

**TRANSITIONAL JUSTICE AND TRANSFORMATIVE POSSIBILITIES IN  
MEMORY AS ART**

by

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## **Abstract**

This thesis explores the role of memory expressed as art in contexts of transitional justice, recognizing that traditional mechanisms are limited in confronting the responsible structures for mass violence. My discussion is located in the larger discussion in transitional justice on moving towards transformative justice as a new agenda of praxis. My contribution maps out how memory as art can function as a mechanism that allows for transformative possibilities since memory as art is about invoking the past in the present in a normative way that demands judgement. By doing so, there is the ability to confront the structures of the past that persist in the present as even though transition is occurring or has already occurred, the sources of mass violence are often just muted or repatterned. In my discussion, I focus on looking at what the arts do to perceivers or secondary witnesses. I suggest that by conveying memory through forms of art, survivors and activists can impart more meaningful understanding, which draws from empathy more than facts, and with understanding, re-imagination and transformative politics becomes possible. Thus, this paper advocates for the use of memory in the form of art as a complimentary and necessary mechanism for achieving the goals of transformative justice. Finally, a concrete example of theory in practice is provided with a discussion of an original participatory art piece titled *Now-Then*.

## **Lay Summary**

My thesis explores the role memory has in situations of transition from mass violence. Specifically, I explore how memory expressed through art engages with past atrocities, colonization, and violence to elicit politics of change. I call this memory as art. I discuss how memory as art compliments transitional justice processes that seek to transform the political and economic conditions that allow for domination and oppression to continue even after major traumatic events. I suggest that the advantage of memory as art is that it can overcome the inherent limits found in legal and institutional mechanisms used by governments seeking to initiate transitional justice processes. My work does not challenge practices used in the field of transitional justice. It shows there are limits in the associated mechanisms. And in mind of those limits, it is hoped that my theorization and research will clarify how the more artful medium can help address the larger forces that are responsible behind mass violence in the first place. Lastly, an example of theory in practice is provided with a discussion of an original participatory art piece titled *Now-Then*.

## **Preface**

This thesis is the original, unpublished work of the author, Anson Ching.

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I am indebted to my *niang*, who recognized that I took comfort in my thoughts more than anything else, and who allowed me to pursue that comfort. I am also thankful for the support of the rest of my family. They have spoiled me. I remain grateful, as always, for Courtney and Rusty, for the times we lazed about and for the times we made adventure.

Lastly, I must acknowledge that I have been privileged as a settler in the ongoing process of colonization in Canada. Though many of us enter mid-act, I am a part of it. And as I am part of the ongoing occupation of the unceded lands of the Musqueam people, no words can do justice except my promise to do more as an ally.

## **Dedication**

To *nainai*, the first storyteller, who brought me up with lies. She continues to flicker at the margins, and I am still caught off guard by her words today.

## Chapter 1: Introduction and Overview

### Introduction

In the autumn of 2016, I had a chance moment of clarity after reflecting on my experience watching a play performed by Tramaluna Teatro, an amateur theatre group from Colombia. They performed *Antigona, Court of Women*. The actors were mostly women who had suffered loss during Colombia's five decades of conflict. I knew some of the facts of the conflict already, but it was the aesthetics of their performances, their action on stage – the dancing with the ironed shirts of a disappeared son, the lullabies to a past cellmate, the assembling of toy cars to appease the ghost of a son – that translated my knowledge of the conflict into understanding. It made me know what it means to know. I realized this was one of the roles of the artistic medium in helping others bear witness to unperceivable experiences, whether those others be bystanders, the willfully unaware, or perpetrators and deniers. This experience had affected me in such a way that possibilities seemed to open before me.

On the other hand, and from the other side of the experience, anthropologist Michael Jackson argues that performers, artists, and writers, tell stories to “renew [their] faith that the world is within [their] grasp.”<sup>1</sup> To creatively lie is a way to regain a sense of agency. Senses of “insignificance, isolation, and powerlessness” compel many to find “refuge in magical thinking to retrieve some sense of control and comprehensibility in their lives.”<sup>2</sup> One can be instilled or re-instilled with a sense of purpose, and more importantly, to come to feel the overwhelming

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<sup>1</sup> Michael Jackson, *The politics of storytelling: Variations on a theme by Hannah Arendt* (Copenhagen: Museum Tusculanum Press, 2013), 17.

<sup>2</sup> Ibid., 34-35.



weight of an experience can be “brought within one’s grasp.”<sup>3</sup> This may very well have been what was happening on stage that night when the women performed. After all, new meanings can be found when we reconstruct memory; that is, new meanings are possible in loss, in mourning.<sup>4</sup> These two aspects of experience found in aesthetic expression are recognized by Jackson in his use of Hannah Arendt’s theorization of action to explore storytelling. This duality of action – of speech and deeds done in plurality – is what Jackson refers to as the sociological and the phenomenological ways of understanding the public realm, the realm of politics. The former refers to the social experience of witnessing and the latter form refers to the experience of the agent, the actor.<sup>5</sup> I came to an intuitive understanding through praxis that evening, but I needed to make a more theoretical account of this understanding to explore it in depth. Specifically, I wanted to explore how, after mass violence, art affects the secondary witness – those who come to experience through another’s witnessing; that is, I wanted to explore the effects of art in relation to societal confrontation of traumatic pasts. Thus, I needed to enrich intuition with a normative account of the possibilities that come from memory expressed through aesthetic forms of action in transitional justice.

Before I could fully flush out the discussion in this paper, I had the opportunity to mimic the praxis I witnessed during the performance of *Antigona, Court of Women*. I was afforded the opportunity to participate in the Peter Wall Institute’s “How do we be together?” A Public Roundtable on Art, Memory and Responsibility in February 2017. My task was to display an original piece of artwork for the evening. I used it as an opportunity to express a thought that had

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<sup>3</sup> Jackson, 36.

<sup>4</sup> See Suzanne Lacy and Pilar Riaño-Alcalá, “Medellín, Colombia: Reinhabiting Memory,” *Art Journal* 65, no. 4 (2006): 96-112.

<sup>5</sup> Jackson, 11.

dogged me ever since reading the first chapter of Christina Sharpe's *In the Wake of Blackness and Being*. It came from Sharpe's reflection that doing *wake work* is to be aware of past-present connections and to press up against barriers and structures of violence that are part of the condition of living.<sup>6</sup> In the face of anti-Blackness as a legacy of the historic act of Trans-Atlantic Slavery – as a condition for Black existence in the West – Sharpe reflects that this entails the disposition of always insisting on existing.<sup>7</sup> She invites others to respond with “ways of seeing and imagining” and how such imaginings can call forth action, in that people are called to “do, think, feel in the *wake*.”<sup>8</sup> She asks “how do we memorialize an event that is still ongoing?”<sup>9</sup> The question made me think about the role of memory and structural violence in a general way. So, I created a participatory artwork titled *Now-Then* for the event with this inspiration, pivoting from anti-Blackness to the ongoing(s) that persist in my world of western Canada, as part of the Pacific Northwest. This paper is thus partly informed by my experience in creating *Now-Then* as well as my search for a theoretical understanding of the role of art in aftermaths.

My interest in this thesis is the role of the arts in transitional justice – the field that studies approaches to confront the past in the aftermath of mass violence or oppression.<sup>10</sup> Specifically, I explore how the arts can express memory to make transformation of present structures possible or more readily graspable; that is, I think about how engaging with the past is a way to elicit politics of change. I continue to borrow Christina Sharpe's question, making it my theoretical

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<sup>6</sup> Christina Sharpe, *In the Wake: On Blackness and Being* (London: Duke University Press, 2016), 5.

<sup>7</sup> *Ibid.*, 11.

<sup>8</sup> *Ibid.*, 20.

<sup>9</sup> *Ibid.*

<sup>10</sup> Susanne Buckley-Zistel and Teresa Koloma Beck, “Transitional Justice Theories: An Introduction,” in *Transitional Justice Theories*, ed. Susanne Buckley-Zistel, Teresa Koloma Beck, Christian Braun, and Friederike Mieth (New York: Routledge, 2014), 1.

point of inquiry. Thus, in my interest of theorizing the role of art in transitional justice, I ask *how can memory as art respond to the ongoing present inherited from events of mass violence?*

Within this question is my understanding of memory as a linkage of historic events with the ongoing aftermath; that is, I see present and past as interlinked in memory.<sup>11</sup> As Richard Terdiman explains, “the past persists into the present” when memory is invoked.<sup>12</sup> When I use *memory as art* I refer to what Stephen Esquith refers to as the “re-enactment” of memory in search for collective understanding and recognition.<sup>13</sup> Now, at the core of what constitutes as art is *mimesis* or imitation, specifically imitation of nature, but that has never been a perfect explanation.<sup>14</sup> Thus, following Dominic McIver Lopes, I refer to *the arts* or art forms – poetry, literature, storytelling, music, painting, photography, theatre, film, dance, performance, architecture – in my discussion of memory as art to avoid confusion.<sup>15</sup> My definition is also shared by the practical understanding that Esquith has when he refers to re-enactments.<sup>16</sup>

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<sup>11</sup> I borrow this from Richard Terdiman and Andreas Huyssen. They both begin their projects on memory with the idea that memory is the “present past.” See Terdiman, *Present Past: Modernity and the Memory Crisis* (Ithaca: Cornell University Press, 1993); and see Huyssen, *Present Pasts: Urban Palimpsests and the Politics of Memory* (Stanford: Stanford University Press, 2003).

<sup>12</sup> Terdiman, vii.

<sup>13</sup> Stephen Esquith, “Complicity in Mass Violence,” *Philosophy & Public Policy Quarterly* 34, no. 4 (2004): 28.

<sup>14</sup> Dominic McIver Lopes discusses the inability of the “imitation of nature” definition of art to include music and suggests that other essentialist ways of concretely defining art also fail to capture the breadth of possibilities of human agency expressed creatively. The paradox, however, is that without any attempt, artwork is indiscernible from mundane objects. The function of art as providing an aesthetic experience may serve better as an explanation in this regard, but it is still not conclusive, for watching a sports match provides aesthetic pleasure too. Explanations on procedure, the steps it takes to make art, struggle to find agreement on what the definitive steps are to producing art. And using value as a marker of art fares no better for there still remains the mystery of what determines the value of art. See McIver Lopes, “Nobody Needs a Theory of Art,” *Journal of Philosophy* 105, no. 3 (2008): 113-116.

<sup>15</sup> For McIver Lopes, all works of art are discernable as belonging to a *form* of art, and uncategorizable artworks are merely the first of new art forms. So, asking “how is this art?” in an avant-garde exhibit is part of the experience, for that form of art is supposed to baffle. If the underlying astonishment persists, it is helpful to ask a different question: “what kind of art is this?” The most helpful way of thinking about art is by considering that aesthetics matters, that there is function in art, but that function differs between *forms* of art. There is variation in function among the arts. Note that there will always be contestation on what can be admitted as another form of the arts, but that is too tangential of a discussion to consider for my purposes. See McIver Lopes, 119-123, 125-127.

<sup>16</sup> Esquith, 33.

