

# *Convergence and Substantive Similarity in Dance Works*

Youfei Sun<sup>1,2,\*</sup>, Weike Chen<sup>3</sup>

<sup>1</sup>Research Department, Beijing Dance Academy, No. 1 Wanshousi Road, Haidian District, Beijing, China

<sup>2</sup>Dublin International Foudation College, 145 S Circular Rd, Saint Catherine's, Dublin, Ireland

<sup>3</sup>Research Center, China Oriental Performing Arts Group Co., Ltd. No. 4 North Road of East Third Ring, Beijing, China

\*Corresponding author

**Keywords:** dance works, convergence, substantive similarity

**Abstract:** In recent years, dance works have shown a phenomenon of convergence, which has led to more and more plagiarism incidents of dance works. The convergence of dance works is inextricably linked with the substantive similarity in the identification of plagiarism of dance works. This article starts from the biological meaning of convergence, and then discusses the phenomenon of convergence in dance works. The author expounds and summarizes the phenomenon of convergence of dance works in recent years, and then analyzes the various reasons for the phenomenon of convergence. The convergence of dance works can easily lead to plagiarism. An important criterion for judging that a dance work constitutes plagiarism is that two dance works constitute substantive similarity. The relationship between convergence and substantive similarity of dance works is a feature of this study. At the same time, the article also puts forward corresponding solutions to the phenomenon of convergence and plagiarism of dance works.

## 1. Introduction

“Convergence” was originally a concept in biology, which refers to the phenomenon that two or more species of closely related organisms evolve into similar morphological characteristics or structures due to their co-habitation in the same type of environment [1].

Although the word “convergence” comes from the realm of biology, it is now very much appropriate to use this word to describe the sameness between dance works. The phenomenon of convergence of dance works refers to the common imitation of themes, plots, movements and sentiments among multiple dance works, thus presenting the audience with the feeling of *deja vu*.

## 2. Method

This paper, with reference to source materials of convergence and cases of substantive similarity in dance works in recent years, analyzes the causing factors for convergence and the interrelationship between convergence and substantive similarity in dance works.

### 3. Results

First, the most serious phenomenon in dance art creation is the phenomenon of theme convergence. Theme convergence inevitably occurs when there are only a few dance choreographers capable of exploring new themes in a creative way and using these themes for dance creation, and most of the choreographers lack the capability to use old themes for new creation. Secondly, there is the phenomenon of convergence of plots in the creation of dance works. For instance, the display of hard-time frustrations between a man and woman in love has become a routine that is ages old in the creation of dance works. It is true that romantic story and expression is what the audience want to see the most, still, choreographers need to pay more attention to innovative thinking in plots. Thirdly, convergence of movements is also a common phenomenon in the creation of dance works. After a long history of evolvement, stylized dance movements are formed. These movements belong to the public domain and are a valuable source for choreographers in creation. Stylized movements in the public domain are free for choreographers to take and use, however, original choreography is the embodiment of choreographers' creativity. Fragmental convergence of stylized movements in dance works is not to be worried about, for the original choreography of the whole piece of dance works is the soul. And lastly, convergence of sentiments also exists in the creation of dance works. Dance is an art of sentimental expression, one's love for his lover or country is a common expression in dance works. In recent years, we have seen in a lot of dance dramas the twists and turns of a love story, seemingly romantic love has become one of the essential sentimental elements of dance drama. Even in a dance drama whose main theme is to express the dancer's affection and devotion for his home or country, sentimental expression of a love couple's grief and joy tends to be an essential element of the drama.

The phenomenon of convergence in dance art creation, the author believes, has at least three causes: the problem of choreography education, the eager pursuit for commercial gains, and the lack of forging spirit among choreographers.

In choreography education, the teacher and the would-be choreographers have been obsessed with the teaching and learning of choreography skills, they never pay enough attention to the structure and connotation of dance works. In addition, students usually didn't receive any special training of humanistic literacy and they didn't have real or in-depth experience of social life, now with their dependence on school teaching and the easily available classical works from home and abroad, once they become a practitioner in the dance industry, convergence in dance works creation becomes inevitable among such choreographers [2].

