

Chapter 2

ARE HUMAN RIGHTS ENOUGH?

2.1 INTRODUCTION

In this chapter, I consider another problem with human rights, one that does not feature prominently in the communitarian critiques discussed in the previous chapter. This chapter is concerned about what human rights offer as a way of understanding what it means to suffer and what human suffering entails by way of a response. This question raises two related issues. The first concerns the capacity of human rights to give insight into mass abuses of civil and political and economic and social rights or other injustices and forms of human suffering. In other words, do human rights offer sufficient conceptual resources to assist the proper articulation of suffering and vulnerability?

The second issue has to do with the nature of the human rights claim. It questions the extent to which human rights hinder our ability to recognise and respond to various forms of human suffering by preventing empathic or other more affectionate forms of interaction and relationships between people. In this context, I am referring to the adversarial or antagonistic nature of a human rights claim; that is, the extent to which it prevents the proper appreciation and articulation of human suffering and vulnerability.

My reason for focusing on this problem is not to dismiss human rights; rather the aim is to show how this particular difficulty can be overcome by assimilating them further with the community ethos, something that will underscore the mutuality between human rights and community. Indeed, my overall hypothesis in this chapter is that the concept of community's important contribution in this context is that it makes love (among other values) the basis for the evaluation of how human rights and human rights institutions should recognise

and respond to human suffering. To develop this argument, I return to African moral philosophy (*ubuntu*) – where community refers to our capacity to commune with others, grounded in habits and expressions of love, friendship and empathy – to show how the value it attaches to loving relationships can enrich our understanding of human rights, particularly the ability of the latter to respond to human suffering. Indeed, I would argue that a strong moral commitment to human rights should also imply a similar commitment to love, which is in turn necessary to respond to human suffering.

In order to demonstrate, and transcend, the limited capacity offered by human rights to recognise and respond to human suffering, I approach this issue almost exclusively through the seminal writings of modern mystic and Christian anarchist, Simone Weil. Her writings are used as a medium to question the ethical quality of human rights by showing their limitations in recognising, responding to and articulating how people suffer. Simone Weil's writings show what human rights lack, and how this particular limitation can be alleviated by augmenting them with love, among other values. I will show that while Weil was critical of the ability of human rights to address human suffering, a silent voice can be found in her writings that suggests she was not totally dismissive of the relevance of human rights in any given society. I argue that, if this is the case, there would be nothing unusual in highlighting or applying Weil's writings on love to human rights, even though, at some point, she vociferously claimed that rights had no connection with love. Indeed, what I seek to achieve in this chapter is to reinterpret and extend Weil's criticisms of human rights to, first of all, show that the way their ability to encourage responses to human suffering is irreducible to our capacity to develop habits of love and empathy. Second, African moral philosophy complements this particular aspect of Weil's thought by showing how addressing human suffering through love can be enriched by community, which itself is constituted by loving relationships.

2.2 SIMONE WEIL'S CRITIQUE OF HUMAN RIGHTS

My aim is not to offer a general reading of Simone Weil's philosophical or theological writings; rather I am interested in her critique of human rights. Human rights did not feature prominently in the writings of Simone Weil. Her most comprehensive treatment of the subject can

be found in her seminal essay on 'Human Personality',¹ which shall be the focus of discussions throughout this chapter. Generally speaking, Weil engages with human rights through her approach to justice, a different approach to the more contemporary work of John Rawls among others. Weil's work particularly departs from most current approaches on the central and constitutive role attached to human rights in the pursuit of or as the end of justice.² In short, Weil's work was sceptical about rights-based approaches to justice. According to Weil, when human rights become the dominant moral discourse in any given society, it is a sign that the society itself has become commodified. The effect is that rights become substitutes for justice. This was problematic in the sense that rights are a materialist concept, a concept that exudes 'commercial flavour',³ something that in turn made it dangerous to replace justice with human rights.

In Weil's view, rights claims are typical of property, contractual and legal claims and counter claims. A consequence of the commodification of society is the intensification of rivalry and conflict among individuals. The society becomes antagonistic and contentious owing to the specific nature of rights-based claims. Rights-based claims are more common among parties to conflict. This is what Simone Weil meant when she warned that '[R]ights are always asserted in a tone of contention; and when this tone is adopted, it must rely upon force in the background, or else it will be laughed at'.⁴ For Weil, a rights-based claim is analogous to a declaration of war, a declaration that marks the separation of one from the other.

