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The Paradox of Performative Immediacy: Law, Music, Improvisation

Sara Ramshaw

In 1999, J.M. Balkin and Sanford Levinson called to replace the study of law and literature 'with a more general study of law as a performing art'.¹ Their reasoning for doing so was as follows:

Law, like music or drama, is best understood as performance – the acting out of texts rather than the texts themselves. The American Legal Realists distinguished 'law on the books' from 'law in action.' Our claim takes this distinction one step further: 'Law on the books' – that is, legal texts – by themselves do not constitute the social practice of law, just as music on a page does not constitute the social practice of music. Law and music require transforming the ink on the page into the enacted behaviour of others. In an important sense, there is *only* 'law (or music, or drama) in action,' in contrast to poetry or fiction, whose texts do not require performance but can be read silently to one's self. Like music and drama, law takes place before a public audience to who the interpreter owes social responsibilities. Legal, musical, and dramatic interpreters must persuade others that the conception of the work put before them is, in some sense, authoritative. And whether or not their performances do persuade, they have effects on the audience.²

The conception of ‘law as performance’ proffered by Balkin and Levinson usefully illustrates that law is not limited to legal texts, such as legislation, cases, and the like. However, their overall analysis is of limited value here as it does little to interrogate the meaning of ‘performance’ or challenge its conceptualization as ‘performative immediacy’.³ In contrast, this commentary looks to the musical practice of improvisation in order to trouble the notion of performance as immediate and singular and ‘question the distinctions among text and performance, writing and music, composition and improvisation’.⁴

One of the most visible and easy to grasp instantiations of improvisation is jazz music. This inquiry unites jazz and law through the improvised jazz-text performance of Jacques Derrida and Ornette Coleman at the Jazz à la Villette festival in July 1997. It reflects on the aporia⁵ of performativity in law and music, ultimately unsettling the distinction between a planned, textually prescribed act and what Landgraf, invoking Judith Butler, calls ‘improvised doings’.⁶ Building on insights offered by Derrida, as well as jazz musicians such as Coleman, this commentary follows Balkin and Levinson by looking to music as the best analytic device for understanding the performativity of law. However, against or going further than Balkin and Levinson, law is conceived here not as ‘performance’ (conceived as performative immediacy), but instead as *improvisation*, that is, the aporetic negotiation between text and performance, singularity and generality, the pre-existent and the new.

I. Improvisation as Performative Immediacy

At first glance, the concept of improvisation may appear to offer very little in terms of complicating notions of performance in law. Improvisation is supposed to be immediate. As Landgraf notes: ‘In its ad hoc delivery, improvisation highlights the uniqueness of the

“event” that is its performance’.⁷ Even critical improvisational scholars hold tight to the real-time-ness⁸ of improvisation, all the while acknowledging that ‘there is far more to improvisation than meets the ear’.⁹ And yet the perception of improvisation as singular and immediate – jazz musicians simply make it up as they go along¹⁰ – is not only incorrect, it has racist undertones, as Derrida notes in ‘Play – The First Name: 1 July 1997’, the text he performed onstage with Coleman in Paris.¹¹ Improvisation, in accordance with this conceptualization, is seen to be ‘ultraprimitive’,¹² ‘instinctive’,¹³ and ‘unconscious’,¹⁴ requiring little skill or discipline.

Much has been written in recent years regarding the ‘jazz form’, or the notion that improvisation is not ‘structure-less or chaotic’,¹⁵ but instead requires some sort of framework or pre-determined form or structure.¹⁶ As Coleman tells Derrida in an interview preceding their jazz-text collaboration:

... when I was doing free jazz, most people thought that I just picked up my saxophone and played whatever was going through my head, without following any rule, but that wasn’t true.¹⁷

And later in the interview:

What’s really shocking in improvised music is that despite its name, most musicians use a ‘framework’ as a basis for improvising. I’ve just recorded a CD with a European musician, Joachim Kühn, and the music I wrote to play with him, and that we recorded in August 1996, has two characteristics: it’s totally improvised, but at the same time it follows the laws and rules of

European structure. And yet, when you hear it, it has a completely improvised feel.¹⁸

Improvisation is not, in other words, ‘unfettered freedom’,¹⁹ but is instead ‘made up of several elements’,²⁰ many of which are found in composed pieces of music, such as harmony and melody, rhythm and time.²¹ One needs a superior grasp of these elements to improvise well and this requires enormous hard work and discipline.²² All these components taken together are essential to the ‘jazz form’ and improvisation could not exist without such.

