

7 In the shadow of the state

Collecting performance at IMMA and institutions of care in the Irish context

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Introduction

It is a recurring theme in conservation and museological discourses of recent years that the evolving and rhizomatic authorships, anatomies and materialities of many contemporary artworks have instigated shifts in thinking and approach around institutional ownership and care. In this essay we examine ideas of collecting and care in relation to a body of performance-based artworks that have recently entered the collection of the Irish Museum of Modern Art (IMMA). We focus on *The Touching Contract* (2016), a collaborative work by artists Sarah Browne and Jesse Jones that confronts the state's power over women's bodies. As part of the wider project *In the Shadow of the State* by Browne and Jones, *The Touching Contract*—co-commissioned by ArtAngel in the UK and Create in Ireland—unfolded throughout 2016 across Ireland and the UK.¹ In what follows, we situate the acquisition process for this work within the context of museological collecting institutions' origins as apparatuses of colonialism and empire building, the contentious legacy of institutions of care in Ireland, and IMMA as a national institution founded within Ireland's post-colonial context.

The Touching Contract entered the IMMA collection in parallel to the development of IMMA's acquisition policy and processes around collecting artworks involving live performance. As a work with its own internal ethics of care, *The Touching Contract* required us to approach its acquisition in a way that was both sensitive and responsive to its social and political specificities, and engaged with the principles of the collaborative methodology and feminist ethos in which the work was made. In this chapter we discuss how the acquisition of *The Touching Contract* (Figure 7.1) contributed to an institutional shift in how ownership and care of artworks is conceived, and how it pushed us to devise and implement new approaches to musealization, conservation and institutional care reflective of the collective authorship and ownership that are intrinsic to this work.

Musealization and imperialism

Many of the prevailing protocols and procedures around acquisition, ownership and care in place at collecting institutions around the world have deep and



Figure 7.1 *The Touching Contract*, Sarah Browne and Jesse Jones, 2016. Staged performance documentation at the Pillar Rooms, Dublin, 2016. Photograph: Miriam O'Connor. Performer: Deirdre Murphy.

inextricable roots in the museum's history as an apparatus of European colonialism and empire building. In *Potential History: Unlearning Imperialism* (2019), Ariella Aïsha Azoulay positions institutional archival practices as both products and agents of imperialism and colonialism, recognizing how museums and collecting institutions were conceived to house and display the spoils of European war and extraction, and further reify the cultural hegemony of colonial powers.² Often invoked as one of the primary values driving practices of conservation in institutional settings in the Global North, Azoulay describes the emergence of "historical value" in the nineteenth and twentieth century as "a major excuse for the accumulation of others' worlds, which is materialized in the archive as institution," and which, she argues, must be understood as an effect of the "archival regime":

Portions of people's living worlds were declared valuable pieces of history and could be appropriated, owned, processed, sealed under a particular meaning, and placed alongside other chunks in a way that "owning history" became the source of authorization for owning more.³

In their collection of "others' worlds"—thereby severing objects from the individuals and communities who used and created them—imperial institutions "seek to impose their own principles and structures as the foundation of

transcendental forms that have no history other than their concrete instantiations.”⁴ The distinction between the art object and archival document, Azoulay asserts, is also an effect of these practices:

The meticulous archival documentation of art objects within museums is not operated with an eye to transforming them into archival records; on the contrary, it is operated in order to reinstitute the imperial difference between document and object, to assert the undeniable weight of archival documents in writing history, and to ground the status of archival procedures as neutral and external to the production of objects as art.⁵

The practices at work inside contemporary archives, museums and other collecting institutions—having been founded on an imperialist-colonialist model of extraction—in many ways perpetuate what Azoulay describes as acts of *violation*, understood as the “constitutive irreverence and disrespect of imperialist institutions towards what exists, toward that which it shreds through endless devices into collectable pieces that can be processed through further devices.”⁶ The musealization of complex contemporary artworks, including those that involve live performance, frequently entails processes of transfiguration—a “rewriting”⁷ where uncertainty is often seen as a vice, “blurry”⁸ object boundaries become forcibly streamlined, and efforts are directed towards reducing artworks to coherent, complete and repeatable collection objects that can be perpetuated indefinitely in the absence of their original creators. While the intentions of conservators and collection caretakers to understand from artists how their works should be materialized, activated and perpetuated are generally motivated by a respect or even reverence for artworks—and their perceived “integrity”—the operational patterns and infrastructure of care at work in many collecting institutions nevertheless reenact and perpetuate the kinds of violation that Azoulay describes. We see traces of this in paperwork where the materials provided to the institution as part of an acquisition agreement—including video files, display specifications and certificates of authenticity—are described and thought of principally as commodities received and possessed in exchange for financial remuneration. It arises in conservators’ perpetuation of a self-image where they are neutral and objective arbiters of what artworks have been and should be, as well as in their anxieties around a work’s “external dependencies,” including the knowledge held by a work’s creators and collaborators, often framed in negative terms of risk to be mitigated. We see this in a capitalist distribution of resources and labor within many museums, which prioritizes efficiency above almost everything else, and often results in the elevation of habitual, procedural practices, template thinking and one-size-fits all approaches to acquisition. We can also see this at work in the sharp distinctions that are often drawn between the artwork’s constituent components and “supporting” documentation, as well as the general framing of an artwork’s musealization in terms of possession.

To accept uncritically many of these inherited models and procedures as standard or even “best practice” ignores not only their histories and origins in the twin projects of imperialism and colonialism, but further (re-)enacts a violation of others’ worlds. How then might *imperialist-colonialist* models of acquisition, ownership and care be re-conceived to safeguard artworks by fostering rather than severing existing relationships, and without “shredding” the objects we aim to secure a futurity for?

