STAGING THE LAW:

VERBATIM THEATRE AND ACCESS TO JUSTICE

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DECLARATION OF ORIGINALITY

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ABSTRACT

Staging the Law: Verbatim Theatre and Access to Justice

This thesis suggests that the term “access to justice” should be interpreted as broadly as possible in order to produce a smooth, effective and fair form of justice. Specifically, I argue that verbatim theatre, besides its political and social role, might gain a legal role and become fundamental in victims’ quest for justice, as seen in three verbatim plays produced in the United Kingdom at the turn of the century: Richard Norton-Taylor’s *The Colour of Justice*, Tanika Gupta’s *Gladiator Games*, and Philip Ralph’s *Deep Cut*. With their lengthy trials, their failure to punish the perpetrators and their excessive media coverages, the murder cases of Stephen Lawrence Zahid Mubarek, and Cheryl James pose various questions about the fragility of the law. Aiming to show formal criminal systems’ failure to bring justice, the plays offer a more focused account of the events surrounding these three cases, and target a more ready-to-engage audience. As a result, the plays inspire an alternative justice-building process aimed at achieving restorative justice. Overall, the plays and the cases unveil the ambiguity of the relationship between the law and theatre in general and between restorative justice and verbatim theatre in particular.

ÖZET

Hukuku Sahnelemek: Adalete Erişim ve Motamot Tiyatro

Bu tez, adalete erişim hakkının sorunsuz, etkili ve makul bir adalet ortaya koyabilmesi için terimin mümkün olan en geniş şekilde yorumlanması gerektiğini önermektedir. Özellikle, yüzyılın başında Birleşik Krallık'ta sahnelenmiş Richard Norton-Taylor'ın *The Colour of Justice*, Tanika Gupta'nın *Gladiator Games* ve Philip Ralph'ın *Deep Cut* isimli oyunlarında görüldüğü üzere, motamot tiyatronun (verbatim theatre), politik ve sosyal rolünün yanı sıra, hukuki bir rol de kazanabileceğini ve mağdurların adalet arayışlarında esas hale gelebileceklerini savunur. Uzun süren davalar, suçluların cezalandırılmaması ve aşırı medya ilgisiyle, Stephen Lawrence, Zahid Mubarek ve Cheryl James vakıaları hukukun kırılganlığı ile ilgili çeşitli sorular sormaktadır. Resmi ceza sistemlerinin adaleti sağlamak konusundaki başarısızlığını göstermek suretiyle, oyunlar dahil olmaya hazır seyirciye ulaşmayı hedefleyerek, olayların belli bir başlığa odaklanmış anlatımını sunmaktadırlar. Böylece, oyunlar, onarıcı adalete ulaşmayı hedef alan alternatif adalet kurma sürecine ilham vermektedirler. Oyunlar ve davalar, genelde tiyatro ve hukukun, daha özelde ise onarıcı adalet ve motamot tiyatronun belirsizliğini ortaya çıkarmaktadırlar.

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TABLE OF CONTENTS

CHAPTER 1

INTRODUCTION

In this thesis, I question the relationship between access to justice and verbatim theatre in the United Kingdom in the late 1990s and early 2000s. As a vital part of human rights discourse, access to justice is defined by its ability to ensure legal and judicial outcomes to individuals through formal and informal institutions (UNDP, 2004, p. 6). In line with this definition, I interpret the legal term "access to justice" broadly and I argue that various efficient, fair and just means of "accessing" "justice" – meaning other than legal remedies, legal representation or access to courts – could also be included in its sphere. More specifically, I argue that restorative justice as an alternative to formal justice mechanisms should be included in the scope of the term. Throughout the thesis, I question how verbatim theatre can be used in the service of restorative justice. Traditionally constructed from the spoken words of real people, verbatim plays focus on a particular event or topic. Situated in the public and political sphere, verbatim theatre interacts, and usually ambiguously, with the law in general, and with restorative justice in particular, in numerous ways. It offers an alternative platform for the victims to seek justice. However, verbatim theatre, just like the concept of "justice", has its own limitations and subjectivities.

My main argument is that although the nature of verbatim theatre, that is, the presence of a third party arbitrator (the playwright), dialogues with different groups and individuals, the centrality of an audience as the members of a society, allows a space where restorative justice can reign, neither the judiciary, nor verbatim theatre can function as the sole instruments that provide access to restorative justice. The

law, which is both general and strict, falls short on the ability to respond to personal traumas and more importantly, it narrows the voices of the marginalized into professional legal documents where the nuances get lost. Verbatim theatre, however, allows the oppressed to meet with a ready-to-listen audience on a more autonomous level. Yet, this meeting still occurs through the medium of the playwright and thus, it does not give direct access to justice. A common question arises for both mechanisms: who gets to define the "just"? What is justice and why do we need some external authority – the lawmaker, the judge or the playwright – to outline it? The question of authority is even more problematic when restorative justice is examined. Restorative justice hopes to bring peace, harmony and reconciliation to the victim, to the offender and to the community. Verbatim theatre, which could include the words of the victim and/or of the offender, directly interacts with the community, hence, it carries a solid potential to trigger restorative justice.

To develop my argument and to answer these equivocal questions, I will be focusing on the plays *The Colour of Justice* by Richard Norton-Taylor (1999), *Gladiator Games* by Tanika Gupta (2005) and *Deep Cut* by Philip Ralph (2008). Written during or in the aftermath of inconclusive/unsatisfactory trials, all three plays reveal some important controversies within the judiciary and expose the limits and the subjectivity of the formal access to justice mechanisms. Yet, the question of whether the plays manage to become an efficient and fair alternative medium for the justice-seekers remains unanswered.

Within the extensive literature on the relationship between law and theatre studies, verbatim theatre is widely associated with and positioned as a response to political, social and legal events. I consider this thesis as a part of the scholarship that sits at the intersections of law and theatre studies, more specifically, of the

relationship between law and verbatim theatre. This interdisciplinary thesis occupies a unique place for two reasons: first, especially in the aftermaths of great national traumas, like the Rwandan genocide[1] or South Africa's apartheid period, theatre was used to ease the pain, to perform certain values or to create a peaceful future. But in most of these cases, the actors on the stage were directly harmed by the previous events, and they were the ones who were supposed to be "healed" after the performance. In such cases, the justice-building process resulted from the direct participation of the affected parties. I, however, argue that although verbatim theatre can be likened to applied or participatory theatre as far as the desired end results are concerned, their methods and targeted groups are different. Second, although theatre is widely cited as a method for the proliferation of restorative justice, verbatim theatre is rarely associated with restorative justice. Especially in the British context, verbatim theatre is generally positioned as a response to highly publicized legal/political/social dilemmas, but its role as a restorative justice mechanism has never been questioned. Meditated by a playwright, verbatim theatre not only resembles a simulation of restorative justice, but also hopes to affect the audience to bring about social change and demand a form of restorative justice. By questioning verbatim theatre's relationship with restorative justice, I aim to disclose their proper ambiguities, as well as their limitations. For instance, verbatim theatre is commonly listed as a medium for social change, but when the restoration of justice is considered as a possible form of social change, the abstractness of terms like "justice" and "social change" are revealed, in addition to verbatim theatre's limited capacity to create powerful legal consequences.

[1] Ananda Breed's (2008) article about the role of theatre as a nation-builder in post-genocide Rwanda is a helpful example to illustrate the diversity and efficacity of theatre in such troubled times.

This thesis is organized into four chapters. In this chapter, I will provide the overall theoretical framework to which I will make reference throughout the remaining chapters. In particular, I will offer introductions to the relationship between law and theatre, to the terminological differences between verbatim, documentary and tribunal theatre, to access to restorative justice, and lastly to verbatim theatre's limits when considered in line with access to justice. In Chapter Two, I will pay closer attention to restorative justice and separately examine each play's potential to perform as a restorative justice mechanism on its own. I conclude that verbatim theatre is rather a simulation of restorative justice, than a proper instrument for it. In Chapter Three, I will focus on verbatim theatre's denunciation of formal criminal justice systems. I identify two main methods used by my primary sources in their criticism of the judiciary: editing and personification. Combined with my previous findings, in Chapter Four, I discuss how verbatim theatre encourages, allows and initiates a restorative justice process. Although verbatim theatre's capacity to narrow its focus and to generate affect are advantageous in its relationship with restorative justice, I argue nonetheless that verbatim theatre is highly limited because it fails to take into consideration many issues, like ethics and trauma.

1.1 Law and theatre

The relationship between law and theatre is bilateral: while law can be a form of theatre, theatre can also be a form of "law". Susan Sontag (1966) acknowledges this reciprocal metaphor and writes: "The trial is preeminently a theatrical form, the theater is a courtroom. The classical form of the drama is always a contest between

protagonist and antagonist; the resolution of the play is the 'verdict' on the action" (p. 126). So, a legal trial incorporates theatrical methods through the way it positions its opposing parties, by the denouement of the events and by the incertitude and the suspense that is built into the development of the legal process. But, at the same time, theatre is like a legal trial, where the parties tell their version of the story and at the end, either the play itself or the audience resolve the drama and render a verdict.[2]

Besides, the law never takes place in a vacuum and it cannot be left into the monopoly of certain codes, individuals or venues. "Law's presence in, and relevance to, the lives of individuals, groups, and nations is found not just in the stories told in legal venues. It is also to be found in the daily experiences and self-understandings never formally given legal articulation" (Douglas, Sarat & Umphrey, 2006, p. 2). Thus, law, or at least the concept of the law, is inherent to every member of the society, and it manifests itself in every aspect of daily and communal life. The homogeneity of the law also implies that the public sphere has a compulsory impact upon the legal realm (Derbyshire & Hodson, 2008, p. 197). Subsequently, law, justice, human rights or any legal concept should be understood "as a space where law interacts with other kinds of cultural and social activity" (Derbyshire & Hodson, 2008, p. 196).

In this space of constant interaction, many writers have suggested that the evolution of the notion of human rights is closely linked to literary developments. For example, Lynn Hunt (2007) suggests that in the eighteenth century, novels

[2] As Sontag reminds us, the classical tragedies advance almost like a trial. First, the parties defend their claims with the aim of winning the case, and this can occur in different manners: the protagonist and the antagonist can literally voice their cases, they can fight for them and they can cheat. At the end, a decision is rendered: the Gods punish the mortals, the girl chooses her husband, the war ends with a victory or defeat. When the play does not have a definite ending or a clear judgment, this time, it is the audience who decides.

reinforced “the notion of a community based on autonomous, empathetic individuals who could relate beyond their immediate families, religious affiliations, or even nations to greater universal values” (p. 32) which made possible a new social and political order dominated by ideas of human rights. Similarly, Julie Stone Peters (2005) observes the “simultaneous emergence of the modern concept of ‘literature’ and the modern concept of ‘rights’ in popular discourse” (p. 261). She argues that the proliferation of political writings in the eighteenth century impacted both the formulation of rights and literary genres (p. 262). As a result, she remarks that literature and rights were “identified with and dependent on each other” (p. 265).

In an almost tautological way, literary works that feature legal processes reveal the most common and basic dependence of literature and the law.[3] The law provides a fruitful source for literary works, as seen in Herman Melville’s *Billy Budd*, Truman Capote’s *In Cold Blood*, Reginald Rose’s *Twelve Angry Men* or Arthur Miller’s *The Crucible*. The trial form, with its protagonists and antagonists and with its dramatic dialogues is tailor-made for fictional and non-fictional works. Nevertheless, as Mary Jane Schenck (2013) remarks, “justice is not only a significant theme in great literature from *The Oresteia* to Camus’ *The Fall* and beyond, but literary and legal scholars alike believe [literature] offers superior insights into the nature of the law itself” (p. 11). Although justice and the law have been questioned by writers ever since antiquity, Julie Stone Peters (2005) argues that the institutional ideologies of the nineteenth century made literature “the central vehicle for the great humanitarian and rights movements” (p. 273). Literature thus exceeded its long-established quest for the ideal justice and became a tool in the human rights

[3] Here, I am referring to the law in the broadest sense possible, hence it includes not only the positive codes and the judiciary, but also the relevant concepts and terms such as justice and human rights.

movement.[4] As a means of human rights advocacy, literary works started "to advance the claims of those whose humanity has not been fully acknowledged" (Derbyshire & Hodson, 2008, p. 196).

Situated in the midst of the public sphere, law and theatre share a close bond thanks to their similar methodologies. Particularly, the suspense and the eventfulness of the law provides a good source for literature. Beyond this initial resemblance, literature, particularly theatre, can promote certain vague and abstract notions of the law and contribute to their establishment and circulation within the society, so much so that theatre can become a tool for human right advocacy and propaganda, as well as an initiator or mediator of an alternative justice mechanism like restorative justice.

1.2 Terminological differences: Documentary, verbatim and tribunal theatre

Amidst the ambiguous co-dependence of law and theatre, verbatim theatre as a genre/form/method occupies a unique place. First coined by Derek Paget in 1987, the genre escapes an inclusive definition. Paget comments more on the methods of verbatim theatre than its nature and writes that "verbatim theatre, which makes fascinating use of taped actuality recording as its primary source material, is the latest manifestation of documentary theatre" (p. 317). For Paget, verbatim theatre is a subgenre of documentary theatre and is a consequence of the technological advancement associated with tape recorders. In Carol Martin's (2010) words, verbatim theatre allows practitioners to "interrogate specific events, systems of belief, and political affiliations precisely through the creation of their own versions

[4] Julie Stone Peters gives *Les Misérables* and *Uncle Tom's Cabin* as examples. These examples are not simply works that touch upon the law, they advocate for the rights of the oppressed, they utter the humanity of the "other". Some of the later examples of this kind of advocacy would be *Adventures of Huckleberry Finn* and *To Kill a Mockingbird*.

of events, beliefs, and politics by exploiting technology that enables replication: video, film, tape recorders, radio, copy machines, and computers" (p. 17). Similarly, Stephen Bottoms (2006) emphasizes the importance of technology for the resurgence of the genre in the 2000's, which allowed verbatim playwrights to incorporate videos, photos, and sounds into their performances (p. 57).[5] In short, verbatim theatre is a re-telling of the "real" that can be captured with the aid of recording technologies.

Technology is central for verbatim theatre because it corroborates the playwrights' claim to authenticity and truth. And this "obsession" with the truth and authenticity is what differentiates the genre from documentary theatre. Carol Martin (2010) explains that verbatim theatre in the UK context is basically what is called documentary theatre in the United States but the terms – "verbatim" instead of "documentary" – point out British playwrights' desire to quote directly from the source (p. 23). Bottoms (2006) also accepts the superficial territorial differences but he writes that the terminology matters because while documentary theatre "might be said to imply the foregrounding of documents, of texts, the term "verbatim theatre" tends to fetishize the notion that we are getting things 'word for word', straight from the mouths of those 'involved'" (p. 59).[6] Similarly, Mary Luckhurst (2008) discusses how verbatim theatre stresses authenticity by privileging spoken words (p. 203).[7] However, she also emphasizes that from the 1990s onwards, the term "verbatim"

[5] Of course, technology is not the only reason why verbatim theatre has resurfaced in this time period. Many writers explain the resurgence of the genre with reference to the political pressures that were created by the Blair ministry in the UK and by the extensive War on Terror that followed 9/11 in the United States.

[6] From an American point of view, the terminological difference still matters because while verbatim theatre highlights the direct quotes from the real victims, documentary theatre emphasizes the importance of the "documents". Moreover, Janet Gibson writes that the term acknowledges "the migration, over the last twenty years or so, of these 'true' stories from documentary screen to stage" (p. 4).

[7] However, some writers prefer to use the term "documentary theatre" to create a historical and geographical continuity (Forsyth & Megson, 2009, p.1).

started to be applied more loosely, including to a broader range of plays like historical dramas, docudramas and tribunal plays (ibid).

Spoken words, authenticity, truth and reality are fundamental to the genre of verbatim theatre because verbatim plays aim to "[seek] out discourse not normally privileged by either the journalistic or the entertainment media" (Paget, 1987, p. 322). Hence, the plays, including Peter Cheeseman's local plays, which are listed as the first examples of verbatim theatre in the UK by Paget in the 1970s, focus on marginalized voices that cannot reach a mainstream audience. Moreover, since the emergence of the genre – and especially since its re-emergence in the late 1990's and early 2000's – the plays have aimed to open a dialogue with the media and/or to fill the void that is created by one-sided, economically motivated, and subjective news media coverage. Luckhurst (2008) argues that the explosion of verbatim theatre is the result of "a distrust of the media and a desire to uncover stories which may be being suppressed" (p. 200). Parallelly, Bottoms (2006) inserts that verbatim theatre has resurged after 9/11 because the playwrights wanted to offer a new 'real' to counter the official discourse of the War on Terror (p. 57).[8]

Nevertheless, verbatim theatre does not solely respond to the news or entertainment media, it is also the result of a distrust with national and international grand narratives. As Paget (1987) claims, "verbatim theatre seems particularly well-suited to the demystification of history" (p. 326). Carol Martin (2010) lists six main functions of documentary theatre: to reopen trials, to create additional historical accounts, to reconstruct an event, to intermingle autobiography with history, to critique the operations of both documentary and fiction, and to elaborate the oral

[8] Some examples would be Tricycle Theatre's *Guantanamo – Honor Bound to Defend Freedom* by Victoria Brrittain and Gillian Slovo, *Stuff Happens* by David Hare, and *Talking to Terrorists* by Robin Soans, all produced in 2005.

culture of theatre and the theatricality of daily life (p. 22). Thus, the genre helps to offer a new narrative that can expose the failures or insufficiencies of political, social, historical, literary, daily or legal systems. The possibility of transmitting the narrative of the oppressed, coupled with the playwrights' suspicion towards governments, institutional injustices and closed-door politics is what makes verbatim theatre exceptionally intertwined with the law.

Tribunal plays are the best example of this intertwinement, as they literally take court proceedings, trials, and legal reports and turn them into plays. Benedict Feldman (2018) defines tribunal theatre as such: "A specialized form of *verbatim theatre* – itself a sub-species of documentary drama – the Tribunal Plays take the records of legal and quasi-legal proceedings as their source material" (italics original, p. 11). For Chris Megson (2009), tribunal theatre aims to "address perceived miscarriages of justice and flaws in the operations and accountability of institutions" (p. 195). Since the early 1990s, the Tricycle Theatre in London alongside with its journalist/playwright Richard Norton-Taylor and artistic director Nicholas Kent dominate this trend, so much so that Mary Luckhurst (2008) notes that "Norton-Taylor's plays led to the current spate of verbatim plays in Britain" (p. 209).[9] Writing about Tricycle Theatre, Derek Paget (2008) remarks that their plays have "a long and honourable theatrical history, law systems having been long regarded as inherently 'dramatic' and 'theatrical'" (p. 135).

Clearly, it is not unusual for documentary plays to take the form of an actual trial as in *The Investigation* by Peter Weiss or *In the Matter of J. Robert Oppenheimer* by Heinar Kipphardt. Luckhurst (2008) argues that, like verbatim

[9] I should note that, in this thesis, I prefer to use the term "verbatim theatre" as a genre/form/method that also includes tribunal plays.

plays, tribunal plays "can also hold 'spin' narratives up to scrutiny and provide a means of combating the control of public discourse" (p. 209). So, both types of plays can be offered as a way to expose "the attitude of mind, the intellectual sub-culture, of individuals in positions of power and authority" (Norton-Taylor, qtd in Hammond and Steward, p. 114). However, tribunal plays – or Norton-Taylor himself as the main pioneer of the genre – are even more determined in their emphasis on the truth. He notes: "If our intention has always been to expose the truth, then we have been helped in this because the format we have recreated, namely an inquisitorial tribunal of inquiry, has precisely shared this aim" (ibid). Thus, tribunal plays ask questions of their main sources. In a way, they become the inquiry of the official inquiries.

If verbatim plays focus purely on existing written/spoken sources, however, what then is the role of the playwright? How can she claim to fight the injustice, to debunk political arguments or to change the state of mind of a culture if her involvement in the text is limited? Similarly, how artistic are verbatim plays that copy the exact wording of court proceedings or interviews? Carol Martin (2010) answers these questions when she writes that "the process of selection, editing, organization, and presentation is where the creative work of documentary theatre gets done" (p. 18). Amidst a wide range of documents, interviews, and other sources, the playwright is the one who chooses what goes into the text. Hence, she offers a more focused account of the events, which, in a way, is her own version.

I argue that this selection/editing/creating process is what allows the playwright to highlight a specific problem or question, and as a result, this is why verbatim theatre can easily be placed in the political, social and legal spheres. Martin (2010) writes:

> As staged politics, specific instances of documentary theatre construct the past in service of a future the authors would like to create. As twice-behaved behavior, documentary theatre self-consciously blends into and usurps other form of cultural expression such as political speeches, courts of law, forms of political protest, and performance in every-day life (p. 19).

Martin's comments point out two important features of verbatim plays: first, they are the re-enactment of various accounts and testimonies about the past. These events and accounts already have their own political, social and legal existence, but through the editing process[10], verbatim playwrights distill the loaded materials into a new topic or theme that once again has its own political, social and legal existence. Thus, the audience gets a twice-charged re-enactment.

