

The Irruption of Real Violence: The Open Dramaturgy of Theatrical Mock Trials and Milo Rau's *The Moscow Trials*

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This article introduces a pathway for considering the political in theatrical performances which simulate an open and undetermined judicial proceeding directed at an audience, here termed Theatrical Mock Trials. The article presents a definition of the mock trial as an educational practice, decodes its theatricality, and discusses its pedagogical benefits in developing political insight and critical thinking. Employing the logic of the mock trial, the article proposes conceptualizing Theatrical Mock Trials through their postdramatic open dramaturgy. This dramaturgy, it is argued, devises a space within such theatrical trials for the emergence of the real, and by that provokes critical spectatorship. The article then analyses Milo Rau's *The Moscow Trials* (2013) as a Theatrical Mock Trial and demonstrates how its open dramaturgy resulted in the irruption of real violence. Such dramaturgy of Theatrical Mock Trials, it is argued, engaged the audience in a political and critical surveying of the authoritative judicial mechanism.

Keywords: political theater, mock trial, irruption of the real, Milo Rau, *The Moscow Trials*.

Throughout law school I avoided participating in any mock trials. The make-belief of the mock trial experience appeared to be solipsistic, which did not sit well with my political ideals of justice-doing in the legal system. I opted for practicing my novice legal skills doing clinical work, dealing with *real* cases of *real* clients whose *real* human rights were infringed. For the course of four years, I was able to avoid the pretence of mock trials. The day following my final exam in the exhilarating subject of Evidence Law, I began my service as a lawyer in the public sector. I was deployed for two months of mandatory training largely focused on criminal law advocacy. You guessed it; it included a mock trial which could not be avoided.

I remember the stress-inducing environment, in which many of us were working hard to prove our potential as future lawyers; an atmosphere that revealed who of us would go to which lengths to win a case. I also vividly remember the intense pretending involved in that performance. Not only was there a requirement to ‘perform’ the role of a lawyer, but there was also straightforward acting within the preparation towards, and performance of, the mock trial (for example, a senior lawyer pretended to be a defendant suffering from severe mental illness, while others took on the role of witnesses with overly, and often needlessly, developed backstories). This was a revelatory experience for me; the simulation of a trial exposed its politics, the power dynamics it served, its justice-doing pretence.

This article proposes a pathway for considering the political in Theatrical Mock Trials, meaning, performances that simulate an open and undetermined judicial proceeding which are not conducted for training purposes but are rather directed at an audience. To do so, I will first present the mock trial practice and decode it through Theater Studies terminology. Then, in describing the pedagogical benefits of conducting mock trials, specific attention will be given to their impact on developing political insight and critical thinking among the participants. This will allow me, at the center of this article, to conceptualize the form of Theatrical Mock Trials. I will argue that the open dramaturgy of Theatrical Mock Trials devises a destabilized postdramatic space for the emergence of the real, and therefore carries a political potential for provoking critical spectatorship. This paradigm will be applied to Milo Rau’s *The Moscow Trials* (2013) as a Theatrical Mock Trial, demonstrating how its open dramaturgy resulted in the irruption of real violence, producing an

unsettled aesthetic space for enduring a complex cultural conflict. I will argue that the employment of an open dramaturgy in Theatrical Mock Trials charges works such as *The Moscow Trials* with political momentum, inviting the audience to engage in political and critical spectatorship of the simulated authoritative judicial mechanism.

1. The Mock Trial – A Practice and its Theatrical Decoding

Legal scholar Andrew Lynch traces the history of mock trials¹ in the common-law tradition to medieval times:

The practice of mooting is buried in early legal history. [...] the genesis of moots can be traced back to the establishment of the Inns of Court of medieval times. Young men residing at the Inns as apprentices took instruction from their seniors and were required to perform in moots over several years before they could be admitted as practitioners. (Lynch)²

Lynch lays out three key features of mooting, then as now: (a) trainees assume advocate roles and perform them before a simulated bench; (b) they argue the law before that bench, based on a hypothetical scenario; and (c) they are expected to answer questions the bench presents regarding the case, their arguments, or the law, probing aspects the trainees might have not considered in their preparation. Nowadays, conventional mock trials typically involve teams of students representing a fictional client facing a fictitious legal problem, whose performance of advocacy regarding that problem is judged by students, practicing attorneys, law faculty or, on occasion, members of the judicial branch of government (Knerr et al 27).

