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Papers should not exceed 4500 words (including notes and references). Practice-based papers should normally include images in JPEG format (300ppi). Reviews should be around 1000 words. Photo essays should not exceed 2000 words and 10 pictures. All contributions should be formatted according to the MLA style guidelines (see Gibaldi's *MLA Handbook for Writers of Research Papers*) and should include a 200-word abstract of the article submitted as well as the article itself. Authors should also send a 50 word bio with their submission.

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CONTENTS

Editorial 5

Notes on Contributors 8

Is There *Any-body* on Stage? 11 Mathilde Pavis
A Legal (mis)Understanding of (University of
Performances Exeter)

Writing *Red:* 42 Christopher
The Politics of Creativity O'Shaughnessy
(Goldsmiths,
University of
London)

The Political Body in New Circus and 55 Dr. Katie Lavers
Contemporary Circus Arts: Embodied (Western
Protest, Materiality, and Australian
Active Spectatorship Academy of
Performing Art,
Edith Cowan
University)

- Self-Definition, Name Calling, and the Limits of Language: Examining the Economics of Arts Council England, 1996/97-2012/13 69 Joe Mcclouhlin (Royal Holloway, Univesrity of London)

Book Reviews

- PostDramatic Theatre and the Political: International Perspectives on Contemporary Peformance* edited by Karen Jurs-Munby, Jerome Carroll, and Steve Giles 85 Sam Haddow (Central School of Speech and Drama)
- Performance Studies in Motion: International Perspectives and Practices in the Twenty-First Century* edited by Atay Citron, Sharon Aronson-Lehavi, and David Zerbib 88 Benjamin Fowler (Warwick University)
- Fair Play: Art, Performance and Neoliberalism* by Jen Harvie 93 Matthew Midgley (York University)
- The Feminist Spectator in Action: Feminist Criticism for the Stage and Screen* by Jill Dolan 97 Stephanie Tillotson (Warwick University)

Editorial

Politics holds a multiplicity of meanings in the context of theatre scholarship, much like the terms 'theatre' and 'performance'. This issue of *Platform* engages with the many ways in which understandings, appropriations, and methodological iterations of these three terms are in conversation. The political has been approached both thematically and structurally through and in relation to theatre and performance. This has manifested itself through ontological and structural questionings of representation, spectatorship, ideology, and subversion both on and off the stage. Theatre, performance, and politics have been theorised in relation to questions of visibility and structure, from power dynamics through to thematic constructions, interplays between form and content, performer and spectator, and dramaturgy and representation.

Thinking through the political provides an opportunity to consider the ways in which a discipline and set of cultural landscapes might operate in dialogue with, relationship to, and influence from political practice. The theme of this issue brought forth a variety of submissions, ranging from the connection between the arts and UK legislature, the politics that are created and exposed in rehearsal spaces, and body politics in contemporary performance practices.

We have decided to open the issue with Mathilde Pavis' article 'Is There Any-*body* on Stage? A Legal (mis)Understanding of Performances,' because of its strikingly interdisciplinary approach. Coming from the discipline of Law, Pavis highlights the lack of intellectual property rights of performers in contemporary jurisprudence. This absence is traced back to historical arguments in aesthetic philosophy, which both favoured text and saw performers as mere puppets for said text. In doing so, 'Is There Any-*body* on Stage?' is able to problematise legal discourse via the lens of Theatre

Studies.

The rehearsal room can certainly be a place for heightened interpersonal politics. Christopher O'Shaughnessy examines just this in, 'Writing *Red*: The Politics of Creativity,' a vivid description of the pressure-cooker environment of making a play in twenty-four hours. Positioned after the playtext for *Red*, this deeply personal article details how a group of strangers negotiate their practice together for the first time and the art they made because of it.

Katie Laver's contribution, 'The Political Body in New Circus and Contemporary Circus Arts: Embodied Protest, Materiality, and Active Spectatorship,' draws connections between embodied political protest from the early twentieth century through to the late 1960s, highlighting the influence on New Circus practices from the mid century up to the 1990s. Focusing on the work of Circus Oz, Philippe Petit, and Philippe Menard, Lavers aligns New Circus with practices in performance art which privilege the human body as the site of performance spectacle and interaction and that both thereby politicise individual materiality and identities.

Lastly, in 'Self-Definition, Name Calling, and the Limits of Language: Examining the Economics of Arts Council England 1996/97-1012/13,' Joe Mcloughlin explores the linguistic shift that has occurred in the Art's Council of England's Annual reviews in the 2000s. Mcloughlin argues that this shift demonstrates a change under the New Labour government of 1997-2010, which saw Arts Council England become more focused on obtaining a financial return on their investments. This last article rounds out the issue's varied approach to the political in relationship to how theatre is made and performances are mediated.

We would like to thank Royal Holloway, University of London, where this journal is based, and its staff for their contin-

ued support of *Platform*. Developing, reviewing, writing for, and publishing a print journal is an invaluable method of learning for postgraduates and early career researchers, the funding of which demonstrates Royal Holloway's commitment to providing opportunities for new research and the development of research skill. We would also like to thank the peer and academic reviewers for their time and thoughtful feedback. Their support has provided assistance to the research of all who have submitted to this issue. We would also like to thank Bloomsbury Methuen Drama and Palgrave Macmillan for book review copies. Finally, we give special thanks to the authors of the articles and book reviews of 'Theatre Politics.' Their hard work speaks for itself.

Will Shüler and James Rowson, Editors

Notes on Contributors

Benjamin Fowler is completing a PhD at Warwick University exploring how texts have generated innovative ways of working for contemporary theatre directors Katie Mitchell and Thomas Ostermeier. His research interests are centred on issues arising from the study of contemporary directors, particularly when they stage classic texts. This in part stems from his own experience as an assistant director at theatres including the Manchester Royal Exchange, the RSC, the Almeida, and the ACT theatre, Tokyo.

Sam Haddow is lecturer in Drama, Applied Theatre and Education at the Royal Central School of Speech and Drama. His research interests include stand-up comedy, the intersections of performance and contemporary 'emergencies', and the philosophy of history. Forthcoming publications include work on gender in the writings of Edward Bond, verbatim theatre, the England Riots, and contemporary visions of the apocalypse.

Dr. Katie Lavers is a researcher and writer based in Sydney, Australia. Her research interests span performance, circus, the body, visual arts and animal studies. She is also a director and producer of intermedia circus.

Joe Mcloughlin is a final year PhD student operating out of the Drama Department at Royal Holloway, University of London. His research focuses on Arts Council England over the last two decades and explores how New Labour's governance influenced the articulation of the organisation's long standing goals of access and excellence. He is also a keen long distance runner and has presented a variety of papers on this practice.

Matthew Midgley is playwright and in his third year of a practice-led PhD, working in the Department of Theatre, Film and Television at the University of York. His research focusses on neo-liberalism and the emerging theatre artist.

Christopher O’Shaughnessy is a practice-as-research doctoral candidate in Theatre and Performance at Goldsmiths, University of London. He is locating, examining, and critiquing spirituality in English-speaking drama since 1935, focusing on plays of T.S Eliot, Christopher Fry, Edward Bond, and Sarah Kane, and has presented at a number of conferences on this theme. His verse drama, *The Ruth Ellis Show*, directed by Jack Paterson with Katie Turner as Ruth Ellis, had well-received performances in the George Wood Theatre at Goldsmiths in July, 2014.

Based at the University of Exeter, **Mathilde Pavis** is an AHRC-funded doctoral researcher investigating the legal understanding of creativity and its impact on the structure of copyright and performers’ rights. Member of the InVisible Difference project, her inter-disciplinary research team works in close collaboration with disabled dance artists to assess the efficiency of the copyright framework in supporting works made by performing artists, including those outside the mainstream.

Stephanie Tillotson has just begun her second year as a part-time doctoral student in the English and Comparative Literary Studies Department at Warwick University. Here she is researching the late twentieth/early twenty-first century theatre practice of casting women in the traditionally male roles in the plays of Shakespeare and his contemporary dramatists. She has had articles published in the on-line journals *Exegesis* and *Exchanges*, presented papers at the last two BritGrad conferences and has written programme

notes for the Ludlow Theatre Festival. Her interests are in theatre practice and theory, Shakespeare in performance, writing for performance and pedagogy.

Is There Any-*body* on Stage? A Legal (mis)Understanding of Performances

By Mathilde Pavis¹

Abstract

This article investigates the legal narrative which frames the protection of performances. From a legal research background, the author uses an interdisciplinary approach to examine the overlap between the narratives describing performers' creativity present in the performing art studies and in the legal jurisprudence in order to analyse whether the law has followed similar theoretical evolutions these creative fields experienced. It is argued that a fundamental theoretical gap still separates the two worlds on core issues like creativity, authorship or performance. This article identifies when such a divide occurred and attempts to explain this split has not yet been bridged by policy-makers. The artistic practice of Disability Dance is used to highlight the possible causes of lawyers' (mis)understanding of the act of performing but is also presented as an argument for reform.

Introduction

When designing the regulation of performers' work (CDPA 1988, Part II),² policy makers did not attempt to define the term 'performance' or 'performing' and by-passed this issue by merely listing the types of performances qualifying for legal protection (CDPA 1988, s. 180(2)).³ Looking at the definition of the word,

¹ With grateful thanks to the SCuLE centre of research and the InVisible Difference project composed of Professors Charlotte Waelde and Sarah Whatley, Drs Karen Wood, Abbe Brown and Shaw Harmon, Ms Kate Marsh and Hannah Donaldson.

² Performers' works are protected by Performers' right under Part II the Copyright, Designs and Patent Act 1988 (subsequently referred as CDPA 1988) as a neighbouring right. This article focuses on the legal system of the United Kingdom but is using examples from foreign jurisdictions when relevant.

³ Section 180(2) (2) In this part "performance" means (a) a dramatic performance (which includes dance and mime),(b) a musical performance,(c) a reading or recitation of a literary

performing appears to be a form of embodiment. Indeed, under 'performance' Oxford dictionaries read: "*An act of presenting a play, concert, or other form of entertainment*" whilst embodiment is defined as "*1. A tangible or visible form of an idea, quality, or feeling; 1.1: The representation or expression of something in a tangible or visible form*" (Oxford dictionaries). According to these two rather simple definitions, it may seem fair to consider performances as a form of embodiment. If plays, musical compositions, or choreographic works are the collection of their author's expression of ideas, then their performed versions¹ are all embodiments of such ideas since their performance "represent [them] in a tangible or visible form" for the audience. Whilst this approach is straightforward and the argument tenable, it is also inconveniently simplistic for it reduces the work of performers as 'embodiers' rather than creators, minimising their creative relationship with the work they perform.

The (r)evolution in theorising around embodiment and performance is not a question of definition. Diverging performance theories agree on associating performances with embodiment but differ from one another on the nature of the relationship performances entertain with the material they interpret. This situation urges the question of what performances are in comparison to the text they communicate. Are they lived copies of the text of a recreation of it? What does it take to "embody" (perform) a work? What does the performer do with her body and her mind when she performs the work of another? Is interpreting a character creative? This thread of interrogations leads to question the existence and nature of performers' creativity. If performing arts studies have come ac-

work, or (d) a performance of a variety act or any similar presentation, which is, or so far as it is, a live performance given by one or more individuals; and "recording", in relation to a performance, means a film or sound recording—(a) made directly from the live performance, (b) made from a broadcast of . . . the performance, or (c) made, directly or indirectly, from another recording of the performance.

1 i.e. the theatre production, the concert or the dance performance

knowledge the valuable relationship between performers and the written work of its transformative dimension (Fisher-Lichte), the legal jurisprudence¹ has dealt with this complex connection in a very simplified manner, denying performances their creative value.

These questions ultimately tie the present discussion to a wider questioning around mind/body dualism and authorship. Since intellectual property laws do not agree with the former philosophical debate, it is through its regulating of authorship (copyright) that policy makers reveal their understanding of performances. This article briefly exposes significant philosophies of performance detailing some elements of the shift from historical to more recent sources (I) before comparing such narratives to the current legal framework (II). The last section gives possible reasons as to why the law has not bridged the theoretical gap, which separates it from theatre, performance and dance studies (III). This article does not aim to give a thorough analysis of the twists and turns taken by these studies in their theorising the act of performing. The objective is to compare the two sets of narrative, aesthetic and legal, in order to assess whether the law has updated its concepts on the basis of the development the field envisaged.

Philosophies of performance

If the art of performing has been under study² since Ancient Greece, the focus of the discussion was placed on the impact of performances on the community, rather than on the relationship between the performer and the author's work (Aristotle; Peponi; Rousseau). Analyses examining the connection between the performing artist and the material she interprets only emerged in the eighteenth century with notably the work of Denis Diderot (Did-

¹ This article focuses its discussion on the legal framework of the United Kingdom but does also include decisions held in other jurisdictions (United States and France) when they prove to be particularly relevant to the discussion.

² Understood in its broadest sense.

erot, *The Paradox of Acting*; Dieckmann) to become two centuries later the focus of performance and theatre studies (Fischer-Lichte; Schechner).

Early works on the process of performing focused on the “art of acting” (Diderot, *The Paradox of Acting*; Diderot, “Letter on the Deaf and the Dum”; Simmel).¹ Diderot is one of the first philosophers to dedicate a part of his writing to its study,² claiming that the performer is a puppet at the service of the master’s mind, the author of the play. He writes: “a great actor is also a most ingenious puppet, and his strings are held by the poet; who at each line indicates the true form he must take” (*The Paradox of Acting* 62). Diderot’s writing illustrates the eighteenth century’s beliefs about actors’ creative input in the performance, which persisted through the late nineteenth century and still marks our current legal thinking. This assumption envisages performers only as the neutral medium through which the playwright communicates her work to the audience. From its first writing to its reception the audience via the performance, the work and the meaning it conveys are controlled by the author and the authority of her prose.

This model relies on two different but interlinked premises. The first one regards the playwright as the sole author of both the written work and the performance since the two versions are considered as identical in their substance. Plays, like musical compositions,³ are conceived as readily performable collection of ideas. As a result, not only do performers not have any input in their activity, the performance, but they also must not; they must not

1 However, it is submitted that their observations could be applicable to the work of the musician or the dancer. Regarding musical works, see for a summary of various composer’s views on the musician’s roles the work of Leinsdorf, *The Composer’s Advocate*

2 Denis Diderot, “Letter on the Deaf and the Dum” in Diderot’s Early Philosophical Works, *The Paradox of the Acting*

3 Arguing that that the musical work exists in the score which are to be respected and performed as written by the musicians see the work of (Leinsdorf) Writing against this conception of the musical works and defending performers’ creative input in the performance read: (Leech-Wilkinson, “Compositions,” “The Changing Sound of Music,” and “Classic Music: Utopia or Police State?”)

alter or modify the underlying work. The performer is seen as a vessel through which meaning can be conveyed without distortion for the text transcends the performative stage. The authority of the text itself is such that performances of the same dramatic piece should not substantially vary from one another. On this point, a clear parallel can be drawn between Diderot's work and the myth of the 'author-genius'¹ often referred to as the theoretical and philosophical base of authorship in the legal literature (Woodmansee and Jaszi). Diderot's *Paradox of Acting* illustrates the impact such deference for authors has on understanding the art of performing by positioning performers as the lesser artists.

