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How the Visual Arts Can Further the Cause of Human Rights

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The intuitive mind is a sacred gift and the rational mind is a faithful servant. We have created a society that honours the servant and has forgotten the gift
– Albert Einstein.

At the end of the 1940's the world as we knew it was in pieces. The Second World War had not only upset the political world order, it had a profound effect on the social and cultural lives and identities of people across the globe. Living and working during this time, Albert Einstein experienced at first hand the climax of modernity's obsession with rationality, order and state power. Hitler's holocaust had killed six million Jews in concentration camps across Europe, along with hundreds of thousand of other innocent victims (Hobsbawm 1994). Those that survived whether they were enemies of the state or civilians caught up in the ravages of war suffered from hunger, violence and exploitation. Thus, in 1948 representatives of some of the most politically and economically powerful states in the world came together under the banner of the United Nations (UN) to sign the Universal Declaration of Human Rights (UDHR), in order to prevent the atrocities that had occurred in World War II from repeating themselves. The declaration stated that 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood' (University of Minnesota Human Rights Library). The rights that were drawn up by the UN were based upon the writings of early European philosophers like John Locke who was a firm believer in the inherent morality and inalienable 'natural rights' of men (1690), or Jeremy Bentham (1792) and Karl Marx (1844) who were convinced that rights could only sustain their meaning if they were enforced by a law. While these theories were mostly developed at a nation state level, the Universal Declaration of Human Rights should, as inferred by its title, be universal.

Accordingly, since the middle of the 20th century the rights manifest in the UDHR have provided protection for people against the abuses of power by states and acted as a 'principle of liberation from oppression and domination' (Douzinas 2000: 1). Campbell acknowledges that rights promise 'clear and relatively simple answers to difficult moral and political questions', thus protecting individuals from arbitrary treatment and discrimination (2006: 4).

However, while according to Chinkin 'the language of Human Rights Law is a universal one', as its values are entrenched in a body of international treaties, 'the boldness of the human rights vision remains unfulfilled', their triumph a paradox (Chinkin 2003: 1). In fact, never has human suffering been worse than during our time. Stating that 'more human rights violations have been committed in this rights-obsessed century' than ever before, Douzinas concurs that 'there is a huge gap between the theory and practice of Human Rights' (2000: 1-2).

In this essay I wish to prove that while the purpose of human rights is to 'create the conditions for individuals and peoples to lead a dignified life' the main problem lies with their modern manifestation in the realm of law, which often disregards the actuality of social and political contexts (Evans 1998: 2). I agree with current scholars that rights must be accompanied by other measures to ensure human dignity and eliminate suffering because 'they alone cannot answer all the moral crises facing the world today' (Robinson 1998: 66). In this vein I will attempt to argue that art education and art therapy can complement the current law based approach to human rights advocacy, especially in areas where it has failed to deliver people from suffering and trauma.

I wish to begin the first part of this paper with a critique of some of the modern western assumptions about the human condition, which seem out-dated and unfitting for the late-capitalist and globalised society in which we live today. I shall examine how these theoretical assumptions are reflected in current human rights practice, in particular whether mechanisms of implementation allow advocates to practice what they preach. In order to support my argument that legal instruments can often be simplistic and exclusive when dealing with human suffering, I will familiarise the reader with the proceedings of the Human Rights Violations Committee of the South African Truth and Reconciliation Commission (SATRC or TRC). The second part of this paper will introduce art as a genre that proves more capable than law of advocating the idea of human rights in our current world order. I will explore the case of the South African organisation Lefika la Phodiso to illustrate how aesthetic theory can be employed fruitfully in practical contexts. Finally I would like to explore if and how the value of visual arts for the human rights cause has been acknowledged and facilitated by the UN and its sub-committees.

My research findings in this essay draw upon cross-disciplinary literature, ranging from philosophical theory to psychosocial analysis, thus hopefully creating a more holistic approach to the complexities of human suffering. Consequently, my main aim is not to provide the reader with an exhaustive account of the deficiencies of law as such, but to explore the ways in which art practice can respond more immediately to local practices and needs without getting caught up in abstract theoretical debates that bring no change at the grassroots.

Part I – The drawbacks of a legal approach to human rights:

Caught in a modernist bubble?

Scholars of the 20th and 21st century have largely agreed that people across cultures are aware of a concept of human dignity (e.g. Donnelly 2007; Baxi 2007) and even the most vehement critics of universalism and ethnocentrism like Lila Abu-Lughod believe in the universal human right to freedom from 'the structural violence of global inequality' (Abu-Lughod 2002: 787). The UDHR is therefore only one way of answering questions regarding human morality that does not exhaust the 'sources of meaning and movement manifest in the politics of human rights' (Baxi 2007: xviii).

Although the UDHR was born out of WWII and approved by many countries and cultures across the globe, it was built upon ideas that emerged in the enlightenment period at the turn of the 17th century and were almost exclusively confined to western thought and philosophy. Enlightenment heralded the start of what we have come to know as modernity; the rise of scientific and industrial progress and the emerging belief that mankind was able to objectively discover the truths and justices of the world. 'Right', Fiona Robinson argues, emerged as a moral and political idea that assumed a liberal capitalistic individualism, emphasising the importance of the 'legal equality of person's' and a 'vision of society as made up of independent and autonomous units' (1998: 61-62). Today human rights law is still largely based upon many of these assumptions. The idea of there existing such things as inherent and inalienable rights echoes the grand narratives of modernity that hail to human rationality and the universalism of human nature (Robinson 1998: 60).

