On Theater, Law, and Justice (Not Necessarily in That Order)

–– Steff Nellis (GHENT UNIVERSITY)

This special issue of *Documenta* delves into the reciprocal relationship between 'Theater and Law,' establishing an interdisciplinary space for justice that transcends conventional legal boundaries. In contrast to traditional, rigid judicial frameworks that revolve around accusing and sentencing clearly defined defendants, the performing and visual arts provide a reflective environment for reevaluating legal cases and systems. Each article in this issue aspires to reconceptualize established legal perspectives by presenting artistically inspired alternatives. The contributions illustrate how the performing and visual arts foster empathetic and progressive alternatives to the judicial process, both within and beyond traditional court settings. To underscore the significance of these artistically inspired alternatives, this introduction examines the tragic case of Sanda Dia, a twenty-year-old student who died during an extreme initiation ritual from a student corps at the Katholieke Universiteit Leuven in 2018.

Keywords: theater, law, justice, re-enactment, pre-enactment

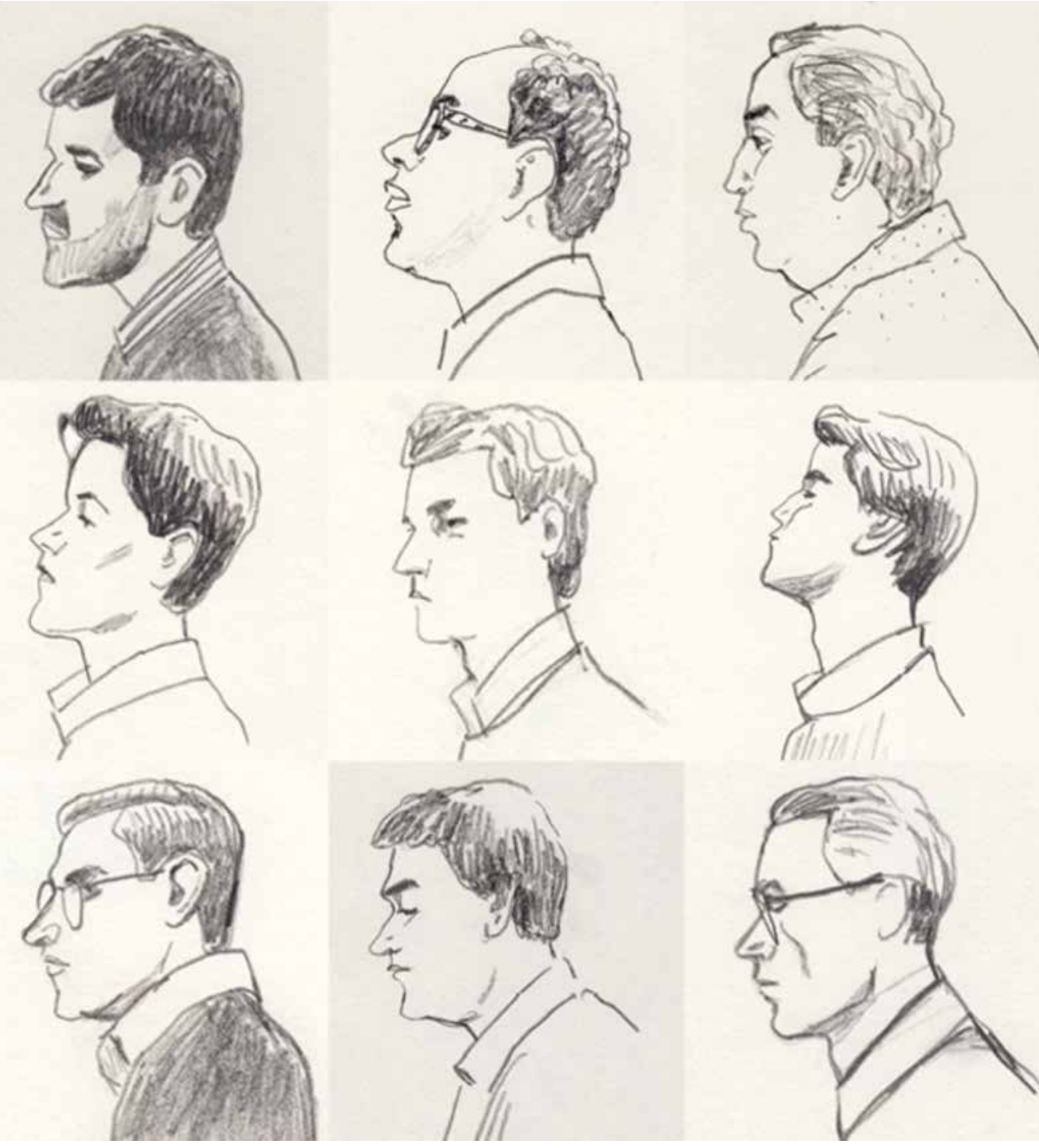

Figure 1. A courtroom sketch of the eighteen Reuzegom members that stood trial
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In Belgium and the Netherlands, student corps, clubs, or unions enjoy widespread popularity. The commencement of the academic year is traditionally marked by the organization of 'student baptisms,' a ceremony during which those freshmen joining a corps undergo initiation rituals deeply rooted in the historical traditions of Western European universities.[1] In English, there is a very specific term for these initiations: 'froshing.' This is typically a term applied to initiating new students into fraternities and sororities in North American universities. Although these 'froshings' are generally perceived as harmless, they concurrently possess a somewhat disparaging nature. Initiates often navigate the city while enduring ironic derision and the occasional pelting of food and liquids from the corps' senior members. Recently, in Flanders, the predominantly Dutch-speaking northern part of Belgium, attention has been drawn to student initiations due to their propensity for violence and abuse. Particularly concerning is the 'sale of pledges' during student initiations, where freshmen are auctioned off to established members, granting a transient right of ownership over the novitiate as part of the latter's initiation into the group. Additional concerns include excessive alcohol consumption, and the coerced ingestion of substances unfit for consumption.