This first assumption is enabled by the belief in performers' universal and malleable body, which forms the second premise underpinning this model. This perspective is embedded in Diderot's analogy between the actor and the puppet where he compared their corporeality. To him, the great (real) actor is an ingenious puppet because "most ingenious puppets take every kind of shape at the pull of the string in his master's hand" (61). Diderot associates the performer's body to a "pasteboard" (62) and the actor to a "pasteboard figure" whose "own special shape never interferes with the shapes he assumes" (53). The great actor's body is so neutral

¹ This approach to performances is consistent with the myth of the 'author-genius', composers or writers enjoyed during this period. This phrase, 'author-genius' was retrospectively used by legal scholars to label this commonly accepted vision of authors as sole and unitary sources of meaning, independent fathers of creative works they brought to life by relying on materials produced by their own mind. This position justified and justifies the attribution of authorship to the author, denying any credit or 'inspirative' function to previous works. This approach was heavily criticised by various fields, philosophy, literature, the law and started with the ever so often echoed critiques of Foucault (*What is an author?*) and Barthes ("The Death of the Author"). Researchers often consider the eighteenth century as being the date of birth of this author-worship but few draw the parallels between this author-centred construction of authorship and the legal situation and understanding of performers (Foucault; Barthes; Woodmansee, "The Genius and the Copyright"; Jaszi, "Toward a Theory of Copyright"; Rosenblatt). It is interesting to note that in the context of musical works this rise of the author genius appeared a little later than in literature. There is a marked change in the treatment of performers and their obedience to the musical scores and the conventional performing style of the time in the nineteenth century. This shift was triggered by the possibility to record sound introduced by Edison's invention in 1877 (Leech-Wilkinson, "The Changing Sound of Music").

and universal that it can be “everything and nothing” (53). For the French philosopher, performing is not an embodied experience for the actor but the mastery of the performers’ mind in using his/her body as a reliable machine at the service of the author’s creation. In his logic, performing can be summarised in the ability to offer a disembodied body onto which meaning can be plastered. In his logic, actors intellectually prepare their body to be the channel of the work and the emotions it conveys.¹ Here lies the craft of the great actor who manages to channel the author’s work through his/her body when utilised by his reasoned mind. Such craft only tests the actor’s physical strength he ought to practice like a gymnast (16). Indeed, the good actor is the performer who understands that the art of acting is the art of controlling one’s body with reason and not sensibility. The actor’s tears should never be the tears of emotions but that of the brains in order to make sure that he remains the neutral pasteboard he should be (9; 16-7).² Diderot never doubts that such universal and chameleon physicality exists. The theorist does not attribute the incapacity of actors to perform characters without modifying them to the fact that ‘normative’ bodies, or bodies stripped of all physical or socially constructed particularities, do not exist but to the performer’s lack of basic acting skills. Whenever, the mediocre performer finds herself unable to master the basic of her art, she becomes a “wretched pasteboard figure” (62).

During the eighteenth century, this philosophical understanding of acting made of performing an art of disembodiment. Only a disembodied body, understood as a body stripped from its physical or socially constructed particularities, is able to

1 Diderot realised that the actor could not be feeling the emotions he/she displayed after watching David Garrick performed a series of various facial expressions, his head placed between sliding doors. This exercised is said to have inspired the philosopher to write his essay on what he later named ‘the paradox of acting’. (Soto-Moretini 116)

2 “The player’s tears come from the brain, the sensitive being’s from his heart” (Diderot, *The Paradox of Acting* 9;16–17)

perform and respect the work in the way artistic conventions demand it. Disembodiment is thought as the very skill of actors. The great actor is disembodied as he must present a body free of meaning, symbols or peculiarities in order to convey the author's work without any distortion. This vision of the performer illustrates the mind/body dualist theory at its paroxysm, where the actor's body assists the creative purpose of another mind. The performer's mind has no interaction with the meaning interpreted. She controls her body only to better serve the skilfully expressed ideas of the author's intellect. The mind and the body could not be more separate from one another.

Diderot does recognize the rarity of such talent (the ability to offer a 'disembodied' body). He comments: "a great actor is neither a piano forte nor a harp, nor a violin [...] he has no key peculiar to him, he takes the key and the tone fit for his part of the score and he can take up any. I put a high value on this talent of a great actor; he is a rare being as rare as, and perhaps, greater than, a poet"(61). One could only agree with him on the rarity of such individual, and the fact that a disembodied acting body would be of a greater value than that of a great poet since, unlike the latter, it does not exist. Like unicorns, the disembodied body is a wonder as rare as it is fanciful.

At the very beginning of the twentieth century, Georg Simmel challenged Diderot's conception of the performer despite the strong aesthetic conventions still favouring the classic author at the time (Simmel). For the German philosopher, acting has nothing to do with the ability of being a human canvass onto which the author can paint his/her play to the spectators. Simmel describes the complex 'ménage a trois' between the character depicted by the author in writing, its understanding by the performer, and the performer's own personality and physicality. To him, a subtle fusion

of the three composes the performance. More importantly, Simmel appears to be the first author to question the author's ability to conceive 'off-the-shelf' ready-to-be-performed characters. He argues that even the most meticulous playwright is unable to describe a character in such details. He explains:

The dramatic character given in a text is, in some sense, an incomplete human being; he does not represent a sensual human being but the sum of all that can be known about a human being through literature. The poet cannot predetermine the voice or pitch, the *ritardando* or *accelerato* of his speech, his gestures or even the special aura of the living figure. Instead, the poet has assigned fate, appearance, and the soul to the merely one-dimensional processes of the mind. (Fischer-Lichte 79)

Simmel is presented as the first philosopher to acknowledge the necessary and inevitable input of performers in their representation of characters, even when working with the strictest stage directions and guidelines (Fischer-Lichte 79). This view was deepened by later theorists who emphasised on the necessary and free input of performers. Jerzy Grotowski's assimilated the actor's performance to the river flowing between the banks built by the text (Schechner 20). Influenced by the Polish directors's work and agreeing with this understanding of performances, Richard Schechner later described performers' gestures as the flame in the candle glass formed by the text (25).¹

Building on these new foundations and redefinition of performance as a fully embodied act, contemporary theorists further challenged the boundaries of performances and investigated its components. After valorising the presence of the performer's body and its impact on the author's underlying work, writers realised

¹ In this comparison, Richard Schechner directly cites Ryszard Cieslak's metaphore when he writes "If we expand Cieslak's analogy, the gestures and text are the candle-glass and the action is the flame" (25)

that the performers' bodies are not the only bodies involved. Spectators became the subject of observation and analysis to the extent of broadly defining performances as the event constituted of the bodily co-presence of performers and spectators.¹

Furthering Simmel's work, an aesthetic shift was more clearly made in the 1960's which was identified by Fischer-Lichte as the "performative turn" (Fischer-Lichte 34). Such "turn" recognizes the value of performance for itself, independent from the underlying work's meaning and quality. The performance is now perceived as adding value to the work, performers do contribute to our culture, to the construction of knowledge. As such, performances are as valuable (30) and worthy recognition as the work of authors whose dominant position in the creative process has been over-estimated for too long.²

A legal perspective on performances

Intellectual property laws protect the "work of the intellectual mind"³ or works showing significant intellectual input. In its protection of creative works, the law establishes an evident hierarchy between authors' and performers' rights which, without surprise, favours the first category of artists. The substance and duration of performers' rights make them economically less interesting than authors' rights. Performers will never be in the position of receiving copyright for their performance if they cannot show significant intellectual input.⁴ The legal narrative is

1 The audience has always been under the scrutiny of theatre theorists since Plato and Aristotle, however the performative shift was accompanied by a 'spectatorial' turn which regards spectators as active participants in shaping the performance and as co-creators of meaning.

2 Fischer-Lichte brilliantly summarized the evolution of these theories in an accessible piece of academic writing in *The Transformative Power of Performance*.

3 See the position of the European Court of Justice on the categorisation of protectable work: *Infopaq* [2009] E.C.R. I-6569, [2009] E.C.D.R. 16 at [45]; *Bezpečnostní softwarová asociace* [2011] E.C.D.R. 3 at [50]; *Painer* [2012] E.C.D.R. 6 at [89]; *Football Dataco Ltd v Sportradar GmbH* (C-173/11) [2013] 1 C.M.L.R. 29 at [38].

4 As well as satisfy the other relevant requirements (categorisation, fixation and originality). (CDPA, 1998 Ch. 1)

very clear in its conception and understanding of authors' creativity compared to that of performers: performing is not creating. As a result, performers legally cannot be authors.¹ Very often, variations suggested by performers during the creative process will be considered as mere derivations of the author's creative impulse. As such, these contributions are not true "intellectual inputs" for which the performer is entitled to obtain authorship but rather the bodily translation of the author's overarching ideas. In *Hadley v Kemp* (1999)², Park J. shows obvious first-hand experience of musical composition when he comments:

[I]n my opinion, the songs in their recorded form were the same musical works as the songs which Mr Kemp had composed in his mind and his memory. Of course there was a marked difference between (a) the sound of the song sung by Mr Kemp to the accompaniment of himself on an acoustic guitar, and (b) the sound of the song sung by Mr Hadley with the backing of the whole Spandau Ballet band. But that does not mean that the whole band were creating a new and different musical work. Rather they were reducing Mr Kemp's musical work to the material form of a recording. After all, when Mr Kemp devised the song he devised it for performance, not by himself as a solo artist, but by Mr Hadley and the whole band. A composer can "hear" the sound of his composition in his mind before he ever hears it played. Beethoven could hear his music in this sense even when he was deaf. When Mr

¹ The legal analysis of this article is based on the hypothesis where the performer interprets a pre-existing underlying work (a play, a script authored by another artist). In the situation where the performer interprets his/her own work, the artist will receive the status and rights of author and performer independently so long that the material he/she interprets can qualify for fixation by meeting the requirement of originality and fixation. The condition of fixation is usually the hurdle performing artists face when wishing to obtain legal protection, especially in the context of improvisation (Donat). Failing to fix his/her script or performance in writing or otherwise, the performer will lose his/her eligibility to copyright protection regarding the material he/she performed.

² *Hadley and others v Kemp and another* [1999] All ER (D) 450

Kemp was devising his songs the sound which he had in his musical consciousness must surely have been the sound they would have when performed by Spandau Ballet, not the sound they would have when sung by Mr Kemp alone to the accompaniment just of his own guitar.¹

Such legal narratives clearly emphasise a highly intellectualised conception of creativity and individualistic approach to authorship. Both of these traits have been highlighted and criticised elsewhere.²In light of these dispositions, the superiority of authors and the valorisation of intellectual effort over corporeal work in law makes no doubt.

The *Beckett case* (1992)³ is another excellent illustration of how authorial rights, in the form of the moral rights, can be actioned to the detriment of performers' creativity. Alongside economic rights, the moral right doctrine be considered as another endorsement of this hierarchy between authors and performers for it allows any author or beneficiary to prevent future performances from breaching the 'integrity' of the protected work, precluding on this basis any modification or alteration of copyrighted materials.⁴ Use out of context or lack of quality in the reproduction of the work has been considered as breaching authors' rights of integrity (CDPA, 1988 s. 180. ; Adeney) and so was cross-gender casting performing artists. This particular point was the crux of the *Beckett case*, heard in 1992 by the Paris Court of Appeal.

Despite the hegemonic position of the author in this de-
1 *ibid.*

2 See the work of Keith Sawyer on creativity (*Explaining Creativity The Science of Human Innovation*, "Western Cultural Model of Creativity", "The Interdisciplinary Study of Creativity in Performance") and the criticism of romantic authorship and the figure of the author-genius by Martha Woodmansee and Peter Jaszi (Woodmansee, "The Genius and the Copyright" and "Response to David Nimmer"; Jaszi, "Toward a Theory of Copyright" and "On the Author Effect"; Woodmansee and Jaszi)

3 TGI Paris 15 oct. 1992, *Lindon et Sacd cl La Compagnie Brut de Béton et Boussagol*, inédit, RTD Com. 1993 p. 98 ; Lindon c Boussagol TGI Paris, 15 October 1992, RIDA janvier 1993, p. 225

4 Moral rights protect authorial works against modification or alterations the author disapproves. Elizabeth Adeney, *The Moral Rights of Authors and Performers*.

cision, the case may nevertheless, and paradoxically, have come to indirectly acknowledge the “performative power of performance” as put forward by, inter alia, the performance studies theorist Erika Fischer-Lichte. In this case, the Court of Appeal judged the performance by female comedians of the play *Waiting for Godot* (1992) disrespectful of the author’s moral of integrity. Samuel Beckett’s estate filed a complaint against Bruno Boussagol, director of the production, for having staged a female cast to embody male characters against the late author’s wishes. The French court recognized that such swap in the actors’ gender was enough to compromise the work’s integrity and breach the author’s moral right. In ruling so, not only did the French judges enforce a very strict application of the moral doctrine, reinstating the controlling power of the author over its work, but they also, and paradoxically, acknowledged the impact of the performing body on the work, that is, on the performed body. The appeal judges agreed to pierce the conventional veil of illusion behind which the performing body supposedly disappears to only embody the performed character. The court considered that even though the characters were interpreted as males, female performing bodies were yet altering the work since their female corporeality remained accessible to the audience. The illusion of theatre, even when invoking and staging the best authors, seems to never offer a veil thick enough to cover up the performing body.

Should the *Beckett case* be taken as a sign that the law confirms the transformative power of performance? The Court did recognise the comedians as able to alter, here damage, the meaning of the underlying work, and so despite the fact that they faithfully respected the text and stage directions. Implicitly, the judges have agreed that the performer’s body, even when reduced to its gender, was able to influence the work interpreted. Ruling so, the French jurisprudence seems to corroborate the idea that performances are

able to modify, thus create, meaning. This timid assimilation of performances as sources of meaning could be interpreted as a confirmation of their creativity and equal value with authorial works. Is the legal narrative now siding with contemporary performance theories? Maybe. A shy step seems to have been made in this direction although there is no evidence that it was intentional. To the contrary, the legal literature often refers to this case as the illustration of the author's command over her work, beyond her grave.¹ Additionally, such creative embodiment was recognised in a rather negative way in this case. There was not just *transformation* through performance (creative embodiment) but *distortion* which was sanctioned accordingly (i.e. prohibited²). In other words, there is a much bigger step for the law to make between acknowledging the transformative power of performance and admitting that such power is creative and worthy of authorship.³

This desired endorsement of performance theories by the legal narrative might have been prompted by American judges very recently. In *Garcia v. Google* (2014)⁴, the appeal judges recognised 1 TGI Paris 15 oct. 1992, *Lindon et Sacd c/ La Compagnie Brut de Béton et Boussagol*, inédit, RTD Com. 1993 p. 98 ; Lindon c Boussagol TGI Paris, 15 October 1992, RIDA janvier 1993, p. 225. In Italy, the same facts were litigated but the performance by female comedians of *Waiting for Godot* was allowed by the Court on the grounds of freedom of expression. Barbara McMahon, "Beckett Estate Fails to Stop Women Waiting for Godot."
2 An injunction was issued against the performance of the play with the female cast.
3 A similar limitation on the performers' physicality was enforced in the United States via the use of a copyright license. In this case the races between performing and performed bodies were swapped. (Carroll 798; Harding)

4 *Garcia v. Google, Inc.*, No. 12-57302 (9th Cir. Feb. 26, 2014) available at: <https://www.eff.org/files/2014/02/26/garcia_opinion_.pdf> <accessed 10/07/2014>. In this case, the actress Cindy Lee Garcia was hired by Mark Bassaley Youssef to perform in a low-budget independent entertainment action movie named "Desert Warrior". The actress was given four pages of the script and worked three and a half days under the direction of the film makers for which she was paid approximately five hundred dollars. The film or project "Desert Warrior" was never produced. Instead, the film makers directed an anti-Islamic clip, entitled the "Innocence of Muslims", where Garcia's performance was dubbed and featured as disparaging Islamic practices. After uploading the video on internet via *Youtube* and *Google*, Islamic clerics ordered a fatwa against all individuals involved in the film, and the actress received life threatening letters. Among the various protective measures Garcia took in reaction to these threats was the request for the film to be taken down by *Youtube* and *Google*. Her claim was based on the fact that she owned copyright over her performance the film featured. As such, she would be legally allowed to prevent the dissemination of the video on the internet. In appeal, the court received her claim and considered that her performance was a copyright-

the actress (Garcia) of a film as the legal author of her performance in the clip. The Second Circuit Court explicitly referred to the literature of performing studies¹ to justify the attribution of copyright to the actress. They assessed her input in the film as equivalent to that of an author explaining that:

Google argues that Garcia didn't make a protectable contribution to the film because Youssef wrote the dialogue she spoke, managed all aspects of the production and later dubbed over a portion of her scene. But an actor does far more than speak words on a page; he must "live his part inwardly, and then . . . give to his experience an external embodiment." Constantin Stanislavski, *An Actor Prepares* 15, 219 (Elizabeth Reynolds Hapgood trans., 1936). That embodiment includes body language, facial expression and reactions to other actors and elements of a scene. *Id.* At 218–19. Otherwise, "every shmuck . . . is an actor because everyone . . . knows how to read." Sanford Meisner & Dennis Longwell, *Sanford Meisner on Acting* 178 (1987).² [...] An actor's performance, when fixed, is copyrightable if it evinces "some minimal degree of creativity . . . 'no matter how crude, humble or obvious' it might be." *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340, 345 (1991) (quoting 1 Nimmer on Copyright § 1.08[C] [1]). That is true whether the actor speaks, is dubbed over or, like Buster Keaton, performs without any words at all. Cf. 17 U.S.C. § 102(a) (4) (noting "pantomimes and cho-

able contribution to the film and granted the injunction against the internet companies to withdraw the film from the internet. The majority of the judges seating on the panel of the appeal ruled in favour of the claimant. Even though she was a performer, her contribution to the film (her performance) was found to satisfy every condition to obtain copyright protection. Garcia might be the first performer to be recognised as a legal author on the basis of her acting by a western court of law.

