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Abstract

This piece seeks to account for an increased interest in the intersection of art and law within legal thinking, activism and artistic practice, arguing there to exist the phenomena and movement of 'art/law'. Art/law is the coming together of theory and practice in legal and political aesthetics, understood as a practice, (im)materially performed. It is seen as a natural consequence of thinking law and resistance in terms of space and time, accounting for a turn towards the visual, the practical and the role of affect, within ways of knowing. Art/law is a symptom of the end of art and end of law, synchronically rendered. Divisions between legal and aesthetic form have been well rehearsed within legal aesthetics scholarship, from law and literature, to critical legal studies' work with images, text and performativity, and now law's Anthropocene. Art/law as a practice, however, is argued as an emergent *onto-epistemic-ethics* of necessity, a movement of seeing, being and knowing in response to the advancement of spectacle. It is the simultaneous reunion of law, art and resistance as one, breaking down the institutional artifice of art worlds and law worlds, offering a form of 'resistant (in)formalism', that accounts for matter and change and asserts *convergence* as a medium. It is an inclusion of the uncertain and the disordered, that is an opening for the *audience*. This resistant (in) formalism describes the role of form, audience and practice within property, legal and aesthetic establishment, offering a countering of separatism at the end of art and the end of law, through a praxeology of art/law in seeing, thinking and action.

Keywords

Art/law; legal aesthetics; practice; form; audience; convergence onto-epistemic-ethics; resistant (in)formalism

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Law and its order are based on representation and as such might be considered beautiful. Behind representation however is art, just as behind the beauty of the law is the sublimity of justice.

Mary Slaughter 'The Arc and the Zip: Deleuze and Lyotard on Art'[1]

I. Introduction

It has become clear there are new legal epistemologies and ontologies emerging – new possibilities of being and knowing, exemplified through a re-worlding of art and law. This emphasis on *re*-worlding suggests a previous lack of distinction, whilst also accounting for the violent pasts and realities of separation. This is not a new observation, but reflects an intersection of art, law and politics within legal thinking, activism and artistic practice as the movement and phenomena of 'art/law' at the end of art and the end of law as we currently know it.

Following, and departing from, historical materialist conceptions of form and property in law worlds and art worlds, this piece continues to speculative and new materialist accounts of movement, convergence, cross over, intra-action to account for this new paradigm of art/law. Art/law will be described as a critical device (not least a critical legal device) and tool for navigation, a method of movement that repeats the dynamism of law whilst unravelling the coterminous histories of art, law and resistance within form, formalism and commodity. The law which created art, moves to art creating law through considering contemporary art practice's subsumption of law, lawyering and resistance's subsumption of art. The deliberate move towards the use of art in legal teaching, law in contemporary art, artists and lawyers working together, the use of art within resistant practices, and the various spatio-temporal, visual, aesthetic and affectual turns in legal thinking, are proposed where art/law shows its potential as a mode of operation and tool of navigation.

The congruence of law by artists, art by lawyers, demonstrates a generative moment which is at once hopeful, whilst also to be encountered with attention. Art can just as easily totalise law as law can totalise art, being as they are one and the same thing, and it is through the practice of keeping both open, that can allow for art/law as an ethical practice. Contemporary practices in art manifest the ambiguity of law through the turn to participation as well as an interest in the subject and matter of law itself. This capacity for both art and law's power to manifest force as form and category through the extraction of affect is central to whether art/law decides its trajectory as ethical or ordering in practice.

Fundamentally, the coming together of art and law is understood as (im)materially performed. Art/law is posed as an onto-epistemic movement and action that acknowledges the role of matter and audience within practice, creating catalytic ways of seeing, knowing, being and learning where this convergence is a medium in itself. This is the legal avant-garde as the meeting of matter with its audience – the mattering of audience and audiencing of matter – leading to art/law as a necessary onto-epistemic ethics of

1. M. Slaughter, "The Arc and The Zip: Deleuze and Lyotard On Art," *Law and Critique* 15 (2004), 257.

'resistant (in)formality', grounded in practice accounting for the materiality of change. This materiality is argued as the incalculability of the audience, the consideration of uncertainty found in the '/' of art/law as entropy, an emergent mattering of law and art in its non-dialectic movement and synchronicity. Art/law's resistant (in)formalism, should never complete but to converge and catalyse – art keeps law open, and law keeps art open, by the movement of the '/' – or else both will totalise one another, once again.

At least let this be remembered a story, a narration and a discussion at a juncture in time, a crossing over point where law continues into art and art into law, and the possibilities for converging and catalysing understandings of being and knowing that this may bring.

II. Art/Law Convergences

> *Rather than the destiny of state and nomad, critical scholarship needs to contend with the crafting of diagrams and exploring the potential of the artisan.*
>
> Bottomley and Moore 'Law, Diagram, Film: Critique Exhausted'[2,3]

In recent times, an increasingly shared language in a distracted world has been the image, the visual, where the artist is seen as the natural expert to umpire the use and theory of the spectacle, us all being potential artists in a vista-saturated world. There has been what Rose has described as a 'convergence',[4] where the rise of the image and the affectual as a communal language across our globalised world, is reflected in the way in which we record, analyse and communicate between ourselves on a daily basis, followed through in the methods and methodologies used to researched these trends, and the kinds of knowledge produced as a result. This true 'culmination of the spectacle'[5] is demonstrable not least within the rise of visual research methods, but so too teaching methods that increasingly make use of the play of signs and symbols of not purely the lexical variety.

This convergence of social production and epistemological trends has not been missed in the fields of legal enquiry. The inclination to understand and describe law's pictorial[6] and chromatic presence has been termed as the 'visual turn' by Mulcahy.[7] Bottomley and

2. A. Bottomley and N. Moore, "Law, Diagram, Film: Critique Exhausted," *Law and Critique* 23 (2012), 163–82.
3. Bottomley and Moore, "Law, Diagram, Film: Critique Exhausted," 18.
4. G. Rose, "On the Relation Between Visual Research Methods and Visual Culture," *The Sociological Review* 62 (2014), 24–46.
5. G. Debord, *The Society of the Spectacle* (New York: Zone Books, 1995).
6. W.J.T. Mitchell, *Picture Theory: Essays on Verbal and Visual Representation* (Chicago: University of Chicago Press, 1995).
7. In socio-legal studies, Mulcahy (L. Mulcahy, *Legal Architecture: Justice, Due Process and the Place of Law* (London: Routledge, 2010); L. Mulcahy, "The Eyes of the Law: A Visual Turn in Socio-Legal Studies?" *Journal of Social and Legal Studies* 44 (2017), 111–28) and Moran (L. Moran, "Visual Justice: A Review Essay," *International Journal of Law in Context* 8 (2012), 431–46; L. Moran "Judicial Pictures as Legal Life-Writing Data and a Research Method," *Journal of Law and Society* 42(1) (2015), 74–101) have worked on the image and the visual within courts, judicial processes, legal history and architecture for some time

Moore[8] have similarly postulated the necessity of law's 'rendering visible' to pose as 'diagrammatic thinking', where critical legal theory has come to an exhaustion.

As a convergence of knowledge gathering and knowledge production, legal scholarship's move to the sensible, the visual, the haptic, its aesthetic turn,[9] is characteristic of this wider visual and affective shift in the social sciences and humanities, beyond humanism to posthumanism.[10] In an attempt to make sense of humanity's destructive impact on its surrounding environment, comes a reverence for nature's comeback and a deflation of human-centredness seeking to give equal rights and recognition to those beings and objects that cannot speak. The age of heightened spectacle coupled with mass information is accompanied by this increased awareness of the reciprocal bearing we all have on one another, whether human or otherwise. Flat ontologies that contemplate on this have led to discussions of the *affectual* nature of law,[11] the way in which law impacts and

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with Moran's 'Judicial Images' project demonstrating a resurgence in interest in the image and law in socio-legal studies. Likewise, Amanda Perry-Kessaris has been using visual and design technologies as a tool in socio-legal research (A. Perry-Kessaris, "Legal Design for Practice, Activism, Policy and Research" *Journal of Law and Society* 46(2) (2019) , 185-210; A. Perry-Kessaris, "The Pop-up Museum of Legal Objects Project: An Experiment in Socio-Legal Design Special Issue: The Pop-up Museum of Legal Objects", *Northern Ireland Legal Quarterly* 68(3) (2017), 225-245. Further supporting an argument for a reinvigoration of art/law thinking, there have been conferences with a specific focus on the intersection of law and art – the Socio-Legal Studies Association (SLSA) conference theme being 'Visual Cultures' (April, 2017); art, law and comics network 'Graphic Justice' hosting 'Directions and Distractions' conference (July, 2017; 2018); 'Law and the Senses II' at Westminster (December, 2016); and themes in art and law at the Critical Legal Conferences (September, 2017 and 2018). Law and humanities advocate Giddens has developed work on the intersection of comics and the law (2018) with a network 'Graphic Justice' devoted to the pictorial depiction of law in comics and vice versa.

8. Bottomley and Moore, "Law, Diagram, Film: Critique Exhausted," 166–7.
9. J. Shaw, "Introduction to the Special Issue on Reimagining Justice: Aesthetics and Law," *Liverpool Law Review* 38 (2017), 1–10.
10. A key force has been the transformation of social life through new forms of media and communication, the sharing of skills, artistic works, memes, and protest actions across the digital landscape, where now we have 'media justice' (N. Couldry, *Media, Society, World: Social Theory and Digital Media Practice* (Cambridge: Polity, 2012)) where events, people and facts are judged in the court of online, and the local reporter no longer exists to report the 'facts' in a post-truth era. In a similar discussion to that in 'On Aggregators' David Joselit highlights Guy Debord's quick on the mark augury 'the spectacle is capital accumulated to the point where it becomes image' (D. Joselit, "On Aggregators," *October* 146 (2013), 3–18). As Benjamin once stated, extremity of power and war leads to an aestheticisation of political life (W. Benjamin, *The Work of Art in the Age of Mechanical Reproduction* (London: Penguin, 2008), pp. 36–7), and we see this today with the saturation of meme, text, images, footage, where even our attention is a commodity, performed acutely via technology.
11. Massumi speaks of affect as either an emergent non-representative potential and becoming found within animate and inanimate beings, based upon Spinozan philosophy of *conatus* and *affectus* used by Deleuze; or that which brings about emotion through the human senses (B. Massumi, "The Autonomy of Affect," *Cultural Critique* 31(2) (1995), 83–109). Both

interacts with its surrounding environment, its *matter*. Affect has been argued as replacing literature as the other of law within law and literature studies through the influences of affect theory in posthumanism, queer theory, new materialisms, superseding Foucauldian 'discourse' as an apparatus of knowledge in current critical commentary.[12] Philoppopoulos-Mihalopoulos' 'lawscape',[13] McGee's 'jurismoprhs'[14] and other engagements with a developing body of *legal materialism*[15] that are seeking 'answers to significant changes within our underlying social, technological and economic conditions' in an overbearing realisation of Anthropocene that are less structured as a singly transcendent forms of law previously found in sovereignty.[16] This is a natural confluence of philosophical debates, from the text to other forms of aesthetic consideration realised in spatio-temporal descriptions[17] that seek to account for the manner in which law creates its surroundings and the same the other way around.

