From Homophony to Polyphony:

Law and Music a Consonant Duet for Future Legal Thinking and Practice?

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<u>Law and Music – A Transformative Hybrid: embracing the diverse and different</u>

Cotterell describes the law as a 'ticketing' system whereby the law's authority enables its governance of individual admissions into the legal framework.[1] Cotterell's use of symbolism highlights the law as being instrumental in the construction of its own concepts and the control of its parameters to the 'inside' and 'outside' of the legal world.[2] The demonstration of law in this way affirms its active role in the construction of concepts such as 'community', which is rooted in the notion of identity.[3]

So-called 'sophisticated formalists' emphasise their preference for the concept of 'community' to operate as a singular unit in order for the integrity, legitimacy and fundamentally strength of the law to be upheld.[4] Thus, in order to construct 'community' as a singular, unified whole the law must privilege and fuse similar identities together and eschew and alienate identities differentiating from that fusion.[5]

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[1] Rodger Cotterell, 'Law and Community: A New Relationship?' [1998] Oxford Journals 369
[2] Ibid
[3] John D Caputo, *Deconstruction in a Nutshell: A Conversation with Jacques Derrida* (Fordham University Press, 1997) P 113
[4] See Richard Dworkin in JW Harris, 'Unger's critique of Formalism in Legal Reasoning: Hero, Hercules and Humdrum [1989] The Modern Law Review 53
Brian Leiter, 'Legal Formalism and Legal Realism: What Is the Issue?' [2010] Legal Theory
Generally, Legal Formalism is the belief that judges mechanically and rigidly apply legal rules to all legal issues without consideration of any extraneous factors.
[5] Colin Farrelly, *Introduction to Contemporary Political Theory* (SAGE publications, 2004) P 195

Whilst some scholars derive strength from the operation of community in the singular, Jacques Derrida expresses the inherent danger of a 'community', which is devoid of difference, and is conditional upon absolute unity, singularity, and closure.[6] However, the law continues to promote the 'dangerous' conception of community as detailed by Derrida through its maintenance of strict binaries and adherence to the formalist quest for law to be maintained in narrow terms.[7] Indeed, scholars identify that the law's narrow manner of operation regularly results in the homogenisation of identities, which are then privileged and presented as the dominant form of 'community'.[8]

It is precisely this process of homogenisation, reduction and totalisation of identities undertaken in the promotion of a singular and unified 'community' that drives Jacques Derrida's overarching dislike for the notion of 'community'.[9] The problematic nature of adopting a singular standard of 'community' is cemented by scholars who unveil this quest for universality and unity as being a 'mask' to maintain the power of dominant groups.[10] Indeed, Caputo demonstrates that the law's quest for absolute unity results in its blindness towards diverse identities existing outside of the law's idealist parameters of community. This means that community in the Derridean sense may never be actualised in reality.[11]

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[6] Caputo (n 3) P 107
[7] Oliver Wendell Holmes, *The Common Law* (Courier Corporation, 2013) P 1
Daniel Matthews, 'From jurisdiction to juriswriting: deconstruction at the limits of the law' (PhD thesis, Birbeck, University of London, 2015) P 20
Richard Pildes 'Forms of Formalism' [1999] The University of Chicago Law Review 618
[8] George Pavlich, 'The Force of Community' in Heather Strang and John Braithwaite (eds) *Restorative Justice and Civil Society* (CUP, 2001) P 63
[9] Caputo (n 3) P 14, 107
[10] Amy Guttman, 'Introduction' in Charles Taylor and (eds) Multiculturalism (Princeton University Press, 1994) P 18
[11] Caputo (n 3) P 131

Legal realists emphasise the need to illuminate and interrogate 'axioms' such as community.[12] The interrogation of these concepts is made more important by Cotterell who expresses the increasing demand for the law to reflect community in the diverse and fluid sense.[13] To this end, Ramshaw has advocated for a radical re-conceptualisation of existing legal thinking to mirror the music as a 'foundation of community.'[14] Although some are sceptical about the convergence between law and music, the power of music 'as a means…to harmonise physical and spiritual forces' should be emphasised.[15] This is an important factor to consider when recognising the need for the law to recognise and embrace a more diverse range of identities.[16]

This paper examines the extent to which the law should mirror music as a discipline that embraces the value of community in the diverse sense in order to accommodate difference. The paper advocates that the law should shift from privileging community in the unified, singular sense in order to champion community in the collective sense, so that the law may genuinely support the inclusion of a diverse range of identities.