1 *Ibid.* The Court quoted the work and words of Constantin Stanislavski and Sanford Meisner, among others.

2 Garcia v. Google, Inc., No. 12-57302 (9th Cir. Feb. 26, 2014) p 6-8

reographic works” are eligible for copyright protection). It’s clear that Garcia’s performance meets these minimum requirements.¹

This conclusion and direct reference to the performing art literature do appear as a breakthrough of their theories in the legal narrative. This might be the first time that the performer’s creative and transformative input is not only acknowledged by a western court but is also rewarded with authorship, the highest distinction there is in this field of law.² The actress’s performance was recognised as an embodied but yet creative ‘work’.

Interestingly, the opposition between the majority’s ruling and the dissenting opinion mirrors the situation found in performance studies before and after the performative turn. On the one hand, the majority of the panel agrees and validates the ‘post-performative turn’ approaches to performances whilst, on the other, the analysis of the dissenting Circuit Judge N. R. Smith sides with Diderot’s philosophy, a position in line with the ‘pre-performative turn’.³ To him, the actress is not an author because her performance was dictated by the script and the director’s direction, so much so that the originality requirement is not satisfied. He compared the

1 *ibid.*

2 In the *Beckett* case, the transformative power of performance seems to be implicitly acknowledged but is sanctioned rather than rewarded. See comments here above and note..

3 See Judge Smith’s depiction of the act of performing: “Just as “an actor does far more than speak words on a page,” *maj. op.* at 8, so too does a vocalist. Indeed, one might say that otherwise, “every schmuck” is a vocalist, “because everyone . . . knows how to read.” *Id.* at 8 (quoting Sanford Meisner & Dennis Longwell, *Sanford Meisner on Acting* 178 (1987)) (quotation marks omitted). An actress like Garcia makes a creative contribution to a film much like a vocalist’s addition to a musical recording. Garcia did not write the script; she followed it. Garcia did not add words or thoughts to the film. She lent her voice to the words and her body to the scene. Her creativity came in the form of facial expression, body movement, and voice. Similarly, a singer’s voice is her personal mobilization of words and musical notes to a fluid sound. Inflection, intonation, pronunciation, and pitch are the vocalist’s creative contributions. Yet, this circuit has determined that such, though perhaps creative, is too personal to be fixed. See *Midler*, 849 F.2d at 462. Under this line of cases, an actress’s performance in a film is more like the personal act of singing a song than the complete copyrighted works in *Laws* and *Jules Jordan*. As a result, it does not seem copyrightable. Thus, the law and facts do not clearly support Garcia’s claim that her.” *Garcia v. Google, Inc.*, No. 12-57302 (9th Cir. Feb. 26, 2014) 30

work of the actress as that of the vocalist¹ where the voice is the central element of her work is her body, her voice, and as such cannot be copyrighted.² He explained:

An actress like Garcia makes a creative contribution to a film much like a vocalist's addition to a musical recording. Garcia did not write the script; she followed it. Garcia did not add words or thoughts to the film. She lent her voice to the words and her body to the scene. Her creativity came in the form of facial expression, body movement, and voice.³

Unfortunately, the *Garcia* case was, and still is, largely dismissed and criticised by legal experts who see in the decision more of a legal faux pas than a breakthrough in the judiciary's understanding of performances. The critique of the decision reached consensus among all spheres of the legal community - practitioners, academics, and the judiciary. The main concern voiced by practitioners is the absurdity of the Court's interpretation of copyright laws.⁴ To them, the Congress never intended to grant copyright protection to performances, therefore the Court were never to read in the statutory dispositions the possibility of extending legal authorship to performers. The situation could potentially challenge the current structures onto which the creative industries are built.⁵ If the

1 *Garcia v. Google, Inc.*, No. 12-57302 (9th Cir. Feb. 26, 2014) 30

2 Judge N.R. Smith makes an odd reference to the performance being too 'personal' to be fixed, thus copyrightable. We can only assume that being too personal refers to the fact that the performer's work relies too much on her body to be considered as a creative product of the mind or reproducible and thus protected by law. *Garcia v. Google, Inc.*, No. 12-57302 (9th Cir. Feb. 26, 2014) 21, 30

3 *Garcia v. Google, Inc.*, No. 12-57302 (9th Cir. Feb. 26, 2014) 30. Circuit Judge N.R. Smith also points out that were the originality condition to be fulfilled, two additional conditions must be observed: fitting in one type of protected works listed by the law and being fixed in a tangible manner. Performances are not listed as one of the protected subject matter neither does it comply with the fixation condition by being essentially ephemeral and transient. N.R. Smith considers that the performer's contribution, the performance, lies in her body and, therefore, cannot be subject to fixation.

4 (Masnick, "Horrible Appeals Court Ruling S") (Moore) (McClellan)

5 This critique worries that the creative industries will be blocked by performers' claims if they were granted copyright interests.

Court aimed to sooth these concerns by underlining the rarity of the circumstances they were presented with in the *Garcia* case¹, this observation was apparently not enough to convince practitioners who read in the decision a poor understanding of the law.

Along the same lines, legal academics expressed similar concerns (Heald; Goldman and Balasubramani; Tushnet, “My Long, Sad Garcia v. Google Post”). They underline the inaccurate application of the law as well as its potentially harmful consequences on the freedom of expression and the risk of censorship. The facts of the case contributed to undermining the legitimacy of the decision (Heald; Goldman and Balasubramani; Tushnet, “My Long, Sad Garcia v. Google Post”). Indeed, the actress participated in an anti-islamic production without her knowledge and received death threats following the dissemination of the film. A fatwa, or opinion on a point of Islamic law, calling for the execution of the performer had been issued by members of the Islamic cleric. This situation may have forced judges to read in the law the solution they wanted to enforce: agreeing to the copyrightability of her performance in order for the comedian to be allowed to take down the video from the internet. The American Court is found guilty of judicial activism² by legal experts (Heald; Goldman and Balasubramani). This critique is all the stronger that it is supported by scholars who evidenced a firm grasp on the complexity of performances in their research and have highlighted some of the flaws of the legal framework in the matter, such as Rebecca Tushnet (“Performance Anxiety: Copyright Embodied and Disembodied”).

Could this situation still be a blessing in disguise for performers and performance theories? If so, it would be a blessing

¹ *Garcia v. Google, Inc.*, No. 12-57302 (9th Cir. Feb. 26, 2014) 15: “The situation in which a filmmaker uses a performance in a way that exceeds the bounds of the broad implied license granted by an actor will be extraordinarily rare. But this is such a case.”

² In cases of judicial activism, the law is manipulated by judges in order to produce the desired outcome rather than the solution the classic application of the rules would have concluded to.

of a short duration. Indeed, the *Garcia* decision was also directly contradicted by fellow judges, shortly after its publication. The seventh circuit rejected the argument according to which an actress could copyright her work, in the *Banana Lady* case of April 2014 (Masnick, 'Banana Lady Case'; Moore).¹ Catherine Conrad, also known as 'Banana Lady', performs in her banana costumes for various occasions. As part of her performing activities, she was hired by a credit trade union association to perform a singing telegram at one of their events. Even though the artist informed the association that pictures and videos of her performance were not to be taken except for personal use, the organisation failed to communicate this information to the audience who photographed and videotaped her singing telegram to subsequently share it via online social media. The artist considered that uploading videos and photos of her performance online cannot be considered as personal use and sued the credit trade union for breach of her copyright. In this decision, the judge sided with Judge N.R. Smith and refused to see in the actress's performance any copyrightable element other than the ones listed by the American Copyright Act (i.e. her costume and accessories, the recording she might have made of her performance).² If this decision does not formally repeal the *Garcia* case,³ it introduces a split between the American circuit courts which will allow the possibility for appeal before the Supreme Court of the United States. Only the latter will be able to clarify the situation and confirm whether the *Garcia* decision is a breakthrough for performance studies or a faux pas from the ninth circuit judges. The appeal before the highest court of the country is yet to be filed.

Beyond the legal narrative produced by the jurisprudence, the author/performer divide or hierarchy remains visible in

1 *Conrad v. AM Community Credit Union*, case no. 13-2896(7th Cir. Apr. 14, 2014).

2 *ibid.*

3 The Ninth Circuit Court (*Garcia* case) and the Seventh Circuit Court (*Banana Lady* case) are of the same level of authority. Only a decision of the Supreme Court could overturn their position.

international and domestic regulatory texts. There are unhidden discrepancies between authors' and performers' rights at various levels. The scope of the protection as well as its length is less significant in the case of performers. Despite the recent reforms on performers' rights,¹ the legal framework was far from experiencing the revolution literature and theatre studies underwent in the 1960's.

As previously mentioned, legal authorship protects creative works with two ranges of prerogatives: economic and moral rights. Whilst the first prevents others from copying the work and reaping the financial fruits it generates without the consent of its author (CDPA, 1988 Ch. I-II), the second aim to protect the name of the author and the integrity of the piece (CDPA, 1988 Ch. IV s.77 and 80). It is true that performers were successively granted powers in both of these compartments. Performers' rights now cover economic rights and moral rights. Some legal scholars have commented that the introduction of moral rights for performers at the international level by the WIPO treaties² was a reform of great significance which equated to bringing performers' rights to a standard close to that of authors. Yet again on both sides, economic and moral, performers' rights remain of lesser substance and narrower scope than that of authors.

Authors' rights protect the material form of the work as well as its immaterial content.³ For instance, artists are not allowed to copy the physical pages of a copyrighted book nor the style and expression in which the book describes the adventures and char-

1 In 1996 the World Intellectual Property Organisation adopted two treaties enforceable in signatory countries' jurisdictions such as the United States, the United Kingdom and other European nations. The World Intellectual Property Organisation (WIPO) Treaties refer to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty (also referred to as WPPT).

2 In 1996 the World Intellectual and Phonograms Treaty (also referred to as WPPT). More recently, in 2012 the Beijing Treaty on Audiovisual Performance extended the protection of performers to fifty years.

3 Since the early ages of copyright, it was agreed that the legal protection went beyond the physical boundaries of the work and was thus extended to limit translation or adaptation of the work which did not literally copy the work as physical object but its immaterial content, the expression of ideas it conveyed. (Sherman and Bently; Sherman)

acters it contains, without the writer's consent. The situation with performers' rights is different. If their consent to record or use the recording of their performance is required, the performance embodied in the record is not covered by those rights. The use of the *record* is protected by performers' rights, but the performance it conveys is not. As a result, permission must be obtained from the performer (and sound recorder) for an audio or video record of the performance to be used but the re-acting or mimicking of her interpretation itself may be done freely. Intonation, gestures and all aspects of the embodiment process which compose the performance are left unprotected, whether or not it is fixed in recording. The protection of performance by the law is thus reduced and limited to the protection of the material fixed version, the record, unlike authors' rights which are extended to both the physical object and its immaterial content. Only material elements of the performance may enter the realm of authors' rights such as the set, costumes, photographs, the choreography 'behind' the performance or the written stage directions. The performance itself which articulate all these elements remains out of the copyright scope.¹

Not only is the substance of performers' protection less significant than authors' rights but its duration is also shorter. Whilst authors receive copyright lasting their lifetime plus seventy years after their death, performers' rights only last fifty years from the end of year the performance took place (CDPA 1988, s. 191). This fifty year term of protection is the result of an international re-

¹ In the United States, the actors' right of publicity was envisaged as a potential mechanism to complete performers' protection with regard to their embodiment of characters. The right of publicity is the right to protect one's physical and moral persona and prevent third parties from appropriating the distinctive trait composing your persona target the identity of the performer herself not that of her embodied character. The major limit of this right with regard to protecting performances, is that it specifically targets the identity of the performer herself not that of her embodied character. This loophole makes of the right of publicity a rather inefficient protective instrument which proved to have been useful only in rare occasions. Where, for instance, the actors were strongly attached to a character such like Stan Laurel and Oliver Hardy to 'Laurel' and 'Hardy' and Charlie Chaplin to 'Charlot'. The United Kingdom does not recognise such right of publicity. See, (Cook; Stallard)

form introduced by the Beijing Treaty in 2012¹ where the duration was then extended from twenty-five to fifty years. Even though the change in law made a step in the right direction in increasing the period of the protection, the international community did not take this opportunity of reform to level out the regime of performers with that of authors.

Explaining the gap in narratives

This article suggests that this discrepancy between the legal and aesthetic narratives may be caused by at least two factors. First, the performer's input in the performed version is so subtle that it might remain invisible to the layperson. Second, the resistance of embodied experiences (performances) to fixation might be another cause for the reluctance of the law to assimilate performances to protectable creative works. It is submitted that one of the possible reasons why performers are not rewarded with equal rights for their creative effort in interpreting works is because their interpretation, the performance, is impossible to separate from the work itself. The boundaries of the performance are so hard to delineate that the law erases this stage in the favour of the authorial work. Because the performer's input is hard to clearly ascertain, it is denied and his/her creativity is attributed to the author. The performing stage and the creativity it carries are ignored and become invisible. As such, the sole author of the entire process is

¹ The Beijing Treaty on Audiovisual Performances was signed on the 26th of June 2012 by the signatory countries of the World Intellectual Property Organisation. The treaty aimed at further harmonising the legal protection of performers across the jurisdiction party to the agreement. In doing so, it extended the minimum duration of protection from twenty-five to fifty years and extended the scope of the protection to audio-visual performers recognising the gap in the protection of this class of performers previous agreements, had left, such as the WIPO Treaty and Live Performances and Phonograms which focused on live and audio performers. The official publication of the treaty is available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=208966.

only that of the underlying work.

Some of the most contemporary artistic practices challenge the invisibility of performers' input in the work but very few legal scholars have used the insight of these practices to re-assess legal policies. *InVisible Difference*¹ is one of these few research projects which compare the experience of artists to the support, or lack thereof, Intellectual Property laws offer. The project focuses on the practice of Disability Dance as a case study for its fieldwork and empirical data.² Its empirical investigation reveals that the practice of Disability Dance, as many other contemporary movements in the performing arts, challenges and shifts the classic legal boundaries of authorship set by the law by rendering visible the dancers' input in the choreographer's work (Waelde, Whatley, and Pavis).

To illustrate this point, the author invites you to watch Caroline Bowditch's recasting of *Loves Games* choreographed by Joan Clevillé,³ available at: <http://www.youtube.com/watch?v=6YEtEy-r6N4g>. The footage of video shows two records of two different performances of Clevillé's piece. On the left hand side, one can view Clevillé's *Love Games* directed by himself and performed by two 'normative' dancers (a man and a woman) whilst on the right hand side features Bowditch's recast of the same work with her male partner.

