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3 **From Beethoven to Bowie: Identity Framing, Social**
4 **Justice and the Sound of Law**

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30
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33 **1 Introduction**

34 Music has the ability to arouse the senses, inflame the passions, induce feelings of
 35 calm and serenity, and express every possible human emotion. It fulfils our shared
 36 capacity and need for sensory experience, which exerts a powerful influence on our
 37 personal relationships and in the wider collective cultural context as members of a
 38 particular society. Decisions are made and specific actions have significance
 39 because of the meaning we attribute to sensory data communicated by the constant
 40 ebb and flow of symbols and signs. Signs can assume a variety of appearances, yet
 41 none of the signs we encounter in everyday life—from words, images, gestures,
 42 sounds and smells to billboards, logos and traffic signals—have intrinsic meaning,
 43 until we interpret them as meaningful. Although symbolic forms such as music and
 44 fiction can be distinguished from legal and factual ‘truths’ by means of a diverse
 45 array of peculiarities; specifically, they have the unique ability to usefully indicate
 46 beyond particular facts and even laws. Engaging with a wider sensory set of human
 47 capacities, they are often able to articulate a deeper truth which transcends the bare
 48 application of rules and, rather, requires lawmakers to look beyond particular facts
 49 to the bigger picture. Despite having a more extensive, abstract and intuitive
 50 application; in common with fact-based truth forms, aesthetic forms aim to ground
 51 the truth in human reality [40, p. 85]. That is, however, a more advanced and
 52 complex human reality than legal formulae and arbitrary facts typically admit; one
 53 which animates our deepest and most intense beliefs, moral motivations, feelings and
 54 desires.

55 The composer Felix Mendelssohn observed that music is often more expressive
 56 than words because of its extraordinary ability to elicit strong emotions. Eighteenth
 57 century writers, such as Charles Avison in his 1752 *An Essay on Musical*
 58 *Expression*, contrasted the capacities of instruments such as the trumpet, French
 59 horn or kettledrum to evoke ‘battles, sieges, and whatever is great and terrible’ with
 60 the lute or harp in relation to expressions of ‘love, tenderness or beauty’ [5, p. 25].
 61 In *An Essay on the Sublime*, published in 1747, John Baillie similarly noted the
 62 musical evocation of ‘expansive’ concepts and ‘extended’ resonances, adding the
 63 effect produced on the ‘noble passions’ such as ‘Courage’, ‘Piety’, ‘Humanity’,
 64 ‘Heroism’, ‘Love of one’s Country’ and ‘universal Benevolence’ [6, p. 18]. The
 65 rousing tones of Bedřich Smetana’s six symphonic poems comprising *Má Vlast* (My
 66 Homeland), composed between 1874 and 1879, signify the battles, conquests,
 67 legends, culture and spirit of determination of the Czech people. Replete with
 68 poignant symbolism, in 1941 all performances of the second and most well-known
 69 movement, *Vltava* (The Moldau), were banned by the Nazis in the capital city of
 70 Prague in occupied Czechoslovakia. In 1990, however, it was chosen as the
 71 soundtrack to mark the end of the ‘velvet revolution’ which resulted in freedom
 72 from Communist rule by the Soviet Union. Edward Elgar’s *Land of Hope and Glory*
 73 also known as *Pomp and Circumstance March No.1* is an equivalent composition in
 74 terms of mood and tone which evokes similar patriotic sentiments in the UK, as its
 75 composer intended.

76 The operas of Richard Wagner, in particular *Der Ring des Nibelungenhe*,
 77 comprised highly sophisticated, psychologically complex and compelling spectacles
 78 of sight and sound, and were widely considered to be the personification of Nazism
 79 and used to promote feelings of German nationalism and anti-Semitism. Compo-
 80 sitions and public performances such as these have changed the course of history.
 81 American singer and songwriter Bob Dylan became the voice of the 1960's
 82 American Civil Rights movement. His songs expedited social transformation for an
 83 oppressed and dispossessed minority in a slightly less controversial manner than art
 84 collective Pussy Riot, who performed the anti-establishment *Punk Prayer* in
 85 Moscow's Russian Orthodox Cathedral in 2012. It is no coincidence that in the 2016
 86 US presidential election, the Rolling Stones' 1969 counter-cultural classic *You*
 87 *Can't Always Get What You Want* was a popular choice at future US President
 88 Donald Trump's rallies, and became an anthem of his campaign. The presidential
 89 retro classic rock playlist, although an eclectic mix, largely bypassed the 1990s and
 90 most of the twenty-first century. Rather, it evoked the relative safety, security and
 91 patriotism of an idealised past, just as the accompanying campaign slogan 'Make
 92 America Great Again' is redolent of Trump's nostalgia for the 1980s which was a
 93 time of prosperity for white, heterosexual, middle-class and upper-class American
 94 males. There are many examples from world history which demonstrate the power
 95 of music as a galvanising and manipulating force, and elucidate the significance of
 96 its contribution to the construction of national identity, social values and the shaping
 97 of the self and the other.

98 In common with language, music is not arbitrary and is infused with
 99 intentionality. It not only assists in the production and shaping of particular
 100 cultural mentalities; musicians act as curators of the expressive arts and cultural
 101 historians in charting the cultural transformation effected on society by fluctuating
 102 socio-economic and political forces, in musical form. Genres such as the
 103 underground urban Hip-Hop movement, which emerged from the New York City
 104 'South Bronx' ghettos in the early 1970's, offer an important means of social
 105 commentary; in this case, providing an insight on the harsh realities of impoverished
 106 inner city street life for young African-American males. Songs such as 'Fight the
 107 Power' released in 1989 by New York rap group Public Enemy challenged the
 108 status quo, calling for government recognition of social inequalities and revolution.
 109 More recent rap compositions such as 'Voices of the Voiceless' released in 2011 by
 110 Felipe Andres Coronel, also known as Immortal Technique, tackle global political
 111 issues, class struggle and institutional racism; although the majority of modern rap
 112 artists, such as Jay Z, Ludacris, Drake, 50 Cent and Snoop Dogg, have pursued a
 113 more commercial variant of Hip-Hop. In the late 1970s, punk bands comprised an
 114 integral part of 'Rock Against Racism' (RAR), founded in 1976 to combat the rise
 115 in racism in Britain, and were involved in the evolution of a growing subculture of
 116 rebellion and resistance against mainstream politics and the Establishment. The
 117 political participation associated with RAR was a product of organisational relations
 118 between the musical and political settings of that time; and in a wider sense,
 119 signalled the legitimation of musicians as representatives of political causes. Both
 120 Green Day's 2004 anti-war anthem 'American Idiot' and the Sex Pistols' 1976
 121 'Anarchy in the UK' from their debut album *Never Mind the Bollocks*, although



122 some 28 years apart, tell of youthful disaffection and alienation from government
 123 policies of the day; respectively, the US invasion of Iraq, and a sharp increase in
 124 youth unemployment and industrial unrest in Britain.

125 While it cannot be claimed the world is always enlightened or transformed by the
 126 writing and performing of songs, there are many examples of music as a medium
 127 which has given a voice to the dispossessed and has articulated the injustices arising
 128 from various incidences and forms of discrimination. The suffering inflicted by
 129 poverty and war, for example, has been the subject of iconic melodies such as Phil
 130 Collins' 1989 *Another Day in Paradise* and John Lennon's 1971 *Imagine*, which
 131 also addresses religion, nationalism and materialism. These and other creative
 132 expressions have heralded important cultural shifts among large sections of society.
 133 Nevertheless the visual, acoustic and verbal arts are too often neglected by legal
 134 semioticians. Accordingly this article seeks to redress this oversight by implicating
 135 music within a series of complex, communicative and influential networks of
 136 meaning. The utility of music is explored in relation to the articulation of justice and
 137 injustice at a more elemental human level, in addition to its rather more invidious
 138 use in manipulating patriotic sentiments of exclusivity and separation amongst
 139 individuals and communities already beleaguered by profound feelings of
 140 disenchantment.

