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CHAPTER 2

LITERATURE BETWEEN RIGHTS AND THE POSSIBILITY OF JUSTICE

Latin American cultural criticism has been divided between those defending the capacity of the state or the national form to effectively represent a sense of community and the arena for political change and those mourning or celebrating the historical closing of that possibility. A parallel debate has defined literary studies, as the displacement of literature from the self-assigned role of mediation in the constitution of national hegemonic culture (perhaps only determinant from the viewpoint of literary scholarship) has been repeatedly theorized as well as both feared (as literature has been equated to critical consciousness) and welcome (as literature’s displacement would give way to voices misrepresented, coopted by, or unregistered within the archive of lettered culture). But if we consider, as Neil Larsen has argued, that Latin American literature often postulates the nation as an a priori only “in the negative sense of having been ruled out as the ultimate, positive meaning of any personal or social emancipation” (19–20), it follows that literature’s hegemonic pretense and its capacity to work against hegemonic articulations are largely complementary. Indeed, what are now considered the classics of Latin American narrative and essay did bear witness to the promises, but primarily to the shortcomings, of the Latin American state to create and represent a sense of national community. This will become obvious in my reading of Pedro Páramo (1955), a novel I present here as a theoretical matrix to think about literature and the law in the Latin American national predicament. Thus, literature’s passage from being conceived in the vicinity of legal discourse in the colonial and the republican periods (Ramos 23–25) to carving a critical stance from the margins and against established discourses of authority, such as the law, signals that the flexible borders of what is defined as “literature” move along but not in consonance with the locations of power. The narrative arc of this book performs the displacement of literary authority as my argument moves back and forth from lit-
erature to visual media; but, as Maurice Blanchot has argued, such is the aporetic operation of modern and contemporary literature itself. Literature’s allegiance to the national form is a chapter in the history of literature (an impossible history, because the historical object is always somewhere else), which is not to say that nothing has ever changed in the relation of literature and the nation but, rather, just the opposite: to find something to lament or to celebrate in the announced demise of literature or the national form is to negate this change and to reify the category of literature.

By building its own authority through discourse, literature cannot but bear witness to the formation of political subjects and also to the fact that this subjection never yields the expected results that would satisfy the demand of hegemonic closure. This chapter is centered on a comparative reading of three novels whose dialogue might seem unlikely, in order to show how their narratives display the conditions of legal subjection, its shortcomings, and the imagination of justice thus produced. Tracing a narrative parable signaling an epochal turn that resonates with the topics of this book, I start with a reading of Juan Rulfo’s *Pedro Páramo* to put it in dialogue with two more recent novels, Laura Restrepo’s *La multitud errante (A Tale of the Dispossessed)* and Fernando Vallejo’s *La virgen de los sicarios (Our Lady of the Assassins).* These vastly different literary projects coming from three different contexts and expressing different worlds—small town postrevolutionary Mexico; contemporary Colombian countryside with its displaced populations; and the city of Medellín, Colombia, at the time of the drug cartels wars, respectively—can be read as attempts to narrate the problem of the foundation of a political community. Two different foundations producing different notions of rights: *Pedro Páramo* might be read along “the vector that leads from accumulation to power to right and that defines the first figure of constituent power” (Negri 258) creating a sense of community based on fundamental antagonism. Both *La multitud* and *La virgen* suggest a powerful intertextual reference to the 1991 Colombian constitution—an attempt to set new foundations for the state under the guise of neoliberal, free market ideas, combined with an ambitious incorporation of human rights and expansion of civil and cultural rights (see Uprimni; Yrigoyen Fajardo).

*Pedro Páramo* represents the classic literary example of the dualities and splits, which the sovereign state was supposed to mend, inherent to Latin American postcolonial entry into modernity. The legal bond centered on sovereign power over a territory that sets the boundaries of the imagined community, while structuring *Pedro Páramo’s* literary
world, it also represents in the novel a mortal capture fueling the literary imagination, but where literature needs to move away from, into other orders that might be called postfoundational as they bypass any claim to or any search for primordial or transcendental reasons—nature, blood, birth, religion, territory, the people—that might ground a political community. If the constitutive lack of ontological ground of community is particularly formative, manifest, and consequential for postcolonial modernities, this is largely negated by Pedro Páramo’s sovereign decision, which can be summarized by the injunction “la tierra no tiene divisiones” (49) (“the land’s not to be divided up” [37]), to make his own name conflate with that of Comala (the town where Rulfo’s narrative takes place), to which the imagination of possible justice will be subservient even after the master’s demise. I might be stating the obvious by saying that nothing resembling an act of sovereign power as a totalizing colonization or subjection of the political imagination is present in the two Colombian novels. Nevertheless, the three novels share peripatetic characters that enact “processes of subjectivization that give rise to the justice seeking subject” (Balibar, Mezzadra, and Samaddar 3), expressed narratively as peripatetic wanderings into worlds that, in one way or the other, are also populated by specters. But while the journey of Juan Preciado (Pedro Páramo’s central character) is akin to an impossible restitution of an original sense of justice posited as a previous condition, a state of equilibrium that never existed and whose spectral presence would need to be buried for another justice to come, the nomadic characters in La multitud and in La virgen are not guided by any desire to reinstate what has been lost. Instead, whereas Fernando (La virgen’s central character and narrative voice) holds to and enjoys what he claims is an insurmountable split between past and present, individual and community, that preempts the idea of the common, 3 thus of the necessary horizon of any justice that is not consumed in simply settling accounts, Siete por Tres (La multitud’s protagonist) enacts through his journey the possibility to transcend injustice. The presence of masculine main characters echoing heroic narratives speaks of the law’s purported universality, whose action is articulated in masculine key in the Western imagination. 4 As these novels interrogate the possibility of legal justice, it is therefore relevant that, at the moment in which the legal hold is shaken, it is a female character (Susana San Juan) who undoes Pedro Páramo’s mastery (as Gareth Williams [133] has shown); that the attempt in La multitud at defining a world away from masculine violence is narrated from a woman’s viewpoint (and of course, written by a woman); and that the quest in La virgen, or perhaps the desperate
escape from any sense of quest, is guided by a perverse narrator and father figure, whose deadly desire of unbound narcissistic satisfaction attests to the self-destruction of a patriarchal order.\(^5\)

The character of “superfluous human beings,” which Arendt develops in *Origins of Totalitarianism* as a consequence of both totalitarian regimes and the conditions of statelessness of refugees, was at the root of the twentieth-century human rights reinvention after World War II. It is in relation to these conditions that Hannah Arendt articulated her influential critique (which is at the base of many later critical perspectives on human rights), or what she called her “perplexities” about human rights as surplus rights endowed by extracting from the grantee any political responsibility or agency, as the subject of human rights falls outside any community where rights matter (*The Portable Hannah Arendt* 31–45). For Arendt and others, the only rights that count are those materialized by membership and enforced by citizenship. The subjective condition of the stateless is famously described by Arendt as one in which “their plight is not that they are not equal before the law, but that no law exists for them; not that they are oppressed but that nobody wants to even oppress them” (36). I locate these three novels along the spectrum that Arendt suggests in order to disclose possibilities that might point beyond Arendt’s own conceptualization, as I understand that different aspects of this condition of “superfluous humanity” and different uses of the discourse of rights to overcome this condition traverse these narratives.

*Pedro Páramo* might indeed be interpreted as a novel that displays an archetypical situation, the condition of belonging or membership to a bonded community, a membership that depends on the sovereign’s sole reason to preserve itself as the central hold of all power. When it is argued that the state of exception has become the rule, an ideal, “classic” state of affairs organized by sovereign decision is assumed, in which membership is defined within a homogenous space of jurisdiction. Centered on the consequences of sovereign decision, Giorgio Agamben’s influential theorizations presuppose a series of correspondences; namely, that it is sovereign abandonment (that is, being condemned to inhabit a dangerous threshold between law and life) that brings forth *homo sacer*’s humanity as superfluous, deeming his existence dispensable.\(^6\)

I want to qualify and interrogate Agamben’s conceptualizations from the situation this novel presents. In particular, from the fact that sovereign rule is defined by an act of land (dis)possession, an act of conquest, making membership and abandonment not mutually exclusive but continually overlapping. Arendt’s phrase “nobody wants to even oppress them [the stateless]” underscores the realm of desire at stake in
subjection, resonating with the inhabitants of Comala and their fixation on the leader’s recognition, with respect to which the lives of every one of the characters is constituted as dispensable even after Pedro’s demise. The attachment experienced by Comala’s inhabitants toward their oppressor, beyond which they find only their own finitude realized without any sense of transcendence, future, or legacy, speaks of the lethal subjection that only takes hold along with the anxiety of falling outside the boundaries of membership. If being an instrument or a passive victim of despotic and arbitrary rule becomes preferable to being superfluous, the paradox that the novel presents is that this situation of belonging is simultaneously (contrary to the categorizations implicit in Arendt who considered belonging, recognition, and rights as mutually reinforcing) a situation of abandonment. The affective reassurance of belonging and recognition (to humanity, to Comala) ties the characters to the oppression of an endless hope projected onto the leader Pedro Páramo’s potential recognition, which is always missing and perpetuated as such, as a constant abandonment (which would be the son’s version of what his mother names olvido [oblivion], were he able to articulate it) that reinforces Pedro’s phantasmatic rule by which Comala is recognized only by deeming its humanity superfluous.

Pedro Páramo is such a foundational novel in Latin American letters (succinctly recapitulating problems prevalent in colonial and national texts and projecting its resonance onto the question of sovereignty typified by the dictator novel) because Comala strives to repeatedly define its own autonomy by transferring sovereign power to a father figure who names the totality by making it indivisible and homogenous under his rule. Pedro’s ban on land divisions coopts the common memory of a stage previous to colonial primitive accumulation, after which this memory can only be processed in terms of possession or dispossession, leaving Comala inhabitants tied by guilt and mutual resentment. The antagonistic social bond is complemented by the promise of return that structures the plot, now understood as restoration of a primary community defined by the fundamental Western and Christian belief in justice realized as a perfectly adjusted, harmonious world—as in Paradise, golden age, utopia, promised land, or any modern teleological (progressive, developmental) conception of history. In this sense, it might be read as a missing link between colonial settler’s rule and the rule of capital.