Decoding the practice of mock trials through theater studies terminology illustrates the theatricality inherent to this pedagogical apparatus. Mock trials resemble theater as they straightforwardly require the participants to *pretend* to represent a *fictitious* party of a *fabricated* case. Mock trials are not actual trials, but rather “dramatizations that have the form of a trial” (Posner 2111).³ Mock trials are thus etched in *mimesis*, as they, quite literally, operate as a mimicking of court proceedings. More significantly, it is crucial for their pedagogy that they entail more than a simple structural

simulation of a trial's progression. To best simulate actual trials, mock trials deliberately summon the unrehearsed (for instance, in the form of a surprising question from the judge or an unplanned declaration from a witness), and thus necessitate extemporization in reaction to the live and unexpected development of the case in the present of the mock trial event. In their simulation, mock trials evoke an essence of liveness. Furthermore, mock trials construct a unique relationship between the event and its audience. At their core, as a form of training, mock trials obligate the critical examination of the performers and their performance, the evaluation of their arguments, and the reaching of a judgement. These simulations are therefore directed at an 'audience' of adjudicators, whose intended role is to judge the performance.

2. Mock Trials as Pedagogical Tools for Developing Political Insight and Critical Thinking

When held within the legal profession, mock trials function as practical training for future attorneys with the goal of better preparing them for 'real-world' advocacy. However, mock trials have become a popular pedagogical tool across a vast variety of disciplines beyond the legal profession.⁴ The most obvious pedagogical benefit of participating in mock trials is practicing life-skills such as public speaking and collaborative work. Yet mock trials cultivate another key pedagogical benefit, namely, the development of political insight and critical thinking among its participants.

Justice education scholar Katharine Kravetz stresses that the paramount educational value of mock trials is the invitation extended to the participants to consider matters of morality and justice within the legal process. Mock trials expose students to societal structures and institutional processes, with which they can engage. Students can thus assess "whether these structures and processes are effective, and where they might be modified or changed" (147), discuss "the fairness and morality of the system", and develop a more profound and nuanced outlook on the judicial system (158-59). As acknowledged by sociology scholar Meg Wilkes Karraker, "the mock trial also provides an all-too-rare opportunity to demonstrate how social institutions and actors are inextricably bound together in society"

(134). Furthermore, participation in mock trials provides tools of critical thinking and affords the participants with opportunities to practice them, as “the Mock Trial elevates the process of thinking over the product of thought” (Farmer et al 403). Exploring this significant impact, Karraker details how critical thinking skills are implemented and developed throughout the mock trial:

Mock trials can direct student thinking toward: the refinement of definitions of social phenomena; the evaluation of the quality of evidence; the search for cause and effect relationships; the testing of assumptions, and the pursuit of logical consistency. (134)

During the mock trial in which I participated, I was given the task of delivering the closing arguments for the defence. This was an intricate role, since the closing arguments cannot be fully prepared in advance as the progression of the trial is yet unknown. Therefore, I was required to be present and attentive throughout the mock trial, observe all that emerged, and work rather quickly. On top of the need to employ rhetorical skills, that role particularly required a critical gauging of the trial as it unravelled – the arguments made by both parties (and the arguments neglected or avoided), the testimonies, the judges’ questions and reactions, etc. Moreover, the experience of mimicking the legal performance provided me with the tools to study this performance from the outside, and revealed the performativity of the law and its mechanisms.⁵ In doing so, the mock trial fractured the justice-doing façade of the legal performance and exposed what it sought to conceal: the forceful exercising of authority. The mock trial experience was fundamental in the development of my critical outlook of the law.

Such profound political impact inherent to the participation in mock trials leads me to the questions at the core of this article: could such political efficacy be applied in a theater simulating a trial before an audience? Could such political momentum be transferred from the realm of pedagogy (meaning, from the mock trial’s participants) towards the realm of theater (meaning, to the audience)? The valuable pedagogical benefits of participating in a mock trial, I will now argue, can be reconceived into the potential political efficacy of a form of theater I will term ‘Theatrical Mock Trials’.

3. Theatrical Mock Trials and their Open Dramaturgy

I propose to conceptualize the form of a Theatrical Mock Trial for performances that simulate an open and undetermined judicial proceeding directed at an audience. This term is rooted in the intended beneficiaries of the event, and thus in its function. While mock trials are intended to operate as a pedagogical apparatus upon their participants, works of theater are *a priori* intended to operate upon an audience. This shift therefore dictates a transformation of the function of mock trials into Theatrical Mock Trials: these works are not conducted for a pedagogical aim, but are rather trial simulations aimed at raising a question of political importance. Such works include, for example, Roger Bernat and Yan Duyvendak's *Please, Continue (Hamlet)* (2011), Osman Nuur and Lara Staal's *Europe on Trial* (2018), as well as Milo Rau's *The Zurich Trials* (2013), *The Congo Tribunal* (2015), and *The Moscow Trials* (2013), with the latter being at the center of this article.⁶

