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Abstract
The Fool historically occupied a unique and privileged position. Accustomed and indeed required to deride the ruler and poke fun at the state, he remained immune from any form of punitive retribution. My focus in this article is on the antics of contemporary Fools and the extent to which the state's response to such antics is circumscribed. I shall analyse the contemporary Fool's satirical and playful activities as one form within the broad spectrum of performances of resistance to the authority of the state. Playful, satirical and/or carnivalesque performances of the Fool, in which the state is held up for ridicule without any suggestion of violence, are at one end of this spectrum; at the other end are performances of law-making violence such as contemporary acts of terrorism which, if successful, comprise the 'ungraspable revolutionary instant' during which a new state is constituted (Derrida 1990: 1001).

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Law and the Fool

Nicole Rogers

The Fool historically occupied a unique and privileged position. Accustomed and indeed required to deride the ruler and poke fun at the state, he remained immune from any form of punitive retribution. My focus in this article is on the antics of contemporary Fools and the extent to which the state's response to such antics is circumscribed. I shall analyse the contemporary Fool's satirical and playful activities as one form within the broad spectrum of performances of resistance to the authority of the state. Playful, satirical and/or carnivalesque performances of the Fool, in which the state is held up for ridicule without any suggestion of violence, are at one end of this spectrum; at the other end are performances of law-making violence such as contemporary acts of terrorism which, if successful, comprise the 'ungraspable revolutionary instant' during which a new state is constituted (Derrida 1990: 1001).

In analysing activities in which critics of the state engage, and the state's responses to them, as performance, I am adopting the approach of performance studies theorists for whom all social and cultural activities, not just theatrical events, are performance (Pelias and Van Oosting 1987: 224). Performance studies theorists are interested, inter alia, in the ways in which performances both 'accommodate and contest dominion' (Conquergood 1991: 190) and, similarly, my focus is on the disruptive force of contemporary Fools' satirical and playful performances of resistance and on the state's difficulties in responding

to such challenges through convincingly authoritative enactments of legality in the courtroom. In considering performances of contemporary Fools, I shall focus on two case studies: one involving the actions of the Australian satirical comedy group, The Chaser, whose members famously encroached on an area of Sydney that had been controversially closed to the public when Australia hosted the annual Asia-Pacific Economic Cooperation (APEC) meeting on 8-9 September 2007; and the other involving the actions of two members of another Australian group, the Tranny Cops Dance Troupe, who engaged in allegedly disruptive street theatre outside the then US Vice-President Dick Cheney's Sydney hotel earlier in 2007. In comparison to the modern Western terror trials, which exemplify authoritative performative responses by the state to actual and anticipated law-making violence, the state failed to construct effective responses to these playful challenges to its authority.

The Western state's exercise of law-preserving violence in the form of the terror trial constitutes a convincing demonstration of its monopoly over lawful violence; the trials are part of what Derrida has called the state's 'discourse of self-legitimation' (Derrida 1990: 993). These trials have been remarkably successful despite the reliance on paltry and even absurd evidence and the undeniable fact that, certainly in the Australian terror trials, no actual act of terrorism has yet occurred. In contrast, the state is constrained from responding to disruptive, playful and satirical acts of resistance through courtroom performances, even when such acts constitute statutory offences. Putting playfulness on trial serves only to erode, and thus potentially de-legitimise, the authority of the state. I shall consider the state's response to The Chaser pranksters and the ill-fated trial of the Tranny cops while arguing that the state's ongoing 'discourse of self-legitimation' is ill-served by prosecuting the Fool or attaching draconian legal penalties to the carnivalesque.

Law and Terror: The Targeting of Scapegoats and Non-actors

The contemporary terror trials exemplify a successful performative response by the state to particular forms of resistance which differ markedly from the playful and satiric challenges which I shall address in the remainder of this article. The success of the terror trials is somewhat surprising given the paucity of evidence, the focus on scapegoats and the emphasis on pre-emptive justice rather than punishment for actual misdeeds. In contrast, there are no such evidentiary problems in relation to acts of playful challenge and defiance that arguably constitute criminal offences.

The terror trials can be viewed as part of what Jacques Derrida (1990) and Walter Benjamin (1996) have characterised as the exercise of law-preserving violence on the part of the state in response to law-making violence: part of a well-established cycle described by Benjamin, and subsequently by Derrida, in which law-making violence leads to the establishment of new states which then exercise law-preserving violence in order to maintain their authority and resist future violent challenges (Benjamin 1996: 251). Once the state can no longer contain such challenges, the cycle is perpetuated with the successful (and violent) foundation of a new state. Thus, in the terror trials, the Western state asserts its monopoly over lawful law-preserving violence (Derrida 1990: 986) in responding to the potentially revolutionary law-making violence of terrorism. In contrast, however, its role in trying satirists is far less clear-cut.