But because of the tyrannical quality of the titular character, Pedro Páramo is often read, assuming perhaps a liberal binary of totalitarianism versus democracy, as eschewing law altogether through authori-
tarian force as the absence of any normativity by which disputes might be mediated. However, the novel is not about illegally acquired and brutally perpetuated power but, rather, about what can be called “settlers’ justice”; that is, about the original geopolitical violence and its constant iteration that creates legality in the first place, the boundaries of the community and its exclusions. Páramo’s unlimited right, his aspiration to limitless (self) possession (“la tierra no tiene divisiones”) is founded on previous dispossession sealed through the bargain accepted by every one of the characters and forces in play, of getting recognition and power in return for the submission to the leader that secures the community against a threat of dissolution. Rather than the figure of the pact with the sovereign or of the contract among equals—Hobbes or Rousseau—that grants security and counter the always-looming threat of fragmentation and destruction, the figure most appropriate for what I called “settler’s justice” is that of a foundational, thus permanently reenacted and perpetuated, act of extortion. Or, to put it differently, rather than a postrevolutionary state where the subject of rights will no longer be defined through blood and land—which is the model of the European modern bourgeois revolution—the initial takeover of land and the creation of titled property that establishes the law of the land produces rights of the dispossessed as a compensatory remedy, a remedy that would by the same token legally settle the irreversibility of history, in which the “lost community” would perform as the foundational myth. Pedro’s sovereign power is unbound because it is sustained alive as a collective illusion that regards his power as both the cause for the loss of a just community and the condition for a possible reunification. Therefore, abandonment is at the base of, rather than the opposite of, belonging and recognition, echoing those situations in which, according to Jean Luc Nancy, “history has been thought on the basis of a lost community—one to be regained or reconstituted” (9), as opposed to an altogether different existential condition for which “community has not taken place” (11)—arguably the situation in which a constitutive power with a transformative (and not merely restitutive) principle of justice might emerge out of an absence.

Land is certainly not just any possession secured through legal entitlement. It is both the very foundation of patriarchal notions of personhood imposed through colonial subjugation, from which the notion of rights stems, and the historical anchor of the national polity. The right to property is more than a right; it is the organizing principle and founding stone upon which other rights are conferred, thus rendering dispossession a form of recognition by which, fictively if not effective-
Comala’s denizens are actually endowed with membership, that is with civil rights, as Walter Benjamin has argued: “when frontiers are decided the adversary is not simply annihilated; indeed, he is accorded rights” (“Critique of Violence” 295). Recognition, which is never settled, in fact validates and legitimizes foundational violence by offering “rights” as something that is granted in return, even when gained; thus, it actually produces misrecognition, as it perpetuates the denial of the fundamental dispossession. Even when nominal, these rights set expectations and structure the demand of (in Juan Preciado’s mother’s words) “lo nuestro, lo que se estuvo obligado a darme” (7) (just what is ours. What he should have given me but never did [1]), thus assuming that some official record is kept in the master’s house. But the demand exceeds the terms of adequate compensation, contractual obligations and desert, as this “lo nuestro, lo que” amounts to the humanity that is named as belonging to that community.

A restorative notion of justice as the recuperation of a formerly existing balance, which is supported by Juan Preciado’s demands, effectively disavows the knowledge that every balance hides the violence that created it. Pedro Páramo’s claim of the land as his own and with no divisions denies the fact that divisions are impossible to eradicate as the expansion reaches a point of nonidentity, as long as a border is what defines the boundaries of the community, leading to Pedro’s repeated reassertion of his dominion. After the original act of dispossession through which life has been subjected, colonized, and made available, Pedro’s sovereign power is not manifested only through the decision of giving or taking life and valuable tokens but primarily by setting up a world in which life is measured against a system of value that he possesses, organizing life around his assignation of precio or des-precio (price or value, and devalue or disdain). The idea of adequate retribution that opens both the narrative and Juan’s journey to recover his preciado (priced, or appreciated) proper name and status, assumes a substantial faith in a system of measurement and equivalences that every system of justice presupposes (as Wai Chee Dimock [ch. 1] has masterfully argued); but property is “not only the rational principle by which the negotiation becomes possible, but also . . . the one thing that escapes all rational principles” (Caruth 434). In fact Juan Preciado, Pedro’s neglected son, prompted by his mother to a peripatetic existence, goes to find out the price of his life, what is due to him, and to be “appreciated” by his father’s master measurement, by which the worth of Preciado’s mother, Dolores, had been set in relation to the value of her
land. So, the mother’s opening demand—go and ask your father for what is (legitimately) ours—assumes a concept of justice as restoration through rights claims, and a complementary system of accountability—a justice of which Pedro, despite being cast as the wrongdoer, is the ultimate guarantor. Indeed, Pedro is the bedrock and the vanishing mediator underlying a system of equivalences that, even when it fails to be realized, holds itself together as a general belief. Despite remaining potential (or “fictional” in Balibar’s [“Ambiguous Universality”] terminology, as it creates a framework of potential universality), the system of accountability is nevertheless powerfully effective at setting up demands and expectations. Accounts are believed to be kept, and thus charges might be claimed; potential acts of restoration and adjudication are the common denominator that keeps the community, albeit fatally, together, lending each member a sense of belonging, although everyone has been, from the opening line of the novel, betrayed and abandoned. If Pedro Páramo commences with the feeling of wrong and injustice brought about by a broken promise—“el olvido en que nos tuvo, mi hijo, cóbrasel caro” (7) (Make him pay, son, for all those years he put us out of his mind [3])—it is because the transcendental order in which the patriarchal system rests is not undermined but is rather, in fact, reinforced by the activation of resentment, guilt and hope. So, Juan Preciado never ceases to mourn a loss, hoping for a good measure of restitution.

However, the fact that restoration negates fundamental violence is also suggested in the opening utterance—“cóbrasel caro”—as the caro (which translates as expensive, but also as dear) price speaks of the wrong as being beyond measurement. Any high price compensates to ultimately negate the foundational violence by which the order is constituted that doesn’t acknowledge any reciprocity, so the debt cannot be recognized and settled. Any high price would submit to Pedro’s system of valuation in the first place, revealing a fundamental alienation that will remain as such, regardless of the circumstantial state of the accounts. The caro price points to a premise of self-worth linked to a notion of rights to be claimed, against which the abandonment (“el olvido en que nos tuvo”) is drawn. Paradigmatically, the reason Pedro doesn’t give his personal lawyer, whose docile loyalty he has enjoyed since making a name for himself, any compensation for retirement (assumed in the system of favors bestowed by the master in exchange for the lawyer’s spineless submission) is because the marginal works of the legal apparatus with which this lawyer negotiates are themselves contingent to Pedro’s power of determining the law of the land as the measure of everything. He
sets prices for Dolores Preciado, for the lawyer, for Toribio Alderete, for Father Renteria, and for the revolutionaries, thus casting a fictional, deceiving net of mutual accountability. Pedro Páramo rearranges bonds and attachments, replacing any previous notion of the common or constituting the retrospective illusion of an organic community previous to power and measurement. The precio or menosprecio (subestimation) is a continuum made possible by the operation by which life becomes a páramo, the deserted new beginning that sovereign power promises to fulfill—a fulfillment that depends on the previous alienation of life. What falls beyond this expropriated commonality has no chance and simply goes crazy. This is the case of Susana San Juan and of her father, but also the case of the protagonist Juan Preciado.

Biblical overtones and Christian symbols are both upheld and debunked in the very structure of the novel, as has been amply studied. But Christian eschatology, the overarching sense of finality of living after the end (but before redemption), is the constitutive temporality in Pedro Páramo. The Last Judgment pending, both symbolic fathers—priest Renteria and Pedro—express their faith on the accountability of the earthly deeds. When Miguel, Pedro’s only recognized son, dies in one of his reckless adventures, his father invokes a larger order by saying that he himself must be paying for his misdeeds sooner rather than later, in this world rather than in the next. Rather than an act of acceptance by Pedro of his own subjection to a superior rule, or at least an order larger than his own will, Pedro’s reaction confirms the validity of the masculine law by which universality is supplied by (a resemblance of) calculation and measurement guaranteeing a universal order of value. Pedro conveniently imagines a demanding God, but one who submits to the law of accurate measurements and keeps a cognizable account awaiting for everyone at a certain time of realization. This precludes contingency; or perhaps, in a more providential interpretation, the vertiginous awareness that divine judgment is by definition unbound by any system of equivalences. The figure of a regulated God only hides, while also attempting to master, the senselessness of death, God’s abandonment, which itself conceals an abandonment or replacement of God subsumed to the rule of capital. In response, Pedro’s effort to exert control entails a redemption put exclusively in secular terms: “a relation to God” defined by Max Weber as “a form of the relation of subjection judicially definable” (qtd. in Cacciari 176).

Comala’s dwellers are far from simply hopeless; instead, they inhabit a self-fulfilling, cyclical time/space of hopeless hope, as hope for fair distribution and recognition by Pedro Páramo is what identifies
them as who they are; it is both their identity and the source of their defeat. Thus, giving up hope is giving up their very being, constituted around the leader’s law; but sustaining hope is justifying his abuse to which they are attached because all their being goes with it. The Comala community is bound together in a revengeful resentment that is impossible to bring forth, because of the fear of disappearing in the act of revenge along with the paternal law that gives Comala its name. The wrong is there for everyone to see; it is actually shared inasmuch as everyone is guilty of having yielded to Páramo’s desire with the expectation to be compensated at one point. Comala’s principle of justice depends on proposing a center that holds the totality together, which persists in suspended animation even after its own ruin, sustained by a relentless hope that the future will compensate.

