'Hamlet' and 'Life is a Dream':

The Experience of Justice and the Ontological Abyss

JAVIER TAILLEFER[1]

Introduction

In July 1987 Inés del Río Prada, a member of the Basque separatist group ETA, was sentenced to 3,828 years of imprisonment after being convicted of committing 24 murders while acting as an alleged member of a terrorist group. However, del Río was tried in accordance with the Spanish Criminal Code Act of 1973,[2] which prescribed a maximum time of imprisonment of 30 years as long as the crimes committed were interrelated, and also allowed all prisoners to reduce their sentences –their maximum time of imprisonment– by one day for each two days worked. Ultimately this entailed that their time in prison could be reduced by one third: convicts sentenced to thousands of years of imprisonment could be released after only 20 years.

Such was the case of del Río, who should have been released in 2008 and yet, in application of the so-called 'Parot Doctrine,'[3] had her sentence extended until 2017. Nevertheless, she was released in October 2013. That year the European Court of Human Rights declared that the Spanish Government, along with the Spanish Supreme and Constitutional Courts, had applied

[1] Contact Javier Taillefer: javiertaillefergarcia@gmail.com

[2] In force until 2003.

[3] This new jurisprudence, established by the Spanish Supreme Court in February 2006, read the Criminal Code Act of 1973 according to its reforms in 1995 and 2003, promulgating that the sentences against crimes committed before the reform that took place in 1995 could actually be reduced by means of work or study…*but* these reductions would apply to the absolute total term of the sentence instead of the maximum sentence of 30 years. Hence the convicts would remain imprisoned up to 30 years unless they achieved the virtually impossible goal of reducing a sentence of nearly 4,000 years to less than 30.
This sort of retroactivity is forbidden under article 9 of the Spanish Constitution and articles 5 and 7 of the ECHR.

a fraudulent interpretation of the CCA of 1973 in clear transgression of article 9 of the Spanish Constitution and articles 5 and 7 of the European Convention of Human Rights.

Notwithstanding the legal and judicial interest of this case, the divergent reactions following this change in sentence illustrates the extent to which justice –as well as injustice– may appear as a radically subjective experience, disclosing –when not redefining– the subject's relation to the law. On the one hand, the end of the 'Parot Doctrine' and the restoration of the rule of law was celebrated by people in the same situation as del Río and her family, but also by a great number of jurists who deemed it unlawful, and a growing number of citizens who considered it useless in view of the factual defeat of ETA. On the other, this decision was highly criticised by collectives of victims of ETA, who, consumed by frustration and indignation, called for demonstrations to express their concern about a sentence that they considered a 'betrayal': a sentence that they deemed *unjust*.

Two hundred thousand people demonstrated in Madrid in October 2013. Two hundred thousand people asked the Government to ignore the sentence and, if necessary, abandon the European Union and the European Convention of Human Rights. And, most importantly, two hundred thousand people demonstrated in Madrid demanding *justice*.

They had been provided with all the justice that the rule of law could ensure. Moreover, they had been provided with justice *beyond* the rule of law. What is it, then, that they were demanding? More justice? What would it take for them to feel that justice has been served? Can the state and the rule of law provide such a thing? What did they really mean by justice? What is the difference between justice and retribution for them? What are the effects of the law on their understanding of justice? And what are its effects on their subjectivity?

Media coverage of similar cases of political violence and blood crimes, along with the involvement of different political forces, have made visible the figure of 'the victim' as a justice-demanding subject over the last decades (Rentschler, 2011). Given this growing visibility it may seem reasonable to expect the emergence of academic debates that could shed light on the relation between these cases, current debates on justice, and different schools of legal theory. However, the formation of subjective understandings of justice in relation to law and political violence, the processes through which a subject may come to experience justice in entirely diverging ways, has remained largely ignored by scholars working in the fields of political or legal theory. Highlighting the relevance of the particular subject who goes before the law in the hope of attaining justice, this article will begin addressing the inability of the law to recognise the particularity of the abovementioned subject. Using a Lacanian framework due to its emphasis on the lack as the innermost constitutive element of the subject, I will argue that this lack of recognition seems to act as the driving force behind the appearance of subjective understandings of justice in response to the shortcomings of the law. Nevertheless, the Parot Doctrine and the variety reactions following its repeal seem to indicate that even if we assume that the formation of subjective understandings of justice responds to a common mechanism, the outcome of such process can range from an all-out contestation of the ability of the law to provide justice, to a sheer attempt to supplement law-enforcement with a different form of recognition of the particularity of the subject. Making a comparative reading of *Hamlet* and *Life is a Dream*, the last part of this article will illustrate and explore how two particular subjects may come to develop entirely different ways of understanding justice under arguably similar circumstances.

The Oblivion of the Particular Subject

The interest of this text revolves around the formation of subjective understandings of justice as a result of our encounters and missed-encounters with the law, but it might be necessary to add a certain nuance in this respect. Namely, that its object of study is not justice as a 'substantive concept' or as a problem to be solved. Nor will I try to reveal or uncover any 'true meaning' of justice. Instead, this article will centre its attention on the role of the term 'justice' in meaning-making processes involving law and subjectivity: on the way in which a particular subject may come to experience justice.

