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The ‘Theatrical’ in Public Participation: How Can Theatre Contribute to Citizens’ Engagement in Legislative Development?²

1. Introduction

This paper is devoted to the notion of public participation as a tool for legislative development. The author acknowledges the potential of theatrical methods, especially the proposal of Augusto Boal, the Legislative Theatre (hereinafter: ‘LT’), whereby the theatre is used to generate proposals for legislation, bringing additional value to the participation process. The LT is a point of reference, but the ensuing reflections refer to the realm of theatre and performance in a more general sense. The article focuses on the correlations between theatre and different relevant fields of social activity to determine and outline the potential benefits of deploying theatre in the process of participation. The aim is to present a preliminary overview of pertinent ideas that can encourage future reflection about theatricalizing participation oriented at legislative development, rather than a direct and comprehensive proposal.

The theme of this paper falls into the already acknowledged but still growing research field of law as a performance. While its origins can be traced to the law-and-literature movement, it is already considered a separate field of research;³ furthermore, certain scholars are of an opinion that it should replace law-and-literature as a more general study.⁴ It does not, however, go deeper into more particular aspects of the field, such as the typology of law-and-performance⁵ or presentation of any case studies that would require careful examination and explanation of the relevant methodology. Therefore, I will mostly use the source analysis method for purpose of presenting the overview of narrative literature, supported by the comparative study of relevant LT aspects.

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³ S. Mulcahy, *Methodologies of law as performance*, “Law and Humanities” 2022/2, p. 166.

⁴ J. Balkin, S. Levinson, *Law as Performance*, in: M. Freeman, A. Lewis (eds.), *Law and Literature*, Oxford 1999, p. 729, after: S. Mulcahy, *Metodologies...*, p. 166.

⁵ See: J.S. Peters, *Law as Performance: Historical Interpretation, Objects, Lexicons, and Other Methodological Problems*, in: E.S. Anker, B. Meyler (eds.), *New Directions in Law and Literature*, New York 2017, p. 204ff.

My argument is that theatre, based on the LT example, can be a useful tool of participation for legislative development as not only it can be associated with law, but law can also be (re)associated with the described phenomena through theatre.

At the beginning I will briefly introduce the notions of Legislative Theatre and participation. In the main part of the paper, I will present the most important findings regarding the links of theatre with law, community, politics, protest, and therapy. I will complete these findings with few remarks about relevance and commonalities with LT. Where necessary, I will refer to or indicate other relevant studies and point out to those issues that are beyond the scope of this paper.

“Legislative Theatre, like all Boal’s Theatre of the Oppressed (hereinafter: ‘TO’) practices, trusts the wisdom of the audience, and provides them with an opportunity to try out their ideas on stage to see how they might work in real life (especially Forum Theatre). Then LT simply takes that process one step further, making a direct connection between the ideas generated in the theatre and the legislative process, which so desperately need creative approaches to problem-solving”.⁶ The goal is to use theatre to fight the oppression shared by the participants, which is often rooted not only in themselves or the communities they live in but in the system and the law.⁷

For the purpose of this paper, I would like to propose that participation be understood as an act of real change, a both social and individual transformation, and not solely an aggregation of data. This change does not have to be limited to a direct influence on the behaviour of decision-makers. It can also mean empowering participants, initiating debate in the public space, or accelerating deliberations in the relevant field. While deliberative methods of participation have been gaining popularity during the last decade⁸ and attracting scholarly attention, particularly when it comes to identifying best practices,⁹ almost no attention is paid to forms of expression such as art, theatre, and performance. In the quoted reporting, none of these notions occur. While references to theatre and acting are visible in the legal research, especially when it comes to the practice of judges and lawyers,¹⁰ or law as such, it seems that the potential of theatrical (performative) methods and the empathy embedded therein – based on the experiencing and unfettered expression of the individual – is neglected when it comes to public participation,¹¹ especially at the earlier stages of law’s lifecycle, that is legislation. One of the possible reasons is the predominant approach to legislation that is associated with political activity, and politics is meant to be separated from the legal realm.¹²

⁶ T. Mitchell, *LT – Tactics*, Beautiful Trouble (*Website*), <https://www.beautifultrouble.org/toolbox/#/tool/legislative-theatre>, accessed on: 25 May 2021.

⁷ While following the paper’s objectives, there will be no case studies presented, and it is important to underline that LT is not only used with better or worse result around the globe, but it is also being recognized as an innovative, participatory tool. Recent implementation of Legislative Theatre in Greater Manchester received a 2020 IODP ‘Best Practice in Citizen Participation’ Award. See: International Observatory on Participatory Democracy, <https://oidp.net/distinction/en/record01.2022.php>, accessed on: 27 January 2023.

⁸ OECD, *Innovative Citizen Participation and New Democratic Institutions: Catching the Deliberative Wave*, Paris 2020, p. 66, <https://doi.org/10.1787/339306da-en>, accessed on: 10 February 2023. See: OECD, *OECD Guidelines for Citizen Participation Processes – OECD Public Governance Reviews*, Paris 2022, <https://doi.org/10.1787/f765caf6-en>, accessed on: 10 February 2023.

⁹ OECD, *Innovative...*, p. 115ff.

¹⁰ See e.g. S. Bergman Blix, *Stage actors and emotions at work*, “International Journal of Work Organisation and Emotion” 2007/2, pp. 161–172; B. Bergman Blix, *Different roads to empathy: stage actors and judges as polar cases*, “Emotions and Society” 2019/2, pp. 163–180.

¹¹ However, see e.g. E. Matynia, *Performative democracy*, London 2009, applying performativity to the broader concept of democracy, especially Chapter 1: *Invitation to Performative Democracy*, pp. 1–14.

¹² L.J. Wintgens, *Legisprudence as a New Theory of Legislation*, “Ratio Juris” 2006/1, pp. 1, 1–25.

Another reason is that artistic expression seems to be less manageable than surveys, public hearings, or citizens' assemblies. While there is some truth in this last statement and art (and thus, by association, theatre), with its freedom of expression, seems to be far distant from orderly law, I would like to explore those indirect links in this paper.

