

Act No. 1  
of 2010.

*redress*<sup>1</sup>  
-un-  
dressed

ADVOCATE ALICE PRESENTS: R v JR 2010

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<sup>1</sup>In literature, *redress* in italics keeps the concept in suspense as it makes one reflect upon, even bring into play, the very body of the questions: Whose redress? What is redressed? How does this happen and when? All these uncertainties inform the attempt to understand redress within our cultural production (Derrida 2003: 18).

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ELGIN RUST

A dissertation submitted in fulfilment of the requirements for the award of the degree of Master of Fine Art (FIN5004W). Michaelis School of Fine Art, Faculty of the Humanities, University of Cape Town, 2010.

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For Immo Rust

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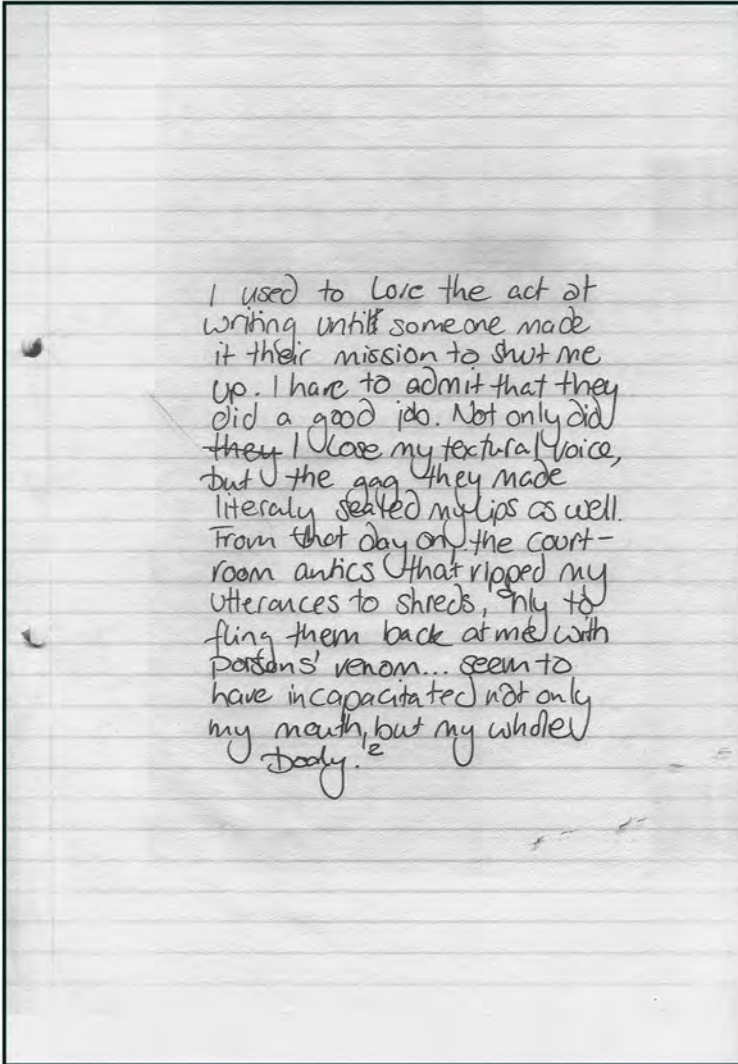
I am particularly grateful to my supervisor, Professor Jane Alexander.

Thank you.

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2 Rust, E. 2007. Personal note: *A reflection on my courtroom experience in 1985* (Unpublished).

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**THE STORY BEHIND IT ALL**

Writing about *redress*<sup>1</sup>-un-dressed, giving my voice to the work, is probably the hardest part for me. It was my voice which was silenced when, as an eleven year old, I stepped into the witness box of the Cape Town Magistrates' Court. In the end my only defence was silence, as each consecutive question of the defence distorted my personal story until my position of victim turned into that of perpetrator. That is to say, the perpetrator was released and I went to jail. Not literally. But the effect of the trauma shaped who I am today. This experience triggered my ongoing investigation of systems of control, positions of power and causes of trauma which I explored in my undergraduate year in 2007. *Comfort Room – ukhuselekile – Speak out!* was a psychologically charged installation which explored aspects of secondary trauma experienced by children in the judicial process.

The current body of work moves beyond the trauma as it investigates processes of redress. For that reason the details of the initial events are no longer the primary concern; strategies of transformation are at the heart of this investigation. This brief detour outlines my personal motivation and interest in these strategies, or forms of redress, which lead me to juxtapose processes of what I have termed aesthetic redress against processes of judicial redress. I therefore stage the fictional case of *R v Judicial Redress 2010 (R v JR 2010)*<sup>2</sup> in this document and my practical body of work.

*R v JR 2010*  
738

I open the case with a statement regarding my personal experience of judicial redress given to the fictional figure of Detective L. Prince via an artwork. In this manner I begin the investigation into judicial redress. This process is documented in *Case Docket 001/05/2008* which informs the arguments presented for the case *R v Judicial Redress 2010 (R v JR 2010)*.

Case Docket  
001/05/2008  
669

This fictional case engages the services of the invented characters of Detective L. Prince and Advocate Alice to interrogate the abstract concepts of redress. It is not staged in a real court, nor for that matter a conventional gallery (i.e. a white cube (O'Doherty, 1999)). Instead, this performative installation finally comes together to propose arguments around processes of redress in a pedagogical site, studio and exhibition space 5A of the Egyptian Building, part of the Michaelis School of Fine Art on Hiddingh Campus, University of Cape Town.

