

AESTHETICS OF HUMAN RIGHTS: IMAGES THAT PROVOKE CITIZENSHIP

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Abstract

The main research question presented in this text is to know to what extent aesthetics can move people to fight for rights, in order to contribute to a change in the social, legal, and political paradigm. Can aesthetics be seen as a force that is both reflective and capable of transforming societies and law through the exercise of citizenship? Recognizing that the process of law formation is composed of rational and emotional elements, this essay explores how aesthetics can contribute to law formation, both through the analysis of literature on the one hand, and images on the other, trying to explain how the reception of images can move people to fight for (their) rights. It is through a theory of the ‘image act’ (that considers images as acts), that the relationship between aesthetics and its ability to provoke emotions in people can be understood. Thus, the text tries to explain how images and artworks may move people to fight for a change of the legal paradigm, summoning in this process both images that represent the law and images that criticize it. This essay puts forward a theory of the legal image as part of an aesthetics of human rights, capable of explaining how the received images move people to fight for rights.

Keywords

Aesthetics. Art & Law. Human Rights. Legal Philosophy. Citizenship.

Summary

1. Introduction. 2. Sociological aesthetics of law. 3. Aesthetics of human rights. 4. Towards a theory of the legal image. 5. Conclusion. 6. References.

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1. INTRODUCTION

The core issue discussed in this paper focuses on understanding to what extent aesthetic creation, i.e. images and artworks, can contribute to moving (or motivating) people to fighting for human rights, through active citizenship and political participation. The main objective is to develop a theory of the legal image as part of a concept of aesthetics of human rights, to show the importance of images and artworks as factors that may play a role in the formation of the law, creating a theory within the scope of philosophical, sociological, anthropological and artistic reflections of the law.

The methods used are twofold: on the hand, relevant literature on the links between aesthetics and law is critically analyzed, while on the other hand, also several artworks and images are commented on, to demonstrate the relationship between their content and the ability to provoke emotions in people, consequently moving the observer into action and to (re)claim human rights.

The next paragraph (2) focuses on literature, describing the ideas of some important authors in the field. A theory of the ‘image act’, as proposed by Horst Bredekamp, is key to understanding how images promote actions on the observers’ side, leading people to claim rights. The connection between aesthetic representation and the evolution of legal rationality is debated by authors as Andreas Fischer-Lescano, Hauke Brunkhorst, and Martti Koskenniemi. The following paragraph (3) focuses on some images exemplifying how the ideas of law and (in)justice are represented visually, showing how artworks and images hold political-legal meanings, and through their intrinsic force may raise critical negativity, moving the observers to taking political action and exercising rights of citizenship. The final paragraph draws some conclusions.

2. SOCIOLOGICAL AESTHETICS OF LAW

The images of law and justice are present in a legal aesthetic that mirrors society, as discussed in Immanuel Kant's² 'transcendental aesthetics', or in Niklas Luhmann's³ 'Decision Theory', that considers the formation of law as a both rational and emotional process. Theodor Adorno, in 'Some Ideas on the Sociology of Music'⁴ explains, in the case of music, the relationship between critical subjectivity and systemic violence, and its social and political consequences. And Martti Koskeniemi, in his 'Law's (Negative) Aesthetic: Will it save us?'⁵ based on a critique of false constructions in the formation of law, explains how certain aesthetics are used to affirm certain legal values as hegemonic.

These theories addressing aesthetics and law reveal diverging but concurring approaches to the idea that aesthetics are relevant to the formation of the law, through emotional forces, describing aesthetics as the result or mirror of societies (but, on the other hand, also often criticizing the positive law). However, these formulations do not explain how certain images and works of art can be engines of legal, political, and social change, namely, through an explanation that configures images as carriers of an intrinsic force that moves people, the '*energeia*', as argued by Bredekamp in a theory of the image act.⁶

Bredekamp identifies the image as an act, underlining the latent force and ability to provoke action in the observer. The central thought of this theory resides in an idea of image autonomy, and in its '*energeia*'.⁷ The '*energeia*' is the intrinsic force residing in the image, activated by the observer. It is what allows to individualize the meaning of the image so

² KANT 2013 (1781).