In the twenty-first century, the terror trials are an integral part of the ostentatious display of state power. The spectacular elements of the Australian terror trials are self-evident. Alleged and would-be terrorists are paraded in the courtroom shackled and clad in orange overalls. Some accused terrorists have been segregated behind reinforced glass (Kennedy and Allard 2007; Hoare 2006) which suggests they are so dangerous they need to be contained, even within the secure environment of the courtroom. Indeed, a courtroom at Parramatta in Sydney's west was radically remodelled for the express purpose of

trying the Sydney Pendennis defendants (Kennedy 2007) who were convicted of various terrorism offences in 2009.

Accused terrorists are subjected to the most extreme security conditions — virtual solitary confinement, continuous surveillance and extraordinary security when attending court (Boulten 2005: 5, 8). Justice Whealy understated the situation when describing the conditions of imprisonment of convicted terrorist, Faheem Lodhi, as 'harsh' during his 2006 trial *(R v Lodhi:* 379). The inhumane circumstances in which members of a Melbourne-based terrorist cell were detained in Victoria following their arrest in 2006 were criticised by Justice Bongiorno, who held that they were thereby denied a fair trial (*R v Benbrika and Ors*: [91]). Phillip Boulten, who represented Lodhi, has expressed concern that the way in which terror trials are conducted makes a 'forceful and theatrical statement' (Boulten 2007: 99) about the State's view of the accused.

These spectacular elements of the terror trials help to explain their effectiveness as demonstrations of the state's monopoly over law-preserving violence, and the public's acceptance of such trials as a legitimate exercise of state power. They are effective despite undeniable flaws in the prosecution's arguments. In Australia at least, such trials are about the administration of pre-emptive justice and have resulted in convictions despite the heavy reliance on paltry and even absurd evidence. Furthermore, the terror trials do not necessarily target the real culprit. In the US, the significance of the terror trial as a mechanism to target and punish an unlikely scapegoat was apparent in the trial of Zacarias Moussaoui.

Zacarias Moussaoui, the only person to be charged with offences relating to the September 11 2001 attacks, was found guilty in 2006 but avoided the death penalty, being sentenced instead to life imprisonment. Although rendered culpable for the most infamous act of terrorism in the Western world, he was an unlikely scapegoat. The real perpetrators of the September 11 attacks were destroyed in the conflagration they orchestrated and their distant operator, Osama bin Laden, subsequently eluded capture in Afghanistan. The US had only the smug braggart,

Moussaoui, as scapegoat despite his being safely ensconced in a US jail during September 2001. He could not, therefore, have been directly involved in the acts of terrorism. His provocative courtroom confessions about his involvement in the attacks were contradicted by evidence given by senior al-Qaeda figures who have stated that he was too egotistical and unreliable to participate effectively in acts of terrorism (*Sydney Morning Herald* 2006a, 2006b; Riley 2006). Nevertheless his trial, by default, became the necessary spectacle.

In Australia, ongoing terror trials constitute powerful state-orchestrated spectacles despite the undeniable fact that the accused terrorists have not committed acts of violence. Instead, these men have been convicted as part of a policy of pre-emptive justice for planning acts of terrorism, and the state has successfully relied upon paltry and ambiguous evidence. For instance, in 2006 Faheem Lodhi was convicted on three counts relating to preparation for a terrorist act even though the prosecution could not provide details about the proposed target, timing or method of the planned attack (King 2006). He had collected maps of the Australian electricity system, downloaded aerial photographs of Australian defence establishments, sought information about materials that could be used to make explosives, and possessed a handwritten Urdu document that set out methods for making poisons, explosives, detonators and incendiary devices. Innocent explanations for all of these activities were furnished to the court by Lodhi's barrister. Yet the trial judge and the judges of the Court of Criminal Appeal were convinced that Lodhi was planning a terrorist act with potentially catastrophic consequences (*R v Lodhi* 374, *Lodhi v R* [250]).

