

Between poetic justice and legal imagination

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In the 1970s, the human rights movement opened a space for utopianism rarely seen before, winning on both the political terrain and that of the imagination. The utopian dimension of human rights has been extensively discussed by researchers including Samuel Moyn, who has stated that human rights have a ‘recognizably utopian program: for the political standards it champions and the emotional passion it inspires, this program draws on the image of a place that has not yet been called into being. It promises to penetrate the impregnability of state borders, slowly replacing them with the authority of international law. It prides itself on offering victims the world over the possibility of a better life.’ (1) Human rights ‘evoke hope and provoke action’. (2) The ideals of citizenship and altruistic political participation, democratic cohesion and social solidarity are expressed in the human rights principles, and as Étienne Balibar maintains, human rights still constitute the primary democratic tool for the contestation of both power and political disenfranchisement.(3)

Despite this utopian dimension, contemporary art is considered an unlikely site for human rights, and yet, a rights-based approach and ideas of rights have been increasingly present in recent artistic expression. The projects I would like to discuss in this text take human rights as their *sites*, approaching them as the highest moral principles, political ideals and legal norms. These projects have developed a specific set of strategies in relation to human rights, assuming positions of defence or accusation, pleading for justice or playing the role of an NGO. They demonstrate how artists can use the principles of human rights as a deconstructive tool, unsettling fixed definitions of democracy, identity, inclusion and exclusion. They revolve around acts of contestation, resistance, civil disobedience (or on the contrary a radical ‘civil obedience’), as strategies that challenge some of the current interpretations of human rights by those in power. The projects themselves have a double life – they exist as actions and as installations, spaces of ‘legal utopias’. Including strong archival elements, these utopian spaces stage particular relationships between documents, authors and spectators.

One of the strategies used is a perhaps counter-intuitive approach of radical ‘civil obedience’. This strategy can be traced back to a fascinating but little-known chapter of the dissident movement in the Soviet Union. Alexander Volpin is considered an originator of this technique of confronting an autocratic state.(4) Volpin defied any easy classification — poet, mathematician, and lawyer, he was engaged in the dissident movement since its very inception. He is considered to be

the author of the famous action on Constitution Day in 1965, the first unsanctioned organized civil protest in the Soviet Union, which marked the birth of the civil rights movement in the entire Eastern bloc. In 1965, at the peak of the Cold War, an organized civil protest within the Soviet territories was inconceivable. Instead of openly challenging a regime that would immediately criminalize such an attempt, Volpin decided to do the opposite. He insisted on 'official' constitutional rights. Like every constitution, the Soviet constitution was full of good intentions and grand declarations; it guaranteed, for example, freedom of assembly or transparency of judicial proceedings. In reality, of course, these were never followed, and never claimed. And this is where Volpin's strategy of an obsessive lawyer came in – the laws, he claimed, should be obeyed exactly as they are written, and not like the current political regime interprets and handles them. Thus, he called upon the Soviet regime to simply obey its own laws and international obligations, including the Helsinki Accords, signed in 1975. A major breakthrough for the dissident movement in the Soviet Union was article VII, which called for 'respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief'. Taking 'socialist legality' not just seriously but literally, Volpin was the first to realize that an effective method of opposition might be to demand that the authorities observe their own laws. All projects discussed here can be, to some extent, related to this strategy, which the artists adapt to the different times, different social conditions and different problematics.

The civil rights of citizens and the human rights of aliens

The installation *J'accuse* (2012) by Kader Attia presents a series of black and white photographs in the manner of a succession of film stills – showing people in the subway station, leaving the subway, **running up the stairs of the Musée des Colonies, and deploying banners**. The people are of mixed origins and they are engaged in a common action of protest: **an unsanctioned 'occupation' of the museum** in support of the *sans-papiers*, which took place at the end of the 1980s. **Since then, and for a certain period of time**, Attia worked with two Paris-based NGOs (*Droit Devant* and *Droit au Logement*) fighting for the rights of immigrants (many of whom came from the former French colonies). He was often asked to document their actions, and such is the case with the present series.