In December 2018, a tragic incident unfolded at the Katholieke Universiteit Leuven (Catholic University Leuven; KUL), leading to the untimely death of Sanda Dia during a student initiation. Sanda was associated with the Reuzegom corps, an exclusive student club established in 1946, comprising of students from a conservative Catholic school in Antwerp who later enrolled at KUL. Historically, the Reuzegom corps had drawn students from predominantly white aristocratic, judicial, public official, and corporate executive backgrounds in the Antwerp region. With his unique background as the child of a Senegalese father and a Belgian mother, Dia was a departure from the typical Reuzegom profile. This deviation surprised his friends and family, given that he became only the second black pledge in Reuzegom's history. Despite the disparity, Dia aspired to leverage the network associated with the corps for career advancement. Unfortunately, his pursuit of societal advancement led to his tragic demise during the rigorous initiation process known as the 'taming' of the pledges.

Given the notorious slowness of the Belgian judicial system, the final verdict in the tragic student death case was only reached in May 2023, nearly five years after the incident. The eighteen Reuzegom members on trial were found guilty of 'unintentional killing' (C), 'cruel, inhumane and degrading treatment (CIDT)' (D), and 'cruelty to animals' (F, G, H).[2] However, they were acquitted on the two most serious charges: 'administration of harmful substances' (A, B) and 'culpable negligence' (E). Without passing judgment on the legal validity of this verdict, it is contended that this case serves as an exemplar of the deficiencies within Belgian legal policy. Public sentiment has criticized the perceived inadequacy of compensation for the victim's family and the short length of the maximum community sentence, especially considering the prolonged period between Dia's demise and the verdict (Daeninck). Furthermore, the lack of comprehensive answers provided for Dia's family throughout the trial has substantially undermined their sense of justice, resulting in public outrage, social upheaval, and distress. The law had been ruled, but had justice truly been served?

This special issue of *Documenta: journal for theater* explores the reciprocal influence of 'Theater and Law,' creating an interdisciplinary space for justice that goes beyond conventional legal boundaries. Unlike traditional regressive judicial structures, which focus on accusing and sentencing clearly defined defendants, the performing and visual arts offer a reflective environment for reevaluating legal systems. Each article in this issue aims to reconceptualize established legal perspectives by proposing artistically inspired alternatives. Moreover, these contributions illustrate how the performing and visual arts nurture empathetic and progressive spaces, both within and beyond conventional courts. The discussion pushes past merely sentencing or exposing defendants such as the eighteen Reuzegom members who are unrecognizably caricatured in the courtroom drawing that opens this introduction. Instead, the issue explores ways to transcend regressive condemnation and advocate for justice. Consequently, this introduction and the subsequent articles argue for looking beyond standard legal systems and jurisprudence. All contributions suggest exploring alternative visions of justice within the frameworks and practices of theater, the performing arts, and the visual arts.

On Law – A Trial by Media

The Sanda Dia Affair sparked widespread consternation and debate when it went to trial, both within Belgium and internationally. Moreover, when it was published in the media following the judicial investigation in the summer of 2020, the lawsuit turned into a 'trial by media.' The hashtag #JusticeForSanda started circulating on social media, encapsulating the concern that if the Reuzegom members implicated in the events were not charged with felonies, they could continue their studies and, like their predecessors, come to occupy the most important positions of power in society, probably even in the legal system itself. Furthermore, the initial reaction of KUL seemed lamentable. They stated that the taming had long been a 'tradition' in the corps and only gave three of the students 30 hours of community service. This included writing a paper on froshing and doing some free tutoring, which they could easily complete within a week (Punch 42). Subsequently, public interest in the case only increased. People started to share pictures of the Reuzegom members online and called for people to take matters into their own hands with the looming failure of the legal system. However, this only did the opposite it intended, as the lawsuit was postponed several times due to legal objections from the lawyers.
To battle against 'media trials' or the mediatization of law is to buy into law's ideology itself, Julie Stone Peters argues. The idea that law is autonomous from other spheres – that law is *not* theater – is fictional: "Law will never resist the temptations of theatre, because law's very being is a theatrical one" (59). As for the Sanda Dia case, media coverage extensively detailed the chain of events and the reactions of those involved. The primary investigation initially aimed to construct a credible reconstruction of the lamentable two-day froshing This reconstruction revealed that the techniques employed in the Reuzegom initiation were notably more aggressive and physically demanding compared to 'baptisms' in other student societies. Notably, in the days leading up to the hazing, the 'pledge tamer' had promised an exceptionally rigorous taming. In my overview of the sequence of events, I rely on Pieter Huybrechts, a Belgian journalist who closely following the case and authored the book *Sanda Dia: The Hazing that Led to Death* (*Sanda Dia: de doop die leidde tot de dood* in Dutch, 2021).[3]

