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## Introduction: Law and Touch

The Editors

In a sensorial framework made of intangible and transitory relations, touch – more than other senses – carries the (material) *potentia* of the body and makes itself essential in establishing a body – *any* body. Described by Aristotle as the most vital and intelligent of senses, the one that “can exist apart from the other senses”,<sup>1</sup> touch incarnates both the physical and metaphysical in its ability to express the determination of being as matter and of “thought that thinks itself”.<sup>2</sup> For Aristotle, a “well developed sense of touch is the condition of human’s intelligence”<sup>3</sup> that underscores being as the principle of life, while the other senses we just have “for the sake of well-being”.<sup>4</sup> This hierarchy is derived from its immediacy: sight, smell and hearing happen at a distance from the main organ and do not require contact; touch and taste (seen by Aristotle as a type of touch) need contiguity.<sup>5</sup> To manifest itself, touch relies on a precise and active bodily/physical involvement that other senses do not require: to hear, to smell or to see preserve an involuntariness that touch bypasses altogether: the space where senses, still virtual, can pause before they are activated into sensations – that shift from hear to listen, from see to look – that touch does not possess. To touch is *already* to be active, to make a decision, to move forward, to invite and instigate, and to put oneself in a position of vulnerability. It is action that awaits an unknown counteraction: as Jacques Derrida writes, “each gesture of the other toward me obligates me to respond by sacrificing the other of the other, his or her (or its) other gesture, or the absence thereof, but also the other other and, finally, all the other others”.<sup>6</sup> Tactile sacrifice goes hand in hand with the violence of touch: touch embodies the original violence of being brought to life, a continuous violence that moves the skin of animate beings from enclosures of wrap around protection to the irredeemable violence of the touch of the world, with its other air, its other bodies, and its other laws.

Touch’s inextricable ontology makes it the most essential of all senses: it refuses all representations and its being is such only in the act of manifesting itself. Its spatio-temporality is the *here* and *now*, without however being limited by the regulatory limitations of time: time is the beat in-touch at the moment of being, but not the rhythm, for its being is independent of time. We say out-of-touch of something that no longer belongs to the proximity of our here and now. Accordingly, touch requires a presence that can only be secured by the un-relational contact of the body with

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<sup>1</sup> Aristotle; Hamlyn. D.W. *Aristotle's De Anima*, Books II and III Oxford: Clarendon P., 1968 p.12

<sup>2</sup> Aristotle. *Metaphysics in 2 volumes*. Trans. Tredennick and Armstrong, Loeb Classical Library: Harvard University Press: 1072b p.17

<sup>3</sup> Aristotle, *De Anima*, Op. cit. p.9, modified translation

<sup>4</sup> Ibid. p.13

<sup>5</sup> Massie, Pascal. ‘Touching, Thinking, Being: The Sense of Touch in Aristotle’s *De anima* and Its Implications’ in *Minerva - An Internet Journal of Philosophy* 17, 2013 p.79

<sup>6</sup> Derrida, Jacques. *On the Name*. Trans. Thomas Dutoit. Stanford: Stanford University Press 1995 p.68

another body. Through that movement, that contact skin-to-skin, touch affirms and exceeds itself at the same time. It produces sensations, sensorial inputs that propel the body to act and react. It reminds us that nothing can elude or precede the movement of the body,<sup>7</sup> but that bodies can only exist outside of themselves.

If touch is a unique act of responsibility towards the unknown - a provocation in its original meaning of *pro vocare*, to call forth, to summon, to challenge – and being open to whatever comes back, then it would be right to assume that the law does not and probably cannot touch. Law's primary impulse is precisely the opposite: the law pulls back, sedates, calms down, normalises, evens extremities, smoothens excesses. The dialectics of the law, which aims at the perfect balance between permission and restriction, create a field of tranquillity, whether real or only perceived, where action is controlled, the real is imagined, planned and in some cases staged. Here, reaction is a threat to the juridical order. To touch is to alter this order by introducing a new element between the various bodies involved and thus voiding their exclusivity. To touch is 'a violent opening'<sup>8</sup> 'into the realm of unknowability',<sup>9</sup> an act of non-symbolic exposure that endangers rather than preserves.

So, is it true that the law does not touch? Or could it be that touch, just as all other senses, are institutionalised affective properties, fully emerging within the law and contributing to its conative abilities? Is it not more accurate to say that the law pretends not to touch? Law's temporality and the representativeness it nurtures are open to constant negotiation, reinterpretation and reformulation: morals, values, traditions change, and the representational quality of the law are called to catch up with those changes, thus making its imprint vacuous, weak and extremely dependent on a sense of collectiveness that *depotentialises* its expression. Touch eludes representation, it comes directly from being and goes straight back into being. However, as Pascal Massie suggests, the absence of another body in its activation (for example, the eye and the visible object) does not mean that touch eludes mediation; rather, "even in the experience of intimate closeness mediation remains".<sup>10</sup> This is explained by Aristotle through locating the organ of touch within the body: the object we see preserves a distance from the organ of sight, while touch occurs in the depths of our own flesh, making its sensations instant and immediate (but not unmediated). This instantaneity further distinguishes touch from all the other senses in that it prompts it constantly to renew itself, to seek new surfaces, to diversify its intensity, and to touch again. Touch vanishes at the very moment of contact and can only return in different forms: "at the point where I make contact with the world, I am already dead".<sup>11</sup> The temporality of touch paralyses the law, unequipped to synthesise the dynamism of such movement. If senses are a "multiplicity of potential connections",<sup>12</sup> touch is the movement of desire that only exists in a state of perpetual emergence.

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<sup>7</sup> Manning, Erin. *The Politics of Touch – Sense, Movement, Sovereignty*. Minneapolis, London: Minnesota University Press 2007 p.48

<sup>8</sup> Derrida, Jacques. *Of Grammatology*. Trans Gayatri Spivak. Baltimore: John Hopkins University Press p.139

<sup>9</sup> Manning, Op. cit. p.56

<sup>10</sup> Massie, Op. cit. p.80

<sup>11</sup> Taylor, Mark C. *Hiding*. Chicago: Chicago University Press 1997 p.13

<sup>12</sup> Massumi, Brian. *Parables for the Virtual- Movement, Affect, Sensation*. Duke University Press, 2002 p.93

Tact, more than touch, best captures what the law does and the capacity of its action. Touch is always a voluntary and active movement, an invitation, an action and reaction. Tact is a self-controlled, self-declared, "anticipated-in-advance"<sup>13</sup> declaration of intent. Tact has the quality to mediate, to smooth over the excessiveness, the *differential*, to find the proper, most appropriate forms of dealing with the self and others. In other words: to conform. Tact, like the law, preserves *intact* a fundamental formality – a *form* – that touch refuses altogether, a "certain politeness"<sup>14</sup> (that holds us back from exposition to the surprise of life. Interestingly, in a medical study on physiology of 1835, Fletcher describes the distinction between touch and tact as follows:

"The perception of which constitutes Touch... is in all the superior classes of animals the Dermoid Tissue, and the nerves which convey it are the Sensiferous portions of the Trigemini, and of all the Regular nerves which are distributed upon the surface of the body. The stimulus to this irritation is the contact of palpable material substances in general, and it is necessary, at least in man, for its full perception.... It will now be understood what is meant by the distinction between Touch and Tact – the former term being used to signify the sensation which is communicated by the Sensiferous nerves thrown into a state of tension... - and the latter that sensation which is communicated by the same nerves in state of relaxation. Touch, therefore, ...is voluntary, active and necessary...while tact, which is quite involuntary and passive, maintains the organs employed...in the same condition"<sup>15</sup>

Though rudimentary, this medical tract indicates the privileged role of touch, "the only sense where Man excels every other class of animals"<sup>16</sup> in the active reception and manifestation of bodily sensations. Importantly, touch is attributed a primordial position in the biology of the body and all those energies that constitute a body. If touch powers the body, tact is overpowered by the body.

Tact happens the moment before touch storms into the unknown and reaches beyond. It is the "touch without touching"<sup>17</sup>: tact can emerge from the field of touch, but only operates in a condition of security, while touch is always tactless. Tact's intentions are always declared in advance, "attempting to put senses in their place, even as I continue to reach towards the untouchability of the senses as senses, asking of my body that it expand, prosthetically, towards a concept of the senses that signifies not the biological body but the body's imminent excesses".<sup>18</sup>

The contraposition is evident: the law's primary impulse is to bind together in the name of a widely shared, or at least widely recognised and often imposed ideal of social existence. This is not to say that the law refuses pluralism or change, but these are always negotiated according to the parameters and tools within its capacity. This capacity can be, perhaps simplistically, understood as normativity, the means by which the law keeps itself alive, the force that touches without touching,

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<sup>13</sup> Manning, Op. cit. p.135

<sup>14</sup> Derrida, Jacques. *On Touching – Jean-Luc Nancy*. Stanford: Stanford University Press, 2000 p. 68

<sup>15</sup> Fletcher, John M.D.F. R.C.S.E, *Rudiments of Physiology in Three Parts*. London: Longman, 1835 pp.66-67

<sup>16</sup> Ibid. p.67

<sup>17</sup> Derrida, *On Touching*, Op. cit. p.66

<sup>18</sup> Manning, Op. cit. pp.135-136

that “abstains from touching on what it touches”<sup>19</sup>. According to Derrida, this *a priori* notion that characterises tactile experiences determines the law’s untouchability. More specifically, the law’s function is to create experiential identification and simulate a sense of representation where individuals can find correspondence. Touch, by contrast, as Massumi writes, is a movement that “strikes the body first, directly and unmediately. It passes transformatively through the flesh before instantiated in subject-position subsumed by a system of power. Its immediate effect is differing. The body, the flesh in the throws of expression, incarnates not an already-formed system but a modification – a change”.<sup>20</sup> Arguably, the law’s interest is precisely the opposite. Namely, to render the individual compliant with the promoted order, and to juxtapose itself between the body and its erring.

This issue of *Non Liquet* attempts to illuminate and reconsider the relation between the tactful intrusion of the law and the untactful movement of touch. Naomi Segal explores the paradox of touch, the most proximate of senses, conditioned by its impossibility to overcome the distance between pleasure and taboos on bodily contact. Her account exposes the risks of bodily contact while, at the same time, exploring the desire to shorten the distance and embrace touch. We are faced with an impossibility which we cannot avoid, yet we wish to keep searching for new ways of overcoming it. Naomi Segal identifies modes of desire and impossibility in a series of European texts from the late 19<sup>th</sup> and early 20<sup>th</sup> century and reflects on the inevitable conflict that stems from this negotiation.

Jan Hogan explores the space between urban and natural environments and how the sense of touch becomes the cohesive force through which different landscapes meet and initiate a dialogue. Through a series of photographs of *Truganini Track* located on the edge of Hobart, Tasmania, Jan Hogan reveals the endless possibilities for space to exist, expand and contaminate its ever-changing boundaries outside of the representation of normativity. Here, touch challenges the relationship between humans and the environment.

Moritz von Stetten proposes a unique reading of the art performance *Ex-Posing* by Croatian performance group *Shadow Casters*. The performance explores the notion of vulnerability and challenges the normative adequateness of historical re-enactments. Accordingly, this article examines the unavoidability of bodily contact to which participants are subjected and the unpredictability of a flexible social situation. In a setting where the sense of touch and the physical sensations derived by bodily contact become all the more dominant because participants go through this performance blindfolded, we witness a shift from normativity to creativity.

Michele LeBaron closes this issue with a pedagogical reflection: How might touch contribute to legal education and conflict management? Her piece examines the importance of incorporating touch-sensitive approaches into legal pedagogy and dispute resolution. Through the analysis of three different vignettes, each focusing on a particular aspect of touch and physical experience, Lebaron explores the

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<sup>19</sup> Derrida, *On Touching*, Op. cit p. 67

<sup>20</sup> Massumi, Brian (ed.), *A Shock to Thought – Expression after Deleuze and Guattari*, London and New York: Routledge 2002 p. xvii

potency of bodily contact, movement and physical enactments as an opportunity to express oneself, build relations and use physical perception to mediate conflict in the constant movement towards the other.



# Touching and Not Touching: The Indirections of Desire

Naomi Segal

**Abstract:** Of all the five (or more?) senses, touch is the most proximate. To touch is to be close enough to encounter something with one's skin – fingertips or body surface. Yet the desire to touch is conditioned, like all desire, by modes of distance. The wish to overcome distance, to embrace or touch, is stimulated by its impossibility. As children we are disciplined by the 'taboo on touching' (Didier Anzieu) which forbids the pleasures and risks of bodily contact. This essay looks at some modes of negotiating or exploiting the indirections of touch, represented in a series of European texts from the late 19<sup>th</sup> and early 20<sup>th</sup> century, in which the desire is a form of withheld touch, what Leo Bersani calls 'a kind of vertical leap of consciousness': like a bird, the poet takes off in imagination – and then hovers. The zooming fantasy is a clear form of phallic desire; yet essential to that fantasy is the refusal of reaching a goal – a ground or body. Hovering too is a gendered form of distanced proximation, a god's-eye fantasy of masculine authorship or command in which the author gazes down on what is below: the object of knowledge – character or world. This is a desire of destruction as well as creation. What, ethically, is the difference between suicide bombers and drones?

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L'amour, tel qu'il existe dans la Société,  
n'est que l'échange de deux fantaisies  
et le contact de deux épidermes.  
(Chamfort 1796)<sup>1</sup>

Love, as it exists in Society,  
is nothing more than the exchange of two fantasies  
and the contact of two epidermises.

Of all the senses, touch is the most proximate. To touch is to be close enough to encounter something with one's skin – fingertips or body surface. Yet the desire to touch is conditioned, like all desire, by modes of distance. The wish to overcome distance, to embrace or touch, is stimulated by its impossibility. This essay looks at modes of negotiating or exploiting the indirections of touch. My set of literary examples are in a variety of genres, languages and tones, yet all challenge the

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## NOTES

NB All translations from French and German, unless otherwise noted, are my own. Citations without page-number are from the last-referred page. Much of this material is adapted from my book *Consensuality* (2009).

<sup>1</sup> This epigraph, the 359<sup>th</sup> of Chamfort's *Maximes et pensées*, is a familiar notion in French culture; it is cited, for example, by Sartre in his discussion of the caress (Sartre, Jean-Paul, *L'Être et le néant*, Paris: Gallimard, 1943, p. 130); by Gide (Gide, André, *Corydon*, Paris: Gallimard, 1993 [1911, 1922, 1924], p. 61) and by Didier Anzieu (Anzieu, Didier, *Le Moi-peau*, Paris: Dunod, 1995 [1985], p. 32); NB henceforth, all quotations from Anzieu's *Le Moi-peau* are taken from my translation: Anzieu, Didier, *The Skin-ego*, tr. Naomi Segal, London: Karnac, 2016; this reference pp. 10–11.

possibility of touching, for despite a sustained fantasy of reaching – zooming and hovering – there is no actual stopping point.

Before we look at how touch is impossible, however, we need to consider, in relation to the context of law, why it is forbidden. In *The Skin-ego (Le Moi-peau* [1985] 1995), Didier Anzieu observes that a key turning-point in every child's development is the taboo on touching, which separates the subject from its own and other bodies, and not only precedes but makes possible the oedipal taboo that marks the entry into social relations. If, as Chamfort tells us, love in society is essentially the exchange of fantasies, how might these fantasies prevent rather than enable the contact of the skin?

### Touching the senses

First, let us set the scene. How do we understand the senses, and where is the place of touch in their spectrum? Most human beings have five senses, more or less. Everyday experience is 'multisensual',<sup>2</sup> and 'the senses are not merely passive receptors of particular kinds of environmental stimuli but are actively involved in the structuring of that information'. I say more or less five, for the history and geography of the senses show that while that total is traditional, it is often disputed not only for the sake of precision but because of a general feeling that there must be something else.

We have five senses in which we glory and which we recognise and celebrate, senses that constitute the sensible world for us. But there are other senses – secret senses, sixth senses, if you will – equally vital, but unrecognised, and unlauded. These senses, unconscious, automatic, had to be discovered. Historically, indeed, their discovery came late: what the Victorians vaguely called 'muscle sense' – the awareness of the relative position of trunk and limbs, derived from receptors in the joints and tendons – was only really defined (and named 'proprioception') in the 1890s. And the complex mechanisms and controls by which our bodies are properly aligned and balanced in space – these have only been defined in our own century and still hold many mysteries.<sup>3</sup>

One suggestion lists ten basic senses, including four varieties of touch plus two of orientation.<sup>4</sup> Others searching for the proverbial sixth sense cite extra-sensory perception,<sup>5</sup> desire,<sup>6</sup> proprioception defined as 'our totally intuitive sense of our own bodies',<sup>7</sup> or more rarefied abilities like that of the skilled wine-taster. Different cultures have more or fewer senses, or lay stress on different aspects. Of three non-literate societies cited by Constance Classen, 'each has a very distinct way of making

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<sup>2</sup> Rodaway, Paul, *Sensuous Geographies*, London & New York: Routledge, 1997, p. 4.

<sup>3</sup> Sacks, Oliver, *The Man who mistook his wife for a hat*, London: Picador, 1986 [1985], p. 68.

<sup>4</sup> See Rodaway, p. 28.

<sup>5</sup> See Howes, David (ed), *The Varieties of Sensory Experience*, Toronto, Buffalo, London: University of Toronto Press, 1991, pp. 258 and 290.

<sup>6</sup> Serres, Michel, *Les cinq Sens*. Paris: Grasset, 1985, pp. 57-60.

<sup>7</sup> Josipovici, Gabriel, *Touch*, New Haven & London: Yale University Press, 1996, p. 110.

sense of the world: the Tzotzil accord primacy to heat in their cosmology, the Ongee to odor, and the Desana to color'.<sup>8</sup> Words for sensing are also variable, and often clustered: 'the Hausa have one word for hearing, smelling, tasting and touching, understanding and emotional feeling';<sup>9</sup> French too, of course, uses one word (*sentir*) for smelling and for both physical and emotional feeling.

However many senses we wish to number, it is interesting that, until recently, they were discussed only in order to be distinguished and separated. Since Aristotle, the senses have been placed in a hierarchical order, dependent either on proximity to the thing sensed or on the difference between human and animal. Thus 'touch (and thereby taste) was found in all animals and so became the lowliest sense [... Aristotle] posed a hierarchical order of the senses, from most to least valuable: vision-hearing-smell-taste-touch'.<sup>10</sup> Even if animals showed more skills than us with certain senses, theirs were intrinsically the inferior ones. This hierarchy slides into the other, for the last three of these are the 'proximity' or 'intimate senses',<sup>11</sup> devalued because they are deemed the furthest from thought, imagination and memory. As I have remarked elsewhere, these three senses are also the ones in which the nuances of active and passive perception are linguistically the least differentiated. If for sight and hearing we have three verbs:

I look at the picture, I see the moon, I look tired,  
I listen to the music, I hear thunder, I sound interested,

for smell, taste, and touch, one verb has to stand in for all these functions:

I smell a rose, I smell burning, I smell funny,  
I taste the soup, I taste a trace of cinnamon, it tastes bitter,  
I feel the velvet, I feel the sun on my face, I feel pretty.

But this could be a reason for suggesting that, far from being more blunt, the words we use for the proximate senses 'do more work, convey more variation, carry more weight'.<sup>12</sup> However undifferentiated language seems to think them, recent theory has turned back to these less favoured senses because, actually, they are better at imagining (Baudelaire), remembering (Proust) and of course loving.

Contemporary theory sees the senses as a multiplicity – hence the use of terms like 'sensorium [...] sense ratio'<sup>13</sup> or 'sensotypes'.<sup>14</sup> To McLuhan sensing is a 'kaleidoscope',<sup>15</sup> to Serres 'knots' or 'an island',<sup>16</sup> to Howes synaesthesia, the latter defined as a way of 'short-circuiting the five sense model'.<sup>17</sup> It is the meeting of

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<sup>8</sup> Classen, Constance, 'McLuhan in the Rainforest: the sensory worlds of oral cultures', in Howes, David (ed.), *The Empire of the Senses*, Oxford & New York: Berg, 2005, p. 148.

<sup>9</sup> Ritchie, Ian, 'Fusion of the Faculties: A study of the language of the senses in Hausaland', in Howes *Varieties*, p. 194.

<sup>10</sup> Howes David (ed). 2005. *Empire of the Senses: the Sensual Culture Reader*. Oxford & New York: Berg, p. 61.

<sup>11</sup> Rodaway, p. 26.

<sup>12</sup> Segal, Naomi, 'L'échange de deux fantaisies et le contact de deux épidermes': skin and desire', in Michael Syrotinski and Ian MacLachlan (eds) *Sensual Reading*, Lewisburg and London: Associated University Presses, 2001, p. 18.

<sup>13</sup> McLuhan, Marshall, 'Inside the five sense sensorium', in Howes, *Empire*, pp. 43–52.

<sup>14</sup> Wober, Mallory, 'The sensotype hypothesis', in Howes, *Varieties*, p. 33.

<sup>15</sup> Cited in Howes, *Varieties*, p. 167.

<sup>16</sup> Serres, Michel, *Les cinq Sens*. Paris: Grasset, 1985, pp. 51–52.

<sup>17</sup> Howes, *Empire*, p. 292.

senses and sensations that most preoccupies current thinking: the 'pluri-sensorial',<sup>18</sup> 'combinatory',<sup>19</sup> 'multidirectional [...] intersensoriality'<sup>20</sup> – or, as Didier Anzieu calls it, 'consensuality'.<sup>21</sup> And, as the rest of this essay will explore, the multiplicity of the senses is most richly focused in the sense of touch.<sup>22</sup> Curiously, whichever way one looks at the lists of senses, touch is almost always found at one end.

In the evolution of the senses the sense of touch was undoubtedly the first to come into being. Touch is the parent of our eyes, ears, nose, and mouth. It is the sense which became differentiated into the others, a fact that seems to be recognized in the age-old evaluation of touch as 'the mother of the senses'.<sup>23</sup>

Among the three histories of feral children discussed by Constance Classen, Victor's faculties were ranked thus: "The sense of smell is first and most perfected; taste is second, or rather these senses are but one; vision occupies the position of third importance, hearing the fourth, and touch the last",<sup>24</sup> whereas Kaspar Hauser 'had an almost supernatural sense of touch. The touch of humans and animals gave him a sensation of heat or cold, at times so strong that he felt as if he had received a blow'.<sup>25</sup> More generally, 'the senses of *Homo sapiens* develop in a definite sequence, as (1) tactile, (2) auditory, and (3) visual. As the child approaches adolescence the order of precedence becomes reversed, as (1) visual, (2) auditory, and (3) tactile'.<sup>26</sup> Indeed in infant development, of humans as well as animals, the stimulation of this sense is so crucial that 'when the need for touch remains unsatisfied, abnormal behaviour will result'<sup>27</sup> – 'children need touch for survival'.<sup>28</sup>

The work of Didier Anzieu, and in particular his magisterial *Le Moi-peau* [*The Skin-ego*], is a psychoanalytic examination of the significance of both physical and psychical touch in creating and maintaining a sense of self in the form of a 'skin-ego'. In relation to the senses, he notes:

The skin is a surface containing pouches and cavities in which the sense organs – other than those of touch, which are set in the epidermis itself – are housed. The Skin-ego is a psychical surface which links together sensations of various kinds and makes them stand out as figures against the original background of the tactile wrapping: this is the *intersensorial* function of the Skin-ego, which leads to the formation of a 'common sense' (the *sensorium commune* of

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<sup>18</sup> Howes, *Varieties*, p. 6.

<sup>19</sup> Howes, *Varieties*, p. 167.

<sup>20</sup> Howes, *Empire*, p. 12.

<sup>21</sup> Anzieu, Didier, *Le Moi-peau* Paris: Dunod, 1995 [1985], p.127 *et passim*; see also Segal, Naomi, *Consensuality: Didier Anzieu, gender and the sense of touch*, Amsterdam and New York: Rodopi, 2009.

<sup>22</sup> See Serres, pp. 82-84; Rodaway p. 28 and pp. 44-54; Marks, Laura U. *Touch*, Minneapolis & London: University of Minnesota Press, 2002, p. xiii; and Heller Morton A. and William Schiff, *The Psychology of Touch*. Hillsdale, NJ, Hove & London: Lawrence Erlbaum, 1991, pp. 1-3.

<sup>23</sup> Montagu, Ashley. *Touching: The human significance of the skin*, New York: Harper & Row, 1986 [1971], p. 3.

<sup>24</sup> Pierre-Joseph Bonnaterrre, cited by Constance Classen in Classen, Constance, 1991, 'The sensory orders of "wild children"', in Howes, *Varieties*, p. 49.

<sup>25</sup> *Op. cit.*, p. 54.

<sup>26</sup> Montagu, pp. 314-15.

<sup>27</sup> Montagu, p. 46.