II. Ornette’s Music Lesson

While the above complicates the everyday conceptualization of improvisation as devoid of structure and law, it does not take us very far in understanding the aporetic nature of performative immediacy. For that, we join Derrida and Coleman in Paris for Ornette’s music lesson. It was the summer of 1997 and Ornette Coleman had invited Jacques Derrida to perform with him at the Jazz à la Villette festival in Paris. The performance by Derrida took the audience completely by surprise as his participation was not listed in the programme and Ornette did nothing to signal his arrival but turn to the wings after the end of one song.²³ Derrida stepped onto the stage where he was met by a microphone and a music stand.²⁴ He began to recite the following, interlaced with some playing by Coleman:²⁵

Qu’est-ce qui arrive? **What’s happening? What’s going to happen, Ornette, now, right now?**²⁶

What’s happening to me, here, now, with Ornette Coleman? **With you? Who?**

It is indeed necessary to improvise, it is necessary to improvise *well*. I knew that Ornette was going to call on me to join him tonight, he told me so when we met to talk one afternoon last week. This chance frightens me, I have no idea what's going to happen. It is indeed necessary to improvise, it is necessary to improvise but *well*, this is already a *music lesson*, **your lesson**, Ornette, that unsettles our old idea of improvisation – what's more, I believe that you have come to judge it 'racist,' this ancient and naïve idea of improvisation. **I think I understand what you meant by that.** Not the word or the thing 'improvisation' but rather the concept, its metaphysical or ideological implementation.

As all of you see, I have here a sort of written score, you think I am not improvising, well, you are wrong. I am pretending not to improvise, **I just pretend**, I play at reading, but by improvising. Regarding *Prime Time*,²⁷ one day Ornette said that the written parts are as improvised as the improvisations themselves. That is a great lesson, **your lesson**, on what's happening – when it's happening: to the improviser, unforeseeably, without seeing it coming, **unpredictably.** ...²⁸

Derrida's performance ended prematurely²⁹ after only fifteen minutes,³⁰ when the audience, intolerant of this 'unaccustomed form',³¹ booed him off the stage.³² Derrida was left shaken by the 'painful experience'.³³

This jazz concert, and the preceding interview between Coleman and Derrida, which led to the event, has much to teach us about performance and thus law as performance. Firstly, in the interview, Derrida translated Ornette's music lesson into a domain with which he is more familiar, 'that of written language'³⁴ and enquired of Coleman:

Perhaps you will agree with me on the fact that the very concept of improvisation verges upon reading, since what we often understand by improvisation is the creation of something new, yet something which doesn't exclude the pre-written framework that makes it possible.³⁵

Coleman agreed.³⁶ Derrida continued:

... the unique event that is produced only one time is nevertheless repeated in its very structure. Thus there is a repetition, in the work, that is intrinsic to the initial creation – that which compromises or complicates the concept of improvisation. Repetition is already in improvisation: thus when people want to trap you between improvisation and the pre-written, they are wrong.³⁷

To which Coleman replied: 'Repetition is as natural as the fact that the earth rotates'.³⁸

The performance of improvisation is thus not one of pure immediacy, but retrospectively develops and builds on its own history.³⁹ '... in jazz', explained Coleman, 'you can take a very old piece and do another version of it. What's exciting is the memory that you can bring to the present'.⁴⁰ Similarly, for Derrida, the distinction between a planned or prescribed act and improvisation is always already unsettled.⁴¹ The uniqueness of the event, in other words,

is only made possible through its engagement with certain *constraints*, be them ‘temporal, material, technical, genre-specific, linguistic, cultural, or societal’,⁴² which we can broadly term here ‘law’.