With this in mind, any proposition of art and law coming together may be seen as an inhered step in this journey from the abstract, the textual, the spatio-temporal, the aesthetic and affectual, as a convergence of theory and practice, in a move to practical, skills-based paradigm of seeing, being and learning not too dissimilar from an interpellation of

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definitions infer a meeting point, and a movement between internalities and externalities creating certain responses. Speaking to an emotional understanding of affect, Alison Young (M. Halsey and A. Young, "Our Desires are Ungovernable," *Theoretical Criminology* 10(3) (2006), 276–7; C. Young, Declared Void II (2013) – http://www.careyyoung.com/works/#/declared-void-ii/) is known for her criminological work on street art, graffiti and law's affect on its creators, Halsey and Young whereby graffiti writing is described as 'an affective process that does things to writers' bodies (and the bodies of onlookers) . . .' ("Our Desires are Ungovernable," 277). Fischer-Lescano similarly calls for the emotive through the arational to be incorporated into legal method and understood as law's expression, inspired so too by affectual notions of sensing and response (A. Fischer-Lescano, "Sociological Aesthetics of Law," *Law, Culture and the Humanities* (2016) Epub ahead of print 11 July 2016. doi:10.1177/1743872116656777).

12. G. Olson, "The Turn to Passion: Has Law and Literature Become Law and Affect?" *Law & Literature* 28(3) (2016), 335–53.
13. Philippopoulos-Mihalopoulos, *Spatial Justice: Body, Lawscape Atmosphere* (London: Routledge, 2015).
14. K. McGee, *Bruno Latour: The Normativity of Networks* (Abingdon: Routledge, 2014).
15. A. Pottage, "The Materiality of What," *Journal of Law and Society* 39 (2002), 167–83; H. Y. Kang, "Law's Materiality: Between Concrete Matters and Abstract Forms, or How Matter Becomes Material," in *Routledge Handbook for Law and Theory* (A. Philippopoulos-Mihalopoulous, ed) (London: Routledge, 2018).
16. D. Matthews and S. Veitch, "The Limits of Critique and the Forces of Law," *Law & Critique* 27 (2016), 350.
17. Philippopoulos-Mihalopoulos, *Spatial Justice*; D. Cooper, *Governing out of Order: Space, Law and the Politics of Belonging* (London: River Orum Press, 1998); M. Valverde, *Chronotopes of Law: Jurisdiction, Scale and Governance* (London: Routledge, 2015); S. Keenan, *Subversive Property: Law and the Production of Spaces of Belonging* (London: Routledge, 2014); L. Finchett-Maddock, Protest, *Property and the Commons: Performances of Law and Resistance* (London: Routledge, 2016).

ethico-aesthetics.[18] Not only that, but it is curious to think an increased interest in art and law comes at a time when all is mediated and manifested by spectacle, and similarly a congruence of law discussed by those outside of legal jurists and institutions.[19]

A visual or affectual turn infers seeing, knowing. What does it mean to see? To know? Art critic John Berger's classic 'Ways of Seeing' discerns that, 'seeing comes before words .. it is seeing which establishes our places in the surrounding world . . . the relation between what we see and what we know is never settled'.[20] We can *see*; however, it does depend on where we *look*; we can decide to look outside of the bounds of discipline to learn an (in)discipline: 'We only see what we look at. To look is an act of choice. As a result of this act what we see is brought within our reach'.[21]

Given the plethora of options for looking, whilst a fatigue with the frameworks of which we have to explain and give any vibrancy to our contemporary condition, the use of art historian Berger to describe legal movements denotes a literal turn of the head in a corporeal, mattering of movement and navigation towards art historical theories – an exemplifying of convergence, to new forms and new inspirations, that art/law may epitomise.

Any (re)surge in the interest in art and law is coming from many angles, notably within contemporary art practice, legal teaching and lawyering, making this extant focus on art and law empirically different from previous theoretical engagements in law, politics and aesthetics that have been predominantly reflective and academic.[22,23]

In teaching and research, legal academics have been using arts practices to critically dissect law in their teaching for some time, such as Bottomley and Lim and Philoppopoulos-Mihalopoulos advocating for more experiential pedagogical methods, where students are 'walking with the law' as such, taking them outside the classroom to see how the law interacts with the world around them in order to understand the pervasive role of law in the built environment.[24,25]

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18. G. Guattari, *Chaosmosis: An Ethico-Aesthetic Paradigm* (Bloomington: Indiana University Press, 1995).
19. A. Philippopoulos-Mihalopoulos, "And for Law: Why Space Cannot be Understood Without Law," *Law Culture and the Humanities* (2018) doi:10.1177/1743872118765708
20. J. Berger, *Ways of Seeing* (London: Penguin, 2008), p. 7.
21. Berger, *Ways of Seeing*, p. 8.
22. D. Manderson (ed), *Law and the Visual: Representations, Technologies, and Critique* (Toronto: University of Toronto Press, 2018).
23. A. Bottomley and H. Lim (eds), *Feminist Perspectives on Land Law* (London: Routledge, 2009).
24. T. Giddens, On Comics and Legal Aesthetics: Multimodality and the Haunted Mask of Knowing (London: Glasshouse, 2018).
25. O. Barr's, *Jurisprudence of Movement: Common Law, Walking, Unsettling Place* (London: Routledge, 2016) similarly proffers a walking and immersive method to understanding Law and its colonising footsteps. Specifically in the area of clinical law, there is a wide array of literature that promotes the use of practical and community led-learning, but there is little that relays the use of art projects within clinical legal education. Gleason and Campbell draw from their clinical legal experience to argue for the importance of creativity within legal teaching methods. They conclude that 'students need to be encouraged to unleash their creative skills' and emphasise the 'important role' that academics play in this and the need for creativity in the curriculum (V. Gleason and E. Campbell, "Cultivating 21st Century

For myself, the journey towards this body of art/law teaching started with a StreetLaw project at Sussex Law School.[26] Six law students undertook a clinical legal project with local Brighton gallery 'Art Schism' looking into the legalities and illegalities of street art and graffiti, where law students engaged in artistic practices and witnessed the effect and affect upon themselves, and others. It was this project that led to the next five years' engagement with art in law, culminating in the development of an 'Art/Law Network', and a course on Law and Art with artists' involvement at its core – law students creating art and myself using creative and artistic methods not just to communicate law, but to critique its ontological and epistemological foundations through reinforcing the performativity of authority through teaching. Students have written poetry with quills (Figure 1), understood legal and illegal affect through spraypainting sessions and dismantled legal conceptions of beauty through copyright case studies of music, sound and street art. The course led to an art piece as a form of assessment, with the development of a departmental-wide 'Art/Law Teaching Theme' for 2018–19, as well as my own enrolment on a part-time Fine Art Masters to learn and understand the practices of the art world for myself.

Aside from legal education, most notably there has been a 'proliferation of artists'[27,28] projects that address, mimic, and intervene in the matters of the law', such as Jack Tan's practice which explicitly makes use of legal processes epitomised in his 'Karaoke Court'[29]; the work of artist-agitator Adelita-Husni-Bey questioning the role of democratic law-making processes and property in housing and protest through her art/law intervention 'Convention on the Use of Space'[30,31] (both of which we will return to shortly); and two Turner Prize nominees for practitioners working with and through law in 2018–19, those being Lawrence Abu Hamdan (2019) and artist-scholar-lawyer-architect-research group 'Forensic Architecture' (2018).[32,33] Arguably these specific artists are

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Law Graduates Through Creativity in the Curriculum," *Journal of Commonwealth Law and Legal Education* 10(1) (2015), 4–20). This is supported by American educationalist Katrina Schwartz who advocates how integrating arts into other subjects at makes learning come alive K. Schwarz, How Integrating Arts Into Other Subjects Makes Learning Come Alive (2015) Available at: https://ww2.kqed.org/mindshift/author/katrinaschwartz/ (accessed 28 July 2018).

26. *StreetLaw Brighton* (2014) https://streetlawbrighton.wordpress.com/about/streetlaw-brighton-2014-15-art-schism/.
27. M. López Lerma and J. Etxabe, *Rancière and the Law* (Nomikoi Critical Legal Thinkers, London: Routledge, 2018).
28. V. Ziherl, "The Fourfold," *e-flux Journal* 81 (2017) found at – http://www.e-flux.com/journal/81/126968/the-fourfold-articulation/ and Lütticken S Legal Forms, "Value Forms, Forms of Resistance," *Hearings: The Online Journal of Contour Biennale* (2017) January 12 2017.
29. Tan J, Karaoke Court (2016), https://jacktan.wordpress.com/art-work/karaoke-court/
30. Elsa von Freytag-Loringhoven, 'Fountain' (1917) – http://www.openculture.com/2018/07/the-iconic-urinal-work-of-art-fountain-wasnt-created-by-marcel-duchamp.html
31. C. Husni-Bey, Convention on the Use of Space (2014), http://www.useofspaceconvention.org/
32. Art/Law Network & Distant Animals, UNION (2016), http://artlawnetwork.org/union/
33. Forensic Architecture, Counter Investigations (2018), https://www.forensic-architecture.org/exhibition/counter-investigations/

Figure 1. *Law and Aesthetics students at Sussex Law School* (2014–15).

creating law,[34] where the question of legal plurality emerges through the force and affect of form, change and uncertainty being taken into account to go beyond a specific work of art. Law has been a focus and represented within the work of artist Carey Young for some time, demonstrated in her 'Palais de Justice',[35] as well as 'Declared Void II'[36] on the distinct limitations and spatial and temporal reality of law, brought to the fore through

34. Palestinian artist Yazan Khalili also allies art and law in 'I, The Artwork' where he worked with a lawyer to draft a contract 'Deed of Ownership and Condition of Existence' that forbade the artwork to be owned or controlled by an occupying power, as a result of his frustration that an Israeli collector had sought to buy his work (Khalili Y, I, the Art Work (2016), http://www.yazankhalili.com/index.php/project/i-the-art-work/). In a similar way, law and the capitalist mode of exchange was the focus of artist's 'The Structure of World History: From Modes of Production, to Modes of Exchange' offering an insight into how law and capital structures society and engenders ongoing inequalities as a result (K. Karatani, The Structure of World History (2014), https://www.dukeupress.edu/the-structure-of-world-history).
35. Lawyer and art historian Joan Kee talks of 'new zones of legal mediation' created through artwork using contract law: 'By reaffirming the viewer's role as a participant in a specific polity, artists broadened the remit of socially minded artworks to include the materials, ideas, and doctrines of law, and, in some instances, to forge new zones of legal mediation' (J. Kee, "Due Processes," *Art Forum* (2019), https://www.artforum.com/print/201905/due-processes-79520).
36. Young, Declared Void II.

