



Immigrant Movement International. Courtesy CreativeTime

## What is Useful? The paradox of rights in Tania Bruguera's 'Useful Art'

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If the question for socially engaged art, as the curator Nato Thompson has recently argued, is no longer "Is it art?" but rather "is it useful?"<sup>[1]</sup> What is the appropriate evaluative framework for art as a social 'tool'? If we are asked to understand artist practice as undertaking progressive cause, are the traditional analytics of art historians and critics effective in this endeavor? What does 'good' mean for art that seeks justice? In this article, I will attempt the use of a critical methodology extracted from Critical Legal Studies in the evaluation of Tania Bruguera's project Immigrant Movement International or art as "social and political movement."<sup>[2]</sup> Namely, a project that has instigated claims for rights. The critique is drawn from a faction of theorists within Critical Legal Studies, the rights critics, who, beginning in the 1980s, questioned basic claims of utility in campaigns for social change.<sup>[3]</sup> Specifically, they argued against the status of rights as paramount for systematically subordinated groups, stemming from ongoing, and in many ways reinvigorated, inequality despite the legal achievements made by the civil rights movements of the 1960s.<sup>[4]</sup> As the legal theorist Duncan Kennedy illustrates, if one is to seriously deconstruct the "Left project," namely the pursuit of "greater equality and participation in public and private government," "it follows that the status of all kinds of normative assertions, including *utilitarian assertion*, become uneasy."<sup>[5]</sup> Already, such a claim, that the notion of 'social tool' should be subject to critical analysis, poses a different answer to Thompson's query for art: what is useful? Can there be consensus or a stable point of reference to deduct if something is useful for achieving social gains?

The political theorist Wendy Brown, in her text *Suffering the Paradoxes of Rights*, asks for a space beyond the judicial which articulates what equality might look like outside of a "progressive historiography,"<sup>[6]</sup> wherein rights function to achieve the illusion of progress within a still intact and unchanged social order. While Brown doesn't specify as to what this new space is, I argue that it is the cultural, or at least that the cultural provides one such space for envisioning rights discourse under a wholly different set of constraints. Bruno Latour articulates the role of the critic as one who introduces 'new spaces of assembly,'<sup>[7]</sup> which is a role I hope to inhabit in applying the rights critique to social practice, necessitating a third space of inquiry outside of either discipline. I am responding to the "ethics" or "aesthetics" binary which plagues scholarship surrounding social practice, also articulated as "equality" vs. "quality."<sup>[8]</sup> *Suffering the Paradoxes of Rights* offers an evaluation of 'Immigrant Movement International,' which elucidates the problems its rights introduce, while acknowledging their undeniable material impact. Brown's text circles the central debate around the rights critique, in which critical race scholars such as Patricia Williams, Derrick Bell and Robert A. Williams Jr argued against it, on the grounds that rights are non-negotiable for historically marginalized peoples and even that it was "demoralizing to criticize them."<sup>[9]</sup> As her writing on rights crucially departs from the problem posed by this conflict, Brown occupies a central place within the debate, pressing upon its most contentious, and most productive tension, that of the "place of rights in the politics of politicized identities."<sup>[10]</sup> My aim is not to evoke the legal for the work of culture to aspire to, or as a distant sounding board within the realm of consequence, but rather, insofar as the work of Bruguera and her contemporaries make claims for rights which are correlative to the aligned work of those operating within the law, it is necessary to evaluate such claims through the deconstructive developments made in CLS over the past three decades.

