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Ominous Impunity:

Rethinking State Terrorism in Argentina, Twenty Years After the Return of Democracy

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ABSTRACT

During the last Argentinean dictatorship (1973-1983) thirty thousand people were tortured and made 'disappeared' by the Dictatorial State. For decades, commanders of the Argentinean Military Forces denied responsibility for these cases, either by pretending that the people were still alive, that they had left the country, or by acknowledging only a few cases of torture while justifying them as "excesses." In 2003, the national commemorations for the twentieth anniversary of the return of democracy in Argentina coincided with a series of kidnappings (which extend to the present) and juridical debates that echoed those events. The essay is centered on the European countries' petition for extradition of these repressors and the Argentinean Supreme Court's decision, which continued to protect the repressor's impunity. By articulating Lacanian theory and political philosophy, the author examines the notion of "impunity," including its significance as it pertains to Symbolic Law and its consequences for subjectivity, and culture. The author suggests that instead of defining the Symbolic Law as a fixed mediation, it should be considered a permanent work of inscription. This inscription can aid in understanding subjective positions

regarding social trauma. With this in mind, the author focuses on the psychoanalytic notion of act as impersonal and political, and hence essential for understanding the petition of justice in the Argentinean case.

INTRODUCTION

If, as James Carey (1989) maintains, “[c]ommunication is a symbolic process whereby reality is produced, maintained, and transformed,” and if “[o]ur minds and lives are shaped by our total experience [of] communication,” (p. 15) then communication scholars should care about the symbolic conditions that support, frame, and constitute culture and subjectivity. This implies adopting an ethical as well as a political position regarding cultural events that compromise subjectivity. For this reason, communication is understood here as a complex phenomenon in which individual subjects, political agencies and social institutions conform to a totality. In this view, psychoanalytic theory can be of help in communication studies. Indeed, Lacanian psychoanalytic theory has been employed several times in communication studies, and particularly in cultural studies; I believe that these frameworks are in dialogue with one another and might be utilized in a collaborative effort. To mention just a few examples, cultural studies has benefited from the Lacanian interpretation of the unconscious as being like a language, central in the analysis of culture and subjectivity (Hall, 1996). At the same time, cultural studies –and in particular feminist cultural studies– have helped de-totalize the psychoanalytic discourse by critiquing the assumption of a universal subject and the idealization of phallic-centered models of subjectivity and sexuality (Barker, 2004). Lacanian psychoanalysis has been deployed in feminist communication studies by incorporating psychoanalytic theory as a ground from which to theorize aspects of the normative structure of gender and race, or the contradictory dynamics between femininity and feminism (Kristeva, 1980; McRobbie, 1996; Mitchell, 1984); identity performativity (Butler, 1997); and ideologies of nationalism (Bhabha, 1993; Spivak, 2001), among many other examples. In addition, the Lacanian conceptualization of a Symbolic order has revitalized critical theory’s understanding of subjection to the State already present in Freudian skepticism towards the ideal of progress (Freud, 1930/1989) and in

Horkheimer and Adorno's (1947) critique of the Enlightenment's cultural formations (Held, 1980).

Finally, Lacan's reading of Marx's plus-value as plus-de-jouir inspired some of the most provocative thoughts about psychoanalysis, popular culture, and Marxism in the works of Frederick Jameson (1998) and Slavoj Žižek (1999, 2001).

In light of this background, this essay applies Lacanian theory to perform a critical reading of a particular cultural event, that of the 2003 Argentinian commemoration of the return of democracy. Incorporating Lacanian theory is useful in this context because it can provide cultural studies with a framework to interpret institutional and subjective positions regarding the Symbolic Law (and its manifestations in cultural norms) as the ones that are at stake in the Argentinian case. Indeed, these positions comprise multiple levels of subjectivity articulated and usually conflictive with each other. Such complexity was somewhat clear during the Argentinian commemorations of 2003, the events that followed and their repercussions in the media. In 2003, together with the occasional public celebrations for the anniversary of the return of democracy (for such a return was an opportunity for joy and social hope), there was also despair and fright. These feelings were triggered by an increasing wave of kidnappings and political corruption that echoed the years of the last dictatorship. In the months that followed, some repressors within the former Argentinian military dictatorship (from 1976-1983) explicitly admitted for the first time before TV cameras that the missing people were assassinated clandestinely. This information was provided by Generals Diaz Bessone, Albano Harguindeguy and Reinaldo Bignone in a series of interviews conducted by French reporter Marie-Monique Robin. The interviews, also directed by Robin, are now part of the documentary *Escuadrones de la muerte. La Escuela Francesa*, (aka, *The Squadrons of Death. The French School*), and were presented in France and twelve other European countries on September 1, 2003. For decades, commanders of the Argentinian Military Forces denied responsibility for the cases of torture and the "disappearance" of people, either by pretending that the people were still alive and had secretly left the country, or by acknowledging only a few cases of torture while justifying them as an "excesses" of authority on their own behalf. The video revealed that the disappearance of

people followed a systematic plan to secretly assassinate victims of political persecution and to make their bodies disappear, thereby preventing families and friends from mourning. International repercussions for this tape followed immediately.

