

Chapter 5

Ariel Dorfman's *Death and the Maiden* as a Mirror Reflecting the Dilemmas of Transitional Justice Policy

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Introduction

Ariel Dorfman's play *Death and the Maiden* (*La Muerte y la Doncella*) interacts with transitional justice discourse in two ways.¹ Firstly, it reflects what at the time were inchoate debates about how liberalizing polities should deal with human rights abusers from the *ancien regimes* and foreshadowed debates that would later concern the field. Secondly, staging the play constituted a form of transitional memorialization in itself. Set in 1991 in a country that bears the hallmarks of Dorfman's native Chile emerging into an uncertain democracy after Pinochet's long dictatorship, *Death and the Maiden's* plot is essentially simple. The traumatized Paulina, who has survived torture and rape at the hands of the dictatorship, is married to Gerardo, a lawyer who has just agreed to serve on a truth and reconciliation commission. Its sole remit after a military self-amnesty is to investigate disappearances and deaths that occurred during the Dirty War. After suffering a blown-out tyre, Gerardo brings home Dr Roberto Miranda, a man whose voice, smell and mannerisms Paulina recognizes as those of a doctor who raped her to the music of the titular Schubert quartet during her incarceration. Because torture lies outside the terms of reference of her husband's commission, Paulina decides to bind the doctor to a chair and try him at gunpoint in the kitchen, coercing Gerardo into participation as Roberto's defence counsel. Roberto is forced to make a confession. The audience is never as certain as Paulina is of Roberto's guilt, even if his vocal tics, references to Nietzsche, possession of Schubert records in his car and inconsistencies in his testimony hint at his culpability.

The play's dramatic tension arises from the interaction of the urgent voice of Paulina as individual who embodies 'the suppressed rage, self doubt and isolation'

¹ Ariel Dorfman, *Death and the Maiden* (London: Nick Hern Books, 1991).

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victims feel,² the moderation of Gerardo as national mediator of a palpably reversible transition and the resentment of Dr Miranda as reluctant participant. Transition in Chile, as in many Latin American states at the time, was based on a tripartite division between liberalizing groups who pressed for truth and justice to counter decades of authoritarian abuse and denial, those reluctantly ceding power who wished to limit accountability as far as possible, and separating the two camps those moderates who recognize the justice of the former's claim but who were unwilling to jeopardize the transition by pushing too far to achieve it. As a rare example of a play that is both overtly didactic and artistically successful, it is possible to read Paulina, Roberto and Gerardo, respectively, as proxies for these positions in a melodrama as staged, fraught and intricate as the national transition that forms its background. The questions asked are those that have obsessed dramatists since the days of Sophocles and Aristophanes. Is justice the same as revenge? Are there certain harms that are irreparable? Can a society be built on impunity? What happens to the powerless when they achieve power? However, in the context of post-Pinochet Chile, these questions gained an extra resonance. The play not only reflected a global scholarly and political debate that had yet to be fully delineated at the time—it in itself attempted to become part of the national process of reckoning with the past.

Written in three weeks at the start of 1991, the play's significance arises from the fact that it originates from a time when the field of transition justice as a self-conscious policy-making process was in its infancy. Indeed, the phrase 'transitional justice' was coined only later that same year.³ Transitional justice is a fairly polysemic term but generally refers to a range of approaches that states and non-state actors may use to address systematic human rights violations from the past, including both judicial and non-judicial approaches. As the phrase 'transitional' would suggest, these mechanisms are generally (though not invariably) enacted at a point of political transition from repression or violent conflict to a more liberal, rights-respecting political order. Transitional justice is motivated by this polity's desire to account legally and historically for past abuses and rebuild the shattered social trust the abuses occasioned in the context of a reforming, democratizing system of governance. The core value of transitional justice is the notion of justice, but this remains conditioned by two key variables: how much justice the transitional security balances between the ancient and nouveau regimes will permit, and the priorities and values the resultant transitional justice mechanism(s) emphasize (or are allowed to emphasize). Both variables, namely the security dilemma of a fraught transition and the tension between prosecution and non-judicial mechanisms, provide the discursive and political context of Dorfman's play.

² James Weaver and Jeanne Colleran. "Whose Memory? Whose Justice?: Personal and Political Trauma in Ariel Dorfman's *Death and the Maiden*," *Performance Research: A Journal of the Performing Arts* 16 (2011):31, 33.

³ Teitel claims that she coined the phrase "transitional justice" in this year (Ruti Teitel, "Editorial Note – Transitional Justice Globalized," *International Journal of Transitional Justice* 2 (2008): 1, 1.

The Play as a Reflection of Transitional Security Dilemmas

At the time this play was written, the field was still struggling towards even the relatively nebulous degree of self-definition outlined above. The appropriate parameters of accountability, legal retroactivity and due process standards, as well as the normative direction of such processes in the rush of political transitions in Latin America and the Eastern Bloc with the thawing of the Cold War were being explored tentatively at international conferences and in the academy.⁴ This was a period when academics and policy-makers were only slowly awakening to the potential for international human rights obligations to override retroactivity concerns and self-amnesty that stymied earlier accountability processes. Indeed, it was only in that year that Orentlicher wrote her seminal article on the necessity of prosecution under international law as a conscious attempt to clarify the issue.⁵ While a glut of novels dealing with the South African TRC some years later are valuable in demonstrating the evolving imaginary constructions of transitional justice, *Death and the Maiden* might be considered a 'pre-text' of transitional justice, foreshadowing some of the issues that would later become central to theoretical understandings of the field. The play is frequently name-checked in the literature.⁶

Above all, the play anticipates debates that scholarship and practice would only fully engage with in subsequent years. In particular, it reflects what became widely known as the peace versus justice debate in societies emerging from the shadow of repression or war, where even committed democrats and human rights activists acquiesced to limited criminal sanctions, amnesty and impunity. As Aryeh Neier, one-time Director of Human Rights Watch put it:

Permitting the armed forces to make themselves immune to prosecution for terrible crimes seems intolerable; yet it also seems irrational to insist that an elected civilian government should commit suicide by provoking its armed forces.⁷

This arose from what Elster calls 'hard constraints' produced by negotiated transitions where accountability is a bargaining chip, with impunity traded for

⁴ Paige Arthur, "How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice", *Human Rights Quarterly* 31 (2009): 321, 329.

⁵ Diane F. Orentlicher, "Settling Accounts: The Duty to Prosecute Human Rights Violations of a Prior Legal Regime" *Yale Law Journal* 100 (1991): 2537.

