

Conclusion

Introduction

In this thesis we have moved 'Beyond the Commons': first, the expansion of the Irish Music Rights Organisation from 1995-2000 was examined; second, the importance of the elimination of uncertainty in that expansion was highlighted; and, finally, it was demonstrated that the expansion of the Irish Music Rights Organisation can be understood as an example of the process and practices of enclosure. It has been shown that the representatives of IMRO have indeed been successful in overcoming general resistance and achieving hegemonic, unquestioned status. One of the purposes of this thesis was to join anti-essentialist schools of thought such as the sociology of law, critical legal theory, and occasionally feminism, in challenging the status of 'fixed' and 'necessary' meanings. This has been done in order to challenge the hegemony of the Irish Music Rights Organisation, and to understand the role and activities of the organisation as particular configurations of historical power relations within the context of 'the politics of representation'. From a merely descriptive examination of the 'cycle of expansion' we have moved to analyse the extension of the organisation's authority-as-certitude within a broad theoretical framework. This theoretical foundation remains consistent with the 'guiding principles' stated at the beginning of the thesis, in Chapter 1 (see p. 31):

- First, people come first, that is, people's experience takes priority over abstraction.
- Second, uncertainty is central to our experience of the world.
- Third, we are all active participants in our experience of meaning and power, and that therefore everything is, at its most basic, political.
- Fourth, nothing is fixed, neither meaning, social structure, nor history, nothing is necessary, and things may always be otherwise.

Also in Chapter 1, a general survey was provided of the literature on 'music and copyright' (see pp. 6-18). Five dominant approaches were examined: descriptive, sponsorial, revisionist, sociohistorical, and analytic. It was argued, in particular, that none of the approaches had adequately addressed the question of the relational implications of copyright. In and through the retheorising methodology of this thesis we have moved towards a preliminary assessment of these relational implications, in

particular focusing on the relational implications of the expansion of the Irish Music Rights Organisation *as enclosure*.

The Disposition of Enclosure

On the basis of the arguments presented in this thesis, it is now suggested that we can identify a *disposition* of enclosure. In Chapter 8 it was stated that, in the context of negotiation, the term 'disposition' is understood to refer to a person's consistency of expectation (see p. 214-218). The disposition of enclosure, then, is understood as a *consistency of expectation of certitude*, that is, *a consistent orientation towards the elimination of uncertainty*. It is suggested that the more our composite experience of expectation is guided towards the disposition of enclosure, the more the features and operations of enclosure will become part and parcel of our negotiations of social interaction. In retrospect, this examination of the expansion of the Irish Music Rights Organisation has been, in part, an examination of the *attitude* of enclosure, that is, an exploration of the disposition of enclosure as specifically evidenced in and through the social interactions of negotiation.

The following sentiments, the words of Michel Tournier's Robinson from the novel Friday (1997), epitomise the disposition of enclosure:

Henceforth, whether I am waking or sleeping, writing or cooking a meal, my time is marked by this regular ticking; positive, unanswerable, measurable, and precise. How eagerly I seek those adjectives which for me represent so many victories over the forces of evil! I demand, I insist, that everything around me shall henceforth be measured, tested, certified, mathematical, and rational. One of my tasks must be to make a full survey of the island, its distances and its contours, and incorporate all these details in an accurate surveyor's map. I should like every plant to be labelled, every bird to be ringed, every animal to be branded. I shall not be content until this opaque and impenetrable place, filled with secret ferments and malignant stirrings, has been transformed into a calculated design, visible and intelligible to its very depths! (66).

For Robinson, the disposition is manifested as a classificatory drive to make the unknown legible, to transform the chaos of uncertainties into a unified, rationally-tamed object of inquiry, prescription, and control. Time is transformed into the regularity of unchallenged and unchallengeable precision. All that is answerable, immeasurable, imprecise, untested, irrational, invisible, or unintelligible is understood not simply as

negative, but, for Robinson at least, representative of the forces of evil, the ultimate uncertainty. This disposition of enclosure implies a general tendency towards the elimination, marginalisation, eviction, eradication, exclusion of uncertainty, whether as difference, conflict, threat, or doubt. As a particular disposition within the politics of representation, it has been crucial that we do not simply seek out the 'negative effects' of enclosure, the 'negative effects' of IMRO's expansion, but, rather, examine and understand the strategies and effects that arise in and through the attitude of enclosure. It must also be remembered that any generalised characterisation of enclosure is premised on the understanding that the practices of enclosure are historically, geographically, and culturally variable, both in their idealisation and their execution. They are so, because the practices of enclosure arise from individual negotiations in social interaction.