When the documentary was first released, the newspapers in New York, Rome and Madrid displayed headlines about the contention between the Argentinean and European Supreme Courts regarding the extradition of Argentinean repressors –all members of the military government during the last dictatorship. The impunity of these repressors was evident after the Argentinean court denied their extradition, which had been petitioned by European nations on the basis of dozens of legal cases presented about citizens who were kidnapped, tortured, and killed in Argentina during the period 1976-1983. For years, the presentation of these cases could not progress because the Argentinean Supreme Court did not accept petitions for extradition, and also because the Supreme Court discontinued domestic trials. The Argentinean juridical apparatus seemed to protect and promote several mechanisms that ensured the impunity still enjoyed by the repressors. Some of these mechanisms were legal instruments passed by the latest democratic governments: the Ley de Punto Final (Full Stop Law), which stopped the presentation of cases; the Ley de Obediencia Debida (Law of Due Obedience), which exculpated the repressors, and the Indult, which exonerated them from any trial.

Currently, there is a paradoxical situation regarding these instruments. When the petition of extradition became more legally viable, even some of the legislators that had passed the above-mentioned laws showed a sudden preoccupation for nullifying their extradition. However, these laws remain valid until the Supreme Court sanctions the petition of nullity passed by the Congress. It is precisely because this decision has been strategically postponed that the repressors enjoy freedom from prosecution, since they can neither be extradited nor judged in Argentina.

This essay explores the effect of impunity in Argentina as a particular position regarding the Symbolic that disavows interdiction by pretending to be or incarnate the Law. In this essay, I will go back to this

articulation several times. In the following section, for example, I show the ways the disavowal of interdiction by the Court created the conditions for facilitating the return of the repressed. I explore what this return means conceptually for Lacanian psychoanalysis, and in the work of Nietzsche. Next, I conjecture that the Lacanian notion of the act is the most powerful category of analysis within this framework to resist and reverse impunity. What I am trying to do in this case is to bring a concept emanated from the clinical practice of psychoanalysis into dialogue with cultural studies. Finally, I explore again what are the limits and effects of the disavowal of the Law in the Argentinean case, and pose a question regarding the possibility of reversing the atrocities carried out by the dictatorial State in Argentina. What is important to notice in this conjuncture, however, is that the impunity of the repressors –guaranteed by the Supreme Court– opposes the work of the Symbolic, which is characterized by uncertainty and flexibility. I would also like to here qualify this opposition to the Symbolic as ominous following the classical use that Fernando Ulloa (1986) proposed for this term. The word ominous refers to what rests beyond the work of speech, what cannot be symbolized because it has not been sanctioned (signified by the Symbolic order), thus reappearing in the social space in diverse morbid forms.

A Return Void of Consistency

In aphorism 341 of *The Gay Science*, Nietzsche presents the doctrine of the eternal return by asking a question concerning what he calls the greatest weight of all –the question that matters the most within the contemplation of the eternal return – “Do you want this once more and innumerable times more?” (Nietzsche, 1881/1982, p. 102). In this question there is more than the need to confront one’s own past in order to become a creator of the future; instead, Nietzsche suggests the more radical notion that the experience of suffering performs a reflexive operation through which a decision beyond the constraints of moral reasoning can arise. The subject that emerges from suffering is a result of the movement of questioning subjection. In this light, the doctrine of the eternal return opens the possibility for considering an ethical position regarding the past –what it was– that questions subjection and interrogates the conditions that inform reality. The subject invoked by Nietzsche can answer the aphorism’s question with

the phrase from *Thus Spoke Zarathustra* (Nietzsche, 1881/1982): ‘thus I willed it.’ This enunciation suggests that a subject position of resistance can emerge from a will to contest normative cultural conventions; and hence it would imply a will to resist the repetition of past sufferings. I want to suggest that this subject position is the subject of ethics, one that is beyond morality. An ethical position of this kind might imply a form of de-subjectivation or exclusion from the order of moral values – I will go back to this point later, when commenting on Antigone’s act. Such exclusion has been explored by Judith Butler (1997), who, commenting on Nietzsche’s ‘thus I willed it,’ asserts that “[t]o claim that the subject exceeds either/or is not to claim that it lives in some free zone of its own making. Exceeding is not escaping, and the subject exceeds precisely that to which it is bound” (Butler, 1997, p. 17). Butler seems to suggest here that there are two forms of subjectivity at play in Nietzsche’s *Thus Spoke Zarathustra*, one tied to constraining moral values, and one that emerges from a movement of exclusion from those values. This second form of subjectivity might coincide with the subject of ethics (that is, of subjective responsibility) predicated by Lacanian psychoanalysis. In this sense, Nietzsche and Lacan help differentiate morality from ethics. Morality would refer to the social conventions individuals are subjected to, while ethics would refer to the powers of subjectivity once it has transcended those conventions. For this reason, Lacan and Nietzsche are closely related in that both differentiate a realm of particular norms that govern individualities and a realm of ethics where the subject is responsible for its desire. Moreover, Nietzsche does not give any essence or content to the eternal return. Because of this, the principal concern in the ‘doctrine’ of the eternal return is not the return itself, but the attitude regarding the return, and how such a position is produced.