During the first day of the initiation in Leuven, Dia and two fellow pledges encountered degrading and physically demanding challenges. The activities began with a flower-selling competition in Leuven, where Dia, having sold an insufficient number of flowers, was compelled to consume a mixture of purportedly shrimp-based brown sludge and gin. All three pledges were then forced to ingest a concoction of sour milk, fish sauce, and hot peppers. Dia and another pledge, facing poor flower sales, were additionally required to consume a bird's fat globule. Subsequent events included public humiliation in the streets, verbal abuse, and forced alcohol consumption leading to intoxication and vomiting. When passersby inquired about their condition, they were misled. Despite the pledges' deteriorated states, the evening continued in the city center. Finally, in Dia's dormitory, the tamers engaged in further degrading acts, such as cutting the pledges' hair, applying chocolate paste to their bodies, and covering their heads in tomato sauce. The taps in the room were obstructed, denying the pledges access to water. The initiation culminated with tamers urinating on the pledges, rationalized as part of a yearlong tradition (Huybrechts 39-41; 47-51; 58-71).

On the second day of the initiation, it became evident that Sanda was severely incapacitated, struggling to walk. Around noon, the pledges were taken from Leuven city center to Vorselaar in the Antwerp District. In a wooded area with a hut and stream, they were subjected to an extended and sadistic ritual. Forced to dig a pit and sit in near-freezing water, they endured periodic dousing with cold water, urination, and even defecation by one of the tamers. One Reuzegom member, a medical student, expressed concern about Dia's deteriorating condition early on but was disregarded. Further torment involved various forms of degradation, including the consumption of nauseating concoctions including live mice, worms, locusts, and fish sauce: the infamous 'fish sauce test' in which the pledges swallow and regurgitate fish. Moreover, the pledges were subjected to continuous vomiting, dehydration, and exposure in a filthy pit filled with vomit, urine, and feces. The ordeal extended into the evening, with additional cruel acts such as biting off the head an eel and eating live goldfish. Dia's deteriorating health became apparent, with shouts from the group ignored until it was too late. In the end, the medical student insisted on immediate help, leading to a reluctant decision to seek assistance. However, when the tamers took Dia to a nearby hospital in Malle, it was already too late to res-

cue him. His body temperature was far too low and he had ingested to much salt, causing several organs to fail. Dia went into a coma and died two days later, on 7 December 2018 (Huybrechts, 92; 124). In *Crime and Deviance in the Colleges: Elite Student Excess and Sexual Abuse* (2022), Maurice Punch illustrates that the Reuzegom corps is an exemplary case of elite students – with elite parents, at an elite institution – who, in their traditional rumbustious excess, cause tragic events, in this case the death of a fellow student. Even more exemplary is the subsequent employment by the parents of all their political, social, and financial resources to fight for their children in court to attain a mild or no sentence. A typical case of what we might call 'Class Justice:'

> The parents of the corps members involved – including a judge and a provincial governor – were members of the regional power elite and they hired a highly experienced criminal lawyer who used diverse tactics to delay and cast doubt about the criminal process. That is their legal right but that power and wealth discrepancy could only mean that 'justice' for the victim and his family was determined in an arena where professionally callous lawyers used every tactic available to influence the proceedings. (43)

This strategy appeared to be highly effective. The eighteen Reuzegom members faced charges of 'administration of harmful substances resulting in death' (A), 'administration of harmful substances resulting in illness or work incapacity (≤ four months)' (B), 'unintentional killing' (C), 'cruel, inhumane and degrading treatment (CIDT)' (D), 'culpable negligence' (E), and various 'infringements of animal welfare' (F, G, H). Ultimately, they were convicted of 'unintentional killing' (C), 'CIDT' (D), and various 'infringements on animal welfare; (F, G, H), but acquitted on the charges of 'administration of harmful substances' (A, B) and 'culpable negligence' (E). Their sentences ranged from 200 to 300 hours of community service, and each member received a €400 fine, along with monetary reparations to Dia's family (Decré).

Another noteworthy aspect of the ruling is that the Reuzegom members were neither disenfranchised nor does their conviction appear on the extracts of their criminal records. In other words,

their involvement in the Sanda Dia Affair will only be visible to the police, the court, and security services with access to their complete criminal records. Thus, future employers will be unaware of their convictions in this case. Given the initial prosecution's request for effective imprisonment, these sentences may be considered relatively lenient. The ruling emphasizes that the punishment "serves not only as a retributive requirement" but also as a means of "general and particular prevention." In essence, the verdict aims to ensure and prevent the convicted individuals from committing such acts in the future (Decré). While the law has been served, the question lingers: has justice truly been done?

On Theater – A Call for Justice

While I do not aim to question the legal validity of the verdict in this case, my intention is to delve into questions surrounding the enduring impact of this trial, the precedents it establishes, and the lessons we can extract from it. Aligned with the various perspectives within this volume, this article explores what we – scholars, theatermakers, lawyers, judges, legislators, citizens, parents, brothers, and sisters – might glean from cases like the tragic death of Sanda Dia. How can we prevent such horrific events in the future? How can we ensure that Dia's death was not in vain? And how can we surpass the confined realm of the judiciary to achieve justice?

