

Chapter 1:

Artists are Only ‘a Law Unto Themselves’

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It is evident that the law is not as rigid as some presume. Legal specialists are trained to understand the importance of flexibility and not only of the need for certainty, in its application.¹ A few possible explanations can be given for why artists, investigative journalists, and others appear entitled to bend the law and frequently test its limitations. This is not the case everywhere, nor at all times, but some degree of it is a characteristic of liberal democracies, wealthier economies, and occasionally even more classically authoritarian regimes. From a wholly logical perspective the state of affairs is odd: laws by definition should be strict. Yet, we all know that there is a difference between the law as it is written and its actual enforcement. Take the 20 mph speed limit which is now common in urban parts of Britain:² ‘Figures released by the Department for Transport show that 81 percent of cars recorded at nine sites across the country in 2016 broke the limit, with a handful—15 per cent—travelling at more than 30 mph.’³ Clearly the rule is not being imposed. Reasons of efficiency, lack of resource, or the unreasonableness of the limit, may be cited but undoubtedly ideological forces are a key factor. Competing sets of codes and vying moralities are at play. Concerning the matter of artistic activity, a greater degree of freedom with respect to ethical conventions, and at times even the law, seems to be acknowledged. This chapter looks at how that is so, suggests what the origins are for certain artistic autonomies, and lists reasons why those in power would be willing to accept or even support such law-bending. A controversial postulation put forward, given the turn towards activism and the times we inhabit, is that privileges are granted precisely because artists do not pose a threat to the status quo. Connected with this, we reflect on the argument that didactic art is poor art, whilst, ironically, likely to be ineffective in its practical goals and attempt to change minds. The latter insinuation brings into question any conscious attempt at the instrumental employment of art, as panacea for societal ills say (a top-down position) or in order to prompt social change (the activist position). Having considered these issues, counterpoints are made in the second half of the chapter, relating to how artists can address the socio-political landscape. Examples are given of materials which are simultaneously politically committed and judged positively within art contexts. One chapter in a book is inadequate to discuss the multifarious interconnections between artistic practice and political imperatives. Enough is done here to demonstrate that the conflation of the two is conceivable, whilst remaining sceptical and defensive of the distinctions.

On the face of it, the addressing of taboo subjects, and carrying out of inflammatory actions, by those who call themselves artists is regularly accepted. The degree of tolerance for the pursuit of alternative lifestyles or transgressive conduct by essentially aristocratic groupings—take Byron and his circle, or a century later the

¹ John Bell, ‘Certainty and Flexibility in Law,’ in *The New Oxford Companion to Law* (Oxford: Oxford University Press, 2008).

² The rolling out of new speed limits may seem an obscure example to raise but the phenomenon is of interest as part of my own interventionist practice (Micheál O’Connell ‘MICHEÁL O’CONNELL / MOCKSIM,’ 2016, accessed 1 June 2019, <http://www.mocksim.org/works/Speeding.htm>).

³ Henry Bodkin, ‘Most Drivers Ignore 20 mph Speed Limits, Official Figures Show,’ *The Telegraph*, accessed 15 June 2019, <https://www.telegraph.co.uk/news/2017/07/03/drivers-ignore-20mph-speed-limits-official-figures-show>

Bloomsbury Set—was extended to others with the advent of popular culture during the twentieth century. Artists have been shocking, not only in the nature of their wanted breaks with preceding artistic convention but in their general behaviours. The misdemeanours were not always tolerated of course: ‘There is no such thing as a moral or an immoral book,’ proclaimed Oscar Wilde but in real life he faced persecution.⁴ Egon Schiele was imprisoned in 1912, following a court case during which the presiding judge burnt one of the artist’s offending erotic drawings. Such cases of boldness punished, however, also provide evidence of the expectation of greater leniency in the first place. The sense of entitlement exists because the tag artist often does offer real protection when ethical, moral, and sometimes even legal codes are violated. In more recent times, when members of performance art and activist group, Pussy Riot, were jailed in 2012, the international outcry which followed must have improved their predicament.⁵ At least the band were embraced by a global community of sorts, within the worlds of art and popular culture, on their release. A disturbing incident, which nevertheless provides further indication of the presumption that greater ethical leeway is extended to artists, was paramilitary Michael Stone’s claiming his intrusion, with explosives, into Northern Ireland’s Stormont parliament in 2006 was ‘performance art.’⁶ Unsurprisingly Stone eventually failed in his attempt to convince the court.⁷ On the other hand Pyotr Pavlensky who is famous for his many provocative public performance actions in Russia, including nailing his scrotum to the cobblestones on Red Square in 2013 and setting fire to the entrance of a Federal Security Service building in 2015, escaped being incarcerated.⁸ It was unclear whether his actions were devoid of artistic merit.⁹ Further confirmations of the latitude extended when the ‘art’ word is used are not difficult to find. The references to risk in Arts Council England’s advice for grants applicants, are couched in terms that are ambiguous enough for it not to be clear whether what is meant, are aesthetic considerations only: ‘Risk is important in many artistic activities. By taking artistic risks, artists often find ways to break new ground, reach new audiences or increase the range of work they do.’¹⁰

⁴ Oscar Wilde and John M. L. Drew, *The Picture of Dorian Gray* (Ware: Wordsworth Editions, 1992), II, 30–1/3212.

⁵ Miriam Elder, ‘Pussy Riot Sentenced to Two Years in Prison Colony over Anti-Putin Protest,’ *The Guardian*, accessed 13 March 2018, <https://www.theguardian.com/music/2012/aug/17/pussy-riot-sentenced-prison-putin>.