Love Games was originally designed for 'normative bodies', i.e. non-disabled bodies. As a result, in order for her to interpret the work, Bowditch has to adapt it to her physicality which was not the corporeality and an associated range of movements expected

¹The AHRC funded *InVisible Difference* project investigates the intersection between Dance, Disability and the Law. This interdisciplinary project gathers together academics and practitioners from legal and dance backgrounds. The project is working in close collaboration with artists like Caroline Bowditch and Claire Cunningham. For more information visit: www.invisibledifference.org.uk (last visited 01/05/2014). AHRC grant number AH/J006491/1.

² Disability Dance is the dance practice made by or for differently abled bodies, or involving non normative bodies throughout its creative process.

³ *Love Games* was choreographed by Joan Clevillé and first performed in the Scottish Dance Theatre. Caroline presented her recasting in 2012 at the Pathways to the Profession Symposium in Dundee.

by the choreographer. Indeed, Bowditch is a wheel-chair user and dancer of a very petite physical build. By adjusting *Love Games* to her body, the dancer modifies the work. Between the reliance of the art of dance on the performer's body and Bowditch's unique physicality, the piece she performs becomes visibly different from its 'original' version. Bowditch's performance nearly recreates Clevillé's work. These adjustments are necessary, somehow inevitable since Bowditch's physicality was not factored in the original piece, but they nevertheless remain conscious and creative. Commenting on Bowditch's recast,

Commenting on Bowditch's recast, Whatley expresses how much skills, technique and creativity such adjustments were made in this piece when she describes:

Bowditch's wheelchair opens up a different kind of dialogue on the stage space. So often a powerful signifier of disability/immobility, her wheelchair is now enabling, signifying mobility, independence and the power to support. Bowditch manoeuvres her chair with a technical virtuosity equal to the technical feats of the non-disabled dancers, integrating the chair into her dancing [...]. (220)

The adaptation of the work to the performer's (different) body is made ascertainable to the layperson by the montage. The amount of the Bowditch's original input into Clevillé's work is embodied in the obvious difference between the two recorded performances. The presence of the wheelchair and the modified the steps executed by Bowditch and her partner become quantifiable changes the dancer made to the choreographic work for the specific purpose of its performance.

It is argued that the creative choices made by Bowditch in adjusting *Love Games* to her body illuminate the essence of performing. Every performer, disabled or not, undertakes the same

series of creative choices when confronted with the task of interpreting a work. The only difference separating their performance to Bowditch's is the visibility of their input. Hers is more visible than that of non-disabled dancers because the latter's physicality is closer to the one imagined by the author when she designed the work to be performed.

It is held that this process of embodiment or adaptation the performer executes in order to interpret a piece corresponds to the creative intellectual input or 'time, skills and effort'¹ the law protects with legal authorship and judges look for in authorial work when assessing their eligibility to copyright (223). The sole difference between the authors' and performers' inputs is their visibility and the tangibility of their boundaries. Whilst the work of the author bears clearer boundaries, the performer's act of embodiment lacks materiality because it does not lead to the creation of a product or artefact. As such, the performative work disappears in the shadow of the book, the script, and the stage directions.

The question of performances' lack of materiality is a second possible factor hindering their accession to copyright. As explained before, modern theories have emphasised the role of embodiment in performances. By stressing this trait, such theories also made performances all the more resistant to the idea of fixation. Performances are described as events, ephemeral and transient in essence, thus unable to be captured (Fischer-Lichte 75). This logic refuses the assimilation of performances to 'works of art' since the latter are artistic artefact with fixed contours (75).

In parallel, copyright laws grant authorship to fixed works. Two out of three conditions artists need to fulfil in order to obtain

¹ Before the Infopaq decision of the Court of Justice of the European Union, copyright protection used to be attributed to artists who had spent "time, skills and effort" in the making of artistic works (Waelde, Whatley, and Pavis 223). This doctrine was replaced by the more abstract phrase of "creative intellectual input" but such input can still be evidenced by the amount of time, skills and effort one has dedicated to his/her creation when its eligibility to copyright protection is assessed by the Court.

legal protection over their creations is for their pieces to be on the list of protectable works as well as to be fixed in a tangible manner (written, sculpted, video/audio taped, etc.) (CDPA, 1988 s. 3). In the *Garcia case*, the problem of fixation is one of the points put forward by the dissenting opinion in arguing against granting copyright of her performance to the actress. As a result of these approaches to 'works of art' and 'protectable works', performances do not appear as viable candidates for legal protection. Performances are unfixable while the law requires fixation to grant its protection. This situation may be one of the reasons why the legal narrative never aligned performances with protectable works of art.¹

However, one might take a different stance on this argument by underlining that 'works of art' and 'protectable works' are not synonymous. If all traditional works of art are protectable under copyright laws, not all protectable works are works of art. For instance, databases and computer software are protected with authors' rights in the exact same way paintings, books, dramatic or choreographic works are. This underlines the fact that the concept of 'protectable works' is a malleable notion. The category of copyrightable works is flexible enough to be extended to creative pieces policy-makers judge necessary to protect even though they cannot be assimilated to the traditional definition of "works of art". Thus the lack of a semantic connection between 'performances' and 'works of art' should not preclude the association of the former with the category of 'protectable work'.

The fixation issue is even less convincing that video and

¹ Bently and Sherman retraces the difficulty law makers faced in protecting intellectual property in the first place, intellectual creations being immaterial. Their historical investigation in the construction of early copyright laws show that moving towards fixed representation of authorial work and some form of materiality was the compromise the law had to make in order to be enforceable. In attempting to protect creativity, the law lost its performative nature. They comment : "*no matter how much the law wished to present itself as protecting the performative aspect of creation, it was unable to do so [...] the law found itself in the paradoxical position of protecting a dynamic creativity but yet unable to account for it*" in (Sherman and Bently 49)

audio technologies have now allowed *a* form of fixation of performative pieces at low costs. Against the argument that performative events can never be captured in their entirety due to their inherent transience, one may suggest that fixation for the purpose of copyright and fixation for creative purposes are two means with different objectives. Indeed, copyright laws do not require the essence of the authorial work to be fixed in its entirety to be protected. The requirement of fixation is a mere condition to ease litigation procedures and evidence management in case of dispute. Hence the expectations of the law are not as high as artists' when considering the degree to which the essence of their work ought to be faithfully captured. Copyright laws would only expect such fixation to record the performance's substantial elements such as the tone, musicality and rhythm of the vocalist, the body movements, voice and embodiment of the actor. Most methods of fixation will struggle to convey other facets of the performance such as its three-dimensional aspect or its effect on the audience. They would be equally unable to re-create the feedback loop between the performers and the audience, another central feature of the performing arts. Yet it is submitted that encapsulating the main components of the performance, as suggested above, would suffice to identify performers' creative input in the work they interpret, and in turn, ascertain where the originality of the written material ends and theirs begins. This approach to fixation is purely instrumentalist but does allow a legal alignment of performers with authors, bringing closer together the fields of intellectual property law and the performing arts.

Conclusion

The comparison between the narrative of performing art studies and intellectual property law revealed that there is still a wide gap between their theorisation and understandings of the act of

performing. While performance and theatre studies have explored and adopted new approaches towards the performing body, the role of the underlying work or that of the audience, policy-makers seem determined in holding on to philosophies dating back to the eighteenth century. The current legal narrative endorses a rigid hierarchy between the author and the performer, relegating the latter to the rank of lesser artist. Considering the growing complexity of the arts and their industries, such gap ought to be bridged in order for the law to better support the individuals it is designed to inspire.¹ Interdisciplinary collaboration appears to be the only solution to reduce such gap and work towards the reach of a consensus between the disciplines of the performing arts and law. Policy-makers and lawyers ought to engage with the narratives present in the performing arts in order to better their understanding of performers' work and improve the law accordingly. This exchange of knowledge is necessary for relevant reforms to take place and for intellectual property law to meet artists' needs and expectations.

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¹ Since their introduction in 1710 by the Statute of Anne; Intellectual Property Laws were designed to encourage creativity and dissemination of knowledge in the arts and Sciences.

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RED

By Christopher O'Shaughnessy

Darkness and shadows.

A bites into a shiny red apple. Slowly, with deliberation, enjoying the moment. B and C watching.

B:

Do you think you should be doing that?

A:

What?

Are you still talking to me, still talking?

A bites again into the apple.

B (contradicting):

Thinking. I know what you're thinking.

C:

Always there,

She was always there.

A:

She was always there.

C:

It was the colour red, red for apple —

A:

She was always there.

C:

— red for blossom, dark

Red for blood.

B:

A little too *much* red.

A:

Yes.

She puts the apple away.

C:

But the underside was sweet, the soft heart

Vulnerable. Not that you'd ever know.

B:

Not that you'd ever know.

A (*brightly to C*):

Did you want?

C:

Want?

A:

Yes, I *can* go! Yes, I'd like that!

B:

She said,

Meeting him for the first time.

A:

I'd like that.

I'd like that very much.

B

She worshipped him.

He gave her a red scarf.

C gives **A** a red silk scarf. A red glare of lighting.

A (*holding and smelling the scarf*):

Red.

B:

Thai silk.

Sensuous lengthy silk. Like a pink tongue.

C:

So you'll come with me? You'll go out with me?

Yes? Yes?

A:

Yes!

B:

It was definitely Yes.

A puts the scarf away.

C:

Tomorrow, then.

A:

Tomorrow.

C:

Tomorrow.

A:

There were so *many* tomorrows. Yes. *Yes!*

And that kindness, that sudden kindness

And silk voice, wrapping around every word,

Each sentence like a gift. Did I —? Did I —?

C:

Will you go out with me?

A:

Of course. Yes, of course.

B:

And she went. But there was something —

A:

— something

C:

Something she did not know.

C and A (simultaneously):

Of course I will!

B (*slowly and deliberately*):

She did not know about *me*.

A:

About her.

Never knew about —

C (*cutting in*):

Do you like music?

B:

He asked one day, giving her a red rose.

C *gives her a red rose. She takes it, surprised.*

B:

Well, it was more *vermilion*.

A:

Magenta.

B:

Crimson.

A:

Scarlet.

B:

Burgundy.

Like the paint he used in her *puce* bedroom.

She holds up a pot of red paint.

Puce, it was all puce; I did see it *once*.

A *puts the rose away. B* *puts the pot of paint down.*

C:

Do you like music?

A:

You *do* mean Chopin?

B (*loathingly*):

She asked innocently, flirtatiously —

For that was her way.

C:

Chopin is good.

B:

He said,

C:

But I — I — I —

B:

— circumspect, hopeful —

C:

I — I prefer — *honky tonk*.

B *strikes a sudden chord on the piano*.

A:

Honky tonk?!

Pause. They look away.

B (*scrolling an arpeggio*):

It had been played on the red piano.

C and B *move towards each other and embrace tenderly*.

But it was the music speaking, the music

Dreaming their song. Dreaming their song.

It was the music now dreaming their song.

Slight pause.

For it was me, was **me** he loved, not her.

A (*agonised to C*):

It can't be! That isn't so! It can't be!

It can't be! It can't be! It can't be!

Tell me you love me. Tell me you love me!

Why, *why*? **Why!** How long have you *known* this?

How long? How long?

C:

I thought you *liked* Bartok.

B:

Such incongruity was breathtaking.

Slight pause.

I should know. He *knew* she hated Bartok.

A: (*with gravity*):

I'm afraid. Afraid of what I might do.

C:

What's the problem?

B:

And *of course*, there was one.

A:

We still meeting for lunch?

B:

Lunch? Lunch? What lunch?

A:

We were — we were *all meeting for lunch*.

I'm afraid of what I might do. Afraid.

C:

We *can* meet for lunch.

B:

He said, eagerly.

A:

I'm afraid, afraid of what I might do.

B:

And he gave her a box, a bright shiny box.

C gives A a red enamelled box.

B:

It gave such pleasure. She hung on to it.

A looks imploringly at C.

A sings:

'I've never been in love, no, never, not at all...'

B:

I think this was true.

(singing):

'No, never not at all... la la la la la...'

C picks out the tune on the piano. They all hum the tune together.

A suddenly picks up the pot of red paint and throws it at the white wall. Red liquid runs down in streams.

Pause.

C and B both turn away, frozen.

A gets out the apple and takes another bite.

_____ **C and B** (*softly*):

Do you think you should be doing that?

_____ **A**:

_____ What?

Are you still talking, still talking?

_____ **A** *puts the apple away.*

_____ **C and B** (*softly*):

Thinking. We know what you're thinking.

_____ **A** *gets out the box. She opens the lid. Her face in a red glare.*

*She listens to the tinkling tune now emanating from the
musical box.*

_____ **C and B** (*softly*):

We are always there. We are always there.

_____ *She listens to the tinkling tune until it winds down to silence.*

_____ *Blackout.*

I've Never Been In Love

Score

Music & Lyrics by Christopher O'Shaughnessy
Arranged by Timothy Vest

The musical score is presented in three systems on a grand staff. The first system shows the melody with lyrics: "I've ne-ver been in love. No, ne-ver not at all. I've ne-ver been in love. La,". The second system continues the melody with lyrics: "la, la, la, la. I've ne-ver been in love. Nu, ne-ver not at all. I've ne-ver been in love. La,". The third system shows a single note on the staff with the lyric "la," below it.



Josh Lyttleton, Roshni Nagaria, and Rachel James in rehearsal, 16 Mar. 2014, Amersham Arms performance space. Photo: Tom Powell. Used with permission.

Writing Red: The Politics of Creativity

By Christopher O'Shaughnessy

A student, Tom Powell, studying for an M.A. in Writing for Performance at Goldsmiths, appealed via *Facebook* for other students to join him in an experiment: to write and perform six short plays in twenty-four hours. There were, as I came to realise, more than enough actors and directors for this particular enterprise but few writers. I contacted Tom and was warmly welcomed on board the project. We would meet at Goldsmiths in Studio 3 at 8.00pm on Saturday, March 15, 2014, assemble into (by now) four random groups of actors with one writer and one director and, after an initial brain-storming session, write the plays and have them ready for performance the next evening at 8.00pm on Sunday, March 16.

Not having met any of the participants before, my mind montaged with unsettling images of tense Foucauldian power-play, fraught Bourdieuesque psychic games of quirky personal capital being suddenly withheld and bartered for, even a sense of an oppressively bizarre Bakhtinian emotional carnivalesque as creative relationships became strained, dark and twisted. I suspect we may have all feared this because, to begin with, at our initial meeting, having fallen kaleidoscopically into an interesting arrangement of genders, races, ages, interests and aptitudes—I was old enough to be everybody's grandfather—we sat in silence looking at each other for some time.

We were: Tim Vest (M.A., Musical Theatre, Goldsmiths), Roshni Nagaria (B.A., Education, Culture and Society, Goldsmiths), Rachel James (B.A., Anthropology, Goldsmiths), myself (PhD., Theatre and Performance, Goldsmiths) and Josh Lyttleton (B.A., History, Cambridge), a friend of Tom. Roshni broke the silence. 'I see a colour,' she said suddenly, almost as if channelling at

a séance. ‘What colour?’ I said. ‘Red’. ‘Well, we have a beginning! Let’s call the play *Red*.’ I think we sat for a further five minutes or so contemplating the significance of what we’d just agreed upon. Long listening silences figured prominently in the politics of our creative relationships.