I refer to the installation as performative because it grew out of a number of smaller installations which were set up between 2009 and 2010. Aspects of these re-emerged in each subsequent process of researching, reconstructing and reinterpreting processes of redress. The first display, *untitled* (2009), was restaged, together with new material, in *adjourned* (2009). In January 2010 these elements were again restaged in the first, unofficial mock trial in the Egyptian Building. And so on. The process – the researching, reconstructing and restaging of the collected evidence for the case *R v JR 2010* – is akin to what Irit Rogott describes as the performative aspect of an archive (Rogott in de Oliveira, 2003: 134). This allows the artist to move away from solid sites of accumulated knowledge in a “series of archive effects” (de Oliveira, 2003: 134). The archive, understood as a technology of control, now gives rise to the construction of sites of fantastic fiction.

I therefore understand the practical body of *redress*<sup>1</sup>-undressed as a serial, performative<sup>3</sup> installation. This installation does not seek to reveal a hidden truth, rather it makes use of the material/evidence to act as memory triggers for the audience to imagine what remains invisible (de Oliveira, 2003: 134) – in this case that which is excluded in judicial redress is emotional transformation. Legal texts pertaining to redress are abstract, and only become tangible through symbols. The specific process of research + reconstruction + reinterpretation of these symbols (objects, images and signs), becomes the process of aesthetic redress that is investigated and performed in this body of work to offer possible affirmative strategies of transformation. I use photographic documentation and real evidence from the Cape Town courts to make visible, through forms of allegory (for example of a ship), these abstract concepts of redress affecting citizens. This is at the heart of my research.

The Egyptian Building on Hiddingh Campus plays host to the culmination of the series of installations and individual components/artworks that led up to *R v JR 2010*. Here, in the first assembly hall of the SACS boy’s school founded in 1884, the real and photographic evidence collected from the Cape Town Magistrate’s Court is restaged. This locates the installation firmly in the South African context, as national court emblems are reconfigured in the space. However, the consequences of the many acts of violent transgression committed against one another, against humanity, are clearly not exclusive to South Africa. They are experienced globally and thus the investigation into redress has universal appeal. Hal Foster goes so far as to propose that we live in a “trauma culture” (Foster in Bennett, 2005: 6). I venture to argue that for as long as major institutions

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### Documentation

*untitled* (2009)  
715  
*adjourned* (2009)  
717

*Das Narrenschiff*  
(2010)  
753

Onsite Heritage  
Plaque.

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such as the judiciary continue to sideline emotional redress<sup>4</sup> by focusing purely on punishment and economic compensation,<sup>5</sup> we will continue to live in this “trauma culture”. Pierre Bourdieu argues that educational, political and legal institutions impose forms of collective organisation which perpetuate subordination by way of symbolic domination of women, children and anyone who can be declared other. This is achieved through the symbolic principles known and recognised by both the dominant and the dominated, through forms of symbolic violence (Nice, 2001: vii-2). This “gentle violence, imperceptible and invisible even to its victims [is] exerted for the most part through the purely symbolic channels of communication and cognition (more precisely, misrecognition), recognition, or even feeling” (Bourdieu in Nice, 2001: 1-2). He proposes a materialist analysis of the economy of symbolic goods as a means of escape from the conditions of domination and the creation of symbolic weapons capable of shaking the institutions (Nice, 2001: ix-3).

*R v JR 2010*  
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This is especially true for a country which is currently grappling with the fallout from a major social crisis, the legacy of apartheid. The Truth and Reconciliation Commission (TRC) was a brave and bold attempt to facilitate processes of redress, processes which attempted to make harm public, advance truth and acknowledge the depth of the crimes committed. In itself it was a milestone, albeit a contested one, and considering the continued battles which rage in South Africa’s social spheres, it represents just a drop in the pond (Bentley, 2008; Krog, 2009; Motsei, 2007). The need for redress with regard to the violent crimes of the apartheid regime is so overwhelming that it overshadows the need for redress for the continually growing number of violent crimes committed daily in South Africa. Current murder, rape and assault rates are amongst the highest worldwide (Gallagher, 2005; Mistry, 1997 [Online]). Many of the victims are women and children. The war against them persists as their voices continue to be silenced by the patriarchal system of the judiciary (Motsei, 2007: 37 - 54; Greenbaum, 2008: 81-98). The process of judicial redress is a process which is dictated by who can tell the truth, who listens and who judges the truth. When the truth-telling activity is denied, redress is denied (Thomson, 2002: 187).

The relationship between truth and fiction is age old. The move which separated myth and reality initially now comes closer together again as truth is revealed to be a myth based on facts, on binaries which deconstruct (Thomson, 2002: 187-189). What does this mean for strategies and processes of judicial redress which are based on truth-finding strategies? Judicial strategies are geared at destabilising narratives of truth to

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establish a judicial truth, one which facilitates judgement. These strategies stand in binary opposition to many aesthetic and philosophical strategies from Picasso to Rancière to Derrida, which have revealed the undecidability of meaning inherent in objects, text and speech and can also be applied to photography, a major form of evidence for the establishment of judicial truth. My understanding of deconstruction is the acceptance of the possibility of multiple readings of a text, image, musical piece or object, as they contain contradictory readings which go against the original intention (Cobussen, 2002 [Online]). They exist simultaneously, never arriving at one fixed final argument (Balkin, 1999 [Online]). This strategy is also understood as a strategy of “affirmative transformation” – in short, deconstruction (Cobussen, 2002 [Online]).