To answer my question, the point I contend in this paper is that when we recall the past in the present through memory, and when we do it expressively in an aesthetic way, there are transformative possibilities – the possibility of addressing and changing the social conditions that are ongoing and inherited from historic events of violence or oppression. I am interested in how memory as art responds to mass violence for two reasons. First, I recognize the issue of mass complicity and the reality that most cruel moments in history are never held in time but ripple, some leaving larger wakes than others. It is my concern that today, in most contexts where justice is sought in transition, there seems to be no winners or losers and there is no clear break from the past. The past lingers. In this regard, I situate myself in discussions that show the need to consider the ongoing nature of past violence and atrocities in transitional justice processes.<sup>17</sup> I follow Paul Gready and Simon Robins in their call for shifting towards a goal of societal transformation in transitional justice praxis such that a new agenda, *transformative justice*, is what should be implemented in transitional justice settings.<sup>18</sup> This agenda strives for local agentive action and is process driven rather than outcome oriented, all the while being critical of “unequal and intersecting power relationships and structures of exclusion.”<sup>19</sup> Second, it is my hope that I can make clearer the potential power laden in memory as art, a mechanism that seems too often an afterthought in transitional justice processes even though it often embodies traits conducive to transformation, with those traits being agentive action, deliberative or process nurturing qualities, and cultural criticism.

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<sup>17</sup> Within transitional justice there is the question of whether to focus more on liberal justice or transition. Moreover, what does transition mean? Thus, there is an implied envisaging of what kind of society should be achieved, or how social relations can be re-imagined. See Buckley-Zistel and Koloma Beck, 5.

<sup>18</sup> Paul Gready and Simon Robins, “From Transitional to Transformative Justice: A New Agenda for Practice,” *The International Journal of Transitional Justice* 8 (2014): 340.

<sup>19</sup> Ibid.

## Overview

In Chapter One, I first take up an ongoing debate in transitional justice by making the case for the limits of law and state-led institutional mechanisms in transitional justice. I do this to situate my paper in discussions on transformative justice. I argue that after historic moments or periods of mass violence, traditional legal and institutional channels used in transitional justice are limited in how they can confront the responsible structural forces, and that without properly addressing those structures, problems are left unresolved. The point of looking to transformative justice as a new agenda of praxis is precisely to ensure that violence does not have the potential to continue or be ongoing, either in a slow and muted form or again at an overwhelming scale. For Gready and Robins, it is a praxis that adopts an attitude which seeks to confront “the root causes of conflict.”<sup>20</sup> From this understanding I suggest that other mechanisms are needed if we are to pivot to a new norm of praxis in line with the aspirations of transformative justice.

Next, in Chapter Two, I show that memory as art ought to be considered as one of the mechanisms to be used for transformative justice. Instead of looking at the agentic quality behind memory expression like truth-telling or storytelling, which is equally important, I look at the receiving end of agentic expression.<sup>21</sup> I see memory as art as a powerful mechanism in

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<sup>20</sup> Gready and Robins, 346.

<sup>21</sup> Much work has tried to answer the question Veena Das poses in *Life and Words: Violence and the Descent into the Ordinary* (Berkeley: University of California Press, 2007): in the aftermath of major events, how does one claim the world as their own? There are numerous reasons why survivors share memory: as an act of resilience, as a will to exist and to reclaim a sense of “everydayness,” as a coping mechanism, for social repair, to navigate persistent structural violence, to reclaim identity and redefine who they are. See Pilar Riaño-Alcalá, “Emplaced Witnessing: Commemorative Practices among the Wayuu in the Upper Guajira,” *Memory Studies* 8, no. 3 (2014): 284, 291-292; see Eliana Barrios Suarez and Carla Suarez, “The Memorialisation of Narratives and Sites among Indigenous Women in Ayacucho: Resilience in the Aftermath of Mass Violence and Atrocities,” *Resilience* 4, no. 2 (2016): 105-106, 108-110; and see Erin Baines and Beth Stewart, “‘I cannot accept what I have not done’: Storytelling, Gender and Transitional Justice,” *Journal of Human Rights Practice* 3, no. 3 (2011): 258.

<sup>21</sup> Sharpe, 5.

confronting the social and historical structures that persist after mass violence erupts. To respond to the question that I use to frame my paper, I find it more prudent to examine what the arts can do once the agentive artist fabricates their action into a work of art.<sup>22</sup> This means that I focus on those who experience the arts, which I had outlined as corresponding to the sociological way of understanding the public realm in terms of Arendt's *action*.<sup>23</sup> I build an account on how *we* experience and engage with works of art that seek action in transitional justice contexts. By "we" I refer to what Pilar Riaño-Alcalá calls the plural *secondary witness*, or the group that "sufferers and testimony providers encounter."<sup>24</sup> This includes the usual actors in a society marred by mass complicity – bystanders, perpetrators at large, other survivors, and newcomers. Implied here is that to bear witness leads to a two-way relational experience that compels listeners and perceivers to be participants in a collective project.<sup>25</sup>

In doing my account, I outline two ways in which the arts can contribute to the striving for transformative justice in times of transition. What I identify is inspired by understandings of storytelling and practical observations in memory studies. I suggest that memory as art allows for new meaning and turns fact into understanding, giving counsel to perceivers and witnesses without compromising their sense of self-determination. The second way that I identify is intuitive: art elicits dialogue. Following Arendt's understanding of politics and action, I suggest

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<sup>22</sup> The exception to this way of understanding art is perhaps live performance – theatre, unrecorded music, performative art etc. Still, for Hannah Arendt, art is action materialized. Action has permanence in a worldly sense only when ideas or words are first, shared with others; and second, when they are transformed tangibly, "reified as it were, into things – into sayings of poetry, the written page or the printed book, into paintings or sculptures, into all sorts of records." See Arendt, *The Human Condition* (Chicago: The University Press of Chicago, 1998), 95.

<sup>23</sup> For Arendt, to act is to "begin anew" or to start a new line or initiate a chain of events, and thus corresponds with the human condition of natality; it means "to take an initiative, to begin," or "to set something into motion." More importantly, action depends "entirely upon human plurality, upon the constant presence of others who can see and hear and therefore testify" to the existence of others. See Arendt, *The Human Condition*, 94-95, 177.

<sup>24</sup> Riaño-Alcalá, 285-286.

<sup>25</sup> *Ibid.*, 285.

that action made into works of art initiates space for more action, for politics. These two strands that I identify are interconnected and mutually reinforcing. I parse them out as separate strands so that there can be more clarity when I suggest that memory as art engages and orients us towards a politics of transformation. Thus, the point is that the arts can express memory to engage at a collective level, bringing understanding of the present in relation to the past, which in turn nudges people towards thinking about and discussing the future possibility of transforming the world around them. With understanding, re-imagination or the negotiated dismantling of structures is a possibility. As Dylan Robinson and Keavy Martin suggest in their appraisal of the sensory stimuli and artwork used during the Truth and Reconciliation Commission in Canada, even the “micro-actions” of aesthetics can ripple subtly to shift the landscape.<sup>26</sup>

In Chapter Four, I move to an examination of my original participatory art piece, *Now-Then*. It serves as a concrete example of theory put into practice. *Now-Then* not only has the purpose to engage others in the transformative way that I theorize for memory as art, but it also embodies a direct understanding of how to memorialize the ongoing in the aftermath of moments of intense trauma or injustice. I offer *Now-Then* with the hope that practitioners and artists in transitional justice settings can better think about how to execute works of art as agentive artists and political activists. In the final chapter, I conclude and finish with a poem by Juliane Okot Bitek to allow for thoughts to settle.

Finally, I must clarify on what I am doing. My inquiry in this paper leads me to a normative and semantic discussion. I come to the field of transitional justice as a political

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<sup>26</sup> Dylan Robinson and Keavy Martin, “The body is a Resonant Chamber,” in *Arts of Engagement*, ed. Dylan Robinson and Keavy Martin (Waterloo: Wilfried Laurier University Press, 2016), 2.

theorist first, recognizing the potential of the *imaginative*; that is, I see the need to compliment reality and experience with fancy, for doing so allows us to “see things not otherwise apparent.”<sup>27</sup> There cannot be the study of how people behave or act if there is no attempt to try to make sense of things, to connect things, to read intention and meaning.<sup>28</sup> I draw from scholarship in transitional justice, pragmatism theory, deliberative democracy, literary criticism, and critical theory, recognizing that transitional justice is an interdisciplinary and heterogenous field.<sup>29</sup> I weave together theory, ethnographic studies and life stories, creative works of art, and literary criticism to explore my question. I use multiple examples of memory as art, though in my discussion I mostly privilege fiction, film, theatre, poetry, and performative art. In all the examples I give as memory as art in contexts of transitional justice, I read an underlying shared understanding that how we remember matters politically, as well as a shared faithfulness to memory over history.<sup>30</sup> Thus, I start my discussion echoing the words of Gabriel García Márquez in “Big Mama’s Funeral,” in which the narrator says, “now is the time to lean a stool against the front door and relate from the beginning the details of this national commotion, before the historians have a chance to get at it.”<sup>31</sup>

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<sup>27</sup> Sheldon Wolin, “Political Philosophy and Philosophy,” *Politics and Vision* (Princeton: Princeton University Press, 2016), 17.

<sup>28</sup> Alasdair MacIntyre, “The Indispensability of Political Theory,” in *The Nature of Political Theory*, ed. David Miller and Larry Siedentop (Oxford: Clarendon Press, 1983), 22

<sup>29</sup> Buckley-Zistel and Koloma Beck, 4.

<sup>30</sup> Huyssen, 2-5.

<sup>31</sup> Gabriel García Márquez, “Big Mama’s Funeral,” in *Collected Stories* (New York: Harper & Row Publishers, 1984), 185.



## Chapter 2: From Transitional Justice to Transformative Justice

There are many mechanisms used in transitional justice processes. Traditionally, settings of transitional justice have often put to use tribunals, truth commissions, reparations, as well as memory projects to redress the wrongs done during historic events or periods and to provide some form of justice in times of transition.<sup>32</sup> For Gready and Robins, early legal approaches oriented towards human rights has led to the development of transitional justice as a largely state dominated industry.<sup>33</sup> Bronwyn Leebaw echoes this point, taking up the argument of Judith Shklar in suggesting that such a position is due to the hubris gained from the Nuremberg Trials.<sup>34</sup> But for Leebaw and Shklar, Germany's particular traditions allowed the trials to function in a manner that did allow for political judgement to be made on the Nazi regime, while in other instances of mass violence, other means may be necessary.<sup>35</sup> Gready and Robins suggests that the problem is that this nuanced understanding has not been successfully embodied. They criticize the efficacy of transitional justice mechanisms that followed, arguing that mechanisms used in the traditional lens of transitional justice have been blind to judging structural issues that underpin conflict as root causes.<sup>36</sup> Traditional mechanisms of transitional justice have largely been unable to tackle socioeconomic problems that form the backdrop of the events. Instead, Juliane Okot Bitek poetically remarks that reconciliation simply "photographs well."<sup>37</sup>

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<sup>32</sup> Buckley-Zistel and Koloma Beck, 1-2.

<sup>33</sup> Gready and Robins, 339-340.

<sup>34</sup> Bronwyn Leebaw, *Judging State Sponsored Violence* (Cambridge: Cambridge University Press, 2011), 34-39.