⁶ For example Alexandra Barahona de Brito, "Truth, Justice, Memory and Democratization in the Southern Cone" in *The Politics of Memory: Transitional Justice in Democratizing Societies*, ed. Alexandra Barahona De Brito, Carmen González-Enrriquez and Paloma Aguilar (New York: Oxford University Press, 2001), 119 at 156, Bronwyn Leebaw, "Human Rights Investigation and Dialogue," *Human Rights and Human Welfare* 5 (2005): 71, 78, Vasuki Nesiah, "Resistance in the Age of Empire: Occupied Discourse Pending Investigation," *Third World Quarterly* 27 (2006): 903, 905.

⁷ Aryeh Neier, "What Should be Done About the Guilty?," *New York Review of Books*, February 1, 2000, 34 at 34.

justice. It was recognized that insistence on criminal justice could delay a peace that otherwise looked inevitable by ‘stiffening the will to resist’ of authority figures in negotiations.⁸

Chile, where the play is set, is the example *nonpareil* of this debate. In 1973, a military coup led by the commander-in-chief of the Chilean army, Augusto Pinochet, overthrew the democratically elected leftist government of Salvador Allende. The nature of the crimes committed by this *junta militar* changed over time from massacres in the early years to death squads mid-regime and garden-variety police brutality in the later years, but the most salient feature was the clandestine nature of the resultant human rights violations, which were illegal even under the laws of the junta.⁹ Impunity, buttressed by official denial and the acquiescence of rule of law institutions, was the order of the day. The regime change, when it came, was probably the most restrictive of the Latin American transitions to democracy¹⁰—Pinochet lost at the ballot box by a narrow swing of 4 % in a 1988 plebiscite on his remaining in power. He had a year and a half between then and the handover of power to Patricio Aylwin’s left-wing coalition to secure his impunity.¹¹ The most important feature of this was a sweeping amnesty enacted in 1978 which covered crimes committed in the regime’s most brutal period between 1973 and 1978 including murder, injury and kidnapping. Undeclared and unreformed, the military retained a high degree of legitimacy (retaining seats on the National Security Council) and financial independence from the state. Indeed, Pinochet would remain head of the army until 1997. Though Aylwin campaigned for the presidency promising to undo the amnesty and punish human rights violations, Pinochet’s famous threat of ‘Touch one hair on the head of my soldiers, and you lose your new democracy’ meant that any accountability measure would arrive stillborn.¹² Indeed, on two occasions in December 1990 and May 1993 when some measure of justice was mooted at national level, the army engaged in very public mobilizations. In March 1990 when Dorfman wrote this play, Chile might better have been characterized as a ‘recovering authoritarian’ than a transitional democracy¹³—it is worth remembering that for years after

⁸ Jon Elster, *Closing the Books: Transitional Justice in Historical Perspective* (Cambridge UK, New York: Cambridge University Press, 2004) at 93.

⁹ Mary Helen Spooner, *Soldiers in a Narrow Land: The Pinochet Regime in Chile* (Berkeley: University of California Press, 1999).

¹⁰ Mark Ensalaco, “Military Prerogatives and the Stalemate of Chilean Civil-Military Relations,” *Armed Forces and Society* 21 (1995): 255; Jorge Mera, “Chile: Truth and Justice Under Democratic Government” in *Impunity and Human Rights in International Law and Practice*, ed. Naomi Roht-Arriaza (New York: Oxford University Press, 1995), 171.

¹¹ De Brito, *supra* note 6, at 133.

¹² Jorge Correa Sutil, “‘No Victorious Army Has Ever Been Prosecuted...’: The Unsettled Story of Transitional Justice in Chile” in *Transitional Justice and the Rule of Law in New Democracies*, ed. A. James McAdams (Notre Dame, London: University of Notre Dame Press, 1997), 123 at 132.

¹³ Alison Brysk, “Recovering From State Terror: The Morning After in Latin America,” *Latin American Research Review* 38 (2003): 238, 238.

transition, there were still hundreds of political prisoners in captivity. In this climate, Aylwin was limited to creating the *Comision Nacional de Verdad y Reconciliacion* in April 1990 (usually known as the Rettig Commission after its President, Raul Rettig) with a limited remit to investigate political disappearances and extrajudicial executions perpetrated since the coup. Human rights activists criticized the Commission's mandate, which was limited in that it was only allowed to investigate crimes resulting in death, while it could not name perpetrators or even judge their actions. The amnesty remained in force.

This political context forms the backdrop for the play. A climate of fear still pervades—both Paulina and Gerardo visibly blanch when cars come to the house, fearing a visit from the army.¹⁴ The lawyer Gerardo has just been appointed to the national truth commission, but he is acutely aware of its limitations. Fifteen years earlier when Paulina was tortured, Gerardo swore that only criminal justice would suffice as a response ('Some day, my love, we're going to put these bastards on trial.... Your eyes will be able to rove over each one of their faces while they listen to your story').¹⁵ Now, however, he finds himself as one of the key figures of a truth commission he reluctantly recognizes as a shabby compromise. Even though he accepts the merit of publicizing its conclusions (in this he echoes Ignatieff's belief that truth commissions 'can narrow the range of permissible lies'),¹⁶ he acknowledges that the process is 'limited',¹⁷ falling short as it must of his wife's desire for retribution and his own earlier ideals of the rule of law as a young lawyer. Gerardo's participation in, and defence of, the TRC is shot through with the ambivalence Dorfman obviously feels for the impoverished opportunities for justice at the time. Though not dismissive of the value of historical inquiry and somewhat open to the idea of the commission as a necessary bridge between the repressive past and a better future, Gerardo is fully conscious of its inadequacy. His equanimity is born not of a belief in the reconciliatory potential of the commission nor of a rejection of the retributive impulse, but rather out of necessity. Admonishing Paulina for kidnapping Roberto, he claims:

Do you want these people back in power? You want to scare them so they come back to make sure we don't harm them? You want the times back when these people decided our life and death?¹⁸

Indeed, Chilean President Aylwin would later concede that the national truth commission was a 'second-best option' to avoid destabilization by the outgoing military leadership.¹⁹ Paulina too resents the restraints of the transition:

¹⁴ Dorfman, *supra* note 1, at 1 and 8.

¹⁵ *Id.* at 24.

¹⁶ Michael Ignatieff, "Articles of Faith," *Index on Censorship* 25 (1996): 110, 114.

¹⁷ Dorfman, *supra* note 1, at 6.

¹⁸ *Id.* at 24.

¹⁹ Sutil, *supra* note 12, at 131–133.