<sup>28</sup> Field, Tiffany, *Touch*, Cambridge Mass: MIT Press, 2003 [2001], p. 5.

medieval philosophy) whose basic reference point is always the sense of touch.<sup>29</sup>

Of course 'the human sensorium [...] never exists in a natural state. Humans are social beings, and just as human nature itself is a product of culture, so is the human sensorium'.<sup>30</sup> In infants, the first version of this social interaction is the whole complex of holding, massage, breastfeeding understood as 'reciprocal interstimulation'<sup>31</sup> provided by the mother or primary caregiver.<sup>32</sup> This is never only one-sided: among the Wolof of Senegal, 'when a visitor arrives, male or female, often before any word is exchanged, he or she is handed a baby. This gesture is intended to 'mediate' the relation between adults'.<sup>33</sup> Touch is 'a kind of communication between person and world, a corporeal situation rather than a cognitive positioning [...] Touch is direct and intimate, and perhaps the most truthful sense';<sup>34</sup> it is the sense we use to test the material reality of a thing by direct bodily perception.<sup>35</sup> If, then, 'the history of the senses has been, essentially, the history of their objectification',<sup>36</sup> the 'history of touch is, essentially, a history of resisting objectification'.<sup>37</sup>

## The taboo on touching

If touch, as the most intimate of the senses, everywhere seeks survival in subjective reality-testing or love, this quest is rarely fulfilled, or rarely for long. An infant's reality is its mother's arms, breast or caress, but once we grow up we enter the less safe world of Chamfort's social exchange. And growing up begins, even before the laws of Oedipus, with the taboo on touching.

Anzieu cites four origins for the taboo – Freud's *historical* choice of forbidding bodily touch in the new practice of psychoanalysis; his own *polemical* interest in comparing some new modes of therapy that do allow touch; and the two that concern us here, the *psychogenetic* effects of a child's experience of confronting prohibitions, which I shall discuss in more detail, and a *structural* one relating to the ego as a surface entity:

if, as Freud put it, the Ego is fundamentally a surface (that of the psychical apparatus) and the projection of a surface (that of the body), and if therefore it functions, at first, in the structural form of a Skin-ego, how could it move on to another system of functioning (that of thought, which belongs to a psychical Ego differentiated from the bodily Ego and articulated with it in a different way) if not by giving up, as a result of the double taboo on touching, the primacy of

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<sup>29</sup> Anzieu, *The Skin-ego*, p.112.

<sup>30</sup> Howes *Empire*, p. 3.

<sup>31</sup> Montagu, p. 43.

<sup>32</sup> See also Winnicott's theory of maternal 'holding' in Winnicott, D. W., 'The theory of the parent-infant relationship', *The Maturation Processes and the Facilitating Environment*, London: Karnac, 1962 [1960] pp. 37–55 and Anzieu, *The Skin-ego*, p. 39ff *et passim*.

<sup>33</sup> Howes, *Varieties*, p. 184.

<sup>34</sup> Rodaway, p. 44.

<sup>35</sup> Josipovici, pp. 2 and 29.

<sup>36</sup> Mazzio, Carla, 2005 'The senses divided: organs, objects, and media in early modern England', in Howes, *Empire*, p. 85.

<sup>37</sup> *Op. cit.*, p. 86.

the pleasures of the skin and then the hand and by transforming concrete tactile experience into basic representations to serve as the background against which systems of sensory correspondence can be set up (initially at a figurative level, which maintains a symbolic reference to contact and touch, and later at a purely abstract level, freed from that reference)?<sup>38</sup>

This need to 'move on' requires the familial context to set it in motion:

the earliest prohibitions a family imposes on a child, once it enters the world of (locomotor) movement and (infraverbal and prelinguistic) communication, are essentially to do with tactile contacts; and these exogenous, variable and multiple prohibitions form the basis for an internalised taboo which is relatively permanent, autonomous and not single but double.<sup>39</sup>

After discussing the – different but equally essential – versions of 'Noli me tangere' of Freud and Jesus, Anzieu returns to the experience of the child:

The oedipal prohibition (you must not marry your mother; you must not kill your father) is derived metonymically from the prohibition on touching. The taboo on touching prepares the ground for the oedipal taboo by providing it with a presexual foundation. In psychoanalytic treatment it becomes possible to understand at what particular cost – through what difficulties, failures, counter-cathexes or hypercathexes – this derivation has been effected in each case.<sup>40</sup>

Familial prohibitions on touch rely on four dualities: 'Every prohibition is dual in nature. It is a system of tensions between opposing poles; these tensions in the psyche develop force-fields which inhibit some functions and cause others to change their form'. The first duality refers to both sexuality and aggression:

It channels the pressure of the drives, defines their bodily sources, reorganises their objects and aims and structures the relations between the two major families of drives. It is clear how this applies to the oedipal taboo. The taboo on touching is also concerned with the two basic drives: do not touch inanimate objects in case you break them or they hurt you; do not use excessive force against parts of your own or other people's bodies (this prohibition aims to protect the child against aggression, whether its own or that of other people); do not constantly touch your body or other people's bodies in the areas sensitive to pleasure, for you will be overwhelmed with an excitation you are incapable of understanding or satisfying (this prohibition aims to protect the child against its own and other people's sexuality). In both cases, the taboo on touching puts the child on its guard against an excess of excitation and its consequence, the surging of the drive.

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<sup>38</sup> Anzieu, *The Skin-ego*, pp. 149–150.

<sup>39</sup> Anzieu, *The Skin-ego*, p. 149.

<sup>40</sup> Anzieu, *The Skin-ego*, p. 159.

In the taboo on touching, sexuality and aggression are not differentiated structurally: they are both expressions of instinctual violence in general. The incest taboo, on the other hand, distinguishes between them and places them in a relation of inverse symmetry rather than similarity.

How does this taboo, made up of prohibitions and interdictions, take the form of a law? through repetition, internalisation, and because it creates or consolidates the child's necessary understanding of the difference between inside and outside.

This is the second duality 'has a double face, one turned outwards (which receives, accommodates and filters the interdictions communicated by other people) and one turned towards inner reality (which deals with the representational and affective representatives of instinctual currents)'.<sup>41</sup> Like the skin-ego, it creates a psychical boundary.

The earliest interdictions related to touch that are imposed on a child serve the principle of self-preservation: don't put your hand in the fire, don't touch knives or the rubbish or medicines, for this would put your body, or even your life, in danger. Their correlatives are prescriptions of touch such as: don't let go of my hand when you're leaning out of the window or crossing the road. Interdictions refer to external dangers while prohibitions refer to internal ones. Both assume that the child already understands the distinction between inside and outside – without this the taboo makes no sense – and the taboo itself reinforces that distinction. Any prohibition is an interface separating two areas of psychical space, each with its own psychical qualities. The prohibition on touching separates the area of the familiar, which is protected and protective, from the area of the unfamiliar, disturbing and dangerous. [...] The taboo on touching helps to differentiate orders of reality that are confused in the early tactile body-to-body experience of infancy: your body is different from other bodies; space exists independently of the objects that populate it; animate objects behave differently from inanimate objects.<sup>42</sup>

To continue the pathway from the taboo on touching to the social, oedipal taboo, Anzieu observes how the latter both inverts and develops the former. Both taboos exist to create the operations of exceptions – which, however, are always underlaid with inhibition.

The oedipal taboo reverses what is learned from the taboo on touching: whatever is familiar (in the original sense of familial) becomes dangerous in relation to the dual instinctual investments of love and hatred: danger resides now in the twin risks of incest and parricide (or fratricide) and the price to be paid is castration anxiety. On the other hand, under certain conditions, the little boy will have the right – even the duty – to do battle against men from outside his family, clan and nation, and to choose a wife from outside his family.<sup>43</sup>

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<sup>41</sup> Anzieu, *The Skin-ego*, p. 160.

<sup>42</sup> Anzieu, *The Skin-ego*, pp. 160–161.

<sup>43</sup> Anzieu, *The Skin-ego*, p. 161.

The third duality – the two-phase construction of prohibitions – and the fourth – the fact that the taboos affect equally the child and the adult disciplining it – need not detain us here. The key point is that after the blissful, painful demands of primary infancy meet the block of early separation the hardest thing about the joy of touching is how it might be safely rediscovered. To conclude Anzieu's discussion, I return to its opening. How, he asks, is the taboo ever to be overridden?

According to the modes of organisation of the psychical economy, what are the effects of tactile stimulation – narcissistic restoration, erogenous excitation or traumatic violence? What comprises the play of tactile interactions in primary communication? In what kinds of case might it be thinkable or even necessary to bring back that play, and in what kinds might it be useless or even harmful? What stimulating or inhibiting consequences for later sexual life arise from the success or failure of the psychical apparatus to create a Skin-ego for itself and then overcome it in favour of a thinking Ego? Why is it that today's psychoanalytic theory tends to lose sight too often of the Freudian (and clinical) finding that psychical life is grounded in sensory qualities? These are the interrelated questions that arise from the necessity of recognising the taboo on touching.<sup>44</sup>

### **Images of non-touch: getting inside the body of the other**

Let us move now from psychoanalytic theory to a series of instances of the desire to touch and how it is inhibited. These are extended metaphors of the way in which 'psychical life is grounded in sensory qualities'. Like dreams that aim at the fulfilment of wishes but at the end serve off and forego them, these glimpses at the life of fantasy illustrate how we curb desire and what then becomes of it.

The first example of the impossibility of touch – a fantasy which, perhaps, can itself never be shared in any direct sense – is the fantasy of being inside the skin of another human being. When Gide looked at a photo of Pierre Herbart, a handsome young friend of Cocteau's whom he met in 1927, he said "I really think he has the physique that I would most like to inhabit".<sup>45</sup> We need to distinguish this idea of entry inside the other from a notion of sexual penetration. In the instances that follow, the skin or external appearance of another is not so much the *object* as the *context* for desire, the imagined pleasure of being rather than having. This is the desire to live as another person, don their appearance, in order to do something we cannot imagine doing any other way.<sup>46</sup> Here, for example, is a governess finding herself literally in the shoes of her admired employer:

A strange thing about those shoes was the way in which, when she was wearing them, Mrs. Brock, who was a heavy treader by nature, planted her

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<sup>44</sup> Anzieu, *The Skin-ego*, p. 150.

<sup>45</sup> Van Rysselberghe, Maria, *Les Cahiers de la Petite Dame. Cahiers André Gide* vol 5. Paris: Gallimard, 1974, p 205.

<sup>46</sup> Three 1990s films focus on this structure: Andrew Niccol's *Gattaca* (1997), Anthony Minghella's *The Talented Mr Ripley* (1999) and Spike Jonze's *Being John Malkovich* (1999). In the first two, a male figure takes on the bodily existence of another for reasons of combined envy and desire; coincidentally or not, the other man is played in both cases by Jude Law. The more complex structure of *Malkovich* sees three people (as well as many others) entering the 'Malkovich body'.



feet and walked with the same long steps as Lady Grizel, and stood in the same careless, rather flighty way. A lovely sort of fantasy possessed Mrs. Brock as she moved in this new pretty way, this confident way. Part of herself became Lady Grizel – she absorbed Lady Grizel and breathed her out into the air around herself, and the air around was a far less lonely place in consequence.<sup>47</sup>

It is not always such a pleasant fantasy. Flaubert sent Louise Colet a letter in April 1853, in the early stages of writing *Madame Bovary*, where he complained of the feeling that he was being drawn inside characters he resented:

*Saint Antoine* did not cost me a quarter of the intellectual tension that *Bovary* demands. It was an outlet; I had nothing but pleasure in the writing, and the eighteen months I spent in writing its 500 pages were the most deeply voluptuous of my whole life. Consider then, every minute I am having to get under *skins* that are antipathetic to me.<sup>48</sup>

Gratifying authorship, in this image, is an orgasmic outpouring; painful authorship forces Flaubert to look out from inside the skin of hateful characters. I have explored elsewhere what this seems to mean to Flaubert, and how the intense involvement with characters whose despicable nature is to be somewhat like himself creates the particular demands of an aesthetic of 'objectivity' both within and across the gender divide.<sup>49</sup>

In similar vein, Anzieu cites Jean Starobinski: "Flaubert represents in the body of Emma sensations he has felt himself; and he feels in his own body the sensations he has represented in the carnal subjectivity of Emma".<sup>50</sup> More generally,

A text is a *chef-d'œuvre* when, out of what his life has left unused and unknown to him [*sic*], the writer creates a work in which the hyper-reality of evocations and the uncanny familiarity of their consequences gives the reader the feeling of entering a dream or living a hallucination which represents, localized at the margin of his own body, an other part of himself.<sup>51</sup>

We shall return in a moment to the fantasy of authorship (especially in Flaubert) embodied in the image of the figure hovering on high, forbearing to come close enough to his – whether the author is a man or not, this is a masculine fantasy<sup>52</sup> – characters and fictional world to represent any fantasy of touching.

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<sup>47</sup> Keane, Molly, *Good Behaviour*. London: Virago, 2001 [1981], pp. 20-21.

<sup>48</sup> Flaubert, Gustave, *Correspondance II*, ed. J. Bruneau, Paris: Gallimard, 1980 [1853], p. 297; see also Gide, André, *Journal 1887-1925*, ed. Éric Marty, Paris: Gallimard, 1996, p. 1245 and Segal, Naomi, *André Gide: Pederasty and Pedagogy*. Oxford: Oxford University Press, 1998, pp. 118-20.

<sup>49</sup> Segal, Naomi, *The Adulteress's Child: authorship and desire in the nineteenth-century novel*. Cambridge: Polity, 1992, pp. 115-

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<sup>50</sup> Anzieu, Didier, *Le Corps de l'œuvre*. Paris: Gallimard, 1981, p. 119.

<sup>51</sup> *Op. cit.*, p. 225.

<sup>52</sup> Here and elsewhere I distinguish strictly between *gender* (masculinity/femininity, whether located in a body sexed male or female) and *sex*, which is that identification of bodily differentiation by XX and XY or vagina/penis etc. As social as both these ideas may be, they are differently social.

The assumption of a false self can prove, like a second skin, difficult to slough off again. Thus Musset's eponymous Lorenzaccio, after years of acting the part of companion in corruption to the duke his cousin whom he wishes to assassinate, recognizes with despair that 'vice used to be a garment – now it has become stuck to my skin'.<sup>53</sup> The original purpose that motivated disguise is no longer there 'inside' the gestures and actions he has aped too well – indeed, this mimicry seems to prove that he never can have been the innocent he thought. An act of futile and suicidal murder is, after this realisation, 'all that remains of my virtue'.<sup>54</sup>

Whether motivated by 'virtue', curiosity or a more sinister end, the desire that assumes the costume of another's identity will, like Lorenzaccio's, find the garment hard to remove – like the psychical tearing of the early phantasy of a 'common skin' with the mother.<sup>55</sup>

For we need to think about what that desire to get inside a beloved person actually is: it may appear to be the ultimate reaching and touching, but this never happens. What is it we imagine getting to when we 'get there'? The protagonist of Sartre's story 'Intimité' [Intimacy] complains about the incompleteness of her husband's love:

He loves me, but he doesn't love my guts, if you showed him my appendix in a jar, he wouldn't even recognize it, he's always groping me but if you put the jar right in his hands he wouldn't feel anything inside himself, he wouldn't think 'that's hers', you should love everything about a person, their oesophagus and their liver and their intestines.<sup>56</sup>

Is there in fact a contradiction between wishing to get into the other and imagining what we would find there?

Maybe people don't love those bits because they're not used to them, if they saw them the way they see our hands and arms maybe they'd love them; in that case, starfish must love each other better than we do, they stretch out on the beach when it's sunny and pull their stomach out to take the air, and everyone can see it.<sup>57</sup>

A similar idea about the 'insides', though in a more sadistic tone, underlies David Cronenberg's *Dead Ringers* (1988). It is, of course, possible by such techniques as X-ray, ultrasound, MRI or CAT scans – or, more impressively by the motion-picture use of endoscopy – to 'see inside' our own or other people's bodies (on the normal ignorance of the inside of one's own body, see Fisher, Leder, Jacques-Alain Miller).<sup>58</sup> In 1996, artist Mona Hatoum made the video *Corps étranger* [Foreign body], which moves from a caressive journey across the surface of her skin to take the viewpoint

<sup>53</sup> Musset, Alfred de, *Lorenzaccio*. Paris: Bordas, 1976 [1834], p. 118.

<sup>54</sup> *Op. cit.*, p. 119.

<sup>55</sup> Anzieu, *The Skin-ego*, pp. 44–48 *et passim*.

<sup>56</sup> Sartre, Jean-Paul, *Le Mur*. Paris: Gallimard, 1939, p. 107.

<sup>57</sup> *Op. cit.*, p. 108.

<sup>58</sup> Fisher, Seymour, *Body Consciousness*. Glasgow: Fontana/Collins, 1976 [1973]; Leder, Drew, *The Absent Body*, Chicago and London: University of Chicago Press, 1990; and Miller, Jacques-Alain, 'Extimité'. Tr. Françoise Massardier-Kenney, in Mark Bracher *et al.* (eds), *Lacanian Theory of Discourse*, New York and London: New York University Press, 1994, pp. 74–87.

of an endoscopic camera inserted, in turn, into her throat and cervix and revealing her oesophagus, intestines and other viscera. But, as Laura Marks points out: 'The question of identification in this tape is perplexing [...] Hatoum can "afford" to treat her body as an object; the effect of this work would be quite different if it were performed with any body but her own'.<sup>59</sup> A contemporary, comic version of the intra-body story can be found in the form of a promiscuous gift in Robbie Williams' music video *Rock DJ* (2000), where the tattooed and muscular star, singing on an island-stage encircled by skating or ogling models, fails to interest the girl [Lauren Gold] even after removing the last garment, so he takes his striptease to its logical conclusion by ripping off skin, guts and buttocks and finally, rocking still, duets with her in just his bones. An traditionally tragic one is the obsession of Musset, whose Lorenzaccio we have already seen lamenting the impossibility of separating mask from flesh, with reaching below the surface to expose inner corruption. In an image from the opening scene of *La Confession d'un enfant du siècle* [*The Confession of a child of the century*] (1836), the protagonist discovers his adored mistress's infidelity by peeping under a table-cloth; disillusioned, he embarks on a period of debauchery and observes:

The fatal idea that truth is nakedness was in my head now all the time. I said to myself: the social world calls its face-powder virtue, its rosary religion, its trailing cloak propriety. Honour and morality are its two chambermaids; in its wine it laps up the tears of the poor in spirit who believe in it; it walks with lowered eyes while the sun is high; goes to church, parties and meetings; and in the evening, it undoes its robe and reveals a naked bacchante with the feet of a goat.

But talking like this just made me loathe myself; for I sensed that if the body is underneath the clothing, the skeleton is underneath the body.<sup>60</sup>

The inside or underside, the real nakedness of self or other, is nothing but more body, unknown but surely incapable of speaking a final truth. There is no 'ground' of love, just as there is no ground of truth. Or if there is, as Anzieu reminds us, it belongs to the surface, not to the depth:

Ever since the Renaissance, western thought has been obsessed with one epistemological notion: the idea that we acquire knowledge by breaking through an outer shell to reach an inner nucleus or kernel. This notion is now exhausted, after having achieved some successes and also created many serious dangers – after all, it was *nuclear* physics that led scientists and the military to the point of atomic explosions. As early as the nineteenth century, neurophysiology called a halt to this, though it was not much noticed at the time. The brain is in fact the upper and frontal section of the encephalon; the cortex – the word means bark or shell in Latin and entered the vocabulary of anatomy in 1907 – denotes the outer layer of grey matter that caps the white matter. We are faced with a paradox: the centre is situated at the periphery. [...] what if thought were as much a matter of the skin as of the brain? and

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<sup>59</sup> Marks, Laura U., *The Skin of the Film*, Durham and London: Duke University Press, 2000, p. 190.

<sup>60</sup> Musset, Alfred de. [1836] 1973. *La Confession d'un enfant du siècle*. Paris: Gallimard, 1973 [1836], pp. 111–12.

what if the Ego, now defined as the Skin-Ego, had the structure of a wrapping?<sup>61</sup>

### **Images of non-touch: zooming and hovering**

In the rest of this essay I want to follow the process of a double fantasy of *not* reaching that elusive and frustrating 'inside'. This is the fantasy, common in nineteenth-century French poetry – but not only there – of zooming and hovering. These two movements or positions, however contrary they may look or feel, form a single continuous gesture, the motion-above that is flight. One example is Baudelaire's poem 'Élévation', in which, in a series of vivid images of movement, the poet imagines his 'spirit' leaping up away from the earth and speeding 'avec une indicible et mâle volupté' [with an ineffable, virile delight] towards 'les champs lumineux et sereins' [bright serene fields]. But in the last two lines, motion is suddenly replaced by another spatial relation. Happy is he

– Qui plane sur la vie et comprend sans effort  
Le langage des fleurs et des choses muettes!<sup>62</sup>

– who hovers over life and understands with ease  
the language of flowers and silent things!

Birds and other flying things are a central passion of Romantic poets: Hugo's verses are full of swans, doves, butterflies, eagles and other avatars of the poetic 'songeur ailé' [winged dreamer]<sup>63</sup> or his loved ones. In Baudelaire they are the counterfactual aspect of a fascination with claustrophobia that focuses on the lowering skies and tide of roofs of 1850s Paris. For this reason, as we see in all these poems, flying never reaches a goal. Vast skies are framed in the city by windows or balconies and swans paddle in dust; over the ocean, albatrosses soar only to be snared and mocked; even the last voyage of death cannot be imagined except as anti-climax: 'La toile était levée et j'attendais encore' [the curtain had gone up, and I was still waiting].<sup>64</sup>

The excitement of the poem is, rather, in the repetition of take-off – what Leo Bersani calls 'a kind of vertical leap of consciousness'<sup>65</sup> – that is rehearsed in a cluster of prepositions or verbs of precipitation. Zooming as a fantasy cannot be separated from the moment of departing from the ground. Birds take off by generating enough airflow to create lift or dropping on to an existing gust of wind. Aeroplanes build up speed by taxiing, again relying on headwind or high-lift devices to set up the first upward motion. Dumbo proves he is no ordinary elephant by becoming the staple of drunken imaginings. Freud identifies the dream or fantasy of flying as a typical phenomenon, especially in children:

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<sup>61</sup> Anzieu, *The Skin-ego*, pp. 9–10.

<sup>62</sup> Baudelaire, Charles, *Les Fleurs du mal*, in *Œuvres complètes*, ed. Marcel Ruff. Paris: Seuil, 1968 [1857], p. 46.

<sup>63</sup> Hugo, Victor, *Les Contemplations*, ed. Léon Cellier. Paris: Garnier, 1969 [1856], p. 339.

<sup>64</sup> 'Le rêve d'un curieux' [The dream of a curious man], Baudelaire, p. 122.

<sup>65</sup> Bersani, p. 24.

why do so many people dream of being able to fly? The answer that psychoanalysis gives is that to fly or be a bird is only a disguise for another wish, [...] a longing to be capable of sexual performance. [...] Whenever children feel in the course of their sexual researches that in the province which is so mysterious but nevertheless so important there is something wonderful of which adults are capable but which they are forbidden to know of and do, they are filled with a violent wish to be able to do it, and they dream of it in the form of flying, or they prepare this disguise of their wish to be used in later flying dreams. Thus aviation, too, which in our days is at last achieving its aim, has infantile erotic roots.<sup>66</sup>

And Kafka's 'Wunsch, Indianer zu werden' [Wishing to be a Red Indian] (1913) traces in a single breathless if-only sentence a centaur-like zooming that loses spurs, reins, ground and, by the fifth line, even the horse. Something of the same fantasy surely underlies Anzieu's 1992 description of himself: 'I have formed with my superego a couple united in the way a horseman is with his mount – and I don't know exactly which of us was the man and which the horse'.<sup>67</sup> As in Kafka, the imagined unity of two such different creatures out of their more complex interdependence as master and servant – elsewhere, Anzieu calls the horse, like free association, 'man's most noble conquest'<sup>68</sup> – actually means that one of the two must disappear. There is here a defiant endorsement of the castration complex that I will return to.

In his analysis of the creative process, *Le Corps de l'œuvre* [The body of the artwork] (1981), Anzieu identifies creativity as 'the illusion of lightness',<sup>69</sup> and 'take-off' or 'lift-off' [*décollage*] as its essential first stage: this is what transforms creativity, a predisposition, into creation, an activity: 'most creative individuals are never creators; what makes the difference, as Proust says of Bergotte, is the take-off'.<sup>70</sup>

The wish to zoom is, as 'Élévation' shows, not an aim towards a goal. Once Anzieu gets on to the five stages of creation, he leaves *décollage* behind. But in this study of what purport to be the bodily sources of creativity, we can see how intensively (and traditionally) he sites the possibility of creation in a model of the male body. Thus even if the 'anchoring' of word or code in the body or emotions is one of the feminine aspects of creation, as is the sense of 'being penetrated by a strong idea or by a project she feels as firm inside her' (!),<sup>71</sup> these exceptions only serve to confirm the essential masculinity of the creator. Indeed take-off in this theory is something akin to the moment when the foetus, female by default in its earliest stages, receives the hormone that makes it male:

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<sup>66</sup> Freud, Sigmund, 'Leonardo da Vinci and a memory of his childhood' [Eine Kindheitserinnerung des Leonardo da Vinci], tr James Strachey, *The Pelican Freud Library*, 14. Harmondsworth: Penguin, 1985 [1910], pp. 219-20; for a difference between this motif in the two sexes, see Freud, Sigmund, *The Interpretation of Dreams* [*Die Traumdeutung*]. Tr. James Strachey, *The Pelican Freud Library*, 4. Harmondsworth: Penguin 1976 [1900], pp. 516-18

<sup>67</sup> Parot, Françoise & Marc Richelle (eds), *Psychologues de langue française*. Paris: PUF, 1992, p. 257.

