

# South Africa's Blue Dress

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## (Re)imagining human rights through art

### Abstract:

Inside the Constitutional Court of South Africa hangs Judith Mason's artwork, entitled *The man who sang and the woman who kept silent*, more commonly known as *The Blue Dress*. Mason created the artwork to commemorate Phila Ndwandwe and Harold Sefola after hearing testimony from the perpetrators of their deaths at the South African Truth and Reconciliation Commission. In this article I explore how *The Blue Dress* contributes to the reimagining of human rights culture in South Africa in three key ways. First, the artwork is a symbolic reparation which recognises 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. I argue that *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 recognise past triumphs of human rights in order to support future ones. The article draws on seven months of participant observation fieldwork at the Court, which included 54 interviews with judges, clerks, staff members, advocates, artists, curators, and visitors, as well as visual and archival research.

### Keywords:

Art, Human Rights, South Africa, Constitutional Court, Phila Ndwandwe, Judith Mason

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## (Re)imagining human rights through art

Inside the Constitutional Court of South Africa hangs Judith Mason's *The man who sang and the woman who kept silent* (Fig. 1). This artwork has remained with me since my encounter with an image of it during a lecture in my first year at university. The precise content of the lecture has faded—related to postmodernism and the use of found objects to make political art—but I *do* remember *The Blue Dress* (the commonly used title for the artwork) with its bright blue silhouette pulsing in the dimly-lit lecture theatre. This image marked my introduction to South African politics and the Truth and Reconciliation Commission (TRC) through art. The injustices of apartheid became visually recognisable. I have now spent many months looking at the artwork at the Court; talked with the artist; witnessed the Court's curator cry while speaking to tour groups about the dress; listened to judges reflect on the artwork; and read the testimonies from the TRC which inspired the artwork.

[INSERT figure 1 about here]

**Fig. 1.** Installation view of Judith Mason, *The Man Who Sang and the Woman Who Kept Silent (The Blue Dress)* (1998), triptych, inside the Constitutional Court of South Africa. Photography by Akona Kenqu (2014).

In this article I explore how *The Blue Dress* contributes to the reimagining of human rights culture in South Africa and ask what is at stake by the artwork hanging in the Court? *The Blue Dress* (re)imagines human rights in South Africa in three key inter-related ways. First, the artwork is a symbolic reparation which recognises 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. I argue that *The Blue Dress* instantiates an “ethics of responsibility”<sup>1</sup> in post-apartheid human rights discourse, particularly at the Constitutional Court. That is, the responsibility to remember past violations of human rights in order to prevent future ones and the responsibility to recognise past triumphs of human rights in order to support future ones.

Existing literature on *The Blue Dress* raises three main ideas. In Law, the vulnerability and ordinariness of *The Blue Dress* challenges the monumentality and spectacle of the law in South Africa. That is, by remembering the atrocities of the past and the limits of the law, the artwork provides a counter-weight to the approach of celebrating the law, specifically the constitution, and its achievements in an optimistic fashion (van Marle 412). In so doing, *The Blue Dress* becomes a symbol of the new constitutional order (Le Roux; Le Roux; van Marle; van Marle; van Marle et al.). In Art History and Cultural Studies, *The Blue Dress* is a critical intervention in dominant accounts of apartheid and the TRC (Marlin-Curiel; Mosely; Vorster; Williams). In Gender Studies, the artwork is a commemoration which restores a sense of agency to the people it references (Buikema; Buikema; Gobodo-Madikizela et al.; Nako)—an idea challenged by analysis of *The Blue Dress* as overtly feminised (Russell). These ideas which arise out of disparate bodies of scholarship are rarely brought into dialogue with one another; thus, failing to account for the multiple and dynamic ways in which the artwork inhabits the post-apartheid imagination and contributes to the reimagining of human rights culture in South Africa, most notably at the Court. This article aims to remedy this failure. By doing so, it engages with broader debates in transitional justice scholarship—largely driven

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<sup>1</sup> I borrow this phrase from Le Roux. In section IV, I discuss Le Roux’s use of this phrase and how my conception departs.

by the humanities—about how artworks offer an understanding of the complex ways in which the past pervades the present by fostering memory, by intervening in prevailing narratives, and by encouraging debate (see Atencio and Gates-Madsen; Bell; Clarkson; Garnsey; Ramirez-Barat; Rush and Simić). Artworks enable an affective mode of knowing, of imagining, that is distinct from other forms of knowledge offered by transitional justice mechanisms, such as truth commissions—an idea expanded upon throughout the article.