Brown begins by stating that the essay is not for or against rights, but rather is an attempt to "map some of the conundrums of rights for articulating and redressing women's inequality and subordination."<sup>[11]</sup> Brown has worked to account for the ways in which the achievement of rights for women by feminist movements of the 20th century failed to address the modes of power through which subjects are constituted and entrapped, even while certain material gains, the right to vote, divorce, and abort, were bestowed. Critical Legal Studies as a discipline set out to theorize the ways in which the rule of law, far from being a neutral deployment of pre-constituted, transparently applied judgment, was in fact always a political exercise. Therefore, I critique IMI not with the intention of signaling wrongdoing, but rather as a method of

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- [1] Thompson, Nato. *Living as Form: Socially Engaged Art from 1991-2011*. New York, NY: Creative Time, 2012. 16.
- [2] Bruguera, Tania. "Partido Del Pueblo Migrante / Immigrant Movement International." *Partido Del Pueblo Migrante / Immigrant Movement International*. Web. 27 July 2012. <<http://immigrant-movement.us/>>.
- [3] Kennedy, Duncan. "The Critique of Rights in Critical Legal Studies." *Left Legalism/left Critique*. Durham: Duke UP, 2002. 183. In this article, Kennedy gives the theoretical and political background to the emergence of the rights critique, in particular the debates within legal studies the critique was responding to. Kennedy's overview is particularly good with regard to what the rights critique is not, namely, how it differs from a Marxian or Frankfurt School critique of rights.
- [4] *Ibid.*, 183.
- [5] *Ibid.*, 184.
- [6] Brown, Wendy. "Suffering the Paradoxes of Rights." *Left Legalism/left Critique*. Durham: Duke UP, 2002. 432.
- [7] Latour, Bruno. "Why Has Critique Run out of Steam? From Matters of Fact to Matters of Concern." *Critical Inquiry* 30.2 (2004): 225-48.
- [8] I am quoting Claire Bishop's discussion of this binary in her article for the *Living as Form* catalogue. Bishop, Claire. "Participation and Spectacle: Where Are We Now?" *Living as Form: Socially Engaged Art from 1991-2011*. New York, NY: Creative Time, 2012.
- [9] Kennedy, Duncan. "The Critique of Rights in Critical Legal Studies." *Left Legalism/left Critique*. Durham: Duke UP, 2002. 184.
- [10] States, 97.
- [11] Brown, Wendy. "Suffering the Paradoxes of Rights." *Left Legalism/left Critique*. Durham: Duke UP, 2002. 420.
- [12] *Ibid.*, 422.
- [13] *Ibid.*, 421.
- [14] *Ibid.*, 421.
- [15] *Ibid.*, 118.
- [16] Bishop, Claire. "Participation and Spectacle: Where Are We Now?" *Living as Form: Socially Engaged Art from 1991-2011*. New York, NY: Creative Time, 2012. [
- [17] Bruguera, Tania. "Partido Del Pueblo Migrante / Immigrant Movement International." *Partido Del Pueblo Migrante / Immigrant Movement International*. Web. 27 July 2012. <<http://immigrant-movement.us/>>.
- [18] Bruguera, Tania. "Partido Del Pueblo Migrante / Immigrant Movement International." *Partido Del Pueblo Migrante / Immigrant Movement International*. Web. 27 July 2012. <<http://immigrant-movement.us/>>.
- [19] Brown, Wendy, and Janet E. Halley. "Suffering the Paradoxes of Rights." *Left Legalism/left Critique*. Durham: Duke UP, 2002. 422.
- [20] Bruguera, Tania. "Partido Del Pueblo Migrante / Immigrant Movement International." *Partido Del Pueblo Migrante / Immigrant Movement International*. Web. 27 July 2012. <<http://immigrant-movement.us/>>.
- [21] Brown, Wendy, and Janet E. Halley. "Suffering the Paradoxes of Rights." *Left Legalism/left Critique*. Durham: Duke UP, 2002. 424.
- [22] Bruguera, Tania. "Common." *Performance Matters*. Toynbee Studios, London. 29 Oct. 2011. Lecture.
- [23] Sassen, Saskia. *Globalization and Its Discontents: [essays on the New Mobility of People and Money]*. New York: New, 1998. 161.
- [24] Kennedy, Duncan. "The Critique of Rights in Critical Legal Studies." *Left Legalism/left Critique*. Durham: Duke UP, 2002. 188.
- [25] Bruguera, Tania. "Partido Del Pueblo Migrante / Immigrant Movement International." *Partido Del Pueblo Migrante / Immigrant Movement International*. Web. 27 July 2012. <<http://immigrant-movement.us/>>.
- [26] Bishop, Claire. "Antagonism and Relational Aesthetics." *October* 110 (2004): 51-79. [27] Brown, Wendy, and Janet E. Halley. "Suffering the Paradoxes