One of the banners, hastily deployed by the protesters, asks '14-18, 39-45, they died for France, did they have their ID papers?' It refers to a long-neglected part of French history – the so-called *tirailleurs sénégalais*. *Tirailleurs* (sharpshooters or foot soldiers) were foreign combatants of light infantry recruited in the French colonial territories. Deployed in battle since the nineteenth century, they fought in both world wars on the French side. In 1939, it has been estimated that some

120,000 men were mobilized from French colonies in Africa; yet their role has until recently been largely forgotten in both France and the African countries. For the protest action, the activists established a direct connection between the neglect of the *tirailleurs* and of immigrants today.

In his installation, Attia reinforces this connection, juxtaposing two archives: the images of the protest shot during the occupation of the Musée des Colonies , and photographs depicting the *tirailleurs* from the nineteenth century onward. In stark contrast to the spontaneous energy of protest, the photographs of the *tirailleurs* represent a military iconography – well framed shots of poised, organized, and disciplined colonial soldiers. What connects these two archives and their distinct temporalities is the timeline of the occupation of Musée des Colonies, which is drawn directly on the exhibition wall. The Musée is a perfect site of visibility of colonial appropriation and oppression. Built in 1931 for the colonial exhibition in Paris, the museum and its symbolism spans the period between the time of the *tirailleurs* and today's sans-papiers. The museum's successive renamings traverse France's evolving perception of its colonial present and past: from the unequivocally proud representation of imperial power as the Museum of the Colonies, it turned into the nationalist Museum of France Overseas and later into the Museum of African and Oceanian Arts. Since 2007, the site became the National Site of the History of Immigration.

To 'occupy' is not only to hold a space, but also to claim symbolic spaces for one's own messages and objectives, subverting their original meaning. The *Musée* was occupied in order to make visible the opposite of its original message – the rights of illegal immigrants, and their 'right to have rights'. Occupation is an ambivalent word; it can refer to appropriation, colonization, invasion and conquest. Here, Attia lends resonance to them all. By occupying it, the illegal immigrants exercised a temporary spatial control of the *Musée*. While expressing their claim for historic justice, the *tirailleurs* and their descendants also symbolically occupy the space of the archival installation and thus take the place in history Attia insists they deserve.

Archives emerge from a desire to understand, share, discuss and represent a space of resistance against natural or state-organized amnesia. In this vein, Attia's archival constellation evokes a case that recently shook France. After the colonies' independence, the compensation for the veteran *tirailleurs* was frozen at the 1959 level while the French citizens' pensions were adjusted to inflation. This official amnesia was finally broken in France when it became a legal case between the French state and the former colonial combatants, who claimed their rights and accused France of discrimination. After years of negotiation, the court finally established the principle that payments should not vary according to a soldier's origin. However, it was not until 2006 that the compensations of colonial soldiers

were increased – but of course, many of the veterans were by then dead.

Attia's installation gives this legal battle its historical depth and contemporary resonance. It celebrates the archive as a source of evidence of acts of resistance against discrimination and the immigrants' wider struggles. In exposing the dilemmas related to this case the work reveals personal and official histories of the colonial and postcolonial periods as they have progressed in France. The installation organizes different archives into spaces of reflection that together form an exhilarating exploration of the broader dilemma of the civil rights of citizens and human rights of the aliens. Famously described by Hannah Arendt (5) and developed by Jacques Rancière (6), Attia locates this problematic in the concrete historical context of France's colonial past, the social exclusion of France's growing immigrant population, and the recent heated debates on national identity. The title *J'accuse* refers to the Dreyfus Affair, but also to the legendary anti-war movie by Abel Gance of 1919, which quoted Zola's call for justice. In this context, Attia's installation can be read as both an accusation of the non-fulfillment of the country's own principles of equality and non-discrimination, and a space of poetic justice. Ultimately, the *tirailleurs* do occupy both – the colonial museum in the 1980s and the space of the installation today.