The Byzantine emperor Justinian the Great (482 – 565) maintained that law has its ultimate cause in the human person for whose sake it is made. And that is, precisely, the departing point of this article: the human subject before the law, the law before the human subject, and the production of particular understandings of justice that arises from such encounters. A starting point that may seem trivial, or even irrelevant, if it were not for the fact that it has been commonly overlooked, when not neglected, by scholars either working in the field of modern theories of justice or legal theory: What do we mean by justice? What are the effects of the law on our understanding of it? What does it take to feel that justice has been served? What is the difference between a demand for justice and a wish for retribution?

Departing from the limits

Legal theory and liberal theories of justice have made relevant contributions to current debates on justice, but they present certain limitations with regard to the study of 'experiences of justice' and the living-breathing human subject (Unamuno, [1913] 1972). So if a relevant and complementary contribution is to be made, it is necessary to depart from these very limitations.

Or, in other words, it becomes necessary to stand 'back to back' with these fields and look in the opposite direction in order to offer a complementary view. A task that requires, in turn, a shift in focus from macro-institutional issues to other aspects that have generally been neglected so far: the radical subjectivity of the person who goes before the law hoping for justice, and the absolute contingency of that person's particular case. Two aspects, subjectivity and contingency, that can be considered as constituent limits of the law and, in turn, allow the emergence of justice as its third and ultimate limit.

By definition, a constituent limit is an element that must remain partially excluded from a system in order to provide it with consistency, so that it does not collapse (Cornell, 1992).[4] In this case, that system would be Law. Similar arguments can be found in the work of other authors such as Ernesto Laclau (2007),[5] Jacques Derrida (1990),[6] and Niklas Luhmann ([1984] 1995). According to Luhmann, if a system –law– is to survive, its relations with the environment must be kept at a low level of complexity (ibid.). This means that although the law needs to rule over particular subjects interacting in contingent situations and making particular claims of justice, if it ever tried to encompass within itself a prescription for *every extant subject* –limit of subjectivity– *in every possible situation* –limit of contingency– *foreseeing every possible claim of justice* –limit of justice– it would become purely descriptive, losing its normative character –the defining quality of any law– and thus it would cease to be law itself. In Derridean terms this means that the law, just like any other system, cannot catch

[4] Cornell refers here to the possibility of collapsing 'prescription' –the quintessence of the law– into 'description' if we ever tried to offer an all-encompassing definition of justice *in* the law. In this regard, and with the goal of complementing these insights, I will argue that the study of subjectivity and contingency as constituent limits of the law render visible the role of justice as its third and ultimate limit.

[5] Laclau goes on to say that 'the very possibility of signification is the system, and the very possibility of the system is the possibility of its limits. [And] Thus, we are left with the paradoxical situation that what constitutes the condition of possibility of a signifying system –its limits– is also what constitutes its condition of impossibility –a blockage of the continuous expansion of the process of signification.' Following this account of the relation between a system and its limits, we could say that insofar as justice appears as a constituent limit of the law it also stands (1) as that which allows its existence as a system, and (2) as that which refuses to be fully encompassed within it.

[6] In the case of Derrida it would be more suitable to describe justice as *aporia*: as a site which appears intermittently in the law and constitutes part of its 'text,' but also as a point with the potential to undermine the structure of the latter.

up with itself, needing a constitutive outside in order to exist. Law needs contingency, subjectivity and demands for justice in order to come (back) into existence but, at the same time, it cannot fully comprehend them. Hence in the end it is impossible to think about the law without thinking about its limits, as Laclau points out in his reading of Hegel (2007), and thus it is impossible to think about the law without thinking about what lies beyond these limits. However, it is essential to keep in mind that 'the actualization of what is beyond the limit of exclusion would involve the impossibility of what is on this side of the limit. True limits are always antagonistic' (ibid.)

Subjectivity: Generality, Universality and Particularity

Assuming a structuralist point of view it could be argued that society cannot exist without law. The structures of domination imposed by the latter on individual human beings create the very conditions of possibility for the existence of society as such. Without the aforementioned structures of domination there can be a complexity or aggregate of human beings, but not a society. The latter only comes into existence when its members stand as a unity (Althusser, [1970] 2001): when they are legally constituted as subjects, as citizens. And, therefore, from this standpoint, law and society exist as such in so far as (1) they are imposed on individuals and (2) they provide these individuals with a sense of belonging or unity. In consequence, legal norms must remain abstract if they are to be applied to the generality of subjects belonging to that society: a generality of subjects which is distinguishable from *a* particular subject and the whole of humanity.

This need of enforcement reveals law as a normative system that produces subjectivities in the process of being enforced; and yet these subjectivities only gain relevance in their contrast with

others which are excluded from that particular legal framework –e.g. citizens from other states. Hence these 'subjectivities' only become legally relevant –and thus attain legal *identity*– in their *difference* with the subjectivities produced by other legal systems. In the process of differentiating its citizens from foreigners law reduces every difference among citizens to identity; and, in turn, reduces any similarity between citizens and foreigners to difference. Ultimately, this means that the law always operates in terms of generality, excluding particularity and universality. And, as I will argue, this is the basic difference between law and justice in their relation with subjectivity: whereas law operates in terms of generality, justice always functions in terms of universality and particularity.

The production of this set of identities and differences points to the symbolic character of the law. Just as happens with other sociocultural productions –such as language, norms, mores, institutions, practices, or customs–, law can arguably be framed within the Lacanian register of the Symbolic, as a trans-subjective milieu that pre-exists individual human beings and constitutes them as subjects within a structure. This constitution takes place through the introduction of negativities in the register of the Real, in the form of the creation of antagonisms, gaps, etc. And, in law, this introduction of negativities is crystallised in the dichotomies legal-illegal and citizen-foreigner. It is crystallised in the exclusion of the particular and the universal.