At the same time, part of my argument is that this selection process prevents the playwrights from claiming to demonstrate *the* truth. As the discussions about the name suggest, verbatim theatre and its desire to become the sole authority on truth is very problematic. Throughout this thesis, I argue that verbatim theatre's claim to represent *the* truth, rather than *a* version of the truth, is one of its main limitations. This issue will re-emerge on different occasions, particularly when discussing affect and trauma in Chapter Four.

Nevertheless, the possibility of re-evaluating already-loaded materials gives verbatim theatre a chance to critique political, social and legal concepts and institutions. More significantly, it offers a new way to see the limits of the dominant discourse. Writing about the relationship between human rights and verbatim theatre, Derbyshire & Hodson (2008) argue that verbatim theatre is powerful because it exposes the "privileged position that formal laws occupy within the dominant

[10] I acknowledge that the playwright does more than "editing" when writing a verbatim play; even the investigation and research phase becomes central to the artistic and social outcome. It is almost impossible to make a list that includes every important task that the playwright accomplishes. Hence, although it has some essential defaults, I will use the word "editing" since it is the preferred term of many writers, including Richard Norton-Taylor.

discourse" (p. 203). Plus, verbatim theatre "signal[s] that legal positivism is a poor means of protecting individuals against excessive state power" (ibid). To conclude, verbatim theatre occupies an advantaged spot because it can re-examine the political and legal discourse from a new perspective. In addition, it might be used as a method of advocacy to protect individuals from the firmness of the law.

1.3 Access to restorative justice

Although traditionally not linked with theatre, the term "access to justice" and its central, yet unclear positioning within the world of human rights, invites many topics to be debated on the theatre stage. Pierre Schmitt (2017) in his book *Access to Justice and International Organizations* reveals the vagueness of the term "access to justice" (p. 91). Indeed, it is hard to find a unique definition for the term. Parallelly, many legal scholars, national and/or international documents use different terms to refer to the right of access to justice, such as right to fair trial, legal aid, judicial protection and right to effective remedy. In each of the suggested synonyms, some element is left out: when we mention the right to effective remedy, the procedure remains unquestioned. Similarly, when we adopt the right to fair trial, the end result – as well as the necessary implications of justness and effectiveness - is omitted. Therefore, in this thesis, I will use "access to justice" as an umbrella concept that includes many nuances.

Access to justice is "the right of an individual to enter a court of law, make sure his case is heard and adjudicated in accordance to fairness and justice" (Francioni, 2013, p. 1). This definition is quite complete, such that it includes the different stages – before, during and after – of a lawsuit. To go beyond the

positivized regulations, Francioni adds two more elements: fairness and justice. These two terms allow a certain elasticity. Once fairness and justice become the main purpose of access to justice, the strictness of legal terms like “court of law” or “case” are diminished. Schmitt criticizes Francioni on the ground that he solely emphasizes the “intervention of a court or a tribunal” and suggests that “other dispute settlement mechanisms need to [be taken] into consideration” (p. 92). He gives a few examples like arbitral tribunals, human rights institutions, and ombudsman institutions. He notes that those examples are various “institutions and procedures through which victims may bring their claims” (p. 92). At first sight, this is an unclear categorization that leads to many questions: what is the nature of the disputes that can be resolved at those institutions? Who can act as “judges”? Are there any reserved rights that cannot be challenged in those ad hoc organizations? Schmitt gives an abstract – yet inclusive – answer to these questions: “the identification of the institutional and procedural requirements of the concept of access to justice” should guarantee “the effectiveness of the right” (p. 92). Therefore, Schmitt argues that, as long as the specific right in question necessitates and accommodates, in the name of effectiveness, justice and fairness, other mechanisms should be encouraged.

If access to justice’s aim is to grant legal mechanisms for as many people as possible, then, numerous informal mechanisms that allow access to alternative justice-building processes should also be included in its sphere. In that regard, it is essential to expand the scope of access to justice to all kinds of justices, namely to restorative justice. Although there is no universal agreement on the definition of restorative justice, it is mainly introduced as such: “Restorative justice is a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future” (Marshall, 1999,

p. 5). What is striking in this definition is the emphasis on collectivity and on the future. Hence, restorative justice aims to bring individual peace to the parties in question, as well as a sense of common resolution and restoration to the society of which they are a part.

Compared to retributive justice, in restorative justice, there is a seeming lack of authority as far as the decision-making is concerned, and for that reason, its contemporary use is generally associated with juvenile justice, school disputes or petty crimes. Still, as Braithwaite (1999) emphasizes, restorative justice is equally applicable to serious crimes, and even to war crimes, because its roots are in the community and it acts for the good of the community, which gives restorative justice an undeniable political, legal and social power (p. 7). Perhaps the most emblematic and also most extreme example of restorative justice's use for grave and political crimes is South Africa's post-apartheid Truth and Reconciliation Commission (TRC). In this thesis, because of the heavy, political and public nature of Stephen Lawrence's, Zahid Mubarek's and Cheryl James's cases, I will limit my analysis of restorative justice to the unusual reading of the term that is adopted by the TRC.

Considering the victim-centered and individualistic structure of truth commissions, it can be concluded that truth commissions can serve as "a platform to be heard" (Dukalskis, 2011, p. 437). For the victims, the ability to tell their story without lawyers' manipulation or strict rules of order in the courtroom might be more effective and just. Here, we might add that theatre, a context where the already-relaxed legal requirements of truth commissions do not prevail, could also serve as a means to "access" to "justice". The right to effective remedy and reparation, however, which is one of the main components of the access to justice, might be compromised. Dukalskis states that even truth commissions fail to "individualize

guilt" and "to punish those who have done wrong" when compared with conventional courts (p. 435). In this regard, it is clear that theatre cannot offer individualized traditional punishments, such as the incapacitation or deterrence of the offender.

These discussions elucidate two of the central questions of my thesis: can theatre be considered a restorative justice mechanism on its own? More specifically, can theatre function as an efficient medium to achieve access to restorative justice in the name of fairness, justice and effectiveness? As Mark Surprenant (2017) notes, theatre surpasses one of the main problems that obscures access to justice: it does not require legal professionals nor strict instruments for a "meaningful access" (p. 229). Surprenant argues that "justice essentially means having an equal, level playing field" (p. 228). Although an ideal courtroom aims for equality of both parties, this principle can face multiple problems, namely when one party represents the state's authority. What happens when the case requires public inquiry and the public authorities do not comply? Or what if the perpetrator is protected by a state agency? More importantly, as Eva Brems (2005) states in *Conflicting Human Rights*, equality implies that all parties bring evidences (p. 296). What happens when one party hides the evidence? When one party brings the evidence but ignores the right to a hearing within a reasonable time, can we still talk about an effective access to justice? In this regard, victim-centered organizations like truth commissions or theatre companies might be more adequate to provide a sincerer and direct narrative, but with significant limitations.

Although theatre cannot be extricated from its own professional instruments or rules, it is nonetheless a useful venue to reveal the subjectivity of the formal and institutional implications of the term "justice". It is a good context from which to

query for “whose justice is access being sought” (Cappelletti, Garth & Trocker, 1982, p. 666). The term justice is ambiguous especially because of its positivization, that is, its codification on national and international levels.[11] Schmitt touches upon this problem from a different perspective when he discusses the incompatibility of “justice” as a broad and universal term with “access to justice” – a legal principle shaped in the hands of national legislations (p. 103). Thus, once we ask whose justice it is, we immediately enter into a social, economic and political debate (Cappelletti, Garth & Trocker, 1982, p. 667). In this case, access to justice becomes the ratification of a certain distribution of power since both the “access” and the “justice” are shaped by political power (ibid). And this creates a paradox: the abstract universal notion of justice does not exist as it is, but it needs to be defined by decision makers according to their proper agendas. Examining access to restorative justice even brings into the open more questions about the politically loaded notion of justice. Although it is possible to incorporate restorative justice into formal justice processes and to positivize the norms that lead to restorative justice,[12] restorative justice still mostly remains an untouched issue by legal documents and lawmakers.

Access to justice is a unique term: on the one hand, it is different from other human rights, because it is not natural and self-evident. A state must recognize the necessary measures, by establishing courts, appointing judges and forming an ensemble of jurisprudence. On the other hand, “justice” is one of the main auditors of the social order. It is central to international decorum, as well as to the security of national, local and even familial life. So, how can a term this central to the social

[11] Since justice is a term that mainly remains abstract and fluid, it depends on the occasions, events, culture, legal sub-culture etc. within which it emerges; trying to limit and define it within certain codes disregards its ambiguity. However, the codification is also necessary to create at least a minimum base for each individual, institution and state to respect.

[12] The United Nations and European Union have released many guidelines, booklets and principles to encourage restorative justice and to broaden its applicability in the member states.

order be left to the monopoly of the state? Verbatim theatre's response is that it cannot, and that theatrical plays should highlight the injustices and fight against them. Moreover, they should offer their version of justice, even if it involves the risk of producing further injustices. One of the central tensions of this thesis, then, is that verbatim theatre can be used as a mean of domination, just as it can be used as a method of relief.

1.4 The primary sources: *The Colour of Justice*, *Gladiator Games* and *Deep Cut*

In this thesis, I focus on three verbatim plays: *The Colour of Justice* by Richard Norton-Taylor (1999), *Gladiator Games* by Tanika Gupta (2005) and *Deep Cut* by Philip Ralph (2008). I argue that these plays are particularly striking examples of the ambiguous relationship between law and theatre with their approach to the judiciary. Through their re-enactment of three very problematic legal events, the plays offer a different reading of restorative justice and pose the question of whether non-statutory mechanisms, such as theatre, could be used as a way to access justice.

Norton-Taylor's best-known tribunal play, and by far the most renowned of the three plays included in this thesis, *The Colour of Justice* focuses on the Macpherson Inquiry of 1997, the belated public inquiry that investigated Stephen Lawrence's death as well as the institutional racism within the London Metropolitan Police in 1993. Stephen, a black teenager aged 18, was stabbed to death by a group of racists while waiting for a bus in southeast London with his friend Duwayne Brooks on the evening of 22 April 1993. Although the suddenness of the attack made it difficult for the witnesses to identify the six suspects, within a few days, the police had a list of names despite the faulty initial investigation. In July 1993, the Crown

Prosecution Service dropped charges against the suspects due to insufficient evidence. In April 1994, the Lawrence family initiated a private prosecution that was followed by a trial in which the judge found the evidence given by Duwayne unreliable. The family persisted in their call for a public inquiry and in February 1997 an inquest into the death of Stephen was held where the jury was advised to return the verdict. The jury concluded that an unlawful killing "in a completely unprovoked racist attack by five white youths" had occurred, but did not name any suspects. Finally, in July 1997, the Macpherson Inquiry, which later became the main material for *The Colour of Justice*, began. The Inquiry's report concluded that starting from the first aid process, the police officers had committed essential errors that could be interpreted as signs of institutional racism in the police force. Norton-Taylor extracted his play out of thousands of pages of reports, statements and findings. Staged at the Tricycle Theatre in 1999 with Nicholas Kent as the artistic director, the play was an enormous success at the box office, and it was later televised by the BBC. Moreover, it became obligatory course material for the police academies in the UK.

Tanika Gupta's verbatim play *Gladiator Games* is equally rooted in the effort to document institutional racism, but unlike *The Colour of Justice* and *Deep Cut*, it combines verbatim materials such as interviews, news clips and court proceedings with fictional dialogues.[13] In the prologue, the play self-defines itself as such: "A dramatisation of the events surrounding the death in custody of Zahid Mubarek in Feltham Young Offenders Institute in March 2000. With verbatim text from evidence

[13] In the play, all of the verbatim materials are clearly marked with their sources. And "anything unmarked is a dramatisation based on events/hearsay" (Gupta, 2005, p. 13). I find it very refreshing that Gupta acknowledges the fact that the play is her own account, hence it is not *the* truth, but rather a version of the truth.

given to the Zahid Mubarek Inquiry and interviews" (Title Page). Zahid, a young Asian man serving a sentence for a minor offence, was killed by his racist cellmate, Robert Stewart, during his last days at Feltham in March 2000. From the beginning, it was unclear why Zahid was placed in the same cell as a known racist. As a result, the family called for a public inquiry to investigate the reasons behind Zahid's death and to find the officers who might have been responsible for this decision, but they had to fight for almost five years for public officials to respond. The Zahid Mubarek Inquiry started in 2004 and Justice Keith released his final report in 2006. Directed by Charlotte Westenra, *Gladiator Games* premiered at Sheffield Crucible Theatre in October 2005. Although the Report of the Inquiry was published in June 2006, it echoed the play's focus on institutional racism: the Report concluded that there were fifteen different missed opportunities that could have prevented the murder and identified institutional racism as a *fact* within the Prison Service.

Finally, of all three plays, *Deep Cut* by Philip Ralph is the verbatim play that makes the most explicit call for justice. Directed by Mick Gordon and produced by Sherman Cymru, *Deep Cut* was first performed at Sherman, Cardiff in July 2008. The play focuses on the story of Private Cheryl James, who was found dead in the Deepcut Army Barracks in November 1995. Although Cheryl's death was the second to occur at Deepcut in 1995, the immediate inquest recorded an open verdict. Only after the death count increased to four did the Surrey Police decide to re-investigate the deaths and to pay attention to the four families' call for a public inquiry. Although some reviews, including The Devon & Cornwall Review and The Nicholas Blake Review, were published following the first two deaths, the families never had a full inquiry. Playwright Ralph explains that he preferred to focus on Cheryl because she was the only woman among the four victims. The story of Cheryl's

death was so enigmatic that both Ralph and the James family were in need of asking questions of the authorities; for example, it was never made clear why Cheryl was sent for guard duty all alone with a loaded gun. Although the Blake Review (2006) was "satisfied that Cheryl's death [was] consistent with a self-inflicted gunshot wound" (6.193) after a very sketchy analysis of the already-investigated materials, some forensic reports suggested that it was impossible for her wounds to be self-inflicted.

The media attention trained on the cases of Stephen Lawrence, Zahid Mubarek and Cheryl James was remarkable. In the Stephen Lawrence case, the news media emerged as such a significant force pressuring the government to launch a public inquiry that the Mubarek family would eventually complain that Zahid's murder was shadowed by the ongoing investigations of Stephen's death. In *Gladiator Games*, Colin Moses, the chair of the Prison Officers' Association, reminds us that the two deaths are "equivalent," with the exception that in Zahid's case the culprit is identified and punished, which makes Stephen's case more enigmatic and more publishable (p. 48).[14] Since Cheryl James' case was one of four deaths that took place in Deepcut, it received very little attention on its own: with each death, there was a new inquest or inquiry, either for that specific loss or as part of a more general military investigation. These details demonstrate that verbatim plays can often compete for attention, and position themselves in relation to each other in contexts

[14] It is also important to note that Zahid was Muslim and convicted for a minor offence. Zahid died before the events of September 11, 2001 but the trials continued for many years after this momentous event. In the play, Suresh Grover, a member of the Institute of Race Relations, comments that they live "in the dark days" and curtailment of civil liberties is a serious problem for every individual in British society, but especially for black people. More importantly, he says that if the inquiries were to be concluded pre-9/11, they would have achieved more robust results (p. 78). The fact that Zahid was attacked in prison also creates a certain controversy. In an interview, the Mubarek family has stated that some part of the society believed Zahid deserved to die more than Stephen because he committed a petty offence. Retrieved from: http://www.curtainup.com/gladiatorgames.html

where public outrage and recognition is limited and often fleeting. In Chapter Four, I will show that the position of the news media triangulated the relationship between the law and theatre and challenged its ambiguity.

Ultimately, being deeply involved with the judiciary, *The Colour of Justice*, *Gladiator Games* and *Deep Cut* all question the law. Furthermore, the plays expose the law's limits and seek to show how it failed to deliver justice in these specific cases. The plays open up a space for public debate concerning society, to "hold it up to the light and examine its flaws and beauties" (Ralph, 2008, p. 22). They offer an alternative narrative, even when, as with *The Colour of Justice*, they reproduce the actual wording of the trials.

1.5 The limits of verbatim theatre

Verbatim theatre does not start at the point where the law's influence ends, they are intertwined. Although both domains sometimes limit each other, generally they extend across their own boundaries and feed each other. "The horizon is," writes James Thompson (2009), "a point of opportunity for performance – *where it can go* – and also of limitation – *where it stops*" (italics original, p. 5). Examining the relationship between law and verbatim theatre offer us an overview of how far both the theatre and the law can extend their influence and where they meet their limitations.

Especially when dealing with human suffering and human rightlessness, law and verbatim theatre face important limitations. Trauma and its unreliableness, verbatim theatre's ethical challenges, the extensive discussion of whether verbatim theatre is a form or a medium, and verbatim playwrights' unsteady claims to

objectivity are important topics to be discussed. Furthermore, the editing, constructing and delimiting process is verbatim theatre's strength as well as its weakness. This process is a great way to demonstrate law's limits, i.e. the non-objectivity of the judges, the strictness of the legal norms, the unavailability of the statutory measures or the general failures of the judiciary. Christian Biet (2011) adequately summarizes the law's limits and how theatre can transcend them:

> [T]he job of the judge is not necessarily to know whether a certain complainant has the right to win his trial, but rather to examine whether the law allows him to do so, within certain rules, and within the framework of a particular competence. Literature moves beyond this framework, asking instead what is 'just', and therefore who ought to win (p. 284).

Modern legal history shows us that conformity to positive laws that are supposed to be just is what prevails in the courtroom. Hence, trials are about proving a case within a given framework, or in Biet's words, trials are about "winning". Theatre encourages a new questioning where the structural boundaries of the law disappear. Additionally, it initiates a quasi-trial where the audience becomes the arbiter of what is just. Therefore, theatre can be understood to help justice in exceeding the limits of the law.

Theatre, and more specifically verbatim theatre, has the appropriate tools to criticize law's hegemony over justice, but it is equally problematic to claim that justice can be exclusively reached through the theatre. First, not all legal norms, institutions or law-related terms *should* be questioned by artists. For example, on a practical level, procedural codes exist to facilitate access to justice and their denouncement would cause confusion and instability. Despite its imperfectness, the law creates a certain order within the society. If theatre – another important regulator of the social life – starts to challenge every aspect of the law and of its conception of the just, then gradually the law will lose its authority. This is a very fine line: theatre

should respect the law to a degree that it can still freely challenge the legal order, while not causing a total destruction of it. Moreover, arguing that spectators or playwrights are the only ones that should be enabled to define the "just" is risky because as Biet reminds us, the masses can easily define justice contradictorily or paradoxically (p. 289).

Second, although verbatim playwrights repeatedly emphasize how this theatrical form leads to *the* truth, it is important to remember that verbatim theatre is subjective, mediated and limited. The main subjectivity of the verbatim plays emerges during the writing process and it is linked to the limitedness of the genre. Sarah Peters (2017) writes that verbatim plays "predominantly focus on the theme of reduction and the process of minimalizing verbatim material into a cohesive narrative" (p. 118). On a related note, Stephen Bottoms (2006) argues that only the plays that accept the fact they are mediated can be successful (p. 63).[15] The excessive claim to authenticity can ironically damage audiences' perceptions of the "real". The playwright must always admit that she is the one who exercises editorial power: she picks a topic, a theme or a point of intervention, then she determines her pool of materials and later begins the process of reduction. These preferences continue in the construction of the performance. For example, in *Deep Cut*, Ralph chooses to voice the James family's concerns and demands instead of those of the other families. In *The Colour of Justice*, Norton-Taylor and Kent prefer to end the play with a minute of silence. Thus, verbatim theatre can only make a claim to *a* truth or *a* version of the just.

[15] Bottoms identifies *The Laramie Project* and *Gross Indecency* by Moises Kaufman as successful verbatim plays since they do not claim to hold the entirety of the events, but rather they represent segments and various personal accounts.

To a certain extent, the re-presentation and the re-situation of the law in a theatrical context offer a rebellious and transformative version of official accounts, which recalls human rights activism. Costas Douzinas (2000) argues that human rights movements always carry a rebellious character against authority (p. 7), he likens this quality to the rebellion against God in the natural law and against the state during the Enlightenment period. Likewise, Hunt (2007) recognizes the turbulent/transformative nature of human rights – she states that the French Revolution brought "an alternative vision of the government", "a new language" to world problems (p. 130). Examining a more recent history, Upendra Baxi (2008) and Samuel Moyn (2010) also acknowledge the oppositional character of the global movements of the late 1970s. Human rights activism does not always have to be in the forms of revolutions or revolts, they can be smaller in their scope or they can be more disorganized. Baxi offers a vague definition for human rights activism: "a set of practices, forms of social action, that engage the 'labour of transformation'". He then continues, "its transformative practices combat human rightlessness at myriad institutional sites and with divergent ideological orientations" (p. 59).

Examined in light of Baxi's explanations, verbatim theatre is a transformative combat against human rightlessness, hence it is a form of human rights activism. For instance, *The Colour of Justice* fights the institutional racism within the police force just like *Deep Cut* fights for the vindication of the right to justice. Verbatim plays advocate, subtly or explicitly, the importance of human dignity, justice, equal worth and equal rights. However, whether the plays succeed or not depends on many factors, most importantly on their power to affect the audience. In order to be turbulent or transformative, a verbatim play needs to create as many points of

interaction with the audience as possible, an issue which I will examine in the following chapters.

