Violence, Suffering and Human Rights: Anthropological Reflections

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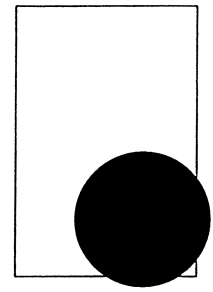
Anthropological Theory 2003; 3; 309
DOI: 10.1177/14634996030033004

Anthropological Theory

Vol 3(3): 309–323
[1463-4996(200309)3:3;309–323;035254]



Violence, suffering and human rights

Anthropological reflections

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Abstract

This article develops a trenchant critique of the rise of human rights as the main universal standard against which to judge violence and suffering. It begins with a case study of an act of mass atrocity in Surinam that was brought before the Inter-American Court of Human Rights and which demonstrates the ways in which rights-based conceptions of justice distort our understandings of suffering and pare down social and moral narratives. Legal language instrumentalizes, cutting out the symbolic and expressive dimensions of violence. Anthropology is opposed to this methodological individualist and positivist approach to representation as it seeks to understand people's life worlds experientially. In contrast, the article asserts that violence is always a social fact, which can be apprehended through inter-subjectivity and dialogue in the Bakhtinian sense. Conversation, understood in this manner, can provide an alternative to the 'epistemological dictatorship' of a censorious rights-based regime of truth, and also of an anthropological discourse based in 'culture'.

Key Words

dialogue • human rights • legal language • suffering • toleration • violence

Violence is a slippery term; what is more, it covers a profoundly disturbing phenomenon. It is disturbing on two counts at least: as a human experience on the one hand and as a definitional problem on the other. These two sides are not entirely independent, as we shall see. Victims of violence are silenced, and the anthropology of violence is trapped in its very unintelligibility. Veena Das recently expressed it like this: 'Like many other anthropologists compelled to write on violence, the grammar of terror, or on the dismay of images, I have been caught in a scene of writing in which the moral urgency has far outpaced the capacity to render the violence intelligible' (Das, 2000: 59).

Intelligibility is to a large extent a matter of rendering violence in words. Now, words have the capacity of objectifying what they speak about, and therefore to pre-empt the issues of subjectivity, uncertainty, and ultimately of definition. Once defined, violence

'takes place' in language, and from there it entails its own suggestions about possible strategies of reparation and counteraction. Even strategies of justice are prone to be caught in a particular language that may be more or less inclusive, and more or less directly reflective of particular kinds of violence, a concept that covers a vast field between physical destruction and metaphysical desecration (Parkin, 1986: 205). Conceptually, 'violence' in many ways comes close to 'religion', both belonging to 'a family of curious and often embarrassing concepts which one perfectly understands until one wants to define them' (Bauman, 1997: 165). Both are social facts that we are bound to take seriously and to study anthropologically, however much they defy simple referential signs. A similar case can be made for 'suffering', which somehow tends to recede from conceptual precision while filling the space of vision. Suffering not only escapes definition, it also defies objective measurement by belonging so intimately to the subjective domain.

Both violence and suffering are more than social facts in that they are also global plights to which the international community must respond. One of the responses is a stress upon human rights as setting a shared legal and ethical standard against which individual societies may measure their own performance. Jürgen Habermas has suggested that this standard is, in fact, the only legitimate one: 'Human rights provide the sole recognised basis of legitimisation for the politics of the international community' (Habermas, 1998: 162). While in some sense 'innate' and thus part of 'natural law' in the classical sense, human rights also, to a large extent, exist by being talked about. The question is whether this particular claim to justice actually contributes to the remaking of the world, or whether the rights-thinking implied actually distorts the nature of social and individual suffering.

On top of this question is another one, relating to the possible contribution from anthropology in sorting out new measures of justice and reparation. I shall open my discussion of these questions by a brief case-story from Surinam that has immediate anthropological interest, and use it as a first indication of where I see a possibility for anthropology to make a new impact on an issue of acute public and political concern.