Similarly, the five Pendennis defendants, who were arrested after a massive police operation in Sydney in 2006, were convicted of terrorism offences in 2009 at the end of the nation's longest terror trial on the basis of a large amount of circumstantial evidence including possession of hydrogen peroxide, batteries, cable ties, tape, knives, imitation weapons, sealant, polyvinyl chloride pipes, meat cleaver, hacksaw and camouflage sheeting in their homes (Brown 2009). Again, no firm conclusion could be reached about the nature of the terrorist action they were planning

or its target (*R(Cth) v Elomar and Ors* [58]). Even more incriminating was their collection of 'extremist or fundamental material' (*R(Cth) v Elomar and Ors* [43]) that glorified violent jihad and included books and videos. The judge concluded that it was 'impossible to imagine that any civilised person could watch' some of these videos (*R(Cth) v Elomar and Ors* [48]). The defendants also possessed instructional manuals for making explosives. However, again, there was no evidence of terrorist acts or even a clear target for planned terrorist activity.

Law and Satire: The Immunity of the Fool

In contrast to the terror trials, courtroom performances lack conviction when the law seeks to curb or punish satire, parody and carnival. While the spectacle of legal performance might indeed constitute a convincing demonstration of the power of the state over the accused or would-be terrorist, even when there are no acts of terrorism involved, this is not the case when law is confronted with satirical or parodic transgression. Then the ordered, structured, rule-bound character of legal performances is at odds with the subversive playfulness of satirical challenges to the state's authority. Indeed, according to Mihail Spariosu, rational play (which encompasses law) and pre-rational play (such as playfulness or carnival) have been engaged in an ongoing 'contest for cultural authority' throughout much of human history (Spariosu 1989: 6). This ongoing contest explains why the state is undone by playfulness whereas it is not, necessarily, undone by terror. When confronted with satire or parody, the state cannot effectively discipline the transgressors through legal performances without incurring further ridicule.

Playfulness has the potential to de-legitimise power as effectively, perhaps more effectively, than violence because, unlike violence, it cannot be successfully banned or suppressed by law. Cultural anthropologist, Victor Turner, has observed that playfulness is protected by 'its lightness and fleetingness' (Turner 1987: 169), 'its apparent irrelevance and clown's garb' (170) and its 'infantine audacity in the face of the strong' (169). It is the tool of trade of the joker, the jester and the Fool, all of whom share a degree of immunity from the rule-

bound violence of the law. Brian Sutton-Smith points out that the Fool, that most 'inversely playful person, who trivializes all things most devastatingly' (Sutton-Smith 1997: 211), 'live[s] in the place where the "writ does not run"' (212). If, indeed, frivolous play and playfulness lie outside law's empire, the most potent performances of resistance may well be those that are playful because law's own spectacular performances cannot curb or prevent them.

Australia has a long and venerable history of playful protest, most recently documented by Iain McIntyre (2009). In the following section, I shall explore in some detail one such playful, contemporary performance of resistance: The Chaser's infiltration of the restricted security zone at APEC. I shall consider the impact of this performance on the state and the obstacles encountered by the state in its attempt to respond to it through the trial process. I shall also consider another playful performance of resistance, that of the Tranny Cops in 2007, and the difficulties the state encountered in prosecuting the performers.

The Chaser at APEC

On 6 September 2007 eleven people including The Chaser's producer, actors and supporting cast participated in a fully mediatised stunt for the Australian Broadcasting Corporation's program, *The Chaser's War on Everything*, and exposed to an Australian and international audience the vulnerability of Sydney's seemingly formidable security apparatus at the 2007 APEC meeting.

The Chaser cast and crew penetrated the restricted security zone for the APEC meeting in what appeared to be, despite some subtle and unnoticed anomalies, an official Canadian cavalcade consisting of vans, a hire car, motorcycles and jogging 'security guards'. The actors were forced to improvise when, unexpectedly, the police waved them through checkpoints and into the heavily guarded area which included US President George Bush's hotel and the Opera House. The actor, Chas Licciardello, in his guise as Osama bin Laden, then emerged from the car onto Macquarie Street.

State actors solemnly emphasised the seriousness, and potentially

fatal consequences, of the escapade. According to NSW Police Minister David Campbell and Police Commissioner Andrew Scipione, the Chaser team could have been shot by police snipers (Bibby 2007b). The state attempted to discipline the team members through a punitive courtroom performance after their arrest. They were charged with unauthorised entry into a restricted area under section 19 of the *APEC Meeting (Police Powers) Act* 2007 (NSW) (the APEC Police Powers Act) which had been enacted specifically for APEC. Eventually however, the charges were dropped and a legal trial never took place,

The Chaser stunt was to some extent unwittingly transgressive. The NSW Director of Public Prosecutions maintained that part of the reason the charges were dropped was because it was impossible 'to negate, beyond reasonable doubt, the existence of an honest and reasonable (but ultimately mistaken) belief that [the actors] would not enter or be taken into the restricted area' (Emerson and Ramachandran 2008). Nevertheless, the impact of the performance was profound. Through an adept use of parody, improvisation and humour which was carnivalesque in the way in which it was used to degrade power (Bakhtin 1984: 93), The Chaser demonstrated that the impressive protective apparatus surrounding APEC could be easily sidestepped; thus delivering a mortal blow to the APEC spectacle. No corresponding courtroom performance re-instated the authority of the state.