If ghosts, like the undead that populate this novel, attest to failures of justice, it is because justice always has an eschatological component, delivered as it is on behalf of both the dead and the unborn (Derrida, *Spectres of Marx* 20; Jennings 38). Redeeming the dead is an overarching theme in *Pedro Páramo*, in that way related to Hamlet (also the offspring of a sovereign, although not abandoned but instead charged with being the chosen one) and his ordeal of restoration of order, lineage, and social equilibrium. However, if no definition of justice fits into or can be extracted from any fair act of judgment, it is because justice can only be measured against an unknown future, which is populated by the ghostly presence of the unborn. This is perhaps the role of the incestuous siblings in their half-destroyed, or perhaps half-built, dwelling, as a broken or never-realized womb, holding a promise that never delivers. This is also the symbolic force of Dorotea’s imaginary baby. What these internal allegories point out is that this restorative effort entailed by Juan Preciado’s ordeal remains, in any case monumental—pure closure, not propelled by any desire but just by the echo of a memory, and destined as such to remain strictly in the realm of the dead without any prospective horizon. Thus the movement of restoration and repair is doomed to a reiterative, ritualistic failure. Preciado’s search for repossession and self-possession (a self that encompasses him, his family, his community) cannot but end up in total dispossession—as only by renouncing to the claim and not recognizing the authority of the father, he might have been able to recover the history that his rights claim erases, perhaps even to find a subjective position from which history might be critically judged. And the community of specters that is Comala perpetually mourns the emptiness of the father figure to which it has transferred the power to determine the value of life, condemning
itself to a second death, after they have already alienated themselves, in order to posit death as the only possible, baroque, apocalyptic realization of a principle of equality.

But ghostly characters’ speech (which is another name for literature) bears witness to a humanity that, even outside the master’s declared boundaries and after his abandonment, cannot be reduced to bare life. This leads us to the possibility of thinking justice, beyond Pedro Páramo’s drama of retribution, compensation, or restoration. I submit that this is what Laura Restrepo’s novel, La multitud errante, attempts, as her main character’s trajectory might be read as a rebuttal to Juan Preciado’s destiny. La multitud takes as its starting point not the situation of membership and consequent abandonment of the son but, rather, his departure from a condition in which his humanity was deemed superfluous. As this novel is less well known than Rulfo’s classic, I develop my reading as I summarize the plot. The novel is narrated from the perspective of a foreign female character volunteering in an albergue, a refuge for displaced people in the Colombian town of Tora (whose real-world reference might be Tora Viejo in the Amazon region). It is the story of her interest for the central male character whose only known name is Siete por Tres (Three Sevens, in the English translation), in the midst of horrific violence in which he was brought up—a violence that is referred to but largely unrepresented in a narrative that avoids descriptions and doesn’t follow realistic conventions, including naturalistic pathos. Yet, the historical and political references in the novel are clear. It is also the story of Siete por Tres’s search for Matilde Lina, the motherly figure who adopted and protected him from war, famine, and forced displacement throughout his childhood, after he was found as a baby at the church doorsteps of the town of Santamaria in 1950. Siete por Tres is nicknamed (by whom?) after the extra toe with which he was born (given that fingers and toes are both dedos in Spanish, so the protagonist counts with twenty-one toes/fingers), but nickname and name are indistinguishable when the notion of genealogy itself is uncertain. In fact his name signals the protagonist’s very being as divided and additional, a surplus, perhaps superfluous for the account of the state, counted only as the one who doesn’t count, and yet multiplies, as the story of his life begins with an expulsion; but his supernumerary finger also points to (no pun intended) his uniqueness. While this genealogical uncertainty can be registered as lack from the viewpoint of legal identity, the inscription of his (nick)name in the albergue’s register when he checks in opens the question of who counts for whom—what are the symbolic inscriptions that remain significant? The birth year
1950 is relevant in Colombian history inasmuch as it is at the beginning of a decade known as “La Violencia,” which is named in the book as “the little war” (41). The narrator hints at the historical fact that this period marks the inauguration of a political violence that has never fully ended, melting into a war that “didn’t even have a name” (41), or clearly demarcated factions for that matter, and that included a wave of horrors and victimization such as massive displacements, torture, and disappearances of people.

The whole town of Santa María—not particular members or groups within it, but its very physical and social fabric—had been the victim of violence, at first for being considered “liberal” and then for no apparent reason. The name of the town is short for Santa María Bailarina, a black virgin to whom the town is devoted and whose statue will be carried by the fleeing population of the displaced, and then concealed by Siete por Tres himself until he arrives at the refuge, which is administered by French nuns. Siete por Tres’s life experience is thus marked by a violence to which there is no account: “so that Three Sevens, still only a few months old, must have witnessed for the first time—or second? Or third?—the spectacle of blazing houses in the night sky” (18). Indeed, his memory lacks representation of that which has been a defining albeit recurrent moment of his life. Another of the town inhabitants, Doña Perpetua, is also a dweller of the albergue and a witness of the atrocities who partially can account for what Siete por Tres, since he was a baby at the time, could not (see chs. 4 and 5).

Siete por Tres’s filial relationship to Matilde Lina had been interrupted when, in the midst of a life of bare survival in continuous flight from persecutions and displacements, the travelling group is first abandoned by the liberal leader (ch. 5) and then captured by conservative forces; Matilde vanishes mysteriously along with the world in which “conservative” and “liberal” meant something. In any case, the battle between liberals and conservatives was an internal struggle of the Creole economic elites in Colombian history; thus, the random victimization of the village in the fiction conveys the viewpoint of the excluded, that is, the vast majority (I. Rodriguez ch. 4 and 5). Siete por Tres was twelve or thirteen years old, and according to Perpetua’s account, his attachment to Matilde is mixed with boyish sexual desire. Perhaps this information, which is never taken up again in this condensed narrative, points to the exhaustion of the father’s role as insurer of normative order, if we are to refer to a classic Oedipal triangle clearly lacking in this makeshift family structure. The protagonist arrives at the refuge searching for Matilde, who, according to the narrator’s account, is one
of the “disappeared”—a category also only mentioned once and never uttered by Siete por Tres, who has devoted his life to the search. The single reference to this category is due to the fact that it is symbolically subsumed under the category of the displaced already suggested in the novel’s title (literally, The wandering multitude) another category particularly relevant in Colombian history. Differing from the figure of the refugee—the object of Arendt’s reflections—in the fact that the displaced, a category that gained visibility through international humanitarian law, don’t cross an “internationally recognized State border” (according to the definition of the United Nations). Because what the novel suggests is that displacement is no longer just an exception affecting subjects caught in the fog of war, a situation that opens the novel’s drama but, rather, is also the name of a generalized condition whose perpetrating agents and causes are no longer identifiable—not an exception but rather a common experience, and the very condition of new forms of commonality. Indeed, Tora, though located deep in the Colombian rainforest, fits the image of a frontier town despite not sitting at any recognized border: a constantly fluctuating, permanently transient humanity living between hope and despair, between the blurred status of a legality that is perennially being drawn along the fluid border that cuts not through territory but through populations.

There is no clear indication in the novel of who the violent agents that create and destroy these worlds are, as there is no authority that might assign judicial responsibility to a particular party of what started as an antagonism of liberals versus conservatives and continued with different groups of guerrillas, paramilitary, and narcos fighting each other an, in so doing, perpetuating each other’s existence.

The town of Tora, where the refuge is located, becomes a pole of attraction because the region partakes of an oil boom that promises to reestablish some stability to the lives of multitudes displaced by war. This is where Restrepo’s novel echoes *La Vorágine* (1924; *The Vortex*), the classic Colombian masterpiece by José Eustasio Rivera, in its portrayal of a new era of the extraction economy in the Colombian jungle—a new era in which the representational strategies of a realist critique of exploitation, the modernist-exoticist point of view, and the individualist tragic hero have been exhausted. With the errant community displaced by war forming a constellation with another destitute multitude of those whose only tie is sharing the dream of enrichment in the newly inaugurated exploitation of oil lands, the market seems to stand as the only remaining common ground, a ground without territory, the market projecting spaces of hope for “monetary subjects without
money,”17 populating new dreams of comfort and security while simultaneously abandoning a human surplus in a state of necessity—as it is said, on their own. But the construction of “their own” becomes in fact central, as the newcomers build their own albergues, as makeshift cities for which categories like home or refuge, permanent or temporary, settled or precarious, don’t seem to apply any longer.18 The abandonment marking the beginning of the protagonist's life has gone from exception to the norm of surplus humanity, first through the town exodus, then in the context of the albergue (as temporary refuge for those whose humanity has been deemed superfluous), and finally because of mass migration due to the “black gold” rush.

When social unrest develops in Tora as the oil boom leaves the migrant poor behind, the military is called to brutally repress an upheaval. What is usually referred to as a weak or absent state (a judgment often applied to the Colombian state) proves to be in fact a ghostly presence, defined not by its capacity to impose force but by relinquishing and deregulating the force exerted on its behalf. A state that appears, as it now often does in the Global South, neither as the main site of membership nor as able or willing to master the economic forces but, rather, as a naked repressive machine for population management, responding to capital’s needs.19 The fiction responds to what Achilles Mbembé has described as the increasing phenomena of “enclave economies,” sites of extraction of globally valuable products, with no jurisdictional continuity with their surroundings. They constitute “privileged spaces of war and death” in which “war itself is fed by increased sales of the products extracted” (33), feeding the dynamic that Mbembé has dubbed “necropolitics.” Certainly, the sudden appearance out of nowhere of oil exploitation in the town, and the hopes it raises (not unlike the ice machine in García Marquez’s Cien años de soledad [One Hundred Years of Solitude], although technology is no longer regarded as a source of marvel), while presented and surely experienced as part of an uncontrollable fungible reality detached from any local history and from the armed conflict all around it, couldn’t have been possible without displacement and disappearance; that is, without being preceded by the destruction of previous social ties and organizations. The violent “internal conflicts” of the national elites seem to clear the space and give way to this new stage of world-capital accumulation.

