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Edição organizada por: Cristina Marinho, Nuno Pinto Ribeiro e Tiago

Daniel Lamolinarie de Campos Cruz

Comissão científica: Armando Nascimento (ESCTL), Cristina Marinho

(UP), Jorge Croce Rivera (Uévora), Nuno Pinto Ribeiro (UP)

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Projeto gráfico: Cristina Marinho e Tiago Daniel Lamolinarie de Campos

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Know Thyself

David Alexandre Ellwood
Harvard University

March 10, 2015

It's a spectacular site, on the slopes of Mount Parnassus, overlooking the Pleistos Valley, where the eternal Delphic flame once whispered to the inner hestia of Apollo's Temple. Here the words of Gods caressed the lips of Pythia, while seekers entered a landscape of myth and mortal made one. Only in such a place can the transcendent move human tongues, can men and women struggle with the fleeting language of Gods, can the cosmic axis lead the fates of Kings and conquerors. But it is also here that you will find the words of a maverick, Thales of Miletus (c. 624 - c 546 BCE), carved into the temple forecourt:

γνωθι σεαυτόν

Bertrand Russell wrote "Western philosophy begins with Thales", Aristotle regarded him as the first philosopher, others have lauded him as the first mathematician and *Father of Science*. To the modern eye, it might seem strange to see Thales' maxim inscribed at the entrance of an oracle. But is it? Thales may have been the first to distill geometrical truth from reason, but to the ancient supplicant the world was of one piece. Thales may have seen the world anew, usurped the divine,

rejected the mythological, but did he unfold the natural order in plain view? Not quite. For in the shadows of those mystical fumes remains a dark truth, that science, ancient and modern alike, finds its source deep in the wellspring of a human mind, in a place out of sight to the instigator, where only the oracle hides.



Two and a half millennia have not dispelled the mystery that pervades our human odyssey, but a priestly cast no longer speaks of it in mythical verse, nor answers the questions of girls and boys. Yet the passing of times weaves a story that can still be told, of a cosmos that awakens to itself, of a journey to the philosopher's stone and a creature forged from the stars but who forgets what matters. To know thyself today we must not look back at the temple ruins, but turn instead to the

crucible of a modern era, giant experiments where mind and machine make one.

In an attempt to forge a modern narrative of who we are, I would like to tell the story of physics from the perspective of a singular man, lost and seeking answers in a world that abandoned all reason, who finds in his soul a guide to the atoms, and embarks on a quest that unlocks his heart through the substance of flesh. My writing is still at a very preliminary stage, and will undoubtedly undergo a thousand and one more revisions, but in gratitude to the organizers of this conference I dare to share a vignette of what might be. However, the context is foreign, so let me begin by setting the stage with a little background to multinational multidisciplinary enterprise that has become modern particle physics.

CERN

The latest drama in fundamental physics plays out on a huge set near Geneva, straddling the border between France and Switzerland. Its actors are tiny subatomic particles and its plot is one of adventure and discovery, the epic quest for the elemental constituents of our world. The European Organization for Nuclear Research or CERN¹ was founded in September 1954 and is now the world's largest particle physics laboratory. Sixty years after its founding CERN employs 2,300 staff alongside more than 10,000 associates, any number of which are either visiting or working remotely on the experiments twenty four hours a

¹ Originally Conseil Européen pour la Recherche Nucléaire

day. Their task is to catalogue the elementary fragments of matter and interaction that make up the material universe.

But CERN is much more than a physics laboratory, it's a scientific organization that transcends borders like no other. With 21 member states and the active participation of institutions in 75 countries worldwide, CERN is a model of international cooperation with an impressive record of scientific and diplomatic achievements. The laboratory fostered collaboration of American and Soviet scientists throughout the Cold War, and continues to span political divides, bringing together researchers from Iran, Israel, and the Palestinian Authority, as well as many other disparate nations in a common scientific vision, a vision that unites and inspires rather than divides, and whose significance has been formally recognized with observer status in the General Assembly of the United Nations since December 2012.

Change and Permanence

The enterprise of particle physics is to explore the microcosmos, the world of particles that live deep inside the nucleus of an atom, as well as to conjure up their more exotic relatives, massive but transient cousins that once filled the nascent universe. The quest for the indivisible dates back to the origins of science, when the first greek philosophers sought to understand the nature of change. How can a seed grow into a flower, or an acorn a tree? Change is everywhere in the organic and inorganic world, and continues to enchant our experience

with a kind of magic. How can a child not be amazed by the disappearance of salt crystals in a glass of water?

Fifth century BCE philosophers such as Zeno and Parmenides speculated that motion and the changing forms of matter are illusory, arguing that anything that was real and permanent could not take part in such phenomena. Basing their ideas on various paradoxes and dismissing any form of magic - the creation of something from nothing - these philosophers inferred that the world of flux is an illusion, indeed change itself is impossible! Parmenides concluded that nothing can be said of the eternal unchanging nature of reality other than it exists - *"Being is, non-being is not"*.

Enter Democritus

Leucippus and Democritus challenged this point of view by positing a fundamental limit to divisibility. They supposed that all matter is ultimately made up of tiny indivisible particles called atoms² which can combine in various ways to animate the phenomenal world. These atoms were to form the ontological basis of the real world, eternal and immutable in every aspect except their position, which was assumed to be constantly in flux. This remarkable theory has great explanatory power and represented a tremendous leap forward at the time. It survived in only slightly elaborated form for over two millennia and still represents a common but naive understanding of the physical worldview.

² From the Greek *ατ ομοσ* meaning uncuttable.

The Particle Zoo

In modern science atoms retain their conceptual role as the irreducible components of chemical elements, but are no longer regarded as indivisible or immutable. The tragic use of atomic weapons at Hiroshima and Nagasaki stands as a grave testament to the divisibility of the atom, and every high school student is now taught that atoms are not fundamental, but should be thought of as systems, consisting of a dense nucleus made up of protons and neutrons, surrounded by shells of orbiting electrons. The proton is positively charged, and the chemical identity (or atomic number) of an element is determined by the number of protons in its nucleus, a quantity that must be balanced by an equal number of oppositely charged electrons in its orbital shells to achieve an electrically neutral atom.

The science of chemistry results from the interplay of electrical forces between atoms, whereas nuclear physics is the concern of powerful short range forces acting within the nucleus. Modern particle physics takes this still further, seeing neutrons and protons as composites themselves, extending the search for fundamental particles to a host of progressively less stable fragments of matter collectively known as hadrons and leptons. The forces acting at these minute scales are also modeled by particles, called gauge bosons, and the whole menagerie is held together by an even more exotic invention of particle physics called the Higgs or “God Particle”. This latter artifice invokes a kind of phase transition that saves the entire theoretical contraption from its prima-facie inability to introduce mass in a natural way.

Lost in Explanation

To all intensive purposes however, most everyone today remains imbued in the worldview of a universe made up of tiny fragments of immutable matter, whatever their names might be. An unfortunate consequence of such naive materialism is that the modern human endures a severe state of alienation, very different from the mythos of prescientific cultures. What are the consequences of this dearth metaphysical landscape, both for the individual and society? How are we to draw meaning and cohesion from a cosmology that reduces life to the dynamics of inert matter and chance?

To confront the existential dilemma of the modern era I am working on a narrative that seeks to debunk the naive materialism of popular culture, while at the same time outlining a few of the novel conceptions brought to light by modern scientific inquiry. The story takes shape in 1914, loosely following the historical events leading up to the outbreak of the First World War. The protagonist, named Roland, becomes progressively distressed as the cultural powers of Europe embroil themselves in a brutal and savage war. Unable to bear witness to the events, he escapes to Switzerland, where he seeks solitude and time for reflection on the nature of the human condition.

While hiking in the mountains one afternoon Roland is engulfed by a freak avalanche that leaves him buried under a mountain of snow. In a vain attempt to escape the morass, he finds himself taking part in a fantastical adventure that transcends both space and time. Dazed and confused, his search for meaning in the external world is transformed

into an inward journey through a dreamlike landscape of mountain peaks and valleys. In a series of encounters, Roland learns about natural law while seeking a meaningful rapprochement to the physical world through metaphorical representations of scientific discoveries.