³ LUHMANN 1990.

⁴ ADORNO 1999.

⁵ KOSKENIEMI 2015, 6.

⁶ BREDEKAMP 2015, 35.

⁷ *Ibidem*.

that it leaves a state of latency and directly causes an action in the sphere of the observer, causing a particular emotion, thought, or reaction. It is through this idea of the active force of the image provoking a reaction that the ‘iconic act theory’⁸ is constituted. The theory directly contributes to an idea of discourse that is created through the relationship established with the observer, substituting the speech act theory as proposed by John Langshaw Austin and John Searle.⁹

Although Bredekamp¹⁰ places the centrality of his theory on the side of the image, attributing to it a power going beyond the mere subjective interpretation of the observer, in this essay equal importance is attributed to the observer's role, since the image, or the work of art, can only exist and hold meanings in the relationship with the one who sees it. Moreover, the ‘theory of the iconic act’¹¹ is applied to the political and legal meanings that images invoke, summoning the observer to take political action and to exercise rights of citizenship.

Andreas Fischer-Lescano, in “Sociological Aesthetics of Law”,¹² clarifies how images of law and justice appear in legal aesthetics as contributing factors to the justification of law, explaining several possible connections between aesthetics and the practice of law. The author clarifies how aesthetics are important for a theory of law that is self-critical and how the subjectivity of the images received can have consequences at a social, political and legal level, revealing how, in society, the dimension of aesthetics contributes to the content of the law. In this way, images and works of art become an element of the formation of ideas of law in society, stabilizer or destabilizer of ideas of justice, enabling what Fischer-

⁸ BREDEKAMP 2015, 36.

⁹ SEARLE 1969; AUSTIN 1962.

¹⁰ BREDEKAMP 2015, 10-35.

¹¹ *Ibidem*.

¹² FISCHER-LESCANO 2016, 6.

Lescano called an ‘aesthetic sociology of law’,¹³ which establishes the intrinsic relationship between aesthetics, law and society.

The author does not, however, explain the relationship between the received images and how they provoke actions in social movements demanding rights. Images can help to raise awareness and denounce global systemic problems, of a legal and political nature, provoking political action to claim rights and thus the transformation of the legal system. For this reason, an author like Bredekamp is important through the ‘theory of the act of the image’,¹⁴ explaining how the intrinsic force of images, the *energeia*,¹⁵ is able to move people. This theory was used to demonstrate the relationship between the images received by the observers and the emergence of citizenship movements that demand rights,¹⁶ which is not explained by Fischer-Lescano. Moreover, it will be possible to consider a theory for the creation of the law that takes into account the importance of aesthetics in its formation, explaining, through a theory of the legal image, how these images move the people to fight for rights.

Fischer-Lescano made a powerful contribution to the intrinsic relationship between the spheres of freedom, aesthetics, and law: ‘When “human freedom” is described as a central concern of “aesthetics,” this points to the potential of a sociological aesthetics for law, namely for assessing the legal presuppositions for shaping this freedom’.¹⁷ The author stresses how the concept of a ‘sociological aesthetics of law’¹⁸ is in the path to a legal system that is intertwined with freedom from a point of view of aesthetic creation, and which results directly from contemporary reality. It is only through the relationship between aesthetics, law and society, as factors

¹³ *Ibidem*.

¹⁴ BREDEKAMP 2015, 36.

¹⁵ *Ibidem*.

¹⁶ MOTTA GUEDES 2021.

¹⁷ FISCHER-LESCANO 2016, 24.

¹⁸ FISCHER-LESCANO 2016, 1.

that mutually influence each other that it is possible to understand the multiple contributing aspects to the formation of law.