The article draws on seven months of participant observation fieldwork at the Court, which included 54 interviews with judges, clerks, staff members, advocates, artists, curators, and visitors, as well as visual and archival research.<sup>2</sup> In section I, I introduce Phila Portia Ndwandwe and Harold Sefola whose stories emerge through artwork. In sections II to IV, I examine *The Blue Dress* as a symbolic reparation to the victims and survivors of apartheid; as an alternative record of women's experiences of sexual violence; and, as a form of judicial consciousness.

### **I. The man who sang and the woman who kept silent**

Phila Portia Ndwandwe and Harold Sefola were members of the African National Congress (ANC) fighting for freedom from apartheid. They were murdered by security branch officers of the South African Police in the late 1980s. The stories of their deaths emerged during the amnesty hearings at the TRC. Consequently, it is important to recognise that these stories are largely informed by the testimonies of the perpetrators who denied Sefola and Ndwandwe the chance to tell their own versions.

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<sup>2</sup> Interviews were conducted between May to November 2014 in Johannesburg, South Africa.

Harold Sefola was an ANC activist, who—along with two of his colleagues, Jackson Maake and Andrew Makupe—was abducted, tortured and murdered by members of the South African security police.<sup>3</sup> During his interrogation, Sefola “requested to be given permission to sing *Nkosi Sikelel' iAfrica*” (Mall et al.). Maake, Makupe and Sefola were electrocuted to death; their bodies were then blown-up by a land mine in order to destroy evidence of their murders and render the victims unrecognizable (Mall et al.). *Nkosi Sikelel' iAfrica* (God Bless Africa) is now the national anthem of South Africa. Sefola was the man who sang.

Ndwandwe was a member of *uMkonto weSizwe* (spear of the nation, also known as MK) which was the armed wing of the ANC. In 1986 she was exiled to Swaziland after being arrested in South Africa. From Swaziland, Ndwandwe was the acting commander of Natal MK activities and was responsible for the infiltration of ANC cadres into Natal (South African Press Association; Truth and Reconciliation Commission 545). Ndwandwe disappeared in 1988. At the time of her disappearance rumours circulated that she had become an *askari* (police informant) (Buikema; also see Dlamini). Ndwandwe’s family gave a statement to the TRC, which resulted in an investigation into her disappearance. This uncovered evidence against seven security branch officers who were responsible for Ndwandwe’s abduction, detention, and murder (Truth and Reconciliation Commission 545). The perpetrators applied for and were subsequently granted amnesty.<sup>4</sup> Their testimonies led to Ndwandwe’s remains being located in 1997. Ndwandwe’s body was found with remnants

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<sup>3</sup> The five applicants for amnesty in the murder of Harold Sefola were: Hendrik Jack Cronje, Jacques Hechter, Wouter Mentz, Roelof Venter and Paul van Vuuren.

<sup>4</sup> The seven applicants for amnesty in the murder of Phila Ndwandwe were : Hendrik Johannes Petrus Botha, Salmon Johannes Gerhardus du Preez, Johannes Albertus Steyn, Andy Taylor, Roelof Brand Visagie, Jacobus Adriaan Vorster and Lawrence Gerald Wasserman.

of a blue plastic bag, most often cited as being fashioned into a pair of underwear, wrapped around her body. Ndwandwe was the woman who kept silent.

Details about Ndwandwe's and Sefola's lives and deaths vary according to the testimonies of perpetrators and the recollections of people involved in the TRC.<sup>5</sup> As one Law Clerk said, *The Blue Dress* is about "someone who would not have had a name, and who did not have a name actually, until the Truth and Reconciliation Commission brought out their story, even to the extent that her family did not know what happened to her". These accounts surface through *The Blue Dress*, drawing attention to the fluidity of the TRC archive and the stories which emerge from it.