<sup>68</sup> Anzieu, Didier, *Contes à rebours*, Les Belles Lettres-Archimbaud, 1995 [1975], p. 7.

<sup>69</sup> Anzieu, Didier, *Le Corps de l'œuvre*, Paris: Gallimard, 1981, p. 12.

<sup>70</sup> *Op. cit.*, p. 17-18.

<sup>71</sup> *Op. cit.*, p. 86.

why does an individual, whom one knew to be gifted, whether he thought this of himself or not, suddenly or at the end of a long incubation, begin to write, paint, compose, find formulae, and in this way have an impact on readers, spectators, listeners or visitors? Why does he fly forth while others remain on the ground?<sup>72</sup>

The fantasy of flying is gratuitous, purposeless, either an act of sheer undirected joy or the premise for something else. (In this, we can contrast it with the weighted, awaited object of Rilke's poem 'Der Ball', which rises in order to fall.)<sup>73</sup> To soar like Superman is a simple phallic image – but take-off is a rather more complicated one. As the metaphors from Baudelaire, Kafka and Anzieu suggest, the desire to fly forth is a wish to gain by losing. It is all about positive separation, but – as the terms show in both French and English – it is also a risk of ungluing or unscrewing, of removing, of being separated.<sup>74</sup> If what can fly is the phallus rather than the man, who is he when he is no longer anything but his desire to desire? The boyish bravado – 'I'm youth, I'm joy [...] I'm a little bird that has broken out of the egg', cries Peter Pan when challenged by Hook<sup>75</sup> – that dreams of sexuality in the form of flying is dealing with the fear of castration by a kind of preemption; but then what becomes of the self that feared?

It explains, I think, the Baudelairean insistence that 'les vrais voyageurs sont ceux-là seuls qui partent / Pour partir' [the only true travellers are those who leave for the sake of leaving]:<sup>76</sup> the fantasy of soaring or zooming is simply the fantasy of taking off without any next stage. Or rather, what it leads to is a corollary that is also almost directly its obverse. Let us now examine the second fantasy of sexual desire: that of hovering. If we return to the ending of 'Élévation' where the poet, once on high, uses his position to drift overhead understanding the language of silent things, we find that Baudelaire's term is 'planer', to hover or glide. Anzieu's term, borrowed from Proust, is 'survoler': to fly above. Both images describe a relationship of stable superiority, a God's-eye view, conferring knowledge rather than pleasure, an ability that Baudelaire suggests is something like hearing the unvoiced speech of the inanimate (flowers as *bijoux indiscrets* born to blush unseen?) but which Victor Hugo and others would present as reading the world as book – even though as writers they have created the thing they read.

As fantasies, authorship and hovering are closely allied, then. They both confer a divine privilege – but over something that is only *fantasized* to have preexisted the leap. In a letter of 1852, after all, Flaubert defines the presence of the author in the text as being 'like God in the universe: everywhere present and nowhere visible'.<sup>77</sup> It

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<sup>72</sup> *Op. cit.*, p. 18.

<sup>73</sup> Rilke, Rainer Maria. [1907, 1908] 1974. *Neue Gedichte and Der Neuen Gedichte anderer Teil*. Frankfurt: Insel, pp. 158–59.

<sup>74</sup> I am grateful to a number of correspondents on *francofil* who answered my query in January 2006 about the term 'décoller' having the underlying meaning of 'ungluing'; in this transitive form, it dates back to 1382, but the intransitive form used by Proust and Anzieu was introduced ca 1910. Edward Forman noted: 'I remember from old war movies that the speed you have to reach before taking off in a plane is referred to in English as the "unstuck speed"'. The most extreme version of this unsticking

is escape velocity, the speed required, in physics, to take an object out of the orbit of its source gravitational field. A composition

of that name by Benjamin Wallfisch was premiered on 2 September in the 2006 BBC Proms.

<sup>75</sup> Barrie, J. M., *Peter Pan and Wendy*, London: Pavilion, 1988 [1911], p. 135.

<sup>76</sup> 'Le voyage', Baudelaire, p. 123.

<sup>77</sup> Flaubert, p. 16.

is the logical corollary of his distaste for entering 'under' his characters' skin. Of course, our image of what it might be like to be God is drastically conditioned by our longing, unseeing viewpoint 'from below', and it is this tyranny of the unseen divinity that the aspiring author longs to assume. The author-fantasy is a wish to be immortal *vis-à-vis* a toyshop of mortal objects we can scorn and ironize – characters, readers, pottering about far below.

In fact, of course, the ones who actually are immortal (since they have never lived) are the characters: Flaubert's compulsion to ironize stupid Emma or Charles is surely an expedient based on envy. These infants of his wishful mastery are actually the easiest things in the world to master – impossible not to master. But they are also attempts at mastering readership (Emma embodies this, since she lives and dies by reading), and readers are much harder to control. The wish to be immortal, which the children of our imagination do not even have to form, so inconceivable is it for them to die, is something that only flesh-and-blood people can have, and they have it by seeking virtual readers who will agree to make them virtual writers. Nothing could, perhaps, seem further from the body that makes it possible to have desires at all. But that would be misleading.

Like Anzieu, Sartre uses the term 'survol' [flying-over] in describing how Flaubert in fantasy rises up above the rest of the human race who have made him feel abjectly despised: after climbing in fantasy to the top of a high tower from which giant-like position he can despise everyone, there is a sort of rush of motion and 'whether he has been snatched up from the earth or the futile planet has dropped by itself into the abuses of space-time infinity, the fact is that he finds himself *in the air*'.<sup>78</sup> Or again, 'all of a sudden, panting and sacred, he rises up above his torturers, above Nero himself: how small they look, these instruments of his glory. He hovers and looks down, from the ether, at the rag he has left behind in their hands'.<sup>79</sup> The rag, like the skin of flayed Marsyas, is the bodily thing left after the fantasy has disembodied him. But we should not forget that it is the bodily thing that produces the fantasies.

Here is another, less human but also less agonized version of hovering. Leconte de Lisle (1818-1894), whose poems are suffused with a fulsome remembrance of Réunion, the Indian Ocean island where he spent his youth, writes of jungle scenes in which the apparent peace of sleep contains the coiled menace of animal violence: far-off lions or elephants slumber in the noonday heat, a tiger 'falls asleep, its belly in the air, and dilates its claws';<sup>80</sup> and the jaguar dreams, a proper Freudian *avant la lettre*, that it is plunging 'its streaming nails / Into the flesh of terrified, bellowing bulls'.<sup>81</sup> His birds are nobler: his albatross, unlike Coleridge's or Baudelaire's (and contrast the vulnerable swans of Mallarmé or Rilke: some poets like their zoology classically uncomplicated) does not plunge to earth but 'tranquil amidst the terror' of a violent storm on high,<sup>82</sup> 'approaches, passes and disappears majestically'. It is in

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<sup>78</sup> Sartre, Jean-Paul, *L'Idiot de la famille: Gustave Flaubert de 1821 à 1857* vol 2. Paris: Gallimard, 1971, p. 1185.

<sup>79</sup> *Op. cit.*, p. 1177.

<sup>80</sup> Leconte de Lisle, Charles-Marie-René, *Œuvres*, vol 2: *Poèmes barbares*, ed Edgard Pich. Paris: Société d'édition « Les belles lettres », 1976 [1889], p. 175.

<sup>81</sup> *Op. cit.*, p. 185.

<sup>82</sup> Leconte de Lisle, Charles-Marie-René. *Œuvres*, vol 3: *Poèmes tragiques ; derniers poèmes*, ed Edgard Pich. Paris: Société d'édition « Les belles lettres », 1977 [1884, 1886], p. 67.

'Le Sommeil du condor' [The sleep of the condor], however, that the full fantasy of hovering – the coexistence of extreme power with extreme stillness – is clearest.

The condor is a member of the vulture family. It is supposed to have various peculiarities: to be able to go for long periods without feeding and to flush pink when emotional; but the aspect that has made most impact, and was noted by Darwin, is its ability to hover for long periods without apparently flapping its wings. Leconte de Lisle's poem begins, like Baudelaire's with vivid prepositions of flight, and then observes 'Le vaste Oiseau, tout plein d'une morne indolence'<sup>83</sup> [the vast Bird, filled with gloomy indolence] gazing down upon the map-like panorama of America. As night rolls in like a tide from the east, it waits 'comme un spectre, seul, au front du pic altier' [alone, like a ghost, atop the lofty peak], until at last the darkness covers it. Then,

Il râle son plaisir, il agite sa plume,  
Il érige son cou musculeux et pelé,  
Il s'élève en fouettant l'âpre neige des Andes,  
Dans un cri rauque il monte où n'atteint pas le vent,  
Et, loin du globe noir, loin de l'astre vivant,  
Il dort dans l'air glacé, les ailes toutes grandes.<sup>84</sup>

He groans out his pleasure, shakes his plumage,  
erects his muscular, hairless neck,  
and soars up, whipping the acrid snow of the Andes;  
with a hoarse cry, he rises to where the wind cannot reach  
and, far above the black globe, high above the living star,  
he sleeps in the icy air, his great wings outstretched.

This is, of course, a fantasy of phallic absoluteness: permanently tense, permanently relaxed – the ballet of male desire. But, as we have already observed, the ideal relies on failure: not simply on the logical impossibility of this fusion of extremes, but also on a different, psychical impossibility. In relation to Baudelaire's sudden switch from zooming to hovering, Leo Bersani observes:

The emergence of an erotic esthetic will also involve the eroticizing of knowledge. But in early poems such as 'Élévation' and 'La Beauté', the sexual imagery is merely juxtaposed with the epistemological claims. In 'Élévation', the description of the poet's spirit plunging beyond the confines of the 'starry spheres' suggests sexual penetration [...], but this erotic 'rising up' seems to have no effect on the nature of the poet's comprehension of 'the language of flowers and of silent things'. An effortless serene understanding is unaffected by the erotic energy of the leap into understanding.<sup>85</sup>

My own view is that these contraries are disconnected in a rather different way. The erotics of the flying fantasy is three-fold. If we trace it in reverse, the end-point of hovering stands both for the *survol* of superior knowledge, control from on high, and

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<sup>83</sup> *Op. cit.*, p. 166.

<sup>84</sup> *Op. cit.*, p. 167.

<sup>85</sup> Bersani, p. 25.



for the erectile tension that has become a sort of immortality or grace. Before this, the effort of desire is expressed in the fantasy of zooming, reaching-towards. Before even this, the initial movement is a taking-off, the initiative of excitement that lifts. Each one of these actions is, separately and together, a tracking-forth of the excitement of castration. Like 'escape velocity', the most extreme and deathly version, or the aimless aim of going into space of Vincent, the protagonist of *Gattaca*, they are all fantasies of distance.

In Anzieu's citation from Proust, the relation of take-off to hovering that represents Bergotte's creativity is a sort of zigzag: 'In order to travel in the air, it is not the most powerful automobile that is needed but one which is capable, by sheer ascensional force, of ceasing to run on the ground and cutting across the line of its horizontal speed with the vertical'.<sup>86</sup> Bergotte's talent may be nothing very special in itself, despised by family friends in Rolls Royces, but it has this capacity: 'from inside his modest machine which had at last "taken off", he hovered above them [*les survolait*]'.<sup>87</sup> Carefully examined, the first motion is horizontal, the second vertical, the third again horizontal, but no longer moving forward, for the relation of superiority is not directional but static. It is all about separation. This knowledge is, *pace* Bersani, still erotic, but an erotics of distance, coolness born out of heat.

### **Penthouses and drones: 'power without vulnerability'**

The whole point of the fantasy of hovering is its inability to touch. The fact that it must not come to an end means that it is, effectively, all end.

Two further kinds of example suggest themselves. The first is our contemporary relation to verticality – 'being above' – in one kind of static position: the fascination with high buildings and how it is to live or stand in them. A couple of centuries ago, the contrasts of urban living were the opposite. In Balzac's *Le Père Goriot* (1835), the eponymous protagonist demonstrates his gradual loss of income and status by moving ever further up the floors of the *pension* Vauquer, having settled into the smallest, least appealing top-floor apartment by the start of the novel. Anyone who has lived in a Paris *chambre de bonne* knows what this feels like. In Baudelaire, being in the eaves with a balcony view over Paris means he can see or imagine or both, 'par-delà des vagues de toits' [beyond a sea of roofs], characters he can pretend to pity in a burst of poetic projective identification.<sup>88</sup> In this, as in much else (not least his fascination with urban weather), Baudelaire's writing marks the late Romantic turning-point that inverts 'bohemian' abjection into creative pride.

Today the highest place in a city-centre building is more likely to be a penthouse, the badge of wealth rather than poverty. High-rise has two different meanings, as – to take London as an example this time – the unloved social housing of the 1960s is discarded in favour of the Gherkin or the Shard. But the topography of urban life has two vocabularies. Wandering through the cityscape may be represented in one way

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<sup>86</sup> Proust, Marcel, *A l'ombre des jeunes filles en fleurs. A la recherche du temps perdu*, vol 1, ed. Pierre Clarac and André Ferré, Paris: Gallimard, 1954 [1918], p. 554.

<sup>87</sup> *Op. cit.*, p. 555; cited Anzieu, *Le Corps de l'œuvre*, p. 17.

<sup>88</sup> Baudelaire, Charles, 'Les Fenêtres' [Windows], in *Petits poèmes en prose*, 1869 ; *Œuvres complètes*, p. 174.

in Baudelaire's or Benjamin's *flâneur*,<sup>89</sup> in another in the peregrinations of Breton and Aragon in the 1920s or the *situationnistes* forty years later,<sup>90</sup> and in a third way in the last half of the twentieth century in the theoretical writings of Roland Barthes and Michel de Certeau.<sup>91</sup> In all these versions, it is not so much a question of the adventures of the urban wanderer as of the textuality of spatial movement. Thus Certeau writes of walkers 'dont le corps obéit aux pleins et aux déliés d'un "texte" urbain qu'ils écrivent sans pouvoir le lire' [whose bodies follow the downstrokes and cross-strokes of an urban 'text' which they write but cannot read].<sup>92</sup> The walker traces shapes – but far above his or her puny movements, the tourist looking down from on high (Certeau was writing in 1980 from the 110<sup>th</sup> floor of the World Trade Center) possesses a New York that is a 'ville faite de lieux paroxystiques en reliefs monumentaux. Le spectateur peut y lire un univers qui s'envoie en l'air' [city composed of paroxysmal places in monumental reliefs. The spectator can read in it a universe that is taking off into the air].<sup>93</sup> The walker writes, the viewer from above reads; one traces and is traceable, Dedalus creating the labyrinth, while the other becomes 'a voyeur',<sup>94</sup> or more precisely 'un regard de dieu' [a god's eye]. He concludes (whether thinking directly of Flaubert or not): 'n'être que ce point voyant, c'est la fiction du savoir' [to be nothing but this point of vision, that is the fiction of knowledge].

Hovering is intrinsically different from standing or living on high, however. I have characterised it as castratory because, ultimately, the bird or machine hovers alone isolated from its point of origin; there is not even a tightrope suspended in the air as, terrifyingly, in the recolonization of the Twin Towers in Robert Zemeckis's *Man on Wire* (2015). This version of looking-down is always 'commanding'. The obvious corollary of the condor – that patient predator – is the modern bomber-plane. Its association with death may be suicidal, like that of Yeats's Irish airman in 1919, driven on high by 'a lonely impulse of delight',<sup>95</sup> very similar to that of Saint-Exupéry's heroes experiencing 'the mysterious labour of a living flesh';<sup>96</sup> or it may be homicidal like that of Marinetti, who writes in *The Battle of Tripoli* (1912) of the pleasure of bombing without needing to dirty his hands. But ultimately it goes out beyond the flesh, representing the extreme 'clean' violence of the *survol*: brains

<sup>89</sup> Baudelaire's essay 'Le peintre de la vie moderne' [The painter of modern life] first appeared in 1863 but the idea of the *flâneur* harks back to Paul Gavarni's sketch of 1842 and Edgar Allan Poe's tale 'The Man of the Crowd' of 1840; in 1903 Georg Simmel picked up the image in his 'Die Großstadt und das Geistesleben' [The Metropolis and Mental Life] and Walter Benjamin developed the Baudelairean version of Paris in his *Passagen-werk* [Arcades Project] in the 1920s and 1930s.

<sup>90</sup> See Louis Aragon, *Le Paysan de Paris* [A Paris Peasant] (1926), André Breton, *Nadja* (1928) and Guy Debord, *La Société du spectacle* [The Society of the Spectacle] (1967).

<sup>91</sup> The text of Barthes' 'Sémiologie et urbanisme' [Semiology and the urban] was a lecture given in Naples in 1967 and first published in 1971; Certeau's 'Marches dans la ville' [Walking in the city] first appeared in *L'Invention du quotidien* [The Practice of Everyday Life] vol 1, in 1980.

<sup>92</sup> Certeau, Michel de, 'Marches dans la ville' [Walking in the city] (1980), in *L'Invention du quotidien* [The Practice of Everyday Life] vol 1, ed. Luce Giard (Paris: Gallimard, 1990), p. 141. Certeau goes on to give a brief history of this fantasy of living on high at the 'top' of a city, from medieval maps to Manhattan. Of course this fantasy goes back to antiquity, and aspirations to build and stand high have been associated with overweening ambition from Babel to Ibsen's *The Master Builder* (1892), just as the verticality of gaze or aim are analysed in such texts as Foucault's *Surveiller et punir* (1975) and Peter Sloterdijk's *Du muß dein Leben ändern* (2009). In *Consensuality*, I mark the importance of the positioning of Princess Diana at the meeting-point of the upward and downward gaze: 'a double-facing skin between the feudal and the modern modes of the exercise of power' (118).

<sup>93</sup> Certeau, p. 139.

<sup>94</sup> *Op. cit.*, p.140.

<sup>95</sup> Yeats, William Butler, *W. B. Yeats: The Poems*, ed. Daniel Albright, London: Dent, 1990, p. 184.

<sup>96</sup> Saint-Exupéry, Antoine de, *Vol de nuit*, Paris: Gallimard, 1931, p. 23.

without bodies.<sup>97</sup> In 1921, with remarkable prescience, Marinetti wrote of the possibility – like Kafka's Red Indian fantasy – of the violence of hovering imagined at the furthest extreme from bodily presence:

Phantom-aeroplanes laden with bombs and without pilots, remote-controlled by a 'shepherd' aeroplane. Phantom-planes without pilots which will explode with their bombs, which can also be guided from the ground by an electric control-panel. We will have aerial torpedoes. One day we will have electric war.<sup>98</sup>

As I hope I have shown, anticipating the tactics of today's aerial bombardment, and the very reverse of our contemporary suicide bombers, these masculine fantasies of desire are both self-separation and separation from the other. Consummation, it seems, is neither sought nor achieved; but there is no loss either, because the 'other' – land viewed from above, flowers and other silent things – is actually much too far away to be heard, seen or touched. This is the fantasy of the drone: violence without sacrifice; or rather, a body without a sense of touch.

In a remarkable article on the recent film *Eye in the Sky* (dir. Gavin Hood, 2015), Derek Gregory writes:

As soon as the Wright brothers demonstrated the possibility of human flight, others were busy imagining flying machines with nobody on board. In 1910 the engineer Raymond Phillips captivated crowds in the London Hippodrome with a remotely controlled airship that floated out over the stalls and, when he pressed a switch, released hundreds of paper birds on to the heads of the audience below. When he built the real thing, he promised, the birds would be replaced with bombs. Sitting safely in London he could attack Paris or Berlin.<sup>99</sup>

But, Gregory warns,

Remoteness [...] is an elastic measure. Human beings have been killing each other at ever greater distances since the invention of the dart, the spear and the slingshot. The invention of firearms wrought another transformation in the range of military violence. And yet today, in a world shrunk by the very technologies that have made the drone possible, the use of these remote platforms seems to turn distance back into a moral absolute.

He cites a veteran of Bomber Command saying: "The good thing about being in an aeroplane at war is that you never touch the enemy. [...] You never see the whites of their eyes". Similarly, the pride of the US Air Force is in having weapons that endow it with "power without vulnerability". This is a logical corollary to the converse pride of the suicide bomber for whom the willingness to die through killing (or kill through dying) is an internalised ethical demand. Yet ethics creep back in because not touching here is dependent upon seeing – not the whites of their eyes, but an eerily silent, grainy image of people moving on the ground, up on a screen in

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<sup>97</sup> See Jay, Martin, *Downcast Eyes*, London, Berkeley & Los Angeles: University of California Press, 1993, pp. 90, 213 and 387.

<sup>98</sup> Marinetti, Filippo Tommaso, *L'Alcova di acciaio* [*The Steel Alcove*], Milan: Serra e Riva, 1985 [1921], p. 121.

<sup>99</sup> Derek Gregory, 'How a Hollywood film reveals the reality of drone warfare', *The Observer*, 9 April 2016, p. 33.

which the bright production values of videogame are absent but the manipulative possibilities seem the same.

Why is the protagonist of *Eye in the Sky* a woman? Because questions about the morality of not-touching need to be asked and by implication these are questions of gender (not sex, gender). In another possible antidote to the fantasies of masculinity embodied in zooming and hovering, I want to end by citing a BBC Radio 4 broadcast of 29 November 2015, 'Twenty-first century war poet'. In this 'first-person' programme, airforce veteran and poet Lynn Hill describes her experience of working with drones. 'The plane is physically in those countries [but] you can pretty much operate a drone from anywhere and they chose Las Vegas'. She goes on to explore the situation she found herself in: 'whatever faults you have as a person, the drone programme intensified it [...] sometimes I didn't care and then I felt guilty that I didn't care, and I wanted to care [...]; I was depressed [...] "they serve up poison like entrees at Blueberry Hill: I'll have the crazy, with a side of numb, please"'.

As far as the body is concerned, Hill speaks of the drone operators as sharing 'this removal from war' yet, in relation to the remote black-and-white image of a soldier falling, of being able to 'taste it and hear it'. Part of her reaction to the guilt and craziness is grammatical: how names are used in the military, how people avoid the complicity of the pronoun 'we'; she sometimes refers to herself in the masculine (as 'a good airman or a bad airman'), though in reasserting her humanity she moves from the masculine to the universal: responding to the usual definition of a drone as 'an unmanned aircraft' she says: 'No, no – I'm the man behind the drone [...] I'm the human: I have feelings, I have fears, I have opinions, I have thoughts, and if I'm flawed, the drone is flawed, but if I'm moral and ethical, then the drone is going to be moral and ethical'. But the main bodily imagery she uses is tied to her femaleness: 'I've been living with the war inside of me all this time [...] it sits with me and it grows'; and then, in a connected fluid image of 'contamination': 'I ask myself questions, like how telling these stories are [*sic*] keeping the experiences alive in me: I wondered if when I gave birth or breastfed my baby, was I pouring into her the war that still lives in me?'

# Touching Evidence: A Case for Sensation Over Representation

Jan Hogan

**Abstract:** My article explores a small waterhole on the edge of a mountain, on an island on the edge of the world, on the boundary between urban and natural environments and how the sense of touch allows differences to meet and enter into a dialogue. Truganini Track on the edge of Hobart contentiously bears the name of Tasmania's 'last full blood Aboriginal', denying the existence and ability to touch her descendants but acknowledging her previous tread and law upon this land. Using paper as a common ground between the disciplines of law and art I reveal how a haptic space exists that allows borders and boundaries between laws and systems to become porous and enter into a Deleuzian 'becoming'. The Western Landscape tradition has privileged the gaze, allowing for the land to be possessed and appropriated for colonial interests. By challenging paper's role as a neutral ground for meaning to be applied to, I present evidence of its transformative and multivalent possibilities offering a refusal of the normativity of representation. I deal with drawings potential seepage across boundaries to make contact with other laws inherent in the land. By placing paper in a contested zone on the fringes of urban life I build evidence of how the sense of touch challenges the normative separation of humans from the environment and its many inhabitants.

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## Introduction

In the shadows of a mountain, on a bush track meandering along the edges of a creek, I roll out 18 metres of French imported paper to gather evidence of the differences held within the land. Rotating around the kernel of justice this article follows my site responsive investigation of a colonized landscape to engage art and law in a dialogue about representation. I explore how the sense of touch may provide an embodied response to the land and develop a form of expression that will elicit an ethical response to the traumas held within it.