141 **2 Musical Expressivism and the Construction of Subjective Identity:** 142 **Sexual Identity and Gender Equality**

143 Music, past and present, as composition, improvisation and performance, exerts a
 144 profound influence on the human psyche, will and emotions; leading Plato to
 145 describe it as 'a more potent instrument than any other, because rhythm and
 146 harmony find their way into the secret places of the soul' [29, p. 88]. As a form of
 147 aesthetic resistance, the hyper-connotative capacity of music means it is also an
 148 important vehicle for self-assertion and creative protest against personal political
 149 oppression. Music is able to utilise a diverse variety of signifiers, inside and
 150 alongside the song lyrics and melody, which signify for example gender and sexual
 151 orientation. Even though, in modern society people are keen to see themselves
 152 represented and celebrated as strong-willed complex individuals with distinctive
 153 personalities, sexuality remains one of the most often contested areas of human
 154 experience. This is because it is, at the same time, a personal matter and subject to
 155 moral and sometimes legal constraints by the social order. One of the functions of
 156 social discursive practices, such as law and religion along with art and aesthetics, is
 157 to moderate this chasm and attempt to reinterpret the exigencies of the physical into
 158 cultural terms. Yet the possibility of reimagining the self is particularly apt in the
 159 case of music as it precedes and transcends other more traditional interpretive
 160 frameworks, and is consequently a formidable expressive device for addressing the
 161 politics of disempowerment and discrimination.

162 Through music the individual is able to both creatively affirm their own life in the
 163 face of repression and make a compelling statement to, and against, the
 164 organisations and structures that subjugate them. For Theodore Adorno, with

165 reference to *inter alia* musical artworks, ‘each artwork is a human artefact and that
 166 which is artistic in it becomes a human product [with] meaning-giving’ properties
 167 [2, p. 213]. Since the body is the locus of discursive power and is constituted by a
 168 diversity of external influences such as music, he further suggests that music
 169 expects, even demands, to be interpreted because of its expressive nature. As an art
 170 of arbitrary and conventional symbols allied to prose, each musical work can be
 171 understood therefore as a communicative act between the artist and the consumer,
 172 and often relies on the prior knowledge of ‘a code’ without which it is possible to
 173 ‘feel lost in a chaos of sounds and rhythms, colours and lines, without rhyme or
 174 reason’ [10, p. 2]. A musical score, for example, encrypts a great deal of sensuous
 175 information relating to, for example, morality, ideals, identity and behavioural
 176 codes; and how it is received depends on particular individual and collective
 177 predispositions and associations.

178 In addition to the more obvious set of meanings and associations in text-based
 179 compositions, there are often hidden ideological agendas in music without words.
 180 Determining that ‘technique leads reflection to the interior of work’, Adorno
 181 explored the gendered associations of musical composition in, for example, major-
 182 minor chords, cadences and tonalities [1, p. 291]. The selection of parts for soprano
 183 and bass was claimed to reinforce the gendered polarity which was not only inferred
 184 by vocal registers but also by the selection of instruments and instrumental roles. In
 185 the compositions of Felix Mendelssohn, Robert Schumann, Richard Strauss,
 186 Johannes Brahms and Wolfgang Amadeus Mozart, for example, instruments in the
 187 tenor, bass or baritone register commonly assumed the definitive narrative voice,
 188 which indicates the strength with which dominant ideologies inform our perceptions
 189 of music. In attempting to overcome these gender-coded cultural protocols and
 190 stereotypes, many atonal composers such as Anton Webern, Alban Berg, Béla
 191 Bartók and Arnold Schoenberg were keen advocates of a new musical language of
 192 ‘symmetrical inversion’ as they sought a transcended sexuality in their composi-
 193 tions. As Schoenberg explains:

194 It is true that the dualism represented by major and minor has the power of a
 195 symbol suggesting higher forms of order: it reminds us of male and female and
 196 delimits the spheres of expression according to attraction and repulsion. These
 197 circumstances could of course be cited to support the false doctrine that these
 198 two modes are the only truly natural, the ultimate, the enduring. The will of
 199 nature is supposedly fulfilled in them. For me the implications are different.
 200 We have come closer to the will of nature. But we are still far enough from it;
 201 the angels, our higher nature, are asexual: and the spirit does not know
 202 repulsion [34, p. 96].

203 Against the symbolic hierarchy that is determined and maintained by the socially
 204 dominant via encoded musical taste and technique in order to enforce their values,
 205 Schoenberg’s musical representationalism conspired to undermine inherited ideals
 206 of masculinity in music. In anticipation of the androgynous ‘music of the future’ he
 207 developed the twelve-tone chromatic scale technique which was unrestricted by the
 208 gendered hierarchical shape of major and minor tonal oppositions. Whilst this
 209 innovation received a mixed reception, it had highlighted the role of aesthetics in

210 social transformation and, in this case, its importance in articulating the outmoded
 211 nature of traditional beliefs and assumptions about gender. As Schoenberg went on
 212 to explain ‘...even if our tonality is dissolving, it already contains within it the germ
 213 of the next artistic phenomenon. Nothing is definitive in culture; everything is only
 214 preparation for a higher stage of development, for a future which at the moment can
 215 only be imagined’ [34, p. 97].

216 Music contains this transformative possibility because it idealises not only the
 217 individual but the wider social world they inhabit. It has the ability to influence the
 218 construction of self-identity by creating and maintaining a mixture of particular
 219 feelings (with varying degrees of conscious awareness) which affect the way in
 220 which social actors produce themselves. As socio-musicologist, Simon Frith
 221 explains, ‘music constructs our sense of identity through the direct experiences it
 222 offers to the body, time and sociability; experiences which enable us to place
 223 ourselves in imaginative cultural narratives’ [16, p. 124]. Consequently, music not
 224 only reflects and articulates social identities but plays a formative role in the
 225 construction, negotiation and transformation of sociocultural identities.

226 In the late twentieth century, for example, modern racial, gender and sexual
 227 identity politics were revolutionised by the creative output of popular music artists
 228 such as David Bowie, Prince, Lou Reed (‘Walk on the Wild Side’), George Michael,
 229 Grace Jones, Boy George, Bronski Beat and Madonna, who famously declared she
 230 was a ‘gay man trapped in a woman’s body’. Twenty-first century artists such as
 231 Lady Gaga, the Scissor Sisters and Fischerspooner similarly rely on both lyrical
 232 signifiers and the creative application of camp, irony and parody in their distinctive
 233 musical performances to celebrate difference and displace a wide variety of norms.
 234 Although they all advocate aesthetic, social and cultural freedom, rebellion and
 235 taboo-breaking in their respective musical repertoires, it is suggested that the
 236 musical symbolisation of Bowie, in particular, helped to bring about long overdue
 237 legislative reform by making the expression of elective identities and alternative
 238 lifestyles acceptable. This is because, not least of all and ‘in contrast to the certainty
 239 of law, he offers undecidability, ambiguity, hybridity, impurity [and] metamorpho-
 240 sis’ [35, p. 16].

241 The pace of transformation was slow however, due to the cultural (as well as
 242 intellectual and political) climate of pre-Bowie Britain being beset by a series of
 243 obstacles and setbacks to the progression of gay rights. Following publication of the
 244 1957 ‘Wolfenden Report of the Committee on Homosexual Offences and
 245 Prostitution’, which recommended the decriminalisation of homosexuality between
 246 consenting adults in private, a now famous debate took place between H.L.A. Hart
 247 (an Oxford don, who espoused the view that it was not the proper role of criminal
 248 law to dissolve the idea of selfhood by the enforcement of a particular set of morals)
 249 and (English judge) Lord Devlin. Devlin rejected the idea of a sphere of private
 250 morality insisting that society is based upon shared political and moral values,
 251 which means there is a concomitant obligation to make laws which protect and
 252 defend that morality. In the belief that ‘immorality’ inevitably leads to social decay
 253 he famously likened private acts of sodomy to treason, warning that both have a
 254 tendency to undermine society. Hart compared this rather odd analogy to Emperor
 255 Justinian’s claim that homosexuality causes earthquakes. It was only when the first

256 (and only partially successful) *Sexual Offences Act* was passed some 10 years later
 257 that consensual homosexual acts in private between two men over the age of 21
 258 were decriminalised by the British Parliament. Even so, homosexuality continued to
 259 be a shameful secret or the 'love that dare not speak its name' until rising popular
 260 music artist David Bowie proclaimed on 22 January 1972 that 'I'm gay and always
 261 have been, even when I was David Jones', in an interview with Michael Watts of the
 262 music journal *Melody Maker*. With hindsight his statement was ambiguous but at
 263 the time it was a courageous thing to say as it was only 5 years since homosexual
 264 acts had been legalised in Britain.