A Space of Exception

Seamus Nolan's work is also based on an emblematic and striking legal case, which challenged the official position of a country – in this case Ireland, and what it considered 'right' at a particular moment and political situation. The case at the core of Seamus Nolan work *Every action shall be judged on the particular circumstances* (2008) has been one of the most controversial recent trials in Ireland. In February 2003, the group Pitstop Ploughshares, consisting of five members of the Catholic Worker Movement, damaged a US plane on a stopover in Shannon Airport on its way to Iraq using hammers and pickaxes. When arrested, the Ploughshares declared it an action of protest against the war in Iraq and Ireland's participation in it. Ireland is a neutral country, but it nevertheless provided the Shannon airport facilities for the US Army planes. The resulting legal battle was enormously controversial. The activists faced charges of criminal damage up to two-and-a-half million dollars and up to ten years imprisonment. After several re-trials and extensive legal arguments, the judge agreed with the defence to apply the 'lawful excuse' to this case. The law allows for damage to property when the persons doing the damage honestly believe they are trying to protect lives or property of others; in this case, the defence justified the Ploughshares' actions on the grounds of human rights, as they were defending the innocent civilians caught up in the war in Iraq.

Nolan's installation consists of *objets trouvés*, or, rather, *objets utilisés* – objects used in this protest action. The hammers and axes exhibited were witness to this long and controversial legal history. They have been termed weapons, evidence of criminal activity, icons of civil disobedience, and tools of disarmament and human rights. Most of them carry anti-war or religious slogans engraved into their handles. The installation includes one more element – a painting of the same hammers by the celebrated Irish artist Jim Fitzpatrick, responsible for the iconic portrait of Che Guevara created in 1968. Entitled *Pax Christi*, the painting depicts the hammers as symbolic objects of peace, the establishing of which is perhaps the most compelling of human rights.

Nolan displays these objects as 'legal relics', the 'hammers of justice', combining them with the extensive documentation of the case, both in print and the audiovisual media. In juxtaposing objects and their legal and media histories, the installation becomes, as in Attia's – an archive of evidence of a legal battle. But in the context of Ireland after 9-11, it also raises the issue of the massive retreat on human rights in the western world since then. In its declared 'war on terror', the Bush administration introduced anti-terror legislation, arguing that the extraordinary circumstances justify the suspension of law and the introduction of a state of exception. This led to the suppression of civil rights (the Homeland Security Act) and the establishment of spaces where neither international nor US law apply (Guantánamo Bay). The result, as Judith Butler observed, was that 'the stateless are terrorized by the distinction between state violence and "terrorism", an artificial and politically opportunistic distinction enforced by governmental power'.⁽⁷⁾ These policies resulted in the indefinite and potentially permanent suspension of the law, including civil liberties that many take to be constitutive of democracy.

In his installation, Nolan challenges this logic of perpetual exception on the basis of human rights. ⁽⁸⁾ Peace is more important than the government's military obligations. Human rights principles are more important than temporary political alliances, and engagements into warfare, which the country's population do not support. While articulating these claims, Nolan's installation creates its own 'space of exception', defying the state's strategy. The installation establishes his own 'exception of exception', suspending the logic of the illegal war and the normal juridical order in which the temporary alliances, political deals and 'realpolitik' prevail. In declaring a space of exception for human rights, Nolan asks the government to obey its own laws, as much as Attia does.

Civil Disobedience versus Radical Civil Obedience

Marina Naprushkina's installation presents a different type of archive – a record of

her own work from diverse periods. Her practice consists of both making art and organizing actions of protest to highlight the disregard for human rights in her home country. Situated between art and activism, Naprushkina's main area of engagement revolves around the oppressive regime in Belarus – which remains a Soviet style dictatorship within Europe, with a state-controlled economy and persistent human rights violations. The country's government continues to persecute the non-governmental organizations, independent journalists, national minorities, and opposition politicians. Belarus is the extreme case in the former Eastern bloc, but Naprushkina's work also reveals a painful dilemma of the post-communist situation in general. The Soviet system, autocratic and oppressive, firmly guaranteed economic and social rights: work, housing, free medical care and free education. After the system's collapse and the instalment of neoliberal order, the economic rights were gone for ever, while social freedoms only slowly found their way into the new country's national agendas. This is the case in all former Soviet countries, Belarus being an autocratic extreme protected by Russia.