⁶ Bernadette Buckley, ‘The Workshop of Filthy Creation: Or Do Not Be Alarmed, This Is Only a Test,’ *Review of International Studies* 35/4 (2009), 835–36.

⁷ Michael Holden, ‘Michael Stone Jailed for Stormont Assault,’ *Reuters*, 8 December 2008, accessed 1 June 2019, <https://uk.reuters.com/article/uk-britain-stone-idUKTRE4B74ER20081208>.

⁸ Walker, Shaun. ‘Petr Pavlensky: Why I Nailed My Scrotum to Red Square,’ *The Guardian*, 5 February 2014, accessed 9 April 2019, <http://www.theguardian.com/artanddesign/2014/feb/05/petr-pavlensky-nailed-scrotum-red-square>; Elise Morton, ‘Russian Performance Artist Pyotr Pavlensky Released and Fined | News,’ *The Calvert Journal*, 8 June 2016, accessed 9 April 2019, <https://calvertjournal.com/news/show/6165/russian-performance-artist-pyotr-pavlensky-released-and-fined>.

⁹ This contrasts with the severe treatment of Pussy Riot. A person would be forgiven for suspecting gender bias.

¹⁰ ‘Grant for the Arts—Help Notes: Understanding the Assessment Criteria and Overview,’ *Arts Council England*, accessed 1 June 2018, <https://forms.artscouncil.org.uk/officeforms/How-to-apply-help-notes-page-9.html>.

Of course not all artists are attempting to provoke or incite radical change, but we might wonder what the nature of the additional freedoms being discussed is, and how they came about. Is there something essential for a society in the, mostly tacit, acceptance of nonstandard conduct by a minority? The suggestion of a class basis for such privileges alone cannot explain everything. Even within privileged or celebrity circles, order has to be maintained and the excusing of moral or legal violations is not always guaranteed, as some of the examples already given indicate. Still, motives can be listed for why sections of those who exercise control might support conduct which, at first sight, is critical and challenging of that very authority. For instance, the semiotics of such permission-granting is evidence of a liberal environment, and it may be important to give that impression. During the Cold War era, 'soft power' was wielded, which even included surreptitious support for avantgarde art by the CIA, in order to promote the idea that the United States was a freer place than the USSR.¹¹ To view the advocating of artistic freedoms as a one-dimensional effort by those in power to exert control is too simplistic though. It seems obvious to state that any presiding class will have genuine cultural interests, and a need for artefacts as confirmation of its significance and prowess. In addition, art may serve some useful prognostic role, against the backdrop of existing orthodoxies as indicated in the next paragraph (which is different to it being critical on a systemic level).

The trajectory over time, in terms of artists' interactions with, and influence on, the law is worth noting. As well as actions, behaviours and lifestyles, the tangible works produced or presented as art become sources of disagreement. A famous case, against United States customs, was won by Constantin Brancusi about whether, in 1926, his *Bird in Space* could be imported as art object. Customs 'officials had classified it as a utilitarian object (under "Kitchen Utensils and Hospital Supplies") and levied against it 40% of the work's value.'¹² A few centuries earlier, lobbying for the introduction of a means of preventing piracy in Britain, had resulted in the Engraving Copyright Act, often called 'Hogarth's Law.'¹³ By the twentieth century, however, from Marcel Duchamp's famous gesture in exhibiting a 'readymade' onwards, artists were doing the opposite: challenging notions of authorship, appropriating, performing, and working with concepts instead of creating physical commodifiable items.¹⁴ In light of these developments, Seth Siegelaub and Robert Projansky's legal document, drawn up in 1971 and used by notables such as Jackie Winsor and Hans Haacke—which was designed to protect contemporary artists' rights precisely in the spirit of Hogarth's Law—arguably amounted to a conservative adaptation to capitalism.¹⁵ Whilst the often

¹¹ Frances Stonor Saunders, *Who Paid the Piper?: The CIA and the Cultural Cold War* (London: Granta, 2000).

¹² Ronald D. Spencer and Tamara Mann, 'The Brouhaha: When the Bird Became Art and Art Became Anything,' *Spencer's Art Law Journal* 2/2 (November 2011), accessed 9 April, 2019, <http://www.artnet.com/magazineus/news/spencer/spencers-art-law-journal-12-9-11.asp>.

¹³ Ronan Deazley, 'Commentary on the Engravers' Act (1735),' *Primary Sources on Copyright (1450-1900)*, 2008, accessed 9 April 2019, http://www.copyrighthistory.org/cam/tools/request/showRecord?id=commentary_uk_1735.

¹⁴ Sophie Howarth and Jennifer Mundi, 'Marcel Duchamp, "Fountain" 1917, Replica 1964,' *Tate*, August 2015, Accessed 9 April, 2019, <http://www.tate.org.uk/art/artworks/duchamp-fountain-t07573>.

¹⁵ Seth Siegelaub and Robert Projansky 'The Artist's Reserved Rights Transfer And Sale Agreement' Accessed 1 July 2019, <http://primaryinformation.org/files/english.pdf>.

discussed 'art market' really does not impact on the activities of most artists, most of the time—Dave Beech reminds us that 'the vast majority of artworks do not enter the market at all'—artefacts complicate relations in a society built around commodity production in which definition and clarity, in the interests of trade, are crucial.¹⁶ Art controversies prefigured the situation today when, contradictorily, openness, a culture of sharing, and appropriation is advocated, especially in the realm of software development, but proprietorial imperatives remain an inescapable chief concern. Speculatively, this perceived predictive capacity and, in effect, querying of received wisdom, but not to the extent of wanting to 'overthrow the system,' allows art to curry favour within the hegemony.