approaching Brown's discussion of the paradoxes of rights for the contemporary moment, through the specific frame the project provides.

Brown's article inhabits a Foucauldian perspective in opposition to the currency of an 'oppression' and 'liberation' binary, instead seeking to illustrate the law as one regulatory framework which continually constructs and reconstructs subjects in the service of power. As Brown points out, the "proliferation of rights for women also recalls that rights almost always serve as a mitigation – but not a resolution – of subordinating powers" and that they "vanquish neither the regime nor its mechanisms of reproduction."<sup>[12]</sup> Subjects are shaped as much by disempowerment as they are by access to the new freedoms rights afford. As Brown states concisely; "if we are constrained to need and want rights, do they inevitably shape as well as claim our desire without gratifying it?"<sup>[13]</sup>

It is important to note here that as Brown stated in her introduction, she is not against working for rights. Rather she quotes Gayatri Spivak's incisive grasp of rights as "that which we cannot not want."<sup>[14]</sup> The material reality of women's still precarious political standing, and the undeniable bodily consequences of the loss of such freedoms, requires the continual maintenance of legally recognized rights; in opposition to appeals solely for direct action, as is argued within Autonomous thought. This creates the paradox Brown outlines; a tension between rights as political citizenship, the way in which "new groups can enter into the discourse of American politics with the expectation that they will be understood,"<sup>[15]</sup> and rights as maintaining a social order that continually produces power imbalance. As the exhibition Living as Form asked last year, "is it better for one art project to improve one person's life than for it to not exist at all?"<sup>[16]</sup> Brown considers that question precisely in her discussion of the paradox. How to reconcile the freedoms afforded by rights, the making lives better, with the ways in which they reinscribe the subjugation, and provide new ground for the proliferation of power, that they were meant to appeal in the first place? If an artist's project succumbs to these problems, is this acceptable if even one person's life is better? Of course, one could argue that the material gains of legally obtained rights are more substantial than those accessed by artist projects, and therefore such a comparison is irrelevant. However, the campaign for rights, achieved or not, large or small, is subject to the same critical dilemmas that plague any civil rights bid before the Supreme Court. What is useful? What helps?

In IMI, Bruguera calls for 'immigrant respect,' 'immigrant rights', and the achievement of an 'international citizenry.'<sup>[17]</sup> The work consists of a headquarters in Corona, Queens where community building under the masthead of 'everyone is an immigrant' occurs. Legal and social services, promotion of political participation for legal and illegal immigrants, and English literacy programs run by artists all occur through the center. With Immigrant Movement, Bruguera is rallying the call for a genre of social practice titled 'Useful Art', or *arte util*. To quote, "the way it operates is dictated by the practical impact of its strategies."<sup>[18]</sup> I have also chosen to discuss Bruguera because her definition of 'useful art' establishes a distinct genre within the expanse of social practice that can be taken up by critical legal theory. 'Useful Art' becomes set of characteristics, which defines a genre of social practice transhistorically: it is work that is not only relational but intervenes politically. Its "utilitarian assertion" is productively considered under a Left legal critique, which accepts no universal claims of use-value, even automatically distrusts such affirmations as counter-productive. To be sure, the universalisms of rights, as Brown and others have illustrated at length, serve to conceal and facilitate existing power hierarchies.



Queen's Dream Team, Immigrant Movement International. October 2nd. 2011. Courtesy Immigrant Movement International.