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Figure 1, Truganini Track, all photos by the author unless otherwise stated

I visit the site regularly over a two-year period, each time unraveling the roll of paper. Rather than drawing the landscape through observation, I place the paper as a membrane into the environment to record the traces of the negotiations. In order to trouble my reliance on the discipline and laws of drawing I shift the emphasis from observation to the sense of touch. As I analyze my practice I realize that when I draw, I am caught in a moment of blindness as I consider where the next mark will go. Derrida in *Memoirs of the Blind* explains this beautifully: 'In its originary, pathbreaking (*frayage*) moment, in the *tracing* potency of the *trait*, at the instant when the point of the hand (of the body proper in general) moves forward upon



making contact with the surface, the inscription of the inscribable is not seen.<sup>1</sup> This oscillating between knowing and unknowing is an anxiety-ridden moment where the wrong decision could be made. Derrida outlines this is where justice truly exists, at the moment of decision, always in a state of becoming.<sup>2</sup>



Figure 2, Beginning the investigation, Truganini Track, 2013

I propose that a depiction of the land developed from a haptic engagement with matter will develop an understanding of the environment in terms of sensation. By challenging traditions of representation I search for a language where difference can enter into dialogue and occupy the land on equal terms. According to Deleuze and Guattari 'it is the process of becoming that affirms difference. Difference cannot be mute or silent; but must 'speak' for itself. In order to overcome the authoritarian categories difference must actively assert itself as different. Otherwise, it will be resubsumed or overcoded by the dominant culture as a passive element of the Same.'<sup>3</sup> I endeavor to set up the conditions in my drawing so that difference can assert its presence and the viewer is caught in the oscillating moment of decision making.

Paper as a material has a memory of its manufacturing process with the weight of European history embedded in it. In Western terms we don't 'see' the ground, only the marks and meanings placed on it. On this ground, tradition dictates that to see

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<sup>1</sup> Derrida, J. *Memoirs Of The Blind: The Self-Portrait And Other Ruins*, Chicago: University of Chicago Press, 1993, p.45

<sup>2</sup> William Sokoloff presents this argument in 'Between Justice and Legality: Derrida on Decision', Volume 58, *Political Research Quarterly*, Issue 2, 341-352, 2005

<sup>3</sup> Tormey, S. 'Not in my Name: Deleuze, Zapatismo and the Critique of Representation', Volume 59, *Parliamentary Affairs*, No. 1, 2006, p.143

anything a mark needs to be made. This mark becomes a 'figure' on the ground, bearing potential meaning. Our visual conventions and our will or desire to see form, separates the mark from the ground. Traditionally this becomes the 'significant' figure on the 'insignificant' ground. However, I argue that paper plays a significant role in the development of meaning; it is not a neutral substrate for representation to be developed on. It is an intrinsic part of the representation. Phillip Rawson in a foundational text on drawing notes 'that the ground, whatever it be, is the underlying symbol in the drawing' and becomes 'the ontological basis of the communication.'<sup>4</sup> In this investigation I attempt to trouble the cultural imprint that paper brings to my work. Will an immersion into the land shift its nature? Is it possible for it to enter into a Deleuzian becoming? If so, then a language may be developed that allows settler Australians to draw the land without overwriting the differences that occupy it.

My work follows the proposition put forward by Deleuze when he described memory as 'a membrane which puts an outside and an inside into contact, makes them present to each other, confronts them or makes them clash. The inside is psychology, the past, involution, a whole psychology of depths. . . The outside is . . . the future, evolution.'<sup>5</sup> I apply this concept to the process of drawing and what it can reveal about our position on the land. I use the paper as a mnemonic device to record the traces of events above and below the surface. I am interested in how privileging touch over sight in the production of art may produce an affective ground that will challenge habitual modes of perception.

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<sup>4</sup> Rawson, P. *Drawing, The Appreciation of the Arts 3*, London, Oxford University Press, 1969 p.38

<sup>5</sup> Deleuze, Cinema II, 1989, p.206 quoted in Bennett, Jill, *Empathic Vision: Affect, Trauma, And Contemporary Art*, Stanford, California: Stanford University Press, 2005, p. 44





Figure 3, *Membrane of Memory*, in progress, Truganini Track, 2013

By allowing the paper to act as a membrane for an encounter with the track I begin to see some of the forces that are in play on the land. The work becomes more than a commemoration or a representation of a past event and allows the future to embody the persistent sensations of that event. The membrane of paper grounds memory and makes it palpable. Drawing on site over a length of time reveals to me the forces that press my body to the Earth, reminding me of my future fate and the past that informs my present. As a membrane that records the imprint and traces of touch, my drawing aims to immerse the viewer in the world, to gradually discern

patterns, what Grosz terms 'the natural articulations between things, the places in things and events where differences most directly emerge.'<sup>6</sup>

Touch and its absence are at the core of this exploration. I am able to touch and caress a small patch of land, gradually discovering its nuances as I engage in the process of drawing. Yet over the two years of this project I have not touched or been touched by the local Aboriginal people, their artworks or artifacts. I am surrounded by this country once intimately known and cared for by the Mouheneener people and the loss of their touch and the knowledge they had gained haunts my relationship to this place. My paper examines the need for a transformation of art practices that engage with problems of difference occupying the same space. As Deborah Bird Rose asks 'How, as settlers, may we inscribe a moral presence for ourselves in countries we have occupied through violence? How can our love find forms of expression which remember the past and at the same time work toward justice?'<sup>7</sup> I propose eliminating categorization or representation of the 'other' and allowing a fluid flow of what it means to be different, to both accept boundaries but also porousness between specific folds of matter as they touch and transform through an encounter. Deborah Bird Rose through her encounters with Aboriginal people has developed

'a definition of country which starts with the idea that country, to use the philosopher's term, is a nourishing terrain. Country is a place that gives and receives life. Not just imagined or represented, it is lived in and lived with. Country in Aboriginal English is not only a common noun but also a proper noun. People talk about country in the same way that they would talk about a person: they speak to country, sing to country, visit country, worry about country, feel sorry for country, and long for country. People say that country knows, hears, smells, takes notice, takes care, is sorry or happy.'<sup>8</sup>

Whilst the Mouheneener people continue their struggle to be recognized as descendants and caretakers of this land, this language of caring remains silent as the dominant power decides how best to represent them.

Feminist theorist Karen Barad suggests that 'so much happens in a touch: an infinity of others—other beings, other spaces, other times—are aroused.'<sup>9</sup> She continues a poetic espousing of the possibilities of touch and its importance in theorizing about the world. She places theory into the world of matter and the haptic. Entering into a dialogue with law through the discipline of art is an engagement with theory that Barad would encourage. She writes that 'Theorizing, a form of experimenting, is about being in touch. What keeps theories alive and lively is being responsible and responsive to the world's patternings and murmurings. Doing theory requires being open to the world's aliveness, allowing oneself to be lured by curiosity, surprise, and

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<sup>6</sup> Grosz, E.A. *Chaos, territory, art: Deleuze and the framing of the earth*, New York, Columbia University Press, 2008, p.85

<sup>7</sup> Bird Rose, Deborah, *Nourishing Terrains: Australian Aboriginal Views of Landscape and Wilderness*, Canberra: Australian Heritage Commission, 1996, p.32

<sup>8</sup> *Ibid*, p.32

<sup>9</sup> Barad, Karen, "On Touching – The Inhuman That Therefore I am", Volume 23, *differences: A Journal of Feminist Cultural Studies*, Issue 3, 2012 p.206

wonder.<sup>10</sup> Within the disciplines of law and art we are presented with the problem of representation and its continuing dominance in Western culture. My 'theorising' will be poietic in nature as I engage with concepts of Justice and the raw materials of art as a means of renegotiating a sense of Place that is 'non-exploitative' and sensitive to difference'.<sup>11</sup>

It is this rethinking of the forms of matter that can offer an exciting future use of materials in learning about the environment we live in. In a Deleuzian framework, the language of art is kept in movement, it is a constant 'becoming other' through the process of both making and viewing art. Anderson and Wylie, in their exploration of materiality in geography propose forms that are 'intrinsically connected to the present, made out of the same materials, the same matter (after all what else is there?) but calling 'for a future form, for a new earth and people that do not yet exist'.<sup>12</sup> My research explores this possibility of a future form where disciplines cross borders to think beyond and around representation.

### ***The trouble with representation***

The small waterhole where I situate this investigation is on a walking trail named Truganini Track, found on the boundary between urban and natural environments near the city of Hobart in Tasmania. The track starts as an easy amble along a flat stretch of land formed between a creek and a rock escarpment until it gradually becomes a steady uphill trail zigzagging like a goat track along one side of Mount Nelson. At the summit you are 'rewarded' by a sweeping view of Mount Wellington, the city of Hobart, and across the Derwent River to distant mountains and the far peninsula. A landscape traditionally encompasses this type of view, which allows an all-encompassing gaze. The representation of the landscape positions the eye at the midpoint of the view privileging the sense of sight and the rational brain. The artist, the viewer and the painting remain in the vertical world that forgets the other senses of the body. The pictorial spatial relations of perspective developed since the Renaissance makes this image appear to the Western mind as 'natural'. The representation appears to mimic the 'truth' of what the eye sees and accepts the construction of the land as a view through a window disregarding the separation of the viewer from the environment that this entails.

A painting by the colonial artist John Glover of *The River Derwent and Hobart Town Tasmania, 1831* presents a picturesque view of distant mountains and water framed by trees from Mount Wellington which neighbours the site of my investigation. It is perhaps unremarkable in its adoption of European landscape traditions except that I can view it from a reproduction displayed on the same track over 180 years later with the claim that the 'view' is little changed since Glover's time. In *Landscape and Power*, WJT Mitchell reveals how landscape operates as a cultural practice. He argues that landscape should not be considered as 'an object to be seen or a text to

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<sup>10</sup> Ibid. p.207

<sup>11</sup> I am indebted here to the ideas expressed by Derek H. Whitehead, in "Poiesis and Art-Making: A Way of Letting Be" *Contemporary Aesthetics*, Vol 1, 2003

<sup>12</sup> Anderson, B, and J Wylie. "On geography and materiality." Volume 41, *Environment And Planning A*, no. 2, p.324

be read' but instead 'as a process by which social and subjective identities are formed'.<sup>13</sup> The representation of Hobart and the Derwent River that Glover's painting presents maintains the status quo that the world is static and secure.

This perspectival representation of Glover's landscape describes but also conditions perception. Juhani Pallasmaa writes that "The hegemonic eye seeks domination over all fields of cultural production, and it seems to weaken our capacity for empathy, compassion and participation in the world."<sup>14</sup> A landscape view privileges the eye and the brain – continuing cultural domination. It maintains the conceit that humans are separate and superior to the land. Representation is static and fixed – matter and society are not. Valerie Plumwood asserts that

To describe the land as a 'landscape' is to privilege the visual over other, more rounded and embodied ways of knowing the land, for example, by walking over it, or by smelling and tasting its life, from the perspective of predator or prey. Landscape concepts put a frame between the viewer and the land, distance from the land, and invite virtual and idealist approaches to the land.<sup>15</sup>

Meditating on the materiality of an urban bush track, my work seeks to generate an intimacy between the land and the viewer, to remember the touch of the land beneath the feet, its undulations rising and falling from river gravel to bedrock folds, shadows flickering on the peripheries revealing the presence of small birds and animals continuously shuffling just out of view, the wind breaking branches and the sun warmed soil. This small boundary of bush lies between the suburbs of Hobart and a band of mountains that beckon as 'wilderness'. Tasmania perpetuates a Landscape tradition that continues representation as the primary tool for communication.

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<sup>13</sup> Mitchell, WJT, *Landscape And Power*, Chicago: University of Chicago Press, 2002, p.1

<sup>14</sup> Pallasmaa, J. *The Eyes of the Skin: Architecture and the Senses*, Chichester, John Wiley & Sons, 2005 p.16

<sup>15</sup> Plumwood, V 2006, 'The Concept of a Cultural Landscape: Nature, Culture and Agency in the Land', Volume 11, *Ethics and the Environment*, Issue 2, 2006, p.123





Figure 4, revisiting the waterhole, 2014

As my drawing develops, I discover that Truganini was not from this area but was a Nuenonne woman from Bruny Island<sup>16</sup> located further down the Derwent River. After several walks on the track I finally locate a memorial to her. It is positioned on an offshoot to the main track near the summit and takes the form of a bronze boulder inscribed with text. As I read the text I realize the memorial is not dedicated solely to her, but rather in recognition of the fate of all Tasmanian Aboriginals.

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<sup>16</sup> Lyndall Ryan gives a detailed account of the language groups and their territories derived from colonial records in her book *The Aboriginal Tasmanians*, St. Leonards, N.S.W, Allen & Unwin, 1996

Truganini contentiously bears the label of Tasmania's 'last full blood Aboriginal' so whilst the track lies on territory belonging to the Mouheneenner people, the memorial uses her story as a representation of the fate of all the different Aboriginal cultures that live and have lived on this island. From the memorial there are views across the channel of water to Bruny Island, the true homeland of Truganini. It seems a tortuous place for a memorial, a constant tease for the ghost of Truganini, to be in sight, but always out of touch, of her land.

### ***Touching Borders***

Touch is on the extremities of our body; it is our borderland where the world is continuously negotiated. From our fingers stretched out in curiosity, to our toes as they negotiate our passage across the earth, touch is the sense that reveals the way that the borderlands and peripheries become the heart of negotiation. It is through Anzieu's analysis of the role of surfaces, in particular the skin, that I take the idea of 'the centre located at the periphery'<sup>17</sup> into a broader context. The borderlands between communities, both human and non-human, test cultural constructs of what is meant by place and belonging, that the landscape tradition enters into.

According to Anzieu, contact between surfaces plays an integral role in the ordering and organization of knowledge in the human subject. He looks at the structure of the cell noting how the membrane acts as a boundary of communication. According to Elizabeth Harvey 'Anzieu reminds us that cytoplasmic cell membranes have a double-layered architecture, which he likens to Freud's mystic writing pad, where one layer serves as a protective shield and the other operates as a writing surface.'<sup>18</sup> I am interested in how the land and the body bring their surfaces together and write upon each other. Does the imprint of a particular place write its identity on to our bodies? As the world is migrating across borders and boundaries what imprints from the land do they bring with them, and how would we know?

In her groundbreaking book *Borderlands*, Gloria Anzaldua writes that

Borders are set up to define the places that are safe and unsafe, to distinguish *us* from *them*. A border is a dividing line, a narrow strip along a steep edge. A borderland is a vague and undetermined place created by the residue of an unnatural boundary. It is in a constant state of transition.<sup>19</sup>

The borderland that I visit would probably be one of the safest places on earth at the moment. There is little that threatens me here. Yet it has been the scene of wars and injs with colonial invasions and the transportation of convicts. But this is not the way that the land here is represented. In Tasmania the land is portrayed as settled or as a wilderness, both denying the Aboriginal presence in the land.

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<sup>17</sup> Harvey, E.D. The Portal of touch, *American Historical Review*, April 2011 p. 389

<sup>18</sup> Ibid. p. 389

<sup>19</sup> Gloria Anzaldua as quoted in Barad, K. 'Diffracting Diffraction: Cutting together-apart', Volume 20, *Parallax*, Issue 3, 2014, p. 179

The writings of Derrida and Deleuze provide a framework and language that translates my drawing based research into dialogues around justice. Derrida states,

No justice...seems possible or thinkable without the principle of some responsibility, beyond all living present, within that which disjoins the living present, before the ghosts of those who are not yet born or who are already dead, . . . Without this non-contemporaneity with itself of the living present, . . . without this responsibility and this respect for justice concerning those who are not there, of those who are no longer or who are not yet present and living, what sense would there be to ask the question 'where?' 'where tomorrow?' 'whither?'.<sup>20</sup>

In the *Derelictions of the Right to Justice* Derrida expresses his horror at the declaration of the 'crime of hospitality' where taking in refugees and offering them hospitality becomes a criminal offence. The people he speaks for are those "sans-papiers";<sup>21</sup> the people who have crossed borders and now find themselves without the papers necessary to be a citizen. They are found to be lacking. Derrida asks us to speak alongside people who are the victims of injustice. He emphasizes though that we do not represent them, we do not speak *for them* in the sense of *in their place*,<sup>22</sup> as they have the rights and the capacity to speak for themselves, but rather as a sign of solidarity. This emphasis is important in a colonized land where the voice of the oppressed struggles to be heard and they are 'represented' by systems that claim to know what is best for them.<sup>23</sup> To have or not have papers is a definition of legal rights in a country, Australia unfortunately following the logic that to be without papers, without going through the correct procedures you become an 'illegal alien.' Paper becomes an instrument of power within the law.

In order to keep justice possible, Derrida argues that it exists in the moment of decision. Laws should exist as guides and according to Derrida, 'the undecidable remains caught, lodged, at least as a ghost—but an essential ghost—in every decision, in every event of decision.'<sup>24</sup> Sokoloff in his discussion of Derrida's concepts of justice comments that 'undecidability should haunt decisions before and after they are made. This is what the reliance on rules tries to eliminate. Given the paradoxical character of the founding moment, it would be irresponsible to have a rule that would repudiate the moment of indecision that should precede each decision.'<sup>25</sup>

Andreas Philippopoulos-Mihalopoulos suggests that law and art may not be so different in this search for a justice that cannot be represented,

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<sup>20</sup>Derrida as quoted in Barad, K. 'Quantum Entanglements and Hauntological Relations of Inheritance: Dis/continuities, SpaceTime Enfoldings, and Justice-to-Come', Volume 3, *Derrida Today*, Issue 2, 2010, P.261

<sup>21</sup> Derrida, J, & Rottenberg, E, *Negotiations: Interventions And Interviews, 1971-2001*, Stanford, Calif.: Stanford University Press, c2002, p. 134

<sup>22</sup> Ibid. p. 134

<sup>23</sup> The recent 'intervention' by the Howard government is a significant case in point where the army was brought into aboriginal communities to bring order and stability without consultation with the communities. It is within living memory of many people on these communities that government trucks arrived and took away children that had European heritage. [https://www.whitlam.org/\\_\\_data/assets/pdf\\_file/0005/162932/Perspectives\\_-\\_Dr\\_Mary\\_Edmunds\\_Nov\\_2010.pdf](https://www.whitlam.org/__data/assets/pdf_file/0005/162932/Perspectives_-_Dr_Mary_Edmunds_Nov_2010.pdf)

<sup>24</sup> Derrida as quoted in Sokoloff, opcit. p.345

<sup>25</sup> Sokoloff, opcit p. 345



What critical autopoiesis can learn from its own materiality, however, is something that lies beyond a mere call for legal pluralism. Rather, it is a focus on the material ambidirectionality of system/environment. And this indeed might make law aware of something a little surprising: that law might not be so different to art where, “the paradoxical oscillation of truth is introduced deliberately—not to represent the world but to invite the viewer or reader to search for an innovative exit that remains undetermined in the work and about which even the artist himself may have his doubts.”<sup>26</sup>

The notion of a ‘material ambidirectionality of system and environment’ is exactly what the process of drawing becomes in this site-specific investigation. The matter, the site and the artist are interwoven in a search for meaning that always remains in doubt. Matter however, is given its say and its unpredictable nature continues the ‘oscillation of truth.’



Figure 5, *Membrane of Memory*, in dialogue with matter, 2014

When drawing, the sense of touch remains in this state of decision-making. Touch involves constant negotiation. Our sense of touch is communicated in the removal of pressure, at the point between contact and non-contact.<sup>27</sup> As an artist I know that my fingers are in constant motion, pressing and retreating, sensitive to the marks that will result. Even when not making a mark, I am often poised with hands quivering in anticipation, unconsciously enacting the possible movements I might

<sup>26</sup> Philippopoulos-Mihalopoulos, A. ‘Critical Autopoiesis and the Materiality of Law’, Volume 27, *International Journal for the Semiotics of Law*, Issue 2, 2014 p. 409

<sup>27</sup> Connor, S. *The Book of Skin*, London, Reaktion Books, 2004, p.261



make. This sensitivity to touch is part of my training, as an awareness of sensing plays a major part in bringing meaning to an artwork. The negotiations between mind and body become so highly tuned that as the fingers continuously press and remove in their engagement, it is difficult to know if matter is being felt or remembered. Steven Connor in *The Book of the Skin* writes of the 'unbroken continuity between things and thinking' and reflects that artists are aware 'that things and the way we think of them, are woven of the same stuff.'<sup>28</sup> Touch takes us beyond the surface; the edges of our body inform us of our position in the world and in developing our sense of identity taking us back to the centre as Anzieu argued.

### ***Gathering evidence***

Away from the haunting view at the memorial to Truganini, I return to the small waterhole that I had chosen for my research. I engage with the roll of paper by returning, interacting and intra acting in the hope of making new temporalities visible. The large scale of the paper allows matter, that is, all materials that come into contact during the dialogue, to assert their own agency. Paper on this scale also asserts its material presence as it takes considerable physical effort to bring it onto the track, engaging me immediately in the haptic world. I carry the paper in both arms, embraced in close proximity to my body. The cost of the paper and its white imported status impress on me an amount of care as I negotiate the track. Gradually, the paper accumulates traces of events that occur over time gathering evidence of the differences that have come into contact. This body of matter is to bear witness.

Strangely enough this scaling up of the paper makes it a more intimate affair, as it becomes a body to be reconciled with. The exchange is similar in terms to how Rosi Braidotti understands the body as 'a folding in of external influences and a simultaneous unfolding outwards of affects'.<sup>29</sup> To touch the land with this membrane of paper and caress it with my hands is to treat the land, as Steven Connor writes, 'as though it possessed such a sensitive skin.'<sup>30</sup> By working directly on *Truganini Track* my practice shifts from the vertical that privileges the gaze to the horizontal that 'grounds' us and reminds us of our inclusion in a network of systems. Knowledge accumulates through engagement with matter over repeated visits. The process of drawing on site and on a large scale shifts the eyes from their dominant vertical standpoint overseeing the land back down to matter itself. The paper shifts through process from a cultural construct to a record of engagement and negotiation.

As the paper is laid down it obscures the land. The contact between paper and ground occurs away from sight in the shadows of the process. The gaze cannot hold these sides at the same time and this becomes a fundamental operation of the work. I decide to work on both sides of the paper so that it becomes a mobius strip that

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<sup>28</sup> Connor, S. *opcit.* p. 261

<sup>29</sup> Rosi Braidotti as quoted in Stacey, Jackie, and Sara Ahmed. 2001. *Thinking through the skin*, London, Routledge, 2001, P. 4

<sup>30</sup> Connor, S. *The Book of Skin*, London, Reaktion Books, 2004 p. 262

reveals an inside and an outside on the same surface. I drag the paper out of the creek and lay it on the track, allowing the shadows to converge on the membrane. The paper allows the flicker of shadows to play on the top surface whilst it casts the land below it into shadow.



Figure 6, *Membrane of Memory*, in progress, 2014

The paper itself becomes a border zone, revealing the porousness of boundaries, their ability to shift and change. My artistic decisions are influenced by the environment, the shadows formed by the angle of the sun at that moment of time

and season of the year, the humidity, wind velocity and the pressures of the ground beneath the paper all have their say in the spread of inks and ochres and their reception on the paper. Slightly wetter puddles formed by indentations in the ground dilute the mark softening blacks to a grey and forming mini deltas on the paper. The ink follows the laws of gravity, tenderly finding the lowest points to trickle their way across the fibers. The paper presents the elementary forces, forces that impinge on us as living beings, forces like "pressure, inertia, weight, attraction, gravitation, germination"<sup>31</sup> The paper undergoes transformation.

Rolled out in the environment the paper marks its difference and in turn gets marked by difference. As Connor remarks, touch 'acts upon the world as well as registering the action of the world on you.'<sup>32</sup> The land holds the traces of millenniums of touches, and for this short amount of time the paper records the evidence of the differences touching each other. As it becomes saturated with matter, losing some of its own manufactured status as the sizing, the stiffeners in the paper, seep back out in to the environment, the paper requires more and more delicacy to maintain the negotiations, beginning to tear apart, requiring a decision to break the roll into smaller sections.

It is the sense of touch that allows me to understand the textures that I come into contact with. Through experience I have learned what textures feel like and how they have been developed. This knowledge gained through touch is what art taps into, the sensations, remembered or tacitly known, of the world and how they relate to us. Eva Sedgwick in her explorations of difference as a black woman argues that touch 'makes nonsense of any dualistic understanding of agency and passivity; to touch is always already to reach out, to fondle, to heft, to tap, or to enfold, and always also to understand other people or natural forces as having effectually done so before oneself, if only in the making of the textured object.'<sup>33</sup> She argues that as we begin to perceive differences we enter into a world of 'hypothesizing', what these differences mean. Will the ground be hard or soft, wet, slippery, dangerous or safe to step on? Through hypothesizing we enter into an empathic realm where differences are imagined and entered into.