Roshni’s initiating statement alerted us to the vast emptiness not only in the room and in the spaces between us (despite the fact that there were, at that time, three other groups present) but also to a kind of cosmic plangency which asserted itself between each spoken act of creativity, as if the universe was fully aware and holding us lovingly in the palm of its hand. With an undoubted sense of the fragility of this fecund cradling, we moved forward, physically out of the room into another space, a dance studio, but also into the deeper spaces of our own listening selves. We took off our shoes in respectful anticipation. Over the next two hours, thinking collectively but privately, the play emerged, line by line, image by image, bearing out Walter Benjamin’s notion that ‘the image is that wherein what has been comes together in a flash with the now to form a constellation’ (Benjamin, 463). I think we decided early on that, hopefully, this constellated flashpoint might emit some music and explode in verse. That the red of the title suggested a degree of intensity, aliveness, passion, and unseeing (that legendary ‘red mist’) spelled out the unspoken message to proceed cautiously, listening, waiting, acting out carefully. A protocol of *slow-dancing dialogic subjectivities*.

The actors performed the dialogue line by line, moment by moment, reflecting on its meaning, its rhythm — as it came out, as it was written. The physical performances transmitted the emotion in the language. Tim, directing, watched and observed this process of embodiment, making notes, moving an actor here, there, filling the space. But the iambic pentameter was having trouble behaving

itself: emerging fractured, customised, colloquial, contemporary, and downright rude from the behaviour of three fraught and troubled characters. An underlying power—a spirituality?—nascent in the imagery, carried in the prosody, in the gaps between the words, ensured the language was ‘all glued together, fused, glowing’ in Virginia Woolf’s phrase (Woolf 65). Julia Kristeva goes a little further, implying that poetic language discharges a presence within a theatrical space which challenges the symbolic, especially if that language is dramatic (Kristeva 81). After two hours of reflective rehearsal—who is A? who is B ? who is C? what do they want?—eight minutes of the play had been written and I, exhausted, decided that I now needed to make my way home, catch the midnight train, and find a further fecund emptiness where I could let what needed to happen happen, valuing the vacancy. Tim, Roshni, Rachel and Josh went home too. I worked throughout the night and e-mailed the completed ten minute script to them by four o’clock the next morning.

By the time I arrived much later at 1.00pm they had already rehearsed the play twice in the dark, cavernous performance spaces of the Amersham Arms. [Three plays only survived this concentrated creative experience, one never reaching the rehearsal stage. But the pressure worked for us: focusing, bonding, clarifying, galvanised by the collective endeavour.] Now, they were rehearsing it again, for me, in the bright, newly-refurbished, equally spacious, empty Goldsmiths dining hall. I brought along the music of the song, recorded on tape from my tapping it out on an old battered electronic keyboard. Transferring the recording to his iPhone, Tim decided to use this as the tinkling musical box noise we needed at the denouement. (He also added a chord and an arpeggio in appropriate places.) Roshni, as the circumspect character A, picked up the melody symbiotically and, astonishingly, we had a perfect

run-through, song included. A, B, and C articulated those small replicating human battles of power, control, betrayal and longing which exist in all societies on a daily basis, minute by minute. I think all three actors relished the intensity of this curious ménage-à-trois and the unusual chance to articulate it in verse. They also relished, as did we all, the absorption in an ongoing theatrical journey of surprises.

Andrew Lloyd Webber said nothing is wasted in creativity. I believe that, through a dialogic process of enforced listening, in such a limited time and in a safe environment, each participant was able to draw on, reclaim, upload, process and transform some very obscure material. The benign politics of creativity experienced in this intense compact marathon of sharing, offering, listening and performing had a further benign effect: Tim became music arranger and pianist for a longer practice-as-research piece in July. Roshni, Rachel and Josh all gave deeply-felt, finely-attuned, engaging, wonderfully vivid performances. At the end Tom said: 'That was beautiful'. A surprised voice in the audience exclaimed: 'That was *good!*'

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The Political Body in New Circus and Contemporary Circus Arts: Embodied Protest, Materiality, and Active Spectatorship.

By Katie Lavers

Abstract

Contemporary circus artists Philippe Petit and Philippe Ménard have created compelling works that have combined circus with performance art; in particular, Petit's *Twin Towers High Wire Walk* (1974), and Ménard's *P.P.P.* or *Position Parallèle au Plancher* (2005). These works now stand as limit-text works in their relative fields, which is to say they are works that go beyond the previously accepted limits and now point to new boundaries, or new questions, as to the reaches of the field. This paper asks whether notions underlying performance art can provide a tool to aid in deciphering meanings in these powerful limit-text circus works. It investigates the origins of one of the understandings of the body of the performer that is fundamental to much of performance art—that is the idea of the political body and embodied protest. The notion of materiality is also discussed in relation to the use of ice in Menard's P.P.P.

Active, engaged spectatorship is another important aspect of performance art in decoding the body-in-space and its political and poetic import. Although readings by active spectators may sometimes exceed the performer's expressed intentions, these diverse readings form an important component of the work's ability to resonate on multiple levels. The works by Petit and Ménard are explored in relation to these ideas of the political body and embodied protest, materiality, and active, engaged spectatorship.

Background

"The year 1968 was a global insurrection" (Watts 1).

In May 1968, students were protesting everywhere from Paris to Berkley, from Mexico City to Berlin, Rome and Bangkok. French cultural theorist, Pascal Jacob, pinpoints New Circus as arising out of this unrest, “Circus underwent a transformation in Spring 1968, and faced a public rejection of its codes” (11). Julia Kristeva, a philosopher and East European exile who arrived in France in 1966, described the mood in Paris in 1968. She remarked “one word on everyone’s lips in May ’68 was ‘contestation.’ Contestation expresses a fundamental version of freedom: not freedom to change or to succeed, but freedom to revolt, to call things into question” (12).

At around this time, circus, having undergone a period in the doldrums with the rise of television and cinema, suddenly started to attract fresh interest. In 1956, the Moscow State Circus—a state-funded circus which combined traditional circus skills and Russian gymnastics—toured Europe for the first time, revealing a new form of circus developed behind the Iron Curtain. Artists from different fields, including radical theatre, performance art, and dance, started to see new possibilities in circus. Jon Hawkes, originally a performer in radical theatre and one of the founders of Circus Oz, writes that he was attracted to circus partly because he was frustrated by the small audiences that radical theatre drew in and wanted to move into a form of performance that was both popular and had the power to attract crowds. Traditional non-Russian modern circus, however, seemed old-fashioned and almost feudal, as circus skills were kept within the family and not taught to outsiders. So he and his collaborators founded the New Circus company, Circus Oz (Hawkes).

In New Circus the conventions of traditional modern circus were contested. Non-human performers (lions, tigers, elephants, and even, for the most part, horses) were all banished. The circus ring and the figure of the Ringmaster were largely rejected,



Students protesting in front of the Faculty of Letters, Rome, 1968.

Photo: *Wikimedia*, public domain.

and traditional clowns were abandoned as passé. In response to this move away from all the iconic imagery and content which had defined modern circus, where nearly everything which had come to represent traditional circus had been rejected, Pascal Jacobs, in a report compiled for the European Federation of Circus Schools, asks, “What is the sense of a circus? Does circus still exist?” (12).

As animals had been banished from its performances, the attention in new circus was focused onto the human body. Circus scholar, Peta Tait, grappling with the question of what exactly defines new circus, writes, “the crucial element of circus, [is] its bodies and their different physicalities” (130). Jane Mullett, a co-founder of Circus Oz, concurs, writing that, “circus is defined by the bodies that perform it” (36).

New circus began to hybridise with other art forms, including contemporary dance, and radical theatre. Some of the more experimental New Circus works hybridised with performance art, another discipline in which the human body is central. In this paper I consider the origins and resonances of some of the thinking in performance art and investigate whether these ideas can help to decipher meanings in some of these hybrid circus/performance art works. The work of Philippe Petit and Philippe Ménard is explored in relation to these ideas.

Embodied Protest

When thinking about the body of the performer in performance art, one central idea is that the body of the performer, with no text, script, or theatrical props, and in a much reduced, but carefully considered context, is believed capable of holding encoded political, social and personal meanings and can function as a site of embodied protest. Investigating the origins of this idea of embodied protest, which is found in much performance art, Isaac Souweine traces one lineage to the Doukhobors and Leslie Hill traces another to the Suffragettes.

Souweine points to the Doukhobors—a group of Russian, Christian, pacifist anarchists—as the originators of embodied protest. In 1890’s Russia, they protested against conscription by the Czar by burning their weapons. Then, in 1899, nearly 8,000

Doukhobvors fled violent reprisals by emigrating from Russia to Canada. In Canada, they began calling themselves Svodbodniki, or Sons of Freedom. They soon began to protest again – this time against the Canadian government’s refusal to allow them to legally own land communally. “By 1903, the Sons of Freedom had added nakedness to their repertoire, seeking through nakedness to walk with the simplicity and moral purity of Jesus... For the next fifty years, public nakedness remained a central aspect of their proselytisation and dissent” (Souweine 526).

Souweine draws a lineage of embodied political protest from the Doukhobors, through to Mahatma Gandhi. Although Gandhi wrote extensively, it was his embodied protest that was his most effective tool in his political campaigns:

From 1893 when he refused to accept apartheid seating on a train in South Africa [...] the essence of both Gandhi’s writing and his political allegiances are expressed in his bodily acts of political dissent [...] Gandhi melded the political and the personal so completely that by the 1940s his hunger strikes effectively pitted his moral and religious potency against the very fate of his nation’s history. (532)

Souweine goes on to trace this effective use of embodied protest from Gandhi to Rev. Dr. Martin Luther King Jr., whose civil rights activism was built around organised key acts creating potent images of civil disobedience and embodied protest. In 1956 Rosa Parks was arrested for refusing to surrender her seat to a white person, and in 1960 a sit-in was held by black students at the whites-only restaurant of their local Woolworth’s store in Greenboro, North Carolina. These images of embodied protest spread the message of civil rights to the world. The violent suppression of the Paris protests in 1968, pushed large-scale acts of civil disobedience out of the street, and protestors turned to the body as an individual’s

key way of manifesting political, ethical and philosophical protest (532). This physical embodiment of ‘political personalism’ (532) with the body as a site of protest was a key idea in the development of performance art. The body began to be seen as being invested with the power to be read as a statement of personal protest, as a political body.

Leslie Hill, on the other hand, argues that the origins of embodied protest can be traced to the Suffragettes. She writes, “Edwardian ladies [pioneered] a new hybrid art form in which the personal was political, the political was performative and the performance was public” (150). Many examples of political performance can be found in the suffrage movement, including Mrs. Drummond’s megaphone address from the cabin roof of a river launch to members of the Commons on their terrace tea-break, Mary Richardson’s slashing of the Velasquez *Rokeby Venus* in the National Gallery as a protest against the imprisonment of Emmeline Pankhurst, and their hunger strikes in prison. Hill proposes that it was this cross-fertilisation of politics, theatre and philosophy in the actions of the Suffragettes that gave rise to many of the ideas in contemporary performance art.

In both these lineages, the Doukhobors, as proposed by Souweine, and the Suffragettes, as suggested by Hill, the influence of the American philosopher Henry David Thoreau can be traced, specifically his writing on civil disobedience. The Doukhobors flight from Russia to Canada was partially funded by Tolstoy, who himself had an extensive correspondence with Thoreau, and Lady Constance Lytton, a suffragette, when imprisoned in 1910, inscribed a quotation from Thoreau on the wall of her cell (Harrison 39). Thoreau’s profoundly influential text, *Civil Disobedience: Resistance to Civil Government*, had been published in 1849. Thoreau, motivated by his abhorrence of slavery and his intense disapproval



Doukhobors marching nude in Langham, Saskatchewan, Canada, 1903. Photo: *Wikimedia*, public domain.



Mahatma Gandhi spinning, late 1920s. Photo: *Wikimedia*, public domain. (left) Emmeline Pankhurst being arrested at King's Gate, May, 1914. Photo: *Wikimedia*, public domain. (right).

of the Mexican-American War, proposed in it that individuals should never allow their personal conscience to be overruled by government and that laws which cause injustice to be perpetrated should not be obeyed. The influence of this essay *Civil Disobedience* was widespread. “The list of people influenced by this writing is astonishing. It famously includes Tolstoy, Gandhi and Martin Luther King” (Cain 153). Staughton Lynd writes, “What was central for Thoreau was neither violence nor civil disobedience but direct ac-

tion: the absolute demand that one practice -- right now, all alone if necessary -- what one preaches" (qtd. Cain 65). These lineages of embodied protest brought several key ideas with them into performance art. These were the conviction that the personal is political, the belief in the importance and the power of live presence, the notion that political truth can be embodied, and an emphasis on performing personal truths rather than 'acting' (Hill 1).

The Role of the Spectator and the Location of Meaning

Another crucial element that performance art has embedded within it is the emphasis on the actively engaged spectator in gleaning multiple allegorical meanings from the body of the performer. Joseph Beuys' work encourages spectators to engage actively and decipher or 'glean' meaning from the work. Beuys was a passionate admirer of James Joyce and actually included a copy of *Finnegan's Wake* in one of his installations, and carefully annotated editions of Joyce's work were found in his library after his death (Hayes 35). It could be argued that it is the same kind of active engagement required in reading Joyce, with its highly referential, poetic, allusive layering of meanings, that is also required as part of the engaged spectator's involvement with Beuys' performance and installation, and in so much other performance art.

Beuys is a key figure in the discussion about the meaning of performance art and installation, and whether meaning is located in the performer's expressed and conscious intentions, or whether it is located in the way the piece is deciphered by the engaged spectator. Jonathan Jones, art critic and judge for the 2011 Turner Prize in London, writes, "Beuys was very articulate, almost too articulate about the meanings of his performances." Beuys, Jones argues, presented his work as concerned with democratic politics, optimism, and New Age ideas, but in fact Beuys' work resonates

with multiple layers of meaning, many of which are far darker. Jones writes, "Because Beuys is a German artist, it is impossible not to see the wounds of history everywhere, with a surpassing melancholy that dwarfs his attempts to commit his sculpture to an optimistic democratic politics. Beuys hoped his lumps of fat spoke of fluidity and progressive change. In fact, they are blocks of rancid yellow memory -- fat from Germany." Jones goes on to argue that it is the darker political resonances about German culture and its recent history that Beuys did not himself identify, that add depth and complexity to his work. It is these darker layers of meaning that Jones intuitively identifies which in fact lead him to point to Beuys as the greatest German artist of the 20th Century. Jones writes, "We can mine Beuys for meanings we need because there is such a generous excess of content."

Philippe Petit and Philippe M nard

Returning to circus, both Petit and M nard have created limit-text works in their own fields. In the work of Philippe Petit, it could be argued that the traditional circus skill of high-wire walking and performance art came together to create an astonishing limit-text work in his *Twin Towers High Wire Walk* in New York in 1974. There is a long history of spectacular high-wire walks including high-wire walkers in ancient Greece, who were known as *neurobats*, through to Madame Saqui in the early nineteenth century who walked between the towers of the Cathedral of Notre Dame, and on to Blondin with his breath-taking walks across the Niagara Falls (Demoriane). On 7 August 1974, Philippe Petit walked across a cable between the tops of the two tallest buildings in the world at that time, the Twin Towers of The World Trade Center. He performed for 45 minutes with no harness, buffeted by the wind and shouted at by police and security guards. Documentary photos of

the event taken by his friend and associate Blondeau, show that Petit is not wearing a special costume, he is wearing his street clothes. He is not performing as a fictional character in a fictional world. All theatrical pretence or pretext has been stripped away. He does not have any fancy props; all he has are the tools of the trade, the bare minimum that he needs to do the walk. The power of this performance resides in his live presence. He is not acting; he is performing personal truths.

It is the intersection of performance art with circus that requires the spectator to actively engage with the image of Petit's body in space and the context he has placed it in, and to read it for meaning, searching for political and poetic resonances, even if they exceed the artist's expressed and conscious intent. Approaching the images of Petit's Twin Towers walk with these ideas in mind, the documentary photographs become invested with the fragility of life: that is both the fragility of Petit's own life and a poetic intensity that underscores the precarious nature of all human life, not only as individuals, but also as a species. With our current knowledge of the 9/11 attacks, and the resultant destruction of the World Trade Center, these images become even more potent as they point to an ephemerality of both the performer's body itself and of the two highest buildings in the world and by extension potentially Western culture itself.