To this end, the paper emphasises the importance for the law to embed the value of 'community' in the Derridean sense into its approach to embrace the innate differences

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[12] Cotterell (n 3) 390
Jerome Frank, 'Mr. Justice Holmes and Non-Euclidean Legal inking' [1942] Cornell Law Review 571
[13] Cotterell (n 1) 390
[14] Desmond Manderson, 'Towards Law and Music: Sara Ramshaw, Justice as Improvisation: The Law of the Extempore (Oxford: Routledge, 2013)' [2014] Law Critique 312
[15] Sherylle Mills, 'Indigenous Music and the Law: An Analysis of National and International Legislation' [1996] Yearbook for Traditional Music 57
Bernhard Grossfeld and Jack A. Hiller, 'Music and Law' [2008] The International Lawyer 1147-1148
Desmond Manderson and David Caudill, 'Modes of Law: Music and Legal Theory – An Interdisciplinary Workshop Introduction' [1998] Cardozo Law Review 5
[16] Cotterell (n 1) 390

between identities. The paper argues that at present the operation of 'community' in the Derridean sense is prevented by its discordant relationship with the formalist legal approach. This approach privileges the closure of the law above accommodating the values of diversity and possibility, which are central to the Derridean conception of 'community'. [17] Subsequently, the paper supports Ramshaw's thesis that a reciprocal relationship between the law and music should be established in order to facilitate a shift from dominant legal thinking and praxis in order to promote 'community' in the Derridean sense.[18] This paper concludes by supporting music as a powerful instrument to emancipate the law from its formalist tendencies, and ultimately to enable the value of 'community' in the Derridean sense to be harmoniously embedded into future legal thinking. [19]

"I've always had trouble vibrating in unison": law, community, identity and polyphony[20]

Derrida expressed the notion of community as being one centred upon identity; emphasising the importance of understanding the promise of community because it is incomplete, flexible, and constantly in flux.[21] However, scholars continue to emphasise

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[17] Doreen McBarnet and Christopher Whelan, 'The Elusive Spirit of the Law: Formalism and the Struggle for Legal Control' [1991] The Modern Law Review 2
Caputo (n 3)
[18] Sara Ramshaw and Paul Stapleton, 'Just Improvisation' [2017] Critical Studies in Improvisation 1
[19] Sara Ramshaw, Justice as Improvisation: The Law of the Extempore (Routledge, 2013) P 39
Manderson and Caudill (n 15) 1328
[20] Jacques Derrida in John Caputo, *The Prayers and Tears of Jacques Derrida: Religion Without Religion* (Indiana University Press, 1997) P 361
John Caputo, 'A Community Without Truth: Derrida and the Impossible Community' [1996] Research in Phenomenology 26
[21] Caputo (n 20) 26
Derrida (n 20) P 113
Mark Dooley and Liam Kavanagh, *The Philosophy of Derrida* (Routledge, 2014) P 17

the need for community to exist in in unified, singular and closed terms.[22] The desire to promote community in the singular sense is driven by its perceived display of togetherness and strength, attributes which are expressed as being fundamental by some scholars.[23]

Although the existence of community as a singular entity may denote strength to some, interestingly Derrida mourns the loss of togetherness undertaken in the creation of community as a singular unit. This is because the endeavour to unify is fruitless: it results in the reduction and homogenisation of identities.[24] Instead of seeking a union in the diverse sense through the coming together of a range of forces, the quest to achieve community as a unit results in the closure of mainstream society against those who are perceived to be the 'Other'.[25] Thus, the attempt to fuse and exclude identities in the drive for a unified community rather than embracing community as a boundless patchwork of identities exposes the myth of a singular unified and totalised community. Arguably, instead this process exposes the inherent fragmentation of community and ultimately the quest for a community in the singular sense as a superficial and futile venture.[26]

A more accommodating conception of community may be achieved by deconstructing these traditional conceptions of community. Deconstruction is essential