On each visit I decide which side of the paper touches the earth, gradually recognizing that one side is becoming darker whilst the other side is becoming a field of golden ochres. Here, matter seems to be taking sides (or is it me?). Shadows in the land act as a refuge from the sun or predatory eyes. Western tradition follows the Christian philosophy and iconography of light bearing knowledge and 'truth' but the dark shadows also contain knowledge that we need to address. Rather than turning the glare of light into the crevices, we need to allow the knowledge to seep out into our awareness. The shadows, rather than something to be feared, need to be accepted as a natural part of this world,

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<sup>31</sup> Deleuze, G. *Francis Bacon: The Logic of Sensation*, London, Continuum, 2003, p. 48

<sup>32</sup> Connor, S. *opcit.* p.262

<sup>33</sup> Sedgwick, E.K. and Frank, A. *Touching feeling: affect, pedagogy, performativity*, Durham, Duke University Press, 2003 p. 14



Pallasmaa poetically imagines them as “A breathing in and out of the body – the shadows inhales and illumination exhales light”<sup>34</sup>

Revisiting the small waterhole I continue working with the shadowy darker side of the paper face down and begin to walk yellow ochres across the lighter surface. Tears are starting to appear and colours begin to seep between the sides. The duality of front and back, light and dark is broken down as each soaking in water leaches out the papers manufactured starches replacing them with particles of dust, eucalyptus inks, animal droppings and ochres.



Figure 7, Tear in the *Membrane*, 2014

### **The Black Line**

Truganini was born on Bruny Island not far from present day Hobart, into the Nuenone language group; her childhood was a traditional one until interrupted by the invasion of the British. Intrusions had already been made by a range of colonisers and by 1829 Truganini’s “mother had been killed by sailors, her uncle shot by a soldier, her sister abducted by sealers, and Paraweena, a young man who was to have been her husband, murdered by timber-getters.”<sup>35</sup>

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<sup>34</sup> Pallasmaa, *opcit*, p.45

<sup>35</sup> Ryan, Lyndall and Smith, Neil, 'Trugernanner (Truganini) (1812–1876)', Australian Dictionary of Biography, National Centre of Biography, Australian National University, <http://adb.anu.edu.au/biography/trugernanner-truganini-4752/text7895>, published first in hardcopy 1976

Entangled with Truganini's story as I work on the track is another colonial story. Tasmania's infamous Black Line was a military event devised by the English to rid themselves of the warring tribes resisting the colonisation of the interior of Tasmania with its tempting flat lands perfect for grazing and farming. The English military coerced terrified convicts and settlers into strategic human lines that worked themselves across sections of the island to track down the Indigenous people so successfully hiding in the land. They managed to capture (or accept the surrender) of two people and shot two people. However, the Aboriginal groups realized the serious intention of the invaders to remain in their country, with an ability to continuously increase their population and they finally negotiated surrender.<sup>36</sup>

In the maps that outline the military strategies the land becomes flattened. The hills and gullies covered in lush bush become contour lines, gridded and named by the invaders. A military maneuver developed for the fields of Europe seems possible. As an abstract concept the military plans reduce the island to a much smaller, more navigable terrain. However, working on the track my understanding of this story shifts as I become more intimately acquainted with the reality of the land. On the track I imagine the local inhabitants hiding in the land, knowing the pockets and the shadows where the land will shade them from the gaze of the colonizers. And what fear is in the settlers as they walk along the land trying to keep in sight their companions but aware of the unsettling terrain and shifting light? This new land, the stories of the guerilla warfare run by the Aboriginal tribes makes closer inspection of gullies and overhangs a treacherous proposition for the newcomers.

On each visit to the site as I continue to change which side touches the land and which side receives traces of drawing and mark making, I shift from seeing the land as nurturer, seeing how easy it would be to hide among the shadows and undercuts in the mountain to terrified colonizer, often with only a farming tool in hand, trespassing through unknown terrain, starting at each strange noise and trying to keep their companions in view.<sup>37</sup>

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<sup>36</sup> Ryan, Lyndall, "The Black Line in Van Diemen's Land: success or failure?" Volume 37, *Journal of Australian Studies*, Issue 1, 2013, p. 3-18

<sup>37</sup> Ibid. p. 3-18



Figure 8, testing which side, *Membrane of Memory*, in progress, 2015

The Western art tradition has consistently represented light as good, and dark as something to be conquered and overcome. The artist William Blake felt that the use of shadow was 'going over to the dark side'<sup>38</sup> he believed that a high contrast line was the way to a more perfect art form. Art historian Patrick Maynard in his analysis of the shadow quotes the psychologist Marion Milner's remarks about her drawing that

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<sup>38</sup> Maynard, Patrick. *Drawing distinctions: the varieties of graphic expression*. Ithaca, N.Y. Cornell University Press, 2005 p.166



the outline represented the world of fact, of separate touchable solid objects . . . . So I could only suppose that in one part of my mind, there really could be a fear of losing all sense of separating boundaries; particularly the boundaries between the tangible realities of the external world and the imaginative realities of the inner world of feeling and idea.<sup>39</sup>

The shadow conveys psychological depths and a boundary that western representation avoids.

In his exploration of the operation of art Deleuze investigated the work of Francis Bacon who he believed used the shadow to convey the sensations that pulse through the world. 'Bacon has often said that, in the domain of Figures, the shadow has as much presence as the body; but the shadow acquires this presence only because it escapes from the body; the shadow is the body that has escaped from itself through some localized point in the contour.'<sup>40</sup> By making the decision to work on both sides of the paper I allow the shadows to seep into the membrane of paper and become imprinted. The dark stains make their presence felt to remind us of what has occurred and continues to occur in the colonization of the land.

In his analysis of Bacon's paintings of the screaming Pope, Deleuze asserts the importance of choosing sensation over the spectacle. The spectacle in art is a representation of an event but the emphasis on sensation is to reveal the forces that created the event.

The struggle with the shadow is the only real struggle. When the visual sensation confronts the invisible force that conditions it, it releases a force that is capable of vanquishing the invisible force, or even befriending it. Life screams *at* death, but death is no longer this all-too-visible thing that makes us faint; it is this invisible force that life detects, flushes out, and makes visible through the scream. Death is judged from the point of view of life, and not the reverse, as we like to believe.<sup>41</sup>

The haptic space of my paper engages us back into the realm of matter from which we have come and will soon return. The forces of nature pressing beside us become visible. The stories in the land of colonization, of loss, absence and trauma cannot be represented without folding them into the dominant cultural constructs. However, the conditions of having to make a decision about where we stand in relation to difference can be placed into operation in an artwork.

### ***Sensation over representation***

The paper has gathered evidence of the forces impacting on this small boundary between city and mountain. Different matters from both the natural and urban environments have settled alongside each other. Matter from the past intermingles

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<sup>39</sup> Ibid. p.166

<sup>40</sup> Deleuze, G. *Francis Bacon: The Logic of Sensation*, London, Continuum, 2003 p.16

<sup>41</sup> Ibid p.79

with the present. The stains from the shadows are the closest things to a figure on the ground of the paper; they appear as if they are a form of language that we could translate if we just had a deciphering code. The shadows have escaped from the time bound realm of the earth into the artwork to remind us of our time-based bodies. We know the touch of shadows on our bodies as relief from the sun or as a passing figure behind us. Our knowledge is tacit as we are still creatures from the land attuned to threat and survival. The shadows have become matter on my paper, capturing some of the chaos of the earth in order to cause sensation in the viewer.

My process of art making is an acknowledgment that land, environments and cultures are in a constant becoming. My research continues Elizabeth Grosz' enquiry in 'how to think a concept of matter in which the *event*, the *incorporeal*, *life*, have an irreducible place? How to think matter in terms of events and processes rather than in terms of things and objects?'<sup>42</sup> According to Deleuze and Guattari 'it is the process of becoming that affirms difference. Difference cannot be mute or silent; but must 'speak' for itself. In order to overcome the authoritarian categories difference must actively assert itself as different. Otherwise, it will be resubsumed or overcoded by the dominant culture as a passive element of the Same.'<sup>43</sup> By thinking through art as process where the haptic is an integral part of the making and the sensation of the viewer there is the possibility that difference can occupy the same space in equality. The process of becoming is embedded in the work animating the material so that meaning arrives through sensation, through the body rather than through a diversion through the brain where difference is categorised, sorted and allocated its position according to the dominant paradigm. Elizabeth Grosz sums up; 'Sensation impacts the body, not through the brain, not through representations, signs, images or fantasies, but directly on the body's own internal forces, on cells, organs, the nervous system.'<sup>44</sup>

As I take the drawing from the site to the gallery, the work shifts from the vertical to the horizontal and the viewer must first negotiate the ground beneath them being brought into view for closer inspection. Deleuze and Guattari suggest "The first aspect of the haptic, smooth space of close vision is that its orientations, landmarks, and linkages are in continuous variation; it operates step by step. . . orientations are not constant but change according to temporary vegetations, occupations, and precipitation."<sup>45</sup> This view is a challenge to the upright body, it shifts the view from the all-seeing eye, to the world of insects, matter, the haptic. The work cannot be held in the gaze but requires a constant scanning and the viewer becomes involved in negotiations.

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<sup>42</sup> Grosz, E.A. 'Matter, Life and Other Variations,' Volume 55, *Philosophy today*, suppl. Philosophical Thresholds: Crossings Of Life And World, 2011, p. 17

<sup>43</sup> Tormey, opcit. p.144

<sup>44</sup> Grosz, E. A. *Chaos, Territory, Art: Deleuze and the Framing of the Earth*, New York: Columbia University Press, c2008., 2008 p.73

<sup>45</sup> Deleuze, G. and Guattari, F. *A Thousand Plateaus: Capitalism and Schizophrenia*, London: Bloomsbury Academic, 2014, c1987, p.493





Figure 9. Sections of *Membrane of Memory* exhibited at Langford 120 Gallery,<sup>46</sup> photo: Mark Ashkanasy, 2015

Sensation gives us the momentary. The form is emergent so the conditions of experience constitute the development of a piece of work. Anatoli Ignatov in his exploration of opening perception of humans to the non-human in ecosystems observes

Sensation is that which strikes the viewer of a painting before the meaning of the narrative and figurative givens of the canvas is perceived. Deleuze sees art as a mode of bodily intensification of sensations that enables us to tap into the flux of life marked by the coexistence of multiple durations, force-fields and tiers of time.<sup>47</sup>

Deleuze's concept of sensation over representation I would argue does not go far enough with his generalization that all art operates in this space. If the artwork remains in and perpetuates a tradition of uneven power constructs, the sensation that he describes cannot operate within the work. Representations of landscapes within a colonial context need to be challenged to allow for the differences within the land to become tangible. As boundaries and borders reveal the transitory nature of identity and laws aim to maintain concepts of nation, our cultural forms need to

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<sup>46</sup> Hogan, Jan, *Membrane of Memory: care instructions*, Langford 120, Melbourne, <http://www.langford120.com.au/15-jan-hogan---membrane-in-memory.html>

<sup>47</sup> Ignatov, Anatoli, "Practices of Eco-sensation: Opening Doors of Perception to the Nonhuman." Volume 14, *Theory & Event*, Issue 2, 2011, p.7

adapt and to change.

Derrida reminds us that 'every culture needs an element of self-interrogation and of distance from itself, if it is to transform itself.'<sup>48</sup> Which returns me to the thread of justice that became embedded within my drawing. Derrida places justice in a position beyond representation. It is always in a state of becoming, which he outlines through the process of making a decision. Sokoloff explains

The sovereign subject cannot make a decision because its need for identity prevents it from responding to the other in ways that may necessitate its own transformation. The subject with a fixed identity never really decides. For this reason, decision "must surprise . . . the very subjectivity of the subject" (Derrida 1997: 68). In the act of decision, we must not know who we are or how we are going to decide: "*Decision is unconscious*—insane as that may seem, it involves the unconscious and nevertheless remains responsible."<sup>49</sup>

Derrida's 'decision' lies between the laws that exist and the concept of justice. If we know what the outcome is to be by following the letter of the law then a decision is not made. Justice needs to always be in a state of becoming to be achieved. In order for decision to be possible, 'the purposive subject must be replaced by one capable of suspending, conserving, and affirming legality and itself in a non-programmatic way.'<sup>50</sup> This instability is what I aim to achieve in my drawing. I want the viewer to be included in the uncertainty, the difficulty and complexity of making decisions. As Philippopoulos-Mihalopoulos mentioned before 'the paradoxical oscillation of truth is introduced deliberately—not to represent the world but to invite the viewer or reader to search for an innovative exit that remains undetermined in the work.'

Through a haptic encounter with the land, forces and differences become tangible. The sense of touch engages me in the world of pressures and forces that Deleuze proposes is the role of art. I press against the land and it presses back, I become aware of the upheavals and time that have gone into the formation of this small habitat on Truganini Track. The forces of the earth are what I have touched but the sensations I feel are quite different. Deleuze points out that

Force is closely related to sensation: for a sensation to exist, a force must be exerted on a body, on a point of the wave. But if force is the condition of sensation, it is nonetheless not the force that is sensed, since the sensation "gives" something completely different from the forces that condition it.<sup>51</sup>

The sensations that I aim for in this research are the oscillating moments when a decision needs to be made. Representation presents an object, place or time as stable; it is contained within the structures of power. Derrida developed a concept of 'decision' that allows justice to remain in a state of becoming; 'as opposed to

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<sup>48</sup> Derrida as quoted in Sokoloff, opcit. p. 347

<sup>49</sup> Sokoloff, opcit. p. 345

<sup>50</sup> Ibid. p.345

<sup>51</sup> Deleuze, opcit. 2003, p. 56

maintaining the political order, decision transforms it. Hence, decision is an act of invention that cannot be grounded on anything that precedes it. That makes decision difficult. It always involves an "anxiety-ridden moment of suspense".'

My foray with paper on this scale unearths the tragedy that has occurred on this track. The history of paper as a tool for colonizing through mapping, naming and writing a new law over the land can no longer be ignored as stories of Truganini and the Black War start to surface. The project becomes a search for justice by allowing the past to haunt the present. I cannot offer reparation for what is lost but acknowledgment, remembrance and a material change in my make up. I intertwine myself with the land and take responsibility.



Figure 10, Installation shot from *Membrane of Memory*, Langford 120, 2015, photo: Mark Ashkanasy

## Outside the Safety Net

### ***Shadow Casters'* Interactive Performance *Ex-Posing* as a Non-Representational Form of Historical Enactment**

Moritz von Stetten

**Abstract:** Historical re-enactments are usually considered as representations of past events such as battles, wars, political negotiations or everyday lifestyles. In order to provide the original setting, they put special emphasis on the 'authentic' reproduction of original materials and social situations. My article questions the representationalist notion underlying these forms of historical re-enactment. I suggest that the performance *Ex-Posing* by the Croatian performance group *Shadow Casters* – celebrating its 10<sup>th</sup> birthday in 2016 – serves as an illustrative example of an alternative notion, form and practice of historical remembrance. Instead of claiming to 're-enact' the 'authentic' historic events, *Ex-Posing* involves its participants in interaction-based one-to-one performances, so called "narrative walks". The performance situation focuses on the bodily interaction as the participant is blindfolded. The performer leads her/him with unavoidable physical closeness, corporeal involvement and the touching of things, materials and bodies through the loose structure of a flexible social situation. This shifts the perspective from the mere compliance with 'authentic' conditions and historically 'adequate' rules and norms to reflections on one's own creative role in the production and remembering of historical events.

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### **Introduction: Before the Law**

In his parable *Before the law* ("Vor dem Gesetz") Frank Kafka tells the story of a man from the countryside approaching the law. The doorkeeper guarding the law informs the man that he cannot enter the open door of law at the moment, but that it is generally possible to pass. After years of waiting, asking, begging and unsuccessful bribing, the man – still waiting – is about to die. He asks the doorkeeper why no one else has ever come to the open door although everyone is allegedly seeking the law. The doorkeeper shouts into the man's almost deaf ears: "No one but you could gain admittance through this door, since this door was intended only for you. I am now going to shut it."<sup>1</sup>

Boris Bakal and Katarina Pejović, co-founders of the performance group *Shadow Casters*, claim in one interview that Kafka's parable served as one key inspiration for the *Ex-Position* workshop, which later became the *Ex-Posing* performance. Bakal explains: "It seemed to me that the apriori rhizomatic structure of Kafka's work was actually two-fold: in terms of its style, but also in terms of the fact that it is unfinished, that it is like a deck of cards. You can pull out the cards one by one and

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<sup>1</sup> In the German original, it says: "Der Türhüter erkennt, daß der Mann schon an seinem Ende ist, und, um sein vergehendes Gehör noch zu erreichen, brüllt er ihn an: 'Hier konnte niemand sonst Einlaß erhalten, denn dieser Eingang war nur für dich bestimmt. Ich gehe jetzt und schließe ihn.'"

form new meanings; you can play a new round with it.” (Bakal, et al. 2013: 234) *Shadow Casters* was founded by a group of artists in Zagreb in 2001. The “rhizomatic structure” manifests itself initially in the group’s composition and interests. Some used to work as theatre-makers, video artists or curators, others were involved in intermedia projects, urban street art or projects of activism and pedagogical work (Bakal, Pejović and Radosavljević 2013: 225). Moreover, the “rhizome” appears as an open political and ethical question that is directly linked to the historical context out of which *Shadow Casters* emerged. All *Shadow Casters* artists were deeply influenced by the Yugoslavia Wars since the beginning 1990s. The old order was ruptured by ethnic, religious, political and economic conflicts, all of them circling around the open question of community, belonging, togetherness, of history-making and remembrance. The *Shadow Casters* members felt that there was a blank space waiting to be filled with new stories, practices and memories, in the midst of rising conflicts and complex scenarios of intensified violence. And they knew that military parades, authoritarian education and ethnic nationalism are outdated relicts of a fading past.

In the following remarks I aim to show how *Shadow Casters* uses its *Ex-Posing* performance as an aesthetical tool to create new forms of collective remembrance.<sup>2</sup> Instead of standing “before the law”, watching and observing it, discussing and criticizing it from a safe distance, *Ex-Posing* enters the open doorway to be *within* the practice of law-making itself. *Ex-Posing* suggests that we should ask ourselves if we can talk about the law without even entering it in the first place. And it reveals that within the law the encountering has just begun – and will probably never end. *Ex-Posing* is not simply an art performance. I will underline the view that *Ex-Posing* should be read as a radical critique and rejection of other forms of historical re-enactment and remembrance as well as their concepts of normativity. The latter implies the assumption that historical events can be approached like some sort of explicit rules and valid norms: if you follow them by meeting their demands, you will comprehend their meaning. But what does it mean if our claim to authenticity leads to an excess of even stricter requirements and unrealizable wishes? What is the function of collective remembrance if old ideologies and utopias have been destroyed and there is nothing left but convulsive adherence to old ruins? And what is the purpose of historical re-enactments that transform blurred and fuzzy memories into fixed objects, allegedly recognizable by its authentic and accordingly adjusted colour, material, location, language, movements and emotions? The *Ex-Posing* performance can be considered as an alternative form of historical remembrance that emphasizes the *en*-actement of memories by ignoring the normative validity of mere *re*-enactment. It is based on a notion of normativity that radically rejects any option of representational re-enactment of the past. Enacting the past, here, entails the open space for pulling out new cards in any moment to reflect the enactment as an operation of the present.

The text is divided into four further parts. First, I hint at the strive for authenticity in recent forms of historical re-enactment. Second, I report on my own experience with

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<sup>2</sup> I would like to thank Eva Busch, Corinna Kühn, Carolin Matjeka and Nora Wiedenhöft for their intellectual complicity and for commenting on the text.

the *Ex-Posing Cologne* performance by the group *Shadow Casters*. Third, I reconstruct the theoretical background of *Shadow Casters* in order to point out its ideas of normativity, performativity and remembrance. Finally, I conclude the text by connecting the *Exposing* performance with a notion of non-representational enactment by drawing on Niklas Luhmann's theory of social systems.

## **The Strive for Authenticity**

During the past 30 years re-enactments of great historical battles have become increasingly popular around the world. You will find the Battle of Hastings, the Battle of Gettysburg or the Battle of Trafalgar (Gapps 2009). More recently, TV shows like *The Ship* (2002) or *1900 House* (1999) have become part of popular culture and living history. The focus relies on fights, adventures and forgotten lifestyles. Since the 1980s, American Civil War re-enactments have been the ground for debates about the authenticity of reconstructed and imitated historical events. Distinctions like "serious reenactor" vs. "relaxation reenactor", "authentic" vs. "farb" or "second person techniques" vs. "first person role-playing styles" were broadly discussed in the engaged scenes and communities (Gapps 2009: 397ff.). The latter distinction is concerned with the question of perspective: is the re-enactment about trying to be a 'real' character or about being a 'hypothetical' historical individual? In most examples, the lines are blurred and the criteria are unclear.

The term 'farb' refers to people who are accused of not achieving the status of authentic reenactors. It allegedly is an abbreviation for 'far be it for me to tell them what they are doing'. The exact etymology is not important here. I am interested in the strive for authenticity found in recent forms of historical re-enactment. It seems as if the criteria of authenticity is an essential part of what it means to become and *be* an individual participating in historical re-enactments.

The most radical version of reenactors call themselves 'hardcore'. Their identity is based on the authenticity of symbolic *and* material resources. They even pursue practices such as sleeping outside in deep winter, physical pain of all sorts, only using material available in a certain historical time and obeying to strict hierarchies. The keeping up of social norms and the use of original materials are the signs of 'authentic' re-enactments. The underlying assumption of possible 'authentic' conditions presents an ambivalent picture. On the one side, it appears very interesting to break down the dusty and limited forms of making history by mainly referring to written text, and by isolating symbols and materials as 'authentic' signs of a historical time and place. Lived history has the charm of multi-faceted immersion, of a sensual experience completely missed by non-performed written text. On the other side, the demand for 'authenticity' leaves one with many open questions. Stephen Gapps has pointed out that reenactors are "charmed not by the original, but by its authentic simulation". In his view, authenticity functions as a "a currency and competency standard within the reenactor's history work" (Gapps 2009: 398). Gapps refers to the complex process of negotiation in historical re-enactments as a form of remembrance between the "expansion of possibilities" on the side and its limits on the other. He claims that it is necessary to maintain



"thoughtful re-performances, rather than old minstrelsy" and to use re-enactments as "less tidy and ordered" forms of remembrance, as always "unfinished business" (Gapps 2009: 404-407). In this respect, he, for example, criticizes contemporary reenactors that leave the net of 'authentic' conditions as they "constantly photograph one another" (Gapps 2009: 402).

I strongly agree with Gapps in criticizing the almost fetishist attitude of 'hardcore' reenactors insisting on the mere material 'realness' of historical re-enactments. His point of emphasizing the ideological and political dimensions of re-enactments cannot be stressed enough. However, Gapps as well as many others leave us empty-handed. What does it mean if the strive for authenticity and the notion of representation find no source of verification? What if the contested bodies, materials and symbolic realm offer no criteria for uncontested judgements at all? What is the perspective stating that some forms of re-enactment are, still, "counterfactual" (Gapps 2009: 406)? What *is* the event actualized as the object of *re*-enactment? Gapps refers to the limits of authenticity as a problem of materials, of bodies, fabrics and natural surroundings that have changed throughout historical developments. But he only identifies the problem without coming up with a convincing, non-representational theoretical counter-proposal. If historical re-enactments are tied to the notion of representational practices and the criteria of authenticity, they miss the opportunity of overthinking the underlying theoretical approach.

In this way, historical re-enactments still work (more or less) like the mere realization and implementation of normative demands and historical facts provided by acknowledged historical research. The performative, productive and creative character of social practices is considered as the clear-cut mimesis of historically derived rules and norms, of the explicit content and symbols of historical contexts. But why is written text considered as less 'performative' than lived history re-enactments? What is the ontological difference between a written document and an original uniform, between a historical book and a historical re-enactment? Do these different forms of historical involvement lead to a greater or shorter distance towards 'meaningful' events in the past? In my view, there is no language game and no symbolic order, there is no material basis or 'real' practice bringing us 'closer' to the 'authenticity' of historical events. My convictions rely on the rejection of normativity as a notion dedicated to the 'best' representation of historical events possible. I understand authenticity as a situational and historically specific requirement linked to the notion of historical representation. However, both – the strive for authenticity as well as the notion of historical representation – don't have to be accepted as the only legitimate criteria of historical enactment. I think that we can stick to a different theoretical approach that does not overestimate the demands of material authenticity and normative compliance. *Shadow Casters'* performance *Ex-Posing* gives us some illustrative material to reflect on this approach.

The following remarks are inspired by Niklas Luhmann's view on history-making within social systems. I think that Luhmann's theory provides us with a wide range of theoretical ideas and notions to escape the mentioned tendencies and problems. Luhmann understands the historical past as well as the coming future as products of social acts operating within the present: "Futures and pasts can only be intended or



thematized, not experienced or acted in; in this regard they are entirely alike. The time span between past and future in which a change becomes irreversible is experienced as the present.” (Luhmann 1995: 78) This does not mean that past and future are simple illusions of the presence. It only means that past and future are based on the inevitability of present operations, on the present established by social acts, here and now.