In his presentation of the text, Derrida further complicates the meaning of performance in relation to immediacy (singularity) and law (generality):

Qu’est-ce qui arrive? **What’s happening? What’s going to happen, Ornette, now, right now?**

What’s happening to me, here, now, with Ornette Coleman? **With you?** Who?

... I knew that Ornette was going to call on me to join him tonight, he told me so when we met to talk one afternoon last week. This chance frightens me, I have no idea what’s going to happen.⁴³

Derrida’s text at once announces and invokes its own unpredictability (and the ‘unpredictability of the future’⁴⁴). As Landgraf shrewdly points out, by ‘[a]cknowledging the unpredictability of the future (and how the future will come to define the present), the delivery of the speech plays with its own fallibility, its openness toward the advent of something unexpected, unplanned, unforeseen’.⁴⁵

What Derrida makes evident is that even the reading of a ‘seemingly fixed, pre-composed, pre-articulated’⁴⁶ text is, ‘in a strict sense an improvisational exercise’.⁴⁷ Again, borrowing from Landgraf: ‘The reader can never fully control what is happening, nor foresee what will

happen.’⁴⁸ Derrida’s text, dialogic and self-referential (not accidentally so, as these are important features of jazz improvisation⁴⁹), blurs the line between composition and performance by making obvious its ‘own process of composition’ and mischievously, *playfully*, questioning its ‘pragmatic status’.⁵⁰ ‘Play – The First Name: 1 July 1997’ is read, performed as a ‘written score’, but is also authorized to be published. It is as if, Landgraf provocatively adds, Derrida ‘wants to be caught in a lie’⁵¹.

Derrida further obscures the distinction between composition and performance when he writes/reads:

As all of you see, I have here a sort of written score, you think I am not improvising, well, you are wrong. I am pretending not to improvise, **I just pretend**, I play at reading, but by improvising. Regarding *Prime Time*, one day Ornette said that the written parts are as improvised as the improvisations themselves. That is a great lesson, **your lesson**, on what’s happening – when it’s happening: to the improviser, unforeseeably, without seeing it coming, **unpredictably**. ...⁵²

The admissions of the text completely contradict what is most apparent to the audience or reader⁵³ and paradox ensues: ‘If he is lying, he is saying the truth (he is indeed reading); if, however, he is saying the truth, then what we perceive, namely Derrida reading a text, would indeed be a lie’.⁵⁴ Landgraf explicates:

The point of staging/stating such a paradox is ... to demonstrate how it is the *reception* of the performance that determines its meaning, a meaning,

however, that cannot find certainty by referencing the intentions of the speaker. For the speaker himself cannot know how his performance will be perceived or how the created impasse will be decided by the audience or reader. Derrida thus creates a performance/text whose meaning is unpredictable. For Derrida, the 'fallibility' of a reading is, of course, not accidental, but rather is a structural mark of communication, a precondition for the possibility of communication in the first place. Communication works *because* the meaning of signs, words, text, and language can never be fully controlled or anticipated.⁵⁵

As the title of his written text – 'Play – The First Name: 1 July 1997' – reveals, Derrida is playing with the 'tension between repetition and alteration'⁵⁶ through the concept of the proper (first) name, a name that must be performed 'as a signatory repetition'⁵⁷ in order to be understood properly. The paradox of the proper name is that it 'ought to indicate a concrete individual, without ambiguity',⁵⁸ it 'ought to be the very prototype of language'.⁵⁹ However, as Bennington notes, '[f]or there to be a truly proper name, there would have to be only one proper name, which would not even be a name, but pure appellation of the pure other'.⁶⁰ Thus, the 'proper name' is 'always already improper',⁶¹ that is, in its designation as that which it is not (other proper names), it is 'marked by the trace of these others'.⁶²

Derrida's performance highlights the impossibility of a purely improvised (or unimprovised) event. There are always traces of text in performance, composition in improvisation, and speech in music. As David Wills remarks, 'Derrida is inviting Coleman to pretend to speak just as Derrida has been pretending to improvise between language and music, to create a new language or a new music or both'.⁶³ The fact that much of Derrida's text was not actually

performed on stage at Parc de la Villette, as he was compelled to leave before he could finish, confirms that '[p]erformance alone does not constitute an event'.⁶⁴