Despite the sometimes seditious connotations of art, then, and the risks associated with encouraging the creative impulse, power is interested in holding these practices close. And, there is a history of this. The artist as trickster has often been put forward.¹⁷ This idea in turn is evocative of the jester of old. In medieval times, the court fool, sometimes actually licensed, was able to speak truth to power in ways that others could not.¹⁸ Following a battle lost to the English, Phillippe VI's jester comforted him with the exclamation that the English sailors 'don't even have the guts to jump into the water like our brave French.'¹⁹ Mikhail Bakhtin makes points about medieval carnival which, if seen as connected with the sanctioning of creative practices today, undermine common preconceptions about instrumental usages of art. It is important to recognize that the authorizing of carnival and similar was not only a means of allowing the repressed multitude an opportunity to vent off; in other words, it was not purely about social control. Evidence of this is The Paris School of Theology, in 1444, defending the long-standing *Feast of Fools* which involved, as described by Bakhtin, 'grotesque degradation of various church rituals ... gluttony and drunken orgies on the altar table, indecent gestures and disrobing,' by pointing out that, 'foolishness and folly ... are ... man's second nature.'²⁰ The poets and 'fili' of ancient Ireland deserve a mention. They were 'feared and respected,' 'enjoyed high prestige' and were understood as the ones who 'held open connections with the power of nature.'²¹ Moral and legal latitudes were extended partly, but not solely, for cynical strategic reasons then. Mystique was attached to the character and behaviours of the lower orders, and a certain value was attributed to the practices of individuals such as clowns, poets, and artists.

¹⁶ Dave Beech, *Art and Value: Art's Economic Exceptionalism in Classical, Neoclassical and Marxist Economics* (Chicago: Haymarket Books, 2016), 303.

¹⁷ Lewis Hyde, *Trickster Makes This World: How Disruptive Imagination Creates Culture* (Edinburgh: Canongate, 2008); John Roberts, 'Trickster,' *Oxford Art Journal* 22/1 (1999), 83–101; David Garcia, 'As If: The Media Artist as Trickster—Interview with the Curators,' *New Tactical Research* (blog), 7 March 2017, accessed 9 April 2019, <http://new-tactical-research.co.uk/blog/1746/>.

¹⁸ This origin of the terms 'poetic license' and 'artistic license' which have different, but related, meanings today, may stem from this literal licencing historically.

¹⁹ Beatrice K Otto, *Fools Are Everywhere: The Court Jester Around the World* (Chicago, London: University of Chicago Press, 2001), 113.

²⁰ Mikhail Mikhailovich Bakhtin, *Rabelais and His World*, trans. Hélène Iswolsky, 1st Midland book ed. (Bloomington, IN: Indiana University Press, 1984), 74–75.

²¹ Robert Anthony Welch, *The Cold of May Day Monday: An Approach to Irish Literary History*, (Oxford: Oxford University Press, 2014), 28.

Nowadays the notion of 'creativity' itself is valued and creativity is strongly associated with art. There is a genuine interest in the harnessing of creative potential because it is also equated with entrepreneurialism, industrial inventiveness, and allied business objectives. Claire Bishop elucidates frankly on the subject:

*New Labour built upon the Conservative government's openly instrumental approach to cultural policy: a 2001 Green Paper opens with the words 'Everyone is creative,' presenting the government's mission as one that aims to 'free the creative potential of individuals.' This aim of unleashing creativity, however, was not designed to foster greater social happiness, the realisation of authentic human potential, or the imagination of utopian alternatives but to produce, in the words of sociologist Angela McRobbie, 'a future generation of socially diverse creative workers who are brimming with ideas and whose skills need not only be channelled into the fields of art and culture but will also be good for business.'*²²

A deduction one could make then, is that the relatively relaxed attitude towards creative practices, which infringe on either written codes or moral standards, is due to them presenting no essential threat to power. This is a brazen assertion to make, especially now, when contemporary art's ties with political dissent are supposed, and the institutions reflect that development: 'Turner Prize 2018 rewards art activists tackling crime, rights and race' declared a BBC news item.²³ The shortlist included Forensic Architecture whose work we will return to.²⁴ Could it be though that artists, rather than being 'a law unto themselves' in the typical usage of the phrase, operate in a way that is more in tune with the original biblical meaning? This refers to groupings already inherently possessing an understanding of the appropriate moral values, which is construed to a recommendation that no law needs to be imposed upon them.²⁵ The most common manner in which art transgresses has already been mentioned. For artists, it is often only the laws of the 'art system,' if we care for such a term, which are being broken.²⁶ In fact, the main implicit rule for art, since the Romantic period, has been to break with previous orthodoxy. This is not to reduce the process to a simple formulation because breaking convention itself can become a convention. Secondly, even the most extreme disruptions are likely to be knowingly reflexive on other movements. Artists react in complex and original ways, given the inevitable instrumentalist tendency and what Situationists referred to as 'recuperation,' namely

²² Claire Bishop, *Artificial Hells: Participatory Art and the Politics of Spectatorship* (London: Verso, 2012), 15.

²³ 'Art Activists on Turner Prize Shortlist,' *BBC News*, 26 April 2018, accessed 9 April 2019, <http://www.bbc.co.uk/news/entertainment-arts-43905016>.