## II. Blue dress as symbolic reparation

*In the same way that the judgements are really trying not just to set down the real principles, but they are also trying to take individual stories and make them accessible to people and use those stories to heal wounds of the past... you can say the same about a lot of the art pieces in the collection (Law Clerk).*

Mason created *The Blue Dress* to memorialise the stories of Ndwandwe and Sefola.

Mason recalls hearing public broadcasts of the testimonies by the perpetrators of their deaths and weeping when she learned that Ndwandwe had been shot after being kept naked for weeks in an attempt to make her inform on her comrades. The artist wrote an epitaph to Ndwandwe on the hem of the dress which she sewed from blue

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<sup>5</sup> This introduction to Ndwandwe and Sefola is brief out of necessity, but it is not without reflection upon the ethical considerations of the economy of storytelling; who benefits and who is empowered when these stories are shared in different forms (Nako 284).

plastic bags:

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, commonsensical, house-wifely thing to do, an ordinary act... At some level you shamed your captors, 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. *Hambe kahle. Umkhonto* [Go well, Spear of the Nation].

This epitaph (which is also recorded on a plaque accompanying the installed artwork at the Court) commemorates Ndwandwe's struggle in two contrasting ways. On the one hand, her struggle against apartheid is extraordinary, she fights "the rulers of darkness" with the weapon of silence. In his analysis of *askaris*, Jacob Dlamini (225-228) unsettles the narrative of Ndwandwe's silence. He argues that Ndwandwe "responded to her torture the best way she could, telling her captors some of what they needed to know. But she would not, and did not, take that final step and become a traitor. She collaborated but refused to become a collaborator". Ndwandwe was silent up to a point; but she ultimately resisted becoming an askari. On the other hand, Ndwandwe's act of resistance is ordinary, she shames her abusers through the "commonsensical" way in which she makes clothing out of a plastic bag.

The contrast between grand and ordinary is also evident in the materiality of the artwork. *The Blue Dress* is a large three-part installation which, until recently, hung prominently in the art

gallery at the Court, the heart of South Africa's constitutional democracy. Its exhibition in this physical space—arguably the most important institution to emerge in post-apartheid South Africa—imbues the artwork with a sense of national importance; of monumentality. Yet, *The Blue Dress* is made from plastic bags, ubiquitous utilitarian items which pervade the South African landscape. In 2015, the sculptural part (Fig. 2) of *The Blue Dress* disintegrated, surrendering to the effects of being on display for many years (see Vorster). The material ordinariness of *The Blue Dress* and the temporality and fragility of the plastic bags provides a counter-weight to the symbolic grandness of its location; becoming a reminder that the Court and the human rights culture it seeks to cultivate are similarly vulnerable and not necessarily permanent.

The contrast between the extraordinary and the ordinary, the grand and the humble, embeds Ndwandwe's story in the heroic accounts of freedom fighters, at the same time that her mode of resistance speaks to the ways in which apartheid brutality was battled by ordinary people in everyday ways. In doing so, *The Blue Dress* “calls for an engagement with survivors and victims that goes beyond the spectacular and looks for resistance in everyday acts instead” (Nako 284).

[INSERT figure 2 about here]

**Fig. 2.** Judith Mason, 1998, *The Man Who Sang and the Woman Who Kept Silent I (The Blue Dress)*, found plastic bags, thread, white paint, approx. 200 × 70 × 45 cm. Constitutional Court Art Collection, Johannesburg. Photography by Ben Law-Viljoen. © Succession Judith Mason | DALRO



*The Blue Dress* becomes a symbolic reparation. “Symbolic reparations seek to recognise the wrongdoings and harm suffered by victims of human rights abuses” (Simić and Volcic 385). The emphasis is on acknowledgement in contrast to reparation initiatives which seek to address the harm caused by abuse. The bodiless dress is a haunting recognition of Ndwandwe’s absence; of the harm she experienced, of her death. The artwork is an attempt to restore the clothing of which Ndwandwe was previously deprived, a literal and symbolic redress (see Williams).