The following excerpt is taken from his penultimate adventure, where he arrives at present day CERN to visit one of the large experiments made famous in 2012 after discovering the “Higgs Boson”, the missing particle needed to complete what physicists call the Standard Model. We join the action as Roland is being ushered through a rapid tour of the facilities before meeting with a mysterious man who sets Roland thinking about the nature of human progress.

Roland meets ATLAS

“It’s underground, you see, the theater that you’re looking for. Nobody does anything outside anymore, it just doesn’t make sense. Too much noise, you wouldn’t see anything outside, only nonsense. You understand, don’t you? It’s obvious I think. Besides, it would be dangerous. We pride ourselves on safety you know, that’s what they don’t understand. The ridiculous things they write about us. They don’t understand anything.”

The stocky little man rushed on almost as hurriedly as he talked, but Roland wasn’t listening any more. He took a deep breath, yearning to merge with the vivid green landscape that he once knew. It was still here he thought, in pieces at least. His agitated little guide was from the laboratory, an official of some sort called Müller, bustling with certainty and fastidiously groomed, nothing like the scientists Roland had once know. He was taking him to the great instrument, the one that Roland had been so curious about. But Roland was very tired now, and the mechanical little man babbled on and on, never leaving a moment of silence, silence that Roland badly needed. His senses were weakened by the ages, but he couldn’t help

thinking that this eternal landscape was stiffer and less vital than it had ever been, as if the animal had been sucked out of it. Only the mountains seemed real to him now, the only constant witness between then and now.

“Excuse me, I must stop for a moment” said Roland. A hollowing weakness rose up inside of him. “Please!”

But the rushed little man continued on without listening as Roland crumpled and collapsed onto the pavement.

Turing in impatience, Müller squealed and ran back to aid Roland, but his words belied any concern but his watch. “Please Sir, we must hurry, they are waiting”.

Gravity had brought Roland a moments reprieve. His guide carried on talking but Roland heard nothing further. He gazed away, yearning for friends passed, utterly transfixed by the mountains. Still raw, still silent, still looking on. They reminded him that he was not what he was, and nothing around him could ever be the same. Yet they were still there. Giant, eternal, irresistible.

After a few brief moments of calm, Roland regained his strength and continued on until they reached a domelike structure, more alien than human in its architecture, an entrance he was told, into the underground chasm that housed the great machine. A labyrinth of elevators and corridors penetrated the dark caves of a primeval world, but the delicate silhouette of bison was replaced by room after room of flat screens, emitting a ghostly light that ebbed and flowed around each approaching corner. Roland saw a young woman bent forward over one of the screens, as if looking into a mirror. The characters she gazed at seemed to lose themselves in her eyes, which remained motionless. All the desks around her were empty, and her lonely figure filled the room with a vacant sort of solitude.

Finally they emerged from another elevator and passed through a short corridor into a brightly lit tunnel.

“This is it!” the man declared.

The tunnel housed a shiny tubular cylinder, plumbed with an array of cables and wires that gently wound its way forwards and backwards, as far as the eye could

see. A slight turn in the tunnel gave Roland the feeling that the whole structure was turning in on itself, as if the laboratory was slowly leading inwards.

"We're recalibrating now" explained Müller, "otherwise we couldn't be here." He paused for a moment, as if reflecting on what he said. Then, suddenly continued. "It's quite safe outside the tunnel, but when we're taking measurements, you can't come inside".

Roland was intrigued by the irony, how the scientist looks at the world by measuring it, yet those same measurements have forbidden him to get close to it. He remembered the burns on Henri's fingers, and dear Pierre and Marie. Their's was an epic that no one expected, the solid immutable world of Democritus had crumbled in their hands, and they with it.

Roland's thoughts turned back to his friend, whose mind was the stage from which so many secrets had poured forth. But for the people, he thought, for their hopes and fears, for their humanity and their democracy, the laboratory must speak. Only in the mountains is one free, in the valleys and the plains, man has built his home and populated it with a habitat of machines, and Roland was face to face with their Goliath.

Roland arrived at the sunken monolith like a pilgrim to Kailash, but there were no devotees circumambulating the tunnel. The actors in this drama were tiny subatomic particles called protons, an ancient conglomeration of elementary matter and glue that condensed out of the early universe less than a second after creation.

"They come in both directions, very fast, very very fast". Roland listened on as the little man explained that the two beams of particles are spun on a giant wheel of frozen magnets until they reach fantastic speeds. Only then are they ready to perform a kind of cosmic dance that once filled all of space and time.

"But where can we see!" Roland exclaimed. "Everywhere I see only a sort of backstage, turning over and under in endless repetition. This tunnel must lead somewhere other than in circles?"

"Yes of course" the man replied. "But you must understand, there is no eye at the end of the telescope, science has come on a great deal...you will see".

After a short ride in what seemed like a toy car, the tunnel came to an abrupt end where the tubular apparatus ran directly into what looked like the door of a giant bank vault. The small man led Roland through several corridors, bustling with large industrial machinery, but never closer to the vault. They passed a slim bearded man who wore a strange combination of clothes, somewhat akin to those of a surgeon, but whose hat resembled that of a construction worker. Thick transparent glasses covered much of his face, and his slim pale hands grasped a paper cup of sweet smelling coffee. He was a juxtaposition of opposites who resembled a pianist, displaced and disguised, but not completely transformed. If this was the artist, thought Roland, then where was his instrument?

"What's inside?" asked Roland.

"ATLAS" Müller exclaimed.

The explanation that followed made little sense to Roland, and he couldn't help thinking that it made little sense to his guide, or anyone else for that matter. The words "Higgs" and "God Particle" were mentioned again and again, with no indication as to what they might mean. Whatever sense one could make of his descriptions, one thing was clear, the latter term was used despairingly, almost as if God was not a subject of reverence, but disgust. Yet the man talked with a kind of religious fervor, not that of a prophet but a preacher. Roland tried to listen but was saturated by the torrent of words, he heard only the chant of a zealot, reciting scripture in a language foreign to both pagan and preacher, one neither he nor his prolix usher could decipher.

Moving further away from the vault they entered a dimly lit movie theatre, darkened by obscure machinery, visible only through half reflections in a perimeter of shadowy glass walls. The interior was littered with large and small screens, as if designed for viewing a hundred films at once. Müller stopped and offered Roland a chair.

"Please, wait here. This is the observation room. The professor will meet you here."

Müller carefully nodded, then turned away in his customary haste, leaving the room before Roland had a chance to speak.

The observation room was dark and quiet. In a strange sort of way it reminded Roland of a church. The pews were jumbled and the saints had been replaced by sculptures of electronic gadgetry, but it was the atmosphere of the place that struck Roland. It was a place of contemplation, perhaps even devotion. The colored scribbles on the encircling walls reminded him of iconography on stained glass. He felt at peace here and began to relax in a comfortable chair.

Just then he heard something moving in the shadows to his left. He was not alone! An older man was kneeling on the floor while cleaning one of the large glass screens.

"Hello, my name is Roland. I didn't see you there". "Grüß Gott." replied the man. "My name is Anton."

Roland supposed the man must have been in his late sixties, perhaps early seventies. He had kind eyes and spoke with a soft south german accent. He looked at Roland cautiously, then asked.

"Did you enjoy the tour?"

Roland had felt rushed and irritated by the manner of his guide, but he replied graciously.

"Yes, thank you Sir. Herr Müller was very kind to show me a little of the laboratory, but I must admit that I feel quite adrift in this place. I suppose there is so much to visit, and yet I can't make sense of any of it."

Roland wondered how Anton knew he had been touring the facility. He thought to ask but it didn't seem appropriate. Instead he watched compassionately as the old man struggled to clean the upper part of an adjacent wall.

The two remained in silence for several minutes. Roland was happy to have some quiet company. He felt at peace here, the dim light was calming, and the gentle reflection of blinking screens gave him the impression he was slowly rocking back and forth. The room was warm, and he imagined himself drifting under a

spectacular canopy of softly twinkling stars. Roland had just lost consciousness of his surroundings when suddenly he felt the old man tap on his shoulder.

“What were you hoping to find here?”

“I don’t know exactly.” replied Roland. He sat up to find Anton standing over him, his eyes fixed on Roland with a curious gaze. “I only know that these machines are important. They are the missing link between the scientists and the rest of us. I want to know something of their world.”

“And what did Müller tell you about them?” asked Anton.

“Many things, but very little as a matter of fact.”

“Ya genau” replied Anton in a sorry voice. He was silent for a while, and then said.