²⁴ *Forensic Architecture*, accessed 7 May 2018, <https://www.forensic-architecture.org/>.

²⁵ 'International Theological Commission: "In Search of a Universal Ethic: A New Look at the Natural Law",' *The Holy See*, accessed 15 May 2018, http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_doc_20090520_legge-naturale_en.html.

²⁶ Sociologist and systems theorist Niklas Luhmann provided the most notable text in this regard: Niklas Luhmann, *Art as a Social System*, trans. Eva M. Knodt (Stanford, CA: Stanford University Press, 2000).

capitalism's appropriation and commodification of what was radical yesterday.²⁷ René Magritte wore a suit so that 'he looked like a small town banker'²⁸ and appropriation poet Kenneth Goldsmith encourages *Uncreative Writing*.²⁹ Henri Matisse's, in effect, extolling a bourgeois lifestyle and Tracey Emin's newfound political conservatism are partly results of this impulse no doubt. There may be a link, then, with the disregard for speeding violations mentioned in the first paragraph, in that artistic gestures are associated often not with universal concepts of freedom, but libertarian, individualistic, and somewhat elitist ones.

What about art that purports to be aligned with progressive social change? Here too weighty critical positions are easy to locate. Even the avant-garde, according to the hugely influential Clement Greenberg, 'was provided by an elite among the ruling class of that society from which it assumed itself to be cut off, but to which it has always remained attached by an umbilical cord of gold.'³⁰ In an important essay Theodore Adorno wrote that political commitment—he was referring critically to the trajectories being taken by Jean-Paul Sartre and Bertolt Brecht at that time—'often means bleating what everyone is already saying or at least secretly wants to hear. The notion of a "message" in art, even when politically radical, already contains an accommodation to the world.'³¹ In the book already cited, Claire Bishop interrogates the 'social turn' in art in the 1990s and 2000s with reference to historical periods of relevance and case studies from around the globe.³² She looks at various scenes, of both the bottom-up and government-driven variety. Even in the opening pages, she describes an insidious plan to commandeer art for encouragement of 'social participation [which] is viewed positively because it creates submissive citizens who respect authority and accept the 'risk' and responsibility of looking after themselves in the face of diminished public services.'³³

Yates McKee's *Strike Art* also gives intermittent airplay to Bishop's ideas, her drawing on philosopher Jacques Rancière, to confront *Relational Aesthetics* and provide 'a rigorous tonic for those who would posit art as an agent of naive consensus, harmony, or identification.'³⁴ The book's standpoint, though, is that Occupy Wall Street and the broader Occupy movement, from 2011, owed everything to the overlap

²⁷ Robert Chasse, Bruce Elwell, Jonathon Horelick, and Tony Verlaan, 'Faces of Recuperation,' *The American Section of the Situationist International*, June 1969, accessed 9 April 2019, <https://www.cddc.vt.edu/sionline/si/faces.html>.

²⁸ René Magritte, *René Magritte: Selected Writings*, eds. Kathleen Rooney and Eric Plattner, trans. Jo Levy (Minneapolis: University of Minnesota Press, 2016), xi.

²⁹ Kenneth Goldsmith, *Uncreative Writing: Managing Language in the Digital Age* (New York: Columbia University Press), 2011; 'Kenneth Goldsmith,' *Electronic Poetry Center* (University of Pennsylvania), 2000, accessed 9 April 2019, <http://writing.upenn.edu/epc/authors/goldsmith/>.

³⁰ Clement Greenberg, *Art and Culture: Critical Essays*. Beacon Press edition (Boston: Beacon Press, 1992), 8.

³¹ Theodor W. Adorno, 'Commitment,' in *Aesthetics and Politics*, ed. Fredric Jameson (London: Verso, 2007), 193.

³² Bishop, *Artificial Hells*.

³³ Bishop, *Artificial Hells*, 15.

³⁴ Yates McKee, *Strike Art: Contemporary Art and the Post-Occupy Condition* (London: Verso, 2016), 291/5793; 1326/5793; Bourriaud, Nicolas. *Relational Aesthetics* (Dijon, France: Les Presse Du Reel, 1998); Bishop, Claire. 'Antagonism and Relational Aesthetics,' 110 (October 2004), 51–79.

between kinds of artistic practice and political activism. It is clear that, for McKee, what counts now is the:

*entire world of artistic practice emerging throughout the 2000s not from the institutions of the mainstream contemporary art system but rather from the autonomous cultural and political ferment of the alterglobalization movement marked in the Global North by the Battle of Seattle in 1999.*³⁵