The author further highlights how the law can have its own aesthetic,¹⁹ present through varied constitutional aesthetics, and how the very ways in which the law is configured are the result of a dominant aesthetic choice in its time, for example, the choice of a certain constitutional model, or even the ceremonial way in which judicial trials take place. For this reason, Fischer-Lescano emphasizes how aesthetics make new forms of justification of law possible: “Then, the second (normative) step is to use reflection on the aesthetic constitution of the law to make legal practice itself more complex, that is, more adequate to human beings and society. In particular, the aesthetics of law makes possible a new approach to the justification of law”.²⁰ However, the author does not clarify what role images play in contributing to the change of the law, even though images contain political-legal meanings and criticize the positive law. Moreover, images may potentiate an increase in critical negativity,²¹ leading people to the exercise of citizenship: this is what is called an aesthetics of human rights that moves people.

It is only through a ‘sociological aesthetics of law’, which considers the images of anti-power and human rights, and not just the images that represent the law, that it can be clarified how these images can make a powerful contribution to the formation of the normative world, through its force that moves people to exercise citizenship and claim rights. Fischer-Lescano recognizes this dimension,²² since it shows how systemic violence can be denounced through aesthetic formulations that reveal situations of injustice and contribute, as Adorno emphasized in the case of

¹⁹ FISCHER-LESCANO 2016, 2.

²⁰ *Ibidem*.

²¹ BRUNKHORST 2014.

²² FISCHER-LESCANO 2016.

music, to the increase of critical negativity in its relation to the denunciation of violence.

Martti Koskeniemi, in the essay “Law's (Negative) Aesthetic: Will it save us?”,²³ emphasizes how the aesthetics of law are essential for the creation of critical negativity which will over time change the law. These images may play an important role in the formation of critical negativity and in the replacement of hegemonic values by other values that become dominant, such as human rights and their various formulations through time. It is not just about a constitutional aesthetic that illustrates the current normative system, but about competing values fighting to become hegemonic.²⁴ Images can play a decisive role in denouncing violence and situations of injustice, moving people to fight for rights, and configuring them as agents of citizenship.

This argument of aesthetics as contributing force to the formation of critical negativity can culminate in a legal paradigm shift based on the ideas of Hauke Brunkhorst,²⁵ who argues on the importance of critical negativity as an important factor contributing to the legal paradigm shift, since the law is permanently influenced by the tension between opposing values that fight to become hegemonic. For these reasons, this essay presents a theory for the formation of law based on the thought of the School of Critical Theory, reinforcing the importance of the negativity of non-consecrated law as a key to the development of a theory of law that is self-critical and self-regulatory. In other words, it is argued that the law is organically constituted through non-hegemonic ethical-normative values, which over time will lead to a change in the legal paradigm.²⁶

²³ KOSKENIEMI 2015.

²⁴ BOURDIEU 1987.

²⁵ BRUNKHORST 2014.

²⁶ *Ibidem*.

As Brunkhorst indicates,²⁷ the law carries hidden negativity that over time will destroy the legal system itself, but this negativity is contained in the positivity of law enshrined by the legal system and also in its aesthetics. There is a set of values not positively established by law causing tension in the legal system, eventually leading to its reformulation. In this perspective, the aesthetics of human rights, based on a 'sociological aesthetics of law', seeks to understand images representing situations of violence and injustice, and how these images move people to fight for rights, creating critical negativity through an aesthetic that denounces human rights violations.

More and more images circulate in the world incessantly and are spread on social networks at the speed of a second, allowing their immediate dissemination and access to thousands of people. People are confronted with images showing the legal, political and social reality of the world, incentivizing their action through the exercise of citizenship, in a perspective that approaches the issue of the realization of human rights.²⁸ Indeed, the formation of legal rationality also involves emotional forces that move people, and these emotional forces generate ideas and values based on the perception of what justice is. As Brunkhorst and Koskenniemi described,²⁹ images can represent ideals and move people. The importance of aesthetics of human rights as part of a theory of the legal image reveals how the legal meanings of images move people to fight for rights through the strength of images and their powerful emotional impact on people, consecrating the creation of rationality as well as originating from a process of emotional formation.³⁰ In this perspective, Adorno emphasizes that the construction of rationality goes through a

²⁷ BRUNKHORST 2014, 10.