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1 Rust, E. 2007. *Comfort Room – ukhuselekile – Speak out*. In *Michaels School of Fine Art graduate exhibition 2007*. Cape Town. Michaelis School of Fine Art.

2 All cases are cited in the abbreviated format: *R v JR 2010*, which follows the English style. For cases in criminal matters, R stands for the name of the King or Queen, if the case is brought on behalf of the monarch. However, South Africa (and other countries) have become independent democracies. Criminal matters are brought by the State, cited as *S v ...* In all civil matters the Plaintiff / Claimant will be cited first and then the Defendant. As the fictional case does not fit into the traditional legal division between criminal and civil, *R v JR* can be used. R, the main complainant/s could in fact also be a princess in the fictional world the case inhabits (Kemp, 2010 unpublished) (LLRX, 2010 [Online]) (UCT Law Library, 2010 [Online]).

3 In addition, elements of the installation can also be termed performative as the viewer may participate in the fantasy play by choosing to steer a ship or climb into a witness bench to survey the territory below. The viewer can also choose to play a game such as a memory game or a puzzle, thus acting out what the space has to offer. However this participation is voluntary and is not required of the viewer to complete the work.

4 Since 2009, approaches of restorative justice have been introduced due to a growing awareness of its role in rebuilding torn societies as “restorative justice seeks to release the emotional suffering caused by an offence” (Masson, 2009: 18) (Mkhize, 2009 [Online]). However, “what counts as harm for the purposes of legal redress is highly instructive. It tells us much about social and judicial perceptions” (Teff, 2009: 1-2).

5 This is specifically the case as the law takes physical injury much more seriously than emotional distress. For example, a minor cut entitles you to damages whereas negligent infliction of ‘purely’ emotional harm, such as shock, anxiety and stress normally do not, even though mental harm can be profoundly disabling. This is especially the case when there is no physical source. Compensation is then only available when the mental suffering constitutes a “recognisable psychiatric illness” (Teff, 2009: i). The law imposes strict limits on who can recover damages for emotional harm to discourage the perceived threat of a “compensation culture” (Treff, 2009: 4). Bryant Greenbaum argues that this applies especially to compensation for sexual crimes in South Africa, which is hindered by a gender bias inherent in the judicial system (Greenbaum, 2008: 3-6).

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In the “real” criminal legal system the victim gives a statement to the police who proceed to open the case docket. A detective is assigned to the case, to investigate any leads and compile the evidence for the case. The file is then handed over to the prosecutor who decides if the case is strong enough to stand in court. The case is now in the hands of the state, turning the victim into a witness who may appear in court to testify. In this process, the victim is cross-examined by the defence, an interrogation which attempts to destabilise the position of the witness. This is especially true when pertaining to cases of sexual assault, where the reputation of the victim/witness is called into question to attack her [sic]<sup>1</sup> character, thus repositioning her as the perpetrator (Zefferett, 1998: 47). This process was especially visible in the high profile rape trial of Jacob Zuma<sup>2</sup> (Motsei, 2007: 20).



As justice appears to be enacted when punishment and redress are seen to be enacted (Jeannerod, 2007: 23-26), the claims by the National Prosecution Authority (NPA) appear to be undermined. Judicial strategies and processes appear to be a far cry from creating a free and just society for all (DOJ & CD, 2009 [Online]; NPA, 2008: 8).

For this body of work I restage the real judicial performance based on a case played out by the two fictional figures, Advocate Alice and Detective L. Prince. Their characters are loosely based on the fictional figures of *Alice in Wonderland*

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(Carroll, 2009) and *The Little Prince* (de Saint-Exupéry, 1987). I chose these two as they were characters which accompanied my youth and still have popular appeal.

Their dialogue records the investigation which is compiled from a selection of memos, notes and evidence documenting the progress of the “case”, including a number of smaller installations/initial case hearings leading up to the final hearing, *R v JR 2010*. The extracts of Case Docket 001/05/2008 explicate a personal study of the concept of redress in the context of visual culture. This form of detective fiction allowed me to mimic and subvert real processes of judicial redress by applying a process of redress through art which I have termed “aesthetic redress”.

Aesthetic  
Redress =  
research +  
reconstruction +  
reinterpretation.  
p: 677

The attempt to offer strategies of affirmative transformation is facilitated by a process based on: research + reconstruction + reinterpretation. The process is explicated by means of precedents referring to specific contemporary work and theory. A statement opens case docket 001/05/2008 and initiates the investigation into aesthetic redress. Throughout the document Advocate Alice and Detective Prince will refer to “aesthetic redress” which incorporates considerations of temporalities, object relations and affect, loosely based on dictionary definitions of *re* and *dress*.

At this point it is important to note that the processes of ‘aesthetic redress’ do not aim to redress a harm in the judicial sense, which is defined as “to set right; to remedy; to compensate; to remove the causes of a grievance” (Brevard County Clerk, 2010 [Online]). And neither does *redress*’-undressed attempt to remedy, balance or set right any personal harm or social grievance (Dictionary.com, 2010a [Online]). Rather, the aim of aesthetic redress is to offer strategies of affirmative transformation which produce new political subjectivities. The process of aesthetic redress is personal and specific yet also communal and ambiguous. It includes research, reconstruction and reinterpretation of object/subject relations to deconstruct in the Derridian sense, rather than reconstructing empirical rational subjectivity, and in this manner “making good”. *redress*’-undressed investigates these processes of aesthetic redress to play them off against processes of judicial redress.

