The utopia of Rojava: A new world for stateless people

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Abstract

This article investigates how participatory art can contribute to legal change. As a case study, it discusses Jonas Staal's project of New World Summit in Rojava, a (so far still) autonomous region in North and East Syria. It offers an interesting case, since it invites the law to include what it has excluded so far. To begin with, it is clarified how change is conceived within legal systems based on the rule of law. Although law resists radical change, it is involved in a constant process of adaptation to its environment. Subsequently, Staal's project of New World Summit is discussed from a utopian perspective. Its apparent impossibility is what makes it so valuable for law and its development. By erecting a parliament for Rojava, it presents a picture of how the international order could look like when things were different. As such, it is an exercise in "utopian world-making".

Key words

Resumen

Este artículo investiga cómo el arte participativo puede contribuir al cambio jurídico. Como estudio de caso, analiza el proyecto de Jonas Staal de la Cumbre del Nuevo Mundo de Rojava, una región (aun a día de hoy) autónoma del norte y el este de Siria. Ofrece un caso interesante, ya que invita al derecho a incluir lo que hasta ahora ha excluido. Para empezar, se aclara cómo se concibe el cambio dentro de los sistemas jurídicos basados en el Estado de Derecho. Aunque el derecho se resiste a los cambios radicales, está implicado en un proceso constante de adaptación a su entorno. A continuación, se comenta el proyecto de Staal de la Nueva Cumbre Mundial desde una

perspectiva utópica. Su aparente imposibilidad es lo que lo hace tan valioso para el derecho y su desarrollo. Al erigir un parlamento para Rojava, presenta una imagen de cómo podría ser el orden internacional si las cosas fueran diferentes. Como tal, es un ejercicio de "creación de un mundo utópico".

Palabras clave

Utopía; cambio jurídico; arte participativo; democracia; revolución

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1. Art and legal change

Law and art seem to be worlds apart. Whereas art can imagine freely possible worlds very different from our actual world, law appears to be bound to the status quo. Law aims at stabilising and preserving the current system of norms. Therefore, it can be considered, in the words of Sabine Müller-Mall (2016), "the main technique of conservative, slow institutionality." According to Bruno Latour (2013, pp. 242–243), slowness is a fundamental quality of the law. Comparing law and science, he observes: "Although one might speak admiringly of 'revolutionary science,' 'revolutionary laws' have always been as terrifying as courts with emergency powers. All those aspects of law that common sense finds so irritating – its tardiness, its taste for tradition, its occasionally reactionary attitudes – are essential to law's functioning." Law seems to be essentially conservative: it sticks to established practices and is reluctant to give up what it has acquired in decades of experience. As Jiří Přibáň (2007, p. 54) argues, "law is not primarily a matter of social experimentation." Art, on the other hand, seems to be particularly suited for social experimentation. In the supposedly free space granted to art in liberal democratic societies, art can challenge the established legal and political order and experiment with alternative orderings. Despite or due to its eccentric position, it may be capable of questioning law's inherent slowness and speeding up the process of change within the legal system.

In this paper, I want to investigate how art can contribute to legal change. I focus here on what Claire Bishop calls "participatory art". In participatory art, the central aim is to engage people in the creation of the work of art, conceived as a theatre-like performance or event. For that purpose, the status of the artist, the art object and the audience is redefined as well as the traditional relationship between them: the artist does no longer position herself as an "individual producer of discrete objects" but as a "collaborator and producer of *situations*"; the work of art is not a "finite, transportable, commodifiable product" anymore but an "ongoing or long-term *process*" without a fixed beginning and end; and the traditionally passive or receptive viewer is turned into a "co-producer or *participant*" (Bishop 2012, p. 2; original italics). Since the 1990s art has become more and more political and activist. By moving from its original habitat – the museum or the gallery – to the streets, it intends to bring about changes in social reality. As case study, I will discuss Staal's project of New World Summit in Rojava, a (so far still) autonomous region in North and East Syria. New World Summit is an artistic and political organisation, founded by the Dutch-Swiss artist Jonas Staal in 2012, in which artists, political actors and activists collaborate in order to establish alternative parliaments around the world for people that are considered terrorists and therefore excluded from the existing legal and political order. The Summit's contribution to the Rojava revolution offers an interesting case since it challenges, by aesthetic means, current notions of political representation and democratic participation. It denies to be merely utopian, since it aims and claims to bring about radical changes in the real world.

I do not present an empirical study into the factual relation between art and legal change. For that reason, I won't be able to answer the question whether art has "really" changed something to the law as it is. Instead, I explore the symbolic possibilities of how art could initiate or accelerate change within the legal system. In what way can participatory art influence the social imagination and contribute to changes in the law? When speaking

of "law", I refer to legal systems of liberal democratic societies consisting both of the officially enacted legal norms and underlying legal principles. As Kelsen (1970, p. 221 ff.) shows, the legal norms of a legal system build a hierarchical structure (or *Stufenbau*), consisting of different levels of norms and norm applications, starting from the basic norm (or *Grundnorm*), moving down to statutes, governmental regulations, court decisions, contracts and so on, and ending in the factual execution of a legal command (e.g., the imprisonment of a criminal by a police officer). In liberal democratic societies, legal authorities are bound by the rule of law, which means that they have to respect at least formal principles such as legality, equality and the separation of powers.[1] Following Sally Falk Moore (1973), I conceive of a legal system as a "semi-autonomous field" which has its own institutions, rules and procedures, but which is open to input from other fields in society, such as politics, morality and, possibly, art.