<sup>35</sup> It seems the Nuremberg Trials were themselves a form of "creative legalism" that were attuned to the larger context. The most important success of the Nuremberg Trial was that it rendered a particular narrative of the Nazi regime that passed political judgement on it in its entirety. See Leebaw, 40-41.

<sup>36</sup> Gready and Robins, 346-348.

<sup>37</sup> Juliane Okot Bitek, "Day 87," *100 Days* (Edmonton: Alberta Press, 2016), 14.

Thus, the main difference between the agendas of transitional justice and transformative justice is the recognition of *structural violence*. Mathew Evans explains that structural violence, as conceptualized by Johan Galtung, refers to the scenario when one is unable to realize ambitions to their full potential due to embedded features in everyday surroundings.<sup>38</sup> One faces barriers determined by the economic and political arrangements that form the backdrop of life. It is the opposite of *social justice*.<sup>39</sup> When there is structural violence, actors are unable to maximize their agency such that they can develop a sense of the good life, materially or expressively, nor do they have the full range of possibilities necessary to determine or choose how they gain that form of life. The structures that form the condition of certain actors' lives are not always clearly erected at one point and by one person or group of persons either. In moments of mass violence, there is always mass complicity. For this comes from the *duality of structure* that Anthony Giddens conceptualizes, and which echoes Arendt's understanding of action in relation to *world-building*.<sup>40</sup> In every moment of action, there is also the reproduction of the "day-to-day enactments of social life ... even during the most violent upheavals or most radical forms of social change."<sup>41</sup>

In this chapter, I explore the concept of structural violence in two ways. First, I show how structural violence not only underpins conflict but, as Christina Sharpe and Veena Das see it, shifts from the past into the ongoing – the everyday life of the aftermath of an event. I show that

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<sup>38</sup> Mathew Evans, "Structural Violence, Socioeconomic Rights, and Transformative Justice," *Journal of Human Rights* 15, no. 1 (2016): 3-4.

<sup>39</sup> I understand social justice the way Iris Marion Young defines it: the conditions that promote *self-development* and *self-determination*, where self-development is freedom from oppression and self-determination is freedom from domination. See Young, *Inclusion and Democracy* (Oxford: Oxford University Press), 31-33.

<sup>40</sup> For Arendt, action creates oneself as well as the world around them: "human life, in so far as it is world-building, is engaged in a constant process of reification." See Arendt, *The Human Condition*, 96.

<sup>41</sup> Anthony Giddens, *The Constitution of Society* (Berkeley: University of California Press, 1986), 26.

the crucial fact missed in the transitional justice agenda is just how central temporal connections are between violent events and present conditions, which shapes how the present plays out in the future. Then, I make clear how, at least in transitional justice contexts, focusing on the individual without consideration of the backdrop or structural conditions results in an inability to address mass complicity. From this, it becomes clear that a different agenda of praxis, transformative justice, is necessary if there is to be any hope of addressing mass violence permanently.

### **The Link between Past and Present**

The reason why I am interested in memory as art is because I recognize the central force of time in atrocity. If memory is really about the present invoking the past and if memory as art is the present re-enactment of the past, then there is much to say about the relationship between memory as art and transformative justice. In the transformative justice approach outlined by Gready and Robins, time is not taken for granted. Gready and Robins argue that violence and social conflict are patterned so that after violent events, they are “reconfigured and redescribed during political transition rather than brought to an end.”<sup>42</sup> The past haunts the present in ways that transitional justice mechanisms do not anticipate. Moreover, “the past returns in the future” in the sense that the future is doomed to repeat the past if there is no attempt to negotiate with it.<sup>43</sup> It would thus be prudent to take Veena Das’s lens, to see “the event as always attached to the ordinary as if it were tentacles that reach out from the everyday and anchor the event to it in some specific ways.”<sup>44</sup>

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<sup>42</sup> Gready and Robins, 348-349.

<sup>43</sup> Ibid., 349.

<sup>44</sup> Das, 7.

Law is unable to be coterminous with social reality at a larger scale when we think about the temporality implicit in the concept of justice in transition. Coming from an interest in international law, Kamari Clarke argues that legal courts “cannot situate crimes historically.”<sup>45</sup> For Clarke, *legal time* is unable to confront *social time* or the historicity and compounding effects of being in the wake of a moment of injustice.<sup>46</sup> Clarke concretely paints this in the example of the ethnic violence that broke out in Kenya in 2007. The ethnic violence can be traced back to the era of independence. It was born then. It grew to become widespread frustration and discontent among many ethnic groups, who saw the subsequent land redistribution reward ethnicities that worked closely with colonial authorities at the expense of those at the forefront of decolonization. And then the everyday boiled over.<sup>47</sup> One injustice links closely with another temporally. The incompleteness of colonial independence shadows major events that follow in history. As an anthropologist, Das sees the same intimate connection between the violence of the Partition of India and the violence after the 1984 assassination of Prime Minister Indira Gandhi. She shows that “acts that might appear as fruits of absolute contingency can be shown to bear the tracks of histories,” which is to say, “the everyday grows the event; violence, even if it appears shocking, shares in the heterogeneity of everyday life.”<sup>48</sup> Ignoring this understanding in transitional justice settings leads to paradoxical realities like post-Apartheid South Africa, where the process of transitional justice has led to a society that can

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<sup>45</sup> Kamari Clarke, “Refiguring the Perpetrator: Culpability, History and International Criminal Law’s Impunity Gap,” *The International Journal of Human Rights* 19, no. 5 (2015): 600.

<sup>46</sup> This leads Clarke to finding what she calls an “impunity gap” in international law, referring to the gap where collective and ongoing crimes are trumped by *individualized* conceptions of guilt-assignment. See Clarke, 597-600.

<sup>47</sup> Echoing Clarke, Gready and Robins find in the Kenyan Truth, Justice and Reconciliation Commission report the recognition that historical grievances over land remain the source of ethnic tension and driver of conflict. Despite this, recommendations have largely ignored the potential of land redistribution. See Gready and Robins, 346-347.

<sup>48</sup> Das, 136.

express itself with a language of negative rights astutely despite the backdrop of grim and desolate socioeconomic realities felt by the much of the populace.<sup>49</sup>

Another example that may bring more clarity to this idea of temporal linkage behind mass violence is the idea of what Stephen Best and Saidiya Hartman call *fugitive justice* for the “singular act” of the Trans-Atlantic Slave Trade and anti-Blackness.<sup>50</sup> Best and Hartman pivot from seeing mass violence as events or periods of time to seeing them as singular and totalizing acts that transcend time. Slavery transcends the initial act of enslavement, and in its wake is the reality of the devaluation of Black lives and the limits of justice available to Black lives echoing across generations. They present the case of Cuoango, the freed slave writing in 18<sup>th</sup> century England, who reflects that to live free simply means to play out “a life lived in loss.”<sup>51</sup> Freedom can never simply be returned. It is the opportunity of a new condition overturning a previous condition; a freed slave cannot insist on being untouched by their previous enslavement. As I reflected earlier, Sharpe similarly captures this idea with her concept of the *wake*: acts like slavery are not things that just happened in the *past* as millions of Black lives continue to face the possibility of the rupture of anti-Blackness stemming from slavery.<sup>52</sup> For Best and Hartman, the “time of slavery” cannot be pinpointed to the distant past but, rather, is ongoing, for “the human subject is ‘murdered’ over and over again by the passions of a bloodless and anonymous archaism, showing itself in endless disguise,” from one form of state-sanctioned violence to the next.<sup>53</sup>

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<sup>49</sup> South Africa like Kenya, has a disproportionately high number of whites owning the land while having previously benefited from the past of Apartheid, from which the country has supposedly transitioned. See Evans, 5, 10.

<sup>50</sup> Stephen Best and Saidiya Hartman, “Fugitive Justice,” *Representations* 92, no. 1 (2005): 1-2.

<sup>51</sup> Best and Hartman, 2.

<sup>52</sup> Sharpe, 9.

<sup>53</sup> Best and Hartman, 4.

If we understand the historic event of slavery as comprehensively as Best and Hartman define it, then we may be able to attribute the elusiveness of justice for the Black diaspora in the West to the fact of the “incompletion of abolition,” as the violence done by slavery continues and persists and is “constitutive of the unfinished project of freedom.”<sup>54</sup> The devaluation of Black lives forged out of slavery persists. Abolition remains incomplete, or perhaps a better way of conceptualizing this would be to say that abolition is just one short moment offered to redress centuries of compounding injustice. The social time of slavery cannot be properly confronted with a singular legal act. But this is not to say that change for the better cannot be achieved. There is always possibility in the interplay between structures and agents.<sup>55</sup> The issue is how it is possible to “[change] the future rather than [return] to the past.”<sup>56</sup>

### **The Disjuncture between the Legal and the Structural**

The approach of transformative justice would thus confront mass violence with a similar understanding that Das came to realize for the 1984 anti-Sikh riots in Delhi: “that extreme violence was continuous with everyday life is not to say that it was the same, but rather that the everyday provided the grounds from which the event could be grown.”<sup>57</sup> In contrast to this view, the approach of transitional justice focuses on individuals that rise to prominence in the violence. Critical of this, Clarke suggests that legal processes are too narrow to address mass violence as

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<sup>54</sup> Best and Hartman, 3-4.

<sup>55</sup> To be sure, structural violence does not cast a deterministic fate on agency. To give primacy to structures is to make human life scripted, devoid of any sense of choice. Likewise, to assert that individuals can simply accomplish anything based on sheer willpower is to make structures disappear completely. The point is there is a relationship between structure and agency that is always being negotiated, upheld, or eroded. See Giddens, 23-26.

<sup>56</sup> Gready and Robins, 348.

<sup>57</sup> Das, 149.

legal practice often results in the sole persecution of commanders. This focus on “command responsibility” is inadequate when it comes to addressing the “proximate actors” in human rights violations.<sup>58</sup> At the basis of her argument, Clarke is making an argument that advocates for addressing mass complicity. Legal process – both in an international and state-based sense – is grounded on the individual level and is thus ill-equipped in assigning collective guilt, leading to the lack of potential in remedying associated structures of violence.<sup>59</sup> Gready and Robins suggest that there should be more consideration for justice seeking on the lines of positive rights, for socioeconomic rights rather than just restitutive reparations. They suggest that transformative justice should have an eye “on intersections between economics and power, on discrimination and exclusion.”<sup>60</sup>

In transitional justice practice, there is an inherent inability to comprehend what lies between binaries of good and bad. Acts are only seen in black and white. For Primo Levi, the *grey zone* took up the most space in the Holocaust. After all, saints are saints because they are rarities. Levi’s account of survival in the concentration camps depicts how to survive the system meant lifting oneself “above the norm,” and getting the extra morsel of nourishment meant privilege “granted or conquered, astute or violent, licit or illicit.”<sup>61</sup> Levi portrays this clearly through recounting Chaim Rumkowski’s story in the Lodz Ghetto. His is the “disquieting story of the Kapos and Lager functionaries,” which reminds us that “man’s capacity to play a role is not unlimited.”<sup>62</sup> Structures muddle with human agency and make our will not entirely our own.

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<sup>58</sup> Clarke, 593.

<sup>59</sup> Ibid., 594-596.

<sup>60</sup> Gready and Robins, 348.