THE CASE-STORY

The case I want to relate (in brief) was raised at the Inter-American Court of Human Rights in the early 1990s, and it has a lot of ingredients in common with other cases from all over the world.[1] At an up-river landing place a group of government soldiers met some 20 male, unarmed Maroons, whom they beat up with rifle butts, wounded with bayonets or knives, and detained under the suspicion that they were members of the jungle commando; some were forced to lie face-down on the earth while soldiers stepped on their backs and urinated upon them. After a while the soldiers let some of the Maroons continue their path while seven of them, including a 15-year-old boy, were blindfolded, dragged into a vehicle and driven away. After some 30 km they were ordered out of the vehicle, forced to dig their own graves and shot. Six of them died instantly, the seventh escaped into the bush, seriously wounded. This man was later found by a party from his own village who had set out to seek information on the whereabouts of the seven missing persons. Eventually, he was brought to hospital by a Red Cross representative. He died a few days later.

A legal spokesman for the group had had the opportunity to speak with the latest victim before he died, as well as with members of the search party and the original

witnesses. They agreed to file a petition to the Court against the state of Surinam as responsible for the acts of the soldiers. In the end, the Government of Surinam accepted its responsibility and its spokesman concluded: 'I believe my statement was clear: it accepts responsibility. Consequently, the Court has the right to close the case, file it, determine the compensation payable or do whatever is appropriate under the law' (§22 of Resolution no. 11). The impatient tone is conspicuous, but the spokesman is actually introducing a new phase in the case: that of reparation.

After two more years, the compensation was decided; it is impossible to go into detail about the debate and the consequences and I shall mention only a few salient points. The victims (and their heirs) were to be recompensed not only for the loss of their lives but also for moral damages and abuse. I cite §52 of the Resolution (no. 15): 'In the Court's opinion, it is clear that the victims suffered moral damages, for it is characteristic of human nature that anybody subjected to the aggression and abuse described above will experience moral suffering. The Court considers that no evidence is required to arrive at this conclusion; the acknowledgement of responsibility by Surinam suffices.'

Then comes a lengthy description of the community in terms of both culture and history, and the legal status of runaway slaves in the 18th century, patterns of kinship and succession – in order to assess the rightful heirs to the deceased and hence the claimants to compensation. I quote again, §63 of Resolution 15:

> It proved extremely difficult to identify the children, spouses, and, in some cases, the ascendants of the victims in this case. These are all members of a tribe that lives in the jungle, in the interior of Surinam, and speaks only its native tongue. Marriages and births have in many cases not been registered. In those cases where they have, sufficient data have not been provided to fully document the relationship between persons. The matter of identification becomes even more complex in a community which practices polygamy.

A commission was asked to sort it out. I shall skip the negotiations over individual compensations that were eventually established, and proceed to perhaps the most interesting decision made, about an overall compensation to the community. The rationale was this, §83:

> In its brief, the Commission explains that, in traditional Maroon society, a person is a member not only of his or her own family group but also of his or her own village community and tribal group. According to the Commission, the villagers make up a family in the broad sense. This is why damages caused to one of its members also represent damages to the community, which would have to be indemnified.

The net result is that not only are the children of the deceased entitled to receive school fees, but the entire community is entitled to have a school and a medical dispensary, both of which had long since been shut down. The state of Surinam was under obligation to see to this as part of its recompensation of the victims.

The case, I believe, is of interest for anthropology for a variety of reasons. Quite apart from the human interest, it is clear that the Commission drew heavily on anthropologists and anthropological source material – according to a lawyer working at the

Inter-American Court at the time and with whom I have discussed the case. In its own way, this points to the 'success' of anthropology in framing at least some of the claims that could be made on behalf of the victims of state violence. Further, the Court's decision makes room for education and local change that anthropologists could eventually study. These are all part of the old, ambiguous agenda of anthropology vis-à-vis human rights and cultural survival (e.g. Downing and Kushner, 1988; Messer, 1993; Wilson, 1997; Cowan et al., 2001).