This entails a critique of a specific current of phenomenological thinking. By using the term “phenomenology”, I refer to the transcendental phenomenological tradition of Edmund Husserl and his notion of intentionality. That does not mean that any phenomenologically inspired approach must be dismissed. Helmuth Plessner (Plessner 1975) and Hermann Schmitz (Schmitz 2011) have highly criticized Husserl’s transcendentalism by emphasizing the dependence of any cognitive act on the concrete bodily experience (“leibliche Erfahrung”). At the same time they have pointed out the useful aspects of phenomenological thinking. These currents known as “new phenomenology” (Schmitz) and “philosophical anthropology” (Plessner) are highly interesting for any critique of representationalist concepts of norms and normativity, and they do not conflict with my ‘non-phenomenological’ reading of Luhmann’s system theory at all. I do not understand Luhmann’s hint at the concept of intentionality as an approval of a phenomenological theoretical approach in the tradition of Husserl. Quite the contrary, it is highly disputed if Luhmann’s system theory can be considered as the continuation of a (transcendental) phenomenological tradition of social theory and philosophy, or if his notion of autopoietic systems opens up a different theoretical realm. I vote in favour of the latter – keeping in mind that Plessner and Schmitz should not be excluded from this theoretical decision. In my view, system theory considers intentions as non-referential, productive operations *within* the world, as world-making acts – not *towards* it, as if ‘observed’ from an external perspective. Let me quote from one of Luhmann lectures: “The observer does not exist somehow above reality, he does not fly above things, and he does not watch from above what is going on. He is [...] no subject outside the world of objects, but he is within, ‘mittenmang’, if you want to say it the Northern German way.”<sup>3</sup> (Luhmann 2009: 142; my translation) And this is why system theory is helpful to overcome the representationalist view authenticity: The observer of the past is not a past observer. The observer of the past is a present observer understanding her/his observations as reconstructions of historic events by en-acting them in the operating present. Thus, I consider historical enactments as observations from *within*, as productive contributions to the constant and continual emergence of reality and remembrance. Historical enactments form an interesting part of a present that tries to deal with the growing intensity of its own memories of the past. It would completely turn things upside down if this theoretical approach was confused with the norm of authentically re-enacting the past, which has no ahistorical foundation, but is situated within the context of a specific social situation. And any social situation has to be produced in creative acts of an ever-emerging and changing present.

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<sup>3</sup> This is the German original: „Der Beobachter kommt nicht irgendwie oberhalb der Realität vor, er fliegt nicht über den Dingen und betrachtet nicht von oben, was vor sich geht. Er ist auch [...] kein Subjekt außerhalb der Welt der Objekte, sondern er ist mittendrin, ‚mittenmang‘ könnte man sagen, wenn man sich im norddeutschen Raum zurechtfindet.“

## ***Ex-Posing Cologne***

The Croatian performance group *Shadow Casters* was part of *Pluriversale III*, the third edition of a festival organized by the *Akademie der Künste der Welt* in Cologne, Germany. They were invited to present their interactive performance *Ex-Posing* that, one year afterwards, celebrates its 10<sup>th</sup> birthday in 2016. In its official announcement, the performance *Ex-Posing Cologne* is presented with the following words: "*Ex-posing Cologne* invites the audience to a multilingual, intermedia and sensorial one-to-one voyage into the city, its urban legends and its designs of time and space. Performers lead participants on narrated walks, turning them into characters from interlacing story lines about the city and its history. Genders, times and places shift, and fictional relationships arise between familiar facts. *Ex-position* thus shows its readers/viewers/players the conflicting, intricate and manifold nature of human activities and products in the urban realm to answer the question of how a city settles in our inner world. [sic]" (ADKW 2015)

One of the key concepts of *Shadow Casters* is the non-hierarchical creation of open situations expanding the space of perspectives and actions. The *Shadow Casters* group uses one very simple and highly effective tool to give more space to the discovering of non-visible conditions of social situations that I already mentioned: all participants are blindfolded. Therefore, they are involved in very intense, rich and fragile interactions, knotted with practices of touching, feeling, hearing and speaking. Of course, the very intimate situation of one-to-one, sometimes one-to-two-performances reduces the common experience and joint efforts to a very small audience. The scope of the performances is limited to one performer, one or two participants and only a few rather uninvolved spectators, outsiders or nearby pedestrians. Nevertheless, *Ex-Posing* touches one crucial point of any form of (re)enactment and remembrance: the illusion of reliable representation guaranteed by *visible* indications. By removing the ability to *see*, *watch* and *observe* the enacted scene, participants are thrown back on themselves, forced to re-evaluate their perceptions and affects by putting trust into their non-visible environment. The interaction between performer and participant now relies on the intensification of bodily encounters. I have participated in three performances of *Ex-Posing Cologne*. Let me briefly tell you what I experienced.

### *Prologue*

Some core members of the *Shadow Casters* group travelled to Cologne twice before to find local performers and to look for suitable venues and locations. The actual performance took place in Cologne from the 25<sup>th</sup> to the 28<sup>th</sup> of September 2015. A few of the ten participating performers were already loosely associated with the *Shadow Casters* group, but most of them were selected, and introduced to the approach and idea of *Ex-Posing* during two workshops. The performers unknown to the group told me later that anyone felt and acted as if being a participant as well. First, they thought that *Ex-Posing* focuses on the development of narrative walks – comparable with audio or video walks such as the ones by Janet Cardiff and George

Bures Miller<sup>4</sup> – closely linked to urban space and the history of the city of Cologne. As the members of the *Shadow Casters* group kept on reminding the performers to integrate personal experiences in their walks, the focus was shifted to the question of being involved in an interaction with a blindfolded person. The psychoanalytical trick of becoming aware of one's own contribution to very intimate interactions also emphasizes the awareness of the participant's vulnerability. And by doing so, it opens up a different, physically very sensitive space for telling stories and remembering past events.

The infrastructure of *Ex-Posing Cologne* consists of different locations. There is a register desk where you sign up for the performance. Assistants take you to a van nearby where you are welcomed by Boris Bakal, one of the founders and leading figures of *Shadow Casters*. Bakal claims that he is bridging the time gap until one of the performers is free to take you on his/her journey. His assistant would then inform him about the free slot and he would – together with the participant – decide about a good match. From outside, it seems that there is no way that the interested participants can contribute anything substantial to that procedure as they only know of numbers from one to ten belonging to ten different performances. When you are chosen for one performance, you will be taken to inside a building into a room. Each performer has one room to start the performance. After you finish the performance which can last between 15 and 90 minutes you are asked to go to the "control room". Signs show you the way. There is fresh coffee, juice and snacks. This room is the heart of the performance as it shows the open infrastructure of *Ex-Posing Cologne*. Performers, assistants, participants and all others are composed to one continual coming and going that is not organised by any given framework. Even if anyone will welcome you very warmly, there is no one given you orders about what to do or ask you questions about your experiences during the performance. You can also sit down in front of little monitors showing live pictures from the rooms where the performances start in the first place. The tube monitors are small, square and only show black and white pictures. If you put on headphones, you can listen to the dialogues in the rooms. Some performances are accompanied by an assistant recording these dialogues as well. During the performances, you won't be able to tell if you are recorded. Let's start with the performances.

### *The Fragility of Warmth*

I enter a large room looking like an average office for academics. I know that it is one. There are four desks and chairs, a lot of books and folders as well as computers, printers, piles of books and documents. She welcomes me with a friendly smile, and asks me to sit down. After a few seconds, she has involved me in a nice conversation about me being her first participant at *Ex-Posing Cologne* and about the further steps that we are going to take "together". Then she covers my eyes with dark plastic glasses. I can't see her anymore, but I immediately feel her hand on my shoulder. She won't take her hands off my body until the end of the performance about 15 minutes later. She leads me out of the room, down the

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<sup>4</sup> I thank Eva Busch for drawing my attention to the similarities between the video walks by Cardiff and Miller and the narrative walks developed by Shadow Casters.

corridor, and opens a door. She has put her arm around my hip, holding me closely to her body. The room that we are entering produces the sound of a small, tiled and clinical bathroom. She keeps on talking about our friendship in a more hectic and agitated way, mixing up past and future events that I have never heard of. I cannot listen very carefully to her stories anyway, as she abruptly begins to touch my upper body, my stomach, and my legs. She wanders around the little space that we share, opening and closing the water tap, flushing the toilet. She says that I am her friend and that I have followed her wherever she went. She takes me by the hand, she opens the door and we rush out of the room, along the corridor, downstairs and leave the building. I have lost any orientation with regard to the narrative and my role in it. Everything that I say and do is now based on the trust I put into the emergent situations and their provided fields of interactions between her and me. She helps me to climb a little wall and makes me lean over it. She screams, and I don't. She spills water over my hands, excuses herself and does it again. She overwhelms me by reminding me of the things that we share, and at the same time, by pulling me closer to her body or pushing me away. I feel comfortable, and I do have a lot of trust into her, but I constantly have to decide between being a mere spectator or active participant without even knowing what that means in the situations I am confronted with. There is loud noise of cars nearby, but we are now distancing ourselves from it. She has taking my hand, but she doesn't squeeze it as she has done it before. I hear birds singing, and I can feel the wind. After a few minutes I realize that she has stopped talking. We stand still and she asks me to take off my glasses. I find myself inside the *Melaten Cemetery* nearby. She still holds my hand asks me if I like it here. There is contentment in her eyes. She accompanies me on the way back to the control room.

### *Fragments of Autonomy*

The room is small and bright. There is some furniture for children in one corner. The performer asks me to sit down on one of the small chairs and to put on the blindfold. "Have you been a good kid?", she whispers in my ears, and adds: "I knew it." It is the first day of my first school holidays, and the orange that I am holding in my hand is mouldy. Again, my mother forgot to remove it from my bag. The performer wants me to draw a picture of my family: mother, father, sisters, and brothers. After that she cautiously leads me to the door and we leave the room. She does not touch me to get in contact with me. She touches me to carefully guide me somewhere else. There are musicians playing music. We visit Mareike, a friend, and I am listening to an IKEA phone line. There are voices asking me questions or telling me where to go. It now is the end of my first day at school and I am waving at other children to say goodbye. Some of them wave back. We go outside and sit down on a little wall in order to wait for someone to pick me up. As we settle down, I listen to the story of Grigory Potemkin, a Russian military leader of the 18<sup>th</sup> century and later lover of Catherine the Great. In order to keep up the appearance of prospering villages and landscapes, he apparently built fake façades and instructed his men to dress as peasants and to act like hard-working people. If the so-called "Potemkin villages" really existed or if they are a historic invention, is not clear. We are interrupted and I hear her leaving. After a longer moment of waiting, one unspecified family member calls my name from afar and enthusiastically welcomes

me: "It's so nice to see you!" She asks me about my day. I don't quite know how to answer the question and where to start, but she doesn't give me the feeling that I have to reply. We are running down the street and I hear a trumpet playing. We arrive at a tree. She says that her father once gave her some branches for her birthday. Now she passes me some herself. After a little pause she says: "You can build whatever you want." I stand next to the tree and she has left. She won't come back, and I can decide for myself when the performance is over. I enjoy the tension for a little while.

### *The Push of Binary Coding*

An assistant guides me to a little room with a photocopier in it. Shortly after I enter the room, a page with instructions is printed, requiring me to put on the blindfold as well as some hygienic gloves lying on the heating, and then, carefully stepping out of the door. As I leave the room, the performer immediately takes my hands and makes me touch his hands, his shoulders and his face. He holds my right hand and says: "This is my hand, do you feel the hand? It is also your hand, do you feel it? Hands, entangled body parts." The performer has a full beard and a pleasant voice. I won't say one word during the performance. He asks me to touch the surroundings: walls, doors, objects. Together, we crawl along the floor and he tells me a story of growing up as a little child. We stand up and he shows me some pictures on the wall. Of course, I can't see them, but I can touch the frames. He explains that the neighbours' kids win trophies and prizes. They are talented and ambitious. He mentions the colours blue and violet, he mentions boys and girls, but it never sounds right – and it doesn't seem important. He tells me about the innocence of childhood, and out of nowhere, mentions the word "desire" and makes me hold a phallus-like object in my hand. There has been some order, and it has been shattered now. We hastily leave the secure space of the narrow corridor and I am dragged into a sharply reverberating hallway. He pushes me in the corner and yells at me: "You should feel ashamed!" His shouting fills the air with the voices of worrying family members, of disappointed friends, of rigid institutions and of brutal normative forces. It is an intense situation, and I do not get out of it until we leave the building a few minutes later. We are standing on the street outside. He says that I should count to sixty, then take off the blindfold, go upstairs and ask for the control room. I do exactly that. I don't know how he looks like.

### *Epilogue*

I got to know three out of ten performances, their stories, their open questions, their chasms. They lasted between 15 and 30 minutes each. Each one of them is unique in its content, length, intensity, so I am interested I getting to know another one. I queue up with a few other people who are also waiting for their personal performer. I am – or I think I am – quite familiar with the up-coming procedure. There are already a few people waiting next to the van, listening to one of Boris Bakal's endless monologues. I know that this can take a while. Of course, the participants already find themselves directly within the performance by listening to Boris Bakal inside or outside the van. Bakal talks about Berlin in the 1990s, about Bach, about one of his best friends' former girlfriend, about colonialism in Cologne

and about car rides in urban spaces. He offers cigarettes and he takes up some topics raised by listening participants. He asks them to choose a performance by picking a number, and he questions and comments the choice, or he does not react to it at all. The interaction has begun.

I am very keen on participating a fourth time as I am very excited and enthusiastic about my experiences so far. But Bakal is ignoring me, and he has already sent away two or three people who arrived 'later' than me. He does not talk to me, not look at me, as if I didn't stand within a circle of the waiting participants, only one meter away from him. The practice of sending away people who just arrived at the van is one of his breaching techniques to subtly undermine the situational familiarity. This is about a 'good match', and if a free performer seems to be the right one, there is no point in respecting any (non-existing) priority list. There are no rules to be followed. I know that this is the point. But I act as if it isn't. I am clearly expecting to simply abide by the implicit rules of Bakal's selection process in order to get my fourth performance. I have built up a system of reliable rules and norms.

After a few minutes of seemingly harmless conversation I walk away without saying goodbye. I feel rejected. And I am quite excited about having learned something more about *Ex-Posing*. I know I won't do another performance, even if there are six totally different other performances left, even if there is enough time, and even if, after a while, I maybe could have been the last one waiting. "Some people get addicted", Bakal said to one other participant. It doesn't matter who he was addressing in that very moment. It was me who listened and who acted as if he was addressed. I became the man 'before the law', waiting for others to fulfil their duties, waiting for them to meet my valid demands. I had (re)entered the realm of rules and order, of hierarchies, roles and functions that *Ex-Posing* seeks to overcome and destroy at any moment of its enactment.

## **Touch and the Pitfalls of Visible Evidence**

In one interview, Boris Bakal talks about the "usual safety net" as one of the main targets of *Shadow Casters'* performances: „Ninety nine percent of artists operate with that net. They might do risky stuff, let themselves go, but they constantly keep the safety net which is called *art*. In *Shadow Casters*, at least sixty percent of things that happen have no safety net which would indicate that this is about art. [sic]" (Bakal and Bauer 2004/2005: 81) I suggest that the idea and meaning of the "safety net" should not be reduced to the realm of art. It might be very true that *Shadow Casters* and its performance *Ex-Posing* addresses the tendency of performance artists, or artists in general, to build up an alternative sphere that is just as interwoven with rituals, norms, rules and hierarchies. Galleries and vernissages, theatre plays, concert halls and art performances are highly coded social situations. On the other hand, the *Shadow Casters* group has never limited its actions to mere art performances. The safety net is a very mobile practice and symbol of illusionary self-sufficiency and multiple incapacitation. The safety net primarily summarizes the multiple forms of normativity, from art, politics, legal issues and history itself, to very personal and intimate forms of social relations. It transports the dangerous

assumption that it is possible to separate the question of legitimacy and validity from the realm of bodily and spatial enactment. This is exactly where *Shadow Casters* comes into play to cause some irritation. The safety net as well as its irritation and revocation are not based on the reliable symbolism of language games and semantic interactions. They are rooted in the complex and chaotic rhizome of mutual touch and corporeal co-presence. They – literally, not metaphorically – belong to a sphere of reciprocal palpation. I will now hint at some background ideas used by *Shadow Casters* and other ideas from social theory that deal with the visibility of social actions.

*Ex-Posing* and other performances clearly have very similar precursors. The *Situationist Internationals* already brought forward a rich catalogue of ideas used by *Shadow Casters* (Wark 2011). Techniques like *détournement*, psychogeographical acting and bodily experiences in the urban space are part of the *Shadow Casters* members' repertoire, and they have been part of their projects since some of them started own projects in the 1980s. Moreover, Boris Bakal talks about inspirations from the dialogical techniques of *maieutics*, Socratic dialogues, the idea of oneness in C. G. Jung's psychology, Chaos Theory, Thermodynamics and Ilya Prigogine (Bakal and Bauer 2004/2005: 91). Bakal draws a line between all those very different approaches by emphasizing the continuing exercise of "recognizing oneself in the other and in otherness and in establishing a broader form of self-realisation through permanent inner dialogue" (Bakal and Bauer 2004/2005: 91). This rejects any phenomenological and cultural solution to the question of intersubjective understanding as well as any analogy-based (contested since Max Scheler), consensus-oriented view on human interaction. It rather considers interactions as productive and creative encounters without *telos*. Bakal also refers to Georg Simmel, Erving Goffman or Marianella Sclavi as sociological authors that had an impact on *Shadow Casters* (Bakal and Bauer 2004/2005: 90). *Shadow Casters* and *Ex-Posing* also have several clear similarities with the "breaching experiments" developed by ethnomethodologists and conversation analysts, prominently by Harold Garfinkel, to uncover, to *expose*, the "background expectancies" of social actions and situations (Garfinkel 1967).

One of Goffman's key interests were deviant social behaviours and isolated social situations like mental hospitals or prisons.<sup>5</sup> He calls the latter "total institutions". The focus of Goffman's approach is the situational actualization of social practices. For example, Goffman was wondering why people in mental hospitals were partly acting in an exaggerating way, as if "the true self is not to be judged by its current setting and has not been subjugated or contaminated by it" (Goffman 1966: 225). Goffman's examples sound like slapstick-scenes from Charlie Chaplin short films: "[...] I have observed an otherwise well-demeaned (albeit mute) youth walking down the ward halls with a reasonably thoughtful look on his face and two pipes in his mouth; another conducted himself with similar nicety while chewing toothpaste;

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<sup>5</sup> The connection to Erving Goffman also brings up another interesting point. There are only a few pictures of Goffman known to the public today and, as widely told, Goffman prohibited any tape-recording during his lectures and never gave any radio or TV interviews. At the same time he famously used the lectures to put his students into the very same situations that his interactionist approach pursues. Irritation, bewilderment and alienation nourished the performative framework used by Goffman to get a deeper understanding of social interactions. The lectures already functioned as part of the methods developed and applied by Goffman.

another, with soap on his shaved head; another, while smilingly walking backwards with a neatly folded towel on her head; another, with a ball of paper screwed into his right eye as a monocle; another, with a foot-long strip of woven newspaper dangling from his pocket." (Goffman 1966: 224) The visibility of actions are used here, as Goffman suggests, as forms of "situational self-sabotage" and, more important, as forms of self-defence protecting the inner core endangered self-awareness and self-respect (Goffman 1966: 225).

The theoretically overestimated role of the visibility of actions – and I do not want to claim that Goffman does overemphasize visibility; I rather suggest that he hints at the value of visibility in face-to-face-interactions – contains one obvious risk. If social actions are detached from their situational surroundings, and then, attributed to the intentions, aims and will of the individual, the acting person is overloaded with speculations about the 'inner', 'psychological', almost 'essential' and 'inevitable' state of its personality. The visible action becomes the hastily ascribed representation of somehow "accountable" (Garfinkel) and 'readable' conditions. I understand Goffman's refusal to record his appearance and voice as the strong reminder not to draw any strong conclusions from the outer appearance of social actions. It is a hint at the very fundamental assumption that no action can be understood by artificially disconnecting it from its situational features and social context.

The performance situation of *Ex-Posing* is not a symmetrical interaction. The performer can, of course, see, watch and observe the participant, his/her reactions and contributions. The hierarchy is part of the performance, but still, the asymmetry functions as one its driving forces in the first place. The question should rather be turned around: considering the complex structure of situational settings and embedded actions, is there something like a non-hierarchical situation anyway? What is the use of the distinction between hierarchical and non-hierarchical situations? The touch of social interactions does not allow any symmetry and predefined order. It only allows absorption and immersion.

Each of three performances I did made me touch parts of my or the performer's body (face, hands, arms, legs), gropingly discover my material environment (walls, ceilings, different kind of objects) as well as put me into physical positions in sometimes unusual locations (lying on the street, crawling on the floor, standing on a table, leaning over the edge of a wall) and encourage me subtly to contribute further actions to the situation (touching, speaking, screaming). As the practice of touching was always part of a social situation, it was never reduced to the mere act of recognizing an object of part of the body. Each act was accompanied by the openness of interpretation and continuation, by an ever-emerging "surplus of references to other possibilities of experience and action" (Luhmann 1995: 60). Bodies and materials served as the constant companions of social encounters. They were the ever-present reminder that every social act, situation and practice is ultimately based on the fragile sphere of touch.

The possible reduction of face-to-face-interactions to social situations of mutually *visible* individuals does not only limit the scope of theoretical approaches, it also implies the tendency to introduce some crude standards of distance and closeness.



Let me give you an example. Fritz Heider, a social psychologist known for his theory of social attribution, makes the distinction between “direct and mediated effects”. He explains: “The sense of touch is affected directly by the unitary thing whose parts are dependent on each other. The eye is affected by an atomistic manifold, a spurious unit, which is coordinated to the thing, but which itself can produce no effects in the realm of things. [...] The epistemological significance of the sense of touch comes from the fact that the thing units affect it directly and not through a mediation. Therefore, we always *believe* that we are closest to the thing when we touch it.”<sup>6</sup> (Heider 1926: 138; emphasis added) To make it clear: I think it is wrong to make this kind of ontological distinction between “direct” and “mediated” effects with regard to the difference between seeing and touching. The difference between both is based on the believed assumption of having some corporeal distance towards observable objects that do not come in touch with my body. It is based on the idea that social practices like watching, observing, seeing, and even reading, writing or speaking, imply an ontological gap between the observable object and the observing subject.

There is a simple lesson to be learned from *Shadow Casters*: interactions do neither imply any symmetry or nonviolent space, nor do they know any form of priority concerning the relation between the human senses and their closeness or distance towards the participating bodies. But a lot of effort has to be invested in order to grasp this point. First, you have to be blindfolded to understand that the visibility of things wrongly suggests that there is some form of contactless and touchless interaction. Here, the journey of encountering and interacting starts. But if one is looking for evidence to support the distinction between direct and mediated forms of perception and interaction, any criteria and standard will be lost in the bottomless void of an infinite regress, and one will fall back into the old pattern of obvious and visible evidence.

## **Conclusion: Enacting the Net**

Stephen Gapps describes re-enactments as “a knife-edge between failure and success” as they balance ethical, political and historical dimensions of bodily experiences (Gapps 2009: 404). Iain McCalman and Paul A. Pickering speak about the “slipping” between two forms of the “real”: “a desire to learn from the literal recreation of the past and, at the same time, a yearning to experience history somatically and emotionally – to know what it felt like” (McCalman and Pickering 2010: 6). Some look for the “limits of authenticity” (Gapps 2009: 405ff.) others try to “narrow the distance between then and now” (McCalman and Pickering 2010: 7). Vanessa Agnew stresses that re-enactment generally “needs to uphold a vivid distinction between past and present” (Agnew 2007: 306). She states: “If re-enactment is to gain legitimacy as a historical genre, it will thus be necessary to do for re-enactment what has been done for other forms of history writing. This will

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<sup>6</sup> The original paper was published in German in 1926. The cited translation was prepared and published by Fritz Heider and his wife Grace a few years later.

involve disambiguating experience and understanding and determining the extent to which affect can indeed be considered evidentiary" (Agnew 2007: 309).

All these authors raise interesting conflicts and important problems, and I think that they are addressing some crucial points. Nevertheless, I don't think that any emphasis on the authenticity, evidence and closeness of symbolic or material conditions guarantees the adequacy of historical re-enactments. Maybe all of them pursue the wrong tasks, ask the wrong questions and – if somehow explicit – carry along the wrong underlying concepts and theoretical notions. In my view, there is no such thing as an authentic, fact-based, close and real, adequate form of historical re-enactment. There is a risk in those kind of re-enactment practices that can be linked to William Dray's critique of Collington's concept of history. Dray accuses Collington of being "too intellectualistic, too rationalistic, too action-oriented, too mentalistic, and too individualistic" in his theoretical notions on re-enactment (Dray 1995: 108). The same can be said about recent forms of historical re-enactment. They are too intellectualistic as they put too much trust into the historical narratives of established historical research as well as their transformation into normatively ordered social practices. They are too rationalistic and too mentalistic as they neglect the chaos of corporeal interaction and touch in the process of practical realization. They are too action-oriented as they invest enormous effort and resources on the reproduction of 'original' settings whereas they underestimate the deformations of these processes as well as the (literally) invisible creation and production of historical memories. Finally, they are obviously too individualistic as they put a lot of emphasis on the experience of individual roles and positions in order to guarantee the adventurous character of historical immersion, but they overlook the impossibility of any 'authentic' individual or collective empathy towards past events. The persistent and strong notions of evidence, authenticity and visibility tend to do one thing: they forget about the involvement of unique human bodies.