“It’s quite a shock to see what physics has become. It’s something you can only accept once you’ve grown used to it.”

Roland thought about what he really expected to find here. He knew that a door closed to the mind could sometimes be opened by the senses.

“I thought being close to the machines would help. I suppose I wanted to feel them working, to listen to them hum. I wanted to approach them viscerally. But as yet I feel only estranged, the scale and remoteness of it all leaves me numb.”

“Have you worked here a long time?” “About forty years” said the old man.

“Then you must have seen many things. Much comings and goings. What is so secret that they lock it in a vault? Or is it so deadly? Did they steal fire from heaven, or dig up Medusa! What adventure must be buried underground? Is this a laboratory or a tomb?”

Anton smiled reassuringly, and then replied.

“It’s nothing like that.”

“How do you know?” asked Roland.

Anton looked deeply into Roland’s eyes, as if he could reach freely inside the corridors of his mind. Roland could feel that he was searching for something, but it was not an intrusion, not in the least. His look was one of empathy.

“Please. Tell me what you have learnt of this place” asked Anton.

Roland described what he could remember. That the experiment was the largest and most complex ever built, a feat of more than 80 nations if you count every scientist and engineer. He had visited the tunnel, but only a short piece, full of tubes and wires. He knew that it was very long, a good few miles longer than the Pas de Calais, from Cap Gris Nez to Shakespeare's Cliff. Inside the tubes were tiny particles called protons. He had thought about the contrasts, large and small, slow and fast. These minuscule particles somehow counted the elements, yet they were less than one millionth the width of a human hair. Herr Müller had also shown him the giant magnets that guide the tiny progenitors around and around, until they approach a sort of cosmic speed limit, transversing their stage some 11,000 times a second. The juxtaposition of scales was deafening. He felt the whole apparatus was shouting at him and he could hear nothing!

Anton listened attentively but remained silent. Without uttering a word, his manner revealed he was not at all whom he had at first appeared. Roland realized he was in the presence of a unique mind, deep and penetrating, but also possessing an acute sensitivity. The old man was not eager to offer answers or explanations. Instead he conducted his inquiry patiently, quietly watching as its logic unraveled innocently before him. He anticipated nothing, but listened in an active manner, engaging from within, slowly electing his subject with justice and grace.

"What do you do here?" asked Roland.

"Why do you ask?" replied the old man.

"I see you cleaning, but I don't think that is why you are here."

Anton smiled softly, and then replied. "We all work for something. In all honesty, work is seldom an end in itself. Some work to care and provide, others work for status and recognition. Cleaning is a perfect job for me because it permits me the freedom to think."

"I don't understand. I see you struggling while you clean. Couldn't you think better at a desk or in a library?"

"Ney Ney!!" replied Anton. That would be no good for me. I would only fall asleep.. Or worse, coffee! My mind would be so busy.... I would drink it all day! This cleaning,

it's the best for me. Nobody bothers me and I'm practically invisible like this. You know you're the first person who spoke with me here this week!"

Roland now turned to the old man, and asked passionately.

"Dear professor, that is who you are, or at least were? Please tell me what you find in all this? I still know nothing of the drama that plays out here. Please, tell me something of the story of this place, something I can share with others. Too much is at stake not to speak. The world outside your walls lives in an old and failing narrative. Only a new story can lessen the strife."

Anton looked very seriously at Roland and then said. "It's almost six o'clock. Let us go outside and watch the sunset."

The two left the dark room and Anton engaged Roland as if purposely to relax him. His mind was racing and eager for explanations. Anton would have to calm him before he could reply. They shared memories of Switzerland, both old and new. Each loved the lake and mountains, the fresh air and the spring flowers. They loved to stroll in late afternoons and listen to distant chimes of grazing cattle.

Anton led Roland down a narrow corridor with a low ceiling. He opened a small door and they entered a tiny space which seemed very old in contrast to everything around them. Inside were some cleaning materials and brushes, buckets and brooms, but there was much more. Every inch of the space had been filled, not haphazardly, but purposely. Anton had created a little refuge for himself inside this palace of concrete and steel. Bookshelves lined the walls and a very small table was fitted into one corner. All appeared hand made from old wood, the carpentry was simple and elegant, and everything was immaculately polished and clean. Next to the table there was a small wooden chair, and the shelves were filled with an exotic collection of books and journals. There was also an antique looking radio with a beautiful brown bakelite case.

Anton took a moment to arrange his things, and then put on an old jacket and cap. He locked the door and led Roland a little further down the narrow corridor, where he used the same key to open another unmarked door. Inside was a spiral staircase that seemed old and barely used. After climbing several flights the stairs opened up

into a bright room that housed some old meteorological equipment. The decor was simple, pine walls and a few basic instruments, a comfortable but worn sofa, table and armchairs. There was also a kitchen area with a small hearth behind a thick oak table with four matching chairs. A flight of stairs led to what Roland supposed must be Anton's quarters. After surveying the instruments and maps, Roland's attention focused on the beautiful view from the window opposite. A tree lined meadow folded out over Lac Léman. It was another observatory, thought Roland, but this one was a home. The whole scene was perfectly in character with the broom closet that hid Anton's study, and it was curious to think that this little pavillion sat discretely on top of the warren of futuristic chambers and tunnels Roland had visited minutes before.

"Unfortunately there is not much I can offer that will aid in your quest" said Anton. "What you see here is a frontier, and like any frontier, it's often a place of misunderstanding, even confrontation. Our struggle is not with people of course. At least in this place that is a thing of the past. Our struggle is with data, many billions of measurements. Somewhere, some mind must civilize them."

On leaving the pavilion they passed a few other buildings and sheds. There was a tractor and some farming equipment, but no sign of any animals.

"The machines are part of us, they extend our reach, but the real work remains in our minds. What's here is too new, for you and for me. What you can speak of from here is only a process. What it is and what it has to be."

They followed a gently sloping avenue of spruce trees as they talked. After about 10 minutes they passed a couple of streets lined with neat apartment blocks and cafes, finally arriving at a path by the lake. There was an old bench drenched in the evening sun where Anton and Roland sat down. The lake stretched out before them, the city just far enough away to remain unobtrusive, and a symphony of light fell off undulating crests of crystal blue water in a mesmerizing farewell to the evening sun. "This process," asked Roland. "Why is it so vulgar, in size and scale? Should not the instruments of science appropriate the human, to bring us closer to nature and truth? How can a prison of steel vaults and concrete do anything but estrange us?"

It speaks only of decadence, of a tyrannical ideology that has lost sense of all limit and purpose."

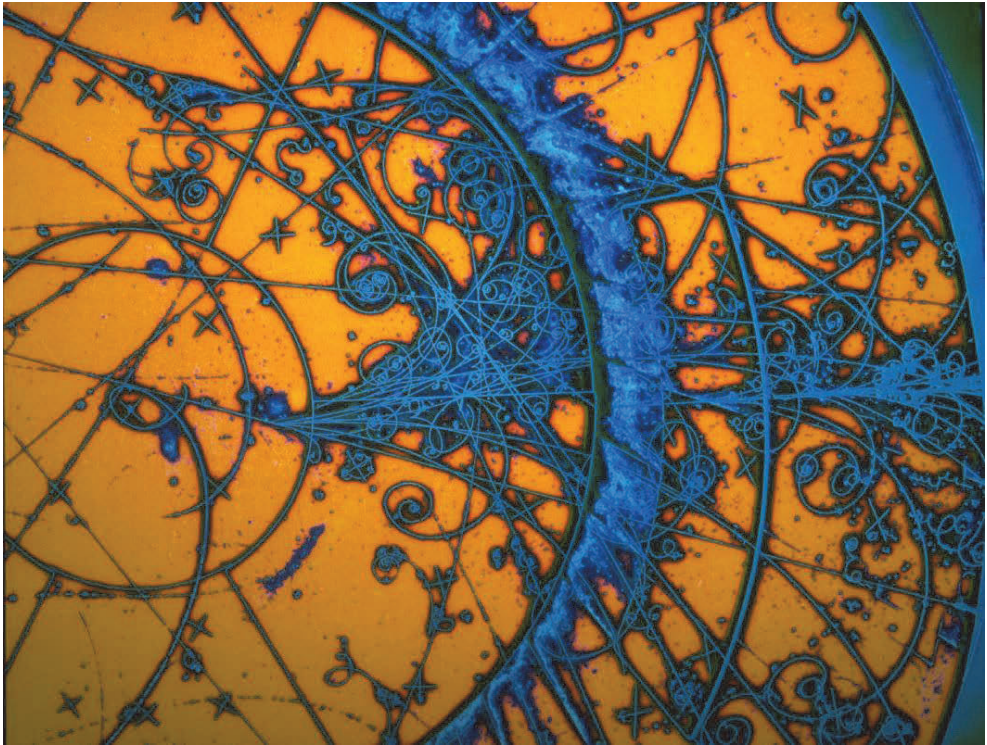
Anton was silent for several minutes, then Roland continued.