Persecuted, Siete por Tres finds refuge in the always expanding, precarious shantytowns of migrants or displaced that now surround the town.20 The vision of these shantytowns, where the protagonist was still looking for Matilde Lina, sublimes the absence of his surrogate
mother who, Siete por Tres imagines, is spiritually present in these sites, dwelling “in the shadows of the fragile official state” (62; “patria oficial” [65] in the original Spanish, which points to the patriarchal foundation of the nation). Siete por Tres’s vision of Matilde Lina’s ghostly presence in the ever expanding shantytowns, “blended within the wandering multitude” in one of the many mass migrations of people fleeing or in search of a new life (75), again subsumes disappearance under displacement, perhaps as a way to come to terms with the immensity of the absence by an alliance to others who have been immensely wronged. Indeed, both disappearance and displacement are violence inflicted against the bonds that keeps a community together. This suggests neither forgiveness nor forgetfulness—although Matilde herself had recommended forgiveness to the protagonist (17) when he was an abandoned child. Rather, it is a way in which the disappeared Matilde Lina, is neither reduced to memorialization and loss, nor is she forgotten, as her life is not just commemorated but activated. Siete por Tres never stops the search, but the temporary albergue becomes the place of dwelling where he will always return. It is in the renewed mass of those displaced now for economic reasons that the protagonist seems to have found a cause propelled by, but not limited to, his constitutive sense of loss, as mourning for an irrecoverable loss is transformed into a fidelity to the unaccounted for. Even though what is lost cannot be redeemed, restored, or repaired, it can’t be let go either, and if there is any possibility of justice it must dwell within this unresolvable tension.

In this context, Siete por Tres is accused of instigating revolt after he defends a child who has been threatened by a military man. A defenseless child protected against the violence of the state might be said to constitute the primary scene where the human rights edifice sits as a humanitarian rescue operation. Indeed, the traditional structure of human rights as a defense of individually defined freedom against totalitarian oppression organizes the narrative, only to be transcended. The orphan condition of Siete por Tres is also archetypical, even necessary, because the rescue operation that human rights represents appeals to a primordial, fundamental condition and finds its ideal subject in the vulnerable, abandoned, helpless child. Moreover, a human rights narrative is already in action as the organizing frame of the novel, which is presented from the perspective of a third-party witness intervening in a rescue operation qua humanitarian attempts to protect vulnerable populations. Siete por Tres’s trip to the capital to gather support for the albergue coincides with the military accusing this organization of sheltering criminals and terrorists under the umbrella of a human rights
mission (79–80). As if the novel was didactically making a show out of the networks of solidarity that human rights activism often entails, the protagonist brings back from the capital an entourage of civil and cultural actors, plus a group of people of diverse ages and social extraction—a rock band, young Shakira admirers, old ladies with a surprising edge—who manifest their support and promises not to abandon the albergue. Human rights’ organizational and discursive powers become the object of an all-too-typical accusation because they are in fact a physical and symbolic albergue, a refuge or shelter that strives to keep violent reason at bay.  

Perhaps in keeping with the minimalist, purely defensive stance of human rights, all this is told in a succinct narrative that eschews most historical, political, and geographical information, imparted by a narrator who also says little about herself beyond the fact that she is some kind of foreigner from a less troubled land, and that she is looking for Siete por Tres’s attention and perhaps his love—a love that seems to inaugurate a new beginning by the end of the novel. But everything from the missionary character of the albergue to the narrator’s foreignness draws a stark contrast between the shelter, an NGO-type institution supported by foreign aid, and the reality of chaotic local, vaguely named forces. More specific information and coordinates would surely be besides the point, because there is no particular connection between the nuns, their NGO, and the Colombian land where they pursue their mission, hinting at the fact that Colombia has been a testing ground for global designs and experiments due to the country’s long history of violence, facilitated by the abandonment of certain areas and populations from the reach of state power. The foreigner-rescuer, from whose viewpoint the story is narrated, embodies an ideal view from nowhere, complemented by the luxury of claimed self-perception as a perennial outsider, which not only allows her to empathize with a nameless general humanity but also discourages any interrogation of the role that her places of identification (nation, religion, ideology, etc.) might have played in the conflict in the first place.

Thus, the book’s structure and narrative stance enacts this discursive space carved away from unqualified violence, a space that avoids the question of the cause and concentrates on the effects of this violence, particularly on the preservation of mere life from annihilation but, by the same token, from these contexts and life-worlds that gave that life historical significance—as Arendt would argue in her critique of human rights. However, beyond this protective threshold, this time of inaction that the framework of human rights advances in the novel,
as the Biblical overtones of the novel signal, there is a sense of new era at some point of the exodus, as the multitude is no longer defined by its inclusion or exclusion from a state that offers no refuge or protection. By the end of the novel something seemed to have changed for the better in Tora and the region, as civic alliances and the multifarious agent of support show up to color the dim everyday life of the shelter. This bunch of people who appeared so convinced to travel the distance is a comforting spectacle, like a good publicity stunt. But convinced of what? Not of any particular conviction but that the future should be different from the past; that perhaps their very conviction alone is a show of force that brings about this split in time between a time before and a time after—so the novel ends on a hopeful note. Indeed, in the novel it doesn’t matter what this new constituency does; they are just there, showing up, and putting up a show, for human right strategies often entail the production of visible events, an intervention in the field of perception, as having no other substantial ground they rely on acts of recognition that need to be constantly performed. Survival, which for Siete por Tres has been a matter of individual preservation, contingent to finding shelter and to sheer luck, becomes a matter of collaboration and desire.

Is this is a poetic imagination of a justice beyond the logic of legal power, or an indefinite postponement of justice? Robert Meister proposes the discourse of human rights is symptomatic of a contemporary condition of “living in the meantime . . . after evil but before justice” (11–12), which, for the author, reenacts Saint Paul’s messianic time as postponement, not a realization, of justice. A human rights informed world “after evil,” following Meister, might be the same as the world before, the only difference being the repositioning of the present as simultaneously too soon and too late for justice. Such a hopeless present full of anxiety of what is to come is not an inaccurate portrait of our times. Restrepo’s novel unfolds in this “meantime,” but perhaps it is this fold in time, this albergue standing for a conception of human rights as defensive predicament that reveals itself as a deadlock. So we might say, and this is the line that divides two contemporary interpretations of Saint Paul, either that the novel celebrates an overcoming of evil that only postpones, shielded by the albergue of human rights, the coming to terms with justice, or that the novel enacts the transcendence of law by grace, as forgiveness, gratitude, and love, or perhaps fidelity to the situation (Badiou dixit), take precedence over guilt, disappointment, resentment, transgression, punishment, and revenge—the obscure underpinnings of the law. However, neither of
these outcomes accurately represents the novelistic version of human rights after human rights.

The multitude’s ghostly status, its being unanchored and in-between times and places, might commence from a point of destitution and injury comparable to that of Comala’s ghostly town dwellers, but the ghost of sovereign power does not haunt its imagination. The order founded by the errant majority also constituted by loss has no reference to a beginning or to the restoration of a broken equilibrium. Unlike Pedro Páramo’s world, the initial dispossession and vulnerability, which is the universal condition at the base of a fundamental injury that renders everyone a superfluous human being, is not captured by any master. The trajectory of the male protagonist Siete por Tres is indeed one of peregrination, but there is no sacred (father-) land to go back to. His only tie is to motherly figures, symbols, or surrogates, as if to indicate that the paternal law—which proposes itself as the only way to overcome fraternal revenge only to coopt and displace it by harnessing violence for its own self-perpetuation—is no longer. Siete por Tres is neither the exceptional One (has always been a surplus, supernumerary) nor exemplary (different from Juan or Pedro, whose names are already allegorical, he is nameless), suggesting another Christological figure, not the everyman but the promised child; but one that therefore doesn’t accept being sacrificed and no longer follows the path of the Father, as it has experienced abandonment as constitutional and the realization that there is nothing sacred in the fatherland after all. To call this simply “bare life” would be to adopt the viewpoint of some hypothetical sovereign power, to reproduce master hierarchies that decree what kind of life is worth living. Whereas Juan Preciado’s tragedy stems from the trauma of a double expulsion, a double abandonment (by the father but also by the mother who demands him as the supplement, who expects the son to inscribe himself in the father’s account), for Siete por Tres, who is also expelled and abandoned repeatedly, community is constituted around the contingency of protection, habitation, hospitality, and care—in the less abstract, most immediately physical way, thus rendering positive, one might say, the conflation of the private and the public, of necessity and politics, of fact and law, which was imposed as a catastrophe.

I submit that the novel, structured around human rights discourse, also proposes a different space for human rights. Rather than a transcendence of law by love, faith, or grace, what comes after the dissolution of law is another law; there is no Christianity without the Old Testament, as Critchley (ch. 4) has argued. After the untenable demands
before the law (*Pedro Páramo*), after evil and before justice of the multitude finding refuge in the shelter of human rights (*La multitud*), the accusation against the albergue for using the banner of human rights to further dubious goals holds a degree of truth, inasmuch as it hints as how human rights might conceal something else that cannot be easily named. This distance between the name and the practices facilitated, promoted, and legitimized under that name is where the performativity of human rights rests, as the neutralizing universality (which we located above in the role of the albergue) might also facilitate political positions and yield events not easily cloaked in the language of rights (Butler, “Performativity, Precarity and Sexual Politics”). “These are all part of the expansion of human rights, the domestication narrative says: promised, already there, just waiting to be unpacked, Habermasians would say. It is a legitimization narrative, and it is hard to resist, when you are on the outside trying to get in. But it obscures the distinctiveness of all new rights, which . . . may potentially carry with them the promise of a new world, a new mutual compact, a new reality” (Honig, “Three Models of Emergency Politics” 67–68). It might be argued that these events remain, especially at the end of the novel when a sort of carnivalesque festival of support is organized but reduced to an inconsequential cultural realm, a temporally and physically limited pocket of good intentions. But the practices of mutual identification and care, of which the novel provides another important example at the end in the spontaneous but organized show of support, is what escaped Hannah Arendt’s critique of human rights as a kind of currency without any value since no state was accountable for backing it up. Human rights fall short, Arendt argues, because they have no jurisdiction; not only do they have neither legal boundaries nor means of enforcement, but they mean nothing for anyone else, in the way that rights of members are usually mutually meaningful. But this also implies that they cannot be owned before they are claimed, enacted, and reinvented, not contingent on sovereign recognition but creating their own network of recognition—which opens the possibility to imagine something beyond bare life in unbound humanity, beyond abandonment and superficiality. More than an equation of victimhood, the poetic sublimation of the disappeared among the displaced might point beyond the formation of a new community of specters like Comala and to a direction of human rights after human rights, transcending a purely defensive stance and giving expression to a persistent surplus of life accompanying and activating, not determining, the multitude’s hope. Rather than the disappeared “haunting” the present, as it is often imagined, the past man-
Ifests here as a question whose open significance empowers a present political imagination. The child that Siete por Tres is and the child that he defends might be figures of the rescue operation of the rhetoric of human rights played as global power. But they are also, simultaneously, hints at the possibility of a community based on the intimate ontological acknowledgment of human vulnerability and mutual dependence, of which victimization is often a denial (Butler, “Performativity, Precarity and Sexual Politics” ch. 2).