In his 2021 monograph, *Art as Interface of Law and Justice: Affirmation, Disturbance, Disruption*, Frans-Willem Korsten delves into the ontological difference between law and justice. "From the legal side," Korsten argues, "law cannot be satisfied with loose ends and is aimed at closure because it is systematic in nature. Any case works towards being closed, and if it is not closed on one level, it moves to a higher level, or the highest one" (21). The judiciary seeks closure, exemplified in the Sanda Dia Affair with a judgment rendered in accordance with Belgian legal principles. In analyzing the case, attorney Philip Daeninck refers to Jeffrey Reiman's seminal work, *The Rich Get Richer and the Poor Get Prison* (1979), which, akin to Maurice Punch's insights, underscores the judiciary's failure to impartially assess individuals across the criminal justice system in its entirety. Daeninck contends that Lady Justice's blindfold, symbolizing impartiality, does not function adequately. Thus, the

issues raised by the Sanda Dia Affair extend beyond legal considerations, delving into broader societal implications, particularly highlighting systemic injustices within the intersectionality of race and socio-economic divides.

However, rather than solely critiquing the seemingly lenient verdict, our focus should shift towards reevaluating our approach to crime and punishment. Advocating for re-socialization and restoration becomes crucial, challenging the evident imbalance in various judgments and prompting a holistic reconsideration of societal responses to crime beyond existing legal frameworks. The question is not whether the verdict is elitist but whether it encourages continuous reflection on shaping a more equitable societal response to injustice. In this sense, Korsten suggests that to appeal to an ever-higher court, "people will have to move to the margins of the system or outside the system, with its imagined courts" (21-22). For in any legal system, the logic of reason is dominant, whereas in the realm of justice, the logic of dreams holds a preferable position. Reflecting on the work of legal scholar Peter Goodrich, Korsten invokes the idea of 'minor jurisprudences' as aesthetic, playful modes of operation within legal systems. Here, art is considered for its potential to highlight principles of the rule of law while opening up the broader realm of justice: "If law is capable of injustices, for instance, this affects the realm of justice; and art is considered the medium that makes this palpable" (19).

There is, indeed, a growing number of scholars from within both the fields of Law and the Humanities involved in thinking through the relation among law, justice, and art. Because of their ontological and formal correspondences, the generic form of theater is also constitutive for the court.[4] In recent years, several publications of varying scope and character have been published on the tense relationship between theater and the courtroom. In 2019, Laura Münkler and Julia Stenzel co-edited an anthology on the staging of law: *Inszenierung von Recht*. Operating within both Law Studies and Performance Studies, Münkler and Stenzel collect essays on the "Zusammenhängen zwischen Ästhetik und Recht sowie nach der Performativität von Recht" that stress the intrinsically theatrical aspects of the law (8). Earlier research conducted by Paula Diehl is also worth mentioning here. In her study *Performanz des Rechts* (2006), Diehl already characterizes the performativity of law in terms

of a wide range of enactments: its 'actors', knowledge production, and the enforcement of the verdict.

Accordingly, Alan Read suggests in *Theatre & Law* (2016) that law should be seen as part of a distinct way of imagining the real and can thereby provide visions of a community, not only echoes of it. Moreover, law provides a model for how society can or should be (36-37; 50). Read indicates an inherent anthropological and ontological connection between theater and law, referring to Alain Supiot's *Homo Juridicus* (2006):

> It is precisely the law, Supiot suggests, that connects our infinite mental universe, all life's possibilities in the radical heteronomy of all possible actions, with our finite, limited, actual physical existence, and in so doing fulfils the anthropological function of instituting us as rational beings. In this sense we are recognizable as human beings, precisely because we are legal beings first. (39)

Read endorses Supiot's view of humankind as 'homines juridicae' instead of 'homines ludentes'. However, he demonstrates that the courtroom, and law in general, remains a place where something is enacted: "It operates through action, not just a mental operation. It is made up of performing and spectating" (12). In other words, the courtroom can be seen as a theater in which the attendees – lawyers, judges, jury, witnesses, prosecutor, defendant, bailiff, and others – try to collect evidence by reenacting the crime that has been committed. Each participant in this complex course of events plays a specific role and tries to convince the other parties. Although historical research into the connection between law and theater, as well as into twentieth-century theatrical tribunals is widespread (e.g., Arjomand 2018; Read 2016; Stone Peters 2022), the recurring theme of justice in contemporary performance practices only recently began to be explored by scholars (e.g., Korsten 2021, Nellis "Enacting Law," Tindemans 2021).

Theater and Law

An increasing number of twenty-first century artists have begun relying on structures of the court in their performances. When severe injustices such as imperial abuses, sexual assault, war crimes, (eco-) colonialism, among other problems are neglected by the international community, theater can publicly condemn these shortcomings within the real legal system by assembling public meetings itself. The performing arts thereby claim a voice in the debate that can counteract the dominant and restrictive legal perspective. After all, theater, as a live event, can be regarded as the most suitable place to discuss actual topics and have heated debates. Therefore, theater seems to be an appropriate apparatus for dealing with societal injustices. While real lawsuits emphasize legal responsibility, 'theatrical tribunals' focus on moral responsibility. This shift is exemplary for contemporary court case performances, which is why the tribunal genre is highly desirable to build upon, to complete and even to precede regular proceedings, trials, and tribunals (Nellis "Enacting Law"). The first five articles in this special issue start from performances that can be characterized as 'theatrical mock trials,' 'judicial theater,' 'tribunal theater,' 'courtroom drama,' or 'legislative theater'. The authors all deal with performances that tackle legal questions on the contemporary stage by relying on the format of artistic (p)re-enactment.