Another feature of human rights law and legal discourse in general is that it grants the written and spoken word authority above all other forms of communication (Guerin and Hallas 2007: 7). This form of hierarchization derives from the assumption, after René Descartes, that the cognitive mind, responsible for rational thinking and cultural categorising is superior to the experiencing and emotional body (Reference).

I concur with Robinson that such 'tidy philosophical arguments about rights can (not) deliver any real (…) change in the untidy world of global politics' (1998: 60) and they certainly do not alter the fact that suffering continues and trauma persist in the world. However, the aim of this brief introduction to some important modernist themes was to provide the reader with an understanding of the factors that contributed to the idea of human rights manifesting as a set of legal instruments in the 20th century. In the following paragraphs I will abandon the 'tidy philosophical arguments' in favour of examining the implementational methods and outcomes of the UDHR as legal instrument today.

Accountability and why some are *more equal than others – George Orwell (2004)*

On December 10, 1948 the General Assembly of the United Nations proclaimed the Universal Declaration of Human Rights to be elaborated by lawyers and manifest in international conventions, treaties and charters and thus translated from the abstract realm of western philosophy to global politics. It was with this step that the discrepancy between human rights theory and practice would become most visible.

Although, according to the UDHR every individual possesses inalienable human rights, access to these is often restricted. Human rights are exclusively implemented at the state level, which means that, in accordance with modern western assumptions about the freedom of the individual, the state is regarded as a similarly sovereign actor to the person (Robinson 1998: 62). A state's sovereignty implies self-determination, which in turn limits its accountability to the charters and treaties it has agreed to sign. The institutional structures of the international legal system further inhibit development and implementation of human rights' as the system lacks procedural mechanisms for their enforcement (Chinkin 1998: 116-117). If the UN Security Council wants to 'impose economic (…) measures against states' it may not involve physical force and settlement mechanisms are mostly based on consent. Chinkin remarks that states also continue to restrict the 'erosion of sovereignty by limiting applicability of treaties' (1998: 108-110). Therefore any kind of intervention will remain highly selective, as the UN might not want to upset strategically and economically important partners.

Another way of making states accountable is based on regular reports to committees. Inevitably these reports remain 'self-serving and omissions and inaccuracies may be difficult to identify'. The reporting system can consequently never produce the desired effect (Chinkin 1998: 118). Overall there is consent that 'human rights have been turned from a discourse of rebellion and dissent into that of state legitimacy'; Douzinas even goes so far as to say that a 'theory of human rights which places all trust in governments defies (its) raison d'être' (2000: 7&12).

Is form to content what language is to meaning?

I have already mentioned modernity's obsession with language and the concept of truth. Michel Foucault argues in his work on discourse theory in 'The Archaeology of Knowledge' that knowledge is always relative to the historical moment in which it circulates. Because certain types of language and speech that circulate within a discourse will be authorized above others, during modernity this means that law and rights operate a particular 'regime of truth' with particular accepted rules of evidence (2007). The rights-regime that emerges at this point in time, in our case led by the UDHR and its implementational tools, thus creates certain types of narratives and subjectivities that become official while dismissing others (Wilson and Mitchell 2003: 5). Bourdieu, in a similar vein, reasons that language has such strong generative capabilities that the mere fact of voicing a law institutionalizes it and thus 'people and acts (that have or have not been voiced) are included or excluded from a particular social space and its instituted legitimate language' (in Hastrup 2003: 21-22).

If we then consider that not all 'forms of human violations stand addressed by the languages of Human Rights' and not all people have equal access to these languages (Baxi 2007: 2), the exclusive nature of human rights law becomes apparent. Wilson and Mitchell advance this idea by saying that the 'international legal language, including the language of human rights, translates (cultural, social, economic etc.) differences into differences in linguistic competence'. Human rights language is legitimized and standardized but it never represents the multiplicity of global human experience. The authors continue by drawing on Geertz, who speaks of legal representation as reductive and distorting and proceedings in the courtroom as 'skeletonization of fact' and in no way fit to do justice to the complexities of human suffering (Wilson and Mitchell 2003: 21).

Confined by a modernist fixation with speech, the dominant discourse creates an authoritative and exclusive legal language, which means that human rights will inevitably lose much of their underlying meaning. Not only does their message become difficult to sustain across cultures, it is almost guaranteed that the translation process, from legal to everyday language, will lead to loss of nuance. On that note Anthropologists have criticised the human rights focus on state legality because 'rights fix social categories that are in reality unbounded and permeable, (they) isolate out acts that are embedded in wider contexts'. Thus law essentializes social practices and dismisses the incongruity of

theory and the everyday. Again Wilson and Mitchell quote Geertz who argues that 'law skeletonizes social narratives' as it is disinterested in the 'whole story' (Wilson and Mitchell 2003: 4-5). Because human rights are cast in the genre of legal language, they rely heavily on their form of authority, as opposed to their content, eventually defying their practical aim of alleviating suffering and promoting human dignity around the world.

Finally, the process of the legalization of culture holds the danger of binding people's imagination, which can eventually lead to human rights inflation. Because rights often cut complex debates short, which is efficient but can lead to a loss of meaning (Campbell 2006: 4), legality 'carries the risk of moral emptiness' (Hastrup 2003: 26-27). We must conclude that the legal language of international human rights is inadequate to ensure the delivery of the message that 'it is unacceptable to abuse a fellow human being' (Chinkin 2003: 1).

