

Law, Religion and Reconciliation in Africa



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21 OWNING THE RIGHT TO TRUTH, TRAUMA AND RECONCILIATION IN SOUTH AFRICA'S CONSTITUTIONAL COURT ART COLLECTION (CCAC)

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INTRODUCTION

The term “reconciliation” is derived from the Latin *reconciliare* or *conciliatus* which means coming together or being reunited. It implies the restoration of friendship.² Every definition of reconciliation must be geared toward building a positive relationship.³ It is the process of healing the trauma of both victims and perpetrators of violence, the goal being the restoration of peace and harmony to a conflictual situation. Reconciliation breaks the cycle of violence, because the past cannot be used as the seed of renewed conflict. Its outcome includes reparation of past injustices and the building of a non-violent relationship based on both survivors’ and perpetrators’ acceptance of a common vision and understanding of the past. Reconciliation enables both parties to get on with life and to share power.⁴

Reconciliation lies at the heart of all religions, and all religions strive to heal or restore the brokenness that exists between heaven and earth, between God and humans, between humans and the natural world and between and among humans themselves. Religions formulate myths that explain the present, broken condition and offer accompanying rituals for the purpose of rectifying this condition.⁵ Religion scholar Eduardus van der Borghht concurs that the core business of religions is to try and understand the mechanisms of reconciliation. As a result, reconciliation vocabulary is usually found in the realm of religious communities.⁶

- 1 PhD in Architecture, University of the Free State; Founding member of Y and K Architects; 2021 Inaugural Emory University – Halle Institute Fulbright South Africa Distinguished Chair at the Center for the Study of Law and Religion.
- 2 See Iwuh F. 2019. “African Traditional Method of Conflict Resolution vis-à-vis The Sacrament of Reconciliation: An Igwebuike Perspective”, *IGWEBUIKE: An African Journal of Arts and Humanities* 5(6):36-50.
- 3 Kriesberg L. 2007. “Reconciliation: Aspects, Growth, and Sequences”, *International Journal of Peace Studies* 12(1).
- 4 Huyse L. 2003. “The process of reconciliation”, in Bloomfield D, Barnes T and Huyse L (eds). *Reconciliation After Violent Conflict: A Handbook*. Stockholm: International Institute for Democracy and Electoral Assistance (IDEA):19-34.
- 5 Maluleke TS. 1998. “Christianity in a distressed Africa: A time to own up”, *Missionalia* 26(3):324-40 (cited in Meiring AM. 2005. “African views on reconciliation”, in Mawere M and Mwanaka T (eds). *Heart of Darkness*. Pretoria: University of Pretoria: 67-130.
- 6 Van der Borghht EAJG. 2018. “Religions and reconciliation of conflicting sociocultural identities”, *Acta Theologica* 38(2):160-175.

In Catholicism, reconciliation is a sacrament of healing with three elements: conversion, confession and celebration. By undertaking this sacrament, Catholic Christians find God's forgiveness. There is also a fourth stage, absolution, when they are released from the feeling of guilt.⁷ In Judaism, reconciliation is a profound tradition and key pillar of many Jewish values. As one source observes, "Although the word 'reconciliation' does not appear in the Torah ..., we see it modelled throughout the Tanakh"; thus, reconciliation is inextricably linked to *shalom* (peace) and peacemaking.⁸ In Islam, reconciliation is considered a virtue, and those who seek reconciliation are beneficiaries of *zakat*, a form of almsgiving and one of the pillars of Islam. Reconciliation in Islam is seeking peace with those people with whom you are in conflict, which can be done through prayer.⁹ Reconciliation in Hinduism is seeking forgiveness and understanding of wrongdoing, realising the importance of forgiveness and learning from mistakes.¹⁰ The Hindu prayer for reconciliation includes the phrase "May everyone driven by envy and enmity become pacified and reconciled".¹¹ Buddhists focus on karma and in Buddhism, reconciliation is seen as the process of return to the dynamic state of unity, harmony, amity and peace.¹²

