



VIRGINIA LAW WEEKLY

INSIDE:



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Human Rights Program Promotes Student Writing Competition

Billy Easley '13
News Editor

The University of Virginia Human Rights Program and the Virginia Journal of International Law invite all interested students to compete in the 3rd Annual Virginia Law Human Rights Student Scholars Writing Competition.

Professors Deena Hurwitz and Pierre-Hugues Verdier explained why this competition provides a rare opportunity for anyone with a burgeoning passion in this area of law. "There is a lot of interest in international human rights," noted Verdier, "but it can be difficult as a student to have your work considered for publication in a leading international law publication. In this respect, the Human Rights Writing Competition is a unique opportunity for anyone interested in teaching or practicing in the field—or simply in reaching a broader audience."

Hurwitz echoed Verdier's sentiments: "It is unfortunate that there are not more opportunities for law students to engage in academic writing," she explained. "Publishing a work of legal scholarship can be a great boon to any young lawyer. It is prima facie evidence that the author can dissect complex issues and clearly articulate original ideas, skills that look good on any resume and better in legal practice."

Hurwitz also described the goals of the competition. "We initiated the writing competition to help students focus on critical legal issues in the field of human rights and to promote and support scholarly writing here at the Law School. She also pointed out that one aspect of this that has yet to be realized is the presentation of works-in-progress in a constructive and collaborative environment. "The HRP and VJIL envision a workshop with the top authors and U.Va. Law students as discussants. We hope to be able to do something like this year."

Entrants are not bound to any specific area of human rights law. The winner of the competition will be awarded a \$500 prize and expedited consideration for publication in the Virginia Journal of International Law. The deadline for the competition is Jan. 13, 2012. All entries should be submitted to hrsswc@vjil.org.



photo by April Reeves '12

Students, Faculty Mingle at Wine & Cheese Reception

Though students easily outnumbered faculty present, a good time was had by all.

Former World Bank VP Discusses Barriers to International Investment

Evan Mix '12
Executive Editor

On Nov. 3, former World Bank Vice President and General Counsel Ko-Yung Tung visited the law school to discuss the importance of global development, strategies for reducing poverty in the developing world, and the challenge of balancing the interests of foreign investors and host countries during the global financial crisis. Tung is currently

a senior counselor at Morrison Foerster LLP in New York.

The World Bank's mission is to reduce poverty by loaning money to developing states for capital improvements that will lead to lasting economic growth. According to Tung, "the issues confronting the World Bank are horrendous." World Bank loans go to some of the most underprivileged nations in the world — in many cases, ones whose residents live on less than a dol-

lar a day.

One of the biggest problems these countries have is attracting foreign investment from other states and private parties. Most of these investments go to larger, more prosperous countries rather than the developing countries that need it most, said Tung; this is because investors see developing states as riskier because of issues with their legal

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Ryan, Block, Coughlin Address Students Interested in Law & Public Service

Michelle Carmon '14
Staff Writer

On Nov. 3, Prof. James E. Ryan '92 hosted an informational meeting about the Program in Law and Public Service. Prof. Ryan co-founded the program in 2009 to benefit students who will pursue public interest careers after graduation. Some of the program's benefits include access to faculty mentors, independent research opportunities, and guaranteed

summer funding for public interest work.

Each spring, students in the program take a designated public interest-related course. Program participant Kim Rolla '13 found the required Law and Public Service course taught by Prof. Anne M. Coughlin to be particularly useful. "[It] exposed me to historical and theoretical frameworks that enabled me to think critically about my summer internship and future career options," she said.

The program also gives like-minded students the opportunity to develop valuable connections with one another. "The Law and Public Service Program integrated me into a community of students who are all deeply committed to public interest work, but whose interest areas are very diverse," Rolla said. "They are an incredible font of information and support."

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around north grounds



Congratulations to Jennifer Becker '12 and Adam Pollet '11 on their engagement.



Congratulations to Jessica Garcia '12 and U.Va.'s Dr. Patrick Keenum on their engagement.



Thumbs up to all the veterans at the Law School. Let ANG know if you're interested in sharing your Veterans' Day discount at Golden Corral.



