Instrumenting(s): Accounting a Series of Repetitive Beats

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Abstract

This Visual Law article accounts an event "A Royal Dis-Sent – Re-Writing and Re-Imagining a Series of Repetitive Beats CJA 1994" held at House of Annetta, on London's Brick Lane, on Sunday 3 November 2024. On that day it was 30 years since the notorious Criminal Justice and Public Order Act (CJA) 1994 was given royal assent, illegalizing raves, banning music that "includes sounds wholly or predominantly characterized by the emission of a succession of repetitive beats" (section 63(1)(B)). Discussions as to the nature of sound and law are unravelled, considering prohibition, nomadism, repetition and property concerning the connections found between law, music and aesthetics that the CJA 1994 and the workshop highlighted. The summary relays the work of event organizers Dr Daniel Hignell-Tully and Dr Lucy Finchett-Maddock under the guise of transdisciplinary project "Instrumenting(s)", investigating the relations between sound, property and law, and how we may best understand the history of land within legalities and their resistances via a combination of legal, scientific and artistic research through the development of a "geosocial instrument".

Keywords: CJA 1994; sound; prohibition; nomadism; repetition; law and aesthetics.

To inquire as to the origins of sound, is that as the origin of law. What emanates from that moment onwards and forwards is a channel from whence time may receive itself. From when there may be a carrier of and for belonging. Yet, that very search for the origin being one that is not appealing nor possible. One that according to our most recursive of gestures within legal scholarship, is to trace back