²⁸ See ARENDT 1951; BALIBAR 2012 & 2014; MOYN 2019.

²⁹ BRUNKHORST 2014; KOSKENNIEMI 2015.

³⁰ ADORNO 1999.

process in which aesthetics plays a decisive role since rationality can only be formed in a broad relationship with all dimensions of the human being, including the emotional side.³¹

For these reasons, Brunkhorst³² also presents the negativity of law as constituted of values and forces struggling to become dominant, where images can play an important role in the formation of critical consciousness, leading to the exercise of citizenship and the struggle for the transformation of the legal paradigm. In this perspective, rationality is a process depending on each person's place, time, and culture, but also on aesthetics as an emotional field that moves people, allowing for new understandings and experiences in social and legal relations.

Fischer-Lescano emphasizes how the construction of rationality also depends on an emotional process in which aesthetics participates,³³ as a representation of ideas of society and law,³⁴ but also as a critique of these same ideas. Emotional forces are elementary to the human being, and they are an essential key to understanding the social, political and human relationships that have consequences in the field of law.³⁵ For these reasons, the process of rationalization of law and humanity is also the result of an aesthetic influence representing the current legal-political system.³⁶

3. AESTHETICS OF HUMAN RIGHTS

³¹ FISCHER-LESCANO 2016, 12.

³² BRUNKHORST 2014.

³³ BRUNKHORST 2014, 21.

³⁴ RANCIÈRE 2004.

³⁵ FISCHER-LESCANO 2016, 22.

³⁶ See NUSSBAUM 2013.

Some images represent the law while other images criticize it, this paragraph analyzes how the law has been represented and criticized in the contemporary era through images that explain how aesthetics hold legal-political meanings. These images potentiate an aesthetics of human rights which can move people to claim rights.³⁷ However, the images brought to analysis are not images of the authority of power or the State,³⁸ but rather the ones that criticize the law and generate critical negativity. The representation of ideas such as violence, vulnerability and human rights are immensely present in the contemporary artistic landscape,³⁹ they invoke political concerns diluted in the form of works of art, often transforming these into a form of political denunciation both explicitly and implicitly.⁴⁰ Faced with a certain specificity that some works may invoke, one can think that the idea of aesthetics of human rights is exhausted because it can also be at the service of causes.⁴¹ However, is this a consequence of an intention to politicize the meanings of the images in the contemporary era by artists that results directly from society and contemporary reality? The problem that may arise is that, often falling into a visual and written statement, the work of art does not contain ambiguity and may become an illustration of ideologies. However, images have a dimension that does not unequivocally communicate a message, their interpretation depends of each person's perception and appreciation, causing a variety of emotions. There is a question here that is important to emphasize: what do the images want to tell us?⁴² And if the images want to tell us something, isn't this also always a situation of balance between what the artist wanted to tell us and what the observer's interpretation raises about what he sees? In

³⁷ See RANCIÈRE 2004.

³⁸ See DAHLBERG 2012; DOUZINAS & NEAD 1999.

³⁹ NUSSBAUM 2013.

⁴⁰ BREDEKAMP 2015, 36.

⁴¹ KOSKENNIEMI 2015.

⁴² MITCHELL 2005, 28-56.

this concern, a point of view of the aesthetics of production may be important to understand the work, considering that there may be intrinsic subjectivity to the artistic object itself that invokes a multiplicity of meanings that are potentially found,⁴³ activated by the person who sees the image and the meanings that emanate.