2. Theatre and law

In the following section, I will present selected rules of engagement between performance and law, proposed by Alan Read.¹³ Until recently, Read's *Theatre and Law* was the only general book on law and performance,¹⁴ that maintained a highly conceptual level of comparison.¹⁵ According to his approach, it is performance studies rather than jurisprudence that enable describing this engagement.¹⁶ Read distinguishes two levels of performing law. The actual one, where a legal actor, for example a lawyer, performs it in a legal process. Then there is the meta level where the legal performance is staged, for example in a theatre or movie. Read underlines the importance of this double performance as for him it is through these mediated means that most people experience law.¹⁷

When it comes to theatre and law, the first factor that Read points out is the *openness* of law.¹⁸ Therefore, the first rule of engagement proposed by him is that 'law has to be seen to be done'.¹⁹ Except for some legally prescribed circumstances, the law does not operate in isolation and must reveal itself in action. This manifestation in performance studies, called 'showing doing'²⁰ according to Richard Schechner, is a condition of calling something a performance – a conscious act – that involves some form of an agent and some form of audience.²¹ It is indeed impossible to imagine a law or legal act without it being revealed to the audience. Even in those legal acts that require only the will of the acting party, it has no meaning until it is recognized by the outside world. The Legislative Theatre also draws on the openness of the 'showing doing'. It requires one, to come forward and reveal the strategies and ideas in front of others.

The next rule of engagement is that law might act 'as a form of *surrogate*' and by so doing, 'the point of representation of the law might be a means through which the audience reach for something else'.²² As Read explains, his attachment to this idea does not come from the fact that watching plays about legal matters 'work[s] *as theatre*'²³ just because they are about legal matters. He claims that they work theatrically because they are about humans in a precise form of representational crisis that connects the experience in the theatre with other experiences that people have had or wish to imagine, i.e. those types of experience where power and its contestation are at stake, and where the

¹³ A. Read, *Theatre and Law*, London 2016.

¹⁴ J.S. Peters, *Law...*, p. 204.

¹⁵ However see e.g. N. Rogers, *The Play of Law: Comparing Performance in Law and Theatre*, "QUT Law Review" 2008/2, pp. 429–443; J.S. Peters, *Legal Performance Good and Bad*, "Law, Culture and the Humanities" 2008/2, pp. 179–200, for earlier and shorter developments in the field.

¹⁶ A. Read, *Theatre...*, p. 12.

¹⁷ A. Read, *Theatre...*, pp. 12–13.

¹⁸ A. Read, *Theatre...*, p. 14. While Read refers to the common law, I focus on those aspects that in my opinion are valid regardless of the legal system.

¹⁹ A. Read, *Theatre...*, p. 16.

²⁰ A. Read, *Theatre...*, p. 16; see: R. Schechner, *Essays on Performance Theory 1970–1976*, New York 1976.

²¹ A. Read, *Theatre...*, p. 16; see: R. Schechner, *Essays...*

²² A. Read, *Theatre...*, p. 18.

²³ A. Read, *Theatre...*, p. 19.

whole system is contested through the presented example.²⁴ This link is also explored in LT, where represented oppression is directly linked with audience experience, allowing them to think on it and through it.

There we have the next rule, drawn from Victor Turner's²⁵ concept of working through, i.e., that performance needs experience to do what it does. On the most obvious level, to associate law and performance might be to render such experience in the form of storytelling. As Turner explains: 'rendering of experience' requires that we 'try something', test something out, and it is in such playing that we give ourselves the opportunity to understand experience and to 'experience experience'.²⁶ Read states that the concept of working through seems to be shared by performance and law, by allowing people to work through something they have just become aware of. Both performance and law allow us to process what we call experience. Again, Boal's techniques allow us not only to think but also to try the imaginary solutions by interventions and replacing actors on stage, by changing the plot in favour of the protagonist. There are several levels of processing. The rendering is closest to the first part of LT show preparation where the acting group depicts the problem. The main processing part would then involve the act of trying the solutions on the stage through theatrical experience and understanding it in a group reflection. Ideally, this leads back to the processing of the experiences through law and to re-rendering it back to legal language.

This leads us to the next aspect, that is "the means by which a judicial spectacle operates simultaneously as 'reality' and 'fiction'"'.²⁷ This is because, for a spectacular event to occur, something has to happen since law cannot operate solely through a mental process; law consists of performing and spectating in a specific time and place and it is defined by the intersubjectivity of its participants. Therefore, 'both parties have to agree to the status of the event for it to be viable and to function'.²⁸ The Legislative Theatre also operates in the categories of reality and fiction, however, in the reversed or duplicated manner. It is the conceptions about the (un)just that are being worked through. What happens is real, but it does not happen in reality, therefore it is fictitious. What happens is also legal as it renders the legal reality, but it is fictitious in a sense that it is not normative. The Legislative Theatre seeks the missing justice in the reality of a shared event, but in a fictitious legal space.

The next association is linked with the concept of working something through, i.e., the 'time of this working through in law, and what such a duration introduces to the process by way of opportunity and entropy'.²⁹ What Read understands by time could also be referred to as the right circumstances. In simple words, he refers to such utterances, as distinguished by John Langshaw Austin, which – if used in proper circumstances – carry a particular ritual and social force that effect further action beyond the thing being uttered.³⁰ These right circumstances and the specific type of utterances are both of great importance and complexity – this is the element that makes the theatrical

²⁴ A. Read, *Theatre...*, pp. 18–19.

²⁵ See: V. Turner, *From Ritual to Theatre: The Human Seriousness of Play*. New York: Performing Arts Journal Publications, 1982, pp. 89–101, 102–123.

²⁶ A. Read, *Theatre...*, p. 19.

²⁷ A. Read, *Theatre...*, p. 20.

²⁸ A. Read, *Theatre...*, p. 21.

²⁹ A. Read, *Theatre...*, p. 23.