What I want to suggest is that beyond the immediacy of indignation and the urge of advocacy lies an even more challenging problem for anthropology to tackle: the translation of 'thick' moral (and political) problems into 'thin' legal representations. You will have noted how 'human nature' was referred to, but also how the specific culture of the Maroons was cited in order to call for a group compensation. The question is, whether one can have it both ways with human rights – and with anthropology (see Hastrup, 2001a, 2001c). Presenting the Maroons as one big family possibly continues an obsolete (if well meaning) image of the 'Others' that we are bound to call into doubt in this era of methodological individualism and (inter-) subjectivities. I suggest, therefore, that we take a fresh look at the relation between experience and language with specific reference to the 'translation' of subjective experiences of suffering into 'objective' legal measures, such as those propounded by the human rights discourse.

THE SUBJECTIVE EXPERIENCE OF VIOLENCE

Violence always encompasses both an instrumental and an expressive function (Riches, 1986: 25). Yet, when seen from the point of view of the individual in terror, these two dimensions conflate. Subjectively, the pain inflicted by a certain form of violence, be it rape or torture, is highly localized and bounded by the victim's body. Terror hyper-individuates the victim because pain cannot be shared (Daniel, 1994: 238). This is the first lesson from an increasing number of anthropological investigations into suffering and violence that has also taught us that, at a certain level of experience, 'culture' plays almost no role. Suffering makes no cultural distinctions but obliterates them all. The individual in terror is just that: an individual in terror; alone, on the edge of speech. The excruciatingly *particular* sense of pain everywhere finds language wanting (Daniel, 1994: 233).

At the subjective level of experiencing terror we may note – with Elaine Scarry: 'Physical pain does not simply resist language but actively destroys it, bringing about an immediate reversion to a state anterior to language, to the sounds and cries a human being makes before language is learned' (Scarry, 1985: 232). The destruction of language is closely related to the destruction of the subject. Violation is not simply a transgression of somebody's physical boundaries; at a deeper level it is a violation of selfhood, and hence a destruction of the position from which one may speak in the first person. As Michael Jackson (2002: 45) has it:

> Though violence may or may not entail physical harm, we may conclude that a person's humanity is violated whenever his or her status as a subject is reduced *against his or her will* to mere objectivity, for this implies that he or she no longer exists in any active social relationship to others, but solely in the passive relationship to himself or herself (Sartre's *en-soi*), on the margins of the public realm. For this reason, it may not matter whether a person is made an object of compassion, of abuse, of attack, or

> of care and concern; all such modalities of relationship imply the nullification of the being of the other as one whose words and actions have no place in the collectivity.

In the present-day therapeutic culture of the West, the demand to speak up and out, and to engage in endless self-narration, has made us believe that everything must be said for the individual to fulfil his or her own potential. The truth is that there is always an excess of experience and of history in relation to language: 'In every human society, the range of experiences that are socially acknowledged and named is always much narrower than the range of experiences that people actually have' (Jackson, 2002: 23). Language socializes and objectifies what are at bottom individual and unique experiences; meaning cannot be private once it is articulated. The 'moral suffering' of the Maroons is an instance of this.

The point is that for an individual to be able to speak, to narrate or to bear witness demands that the speaker is recognized and recognizable as part of the social. The objectified victim of violence is denied access to such a position. What is more, the moral horizon by which one normally orients oneself breaks down in the face of violence. This further undermines the subjectivity of the victim, because, existentially, there can be no sense of self outside a moral horizon that defines human worth (Taylor, 1989). Being caught in violence, and, for instance, subjected to torture, means being alienated from whatever horizon defined the space of orientation for oneself.