The Touching Contract

...This is an Artistic Performance. The Performance will be initiated with the sounding of a Triangle. You will be Touched by one or more female Performers, nominated by the Artists. That Touch will be improvised, direct and non-forceful. Performers will exercise their Discretion in deciding how to Touch you. However, the Touch(es) Administered may be experienced as having one or more of the qualities indicated on the wheel opposite...spiritual, maternal, healing, policing, playful, sensual, psychic, self-, sonic, medical, educational, violent, paternal, sexual, contaminating, service-based...⁹

Browne and Jones’ *The Touching Contract*, and their wider project *In the Shadow of the State*, brought together a rich multi-disciplinary network of thinkers and imaginers—including experts from law, medicine, material culture and music—to explore ideas of consent, care, the embodied experience of the law and “the ways in which the state speaks to us through its language, architecture and institutions and asks how we might answer back.”¹⁰ Some of the main collaborators on the project included academic Máiréad Enright, a specialist in human rights, reproductive justice and contract law; midwife and litigant Philomena Canning; composer Alma Kelliher; and a diverse range of legal academics and activists.

To date there have been two manifestations of *The Touching Contract*—one which took place in The Rotunda—a historic maternity hospital in Dublin—in September 2016, and the other which took place in London—in a former juvenile courthouse—in November of the same year. While both events shared many aspects in common, the contracts employed and the themes explored were specific to each jurisdiction and socio-political context and here we focus on the Dublin version.

The work unfolded in two parts, or acts, beginning with the administration of a contract with the audience, followed by their participation in the performance, which was carried out by a group of women performers.¹¹ The contract—which formed the basis of how participants chose to engage in the performance—was developed in 2016 with an invited group of around twelve local activist women in Dublin at a legal drafting session prior to the performance. There the group explored how “women encounter the touch of the law every day, with and without consent.”¹² The contract comprised a two-page document outlining the types of touch to be expected in the performance and acts as a consent form for participants to sign before they engage (Figures 7.2 and 7.3).¹³ A selection of artifacts used in the legal drafting session were presented to audience members in



Figure 7.4 Screenshot of Twitter post from #TheTouchingContract @pparchive dated Sep 25, 2016.

a “pre-performance space.” In Dublin, these objects included a metal speculum, a silk scarf, a carton of milk and a packet of rashers or bacon (Figure 7.4). An archive of existing consent forms and State documents compiled by Máiréad Enright was also available in this space (Figure 7.5), and a group of mediators, cast by the artists, were present to assist with the administration and signing of the contract before entering the main performance room.¹⁴

After the participants signed the contracts they entered the performance space where a background soundtrack by Alma Kelliher was playing. Once the performers (wearing headphones) entered the room, the music changed, this time including samples of pop tunes. A detailed account of the performance is given by Máiréad Enright and writer and academic Tina Kinsella in their paper “Legal Aesthetics in The Touching Contract: Memory, Exposure and Transformation” (2021). In it, they outline five rough phases of the performance:

The first was a period of examination or inspection – touching and manipulating participants’ clothing, bodies and faces...In the second phase, it seemed to become clear that the performers had been looking for the few men among the participants. Six were brought into the centre of the room in a circle. The performers moved them through a series of ritualised positions.¹⁵



Figure 7.5 *The Touching Contract*, Sarah Browne and Jesse Jones, 2016. Archive of State and Non-State Contracting Practices Affecting the Rights of Women in Ireland, compiled by Máiréad Enright and available for reading before and after the performance, with the assistance of mediators if necessary. Photograph: Miriam O'Connor.

They go on to describe scenes reminiscent of contraband communications or “comms” passed between political prisoners in Northern Ireland, with the performers removing small rolled up papers from their mouths and placing these on the men’s bodies. The third and fourth phases saw the performers break into “wild, angry or sexualised dancing”¹⁶ before collapsing, tearful and exhausted, willing participants for assistance. Finally, the participants were led into the center of the room, their arms placed on each other’s shoulders and knotted together as a group “intertwining the bodies so that they could each feel each other’s weight, warmth and discomfort.”¹⁷ In another account of the action, participant Anne Mullee recounts that the choreography

started timidly, with the performers offering participants a listen from their MP3 players (I was given a blast of *Baby it’s Cold Outside*), then slowly grew in intensity as they mimed washing and inspecting their hands, framed the cleft between their legs with forefingers and thumbs to make the shape of a triangle, then raised their hands over their faces, snapping their teeth and grimacing. Jamaican pop reggae band Inner Circle’s 1992 hit *Sweat (A La La La La Long)* boomed throughout the room.¹⁸

She goes on to describe the dissipation of intensity—participants being embraced by the performers as they were led out and given over-brewed tea and soggy toast, familiar provisions of care after moments of shock in institutional settings.

