South African case. This is why I used the word "suspension", so as to refer to what I think Hilb's position to be: a decision made by the State itself of suspending its own prerogative of doing justice for both the accused party and the victim. The fact that, according to Arendt, this is one of the basic prerogatives of the State remains problematic regarding labeling this notion we are discussing as Arendtian.

About the other side of Hilb's argument—that those who had belonged to insurrectionary forces had their ability to truthfully expose their role in the *advent* of terror hindered by the judicial role of victims bestowed upon them—, it should be noted that, rather than obstructing anything, the judicial path allowed the victims of state terrorism to be recognized as such: this has been emphasized in all the specialized literature. What Hilb wishes to discuss, namely the responsibility of those forces in the advent of terror, cannot claim as a condition the relativization or instrumentalization of justice, based on a debatable judgment on the alleged effects the application of justice may have on the search of a "more complex" truth. Moreover, the assertion of such correlation must also be justified, just like Martín's statement that victims recognized in scenes of justice "have also been perpetrators"[10]. This generalization verges on a lack of moral sensitivity which impedes understanding. By the way, Hilb is much more prudent, nuanced and fair: she makes a distinction between victims and perpetrators and does not propose to suppress all differences between crimes against humanity which are not subject to statute of limitations, and other crimes, which are already time-barred, such as those that may have been committed by members of revolutionary organizations. I also fail to understand his suggestion of reinstating the criminal justice device, or turning it into a threat[11], in order to promote a self-criticism he demands from a broad generational "we" (so vague that we are compelled to ask him for further clarification). Instead, I interpret his position as an invitation to think of other mechanisms, in addition to criminal justice ones, for a true expression of the militancies that chose to take up arms.

Casting aside for a moment the diagnosis according to which, in Argentina, it is possible to speak of silent agents of the 70s who are not taking responsibility today, I would like to raise some doubts –as I did in 2020– about those other mechanisms that we could conceive. Once again, I must say as I did before, I have had to deal with vague suggestions. This is why my text favors questions. If Hilb believes that the South African model, interpreted with the Arendtian nuance she provides, allows us to imagine a scene

9 In 2013, the journal *Discusiones* prepared a dossier to discuss an extended version of Hilb's 2012 text. In her answer to Diego Tatián's intervention in this controversy, Hilb declares: "I do believe that it is both possible and interesting, from the political standpoint, to think about the possibility of political-legal solutions that consider reduced sentences in exchange for contributions to the truth" (2013c, 74).

10 The demand for a serious debate should avoid this kind of clichés, which hamper it *a priori* and express a lack of what Arendt called "moral taste" (1982, 10). The unfamiliarized reader is encouraged to read the report known as *Nunca Más (Never Again)*, where they will find, among other victims of State terrorism, babies born in captivity, appropriated children, youngsters between 13 and 18 years old, Mothers of the Plaza de Mayo, journalists and conscripts who would never, in a civilized world, be called "perpetrators". This is a topic for an open discussion on how to understand the actions of insurgent organizations and the different ways in which they participated, etc.

11 I don't know whether or not this is what Martín proposes, though he does indicate his interest in that thesis, which he mistakenly attributes to me.

which restores equality in order to be able to act once again, then I wonder: equality between whom? Hilb claims that it is necessary to "consider how we, the actors of the years of lead, after thirty years, may transmit to successive generations a narrative that moves away from the vindictive or resentful repetition of a fracture that ended in Terror" (2013b, 77). Which fracture is that? What faulty gap should be corrected by means of an equality device? Is it morally and politically acceptable, given the magnitude of the mutually inflicted damage, to believe that a restoration of some kind of equality between the parts is possible? Who should that generation confront to do what Hilb says it has never done: speak about their responsibility in the advent of terror? Should they confront their torturers, their kidnappers, the thieves of their children? Those who, exposed to the detailed account of their crimes by the surviving victims, did not show a single act of repentance or compassion? Even without considering that the equalization proposed by Hilb implies that we should imagine such criminals could possibly become moral people through the negotiation of their sentences, is it justifiable for a State to speak as if state terrorism and silence had never occurred (even during the ten years period during which the impunity laws were in force) so as to create a scene of equality for a potential acceptance of a shared burden? I am not entirely sure of the scope and meaning of such a scene, or of what might justify a state intervention of this kind, or of what might an eventual acceptance of this shared burden entail.