There are two related consequences of rights-based claims. The first is that affable, hospitable or more affectionate interactions are untenable between parties.⁵ In contrast, Weil argued that the impulse of love and charity is more appropriate for grasping, articulating and responding to human suffering and vulnerability. The second and more profound indictment of human rights that stems from this point is that they are unable to intricately grasp or help to express the most silent cries of injustice. This is one of the points that comes out of the vivid story Weil gave of the cry of a young girl forced to work in a brothel. Weil questions the ability of human rights to enable the attention or articulation of the deep-seated nature of the violation being done to the girl. Apart from failing to comprehend or articulate the deep sense of defilement experienced by the young and vulnerable girl, human rights reduce her suffering to a grievance around wages, property or contract.⁶

Weil argued further that human rights claims were quite superficial and akin to 'the motive that prompts a little boy to watch jealously to see if his brother has a slightly bigger piece of cake'.⁷ This cry is different to one from the depth of the heart that asks, 'Why am I being hurt?' This cry is more profound, and difficult to grasp, 'it is a silent cry, which sounds in the secret heart'.⁸ It is the sort of cry that is hardly expressed in any comprehensible language. It is often the case that those who express such cries are not able to articulate themselves audibly. In these situations, the heart that cries out is the only human faculty that is capable of freely and publicly expressing itself. For Weil, such cries can simply be heard by the act of attentive silence and love.

To illustrate this point, she demonstrates that ancient Greece had no concept of rights, as the concept of justice was sufficient for the needs of that society. Weil demonstrates this from Sophocles' tragedy, *Antigone*.⁹ To briefly summarise this story, it involved two brothers, Polyneices and Eteocles, who lost their lives after being embroiled in a contest over the kingdom of Thebes. Creon, the uncle of both men, and also, the King of Thebes, prohibited the burial of the aggressor of the fight, Polyneices. Their sister, Antigone, disobeyed this injunction and went ahead to bury Polyneices. She was in turn punished by Creon, and sentenced to death for her disobedience.

Weil found nothing wrong with the fate that had befallen Antigone, especially what she considered her foolish attempt to treat both brothers equally. Creon was justified in taking the decision he reached, as Antigone was simply mistaken in doing what she did. At the same time, Antigone's actions did find justifications in Weil's views, especially when they are considered non-rationally. She was, as Weil says, overwhelmed by love, which seemed to take precedence over everything else. Antigone was not concerned with what each person had done, what they deserved or what their personal qualities were. Rather (as illustrated below), she was motivated by a type of love that is sacred and impersonal. This was simply because she considered it as a type of love that circumvents all empirical qualities of humanity. It was a 'foolish, unreasonable, absurd'¹⁰ type of love. The point is that Antigone's actions were not determined by rights.¹¹ They were motivated by justice, a kind of justice that 'dictated this surfeit of love'. It had nothing to do with rights, since for Weil, they 'have no direct connection with love'.¹²

More fundamentally, Weil questioned rights for their close association with the concept of personality. By personality, as Christopher Hamilton¹³ explains, she meant something derived from the concept of *personalism* – the metaphysical core in all human beings, something responsible for understanding the dignity and inviolability of each human being. The problem for Weil is that personalism does not quite grasp what is sacred about human beings. It functions like a shield, which presumes that the destruction of a human being is impossible.¹⁴ It assumes that each individual is indestructible, and thereby capable of withstanding the most abhorrent of circumstances. This metaphysical core shields human beings from being afflicted, and by the same token, human beings are incapable of inflicting harm on others.

Part of the problem arises from the definition of personalism. It is difficult to know what personalism is, let alone rely upon it as a 'standard of public morality'.¹⁵ The same thing applies with the concept of rights, and to combine two inadequate concepts is very limiting. According to Weil, understanding the sanctity of human individuality lies in comprehending how the soul is lacerated by the thought of harm being done to it. It comes from the expectation, even by the vilest person, that good, not evil, will be done to them. Paradoxically, the point Weil is getting at is that the 'cry of sorrowful surprise'¹⁶ resulting from the infliction of evil is not personal; rather, such cries are impersonal protests. Whilst there are many important personal cries, they do not in any way violate what is sacred in one. For Weil, it is 'neither his person, nor personality in him, which is sacred. It is he. The whole of him'.¹⁷ If it is down to his human personality, 'I could easily pull out his eyes'.¹⁸ After all, 'as a blind man he would be exactly as much a human personality as before'.¹⁹

Weil's point is that it is erroneous to justify morally abhorrent wrongs on some empirical quality of humanity. If this is done (as in most cases), it means that no individual is capable of harming the other. This is an unrealistic response to the question of why it is wrong to harm others. Weil calls us to understand the meaning and value of impersonality.

