

Libby Hague's

martian odyssey #23

#23*

justice



Marianne's story: thread 23

Dear Baby Bee - What should we do with the girls who started the war? The ones who made the camps, who thought of those weapons and actually used them on human beings. Some of us want to zap them; some of us want to make a trial for them. More talking.



Alright if there is a trial some of them might get off scott-free but what if it's our only chance.



Discussing the theoretical framework of retributive versus restorative justice, Smadar Peretz, argues that these are the two basic options for countries deciding how to deal with horrors of their own immediate past. “The decision whether to prosecute those who participated in, or benefited from, the repressive regime or to set them free trusting that full disclosure alone will pave the road to reconciliation is critical. Seeking retributive justice might trigger political instability and unravel newfound peace. On the other hand, opting for restorative justice inevitably implies granting impunity to human rights abusers.”

Smadar Peretz, pg. 3, “Balancing Justice and Political Constraints: Truth and Reconciliation Commissions An Effective Post-Conflict Tool?” 2006

Smadar cites Ruti Teitel, who “redraws the argument in the context of past versus future. Thus, punishment is based on the past because it seeks retribution, i.e. prosecutions, for past crimes, while restoration, i.e. a truth-finding mechanism, is based on concerns for future social good such as strengthening democratic institutions.”

see Ruti Teitel, “How are the New Democracies of the Southern Cone dealing with the legacy of past human rights abuses?” as cited in the Peretz paper)



After World War II there was no initial consensus about the appropriate treatment of Nazi war criminals. Churchill and others wanted their summary execution but after Roosevelt's death, Robert H. Jackson, a U.S. Supreme Court Justice, put his considerable authority behind the establishment of an international court which would provide the presumption of innocence in a fair trial. With President Truman's support, on May 2, 1945, Robert Jackson became the U.S. chief Counsel for Nazi crimes and proceeded to "shape the idea of international justice in complex and unanticipated ways." (see the speech given at Chautaugua by Henry. T. King Jr. which is quoted here)

Jackson categorized the three types of crime which he intended to pursue;

1. "the crime of aggressive war (Crimes Against Peace)
2. war crimes – crimes against the laws or customs of war
3. crimes against humanity – crimes committed in the course of aggressive war against individuals for racial, religious, or political reasons. ... The substance of this crime, calling rulers accountable for their treatment of nationals within their borders, was revolutionary."

At the opening of the trial on November 21, 1945, less than eight months from the court's inception, Jackson "spoke on behalf of "civilization," whom he, for all practical purposes, names as the complaining party at Nuremberg."

“ The privilege of opening the first trial in history for crimes against

the peace of the world imposes a grave responsibility. The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that civilization cannot tolerate their being ignored, because it cannot survive their being repeated. That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason.” Robert Jackson opening remarks

“Justice Jackson's focal point at Nuremberg was individual responsibility; he wanted individuals to be held responsible for the criminal deeds they carried out as leaders of states. ...This concept, as activated at Nuremberg, was revolutionary – a complete break with the past.

In keeping with this, and in his drive to hold individuals accountable for their criminal actions, Jackson also wished to eliminate the defense of superior orders as it applied to the high level defendants on the dock at Nuremberg, and instead held Nazi's accountable to a higher order of international law. "In a very real sense, this marked the beginning of the international human rights movement." Henry. T. King Jr.

“[Civilization] does expect that your judicial action will put the forces of international law, its precepts, its prohibitions and, most of all, its sanctions, on the side of peace, so that men and women of good will, in all countries, may have "leave to

live by no man's leave, underneath the law." (Jackson)

In contrast, the military tribunals at Guantánamo Bay, are taking place about seven years after 9/11. "Because the Bush administration's detention policies were so extreme and uncompromising, they have invited numerous challenges that have yielded an expanded thicket of rulings in favour of the detainees ... which have obscured the larger question of guilt or innocence." Jonathan Mahler, *The Fog of War-Crimes Trials: Nuremberg mattered. The Gitmo tribunals are another matter.*, NYT, pg. 9-10, August 3, 2008

The American military and government seem to operate with reckless disregard for individual rights while the judiciary, in its attempts to check these abuses has become victim of a paralyzingly slow process which has lost its public relevance. To undermine it further, a Pentagon spokesman said that Salim Hamdan, the first defendant to come to trial and who was just found guilty of "providing material support" to al Qaeda may still be considered an "enemy combatant" upon completing his sentence and detained indefinitely. (Wikipedia)

How do we measure up to the promise of Nuremberg after fifty seven years? It seems like it was a simpler and more effective time. Certainly it was more effective which is partly a measure of western confidence at the two moments. Perhaps fear and insularity keeps the US government focused on vengeance with the judiciary unable to assert itself beyond endless procedural manoeuvres that have lost the critical tide that could lead on to better things.