<sup>61</sup> Primo Levi, *The Drowned and the Saved* (New York: Vintage Books, 1989), 41.

<sup>62</sup> Ibid., 68.

Power paints ambiguity into every judgment. This kind of understanding of what happens in the thickness of mass complicity during mass violence leads Bronwyn Leebaw to advocate for “extra-legal” responses as traditional victim-perpetrator models of dealing with injustice are inadequate when it comes to mass complicity.<sup>63</sup>

Thus, understanding the relevance of the grey zone in moments of mass violence, Leebaw suggests that legalism and tribunals, restitutive justice and reparations, and restorative justice and truth commissions, share common problems as they confront crime as simply deviance from common norms and practices. These mechanisms of transitional justice do not consider that victim-perpetrator relationships are often caught up in a larger web of systemic forces and structures.<sup>64</sup> After all, as Gready and Robins argue, a focus on individual “acts of violence” will mean losing focus of the larger picture of “chronic structural violence and unequal social relations,” which means losing focus of the source of individual acts of violence.<sup>65</sup> There is never a clear binary relationship in mass violence. Levi portrays this in his experience, showing that there was not just violence between the guards and those in the camps but, rather, survival often entailed doing violence to fellow sufferers.<sup>66</sup> The limits of establishing human rights violations and finding crime only in the most heinous acts, like killing, torture, or abduction is that the mechanisms are fated to miss the larger picture. For Mosley, in the event of Apartheid, the backdrop of those human rights violations was “the routine discriminations that had been built into the legal and institutional infrastructure of the country.”<sup>67</sup>

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<sup>63</sup> Leebaw, 2-3.

<sup>64</sup> Ibid., 14-16.

<sup>65</sup> Gready and Robins, 342.

<sup>66</sup> Levi, 41.

<sup>67</sup> Erin Mosley, “‘Visualizing’ Apartheid: Contemporary Art and Collective Memory During South Africa’s Transition to Democracy,” *Antipoda*, no. 5 (2007): 103.



Jodi Halpern and Harvey M. Weinstein make this clearer when they use the term *ecological* to describe the structures critiqued in the film “No Man’s Land,” set during the Bosnian War. They see the film as an advocate for how transitional justice for Bosnia and Herzegovina must be concerned about the structural or ecological, that it must look beyond the locus of the courtroom and trial.<sup>68</sup> The film goes beyond dehumanized violence and the tragic war tale storyline to illuminate how structures conspire against the possibility of solidarity.<sup>69</sup> The film portrays how personalized connections can still devolve into betrayal conflicts when “social forces continue to polarize people,” and only in “the absence of such forces” – like in the no-man’s-land trench between Bosniak and Serb forces – can empathy be able to work to its end.<sup>70</sup> Thus, it does much more work than evoke pity and fatalism. The film provokes us to see a counterfactual reality: only in the trenches, where society is absent, do a Bosniak and a Serb find the ability to begin to empathize; zealous in-group associations evaporate.<sup>71</sup> And when society reappears around their trench, strife returns with it.

As for settings of the struggle for ongoing decolonization, transitional justice processes are not just inadequate, they often run counter to the struggle by putting on a new facade for relations of colonialism. Glen Coulthard observes that truth and reconciliation processes are often co-opted to perpetuate settler colonialism precisely by “allocating the abuses of settler colonization to the dustbins of history and/or purposely [disentangling] processes of

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<sup>68</sup> Jodi Halpern and Harvey M. Weinstein, “Rehumanizing the Other: Empathy and Reconciliation,” *Human Rights Quarterly* 26, no. 3 (2004): 564-567.

<sup>69</sup> *Ibid.*, 575-577.

<sup>70</sup> *Ibid.*, 577.

<sup>71</sup> In line with the call for transformative justice, Halpern and Weinstein use the film to argue that to re-establish trust and social networks, transitional justice mechanisms must be concerned with the structural or “ecological” and look beyond the locus of the courtroom and trial. They suggest that the concern for reconciliation must be a transformative process. Transitioning to mere coexistence leads to a fragile society always on the brink of ethnic violence. See Halpern and Weinstein, 563-567, 570, 581.

reconciliation from questions of settler-coloniality.”<sup>72</sup> Thus, for Canada, when apologies are offered but the structures of “invasion” remain unchanged, Indigenous lives continue to face conditions with “ends [that] have always remained the same: to shore up continued access to Indigenous peoples’ territories for the purposes of state formation, settlement, and capitalist development.”<sup>73</sup>

Focusing too on the relationship between settlers and Indigenous peoples, Sheryl Lightfoot argues that the work has just begun after a settler-state issues an apology to Indigenous peoples. For Lightfoot, we must politically judge apologies. If an apology comes without any obligations for change, then it is a political act that is unable to confront the social time of past atrocities and current relations of colonization, for an apology must be meaningful in that it cannot simply be an end in itself but, rather, “a significant ritual gesture at the beginning, or the end” of a larger process that renegotiates a more just relationship between settler-states and Indigenous peoples built on mutual respect.<sup>74</sup> It is thus important to see apologies and truth commissions as failing to transform the oppressive and dominating weight settler-states continue to put on Indigenous peoples.<sup>75</sup> In a similar understanding to Clarke’s conceptualization of the disjunction between legal time and social time, Balint et al. argue that true processes that can lead to just outcomes are those that pay attention to the “legacies of past harms.”<sup>76</sup> Like Lightfoot, they argue that without addressing colonial structures carried over in contemporary

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<sup>72</sup> Glen Coulthard, “Seeing Red,” *Red Skin, White Masks* (Minneapolis: University of Minnesota Press, 2014), 108.

<sup>73</sup> Coulthard, 125-126.

<sup>74</sup> Sheryl Lightfoot, “Settler-State Apologies to Indigenous Peoples: A Normative Framework and Comparative Assessment,” *Native American and Indigenous Studies* 2, no. 1 (2015): 34-36.

<sup>75</sup> Lightfoot, 19; and see Jennifer Balint, Julie Evans and Nesam McMillan, “Rethinking Transitional Justice, Redressing Indigenous Harm: A New Conceptual Approach,” *The International Journal of Transitional Justice* 8 (2014): 195-197.

<sup>76</sup> *Ibid.*, 202.

settler-societies, countries like Canada and Australia remain “colonial formations.”<sup>77</sup> With just an apology issued and nothing else, Canada or any other settler-state is doomed to repeat the past instead of seeing that though the past is tethered to the present, the future can be negotiated.

If we do not think critically about transformation, we risk losing sight of the real problem behind cases of mass violence. And as legal channels often narrow the focus and do not consider the wider grey zone, Leebaw argues that the structures responsible for individual acts of violence can easily remain in place, meaning we only bide our time before more violence erupts.<sup>78</sup> This is why Erin Baines suggests that it is important to consider how victim-perpetrator relationships can reinforce systemic relations of power imbalances and exclusion that perpetuate mass violence in the first place. For example, non-legal processes could be much more effective in confronting the pre-existing power imbalances that condition gender-based atrocities.<sup>79</sup> There is much to be considered in mechanisms to be used in transitional justice settings. This does not necessarily mean abandoning law, for as Gready and Robins put it, “transformative justice should be holistic in seeking to use a far wider range of approaches” to promote a more robust understanding of social justice.<sup>80</sup> Gready and Robins add that many of these approaches ought to be sought from a grassroots-driven mindset so that there is direct impact on communities.<sup>81</sup> One mechanism that is much more community oriented is memory projects. In the next chapter, I examine how memory as art can find a role in transitional justice processes that are ready to adopt the transformative justice agenda of praxis.

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<sup>77</sup> Balint et al., 202-206.

<sup>78</sup> Leebaw, 18, 37-38.

<sup>79</sup> Erin Baines, “‘Today I want to Speak Out the Truth’: Victim Agency, Responsibility, and Transitional Justice,” *International Political Sociology* 9, no. 4 (2015): 327.

<sup>80</sup> Gready and Robins, 345.

<sup>81</sup> Ibid.

### Chapter 3: Memory as Art

Why should there be more interest in the arts in the aftermath of mass violence? Perhaps the best way to answer this is to begin with a point found in Michael Ondaatje's novel *Anil's Ghost*. As part of a goodwill agreement between the Sri Lankan government and the U.N., a forensic pathologist, Anil Tissera, is sent to Sri Lanka to investigate human rights violations in the ongoing war. She sees her role as being there to uncover the "truth of history," as an archaeologist does in an excavation site, for she believes that the uncovering of "one victim can speak for many victims."<sup>82</sup> Margaret Herrick suggests Ondaatje wants the reader to follow Anil with a similar sense of invulnerability, as if it were an archetypal detective novel where the detective is distanced from the victimization of other characters.<sup>83</sup> Similarly, common practice now in transitional justice is to be concerned with reliability and creditability, to search for facts and to arrive at some semblance of the truth.<sup>84</sup> Despite this, as Nora Strejilevich emphasizes, when survivors recall their experiences, memories often resist the "rigidity of truth," as "it is only by first making peace with the impossibility of comprehension that one can ever begin to comprehend at all."<sup>85</sup> No doubt, this impossibility of representing the extent of human cruelty and the massiveness of structures of violence was what Holocaust survivors tried to reconcile.<sup>86</sup> Kay Schaffer and Sidonie Smith suggest that this becomes a problem because legal channels tend

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<sup>82</sup> Michael Ondaatje, *Anil's Ghost* (New York: Vintage Books, 2000), 275.

<sup>83</sup> Margaret Herrick, "Katabasis and the Politics of Grief in Michael Ondaatje's *Anil's Ghost*," *Commonwealth Literature* 5, no. 1 (2016): 35-37.

<sup>84</sup> Kay Schaffer and Sidonie Smith, "Venues of Storytelling: The Circulation of Testimony in Human Rights Campaigns," *Life Writing* 1, no. 2 (2004): 5-6.

<sup>85</sup> Nora Strejilevich, "Beyond the Language of Truth," *Human Rights Quarterly* 28, no. 3 (2006): 704-705.

<sup>86</sup> Primo Levi describes how one's experience in a concentration camp is to be "overwhelmed by a massive edifice," that it is nearly impossible to form "a representation of it" because one's eyes are almost always fixed to the ground "by every single minute's needs." Did the companion that usually worked beside you get moved to a different station, or did they get "erased" by the violent edifice of the lager-system? See Levi, 16-18.

to obscure experience; that is, experience becomes transliterated by frameworks of human rights law, or worse, it becomes excluded or deemed irrelevant.<sup>87</sup> Mosley adds that truth commissions never simply establish forensic truth. They also explain and make hypotheses; that is, they write official history and impose collective memories to build up the state.<sup>88</sup>

This is why, immediately after Anil arrives in Sri Lanka, Ondaatje has her sense of invulnerability, along with the reader's, checked. Ondaatje describes Anil having to stop her hands from trembling as she is caught off guard by the first two corpses she comes across. The first body shocks her by how recent the death was – “she never usually translated the time of a death into personal time ... [but] it must have happened during her early-evening walk” – and the second body had “the air knocked out of the body,” which she concludes as due to the person having been thrown out of a helicopter to prevent identification.<sup>89</sup> It is in this moment that Anil has her arrogant sense of invulnerability knocked out of her, and perhaps similarly so for the reader. Ondaatje dispels all sense of distance and compels the reader to be in the conflict instead of observing it from afar, as is the difference between memory re-enacted on a stage and testimony stated in a courtroom, for instance.<sup>90</sup> From this point on, the reader embarks on a journey of understanding, not mere evidence gathering.

