

Emma Zunz by Jorge Luis Borges: the Concept of Justice

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Abstract

Emma Zunz, by Jorge Luis Borges, is the story of a girl who decides to kill her boss in order to avenge her father's death, believing that her father's version of an event that occurred years before was true. Thus, she devises a secret plan, which includes losing her virginity to a complete stranger, shortly before committing the crime, so she could argue that her boss had raped her and that she killed him in self-defense. Firstly, the text shows the contrast between formal justice and taking justice into own hands. Secondly, the question of self-inflicted punishment, which in the story takes place before the perpetration of the crime. Finally, the issue whether truth is the version that can be inferred from the evidence presented in a trial, or the one which is kept to themselves by those involved in a crime.

Key words

Justice; punishment; truth

Reseña

Emma Zunz, de Jorge Luis Borges, es la historia de una chica que decide matar a su jefe para vengar la muerte de su padre, creyendo que la versión de su padre de un hecho que ocurrió años atrás era cierta. De este modo, diseña un plan secreto, que incluye la pérdida de su virginidad con un desconocido, poco antes de cometer el crimen, para poder argumentar que su jefe la había violado y que ella lo mató en defensa propia. En primer lugar, el texto muestra el contraste entre la justicia formal y la justicia por cuenta propia. En segundo lugar, la cuestión de la pena infligida a uno mismo, lo que en la historia se produce antes de la comisión del

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delito. Por último, la cuestión de si la verdad es la versión que se puede inferir de las pruebas presentadas en un juicio, o la que se guardan para sí mismas las personas involucradas en un crimen.

Palabras clave

Justicia; castigo; verdad

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1. Introduction

Resorting to Borges to illustrate and share ideas about the prospects of justice in literature is not the result of chance. I have been reading the works of this great writer for a long time. The first story I read was "The Immortal" when I was close to finishing high school, and, even though I did not understand its implications, I knew that it disturbed me. Then, through several years of shared readings of his poetry, his essays and his stories, I began to weave a secret friendship with him.

My reverential awe prevented me from approaching him on the two occasions I saw him walking down Maipú Street in Buenos Aires. He was accompanied by someone and assisted by a blind cane. When he died, in Geneva, in 1986, the newspapers of my country were filled with tributes and eulogies. I kept the clippings of two of his poems on a side table, next to my desk. These two poems have accompanied me throughout my twenty-two years as a judge. One, *Los Borges*, from a volume of short stories called *The Maker*, 1960. There, an allusion to his elders, so emblematic in Borges, merges with some of the topics so treasured by the author, such as circular time and the fact that, despite their plurality, all human beings are essentially similar¹. The other poem -*On his Blindness* (originally in English)-, was part of *El Oro de los Tigres*, published in 1972, an autobiography that surprisingly shows what his blindness took from him and, in turn gave him, since he was 53 years old.

But there is another reason for choosing Borges. He embodied literature in its two aspects. Not only was he a colossal writer, one of the most renowned literary authors in the XXth century, but also an avid and persistent reader. Everything that Borges had read, his vast culture, his penchant for encyclopedias and maps, are the foundation of his writings which include philosophical theories, quotations, stories of champions, heroes and poets. In one of his prologues, he says, "The truth is I grew up in a garden, behind lanceolate railings and in a library of unlimited English books" (Borges 1930). And in another preface, he says, "Sometimes I suspect that good readers are swans, even more sinister and unique than good writers" (Borges 1935). In the same line of thought, in his poem *A Reader*, he says: "Let others pride themselves over how many pages they have written, I'd rather boast about the ones I have read" (Borges 1969).

Emma Zunz tells a story that can be very well considered as a "court case" and it is part of what has been called Law in Literature (Trinidad and Gubert 2009, pp. 176 ff). From that perspective, it may be recommended to law students as a useful tool in their university training.

The story begins in 1922, when Emma Zunz receives a letter from Brazil with the news that her father, a fugitive of Argentine justice, has died due to an overdose of barbiturates, taken by mistake. Since then, Emma decides to kill Loewenthal, now her boss at the textile factory and who, according to information revealed by her father before fleeing, was the person truly responsible for the embezzlement at the spinning mill. Emma, blindly believing that her father had committed suicide and blaming such death on Loewenthal, decides to end his life because she considers him indirectly responsible for her father's death. For this reason, she elaborates a plan that includes self-punishment. She seduces a foreign sailor in the harbor area and she is payed in exchange for sex. Such situation, experienced as an outrage, will be used by her as an alibi to the police and the justice system. When she finally kills Loewenthal taking the revolver from the desk drawer of his office, she claims and repeats many times to the authorities that her boss had raped her and that she had had no choice, but to kill him.