Impersonality can only be understood through a form of solitude; that is, through what she called a form of attention. It is impersonality that draws our obligations towards others, especially the most vulnerable. Antigone's actions can be used to expand on this point. They reveal the power of impersonality, given that she is not concerned about what each of her brothers has done, or what they deserve, or their personal

qualities. Rather, she is motivated by a type of love that is sacred and impersonal.

2.3 WHY HUMAN RIGHTS MATTER

Simone Weil's criticisms of human rights are very telling, and they have certainly failed to attract an adequate response. However, even on the strength of her criticisms, it can also be argued that they do not in any way reduce the continuing moral appeal for human rights across the world today. Human rights may be hugely inadequate, but it must be recognised that in certain circumstances, they may be the only source of inclusion or hope for the poor. Weil's criticisms, at best, point to the limit of human rights, especially that observing them will not always lead to the right thing to do. More than anyone today, Weil must be appreciated for pointing out this profound limitation of human rights.

There are many ways of understanding Weil's criticisms of rights, one of which is that they call us to abandon human rights altogether. Alternatively, and this is the path I choose to pursue, Weil's critique should be read not as a call to reject human rights or replace them with something entirely new. Rather, Weil's critique is relied upon to point out the limitations of human rights in relation to suffering and vulnerability, and furthermore, to point out how they can be rescued and alleviated from this imperfection. Her critique provides us with the necessary impetus to criticise human rights internally, a path that I have chosen to follow in this book. It must be appreciated that human rights have a promise that cannot so easily be dismissed or written off. It is this promise that has given them prominence today, something that makes them an indispensable tool for the alleviation of different forms of human suffering. My aim, as such, is that instead of discarding human rights, I show how human rights can re-discover their lost dimension, and furthermore, how they can encourage more responsiveness to different dimensions of human suffering.

Paradoxically, even though Weil was critical of human rights, such criticisms are pivotal to understanding how human rights can overcome their limitations in terms of recognising and responding to human suffering. Furthermore, Weil's critique can also help us guard against the complacency that comes from appealing to rights. I am referring to a certain kind of fanaticism about human rights, a belief that the mere invocation of human rights is enough to solve all

problems in society, especially poverty, inequality, war and the lack of development. This fanaticism is one of the reasons why human rights are left unquestioned or proposed as if they exist without imperfections.

It is because of these problems that I argue here that the only way we can avoid the complacency which often accompanies human rights advocacy is by subjecting them to a kind of internal scrutiny I have suggested above. We need continually to pause to try to grasp what it means to say that human rights are ethical claims for mutual recognition. In other words, we always need to question the sort of ethic involved in this type of claim. We need to understand what standards human rights presuppose, how to measure them, or how to rediscover them if or when we deviate from them. This entails understanding how well human rights function when they are called upon to assist in addressing many questions relating to human suffering. This is, after all, why the contemporary discourse of human rights emerged after the Second World War. The ethical significance of human rights today, no matter how much they have been subsequently adapted and narrowed, cannot be appreciated without understanding how, and in what ways, they can respond to various forms of human suffering.²⁰ This kind of questioning of human rights can help to develop an ethic of responsiveness among individuals and institutions towards the alleviation of human suffering. It can be achieved exactly in the way that Weil herself spoke about it; that is, through systems of public education that assist in hearing the faintest cries of suffering. She advocated new regimes and institutions 'in which this faint and inept cry can make itself heard; and . . . put[s] power into the hands of men who are able and anxious to hear and understand it'.²¹ From this perspective, an internal critique of human rights, or measuring and understanding their ethical quality, cannot be understood without the work of Weil, most notably through her concept of attention. Attention is a habit that individuals (especially those in authority) and institutions need to cultivate to try to understand better, and address, different problems around us, especially those that cause human suffering.