In the Nietzschean preoccupation of the return and in his concerns about an attitude towards the return, there is implied a conception of agency without individuality. But, what is agency without the individual? An agency that is neither centered on the individual nor guided by moral conventions is de-subjected from the order of things. It becomes what psychoanalysis identifies as the subject of an act. Only an act –

defined as a form of agency that is not personal— can interrupt a repetition (or return) that lacks consistency and transform it into something new. The act, then, interrupts repetition.

Act, Law, Impunity

The Argentinean Supreme Court decision to protect the repressors of the last dictatorship illustrates the psychoanalytic notion of disavowal of the Symbolic Law. As I am using it here, the notion of disavowal implies a twofold psychical attitude toward the Symbolic Law. The term disavowal (in German *Verleugnung*), was introduced by Freud in different texts to explain a curious clinical observation: when confronted with a female genital, certain boys deny the lack of a penis and, instead, they assert they can see one. Similarly, the Argentinean Supreme Court adopted a twofold position regarding the crimes perpetrated by the repressors —and yet inverse to the Freudian account. In this case the Court acknowledges the crimes, but it never does completely sanction them or their perpetrators.

What matters the most about the Argentinean case is that because one of the central cultural institutions representative of the Symbolic Law —the Supreme Court— disavows the Law it is supposed to articulate in norms, then one problem for cultural studies and psychoanalysis' scholars is to what extent can subjects resist, contest or challenge such disavowal. In other words, can these crimes be reversed? To what extent can subjectivity resist the institutionalization of horror as the one promoted by the Argentinean Supreme Court?

The position of the Argentinean juridical apparatus toward the repressors is one that has guaranteed their freedom from punishment. The Symbolic Law is the operator of cultural mediation, translated into social norms. Although the norms cannot express the vastness of the Symbolic, they can reflect them. Law — expressed at the level of language— also structures the psychical life of each individual subject. There is therefore a logical articulation —although not a linear determination— between the order of norms (culture) and the structure of psychical life (subjectivity). As a consequence, it could be argued that the disavowal of the Symbolic Law in the case of the Argentinean juridical apparatus —expressed in the refusal to

penalize the repressors— appears symptomatically as the return of the repressed. This return appeared most evidently last year —and continues through the present— in the increasing number of kidnappings, oblations, and cases of torture —in some of which, allegedly, participated members of the Federal Police Bureau— and in the unscrupulous declarations ex repressors made to the mass media.

In Lacanian psychoanalysis, the Symbolic Law functions through interdiction (Lacan, 1953/2001) and is refracted and inscribed in norms particular to each culture. The Latin word for the act of inscription, *inscribere*, points at the effect of writing the Law, which subjects nature to language. In this sense, Law is violent: it separates and orders while creating culture. However, for the very same reason that Law structures —that is, for the violence of its function— its effects can also be chaotic. In other words, the effects of the inscription of the Law cannot be anticipated because they are a matter of conjecture. One aspect of the inscription of the Law is therefore always erratic, transitory, and more importantly, it opens subjectivity —individual and social— to the encounter of the Symbolic. In this sense, Law and the Symbolic cannot be separated; they are, as Giorgio Agamben puts it, a *forma-di-vita* inextricably political:

Every action and every form of the human living are never prescribed neither by any specific biological vocation, nor can be assigned to any necessity, but, in spite of being ordinary, repetitive and socially prescribed, they conserve always the character of being a possibility, that is, they always put at play the living itself. Because of this —namely, since it is a being of potency that can make and not make, succeed or fail, lose or find itself— man [sic] is the only being in which living always implies being happy, whose life is irremediably and painfully assigned to happiness. But, this constitutes immediately the *forma-di-vita* as a political living. (Agamben, 1993, pp. 108; my translation, emphasis added)

This statement is crucial for understanding that subjectivity is intertwined with the political. Human subjectivity is not prescribed, but inscribed into the Symbolic. This opens subjectivity to the potency of the political that Agamben's text suggests. For the Symbolic interdiction to operate, norms need to refract

incessantly in the Universal. The Symbolic Law is not guaranteed, but its inscription needs to be continually built upon. In other words, the Law of the Symbolic can operate only as refracted in particular forms (Fariña, 1999): the norms of culture. Law does not operate in a vacuum, but instead on the material supports offered by cultural codes. However, because particulars (norms) can never encode the Universal completely, the refraction of the Symbolic in codes is always erratic and incomplete. There is no system that encodes the Universal completely, a reason for which the Symbolic always represents a surplus regarding the particulars. Law, then, is not something given from the beginning and for always, but something always being inscribed, and necessarily re-coded. The Universal is that which exceeds the work of the particulars (Lewkowicz, 1998), demanding a permanent Symbolic testimony, a witnessing on the part of the subjects. The Symbolic is not a given datum for the human experience; it is, on the contrary, the result of a constant reworking of the inscription of the Law.