La multitud and La virgen share the horizon of human rights contemporary constellations, but contrary to this sense of possibility amid catastrophe, the dominant chronotope in Vallejo’s novel is that of the end of times. Fernando, the narrator and protagonist who returns to his native beloved Medellín after a long absence, meets his young lover and assassin for hire, Alexis, introducing him as an “exterminator angel” and Medellín as an “accursed city” populated by demons (26) where life has radically deteriorated. Medellín is, from Fernando’s perspective, a place that barely survives its own self-destruction; to his mind he is the sole remainder of an interrupted, nobler lineage, and his doomed city his final destination. The city’s bygone past is figured as a time when the law and social structures share the same moral ground, described in terms of the family values of the Christian and Creole traditions. With the simplicity and beauty that the narrator remembers as formerly characterizing an idyllic Medellín irrevocably buried in the past, the city’s population is now unrecognizable, as if replaced by a whole new species. Although he identifies them as coming from the countryside and escaping violence (that is, as in La multitud, the displaced, although they don’t receive this name in La virgen) the inhabitants of the precarious neighborhoods on the hills, the comunas, have in Fernando’s view no sense of history and no notion of mutual responsibility that would seal the imagination of a common world—except for the loyalty of the sicarios toward their mothers and them toward a relentless, senseless procreation that further disseminates the present wrongs. Thus, the narrator addresses his peers imagined either as the fellow reader as a curious foreigner for whom he has to officiate as native informant, or as a place of empathetic authority: “Mister Public Prosecutor: I am the memory of Colombia and its conscience and after me comes nothing... With the power invested in you by the new Constitution, protect me” (18). This and other simultaneously serious and sarcastic references to the 1991 constitution are not anecdotal but central to the narrative, as I hope to demonstrate. In fact, both the writ of protection (acción de tutela in Colombia, also called recurso de amparo in other Spanish speaking...
countries) and the figure of the public prosecutor, exceptionally considered credible and legitimate state institutions as Fernando’s sarcastic take itself reveals, have been the most effective and popular among the reforms that this constitution introduced and often mobilized against corrupt and self-perpetuating power of the elites (Van Cot 117–120).

It hasn’t been sufficiently stressed, in inventing the category of *sicairesca* (after the Iberian Renaissance *picaresca* genre) for a body of Colombian novelistic production, that the parallel must not be limited to the centrality of the marginal, young, urban, peripatetic, criminal, cynical character; but as Vallejo’s novel suggests, the connection should problematize the appeal to the law in the constitution of modern subjectivity.32 Whereas in classical *picaresca*, the cynicism of the *picaro* typically addresses legal authority to perform his self-defense as a moral critique of society, in *La virgen* the narrator and protagonist positions himself as the master cynic who appeals to the law only to exhibit and rejoice in its ruins. Taking into consideration the *letrado* tradition that assumes literature and the law as emanating from the same space of authority, this feature seems to be of one piece with Fernando’s endless lament for the displacement of the central role of written and proper use of language and literature in the constitution of identity, be it national or personal. His concern with the law, I suggest, parallels his anxiety over the authority of a certain language to describe a situation, and with his own linguistic authority whose insignificance both laments and sarcastically celebrates. There are “new, ugly expressions for designating certain old concepts: to kill, to die, death, revolver, the police” (20). However, the complaint about the current lexicon displacing the “classical” one indirectly acknowledges that nothing in a certain way has changed, that the current state of disaster that is the source of his frustrated rant is perhaps a continuation of historical disasters, except for the position of his class as legislating the proper: that which is made visible or invisible through linguistic representation, that which is promulgated accountable or dismissible through a legal operation.

In *The Decline and Fall of the Lettered City*, Jean Franco presented the central question that divides critical readers of this novel: What should we make of the narrator’s hideous, unabashedly discriminatory, and hateful rant? That is, should we read into the narrator’s monologue a sense of irony as if, aware of his own demise, he pushes his own discourse over the edge to demand that we “face the fascist within,” so to speak. Or otherwise, to take Fernando’s (both character and author) discourse as a straightforward reactionary speech that “expects our complicity” (225), with the reader identifying with Fernando’s
vision of the city in senseless chaos and promoting a version of the mano dura (iron fist, or zero tolerance) position against crime. However, what makes this novel so compelling is neither the identification of the narrator with the author (which Fernando Vallejo as a literary persona promotes), nor our identification as readers with the narrator, which both critical positions take for granted. Moreover, what these contending readings recognize, and assume the reader will share, is the narrator’s liberal assumption that violence is due to the absence of law; that the reason for the ubiquitous unbound violence in which he himself happily partakes is a breakdown of the legal order, despite the fact that the traces, figures, institutions of legal discourse are present everywhere in the novel.

That is, when the legal order is interrogated in our novel, it is not in the vein of a liberal romantic tradition denouncing injustice or demanding reform. Instead, the legal order is seen indeed as fundamentally broken, an edifice whose institutions persist in a sort of afterlife, bearing no credibility, their foundation exhausted, in a ruinous state—a perception summarized by the narrator as: “there are laws, but there is no law” (89). Rather than a dichotomy between law and its absence or failure, what constantly returns in La virgen is an unhinged dissemination of legal reason that contributes to the lethal antagonisms at the heart of Medellín: a legal dissemination that Fernando conscripts young sicario Alexis to act out and reproduce, incarnating a Law that ends with the laws, as their peripatetic killing rampage is also a version of the last judgment.33 What is striking in the novel is not the lack of legal apparatus but its ghostly omnipresence even in the face of its effective absence. In fact, according to the narrator, the best Colombian novelists are the judges and judicial clerks (128)—the unacknowledged poets of the world, reverting to Shelley’s romantic idealism—not only because the stylistic clarity and equanimity in depicting the evidence of violence (the description of the wounds, of the weapons, etc.), but primarily because this precision is counterbalanced by a generalized modernist, if you will, ironic self-doubt toward the pretense of the rational mind, an assumed, manifest, metaphysical ignorance regarding the motives of the crime and the sheer acceptance of the inscrutability of the reasons or the lack of any justification whatsoever. Far from absent, the law is present even where not expected, but everywhere it goes it lacks force, not because it is not enforced but primarily because it fails to interpellate, to constitute a subject with an intimate trust in an ultimate reason behind the legal order. Moreover, legal institutions in their afterlife build their social stance grounded on their own ineffectiveness,
their legitimacy defended precisely because they are now impotent and under siege. Thus, it is not only that legality seem to have lost its grip, but also that when legal order is in its turn interpellated, subject to a demand to fulfill its role, the demand operates under the assumption that the place of legal authority has been disavowed, that no one is there to register the claims.

It should be clear by now that the absent law that Fernando invokes as his moral vantage point is in part a class prerogative, in part a habit of thought, as Fernando himself recognizes, empty of meaning as the base that endowed it with legitimacy has disappeared, its claim to stand for some universal, common good, totally debunked. The class prerogative is in the very constitution of a Colombian juridical order that was, previous to its 1991 foundation, based on a precariously sealed conservative-liberal pact that exploded in the years of “La Violencia.” Not that Fernando treats the old and the new legal order differently; both of them are regarded with equal sarcasm, both failed, but with a very significant difference:

after the killing come the police inspectors officiating over the removal of the body. But I’m expressing myself badly, inspectors, no: from now on, the new Constitution provides for agents of the Public Prosecutor’s Department to do this. And the latter, lacking the worldly experience of the former, overwhelmed by the avalanche of corpses, unable to cope, have done away with the red tape and the ritual itself and have left the corpses to the turkey buzzards. . . . An important legal formality, a mass for the dead, a gloomy ceremony, the removal of the corpse, will no longer occur, alas. Such a cherished institution, so Colombian, so much our own. . . . Never again. Time sweeps everything away, including customs. (27–28)

The image of birds feasting on unburied corpses recalls Sophocles’s Antigone, bare life is not produced by sovereign law. Instead it piles up as an avalanche, as an ecstatic suppression of time; and in the absence of state power legitimacy, even the guards guarding the corps have deserted. No Antigone mourns and claims these desecrated bodies, and the city doesn’t have a clear border separating the polis from the desert or wilderness that negates it. Its inside is out, as the state of nature and violence that menaces the order from within has become apparent and borders no longer divide territories but bodies. Thus, Fernando’s supreme sarcasm is aimed at the illusion of changing a customary legal order with another, resulting in the exchange of mountains of files by piles of corpses: a state legal bureaucracy that was effective at keeping
up appearances now reveals all that is criminal and rotten, including itself. What the protagonist intimates, self-critically or symptomatically, is that this order wasn’t the central Law that now he misses, but only a convenient staging, a protective veil hiding the decomposition, now exposed. In sum, what the narrator describes, beyond his sarcasm, is of utmost relevance, as he mourns a state structure whose mythical power doesn’t amount to more than a custom, an ingrained habit that, passing for truth for all, benefited a few. The state that abandoned these bodies used to keep the official body count, keeping record of those bodies to be discounted. The surplus humanity that the narrator sees now everywhere, both in the living and in the dead, lies beyond any official account, so its abandonment needs to be conceived outside of the failed promises of citizenship.