Before understanding how Weil's idea of attention helps in this context, we need, first, to find a silent voice in her work that is not totally dismissive of human rights. On the surface, Weil's criticisms might seem anti-human rights, and somewhat counter-productive from the perspective of this book, since the primary aim, here, is not to

dismiss but to remedy human rights. On closer inspection, however, Weil did not oppose human rights; rather, she placed them at a secondary place. She gave more priority to love, and it was not that she thought human rights had no value at all. Agreeing with this point, Peter Winch writes:

Although, as we see, she expresses herself strongly about the language of rights, it is important to realise that she is not rejecting it as always inappropriate. I think her discussion does not even rule out the possibility that injustice may, in some cases, actually take the violation of someone else's rights . . . The *inspiration* for a demand for rights may well be a concern for justice; it may be in some circumstances to struggle for rights is the best way of struggling for justice. But that does not mean that the struggle for justice is the same thing as the struggle for rights; the one struggle may be successful and the other not – may be that is even more often than not the outcome.²²

For Winch, it is important that this distinction is not lost; that is, rights may not always lead us to justice, or they might sometimes mislead us in to thinking that rights are equivalent to justice. As such, there is nothing contradictory about trying to understand how Weil's ideas can assist the framework of human rights, so that when we appeal to them as ethical guides, they can comprehensively tell us what to do to achieve development, economic and social rights, or to alleviate the suffering that results from the failure to achieve such objectives.

The concept of attention is a powerful way of achieving that, for it is:

a form of discernment of seeing what people are saying when they are hurt . . . Attention consists of suspending our thought, leaving it detached, empty and ready to be penetrated . . . Above all our thought should be empty, waiting, not seeking anything but ready to receive in its naked truth the object that is to penetrate it.²³

Accordingly, attention is simply seeing that which we often ignore. It is an ability that exists in or can be cultivated by all individuals. As the passage above reveals, this consists of an aptitude that includes a number of things; it consists of listening, looking, being still or patient, and the willingness to embrace the other with compassion and help.²⁴

It is obvious that Weil's ideas are shaped by her Christian orientation, and also her mysticism.²⁵ Weil's Christian background influenced what she meant by attention, as it was analogous to the way she thought one could experience the love of God. The unconditionality implied by God's love is the key to grasping attention. In other words, individuals had an obligation to love one another. It was a kind of expectation that many Christians and non-Christians alike might find absurd, as well as hard to observe. The biblical account of the Good Samaritan was important in bringing this into light. The significance of the Samaritan assisting the afflicted man, who was possibly his enemy and who had fallen among thieves, is exactly what attention entails. Building on the parable of the Good Samaritan, Zenon Bankowski illustrates that attention is not simply a question of understanding who one's neighbour is, but rather 'a constitutive act of making the other a neighbour by the act of helping'.²⁶ And the act of making one a neighbour is achieved through this unique act of compassion, where the non-afflicted takes on the pain of the afflicted with love.

What Weil is suggesting is not simple, especially if one considers the narcissistic nature of individuals. Even when we are genuinely motivated to assist the afflicted, our self-centred disposition only leads to condescension, or we fail to connect with the depth of the other's suffering. Individuals either remain distant, or their interventions are paternalistic: they are not often made from a position of equality. This is perhaps why Weil thought that the only way that one could sincerely assist the afflicted is when one takes part in the affliction. What she means is that it is hardly possible to understand the afflicted from a vantage position; it is only possible if one participates in their affliction. She thought that our privileged positions are more of an accident of fate than a natural one.²⁷ Attention avoids the kind of condescension that can come from the act of helping. It makes the non-afflicted and afflicted equal. Through attention, we recognise that the act of helping can be disguised by power relations, or that the act of helping can be carried out for reasons other than the actual cry of pain. This act of helping is, therefore, an act of participation, in the sense of taking part in the suffering of the afflicted. Attention helps us to recognise that all participants are equal in pain. It restores the afflicted to a position of equality with the non-afflicted.

2.4 LOVE AS COMMUNITY

Regardless of how important love may be to different aspects of our personal lives, it continues to play a peripheral role in contemporary legal, social, political and economic contexts. This is the underlying message one gets from reading the work of Simone Weil, who, among other writers,²⁸ helps us understand why love should be relevant to many current social and political issues. As demonstrated above, love is explicitly linked to Weil's concept of attention. Love, as with most of her thought, has its distinctively Christian underpinnings, even though it can be interpreted in a secular way. Weil's work often demands individual and institutional responsibility and her writings on love are both personal and political. This is also because the boundaries between her theological and political writings are difficult to distinguish. As can be deduced from above, Weil considered love as something that is sacred and impersonal, something that could be emulated from the parable of the Good Samaritan, where the love of the neighbour was really about the love of the stranger.²⁹ Love is impersonal, impartial and unconditional. It is not identitarian,³⁰ romantic or selfish. Love is unreasonable, but yet does not totally exclude rationality. After all, attention (the act of stillness) is not absolutely a form of irrationality; it requires a certain degree of deliberation.