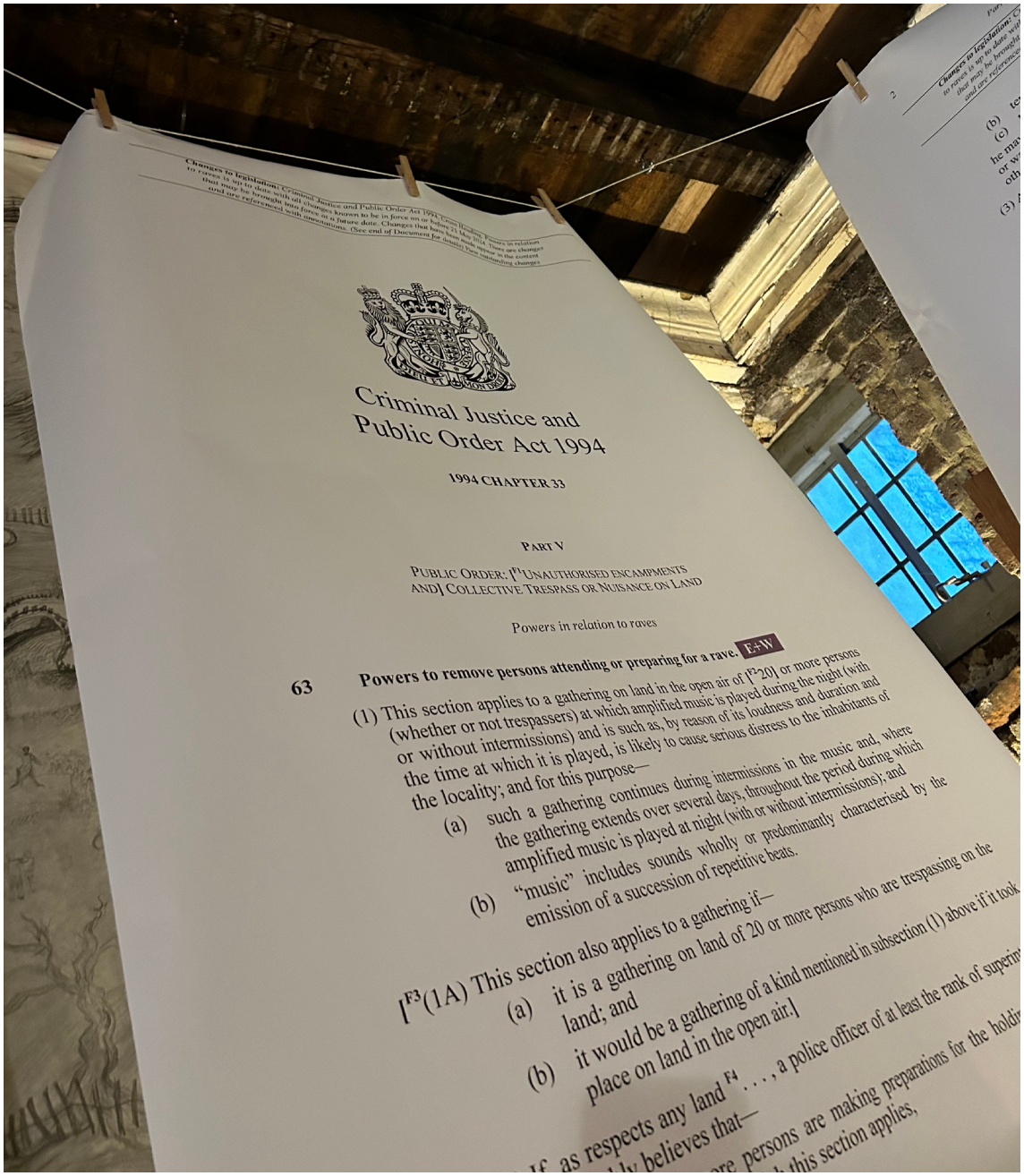

Figure 1: Printed CJA 1994, House of Annetta.

an eminence, a source of legitimacy. In François Bonnet's *The Order of Sounds: A Sonorous Archipelago*, he refers to the "impossibility of defining an origin, an impossibility resulting from the fleeting nature of the phenomenon, its dispersion into the distance and its inexplicable character, have always been the source of myths and beliefs" (Bonnet 2016: 19). Law is similarly at once here and always, where it moves back and forth between the very contemporary, the ancient and the primordial.

From whence there are origins we can only assume and sensate repeated acts, or the variant

iterations of spatio-temporal arrangement over ions that bring to life the past, present and future. If those acts themselves are unrecorded, do they happen at all? At the beginning of time, at least from the scientific historiographies recorded within Western accounts (Haskell 2022: 6-7), life was silent—or there was no way to hear life. With reference to the philosophical proposition, "if a tree falls in the forest and there was no one there to hear it, does it fall at all?" At what point does all experience determine itself through vibration alone, and the sonic as a mechanism of processing—a juncture of judgement and fractional crystallization. Does this mean that there always requires a receiver of sound, for the sonic moment to be registered and exist? This question reveals a dichotomy of sender and receiver, sound and a capacity to hear, within the integral nature of the aural. It appears that underlying and underpinning the beginnings of time were the movements of vibration, and ways in which these bacterial developments became heard were within the whirlpool as *cilia* growing within bacterial life. These cilia are tiny hairs motoring bacteria around, picking up vibrations across waves, within fibres to connect and feel and hear without ears—similar cilia as those now commonly found within our cochlea (Haskell 2022: 6-7; Finchett-Maddock 2025). Once these cilia developed, there arrived a capacity for the burps and bloops of the primordial to be auratically registered, and as such, empirically become real.

This coupling of sound and hearing brings us to the event which the project **Instrumenting(s)** brought to the fore in November 2024, through raising awareness around the banning of aesthetic forms through the Criminal Justice and Public Order Act 1994 (CJA[1] 1994). **Instrumenting(s)** investigates the relations between sound, property and law, and how we may best understand the history of land within legalities and their resistances, via a combination of legal, scientific and artistic research through the development of a *geosocial instrument*. This geosocial instrument is both empirical and allegorical, questioning whether the external world and law itself can ever be investigated and accessed through scientific means, and if not, then a speculative and creative device that may allow us to foresee where law comes from and where it may be heading—and our agential role within its formulation. With two strands to the project, **Instrumenting(s)** brings together legal thinkers, artists and scientists with a specific concern for finding law within the land, and not just through

[1] The acronym CJA, instead of CJPJOA, is used as this is the one that is more well known among activists as opposed to the latter, which is more equated with legal practice.