An aesthetics of human rights is often based on a perspective where images criticize violations of law, demonstrating that aesthetics, as a result of society, have been concerned with issues of a legal-political nature, producing images of injustice that potentiate the increase of critical negativity,⁴⁴ leading to a change in the legal paradigm.⁴⁵ Be it, for instance, the work of the artist Pedro Reyes who, in a collaborative community process, transformed firearms into shovels to plant trees,⁴⁶ addressing the problem of war.

⁴³ *Ibidem*.

⁴⁴ KOSKENNIEMI 2015.

⁴⁵ BRUNKHORST 2014.

⁴⁶ Pedro Reyes, born in Mexico in 1972, has worked across a wide range of mediums, including performance, sculpture, architecture and video. His works often reflect on community and collaborative processes to potentiate political, social, and environmental changes. In *Palas Por Pistolas* the artist utilized several weapons owned by Mexican cartels and communities to transform them in to shovels to plant trees. The work highlights the participation of the community in the creation of the artwork, through the action of material transformation, but also through the poetic and metaphorical power that is intrinsic to this action.



Figure 1: Pedro Reyes, *Palas Por Pistolas (Pistols Into Spades)*, 2008, France, XX Bienal de Lyon.
Source: WikiCommons.

Or be it Ai Weiwei who works with issues such as refugees and asylum seekers.⁴⁷ Or Or David Hammons and post-colonialist issues,⁴⁸ etcetera.

⁴⁷ The subject of Ai Weiwei's works arises from the experience of this Chinese artist as a refugee, e.g. the artwork *Law of the Journey* (2017), a huge installation of an inflatable boat with refugees suspended over the floor. This work was used by the movement 'Global Citizenship' in a campaign to fight for human rights.

⁴⁸ David Hammons has a vast work dealing with issues of colonization, exclusion and racism. The artist gathers discarded items from the street in order to create films and installations that expose segregation and poverty. Works such as *African American Flag* (1990) and *Too Obvious* (1996) are exemplary of this.



Figure 2: David Hammons, *African-American Flag*, 1990, Paris, Collection Pinault - Bourse de Commerce. Licensed photograph by the author.

Jenny Holzer often comments on abuse of power and gender and equality politics. Holzer's works deal with survival,⁴⁹ and with the representation of the way we live and relate to each other, often confronting the observer with individual and collective behaviors while promoting values such as human rights as a form of resistance against oppression and systemic violence.⁵⁰ In this way, the artist contributes to criticism of the established ethical-normative values, promoting the creation of legal and human rationality. These works integrate an aesthetics of human rights because the latent meanings of the images challenge the observer to confront the existence of a violent and unjust reality, which, through intrinsic force, moves people to the exercise of citizenship as a way of realizing human rights,⁵¹ since they awake critical awareness about society and the law.⁵²

⁴⁹ "I try to make my art about what I'm concerned with, which often tends to be survival", Jenny Holzer, 2011, <https://projects.jennyholzer.com/> , accessed 22 October 2022.

⁵⁰ ADORNO 1999.

⁵¹ BREDEKAMP 2015, 36.

⁵² KOSKENNIEMI 2015.

