A Picture is Worth a Thousand Words: The Nexus Between Jurisprudence, Natural Law, and Genre Depictions of Genocide

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Introduction

Connections between reading and seeing often do aid in such an exploration about how fiction and film memorialize the Holocaust. The Holocaust’s truths and its memories are shown through documents, memoirs, and diaries. These forms of evidence depict how the Holocaust did not reflect distortions in human nature; rather, it was carried out by Nazis who portrayed what society was like under the Sovereign. The Nazis violated the social compact because life in concentration camps amounted to life, in what Hobbes called the state of nature.\(^1\) Now, the question is whether the Nazi’s were following legal positivism. We know that Jurisprudence is rooted in legal theory and it does encompass societal mores that govern behavior.\(^2\) Whereas, Thomas Hobbes posits that natural law is assumed to be the direct result of our nature as human beings.\(^3\) And it is based on the presupposition that humanity seeks to preserve itself.\(^4\) Therefore, it is not only entering into the social compact with society that saves us, but a jurisprudence that is rooted in rational thinking. Hobbes’ theory fits squarely with a view that our survival is

\(^1\) Thomas Hobbes, LEVIATHAN, (C.B. McPherson, ed. 1982). See, also, Rousseau, THE SOCIAL CONTRACT.
\(^3\) Id.
\(^4\) Id.
contingent on following what makes us happy. It is an adherence to the natural law that takes us out of the state of nature.

Nine Laws of Nature

Hobbes laws of nature contain ideas that are much like our Constitution, in that, he said we should live peacefully. He proposed nine laws called natural laws.\(^5\) For Hobbes, it is justified to go to war, when we need to obtain this peace.\(^6\) Next, he advocates self-defense and the defense of others.\(^7\) He urges the readers to consider that people should not take away others’ freedoms since people fear loss of freedom.\(^8\) Hobbes tells us to honor our agreements.\(^9\) Then, he informs the readers to be grateful and to be in service to others, friendly, and amenable.\(^10\) Look to the future, he advises.\(^11\) The natural law means that we forgive others by not holding a grudge.\(^12\) Do not speak hatred, and this is called contumely.\(^13\) Finally, Hobbes advises that everyone is equal in nature.\(^14\) Therefore, Hobbes’ natural law is not followed when people relinquish their will to the Sovereign. Hitler, in an attempt to be the Sovereign violates all natural laws. Therefore, Nazi concentration camps were places of chaos since officials there subjugate humanity and natural law. The Sovereign’s abuses of natural law are the things that John Locke warns about in his treatise. These abuses are what modern artists literally reveal in Holocaust film and literature amongst other things.

\(^{5}\) Id.  
\(^{6}\) Id. First Law of Nature, Chapter XIV.  
\(^{7}\) Id.  
\(^{8}\) Id. Second Law of Nature, Chapter XV.  
\(^{9}\) Id.  
\(^{10}\) Id. Third Law of Nature, Chapter XV.  
\(^{11}\) Id. Fourth and Fiftihs Laws of Nature, Chapter XV.  
\(^{12}\) Id. Sixth Law of Nature, Chapter XV.  
\(^{13}\) Id. Seventh Law of Nature, Chapter XV.  
\(^{14}\) Id. Eighth Law of Nature, Chapter XV.  
\(^{15}\) Id. Ninth Law of Nature, Chapter XV.
Visual Images as Metaphors for the State of Nature

It is through artistic metaphoric passages that readers can try to envision how it felt to stand naked in forty-degree weather or suffering with starvation in death camps. Therefore, those who are pain free can try to understand and imagine others suffering. These horrific depictions teach us what life is like in the state of nature. In short, words in books conjure up visual images about the Holocaust making it real to us, and cinematographic images allow viewers to develop narrative versions of it; thus, we are enabled to understand how literature and film conjunctively symbolize signs that stand for the Holocaust. Moreover, the symbols stand for lawlessness, a group of people held against their will living in state of nature. These victims forcibly surrendered their freedoms and got nothing in return but pain and death. There was no social contract formed or if one was created then it was breached by the Nazis. The Holocaust features humans acting in conformity with propensity to violence and this undermines natural law because we are not naturally violent. Humans desire to be free and happy. Our laws or modern jurisprudence takes that fact into account. Surely, no system of jurisprudence could have properly legislated to contemplate mass murder. And the questions arises whether it should be unlawful to stand idle (as the United States and others did) while foreign governments commit mass murder.