The African process of reconciliation is tied to rituals of truth-telling, forgiveness, reparation and celebration. Religion in Africa is part of traditional life, and religious and traditional worldviews are often inextricable intertwined. With the introduction of Christianity, traditional Christian doctrines were reinterpreted through a lens of an African religious worldview.¹³ As John S. Mbiti wrote, "knowledge of God is not totally discontinuous with our [African] people's previous traditional knowledge of Him."¹⁴

Van der Borgh writes that religiously motivated practices of polarisation, discrimination, oppression and killing of perceived "others" have tarnished religion's reputation as reconciler. Although it is common for religions to call on their faithful to reconcile with each other in cases of conflict, they cannot play the role of reconcilers if they have been part of the problem through association with one of the contesting parties. Van der Borgh argues that in order to come to terms

7 "Seven Sacraments of the Catholic Church: Reconciliation", BBC, n.d.

8 "Reconciliation, Teshuvah, and Tikkun Olam", The Messianic Bible Prophecy Project. Online at: free.messianicbible.com.

9 "The Virtue of Reconciling People", IslamWeb.org, 4 May 2023.

10 Ginther R. 2022. "Atonement, reconciliation part of many world religions", *The Criterion*. Indianapolis, IN: Archdiocese of Indianapolis, 23 September.

11 Chander V. 2021. "A Prayer for Reconciliation", Hindu Life Program, Princeton University, 8 January.

12 Noel Seth, S.J. 2017. *The Distinctive Character of Buddhist Forgiveness and Reconciliation*. Annals of the University of Bucharest – Philosophy Series 66(1).

13 Du Toit C. 1998. "African Hermeneutics", in Maimela S and König A (eds). *Initiation into Theology: The Rich Variety of Theology and Hermeneutics*. Pretoria: J L van Schaik, 373-98.

14 Mbiti JS. 1998. "African Theology", in Maimela and König (eds), *Initiation into Theology*, 141-158. Pretoria: J L van Schaik: 151.

with this, religions “have to rediscover the reconciliation practices within their traditions, become more critical of their own past reconciliation record, and develop a theology that pays proper attention to the challenges generated by sociocultural identities”.¹⁵ He uses Christian churches in South Africa and the role they played during the apartheid era to illustrate this point. After apartheid, the state challenged churches to dig deeper into their responsibility for the racialised society during the apartheid years. Although South African churches were often complicit in the discriminative and oppressive political system of apartheid, a religious leader, Archbishop Desmond Tutu, was appointed to chair the Truth and Reconciliation Commission (TRC) in post-apartheid South Africa. Tutu was accepted as a “specialist” or “professional” in the business of reconciliation, and his expertise was recognised beyond the realm of the faith community. Racial reconciliation begins with telling the truth and is a pathway to forgiveness.¹⁶

The provision on National Unity and Reconciliation with which the Constitution of the Republic of South Africa, 1996, concludes, states that the Constitution provides a historic bridge between the past of a deeply divided society characterised by strife, conflict, suffering and injustice during apartheid, and a future founded on the recognition of human rights, democracy and peaceful coexistence. The Truth and Reconciliation Commission (TRC) was set up to deal with historical trauma of apartheid by collecting witness and survivor testimonies. Another way is the creation of artworks and memorials, conceived deliberately to preserve grief.

The Constitutional Court Art Collection (CCAC) brings together a diverse range of artworks and artists that promote constitutional democracy and its fundamental values. Judith Mason’s triptych, popularly known as *The Blue Dress*, was inspired by the execution of two black liberation movement cadres by white security police during the struggle, their killers being the ones to describe their deaths at the TRC. The work illustrates that visual art has the power to portray the stories of those who may otherwise remain voiceless and to transform the trauma of an apartheid past into a spirit of reconciliation. However, as a white woman, Mason’s right to portray black pain has been questioned in current narratives of identity politics and cultural appropriation. This paper intends to comment on an artist’s cross-cultural right to truth, trauma and reconciliation in a society that is still racially divided by placing it in the context of religion and constitutional law.

