

Summary

The democratic changes taking place in South Africa in 1994 merged providentially with international human rights concerns. One could even argue that South Africa epitomised the post cold war to 9/11 period in which former authoritarian regimes turned willingly towards a democratic and market oriented, liberal democracy. In this new tide of respect for human rights, and as actually embodying the evil of the past, the South African police was faced with the explicit demand to take on and put into practice the principles of human rights based policing. In line with the overall *Zeitgeist*, human rights were seen as key to bringing about post-apartheid legitimacy for state institutions. It compelled some far reaching administrative and institutional changes. How then did human rights translate into local police practice, and specifically into the daily practice of detectives at two police stations in Johannesburg? This thesis is an exploration of this question.

The translation of human rights into daily practice was, as will be shown, far from straightforward. At the interface between police, the law and people a spectrum of human rights vernaculars emerged. These vernaculars gave new meaning to human rights. They revealed that the dominant legalistic language and practice of human rights, which claims universality and non-particularity, is highly specific. These vernaculars also made police practice workable and the state legible to those directly affected. Through this, new social manoeuvres and new practices of local justice were produced.

This thesis contends that the ideology of international human rights, which at the time seemed to be the only legitimate post-Cold War political ideology, presented itself as a hyper-reality, which was in many ways self-serving and self-promoting. This hyper-reality, I argue, is built around a performative language process. The language process, in a tautological way, replaced foundational transcendental claims with the idea of universal human dignity and a de facto consensus about the primacy of international human rights standards. These *a priori* tautologies continue to be reproduced as the 'common sense' of a specific sociality made up of activists, officials, experts and lawyers, who congregate specifically around the assumption of the primacy of human dignity and international human rights standards.

Human rights therefore have their own contingencies. Within the above mentioned common sense human rights have been shaped into a legal and semi-legal language and practice which have the ability to discredit any other less judiciary forms of human rights. The legalistic articulation of human rights, I argue, have made a judicial capital which among other things presupposes a certain level of middle-classness, the necessary requisite in order to apply human rights correctly. Further, the international outlook of human rights, embodied in the expansionist international institutional landscape which promotes them, demands a cosmopolitan capital which includes mobility, a certain 'tasteful' lifestyle, and a acceptance of English as lingua franca as entry requirement to the sociality which has 'the human rights common sense' as its *raison d'être*.

One of the offshoots of this hyper-reality has been a global demand for a human rights policing, and the proliferation of likeminded experts and policy documents about how human rights policing is to be brought about. In this, the police have become both the object of transformation and the means for the transformation of societies towards constitutional democracies. The trope of the policy consensus is an institutional model of accountability which decentralises control over the police to three levels – international law, national law and the people. It has been inscribed with an inherent ability to impress on the police a respect for human rights.

However human rights in general, and policing based on human rights in particular, prescribe a very specific subjectivity for police officers. This subjectivity carries on the one hand the co-ordinates of judicial and cosmopolitan capital, and on the other hand it translates into expectations regarding the kind of authority which police officers are to employ in their everyday practice. This authority is rooted in ideas of a well-skilled non-violent administrative attitude, internalised self control, and good communicative abilities. It is a blueprint of identity and moral autonomy which finds a sense of freedom and belonging in a detachment from social immediacy. If occupied comfortably and with proficiency, such a human rights subjectivity can bestow an elevated social status and a sense of belonging to the new democratic South Africa.

Most police officers at the two police stations of this research struggle to occupy this subjectivity, for a number of reasons which include their historically lower-class

background, the ingrained neglect of educational and bureaucratic skills, and a socialisation which confirms for them the expediency of personalised state violence. For these policemen, though in different degrees, human rights pose a threat; a potential source of humiliation. The predicament of the omnipresence of human rights on the one hand and their exclusivity and inapplicability on the other is what brings about the vernacularisation of human rights.

In this thesis I distinguish between two types of vernaculars. The one is a constellation in which a human rights performance stands in some necessary relationship of simultaneity with a more violent policing authority and the preservation of police discretion. In the other type the boundary between these two realms is dissolved, and a new kind of human rights language emerges.