Compromise, an agreement, a negotiation. Everything in this country is done by consensus, isn't it. Isn't that what this transition is all about? They let us have democracy, but they keep control of the economy and of the armed forces? The commission can investigate the crimes but nobody is punished for them? There's freedom to say anything you want as long as you don't say everything you want?²⁰

In the later period surrounding the South African TRC, literature, conferences and practitioners would deliberately create a post hoc compensating, explanatory account of truth commissions. Roht-Arriaza argues that the (enforced) emphasis on truth required a retrospective explanatory theory to explain why it was so important,²¹ while Gray contends that 'to minimize what is lost in this trade-off, advocates for commissions have developed jurisprudential theories designed to satisfy calls for justice in transitions'.²² In contradistinction to Gerardo's disappalled legalism, the jurisprudence of justice was augmented and transformed by a willingness to modify and complement legalist impulses by drawing on normative discourse from the fields of ethics, medicine and theology.²³ Whereas at the time Dorfman wrote the play many considered TRCs 'a sop aimed at masking moral defeat',²⁴ arguments rejecting the morality and legality of TRCs became far less common due to the almost-hegemonic language of reconciliation.²⁵

The Play as a Critique of the Modalities of Transitional Justice

Death and the Maiden anticipates these debates in what would later be labelled the 'truth versus justice' debate in its characters' contrasting attitudes to issues of accountability and reconciliation, an unhelpfully dichotomized debate where truth was rather simplistically aligned with reconciliation in contradistinction to a retributive recourse to law and where criminal accountability was narrowly deemed for the totality of justice. These attitudes are dictated not only by their personal beliefs, but by the dramatic situation of Paulina, Roberto and Gerardo as proxies for victims, the accused and the state. In refusing to take sides, Dorfman reminds us of the imperfection of these options in the compromised transitional

²⁰ Dorfman, *supra* note 1, at 26–27.

²¹ Naomi Roht-Arriaza, "The New Landscape of Transitional Justice" in *Transitional Justice in the Twenty-First Century: Beyond Truth Versus Justice*, eds. Naomi Roht-Arriaza and Javier Marrizcuena (New York: Cambridge University Press, 2006), 1 at 3.

²² David Gray, "An Excuse-Centered Approach to Transitional Justice," *Fordham Law Review* 74 (2005-06): 2621, 2688.

²³ Ruti Teitel, "Human Rights in Transition: Transitional Justice Genealogy," *Harvard Human Rights Journal* 16 (2003): 69, 81-82.

²⁴ Susan Dwyer, "Reconciliation for Realists," 13 *Ethics & International Affairs* 13 (1999): 81, 89.

²⁵ Richard A Wilson, *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State* (Cambridge: Cambridge University Press, 2001), 171.

environment. In examining the interactions of all three, he demonstrates that the lines between what is truth and what is justice are blurred—not only can they be mutually constitutive, but the lack of one can compound the absence of the other.

Even if legal justice was politically permissible, the obvious limitations of the judiciary could only result in a tainted process. As Paulina puts it

The judges? The same judges who never intervened to save one life in seventeen years of dictatorship? Who never accepted a single habeas corpus ever? Judge Peralta who told that poor woman who had come to ask for her missing husband that the man had probably grown tired of her and run off with some other woman? That judge? What did you call him? A judge? A judge?

Their disillusion with the courts reflected popular disaffection in Chile and was echoed by the later report of the Rettig Commission.²⁶ Throughout the Pinochet era, the Chilean courts refused *habeas corpus* proceedings, deferred to the decisions of military courts and reflected a deeply conservative ideology.²⁷ During transition, there was little change in the judiciary's composition or ethos. A few months before the play was written, the Supreme Court held unanimously that the self-amnesty law was not only valid but 'of compulsory application'.²⁸

At various points in the play, Gerardo appears to believe in the reconciliatory potential of truth, speaking of the value of the 'moral sanction' his commission will issue,²⁹ its potential to 'close the book' on the past³⁰ and its preferability to the sort of untrammelled vengeance Paulina seems to desire.³¹ This optimism and equanimity may in fact represent his deepest political convictions,³² though Butt argues he is motivated more by political ambition than reason.³³ Aritzia similarly chides him for his cool lawyerly efficiency in controlling subversive discourse by extolling the virtues of moderation.³⁴ The greater ambivalence of Paulina can be

²⁶ "During the period in question, the judicial branch did not respond vigorously enough to human rights violations....this posture taken by the judicial branch during military rule was largely, if unintentionally, responsible for aggravating the process of systematic human rights violations... As a result, the people of this nation still do not have confidence that the judicial branch as an institution is committed to defending their fundamental rights." (Report of Chilean National Commission, 118–119).

²⁷ Sutil, *supra* note 12, at 126–7 and Lisa Hilbink, *Judges Beyond Politics in Democracy and Dictatorship: Lessons from Chile* (Cambridge: Cambridge University Press, 2007), 5.

²⁸ Cath Collins, *Post-Transitional Justice: Human Rights Trials in Chile and El Salvador* (Pennsylvania: Pennsylvania University Press, 2010), 102–103.

²⁹ Dorfman, *supra* note 1, at 11.

³⁰ *Id.* at 36.

³¹ *Id.* at 26.

³² David Luban, "On Dorfman's Death and the Maiden," *Yale Journal of Law and the Humanities* 10 (1998): 115, 118 and 120.

³³ John Butt, "Guilty Conscience?," *Times Literary Supplement*, February 28, 1992, 22, cited in Cited in Robert A Morace, "The Life and Times of Death and the Maiden," *Texas Studies in Literature and Language* 42 (2000): 135, 143.

³⁴ Pilar Zozaya Aritzia, "Alternative Political Discourses in Ariel Dorfman's *Death and the Maiden*" *Atlantis* 18 (1996): 453, 454–455.

contrasted with that of Roberto when he becomes the subject of Paulina's more retributive process. At various points, he parrots the convenient reconciliatory political discourse employed by the era's exiting authoritarians, hailing Gerardo as a man 'shutting the door on the divisions and hatreds of the past'³⁵ and as 'the voice of civilization'.³⁶ When faced with actual punishment, he pleads the language of repentance and impunity, begging to be left alone with the recriminations of his conscience and the need to end cycles of vengeance:

I have three children, two boys, a girl. Are they supposed to spend the next fifteen years looking for you until they find you... Oh Paulina, isn't it time we stopped?³⁷