In the Shadow of the State was supported by the Irish Arts Council's program as part of the centenary of the 1916 Easter Rising, a short-lived rebellion against British Rule in Ireland which was a catalyst for the eventual emancipation of part of Ireland from Britain in 1922 and partition of the island into Ireland and Northern Ireland. In the 1916 Proclamation, announcing Ireland's independence from Britain, the revolutionary leaders proposed a new state founded on rights and equality: "The Republic guarantees religious and civil liberty, equal rights and equal opportunities to all its citizens..."¹⁹ as well as a commitment to universal suffrage. While voting rights for women followed the establishment of the Irish Free State in 1922, other legislation swiftly introduced restrictions on divorce, access to contraception, the right to serve on juries, and continuation in employment after marriage.²⁰ Enright and Kinsella suggest that Browne and Jones's work occupies the tension between the emancipatory declarations of the Irish Free State and the embodied realities of the years that followed. As they write:

The Touching Contract works the emerging tension between the promise of official legal discourse and women's marginalised experience of maternal, obstetric and reproductive violence. It makes space for complex consideration of law's experiential dimension, specifically the transfer of intergenerational trauma that follows such violence.²¹

The Touching Contract engaged with the Easter Rising centenary by pointing to the horrific legacies of institutions of "care" for women in Ireland over the last hundred years. These include the infamous Magdalene Laundries for "fallen women" in which more than 30,000 women were incarcerated from the eighteenth century up until 1996 when the last one closed; and the Mother and Baby Homes, founded in the 1920s, run mostly by Catholic nuns, where unwed women were sent to deliver their babies and where in recent years mass graves as well as evidence of widespread forced adoptions have been uncovered.²² The last of these closed in 1998. In the recent history of Irish law, marital rape was made illegal as late as 1990, while in 1983, the 8th Amendment was inserted into the constitution making Ireland one of the few countries with a constitutional ban on abortion.

The Touching Contract focused on embodied knowledge and the embodied transmission of knowledge in relation to these histories at a moment of heightened socio-political tensions around women's rights in Ireland. The performance was staged in the Pillar Room at the Rotunda Hospital, the oldest continuously-running maternity hospital in the world (Figure 7.6). It coincided with the weekend of the fifth annual March for Choice in 2016, part of a campaign demanding a referendum on the 8th Amendment. There was a charged atmosphere in Dublin and throughout the country at the time as these demands gained traction and visibility, ultimately leading towards a referendum on the matter in May 2018, which resulted in the removal of the Amendment and the legalization of abortion in Ireland.²³ Rather than



Figure 7.6 The Pillar Room at the Rotunda Hospital, Dublin, 2016. Photograph shared on Twitter by @pparchive, dated Sep 24, 2016.

documenting or outlining the specifics of these issues, the artists focused instead on the idea of embodied knowledge—specifically, they note, as a place that stands outside of official state classifications and control—and the embodied transmission of memory. Enright and Kinsella remark that: “setting *The Touching Contract* in this space at this time both directed participants’ attention towards Irish law’s revolutionary promises, and away from them, to its actual bodily consequences.”²⁴

Ideas and practices of consent are also woven into the artists’ approach to documenting the work and the larger project out of which it grew. Participants in the legal drafting sessions were given the choice to remain anonymous and, in place of video or audio recordings, extensive written notes were taken of the sessions along with courtroom drawings (Figure 7.7). A number of images illustrating this chapter are by photographer Miriam O’Connor, one of the project’s many collaborators (Figures 7.8–7.10). Browne and Jones took great care in considering if and how the project would be represented visually. In an interview with writer and researcher Joanne Laws they outline that, “As artists who often work with moving image, we had the strong sense that we didn’t want the outcome of our work together (about tactility and the body) to take an image-based form.”²⁵ Instead, they delegated this process to O’Connor as well as courtroom artists Alwyn Gillespie and Priscilla Coleman. While the drafting sessions and rehearsals for the *In the Shadow of the State* project were captured in this way, there is no formal documentation of the performances—their traces exist now solely in memory, rumor, written accounts (as above) and online remnants such as the project’s Twitter account.



Figure 7.7 Legal drafting session for *The Touching Contract* by courtroom artist Alwyn Gillespie. Photograph shared on Twitter by @pparchive, dated September 19, 2016.

Throughout its composition the work embraces an ethics of care and mutual support. We see this evidenced in their prohibition against audio-visual documentation within the performance space in order to protect the privacy and intimacy of the experience for participants and performers alike. Self-identified women and femmes²⁶ were involved at all levels of its technical production; the term the artists use for this is “femtech” and the artists have stipulated that this would be a requirement for future activations of the work.²⁷ Another aspect of care carried with the work is evident in the artist’s specification for a “decompression safe space” after the performance for the participants who “may feel a heightened sensation and require decompression time before they leave the institution.”²⁸ In this space, they are to be offered tea and buttered toast. Anne Mullee’s first-hand account of the performance references the familiarity of these basic provisions in maternity settings: “Back in the ante room, we were given tea and toast, like so many newly-minted mothers.”²⁹

Within conservation frameworks a work’s significant properties are often discussed primarily in relation to the tangible and intangible features or qualities present in or embodied by its physical manifestations.³⁰ Throughout the discussions between IMMA staff and Browne and Jones the artists forefronted the importance of care within all aspects of the work. What became clear to us was how care should be recognized as a highly significant property of the work, present or maintained not only in the work’s activations but in all the ways it is

known, experienced and actualized.³¹ This is to say that such a centering of care should be understood as a principle guiding not only how the work is materialized in the gallery space but also in the expansion of ownership and stewardship we are discussing here.