Brown discusses several dimensions of the paradox and I will apply roughly three to Bruguera's work, insofar as they can be isolated from one another. The first is the regulatory dimension of rights discourse, wherein subjects are interpellated through the definition of the Right afforded to them and its corresponding apparatus. Brown makes it clear that rights mobilize a whole series of regulative forces as soon as they are claimed, including but not limited to the law; the "agencies, clinics, employers, political discourses and mass media" that iterate and reiterate normative categories of identity are activated in the establishment and exercise of a Right. This recalls the educators, employers, media devices, and civil servants that surround Bruguera's evocation of 'immigrant rights.' Bruguera's project actually opens up avenues for regulation and control that didn't exist before. While the project presents material gains that 'we cannot not want,' rights are never used 'freely' but always through identity categories which are entrenched within a larger field of power operations. As Brown explains, "to have a right as a woman, is not to be free of being designated and subordinated by gender. Though it may entail some protection from the most immobilizing features of that designation, it reinscribes the designation as it protects us, and thus enables

of Rights." *Left Legalism/left Critique*. Durham: Duke UP, 2002. 427.

[28] Bruguera, Tania. "Partido Del Pueblo Migrante / Immigrant Movement International." *Partido Del Pueblo Migrante / Immigrant Movement International*. Web. 27 July 2012. <<http://immigrant-movement.us/>>

[29] Brown, Wendy, and Janet E. Halley. "Suffering the Paradoxes of Rights." *Left Legalism/left Critique*. Durham: Duke UP, 2002. 423.

[30] Bruguera, Tania. "Partido Del Pueblo Migrante / Immigrant Movement International." *Partido Del Pueblo Migrante / Immigrant Movement International*. Web. 27 July 2012. <<http://immigrant-movement.us/>>

[31] Sassen, Saskia. *Globalization and Its Discontents: [essays on the New Mobility of People and Money]*. New York: New, 1998. XXV.

[32] Brown, Wendy, and Janet E. Halley. "Suffering the Paradoxes of Rights." *Left Legalism/left Critique*. Durham: Duke UP, 2002. 430.

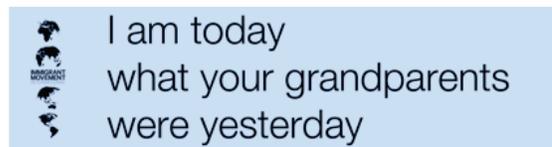
[33] Bruguera, Tania. "Partido Del Pueblo Migrante / Immigrant Movement International." *Partido Del Pueblo Migrante / Immigrant Movement International*. Web. 27 July 2012. <<http://immigrant-movement.us/>>

[34] Ibid.,

our further regulation through that designation.”[19] While IMI attends to the urgency of immigrant access to basic rights and services, such rights also establish new routes for maintaining a second and third class citizenry. If the project “challenges the way human migration is perceived, in order to eliminate the social stigma associated with it,”[20] as IMI states, it does so through the humanizing rhetoric of rights, “forfeiting a political analysis that recognizes”[21] the specific conditions that have created the need for the right in the first place.