The structures of expectation, the connections of meaning and power, promoted by the representatives of the Irish Music Rights Organisation and the discourses of copyright have the character of highly directive frames. The more we negotiate experience in acquiescence to the prescriptions and controls implied by these frames, the more we experience shifts in our relationship to uncertainty, shifts in our experience of expectation. This is not to say that IMRO is to blame for all operations of enclosure everywhere, but to highlight that the representations of the organisation are a significant *contributing factor* in many people's composite experience of expectation. What is particularly interesting is the ease and speed with which these frames were assimilated into the lives of so many. This is a suggestive indication of negotiational environments engulfed in a confluence of enclosures, such that the enclosures of the Irish Music Rights Organisation were compatible with the expectations of many. It is the *composite* effect of all the enclosures in our lives that challenges us with the possibility that we, too, participate in the disposition of enclosure.

The hegemony of enclosure, it must be remembered, can never be complete. Regardless of claims to authority-as-certitude, the power of negotiation is retained by virtue of a life in social interaction, and by the ever-presence of uncertainty in

negotiation. This, as Mark Slobin says, is the kernel of the identification of hegemony: “that there is an unequal distribution of power within societies and that this distribution is both formulated and contested on a daily basis by everyone, in both deliberate and intuitive ways” (Slobin 1993:28). Claims to authority-as-certitude are just that - claims, and as *grossly misrepresentative* claims they remain vulnerable to the intrusion of doubt. Furthermore, hegemony can never be complete because it speaks to the identification of *operations of power*. To identify ‘completeness’ in operations of power is to miss key points; that negotiation is ongoing, that negotiations are ongoing, and that the identification of the features of enclosure as indicative of a particular modality of power is more a call for vigilance than a triumphant classification. This is because to identify enclosure as grounded in a disposition is to take us away from the essentialist dichotomies of dominance and subordination, away from the demonisation of one ‘side’ as friend and the ‘other side’ as ‘foe’.

A dispositional approach to the analysis of enclosure “does not need to make any moral claims about the identity of the resister and the oppressor. A model of resistance as a diagnostic of power makes no investment whatsoever in the subject position of the agents - it simply uses their acts as evidence for various modes of power, including the power of resistance itself” (Cresswell 2000:266). It is not resistance that is the issue, as such; it is the character of negotiation in and through which resistance, that is, difference, is registered, for “Certain resistances are themselves a reproduction or extension of dominating power, rather than a challenge to it” (Sharp et al. 2000:23). As Said remarks: “there is an inherent danger to oppositional effort of becoming institutionalized, marginality turning into separatism, and resistance hardening into dogma” (1993:63). Paradoxically, the processes of enclosure are often at their most insidious when deployed in the cause of truth, freedom, law, and economic prosperity, as we see in the case of IMRO. Similarly, to champion the ‘commons’ can also be an example of enclosure, particularly if the commons is championed as the shrine of gift, community, and ‘traditional culture’, or as the last bastion of open-access, the epitome of

the arelational, free-for-all frictionless space of commodity capitalism.¹ A dispositional approach to enclosure, then, draws us to examine the character of our own negotiations and the character of our relationship with others and the environment we find ourselves in. For example, it is suggested that the more we try to eliminate uncertainty, the more aware we will be of our experience of it. To assume the disposition of enclosure, then, would be to live one's life in a cauldron of anxiety, and to suffuse other lives with the effects of that anxiety through the operations of a free-fall enclosure that paradoxically seeks to eliminate the seeds of itself.