On the other hand, there is the notion of the act. An act is a moment when subjectivity detaches from the set of the particulars. As it was stated earlier regarding the notion of the eternal return in Nietzsche, the act relates to an attitude that is excluded from the realm of norms, conventions and morality. In the moment of the act, the subject is alone in a decision that compromises an encounter with a radical impersonal dimension. What psychoanalysis calls the act is a movement from the Symbolic coordinates that frame human experience to a limit-zone where the subject becomes, for a moment, de-subjected. This limit-zone of de-subjection can be called radical Alterity. The subject of the act –the best example is the character Antigone from the Greek tragedy of the same name– is excluded from the community normalized by Symbolic regulations (Žižek, 2001). The notion of the act, and the case of Antigone, can be thought of as paradigms to consider the case of Argentina. In this scenario, a social institution failed to articulate the Symbolic by protecting the impunity of the repressors, hence imposing its own dictates in a particularistic way. In other words, the Argentinean Supreme Court appeared to oppose the Law it was supposed to represent.

To what extent is a subject able to exclude itself from the order to which it is subjected? Even if for a moment, this exclusion must be absolute. The subject of the act neither responds to what Lacan calls the other (the neighbor), nor to the Other (the set of norms regulating the Symbolic interchanges among human beings). The reaction of Antigone to her sister Ismene when she wants to participate in the burial of their brother is the sign of an exclusion of the first type of other; the reaction to the norms of Creon is the sign of an exclusion of the second type. There are then two exclusions at play in the act: de-subjection from the Symbolic order (the order of the Other) and, at the same time de-subjection from the order of the community (the order of the particulars or others). In the Argentinean case what is most salient is the exclusion from the order of the Other, because the institutions that should have represented the Symbolic Law failed to do so. However, considering the political and cultural consequences of impunity, and the wish to reverse them, makes one wonder to what extent exclusion from the order of the community (the order of others) is also a prerequisite for the act. Should the act be considered as the result of individual practice or as the consequence of communal performance? Probably, it is at this conjuncture that the Lacanian distinction between the individual and the subject is most appropriate. For Lacan, the subject of the act does not coincide with the individual person. The individual corresponds to the agency of the Ego, an instance of stabilized imaginary identifications, defense mechanisms and reactive formations. Such agency does not hold subjective responsibility for the ego in the place of guilt, nor of responsibility –in so far as the Ego is subjected to the imperatives of the moral law and cultural norms. Contrarily, Lacan locates responsibility in the subject: the subject responds for its position, it is responsible for its desire. At the level of the subject, therefore, the act appears tied to the community, for there is no subject without alterity. In other words, although the act is played in exclusion from the order of the community, it is not without the others, who are present in so far as the subject is an effect of language and discourse.

A similar standpoint can be found in Nietzsche's concern for the act: for Nietzsche the act excludes the subject from the order of conventions, yet it ties the subject to its own desire. Nietzsche refers to this as a 'particular attitude,' which appears in Thus Spoke Zarathustra in the memorable sentence: 'thus I willed

it.’ De-subjection or exclusion implies a form of subjectivity without a subject; a form of ethics without the conventions of morality; in other words, an attitude without agency –in Lacanian terms: a form of subjectivity that does not coincide with individuality.

In addition, in the passage quoted above, Agamben emphasizes that the human being is the only living form for which ‘happiness’ can be realized in political action only –in the political dimension of the act. I believe that Agamben’s use of the term happiness (in Italian *felicit *) refers to a form of agency tied to the Symbolic, a living form that exists and participates in the political act of de-subjection from any order of determinants, and yet it articulates or expands the Symbolic. As it was suggested before, this would be the subject of ethics, distinct from the subject of morals. In Nietzsche’s conceptualization, this subject is not a priori, but emerges a posteriori, through an experience of exclusion that comprises suffering and through which it becomes the subject of the ‘thus I willed it.’

Curiously, a similar form of subjectivity a posteriori appears conceptualized by Freud in, *Totem and Taboo* (1912/1939). In this case, Freud analyzes the effect of a sanction as a movement that weights a posteriori. In addition, although he does not address the problem of suffering in that essay, he does consider the role of the Symbolic Law in subjectivity and culture. I believe that the theses included in *Totem and Taboo* can help in thinking of impunity as a position beyond Law, and so this essay will turn now to examine the structural function of Law and the disavowal of Law in impunity.