Thumbs up to Friday's FILA Auction. ANG recommends visiting the open bar as many times as possible before bidding — your FILA grant won't fund itself!



Thumbs up to Christopher J. Dumler '09, who was just elected to the Albemarle County Board of Supervisors. ANG is expecting friendly treatment when ANG proposes a new bypass through Spies Garden.



Thumbs down to all the support for Penn State in the halls. ANG knows all of you are just gunning for in-house positions with NAMBLA.



Thumbs down to the upcoming fall blood drive. Last year ANG gave blood and still got the flu, so ANG wonders if these things are even worth it.



Thumbs up to President Tata's surprise birthday party. Curiously, ANG received ANG's Facebook invite from Tata himself.



Thumbs up to the SBA for providing the 3L sections with money for bar review pregames. Unfortunately, the powers that be saw through ANG's attempt to collect for sections A, N, and G.



Thumbs up to Volunteer Income Tax Assistance (VITA) training on Monday, Nov. 14. VITA is not to be confused with Volunteer Taxidermy Assistance training, which will take place in the Law School's boiler room.



Thumbs up to 11/11/11. Someone should tell Herman Cain to get with the times.

**War and Selective Vision,
an introduction to the
exhibition "Bearing
Witness"**

**by Douglas Fordham, Associate
Professor of Art History, University
of Virginia**

I am pleased to be able to speak this evening in response to Daniel Heyman's compelling and disturbing recent work. This is my first time speaking before a law school audience, so I'll try not to be too sloppy with my logic and argumentation. I was initially hesitant to contribute what might be considered "art-historical background" to tonight's proceedings. I don't want to detract from the fragile political contingency that these works so powerfully invoke. These painted, personal missives have escaped from the soul-crushing machinery of America's military-industrial complex, and I'm in no hurry to recapture them for fine art or its history.

But then again these are, and should be, considered serious works of art. To deny them this because of their horrific subject matter, or because of their disconcerting topicality, would diminish the role that art plays in our culture and limit the lessons that we might draw from it.

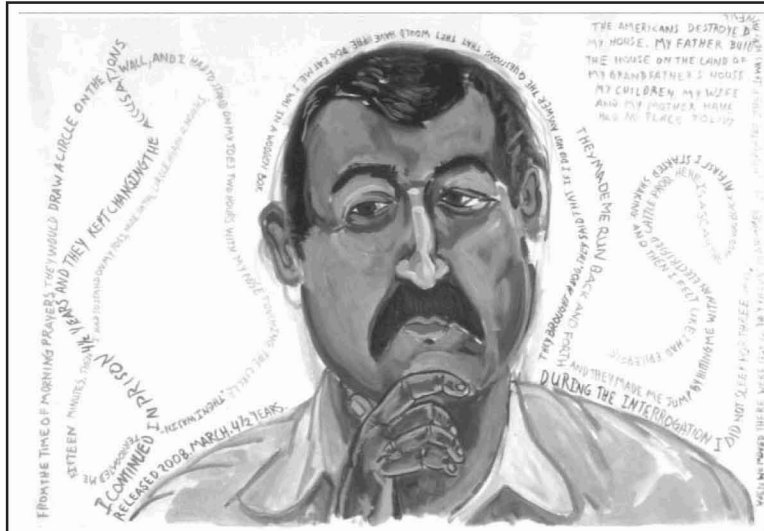
The very notion that fine art might also be a document of human atrocity is a relatively recent one. Francisco de Goya's Disasters of War series, produced between 1810 and 1820, but only made public in the 1860s, constitutes one of the earliest and most damning artistic visions relating to modern warfare's human cost. Robert Hughes described the series as, "the greatest antiwar manifesto in the history of art," and they still retain their power to shock and disturb. With the rise of the modern nation-state in the eighteenth century, the victories a country gained on the battlefield and the art that was produced in state-sponsored academies offered two of the most important indices of a nation's power and greatness. Endless paeans to a nation's "Arts and Arms," and a venerable tradition of history painting in which the former represented the latter made Goya's intervention both natural and provocative. In Goya's hands, the arts indicted a nation's arms, yet he apparently believed that the world was not quite ready to accept such a message.