Mason uses plastic bags to emphasize Ndwandwe’s resistance to the violation of her bodily autonomy, and ultimately her life. In contrast to their material fragility, plastic bags become markers of Ndwandwe’s defiance, of her courage, and of her strength. They are transformed from refuse into powerful sacred objects, which not only commemorate Ndwandwe’s struggle but symbolically restore her forced nakedness. This symbolic restoration offers a reparative vision, “a desire for the transformation of [a] story of trauma into one that offers hope and the possibility of reparation” (Gobodo-Madikizela 222). Through *The Blue Dress*, it becomes possible to imagine the conditions under which the harm suffered by Ndwandwe are not repeated; to envisage a time and place when human rights are upheld, not violated. At the site of the Court this reparative vision takes on heightened significance; underscoring the responsibility of the Court to ensure these conditions are envisaged, met, and sustained (a point further explored in section IV).

After hearing Ndwandwe’s story, Mason (in Sachs viii) describes feeling an “abiding sense of shame”, due to her identity as a white South African woman who benefited from apartheid but also because of her guilt at not doing more to help those who suffered under apartheid. Mason (in Peet) describes herself as “a cowardly old lefty... slipping around on the side-lines

and surviving when [others] didn't". *The Blue Dress* is Mason's response to her shame; a way for the artist to admit complicity in the apartheid system and acknowledge her role in the harm suffered by Ndwandwe. *The Blue Dress* becomes what Kent Lindiwe Williams (173) describes as a site of address, "a site that Mason can inhabit to negotiate her own pain". The reparative salience of the artwork is twofold: *The Blue Dress* recognises the abuse endured by Ndwandwe; it is also Mason's acknowledgment of her involvement in that abuse.

*The Blue Dress* is a garment which viewers can metaphorically inhabit. The dual recognition of harm—harm suffered and harm enacted—coupled with the emphasis on everyday resistance and ordinary materials, enable different entry points for viewers to connect with Ndwandwe's struggle and Mason's complicity. The artwork "opens up possibilities to think about the historically raced and gendered space of South Africa in a different way for both the oppressor and the oppressed" (Buikema 59). In other words, *The Blue Dress* creates an affective experience which humanises and personalises the struggles and violations at stake, making it possible for viewers to imagine themselves in the place of Ndwandwe, and acknowledge the harm suffered by the survivors and victims of human rights abuses.<sup>6</sup> As former curator of the Court's art collection, Stacey Vorster (184), describes:

As a white woman grappling with my own role in South Africa, what my own encounter with the *Blue Dress* offered was an opportunity to understand the experience of trauma, to gain some insight into the subjectivity of the other that my privilege prevents me from knowing.

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<sup>6</sup> *The Blue Dress* also raises important ethical questions about representing people's stories. What entitles Mason to commemorate Ndwandwe, and to call her "Sister" after she is dead? Why should we care about Mason's struggle to become politically conscientised?

This empathic connection is a crucial step towards the transformation and cultivation of South Africa's human rights culture.<sup>7</sup>

In her analysis of black women's stories and the legacy of the TRC, Nontsasa Nako (283-286) contends that "Mason does not claim to know Ndwandwe or to speak for her, but she offers homage to her spirit". In doing so, Mason engages multiple memories of Ndwandwe, of her torturers, of her comrades, and of other liberation fighters, in a way that opens up possibilities for new understanding and critique. The following two sections explore some of these possibilities.