Acquisition and care: (re)configuring sedimented practices

...Significant, unavoidable or frequently occurring risks: Sensations of embarrassment (e.g. blushing, sweating, shaking); Sensations of awkwardness, self-consciousness, nervousness, anxiety (e.g. giggling, digestive discomfort); Feelings of bewilderment or boredom; Interpretative difficulties; Heightened arousal; Regret for time lost; Sense of social difference highlighted through interpretation of performance (gender, age, class, sexuality, ethnicity); Sense of anticlimax....³²

Given the multi-layered nature of the work and the approach to care woven through it, many vital questions were raised about how IMMA—as a national institution—should act in bringing this work into its collection. During one of our conversations about the work’s acquisition with the artists over the summer of 2021, Jones pointed out the centrality of the speculum as an object within the project. She explained how its inclusion within the work symbolized the politics of the gaze and how gaze penetrates, noting how, in the process of working on the acquisition, the original focus on the medical and legal gaze had now shifted to also include the gaze of the museum.³³

The Touching Contract is one of eleven performance artworks that were purchased in 2020 and 2021 through a special government fund supporting artists during the COVID-19 pandemic.³⁴ An earlier digitization fund in 2017 was leveraged to holistically approach the conservation of time-based media collection works. On the back of this, the IMMA Collections team has been actively developing and implementing new infrastructures of care through revised practices. This has included improved storage for born-digital materials, across the board integration of artist and stakeholder interviews, greater artwork documentation created at the point of acquisition, retroactive documentation of works in the collection and new interdepartmental collaborations around issues of collection care.

It became apparent early on in our discussions with Browne and Jones that an institutional care for this work could not begin after the work—and all its physical and digital components—had entered the collection, but rather, had to be developed with the artists alongside the acquisition process. Our approach to acquisition was guided from the outset by a respect for the community of making and care that surrounded the work—namely the artists, collaborators and performers. A key catalyst for this was the directive by the artists at the outset that 50% of the acquisition price should be dedicated to supporting the production of documentation in collaboration with contributors and past participants of the work. In this way we began by working to imagine *with* the artists how—as a consequence of the work’s acquisition—IMMA and its staff might become a part of that community and help support the work’s



Figure 7.8 *The Touching Contract*, Sarah Browne and Jesse Jones, 2016. Staged performance documentation at the Pillar Rooms, Dublin, 2016. Photograph: Miriam O'Connor. Performer: Mary Duffin.

continuation in a way that is equitable and aligned with the principles and values that run through the work. This required us to reconceive established acquisition policies and workflows, and use institutional resources to support the creation of a bespoke ethics of care for the work's future, devised with and by the artists rather than imposed on them by the collecting institution.

Early on in these discussion it was agreed that a number of items, both physical and digital, would be handed over as part of the work's acquisition into the IMMA collection. These included the contract itself; the "Archive of Contracting Practices" document; a Sims speculum used during the preparatory workshop in 2016; six digital and two framed photographs by Miriam O'Connor; and the audio soundtrack by Alma Kelliher used during the performance. Importantly, these items were understood as common resources belonging to the community that surrounds the work, whose preservation is necessary because of our common interest in the perpetuation of the work through its future activations. As noted above, acquisition policies and approaches often frame such items in transactional terms as "deliverables," where an institution such as IMMA obtains ownership over a work's constituent components from artists in exchange for payment, and the artwork is spoken about and treated as a traded commodity or possession; we can connect this in part to the legitimate anxieties of collecting institutions around the risks posed by an artwork dependencies remaining "external," particularly when there is an expectation that an artwork and all its constituent elements now "belong" to an institution. However, in the case of

The Touching Contract, its ownership and constituent elements are fundamentally shared and distributed. For one, it is an editioned work, a “one of one,” but with Browne and Jones retaining their AP or *artist’s proof*³⁵ and thus their copyright and other associated rights. As has been explained to us by researcher Zoë Miller—who collaborated with us in the review of contracts drafted in conjunction with the work’s acquisition—the sale of the work to IMMA as an editioned work is effectively a license of use following particular agreed-upon conditions, rather than a transfer of copyright. In addition, because the work is the product of a collaborative artistic practice, the use of the photography and soundtrack employed in the work required sub-licenses from Miriam O’Connor and Alma Kelliher as part of the acquisition. It became clear to us that the “whom” to which these items *belong*—both in a legal sense and in terms of the individuals that have invested them with significance and value—is plural; it includes the artists and artistic collaborators, and, through this web of licensing, now involves IMMA. As such, the ownership and care for this work is and will have to be, by necessity, collective and collaborative.

In practical terms our collecting of particular materials and knowledge with a view towards the work’s perpetuation was approached not in terms of institutional possession but instead following the logic of the work’s rhizomatic existence and ownership, both in and outside the museum. IMMA as an institution with particular staffing, infrastructural and financial resources is able to attend to the practical maintenance of an artwork’s components in a way that artists very often cannot, for example, in the archiving and preservation of digital components, data and documentation, and the climate-controlled, archival storage of certain physical elements. On our end we are leveraging our infrastructure to safeguard these shared resources with the understanding that they belong not only to IMMA but also the artists and collaborators. Framing all these items in terms of common resources that benefit our mutual interest in the work’s futurity (as opposed to just the institution’s interests) moves away from thinking about materials and knowledge in purely capitalist terms, and further reinforces the ethos of mutual support inscribed within the work. This is one way the particularities of *The Touching Contract* have prompted a reconfiguration of thinking and practice at IMMA—what might be described as a *reversal of touch*.