His high-wire walk has been memorably documented in the film *Man on Wire* (2008), directed by the English Director, James Marsh. The award-winning Irish writer, Colum McCann, also explores the image of Petit's wire walk in his 2009 novel, *Let the Great World Spin*. McCann's description of Petit's wire walk is five pages long and is a thrilling piece of writing. It shows how Petit's walk is effectively embedded in the contemporary psyche. The work can be deciphered as presenting a political body that res-

onates on many levels. It is a life-changing, limit-text work of new circus.

Philippe Ménard is a juggler who originally studied with the highly respected master juggler, Jérôme Thomas. One of Ménard's most powerful works is *Transformation P.P.P.* (which stands for *Position Parallèle au Plancher*, or "Parallel Position to the Floor"). This solo performance is an investigation of juggling and also a limit-text work contesting the limits and boundaries of the art of juggling. Ménard juggles with balls of ice that freeze his hands so he can't move them, and as the balls of ice melt, and change size, they slip and become uncatchable.

In this work Ménard investigates the materiality, the physical presence, and the poetic resonances of ice. This investigation into the actual substance of ice itself throughout this performance opposes the theatrical convention of substituting one object for another, in which, for example, tea is often used to represent whisky on stage and the actor merely acts out a response to drinking whisky while in fact drinking tea. The exploration of the materiality of an object underlies much performance art, the idea being to ground the experience in the physical body of the spectator through the use of actual substances that are familiar. For example, in *How to Explain Paintings to a Dead Hare* (1965), Beuys anointed his head with honey and gold. Some of the associations that the spectator could bring to seeing honey in an installation or performance are described by Beuys, "in mythology honey was regarded as a spiritual substance and bees were godly" (qtd. Tisdall 44). In the catalogue introduction for his show, *Joseph Beuys, Process 1971-1985*, at the Rooster Gallery in New York, Beuys is quoted as saying, "I want to get to the origin of matter, to the thought behind it" (qtd. Rooney n/p, n/d).

This interest in the allegorical or metaphorical resonances

of a material has, through the contact between performance art and circus, informed some of the most memorable new circus works. The materiality in Ménard's work repays in-depth readings. In *P.P.P.* Ménard juggles with ice. Thomas Ferrand describes how difficult the process of learning to juggle with ice was for Ménard, "Ice is a hostile material... The ball of ice breaks, slides, crashes and burns the skin. It cannot be controlled... Philippe Ménard tells us that total control is an illusion and that the material tames us" (8). Stine Degerbol describes how, as the ice changes into water, Philippe Ménard explores the dynamics of transformation. As the ice melts and changes shape it points to a metaphorical reading underscoring the notion of the transformation of the traditional art of juggling from tradition to renewal (Degerbol 8). The transformation of the material also reflects the performer's own personal journey, through a process of sex change operations, from being a man into being a woman. Ferrand writes, "Philippe Ménard reveals himself to a disconcerting degree... He suggests several times that his sex change is [...] a voyage from one state to another, just like ice changes from a solid state to a liquid one" (8). Degerbol writes that, "By using ice, the artist brings a natural element onto the stage, an element that is both powerful and fragile -- just like her and just like life. I am left with a feeling of restlessness and uncertainty brought on by my thoughts about identity and existence" (8). This work of Ménard's can be seen as presenting a political body of embodied protest. This sense of impermanence and flux in relation to the body and the emphasis on the body in process with an ability to affect and be affected by its environment, is potentially highly politically charged, as the notions of permeability and process, both in body and identity, challenge the concept of a fixed and stable identity on which societal control is based.

This paper has traced the origins of embodied protest within

performance art, explored the notion of materiality and the importance of the active and engaged spectator in deciphering allusive layers of meaning, which, even though they may often exceed the expressed intention of the performer, offer diverse resonances that have the potential to increase the potency of the work. These ideas, when brought to bear on hybrid circus/performance art, can potentially offer a wealth of meanings to mine and reveal the political body in New Circus and contemporary circus arts.

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Self-Definition, Name Calling, and the Limits of Language: Examining the Economics of Arts Council England, 1996/97-2012/13

By Joe Mcloughlin

Introduction

This article will examine the thinking that surrounds and informs the spending of Arts Council England (ACE) over the last twenty years. In this respect, it is very much an economic endeavour. Yet, the methods used to explore this topic will not be strictly economic. There will be no detailed equations written below and no scrutinising of figures. The analysis developed here will be the product of a different approach. Deploying a linguistic study within a historical frame that moves from 1996/97 to 2012/13, I will focus on the words used in several annual reviews and identify key changes in language and the rise to prominence of particular phrases. Then, working through these instances, this essay will unpack the rhetoric operating behind state spending on the arts and tease out some of its implications. This method of discourse analysis is useful as such close and comparative reading enables me to locate trends in the organisational vocabulary on spending and interrogate those trends, both, on a larger scale and at particular turning points. The value of this is that, whilst New Labour's and the Coalition Government's interest in financial returns from arts funding is commonly acknowledged and has been explored elsewhere, this analysis can begin to show *how* the interest in financial returns developed over time and what its developing implications were or, now, are.

Explicitly, I will be arguing that from 1997 to 2013 the Arts Council moved from a protective, alternative or even anti-market position to a more returns oriented, explicitly capital-

ist one and that this shift had a number of negative implications. Working towards this argument, this essay will have a twofold impact. One, as a demonstration of method, it will highlight an under researched area of cultural economics that recognises that ‘the words used [by arts funding bodies] must be subject to some degree of critical scrutiny’ and begin to demonstrate the efficacy of such scrutiny (Smith, *Cooler Climate*, 8). Two, by teasing out some the implications of organisational rhetoric, this essay will provide an improved conceptual- rather than numerical- understanding of how the economic aspect of state support of the arts has developed over the last two decades whilst also improving the understanding of how it works contemporarily.

Setting the Scene

Tony Blair’s New Labour Government was elected on the 1st May 1997, claiming 418 of 650 Ministerial seats. This resounding victory came after 18 years of Conservative rule, including 11 years of Thatcherism. One of the apparent reasons for this success, to quote former Culture Minister Chris Smith, was ‘a very simple realisation by the British people [...] that there *is* such thing as society’, that, as a population, there is shared and common ground and that New Labour was the party that acknowledged and supported that (Smith, *Creative Britain*, 15). One of the means through which New Labour offered its support was through increased funding to the arts. From 1997 to 2010 the grant-in-aid to the Arts Council rose from £193 to £625 million.

This increased expenditure was utilised in a number of ways. Theatre in England was pulled ‘back from the brink of crisis’ at the turn of the millennium (*Reviews 01*, 5). *decibel*, an initiative to ‘raise the voice of the culturally diverse arts in Britain’ (*Review 02*, 20), operated between 2003-2008. And in July 2007 the first

ever Arts in Parliament took place, bringing artists to Westminster (see *Review 08*, 30 and <http://www.parliament.uk/get-involved/arts-in-parliament/>). This list is not exhaustive. From official perspectives, this period was viewed as a golden age for the state supported arts. There is certainly a case to be made in this direction but it is important to remember that money was not given without qualification. New Labour's time in office can be marked by the rise of evidence based policy making. An approach that, in theory, does not accede to ideologies of the left or right but uses evidence to establish what "works" and formulates policies in response. From 1997 onwards, this approach led to the notable growth in socially instrumental thinking (exemplified by Francois Matarasso's *Use or Ornament*) and 'creative industries' discourses that prioritised the economic potential of the arts (Harvie, *Staging the UK*, 23).

This latter concern occupied an increasingly prominent position in the writings and aims of ACE after the credit crunch and crash of 2007-08 and growing questions over indebted public finances. This positioning is still apparent today. The Coalition Government of David Cameron and Nick Clegg have pursued a dual approach of funding cuts and reworked cultural policies from the Thatcher era to encourage (or pressure) ACE and the work it supports to offer returns on investment, maintain economic sustainability, nurture private partnerships and become economically 'accountable for the decisions' they make (Cameron, *Brown and Cameron Clash on Economy*).

This brings this short historical account will be bolstered by more specific information throughout, deployed where necessary, but hopefully it provides a working knowledge of the period and can be borne in mind to effectively, if sketchily, contextualise the analysis developed below.

The Power of Self-Definition

ACE cast itself in a number of roles between the late-1990s and the second decade of the new century. These shifting identities can be evidenced in a number of ways. The selection of Chairs provides one way to gain insight into how ACE, and its sponsors in government, perceived it in this period. The Chair is a government appointment, presided over by the Secretary of State for Culture, Media and Sport. Looking back to the late 1990s, it is not coincidental that former Culture Secretary Chris Smith, who professed that New Labour's interest in cultural activity was part of 'a serious attempt to do what government legitimately can do in order to support a major economic force', appointed Gerry Robinson as chair in 1998 (Smith, *Creative Britain*, 5). Robinson self-defines 'as a businessman' and his career trajectory, prior to his tenure at ACE, incorporated work for Matchbox Toys, Coca-Cola and Chairmanship of the Granada television company (Robinson, *Annual Review 03*, 3). This combination of personal history, including television work that sits at the meeting ground between cultural activity and profitable industry, and self-awareness strongly compliments Smith's thinking. Consequently, Robinson's appointment indicates the significance that New Labour placed on the ability of the arts to turn a profit and the expectations they had on ACE to nurture this ability in this period.

Elsewhere, the annual reviews—which will be the focus for the remainder of this article—can be read with interest. These documents offer the reader a perspective on the previous twelve month period by incorporating numerous elements. They are all opened by the Chair and Chief Executive's personal accounts, within which the former usually addresses the wider social, political and cultural context, whilst the latter, generally discusses the practical and administrative issues that the organisation faces. Both will also

nod to some artistic highlights from the past year. Beyond this, the formatting and the content of each review are slightly different, though patterns do emerge over time.

Each review will state how much money ACE is distributing. This may be recognised through formal breakdown (in the late 1990s) or through initiatives and policy focus and onto Regularly Funded or National Portfolio Organisations (as in 2012/13). Reviews will also focus on the work artists and list some highlights from the foregoing year. This may be done through case studies of individuals (see *Review 08*). It may be done through the construction of a monthly calendar of highlights or it may be done through letting ACE staff voice their experiences. Various policy initiatives of ACE are frequently articulated also. In 2001, serving as an exemplar of New Labour considerations at the time, there was significant outline of ACE efforts to gather evidence and work towards social goals (*Review 01*, 10-15). As mentioned earlier *decibel* appears throughout the mid-noughties and recently *Achieving Great Art for Everyone*, the current overarching policy, has been reported on since 2009. Finally, a concern for the creative economy often informs and appears through a number of these other discussions. Indeed, ACE Reviews have engaged with the economic potential of the arts more explicitly since 2003, to the extent that, by 2012/13, this financial concern occupied the opening double page spread of the review, ahead of any more conventionally artistic information.

Turning to some of these reviews in more detail, it is interesting to note that in 2001, in a section dedicated to the artist, ACE described itself as a 'support' giving organisation (*Review 01*, 6). In 2004 things had been reconfigured along seemingly more romantic, but actually more economic, lines, with former chair Christopher Frayling dubbing the organisation a 'matchmaker' between the public and private realms in his opening comments

(Frayling, *Review 04*, 3). In 2007, the organisation's remit appears to have expanded. The tasks of 'developing and sustaining the creative economy', investing in innovative work, and stimulating the relationship between the public and the private arts are singled out in an explicitly economic section that appears just behind discussions of artistic quality, access and social outreach (*Review 07*, 27-33). Two years later, things appear to have become more focused, with ACE narrowing its remit but increasing its efforts, vowing to consistently lobby the government *through* economic reasoning *in pursuit of* economic goals in response to the economic downturn. As former Chair Liz Forgan outlined in her opening comments, the organisation will act as a 'champion [for the] cause of sustained investment in the arts and never let government lose sight of the role of the arts in recovery from recession' (Forgan, *Review 09*, 3). Recently, in 2013, in the opening of the introductory Creative Economy section noted earlier, a similar sense of financial importance dominates, with ACE considering itself a driver of 'world class creative innovation and support[er] of the creative economy' (*Review 13*, 4).

This changing vocabulary, appearing frequently in the concerns of Chairs and in prominent, large and titled sections, makes two things immediately apparent. First, ACE increasingly framed and expressed itself in economic terms, positioning itself as an institution with financial clout that had the ability to bring forth other economically fruitful relationships. It can't be ignored that other discourses also influenced ACE's position throughout this period, the discussions of artistic quality in *The McMaster Review* and the socially instrumental claims of Francois Matarasso are powerful sources that come to mind quickly. But even so, it should be acknowledged that the policies developing from the work of these authors were often permeated by or in thrall to more prominent

economic reasoning.

Second, in line with this increasingly dominant economic framing, ACE's writings reveal a changing expectation of what the money they distributed would do. Over the course of these examples, ACE becomes more and more an institution that wants a financial return or, more accurately, an institution that expects to create a positive financial impact through its funding choices. It abandons its position as a supporter and becomes, instead, an investor who provides money for work that has the potential to attract a private audience. The spending of whom would help sustain the creative economy which, in turn, could nurture the growth and, later, recovery of the national economy. Taking this second idea as a starting point, a direct comparison of the meanings of support (from 2001) and investment (from 2009), illuminates the extent of this shift to a more returns oriented, explicitly capitalist position in more detail and is a useful way to better draw out the implications of the shift sketched above.

Support means to '1. Bear all or part of the weight of. 2. Give help, encouragement or approval to. [...]. 4. Provide with a home and the necessities of life. 5. Provide enough food and water for life to exist. 6. Confirm or back up: *the studies support our findings*' (*Oxford English Dictionary*, 733). These five facets of the definition indicate that in 2001 ACE positioned and understood itself as a weight bearing institution that performed a double task. It provided help and encouragement to artists at an emotional or intellectual level. It also granted them the necessary resources to live and create work. Nothing in the word support alludes to a tit for tat rationale and, linguistically at least, there is no concern for finances. Support, it seems, is not about returns on investment.

Such a comprehensive understanding of the organisation, derived from an analysis of one word, is not necessarily accurate

and there is evidence to suggest that ACE was certainly interested in economic impact in 2001. The appointment of businessman Gerry Robinson is a clear indicator of this as is the industrious title of the 2000 annual review, *Working for the Arts*, which utilises language that appeals to commonly understood rhetorics of labour and fiscal reward. Equally, it is interesting to note that the ‘Labour Party’s front bench [here at the end of their first term] has avowedly banned the word “subsidy” by 2001, instead favouring more positive, profit oriented descriptions of state support of the arts (Smith, *Towards Plan A*, 23).

Nevertheless, when it is considered that investment, the term used in 2009, means to ‘1. Put money into financial schemes, shares or property with the expectation of making a profit. 2. Devote time or energy to an undertaking with the expectation of a worthwhile result. 3. Buy something whose usefulness will repay the cost. 4. Provide something with an added quality. 5. Give a rank or office to’, it becomes very clear that the economic aspects of ACE’s role and, crucially, their capitalist perspective had grown in prominence to a position of dominance (OED, 383). In support of this idea of a post-millennial surge in money making rhetoric it should also be more explicitly acknowledged that, beginning in 2003, economic goals became part of ACE’s aims. They were literally added to the core script of reviews, written into the inside of the front cover. ‘Encouraging growth’ came first and a concern for ‘the creative economy’ followed in 2006 (*Review 03 & 06*, 1). This goal persists to this day and, as mentioned above, is the focus for a lot of organisational attention.

This combination of close reading and wider evidence supports and is concisely expressed by Jen Harvie’s suggestion that there was a developing ‘recognition- or mobilisation’ of the arts toward achieving economic goals under New Labour (*Fair Play*,

64). Thus, whilst it may not be entirely convincing to pitch ACE of 2001 as a disinterested, benevolent supporter of the arts it is a strong and defensible claim to say that, eight years later, any notion of support had disappeared. In its place was an interested, profit oriented organisation with an investment rhetoric that promoted the arts as a powerful instrument for rebuilding the economy in the wake of financial collapse. This shift, to reiterate, changed ACE. It was no longer a supporter of the arts that also recognised their ability to make money; it was now a distributor of government funds, mobilised in pursuit of sustainable investments.