Figure 2. *Declared Void II* (2013), Carey Young.

her deployment of the liminality of legal relations as exemplified within contracts and constitutions (Figure 2).[37]

These are just a few of the many other artists such as Margareta Kern, Zuleikha Choudhuri, Alicja Rogalska, Marco Godoy, Antonio Roberts, Helen Knowles, all specifically engaging with concepts and practices of law, court processes, witnessing, contract, property, disputes and rights within their practice and focus of their work.[38]

Beyond recent movements in the use of law by artists, there has also been an increased use of visual and non-primarily lexical forms of legal documentation developed, through a growing use of legal design.[39] Furthermore, it is interesting to consider an increased use

37. Of particular interest in Carey's work is the interest conjured by socio-legal scholarship, where lawyers and jurists responded to her work 'Palais de Justice', J. Gaakeer, J. Pilcher, L. Mulcahy, G. Watt and C. Young, "Carey Young's Palais de Justice Special Edition," *Law and Humanities* 12(2) (2018), 278–310.
38. There have been collections and events engaging art directly with the theme of law, such as the 'Art and Law' exhibition and workshop at the Copperfield Gallery in London (June, 2015), the 'Contour Biennale' (March-May, 2017) bringing together a series of visual, performative and doctrinal approaches in 'Polyphonic Worlds: Justice as Medium' and the resultant 'Hearings' journal combining sound and law to record narratives of evidence and testimony.
39. There is a growing use of design based ideas and techniques of illustration within lawyering practice, such as using images and diagrams within legal binding documents. See E. Albion, "Seeing Law With New Eyes: The Legal Design Sprint," *Law Bore* (2018) https://blog.lawbore.net/2018/08/seeing-law-with-new-eyes-the-legal-design-sprint/. See also A. Perry-Kessaris, "Legal Design for Practice, Activism, Policy and Research," *Journal of Law and Society* 46(2) (2019), 185–210.

of art within activism, and the innate presence of law, as well as the way social movement and resistance scholars, again, are seeking to understand their subject, converge on the apparatus, tools and strategies of law within recent research.[40,41]

In protest, there is always an element of law, but increasingly art too. McKee talked of the Occupy movement and encamped protests of the 1990s, as a form of art through their performative and subversive gestures of alternative ways of being.[42] Scholars have spoken of the Situationist International (SI) influenced 'artivism' of the alter-globalisation movement, referring back to spectacular events such as the Battle of Seattle 1999 as a critical juncture of resistance against the growing behemoth of globalisation and the structural adjustment programmes of the Washington Consensus financial institutions, International Monetary Fund, World Trade Organisation and the World Bank.[43] From the anti-roads and political rave movement 'Reclaim the Streets' in the UK who sought to save land from development and protest against the illegalisation of rave culture (as well as gypsy and traveller ways of life and further limitations on squatting) under the Criminal Justice and Public Order Act 1994, using subversive, Situationist-inspired humour and civil disobedience typified directly through their symbolic occupation of time and space, we have come full circle to the prevalence of both art and law within climate crisis movement Extinction Rebellion who use and promote both the force of art and law in their practices and structures.[44]

In true convergence of subject of research and research method,[45] art history and philosophies describe an increasing literature pointing to the deliberate use of art and creative practices within resistance, reflecting a conscious paradigm shift within art practices becoming 'socially engaged', 'dialogic' and 'participatory', where there has been a social as well as ethical turn, where within art. According to Bishop:[46]

> ..questions of conscience and obligation, of recognition and respect, of justice and law, which not so long ago would have been dismissed as the residue of an outdated humanism, have returned to occupy, if not centre stage, then something pretty close to it.

40. L. Finchett-Maddock, "In Vacuums of Law We Find: Outsider Poiesis in Street Art and Graffiti," in D. Chappell and S. Hufnagel (eds), *Art Crime Handbook* (London: Palgrave MacMillan, 2019).
41. L. Finchett-Maddock and E. Lekakis (eds), *Art, Law, Power: Perspectives on Legality and Resistance in Contemporary Aesthetics* (London: Counter press, 2019).
42. Y. McKee, *Strike Art: Contemporary Art and the Post-Occupy Condition* (New York: Verso, 2016).
43. G. Scholette, K. Charnley and L. Lippard, *Delerium and Resistance: Activist Art and the Crisis of Capitalism* (New York: Pluto Press, 2017); G. Scholette, Dark Matter: Art and Politics in the Age of Enterprise Culture (New York: Pluto Press, 2010); N. Thompson and G. Sholette (eds), *The Interventionist's – Users Manual for the Creative Destruction of Everyday Life* (Cambridge: MIT Press, 2004); McKee, Strike Art.
44. M. Rahman, "XR, Law and Creative Rebellion," *Art/Law Network* (2019). http://artlawnetwork.org/xr-law-and-creative-rebellion/
45. Rose, "On the Relation Between Visual Research Methods and Visual Culture," *The Sociological Review* 62 (2014), 24–46.
46. Peter Dews in C. Bishop, *Artificial Hells: Participant Art and the Politics of Spectatorship* (London: Verso, 2012), p. 25.

The turn to the social and political in Western art in recent decades, and not least any turn to law, has been notably influenced by the theory of 'relational aesthetics' of art historian Nicolas Bourriaud, describing modern art's move to deliberately political art. Instead of giving reference to imaginary utopias, art can now '.. actually be ways of living and models of action within the existing real'.[47] The classical understanding of 'art for art's sake' is replaced with the revelation of 'relational art' that weaves theory into human issues and social interactions,[48] as opposed to art existing in 'an independent and private symbolic space'. Pilcher[49] interestingly relays the question of law in socially engaged art through Mark Wallinger's 'State Britain'[50] as an example of art and resistance shifting the boundaries of law, and consequently what we consider art, and/or legal or illegal protest.

III. Beginning and End of Art and Law Worlds

Claustrophobic, tautological, our bare art world is our bare art world is our bare art world

Gregory Scholette 'Delirium and Resistance'[51]

What can this mean for this inferred reunion of art and law? If artists are creating law and lawyers creating art, and there is a seeming convergence of spectacle, then where did the autonomy of art and law go? Relational aesthetics tells us there are art forms that are deliberately political, and yet does this not make all other art a positivism devoid of politics, as if the same of any positive rule of law? Bishop in her reply to Bourriaud critiques this assumption, arguing the role of art is always to affect and instil discomfort and rupture in us.[52] Sceptical of what she sees as the 'instrumentalisation of ethics as a strategic zone' by socially engaged art and those who commission and encourage it, it is seen as culminating in a 'collapse of [the] aesthetic and political into new forms of order'.[53] How can we get past this potential ordering of art/law to ensure there is a radical usage? How can we ensure that this new synchronic potential of art and law is not corrupted and sold back to us where the coercion of law masquerades as artistry, where social engagement in contemporary art is pushed to the limit concept of politics, that being law? As Berger once noted: 'If the new language of images were used differently, it would, through its use, confer a new kind of power'.[54]

If there is a suggested movement towards a crossing over of art and law, then there is an inference that they are separate, in some way. There are risks in avoiding defining art and law, and putting a name to their relatedness; the extent to which they are one and the same

47. N. Bourriand, *Relational Art* (Paris: Les Presse Du Reel, 1998).
48. Such as famous artist J. Beuys "Social Organism As a Work of Art," in *Art into Society, Society into Art* (Beuys in C. Tisdall) (London: ICA, 1974), p. 48.
49. J. Pilcher, 'State Britain and the Art of (Im)Proper Protest," *Law, Culture and the Humanities* (2016) Epub ahead of print 6 July 2018. doi:10.1177/1743872115625433
50. M. Wallinger, State Britain (2007), https://www.tate.org.uk/art/artworks/wallinger-state-britain
51. Scholette, *Delirium and Resistance*, p. 23.
52. C. Bishop, "Antagonism and Relational Aesthetics," *October* 110 (2004), 51–79.
53. Bishop, *Artificial Hells*, p. 28.
54. Berger, *Ways of Seeing*, p. 33.

material practice, the methods through which they have been kept apart being hidden and demoted in a phenomenological game of naming, separation and categorising, more than adequately arraigned and made evident through critiques of capital and possessive individualism. At the same time, to ignore the distinction and existence of these categories is to redact the existential and practical realities of the art world and the law world, and the violence that has occurred as a consequence of their separation. In a sense, the only difference between art and law is the art world and the law world; art is only bounded by the reification of law, and law, as only bounded by the reification of art. The question of autonomy in art and autonomy in law appears as prescient for the legitimacy of both,[55] there being a liminality between art and law in order to propose a practice that supersedes artificial boundaries,[56] which reminds us of both their form-making and category determining force.

Following Davies' cautious desire not to define law,[57] she postulates in a spirit of non-essential legal pluralism,[58] at the very least law is unlimited, 'connected and relational .. law is mobile, plural, and material'.[59] It is a useful maxim that allows us to see the same can be said for art, it is plural, mobile and material, as well as immaterial, as a point of departure that allows us to move beyond the totality of definitions and diagnose the nature of the current movement of art/law.