"The people have been gradually conquered, first by the bourgeois, and now by armies of technocrats and engineers. They have been smothered by their thoughts and now want only to resemble them, or worse still their machines!"

Anton looked deeply troubled by Roland's thoughts but he did not speak. He sat silently, patiently waiting for the tension to subside. But it did not pass, Roland felt the silence unbearable. Instead he escalated his monologue, if only to avoid facing the silence.

"I believed that there was only one necessary condition for the emergence of a new age", said Roland, "that the laboratory and instruments should be open to the masses, that the enlightenment should fulfill its promise, that the truth and beauty revealed by science should unite us as one, with common origin and understanding. I find nothing of that here, if this is what science must be, it calls only for a people that applaud on cue, the dystopia of a silent band of Brahmins, hidden in the shadows, who direct subjects like cattle."

Roland felt his temper rising, his words tainted by his rage, but when he turned angrily towards Anton, he saw only a man, an old man who sat quietly, now vacantly watching out over the lake. A simple man who washed floors. A man that had shown kindness to a stranger, a man that had brought him to watch the sunset. Roland felt ashamed and deeply embarrassed by his speech. The silence opened up for him once more, he heard bird song and the gentle tapping of ripples by their feet. The last rays of sun were more intense than ever, and a soft breeze caressed them both, warm and sweetened by honeysuckle and pine. They looked together at the ripples of light as Anton began to speak . . .



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I would like to thank all the organizers of Law and Performance at the University of Porto for a delightful conference, and especially Cristina Alexandra Marinho for inviting me to speak at such an eclectic meeting of minds. Cristina is one of those rare individuals that can bring passion and energy to any academic discipline, and it was a special treat for all of us to be part of a colloquium that weaved law and architecture, drama and the legacies of war, into a warm gathering of friends.

Why did the judges cross the road? Reflections on a contemporary spectacle of judicial authority.

Leslie J Moran
Birbeck College, London University

Why did the judges cross the road? The question relates to an encounter I had with a number of judges on the 1st of October 2009. On that date I observed the judges of the Supreme Court of the United Kingdom in their gilded robes of office on a pedestrian crossing. They were negotiating their way across the under-construction central isle of the crossing dotted with roadwork paraphernalia, a vibrant yellow temporarily silent air compressor encased in a wire mesh cage, a jumble of red-orange plastic barriers, some police officers, court staff and the odd professional photographer.

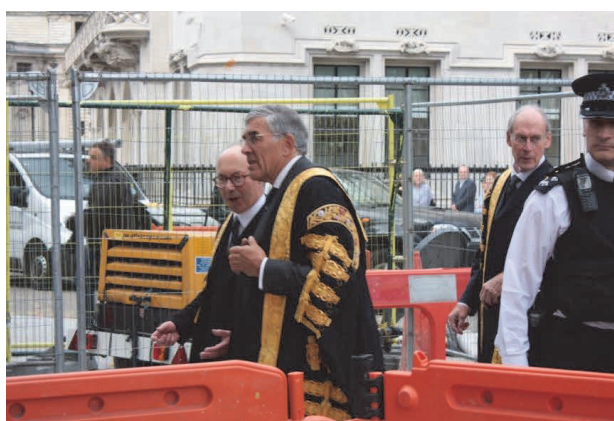


figure 1 Justice of the Supreme Court on the pedestrian crossing amongst road building equipment

As they arrived at the opposite pavement and with great nonchalance they parted a jumble of pedestrians made up of camera ready tourists, people in fine suits and fancy hats and a mother with a babe in a buggy who appeared to be pressed against the railings of Westminster Abbey.



figure 2 Mother with child watches as the Justices of the Supreme Court negotiate their way through members of the public.

Calm descended on their progress as the judges turned right and entered the gated grounds of the Abbey. Moving now in a more orderly fashion they first headed towards the soaring north transept of the Abbey and turning right again, headed towards the Abbey's front entrance. By this stage they were small figures set against a backdrop of towering buttresses and gothic arched windows. I have a distinct memory of being surprised and perturbed by this sequence of events.

It is not the only occasion on which I have witnessed this judicial street crossing. It happened again on the 3rd of October 2011, this time

free of the jumble of construction gear. Almost a year to the day later, 1st of October 2012, as my research notes remind me, a rather damp grey day, I witnessed the preparations for the crossing rather than the crossing itself. My most recent observation was on the 1st October 2013. The judicial road crossing would appear to be an annual event. But the crossing on the 1st of October 2009 stands out for a variety of reasons not least because of its impact on me and it will be the primary focus for my exploration of the nature and meaning of this now annual event.

The geographical destination of this judicial journey across the road, Westminster Abbey, is one way of making sense of the judicial use of the pedestrian crossing. But it is not sufficient either to explain the nature of the annual event or to make sense of my surprised and troubled response. More is needed. I begin my study with some more information about the event and some more detail of my participation. This is followed by an analysis of the particular characteristics that transform an otherwise ordinary practice, using a pedestrian crossing on a busy road to walk from the courthouse to the Abbey, into an extraordinary event. It is an event that has qualities and characteristics associated with ritual, ceremony and spectacle in general and with rituals, ceremonies and spectacle associated with the judiciary in particular. After setting this particular judicial image making event in the wider context of my previous research on the judicial image I return to the particular judicial performance on the 1st of October 2009. Drawing upon insights taken from legal, performance, theatre and ritual scholarship I offer an analysis of the ritual of the road crossing and offer

some reflections on judicial ceremony in contemporary society. I return in the conclusion to my troubled and surprised response.

Photographs taken by me of the walk and events proximate to the walk, at its point of departure, the Supreme Court, and its destination, the Abbey, are part of the data that I will turn to in undertaking my study. For various reasons photographs are a rather exceptional form of data generated by scholars undertaking research on the judiciary. There are a number of reasons for this. First, there is limited opportunity to use cameras to record judicial activity in England and Wales. Their use has been and continues to be subject to control. Cameras were banned from use in courtrooms in 1925 under the Criminal Justice Act of that year (Stepniak 2008; Lambert 2011). Some changes were introduced in the Constitutional Reform Act of 2005 lifting the ban on cameras in relation to the new Supreme Court. In response cameras have been built into the fabric of the courtrooms in that Court and live broadcasts of proceedings can now be seen on a Sky platform available via the Court's website. Since the beginning of 2013 videos of the judges delivering a summary of their judgments and some other ceremonial events are available via YouTube, again available via the Court's website. The most recent reform, s.32 Crime and Courts Act 2013, lifts the ban on cameras in the other courts in England and Wales. To date under the 2013 law cameras have only been allowed into the Court of Appeal Criminal Division. It remains the case that cameras may only be used in a court with the consent of the relevant authorities. So it is likely to remain the case that photographic data of judicial activities in the courtroom produced by

researchers will be very limited. Second, opportunities to photograph members of the judiciary outside of the courtroom are rare as judges rarely perform their judicial functions outside that setting. Photographic and video images of the judiciary are produced by others,¹ official photographers and professional photographers working with the media (Moran 2012a). If opportunities to undertake research on found visual images is increasing for those undertaking research on the judiciary opportunities to make images of the judiciary will continue to be exceptional.