The narrator’s statement that in his country “there are laws but not law” coincides with what most scholars seem to agree on: the combination of failure and unwillingness of the Colombian state to harness the monopoly of violence—a monopoly of violence that, as Pedro Páramo shows, is necessarily a monopoly of the narrative through which subjects are constituted. This failure of the state to come to its own is something that some canonical Colombian novels also allegorize (Avelar, The Letter of Violence ch. 4)—a tradition in which La virgen is no doubt fully inscribed. However, I want to propose that the idea of a weak state and the failure to achieve the monopoly of violence might be self-perpetuating, tautological reasons for the ineffectiveness of the law. Hence, a reversal of the same logic can be applied not to the failure of the law but to its effectiveness, because, as Roberto Esposito stated, “in order to put into effect what it is founding, the foundational act must be founded, in its turn, by the act” (Immunitas 35): so, no foundation can afford not reasserting itself.35 The question I ask is: What is necessary for a new constitutional pact, which might come to replace the one that established the patriarchal elite, to take hold?

Colombian jurist Julieta Lemaitre Ripoll (2011) has argued that a “juridical realism” appropriate for Latin America would be one in which the mystical foundation of authority—a necessary assumption behind the belief that the law responds to a principle of justice—is debunked, to show how the foundation of legal legitimacy is not justice, but habit (“¿Constitución o barbarie?” 54–57).36 This demystifying force (a practical deconstructionism, one could say) might be relevant for fighting Pedro Páramo’s tyranny, for example, or a conservative order and its “law-preserving violence” (Benjamin, “Critique of Violence” 284–285)—that is, for a deinstitutionalizing moment—but it
doesn’t speak to what makes a legal order gain and preserve legitimacy and become, in its turn, habitual. *Pedro Páramo’s* most obvious historical point is that the tyranny of a patriarchal order persists posthumously in full force (mystical foundation of authority or the force of habit, which might amount to the same thing, projecting such illusion) despite not only its proven illegitimacy but also a successful revolution (as it is explicitly elaborated within the novel, when the revolutionaries confront Pedro, only to end up engulfed in the patriarchal order they opposed). Lemaitre Ripoll’s argument refers to the historical landmark of the 1991 Colombian constitution; and to the fact that the new constitution was partially intended to uproot the institutional structures that perpetuated a corrupt political class installed within the conservative and liberal parties (Bejarano 56), as well as to incorporate the majority that these power structures have historically left out of the political process. For that new order to gain momentum, some kind of magic would have to be conjured up to make the instituting force legitimate—a magic that would cut loose the force of habit and the self-perpetuating logic of state failure that *La virgen’s* narrator champions (as the narrator hysterically demands an order at the very point in which he undermines it) and that would install an effective foundational event; one that, as Esposito argued above, would be upheld in its turn by the very order that is founding (see also Cacciari 182). This fundamental question of politics is present (as much a guiding ideal in *La multitud* as actively denied in *La virgen*) in these radically divergent novels: how something other and new can commence, how a political performance can institute its own legitimacy.

It is tempting to ascribe the lack of a superior meta-legality that the narrator demands—the law that sustain the laws—to some transhistorical ideal (such as the Lacan’s Name-of-the-Father, the symbolic matrix that supports all social order also conceived as the order of language that binds like a primary social contract); or to resort to the seemingly commonsensical myth of the primary contract among equals, or between the community and sovereign power who stands in for a center that holds—its ultimate guarantor. But as often happens in Latin America, some state institutions, whose role is to officiate the semblance of a primordial order representing the totality, have come to be mistrusted due to a constitutive history of partiality, inefficiency, lack of reach, or fundamental illegitimacy. They have always functioned as “laws without law” because the fiction of equality under law’s universal reach (that in the constitution of the Western bourgeois order, hides real, economic inequalities, Marx dixit) was never fully upheld in the
first place. In *Pedro Páramo* this corresponds to Comala’s love and hated for the conservative, patrimonial land-owning rule that, although reduced to a ghostly version of itself, perpetuates its historical abuse, its foundation in dispossession, within the subjects intimately constituted by it.

The 1991 Colombian constitution has been described as a paradoxical compromise between neoliberal reforms (the state authorizing itself to privatize its functions, to disarticulate the social net and labor protections, etc.) and the incorporation of the language of rights (i.e., classical human rights, group rights, rights to cultural identity, diversity) that bring up to date the agenda of liberal civil rights. As I mentioned in chapter 1, the normatization of rights characterizes every post-1990 constitutional reform in Latin America, in some cases (e.g., Colombia, Bolivia, Ecuador) oriented to define the nation as multiethnic, pluricultural, or even multinational (Uprimny 117), coinciding with the rise of new social movements that mobilized “the political power of the performative aspects of cultural signification” (Ochoa Gautier, *Entre los deseo y los derechos* 52) that we might say *La multitud* fictionalizes, upheld by the legal language of rights. In Latin America, the human rights framework sits right at the intersection of a conservative and liberal agenda, traditions to which the language of rights belongs in the first place, and the armed left, which after years of struggle countered by state terrorism, looked for ways to participate in democratic politics (Lemaitre Ripoll, *El derecho como conjuro* 121–127). Thus, this Colombian constitution carried a number of contradictory expectations, but principally the prospect of a renewed social contract qua peace treaty that would bring about an end to violence. This “rights inflation” wasn’t followed in most cases by the implementation of institutional mechanisms to render them effective (Yrigoyen Fajardo 142–143), and it was in part reverted by a conservative effort of counter-reform. It is not surprising that violence didn’t recede but continued and increased, demonstrating once again the argument about the weakness of the state, the refounded order not sustaining in its turn what founded it.

The guerrillas, military, and paramilitary violence (which the 1991 constitution attempted to bring to conclusion) tapped into reasons (although often to legitimize their own interests) that appeal to political arguments: representing some kind of promise to fix the state, fill in its absences and complement its shortcomings, or to reinstate it (overturning injustice, imposing order, bringing about peace, etc., even if their peace is lethal and their justice a bloodshed); all increasingly entangled with a drug trade but allegedly in a purely instrumental fashion that,
like violence itself, is a means to an end (e.g., to finance their operations for the common good). However, the drug money-infused sicarios’ violence that is at the heart of La virgen is, as the narrator states sarcastically, “free enterprise, private initiative” (33), an end in itself, clearly limited to circumstantial gain and mutually destructive personal honor and revenge that recognizes no mediation or common good. Whereas in the new constitution, a discourse of rights compensated for the neoliberal state reforms, what unfolds in La virgen is that, far from a symbolic operation of rights discourse being mobilized as protections against the increasing domain of the market, subjects are interpellated by the allure of a market through the notion of rights, particularly the right of access to commodities that are virtually so close, populating everyone’s dreams. The subjectivities of the destitute are endowed with market value through the adoption of an English-sounding name; the narrator states at the beginning of the novel “it is the only thing they can give their kids to provide them with a bit of a head start in this miserable life” (3). Whereas the dispossessed young men who constitute the protagonist’s only known affective and sexual tie are to Fernando “lo más valioso” (14; “the best present there is” translates the English version hinting at the importance of their presence), they also participate in a circulation of violence that makes them supernumerary, almost worthless and exchangeable. The only source of personal dignity is their employment by the drug cartels as assassins, an occupation with which they can provide for their families and participate in consumption. Having been deemed surplus humanity, counted only to be discounted by legal mechanisms of citizenship, these young men are interpellated, authorized, and recognized as individuals by the market (Sassen, Territory, Authority, Rights 294) to become both consumers without money and objects of rapid consumption. Market rules reject any consistency through time, celebrating continuous transformation and fleeting desires, whereas any horizon of justice presumes a notion of the future, a direction toward the common good. In the novel, stereos and TV sets are as rapidly bought as destroyed, all in a passing rush of enthusiasm or ecstasies. Instead of the dialectical supersession (through time, making sense of time) of thesis, antithesis, and synthesis, Ignacio Lewkowicz (39)—half seriously, half tongue-in-cheek—proposed a different movement: “the contemporary suppression of time is rapidly woven through a neo-dialectic of thesis, ecstasies and prosthesis.” The comment is remarkably accurate to describe both the internal dynamic of the novel and the shifting subjective position of the narrator, going from a sweeping moral judgment, to murder/sex/consumption
rampage, to denial of mourning by replacing the lost object of desire. The surplus of life, incarnated by “the best present there is” that could potentially escape both market capture and legal interpellation, is reduced to sheer expenditure.