¹ Borges (1952) writes: "The fact is that all writers create their precursors. Their work modifies our conception of the past, just as it is bound to modify the future. In this correlation it does not matter the identity or plurality of men".

The story, beyond the mastery of its style, is transformational for its contents. In the epilogue of *The Aleph*, Borges (1949) considers that the plot suggested by his friend Cecilia Ingenieros was "splendid" and also indicates, with his usual modesty, that it was superior to his "fearful execution". Whoever is exposed to this story, will become a different person. This is because, when reading Emma Zunz, readers have the opportunity to watch from different perspectives, and to reflect on good and evil, right and wrong, true and false in human behaviour. The text contains the powerful attractive features of the most hidden areas of human beings who may lead a life similar to ours.

The story refers to various aspects of interest from the perspective of justice. One is the dichotomy between formal justice and revenge or taking law into our own hands. Another one is the topic of punishment which, unlike what happens in ordinary justice, in the story occurs before the completion of the crime according to the discretion of the victimizer. Another element underlying the narrative is the concept of truth, and whether this truth is reflected in the evidence submitted for the process, or whether it is what protagonists keep to themselves. Furthermore, the diversity of signs, appearances and motivations suggests the difficulty that often occurs when judging.

2. The concept of Justice

There are two main criminal acts in this story: the embezzlement at the spinning mill and, years after, the murder of its owner Aaron Loewenthal. The judicial system is involved in both crimes, but, given Emma's dissatisfaction with the punishment imposed by the court, the protagonist decides to take law into her own hands.

Thus, in the story, the idea of justice varies according to its different meanings. In the case of the embezzlement, it is the formal justice system that decides upon the verdict. Borges transmits Emma's thoughts in a motley synthesis: *"She remembered the little house at Lanús which had been auctioned off; she recalled the yellow diamond-shaped windows; she recalled the warrant for arrest, the ignominy; she remembered the poison-pen letters referring to "the cashier's embezzlement."* There is not much more data for the reader to reconstruct the steps of the judicial process as this was ordered after the disappearance of the money. Six years earlier, "a sentence of imprisonment" had been issued against Emma's father. Yet no one exactly knows what Borges meant by this brief reference in 1949, when he wrote the story. Nowadays, it could be interpreted as "a preventive detention order", that is, a judicial declaration by which, at that stage of the investigation, there was enough evidence to incriminate Emma's father, and arrest him. Another possibility would be that Emma's father had already been condemned and had fled. In any case, this man decided to elude the action of justice, a fact which is also a crime.

Thus, the procedures used by the ordinary justice to sentence Emmanuel Zunz, who later changed his name to Manuel Maier, are not put into focus by the narrator.

The reader, with the task of unraveling the events that are presented in the plot, will notice inevitable similarities with what happens in the courts. As in real life, not everything is perfect: judges often experience serious difficulties in their duty of analyzing behaviors and judging. From the moment the incidents take place up to final judgment, time has gone by. And, during the judicial proceedings, a series of other elements are added to the "true" facts: witness statements, expert reports, other tests, not always reliable, and more than once the lack of data on relevant circumstances. This, far from contributing to clarity, makes the work of judicial inquiry more difficult. Just like textile workers, who must disentangle balls of yarn, those who "do justice" should also disentangle evidence and make an interpretation

of law and facts, with a logical basis, leaving no loose ends and determining who is the responsible party.