Impunity and Irreversibility

The realm of culture is founded, according to the Freudian myth of *Totem and Taboo*, on a fundamental prohibition that sets limits to the otherwise excessive character of the drive. As Lacan (1948) says regarding aggressiveness, the myth of *Totem and Taboo* demonstrates that the prohibition of incest and the crime of parricide are in the origins of the human condition. It is remarkable that in the Freudian text *Totem and Taboo*, prohibition falls backward upon the ‘brothers of the primitive horde’ (such is the term Freud uses to describe a mythical group of individuals at the beginnings of culture) as an excess in

relation to what they expected, hence becoming a triple foundational act (Salomone, 2001) that operates in a reflexive manner: foundation of the subject; foundation of society; foundation of culture. By this prohibition, Law becomes represented by someone or something (as opposed to incarnated in one), in the form of a peculiar signifier that names the subject in Symbolic terms. By regulating our relationships with neighbors (the non-capitalized other mentioned above), the Law sets a limit to human aggressiveness; hence Law establishes the symbolic conditions for human sociability. By regulating sexual enjoyment, on the other hand, Law establishes culture in the form of an interdiction of at least one discretionary element that becomes then a forbidden object. As it will be clearer later on, these considerations are pivotal in the case under examination, for the prohibition of a sexual object, and more importantly, the prohibition of Real enjoyment as it is conceptualized in Lacanian theory (Lacan, 1973) is the articulator of Symbolic interdiction that supports culture. Interdiction of Real sexual enjoyment marks, in Lacanian theory, the passage from the animal world into the cultural world. In other words, interdiction means that for the human being, not all is possible; there is a constitutive lack or impossibility that results from the effect of the Symbolic Law. In this sense sexuality, language and culture are inextricably interwoven by interdiction (Apollon et. Al., 2002; see also footnote III in this essay).

What is remarkable about the interdiction in the case of the Freudian account of the primitive horde, is the paradoxical movement falling backward (or a posteriori) on the agents of the original parricide, a movement that surprises for its efficacy: by killing the Primitive Father (distinguishable by his embodiment of the Law), the brothers in the primitive horde sanction a position as impossible –were someone to occupy that position, the Law would be incarnated in one again, his enjoyment and privileges re-established, hence motivating a mechanical repetition of the assassination.

By killing the Primitive Father, the brothers of the horde discovered with surprise that a Symbolic position is more effective than the pure incarnation of the Law. In other words, they discovered that Law, when represented, falls back upon each of the individuals and upon the whole group. In this sense, as it was stated above, the inscription of the Law is a violent act, and yet at the same time it is a pacifying or

organizing act. It is violent because it structures the psychical life of the subject by setting boundaries that divide what it was from what it is ('what it was' being sanctioned as such after the act of inscription of the Law). Its effects are also pacifying because, by becoming an act of permanent inscription that situates the subject, Law regulates the relationships between the subject and the different instances of alterity (one of each is the Real).

What the brothers of the primitive horde discovered by killing the Primitive Father is that whomever occupies that position reenacts the figure of the Primitive (Tyrannical) Father, but precisely because this is a reenactment anticipated in the domains of the Symbolic (the brothers could from that moment on anticipate the effect of someone occupying such position), then it is the position that designates the function in the structure. In conclusion, the position designates a Father, no longer the Primitive Father. The Symbolic Father holds a privileged place in the structure: it functions to continuously re-inscribe the Symbolic Law. Furthermore, the foundational act needs to repeat itself to guarantee its Symbolic validity of interdiction. This characterizes the work of excess in the Symbolic (universal) regarding the norms of culture (particulars).

In contrast, in the case of impunity, there is a peculiar tension between the Argentinean juridical apparatus and the Symbolic Law that appears to be the negative of interdiction, a relationship to Law that rejects its weight of interdiction. This particular relation to Law is best exemplified in the figure of Creon in *Antigone*, and so it can be interpreted in light of the Argentinean case. Creon, who had become head of the Theban army, prohibited the burial of Polynices who died attacking the city, seeking to reclaim his rights to the Theban throne. Creon's edict served as a warning and also as a threat directed to those who dared to challenge state power. From this time forward, *Antigone's* heroic deed of burying her dead brother's body in defiance of the city laws has been interpreted as a symbol of an ethical act.