³⁰ A. Read, *Theatre...*, pp. 23–24. Read draws on the examples of 'You are free to go' or 'You are guilty of murder', that when said in a proper legal circumstance by a judge produce an effect of liberation or incarceration, while if uttered in theatre, they bring no more than a theatrical effect. See: A. Read, *Theatre...*, p. 23.

experiences normatively void and the legal space fictitious. In LT this element is recognized by its goal. While the experience itself is fictitious, it aims for a change in the reality.

I have decided to present Read's view of only the most relevant intersections, followed by comments about their relevance for LT. Additionally, I would like to reflect on two further concepts that Read brings to our attention: firstly, the juridical person or *Homo Juridicus* as he names the persona, after Alain Supiot³¹ who suggested that it is the law that connects the unlimited mind's and life's possibilities with limited physical existence, fulfilling the 'anthropological function of instituting us as rational beings' and, in this sense, it is the law that allows us to be recognized as human beings.³² And, as Read quotes after Hannah Arendt, to kill this juridical person is the first step towards total domination.³³ Denying this anthropological function of the law is what all totalitarian projects have in common, something that seems to have been forgotten by the modern jurist who claims that the legal person is a pure construct, with no connection to a particular human being.³⁴ This detachment of law and people, as these authors suggest, can lead to negative consequences and this is the first argument I would like to raise in favour of the need for embodiment in law, an embodiment that theatre can bring. Paradoxically, if we detach the juridical person and do not treat it as a part of the human nature, but rather as a 'representation of the human being',³⁵ a construct, it becomes more performative and can be both easily granted and taken away. Once taken away, it might require reclaiming the right to performance,³⁶ but the way of doing this is neither clear nor easy in this world where human beings are denied protection and are treated as a commodity or abstraction,³⁷ so that they become extraneous persons, not in a position to do so.³⁸ The second issue I would like to highlight after Read is the view extant in the anthropology of law that legal concepts, 'within a jural community [...] define the community structure. They allow the establishment of relationships'.³⁹ And as it is the community that seems to be inextricably linked with both law and theatre, therefore, I would like to delve into those links a little further.

3. Theatre and community

To discuss this aspect, I will recall *Theatre and Community* by Emine Fişek⁴⁰ who refers to community as 'an existing set of relationships' or 'an alternative set of relationships'.⁴¹ As she notes, community is not only an existing, but also a yearned for, grouping. Fişek emphasizes two dimensions of this notion, the factual and the ideal and, as she claims, there is always a mingling of these dimensions as the factual community always looks for its idealized version. Frustration with modernity and an increasing distancing between people are amongst the reasons behind this desire for an ideal shape of human bonds.

³¹ See: A. Supiot, *Homo Juridicus: On the Anthropological Function of the Law*, London 2007.

³² A. Read, *Theatre...*, p. 47.

³³ H. Arendt, *The Origins of Totalitarianism*, London 1967, p. 477, after: A. Read, *Theatre...*, p. 48.

³⁴ A. Read, *Theatre...*, p. 48.

³⁵ A. Read, *Theatre...*, p. 48.

³⁶ A. Read, *Theatre...*, p. 49.

³⁷ A. Read, *Theatre...*, p. 49.

³⁸ A. Read, *Theatre...*, pp. 49, 68.

³⁹ F. Pirie, *The Anthropology of Law*, Oxford 2013, p. 53, after: A. Read, *Theatre...*, p. 45.

⁴⁰ E. Fişek, *Theatre and Community*, London 2019.

⁴¹ R. Williams, *Keywords: A Vocabulary of Culture and Society*, New York 1985, p. 76, after: E. Fişek, *Theatre...*, p. 7.

Fişek refers to this idea of ‘community-as-commonality’⁴² as a political strategy for social change. She claims that addressing the rights and needs of particular social groups helps to ‘underline the sharedness of the identity categories through which that group has experienced an oppression’ and ‘claim a large number of constituents’.⁴³ There is, however, an important concern, as the oppression in question is also a crucial element of the LT, as to whether the oppression at stake can intersect with other categories of exclusion. Again, given that intersectionality⁴⁴ is a wider topic, the focus shall remain on its performative aspect.

If we agree with Judith Butler that for example gender is performative, as both Fişek and Read do, that it is ‘a norm constantly produced as it is enacted in both language and everyday behaviour’,⁴⁵ then we should underline and respect the importance of all sameness categories, even if they are a political necessity.⁴⁶ This idea of gender performatives brings back the concept of the performativity of the legal self that, as suggested by Read, can work in a similar way.⁴⁷ If so, the community, to fulfil the claim of sharedness of identity categories, must include all categories of sameness based on the source of oppression. What makes it difficult is that if this source is performative, like the gender or legal self, then it is in a state of constant construction and development. Therefore, to identify those categories both in law and community, the use of performative tools can be key for this task.

How does then the community intersect with theatre as the possible tool for the embodiment and reconnection of law and people? The most obvious association is community theatres that are ‘theatre projects undertaken by, for, or in collaboration with a group of people identified as community’⁴⁸ where the community might be ‘constituted by virtue of a shared primary identity based on place, ethnicity, class, race, sexual preference, profession, circumstances, or political orientation’.⁴⁹ The goal of the community theatre project can vary from a simple assurance of recognition for a community experience, through demands of public intervention on an issue of social and political concern, to revitalization of the local cultural life.⁵⁰ Fişek proposes two terms relevant for approaching community theatre: efficacy and agency.

The first of these refers to the political effectiveness of an artwork to communicate its goals; and for community art, part of this goal is to present, sustain, or cultivate the sense of communal belonging or experience.⁵¹ The second term denotes the process of communal artmaking and the degree to which, if at all, the community in question can participate and impact the process;⁵² agency implies that the cooperation of artist and community members, if such cooperation occurs, emphasizes the nature of that

⁴² E. Fişek, *Theatre...*, p. 13.

⁴³ E. Fişek, *Theatre...*, p. 13.

⁴⁴ As proposed by Kimberlé Crenshaw in: K. Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine*, “University of Chicago Legal Forum” 1989/1, pp. 139–167.