Below, I will first clarify in three steps how change is conceived within legal systems based on the rule of law (section 2).[2] Although law resists radical change, it is involved in a constant process of modification and adaptation to its environment. This is what is captured in Oakeshott's notion of radical temporality. Second, I explain Staal's conception of art as propaganda and show how it is applied to his project of New World Summit: Rojava (section 3). According to Staal, the Summit is an instance of "revolutionary realism" which aims to bring about real changes in the world. Since his art works are closely connected, if not inseparable, from his art theory, I take his theoretical reflections as a starting point for my own interpretation. Third, I give a different reading of Staal's project which stresses its utopian character and downplays its claim to realism (section 4). As I will argue, it is exactly its apparent impossibility that makes the project so valuable and inspiring for law and legal development. Finally, I demonstrate how in this case art could contribute to legal change (section 5). By erecting a parliament for Rojava, it presents a picture of how the legal and political order could or should look like when things were different. As such, it is an exercise in "utopian world-making" (Kruger 2017, p. 188).

2. Radical temporality

In the modern experience of time, time is always moving quickly. In reaction to the experienced acceleration of time, attempts have been made to slow down time. Marquard argues that people, because of their finality and fallibility, have no other choice than to develop a "sense for slowness."[3] "Slow" has become a popular catch phrase for all kind of activities: slow food, slow money, slow sex, slow science, slow politics, and so on. Slowness may be revaluated in many fields of society, as an antidote to an overall sense of stress and time pressure; in law, however, in particular from perspectives external to the legal system, it is not very much appreciated. Comparing the temporal conditions of law and science, Latour (2013, p. 220) notices: "Common

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[1] The rule of law, in a formal conception, "means that government officials and citizens are bound by and abide by the law" (Tamanaha 2012, p. 232). In a more substantive conception, it includes adherence to human rights, such the right to life, work and education. On the various, formal and substantive, conceptions of the rule of law, see Tamanaha (2004, chapter 7 and 8 respectively).

[2] This section is partly based on Van Klink (2018).

[3] Quoted in Harald Weinrich (2008, p. 165; my translation). In the original text Marquard writes "slowness" in the plural (*Langsamkeiten*).

sense finds the slowness of both law and science incomprehensible (…). What a waste of time! How slow!" Law and science are both engaged, as Latour (2013, p. 221) argues, in the "production of doubt" which, from the internal perspective of scholars and judges respectively, necessarily takes time in order to preserve quality. According to him, slowness is a fundamental quality of the law. Unlike science, law aims at stabilising its system of rules: "A premium is put on legal stability but there is no such thing as scientific stability" (*ibid*.). Therefore, law resists radical change.

Itself wary of change, law is not likely to bring about radical changes in its environment. Law's failure to modify current patterns of behaviour in society is a recurrent theme in the sociology of law, as is exemplified in Sumner's classic study of the folkways. In his view, "[w]orld philosophy, life policy, right, rights, and morality are all products of the folkways" (Sumner 1959, p. 29). From its early beginning until the present day, society is trying to find strategies to cope with the outside world in order to improve its life conditions. These strategies, when they have been proven to be successful and have settled themselves in actual behaviour, make up the folkways.[4] According to Sumner (1959, p. 34), "[t]he life of society consists in making folkways and applying them". However, "making folkways" is a misleading expression, because folkways develop themselves, not as a product of human creation, but incrementally in reaction to changing life conditions. In order to be effective, legislation has to adapt itself to the mores instead of trying to modify them. The only thing politics can do is preserving the current state of affairs: "All the political institutions of a modern state are conservative in the sense that they retain and sustain what is and what has been, and resist interference or change" (Summer 1959, p. 167). Like Latour, Sumner considers slowness to be a necessary quality of law. By codifying and enforcing the mores that are widely accepted in society, law provides for stability. Only when the folkways have changed substantially and permanently, law will have to follow, reluctantly and slowly.

Although law seems to resist change, there is no escape from it. Despite all attempts to turn back time or to slow it down, no one can keep time from moving on. As Heraclites said presumably, "All things move and nothing is at rest." Because everything changes, "you cannot step twice into the same stream".[5] According to Oakeshott, the universal condition of human existence is characterised by "radical temporality".[6] That means, in practical experience,[7] "reality is asserted under the category of change" (Oakeshott 2002, p. 273). Through our actions, we are always engaged in altering the world as is it, even when we intend to preserve it: "all human actions belong to the realm of change, including actions to bring changes to conclusive closure" (Fuller 2012, p. 121). What is constant in practical experience is, paradoxically, the "possibility of change" (Oakeshott

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[4] In his lengthy study of the folkways, Sumner never clearly defines this concept. Sometimes "folkways" is used as a synonym for the mores, at other times it seems to refer to established patterns of behaviour only (that is, the mores minus the intellectual "superstructure"). In what follows, I will use these concepts interchangeably, as Sumner mostly does.

[5] Quoted in Plato's *Cratylus*, 401d and 402a, cited and discussed in Ademollo (2011, p. 203 ff.).

[6] This notion is not used by Oakeshott himself, but is introduced by Fuller (2012, p. 121) in order to describe Oakeshott's view of the human condition in practical experience.

[7] As opposed to historical and scientific experience, which Oakeshott has discussed earlier in his study of the various modes of experience: "Science assumes a world of stable, unchanging, quantitative fact; history assumes of world of unchanging past fact; practice assumes a world of mutable, transient fact" (Oakeshott 2002, p. 263).

2002, p. 267). Change is not a mere possibility of our world of practical action, but change and instability define and determine our world. This follows, in Oakeshott's view, from the human "ordeal of freedom" (Fuller 2012, p. 123). As human beings, we are bound to be free. Our course of action is not determined but in most situations we have a variety of options from which we can, and have to, choose. Because change is produced by a conscious reworking of the past, the past can never in itself determine the course of history; it offers a range of possible directions where to go and how to proceed. In practical activity, we aim at improving the practice at hand, building on the values that are already part of that practice.