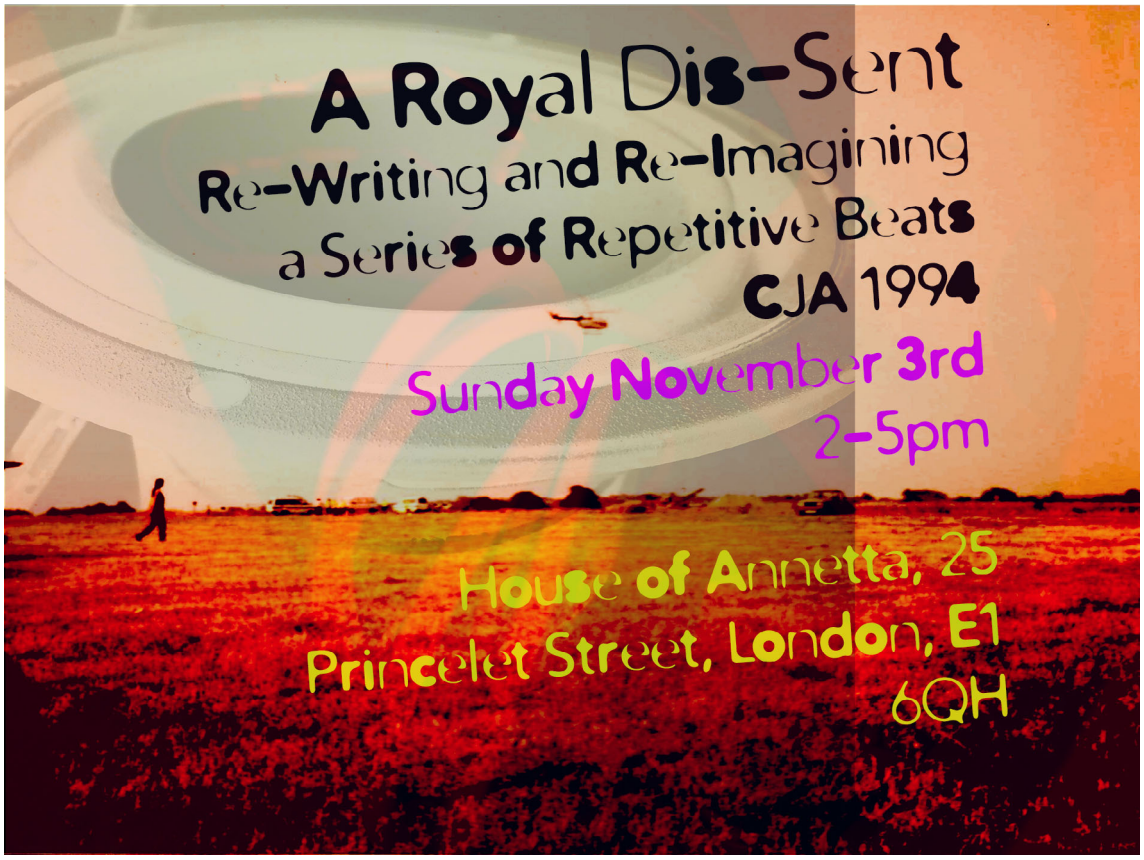

Figure 2: Flyer for "A Royal Dis-Sent", 3 November 2024.

traditional legislative form (within the strict abstraction of land law, or the temper of juridical texts)—but out there, in the ground. The first, methodological, the second contextual. The contexts thus far have sought to understand how material formations (such as found in geological layers of sediment and rock) may impact upon the cultures of given communities, affecting language and the kind of law created, in turn. The material forms of ice, slate, natural resources that are integral to the surroundings of native Sámi and Welsh cultures in turn, based in, on and around, the Norwegian Arctic Circle and Welsh Snowdonia are part of this convergent investigation as to how these minerals, processes and formations create materio-linguistic cultures of law. The second focus, and that most relevant for this surmising, is that of a connection between rave, land and law.

In 2024 we saw the 30-year anniversary of the passing of the CJA 1994 under English and Welsh law.[2] The Act brought in a legislative damning of the nomadic and alternative cultures of the Irish and New Age traveller and Romany Gypsy communities (sections 60-62), the rave generation (sections 63-66), street artists and graffiti writers (section 62), and squatters

[2] The Act extends mainly to England and Wales only, but for exceptions see section 172(7)-(16).

Figure 3:"A Series of Repetitive Beets", by Lucy Finchett-Maddock for "Origins" (Brighton), 2024.

(sections 72-76), in one of many symbolic junctures that saw private accumulation take over less orderly, less conventional, ways of life.