Theatrical Mock Trials construct a performative simulation of a judicial proceeding. While the extent of structural simulation of a trial varies between different performances, at their core, Theatrical Mock Trials present a case and follow a set of conventional procedural stages. Yet, the simulation does not conclude at a simplistic structural resemblance to the trial's procedure or form. The performative simulation in Theatrical Mock Trials, like in mock trials, delivers a profound imitation of the essentially extemporaneous characteristic of the legal performance in a fair trial. While performances of Theatrical Mock Trials differ in the scope of their rehearsal process and level of dependence upon pre-written texts, they quintessentially necessitate that: (a) the verdict, the end, is not predetermined, but is *de facto* reached in the present of the performance; and (b) the deliberately spontaneous and live progression of the trial in the present of the event.⁷ This attribute ties the simulated theatrical performance to the legal one it replicates through the cruciality of liveness shared by both.⁸ For this study of the Theatrical Mock Trial I will refer to this attribute as 'open dramaturgy'.

The notion of such an open dramaturgy can be positioned within the postdramatic thought, reflecting the perceptions of postdramatic theater as "more presence than representation, more shared than

communicated experience, more process than product, more manifestation than signification, more energetic impulse than information” (*Postdramatic Theatre* 85). This *Theater of Situation*, as suggested by Hans-Thies Lehmann:

Highlight[s] presence (the doing in the real) as opposed to re-presentation (the mimesis of the fictive), the act as opposed to the outcome. Thus theatre is defined as a process and not as a finished result, as the activity of production and action instead of as a product, as an active force (*energeia*) and not as a work (*ergon*). (*Postdramatic Theatre* 104)

To re-introduce the pedagogical benefits of mock trials as the political efficacy of Theatrical Mock Trials, I propose to explore their open dramaturgy through the political potentiality in the emergence of the real. Lehmann suggests that the emergence of the real on a postdramatic stage is not unnoticeable, accidental, or disturbing to the performance, but rather intentional and critical. The irruption of the real, as Lehmann outlines it, is not just the appearance of the seemingly real, but it is “the unsettling that occurs through the indecidability whether one is dealing with reality or fiction” (*Postdramatic Theatre* 101).⁹ The boundaries between the aesthetic, the signifying, and the extra-aesthetic, the signified, are porous, and a postdramatic theater leads the spectator to experience this desired ambiguity. Lehmann proposes that the ambiguity generated by the irruption of the real is key for the political in contemporary postdramatic theater practice:

One precondition of the tragic – and as we may add now: of the political in theatre – is the momentous undermining of key certainties: about whether we are spectators or participants; whether we perceive or are confronted with perceptions that function ‘as if’ or for real; whether we dwell in the field of aesthetic make-belief or in real actuality. (“A Future for Tragedy?” 99)¹⁰

The result of this practice, argues Lehmann, “is the necessity for the participants to make a decision about the nature of what they live through or witness” (“A Future for Tragedy?” 100).

Therefore, when the performance of the judicial process is simulated in a theatrical performance, the open dramaturgy of Theatrical Mock Trials transforms the political insight gained by trainees who participate in a mock trial into political acuity gained by the spectators. The open dramaturgy of Theatrical Mock Trials devises a space for the undetermined, the spontaneous, the impromptu, to emerge, and through that – the real. As I will soon demonstrate, when this dramaturgy is positioned within the setting of the Theatrical Mock Trial, it relentlessly unsettles the boundaries between fictional and real as the event progresses in the present of the performance. The outcome, the verdict, is of a lesser importance than the process which led to it, the advocacy, the judgement itself, the justice-doing mechanism. Through their focus on the presentation of the process, on the doing of justice and not just the outcome, Theatrical Mock Trials confront the audience with an ambiguity between the ‘as if’ and the ‘for real,’ provoking critical spectatorship.

4. *The Moscow Trials* and the Political in the Open Dramaturgy

Over the course of three days in March 2013 at Moscow Sakharov Center, Swiss director Milo Rau set up *The Moscow Trials*.¹¹ This tribunal conducted a theatrical (re)trial of three court proceedings held by the Russian judicial system which accused and convicted artists and curators of “inciting religious hatred” under article 282 of the Russian Criminal Code. The three trials regarded the exhibitions *Caution, Religion!* (2003) and *Forbidden Art 2006* (2007), both exhibited at Sakharov Center, and the musical demonstration by the Russian activist punk band Pussy Riot (2012).