However, it is in its treatment of Paulina as victim that the play is most prescient in its treatment of the truth versus justice predicament and the limitations thereof. At a time when theorists, practitioners and statesmen excitedly engaged in debates over punishment and reconciliation, restoration and closure, seeking all the while the best possible solutions to the dilemmas of transition, Dorfman seems to acknowledge the futility of justice for victims in the face of unspeakable brutality. Throughout the drama, Paulina articulates her dissatisfaction at the compromises of transition. In the play's most resonant lines, Paulina rejects the sacrifice of justice and recognition in the interests of mediating political change:

And why does it always have to be the people like me who have to sacrifice, why are we the ones who always have to make concessions when something has to be conceded, why always me who has to bite her tongue, why?³⁸

However, when given the chance to impose her own accountability, the impossibility of closure and healing become apparent. As Barsky argues, Paulina wants personal liberation from her memories so she can resume her life.³⁹ The doctor who raped her has polluted Schubert, which in the play serves to represent art, civilization and all that Paulina values most highly, by using it to both facilitate and cloak his brutality.⁴⁰ As Motsemme notes, '[v]arious studies exploring the ways ordinary women speak about their traumatic pasts under violent regimes have consistently shown how they tend to place their narratives within everyday lived experience, rather than nationalist concerns'.⁴¹

At various points in the play, Paulina tests forms of transitional justice to recover this world, only to reject them. It is immediately apparent when Gerardo

³⁵ *Id.* at 9.

³⁶ *Id.* at 34.

³⁷ *Id.* at 44.

³⁸ *Id.*

³⁹ Robert F Barsky, "Outsider Law in Literature: Construction and Representation in *Death and the Maiden*," *SubStance* 26 (1997): 66, 86.

⁴⁰ David Schroeder, "Dorfman, Schubert, and Death and the Maiden," *Comparative Literature and Culture* 9 (2007): 1, 7, Luban, *supra* note 32, at 123.

⁴¹ Nthabiseng Motsemme, "The Mute Always Speak: On Women's Silences at the Truth and Reconciliation Commission," *Current Sociology* 52 (2004): 905, 909.

gives the news of his appointment that Paulina rejects the truth commission's limited mandate, evoking scepticism over its narrow remit to investigate violations that end only in death—Gerardo's categorization of only these crimes as those that are 'beyond repair' does not tally with Paulina's lived experience. In this way, the play mirrors an enduring problem of transitional justice, namely the characterization of certain kinds of violence as politically significant (those typically suffered by men) and other forms of violence as outside that difficult boundary (typically suffered, or suffered most, by women such as the sexual violation Paula endured, but also socio-economic and private violence).⁴² As Bell contends, men 'predominantly, if not exclusively' negotiate transitions—one can see in the bonhomie of Gerardo and Roberto before Paulina kidnaps him and their collusion over a confession to placate her afterwards the types of elitist compromises that characterize the politics of transitional justice.⁴³ While men are assumed representative of the identities and interests present in the conflict, women are generally rendered invisible, irrelevant, other.⁴⁴ Throughout the play, the feminine voice of the thoroughly domesticated Paulina (she works in the home, makes margaritas and is patronized by her husband) is marked as other, opposed by Gerardo and Roberto's 'disembodied phallic voice of reason'.⁴⁵ At various points, both men ruminate on the unpredictability of women⁴⁶ and she is variously labelled 'sick', 'prototypically schizoid' and 'mad'.⁴⁷ What is perhaps most symbolic of the masculinist transitional discourse of the time is the fact that until Paulina's confrontation with Roberto, Gerardo had never asked her exactly what had happened to her during her torture. On two occasions, he admits that he never wanted to hear about it.⁴⁸ Paulina, by contrast, reacts against this indifference or wilful blindness and asserts the inseparability of her sexual anguish from the political anguish of Chile. Over time, women's experience of sexual violence has become better recognized in international law, most notably the statutes of the ad hoc tribunals and the UN Security Council's seminal Resolution 1325 on Women, Peace and Security.⁴⁹ National-level responses have also become more responsive than they

⁴² Vasuki Nesiah, "Discussion Lines on Gender and Transitional Justice: An Introductory Essay Reflecting on the CTJ Bellagio Workshop on Gender and Transitional Justice," *Columbia Journal of Gender and Law* 15 (2006): 799, Fionnuala Ni Aolain, "Political Violence and Gender During Times of Recognition," *Columbia Journal of Law and Gender* 15 (2006): 829.

⁴³ Christine Bell, "Women Address the Problems of Peace Agreements" in Radhika Coomaraswamy and Dilruski Fonseka (eds) *Women, Peace-Making and Constitutions* (New Delhi: Women Unlimited, 2005), 96.

⁴⁴ Fionnuala Ni Aolain and Eilish Rooney, "Underenforcement and Intersectionality: Gendered Aspects of Transition for Women," *International Journal of Transitional Justice* 1 (2007): 338, 342.

⁴⁵ Andrew Munro, "Recalling Voice: *La Muerte y la Doncella*," *Ciberletras Journal of Literary Criticism and Culture*, 6 (2002): 1, 3.

⁴⁶ Dorfman, *supra* note 1, at 9.

⁴⁷ *Id.* at 17, 22, 30.

⁴⁸ *Id.* at 5 and 23.

⁴⁹ Security Council Resolution 1325, UN Doc. S/RES/1325, 31 October 2000.

were in the early 1990s. However, much remains to be done—Paulina’s ‘semi-otically marked’ progression from crouching in the corner on hearing the oncoming car to controlling the action is one that has yet to be fully realized in the world beyond the stage.⁵⁰

Paulina will not be bound by the elitist compromises of men—in rejecting a unified, official discourse of compromise and forgiveness, she instead pursues a policy of individual retribution.⁵¹ She affirms her desire to grant Roberto due process norms, denying Gerardo’s claim that she is merely engaged in a revenge mission.⁵² However, it soon becomes apparent that while Paulina can adopt the form of criminal trial, the substance of legal justice will elude her—Gerardo convincingly argues that her process replicates the legal abuses of the military regime,⁵³ while her circumstantial evidence (the memory of voice, mannerisms, shared love of Schubert) would never serve to secure a conviction in a court of law.⁵⁴ Paulina discounts legal justice and the wild revenge of raping Roberto (or having Roberto raped) and then appears to settle for truth and acknowledgement:

I want him to confess. I want him to sit in front of that cassette recorder and tell me what he did—not just to me, everything to everybody—and then have him write it out in his own handwriting and sign it and I would keep a copy forever—with all the information, the names and data, and all the details. That’s what I want.⁵⁵

This echoes Nagel’s observations on the division that exists between a victim’s private, personal knowledge that she suffered a crime and the public acknowledgement that occurs when a person admits he committed it, wherein it becomes publicly sanctioned.⁵⁶ So desperate for closure is Paulina that she is willing to kill for it.