Yet as we read what we didn't hear, and as we read it beyond the jeers and insults, something remains of Derrida's 'performance.' That something is this: the Derrida who would not permit himself to write on jazz – 'I enjoy listening to jazz a lot, I would have never agreed to this if I didn't like jazz, but it is a foreign world to me, I would never permit myself to write on jazz'... – nevertheless raises a set of profound questions that go to the heart of the project of jazz⁶⁵

III. The First Name of Law

*... who signs, and with what so-called proper name, the declarative act that founds an institution?*⁶⁶

Remaining close to the theme of the proper name, this section asks what is the first name of law, that originary act which must 'maintain within itself the signature'?⁶⁷ Balkin and Levinson seemingly designate the proper name of law as the performance of authority.⁶⁸ In his short piece, 'Declarations of Independence',⁶⁹ Derrida acknowledges the performative aspects of law. However, he also exposes the deficiencies of a designation that focuses solely on performative immediacy. Focusing specifically on the signing of the 1776 American Declaration of Independence, by which the English legal system was formally renounced and a new nation – the United States of America – created,⁷⁰ Derrida interrogates the originary paradox that lies at the heart of law in which the 'founding act of the law' – 'necessarily

alegal in itself” – only becomes legal ‘after the fact’.⁷¹ To explain, the inauguration of any fundamental law, such as a first constitution, ‘cannot, either in law or in fact, simply precede that which at once initiates it and nevertheless supposes it: projecting and reflecting it’.⁷² The law, in other words, which is signed into existence by the signature attached to the constitutional document, must retrospectively authorize the original signature or the originary act of signing: ‘a signature authorizes itself to sign, in a word, legalizes itself on its own without the guarantee of a pre-existing law’.⁷³

Derrida asks: was America’s independence *stated* or *produced* by the declarative act of freedom from British rule? Were the ‘good people’, in other words, already free and simply stating the fact of this freedom in the Declaration? Or was the signing of the Declaration the act that produced their liberty? Derrida elaborates:

It is not a question here of an obscurity or of a difficulty of interpretation, of a problematic on the way to its (re)solution. It is not a question of a difficult analysis which would fail in the face of the structure of the acts involved or the overdetermined temporality of the events. This obscurity, this undecidability between, let’s say, a performative structure and a constative structure, is *required* in order to produce the sought-after effect. It is essential to the very positing or position of a right as such, whether one is speaking here of hypocrisy, of equivocation, of undecidability, or of fiction. I would even go so far as to say that every signature finds itself thus affected.⁷⁴

The signature is necessarily related to the proper name.⁷⁵ The ‘good people’ of the United States of America do not exist prior to the signing of the Declaration, at least not ‘*as such*’.⁷⁶

Instead, they are born in the act of signature. ‘The signature invents the signer’.⁷⁷ But, at the same time, signature is not possible without the one who signs. This is the paradox of signature: ‘There was no signer, by right, before the text of the Declaration which itself remains the producer and guarantor of its own signature’.⁷⁸ The State then founds itself by giving itself the authority to sign *after* the act of signature, what Derrida calls ‘a sort of fabulous retroactivity’.⁷⁹

The ‘absolute singularity of the event of the signature’⁸⁰ must be able to ‘detach itself from the present’⁸¹ and ‘have a repeatable, iterable, imitable form’.⁸² The signature exists *as* signature only on the condition that it is ‘repeatable as the same signature, in several copies’.⁸³ It is governed by ‘iterability’ (*iter* comes from *itera*, *other* in Sanskrit),⁸⁴ which ‘links repetition to alterity’⁸⁵ and ensures structural legibility ‘beyond the death of the addressee’.⁸⁶ Accordingly, the signature, and the proper name it designates, is always ‘*already* contaminated’⁸⁷ with all those proper names that it is not and any attempt to ‘make one’s text absolutely proper to oneself’,⁸⁸ risks erasure for ‘the totally signed text, proper to its signatory, appropriated by him, would no longer be a text’.⁸⁹