That said, I do not suggest that tribunals or truth commissions are useless. The point is that these mechanisms of transitional justice have limits. The fear of unbelievability due to the

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<sup>87</sup> They suggest that “narratives of suffering offer bits of evidence that cannot easily be reduced to evidence.” Thus, official narratives like human rights commission reports consist of simple forensic evidence, without emotion, and as removed as possible from actual experiences of suffering and trauma. Only particular kinds of injustices can be included in legitimate narratives in institutional and legal settings, and these injustices are regarded as being individual and not structural. See Schaffer and Smith, 6, 9-11, 14.

<sup>88</sup> Mosley, 102.

<sup>89</sup> Ondaatje, 13-14.

<sup>90</sup> Herrick, 37.

push to move beyond facts is a concern that needs to be accounted for, always.<sup>91</sup> And yet, it does not have to be one way or the other. The point is not to leave out the facts, but to not solely rely *only* on facts after cruelty and atrocity. After all, as I have established earlier, much work has been done on showing that survivors often testify for more than just proving the past.<sup>92</sup> Perhaps this is why so many survivors and witnesses express themselves in an aesthetic way, through a form of art. For Ajla Demiragić and Edin Hodžić, legal and political processes aim to bring closure, whereas mediums of creative imagination are “there to open up the horrifying events and explore them in their deeper meaning and implications.”<sup>93</sup> They see memory in the form of storytelling as being able to reverse silence from oppression.<sup>94</sup> Indeed, Jackson observes that fabled expression is often about expressing something *else*, to do politics. Stories of faraway or fantasy lands are often stories about home, stories of the future or past are often stories of the now, and stories of others are often stories of us.<sup>95</sup> Memory as art is similar in this regard.

The point is that *truth* does not matter, as Jackson says, so long as it does not help us “regain some purchase over the events that confound us, humble us, and leave us helpless.”<sup>96</sup> This is why Strejilevich sees testimony as being useful outside of legal processes. Memory such

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<sup>91</sup> Karin Orantes, “The Grand Narrative of Life – An Interview with Tlhalo Raditlhalo,” *Trauma, Memory, and Narrative in South Africa*, ed. Ewald Mengel, Michela Borzaga, and Karin Orantes (Amsterdam: Rodopi, 2010), 216.

<sup>92</sup> Strejilevich, 711-712; Riaño-Alcalá, “Emplaced Witnessing: Commemorative Practices among the Wayuu in the Upper Guajira,” 284; Barrios Suarez and Suarez, “,” no. 2 (2016): 106, 109; and see Baines and Stewart, 258.

<sup>93</sup> Ajla Demiragić and Edin Hodžić, “The Bleak Visions of *Literary Justice* for Survivors of Srebrenica: Examining the Fictional Narratives of Srebrenica Genocide in Light of the Insights from Transitional Justice,” in *The Arts of Transitional Justice: Culture, Activism, and Memory after Atrocity*, edited by Peter Rush and Olivera Simić (Springer: New York, 2014), 137.

<sup>94</sup> *Ibid.*

<sup>95</sup> Each medium of creative expression is simply a “screen onto which are projected and reworked memories and emotions that are too close for comfort, too subjective to be focused, too painful to be told.” See Jackson, 139.

<sup>96</sup> Jackson, 17. And see page 54: “But it is important to remind ourselves that authenticity does not necessarily consist in an exact and objective recollection of a moment in the past that is frozen, as in a photograph, for all time. Rather ... every story told blends a desire to do justice to experience and a calculated interest in producing effects that will improve the storyteller’s lot.”

as this is a form of social and cultural resistance against historical events, against attempts to oppress or annihilate.<sup>97</sup> Memory always requires interpretation, which is why Strejilevich believes testimony should seek to go the literary route instead of focusing only on being objective; it could never be objective anyway.<sup>98</sup> Thus, the role of memory or testimony outside of the courts is to affect readers with *truthfulness* or sincerity, not objectivity – to make real the shame, fear, indignity, the sensations and experience of what happened and not simply to make a list of what happened.<sup>99</sup> This is why Hernán Valdés's regards his seemingly fictional-account of being detained in a camp in Pinochet's Chile as testimony. It is an account of a shared experience and yet a personal one as well, and its aim is to affect the reader so that they feel, as well as to solicit their solidarity with respect to real and concrete events.<sup>100</sup> Only after this sharing of understanding can dialogue and politics ensue in such a manner that offers the possibility of transformation.

In a more practical way, it should be noted that the arts have strategic value in the striving for transformative justice. Artists have a particular privilege, a license of sorts, of autonomy and independence during ongoing processes of transitional justice because they do not share the same objectives as the state.<sup>101</sup> Most do not seek to produce finished narratives but just to add to the collective conversation that builds narrative. Citing Carol Becker's work on artists and social responsibility, Mosley gives the example of how many artists in South Africa became prominent civic actors in the transitional period from Apartheid, recognizing the need to have their sights on

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<sup>97</sup> Strejilevich, 706-707.

<sup>98</sup> Ibid., 708.

<sup>99</sup> Ibid., 709.

<sup>100</sup> Ibid.

<sup>101</sup> Mosley, 106-107.

the past while moving forward.<sup>102</sup> Thus, in this chapter, I explore how memory as art, with its special attention to the past in the present, allows for understanding, which then allows for action – for a politics of re-imagination, of insistence and resistance, of negotiating and making compromises, of forgiving and the making and keeping of new promises.

### **Understanding and Empathy**

A touch of fiction allows us to explore meaning or to try and grasp understanding, something which the acknowledgement of bare facts and figures simply cannot do. Thus, as Strejilevich puts it, a literary approach to testimony – where memory manifests as art – does not focus on *knowledge* but, rather, it is a search for *understanding*.<sup>103</sup> But it is not just a personal journey. As Esquith suggests, when someone re-enacts experiences of a harrowing past for the rest of us, they are not only coming to terms for themselves, they are allowing for secondary witnesses to “see ourselves within this complex picture, instead of uncritically identifying with victims or observing them more comfortably from afar.”<sup>104</sup> Esquith, building from Arendt, recognizes that re-enactment allows “an audience” to begin to form “political judgements in particular cases ... with poise and humility,” as they are prompted to critically recognize their location in mass complicity and the limits of legal punishment.<sup>105</sup> Thus, there are messages in memory as art, messages that are not just useful in the sense of object utility but as moral claims, as ways of understanding that can seek the transformative; that is, works of art often give *counsel* in aftermaths. After all, Walter Benjamin famously asserted that the purpose of a good story is to

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<sup>102</sup> Mosley, 107.

<sup>103</sup> Strejilevich, 710.

<sup>104</sup> Esquith, 33.

<sup>105</sup> Ibid.



give counsel, which is “less an answer to a question than a proposal concerning the continuation of a story which is unfolding.”<sup>106</sup> And when that counsel is “woven into the fabric of real life” there is wisdom.<sup>107</sup> Echoing this, Arendt recalls that the last lines of Sophocles’s *Antigone* is that *megaloi logoi* or “great words” repay the great blows of the arrogant only to teach wisdom in old age.<sup>108</sup> This must have been one of the reasons why the women of Tramaluna Teatro chose to perform *Antigona, Court of Women*, for it was not just to grieve for themselves but to impart understanding with griefs shared. It was to make the audience, the secondary witnesses, wiser.

Each person located in the *we* of the secondary witnesses come to understanding differently when memories have been shared with them through art. This is what Benjamin means when he says that a good story must weave into people’s ongoing lives and not impose accuracy or spell out the “psychological connection of the events,” and that is how “the narrative achieves an amplitude that [fact] lacks.”<sup>109</sup> As White suggests, Benjamin argues that the most effective forms of memory as art would be critical without imposing a dominant narrative to explain the world, for counsel gained from a story “is not the solution to a riddle” but a piece of practical wisdom that helps us live, and it presents itself most forcefully without an explanatory hypothesis ... [like that of] a fixed content or a piece of information.”<sup>110</sup> A simple example of this is to reconsider the film “No Man’s Land” to contrast solution and wisdom. The film could

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<sup>106</sup> For Benjamin, “the storyteller is a man who has counsel for his readers.” See Walter Benjamin, “The Storyteller,” in *Illuminations*, trans. Harry Zohn, ed. Hannah Arendt (New York: Schocken Books, 1968), 86.

<sup>107</sup> Ibid., 86-87.

<sup>108</sup> Arendt, *The Human Condition*, 25.

<sup>109</sup> Benjamin offers the example of the multiple discussions provoked by the story told by Herodotus of the Egyptian pharaoh Psammenitus, who is made to stand to watch the Persian triumphal procession after defeat. A good story today, even if not widely printed and celebrated, is one “still capable after thousands of years of arousing astonishment and thoughtfulness.” It does so because it offers no defining explanation to stories of people’s lives as they continue to be ongoing – its power to give counsel is amplified in this way. See Benjamin, 89-90.

<sup>110</sup> Richard White, “Walter Benjamin: ‘The Storyteller’ and the Possibility of Wisdom,” *The Journal of Aesthetic Education* 51, no. 1 (2017): 4-5.

be about any conflict. It does not offer a totalizing hypothesis of how people should live together after betrayal and mass violence. Esquith also observes that the better re-enactments of conflicts are stories that translate across boundaries and lived experiences, using *Ubu and the Truth Commission* as an example. Though it is a play conceived in response to truth and reconciliation in South Africa, it is just as relevant for someone from Romania as it is for someone from South Africa, for a story, a play, or any memory related through art, has the potential to feel local.<sup>111</sup> Instead, it weaves questions that beget critical assessments and compel secondary witnesses to explore what structures need to be dismantled respective to their contexts. And with that, action or politics ensues. I will return to this point in the next chapter.

So, a story conveyed well is a story with a message that is loose or undetermined for the sake of requiring the engager to make sense of it in relation to the problems they face. They do this by incorporating fiction with reality, by weaving story with their own life story. But apart from being engaged with moralizing claims in a non-imposed manner, how else does memory as art effect understanding in secondary witnesses? For Mosley, understanding is helped by having a greater emotional reaction to the past.<sup>112</sup> After all, without a reliance on empathy, there is little difference between reading theory and literature. I claim this based on the unconventional liberalism of Judith Shklar and the work done by historian Lynn Hunt. Hunt contends that sentimental novels were key to bridging abstract understandings of how one feels about the other with how one ought to treat the other.<sup>113</sup> Inspired by Montaigne, Judith Shklar suggests that

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<sup>111</sup> A woman from Romania told the actors after their performance one night that the play was about Romania, that it felt “local” to her. See Esquith, 34.

<sup>112</sup> Mosley, 114.

<sup>113</sup> One of the earliest examples of this is Rousseau’s widely read *Julie*, which allowed male readers to also be in the mind of Julie, and like female readers, identified with her struggles so that it became theirs. See Lynn Hunt, *Inventing Human Rights* (New York: W.W. Norton & Company, 2007), 47-49.