The remainder of this document was assembled using research collected in the case docket to create a fictional narrative of the case *R v JR 2010* for aesthetic redress, in the context of the judiciary. This investigative trail revolves around considerations of materiality (the evidence), temporality

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(recollecting a past event) and object-subject relations (new relations of evidence to subject/s in the present). Detective Prince and Advocate Alice develop a case strategy using photographic and real evidence of the scene of the crime which they set up in July 2010. The document concludes with a trial report compiled by the Judicial Officer, based on the hearing. The final hearing of *R v JR 2010* is the installation. No ultimate verdict has been made and judgement is open to the viewer.

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1 This is a very gendered statement in the *South African Law of Evidence*. Today one is more aware than ever that any person can become a victim of a sexual assault.

2 “It was on waking up to the headline ‘Burn the Bitch’ at Jaco Zuma’s rape trial on International Women’s Day, 8 March 2006... that the massive disrespect for women and women’s rights was brought home” (Motsei, 2007: 18). For a reflection on the experience see the interview with Khwezi (the name given to the woman who laid the charge of rape) conducted by the One in Nine Campaign on 8 May 2010, available online (One in Nine Campaign, 2010 [Online]).

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<b>CASE DOCKET</b>	<b>DATE: 27.05.2008</b>	<b>Act No. 1 of 2010.</b>
TO:	Adv. Alice	
FROM:	Det. L. Prince	
CASE NO.	001/05/2008	
SUBJECT:	OPENING INVESTIGATION	

Dear Adv. Alice,

I received the following statement from a complainant regarding processes of judicial redress. Please assess whether we should initiate an in-depth investigation.

Thank you,

Det. L. Prince

University of Cape Town

SOUTH AFRICAN

SERVICE



SUID-AFRIKAANSE

DIENS

Part 1  
Doel

STATEMENT \* VERKLARING

Stasie / Stasie Woodstock CAS no 001 / 05 / 2008  
MAS no

The following particulars in respect of the offence / incident is supplied:  
Die volgende gegewens met betrekking tot die misdryf / voorval word verskaf:

PARTICULARS OF OFFENCE/INCIDENT \* BESONDERHEDE VAN MISDRYF/VOORVAL

Date and time of offence/incident 11/1/1985 H H M M Or Of Period: Between Tydsperk: Tussen H H M M on op  
Datum en tyd van misdryf/voorval  
and on H H M M on op Day of week Sul M T W T V S  
Dag van week So M D W D V S

Description of Offence/Incident JUDICIAL REDRESS  
Beskrywing van Misdryf/Voorval

Method used/Entrance gained CALLED TO TESTIFY AS WITNESS  
Metode gebruik/Toegang verkry

Type of instrument used SITESPECIFIC PERFORMANCE & VERBAL INTERROGATION  
Type instrument gebruik

SCENE OF CRIME \* TONEEL VAN MISDAAD

Between: Name of place CAPE TOWN  
Tussen: Pleknaam  
and: Name of place on: Pleknaam  
Of / Of  
Street name  
Straatnaam  
Building/farm/plot/place MAGISTRATES COURT  
Gebou/plaas/plot/plaek  
Suburb/Extension/Area  
Voortstad/uitbreiding/Gebied  
Town/City  
Dorp/Stad  
Postal Code  
Poskode  
Geographical block no. Type of premises LEGAL  
Geografiese blok no. Tipe perseel

01/05/2008  
Date/Datum

ER  
Signature/Handtekening

In a case of theft of a vehicle the statement must be continued on form SAPS 3M(c).  
In a case of theft of a firearm the statement must be continued on form SAPS 3M(d).  
In all other cases the statement must be continued on blank folio paper.

In die geval van diefstal van 'n motorvoertuig moet die verklaring op vorm SAPD 3M(c) voortgeset word.  
In die geval van diefstal van 'n vuurwapen moet die verklaring op vorm SAPD 3M(d) voortgeset word.  
In alle ander sake moet die verklaring op 'n blanke foliopapier voortgeset word.



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*for my mother and me*, 2008.

Ink on digital collage, inkjet on Hahnemühle paper.

31 x 22cm.

The image *for my mother and me* was produced in 2008. It triggered many conversations about the court experience which we had shared in 1985.

At the time that I produced the collage, however, the choices I made in the process were not overtly self-aware. Instead, I almost instinctively collected, manipulated, cut, coloured and scratched the print, documenting a wooden tableau of the Magistrate's Court. The two figures I inserted were sourced from the internet: a doll and the cartoon figure, Wonder Woman, whose magic lasso can make anyone tell the truth (Rosen, 2006: 138). The doll is camouflaged with the texture of the wood, losing all doll-like features except for her very distinctive shape, small body and oversized head. She would almost disappear into the image were it not for a seeping red stain across her body. Wonder Woman, instead of wielding her lasso, is bound by it, strangling her movement and draining her of colour. The two figures interact with a third, already present. The man, part of the tableau, is kneeling to the left, one hand reaching out for them. In offering? Or to beseech the doll figure?

All of this bubbled to the surface of the collage many years after my court experience, after I had set up the framework for my research into the abstract concept of redress. The act of collecting and studying the evidence triggered my subconscious memories of my own court experience. It feels uncanny for me to look at this image now, as it recalls our experience so vividly.

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An experience I share not only with my mother, but with all women and children who have had the guts to participate in the judicial system in an attempt not only to redress emotional and physical harm for themselves, but for all citizens.