Derrida’s discussion of the US Declaration of Independence allows for *some* performativity in law. In this text, among others,⁹⁰ Derrida interrogates the undecidability between the constative and the performative, between a speech act that typically describes what exists and one that actually performs an action.⁹¹ Writes Derrida:

... there’s an utterance that is called constative, a theoretical speech that consists in saying what it is, describing or noting what is, and there’s an utterance that is called *performative* and that does in speaking. For instance,

when I make a promise, I'm not saying an event; I'm pronouncing it by my commitment.⁹²

Although, typically, the Declaration of Independence is seen to be a constative speech act, one that simply describes what *is*; in fact, this legal document actually *performs* or 'does what it says it does'.⁹³ 'it is not the people who create the Declaration, but the Declaration that creates the people'.⁹⁴ However, Derrida goes further to reveal that an event of pure performance or performativity is actually impossible. Explains de Ville: 'a performative speech act can never be a pure event, in other words absolutely singular, a present and singular intervention, or "something" that happens for the first and last time – it is always split, dissociated from itself'.⁹⁵

IV. Law as Improvisation

As early as 1991, Balkin and Levinson had acknowledged the relation between music and law as a 'performative art' and called for further engagement in law with 'performance practices (and theory) in other arts'.⁹⁶ Since that time, though, very little seems to have been written in law and music studies on the paradox of performative immediacy, or the impossibility of performance *as such* and what this means for law. What this commentary struggled to communicate is that law is not performed per se, but is instead *improvised*. Both law and improvisation share the same 'structural tension'⁹⁷ in that their meaning rests on the aporetic relation between singularity and generality, repetition and alteration: 'singularity, originality, or immediacy are already tied to repetition',⁹⁸ just as generality, stability, and predictability involve constant alteration. Outside this relation, 'these notions cannot be communicated, understood, or even recognized'.⁹⁹

Uniting Derrida's Jazz à la Villette performance with his writings on performativity in law, I aimed to demonstrate here that while engagement with performance practices in the arts, such as music, is of the utmost value to law and legal theory, we must not take for granted what it means to 'perform' or the paradoxical relationship that exists as between text and performance, composition and improvisation. As Derrida says, '[i]t is indeed necessary to improvise',¹⁰⁰ we cannot but: 'Humming in the background of all life is improvisation.'¹⁰¹ Yet, at the same time, and again quoting Derrida:

It's not easy to improvise, it's the most difficult thing to do. Even when one improvises in front of a camera or microphone, one ventriloquizes or leaves another to speak in one's place the schemas and languages that are already there. There are already a great number of prescriptions that are prescribed in our memory and in our culture. All the names are already preprogrammed. It's already the names that inhibit our ability to ever really improvise. One can't say what ever one wants, one is obliged more or less to reproduce the stereotypical discourse. And so I believe in improvisation and I fight for improvisation. But always with the belief that it's impossible.

Thus, improvisation entails a constant negotiation between necessity and impossibility. The same struggle can be found in law where each performance of authority compels a simultaneous suspension of that authority. It is this suspension of authority, and how law responds to such, which is of crucial importance to lawyers and legal theorists. The 'law as performance' thesis advocated by Balkin and Levinson helped deepen our conception of 'law'. However, insofar as it seemingly left unquestioned the paradox of immediacy in

performance, it failed to fully account for the self-authorisation of law: ‘the law of the law: I exist’.¹⁰² In contrast, when viewed through the lens of musical improvisation, the aporetic nature of performance is presumed. The focus then becomes one of justice: what makes for the most just unpredictability? This is a lesson best left for Ornette Coleman.

¹ J.M. Balkin and S. Levinson, ‘Interpreting Law and Music: Performing Notes on “The Banjo Serenader” and “The Lying Crowd of Jews”’, *Cardozo Law Review* May-June (1999), p. 1518. See also J.M. Balkin and S. Levinson, ‘Law as Performance’, in Michael Freeman and Andrew Lewis, eds., *Law and Literature: Current Legal Issues Volume 2* (Oxford: OUP, 1999), p. 729.