Where access to justice and the question of affect are concerned, the issue of subjectivity creates a new barrier for verbatim theatre when dealing with the law, because while the law tries to be an objective mechanism – though it usually cannot succeed – theatre focuses on affect, emotions, as well as personal and collective reactions. In an ideal courtroom, every individual is treated equally; the norms are unique and apply to everyone.[16] But the playwright cannot control many things that directly impact the level of affect between the audience and the play. Plus, the activeness of the spectators determines the visibility of the end results for a verbatim play. Hence, in a way, the suspense built during the play and the question of whether the play *could* create a social change continues even after the lights are turned off.

Finally, one last restraint of verbatim theatre is its relationship to the present: if the verbatim plays are a bridge between the past and the future, what is the role of the present? In this regard, these plays are exceptional, as all three were produced before the cases were concluded. They are about on-going processes; hence their consistency is undetermined. "The counter-argument that has often been made to me" writes Ralph, "is that the story has no ending: we still don't know how they died. And my argument has remained the same: that *is* the story" (italics original, 22). *The Colour of Justice*, *Gladiator Games* and *Deep Cut* do not want "*to reopen trials* in order to critique justice" (italics original, Martin, 2010, p. 22) since they are about continuing and open-ended cases. But this is exactly what they are condemning: the non-accessibility of justice through the judiciary.

[16] Once again, we see how ambiguous the law is: on the one hand, its strictness helps to create an equal, fair and just social order. On the other hand, its inelasticity forces the just within a single definition which might not be suited to each occasion.

CHAPTER 2

VERBATIM THEATRE AS A RESTORATIVE JUSTICE MECHANISM

The argument of this chapter is premised on two observations: First, regardless of how justice is categorized or conceptualized – retributive justice, restorative justice, transitional justice, justice as moral obligation, justice as virtue, justice as fairness – the law does not necessarily equal justice and the judiciary is not the sole medium for accessing justice. In Husserl's (1937) words, "law aims at justice … [but] to act in conformity with law is not necessarily to act justly. Legality is not identical with justice" (p. 273). Furthermore, justice is ambiguous, conceptual and ongoing, and neither institutions, nor concepts and even a definition can capture the "just".

Second, due to this ambiguity, the methods and procedures for achieving justice cannot be uniform. In many instances, formal and/or retributive justice mechanisms fail to capture the complexity of justice, which can necessitate informal and/or restorative justice mechanisms to promote and accomplish justice. Even though an earlier trend tended to position restorative justice as a form of informal justice (Olson & Dzur, 2004, p. 139), today, the main similarities between these two mechanisms are their non-definability and the diversity of the methods used. When examining informal justice, it is necessary to stress the importance of providing a "legal" system to all individuals who cannot normally access a justice system where they are treated justly and equally (FitzGerald, 1984, p. 638). Similarly, restorative justice aims to be as inclusive and humane as possible in order to "[repair] the harm" (Laxminarayan, 2014, p. 12). Literature, more specifically verbatim theatre, holds a significant potential to perform as an informal justice mechanism, as well as a

restorative justice mechanism. Although I believe that the comprehensive and flexible approach that is used by many verbatim playwrights to help victims in accessing justice is undeniably similar to the more unorthodox methods of informal justice, in this thesis, I limit my examination to verbatim theatre's relationship with restorative justice.[17] Nevertheless, it is important to stress that for a verbatim play to be an effective restorative justice mechanism, the play should allow a space for the victim, the offender and the community. As I discuss further in my case studies of *The Colour of Justice*, *Gladiator Games* and *Deep Cut*, the participation of the offenders in the plays and the peace-building process promised by the plays are almost non-existent, which can be cited as the main obstacle for the plays' in achieving their potential as a proper restorative justice mechanism.

In addition, I argue that restorative justice also has its limits. Although it mostly stands on the inherent, intuitive, common notion of justice and promises an all-encompassing approach, it still necessitates a figure of authority to be effective and fair, which invites some crucial questions about its accessibility. Furthermore, as Thom Brooks (2017) argues, restorative justice mechanisms are limited in their applicability, especially when serious crimes are concerned, because of the limited public confidence that considers restorative justice as a "soft" alternative (p. 134). Hence, even when verbatim theatre is regarded as a restorative justice tool, it

[17] In an article on the role of social media as an informal justice mechanism in fighting street harassment, Bianca Fileborn (2016) concludes that "unlike the formal criminal justice system, these are spaces of limited or partial justice, with certain voices projected more loudly than others" (p. 1486). In other words, being a limited or partial justice mechanism, informal justice is particularly favorable when formal justice also remains limited. In many ways, verbatim theatre can be considered as an informal justice mechanism by allowing the heterogeneous body of spectators to confront justice as law with justice as intuition. Also, it allows new voices to be heard which "might otherwise remain outside the normal jurisdiction of legal thought" (Gurnham, 2009, p. 8). Nevertheless, this new narrative carries the risk of being too subjective, so much so that it might compromise justice, which requires equality and predictability.

nonetheless contributes its own limitations to these commonly criticized obstacles of restorative justice.

To this end, in this chapter, I will first try to summarize the theories of justice that help me to develop a more informal understanding of justice.[18] Then, I will examine whether verbatim theatre can be considered or evaluated within any existing types of justice, especially within the scope of restorative justice. Lastly, to better analyze verbatim theatre's peculiarity, I will offer a comparative case study of some substantial problems regarding justice in each of the three cases with their representation and/or resolution in the plays.

2.1 A tentative introduction to justice

Justice has always been central to Western philosophical and political life. In his *Republic*, Plato defines justice as the having and doing of one's own and what belongs to oneself (434a), thus labeling all sorts of excesses and deficiencies unjust. Plato marks justice as a sort of harmony, noting that everything has its own purpose and we should not intervene in this balance. Aristotle examines the term from a more "legal" point of view and says that "all lawful acts are in a sense just acts" (Book V, ch. 1). Since all legislative acts are for the common good, the citizens agree to obey them, because what is lawful is fair and just. So, for Aristotle, justice becomes an essential human virtue as well as an inseparable part of the legislation.

[18] In introducing the notion of justice, I am obliged to select a few key texts that I consider to be most suited to following a certain chronological timeline that led to a significant change in the way we conceive justice. The most important theories of justice that I have left out are the ones that concern social/distributive/economic justice. I should also clarify that to avoid any confusion, I will not be using the term "social justice", but rather the term "public justice" whenever I am referring to a common intuition of justice that presents itself among the masses.

The emergence of written legal codes enforces the link between the law and justice, since the laws explicitly pronounce themselves as "just". The Institutes of Justinian, one of the first attempts to codify Roman law, opens with a definition of justice: "Justice is the *set and constant* purpose which gives to every man his due" (emphasis added, Title I). This definition introduces justice as something "set and constant" while being circumstantial. It then continues, "jurisprudence is the knowledge of things divine and human, the science of the just and the unjust," (Title I.I) thus limiting the just and the unjust to jurisprudence, to the legal realm. Additionally, in identifying justice as a "science", it converts justice into a formula that always gives the same results with the same constituents. Once again, this demonstrates the desire to be "set and constant" which is understandable given that the Institutes of Justinian were created to have a fixed law. What concerns me here is how the established law replaces the unfixed justice, so much so that, the law and justice begin to be used interchangeably.[19]

The concept of justice becomes more and more fabricated as we advance into modern legal history. After discussing in depth David Hume and John Rawls' theories of justice, Brian Barry (1989) concludes that for both writers, justice is a human creation (p. 152). However, the human agency of justice involves several risks: first, as Barry acknowledges, human-made justice can be "well or ill" (ibid).[20] Second, when an individual or a group of individuals design justice and its limits, it involves the risk of being discriminatory and restricted. Especially when the law

[19] The Title I is entitled "Of Justice and Law". It introduces an extensive understanding of the law. It talks about the "study of law" which consists of public law and private law while listing the "precepts of the law" which is "to give every man his due". It is not clear from the article whether justice is a precept of the law or whether the law is a precept of justice.

[20] I am not suggesting that non-human-made justice, in the form of eternal or natural justice, is always good. Nor am I arguing that non-human-made justice is better than human-made justice. But I believe that we must be wary of justice's multi-dimensional and complex structure while creating or conceptualizing it.

replaces justice, its scope narrows. Lastly, the question of who receives the authority to declare just and unjust behavior deserves some attention of its own. Husserl (1937) argues that if a person who claims to identify the just "has already an established authority, the community will accept the validity of his decision" (p. 285). Lawmakers and judges are good examples of this recognized authority.

Nevertheless, the ambiguity of justice allows it to surpass these human-made limitations. In other words, simply because an issue is not included in the sphere of human-made justice, it does not necessarily have to be excluded from justice's sphere altogether. Barry's following illustration of this issue is significant: racial discrimination is unjust, and we do not need specific legal codes to recognize this fact, because they find their place in the core of the abstract principle of justice, which encapsulates liberty, equality, fairness and opportunity (p. 292). Therefore, in the simplest terms, it is possible to identify two types of justice, intuitive and constructive justice, respectively: the first type is more extensive, abstract and inherent, yet it is shared amongst the members of a given society. The second, however, is rather imposed; individuals do not participate in its creation, but it constructs and guarantees certain standards and principles in a given society. Intuitive and constructive justice do not contradict but complement each other since both have important disadvantages. Intuitive justice idealizes a society where each individual is competent to balance all factors in order to arrive at a just and fair conclusion, while constructive justice ignores plurality by defining justice with an outer authority who gets to make the rules.

Both justice as intuition and justice as law face an additional limitation: legal acts should respect a certain procedural measure to be just, which requires a larger sense of protection and intervention. For Husserl (1937), the designation of

procedural rules means that the legal community “no longer . . . assume an attitude of passivity intervening only when the doer breaks the law” (p. 294). “A practice is just,” writes Rawls (1957) “when it meets standards which the parties could accept as fair” (p. 659). Justice is not only concerned with the outcome of a given legal question; it also puts an emphasis on process. The judiciary, its Code of Procedure and the right to access justice are the more explicit and direct result of this desire to control both the methods and the outcomes of the law. What I find problematic is the deduction that the judiciary, as the emblematic just institution, would always be just and fair. Similarly, Barry notes that some institutions are always just such that nobody could deny the principles on which they are based, yet, not all out-comes arising from their operations are fair (p. 318). Hence, the judiciary claims to be just on both a procedural and a definitive level, but its justness is not a given fact.

Where restorative justice is concerned, it is impossible to deduct a single procedural justice that binds all restorative methods. Since the non-uniformity of restorative methods can easily locate restorative justice within the public and/or private authority, the theory of restorative justice falls short of explaining the link between justness and fairness. This point emerges alongside the question of authority related above. At the same time, justice always requires equality and predictability, hence although restorative justice can “[be] disconnected from state power, nonbureaucratic [and] decentralized” it still requires “flexible (or unwritten) substantive and procedural rules” (Abel, 1982, p. 4).

2.2 Punishment, rehabilitation and forgiveness: The role of verbatim theatre

The Colour of Justice, *Gladiator Games* and *Deep Cut* rely on an individual case to illustrate a public problem in order to open up a space of dialogue between a wide range of actors. Situated within the public domain, theatre enjoys the convenience of being able to examine different social issues in relation to others. Yet, this is also a responsibility, since theatre possesses the capacity to create a communal feeling like anger, sympathy, empathy, frustration, and sadness. In the three plays, the playwrights desire to communicate with the audience through the demonstration of a shared dissatisfaction. The plays are a mutual complaint against the fundamental institutions of British society, namely the judiciary, the police and the army.

With the ultimate goal of surpassing individuality, the plays benefit from two main sources: the emotionally loaded statements of the "victims" and the publicly available legal and/or political materials. Through combining these two different streams, the plays invite a fictional or real dialogue. What is remarkable is the inclusivity of this dialogue: it can occur in an unlimited manner between affected parties, including the spectators, and about a wide range of documents/institutions.

The plays allow the audience to ponder and to pronounce on a matter that directly or indirectly impacts them. More importantly, the playwrights trust the most-affected parties to conduct the dialogue. For example, for years, *The Colour of Justice* toured London's surrounding neighborhoods with the hope of getting in touch with as many individuals as possible who had also faced institutional racism. Not so interestingly, the plays never focus on the individual trials of the perpetrators, they mostly incorporate the proceedings of the public inquiries or reviews that also address a communal problem. Instead of repeating the official legal language where

only a limited number of individuals are allowed to speak, the plays encourage an extensive and heterogeneous process of deliberation.

As a consequence, gathering the audience around a communal feeling, allowing a multilateral dialogue and pursuing a sense of public justice through individual cases become central to *The Colour of Justice*, *Gladiator Games* and *Deep Cut*. These goals are also shared by restorative justice mechanisms. To that end, the similarities between verbatim theatre and restorative justice are uncanny. Although restorative justice does not have a widely accepted definition, nor a consensus about its methods or goals, Feather, Wenzel, Okimoto & Platow (2008) define restorative justice as "the repair of justice through reaffirming a shared value-consensus in a bilateral process" (p. 375). This definition reveals three important aspects of restorative justice: first, the definition asserts its fluidity: since what is a shared value in a society would depend on many factors – cultural, temporal and geographical – the objectives and aspirations of restorative justice would also be circumstantial and heterogeneous. Second, restoration is a method to "repair" justice.[21] As opposed to retributive justice, restorative justice is rooted in the fact that punishment might not be sufficient, hence it prefers other methods such as healing the victim and communities and undoing the hurt (Feather, Wenzel, Okimoto & Platow, 2008, p. 376).

At first sight, these methods seem highly vague and almost primitive. What might it mean to heal the victim? How can an outer authority undo the hurt of a past crime? The answers to these questions remain unclear. But restorative justice's third quality is that it is "a bilateral process", thus, theoretically, the perpetrator is forced

[21] "What is actually restored in restorative justice?" is a commonly asked question in the literature of restorative justice. Do the methods serve to restore "justice" as the name suggests, or rather a sense of common belonging and communal peace?

to "do something for the victim" (p. 377) and the victim can agree to accept or to decline that offering.[22] Although the victims are generally encouraged to accept the apologies of the perpetrators, they still have a more active role than in retributive justice systems because restorative justice aims for their emotional satisfaction. Moreover, the individual satisfaction of the victims is used as the main instrument to achieve social reconciliation. As a result, restorative justice is both more individual and more communal.

Like verbatim theatre, dialogue between different parties is essential to restorative justice. Clark (2008) argues that it is impossible to find a uniform meaning for restorative justice, beyond the fact that it always aims for reconciliation and that reconciliation is only possible through "an exchange of truths" (p. 335). Each side must present its own truth knowing that their version also deserves to be heard. Similarly, Feather, Wenzel, Okimoto & Platow consider dialogue as the core of restorative justice, noting that even the symbolic exchange of apologies forms a dialogue on its own (p. 377). As seen in South Africa's TRC, restorative justice opens a dialogue between the victims, not only the victim of that specific case, but a larger body of victims who witnessed similar problems, including the perpetrators, the legal authorities[23] and the public. Plus, the TRC Report (1999) confirms that the experience of victims is central to reparation, healing, harmony and reconciliation (36). Hence, restorative justice aims to directly include the affected parties in the justice process (Feather, Wenzel, Okimoto & Platow, 2008, p. 376).

[22] Generally, the offender is obliged to apologize and to show remorse, in order to demonstrate that they accept accountability for their actions and that they want to repair the harm they have caused. In reply, the victim is expected to accept the apology and make peace with the offender. They are expected to overcome their resentment, which invites a new debate about agency.
[23] The TRC consisted of a heterogeneous body of legal authorities. The traveling "judges" were a mixed group of lawmakers, real judges, lawyers, religious and political representatives. As far as Husserl's authority criterion is concerned, it is not clear whether this body of decision-makers have the unquestionable authority to pronounce justice.

Restorative justice recompenses the incompetence of retributive justice in some criminal cases where the publicness is so pervasive that they require a certain purification from the violence and a social liberation, instead of a punishment. In her book *The Juridical Unconsciousness*, Felman (2002) gives two major examples where retributive justice was not enough: the Eichmann trial and the O.J. Simpson trial.[24] She argues that the great catastrophes and the collective traumas of the twentieth century required legal justice to respond differently, to a degree that justice and the law became the most appropriate, most essential and most meaningful response to the violence (p. 3). Moreover, Janine Natalya Clark (2008) argues that criminal trials are a way to individualize guilt but that sometimes justice can only be achieved through cultural and collective representation (p. 333).

Retributive justice and punishment, however, remain the most applied instrument of justice in the Western criminal justice system. Feather, Wenzel, Okimoto & Platow (2008) define retributive justice as "the repair of justice through unilateral imposition of punishment" (p. 375). If the offender violates rules or laws, they must be punished. The extent of the punishment should be appropriate to the crime, through which the damaged balance will be once again restored (p. 43). Retributive justice is not a recent invention, it is a variation of the ancient notion of justice as repayment or as revenge (Gurnham, 2009, p. 39). What is more recent, however, is its confinement to the domain of the state. Especially where criminal justice is concerned, individuals must bring their cases before state authorities, since it is accepted that the detrimental action is a threat against the common peace. For example, although a revenge murder might restore a certain inner balance between

[24] The O.J. Simpson case has a strong resemblance to the Stephen Lawrence case. They both receive huge media attention. They both expose the race relationships in their respective societies and the potential institutional racism amongst various state institutions.

the parties on the most primordial level, it still threatens the social balance, and for this reason, the state still holds the authority to punish both the first and the second crime.

The state's authority over justice assumes that justice is done once the punishment is imposed. This is problematic, because it leaves unanswered the question of what happens when the punishment is not "just". Plus, it risks disregarding the necessity of rehabilitation. To this end, David Gurnham (2009) argues that what differentiates today's justified punishments from early day executions is the belief that the individual offender remains – or at least has a potential to become – a member of the political community (p. 88). Thus, for Gurnham, retributive justice always carries a sense of rehabilitation. I would argue that although this might be the ideal of modern justice systems, in practice, this is usually not the case and *Gladiator Games* is a powerful example to show how rehabilitation does not always accompany punishment.

Overall, how do *The Colour of Justice*, *Gladiator Games* and *Deep C*ut interact with justice? The plays have distinctive and particular relationships with different types of justice. For instance, while *The Colour of Justice* praises retributive justice, *Gladiator Games* is an ardent critic of it. My main question, however, is whether or not the plays can be considered as a method of restorative justice. Certainly, theatre cannot serve as a retributive justice mechanism: it does not have the authority to legally force a punishment, or any measure. What theatre can do is to point out retributive justice's failures and to create a public awareness about them with the hope of achieving a "better" future. Yet, the plays have the option of

imagining this future through retributive and/or restorative justice.[25] For example in Zahid and Cheryl's cases the offenders are countless: Zahid and Cheryl die as the result of a communal guilt, and *Gladiator Games* and *Deep Cut* acknowledge that retributive justice would fall short in redressing that loss. Thus, the plays do not only hold the potential to act as a restorative justice method, but they can also address other justice-making instruments.

Theatre can be likened to restorative justice especially as far as their goals and inherent publicness are concerned, yet, their methods and outcomes are quite different. At first sight, it is dubious whether verbatim theatre truly emerges from a bilateral dialogue. Although verbatim theatre is powerful to initiate a further dialogue between different actors, the playwriting process is more subjective and limited than traditional restorative justice methods. For Laxminarayan (2014), restorative justice is always a form of "intervention", "communication" and "mediation" between the parties in the presence of a third party "facilitator" (p. 17). In my opinion, in *The Colour of Justice*, *Gladiator Games* and *Deep Cut*, the playwright is a third party "arbitrator", but she is neither objective nor inclusive. Plus, the theatre-making process is strikingly unilateral, it does not allow for a genuine "exchange of truths", in fact the playwrights want to establish a monopoly. For instance, Norton-Taylor's emphasis on truth and his insistence that his plays lack any "formal" orientation show his desire for unilateral meaning-making. In addition, although Laxminarayan softens the requirement for a facilitator stating that indirect participation is also acceptable (p. 17), none of the playwrights try to get in touch with the perpetrators. Once again, this leads to a fundamental question: who is the perpetrator in these three cases? Is it the state agents or the actual murderer or both? However, the playwrights

[25] I will be returning to this issue in regard to each play in the next subsection.

do not conduct a real conversation with either of these parties. There are some instances in the plays where the offenders are in conversation with the victims, but they are mostly imaginative or arranged in a way to create a seeming-dialogue. What is missing in these "dialogues" is that they could never offer an authentic healing, unless the offender does something for the victim, as in the traditional restorative justice instruments. For example, in an opinion piece, Des James states that the theatre makers repeatedly invited the authorities to watch the performance, but they never came.[26] In other words, *Deep Cut* wanted to initiate a more authentic dialogue with both parties present where the offender would perform in a certain manner, but because of the offender's unwillingness and the play's lack of authority, it failed.