We have broadly established some of the issues, which arise when trying to implement a theoretical idea of human rights law into practice across cultures. I would now like to examine the ways in which human rights are employed as a tool for categorising human suffering. I believe that, for its emphasis on truth, justice and memory the proceedings of the SATRC can provide us with a relevant context for such an examination.

The South African Truth and Reconciliation Commission

The task of the SATRC was 'the investigation and the establishment of as complete a picture of the nature, causes and extent of gross violations of human rights', committed between 1960 and 1994 under the rule of Apartheid in South Africa (Ross 2003: 164). Its objectives were to locate victims and hear about their fate, grant amnesty to successful applicants, offer an opportunity for victims to relate to others, recommend reparations and rehabilitation and finally report all its finding to the nation. The Promotion of National Unity and Reconciliation Act No. 34 of 1995 provided for the formation of 3 different committees: the Amnesty Committee, The Human Rights Violations Committee and the Reparation and Rehabilitation Committee. While in all three of them human rights were accorded huge value (Ross 2003: 164-165), my focus will lie on The Human Rights Violations Committee where I believe the implementation of human rights values could be most directly observed. Testimonies that were collected in its hearings served the formation of a 'new history', which would separate the new state from the old. Thus, contrary to the hearings of the Amnesty Committee, the production of memory and storytelling were not mere by-products.

Although its mission was to establish a ground for South Africans to build their joint futures on, it has been argued by critics that the complex mechanisms of unveiling human rights violations remained rhetorical and political tools which were used selectively and inconsistently (e.g. Robinson 1998 and Evans 1998). In fact, contrary to its goal the SATRC created a 'collected rather than a collective memory of apartheid' (Guerin and Hallas 2007: 15), which was grossly due to the exclusive nature of its proceedings. While between 1960 and 1982 an estimated 3.5 million people were forcibly removed and dispossessed, the SATRC 'defined only 20,000 South Africans as the 'victims' of apartheid, leaving the vast majority in the proverbial cold' (Mamdani 2000: 178).

The SATRC's Human Rights Violations Committee worked between 1996 and 1998, categorising harm into gross violations of human rights, severe ill treatment and women. The limits and boundaries of elasticity and exclusion in this rights discourse were exclusive in that they left little room for the assessment of other kinds of suffering (Ross 2003: 163). Victims were defined as follows:

(a) persons who, individually or together with one or more persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or a substantial impairment of human rights (i) as a result of a gross violation of human rights; or (ii) as a result of an act associated with a political objective for which amnesty has been granted;

(b) persons who, individually or together with one or more persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or a substantial impairment of human rights, as a result of such person intervening to assist persons contemplated in paragraph (a) who were in distress or to prevent victimization of such persons; and

(c) such relatives or dependants of victims as may be prescribed.

Evidently such a narrow and exclusive definition meant that millions of others who had been disadvantaged by Apartheid were ignored. A distinction was also made between victims and witnesses, although this became unsustainable due to the 'difficulty of weighting the physical and psychological pain' of those involved (Ross 2003: 168). However, the legal mandate 'was empowered to make findings only in respect of victims'. This particular instance of human rights practice is a prime example of how 'rights fix social categories that are in reality unbounded and permeable' (Wilson and Mitchell 2003: 4).

Aside from the unfortunate categorisation of survivors the SATRC 'focused on the spectacular, measurable acts of physical violence such as torture and killing, thus flattening-out the complex moral terrain of everyday life during the Apartheid period' (W&M 2003: 6). Ross explains that 'the commission's work and its operational definitions narrowed the assessment of violence to that which is inflicted on the body and, in relation to women to the experience of sexual violation' (2003: 176). The commission's final report confirmed that attention was focused on 'human rights violations committed as specific acts, resulting in severe physical and/or mental injury, in the course of past political conflict'. Their main concern lay with 'bodily integrity rights':

rights that are enshrined in the new South African Constitution and under international law. These include the right to life … the rights to be free from torture … the right to be free from cruel, inhuman, or degrading treatment or punishment … and the right to freedom and security of person including freedom from abduction and arbitrary and prolonged detention.

(in Ross 2003)

Mamdani has remarked that the legal fetishism of the TRC, which seeks to 'equate violations of rights with the violation of the law' was its greatest moral compromise (2000: 180). The final definition of severe ill treatment saw that all recorded experiences should be made to fit the categories of official discourse:

- Rape and punitive solitary confinement;
- Sexual assault, abuse or harassment;
- Physical beating resulting in serious injuries
- Injuries incurred as a result of police action during demonstrations;
- 'Burnings';
- Injury by poisoning, drugs or other chemicals;
- Mutilation;
- Detention without charge or trial;
- Banishment or banning;
- Deliberate withholding of food or water to someone in custody;
- Failure to provide medical attention to someone in custody;
- Destruction of a house through arson or other attacks.

(in Ross 2003)

We thus witness an attempt to assess, categorise and rationalise the incommunicable experience of human suffering. Although these categories may seem broad, they are bound by language, law and the specific format of the hearing, risking the moral emptiness and loss of meaning, about which Hastrup (2003) and Campbell (2006) have warned.