This narrative would eventually include the Wall Street occupation and, in turn, other movements. The book is invaluable in its chronological documenting, and it provides insights into all of the tendencies and forces at work during Occupy, along with eloquent framings and interpretations. Space is given to other critical voices with, for example, two references to Slavoj Žižek's remark at Zuccotti Park: 'Carnivals come cheap. Don't fall in love with yourselves!'³⁶ Bishop's thesis is cautiously contested at first by pointing out that she 'seldom addressed art embedded in social movements that would involve actually confronting the police as forces of state violence, as opposed to isolated artistic gestures.'³⁷ In the paragraph cited above, referring to the difference between two notions of political art, existing within and outside of institutions, McKee adds that he does not want to 'privilege one mode of working over another.'³⁸ In endeavouring to 'cover all bases' in this way and cram in references to practitioners, groups, theoreticians, and political texts, argumentative clarity at times feels lost. Would it not be dangerously complacent, for example, to accept all modes of working if some were known to be politically ineffectual? Is it the case that any kind of activism will do? In the conclusion art is described as 'a force of imagination and action, anger and joy, resistance and community, witnessing and dreaming, discomfort and healing.'³⁹ On a surface level, this sentence is an agreeable and all-encompassing one. Just because the associations between art practice and imagination, dreaming, passion, expression, healing and so on, have become clichés, does not make them untrue. Is McKee asking too much of art though? What's more, in having such high expectations, are art activists of this ilk not inadvertently mimicking that archetypally bourgeois lauding of 'the arts'? In a 2002 book David Beech and John Roberts had questioned that 'tendency to treat art as inestimably worthy, noble, or even as being among the greatest preoccupations of humanity, rather than a series of ruminations or troublespots.'⁴⁰ Downgrading art's status was considered by some more revolutionary than presuming its benevolence. McKee is well aware of the history of the avant-garde which included anti-art, but for him avant-gardism now equals 'the reinvention of art as direct action.'⁴¹ Anti-art was, and is, not merely nihilistic as he intimates though: one knock-on effect in fact is to make space for proper attention to be paid to the political dimension. The thought that 'Occupy itself could be considered an artwork,' as McKee put it at the book launch, is beset with political dangers, and these were touched upon

³⁵ McKee, *Strike Art*, 293/5793.

³⁶ McKee, 1904/5793; 3775/5793.

³⁷ McKee, 293/5793.

³⁸ McKee, 293/5793.

³⁹ McKee, 3860/5793.

⁴⁰ Dave Beech and John Roberts, *The Philistine Controversy* (London: Verso, 2002), 14.

⁴¹ McKee, 120/5793.

by him with a reference to the ideas of Walter Benjamin.⁴² There is a difference between treating politics as art and expecting art to become political, McKee points out.⁴³ Additional questions arise however, some of which begin to sound ridiculous given the imperatives of a political struggle. If Occupy Wall Street is an art work, then how is its artistic quality to be judged? This is not to undermine the significance of Occupy on a political level, but to question the remit of the book. The excessive citing of art in connection with every facet of Occupy smacks of desperation.⁴⁴ For sure *Strike Art* was written a number of years after the event and naturally the history will be mined in interesting ways as time goes on. Noam Chomsky and David Graeber, who published on the subject during the period of the revolt itself, needed to be mindful of the propagandistic impact of their words. Understandably, they focused primarily on its contribution to the progressive causes they espouse. For Chomsky Occupy was ‘the first major public response to thirty years of class war,’ representing a reawakening which changed the civic conversation.⁴⁵ Graeber characterized it as *The Democracy Project*.⁴⁶ In another book of primary source materials, compiled by Sarah Ruth van Gelder, ‘10 Ways the Occupy Movement Changes Everything’ were listed.⁴⁷ Now that a decade has passed, and Donald Trump is in the Whitehouse, Occupy’s political shortcomings warrant inspection too though. Not that the participants inability to take things to a conclusion can be blamed for the apparent swing to the right in US politics. Occupy would have been unlikely to achieve its purported aim of overthrowing global capitalism at that stage, but maybe the partakers did not fully heed Žižek’s warning. And, is it possible that Occupy’s failings had something to do precisely with the stress on inventiveness, celebrated by McKee and others, rather than leveraging existing bodies of political knowledge, and re-visiting theoretical and practical frameworks? At points a general strike was called for, but it seems that more could have been done from the beginning to link with the broader workforce and what, in the United States, still amounts to an embryonic labour movement. Naomi Klein had not been frightened to counsel the protestors in a speech delivered in 2011:

*It is a fact of the information age that too many movements spring up like beautiful flowers but quickly die off... Being horizontal and deeply democratic is wonderful. But these principles are compatible with the hard work of building structures and institutions that are sturdy enough to weather the storms ahead.*⁴⁸

Returning to this chapter’s themes, namely art’s political ramifications and the nature of subversive and politically motivated art. Since the global financial crisis in 2008 and

⁴² Jay, Martin. “‘The Aesthetic Ideology’ as Ideology; Or, What Does It Mean to Aestheticize Politics?” *Cultural Critique* 21 (1992), 41–61, accessed 9 April 2019, <https://doi.org/10.2307/1354116>.

⁴³ McKee, *Strike Art*.

⁴⁴ There are 500 incidences of the word ‘art’ and its derivatives in *Strike Art*.

⁴⁵ Noam Chomsky, *Occupy*, Kindle edition (Westfield, New Jersey: Zuccotti Park Press, 2013), 35/1073.

⁴⁶ David Graeber, *The Democracy Project: A History, a Crisis, a Movement*, Kindle edition (London: Allen Lane, 2013).

⁴⁷ Sarah Van Gelder, ed., *This Changes Everything: Occupy Wall Street and the 99% Movement* (San Francisco: Berrett-Koehler Publishers, 2011), 17.

⁴⁸ Van Gelder, *This Changes Everything*, 40–41.

its aftermath, the frequency with which art addresses, but often also dabbles with (and might be said to be decorated with) political meaning has increased. In addition, as with Occupy, wholly politically motivated practices have occasionally been characterized as art. The stance adopted in this chapter is to be sceptical about these developments, but not cynical. The paragraphs which follow attempt to tease out ways in which art, whether intentionally didactic or not, can indeed be considered political or somehow aligned with emancipatory causes.