Known for its now infamous passage under section 63(i)(b), CJA 1994 made the unlicensed emission of a "series of repetitive beats" to a crowd of revellers outdoors, a criminal offence. Under section 63(1)(B), music that "includes sounds wholly or predominantly characterized by the emission of a succession of repetitive beats", under certain circumstances, was made illegal. Under section 63(1), a rave was originally defined as a gathering on land in the open air of 100 or more persons (whether or not trespassers), until its amendment by section 58 of the Anti-Social Behaviour Act 2003 to a gathering of 20 or more persons, and on land which is not in the open air (ie within a building) as well as outside.

The lead-up to that point has been discussed in different fora (Gilbert 2017; Ashford & O'Brien 2022; Finchett-Maddock 2020; 2024; 2025)—a recounting in musicology, subcultural theory and, to some extent, socio-legal and public order law scholarship—and yet a generation has gone by

that may not know of the legislative architectures closing in on 20,000 people dancing for many days and nights, at Castlemorton Common, Gloucestershire in South West England, during the second May bank holiday weekend of 1992.

Repetitive beats amounted to a public nuisance in *R v Shorrock* (1993). In the indictment against the defendants (the organizers of an "acid house party" and a farmer who owned the land on which the party had been held) stated that their appearance before the court was for causing or permitting loud music to be played from a field off Broken Stone Lane, Blackburn, so interfering with the convenience and comfort of the people of the neighbourhood. Within the judgment the defendants were deemed to:

> have caused appalling misery to local residents where the peaceful lives of rural societies have suddenly been ripped apart by the all-pervasive sound of what is sometimes delicately described as "music", the noise of which travels for miles, affecting everyone in its path—both man and beast—and from which it is impossible to escape. It can be a modern-day torture for the unwilling and the unwitting … (Earl Errol, HL vol 554, cols 384-385).

The legacy of the CJA 1994[3] is at the forefront of national debates around questions of access, protest and assembly with the recent Police, Crime, Sentencing and Courts Act 2022 giving a statutory redefining of public nuisance under section 78, making the previous common law offence of public nuisance much broader, limiting demonstration noise levels and time limitation, with protestors now facing a criminal offence where they did not before. These incursions have been the topic of debate nationally, and the workshop was a moment to consider the ongoing impact of the legislation.

'A Royal Dis-Sent – Re-Writing and Re-Imagining a Series of

[3] "Keep Britain Tidy", 1990s; Anti-Social Behaviour Act 2003 – anti-social behaviour orders; Anti-Social Behaviour Act 2014 – public spaces protection orders (sections 59-75), dispersal orders (sections 34-42) and community protection notices (sections 43-93); Police, Crime, Sentencing and Courts Act 2022, unauthorized encampments (Part 4), intentional public nuisance (section 78), criminal damage to memorials was raised from a £5000 fine and six months' imprisonment to 10 years' imprisonment under section 50 (amending the Magistrates' Courts Act 1980, section 22 and Schedule 2 paragraph 1. *R (on the application of Smith) v Secretary of State for the Home Department* (2024). The extension of the "no-return" period from three months to 12 months, in offences relating to the failure to leave private land under the CJA 1994, sections 60C, 61, 62(1A)(a) and 62B, was incompatible with the rights of Romany Gypsy and Irish traveller communities and breached their European Convention on Human Rights 1950 Articles 14 and 8 rights. The shortage of available short-term transit caravan pitches, which also had a three-month maximum stay, meant that those communities would be disproportionately disadvantaged by the change. The court rejected related arguments that other amendments to the 1994 Act constituted unjustified direct or indirect discrimination to those groups.