Direct conceptions of the connection between art and law are not new and are found most deeply embedded within critical theory of the Frankfurt School, and critical legal theories of aesthetics.[60] Understandings are extensive, from which legal forms are present

55. A. Young, "Aesthetic Vertigo and a Jurisprudence of Disgust," *Law and Critique* 11 (2000), 241–65; A. Young, *Judging the Image* (London: Routledge, 2005); A. Young, *Street Art, Public City: Law, Crime and the Urban Imagination* (London: Routledge, 2013).
56. For Hegel, the definition of art is in reference to its content and presentation, as the highest reality in sensuous form, G. W.F. Hegel, *Hegel's Aesthetics: Lectures on Fine Art* (Volume 1) (Oxford: Clarendon Press, 1975). Danto refers to Seel speaking of aesthetics as the creation of unique experiences in the world, A. Danto "The End of Art: A Philosophical Defence," *History and Theory* 37(4) (1998), 133, and Santayana refers to art as relaying a direct sense of beauty, whereas Duchamp demonstrated that aesthetics and art can be separated, Hegel *Hegel's Aesthetics*: . Each of these demarcations of what art and law may be are broadly Western in scope with the heavy weight of positionality attached in turn. In this occidental tradition of aesthetics and politics, considering Platonic beauty over the danger of art, Kant's disinterested judgement, Hegel's 'end of art', a Nietszchean art to overcome nihilism, as well as latterly Adorno, Debord and Rancière; for these thinkers art is seen as an artificial category, as much as critical legal extrapolations of law (T. Adorno, W. Benjamin, E. Bloch, B. Brecht and G. Lukács, *Aesthetics and Politics* (London: Verso, 1977); Debord, *The Society of the Spectacle*; J. Rancière, *Disagreement: Politics and Philosophy* (Minneapolis, University of Minnesota Press, 1999); J. Rancière, *The Politics of Aesthetics: The Distribution of the Sensible* (London: Continuum, 2011).
57. M. Davies, *Law Unlimited: Materialism, Pluralism and Legal Theory* (London: Routledge, 2017).
58. B. Tamanaha, "A Non-Essentialist Version of Legal Pluralism," *Journal of Law and Society* 27(2) (2000), 296–321.
59. Davies, *Law Unlimited*, p. 3.
60. Critical legal studies assumes an acknowledgement of law as politics, where all can be broken down to a constructed and performative action, leading to understandings of law as only viable through rhetoric, images, spaces and ascribed boundaries of aesthetics. P. Goodrich,

in art, through to painting, sculpture, literature or music reliant on representational methods of symbol, emblem, motif.[61] Understandings of law, aesthetics and traditionally the image have been specifically resonant in critical legal thinking, legal semiotics and socio-legal studies.[62,63,64] The place of the image has been paramount, and historically representation in law comes with a backdrop of interpreting the legality as a text, as nothing unfolding beyond the surface of its signifier following poststructuralist assumptions of performativity and non-essentialism.[65]

Legal Discourse: Studies in Linguistics, Rhetoric and Legal Analysis (London: Macmillan, 1987); P. Goodrich, *Law in the Courts of Love: Literature and Other Minor Jurisprudences* (London: Routledge, 1996); C. Douzinas, R. Warrington and S. McVeigh, *Postmodern Jurisprudence: The Law of Text in the Texts of Law* (London and New York: Routledge, 1991); A. Gearey, *Law and Aesthetics* (Oregan, Portland: Hart Publishing, 2001); O. Ben-Dor (ed), *Law and Art: Justice, Ethics and Aesthetics* (London: Routledge, 2011).

61. A famous example might be that of blind justice (P. Goodrich, *Legal Emblems and the Art of Law: Obiter Depicter as the Vision of Governance* (Cambridge: Cambridge University Press, 2013); P. Goodrich, *Imago Decidendi: On the Common Law of Images* (Leiden: Brill, 2017); C. Douzinas and L. Nead, *Law and the Image: The Authority of Art and the Aesthetics of Law* (Chicago: University of Chicago Press, 1999); D. Manderson, "The Metastases of Myth: Legal Images as Transitional Phenomena," *Law Critique* 26 (2015), 207–23; O. Ben-Dor (ed), *Law and Art*, or the scales of justice. These are the aesthetics of law, to the extent that they are ways in which law is represented and communicated in forms of art and imagery. How creative forms are evident in law, such as within legal decision-making, legal method, lawyering and advocacy, we might understand as legal aesthetics. Decisions of what is beautiful and otherwise refer to laws of aesthetics that may or may not involve state laws that regulate aesthetics.
62. H. Kelsen, *Pure Theory of Law* (Berkeley: University of California Press, 1967).
63. I. Perry, "Black Arts and Good Law: Literary Arguments for Racial Justice in the Time of Plessy," *Law, Culture and the Humanities* 4 (2008), 70–97.
64. Legal semiotics, P. Gabel "Reification in Legal Reasoning," *Research in Law and Sociology* 3 (1980), 5–51; R. Kelveson, *The Law as a System of Signs* (New York: Plenum Press, 1988); socio-legal studies (Moran, "Visual Justice: A Review Essay," 431–46; Moran, "Judicial Pictures as Legal Life-Writing Data and a Research Method," 74–101; Mulcahy, *Legal Architecture*); Mulcahy, "The Eyes of the Law: A Visual Turn in Socio-Legal Studies?" *Journal of Social and Legal Studies* 44 (2017), 111–128; A. Perry-Kessaris, "The Case for a Visualised Economic Sociology of Legal Development," *Current Legal Problems* 67 (2014), 169–98; A. Perry-Kessaris, "The Pop-Up Museum of Legal Objects Project: An Experiment in Socio-Legal Design Special Issue: The Pop-up Museum of Legal Objects," *Northern Ireland Legal Quarterly* 68(3) (2017), 225–45.
65. Law and aesthetics scholarship has predominantly been associated with the law and literature movement as a result, a clear correlation between the written word and the force of law that lends itself well to postmodern deconstructionism. Debates over the 'and' of law and literature nod to a desire to analyse and break down the barriers between legality and literature, seeing the phenomena one and the same, much in the same mood as this piece regarding the enmeshed nature of art/law. Beyond the aesthetic of the written word there have developed sonic understandings of law and music, as well as wider considerations of the performative, iterable and improvised nature of law (D. Manderson, *Songs Without Music: Aesthetic Dimensions of Law and Justice* (Berkeley: University of California Press, 2000); S. Ramshaw, "The Paradox of Performative Immediacy," *Law, Culture and the Humanities* 12(1) (2016), 6–16).

Legal thought specifically dedicated to the communication between art and law oscillates between their existence in pure synchronicity,[66,67] to entire other, to being one and the same, to art being law,[68,69,70] law being art,[71] or the necessity of bringing them back from their historical severance to a space of coterminacy. Scholarship that directly demolishes the relationship between law and art, delineates its incongruent differences[72] where any relation between art and law, and indeed, a propinquity between artists and lawyers, is

66. J. H. Wilkinson, "Subjective Art; Objective Law," *Notre Dame Law Review* 85(4) (2010), 1663–86.
67. Scholarship speaks of art and law's coming togetherness where '[i]n many ways, the endeavours of law and art seem to have converged .. as the Court has moved from more classic to more impressionistic interpretations of constitutional provisions' (Turley in Wilkinson, "Subjective Art; Objective Law," 1664). Writers such as Vatulescu and Wilkinson discuss the normative similarity of art and law (C. Vatulescu, "The Face to Face Encounter of Art and Law," *Law and Literature* 23 (2011), 173–94).
68. G. Karavokyris, "The Art of Law," *Law & Critique* 25 (2015), 67–85.
69. J. Sammons, "Can Law be Art?" *Mercer Law Review* 66 (2014), 527–55.
70. Martinez lists artistic practices of collage, assemblage and montage as prime examples of juridical method and form, even more unbounding through technological advances (C. S. Martinez "Art and Law in the Age of Digital Production," *History of Photography* 22(1) (1998), 14). Sammons further delineates the multitudinous ways that law unravels itself as an artform through: 'the art of rhetoric, the art of persuasion, the art of narrative, the art of legal writing, the art of the judicial opinion and the art of reading those opinions, the art of counselling and of being present to clients, the art of speaking for others, and the art that all the virtues require, the great art of practical wisdom' Sammons, "Can Law be Art?" 529. For scholars who propound art as law, where artworks are 'mere rule systems' (Martinez, "Art and Law in the Age of Digital Production," 16), art itself with its own internal reckoning becomes an external norm, where 'the *order of law* can be the aesthetic beauty in law' (Karavokyris, "The Art of Law," 68) or one *grundnorm* of art that '.. requires that you submit yourself for the moment to its authority, as one might a religious or a legal text' (Sammons, "Can Law be Art?" 539). This moment of authenticity, the flash of the origin, speaks of a Benjaminian aura, an unravelling of the invisible through the visible (Rancière, *Disagreement: Politics and Philosophy*) or the truth in abstraction within the painted music of Kadinsky (Sammons, "Can Law be Art?" 544).
71. Kee describes law as an artistic medium, where 'to consider such patterns of recognition is to accordingly consider law's own materiality' J. Kee, "Towards Law as an Artistic Medium: William E Jones's Tea Rooms," *Law, Culture and Humanities* 12(3) (2016), 693.
72. Wilkinson speaks of the lack of force in an artist's power of persuasion, as opposed to the coercive wrath of authority that juridical decision-making exacts, where 'an artist's power flows from internal, individual genius; in contrast, a judge is vested with external, positional authority' (Wilkinson, "Subjective Art; Objective Law," 1685). Even when there is argued a distinction paradigms of art and law can serve as a positive for the purposes of law, 'because artistic process, purpose, and power is so different from that of law, art serves as the perfect model for what judges should not do and ought not to be' (Wilkinson, "Subjective Art; Objective Law," 1685). B. Markesinis, *Good and Evil in Art and Law: An Extended Essay* (London: Springer, 2007); W. N. Duong, "Law is Law and Art is Art and Shall the Two Ever Meet? Law and Literature: The Comparative Creative Process," *Southern California Interdisciplinary Law Journal* 15 (2005), 1–44.

refuted.[73] This understanding of Art as Art and Law as Law, where either a creative or an advocate are only operating in 'dual professions',[74] inscribes the lawyer as rational and asensual, and an artist as irrational and sensual. In some ways, and this piece may be guilty of the same, by noticing the similarities between art and law we are reinforcing the legitimacy of their estrangement, where being awed by their similarity is at once ignorant of the daily ethnography of the artist and the lawyer's practice.

Acknowledging their difference can also infer a unified origin of art and law, more bounded, more one-worlded – the atomistic autonomy of art encouraged via a Kantian parting of art and law as 'two systematic worlds clearly demarcated from each other',[75] is broken down, and the disciplines themselves becoming introverted and self-referential from the enlightenment onwards, at least in the Western hemisphere. Parsley relays the division of art from law through Enlightenment containers of reason and the progression of the expert, whilst also evincing the role of the onlooker who is part of but also resists art, much as the ethos of this work, questioning the artifice and separation even further.[76] This is why the term art/law is so useful. Art/law is a term that has been used by Karavokyris[77] to highlight the:

> The formative act of the creator meets the—*de facto* and *de jure*—inevitable boundary of the look of others until it turns, depending on the outcome of this uncertain communication, from a subjective statement (mere work) into an objective norm (work of art/law).