“liberalism's deepest grounding” for toleration of others was “born in horror” and has become a progressive tradition driven by a fear of doing cruelty, constantly being revised as more and more stories and contestations are made to show cruelty done.<sup>114</sup> This fear of cruelty requires communication that goes beyond facts, for it requires the activation of empathy.<sup>115</sup> Empathy gives one access to others because it is not a feeling in itself but a process of reacting to the feeling of others, for, as Michael Morrell explains, it is “a process through which others' emotional states or situations affect us.”<sup>116</sup> Thus, Jackson, recalling Montaigne's observations, notes that stories inform human experience as they give cause to look beyond the boundaries to feel the lives of others.<sup>117</sup> To be sure, empathy is not felt; rather, empathy is the process where feelings are evoked within us – feelings of compassion, sympathy, happiness, or anger.<sup>118</sup> Thus, despite Arendt's aversion towards empathy, I suggest it is with empathy that there is a better chance of understanding the abhorrent facts of mass violence, for empathy leads to a sincerer comprehension that goes beyond death tolls if it is complimented with reasonableness.<sup>119</sup>

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<sup>114</sup> Judith Shklar, “Liberalism of Fear,” *Liberalism and the Moral Life*, ed. Nancy L. Rosenblum (Cambridge: Harvard University Press, 1989), 21.

<sup>115</sup> This is why, building off of this, Richard Rorty and Michael Ignatieff suggest that the intuition of human rights, made real by a sense of solidarity, arose out of the West's history of *politics*, out of a progression of one breakthrough after another in restrictions on cruelty and domination. See Michael Ignatieff, “Human Rights as Politics,” *The Tanner Lectures on Human Values* (Princeton: Princeton University Press, 2000), 287-288; and see Richard Rorty, *Contingency, Irony, and Solidarity* (New York: Cambridge University Press, 1989), 68.

<sup>116</sup> Michael Morrell, *Empathy and Democracy: Feeling, Thinking, and Deliberation* (University Park, PA: Pennsylvania State University Press, 2010), 43.

<sup>117</sup> Note that stories can both reinforce or transgress known boundaries, so that in the former, “storytelling seals off the possibility of critique” while in the latter, “critique becomes pivotal.” See Jackson, 25.

<sup>118</sup> Morrell, 41.

<sup>119</sup> Arendt argues that empathy destroys critical thinking as it makes one try to “know what *actually* goes on in the mind of all others” instead of critically comparing their judgement with the possible judgements of others. Thus, it does not allow for the inter-subjective kind of judgement that Arendt advocates. For Arendt, the French Revolution came with the making of “spectacle” of people's suffering. Those that came in power to represent *the people* in the French Revolution became lost in sentimentality as compassion turned into “boundlessness,” which made figures like Robespierre unable to be compassionate towards particularities and *specific* individuals' suffering. It precluded the possibility of inter-subjective understanding; it precluded action. But I argue that we should be wary of both stale sentimentality and stale rationality. For this boundlessness through emotion is just as concerning as the sinister potential of rationality in modernity, which Zygmunt Bauman famously identifies in *Modernity and the Holocaust*.

One artwork that relies heavily on empathy for transformative effect in its translation of memory into art is Judith Mason's *The Man who Sang and the Woman who kept Silent*. It consists of a dress made from blue plastic shopping bags – ubiquitous in South Africa – and hung on a wire clothes-hanger perched on a ceiling, as well as an oil canvass also featuring the dress. “The Blue Dress” aspect of Mason’s work is inspired by the grave-uncovering of Natal *uMkhonto* operative Phila Ndwandwe after her being abducted and missing for years.<sup>120</sup> The concept of the artwork came from her body being found in a grave in the fetal position, naked except for a blue-coloured plastic shopping bag folded like underwear to cover her sex.<sup>121</sup> Those trying to understand Mason’s art installation uncover or recover Ndwandwe's murder, as if digging up the grave she was found in, and they come to confront the ugliness and indignity of a past politics. The truth of her murder comes out and she is restored some form of dignity, first through the recovering of the truth of her circumstances but also in her death being answered by the artist's attempt to literally redress her and restore her dignity.<sup>122</sup> The power of the empathetic journey for secondary witnesses is that it impacts emotionally to leave a lingering cultural memory. For Rosemarie Buikema, it is fitting to connect the ubiquitous blue-coloured plastic bag of South Africa with the graves of the politically murdered, as in "every occasion a new memory is triggered by any arbitrary flimsy plastic shopping bag."<sup>123</sup>

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Thus, critical theorists and pragmatists argue for emotion *in conjunction* with rationality, so that emotion and reason must never be purely separated. See Hannah Arendt, *On Revolution* (London: Penguin Books, 1990), 71, 80-81, 90; see Alice MacLachlan, “An Ethic of Plurality: Reconciling Politics and Morality in Hannah Arendt,” in *History and Judgement: IWM Junior Visiting Fellows’ Conferences* (Vienna: 2006), 6-8; and see José-Manuel Barretto, “Ethics of Emotions as Ethics of Human Rights: A Jurisprudence of Sympathy in Adorno, Horkheimer and Rorty,” *Law and Critique* 17, no. 1 (2006): 93-95.

<sup>120</sup> Rosemarie Buikema, “Performing Dialogical Truth and Transitional Justice: The Role of Art in the Becoming Post-Apartheid of South Africa,” *Memory Studies* 5, no.3 (2012): 287.

<sup>121</sup> Ibid.

<sup>122</sup> Ibid., 287-288.

<sup>123</sup> Ibid., 288.

Such a cultural memory that cannot be shaken off speaks exactly to the political force behind invoking the past in the present. It recognizes that the past is intimately linked to the present and thus, not only proper understanding but also action is required if the future is to be saved. Buikema argues that the artwork was produced to prompt *ekphrasis* – the dialectic and social constructing of understanding through describing art, which comes in the form of interaction, discussion, and debate.<sup>124</sup> For her, the point of discussion around the piece is not just for understanding and paying respect to one person's experience of cruelty but also to accompany that experience with confrontation of structures of gender violence, oppression, and indignity in South Africa that continue to be ongoing.<sup>125</sup> After all, as Pilar Riaño-Alcalá's examination of the "emplaced witnessing" practices of the Wayuu in Colombia exemplify, the purpose of having others bear witness is a search for understanding in order for there to be politics. It is to have the secondary witnesses take up a role beyond that of passive audience members. Thus, echoing Kelly Oliver and Veena Das, Riaño-Alcalá suggests that the "work of witnessing establishes a communicative interaction," which is to say witnessing is a practice intimately intertwined with action.<sup>126</sup> With this, I turn to discuss the link between aesthetics and action in memory as art.

### **Aesthetics and Action**

In the search for understanding, questions naturally arise, questions that can be best addressed in interaction. But how can this interaction occur in a politically productive way; that is, how can interaction in the process of witnessing memory as art be conducive to the hopes of

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<sup>124</sup> Buikema, 283.

<sup>125</sup> Ibid.

<sup>126</sup> Riaño-Alcalá, 285.

transformative justice? Combining her understanding of Kelly Oliver with her research on *emplaced witnessing* done by the Wayuu in Colombia, Riaño-Alcalá suggests that the secondary witness must be involved and interact. This means gaining shared knowledge from address and response and upholding the obligation of bearing responsibility through encounter. And this includes a general “process of reconstructing subjectivities and the demand for retribution and compassion.”<sup>127</sup> In this particular form of memory work, Riaño-Alcalá finds what Kelly suggests, that the re-enactment of memory is the enactment of possibility, for imagining of the past leaves secondary witnesses with the ability to respond and the ability to address; that is, it leads to an agenda for change, for justice, for debunking, or, as in the case of the Wayuu, for demanding the return of something taken.<sup>128</sup>

If art can lead to understanding in people – that it can help people go beyond the simple acknowledgement of facts or historic knowledge – then with this comes the possibility for one to reconsider their position towards moments of mass violence and the structural legacies that may continue to prevail. This is why Demiragić and Hodžić advance literary critic Shoshana Felman’s idea of bearing literary witness to history, for that kind of engagement with the past would not lead to record keeping but rethinking and *re-imagining*.<sup>129</sup> Jackson argues that storytelling is often a “strategy” used for “bridging the gap between subjective dispositions and social structures,” which is to say that they can be used to help determine the “narrative and ethical shape” that informs our lived experience.<sup>130</sup> Now, like this understanding of storytelling, in a broader sense, I suggest memory conveyed through art can do similar work. For Robinson and

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<sup>127</sup> Riaño-Alcalá, 285-286.

<sup>128</sup> Ibid., 286, 292.

<sup>129</sup> Demiragić and Hodžić, 136.

<sup>130</sup> Jackson, 63.

Martin, this is the power of *aesthetic action*. For them, aesthetic action is “sensory stimuli” and artwork used to make “impacts that are felt,” that carry messages through empathy, and which can ultimately lead to subtle change.<sup>131</sup> When memory is delivered in this medium, it can have transformative impacts because it is action itself. Arendt explains that because the product of action – of every word voiced to persuade or every deed acted out – is the very “fabric of human relationships and affairs” or the social structures that either allow for domination and everyday violence or empowerment, there is always the possibility for change.<sup>132</sup> One is never conditioned absolutely and agency can always be found where action is possible, even at the margins when conditions are oppressive or stifling.<sup>133</sup> And from Arendt’s understanding that works of art are merely action materialized or action made into work – so that great words spoken do not simply fade but survive with the potential of giving immortality to the artists – I suggest that artworks are simply actions preserved to continuously engage.<sup>134</sup>

In terms of one action leading to another though, memory as art can function as a spark or as sustenance; either way, action preserved in art naturally begets more action in response.<sup>135</sup> What I mean by this is that re-enactment or memory as art is a type of action preserved, and it leads to a process of more action, or politics, which in the context of transitional justice, can be considered as a sort of process of reimagination. Re-enactment can be the very first action done in a trajectory of more actions to come, or it can be an action that adds fuel to a chain of actions already in motion. Either way, action preserved in artwork anchors politics and serves as a

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<sup>131</sup> Robinson and Martin, 2-3.

<sup>132</sup> Arendt, *The Human Condition*, 94-95.

<sup>133</sup> *Ibid.*, 11.

<sup>134</sup> *Ibid.*, 173, 187.

<sup>135</sup> Even live performances fare better than mere dialogue for the aesthetics of a play or performative art piece allows ideas to become engrained as cultural memory, like the “The Blue Dress” of Mason’s piece in South Africa does.

reference point for other actions. That art calls for action is not a particularly bold claim to make, but it is an astute one. Aesthetics has always been political, for how we choose to represent something has the potential to unsettle, provoke, and cause reconsideration. Memory as art allows for the active process of re-imagination, where people negotiate and compromise over what kind of society they want to live in post-atrocity. Thus, when one creates a work of art, they do so for others to continuously engage, to provoke more action. Fabrication of action leads to more action. This is why, for Robinson and Martin, a story told does not simply mark the closing of Indigenous survivors' grievances in Canada but, rather, should be reciprocated by listeners, by the wider public, for their stories invite actions that strive for transformative justice.<sup>136</sup>

When the Ogimaa Mikina group puts up Anishinaabe signage in urban public spaces in Ontario, literally materializing memory as art or memory as action on streetscapes, they are beginning a conversation with a puzzled settler; that is, they are asking settlers how they relate to Anishinaabe sovereignty while being a part of those places.<sup>137</sup> In these kinds of aesthetic interventions, Robinson argues that there is the momentary potential for “intergenerational responsibility,” where settler descendants of original generators of colonial perpetrators can choose to not carry on the “intergenerational perpetration” of colonial relations with Indigenous peoples.<sup>138</sup> They may choose to not continue the path previous generations cleared, which is to say that they can renegotiate with the legacy of the past. Similarly, Peter Morin's decision to start his performance art piece thirty minutes *before* the proposed start time embodies a similar objective; Morin's goal was precisely for the audience to come in while he and his collaborators

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<sup>136</sup> Robinson and Martin, 7-8.