Walking from the Supreme Court to Westminster Abbey

The context of the first observation of the judges using the pedestrian crossing both separates that particular crossing out from the others and also sheds some light on the nature of this now annual event. The 1st of October 2009 was the first day in the life of the UK's Supreme Court. On that morning the Supreme Court of the United Kingdom opened for business taking over the role of the highest court in the United Kingdom previously undertaken by the Appellate Committee of the House of Lords. Prior to their appearance on the street, the judges in question had all been involved in a ceremony to inaugurate their new institutional role as Justices of the Supreme Court. All had sworn allegiance to the monarch and taken the judicial oath as judges of the new court (BBC, 2009; Doughty 2009). Lord Hope, Deputy President of the court from 2009 to 2012, explained that the swearing in ceremony, a

¹ Two television programmes have been produced about the work of the court. See Hamilton 2011 and Stockley 2011.

new judicial event for the new court introduced at the suggestion of Lord Hope and his fellow Scottish judge Lord Roger, has the following features and is modelled on a Scottish practice:

... the judge shakes hands with everybody exactly as we did in Scotland. He then bows to everybody as we did in Scotland. And as in Scotland there are a few words of welcome from the President just to mark the occasion. So the pattern is very similar. It is done for the same reason. The family are there.... The days when we have them are usually none sitting days partly because we are trying to treat this as a family occasion. The emphasis is on welcoming members of the family, elderly relatives, that kind of thing and we take time over it. (Hope 2011)

So having participated in this ceremony the newly sworn in judges assembled outside the courthouse and for the first time processed towards Westminster Abbey. Walking in pairs they made swift progress across the pavement in front of the court towards the pedestrian crossing.

My reference to the swearing in event is not to suggest that the following procession of judges is a part of that particular courtroom event more to note that on a number of occasions the two events have coincided. For example in 2012 the walk was immediately preceded by the swearing in of Lord Neuberger as the second President of the Court. In 2013 the swearing in of Lord Hodge preceded the walk to Westminster Abbey. A key characteristic of this coincidence is the date. The 1st of October is the start of the new legal year. One of the ceremonies that take place at this time is the swearing in new judicial

appointees.² The walk made by the judges of the Supreme Court from the courthouse to Westminster Abbey is another example of an event associated with the opening of the new legal year.

To mark that new beginning Westminster Abbey hosts the national 'Judges Service'.³ This is immediately followed by another event, a 'breakfast' in Westminster Hall in the Houses of Parliament, hosted by the Lord Chancellor.⁴ A 'Media release' produced by the Judicial Communications office for the 2009 event explained, 'The service in Westminster Abbey dates back to the Middle Ages when judges prayed for guidance at the start of the legal term.' (Judicial Communications Office, 2009) The Abbey service is:

The private service for Her Majesty's judges... attended by invited representatives of all branches of the legal professions, Ambassadors, European Court Judges and distinguished visiting judges, lawyers and Ministers from other jurisdictions. (Denyer 2013)⁵

² For example at 9am on the 1st October 2013 Lord Thomas, was sworn in as Lord Chief Justice at the Royal Courts of Justice on the Strand. Later that same day Sir Brian Leveson was sworn in as the new President of the Queen's Bench Division. Swearing in ceremonies also take place at other times depending when judges retire and are replaced.

³ Westminster Cathedral host an alternative service for judges who are Catholics. See Diocese of Westminster (Undated).

⁴ The breakfast originated as a response to the religious requirement that receiving the sacrament members of the congregation were required to fast. The breakfast provided sustenance to the judges following on from their fast (Anon undated).

⁵ The letter was in response to a letter from two members of the Lawyers Secular Society. See <http://lawyerssecularsociety.wordpress.com/2013/09/26/the-church-of-england-and-the-judiciary/>

All the judges of the higher courts, the High Court, the Court of Appeal and the Supreme Court are invited to attend on an annual basis. The judges who sit in courts below the High Court are invited on the basis of a rota or by nomination (Denyer 2013). The Judges and Queen's Counsel are required to wear full court dress. Approximately 600 people attend the 'private' Abbey service and an additional 300 join them for the following breakfast (Anon undated). In the past, when the Royal Courts were based in Westminster Hall the judges would walk in procession to the Abbey. Now the judges of the higher courts, located in the Royal Courts of Justice on the Strand over a mile away, arrive by car (Anon undated). The exception is the judges of the Supreme Court: they walk.

Making the ordinary extraordinary

Walking from the Supreme Court to the Abbey incorporating the pedestrian crossing as part of the route is in most cases an ordinary every day event. But the judicial journey I witnessed has certain qualities that turn the ordinary into the extraordinary. Some of these have already been noted. One is the timing of the event. The walk takes place only once a year, on a specific day and at a particular hour: on or as close to the 1st of October as possible, just before 11 o'clock in the morning. This is a significant time being associated with the opening of the legal year. Another is the locations that mark the beginning and end points respectively the institutional locations of the Supreme Court and Westminster Abbey, a church that has unique associations with the Sovereign. The same locations mark the start and end of every walk I

have observed. A third is the exclusive nature of the walk. Participation in this particular walk is restricted to the Justices of the Supreme Court of the UK. Another feature is repetition. All of the above recur and are to be found in every walk I have observed.

All these characteristics draw attention to the importance of order. Each is a component of an event that has a very specific order. Much labour is expended on its production. The labour that goes into the organisation of the event is largely invisible to most spectators of the event; taking place back stage and off stage (Goffman 1969). However, some of those involved in staging the event, court staff, including security, and the local police, can be seen on the pavement outside the court immediately prior to the appearance of the judges preparing the route, working to ensure that the procession's choreography is not subject to any disruption that might threaten the performance of the walk.

Another property of the event is its incorporation and use of symbols. The most obvious instance of this is the use of judicial robes. Each judge wears a black brocade robe, cut and decorated in an archaic style associated with the office of Lord Keeper of the monarch's seal. The black cloth provides the perfect modest background to set off the sumptuous display of precious metals and elaborate design that embellishes each garment. Complex gold thread bands edge each robe. Multiple ornamental woven gold clasps cross and cascade down the elongated sleeves. At the top of each sleeve is a golden crescent into which are woven four heraldic elements that make up the court's official

emblem: a five-petalled wild rose, the green leaves of a leek, a purple thistle and a light blue five-petalled flax flower. In addition to these formal symbols the high quality of the cloth, the precious nature of the materials used in the decoration, and the obvious skill of the craftsmanship all contribute to the symbolic meaning of the robes. Each robe is as an exceptional precious object.

While these might be the most obvious symbolic features of the judicial robes these garments have another symbolic dimension. The cut tends to obscure the body of the wearer. Each individual functions something like a mannequin: a mere human shaped surface upon which the symbols are put on display and animated. Obscuring the individual wearer's body is not a failure of the garment but part of its function; it has symbolic significance (Kessler 1962). The character of the individual who wears the disfiguring robe is made through the symbols. Each individual is made as a representation of the values and virtues of the institution that the symbols express (Moran 2009).

The incorporation of the robes in the event is an example of the use of symbols that are 'extraordinary' in themselves. This particular dimension of the robes is also reflected in the fact that these garments are only worn on exceptional occasions. They are not worn by judges when sitting in court on an everyday basis. In fact the judges of the Supreme Court do not wear judicial robes at all in the courtroom proceedings (Leake 2009). The robes are objects that have been specifically produced in order to be used as extraordinary symbolic objects.

By way of contrast, the symbolic dimensions may also make use of something that is otherwise ordinary but in an 'unusual' or specific way thus transforming it. An instance of this is to people walking in pairs. The judges walk to the Abbey in pairs. But these are no ordinary pairings. The pairs are organised by reference to a particular system: institutional status. Through this each judge is allocated a specific place in the procession. The first pair is made up of the President and Deputy President of the court. The pairs that follow are placed in descending order, beginning with the longest serving and ending with the most recent appointees. Other evidence of the organised nature of the proceedings can be found in activities surrounding the walk itself. On every occasion I have observed the walk it has been made up of five pairs of judges. This is somewhat confusing. The court is composed of a total of 12 judges: six pairs. On occasion there may be vacancies which mean there are less than 12 judges. This was the case in 2009. On that occasion while Lord Saville attended the swearing in and posed in front of the court for a group picture (Leake 2009) prior to the walk he did not participate in the walk. In 2013, when there were a full 12 judges in post neither Lord Mance nor Lord Toulson appeared in the lineup. However Lord Toulson did walk from the court to the Abbey. But he made the journey separately. He walked fully robed but without his fellow judges and by a slightly different route: not through the Abbey grounds but he made the whole journey via the pavement, the route used by ordinary pedestrians.



figure 3 Justice Toulson walking to the Judges Service at Westminster Abbey

One explanation for the appearance of five pairs of judges may lie in the symbolic importance of an even number, to represent harmony and balance. An odd number might provide a troubling symbol of imbalance. Five pairs may now have become a required part of the carefully crafted symbolic language of the order that is to be repeated on this occasion.