Knowing the country's grave deficiencies in depth, Naprushkina acts as a one-woman NGO whose base is art. She operates as a critical intellectual, urban planner, educator, publisher, propagandist of human rights and agitator for feminism; activities reaching the level of a self-nominated opposition candidate. One of her projects is the newspaper-comix 'Belarusian Self-Government', which she produces in Berlin, presents in exhibitions and clandestinely disseminates in Belarus with the help of the local NGO 'Our Home'. In the first issue, the artist started with very simple questions: who decides on social rights and guarantees? Who is and should be in charge of a good level of life, work, housing, medical treatment, education, pensions? And how could people make decisions and claim their rights? In response, she outlines several ideas – more or less utopian or realizable in the present circumstances – trying to design a social and economic alternative for her country with her own means. In addition, clearly accentuating a didactic tone, the newspaper reprints some basic principles of the Belarusian constitution. In contrast with the real situation, this constitution states that Belarus is a democratic country based on the rule of law whose only legitimate source of power is its people. In reality human rights in Belarus aren't even a smoke screen; they are just decorative declarations without any legal value, performative utterances for solemn events. However, as part of her strategy, the artist decided to take them seriously and ask Belarusian people, what if they really existed and were implemented?

Without drawing a direct parallel between the strategies of Volpin's 'civil obedience' in the Soviet Union, and Belarus today, some of Naprushkina's political and cultural activities do come close to his spirit. Naprushkina's newspaper claims something, which for the current Belarusian standards looks like a legal utopia: human rights are guaranteed, the economy runs for the mutual benefit of all

participants, and innovative potato growing strategies conquer the European markets... In this case, the artists' legal imagination is based on the theatrical strategy of the suspension of disbelief, also used by Volpin: let's act on the assumption that we have rights, and can decide on the future. How can we effect change and what happens after the regime of the current autocrat Lukashenko is gone? Exclaiming this in a utopian fashion, the artist invites people to think of how to start building a rights-based future out of the regime. For a task such as designing a country's future policies, art might not be the best possible tool. But as the curatorial collective WHW has observed, 'it might be the only one'. (9)

All three projects translate the artists' 'legal imagination' into installations using the strategies outlined to different degrees – claiming rights which exist in a gesture of a radical 'civil obedience', asking the governments to obey their own laws, or establishing a space of exception for exception. But all of them consider the rhetoric of rights as ideas in permanent construction. In line with Balibar's analysis of democracy, human rights are not 'here to stay', they have to be earned as each individual takes up his or her civic responsibility. (10) Exposing the nature of human rights as moral principles and legal entitlements, the artists also tap into the major dilemma of the human rights debate still persisting today – showing ways to a better compromise between utopianism and realism. As Samuel Moyn maintains in this book: 'It seems odd to say that the utopian imagination has to start from the real world. But when it comes to international human rights, it is clear that utopia and reality do not exclude each other, but rather depend on one another. At least, the hope in human rights norms and movements, which germinated in the last part of the twentieth century, emerged from a realistic assessment of what sort of utopianism might make a difference'.

1. Samuel Moyn, *The Last Utopia: Human Rights in History*. Cambridge, MA: Harvard University Press, 2010
2. Ibid.
3. Etienne Balibar, 'What is a Politics of the Rights of Man?' in *Masses, Classes and Ideas*. New York: Routledge, 1994, pp.205-226
4. The life and work of Alexander Volpin is insightfully discussed in the publication by Benjamin Nathans, *Aleksandr Volpin and the Origins of the Soviet Human Rights Movements*. Seattle: University of Pennsylvania, The National Council for Eurasian and East European Research, 2007
5. Hannah Arendt, *The Origins of Totalitarianism*, Andre Deutsch, 1986, p.277
6. Jacques Rancière, 'Who Is the Subject of the Rights of Man?', *South Atlantic Quarterly* 103.2/3 (2004) pp. 297-310
7. Judith Butler, 'Guantánamo Limbo', *The Nation*, 1 April 2002
8. Giorgio Agamben, 'A Brief History of the State of Exception', in *State of*

Exception. Chicago: The University of Chicago Press, 2005

9. What, How and for Whom/WHW. *What Keeps Mankind Alive?* Istanbul: Istanbul Foundation for Culture and Arts, Nejat Eczacıbaşı Binası, 2009, p. 35

10. Balibar, *ibid.*