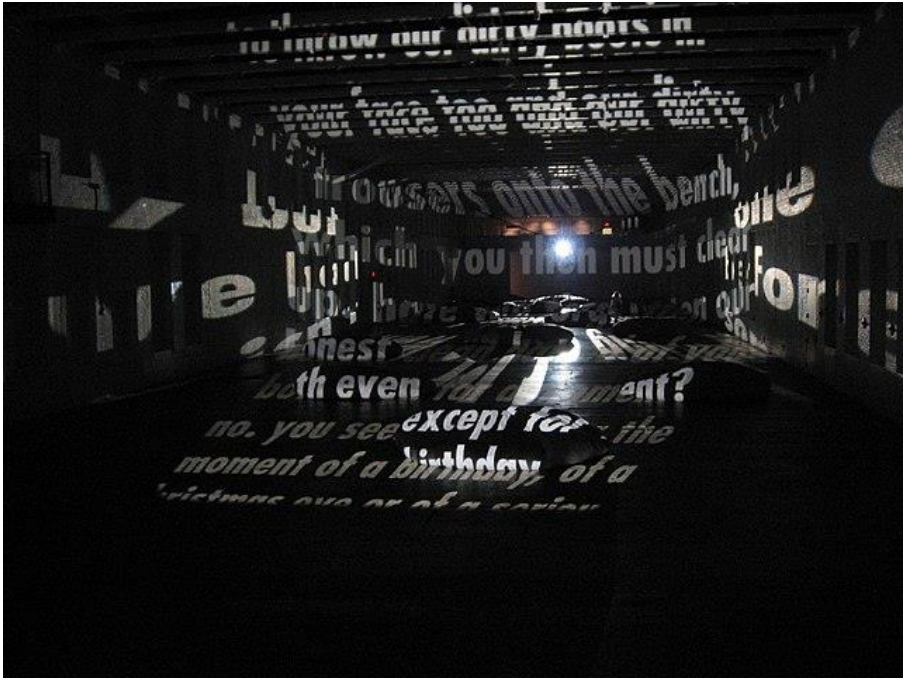


Figure 3: Jenny Holzer, *Projections*, Projection at Mass (Massachusetts Museum of Contemporary Art, North Adams), 2008. Source: WikiCommons.

The relationship between these works and their impact on people is evident through their reception in society, in various media, and in citizenship movements that use them in campaigns for human rights. This is the case of Ai Weiwei (e.g. the work *Law of the Journey*), Banksy (e.g. his graffiti on the Palestine wall), Pedro Reyes (e.g. his aesthetic and community processes), Jenny Holzer (e.g. her projections and campaigns appealing to vote) and many more. Alfredo Jaar,⁵³ in *Infinite Cell*,

⁵³ Alfredo Jaar (born 1956) is an artist, architect and filmmaker living in New York, <https://alfredojaar.net/biography/>, accessed 24 October 2022.

demonstrates how the issue of human rights is presented, in an implicit but not obvious way, directly placing the observer in a position of discomfort, since the installation places the viewer in an infinite cage, where the work reveals itself as a simulation of the absence of freedom.



Figure 4: Alfredo Jaar, *Infinite Cell*, 2004, installation, Rome, MAXXI National Museum of XXI Century Arts. Source: Google Arts and Humanities.

The artist explains how this piece is part of the trilogy of works entitled The Gramsci Trilogy, which is inspired by Pasolini and Gramsci and the way they were persecuted by the fascist regime. 'Infinite Cell [...] is a metaphorical representation of the cell where Gramsci, one of the founders of the

Italian Communist Party, died – imprisoned by the Fascist government of Mussolini. It's also a direct reference to Pasolini's writings and thinking'.⁵⁴ The artwork functions through an infinite reflection as the mirror is inserted in a cage, invoking ideas about the lack of freedom. The artist underlines how the work of art can influence the perception of what the world is in each observer making the infinite cage a metaphor for the human condition, freedom and human rights in contemporaneity.

In the essay “Documentary/Vérité: Bio-politics, human rights and the figure of truth in contemporary art”,⁵⁵ art curator Okwui Enwezor argues that contemporary art has been marked by a fusion between ethics and aesthetics present in the work of art that comes directly from the contemporary global reality. The author configures strong aesthetic currents as mirrors of human and political reality, analyzing works of art and documentaries present in the Documenta exhibition in Kassel as examples that testify to this position.⁵⁶ Although there are opposing positions that defend that art is not political, it seems unequivocal, as Enwezor maintains, that art, being an endless purpose, can have the meaning that the artists want to give it, and these meanings are a direct consequence of contemporary reality, resulting directly from social, political and legal facts.⁵⁷ This perception that contemporary art has been marked by a transition or an emphasis on these themes⁵⁸ is intertwined with the contemporary development of human rights. With the global recognition of human rights, as well as with globalization, generalized

⁵⁴ Alfredo Jaar, 2007, <https://art21.org/read/alfredo-jaar-the-gramsci-trilogy/>, accessed 24 October 2022.