In 'The Irruption of Real Violence: The Open Dramaturgy of Theatrical Mock Trials and Milo Rau's *The Moscow Trials*,' **Kfir Lapid-Mashall** discusses *The Moscow Trials* (2013) by Swiss director Milo Rau. This contribution presents a definition of the 'Theatrical Mock Trial' as an educational practice by discussing its pedagogical benefits in developing critical spectatorship and dialogue. Employing the logic of the mock trial, Lapid-Mashall proposes conceptualizing 'Theatrical Mock Trials' through their postdramatic open dramaturgy. This means that the verdict is not predetermined but reached, instead, in the present of the performance. Correspondingly, the open dramaturgy of such theatrical trials transforms the political insight normally gained by trainees who participate in the mock trial into political acuity from the spectators.

Likewise, **Lily Climenhaga** engages with the intersection of the political and the affective across Rau's tribunal projects: *The Moscow*

Trials (2013), *The Zurich Trials* (2013), and *The Congo Tribunal* (2015). In '(P(Re))Forming Justice: Milo Rau's Trials and Tribunals,' they illustrate how Rau's re-temporalization of necessary but ultimately non-existent institutions installs utopian, affective institutions that serve as demonstrative alternatives to those of the present. All three performances exist in a temporality formerly occupied by apathy. The meeting of internal anger with external outrage produced by these trials and tribunals counters the lack of care that characterizes the apathy of the original or ongoing events. Uncovering how these performances should be understood as 'pre-formations', Climenhaga argues that Rau's tribunal theater serves as a call to justice and the installation of a caring, engaged – but liminal – jurisdiction that considers the needs of the immediate future by reimagining contemporary institutions of the present.

As these examples show, current court case performances do not only bring a continuation of courtroom dramas based on artistic-historical re-enactments. Theater is also founding futuristic tribunals that pre-enact laws and legislation that previously did not exist, or which are not supported by the authorities. These alternative courts no longer focus on the past to draw lessons for the present, but rather focus on the present, the future, or the imagination. Deliberately changing the dramaturgy of the courtroom by including alternative forms of jurisdiction, contemporary artists rethink the ways in which the legal system is preoccupied with judgement and objectivity. In doing so, they make room for marginalized or unheard voices. In this sense, they resemble the iconic international courts, such as the Nuremberg Trials (1945-1946) after World War II or the Truth and Reconciliation Commission in South Africa (1996), that sought to set up people's tribunals that really listened to broader public opinion. Hence, contemporary artistic tribunals not only raise awareness on the specific political subjects they treat, they also critically question the courtroom as an institution of judgement and justice (Nellis "Enacting Law").

In this sense, **Shlomit Cohen-Skali**'s contribution, 'Empathy at the Crossroads,' discusses the role of empathy in what she calls 'Legal docu-performances' (LDPs). These are theatrical re-enactments of legal cases that have already been decided by the court but are transferred into a theatrical setting. Cohen-Skali differentiates between affective and cognitive empathy in LDPs by tracing their

theatrical means within three performances: *Kastner* (1985) by Lerner Motti, *The Hearing* (2015) by Renana Raz, and *Demonstrate* (2017) by Daphna Zilberg. Even when the performance is no more than a reenactment of the original court case, adhering strictly to the proceeding's *verbatim* material, Cohen-Skali argues that it may lead to questions about the extent that the legal system is capable of handling difficult moral dilemmas. As such, the article examines the nexus between empathy and engagement, both at the level of the performances themselves and at the level of change in public discourse.

In 'Legitimately Incongruous: Exploring Artistic and Legal Interplays in *A Game of War* (2021),' **Sixtine Bérard** examines the filmed mock trial *A Game of War* (2021) by the Flemish legal-artistic collective TWIIID. Their (mock) trial between Samson Kambalu and Gianfranco Sanguinetti delves into the intricate legal and artistic aspects in the specific context of copyright. Bérard argues that *A Game of War* can be seen as both an inquiry and a dialogue, serving simultaneously as a re-enactment of the preceding court case and as a pre-enactment of what a lawsuit regarding similar issues could look like in the future. Consequently, the film opens new avenues for dialogue, while fostering a deeper understanding of the intricate interplay between artistic expression and the complex web of legal frameworks.

As these contributions illustrate, the (p)re-enacting principle offers an important strategy with which to rethink systemic ways of enacting law and to reflect, instead, upon new imaginaries beyond regular proceedings. Although theater remains a non-event that does not have the coercive power to change reality directly, the most important political stake of these artistic endeavors seems to be their ability to question both the topic discussed within the trial and the courtroom as an apparatus in itself. By rethinking, deconstructing, and reconfiguring the theatrical dramaturgy of the courtroom on stage, a powerful meta-narrative is installed that can cause individual spectators to think through stubborn systemics within the courtroom in particular and society in general (Nellis "Enacting Law").

This is illustrated by legal and performance scholar **Klaas Tindemans** in the final article of the first installment. In his contri-

bution, Tindemans analyzes three recent courtroom dramas that attempt to give shape to the moral and political indignation about 'Fortress Europe': *Necropolis* by Arkadi Zaides (2020), *Het Salomonsoordeel* (*The Solomon's Judgment*) by Ilay den Boer (2020), and *Simple as ABC #7: The Voice of Fingers* by Thomas Bellinck (2023). All three performances refer to Hannah Arendt's topical question: "Who guarantees the right to have rights?" (Arendt 343). While an increased de-subjectification of refugees attempting to reach a place of asylum is a constant in the state policies of European countries, various theater-makers try to restore the migrant's identity as a (legal) subject. However, the question arises of whether artistic representations of immigration issues sufficiently tackle the political challenges of global mobility. In 'The Resilience of Borders: Law and Migration in Contemporary Performances', Tindemans argues that although borders are impenetrable, reinforced again and again thanks to what is supposed to be a democratic consensus, documentary theater may design a counter-universe, testing it against an audience that is urged to suppress their cynicism through imagination.