THE BRIDGE FROM TRAUMA TO RECONCILIATION IN SOUTH AFRICA

The political system of apartheid that existed from 1948 to 1994 deeply divided South African society.¹⁷ The country’s past is marred by inequality and injustice, and

15 Van der Borgh, “Religions and reconciliation of conflicting sociocultural identities”.

16 Van der Borgh. “Religions and reconciliation of conflicting sociocultural identities”.

17 The period between 1948 and 1994 was known for apartheid, a political system of institutionalised racial segregation and discrimination, which caused trauma to many South Africans. Apartheid sprouted from colonial racism and power constellations that

characterised by strife, conflict and suffering. South Africa held its first democratic election in 1994 under the Interim Constitution.¹⁸ This document strived to address the challenges of the past in the transition from the oppressive apartheid regime to a constitutional democracy. It described the law as a path on a “historical bridge” that makes the safe crossing of a treacherous chasm in the political landscape possible. It is a bridge between the past and a future founded on the recognition of human rights, democracy and peaceful co-existence, with development opportunities for all South Africans, irrespective of colour, race, class, belief or sex.¹⁹ The Interim Constitution was superseded by the Constitution of the Republic of South Africa, 1996. The new constitution suggests a change in mental attitude from vengeance to an appreciation of the need for understanding, along with the need to cross over from retaliation to reparation and from victimisation to *Ubuntu*. It too is a bridge between a history of gross violations of human rights and humanitarian principles and a future of reconstruction and reconciliation. It strives to create a society based on democratic values and social justice, seeking to establish and maintain the ideals of national unity and reconciliation.

The Promotion of National Unity and Reconciliation Act 34 of 1995 provided for an investigation of the nature, causes and extent of gross violations of human rights committed between 1 March 1960 and 6 December 1993. Its aim was to establish as complete a picture as possible of the violations that emanated from conflicts in the past, to determine the fate and whereabouts of its victims and to grant amnesty to persons who fully disclosed all the relevant facts relating to politically motivated human rights violations. Victims were afforded an opportunity to relate the violations they suffered, their stories were reported to the nation and measures were taken to grant reparation and to rehabilitate and restore human and civil dignity to them. The following committees were established under the Act: the Truth and Reconciliation Commission (TRC), a Committee on Human Rights Violations and a Committee on Amnesty and Reparation. These committees were tasked with

formed after the Second World War. The seminal moment that caused the change to apartheid was when the National Party (NP) gained power in South Africa in 1948. Its all-white government immediately began enforcing existing policies of racial segregation under a system of legislation that institutionalised racism and discrimination. Non-whites were notoriously brutalised. With the power shift in 1948 the Afrikaner lost the political innocence that it obtained by being the victim of the Anglo-Boer War (Snyman J. 2016. “Politiek van die nie-identiese” [Politics of the non-identical], in Duvenage PNJ. *Afrikaanse filosofie: perspektiewe en dialoë*. [Afrikaans Philosophy: perspectives and dialogues], Bloemfontein: SunMedia, 214-5).

- 18 The Interim Constitution is an extensive transitional document which sets out the powers, authority and limitations of the new government, ensuring democracy and participation, fundamental human rights, and the establishment of new political and legislative institutions and provides for the creation of a new permanent constitution to supersede it. See Interim Constitution of South Africa (1993), 27 April 1994.
- 19 These words are taken from the first paragraph of the provision on National Unity and Reconciliation with which the Constitution concludes. Section 232(4) provides that for the purposes of interpreting the Constitution, this provision shall be deemed to be part of the substance of the Constitution and shall not have a lesser status than any other provision of the Constitution. See Interim Constitution of South Africa, s 232(4).

making recommendations that could prevent the commission of human rights violations in future.²⁰

THE SOUTH AFRICAN TRUTH AND RECONCILIATION COMMISSION (TRC)

The South African Truth and Reconciliation Commission (TRC) was set up by the Government of National Unity in December 1995 to help deal with the conflict that resulted in violence and human rights abuses from all sides, from which no section of society escaped.²¹ Commissioners were selected through an open, countrywide nomination process and publicly interviewed by an independent selection panel, comprising representatives of all political parties, religious bodies and civil society (including human rights lawyers) in the country. Nelson Mandela, who was the president of South Africa, appointed Archbishop Desmond Tutu as chair of the Commission.²² Its central purpose was to promote reconciliation and forgiveness among perpetrators and victims of apartheid.²³ As mentioned above, the complicity of South African churches in apartheid could have barred religious participation in the reconciliation process in a country where religion and state are separate entities, but the 1990 National Conference for Church Leaders, held in Rustenburg, led to the "Rustenburg Declaration" that unequivocally rejected apartheid as a sin. Eduardus van der Borghet relates that the most iconic picture of the TRC shows Archbishop Desmond Tutu, in his clerical robe, chairing a state commission.²⁴