The Chaser performance was embedded within the 'real' performance of power and authority by the state; the state's ongoing enactment of power contextualised and formed an integral part of The Chaser's performance. Yet there was no legal finale in which The Chaser team was chastised and punished for its perceived performative excesses. If, in the view of the state, the team had gone outside the ambit of permissible comedic and satiric performance, why were legal proceedings against them originally deferred and later cancelled altogether? Certainly the police had permitted the entry of The Chaser's cavalcade into the restricted zone and could thus have conferred 'lawful authority' for the incursion upon the performers. In addition, it was arguable that The Chaser team was in the restricted zone for

work-related purposes, another statutory defence to the charge. Such reasoning, however, does not necessarily explain why the prosecution dropped the charges. After all, the clear evidentiary difficulties in the terror trials discussed above did not deter the prosecution from continuing with those proceedings.

In contrast to the Australian terror trials, there was clear evidence that the particular activity, which constituted the statutory offence, had indeed occurred. It is debatable whether lawful authority can indeed be conferred by police officers who have been deceived or misled about the identity and mission of the performers. The meaning of 'work-related purposes' in the context of professional satirists is also far from clear. The NSW Department of Public Prosecutions claimed that there was 'no reasonable prospect of conviction' (Emerson and Ramachandran 2008), yet the same conclusion could well have been drawn in the cases of Faheem Lodhi or Zacarias Moussaoui and the state did not hesitate to prosecute them.

In a characteristically irreverent television reference in *The Chaser's War on Everything* on 12 September 2007, executive producer Julian Morrow identified the pending court proceedings as an opportunity to revisit and re-play the original performance. Clearly, from the perspective of The Chaser, all performances including official and legal performances are open to further performative interventions in the form of parody. It is my contention that this additional performance was postponed, and then avoided, lest The Chaser further undermine the authority of legal performances by exposing the state's incapacity to distinguish between embodied resistance in the form of parody and embodied resistance in the form of crime and terrorism.

Context and setting

As Baz Kershaw has pointed out, we function within a 'performative society' (Kershaw 1999: 13) in which the 'performative quality of power' is enhanced by hitherto unprecedented opportunities for mediatisation (6). APEC was a carefully choreographed performance of power. It included the feting of world leaders against the glittering backdrop

of Sydney skyscrapers, the Opera House and Sydney Harbour in a central business district emptied of its every day inhabitants. Instead of ordinary people, police were everywhere, patrolling the streets, guarding barricades, poised as snipers in buildings and on rooftops, cruising the harbour on jetskis and in inflatable boats, and swooping overhead in helicopters (Welch 2007).

At a cost of $150 million, the APEC forum was 'the biggest security operation in Australia's history' (Besser 2007). By the end of the week, there had been numerous incidents of invasive and even violent over-policing: journalists filmed by police (Marr 2007b), their notebooks scrutinised (Creagh and Braithwaite 2007), a magistrate frisked while walking through Hyde Park (Marr 2007b), an accountant strip-searched, arrested and detained overnight after an attempt to cross Pitt Street (Benns 2007), and a photographer knocked to the ground (Bibby 2007a). An amateur pilot who inadvertently flew into the APEC exclusion zone was intercepted by two fighter jets (Allard et al 2007). The city was officially in 'lockdown' mode (Huxley 2007), an apt term which originated in prisons; certainly the levels of control and intrusive surveillance were reminiscent of Bentham's Panopticon as described by Foucault (Foucault 1977: 200-9).

The appropriation of public thoroughfares by the state was a key feature of APEC. Main roads were closed in deference to the passage of presidential cavalcades (Besser and Tadros 2007). Key streets in Sydney's central business district were transformed by the arrival of temporary but substantial steel fences and barricades which delineated a succession of forbidden zones. To enter such a zone, let alone perform in one, was an act of transgression. It was against this backdrop, in these contested spaces, that The Chaser actors invoked parody, mockery and all-encompassing laughter.