The protests about the fate of the 'desaparecidos' (also referred to as the 'missing') in Latin America (and not only in Argentina) are both a denunciation and a possible way to move forward, to process the tragedy

of those who were kidnapped, tortured and made to disappear. The figure of the 'desaparecidos' is a corollary of the disappearance of those who murdered them, whose responsibility was exculpated under the notion of 'orders.' The clearest expression of this logic is the so-called Law of Due Obedience that freed thousands of soldiers who committed aberrant acts by displacing responsibility on to those higher up in the military hierarchy. The recent annulment of this Law in Argentina, together with other long-delayed democratic measures, should be taken not as an end point but as a point of departure for advocating the politics of the act. In effect, it is a wager toward the future: the restitution of responsibility and memory as a strategy against the ominous.

This wager presents us with a conundrum: if responsibility could be restituted by means of legal sanctions, would this restitution suture the wounds in culture? Would it reconstitute the altered Symbolic legacy? Would the subjects in mourning find in these norms the complete resolution of suffering of the conditions for the elaboration of the loss? Can an operation in the dimension of norms (particulars) suture a rupture in the dimension of the Symbolic?

The psychoanalytic meta-psychology of trauma - defined as an excess of energy invading the psychical apparatus - can be of help here. Traumatic is any factor that takes the structure by surprise, the sudden eruption of a quantum of energy that as a consequence cannot find proper elaboration. The traumatic excess of energy invading the structure in trauma should be distinguished from psychical pain -for example, the pain experienced for elaborating the loss of a lost object. Elaboration is a process involving working with signifiers linked at the level of the Symbolic order. These considerations apply both at the level of the individual subject and at the level of a community. Social traumas are situations characterized by discontinuity, fracture and the impossibility of elaboration. However, it should be noticed that in the case of trauma, given the necessary mediations, the normal functioning of the structure (altered in trauma) can be reestablished. A point of fixation in the structure produced by the sudden eruption of a traumatic factor, trauma can be thought of as the inability to mobilize signifiers, a fixation of the Symbolic elements that compose the structure. Signifiers -characterized in Lacanian psychoanalysis as elements that

combine to produce signification— become crystallized, fixed. The corollary of this fixation is that the work of Symbolic inscription, which was characterized earlier as a continuous effort, becomes paralyzed. In other words, it is the whole Symbolic order which is affected by trauma. Applied to the Argentinean case, this framework serves to show how impunity —lack of legal sanctions and lack of legal restitution of the repressor's responsibility— contributes to prolonging the effect of trauma. As long as the legal system does not provide the necessary mediations, trauma will return in ominous forms as a symptom of that fixation in the Symbolic structure. In consequence, impunity affects not only the families and direct victims of the dictatorship, but the whole Symbolic order at the level of the community. The consequences of the crimes exert significant adverse impacts on the present conditions of communal existence.

The question posed earlier as to whether or not legal sanctions (the effect of norms and mediations) can reconstitute the Symbolic to a status previous to its affection by trauma can be answered in two ways. First, norms can reconstitute Symbolic functions by promoting social elaboration and justice. That is why it is crucial to insist on the need for these sanctions for, if not, the crimes of the dictatorship are still effective in the present. In other words, no sanction means no elaboration. Second, however, legal sanctions can only act to partially heal the wound, and can neither re-establish a time prior to the injury itself nor completely remove the scar. Although the process of (social and psychological) mourning can be positively affected by the work of norms reconstituting the responsibility for the crimes, there is no complete reversion to the original, untraumatized state. What can be accomplished, on the other hand, is not unimportant. By advocating justice, the relation of the legal system to the Symbolic Law may be re-elaborated. By advocating the legal attribution of responsibility, subjects can become politically involved in a practice of freedom that is reflexive and impersonal. Here, the notion of act proves its value. If trauma interrupts the Symbolic order, the notion of act, inversely, appears as facilitating a new bond with the Symbolic. Because the act is a phenomenon not constrained by morality or conventions, it may have the ability to transcend the norms that prolong impunity. I elaborate on this point in the next, final section of this essay.

FINAL REMARKS

The two main theoretical articulations of this essay –a Lacanian reading of the Symbolic Law and my interpretation of Nietzsche’s doctrine of the eternal return–, inform my understanding of social injustices in Argentina. They are used here as theoretical narratives that might contribute to thinking critically about social institutions, their impact upon subjectivity, and the practices that can mitigate circumstances of extreme social oppression. This oppression is characterized here as ominous impunity: a mechanism through which a juridical formation like the Supreme Court helps perpetuate social violence. As a form of resistance against this mechanism, I consider and explore the notion of act articulating Nietzsche’s philosophy and Lacan’s psychoanalytic theory. They both provide a critical understanding of subjectivity that exceeds individuality –in both authors the subject is neither the psychological individual nor the self. There is no need to validate one more time the contributions of these two authors, whose works have influenced so much past and current critical cultural and communication studies. What might be advisable at the present conjuncture of these fields, however, is to seek new, original articulations that help articulate theory and social practices by placing them at one and the same level of importance. Theory does neither antecede nor stands above the politics of resistance created by the cultural subject. Instead, it might contribute to the examination of everyday settings, to highlight the interstices of struggle that survive the most troubled politico-cultural contexts, and to hence bringing hope for a brighter future. In the case of Argentina, hope might rest in the possibility of mourning the victims of the last dictatorship. Critical theory in communications study, I believe, has the ethical responsibility to show the path into that direction.