More importantly, what is paradoxically different and yet similar in verbatim theatre and restorative justice is their potential for future-making. While our plays aim to disturb the audience, restorative justice is designated to create a more peaceful and harmonious future. In that regard, restorative justice shares the same illusion with retributive justice: it believes that at the end of some gatherings, which might be similar to a trial or to a play, individual and public wounds would be healed. Considered in line with the fact that transitive justice generally accompanies restorative justice, the urgency of building a society at peace is compelling. These plays, on the contrary, aspire towards an uprising. By transmitting the words of a rather unheard group, the plays invite the spectators to respond. Although at first sight, the plays' call seems to be contentious, in the long run, they are also for the common good. Hence, *The Colour of Justice*, *Gladiator Games* and *Deep Cut*, as the initiator of a far-reaching activism or as an element within the larger frame of their

[26] Retrieved from: https://www.theguardian.com/commentisfree/2009/apr/01/deepcut-inquiry-play-philip-ralph

respective real cases, still pursue a form of public harmony. In that regard, the plays can be considered within the theoretical approach that conceives restorative justice as a process, rather than an outcome, where the main aim is to "initiate and encourage a process after which communal healing and improvement will occur" (Diaz Gude & Navarro Papic, 2018, p. 5).

2.3 Case studies

Since the real-life cases of Stephen, Zahid and Cheryl invite many questions about the functioning of the judiciary and the relationship between formal justice mechanisms and the ideal of justice, *The Colour of Justice*, *Gladiator Games* and *Deep Cut* benefit from a very rich pool of materials about legal deficiencies. Overall, the plays interact with justice differently, stressing justice's fluidity and shapelessness. Neither the victims nor the playwrights seek revenge; they aspire to create a transparent, fair and predictable medium for accessing justice. Nonetheless, the plays' calls for public inquiries, personal convictions or institutional investigations are in a way ironic: the playwrights solicit formal justice through an informal mechanism, verbatim theatre. By doing so, they demonstrate the difficulty of determining the boundaries within justice. Ultimately, no matter how justice is defined or conceptualized, it always crosses frontiers and interacts with different domains.

In that regard, for the case studies of the plays, I will examine two main questions: first, how do the plays interact with justice? What idea of justice do the plays aspire to? Do the playwrights imagine the plays to be a step in the service of formal justice mechanisms? Then, related to this, I will move on to my second

question: can the plays, on their own, become a restorative justice mechanism? What kind of dialogue do the plays allow? Do they strive for public harmony, or a total uprising against the status quo?

2.3.1 *The Colour of Justice*

Starting with its title, *The Colour of Justice* interprets justice ambivalently. On the one hand, it focuses on the court proceedings, rather than the outcomes or the reflections of the legal process. The play re-presents the procedural justice, but rather than focusing on a specific trial that followed Stephen's death, it centers around the public inquiry. This is an important choice because all of the trials and investigations prior to the public inquiry damage procedural justice. The initial investigations and hearings are flawed to such a degree that they violate the victim's access to justice. But as far as the procedural methods are concerned, the public inquiry (for which, in all three cases, the families fight) is the most just and fair of all formal justice mechanisms.[27] Norton-Taylor's decision to focus on the public inquiry and to title his play "*The Colour of Justice*" shows his desire to appoint the public inquiry as the symbol of a just process.

On the other hand, the Stephen Lawrence Inquiry cannot offer any direct outcomes, either just or unjust, and justice remains an unresolved issue that the play

[27] Another important question that emerges throughout this thesis is where to position public inquiries in the traditional schema of justice mechanisms. Although an analysis of the role of public inquiries in the UK's legal and political system exceeds the limits of this thesis, I cannot ignore their uniqueness since they are central to Stephen's, Zahid's and Cheryl's cases, as well as to the plays. As I will discuss in Chapter Three, public inquiries' resemblances with theatre and TRC hearings are remarkable. However, normally, public inquiries are chaired by the representatives of the formal justice mechanisms, such as high court judges, and they directly impact and change the course of any other trials related to the same issue. Generally speaking, I believe that public inquiries are situated somewhere in between formal and semi-formal justice mechanisms, and between retributive and restorative justice. Especially when their methods are examined, they are more supple than traditional trials.

acknowledges. This results in a certain ambiguity: if Norton-Taylor names the Inquiry, a procedural step along a very lengthy legal route, as justice, then can we contend that justice is not achieved? Returning to my initial question, is justice the sum of just procedures and outcomes, or can only just procedures and just outcomes be labeled as justice? Although the play does not provide a direct answer to these questions, I would argue that it represents justice as a very formal, constitutive and retributive system. In the play, the judiciary is the *sine qua non* of justice. Before the closing statement of Sir Macpherson, the play ends with the following words:

> I conveyed increasingly desperately my views, to try and stop this [private] prosecution going ahead, not for improper motives but because I feared what would happen, that we would never get justice (p. 401).

These are the words of Mr. Youngerwood, the then Crown Prosecutor who is a representative of the formal justice mechanisms. Norton-Taylor prefers to end his play with his words, which criticize private prosecution, a semi-formal justice mechanism. Mr. Youngerwood, and Norton-Taylor convey the idea that these unconventional methods damage justice, that they do not have the authority to restore it, and that they might even prevent justice. When examined from Norton-Taylor's point of view and his ambition to reveal what is just and true through the play, this choice of ending is puzzling. If private prosecution, a method that is established and allowed by the law, cannot make a claim to justice, then how can *The Colour of Justice*? Moreover, the closing statement of Sir Macpherson indicates that "the future holds much activity and much work still to be done" (p. 401). Ironically, the play is one of these activities, yet it believes that justice will come through the judiciary.[28]

[28] Nevertheless, the play's fixation on formal justice is understandable since the known perpetrators are at loose and theatre does not have any appropriate tools to summon nor punish them. At the time *The Colour of Justice* was published, the perpetrators had not yet been punished, and the institutional deficiencies were not formally recognized, expect for the Inquiry.

The order of the statements in the play emphasizes the importance of retributive justice. The three last statements belong to Jamie Acourt, one of the perpetrators, Howard Youngerwood and Sir Macpherson. Jamie Acourt's statement can be considered as the climax of the play. On the one hand, his apathy and recklessness provoke anger amongst the audience, which invites affect and empathy, and as a result, a more intuitive and public justice. On the other hand, by including a perpetrator's statement in the play and by placing it towards the very end, Norton-Taylor encourages unilateral formal punishments. Sir Macpherson notes that public inquiries aim to be as bilateral as possible, almost like a restorative justice mechanism. Although Jamie seems to actively participate in the justice-building process, his answers to questions are brief and disinterested. In this way, Norton-Taylor shows how the Inquiry's desire to be bilateral remains ineffective and he urges audience members to demand a more traditional form of justice. However, the way *The Colour of Justice* accentuates retributive and classical justice invites a new discussion about whether restorative and informal justice mechanisms are secondary.[29]

Unlike *Gladiator Games* and *Deep Cut*, *The Colour of Justice* directly engages with and encourages formal justice mechanisms and retributive justice, which, at first, seems to diminish the play's possibility to be considered as a restorative justice mechanism on its own. Nevertheless, I argue that *The Colour of Justice* is a great example of the bilateral interaction between retributive and restorative justice. Just like the non-conflicting alliance between informal and formal justice, what is essential in the play is to access justice, and as long as it helps the

[29] Philip Ralph's and the James' family's answer to this question would be negative. This issue will re-emerge in my discussion of *Deep Cut*.

victims, any type of justice is embraced. To that end, the plays open up a space of dialogue between the victims and the formal justice mechanisms that are represented as both the ex-villains and future-saviors. Moreover, in the play, there is a wide range of characters from each "side" that are constantly in conversation with each other under the supervision of Sir Macpherson and also of Norton-Taylor. Consequently, *The Colour of Justice* performs as an informal pressure tool against formal mechanisms and it establishes that the restoration of justice would come through retributive justice.

2.3.2 *Gladiator Games*

Gladiator Games portrays a legal case where the culprit is known and sentenced to life for murder, but the case is so communal and crucial that this unilateral punitive measure does not suffice to restore justice. The incarceration of Robert Stewart fails to achieve justice, because it does not provide an opportunity for public healing and reconciliation: due to the fact that Stewart is identified as Zahid's murderer, the institutional deficiencies and the malpractice of the officers unintentionally aid and abet him. The accountable officers are not tried, resulting in a partial retributive justice. Thus, in Zahid's case, the personal punishment of the murderer does not ensure the prevention of further violence, or the establishment of public justice.

In contrast to *The Colour of Justice*, *Gladiator Games* does not consider justice as the ensemble of the judiciary and the laws for a clear reason: the formal and retributive justice mechanisms fail the Mubarek family.[30] Overall, retributive

[30] My goal is not to reduce the victim to the Mubarek family; I believe that the publicness of such a case does not allow naming a single victim. However, *Gladiator Games* emphasizes that the victim is

justice manifests itself in two different occasions in the play: first, the stabbing occurs in the prison where two "criminals" are serving their sentences. And second, the play is written as a response to the impunity of the "accomplices", thus it criticizes partial justice. In both instances, the play demonstrates how formal instruments are not the absolute keys to justice and beckons a more public and intuitive justice.

"Does prison work?" asks Gupta in her Foreword. The play's answer is a definitive no.[31] From the first instance, Zahid is represented as a nice youngster who made a small mistake which sent him to prison. Zahid's offence is repeated a few times in the play, always followed by a statement objecting to the disproportionality of the crime and the punishment. In Imtiaz's opening speech, Imtiaz says "nobody understood why he got sent down for what he did. It was, it was a shock" (p. 14). Later on, Mr. Suresh compares Zahid and Stewart's charges/convictions and concludes that although Zahid's conviction was only for petty crimes, he was treated far more harshly than Stewart, who committed numerous felonies (p. 79). Therefore, the play installs distrust with punitive justice from the very beginning by highlighting Zahid's personality and his "unjust" conviction.

Moreover, Gupta's Zahid is ready-to-learn from his past mistakes, he is almost naïve to believe that his time in prison has rehabilitated him. Gupta imagines a final visit between Zahid and his parents two days prior to his release, during which Zahid promises to be a better man:

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the family, more precisely it stresses that it is the Mubarek family, not the Muslim or the Asian community, who fights for justice. Although I find it controversial, I will try to elaborate on Gupta's position.

[31] As far as the Zahid Mubarek Inquiry is concerned, I think that Justice Keith strongly believes in the power of incarceration. Although he acknowledges that the prison service needs some fundamental improvements, he still considers it as the embodiment of justice.

> Zahid: Can't wait dad. Can't wait. Be so nice to get out of here. I'm gonna get a job, sort myself out, you'll see, You'll be proud of me.
> Sajida: We are always proud of you… this is just…
> Amin: You slipped up Zahid. Things are gonna be different. We'll see you right . . .
> Zahid: I'm sorry dad, mum. I'm sorry about all this stuff I put you through.
> Amin: As long as you've learnt your lesson (p. 64).

In this excerpt, Gupta creates an illusion in which Zahid emerges as both the exemplary rehabilitated "criminal" ready to re-enter his community and as emblematic of how rehabilitation and healing are just mere ideals, since even a willing and remorseful individual fails to realize his goals. Accordingly, in her Foreword, Gupta addresses this problem when she asks, "what are we doing as a society when we are sending children and young people to prisons without giving them the means to change, to educate themselves, to rehabilitate" (pp. 3-4). She observes how rarely the word "rehabilitate" is used during her interviews with prison officers and how the authorities try to alienate the prisoners from the rest of the community (p. 4). And in the play, these failures are visible both at a personal and at a public level. As Nick Moss (2006) states, the Prison Service not only fails Zahid "by rendering him vulnerable to attack by a young racist with a history of violent attacks", but it also fails Stewart "by not identifying his health care needs, and by failing to recognize the risk he posed" (p. 146). Overall, this creates a public failure: the sole motive of prisons becomes to separate prisoners from law-abiding citizens, and eventually the public forgets that "prisons are also a public service" (Gupta, 2005, p. 4).

Importantly, *Gladiator Games* is comprehensive in its vision of restoration and reform, emphasizing the improvement of prison safety (Gupta, 2005, p. 42). This is rather particular, as unlike the retrospective aspect of retributive justice, the play

focuses on the future common good. [32] The play uses Zahid's case as an emblematic illustration of institutional racism and the deficiencies of the punitive justice system. Although Scene 2 of Act 2 is only reserved to an imaginary dialogue between Zahid, Stewart and Jamie, another inmate, on the night of the stabbing, the play does not address the particularities of the relationship between Zahid and Stewart. The dialogues, here, have an important potential to become a conversation where both parties describe their stance and where the audience performs as the judge. Yet, the scene cannot go any further than a mere account of the events: at its best, it demonstrates Stewart's madness and cruelty by representing Stewart's groundless accusations toward Zahid for moving his radio by one inch (p. 62).

Nevertheless, in order to perform as a restorative justice mechanism, the play should instigate a dialogue between the victim(s) and the state agents, because in the traditional sense, Stewart is already punished and retributive justice between Stewart and Zahid is already established. To that end, the re-enactment of the apology of the Director General of the prison service to the Mubarek family is appealing. Originally, Mr. Narey apologizes to the family by letter, but Gupta transforms his textual utterances into a dialogue that occurs in the hospital. Mr. Narey writes/says: "You had a right to expect us to look after Zahid safely and we have failed. I am very, very sorry" (Gupta, 2005, p. 20). To which Amin responds: "'Sorry' doesn't come into it, does it?" (ibid). In short, Gupta acknowledges that the authentic healing should be between the state officials and the family and she imagines her play to act almost like a restorative justice instrument, through the dialogues and the hope for a better future.

[32] I do not think this is a definitive distinction between retributive and restorative justice but generally, retributive justice aims to punish prior crimes, while restorative justice acts for a better future.

In conclusion, Gupta reveals the insufficiency of prisons in particular, and retributive justice mechanisms in general, to construct justice. In the play, she reserves a lengthy space for Colin Moses' insights on and criticism of the judiciary and the prison service. Moses marks that "half a million people pass through the court system. This is a sausage factory industry" (p. 34). The judiciary has a heavy workload and as a result, it prefers to systematize and standardize the trials, automatically assigning the same punishments for the same crimes. By doing so, it neglects the circumstantial and fluid nature of justice. In other words, it disregards justice to provide faster and less diversified results. As a consequence, the judiciary becomes a "business", rather than the guarantor of justice. At the point where formal justice is insufficient/inaccessible, *Gladiator Games* emerges as an alternative method for the restoration of justice and rehabilitation. Through imaginative or mediated dialogues, Gupta manages to bring the victims and the perpetrators face to face. Furthermore, the play makes a call for an ameliorated future where state institutions are more just, fair and efficient.

2.3.3 *Deep Cut*

Deep Cut calls for a shapeless and idiosyncratic justice since traditional justice mechanisms and concepts are unsuitable for Cheryl's case. Since it is unclear whether there is an actual murderer or not, in this case retributive justice is irrelevant. Moreover, public healing and a fruitful dialogue between the victim and the perpetrator are inaccessible, not because the "victim" is dead, but because no one can name a specific perpetrator, in Ralph words, it is the state, including "the government, the MoD, the police, the army and the judiciary" who breaks the just

and fair balance (p. 19). Hence, the play instead of pinpointing what is justice, exposes injustice. “Injustice is signified by the imbalance of the measure,” writes Gurnham (p. 43). The Army holds all the evidences, plus, as a state institution, they have “unfettered access to the loudest possible megaphone” (Ralph, 2008, p. 23). This disproportionality and unpredictability block the James family from accessing justice, they cannot gather the necessary evidences, nor they can force the judiciary to punish public officers without the Army’s authorization. Thus, justice as balance is not available in Cheryl’s case.

More importantly, the play tries to consider the repercussions of Cheryl’s case beyond the personal crimes/criminals, framing it as the mirror of a society where “no institution emerges untainted” (p. 22). In many instances, Des James says that it does not matter whether Cheryl’s death is ruled a suicide or not (p. 79). Similarly, in his Author’s Note, Ralph determines two main questions that remain unanswered: how and why did the Deepcut Four die? (p. 19). At first, this questioning points at the institutional failures of the Army. And then, since the judiciary was unable to produce adequate answers for over a decade, it shows how “unjust” the formal justice mechanisms can be, thus demonstrating that the laws and the judiciary are not always the promoters of justice.[33]

Regardless of whether Cheryl’s death was self-inflicted or not, *Deep Cut* cannot surpass the desire to validate and affirm Cheryl. Fileborn (2016) argues that validation, affirmation and the individual voice are central to and crucial for justice (p. 1491). Alongside many other issues, the Blake Review fails to bring justice because it puts the blame on Chery; it is personally derogatory. Furthermore, its

[33] For a more detailed analysis, see Chapter Three.

gender bias is demonstrated by the fact that it is minutely focused on Cheryl's love affair but reserves only a few sentences as to why she was alone on guard duty. *Deep Cut* immediately represents Nicholas Blake and his Review as one-sided and unjust by choosing Blake's first words about Cheryl as following:

> Cheryl James dies on lone guard duty. She had personal problems in her private life to resolve. There is an absence of any reason why this popular young woman would be the subject of attack and a complete absence of any evidence of any sort undermining the more probable hypothesis of self-harm (p. 36).

While the Review blames Cheryl, Ralph wants to vindicate her. First, he portrays her as a person "who giggles, was loud, smiling, laughing, joking" (p. 36).[34] Ralph even cherry-picks Blake's words in a way that renders Cheryl's qualities into facts. Blake remarks that "although all those who came into contact with Cheryl describe her as a happy, bubbly and fun-loving person, many of her friends note that there was a more fragile, vulnerable side to her personality" (p. 48).[35] Ralph then makes sure that her experience and troubles are taken seriously and recognized by a wider public. While doing so, he not only appeals to Des and Doreen's memory, but also to the statement of a former recruit in Deepcut. Jonesy reminds the audience again and again of the harshness of conditions in both Phase One and Phase Two of the training (p. 42, 45). Plus, Ralph even provides further proof of "bullying, sex, drink and the flouting of rules" within Deepcut (p. 46). To sum up, Ralph considers validation and affirmation as one of the constituents of justice, and to that end, he illustrates the Blake Review's bias and the reasons why it cannot be considered as just and introduces Cheryl as positive and optimistic and her living/working conditions as horrible.

[34] Unlike Tanika Gupta, here, Ralph does not imagine a Cheryl, he transmits the words of her parents and friends.
[35] In the Review, Blake then continues: "there appear to have been various manifestations of unhappiness in the ten days before her death" (6.15).

In *Deep Cut*, it is not always clear whether Ralph wants to ease the James family's pain or whether he imagines the play to be a public disturbance and/or a vehicle for community healing. The play's relationship with the public/private distinction is important especially when its potential to be a restorative justice mechanism is examined. On the one hand, Ralph dedicates his play to the families of the Deepcut Four "who continue to fight for answers, justice and closure" (p. 15). He wants the play to "bring them peace" (p. 24). On the other hand, he writes that "the story of Deepcut is the story of your army, your government and your country. And we all deserve better" (p. 24). In other words, *Deep Cut* asks communal questions and strives for public advancement, and, in order to do that, similar to the TRC hearings, it begins with an individual and personal case. In that regard, the play bears a strong resemblance to restorative justice mechanisms: it initiates a public dialogue through personal stories. Furthermore, the voice of the victim is dominant in the play. Even though Ralph sometimes inadequately limits the victim, and the narrative, to the James family, overall, the play successfully dismantles a broader group of victims. Through witnessing Cheryl's story, the audience realizes their own victimization, and ultimately, they start to demand better institutions, more fair codes or a more just judiciary.

However, the play is not a restorative justice mechanism per se, because it focuses on revealing justice's insufficiency, instead of its restoration. Essentially, it does not matter whether *Deep Cut* is a personal eulogy or a public invitation for change, or both, because its central focus is to reveal multi-layered injustices. Although Ralph does his best not to equate justice with any formal justice mechanisms, Des James associates public inquiry with justice: "There's no divine right for justice in this country . . . I really did think in the beginning, I thought a

public inquiry was a formality. How wrong can you be?" (p. 79). Des's statement is deceiving: Deepcut is not unjust because the families were denied a public inquiry, but because the just institutions that ought to have been transparent and accountable failed.[36] As a result, *Deep Cut* functions as a space of deliberation and of a possible revolt by inviting the audience to realize the unjustness of the state institutions and their own victimhood.

2.4 Conclusion

The law can be a tool, in fact the most popular one, to construct justice, however, it cannot guarantee justice. As Husserl (1937) argues, all legal notions make a claim to justice, but they are not always just. Justice often surpasses the limits of the law, of legal institutions and of the individuals charged with delivering just outcomes. In many instances, justice becomes intuitive, circumstantial and public. In times when formal justice mechanisms fail or fall short of delivering justice, informal justice must be encouraged – not as the counterpart of formal justice, but as its companion.

The Colour of Justice, *Gladiator Games* and *Deep Cut* interact with justice on different levels but their role as a restorative justice mechanism, mostly, remains limited. While *The Colour of Justice* seeks retributive justice where the known perpetrators would receive punishment, *Deep Cut* exposes injustice and shows the unavailability of the traditional justice methods in Cheryl's case. Amongst the three plays, *Gladiator Games* is the most advantageous one to perform as a restorative justice instrument, because the murderer is already punished, but the facilitators are

[36] As I have previously mentioned, the judiciary is the just institution par excellence. However, on an ideal level, all state institutions should be just because they are regulated by "just" laws.

not. Hence, the play criticizes justice for being solely retributive and searches for a new space of interaction where rehabilitation and communal healing are possible. The dissimilar interactions between the plays and justice, once again, show justice's formlessness and fluidity.