Deeply troubled by the Napoleonic occupation of Spain, Goya nonetheless refused to specify where and when these Disasters of War occurred. The prints themselves vacillate between the closely observed and the allegorical. This etching, titled "Great Deeds! Against the Dead!," mocks the very language of national conquest and heroism. The naked and, in some cases, decapitated and castrated bodies, have been arranged on a tree as a warning and a threat to an unidentified enemy. And they are, dare I say it, artfully arranged, evoking both the classical nude upon which academic art rested, and the gruesome realities of modern warfare. It is a print that has become the very paradigm of an individual's power to sublimate violence into art.



Francisco de Goya, "The Disasters of War, Great Deeds Against the Dead" (No. 39, first published 1863)

This has made The Disasters of War series ripe for appropriation, and in 1994 the British artists Jake and Dinos Chapman rendered Goya's etching as a three-dimensional sculpture. I'm showing the sculpture in two different views, which emphasizes some of the problems that the variation raises. What might be the point of such a translation? Is the sculpture better suited to the art museum or Madame Tussaud's? Are the Chapman brothers suggesting that the two-dimensional print has lost its power to shock and therefore a more spectacular encounter is needed? Or are they attempting to drain the



Daniel Heyman, "From the Time of Morning Prayers" (2008, gouache on Nishinouchi paper)

etching of its power by turning it into a Halloween prop?



Jake and Dinos Chapman, "Great Deeds Against the Dead, 1994" (Sculpture)

Each of us might answer these questions differently, and some of us might have less polite questions to ask of the work. But the sculptural rendering of Great Deeds Against the Dead does put one aspect of Goya's work into high relief. For Goya's print, as damning as it may be, makes the viewer complicit in a certain erotics of power – it both activates the artistic authority of the nude and then abuses it. Art historians have raised this problem not just in relation to Goya's tormented bodies, but also in relation to abolitionist imagery of the same era, where the viewer is placed in a privileged position that both elicits empathy and mastery over a tormented naked form.

Pornography, as Marcus Wood has emphasized, is as much about domination as it is about sexual gratification. How trusting can we be of our own sensual response to images like this? Are we entirely certain that we will respond with the "correct" aesthetic response, which is also a political response, if we view it as Robert Hughes has, as an unsparing critique of war.

As if to undercut these associations, the Chapman brothers had another go at the same etching in 2003, but this time they physically altered an original nineteenth-century print pulled from Goya's copper plate. The Chapman brothers retitled the image "Insult to Injury, Great Deeds Against the Dead," and the insult would appear to be directed at Goya as much as his tormented subjects. According to the Chapmans these are "reworked and improved etchings from Goya's Disasters of War," and they are not only deeply irreverent, but also deeply skeptical, I would say, of the ability of this kind of imagery to critique modern warfare, or to persuade those who might think otherwise. In an age of incessantly violent media content - from crime shows on TV, to video games, to the 24-hour news cycle - how can we be anything but inured to the disasters that Goya offers us?

I'll admit that I've never been a fan of this work, but the Chapmans do suggest just how difficult it is for a genuinely earnest artist in the early 21st century to mount a visual critique of warfare and human brutality. Most of us have an armory of post-modern defenses ready against any serious social critique, not least of all

against distant military adventures. If Goya represented nineteenth-century violence and brutality as tragedy, then they return in the twenty-first century as farce.



(L) Jake and Dinos Chapman, "Insult to Injury, Great Deeds Against the Dead (No. 39)," 2003. Reworked and improved etching from Goya's Disasters of War. (R) Photo from Abu Ghraib

But the Chapmans' view of the world, as impoverished as it may be, clearly belongs to a larger zeitgeist in which we are all implicated. The print of "Insult to Injury" took on an uncanny quality for me when I realized that it was completed the very same year that the now infamous Abu Ghraib photos were taken. The official military report by Major General Taguba found that between October and December of 2003 there were numerous instances of "sadistic, blatant, and wanton criminal abuses" at Abu Ghraib prison in Iraq. The systematic and illegal abuse of detainees, Taguba reported, was perpetrated by soldiers of the 372nd Military Police Company, and also by members of the American intelligence community. The report and many of the incriminating photos became public in the spring of 2004 in an episode of 60 Minutes and in an exposé by Seymour Hersh in The New Yorker. And in this photograph, along with many others, we find the same horrific conjunction of exploited, degraded nakedness and absurd good cheer that the Chapman brothers had anticipated by a matter of months.