I neither dispute, nor do I oppose the aim of reconstructing the political, ethical and contemporary context of historical re-enactments. In my view, many scholars rightly keep up the view that any form of historical enactment is characterized by its own situational and historical embeddedness. It is widely assumed, for example, that the *Eglinton Tournament of 1839* emerged in the context of the rising Romanticism since the 18<sup>th</sup> century. I find it very important to stress the ideological, political and ethical context of any social act. Nevertheless, following Luhmann's theory of social systems, criteria and vanishing points such as 'closeness', 'authenticity' and 'evidence' have to be considered as symptoms of a certain type of enactment, not as indispensable standards of 'good' historical re-enactment. As enacted history does not come closer to any historical 'truth' than other social acts, the crucial question concerns the special type of enactment created by the self-acclaimed forms of historical re-enactment. Reflections about the 'authentic', 'historically close' or 'factual' character of historical re-enactments tell us something about the ideological questions and conflicts that the underlying social acts are concerned with. In other words, I prefer to speak of historical *enactments* rather than historical re-enactments in order to stress the creative and productive character of lived history as a form of designing and shaping the present. And I consider the strive for authenticity and closeness as the symptomatic product of a social and historical

situation that is distinguished by an unprecedented need for cultural belonging. It is neither clear if the latter ever existed nor is it helpful to consider it as a useful aim. That is why I consider *Ex-Posing* as a precious contribution to the reflexive involvement of bodily experiences and mutual touch into practices of historical remembrance.

With regard to historical re-enactments as forms of understanding, creating and shaping the *present* in forms of social *enactment*, I suggest that there are two things left to do. On the one side, one can reconstruct the (self-)descriptions designed by social systems concerned with different forms of historical enactment. This is mainly a task of semantic analysis. On the other side, one can engage with the practices, materiality, space and affects embedded in those enactments. This implies the assumption that every enactment is unique in its material form, and that any engagement requires forms of participation that do not simply come 'closer' to the past, but produce a certain version of present reality. There is neither a clear nor a blurred line between history-writing and mere performative acts of re-enactment. There is only a continuum of operations creatively producing past, present and future, permanently touching memories and utopias. In this sense, irritation as a tool or concept used by Goffman, Garfinkel and also Luhmann is not a refusal of dealing with the operating modes of reality, including the distinction between past, present and future. It rather stands for the scepticism towards any representational notion of normativity which oddly claims that history can be authentically written or re-enacted. *Ex-Posing* radically embraces this attitude by removing its participants from the safety net of visible action, and by reminding them of the always present world of mutual touch and corporeal interaction.

# The Deepest Sense: Revitalizing Links Between Law and Touch

Michelle LeBaron

**Abstract:** This article explores relations between law and touch from an interdisciplinary perspective, outlining how and why touch and physical senses have been overlooked in legal worlds with negative results. A series of vignettes illustrate the importance of incorporating touch-sensitive approaches into legal pedagogy and dispute resolution. Were touch to be seen as a resource in the relational world of the law, lawyer effectiveness and party procedural satisfaction would increase, as would student engagement. Finally, the importance of aesthetic dimensions of physical perception and touch to dispute engagement are examined, along with ways to cultivate proprioception and develop useful proxy touch repertoires.

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Touch. Our most vital sense, the one that remains as others fade. We hold the hand of our dying kindred as she passes beyond the capacity to speak, see us or hear our voice. At the other end of existence, newborns' reflexive grasping attaches them firmly to those who provide sustenance. We reach for each other in times of trouble, relying on touch to literally save us and psychologically enfold us. Even when a loved one is far away, we speak of reaching out to them, relying on touch across distance to lessen our feeling of absence. Yet, touch is our least understood sense even as it is our most compelling one.

Called the sense that has no songs by Adam Gopnik, there is always a two-way interchange between sensation and reception. He writes: "Every other sense has an art to go with it: the eyes have art, the ears have music, even the nose and the tongue have perfume and gastronomy. But we don't train our hands to touch as we train our eyes to look or our ears to listen."<sup>1</sup> Nor do we recognize that touch is implicated in all of our other senses. All human senses involve both sensation and reception, and the boundaries between what we see and how we are touched by what we see are less stark than we generally perceive.

Similarly, we fail to admit the haptic sense—touch—in positive ways into law, legal processes or legal education. Because "law mobilizes touch within constructions of ideas of propriety", it is mainly concerned with negative, socially proscribed impressions.<sup>2</sup> These negative valences extend beyond legal provisions themselves that have long been so touch-averse that they imagine touch as a cause of harm

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<sup>1</sup> Gopnik, Adam. 'Feel Me. What the New Science of Touch Says about Ourselves', *New Yorker*, May 16, 2016

<sup>2</sup> Grabham, Emily. 'Shaking Mr. Jones: Law and Touch', *5 International Journal of Law in Context* 4, 343-353, December 2009, at 352.

when there was none.<sup>3</sup> Furthermore, the type of touch that is legally allowed varies, not necessarily with the nature of the touch itself, but according to social acceptability and context.<sup>4</sup> Because of this, law has been inconsistent and changeable in relation to touch, shaping continuing contradictory and estranged relations between law and touch.

In this article, I examine relations between law and touch from an interdisciplinary perspective, outlining how and why touch and related physical senses have been overlooked in legal worlds to their impoverishment. My central thesis is simple: if the resources of touch were integrated into legal pedagogy and practice, and into dispute resolution processes, lawyer effectiveness and procedural satisfaction of parties would increase. To buttress this thesis, I use three vignettes written in an ethnographic style to explore the importance of aesthetic dimensions of physical perception and touch to conflict engagement, relational repair for conflict parties and meaningful learning for law students. Composites of actual experiences, these vignettes illustrate the importance of invigorating law and legal processes with the vitality of touch, fostering mutual engagement that literally touches and changes us.

Following a discussion of the vignettes, I explore how touch might be helpfully integrated into legal education and practice through cultivating proprioception and developing proxy touch repertoires and processes. I also present material on how new technological developments could lead to further touch estrangement in law if care is not taken. I begin with examining some of the factors that contributed to law and lawyers arriving at the deeply touch-averse places they now inhabit.

## **Touch aversion**

As has been well-documented, the law does not sufficiently address the sense of touch. When it does take account of senses, it is mostly in the realm of visual phenomena.<sup>5</sup> Lionel Bently points out that law tends to be occupied more with ephemeral processes of reasoning than with ways that law itself is a frame, always refracting the environment and shaping the experiences of those within its gaze.<sup>6</sup>

Western legal traditions tend to render the sensate irrelevant and felt experience unhelpful. Yet, without bodies, there is no law. Law has consistently treated bodies as severable from its main business, body parts as quantifiable and sensate vocabulary as the realm of poets, and in this process has ultimately failed to apply an understanding of touch and the body to the grand projects of legal structures and functions. Divorcing aesthetic and embodied phenomena from the law is both an impoverished notion and practically impossible.

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<sup>3</sup> Noonan, Sheila. 'Of Death, Desire and Knowledge: Law and Social Control of Witches in Renaissance Europe', in Gayle M. McDonald (ed.) *Social Context and Social Location in the Sociology of Law*. Peterborough: Broadview Press, 91-129.

<sup>4</sup> Bibbings, Lois, 'Touch: Sociocultural Attitudes and Legal Responses to Body Alteration', in *Law and the Senses: Sensational Jurisprudence*, Lionel Bently and Leo Flynn, Chicago: Pluto Press, 1996.

<sup>5</sup> Bently, Lionel, 'Introduction', in *Law and the Senses: Sensational Jurisprudence*, Lionel Bently and Leo Flynn, Chicago: Pluto Press, 1996, at 2-3.

<sup>6</sup> *Ibid.*

Bently fingers dualistic thinking as the culprit in law's preoccupation with rationality and its reluctance to embrace sensory forms of knowing. He continues: "This acceptance of Cartesian dualism also suggests why law has rarely questioned its own senses, i.e. its own sources of knowledge; namely, because law associates itself purely with reason...However, by failing to question the limitations on the extent to which law really is 'cognitively open', legal theory produces a partial and distorted image of legal operations."<sup>7</sup>

Law in western societies remains tainted with the demonization of the body, a still-surviving relic of patriarchal notions of purity that frame bodies – especially female bodies – as profane. In Judaism and Christianity, sex and various kinds of touch outside of marriage have long been portrayed as unholy and unclean.<sup>8</sup> Buddhism similarly associates the advent of human sexuality with 'the fall', and other world religions have their own parallels that relegate the body and its haptic capacities to the 'lower' realms of human frailty rather than seeing bodies and sensations as central to a robust theology that ultimately contributes to self knowledge and understandings of the sacred.<sup>9</sup>

Tension around touch has increased in recent times, as sensitivity to unwanted touch has grown. While this sensitivity is both necessary and important, it also has negative sequelae. Field writes about how adult care givers and even parents hesitate to touch children lest their touch be construed as improper. Though touch has been shown to be beneficial to patients in mental institutions, many have a no-touch policy. Linden expands on this phenomenon, lamenting how "in our zeal to protect kids from sexual predators, we have promoted no-touch policies for teachers, coaches and other supervisory adults that, while well meaning, have the inadvertent effect of adding to the touch deprivation of our children. As these kids have grown up in a touch-phobic environment and propagated these fears to their own children, our society as a whole has become further impoverished."<sup>10</sup>

Touch – a primary relational gesture – thus remains 'charged'; it is therefore unavailable to affirm, reassure, acknowledge, comfort and assist with releasing anxiety or tension. Given that research also shows that touch deprivation correlates with sleep disturbance, physical violence, suppressed immune responses, and cardiovascular disease, the centrality of touch to human thriving becomes even more obvious.<sup>11</sup>

Yet despite what is known about the importance of positive touch, interfacing with law is frequently an alienating experience for a claimant or respondent, one that 'touches' people in unpleasant and even violative ways. Injustices and conflicts become legal claims when informal avenues to justice are ineffective. Aggrieved parties seek remedies or matters take on a symbolic charge that attracts the interest

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<sup>7</sup> *Ibid.*, at 12.

<sup>8</sup> Neyrey, Jerome H., 'Clean/Unclean, Pure/Polluted, and Holy/Profane: The Idea and System of Purity', *The Social Sciences and New Testament Interpretation*, 80-104, 1996.

<sup>9</sup> Paul, Diana Y. and Frances Wilson. *Women and Buddhism: Images of the Feminine in the Mahāyāna Tradition*. Oakland: University of California Press, 1985.

<sup>10</sup> Linden, David, *Touch: The Science of Head, Heart and Mind*, New York: Viking Press, 2015.

<sup>11</sup> Field, Tiffany, *Touch*, Cambridge, Massachusetts: The MIT Press, 2014.

of the state or powerful groups within it. In the course of the transition from interpersonal interaction to legal issue, successive abstractions frequently distort the very interests and needs of those clients most in need of justice, taking away their sense of being 'in touch' with their bodies, issues, allies and even their adversaries. This is a particular problem in family and commercial cases where ongoing contact survives litigation, thus requiring being 'in touch' in a continuing way after the alienating experience of legal wrangling.

Why does law have this alienating effect, and must it be so? As part of a political imaginary with attendant iconography, law translates aesthetic notions like the social body into discourses of fictive persons subject to legal mechanisms that are always socially situated and unevenly applied. Lawyers stand at the intersection between legal structures and provisions, ushering clients into worlds in which their concerns are reframed as more abstract and less personal than the clients' actual experiences. In this process, their issues are often stripped of personality, particularity (outside technical legal understandings of particulars), emotions and aesthetics. Clients literally lose touch with the desires that first brought them to seek legal outcomes, and with the contexts that imbued their quests with meaning. Not infrequently, the denouement of legal odysseys land them in terrain that remains disconnected and out of touch with meaningful outcomes and related procedural satisfaction.

Despite the possible benefits of a sensory-rich legal imaginarium, connections between law and touch remain largely unplumbed. In one of the few articles to link touch and law, Emily Grabham examines what "touch does to legal languages, specifically what touch does to the way these knowledges produce and imagine 'improper' corporeal encounters."<sup>12</sup> She argues that the sensorium has different effects at different times, always interacting within a specific context. Grabham also points out that the most obvious focus of law in relation to touch is to regulate offensive forms of it as "touch is one of the main routes through which propriety is organized, and mobilized, in law."<sup>13</sup> Harassment, assault, incest, murder and some civil actions exact accountability and punishment for unwanted or harmful touch. Even touch intended as helpful may be problematized in law, as in the case of good Samaritans found responsible for damages in relation to their actions.

While the law is understandably not primarily concerned with positive or reciprocal forms of touch, its sensorial standoffishness leaves it lacking in lamentable ways. As Serres writes, "[w]hatever the activity you're involved in, the body remains the medium<sup>14</sup> of intuition, memory, knowing, working and above all invention."<sup>15</sup> All of these qualities and capacities are essential for effective lawyering in any genre of the work. In particular, they are important to the lawyer's role as a healer of conflict, a role advocated by U.S. former Chief Justice Warren Burger when he predicted in

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<sup>12</sup> Grabham, Emily. 'Shaking Mr. Jones: Law and Touch', *International Journal of Law in Context*, 5,4 pp. 343-353 Cambridge University Press, at 344.

<sup>13</sup> *Ibid.*

<sup>14</sup> Medium=*support*, which can mean support, substratum or medium, as in that on which information is recorded.

<sup>15</sup> Serres, Michel. *Variations on the Body by Michel Serres* (English Translation by Randolph Burks), Minneapolis, MN: Univocal Publishing, 2011.



1984 that litigation would “go the way of ancient trial by battle and blood [because it is] too costly, ...painful, ...destructive [and] ...inefficient for a truly civilized people”.<sup>16</sup>

## Rehabilitating touch

Let’s explore how touch can be imported into legal pedagogy, which – after all – is the crucible from which lawyers learn to be touch averse. Legal education is replete with the message, conveyed both explicitly and implicitly: good lawyers set things that ‘touch’ them aside. Emotions cloud judgment; adjectives and metaphors (with their sensory dimensions) obscure facts. Good fences make good neighbours. Don’t allow yourself to be touched by impressions of a client, counterpart or even what might constitute a fair outcome. Apply the law dispassionately.

Must law function in this way? If not, can it be designed to re-integrate positive aspects of touch as a feature? Given that all legal processes are dispute resolution systems, there is theoretically no reason why appropriate aspects of touch could not be framed as a constructive and even vital component of these systems. If legal processes are in essence relational, and concerned with preserving relations rather than disrupting them, then rehabilitating touch in the law may be an important aspect of process design. Touch-related language could be introduced with positive effects, increasing experiences of empathy and connection. After all, rituals of reconciliation from many societies feature touch, whether symbolic handshakes, bows or tangible tokens are exchanged. These rituals employ touch in a positive way, and are thus distinct from the negative ways that touch has been framed in western legal traditions.

As a professor of ethics, I was counselled to train students to exercise sound judgment, which seemed to involve erecting an impermeable barrier between themselves and any prospect of being touched by clients’ stories. Implicit in this prescription is the admonition to separate what touches us from ‘the facts’. Yet, increasingly, we realize we cannot. Recent work in critical theory and perception point in the same direction: touch, affect and social dynamics are always intermingled; they co-constitute each other.<sup>17</sup> The experience of being touched, impressed or moved points toward what matters to us. If humanity and relationships are among what matters, touch cannot be so easily excised from legal worlds.

If law is to play an ameliorative role in future social relations, it must re-look at the relational nature of social interactions, including relations to our bodies’ capacities to perceive self and other; to listen, be moved empathically, and to act on our impressions. French philosopher Michel Serres’ *Variations on the body* is instructive here.<sup>18</sup> Serres argues that movement is actually a sixth sense, intermingling with the other five. He writes powerfully about the body’s wisdom in being able to discard

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<sup>16</sup> Burger, Warren E., “The State of Justice” *American Bar Association Journal*, April 1966, at 66.

<sup>17</sup> Grabham, Emily. ‘Shaking Mr. Jones: Law and Touch’, *International Journal of Law in Context*, 5,4 pp. 343-353 Cambridge University Press, at 345.

<sup>18</sup> Serres, Michel. *Variations on the Body by Michel Serres* (English Translation by Randolph Burks), Minneapolis, MN: Univocal Publishing, 2011.

things that weigh it down. Serres writes: “[y]es, our body rids and lightens itself; and how, indeed, could it undertake new adventures, did it not set down,<sup>19</sup> along the evolutionary roadsides, the various loads of what it knows how to do, already? Other inventions will follow from the virginity rediscovered at the times of these castings off. As soon as writing unloaded our memories onto parchments, we discovered abstract geometry; as soon as printing freed us from the necessity of remembering, we invented physical experiments.”

Serres points here to one of the gifts of integrating physical sensation into law and dispute processing. Once physical intelligence and facility are developed, they can be used to literally shed emotional heaviness associated with disputes. So, movement, dance and other ways of ‘touching into’ pain can actually function also as effective ways of dissipating it. As brain science and psychological insights undergird the importance of physical catharsis, the vital significance of introducing and embedding a touch-conversant vocabulary into law and legal processing becomes more clear. These facets of touch are explored further in the vignettes that follow.

The vital importance of the haptic domain has been the focus of significant strides in research, and neuroscientists and others will no doubt continue to make ways to rehabilitate touch in law increasingly clear. At the frontier of scientific research into touch are explorations of the neural circuitry involved in the relational process. It appears that humans have two distinct but parallel pathways that process touch information. The first to experience touch is the brain region called the primary somatosensory cortex. Here, information is processed via successively refined stages in order to identify the source and nature of the touch. In this first level of processing, understandings of the ‘facts’ of touch are formed, including texture, vibration, pressure and location. The second level of processing connects touch to social and emotional information, activating brain areas associated with social bonding, pleasure and pain.<sup>20</sup>

It would be interesting to investigate how positive aspects of touch could be summoned into the law. Could legal processes and practitioners who are touch-aware play useful roles in rehabilitating touch for their clients and the legal system itself? If so, procedural and relationship satisfaction could rise as people experience feeling more ‘connected’ to each other and to dispute processing mechanisms. Research supports this supposition, as Field maintains that people in social and cooperative settings generally respond to appropriate touch positively, with procedural and relational satisfaction rising as touch increases.<sup>21</sup>

Bently suggests that an emphasis on “the diverse ways in which each sense can be understood and interpreted...might allow law to accommodate a greater number of the plural understandings which different individuals have of themselves and their environments.”<sup>22</sup> Admitting more flexibility and fluidity into legal thinking was one of

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<sup>19</sup> Any linguistic relation between ‘casting off’ and ‘ridding itself’ or ‘setting down,’ though felicitous in English, does not exist in the French *Translator’s note*.

<sup>20</sup> Linden, David. *Touch: The Science of Head, Heart and Mind*. New York: Viking, 2015.

<sup>21</sup> Field, Tiffany, *Touch*, Cambridge, Massachusetts: The MIT Press, 2014, at 37-43

<sup>22</sup> Bently, Lionel, ‘Introduction’, in *Law and the Senses: Sensational Jurisprudence*, Lionel Bently and Leo Flynn, Chicago: Pluto Press, 1996, at 2-3.

the original objectives of so-called alternative dispute resolution. Mediation and other consensus-driven processes were proposed as ways to ameliorate delays as high costs and legal discourses left parties feeling voiceless and disempowered. Because they were voluntary, these processes addressed each party's needs for agency and control over issues that concerned them. However, over the past two to three decades, so-called alternative dispute resolution has become more embedded in the judicial system, and is compulsory in several jurisdictions as a precursor to adversarial litigation. As they have become institutionalized, mediation and other consensus-oriented processes have come more and more to resemble the system they were designed to salve. And the common denominator with formal litigation processes remains – alienation from the body and its precious sense of touch.

Still, less formal approaches do open more possibilities in relation to touch. Though no empirical studies have confirmed it, some experienced mediators report that touching parties in the course of their meetings positively shifts the atmosphere. Touching in this context may mean a handshake upon meeting; it may mean a hand on a shoulder or a touch to an elbow when leaving a room after a particularly tense exchange. It can mean a touch on the arm of someone who has become very upset in a mediation session. While acceptability of touch will vary with gender, culture and context, it would be useful to know more about how touch changes conflict parties' experience of mediations, their assessments of empathy and their overall impressions of conflict engagement processes.

Even without specific data in relation to touch and law, one thing is clear: touch can have a positive emotional impact. It matters in a wide range of ways. We humans need appropriate forms of touch to thrive both as recipients and initiators. Next, we will explore how touch can play constructive roles in dispute processing and legal education.

In the three vignettes that follow, I relate experiences from mediation research/practice and undergraduate legal education to illustrate how touch and haptic awareness can be accented in pedagogy. The first vignette describes a series of experiences associated with my research into law and touch titled *Dancing at the Crossroads*. In it, I explore the effects that dance and movement training had on seasoned mediators. Both physical and emotional aspects of touch were central to our experiences. The second vignette involves a sculpting activity in a legal education setting informed by methods from expressive arts. This experience demonstrates the emotional impact of physically-embodied learning, and the power of movement to touch both those directly involved and those observing an activity. The third vignette illustrates how social class – a dimension of social differentiation that is often under-addressed in legal education and practice – came into vivid awareness through the medium of touch. Throughout the three descriptions, I interweave neuroscientific understandings to elaborate the significance of touch to education and professional work in conflict engagement.

## Learning about conflict, proportion and calibration from dance and movement

After decades as a scholar/practitioner working with people navigating challenging situations, I searched for what was missing from the canon of conflict engagement. I came to believe that — at least in intractable conflicts — cognitive tools drawing on so-called rational processes have limited applicability unless they are accompanied by approaches that foreground conflict *as it lives in our bodies* and shapes our relations with others. Much is not understood even in our personal conflict behaviour. We surprise ourselves with the intensity of responses, or when something we had not anticipated would deeply affect us carries a strong charge. Dance — the art in which the body is the canvass — literally helps us to touch into our deeper realities, interrogate perception and foster shifts and transformations in conflict. I conceived the four year *Dancing at the Crossroads* project, bringing dancers together with conflict engagement theorists and practitioners to see what we could learn from each other. The insight of dancer Pina Bausch focused the inquiry, when she famously said, “I’m not interested in how people move, but what moves them.”<sup>23</sup> We wondered what would happen if we turned the attention of those helping with conflict briefly away from conflict parties and onto what moves *them*.

When I invited two senior UK colleagues to attend a week-long exploration of dance and mediation in the Swiss Alps as a part of this project, their first responses were incredulity, followed quickly by resistance. Even after they accepted the invitation along with over thirty other senior mediators from around the world, they conveyed their nervousness by making jokes about their prospective embarrassment at the imagined prospect of wearing a tutu. But there were no tutus, only a group of mediators who realized that their proficiency had limits, who were open to experiencing new perspectives that might increase their sensitivity to conflict dynamics. One participant described his experience of realizing the value of dance and touch this way: “We had crossed a room without crossing each other, and we had created a space between us that was empty and full at the same time. It had lasted a few minutes, and added a whole new dimension to my quarter century of experience in mediation and conflict resolution.”<sup>24</sup>

What did it add? It added nuance and understanding of ideas like ‘negative space’ – that where there is silence or apparent inaction, there may still be shape and substance; where there seems to be disconnection, there can still be a sense of being touched. It also provided this participant and his counterparts a way to understand that movement “enables people to bring into the open capacities that are otherwise locked within them in the same way as the work of the chisel elicits a form of life from a block of stone or wood.”<sup>25</sup> In other words, the experience of ‘touching into’ the body – our own and others’ – can foster new openings and shape unimagined possibilities.

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<sup>23</sup> Bausch, Pina. “‘What Moves Me,’ Address on the occasion of the Kyoto Prize Award Ceremony, 2013”, <http://www.pinabausch.org/en/pina/what-moves-me>. Accessed 20 May, 2016.

<sup>24</sup> Acland, Andrew Floyer. ‘Choreography of Space: Transforming Conflict Through Movement,’ in *The Choreography of Resolution: Conflict, Movement and Neuroscience*, Michelle LeBaron, Carrie MacLeod, and Andrew Floyer Acland, Chicago: American Bar Association, 2013.

<sup>25</sup> Ibid.

One of the most powerful experiences dancer Margie Gillis led us through is called “intended touch”. In this silent dyadic exercise, partners take turns envisioning and then initiating a direction and quality of movement in their counterpart. The initiator directs, attempting to instill her vision for touch through very subtle physical cues that communicate direction, quality and other movement aspects. The receiver executes, listening with her body to the nuances of the subtle touch to discern the form the initiator envisions. Using only a suggestion of touch, i.e. the tip of a finger on a shoulder, or the back of a wrist on a calf, the receiver’s work is to kinesthetically understand and dynamize the direction, velocity and character of the minimally expressed touch. Choices abound. A finger on a shoulder may indicate a long slow downward arc, or a quick upswing of the arm depending on how it is done, and how the receiver experiences it. A knuckle pressed lightly in between the eyebrows might result in the receiver arching her head backwards, or initiating a circular movement of the head and neck. Partners debrief after each has had a turn to initiate and receive. Often, they are surprised at the acuity of understanding that flows between them without any words at all. Reflecting on accurate and inaccurate perceptions of intended touch, they increase their nuanced vocabulary to direct, listen and respond to others – all dimensions of effective conflict engagement.

