The Counter-testimony of The Maker

This chapter begins with the question of critique, mainly how and why does one critique but more importantly why does no one critique effectively anymore. Such is a sentiment echoed by Bruno Latour in the paper *Why has Critique Run out of Steam?* He states: *"It does not seem to me that we have been as quick, in academia, to prepare ourselves for new threats, new dangers, new tasks, new targets. Are we not like those mechanical toys that endlessly make the same gesture when everything else has changed around them?"[1]*.

According to Latour, the absence of principles is to blame. As he puts it, critique has battered through all claims to a ground and the lack of a sure ground argument has backfired. The result is that there isn't even a sure ground for criticism. Without a ground, it's hard to differentiate a rigorous critical claim from a conspiracy theory. That's why conspiracy theory books are best sellers. Latour mourns the death of critique. In its remnants lies a whole industry denying the Apollo program.

My claim is that the absence of principles transforms critique into an issue around the strength of evidence and the credibility of the testimony. Effective critique is synonymous with a counter-testimony of a reliable witness.

A witness is someone who is present at the time of an event, often a crime, and is able to testify before the law. They are able to give direct evidence in relation to the events. However, they often rely on foggy memories and blurred vision. It is not too difficult for the defence or prosecution to put the reliability or credibility of the witness in doubt.

Here is where the role of making comes into play. More often than not, in the post-critical age, a testimony, or counter-testimony, is not simply uttered but is rather constructed. Latour is the first to admit that a critique has to be made. As such the eyewitness is no longer a person but a photograph, a video, or other forms of surveillance. Juries are more decisive when they are presented with the facts, the evidence, more often submitted as objects as opposed to a fuzzy testimony of a witness. Critique, or counter-testimony, is a material process enabled by infrastructure. Is a practice-based question of physics, chemistry and the material forms of agency.

Given all this my chapter would like explore further the role of critical making as counter-testimony. From aesthetic practices of forensics, counter-forensics to the role of labs in media archaeology and investigative practices, I will tell the story of makers that present their objects as a counter-narrative to pressing socio-political issues. More importantly, however, I will address the issue of how critical making practices can establish credibility in a world of fakes and loss of belief.

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[1] Latour, Bruno. "Why Has Critique Run out of Steam? From Matters of Fact to Matters of Concern." *Critical Inquiry*30, no. 2 (2004): 225-48. doi:10.1086/421123. P. 225

The Problem of Critique:

Heather Dewey-Hagborg's *Stranger Visions* appears as a collection of 3D printed life size full colour, in her own words, 'portraits' which are computationally generated from traces of DNA extracted from the hair, chewed gum and cigarette butts left behind by everyday New York City pedestrians. The exquisitely constructed 'portraits' are a representation of what these strangers might look like based on their genetic profile. The project calls attention to sophisticated developing forms of biological surveillance mechanisms.

The work can be regarded as that of a critical maker, someone who gathers or produces objects, artefacts, words, images as critique. But what's the difference between an object of critique, the 3d printed sculptures, and all the other objects proliferating on the internet or in galleries that by and large are sophisticated in their own right. What is critique in this context?

Critique is a method and mode of self-reflexive questioning which comes out of the age of enlightenment, an era which for the most part was comprised of thinkers that held reason and reasoning in high regard. The purpose of critique was to question our understanding of reason in order to keep it in check. Its task was to unleash it from the shackles of any particular dogmatic defining view. Whether we argue that the enlightenment has inflated the power of reason, from counter-enlightenment points of view, or narrowed it, the point is still the same, reason is misrepresented under enlightenment principles and critique is there to rescue it.

The issue that greatly effects the practice of critical making is that, at the moment, there is no unified view on what a critical maker might regard as reason because enlightenment critique, through its incessant questioning, has dismantled most ideas around or grounds for reason. It is unclear what form of reason is still held in high regard, if at all. Under such conditions critique finds itself in trouble. You see critique and reason go hand in hand, one acts as the means of establishing the other. Without critique, one cannot reason with care and without reason one has no base from which to critique. If critique is in trouble so too are critical makers.

More than this, with the crisis of uncertainty, hesitation and increasing scepticism, the issue of the disappearance of critique is getting more dangerous especially when it comes to our inability to act in response to worldly threats such as the disputes around climate change. I could also add our inability to act in the face of the increasing political stalemates situations, international aid, immigration and the list can go on and on.