Repetitive Beats CJA 1994' was held on the anniversary of the coming into force of the CJA 1994 on Sunday 3 November from 2 to 5pm at the House of Annetta, London. Artists, musicians, former ravers, academics, activists and members of the public were invited to consider the notorious section of the CJA 1994 that banned raves and take apart the very meaning of the language in order to provoke how and why such a form of legislative drafting took place and how it may look in times to come. Amidst the discussion was a desire to consider the reasoning behind banning repetition in sound. The workshop opened with a series of vocal exercises initiated by philosopher and sound expert, Dr Charlie Blake, setting the scene for a reverberation of practice-based and theoretical conversation. As the workshop developed, attendees were asked to consider the relation between sound and music, questioning the extent to which there is an alteration between the two or otherwise. What was the CJA 1994 seeking to do amidst its concern for repetition? Was it inadvertently seeking to deny all forms of music, as within the workshop most agreed that there is some element of recurrence, continual action and reassertion within all forms of music and refrain. Within the Copyright Design and Patents Act (CPDA) 1988 a musical work refers to a work "consisting of music, exclusive of any words of action intended to be sung, spoken or performed with the music".[4] Considering legislative constraints, there is no legal definition of music within copyright law, other than that which music is not (Rahmatian 2024: 19):

> The copyright countries sometimes offer an exclusive definition ("music without …" or "exclusive of …") but leave the question of what constitutes music to statutory interpretation. Both in copyright and in author's rights countries, the definition of "musical work" is referred to judicial practice.

A deciphering between musical work and that of music, within juridical interpretation, has proven one such opportunity to describe the elements of music, whereby sound is a participle, as well as ornamentation and bass.[5] This is opposed to notes and sonic interludes that operate as the music without arrangement.[6] What drew the then Government in 1993 (the year prior to the CJA 1994 coming into force) to pre-empt a sudden definition of music whilst

4 CPDA 1988, section 3(d).

5 *Sawkins v Hyperion Records Ltd* (2005).

6 Another question relating to any definition is the concern for fixation, which becomes clearer with dance but also a question concerning the manner in which live works may be recorded. See the following regarding dance and fixation in the UK, *Massine v de Basil* (1938) 82 Sol Jo 173 (CA).

the United Kingdom (UK) judiciary has been conspicuously avoidant of defining music in law? If there could be music as a succession of repetitive beats, how far could this be understood as one form of sonic denotation, many or all? What could be said of the famous composition by John Cage, *4'33"* (1952) that resulted in the performance of silence? This indeterminate form of composition brought to bear a contrast between musicological definitions of musical form and those legal, in which the very surroundings, the coughs of the audience, and the ambience itself could be seen as an aspect of the "music".

As the workshop continued its journey through these questions, repetition and iteration offered a possible means as to why this very concoction of what music should be within law was chosen to be enacted. Over the centuries sound, and resonance, have been useful mechanisms of creating order and normative behaviour through the church, workhouses and other institutions. Conor Heaney identifies the role of repetition and how noise in law developed its spatio-temporal and materiality (Heaney 2023: 6):

> Whereas the bells of the canonical hours were calls to synchronise with the theological order, the drum rolls of the prison calls to legal order, the bells of the workplace functioned as called to industrial capitalist order.

As referenced by Heaney, Henri Lefebvre illustrated the power of rhythm within daily life, whereby "the authorities have to know the polyrhythmia of the social body that they set in motion" (Lefebvre 2013: 78). The order of repetition emanating from integral actions and customs of the general population—those to be harnessed and sold back to the populace as models of social organization. Just as the developing industrial relations of labour relied on the asymmetrical division of time, thus repetition was congenital to the development of the spatio-temporal arrangement of capital, as comprehensively accounted for by E P Thompson (1967). Indeed, music has been described as "fashioned time, or if one is inclined to make an aesthetic statement, embellished time … That means music is not static at all but moves and changes all the time – if time were to stop, music would cease to exist" (Rahmatian 2024: 20).

The role of repeated action and custom is memorable of those famous words within the CJA 1994, around the succession of beats, and this connection between repetition and law posited as perhaps inimical to aesthetics itself, and indeed the nature of law. Repetition has been the subject of many a philosophical ruse, famously considered through the

Figure 4: Scenes from "A Royal Dis-Sent", House of Annetta, 3 November 2024.

work of Gilles Deleuze, allowing for repetition and difference to be that as the source of newness (Deleuze [1968] 2014). Or further impelled through the post-structuralist account of performance within the works of Judith Butler or Jacques Derrida, each iteration of a performance as that bringing forth a further construction of identity or juridical matrix.