Dance is an art that requires great ingenuity and creativity, not a "fast-food" art that tolerates accelerated cooking. Driven by commercial interests in dance industry, choreographers have to be "productive" to create profit-making pieces as soon as possible. This creation of "fast-food" dance works often start by imitating some other dance movements, and then perfunctorily picks up a title for his piece and calls it "a design"; without any observation or understanding of social life, the content of such "design" is similar to a "day-to-day account", incomprehensible to the audience. This kind of "fast-food" atmosphere intensified the phenomenon of convergence in dance art creation. "Fast-food" creation, a shallow demonstration of social life rather than a reflection of choreographers' unique and creative perspectives, thoughts, feelings and humanistic spirit, will only produce convergent, low-quality and short-lived dance works.

After entering the dance industry, some choreographers show no spirit of forging ahead and learning from others. Lacking of humanistic literacy and innovative spirit, the arrogant and complacent choreographers refuse to see the gap between themselves and top-level choreographers, or listen to suggestive advice from dance critics. Other people' criticism is construed by such narcissists as "not understanding my art", and they continue to produce convergent, low-quality and

short-lived dance works [3].

Excellent dance works should be the artistic portrayal of social life and the expression of movements and sentiments with unique humanistic and artistic values. If choreographers keep imitating their predecessors' works in themes, plots, movements, sentiments and other elements without reflecting social life without their own perspectives, this kind of artistic creation will inevitably show convergence, which will never lead to the improved level of creativity, nor the surpassing of their predecessors' classic works.

On the one hand, choreographers are facing the problematic convergence of themes, plots, movements and sentiments, on the other hand, under the threefold pressure of choreography education, commercial interests and the lack of forging spirit, the originality of dance works will be hard to present, instead plagiarism is committed time after time. It is a system-level big task for all of us to root out the obstinate phenomenon of convergence in creative of dance works.

First, in choreography and creation of dance works, the ideal theme does not come out of thin air. It comes from the inspiration generated from constant contact with social life and extensive reading. There are endless unexplored themes connected to history and present, lie in ideals and reality, hidden in classical and modern literature, associated with Chinese and western culture, et cetera, et cetera; and of course, some old themes that have been widely used can be used again for new creation as long as the choreographer has a new and original idea. Secondly, the design of plots is relatively prone to convergence, such as the common formation of "1038" in group dance. Jiang Dong, Deputy Director of the Institute of Chinese Dance Art, believes this is because there is a super-stable structure that restricts Chinese people's thinking. Plot design of dance works is a manifestation of the originality of the choreographer's creative thinking. Tracing back to the root of this phenomenon, the author believes that it is caused by the choreographers' insufficient learning and training on the "structure and connotation" of dance works during school education. The author suggests that choreographers should continuously improve their competence in practice. Thirdly, the originality of dance movements is reflected in the choreographer's original choreography of dance movements. Dance movements include both stylized movements and choreographed movements. Large-section imitation of a peer's choreography will be identified as dance plagiarism, such as the plagiarism of "Poetic Dance: The Journey of a Legendary Landscape Painting" by "The Flowery Path in Garden". Therefore, innovative dance choreography is a basic skill that requires a lot of practice and efforts by the choreographer. And lastly, the expression of sentiments is the core value of dance works, usually an echo to the theme. Under the premise of a selected theme, one or more sentiments may be used, and the interrelationship between these sentiments may be inclusive or parallel. The expression of sentiments is not only reflected in dance movements, but also in other elements such as music, lighting, scenery, costumes and props. Of course, whether the originally designed sentiments resonate with the audience's perceived sentiments, is also a factor for the choreographer to consider. In addition to the mainstream sentiments such as romantic love, patriotism, familial affection, friendship, etc., are there any other forms of sentiments worth tapping? This may require more open and imaginative thinking on the part of the choreographers.