The judges' gestures and affect also form part of the routine of the event. As the judges walk their gaze is either firmly set at the middle distance or turned in towards the accompanying judge. All participants perform similar gestures. The consistency of this performance within the group of judges and its regularity, being a feature of every walk I have observed, offers some evidence in support of a conclusion that these gestures are not so much spontaneous but more learned, self conscious 'acted' gestures. This acting is another dimension of the symbolic performance. These are gestures through which the participants in the

parade perform a general indifference to the public spectators and put on show a preoccupation with the institution of justice in the shape of their fellow judges. These gestures are the embodied signs of institutional distance, of judicial independence, of individual subordination and dedication to the judicial institution and to the law.

All of these dimensions of the walk draw attention to its ritual or ceremonial qualities. More specifically it is a ritual that has a particular symbolic preoccupation; the display of symbols that represent the qualities and characteristics of judicial office. The primacy given in this ritual to the visual, no words are ever spoken no music is played as part of the event, its grandeur, particularly associated with the presence of the extraordinary judicial robes, and to the general preoccupation with the display of symbols, all suggest that this event takes the form of a spectacle. Beeman defines spectacle as, ‘...a public display of a society’s meaningful elements.’(1993, 380) Like theatre, spectacles have an expectation that there is an audience. But unlike theatre, which may engage several senses, spectacle gives priority to the visual.

Judicial Image

This spectacular ritual is a performance that is concerned with the judicial image. In his study, *Judges and their audience*, Lawrence Baum (2006) argues that judicial image making and image management are important and a recurring features of judicial life. More specifically, he argues that judges, like other public officials and social elites, are preoccupied with self image: self-presentation. This involves the

conspicuous display of the values and virtues of judicial office such as judicial independence, obedience to the law and dedication to the promotion and realisation of legal policy. This, Baum explains, is the legal instrumental dimension of judicial performance (2006, 28). Judicial self presentation also has a second dimension: a preoccupation with 'esteem' and 'respect'. Here the objective of judicial self presentation is the achievement of, '... a favourable image with others...that tends to boost...self esteem.' (Baum 2006, 29) This, Baum argues, is a concern with status. It comes from the fact that in the western rule of law tradition the independent judiciary is a high status (elite) role and this status is one of the attractions of the post. Successful self-presentation in these terms involves and demands high self monitoring, including refined skills of audience awareness and the expenditure of significant amounts of labour to produce and manage the judicial image to ensure that the elite status is represented in a satisfactory manner (Baum 2006, 32).

Studies of judicial image making in jurisdictions that operate within the common law legal tradition, such as England and Wales and the US have paid particular attention to the role of writing in the fabrication and management of the judicial image by way of examining the written texts of judgments.⁶ Another form of judicial image making and image management is live judicial performances that take place the 'judicial theatre' of the courtroom (Ball 1975, 86). This mode of

⁶ It is impossible to list all the examples. This is a selection of work by judges and scholars; Belleau and Johnson 2009; Boyd White, 1995; Carswell, 2007; Hope 2005; Kimble 2006; Neuberger, 2012; Newark, 1965; Nussbaum, 1995; Posner, 1995; Rackley 2010; Rodger 2002;.

representation has attracted less scholarly attention (Blanck, Rosenthal and Cordell 1985; Carlen 1976; Rock 1993). One study I have undertaken examines the hagiographic scripts prepared for live courtroom performance by members of the judiciary and representatives of the wider legal community at swearing-in ceremonies to inaugurate and celebrate the appointment of new judicial office holders. It is a study that brings text and performance closer together, though in the context of courtroom events outside the ordinary context of litigation (Moran 2011). The swearing in scripts are all about the representation of the judicial subject. They take the form of what might best be described as judicial life writing (biography and autobiography). They offer textual portraits of the newly appointed judge as a State official. As such they have a double function: they formulate and fashion the subject not only as an exemplary individual, but also as an individual whose personal history makes manifest the virtues of the judicial institution. Each swearing-in script makes and makes public the values and virtues of the institution of the judge. These textual portraits of judges share similar preoccupations with painted and more recently photographic portraits of judges. These visual representations also have a double dimension with regard to identity formation, first in the self-fashioning of the identity of the individual sitter and secondly in the fashioning of the identity of the institution. Through the sitters image the values and virtues of the state institution of the judiciary are not only made, but are made visible, public and accessible.

The portraits are of particular relevance for this study as they offer evidence of the particular aesthetics associated with the representation of the judicial institution and its associations with social and political elites. Portraits provide a record of gestures, costumes, props (predominantly books) and mise en scene that have been developed and used to fashion and render visible corporeal displays of legitimate power, authority, and justice, all dimensions of the judicial institution. In portraits these elements conspire to present the judicial body as a symbol of majesty, selfless dedication, and timelessness. Portraits, gracing the walls in and around courtrooms, or the more private settings of other legal institutions such as the Inns of Court put these visual signs of display for a limited audience (Moran 2008, 2009, 2012b).

The place of judicial ritual

The judicial image making and image management that is the spectacular ritual of the judicial walk from the Supreme Court building to the Abbey is different from these other forms of judicial representation in some important ways. For example unlike other judicial rituals the procession of the judges is not performed as an integral part of the process of adjudication and decision making. In contrast the procession is primarily a performance that represents the institution of the judiciary and judicial authority by means of a spectacular display of carefully chosen symbols. It is also exceptional because of its location. It takes place on the street. In this section I want to reflect on some of the effects

this public setting has on the judicial image-making and image-management that is being undertaken through this particular ritual.

The shift from the courtroom to the street moves judicial ritual from the homogenising environment of the courtroom to the more heterogeneous surroundings of the street outside. The design of contemporary court buildings and courtrooms in western liberal democracies are not only subject to central control but that control has as one of its key objective the staging of the performance of judicial decision making but also the representation of the legitimate authority of the judicial institution and it's the institutional embodiment, the members of the judiciary themselves (Resnik and Curtis 2011). The materials used in the construction of these places, the particular textures used, the use of light, the detail of the ornamentation, all have a role to play. One aspect of these designs is that within court buildings there tends to be a high degree of spatial segregation; some areas are available only to the judiciary and their support staff while others, for example circulatory spaces, are open to all users of the building. Other locations within the building are specifically designed to bring the judiciary together with a wider audience, including the public (Brownlee 1984; Rock 1993, Ch 6). The courtroom itself, what Ball calls the main judicial theatre or using a term he attributes to Jeremy Bentham, the 'theatre of justice' (Ball 1975, 81) is an example of this. In that setting scholars (Graham 2003; Mulcahy 2011) have noted that sight lines, distances, levels, place the players in the proceedings and orientate them towards a central, frequently elevated figure: the judge. This not only puts the

judge in a privileged position vis a vis the other participants but also allows for judicial surveillance of the entire courtroom. All of its various parts are organised to successfully stage the various performances that make up the judicial institution. The dynamic can be described as centripetal.

The spaces through which the annual procession of judges passes en route from the Supreme Court to the Abbey are in stark contrast to this. The setting is dedicated neither to the day to day performance of judicial authority nor are they preoccupied with the particular needs associated with the spectacle of judicial authority that in form of judges walking in procession. The roads and pavements surrounding the Supreme Court and Westminster Abbey are longstanding, dating from the mediaeval period. From time to time they have been subject to some modifications (Meile, 2009). As Meile notes from time to time the roadways that surround the Supreme Court and Abbey and link those institutions to Parliament are places that are used for State ceremonies. He identifies seven ceremonies that are performed on these roads, including the judges' service (2009, 50). However, he also notes that:

At no point... has any government had the political will to impose a coherent vision on a space that more than a century and a half ago came to be regarded as the centre of the largest empire the world had yet seen. (Meile 2009, 49)

This suggests that when put to ceremonial use these roads and pathways are subject to temporary adaptation and transformation to

meet the needs of various state ceremonies including the judges' service. Thereafter they revert to their more common day to day functions.