² *Op. cit.*, pp. 1518-19.

³ E. Landgraf, *Improvisation as Art: Conceptual Challenges, Historical Perspectives* (New York and London: Continuum, 2011), p. 19.

⁴ D. Wills, ‘Notes Towards a Requiem: Or the Music of Memory’, *Mosaic* 39(3) (2006), p. 35.

⁵ Aporia comes from the Greek *aporos*, meaning ‘without passage’ or ‘without issue’. According to Beardsworth, ‘[a]n aporia is something which is impracticable. A route which is impracticable is one that cannot be traversed, it is an uncrossable path. Without passage, not treadable’: R. Beardsworth, *Derrida and the Political* (London and New York: Routledge, 1996), p. 32.

⁶ Landgraf, *Improvisation as Art*, pp. 20-1.

⁷ *Op. cit.*, p. 19.

⁸ One definition of improvisation adopted in *Critical Studies in Improvisation (CSI)* is that of a ‘musical practice ... [that] embodies *real-time* creative decision making, risk-taking, and

collaboration’: A. Heble and W. Siemerling, ‘Voicing the Unforeseeable: Improvisation, Social Practise, Collaborative Research’, <http://www.improvcommunity.ca/research/voicing-unforeseeable-improvisation-social-practice-collaborative-research> (accessed March 1, 2013), p. 4, emphasis added. [Also published in D. Brydon, and M. Dvořák, eds., *Cross-Talk: Canadian and Global Imaginaries in Dialogue* (Waterloo: Wilfred Laurier University Press, 2012).]

⁹ P. Berliner, *Thinking in Jazz: The Infinite Art of Improvisation* (Chicago and London: University of Chicago Press, 1994), p. 3. This will be discussed in further detail below.

¹⁰ K. Gabbard, ‘Improvisation and Imitation: Marlon Brando as Jazz Actor’, in Daniel Fischlin and Ajay Heble, eds., *The Other Side of Nowhere: Jazz, Improvisation, and Communities in Dialogue* (Middletown, Connecticut: Wesleyan University Press, 2004), p. 315.

¹¹ J. Derrida, ‘Play – The First Name’, trans. T.S. Murphy, *Genre: Forms of Discourse and Culture* 37(2) (2004), pp. 331-40.

¹² P. Gilroy, *Between Camps: Nations, Cultures and the Allure of Race* (London: Penguin Books, 2000), p. 294; Gabbard, ‘Improvisation and Imitation’, p. 300.

¹³ P. Townsend, *Jazz in American Culture* (Edinburgh: Edinburgh University Press, 2000), p. 8.

¹⁴ S. Finkelstein, *Jazz: A People’s Music* (New York: International Publishers, 1948), p. 17; Gabbard, ‘Improvisation and Imitation’, p. 301.

¹⁵ B. Alterhaug, ‘Improvisation on a Triple Theme: Creativity, Jazz Improvisation and Communication’, *Studia Musicologica Norvegica* 30 (2004), p. 103.

¹⁶ O. Coleman and J. Derrida, ‘The Other’s Language: Jacques Derrida Interviews Ornette Coleman, 23 June 1997’, trans. T.S. Murphy, *Genre: Forms of Discourse and Culture* 37(2) (2004), p. 321.

¹⁷ Op. cit., p. 320.

¹⁸ Op. cit., p. 321.

¹⁹ D. Demsey, 'Jazz Improvisation and Concepts of Virtuosity', in Bill. Kirchner, ed., *The Oxford Companion to Jazz* (Oxford and New York: Oxford University Press, 2000), p. 789; see also Coleman and Derrida, 'The Other's Language', p. 320.

²⁰ Demsey, op. cit., p. 789.

²¹ Op. cit., pp. 789-91; see also Berliner, *Thinking in Jazz*, p. 63.

²² G. Lewis, 'Improvised Music after 1950: Afrological and Eurological Perspectives', in Daniel Fischlin and Ajay Heble, eds., *The Other Side of Nowhere: Jazz, Improvisation, and Communities in Dialogue* (Middletown, Connecticut: Wesleyan University Press, 2004), p. 153.

