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Re-embodiment Jurisprudence: Performance Art and Intersections of Race and Law¹

PREETI KAUR DHALIWAL

Artist Statement: General Work and Current Projects

I'm a multidisciplinary artist and interdisciplinary academic who writes from the experience of a brown-skinned, Punjabi woman's body. As a critical race feminist and non-fiction writer with civil and common law degrees, I'm interested in examining the subjective and experiential "I." I delight in deconstructing what's considered "objective" or "reasonable," and revealing multiplicities of truth. Theorizing from experience, examining what lives in the silence of my body and rendering power visible are central to my practice (Mohanty 116-17, 201). Through writing and performance, my work investigates affect, race, embodiment, and touch.

I hold a special interest in touch: how I touch, how I feel when touched, and what I understand when being touched by or touching others. I'm curious about how much I learn through the slightest touch—the energies (known and unknown) exchanged when brushed by a stranger, the stories absorbed through a handshake, a hug, a slap, a bed. This fascination led me pursue a Master of Laws investigating how law lives in the body, and to write vignettes about different types of touch for a decade (which are becoming the foundation of my novel and Master of Fine Arts thesis).

I see law as story—story that comes to live in the body—a dominant narrative told and enforced, often internalized unconsciously, enacted on and about bodies. The law produces subjects and identities, as well as ways of seeing, interacting and being with one another. I'm curious about how we absorb all of this, how we have historically absorbed it—which parts are conscious, and which are not? I believe that stories and aesthetic encounters can rearrange our ideas of authority, justice, power and love. To become aware of, undo or transform the stories that live in our bodies, we need to investigate where, how and why they live in our bodies—not only through law but also through our experiences and personal histories. Jurisprudential performance is how I actively engage in this process.

On Jurisprudential Performance

Jurisprudential performance is a method that seeks to open possibilities for collective dreaming, personal transformation, and social change by exploring the nexus between the arts and law through four components: legal historical research, autobiography, utopian envisioning, and involving or implicating the audience (Dhaliwal 46).

This methodology asks the artist to begin a project starting with law, where law is defined broadly, including but not limited to written rules drawn up by governments and judges in legislation or cases, but also unsaid rules that guide a society and its behaviours. For example, one might explore the ideology of white supremacy passed down, enforced, and still living in our bodies as a result of repealed state laws. Alternatively, one may study governing guidelines passed down through religious texts, oral histories or a community's stories.

Jurisprudential performance asks the artist to engage with the legal issue through the self. Through one's own story and body, often complex and intersectional, autobiography allows us to establish a self-conscious critique of our subject position but also prevents us from co-opting stories we are not in relationship with. This component thus requires the artist to ask why a particular issue is of interest to them. What is the relationship between the subject matter and me, my wounds, my desires? The artist must investigate what Foucault calls genealogy, which is "situated within the articulation of the body and history[;] its task is to expose a body totally imprinted by history and the process of history's destruction of the body" (147). Examining oneself is crucial because lived experience challenges stable categories and finite identities while connecting embodied knowledge with local memories, laws, and historical struggles.

The legal component of jurisprudential performance prompts the artist and audience to interact with and question their understandings—to ask why they do or do not know certain histories or facts, or why they were told the same story in a different way. Revealing alternate or hidden histories can shift how people view their realities and receive the world presented to them.

The performance art piece that I recount here, *Re-embodiment*, emerged from my experiences of racism as well as my interest in laws on migration and their relationship to the politics and aesthetics of race. I wanted to investigate what work performance could do to render whiteness visible in the Canadian legal imagination. The *Komagata Maru*, a ship that arrived at the Burrard Inlet, unceded Coast Salish territory in 1914 became my focal point. After being held for two months (with the Canadian government actively trying to cut off food and water supplies), the ship's 376 brown-skinned Indian passengers (who were also British subjects) and Japanese crew were deported to India on the basis of racist laws commonly referred to as the "Continuous Journey" legislation (Order-in-Council 23, 24, 297).

I learned about the *Komagata Maru* as a child because my father had performed a play about it. Its history began informing how my brown body was still viewed, marked and labeled well into the 1990s and 2000s. Like many of the ship's passengers, I am Punjabi, of Sikh heritage. Unlike the ship's passengers, I reside in Canada as a first generation settler. Although I have no "direct" blood relation to the passengers, the genealogical relationship to the laws, ship, and story are present in my life and in Canadian law's ongoing treatment of migrants. The *Komagata Maru*'s passengers were deported because white settlers lived in a propertied relationship to the land. The settler-colonial logic that commodified land by demarcating it with borders, ownership, and control was not only used to exclude brown migrants but also to invade Indigenous Nations (Smith x).