In the same essay on commitment, referred to already, Adorno gave the twist: 'Kafka's prose and Beckett's plays, or the truly monstrous novel *The Unnamable*, have an effect by comparison with which officially committed works look like pantomimes.'⁴⁹ Conceivably this leaves room for political agency in literary or artistic work, but to be arrived at by contrary means. The implication is that, paradoxically, the more intentionally didactic an author or creator is, the less potent the result is likely to be. The distinction between the realms of art and politics can be defended, but surely one has to admit to a scope for intersection, dependant on how these two terms are defined. Beckett himself had been active against the Gestapo in France during World War II, and had taken great personal risks.⁵⁰ Those experiences were not, on a surface level, to find their way into his writing. Having said that, surely it was inevitable that his work would somehow be influenced, if abstrusely, by the events of the early 1940s, and the bleak realisation of what human beings were capable of. Recent books testify to Beckett's 'political imagination' and the many 'causes that framed his writing.'⁵¹ Harold Pinter, who was vociferous against war and politically active his whole life, devoted his Nobel Prize speech to impassionedly clarifying the difference between being a playwright and his role as citizen but undoubtedly one realm fed the other.⁵² The political import of art which is, at the same time, reckoned exceptional by other standards cannot simply be disregarded: its meanings unfold less straightforwardly.

Dan Fox, a former Turner Prize juror, writes that 'the art system is fascinated by its own politics and worries about contemporary art's traction on society' inferring that is a key reason why topical questions are addressed.⁵³ He goes on to declare that 'the truth is most 'political' art is commentary and reflection, and the degree to which it impacts those who see it is either impossible to assess, or has unpredictable consequences.'⁵⁴ His point appears cynical but is revealing too. Curiously related to Fox's statement is John Roberts' argument (expanding on thinking by Ariella Azoulay

⁴⁹ Adorno, 'Commitment,' 191.

⁵⁰ James Knowlson, 'Samuel Beckett's Biographer Reveals Secrets of the Writer's Time as a French Resistance Spy,' *Independent*, 23 July 2014, accessed 1 July 2019, <https://www.independent.co.uk/arts-entertainment/books/features/samuel-becketts-biographer-reveals-secrets-of-the-writers-time-as-a-french-resistance-spy-9638893.html>.

⁵¹ Emilie Morin, *Beckett's Political Imagination* (New York: Cambridge University Press, 2017); James McNaughton, *Samuel Beckett and the Politics of Aftermath* (Oxford: Oxford University Press, 2018).

⁵² 'Nobel Lecture: Harold Pinter,' *The Nobel Prize*, 2005, accessed 1 July 2019, <https://www.nobelprize.org/prizes/literature/2005/pinter/lecture/>

⁵³ Dan Fox, 'Yes the Turner Prize 2018 Is Political, and We Shouldn't Be Surprised,' *Frieze*, 27 April 2018, accessed 9 April 2019, <https://frieze.com/article/yes-turner-prize-2018-political-and-we-shouldnt-be-surprised>.

⁵⁴ Fox, 'Yes the Turner Prize 2018 Is Political.'

and others)⁵⁵ about photography's agency, using Dorothea Lange's well-known *Migrant Mother* as case study. He refers to the diachronic possibilities and different,

*actant positions (of photographer, photographed, spectator present and futural) as fundamentally nonequivalent to the particularist claims of the material interests and discourses in which they are embedded: that is, none of the material interests and discourse positions inscribed in the production and reception of the Migrant Mother photograph—the producer (photo history and art history), the editor (popular journalism), the historian (social history), or the subject (first person reminiscence)—speaks for the truth of the photography. Each of these actant positions may participate individually in shaping the truth-discourse of the photograph, but in the final analysis, they cannot control, in their own interests and image, the ends (emancipatory, counterintuitive, or reactionary) to which the image will be put.*⁵⁶

Furthermore, he says that 'this emergent emancipatory content will be dependent on the social and historical conditions of its future reception.'⁵⁷ Photography cannot be a special case in this regard. If the practical bearing of a work is beyond the control of any one influencing group, then it follows that, at times, artefacts must be able to produce political effects.

So, despite Adorno and Bishop's concerns about committed art and suspicions about socially engaged art respectively, there exists the possibility for work which is celebrated on aesthetic grounds to be impacting in terms of social change too. Adorno and Bishop's arguments can be read as critical reflection or warning rather than rule. If not, politically charged works such as Goya's infamous *The Disasters of War* series, Turner's *The Slave Ship*, Picasso's *Guernica*, Barbara Kruger's *We don't Need Another Hero*, and *Martha Rosler Reads 'Vogue'* would have to be dismissed as meritless. To avert one's gaze would be more dramatically specious. What's more, at certain points in history, the imperative is surely for artist's to play a more overtly active role, as Beckett and others did. In such situations particular cultural pursuits become either inappropriate or must reinvent themselves in ways which align with urgent demands. Thinker, literary critic, Russian revolutionary, and on occasion, victim of that movement, Viktor Shklovsky, made assertions about what a new art could be. Art should make objects 'unfamiliar,' referring in turn to Tolstoy's technique of 'defamiliarization,' and it should make forms difficult.⁵⁸ John Heartfield's 1920s and 1930s daring anti-fascist collages, as well as being completely defensible politically, are now discussed formally and in terms of aesthetics. One graphic design book refers to the 'beautiful example' of his 1934 editorial illustration *As in the Middle Ages ... so*

⁵⁵ Ariella Azoulay, *The Civil Contract of Photography* (New York : Cambridge, Mass: Zone Books, MIT, 2012).

⁵⁶ Roberts, John, *Photography and Its Violations*, Kindle Edition (New York: Columbia University Press, 2014), 243/6041.