### III. Blue dress as an alternative record

*You really are allowed to enter into someone else's life... that is what art allows you to do and when you do that in the law... it can have drastic and profound affect [sic.] on judgement (Law Clerk).*

The two paintings which comprise *The Blue Dress* (Figs. 3 and 4) depict a hyena tearing at the remains of the blue dress buried in the dirt; and, snarling at the dress from behind a fence, while candle-like objects glow in the foreground. According to the official interpretation provided by the Court (offered on tours of the collection), the hyenas symbolise the perpetrators of apartheid and the security branch officers who murdered Ndwandwe and Sefola; and, the three candle-like objects (braziers) symbolise Sefola, Maake and Makupe. The dominant image in all elements of the artwork is the dress. The dress' dominance draws

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<sup>7</sup> This idea connects with long-standing debates in human rights scholarship about whether moral discourse or sentimental education is more effective in promoting respect for human rights (see Donnelly; Rorty).

attention to Ndwandwe's story and overshadows Sefola's story. Unless viewers are familiar with the back-story of the installation or are informed by a guide when viewing the artwork, it is not clear that Sefola's story is represented in the paintings, beyond the artwork's title.

[INSERT figures 3-4 about here]

**Fig. 3.** Judith Mason, 1998, *The Man Who Sang and the Woman Who Kept Silent II*, oil on canvas, 190 × 160 cm. Constitutional Court Collection, Johannesburg. Photography by Ben Law-Viljoen. © Succession Judith Mason | DALRO

**Fig. 4.** Judith Mason, 1998, *The Man Who Sang and the Woman Who Kept Silent III*, oil on canvas, 166 × 122 cm. Constitutional Court Collection, Johannesburg. Photography by Ben Law-Viljoen. © Succession Judith Mason | DALRO

The dominance of the dress imagery likely explains the focus on Ndwandwe's story in scholarship about the artwork and in how people at the Court—both visitors and staff—talk about the artwork, whereby the majority reference Ndwandwe, but not Sefola. Of the 22 participants who spoke about *The Blue Dress* during interviews, none of them mentioned Sefola. At times Ndwandwe's and Sefola's stories even get conflated by the Court: "The policeman who shot her [Ndwandwe] in the head described how brave she had been — she had asked if she could kneel and sing Nkosi Sikelele before she was executed" (Constitutional Court). The emphasis on Ndwandwe's representation has important implications for how *The Blue Dress* becomes an alternative archive of women's experiences; alternative to the record and dominant narrative offered by the TRC (discussed below).

The case of Ndwandwe is often held up as “proof of the rightness of the truth before justice strategy” (Buikema 53). Without the TRC, Ndwandwe’s story would not have been known. The amnesty hearings revealed the details of her abduction and murder, and led to the recovery of her body. The exhumation and subsequent funeral received widespread national attention; not only because Ndwandwe was the first victim whose remains were exhumed as a result of the TRC, but because the process reunited Ndwandwe’s family with her story and also with her son, who had been born while she was living in exile and whose whereabouts were unknown to her family (South African Press Association). At Ndwandwe’s funeral, President Nelson Mandela presented her son, Thabani Mabuza, with a posthumous medal for his mother’s bravery. Ndwandwe was rehabilitated by the ANC from traitor to freedom fighter. Her story became emblematic of the success of the TRC in seeking truth, but also of its efforts to reunite families.

The final report of the TRC mentions Ndwandwe’s case repeatedly; in contrast to the stories of other MK operatives. Each time Ndwandwe is mentioned emphasis is placed on the plastic bag found with her body:

She was held in a small concrete chamber on the edge of the small forest in which she was buried. According to information from those that killed her, she was held naked and interrogated in this chamber, for some time before her death. When we exhumed her, she was on her back in a foetal position, because the grave had not been dug long enough, and had a single bullet wound to the top of her head, indicating that she had been kneeling or squatting when she was killed. Her pelvis was clothed in a plastic packet, fashioned into a pair of panties indicating an attempt to protect her modesty (Richard Lyster in Truth and Reconciliation Commission 543)

When she was exhumed, her pelvic bones were covered with a plastic supermarket packet with which she had tried to protect the dignity of her naked body (Truth and Reconciliation Commission 366).

The focus is drawn to Ndwandwe's pelvis and the make-shift clothing which covered it. The plastic bag becomes implicated in a gendered narrative of feminine vulnerability, whereby the official report emphasizes modesty, dignity, and nakedness over and above Ndwandwe's role as a trained MK operative and her resistance to torture (see Russell). Similarly, during the exhumation of her body, the focus was on Ndwandwe's role as a mother, largely as a result of the reunification of her family.