Following that disturbing sequence of images I'd like to return to a painting by Daniel Heyman in the current exhibition, and turn the conversation towards his accomplishment. In a simple head and shoulders por-



Daniel Heyman, "I also sold satellite dishes" (2008, gouache on Nishinouchi paper)

Daniel Heyman: Bearing Witness

An interdisciplinary exhibition sponsored by the Office of the Vice-Provost for the Arts, McIntire Department of Art, Law School Human Rights Program, Institute of Law, Psychiatry and Public Policy, and Institute for Practical Ethics and Public Life Ruffin Hall Gallery through December 2, Monday-Friday 9-5 and Withers-Brown Hall, U.Va. School of Law

For several years now I have been making portraits of some of the most victimized people on the planet – the innocent Iraqis who were detained and tortured in the weeks of the 2003 invasion. In the months and years that followed, many innocent Iraqis were picked up and brought into detention, often more for where they happened to be at the time or what they looked like than for anything they might have actually done. Additionally, to compound the injustice, they were held without corroboration of evidence against them even as they were being brutally tortured. Torture first, question the merit of the arrest later: this was US policy for many years in Iraq. And for all we know – governments have had habits of abusing secrecy – it could still be our policy. I met these Iraqis through an invitation from Susan Burke, lead lawyer in a series of US civil cases filed on behalf of the Nisoor Square Massacre of September 16, 2007, perpetrated by US military contractors. These two cases encompass the broad outlines of my work since 2006, when I began listening to and painting the Iraqi detainees.

Traveling with human rights lawyers led by attorney Susan Burke of Burke PLLC, I listened to the stories of over 50 men and one woman, making three portfolios of prints and over 40 painted portraits. In Ohio, Washington, DC, Seattle and Kentucky I have listened to women who were raped while serving in the armed forces and disowned from those services when the facts of their victimization simply became too bothersome for the services to deal with humanely. Six of the resulting portraits are on display in the UVa Law School.

Many of these people passed a point in their suffering when it was not clear that they would live to tell their tales. No one told their story easily.

I am not Iraqi. I am not in the army, nor served in any branch of the armed forces. I have never had a run-in with the law, justified or not. I have never been in a war zone, let alone tortured in a prison in the midst of a war. I have never been the victim of sexual abuse. Notwithstanding our different paths, these men and women opened their lives and their hearts to me in a way that was moving and meaningful. As they spoke to me of their past experiences, I drew and painted their likenesses as best as I could, writing what they were saying about their own experiences directly into the pictures, sometimes making the words difficult to read, as I felt the story being related was difficult first to live and then to explain and should not be easily accessed.

-Daniel Heyman

trait, an Iraqi gentleman strikes a contemplative pose as memories swirl and eddy around his head. "They made me jump by hitting me with an electric cattle prod..." one memory declares, and our own over-fertile, over-stimulated visual cortexes all too easily pull up visual approximations without ever quite getting it right. We return to his eyes for clues, for glimmers of what he's seen.

And it's in the deeply humane silence of Daniel's portraits that I'm reminded of Theodore Géricault and a series of portraits that he made in which the sitters' eyes reveal glimpses of an otherwise hidden trauma.



(L) Géricault, "La Monnaie du commandement militaire," 1819-20, oil on canvas (R) Goya, "The Custody of a Criminal Does not Call for Torture," c. 1810s, etching

Géricault and Goya offered two very different artistic responses to the trauma of the Napoleonic wars. Géricault's portrait on the left is typically ascribed to the 'monomaniacs' of military command. The sitter seems incapable of making eye-contact with the viewer, and the vigorous paint handling and vivid highlights rehearse the mental torment within. The portrait starts out with a Romantic presupposition that the eyes are a window to the soul, but then ultimately challenges the viewer with the inscrutability of personal subjectivity, particularly under such mental duress.