The individual deprivation of language in the face of terror is further underlined by a peculiar rendition of time in narrative. As Paul Ricoeur (1981) has convincingly argued, narrative builds upon *and confirms* a linear sense of time (and of biography). But living with violence on a daily basis defies any ordinary narrative, as Daniel has demonstrated in his work on the Sri Lankan civil war. Both past and future are easier to describe, 'because they can be conceptually seized and positioned for a still-life representation, a representation hovered over by a protective shadow of a coherent narrative' (Daniel, 1996: 107). One might suggest that this is also what happens in the human rights discourse. The eternal truth of human dignity or human nature (as in the court proceedings) easily becomes a still-life image, conflating past and future, and leaving out the present as an exception – a resort for reservation – while still arguing for historicity. All violence occurs in a present; both perpetrators and victims are caught within it, beyond the words of hope and appeal. The moment of shock extends into and disrupts all possible meanings of the present, and defies narrative understanding, where 'concordance is king' (Daniel, 1996: 120).

For Paul Ricoeur the narrative concordance implies completeness, wholeness, and an appropriate magnitude (Ricoeur, 1984: 38). Such is not possible when faced with atrocities that are by definition beyond discursive apprehension. Anthropologists (and others) who make an effort to understand people's life-worlds experientially, rather than narratively, have gradually come to the conclusion that 'violence is an inescapable dimension of people's existence, not something external to society and culture that "happens" to people' (Nordstrom et al., 1995: 2). In anthropology, too, this is relatively new, because the modernist legacy of thinking about (other) cultures in terms of order, pattern, system and essential stability tended to alienate manifest disorder, including human suffering, from 'culture' (Hastrup, 1993). With the acknowledgement of fragmentation and instability as part of human experience came a need for new modes

of representation, modes that would not represent only order but also invoke the reality of disorder.

Ethnographers of cruelty have been struck 'speechless' in their attempts at understanding particular events of suffering and violence. At the root of this silence lies the fact that certain events, while part of experience, will not register as *knowledge*, which must be articulated. ' "In this darkness and this silence," there is neither ontology nor epistemology, hermeneutics nor semiotics, materialism nor idealism, and, most importantly, neither culture nor Culture. Herein lies (C/c)ulture's counterpoint, a slippery word in its own right' (Daniel, 1996: 210). It is only recently that anthropologists have come to *acknowledge what cannot be knowledge*; before, books were written that almost presented the consequences of major evil as moral badness in its victims, such as for instance Colin Turnbull's work on the starving Ik (Turnbull, 1972).

For Daniel and others, the counterpoint of culture belongs and should remain outside the discursive order of culture; to incorporate it into culture, and to *explain* it by reference to driving forces inherent in that culture, is to normalize what is at base a violation of human worth. This leads us on to a consideration of the collective dimension of violence.

THE COLLECTIVE RECOGNITION OF VIOLENCE

I have argued that the individual in terror cannot speak, because he or she is objectified and can only be talked to and spoken about. At the counterpoint of culture, no measurements or definitions apply. Suffering and silence reign supreme. The negation of selfhood and the destruction of language on the individual level have a counterpart on the level of collectivities, where groups of people are alienated from the human community. Violations of human rights most often take place as a result of defining Others as less than human. They are beasts or subhumans in some way (Rorty, 1993). This, again, is in part related to language and the inherent 'prototype effect' in speech. 'We' see ourselves as prototypes of humanity; we are 'better' examples than the Others.

Even within the bounds of humanity, there are variations in what may be collectively recognized as violence or suffering. What in one context is a degrading human treatment, in another expresses a point of honour. If the points of honour (and of explicit stakes) differ from one society to the next, so do the points of shame (implicit demands for silence). In so far as being freed from terror implies regaining a subjective voice, it also entails a subjecting to collective codes of speech and silence.

Thus we realize that victimization and violation are never simply acts of individual destruction and speechlessness; they also implicitly point to kinds and degrees of structural (or symbolic) violence, in other words those forms of violence that systematically negate and restrain the agency of individual selves (Jackson, 2002: 43). Whether individual or structural, violence is always a *social* fact; it belongs to the domain of intersubjectivity (Jackson, 2002: 44). This also goes for the act of telling; as Hannah Arendt (1958) suggested, and as Michael Jackson has reminded us, storytelling transforms private experience to public meaning, and it sustains a sense of agency in the face of disempowerment.