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[22] JW Harris, 'Unger's critique of Formalism in Legal Reasoning: Hero, Hercules and Humdrum [1989] The Modern Law Review 53
[23] Ibid
[24] Derrida (n 20) P 113
[25] Jacques Derrida in John Caputo, *The Prayers and Tears of Jacques Derrida: Religion Without Religion* (Indiana University Press, 1997) P 231
[26] Sidonie Smith and Julia Watson (eds), *Autobiography, Theory: A Reader* (University of Wisconsin Press, 1998) P 172

to release community from the shackles of the conventional formalist approach. [27] Although the word 'deconstruct' may imply obliteration, the purpose of this method is not to 'destruct or to demolish' rather it involves the 'recognition of another community… beyond the identitarian fusion'. [28] Ultimately, this will enable the boundaries of community to be opened up to authentically incorporate a plethora of identities. [29] Derrida articulates that the nature of law as a constructed mechanism enables its deconstruction and subsequent improvement. Thus, this opportunity to ameliorate the law's approach towards community highlights the importance of deconstructing the law.[30]

Scholars identify music as an innovative model to facilitate the deconstruction of the law's current rigid approach towards community so as to accept more diverse and fluid conceptions of identity.[31] Fundamentally, through its incorporation of seemingly discordant and different concepts, music appears to provide an opportunity to 'disarm the bombs of identity' which operate as an armour to protect community from the invasion of the other.[32]

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[27] Philosopher, Jacques Derrida coined the critique of 'Deconstruction' to liberate concepts, language, traditions and beliefs from repression by strict conventions by the need for uniformity and to emphasis the fluidity of all concepts beyond the boundaries.
Derrida (n 25) P 31
John Sallis (eds) *Deconstruction and Philosophy: The Texts of Jacques Derrida* (University of Chicago Press, 1987) P 12
C Norris, *Deconstruction, Theory and Practice* (Routledge, 2003) P 126
Derrida (n 25) P 31
[28] Caputo (n 20) 25, 26 & 34
[29] Caputo (n 20) 25, 26 & 34
[30]Derrida (n 25) P 125
Michael A Peters and Gert Biesta, *Derrida, Deconstruction and the Politics of Pedagogy* (Peter Lang, 2009) P 32
[31]Simon Rose, 'When Law Listens' [2018] Critical Studies in Improvisation 2
[32]Sara Ramshaw, *Justice as Improvisation: The Law of the Extempore* (Routledge, 2013)
P 1
Niall Lucy, *Beyond Semiotics: Text, Culture and Technology* (A&C Black, 2001) P 6
Jacques Derrida, *Deconstruction in a Nutshell: A Conversation with Jacques Derrida* (Fordham University Press, 1997) P 16

In the text *Songs Without Music,* Manderson examines the formalist aesthetic of law and utilises music as a model to demonstrate the potential for the law to advance beyond this narrow approach. [33] Manderson utilises the concept of polyphony as a tool to demonstrate the potential for the law to support what may initially appear to be dissonant identities to collaborate with one another. [34] Manderson articulates that 'many voices come together at the same time as they remain apart'. This indicates the potential for inherently different voices and identities to assemble to produce harmony. [35] These voices are celebrated for their differences rather than being coerced into jettisoning their idiosyncrasies in order to display unity in the uniformed sense. [36]

Although polyphony in the canonical, Bachian sense may appear to reify the existing formalist aesthetic because of its unified structure, conversely Manderson locates polyphony as a concept rooted within plural, polylithic surroundings. [37] The polyphony remains plural because each musical contribution remains valued for its unique contribution to the holistic polyphonic structure. Fundamentally, each of the components forming the overall polyphony retains its individuality. [38] Of course, each musician must conform to a degree in order to form the polyphony; meaning that musicians may relinquish some of their preferred musical techniques. However, this does not mean that distinct musicality is jettisoned in its entirety. Rather, the creation of the polyphony demands reciprocity in that a diverse range of musical elements are welcomed and modulated in order to form the collective polyphony.

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[33] Desmond Manderson, *Songs without music* (University of California Press, 2000) P 1 - 297
[34] Polyphony is a form of texture within music consisting of multiple different independent melodies. Peter Pesic, *Polyphonic Minds: Music of the Hemispheres* (MIT Press, 2017) P 3
Manderson (n 33) P 186
[35] Manderson (n 33) P 186
[36] Ibid
[37] Desmond Manderson, *Songs without music* (University of California Press, 2000) P 186
[38] Ibid P 186

Importantly in this reflection on polyphony, Manderson also conveys the sense of tolerance employed within the creation of music, as he recognises that different identities do not need to be homogenised and erased for 'harmony' to be achieved.[39] Ultimately, in recognising the individuality of the different voices that collaborate to produce polyphony, Manderson creates space for seemingly discordant identities to work as a community in the Derridean sense. In other words, Manderson's analysis highlights music as a discipline and praxis embodying community in the Derridean sense; operating not as singular and totalised entity, but as a playing mid-way between unity and multiplicity through its embrace of difference.[40]

Ultimately, in showing the successful creation of musical harmony through the incorporation of diverse elements, Manderson highlights that the law may also embrace and honour difference without sacrificing its structural integrity, reputation, and the production of meaning. Thus, this shows that community in the Derridean sense is a viable feasible endeavour.