CHAPTER 3

VERBATIM THEATRE'S REPRESENTATION OF JUDICIAL FAILURE

In this chapter, I examine Richard Norton-Taylor, Tanika Gupta and Philip Ralph's shared criticism of the functioning of justice and the judiciary in regard to the real cases of Stephen Lawrence, Zahid Mubarek and Cheryl James. My specific goal is to ask whether the plays' commentary on access to justice help them to better function as a restorative justice mechanism. The issue of whether theatre can be an efficient tool of access to justice is convoluted. However, theatre's capacity to show the deficiencies of the law and of formal justice mechanisms by offering a "focused summary" of a particular social problem locates verbatim theatre as a possible lieu of new alternatives. My suggestion is that by demonstrating the corruption within the law and the judiciary and by pointing out how theatricalization alienates formal justice from itself, verbatim plays can act as a medium to access restorative justice.

In that regard, the most powerful and deceptive tool in the hands of verbatim playwrights is editing. In the text-building process, the playwright decides what goes into the text and in which order; she is also responsible for envisioning the effect and affect of the play on the audience. Another method that Richard Norton-Taylor and Philip Ralph use extensively is the personification of state institutions, a process whereby certain individuals replace and represent these institutions. The audience thus apprehends these institutions through the playwright's imaginary personification. For example, in *Deep Cut*, Nicholas Blake symbolizes the judiciary, and he is introduced as the villain of the play. In *The Colour of Justice*, on the other hand, Sir Macpherson, who symbolizes justice rather than the judiciary, serves as the

voice of reason. Additionally, for the staging, the director and the editor promote the playwright's vision, and they determine the best way to influence the spectators and involve them in the justice-making process.[37] Overall, in *The Colour of Justice*, *Gladiator Games* and *Deep Cut*, the plays' complicated and intertwined relationship with the law and justice allow the playwrights to become competent critics of these "just institutions".

In this chapter, I will first discuss how over-theatricality might block formal justice mechanisms from accessing justice. Then, I will examine how theatre can expose the weakness of the relationship between justice and the law, especially in "generic" and public cases, and how this denunciation might help verbatim plays in promoting restorative justice. Lastly, I will focus on the use of editing and of personification in *The Colour of Justice*, *Gladiator Games* and *Deep Cut* to demonstrate how the playwrights unmask the substantial problems related to access to justice in the real-life cases of Stephen Lawrence, Zahid Mubarek and Cheryl James.

3.1 Law and theatre in exceptional times

In terms of their respective modes, ideals, methods and intended audiences, law and theatre have a lot in common. I argue, however, that this similarity exposes the limits of the law: the more the law is likened to theatre, the more it becomes alienated from itself and becomes an undetermined, ambiguous spectacle. It is precisely when the theatricality of the law becomes visible that theatre emerges as a powerful tool to

[37] Nicholas Kent (2008) argues that both the editor's and the director's positions are paramount because they are the ones who decide how long the play lasts, hence they are the ones responsible for keeping the audience's attention alive (in Hammond and Steward, p. 157).

examine whether the law still respects legality and justness. At the same time, thinking of the law as a theatre or as a place of spectacle pushes us to see the degree to which the law is humanized and subjective. As Laurie L. Levenson (2008) notes, "jurors are not machines and courtrooms are not laboratories" (p. 581). Hence, society's norms as well as the characteristics of the individuals involved in the legal process inevitably impact the law and make it dynamic, changeable and fragile. Thus, in the words of Levenson, "the courtroom presents a dynamic that is more akin to, but not precisely like, a theater" (p. 581).

Both law and theatre are ambivalent and exposed to social dynamics, hence they cannot be coined into a unique definition. But modern legal history shows us that the main purpose of the law – and especially of positive law and its related institutions like courts – is "to render justice, and nothing else" (Arendt, 2006, p. 77). Nevertheless, when law inevitably becomes a sort of theatre that revolves around personal relationships, emotions and also social boundaries, the superiority and the nobility of the law might easily be compromised. "Trials are not ideal," writes Martha Minow (1998) to acknowledge the deficiencies of the law, "the theatrical devices and orchestration required threaten the norms of law" (p. 47). Thus, the law – and I interpret the law broadly, including both the Inquests and Inquiries that aim to gather information rather than to render a verdict as well as the usual courtroom proceedings[38] – does not automatically guarantee justice.

[38] However, whether or not private prosecutions and reviews should be included in the scope of the law is problematic. As the term suggests, a private prosecution is still part of the prosecution, but it is private. It aims to investigate various crimes by private parties with appropriate licenses. Then, the evidences and findings are submitted to the Crown Prosecution Service. If CPS finds the evidence probable, they take over the case. If not, they shut down the whole investigation. The ambiguity resides in the fact that before the CPS hears the case, the activities are purely private, and their legal scope is unclear. Among the three families, only the Lawrence family tries private prosecution. As far as the reviews are concerned, the House of Commons does not differentiate them from the public

Still, the strongest resemblance of the law to theatre emerges in times of change and turmoil, since in extraordinary times, like in Nuremberg, in South Africa or in Bosnia, the law becomes more than the sum of different individualized cases and serves rather to restore a social order and establish its supremacy. When Lawrence Douglas (2001) writes about the Nuremberg trials, he argues that "the trial was to serve as a spectacle of legality, making visible both the crimes of the Germans and the sweeping neutral authority of the rule of law" (p. 41). Moreover, the infamous trials that followed World War II demanded a new type of spectacularism: they were about crimes against humanity, so the idea was that the victim represented *humanity*. Catherine Cole (2010) notes that the consequences of those crimes had to exceed individual and appropriate punishment. Here, the law served "didactic functions of national proportions, extending far beyond the courtroom" (Cole, 2010, p. 2). Writing about the Eichmann trial, Susan Sontag (1966) argues that Eichmann "stood trial in a double role: as both the particular and the generic; both the man, laden with hideous specific guilt, and the cipher, standing for the whole history of anti-Semitism" (p. 89). To be able to account for "the whole history", international criminal law as well as transitional justice had to be grandiose, not only in setting[39], but also in nature.

South Africa's TRC performed a different type of "justice" than the post-World War II trials by adapting a mid-way position between "the Nuremberg trials and national amnesia" (Tutu, 2000, p. 20). On the one hand, like a regular restorative justice mechanism, the TRC aimed for a "peaceful transition" by initiating a dialogue

inquiries, so even though their statutory power is limited, reviews should also be considered within the realm of the law.

[39] As Hannah Arendt stresses, the Eichmann trials literally happened on a stage in a remodeled theatre in Jerusalem. She writes that the architect who built the courtroom had "a theater in mind, complete with orchestra and gallery, with proscenium and stage, and with side doors for the actors' entrance" (p. 8).

where the accused also had a say (Tutu, 2000, p. 20). On the other hand, the roles and the words were mostly predetermined, and victim/forgiver and perpetrator/excuser had to play accordingly, which made questionable the stakeholders' agency. Catherine Cole recognizes the theatricality of the TRC hearings in the embodied expressions, gestures and confrontation of the parties as well as in the decorum they demonstrate. She writes: "though not framed as theatre, the TRC was often explicitly described as such both by participants and the media" (p. 15). Moreover, the hearings were performed before spectators – both within the hall and across the nation through televised broadcasts – and in order to spread their notions of peace and democracy, the TRC toured the country "like a traveling road show" (Cole, 2010, p. 5).

3.1.1 Extraordinary legal cases and literature

Although the TRC represents a very extreme and historically specific use of restorative justice, I nonetheless include it in the same category of legal process as Stephen Lawrence's, Zahid Mubarek's and Cheryl James' cases.[40] I call these processes "extraordinary legal cases" because they all demonstrate the communal dimension of the law, and the manner in which a legal process can represent notions about the past and future of a given collectivity. The content of these extraordinary trials exceeds traditional legal language, in such a way that all the parties involved, including the victims, the perpetrators, the judges and even the public, necessitate a

[40] I will be using the term "extraordinary legal cases" to refer to an uncanny ensemble of legal cases including the trials that followed World War II, the TRC hearings, and extremely public and publicized national cases. I acknowledge, however, the deficiency of the term. These cases are not solely "legal", they are extremely political and social. They are rooted in the daily lives of individuals, as well as in transitory and exceptional times.

more available and common language. Furthermore, the ultimate decision of the court does not only impact the victim and the perpetrator, but it directly influences social and political relations. This is why these trials exceed an arrangement where two opposing parties try to prove their respective arguments; they become instead a show where social, political and legal relationships are revealed and examined. Hence, legal language is not the dominant discourse of these extraordinary legal cases, it is merely an accessory.

The inadequacy of legal language for these extraordinary legal cases reveals an important limit of the law, a limit beyond which literature is dominant. “In these cases” writes Felman, “legal meaning and literary meaning necessarily inform and displace each other” (p. 8). Both situated within the complexity of the culture, law and literature desire to account for the trauma that was caused by the extremity of these cases through personal testimonies. Literature has the ability to capture and fill “the emptiness of the cases” (Felman, 2002, p. 78). Thus, law and literature, together, form a whole, they complement each other.

Nevertheless, unlike a trial, which is essentially “a search for a decision” (Felman, 2002, p. 54), a literary text does not necessarily aim to arrive at a conclusion. Therefore, Felman argues, a literary text is “a search for meaning, for expression, for heightened significance, and for symbolic understanding” while a trial seeks “a finality, a force of resolution” (p. 55). Examined in the light of extraordinary legal cases, I think it would be impossible to draw an exact line to distinguish the objectives of literary texts and trials. First, in most cases, the final decisions of these extraordinary legal cases are already known in advance. Here, it is important to differentiate some extraordinary national cases where the suspense is central to the process. For example, in the O.J. Simpson Trial, the final decision is

much anticipated. Fundamentally, in such cases, the trials are still a way to individualize guilt, yet they interact remarkably with the society. For the TRC, however, the trials are a way to de-individualize guilt, as they directly concern the communal peace. Regardless of the predictability of the final decision, extraordinary legal cases are also symbolic, as they search for the best social experience and expression. As a consequence, I would argue that in extraordinary legal cases, law and literature become more interweaved, to the degree that they cannot survive on their own and need each other to be effective.

3.1.2 Law as theatre in the cases of Stephen, Zahid and Cheryl

The cases of Stephen Lawrence, Zahid Mubarek and Cheryl James exceed the usual limits of a penal law case, to the degree that they can be considered as "extraordinary legal cases" to which theatricality and publicness are central. Altogether, they invite several questions about the malfunctioning of various state institutions. The investigation that followed Stephen Lawrence's killing by a group of racists at a bus stop draws attention to the institutional racism within the police force. Zahid's death is even more problematic, since he was stabbed by his cellmate, an extreme racist, in prison. Cheryl's case, however, is enigmatic: it is not clear whether she killed herself or whether a third party was involved in her death. Regardless of the identity of the agent doing the killing, it was the Army that gave her a fire gun and sent her on guard duty all by herself. Overall, the cases are concerned with institutional perpetrators rather than individual criminals, and they reveal and examine imperative social issues, like racism or the mismanagement of public institutions. Therefore, legal language and legal institutions do not suffice in bringing either individual

justice for Stephen, Zahid and Cheryl or public justice for their larger communities. For that reason, the cases inevitably interact with literature and they welcome literary texts to join the justice-building process.

With their lengthy prosecutions, these cases have gained considerable public attention over the years, so much so that the initial discussions, goals and the hope for justice have been erased from public memory and replaced by a sense of explicit theatricality. “There were times this week when I was not sure whether I was in a court room listening to evidence of how my son was killed, or at a circus watching a performance” (Macpherson, 1999, 42.37) says Mrs. Lawrence in her statement after the jury of the Inquest returns the verdict. Likewise, one of the counsels for the Stephen Lawrence case, Mr. Mansfield, says that the public inquiry “is becoming like a Pinter play with surreal references” (Norton-Taylor, 2014, p. 388). Except for their obvious publicness, these cases cross the line between law and theatre in many instances.[41] First, with their themes, including death, hate, power relations, they recall a dramatic canon. Second, they represent the basic value that murder has to be punished by law, but they get lost in dilemmas and contradictions. Eventually, the cases fail to identify offenders and bring them to justice. Like a dramatic text, the cases build suspense, they go back and forth with different institutions arriving at

[41] Nils Christie (1986) distinguishes law and theatre by establishing five attributes for great plays: First, he notes that the plays are universal, so, they all have themes relevant for most humans like love, hate, pride, death (p. 1). Second, they reflect basic values while also exposing the internal inconsistencies: art deals with morality through exposing moral dilemmas and contradictions (p. 2). Third, the plays are deep and bottomless. Although they may seem simple, they always construct a new structure (p. 2). The second and the third feature relate directly to the fourth: the plays are ambiguous, they do not give concrete advice on how to act nor clearly differentiate the bad guys and the good guys (p. 2). His last feature is that great literature is aesthetic, it is clear; “but not too clear”, it is “harmonious, but with disharmony built in; intelligible, but with the unexpected built in; thrilling and chilling . . . with no certainty as to the end result” (p. 2). Christie then examines penal law as theatre and concludes that none of these qualities apply to courtrooms (p. 4).

different verdicts. Unlike an ordinary legal case where the verdict is clear, the cases remain inconclusive and ambiguous.[42]

Significantly, the real-life cases of Stephen Lawrence, Cheryl James and Zahid Mubarek also have a certain aesthetic value. Over the years, the cases have gained a considerable audience from various classes and professions, which has forced the prosecution to use a less technical language and even an artistic language. In the very first pages of the Stephen Lawrence Inquiry Report, Sir Macpherson's word choice is remarkable: "his horrific death", "[the murderers] are cowards", "this awful crime". With a broader audience in mind, the judiciary prefers to adapt a more sentimental and subjective vocabulary.

Furthermore, just like Truth Commissions, public inquiries, which are central for the justice-building process for Stephen's, Zahid's and Cheryl's cases, have broader and more delicate tasks than to render justice. Besides the possible legal discussions, such as their statutory nature and their availability through political bodies, the power and the limits of public inquiry are also problematic because they might end up changing the ultimate goal of the legal process. When individual punishment is not possible, like in the South African TRC, what prevails is lesson-taking. Public inquiries aim to come to terms with what truly happened and more importantly to take lessons from past mistakes (Norton-Taylor, 2014, p. 389). For instance, Sir William Macpherson (1999) states that the Stephen Lawrence Inquiry gives them the chance "to tackle and to deal with the general problems and differing perceptions that plainly exist between the minority ethnic communities and the police" (2.17). Similarly, in the Zahid Mubarek Inquiry, Justice Keith accentuates the

[42] Except for Zahid, whose murderer is prosecuted in a very short amount of time, Cheryl and Stephen's parents struggle to get a meaningful verdict. In Cheryl's case, the judge literally renders an open verdict.

macro importance of the case, which is to make prisons a safer place (Gupta, 2005, p. 42).

Additionally, as Cole (2010) acknowledges in relation to the TRC, the public inquiries also have a "power to make visible" (p. 4) thanks to their capacity to detect bigger, communal wrongs and, more importantly, to fix them. In the three cases, similar to the TRC hearings, where the victim accepts the apology of the perpetrator on behalf of herself as well as of the nation, the outcomes concern the nation, or at least a considerable part of it. Especially, being racist in nature, the murders of Stephen and Zahid make it is easier for the black community and the Muslim community – or any minority community in general – to identify themselves with the victims. The widespread identification with the cases and their position within the national realm force the prosecution to perform more ostentatiously.

Hence, public inquiries create a new platform for various actors to raise their voices without the strict legal obligations of a courtroom. Comparing traditional cross-examination with the TRC's style of questioning, Cole concludes that in the TRC, the parties are more active because they are not limited to the terms and topics of the cross-examination. Plus, the TRC is not adversarial in nature, thus gives more liberty to talk (p. 3). The public inquiries are also "reasonably informal" (Norton-Taylor, 2014, p. 299). In his opening statements, Sir Macpherson notes a few important points about the nature of the Inquiry: first, "nobody need stand to ask questions [and] people may come and go exactly as they please" (ibid). Second, "the stricter rules of procedure and evidence do not apply to [the Inquiry] in [the] search for the truth" (ibid). Public inquiry allows each party to tell their version of the story without the imposing formalities. Therefore, the narrative is more emotional and subjective. In short, the vehemence and intensity of Stephen's, Zahid's and Cheryl's

cases require an inclusive and public justice-making process. Similar to the TRC, the most wide-ranging form of restorative justice, the three cases necessitate a language that transcends the usual legal discourse. The best illustration of their extremity is the centrality of public inquiries in all three cases.

3.2 Restoring access to justice: The role of editing and personification

When justice is compromised due to different agendas, legal spectacles, publicity and theatricality, how can access to justice – a vague and undetermined term – be assured? Each legal spectacle is unique, unpredictable, personal, theatrical and communal, all at the same time. These qualities limit both the access – who gives the access – and the justice – whose justice we are accessing. If formal justice mechanisms are considered as the sole medium for accessing justice, then the role of the victims are very limited. They do not have any agency in creating the rules, nor do they have an endless platform to raise their voice. And when the perpetrator is part of an institutional schema and/or protected by various state agents, how equal and fair would the process be? Moreover, as the positive laws on access to justice want to assert, the first condition of this type of formal justice is to be able to access the courts. Once the access is guaranteed, then, the trials should be fair and just. Yet, the cases of Stephen, Zahid and Cheryl show that this is the ideal of access to justice, and in reality, formal justice mechanisms and the procedural rules that aim to designate the most just process, namely any rules related to access to justice, might fall short. I argue that the deficiency in ensuring access to justice mainly comes from two distinct levels in these proceedings: First, the judiciary as the ultimate control

mechanism of other institutions fails to recognize and correct the ongoing social problems. And second, the judiciary as an institution itself does not work properly.

The Colour of Justice, *Gladiator Games* and *Deep Cut* are mostly concerned with the first category of failure and show how Stephen's, Cheryl's and Zahid's deaths are deeply rooted in various institutions. They thus pose an important question: has the judiciary managed to alienate itself from the drama and to act as an ultimate, omnipotent "judge"? And if the judiciary has its own failures and repeatedly obstructs fair trial and access to justice, how can it "judge" other institutions? In short, I claim that in their reading of the real-life events, the three plays underline the failure of numerous institutions and how these failures lead to the non-accessibility of justice.

In the cases of Stephen Lawrence, Zahid Mubarek and Cheryl James, retributive and formal law is already alienated from itself and has become an ambiguous spectacle where the legitimate methods for accessing "justice" have been suspended. As discussed in the previous chapter, in this space of irregularity, the parties, mostly the victims, are required to search for a new kind of justice to restore the private/public balance and to provide a personal/public satisfaction. Hence, by castigating the failures of the customary legal institutions, the plays perform as a potential medium to access restorative justice. In favor of restorative justice, I identify two main methods used by Norton-Taylor, Gupta and Ralph: editing and personification/villainization.

Verbatim theatre has the freedom to limit/edit/arrange legal spectacles while turning them into plays. Through a theatrical examination of a highly theatricalized and public issue, the playwrights arrive at a more focused analysis. As Reinelt (2006)

argues, documentary theatre does not only offer an aesthetic interpretation of the facts, but it also provides a utilitarian reading of them (p. 81). Thus, the law's theatricalization may lead to a corrupt outcome, but theatre has the appropriate tools to expose this corruption and can offer a centralized reading of it. Let us first examine Richard Norton-Taylor's *The Colour of Justice*, which is strictly verbatim, where the editor[43] limits himself to the transcripts of the actual inquiry. In his foreword, Norton-Taylor writes:

> I set out to include the most telling exchanges for a theatre audience, many of whom did not hit the headlines at the time but which reflect the interlocking threads which ran throughout the inquiry – police incompetence, conscious or unconscious racism and stereotyping, and the hint of corruption in the background (p. 288).

With a new audience in mind, Norton-Taylor prefers to enlighten the systematic failures during the proceedings instead of emotional exchanges. To this end, he deliberately does not include any exchange of sentiments nor sympathy that occurred during Mr. and Mrs. Lawrence's cross-examinations. In Neville Lawrence's case, he only incorporates his prior statements read by a counsel. For Doreen Lawrence, Stephen's mother, the play contains both her prior statements and her cross-examination, but her words are distilled into a critique of the judiciary and the police. When Mr. Gompertz begins to ask her some controversial and adversarial questions, Doreen says: "Can I ask a question here? Am I on trial here or something here? I mean, from the time of my sons's murder I have been treated not as a victim . . . And for me to be questioned in this way, I do not appreciate it" (Norton-Taylor, 2014, p. 383). So, the play transmits a sense of anger rather than pity. Mr. and Mrs. Lawrence, as well as Duwayne, are victims but the institutions try to reverse these roles. What

[43] The foreword to the play is entitled "Editor's Note". Norton-Taylor does not re-write anything, but he "distills" the evidences from the Inquiry and turns them into a play. This is an interesting point: do verbatim plays have "editors" or "writers"?

the play prefers to capture is this failure of the institutions, rather than the reasons why they are the victims.