²³ Wills, 'Notes Towards', p. 30.

²⁴ Op. cit., p. 30.

²⁵ Op. cit., p. 30.

²⁶ 'Play – The First Name: 1 July 1997' was originally written and performed by Derrida using a mixture of French and English. Following the format utilized in the journal *Genre*, in which the text is reproduced, passages that were originally performed in English are printed in boldface here.

²⁷ Prime Time was a name chosen by Coleman to represent the 'dense, electronic' phase of his musical work, a 'major area of focus' from the 1970s onwards, which mixed free jazz with 'elements of funk, rock, and experimental electronic music': T. Gioia, *The History of Jazz* (New York and Oxford: Oxford University Press, 1997), p. 346.

²⁸ Derrida, 'Play', pp. 331-34, emphasis in the original.

²⁹ Derrida only had a chance to read about half, 'perhaps a little more', of his prepared text: Wills, 'Notes Towards', p. 28.

³⁰ Op. cit., p. 28.

³¹ C. Nettelbeck, *Dancing With DeBeauvoir: Jazz and the French* (Victoria: Melbourne University Publishing, 2004), p. 198.

³² Op. cit., p. 198; see also Wills, 'Notes Towards', p. 31.

³³ J. Stein, 'Life with the Father of Deconstruction', *Time Magazine* (November 18, 2002), <<http://www.time.com/time/nation/article/0,8599,391685,00.html>> (accessed March 1, 2013); see also Wills, 'Notes Towards', p. 40 and C. Malabou and J. Derrida, *Counterpath: Travelling with Jacques Derrida*, trans. D. Wills (Stanford, California: Stanford University Press, 2004), p. 97.

³⁴ Coleman and Derrida, 'The Other's Language', p. 322.

³⁵ Op. cit., p. 322.

³⁶ Op. cit., p. 322.

³⁷ Op. cit., pp. 322-23.

³⁸ Op. cit., p. 323.

³⁹ Landgraf, *Improvisation as Art*, p. 17.

⁴⁰ Coleman and Derrida, 'The Other's Language', p. 322.

⁴¹ Landgraf, *Improvisation as Art*, p. 21.

⁴² Op. cit., p. 18.

⁴³ Derrida, 'Play', pp. 331-32.

⁴⁴ Landgraf, *Improvisation as Art*, p. 20.

⁴⁵ Op. cit., pp. 20-1.

⁴⁶ Op. cit., p. 21.

⁴⁷ Op. cit., p. 21.

⁴⁸ Op. cit., p. 21.

⁴⁹ Op. cit., p. 144.

⁵⁰ Op. cit., p. 21.

⁵¹ Op. cit., p. 21.

⁵² Derrida, 'Play', pp. 331-34, emphasis in the original.

⁵³ Landgraf, *Improvisation as Art*, pp. 21-2.

⁵⁴ Op. cit., p. 22.

⁵⁵ Op. cit., p. 22, emphasis in original.

⁵⁶ Op. cit., p. 22.

⁵⁷ Wills, 'Notes Towards', p. 39.

⁵⁸ G. Bennington, 'Derridabase', in Geoffrey Bennington and Jacques Derrida, *Jacques Derrida* (Chicago and London: The University of Chicago Press, 1993), p. 104.

⁵⁹ Op cit, p. 104.

⁶⁰ Op cit, p. 104.

⁶¹ Op. cit., p. 105.

⁶² Op cit, p. 104.

⁶³ Wills, 'Notes Towards', p. 43.

⁶⁴ Op. cit., p. 42.

⁶⁵ Op. cit., p. 42.

⁶⁶ J. Derrida, 'Declarations of Independence', *New Political Science* 15 (1986), p. 8, emphasis in original.

⁶⁷ Op. cit., p. 8, emphasis removed.

⁶⁸ Balkin and Levinson, 'Interpreting', p. 1519.