This workshop was one of a series of sessions held in various parts of the world. Across regions and contexts, participants spoke of their experiences using imagery from the world of touch. “I am different now as a mediator,” related one. “In feeling more in touch with my body, I am able to sense what is happening in others’ interiors more easily and accurately.” Another related that working wordlessly in dyads gave her a new appreciation for nonverbal cues and proxemics, and that she had applied these in her practice with clear effects. “Clients responded so positively – feeling my empathy more powerfully as I attuned physically to subtle changes in my and their postures.”

Recent scientific discoveries bolster the case for movement as a way of learning about engaging conflict as they highlight interconnections between physical and verbal expression. Both activities relate to Broca’s area of the brain, where speech neural pathways overlay sensorimotor circuitry; apparently, linguistic forms of expression arose later in human brain evolution and are intricately interwoven with physical experience and touch.<sup>26</sup> These findings point to movement and gesture as early pre-verbal forms of expression, cognition and communication. And so we ask whether, “[w]hen we fell out of animal presence,...dance [was] our first language?”<sup>27</sup> In evolutionary terms, we have vastly more experience with movement than with words, yet academic study has traditionally focused on the part of the brain with which life on Earth has had least experience; namely, the rational brain (or neocortex). This focus has led our attention away from our bodies, and is cemented in place by Cartesian dualism, which privileges cognitive ways of knowing over physical wisdom.

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<sup>26</sup> Beausoleil, Emily and Michelle LeBaron. ‘What Moves Us: Dance and Neuroscience Implications for Conflict Approaches,’ 31 *Conflict Resolution Quarterly* 2, 133-158, Winter 2013.

<sup>27</sup> O’Donohue, John. *Divine Beauty*, Great Britain: Bantam Press. 2003, 129.

Given millions of years communicating kinesthetically, it's not surprising that humans read body language better than verbal language. It's easier for others to lie to us with words than with their bodies because we intuitively and accurately read body language, detecting authenticity, or a lack of it, in our negotiation counterpart. We know this on a kinesthetic level, often below conscious awareness, when we experience intuition or the weird feeling in our stomach that something isn't quite right, although we can't think of a logical reason not to believe what they say.

Thus, it makes sense to cultivate physical intelligence to improve both our proprioception (awareness of self in space) and our accuracy in understanding others' physical messaging. One way this is often done is through the mode of 'sculpting' – creating physical forms to represent human relationships. The next vignette offers an illustration.

### **Sculpting a career choice**

Alex was a good student. He had attended class regularly and engaged enthusiastically in discussions about the social context of law. His unsettled eyes were the only clues to an inner struggle amidst his otherwise unruffled appearance. His openness and thoughtfulness made him a valuable leader in the seminar; I relied on him to raise a spectrum of possibilities when ethical issues were discussed. But I could not shake the sense that something was gnawing at Alex; his openness belied an uneasy reserve beneath which I sensed struggle. Over weeks of in-depth discussions, he revealed nothing about it.

Late in the term, I used a sculpting exercise with the class of soon-to-graduate lawyers as a way to examine their place in relation to social justice in practice. We had discussed the tensions: the pull of a lucrative, high-status career in a corporate setting made more compelling by mounting student debt juxtaposed with dreams of changing a small part of the world for the better—the original impetus for legal education for many of them. They had just undergone a three year powerful cultural induction, one that left many of them feeling "at arm's length" from themselves.

One group of students created a human sculpture that vividly juxtaposed suffering with wellbeing. The characters on the left side of the tableau were in various states of despair, injury and struggle, laying or crouching in poses redolent of privation and suffering. On the right side, the characters appeared hopeful, calm and full of wellbeing, their upright poses casual, confident and secure. Standing in between the two groups was Alex. Several of those on the left were grasping for him, gesturing desperately for help. A child tugged urgently at a corner of his plaid shirt. A mother's eyes implored. A man's eyes looked with disdain as if negatively prejudging whether Alex would notice him.

The atmosphere quickened as Alex stood in the thick of the two scenes. Other members of the class walked around and observed the tableau, feeling its contrasting divisions. After several moments of silent observation, I suggested that each person in the sculpture make one movement toward what they wanted. Those

on the left inched painfully toward Alex. Those on the right subtly adjusted their self-satisfied stances, oblivious to those on their left and paying Alex scant attention. Alex stood motionlessly between the two groups.

We drew a collective breath. Which world would Alex choose? Time felt suspended during the minutes he stood, unmoving, every muscle in his neck alive with the inner conflict that consumed him. Finally, Alex took a step toward the child on the left, arms outstretched. We all exhaled.

Reflecting later, Alex spoke eloquently of the struggle that had raged in him as he approached the end of legal studies. He felt conventional paths beckoning, he told us, with their promises of ease and prosperity. With his good grades, he had several attractive career offers in large corporate/commercial firms. Yet he felt a strong pull toward service, animated by a long-held sense of vocation. Law school, he told us, had taken him on a labyrinthine journey in which holding onto that pull had been difficult and the thread of vocation for serving others that had beckoned him to legal studies had nearly broken. The touch of the child character pulling at his shirt took him back to a childhood memory of using the same strategy to get his father's attention. In the midst of the tableau, Alex got in touch with something essential that had been muted during his legal education. He eventually made the decision to accept an offer to practice in a small firm specializing in refugee law.

This vignette illustrates the potency of physical enactment in legal education, and the significance of touch. Without the child character tugging at his shirt, Alex may have been able to ignore him and orient toward the easier path. Class members shared this liminal moment with Alex, touching into their own life dilemmas. As we reflected together, nearly all of them used the word "touched" to describe their experience of the tableau. This is the power of embodied, experiential learning: it literally invites everyone, from characters who witnesses to those who are actively engaged in the activity, to a visceral 'touching into' their own feelings, sensations and values.

The sculpting exercise also illustrates several neuroscientific principles. Research reveals the contagion of sensed and felt experiences, and how feelings can move between two or more people without them being consciously aware of the exchange. This process begins in infancy, made possible by so-called mirror neurons in the brain, which fire up and 'mirror' the physical signals of another. When we observe others' emotions, our brains engage the same neural circuits that are active in 'the other' — the basis of empathy.<sup>28</sup> These shared representations allow us to vicariously and powerfully experience others' feelings and sensations. Through mirror neurons, we are transported to our deepest fears by a painting or moved to tears by a dance performance; they also make it possible for us to have empathy for others without ever speaking to them.

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<sup>28</sup> Gallese, V. "The Roots of Empathy: The Shared Manyfold Hypothesis and the Neural Basis of Intersubjectivity" *Psychopathology* 36: 171-80, 2003.



By applying these understandings to mediation and conflict engagement, its potency becomes clear. Mediation is structured in ways that let more of what 'touches' us – mediators and parties alike – into our midst. Parties tell stories, replete with feeling. Mediators' jobs are to feel them, display empathy (albeit evenly toward all present) and encourage parties to do the same. While personal approaches and the duty to be unbiased limit how much empathy a mediator shows, the best mediation practitioners I know argue that feeling *with* parties – allowing themselves to be authentically *touched* beyond a professional veneer – is a part of the transformational power of mediation itself.<sup>29</sup>

The final vignette extends our exploration of empathy. Empathy is a central feature of intersubjective awareness and something too-often neglected in legal education.

### **Prescribed socks**

In an intensive intercultural mediation course, two-dozen master's students worked to hone cultural fluency. They knew that learning with a group of people from many world regions was an ideal opportunity. Yet even within the class, primed as they were for receptiveness to difference, resentment began to build toward one participant. A man in his thirties, Sascha, had a way of unsettling others. It was not only that he often disagreed with emerging consensus or that he brought up points that had not been voiced, but there was a brittleness to his presence that set others on edge. From him, I sensed intense vulnerability covered over by verbal aggression and somatic defensiveness.

We worked together for five days, during which Sascha generally inhabited a psychological world outside the learning community. He was detached and frequently unpleasant. When he spoke, he expressed contrarian views. Efforts to include or engage him made by me and others were rebuffed. This was challenging for the class, who came together and were always aware of Sascha, present but not integrated. For our final session, I invited participants to bring an item that reflected some of their experience of the class. We sat in a circle and one by one, they passed their objects around for everyone to hold as they shared their insights. Sascha was the last to speak. Class members registered surprise as he dangled a sock from two fingers and began talking in a tremulous voice.

He related how he had been raised by a single mother in humble circumstances in Great Britain, but had been identified at age seven as intellectually gifted and offered a scholarship place in an exclusive public school. The required school uniform was not free, however, and his mother had to take on extra labour to buy the expensive clothes. Having purchased all the official items Sascha would need, she drew the line at socks. They seemed an exorbitant price, and so she bought ordinary black socks from a local shop and sent him off to school.

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<sup>29</sup> Mayer, Bernard. *Beyond Neutrality: Confronting the Crisis in Conflict Resolution*. San Francisco: Wiley, 2004.

As Sascha related his story, the atmosphere in the room began to shift. It was as if people were seeing him with new eyes; we were intrigued to know what would happen. Sascha continued, explaining how grand the school was and how smartly comported and confident were his counterparts. Many of them knew each other from previous years, and he felt painfully out of place. On the first day of school, everyone was lined up and their outfitting inspected. The severe headmaster walked slowly down the line. He came to Sascha, and stopped. "Wrong socks!" he thundered imperiously. "Come back tomorrow with the right ones or you will regret it."

Meanwhile, Sascha's sock was making its way around the circle. It was, on close inspection, an old black sock with an official school crest embroidered into its side. Class members held it with tenderness, lingering before passing it along as his story unfolded.

Sascha related how he went home that evening and said not a word. The next day, he was strapped in front of the entire class and told to come back with the right socks. And so it went each day for the first week of class: the wrong socks, the stern words, the humiliating and painful punishment.

I looked around the room. People were in tears, grasping as they did Sascha's choice to protect his Mother from the truth. The sock became a charged thing: a symbol of the pain of a small child and his terrible dilemma. Touching it and realizing that he had saved it all these years, and trusted them enough to share the never-before-shared account, changed their perceptions. Sascha's behaviour made sense; his defensiveness and way of holding himself apart from others was a habit formed in the crucible of pain.

Sascha finished speaking. There was silence. The sock finished its traverse and was held by the person sitting next to Sascha. Still there was silence. Then, the person holding the sock passed it not to Sascha but in reverse around the circle. As it came back to them, each person spoke. Words of acknowledgement and support followed, one person after another. They spoke not only of their empathy for the child Sascha had been, but of their understanding and acceptance of who he had been in the group. They spoke of how the experience had deepened their cultural fluency, vividly anchoring the importance of resisting assumptions and judgments when someone's behaviour is difficult or unclear. A solitary tear made its way down Sascha's cheek as the sock was returned to him.

The sock had literally touched our hands and our hearts, as had Sascha's courage in sharing his story. The tactile ritual of holding and circulating this meaningful piece of Sascha's past gave us a structure in which to be present to his suffering. It was one of the most powerful learning moments I've experienced, and touch was a vitally important part of it.

## Future connections between law and touch

The connecting link from Sascha's story to dancing mediators and Alex's dilemma is touch. Whether actual or metaphoric, touch has a physical impact. Someone who receives a compliment or encouragement after disappointing news not only experiences feeling touched in the abstract; even in the absence of physical contact, the positive ripples of the gesture are physical. Touch is, after all, "[t]he first system to come online, [and]...the foundations of human relations are all touch."<sup>30</sup> Not only is touch important to pedagogy, client relations and conflict engagement, it may soon become a more important focus in law arising from significant developments in the field of haptics. Because of haptic technology, for example, it will soon be possible for a massage therapist in Stockholm to administer a massage to a patient anywhere in the world without leaving home. By simply waving her hands over a motion detector, she will be able to "produc[e] the precise sensitivities of her touch on the back of a patient lying on a pinpoint-tuned motion-sensor pad."<sup>31</sup> Surgery can be done remotely using haptic tools. The first transatlantic hug happened in 2006 at a conference, developed as a way of conveying touch across distance with as much ease as voice and image are transmitted.<sup>32</sup> With these and other developments applied to medicine, prostheses, commerce, and gaming, novel legal issues are sure to arise.

In the midst of these developments, however, the chasm between touch and law could be further deepened. As Gopnik points out, "[o]ur skin is us because it draws a line around our existence; we experience the world as ourself. We can separate ourself from our eyes and ears, recognize the information they give us *as* information, but our tactile and proprioceptive halos supply us with the sense that we are constant selves."<sup>33</sup> If – as is becoming more possible – we begin to imagine ourselves as discontinuous with our own skins, the chasm between law and touch may be further deepened. Law, and other social institutions, may become even more estranged from relational human qualities in the process.

How might legal education and conflict engagement prevent themselves from becoming more estranged from touch? Three main ameliorative steps could be taken. First, touch could be critically examined for its contributions – potential and actual – to both areas. Second, proprioceptive training could be used in primary and continuing legal education to enhance practitioners' effectiveness as dispute resolvers. Finally, the powerful capacity of touch to acknowledge and foster empathy could be studied in relation to dispute processing, and touch-intelligent practice could be cultivated. I discuss each of these briefly below.

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<sup>30</sup> Gopnik, Adam. 'Feel Me. What the New Science of Touch Says about Ourselves', *New Yorker*, May 16, 2016, quoting Dacher Keltner.

<sup>31</sup> *Ibid.*

<sup>32</sup> *ibid*

<sup>33</sup> *ibid*

## 1) Contributions of touch

How might touch contribute to legal education and conflict engagement? The vignettes above illustrate three main aspects – interpersonal physical touch, a shared sense of metaphorical touch and intrapersonal experiences of feeling touched or moved. In the third vignette, Sascha’s socks were the physical manifestation of an old trauma, surfaced in a ritual that evoked all three aspects. In the second, the only physical touch was a slight tugging on Alex’s shirt, yet the shared sense of metaphorical touch and intense intrapersonal and interpersonal experiences of actually feeling touched were both present. The first vignette of the *Dancing at the Crossroads* movement training also involved all three aspects in exercises like intended touch, described earlier.

What role might these three aspects play in conflict engagement beyond the vignettes? Research could be done on the role of appropriate use of touch in intercultural negotiation, mediation and a spectrum of other conflict-engagement processes. While most legal practitioners are aware of the importance of not touching, there is surely less awareness of the frequently unconscious – and possibly very helpful – uses of touch. Touch may be difficult to classify; in the absence of language, it is ambiguous and open to a variety of interpretations. That these attributes of touch may be both positive and potentially very negative was underscored by a talk given shortly after the conclusion of the Truth and Reconciliation Commission (TRC) in South Africa.<sup>34</sup> Pumla Gobodo-Madikizela related a moving account of her role as a journalist during the TRC. In a one-on-one meeting following the hearings with a notorious perpetrator of Apartheid violence, she was moved by his expression of remorse and despair at his inability to undo the suffering he had caused. Pumla, a black South African, surprised herself by reaching out to touch his hand. He responded by saying that she had just touched his trigger finger.

This story surfaces some of the contradictions of touch in the midst of conflict. Touching was an expression of empathy that left Dr. Gobodo-Madikizela internally conflicted given the deaths and horrors suffered by thousands in her community at the hands of Afrikaner men. It was involuntary, impulsive and unconsidered, a gesture of shared humanity. Yet the man’s response left her unsettled. Was he taunting her, gloating? Was he merely observing the irony of her reaching out to comfort him in his despair and impotence to change a shameful past? Was he shocked, and further moved by her touch? Was she betraying those who had suffered, or transcending in-group loyalty, reaching for much-needed reconciliation and rehumanization? These contradictions were not resolved in her account, but continue as a complex fractal, posing ongoing questions about relational patterns of perpetrator and victim and whether horrifically harmful touch can ever be salved by caring touch.

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<sup>34</sup> Talk given at the Institute for Conflict Analysis and Resolution, George Mason University, Fairfax, VA, 1999.

## 2) Proprioceptive training

As explored in the *Dancing at the Crossroads* project, proprioceptive training can assist mediators and legal practitioners to develop a deeper sense of self, physical intelligence, and also more awareness of others. This work can foster resilience – the capacity to re-find coherence after trauma – by offering experiences of physical coherence that provide physical anchors of health. That is, if I know what healthy coherence feels like physically, I may be more able to work towards it and recognize it when it happens again. When done in groups, proprioceptive training can open doors that remain closed during purely cognitive work, accenting relational connections and nonverbal communication. While not every group of mediation trainees or clients are open to movement-based training, a wide spectrum of activities are possible, from simply taking a reflective walk to integrate ideas, to more advanced movement. Some questions to guide design of movement-based activities include:

- How does conflict live in our bodies and which physical activities help us learn to embody it with health and resilience?
- How can touch-related experiences increase a sense of inclusion and belonging?
- How does physical training assist in expanding our capacities to embody strong emotions?
- How is flexibility a part of conflict engagement? Which physical activities assist in honing flexibility?
- How can body-based praxis open us to innovation, generating new vocabularies of nuance and suppleness in expressiveness and communication?
- Which body-based methods invite creativity and satisfy our thirst for beauty even in the midst of destructive conflict or challenging educational settings?

Dancers, physical trainers, choreographers, physiotherapists, yoga practitioners and others know ways to answer these questions. Partnering with them, we move toward not only more artistry in practice, but toward more facility generally. At the same time, safety, cultural fluency and ethics are paramount in all such process or pedagogical designs. Because touch and physical boundaries vary significantly across cultures, appropriate ways of using touch must be informed by each specific context. Safety must be considered not only in physical ways, but also socially and psychologically. Ethical practice means working inductively, building toward more challenging skills and capacities, but always in ways that do not compromise the comfort, dignity or wellbeing of those involved.

In the *Dancing at the Crossroads* research project, we found that engaging mediators and facilitators in physical work with experienced dancers and choreographers yielded:

- broader understandings of how intentions and emotions relate to muscular impulses and take form in physical stances;
- enhanced awareness of self and other in space, and multiple ways that

- particular stances affect others;
- windows into cultural systems of meaning as they shape physical ways of expressing conflict;
- a wider spectrum of ways to physically move through challenges, that then translated into a wider range of imaginative and creative approaches to conflict;
- improved capacities for trust and teamwork;
- increased physical flexibility and fluidity, that correlated with greater degrees of curiosity and flexibility of thought;
- deeper cultural fluency;
- more accurate ways of using physical vocabularies to communicate aspects such as identity and meaning that are hard to convey in words;
- more physical mobility and related cognitive suppleness, both of which are helpful in navigating conflict;
- improved understanding of how 'negative space' between people can generate new, spacious perceptual possibilities;
- increased openness and empathy arising from experiences of neuromuscular shifts through entrainment and mirroring; and
- ways to re-pattern limiting cognitive habits and awaken intuitive capacities.

More work is needed to systematically explore these findings. If, as our work suggests, physical practices are important adjuncts to other forms of education and practice-reflection, much more work is needed to develop suites of material, understandings of appropriate sequencing and the most effective strategies. While this direction needs to be pursued ethically and with sensitivity, developments in neuroscience point to the importance of cultivating these aspects of legal and dispute resolution practice.

### **3) Manifesting touch-intelligent practice**

Of course, given the intensely negative effects of unwanted touch, touch must be consensual. It should not be prescriptive or inserted into restorative practices as a matter of course. One way to imagine touch in conflict is by proxy. The arts offer ritual vehicles through which touch can be used in safe ways. What if a group of dancers were to listen carefully to conflict parties' accounts, then perform their conflict for them? Would the mirror neurons that were activated stimulate new channels of empathy? Would the patterns of their interactions generate increased clarity as those observing were emotionally touched by the expressive movements? Would they shudder at the rigidity or brittleness they saw portrayed, and find new individual and shared choice-points from which to respond to their counterparts in future? Would they gain new insights into the architecture of their conflict, and see openings they had not seen before?

Another form using proxy touch is the fascinating world of constellation work as pioneered by Sparrer and others.<sup>35</sup> Constellation processes become ritual containers

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<sup>35</sup> Sparrer, Insa & Onn, Samuel, *Miracle, Solution and System*, Cheltenham, United Kingdom: Solutions Books, 2007.

for dynamics to be felt and to shift in ways that are mysterious, yet effective. The theory and practice of systemic constellations offers an embodied, touch-centred approach to problem-solving that is remarkable in the speed and accuracy with which it unfolds. In this process, a person (client) who wishes to gain deep insights into a particularly challenging problem selects any number of individuals (so-called representatives) to assist in creating a physical constellation that depicts the situation from the client's perspective. It is not necessary for the client to brief the representatives about the exact nature or details of the issues, although this may occur in some practices to varying extents. The client physically directs the representatives to take positions in a way that depicts the current situation as he or she perceives it.

The resulting constellation — the spatial arrangement of the representatives as a whole and the kinesthetically-felt reactions of the representatives to one another — reproduce the structure and dynamics of the relational system the client is describing. The representatives may touch each other or not as directed by the client. Following the initial placement, a series of interventions may be undertaken by the constellation leader (host) or the client to rearrange the spatial scene until the representatives feel better in the constellation and the client perceives the new geometrical arrangement and the relationships portrayed as coherent. Finally, the client has time to absorb the rearranged scene, which in turn, can lead to new insights and actions in relation to the problem.

One of the fascinating aspects of constellations is the central importance of placing physical bodies in relation to each other, whether touching or not. The tableau the representatives embody is not their own and the story may not be known, yet many who have fulfilled these roles report suddenly feeling something entirely outside their experience that relates to an element of the system or story they are representing. Through physical placement, constellation processes ignite representatives' embodied, affective experiences. These affective experiences often reliably match the corresponding elements of a relational system, or the relevant parts of a client's story. Perhaps this phenomenon is less perplexing when we recall scientific findings that demonstrate that individuals are never as separate as was theorized in the Cartesian dualistic mindset discussed earlier; we cannot reliably separate the body and the mind. Though we speak of feelings and rational thinking as if they are mutually exclusive, nothing could be further from the scientific truth. They are woven tightly together in the finest of cerebral tapestries; therefore, effective mediators and educators do not see them as separate. Similarly, though we imagine ourselves as contained individuals, mirror neurons and other relational processes mean that we cannot shut our minds and bodies off from those around us.

Sparrer goes even further, suggesting that constellation work is effective because it taps into pre-verbal collective knowing that may not be easily verbally explained. She calls this phenomenon transversal language and explains that it exists among representatives, and therefore goes beyond verbal and non-verbal individual language. Constellation work is not just about relational inter-representative insights, she explains; it is about relational systems as a whole, which are always more than



the sum of their parts. While representatives may be asked how they are feeling and how rearrangements of the spatial geometry affect them, the perceptions they report seem to relate to the client's situation rather than the representatives' subjective experiences. Somehow, in taking on the shape of the story, they literally inhabit it, in all of its affective and sensory dimensions. Constellations work makes the embodied wisdom of the collective accessible for the benefit of others.<sup>36</sup>

Research is needed to mine the gold of constellation practice and other proxy uses of touch. As more is understood, additional resources can be developed to foster empathy and increase understanding when these are most needed. Proceeding with an awareness of ethics and cultural fluency, guidelines for good practice can be generated both for experiences involving proxy and actual touch.

### **Where have we landed?**

Though touch is our least understood sense, its importance and usefulness in dispute processing, legal education and legal problem solving is a frontier worth exploring. The three vignettes in this article, together with neuroscientific and aesthetic understandings, point toward a deficit in legal thinking, lawyer training and dispute processing that can and should be addressed. Despite understandable cautions in relation to crossing unhelpful touch boundaries, touch as a sense is fast surpassing traditional understandings. Perhaps these developments will push us to decide what kinds of touch we want to preserve in our increasingly virtual world, and how our social institutions can meaningfully accommodate these desires.

While touch, as we have seen, has been alienated from the law throughout Western history, law may still become a site in which human values are resuscitated. If metaphorical and material aspects of touch were welcomed as assets, they could be helpful in discarding things that weigh our progress down. If law's gaze toward negative aspects of touch were stretched to include its gifts, law could become both more relevant and responsive to people in the midst of conflict. Legal and dispute resolution educators are well positioned to lead the way by integrating a touch-friendly lexicon and physical activities into their work. Partnering with social scientists, legal researchers could profitably investigate how and when touch is beneficial in fostering empathy, thus increasing procedural satisfaction and helping people move away from destructive relational patterns. By incorporating awareness of the benefits of touch and proprioceptive work, legal scholars and educators may uncover new productive connections between touch and law. Ultimately, incorporating positive aspects of touch into education and practice may lead to a more holistic understanding of human conflict and reveal ways to revitalize our most vital sense.

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<sup>36</sup> Sparrer, Insa & Onn, Samuel, *Miracle, Solution and System*, Cheltenham, United Kingdom: Solutions Books, 2007.

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