Art/law, in this work and as will become clearer in due course, is an onto-epistemic ethics, an understanding of the agential nature of matter practice, change, not entirely divorced from Karavokyris' understanding in the sense that both art and law is the substance of art/law, but also as a method of seeing, learning and living that is a movement as much as a descriptor of all law and art in sum[78].

But if we are to understand where art and law are crossing over, that there are convergence(s) in motion, questioning their compulsion to begin and end, where do we look? Art in the mode we understand it today is a product and security to be bought and sold where 'the explicit social manipulations that are necessary to maintain perceived value in the face of technological advancement provide a window into the social construction of art as a valuable commodity'.[79] Art's boundary-making has a necessity to

73. 'Law should not be the refuge for those who are not strong enough to take the risks of art. Just because rhetoric and social issues can straddle the two domains does not mean that great artists are practicing law, or that great jurists are writing literary novels' (Duong, "Law is Law and Art is Art," 43).
74. Duong, "Law is Law and Art is Art," 43–4.
75. C. S. Martinez "Art and Law in the Age of Digital Production," 14–7.
76. C. Parsley, "Public Art, Public Law," *Continuum: Journal of Media & Cultural Studies* 19(2) (2005), 239–53.
77. Karavokyris "The Art of Law," 68.
78. It is also the result of an interesting discussion at the birth of the Art/Law Network, the term art/law proposed as most fitting by Emeritus Professor Anne Bottomley, Kent Law School, to determine the oneness of art and law, and the redundant 'and' such as in the law and literature movement.
79. J. M. Rotter, "Law, Economics, Technology, and the Social Construction of Art," *The Journal of Arts Management: Law, and Society*, 37(4) (2008), 281.

'paradoxically remain autonomous in order to initiate or achieve a model for social change',[80] where there rests a tension between artistic and social critique. Law helps to maintain art's aura and its autonomy, 'it impacts both the practice of art and how we as a society interact with it and take an interest in it'[81] through the unique treatment of art and its artists, via legal categories of permissible expression, rights of artists and the economic benefits of its patrons. The underlying influence of property in intellectual and real form within the shaping of the art world illustrates the influence of law on the way art, and thus the art world, is structured around art as property, and artists as owners.

Explicit connections between art worlds and law worlds are evident in value judgements around art and government policy (and resultantly law), which are revealed in the rise in participatory practices and their viability with business and commerciability.[82] The rise in co-curation and co-working encourages unpaid forms of artistic labour, whilst also enticing in the excluded, the outsider, the spectator into the art process, product and form.[83] The ambiguous and complex make-up of the art world, from museum, to radical art school, to gallery, to dealer, to artist, makes for an uneasy description[84] where its inequality of labour denotes the silent 'dark matter',[85] those unseen and unrepresented reminiscent of the unseen and unheard of law.

There has been surprisingly little critical analysis of the connection between the art market and the law market, with insufficient attention paid to ways in which law defines and gives content 'to broadly accepted ideas about art'.[86] Philosophical discussion around the commodification of creativity, and the 'end of art'[87,88] are of interest to

80. Bishop, *Artificial Hells*, p. 27.
81. Rotter, "Economics, Technology, and the Social Construction of Art," 281.
82. Bishop, *Artificial Hells*, p. 16.
83. Bishop associates the 'Everyone is a Creative' Green Paper of New Labour in 2001 with David Cameron-era 'Big Society' (*Artificial Hells*).
84. Instead of using the connotation of art world that 'connotes a unitary, self-enclosed universe of like-minded cognoscenti making, viewing, judging, and sometimes buying and selling works of art' which given the inequalities the term 'art world' does not suffice – McKee refers to it as an 'art system'. The art system is not one that works evenly and simply with each element of its entity working in equilibrium, but more the unstable meshwork of a complex adaptive system that inherently creates an 'ever-present potential for antagonism between what Pierre Bourdieu would call the dominant and dominant and dominated elements thereof" (McKee, *Strike Art*, pp. 11–2) quoting P. Bourdieu, *Distinction: A Social Critique of the Judgement of Taste* (London: Routledge, 1984).
85. The flexibility of the 'no collar' art worker as she describes it, to the neoliberal order, is discussed furiously by artist and activist Scholette, where 'today, artists are simply another worker, no more, no less' (Scholette, Charnley and Lippard, *Delerium and Resistance*, p. 23; Scholette, *Dark Matter*).
86. Rotter, "Economics, Technology, and the Social Construction of Art," 281.
87. H. L. A. Hart, *The Concept of Law* (New York: Oxford University Press, 1961).
88. G. W. F. Hegel, *Hegel's Aesthetics*; T. Adorno and M. Horkheimer, "The Culture Industry: Enlightenment as Mass Deception," in *Dialectic of Enlightenment: Philosophical Fragments* (G. Schmid Noerr, ed) (Stanford, CA: Stanford University Press, 2002) pp. 94–135; Debord, *Society of the Spectacle*; Danto, "The End of Art: A Philosophical Defence"; J. Kosuth, *Art After Philosophy and After: Collected Writings 1966–1990* (Cambridge: MIT Press, 1991).

understanding the current movement of art across law and vice versa. Most famously Hegel spoke of the end of 'a need for art as something which brings home spiritual truths [. . .] to consciousness' where today 'art is, and remains for us, a thing of the past'.[89] Following an Hegelian dialectic of the progression to total truth, Benjamin spoke of the loss of aura at the end of art, a materialist critique of spectacle, alienation and the *Aufhebung* (sublation) of art as a whole.[90] Similarly Danto spoke of the *theory* of art replacing art itself, where ideology and philosophy have subsumed post-aesthetic art.[91,92] This depiction of the end of art is of interest to the presence of law, a pointer to the manifestation of its own loss as law is increasingly an instrument enabling the function of neoliberalism where the rule of law is extorted by capital and any sense of justice expelled.[93,94] Law forgets its origin in land, matter and ends with its hallucination of self at the end of the juridical as we know it.

This end of art and law may be found in what shapes the form of law worlds and art worlds, the official and the unofficial, and the extraction of affect by capital. The culpable role of the 'art world', co-determined by the 'law world' in supporting and upholding systems of capitalism where art is traded as a form of moveable property, commodity and economic instrument through histories of material aesthetic imperialism, is situated as central to a maintaining of artificial divisions between art, law and any resistance. This separation exists due to the formalism of individual property, whereas art/law suggests a mechanism overcoming the advanced plague of spectacular capitalism in the hope of creating new juridical-aesthetic movements, openly bringing the practices of art and law, as well as protest, together. This is not a novel interpretation, and one reliant upon a materialist questioning of separation and negation of the spectacle, where all that we perceive, and sense is divided up and categorised by capital.[95]

This concern *for* and *of* law in, as and with art practices, suggests an oppoturtunity for convergence at a bifurcation of epistemological shifts and trends connecting the legal with the spatial-temporal, the visual, affectual, aesthetic and performative that are catalysing to manifest new ontic-epistemes of art/law. For art/law to be a critical legal practice, one that moves beyond the page of previous interpretations of law and aesthetics, it must step further into understanding its kinetics of change, matter and the me.

89. Hegel cited in A. Danto, *The Philosophical Disenfranchisement of Art* (New York: Columbia University Press, 1986), pp. 113–4.
90. Benjamin, *The Work of Art in the Age of Mechanical Reproduction*.
91. C. Cox, J. Jaskey and S. Malik (eds), *Realism, Materialism, Art* (New York: Sternberg Press, 2015).
92. Danto, *The Philosophical Disenfranchisement of Art* pp. 113−4.
93. H. Becker, *Art Worlds* (Berkeley: University of California Press, 1983).
94. A. Beech, "Art and its 'Science'," in *Speculative Aesthetics* (McKay et al. eds) (Falmouth: Urbanomic, 2014), p. 10.
95. Rancière, *The Politics of Aesthetics: The Distribution of the Sensible*.

IV. Countering Property: Form and the '/' of Art/Law

> *No one is simply a painter; all are archeologists, psychologists theatrical producers of this or that recollection or theory. They enjoy our erudition, our philosophy. Like us, they are full and overfull of general ideas. They like a form, not for the sake of what it is, but for the sake of what it expresses.*
>
> Nietzsche, 'The Will to Power'.[96]
>
> *The act of resistance has two faces. It is human and it is also the act of art.*
>
> Gilles Deleuze 'What is the Creative Act?'[97]

In reality, the predominant way law interacts with art is through the body of art law, which refers to law that regulates the buying and selling of art,[98] as well as national and international regimes of intellectual property rights. Legal protection has been afforded to artists in the UK since the Statute of Anne (now known as the Copyright Act 1710), an indication of the correlation between an increasingly codified body of law and its reliance on individual property as a model of relational value, the rise of possessive individualism through the mercantilism, and the development of what we have come to understand as 'art'.

Property and the intellectual property of copyright are the dominant frameworks by which law understands art, and indeed, names it and demarcates what it is, within a specific language. The closest we come to a definition in England and Wales is defined under the Copyright Designs and Patents Act (CDPA) 1988 as an 'artistic work' 'irrespective of its artistic quality' (section 4 (1)(a)), repeated under Article 2 of the international treaty the Berne Convention for the Protection of Literary and Artistic Works 1986. Following Marx, there is a central role of property within the form of artworks produced as a result.[99]

The effect of categories of individual property on legal definitions of what constitute artworks within the CPDA and other instruments, and the resultant form legally defined art works may take (and which artists are protected) is supported by cleanly defined

96. F. Nietzsche, *The Will to Power*, (trans. W. Kaufmann and R. J. Hollingdale) (New York: Random House, 1967), p. 437.
97. G. Deleuze, "What is the Creative Act?" in *Two Regimes of Madness, Texts and Interviews 1975–1995 Gilles Deleuze (1925–1995)* (Lapoujade D translated by Ames Hodges and Mike Taormina) (Cambridge: MIT Press, 2007), pp. 312–24.
98. This is reflected on by Mulcahy, "The Eyes of the Law," 2017 as dominating doctrinal accounts of the ways law and art interact in the commercial setting of the art market.
99. J. M. Durán, "Artistic Labor and the Production of Value: An Attempt at a Marxist Interpretation," *Rethinking Marxism* 28(2) (2016), 220–37; S. Martin, "The Absolute Artwork Meets the Absolute Commodity," *Radical Philosophy* 146 November-December (2007), 15–25; D. Spaulding and N. Demby, "Art, Value, and the Freedom Fetish," *Mute* May 28 (2015). Available at: http://www.metamute.org/editorial/articles/art-value-and-freedom-fetish-0 (accessed 22 July 2018); H. Hudson, *Artistic Licence: The Philosophical Problems of Copyright and Appropriation* (Chicago: Chicago University Press, 2017).
100. Instead of composition, order, spatial and temporal construction of figures and sensations within a piece rendering something an artwork, she argues for an alteration within the CPDA to include what qualifies as an artistic work should be linked to artistic purpose, albeit with concerns of denoting intentionalism attached. S. Wickenden, "Artistic Works and Artists' Rights– Redrawing the Law" (2015) Available at: https://www.barcouncil.org.uk/media/313944/_46__stephanie_wickenden.pdf (accessed 30 July 2018).

versions of art theory formalism in intellectual property law that is left 'vaguely defined and [. . .] not adequately reflect contemporary artistic practice'. [100] The *numerous clausus* or closed list nature of how an artistic work is defined, illustrates the powerful role property and law has in determining what is considered a work of art or otherwise,[101] the limiting construction of art by the boundedness of law, whilst a legal authority that is informed and held up by aesthetic theories of form connected to property.