GERARDO: There’s a problem, of course, you may not have thought of, Paulina. What if he has nothing to confess?

PAULINA: Tell him that if he doesn’t confess, I’ll kill him.....

GERARDO: Paulina, you’re not listening to me. What can he confess if he’s innocent?

PAULINA: If he’s innocent? Then he’s really screwed.

However, after Gerardo and Roberto collude on a confession that mirrors Paulina’s experience, Roberto’s failure to make a genuine admission or demonstrate contrition prompts Paulina to threaten him with death. They freeze and the lights go down before the audience can learn whether she kills him or not. At a

⁵⁰ Aritzia, *supra* note 34, at 453.

⁵¹ *Id.* at 456.

⁵² Dorfman, *supra* note 1, 22–23.

⁵³ *Id.* at 20.

⁵⁴ Barsky, *supra* note 39, at 78.

⁵⁵ Dorfman, *supra* note 1, at 29.

⁵⁶ Quoted in Lawrence Wechsler, *A Miracle, A Universe: Settling Accounts with Torturers* (New York: Pantheon, 1990), 4.

time when scholars and practitioners outlined theories about how trial or truth or restoration could approximate responses, Dorfman demonstrates that ritual and process and compromise have their limits. The rituals and procedures of civilized society, regardless of the ends to which they are directed or how morally compelling their employment is, can never respond adequately or proportionally to systematized past violations of human dignity. In the years since the play, optimism that transitional justice could constitute 'a universe of options for the transformation of society from a killing machine to a humane government' has been tempered by a more humbling acceptance that that no one tool or series of tools could on their own make the decisive shift towards a healed society.⁵⁷ It became apparent in even the best-funded and most publicly legitimate mechanisms applied since the play premiered that to pursue transitional justice is to entertain 'the near inevitability of imperfect justice'.⁵⁸ The reality is that the crimes that typify accountability between regimes such as the torture Paulina endured require the most severe response, but no punishment or acknowledgement can adequately communicate the appropriate scale of outrage. The experience of Paulina echoes Shklar's position that '[i]t is indeed doubtful that legal provisions can be devised for events of this sort. There are no civilised responses that are fitting, and certainly no legal norms can cope'.⁵⁹ Experience since the play's debut demonstrates that the intractable difficulties Dorfman presents do not admit of facile resolution. No state had ever undertaken process of trial that has prosecuted more than a fraction of those culpable. No truth commission was able to disclose what happened to a majority of the victims or secure itself from revisionist attack. No reparations process could adequately compensate more than a fraction of victims. To the suffering of individuals and the destruction of a wider society, transitional justice can only approximate a response, an illusory closure.

The Play as Transitional Justice

Having served as a cultural advisor to President Allende until being forced to leave after the coup, it was to this milieu that the exiled writer Dorfman returned. Various motivations for the play have been attributed by and to him—he cites a family's wilful amnesia over his friend's arrest and torture,⁶⁰ the need for a symbolic and public means of ending his exile at a time when many Chileans

⁵⁷ David J. Scheffer, "The Tool Box, Past and Present, of Justice and Reconciliation for Atrocities," 95 *American Journal of International Law* 95 (2001): 970, 970.

⁵⁸ Neil J. Kritz, "Where We Are and How We Got Here: An Overview of Developments in the Search for Justice and Reconciliation" in *The Legacy of Abuse: Confronting the Past, Facing the Future*, ed. Alice H. Henkin (Washington DC: Aspen Institute, 2002), 21 at 30.

⁵⁹ Judith N. Shklar, *Legalism, Morals, and Political Trials* (Cambridge, Massachusetts: Harvard University Press, 1964), 167.

⁶⁰ Larry Rohter, "Dorfman's 'Maiden' Cries Out," *New York Times*, March 8, 1992.

viewed migration as merely a personal choice⁶¹ and above all the artist's impulse to engage the cultural processes of transition through a problematization of it:

'I felt that *Death and the Maiden* touched upon a tragedy in an almost Aristotelian sense, a work of art that might help a collective purge itself, through pity and terror, in other words to force the spectators to confront those predicaments that, if not brought into the light of day, could lead to their ruin'.⁶²

This mission became all the more imperative in a time when a repressive censorship regime continued to punish criticism of Pinochetism with fines and jail sentences.⁶³ In addition, there was an observable phenomenon of self-imposed censorship by a society that 'denied what was happening in their country out of fear, guilt, confusion and a refusal to confront harsh realities'.⁶⁴ Chilean society as a whole appeared undecided on the merits of punishment given the risk it might reverse the social and economic progress being made.⁶⁵ Indeed, in the first workshop productions of the play in Santiago in 1991, the cast expurgated elements of the text due to fear of being associated with the play.⁶⁶ Because of its truncated remit, the Rettig Commission's report was itself censored in advance⁶⁷ — McClennen interprets the play as one about the silences of the real commission, not simply of torture survivors like Paulina but of exiles like Dorfman himself whose experiences would not be acknowledged in its report.⁶⁸ Rettig proved the catalyst for transforming Dorfman's 'aesthetic powerlessness'⁶⁹ into a self-conscious effort to reflect and influence the relatively muted contemporary debate on the past in Chile.⁷⁰ It allowed him to give Gerardo, hitherto an inchoate connubial figure in an as-yet unwritten fiction, a more resonant stake in the drama.⁷¹

Of course, Dorfman is not the only artist to employ drama to memorialize the past or interrogate the response to it. Because alternatives to current policy are difficult to conceive in the concrete legal world of compromise and power, art is one of the prime sites for counter-proposals. The plastic arts, literature, memorial

⁶¹ Sophia A. McClennen, "Torture and Truth in Ariel Dorfman's *La muerte y la doncella*," *Revista Hispanica Moderna* 62 (2009): 179 at 182–183.

⁶² Afterword in Ariel Dorfman, *Death and the Maiden* (Harmondsworth, Middlesex: Penguin Books, 1994), 74.

⁶³ De Brito, *supra* note 6, at 149.

⁶⁴ Carolyn Pinet, "Retrieving the Disappeared Text: Women, Chaos and Change in Argentina and Chile After the Dirty Wars," *Hispanic Journal* 18 (1997): 89, 89.

⁶⁵ Sutil, *supra* note 12, at 123–4.

⁶⁶ Pinet, *supra* note 64, at 96.

⁶⁷ *Id.* at 95.

⁶⁸ McClennen, *supra* note 61, at 183.

⁶⁹ Morace, *supra* note 33, at 136.