The Experience of Uncertainty

So what? To deny or seek to eradicate uncertainty is, in effect, to deny or seek to eradicate one of the most fundamental aspects of the experience of being human: “[W]e cannot deny what experience means to another person without, in effect, denying that the person exists in their own right” (Marris 1996:31). Barbara Adam has called for the “need to embrace uncertainty, ambiguity and multiple meanings” (1996:142). To accept the ever-presence of uncertainty, or to acknowledge its role in our experience-as-expectation, is to offer a direct challenge to the closures of enclosure, to assert that the quest for meaning can never be fully satisfied, that the struggle of contested meanings is a crucial part of the way in which we make sense of the world. It is to proclaim that there are always alternatives, that nothing is determined or inevitable. For quantum physicist Max Born, uncertainty is far more crucial, being the only thing that allows us the possibility of moral significance, all that provides us with scope for responsibility and ethical action (J. Adams 1995:18). Uncertainty grounds us in negotiation, that is, negotiation-with-others. To accept the inevitability of uncertainty is, as stated in Chapter 1 (see p. 31), to participate in a politics of *hope*:

Hope is the acknowledgement of more openness in a situation than the situation easily reveals; openness above all to possibilities for human attachments, expressions, and assertions. The hopeful person does not merely envisage this possibility as a wish; the hopeful person acts upon it now by loosening and refusing the hold that taken-for-granted realities and routines have over imagination (Simon 1992:3).

¹ As Raymond Murphy states: “Formally open contests are, despite their formal openness, systems of closure” (1988:223).

With the acknowledgement of uncertainty, new doors are open to critically-engaged research, which “starts from the presupposition that knowledge is always contextualised by the conditions that make it possible and that it only progresses so long as it changes such conditions in a progressive way. Thus, knowledge-as-emancipation is earned by assuming the consequences of its impact” (de Sousa Santos 1999:40). Hope resides in the constant and dynamic possibilities of negotiation. Hope arises in the acknowledgement of our own authority, our own power in negotiation. It also arises in the acknowledgement of the power of others, from the infinite relational forces of social interaction. Hope emerges from the rejection of necessities, but also from the admission of guidance and effect.

It is not strictly true, however, as Lyotard would claim, that “the grand narrative has lost its credibility, regardless of what mode of unification it uses” (1997:37). It is one thing to say that incredulity is available to us. It is quite another to say that grand narrative has lost its credibility, or that “we no longer have recourse to the grand narratives” (60). Surely such statements are of the same character as the narratives they seek to criticise. Grand narratives of certitude remain entrenched all around us, guiding us, quietly informing our lives, implicating our negotiations in the operations of enclosure. Sedimented and institutionalised, we constantly and consistently participate in the propagation of the Big Story. We consent to the quiet legitimations of authority-as-certitude. As this happens, we frequently misrepresent ourselves, our experience, and the extent of our often unacknowledged power and authority in negotiation. To paraphrase Said (1978:5): from copyright to capitalism these grand narratives of enclosure have a history and a tradition of thought, imagery and vocabulary that have given them a reality and a presence in our lives. They persist through what I see as a proliferation of characteristically-similar mini-narratives, what Clifford Geertz might understand as ‘webs of significance that we ourselves have spun’ (1973:4): creativity, originality, authorship, the Subject, the individual, among others, that, composite in their effect, structure our goals, mould our institutions, and create what Lyotard (1997) skeptically referred to as our ‘future anterior’. What might help is an injection of specificity, an awareness of power, authority, and expectation, an awareness of the

primary function of spider webs, and an awareness of the operations of enclosure and their place in our lives.

The Indignity of Speaking for Others

In the final section of Whose Common Future? (Goldsmith et al. 1992), an analysis of the relationship between enclosure and the commons, the editors of the text find themselves with a dilemma. They acknowledge that it is customary to finish an analysis such as theirs with a list of policy recommendations. In stating that they shall not do so, they include a citation from Philip Raikes, taken from the introduction to his book Modernising Hunger:

It becomes increasingly difficult to say what are practical suggestions, when one's research tends to show that what is politically feasible is usually too minor to make any difference, while changes significant enough to be worthwhile are often unthinkable in practical political terms. In any case, genuine practicality in making policy suggestions requires detailed knowledge of a particular country or area; its history, culture, vegetation, existing situation, and much more besides. Lists of general 'policy conclusions' make it all too easy for the rigid-minded to apply them as general recipes, without thought, criticism or adjustment for circumstances (205).