In the original trials, the curators of the exhibition *Caution, Religion!* were accused of exhibiting artifacts that were deemed offensive to the Russian Orthodox Church. The exhibition closed within five days from opening, after a group of armed religious protesters affiliated with the church vandalized it (Bernstein 423-24).¹² The curator of *Forbidden Art 2006*, together with the former director of Sakharov Center, were accused of inciting religious hatred for featuring 23 artifacts, of which display was previously banned in Russia, in an exhibition intended as a protest against censorship.¹³ Lastly, following their performative protest at the Cathedral of Christ



Figure 1. Maxim Shevchenko (Senior Prosecutor Expert) addresses the jury. *The Moscow Trials* (2013). © IIPM _ Maxim Lee

the Saviour in Moscow, the members of Pussy Riot were accused of inciting religious hatred in a trial which led to the imprisonment of three of the group members (Riccioni and Halley 211-13, 224).¹⁴

4.1 The Simulated Open Dramaturgy and the Irruption of Real Violence

Whereas the original trials were not held before a jury, *The Moscow Trials* sought to simulate a judicial process following the structure of a criminal jury trial according to Russian law. As a Theatrical Mock Trial, this simulation extended beyond the mere structure of the judicial proceeding and towards reproducing its open and undetermined qualities. The performance did not rely on a predetermined text, but rather implemented an open dramaturgy, generating an aesthetic

space for the impromptu litigation of the cases. That is not to say that the performers did not plan their statements, arguments, and lines of interrogation ahead of the performance¹⁵ – meaning, in a way, they did ‘rehearse’ for the performance – but that the progression of the trial resembled the extemporaneous progression of an actual fair trial.

In an interview regarding the performance, Rau stated that while the process of the trial itself “was extremely disciplined and organized according to Russian legislation”, the negotiations and the answers of the participants were not predetermined: “Neither I nor the participants of each side knew anything of the content of each speech. It was the only proper and sensible way of conducting the trial so that its outcome would remain open and free” (“Pussy Riot’s Moscow Trials” 281). This distinction carries political weight as the simulation replicated the progression of a fair trial (and a trial by jury), and not that of a show trial, in which the verdict is predetermined regardless of the evolution of the trial, the arguments made, or the evidence presented.¹⁶ As articulated by Milo Rau in an article published in *Documenta* in 2016:

The name already shows that one of our major inspirations for these trials were the communist show trials – perfectly planned and controlled spectacles that were used by the regime to intimidate political opponents and influence the general population. (“New Realism and the Contemporary World” 131)

The idea was to show what would happen if the original anti-artistic trials would not have been show trials, set up by the Russian regime and with a predetermined outcome, but real trials. (“New Realism and the Contemporary World” 133)

The Moscow Trials did not merely provide an aesthetic representation of past trials, but was rather a postdramatic performance that’s aim was, paraphrasing Rau’s *Ghent Manifesto*, not to “depict the real, but to make the representation itself real”; not an artistic representation of real events, but rather, as described by theater scholar Martin Hodoň, “an actual event” in which “the artistic gesture was manifested in its re-existence and realisation” (Hodoň 273).

In his reading of the performance's interaction with the real, Hodoň argues that the performance generated a 'hybrid', merging 'artistic reality' with 'lived reality':

This artistic strategy focuses more on the reflection of society from the perspective of civic engagement and the socio-political situation, where art is both a fiction and a replica portraying reality, rather than on the achievement of artistic goals. [...] The liminal nature of reenactment represents the merging or fusion of artistic reality with lived reality. The concept of performativity is both self-referential and constitutive, creating an impression of reality. (274)

The artistic strategy Hodoň refers to, I would argue, is anchored in the performance's open dramaturgy, and in how it summons the irruption of the real. In the case of *The Moscow Trials*, this dramaturgy allowed for, and perhaps even invited, an irruption of real violence into the aesthetic theatrical space. That, in three manifestations of violence: (a) violent speech by the performers, (b) authoritative violence by the Russian immigration authorities directed at the performance's creative team, and (c) a threat of real violence directed at the performers and the performance itself.

(a) Violent Speech by the Performers

Several statements made throughout the performance either justified previous violent actions or constituted new expressions of violence. These statements were made by performers who assumed the role of witnesses for the prosecution, and were directed at the defence. These witnesses – real people portraying themselves – praised violent acts against artists and art which do not conform to their perception of Russian Orthodox Christianity, explicitly expressing hateful and hostile views, some of which were devastating to hear.