This exclusion becomes manifest in the articulation of demands of justice; an articulation that generates a surplus: desire. But, in order to get a better grasp of this question, it is necessary to address the triad need-demand-desire from a Lacanian point of view, as well as its relation with the inability of the law to fully recognise the particularity of the subject.[7]

[7] The role of desire in the formation of subjective understandings of justice could have been explored using the work of other authors such as Herbert Marcuse or Gilles Deleuze. However, Lacan's emphasis on the relation between the subject and the

The first element of this triad can arguably be defined as the fact of feeling the lack of something,[8] in this case, the lack of justice in a situation perceived to be unjust. The satisfaction of needs, however, normally requires the interaction with other human beings, and thus they must be articulated as demands –expressions and behaviours that can be interpreted as a signal of the existence of such need. In this framework, one must accept and speak 'the discourse of the Other' if one's needs are to be recognised and properly addressed by other human beings. But, in the end, speaking the discourse of the Other also excludes the possibility of speaking in terms of particularity or universality. On the one hand, if the need is expressed as pure particularity in some sort of 'private language' (Wittgenstein, [1953] 1967, §243-§271) –as the exact conflict W over the particular object X between the contingent subjects Y and Z– the law as Other cannot understand the message, for a particular case becomes legally relevant insofar as it can be subsumed within broader legal categories. On the other, if the need is expressed in terms of pure universality, the law as Other cannot know whether we are addressing it or not. In consequence, demands must be shaped under the terms imposed by a socio-symbolic Other: in the terms prescribed by the law; which are, by definition, terms of generality. And yet, it is important to note that this demand has a twofold function, for on the one hand it articulates the need; but, on the other, every demand also constitutes a demand for love: a demand for recognition.

This leads to the third and final concept of this triad: desire. As stated above, desire appears as the generation of a surplus in this process of articulation. It emerges as that which remains after

Symbolic –and how the latter constitutes the former through an experience of lack– seems particularly suitable for the purpose of this article. The differences between Deleuze's 'positive' account of desire and Lacan's 'negative' approach to it may be worth exploring in future texts on this subject.

[8] Not necessarily at a biological level.

need is deduced from demand: as the outcome of a process of symbolisation that charges needs with surpluses –demands for love– disclosing the position of the subject in the relation with the Other. In this way the law can satisfy the need that has been articulated as a demand for justice in legal terms –through the sheer enforcement of legal norms– but not the desire lurking behind it. Here, the desire for justice of the subject appears as a demand for love…and love is 'giving something you haven't got to someone who doesn't exist' (Philips 1994, p39).[9] In his desire for justice, the subject urges the law to provide him with something that it cannot give: full presence. In the law the subject is relevant as citizen, as the speaker of the language of the law…but nothing else. Name, history, personality, tastes, fears, suffering, and joy...none of them are relevant: only the role of the subject as citizen. Law cannot love. It cannot give what it does not have to someone who does not exist from its own point of view. It cannot give full presence to particularity; and, for law, the living breathing subject, the 'man of flesh and bone' (Unamuno, [1913] 1972), does not exist: only the citizen. Here, the desire for justice of the subject reveals itself as constitutive lack. It reveals itself as a wish to be universally recognised in its particularity.

Justice emerges and becomes differentiated from the law in the formulation of such desires. It grows out of the struggle between the urge to satisfy this desire and the impossibility of attaining full satisfaction for it within the law. It appears in the questioning of the law. And so does the subject, not just as citizen –subject of the enunciated–, but also as particularity –subject of the enunciation–: as that which makes ideology work, and also as the point in which ideology fails. In both cases the divide or negativity introduced by the law produces subjectivities; and although the production of subjectivities as such is inherent –and hence necessary– to this process, the specific subjects that it constitutes are always contingent, as are their desires.

[9] This is Philips' rendering of Lacan's definition of love in *The Formations of the Unconscious*: 'to love is to give to someone who himself may or may not have what is at stake, but certainly to give what one does not have' ([1998] 2017).

Every desire for justice appears as the expression of a radical particularity that claims universal validity; and thus as the expression of the limits of generality. The desire for justice of the subject –along with the impossibility of its legal fulfilment– puts into question the functioning of the law, revealing the limits of its authority and might, and forcing it to conceal its impotence through the denial of this desiring-beyond-demand –labelling it as a wish for vengeance. But, ultimately, the denial of this desire for justice also entails a denial of the subject himself, for every subject is a desiring subject, and the subject who ceases to desire ceases to live too.

The disavowal of the desire of justice enacted by the law in its attempt to conceal its shortcomings is tantamount to this sort of death. And yet, the subject who finds rejection and denial where he sought recognition cannot resign, not completely, for absolute resignation amounts to absolute death. Whether this persistence of desire takes a form of authenticity –desire as such– or inauthenticity –fantasy– is another question. But, for the time being, it is important to remember, once again, that justice calls for the universal recognition of a particularity; and thus requires an immediate relation between the particular and the universal, unmediated by the generality of the law. A direct and immediate relation that inaugurates a suspension –if not destruction– of generality, and simultaneously reflects the universal particularity of desire.