In her book *Matters of Care: Speculative Ethics in More Than Human Worlds*, María Puig de la Bellacasa considers in relation to care what she calls “the reversibility of touch” or “intra-touching,” drawing upon Karen Barad’s notion of intra-activity. She notes that Barad’s concept of *intra-action* “problematizes not only subjectivity but also the attribution of agency merely to human subjects (of science)—as the ones having power to intervene and transform (construct) reality.”³⁶ According to Barad’s theory of agential realism, matter is not passively viewed, analyzed, or studied by human subjects. Rather, it is “a dynamic intra-active becoming”³⁷ where—in their meeting—entangled parts of the world are made intelligible, conditionally determinate, and (re)configure the other.³⁸ Puig de la Bellacasa extends Barad’s ideas, noting how “there is no separateness between observing and touching.”³⁹ To touch is to be touched, a recognition that “undermines the grounds of the invulnerable, untouched position

of the master-subject-agent that appropriates inanimate worlds.”⁴⁰ This of course has ethical implications as “what we do in, to, a world can come back, re-affect someone, somehow.”⁴¹ “Touch,” Barad notes, “is never pure or innocent. It is inseparable from the field of differential relations that constitute it.”⁴² Indeed, the process of taking any artwork into a collection happens always already in the shadow of the museum’s historical connections to imperialism and colonialism, and the innumerable acts of violence enacted in the name of collecting and care that haunt and echo through our current practices.

Thinking with these ideas in the context of the musealization process for *The Touching Contract*, we propose that one counter to these legacies might be through a conscious aeration of sedimented museological practices,⁴³ where acquisition is refigured as a process of intra-touching. As a material-discursive practice implicated in the iteratively reconfiguring intra-activity of the world, musealization can be reformulated in agential realist terms as a “mutual constitution of entangled agencies”⁴⁴ or an ongoing, intra-touching between institutional staff, the artists, collaborators, past participants, the museum-as-apparatus, the artwork and its materialities and the world of which we are entangled parts. Responding to Judith Butler’s *Bodies That Matter*, Barad asserts that

discursive practices are themselves material (re)configurings of the world through which the determination of boundaries, properties, and meanings is differentially enacted. That is, discursive practices as boundary-making practices are fully implicated in the dynamics of intra-activity through which phenomena come to matter. The dynamics of intra-activity entail matter as an active “agent” in its ongoing materialization.⁴⁵

What *The Touching Contract* has been, is and can be—how it *matters*—is not just mediated or *touched* by the human subjects involved; it also touches back and (re)configures.⁴⁶ This touching occurs not only through the work’s activations, where audiences are quite literally touched by performers, but also in the ways it has and continues to shift thinking and practice around wider processes of musealization, ownership and care within IMMA. This arises, in part, through (and therefore requires) an institutional *response-ability*, that is, a responsiveness and “being in touch”⁴⁷ both to the principles of the work and the entangled histories of institutionalization, where conditions are created for it to touch back and thereby expose and rework what has been sedimented.

Being in touch: acquisition residency

...Uncommon, but more serious risks: Outbursts of emotion (tears, rage, confusion, laughter); Panic attacks; Auditory illusions; Feelings of inspiration; Sleep disturbances; Sense of becoming undone; Sense of being overcome; Sense of accomplishment or empowerment; Sense of powerlessness / impotence; Onset of spontaneous civil disobedience; Risk of radicalisation; Hypersensitivity to the future touch of the State...⁴⁸



Figure 7.9 *The Touching Contract*, Sarah Browne and Jesse Jones, 2016. Legal mediator sealing a contract at the Rotunda Hospital, Dublin, 2016. Photograph: Miriam O'Connor.

Our critical attention to how the legacies of imperialism, colonialism and also postcolonialism intersect with the structures and practices of collecting and care—made explicit by this acquisition—is, in many ways, a continuation of some of the thinking that has been resonating at and about IMMA since its founding. Housed in The Royal Hospital, Kilmainham, founding director Declan McGonagle described IMMA's site shortly after it opened as an

architectural and conceptual product of the Enlightenment built by the English in the late 17th century to house retired soldiers. Ireland's first neoclassical building, it was a partial copy of Les Invalides, in Paris—this at a time when Dublin was architecturally a medieval city. Like Derry's geometric street grid, the Royal Hospital's classicism represented an imposition of order on native 'chaos.' Later, that imposition became entirely literal, when the British used the hospital as an army barracks during the Irish rebellion of 1916.⁴⁹

It is, he goes on to say,

impossible to pretend innocence or neutrality in this building. The context must be admitted as part of the museum's subject in the production and mediation of artworks. When its own site is contested in terms of its

colonial history, the museum is forced to be an inclusive, porous institution rather than an art terminus. It is a function, not just a building.⁵⁰

Artmaking and collecting have co-existed as part of that function of IMMA since its beginnings with a series of on-site artists' studios hosting artistic residencies. This deliberate channeling of energies into artistic practice, engagement and process follows a line of thinking that structured the early years of the institution, articulated by McGonagle in the same article. His outline of the problematic disarticulations of objects from their contexts echoes Azoulay's searing critique of museological and archival practices and the severance of objects from owners:⁵¹

Museums, galleries, and their alternatives, for example, still sometimes thought of as protected spaces within modernity, are actually deeply embedded in it. Indeed, the Modernist model of separation and disconnection, in which the supposedly intrinsic qualities of an artwork are more valued than its extrinsic links with a context and web of meaning, has led directly to the conceptual, organizational, and financial cul-de-sac in which many such institutions find themselves, especially in metropolitan centers. Like the matrix that spawned them, they are trapped in a state of *being* rather than *becoming*.⁵²