In current hermeneutic theories of legal interpretation, the radical temporality of law is widely acknowledged. As MacCormick (1995, p. 123) argues, "legal rules, principles, and doctrines are themselves time-bound, have themselves a history of critical development over time". How this critical development may take place, is elaborated in Dworkin's theory of constructive interpretation. He compares legal interpretation to the writing of a chain novel. Through interpretation, law is developed and thereby changed: every legal decision (at least in hard cases) adds a new chapter to the previous ones. According to Dworkin (1986, pp. 230–231), the judge should offer an interpretation which not only has to be in accordance with the law as it is (referred to as the "dimension of fit"), but also shows the legal system in its present state in its best light, that is how it ought to be following her own political morality (the "dimension of substance," also referred to as the "dimension of justification"). Earlier, Gadamer (2004, first published in 1960) developed a similar notion of legal interpretation within the context of his general hermeneutic philosophy of understanding. In his view, understanding involves a fusion of horizons – the "familiar" horizon of the present in which the interpreter is situated and the "strange" horizon of the continuing tradition from which the text speaks. Both horizons are never completely present to themselves but are constituted, over and over again, in the act of understanding which brings them together. Every interpretation not only reproduces a pre-given meaning, but also adds something new to the existing canon of interpretation.

In sum, the rule of law does not rule out change *tout court* (which would be a futile effort); it opposes radical change. Radical change is a change that does not somehow built on already established social practices and the norms and values contained and emerging in these practices but instead tries to break away from traditional and customary ways of doing things, to create – when necessary by violent means – a new beginning or a clean slate, in the name of religion, rationality, universal rights or some other transcendental value. It subverts the normative foundations of the current legal order. In terms of Kelsen, radical change would involve a substitution of the basic norm constituting this order, which in his view can only be accomplished by revolution (see, e.g., Kelsen 2002, p. 59). As Marquard (2007) argues, we never start from scratch when we are construing our world, both in the private and in the public sphere. We may be critical towards the way we have been doing things so far, but the criticism never applies to our world in its totality but only to certain parts of it that may have to be changed. Because of the temporal finality of human existence, innovation and continuity belong together.

3. The Rojava revolution

Through his artistic interventions, Staal seeks to break fundamentally with the juridical logic of incremental change. For Staal, art is a revolutionary praxis: it attempts to set the stage for a radical change of the existing legal and political order. In the age of late modernity, art has become more and more self-reflective and self-critical. In his many writings (among which his PhD thesis, see below), Staal has reflected extensively on the role of art in democratic society in general and on his own ambiguous position as an artist within it in particular. These theoretical reflections are an essential supplement to his art – in fact they are, I would argue, an integral part of it –, because they help understanding his artistic interventions, or at least its underlying intentions. Below, I will first summarise Staal's conception of art as propaganda (section 3.1). Second, I will show how he applied his conception to the New World Summit project in Rojava (section 3.2). Subsequently (in section 4), I will give my own interpretation of the project by analysing its possible implications for the relation between law and art. As will become apparent, my understanding differs in some crucial respects from Staal's self-understanding.

3.1. Art as propaganda

In democratic societies such as the Dutch, according to Staal, visual arts always serve a political purpose as propaganda. Inevitably, art contributes to sustaining the existing liberal and democratic order, even (or even more so) when it is overtly and openly political and critical of the system. As propaganda, art confirms the dominant ideology of liberal democracy, which Staal characterises as "democratism":

> Is it not the case that the visual arts are the desired embodied image of democratic ideology – *democratism* – when it is self-critical, questioning, tolerant, continuously developing, and displays a deep interest in *others*? Is it not this freedom and independence that make up the central values of democratism, and are we as artists not its greatest advocates, *whatever we do*? Is it not the case that this the actual *task* that the state has given to artists by means of all kinds of foundations, tax cuts and art schools: to *show* the rest of the world the success of this free society and its citizens? (Staal 2010a, pp. 63-64; original italics)

In other words, art contributes to the order's self-image of a free, open and dynamic society. By their sheer presence, artists represent and reproduce the fundamental values of our society, that is the "'enlightened values' that are beyond questioning" (Staal 2010b, p. 11): "freedom, tolerance, criticism and self-criticism" (Staal 2010a, p. 67). Staal (2010a, p. 65) is highly critical of democratism, because it is used as "an excellent weapon against those who have not yet converted to democratism". Since artists are allegedly the "greatest advocates" of democratism, they are, willy-nilly, accomplices of the violence exerted in its name: "As artists, we are the progressive, democratic home front legitimating the advance of soldiers elsewhere" (Staal 2010a, p. 66). Art as propaganda is a "performance of power" (Staal 2018, p. 17) which celebrates the glory of the existing order and justifies its actions.

Although art by definition equals propaganda it can, according to Staal, be used for a good cause. For this purpose, he introduces the concept of "post-propaganda". The prefix "post" signals that art inevitably is connected to power (there is no escape from