Contingency: Normativity, Decision and Action

Generality loses importance in the relation between law and contingency. And yet, another basic feature of law gains relevance: normativity. As seen in the previous section on subjectivity, and assuming a structuralist point of view, the existence of society as such –and

thus, generality– depends on the possibility of imposing the law on individual human beings – constituting them as legal subjects, citizens– and providing them with a sense of belonging or unity. Ultimately, this 'imposition' is the quintessence of normativity, which appears now as the very condition of possibility for the relation between law and subjectivity in terms of generality.

In this manner, the relevance of normativity appears clear. References to its importance as a fundamental characteristic of the law can be found in the work of authors such as Walter Benjamin, Sigmund Freud, Louis Althusser or Jacques Derrida. According to the latter (1990), this basic feature is reflected in the fact that law imposes itself upon individual human beings and, in turn, legitimates itself by doing so –an act of *mythic violence* (Benjamin, [1921] 1996). Thus the difference between legal violence and illegal violence appears as a difference in a *quantum* of force that legitimises itself in terms of quality –legitimacy. Any act of violence beyond the law is deemed as illegitimate and pernicious; not just because of the direct effects of these acts, but also because they challenge, and even threaten, the very authority of the law. Under the threat of punishment, the 'majority more powerful than each of the individuals' (Freud, [1930] 1963) prevents these individual human beings from taking justice into their own hands. And, in connection with the question of generality, we could arguably say that only when violence becomes monopolised by an elite and is able to legitimise itself as law it becomes possible to talk about society: only when the relations between two individuals are regulated by a third party which stands more powerful than the other two, society exists.

The connection between normativity and contingency can be derived from this. On the one hand, the imposition or prohibition of certain behaviours by law unavoidably implies that these behaviours are neither impossible nor necessary, but contingent –that is, possible. It reveals

that the subject can always act otherwise. And, on the other, it also implies that the law always rules future actions based on past prescriptions or experiences: the past is irreversible –and thus necessary, for the way in which it happened cannot be changed[10]– and the rule of law and the generality that it entails prohibit *ad hoc* judgements: it is possible to pass a law *on the basis of* a case, but not *for* a specific case. Hence the law always rules the future on the basis of the past, creating a mediation between them that implies a certain blindness with regard to the specificity –the particularity– of the present.

This legal mediation between the future and the past shows that the temporality of the law is inherently *chronological*: sequential, a succession of moments in which the present always appears as the future of a past and as the actualisation of a near future –as the missed encounter between a 'not yet' and a 'too late.' A 'missed encounter' that opens a window of opportunity for justice.

Unlike law, justice appears as pure immediacy. It emerges as that which calls for a direct relation between the particular and the universal. According to Derrida, justice 'doesn't wait […] a just decision is always required immediately. […] the moment of decision, as such, always remains a finite moment of urgency and precipitation' (1990). A desire for justice always calls for the universal recognition of a particularity, for equalising it to another particular case or using it as the basis for future cases entails a denial of this very particularity. In this manner, the temporality of justice appears in stark contrast with that of the law. And whereas the temporality of the latter always operates in a sequential manner; that of justice appears as a time-lapse, as the window of opportunity that emerges from the missed encounter

[10] It could be argued that the constitution of court-like bodies such as the Truth and Reconciliation Commission in South Africa changes the past, depriving it of its 'necessary' character. However, it is important to bear in mind that the goal of such bodies is to reappropriate the past and its meaning, not factually changing it.

between a 'not yet' and a 'too late'. Or, in other words, whereas the temporality of the law presents the character of *Chronos*, the temporality of justice assumes the character of *Kairos.*[11]

Along with the inability of the law to acknowledge particularity, this difference in temporality is what defines the relation between law and justice from the point of view of the particular subject: the subject who goes before the law demanding justice and is answered with the sheer enforcement of legal norms. Justice always appeals to the present, to a moment in which decision and action are required immediately, right away. Not just as 'another case' –subject to existence of precedents– nor as a mere basis for the judgement of future cases, but as *the* case for *the* subject seeking justice at *that* exact time and place. Beyond the enforcement of the relevant norms, the demand for justice of the subject appears as a moment in which past, present, and future collide. A moment in which the subject[12] may come to the realisation that everything that has happened so far has led him to this point; but also that everything that will happen from that moment on will be conditioned, if not determined, by whatever decision is made at this point. In this missed encounter, in this present, the past can be redeemed and the future can be saved: kept open and freed from the yoke of the past. The temporality of justice manifests itself as a present of decision and action that suspends the law in its chronological character and creates a space of timelessness and timefulness, colliding past and future: a space of present eternity. An eternity that is the sum of past, present and future, but also the absence of them.

[11] In opposition to the sequentiality of 'Chronos', the Greek term 'Kairos' appears as the right or supreme moment: a time-lapse in which everything happens and an opportunity can be seized. In Christian theology it refers to the action of God: 'the appointed time in the purpose of God.'

[12] As subject of the enunciation and subject of the enunciated.

Justice as Desire

The singular character of the temporality of justice –simultaneously characterised by what we may call full presence and full absence of time, with no apparent contradiction between them– points to the relation between the formation of particular understandings of justice and the unconscious. And, more precisely, to the Lacanian notions of desire and the Real.

The Real lacks negativities and oppositions. It is without fissure. And once the pre-Oedipal stage has been overcome, it is experienced in the guise of traumatic gaps in the Symbolic. Namely, as those points in our lives in which language –as paramount example of the Symbolic– falls short in view of certain events that seem to escape symbolisation. In other words, as those moments in which life itself becomes unrecognisable and strange due to the impossibility of attributing meaning –signification– to these events. Usually, these ruptures of the Symbolic order, these gaps, are identified with natural disasters or traumatic events that resist symbolisation: events, after which, the subject cannot speak (Palacios, 2013).