The script

Although The Chaser had prepared a tentative script for their performance which involved being turned back at the barriers (Henderson 2007), the troupe was forced to improvise due to the

unexpectedly genial response of their police co-actors. Licciardello explained afterwards that their entry into the APEC restricted zone was unplanned. They had in fact assumed that the barriers would prove as formidable and impermeable as they appeared, and that they would be halted at the first checkpoint (Bibby 2007b). However, invited and even encouraged to transgress by their 'fellow actors', the police, The Chaser team found itself in a difficult situation. Their police co-actors, so easily duped, were clearly unaware of their role in what was intended to be a comic performance or parody. At what point, in the unscripted sequence of events that followed, should The Chaser team have abandoned all pretence and revealed themselves as actors?

As Kershaw has observed, 'the unexpected and the surprising are especially potent weapons for disrupting the spectacle and challenging authority' (Kershaw 1999: 98). This observation applies only too well to events as they spontaneously unfolded after the first checkpoint was cleared.

The actors

David Schlossman points out that protesters are not the only 'actors' in protests. Spectators and authority figures frequently become part of the performance and can even, unintentionally, add to the political efficacy of the protest (Schlossman 2002: 89). In the expanded version of The Chaser prank, the APEC policemen became important participants despite being co-opted into the roles without their knowledge or consent. Key figures thus included the policemen who waved the cavalcade through the first checkpoint, the policeman who assured Morrow that 'the road is yours', and his security colleagues who were guarding the barricade with a keen vigilance for external threats but remained apparently oblivious to the security breaches being enacted, while their backs were literally turned.

The police actors would become objects of ridicule in The Chaser's subsequent broadcast. Certainly, their faces were pixelated in belated deference to the dignity of these representatives of the state because, as Morrow explained, 'we didn't want to ridicule them individually'

(Idato 2007). However, their gullibility was exposed to 2.24 million Australians and an unknown number of international viewers who watched the footage (Idato 2007).

The necessary participation of 'real' policemen in the performance contributed to its subversive quality. Despite their numbers, costumes, weapons and assumption of authority, they failed to read or interpret correctly such revealing signs as the 'insecurity' passes or the fine print on the 'APEC 2007 Official Sticker' which stated that the car belonged to a member of *The Chaser's War on Everything* and proclaimed the owner's preference for trees, poetry and carnivorous plants (Braithwaite 2007b). They were easily duped, shown to lack vigilance, and exposed as an unimpressive and insubstantial bulwark against more serious threats.

The leading role in the performance belonged to Osama bin Laden. Certainly the 'real' Osama bin Laden did not attend or even gatecrash APEC but then it is impossible for a Western audience to distinguish between the 'real' bin Laden and the various portrayals of bin Laden in popular culture and the media. Bin Laden, the leader of the terrorists, the enigmatic embodiment of evil and ever-elusive fugitive, is a media construction. Licciardello's version was a gatecrasher — a vaguely comic, harmless figure in a white robe who objected, somewhat petulantly, to missing out on an invitation to APEC and who, far from being elusive and impossible to capture, was meekly following Julian's police escort down the street. When broadcasting the footage of the incident on national television the following week, Licciardello made much of the apparent reluctance of the policemen to manhandle him after he was unmasked. He interpreted this reluctance as further evidence of their incompetence.

By inserting Bin Laden's image into APEC and thereby demonstrating that 'he' could so easily gain access to the most heavily guarded men in the Western world, including his formidable arch-enemy, President Bush, The Chaser deconstructed one of the central myths in the war on terror: namely, that enhanced surveillance and security and a corresponding curtailment of civil liberties are vital and effective strategies in defeating terrorism. By humanising bin Laden

(Licciardello's version is self-absorbed, incongruously offended by his exclusion from the meeting of world leaders, and both biddable and vulnerable when confronted by armed policemen), The Chaser interrogated the mediatised construction of bin Laden. There are similarities here with Charlie Chaplin's parody of Hitler in his film *The Great Dictator*. Chaplin saw Hitler as an 'obscenely comic' figure, like a 'bad imitation' of Chaplin himself. He undermined Hitler's own carefully mediatised performance as triumphant, all-powerful dictator by portraying him as 'inept tyrant' (Schechter 1994: 68).

One of the objects of satire, according to Schechter, is to expose a public figure as 'a fraud' and '[direct] irreverence towards adversaries' (Schechter 1994: 4). Here, Licciardello's satiric impersonation had a multi-layered effect; it directed irreverence not only towards the 'real' bin Laden, but also towards the central figure of evil constructed as a pivotal focus for Western fear and aggression in the war on terror, and furthermore targeted those who have contributed to the construction of bin Laden as this central figure. The Chaser's satirical re-invention of bin Laden compels its audience to reflect on whether this dominant Western construction is equally implausible.

