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THE FRACTURED PUBLIC INTEREST

BY KIM GURNEY

Did you see all those people in there, with their glasses and their fancy vocabulary, sitting around talking about a painting? It's so bourgeois!"

I slowed down my footsteps to better catch the animated voices of two students dissecting the aftermath of a debate on *The Spear*, hosted at Wits University the same evening that the Goodman Gallery and ANC announced agreement about handling Brett Murray's contentious artwork.

The provocateur continued: "They think they have the right to be critical but it's a joke... Do you think people are sitting around the table now in Polokwane discussing art?!" He reckoned artists had the right to make what they wanted but now people were using it as a platform to say what they lacked the guts to say outright. "Why don't you stop at the traffic lights and just say: 'Hey man, that's not cool'."

A passerby caught my enjoyment. "They're having a great conversation!" he said. And that was perhaps the take-home point: *The Spear* became a vector for words that needed to be spoken and heard. These were delivered in charged tones, due to the nested issues the painting provoked. It depicted the president in Lenin-like pose with his penis exposed, which ignited a tinderbox mid-May including legal action against the offending gallery and artist as well as *City Press* newspaper, which publicised the work. The conflagration was largely defused a fortnight later with a climb-down regarding publishing digital images of the portrait and removing the painting itself from exhibition.

The fallout from this saga is still manifesting in the social fabric. But an overlooked broader impact concerns notions of the public interest. This has implications for all sectors of society invoked in the freedom of expression clause of the Constitution – specifically the press and other media, artistic creativity, and academic freedom.

In short, *The Spear* has shown the public to be fractured with dissenting ideas of what is in its interest. Yet this same splintered public is regularly invoked by various actors, including journalists, in ethical defence. A new understanding of the public is needed to better grasp the divisive responses to *The Spear* and move forward.

The everyday street is a good place to find shifting notions of the public manifest. Where does truly public space exist? An exploratory group walk into the heart of

Johannesburg inner city on a May Saturday afternoon by artist Donna Kukama revealed a sobering answer: the apparently free pavement is effectively privatised. A linked performance piece by artist Bettina Malcomess, which involved a several-minute impromptu polish of Kukama's leather shoes, elicited over-bearingly officious responses from security guards. On a pavement adjacent to Bree Street, where anti-loitering laws presumably govern, they descended almost immediately to summarily dismiss the group. This after filing a surreal report over walkie-talkie back to the control room: "They are making art."

The bristle between public and private extends to loftier spheres too: a recent article in *The Economist* (19 May) spoke about the shrinking public company in the light of growing private equity and other financial structures. *The Spear* deftly brings to light this renegotiation by highlighting two actors with different public agendas: the fourth estate and a private commercial art gallery.

The former, in the shape of *City Press*, decided to pull digital images of the artwork after reconsidering its broader effects. Its decision was largely strategic to better serve a public mandate: editor Ferial Haffajee explained that in a political year her now-targeted journalists needed access to related events and copies of the paper were being burnt, among other factors. It was a move "from care and fear". The gallery very shortly followed suit and reached agreement with the ANC to remove the offending artwork given "the real distress and hurt that this image has caused some people", and in time the website image also in a gesture of goodwill.

Political pressure set the public interest agenda, for better or worse. And perhaps that was not surprising, given an increasingly explicit conflation of art and politics. Brett Murray has long used the visual language of political satire but a broader political turn in the art world is a noticeable trend internationally. For instance, the current 7th Berlin Biennale for Contemporary Art includes the presence of Occupy, 15M and other protestors in the hall of the KW Institute for Contemporary Art. This is part of a broader goal, according to a statement by curator Artur Żmijewski, "to open access to performative and effective politics that would equip we ordinary citizens with the tools of action and

change. Art is one of these tools".

This increasing symbiosis between art and politics is contentious terrain, for deliberation on another forum. But when such issues play themselves out in the media, including who has the right to represent whom and in what manner in a country with a fresh democracy and lingering wounds, such debates flag broader concerns around public interest. They do so at a time when the regulatory landscape is also morphing. The Press Freedom Commission has recently mooted "independent co-regulation".

The South African Press Code explicitly states that the work of the press is at all times guided by the public interest, understood to describe "information of legitimate interest or importance to citizens". Furthermore, it states: "News shall be obtained legally, honestly and fairly in accordance with the laws of the country, unless public interest dictates otherwise." This public interest rider recurs for subterfuge, right to privacy and defamation, the latter where truth plus public interest or reasonableness may be a defence. These rights are counterbalanced by the obligation not to publish material amounting to hate speech, among other limitations.

A similar tension is evident in the UK's Leveson Inquiry into the press, following last year's phone-hacking revelations at *News of the World*. A high-profile media executive is being criminally prosecuted for phone hacking but a related case about email interception is pleading public interest. This increasingly grey line becomes more difficult to draw, particularly by journalists themselves. The UK director of public prosecutions is thus compiling a guidance note for a public interest definition.

Cue a return to "those people with their glasses and fancy vocabulary". Because speaking to all this flux is a growing global notion of 'the commons', cogently articulated in academia. Professor Ash Amin of Cambridge University, in a 2011 blog interview associated with the journal *Theory, Culture and Society*, describes this as "a politics of universal welfare, the urban crowd, the shared commons, the indiscriminating public infrastructure, the porous border, the mixity of things, the surprises of pluralism, and the public arena as field of open and agonistic contest". This approach would entail a new kind of thinking about a public and a fresh take on its interest.