In this particular context, the aspect of the Symbolic that suffers the irruption of the Real is the law, a different form of language. On the one hand, the temporality of justice points to this lack of fissures in the Real. And, on the other, the emergence of justice as desire reveals the impossibility of attaining full satisfaction for it within the law. Or, in other words, the temporality of justice and its appearance in the guise of desire points to the existence of cracks within the law qua Symbolic: to its limits of signification.

However, even if justice appears in this manner, the possibility of differentiating it from other desires that may emerge from the limits of the law are not completely clear yet. How can we tell the difference between a desire for justice and a desire for retribution?

Desire for Vengeance, Desire for Justice. Hamlet meets Segismundo

There is a fine line between justice and vengeance, and the very act of tracing it can easily be deemed as arbitrary. For that reason, and in spite of the many references to justice within the judiciary (e.g. courts of justice, ministries of justice, etc.), most jurists decline to use this term in favour of others: law, legal, lawful, or even legitimate. Open to interpretation as it is, the law still offers a more secure and stable point of reference than justice. The possibility of satisfying the latter is normally sacrificed for the sake of objectiveness and lack of arbitrariness. Notwithstanding the logic behind this kind of reasoning, or its utility at a macro political level, this article calls into question this ambiguity. Why do these institutions reject a direct connection between law and justice while they invest themselves as defenders of the latter in the eyes of the non-initiated?

As stated above, justice appears as an empty signifier in its relation with the law: as that which demarks the limits of signification of law as a system. It points towards its limits in satisfying the desires of its citizens, in recognising them as more than just citizens. These desires that are normally expressed as claims for justice, but sometimes may conceal a simple wish for more severe punishments. A wish to see offenders suffer as much as possible. Or, in other words, as something that could be labelled as a desire for retribution. But what is the difference between retribution and justice in this context? Where to draw the line that separates them? What causes one or the other? Are they simply two different ways of understanding justice?

Addressing these questions requires taking into account that 'any causal […] explanation in comparative sociological analysis is unlikely to be right' (Needham, 1962, p122), and that, in consequence, any serious study in this field should be 'more like interpreting a constellation of symptoms [rather] than tracing a chain of causes' (Geertz, [1973] 1993, p316). Therefore, giving a simple answer to these questions is not really possible, and exploring the constellation of factors that may have conditioned the appearance of a desire for justice or a wish for retribution –historical moment, political context, personal history, trauma, etc. – exceeds the scope of this article. However, it might yet be possible to get a better grasp of this issue through the analysis of some of the elements that characterise the already mentioned problematic relation between law and justice. Namely, desire and temporality. And, for this purpose, the comparative reading of two different plays –with justice and revenge as one of their main themes– might be helpful: *Hamlet*, by William Shakespeare; and *Life is a Dream*, by Pedro Calderón de la Barca.

Ghosts and Dreams: Melancholia and Desire

The main characters of both plays, Hamlet and Segismundo, rebel against the authority of the law, respectively embodied by two monarchs: Claudius –Hamlet's uncle– and Basilio –Segismundo's father. Their rebellion is caused by the acts of their respective kings: Claudius murdered Hamlet's father, and Basilio imprisoned Segismundo in a tower following a prophecy that said that he would become a tyrannical and cruel king. And, in this respect, the motives of both character seem arguably similar. Prince Hamlet aims to kill Claudius and avenge the murder of his father, and thus become king of Denmark, while Segismundo –once liberated by the people of Poland– intends to wage war against his father and become king, claiming his

dynastic rights. Both princes try to make up for the deeds committed by the two monarchs. Make up, in both senses: as compensating and as overcoming.

However, this is as far as similarities go. Both of them rebel against the authority of the law. Both of them hope to attain a satisfaction that law itself cannot provide –Claudius would not admit his crime, and Basilio would even wage war against his son before recognising his rights. And yet, what triggered both rebellions, and their consequences, could not be more different. Hamlet is compelled to kill Claudius by the ghost of his father. And Segismundo, on the other hand, is moved to reclaim his rights by his own dreams.[13] The consequences of their actions are remarkably different too; and whereas Hamlet's revenge –after many hesitations and detours– ends up in a bloodbath, Segismundo decides to forgive his father's life after winning the war, being crowned king of Poland by Basilio himself.

Following Simon Critchley's account (2013), Hamlet's encounter with the ghost is an encounter with death itself. An encounter that is marked, in this particular case, not by mourning –working through, moving on, etc. – but by melancholia.[14] Insofar as Claudius would not admit to his murder, Hamlet would not be recognised in his particularity as the son of a

[13] For those who are not familiar with this play, it is important to take into account that the protests of two of the characters – Rosaura and Clarín– lead King Basilio to set an experiment in order to determine whether Segismundo would fulfil the prophecy or not: during his sleep, Segismundo would be smuggled out of prison and into palace for a day. They would convince him that he was not a prisoner but a prince, and that if he ever believed otherwise that was because he had been dreaming. If Segismundo proved himself worthy of the crown, he would be allowed to become king; however, if he acted despotically and tyrannically –as it had been prophesised–, he would be sent back to his prison during his sleep after that day, and induced to believe that it had been his day as a prince what had been a dream.
Released from his shackles, Segismundo indeed behaves as the prophecy had foretold, throwing a servant out of a window, trying to force himself upon Rosaura, harming Clotaldo, etc. Back in prison, he feels completely disoriented by the succession of incredibly realistic dreams he had experienced, and then pronounces his famous monologue, in which he completely reconsiders his actions:

'¿Qué es la vida? Un frenesí
¿Qué es la vida? Una ilusión,
Una sombra, una ficción,
Y el mayor bien es pequeño;
Que toda la vida es sueño,
Y los sueños, sueños son.'