The emphasis on feminine vulnerability which emanates from the TRC record sits in tension with the imaginaries and affects conveyed by *The Blue Dress*, namely Ndwandwe's political agency. Ndwandwe is not remembered foremost for her political acts, rather the way in which she died—naked, modest, leaving a son behind—takes precedence in official versions of her story. Barbara Russell (178-203) contends that by creating a garment associated with feminine attire, Mason continues to give physical and idealised form to an essentialist view of Ndwandwe's legend. She questions why Mason did not create a military uniform from plastic bags instead of a dress. However, Russell's analysis does not acknowledge Mason's focus on Ndwandwe's resistance to victimhood, rather than her victimization—a focus which contrasts with the TRC record. Nor does Russell account for the heightened resonance of the dress symbolism in relation to women's experiences under apartheid. By “feminizing Ndwandwe—with a summery and ‘house-wifey’ blue dress made of plastic bags—at the very moment at which her courage is masculinized, Mason insists on the complexity of women's realities” (Nako 284); complexities highlighted in the widespread description of Ndwandwe

as both a “guerilla commander and breastfeeding mother” (South African Broadcasting Company).

The form of the dress and the way in which it gestures to the role of women in anti-apartheid struggles is critical. The TRC has been widely criticised for envisaging a limited role for women and failing to address the experiences of many women, especially in relation to the politics of sexual violence (see Durbach and Geddes; Russell). By focusing on the direct victims of gross human rights violations, the TRC resulted in a blindness to the types of structural abuse predominantly experienced by women (see Hayner 87-88). This was compounded by the Commission’s determination that in the context of their mandate to grant amnesty for politically motivated violence, rape was not considered to be political. Although this determination was “motivated by an interest in heightened accountability for rape” (Vasuki Nesiah in Hayner 107) it sent a problematic message about the recognition of the politics of sexual violence.

*The Blue Dress* points towards the suspected sexual violence experienced by Ndwandwe; violence represented in the paintings by the imagery of the hyena tearing the dress in the dirt, compounded by the way in which the plastic dress ripped apart over years of being on display. In the epitaph Mason describes the plastic bag as a weapon; one which shamed Ndwandwe’s captors. The implication is that the plastic bag prevented further sexual violence.<sup>8</sup> “It was not the gendered violence of the physical and sexual torture that Mason

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<sup>8</sup> The seven security branch officers who killed Ndwandwe deny committing sexual assault. Yet, there are inconsistencies between the perpetrators’ testimonies and between the official reports about the exhumation of her body which cast a high level of doubt on these denials; these inconsistencies include whether Ndwandwe was kept naked for several days, whether she was stripped before being shot, and how she came to be covered in a plastic bag (see Ainslie; Russell). Other discussions of Ndwandwe’s case make the sexual violence explicit: “after being sexually violated and raped and left in the veldt, [she] found scatterings of blue plastic that she used to cover herself” (van Marle et al. 561).

chose to commemorate, however, but Ndwandwe's covering of the violence of her nakedness" (Gobodo-Madikizela et al. 83). *The Blue Dress* alludes to the sexual violence experienced by Ndwandwe which the official TRC record failed to acknowledge. By doing so, the artwork intervenes in the prevailing narrative cultivated by the TRC, offering a critical reflection on the politics of sexual violence in post-apartheid South Africa.

If the artwork was not a dress (and therefore not as explicitly linked to an idea of womanhood) then it would arguably be less salient in highlighting the experiences of women which largely went unrecognized by the TRC. *The Blue Dress* commemorates Ndwandwe's story, but it also comes to symbolize the many survivors and victims of sexual violence under apartheid whose stories remain absent from official records. The use of "sister" in the epitaph, rather than a specific name, addresses many women. In doing so, the artwork connects more widely to other post-conflict contexts where female items of clothing are often used to signify women's experiences of sexual violence (see Asavei). Pumla Gobodo-Madikizela, Jennifer Fish, and Tamara Shefer (84) argue that *The Blue Dress* imbues plastic bags and their ubiquitous presence across the African continent with symbolic meaning about "the pervasive violence enacted on women's bodies". Taken together, the materiality of the plastic bags and the gendered symbolism of the dress, create the possibility of an alternative record. *The Blue Dress* becomes a site of possibilities, in which women might see themselves and their stories reflected. Its presence at the centre of South Africa's constitutional democracy is a critical reminder of what is missing elsewhere, which as the Judge's statement at the beginning of this section suggests "can have drastic and profound affect on judgement".