⁴⁵ E. Fişek, *Theatre...*, p. 13; A. Read, *Theatre...*, p. 49. See: J. Butler, *Gender Trouble*, London 1990; J. Butler, *Bodies That Matter: On the Discursive Limits of ‘Sex’*, New York–London 1993.

⁴⁶ E. Fişek, *Theatre...*, p. 13.

⁴⁷ A. Read, *Theatre...*, p. 49.

⁴⁸ E. Fişek, *Theatre...*, p. 14.

⁴⁹ J. Cohen-Cruz, *Local Acts: Community-Based Performance in the United States*, New Brunswick–London 2005, p. 2;

E. Fişek, *Theatre...*, p. 14.

⁵⁰ E. Fişek, *Theatre...*, p. 14.

⁵¹ E. Fişek, *Theatre...*, p. 16.

⁵² E. Fişek, *Theatre...*, p. 16.

partnership and it is visible in such actions that can be associated with democracy, participation, egalitarianism, and consensus.⁵³

Fişek underlines that her emphasis on efficacy draws on Boal's legacy, whose theatre methodologies are meant to intensify audience participation. She reminds us of the role of **spect-actor** who is invited to replace an actor at the moment of their choosing to intervene in the evolution of the storyline. 'Boal's techniques are indispensable for community artists who wish to cultivate collective artistic forms that draw on a broad participant base and enact progressive social change'.⁵⁴ Boal's influence on theatre and performance cannot be overestimated; it is visible in the cited studies and will be underlined further.⁵⁵ To develop her thoughts on agency, she refers, however, to another scholar, Victor Turner, and his idea of *communitas* and liminality developed on Arnold van Gennep's vision of passage rituals. Turner remarks that "moments of liminal transition between different structural hierarchies in a given society's life often evoke feelings of *communitas* or an idea of sociability based on 'equality and comradeship as norms'".⁵⁶ As he claims, *communitas* is always in tension with social structure, statuses, and hierarchies and, therefore, is often considered a utopian, paradisiacal, or ideal as suggested by an earlier state.⁵⁷ What we can draw for theatrical participation from Fişek and Turner is that *communitas* is often referenced to suggest that community theatre can create spaces of democratic, egalitarian exchange and community.⁵⁸ The concept of liminality or transition is a crucial factor also for LT that Boal calls a way to transitive democracy;⁵⁹ however, it requires reflection beyond the scope of this paper.⁶⁰

There are four important remarks on theatre and community that Fişek makes, which are also relevant for law. The first is linked to aesthetics and a scholarly question as to whether community-based theatre can at the same time qualify as a form of protest and maintain an aesthetic agenda and richness when collectively authored as participatory art. While some scholars argue that participation is simply a solution for the artists' dissatisfaction with the passivity of the audience or consumerism, others prompt that community is not simply represented or addressed in theatre, but it is also enacted in its practices, therefore, efficacy cannot simply be measured in political progress or art awards.⁶¹ This issue was mentioned at the beginning of this paper in my remarks about a different approach to participation. Indeed, quantification can be a useful indicator for determining the effectiveness of participation in terms of measurable results but cannot be used easily when it comes to the less visible effects or transitive potential of the method. Secondly, again with respect to agency and the role of consistency of artists' and community members' origins – can an artist who is not local or not involved in the matter truly represent the communities (and thereby, situations or oppressions) they do not come from? And to what extent do such projects, led by empowered artists or

⁵³ E. Fişek, *Theatre...*, p. 16.

⁵⁴ E. Fişek, *Theatre...*, p. 16.

⁵⁵ A. Read, however, avoiding numerous direct references to A. Boal, in his closing statement refers to his concept of LT as one understanding very well the relations of theatre and law.

⁵⁶ V. Turner, *Dramas, Fields, and Metaphors: Symbolic Action in Human Society*, Ithaca–London 1975, p. 232, after: E. Fişek, *Theatre...*, p. 17.

⁵⁷ V. Turner, *Dramas...*, p. 237, after: E. Fişek, *Theatre...*, p. 17.

⁵⁸ E. Fişek, *Theatre...*, pp. 14–15.

⁵⁹ A. Boal, *Legislative Theatre: using performance to make politics*, London–New York 2005, p. 12.

⁶⁰ See e.g. A. Szokolczai, *Liminality and Experience: Structuring transitory situations and transformative events*, "International Political Anthropology" 2009/2, pp. 141–172, for the critics of Turner concept, p. 142.

⁶¹ E. Fişek, *Theatre...*, p. 19.

social workers, imply marginalisation of the individuals forming the community being addressed, and furthermore, what is the process of identifying the group of people as a community for collaboration in the art project?⁶² This issue is also addressed by Boal, at least partially, with his claim that LT performances should be by the oppressed and for the oppressed from the same community, with facilitating roles from outsiders,⁶³ and only after being shared outside of this group; however, still with those who also share the oppression, even if it is of a different kind.

Before moving on to the next aspect, it is also important to propose an alternative understanding of audiences as “temporary communities”, able to participate in a shared utopian vision, as proposed by Jill Dolan⁶⁴ and opposed by others who deny the possibility of creating commonality through shared images and identification, in favour of ‘anti-identarian identity politics’ as, for those excluded from the mainstream culture (like racial and sexual minorities), such sharedness as proposed by Dolan⁶⁵ requires the development of a disidentification.⁶⁶ This disagreement is again equally important for LT as it can lead to two opposing visions of commonality, which leads to the third aspect: sameness and difference when it comes to community.

Approaching this issue, Fişek underlines that a particular sameness of a community as well as the ability or way in which such a community accommodates difference is a central dimension of the debates that have shaped Western modernity. One example is the idea of the public sphere as a community, which has emerged from the writing of Jürgen Habermas, i.e., that the bourgeois class has contributed to the emergence of this public sphere, distinct from political authorities, but able to articulate its claims in the name of public opinion. As Habermas puts it, the bourgeois public sphere can be considered a sphere wherein private people come together as community to engage in a public debate to reach a rational consensus over matters of collective interest.⁶⁷ While Habermas’s idea is crucial, it is questioned by the concept of counter-publics – those left outside of the public sphere as unsuitable in highly stratified societies, as the modernity appears to be characterized by the absence of a space for rational communicative debate.⁶⁸ It is exactly the problem addressed in this paper and indeed a pitfall of Habermas’s theory, one that he himself identified in his later works,⁶⁹ visible in modern societies; the idea of public community engaging in a rational debate which, while tempting, again reminds us about the ideal or imaginative state of this community. What theatrical methods might offer to further this issue is to work on the rationality of this debate, not in such a way as to make it irrational, but rather to achieve the point of rationality through emotions and theatrical expression. I will develop this issue further later in the text, when referring to theatre and therapy.