Hitler as the Only Sovereign Law-Making Body

It should be noted that in 1945 after the concentration camps were liberated there were no discussions about the Holocaust. The suspension of human freedoms
and any Nazi jurisprudence was not contemplated. It was not until the trial of Adolf Eichmann (during the 60s) that public awareness and public consciousness awakened.  

By 1959, the first graduate class was taught about the Holocaust. Consider that a lot of time passed before the Holocaust appeared as a major genre in film and literature. Most of the early films were made in foreign countries: **Sterne (Stars)** was a 1958 Bulgarian film that was essentially a flashback centered around the experiences of one character; **Chantons sous l’occupation (Singing in the Occupation)** (1976) about the German occupation of France; and **Anne Frank Remembered** (1995) was an English film that offers an account of her life through a series of narratives. The message was that you were viewing her life (at a time when human behavior was governed by new non-objective standards) since Hitler claimed to be the sovereign law-making body. In short, Hitler’s actions as German Chancellor effectively amounted to him being the Sovereign similar to what Hobbes describes in *Leviathan*.

**Connecting the Dots: How Visual Literacy Leads to Memorialization**

Today cultural identities are formed based on films and television rather than from books. It is important to note how visual literacy can lead to impulses of memorializing.

15Hannah Arendt, EICHMANN IN JERUSALEM: A REPORT ON THE BANALITY OF EVIL. (1994). Adolf Eichmann thought of the Final Solution for the Jewish people and was responsible for the murder of approximately 3 million people. He testified in the Jerusalem Court of Justice that he was just a soldier obeying orders. This so-called defense was rejected in Jerusalem and at the War Crimes Trials in Nuremberg. See, also, Hausner, JUSTICE IN JERUSALEM. (1996).

16 This course focused on the church and the Holocaust and it was offered at Emory University Candler School of Theology.

17 Sterne (Stars). East Germany/Bulgaria, 1958. Directed by Wolf. This black-and-white film is entirely a flashback based on Walter’s life. Walter is the main character who sympathizes with the Communists and helps them get weapons to fight back.; Chantons sous l’occupation (Singing in the Occupation). France, 1976. Directed by Halimi. This is a collaboration of interviews that reveal how French businessmen worked with the Nazi’s supporting that regime in exchange for profits; Anne Frank Remembered. England, 1995, National Center for Jewish Film. This is a comprehensive account of Anne Frank’s entire life. Viewers see a reconstruction of the hiding place where Anne and seven others lived during World War II. The Director films an interview with Miep Gies, the person who took the risk to hide them.
the Holocaust and how that leads to problems. We must seek an understanding between the verbal and the visual by studying them very closely. What is a viewer or how does the viewer respond to the artwork? Viewers respond through their mind and their bodies. Words can and will become powerful manifestations of conscious in society when words are transformed into images. Images from film are expressed and understood by our minds through the use of words. Likewise, jurisprudence can be understood in the cultural context of what the majority considers to be moral. It is also formulated through the use of words and interpreted by law-making bodies. Scholars often argue about whether and when law and morality are distinct from one another.

We use words to create stories that help us absorb or overcome the shock from any traumatic experience as we allow these created stories to be stored in human memory.19 The viewers may not know about the specific historical facts but viewers do respond to the violence in films in predictable ways.20 The audience remains essentially in a maze, as they face the impossibility of believing, what it is that they are viewing, (and the impossibility of not believing) what they are looking at or reading in a memoir.21 While the survivors endured the nightmares of the past, they were also confronted with the uncertainty, of how a guilt ridden world would perceive them. We can think about how the survivors felt, as we consider the images from the contemporary

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18 See, e.g. Film Review CRASH, http://www.rottentomatoes.com/m/crash/about.php (last visited March 3,2006) this film looks at racial tolerance in modern America exposing the prevailing cultural view that we are all the same sharing a common humanity that binds us all.