Specifically to IM International, its deployment of a diverse set of regulatory powers compromises the informal economy in Corona. For example, Bruguera has an anecdote about getting into an illegal cab in the neighborhood and being charged 4 dollars instead of \$20, the sum outsiders would be charged. This, she says, is how she knows the project is “working.”[22] But by increasing media concentration on the community, by recruiting immigration lawyers, local representatives, and educators, and through the myriad other services the project supplies, the informal economy that the illegal cab is part of becomes threatened. The legitimizing forces of rights, the ones that do afford protections, also dismantle such economies that sustain and bind communities together outside of legally recognized categories. As Saskia Sassen has illustrated, such economies exist within financial capitals (New York is one of Sassen’s prime case studies), and they sustain a legal work force of migrants, paid the lowest possible salary, who maintain the service economy around the financial industry. Informal economies have sprung up, in part, because of the failures of the legal system: the failure to impose employment law that mandates a livable minimum wage and the failure to regulate the finance industry at large. The “gypsy cab”[23] becomes threatened by rights, in so far as rights become the only language for “formulating interests and demands,”[24] they become the centerpiece of how an identified community inter-relates, and displace other modes of engagement, in this case economic activity outside of a legal framework. This is not to say that all other forms of community building are eradicated, and certainly IMI is also a long-term project with a focus on the many forms of how an immigrant community can articulate itself. However, as is evidenced by IMI, the use of rights becomes the empirical language in such a project, particularly as it is geared toward a notion of measurable, or useful, change. For better or for worse, the rights discourse of Immigrant Movement inevitably opens this community up to a regulatory framework, that on the one hand empowers through access to the seat of liberal personhood that rights afford, liberty and the pursuit of happiness for example, and on the other, can funnel more individuals into the low wage jobs that come with a green card while dismantling the informal economy that makes life possible for those in underpaid legal jobs. To put it another way, the pursuit of happiness offered by a right does not include illegal cabs, yet this is currently a community-based method of survival. As the *Paradox of Rights* underscores, rights discourse does not attest to the ‘impossibility of justice’ in the now. A right always illustrates itself as the end point of a process of emancipation, wherein in fact, a right in and of itself solely shifts the playing field and remedies, only to displace inequity that takes hold in a different way.

To be fair, Bruguera would prefer the project not to end. It is not structured in exactly the same way rights discourse is in terms of attainment and ‘case closed’ as Brown bemoans with regards to women’s struggle. However, because Bruguera is “appropriating political strategy”[25] and is in part using a rights framework, the paradox still infiltrates her project, even as it operates as a multifaceted attempt to address inequality. The second element of paradox Brown discusses is how rights discourse functions to fragment intersectional subjectivity, recalling Claire Bishop’s observation of the disturbingly unified subject positions created within relational aesthetics.[26] While IMI is not of the canon of relational aesthetics Bishop’s article refers to, it’s notable that the project attests to the homogenizing effects participatory art and rights discourse similarly have on their publics.



*I am today what your grandparents were yesterday.* Sticker. Courtesy Immigrant Movement International.

Brown emphasizes that intersectional identity is not a composite or a series of ‘additional identities,’ as it has been dealt with in the law if acknowledged at all, but rather multi-signified subjects are functionally regulated differently. Identity “production does not occur in additive, intersectional or overlapping parts, but through complex and often fragmented histories where multiple social powers are regulated through and against one another.”[27] A standard criticism of Immigrant Movement International would be that it addresses a massively oversimplified subject position, masking the privilege inherent between an international artist-migrant and those immigrants in Corona who frequent the center. Instead it is the inability of the project to address the ways in which power acts on subjects differently, in a way that isn’t comparable. The project itself attempts to produce solidarity among immigrants irregardless of class or other privileges, focusing on “the commonalities that exist between all migrants, regardless of their individual circumstances and place of origin.”[28] A slogan like ‘I am today, what your grandparents were yesterday’ sums up the attempt of IMI to relate immigrant experience to a ‘melting-pot’ American audience by disregarding the incomparable social and political circumstances of migration today to migration of the early to mid 20<sup>th</sup> century. The issue here is not Bruguera’s privilege alone, but rather that the project assumes equal use of rights. As Brown points out, the problem with a singular subjectivity with regard to rights and the reason why a solidarity approach – one which diminishes difference – cannot work, is that rights are never accessed equally. Any element of privilege allows the use of a right in a more powerful way. The notion of rights for ‘immigrants’ operates a dangerous blanketing of privilege beyond Bruguera herself: inevitably as Brown testifies, old hierarchies structure access to rights, fortifying them further as they are written into law

and exercised. Understood in this sense, a rights manifesto for an 'international citizenry' where borders are "reimagined in the service of humanity" recalls for example, of NAFTA's opening up borders for 'the benefit of all.' If a right for immigrants will inevitably be exercised disproportionately, how to evaluate the question of benefit?