The conflicting yet co-present role of formalism across both art and law infers an authority to form, a *formality*, a *property*. The *numerous clausus* reassert the central role of property in law and capital, defining what art is, in a move reminiscent of the closed list of legal estates and equitable interests of section 1 the Law of Property Act 1925, where all other imaginations and practices of what properties may exist outside, are excluded in a dualism of formal/informal, and thus a claim to entitlement unprotected.[102]

Within art history, anti-formalism is a rebuff to the aesthetic positivism of formalism that has come hand-in-hand with the dawn of conceptual, non-representational, and socially-engaged art, and yet consideration of form is congenital to object-oriented discussions of the importance of aesthetics within philosophy. This question of essence breaches all domains of recent years of postmodern thought, not least since a resurgence of dualism in speculative thought – the debates of which underlie any understanding of what law is, not least what art is. There is an inherent point of departure between theories of object oriented ontology (OOO) and Bourriaud, to the extent that Harman's OOO aims to decontextualise the object (or in this instance, an artwork) so as to reveal that which is hidden to human cognition, as it is always already within its 'frame', some arguing supportive of a formalism and representationalism. Whereas Bourriaud's 'artwork as social interstice'[103] specifically catalyses the human experience as a series of interactions, coinciding with Western art's calculated turn to consider works and their social engagement. Harman would argue that art worlds and law worlds are objects existing materially but also immaterially, they talk to one another.[104,105] Both Harman and Bourriaud, however, are speaking of the affect and (im)matter of form, that '.. does not represent a theory of art, [as] this would imply the statement of an origin and a destination, but a theory of form'.[106]

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101. Under Section 4 (1) 'artistic work' is listed as '(a) a graphic work, photograph, sculpture or collage, irrespective of artistic quality, (b) a work of architecture being a building or a model for a building, or (c) a work of artistic craftsmanship'.
102. Marta Iljadica works on the work of street artists and graffiti writers and how they use a plurality of norms to establish their own forms acceptability in law and art, that is similar but other to formal copyright law (M. Iljadica, "Graffiti and the Moral Right of Integrity," *Intellectual Property Quarterly*, 3(2015), 266–288; M. Iljadica, *Copyright Beyond the Law: Regulating Creativity in the Graffiti Subculture* (London: Bloomsbury Publishing, 2016).
103. Bourriand, *Relational Aesthetics*.
104. G. Harman "Graham Harman: Art Without Relations," *Art Review*. Available at: http://artreview.com/features/september_2014_graham_harman_relations/ (2014) (accessed 10 July 2010)
105. G. Harman, *Object-Oriented Ontology: A New Theory of Everything* (London: Penguin, 2018).
106. Bourriand, *Relational Aesthetics*.

It is a wonder what the anti-advertising culture-jammers, graffiti writers and street artists[107,108,109] of the 1970s and 1980s (not least the SI and Dadaists of the years preceding) would say about a relational aesthetics and an apparent methodical turn to political engagement within mainstream art; this prescribed distinction between political and non-political art as well as an overt use of legal forms in artists' works.[110] The rapid abstraction of form within Western Aesthetics was an open, defiant delegitimation of the established aesthetic canon away from the aesthetically pleasing to a cerebral experience and political positionality. These artists *de*formed aesthetics so as to subvert and question; the SI became known for their acts of *détournement*, the subversion of capitalist symbols and signs in an act of defiance to the rapid commodification of everyday life, as well as art and artistic practice; the appropriation and re-appropriation of

107. L. Finchett-Maddock, "Seeing Red – Entropy, Property and Resistance in the Summer Riots 2011," *Law & Critique* 23(3) (2012), 99–217.
108. K. Lasn, *Culture Jam: How to Reverse America's Suicidal Consumer Binge – and Why We Must* (New York: Quill, 2000).
109. Within the work of culture jammers (E. Lekakis, "Culture Jamming and Brandalism for the Environment: The Logic of Appropriation," *Popular Communication* 15(4) (2017), 311–27), graffiti writers and street artists all over the world, the imbrication of art, law, protest and property is at its clearest. The appearance of graffiti and street art in urban spaces brought the impact of law to the fore, where the tragedy of the commons and the privatisation of public space (C. Olarte-Olarte and I. R. Wall, "The Occupation of Public Space in Bogotá: Internal Displacement and the City," *Social & Legal Studies* 21(2) (2012), 321–39) in the form of enclosed property (Finchett-Maddock, *Protest, Property and the Commons*) is performed through the daubing of the street by the artists and the writers, and the punitive responses of the law to this. Nevertheless, as Halsey and Young ("Our Desires Are Ungovernable") have pointed out, the spraying of paint on the street is not an unreasonable concern to the functioning of the state, and now arguably the market. It works to commodify the art forms as licenced street art and graffiti that can become tools for gentrification as forms of advertising, not least their value as moveable property in the global art market, bringing property/commodity full circle in the mainstreaming of culture jamming. In 2014 18-year-old Diego Felippe was shot dead by Colombian police in Bogota for spray painting under a bridge. This decisionism and force of the law becomes crystallised in the death of the boy, but also in its abhorrence for illegitimate aesthetic expression, and veneration of private property.
110. Similarly, activists have increasingly turned to using creative practices as tactics, such as 'Timepiece', art and climate change protest performance at the Tate Modern (June, 2015), as well as art therapy projects such as Brighton-based 'Hummingbird Project' who took art therapy to the Calais jungle demonstrating the use of art as a tool for rights empowerment. Art institutions have ever more engaged with issues of community, migration law and rights through the 'Who are we project?' at the Tate Exchange (March, 2017), as an example, as well as further afield overseas in the United States where institutions positioned themselves in opposition to the inauguration of President Trump by closing their doors in protest on 20 January 2017.

seemingly artless objects, bringing into question the very limits of art and politics and the role of the audience in asserting this.[111,112]

Scholette[113] critiques this to the point that we now have art/life completion, but this at the detriment of anything really being 'new', inspiring, or the understanding the limits of phenomena that may not be art forms, where the 'artification' of areas of life just mean that they become new commons that can be extracted by capital, alongside the further value-added nature of the artist's role. Is this the same thing that is happening to law, or is there more to art/law than an aesthetic fad at the end of art?

The development of a history of art and art's recording as a history means there are only an elite who are fully able to understand the genealogy of Western art, which can be the same for law:[114] 'When an image is presented as a work of art, the way people look at it is affected by a whole series of learnt assumptions about art. Assumptions concerning: Beauty, Truth, Genius, Civilisation, Form, Status, Taste etc. Many of these assumptions no longer accord with the world as it is'.[115] Law is synonymous with inaccessibility, and so too is the art establishment, and yet both are simultaneously known for their advocacy, community and force of empathy.

Theories of subsumption are awash with capital as art, the latest point of cooptation, where art/law could be viably seen as the latest avant-garde as it moves to art creating law through considering contemporary art practice's subsumption of law, lawyering and resistance's subsumption of art.

Another indication of property within art is the increased prevalence of forgery is indicative of a specific connection between the development of artistic proprietary rights and Western capitalism's view of the artist's individual genius that cannot be reproduced.[116,117,118]

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111. Open Culture, "The Iconic Urinal & Work of Art, "Fountain," Wasn't Created by Marcel Duchamp But by the Pioneering Dada Artist Elsa von Freytag-Loringhoven," (2018), found at - http://www.openculture.com/2018/07/the-iconic-urinal-work-of-art-fountain-wasnt-created-by-marcel-duchamp.html.
112. This followed with the advent of Pop Art where the visual and performative arts were further freed from their limiting painterly forms and yet synchronically advanced their move into the realm of commodity, property and global mainstreamism even moreso. Nevertheless, it was this preceding turn of appropriation and subversion that brought to the fore the political nature of art and the artists, and the role art can play in fostering radicality, critique and social change through protest. In spite of his legacy, Duchamp's famous 'Fountain' (1917) has most recently been discovered to have been made by female artist Elsa von Freytag-Loringhoven (Open Culture, "The Iconic Urinal & Work of Art, "Fountain").
113. Scholette, Charnley and Lippard, *Delerium and Resistance.*
114. 'In the end, the art of the past is being mystified because a privileged minority is striving to invent a history which can retrospectively justify the role of the ruling classes, ad such a justification can no longer make sense in modern terms'. (11)
115. Berger, *Ways of Seeing*, p. 11.
116. J. Lyotard, "Sublime and the Avant-Garde," *Art Forum* 22(8) (1984), 36–43.
117. R. Mackay, L. Pendrell and J. Trafford (eds), *Speculative Aesthetics* (Falmouth: Urbanomic, 2014).
118. Fakeness and inauthenticity uphold the 'originality' of art as capital, and a genealogical intersection of individual property within creativity in Eurocentric markets per se. What paradoxically is present within discussions of authenticity and capital, is also found within

This highlights art as a currency,[119] produced at the intersection of value and form. Value and form are expressions of property, as tangible material and intangible surplus. Art's value is derived from the Western preference for the individual genius of the artist that is second in the world to the most conveyed form of capital other than land – a moveable and highly transitory form of asset imbricated within the production and consumption of commodity; radically opposed to and yet simultaneously supported by its integration into the industries of capitalism as a form of high value property, as opposed to just being symbolic of it.[120]

Thus, there is a complicit role of aesthetic forms within the spread of property and the reliance of these aesthetics on legitimation through the support of law, as well as the exclusion of non-Western forms of aesthetics and law.[121] The matter of art is the cannon fodder of capital's accumulation, where the exploitation of surplus value of the artist's labour is simultaneously the extraction of affect to produce certain *forms* of law as aesthetic and aesthetic as law.[122] In order to overcome this, an understanding of art/law must open the closure of art to capital's form, through allowing for matter's own incalculable power to change, resist and alter us, through material and (im)material *practices* of art and law, artists, lawyers and agitators and their *audiences*, making space for the entropic movement of change and uncertainty in the '/'.[123]

With art and law's specific remit as appearing peculiar entities to themselves, their autonomy and unity is the basis of their legitimacy, their category. However, paradoxically, their juridical regeneration only happens through their encounter with uncertainty, the 'events' of the political reality that inscribe the next course of action for art/law where

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Benjamin's conception of the aura within art – that which is lost through facsimile, predominantly in reference to photography but with prescience to questions around links between the autonomy of art beyond its surplus value and legal proprietorial claim, and the role of material affect that may support art as an object internal to itself. E. Maclean, "On the Meaning of Art Forgery," *Law & Critique* 2(1) (1991), 3–36.