The carnivalisation of APEC

Mikhail Bakhtin has described the incorporation of carnival humour into literary discourse as carnivalisation. In his celebrated work, *Rabelais and His World*, he explored the nature of carnival and its significance in popular culture, and highlighted its subversive quality (Bakhtin 1984).

Carnival requires popular participation, it is all-embracing and all-encompassing (Bakhtin 1984: 7). The Chaser stunt had a limited cast. Even though, as commentator Gerard Henderson pointed out with some ire, the stunt was subsidised by Australian taxpayers (Henderson 2007), the public did not directly participate. Nevertheless, as mediatised spectacle, it reached a massive audience of 2.24 million. The huge popularity of The Chaser's stunt can in part be explained by the way the team acted out the widespread popular frustration with APEC security. While The Chaser team has been accused of elitism,

by critics such as Henderson, because of its apparent support for 'fashionable leftist causes', in this instance it expressed the popular voice in a carnivalesque fashion. The irreverent, irrepressible, playful nature of the performance and the quality of the laughter it generated — festive, universal and ambivalent — was carnivalesque (Bakhtin 1984: 11-12).

As in carnival, The Chaser created an unofficial world which challenged the 'official world' and the 'official state' (Bakhtin 1984: 88), and did so by staging theatre in the streets. As 'the carnival feast of fools contrasts with the high culture's celebration of kings' (Stern and Henderson 1993: 156), so The Chaser's insertion of an imitation bin Laden, complete with cavalcade, into the heart of APEC security parodied and mocked the feting of world leaders. In penetrating the physical boundaries of APEC's painstakingly constructed zones of exclusion, The Chaser symbolically violated the social boundaries that separate leaders from the people. Such a transgression reflects the spirit of carnival (Stern and Henderson 1993: 156).

One of the many ironies of The Chaser's carnivalisation of APEC is that the state had used pre-emptive legal performances and the spectacle of power in an attempt to ensure the popular voice was contained and controlled during APEC. Students were targeted by police as potential troublemakers and experienced increased degrees of surveillance in the months leading up to the event (Tadros 2007). In March 2007, protesters involved in Melbourne's G-20 demonstrations in 2006 were rounded up in dawn raids in Sydney and charged with various offences (Marr 2007c: 33-6). Victorian residents charged in relation to the demonstrations were given bail conditions that kept them away from APEC demonstrations by preventing them from going to NSW (Marr 2007c: 40). One of the main purposes of the APEC Police Powers Act was to exclude protesters and even ordinary members of the public from the APEC restricted areas in order to prevent 'large, organised and sustained violent protests' (Kelly 2007: 1500), and the physical barriers were a tangible reminder of the legislative prohibitions. As journalist David Marr put it, the government's message was 'loud and clear: we don't want demonstrators making a mess of the streets

while the leaders of the world are in town' (Marr 2007a).

Furthermore, immediately prior to APEC, the NSW Police Commissioner obtained from Justice Adams of the NSW Supreme Court an order which prevented the Stop Bush Coalition from proceeding along a planned protest route after the commander of the NSW Public Order and Riot Squad confidently claimed that 'a full-scale riot' and 'a level of violence not previously experienced in Sydney' would ensue unless such legal constraints were imposed (Braithwaite 2007a). The actual protest took place well away from the APEC security zone and within parameters clearly defined by a 'human chain' of police personnel and police riot buses (Teutsch and Dasey 2007). In fact, the protest was peaceful despite the presence of hundreds of heavily armed policemen who were dressed in 'Darth Vader gear' (Marr 2007d), with nametags conspicuously missing (Baker 2007), and who had dogs, machines for pumping gas and even a black water cannon on hand (Marr 2007d).

Thus, although popular protest did occur, which had carnivalesque elements including masks and the exposure of twenty-one bottoms in a tribute to the twenty-one APEC leaders (*Age* 2007b), the state ensured the protest was contained within defined parameters and vigilantly over-policed. The state, represented by battalions of police personnel, maintained an authoritative performative presence for the duration of the popular protest.

To their surprise, The Chaser performers encountered no such constraints. Waved through checkpoints, assured the road was theirs, they effortlessly avoided disciplinary consequences until they were within a few metres of President Bush's hotel. It was only then that they abandoned the pretence of being an official cavalcade. Without undue effort, they reversed the balance of power between the state and the people and invited their audience into the inverted world of carnival.