⁶⁹ Derrida, 'Declarations'. There are other texts of Derrida's that are relevant to this issue, but this commentary does not allow for extended discussion of such. See, for example, J. Derrida, 'The Laws of Reflection: Nelson Mandela, In Admiration', trans. M.A. Caws and I. Lorenz, in J. Derrida and M. Tlili, eds., *For Nelson Mandela* (New York: Seaver Books, 1987), pp.

13-42; -- (1992a) 'Before the Law', in J. Derrida, *Acts of Literature*, D. Attridge, ed. (New York and London: Routledge, 1992), pp. 183-220; J. Derrida, 'Force of Law: The "Mystical Foundation of Authority"', trans. M. Quaintance, in Jacques Derrida, *Acts of Religion*, G. Anidjar., ed. (New York and London: Routledge, 2002), pp. 230-98.

⁷⁰ A. Tyler, 'The Forgotten Core Meaning Of The Suspension Clause', *Harvard Law Review* 125 (2012), p. 956.

⁷¹ Derrida, 'Laws of Reflection', p. 21.

⁷² *Op. cit.*, p. 20.

⁷³ *Op. cit.*, p. 20.

⁷⁴ Derrida, 'Declarations', pp. 9-10.

⁷⁵ J. de Ville, 'Sovereignty Without Sovereignty: Derrida's Declarations of Independence', *Law & Critique* 19 (2008), p. 110. See also J. de Ville, *Jacques Derrida: Law as Absolute Hospitality* (London and New York: Routledge, 2011), p. 67.

⁷⁶ Derrida, 'Declarations', p. 10, emphasis in original.

⁷⁷ *Op. cit.*, p. 10.

⁷⁸ *Op. cit.*, p. 10.

⁷⁹ *Op. cit.*, p. 10.

⁸⁰ J. Derrida, 'Signature Event Context', *Margins of Philosophy*, trans. Alan Bass (Chicago: The University of Chicago Press, 1982), p. 328.

⁸¹ *Op. cit.*, p. 328.

⁸² *Op. cit.*, p. 328.

⁸³ Bennington, 'Derridabase', p. 155.

⁸⁴ Derrida, 'Signature Event Context', p. 315. See also J. Derrida, 'Others Are Secret Because They Are Other', in J. Derrida, *Paper Machine*, trans. R. Bowlby (Stanford, California: Stanford University Press, 2005), p. 136.

⁸⁵ Derrida, 'Signature Event Context', p. 315.

⁸⁶ *Op. cit.*, p. 315.

⁸⁷ Bennington, *Derridabase*, p. 162, emphasis in original.

⁸⁸ *Op. cit.*, p. 163.

⁸⁹ *Op. cit.*, p. 163.

⁹⁰ See, for example, Derrida, 'Laws of Reflection' and Derrida, 'Force of Law'.

⁹¹ de Ville, 'Sovereignty', p. 102.

⁹² J. Derrida, 'A Certain Impossible Possibility of Saying the Event', trans. G. Walker, *Critical Inquiry* 33 (2007), p. 446, emphasis in original.

⁹³ Derrida, 'Declarations', p. 8.

⁹⁴ de Ville, 'Sovereignty', p. 89.

⁹⁵ *Op. cit.*, p. 103.

⁹⁶ S. Levinson and J.M. Balkin, 'Law, Music, and Other Performing Arts', *University of Pennsylvania Law Review* 139 (1991), p. 1656.

⁹⁷ Landgraf, *Improvisation as Art*, p. 25.

⁹⁸ *Op. cit.*, p. 4.

⁹⁹ *Op. cit.*, p. 4.

¹⁰⁰ Derrida, 'Play', p. 332.

¹⁰¹ D. Toop, 'Search and Reflect: The Changing Practice of Improvisation', *New Sound* 32 (2008), p. 139.

¹⁰² H. Cixous, 'Writing and the Law: Blanchot, Joyce, Kafka, and Lispector', in Hélène Cixous, *Readings: The Poetics of Blanchot, Joyce, Kafka, Kleist, Lispector, and Tsvetayeva*, trans. V.A. Conley (Minneapolis: University of Minnesota Press, 1991), p. 19.