Modern literature, the Western novel in particular, has been regarded as providing an ethical ground for individual entitlement, as it helped to articulate a self-perception premised on a notion of transcendental individuality that contributed to a culture of individual rights (Hunt; Slaughter). The books I have analyzed map out rights in an altogether different fashion. I have offered a reading of Pedro Páramo as a story about the paradoxes of rights entitlement in the context of a patriarchal oligarchy that perpetuates itself by installing a fictional juridical order of redeemable equivalences that forever postpone the suppression of its illegitimate, irrational chore. I have also suggested an interpretation of the narrative of human rights embedded in La multitud as both cushioning the impact of global capital designs and pointing in the direction of postsovereign political resistance, in the absence of any source of legal legitimacy. What we encounter in La virgen is the paradoxical maximization of the logic of rights, when in the absence of any tribunal of legitimate adjudicatory power, it unleashes a purely adversarial notion of entitlement that can be defended only lethally, in which justice is a duplication of the naked logic of the market, where everything is up for substitution and where rights function as a symbolic compensation for an extreme vulnerability, at the same level as the imaginary shelter furnished by commodities and firearms. That is why, when the narrator exclaims, mimicking a scandalized foreigner, “How can someone kill or be killed for a pair of trainers? you who are a stranger to this parts will ask. Mon cher ami, it is not for the trainers: it is for a principle of justice we all believe in” (61), it shows that this principle of justice represents the acknowledgment of both, the loss of symbolic and political power of his own class, and the transference of its mediating position to the market, which sees justice only in narcissistic fulfillment. This is the other face of rights expansion, when rights become a lethal form of survival as a defense against vulnerability and precariousness, only to recast social bonds in a purely adversarial way and thus absorb, by the same token, any political potential.42

Arguably, the end of the novel represents a reversal, an opening to a different logic, in a possible new direction. As the reader might recall, Alexis is murdered, after which Fernando finds another lover, alias Laguna Azul, who ends up being Alexis’s assassin. Despite the repeated discrediting of the law, the new constitution, human rights,
and judicial institutions; despite the narrator’s disdainful regard for and appeal to the rule of law in Colombia; despite his pushing the limits of the notion of rights to defend the carnage he incentivizes (his appeal to the notion of animal rights, for example, to justify murdering a pedestrian as he was whistling, thus appropriating the birds’ right to sing); despite his plea for an iron fist, or to the Angel of Death, as the final solution, there is in La virgen a hint of an alternative notion of justice that might offer a way out of the cycle of revenge, that might reduce rather than reproduce the iterative violence through which individual worth is sorted out. This shift occurs when Laguna Azul declares that Alexis had killed his brother. The protagonist’s decision not to take revenge for Alexis’s murder, although he knows that he has the right to revenge, halts the chain of commensurable equivalences that is at the core of lex talionis and resulting notions of compensation, restoration, and punishment. Fernando the master narrator is forced to delink violence from ecstatic enjoyment, when history catches up with him but no longer as nostalgia for the lost order, as he is absorbed into the zone every gun-ready sicario inhabits, where legal categories of victim and criminal have lost experiential and explanatory value. The narrative suggests a reversal of the capillary necropolitics that in conjunction with ecstatic consumption organizes social relations as mutual destruction of superfluous life. The novel points to a situation in which some good is achieved by breaking the chain of equivalences between one sicario and another, thus advancing a notion of justice that is not only different from revenge (as judicial adjudication is said to appease revengeful impulses belonging to a state of nature), but, more radically, different from both restoration and punishment. Some justice is hinted at through a decision not to engage in an exclusionist, purely adversarial right claim, and by interrupting an appeal to an absolute justice grounded on a compensatory, prosthetic notion of rights.
ine the indissolubility of *zoe* and *bios*, or life irreducible to bare life—which will also point to a way of imagining political life outside socio-juridical identities of the state.

26. Jorge Coronado analyzes this picture in the context of indigenismo’s divergent agendas, its internal tensions. He indicates that the peasants might have been accused of killing a landowner (158) and that one of the officers has been identified as district attorney Máximo Vega Centeno (160).

27. See also Dolar (77–78) for a reading of Althusser’s subjection as a failure of interpellation.

28. Still today, legal arguments can be very versed in rhetorical performance and analysis, but the tribunals are less savvy in dealing with visual semiotics.

29. I heard this myself in Peru, and I recently encountered this statement again in Benavides.

30. I am inspired here and subsequently in my analysis of visual material by W.J.T. Mitchell’s strategy of “shifting the encounter with a picture from a model of reading or interpretation to a scene of recognition, acknowledgment and (what might be called) enunciation/annunciation. I am of course building up on Althusser’s notion of interpellation or ‘hailing’ as the primal scene of ideology, and Lacan’s concept of the gaze as the moment when one experiences oneself as seen by the Other” (49 footnote 37).

CHAPTER 2. LITERATURE BETWEEN RIGHTS AND THE POSSIBILITY OF JUSTICE

1. This dialectics can be expressed in a division in the field between Rama’s analysis of the lettered Creole culture and Roberto González Echevarría’s (or Octavio Paz’s, for that matter) vision of modern Latin American literature as an intrinsic challenge to discourses of authority that solidified powerful elites (in *The Lettered City* and *The Voice of the Masters*, respectively).

2. Unless otherwise noted, I quote all novels from their English-language translations.

3. This split is manifested for María Fernanda Lander as that between Medallo and Medellín, between the long-time residents of the destitute areas of the city, whom the narrator regards as newcomers, and an official lettered city that constitutes itself by negating the shantytowns, or so-called *comunas*.

4. Athena is born from Zeus’s head.

5. It is necessary to clarify that I am not using “perverse” in a demeaning fashion, but in a psychoanalytic way: as a version of the father’s master signifier that simultaneously negates and restores, or restores by negating, the potency of the parental law. In a compelling reading of *La virgen*, among other novels, Mary Louis Pratt argues that the characters’ homosexuality reproduces an exploitative sexual contract by incorporating the traditional submissive
female role (92–93). Although the narrator’s misogyny is vocal and indisputable, his and the sicarios’ homosexuality cannot be reduced to a reproduction of the heterosexual biases and norms. Or it can be, but only insofar as heteronormativity refers back to subjection to a patrilineal father’s law, the demise of which La virgen is a symptom.

6. Agamben’s notion of abandonment follows Jean-Luc Nancy’s and opens the rich etymological background of a whole lexical constellation with apparently contradictory connotations, including but not limited to, band as a sovereign order, bandit as an existence against the law, and bandera as a political community insignia. See translator’s note II (Agamben, Homo Sacer 245–251).

7. The bibliography about “novelas del dictador” is vast. González Echevarría locates the rationale of the genre within the larger scope of Latin American literary history (chs. 3 and 4). More recently, Moira Fradinger (Binding Violence, esp. interlude to part III and part III) has elaborated a theoretically compelling thesis in which she identifies in the genre the development of issues of exception that are inherent to, and not a deviation from, Western political imaginary.

8. My reading coincides here and elsewhere with important points raised by Patrick Dove’s, who considers the novel “a parable of postrevolutionary modernization” inasmuch as “it tells of the return to and recovery of a shadowy time prior to the birth of the nation,” leading to an impossible identification with “an obscene crime at the origin of the law” (111). However, by reading in the novel the aporias of the formation of the nation-state, Dove’s canny interpretation strangely misses any conceptualization of the colonial dynamic. At the origin of this expropriation Dove doesn’t locate the European invasion, but rather Mexican “caciquismo” that represents “a subreption of theft that covers over not only its own traces but also the more originary impropriety at the origin of the law itself. The cacique’s expropriation of rights, titles, and goods masks an aoria at the origin of the proper. . . . The proper presupposes an (always invisible) act of subtraction that does away with its own improper traces” (137). Whereas these affirmations are sustainable in reference to the novel, they are contrary to the larger historical experience to which the allegoric reading refers, as the traces of colonial and subsequent expropriations are highly visible.

9. On the one hand, the titular character has semidivine generative and annihilating powers and Comala itself offers an obvious reference to the image of Purgatory where souls wander, either awaiting final judgment or as a destination after their deeds have been judged in the afterlife. The last judgment is final not only because it is eternal but primarily because it is exhaustive and uncontestable, as every deed is measured against a single system of
value—mysterious, but infinitely knowledgeable. On the other hand, the dismembered trinity, the corrupt father, the priest’s ignominious betrayal of his flock, the people of Comala, to submit to Páramo’s earthly power, and so on.

10. Although not developed as central to his theories and much less by the sweeping generalizations that his accounts have facilitated, Agamben hints at qualified life after life has been rendered mere life when discussing the position of the witness. Newman and Lechte summarize this possibility: “To be abandoned, then, is not inevitably to be thrown back into a condition of zoē (despite the fact that this is often assumed to be possible); for the human, qua human, is marked by the fact that it is never a pure zoē—even if the tradition of human rights theory has often rested on the claim to the contrary” (524).

11. “It is estimated that, since 1985, one and a half million people have been forced to flee their homes and abandon their lands because of the armed conflict. Over a third of these displacements have been directly attributed to paramilitary and their sponsors,” according to Marc W. Chernick (197).

12. Tora Viejo is a small town in the department of Caquetá, in the Amazon forest region. Chernick argues that the continuous violence that persisted in the country despite being enacted by different actors since “La Violencia” (1946–1957) has been most prevalent in certain locations. He lists Caquetá as the department with most violent deaths in the country in 1981, during a period characterized by the author as “low-intensity conflict” between guerrillas and the state, before the “multi-polar violence” period that commences in 1985 (188–189).

13. When in reference to this decade of civil war, ostensibly between liberals and conservatives, usually “La Violencia” (according to Marc Chernick) is capitalized, but it loses the capital letters when it names the violence that came after and continues today. See also Juana Suarez’s “Introducción.”

14. The notion of multitude in the novel closely resembles elaborations by Paolo Virno and by Antoni Negri and Michael Hardt (Gramática de la multitud. Para un análisis de las formas de vida contemporáneas, and Multitude: War and Democracy in the Age of Empire, respectively). However, Virno’s conceptualization dates from a course that he taught in Calabria in 2001, while Hardt and Negri’s book is from 2004 (with antecedents in their 2000 book Empire). Of course, these theorizations explicitly drew on Spinoza’s notion of multitude (Spinoza picks the expression from Machiavelli). Restrepo’s use of this term could have been inspired by Spinoza, but this is just a speculation.

15. Marc Chernick argues that the conflict “was mostly closely associated with areas of natural-resource extraction . . . where the state, social justice, and the rule of law had minimal presence, and where private justice prevailed” (195). Margarita Serje makes a slightly different point, arguing that the persistent narrative of a “weak state,” often employed by representatives
of the state itself, are a continuation of a colonial dynamic through which “no man’s lands” are made into zones of diffuse legal status for the global market. Rather than a consequence of the absence of the state, violence in these contexts is a byproduct of a particular kind of exploitation of resources, while by the same token it gives militarized control (by military, paramilitary, private militias, security forces hired by international corporations, etc.) a legitimating rationale.

16. Susan Eva Eckstein and Timothy P. Wickham-Crowley have linked the emergence of paramilitary forces in Colombia to a wave of neoliberal privatization of the means of violence that occurred throughout Latin America and “other Third World regions,” noting nevertheless that the “slimmed-down neoliberal state” is “inconsistent with the “territorial monopoly of the means of force” (17). In the case of Colombia, paramilitaries are supported by intelligence provided by the state, and “stepped up U.S. military aid, designed to fight the drug problem . . . provided the means, both intentionally and not, for this new ‘decentered’ militarization” (18).