Signed:

Date:

University of Cape Town

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**CASE DOCKET**                      **DATE: 30.05.2008**  
TO:                                      Det. L. Prince  
FROM:                                  Adv. Alice  
CASE NO.                              001/05/2008  
SUBJECT:                              RE: OPENING OF A CASE

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of 2010.**

Dear Detective Prince,

Since 1994, law and notions of redress have been central to cultural and social debates in South Africa. This case is therefore interesting because it reveals the incomplete nature of these debates. In his book, *The Strange Alchemy of Life and Law*, Justice Albie Sachs describes his experiences as a judge. He points out, in particular, how his experiences as a judge mixed with his personal life – neither could be separated from the other. His admission is revealing because law, or rather the judicial system, is shown to have a direct effect on who and how we are, which in turn affects the law (Rosen, 2006: xi-xiii; Masson, 2007: 16). This applies whether or not one is part of the official mechanism of the system, as Justice Albie Sachs is. Perpetrators, offenders, victims, witnesses, advocates, families, reporters and the public all participate directly in the performance of law. For non-participants of this system, the day-to-day lived experience of the judicial system and “court life” often appear far removed from immediate experience. This is misleading, in that the effects of law and justice can be felt far beyond the context of the judicial system, and go through into the informal delivery of justice. It is a value that informs our code of interaction with and behaviour towards ourselves and others: “This is where justice is delivered by each one of us in our daily activities” (Gavrielides, 2007: 255).

Dominique Jeannerod argues that any attempt to understand a legal institution requires an understanding of the cultural and social context within which it is embedded in the same way that legal texts are dependent on an understanding of legal theory. For this reason, Jeannerod examines the legal issues reflected in detective fiction to give life to legal abstractions. She argues that this functions “... as a system of protocols of the depiction of human behaviour and inner representations [which] can provide tools for a firm grasp of the manner in which law functions in society” (Jeannerod, 2007: 23).

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The prosecution contends that the expectations of the judicial system, held by general society, are often founded on its representation within the cultural domain. This understanding influences the judicial system, which in turn influences how one interacts with the judicial system. Pierre Bourdieu noted that “[t]he Law certainly makes Society, but no one must forget that Society also makes the Law” (in Masson, 2009: 15). This insight is shared by Lawrence Rosen, who invites us to see “law as constituted by culture and culture (in no small way) by law” (2006: xii). “To understand the power of Law, we must stop looking so much at the commands of legal institutions and start looking at the legal imagination” (Kahn in Jeannerod, 2007: 23).

For that reason, I believe this case should adopt a non-institutional approach to legal phenomena, replacing abstract formal concepts of law, justice and redress with a symbolic order. Through representations which deal overtly or indirectly with the realm of the legal, we shall give life and substance to what appear to be mere legal definitions (Jeannerod, 2007: 26). I have attached LEAD 001 for your inspection, an unofficial representation which compares the judicial system to a giant creature that no one can kill. Could this be a clue? For subjects of law, i.e. citizens, legal appropriation happens on a symbolic level, in this manner becoming concrete (Jeannerod, 2007: 23). The judicial system is not isolated, but exists within a cultural context, and this context in turn influences the system in an endlessly repeating cycle.

Detective, in my opinion further investigation into redress, both aesthetic and judicial, is warranted. Throughout this case we shall conduct ourselves as upstanding citizens of detective fiction. This is only fitting, as detective fiction is an account of the protagonist’s perception of law (that’s us) and hence, a narrative of subjective interpretations of legal processes as experienced by the author (the complainant – our client) (Ewick in Jeannerod, 2007: 270).

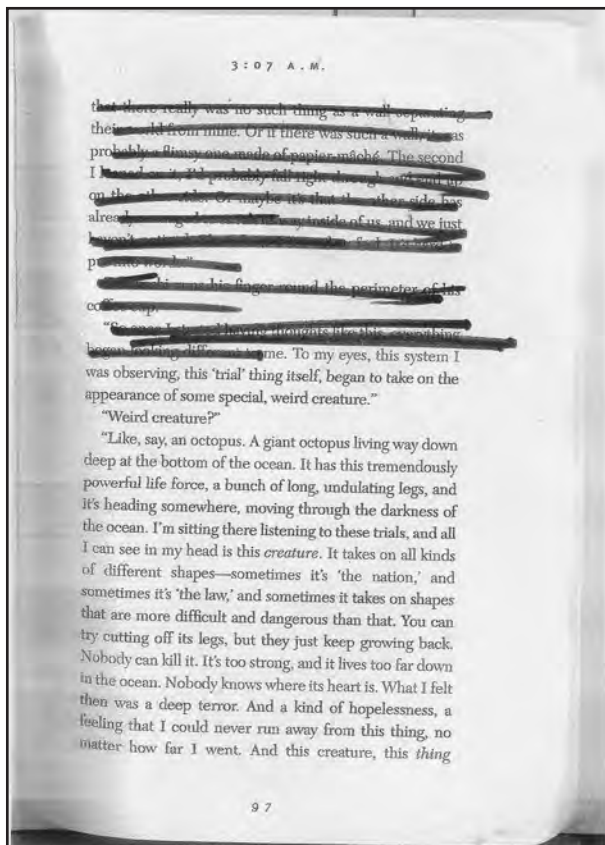
So, Prince, for once in your life please be serious. If we are to proceed with the case, we need some form of precedent. Please apply yourself to finding something useful in this general direction.

Regards,

Adv. Alice

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LEAD 001 An unofficial representation of the Japanese  
legal system in *After Dark* by Haruki Murakami, trans. Jay Rubin  
(Murakami, 2004: 97).