propaganda), but not necessarily as a means to legitimatise the existing power structure. Staal believes that art can and should be critical which, in the first place, means that it is self-reflective and self-critical of its role as propaganda: "[A] truly critical arts practice has to communicate its awareness of the socio-political conditions that broadly define and legitimate the meaning of visual art (and also artisthood)" (Staal 2010a, p. 76). What distinguishes post-propaganda from propaganda is essentially that artists have a choice and are able to decide themselves how they want to connect their art to power: "The main difference between post-propaganda and propaganda lies in the possibilities of interpretation that post-propaganda offers to the artist concerning the way he allies himself with politics" (Staal 2010a, p. 77). Critical art starts from democratism as the "dominant ideological superstructure" (Staal 2010a, p. 90) and aims to expose its internal contradictions. What it strives for, in a word, is an "emancipatory democratism" (Staal 2010a, p. 92). In a very telling comparison (at least from a psychoanalytic point of view), Staal reverses the traditional father-son relationship: the father – who in Freud's theory symbolises the order of the super-ego (*Über-Ich*) containing internalised cultural norms – should be punished and re-educated by the son – that is, the artist –, because he does not live up to his own norms. Critical art, then, is "an art that punishes its father for his ineptitude at being a true father, and leads this elderly man towards a better – because more consistent – *design* for society" (Staal 2010a, pp. 84–85; original italics). Staal (2010a, p. 96) believes that democratism will collapse due to its internal contradictions and conflicts, so that a "different politics" which entails a different ideal of living together, will become possible. He foresees a future in which Joseph Beuys' promise of "the unification of life and art *through* a meeting of art and politics" (*ibid*., original italics) is realised. As a result, every human being will be an artist (and, by implication, a political actor though these roles will eventually merge).

In the very first sentence of his PhD thesis, devoted to propaganda art from the 20th to the 21st century, Staal (2018, p. 13) fiercely declares: "I am Jonas Staal, and I am a propaganda artist." Notably, he no longer uses the prefix "post" when referring to propaganda, because he considers the concept's bad name to be itself a product of propaganda. He now conceives of art, within the context of emancipatory politics, as a "*transformative* form of propaganda" (Staal 2018, p. 26). According to Staal, art can function as a transformative power: it is not merely an instrument used by the existing power to sustain its dominant ideology, but a power in itself that actively shapes or, more accurately, gives form to emerging power. He distinguishes various models of emancipatory propaganda, among which, first, Popular Propaganda Art that rejects the us-them dichotomy, propagated by the "war on terror", and aims at construing a new "we" among different groups of oppressed peoples; and, second, Stateless Propaganda Art striving for the recognition and self-recognition of stateless people, which means that they are either recognised by an existing state, or manage to establish a state of their own or chose to live together outside the confines of the state. As a form of transformative or emancipatory propaganda, art moves away from its traditional function of representing the world as it is to the active and activist mode of presenting the world as it could or should be. This is a process of co-creation, in which all participants are engaged on an equal footing. While the war on terror propaganda presupposes a hierarchical relation between the elite and the people (that are manipulated by the state), sender (the artist)

and receiver (the people) now take on "similar positions in the process in which an egalitarian claim to power takes shape" (Staal 2018, p. 389).

3.2. New World Summit

Through his project of New World Summit, Staal is actively engaged in the process of "world making." It aims at establishing alternative parliaments for political organizations that, as a consequence of the ongoing "war on terror", are stateless and blacklisted. It wants to offer people who have been excluded from the "current practice of democracy" (Staal 2018, p. 26) a platform to act and interact politically: "Created in the age of the War on Terror, New World Summit develops spaces for political assemblies between civil society in whose name the War on Terror has been waged and stateless and blacklisted organizations against whom the War on Terror is waged" (*ibid*.). These alternative parliaments are created by means of art, architecture and design, on the actual locations where the excluded groups live (for instance, in Mali or Syria) or somewhere else (in Berlin, Oslo, Utrecht, and so on), in theatres, art institutions and public spaces. Moreover, New World Summit provides, in cooperation with the PROGRESS Lawyers Network (PLN) and the Berghof Foundation, legal aid to these groups and offers them a "space of diplomatic exchange" (*ibid*.) by collaborating with the Unrepresented Nations and Peoples Organization (UNPO). Through the "performance of emerging power as art" (Staal 2018, p. 30), this project supports stateless people that are in the process of organizing and institutionalizing themselves politically and that are striving for political recognition, both internally (within the group itself, which amounts to self-recognition) and externally (by others, outside the group). Art as performance gives form to emerging power, which not merely renders it an outward visibility but, more fundamentally, helps to shape its political content, or ideology. As Staal (2016a) puts it in a simple equation: "Ideology = Form". Although he himself considers it to be an instance of "revolutionary realism" (Staal 2016a, p. 98),[8] Staal describes his project in rather utopian terms as an attempt to move beyond the present reality, via artistic imagination, to a "different reality" (Staal 2010a, p. 38):

> [New World Summit] aims to operate between the real and the possible, between concrete support to the struggles of stateless and blacklisted people, and the imaginary of a possible new assembly – across stateless and 'stated' people – to emerge. Instead of investing in strengthening dominant structures of power, the New World Summit – through the space of art – has aimed at narrating a history of the world, according to the stateless. Not the world as we know it, but the manifold worlds that are struggled for and emerging as we speak. (Staal 2010a, p. 27)

It is meant as a protest against the current conception of democracy, in which name states wage the "war on terror." It criticises how law is used or abused in this so-called war in order to justify illegal state actions: "The New World Summit attempts to bring the law itself to trial as an instrument of state terror" (Staal 2016b). It considers itself part of an international democratization movement, which strives for a "fundamental" democracy, that is a democracy "which is liberated from the state" (cited in Kruger 2017, pp. 186–

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[8] Staal borrows this notion from Diyar Hesso, a film maker and teacher in Rojava. In section 4, I discuss Staal's claim to realism and his resistance to utopianism.

187). Due to the exceptional position it occupies, art is able to instigate "a space and practice of emancipatory, limitless democracy" (Staal 2016b).