⁷⁰ "I found the characters trying to figure out the sort of questions that so many Chileans were asking themselves privately, but that hardly anyone seemed interesting in posing in public" (Ariel Dorfman, *The Resistance Trilogy* (London: Nick Hern, 1998), 146).

⁷¹ McClennen, *supra* note 61, at 182.

sculpture and poetry have often been employed in the service of critiquing both authoritarianism and its aftermath.⁷² Literary and theatrical narrative offer the most valuable corrective to the potentially hegemonic official, public narrative of trials and truth commissions. Teitel posits that there is a distinct normative narrative structure of transitional justice, beginning in tragedy and ending in comic or romantic mode.⁷³ In the classical understanding, the tragedy is revealed through the process of trial, truth commission or administrative purge before which individual victims testify as proxies or symbols of larger collectives persecuted by the prior regime. She argues that coming to an agreed, official discourse of the past allows for unfavourable and instructive contrast between the liberal nature of the new rule of law and the repressive old lawless regime. As such, national truth commission reports present themselves as tragic accounts that end on a redemptive, comic note, where the burgeoning self-knowledge of victimization buttresses the liberalizing polity against reoccurrence. For example, even though it was implicitly designed to marginalize the experiences of torture survivors and exiles, the preamble to the law creating the Chilean National Commission on Truth and Reconciliation stated that 'the truth had to be brought to light... [because] only upon a foundation of truth [will] it be possible to meet the basic demands of justice and to create the necessary conditions for achieving true national reconciliation'.

The novel or the play, lacking the teleological impetus of the truth commission or trial, is neither directed nor compelled towards redemption, catharsis or even consolation. It can, however, give voice to the unacknowledged victim, to the vindications of the old regime transitional justice seeks to discredit, to the equivocity and indeterminacy of transition that the truth commission report or trial verdict cannot. For example, in exploring the complex relationship between law and literature in testimony to crimes of apartheid before South Africa's Truth and Reconciliation Commission, Sanders contends that the greater ambiguity the novel allows invites a historical interpretation of its characters' acts exceeding what any commission or court may demand.⁷⁴ The novel or play can 'cut deeper' into the history of repression or violence, allowing more nuanced and even divergent understanding of the past, the process itself and the future. Similarly, Dube also finds fictional narratives useful 'precisely because they offer polysemic descriptions of transitional moments', thereby bearing witness to their inherently complicated nature.⁷⁵ Indeed, Barsky cites Paulina as a prime example of an 'outsider'

⁷² Ksenija Bilbija et al (eds) *The Art of Truth-Telling about Authoritarian Rule* (Madison, Wis.: University of Wisconsin Press, 2005).

⁷³ Ruti Teitel, "Transitional Rule of Law" in *Rethinking the Rule of Law after Communism*, ed. Adam Czarnota et al (Budapest: Central European University Press, 2005), 279 at 288–292.

⁷⁴ Mark Sanders, *Ambiguities of Witnessing: Law and Literature in the Time of a Truth Commission*. (Palo Alto: Stanford University Press, 2007), 179.

⁷⁵ Siphwe Ignatius Dube, "Transitional Justice Beyond the Normative: Towards a Literary Theory of Political Transitions," *International Journal of Transitional Justice* 5 (2011):177, 195.

to the legal process who serves as a metaphor for those excluded from the official, national process.⁷⁶ Because the Rettig Commission could not encompass the ‘forest of narratives’ submerged during repressive rule, in telling the symbolically potent stories of Paulina and Roberto, Dorfman was consciously trying to expose the facticity of the redemptive, stabilizing master narrative the Gerardos, Aylwins, Robertos and Pinochets attempted to manufacture.⁷⁷ The play ends in the sort of ambiguity a truth commission could never entertain, without repentance from Roberto, catharsis for Paulina or sage guidance from Gerardo for the future.

The purpose of the play was not simply to include the marginalized or subvert the national master narrative. It was also scripted to stimulate conversation about the issues the Chilean public seemed so keen to ignore. Just before the end, a giant mirror descends and audience becomes the fourth actor, ‘forcing the members of the audience to look at themselves’ for a few minutes. As Schroeder notes, this ‘completely eliminates the distance between the audience and the play, making the audience part of the play, through self-consciousness being forced to address the issues of the play as virtual players’.⁷⁸ In the absence of a narrator telling the audience what to do or foreclosing available endings, the audience swaps the catharsis of resolution for the indeterminacy of reflection—it must ask itself where it stands on the guilt of Roberto, the pain of Paulina or the equanimity of Gerardo. While the audience stares in the mirror, ‘selected moving spots flicker over the audience, picking out two or three at a time, up and down rows’. As McClennen notes, theatre is the most public form of literature and requires the most collective reception—the presumption must be that Dorfman may have intended the spotlights to linger on actual torturers in the audience or, perhaps less debatably, those complicit in the ancien regime.⁷⁹ Outside of Chile where the play found remarkably receptive audiences, Butt argues that the audience are ensnared ‘in a vast moral trap’ and must ‘confront choices that most would presumably rather leave to the inhabitants of remote and less-favoured countries: the image of the play itself as a mirror set before the liberal conscience is central to the work’.⁸⁰

If Dorfman’s intention was to provoke debate or even a revision of his society’s acquiescence to state-sanctioned impunity, he was not entirely successful. Chilean audiences were hostile to the very idea of reopening wounds so recently bandaged and the gender role reversal in the play, while some read it as an attack on the victims.⁸¹ The play was ignored in Chile, ‘a resounding failure among the public that it had attempted, secretly and in bad faith, to translate and express’, as one critic put it.⁸²

⁷⁶ Barsky, *supra* note 39.

⁷⁷ Pinet, *supra* note 64, at 90, 91 and 96.

⁷⁸ Schroeder, *supra* note 40, at 8.

⁷⁹ McClennen, *supra* note 61, at 185.

⁸⁰ Butt, as cited in Morace, *supra* note 33, at 143.

⁸¹ *Id.* at 136.

⁸² Brazilian literature critic Idelber Avelar, cited in McClennen, *supra* note 61, at 183.