⁵⁷ Roberts, 250/6041.

⁵⁸ Viktor Shklovsky, 'Art as Technique,' in *Modern Criticism and Theory: A Reader*, ed. David Lodge, trans. Lee T. Lemon and Marion J. Reis (London: Longmans, 1988), 16–30

in the *Third Reich*, in a chapter dealing with gestalt principles and formal considerations such as shape, size, colour, proximity, and angle.⁵⁹

Returning to Roberts' scheme, his notion of 'actants,' and taking it in a contrary direction: something which was created with no political intention in mind might well be adopted and interpreted in ways which are beyond an artist's control: 'You can't cause anything by art,' claimed Martin Kippenberger.⁶⁰ One poster, *The Anti-Apartheid Drinking Congress*, he described as his 'first and only political act.'⁶¹ Conversely, others see his work as 'social critique,' 'as critical and politicised.'⁶²

The already mentioned Forensic Architecture's work is phenomenal in its meticulous rigour, communicative clarity, in its choice of subject matter and sheer bravery in exposing acts of violence and subsequent cover-ups by state forces and sometimes involving ominous far-right groups and gangsters. Their outcomes have a bearing on actual legal challenges and human rights cases.⁶³ The 'investigations seek to provide new kinds of evidence for international prosecution teams, political organizations, NGOs and international institutions such as the UN.'⁶⁴ To ask whether this is art or not seems, at first, crass. They don't categorize themselves as such but the Turner Prize panel of judges clearly did.⁶⁵ Certainly, it is not only a question of them being thorough and data-obsessed in the stereotypical manner of engineers or lawyers say. Their reappropriating a corporate look is ironic and imaginal thinking as a route to understanding clearly plays a huge role in the investigations too. Their use of scale to amplify the significance of timelines is just one of many elegant innovations. 'Space reserved for being serious is hard to come by in a modern society,' wrote Susan Sontag in her final book.⁶⁶ She went on to problematize different means by which depictions of emotionally or ideologically loaded subject matter, and specifically war photography, can be appreciated: 'A narrative seems likely to be more effective than an image. Partly it is a question of the length of time one is obliged to look, to feel.'⁶⁷ Forensic Architecture's work, by its nature, and in how it was curated at The ICA in London early in 2018, and to a lesser extent, later in that year for the Turner Prize at Tate Britain, encouraged precisely those possibilities for thoughtful, slower, narrative-oriented

⁵⁹ Amy E. Arntson, *Graphic Design Basics*, 6th ed. (Boston, Mass.: CENGAGE Learning Custom Publishing, 2010), 74–6.

⁶⁰ Martin Kippenberger, Norman M. Klein, and Peter Noever, *Martin Kippenberger: The Last Stop West* (Ostfildern-Ruit, Germany: Cantz Verlag, 1999), 76.

⁶¹ Lucy Watling, 'Martin Kippenberger: The Anti-Apartheid Drinking Congress with Kippenberger 1986', *Tate*, accessed 1 June 2018, <http://www.tate.org.uk/art/artworks/kippenberger-the-anti-apartheid-drinking-congress-with-kippenberger-p79104>; Ann Goldstein and Lisa Gabrielle Mark, eds., *Martin Kippenberger: The Problem Perspective* (Los Angeles: Cambridge, Mass: The MIT Press, 2008), 350.

⁶² Jutta Koether, 'A Cacophony for a Formidable Iconoclast,' *Tate Etc.*, Spring 2006, accessed 9 April 2019, <http://www.tate.org.uk/context-comment/articles/cacophony-formidable-iconoclast>, 36.

⁶³ 'Battir Wins Case Against the Wall,' *Forensic Architecture*, 4 March 2015, accessed 9 April 2019, <https://www.forensic-architecture.org/battir-wins-case-wall/>.

⁶⁴ 'Investigations,' *Forensic Architecture*, accessed 1 June 2019. <https://www.forensic-architecture.org>.

⁶⁵ Javier Pes, "'We Don't Consider Ourselves to Be Artists': Forensic Architecture Reacts to Their Surprise Turner Prize Nod,' *artnet News*, 26 April 2018. Access 9 April, 219, <https://news.artnet.com/exhibitions/turner-prize-nomination-forensic-architecture-1273889>.

⁶⁶ Susan Sontag, *Regarding the Pain of Others* (London: Hamish Hamilton, 2003), 110.

⁶⁷ Sontag, *Regarding the Pain of Others*, 110.

appreciation.⁶⁸ Phineas Harper warned of the risk of ‘the arts world co-opting their work as grisly’ or ‘insensitive entertainment’ and Mania Oikonomou alerted to the danger of ‘riding the fashionable train of compassion for those in trouble’ but it seems unlikely that Forensic Architecture fits these categories.^{69,70} The aestheticization of data and imagery dealing with important traumatic incidents has not emerged as the kind of contentious issue it could be. This is possibly because their work is rightly scientific, cartographic, having more in common with Florence Nightingale’s coxcombs than that typical of spectacularizing journalistic channels. Forensic Architecture’s work has the very practical added effect of undermining contemporary received wisdom about the nature of surveillance. From the notorious case of Rodney King in the 1990s onwards it has become clear that the proliferation of recording technologies works in both directions: cameras and other readily available equipment are also tools to utilize when confronting injustice.⁷¹ That is not the whole story of course. In the Rodney King example, despite the footage of him being beaten, ‘three of the four officers were acquitted,’ but such material can feed resistance campaigns.⁷² The rationale for naming Forensic Architecture’s ICA show *Counter Investigations* and their use of the term *Counter Forensics*, was directly related to the prospects for progressive uses of data, incidental footage, ubiquitous technology, surveillance and sousveillance, crowdsourcing, activist photography, re-enactments, computer modelling, and so on. Their work is a return to the idea of artist as honest observer, which is especially relevant in the era of ‘fake news’ and ‘post-truth.’