According to Rotberg and Thompson, the TRC was revolutionary because it distinguished between different kinds of truths and different kinds of justice. Forensic (factual), narrative (personal and emotional), dialogical (social truth established through interaction, discussion and debate) and restorative truth (acknowledgement of accountability) were positioned next to retributive and restorative justice, seeking to restore dignity and voice to victims of justice, to hold perpetrators accountable.²⁵ The Commission held a mirror up to society and shaped public opinion. It embodied the struggle against forgetting.²⁶

20 Promotion of National Unity and Reconciliation Act 34 of 1995.

21 See Truth and Reconciliation Commission. Online at <http://www.justice.gov.za/trc>.

22 Tutu D. 2010. "Truth and Reconciliation Commission, South Africa", *Encyclopedia Britannica*, 6 April.

23 "Truth and Reconciliation Commission", Apartheid Museum. Online at: <https://www.apartheidmuseum.org/exhibitions/the-truth-and-reconciliation-commission-trc>.

24 Van der Borghet, "Religions and reconciliation of conflicting sociocultural identities". See also Alberts L and Chicane F (ed). 1991. *The road to Rustenburg: The church looking forward to a new South Africa*. Cape Town: Struik Christian Books.

25 Rotberg RI and Thompson DF (eds). 2000. *Truth V. Justice: The Morality of Truth Commissions*. Princeton: Princeton University Press. For these versions of "truth", see also Buikema R. 2012. "Performing dialogical truth and transitional justice: The role of art in the becoming post-apartheid of South Africa", *Memory Studies* 5(3):282-92; Ainslie D. 2018. "Art, The TRC and the 'Truth': Unstitching the Blue Dress", 20; TRC Final Report: Volume 1, 110-14.

26 Ainslie, "Unstitching the Blue Dress", 20. Need more info on the foregoing sources and the one in the note above.

During the 1990s, the world was increasingly concerned with trauma. This trauma was expressed in multi-national Holocaust discourse, and in South Africa this discourse was energised by the Truth and Reconciliation Commission (TRC), which saw an intense interest in witness and survivor testimonies after apartheid.²⁷ Many stories had to be told by the very perpetrators and violators of human rights.

CONSTITUTIONAL COURT BUILDING ART COLLECTION: PRESERVING PAIN AND COMMEMORATING TRAUMA

The Constitutional Court was constructed in 2004 on Constitution Hill in Johannesburg, amidst the abandoned structures of the Old Fort prison complex. The complex was one of apartheid's most despicable places of incarceration²⁸ and famous political figures like Nelson Mandela and Mahatma Gandhi were held there before it was closed in 1983. The awaiting-trial wing of the former prison was demolished to build the court, but the stairwells were kept and incorporated into the new building with light boxes on top, as a reminder of how South Africa has overcome the dark days of oppression.²⁹ Bricks from the demolished awaiting-trial wing were used to construct the new court building.³⁰ The highest court in the land is thus now surrounded by historic structures, national monuments and museums that evoke traumatic memories from the past. As Justice Albie Sachs stated, here was the opportunity to take "a space of intense drama, of human emotion, of repression, of resistance" and the "chance to convert negativity into positivity."³¹ This functioning court building is one of the many memory sites that were established across the country to commemorate the struggle against apartheid and the trauma that it caused many South Africans.³² The site is a mnemonic device, where the past and the present are always in dialogue. The Constitutional Court represents a judiciary that has become a symbol of reconciliation, one that enters into memory discourse in an attempt to deal with historical trauma. Its architecture reflects post-apartheid legal order, which means it endeavours to express the

27 Huyssen A. 2003. *Present Pasts: Urban Palimpsests and the Politics of Memory*. Stanford: Stanford University Press, 28.