For reflective thinking, in the stage of school education, teachers should not only pay attention to the teaching of choreography techniques, but also the lecturing on the structure and connotation of dance works. At the same time, teachers should be instructive in students' contact with social life to find materials for choreography; be informative in students' reading of ancient and modern Chinese and foreign classic literature to obtain creative inspiration; they should also encourage and cultivate students' ability to appreciate Chinese and foreign classical dance works, help improve students' awareness of dance works copyright protection, and promote the strengthening of students' artistic and professional ethics.

In another aspect, it is true that "fast-food" commercial dance performance requires the

choreographer to create dance works as fast as possible, it doesn't mean that convergence is right for creation. For this sense, the author quotes from the "Preface to the Book of Songs": for expression of feelings we speak with words; for lack of words we sigh with sounds; for depletion of sounds we sing with songs; and for feelings beyond expression, we dance with arms and legs. So, the essence of dance is the expression of feelings and sentiments. Sentiments come before dance movements. It's like putting the cart before the horse if we design the movements first and then determine the theme and sentiments afterwards. The author suggests that choreographers should first determine the theme and sentiments of a dance, try to convey the theme and sentiments to the dancer, and then create movements according to the theme and sentiments, in this way they will have improved efficiency and reduced convergence of in creation and choreography of dance works.

What's more important is that choreographers should study with an open mind and listen to the voices of criticism. Choreographers should study more classic works of their predecessors and peers, learn from their experience, and have the audacity to raise questions or even criticize for any part they feel necessary. In the 12th National Dance Exhibition, at the Seminar on the 3rd Session of Excellent Dance Program, Zhou Liya, the first-grade choreographer from China Oriental Performing Arts Group, proposed that "Choreographers should be more strict with themselves and ask themselves more whys, then they will be able to create new works." I can still remember that a few years ago, after a performance of dance created by a well-known choreographer/professor, on the dance WeChat official account, a dance critic gave his harsh opinions but with reasonable basis, an act which caused a small-scale war of abuse, and some of the professor's students left vulgar remarks on the WeChat. Somehow in our mind, it seems that dance criticism can only mean praising words. The author suggests that choreographers should listen to the criticism from dance critics, take the advice and use it in future creation, to make the good better and avoid the same mistakes, so as to create and present quality works.

Recently, the plagiarism of "Poetic Dance: The Journey of a Legendary Landscape Painting" by "The Flowery Path in Garden" has become a hot topic. Zhou Liya, the choreographer of the "Poetic Dance", believes that there's 99% similarity between the two dance dramas, including the costumes, makeups, props and movements, making the "Flowery Path" a direct plagiarism of the "Poetic Dance". In legal practice, an important indicator for identifying plagiarism in dance works is whether there's substantive similarity between two pieces of works. It is clear that substantive similarity does exist in the "Flowery Path".

For ruling of substantive similarity in dance works, the principle of "substantive similarity + contact" is often used in judicial practice. The author believes that "substantive similarity + contact" is an important principle for the determination of infringement of dance works. Its main points are as follows: (1) the two pieces of dance works are recognized as substantively similar to each other by using the above approach, that is, the infringing dance work and the original dance work are highly identical or similar in the form or content of expression. Here, "substantive similarity" means that the infringing dance work is copied or partially copied from the original dance work, with which a copyright is empowered; other than that, the infringing dance work lacks of original expression. (2) The person involved in the infringing of dance works has access to the copyrighted original dance work. Proof of actual "contact" refers to the fact that the copyrighted dance work was produced before the infringing dance work and made available for others to study and admire; Of course, sometimes the existing evidence can not directly prove there's actual "contact", in this case, the approach of presumption may be adopted to determine the fact that the infringer did have contact with the original dance work: since the infringing dance work is substantively similar to the original dance work, it's enough to rule out the possibility of the infringing dance work having the original expression; as long as the infringing dance work contains the same theme, plot, style and

elements as the original dance work, there's no reasonable explanation for the existence of so many similarities [4].

For determining the existence of substantive similarity, "overall vision and perception" and "abstraction and separation" are commonly used in judicial practice. The first approach is to view all the creative elements as a whole, usually to judge whether there's substantive similarity from the perspective of an ordinary audience. The second one is a kind of deconstruction, that is, from a professional point of view, determine which parts of the original dance work are to be protected, mainly through abstraction, separation and comparison of various elements in non-public domain, and then make a judgment [5]. For making professional judgment, it requires argumentation and analysis by dance experts.