265 Due to wider changes in popular culture, music magazines in the 1970s had
 266 substantial influence, enjoyed wide circulation and recruited journalists who debated
 267 popular cultural trends in the widest sense which helped to perpetuate social change.
 268 In turn, David Bowie had considerable cultural power and had just released *Hunky*
 269 *Dory* in December 1971 and was preparing to release his glam-rock milestone, *The*
 270 *Rise and Fall of Ziggy Stardust and the Spiders from Mars* later that year in June
 271 1972, when he gave that seminal interview to Michael Watts. His music explored
 272 the persona or the construction of subjectivity and celebrated the marginal, for
 273 example in his musical endorsement of the radical Other, up to and including space
 274 aliens. Credited as the forerunner of today's art-pop transgressions, he was not only
 275 regularly photographed wearing skin-tight, glittery jumpsuits, bouffant hair, big red
 276 plastic boots and make-up but on many occasions wore a dress, or what he referred
 277 to as a 'man's dress'. Although at the time of his momentous revelation, Bowie was
 278 newly married (to a woman, his first wife Angie), he introduced the idea of
 279 bisexuality and alternative sexualities to a new generation, in both his music and in
 280 his own inimitable sartorial style of cross-dressing. Moreover, it was only after
 281 Bowie's bold declaration that other prominent popular musicians also 'came out'.
 282 Although some critics claimed this idiosyncratic flamboyant representation
 283 encouraged negative stereotyping in constructing the queer subject, his outsider
 284 stance on sexuality (which defined his earlier albums) heralded a new openness
 285 which challenged people's preconceptions about how gender was represented.

286 Exploring and experimenting with the idea of gender parity and neutrality in
 287 more recent times, the late androgynous pop and R&B luminary Prince Roger
 288 Nelson is famed for expressing sexual ambiguity and female sexuality in his music;
 289 and, like his predecessor David Bowie, is often credited with being a pioneer of
 290 gender-bending and gender-blending. Prince's mannerisms and appearance also
 291 challenged prevailing ideas of hegemonic masculinity (in particular the Black
 292 masculinity of his contemporaries such as Michael Jackson, Lionel Richie and
 293 Luther Vandross) which were then commonplace within American society.
 294 Transcending musical boundaries and transgressing cultural taboos and conven-
 295 tional categories of sexual identity, Prince sought to lead the way to transformative
 296 self-liberation and total emancipation from the prevailing divisive and constricting
 297 laws on sexuality. Making a stand against sexism and sexual homogenisation, and
 298 promoting an innovative and more flexible standard of equality, in a 1984 single, *I*
 299 *Would Die 4 U*, written for his band 'Prince and the Revolution', he sang 'I'm not a
 300 woman. I'm not a man. I am something that you'll never understand'. Similarly, the
 301 lyrics of many of Prince's songs express an avant-garde gender fluidity some years



302 before the gay and lesbian communities adopted a more nuanced and less binary
 303 notion of queerness, and decades before transgender and genderqueer politics
 304 became mainstream areas of interest. Instruments which signify a more feminine
 305 musical ‘voice’ feature in many of his compositions in the form of low clarinets,
 306 strings and synth strings, such as on the track *Nothing Compares 2 U*. Music’s
 307 perceived cultural power to nullify masculinity and evoke a wider range of emotions
 308 attests to its important cultural role, just as Prince’s characteristically rebellious
 309 polymorphic anti-normativity continues to provide a spirited rebuke of an
 310 increasingly corporatised, privatised, rule-bound, commodified and divided world.

311 Although legal texts seek to exemplify and entrench the ideal of ‘civilised’
 312 humanity by proclaiming a commitment to respect for difference and tolerance of
 313 diversity, lurking just beneath the surface is an underlying dynamic of self-
 314 justification and homogenisation. Decision-making power elites decide what counts
 315 as normal in society and use their own identity as the benchmark. The
 316 inevitable corollary of this is that other identities are often considered to be
 317 deviant, abnormal or alien. In the case of sexual and gender identities, more often
 318 than not, difference constitutes a threat to the precepts determined and controlled by
 319 society and so test the limits of tolerance. However, the kind of toleration pursued is
 320 not simply that which allows minorities the freedom to express themselves as they
 321 wish, rather it must ‘accord recognition to minorities so that they cease to suffer
 322 humiliating assaults upon their self-respect and self-esteem and are enabled to
 323 function as full members of the society to which they belong’ [20, p. 127]. In their
 324 transgressive performativity, radical musical artists have always sought to challenge
 325 officialdom and patriarchal law by expanding the possible range of human
 326 expressiveness beyond what is accepted as the norm by society. However, it might
 327 be argued that (beyond theatrical performance and novel entertainment) what is
 328 sought and desired is the recognition of sameness or equivalence rather than
 329 difference.

330 **3 Musical Persuasion and Influence in the Construction of Collective** 331 **Identity**

332 Music is able to generate a common language which has the capacity to create a
 333 community of people that sings, speaks, reasons, votes and even feels the same way.
 334 Famous for writing fairy tales, Danish author, Hans Christian Andersen explained
 335 ‘where words fail, music speaks’. The prescriptive nature of words means they are
 336 less open to a personal interpretation yet easier to misunderstand and, unlike music,
 337 it is necessary to first think about the words in order to fully appreciate them. By
 338 contrast, the non-representational quality of music means it is immediately
 339 relatable, always open to a variety of meanings and able to pursue, by allusion or
 340 intuition, that which is not readily accessible to the senses. Although words and
 341 music can enrich each other, music is a medium that seeks to communicate not only
 342 something of the composer’s or the artist’s thoughts and feelings but equally can
 343 reflect the personality of the listener; in this way confirming their self-identity or
 344 identification with a particular group or object. Music is, therefore, the interpellator

345 of identity par excellence, in part because of its capacity for articulating and
346 producing intense emotional experiences either with or without words.

347 In responding to the music, we are immersed in the emotions of the performer,
348 performance context, and the audience of the performer's devotees. Consequently,
349 only by assuming both a subjective and collective identity is it possible to make
350 sense of a musical encounter, because as listeners we experience not only the world
351 but ourselves in an often unexpectedly different way; drawing our sense of self from
352 the collective cultural and group identities that surround us. This constructivist
353 dimension helps us to understand ourselves as historical, ethnic, gendered and class-
354 bound subjects. We enjoy music precisely because it can supply the answers to
355 fundamental questions about our identity. For socio-musicologist, Simon Frith:

356 [The] interplay between personal absorption into music and the sense that it is,
357 nevertheless, something out there, something public, is what makes music so
358 important in the cultural placing of the individual in the social. ... [Therefore]
359 music can stand for, symbolise *and* offer the immediate experience of
360 collective identity. Other cultural forms—painting, literature, design—can
361 articulate and show off shared values and pride, but only music can make you
362 *feel* them [17, p. 38].

363 The corporeal experience of music is considered as more powerful than that of other
364 cultural artefacts. Composer and musicologist Andrew Mead's research on
365 physiological metaphors likens the acoustic power of music to a physical force
366 and suggests how 'music's path to the mind inevitably happens through the body'
367 [25, p. 15]. By using the body to create a path to the mind, music can implicitly
368 signify emotional states by representing the events or activities with which those
369 emotions are associated (interpretative) or arouse a particular feeling in certain
370 listeners which reveals to them something about the, more abstract and pre-personal,
371 affect in question (affective). He further claims that a passage of music is not only
372 capable of a similar semantic range as language and shares the same kind of
373 elasticity, it is often much broader in its scope with an elasticity of a much greater
374 degree than is typical of language.

375 Due to its emotionally expressive nature and malleability, the use of music as a
376 political tool in the manipulation of the masses has been a common feature of many
377 dictatorships. On occasion this was the composer's intention, as in the case of Sergei
378 Prokofiev who was forced by Josef Stalin to revise his happier balletic version of
379 Shakespeare's *Romeo and Juliet*, but in other cases a composition took on a
380 different meaning long after the composer had died. For example, Smetana's *The*
381 *Moldau*, originally about Bohemia's mighty river, assumed specific importance as a
382 political motif or idea some 75 years after being written. The underlying opposition
383 between the primary originating composer's musical score and the interpretation of
384 the performer(s) mirrors the tension between the legislature and the courts in the
385 legal interpretation of rules and decisions; in that the social practice of law is not
386 identical with its written texts but requires the activity of those entrusted with its
387 performance to be fully realised. Nevertheless, Richard Wagner's nationalistic
388 operas, in particular *Der Ring des Nibelungenhe* (The Ring Cycle) appealed to Nazi
389 aesthetics and was used to promote chauvinistic militarism, Nazi propaganda, and



390 anti-Semitism; and the composer is still viewed by some as the spiritual father of
 391 Nazi ideology. While Wagner's operas were not conceived for this particular
 392 purpose, as he did not advocate the Holocaust and died before Adolf Hitler was
 393 born, earlier political writings such as his 1851 essay *Das Judentum in der Musik*
 394 (Judaism in Music), originally written under a pseudonym but republished under his
 395 own name in 1869, revealed his racial prejudices and nationalistic leanings. The
 396 stories which foregrounded his operas consisted of epic German fantasies about
 397 nationhood, destiny, physical strength, courage and sacrifice, with immortals like
 398 the Valkyries riding across the sky inciting men to make war. Accompanied by
 399 pounding rhythms, visceral excitement and unrelenting energy, this is what Nazi
 400 rallies were supposed to feel like. Comprising an intoxicating spectacle of religious,
 401 almost pagan, depictions of nature, people and gods, mythic power and heroism, it is
 402 therefore little wonder that Wagner's passionate and compelling compositions were
 403 adopted as one of many cultural symbols by Germany's architects of mass
 404 destruction, Hitler and the Third Reich.