Thus the street and roadway that separates the court building from the Abbey grounds has a heterogeneous quality and a centrifugal, dynamic (Lehman, 2006, 150). It is capable of sustaining multiple competing uses albeit within the broad parameters of the function of passing and re-passing through these spaces. While it would be wrong to suggest that passage along the road and pavements is not subject to extensive ordering the position and movement of bodies, in comparison with the courthouse and the gated Abbey grounds, this ordering is concerned with everyday rather than the exceptional and with ordinary activities that have an eclectic quality. The boundaries between the multiple practices that take place on the street are more contingent, fluid, bleeding from one into another consistent with the multiple functions of the space.

The judicial procession to the Abbey and the congregation of recently car borne judges in their full judicial costumes in front of the Abbey waiting to enter the building to attend the service are two related instances in which the ordinary everyday streetscape comes together with extraordinary judicial spectacle. I want to explore the nature of that coincidence and more specifically the impact of the juxtaposition on judicial spectacle using photographs I took of the judicial walk and the congregation of judges outside the Abbey prior to the judges' service in 2009.

I begin with two photographs taken in front of the Abbey. Both show be-wigged judges dressed in robes arriving at the Abbey before making their way to the entrance. In the first, (Figure 4) a member of the judiciary newly arrived by car wears a full bottomed wig, black silk stockings, black silver buckled court shoes and a gown similar in design to those worn by the Justices of the Supreme Court. He is seen moving towards a number of be-wigged senior barristers, Queens Counsel, and a red robed judge of the High Court. The backdrop to this display of the extraordinary symbols of legal elites and figures of judicial authority is a jumble of buildings, the clutter of street furniture, a cluster of onlookers, a mess of official cars and black cabs cueing and entering the forecourt of the Abbey. The wall of traffic at this particular moment is made up of a coach emblazoned with its company's stylized name 'Kirby's' and a large red double-decker London bus. The advertising panel on the upper deck reads 'This place is so dead. Zombieland' a reference to a new Hollywood gothic horror comedy, 'Zombieland', that is soon to open in London's cimenas.



figure 4 'Zombieland'

In the second photograph another passing double-decker London bus is this time emblazoned with an advertising panel with the slogan for a fast food company special offer, a 'meal deal' at Burger King. The slogan is, 'Live a lunch of crime. You'll feel like you robbed us'.



figure 5 Burger King, 'Live a lunch of crime...'

These particular images offer evidence of the co-presence of other forms of everyday spectacle, and more specifically the spectacle of everyday capitalist consumption (Debord, 1970) against which the on the street judicial spectacle unfolds. The photographs document the way the spectacle of judicial authority that takes place in the environs of the Abbey competes with the everyday reality of these central London locations. In that juxtaposition there is no clear boundary between the exceptional time of the procession and the everyday that surrounds it. The events intermingle, blurring one into the other, distinctions

disintegrating. These pictures capture the relative heterogeneity of the public location that the judicial spectacle takes place in.

A wide variety of effects may flow from the competing spectacles illustrated by way of these two pictures. The coincidental juxtaposition between the advertising panels, the symbols of judicial authority frozen in the moment captured by these photographs reveal opportunities for humorous and ironic commentary on the activities relating to the judges' service. The quantity and quality of the spectacle of capitalist consumption may diminish the judicial spectacle and making it appear to be out of date, old-fashioned. The judicial symbols appear small scale in scale and struggle for visibility against the backdrop of advertising and the everyday frenzy of a busy central London street. The judicial spectacle struggles to achieve the necessary grandeur. As the small groups of camera toting individuals evidence, another alternative is that under the logic of capitalist consumption, the judicial spectacle is recuperated as a minor quaint and quixotic 'tourist attraction'.

The pedestrian crossing

This brings me back to the pedestrian crossing. The crossing is located on the road known as 'Broad Sanctuary'. 'Broad Sanctuary' stretches from the south side of Parliament Square and runs along the edge of the Abbey grounds to what is now the forecourt of the Abbey. It is approximately 200 meters long. The Court and adjacent pedestrian crossing are towards the Parliament Square end of the road. 'Broad Sanctuary', is a route regularly used for State-related ceremonial events

(Miele 2009). Unlike those other ceremonial events the judiciary's annual procession does not follow this well trod ceremonial route to the Abbey. It makes minimal use, crossing it to take a rather different ceremonial route that makes use of the gated Abbey grounds to process the distance from the Court to the front of the church.

In his essay, *The Anthropology of theatre and spectacle*, William Beeman suggests that:

The meaningfulness of a spectacle is usually proportionate to the degree to which the elements displayed to the public seem to represent key elements in the public's culture and emotional life. It is almost as if the mere event of displaying these symbolic representative elements in a special framed context is enough to elicit strong positive emotional responses from the observing public. (1993, 380)

The earlier analysis has already identified some of the elements displayed in the spectacle of the judicial procession. The preoccupation with symbols that depict the virtues and values of the institution of the judiciary potentially fits Beeman's suggestion that elements of the spectacle should put on display meaningful elements of the public culture of a society. But how does the minimal use of the ceremonial route that is 'Broad Sanctuary' fit into this scheme of things? Does the road crossing satisfy this requirement?

Merely crossing the road rather than processing down its centre may reflect logistical concerns, such as minimizing security risks and cutting down on traffic disruption. These may well be of concern as the

cost of ceremonies, cost here including time, and effort spent and the costs of disruption as well as economic costs, are often singled out in critical attacks on rituals. An example of this that is of some relevance here is criticism of the cost of the ceremonial robes worn by the judiciary on occasions such as the one being considered here. '£140,000 bill for Supreme Court Robes judges will hardly wear' (Leake 2009) was a headline in the Sunday edition of the right of centre newspaper the *Daily Mail*. The cost of robes that will have a limited use, was condemned as an extravagance at the taxpayers' expense. The journalist tied that minor extravagance to the greater extravagance that was said to be the 'opulent' conversion of a building to house the new court which cost in the region of £77 million. More recently in a letter to Christopher Grayling, current Lord Chancellor and Secretary of State for Justice two members of the Lawyers Secular Society complained amongst other things about the cost to government of the judges service and the Lord Chancellors breakfast (Denyer 2013). Concern about the cost of these events was part of a more general complaint about the potential of judicial involvement in the service to compromise judicial impartiality (Bowcott, 2013; Rozenberg 2013).

As such the decision not to process down 'Broad Sanctuary' which would have required temporary road closures and to choose to merely cross this busy route could have been used to minimise criticisms, negative emotional responses, and maximise the potential of the spectacle to generate positive responses. Yet, by choosing to minimize the disruption of traffic, the judicial spectacle is diminished. It becomes

much easier to miss or ignore. Why choose to spend considerable time and effort inventing and performing a new ritual for the display of judicial authority and design it in such a way as to minimize its impact in public?

Another reading of the incorporation of the pedestrian crossing into the processional route and thereby minimum disruption is that it symbolises the relative unimportance of the third branch of government. This might be indicative of the decline in the status of the judicial branch of government. But several factors work against such a reading. The extension of law over the last thirty years, regulating the minutiae of everyday life and death, formally recognising human rights challenges, providing opportunities to challenge the legality of government acts, all indicate that the political role of the judiciary is, if anything, increasing rather than diminishing (Malleon 1999). Moreover, factual and fictional representations of judges' work on the news, courtroom dramas, and reality TV are popular media products consumed en masse on a daily basis (Moran 2013; Moran 2012b).

Another explanation is to be found in comments made during the course of an interview with Lord Phillips, the first President of the Court. He described his image of the judiciary in the following terms, '...judges are in fact ordinary, albeit intelligent members of society doing a job...' (Phillips 2011) This may shed some light on the use of the pedestrian crossing. As I noted earlier, spectacle prioritises the visual display of symbols. Judicial robes and the gestures performed by the judiciary involved in the procession were singled out for attention.

Another symbol to be considered is the route taken by the spectacle. In choosing the pedestrian crossing rather than 'Broad Sanctuary', the 'ordinary' is itself put to symbolic use. The interpretation I want to offer here is that it becomes a positive part of the spectacle rather than being a dangerous disruption of it or a negative symbol attached to the judiciary. More specifically it is incorporated as a symbol that represents a virtue of the new judicial institution and its key institutional players. In contrast, the choice to disrupt traffic by processing down the street might have worked as a representation of the judiciary as outdated, remote and removed from the speed and the needs of contemporary urban life.