However, it seems, both parties were interested in these violent expressions. The prosecution and its witnesses wanted to voice their views and persuade the jury in their righteousness; and, on occasion, the defence provoked such expressions of religious fanaticism as a strategy used for the purpose of displaying it before the

jury as a means of questioning its legitimacy. For instance, during the heated proceeding of the Pussy Riot case, an artist who unequivocally supported the prosecution was called to testify. When interrogated by the defence attorney, he ‘warned’ her to be careful when talking to him (“I warn you. Don’t cross me again”). The judge stated that he cannot threaten anyone in the courtroom. He replied by saying: “I just tell her to be more careful.” This tactic move by the defence exposed the jury to the extent of this witness’s violent attitudes for the purpose of discrediting him and therefore weaken the prosecution’s argument.

While the witnesses’ views themselves were known to both parties, their impromptu responses were unrehearsed, performed live for the first time in the present of the performance. The heated spirits, the hostility, and the violent expressions which emerged during the performance thus appeared to be painfully real. Yet the demonstration of violence extended beyond the aesthetic when real authoritative violence disrupted the performance.

(b) *Authoritative Violence by the Russian Immigration Authorities*

During the second day of the performance, the Russian immigration authorities obstructed the trial. The performance, as poignantly put by German Studies professor Helga Kraft, “was apparently regarded by the Moscow authorities as a dangerous reality” (43). They interrogated Rau and the creative team about their visa permits. Rau had to stop the proceedings, and the judge called for a break explaining to the audience that “our director is a Swiss citizen and has problems with the immigration authorities”. The defence attorney was then transformed from pretending to represent the defence in the simulated trial to representing Rau in his real, actual case before the Russian authorities. When Rau was taken into another room in the museum, the prosecutor Maxim Shevchenko, a well-known nationalist journalist and public figure in Russia, intervened and defended the progression of the performance. He warned the officers that their actions are damaging to Russia’s international reputation: “You jeopardize the performance in the museum, an action by modern art. You also compromise the Russian state, because all this here will be reported in the international press tomorrow”. In a riveting turn of events, the authoritative threat to the theatrical

judicial performance – the artistic expression – was safeguarded by the prosecutor, who represented the Russian interest seeking to restrict offensive artistic expressions.

The real governmental action irrupted into the performance, interrupted it, and jeopardized it, through the demonstration of corrupt authoritative force. As noted by Kraft: “Rau could not have gotten a better dissemination of his intentions to expose abuse of the law” (43).

(c) *A Threat of Actual Violence*

A threat of actual violence directed at the performers and the performance itself occurred after the interruption of the Russian authorities. Members of an Ultra-Orthodox association in Moscow gathered outside the museum threatening to disrupt the performance. In an interview, a member of the group stated that they were informed that there was a performance happening to defend Pussy Riot and criticize the Orthodox Church. The prosecutor Shevchenko, yet again, spoke to the protestors in defence of the performance: “We are staging a discussion here. I ask you not to interrupt us. This is not an anti-orthodox action. I am an Orthodox myself, I give you my word.” The protestors entered the space and watched the performance for some 15 minutes before leaving.

These interruptions are a striking testament to the unsettled boundaries between fictional and real within this Theatrical Mock Trial. This aesthetic event had real ramifications. It “evoked and made visible”, as Rau stated, “something which previously lay hidden” (“Pussy Riot’s Moscow Trials” 281). I would argue that it made visible the scope of authoritarian violence inherent to the Russian judicial system.

These demonstrations of real violence in *The Moscow Trials* disrupted the ‘security’ of the situation of theater, and thus unsettled the aesthetic distance between the audience and the performance. They destabilized the conventional theatrical dichotomy between fictional and real to the extent that the spectators were to wonder how they should react to, and thus judge, the action of the performance. They compelled the audience to wonder if these moments could or could not have occurred in reality, and why. In the destabilization of fictional and real, the theatrical simulation of the trial was made both



Figure 2. Representatives of the Russian immigration authority check the ID of Milo Rau (director). Behind Rau is Maxim Shevchenko (Senior Prosecutor Expert), next to Milo Rau sits Maxim Krupskiy (prosecutor). *The Moscow Trials* (2013) © IIPM _ Maxim Lee.

transparent and opaque, invisible and evident. Such ambivalence was invited by the active force of the open dramaturgy, oscillating between aesthetic representation and real actuality, making the theatrical representation itself real. The open dramaturgy devised a dynamic space for the real to emerge; and through the emergence of the real, the audience could judge concealed structures of injustice, violence, and abuse of power which were exposed.