405 Hitler was reputed to be a great music lover and Stalin was a fan of Russian
 406 classical opera and often visited the Bolshoi Theatre. Both believed in the power of
 407 music in personal and political life, and considered themselves to be connoisseurs.
 408 However, while violent political repression was taking place on an unprecedented
 409 scale in their respective countries, the arts came under increasingly fierce scrutiny.
 410 Each dictator intervened directly in an effort to utilise music on behalf of the State,
 411 so that 'music could deepen the enthusiasm for and loyalty to the regime' [9,
 412 p. 491]. To this end, a form of musical apartheid was instigated whereby the Nazis
 413 held that only Germanic music by 'uncontaminated' composers such as Bach,
 414 Beethoven, Brahms and Bruckner could properly educate the people and make them
 415 better citizens. The connection between music, particularly classical music, and
 416 dictatorships is complicated. In his 2009 work *The Rest is Noise: Listening to the*
 417 *Twentieth Century*, Alex Ross describes the anxiety suffered by composer and
 418 pianist Dmitri Shostakovich due to the capricious musical taste of Stalin, and
 419 describes how Hitler and the post-war occupying authorities conscripted audiences
 420 for the purpose of attending concert performances. He explores the implications of
 421 this kind of dark legacy, determining that an appreciation of classical music has a
 422 sinister contemporary edge:

423 In the wake of Hitler, classical music suffered not only incalculable physical
 424 losses...but a deeper loss of moral authority. ... Classical music acquired a
 425 sinister aura in popular culture. Hollywood, which once had made musicians
 426 the fragile heroes of prestige pieces, began to give them a sadistic mien. ...
 427 Now, when any self-respecting Hollywood arch criminal sets out to enslave
 428 mankind, he listens to a little classical music to get in the mood [32,
 429 pp. 334–335].

430 Many examples of contemporary movies seem to support the theory that classical
 431 music is frequently utilised as an ironic foil and a mechanism for dissociation. One
 432 reason may be that music without words most readily lends itself to propaganda
 433 purposes, since it lacks the referential properties which would suggest its
 434 appropriateness to a particular cause or occasion. In *Silence of the Lambs*, Hannibal

435 Lecter chews the face off one of his prison guards to the strains of the elegant and
 436 ethereally-serene 'Aria' from Bach's 'Goldberg Variations'. Similarly, well-known
 437 easy-listening pieces of classical music were chosen to accompany scenes of torture,
 438 massacres and Nietzschean-style deceptions of the soul in films such as *A*
 439 *Clockwork Orange*, *Misery*, *Apocalypse Now*, and in the closing credits of *There*
 440 *Will Be Blood*. Alternatively, that such compositions are ideal accompaniments to
 441 visceral movies is perhaps because music itself can become tainted by the violence
 442 and tyranny of the time and place that produced it. The dark rumbling hypnotic
 443 rhythms of Carl Orff's 'O Fortuna' from his famous cantata 'Carmina Burana', for
 444 example, capture the toxic spirit and frenetic atmosphere of Nazi Germany; and
 445 although technically inspired by Stravinsky, its characteristic Wagnerian bombast
 446 means it has become the clichéd music of apocalypse, catastrophe and war. There
 447 are however similar examples from contemporary music such as Quentin
 448 Tarantino's *Reservoir Dogs* where one of the main characters, Michael Madsen's
 449 razor-wielding Mr Blonde, cuts off a police officer's ear while dancing to the upbeat
 450 1972 Stealers Wheel classic, *Stuck in the Middle with You* which has no such
 451 unsavoury associations or overtones.

452 Unlike language which often evokes specific objects or ideas, music is non-
 453 denotative, and so always subject to numerous interpretations and applications as a
 454 range of meanings can be assigned to it. In each of the above-mentioned cases the
 455 music, not so subtly, sought to modify the meaning of the image or at least how it
 456 would be perceived. This demonstrates how a mixture of gestures, costumes, camera
 457 movement, and especially the foregrounding of a particular—seemingly incongru-
 458 ous—soundtrack, all elucidate the codes we need to adopt in order to understand the
 459 scene. A series of musical codes assists in translating non-musical worlds on various
 460 sensory levels. These codes can either help to convey the embedded meaning of the
 461 message as originally intended or used to subvert our understanding by a
 462 mischievous combination of conflicting sensory information. Furthermore, as part
 463 of an even more complex set of relations, the listener produces him or herself in the
 464 act of listening to the music which, in turn, constitutes the music as a function of the
 465 experience it instigates in the listener.

466 Fundamentally, the activity of composing, performing, playing and listening to
 467 music generates people as a web of identities because all 'music, any organization
 468 of sounds, is a tool for the creation or consolidation of a community, of a totality. It
 469 is what links a power centre to its subjects' [4, p. 6]. Part of a 1785 Friedrich
 470 Schiller poem idealising a united and harmonious human race, 'Ode to Joy' (*An die*
 471 *Freude*), was incorporated into the fourth movement of Beethoven's Symphony No.
 472 9 and adopted in 1985 as the official EU anthem. This is not only because the words
 473 imply a European 'brotherhood' (due to translation issues, the anthem is only
 474 instrumental—although the lyrics are often sung by choirs on official occasions), but
 475 because the unique form and structure of Beethoven's classical score appeal to a
 476 type of specifically European aural sensibilities. German Chancellor, Angela
 477 Merkel, arranged for the symphony to be performed at Hamburg's Elbphilharmonie
 478 concert hall as entertainment for world leaders attending the 12th G20 Summit. It
 479 was also chosen by newly-elected French President Emmanuel Macron as the
 480 opening music to his victory speech delivered on the steps of the Louvre museum in



481 May 2017, instead of the usual French national anthem the *La Marseillaise*; which
 482 was composed in 1792 in one evening during the French Revolution by Claude-
 483 Joseph Rouget de Lisle. In such cases, music is used by politicians to evoke a sense
 484 of belonging, where the listening individual can identify with a particular
 485 community of like-minded others who share the same values, ideals and aspirations.
 486 Speaking volumes, this significant departure from the patriotic tradition indicated a
 487 show of solidarity with and commitment to the faltering European project. It was an
 488 immense symbolic gesture which, in the prevailing climate of growing Euroscep-
 489 ticism, received a predictably mixed response from the gathered crowd.

490 While political and legal institutions comprise our most influential social
 491 constructs, the increasing diversity and multiple motivations of modern citizens
 492 mean more attention is given to what specific factors are able to unify and, more
 493 importantly, mobilise people into political engagement. Music, as a cultural product
 494 and symbolic form, is an integral part of social life and persuading the citizenry in
 495 relation to the veracity of particular political myths, ideologies and a specific plan of
 496 action depends on the ability to engender common feelings and attitudes. On 24
 497 June 2017 the leader of the UK Labour Party, Jeremy Corbyn, was invited to
 498 address crowds of music lovers on the main platform of Britain's biggest music
 499 festival; while well-known personalities Brad Pitt, David Beckham and Johnny
 500 Depp watched from the wings. From Glastonbury's legendary Pyramid Stage, he
 501 spoke about world peace, the need to unify people by 'building bridges, not walls',
 502 eliminating poverty, fighting for fair wages and well-funded social services, the
 503 promotion of healthcare as a human right, sexism, racism, homophobia, education
 504 and the environment. He also criticised social injustice and inequality, particularly
 505 the ever-increasing wealth disparity between the rich and poor. Corbyn's speech to
 506 an adoring crowd of music festival aficionados ended with a quote from one of his
 507 favourite poems, *The Mask of Anarchy*, written by Percy Bysshe Shelley in 1819,
 508 'Rise like Lions after slumber. In unvanquishable number. Shake your chains to
 509 earth like dew. Which in sleep had fallen on you—Ye are many, they are few'.