Furthermore, when the plays create a new reality out of an enormous sum of dramatic events, they highlight some chosen themes or words. Particularly in *The Colour of Justice*, Norton-Taylor trims down more than a thousand pages and as mentioned above, he focuses on the institutional failures during the proceedings. Throughout the play, the word "failure" is repeated by the counsels, the witnesses and even by the officers.[44] Similarly, in *Gladiator Games*, Gupta underlines the failures of the prison service by repeating an expression crucial to the narrative: "a time bomb waiting to explode". This metaphor is solely used by Stewart himself (p. 4, 40) because even he does not know why the officers let a dangerous and racist individual share a cell with Zahid. In his letters, he always says that he is "GONNA NAIL BOMB THE ASIAN COMMUNITY" (pp. 69-70). Stewart's self-identification as a "time bomb" serves to show the blindness and negligence of the officers.

On a general level, dialogues and cross-examination indicate an important similarity between law and theatre, and Norton-Taylor, Gupta and Ralph benefit from this parallelism. But what is remarkable is that in most of the cases, the dialogues formed through cross-examination cannot be determined in advance and this constructs a new limit between law and theatre. Nicholas Kent comments that cross-examination as a process of conflict is interesting because someone states something with "enormous confidence" and then a lawyer, by asking several

[44] For example, in his opening statement Mr. Mansfield talks about the various reasons behind "the magnitude of the failure in this case" (Norton-Taylor, 2014, p. 302). Related to the actions on the very night of the murder, Mr. Kamlish repeatedly asks to the officers if they acknowledge that they have failed (p. 308; 330). Later on, while questioning Mr. Groves, Mr. Mansfield reports a list of failures (p. 339).

questions, “disrupt[s] that confidence” (qtd in Hammond and Steward, p. 139). In other words, although one party might prepare all the possible questions and the other all the possible answers, it is still unclear how the dialogue is going to proceed in the courtroom. Therefore, each legal performance is unique (Rogers, 2008, p. 431). Margaret Davies (1996) argues that the distinctiveness of each trial comes from the fact that each case has different characteristics (p. 97). Although the norms might be fixed, in each case, they must be “re-read, re-created or re-constructed” (Rogers, 2008, p. 431).[45] Hence, for Davies and Rogers, each legal performance is unique, indefinite and unpredictable, and one case cannot copy another exactly.

“Performance, theatre, ritual, and performativity” writes Cole about the TRC, “operated in these hearings in dynamic, layered, and complicated ways: the hearings were both highly structured and unpredictable, planned and improvised, emotional and affectless” (p. 27). In the cases of Stephen, Zahid and Cheryl, the same dynamic of being both predictable yet unpredictable, objective yet subjective resides in the dialogues. For example, in the Stephen Lawrence Inquiry, the cross-examination of Inspector Groves is highly dramatic:

> Mansfield: Clement was in charge of 326.
> Groves: Was he?
> Mansfield: Was he? Well, do not ask me. I am asking you. Before we get going on this, Mr. Groves, I am going to suggest this inquiry cannot rely on a single word you are saying (Norton-Taylor, 2014, p. 340).

The audience – judge, jury, media or the theatre audience – do not know who is right; the dialogue is ambiguous. Plus, Mr. Mansfield directly addresses “this

[45] Unfortunately, the Lawrence family, the Mubarek family and the James family would find this hard to accept. All three families went through – some of them are still going through after almost two decades – numerous investigations, inquests, inquiries and hearings. For a very longtime, they all received the same responses from the judiciary. Although in each case, the set of characteristics remained the same, it is questionable whether every judicial authority truly re-read, re-created or re-constructed the norms.

inquiry", thus the audience. Therefore, in law, the dialogues are more spontaneous and intuitive while still retaining some level of professionalism.

Furthermore, in order to achieve a more focused analysis, the plays are free to change the orders of the events, to limit the voices involved or to re-arrange the dialogues. Here, the dialogues underline an important dissimilarity between law and theatre. One of the main issues for the Deepcut Four is to incorporate Mr. Swann, an independent forensic expert who argues that he holds the evidence to prove that none of the four deaths are self-inflicted, in the proceedings. Mr. Swann refuses to take part in the Blake Review because he believes the Review is prejudiced and useless (Ralph, 2008, p. 37). Philip Ralph in *Deep Cut*, however, creates an imaginary dialogue between Mr. Blake and Mr. Swann. He takes the verbatim evidence that was recorded on different occasions and positions them to form a debate:

> Blake: At one point it was thought that independent scientific expertise might point away from a conclusion of self-inflicted death. Although Mr. Frank Swann declined to make his opinions available to the Review –
> Swann: I have said from the very beginning of my forensic investigation that nothing less than a Judicial Public Inquiry into these four deaths will do and my decision is based solely on your lack of powers to compel witnesses.
> Blake: My inability to compel witnesses does not prevent the evaluation of your forensic reports (Ralph, 2008, pp. 36-7).

During the Review, Swann and Blake never come face to face. But in order to emphasize Blake's one-sided investigation, Ralph imagines a possible dialogue where both parties deliver their arguments about the nature of the deaths. For the audience, this rearrangement creates a new effect and affect.

Overall, in *The Colour of Justice*, *Gladiator Games* and *Deep Cut*, the playwrights select their materials so as to have a narrative that evolves around some main patterns that demonstrate the incompetence of the real-life investigations/proceedings of Stephen, Zahid and Cheryl. More importantly, the

plays point out that the judiciary as the ultimate control mechanism has failed to acknowledge the systematic malfunctioning of the institutions, to go beyond the personal convictions and to hold responsible any state institutions and/or agents. Certainly, no matter how ill-planned, badly conducted and inadequately documented an investigation is, the judiciary has no other choice but to act on the existing laws and norms as well as the established/proven facts and findings. Nonetheless, the plays' repeated emphasis on the flawed investigation that followed Cheryl's death, the delayed arrival of Stewart's files to Feltham and the peculiar relationship between the prosecution and the police in Stephen's case show that an inter-institutional miscommunication or disharmony could ruin all the possible evidences, hence the chance for a solid case. This is why an external mechanism – the judiciary – is required to oversee the problems. When Mr. Swann declines to share his findings with the Blake review, he says:

> I always took the view from the very beginning that [in] a public inquiry, I can prove, beyond a shadow of a doubt, they were not self-inflicted. But there was no way I was going to prove [it] to the Police or the Army because they had no intention of accepting it under any circumstances (Ralph, 2008, p. 65).

The Army's obliqueness in authorizing any investigation that could hold them responsible for Cheryl's death, as well as the messiness of the initial investigation of the police, fail to cast away any doubts about her death involving a third party. But Swann is not desperate, he believes that a public inquiry is the panacea because of its obliging nature. So, he wants to trust the judiciary's ability to face these corrupted institutions because he believes what Des James says: "you can distrust the Police and you can distrust the MoD, but never distrust the judiciary" (Ralph, 2008, p. 70).

In addition to exercising editorial agency, verbatim theatre can also modify the classical victim-villain-hero triangle, which is central to criminal law, as well as to theatrical genres such as melodrama. In criminal cases or in the TRC hearings, the

clash between the victim and the villain is essential to the narrative. More importantly, in these cases, the judge or the representatives of justice always serve the role of the heroes, they are the ones who re-establish a broken order by finalizing the victim's quest for justice. Verbatim theatre, however, is not limited with the classical role pattern in this dramatic triangle. As seen in *Deep Cut*, the narrative of verbatim plays allows a space where the customary hero can become the villain. In other words, by re-defining the roles of the accustomed parties in the victim-villain-hero triangle, verbatim plays can successfully draw attention to judicial failures.

Justice as an institution should be "perfect", yet, due to the risk of spectacularism and arbitrariness, the judiciary is already an imperfect institution. Especially in public inquiries, the public attention and awareness increase to such a level that law becomes a "good courtroom drama" (Kent qtd in Hammond and Steward, p. 139) and a puzzling spectacle. Rather than an abstract and general criticism of the judiciary's excessive theatricality, *The Colour of Justice*, *Gladiator Games* and *Deep Cut* focus on individuals to symbolize law, justice and the judiciary. The personification of each constituent helps the audience to better grasp the ongoing and multidimensional conflict between different parties. A good example of the emphasis on conflict is the title of *Gladiator Games*. Starting with the title, the reader/audience understands that Zahid's story is driven by clashes. Not only is Zahid personally confronted with his racist murderer, but also, the Mubarek family has to fight against the judiciary. In the play Imtiaz Mubarek, Zahid's uncle, notes that the real "Gladiator Games" are "between the family on one hand and the Prison Service and the British Government on the other" (p. 52). By overthrowing the state's heroism, the play represents it as the villain against which the victim has to fight. Moreover, as I will discuss in greater detail in Chapter Four, the

personification process invites the audience to realize their own victimhood. As the members of a society with defective institutions, each spectator is an indirect victim. And at a later stage, through affect, spectators might evolve into indirect/direct heroes for change and for the restoration of justice.

In *Deep Cut*, Philip Ralph represents human rights as the eminent common language and Nicholas Blake as the villain who refuses to respect human rights. Ironically, quoting from Zahid's case, Mr. Blake himself asserts that public authorities should act in compliance with the right to life, meaning both to respect the right to life and in case it is violated, to prosecute the perpetrators, and in Zahid's case a broader investigation was required to determine state responsibility for the death (2.43). But then, he surprisingly concludes that human rights do not apply to the Deepcut deaths because they "probably died as a result of the discharge of a lethal weapon assigned to them" (2.64) and the state was under no particular duty to protect them.

In *Deep Cut*, statements such as these allow Mr. Blake to symbolize the villain. Consequently, Ralph creates a dichotomy between the villain, a human rights lawyer who conducts an important juridical procedure, and the victim/hero, the James family. The James family is not the sole victim of this case, as they symbolize other families who lost a child in Deepcut barracks, as well as all the army recruits who are mistreated and bullied. But Ralph represent the James family as the only hero, they are the ones who fight the injustice, the ones who challenge a much more powerful institution. In that regard, Ralph also likens himself to a hero, as opposed to the traditional omniscient playwright. He is criticized and censored by the public authorities and the news media, yet continues the fight.

The Colour of Justice depicts a more traditional schema with more definite roles given to the victim, the villain and the hero, but the portrayal of the judiciary remains ambiguous. In fact, the play embodies two instances where the victims contend to not being treated as victims but as criminals. The statement of Duwayne reads as the following: "[the police] were treating me like a criminal and not like a victim. They kept saying, 'Are you sure they said, "What, what nigger?"' I said, 'I am telling the truth.'" (p. 363). Stephen's mother also remarks that she has not been treated "as a victim" (p. 383). The play creates an absolute contrast between the "innocent" victims who self-identify themselves as such and the villains. Unlike Cheryl's case, Stephen's case already has actual villains, the five murderers. Yet, the play also represents the racist police officers as villains. In other words, the villain is racism and every individual who comments or acts in a racist manner joins the ranks of the villains. As far as the hero is concerned, I would argue that the main hero of the play is Sir Macpherson, who symbolizes justice. He "saves" Mrs. Lawrence, the victim, from the disrespectful questions asked by Mr. Gompertz (Norton-Taylor, 2014, p. 383). Moreover, he installs hope at the end of the play (401). Since the play re-presents a public inquiry, it is reasonable that the chair of the inquiry symbolizes justice. What is more unconventional is Sir Macpherson's heroization. Quite ambiguously, the play condemns the judiciary as the ultimate control mechanism that has to re-assess and ameliorate other institutions, yet, praises justice as an institution on its own.

Although the personification of state institutions and the villainization of the state agents serve to highlight the theme of failure, at the same time, these methods point out the genre hybridity of verbatim theatre. Taking on a popular and typical melodramatic tool, verbatim theatre self-contradicts with its authenticity and truth

claims. The representations in the plays are one-sided and subjective, since the positioning of individuals within a dramatic triangle inevitably portrays them according to certain conventions. In short, verbatim theatre's relationship with other genres, namely melodrama, casts a shadow on its self-claimed superiority, an issue to which I will return via the question of affect in Chapter Four.

3.3 Conclusion

The law has a certain theatricality; especially in extraordinary circumstances where the masses easily identify with a case and when the law has to perform additional tasks, legal spectacles become grandiose. Eventually, the law is alienated from its original purpose, which is to render justice. As the mirror of the society, the law inevitably performs the power relations and race relations within a society. Theatre, as another mirror of the society, is capable of observing the law's failures and re-presenting them.

The judiciary is not an unquestionable entity entity, as a matter of fact it is a "show business". Colin Moses, the chair of the Prison Officers' Association, says: "Don't talk to me about institutional racism of the Prison Service if you aren't going to address the institutional racism of Magistrates' Courts . . . Half a million people pass through the court system. This is a sausage factory industry . . . It's a business" (Gupta, 2005, p. 34). Nevertheless, on a utopic level, it has the capacity to render justice while also performing additional duties, such as lesson-taking or public allaying. In the cases of Stephen, Cheryl and Zahid, however, the court system repeats the same mistakes and fails to perform any of its original aims by not demanding/conducting an effective and thorough investigation. So, even when the

families are able to access the courts, they cannot access justice. The proceedings are lengthy, somewhat personal, expensive, repetitive, useless and inadequate.

What is even more striking is the role of theatre in this prejudiced, unjust and dramatic atmosphere. The relationship between law and theatre is bilateral: law's theatricalization risks compromising its objectivity, but at the same time, it expands the scope of theatre and performance by giving them the chance to create a new real out of something that is already dramatic. In her article where she uses Stephen's case as the paramount example of the intersection between the poetics of theatre and public events, Janelle Reinelt (2006) underlines an important issue: we live in theatricalized times, the contemporary world dramatizes everything including its major crimes and misdemeanors (p. 70). Law creates various spaces of spectacle, but theatre does not simply take highly dramatic public events and turn them into plays. Theatre has the capacity for creating a new real (Reinelt, 2006, p. 71). Furthermore, as Margaret Davies (1996) argues, each legal performance is unique and indefinite, and one case cannot copy another exactly (p. 97). Theatre, however, can imitate the live legal performances and transform them into plays (Rogers, 2008, p. 431). In that regard, through the use of editing and personification, *The Colour of Justice*, *Gladiator Games*, and *Deep Cut* create a new real and offer a focused analysis of the events. The plays draw attention to the numerous institutional failures in these cases, through excessively highlighting the theme of failure. In brief, excessive theatricality and publicness corrupt the cases of Stephen, Zahid and Cheryl, but paradoxically, it is theatre itself that has the capacity to point out this corruption.

CHAPTER 4

VERBATIM THEATRE AND THE PROMOTION OF RESTORATIVE JUSTICE

After examining verbatim theatre's condemnation of formal criminal law in the previous chapter; in this chapter, I move on to the discussion of how the genre can be used as a medium for accessing restorative justice. By not including the offender in the peace and justice-building process, *The Colour of Justice*, *Gladiator Games* and *Deep Cut* miss an important chance to function as actual restorative justice mechanisms. Nonetheless, the powerful presence of the victims throughout the narrative allows verbatim theatre to be deeply intertwined with restorative justice. Thus, verbatim theatre holds the potential to encourage and promote restorative justice. Not only does verbatim theatre simulate a legal process with the audience replacing the judge, but it also facilitates the possibility of a justice-making process through unconventional and informal mechanisms.

Verbatim theatre and its "obsession" with the actual words of the actual victims aim to create an emotional bond with the audience, with the hope that this bond will encourage change outside of the theatre. First, where unclear or inconclusive cases are concerned, theatre encourages a different ending. In *The Colour of Justice*, *Gladiator Games*, and *Deep Cut*, the prior legal proceedings remain ambiguous and inconclusive and the plays, without necessarily forcing the audience to reach any specific judgment, initiate further discussions simply by pointing out the institutional failures. The audience becomes the judge, they re-examine the case in light of social justice, social links, and human rights principles. More importantly, since the plays represent real cases with a lack of clear and/or

satisfying judgments, they invite the audience either to reach a decision on an individual and communal level or to force formal justice mechanisms to become more satisfying, even when informal in nature. Thus, by effecting and affecting the audience, the performance becomes a tactic “in the service of human rights and social justice” (Madison, 2010, p. 2).

Hence, performance can be used as a tool to access “justice”, or more precisely, as a medium in order to inform, initiate and achieve restorative justice. Julie Stone Peters (2005) argues that the full institutionalization of human rights helped the proliferation of testimonial venues, but it was through literary studies that focused on witness testimony and legal storytelling that public testimony became an intrinsic part of the discourse of human rights (p. 256). For Peters, both modern literature and modern human rights trust personal testimony to build a public memory. Peters concludes that “the narration of atrocity” in itself is automatically valuable, since it offers a form of redress and rectification (ibid). Situated at the juncture of literature and law, theatre is also an indispensable “testimonial venue”. By its nature, theatre allows all personal testimonies to become public and as Peters remarks, the late twentieth century with its ad-hoc truth commissions to “heal” communal pain through individual trauma has already blurred the line between individual and public and between theatre and law (p. 275). So, although theatre does not have the statutory power to implement appropriate legal redress, it touches directly to the sphere of human rights and legal culture. Thus, human rights narration is no longer limited to the courtrooms, it extends to other venues. While this extensive culture of human rights narration might help to ease individual and/or national pain, and to put pressure on actual legal proceedings, it might also be employed to manipulate the public in a certain direction. In that regard, theatre, as an

alternative venue for quasi-legal public testimony, has the potential to propagate human rights and to imagine a different future. But since theatre has a political and ethical focus, it also involves the risk of being regressive by over-exploiting the audience and by not giving them enough space to form their own opinions.

In this chapter, I will examine how verbatim theatre can function to promote restorative justice. After deconstructing formal justice mechanisms, verbatim theatre inspires the audience to participate into a more informal and inclusive justice-building process. Still, the legally charged genre comes with important limitations. First, I will discuss its advantages: mainly, the possibility of offering a more sincere and concise account than the news media and its potentiality for generating affect and emotional bonds. Then, I will question how these advantages can also be disadvantages in relation to verbatim theatre's genre/method/form discussions, its unstable affiliation with ethics and lastly its dissatisfactory responses to questions of trauma and agency.

4.1 Building public trust: Verbatim theatre and the news media

Amongst other fundamental legal problems, restorative justice remains limited and unconventional mostly because publics often do not have confidence in restorative methods to repair a broken order, especially when it comes to more serious crimes. Brooks (2017) notes that the public considers restorative approaches as a "soft option" which leaves unanswered the "larger question about what is restored through restorative justice" (p. 134). Hence, for a more efficient and useful justice-building process to occur, both formal legal authorities and the members of a given society need to be acquainted with the mechanisms of restorative justice.

Verbatim theatre can play an important role in this regard, as its concentrated and critical analysis differentiates it from another genre that often seeks to impact public notions of restoration and trust: the news media. In *The Colour of Justice*, *Gladiator Games* and *Deep Cut*, the news media is an important creative *and* oppressive tool for the playwrights. The narrative of the plays function as a space of negotiation by asking various questions of themselves and of the mass media: who has the power to represent, which of these platforms is more objective, who holds the ultimate truth? In their potential functioning as a restorative justice mechanism, however, the plays differ from the news media: though they ultimately benefit from newspaper clips and TV programs, the plays not only provide a platform for the victims to be heard, but also they inspire the audience to make call for judicial, political and legal change.

Stephen's, Cheryl's and Zahid's cases are unique since they had already gathered extensive media attention before the plays were produced. So, the families did not rely on the plays for publicness and visibility. Aleks Sierz (2011) in his book *Rewriting the Nation* notes how the deaths of Stephen, Cheryl and Zahid changed the national landscape. He then continues that even though the plays – and he is particularly interested in *The Colour of Justice* – are not necessarily a "new writing" but a new "researching and editing", they fulfill the audience's hunger for "factual truth" (p. 58). For Sierz, the media coverage of the cases was "reality TV" but "what you see [on the stage] is not fiction at all" (p. 58).[46] In an opinion piece, Lyn Gardner

[46] Sierz's account is difficult to understand. Both reality TV and verbatim theatre are mediated, thus, it is controversial to conclude that while verbatim theatre represents the truth, reality TV does not. Moreover, in another article (2005), he compares once again verbatim theatre and reality TV, but this time, he explicitly employs reality TV pejoratively. He writes: "David Hare's *The Permanent Way* and *Stuff Happens*, and Victoria Brittain and Gillian Slovo's *Guantanamo: Honor Bound to Defend Freedom* come across as powerful public forums, but they can't be said to stretch drama's aesthetic boundaries, or even suggest ways of changing the world. Like Reality TV, they simply tell us what we already know" (p. 59). Here, Sierz first assumes that all reality TV is useless in the quest for truth. Second, he creates a hierarchy between verbatim plays. Not all plays can change the world (but again

(2007) observes that "most of us are quite aware when we watch a reality TV show that what we're seeing is strongly shaped and filtered through an editing process" and warns the verbatim theatre audience not to ignore the mediation and not to take verbatim plays "as true without questioning how statements have been selected and organized".[47]

Each play's interaction with the news media, however, is quite different. The first type of relationship between theatre and the news media is corrective. The plays, especially *Deep Cut*, are written to "correct" the news, to offer a platform for the victims. Here, media is represented as a lucrative tool in the hands of state agents; and the theatre as the sole medium for the truth. In *Deep Cut*, Des James mentions the fictionality of the media. He repeats that the government "orchestrated" the media and that eventually the public believed that "there have been so many inquiries about Deepcut" (p. 76). Plus, as Cathcart puts it "the news agenda had moved on and the public had registered that the case was closed" (p. 77). Hence, the media was not objective during the Deepcut investigation. Cathcart identifies the timing of the Review as a "simple trick". The families were kept in a room with the promise that they would be delivering a press release, but by the time they were allowed to leave the courtroom, the press was already gone "in time to meet that day's deadlines" (p. 77).