However, it is climate change that troubles the two theorists that I will discuss here, theorists who have quite recently concerned themselves with the problems of critique namely Bruno Latour and Wendy Chun, both of whom consider the loss of faith in science in the face of climate troubles of high significance and the primary reason to resurrect critique.

I will start with Latour. Latour believes that critical theorists, have spent far too long not engaging with what he calls *matters of fact*, what scientist would call brut fact or empirical facts. He writes in the winter issue of the *Critical Inquirer* in 2004 that the mistake is to think that the only way to critique *matters of fact* is to move away from them.

As a result, these critical theorists, never experience a complicated object such as those found in science and technology. Michael Serre, although far from critique, is one of the few thinkers that take the objects of science seriously in an ontological and anthropological fashion. Other theorists and philosophers, however, seem to drink a lot of coffee and therefore the only objects they seem to experience are jugs, the philosopher Martin Heidegger's favourite object for reflection, for instance. Sometimes in order to diversify their descriptions they bemuse rocks. But wouldn't it be more interesting, according to Latour, if instead of a rock they described dolomite?

Because critical theorists don't muse upon sophisticated objects they cannot see them as what Latour calls *matters of concern*, something more akin to works of arts or works of social and historical significance. Latour, on the other hand, believes that rich technical objects can be transformed into *matters of concern*. He remembers the challenger disaster of the 1980s, the shuttle orbiter that broke apart seconds after attempting flight, as an example such a transformation, one that occurred in seventy-three seconds. Conversely, *matters of concern* can also be transformed into objects or *matters of fact*.

Consequently, Latour's method of critique entails transforming *matters of fact* into *matters of concern*. Isn't that exactly the task of the critical maker, to take objects of fact the transform them into objects of concern? That may be the case, however, the task is not that simple. "You can do one sort of thing with mugs jugs rocks swans cats mats but not with Einstein's Patene Bureau electric coordination of clocks in Bern. Things that gather cannot be thrown at you like objects"[2] meaning when we transform objects into *matters of concern* we weaken their claim to science. *Matters of fact* are thrown into doubt when they merge into highly complex historically situated *matters of concern*.

Why? Here Latour blames the method of the social sciences and humanities. *Matters of fact* are always portrayed in a ridiculous way in the social sciences, and we can add here critical making, where critique has come to resemble a form of anti-fetishism, or the fairy position as Latour puts it. The social scientist or maker critic always shows the naive readers, believers, that they are falsely projecting their wishes, their fetish, onto a material entity, an object. In other words, for the critical maker, is attempting to reveal the society and domination that is projected onto the entity. Look naïve reader/viewer/idiot, the forces that you are not conscious of are acting on you.

But no one outside of the discipline is interested in what social scientists do to *matters of fact*. No one cares about the societal rug being snatched from underneath his or her fetishized objects. No one wants these objects to be treated this way. Readers would rather stick to *matters of fact*. More than this, such a form of critique is useless when it comes to objects of some solidity. The projection game cannot be played on neurotransmitters for instance.

The task is not to pull the rug from underneath *matters of fact* and reveal their conditions. Such a move diverts the attention away from *matters of facts* onto what makes them possible or impossible, a move that, in Latour's view, has been overdone.

Nonetheless, critique is also useless when it uses the results of science or *matters of fact* uncritically. So, fetishes don't work because we all have fetishes and *matters of concern*

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[2] Latour, Bruno. "Why Has Critique Run out of Steam? From Matters of Fact to Matters of Concern." *Critical Inquiry* 30, no. 2 (2004): 225-48. doi:10.1086/421123. p. 237

don't work because we've seen that they are fetishes.

Latour concludes that a new method has to be devised one that does more than show that objects are simply non-conscious societal projections of readers. Latour claims to be searching for something along the lines of Andrew Pickering's "Mangle of practice" "Not a flight into the conditions of possibility of a given matter of fact, not the addition of something more human than the inhuman matters of fact would have missed, but, rather a multifarious inquiry launched with the tools of anthropology, philosophy, metaphysics, history, sociology to detect how many participants are gathered into a thing to make it exist and to maintain its existence."[3]

Wendy Chun

For Wendy Chun, the issue is not that critical theorists no longer engage in *matters of fact*. It is that we, as a form of information seeking public, have come to expect an unreasonable amount of certainty from our *matters of fact*, an amount of certainty that was not demanded of the enlightenment era thinkers when scientific doubt was welcome and formed a huge part of the scientific process.