510 Rapturous applause and impromptu six syllabic chants of his name, 'Oh, Jer-
 511 emy Cor-by'n', set to the opening riff of the 2003 'White Stripes' catchy hit *Seven*
 512 *Nation Army*, were sung beer hall style during various performances (even
 513 interrupting the headlining act, 'Radiohead'), and throughout the 5 days since the
 514 gates of 'Worthy Farm' were opened to the public. People identified with the leader
 515 of the UK's opposition party as a fellow outsider just as Glastonbury, although
 516 increasingly commercialised, has long been considered to be the home of maverick
 517 musical traditions. In this way, the party political nature of the rhetoric (in order to
 518 secure the 'youth vote' in future elections) was obscured beneath a series of humane
 519 heartfelt sentiments which were instantly recognisable to, and accepted enthusias-
 520 tically by, the assembled crowds. For Guy Debord we live in a 'society of the
 521 spectacle... which is the present model of socially dominant life', in which
 522 meaning-making processes can be manipulated and even subverted through mass
 523 entertainment and theatrical events [12, p. 6]. It is suggested, therefore, that the
 524 overwhelming success of Corbyn's performance on this occasion was largely in its
 525 being indexed to, and culturally branded with, a particular musical genre and a
 526 popular social event, namely, the largest green field music festival in the world.

527 **4 Music, Identity Politics and Social Justice**

528 Music and politics have a long history. The use of music in the organisation of non-
 529 aesthetic sites such as the workplace, some hospitals and prisons, supermarkets,
 530 election rallies or similar social settings can impose on us an attitude or disposition
 531 without that imposition being consciously assumed. In addition, the repetitive nature
 532 of popular music is arguably what mutes its ability to inspire radical political
 533 engagement or rebellion, as it serves only to communicate or convey what the wider
 534 political context requires. For example, between 1941 and 1964 the British
 535 Broadcasting Corporation (BBC) aired lunchtime musical variety show 'Workers'
 536 Playtime' three times a week, each episode broadcast 'live' from a different factory
 537 canteen 'somewhere in Britain'. Similarly, from 1940 to 1967 the BBC daytime
 538 radio programme 'Music While You Work' broadcast repetitive light background
 539 music into factories and warehouses to improve alertness, teamwork and motivate
 540 the workforce into becoming more productive. Musicians were instructed to keep
 541 pace with the 'rhythms of the workbench' so that production would not be impeded
 542 [36, p. 102]. It then becomes impossible to talk about consent or autonomy because
 543 we are held in thrall to the enforced incantation of rhythm and music, beyond
 544 individually reasoned concepts and associations.

545 To gain an understanding of the relationship of music to political participation
 546 and identity, therefore, requires examining the context within which it is performed
 547 and consumed, by and for whom, and how the powerful actors who promote a
 548 particular musical repertoire seek to move those who hear it. In the recent 2016 US
 549 presidential election, the Rolling Stones' 1969 counter-cultural classic *You Can't*
 550 *Always Get What You Want* was a popular choice for Donald Trump's rallies and
 551 became an anthem of his campaign. Despite a raft of public rebuttals and multiple
 552 requests by the Rolling Stones to stop using their music, the song was played after
 553 he addressed the Republican National Convention in Cleveland, Ohio, amidst the
 554 falling balloons, streamers and confetti; as President-Elect Trump walked off the
 555 stage after his victory speech at the Manhattan Hilton ballroom; and again at the end
 556 of his inaugural speech after being named the 45th US President in January 2017.
 557 While the wistful and pleading tone of the ballad evokes a sense of weary
 558 compromise in the repeated 'You can't always get what you want', the chorus
 559 finishes on a more triumphant note 'But if you try sometimes, you just might find—
 560 You get what you need'.

561 Although to date no official explanation has been given for the choice of this
 562 particular song, it could be interpreted as serving a dual purpose. On the one hand it
 563 may be that the words constitute a subliminal message to Republicans who did not
 564 support Trump, that despite not getting the candidate they wanted, they were getting
 565 the one they needed. Alternatively, it is more likely that the solemn pacing of the
 566 song and repeated refrain of not being able to 'get what you want' encapsulates the
 567 frustration of a large disaffected and disenfranchised section of US society. It is easy
 568 to comprehend the appeal to the abandoned masses (referred to as a 'basket of
 569 deplorables' by Hillary Clinton, the leader of a party that once represented them) of
 570 words such as those in the second verse:



571 'And I went down to the demonstration
 572 To get my fair share of abuse
 573 Singing, "We're gonna vent our frustration
 574 If we don't we're gonna blow a 50-amp fuse'

575 As election campaigns gain momentum, campaigners looking towards engaging the
 576 wider populace search for well-known classics and big hits with the widest appeal to
 577 their political base. These playlists that pervade the airwaves and internet establish a
 578 compelling soundscape for their campaigns. The music not only expresses and
 579 reinforces the convictions of the core group members, but helps to mobilise the
 580 inactive and hitherto undecided into participation and, importantly, has the potential
 581 to assist in transforming supporters into voters by performing six primary functions.
 582 These include, for example, song choices that:

- 583 1. Attempt to solicit and arouse outside support and sympathy for a social or
 584 political movement;
- 585 2. Reinforce the value structure of individuals who are active supporters of the
 586 social movement or political ideology;
- 587 3. Create and promote cohesion, solidarity, and high morale in an organization or
 588 movement supporting its world view;
- 589 4. Attempt to recruit individuals for a specific social or political movement;
- 590 5. Invoke solutions to real or imagined social phenomena in terms of the action
 591 recommended to achieve the desired goal; and
- 592 6. Point to some problem or discontent in society, usually in emotional terms [13,
 593 pp. 2–3].

594 The aim of campaign playlists is, therefore, to persuade people to connect with a
 595 specific social cause or political movement both intellectually and emotionally, and
 596 promote a feeling of solidarity among members of that movement who share
 597 particular tastes, interests and world views. In this way, the lyrics of *You Can't*
 598 *Always Get What You Want* tapped into the resentment or *ressentiment* of America's
 599 forgotten 'common man' struggling to survive in Rust Belt factory towns, those
 600 whose interests had been disregarded by a series of self-serving elites in their
 601 prioritisation of an agenda of profit above people. Similarly, D:Ream's *Things Can*
 602 *Only Get Better* became the signature soundtrack of New Labour's campaign in the
 603 1997 UK election which swept them to a landslide victory after 18 years of rule by
 604 the opposition Conservative party, achieving an overwhelming majority in the
 605 House of Commons. While both campaign anthems captured the prevailing 'wind of
 606 change' in 1997 and 2016 respectively, Tony Blair's New Labour movement used
 607 D:Ream's song to underscore a mood of optimism, high hopes and expectations
 608 which accompanied the new wave of liberal democracy; whereas for the recent
 609 Trump campaign, the tone of the Rolling Stones' ballad conveys and underscores
 610 the simmering groundswell of defiance and anger of the neglected working-class
 611 electoral majorities, who have become alienated from liberalism and the institutions
 612 of democratic society.

613 Other songs used by the Trump campaign included Queen's *We Are the*
 614 *Champions*, with the lyrics, 'I've had my share of sand kicked in my face. But I've

615 come through. ... We are the champions, my friends. And we'll keep on fighting 'til
 616 the end'. Twisted Sister's *We're Not Gonna Take It* and *Rockin' in the Free World*
 617 by Neil Young were also on the playlist. The latter song addresses homelessness,
 618 environmental issues and terrorism, and constitutes a condemnation of the
 619 governmental policies of the George H.W. Bush administration. The anti-
 620 establishment message is not only present in the music and the lyrics of these
 621 performers but also in their social and political backgrounds, as well as in their own
 622 personal histories. In a wider context, rock music originated as a revolt and protest
 623 against the dominant social and moral norms and acted as an authentic
 624 manifestation of working-class life, more recently representative of 'white' male
 625 unemployed working-class communities. In both form and content it 'has meaning
 626 and interest for [those] who possesses the cultural competence, that is, the code, into
 627 which [the music] is encoded' [10, p. 2]. In this way rock music speaks directly to
 628 the outsiders, the mavericks, the marginalised and serves as a means through which
 629 they symbolise their social similarity with one another. Furthermore, the fact that so
 630 many musicians have objected to Trump using their music validates many of his
 631 supporters' claims that he is an anti-establishment rebel and 'one of us'.