There are risks for Forensic Architecture of course including that of recuperation, already defined. Being branded artists perhaps compounds the problem. The work could become formulaic or be diluted by others doing similarly but less scrupulously: the quality is crucial here. Adam Branson informs us that while much of Forensic Architecture’s ‘work centres on parts of the world with dubious human rights records, [they are] increasingly concerned about the situation in countries long thought to be bastions of liberal democracy.’⁷³ Despite the obstinate nature of their investigations, Forensic Architecture’s activities are, so far, condoned and even approved of in establishment circles in Britain. It will be interesting to see whether that support continues when they start directing their exposures at targets closer to ‘home’

⁶⁸ ‘Counter Investigations: Forensic Architecture,’ *Institute of Contemporary Arts*, accessed 12 May 2018, <https://www.ica.art/whats-on/season/counter-investigations-forensic-architecture>.

⁶⁹ Phineas Harper, ‘Forensic Architecture Winning the Turner Prize Would Risk Turning Sensitive Investigative Work into Insensitive Entertainment,’ *Dezeen*, 4 May 2018, accessed 9 April, 2019, <https://www.dezeen.com/2018/05/04/forensic-architecture-turner-prize-warning-phineas-harper/>.

⁷⁰ Mania Oikonomou, ‘... activism @ Forensic Architecture @ ICA,’ *Architecture As...*, 2 May 2018, accessed 9 April 2019, <https://architectureas.wordpress.com/2018/05/02/activism-forensic-architecture-ica/>.

⁷¹ Douglas O. Linder, ‘“The Trials of Los Angeles Police Officers” in Connection with the Beating of Rodney King,’ *Famous Trials*, 2019, accessed 9 April, 2019, <http://www.famous-trials.com/lapd/584-home>.

⁷² ‘ICA | Counter Forensics,’ Accessed 15 June 2019, <https://www.ica.art/counter-forensics>.

⁷³ Edwin Heathcote, ‘Forensic Architecture — from Rubble and Ruins to Justice,’ *Financial Times*, 6 March 2018, accessed 9 April 2019, <https://www.ft.com/content/218bd9c0-212b-11e8-a895-1ba1f72c2c11>.

such as Grenfell Tower.⁷⁴ They are protected to some degree by their situating in Goldsmiths University with its interdisciplinary culture. Forensic Architecture's freedom to conduct their activities as they do, owes something also to being associated with a realm, namely 'the art world,' which includes many ostensibly unpolitical kinds of practices.

Vigilance would be advisable for political activists who, as well as embracing art because the cultural sphere offers some protection as we have said, see it as a vital channel for social change. In fact, it can be argued that the usually imagined scheme operates in reverse: perhaps it is art which is parasitic on other systems.⁷⁵ Amusingly this logic would also apply to situations in which corporate, bureaucratic, and governmental entities harbour designs on cultural activity. Rather than art being envisaged as somehow pathetic and dependant, it may operate as a court jester of sorts, shrewdly manipulating power in its own interest, in order to survive.

To summarize and conclude: through a contemplation of why it is that controversial activity by artists is often accepted, arguments were made which challenge the perception that art is somehow fundamentally politically subversive. It was stressed that power often endorses what appear to be provocative practices for reasons which can be, but are not always, schemingly strategic. Then the significance of consciously politically motivated art was considered. The implications that such output is likely to be inferior and problematic in an aesthetic sense, and ironically also less impacting politically—with reference to writing by Theodore Adorno and Claire Bishop—were probed into. Yates McKee's characterization of Occupy in art terms was looked at. Next, however, converse points were made about the potential for didactic or campaigning work to be at once judged impressive in art contexts and for there to be no contradiction in their combining. John Roberts' ideas, as applied to an iconic historical photograph, were called upon in an attempt to appreciate the different forces at play when it comes to determining the meaning and impact of artefacts. John Heartfield's collages were referred to and Forensic Architecture's projects were discussed in more detail. The number of legal controversies referred to in this chapter alone is symptom of the complex and tense relationship between art and politics. To add to the complexity, the suggestion was put that, feasibly, it is art which uses politics for its own ends and not the other way around. It would seem apt to remain cautious, then, and give the last word to Bishop who has questioned the new trend for socially engaged art. She makes essential general points about the counterintuitive forces at work writing that 'artistic practice has an element of critical negation and an ability to sustain contradiction that cannot be reconciled with quantifiable imperatives.'⁷⁶ She warns too that 'ethical reasoning' can fail 'to accommodate the aesthetic or to

⁷⁴ 'The Grenfell Tower Fire,' *Forensic Architecture*, accessed 12 May 2018. <https://www.forensic-architecture.org/case/grenfell-tower-fire/>.

⁷⁵ O'Connell, Micheál. 'Art as "Artificial Stupidity",' Doctorate, University of Sussex, 2017. <http://sro.sussex.ac.uk/67604/>, 175–77.

⁷⁶ Bishop, *Artificial Hells*, 16.

understand it as an autonomous realm of experience' and calls for 'a reassertion of art's inventive forms of negation as valuable in their own right.'⁷⁷

⁷⁷ Bishop, *Artificial Hells*, 284.