21 Id.
film *Schindler’s List*. As viewers, we can envision how this new twisted form of Nazi jurisprudence took hold with deadly results that Hobbes described. For Hobbes, the *state of nature* was *bellum omnium contra omnes* or the war of all against all.\(^{22}\)

Here, it should be emphasized that the Nazi’s believed that their actions were rational thus, the usage of the term Nazi jurisprudence. Hitler disbanded the law-making body.

Certain mind tricks were depicted in *Schindler’s List* as the scenes flash to a child wearing a red coat amidst the movie’s stark gray setting. We follow Schindler’s gaze as the girl in the red coat is lost in a crowd of stark gray horrors. He appears frozen as the horrors unfold around him, but he just cannot turn his gaze away. Surely, we are all compelled to watch as we all stare in disbelief over the cruelty and senselessness of it all.\(^{23}\) Steven Spielberg uses this image as a way to haunt an audience using colors as a direct expression of something the Director wants to stay in the viewers’ mind. This deliberate visual image makes it so the audience is directly exposed to the Holocaust’s horrific images as the image of the red coat leaves the audience feeling exposed. Clearly, any society is vulnerable to changes in morality that results in changes to its jurisprudence. We are all exposed to such a risk even in a democratic nation because what is defined as rational behavior (may change depending on who is in power). While the natural law is based on rational thinking, the positive law is man-made law in written form but it can originate with the Sovereign. If the Sovereign creates bad laws that are immoral (as in the case of Hitler’s Germany), it is still accepted because the Sovereign is the source of law. Therefore, the law does not have to be

\[^{22}\] Hobbes, supra note 1.

rooted in any type of morality at all and this is legal positivism.

Directors know that our eyes register details first with the information transmitted to our brains for interpretation. As viewers, we can choose to look away, shut or eyes, or to close the book—these are the ways that we can hide from the magnitudes of horror. Spielberg’s visual image, however, serves to grip the viewer holding them in a trance-like state of disbelief as we consider what theorists meant by the state of nature. We are actually seeing life in the state of nature endured by the unwilling victims who lived in those camps. For Schindler, the image of child in the red coat shows viewers that Nazism perversely touches not only the present people but it undercuts into future generations. In a real way, the child is the symbol for lost cultural values and for the potential that will be gone forever. As viewers watch Schindler’s List they can formulate a story of the Holocaust that is their own as expressed by the Director. Suddenly, the Holocaust is transformed from someone else’s story, to our story. The Holocaust is now distilled in our memories because we saw the grotesque and telling horrific images, we the viewers, are now witnesses to it. In short, the message is that you should not let this happen again. The Holocaust is the literal example of what happens during the state of nature. Hobbes described life in the state of nature as “solitary, poor, nasty, brutish and short.”

Moviemakers show audiences what images are necessary as they skillfully instruct. The audience makes transformations just like Oscar Schindler who went from caring only about money to caring about people. The images teach the audience how to assimilate reading and seeing as the acts which enable literature and film to invite the audience

24 Id.
25 Schindler’s List (Universal Studios 1993) (directed by Steven Spielberg).
26 Hobbes, supra note 1.
closer to the Holocaust’s senseless violence.\textsuperscript{27} Do viewers of the Holocaust images become victims as well? If we consider that we are watching the little girl in the red coat through Oscar Schindler eyes then, the Director suggests and desires this outcome. The audience and Oscar Schindler feel the pain of lost generations when children are killed. Viewers leave a thankful feeling that they are not living under a Sovereign that disbanded the legislature and declared himself to be the only rule maker in the nation.

Germany was a nation at a legal extreme, Hitler took legal positivism to an extreme as all law was based solely on his own brand of morality with no checks and balances on his power. The film shows you the result of this kind of autocracy and how society, at large, is harmed by it.