The performances discussed in the first five contributions vividly demonstrate that theater can function as a bridge between law and justice. In times of societal turmoil, intricate political landscapes, and social challenges, 'theatrical court case performances' emerge as a powerful tool to facilitate communication among individuals who might otherwise be hesitant to confront pressing issues. The performing arts, in this context, present novel avenues for exploring 'artistic justice.' While the artistic rendition of a courtroom may not possess the same authoritative and punitive force as the law, its ability to bring contemporary issues to the stage and envision innovative approaches to addressing injustices through an alternative legal framework transcends the inherent limitations of our conventional legal system, which operates within a confined regulatory framework. The distinct genre of a 'theater of justice' compellingly illustrates that the performing arts hold the potential to impact reality, either directly or indirectly, and influence how individual audience members perceive and engage with this reality (Nellis, "All Rise!"). Furthermore, as the subsequent section elucidates, these artistic endeavors may even serve as a source of inspiration, influencing the methodologies employed within the judicial system itself.

Law and Theater

In the second installment, we observe how scholars, in recent years, have started exploring the potential of integrating the previously discussed theatrical techniques to dismantle legal procedures and redirect them back into the legal system itself. **Marett Leiboff**, in her monograph *Towards a Theatrical Jurisprudence* (2019), contends that both the judiciary and the theater share the task of continuously bringing attention to instances of injustice and the failures of the legal system, along with their contextual nuances. Leiboff posits that the 'theatricalization' of law serves as a pivotal avenue for cultivating justice within criminal law. Through her concept of 'Theatrical Jurisprudence,' she aims to challenge fundamental assumptions inherent in legal thinking. Rather than relying solely on logic and reason, she argues that the judiciary is intrinsically linked to the individuals behind it – their backgrounds, assumptions, and the unconscious images they employ to animate and make sense of abstract legal principles. This, she asserts, is law's inherent theatricality.

In her contribution to this special issue, titled 'Creating Spaces in Law as a Practice of Theatrical Jurisprudence,' Leiboff intentionally introduces an unconventional and initially challenging perspective. At first, the article may seem a bit odd and difficult to follow. However, Leiboff argues, this is intentional. She urges the reader to bear with her and experience the importance of theatricalization for any case or lawsuit firsthand. Without the ability to theatricalize the law, Leiboff argues, lawyers and judges merely fill in words to create meanings. However, the way in which words and experiences are filled in at court and at a crime scene can be vastly disparate. 'Theatrical Jurisprudence,' for Leiboff, is not merely a historical reactivation through reconstruction or re-enactment of the crime; instead, it serves as a prompt to inquire about how to instill responsiveness and awareness into contemporary legal entities that aspire to achieve justice. This contribution contends that 'theatricalization' can reveal the stakes involved when the law falters or when there is an absence of proper legal functioning. In essence, Leiboff argues that law has to theatricalize in order to open up new spaces for justice.

Correspondingly, in his article on 'The Judiciary's Theatrical Achilles' Heel: Acting the Fool (RAF members) compared to Acting in Bad Faith (Alex Jones),' **Frans-Willem Korsten** contends that the theatrical

nature of the judiciary – the live theatricality of jurisdiction – remains essential when people are to be shown that justice is being done. In his analysis, he turns to several cases in the United States of America. Korsten compares 'theatrical' courtroom provocations by leftist activists and militants in the 1960s and 1970s with recent 'bad faith' actions in court by the American right-wing activist Alex Jones. Relying on Johan Huizinga's definition of the 'spoilsport,' someone who pretends to play a game while aiming to destroy it, Korsten considers defendants like Jones, acting in bad faith, to be a real threat to the judiciary (11). For spoilsports try everything to delay, obstruct, derail, complicate, or multiply court cases. Acting in 'bad faith,' then, works at the interstice between events in court and the court case's public dissemination through social media platforms.

Likewise, in her contribution, 'Performing Institutions: Trials as Part of the Canon of Theatrical Traditions,' **Rocío Zamora-Sauma** explores the dual nature of legal proceedings' inherent theatricality. While such theatrical elements can effectively capture public attention and raise awareness for significant legal issues, they also present a potential for exploitation by those aiming to undermine the legitimacy of these proceedings, as exemplified in the 2013 genocide trial in Guatemala, commonly known as the 'Ixil Trial.' During this trial, the defense strategically utilized the media to portray the proceedings as a theatrical spectacle. This deliberate portrayal served to erode the legitimacy of the trial and sow doubt about the fairness of its outcome. Nevertheless, the media also played a crucial role in dispelling these misconceptions, highlighting that the Ixil Trial was in fact not a farcical legal process. Ultimately, Zamora-Sauma's contribution provides a clear illustration of how the Ixil Trial exerted a profound impact on mobilizing various sectors within the public sphere through media channels.

Sean Mulcahy and **Kate Seear** subsequently redirect our focus from the court of law to parliamentary scrutiny committees, which undertake the task of 'performing' human rights assessments of legislation. In their article, 'Backstage Performances of Parliamentary Scrutiny, or Coming Together in Parliamentary Committee Rooms,' the authors propose that examining parliamentary human rights scrutiny through a performance lens prompts critical inquiries into the audiences and impacts involved. This perspective emphasizes the publics' witnessing and how this act is influenced by the performance,

considering the access, comprehension, and responsibilities of the actors involved. Advocating for a reconfiguration of parliamentary spaces to engage public audiences, their research proposes training parliamentary actors to recognize the impact of their human rights scrutiny work on audiences. In this sense, the authors provide a more nuanced understanding of the parliamentary scrutiny process and advocate for improved public engagement strategies.