Following this subjective, lucrative and manipulative media coverage, *Deep Cut* arose as a response to the army, the MoD, the judiciary and the media, with the

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why would they be obliged to change the world?), only the ones that tell the audience something "new" can do so. I find it very difficult to follow Sierz's line of thinking. Although he praises *The Colour of Justice*, a play that is literally made out of public materials which occupied the news media for a quite long time, he condemns *Guantanamo* just because it is about a topic that is widely discussed in the society and because it does not offer anything "new".

[47] Retrieved from https://www.theguardian.com/stage/theatreblog/2007/may/07/foreditorsdoesverbatimthea

agenda to create a platform for the marginalized families to raise their voice. In the Author's Note, Ralph responds to the accusation of the play being one-sided. He writes:

> My argument against this is simple: the government and the MoD have daily, unfettered access to the loudest possible megaphone – namely the UK press – and they have used it to make their cases consistently and at length for over six years. If, for 90 minutes, I can go some way to provide this family and others with access to a megaphone of their own then I see that as being absolutely the right course of action and I make no apology for it (p. 23).

Thus, the role of *Deep Cut* is multi-layered. It exposes the law's failures, and then exposes the press' failure to expose the law's deficiencies. In comments such as these, however, Ralph seems to forget that verbatim theatre is a form of media as well. Similar to many other verbatim playwrights, he establishes a hierarchy between the moral righteousness of different medias vis-à-vis each other and assumes that verbatim theatre is automatically more just, objective and moral than the news media. However, he also admits that he preferred to provide the James family "with access to a megaphone of their own", thus, his choice of focusing on a single narrative inevitably makes the play subjective.

The second type of relationship between verbatim theatre and the news media is demonstrated by *The Colour of Justice*, where the play complements the news. In this case, theatre and mass media do not contradict but create a meaningful ensemble together. The dynamics in *The Colour of Justice* are different from *Deep Cut*, starting from the writing process to the media coverage and the end results. The writing process of the play invites many ethical questions,[48] but as far as the media-theatre relationship is concerned, the play occupies a unique place. Unlike for the Deepcut Four, Stephen's murder received significant media attention from the very beginning.

[48] See subsection 4.2.2.

However, the day after the Inquest returned the verdict of unlawful killing but failed to name any perpetrators, the *Daily Mail*'s front page directly named the five accused as the murderers. Even today, their front page of 14 February 1997 is remembered as an editorial success and as a direct domination of the public discussion (Cathcart, 2017, p. 640). Plus, the *Daily Mail* did not solely edit the public materials, but also interviewed the family and added a commentary section. Over the years, many other news agencies have joined the *Daily Mail* in calling out to the judiciary. But what initiated the Macpherson Inquiry is the *Daily Mail*'s courage to name the five suspects (Cathcart, 2017, p. 645). As a matter of fact, it was this wide media coverage that forced the artistic director of the Tricycle Theatre, Nicholas Kent, to convince Richard Norton-Taylor to write a play.[49] Kent insisted that they have to do something about the Stephen Lawrence Inquiry because if not they were "missing a huge story . . . an important story" (qtd in Hammond and Steward, p. 142). Afterwards, the play was broadcasted by the BBC. Although the play's ongoing relationship with the media casts a shadow on the play's search for the truth, raising questions regarding Norton-Taylor and Kent's biases as well as whether they were acting out of economic reasons, here, the press and theatre are in a friendly relation. Norton-Taylor himself argues that "the theatre can be an extension of journalism in the best way possible" (in Hammond and Steward, p. 122).

What then could *The Colour of Justice* achieve as the "extension of journalism"? In other words, what could it provide that the press could not? Quite

[49] Remarkably, at the very beginning of her Foreword to *Gladiator Games*, Gupta also states that she was deeply affected by the story of Zahid, which she had read "in the papers a few years back" (3). Although the media had covered Zahid's murder in 2000, the massive attention sparked only after the Inquiry was concluded in 2006. The play was published in 2005, when the Inquiry had started but not yet been concluded. Hence, amongst all three plays, *Gladiator Games* is probably the most neutral in its relationship to the media. The play benefits from some news clips, notably from Channel 4's *Prison Works: The Death of Zahid Mubarek* and BBC's *Boys Behind Bars* but apart from this, the play neither critiques nor praises the media.

problematically, Nicholas Kent qualifies verbatim plays as "a journalistic response" and as "a response to the moment", and not as art (qtd in Hammond and Steward, p. 165). He then gives a striking example of how he directed a play out of the daily court proceedings of Roman in Britain trials.[50] Each night, his theatre company would re-present that day's trials. In doing so, he truly posits verbatim theatre as an "extension of journalism", the genre resembles fast-consumed news where artistic and aesthetic values are set aside. Norton-Taylor, on the other hand, considers verbatim theatre as progressive journalism and comments that "in an age of cover-ups, spin and short attention spans, the theatre is a tremendous platform on which to explain and illuminate the context and causes of abuse and wrongdoing".[51] Similarly, Chris Megson (2005) remarks that verbatim plays "retrieve a sense of the complexity of issues that have been too easily turned into digestible headlines" (p. 371). Thus, theatre offers a more extensive platform to dismantle problems, to offer a more multilateral reading and to "enlarge" brief headlines.

Nonetheless, the number of persons that can be reached through theatre is incomparable to the mass media's potential spectators. Derbyshire & Hodson (2008) observe that plays attract a tiny audience compared to the mass media and that, even though they are few in number, theatre audiences are generally educated, interested, well-informed and critically engaged with the public sphere (p. 207). Similarly, Robin Soans remarks that the verbatim theatre audience expects to be challenged, to

[50] Howard Benton's play *The Romans in Britain* was put on trial for obscenity because it portrayed homosexual rape. As the failed prosecution unfolded, Kent turned the trial into a verbatim play. Kent uses his play as a tool of pressure on an ongoing trial, yet he has to bear some legal risks. The play itself causes a new trial to find out whether it is in contempt with the original trial. Eventually, the judge rules that the play is not illegal. On that issue, Kent's comments are helpful: why would a newspaper clip benefit from the freedom of the press, when a play that reports the exact same occurrences can not (in Hammond and Steward, p. 165)? The question of freedom also emerges in relation to Benton's play, making Kent's choice of source quite emblematic.

[51] Retrieved from https://www.theguardian.com/stage/2014/oct/22/richard-norton-taylor-verbatim-tribunal-plays-stephen-lawrence

be surprised and to be introduced to a new scope (in Hammond and Steward, p. 19). Moreover, as Nicholas Kent states, verbatim theatre provides an overview of the events that are "boring", "it's like a precis of the trial, but it looks very carefully at the turning points" (qtd in Hammond and Steward, p. 154). The play takes the "important" points – and here important being quite subjective – of the "boring" trials and it represents them to a focused, attentive audience. Thus, theatre differs from the press in both context and content. Or as Debyshire & Hodson write, theatre has more "clarity and humanity" compared to mass media (p. 208), which could affect the wider socio-political situation and influence the future, even as its scope remains limited (p. 210).

4.2 Building public trust: Verbatim theatre and affect

Each verbatim performance promises a new exchange and a new contact point whose limits exceed a verbal and/or emotional transaction. This new exchange, which "cannot be reduced to the transference of traumatic memory between a sufferer and a witness" (Thompson, 2009, p. 61), goes beyond a basic transfer or flow of emotions. Verbatim plays create a new point of contact where the sufferer – or better the representation of the sufferer – meets a new audience. Strikingly, this new point is designed for the most profound contact possible. Starting from the lighting to the length of the play, everything is constructed to make the exchange and the contact broader and more effective.[52] By allowing inter-relation between different parties,

[52] For example, in an interview, Philip Ralph says that "putting Des and Doreen at the heart of the play was a conscious decision: these are people that you can, and should, emotionally identify with, and that's what makes it work, because audiences do". Their literal positioning on the stage as well as their central role in the script is to facilitate the emotional identification of the audience with Des and Doreen. [The interview is available at: https://www.whatsonstage.com/bradford-theatre/news/philip-ralph-on-the-controversy-around-deep-cut_15235.html]

verbatim theatre creates “spaces of potentiality” (Sloan, 2018, p. 584). As a consequence, the designated sum that consists of the flow of words and emotions, as well as of many deliberate decisions, holds the potential to help a person or community in crisis (Thompson, 2009, p. 61).

Verbatim theatre aims to create a dynamic, on-going relationship between individuals and the society. As a matter of fact, this inter-relationality is what triggers the potentiality. First, the playwright interacts with the subjects and this conversation is generally about an individual case that can be used as a good example to demonstrate a political/legal/social failure. Then, the play – hence the actors on the stage – reaches out to the audience. They transmit the words of the victims, as well as their emotions, along with the ideals of the playwright. And lastly, the political/legal/social nature of the plays aims for a new contact zone where the audience, as the judge of the judges, communicates their verdict to the community. Thanks to this ongoing, multi-layered contact, affect transforms into “an action, a thought, and an interaction” (Sloan, 2018, p. 585) where the audience holds a potential for the intended social change. Not only are they, themselves, part of the community but they can also propagate the ideas/emotions/messages to others. As Jill Dolan (2005) writes in *Utopia in Performance: Finding Hope at the Theater*, performances inspire moments “in which audiences feel themselves allied with each other, and with a broader, more capacious sense of a public, in which social discourse articulates the possible, rather than the insurmountable obstacles to human potential” (p. 2). Surrounded by other individuals that encounter the same performance, each member of the audience realizes the possibility to unite and their capacity to lead a new path to the future. However, it is dangerous to assume that the audience will always receive the intended message: the playwright, or the victims, or

the actors, cannot control the last stage of the social interactions. The audience is free in their social debates and propagandas; they are affected by the performance, but they are not dictated by it.

When Richard Norton-Taylor discusses the success of *The Colour of Justice*, he says: "the play's impact was enormous: the play provoked anger" (qtd in Hammond and Steward, p. 109). Parallelly, in one of his interviews, Philip Ralph describes *Deep Cut* as an "emotional rollercoaster" and says:

> Within an hour and quarter you've been on this emotional rollercoaster ride that's taken [Des and Doreen] fourteen years, and people leave feeling the things that *I want them to feel*: emotionally wrung out and absolutely furious that we live in this society and have the temerity to call it a democracy (emphasis added).[53]

For both writers, the success, or the potential to impact others, lies in provoking emotions, namely anger. The audience should feel frustrated to witness injustice and institutional failures and they must spread their anger to create new points of contact.

The prevailing emotion in *Gladiator Games*, however, is not the anger. Zahid's representation on the stage gives the audience a chance to get acquainted with him.[54] Although the audience already knows that Zahid is dead, when the stabbing is re-enacted in front of their eyes, the affect increases. Plus, knowing the end, the audience recognizes the scenes where Zahid talks to his parents for the last time or watches his last movie. Aleks Sierz (2011) writes that the play thus exceeded

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[53] I find Ralph's phrase manipulative. The audience is not an ensemble of puppets, so claiming that they would feel whatever Ralph "want[s] them to feel" is exaggerated and fallacious. Plus, the political/legal/social climate, which is out of Ralph's control, can deeply affect the audience and change their initial reactions. [The interview is available at: https://www.whatsonstage.com/bradford-theatre/news/philip-ralph-on-the-controversy-around-deep-cut_15235.html]

[54] Lyn Gardner writes in her review of the play: "It is an uncomfortable, soul-searching evening and its greatest triumph is that you leave the theatre feeling you've met and known Zahid Mubarek. This is no faceless statistic, but a laughing man who was full of flaws and promise." Once again, the success of a play is based on its capacity to evoke feelings, but this time it is rather the illusive sensation of having gotten to know an individual. [The review is available at: https://www.theguardian.com/culture/2005/oct/27/theatre.art]

its original aim, which was “to expose the catalogue of failures that led to Zahid’s brutal murder”, because it managed to resonate with emotional and familial issues (p. 57). And he gives the following example: when he saw the play, at the end when the onstage Zahid said “I love you” to his mother, somebody from the balcony shouted, “Tell her again mate” (p. 58). Through the family trope, Gupta manages to create a space of agitation and of (un)ethical manipulation where she personally “touches” the audience. And, as a response, the emotional spectator who shouts creates a new point of contact, and this time, the contact is bilateral: not only does the performance affect the audience but the audience affects the performance.

Another important factor for creating an emotional and intimate bond with the audience is the performance’s staging. For example, in the staging of *Gladiator Games*, the same metal set is used both for the prison and for the court scenes. By doing so, the audience is forced to interrogate the similarities between the prison and the courtroom; they are invited to question the restrictedness of the judiciary, and to feel disturbed by its inefficacy. Radosavljevic (2013) observes that in *Deep Cut*, in order to emphasize the realness of the events while stressing the family trope, the set designer creates the James’ exact living room on the stage (p. 143). She argues that through this exact reenactment, the audience feels a more direct and intimate connection with Des and Doreen, they feel almost like they are having a cup of coffee with the James family in their own living room (ibid). Similarly, at the opening night of the play in Edinburgh, towards the very end, the real Des “performed” his speech on the stage. In his interview with Radosavljevic, Ralph recalls that night saying that following Des’ speech “the atmosphere had changed – the audience rose for an ovation but it was obvious that this was more for Des and Doreen than it was for the cast” (in Radosavljevic, p. 212). Des and Doreen’s actual

presence convinces the audience as to the reality of the play as well as creating a tremendous affect.

"The very present-tenseness of performance" writes Dolan, "lets audiences imagine utopia not as some idea of future perfection that might never arrive, but as brief enactments of the possibilities of a process that starts now, in this moment at the theater" (p. 17). Thus, the temporality of being together in that theatre hall at that very moment increases the points of contact and exchange. First, the present tense gathers the audience: they all witness the same injustices, they get emotional together and they dream of a different future together. And being together at that very moment with other individuals who share a particular feeling or idea gives the audience hope for the future. Most importantly, they start to feel that the utopic future they want to establish can start at that very moment, because they are not alone. Therefore, the performance opens up a new space for the audience to communicate about the present moment as well as its implications for the future.

The affected audience is not a mere witness to the performance and performance's own reality but is also the main actor of the potential change. Christian Biet (2011) argues that especially when theatre is situated within the political sphere, it has the potential to expose new questions that law and/or politics have ignored (p. 291). What is even more striking is that theatre asks those questions to the polis on a general level, but the direct contact is with the audience. Hence, the solutions or the answers to the question come through the audience, they become the key for the change, and function as a synecdoche for the community as a whole.

The Colour of Justice, *Gladiator Games* and *Deep Cut* expose injustice and institutional failures and expect to create as much of a contact zone and change as

possible, and with elastic boundaries between actors and spectators, all parties involved become part of an undetermined group of justice-makers. In many ways, the plays' power is best evaluated not with reference to who participates but who does not: for example, in *Deep Cut*, the politicians and army officials who have been invited to see the play ignore the invitation. Des James writes: "They are so afraid of the word, the arguments, the logic and the case that so powerfully supports our call for a public inquiry, that they can only avoid us now. Avoid correspondence, avoid discussion, even avoid going to the theatre to see the play."[55] *Deep Cut*, just like *The Colour of Justice* and *Gladiator Games*, is situated at an ambiguous point between law and society, causing "uncertainty and discomfort" (Biet, 2011, p. 284). The state officials do not want to be a part of this anxious mood, they want to avoid any point of contact and inter-relation.

In this state of discomfort and irritation, the audience feels forced to make a judgment and to mitigate the situation. In other words, the audience's affective engagement is also modulated vis-à-vis the affective engagement of political and legal structures. Biet writes that after theatre points out the law's ambiguity and elusiveness, the audience becomes the ad-hoc judge and feels obliged to express themselves (p. 284). Nicholas Kent remarks that when the onstage lawyers stood up during Sir Macpherson's closing statements, the audience – although they were not asked to do it – also stood up. He says: "[the audience] felt that having listened to the evidence they were involved in what that family had gone through and the way they had been treated, and they wanted to show respect to the family, and they stood" (qtd in Hammond & Steward, p. 168). At first, the image of standing audience members

[55] The article is available at https://www.theguardian.com/commentisfree/2009/apr/01/deepcut-inquiry-play-philip-ralph

resembles an exact re-enactment of a courtroom. In a courtroom, the judge's words are final, and everybody stands up to show respect for the verdict. But, at its best, the Stephen Lawrence Inquiry is not a real trial and a theatre hall is not a courtroom where legal decorum reigns. Plus, the play ends without rendering any actual judgment, it instills hope and thanks the Lawrence family for their courage.[56] Thus, verbatim theatre, instead of forcing a judgment on the audience, initiates a platform where the audience is obliged to think about and comment on political, legal and/or social issues.

When verbatim theatre is examined, the relationship between affect and effect becomes more and more ambiguous, because the playwrights desire to convey both feelings and a concrete message. However, forcing a judgment or conclusion onto the audience is risky. For example, one of the methods used by the playwrights of *Deep Cut*, *The Colour of Justice* and *Gladiator Games* in their search for both affect and effect is creating an emotional bond between the families and the audience. However, the excessive use of the family trope in the plays is highly controversial, keeping in mind that the plays are about crimes against society. On the one hand, the playwrights' choice to stress the families' quest for justice serves as another indicator of how formal justice mechanisms are imperfect. The repeated emphasis on the family shows that the formal criminal justice system is so flawed that if these three youngsters did not have any family to keep fighting, perhaps, the murderers would never be brought to justice. On the other hand, the centrality of the family figure, as

[56] Sir Macpherson's onstage closing statement is the following: "Thank you very much. Ladies and Gentlemen, that concludes the evidence which will be heard by this public inquiry in connection with the matters arising from the death of Stephen Lawrence. I should indicate, however, that the future holds much activity and much work still to be done. Finally, it seems to me right that we should end as we started with a minute of silence to remember Stephen Lawrence and to couple with that our congratulations, if that is the right word, on the courage of his parents. Would you stand with me for a minute's silence" (Norton-Taylor, 2014, p. 401). Norton-Taylor does not include any passage that resumes the facts or problems, he simply prefers to state that they have arrived at the end and the case still remains ambiguous. It is the audience that should decide on an appropriate conclusion.

well as the choice of protagonists still imply an un-voiced ethical commitment on the part of the playwrights. The playwrights mark the nuclear family as the most legitimate social grouping and arrive at an implicit conclusion that the family deserves to be legally protected. Correspondingly, most of the moments they pick to be emotionally charged are also used as a means of agitation.

Thus, at stake for verbatim playwrights is a delicate balance between affect and effect. Thompson (2009) argues that participatory performances (and I include verbatim theatre in this scope):

> should focus on affect rather than effect. This would seek to avoid the anticipation or extraction of meaning as the primary impulse of an applied theatre process … Working with affect awakens individuals to possibilities beyond themselves without an insistence on what the experience is – what meanings should be attached (p. 111).

Through affect, the audience shares a sense of belonging that is more thorough than agreeing with the playwright's message or goals. Plus, affect invites new possibilities that can exceed the desired meanings. In an interview, Nicholas Kent admits that verbatim plays depict a coherent story that might frustrate or amuse the audience, a process through which they become "inspired to do something". "So verbatim" Kent says, "can be a very useful tool in getting an audience passionate and energize about political issues" (National Theatre, 2014b). In that sense, verbatim theatre's desire to effect the audience and invite social change gains a significant advantage when the plays manage to affect the spectators, because only then do the plays become "a protective space apart from the reach of the problematic national discourse … a starting point for critical commentary or further performance" (Thompson, 2009, p. 9).

4.3 Ethics, agency and trauma in verbatim theatre

The questions of affect and effect are closely related to verbatim theatre's ethical challenges, including its status as an objective genre, and the agency of the traumatized subjects whose stories it represents. It should be noted that verbatim theatre does not give voice to the voiceless per se, but rather it brings together the silenced narrator with the curious listener. Norton-Taylor emphasizes repeatedly that verbatim theatre is not a form, it is a "tool for the exposure of injustice and subterfuge" and a "means of providing insight into hidden processes and scenarios" (qtd in Hammond and Steward, pp. 130-1). Norton-Taylor's words are intriguing: if verbatim theatre is formless, in other words a transparent vehicle of representation that is not burdened by formal requirements or histories, how could it be used in the service of justice? After a comparison of Gupta's combination of imagined scenes with news reports, interviews, and evidence from the Zahid Mubarek Inquiry, and Norton-Taylor's strict limitation to the public materials, Janelle Reinelt (2009) concludes that the verbatim "form" might apply differentially to different plays (p. 14).[57] Overall, there is no consensus about whether verbatim is a form, a method or a genre. Mostly, verbatim theatre is adopted as a medium to reach a certain political and/or social agenda. But the methods of verbatim plays vary profoundly. For example, Alecky Blythe, a central figure in the current British verbatim theatre, remarks that she works "with the purest form of verbatim theatre" because she not only represents what is said but also how it is said through the use of headphones (National Theatre, 2014a). *The Colour of Justice*, *Gladiator Games* and *Deep Cut* are good examples of the diversity of verbatim theatre. Starting from the material-

[57] Reinelt argues that Gupta has risked falling short of technical truth. Although Reinelt dislikes the term "verbatim" because of its endless promise of documentary, she is also not a big fan of Gupta's technique nor Norton-Taylor's obsession with the hyper-real (p. 14).

gathering process, the plays fully differ from each other. *The Colour of Justice* uniquely rests on the public court materials. *Deep Cut* includes statements from the Inquest, newspaper clips and most importantly actual interviews with the James family. *Gladiator Games*, however, creates fictive dialogues based on the real interviews that the playwright conducted with the family. On a different note, while creating verbatim plays, Robin Soans first conducts interviews and then re-phrase the actual words. Although Gupta's and Soans' understanding of verbatim can be situated somewhere in between fiction and reality, both playwrights – especially Soans – identify themselves as verbatim playwrights.