Love certainly cannot be legislated; this should not be mistaken as the suggestion. What it can do, though, and this is the point of the argument, is provide a background or operating philosophy that can guide our actions, or the way our laws, legal frameworks, and other institutions are designed to treat those who suffer or are in need with utmost priority. After all, no law, institution or intervention can exist without a background operating philosophy.

Zenon Bankowski reinforces the point when he argues that all attempts to organise our legal, social and political systems would always fail, unless they are created in such a way that they can assist, recognise and respond to the cries of those who suffer. Love is central to how we should respond to those that suffer. As he eloquently puts it, '[T]he move to set up law and stability will only come if we respond with love to the pain we hear'.³¹ Without the inclination to love, 'law will atrophy and we will be blind and deaf to the poor and hurt'.³²

An interesting aspect of Bankowski's work is that it provides us with a contemporary approximate of love in legal and political terms. He is

referring to the concept of welfare. To appreciate this, we first need to understand what he described as love. For him, love is as an action-guiding principle, something that is not derived from reason or rational universalising principles.³³ Love is arbitrary and useful for paying attention to particular or concrete circumstances; it is a reason unto itself. Love is a grace, unpredictable and not rule-bound. Bankowski draws parallels between love and welfare, which is regarded as the closest political principle to love. Welfare is a response to particularity, something that cannot be anticipated by devising or adhering to general rules. Welfare is the act of giving according to need and not ability. The demands of welfare, like love, are impossible to determine or constrain by rules. Like Simone Weil, although with certain differences, Bankowski sees love as pivotal to how we recognise and respond to human suffering, something required at a personal and institutional level.

Another follower of Simone Weil, Raimond Gaita, takes her emphasis on love further by showing how it is pivotal to our responses to human suffering.³⁴ Gaita shows this through his attempt to offer a theory of justice based on what he calls equality of respect. Gaita is concerned about and wants to avoid common practices that render human beings 'invisible, or partially visible, to one another'³⁵ to the extent that we become morally blind to them. He insists that it is because of this that questions of justice cannot be addressed outside a full grasp of what it means to be human.

Equality of respect is a common claim at the heart of all struggles for justice; it underlies all struggles by women, men, blacks or whites against different forms of inequality. Equality of respect is an appeal that all victims of discrimination either make or seek to make. And the struggle for social justice is no more than a struggle for the equal recognition of the preciousness of one's humanity. It is a 'struggle to make our institutions reveal rather than obscure, and then enhance rather than diminish the full humanity of our fellow citizens'.³⁶ It is against the background of equality of respect that one's humanity can fully be recognised. It is then that appeals for equal access of goods can be equally and sufficiently recognised.

If almost all injustices in society are rooted in the lack of respect for one's humanity, then the question that follows on from this is how we can strive to achieve such standards of equality or recognise the fullness of individual humanity. Not surprisingly, Gaita turns to the work

of Simone Weil in developing this thesis; that is, her emphasis on love as the ultimate source of grasping the preciousness of the humanity of each person. This is the point of the moving story about the nun working in a mental hospital, a narrative with which Gaita's book began. The nun demonstrated in the most touching way what Weil meant by attention. She embraced the affliction of the patients in ways that recognised the fullness of their humanity. This was because of the kind of love she expressed towards the afflicted. It was the type of love:

of saints, which builds on and transforms that sense of individuality, and in doing so, deepening the language of love which compels us to affirm that even those who suffer affliction so severe that they have irrecoverably lost everything that gives sense to our lives, and the most radical evil-doers, are fully our fellow human beings.³⁷