For our understanding of Truth Commissions this means that the format of the hearing exclusively decides over its content. Everything that is communicated outside of the strict rules of evidence is excluded from official discourse. Varying culturally determined patterns of witnessing are dismissed. Ross interestingly mentions that the commission's methodology and practices of bearing witness meant that women seldom 'testified about their own experiences of GVHR (Gross Violations of Human Rights)' because these were usually confined to the private sphere. These gaps in evidence obscure how the Apartheid state regulated family and daily life and Ross insists that

'women's apparent silence should not be read to mean that women did not suffer' (2003: 169-170). Ultimately the domination of form over content within the SATRC leads to it becoming a short-term rather than a long-term solution for the reconciliation of the South African people. Because, although 'storytelling and testifying can be a way to cope with the double wound of deferred trauma', the specific content of the testimony is left in the background. The therapeutic aspect should have precedence over the provision of evidence (Douglass and Vogler 2003: 42) if it is to make any change to the experience and the memory of suffering of the post-Apartheid population.

However, exclusivity is certainly not the only shortcoming of law based human rights discourse. While I have already mentioned the simplified formal distinctions that are made between victims and perpetrators, the methods employed to determine which category an individual fits into are often also very insensitive. The body of the victim is reduced to being a site for 'visualizing the corporeal consequence of trauma', for example scars or bruising, which in turn dehumanizes the individual (Guerin and Hallas 2007: 14). Because the SATRC only produced victims and not heroes, many surviving activists chose to remain silent, to not testify, in order to escape the humiliation of having their suffering reduced to a final official report (Ross 2003: 172-73). Because of the formalized procedures of the TRC hearings many *victims* also experienced restricted access to the production of their own representation and identity. Loss of voice and agency, on the part of the survivors, are two major consequences of these procedures. Meanwhile, the identities that emerge from the commission's official discourse are the opposite of liberatory. The TRC saw victims as 'acted upon rather than acting, suffering rather than surviving' but this definition is constraining. Ross elaborates that 'an emphasis on victimhood may displace from the historical record the agency of those who mobilized in the face of oppression' (2003: 179).

So the question follows, if not the survivors, who is it that really benefited from the SATRC? Much scholarship has suggested that the notion of 'nation building' was central to the founding of the SATRC. Because the 'struggle for a state's identity lies in its representation', (Campbell 2003: 57) the processes of memorising collective trauma were highly managed, benefiting the spectacle rather than fulfilling its responsibility of witnessing. The function of the commission as a political and rhetorical tool is once again underlined and we must agree with Ross that 'human rights discourse (remains) an unrefined instrument for measuring harm'. In fact many of the drawbacks of the SATRC, such as the fixation with language, its inappropriate rationality or its being prone to dualisms can be traced back to the mechanisms of law in general. Douglass and Vogel suggest that the main paradox of human rights law is that 'the universally acknowledged inadequacy of words leads to the production of yet more words that can only confirm their inadequacy because more is never enough'. Thus there is no closure, only a system of maintenance. According to Derrida, 'narration solves no problems and assuages no suffering' thus the therapeutic goal of working through trauma to alleviate suffering may never be accomplished (in Douglass and Vogler 2003: 44&48). The authors add that according to Wiesel, to imagine the unimaginable may 'profane and trivialize a sacred subject' thus language is always an inadequate medium for representing reality (2003: 31).

Where to now?

Subsequently, as 'starvation, torture and genocide remain constant features' of our global society (Robinson 1998: 60), there must be another way of attending to the moral claims of actors in the international context. Questions such as 'should the international legal system be improved or abandoned? Can law ever empower the disadvantaged? Have NGO campaigns for greater legal implementation of human rights been a waste of energy?' are being asked as human rights advocates struggle to come up with satisfying answers. I believe that there is no need to give up hope just yet. Although human rights implementation currently leaves a lot to be wished for, it at least provides a yardstick to assess performance of states (Chinkin 1998: 120), and in principle strives to empower the disempowered. Still, there is no doubt that 'human rights thinking and language must be backed by institutions and mechanisms (other than law and justice) that will facilitate the implementation of the 'imagined' human rights community' (Hastrup 2003: 24). In the second part of this paper I wish to introduce the reader to an alternative way of dealing with ethical issues that may prove more inclusive and holistic than human rights law.

Part II – The benefits of an arts based approach to human rights:

The story of an icon

After all this seemingly discouraging talk about implementational drawbacks of human rights law we must not forget that the basis of human rights advocacy should revolve around preventing suffering, ensuring dignity and encouraging mutual respect and equality among the people of the world. I would like to use this paragraph to illustrate how historically art has acted as memorial to suffering and violence so we might explore its value for human rights practice today.

The painting of *Guernica*, much like the founding of the United Nations and the drawing up of the Universal Declaration of Human Rights, was a reaction to the destructive and cruel events that took place in the 1930s and 40s in Europe and the world. Picasso received a commission for a painting that was to be shown at the Paris International Exhibition in 1937 to commemorate the atrocities that the fascists were committing against the people of the Spanish Republic during the civil war (Whitford 1995: 4). The cause of this war had been an uprising by ultra right-wing Carlist rebels, headed by General Franco and supported by the Axis powers, against the republic. On April 26th 1937 the German Condor Legion dropped bombs on the small Basque town of Guernica, reducing it to rubble and smoke. After the war *Guernica* became known as 'the picture of all bombed cities' (Cohen 2003), its universal symbolism and distinctive pictorial language making it broadly accessible, one of the 'most effective history paintings of our century' (Hohl 1988: 313). This effectiveness has been described by authors as deriving from its 'political and humanitarian charge' (Hohl 1988), its universal anti-war message being a reminder of what human beings are capable of doing. Much like the Universal Declaration of Human Rights and the numerous tribunals and commissions that have been set up by the UN to overcome social conflict and human suffering, the painting bears witness to the traumatic experience of war through contributing to a 'complex discursive construction' of the truth of the events (Guerin and Hallas 2007: 5). But *Guernica's* impact does not end here.