Hence, the limits and the methods of verbatim theatre are undefined, but what is common to verbatim plays is their desire to engage the audience. At that point, verbatim theatre contradicts with theatrical realism.[58] Even though verbatim theatre also deploys the stage to "shape certain forms of audience attention, experience, and interpretation" (Worthen, 1992, p. 15), it hopes to channel the audience towards a specific message and ideal. Worthen (1992) argues that realism desires "to produce the audience in an 'objective' relation to dramatic events" (p. 19). In other words, realist theatre necessitates the audience to be "impartial observers". In verbatim theatre, however, the plays aim to create the most subjective relationship possible with the audience. Although the plays themselves mostly claim to be "objective", at the end of the performance, the audience is expected to be affected and to be politically and socially engaged.

This is a generative contradiction and it stands at the root of the ethical complications that emerge from verbatim theatre's quest for truth and reality. While

[58] Nonetheless, realism and verbatim theatre also share some important similarities. The best example of this interrelation in our three plays is the minutely created living room of the James family for the staging of *Deep Cut*.

in an opinion piece, Des James indicates that Ralph "holds the truth",[59] in his Author's Note, Ralph writes: "Verbatim is not 'truth'. It is resolutely mediated speech; otherwise I would be unable to take a writer's credit." (p. 23). Ralph admits, in other words, that no matter how objective the play tries to be, it is nonetheless limited to the choices of the playwright and represents *a* reality rather than *the* reality. Here, the victim's statements and the law's narrative add to the possible non-conformity of multidimensional realities/truths. First, although the law makes a claim to objectivity, it is still a discourse, in the sense that it is shaped in the hands of politicians, law makers and public or private actors.[60] Moreover, the technicality of the law pushes the reality and the truth into the background: what prevails in a courtroom is the evidence. Significantly, Carol Martin (2010) expresses distrust towards the objectivity of the evidences of the "real-life drama", stating "in court, as in documentary theatre, the forensic evidence stored in the archive is as much constructed as it is found" (p. 20). She observes how the police, the prosecution and the defense fabricate evidence to support their case, thus likening trials to a subjective propaganda tool. Generally, the rules of the courtroom prevent an open discussion, it is the judge who decides who gets to speak or what goes into the official record.[61] The combination of these factors unveils the inadequacy of some

[59] Cheryl's father Des James actively uses internet to propagate his quest for a public inquiry. He comments on many opinion pieces and reviews of verbatim plays. In doing so, he always represents Ralph as the ultimate researcher and the absolute truth holder. As a comment to a highly controversial piece written by Norton-Taylor entitled "Verbatim theatre lets the truth speak for itself", he defends Ralph and verbatim theatre, stating that *Deep Cut* helped them to spread the truth while the state institutions refused it. Retrieved from: https://www.theguardian.com/stage/theatreblog/2011/may/31/verbatim-theatre-truth-baha-mousa

[60] But then a new question that surpasses the limits of this chapter arises: What is an "objective" law? A tentative answer would be natural law. But even natural law might make a claim to subjectivity.

[61] A good example of the judiciary's arbitrariness and subjectivity would be Jonesy's statements in *Deep Cut*. She remarks that starting with the police investigation, the authorities – or the lawyers or the press – always asked biased questions. The first question she was asked was "Why do you think Cheryl killed herself on that camp?" to which she responded "Well, I don't know if she did kill herself, do I?" (Ralph, 2008, p. 65). Later on, when Blake started his Review, she phoned him to give

verbatim writers' claim to be the "guardians of the truth in the public sphere" (Gibson, 2011, p. 5). Especially in *The Colour of Justice*, the fact that Norton-Taylor follows the exact wording/nature of the Stephen Lawrence Inquiry, does not make him the sole representative of the truth. The Inquiry in itself is bound by the courtroom rules and a certain authority; hence, when Norton-Taylor takes an already subjective and limited reality and edits it subjectively and with his own limitations, he betrays his obsession with the truth.[62]

Furthermore, the numerous and undefined methods used by verbatim playwrights makes verbatim theatre quite hybrid, which once again contradicts with the playwrights' claims to objectivity. Many other literary genres contribute to verbatim theatre, and perhaps most problematically, verbatim theatre borrows melodrama's agitation tropes as well as its role pattern. Especially being semi-fictional, *Gladiator Games* relies heavily on the exaggerated emotional appeal of Zahid's story. Zahid's final goodbye, the family's trust in him and Zahid's on-stage murder are all constructed for maximum dramatic impact. In addition, the playwrights try to find the most attractive "victim" for the audience, which casts an important shadow on their intentions. For example, when commissioned to write a play about the Deepcut Barracks, Ralph prefers to focus on the story of Cheryl, because she is the only woman, who also happens to be the only Welsh person, amongst the four recruits (Ralph, 2008, p. 18). Gupta's Zahid, meanwhile, is remorseful, he is the exemplary citizen. Thus, verbatim theatre achieves affect

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a statement. But he showed "no interest" and "baffle[d] [her] with bullshit" (Ralph, 2008, p. 70). So, the Review was based on the responses of the chosen witnesses to some already-prejudiced questions.

[62] In his interview in *Verbatim Verbatim*, Norton-Taylor repeats many times that the tribunal plays are an effective medium to expose the truth (p. 113, 114, 121, 131).

through generic proliferation rather than methods that can be considered unique to verbatim.

Verbatim theatre thus faces numerous ethical challenges, since it aims to represent real people and their spoken words. As Patrick Duggan (2013) argues, verbatim theatre is helpful to "shorten the distance between 'us' and the representation of that other [but] in so doing [it] explicitly makes visible the ethical complexities of such representations" (p. 158). One of the main differences between the news media and verbatim theatre is the way the writer gathers the materials. In his Author's Note, Philip Ralph marks that the James family agreed to speak with him because he was an artist, not a reporter (p. 18). Similarly, in an interview, the verbatim playwright Alecky Blythe observes that many individuals agree to open up to an artist, rather than a reporter, because they believe that their representation would be more accurate (National Theatre, 2014b). But this is a tricky ground: how accurate should the representation be? In verbatim theatre, all of the characters are real people, making the playwright responsible towards them. David Hare argues that verbatim theatre is different than fiction because each character expects to be represented accurately and that if the real people are dissatisfied with their representation, the playwright is ethically obliged to satisfy them. For instance, he says that in his play *Via Dolorosa*, which is about the Israeli-Palestinian conflict, he had to change the names of actual individuals because he knew that they would not be satisfied with their representation (National Theatre, 2014b). Nevertheless, although ethically speaking Hare's method might be more pleasing, as far as the objectivity and reality claims of verbatim theatre are concerned, it is debatable whether Hare's solution is the most reliable one.

In *The Colour of Justice*, *Gladiator Games* and *Deep Cut*, the question of ethics is crucial, since the plays gather various sources, such as personal interviews and the proceedings of public inquiries. Can the playwright use public documents without prior consent? Who should she demand authorization from? What is the limit of the community towards whom the playwright is responsible? Should the playwright ask for permission from every individual involved in the process? Especially *The Colour of Justice* exists in a grey area. Norton-Taylor uses the published materials of the Stephen Lawrence Inquiry. In an interview, Nicholas Kent explains that they had the right to turn the Stephen Lawrence Inquiry into a play regardless of the consent of the main protagonists, since the material was already in the public domain, yet, ethically, they were obliged to demand the Lawrence family's authorization and support (National Theatre, 2014b). He then continues: "So you have to be very careful not just to ask the main protagonist but other people as well whose lives your work affects." (ibid). Within a few sentences, Kent thus self-contradicts: he explains how they only contacted the Lawrence family to get their consent and support, and then he argues for the importance of the involvement of all the affected parties.

These contradictions are indicative of where Norton-Taylor and Kent see the emotional and ethical core of their play to lie. *The Colour of Justice* has over thirty characters, some of which are represented as racist villains. I find it highly controversial that Norton-Taylor and Kent felt the obligation to reach out to the Lawrence family, while leaving out the minor characters. Similarly, in an interview, Philip Ralph states: "I set myself very stringent ethical guidelines – anybody I knew whose words were going to be included, I gave them absolute carte blanche to say

'No' to anything".[63] Although his cooperation with the James family is praiseworthy, his use of public materials, especially of the Blake Review, is ethically ambiguous. In that regard, *Gladiator Games* is even more problematic. Regardless of the accuracy of his representation, Gupta's Stewart is a murderer. Gupta does not conduct any personal interviews with Stewart, she creates a character based on public materials and hearsays. Once again, this is highly controversial: should a playwright be ethically responsible towards a homicidal criminal?

Janet Gibson (2011) in her article *Saying it Right: Creating Ethical Verbatim Theatre* points out another crucial aspect of the ethical obligations of the playwrights. After criticizing Norton-Taylor's approach to the tribunal plays and his so-called advocacy for the truth and public debate, she writes:

> [The playwrights] may finish their particular verbatim project patting themselves on the back for the good done in getting the pressing issues they have written about to a public forum; yet they may also walk away with *their* names on the scripts, not those of the people whose stories they used, and as a consequence, with *their* pockets full of royalties from the play, leaving the pockets of the subjects of the play, empty. In this way, some verbatim playwrights may create verbatim theatre as a political act, while neglecting ethical responsibilities to their subjects (p. 6).

As far as our plays are concerned, there is no public information about whether any royalties were given to the families. The courageous political role of the playwrights is undeniable, however, as Gibson writes, it is dangerous to assume that the inter-ethical balance between the playwrights and the subjects is always respected. To sum up, as verbatim plays that represent actual individuals, *The Colour of Justice*, *Gladiator Games* and *Deep Cut* are ethically challenging and invite many questions about the playwrights' responsibilities towards the affected individuals, as well as about the participation and the agency of the parties.

[63] Retrieved from https://www.whatsonstage.com/bradford-theatre/news/philip-ralph-on-the-controversy-around-deep-cut_15235.html

Finally, basing a play on the words of the victims, namely in *Deep Cut* and *Gladiator Games*, exposes a new limitation of the verbatim theatre: does verbatim theatre speak on behalf of the victims or speak with them? In other words, whose agency is at stake in these plays? On the one hand, as seen in *Deep Cut*, the plays offer an opportunity for the victims to have a say: the assumption is that being listened to and being heard bring some sort of peace to the victims (Ralph, 2008, p. 24). On the other hand, at its best, editing/arranging/re-writing the interviews inevitably adds the voice of the writer to the materials. Thus, it is debatable whether the audience has access to the voice of the victims or rather to the voice of the playwright who aims to transmit the voice of the victims. Particularly, in *Gladiator Games*, the invented dialogues increase the ambiguity: Gupta gives voice to a literally voiceless entity, Zahid. The problem here is that by doing that she invents her own version of Zahid – whom she has never met – but wishes to represent it as the authentic, real Zahid.

Moreover, when dealing with traumatic subjects, the playwrights are in need of being extra vigilant because as Amanda Stuart Fisher (2011) argues, the relationship between trauma, truth and reality is quite fragile. She writes "I would argue that the testimony of traumatized subjects, which verbatim theatre exploits, places great pressure on . . . literalist construals of truth and authenticity" (p. 112). Trauma studies suggests that "constructing a narrative from the pain of the past allows [the pain] to be contained or healed" (Thompson, 2009, p. 45). At first, verbatim theatre is the ideal method for this "relief", "liberation" and "healing" because it generates a two-level audience system. When the victims talk to the playwright, it is the playwright herself who becomes the audience, and then, she takes her spectatorship and transfers it to the "real" verbatim theatre audience. What

is troubling is verbatim theatre's ambition to address and challenge the political/legal/social sphere while also retaining a close relationship with traumatic subjects. Stuart Fisher notes that the literal and factual account of 'what happened' cannot be reduced to a single testimonial or traumatic truth, and that verbatim theatre struggles to acknowledge the other 'truths' (p. 113). Thus, neither the victim's statements, nor the editing of legal documents, grant full access to the truth.

Verbatim theatre is limited in its capacity to deal with the truth and the reality. Nevertheless, "there is no better way to tell this particular story" writes Philip Ralph in his Author's Note, "than via verbatim theatre" (p. 23). Verbatim theatre involves the risk of becoming too subjective while also making a claim for the objective truth. Plus, if the voice of the playwright is too powerful, it might end up hushing the voices of the subjects. And even when the playwright remains "silent", some removal and interpretation of the original source material is inevitable (Gibson, 2011, p. 5). In short, especially when dealing with the traumatized subjects, verbatim theatre can tackle *an* account of truth, rather than *the* truth.

4.4 Conclusion

"The power of verbatim" says Philip Ralph, "lies in enabling people to connect their emotions to their intellects" (in Radosavljevic, p. 213). Verbatim theatre not only emerges as a response to state institutions, to the law and/or to the news media, it also aims to create a personal and emotional bond with the audience. Verbatim playwrights take an already-loaded political, social or legal issue that is more or less known to the public. To that end, most verbatim plays inevitably interact, in a positive or negative manner, with the news media. For example, while *Deep Cut*

desires to rectify the one-sided media coverage of the Deepcut Barracks, Norton-Taylor considers his play as a developed form of journalism. Although verbatim plays predominantly have a message or a social longing, a focus on affect demonstrates that rather than a radical transmission of certain ideals, verbatim plays hold the potential to create new points of contact with the spectators. In other words, verbatim plays are most successful when they manage to gather the audience around a certain emotion that can be turned into a socially far-reaching change.

In its relationship with restorative justice, verbatim theatre possesses certain advantages in the service of this informal method. First and foremost, verbatim plays allow the audience to realize the defaults of formal criminal systems, which initiates a further longing for a new method to restore justice. Yet, verbatim theatre also comes bearing some great risks: it might prioritize the playwright's voice to such a degree that all other voices become accessories, which invites the questions of ethics and agency. Finally, although claiming to purity, verbatim theatre as a genre/form/method is inevitably fed by other genres such as realism and melodrama.

CHAPTER 5

CONCLUSION

Throughout this thesis, I question the relationship between verbatim theatre and access to justice, or more specifically access to restorative justice, and I try to understand whether verbatim theatre responds to a unified theory of restorative justice. My search, however, is fallacious because none of the main terms I use in this thesis, such as justice, access to justice, restorative justice and verbatim theatre, can be coined into a single definition: their methods, priorities and principles differ temporarily, culturally, politically and socially. As far as justice is concerned, for centuries, the extensive efforts to define justice and to draw an exact line between the just and unjust have remained ambiguous. Not only are the limits of justice re-established with each theorist, but the concept of justice inevitably varies temporally, spatially and culturally. Hence, justice escapes a uniform definition and mostly remains fluid and undeterminable. When restorative justice is examined, ambiguities are even more numerous. Who is the authority behind restorative justice? What are the necessary elements for a restorative justice mechanism to be effective? To what degree is restorative justice "successful" in restoring peace and harmony after serious and public crimes?

To that end, access to justice is an ambiguous term as well: it aims to offer "access" to an undefined, vague concept while also reducing justice to the courts and to the law. The contemporary and traditional understanding of access to justice praises procedural justice, in other words, it posits certain positive procedures as the sole guarantee of justice. However, this is quite problematic. Although some

procedural baselines are necessary and beneficial for a more equal and egalitarian access to justice, when formal justice mechanisms and norms block justice, they should be overthrown. As Pierre Schmitt (2017) argues, as long as the specific right or issue require, alternative mechanisms should be encouraged in the name of justness, fairness and effectiveness (p. 92). In that regard, non-traditional and non-formal methods for accessing justice, like restorative justice and informal justice, gain importance in surpassing the legal decorum and rigid rules and offering a platform for unheard entities.

Besides the impossibility of reaching a widely accepted conclusion about verbatim theatre's methods and potential, verbatim theatre possesses important limitations when faced with law and justice. Overall, law and theatre share some fundamental physical resemblances that facilitate their interaction. Apart from the physical resemblances, such as the stage, the positioning of the parties, and the presence of an audience, law and theatre are parallel on a more abstract level: classical trials and dramas have opposing parties, a villain and a victim,[64] and a "hero". In trials, the hero is generally the one who solves the problems between the villain and the victim. The hero is the law itself and she is epitomized as the judge. The judge, embodying the power of the law, is responsible for resolving personal and communal problems, she is the keeper of the social balance and of justice.

Taking on the classical villain-victim-hero trio, verbatim theatre is helpful in analyzing whether the law, the judiciary and the judge as an ensemble of heroic figures truly manage to "save" justice. Through editing, formatting and staging,

[64] At first, the identification of the two opposing parties as the villain and the victim is problematic. Especially when private law is concerned, it might be difficult to spot the villain. However, on the most basic level, in each adversary suit, there is a party who did not act in compliance with their legal responsibilities or obligations, and therefore broke the legal/social balance.

verbatim plays interact with a new ready-to-engage audience. They affect the spectators and by demonstrating the failures of the legal system, they instill hope for a better future. Yet, the plays are subjective, and it is not clear whether the audience can hear the voice of the oppressed or the voice of the playwright who transmits the words of the oppressed. The pioneers of verbatim theatre in the British context and in the late 1990s-early 2000s self-identify as the possessors of *the* truth and as the facilitators of *the* justice. In that regard, *The Colour of Justice*, *Gladiator Games* and *Deep Cut* are powerful because they offer a concise and focused account of years-long trials, however, they are undeniably mediated.

Verbatim theatre has the potential to reveal the failures of the judiciary and the law, it holds the capacity to criticize the extravagant spectacularism of extraordinary legal cases by turning them into new spectacles for a new audience. Moreover, verbatim plays can arise as a response to various grand narratives, including those of the news media. Yet, verbatim theatre's complicated relationship with ethics, trauma studies and objectivity, as well as its lack of coercive legal power, limit the desired affect and effect of the plays. Thus, it is impossible to arrive at a common answer as to whether verbatim theatre can be used as an informal justice mechanism or as a human rights activism method.

In this fragile and affective link between law and verbatim theatre, verbatim theatre's interaction with justice – both on a formal and informal level – becomes even more problematic when "extraordinary legal cases" are examined. Similar to the trials that followed World War II and South Africa's TRC hearings, the cases of Stephen Lawrence, Zahid Mubarek and Cheryl James are deeply situated within the public domain. They question the race relations within British society and the deficiencies of state institutions. As discussed in Chapter Three, extraordinary legal

cases face an important limit: they are both public and private, they are both spectacular and traumatic. Thus, in this space of excessive publicness, such cases reveal the similarities and differences of law and theatre. Extraordinary legal cases are more than individual cases, they are publicized legal spectacles with an extenuated emphasis on justice. In other words, extraordinary legal cases run the risk of compromising justice in order to become more spectacular and theatrical.

Considering the lengthy and unsatisfactory legal trials of Stephen, Zahid and Cheryl, as well as the news media's response to these cases, *The Colour of Justice*, *Gladiator Games* and *Deep Cut* occupy a unique place within the extensive literature on law and theatre studies. The real cases of Stephen, Zahid and Cheryl are concerned with substantial problems that block the parties' access to justice. By choosing to revolve their narratives around the failures of the judiciary, the plays repeatedly emphasize the families' quest for justice. More importantly, the plays are an important pressure tool since they are produced during the trials, inquiries or investigations.

Moreover, verbatim theatre's relationship with restorative justice is multi-layered, and my primary sources demonstrate various interactions between verbatim and restorative justice. First, verbatim plays hold a certain potential to perform as a restorative justice mechanism on their own. The playwrights, by playing the role of facilitator/mediator between the victim and the perpetrator, can create a narrative aimed for communal and individual healing as well as for the reestablishment of social order. However, in *The Colour of Justice*, *Gladiator Games* and *Deep Cut*, the involvement of the perpetrators is non-existent. Hence, although sharing some similar goals with restorative justice, the plays do not fulfil their potential because of the chosen methods. Nevertheless, verbatim theatre remains an important tool in

order to spread and initiate restorative justice. The first step is the deconstruction of formal justice systems. As discussed in Chapter Three, the three plays revolve around the theme of legal failures in the cases of Stephen, Zahid and Cheryl. Subsequently, the audience are invited to replace the judges who failed to restore justice. By acknowledging their own capacity to initiate a new justice-building process, the spectators hold the potential to demand restorative justice.

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