A concrete example of so-called Stateless Propaganda Art is "New World Summit: Rojava," in which Staal and many other members of his organization[9] were involved between 2015 and 2017. Rojava – or, as is it called officially, the Autonomous Administration of North and East Syria (NES) – is a self-declared autonomous region in the northern and north-eastern part of Syria, divided into several self-governing smaller regions in the areas of Afrin, Jazira Euphrates, Raqqa, Tabqa, Manbij and Deir Ez-Zor. It is a polyethnic society, consisting of ethnic Kurdish, Arab, Assyrian-Syrian and Turkmen populations and also, to a lesser extent, ethnic Armenian and Chechen communities. The federation was established in 2012, but is recognised neither by the Assad regime nor by any state or international organization. It does not aim at independence, but intends to offer a political model for a federalised Syria. As a political community, it is secular and democratic. It promotes decentralization, women's rights, ecological sustainability and tolerance in religious, cultural and political matters. To a large extent, power is decentralised to the regions, where decisions are taken in communes, cooperatives and councils. Its ideology, inspired by the writings of the imprisoned Kurdish activist Abdullah Öcalan, is characterised as anarchistic, feminist and libertarian socialist.[10] In a social contract, the basic principles of the revolution are laid down: self-governance, gender equality, the right to self-defense and a communal economy.[11]

By constructing a parliament for Rojava in the city of Derîk, Staal intends to contribute to the federation's democratic self-administration, conceived as "democratic confederalism" or "stateless democracy" (Staal 2010a, p. 362). He describes the parliament, its construction and his own role as an artist by means of a variety of metaphors taken from the cultural sphere. In his view, the People's Parliament of Rojava is a "spatial manifesto" or a "sculpture of an emerging power in the making" (*ibid*.). The parliament is a kind of theatre – the "theatre of politics" (*ibid*.)[12] – for which Staal sets the stage where political actors can perform their play. The roles of actor and creator are closely connected: Staal's project is "an attempt to define oneself as both an actor in and co-creator of the collective script entitled stateless democracy: a script that is performed off-state and, thus, inevitably, a script that has to be performed as a terrorist" (Staal 2016a, p. 97). Through the construction of the parliament, the federation's leading ideology acquires a material form. The general aim is to produce a change of mentality supporting the practice of stateless democracy. As Staal (2016a, p. 106) argues, artistic form or performance plays a key role in the Rojava revolution: "Rojava has shown that revolution is first of all a performance of ideology." Various features of the parliament's construction reflect the federation's ideology. To give a few examples: first, it is an open and public parliament, surrounded by a park, which expresses the Rojavan ideal of

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[9] As indicated earlier, New World Summit is a cooperative effort in which many participants are engaged. For convenience's sake, I focus here on Staal because he is the initiator of the project as well as its central reference point.

[10] This characterisation is retrieved 1 September 2021, from: https://en.wikipedia.org/wiki/Autonomous_Administration_of_North_and_East_Syria.

[11] For more information on Rojava see, for instance, Sabio (2015) and Knapp *et al.* (2016) and the BBC documentary *Rojava: Syria's Secret Revolution* (2014).

[12] Staal borrows this expression from Henk te Velde, Professor of Dutch history.

politics as common property. Subsequently, the parliament is constructed as a circular space without a centre, so that everyone can participate on an equal level. The circle is not perfect: the roof consists of several separate layers which partially overlap but do not fully connect to each other. Moreover, it contains hand-painted fragments of flags of local political organizations which play a key role in the Rojava revolution: the Democratic Self-Administration of Rojava, the Syriac Union Party (SUP), the Movement for a Democratic Society (Tev-Dem), the Democratic Union Party (PYD), the Rojava Democratic Youth Union (YCR) and the Star Union of Women (Yekîtiya Star). Finally, on the circular arches key concepts of the social contract are written down in English (such as "Confederalism", "Gender Equality" and "Communalism") as well as in three other languages (Assyrian, Arabic and Kurdish), reflecting the cultural diversity of the region.[13] The architecture is meant to signal that the parliament is "in permanent construction" and "in a state of self-critique" and "permanent aesthetic and ideological self-interrogation" (Staal 2016a, p. 106).

Staal is a reflective and self-reflective, critical and self-critical artist, who has articulated very eloquently his aesthetico-political vision and mission. With his artistic interventions, he intends to affect real changes in the real world. In the case of the World Summit: Rojava he aims to contribute, by building a parliament, to the founding of a political community, based on anarchistic, feminist and libertarian-socialist principles. Moreover, the summit is a critique of the current political and legal order which offers no room to stateless people. To what extent is participatory art, as a means of propaganda, capable of changing social reality and its underlying legal and political structures? Below, I will build on Staal's reflections in a critical-hermeneutic way from the viewpoint of legal and political theory, in order to shed light on the relation between law and art.

4. Utopian world-making

In propagating his own propaganda art, Staal tends – in my view – to both underestimate and overestimate his own role as an artist in the activity of world-making in general and in the Rojava case in particular. On the one hand, he stresses that in the construction of the Rojava parliament many actors are involved (which is, of course, true) and that these actors only follow the decisions previously taken in parliament: "the assembly of Rojavans and my own artist-organization (...) together follow the decision-making process of stateless democracy to conceptualise, design and construct the parliament as a morphological translation of Rojavan ideology" (Staal 2018, p. 389). The role of the artist (and his organization) is to translate the leading ideology of stateless democracy into a visible form or, in Staal's terminology, a specific "morphology".[14] As a translator, the artist seems to adopt a predominantly passive and serving role of finding the right visual representation for an ideology articulated elsewhere (although translation is obviously more than a mere transference of words from one language to another; it

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[13] For more information on New World Summit: Rojava and related projects, see In der Maur *et al.* (2016), Staal (2015) and Staal's website, retrieved 1 September 2021, from: www.jonasstaal.nl.