In 2003, many years after its initial creation, the Guernica tapestry, a copy of the original which hangs in the lobby of the UN Security Council in New York, was covered with a curtain when Colin Powell addressed the UN before the planned bombing of Baghdad which was to mark the outbreak of the Iraq war (Kennedy 2009). According to various online resources, officials thought it would be 'inappropriate' for Colin Powell to speak about the war in Iraq with the 20th century's most iconic protest against the inhumanity of war visible in the background, especially since the Bush administration was not keen on conveying any historical parallels (Cohen 2003; Walsh 2003). After all, *Guernica* was a chilling reminder of what military operations, like sending cruise missiles to Baghdad, could have on civilian populations. While I do not wish to immerse myself further in the debate between those who see the symbolic significance of this act versus those that regard it as mere coincidence, there can be no doubt that *Guernica* remains iconic and powerful to this day. The artist Mark Vallen refers to the Australian politician Brereton who, in discussing the censoring act, refers to art as a 'civilizing force that erases national boundaries and strengthens human solidarity' (Vallen 2003). Thus, images are not just signs but actors that need not be functional or truth telling, because, far more so than words, they are 'perceived to have a power and an agency to bring (into) life (…) a particular kind of presence' (Guerin and Hallas 2007: 10). It is this ability of the image, to move people, to witness without speaking and to 'make it difficult to sustain (…) ignorance or innocence in the face of suffering' (Campbell 2003: 72) that I wish to explore further in the following paragraphs.

Why art?

At the beginning of this essay I argued that the main shortcomings of law-based human rights advocacy relate to an inability to overcome its modernist obsession with rationality and the written word. The exclusive nature of its implementational techniques often ignores social and cultural contexts and thus remains unable to promote people's equal worth and dignity at the ground level. For these reasons I side with Chinkin who believes that art can act as a supplement to legal norms because the 'visual image can take familiar ideas from the realm of human rights and transform their meanings in ways that speak across time and space' (2003). After all, art can and has existed meaningfully outside of the modern western episteme (e.g. Myers 2002, Mackenzie 2001, Magnin and Soulillou 1996). Thus, it can assist in 'bridging the divide between the universalist principles of human rights and local situations' (Chinkin 2003: 2). The language of art is more international and inclusive than that of law because a visual image may reach those for whom written work is inaccessible or incomprehensible.

In acknowledgement of sceptics who criticize the historical elitism and exclusivity of definitions of art and beauty, I

might argue that this was not an inherent feature of art itself, but rather followed as a discourse from the western class struggles of the 19th century (Bourdieu 1984: *Distinction*). And while I would be thrilled to produce an extensive analysis of Pierre Bourdieu's scholarship on this topic, I am afraid that such an endeavour would by far exceed the scope of this essay. What I do wish to argue is that human dignity, like art, must be understood within a person's own social and cultural context. In a globalised and postmodern world there is no place for objective and absolute truths, rather a need for measures that allow for the alleviation of individual and collective experiences of suffering in- and outside of the West.

Art and trauma therapy

In courts of law, or the similarly structured hearings of The Human Rights Violations Committee of the SATRC, Douglass and Vogler argue that 'competing narratives and discourses struggle in adversarial combat to produce "the facts" or the story "of what really happened"' (2003: 2-3). But because trauma is a wound to the body that violates our normal mental processing ability no discourse can really unmask 'the truth'. In her article on child psychoanalysis Diem-Wille (2001) uses Freud's theory on the 'topography of the mind' to explain the different layers of consciousness that determine the inner conflict that trauma-victims experience. Freud distinguishes between the unconscious, the preconscious and the conscious layer, giving us a metaphorical description of the relationship between the three systems:

Let us … compare the system of the unconscious to a large entrance hall, in which the mental impulses jostle one another like separate individuals. Adjoining this entrance hall there is a second, narrower room – a kind of drawing-room – in which consciousness … resides. But on the threshold between these two rooms a watchman performs his function: he examines the different mental impulses, acts as a censor, and will not permit them into the drawing-room if they displease him … We are therefore justified in calling this second room the system of the preconscious.(Freud 1916-17: 295-6)

Diem-Wille remarks that during periods of conflict the boundaries between the three layers of the mind are more sharply defined than during periods of mental harmony. This means that during a traumatising experience the preconscious 'watchman' represses a larger portion of the unconscious from accessing the conscious.

However, the repression of the experience of violence, such as that under Apartheid, into the unconscious can lead to serious psychological conditions such as Post Traumatic Stress Disorder (PTSD) if left unaddressed. According to Guerin and Hallas bearing witness 'allows the traumatized victim to work through the experience of the trauma and hopefully be released' (2007: 8). Often therapy and psychoanalysis provide the survivor-witness with ' a space in which she may begin (…) narrativising the event' (Felman and Laub in Guerin and Hallas 2007: 10-11). But how do we deal with individuals that have experienced gross violations of their human dignity and still suffer from the repercussions if their narratives are bound by rational appeals to their conscious memory that cannot reveal the damage done to their subconscious?