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<b>CASE DOCKET</b>	<b>DATE: 15.06.2008</b>
TO:	Adv. Alice
FROM:	Det. L. Prince
CASE NO.	001/05/2008
SUBJECT:	AESTHETIC REDRESS

Dear Adv. Alice,

I think you'd best leave the detecting to me. The word *redress* as a verb can be separated into the Latin prefix *re* meaning "again, back", and the Old French verb *dress*, meaning "arrange" (Pearsall, 1999: 435) (Dictionary.com, 2010b [Online]). Written out as a formula the definitions can be read as:

**redress = back + arrange + again**

where redress is the aim and back + arrange + again is the process. This formula represents a real life, subjective process of emotional transformation. The concept of what makes good is defined by the individual subject involved in the process. The judicial system applies legal processes in an attempt to achieve redress for its subjects. This process fixes positions of truth and fiction to establish a harmful act and to take action in an attempt to re-establish the situation which would, in all probability, have existed had that act not been committed (Redress, 2010 [Online]). To understand these processes better, I suggest we make visible this abstract argument by situating the formula in the aesthetic realm. The formula could then read as follows:

**aesthetic redress = research + reconstruction<sup>1</sup>  
+ reinterpretation.**

This process of transformation, which I tentatively term aesthetic redress, is the result of a process whereby specific objects of the past are rearranged in a new context, thereby giving rise to new meaning. Objects can, visually and symbolically, carry the past into the present. I therefore have the sense that the aesthetic process will be helpful in making processes of redress more tangible. Both processes (the legal and the aesthetic) use objects to reconstruct an event/experience. As things progress these objects will become the very evidence we need to successfully resolve this case.

Objects and their patinas bear visual markers of provenance and of story. Lifted out of the past, into the present and organised into new configurations and relations, objects lose some of their original meaning, but simultaneously gain new meanings. Obsolete functional objects, which become available for artistic appropriation, break the uniform progress of time, e.g. by changing the status of the object: all its relationships are renegotiated in the present. Walter Benjamin described this in his reading of Aragon's *Le Pasjan de Paris (Paris Peasant, 1926)*, in which a shop filled with old walking sticks transforms into a mythical landscape and gives rise to a legendary poem (Iverson, 2004: 85). This art historical precedent sets the stage for Jacques Rancière's clash or breaking of past and present, which creates disagreements that challenge the enforced binaries affecting the viewer. He describes this clash as "the game", a strategy applied by those artists engaged with critical art<sup>2</sup> which is only possible because there are existing relationships between politics and art (Rancière, 2004: 86, 88).

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The Game  
Jacques Rancière

Advocate, are you aware of the Critical art movement, born in the late 60's and early 70's (Reiss, 1999: xi - xii)? In its earliest form it undertook to interrogate visual representations and systems of social institutions such as the media and the arts (galleries, the museum and the art object) to exercise critique of their inherent systems. They did so by mimicking and internalizing the processes which the institutions were structured on, to construct truth (Maimon, 2009: 85). As a result, the artist's personal mark almost disappeared altogether. With this disappearance, however, art's affective experience also tended to wane. I suspect this may be of concern to our investigation later on, but only time will tell.

Critical Art

However, the shift Rancière (and later Maimon) observed took place around 2004. The focus of critical art is no longer on social critique that unveils reality. Rather the process makes visible inherent undecided positions using forms of staging that either enable political forms of subjectivization, as Rancière suggests, or a form of co-appearance which facilitates a facing of the social with itself, as Jean-Luc Nancy proposes (Maimon, 2009: 108). In short, critical art no longer attempts to critique, but rather attempts to offer alternatives for emancipated subjectivities.

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of 2010.**

The roots of his argument can be traced to Felix Guattari's remark that "through interacting with one another, with other objects and with other 'means of expression' we create new possibilities of life just as an artist creates from his colours on his palette" (Guattari in O'Sullivan, 2006: 238). This is one step towards a process of redress aimed at affirmative transformation, or what Maimon terms the enabling "process of subjectivisation beyond 'empirical' counts" (Maimon, 2009: 103).

## The Game

This is a manifestation of Rancière's clash. In this game of heterogeneous objects, history, memory and the present straddle one another and simultaneously deconstruct meaning in a Derridian sense, opening up new spaces. Advocate, just to clarify, although Derrida considered deconstruction in relation to text, similar observations can be made with regard to music and art (Cobussen, 2002 [Online]). Critical art dissolves heterogeneous objects (materials, images and messages) into objects with multiple signs, standing in as props and icons of ordinary life. (Rancière, 2004: 88). This overload of meaning attunes our consciousness to the fragility of those signs. Increasingly, our pleasure is derived just from this play with the undecidable, thus changing our procedures and protocols for reading the signs. Rancière sees this "deconstruction of materiality" as the constructive aspect of critical art that is key to aesthetic redress.

## Critical Art

I would argue that what you propose functions similarly, as it does not attempt to critique the processes of redress as facilitated by the judicial system, but rather attempts to facilitate affirmative strategies of transformation through a process of restaging heterogeneous objects. Thus our "game" plays with processes of aesthetic and judicial redress in an attempt to offer a critical sign-play between different discourses.

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Am I serious enough for you yet, Alice?