Transdisciplinary thinker Karen Barad has brought together her body of work on quantum theory with that of performativity to argue a performance of matter. In her highly influential study of quantum physics in relation to the arts and humanities and social sciences from 2007, Barad relays a discussion of a vacuum in terms of both a scientific understanding of the presence of the fluctuations of matter within a void, the presence of vibration despite all, combined with an indeterminate description of contingent performativity that brings together the mechanism of a being and knowledge as *intra-action* (Barad 2007).

Ultimately, all and sundry being a form or repetition through vibration has been described as *un*sound "which extend[s] audition to encompass the imperceptible and the not-yet or no-longer

audible" (AUDINT 2019: 1). The more accessible level of electro-magnetism is the mechanical energy of sound: "'the deceptive [tip] of an iceberg' vis-a-vis the vast, inaudible electromagnetic spectrum" (Sciarrino in Trippett 2018: 229). Bachelard has expanded on this in his exposition of Pinheiro de Santos' "rhythmnanalysis" (later the subject of Henri Lefevbre's writings), whereby the movement of matter at the level of vibration creates realities at the physical, biological and psychoanalytical strata. Vibration itself is the very force of life, whereby (2016: 138):

> if a particle ceased to vibrate, it would cease to be. It is now impossible to conceive the existence of an element of matter without adding to that element a specific frequency. We can therefore say that vibrational energy is the energy of existence.

Labelle talks of vibration as a primary sensing that unfolds the individual body toward a "common skin" (Labelle 2019: 134). And yet this banning of a particular formation of repetition is concerning as not only does it infer an inappropriateness of repetition in sound and music but also those communities concerned. The communities impacted by the CJA 1994 were often nomadic in two ways—through heritage as travellers by ethnicity (Irish and Romany Gypsy) and lifestyle (New Age); as well as nomadic through sound-system culture, both traveller and DIY music-based. Nomadism often falls outside of an expression of state law property rights, and it is this moving element of the scene that also may encourage legal presence (such as the removal of rigs, vehicles, the presence of riot police at gatherings). The role of sound-systems with "travelling communities, at that point intersecting with dance culture for the first time" (Kinney 2022: 30) were key in the spread of electronic music from unlicensed raves to licensed festivals such as Glastonbury.

These machinations continued to be unravelled within the event held at the House of Annetta on Sunday 3 November 2024. The venue itself being formerly the home of cybernetician Annetta Predetti from 1980 until her passing, now held in trust to be used as a space for radical self-organizing in the continued ethos of Predetti's research. Work by well-known electronic artists, such as Autechre's piece "Flutter", in the album *Anti* (1994), was shared, as a piece in direct opposition to the CJA 1994, programmed to have non-repetitive beats. The album cover included the following sticker:

> Warning: *Lost* and *Djarum* contain repetitive beats. We advise you not to play these tracks if the Criminal Justice Bill becomes law. *Flutter* has been programmed in such

> a way that no bars contain identical beats and can therefore be played at 45 or 33 revolutions under the proposed law. However we advise DJs to have a lawyer and musicologist present at all times to confirm the non-repetitive nature of the music in the event of police harassment. Important: By breaking this seal, you accept full responsibility for any consequential action resulting from the product's use, as playing the music contained within these recordings may be interpreted as opposition to the Criminal Justice and Public Order Bill.

Other works were played by the organizers of the event themselves, with Hignell-Tully sharing work under Distant Animals. The album, *The Frequency of the Heart at Rest*, uses a custom tuning system (based upon multiplications of the frequency of the human heart whilst sleeping). Recordings were repeated numerous times upon the same analogue tape reel, causing multiple repetitions to bleed together in the final output. The rhythm of the heart was further analogized through the work of Finchett-Maddock under Cyrenaur, whereby electrocardiograms have been turned into data sets, and then turned into sound (*With all my Heart* 2019).

The specific drafting of the law banning repetitive beats brings into wider consideration the way the law understands "legitimate" aesthetic form. The particular instance of banned music follows long histories of prohibition—such as for religious or political reasons, for example the minor 5th banned by the Catholic Church due to its dissonance or back to the banning of "talking drums" used by slaves to communicate (see generally Čiurlionienė 2019; Hård 2023), signifying the connection between power, identity and aesthetic forms of expression. Law has often been used to ban forms of music that are seen as a threat to the *status quo*.