Therefore, without the necessity of verbalizing the narrative, art can act as a means to bear witness to historical trauma through interrogating, memorializing and creating 'individual and collective experiences of events' (2007: 5). I will use this order to structure my analysis of art's function in trauma therapy.

Diem-Wille argues that 'pictures, drawings and metaphors show a person's emotional state of mind much better than verbal definitions or descriptions' (2001: 119). On the website of the International Society for Traumatic Stress Studies (ISTSS) Creative Arts Therapy (CAT) is promoted as a way to 'access nonverbal material or content that is unavailable to words', especially in trauma victims. It is further explained that the kinaesthetic and sensory experiences inherent in Creative Arts Therapy 'activate the right hemisphere of the brain, allowing access to nonverbal memory' (2011). An externalization of internal images, thoughts and feelings can be achieved without drawing on the exclusionary practices of the SATRC. Apart from overcoming PTSD, the ISTSS acknowledges that CAT can encourage 'testimony, public education and destigmatisation' of the trauma victim (2011). Art therapy is thus a particularly helpful way for traumatized and inexpressive persons, for example those with 'alexithymia' (the inability to put feelings into words) to interrogate their hidden memory as it provides access to 'implicit (…) memory

systems' (ISTSS 2011: 1).

But art therapy and production can also act as a means to witness and accordingly memorialize an individual or collective experience. Much like the UDHR was put into place to prevent the repetition of historic atrocities, according to Guerin and Hallas the art work 'permits the survivor to speak to a public (…) to condemn (…) memorialize' and warn against repetition (2007: 8). Chinkin agrees that the production of art protects against revisionism and denial by giving 'testament to suffering' (2003: 2). This testament does not have to be representative or function as authentic/accurate evidence. Accordingly 'no representation can begin to communicate the truth of a traumatic experience' and modern regimes of truth and knowledge have been criticised in trauma studies (Guerin and Hallas 2007: 1-2).

Thus, an important advantage that art therapy in the interrogation of trauma and suffering has over The Human Rights Violations Committee is that it does not search for truth. Truth, as mentioned above, has no place in trauma. Douglass and Vogler elaborate that the traumatic event can never be observed directly, as it is by definition that which is constructed 'retroactively' (2003: 5). After all, the ultimate witness to a traumatising event is usually the one who has not survived. However, the material image's 'phenomenological capacity' can make visible and bring into presence an event that might otherwise be unrepresentable (Guerin and Hallas 2007:12). We might remember *Guernica* as a painting whose power lies not in authenticity or literal representation but in its 'visual rhetoric of rupture' (Douglass and Vogler 2003: 33). Through invoking an 'aesthetic semiotic of atrocity' Picasso turns an historic into a symbolic event. In general artists have found many interesting and effective ways to combine 'representation of a traumatic event with awareness of impossibility' and accept that realism is not always effective when dealing with trauma and suffering (Douglass and Vogler 2003: 33).

Finally the process of interrogation and memorialization through art therapy culminates in the trauma-survivor reclaiming his or her identity. In the hearings of the SATRC problems arose due to the huge ethnic and linguistic diversity of witnesses present. The streamlined set-up of the hearings left no room for acknowledgement of people's agency and differing identities, which led to the establishment of a simplistic victim/perpetrator dualism. However, Collier argues that because 'the cultural lenses through which we operate inevitably shape our analysis' (2001: 58), the multiplicity of survivors' identities needs to be recognised. Since creating a visual or a verbal record of an experience requires making 'choices influenced by our identities and intentions, (…) also affected by our relationship with the subject' (Collier 2001: 35), the only way to accommodate this kind of complexity and overcoming linguistic barriers and diverse cultural traditions, is by means of the creative artistic process inherent in art therapy.

The South African organisation Lefika la Phodiso has acknowledged this and adds on its website that 'individuals exposed to trauma and loss, often experience a deadened sense of self and are subject to depression, aggression and suicidal ideation'. They state that creative processes enable them to re-access their "alive" parts, providing opportunities for exploration and emotional growth. In the following paragraphs I would like to explore the ways in which the work of this organisation compares to that of the SATRC, by concentrating on its art based approach to human suffering and the overcoming of trauma.

Lefika la Phodiso – South Africa's secret hero?

Not unlike the SATRC the Non-Governmental Organisation Lefika la Phodiso – The Art Therapy Centre – was born in 1993 out of a critical need to respond to the effects of trauma from political violence in the final years of Apartheid in South Africa. Today Lefika works to better the lives of those individuals, families and communities affected by abuse, crime, poverty, xenophobia, HIV AIDS and continuing trauma. Their work predominantly takes place within Johannesburg's townships and inner city where the levels of these problems are amongst the very highest in the world (Lefika – Home). According to the Organisations founder Hayley Berman, 'over the past 15 years there has been a gradual decrease in a shared moral and humanitarian value of a 'rainbow nation', a non- racial, non-discriminatory, democratic, free thinking culture' (Berman 2010: 20). With the country still struggling to prevent the escalation of poverty, unemployment and crime, as well as the continued process of 'violent othering' (Berman 2010: 5) we must question the long-term success of the SATRC.