[14] Staal (2018, p. 387) defines morphology, originally a biological concept, as the "genealogy of form." Earlier, in Staal (2016a, p. 99), he described it as "the knowledge and practice of visual literacy" (with a reference to Goethe in a footnote).

requires interpretation and application of the original text to a new context).[15] On the other hand, Staal assigns to himself (and his organization) a far more active role beyond the rendering of a mere translation, when he writes that he provides a "script" or sets the stage for political performances in the future. After the ideological foundation of Rojava's political order has been laid, artistic representation helps to shape stateless democracy in its subsequent development: "The decentralized model of power that is stateless democracy thus informs the morphology of the parliament, but simultaneously, this morphology contributes to further shaping of stateless democracy in practice" (Staal 2018, p. 389). As emancipatory art, the construction of the parliament offers a performance in the present that does not want to determine the political order once and for all, but to retain the possibility of change, that is "to open a space of imagination of a future-present, in which we might perform differently" (Staal 2018, p. 390). Through its performance, stateless democracy is created and recreated over and over and again by all those involved. In this way, it engenders, in art as well as in politics, a "permanent revolution of *form*" (Staal 2016a, p. 102). This is all, however, beyond the artist's control. As an artistic construction, the parliament cannot determine in itself which course politics will take place under its roof. Art can have some kind of influence or effect, when it expresses important political symbols which political actors find inspirational and take up in their political actions. In other words, the actors decide themselves if and how they want to figure in the script that the artist has foreseen for them and, while acting, they may decide to change the script or drop it altogether.

In my view, the role of the artist is less passive (in the foundational phase) and less active (in the post-foundational phase) than Staal seems to suppose. Aesthetic representation in a political context can be compared to what Ernesto Laclau has described as the "two faces of representation" under democratic conditions. According to Laclau, representation is a two-way process in which the representative (the political leader) both follows and changes or shapes the represented (the people). Therefore, it is never (or not just) a passive endeavour: "It is in the nature of representation that the representative is not merely a passive agent, but has to add something to the interest he represents. This addition, in turn, is reflected in the identity of those represented, which changes as a result of the very process of representation" (Laclau 2007, p. 158). Applied to Staal's project of the New World Summit, it means that, while he is translating the ideological foundation of the political order into a visual representation, he is adapting and amending it in accordance with his own political vision. By implication, Staal's project is neither a purely active one, since it has to appeal to a prior collective – a political community which he helps to establish as an "emerging power" – on whose cooperation and willingness to act out his script he depends. This notion of representation questions the dichotomy between representation as mere repetition or reproduction and presentation as a creation from nowhere, on which Staal's conception of world-making is based. Political as well as aesthetic representation involves both: a movement from represented to representative and a reverse movement, from representative to represented. What Staal as an artist basically offers, in terms of Laclau, is a set of floating signifiers which express in very general terms unfulfilled demands of the Rojavan people (as written down on the arches of the Parliament, such as

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[15] See, for instance, Schleiermacher (1838).

"Confederalism", "Gender Equality" and "Communalism") and which are united under the general empty signifier of "stateless democracy."[16] The floating character of these signifiers is stressed by the parliament's architecture which has to signal, as Staal argues (see above), that the parliament is "in *permanent construction*." So in the activity of world-making he does not create a world out of nowhere (from a non-political space), but appeals to a people that is already in the making, whose identity he can further stabilise and influence, for instance by selecting and codifying the central signifiers around which they can build their ideology.

In his commentary to New World Summit: Rojava, Staal denies that this project is utopian. According to him, it is an instance of "revolutionary realism". As revolutionary realism, the Summit is not so much about imagining a possible world; it is actively engaged in *creating* a new world beyond the state: "Revolutionary realism focuses on shaping new possible realities once we have rejected the forms that structure our current performance, in this case specifically controlled within the stage of the nation-state" (Staal 2016a, p. 99). The creation of a parliament in Rojava has a two-fold purpose: it "both expresses a political vision, but at the same time serves as a tool to bring this vision into practice" (Staal 2016a, p. 204). In other words, the revolution in Rojava is not a matter of just hoping for Utopia to arrive. Instead, it is long and laborious process of world-making in which aesthetic representation plays a crucial role:

> The Rojava revolution is not one that hopes for a different world in an unknown future when statehood is achieved and utopia has developed properly and linearly, as our revolutionary textbooks have taught us. Rather, it is revolution as a painstakingly won process of building a new society through a change of mentality and a change of performance: through a change of form. (Staal 2016a, pp. 106-107)

In an earlier essay, Staal anticipates the critique that his concept of post-propaganda may be dismissed as "utopia". He rejects this critique out of hand: "Those who represent this position fail to understand that politics *cannot exist without the art institution*" (Staal 2010a, p. 89; original italics). He claims that post-propaganda is the "exact opposite of a utopia", since "it aims to take once more as its point of departure an intimate intertwining of power and art, just as it has always been at the basis of any form of artistic production and actually still is" (Staal 2010a, p. 91). What he fears, I suppose, is that his art is seen as just a free-floating fantasy, a playful creation of the artistic imagination, without any impact on the "real world". Obviously, he wants his work to be taken seriously as an act of political activism. Therefore, he stresses the close relationship between art and power. Without aesthetic representation politics would not be possible: power has to be represented, in short ideology is form.

Despite his explicit denial, Staal's New World Summit is and is destined to remain a largely utopian project. Following Ruth Levitas's very general definition, it can be conceived as "the expression of the desire for a better way of being" (Levitas 2010, p. 9, 209 and 221).[17] Although it operates in the real world – that is, it creates spaces in social reality which gives excluded people the opportunity to communicate and to make their

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[16] On the distinction between floating and empty signifiers, see Laclau (2007, pp. 131–133).