Name Calling

Parallel to this changing understanding of itself, there is the concern over how ACE understood and cast those who it gave money to in this period. What does this second use of language reveal about the trends and ideas operating behind funding practice and does it corroborate the argument that state support of the arts moved to a more returns oriented, explicitly capitalist position? In former Secretary General Mary Allen's comments, artists began this period, in 1997, as the 'subsidised' (Allen, *Report 96/97*, 8). That is, those in receipt of a 'sum of money granted to support an undertaking that is in the public interest' (*OED*, 727). At this point, similar to the preceding discussion of support, there is no linguistic indication that they are expected to make money, nor are they described in terms that would comfortably appear in any discussion of free market economics. This distance from market parlance holds, to some degree, to 2001. In that report, a section entitled *Focusing on the Artist*, makes clear that ACE 'are doing more and more to support artists' careers, circumstances and livelihoods so that they are *freer* to concentrate on their creative work'[my emphasis] (*Review 01*, 6). This allusion to support as liberator and artists as wards of ACE

indicates that in 2001 the organisation's economic policy acted, to some degree, as an insulating barrier against market practices, rather than as a catalyst for those forces.

By 2006 this protective, statist vocabulary had been replaced by more market-friendly expressions, particularly in ACE's report 'against our *official commitments*' (*Review 06*, 30; my emphasis). Funded arts organisations were described as 'customers', utilising the services of the organisation and being asked to fill out satisfaction surveys (*Review 06*, 30). Two years later, in an introduction that focused on the effects of the comprehensive spending review, Sir Christopher Frayling declared that ACE 'must support the progression from talent to jobs' and constantly remind the public of the deep connections between the state-supported arts and the for-profit creative industries (Frayling, *Review 08*, 3). In 2009, the understanding of those who receive funding shifted again, with featured artists/customers describing themselves as 'contenders' (Whitehouse, *Review 09*, 37). This final move highlighted that arts organisations not only utilised the services of t ACE but, increasingly, had to compete against others—refining their applications, developing more successful practices, effectively sharpening their ask and offer—in a struggle to achieve outlay from a limited pot.

Similar to the previous section, there is a noticeable alteration in language over time, as those who receive state support are increasingly defined in market exchange terms by ACE leaders, in official organisation terminology and by those artists it celebrates. These artists are no longer recipients of subsidy; they are customers. They are no longer supported organisms in the arts ecology; they are profitable success stories making valuable contributions to national employment. At the most extreme, they are no longer a community of artists; they are contenders competing for investment.

This last move is the most significant and, arguably, the most troubling because it is the clearest representation of the extent of institutional shift. Indeed, ACE's interest has been reconfigured so that state support of the arts is no longer a bulwark against market failure, as it appeared in 2001 and has been argued historically. Rather, it has become its own market in which pseudo-Darwinian logics hold sway and the desire for return is the driver for increasingly competitive relationships that must, inevitably, see some arts organisations "win" (repeatedly securing funds and going on to occupy commanding positions in this new marketplace) and others "lose" (securing little to no funding).

Commercial and Public Relations

Read in combination, these developing vocabularies indicate that the period of governance under New Labour and onto the Conservative-Liberal coalition was marked by a breaking down of barriers between the subsidised and commercial arts sectors and a growing dominance of the values of the latter. It is interesting to ask what the effect of this new relationship might be beyond the initial, but no less important, establishment of a climate of winners and losers.

Looking again at the 2009 annual review, it is apparent that this altered relationship has done two things. Primarily, it has established the importance of money making for arts organisations and also cemented positive economic performance as the clearest measure of success for the arts. As the report attests, at the opening of the first ever discussion of *Achieving Great Art for Everyone*, 'the arts are an important part of life in this country—something beyond economic well-being *but just as important*' [my emphasis](*Review 09*, 10). This quote makes clear that though art has other qualities that are significant, these qualities are ambig-

ous and difficult to measure. They might be aesthetic beauty. They might be social impact. In either case, their value is not specified and they remain something beyond, immeasurable. In response to this dilemma, and to clarify the value of the arts in more easily understandable terms, the review suggests that these intangible qualities are just as important as (but do not surpass) the more quantifiable economic impact that the arts have on society. By making this connection between the two values, and scaling them so, with economic well-being the only quality mentioned specifically, this quote locates economic success as the dominant indicator and measure of the arts contribution to life in this country. Opting for such an approach is, perhaps, easy to understand. Economic success is easily evidenced and provides a clear indicator of the social impact of tax spending.

Yet, thinking more critically, by arguing in this way, the quote reveals that arts' other qualities are now in thrall to this dominant economic valuation. Yes they are different and yes they may be important but they will never surpass any economic value created. Worse, the idea of equal valuation suggested by *just as important* is, I suggest, a harmful fallacy that serves to veil economic dominance. Indeed, the idea that a method of valuation or a quality that is not clearly defined (*something beyond*) is on the same level as a method of valuation that is clearly specified (*economic well-being*) is hard to accept. If only because, when talking of arts value or its social contribution, a commentator might, for nothing other than ease of communication, opt to use a clearly defined and known language. In this case, it is the economic language. Thus, despite all the talk of equality, if the other values of the arts are not getting mentioned, simply because there are no words to clearly do so, then the market language of capitalist economics again comes to dominate. The overarching implication of all this

is that by entrenching economic valuation as a dominant measure ACE has narrowed the ways in which it chooses to value the arts and any social contribution they may make.

The second thing that the overlap of commercial and public achieved was the complete instrumentalisation of the arts for economic ends. By 2009, the economic register was not only the dominant gauge of value, but it was also the goal to which the state supported arts were now explicitly directed. In her opening remarks for the review of that year, Forgan suggests that, though the recession has proven difficult to weather, it has ‘also been a heartening time, full of forward thinking about how the arts can contribute to recovery’ (Forgan, *Annual Review 09*, 2). She goes on to say that she and ACE will ‘never let government lose sight of the role of the arts in recovery from recession’ (Forgan, *Review 09*, 3). The directness of these statements, and the consolation they draw from economic potential, is fascinating as it is an inversion of the recognition and mobilisation discussed earlier. Here, it is not the case that the government is pressuring ACE to serve the creative industries and wider economy. Rather, it is the leader of ACE telling the government that the organisation is a proven economic force that can be called on, especially, in fiscally tight times.

The reasons behind Forgan’s suggestions could be diverse. She may be writing pragmatically, identifying a pressing social concern and working to ameliorate it through the pursuit of one of arts many benefits. Perhaps she is writing with a high level of political savvy, recognising that funding arrangements under New Labour—at the best of times—were couched in economic arguments and evidence based policy making and that this is unlikely to change in more stringent circumstances. It is even possible that after years of increasing pressure to show returns on government

investment, ACE, with Forgan at their head, have fully embraced more market friendly ideas and instrumentalised their approach accordingly. It could be a combination of all three or something else entirely.

Regardless, this commercial rhetoric permeates Forgan's comments, manifests throughout the wider review and effectively places the subsidised arts ecology in the service of the creative industries which, in turn, contribute to the wider economy. This is a striking hierarchy that acknowledges but, crucially, moves beyond earlier conceptions of the arts as having *the potential* to make money by directly reconfiguring them to this purpose. With the effect that, by 2009, the potential for art to foster moments of aesthetic stimulation and communal interaction (amidst other more conventional benefits) has been thoroughly subjugated to an economically oriented instrumental rhetoric.

Final Thoughts & Next Steps

The enunciation of this troubling finding offers a good place to round up this essay. Through a linguistic analysis of various annual reviews this essay has bolstered the claim that arts policy in England was increasingly dominated by financial concerns over the last twenty years. Specifically, by revealing particular examples of change and examining this trend in action this work made clear that the language of the leading arts funding body has celebrated and increasingly occupied a more returns oriented, explicitly capitalist position from 1997-2013. The implications of which are manifold. ACE has established a climate of winners and losers. It has shrunk the way we discuss the value of art. It has rendered the variety of arts' potential impacts less visible and, in its final effect, it has instrumentalised the arts into a position of willing economic subservience. All of which is a pretty damning

indictment of a funding body that claims developing aesthetic excellence and increasing public access as the goals of its *cultural* policy.

Some powerful critical arguments and alternatives may be developed off of the back of these findings. Of particular interest are the linguistic possibilities opened up by this analysis. Namely, if this study unearthed the negative potentials of language, a fruitful follow up might ask: how can we change the language of policy to avoid such negative implications and, perhaps, alter the underlying ideology in the future? Unfortunately, there is little space available to begin exploring these possibilities here, but by reaching this question, and by demonstrating its necessity through the articulation of the foregoing conclusions, I hope that this essay can serve as a prompt for such work in the future.

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Book Reviews

Post Dramatic Theatre and the Political: International Perspectives on Contemporary Performance editor(s) **Karen Jurs-Munby, Jerome Carroll and Steve Giles, (2013)**

London: Bloomsbury Methuen Drama, 312 pp. (softback)

By Sam Haddow (Central School of Speech and Drama)

The consolidation of a new critical entity – be it a term, trend, method of categorization – requires a degree of elbow shuffling amidst the corpora of existing discourses. Tensions arise as neophytes fight their nascent corner and stalwarts of existing entities worry about the effects of the interloper on their own fields of study. In recent years, Hans Thies-Lehmann's 'postdramatic theatre', an aesthetic vocabulary for contemporary performance practices that resist the conditions of a 'dramatic' sensibility (plot and character, building and environment, actor and spectator, etc.), has sparked this exact process. In response, there have been some ferocious criticisms, with perhaps the loudest being voiced by Elinor Fuchs:

If in fact the 'dramatic' is destined [...] to be erased like a face drawn in the sand at the edge of the sea, then all social and political theorizing of the past quarter century so notoriously absent in his [Thies-Lehmann's] essay could be seen as mere flotsam on the ineluctable tide of an aesthetic life expectancy. (32)

Fuchs' attention is not so much on the contemporary as its anterior: if postdramatic theatre becomes a pre-eminent form of critical interpretation *now*, then what implications does this have for *before*? Her argument recalls the canon formations of T.S. Eliot, who famously sought to formalise the radical 'new' by demonstrating

its perpetual reliance upon pre-formed traditions. For Fuchs, recent 'social and political theorizing' has been built upon explicitly dramatic principles and the eradication of the 'dramatic' in performance scholarship dislocates the political dimension of performance itself. This book seeks to prove Fuchs wrong by rethinking the political dimension of performance in a way that subverts, defies or avoids the dramatic tradition altogether. Emerging from a conference in 2011, it contains an introduction and 12 chapters. For the most part, these are case-studies into specific examples of practice that are used to open up broader critical questions, and contributors range from established scholars such as Thies-Lehmann and Karen Jürs-Munby, to (then) PhD candidates such as Michael Wood and Antje Dietze.

The groundwork for the project has been pretty well established elsewhere. Brandon Woolf's chapter, which asserts a political quality to the aesthetic, essentially rehashes a truism from literary studies. David Barnett looks back to Brecht in order to denounce the contingency of postdramatic theatre upon the conventions of Epic Theatre, but his argument is familiar via the work of Heiner Müller. The strength of Barnett's chapter is his analysis of Michael Thalheimer's version of *Mr Puntilla and His Man Matti* where historicist readings of Brecht's text are subordinated to eventual relationships forged in the instance of performance. This pushes towards a key principle of 'postdramatic theatre', which as Jerome Carroll states elsewhere, identifies a 'situation in which the production of meaning itself is *shared*' (252). The democratic production of meaning has its own varied and complex lineages, recalling the 'empty mechanisms' of which Derrida was so fond (and it's no accident that Thies-Lehmann draws deeply into Derrida's ideas). But the contributors to this volume, inevitably, are more interested in establishing the political dimensions of postdramatic theatre in

precisely those areas claimed by the dramatic. In his own chapter, Thies-Lehmann provocatively goes to drama's most jealously guarded corner and ponders 'A Future for Tragedy?':

Tragic experience is bound to a process where we are taken to the edge of the normative and conceptual self-assurance, and this process cannot be achieved by purely theoretical subversion but by the uncanny mental and physical experience of entering the twilight zone, where the substantiality of the cultural norms which we adhere to is put in doubt. (99)

Thies-Lehmann affirms the *transgressive* nature of tragedy at the same time as historicizing the dramatic as a crystallization of principles emerging at, and for, a given juncture. Since he follows Nietzsche, Artaud and Benjamin in reading the tragic as the 'destabilising of the basic grounds of our cultural existence, even a blurring of the boundaries of the self', he concludes that the dramatic cannot achieve this objective *now*. Thus, the dramatic no longer serves the function for which it was intended – we need new ways of 'entering the twilight zone'. Ironically, of course, this further locates postdramatic theatre within a very well-established lineage of dramatic iconoclasm. Karen Jürs-Munby highlights this in her chapter 'Parasitic Politics', where she observes the predations of postdramatic theatre not only upon the 'cultural norms which we adhere to' but specifically the *dramatic* traditions within those cultures. She focusses on the work of Elfriede Jelinek, whose 'secondary dramas' dismantle and reshape famous parent texts in fragmented readings. Jelinek's outspoken affirmation of the necessities of *this* context come across as a sort of strategic credulousness: 'I staple myself firmly to reality as it is offered to me, filtered through third party opinions (and, by contrast, to a proper filter, which is

supposed to take these out, fortified with poisonous matters, to which I add some more, as I need something juicy for my writing)' (216).

What Jürs-Munby finds here, building on Thies-Lehmann's provocations, is a willful embrace of the collapsed boundaries between text-worlds and reality-effects as the conditions of the contemporary, thus the arena in which new forms of politics and political engagement must be sought. Here, postdramatic theatre is properly historical as both an emergence *at* and response *to* a given context. The tricky part is the historical and political consolidation of a set of principles that explicitly contest these axioms, a consolidation which this book sets out to *begin*. At the end, Fuchs' attack probably provided convenient access to the arena in which postdramatic theatre's legitimacy would always have had to be fought for. This book is likely to be the first of many such projects, and whilst there is some fascinating work in development here, one is left with the sense that the best is yet to come.

***Performance Studies in Motion: International Perspectives and Practices in the Twenty-First Century* editor(s) Atay Citron, Sharon Aronson-Lehavi and David Zerbib..**

London: Bloomsbury Methuen Drama, 2014, 401 pp. (softback)

By Benjamin Fowler

This sprawling survey of contemporary Performance Studies (PS) gathers contributions from a 2010 conference held at the University of Haifa in honour of Richard Schechner. Schechner's border raids into Anthropology and the Social Sciences established performance, from the 1970s onwards, as both an object of study and a theoretical lens through which to examine diverse social practices. Accordingly, this collection reflects Schechner's

‘broad spectrum’ approach to PS, which he describes—in his own contribution to the volume—as the ‘ultimate disciplinary bricoleur’ (48).

In the first of three opening theoretical essays, David Zerbib establishes a synergy between Schechner’s PS and post-structuralism. He recounts a 1966 literary criticism summit at John Hopkins University, where a precocious young Schechner tried to “inject the side issue of the embodied performance” (25) into a panel discussion between Jacques Derrida, Jacques Lacan, and Roland Barthes. Zerbib then links Schechner’s theorisation of performance as “restored behaviour” (“repetitions with no original. . . or the indeterminacy of a centre of intentionality and identity”, 25) with the dynamic energy released by the “free play of the sign” (23) in post-structuralist philosophy.