In accordance with my arguments in this paper, Lefika explains on its website that an optimistic future for South Africa depends on 'therapeutic interventions', which address its current social and economic climate and generate psychosocial well-being for its people. These therapeutic inventions are primarily art based. Lefika, like many scholars, acknowledges that art therapy facilitates disclosure and is particularly valuable when working with vulnerable clients. The organisation creates 'safe spaces' for suffering individuals and provides them with an 'aesthetic tool kit' that supports the 'unconscious and conscious parts of the self to find expression' (Berman 2010: 4). But Lefika also addresses the more practical issues surrounding art therapy in acknowledging that:

It is currently not possible to train as an Art Therapist in South Africa; this has resulted in a scarcity of services. The ATC has thus developed a unique model and category of profession called Community Art Counselling and is the ONLY organisation in the country that provides training in Art Counselling and Art Counselling services. (Lefika – What we do)

Interestingly, the majority of Community Art Counsellors, across generations, that come out of the training will have experienced Apartheid at some time in their lives (Berman 2010: 6). This factor underlines that in contrast to the aloofness of the SATRC, the organisation is very much based at the grassroots of South African society.

That the work of the organisation remains essential for guaranteeing the well-being of many people in South Africa is reflected in its impact during a refugee crisis created in the aftermath of xenophobic attacks in May 2008. Berman, the founder of Lefika (2010: 4) explains the political context:

Early in May 2008 unrest began in Alexandra Township when a gang of men raided a hostel where many foreigners were living. They brutally beat, raped and pillaged from hostel dwellers, blaming 'foreigners' (called 'aliens' by some) for taking away their jobs, housing, and women and accusing them for being responsible for crime. Meetings were held by the Alexandra Residents Association, where a decision was made to rid the township of all foreigners. It started on a small scale with gangs of men raiding foreigners' homes and threatening their lives, threatening them with rape and insisting they leave the location – their motto was "They must leave or die".

She adds that reports from the riots painted a familiar image reminiscent of the context in which her work began many years ago. Meanwhile, the people displaced by the xenophobic attacks who were now seeking shelter in refugee camps, were suffering from trauma, disenfranchisement and loss of voice. Considering their status as 'foreigners' a common language was unavailable to most of them. I will consider in the following Berman's report on Lefika's role in alleviating these people's suffering, creating unity and transforming their muteness into expression by means of a particular case study. Berman's account of a group therapy session with teenagers living in the camp began with the task of tearing newspapers into piece s and strips. While tearing the young people were asked to speak about the process:

The group spoke of their loss of identity, the physical loss of their certificates, belongings, books and the feelings of anger for their situation. They said that they would never trust their neighbours again, as they were living happily next to them, when suddenly they became enemies. The group spoke about the sound of the paper and how it reminded them of the fighting, and some discussed their fear of death. Many participants spoke of the experience of being attacked and hiding under the bed, watching their houses being burnt with petrol.(2010: 10)

The Community Art Counselor Mokgadi Rakabe then introduced a second step to the process. She suggested using the torn paper 'as an opportunity to transform and to unify the experience' and the key was finding a way to transform a negative experience into a potentially positive/hopeful one (Berman 2010: 10). The group then collected the remaining pieces of paper and decided to create a doll in the shape of a child, thereby transcending initial racial disputes and creating a joint symbol of their hope for the future.

The case study shows how artistic image creation offers a safe way to express some of the difficult experiences that individuals make and highlights that, unlike law, art is a language that holds a connection to their deepest internal

emotions. Through Berman's article we appreciate that the creation of a shared and inclusive language is vital to the therapeutic process, which the Art Therapy Centre strives for.

The Role of the UN

I mentioned at the beginning of this paper that I would try to find ways in which art could supplement legal human rights practice in cases where people's experience of suffering could neither be measured nor overcome by standardized, rational means. Accordingly, my essay has been not a critique of human rights as such, but rather a critique of current implementational human rights practices advocated by powerful local and global institutions, such as the SATRC and the UN. Nevertheless, for all its failures we must acknowledge that the UN has managed to increase transparency in government politics, improve international relations and in cooperation with NGOs it has brought aid money into countries and raised the discourse around trauma and human suffering worldwide (Camp Keith 1999). It is therefor vital not to dismiss the role that the UN can have in encouraging alternative measures of human rights advocacy in the future.

Under the patronage of the UNESCO, in 2006 and 2010 respectively, Lisbon and Seoul were host to The World Conference for Arts Education. In reports from both conferences we find information that is supportive to our thesis that art can act as a vital tool for human rights advocacy in the 21st century (UNESCO 2006; UNESCO 2010). The Road Map to Arts Education, published after the conference in Lisbon, addresses a greater need for creativity and cultural awareness in future societies because art education increases the potential for critical reflection and harmonious development. It acknowledges that art communicates cultural knowledge and promotes cultural diversity while outlining strategies and recommendations for NGOs, teachers and artists for the successful implementation of art education (2006). And just like supporters of art therapy emphasise the importance of the artistic creation of shared and inclusive languages to overcome trauma, the Seoul Agenda devised in 2010, acknowledges that arts education can make a direct contribution to resolving the social and cultural challenges facing our world today (UNESCO 2010: 2).

In the context of post-industrial economies the UNESCO has acknowledged that there is a growing need for a creative, imaginative and adaptive workforce. Art can provide the foundation for 'balanced cognitive, emotional and aesthetic development' and enhances the innovative capacity of society (UNESCO 2010: 2). Therefore, when facing social and cultural challenges it has the ability to encourage long-term problem solving, such as peace and sustainability while furthering cultural diversity and understanding.