Less direct and more allegorical works tended to work better,⁸³ though Collins does suggest that literature has had an impact in mobilizing public opinion towards accountability in the post-transitional context.⁸⁴ Not for the first time, Western liberals proved keener to vicariously engage with the vagaries of transition than the community most affected. The play proved immensely popular from the moment of its first foreign production in London in 1991. Soon dubbed 'the international play of the decade', within a year it had spread to forty countries, and was translated and adapted to suit the conditions of other transitional countries.⁸⁵ In this, it perhaps mirrored the 'dramatically compressed' temporal trajectory of transitional justice in the same decade as it captured the popular imagination.⁸⁶

Conclusion

Death and the Maiden demonstrates Dorfman's pessimism over transitional justice policy in the earliest years of Chile's transition and his determination to revise the settlement. It is his voice we hear when Gerardo argues with Roberto that justice is impossible on account of the corruption of the courts. However, the passage of time in Chile would show that Paulina's desperate bid to circumvent the limitations of amnesty (what Aguilar calls 'the obsessive persistence of memory')⁸⁷ would in the long term prove to represent the trend of history, not her husband's studied stoicism. As the years went by, the compact between the new and old regimes would break down, driven by the campaigns of victims like Paulina and reform of the judiciary by the likes of Gerardo (indeed, early in the play Paulina teases him that he will be a future Minister for Justice).⁸⁸ As the Nineties passed into the Noughties, the Paulinas of this world would come together, no longer pursuing individual projects of justice, but instead making collective claims for accountability that would ultimately find willing allies in political parties and a reforming judiciary.⁸⁹ As Collins notes, a mix of gradualism and demand inflation coupled with reform of the judiciary in the late 1990s gradually altered the landscape for accountability—the courts began to find exceptions to the amnesty law, shifted its application from pre-emptive invocation at the start of trial to the end once culpability was established and exempted certain crimes from amnesty.⁹⁰ Progress towards accountability came less as a result of

⁸³ Henry James Morello, "Masking the Past: Trauma in Latin American and Peninsular Theatre" (Phd Diss. University of Illinois, 2006), cited in McClennen, *supra* note 61, at 184.

⁸⁴ Collins, *supra* note 28, at 131.

⁸⁵ Morace, *supra* note 33, at 139 and 148.

⁸⁶ Christine Bell, "Transitional Justice, Interdisciplinarity and the State of the 'Field' or 'Non-Field,'" *International Journal of Transitional Justice* 3 (2009): 5, 6–7.

⁸⁷ Paloma Aguilar, "Transitional Justice in the Spanish, Argentinian and Chilean Case" (paper presented at Building a Future on Peace and Justice, Nuremberg, 3 June 2007), 32.

⁸⁸ Dorfman, *supra* note 1, at 4.

⁸⁹ De Brito, *supra* note 6, at 136.

⁹⁰ Collins, *supra* note 28, at 81–99 and 124–126.

concerted state action, but rather as a result of periodic ‘irruptions’ such as cases, anniversaries and the mysteries of private agency.⁹¹ The Pinochet proceedings in Europe in the late 1990s are believed by some to have inspired the judiciary to push for greater accountability, though this is disputed.⁹² As the millennium approached, the military began to distance itself from Pinochet, successive left-wing governments became more assertive, and the military code of silence surrounding the old regime began to collapse.⁹³ By 2002, the first convictions for amnestiable crimes were recorded. In 2009, nearly two decades after *Death and the Maiden* premiered, 782 state agents were indicted or convicted for crimes, even if progress was slow and the amnesty remained intact.⁹⁴

None of this was foreseeable at the time that play was written, however. In teasing out the relation between cultural expression, political transition, and the contours of justice in transitional situations, Dorfman could draw attention to what was lacking in Chile’s response to the past. In *Paulina*, he could give expression to the as-yet inchoate collective voice of victimhood hitherto drowned out by the denials of the Roberto’s and the placid accommodations of Gerardo. As the process of genuine accountability in Chile commenced and then accelerated, Morace could plausibly claim that the course of events might strip *Death and the Maiden* ‘of virtually all its political and much of its dramatic urgency’ and transform it into a mere spectacle.⁹⁵ Such judgments are inescapably subjective, but even if the play reflects contemporary Chile and transitional justice discourse less well than it initially did, the play continues to remind us of the dangers of marginalizing suffering, the role of art as a tool of oppression and as a tool of healing and the responsibility of art in holding a mirror up to political bargains. At the root of Dorfman’s artistry is a radical uncertainty which allows multiple meanings and implications to live within his final script, but none to dominate except the idea of the imperfectability of justice.

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Bibliography

1. Aguilar, Paloma. 2007. Transitional justice in the Spanish, Argentinian and Chilean case (paper presented at Building a Future on Peace and Justice, Nuremberg, 3 June 2007).
2. Aritzia, Pilar Zozaya. 1996. Alternative Political Discourses in Ariel Dorfman’s *Death and the Maiden*. *Atlantis* 18: 453.

⁹¹ Alex Wilde, “Irruptions of Memory: Expressive Policies in Chile’s Transition to Democracy,” *Journal of Latin American Studies* 31 (1999): 473.

⁹² Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions are Changing World Politics* (New York: W.W. Norton & Co., 2011), David Sugarman, “Courts, Human Rights and Transitional Justice: Lessons from Chile,” *Journal of Law and Society* 36 (2009): 280.

⁹³ Morace, *supra* note 33, at 135.

⁹⁴ Collins, *supra* note 28, at 138.

⁹⁵ Morace, *supra* note 33, at 135.