'Judging the Singular' to Support a Community of Differences: law, improvisation, jazz and community[41]

A more conscious appreciation of the techniques already employed within music and current legal thinking may facilitate an opportunity for the law to move beyond its closed

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[39] Ibid P 186
[40] Caputo (n 3) P 104
[41] Kathryn McNeilly and Paul Stapleton, 'Judging the Singular: Towards a Contingent Practice of Improvisation of Law' [2018] Critical Studies in Improvisation 1

operation of community to embrace difference, and thus community in the Derridean sense. This section will examine some of the existing parallels between jazz music and law and how embracing improvisation may support the law in delivering more equitable decisions.

The creation and performance of jazz music is commonly dismissed as an activity involving little skill, structure and restraint. [42] The performance of jazz music is frequently misrepresented as a pursuit prescribing absolute spontaneity from musicians. [43] However, Ramshaw corrects these assumptions, instead depicting the innate skill and preparation required in the production of Jazz music.[44] She illustrates that the communal nature of jazz music invites improvising jazz musicians to come together to 'jam' or to generate meaning through impromptu music. [45] Importantly, Ramshaw highlights that jazz musicians are proficient players who understand spontaneity and how to respond to different coinciding musical elements to generate the overall jazz piece.[46] Fundamentally, jazz music foregrounds reciprocity in that jazz musicians must present their independent contributions to frame the overall production, whilst also harnessing and accenting their playing to authentically *do jazz*. In some ways *doing jazz* may be compared with the concept of polyphony, as a multiplicity of players contribute a variety of independent sounds concurrently to produce a rich body of sound. However, it must be noted that jazz

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[42] Sara Ramshaw, 'Deconstructin(g) Jazz Improvisation: Derrida and the Law of the Singular Event' [2006] Critical Studies in Improvisation
[43] Ibid
[44] Shelia Simon, 'Jazz and Family Law: Structures, Freedoms and Changes' [2009] Indiana Law Review 568, 569
[45] Sara Ramshaw, 'Jamming the Law: Improvisational Theatre and the 'Spontaneity' of Judgment [2010] Law's Theoretical Presence 146
[46] Ibid

players are permitted a greater degree of *rubato* than musicians participating within more canonical polyphonic arrangements.[47]

Whilst the foundation of Jazz music is predominantly based upon the creation of music through an engagement with improvisational techniques to create meaning, Ramshaw demonstrates that, 'improvisation is only made possible through a thorough knowledge of the tradition in which it is taking place, and much practice or dedication is required to learn the skills of the art of improvisation.' [48] Lewis reinforces that improvisation is conditional upon a deep understanding of musical theory, 'background, history, and culture of one's music.'[49] In her investigation of Jazz music, Ramshaw contests the misrepresentation of jazz music as primitive and simplistic activity, as although 'improvisation presents the musician with the possibility of creating a new piece of music', 'you can't improvise on nothin', you gotta to improvise on somethin'.[50] Ultimately then, improvisation is achieved through a combined dependence upon tradition and an embrace of the contemporary.

Although even the attempt to connect jazz music and the law may evoke frustration in legal formalists who seek to maintain the law as a 'rigorously structured doctrinal science', by recognising the parallels between improvisational jazz and

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[47] Although Manderson argues that polyphony provides an opportunity for musicians to display individual musicality, Gould and Keaton contend that because the foundation of jazz is built on instinct, jazz musicians are more likely to exhibit a greater degree of spontaneity. Carol Gould and Kenneth Keaton, 'The Essential Role of Improvisation in Musical Performance' Journal of Aesthetics and Art Criticism 143

[48]Ramshaw (n 40) Deconstructin(g) Jazz Improvisation: Derrida and the Law of the Singular Event' 2
Sara Ramshaw, *Justice as Improvisation: The Law of the Extempore* (Routledge, 2013) P 71
Sara Ramshaw and Paul Stapleton, 'Just Improvisation' [2018] Critical Studies in Improvisation 1

[49] George Lewis, 'Improvised Music after 1950: Afrological and Eurological Perspectives' [2004] BMR Journal 114