⁶² E. Fişek, *Theatre...*, p. 20.

⁶³ See: A. Boal, *Legislative...*, p. 68ff.

⁶⁴ J. Dolan, *Utopia in Performance: Finding Hope at the Theater*, Ann Arbor 2008, p. 10, after: E. Fişek, *Theatre...*, p. 22.

⁶⁵ ‘Spectators experience themselves as part of a congenial public constituted by the performance’s address’, J. Dolan, *Utopia...*, p. 14.

⁶⁶ J. Muñoz, *Disidentifications: Queers of Color and the Performance of Politics*, Minneapolis 1999, p. 176, after: E. Fişek, *Theatre...*, p. 22.

⁶⁷ J. Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, Cambridge 1991, p. 27, after: E. Fişek, *Theatre...*, p. 34.

⁶⁸ E. Fişek, *Theatre...*, p. 36.

⁶⁹ See: *Stanford Encyclopedia of Philosophy*, Jürgen Habermas, <https://plato.stanford.edu/entries/habermas/>, accessed on: 1 July 2021.

The closing thought will refer to the term 'bank education', proposed by Paulo Freire, as a denotation for the circumstances where those in possession of power, i.e., teachers, deliver knowledge from their **vaults** into the empty heads of students. Freire claims that such an exchange should be reciprocal, with both teachers and students learning from each other.⁷⁰ Fišek draws on this context in reference to community theatre, referring to Jacques Rancière. She describes the reciprocity mentioned as a requirement for the transmission of knowledge to social action (through theatrical activity), with two sets of active performers and two sets of passive spectators.⁷¹ However, in community projects ranging from community-based theatre to theatre for social change, there is always some asymmetry in power relations, despite drawing on the assumptions of reciprocal exchange.⁷² As Rancière argues, the assumption that 'theatre is in and of itself communitarian'⁷³ comes from the need to vitalize the passive and individual practice of spectatorship, while the community is active and participatory and, therefore, to overcome the audience passivity it required imagining theatre audiences as an 'active body of community enacting its living principle'.⁷⁴ Yet, as both Rancière and Fišek seem to agree, community theatre also often falls within the scope of bank experience. The final conclusions of Fišek are also not encouraging, as she states that there is no direct connection between community and the effectiveness of artistic projects that draw on the power of this community,⁷⁵ and while individual and communal self-realisation can look similar in certain circumstances, the assumption that it is an universal truth risks homogenizing the community at stake. For her, while theatre might look like a perfect space for community formation, on closer inspection, this expectation becomes more complicated than confirmed, but the role of theatre within the community as a factor enabling questions and pursuing answers about important social issues remains crucial.⁷⁶ This reflection shows that understanding the complexity of community is an essential factor for any participation method that would like to involve people through theatre. Theatre itself, however, is not enough to create a community, but it can create a space for a debate. This space is important for the next point of reference, which is politics.

4. Theatre and politics

Joe Kelleher⁷⁷ defines politics after Stefan Collini as 'the important, inescapable, and difficult attempt to determine relations of power in a given space'⁷⁸ where relations of power meet its distribution among different groups, classes, or interests that make a social body.⁷⁹ He also underlines the importance of the "given space" similar, for example, to the one in theatre – the stage relating to the imagined space of the outside

⁷⁰ H. Kostyło, *Uniwersalność przesłania „Pedagogii Uciśnionych” Paula Freire’go* [Eng. *Consignment of 'Pedagogy of the oppressed' by Paulo Freire*], "Rocznik Andragogiczny" 2010, Vol. 17, p. 82ff.

⁷¹ E. Fišek, *Theatre...*, p. 64.

⁷² E. Fišek, *Theatre...*, p. 64.

⁷³ J. Rancière, *The Emancipated Spectator*, Verso 2009, p. 16, after: E. Fišek, *Theatre...*, p. 62.

⁷⁴ J. Rancière, *The Emancipated...*, p. 5, after: E. Fišek, *Theatre...*, p. 62.

⁷⁵ E. Fišek, *Theatre...*, p. 71.

⁷⁶ E. Fišek, *Theatre...*, p. 80.

⁷⁷ J. Kelleher, *Theatre and politics*, London 2009.

⁷⁸ S. Collini, *On Variousness; and on Persuasion*, "New Left Review" 2004/27, p. 67, after: J. Kelleher, *Theatre...*, p. 3.

⁷⁹ J. Kelleher, *Theatre...*, p. 3.

world.⁸⁰ Kelleher's work explores theatre and politics and not political theatre, resonating with Boal's vision of LT not as a political theatre but a tool to make politics.⁸¹

Kelleher draws on the assumption that politics, associated with concerns like participation, ownership, membership, and exclusion, is usually encountered in a particular way, similarly like in theatre, where the scene is put together in a particular way for our benefit and to work on us in a particular way, and not to just happen of its own accord.⁸² He presents a description of an image from a newspaper representing a woman in Brazil, with a naked infant wearing only a pair of blue sandals, being pushed forward by a line of riot police, with a truncheon raised above her head from behind a police shield.⁸³ He asks what happens to politics when it is encountered in a mediated way, replying that we can respond to 'what works on us'⁸⁴ in this encounter with sympathy for the victims and anger at the events that we encounter, but we are unable to intervene. If we imagine ourselves turning those events into a theatrical representation to work with, we also feel detached from these events and, regardless of the reality of this representation and the authenticity of its elements, it will always be less real and less significant than the actual events. Yet, at the same time, Kelleher states that there is still a lot theatre can lend for politics in its given space.⁸⁵ He identifies three factors that confirm the **political readiness** of theatre. The first one is theatre's liveness and sociality, the fact that it happens in the present (now) gathering people, often strangers, around issues of disagreement and common concern. The second factor is the capacity of theatre to pretend – to say and show things that are unlike those in the real world – and through that, propose alternatives for what happens in reality. The last factor is theatre's ability to represent us, speak for us and of our and others' worlds. This representation means both showing us the images of ourselves, but also through standing in and up for us, like a political representative.⁸⁶