<sup>137</sup> Dylan Robinson, “Intergenerational Sense, Intergenerational Responsibility,” in *Arts of Engagement*, ed. Dylan Robinson and Keavy Martin (Waterloo: Wilfried Laurier University Press, 2016), 61-62.

<sup>138</sup> *Ibid.*, 62-63.



were in the midst of performance.<sup>139</sup> He attributes this to being an ode to the testimony-givers at events for the Truth and Reconciliation Commission across the country, all of whom had to give their stories on stages while the audience continued to be in a constant flux of coming and leaving, people looking confused and people finding their seats.<sup>140</sup> The greater meaning behind this though, is that it invites the wider Canadian public to better understand that they, including new arrivals, enter *mid-act* as perpetrators and as witnesses of the ongoing colonial relations in Canada. They must see that it does not matter if they were not there in the beginning, only that there are people asking for them to join a long process of transformation, and those who have entered late also have to help choose the path even though it was started by previous generations.

Now, to be sure, I see politics spring from memory as art simply because, as Arendt clarifies on her theory of action, the *polis* is not located in space, but is found on the intangible web of agents that act; that is, it “lies between people living together” for “acting and speaking together.”<sup>141</sup> Thus, each time a manifestation from one of the arts provokes thought and then dialogue, it invokes the polis to manifest. It invokes politics, and thus the polis appears for however long others wish to engage with live action. No one can be in the polis all the time. But the polis is there each time a book club meets in search of more understanding, or when there is perplexed murmuring at the art gallery, or the instant the curtains close and undammed opinions flow out with the crowd as they exit the cinema or the theatre to go back onto the street. What Arendt means is there is the potential of the public realm each time people gather to talk, and

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<sup>139</sup> Peter Morin, “this is what happens when we perform the memory of the land,” in *Arts of Engagement*, ed. Dylan Robinson and Keavy Martin (Waterloo: Wilfrid Laurier University Press: 2016), 77.

<sup>140</sup> Ibid.

<sup>141</sup> For “not Athens, but the Athenians, were the polis.” See Arendt, *The Human Condition*, 194-195, 198.

when people talk, action or politics can be done.<sup>142</sup> There is thus power in this, for “power springs up between men when they act together and vanishes the moment they disperse.”<sup>143</sup>

Because one of the constants of the human condition is plurality, that there will always be different perspectives, action done is plurality negotiated; that is, when we talk with others, we build a world together, full of comprises and contingencies. For the world is an *in-between* of each person and their unique *location*, for literally no one can occupy the same space.<sup>144</sup> This in-between is where the politics of *inter-est* takes place, where compromises are made and where negotiated meanings are formed, for it is a “subjective in-between” or a *web* of relations, claims, interests, and desires.<sup>145</sup> Thus, to ask *what change* must be had after engaging with memory as art is not a task to be taken up by a philosopher in solitude. Drawing from Arendt, Jackson argues similarly that to judge does not mean to disengage and distance one from all others, nor does it mean to allow one’s own standpoint to be eclipsed by another’s, for it is not simply an exchange of prejudices. Rather, for Arendt and Jackson, to judge is to take “a view from in-between” – a third position that is neither one’s own nor the other’s, nor is it the high viewpoint of objectivity.<sup>146</sup> Therefore, for Arendt, “judgment presupposes our belonging to a world that is shared by many,” and it is thus “unlike pure reason” as “a silent Platonic dialogue between me and myself” is not adequate.<sup>147</sup>

Therefore, echoing Arendt, Leebaw suggests that transitional justice processes that seek to be transformative need to be deliberative and good sensed, and that such processes would lead

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<sup>142</sup> Arendt, *The Human Condition*, 199-200.

<sup>143</sup> *Ibid.*, 200.

<sup>144</sup> *Ibid.*, 52, 57.

<sup>145</sup> *Ibid.*, 183.

<sup>146</sup> Jackson, 256.

<sup>147</sup> *Ibid.*

to a process informed by an *enlarged mentality*.<sup>148</sup> Leebaw calls for the taking of diverse perspectives into account *without* presuming this would mean transcending a subjective position.<sup>149</sup> This is neither new nor unorthodox to liberals or Western moral thinkers. John Stuart Mill emphasizes the need for diversity of experience and makes the case that liberals ought to be welcoming of competing views.<sup>150</sup> There is also Nietzsche's perspectival seeing, which is the call for us to aspire to attain an *Argus-like eye*, an eye with no fixed direction, meaning that it can see from multiple angles and be free from situated outlooks blind from other views.<sup>151</sup> Leebaw argues that this requires a pivoting between *active engagements* – as in dialogue and persuasion – and *critical distancing*.<sup>152</sup> This is a pragmatist position that privileges deliberation. It is not a relativist's position for it means making “judgment conditional upon understanding” or to judge based on contingencies.<sup>153</sup>

Jackson goes one step further than Arendt. Instead of arguing for the extension of imaginative horizons from armchairs with the embodiment of the “visiting imagination” ethic, he asks for us, the secondary witnesses, to enter into practical and involvement and conversation with others, to embody the ethic of the ethnographer.<sup>154</sup> Thus, this is why when one comes across a story or a piece of memory from somewhere else, expressed in any sort of creative medium, politics becomes possible. And that politics, by Arendt's definition, necessarily requires the engagement of different views for there to be any judgement of what is right. Afterwards,

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<sup>148</sup> Leebaw, 22.

<sup>149</sup> Ibid.

<sup>150</sup> John Stuart Mill, *On Liberty and Other Essays* (Oxford: Oxford University Press, 2008): 24-25, 41-42.

<sup>151</sup> Friedrich Wilhelm Nietzsche, *On the Genealogy of Morality*, trans. Maudemarie Clark and Alan J. Swensen (Indianapolis: Hackett Publishing, 1998), 85.

<sup>152</sup> Leebaw, 24.

<sup>153</sup> Jackson, 260.

<sup>154</sup> Ibid., 261-262.

forgiveness, the making and keeping of promises (for change), and new courses of action are possible.<sup>155</sup>

Thus, action spurred from memory as art is not only a mechanism to be used for transformative justice but also as part of a larger discourse on the need for deliberation. Indeed, for Jürgen Habermas, justice must be found in this in-between of Arendt for norms are always located in “intersubjective meanings” or mutual understanding.<sup>156</sup> For Habermas, the legitimacy comes when there has been persuasion instead of mere coercive obedience, as *communicative action* is the pragmatist search for solidarity through speech, through action.<sup>157</sup> For many democratic theorists, the most obvious thing to do is to take up this ethnographer-like orientation through talk, through interaction. Thus, my discussion about aesthetics and action comes back full circle. For Thomas McCarthy, communicative action is action oriented because discussions are never sealed, and people can always open them to practical reasoning.<sup>158</sup> Echoing Giddens and Arendt, McCarthy explains that interaction ought to and always does challenge accepted claims of validity.<sup>159</sup> Thus, talking to others allows for better understanding, allowing for more robust *right* judgements, which allows for the constant striving for more astute and prudent

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<sup>155</sup> Arendt, *The Human Condition*, 237-240.

<sup>156</sup> Jürgen Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. William Rehg (Cambridge: MIT Press, 1998), 89.

<sup>157</sup> Habermas, 90-92, 103.

<sup>158</sup> McCarthy argues that the goal of communicative action – of reaching mutual understanding based on a sense of validity that can *transcend* or be beyond just one person/group's subjective context – entails constant possibility of fallibility or “error accounts” in all discussion topics. See Thomas McCarthy, “On the Pragmatics of Communicative Reason,” in *Critical Theory*, eds. David Hoy and Thomas McCarthy (Hoboken: Wiley-Blackwell, 1994), 72-75.

<sup>159</sup> What is judged to be *right* is therefore what is judged in *consensus*, and it is subject to change, constantly. Moreover, there is no other way of knowing what is the “better argument” other than by seeing how it fares in competition with other arguments “over time” and how it does in the constant dynamics of open-dialogue in society. See McCarthy, 72-76.

political judgement formations necessary for transformative justice. All of this can be spurred by an experience of memory as art.

This is something that theatre artist Lisa Ravensbergen points to as the power of her form of art. She argues that theatre demands audience members to *choose* where they *align* – whether they will “align with newness and change or to align with what is familiar and stick with what has always been” – and thus revelations done on the theatrical stage demand “action, rooted in choice” after the closing of a play.<sup>160</sup> Likewise, Eugene McNamee gives the example of the play *Field Day* in the context of Northern Ireland. For McNamee, artists pave the way for imagining alternate ways of being together. He takes seriously the role of artists “as central to the creation of a public consciousness” and discusses how the *Field Day* theatre project for cultural intervention in Northern Ireland was very much a continuation of the tradition of Irish “culture-as-politics.”<sup>161</sup> The play suggests building “a new home in the new language,” English, which would mean taking up the “need to adapt and adjust to the vagaries of history.”<sup>162</sup> This kind of proposition is likely to meet strong divisions in any community undergoing or resisting colonial or cultural domination in the world. What is important to note, however, is that plays like *Field Day* fuel the debate on just what is that “fifth province of Ireland” – or the imaginary sense or homeland for any context.<sup>163</sup> Different interpretations of whether the play was representative or inclusive enough in its treatment of the divides and problems of the context all contribute to

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<sup>160</sup> Dylan Robinson, “Acts of Defiance in Indigenous Theatre: A conversation with Lisa C. Ravensbergen,” in *Arts of Engagement*, ed. Dylan Robinson and Keavy Martin (Waterloo: Wilfrid Laurier University Press, 2016), 191.

<sup>161</sup> Eugene McNamee, “Fields of Opportunity: Cultural Invention and ‘The New Northern Ireland,’” in *The Arts of Transitional Justice: Culture, Activism, and Memory after Atrocity*, ed. Peter Rush and Olivera Simić (Springer-Verlag: New York, 2014), 4.

<sup>162</sup> Ibid., 9.

<sup>163</sup> McNamee, 13.

fueling the notion that more negotiation in imagination is necessary, and that necessity spurs conversations even before the curtains drop and the first of the audience are out the door and back onto the streets of Derry. Memory as art, then, will often be the central reference point of larger political discussions, either as the first action to be made in a new trajectory of more actions or as a renewal or sustainer of an ongoing chain of actions.