[17] In her PhD thesis, Kruger (2017, pp. 175–225) analyses Staal's work as "utopian world-making" from a postmodernist perspective, building on Foucault's concept of heterotopia and the notion of smooth space, as developed by Deleuze and Guattari.

own world –, not only in the safe havens of cultural institutions but also in less safe places in the areas themselves (Syria, Mali and elsewhere), the goals it sets have a highly aspirational character: self-governance, permanent self-critique, ecological sustainability and so on. The "unification of life and art" which Staal, in the footsteps of Beuys, seeks to achieve is still a dream waiting to come true. This is not meant to discredit the project, on the contrary. As Paul Ricœur (1986, p. 283) argues, every society needs utopia: "We cannot imagine (...) a society without utopia, because this would be a society without goals." However, it does relativise its claim to effect "real" changes. For its efficacy, it depends on the cooperation of all participants as well as on the wider international legal and political context that must ultimately grant the space for the stateless to exist and to develop their own way of living. In Rojava, this is presently under great pressure, since the Assad regime is increasingly successful, with help from Russia, in regaining territory in Syria while the Turkish Armed Forces (supported by the Syrian National Army) also attempt to invade the area.[18] Nevertheless, the project is of great value on a symbolic level, since it questions several basic assumptions of the current legal and political order and incites the social imagination to think of alternative ways of organising and exerting power.

According to Ricœur, utopia fulfils various functions which can be located on three different levels.[19] On the first, superficial level utopia is a free-floating fantasy, a daydream, an escape from reality. Ricœur considers this utopia's pathological dimension. On this level, utopia does not provide any clue how to change and improve the world as it is; it only offers a way to get out of the present situation by what Ricœur (1986, p. 296) calls the "magic of thought". It pretends that all goals can be realised at the same time, that there are no tensions between them and that no difficult choices have to made. On the second, deeper level utopia criticises the current power structure. Any political order needs a justification, to keep citizens committed and to build trust in its institutions. Ideology produces this justification but utopia in its turn questions it, often in a playful way. Utopia thus reveals the gap between the claim to legitimacy by the authorities on the one hand and the acceptance of this claim by the citizens. It challenges the powers that be by providing an alternative to state power based on domination (e.g., self-organisation according to anarchist or socialist principles) or an alternative way of exerting state power (e.g., by means of rational and consensus-oriented communication, as Habermas [1981] suggests). According to Ricœur (1986, p. 299), utopia offers two options: "to be ruled by good rulers – either ascetic or ethical – or to be ruled by no rulers." On the third, most fundamental level utopia fulfils its most important function: the exploration of what is possible. It exposes the contingency of the current social order and shows that social institutions such as politics, law, marriage, religion and so on could be organised differently. How things are is not necessarily how they should be. Utopia

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[18] After an invasion of the Turkish Armed Forces at the end of 2019, the Rojava government had to ask for protection from the Assad regime, see Court and Den Hond 2020. For more recent information, see the website of the Rojava Information Center (RIC), retrieved 1 September 2021, from: https://rojavainformationcenter.com.

[19] In his lectures, Ricœur compares and contrasts ideology and utopia. I focus here mainly on his analysis of utopia, because I am interested in the utopian dimension of Staal's project in relation to the international world order. However, as Staal himself stresses (see section 3), it also aims to operate as an ideology with respect to the Rojava community, by legitimising the emerging power structure and attempting to integrate the pluriform society in Rojava.

aims at change and intends to be realised, although it is never fully realisable. Utopia breaks open the identity that ideology preserves and turns it into a dynamic identity which is open to change. It is a response to the question what moves and motivates social order and what keeps it alive.

As a utopia, Staal's New World Summit fulfils two important functions. To begin with, it criticises the contemporary legal and political order, which is based on a distinction between friends (the US and its allies) and enemies (the "terrorists"). Groups such as the Kurdish and Azawadian people that are not with "us",[20] are not recognised and represented in the current order. The legitimacy this order claims for itself is put into question by revealing its internal contradictions and arbitrary exclusions. In particular, the Staal's project reminds Western liberal democratic societies of their central values, such as representation and democratic participation, solidarity, equality and environmental protection. Subsequently, it points to an alternative order beyond the state where previously excluded groups are represented, power is (to a large extent) decentralised, women enjoy the same rights as men and participate actively on every political level, nature is well preserved and so on. It explores what seems impossible in the current order. The New World Summit, as a utopia, is not just a free-floating fantasy; it aims to be realised. In a recent interview about his new project of the Scottish-European Parliament and earlier projects, Staal no longer rejects the qualification "utopian" but connects it directly to realism:

> I plea for utopian realism, which The Scottish-European Parliament is in a way. Although, through my own work I have realised that many of the projects I once deemed fictional, actually turned into reality – like the parliament I created with my team for the Democratic Federation of North-Syria. Once an idea takes hold of you, it already becomes real in a way. (Staal, cited in Benmakhlouf 2018)

The question is, then, what realism can mean in relation to utopia. According to Ricœur, utopia can never be fully realised. As a recent report demonstrates (Rojava Information Center, 2019), the Rojava community is not able to fulfil its promises of direct democracy, gender equality and equality among the various (Arab, Assyrian, Kurdish and other) groups, because it too occupied with securing its safety and its survival. More fundamentally, the question is whether these ideals can ever be fully realised, even under more favourable circumstances. In political practice, as Berlin (2013, p. 19) argues, inevitably uneasy choices and compromises have to be made: "So we must engage in what are called trade-offs – rules, values, principles must yield to each other in varying degrees in specific situations." Denying this fact of daily politics would turn utopia into a pathological exercise of make believe. However, the key question that concerns me here is to what extent participatory art can change social reality, as Staal seems to claim. In her critical review of the New World Embassy which took place in 2016 in Oslo as part of New World Summit: Rojava, the Norwegian artist and writer Ina Hagen is rather sceptical about this:

> Whether the political promise that art can envision and therefore make possible new futures, remains more obscure. It is also not clear how seminars can work to change the

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[20] Or people that are only temporarily and for instrumental purposes associated with "us" (from the US perspective), such as the Kurds.