Gaita (like Weil) is writing of a type of love that is impartial and pure. It is addressed to what is sacred in a person, and it is not conditional on what a person does or fails to do. It is defined by its purity, which allows us to love the good or wicked, the noble or wretched. The point he is making is that love is the source and foundation of all our obligations. It is the reason that we can truly appreciate why we should treat others with dignity and respect. If we are unable to love, he says, then we are incapable of appreciating the point of any obligation. Love defines, even for those that we do not feel directly connected with, the nature of our obligations to them. In spite of occasions where we feel less inclined to love people directly, we end up loving them because they are objects of other people's affection. For instance, prisoners only become visible to prison guards when the latter are able to see the former loved through their loved ones (i.e., their relatives). Parental love is another good example of this pure and impartial love, one that is defined by its unconditionality.³⁸ Parents love their children irrespective of the sorrow or joy they may cause. This is why parental love is one of the best examples of unconditional love, especially for the fact that it defies rationality. It is one of the best illustrations of pure love. That is:

the power of human beings to affect one another in ways beyond reason and beyond merit has offended rationalists and moralists since the dawn of thought, but it is partly what yields to us that

sense of human individuality which we express when we say that human beings are unique and irreplaceable. Such attachments, and the joy and the grief which they may cause, condition our sense of preciousness of human beings. Love is the most important of them.³⁹

As Gaita goes on to argue, even human rights, as with the social and political institutions of our respective societies, are (or should be) founded on love.⁴⁰ The point is that we cannot appreciate what humanity really is; that is, the preciousness of individuals, without the language of love. Gaita is suggesting that if we lose the ability to love, or the ability to cultivate it, then we would fail to value, observe or respect the human rights of others. Gaita's argument is powerful in this respect as it calls us to understand that the only way we can build a tractable framework of rights and obligations must be founded upon a political concept of love. In this vein, Gaita disagrees with Immanuel Kant, who wrote in disagreement on the importance of love to our obligations to others. Kant was suspicious of love. Our respect and care for others, he says, should not depend on love. Love, for Kant, cannot be commanded or generally guaranteed. To put it differently, we do not have to love people to be able to assist them.

Building on Gaita's point, if we are unable to cultivate habits of love, we are more likely to fail to understand why we should refrain from breaching the human rights of others. Love makes it possible to properly appreciate our obligations to others, even to those whom we owe no obligation. This is, of course, a possible explanation of why we are obliged to assist children, the elderly or disabled or such others incapable of reciprocating. This is the sense in which Weil understood love, as something pure and impersonal. This is best illustrated by the analogy she draws from the actions of Antigone. Antigone's decision to bury Polyneices was not motivated by what he had done but by her pure and impersonal love for him.

My argument, then, is that without a political concept of love, it would be difficult to come to terms with the demands of the concept of human rights (as proposed in the previous chapter), which is framed assuming mutual recognition of and respect for each human being. To recap, I am referring to my proposal of a framework of human rights modelled on the interdependent and compassionate nature of the African communal world-view.⁴¹ In Chapter 1, I argued that the essence

of community is the ability to identify and pursue collective objectives and activities with others. Thinking of community in this way entails understanding how it encourages moral comportment towards the well-being of others, something based on expressions of love, empathy and friendship. *Ubuntu*, a representation of the African understanding of human dignity, is intricately linked to an individual's capacity to love and empathise with the other.⁴² In other words, to share or co-exist in community means to love and empathise with others.

Part of the reason for the focus on human relatedness and interdependence in African moral philosophy is that it is the key to the full attainment of personhood, something that cannot be achieved outside mutually supportive activities with others. Interdependence, mutual reciprocity and support are pivotal for self-growth, development and flourishing. Individuals are enjoined to treat each other as ends in themselves and not just as means. To value communal relationships is to share a way of life that prioritises care for the quality of life of others.⁴³ A person's identity cannot be fully developed without this sort of web of relationships, especially the care for the quality of life that people have for each other.

This value of human relatedness or interdependence cannot fully be appreciated outside the language of love. In African moral philosophical terms, love is simply expressed through this process of identification, sharing and caring for the quality of life of others. To identify and empathise with others is synonymous with entering into ethical relationships, based on love and empathy. This is simply what it means to say love is a form of community. All relationships, interactions and exchanges on a daily basis between individuals in a given community are based on love and empathy. This means that community is itself constituted of relationships that are derived from the love and care people share for each other.