632 For Bourdieu, the organic relationship between cultural knowledge and shared
 633 meanings renders musical taste a 'social weapon' that demarcates a particular
 634 aesthetic territory, connecting the music with the conditions of the world from
 635 which it emerges and with the complex processes which shape its meanings. In the
 636 Western world, according to philosopher and cultural theorist Slavoj Žižek, the
 637 socio-cultural political systems are structured around a core antagonism in which
 638 there is 'nothing' at the core but an 'empty politic' [44, pp. 5–6]. The lack of an
 639 adequate ideological framework, ideological convictions or a philosophical centre
 640 leading to an increasing enthusiasm for war and interference in international
 641 politics, assaults on civil liberties and antipathy towards the trade unions, has
 642 created a more illiberal and unstable environment. In turn, increasing disillusionment
 643 with the vagaries of global capitalism, the increasingly merciless deployment
 644 of austerity measures and mass migration, concentration of wealth in elites and
 645 winner-takes all cities such as New York and London, a lack of confidence in
 646 governments and traditional forces of governance has produced a series of major
 647 societal shifts and general upheaval. In the UK, a failed policy of austerity means
 648 more people have to rely on food banks, there are longer waiting times for hospital
 649 treatment, the elderly are being charged for being ill, education spending has been
 650 cut and the economy is not working for ordinary people. Until very recently, this
 651 process of modernisation has met with apathy and little resistance especially at the
 652 ballot box to the extent that as British comedian Spike Milligan used to joke 'One
 653 day the *don't knows* will get in, and then where will we be?' However, starting with
 654 2016 'Brexit' (the UK's referendum to leave the European Union) and to misquote
 655 D:Ream, 'things can only get *bitter*', clearly the normative and hierarchical
 656 structures of modern society have been disrupted producing a schism in the socio-
 657 political order.

658 As divisions emerge based on both economics and identity, e.g., class, race,
 659 religion and age, the escalation of technological forms of participation assisted by
 660 the proliferation of mass media have conspired to create intense partisan divisions



661 and animosity. People increasingly engage with absent others over the Internet
 662 rather than face-to-face, so it is less likely that they will be exposed to alternative
 663 perspectives notwithstanding the inevitable encounter with a troll or two. Online
 664 social networking, most often contrived by myriad complex personalised algorithmic
 665 calculations, has replaced the randomness of meetings with strangers of
 666 different persuasions which traditionally took place in the public square. The
 667 erasure, or restructure, of the ersatz public space comprises primarily an auditory
 668 reconfiguration, leading to 'mediated urban isolation' [37, p. 242]. This is
 669 inevitable as web life encourages commitment and consequence-free experimen-
 670 tation because only the self is relevant, and 'as a result of multiple mediations of our
 671 experience we can come to live in places without ever fully integrating into the
 672 place-defined community, such as the local government, local community groups or
 673 local religious organisations' [26, p. 27].

674 The proliferation of smart devices with vast storage capacity and affordable
 675 music streaming services has meant more people engaging in daily acts of auditory
 676 separation; as the listener communes with the products of the corporate culture
 677 industry via their noise-cancelling headphones. Whereas traditional radio broadcasts
 678 enabled the construction of an imagined community, services like Pandora and
 679 Spotify facilitate only the construction of the private self, with tastes and
 680 preferences carefully monitored and monetised by the service provider. In this
 681 way, technological mediation has impacted on our subjectivities, experiences and
 682 understanding of what it means to be together, as users filter out the polyrhythmic
 683 sounds of the city. By generating new capacities to act at-a-distance, contemporary
 684 social life has been reconstituted along the lines of what Scott Lash describes as
 685 'sociality and culture *at-a-distance*' [21, pp. 107–108]. As mouse clicks and routine
 686 public acts of auditory separation have supplanted physical human contact and we
 687 no longer recognise ourselves in the Other; and, importantly, our interest in, respect
 688 for and tolerance of the alterity of the Other and their opinions has waned to the
 689 point of atomisation.

690 Media technologies are based on both connection and isolation, and constitute a
 691 mix of private sensory enhancement and public sensory deprivation which, for
 692 Debord, constantly reinforces 'the conditions of isolation of lonely crowds' [12,
 693 p. 26]. Sound studies specialist, Michael Bull, in a similar vein, tells the tale of the
 694 'melancholic urban subject' who moves through the 'chilly spaces of urban culture
 695 wrapped in a cocoon of communicative [and auditory] warmth whilst further
 696 contributing to the chill that surrounds them' [11, p. 17]. In the context of a culture
 697 of extreme auditory privatisation, there is no need to seek sociality in order to have
 698 acoustically rich experiences, because shared social space no longer requires sharing
 699 the same set of musical experiences with other people. This raises important
 700 questions in relation to our conventional understanding of public life against the
 701 modern-day meaning of societal involvement, collective participation and cooper-
 702 ation in organising, for example, public spaces of resistance. The way we consume
 703 music, beyond simply listening, affects the manner in which it becomes integrated
 704 into our private and social lives; for example, in relation to our collaborative
 705 behaviour and social values.

706 The ability of music to engender emotional identification in its listeners, which is
 707 simultaneously musical, cultural and social, attests to the significance of attending
 708 or participating in a musical event. Collective emotional engagement with music
 709 and sound has been found to constitute, and provoke a re-evaluation of, personal,
 710 social and political identities [14, p. 24]. It is, therefore, important to consider not
 711 only how public musical performances address the audience but how audiences
 712 constitute themselves around the musical performance, and so affirm the things they
 713 have in common. For instance, it is all too easy to forget that the experiences of the
 714 proletariat, racial and ethnic minorities often share common characteristics, for
 715 example, poverty, prejudice, negative stereotyping, and all culturally disadvantaged
 716 groups suffer from oppression by arrogant elites. In the spirit of ‘everything is
 717 related to everything else’; music, especially popular music, typically emerges from
 718 the raw emotions, frustration, fear and anger at the naked evil of such injustices
 719 which affect the everyday lives of ordinary individuals. Music is also a useful way
 720 of bringing people together to promote a common cause or against a mutual enemy;
 721 for example, the US Woodstock free music and arts festival of 1969 became a
 722 rallying point for a new political protest movement. Assembling large crowds of
 723 people acts as a ‘creative agent that produces new law [and] is thus a way of
 724 thinking about constituent power as both revolt and augmentation’, as well as
 725 constituting ‘the site of a series of creative and destructive processes’ [41, p. 414].
 726 This may explain why pop music was often frowned upon and even feared by the
 727 ruling classes, for example Lord Willis debating ‘the problem of leisure’ in the
 728 House of Lords in the 1960s begged the Government to ‘launch a new cultural
 729 offensive, side by side with this new cultural revolution’:

730 During the last few years there has been a fantastic development in popular
 731 music—this tidal wave of noise and frenetic energy under which we are in
 732 danger of becoming submerged. ...Are we going to have a situation in which
 733 other centuries will look back and say that the eighteenth century was the
 734 century of Bach and Beethoven, the nineteenth century was the century of
 735 Brahms, and the twentieth century was the century of Beatles and Bingo? [43],
 736 HL Deb 1964: cc. 258–270].

737 The future of humanity relies not simply on political or revolutionary action but on
 738 our imaginative, rational and creative capacities to conceive of other worlds and
 739 peoples. Yet the collective critical gaze is diverted from the systemically biased
 740 global capitalist system that privileges the 1%, in favour of demonising those in a
 741 similar situation to oneself. A key characteristic of late modernity has been the rise
 742 of individualism which has substituted a commitment to the social good; and
 743 consequently, a dangerous focus on identity politics and other catastrophic
 744 disruptions in cultural life have created many monsters [39, pp. 247–248].

745 For Žižek, aligned with an aesthetics of suspicion and insecurity, and a lost
 746 sociability, such isolationist attitudes and contempt provides the fuel for society’s
 747 burgeoning climate of fear [45, pp. 1529–1530]. Underscored by instant access to
 748 multiple images and stories, web life has obscured the fine line separating fantasy
 749 from reality. In this age of the spectacle, hyperbole and fake news (characterised by
 750 differentiated truths and lies, clichés, omissions and distortions), it is hard to



751 constrain the retributive fury raging within us and the fictions conjured up by our
 752 imaginations in order to maintain control over our darkest fears and illicit desires.
 753 We ‘react to the images and sensory input to which we are constantly exposed and
 754 which, by their symbolic associations, significantly influence our values and our
 755 society’ [23, p. ix]. The question then becomes one which relates to the nature of
 756 images, stories and songs we choose to consume, absorb and share along with what
 757 views and prejudices these choices affirm, construct or deny; as well as the means
 758 by which these are expressed, and interpreted by others.