28 Davie L. 2020. "Looking back on the restoration of Johannesburg's Old Fort", *The Heritage Portal*, 14 April.

29 The demolition of existing structures that bore witness to trauma is always part of memory discourse and the question whether these structures should be maintained to remember, or whether they should be demolished to forget, becomes part of the discourse. See Sudjic D. 2005. *The Edifice Complex: How the Rich and Powerful Shape the World*. London: Penguin Books, 45.

30 See Jethro D. 2019. "Liberated waste: heritage and materiality at Robben Island and Constitution Hill, South Africa", *International Journal of Heritage Studies* 25(3):259-76.

31 "The story of the Constitutional Court", ConstitutionHill.org.za

32 Van der Vyver Y. 2019. "Diversity and human flourishing made visible in the South African Constitutional Court building", *Law, Religion and Human Flourishing in Africa*, Green MC (ed). Stellenbosch: African Sun Media, 407-22.

diversity of a multi-cultured South Africa, its aim being the promotion of equality under the new constitution in a climate of reconciliation.³³

The building houses the Constitutional Court Art Collection (CCAC), a collection that expresses art and justice, and is a reminder of the values and ideologies of the new democracy. It includes artworks from as many of South Africa's diverse cultural traditions as possible. Art constitutes one of the most important externalisations of human memory, and commemorating traumatic memories has been an important part of the post-apartheid healing process on the road to forgiveness. It is true that truth commissions and juridical proceedings effectively help to deal with historical trauma. One of the ways to break out from compulsive traumatic repetitions is to engage in public memory discourses, but another way is the creation of objects, artworks, memorials and public spaces as mnemonic devices to concretise remembrance, contain and project memories, and preserve the pain of the past in South Africa's national consciousness. One of the signature pieces of the CCAC, Judith Mason's *Blue Dress*, reminds us that trauma is located on the threshold between remembering and forgetting, seeing and not seeing, transparency and occlusion and experience and its absence.³⁴

THE BLUE DRESS, JUDITH MASON

Judith Mason's 1988 triptych titled *The Man Who Sang and the Woman Who Kept Silent* is colloquially known as the *Blue Dress*.³⁵ The artwork was inspired by the execution of two liberation movement cadres by the security police, Harald Sefola and Phila Ndwandwe, whose deaths during the struggle were described at the TRC hearings by their killers.³⁶ The story was told, as many stories in the TRC had to be, by the very perpetrators who denied the person who is the focus of the inquiry the chance to tell their version.³⁷

33 Inside the court chamber, a row of horizontal windows has been set up behind the seats of the judges. While the windows are at the head-height of judges on the inside, they are on ground level on the outside. Those sitting in the court have a view of the feet of passersby moving along, above the heads of the judges, to remind that in a constitutional democracy the role of the judges is to act in the interest of the people. See Van der Vyver, "Diversity and human flourishing made visible in the South African Constitutional Court building", 407-22.

34 Huyssen, *Present Pasts*, 101.

35 Mason J. 1988. *Blue Dress*. Mixed Media/Oil on canvas, dimensions vary. Donated by Nancy Gordon, Justice Albie Sachs and the artist.

36 Harald Sefola sang *Nkosi Sikelel' iAfrika* before he was electrocuted by Security Branch officers. At the Amnesty hearing his murderer described him as "a strong man [who] believed deeply in that in which he was involved in and of its correctness". Sefola is often forgotten as the other individual that inspired Mason's artwork. See Ainslie D. 2018. "Art, The TRC and the 'Truth': Unstitching the Blue Dress", Academia.edu. Online at: https://www.academia.edu/30712853/Art_the_TRC_and_the_Truth_Unstitching_the_Blue_Dress [Accessed 5 March 2024].