If we are, however, to take this potential that theatre offers for political agenda, to create critical judgments and to agree on theatre's efficacy and its power to produce effects, then such a theatre can indeed make a difference, even in remote places.⁸⁷ Kelleher reminds us also that the inescapability contained in the given definition of politics will make politics present sooner or later, regardless of what theatre images can provoke and how we might respond to it as participants and spectators.⁸⁸ He is, however, not naïve about the influence theatre might have since it does not touch us in the same way as a tragedy in real life; instead, it leaves its mark by invitation, to pay attention to a peculiar type of appearance – the appearance of an actor.⁸⁹ What this appearance will do to us and what it does politically to the actor depends on us, Kelleher claims, as there is never any guarantee that the theatrical effect will work as intentioned, nor that the message will be understood as it should. This instability and unpredictability are, however, where the real political value of theatre lies.⁹⁰ Before coming to the final

⁸⁰ J. Kelleher, *Theatre...*, p. 3.

⁸¹ A. Boal, *Legislative...*, p. 16.

⁸² J. Kelleher, *Theatre...*, p. 8.

⁸³ J. Kelleher, *Theatre...*, p. 1.

⁸⁴ J. Kelleher, *Theatre...*, p. 8.

⁸⁵ J. Kelleher, *Theatre...*, p. 8–10.

⁸⁶ J. Kelleher, *Theatre...*, p. 10.

⁸⁷ J. Kelleher, *Theatre...*, p. 10–11.

⁸⁸ J. Kelleher, *Theatre...*, p. 16.

⁸⁹ J. Kelleher, *Theatre...*, p. 23.

⁹⁰ J. Kelleher, *Theatre...*, p. 24.

remarks, focused on how Kelleher sees the role of Boal's methods, there are two issues that deserve a mention. The first of these is the matter of representation. As Kelleher suggests, what happens in e.g. a theatre is that something has been shown, brought into appearance, that otherwise might not have been. What is different for theatre is that there are people, actors and spectators, standing in and representing others who are not present. And there are also the protagonists representing all those whose life has been impacted in the way presented on stage.⁹¹ Secondly, the consequences of such representations, as Kelleher concludes, or the political potential of the performance, is the ability to engage us in thinking through relations of power and this depends on the unpredictable relations between the liveness of the event and what the event stands for or represents.⁹² He emphasizes that politics is more than thinking, because determining the power relations also means acting upon them. And this acting upon is again a representation – standing up for, or in for, others. The politics that a theatre piece provokes or enacts will again have to deal with the judgments we are able to make about them, judgments on the thoughts and feelings provoked by the event.⁹³ Usually, spectators are left alone with this judgment after the curtain falls. With LT, it is quite the opposite; it not only allows us to work with those judgements but also gives the voice to those who would not in normal circumstances count as 'speaking beings'⁹⁴ as Kelleher calls them. Speaking is a notion that he uses to present Boal's concept through the aspect of political participation and the recognition of the linguistic acts of others as being meaningful.⁹⁵ He underlines Boal's claim that theatre, like language, can be a powerful weapon – a weapon of domination for the powerful, but also an easily adopted weapon of liberation for the poor.⁹⁶ For Boal, theatre operates as language and can be used by any person regardless of their artistic talent.⁹⁷ And Kelleher challenges this claim by pointing out the difficulties such an approach can bring – as the participation of the spect-actor depends on agreement not only over the shared language, but also what counts as real social relations. Kelleher concludes his reflection on Boalian techniques by saying that theatrical communication, understood as a clean and uninterrupted transmission of information from one place to another, even if we admit that not all forms of communication are equally available to all, is not likely to be that simple. However, it does not have to be, as what the theatre can do, among other things, for or within politics, is to offer one a given and concrete space for actions and knowledge.⁹⁸

5. Theatre and protest

Lara Shalson explores theatre's intersections with protest that include a variety of activities carried out in public before various audiences, with the goal of inspiring thoughts and emotions that can lead people toward social change.⁹⁹ As she states, protest actions often take the form of a performance, therefore, it is sometimes difficult

⁹¹ J. Kelleher, *Theatre...*, p. 26.

⁹² J. Kelleher, *Theatre...*, p. 29.

⁹³ J. Kelleher, *Theatre...*, p. 29.

⁹⁴ J. Kelleher, *Theatre...*, p. 68.

⁹⁵ J. Kelleher, *Theatre...*, p. 69.

⁹⁶ A. Boal, *Theatre of the Oppressed*, London 1979, p. 9.

⁹⁷ A. Boal, *Theatre...*, p. 121.

⁹⁸ J. Kelleher, *Theatre...*, p. 75.

⁹⁹ L. Shalson, *Theatre and Protest*, London 2017, p. 16.