[50] Rose (n 31) 3
Barry Kernfeld, *What to Listen for in Jazz* (Yale University Press, 1997) P 119

improvisation within judicial-decision making we are not transposing the key of law, but simply turning to face the seemingly strange. Similarly to the improvisational collaboration between jazz musicians within a jam to create meaning, judges also utilise improvisational techniques to collaborate with the people who are subjects of the judicial decision.[51] Whilst the collaboration between the judge and individual(s) may appear more structured due to the formal image of law, Ramshaw depicts the central role played by impromptu improvisation within judicial decision-making.[52]

Importantly, recognising and embracing the existing parallels between jazz and music through their combined use of improvisation may facilitate an opportunity for the law to reconfigure its understanding of 'community' in the Derridean sense.[53] This is because these approaches are identified as being committed to 'working with difference' through their combined use of improvisation and established techniques, as they recognise the limits to adopting a rule-based approach.[54] Indeed, Judge Smyth emphasises the potential for improvisation to support the production of bespoke judicial decisions that effectively respond to the distinct issues faced by people.[55] Thus, embracing improvisation may support the law in operationalising 'community' in the Derridean sense.[56] This is because the law will be encouraged to respond to a wide array of complex and diverse issues affecting people's lives. Arguably, then the law ought to embrace its performance of improvisation, as according greater appreciation to individual cases and

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[51] Ibid
[52] Ramshaw and Stapleton (n 43)
[53] Hanoch Dagan, 'The Realist Conception of Law' [2007] The University of Toronto Law Journal
[54] Rose (n 31) 2
[55] Rose (n 31) 2
[56] Ibid

difference may also support the law in achieving a more substantive approach towards equality.

Therefore, in recognising and embracing the principle of improvisation as 'social practice' the law may 'foster new, better ways of being with one another both as individuals and as members of diverse communities... in sometimes divided societies.'[57] Not only this, but consciously recognising the existing role played by improvisation within judicial decision-making may also initiate a 'critical practice of improvisation within law that aims to foreground the singular and offers tools to advance the aims of justice in a challenging...system.' [58] Thus, this may enable the enactment of 'community' in the Derridean sense, as the technique of improvisation is shown to appreciate and respond to the different and distinct concerns of individuals ensuring that these concerns may not be fused or homogenised by the universal application of a rule-based approach to law.

From 'Outsiders' and 'Insiders' to a 'Community of Singularities': musical performance and incarcerated women - a qualitative study

The power of music as a model to support the law in advancing beyond its formalist aesthetic and closed conception of community is cemented when considering the law and criminalised women. Although some scholars support the continuation of law in formalist

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[57] Ramshaw and Stapleton (n 43)
[58] McNeilly et al (n 39) 7

terms because of its seemingly simplistic and pure aesthetic through its isolation of 'distraction[s] and debris', arguably this approach simply encourages the operation of community in the closed, exclusionary and defensive sense. [59] Thus, this approach excludes a multiplicity of identities and forces some of the most vulnerable members of society to the margins.

The operation of law in strict, formalist terms is utilised as a shield to defend society from identities that threaten to disrupt the 'beauty' of the law's outwardly coherent form. [60] In prioritising the appearance of unity and coherence rather than collaborating with a broad range of identities, the law sacrifices the operation of community as a 'community of singularities'.[61] In privileging the formalist approach, the law employs a violent defence against the inclusion of identities sitting outside the accepted parameters of community.[62] This is particularly evident when considering the continued incarceration of women by the law.

Criminalised women are perceived as outsiders in relation to their position "within" wider society.[63] Currently, the law plays an instrumental role in the portrayal of criminalised women in this way through the judiciary's construction of these women as the 'Other'.[64] The law's construction of criminalised women as outsiders is achieved through its depiction and labelling of certain conduct as criminal, and its subsequent

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[59] Adam Gearey and John Gardner, *Law and Aesthetics* (Hart, 2001) P 4
[60] Ibid
[61] Caputo (n 20)
[62] Pierre Legrand, *Derrida and Law* (Routledge, 2017) P 442
[63] Brenda L Russell, *Perceptions of Female Offenders: How Stereotypes and Social Norms Affect Criminal Justice Responses* (Springer Science & Business Media, 2012) P 2
Caputo (n 20) 25 & 26
[64]Charlotte Caltrow, Coercion and Co-offenders: A Gendered Pathway Into Crime (Policy Press, 2016) P 7 and 9

punishment of those who are judged to be breaking the criminal law.[65] In sentencing women to serve terms of imprisonment rather than addressing their conduct from within the visible realms of society by more inclusionary community based methods, the judiciary communicate their exclusion and erasure of incarcerated women from wider society.[66] Indeed, rather than utilising more community-based solutions that support the person in improving their lives from within society, statistics demonstrate the increased reliance upon prison by the judiciary to punish criminalised women.[67]