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of 2010.**

The Game

This game, the play between different aesthetic politics, is not new. It has been around since modernity. We can trace it back to surrealist collages which influenced writers and artists, from Bertolt Brecht and Martha Rosler to Georg Hegel, who declared the “end of art”<sup>3</sup>. However, it is precisely from this moment that new art emerged, as it allowed objects to cross the border from the realm of art to life/commodity and vice versa. The borders had become permeable due to museums’ multiplication of temporalities. This resulted in a linking of the artistic with the historical. From then on, any object could be elevated to being “viewed as a poetic body wearing traces of its history” (Rancière, 2002: 143). “By becoming obsolete, unavailable for everyday consumption, any commodity or familiar article becomes available to art, as a body ciphering a history and as an object of ‘disinterested pleasure’”(Rancière, 2002: 144). This translation functions in both ways, as any art object can also become obsolete. These processes reveal an ever-increasing sensitivity to the hidden lives of objects and their mediating potential (Rehberg, 2010: 54). Rancière argues that what this process does is to transform the artist into a decipherer of the unconscious of society, which is engraved in the ordinary (or in our case, I suspect, the courtroom) (Rancière, 2002: 145). This process makes society aware of its own hidden fantasies, which according to Rancière, dear Alice, could be featured as a phantasmagoria (Rancière, 2002: 145).

I believe that these object-subject relations are crucial to the process of aesthetic redress, as the relations deconstruct social and cultural binaries, such as soul/body; internal/external; masculine/feminine; centre/margin; truth/appearance, to name but a few (Irvine, 2004 [Online]). This opens the reading of relations to a diversity of positions, which by its nature is opposite to a legal reading which fixes positions. In conclusion, I believe my exposé into aesthetic redress, reliant as it is on the permeable borders of art and life, should be the point of departure for your investigation.

Your humble servant,

Det. Little Prince

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**Act No. 1  
of 2010.**

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1           The term reconstruction is used here because in the judicial system evidence is used to reconstruct a real event, i.e. to form an impression, model, or re-enactment (of something) from evidence (Pearsall, 1999: 1197). This process is, however, more akin to a reconfiguring, i.e. to a rearrangement in a particular configuration or order (Pearsall, 1999: 299)

2           Other forms which could also fall under the umbrella term of critical art are politically engaged art, resistance art and art activism, but they do not play a crucial role in the processes of this paper.

3           “Once the Romantic stage had been reached (which Hegel believed had occurred during his lifetime), art will have completed its evolution and would cease to develop further. Art will have served its usefulness, the role it played in helping the Spirit reach full self-realization, and the evolution of human consciousness would be over, its purpose fulfilled. There would no longer be any need for images and symbols and therefore no longer any need for any art by which they would be expressed. Art would come to an end” (Witcombe, 2010 [Online]).

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<b>CASE DOCKET</b>	<b>DATE: 23.06.2008</b>	<b>Act No. 1</b>
TO:	Det. L. Prince	<b>of 2010.</b>
FROM:	Adv. Alice	
CASE NO.	001/05/2008	
SUBJECT:	RE: AESTHETIC REDRESS	

Dear Det. Prince,

Well done, detective. I have compiled two full reports on the precedents I feel reflect a process of aesthetic redress most succinctly:

### PRECEDENT 1

Dinh Q. Lê, *The Farmers and the Helicopters* 2006.

For *The Farmers and the Helicopters* (2006), Dinh Q. Lê collaborated with Tuấn Andrew Nguyen and Phù-Nam Thúc Hà to produce a three part project beginning with the rebuilding of a Bell UH-1 or “Huey” helicopter. Secondly, Lê produced *The Chronology*, containing a list of wars against Vietnam intermixed with American-Vietnam war movies and the timeline of the two collaborators constructing and testing the Huey. Both of these are captured in a three-channel high definition colour video installation (Cruz, 2008 [Online]).

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Dinh Q. Lê in collaboration with Tran Quoc Hai, Le Van Danh, Phu-Nam Thuc Ha, and Tuan Andrew Nguyen, still from *The Farmers and The Helicopters*, 2006. Three-channel video (colour, sound), 15 min., and helicopter (artdaily.org, 2009).

The video becomes a poetic counterpoint for the wondrous pieces of flying machinery built by a self-taught mechanic and farmer, driven by a desire to ‘own’ a flying machine. In 2003, they completed their first helicopter, constructed using aviation and other machine scrap collected from around the Tay Ninh Province, which had been home to the US military. The nature of the found material and the lack of specialist knowledge turned the helicopter into what Joselina Cruz describes as a patchwork affair: “Despite the bright wash of paint, one can see the inconsistent edges of the shell, wheels that seem to have come off a small tractor, the pilots chair taken from a car” (2008 [Online]). Their aspiration was to emulate the objects’ presence rather than its gleaming technology: “Lê-Tran’s Huey is boxy, almost rectangular; it is ungainly, unbearably clunky-looking. One wonders if it ever flew” (Cruz, 2008 [Online]). It did. In 2002 they were granted permission to do a test flight (Lê, 2006 [Online]). The Huey, however, remains an art work, which unlike other helicopters deployed in the war, ultimately found its way back over the Pacific and into the collection of The Museum of Modern Art.

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of 2010.**

Dinh Q. Lê in front of the home-made full-sized helicopter built by Tran Quoc Hai and Le Van Danh. Singapore Biennale 2008, South Beach Development © Photo: Haupt & Binder (universes-in-universe, 2010 [Online]).

It was this choice of material which struck a chord with me when I was considering Lê's process of aesthetic redress = research + reconstruction + reimagination. The two collaborators literally returned to sites of the war and collected the residue of manufactured war machines. These damaged, fragile discarded objects come loaded with the history and memory of the past. They used these to handcraft two helicopters, using instructions downloaded from the internet (Mouret, 2007 [Online]).