Storytelling and other ways of bearing witness presuppose the use of words, and it is perhaps good to remind oneself of another (social) feature of words, their openness to

infinite uses and interpretations. In her analysis of the South Asian struggle for freedom, Taslima Nasreen exclaims:

> Yes, there are words and words and words and words. Words may express servitude, words may also shout defiance. There are words that mean compliance and there are words of protest too. Some words are for conformity, some express resentment. Some words are uttered by the weak and the obedient, some by the self-respecting and rebellious soul. (Nasreen, 1996: 123)

While almost despairing of the verbosity of the world and the lack of precision of words, Nasreen indirectly points to the fact that for all its frailties and refractions, language may contain and communicate a variety of positions and social relations. Language also is the only weapon of intellectuals wanting to take a stand in the world (Hastrup, 2002a).

The communicative quality of language is embedded in the notion of dialogue – analysed so convincingly by Bakhtin (1981). 'Language is never unitary', Bakhtin says, and he continues:

> It is unitary only as an abstract grammatical system of normative forms, taken in isolation from the concrete, ideological conceptualisations that fill it, and in isolation from the uninterrupted process of historical becoming that is characteristic of all living language. Actual social life and historical becoming create within an abstractly unitary national language a multitude of bounded verbal-ideological and social belief systems. (Bakhtin, 1981: 288)

The words acquire a taste of social life (Bakhtin, 1981: 293), but this again links it to individuals. Taste itself is subjective (cf. Rapport, 1997: 179). In other words, the condition of any dialogue or conversation is heteroglossia and individuality. This makes it impossible to reduce language entirely to cultural or discursive determinism; different experiences attach themselves to the shared images and words.

This quality implies that particular words and meanings become de-privileged once the parties to the dialogue become aware of competing or at least incongruent definitions. An authoritarian regime of truth will not allow this incongruence to transpire. Elsewhere, incongruence may be acknowledged at the heart of human interaction. This calls for an ethics of conversation, in the phrase of McIntyre (1999), not only acknowledging a degree of intersubjectivity in the conversational community but also setting some limits of toleration. Practising toleration is to engage in conversation with those who are different, rather than to suppress their voice or avoid them altogether (Hastrup, 2002b). In the course of conversation we might find ourselves in constructive disagreement, and ultimately change our viewpoints, or simply fall silent. However, we might face viewpoints or utterances

> to which the only appropriate response is to exclude the speaker temporarily or permanently from discussion. This is not primarily a matter of suppressing the expression of some point of view within the debate. It is a matter of expelling someone from the debate. Either the matter or the manner – or both – of her or his utterance has been taken to disqualify the speaker as a participant. What she or he said or how she

> or he said it has destroyed her or his conversational standing. The utterance is intolerable. (MacIntyre, 1999: 135)

The question always is one of where to draw the line 'between justified intolerance and unjustified suppression'. If we accept that 'toleration makes difference possible; difference makes toleration necessary' (Walzer, 1997: xii), the question of limits is acute; difference is at play all over the place. There can be no doubt that all human activity is under some constraint, and that also the act of tolerating difference has and must have its limits. These limits are set by a particular community of conversation and interpretation.

Even in democratic regimes, the freedom of interpretation is not the same as complete licence, because it is always kept in check by a certain canon based in tradition and in an exercise of some institutional power that may or may not appear arbitrary (Kermode, 1993: 62). The process of externalizing inner feelings and subjective experiences is never a simple process of representation. Speaking makes experience public, and the recourses taken will be formed in response to public meanings. This also goes for whatever solution is sought by means of law. As Bourdieu reminds us:

> [M]oving from the implicit to the explicit, from one's subjective impression to objective expression, to public manifestation in the form of a discourse or public act, constitutes in itself an act of *institution* and thereby represents a form of officialization and legitimization: it is no coincidence that . . . all the words relating to the law have an etymological root meaning *to say*. And the institution, understood as that which is already instituted, already made explicit, creates at one and the same time an effect of public care and lawfulness and an effect of closure and dispossession. (Bourdieu, 1991: 173)

Thus, the mere fact of voicing the law is also an act of instituting it and of demarcating right from wrong. In the process, people and acts are included or excluded from a particular social space and its instituted legitimate language. Certain experiences and forms of violation can still not be represented.