The symbolism of the spectacle of the Justices of the Supreme Court processing from the court to the Abbey has importance in another way too. Moore and Myerhoff suggest that the formal qualities identified above lend themselves to making ritual a 'traditionalizing instrument' (1977, 7). More specifically they explain. '...collective ceremony can traditionalize new material as well as perpetuate old traditions.'(Moore and Myerhoff 1977, 7) This suggests that the ritual walk from the courthouse to the Abbey is a spectacle that has particular qualities of relevance to the new institution of the Supreme Court; its appearance and its repetitions mark the birth of a new tradition. At the same time it reinvents a previously abandoned older tradition in a new form.

The annual procession is a new tradition for the new court. Commenting on the constitutional reforms that created the new court, the Constitutional Reform Act 2005, the Chair of the House of Lords

Select Committee on the Constitution, Lord Holme of Cheltenham, investigating the impact of this reform on the judiciary drew attention to the particular demands placed on the new court:

... the judiciary, like other important bodies in our society, has in a sense to make a case for itself. It has to constantly be validating what it does, the value of what it does and how well it does it to various stakeholders, notably the British public. (House of Lord Select Committee on the Constitution 2006-7, January 24 2007 response to question 88)

In a study of the operation of the Supreme Court's communications office, Cornes has argued, the new court has rapidly developed a, 'self-awareness'. The court, he concludes is "...a new institution staking out its position within the constitutional firmament. Its new communications capacity has helped spur this awakening." (Cornes 2013, 268) Through ritual the walk from the court to Westminster Abbey to attend the judges' service is 'traditionalized' and as a walk made by the Justices of the Supreme Court it creates a new 'tradition' for the new court.

The contemporary audience for judicial spectacle

Before returning to my troubled response to this new ritual I want to touch on the question of the audience for judicial ritual and more specifically the judicial spectacle that is the focus of this chapter. As Lord Judge, head of the judiciary of England and Wales from 2008-2013, explained in the western democratic rule of law tradition it is, '...an

essential requisite of the...justice system that it should be administered in public and open to public scrutiny. And for these purposes the representatives of the media reflect the public interest and provide and embody public scrutiny.' (2009, 2) This statement contains a number of important points about the audience for judicial images in the western rule of law tradition. First it suggests the public is an important audience. The explanation for this lies in the role of that audience; to undertake scrutiny of judicial activity. The attachment of the word 'public' to 'scrutiny' draws attention to what Mathiesen calls a 'synoptic' nature of this relationship; where the many watch the few, the elite, thereby subjecting them to a disciplinary gaze (1997). One of the roles of this public audience is to call the judiciary to account. As Lord Judge's comments demonstrate the location of the audience and the behaviour being scrutinised is in the courtroom. As Mulcahy notes (2011, Ch 5) while importance continues to be attached to the public as an audience for judges delivering justice in the courtroom the attendance of the public has for much of the 20th century been in decline. It is now very much the exception rather than the norm.

The public audience for the live performance of the annual judicial spectacle of walking in procession from the Supreme Court to Westminster Abbey is also very limited. The largest audience I have observed dedicated to watching the spectacle was assembled outside the court on the first occasion the walk took place on the 1st October 2009. While my contemporary field notes record that it included some legal

professionals and tourists people working for the media, journalists and camera operators made up the majority of that audience.



figure 6 People assembled outside the Supreme Court on 1st October 2009

The pedestrians who watched the judges as they negotiated their way from the edge of the crossing to the gates of the Abbey were more accidental spectators as were those standing on the edge of the forecourt to the Abbey watching the other judges invited members of the congregation arriving by car. On my second visit the number of spectators of all kinds outside the Court building had declined. One of the few people on the street watching the procession of judges leaving the Supreme Court on their way to the pedestrian crossing was a street sweeper of Westminster Council.



figure 7 Westminster City Council Road cleaner watches the judges procession 2011.

In the face of the decline of the public as an audience for judicial activities both inside and outside the court two audiences continue to have particular significance.

The first is the media. This audience is closely connected to the public. Certainly in courtroom settings the presence of the news media has come to occupy the place vacated by the public; the press are described as the ‘eyes and ears’ of the public. Thereby public continues to have a ‘presence’ but this is now at a distance. Thompson describes this public presence as ‘mediated quasi-interaction’ (2000, 35). The media presence at the events surrounding the judicial procession has resulted in news reports that incorporate references to it (BBC, 2009; Doughty 2009). The level of news visibility rests not only on media presence at the event but also on the way ‘news values’ that impact on the selection of events that are made into ‘news’ (Moran 2013).

The second audience and the one that has the most consistent presence is the judiciary themselves. Lawrence Baum's work on the judiciary raises some important questions about the nature of the audiences for judicial image making and image management activities. Writing primarily with courtroom contexts in mind he argues that the primary audience judges have in mind, in addition to the parties immediately involved in the dispute before the judges, is other judges and members of the wider legal community. One of the reasons he gives for this is that judges are members of a social elite. Judicial image making and image management is in part about performing and legitimating that elite status. Add to this an insight taken from Barker's study of legitimacy. Barker argues that while the rituals performed by those in positions of ruling authority are most commonly understood to be performed as part of the outward, public face of institutions of government they are also just as much about the inward looking, 'private face' of those in positions of authority legitimating their position and the power they possess (Barker 2001, 31). He calls this 'endogenous legitimation', of the self justification of rulers by the formation and display of their identity as rulers (Barker 2001, 3).

Events surrounding the judicial walk offer some evidence in support of the argument that the judiciary themselves and those closely connected to them, including other governmental elites, are an important audience for judicial rituals that shape and make visible the values and virtues of those who hold judicial office. For example the swearing in rituals that have on a number of occasions taking place in

the Supreme Court that have coincided with the procession certainly in their live form, have an inward judicial facing quality. As noted earlier, Lord Hope describes them as ‘family’ events. While this may be a reference to the biological family of parents, spouses and partners, siblings and so on of the newly appointed judge ‘family’ is also used in legal professional settings as a metaphor for the close ties that bind legal professionals together (Moran 2011). The use of ‘family’, be it narrowly or broadly defined, represents the swearing in ceremony as an inward facing ‘private’ event. This is also echoed at the event that is the repeated endpoint of the procession, the Abbey service, a ‘private service’, ‘... for Her Majesty's judges... attended by invited representatives of all branches of the legal professions, Ambassadors, European Court Judges and distinguished visiting judges, lawyers and Ministers from other jurisdictions.’ (Denyer 2013) I add one caveat. The camera is having an impact on the ‘private’ nature of both the swearing in events and the judges’ service. The Supreme Court now uploads a video recording of swearing in events on YouTube shortly after the event takes place. While viewing figures are limited, for example at the time of writing the video of the swearing in of Lord Hodge on the 1st October 2013 had attracted 870 viewings (Supreme Court 2013). Pictures taken of the judges’ service inside Westminster Abbey and produced by the Abbey are to be found on the ‘Press and Communications’ pages of the Abbey’s website (Westminster Abbey 2013).

If the beginning of the procession and its endpoint have strong associations with the inward facing nature of judicial ritual does this

have any relevance for a judicial spectacle that takes place in public? The mere fact that the judicial walk takes place on the street should not obscure the possibility that one important audience for this event, maybe the primary audience, is the judges who perform the event.

Conclusions

So what sense can be made of my surprise and troubled response to first witnessing the Justices of the Supreme Court on the pedestrian crossing in all their finery? One possible answer is that what I experienced in that moment of surprise was the effect of the sensory manipulations that are at the heart of ritual and spectacle. My surprise was the momentary experience of sensory capture. Another answer is that my surprise and more specifically the troubled response I had to the road crossing came from the juxtaposition of the ordinary pedestrian crossing being put to such an extraordinary use, as part of the judicial spectacle. My research had made me very familiar with the use of the wig, the black robes, the lavish use of gold, the gestures of disengagement with the public, but I had never before observed a pedestrian crossing being incorporated as a sign within the lexicon used to represent judicial virtues. A third possible explanation is that my surprise and troubled reaction was a response to the violent juxtaposition of the carefully choreographed ordered procession of the highest judges in the land and the higgledy piggledy mess of roadwork paraphernalia that they negotiated on their journey to the Abbey. Side by side they appear to be radically opposed to each other. Last but by no

means least my surprise can be explained by my own childhood experiences as a cub scout in a small town in the north west of England. Once a month I participated in the Church parade. We walked in the centre of the road from the Church of England primary school I attended across the centre of town, stopping all the traffic, to the schools church. What a surprise to see the gilded judges confined to a pedestrian crossing.

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