[14] Unfortunately, a deeper discussion of the distinction between mourning and melancholia, its evolution in Freud's work, and its later criticism by authors such as Derrida escapes the scope of this article.

murdered king: just as the son of a king who is dead. Through this lack of recognition Hamlet comes to narcissistically identify himself with the loss –with the lack– of his father, creating a fantasy of retribution around that very loss. A fantasy that, as any other, is meant to give him purpose, sense, and meaning in life. And yet, the attainment of the very goal underpinning that fantasy –murdering Claudius– would bring it to an end, sinking him back into nihilism. For that reason, the achievement of his goal is eternally postponed throughout the play. The lawfulness or unlawfulness of Claudius' assassination is secondary: what matters is Hamlet's stance before the law, positively embodied by Claudius. He identifies himself with the loss of his father, not with the task of avenging him. Bringing such task to an end by murdering Claudius –by breaking the law that constitutes him as a subject– would also entail bringing an end to himself: only when he is about to die, marked by death –'I am dead', he says to Horatio–, he is willing to kill Claudius. Only at that point he is able to overcome his ego, transgress the law/Symbolic constituting it, and realise his desire. Only at this point he becomes willing not to 'give way' with respect to his desire.

In the same way as Hamlet, Segismundo is marked by an experience of lack. And yet, unlike the prince of Denmark, his case is not marked by loss and death. The experiment set by his father, King Basilio, is experienced as a dream, as an unconscious mechanism of wish-fulfilment: as a partial and limited satisfaction to his wish for freedom. Segismundo's lack is not a lack of something that he has lost, as Hamlet lost his father, but the lack of something that he never had: his freedom. Whereas Hamlet dwells in melancholia, Segismundo's actions are stirred by desire. A desire that emerges in response to –and in contrast with– the register of the Symbolic, the law, represented by his prison. Or, more accurately, it appears in response to the limits of his confinement. Segismundo compares himself, and his situation, to that of birds, animals and streams of water, wondering why he has been deprived of the freedom that they

enjoy. He wishes to be recognised, to be loved, and the limits of his prison appear as an impediment for such recognition. Freedom, of course, is not a definite object, but the very condition of possibility for the attainment of other objects. And, in this respect, his desire does not aim to its full satisfaction, but to its very reproduction as desire: as the desire to keep on desiring, as the desire to keep on being in different ways.

Ultimately, the arguably melancholic attachment displayed by Hamlet appears but as an attachment to his own ego –constituted by the very register of the Symbolic that he purportedly tries to traverse, the law as embodied by Claudius in positivist point of view. Hamlet would *cease to be* if he ever managed to exact his revenge against Claudius, and that thought is what consumes him –'to be, or not to be.' Unlike Segismundo, who is willing to sacrifice his ego –the way he perceives himself to be at a given point– for the sake of freedom –for the sake of possibility and uncertainty as such–, Hamlet does not desire: he cannot dare not to be *as he has been so far*. He cannot relinquish his ego and take the same leap of faith –or maybe of despair– that the prince of Poland is willing to take. But what is the nature of this 'leap in the dark'?

Hamlet and Segismundo: Two Experiences of Time

Hamlet is tormented by the possibility of his own death. Consummating his revenge would bring to an end the fantasy underpinning and conferring meaning on his very existence. He knows this, and throughout the play he deliberates about whether to kill Claudius or not: about whether to be, or not to be. Killing his uncle would disrupt his existence as prince of Denmark –either dying or becoming king in the process. Once avenged, the ghost would disappear too, and thus Hamlet would no longer be the son of his father, but king Hamlet or Hamlet the king-slayer. In other words, Hamlet is subject to a Symbolic register that would be disrupted,

transformed, or even destroyed, if he were to bring his revenge to an end. And prince Hamlet, as he had been, would disappear along with it.

The prince of Denmark lives in expectation or *Erwarten* (Heidegger, [1927] 2010); he struggles to imagine the actualisation of the possibility of the impossibility of his own existence –that is, his death: How would I feel the experience of ceasing to be? How does it feel not to be? His frame of reference is located in the past, in actuality. In the past inasmuch as Hamlet seeks compensation –retribution– for a loss that has already occurred. And in actuality inasmuch as he refers his experiences to the way in which his Being has already been constituted by the Symbolic framework which he inhabits. In other words, Hamlet lives in inauthenticity: his 'self' is lost to the 'they.' He flees from his own death, wondering about its meaning but avoiding it at all cost.

For him, 'time is out of joint.' He lives, but he does not live his own life: he is required to relinquish his own time and 'set things right.' Hamlet is haunted by the ghost of his father: by the embodiment of death as unavoidable future of all men, and as the embodiment of an unchangeable and failed past. The sequentiality of time is broken and the prince must live like the angel of history described by Walter Benjamin in reference to the painting by Paul Klee: moving away from something that he is fixedly contemplating. Hamlet cannot face his future: his eyes are fixed on the past. Carried away by the winds of time, Hamlet cannot turn away from the wreck of his past, being propelled towards a future that he does not dare to contemplate until there is no more future to be contemplated. Ultimately, Hamlet only dares to carry out his revenge when he is already dead.