4.2 The Political Efficacy of *The Moscow Trials*' Open Dramaturgy

The performance of *The Moscow Trials* was held one year after the convicting verdict in the Pussy Riot trial; a trial which, as described in the abstract of Rau's documentary film about the performance, "was only the latest episode in a ten-year series of show trials of artists and dissidents, staged by Putin's system to prevent any form of democratic change". The performance of *The Moscow Trials* did not just re-enact the past, but was charged with a current political impulse. These re-enactments were "an act for the future: it only seems as if one speaks about the past. It happens in the now and takes place for the future" (Rau, "Pussy Riot's Moscow Trials" 284). The demonstrations of violence which emerged through the theatrical simulation presented the audience with haunting and current questions about the power dynamics and the abuse of power within their local judicial system: who could use violence within the performance and "get away with it", who deemed themselves entitled to power or the use of violence, at whom was the violence directed, and who was debilitated by the violence or the threat it posed?

In the documentary film, Marat Guelman, a Russian curator who supported the defence in the actual trials of *Caution, Religion!* and *Forbidden Art 2006*, shared his views on the value he found in this performance. He reverberated the political significance in presenting the tension between real and staged:

The project is especially attracting because there is no independent court in Russia. This is why there is a *staged* trial here today. For me it is more believable than a *real* one. Who knows, perhaps this *staged* trial will turn out to be an alternative to conventional case law. (Emphasis added)

This notion was reiterated by Yekaterina Samutsevich, a member of Pussy Riot who participated as one of the defendants in the performance. To her, this re-enactment of the experience of being accused in the actual trial was an opportunity to (re)tell the story of Pussy Riot. This performance, she believed, offered an opportunity "to finally express one's opinion, which is absolutely impossible to do in a *real* court" (emphasis added). Similarly, the defence lawyer stated she had hoped *this* court would listen, and that *this* verdict would

be the one that should have been reached in the *actual* court. In (re) telling the stories of these trials within a theatrical space, she hoped her arguments would resonate beyond the replicated tribunal and impact public opinion about the Russian regime, and about freedom of artistic expression under its control.

These sentiments suggest that the ‘staged’ Theatrical Mock Trial constructed a more trustworthy justice-doing mechanism than the ‘real’ trial, the actual trial – the show trial? – which was held by the Russian judicial system. This Theatrical Mock Trial was believed to allow for independence, fairness, and objectivity which were perceived unattainable within an actual Russian court. The simulation’s open dramaturgy exposed the faults of the local unjust system, and by that formed an aesthetic and political alternative for Russian authoritative justice-doing mechanisms. As articulated by Rau, “*The Moscow Trials* are a retake (‘Wiederaufnahme’), not a repetition. It concerns not the simulation of a juridical process, but its opposite: the enabling of a process, which was not possible when it was originally conducted” (“Pussy Riot’s Moscow Trials” 281).

These sentiments in praise of the Theatrical Mock Trial, when voiced by the people defending the artistic expression, are perhaps rather self-evident. The defendants were found guilty in an actual court and sought an alternative court to re-try their cases. However, as the Russian authorities won the previous trials, it raises a question as to why would Shevchenko, a Russian anti-liberal nationalist journalist, participate in such a theatrical re-trial? As noted by Rau, while it initially was difficult to convince them to participate (“Pussy Riot’s Moscow Trials” 282), both parties of the performance “got the opportunity to make their case again before a jury of real Muscovites” (“New Realism and the Contemporary World” 131). The prosecution sought to prove that the actions tried in this Theatrical Mock Trial were illegal and offended the believers. The prosecution saw itself as the defender of Russia, and of its values; as representing traditional values in face of liberal depravity.

Therefore, the political in this performance of a Theatrical Mock Trial, it seems, was the possibility to endure conflictual dialogue when it was impossible – or, at least, less possible – to do so in an actual courtroom. Through its open dramaturgy, this Theatrical Mock Trial created a space for the voicing of conflict. This space

was not devoid of violence, as we have seen; yet it endured it, and repositioned it for the judgement of the audience. As a counter-effect to the irruption of real violence, this Theatrical Mock Trial also allowed for the emergence of dialogue; not a peaceful one, occasionally not even cordial, and at times blatantly hostile, but a dialogue nonetheless.