I bring Arendt so as to make three observations.

First: the *Eichmann in Jerusalem post-scriptum* clearly states that the "collective responsibility" of actions such as those of Eichmann (or Videla, or Massera: it is Hilb who relates them), which involve the destruction of the human community, has justice as its absolute condition of possibility. Justice allows us to at least punish such actions, regardless of the agents' banality, kindness or wickedness, and remain human beings. We can and we must judge Videla, Massera and Eichmann. Let us notice that Hilb believes that the conclusions of this text by Arendt do not apply to the Argentine case, because if they did, "Videla, Massera and all the rest should have been hanged. But Argentina opted –with honor, I shall add– to deliver these great criminals to ordinary justice" (2013, 73). Wrong. Regardless of what we might think about the death penalty and its application in different cases, that was the maximum penalty established by the legal system under which Eichmann was prosecuted, not by the Argentine system that prosecuted Videla and Massera, who were given the maximum penalty provided by Argentine law: life imprisonment. In both cases, the aim was to achieve human justice. We cannot, as if we were gods, do what Jesus said should be done with agents of absolute evil: treat them as if "they had never been born" (Arendt 2003a, 74), regardless of the more reflective or more banal nature of those agents. Because it is not the personality of the authors of crimes against humanity, it is not anything related to their subjectivity, but to their actions, that make justice necessary and reconciliation with them impossible. I find in this idea, inspired by Arendt, a human defense of justice and its limits. Martín is mistaken about my objective, which is not to generate empathy with the reader, but to show the difficulties and limits –which must also be assumed by the victims, their families, and human rights organizations– of what we can do to uncover certain truths that the silence

of the military, extending their crimes into the present, prevents us from knowing. It is the actions of those who deployed a systematic plan of disappearance, torture, and death, extensively proven in court, that prevent us from negotiating their punishment in (hypothetical) favor of the truth.[12]

Second: in Hilb's approach, the decisive factor should be the reflective or unreflective nature of the agents when considering who could participate (with incentives like the ones already mentioned) in a process of moral transformation, thereby contributing to the reconciliation she advocates. Additionally, I incorporate a couple of ideas from Arendt, also from the 1960s, which offer a different perspective. Arendt never equates remorse and repentance. There are evil agents who, like Shakespeare's great criminals, feel remorse, but do not repent (Arendt 2003c, 186: isn't that what is heard in the speeches of some Argentine military officials?). Moreover, the poet W. Auden praises *The Human Condition* in all aspects except its view on forgiveness: he is horrified by the idea that one may forgive the "what" for the "who" (Hilb comments on this idea: 2012, 195). Interestingly enough, Arendt admits her mistake and agrees with Auden: "I can forgive somebody without forgiving anything"[13]. Let's align this idea with what we've discussed about *Eichmann…*, where Arendt was concerned about the thoughtless uses of forgiveness, prioritizing justice and judgment over it.

Third: Arendt establishes certain limits for a "moral philosophy" (2003a, 66-67, 93-94 and 101-102) regarding the domain in which we connect with others. It is not a matter of splitting morality and politics, nor is it about merging them into a naive and dangerous philosophical moralism: the principle of justice demands that the world, not the self, be placed at the center of all considerations. In "Thinking and Moral Considerations," Arendt points at the limits of concern for the wellbeing of every citizen. Regarding Socrates' moral assertions to Callicles: "it is better to suffer wrong than to do wrong" and "it would be better… that most men should not agree with me and contradict me, rather than that I, being one, should be out of tune with myself and contradict myself", Arendt says that the question about justice is the question about justice in the city, "in the world we all share" (2003a, 90). In the face of an unfair act, it is the city that has suffered and therefore must act. From this perspective, it doesn't matter whether one or the other repents or not, or whether they are thoughtful or foolish or banal. Neither personalities nor subjectivities are the problem: the world is. We must mend and prevent for the sake of that world's future. I believe we can agree with Hilb on this. However, I disagree with her idea that it's beneficial for the future of that world to contemplate institutional devices that would yield less justice than what we currently possess.