119. D. Joselit, *After Art* (New Jersey: Princeton University Press, 2013).
120. F. Jameson, *The Cultural Turn: Selected Writings on the Postmodern* (London: Verso, 1998).
121. Not only that but art's journey into property was at the expense of other permutations of non-Western and 'outsider' art, with aesthetics ratified through the eyes of those buying and selling, a juridical decision-making of the art establishment that at once casts the inside and the outside of art, as if the same constitution-making of law.
122. Discussions around law *as* aesthetics and aesthetics *as* law are very much influenced and indebted to the thought of Swastee Ranjan, PhD student writing on the legal affect of objects in the city, at Sussex Law School.
123. Form and composition further demonstrate an order that needs to exist within a work to qualify as artistic, determining what may be seen as aesthetically-pleasing, and yet, art may not always be so. Disorder is represented as ugly, illegal and reprehensible; and yet the striving for totality and perfection through order in art and law, is neither possible, nor desirable, given the consequences that we have seen and indeed see today, in totalitarian politics of fascism and racism. It doesn't matter that you haven't had the correct training to give you the light and composition expected for a 'complete' work of art, because actually, the beauty is the incompleteness. The same for the rioter – you are rioting because of the violence of the order of the system (Finchett-Maddock, 2012).

'artistic activities become co-creators of legal and political reality and by extension the expressive material of art becomes a creative part of the law'.[124,125]

For Barad, the '/' is a cutting and cutting apart, denoting a process as much as a bringing together.[126] In recent times, 'Art has come to symbolise an image of freedom from law, a prepolitical state of infinite and dynamic uncertainty, openness and flux; yet at the same time, art has tasked itself with the labour of achieving freedom, in the project of social emancipation'.[127] If we are to take this seriously we must understand an unremitting untangling, a Nancian undoing and unworking that narrates continual paradox and aporia as law and art unravel in infinite loopholes of difference-repetition. If we are to act practically, we have to accept the audience in all, the space for potency or *potenzia*, the audience of law as much as art, and the processes and practices of matter and change that found in the movement of the '/'.

V. Resistant (In)Formalism: Practice, Audience, Change

> *Without entropy there would be no possibility of exchange, and without entropy there would be no art.*
>
> France and He'naut 'Art, therefore entropy'[128]

> *All paintings are contemporary hence the immediacy of their testimony.*
>
> Berger, Ways of Seeing[129]

Right at the beginning of this journey into art/law, was an important invitation by artist-agitator Adelita Husni-Bey to participate in the drafting of a convention on use-value property, that was also a piece of art. 'White Paper: The Law' ran in collaboration with Casco, Office for Art, Design and Theory, Utrecht, Netherlands in 2015 (Figure 3). A call of protest and squatting movements seeking to assert a new way of property, and even a new way of art, 'White Paper' was a powerful coming together of art, occupation, property, radical law, housing, home and protest expressed within squatting practices and communities. Groups of scholars and activists were involved in the writing of the convention to reflect the wishes of the squatting community when fighting evictions where a 'use-value' understanding of property in law, could be used by the squatting community in the Netherlands. The CUS 'Convention on the Use of Space' was drafted with the aim of being used as a viable document by and for squatters in defence against a number

124. P. Agha, "Public Art as Contest Over Meanings," in *Rancière and the Law* (M. López Lerma and J. Etxabe, eds) (Nomikoi Critical Legal Thinkers, London: Routledge, 2018), p. 151.
125. K. Barad, *Meeting the Universe Half-Way* (Durham, Duke University Press, 2012).
126. K. Barad (2019) "Reading Force(s): After the End of the World: Entangled Nuclear Colonialism, Matters of Force, and the Material Force of Justice," Reading Matters Conference, Princeton 2018: https://readingmatters.princeton.edu.
127. Beech, "Art and its 'Science'," p. 9.
128. M. France and A. He'naut, "Art, Therefore Entropy," *Leonardo, Art and Science Similarities, Differences and Interactions Special Issue* 27(3) (1994), 219–21.
129. Berger, *Ways of Seeing*, p. 31.

Figure 3. *White Paper: The Law* (2015), Adelita Husni-Bey.

of threats to their existence and way of life in light of the criminalisation of all squatting in the country since 2010. As part of the final exhibition, various documents and media taken from the drafting meetings were shown as works of art simultaneously (Figure 4). This public drafting of the law was a contemporary reminder of the people as legislators and the unremitting role of law within protest, particularly around the right to housing, the right to a home and the right to use and not to own *per se*. This was innovation of an agonist law, a re-conceptualisation of property in terms of a nonlinear, transient and practice-based coming together of art and law. Husni-Bey's insurgent intersection of art,

Figure 4. *Convention on the Use of Space* (2015), Adelita Husni-Bey.

law and protest, set the standard for the possibilities of art/law to come, an altered space of the unknown, a meeting of minds, cooperation and learning that art and law's re-worlding can bring.

Another artist working with the space of uncertainty and change of law and justice, appreciating the importance of using his creative-legal thought, is lawyer-artist Jack Tan whose 'Karaoke Court' (2015) has been demonstrating the power of song in resolving disputes as per the *Inuit* tradition of the 'song duel' (Figure 5). Participants are given an opportunity to a real-life disagreement, within the setting of a mock court in a theatre where the audience direct a real Circuit Judge as to which claimant should win, based on their assessment of the singing. The decisions are unforeseen and have legally binding

Figure 5. *Karaoke Court* (2015), Jack Tan.

consequences, the ruling becomes a contract the parties agree to adhere to once they leave the Karaoke Court space.

Is this what Bishop would see as participation merged with spectacle? Perhaps so, where audience, advocate, victim, culprit and judge are all playing the role as part of the picture. Inspired by Husni-Bey's movement-centred legislation, and Tan's use of legal processes in his practice, the 'Art/Law Network' was formed in 2015, with a specific desire to 'create new social relations' at the intersection of art and law, where artists, lawyers and agitators work together, sharing and merging practices, in the name of social change (Figure 6). The convergence both on and off line, of events, collaborations, connections, is a living and breathing aspiration of art/law and one in its early days with continued ambition to create junctures where advocates, thinkers, creatives of all forms, can work together.

Art/law has been no more exemplarily expressed within the Turner Prize nominated work of the Goldsmiths-based Forensic Architecture research group. Using architecture as 'an optic tool' in the investigation of human rights violations, their methodology focusing on matter and its propensity to change, where 'material artefacts':[130,131]

130. S. Schuppli, "Law and Disorder," in *Realism, Materialism, Art* (C. Cox, J. Jaskey and S. Malik, eds) (New York: Sternberg Press, 2015), p. 133.
131. Schuppli, "Law and Disorder," pp. 137–43.

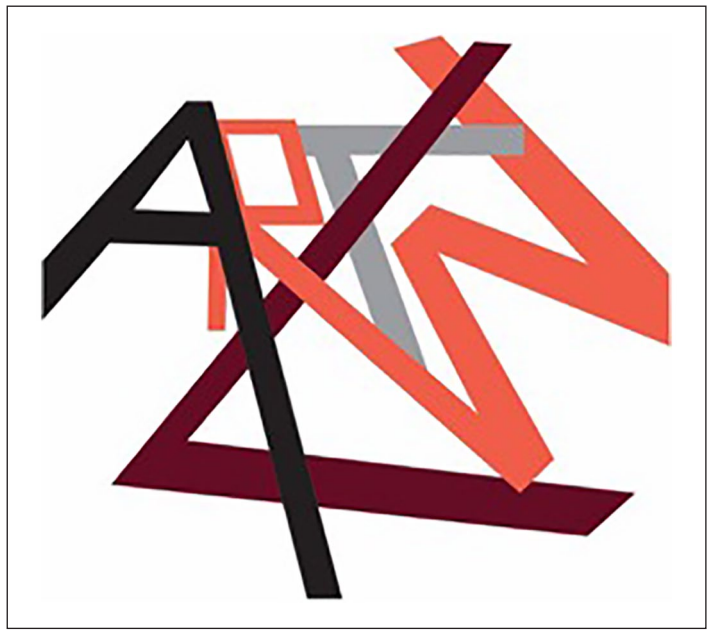

Figure 6. *Art/Law Network Design* (2016), Neeta Pederson and Lucy Finchett-Maddock.

> ..relevance is located not exclusively in what they can tell us about the historic events to which they gesture as technical witnesses, but also in their struggle to meet the court's demand for coherent accounts of history.[132]

It is the work of artists-come-agitators-come-lawyers such as Husni-Bey, Tan, Art/Law Network, Forensic Architecture, that are forging the path of art/law, in a way empirically different from previous forms of legal, creative and resistant action, by an ethical accounting for the alternation of *change*, within their accounts of law, and within their *practice*.

What results is law emanating from the convergences that are occurring. Contemporary practices in art manifest the ambiguity of law through the turn to participation as well as

132. Here Susan Schuppli (key thinker within the collective, alongside Eyal Weisman), is referring to two defective video tapes in the aftermath of the massacres at Izbica and Padalishte, Kosovo, in March 1999 used as evidence in the trials of Slobodan Milošević and Milan Milutinović at the International Criminal Tribunal for the Former Yugoslavia (ICTY). These tapes had changed and decayed over time, and yet Schuppli argues as a result provides a 'material biography' of the event recorded, the altered aesthetic as a result of the decay bringing to the fore the inertness and trauma of the dead bodies that may or may not have appeared so apparent previously. Schuppli describes the 'political dimensions are rendered visible' (Schuppli, "Law and Disorder," p. 134) as the material bears witness '..forcing an intensification of affect that supplements and at times even supersedes the horror and despair captured on video' (Schuppli, "Law and Disorder," p. 137).

an interest in the subject and matter of law itself. Artists such as Jack Tan and Adelita Husni-Bey, amongst others, use legal process to give their art state law-making power through the inclusion of the audience in their law-making. This is an ethical impulse that understands law's matter and change beyond itself. Where other artists use law as a subject going no further than a specific work, may well be an indication of the point at which art subsumes the audience. This capacity for both art and law's power to manifest force as form and category through the extraction of affect, is central to whether art/law decides its trajectory as ethical or controlling in practice. The affect is not extracted, it is an ethical device as the audience keep the circle open, an audience that is not just the immediate participants, but extending out to the participation of juridical and legislative form. It is a recognition, of the audience seeing, as well as us navigating and looking, to the extent that art/law allows for the generative power of that which looks back, that which does not normally get asked to see.