In this regard, Lacanian psychoanalysis –usually associated with clinical work or literary studies rather than with political practice – asserts that the process of mourning can never be circumscribed to the private domain, or explained only in terms of individual psychical mechanisms and this for several reasons. First, because the subject mourns a loved object (person or abstraction) whose attachments were socially shared or constructed with/by others; second, and most important, because that object itself

belongs to the realm of culture, that is, it was Symbolically inscribed in culture. This means that although the libidinal attachment to the object on the part of the subject is completely singular (and not 'personal'), the object held a position in the Symbolic network which is now in lack. The realization of the lack of the object on the part of the subject is not without the realization of the lack of the object in the Symbolic network. To that end, social institutions give testimony to the loss of the object. The Symbolic is thus represented in this case in the Universal existence of funerary rites, which act as the communal support of the subject that mourns.

In the case of the families of the victims of the last dictatorship in Argentina, at least two steps of mourning find insurmountable obstacles. First, the bodies of the missing people have not been found, they remain a missing link in the Symbolic. Second, there has not been institutional sanction (acknowledgment) of the particular character of these losses on the part of Justice, for those who participated in the massive torture and execution have enjoyed for years the privilege of impunity, which has been guaranteed by 'norms.' Third, Justice itself demonstrates a position regarding Law that can be characterized as a disavowal of interdiction. Under these circumstances, mourning - which is normally a collective, public phenomenon - has remained a private affair, which is a contradiction by definition. The communal character of funerary rites, on the other hand, is stressed by Lacan in his Seminar titled "Le dÈsir et son interprÈtation":

The hole [sic] of this loss, that provokes mourning in the subject, where is it? It is in the Real. It enters from there into a relation that is inversed from the one that I am promoting before you under the name of Verwerfung. Just as what is rejected from the Symbolic reappears in the Real, also the whole of the loss in the Real mobilizes the signifier [...] What are these rites with which we give satisfaction to what is called the memory of the dead if not the total intervention, public, from hell to heaven, of all the Symbolic set? [...] Indeed, there is nothing significant that can fulfill this hole in the Real if it is not the totality of the signifier. The work of mourning is realized at the level of the Logos; I say Logos so as not to say group or community, even when the groups or communities culturally organized are their support. The

work of mourning is primarily a satisfaction given to what is produced as disorder a propos the insufficiency of the signifier elements, to face the hole created in the existence (Lacan, cited by Gutierrez, 1999, pp. 108-109, my translation).

Lacan proposes here that the mechanism of mourning mobilizes the signifiers following a psychical operation inversed to that of the *Verwerfung*, which operates in psychosis. The process of mourning implies logics inversed to that of foreclosure, in which a signifier is rejected from the Symbolic, thereby returning from the Real. In the case of mourning, something lacks in the Real (the lost object) and re-organizes, activating the whole set of signifiers (the whole Symbolic order). The work of the signifier makes it possible to re-signify the loss. Second, Lacan emphasizes that the whole community supports the mourning, reflecting on this value of funerary rites in his examination of the tragedies of Hamlet and Antigone: when the community (represented by the Other of culture, its norms and rites) is deprived from participation in these rites, then, as in the case of Hamlet, the spectral ghost of the dead returns from the Real.

It is in this light that Nietzsche's conception of the eternal return can be articulated with psychoanalysis. The doctrine of the eternal return signals the necessity of embracing what it was, but only to the extent that it advocates a subjective attitude towards what it can be. That attitude is tragic in that it asks the subject to transcend the dramatic character of life, hence morality and social conventions. In the question posed by Nietzsche 'do you want this over and over?' the subject is confronted not only with the possibility of making a decision regarding what it was, but more importantly, regarding what it wishes to become. And even if 'what it was' is not transformed by any personal decision, Nietzsche rejects the fatality and pure facticity of the past. In emphasizing the possibility of generating an attitude toward 'what it was' that goes beyond morality and resentment, Nietzsche's understanding of the eternal return is pivotal to considering the psychoanalytic notion of act as an ethical and always political positioning of the subject regarding –in the case under examination– impunity. The notion of the act can be read in conjunction with the attitude advocated by Nietzsche. Following the above considerations, the

prosecution of justice of the repressors in Argentina can neither be based on personal wishes nor on a moral basis, but on an attitude that emerges and finds its productivity in an ethical dimension: that of the relationship between subjectivity (individual and communal) and the Symbolic Law. Considering once more Nietzsche's question of the greatest weight, because lack of justice enables past horrors to be repeated, the only response to the question 'do you want this over and over' is: "not ever again."