12 Hilb asserts that the trials have occluded the knowledge of two types of truths: the "necessary" truths that the perpetrators have refused to disclose and the "more complex" truth of the perpetrators' responsibility regarding terror and of their own generation in its advent. But this thesis should be proven, and it is not. It is also unclear whether this assumption of shared responsibilities should happen in a sincere confrontation between "former political adversaries" (like in South Africa), between perpetrators and political militants, between militants and other comrades, or in a private silent dialogue with themselves. Without this clarification, the proposed enigmatic alternative device would remain excessively indeterminate, and the "equality of those who act" or should act within it runs the risk, not of "yielding a little on justice," but rather of teetering on the brink of injustice or even fostering it.

13 Arendt to Auden, letter dated February 14th, 1960, in: Library of Congress, Washington. Cont. 004864.

I said in 2020 that we must encourage an open debate on the choice to take up arms by organizations like Montoneros or the ERP. However, in addition to the fact that the debate Hilb calls for *has not been absent*[14], there are no compelling arguments to suggest that the way to have more, or better debates is to compromise on justice and establish a false equality between incomparable parties. It is too high a price to pay for an uncertain moral bet, in service of a moral reflection and a public debate that *has been taking place* without threats of impunity. By the way, there is no example pointing in this direction in any part of Arendt's work. On the contrary, Arendt insists everywhere that the greatest problem of political philosophers has been precisely this: thinking more about their own soul than about the community and its justice. It is not a matter of opposing morality to politics, but we must use judgment (Arendt 2003a, 138), that is, raise the collective question of what we understand by a fair, or fairer community, after atrocious crimes have occurred. The trials for crimes against humanity prompted Arendt to make such distinction: the minimum moral requirement to resist evil in a totalitarian situation is a reflective relationship with ourselves (2003c, 185). Having said that, where justice and public debate thrive, actions should adhere to Kant's principle: nothing should be done that would render them impossible in the future.[15] The standard is the world, not the self and its reconstitution (Arendt 2003a, 141-142, and 1969b, 222). And I believe there is no broader notion of the world than that which appears at the end of *Eichmann*... (Arendt 2006, 279): all those who have not contributed to making public debate and justice impossible, as the criminals against humanity did in Argentina, are part of the world.

The next part of Hilb's argument refers to the South African experience. Her thesis is that a price was paid in justice there, while truth was gained. But the bibliography on which she based this thesis is partial and biased, which is why I suggested extending it to expert authors. Hilb (2012) quotes Philippe-Joseph Zalazar, who recognizes the importance of granting a voice to the perpetrators as a means to ensure civil peace and build post *apartheid* South Africa upon it. However, that perspective has been criticized since the beginning of the TRC's activity. Therefore, in order to analyze other views and approach the question of the meaning of the South African transitional design from a different perspective, I would like to review Marisa Pineau and Celina Flores's work (2016), which raises doubts about the success of this design, at least regarding the "knowledge of the truth" of what happened. Which truths did that mechanism enable? Did the threat of impending trials encourage the massive appearance of perpetrators before the TRC as expected?

First, let us discuss the issue of justice and truth. It was *in both things* that the South African experience paid a price. The complete and detailed information (*full disclosure*) was enabled *a priori* with a certain characteristic: "The truth was understood as a form of *acknowledgment* (...) The Commission's mission was to take individual truths and turn

14 The texts by Schmucler ([1980] 2019), Calveiro (1995), Casullo (2013) and Hilb herself (2003), as well as González's on the untorn consciousness of Firmenich, leader of Montoneros (1991), the debate about responsibility in *La intemperie* journal (VA 2014; 2010) and academic theses like that by Tello (2012) come to mind. Why would Scilingo's statement (Martín 2014, 72) be an "event" and not any of these texts?

15 We are not talking about a "philosophical" moralism such as "let justice be done and the world disappear." Quite the opposite, in fact. We cannot, for the sake of the world and its future, let justice be an incentive for the wicked.