It is important to reiterate that the leveraging of resources towards an acquisition process rooted in the ethical framework within which *The Touching Contract* emerged was instigated by Browne and Jones who, at the outset, proposed a 50:50 split in the acquisition price between their fee and the costs of producing documentation together with their collaborators and past participants in the performance. In order to support this we invited the artists to work on site at IMMA for a period of two weeks in March 2022 as part of IMMA's long-standing artist residency program run by Janice Haugh. They used the time and space offered by the residency to invite feedback and engagement from the various stakeholders in the project. This took the form of workshops with performers of the 2016 activation at the Rotunda Hospital who retrospectively rehearsed what they remembered of the original choreography, and an online meeting with collaborators and audience members, who were invited to respond to a series of prompts about their experience of the work. As a key figure within the work, Máiréad Enright was invited to join the residency for a few days where she supported Browne and Jones in structuring the discussions and providing information on the legal materials she produced for the work. Everyone involved was remunerated for their time as part of the agreed acquisition price and the artists were careful to provide settings of support and care for everyone who engaged during the two weeks. Towards the end of the second week, Browne and Jones hosted an information-sharing event with IMMA staff to talk about the acquisition and engage questions and feedback on how the work might be supported and activated collaboratively across the different departments, including curatorial, engagement and learning, front of house, security, marketing and press. Other elements of the residency included the

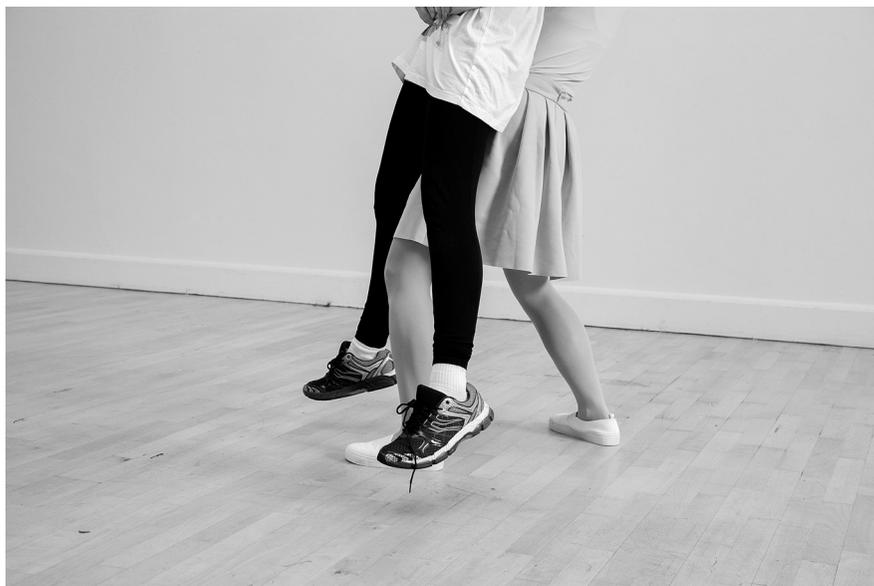


Figure 7.10 *The Touching Contract*, Sarah Browne and Jesse Jones, 2016. Staged performance documentation, Dublin, 2016. Photograph: Miriam O'Connor.

identification of four appointed custodians, the development of an “activation document,” an indexed archive of supporting materials to guide future activations of the work, a “methodology document” detailing the overarching principles and ethos of the work, and the final production and packaging of digital and physical components.

As outlined above, many constituent elements of *The Touching Contract* necessarily reside outside the museum, including as embodied memory and knowledge living with the artists and past contributors. The experience of the residency has become a model for how to approach these complexities. It is our hope that we may approach future acquisitions in a similar fashion, where artists, their collaborators and IMMA staff are afforded the time and space to *intra-act* and creatively bring artworks—and the knowledge related to them—into the collection and archive, and potentially instigate further institutional reconfigurations.

Conclusion

IMMA as a national collecting institution has particular resources and expertise that can be mobilized in the service of the shared interests of artists, stakeholders and the museum around the continuation of artworks and their affective potentials. Centering the acquisition process for *The Touching Contract* around an on-site artist residency recognized the work’s musealization as a continuation of the work’s creation and making that requires and deserves time,

space and resource. It also reflects our intention that through a slow approach to the work's acquisition—with a critical eye turned towards normative models for acquisition, ownership and collection care—*The Touching Contract* might serve as a model for how IMMA approaches the acquisition of other works with distributed authorships, dispersed physical, digital and social dimensions, and a reliance on networks of embodied knowledge.

In this sense, one way a decolonial “collection care” might be realized is through a conscious leveraging of institutional power and resources to facilitate response-able, collaborative and equitable exchanges within and between the institution, a work's creators and other stakeholders. Moreover, when a work's “transfer of ownership” is more accurately framed and approached as an *extension* of ownership, the contents of an institution's collection and archive are affirmed as shared, common resources, rather than possessions held in a closed repository that serve first and foremost the interests and agenda of the collecting institution. Our hope is that through further response-able intra-touching, the artworks in and entering the collection may continue to touch back, wherein their internal ethics may reverberate and continue to reconfigure our own thinking and practices.