The utopian component of jurisprudential performance seeks to interrupt patterns and stagnant ways of thinking via the imagination. In the process of conducting academic research and analysis, I have often found myself overwhelmed by path dependency, by the fact that the current Canadian legal system is predicated on and sustained by deeply oppressive systems. This component of jurisprudential performance thus encourages the artist to

begin imagining “yet unimaginable, but, hopefully, more progressive futures,” so that those futures may eventually be materialized (Couton and López 98).

Finally, jurisprudential performance seeks to break the fourth wall: it acknowledges, implicates and includes the audience. There should be at least one opportunity for spectators to participate in the performance so that the performance can be disrupted through its own aesthetic. The work should seek to actively engage the spectator rather than speaking past them or dictating to them from a distance. By inviting participation, spectators have to consider an offer and make a choice, thus making detachment and separation a conscious decision and potentially creating space to reflect on that decision.

The above four components can be used to initiate and guide a performative storytelling/making process. Where jurisprudence is the philosophy of law, jurisprudential performance seeks to create an alternative archive, which won't replace the legal archive but can supplement it or offer a counter-archive. Storytelling as a way of bringing law back to the people is, of course, nothing new—cultures and religions around the world, as well as many Indigenous Nations on Turtle Island, have shared and still share law through story (Napoleon and Friedland 728). Stories tell us how to behave, along with the consequences of doing otherwise—whether they are passed down from an elder, written in a religious text, or shared through media: laws are merely rules intended to guide a society. Jurisprudential performance is simply my way of coming back to story, remembering how to return to my story and consciously be guided by the stories of my choosing.

On *Re-embodiment*

I first imagined Eustitia, the character I performed in *Re-embodiment*, during a three-day novel writing contest. She was based on the image of Lady Justice, the blindfolded woman with scales and a sword seen outside of various courtrooms. Eustitia was the daughter of a King who passed all of his laws down to her. He trained her to separate mind and body so that she could make rational rather than emotional decisions, as if the two were separate and could operate in binaries. When the King died, Eustitia became the holder of the law. When she bore no children, the people removed her heart from her body and placed it in a box filled with air from the heavens so that it would beat forever—so that she and law as they knew it would never die.



Re-embodiment took place at the Ontario Institute for Studies in Education's library in Tkaronto as part of the 20th Decolonizing Conference on "Race, Anti-Racism and Indigeneity: Anti-Colonial Resurgence and Decolonial Resistance." I wore a black and white sari, painted the left side of my body white, and blindfolded myself. I held scales in one hand and a sword in the other. Pieces of red, black, yellow and white cloth sat on one scale and white paint on the other, a container of water beside them. I positioned my body in direct view of the library entrance so that anyone who entered the space could potentially see me and choose to inquire and engage or walk by.

I had two instructional signs: one on brown cardboard, the other on white posterboard. The top one communicated how to interact physically with my body and my props:

INTERVENE BY WASHING OR PAINTING

1. Dip cloth in water or put paint on fingertip.
2. Wash white paint off or add paint.

The bottom one prompted participants to reflect upon the performance internally, verbally or via social media:

INTERVENE WITH WORDS + IMAGES: @JADOOBERRY

- Could you tell me what law is?
I've forgotten.
- What do you wish law were?
I'm trying to dream again.
- If you could ask me one thing?
I'm here, I'm listening.
- Would you tell me one thing to make myself more loving?
I'm looking for my heart.
- How can I—we—embody justice?

The signs indicated that I was listening and consented to being touched. I would practice trust while we all engaged with racialized intimacy.



Some spectators spoke to me.

A man with lightly browned skin and a woman with pale skin were among the first to approach me. The man considered aloud what law is and could be. He asked questions and also kept speaking. After two minutes passed, he paused, looked at me and said, “You’re not going to answer me, are you?” Although the cloth around my eyes appeared opaque, I could see through it. The woman pointed at my sign and said, “She’s listening.”

A man with tan skin and weathered creases at the corners of his eyes stood beside my scales soon after. He read the signs, looked at the washing cloths and said, “Those colours are significant,” mentioning the Medicine Wheel to his colleagues before the conversation trailed away.

Some felt comfortable touching me.

In the first hour, a young brown woman leaned down, picked up a piece of red towel and placed it in the fold of my sari atop my left breast: “It’s her heart,” she said.

Two people lowered themselves to touch my foot. The first was a man I’d met before who self-identifies as Jamaican-Canadian and African. He narrated his interaction with me, told me he believed there had been a crucifixion of justice so he was washing a circle where the nail would have gone in. The second was a pale-skinned woman who said nothing but dipped the cloth in water, lowered her body to the ground and pressed the cloth against my foot, washing one line at a time, dampening the cloth as needed to complete the task. This woman’s touch felt the most intimate. Culturally, for me, touching someone’s feet is a sign of respect, something one might do with elders—something elders would stop them from doing before they reached the foot. By lowering her body to the ground while I remained standing, this woman invoked a ritual of respect and shifted a power dynamic so that we might be more equal.