them into a healing social truth (…) based on encounters and agreements between victims and perpetrators" (*ibid*., 39). The perpetrators appeared before the TRC in their own name and testified about their own actions *regardless* of their roles as former officials of the *apartheid* state or as members of a group that challenged it. Although of different types, both were considered "perpetrators." And while the government did not overlook the fact that the UN had considered *apartheid* a crime against humanity, in the specific cases, the TRC did not make a distinction between the violence exerted by organizations that opposed it and the violence perpetrated by those associated with the State[16], who were perceived as political adversaries.[17] Second, regarding the assumption that those most responsible for state violence would be the ones who, in order to avoid prosecution, would present themselves before the TRC and tell the truth, it should be noted that, considering the Commission's reports, it was mainly those who fought against *apartheid* who came forward and accepted their role as perpetrators. The appearances of members of the government were significantly fewer (*ibid*., 42). Only the lowest-ranking members of the security forces came forward: "the high-ranking military authorities, as well as the members of the retreating government, did not assume any responsibility for the actions committed and reported by their subordinates" (*ibid*., 42-3).[18] Based on the criminals' testimonies, the authors analyze the type of "truth" that their accounts shed light on. Such accounts often resulted in accusations against their superiors and unreliable material regarding what had happened (*ibid*., 46-57). Third, although the hearings were broadcast on radio and television (publicity was essential for the TRC's narrative to enable a "reconciliation"), after the first delivery of the final report "the process began to lose public significance" (ibid., 45). The TCR's work was published exclusively in English, without translation into the other ten official languages of the country, and all the information was eventually transferred from the Department of Justice to the National Archive, "where it remains unprocessed and therefore largely inaccessible to the general public" (*id*.).

In light of this alternative reading of the South African experience, can we expect Argentinean perpetrators to cooperate in terms of truth in exchange for impunity or reduced sentences? Certainly, in Argentina, precisely because there have been trials and punishments, we could have expected the guilty parties, out of self interest, to be willing

16 Hilb points out the subtlety of the TCR's report, which condemns *apartheid* and makes a distinction between those who supported it and those who opposed it, but she also celebrates the fact that the text concludes with the notion that crimes committed by both parties can be seen as crimes against humanity, which deprives the distinction of any practical consequences. This is what Pineau and Flores demonstrate.

17 In 2022, I wondered who should reconcile in Argentina, and said that Hilb's answer to that question would be that those called to reconcile, considering the South African case, could be the "former political adversaries" of the past. I did not underline that expression to point out a quote from Hilb about Argentina, as Martín misunderstands, but rather to bring her argument about South Africa to Argentina, in relation to which the expression acquires its meaning. Martín's assertion that my interpretation is flawed is unfounded (2022, 172): I am trying to draw the conclusions that I infer Hilb wants us to draw from her reference to the South African case.

18 Only one member of the Cabinet filed a request with the commission. "A total of 7,100 amnesty requests were filed, of which 1,100 were granted. It is worth noting that only about 2,000 were related to crimes considered political, while the remainder were from common criminals serving sentences in South African prisons. Another relevant fact is that out of those 2,000, only 272 were from members of the security forces and the bureaucratic structure responsible for implementing the system of racial segregation in place between 1948 and 1990 (Pineau and Flores, 2016, 44-5).

to exchange truth for reduced sentences.[19] Neither Hilb nor Martín said this, but it would have been a good point for them. But I wonder, with the South African case in mind, what price would we really have to pay *in terms of truth* by giving authority to the voice of criminals who, even under conditions of impunity, never said a word about their crimes.[20] Aren't we expecting too much from the perpetrators' ability to produce truth? And what expectations would we be creating for the victims?[21]

One more thing on "reconciliation." Martin says that my text "invents" the reconciliation thesis (2022, 171) and accuses me of attributing to Hilb a confusing idea about it, which would be both the goal of a policy and the expected effect of such a process. As I previously stated, the very idea of reconciliation has these two sides. When I discuss how Hilb articulates this idea with that of truth—and I say that subjecting the truth to reconciliation is problematic—I am not referring to whether or not truth can be an effective historical result (Martín 2022, 176, n. 20). I refer to the fact that in the South African institutional design, the idea of truth was subordinated to that of a possible reconciliation, which was both a horizon of meaning and a calculated risk before moving forward with any actual measures. I also think that the idea of reconciliation which encourages Hilb's defense of this process conditions what we can expect from the truth. The idea of reconciliation is fundamental to Hilb. Through her interpretation of Arendt, it is suggested that assuming a shared responsibility involves creating a sense of equality between actors who have committed injustices, potentially enabling forgiveness and the initiation of something new. In her presentation of the South African institutional design, this is an explicit goal of the transitional discourse (2012, 195-9). Such consideration

19 Pineau and Flores emphasize the importance of trials in the success of this strategy: supposedly, the possibility of a conviction would have encouraged the perpetrators. When the TRC first began its work, there were 5 ongoing trials, which resulted in three convictions of low-ranking members of security forces and two acquittals of high-ranking government officials. The strategy worked for the former. For the latter, "the first acquittals caused a well-founded sense that the possibility of a criminal prosecution policy did not pose a threat, thus affecting the appearance of those responsible before the Amnesty Committee" (2016, 41).