Notes

- 1 Although they are interconnected, the acquisition by IMMA includes only the Dublin version of *The Touching Contract*, one of a series of participatory live events that were part of *In the Shadow of the State*.
- 2 See also Walter Mignolo, “Museums in the Colonial Horizon of Modernity: Fred Wilson's Mining the Museum (1992),” in *Globalisation and Contemporary Art*, ed. J. Harris (New York: Blackwell Publishing, [2004] 2011), 71–85; and Hélia Marçal, “Becoming Difference: On the Ethics of Conserving the In-Between,” *Studies in Conservation* (2021): 1–8, <https://doi.org/10.1080/00393630.2021.1947074>.
- 3 Ariella Aisha Azoulay, *Potential History: Unlearning Imperialism* (London: Verso, 2019), 170.
- 4 Azoulay, *Potential History*, 170.
- 5 Azoulay, *Potential History*, 174.
- 6 Azoulay, *Potential History*, 170.
- 7 Hanna B. Hölling, *Paik's Virtual Archive: Time, Change, and Materiality in Media Art* (Oakland: University of California Press, 2017), 32.
- 8 Dragan Espenschied and Klaus Rechert, “Fencing Apparently Infinite Objects: Defining Productive Object Boundaries for Performative Digital Objects,” in *Proceedings of the 15th International Conference on Digital Preservation, iPRES 2018, Boston, MA, USA, September 24–28, 2018*, ed. N. McGovern and A. Whiteside (2018): 1–4. <https://doi.org/10.17605/OSF.IO/6F2NM>.
- 9 Extract from the written contract for the Dublin performance of *The Touching Contract*. As part of the acquisition, the contract document will enter the IMMA collection as a digital file to be printed and signed by participants during performances.
- 10 Artangel, “In the Shadow of the State,” accessed March 2, 2021, www.artangel.org.uk/project/in-the-shadow-of-the-state.
- 11 The artists underline that the use of the term “women” in relation to performers and participants throughout the work refers to self-identified women. They also acknowledge the fact that a number of performers no longer identify as women.

- 12 Sarah Browne and Jesse Jones, “The Touching Contract,” artist website, accessed March 8, 2021, www.sarahbrowne.info/work/the-touching-contract.
- 13 For participants wanting to engage in the performance but not consenting to be touched, there was an option to “observe” which entailed being blindfolded so that they could hear but not see the performance.
- 14 The artists note that many of the mediators for the Dublin performance were former or current students of either Browne and Jones, in their respective art lecturing roles, or activists, or somehow involved with law, meaning everyone brought into the project was connected in some way.
- 15 Máiréad Enright and Tina Kinsella, “Legal Aesthetics in *The Touching Contract: Memory, Exposure and Transformation*,” *Law, Culture and the Humanities* 1–23 (January 2021): 6. <https://doi.org/10.1177/1743872120987113>.
- 16 Enright and Kinsella, “Legal Aesthetics in *The Touching Contract*,” 6.
- 17 Enright and Kinsella, “Legal Aesthetics in *The Touching Contract*,” 6–7.
- 18 Anne Mullee, “Sarah Browne and Jesse Jones *The Touching Contract*,” *The Visual Artists’ News Sheet Critique Supplement* Edition 28 (November–December 2016), <https://visualartistsireland.com/the-touching-contract>.
- 19 Extract from the 1916 Proclamation (also known as Proclamation of the Republic, Forógra na Poblachta or the Easter Proclamation), signed by Thomas J. Clarke, Seán Mac Diarmada, Thomas MacDonagh, P. H. Pearse, Éamonn Ceannt, James Connolly and Joseph Plunkett, April 24, 1916.
- 20 Marie Coleman, “How Women Got Involved in The Easter Rising – And Why It Failed Them,” *The Conversation* (April 2016), <https://theconversation.com/how-women-got-involved-in-the-easter-rising-and-why-it-failed-them-55771>.
- 21 Enright and Kinsella, “Legal Aesthetics in *The Touching Contract*,” 5.
- 22 “Executive summary of the Final Report of the Commission of Investigation into Mother and Baby Homes,” Department of Children, Equality, Disability, Integration and Youth, Government of Ireland, January 12, 2021, www.gov.ie/en/publication/22c0e-executive-summary-of-the-final-report-of-the-commission-of-investigation-into-mother-and-baby-homes.
- 23 Although the referendum resulted in the legalization of abortion in Ireland, the new law has built in restrictions, including requirements to travel extensively and attend repeat medical appointments, affecting access for pregnant people from marginalized groups. This disproportionately impacts those from low-income backgrounds, migrants, asylum seekers and Irish Travellers, who already experience barriers to medical care and mobility. In Northern Ireland, abortion was decriminalized in October 2019 but is also burdened by restrictions to access.
- 24 Enright and Kinsella, “Legal Aesthetics in *The Touching Contract*,” 3–4.
- 25 Joanne Laws, “Towards a Post-Patriarchal State,” *The Visual Artists’ News Sheet* (November–December 2016): 14.
- 26 femme – noun & adj.: Someone who identifies themselves as feminine, whether it be physically, mentally or emotionally. Often used to refer to a feminine-presenting queer woman or people. See: <https://thesafezoneproject.com/resources/vocabulary>.
- 27 Here we use the term “activation” to describe the set of public performances and all artwork-related materials installed and displayed in the gallery in conjunction with these performances (see Louise Lawson, Acatia Finbow, and Hélia Marçal, “Developing a Strategy for the Conservation of Performance-Based Artworks at Tate,” *Journal of the Institute of Conservation* 42, no. 2 (2019): 114–34, <https://doi.org/10.1080/19455224.2019.1604396>.)
- 28 Notes from conversations between the artists and IMMA staff during acquisition research stage.
- 29 Anne Mullee, “Sarah Browne and Jesse Jones *The Touching Contract*,” *The Visual Artists’ News Sheet Critique Supplement* Edition 28 (November–December 2016), <https://visualartistsireland.com/the-touching-contract>.