On the other hand, the story presents justice by own hand as counterpart of justice administered by government agencies responsible for that task. The story advances along these lines and readers are led by the hand of the textile worker to witness each one of the steps of vengeance that she has decided to take. On Thursday, January 14th, 1922, Emma received the news, cried and recalled past events. On Friday 15th and without having slept a wink the previous night, Emma conceived the idea of the perfect crime, on Saturday 16th, she called her boss to make an appointment and talk about "something related to the strike" that was being discussed at the factory. Finally, she worked until noon and, by evening, she was subjected to sexual humiliation by a Swedish or Finnish sailor near the port. From there, she went to the factory and killed Loewenthal with three shots. She picked up the phone and said "*something incredible has happened. . . Mr. Loewenthal had me come over on the pretext of the strike. . . He abused me, I killed him . . .*"

In primitive times, reactions against crimes were driven by the instinctive impulse of revenge and victims and / or their relatives and acquaintances made justice by their own hand. With the passing of time and the introduction of new forms of the state organization, differentiated bodies were created to allow for the passage from individual repression to state repression. Borges does not seem to subscribe to this -although the center of the plot is revenge or justice by our own hand- which is a legal concept implemented in the most rudimentary societies. Nor is there an explicit criticism of the functioning of ordinary justice. While the text suggests that either Emma's father or Loewenthal could have been responsible for the embezzlement, Borges invites us to think over the fallibility of human justice in its different forms.

Besides, as in a game of mirrors, so typical in Borges, the story alludes to another type of justice, the Justice of God, of which Emma herself believes she embodies. By definition, Divine Justice is not managed by humans. However, it is no better than Human Justice, considering the vulnerability of so many beings, of sectors of society and of regions throughout the world.

The narrator says: "Ever since the morning before she had imagined herself wielding the firm revolver, forcing the wretched creature to confess his wretched guilt and exposing the daring stratagem which would permit the Justice of God to triumph over human justice. But things did not happen that way."... And here is another concern typical of Borges: the dichotomy between Predestination and Free Will². Who decides over the behaviour of human beings? Is it human beings themselves? Or is it someone else pulling the strings from above?

Beyond the many approaches that are possible in history, what calls the reader's attention is the sustained invitation to reflect on the possible paths of justice, its precariousness and the difficulty of achieving it. The narrator describes the facts and goes deep into the perceptions of the righteous protagonist. In this respect, it should be underscored the impact that the idealism of Berkeley had on Borges ("*To be is to be perceived*"). The author does not take sides explicitly and the ambiguities shown in the story allow the reader to complete the work.

3. The topic of punishment

So inclined to rewrite his texts, in one of his interviews Borges said that the original title of the story had been "*The Punishment*". This perspective, which may have given the name to the story, also triggers off several considerations.

² Borges (1960) states at the end of his poetry *El Ajedrez* (The Chess) in *El Hacedor* (The Maker) "...God moves the player, and he, the piece". Which god behind God begets the plot of dust and time and dream and agonies?

By definition, punishment is what follows after a crime. Its purpose is preventing criminals from repeating an offence in the future, given the suffering that punishment implies. But, at the same time, punishment is a deterrent for society, as it shows the negative consequences of committing a crime.

In *Emma Zunz*, this sequence is inverted: punishment comes before the crime itself. Emma must live with this sexual humiliation and such self-punishment gives her enough strength to kill Loewenthal. The narrator describes "*The man, a Swede or Finn, did not speak Spanish. He was a tool for Emma, as she was for him, but she served him for pleasure whereas he served her for justice*".

Apart from being prior to the offence, punishment is what the victimizer herself chooses. Essentially, this also differs from what happens in the courts. Penalties are imposed, not based on the whim of offenders, but on the degree of severity of the incident, its circumstances and the background of the offender. The sacrifice chosen by Emma has had the effect of a *bill of indemnity* and Emma feels relieved from the burden of guilt. Her purpose is to punish Loewenthal, and to do so with impunity.³ In two different instances, the author underscores this, using a parenthesis, as if penalties were not within legal standards: "*(Not out of fear but because of being an instrument of Justice she did not want to be punished)*" and "*I have avenged my father and they will not be able to punish me. . .*").

Emma's behavior reminds us of the Pope's indulgences, a resource used by the Catholic Church to grant total or partial pardon. In contrast, Raskolnikov, a character in "*Crime and Punishment*", by Dostoevsky, a fugitive due to a past murder, seeks the punishment of the Judiciary as atonement to his behavior.

4. The concept of truth

The concept of truth and the idea of falseness permeates the whole story. In only three pages, the author triggers a series of questions among readers concerning the criteria on which "the objective truth", as it is known in legal cases, relies.

Accustomed in their daily chores to "truth as it appears in legal dossiers", lawyers and judges are well aware that legal truth or objective truth is frequently far from being identical to actual facts. This is because the judicial process is no more than a reconstruction of events to determine who is guilty or responsible for a crime. And this reconstruction is necessarily selective. It is influenced by the passing of time and by the accumulation of different versions of facts, which is why it does not always uncover the real truth.