According to Chun, we are in a CSI effect era where there are impossible expectations placed on science. CSI or crime scene investigation is one of the most television watched series in the world. In every episode, the CSI team manage to close the gap between speculation and conviction by finding forensic evidence, DNA samples, finger prints, all of which do not fail to point the finger at a criminal without any doubt. For Chun, CSI investigations play out, mimic or prefigure the thought process that demands the closing of the gap between scientific evidence and scientific results. All the evidence must point to answers beyond a shadow of doubt. Systems of truth and justice play out in the court of public opinion.

The unreasonable demand placed on reason and its *matters of fact* is a result of enlightenment critique and scepticism. It is because critique continues to batter the uncertain grounds of reason that certainty becomes necessary. The request for certainty erases the fact that debate and dispute are central to science. The selling of science as true shuts down debate. *Matters of fact*, as a result, have been disarmed. The tools of the enlightenment which were initially devised to support science are being used against it.

Consequently, climate change has been predicted and little has been done. For Chun, it's not a question of enriching our *matters of fact*. The facts have been known to us. The earth's temperature has been increasing since the 1950s and the facts are there. The question is not why is there no certainty around climate change issues? The issue is that we seem to have lost the ability to act within uncertain conditions as we continuously expect reason to accomplish certitude. Conservative organisations and rogue scientists have no problem instituting doubt in such a state. The debate can then be easily portrayed as science versus politics, one where the conservatives are producing doubt, but that is not a productive ground from which to structure the debate. In such a climate, critical makers and critique does nothing but fuel the deniers and the merchants of doubt become the scientists themselves.

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[3] Latour, Bruno. "Why Has Critique Run out of Steam? From Matters of Fact to Matters of Concern." *Critical Inquiry*30, no. 2 (2004): 225-48. doi:10.1086/421123. p. 246.

For Chun uncertainty needs to be enabling. Necessary to engage in invisible inexperience-able risk. We need to make do without the notion that uncertainty fosters inaction. If the public think that *matters of fact* are certain, that such an accomplishment is possible they will act accordingly or rather they will not be able to act until they achieve said certainty. However, we have to be careful not to reduce complexity to an incident that is easily solved or determined. Rather than verification we need to consider hypothesis.

The law

For both Latour and Chun, to act within the realm of reason is effectively to act within the realm of scientific reason and *matters of fact*. It is the science of the enlightenment that they are both attempting to save from the clutches of uncertainty and conspiracy theory. For them, science is that which single-handedly put an end to the authority of religion. In that sense it 'is' the enlightenment and it's in trouble. But one thing that that Latour and Chun seem to miss is that science is not the only arena from which we can act with reason.

Matters of fact are important without doubt but these facts lack political meaning without any recourse to the norms and values in which they operate. The philosopher Immanuel Kant, one of the fathers of critique, was also one of the first to realise the importance of the relationship between reason, science and what might be referred to as *matters of the law*, that it is the laws of reason that are the arbiters of empirical *matters of fact*, whether they be natural, moral or juridical.

When iterating the importance of being able to act within the bounds of uncertainty, Chun leans on the work of theorists Ulrich Beck. However, what she misses in Beck's reading of the 'the world risk society' is that the limitation of demand for certainty does not occur only within the realm of science but also within the bounds of the law. It is both science and the law that fail to respond to catastrophes such as climate change.

Science has always gone hand in hand with that of enlightenment ideas which include critique. However, the notion of law, especially the natural law, was also pivotal. Much of the work of critique was around releasing reason from the bounds of its laws, not only the natural ones but also the moral and the juridical.

Michel Foucault, for instance, insists on tracing the genealogy of 'governmental' reason, as in reason that relates to governance and law-making such as the sentencing of criminals to death and torturing them, or the transformation of the natural laws from those that were set by the church to those that were set by science and arguably the laws of price and demand of the market. Whatever the method of critique may be, it is meaningless if it doesn't speak to and against norms, values and political leanings.

The term 'conspiracy theory' from which Latour is protecting science is in itself a legal category. It is the law that determines what is conspiracy theory and what is not. As such the difference between a critique and conspiracy can only be made before the law.

Bearing this in mind, there is something about the verification processes of the CSI mind-set to which we must pay closer attention; the placement of evidence before the law. In certain legal systems, *matters of fact* are questions that are answerable through the collation and construction of evidence, not to mention inferences that the evidence allows. *Matters of the*

law, on the other hand, are those questions which can only be answered through recourse to the law, through its application.