In my opinion, the advantage of the language of community centred on human interdependence is the emphasis it places on love and empathy or other more affectionate, affable or hospitable ways of interaction between individuals. This, for me, is a better way to assist, recognise and respond to human suffering. In many situations, it is this kind of language that is needed and not the typical adversarial language of human rights claims. What I am suggesting is not an outright rejection of human rights to replace it with love; nor am I suggesting that love has all the answers to the issues that I have raised in this chapter. I am

well aware that it is difficult to attain the pure standards of love that Weil prescribed. Too often love is referred to in exclusive and impoverished terms. Love, in the conventional context, would prove too exclusive, unstable or unpredictable to be relied upon. What this means is that human rights would always be there to provide protections to those whose human condition we are unable, for whatever reason, to empathise with or love.⁴⁴

My suggestion is not that we should see community as an alternative to human rights, but rather as a means of creating a less antagonistic way of thinking about human rights. This means grounding human rights within an environment that nurtures habits of love and empathy. It is indeed from the standpoint of community that one can begin to appreciate human rights, as a part of the process of understanding what it means to belong together with others in any given community. The language of human rights makes no sense outside the inclination to belong and mutually respect each other. Human rights should be about togetherness, and not radical separation. To imagine human rights from the standpoint of community, more or less, means to ground them in habits of love, empathy and reciprocal identification. To acknowledge human rights as the basis of reciprocal recognition and exchange between each human being is to absolve them from their individualistic, self-centred and inhospitable foundations. What this means is that certain human rights would be protected as part of the condition for belonging to a particular community. To deny a specific person's human rights means to deny that person membership of his or her community.

African moral philosophy complements Simone Weil by showing us how human rights can be enriched by focusing on interpersonal and interdependent relationships, the types that can be nurtured in community. It is true that community or collective arrangements are generally not well emphasised in Weil's work. A common (but perhaps misleading) impression of her work is that she develops the idea of love and attention from a purely individual standpoint.⁴⁵ I am a bit hesitant to accept this opinion, especially if one reads a little more carefully her concept of attention or the way she understood human rights, as something that radically alienates and antagonises individuals. Looked at more closely, Weil does not espouse either an individualistic or a communitarian vision. Her vision of the world is one of connectedness, one that is constituted of a web of relationships.

Weil's idea of attention can be used to show the necessary continuity between individuals and community and vice versa. Attention is a very personal and inward act that demands the highest aptitude of solitude, silence and patience, but it is directed outwards towards persons in need. My understanding of what she is suggesting is that while our awareness of those who suffer around us can only come from the act of waiting and stillness, the response is never personal but externally directed towards those who suffer around us. The gains, as such, are not personal, even though there is a degree of self-fulfilment to be gained.

To take this further, the act of attention is analogous to an act of participation, an act carried out collectively not individually. Attention is unique in the sense that it places the afflicted and non-afflicted on a position of equality. There is no distance between the afflicted and non-afflicted. The afflicted and non-afflicted become equal in pain from the moment the latter takes part in the pain of the former. Attention is proposed literally; it is a spiritual and political or personal and collective act. Attention is an action of communication; it requires us to hear and to listen. Attention is also a form of relationship or exchange; it entails giving and receiving. Most of all, attention requires openness; it is an external predisposition towards the needs of others. It not only helps us to develop awareness of the needs of others around us, but also the necessary connectedness and interpersonal relationships between human beings. It is certainly in this sense that Weil's work can be compared to African moral philosophy, even though there are clear differences on the level of emphasis they give to values of individualism and community. Notwithstanding, both strands of thought can be used to show how love can enrich our understanding of human rights, particularly their ability to respond to human suffering.

2.5 CONCLUSION

In this chapter, I have presented the limited scope that human rights offer as a conceptual medium that can enable a deeper understanding of what it means to suffer or how to respond to suffering. This discussion has been pursued almost exclusively through Simone Weil's critique of rights and the emphasis on guiding our responses to human suffering through love. The purpose has been to make a further case for community, a type of community constituted by loving relationships,

one that is indispensable to responses to human suffering, apart from transforming human rights into a more inclusive, interdependent and responsive concept. Like the work of Simone Weil, the attractiveness of community is the mandate it gives us to respond to human suffering out of love and care for the other. This is indeed a more ethical way to structure rights and obligations, making them more oriented towards enabling individuals and institutions to recognise and respond to human suffering. This is why I have argued in this chapter that community, constituted by practical expressions of loving, should form the basis upon which we evaluate how institutions of human rights should recognise and respond to human suffering.