Temporality presents a different character in *Life is a Dream*, and just like Hamlet, Segismundo is also troubled by the question of time. However, his frame of reference differs from that of the prince of Denmark. [15] Segismundo is not haunted by actuality, by what has already happened, or by an unavoidable fate. Once freed from his prison by the people of Poland, he wonders:

> SEGISMUNDO. What in heaven is going on! Am I again to dream of grandeur only to see it undone by time?

It is *possibility*, and not *actuality*, that troubles Segismundo. *That* is his frame of reference. Not what he is called to be, but what he could be. Not who he has been, but who he can be. His previous experiences of life as a dream –first his life in prison as a nightmare, then his life in palace, and later in prison again– have made him wary of reality, of the true value of his experiences. He shows reluctance at first, telling the guards to leave him alone, for he does not trust them. His illusions have made him live in disillusionment, aware of the brevity and transience of life. And yet, it is this very awareness that awakens a sudden change in him. He knows that what the guards are telling him can very well be part of a dream, but he does not *expect* (Erwarten) any particular result from it. His resolution is other: if life is short, if life is a dream, so be it and let us enjoy it for as much as we can, however we can.

> SEGISMUNDO. And just in case it was correct, given life is so short, let's dream, my soul, let's dream again. But this time we must be vigilant and aware that we shall awaken from this delight at the best moment; and if we keep that in mind, the truth will

[15] Interestingly enough, *Hamlet* was published in 1609 and *Life is a Dream* in 1635. The fact that both plays were respectively written in England and Spain at a time in which the conflict between Protestant and Catholic countries ravaged Europe could account for some of the differences between
these plays in terms of temporality. On the one hand, Hamlet's ostensible attachment to actuality, to an already-defined and unchangeable identity until the very end, resonates with the ideas of predestination and fate, a major theme of the Protestant Reformation. On the other, the relevance of potentiality, the openness of the future, and the redeeming potential of the present in Segismundo's role in *Life is a Dream* appears as an open defence of the doctrine of free will and the possibility of redemption upheld by the Catholic Church.

> be easier to bear, *for to be prepared* for harm is to avoid it. And with the knowledge of that, even if the premonition is correct, all power is borrowed and must be returned to its heavenly owner, *let us stop at nothing*.[16]

Segismundo does not live in *expectation* –Erwarten– but in *anticipation* –Vorlaufen– (Heidegger, [1927] 2010). The prince of Poland comes to identify himself with his desire for freedom –his desire to desire–, not with his loss, and *is prepared* for any outcome derived from it. He takes responsibility for his past, present, and future actions –becomes guilty of them– and mobilises mortality, not as a passive waiting for death, but as the very condition for free action. For Segismundo, death and the transience of life appear as the impossibility and necessity that guarantee any other possibility. His Being is not a being towards actuality, but a being towards potentiality –and also a being-towards-death.

> SEGISMUNDO. Off we go, fortune, to restore my reign. Don't wake me if I'm sleeping, and don't put me to sleep if it's real. Yet, whether it's reality or a dream, doing what's right is what matters. If it's reality, then for the sake of reality; if it's a dream, then for the purpose of winning friends for when we awaken.

After the battle against king Basilio, and having the possibility to consummate his revenge, Segismundo decides not to do so:

> SEGISMUNDO. Fortune is not to be overcome through injustice and vengeance but rather is provoked even further by such measures. Whoever wishes to overcome his fortune must do so through prudence and temperance. […] Of this there's no better proof than the strange spectacle we've witnessed today: this bizarre, amazing event,

[16] My emphasis.

> this horrific aberration. Just look and you'll see –despite all efforts to the contrary– a father vanquished, a monarch crushed before my feet. This was the work of heaven, and no matter how he tried to prevent it, he was unable. But I –inferior to him in years, valour, and learning– shall succeed where he failed. Rise, my lord, and give me your hand; now that heaven has revealed the error in your attempts to overcome it, my neck humbly awaits your vengeance. I am at your mercy.

The characters of this play are not haunted by a ghost, but by a prophecy. Not an element from the past exacting its actualisation in a near future, but an element of the future that sneaks into to the past foretelling its own unavoidability. Time is out of joint for these characters as much as it was for Hamlet, its sequentiality destroyed either by ghosts or prophecies. And yet, Segismundo does not aim to 'set things right' or fulfil his destiny. Instead, he decides to suspend time once again: he decides to revoke the prophecy and give what he does not have –recognition, full presence– to someone who does not legally exist anymore –the recently, and briefly, deposed king Basilio. Segismundo recognises Basilio as king, proving himself not a tyrant nor a cruel monarch. He proves the prophecy wrong, accepts the possibility of ceasing to be, and gives Basilio the chance to decide what may happen from that point on. Everything that has happened so far has led them to that moment, to that space in which past, present, and future have collided and life is disclosed as possibility.

Unlike Hamlet, who seems to seek justice in the form retribution, Segismundo aims to free the future from the yoke of the past, keeping it open as pure possibility. Unlike Hamlet, who is torn apart by doubt and does not know if he would rather be or not be, Segismundo wants to be. In a dream, in reality? For him, it matters not. What he seeks is justice, or rather *just-is*: to *be* in an intransitive manner.