## Chapter 4: Now-Then

My participatory art piece, *Now-Then*, follows Arendt, and responds to Leebaw and her suggestion that we document resistance for its potential transformative symbolism in reminding others that agency is possible even in the most challenging conditions.<sup>164</sup> At the Peter Wall public roundtable of February 2017 and the 2018 Art + Memory + Justice Symposium, my goal was to remind people of their agency and the possibility for innovation despite the predominance of conformance and complicity. As I stated earlier, the idea came from reading what it means to do “wake work” in Christina Sharpe’s *In the Wake: On Blackness and Being*. I wanted to not only press up against structures inherited from the past, but I wanted others to be more cognizant that the “past that is not past reappears, always to rupture the present.”<sup>165</sup> My response to her question of how memory should be invoked for an event that is still ongoing was to explore the transformative possibilities in memory as art. I did so in two ways, one being this thesis, and the other being *Now-Then*.

I was partially inspired by Lacy and Riaño-Alcalá’s *La Piel del Memoria/The Skin of Memory*. The mobile art piece was also participatory, being a collection of personal objects that conveyed memories of loved ones lost, and it offered a space of coming together despite deeply rooted and violent divides in Medellín, Colombia. More importantly, the artistic space allowed those with lost loved ones to “reconstruct memories of loss in a positive way, to find new meanings in the experience and to gain some control over it.”<sup>166</sup> In a way, Lacy and Riaño-Alcalá echo Judith Butler’s idea that mourning allows for the potential of the “transformative

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<sup>164</sup> Leebaw, 145-147.

<sup>165</sup> Sharpe, 9.

<sup>166</sup> Lacy and Riaño-Alcalá, 98.

effect of loss” and thus being focusing points for reminding human corporeal vulnerability.<sup>167</sup>

Like Lacy and Riaño-Alcalá, I also wanted to allow people to participate in the reconstruction of memory in a positive way, to gain some control of the past by finding new meaning in it.<sup>168</sup> I found their reflection on memory as needing to be "a never-ending source of collective positioning" – that we should see memory as relational between past, present, and future, and that it is contested – to be powerfully transformative.<sup>169</sup> I found this idea also in the words of Ajok and Crane, presented by Baines and Stewart, as both reshaped themselves as new subjects by reconfiguring their past experiences of violence through storytelling when they returned to their communities.<sup>170</sup>

I translated these ideas into an interactive piece of art with the help of Courtney Forth.

The description on the didactic reads:

Why remember? Can the past simply be cast to the realm of distant thoughts or does memory ask for constant work? There can be no break with the past. Time moved away does not allow memory to fade away. We can only make do with where we are and where we will go. Our agency comes from when we choose how we acknowledge and confront the past – the past which is tethered to the now and continues to manifest. Now-Then is an attempt to convey this by asking people to create meaning out of words from the past.

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<sup>167</sup> Butler argues that sharing in grief after moments of mass violence reminds us that violence can be done unto bodies, which we easily forget is *shared* by all. Similar to Rorty, Butler suggests this leads to a possible moment of human solidarity, for "mindfulness of this vulnerability" can lead to the acceptance of nonviolent political solutions that do not seek to regain a sense of "mastery" over one's corporeal vulnerability against another. Thus, aesthetic mediums have one of the strongest potentials of reminding people of a common humanity in a weak sense, and thus, chipping away at the denial that comes after many eruptions of mass violence and complicity. See Judith Butler, *Precarious Life: The Powers of Mourning and Violence* (New York: Verso Books, 2004), 11, 18-19.

<sup>168</sup> Lacy and Riaño-Alcalá, 98.

<sup>169</sup> Ibid., 100.

<sup>170</sup> Baines and Stewart, 258.



It sees memory as a never-ending source of collective positioning (Pilar Riaño-Alcalá, 2006). It is inspired by the simple act of fridge poetry, where one chooses to deconstruct or create anew with what's given each morning. What can you make with the past? Add, remove, arrange, and rearrange.

What I wanted to make clear through the interactive element of the project, though, is that it is up to us to imagine how we can negotiate with inherited conditions and structures that affect our agency in the present. We must do this instead of thinking the past is past, that there is a clean break with the past. Beside this description, I laid out two piles of words with magnetic backing – like the words found in magnetic poetry kits – beside two large frames held by easels. The frames were made from straight-cut wood and painted black, and they were glued onto metal sheets that had each been overlaid with thin paper. A quotation was printed on each piece of thin paper. The magnetic words were taken from two quotations, each pile corresponding to each quotation. The quotations framed two acts of injustice in Canadian history and were enough to allow the viewer to comprehend their extent and implications.

One of the framed quotations came from John A. MacDonald – integral to the state-led narrative of Canadian history – with regards to his intentions for setting up residential schools for the children of Indigenous peoples claimed by Canada. The other quotation came from the preamble of the first attempt to legislate the Chinese head tax. At first glance, the head tax may not seem to hold hostage the present the same way as slavery does for Black lives, but to me, it speaks to a tension that still works at the subsurface of Canadian multiculturalism, stemming from the state obsession with seeing Canada's *visible* minorities as objects to be regulated. Seldom does this tension boil over, but when it does, so appear the specters of the Indians that lined the *Komagata Maru*'s railings or the Japanese settlers that were interned and interrupted

from being Canadians. Moreover, as the number of Chinese settlers in the Pacific Northwest has always been high since settler colonialism first began, there is always the added fear that they will take over as the majority.

The texts of the quotations were faded to appear lightly on the thin paper. I did this to convey the idea that *the past that is not the past reappears*. The texts ran from the limits of one side of the frame to the other. This conveyed the element of conditionality or structures, like coming up against barriers, the haunting structures firmly pushing against agency or lurking at the margins. Finally, the piece beckons for “the audience” to be more proactive, to take up their responsibilities as secondary witnesses. It calls upon action and re-action, as Sharpe does, by asking for poetry to be made from ugly words. And people did take up the call. Many did reach for the magnetic words. They arranged the words over the faded text in new and creative ways, imagining new understandings, deconstructing old ones. With their acts, poetry manifested out of bigotry and violence.

It is important to see *Now-Then* not as an apology. The spirit of the project is guided by the call for not just transition but transformation after certain historical moments of injustice, recognizing that those moments carry over in social time. The message departs from restorative understandings of transitional justice in that it widens the focus from official and legal channels to considering the social and political and the everyday. Transformation is not likely to come without more aesthetic interventions against state-led narratives. My piece aims to show that memory projects can better link the present with the past while holding onto the striving spirit for change.

## Chapter 5: Conclusion and What Now?

Memorialization, as Ann Rigney suggests, often marks “the beginning of a new negotiation about present conditions whereas it is seen by governmental actors as marking the end of an era.”<sup>171</sup> Like Hussyen, I see transformative possibilities in memory as art, recognizing that human rights activism, truth commissions, and law can be important methods in dealing with past trauma but also that they are not sufficient.<sup>172</sup> None of the works of art that I examine in this paper are rare instances of activism in transitional justice contexts. After all, Esquith notes that “in almost every society emerging from conflict, we can see these kinds of artistic projects taking place,” and it is important that they keep taking place, long after the publication of official truth commission reports or the conviction of prominent war criminals.<sup>173</sup> However, there has not been emphasis on the arts in the field of transitional justice. Perhaps there will be more interest in memory as art when practitioners begin to recognize the transformative possibilities in such forms of aesthetic action, which beget collective understanding and deliberation as politics.

There are, of course, still numerous considerations to be made by action-oriented artists and those considering to be patrons of aesthetic action. For instance, there can be bad forms of art or irrelevant artworks.<sup>174</sup> After all, plenty of fiction and works of art that have ensued since the Srebrenica Massacre have been merely descriptive and repetitive, as Demiragić and Hodžić

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<sup>171</sup> Ann Rigney, “Reconciliation and Remembering: (How) Does it Work?” *Memory Studies* 5, no. 3 (2012): 254.

<sup>172</sup> Hussyen, 9.

<sup>173</sup> Mosley, 100.

<sup>174</sup> For Benjamin, a good story cannot just be about escapism. That is what the lesser type of fiction does, which he terms “the novel” but which must refer to cheap and popular paperbacks like penny dreadfuls. He certainly does not mean to exclude literary novels, for he cites them on numerous occasions. Likewise, Arendt seems to have taken this distinction to heart. Though she enjoys Isak Dinesen’s fiction, she also sees storytelling as being about finding patterns in one’s life, which cannot “fit into novels.” See White, 5; see Arendt, *The Human Condition*, 39; and see Lynn R. Wilkinson, “Hannah Arendt on Isak Dinesen: Between Storytelling and Theory,” *Comparative Literature* 51, no. 1 (2004): 77-98.

suggest.<sup>175</sup> To be sure, not all works of art are transformative, and there are certain ways that memory can be recalled in which the past is invited to repeat itself. Jackson is well aware that there is a duality to stories: they can dehumanize, or they can empower.<sup>176</sup> Similarly, modern media technology allows for a world audience to empathize with those suffering on the far side of the world while also being able to consume massive volumes of dehumanizing images and graphic violence. Therefore, Hussyen suggests that there must be some discrimination of what works of art are effective, for “we need to discriminate among memory practices in order to strengthen those that counteract the tendencies in our culture to foster uncreative forgetting, the bliss of amnesia, and what the German philosopher Peter Sloterdijk once called ‘enlightened false consciousness.’”<sup>177</sup> One of the goals for memory as art, then, is to foster artful memory production that embraces empathy rather than antipathy.

So, like any action in any political context, one must be tactful if they are, for example, not to repeat what they seek to alter.<sup>178</sup> This is a reminder that, as Giddens says, human history may be determined by intentional actions, but it most certainly has not been an intended project.<sup>179</sup> But I choose to believe “in the present moment, that a decision made now can shift the balance, that every act realigns the past.”<sup>180</sup> Thus, even when meditating on the darkest periods

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<sup>175</sup> Demiragić and Hodžić, 150-152.

<sup>176</sup> The politics of any memory project or any form of storytelling comes from the fact that while “they contain real moral truths,” they can be used to build new social realities or for nefarious “antisocial ends. See Jackson, 27-28.

<sup>177</sup> Hussyen, 10.

<sup>178</sup> Hussyen echoes Arendt and Giddens, suggesting that memory “is always more than only the prison house of the past,” for to think of the remembering of traumatic pasts as simply trauma would “deny human agency and lock us into compulsive repetition.” See Hussyen, 8.

<sup>179</sup> Giddens, 27.

<sup>180</sup> From Madeleine Thien’s *Certainty* (Toronto: McClelland & Stewart, 2006), which echoes Arendt: “one deed, and sometimes one word, suffices to change every constellation.” The human condition is such that politics is miraculous or open to new beginnings but also that there is uncertainty or contingency – “the fact that man is capable of action means that the unexpected can be expected from him, that he is able to perform what is infinitely improbable.” See Arendt, *The Human Condition*, 179, 190.

of humanity, it is important to see, as Veena Das does, that human beings “not only pose dangers to each other, they also hold hope for each other.”<sup>181</sup>

### **What Now:**

Now, to end, I turn to Okot Bitek once more. She best captures the role of memory in the context of transformative justice in “Day 12” from *100 Days*.<sup>182</sup> After all that’s been said:

*What now*

*now we must create our own world*

*use the right words*

*for the world we want to live in*

*like God*

*let there be light*

*& there was light*

*let us forgive our enemies*

*let us be good examples for the next generation*

*let us belong to one another*

*let us be friends.”*

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<sup>181</sup> Das, 14-15.

<sup>182</sup> Okot Bitek, “Day 12,” 94.

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