The political potency of The Chaser's deconstruction of the authoritarian apparatus of APEC cannot be underestimated. At least one commentator has argued that the stunt contributed to the downfall of Howard, who spectacularly lost power (including his seat in the

Parliament) in the federal election that followed in November (Ackroyd 2007). However, the political ramifications of The Chaser performance were even broader. By importing parody and play into the closed off, orderly environment of APEC, The Chaser demonstrated that the game of power could be played quite differently; that it might, in fact, be nothing more than a game. Kershaw's analysis of the political impact of protest performances is relevant here — to adapt his terminology, The Chaser 'disrupt[ed] … the seductive sweep of the spectacle' of APEC, and thus 'present[ed] a reflexive critique of the machinations of authority … by exposing the assumption of power by the State as based ultimately on nothing more substantial than the chimera of presumption or a predisposition to violence' (Kershaw 1999: 94). The Chaser performance, a simulated transgression featuring a simulated cavalcade and a simulated Osama bin Laden, exposed the security apparatus of APEC as itself a simulation, an insubstantial chimera.

Law and parody

As a simulated transgression, the performance still constituted a transgression. The Chaser's enacted demonstration of the permeability of the barriers enclosing the APEC restricted zone, while clearly undertaken in the spirit of satirical play, nevertheless altered their legal status. The Head of APEC Investigations Squad, Detective Superintendant Ken Mckay, stated: 'Who they are is irrelevant — they were charged like anyone else who breaks the law' (*Age* 2007a). They were no longer merely actors or satirists; they had become offenders.

Baudrillard describes parody as 'the most serious crime since it cancels out the difference upon which the law is based' (Baudrillard 1983: 40): the difference between obedience and transgression. Those who simulate transgression will 'unwittingly find [themselves] immediately in the real' (39). Parody is an affront to the literalness of law, to its 'deadly seriousness' (Davies 1996: 132). Here the limitations of the discourse of law become self-evident; in other discourses, including literary discourse, transgression is recognised as play and is considered valuable and desirable (Wilson 1990: 30-1).

Had the trial of The Chaser performers taken place, the law would have confronted parody as transgression. Yet it is doubtful that such a legal performance would have reinforced or enhanced the power and authority of the state, already undermined by this performance of resistance. If the state had proceeded with the trial, the ensuing courtroom performance would have extended or continued The Chaser's performative engagement with it. The Downing Street courtroom is, after all, yet another performance site, a further site of contest between The Chaser and the state, where the original performance would have been verbally, and possibly visually, re-created for the extended audience of the inevitable media coverage.

The prosecution explained its decision to withdraw the charges on the basis that it would have been difficult, in fact impossible in the circumstances, to prove that The Chaser had proceeded into the restricted zones without police permission. Furthermore, under the relevant legislation, another legitimate excuse for entry into the restricted zone was that the person was required to be in or pass through the area for the purposes of the person's employment, occupation, profession, calling, trade or business or for any other work-related purpose. However, as I have already pointed out, neither the defence of lawful authority nor the defence of work-related purposes was necessarily applicable. The police officers who waved the cavalcade through into the restricted zone were unaware of the true identity of the members of the cavalcade and their real purpose in entering the zone. In either case, the state had presumably not intended to confer upon The Chaser team immunity from prosecution. In fact, in a trial, the possibilities for creative engagement with the state were virtually limitless. The state might understandably hesitate to engage in public argument on the full ambit of the work-related activities of a team of professional satirists and comedians.

The Tranny Cops

Earlier in 2007 the state had already unsuccessfully engaged with satire and carnival in a courtroom in the Tranny Cops case in which the courtroom proceedings had demonstrated the limitations of the law. Rather than reinstating the state's authority through a trial, its representatives found themselves subjected to further ridicule. The prosecution, in its earnest delivery of evidentiary material, ignored the comic and satirical context of the activities of the defendants Sarah Harrison and Annika Vinson who, in their parodic guise as members of the Tranny Cops Dance Troupe, had been charged with impersonating police officers. According to media reports, Harrison and Vinson wore dark blue overalls which featured the words 'Cop it sweet!' to a demonstration outside the Sydney hotel in which Dick Cheney stayed in February 2007 (Marr 2007e). They also wore caps decorated with 'disco ribbon', sported fake handlebar moustaches and carried fluffy purple handcuffs (Simmonds 2007). Members of the APEC Police Security Command, part of the NSW Police Force created specifically for APEC, claimed that they had impersonated police officers in an attempt to direct traffic. Two drivers in fact drove away from the scene, one after Harrison spoke to him and the other after making eye contact with Harrison (Marr 2007e). When Harrison re-enacted her original performance in the witness box, although without the costume, the magistrate was reminded of Popeye (Marr 2007e). He pointed out that satire could be distinguished from a genuine attempt to deceive the irritable drivers involved in the incident. In his view, street theatre provided a 'reasonable excuse' for the attire of the Tranny Cops, and challenging authority figures was an acceptable, even necessary, aspect of protest (Marr 2007e).