20 Hilb and Martín recall the case of former lieutenant commander Scilingo, who gained notoriety due to a 1995 journalistic interview. In 1997, he was tried and convicted, not by any Argentinean judge, but by a Spanish one when he decided to travel to Madrid and appear before Judge Baltasar Garzón, who was investigating a case against the Argentine dictatorship and ordered his temporary detention pending trial. In the interview, Martín notices a moral transformation in the former repressor. It is not relevant whether such transformation can be thought of as a form of the repentance that Hilb speaks of. It is true that Scilingo said he was repentant, but he also stated that, "under the same circumstances, he would have acted in exactly the same manner" (in Martín 2014, 202). Regarding Scilingo, the comparison with Arendt's Eichmann could be of interest. Martín does not propose this comparison, but he does relate it to Videla's case (2022, 173). Why? Videla was a central strategist of the Terrorist State, as many judicial sentences have shown, and the articles that the Argentine newspapers published when he died are not proof of anything, and much less of his banality, as Martín claims. Martín forces a comparison where it makes no sense, and fails to propose one where it could potentially lead to an interesting conclusion. Neither Videla was a banal man nor Scilingo is a moral hero. In any case, the testimony of criminals who have destroyed the evidence of their crimes must be challenged in spaces less susceptible to subjective fluctuations. Furthermore, Scilingo's statement did not bring about subsequent statements or expressions of regret. The only three of these came from lower-ranking officers.

21 Arendt said that Eichmann could no longer tell the truth about himself and the past (2006, 82 and 117). But there is also the possibility of deliberate falsehood. Tried for crimes against humanity, the former chief torturer of Clandestine Detention Center (Centro Clandestino de Detención or CCD) La Perla, Ernesto Barreiro, presented a list of 25 names of kidnapped militants and the locations of their burials. After a frantic investigation, it was confirmed that the statement was false. Forty years later, silence was aggravated by a horrible manipulation of the victims' and society's expectations.

implies that this possible assumption of a common responsibility conditions not only justice (which must be negotiated) but the type of truth we can achieve.

Martín accuses me of ambiguity for saying that, according to Arendt, reconciliation does not happen between the parties but between the community as a whole and "reality": it is an agreement in which a community recognizes itself as such. Yes: that is what Arendt says, and what I say. The question about which parties require reconciliation falls outside the framework of thought rooted in Arendtian philosophy that I am considering. Promoting reconciliation between perpetrators and victims is not the idea. Moreover, contrary to the assertion that a horizon of reconciliation might incentivize perpetrators to come forward, thereby facilitating a deeper understanding of the truth behind past events, the intention here is to offer an alternative interpretation of the South African experience, distinct from that proposed by Hilb and Martin. This interpretation, I contend, demonstrates that the pursuit of reconciliation came at a cost not only in terms of justice but also in terms of historical, moral, and political truths.

I will now resume the analysis of the trials in Argentina. What I emphasized about them in 2020, in addition to their ability to deliver justice, was their contribution to the establishment of a fundamental set of "factual truths" in Arendtian terms. These include the existence of a systematic plan to have political opponents kidnapped, disappeared, tortured, and murdered by agents of the Terrorist State, the existence of hundreds of detention centers throughout the country, the identification of chains of responsibility in every case, and numerous other revelations that have aided investigations into the fate of appropriated babies. Therefore, my text was an invitation to think about crimes against humanity as arenas to validate the importance of the Arendtian idea according to which the administration of justice is and must be an unconditional space for truth within the State (Arendt [1967] 1969c). The State must guarantee, irrespective of vested interests and power, the pursuit of "factual truths," which are the only ones with an assertive yet fragile nature in the political realm. This role –fulfilled in Argentina by the power of the State, public policies, and human rights organizations– has allowed, despite the silence of criminals and many other agents who refused to provide information, the emergence of truths about crimes that have also been committed against truth. This is due to the systematic destruction of evidence and the clandestine operations of the dictatorship's agents and spaces.