What does this say of the role of the audience? Where the artist/lawyer/agitator/audience is as one, is to be found an 'onto-epistemic ethics'. In this sense the onto-epistemic ethics of Karen Barad explains the centrifugal role of matter and change in art/law through practice, creating paths of seeing, knowing, being and learning. Barad puts forward the political necessity of understanding how we come to know the world around us as connected to the way we are, how we 'be'. This is through *agential realism* where we do not interact, but *intra-act*, creating and performing new moments or objects each time we walk within the world, through the performance of our matter; a mattering of ethics, the senses our intra-actions create, and how we are in turn able to acknowledge this.

Atkinson[133] uses Barad to speak of the affective force of art in terms of a 'poietic materialism', 'where the notion of poiesis refers to the process of appearing, the appearing of new possibilities for making, seeing, thinking, feeling'. It is this same affective force that is necessary right now with art/law, where we are able to use our 'seeing power',[134] and forge meaning, existence and erudition distinct and wise of the past, with a graceful treatment of the future. It is a call to the intangible where 'only when the law does justice to the rational and the arational alike will a different law "beyond legal violence" become possible'.[135]

There is the power to *see through matter*, or better still see *with* matter, but also to see that matter sees us, at least metaphorically or within the limits of our own understanding. It is an inclusion of the other that goes beyond a moment of participation into a force of law. This may just repeat a Derridean incalculability of justice and predilection of law's monopoly of violence or may this go beyond to understand the face of law in a movement of onto-epistemic ethics.

133. D. Atkinson, *Art, Disobedience and Ethics: The Adventure of Pedagogy* (London: Springer, 2017), pp. 30–31.
134. N. Thompson, *Seeing Power: Art and Activism in the 21st Century* (New York: Melville House, 2015).
135. Fischer-Lescano, "Sociological Aesthetics of Law," 16.

This is not a visual technique, but a manipulation, a movement through coordinates and a looking, through a central ethos of practice.[136] Practice repeats a fabulation,[137] imagination, narratology through touch, skill, dexterity, presence, tactility, resourcefulness and practicality. Relaying the importance of the use of tools, Sammons reminds us of what can be learnt from art and law coming together: 'What there [is] to teach, therefore, [is] not a technique, but a way of being with the materials of the art, a certain form of receptiveness to their own separate existence'.[138] Further the similarity between the practices of law and art open up the role of the '/' and the presence of the audience:[139]

> Only when legal practice is re-imagined as the creative art of moving minds through rhetorical performance do the deep and ancient connections between legal practice and critical, ethical thought become obvious. We will then see that 'moving' minds is not coercive, but communal. We move others when we ourselves are open to be moved and when we are able to imagine ways of moving.

Therefore we are talking of art/law as not just a practice, but a device – as well as a movement. It is an implement of navigation, where the avant-garde is not as yet subsumed, where matter has not been exploited, where affect is not yet mined. It is a movement and action, that acknowledges the role of matter and audience within practice, creating catalytic ways of seeing, knowing, being and learning. Art/law is 'post-medium' where the medium is its contingency, and the contingency is the convergence of being and knowing itself, the convergence of art as being and law as knowing.

This brings us back to the art school and law school, where art and law are educated, where the institution of property is learnt, where pedagogy and the development of new institutions as the turning point of new matterings. Instilling a pedagogy of art/law in both legal and artistic institutions, recasts the mould to incorporate the unknown in a speculative ethos of audiencing. 'All form is a face looking at us', the call of the Other, the uncertain, the unknown; and it is that which is inexplicable but must be accounted for.

This is where form, composition and its metamorphosis meet with its environment, accounting for legality and what is argued here, in the incalculability of the spectator. This may be as simple as contact with air in its processes of degradation. In another way, this may be where an object of art/law, whether that be legal statute, sculpture or protest banner, meets its viewers. The uncertain dimensions that may come as a result of this, are the congenital heart of the work, creating a *resistant (in)formalism* that critiques the formalism of individual property aesthetics, or the commodity form.

Acknowledging previous ways artists have or have not taken into consideration their audience, once again repeats the debate around relational aesthetics and art's ability to

136. Thompson, *Seeing Power*; A. Jelenik, *This Is Not Art: Activism and Other Not-Art* (London: Tauris, 2013).
137. D. Haraway, *Staying With the Trouble: Making Kin in the Cthulucene* (Durham, Duke University Press, 2016).
138. Sammons, "Can Law be Art?" 451.
139. G. Watt, "The Art of Advocacy: Renaissance of Rhetoric in the Law School," *Law and Humanities*, Epub ahead of print 20 June 2018 (2018) doi:10.1080/17521483.2018.1464243, p. 5

always render a political response, as opposed to deliberate provocations of social engagement. But this specific accounting for the uncertain, for disorder, is recognising the incompleteness of law and art, not just a shift to a relational aesthetics where there is a deliberate political end of an artwork. Here is an ontic-epistemic possibility of art and law coming together in order to remain open, and not closed, through an understanding of the interplay of matter, and the convergence as medium as a result.

As Coole[140] describes, 'many artists and designers are returning to matter to explore immanent, elusive, and reclusive, properties of materials, working with chemical or biophysical qualities in response to degrading or emergent forms and their provocative invitations'. This philosophy of the becoming is an integral ethos of the art/law practice becoming prevalent, and necessary, reasserting an incompleteness in an age that seems to only strike to complete, full of resurgent totalitarianisms. Connecting the dots to a critique of capital, accounting for matter speaks to an Althusserian materialism or an 'aleatory jurisprudence',[141] illustrating a theory of surplus value also within new accounts of matter and change. The interplay of formal and informal, material and immaterial [. . .], '[i]s a theory of input/objectification and output for purposes of exchange',[142] where the spectacle exploits all matter and affect, and will seek to exploit even the birthing of art/law, and any mattering of a legal avant garde.

VI. Conclusion

These systems mark our habitual perception.
We tie them together with directed energy.
We enjoy the pleasure of this sense-making.
The neatness of a world order in order.
Our lives in passive crisis: An order of crisis.

Beech A 'The Church The Bank The Art Gallery'[143]

The legal power of the 'liminality between the inert and the animated'[144] is the move from informal to formal, a compound and emergent art/law, where at each given iteration, there is a confounded newness that is an entropy, a whole that is not the sum of its parts. Here there may not just be the existence of intangible relations but the

140. D. Coole, "From Within the Midst of Things: New Sensibility, New Alchemy and the Renewal of Critical Theory," in *Realism, Materialism, Art* (C. Cox, J. Jaskey and S. Malik, eds) (New York: Sternberg Press, 2015), p. 41.
141. K. McGee, "Aleatory Materialism and Speculative Jurisprudence (II): For a New Logic of Right," in *Althusser and Law* (L. de Sutter, ed) (Nomikoi Critical Legal Thinkers Book Series, New York: Routledge, 2013), pp. 139–56.
142. D. Diederichsen, "Is Marxism a Correlationalism?" in *Realism, Materialism, Art* (C. Cox, J. Jaskey and S. Malik, eds) (New York: Sternberg Press, 2015), p. 66.
143. A. Beech, "The Church The Bank The Art Gallery," *Collapse III* (Falmouth: Urbanomic. 2007), 49–64.
144. M. Kayman, "Law and the Statuesque," *Law Critique* 23(1) (2013), 1–22.

material and (im)materiality of objects and objects' experience of themselves and other beings inert or otherwise, as opposed to purely anthropocentric claims to experience and perception. This breaking down the institutional artifice of art worlds and law worlds, offering a form of resistant (in)formalism, accounting for entropy and change, describes the role of form, audience and practice within property, legal and aesthetic establishment.

Art/law brings with it a sense of urgency, an ethical demand that sits at the end of law in the sense of an end of any law with force, that knows its origin in land, as matter. Global law today, is a scaffold that upends commerce, and has been made to do so, no longer recognising its material beginning. It only seeks to re-exploit, re-extract, re-render the political and capitalise in order to further its aims, of which it has forgotten in an amnesia of property and institutionalisation. At the same time, art/law enters in a contemporaneity of colonised voices that thrash at the pain of Western law's past and continued ignominy. Whilst global legality is busy eating itself, doused in flames of capital, this strength in new generations poses an opportunity, a plurality, a decolonial opening of recognition, new worldly aesthetics and legal pluralisms. Art/law is occurring at one of the many ends of art, and one of the many ends of law, where there is a possibility to extend a philosophy out of its finality,[145] as well as recognition of art before the era of art and the colonisation of legal-aesthetic form.[146]

In recent years, the artist has increasingly been looked to as a progenitor of change, by engaging with global politics. Justice and injustice are clearly catechisms that are troubling not just jurists, judges, politicians (you would hope), but also artists, seeking to be the filter for those who are experiencing inequity in all its myriad and phantasmic forms, relayed back to us through our online networks or our corporal engagement.

There is a need for perversity, paradox and negation in aesthesis,[147] and to someone unfamiliar with legal and aesthetic theory, nothing is more absurd and abstruse than a coterminacy of art and law: two supposedly entirely unrelated entities that would seem to almost repel, yet in their repulsion are the greatest of attractors.

As we know this convergence of the autonomies of art and law is possible through the bridge of change and resistance in the '/' where the phenomena of art/law is an overt imbrication of Art and Law for social change. It suggests a space where artists, lawyers and activists are working together, where the artist and the lawyer are gatekeepers to knowledge bridging the philosophical and the practical in response to divisive geopolitics, whilst simultaneously realising the culpability of the art world in relations of commodity, property, colonialism, law, ultimately revealing nonduality of art, law, and any resistance in turn. If anything, art/law should teach us the power of our handicraft, the force of our might and the diligence of our concentration, to breaking down violent boundaries and build new imaginary institutions[148] from the formal to the informal in sculptures of matter, audience, practice and change.

145. Danto, "The End of Art: A Philosophical Defence," 134.
146. Belting in Danto, "The End of Art: A Philosophical Defence," 136.
147. Bishop, *Artificial Hells*, p. 40.
148. C. Castoriadis, *The Imaginary Institution of Society* (Cambridge, MA: MIT Press, 1975).

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