The Tranny Cops performance was also described and even imitated by a police sergeant in the courtoom. This re-enactment met with laughter from the courtroom audience and invoked a further comparison, this time with a scene from the comic opera, *The Pirates of Penzance* (Marr 2007e). The original street theatre of the Tranny Cops deployed performance as a means to mock the over-zealous policing

of the APEC Police Security Command. The courtroom proceedings were a continuation of the original performance, and further exposed the representatives of the state as humourless, sadly intolerant of play, and incapable of distinguishing between genuine attempts at police impersonation and satirical displays incorporating fluffy purple handcuffs. One commentator concluded that 'the Tranny Cops were guilty of turning a uniform of the state into a piece of carnivalesque drag' (Simmonds 2007). She observed that it would be 'a naive public who would take two women in fake moustaches and fluffy handcuffs to be the real thing' (Simmonds 2007). The dilemma for the court in judging carnivalesque humour is this: to treat such humour as legal transgression invites further mockery and parody of an official voice.

Perhaps this precedent played a role in the state's decision not to prosecute The Chaser team. The Tranny Cops case highlighted the difficulties the state faces in seeking to suppress or punish playfulness and carnival through legal performance. Certainly, given the possibilities for challenging the available defences to the charge, the state's decision to drop the charges against The Chaser team was not based on incontrovertible legal reasoning.

Conclusion

I have argued above that playfulness and carnival are antithetical to law. Oddly enough, despite the tension between playfulness and carnival, and law, these two antithetical forces co-exist. There is even, as Agamben has put it, a 'secret solidarity' between law and the 'anomie' of the charivari and carnival, when the legal and social order is temporarily subverted (Agamben 2005: 71). According to Agamben, carnival 'brings to light in a parodic form the anomie within the law' (Agamben 2005: 72). Carnival may well be distasteful to the law-abiding middle classes — for, as Turner points out, 'at *Carnival* time, the roads leading from Rio are choked with the cars of the middle class, fleeing the revelries of the streets, dreading the carnivalesque reversal of their hard-won bourgeois values' (Turner 1987: 138). Carnival provides an outlet for those who are disaffected, who can revel in the breaking of normal rules and disruption of hierarchies

without engaging in the revolutionary violence which constitutes such a potent threat to law and order. There is thus a peculiarly symbiotic relationship between carnival and law but that relationship incorporates an interesting anomaly: the state cannot effectively curb the carnivalesque through legal performance.

The rational play of law is ill-suited to controlling the arbitrary and the frivolous, the satirical and parodic, the carnivalesque. The state cannot effectively assert its authority over satirists and comedians by recasting satire and parody as legal transgression. Law and legal performances can be, and have been, used as repressive instruments to reinforce the state's authority and to punish and prevent arbitrary and unruly acts of law-making violence. However it is difficult, perhaps impossible, to contain and discipline playfulness through legal performance. Herein lies the insidious power of disruptive, unpredictable, non-serious play, or playfulness, as a highly effective form of embodied resistance.

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Chamber Theatre

Karen Walton

A child of a defendant is called to his defence. As the child begins to murmur his evidence the judge orders him to speak up. The child looks across at the defendant, his father, the man who is meant to be his protector. But now the father, speaking through words of his defence barrister, accuses the child. The child looks to see if he is saying the right script to exculpate his father, and thereby betrays his innocence to the theatre of the courtroom.

The jury, the judge, the defence barrister see this exchange and at this point the case is proved and a truth is decided upon.

In a trial such as this, where allegations of a sexual nature are made, the story is played in intimate, yet clinical detail, in front of a room full of strangers. The child may be physically present, sitting in the courtroom or present via video link. Where the child is seen through the link the jury see him in isolation, and his evidence is assessed via the drama of television. However, when a child is seated in the courtroom the jury assess his vulnerability, his size, his body language when giving evidence. In the latter scenario, the court often reacts by being a gentle listener, a coaxing advocate in order to encourage the story to be told and challenged fairly.

The people who decide which version of the story has been proved to be true are the jurors sitting in rows, in their box, as an audience. They have no active part to play until they are sent to the jurors' room. There is no discussion between the players in the trial and the jury as