Henry Bial’s particularly engaging contribution further elaborates this dynamic power of “play” by modelling PS on a computer operational system and its multiple releases. Bial’s analysis reveals performance as a kind of world-making that “nearly always tends towards the utopian” (41). Schechner’s own essay corroborates Bial’s analysis. As PS unfolds into the future, Schechner posits a new politically, economically, and spiritually non-aligned “Third World”, led by performance theorists and artists who relate on a “performative” rather than an “ideological” basis. The remaining 19 chapters—highly specific case studies of phenomena viewed as or through performance, rooted in local contexts—broadly support a notion of performance that stresses its utopian political credentials.

Louis Holzman and Dan Friedman discuss how a series of ‘Performing The World’ conferences in New York have recognised performance as a transformational practice “allow[ing] human beings to develop beyond instinctual and socially pat-

terned behaviour” (280). William H. Sun and Faye C. Fei outline the development of a ‘Social Performance Studies’ in China that collides Schechnerian PS with management discourse, helping businesses ready employees for a service economy in a culture unused to such performative demand suggesting, for this reader, how PS’s emphasis on flexibility and fluidity occasionally sees it veering uncomfortably close to the ideological imperatives of globalised neoliberalism, troubling Schechner’s insistence that the ‘performative’ is able to slip free from ideology.

Two contributions make striking departures from the collection’s utopian orthodoxy. Annabelle Winograd analyses two World War One photographs that apparently depict a “soldier-victim” forced to perform before a group of off-duty combatants. She perceives “no soldier downtime theatrical, but performance retaining its power and danger to wound, to terrorize, even to kill” (189), thus suggesting the ambivalence of performance’s transformative potential. Dariusz Kosiński’s argument that “Polish culture is best understood through the lens of performance” (159) submits the year of public ritual and ceremony following in the wake of 2010’s presidential plane crash to a dramaturgical analysis, ultimately regarding performance as “a weapon of conservative restoration” (170). These are welcome counter-perspectives to the largely unchallenged assumption elsewhere that performance’s benign ontology offers a paradigm for utopian social relations. Indeed, only Kosiński engages Jon McKenzie’s provocative claim that “performance will be to the twentieth and twenty-first centuries what discipline was to the eighteenth and nineteenth”, identifying “perform, or else...” as the mantra of contemporary power and authority (*Perform or Else: from Discipline to Performance*, London and New York, Routledge, 2001, p .18).

Many contributions offer case studies of performance

as activism, including Eva Brenner's account of her community-based Viennese group *Fleischerei*. Grappling with contemporary performance discussions whose roots lie outside of Schechnerian PS, Brenner bases her activist manifesto on a critique of Postdramatic Theatre as theorised by Hans-Thies Lehmann. In stressing "aesthetic instead of social concerns" (174), the post-dramatic paradigm, for Brenner, reflects artistic confusion, angst, and loss of hope, consonant with a neoliberal economic structure that unleashes "startling states of economic crisis, social downgrading and cultural lack of innovation" (174). Brenner's call for a return to political activism through performance that addresses local concerns is answered in the work of the *Tul Kareem-Tel Aviv* theatre group. Chen Alon's chapter documents this community of Palestinians and Israelis who use non-violent performance techniques (based on Boal's *Theatre of the Oppressed*) to resist the Israeli occupation of Palestinian territories. Jennifer Herszman Capraru outlines the links between theatre, ritual and catharsis in the work of her company *Isôko Theatre Rwanda*, aimed at "rebuilding civil society" (208) through indirectly addressing the pain that still haunts the country since the 100 days of the 1994 genocide. Daphna Ben-Shaul pursues the critical value of performance in the work of Israeli group *Public Movement*. In their re-enactments of military ceremony and state of emergency rescue routines, Ben-Shaul sees not the aestheticization of the political, but "the political aestheticization of ceremonial codes and their crucial connection to crisis" (119).

Despite the editors' attempt to organize 22 essays into seven broad "motions", their sheer variety of topics and contexts resists neat thematic analysis. This very heterogeneity, however, is the volume's chief pleasure. As well as providing a platform for practitioners and scholars working at the bleeding edge of

performance, adapting theory to real world contexts and reflecting on issues raised by practice, the editors have collated truly international perspectives. Israel is strongly represented—Atay Citron’s stand-out essay charts the “audacity and insane courage” (261) of the Israeli Dream Doctors emerging from the Medical Clowning academic training programme Haifa, led by Citron himself—but the collection’s geographical reach embraces Jazmin Badong Llana’s discussion of the dotoc religious performances in the Philippines and Liora Sarfati’s evaluation of authenticity and technology in contemporary Korean shamanic ritual. That I have been unable to reference every contribution speaks of the collection’s length, but its eclecticism results in chapters that also feature *Théâtre du Soleil*, Warsaw’s *Museum of the History of Polish Jews*, Rabih Mroué, and a reading, by Klaas Tindemans, of the “democratic self-destruction of Belgium as a nation in performative and theatrical terms” (148). According to the editors’ desire to offer “a concrete and pragmatic view of current research and objects of study” (1), this succeed. In characterising performance as a utopian, ideologically untainted methodology, too many of the perspectives gathered here reflect the collection’s blind spot: exactly whose future this utopia figures, an important question in light of the central role that performance has placed in many radical authoritarian regimes.

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***Fair Play: Art, Performance and Neoliberalism* by Jen Harvie**

Basingstoke: Palgrave Macmillan, 2013, 240pp. (softback)

By Matthew Midgley

Jen Harvie's latest monograph is a timely evaluation of socially-turned art and performance in the UK. It provides a cautious but incisive contextualisation of trends in this type of art from the mid-1990s to the present, a period defined by neoliberal political economy that includes the legacy of Margaret Thatcher, the rise of New Labour, and the current Conservative-Liberal Coalition Government. The term neoliberalism has entered popular discourse in recent years but those looking for a theoretical definition of the term will not find an evolutionary one here. Harvie has followed David Harvey in recognising supreme market freedom and 'diminished state intervention' (12) as defining facets of neoliberal capitalism. While there are legitimate questions to be asked as to whether the neoliberal state intervenes less than a social welfare state (performing fewer social welfare functions yet increasingly intervening in the interests of business or 'security', for example), Harvie's multidisciplinary and cultural materialist approach rightly focuses on the art and the specific contexts in which it is created.

Harvie sets out clear terms for the scope of the book in the introduction, citing multiple aims. By delineating the pressures exerted by neoliberalism on all spheres of life (not just politico-economic ones), Harvie seeks to contribute to the understanding of socially-turned art and the debates surrounding it, interrogating the artistic responses to these pressures in order to 'find in them models of fairness and constructive social engagement' (25) able to resist and challenge neoliberal capitalism. She argues convincingly for the almost exclusive focus on social-

ly-turned art and performance in London on the ground that the city is, rightly or wrongly, the fulcrum of artistic activity of this kind, as well as the place most acutely influenced by neoliberal capitalism within the United Kingdom. The book is arranged into four chapters, each covering a crucial sphere in the arts ecology: labour, 'artepeneurialism, space and public-private capital. In each the potential benefits and risks to the arts are considered in relation to socially-turned artworks. Each chapter encounters one or more social problems that have arisen out of neoliberal policies, from flexible labour to gentrification, which artists are negotiating, challenging and, perhaps, perpetuating or normalising.

While *Fair Play* is one of the first books to document art and performance's relationship to neoliberalism specifically, others, including Harvie 2005 work in *Staging the UK*, have authored similar accounts of the influence of politico-economic ideologies on the arts. Baz Kershaw has been particularly outspoken on the commodification of theatre by market-centric governments (*The Radical in Performance*), and the Thatcher years inspired numerous works documenting artistic responses to neoliberal changes in labour, housing, and spatial relations (see Peacock, *Thatcher's Theatre: British Theatre and Drama in the Eighties* and McGrath, *The Bone Wont Break: On Hope and Theatre in Hard Times*). Harvie's contribution does much more than re-tread this old ground. The strength of the book lies in its balanced approach to artists, arts administrators and cultural producers who engage in socially-turned art. For instance, unlike Kershaw, Harvie acknowledges the potential harm as well as the potential radicalism in these performative models of social relations. The analysis of Kate Bond and Morgan Lloyd's *You Me Bum Bum Train*, for example, concludes that while audience participation in such works may allow active engagement and creative opportunity, it may also facilitate

exploitation of unpaid labour whilst providing merely the illusion of individual agency, subordinating amateur spectator-performers to a professional elite (28-29).

That neoliberalism has become the dominant force in politics is not up for debate: rather, Harvie analyses how neoliberal political economy is changing labour, fostering entrepreneurialism (or artrepreneurialism), utilising space and encouraging public-private capital partnerships within the arts. Using a handful of examples from theatre and performance art, Harvie explores the potentials and dichotomies at play with an even hand. Few would disagree that many artists have genuine social concerns, but the problem raised by Harvie, following Foucault, is that they do not always recognise how their own practices can help to naturalise socially destructive neoliberal economic and cultural mechanisms.

This naturalisation is at its most insidious and perhaps its most radical when artists themselves are internalising and practising the enterprising, efficiency-pursuing mantra of the creative economy, whether knowingly in order to challenge, or unknowingly (with the risk of normalising such discourses). Harvie considers and frequently questions the efficacy of disseminating such doctrines. For example, while Michael Landy may successfully bring the 'human costs of creative destruction' (91) inherent in market capitalism to the attention of his audiences by reproducing its effects upon himself or others, works such as Uninvited Guests' *The Good Neighbour* may contribute to norms of unpaid or delegated labour (43).

The art and performance works documented in the book are by their very nature ephemeral, and especially in the case of immersive or one-to-one theatre there is a limit to the range of examples any one author could draw upon. Given the London focus and the challenges posed in documenting relational art and

performance, Harvie's work serves as a consciousness raiser for artists and researchers, who can draw upon the ideas in the book to interrogate how neoliberal hegemony influences their locality, their work, and (if so inclined) how they might challenge or resist that hegemony. At times the reader, sensing that Harvie is tempering her criticism of the art or policies that she is discussing, wills her to drive the point home. In never overstating its claims *Fair Play* ultimately offers fewer attacking openings to opponents, which given the ubiquity of neoliberal thought in government, aspects of arts administration and higher education, is perhaps prudent. Harvie is careful not to attack artists who may, knowingly or otherwise, sustain elitism in the arts via the neoliberalised practices explored in the book.

The success of the book rests upon how the war against neoliberalism should be waged; quite often more polemical attacks fail to rouse the moderate majority. Harvie seems to have instead opted for guerrilla tactics, challenging neoliberal hegemony with sustained, intelligent and well directed criticism. *Fair Play* is an important refutation of the neoliberal orthodoxy that threatens to overwhelm many aspects of our society.

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***The Feminist Spectator in Action: Feminist Criticism for the Stage and Screen* by Jill Dolan**

London: Palgrave Macmillan, 2013, pp. 221, (softback)

By Stephanie Tillotson

The Feminist Spectator in Action addresses current concerns about the relevance of the politics of feminism to contemporary cultural practice. It asks a provocative and increasingly widespread question: 40 years after the potent acme of the Women's Movement, why should the consumer or the creator of culture care about a feminist perspective on the arts? Jill Dolan's magnificent book offers an answer in the most practical form available to the feminist critic. It is a collection of essays that reviews diverse expressions of contemporary culture, with a sharp and primary focus on representations of, not only gender, but also class, colour, ethnicity and sexuality. It builds directly on her work in *The Feminist Spectator as Critic* (to which its title pays homage) and is the encapsulation of a critical practice developed throughout her 35-year career as a theatre and performance studies scholar, feminist thinker, writer, teacher and avid consumer of cultural events. Moreover, it is a celebration of the artistic work of women, and men, working in North American; and to some extent European; theatre, television, film and performance art.

The referential nature of the title suggests that the reader of *The Feminist Spectator in Action* requires an acquaintance with Dolan's earlier philosophical work. This is not necessarily the case and though her analysis is theoretically rich, this latest book may be enjoyed as an engaging collection of independent phenomenological responses to wide-ranging events, from Broadway productions to the avant-garde, from local experiences to film and television series consumed as mass entertainment. Scholars

and students will find much resource material for examination, augmented by Dolan's expertise in interpreting how socio-political contexts, design, composition, spaces and technologies produce meaning in performance. Her dramatic criticism works in partnership with her academic work, where she rejects absolutely a feminism that applies a 'monolithic approach to politics and culture' (*Spectator as Critic*, xv). She has argued instead for the parsing of feminism into taxonomic genera. These 'discourses of feminism' she defines as: Liberal Feminism, based on the premise that, within current social systems, women should receive equal treatment on the same terms as men; Cultural Feminism that demands a different social structure, one that prizes female-derived ideology over so-called male culture; and lastly Materialist Feminism, which Dolan herself advocates (xv). This latter classification does not incorporate the gender essentialism of Cultural Feminism, giving precedence instead to the critical study of 'deeper ideological scaffolding of forms, contents and modes of production ... aligned with a materialism linked to Marxism, and to theories of social constructivism derived from Foucault and ... Judith Butler' (xvi). These precise distinctions inform Dolan's writing, which is characterized by a close reading of the material conditions of theatre, performance, film and television events that feature significant contributions by women.

The book is chiefly dedicated to the reproduction of 34 reviews originally posted on Jill Dolan's blog, *The Feminist Spectator*. Two-thirds of the book's reviews are taken from her entries for 2011 and 2012. That her blog received the 2010-11 George Jean Nathan Award in Dramatic Criticism is testimony to the quality of her writing. The book conserves the non-linear structure of the blog, leaving the reader free to navigate a personal route through the narrative, aided by the Appendix which points to distinctions

of theme (e.g. adaptations, Shakespeare, mothers and daughters), genres and venues (Broadway, the West End, Hollywood or Indie films) or of authorship (people of colour, gay practitioners, or women as writers or directors). Dolan covers a huge range of texts, from the films *Mamma Mia*, *The Hurt Locker*, and *The Social Network*; to theatre, *Clybourne Park*, *Hair*, and *Death of a Salesman*; to television series, *Nurse Jackie*, *Homeland* and *Girls*. She has, however, imposed a subjective structure on her material by gathering her essays into four main sections: Advocacy, which includes writing about women artists whose work has been or might otherwise be overlooked by the conventional critical establishment; Activism, 'demonstrates how feminist critics might promote media literacy'; Argument, which 'describes films and productions that resonate with social issues' and finally Artistry, which 'discusses films and theatre productions that I found particularly moving and resonant'. These distinctions, however, she describes as 'specious. I use them merely to highlight some of the essential feminist critical tasks', a statement that registers a further and fundamental element to Professor Dolan's practice – her ardent belief that feminist criticism is pedagogical (*Spectator in Action* xvi). Her purpose is instructive; her goal to galvanize a plurality of voices whose objective is social transformation.

In the Introduction, Dolan makes clear her intention to inspire 'a community of feminist spectators, critics, readers and writers', that she hopes 'will include people of all genders, races, ethnicities, classes and ages' (*Spectator in Action* 194). Her ambition is that others will embrace the popular critical possibilities of the Internet as one site where ideology may be re-written. In addition to the reviews, therefore, Dolan has included a 'How-to Guide' and 'Further Reading' section specifically to encourage and enable individuals to develop a personal praxis based on the

paradigm of ‘critical generosity’ (*Spectator as Critics* xxxvii). In this model –with Dolan’s book as an exemplar –the reviewer is asked to engage with the cultural event in a spirit of knowledge, courtesy and respect. Feminist criticism, she writes, ‘strives to consider what theatre and performance might *mean*, what it might *do*, how it might be *used* in a world that requires ever more and better conversations about how we might imagine *who we are and who we might be*’ (xxxvii). Reviewing the drag artist, David Alexander Jones, Dolan describes his work as ‘a lovely, loving and lived-in performance that lets him revel in his adornments and use them as a vehicle for *affect* more than *effect*’ (*Spectator in Action* 172). This is a pertinent epilogue for *The Feminist Spectator in Action* itself, a channel for Dolan to create an affect for tangible change. This is a fascinating book that upholds the feminist perspective on the arts as one with the potential to empower social change, committed to nothing less than economic as well as gender and racial justice.

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