REFERENCES

- Agamben, G. et al (1993). *Politica*. Napoli: Cronopio.
- Apollon, W. et al. (2002). *After Lacan. Clinical Practice and the Subject of the Unconscious*. New York: State University of New York.
- Barker, C. (2004). *Cultural Studies. Theory and Practice (2nd Ed.)*. London: Sage Publications.
- Bhabha, H. (2001). The commitment to theory. In *Theory and criticism. The Norton Anthology* p. 2379-2397. NY: Norton.
- Butler, J. (1997). *Excitable Speech. A Politics of the Performative*. New York and London: Routledge.
- Butler, J. (1997). *The Psychic Life of Power*. Stanford, CA: Stanford University Press.
- Carey, J. (1989). A Cultural Approach to Communication. In *Communication as Culture: Essays on Media and Society* pp. 13-36. Boston: Unwin Hyman.
- FariÒa J. J. (1999). *...tica: Un Horizonte en Quiebra*. Buenos Aires, Argentina: EUDEBA.
- Fink, B. (1997). *A Clinical Introduction to Lacanian Psychoanalysis. Theory and Practice*. Massachusetts: Harvard University Press.
- Freud, S. (1930/1989). *Civilization and its Discontents*. NY: Norton
- (1912/1989). *Totem and Taboo*. NY: Norton.
- Gutierrez, C. (1999). *Antigona y los Ritos Funerarios*. In J. J. FariÒa (Comp.) *...tica: Un Horizonte en Quiebra*, pp. 95-116. Buenos Aires, Argentina: EUDEBA.
- Hall, S. (1996). The question of cultural identity. In S. Hall, D. Held & K. Thompson (Eds.), *Modernity*. Oxford: Blackwell Publishers.
- Held, D. (1980). The changing structure of the family and the individual: critical theory and psychoanalysis. In D. Held Introduction to critical theory: Horkheimer to Habermas. Berkeley: University of California Press.

Horkheimer, M. & Adorno T. W. (1947). *Dialectic of Enlightenment*, Gunzelin Schmidt (Ed.); Edmund Jephcott (Trans.). Stanford, CA: Stanford University Press.

Jameson, F. (2001). The political unconscious: narrative as a socially symbolic act. In *Theory and criticism. The Norton anthology* p. 1937-1941. NY: Norton.

Kristeva, J. (1980): Place names. In *Desire in Language*, L. Roudiez (Trans.). NY:Columbia University Press.

Lacan, J. (1948). Aggressiveness in Psychoanalysis. In *...crits: A Selection*, B. Fink (Trans.). NY: Norton.

Lacan, J. (1953/2001). The Function and Field of Speech and Language in psychoanalysis. In *...crits: A Selection*, (B. Fink, Trans.). New York: Norton.

Lacan, J. (1960/2000). Subversion of the Subject and Dialect of Desire in the Freudian Unconscious. In *...crits: A Selection*, (B. Fink, Trans.), pp. 281-312. New York: Norton.

Lacan, J. (1973). *The Seminar XX, Encore: On Feminine Sexuality, the Limits of Love and Knowledge (1972–1973)* (J-A. Miller, Ed.; D. Porter, Trans.). New York: W.W. Norton & Co.

Lewkowicz, I. (1998). Particular, Universal, Singular. In J. J. FariÒa (Comp.) *...tica: Un Horizonte en Quiebra*, pp. 59-66. Buenos Aires, Argentina: EUDEBA.

Mitchell, J. (1984). The question of femininity and the theory of psychoanalysis. In S. Saguro (Ed.) *Psychoanalysis and Woman, a reader* p.128-141. NY: New York University Press.

McRobbie, A., (1996). More!: New sexualities in girl's and women's magazines. In J.Curran et al (Eds.), *Cultural studies and communications* p. 165-189. NY: Arnold.

Nietzsche, F. (1881/1982). Excerpts from 'The Gay Science' and 'Thus Spoke Zarathustra'. In W. Kaufmann, (Comp. and Trans.) *The Portable Nietzsche*, pp. 93-102. New York: Penguin.

Spivak, G. (2001). Can the subaltern speak? In *Theory and criticism. The Norton Anthology*, p. 2197-2207. NY: Norton.

Salomone, G. (2001). El Padre en FunciÙn: Paternidad, Fantasìa y Mito. In J. J FariÒa & C. Gutierrez (Comp.) *La encrucijada de la filiaciÙn*, pp. 75-96. Buenos Aires, Argentina: Lumen Humanitas.

Ulloa, F. (1986). La ...tica del Analista ante lo Siniestro. In *Territorios, 2*. Buenos Aires: Movimiento Solidario de Salud Mental.

Žižek, S. (1999). *The Ticklish Subject: the Absent Centre of Political Ontology*. London; New York: Verso.

——— (2001). *Did Somebody Say Totalitarianism?* London; New York: Verso.