I found articulations of the first type of vernaculars at several different levels of the police organisation. One example is with regard to the making of history of the police by the police. On the one hand they openly celebrate their human rights transformation as a radical incision, while other versions see this transformation as merely one of many changes in a continuous modernisation process. Another example is how, at the management level, the police openly and willingly engage in international and national co-operation with human rights NGOs around certain projects such as training; at the same time the police prevent those projects from permeating the police organisation in any substantial way. In such cases human rights are used as a kind of mirror to reflect a picture of what international agencies want to see. This illusion of a growing consensus of human rights can protect police discretion and spaces in which police heroism can be celebrated in a way which rises above the tides of history.

This vernacular can be conceived of as a split between a front stage and a backstage, with the backstage realm being where a personalised and violent authority is applied at the level of actual police practice. This phenomenon manifests itself in a number of ways, since different police officers or groups of officers find different ways to move between the front and the backstage realm.

Coming to the second type of vernaculars, the thesis shows that the boundary between the front stage and backstage is not, however, an absolute or rigid one. Some vernaculars aim exactly at reconciling or transcending this split. This can be seen in the

way everyday police practice interfaces with human rights in the absence of the common sense-producing sociality. In such cases a police officer, recognising tacitly the failure of foundational power of the inalienability of human dignity and the primacy of international human rights standards, may supplant these concepts with a transcendental Christian claim. The translation of human rights into a Christian moral framework is powerful and not uncommon, as it directly touches on most police officers' moral imaginary. Because Christianity pervaded both Afrikaner nationalism and the anti-apartheid struggle, human rights enmeshed with a Christian imaginary is able to smooth out some of the racial and historical antagonism. Most importantly though, through this Christian moral language police officers can recover for themselves a position from which to judge, as human rights as juridical technical procedure deprives them of the ability to use their own moral discretion.

Another vernacular articulation is employed when (mainly black) police officers access human rights through their experience of having been part of a (black) trade union movement. The trade union movement employed a human rights language that carried the traces of an outlook that is less legalistic and more working class. This vernacular allows for an interpretation of human rights mainly as concerning police officers' rights. It can enable an entitlement vis-à-vis the people police officers interact with, a strong sense of immunity from wrongdoing, and a new legitimisation of the use of violence.

Another powerful vernacular emerges when an everyday practice of policing characterised by a front stage/backstage split, is played out in the context of social marginality. Such circumstances exacerbate the experience of the police – as a consequence of this split – as fragmented, unpredictable and always potentially threatening. In the light of this people concerned find that police can become more legible and somehow less unpredictable exactly by incorporating the uncertainty the police produce, and viewing them through a social imaginary of informal privatisation of policing. This perspective puts the normative idea of public police at an explanatory distance and foregrounds the sense that police officers personally embody state power. From this perspective, human rights provide people with access to personalised police powers which, as heavy-handed persuasion and tangible punishment, can become means of informal justice.

The appropriation and redirection of state power can take place – depending on the police officers own investment in the human rights front stage – with everything from outright complicity of a police officer to his repulsion. A police officer, who just performs on the front stage in so far as it keeps him out of trouble, but who otherwise is invested in using his backstage powers as a commodity to enhance his livelihood, might be happily playing along with such efforts of local justice. Very different so for a police officer who sees his human rights performance as a way to claim some sort of middle-classness. He might experience the efforts of people of appropriating him as contaminating and highly erosive; instead of him or her managing to compel people to enter the formal realm of the law, he is drawn into the local, informal and lower class realm.

In this thesis I show that all these social manoeuvres become visible if one puts on analytical par the hyper-reality of human rights (and its policy consensus) with the tactical and tacit practices of everyday life both of people and police. It allows us to see how the contemporaneous present takes shape beyond a suffocating exclusive dichotomy which posits an either/or choice between the realisation of a teleological normative future or the continuation of the past. I conclude that human rights do not necessarily produce legitimacy, nor are they in total opposition to state violence, and in fact they often become the means through which state violence is reproduced, appropriated and re-directed.