#### **IV. Blue dress as judicial consciousness**



*The artworks at the Court have an impact on judges, when judges look at the works of art, feelings run through you and most of the works of art at the Court send through all kinds of amazingly different feelings and understanding and so on, which makes me in a sense softer, more human, and able to understand human beings a lot better. Whereas if there was no work of art at the Court, I would imagine that would not happen (Judge).*

The full installation of *The Blue Dress* exists as a result of judicial intervention. *The Blue Dress* originally consisted of the dress and one painting (Figs. 2 and 3). The third part (Fig. 4) was added at the behest of Justice Albie Sachs (in Mason) who wanted to include Mason's artwork in the Court's art collection but felt the original two parts would "make people deeply depressed and distressed, and people come to the Court for succour, for a sense of relief, for protection". The addition of the painting dominated by the warm glow of candle-like objects was intended to convey a "sense of reconciliation, of coming to terms with the terrible pain of the past. The predator trapped in the fence, keeping it at bay, the dress soaring" (Sachs in Mason). The way in which the installation was created with direct judicial involvement highlights the normative position that a particular kind of uplifting and transformative art should be exhibited at the Court, at the same time it raises questions about the power of members of the judicial and political elite to curate national imagination.

This normative position is reflected in how law clerks and judges at the Court speak about *The Blue Dress*. All six of the law clerks interviewed emphasized the artwork's inherent hope: "*The Blue Dress* is probably the one [artwork] that is the most significant to everyone in that context [of the Court] because it is such a powerful message, and a sad message, but a

hopeful message at the same time” (Law Clerk); “Everything for me comes back to this idea that this [the Court] is transformative and to me that art piece speaks to that theme because it is obviously coming from such pain and suffering but then there is also hope in the story about the woman” (Law Clerk). Despite the atrocities referenced in *The Blue Dress*, the emphasis is on transforming pain into hope for a different future.

Several judges (four out of the six interviewed) spoke about *The Blue Dress* epitomising human dignity and the type of injustices the Court is trying to protect against. They described it as an artwork living in the “judicial consciousness” of the Court. *The Blue Dress* serves as a reminder that justice is fundamentally about people. As one judge said, “it [*The Blue Dress*] is telling the world that it's a court that is concerned about people and not just things, not just expressions of power but ultimately with people”. The statement made by one judge at the beginning of this section similarly reveals that the artworks at the Court humanise the judges as well as the subjects of their judgements. For the judges, *The Blue Dress* is a symbol of the individuals to, and for whom, the Constitution is responsible.

This thinking connects to what Wessel Le Roux (400) describes as *The Blue Dress*’ “moment of alterity” in the Court’s jurisprudence. The artwork is “infinitely vulnerable and at the same time overwhelmingly powerful”. It introduces human vulnerability into the space of the Court in an affectively powerful way. By remembering the atrocities of the past, the artwork provides an important contrast to the celebratory approach to the new Constitution. That is, it challenges the spectacle and the monument of the formal Constitution (see van Marle). *The Blue Dress* takes on the role of the Court’s conscience; it is a constant reminder of the limits of the law. Le Roux contends that this moment of alterity brings about an ethics of responsibility at the Court: “we can never ensure or restore justice to the victim of the act of

brutality which is called to memory. Yet only on the basis of this impossibility is obligation and responsibility born, and can justice and law again become a possibility”. In other words, it is not possible to undo the murder of Ndwandwe, so the law must strive to prevent its repetition; only then does justice become possible.