This political significance of *The Moscow Trials* resonated during the parties' closing statements, yet it was simultaneously both revered and undermined. It appeared that both opposing parties argued the same thing: these cases were not just about the artists themselves or the artistic expressions themselves; these trials were about the identity of Russia, its values, and its future. These cases, dealing with the conflict between religious feelings and the freedom of artistic expression, when argued in the simulated tribunal, evoked grandiose arguments. The abstraction of the case by the advocates of both opposing parties elucidates a tension within the possibility for critical intervention of Theatrical Mock Trials. On the one hand, such performances allow for a deeper critical and political examination of the matter at hand. When theatrically simulated, a particular case in a Theatrical Mock Trial is charged with an allegorical quality. In *The Moscow Trials*, the cases transcended into serving as an index of a culture war, of the future of a nation, of its values and identity. On the other hand, this abstraction might negate the performance's political potential. If the Theatrical Mock Trial solely revolves around the participants' opinions and not necessarily about what is just in the case at hand, about voicing political beliefs and not about finding concrete arguments to support them or answering tough questions about them – such generic exchange might eliminate the possibility for real political impact. It can be deemed to mirror the critique posed by Legal Realism,¹⁷ meaning that there is no objective justice to be sought in trial (or in its simulation) which is beyond the personal or the cultural; that judicial rules are a rhetorical façade for a system which masks the ability to justify any and all arguments.

The performance of *The Moscow Trials* concluded with the jury's verdict. As to the first question posed for their judgment, "did the accused perform acts that offended the believers and incited hate against them?" three jurors voted no, three voted yes, and one abstained. As to the second question, "did the defendants wilfully intend to incite hate against believers or offend their feelings?" five

jurors voted no, one voted yes and one abstained. When realizing the outcome of the trial, the sole juror who voted 'yes' on both questions rejected the fairness of the performance, saying: "this whole event was organized just to incite more hate and to show that the Russian people support these petty crooks."¹⁸ This revolt against the fairness of the Theatrical Mock Trial has somewhat exposed the performance's pretence of devising an alternative and fair justice-doing mechanism, yet such exposure did not necessarily weaken its claim for political efficacy. This self-reflexive revolt against the perceived fairness of the artistic expression itself, I would argue, illustrated the possibility inherent to this theatrical form to endure such revolt, a possibility unattainable within the Russian judicial system. It was a revelatory expression of frustration in need of voicing and, perhaps more importantly, in need of hearing.

Consequently to the acquitting verdict, Shevchenko claimed that the verdict had been wrongly interpreted by the court. He stated that the division of the jury votes illustrated the division of Russian society, and that the trial did not end either with a guilty or a not guilty verdict. The defence attorney explained why, according to criminal procedure, this was in fact an acquitting verdict. In response, Shevchenko announced that "this verdict is not justified, the court is not trustworthy." In a deviation from the original trials, the prosecution lost in the Theatrical Mock Trial. To them, upon their loss, the simulated proceedings instantaneously lost their legitimacy. The deviation in the outcome between the actual and the simulated trials, however, revealed the profound accuracy of the simulation: it exposed that losing will not be tolerated by the Russian prosecution. The euphoria of the dialogue, of a prosecutor who, just a day earlier, protected the trial from violent interruptions, was then shattered. But was the possibility for political change on the audience shattered with it?

Before concluding, it is necessary to speculate about the efficacy of such critical interventions were a Theatrical Mock Trial to take place within a distinctly different – say, democratic – political context. Would Theatrical Mock Trials carry the same political magnitude when held within extremely undemocratic regimes if performed within the context of a democratic one (for example, in Rau's *The Zurich Trials*)? While this discussion extends beyond the scope of this article, it is vital to remember that judicial systems exercise



Figure 3. Maxim Shevchenko (Senior Prosecutor Expert) with Yekaterina Samutseвич (Pussy Riot) © IIPM _ Maxim Lee

authoritative violence even within democratic regimes.¹⁹ Therefore, I would assert that Theatrical Mock Trials present analogous political momentum within varied societal contexts.

Conclusion

As the atrocities of the war led by Vladimir Putin in Ukraine persist, on January 2023 Pussy Riot released a short film titled *Putin's Ashes*.²⁰ The video captures twelve Pussy Riot members burning a 10x10 foot portrait of the Russian president, performing rituals, and casting spells against him. As violent visuals such as stabbing the ground with knives are paired with texts like “we will eat you alive” and “sharpening a knife for Putin” – aestheticized, yet poignant, violence

is presented in protest of the horrendous real violence perpetuated by Putin on Ukraine soil. Created by Nadya Tolokonnikova, who was sentenced for two years imprisonment in a Siberian penal colony following the Pussy Riot trial, it is blatantly evident that Pussy Riot's agonising political art against Russian mechanisms of authoritative violence and oppression prevailed regardless of, or perhaps despite, their decade-old trial.