In 'Legislative Theatre and Modern Slavery: Exploring a Hyperlocal Approach to Combating Human Trafficking,' **Sofia Nakou**, **Nii Kwartelai Quartey**, and **Stephen Collins** also discuss ways to enhance broader public engagement. The Boalian theater techniques of Act for Change (AfC), a Ghanaian applied theater company that uses performance to address issues of modern slavery and human trafficking taking place within their community, take center stage in this contribution. AfC's projects serve as a significant community forum, offering a supplementary dimension to state-led initiatives. The authors illustrate that grassroots organizations like AfC are very effective in applying a hyperlocal approach, emphasizing community knowledge and networks. While community action cannot replace statutory instruments or state-led initiatives, initiatives like those proposed by AfC are a potentially significant and underdeveloped complementary tool in the fight against modern slavery, placing the community and the survivor at the center of change.

The final article in this special issue focuses on the call for Ecuadorian acts of symbolic reparation following human rights-related crimes perpetrated in Ecuador between 1983 and 2008, as investigated by the ad-hoc Truth Commission installed afterward. In 'From the Truth Commission Report to the Stage and the Museum: The Artistic Dislocation of Violence from the Ecuadorian Chapter of 1983 to 2008,' **Jorge P. Yánez** and **Andrés Aguirre Jaramillo** illustrate that the monetary dimension is a crucial but insufficient aspect of comprehensive victim reparation for serious human rights violations. Symbolic reparations, seeking acknowledgment and recognition through the restoration of honor and truth, hold value not only for individual victims, but is an integral part of a social fabric. However, textualist reparative measures that lack visual representation, relying solely on linguistic references, fall short of invoking a deep and sensitive collective memory. Commemorative plaques in Ecuador illustrate this limitation, emphasizing the need for a Memory Center mandated

Figure 2. The last picture of Sanda Dia, taken by one of the Reuzegom Members on December 5 2018. The picture was circulated through the media at the family's request

by the Victims Act, which remains unfulfilled to date. In Ecuador, theater and the performing arts remain an untapped resource for government-led memory-building, offering a potential avenue for individual victim narratives to permeate the collective consciousness and shape the country's aesthetics of memory.

On Justice – Regarding the Pain of Others

During the second day of the Sanda Dia trial in 2023, a poignant picture took center stage. This photograph depicted Dia, completely drained and soaked, lying in the grass. Sven Mary, the legal representative of Dia's family, presented this disturbing image to the court. While the eighteen defendants rightly sought not to be recognizably portraited in photographs without consent during the

trial, Mary highlighted that Dia himself never had the opportunity to grant permission for this specific photograph – the last image of him, albeit barely, alive. The picture was taken on the evening of December 5, 2018, after the infamous 'fish sauce test' and was subsequently eagerly shared within the enclosed *WhatsApp* group of the Reuzegom corps. Mary not only showcased the photograph during the public hearing but also ensured its online dissemination through public and social media platforms, as explicitly requested by Dia's family. Their intent was for individuals to witness firsthand the deplorable state Dia was in after the grotesque, ten-hour ritual during a two-day hazing that subjected the pledges to cold temperatures, dehydration from alcohol and constant vomiting, and acts of urination and defecation.

In *Regarding the Pain of Others* (2003), Susan Sontag explores the role of images, particularly photographs, in shaping public perception and understanding of human suffering. She delves into the ethical and moral implications of such images and discusses how they influence public opinion. One key argument in this study is that images of human suffering can elicit a range of emotional responses from viewers. However, she also examines the ways in which these images are used in the media, questioning the impact they have on the viewer's understanding of distant and often complex realities. There now exists a vast repository of images that haunt us, and yet, in modern life, it also seems normal to turn away from these images because they simply make us feel too bad:

> That we are not totally transformed, that we can turn away, turn the page, switch the channel, does not impugn the ethical value of an assault by images. It is not a defect that we are not seared, that we do not suffer *enough,* when we see these images. Neither is the photograph supposed to repair our ignorance about the history and causes of the suffering it picks out and frames. Such images cannot be more than an invitation to pay attention, to reflect, to learn, to examine the rationalizations for mass suffering offered by established powers. Who caused what the picture shows? Who is responsible? Is it excusable? Was it inevitable? Is there some state of affairs which we have accepted up to now that ought to be challenged? (91)

While the verdict in the Sanda Dia Affair condemned and sentenced the eighteen Reuzegom members, numerous questions linger unanswered. Undoubtedly, the image of Dia lying in the grass evoked moral indignation among a broader audience. However, as Sontag contends, the efficacy of such images in conveying the true depth of human suffering is limited due to the desensitization that results from constant exposure to images of violence and tragedy: "We don't get it. We truly can't imagine what it was like" (108). Each picture, each image, and every past event is seen in some setting. To comprehend what causes the 'Pain of Others', we posit that the rule of law must be theatricalized. Only then can justice be genuinely served.