The question of benefit, is also one which asks, who, exactly, is the 'immigrant' at stake here? IMI succumbs to a classic paradox of representation that accompanies a rights framework. While Corona has a population where "approximately 138 languages are spoken," according to IMI's website, and of course there is an endless amount of diversity of nationality and otherwise in the district, IMI forfeits a specific political conversation about Latino immigrants in the U.S. by subscribing to a rhetoric of multiculturalism. Brown articulates this tendency as part of the plight of legal reformers; to either allow the experiences of some to represent those of all or on the other hand, to render an identity category so broadly that the particulars of that group's "violation remain unarticulated and unaddressed."<sup>[29]</sup> It is a trap of appealing for rights. By trying to avoid rendering invisible the other migrants of Corona, the project forfeits a large part of what any battle for immigrant rights in the U.S. has to be about. In the era of S.B. 1070 and the eradication of Latino/Latina studies from public schools and universities in Arizona, IMI does not explicitly name the most contentious immigrant group in the U.S, leaving the 'migrant' it refers to "purified of all inflection of race," as Brown deplors of the category 'woman' within feminist rights reform. Just as the feminist movements of the 1970s created a female subject for women's rights devoid of race, IMI has put forth a similarly de-raced immigrant. Although the Partido Del Pueblo Migrante in Mexico City, the political party branch to Immigrant Movement's community center, perhaps remedies this. Furthermore, such a uniform rendering prevents an economic analysis of migration in globalization – the ways in which Bruguera and other immigrants of privilege, and that of the finance industry at large, migrate casually, while whole sections of the globe are forced to move, either legally or illegally, by these same economic forces. This contrast is perhaps heightened in Immigrant Movement by the inherent global circulation of artists, particularly of Bruguera's fame, a palpable distinction the project could have capitalized on. IM International's appeal for "a right to move and a right to not be forced to move"<sup>[30]</sup> alludes to this, but cannot articulate the immense social and political conditions of what Saskia Sassen refers to as the "new centrality of power"<sup>[31]</sup> in globalization, an economic restructuring of the globe which forces mass migration while tightening immigration control, creating an illegal class of workers in financial capitals. In light of this, if we know whom migrant rights should be for, how can this be effectively signaled? Arguably it is a conceptual problem for an artist to respond to.

Similarly, the last dimension of paradox I'll discuss are the ways in which rights fortify the power of the intended sovereign recipient of rights. Historically the 'rights of man,' a humanism that "routinely conceals its gendered, racial and sexual norms."<sup>[32]</sup> The paradox expressed by an immigrant right, is that it serves to bolster a notion of sovereignty that such a right defines a *lack* of. It develops a defining opposition between an immigrant who is marked as always struggling with illegality (migrant workers; those of Corona, Queens) and the sovereignty of natural born citizens of privilege, born into regions of power, who can immigrate anywhere with their rights intact. Immigrant Movement International in part doesn't mention race because it attempts to address the gap between privileged and proletariat immigration through solidarity, but that separation is predicated on specific regions of the world and their accompanying racial signifiers. Neither specificity can be addressed within the campaign's rights rhetoric.

IMI International, in light of rather than in spite of this critique, emerges as presenting the potentiality for addressing Brown's conclusion: How can a campaign for rights express the ways in which they are inherently inadequate, while simultaneously working to obtain them out of material necessity? Even while currently, it subscribes to the same problems of rights in "the tradition of U.S. civic movements."<sup>[33]</sup> Bruguera notes that this is a long-term performance project, much longer than she was allocated funding for. Looking forward, IMI could become an essential "think tank"<sup>[34]</sup> on rights, not solely for immigrants, but on the structure of rights claims in and of themselves.