759 While many artists and thinkers have argued that the aesthetic dimension lies at
 760 the heart of law, it is suggested that musically imagined communities are capable of
 761 realising justice by creating shared social spaces in which to strengthen a sense of
 762 cohesiveness and belonging, contribute to the development of individual and
 763 collective identities, and mediate the production of meaningful social formations.
 764 This is because the sheer scope, malleability and accessibility to social norms of
 765 music lend it temporal socio-political relevance and prevalence; with the ability to
 766 reiterate existing identities and originate new socialities. As discussed earlier,
 767 although carefully selected playlists have been used as political propaganda
 768 throughout time, music has the unique capacity to unite people by bringing them
 769 together for a common cause, to question the legitimacy of specific laws, to call for
 770 protection of the weaker against the stronger and, importantly, allow a more diverse
 771 range of voices to be heard. Additionally, in the context of growing political
 772 upheaval and fractured identities, it is useful to consider the extraordinary ability of
 773 music to promote affective unities with the potential to overcome difference or
 774 disinterest through aesthetic mutuality and common attachments.

775 **5 From Expressivist Aesthetics to Expressivist Ethics: Music** 776 **and the Framing of Social Justice**

777 Whether being used as a backdrop for casting spells or casting ballots, the
 778 persuasive properties of music, in common with other aesthetic forms, are more
 779 readily likened to magic than logic. For this reason Carl Schmitt famously cautioned
 780 against the romantic articulation of a ‘lyrical or musical ethics’ in case injustice
 781 becomes ‘only a dissonance that is aesthetically resolved in a sacred music, an
 782 endless feeling of the higher life’ [33, p. 161]. Even so, the value of artistic and
 783 aesthetic forms resides, as explained by Emmanuel Levinas, in their unique ‘ability
 784 to give a face to things’; they are capable of communicating the ineffable, the
 785 unspeakable or sacred which lies beyond the contractions of mere expression [22,
 786 p. 8]. He issues a caveat however, urging circumspection due to the ambivalent
 787 nature of these face-giving properties in which the potential for ‘greatness’ and
 788 ‘deceit’ reside simultaneously. This is, at least in part, because there are two
 789 realities, two main cultures—in the sense of signifying practices—a culture of
 790 power and a culture of relationships. For example, Beethoven’s ‘Ode to Joy’, while
 791 a favourite of many European leaders and the Nazis, also inspired the Tiananmen
 792 Square protesters and a performance was conducted in 1989 by Leonard Bernstein
 793 in celebration of the fall of the Berlin Wall and former ‘Eastern Bloc’. As a

794 symbolic gesture, Bernstein changed the word *Freude* (Joy) to *Freiheit* (freedom).
 795 Schiller's poem was written at a time of repression and counter revolution so such
 796 words as 'Thy magic power re-unites all that custom has divided. All men become
 797 brothers, under the sway of thy gentle wings. ... You millions, I embrace you. This
 798 kiss is for all the world!' were essentially a call for freedom from oppression. 'Ode
 799 to Joy' occupies strange territory in that it is used as a protest song, by those who
 800 want to disrupt the status quo, and by nation states and supranational organisations
 801 who desire to evoke patriotic fervour for maintaining the status quo. As Gracyk
 802 explains, 'semantic properties, that are fixed by a work's musico-historical context,
 803 constrain but do not fully determine the meaning of all subsequent performances'
 804 [18, p. 25].

805 As a reflection of, or challenge to, the social order, music garners unintended
 806 symbolic meaning and purposes that clearly contradict the intentions of the
 807 composer. Such misappropriation is aptly illustrated by the psychopathic protag-
 808 onist, Alex, from Stanley Kubrick's 1971 *A Clockwork Orange*, who cried out,
 809 while being tortured to the accompaniment of Beethoven's 9th symphony, 'It's a sin!
 810 Using Ludwig van like that! He did no harm to anyone. Beethoven just wrote
 811 music!'. In 2008 various musicians, including Massive Attack and Rage Against the
 812 Machine joined Zero dB (i.e., silence), in protest against their music being used as
 813 an implement of torture on detainees held at Guantanamo Bay and in secret prisons
 814 all over the world. The fact that music has so much psychological power means that
 815 it can be invested with innumerable, even contradictory, categories and discourses,
 816 and can easily be malevolently reimagined. Yet although each society has witnessed
 817 its ruling elite attempt to manipulate various aesthetic mediums and use these as
 818 tools of persuasion or weapons for domination, those same forms can equally serve
 819 as formidable tools of liberation. On the eve of Turkey's historic referendum on
 820 whether to approve constitutional amendments that would replace the parliamentary
 821 system with a less accountable executive presidency and against the current wave of
 822 police brutality, Turkish artist Ekin Onat von Merhart explained 'Art is not my
 823 passion, it's my mission. Art is my weapon' [19, p. 14]. Her multimedia installations
 824 feature themes from state-sanctioned violence to sexual and domestic abuse,
 825 misogyny, disrespect for women's rights and in 'my silence has a reason', the plight
 826 of child brides. Merhart's work is renowned throughout Turkey and demonstrates
 827 how the aesthetic has the unique ability to impart affective power to the ethical that
 828 it might otherwise lack.

829 Music has given a voice to the injustices arising from race and sex discrimination
 830 to the suffering inflicted by war and poverty, and has heralded important cultural
 831 shifts among large sections of society. Friedrich Nietzsche commented that 'without
 832 music life would be a mistake', and notes that music has a responsibility to society
 833 as 'its principal task is to lead our thoughts to higher things, to elevate, even to make
 834 us tremble' [27, p. 9]. Offering hope and the possibility of revolution through poetic
 835 political expression in the American folk tradition, Bob Dylan urged politicians and
 836 the public to pick the right side of history during the turbulent 1960s; to choose
 837 courage and compassion over complacency, involvement over inaction. His songs
 838 during this period were uncompromising in their outrage and unsparing in their
 839 analysis, for example, 'the times, they are a-changing' became the anthem of the

840 American civil rights movement and a mobilising force for racial equality. ‘We
 841 Shall Overcome (someday)’ was first used on a US picket line in 1945, performed
 842 by Pete Seeger with fellow members of the civil rights movement in 1963, and still
 843 conveys hope and solidarity today as an international anthem for human rights. Hip-
 844 Hop and Rap lyrics continue to help articulate the frustrations of young black males
 845 in their struggle for identity and recognition in an often unsympathetic society. With
 846 the capacity to inspire and sway individuals and even entire populations, the social
 847 circulation of emotion through music has strong axiological associations. For
 848 Adorno music emerges from the tensions and contradictions in society, and becomes
 849 significant only when it seeks to reflect and engage with real life or lived
 850 experience:

851 ‘Music will be better, the more deeply it is able to express—in the antinomies
 852 of its own formal language—the exigency of the social condition and to call
 853 for change through the coded language of suffering. It ... fulfils its social
 854 function more precisely when it presents social problems through its own
 855 material and according to its own formal laws—problems which music
 856 contains within itself in the innermost cells of its technique. The task of music
 857 as art thus enters into a parallel relationship to the task of social theory’ [3,
 858 p. 393].

859 Being both sensuous and intellectual in nature, the musical encounter enriches
 860 socio-political and socio-legal thinking in useful, innovative and generative ways,
 861 by mediating the listening subject and the social totality around them. Depending on
 862 the context, either formal or improvisational music can challenge prevailing
 863 political and cultural orthodoxies on, for example, race, gender and class by opening
 864 up alternative possibilities for cultural and ethical dialogue that may act as a catalyst
 865 for bringing about social change. This is not to say that only music can save us, but
 866 right now there is a profound sense of social fragmentation; people moving half-
 867 heartedly about in a world where there are no longer any certainties, precious little
 868 comfort and where any evil is now possible. While music alone is rarely capable of
 869 stimulating in people the desire to engage in altruistic pursuits, music along with
 870 other aesthetic forms has the capacity to activate certain ‘moral’ emotions. Songs
 871 can make people aware of a pressing social issue or something less overt but
 872 whatever that is, it can motivate a greater concern for the suffering of others.
 873 Simone de Beauvoir proposes that ‘...when I cry for [another] he is no longer a
 874 stranger. Therefore who will be my fellowman cannot be determined in advance:
 875 my tears decide’ [8, p. 210]. Our response to the vulnerability of another is what
 876 connects us to them, by directing our imagination, sensibilities and intuitions
 877 towards a feeling for justice and injustice. According to Simone Weil, it is only by
 878 extending compassion, love, respect or consideration for another person that justice
 879 is even possible [42, p. 93]. In this case, written rules on human rights have a limited
 880 reach in addressing the fullest extent of human woes; common humanity rather than
 881 common law is the primary, if not sole, basis of justice.