Notes

- 1 S. Weil, 'Human Personality', in R. Rees (ed.), *Weil: Selected Essays 1934–1943* (Oxford: Oxford University Press, 1962).
- 2 For comparisons between the work of Simone Weil and John Rawls on the concept of justice, see R. Bell, *Simone Weil: The Way of Justice as Compassion* (Lanham: Rowman & Littlefield); P. Winch, *Simone Weil: The Just Balance* (Oxford: Oxford University Press, 1989), p. 181.
- 3 S. Weil, 'Human Personality', p. 18.
- 4 *Ibid.*
- 5 J. Waldron, 'When Justice Replaces Affection: The Need for Rights', 11, *Harvard Journal of Law and Public Policy*, 1988, p. 625–42.
- 6 S. Bachelard, 'Rights as Industry', 11 (1), *Res Publica*, 2002, p. 1–5.
- 7 S. Weil, 'Human Personality', p. 10.
- 8 *Ibid.*
- 9 *Ibid.*
- 10 *Ibid.*
- 11 *Ibid.* p. 20.
- 12 *Ibid.*
- 13 C. Hamilton, 'Simone Weil's 'Human Personality': Between the Personal and Impersonal', 98 (2), *Harvard Theological Review*, 2005, pp. 187–207.
- 14 *Ibid.*
- 15 S. Weil, 'Human Personality', p. 10.
- 16 *Ibid.* p. 12.
- 17 *Ibid.* p. 10.
- 18 *Ibid.*
- 19 *Ibid.*
- 20 For a different sort of criticism of the failure of human rights to take human suffering seriously, see U. Baxi, *The Future of Human Rights* (New Delhi:

- Oxford University Press, 2002), p. vii; A. Williams, 'Human Rights and Law: Between Sufferance and Insufferability', 123, *Law Quarterly Review*, 2006, pp. 132–57.
- 21 P. Winch, *Simone Weil: The Just Balance*, p. 12.
- 22 Ibid. p. 181.
- 23 S. Weil, *Waiting on God* (New York: Harper, 1951), p. 59.
- 24 Ibid. p. 96.
- 25 Z. Bankowski, 'The Space to See', in Z. Bankowski and M. Del Mar (eds), *The Moral Imagination and the Legal Life: Beyond Text in Legal Education*, vol. II (Farnham: Ashgate, 2012).
- 26 Ibid.
- 27 P. Winch, *Simone Weil: The Just Balance*, p. 182.
- 28 S. Kierkegaard, *Works of Love*, trans. H. Hong and E. Hong (Princeton: Princeton University Press, 1995); E. Levinas, 'Philosophy, Justice and Love', in *Entre Nous: On Thinking-of-the-Other*, trans. M. Smith and B. Harshav (London: Athlone Press, 1998); M. Hardt and A. Negri, *Commonwealth* (Cambridge, MA: Harvard University Press, 2009).
- 29 J. Cabaud, *Simone Weil: A Fellowship of Love* (London: Harvill Press, 1964), pp. 213–14.
- 30 Hardt and Negri offer a similar conception of love in their book *Commonwealth*. M. Hardt and A. Negri, *Commonwealth*, pp. 179–88.
- 31 Z. Bankowski, 'Images of Images of Law', 11 (3), *Social and Legal Studies*, 2002, p. 448.
- 32 Ibid. p. 449.
- 33 Z. Bankowski, *Living Lawfully: Law in Love and Love in Law* (Dordrecht: Kluwer Academic Publishers, 2001), pp. 85–101; Z. Bankowski, 'Law, Love and Legality', 14, *International Journal for the Semiotics of Law*, 2001, pp. 199–213.
- 34 R. Gaita, *A Common Humanity: Thinking about Love and Truth and Justice* (London: Routledge, 2000).
- 35 Ibid. p. xvi.
- 36 Ibid.
- 37 Ibid. p. xix.
- 38 Ibid. p. 22.
- 39 Ibid. p. 27.
- 40 Ibid. p. xix.
- 41 T. Metz, 'Toward an African Moral Theory', 15, *The Journal of Political Philosophy*, 2007, pp. 321–41; T. Metz, 'Giving the World a more Human Face – Human Suffering in African Thought and Philosophy', in J. Malpas and N. Lickiss (eds), *Perspectives on Human Suffering* (Dordrecht: Springer, 2012), pp. 56–7.
- 42 Ibid.

43 Ibid.

44 J. Waldron, 'When Justice Replaces Affection: The Need for Rights', pp. 625–42.

45 This impression that Simone Weil is against any form of collective arrangement is evident from her writings on human obligations. S. Weil, *The Need for Roots* (London and New York: Taylor & Francis, 2002), p. 4.