As for electronic bass that emanates from the rave scene, its resonance and movement transcend borders, enter bodies, alters their atomic make-up, reformulating them on their way out. Thinker Paolo Virno argues that only language establishes the possibility of negating what our senses are experiencing. Western law is thus one of the most obvious examples of language and text, "like a switch that breaks the natural link between sensorial experience and conscious elaboration" (Virno in Berardi 2015). Sound, particularly that which is of a low frequency and characteristic of electronic dance music, ignores this negation. Bass within underground electronic cultures has been said to create:

> [a] womb-like environment of dark, hot and sweaty … unhomely home[s] through the summoning of the infant child's primal memories of its original

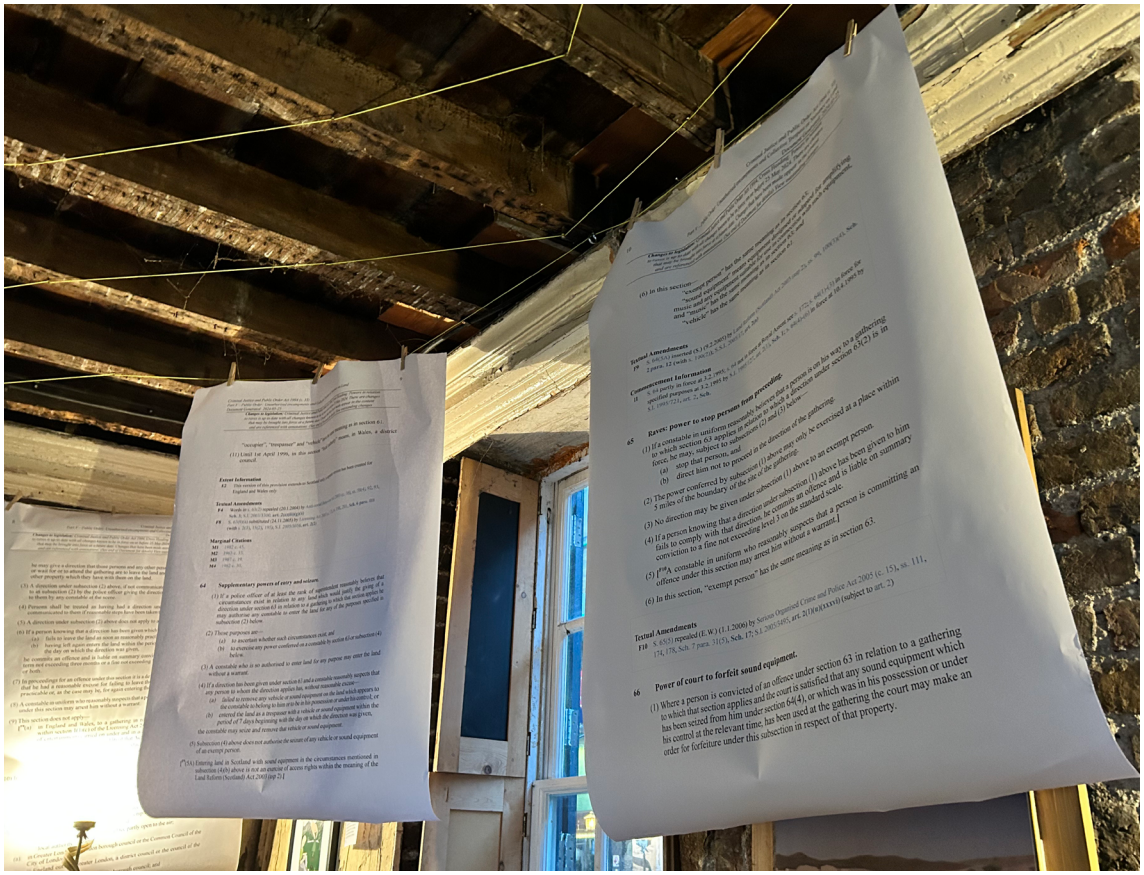

Figure 5: Printed CJA 1994, House of Annetta, 3 November 2024.

> "home" within the mother's body … Reawakening both the pre-subjective state of comfortable bliss felt by the infant from inside the womb and the subjective collapse threatened by its failure to fully enter into subjectivity outside it (Burton 2023: 11).