In 2006 UNICEF collaborated with the Non-Governmental Organisation Art in All of Us, organising two exhibitions to raise awareness of excluded children and the Millennium Development Goals. In a letter of recommendation available on the organisation's website, UNICEF declares its support for the mission to promote 'creative multicultural exchanges throughout the 192 UN listed countries, using the universal language of Art' (UNICEF Belgium 2007).

It becomes evident that the UN and its relevant sub-organisations have realized art's potential and ability to complement legal approaches to human rights advocacy. Nonetheless, I believe that the development of implementational policies building upon the recommendations of the UNESCO remains in its infancy and especially one fundamental issue remains. In tune with the modernist tendencies that I have begun to address, human rights related art practice continues to be confined to the emotional, childish and thus somewhat subordinate sphere of cultural life. This is highlighted by the fact that both NGOs I have mentioned above have received their UN support mainly from UNICEF. In addition to this it is in Article 31 of The Convention on the Rights of the Child that 'the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity ' are specifically emphasised (UNESCO 2006: 4). Yet, I believe it is vital that global actors realize the potential that art can have for the advancement of a vision of human well-being that includes people of all ages, colours and social and economic backgrounds, so it may make superfluous the feud between relativists and universalists which has barely resolved anything on the complex ground of actual human experience. This issue however, must be addressed in different essay.

Conclusion

In the preceding paragraphs I have set out to examine the ways in which visual art can act as an alternative or supplement to human rights law in witnessing and dealing with suffering and trauma. I began my analysis with an assessment of some of the modernist assumptions about the human condition, which ultimately led to the formation of concepts such as rights, justice and truth that would become the basis of modern law and law based human rights advocacy in the 20th century. Following our examination of the implementational shortcoming of said law, with a specific focus on the proceedings of the SATRC, it has become clear that a rights-based approach to morality remains insufficient. The exclusiveness of its language and practices has not proven worthwhile for the attainment of respect for 'the dignity and worth of the human person' (United Nations 1948: Preamble). On the contrary, Robinson remarks that rights-based ethics rely on institutionalised emotional distance, individuality and shared humanity and not what is important to real people, their different needs and interests (1998: 70). Consequently in the second part of my paper I set out to demonstrate exactly which properties of visual art make it a more inclusive and thus successful human rights language, focusing on its power to be accessible across verbal and cultural barriers.

I would like to conclude that the ability of art practice to acknowledge and accommodate the 'shared and the particular of any one culture' allows us to bridge the gap between form and content of human rights advocacy. Formal procedures, like those recommended by the UN, must thus be accompanied by substantive measures. Because the scale and intensity of human rights violations remains high despite 'sophisticated procedures and monitoring mechanisms' (Chinkin 1998: 106), the UN has already acknowledge the importance of investing in development projects that can create long-term change by educating future generations to be imaginative and thoughtful in their problem-solving capabilities. Ultimately, much like the members of Art in All of Us, we must believe in the power of art to change lives (Website – *About US).*

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Appendix: NGO Profile No. 1

Web Address: www.arttherapycentre.co.za
Founding Members: Hayley Berman
Country of Origin: Johannesburg, South Africa.
About: not-for-profit organisation, founded in 1994 that facilitates Art Counselling projects, especially trauma work, and only South African organisation which trains Art Counsellors.
Mission: "Lefika works to better the lives of those individuals, families and communities affected by abuse, crime, poverty, xenophobia and HIV AIDS. This work predominantly takes place within Johannesburg's townships where the levels of these problems are amongst the very highest in the world."
Projects: Safe Spaces; launched in June 2010; to provide spaces for vulnerable children during the World Cup, art counseling and healthy meals.

Art Therapy in Schools Programme; providing art counseling groups to under-resourced schools and communities and equipping these with therapeutic skills.

Training and Development;offering Continuing Professional Development (CPD) accredited courses for health care professionals, HIV counsellors, psychologists, social workers, educators and artists.*And many more …*

Source of Funding: income is generated from contributions by the government and corporate sector and used to fund the free outreach community training program.

Relationship to UN: UNICEF acts as an important partner to the Organisation and one of Lefika's art works was selected to be displayed on the website of the United Nations Development Programme.

Appendix: NGO Profile No. 2

Web Address: www.artinallofus.org
Founding Members: Anthony Asael and Stephanie Rabemiafara.
Country of Origin: Based in Brussels, Belgium and New York City, NY,USA.
About: not-for-profit organisation, founded in 2005, that works with children between the ages of 8-12.
Mission: "The Art in All of Us (AiA) Mission is to **inspire children** across borders to **build a more tolerant world** for tomorrow. We **stimulate the creativity and curiosity** of children through artistic and interactive activities. By giving them a voice, children are empowered to express their feelings, build their self-esteem, and help create a more positive future."

"We believe in the power of art to transform lives"

Projects: Pen Pal Program; launched in 2006; promotes artistic communication between children of different countries and continents.

World Art Book Program; book published in 2009, showcases each and every one of the192 UN member countries through a local child's drawing, poem and, and a portrait photograph.

Awareness Workshops; introduces drawing, poetry, and photography to schools while promoting multicultural exchanges through interactive art activities.

Source of Funding: Private donations, corporate partnerships, and sales of books and photographs.

Relationship to UN: UNICEF has worked closely with AiA since its foundation in 2005; commemorate the 20th anniversary of The Convention on the Rights of the Child at their headquarters in New York City in November 2009; over 21,000 children from all 192 UN member countries have participated in their workshops.

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