Borges says: "*To relate with some reality the events of that afternoon would be difficult and perhaps unrighteous*". This observation can be transferred to the scope of a judicial process. The difficulty in assimilating reality applies to the task of judges, whose role is to decide if an act should be condemned or not. It is not always possible to have all the elements related to the case. Judges count on collected evidence, and the testimonies of parties, lawyers and officials involved. Often, judges face situations with details they cannot grasp. They are not direct observers because they have not been in the scene of the crime. Data is supplied by those parties involved and sometimes we cannot expect the truth from them. There are also third parties that will have to bear the burden of their own subjectivity, which will surely have an impact on that aspect of reality about which they will ultimately declare. This restricts the possibility of justice. Regarding the natural evanescence of the facts due to the passing of time, the narrator says, later on: *... how to recover that brief chaos which today the memory of Emma Zunz repudiates and confuses?* But judges cannot avoid the resolution of the case. They

³ Poe (1846) in *The cask of Amontillado* makes him say to whom decides the revenge: "I must not only punish, but punish with impunity. A wrong is unredressed when retribution overtakes its redresser. It is equally unredressed when the avenger fails to make himself felt as such to him who has done the wrong".

have to decide based on the evidence they have at hand, even if they need to evaluate facts that have been distorted. Eventually, they may be wrong.

From the very beginning, Emma Zunz believed that her father had committed suicide, although the letter says "...Mr. Maier had taken by mistake a large dose of veronal and had died..." Based on this information, insufficient for a judicial investigator, she does not doubt that her father has killed himself. But, there were reasons to doubt: the letter from her father's boarding-house mate says that her father had taken the dose *by mistake*. Besides, she blindly believes what her father had told her before fleeing from the Argentine justice: "*her father, on the last night, had sworn to her that the thief was Loewenthal.*"

Emma's subjective truth is based upon filial love and family honour, which explains why she believes that there is no need for further investigation. However, she had not revealed this to anyone else, not even to her best friend because, "*perhaps she was shunning profane incredulity*". Moreover, the protagonist of the story incurs in falsehood. She is responsible for destroying the evidence that could incriminate her: the letter posted from Brazil, informing the death of her father by ingestion of a barbiturate. Apart from accusing her work-mates on false grounds, she makes up a false story that works as an alibi: the sexual experience with the unknown sailor which will then be attributed to Aaron Loewenthal.

If we consider again the story from the perspective of legal culture, it shows how judgments, not from ordinary people, but from members of the judicial system, can eventually be based upon prejudices. In the case of justice, it is clear that ideology or religious beliefs may permeate judgments. Thus, if a judge is a Catholic, he will be inclined to declare the nullity of a marriage between people of the same sex, even when the egalitarian union has been sanctioned by law.

The story also shows an interesting approach to the material used in courts. In every crime, traces are left, as well as false leads that, far from helping in the investigation, can obstruct it. After having perpetrated the murder, Emma builds her evidence "*she disarranged the divan, unbuttoned the dead man's jacket, took off the bespattered glasses and left them on the filing cabinet...*"

Truth is elusive and obstructs the path to justice.

5. Misfortunes of Justice

In different instances of the story, Borges puts forth the flaws of justice and summons readers to rethink about it. He not only thinks of individual justice, which moves along its own track without meeting the rules of social interaction, but also of the judicial court system, with its limitations, due to the passing of time and to the different versions of the parties involved. Finally, and on the background, there is the interpretation of the Justice of God and, in this regard, the enigma of whether human behaviour is caused by Predestination or by Free Will.⁴

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⁴ When the interviewer asks about the fatality as a literary genre, Borges responds "Yes, and that's a pretty common sentiment that can be comforting to one also, eh? Because if one disbelieves of free will as I do, then you do not feel guilty, if I've done wrong, I've been forced to do wrong.... That's why I do not believe in justice because justice presupposes free will and if there is no free will, then nobody is neither punished nor rewarded. And this leads us to a phrase of Almafuerie I always mention and I have quoted every time we have talked: "Ask for justice only, but it would be better not to ask for anything". To ask justice is an excess"" (Borges 1998, p. 289).

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