⁵⁵ ENWEZOR 2004.

⁵⁶ In the eleventh Documenta participated artists such as: Alfredo Jaar, Mona Hatoum and Pierre Huyghe.

⁵⁷ ENWEZOR 2004.

⁵⁸ RANCIÈRE 2004.

conflict, democracy, capitalism, politics and the development of law in general, these themes mark contemporary issues in art, raising, in turn, critical negativity on the depicted subjects.

Nevertheless, a political work of art poses no problems for the law because the idea of political art is distinguished from propaganda. The work of art is not self-evident in the meanings it invokes, but paradoxically allows revealing and knowing forms of truth in an experience of human existence, thus reflecting as part of an aesthetics of human rights that can move people. Consequently, the political work of art differs from a form of propaganda, since the artwork can be intrinsically political, because politics is an integral part of life and contemporaneity, invoking it and moving people since its proliferation and power can summon an action in people that manifests itself through the exercise of citizenship.⁵⁹ Such was the case, recently, with the images of the death of George Floyd which circulated in the media and which caused an immense wave of global protests (e.g. the movement Blacklivesmatter), but also the images of the war that broke out in Ukraine, mobilizing thousands of people across Europe to demand peace and human rights. These images of protests against the war show how images of violence and war provoke people to exercise citizenship.

4. TOWARDS A THEORY OF THE LEGAL IMAGE

Considering that images have a power capable of moving the observer and, through the empathy felt by the observer, or the relationship established between the artistic work and the one who sees it, as argued by Horst Bredekamp and Lynn Hunt,⁶⁰ there is in the image a force that

⁵⁹ See ARENDT 1951; BALIBAR 2012 & 2014; MOYN 2019.

⁶⁰ BREDEKAMP 2015; HUNT 2007.

causes an emotion in the observer culminating into action on the part of the observer. In this way, whoever sees is no longer a passive element to become an agent, since the image provokes an action, through the strength of the content and the meanings it contains in its discourse. This discourse, whose legal and political meanings are activated by the beholder, provokes a feeling that moves the observer through the intrinsic force of the image.⁶¹ Unlike Bredekamp,⁶² it is argued that the intrinsic content that the image carries depends not only on what is represented and on the latent force of the image, but also on the ability of the person who sees it to relate it to its content, causing it to have a strong emotion, from a perspective of reception aesthetics. This assumption that artworks cause an emotion that moves the observer, configures itself as an essential foundation for the idea that images can contribute to the realization of human rights through the exercise of active citizenship. Understanding that an image causing emotions may move the observer to action and the exercise of citizenship and rights, potentially causes a change in the paradigm of the legal system. In this sense, the aesthetics of human rights (as an emotional field) can become a stabilizing or destabilizing element of ideas of law in society, knowing that empathy is a quintessential part of human existence.

The works of the artists analyzed in this essay contain ideas of citizenship and human rights, and intrinsically have a force that may provoke the observer to take political action. It is not just about considering the legal-political meanings contained in images,⁶³ but understanding that aesthetics

⁶¹ BALIBAR 2012.

⁶² BREDEKAMP 2015, 10-35.

⁶³ While it could be argued that what moves people is the explanation of the image, the argued position aligns with Horst Bredekamp's theory that it is the image's intrinsic force that provokes action. Therefore, the analytical explanation comes always after the initial impact that images may have on people.

increase the critical negativity of the law and move people to the exercise of citizenship. Although concepts have their historiography, images and works of art are not just a consequence of that same historiography, but directly contribute to the collective construction of mentalities and to the invocation of formulations on human rights. The image's content and latent force may provoke actions through the image's *energeia*, transforming the observer's passive position of mere viewer into that of an agent who claims rights.