course of things, even if they serve an enlightening function. To be honest, I feel they are not really taking us anywhere. (Hagen 2017)

The same question can be raised with respect to the project as a whole. How exactly does the construction of a Parliament contribute to the activity of world-making in Rojava and elsewhere? In my view, it does more than just enlightening the audience. It offers an enactment of a world to come that is not possible yet or perhaps not possible at all. What aesthetic representation in a case like this can do is, essentially, to stimulate the social imagination by providing a picture of how the world could be. Whether this new and improved world will be realised depends not only on the participants involved (the members of the Rojava community), but on the wider context of the international community that has to recognise it. So far the conditions for its realisation have not been, to put it mildly, very favourable. However, I would claim, it is exactly its apparent impossibility that makes this exercise in utopian world-making so valuable. As Gadamer argues, utopia's contribution should not be situated on the level of action – it does not offer a blueprint for a perfect society – but rather on the level of critical reflection: it generates ideas of how to organise the world in a just and rightful manner by presenting an image of what seems utterly unrealistic and unrealisable. From the no-place or not-yet-place of utopia, the artist gives an instruction, an indication or a "suggestive image from far away".[21] The point is "to bring about, within the image of the impossible, the possible".[22]

5. Time for change

Law is slow and does not allow for radical change. The only change the law can bear, is change that is effected from within the law itself. By changing our normative order slowly and gradually from within, building on the existing legal forms, normative traditions and social practices, there is sufficient time both for deliberation and reflection and for gaining support for the changes proposed. As Bloch indicates in *The Principle of Hope*, time creates the space needed for change, improvement and a re-interpretation of what is already there. With time comes hope – the hope that we can construct a better future by reconstructing our past. In our present arrangements, the new (or "Novum") announces itself as a latent and real possibility – not necessarily, but hopefully for the good:

> Just as a Not-Yet-Conscious, which has never been conscious before, dawns in the human soul, so a Not-Yet-Become dawns in the world: at the head of the world-process and world-whole, is this Front and the vast, still so little understood category of the Novum. Its contents are not merely those that have not appeared, but those that are not decided, they dawn in mere real possibility, and contain the danger of possible disaster, but also the hope of possible, still not thwarted happiness, capable of being decided by human beings. (Bloch 1995, pp. 623–624)

The significance of Staal's project of New World Summit: Rojava lies not so much in its practical effects – which, in my view, can only be very limited – but in its utopian capacity of envisioning a new and better world, very different from the imperfect world

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[21] In German: "Anzüglichkeit aus der Ferne" (Gadamer 1985b, p. 251; my translation).
[22] In German: "im Bilde des Unmöglichen (…) das Mögliche zu erwirken" (Gadamer 1985a, p. 197; my translation).

we are living in. Participatory art may offer suggestions, by artistic means, how to reorganise the existing legal and political order. Whether these suggestions are implemented in social reality, however, depends on the willingness of the social, legal and political actors involved to cooperate. In other words, participatory art relies, for its practical efficacy, on the participation of a large ensemble of actors, not only in the Rojava community itself but also, and ultimately, in the world community at large that must be willing to recognise the "stateless state" of Rojava. However, in the apparent absence of any direct instrumental or measurable effects, participatory art can still be effective on a symbolic level by influencing the social imagination and discourse which, in the long run, could contribute to changes in the law.[23] It thus may have, as Anker (2005, p. 205) puts it, "rhetorical power".

In sum, Staal's project has given by means of aesthetic representation some permanence, stability and visibility to the Rojavan revolution. Through its performance visual arts has helped to translate the revolution of an emerging power into more specific legal and political aims, expressed in floating signifiers such as self-governance, gender equality, and ecological sustainability. The parliament provided a platform on which the Rojavan people could present and represent themselves internally as well as externally. Participatory art may help to pave the way for a structuration of the normative world or *nomos*[24] an emerging power is trying to establish, its institutionalization and juridification. Without the "official" recognition of the international political community, artistic representation can only offer a *performance* and not an *enactment* of sovereignty (though the participants may, of course, perceive it otherwise from their internal perspective).[25] But by giving a form and a platform to the revolution's ideals, participatory art may incite or invite change in the legal system. While legal systems based on the rule of law resist radical change, they do allow for *incremental* change. That means that law is able to open itself to changes that are effected immanently, building on the principles it already recognises. Since the Rojava revolution is fought in the name of the widely accepted principles of democracy, equality and sustainability, the legal system cannot simply ignore its claims. As Karl Marx put in a letter to the German philosopher and writer Arnold Ruge in 1843: "We develop new principles for the world out of the world's own principles."[26] In the present international order, there is no place for stateless people. From the "no place" of Utopia, provided by art, the New World Summit offers them a place in Rojava – and hopefully a good one. It thereby gives us a "glimpse" of a "real possible future" as Bloch (1995, pp. 623–624) puts it, however unrealistic it may appear to us now. This *Novum* engenders the hope that one day stateless people will find legal recognition and attain a space to create and maintain their own *nomos*.

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[23] Similarly, though in a very different (intercultural) context, aboriginal art (including bark paintings) and ritual ceremonies have managed to change the way in which "property" as a legal concept is interpreted in the Australian common law system (see, e.g., Mohr 2002, Anker 2005, and Morphy 2008). As Mohr (2002, p. 20) argues, it is a process of mutual change: "Just as Volngu law has been transformed from within while framing and being framed by common law, we may see the possibility of the common law being transformed in its framing of Indigenous law."

[24] The notion of *nomos* is developed by Cover (1995).

[25] I have taken this distinction from Morphy (2008, p. 104).

[26] The entire letter can be found at: https://www.marxists.org/archive/marx/works/1843/letters/43_09.htm (retrieved 1 September 2021).

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