Goya titled the small etching on the right "The custody of a criminal does not call for torture." It is also referred to as the "little prisoner" and it dates from the same decade as the Disasters of War, although it is not formally a part of that series. Goya dramatized trauma through physical suffering and occluded faces that allow the viewer a significant degree of imaginative projection. Géricault painstakingly rendered immediate sensations, and the topography of his sitters' faces, as if this rugged terrain might yield clues into the psychological damage beneath.

It would be surprising and ironic to those who lived through the Napoleonic Wars to find out that we now consider Goya and Géricault two of the greatest artists of the period. They have earned that designation, in part, because they explored the psychological costs of the Napoleonic Wars in the decade following its conclusion. The real trauma begins, these personal and introspective works suggest, once the immediate threat of violence subsides.

And now, a decade after September 11, and well into the ninth year of the Iraq War, we may just be coming to terms with some of the more profound costs of that conflict. Daniel Heyman's paintings, it seems to me, are some of the first to look deeply into the faces and eyes of those whom we have fought, imprisoned, and in some cases, tortured and abused.



Géricault, "Scenes of a Hanging in London" (The hanging of Arthur Thistlewood and his accomplices), 1820, pencil and wash on paper, Rouen

I'd like to conclude with this sketch by Géricault of a hanging that he witnessed in London in 1820. The men on the gallows were actually conspirators against the British government in what has been termed the Cato Street Conspiracy. The deeper current in Géricault's subject matter is that of individuals uprooted and ultimately destroyed by monomaniacs of one sort or another. Géricault and Daniel Heyman encourage us, each in their own way, to view the individual caught up in forces larger than themselves and subjected to mental and physical agony. Politics is largely beside the point in extreme situations such as this. Would it matter to us whether Géricault's monomaniacal general arrived in such a state through Royalist or Napoleonic inclinations? These paintings test our basic sense of shared humanity and goodness. Only the moments of political ideology could blind us to the personal traumas described here.

I also wanted to conclude with this sketch because it enacts the very process of seeing and obscuring. Arthur Thistlewood stares directly out at the viewer, both unyielding and haunted. The conspirator at his side has already been covered, obscuring his vision, but allowing the spectator to make out his facial features. And the third conspirator closes his eyes as the hood is about to be drawn. The selective vision to which I referred in my title was initially conceived as that which artists have chosen to see and represent in the modern period. Goya and Géricault are exceptional in many ways for that which they chose to represent. The vast majority of artists have tended to avert their gaze from the darker consequences of modern warfare and the iron fist of the state. But as I looked and thought more carefully about these works by Goya, Géricault, and Daniel Heyman, I began to think that the selective vision was also our own. For one thing, it's much easier to look at the atrocities of the past and believe that we've progressed beyond those mistakes. Goya's title, "The Custody of a Criminal Does not Call for Torture," seems so obvious, so completely unnecessary to contemporary life, and yet we've just lived through a decade in which waterboarding and extraordinary rendition have been routinely defended as necessary and legal.

But even more fundamentally, we resist looking at those who've been unjustly condemned. Our willingness to look is directly related to our belief that justice has been done. That seems to me to be the great provocation of Géricault's sketch, in which Arthur Thistlewood conveys an uneasy sense that justice has miscarried. We stand in place of the crowd. We are supposed to be the accusers here, demanding that justice be rendered. Thistlewood inverts the public's prerogative and returns our accusing gaze.

And when, on occasion, the condemned manage to survive and relate their tales, they become an affront and an embarrassment. The intelligence of Daniel Heyman's work lies in its underestimation, in his realization that matter-of-fact presence constitutes its own telling indictment. Fine art offers one means, and still a very important one, to instigate a dialogue with subjects from whom we might typically turn away. The depth of any painting's empathy and insight is ultimately conditional, however, upon our own willingness to look and see.

We thank Dean Paul Mahoney and Associate Dean Liz Magill for their support as well. And special thanks are due to Taylor Fitchett, the Director of the Law Library for her financial support for the exhibition of Daniel Heyman's work and for her personal efforts to arrange the display that hangs in the hallway of Withers Brown. The primary architect of this program is Professor Dean Dass, director of the Studio Art Program. Dean suggested our collaboration, and brought Daniel Heyman's powerful art to our attention.

-Prof. Deena Hurwitz & Prof. Richard J. Bonnie