882 In his 1704 essay *An Account of a Conversation Concerning a Right Regulation*
 883 *of Government for the Good of Mankind*, Scottish political philosopher Andrew
 884 Fletcher quoted a ‘wise man of his acquaintance’ who said ‘Let me have the making

885 of the songs of a people, and I care not who makes their laws' [15, pp. 164–165]. To
 886 paraphrase, the popular song maker sways the souls of men, whereas the legislator
 887 rules only their bodies. Even so, since law is text-based and privileges the written
 888 word, its main form of transmission is narrative which means it is simultaneously a
 889 form of art. Lawyers and legal scholars use their legal imaginations to translate
 890 experiences from real life into aestheticized or narrative accounts of moral choices
 891 made in fictive worlds. Also because the interpretation of legal rules and concepts
 892 frequently leads to legislative language which is vague, imprecise, indeterminate
 893 and ambiguous, law and music are not so dissimilar. While aspiring for fairness and
 894 accuracy, the decision-making process applied to a particular legal methodology,
 895 legal principle or rule of law is influenced by a range of non-intellectual and
 896 emotional human experiences. As Sara Ramshaw notes in her 2013 monograph
 897 *Justice as Improvisation: The Law of the Extempore*, the act of law-making is
 898 'fundamentally improvisational, requiring a constant negotiation between the
 899 freedom of the judge to take account of the otherness or singularity of the case and
 900 the existing laws or rules that both allow for and constrain that freedom' [30, p. 3].

901 Often words are not sufficient to express the enormity of calamitous experiences
 902 which befall people and societies; there are atrocities and tragic events which are
 903 not easily described, grasped or rationalised. In displacing the pre-eminence of the
 904 linguistic as the main form of cultural expression and communication, the acoustic
 905 turn in legal scholarship offers an opportunity for a more diverse range of voices to
 906 join in the production and consumption of sound as a form of social justice. The
 907 aesthetically-charged community-led formulation of informal (ethical) obligations
 908 can lead to the development of formal (legal) duties as moral obligations. After all,
 909 there is little moral virtue in struggling for our own rights; only in defending the
 910 rights of others is it possible to speak about morality. Weil suggests that the ability
 911 to acknowledge and respond to human suffering and vulnerability depends on a
 912 perceptual and participatory standpoint; a particular kind of consideration that is not
 913 realisable without love and empathy. Accordingly, this inclusive and creative
 914 evaluative process, in which emotion is a major motivational force, embraces a
 915 broad set of external social relations with consequences for real people and
 916 communities [38, p. 105]. Through the lens of music and the creative arts, legal
 917 principle can be understood as more fluid, malleable and relatable; and even be
 918 perceived as a potentially revolutionising entity in service to the ideal of cultural
 919 participatory democracy. Via songs and lyrics, it is possible to expose and submit to
 920 critical scrutiny, the violent realities of power structures which continue to
 921 subjugate and oppress. For this reason, it becomes imperative to reclaim the musical
 922 form as a revolutionary ideal and a public forum for those human voices which are
 923 so often obscured by arbitrary rules and legal categories.

924 Music shapes our sense of identity through direct physical, temporal and social
 925 experiences which allow us to situate ourselves in imaginative cultural narratives,
 926 and such a synthesis of imaginative fantasy and corporeal practice also signifies the
 927 integration of aesthetics and ethics. It has historically significant archival properties,
 928 for example contained within the rhythm, melody and lyrics of Haitian music are the
 929 traces of the practices of deportation, slavery and revolution that created the nation.
 930 The effects of a history of race and racism are similarly imprinted in the idiom,

931 allusion and wordplay of many contemporary American musical genres. In *Poetry*
 932 *and Commitment*, American poet, essayist and radical feminist, Adrienne Rich,
 933 construes the aesthetic influence as ‘a resistance, which totalising systems want to
 934 quell: art reaching into us for what’s still passionate, still unintimidated, still
 935 unquenched’ [31, p. 25]. Music provides an unbounded space where individuals can
 936 express their ethical positions via aesthetic judgements, gathered together in a large
 937 field or in a concert hall, where they live or in another country or continent, or even
 938 through their headphones. It is anywhere and everywhere. Crossing multiple
 939 cultural categories and social identities, a diverse range of musical genres can
 940 provide a locus for meaningful interaction with others; producing creative
 941 communities who can more imaginatively engage with the possibilities, contradic-
 942 tions and challenges of our time.

943 6 Conclusion

944 In his 1979 work *Distinction*, Pierre Bourdieu condemned the imposition of a
 945 ‘hierarchy of legitimate objects of study’ which typically informs academic inquiry;
 946 and the almost exclusive reliance of lawyers on legal texts in constructing the
 947 ground rules that shape how creative fields develop is no exception [10, p. 17].
 948 Rather, it is suggested that legal scholarship pay less attention to legal texts and give
 949 greater consideration to a more diverse range of cultural forms and practices that
 950 represent and influence the configuration of law and legal principles. After all, as
 951 Desmond Manderson explains, law is synonymous with the symbolic order and ‘is
 952 produced in the dialogue and discourse all about us: in all the things that we read
 953 and say, in the music we listen to, and in the art we grow up with’ [24, p. 93].
 954 Likewise music has the capacity to act as an expression of law, vehicle of justice
 955 and the source of legal principle. Even though much contemporary jurisprudence
 956 has examined the role of the image and the motion picture, the soundtrack and
 957 musical score has often been neglected by legal scholars. Accordingly the stories
 958 and characters which exist in the fantastical fictional world of film are separated
 959 from the music and lyrics that define them.

960 In relation to acoustic forms, scholarship tends to be restricted to a narrow and
 961 uncritical framing of copyright law, intellectual property, freedom of expression and
 962 noise pollution. Yet, as Roland Barthes argues, narrative is first and foremost ‘a
 963 prodigious variety of genres’, in which music plays a significant part of the narrative
 964 discourse in its capacity to energise, motivate and unify listeners, and not least of
 965 all, in the audience’s interpretation and assimilation of the music [7, p. 73]. As a
 966 narrative agent and form of acoustic jurisprudence, music signifies and occupies
 967 narrative space in which issues of legality, order and justice are encoded in the
 968 score. In this way musical expressivism offers an important alternative legal
 969 discourse as well as being a cultural source of legal authority and legitimacy. Also
 970 its meaning-making function suggests it has the ability to assist in creating and
 971 configuring the law which renders music as, at the same time, both an explanatory
 972 device and a form of law in its own right.

973 Deeply implicated in our chaotic and often catastrophic everyday world, music
 974 performs above and beyond its musical conventions and message and, more
 975 precisely, plays a constitutive role in shaping our construction of social and legal
 976 reality. It provides a means by which political resistance can be expressed and
 977 opposition organised, and even small acts of cultural subversion can cause a change
 978 in attitudes across society. Against tedious conformity and bureaucracy, certain
 979 types of landmark shifting music have explored a new cultural politics of identity
 980 and marginality that displaces an older politics of class and state. From the elegant
 981 strains of Giovanni Battista Pergolesi and Henry Purcell to the energetic and radical
 982 edginess of Pussy Riot and Iggy Pop, the dominant forms of popular music in
 983 modern societies have mostly originated at the social margins; from poor, migrant,
 984 rootless and otherwise marginalised backgrounds. To express who we are in
 985 contingent relation to, for example, the state, government and other people, in our
 986 own aesthetical way is at the core of what it means to have rights. Music, therefore,
 987 provides an effective way of identifying ourselves to others and facilitates the
 988 celebration and elaboration of core identity values, especially those that are subject
 989 to redefinition and reclamation from a once socially stigmatised position. For this
 990 reason, James Parker recommends in *Acoustic Jurisprudence: Listening to the Trial*
 991 *of Simon Bikindi* [28, p. 33] that, as a community of legal scholars in pursuit of a
 992 richer interdisciplinary dialogue, we must 'prick up our juridical ears' and learn to
 993 listen to law once more.
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