CENSORSHIP AND FUNDAMENTALISM

Any culture in some ways rests on representation; for it to be conceivable as a whole, it must be demonstrated as such. In a 'legal culture', the capacity of representation is limited by a feature of specialism (Hastrup, 2001c). Legal language is a language of specialists; as such it is marred by a feature of distortion that goes with all specialist languages. As Bourdieu (again) has it:

> The specialized languages that schools of specialists produce and reproduce through the systematic alteration of the common language are, as with all discourses, the product of a *compromise* between an *expressive interest* and a *censorship* constituted by the very structure of the field in which the discourse is produced and circulates. (Bourdieu, 1991: 137)

Both expressive interest and the feature of censorship are found within the increasingly self-righteous human rights discourse. The problem is that in the 'age of rights' (Bobbio,

1996), the discourse is already predetermined. It is determined both by expressive interest and by structural censorship, in Bourdieu's phrasing.

> The metaphor of censorship should not mislead: it is the structure of the field itself which governs expression by governing both access to expression and the form of expression, and not some legal proceeding which has been specially adapted to designate and repress the transgression of a kind of linguistic code. (Bourdieu, 1991: 138)

One of the implications of this is that far from uniting people across differences in history and culture, the (specialist) languages appertaining to particular legal cultures may actually be rather exclusive. The language of human rights is no exception, because 'the language of rights is the language of no compromise. The winner takes all and the loser has to get out of town. The conversation is over' (Glendon, 1991: 9). Glendon refers to a particularly American form of rights talk, but the point is worth taking also with respect to human rights, where all too often the rights part tends to dominate at the expense of the humanity part. Thus, the category of human rights itself tends to make people believe that even the discussion of indivisibility and interdependence has been developed for the sake of rights rather than persons. 'Censorship is never quite as perfect or as invisible as when the agent has nothing to say apart from what he is objectively authorized to say' (Bourdieu, 1991: 138). Rights talk produces its own certainties.

From an anthropological perspective, one notable paradox inherent in this process of replacing local culture and implicit moral values with international law and explicit universal standards is a certain co-opting of culture on the part of law. Among the more recent international human rights instruments are a number that are designed to protect the cultures of minorities and other groups, thus drawing the power of the concept of culture into law itself. This has some possibly unfortunate consequences; by investing groups of people with particular collective rights, culture itself is (re-)essentialized, and the legitimate language for political struggle is twisted. Thus, new boundaries are established and new fights for a particular label (of 'minority' for instance) are in the making (see Hastrup, 2001d). Such boundaries give rise to new means of exclusion – and possibly new areas of fundamentalist thought.

This is not only an abstract intellectual problem, when structural censorship turns into a kind of epistemological dictatorship. Earlier I hinted at the impossibility for authoritarian regimes to accept ambiguity and what one might call interpretive charity – assuming that other interpretations might actually make sense, at least from the point of view of the speaker. In so far as moral authority is textually based, the principle of charity in interpretation is always at risk of becoming subverted to a dogmatism whose aim is to ensure conformity.

The feature of structural censorship may lead to a confusion of power and truth; and where power and truth can be confused, power tends to be the one that benefits (Miller, 1996: 21) – at least in the short run. The centre of power becomes the centre of knowledge, and this is where power benefits from its own ability to make meanings conform to particular interpretations. In that sense, power has the ability to eliminate knowledge. This is where structural censorship turns into epistemological dictatorship, and where the objectifying features of language turn into fundamentalist notions of right and wrong.

Fundamentalism has many faces but, generally, it features a paradox of claiming exclusiveness from the surrounding world on the one hand, and a right to influence it on the other. Exclusiveness in this sense makes toleration a one-way street, and justice a matter of unitary understanding – often fuelled by political expediency. This is where we begin to see the need for a language that seeks to transcend 'culture', while also embracing it, possibly an inclusive legal language that admits of its own limited capacity of moral representation. In short, we need to refine the comparative consciousness of anthropology (Hastrup, 2002c).