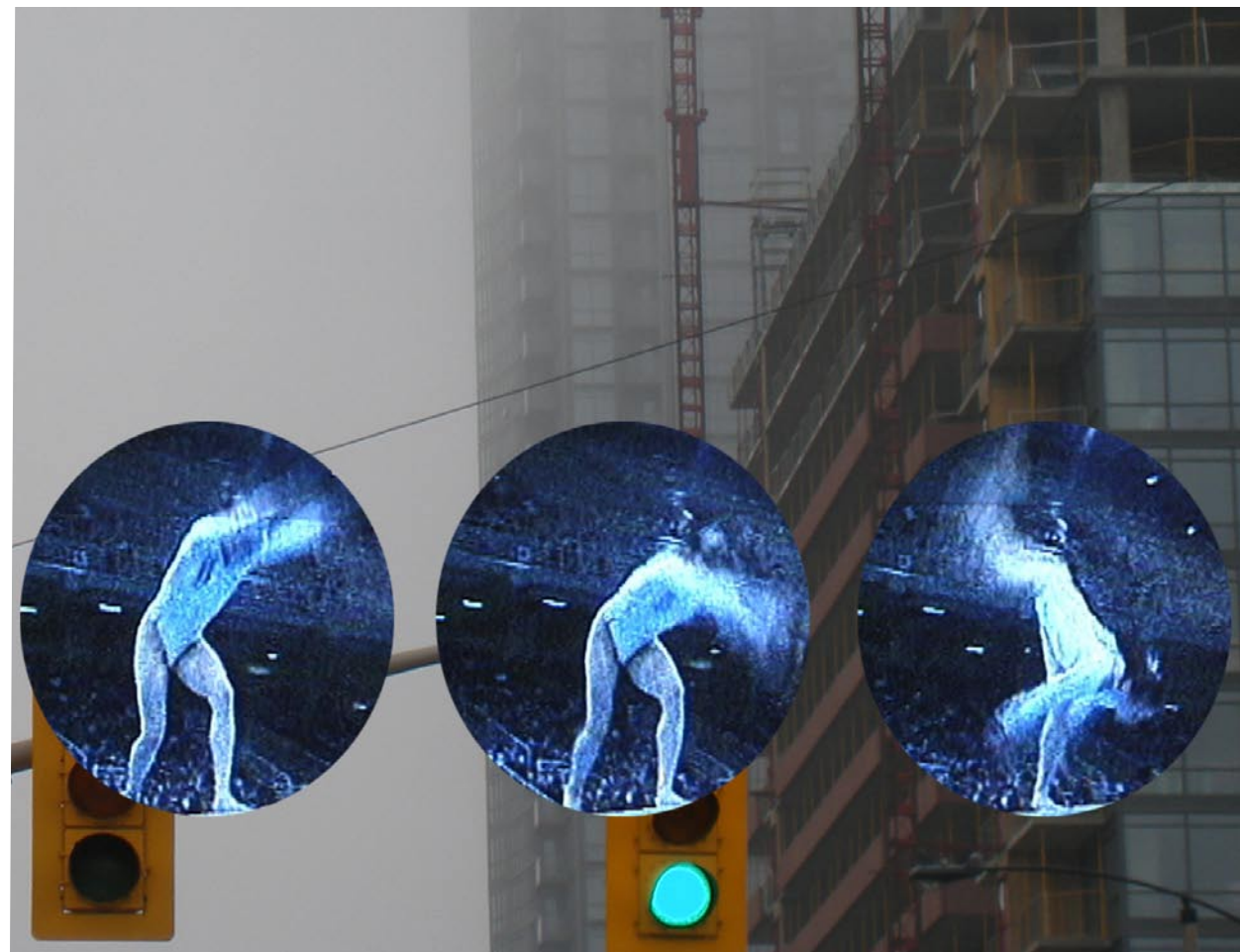
“The connotation of courage which we now feel to be an indispensable quality of the hero, is in fact, already present in a willingness to act and speak at all, to insert oneself into the world and begin a story of one's own.”

Hannah Arendt, *the Human Condition*, pg. 166

“Here is the truth:
King Agamemnon is not honour bound.
Honour to Agamemnon is a thing
That he can pick, pick up, put back, pick up again,
A somesuch you might find beneath your bed.”

Christopher Logue, *War Music*, pg. 22







Thanks to:

Phil Anisman
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Sasha Pierce # 7

and the many authors quoted in these
books

Brief project description:

This web /pdf edition of 30 booklets, connect and complicate the individual artworks in the Martian Odyssey series previously exhibited at Loop in Toronto. These booklets are intended to serve as a basis for comments on the artwork and their themes. If you want to have your comments considered for a web edition you can respond by sending an email to libbylibby@sympatico.ca with a subject heading of Martian Odyssey. I will be regularly updating the pdf's.

Martian Odyssey titles:

1. luck
2. riddles
3. the animals
4. translation
5. corps de ballet
6. The Girls
7. weave
8. net
9. slow motion
10. Big Bang
11. alouette
12. the wrong boat
13. the disaster
14. RAGE
15. white arms
16. plague
17. amnesia
18. ah..
19. string theory
20. laughter
21. dreams
22. Rules
23. justice
24. forgiveness
25. day after peace
26. un-rebuilding
27. blue-sky-blue
28. play again
29. stars are wide
30. sing

Libby Hague is a printmaker + installation artist exploring themes of disaster, rescue and hope. [full cv](#)

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are you listening to me?



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