The law's current approach towards criminalised women precludes the operation of community in the Derridean sense, as the law incarcerates to exclude and shield seemingly 'deviant' identities from entering its view.[68] Ultimately, in relying upon prison as a means of punishment, the law erases and excludes the identities of criminalised women from wider society. Thus, this prevents women from interacting with identities outside of the prison setting and the operation of community in the Derridean sense.

O' Grady's qualitative study centring upon musical performance and criminalised women illuminates the concept of musical performance as a powerful concept for the law to mirror in order to advance beyond its current exclusionary and defensive approach to community. The study demonstrates musical performance as an avenue to support criminalised women in moving beyond the 'outsider' label ascribed to them by the law so

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[65] Howard H Becker, *Outsiders* (Simon Schuster, 1963) P 9

[66] Julian V Roberts, *The Virtual Prison: Community Custody and the Evolution of Imprisonment* *(Cambridge University Press, 2004) P* 8

[67] Women in Prison, 'Key facts' (*in Prison*) < http://www.inprison.org.uk/research/key-facts.php > last accessed 20th May 2018

[68] Caputo (n 20)

Julian V Roberts, *The Virtual Prison: Community Custody and the Evolution of Imprisonment* *(Cambridge University Press, 2004)* P 60

that they may interact as part of a community in the Derridean sense.[69] The study focuses on the opportunity for imprisoned women to participate within musical performance to generate important values and the potential for music to provide a 'bridge from the inside to the outside',[70] as in the case of 'Sarah' and six fellow prisoners who worked together within a maximum-security prison in Australia over ten weeks to create a large-scale public musical performance.[71]

O'Grady's study of the musical performance by the women reaffirms music as a meaningful and transformative mode of praxis. This is because Elefent posits that in order 'for a performance to have a meaning there needs essentially to be relationship between performer, spectator, and the space in which it all meets.'[72]Thus, the musical production by the women within the study may be viewed as powerful because their performance involved the shared interaction between themselves as incarcerated women who exchanged their innermost feelings through their song-writing and musical performance with a public audience.[73] The shared interaction between the women and the 'outsider' audience demonstrates 'a sense of reciprocity between performer [and] audience' meaning that community in the Derridean sense is truly realised. [74] This is because the musical performance permits the shared interaction between 'insiders' and 'outsiders' which would ordinarily be prevented by the law's separation of incarcerated women and the general public. Ultimately, the communal interaction between the audience and the

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[69] Lucy O'Grady, 'Women performing music in prison: an exploration of the resources that come into play' [2013] 123 - 147
[70] Ibid 131
[71] Ibid 123 - 124
CREST stands for (courage, readiness, exchange, support and trust) 124 and 125
[72] Brynjulf Stige, *Where Music Helps: Community Music Therapy in Action and Reflection* (Routledge, 2017) Ch 6
[73] O'Grady (n 64) 133 - 134
[74] O'Grady (n 64) 127

performers within the performance enabled the criminalised women to liberate themselves momentarily from their status as law-breakers ascribed to them by the judiciary to connect with those identities that are traditionally accepted as being part of wider society. In so doing, the women also developed important values, thus cementing the importance of supporting a collective community that appreciates difference.

Conclusion

Overall, this paper argues that in continuing its formalist, reductionist, exclusionary and narrow approach towards community, the law is complicit in maintaining the dangerous and reductionist conception of community as outlined by Derrida. The law should turn and face the seemingly strange by mirroring music, so that the law may pave the way for an acceptance of difference and a greater sense of justice.[75] The various examples detailing the successful incorporation of difference within the context of music show the array of potential alternative avenues available for the law to explore without jettisoning its authoritative reputation. To conclude, the power of music as a communal meaning-making activity is affirmed as a vital tool to support the law in explicitly recognising and departing from its closed manner of operation to achieve the perfect cadence of 'community' in the open, diverse, and ultimately Derridean sense. Ultimately as a hybrid, law and music represent a consonant duet for future legal thinking and practice.

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[75] McNeilly (n 39) 7

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