to distinguish them.¹⁰⁰ All while theatre spaces and productions provide a valuable platform for responding to current political issues with a view to increase support for them or to show opposition to the injustices detected,¹⁰¹ theatre's capacity to influence the social world, especially in its most recognized form, is questioned by some scholars.¹⁰² Shalson reminds us also that, regarding Boal's theatre, not all forms of activism which include theatre can be described as a protest, but they can raise awareness and lead to the protest as a result.¹⁰³ She underlines the common belief regarding the relation of theatre, that theatre in its institutionalized form is removed from real political action, indicating the role of Henrik Ibsen who brought political concerns onto the stage at a time when many considered theatres to be pure entertainment.¹⁰⁴ Ibsen's goal was to initiate, through plays, a debate about the established moral or political standpoints that would last after the show had ended. It was also the goal of Bertolt Brecht to inspire the audience into critical thinking through his technique of estrangement, which was meant to remind the audience that what they are watching is a play and they should confront what they see.¹⁰⁵ Despite their influence, the ability of theatre to have an impact beyond theatre remains questioned;¹⁰⁶ as Shalson writes, many theatre-maker activists believe that for theatre to be politically relevant, 'theatre must leave the theatre'.¹⁰⁷ Peter Handke argues that a committed theatre takes place on the streets and not in theatre spaces, and Baz Kershaw opts for a radical performance instead of a political theatre.¹⁰⁸ There is also another problem as regards political theatre – that while the realm of theatre it has been accused of being 'bad activism', activist theatre has been accused of being 'bad art'.¹⁰⁹ Therefore, again, aesthetics is considered an important factor when it comes to theatre as a means of action. Shalson further identifies the conditions of effective involvement of the audience in acts of political protest,¹¹⁰ for example, actors need to be genuinely committed to the cause in order to mobilize audience participation; being activists as well, they can positively influence the realism of the play.¹¹¹ Another factor is to use techniques that will blur the boundaries between the world of the play and the real world, to enable the participants to be a part of fictional events of the play and at the same time the action of genuine political relevance.¹¹² Finally, the connection of the play with real political movements, and using them as part of a wider range of activities, can support the protest dimension of the theatre by helping to fulfil the first condition, but also to create a space where energy can be directed.¹¹³ Legislative Theatre fulfils all of those requirements. The link between theatre and protest seems to be more obvious than with other discussed fields; however, there are a lot of conditions for the effective use of theatre as a means of protest.

¹⁰⁰ L. Shalson, *Theatre...*, p. 4.

¹⁰¹ L. Shalson, *Theatre...*, p. 5.

¹⁰² L. Shalson, *Theatre...*, p. 6.

¹⁰³ L. Shalson, *Theatre...*, p. 7.

¹⁰⁴ L. Shalson, *Theatre...*, p. 18–19.

¹⁰⁵ L. Shalson, *Theatre...*, p. 21.

¹⁰⁶ L. Shalson, *Theatre...*, p. 21.

¹⁰⁷ L. Shalson, *Theatre...*, p. 25.

¹⁰⁸ L. Shalson, *Theatre...*, p. 26.

¹⁰⁹ L. Shalson, *Theatre...*, p. 28–29.

¹¹⁰ Referring to the examples of: E. Robins, *Votes for women! A Dramatic Tract in Three Acts*, London: Royal Court Theatre 1907; A. Baraka, *Slave Ship: A Historical Pageant*, Spirit House Theatre, Newark–New Jersey 1967.

¹¹¹ L. Shalson, *Theatre...*, p. 50.

¹¹² L. Shalson, *Theatre...*, p. 53.

¹¹³ L. Shalson, *Theatre...*, p. 53.

6. Theatre and therapy

Lastly, I would like to present theatre's links with therapy. As Fintan Walsh states, there are a lot of similarities between theatre and therapy. Both can facilitate reflection on thoughts, feelings, and behaviours in the presence of others within a specific timeframe. Observation of life both in theatre and during therapy can stimulate mental and emotional activity that is the target of therapeutical intervention. Additionally, theatre can help us to identify emphatically with others as, by stepping into someone's else shoes, we can intensify our sensitivity towards others and learn about ourselves.¹¹⁴ Walsh underlines that theatre workers and goers believe that theatre can be transformative. Transformation directly effecting personal change can be considered to have a therapeutic effect.¹¹⁵

To explore the links between theatre and therapy, Walsh refers to Sigmund Freud who states that an adult spectator is no different to a child playing. They both imaginatively enter the heroes' shoes and identify with them, but without putting themselves into real danger, and therefore experience and process intensive emotions.¹¹⁶ André Green highlights that theatre can serve as a bridge between the individual and social worlds, our public and private lives, maintaining a 'transitional position'¹¹⁷. As he claims, theatre does not expose the subconscious but rather accesses it carefully through a set of parallel substitutions on stage.¹¹⁸ Walsh also brings to light an interesting thought from Donald Woods Winnicott that therapy itself is a version of a play, with two people playing together – the patient aiming to remove internal blockages to enter the play and a therapist whose role it is to make it happen.¹¹⁹ Walsh refers also to the interest people have in therapist's private lives pictured in plays and TV series, as he claims that watching their lives can help audiences feel better about personal challenges and problems.¹²⁰ LT can help in avoiding the feeling of loneliness in the same way, i.e., by comforting participants with the reassurance that they are not alone with their problems and oppressions, that it is not their fault. Jacob Levy Moreno, who is considered to be a founder of psychodrama, suggests that participation in chosen dramatic scenarios and theatrical conventions can help with some forms of mental illness and facilitate working through emotional problems. While psychodrama can be considered a strategy within a wider therapeutic framework, dramatherapy deploys a range of drama and theatre techniques and tries to link art and therapy with the artistic process leading the therapy,¹²¹ both of which are somehow linked with socially and politically engaged theatre movements from which, as the 'most representative marriage of the psychological and socio-political in theatre practice'¹²² Walsh identifies the Theatre of the Oppressed. He underlines after Boal that empathy emerges when the protagonist learns the truth of his situation, and while this moment of recognition is a crucial, rational and ethical point, empathy should be tied to action because, for the psychic and social to connect, one

¹¹⁴ F. Walsh, *Theatre and therapeutic tradition*, in: *Theatre and Therapy*, London 2013, para. 1.

¹¹⁵ F. Walsh, *Theatre...*, para. 2.

¹¹⁶ F. Walsh, *Therapists look to theatre*, in: *Theatre...*, para. 4.

¹¹⁷ A. Green, *The Tragic Effect: The Oedipus Complex in Tragedy*, Cambridge 1979, after: F. Walsh, *Therapists...*, para. 7.

¹¹⁸ A. Green, *The Tragic Effect: The Oedipus Complex in Tragedy*, Cambridge 1979, p. 23, after: F. Walsh, *Therapists...*, para. 7.

¹¹⁹ D.W. Winnicott, *Playing and Reality*, London 2005, p. 51; F. Walsh, *Therapists...*, para. 11.