- 30 For further discussion see Brian Castriota, “Variants of Concern: Authenticity, Conservation, and the Type-Token Distinction,” *Studies in Conservation* 67, no. 1–2 (2022): 72–83, <https://doi.org/10.1080/00393630.2021.1974237>.
- 31 Here the term *actualization*—in a Deleuzian sense—is invoked to refer to the diverse ways in which a work exists within a plane of actuality (see André Lepecki, “The Body as Archive: Will to Re-Enact and the Afterlives of Dances,” *Dance Research Journal* 42, no. 2 (2010): 28–48, <https://doi.org/10.1017/S0149767700001029>; Brian Castriota, “Instantiation, Actualization, and Absence: The Continuation and Safeguarding of Katie Paterson’s ‘Future Library’ (2014–2114),” *Journal of the American Institute for Conservation* 60, no. 2–3 (2021): 145–160, <https://doi.org/10.1080/01971360.2021.1977058>.)
- 32 Extract from the written contract for the Dublin performance of *The Touching Contract*.
- 33 A key idea of feminist film theory, the concept of the male gaze (relating to the objectification of women in visual representations) was introduced by scholar and filmmaker Laura Mulvey in her essay “Visual Pleasure and Narrative Cinema,” *Screen* 16, no. 3 (1975): 6–18.
- 34 IMMA Director, Annie Fletcher, advocated for this funding to support the establishment of a body of performance works within the collection. This marks the first time that performance has been collected by the museum, which opened in 1991 and houses a collection of approximately 3,500 objects.
- 35 Following how printed works have historically been editioned to limit the number of copies made of one image, the same approach is adopted by artists and galleries for the sale of many time-based media, installation, and performance artworks.
- 36 Puig de la Bellacasa, *Matters of Care: Speculative Ethics in More Than Human Worlds* (Minneapolis: University of Minnesota Press, 2017), 114.
- 37 Karen Barad, *Meeting the Universe Halfway: Quantum Physics and the Entanglement of Matter and Meaning* (Durham: Duke University Press, 2007), 151.
- 38 For discussions of Karen Barad’s agential realism in the context of conservation see Hélia Marçal, “Towards a Relational Ontology of Conservation,” in *Transcending Boundaries: Integrated Approaches to Conservation. ICOM-CC 19th Triennial Conference Preprints, Beijing, 17–21 May 2021*, ed. J. Bridgland (Paris: International Council of Museums, 2021): 1–9; Brian Castriota and Hélia Marçal, “Always Already Fragment: Integrity, Deferral, and Possibility in the Conservation of Cultural Heritage,” in *Das Fragment im digitalen Zeitalter. Möglichkeiten und Grenzen neuer Techniken in der Restaurierung*, ed. U. Schädler-Saub and A. Weyer (Berlin: Hendrik Bafslar Verlag, 2021): 63–78; Marçal, “Becoming Difference;” Brian Castriota, “The Enfolding Object of Conservation: Artwork Identity, Authenticity, and Documentation,” in *Conservation of Contemporary Art: Bridging the Gap Between Theory and Practice*, ed. R. van de Vall and V. van Saaze (Cham, Switzerland: Springer Nature, forthcoming); and Marçal’s contribution to this volume (Chapter 3).
- 39 Puig de la Bellacasa, *Matters of Care*, 114.
- 40 Puig de la Bellacasa, *Matters of Care*, 115.
- 41 Puig de la Bellacasa, *Matters of Care*, 115.
- 42 Karen Barad, “On Touching – The Inhuman That Therefore I Am (v1.1),” in *Power of Material/Politics of Materiality*, ed. S. Witzgall and K. Stakemeier (Zürich: Diaphanes, 2014), 143–164.
- 43 This phraseology is borrowed from Barad’s discussion of their diffractive methodology; see Karen Barad, “Diffracting Diffraction: Cutting Together-Apart,” *Parallax* 20, no. 3 (2014): 168–187, <https://doi.org/10.1080/13534645.2014.927623>.
- 44 Barad, *Meeting the Universe Halfway*, 33.
- 45 Barad, *Meeting the Universe Halfway*, 151.
- 46 In her application of Barad’s agential realism to conservation practices, Hélia Marçal has commented, “One natural consequence of considering the world as a product of intra-actions is the understanding that every act of knowing transforms both the knower and the known. This way of seeing knowledge-production activities means that

- every intra-action with an artwork changes the conservator. In that sense, not only do the conservator and the artwork change with that encounter, but possibly also conservation itself.” Marçal, “Towards a relational ontology of conservation,” 4.
- 47 The concept of response-ability is central to Barad’s agential realist onto-ethico-epistemology; they explain: “*Response-ability*, being in touch, is about being ethically in touch with the other, as opposed to pretending to theorize from the outside (as if this is the condition for objectivity, rather than a conception of objectivity that is deeply flawed)—which is a form of violence—and realizing that observers and theorizers are an integral part of it.” Karen Barad and Daniela Gandorfer, “Political Desirings: Yearnings for Mattering (,) Differently,” *Theory & Event* 24, no. 1 (2021): 24, <https://doi.org/10.1353/tae.2021.0002>. Barad notes that the figuring of responsibility as an “ability to respond” first appears in the writing of Gloria Anzaldúa; see Anzaldúa, *Borderlands/La Frontera: The New Mestiza* (San Francisco: Aunt Lute Books, 1987), 20–21. Marçal has also extended the concept to conservation practices; see Marçal, “Towards a Relational Ontology of Conservation,” 6, and her contribution in this volume (Chapter 3).
- 48 Extract from the written contract for the Dublin performance of *The Touching Contract*.
- 49 Declan McGonagle, “Ireland’s Eyes, New History From Beyond the Pale,” *Artforum* 31 (1993): 93.
- 50 McGonagle, “Ireland’s Eyes,” 93.
- 51 Although Azoulay goes further with this to look at the violence enacted by the museum apparatus on those othered by it.
- 52 McGonagle, “Ireland’s Eyes,” 92.

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