In this article I sought to identify the political in Theatrical Mock Trials. Beginning by decoding the theatricality in the practice of mock trials, this article stressed the pedagogical cruciality of the extemporization during the live development of the event. Such extemporal pedagogical simulations, I argued, expose societal structures and institutional processes, and encourage their participants to employ critical thinking in evaluating the system's fairness and morality. Projecting these findings back onto theater, this article conceptualized the form of a Theatrical Mock Trial: a theatrical simulation of an open and undetermined judicial proceeding. I argued that the open dramaturgy of Theatrical Mock Trials devises a postdramatic space for the undetermined, the spontaneous, the impromptu, to emerge, and through that – the real. Reverberating the logic of the mock trial, such works invite the audience to engage in political and critical examination of the authoritative judicial mechanism.

Analysing Rau's *The Moscow Trials* as a Theatrical Mock Trial, this article demonstrated how the performance's open dramaturgy allowed for, and perhaps even summoned, an irruption of real violence into and through the aesthetic space. By disrupting the 'secure' situation of theater and unsettling the boundaries between fictional and real, these irruptions urged the audience to judge the exposed structures of injustice within the Russian judicial system, its functions and its violence, the forces it serves and its abuse of power. *The Moscow Trials* created a space for the voicing of a complex cultural conflict; a space which was not devoid of violence, yet it endured it, and repositioned it for the judgement of the audience. Anchoring the political of *The Moscow Trials* in its open dramaturgy, the article illuminated how this Theatrical Mock Trial allowed for the emergence of dialogue – an adverse and tempestuous one, and therefore, perhaps, agonizingly real.

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Notes

- 1 The scholarship on this topic occasionally uses the term "moot court" or "mooting" instead of "mock trial." Conventionally, mock trials simulate trials in lower circuit courts, and thus incorporate the process of proving facts and providing evidence, witness testimony and direct- and cross-examination, as well as, usually, having the arguments directed at a jury. Moot courts customarily simulate the procedure of an appellate court, meaning, they deal with questions of law more than with proving facts, and in which the advocates direct their argument to a judge or a panel of judges and answer their questions. However, for cohesion purposes, this article will refer to both as mock trials.
- 2 For further historiography of moot court see Rachid and Knerr.
- 3 It can alternatively be argued that, as a training apparatus before the performance in actual trials, mock trials are a form of rehearsal. In his critique of the inadequacy of mock trials, American appellate judge Alex Kozinski stated that they are "dress rehearsals for a play that is never performed" (189).
- 4 The use of mock trials as a pedagogical tool has been implemented beyond the walls of law schools, i.e. in criminology, nursing, chemical education, counsellor training, economics, science and philosophy courses to name a few (Farmer et al 401-02).

- 5 For further research on the performativity of law, which exceeds the scope of this article but upon which it builds, see, among others, Ball, Rogers, and Peters.
- 6 Such works are sometimes referred to, and analysed as, theatrical tribunals or Tribunal Theater (see, for instance, Nellis).
- 7 'Courtroom dramas' as well as the plethora of theatrical adaptations of documentary legal material will therefore not be considered Theatrical Mock Trials as they rely on prewritten text.
- 8 Echoing Alan Read (with a grain of salt), the theatrical performance "has nothing on the legal system when it comes to foregrounding the palpable, and necessarily 'open' present of its workings" (14).
- 9 As insightfully put by theater scholar Sarah Roberts: "Lehmann's use of 'irruption' (rather than eruption) is particularly productive. The word denotes an invasion or sudden (or otherwise violent) breaking inwards rather than an outward explosive action" (259).
- 10 As with many facets of postdramatic theater, Lehmann's conditional link between the political and 'real actuality' is hardly uncontested (see, for example, Tomlin).
- 11 This analysis is based on Rau's documentary film about the performance, courtesy of Fruitmarket Arts and Media.
- 12 For more on *Caution, Religion!* see Murphy; on its violent destruction see Myers.
- 13 For more on *Forbidden Art 2006* and the subsequent trial see Schwartz and Paramonova; on the verdict and its political significance see Shcherbina.
- 14 For a translation and interpretation of the Pussy Riot performance see Tayler; on the trial see Lipman; on the verdict see Smith-Spark.
- 15 In an interview conducted by Lea Fistelmann, Rau was asked about the rehearsal process for this performance. Rau described that there was a significant phase of preparation before the performance, which included conversations with the participants, the formulation of an indictment, an agreement on who was to be invited, and making "clear arrangements about speaking time and the whole ritual in itself" ("Pussy Riot's Moscow Trials" 281).
- 16 For more on the attributes of show trials see Arjomand 4.
- 17 For more on Legal Realism and its derived concept of Rule Skepticism see, for example, Hart.
- 18 'Petty crooks' referred to the artists put on trial.
- 19 See, for instance, Benjamin and Agamben.
- 20 Available [here](#). I was fortunate enough to catch its screening at Deitch Gallery in Los Angeles in February 2023.