17. Larsen quotes from Robert Kurz, Der Kollaps der Modernisierung: Vom Zusammenbruch des Kasernsozialismus zur Krise der Weltökonomie (Frankfurt am Main: Eichborn Verlag, 1991). “Ripped from their traditional village or tribal social-economies and herded into the new, gargantuan urban slums of the third world—where they were to have become the new, global proletariat—an enormous mass, literally billions of human beings find themselves in the limbo of ‘Geldsubjekten—aber ohne Geld’—‘monetary subjects, but without money’” (Kurz 223) (in Larsen 56).

18. Juana Suarez mentions that, as a journalist, Restrepo interviewed and reported about the life of migrant oil workers (112–113).

19. As Foucault’s notion of biopolitics refers to the modern category of population and its management, necropolitics applies to the colonial world, slavery, war, extermination camps, and most recently, to the “management of the multitudes,” as a “new form of governmentality” “correlated to the new geography of resource extraction” (34). Mbembé describes a situation more applicable to certain zones in Africa, but I quote his discussion at length to highlight similarities across the globe: “The extraction and looting of natural resources by war machines goes hand in hand with brutal attempts to immobilize and spatially fix whole categories of people or, paradoxically, to unleash them, to force them to scatter over broad areas no longer contained by the boundaries of a territorial state. As a political category, populations are then disaggregated into rebels, child soldiers, victims or refugees, or civilians incapacitated by mutilation or simply massacred on the model of ancient sacrifices, while the ‘survivors,’ after a horrific exodus, are confined in camps and zones of exception” (34).
20. The problem of forced displacement was officially glossed over by the Colombian authorities, attributing the massive displacements not to war strategies but to people spontaneously seeking economic opportunities (Suárez 199–200).

21. In “Una casa para Colombia. Desplazar el arte, situar la nación” (a section of her book; 197–250), Juana Suarez works with the concept of a symbolic “casa,” “hogar,” and “refugio” to discuss the processes of memorialization through visual and performing arts. This opens a dialogue between the use of “refugio” in Restrepo and these other artistic expressions.

22. The Biblical overtones start certainly with the name of the town of Tora, reminiscent of the Torah as the book that the Jews carry through their own displacement, persecution, and exile. Garcilaso Inca writes that in quechua, “tora” is the way a sister refers to her brother; while “pana” (a voice used in some regions of the Caribbean to refer to a close friend), is used by the brother to refer to his sister (Comentarios Reales IV: 11).

23. Colombian ethnomusicologist Ana María Ochoa Gautier proposes a model of cultural and artistic politics against violence that she opposes to “carnavalization of reality through spectacle” that promotes banalization and indifference to violence (Entre los deseos y los derechos 131).

24. I will not dwell in the contemporary critical theory debate around Saint Paul that to my mind is a symptomatic development of this postsecular age, as I find the vindication of Saint Paul as the model of a passionate, faithful, revolutionary thinking, a nostalgic and reactionary gesture of European philosophers (Badiou, Agamben, Žižek, etc.).

25. In fact, the character responds exactly to Kierkegaard’s conception of Christ as a figure who “cannot be remembered because historically appeared in the world for the first time; yet this figure is also not surprising, because it looks common” (Groys, Under Suspicion 145).

26. For a critique of the uses of Agamben’s articulation in contemporary critical humanities, see Didier Fassin and Bonnie Honig.

27. Arendt identified the polis with freedom and action, and the household or private realm with necessity, in the following fashion: “What all Greek philosophers, no matter how opposed to polis life, took for granted is that freedom is exclusively located in the political realm, that necessity is primarily a prepolitical phenomenon, characteristic of the private household organization, and that force and violence are justified in this sphere because they are the only means to master necessity—for instance, by ruling over slaves—and to become free. Because all human beings are subject to necessity, they are entitled to violence toward others; violence is the prepolitical act of liberating oneself from the necessity of life for the freedom of world” (qtd. in Newman and Lechte 527).
28. “Instead of the pretentious and concerned waiting for the event, one could think with Bakhtin about a form of joy that defies seriousness and makes truth erupt out of the present. This is the joy of bringing together and assembling a whole cosmos around everyday radical material practices that are events that might never be named as such” (Papadopoulos 14).

29. This point is inspired in Rancière, whose theoretical articulations moved away from the focus on the sovereign as a warrantor of the edifice of the law of which the system of rights depends. Instead, he regains the problem of the law by making it a privileged element of political subjectivization—which entails an operation of “building a case in a dispute of political and judicial character” (*The Politics of Aesthetics* 303). Instead of possessing rights, or being granted rights, or being dispossessed of certain rights (which is the case in human rights as conceived by Arendt and Agamben), Rancière prefers to stress the process of enacting rights, as the political operation is not one between predetermined actors but one in which actors are constituted in the process. See also Butler (“Performativity . . .”) for a compelling elaboration of how the precarious condition leads to the performance of rights.

30. A comparison with Dante’s *Inferno* has been proposed in critical readings of the novel. See for example Polit Dueñas 126.

31. This already reveals the privileged condition of Fernando, the narrator and alter ego of the writer, since the idyllic life that is the source of his nostalgia wasn’t available for a vast portion of the population before violence took over of the city streets, as Maria Fernanda Lander argues (166).

32. The expression was coined by Colombian writer Héctor Abad Faciolince, according to Juana Suárez (107). “The most obvious connection between sicaresca and picaresca is the recreation of a character whose youth, inexperience, continuous movement and particular take on the society that marginalize him, become the traits that define the new anti-hero” (Lander 167).

33. Taussig (*Law in a Lawless Land* 16) also points out an inflation of legal language and laws in Colombia. He appropriately calls the legal order of the Colombian state “a baroque façade” (117).

34. These comments are inspired on Fradinger’s brilliant analysis of Sophocles’s play.

35. Without explicitly arguing with Esposito, Honig proposes that, far from being constrained to the problem of foundations, this is actually the paradox of politics, or more precisely the paradox of democratic legitimation, which Rousseau expressed as “you need good men to make good law, but you need good law to make good men” (Honig xvi).

36. This is perhaps akin to what Agamben proposed as a way to transcend a legal violence that is reinforced through its exceptions: “One day, human-
ity will play with law just as children play with disused objects, not in order to restore them to their canonical use but to free them from it for good. . . . [T]his studious play is the passage that allows us to arrive at that justice, that one of Benjamin’s posthumous fragments defines as a state of the world in which the world appears as a good that absolutely cannot be appropriated or made juridical” (State of Exception 64).

37. Mainly in “The Jewish Question.”

38. Yrigoyen Fajardo (155–157) divides this new constitutionalism in three periods: 1982–1988, multicultural (Canada, Nicaragua, Guatemala, and Brazil); 1989–2005, pluricultural (Colombia, Mexico, Paraguay, Peru, Bolivia, Argentina, Ecuador and Venezuela); and 2005–2009, plurinational (Bolivia and Ecuador).

39. Gargarella and Courtis offer a useful comparative discussion about this expansion of rights in the context of new constitutions. For a detailed analytical account of the reforms, the different reasons and circumstances that hindered their effectiveness, and the political counter-movements that followed, see Van Cott chs. 3 and 4.

40. Drawing on a long scholarly tradition focusing on violence in Colombia, Gerald Martin demonstrates how particular and local interests, although sometimes ascribing themselves a political role, have dominated a history of violence: a situation worsened by the incapacity of the state to officiate any kind of mediation. However, in the last two decades, violence has not inscribed itself in an all-encompassing narrative.

41. Martin Hopenhayn shows that, since the 1970s, “the increased access to knowledge, information, and advertisement accelerated at a rhythm far quicker than access to larger income, general welfare, and levels of consumption” (“Droga y violencia” 82). He suggests that among other factors, this disparity between symbolic and real access is one of the causes of the increase in social violence.

42. Even the modes of subjective constitution under the “logic of martyrdom and the logic of survival” (35), which Mbembé proposes as resisting these contemporary zones of exception, are set against the grand scheme of sovereign power (such as “the occupation”) or contending powers. What La virgen presents us with is an equally extended situation of horizontal violence directed toward the equal or potential equal. I qualify as capillary the necropolitical phenomena in this novel to give an idea of both its extension and its lack of gravitational point of reference.

43. Arendt points out that the declarations of the rights of man “show an uncanny similarity in language and composition to that of societies for the prevention of cruelty to animals” (33), a statement that might have read as a self-evident critique of “rights of man” when it was first published in 1951 in
The Origins of Totalitarianism, but that sounds very different today when animal rights (and the rights of nature) is a philosophically sound proposition. I elaborate on this in the epilogue. The fact that the link between the notion of rights and that of humanness is critical to contemporary legal debates is also expressed by the claim of corporations to enjoy legal personhood. The extension of the capacity of consciousness to animals supported by scientific research has been one of the grounds for claiming animal rights (Cambridge Declaration).

CHAPTER 3. GLOBAL FICTIONS, TRUTH AND RECONCILIATION, AND THE JUDGMENT OF HISTORY


2. I take the phrase “judicialization of politics” from the volume The Judicialization of Politics in Latin America. In a concise afterword, Guillermo O’Donnell expands and qualifies the phenomenon of judicialization of politics in Latin America since the 1980s to a global trend of juridification of social relations, while he also presents this judicialization as a complex movement of contraction and expansion in which some areas are actually dejudicialized (e.g., the constitutional recognition of parallel indigenous systems of normativity; the “brown areas” that are the jurisdiction of armed groups such as mafias; the rise of nonjudicial systems of dispute resolution; the doctrine of “security” that entails the deregulation of police force). Saskia Sassen (Territory, Authority, Rights) places this judicialization within a larger frame of globalizing trends. The power of the legislative branch, argues Sassen, has waned everywhere, yielding to executive decision. Judicial disputes might take the role left vacant by the legislative action, while rights become a judicial tool to be leveled against executive power.