On the other hand, my text went beyond Arendt to relate the ideas of "factual truths" and "testimonial truths": factual truths are fragile because they depend heavily on witnesses, people who have seen or heard. In Argentina, witnesses in judicial scenes have usually been the survivors themselves, who have had to explain the functioning of terror, hidden to the majority. This is why my primary concern lies in devising means to establish a public platform for this truthful, albeit fractured, and challenging-to-articulate voice (Longoni, 2007). Conversely, I am less interested in amplifying the voice of the criminals who, far from showing any willingness to provide "factual truths" about what happened, consistently offered justifications or refuted witness testimonies. Along these lines, Mariana Tello's (2014) research on the so-called La Perla mega-case[22] allowed me to

22 Martín asks me what new facts have been discovered with the reopening of trials since 2006. In this case, numerous acts of sexual violence (those of torture were already known) against kidnapped individuals were

point out the value of trials in restoring the moral dignity of the survivor witness: something in the moral reflection that has allowed them to forgive themselves for having survived, so to speak, thanks to the enablement of justice, and, with it, a clear distinction between victims and perpetrators, blurred by the perpetrators (and by Martín, to whom the victims "were also perpetrators"). Additionally, I appealed to Claudia Bacci's research (2017) on a different, earlier scene of the 1985 Trial of the Juntas. Bacci shows'that, for those affected by State terrorism (in this case, the wives of disappeared militants)'the judicial scene also brings forth a truth that exceeds the "facts" and speak about the l'mits of the device itself in its capacity to find and tell the truth of the crime of forced dis'ppearance. When asked about their marital status, these women say they "do not know." This is what Arendt calls a "moment of truth" (2003b, 255). The fact that Arendt uses this idea to recount the anecdote of Franz Lucas, a German doctor who helped save several groups of Jews, but whose good actions, Arendt believed, could not be well received, does not affect my argument. I insist: reading is already an act of displacement and redescription, as Hilb does with Arendt in a very interesting way. My text pointed out the value of these "moments of truth" not so much in providing a "meaning" for what happened (Martín: 2022, 162) but rather as a *rupture* of meaning which is equally illuminating. The truth of the scene of justice here implies a public display of the limits of statehood itself: women point out to the judges and the general public the impossibility of stating a truth that is more complex.

I return to the articulation between factual truths and truthful narratives, where history has acquired "continuity and permanence," and which provide "the inner truth of an event" (Arendt 1968, 10-20). For Arendt, reconciliation involves coming to terms with the reality of history, which is not merely the series of events presented to the witness, but something that requires working with the significance or insignificance of what emerges. Such is the work of every good narrative. These narratives can be diverse, but they have the effect, for a certain collective, of generating approval regardless of debates. The peculiarity of post-dictatorial history is that we must elaborate narratives under unprecedented conditions due to the destruction of the "factual truths" evidence. That is why I pointed out the importance of justice in this other sense. Because it is a procedure that has been proven effective in obtaining and protecting the elemental truths, which are the foundation of any truthful narrative. Also, the very scenes of justice have shown the limits of justice itself and created those "moments of truth," as Arendt calls them, that manage to restore not so much a meaning but rather its absence or its rupture. These moments also underscore the significance of the act of speech itself: that of the witnesses who can tell the truth of their suffering, that of a State that ensures that act of speech, and that of those tensions that account for "moments of truth" that exceed what can be verbally expressed. Such scenes are not mere "punishment" devices: they offer a morally and politically wider framework to think about truth and justice. Martín is asking me for "a historical example" of these consensuses generated by overarching narratives of reconciliation within a community with a history of its own (2022, 174). As an example, I offer him the overarching narrative forged by the trials for crimes against humanity and

proven. And there was a production of information (as already pointed out in 2020) about events that occurred before 1976.

their verdicts. The readings serve as collective rituals, bringing the community together to listen attentively and reflectively to the judges' rulings. In this narrative, the Argentine democratic community recognizes itself without hesitation. Within this framework, for example, we must consider the widespread outcry within Argentine society in 2017 following the Supreme Court's decision to reduce the sentences of the repressor Simón and enable similar reductions for many others. I find there is no better description of the effects of narratives that, in Arendt's words, manage to crystallize the inner truth of the events, in which "very little is described, still less explained, and nothing at all 'mastered'; its end is tears, which the reader also weeps" (1968, 20), than the final phrase prosecutor Strassera uttered in the Trial of the Juntas: "Your Honors, Never again." What remains is the "tragic pleasure": the emotion that allows us to accept that such human, political, and moral devastation could ever happen (to us), and to know that, in the face of it, we have at least, justice.

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