THE OBJECTIVE LANGUAGE OF LAW

If language works by way of an objectifying function, this is so also for the language of law. In this day and age we are witnessing an increasing 'legalization of culture', implying that the law is becoming the predominant and most articulate standard of value in many societies. Consequently, ever more social, political and cultural values are expressed in or measured by legal terms at the expense of other normative systems and public moral debates. This compels us to inspect 'the law' very carefully, in spite of the fact that ethnographies of cruelty show that violence is rarely represented in terms of violations of rights (cf. Wilson, 1997). But '*if* cruelty is increasingly represented in the language of rights (and especially of human rights), then it is because perpetual legal struggle has now become the dominant mode of moral engagement in an interconnected, uncertain and rapidly changing world' (Asad, 1997: 128, my emphasis).

In modern legal thinking, dating back to Montesquieu whose work *The Spirit of the Laws* (first published in 1748) has been extremely influential in Europe, there is a latent schism between natural and positive law. Montesquieu defines laws, in the broadest sense, as 'the necessary relations deriving from the nature of things' (1989: 3), and he goes on to define *natural* laws as those that derive uniquely from the constitution of our being, listing the quest for peace as the first natural law, the seeking of nourishment as the second, the entreaty between the sexes as the third, and, finally, the desire to live in society as the fourth natural law (Montesquieu, 1989: 6–7). Once this last desire is fulfilled the need for *positive* laws arises, because: 'As soon as men are in society, they lose their feeling of weakness; the equality that was among them ceases, and the state of war begins' (Montesquieu, 1989: 7).

Whether natural or positive, Montesquieu saw the law as the mouth or the voice of society, that is, the means by which the implicit relations and values were externalized. The general point is that any discourse, including the legal discourse, is a creative speech that may bring into existence that of which it speaks. Language produces existence by producing the collectively recognized, and thus realized, representation of existence (Bourdieu, 1991: 42). Moreover, language, including legal language, still has a distinct quality of address that should not be overlooked; the arbitrary signs derive their signification from actually being *addressed* (Lyotard, 1993: 137). Human beings are bound together in a speech community; there can be no sense of self or of worth outside a conversational community by which a moral horizon is established (Taylor, 1989). From this perspective, 'speaking the law', may actually take us part of the way towards a system of global justice, even if people will show more or less competence of expressing their rights within the idiom of international legal language – now functioning as a legitimate representation of a global moral economy.

This is where social scientists should become more aware of the nature of language itself. Language never directly represents the social, nor is it simply the handmaiden of reason. It has its own logic and rules of operation that, again, have their own symbolic effects on society. As Bourdieu has reminded us, 'language is the exemplary formal mechanism whose generative capacities are without limits. There is nothing that cannot be said and it is possible to say nothing. One can say everything in language, that is, within the limits of grammaticality . . . In other words, formal rigour can mask *semantic freewheeling*' (Bourdieu, 1991: 41). 'Human nature' may be an instance of this.

Thus, while legal language may externalize implicit values and potentially bind people together in a speech community, the possibility remains that the language spoken is semantically empty, because the words refer to no actual experience. The language remains form without a given substance.

THE UNIVERSAL CLAIM TO BEING RIGHT

What I am arguing is, in fact, that because human rights are cast in the genre of legal language, they rely heavily on their *form* for authority. Their nature *is* form, and along with other genres that depend on form, the law also legitimately exercises a degree of violence on the freedom of interpretation. It is in the nature of the legal strategy to impose a particular form, through which the 'consecrated works impose the terms of their own perception' (Bourdieu, 1991: 139).