In lucid commentary, the editors state that: "Like Raike's book, our document is "full of implicit conclusions" and explicit demands, but to formulate them as "policy recommendations" would be to go against the case we have attempted to make. It would suggest that there is a single set of principles for change; and that today's policy-makers, whether in national governments or international institutions, are the best people to apply them. We reject that view" (ibid.).

Such thoughts go to the heart of this thesis and highlight one of the inherent weaknesses of policy as policy, or of legislation as legislation. By seeking universal standards and definitions to a multiplicity of circumstances, and by formulating courses of action based on those universal standards and definitions, all that is happening is that an ill-fitting, misrepresentative, universalised interpretive framework is being used to understand, and more importantly manipulate, particular circumstances. The interpretative frameworks of legislation and policy are never designed to suit particular circumstances, but all circumstances. Therein lies a major problem. Policy as policy, legislation as legislation, are inherently geared towards the enactment of

misrepresentation. The issue is not whether the wielders of policy and legislation will have the delicacy of understanding required to deal with whatever situation they are dealing with. The frameworks and power relations implied by policy and legislation guarantee that they will not, despite, or often because of, the good intentions of policy-makers. In another section of their text, the editors of Whose Common Future? cite farmer, writer, and poet Wendell Berry, to illustrate that “manager-friendly knowledge is *in principle* not local-friendly knowledge”:

To the textbook writer or researcher, the farm - the place where knowledge is applied - is necessarily provisional or theoretical; what he proposes must be *generally* true. For the good farmer, on the other hand, the place where knowledge is applied is minutely particular, not a farm, but *this* farm, *my* farm, the only place exactly like itself in the whole world. To use it without intimate, minutely particular knowledge of it, as if it were a farm or *any* farm, is, as good farmers tend to know instinctively, to violate it, to do it damage, finally to destroy it (Goldsmith et al. 1992:180-181).

On the one hand we are faced with the rigid frameworks of remote policies and legislation, with singular meanings, grand labels, and generalised sweeps of understanding, and on the other we experience the socially-situated negotiations of local² people in particular circumstances, with emergent and adaptive meanings and expectations. This is the tension between narratives of certitude and negotiations imbued with the ever-presence of uncertainty:

To talk about representing the interests of others as though those interests were either natural or given, even in the unfolding of a historical destiny, is simply to be mistaken in one’s view of what people are like: it is to commit the error of humanism. However, as the poststructuralists recognize, this error is not politically neutral. ... Micropolitical analysis, if it is not to fall into epistemological and political inconsistency (or worse), must reject the attempt to explain the victims of various oppressions to themselves and must content itself with talking to them about how their situation arose. “In my opinion,” Deleuze once told Foucault in conversation, “you were the first – in your books and in the practical sphere – to teach us something absolutely fundamental: the indignity of speaking for others” (May 1994:97).

² This word is a bit redundant here, but speaks to specificity.

Speaking for Myself

In 'Beyond the Commons' I have tried not to speak for others, but, rather, to speak for myself. This thesis is a window into some of the ways in which I make sense of my world. Whether friends, writers, or interviewees, many have enabled me to articulate the connections that have emerged in the process of this thesis. I have tried not to use other people's sources as certitudes to which I can refer in times of trouble. Rather, I have attempted to draw on the contributions of others to add to my own narratives, to articulate what I have encountered in my own negotiations. Along the way, aspects of my world have been turned upside-down. I have moved from being a card-carrying member of the Irish Music Rights Organisation to being a trenchant critic of the politics implied by its activities. I have had to re-evaluate almost every aspect of my life in relation to the theories of negotiation and enclosure that I have presented here. Indeed, that is, I believe, how I wanted it to be. In one way, this is not so much a direct challenge to the Irish Music Rights Organisation as it is a direct challenge to myself. The only claim I can honestly make is that I have found this thesis helpful. My world makes a lot more sense to me than it did when I started. I have a greater sense of my place in the wider scheme of things. I simply invite others to consider if the connections presented here make sense in their own lives. I invite others to think upon these things. For hope.