In a broader context, all the articles comprising this special issue grapple with the 'Pain of Others,' whether it involves refugees and migrants, survivors of genocide and human rights violations, victims of corrupt legal systems, civil rights protestors, or artists. Previous research has already demonstrated how theater addresses issues from the legal system to establish 'artistic justice' outside the courtroom when official legal procedures prove inadequate. The first five articles continue this trend, spotlighting specific performances where the arts complement, adjust, or deconstruct and reconstruct the legal system. Conversely, the remaining six articles diverge from the legal system, drawing inspiration from the theater. By applying theatrical techniques in classrooms, parliamentary scrutiny rooms, reparative operations, courtrooms, and people's tribunals, these examples illustrate how the performing arts foster empathetic and progressive spaces, both within and beyond conventional courts. Consequently, theater can offer strategies that contribute to creating a reflective environment to reevaluate legal systems. In the case of Sanda Dia, initiatives such as those described in the following articles could provide significant community forums, placing survivors, family members, and the wider community at the center of attention. Seeking acts of symbolic restoration and recognition holds undeniable value for a generation traumatized by this horrendous crime, its legal proceedings, and the outcome of its trial. In this sense, the performing and visual arts might provide a space where people can gather to contemplate the 'Pain of Others,' and where empathy can effectively transform into engagement, striving not only for 'artistic justice' but for a more just society at large. Therefore, this special issue on 'Theater and Law' is indeed an exploration of theater, law, and justice, though not necessarily in that order.

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Works cited

Antwerpen 26 mei 2023 2019, AR 2022/CO/393. Accessed 22 Nov. 2023.

Arendt, Hannah. *The Origins of Totalitarianism*. Harcourt Brace & Co, 1973.

Arjomand, Minou. *Staged: Show Trials, Political Theater, and the Aesthetics of Judgment*. Columbia University Press, 2018.

Daeninck, Philip. "'Is de uitspraak in de zaak Sanda Dia te mild of zijn zoveel andere uitspraken repressief?'" *Knack*, 1 June 2023. Accessed 22 Nov. 2023.

De Coninck, Douglas. *Ontmenselijkt: Achter de schermen bij studentenclub Reuzegom*. Pelckmans, 2022.

Decré, Hanne. "Het arrest over de dood van Sanda Dia ontleed: waaraan zijn de Reuzegommers schuldig? Waaraan niet? En waarom?" *Vrtnws,* 2 June 2023. Accessed 22 Nov. 2023.

Diehl, Paula. *Performanz des Rechts.* Akademie Verlag, 2006.

Dorsman, Leen. "From *Natio* to *Corps* (1575-1820): the Birth of a New Type of Student Association in the Netherlands." *Collected Wisdom of the Early Modern Scholar: Essays in Honor of Mordechai Feingold,* edited by Anna Marie Roos and Gideon Manning, Springer, 2023, pp. 43-60.

Huizinga, Johan. *Homo Ludens: proeve eener bepaling van het spel-element der cultuur. Tjeenk Willink, 1938.*

Huybrechts, Pieter. *Sanda Dia: de doop die leidde tot de dood*. Das Mag, 2021.

Korsten, Frans-Willem. *Art as an Interface of Law and Justice: Affirmation, Disturbance, Disruption.* Hart Publishing, 2021.

Leiboff, Marett. *Towards a Theatrical Jurisprudence*. Routledge, 2019.

Münkler, Laura, and Julia Stenzel (eds.). "Einleitung: Inszenierung und Recht – Funktionen, Modi und Interaktionen." *Inszenierung von Recht*, Velbrück Wissenschaft, 2019, pp. 8-18.

Nellis, Steff. "All Rise! Jurisdiction as performance/performative language." *Forum Modernes Theater*, vol. 32, nr. 2, 2021, pp. 3-41.

—. "Enacting Law: The Dramaturgy of the Courtroom on the Contemporary Stage." *LATERAL*, vol. 10, no. 1, 2021.

Peters, Julie Stone. "Theocracy Unwired: Legal Performance in the Modern Mediasphere." *LAW & LITERATURE*, vol. 26, no. 1, 2014, pp. 31-64.

Peters, Julie Stone. *Law as Performance: Theatricality, Spectatorship, and the Making of Law in Ancient, Medieval, and*

Early Modern Europe. Oxford University Press, 2022.

Punch, Maurice. *Crime and Deviance in the Colleges: Elite Student Excess and Sexual Abuse*. Bristol University Press, 2022.

Read, Alan. *Theatre & Law.* Bloomsbury Publishing, 2016.

Sontag, Susan. *Regarding the Pain of Others.* Penguin Books, 2003.

Tindemans, Klaas. "Voices of Law and Justice: The (Re-)enactments of Legal Discourse in Tricycle's Tribunal Plays and IIPM's Trials." *EASTAP*, vol. 3, 2021, pp. 288-337.

Notes

1 See, for instance: Leen Dorsman, "From *Natio* to *Corps* (1575-1820): the Birth of a New Type of Student Association in the Netherlands." *Collected Wisdom of the Early Modern Scholar: Essays in Honor of Mordechai Feingold*, edited by Anna Marie Roos and Gideon Manning, Springer, 2023, pp. 43-60.

2 See the official verdict in: Antwerpen 26 mei 2023 2019, AR 2022/CO/393. Accessed 22 Nov. 2023.

3 For more information on the Reuzegom corps itself, I refer to Douglas De Coninck, who wrote the book *Dehumanized: Behind the screens of the Reuzegom student corps* (*Ontmenselijkt: Achter de schermen bij studentenclub Reuzegom* in Dutch, 2022). Pelckmans, 2022.

4 This has always been the case. On the influential tradition of jurisprudential thought about law as a performance practice, see: Julie Stone Peters, *Law as Performance: Theatricality, Spectatorship, and the Making of Law in Ancient, Medieval, and Early Modern Europe.* Oxford University Press, 2022.