3. Arthur, Paige. 2009. How 'Transitions' Reshaped Human Rights: A Conceptual History of Transitional Justice. *Human Rights Quarterly* 31: 321.
4. Bell, Christine. 2005. Women address the problems of peace agreements. In *Women, peace-making and constitutions*, ed. Coomaraswamy Radhika, and Fonseka Dilruski, 96. New Delhi: Women Unlimited.
5. Bell, Christine. 2009. Transitional justice, interdisciplinarity and the state of the 'field' or 'non-field'. *International Journal of Transitional Justice* 3: 5.
6. Bilbija, Ksenija et al. (eds). 2005. *The art of truth-telling about authoritarian rule*. Madison, Wis.: University of Wisconsin Press.
7. Butt, John. 1992. Guilty conscience? *Times literary supplement*, February 28, 22.
8. Brysk, Alison. 2003. Recovering from state terror: The morning after in Latin America. *Latin American Research Review* 38: 238.
9. Collins, Cath. 2010. *Post-transitional justice: Human rights trials in Chile and El Salvador*. Pennsylvania: Pennsylvania University Press.
10. De Brito, Alexandra Barahona. 2001. "Truth, justice, memory and democratization in the Southern Cone". In *The politics of memory: Transitional justice in democratizing societies*, ed. Alexandra Barahona De Brito, Carmen González-Enríquez and Paloma Aguilar, 199. New York: Oxford University Press.
11. Dorfman, Ariel. 1991. *Death and the maiden*. London: Nick Hern Books.
12. Dorfman, Ariel. 1998. *The resistance trilogy*. London: Nick Hern.
13. Dorfman, Ariel. Whose memory? Whose justice? A mediation on when and how to reconcile. Paper presented at eighth annual Mandela lecture, July 31, in Johannesburg, South Africa.
14. Dube, Siphwe Ignatius. 2011. Transitional justice beyond the normative: Towards a literary theory of political transitions. *International Journal of Transitional Justice* 5: 177.
15. Dwyer, Susan. 1999. Reconciliation for realists. *Ethics & International Affairs* 13: 81.
16. Elster, Jon. 2004. *Closing the books: Transitional justice in historical perspective*. Cambridge: Cambridge University Press.
17. Ensalaco, Mark. 1995. Military Prerogatives and the Stalemate of Chilean Civil-Military Relations. *Armed Forces and Society* 21: 255.
18. Gray, David. (2005–2006). An excuse-centered approach to transitional justice. *Fordham Law Review* 74:2621.
19. Hilbink, Lisa. 2007. *Judges beyond politics in democracy and dictatorship: Lessons from Chile*. Cambridge: Cambridge University Press.
20. Ignatieff, Michael. 1996. Articles of faith. *Index on Censorship* 25: 110.
21. Kritz, Neil. 2002. Where we are and How we got here: An overview of developments in the search for justice and reconciliation. In *The legacy of abuse: confronting the past, facing the future*, ed. Alice H. Henkin, 21, Washington DC: Aspen Institute.
22. Leebaw, Bronwyn. 2005. Human rights investigation and dialogue. *Human Rights and Human Welfare* 5: 71.
23. Luban, David. 1998. On Dorfman's *Death and the Maiden*. *Yale Journal of Law and the Humanities* 10: 115.
24. McClennen, Sophia A. 2009. Torture and Truth in Ariel Dorfman's *La muerte y la doncella*. *Revista Hispanica Moderna* 62: 179.
25. Mera, Jorge. 1995. Chile: Truth and justice under Democratic Government. In *Impunity and human rights in international law and practice*, ed. Naomi Roht-Arriaza, 171, New York: Oxford University Press.
26. Morace, Robert A. 2000. The life and times of death and the maiden. *Texas Studies in Literature and Language* 42: 135.
27. Morello, Henry James. 2006. Masking the past: Trauma in Latin American and Peninsular Theatre. PhD diss., University of Illinois.
28. Motsemme, Nthabiseng. 2004. The mute always speak: On women's silences at the truth and reconciliation commission. *Current Sociology* 52: 905.
29. Munro, Andrew. 2002. Recalling Voice: *La Muerte y la Doncella*. *Ciberletras Journal of Literary Criticism and Culture* 6: 1.

30. Neier, Aryeh. 2000. What should be done about the guilty? *New York Review of Books*, February 1, 34.
31. Nesiiah, Vasuki. 2006. Resistance in the age of empire: Occupied discourse pending investigation. *Third World Quarterly* 27: 903.
32. Nesiiah, Vasuki. 2006. Discussion lines on gender and transitional justice: An introductory essay reflecting on the CTJ bellagio workshop on gender and transitional justice. *Columbia Journal of Gender and Law* 15: 799.
33. Aolain, Fionnuala Ni. 2006. Political violence and gender during times of recognition. *Columbia Journal of Law and Gender* 15: 829.
34. Aolain, Fionnuala Ni. 2007. Underenforcement and Intersectionality: Gendered aspects of transition for women. *International Journal of Transitional Justice* 1: 338.
35. Orentlicher, Diane. 1991. Settling accounts: The duty to prosecute human rights violations of a prior legal regime. *Yale Law Journal* 100: 2537.
36. Pinet, Carolyn. 1997. Retrieving the disappeared text: Women, chaos and change in argentina and chile after the dirty wars. *Hispanic Journal* 18: 89.
37. Robert F Barsky. 1997. Outsider Law in Literature: Construction and Representation in Death and the Maiden. *SubStance* 26: 66, 86
38. Roht-Arriaza, Naomi. 2006. The new landscape of transitional justice. In *Transitional justice in the twenty-first century: Beyond truth versus justice*, eds. Naomi Roht-Arriaza and Javier MARRIZCUENA, 1, New York: Cambridge University Press.
39. Rohter, Larry. 1992. Dorfman's 'Maiden' Cries Out. *New York Times*, March 8.
40. Sanders, Mark. 2007. *Ambiguities of witnessing: Law and literature in the time of a truth commission*. Palo Alto: Stanford University Press.
41. Scheffer, David. 2001. The tool box, past and present, of justice and reconciliation for atrocities. *American Journal of International Law* 95: 970.
42. Schroeder, David. 2007. Dorfman, schubert, and death and the maiden. *Comparative Literature and Culture* 9: 1.
43. Shklar, Judith. 1964. *Legalism, morals, and political trials*. Cambridge: Harvard University Press.
44. Sikkink, Kathryn. 2011. *The justice cascade: How human rights prosecutions are changing world politics*. New York: W.W. Norton & Co.
45. Spooner, Mary Helen. 1999. *Soldiers in a narrow land: The Pinochet regime in Chile*. Berkeley: University of California Press.
46. Sugarman, David. 2009. Courts, human rights and transitional justice: Lessons from Chile. *Journal of Law and Society* 36: 280.
47. Sutil, Jorge Correa. 1997. 'No victorious army has ever been prosecuted...': The unsettled story of transitional justice in Chile. In *Transitional justice and the rule of law in new democracies*, ed. A. James McAdams, 123, Notre Dame, London: University of Notre Dame Press.
48. Teitel, Ruti. 2003. Human rights in transition: Transitional justice genealogy. *Harvard Human Rights Journal* 16: 69.
49. Teitel, Ruti. 2005. Transitional rule of law. In *Rethinking the rule of law after communism*, ed. Adam Czarnota et al, 279, Budapest: Central European University Press.
50. Teitel, Ruti. 2008. Editorial note—Transitional justice globalized. *International Journal of Transitional Justice* 2: 1.
51. Weaver, James and Colleran, Jeanne. 2011. Whose memory? Whose justice?: Personal and political trauma in ariel dorfman's death and the maiden. *Performance Research: A Journal of the Performing Arts* 16:31.
52. Wechsler, Lawrence. 1990. *A miracle, a universe: Settling accounts with torturers*. New York: Pantheon.
53. Wilde, Alex. 1999. Irruptions of memory: Expressive policies in Chile's transition to democracy. *Journal of Latin American Studies* 31: 473.
54. Wilson, Richard. 2001. *The politics of truth and reconciliation in South Africa: Legitimizing the post-apartheid state*. Cambridge: Cambridge University Press.