¹²⁰ F. Walsh, *Theatre about therapy*, in: *Theatre...*, para. 7.

¹²¹ F. Walsh, *Dramatherapy*, in: *Theatre...*

¹²² F. Walsh, *Theatrical therapies*, in: *Theatre...*, para. 1.

must do something with the feelings – translate emotion into action.¹²³ As Boal states, the TO is interested in educational, social, and therapeutic goals, but he is, however, far from considering it a form of therapy. This therapeutical dimension is about taking charge of the course of action, becoming a subject in an object-subject relationship of social and psychological forces.¹²⁴ Walsh acknowledges the voices stating that Boal's work is utopian, yet it is probably the most influential approach to socially engaged theatre worldwide.¹²⁵ Finally, Walsh refers to the socially engaged initiatives that target the empowering of disadvantaged groups and focus on sharing their personal experiences in the creation and staging of the performance. These practices, while usually driven by social justice rather than therapeutic goals, often intersect with the therapeutic dimension in processes, practices, and objectives,¹²⁶ just like Boal's theatrical tools.

7. Conclusion

In this paper, I have explored some intersections between law and theatre in support of the claim that law and theatre indeed do traverse. Instead of dwelling on the field of law and performance, I have focused on the fact that law and theatre are also connected with the multiplicity of subjects and cannot operate in the solitudes of one's mind or self, instead, they require social background. By presenting the role of theatre and its links with community, it was my intention to show those aspects of intersection that can be useful for theatre as a tool for citizen engagement. After Fişek, I have introduced categories of efficacy and agency relevant for assessing the influence of theatrical activities upon claims of the community members. This reflection led to politics, and I have followed Kelleher's trail of similarities between theatre and politics suggesting that our way of experiencing politics is similar to that of theatre, and while participatory theatre techniques can be supportive in communicating our political claims, the language of theatre has some limitations that require addressing. Theatre limitations are visible also in the field of protest as often the protection one might seek, for example, in law is not working in the way one would expect. While theatre can support and serve protest, it requires using rather performative techniques and activist theatre than making claims within theatre auditoria, and it can be a powerful tool to inspire social movements, which can apply it to work through the relevant issues of concern. The working through shifted the angle towards individual aspects of theatre and its therapeutic abilities because, after all, the communal operates on the individual ability to engage in social interactions. Theatre and therapy seem to be the most closely linked among all the discussed intersections, with the ability of theatre to replace, in some cases, more formal ways of therapeutical activity. While all the presented social phenomena could benefit from deeper analysis, the goal of this paper was to present the preliminary thoughts on questions if and how the theatrical aligns with public participation for legislative development through theatre. How then do the presented issues support the claim that LT can be an influential and useful technique? On the general level it is the interconnectedness of presented aspects that is of importance. Legislative Theatre is

¹²³ A. Boal, *The aesthetics of the oppressed*, London 2006, p. 54, after: F. Walsh, *Theatric therapies*, in: *Theatre ...*, para. 2.

¹²⁴ A. Boal, *The Rainbow of Desire: The Boal Method of Theatre and Therapy*, London 1995, p. 27, after: F. Walsh, *Theatric...*, para. 3.

¹²⁵ F. Walsh, *Theatric...*, para. 4.

¹²⁶ F. Walsh, *Communities*, in: *Theatre ...*, para. 1.

not just a theatre play. It operates with theatre as a mean to create, identify, maintain, and reach out to the communities. It can also allow ensuring both efficacy and agency of community theatre projects. It is also not solely a political theatre, as it operates on the representation of others, but it also aims at influencing the dynamics of power in the given space. While not necessarily a form of protest itself, it offers a structure to work on and through the claims as well as to build up momentum for further action. Despite the fact that LT is not as focused on the individual, it can offer supportive and therapeutical elements, individual presence and importance, so often missing in other participation tools. Lastly, LT not only requires the use of theatre and performance to operate with all the similarities between theatre and law, but it operates as a tool to change it. While I agree that a deeper reflection on how the law operates in this particular form of theatre could enrich the law and performance field, it could also result in loosing those other important aspects mentioned. References to techniques of the Boal's Theatre of the Oppressed were present in all of the presented works. However, it is the LT that brings elements of law, politics, community, therapy, protest, and theatre together. Unlike Forum Theatre,¹²⁷ where only community and therapy aspects are present, or political theatre, where real politics, law, and community are absent, or even community theatre, where the efficacy and agency might be easily lost, LT, if properly applied, combines all those important aspects.¹²⁸

Further research on a public participation model based on LT can lead to better results from such participation, especially for those less privileged. However, the framework of the model should be carefully established, and the possible pitfalls and dangers associated with it carefully considered. Finally, the potential of theatrical methods should not be overestimated; the goal of such implementation should focus on empowerment, transition, and dialogue in the first instance, rather than claiming that theatre can solve social problems once and for all if invited into the legal realm.

The 'Theatrical' in Public Participation: How Can Theatre Contribute to Citizens' Engagement in Legislative Development?

Abstract: The paper is devoted to the notion of public participation and an attempt to propose a slightly different understanding and approach to this than usual. The author acknowledges the potential of theatrical methods, especially the proposal of A. Boal, the Legislative Theatre, whereby the theatre is used to create proposals for legislation, bringing additional value to the participation process. The LT is a point of reference, but the following reflections refer to theatre and performance in a more general sense. The article focuses on the correlations between theatre and different relevant fields of social activity to determine and present potential benefits of using theatre in the process of participation. It is to present a preliminary review of relevant ideas that can stimulate future reflection about theatricalizing participation, rather than presenting a direct and comprehensive proposal.

Keywords: public participation, law, community, politics, legislative theatre, therapy, protest

¹²⁷ The Forum Theatre can be considered the part of LT if, once the play is created, presented and issues are discussed, it treats the audience as spect-actors (see p. 8). Unlike LT, it focuses on individual issues and aims at best at individual change, that can influence the individual's life.

¹²⁸ Again, not only those, but those that I found most important and closely related at the same time.

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