It is manipulated through technological form, and yet is the very low-level vibration of quantum life. Bass is movement, rhythm, the surface is the sound itself.

The edgework of trespass transcends yet also is produced by law. Like a form of ecognosis, "a letting be known. It is something like co-existing. It is like becoming accustomed to something strange, yet it is also becoming accustomed to strangeness that doesn't become less strange through acclimation" (Morton 2018: 92). This strangeness has been considered as "sensory prohibition" by legal scholar Emma Patchett, whereby the bounds of law are crossed and re-drawn through the roaming of the senses and their materiality (Patchett 2024).

Sound and its required coupling of listening was not, of course, new within legal theory as a point of discussion within the workshop and beyond. Artists bringing together legal theory and artistic work include Lawrence Abu Hamdan on justice and hearing,

following a strong tradition of sound art;[7] further legal scholars such as James Parker, Julia Chrystodolidis and Nathan Moore have also considered sound in their legal discussion of law (Mandić & Ors 2023). It is a discourse that the **Instrumenting(s)** collective seeks to build on and discover across the fields of legal theory and artistic research. The bridge between these two as a methodology for investigating the reasons why these particular forms of sound were banned is key.

Going back to an origin of sound as an origin of law, there is perhaps a dialectic between listened to and listener occurring that has been inimically discussed by thinkers such as Brandon Labelle: "Listening may show us the very limit of ourselves, attuning one to the body's metabolism, along with the flows and rhythms defining our social bonds" (Labelle 2019: 5). This connection between law and its other—its receiver—as a composite of the democratic, the represented and the relation between order and ordered—feels prescient. Who knows what is to come of section 63(ii) of the CJA 1994? But its role as that which moulds aesthetics through legislative form will continue to be so, until altered or repealed.

About the authors

Dr Lucy Finchett-Maddock *is based at Bangor University, as a Reader in Law and Artistic Research, and known for her critical legal and speculative philosophical writings on law, broadly researching on the themes of resistance, aesthetics, property, artificial divisions of art and law and entropy. Lucy uses a combination of fine arts-based, art history and legal doctrinal approaches in her research, practice and teaching. She is currently researching and writing of the relation between theory and creative practice within the history of critical legal studies and contemporary art in a monograph* "Art", New Trajectories in Law Series *(Routledge, forthcoming 2025). Her current collaboration that directly brings together practice and theory in her work is "Instrumenting(s)" with Professor Anders Hultqvist (Gothenburg) and Dr Daniel Hignell-Tully (Guildhall), investigating the relation between sound, property, entropy and geology through the development of a musical, legal and scientific "geo-social instrument". She is an exhibiting artist and curator and is one of the founders of the Art/Law Network and LORE (Legal Origins Rights Education and Art).*

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[7] Len Lye was famous for his "tangible" sound pieces such as *Fountain* (1959) and *Universe* (1963-1976), amongst others such as Max Neuhaus, Oswaldo Maciá and Takis, as well as Fluxus artists Yoko Ono, Nam June Paik and George Maciunas.

Dr Daniel Hignell-Tully *is a composer, performance artist and researcher at the London Guildhall School of Music and Drama exploring the limits of participation and sense-making. His work often seeks to locate* avant-garde *practices within everyday contexts as a means to heighten social discourse, as well as engaging with specific social, legal, political and economic barriers.*

His research has covered topics as broad as the implementation of public space protection orders to persecute travelling communities, the media-linguistics of the 'Brexit' negotiations, and the aesthetic communities that arise through the misuse of consumer technologies (such as YouTube). He runs the Difficult Art and Music micro-label, as well as the research outlet 7000 Trees. He is co-lead on the project Instrumenting(s).

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Professor Anders Hultqvist *is a Professor of Composition and Head of Research at the Academy of Music and Drama, University of Gothenburg. His various commissions and composition projects (1985-2024) consist of works for orchestra, solo with orchestra, choral works, various chamber music constellations, sound installations, musical drama, electroacoustic works, as well as film and theatre music. In addition, he has curated musical and scientific events as a festival director, a conference organizer, and journal editor. Hultqvist's artistic research has mainly been within the fields of urban and rural sound studies, musical creation/interpretation and ecological sound art. He is co-lead on the project Instrumenting(s).*

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