One of the achievements of anthropology, history and other human sciences has been the discovery of different rationalities and the infinite malleability of people. Worlds are 'rationalized' in different ways; and one might argue that all people have equally good reasons for rationalizing and maintaining their own standards. More importantly, a good many features of social life and of cultural judgement simply defy the labels of rationality or irrationality, labels that are given by those who defined the distinction in the first place. This has important consequences for the link between universal and local standards. They cannot simply be measured against each other as more or less rational, according to an absolute (if arbitrary) scale of reason. Vast areas of moral conduct are neither articulated in language nor reducible to reason. Far less can they be represented simply as 'rules' (Hastrup, 2001b).

In so far as human rights are ideological expressions of deeper struggles and value differences which become most volatile under conditions of stress, it follows that the logic of human rights itself is subject to considerable flux. Being a set of standards by which a society may judge its own performance, human rights principles are susceptible to historical and ideological changes (Downing, 1988: 11). Changes over time are matched and amplified by differences across space. In a world that sees itself as multicultural or multinational there will be a number of competing ideologies at any given place or time. 'At every level, people continuously codify and modify, clarify and obscure, adopt and reject, interpret and reinterpret propositions concerning what ought to be proper human interaction. Sorting out the hierarchies of logics concerning human rights proves a formidable task' (Downing, 1988: 13).

If we admit that 'legal thought is constructive of social realities rather than merely reflective of them' (Geertz, 1983: 232), the construction of the international community in terms of human rights is also a construction of a global language that enables us to focus our attention 'on how the institutions of law translate between a language of

imagination and one of decision and form thereby a determinate sense of justice' (Geertz, 1983: 174). This global sense of justice rests upon an all-inclusive sense of humanity; whatever differences there are between us are less important than the fact of our equal worth. This is where we can see how the main threat to a universal order of justice is not the threat posed by cultural difference, but by fundamentalism, that is ideologies that deny heteroglossia and the multiple meaning of words – both of which are preconditions of intersubjectivity in the profound sense of the term.

The sense of a shared humanity subverts 'nationality' as a standard of worth and rights. Although we have come to accept nationalism as a 'natural fact', it is very much an ideological construct. Both nationality and culture are deeply 'historicized'. From this vantage point a new intellectual concern with the process of interpretation and various claims to justice may clear the path towards an understanding of the fact that while all humans belong to history, their worth transcends it. This is where we might even see, to quote Edward Said, that, for instance, 'Jewish and Palestinian suffering exist in and belong to the same history: the task of interpretation is to acknowledge that link, not to separate them into separate and unconnected spheres' (Said, 1994: 204). This linking up and connecting of people is one of the ambitions of a universal language of human rights.

We started this tour with a case-story of a human rights violation, and continued with some observations on the speechlessness imposed upon individual victims of violence, that was then pursued to the level of collectivities. At this level, there is always an implicit structural or symbolic censorship. This censorship is related to expressive interest, and where this interest is narrowly defined in terms of culture or nationality, it may potentially turn into a kind of epistemological dictatorship. Fundamentalism is the result; the reason why this term attaches itself to religions in particular is the fact that (those) religions rely on books – that is words and expressions that are allegedly 'given', and which cannot, therefore, acknowledge the feature of heteroglossia in human conversation. In such worlds, the strategies of justice become equally monistic.

By contrast, a formal language, such as the language of human rights, potentially lends itself more easily to the deprivileging of particular meanings and thus to multiple strategies of justice – including all within the 'we'. As I hear the case from Surinam, anthropological knowledge did not contribute to this inclusive 'we-ness' (as did the law, in fact) but sustained an unwarranted image of the Other as eternally different. In so far as anthropologists want to grind their feeling for fellow-humans onto the language of (universal) human rights, I suggest they might start revising the nature of their contribution from a discussion of 'culture' and diversity to a discussion of experience and representation.

Note

1 The case is related in two documents from the Inter-American Court of Human Rights, Series C: Decisions and Judgments, no. 11, and no. 15 respectively, the former dealing with the matter of responsibility and the actual judgment, the latter with measures of reparation. Both are published by the Secretariat of the Court, San José, Costa Rica, 1994. I want to thank Victor Madrigal for alerting me to the case.

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