For some, my body served as a process for self-realization. “I’m a white woman,” someone with a British accent said, “I’m trying to wash your arm but the white keeps spreading.” After a moment passed, she gasped: “I guess that’s what I’m supposed to be thinking about.” Another woman who self-identified as white washed my entire arm and stood back. A brown-skinned woman then approached, squeezed white paint into the palm of her hand and smeared it across the same arm: “That’s what happens in real life,” she said. Between the layered interactions of spectators and participants, my body became a site of utopian desire, multiple truths, and resistance.

For the first hour and a half, my mind and senses were externally focused: eyes open, ears alert, skin aware. In the second hour, I turned inward: I focused on breathing and shifting





my weight without moving so that my body wouldn't ache. The performance concluded a half hour later than planned. The end was simply the reverse of the beginning—washing, taking apart, packing without haste. Before I left, a pale-skinned man approached me and told me he had watched from beginning to end, that he was stunned. He struggled to gather his words as I gathered my materials. I wondered why he did not physically participate, whether it was fear, apathy, conscious decision, or something else.

Reflection on *Re-embodiment*

I have struggled to produce written documentation and reflections on *Re-embodiment* for two reasons. First, a written reflection holds permanence, in contrast to the mode and meaning of performance art, which, for me is transience of the artist and ephemerality of the art. In creating *Re-embodiment*, I intended to offer my learnings and questions through the performance, and to have participants be

the documenters, recording their interpretations and understandings via personal iterations and reiterations, verbal, photographic or online. My desire was to be witnessed and simultaneously bear witness to the ways participants' embodied learnings and personal histories interacted with mine. Perhaps we would arrive at a similar meeting place, perhaps we wouldn't—hopefully the experience would provoke reflection on the ways we embody and perform race, gender, sexuality, and class in relation to law and justice.

Second, offering more than observations asserts a particular type of authority rather than allowing you—the reader—to observe (vicariously) what I observed and then come to your own conclusions. Of course, I cannot offer you an objective view of the performance—what I felt, what I remember, and how I've presented it to you is subjective, influenced by my body memory and ideological views, as well as those of my editors. My goal in jurisprudential performance is not persuasion but prompting embodied and aesthetic pathways towards critical thinking. I have attempted a reflection nonetheless.

In *Re-embodiment*, my body served as a site of and for interrogation. I saw myself as a subject observing and building relationships with people without dialogue. Some may have viewed me as object because I was being observed and acted upon, but I chose the conditions and parameters and possessed the ability, agency and practice of walking away if I needed to. I offered myself under the guise of object to give spectators and participants a stronger sense of power and agency.



Re-embodiment was a form of jurisprudential performance. Through their direct interactions with my body, people began examining relationships to and between whiteness, law, and justice. The common law was designed to protect the interests of white men; to engage with it and try untangling it on the site of my body implicated all involved, and on some level required people to ask, “Why this body? Why the image of justice?” The interactions were framed by my understanding of Canadian law as a system based in white supremacy that we all inherited and embodied in some way. My body became a site where people could project their conscious realities or utopian ideals and discover places of ignorance or obstacles.

Based on the realizations that people shared with me, and the courage they displayed by interacting with me in front of others, I feel the performance was effective. *Re-embodiment* showed me that people want to engage with questions of racial injustice, and may not know how to but are willing to begin fumbling through a new process. Having said that, I’m aware that this was a self-selected space with people who attended a conference on decolonization. Were I to offer the performance elsewhere, it might be less safe and provoke different responses. I would love to perform the piece in law schools, outside of courthouses, and perhaps on a city street. These settings would provoke new responses and allow me to question my certainties.

Re-embodiment began with a desire to explore whiteness in the Canadian legal imagination, to visibilize racial erasures and complicate relationships between law and justice, law and whiteness, law and me. As I planned the performance, it became an attempt to transform a painful and embodied gap between me and law—not only the ongoing impacts of repealed and racist orders such as the continuous journey legislation, but also an ongoing disconnect between law and the people, between law and people’s consciousness. Ultimately, the performance taught me that through touch, connection and witness, my body can create space for dialogue and introspection as well as healing—somatic, intercultural, inter-racial, and potentially even intergenerational healing. By interacting with other bodies in a safe space with controlled mediums, I could see and feel people’s attempts to understand and repair our very complicated historical and current relationships to race, law, and justice.

Notes

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