37 Ainslie, "Unstitching the Blue Dress", 3.

Phila Ndwandwe was an Umkhonto (MK) commander, abducted in Swaziland by two former MK militants who turned informants. She was kept naked for weeks in a small cell in what is now KwaZulu Natal. Refusing to become an informant, she was shot in the head by security police and buried in a shallow grave. Her killers applied to the TRC for amnesty and one of them led investigators to her grave. He said: "She was brave this one, hell she was brave. She simply would not talk." A plastic bag was found wrapped around her pelvis when she was exhumed by the TRC. It seemed that she preserved her dignity by making panties out of a blue plastic bag.³⁸

When Judith Mason heard Phila's story, she collected discarded blue plastic bags and sewed them into a dress. On the skirt of the dress, she wrote the following poem:

Sister, a plastic bag may not be the whole armour of God, but you were wrestling with flesh and blood, and against powers, against the rulers of darkness, against spiritual wickedness in sordid places. Your weapons were your silence and a piece of rubbish. Finding that bag and wearing it until you were disinterred is such a frugal, common-sensical, house-wifely thing to do, an ordinary act ... At some level you shamed your capturers, and they did not compound their abuse of you by stripping you a second time. Yet they killed you. We only know your story because a sniggering man remembered how brave you were. Memorials to your courage are everywhere; they blow about in the streets and drift on the tide and cling to thorn bushes. This dress is made from some of them. Hamba kahle. Umkhonto.

Mason's artwork expresses her wish to restore dignity to the deceased Ndwandwe in her forced nakedness. Postdoctoral Fellow at the University of Cambridge, Eliza Garnsey, who researches art and visual culture in international relations and world politics, particularly relating to human rights, writes that:

The *Blue Dress* contributes to the reimagining of human rights culture in South Africa in three keyways. First, the artwork is a symbolic reparation that recognizes the harm suffered under apartheid. Second, the artwork is an alternative record of women's experiences of sexual violence; experiences which are largely absent from the official TRC record. Third, the artwork is a form of judicial consciousness which keeps the past alive so that a different future can be imagined. The *Blue Dress* instantiates an "ethics of responsibility" in post-apartheid human rights discourse. That is, the responsibility to remember past violations of human rights in order to prevent future ones and the responsibility to recognize past triumphs of human rights in order to support future ones.³⁹

38 The Court's Visitors' Guide Tour Book 2011. See also Ainslie, "Unstitching the Blue Dress", 4; Krog A. 1999. *Country of my Skull*. New York: Three Rivers Press.

39 Garnsey E. 2019. "South Africa's Blue Dress: (re)imagining human rights through art", *Angelaki: Journal of the Theoretical Humanities* 24(4):38-51. Garnsey draws on seven months of participant observation fieldwork at the Court, which included fifty-four interviews

The artwork has become controversial because the truth of Mason's interpretation of evidence was challenged by Douglas Ainslie, a law clerk who was assigned to the Constitutional Court. In his article "Art the TRC and the 'Truth': Unstitching the 'Blue dress'" Ainslie points out that there are discrepancies between the testimonies given at the TRC and the representation of Phila by the artist. He juxtaposes the validity and basis of some of the sentiments expressed by the artwork, with findings from the TRC.⁴⁰ There are two versions of how the plastic bag came to be wrapped around Phila's mortal remains: The version used by Mason in the creation of her artwork (as described on her website) is that Phila was kept naked in her cell and that she fashioned panties from plastic bags to preserve her modesty. This version appears to be from Antjie Krog's *Country of My Skull*, a version that she, in turn, heard second-hand, presumably from Commissioner Richard Lyster, who was present when the killers confessed.⁴¹ This version was recreated in the "Court's Visitors Guide Tour Book" in 2011, and it was reiterated by the TRC final report. The second version, as pointed out by Ainslie, tells that the perpetrators stripped her naked after she was executed, and that a plastic bag was thrown over her body to mask her grave as a rubbish dump. Ainslie surmises that the story relied on by Mason was inaccurate and that the panties, like the artwork, were the product more of storytelling than truth telling ("personal or narrative truth" as opposed to "factual or forensic truth"). Although Phila's story has been mythologised, Ainslie maintains that nothing should detract from Mason's honest and humane attempt to honour the dignity of Phila Ndandwe. As he puts it: "Phila was a person worth remembering and honouring. She was young, committed and placed in a prominent position in a typically male hierarchical military-style system. She faced her killers with reserve and, despite the efforts of hardened Security Branch officers, she did not turn informer. In the words of her captors, she was clearly a brave young woman who, like Harold Sefola, believed deeply in the correctness of her actions."⁴²