This is shown, for example, by Holzer's works on truth and the abuse of power, and by his campaigns appealing to vote in the 2016 and 2020 presidential campaigns, broadcast in numerous media. It is also the case of Ai Weiwei's works on the violation of human rights, with the reception of his *Law of the Journey* by the global citizen movement, exemplifying the importance of artworks for a campaign in favor of refugees, condemning States that refuse asylum. The criticism by Alfredo Jaar, Banksy or Pedro Reyes, of a social and political system, referred to by several newspapers and magazines, is another example. Art and images are not just a search for the beautiful or the sublime, but a truly visual and conceptual reflection on the reality we live in in all its features.

This is not just a utilitarian view of art, putting it at the service of causes, but a true concern of artists for human issues, potentiating the representation and transformation of the world. In this sense, the artistic object can help to spread, denounce, and question a series of problems that would otherwise be hidden. Also the examples of the Floyd and Ukraine war pictures, which caused an immense wave of global protests, prove the ability of images to raise awareness and move the observer. Through its latent force and the empathy felt by the viewer, aesthetics may cause an increase in critical negativity leading to political action, even finally enabling a change of the legal paradigm. In other words, certain

images and works of art are to be seen as acts,⁶⁴ or a form of discourse about reality, possibly turning the observer into an agent.

As Lynn Hunt argued,⁶⁵ since the law is a consequence of the state of society, and is the result of its culture, art can play a decisive role in the collective construction of mentalities. These artworks discussed above show an aesthetic of human rights and highlight situations of injustice, thus contributing to the increase of critical negativity,⁶⁶ that contradicts the prevailing hegemonic values.

It should be emphasized that the realization of human rights, as defended by Hannah Arendt,⁶⁷ Étienne Balibar,⁶⁸ and Samuel Moyn,⁶⁹ depends on the very conviction of having rights and claiming them, with the legal consecration of the citizenship status being surpassed by the very conviction of whether to be a holder of rights. In this sense, images, as evidenced by Brunkhorst and Koskeniemi,⁷⁰ can contribute to the increase of critical negativity.

The question of how human rights can be made effective is answered by the fact that if human rights are a political and social construction, they depend not as much on a formal concept of citizenship, but rather on the level of political demand that constitutes the extension of the enshrined human rights. Consequently, human rights are not self-evident, but depend on the conviction of the citizen being the bearer of these rights,⁷¹ and aesthetics can contribute in law to the perception and claim of these ideas, through the emotions and their visual formulation. In this way,

⁶⁴ *Ibidem*.

⁶⁵ HUNT 2007.

⁶⁶ BRUNKHORST 2014.

⁶⁷ ARENDT 1951.

⁶⁸ BALIBAR 2014.

⁶⁹ MOYN 2019.

⁷⁰ BRUNKHORST 2014; KOSKENIEMI 2015.

⁷¹ ARENDT 1951.

works of art have a decisive role in the construction of an idea of citizenship and human rights, enhancing their effectiveness, since aesthetics cause in those who see them an emotion that may potentiate the exercise of active citizenship. Images and artworks are truly mechanisms of action, experience, transmission and provocation, containing legal and political meanings activated by those who see them.

5. CONCLUSION

Images are immersed in legal meanings, and these can cause a feeling that moves the observer, summoning him to a political action that involves the active exercise of citizenship and that contributes to the realization of human rights. The evolution of rationality, humanity and law is a social and historical construction,⁷² also implying an element of emotional formation as an intrinsic part of the human being.⁷³ Emotions can result from the aesthetic choices made by an artist, and move people to transform the law. The study of this ‘aesthetic sociology of law’⁷⁴ and the formulation of the aesthetics of human rights are part of the philosophy of law and a training process in which aesthetics participate.

Thus, considering the strength of the legal and political content that certain images and works of art contain, as well as their ability through their latent force to provoke political action in the observer who fights for human rights, this article hopes to have contributed to the ‘theory of the legal image’.

⁷² WEBER 1978, 657.

⁷³ ADORNO 1999.

⁷⁴ FISCHER-LESCANO 2016.

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