The means of dance plagiarism are various, from simple replication and imitation to advanced permutation and makeover, which makes it necessary to distinguish the substantive similarity first. The author believes that substantive similarity in dance works should be divided into "low-end substantive similarity" and "high-end substantive similarity". In the field of dance art creation, low-end substantive similarity refers to the behavior of completely reproducing the dance works of others, with slight embellishment or not; high-end substantive similarity is the practice of making professional-ish changes on the elements of a dance, to make it look like an original piece created by himself. Low-end substantive similarity in dance works is easy to find out by using the "overall vision and perception" approach; on the contrast, high-end substantive similarity in dance works requires thorough comparison of the similar parts in non-public domain by using the "abstraction and separation" approach, sometimes it even requires an official certification from authoritative expert(s) in the field of dance.

In addition to substantive similarity between two pieces of dance works, another important indicator is whether the infringer has actual "contact" with the original dance works involved. The evidence of actual "contact" is difficult to acquire in legal practice, so in opinion of the author's, it should be divided into "evidential contact" and "non-evidential contact". Evidential contact means that there is evidence to prove that the infringer did have contact with the original work, including but not limited to "contact via Internet" and "contact by knower of original piece"; non-evidential contact means that even though there is no real evidence to prove that the infringer has been in contact with the original work, comparison between the two will show that the infringing piece and the original piece share quite a few non-coincidental similarities.

#### 4. Discussion

There is an inclusive relation between convergence and substantive similarity in dance works. substantive similarity in dance works is an advanced form of convergence. If the convergence involves only the dance theme or the plot or the sentiments, it doesn't necessarily constitute infringement. However, movements convergence is a special domain. According to the "overall vision and perception" approach, a simple movements convergence between two pieces of dance works easily constitutes low-end substantive similarity; if, besides the movements convergence, there's also the convergence of theme or plot or sentiments, it will easily constitute high-end substantive similarity. Therefore, movements convergence is the common and core element that constitutes substantive similarity between two pieces of dance works. This point of view has been testified many times, including the extremely famous case of "Thousand-hand Goddess of Mercy", and other cases of dance copyright infringement in recent years.

#### 5. Conclusions

The author calls on dance choreographers to explore social life as often as possible to find

creative inspiration, try not to add more cases of convergence in the creation of dance works, and try all efforts to create a clean and positive environment for dance art creation, including a strong will to resist the temptation of commercial interests, a strong belief in self-discipline to prevent plagiarism in our choice of dance works creation. In the mean time, the dance industry should, as early as possible, establish a substantive similarity review mechanism, including the necessary system and rules, a team of professional experts, etc., so as to facilitate the steady and healthy development of the dance industry.

## Acknowledgements

This work was supported by a project grant from the “Reference and Development of Chinese Dance Copyright System” (Grant No.0622077/021) which is a university-level scientific research project of Beijing Dance Academy.

## References

- [1] Gao Jianguo, *Human Psychology*, China Economic Press, 2013, 158-160.
- [2] Chen Weike; Sun Youfei. *Discussion on the Assimilation Phenomenon of Dance Creation*. *China Culture Daily*, 2022-12-01.
- [3] Chen Weike. *How to solve the homogenization problem in dance creation*. *Guangming Daily*, 2023-01-04.
- [4] Chen Jinchuan, *Assignment of the Burden of Proof in Copyright Infringement Lawsuits*. *Judicial Protection of Intellectual Property Rights in China*; Editor 1, Jiang Zhipei; Communication University of China Press; Building 47, Communication University of China, No. 1 Dingfuzhuang East Street, Chaoyang District, Beijing, China, 2008, 241.
- [5] Sun Youfei; Chen Weike. *The Protection of Dance Copyright in the Case of Thousand-hand Goddess of Mercy*. *Arts Education*, 2020, 01, 47-50.