In response to Ainslie's article, Mason shared the role of the artist as a creative interpreter of events in relation to factually based documented findings.⁴³ It is thus clear that there are different versions of the truth and that art plays an important role in the reconciliation process, as reiterated by Garnsey. Professor of Art, Culture and Diversity at Utrecht University, Rosemarie Buikema agrees that "Mason's dress performs a sense of dialogical truth as well as a sense of restorative justice for both the perpetrators and the victims. The dress not only symbolically makes up for

with judges, clerks, staff members, advocates, artists, curators, and visitors, as well as visual and archival research.

⁴⁰ See the versions of the artwork by searching "Judith Mason" at Constitutional Court Art Collection. Online at: <https://ccac.concourtrust.org.za/artworks>.

⁴¹ Ainslie, "Unstitching the Blue Dress", 10.

⁴² Ainslie, "Unstitching the Blue Dress", 2.

⁴³ See Mason J. "Unstitching the Blue Dress, a Response". Online at: <https://ccac.concourtrust.org.za/uploads/files/2014/10/Unstitching-the-Blue-Dress-by-Judith-Mason.pdf>

Phila's forced nakedness but it also commemorates her struggle, the grand gesture of keeping silent while being pressed to betray one's comrades.⁴⁴

ART AND ARCHITECTURE AS SYMBOLS OF CIVIL RELIGION

The concept "civil religion" refers to a "transcendent universal religion of a nation", such that most citizens of a nation share common religious characteristics expressed through civil religious beliefs, symbols (such as a national flag) and public rituals and ceremonies on sacred days and at sacred places (such as monuments, battlefields or national cemeteries) that provide a religious dimension to the entirety of life.⁴⁵ Civil religion melds national symbols to symbols of God.⁴⁶ The concept originated in Jean-Jacques Rousseau's seminal work, *The Social Contract* (1762). For Rousseau, civil religion was the moral and spiritual foundation essential to any modern society. It is the social cement that helps to unify the state by providing it with a sacred authority. Other countries with strong civil religions are America, France and the former Soviet Union.

The places, objects and symbols that South Africans hold sacred have changed over time, but they are invariably associated with trauma. Anglo-Boer War memorials held a special, sacred place in South Africa's white, Afrikaans civil society during the twentieth century, but today it is the trauma associated with colonialism and apartheid that is deemed worthy of commemoration and preservation in the national consciousness. The Constitutional Court Building and its art collection have assumed such a civil religious identity, and a religious aura has come to surround the Constitution. The building acknowledges the ritual, performance and theatre of law through its layout. Its logo refers to the African concept of "justice under the tree" and enforces our sacred interconnection to nature. Finnish Architect Juhani Pallasmaa likened walking through a cathedral with a forest of columns, to walking through a forest in nature, which makes one aware of the eternal natural cycle of the world.⁴⁷ The lobby of the Court Building with its columns is reminiscent of a forest of trees and the dappled light that falls on the floor through skylights, enforces the idea of the sublime. Walking through the court building and its surroundings is a spiritual experience, and one is reminded of something holy, of sacred space, a concept which is also found in spiritual African religious belief. The colonial understanding of the law was transformed by reimagining the law and including the connection of humanity (*Ubuntu*). The law is storytelling and during the design of the building and the curation of the art collection, different stakeholders agreed upon the narrative. Artists interpreted the bill of rights and brought it into the building. Art became the visual interface of the law, its symbols,

44 Buikema, "Performing dialogical truth and transitional justice", 287.

45 Retrieved from Swatos WH. (Jr)(ed). 1998. "Civil Religion", in *Encyclopedia of Religion and Society*. Walnut Creek, CA: Alta Mira Press, 94-6.

46 Gardella P. 2014. *American Civil Religion: What Americans hold sacred*. Oxford: University Press.

47 Pallasmaa J. 1996. *The Eyes of the Skin: Architecture and the Senses*. London: Academy.

rituals and ceremonies. The *Blue Dress* has thus become more than just a reminder of the trauma of the past. It has become a civil religious icon aimed at achieving reconciliation.