Just-Is and the Ontological Abyss. The Great Theatre of the World

The term 'just-is' is open to two different readings that are not mutually exclusive, but necessarily intertwined and complementary to one another. The first of these possible interpretations is 'just-is' as 'to be just': to redeem the past and free the future from its yoke, keeping the latter ontologically open as pure potentiality. The other is 'just-is' as 'simply to be,' to embrace life not as essence, but as existence: as pure *Seinkönnen* or potentiality-for-being. It is characterised by intransitivity, and in consequence it cannot be encompassed within any category –being 'this' or being 'that'– but 'just being.'

Hamlet doubts between being Hamlet and not being Hamlet. He cannot move on. Longing for revenge but not daring to exact it, he clings to a past that demands compensation –retribution. His character is marked by transitivity and actuality, by the way he is positively defined by the law embodied by his uncle. Segismundo, on the other hand, presents a different kind of longing. The prince of Poland desires freedom: he wants a clean slate that would allow him to keep on living, desiring, being. He wishes his actual lack to become the basis upon which new 'lacks' may emerge: he seeks to be minimally and legally recognised as a subject in order to pursue other forms of recognition. That is the logic behind his actions after the battle and the speech above. His longing for freedom is a longing for desire itself. A desire to desire, we might say: *Sehnsucht*.

This German word is difficult to translate into English, but its etymology points to Segismundo's attitude towards justice. It is derived from *das Sehnen* –a fervent longing– and *die Sucht* –an addiction or craving for. In contrast with Hamlet's strong attachment to the past

and his legal recognition –just– as prince of Denmark, Segismundo projects himself onto the future, perceiving it as pure potentiality for further forms of recognition. Escaping his prison, winning the war, restoring his reign, recognising his father's rights, being crowned king…for him, none of these are ultimate goals in themselves, but stepping stones –transitory objects of desire– that lead him towards a higher goal: the reproduction of desire itself, his desire to desire. His actions are, in other words, an ontic embrace of his ontological abyss. Well aware of the brevity of life, Segismundo no longer craves for an object that would provide him with ultimate and endurable satisfaction, but for the craving itself. Segismundo sees and grasps this lack, this abyss, like Zarathustra's eagle (Nietzsche, [1883] 2006, p233), making his home and happiness out of it. He seems to find delight in the struggle, not in its outcome.

The ontic embrace of an ontological abyss that characterises Segismundo's stance and the experience of just-is finds its echo in Calderon de la Barca's *The Great Theatre of the World*. In this work, God compels the World to stage a play in which several actors –who will enter stage from the door of birth and exit it through the door of death– have to incarnate the roles of a king, a poor man, a rich man, discretion, beauty, a peasant, and a child. The roles are assigned arbitrarily, and although there are some protests from the characters such as the Poor and the Peasant, they are reminded that those who play their role faithfully while not becoming fully identified with the characters that they represent will be rewarded with a seat at the table of their maker, and also that those who do forget that they are actors and not the characters that they have been assigned will be sentenced to damnation.

While playing his character as prince of Poland, Segismundo is fully aware of the transience of his life and that he and his character are linked but distinguishable from one another. Hamlet,

on the other hand, becomes fully identified with his role in the play, not being able to relinquish it until the very moment in which he no longer has a role to relinquish.

Conclusions and Future Research

Taking as its point of departure the particular subject who goes before the law hoping to attain justice, this article has emphasised the inability of the law to satisfy the wish for recognition of the subject. It was argued that while the law can grant the enforcement of a series of norms, the recognition of the particularity of the subject escapes its grasp. The longing for recognition of the subject along with the inability of the law to provide it pave the way to the emergence of desires for justice with the potential to redefine the relation between the subject and the law. However it was also argued that whereas the appearance of such desires may respond to a common mechanism, the crystallisation of such desires in one particular understanding of justice or another changes radically from subject to subject, even under similar circumstances. This was illustrated through a comparative and illustrative reading of *Hamlet* and *Life is a Dream*, whose main characters portray different –when not outright opposite– understandings of justice when faced with the law constituting their reality and identity. I would like to take this opportunity to point out the relation between the reading to these plays and the controversy surrounding the case of Inés del Río Prada described at the beginning of this article.

While different subjects may come to develop diverging understandings of justice as a result of their encounters and missed-encounters with the law, the attitude displayed by the collectives of victims of ETA who took to the streets to protest against the release of del Río and others seems to be more frequent than others. A sense of dissatisfaction with the shortcomings of the law and its unfulfilled promises of justice appears to ignite a wish to inscribe one's particularity

in the law: a wish to inscribe in it an identity –an actuality– marked by suffering and loss. However, as in the case of Hamlet, this positioning of the subject leads to an ambivalent relation with the law. A relation in which the subject views the law as an impediment to achieving ultimate and enduring satisfaction that must be overcome through the introduction of harder punishments; but also, and this is key, as something that the subject needs to preserve in its current state in order to prevent their loss –and thus their identity– from fading away. Linking identity to loss through a relation of dependency with the law, this ambivalence prevents the subject from going one step further –from exacting revenge–, but also leads to a permanent state of uneasiness in which the past keeps haunting the present and future of the subject. The question is, of course, whether it is possible for this subject to accept that the law can only offer its own enforcement, and to what extent this acceptance may result in a search for alternative forms of recognition that could keep the future open and free from the yoke of the past.

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