However, Le Roux’s conception of an ethics of responsibility primarily focuses on victimhood. It does not account for the resistance to victimisation—the hope—which also emanates from *The Blue Dress* and which pervades judicial consciousness. *The Blue Dress* lives in judicial consciousness as a reminder of the human rights violations which must be prevented. It also contributes to a vision of human dignity—resistance against tyranny—which should be sustained (also see Garnsey). That is, Ndwandwe’s and Sefola’s brutal murders should never be repeated, they must be prevented; and, their resistance to oppression, through silence and song, should be supported. The artwork embodies an entanglement where human dignity was violated on one level and achieved on another. In doing so, *The Blue Dress* calls—it hopes—for human dignity to be achieved again. This call instantiates an ethics of responsibility somewhat different to that offered by Le Roux. That is, the responsibility to remember past violations of human rights in order to prevent future ones and the responsibility to recognise past triumphs of human rights in order to support future ones. On this basis the artwork facilitates the reimagining of human rights culture from one in which human rights were violated, weakened, and neglected under apartheid, to one in which they are supported, protected, and respected by the Court. In South Africa, this transformation remains ongoing (see Hamilton).

## V. Concluding notes

Recently, I encountered *The Blue Dress* in the same lecture theatre where I first saw it 15 years ago. This time the lecture was given by Pumla Gobodo-Madikizela, who described *The Blue Dress* as “a powerful act of bearing witness”.<sup>9</sup> This idea takes on heightened significance when considering the presence of *The Blue Dress* at the Court. The artwork is an affective and embodied mode of bearing witness to trauma and atrocity. It acknowledges the harm suffered by the survivors and victims of apartheid. It attests to women’s experiences of sexual violence under apartheid. It reminds the judges and the people who work at the Court of the violations they are trying to protect against and for whom they are responsible. These three deeply-interconnected dimensions instantiate an ethics of responsibility at the Court, and in doing so facilitate a reimagining of human rights culture in South Africa. Yet, this responsibility is not only the burden of the judiciary; it is the responsibility of all who encounter *The man who sang and the woman who kept silent*.<sup>10</sup>

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<sup>9</sup> The lecture was on the topic of reparative humanism. The idea that forgiveness is the wrong word to describe the goal of encounters between victims and perpetrators; rather, reparative humanism captures the transformative moments which unfold through these encounters see (Gobodo-Madikizela).

<sup>10</sup> I want to flag and address two potential criticisms facing the arguments presented in this article. The first anticipated criticism relates to the artwork perpetuating untruths. Foremost, that Ndwandwe’s body was discovered with a plastic bag fashioned into underwear is a point of contention. Official reports from the TRC record the presence of the plastic underwear, while testimonies from Ndwandwe’s killers and other available evidence indicate contradictory accounts (see Ainslie; Russell; Vorster). The narratives about resistance and human dignity which emerge from *The Blue Dress* rely—to some extent—on the existence of the plastic underwear. However, to dismiss the artwork as untrue largely because of the uncertainty about the plastic underwear, obscures the value in understanding how and why contradictory reports of Ndwandwe’s story arise, and the implications of these multiple versions for South Africa’s national imagination. It risks closing down vital discussions about the complexities of truth-telling, trauma, and memory-making which the TRC prompted. As Vorster (180) asks, “[d]oes the reliance on spectacle and exaggeration, despite its potential deceptiveness, allow a vital moment for empathy-building that might otherwise not exist? And if so, does it matter whether the story of Ndwandwe is absolutely true?”. These questions need to be posed again and again in order to prevent the neat resolution of Ndwandwe’s story and the subsequent forgetting this entails (see Vorster). Ndwandwe was denied the opportunity to tell her story; *The Blue Dress* offers an encounter with her memory and the problems which arise in remembering. Second, some readers might claim that *The Blue Dress* is simply that, a pretty blue dress and nothing more. It is a cliché, but it is also true, to say that diverse interpretations arise from different beholders. This speaks to the dynamic complexity of art; interpretation can be curated but not controlled. Individual doubt about the aesthetic merit of *The Blue Dress*, does not negate how the artwork continues to pervade judicial and scholarly imagination.

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