The TRC envisaged achieving reconciliation through art and architecture and made the implicit connection in its concluding report between the built environment and the symbols that are associated with inclusive space. In this report, the committee recommended a way forward for all South Africans and provided a detailed view of how it understood its role in creating a new, shared national identity in post-apartheid South Africa that moved beyond colonially imposed racial identity lines. It also understood that new cultural narratives and a new civil religion needed to be created to combat the influences of apartheid era ideology.⁴⁸

Theologian Alexa Leigh Benedetti argues that the TRC realised that identity, culture and public art are essential factors in the reconciliation process. Benedetti explains that “public art serves as an iconography of a ‘civil religion’ which tells a story to the citizenry about what a given country admires, reveres and aspires to and promotes a specific moral narrative regarding a country and its people. Thus, public art forms an iconography reflecting the norms of the ‘civil religion’ and its related mores, morals and ethical values”.⁴⁹ She recognises the need to create a completely new theoretical framework for understanding public art as a visual manifestation of civil religious iconography, where public art uses symbols to convey cultural narratives regarding shared identity, social values and belonging.⁵⁰

After 1994, South Africans came together as the “rainbow nation”,⁵¹ and artworks have contributed to the successful creation of a national shared identity of reconciliation and the ethos of civil religion. During the first years after apartheid, many colonial and apartheid era artworks such as statues remained in place,⁵² but communities were encouraged to create new artworks that stand in dialogue with existing works. National and local governments participated with communities that were disadvantaged during apartheid to create public art that represents the community’s history and identity.⁵³

48 The TRC addressed public art in Promotion of National Unity and Reconciliation Act, s 1(1). See Benedetti AL. 2021. *Civil Religion Iconography: A New Theoretical Perspective Regarding Public Art*. Master’s Thesis, Uppsala Universitet, 12, 32-33..

49 Benedetti, *Civil Religion Iconography*, 1.

50 Benedetti, *Civil Religion Iconography* 38.

51 Archbishop Desmond Tutu coined the phrase “the rainbow nation” to describe the dream of post-apartheid South Africa, where all races live in harmony and thrive in a climate of reconciliation and multi-culturalism.

52 The Constitution of South Africa, 1996, states that the country belongs to all who live in it and that we are united in our diversity. In the spirit of the Constitution, the 1999 National Heritage Resources Act (NHRA 60-3) recommends that the heritage landscape be balanced by adding new monuments with which previously marginalised and unrepresented people could identify, without destroying the old monuments.

53 Benedetti, *Civil Religion Iconography*, 34

CONCLUSION: IDENTITY POLITICS AND CULTURAL APPROPRIATION:

In recent years, especially in the United States, white artists who depict black pain have been accused of exploiting traumatic, racially charged events. Protests surrounding the co-opting of black stories by white people occur in the context of identity politics, a movement that includes a wide range of political activity and theorising founded in shared experiences of injustices done to particular social groups that are vulnerable to cultural imperialism and appropriation. A similar movement in South Africa has fuelled the decolonising debate, a rhetoric that has called for the removal of apartheid-era statues from open space, and the decolonising of education, land ownership and the economy. After the initial euphoria of the rainbow nation and the spirit of reconciliation wore off, many people realised that their spatial reality had not changed much. Although the Constitution daringly declares that the country belongs to all who live in it and that we are united in our diversity, this diversity runs deep within a rainbow of heritages in the South African public sphere. The present is marked with violence, corruption, crime and destruction. As a counterargument to the resurfacing of tribal identities, white female authors (Antjie Krog), researchers (Susan Nieman and Diana Russell), artists (Dana Schutz) and filmmakers (Meg Smaker) have argued for coming to terms with their whiteness. If it is a form of colonisation to speak for or assume another's voice, the narrator must be willing to explain where she stands in representing "the Other". White people have a responsibility to examine white racism, and even if white South Africans can't entirely understand black pain, they should be able to try, and thus work off the past (*Vergangenheitsaufarbeitung*). The problem can be overcome if research is conducted with respect, sincerity and integrity, with a conception of the common good. So far, artworks by white artists have remained unchallenged in the CCAC. The criteria for acceptance is reflecting the values of the constitutional democracy.