The issue is, and here is where the CSI mind-set falls short, laws, values and norms in our current era are contiguously suspended, they are placed under exception. As a result, and as Louise Amoore contends in her article *Risk before Justice*, the instruments of governance "take on the shape of diverse tactics rather than laws"[4]. All juridical decisions are replaced with risk strategies. Amoore gives the example of the memoranda for granting a US visa waiver to European citizens.

The text of the agreements outlines the extra-legal practices implemented whereby individuals are screened and risk scored before travel. The danger of these practices is that they are not limited in their application or put under scrutiny by a certain notion of justice as is the law. For instance, the racial profiling of Muslim people on London's Underground would be prohibited under law but is made possible through these extra-legal manoeuvres. According to Amoore it is these extra-legal practices and their relationship to the law that define norms. The result is the complication of our understanding of the difference between law and norm.

Each of these risk practices "defer sovereign decision"[5]. The inclination of many legal activists increasingly tends towards reinstating laws, such as human rights laws against the exception. However, such actions are futile when the law becomes so intertwined with its exception. In place of legal institutions and judges sit risk management experts and mathematical models where a conversation with the law becomes nearly impossible on the grounds of justice or rights. These so-called 'experts' act as witnesses that present evidence before the fact, evidence that is meant to deny the fact its existence, prevent it from happening. Under these circumstances the threshold of what is permitted as evidence changes.

Testimony of the maker

For evidence to be effective against these extra-legal measures, they have to exist within its threshold as evidence before the fact, or what we might call counter-risk or counter-speculative evidence. The role of the critical maker under such a regime is to construct the *matters of fact* as evidence that undermines the risk expert, countering the possible risks of financial, military, border and terrorism activities. They have to become an 'expert' under a different administration of rights. Nonetheless, *matters of fact*, have to be produced, put forth, related extra-juridically to uncertain conditions, evidently and aesthetically. This is not a case of revealing the hidden fetish of facts in order to dismiss them. It is revelling in counter-facts in order to dismantle the norm. It is making certain that the world remains uncertain despite its continuous capacity to calculate a certain type of risk.

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[4] Amoore, Louise. "Risk before Justice: When the Law Contests Its Own Suspension." *Leiden Journal of International Law* 21, no. 04 (2008): 847. doi:10.1017/s0922156508005414. p. 847.

[5] Ibid. p. 849.

Latour is right in claiming that "The critic is not the one who debunks but the one who assembles"[6]. And evidence constructed against the extra-legal is dolomite and not the more generic and banal jug. It is precisely the moment *matters of fact* become *matters of concern*. It is that which is made to sit in front of risk management techniques as that which his not compatible with it, that which aims to change it. It's not the production of evidence in order to maintain the authority of the law but in order to reveal its impotence and undermine its reliance on 'experts'.

In such a scenario, the critical maker becomes a statistician not in the predictive financial models sense but in Gabriel Tarde's sense of the sociologist as statistician, a forensic scientist of possibilities, someone who presents the evidence not to satisfy the law beyond a shadow of doubt, towards certainty before a jury, but in order to defy the norms however they may be performatively realised.

Effective critique is synonymous with a counter-testimony of a reliable witness. In the age of extra-legal risk management, legal practice is intertwined with non-legal forms of expertise, therefore, the critical maker has to become a witness against the experts, able to give evidence against their predicted events before they happen. In this vein, the critical maker must become the expert, no longer are we bound by the idea of the artist as amateur.

To go back to the example, I started off with at the beginning, two years after the exhibition of Heather Dewey-Hagborg's *Stranger Visions* Parabon NanoLabs launched a DNA profiling service to be used by the police. The news of the launch lead Dewey-Hagborg to extend her critical efforts and begin a new mission set to reveal the limitations of this phenotyping technology. The expertise she gained during the project allowed her to discover that NanoLabs DNA profiling is not accurate enough to be used in criminal investigations.

Stranger Visions marvels in a particular aesthetic that makes you gawk at the possibilities of 3D printing. However, the critical element of the work lies in the way it undermines the extra-legal tactics of the police, their reliance on shoddy DNA sampling to quantify and calculate risk of crime. Dewey-Hagborg's critique, however, would not have been possible without a recourse to expertise in DNA profiling and computational practices that allow her to undermine the practices of phenotype risk management. Dewey-Hagborg became an expert witness presenting scientific facts as counter-evidence in front the exceptional circumstances of the law.

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[6] Latour, Bruno. "Why Has Critique Run out of Steam? From Matters of Fact to Matters of Concern." *Critical Inquiry*30, no. 2 (2004): 225-48. doi:10.1086/421123. p. 246.

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