\textbf{How Messages Within Mediums Can Be Distorted}

It has been said that no word, phrase, or sentence can sum up the meaning of a picture. It is true that when describing pictures and the Holocaust words seem to be inadequate. There are almost no words to describe the Holocaust and we are in want of the vocabulary to do so. Similarly, we are in want of the words to describe how dangerous it is to revert back into \textit{the state of nature}. Yet, we embrace images because they are forms of narrative and instructive art, since images are translated into words that tell a story.\textsuperscript{28} The story of the hapless victims who lived as prisoners in Hitler’s world whereby they were offered no legal protections or legal rights.

Alan Mintz explores the use of the narrative and its impact on the Holocaust.\textsuperscript{29}

\textsuperscript{28} Primo Levi. SURVIVAL IN AUSCHWITZ (1996).
Mintz was concerned about how works about the Holocaust were “talked about.” His concern is understood as artists think about keeping the Holocaust’s memory alive, writers and filmmakers consider cinematic strategies and sometimes they unwillingly become involved in a process that distorts some truths. Distortions of the truth occur when filmmakers try to bridge the gap between how to make the narrative work in relation to the particular memory itself. Moviemakers focus on the dramatic flare of the images represented and not so much on the historical accuracies. Therefore, when viewing films like Schindler’s List, it is wise to keep in mind that almost all the visual images are placed there to draw out a specific sympathetic response. A response that depicts for viewers how a society operating under Hitler’s legal positivism deteriorates.

Director’s who seek to elicit a sympathetic response from viewers want the viewer to regress into the character’s role. It is in this manner that the audience almost becomes the person who experiences the traumatic event. Elie Wiesel comments that this notion of regression comes from Passover Haggadah text, “we evoke Exodus not only to remember our suffering in Egypt, but also to relive the manner in which we overcame our suffering.” Therefore, this was the purpose and intent for intentional regression, whenever it occurred in the audience’s mind as it watched a Holocaust film.

Film and art forms were not always trusted by survivors because it was art (in the forms of signs and symbols) that unified a culture of hate and led to their

30 Id.
ultimate victimization. The many different Nazi symbols were both artistic and prolific as they engendered unity. It is understandable that survivors were distrustful of art. We must consider artful symbols were the signs of their victimization. Hence, it is a tall order for Holocaust filmmakers to make art appealing, as forms of art needed to be redemptive in survivors’ minds. Perhaps, Directors of Holocaust films were seeking (the redemption of art- for art’s sake) in addition to portrayals of humanity in the state of nature.

The question arises whether Holocaust films are made with memories? Films can encapsulate the shortening or elimination of any distances between past and present memories. For this reason, the horrors once in historical memory, come back to be re-lived once again. The viewers need to be ready to believe what they see and to realize that these images do not even scratch the surface of the hell of the concentration and death camps. In short, the hell of the state of nature as Hobbes envisioned it.32 The other issue is the danger of Hitler’s legal positivism as he enacted the laws under his authority as the Sovereign.

In conclusion, visual images are first seen, then they are talked about by the viewers. Films and Holocaust writings make the transmissibility of the Holocaust possible long after the horrific events took place. As one studies artistic renderings of the Holocaust, it becomes clear that one must have some grasp of the true nature of the event. Historically, the Holocaust was such an overwhelming experience in that it required psychological mastery. We have to try to understand aspects of the Holocaust in our own terms and this means we create our own narrative versions

32 Hobbes, supra note 1.
of it. The intersection of film and literature (the visual and the verbal) can create a model for us to study how visual theory embodies images of memory and memorialization.

Surely, any attempt to memorialize the Holocaust can lead to conflict and contradiction, just as attempt to jurisprudence can. To further compound the problem, our language often fails us, when we try to describe the Holocaust’s horrific events. Our popular culture continues to prize the messages from television, film, and media. While in academia the written word is held above all things. Therefore, in order to reach the largest possible audience the message should take its form in film or television. The visual images depicted on film have become the signs that stand for the Holocaust. Further, these images are reminiscent of that time when (there was a society operating under a Sovereign who instituted laws based on his own moral judgments rather than a more sound jurisprudence (rooted in humanity’s rational nature).