The collected residue, trash from the aviation and transport system, refers to the real bodies and real sites of violence. By reassembling these, they are transformed in the present. The trash contains imbued traces, markers of traumatic history of a bloody war. It is restaged in the present as a new handcrafted object that slips between readings of chaos and order, obscurity and revelation. By creating something from nothing, the subjects are making a new version thereof. This basic human experience acts as a mirror for society. "The fulfilment of their dream acts to hone their own version of history. It is replete with overtones of reclamation, of having the wherewithal to wrest away bias from larger stories than their own" (Cruz, 2008 [Online]).

The Game  
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of 2010.**

Lê's video invokes the whole spectrum of histories, from the very personal recollections narrated by the Vietnamese to clips taken from American blockbuster war films which reflect a popular western culture and their collective histories and memories of the war (Cruz, 2008 [Online]). Whereas the interviews recall the fear and horror, the American films celebrate the intervention, only to clash with the symbolic dream of liberation pursued by the two farmers.

The work mixes official and unofficial chronologies – the official chronology of the war and of the two farmers is intercut with the chronology of American-Vietnam war films, fictitious war stories which often idealise and celebrate the atrocities of the past. The legacy of the war is thus shown as constructed in nature and far removed from contemporary subjects who witnessed the war.

The two farmers, as an act of aesthetic redress, arrange the debris of the war into new objects, thereby occupying territory outside of the meta-story of the war. Through this act, they claim agency over their future, a future marred by the incredible acts of violence and economic challenge that took place during the American-Vietnam war, and it becomes a constructed and potentially constructive object with the potential to save crops and lives (artdaily.org, 2010 [Online]). This weaving together of different cultural strands of memory and history serves as a metaphor for the mind's struggle to integrate different representations of reality and produce an aesthetic redress (Johnson, 2005).

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**PRECEDENT 2****Act No. 1  
of 2010.**Walid Raad, *The Atlas Group*, 1998-2004.

Walid Raad's *The Atlas Group* (1998-2004) focuses on the deconstruction of the archive, revealing its inherent binaries using found material reinterpreted by real and fictional figures. This process of re-staging is similar to Lê's aesthetic redress, as both artists work with the residue of war. Both use the performativity of an archive to offer processes which propose new subjectivities shaped by the past, but which have moved beyond harm or trauma. However, where Lê plays Hollywood war movies off against the real stories of the farmers, Raad incorporates fictional figures into real stories to destabilise the positions even further. It is this process of reinterpreting the real which is important, as in this manner universal empirical facts are revealed to be corrupt and mythical.

*The Atlas Group* produced an archive of contemporary Lebanon with particular emphasis on the Lebanese civil wars between 1975 and 1991. The physical archives are located in Beirut and New York. They contain audio, visual and literary documents, most of which were produced by Raad. Others are attributed to fictional figures. Their works, however, use documents from the actual archives in Lebanon. Raad, like Lê and the farmers, returns to actual sites to collect "evidence" of the war. However, this work results in an archive that does not document what "really" happened. According to Raad, it documents "what can be imagined, what can be said... what [is] sayable and thinkable about the war" (Raad in Maimon, 2009: 97). It is this reinterpretation of the archive, Detective, which is akin to the processes of aesthetic redress you describe.

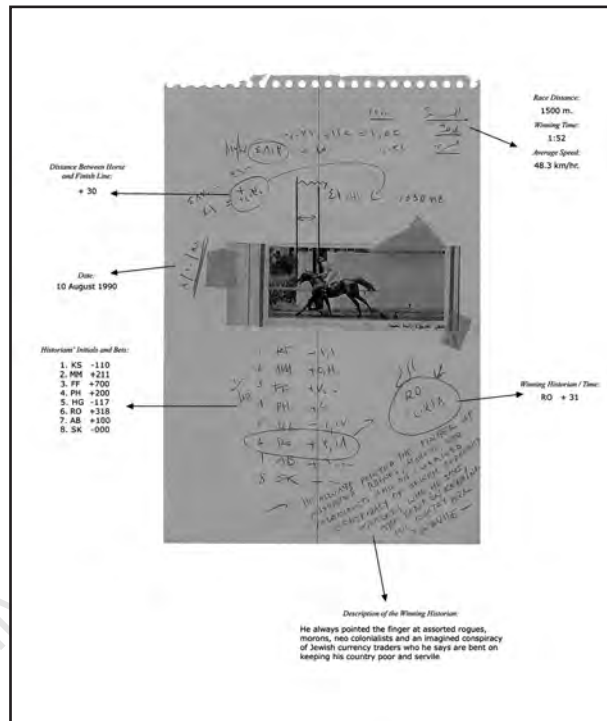
<http://www.theatlasgroup.org>

These processes, the rearrangement of an event or experience to offer affirmative strategies of transformation, come alive though the act of going back – to an actual event or site to collect materials traces of the events which are considered real evidence, for example old helicopter parts, archived documents, or any object of the material culture that could be relevant to the event. This process is based on memory, which is known to be unstable as it is volatile and easily corrupted (Green, 2009 [Online]). Over time, fact and fiction are irreversibly mixed to the extent that, even

Real Evidence  
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of 2010.**

though hard facts and source material are being used, the recreation of a past event will inadvertently be laced with fictitious aspects. Raad uses fictional figures to reveal the instability of the documentation – not to show how this process hides or denies facts and knowledge, but rather to reveal the instabilities of processes which create this knowledge (Maimon, 2009: 103). Detective, this is the shift you observed with regards to critical art.



Walid Raad. *Missing Lebanese Wars*, 1996-2002. Archival inkjet prints, single print, 112 x 127cm (Elsewhere ©, 2010 [Online]).

An example of Raad's use of fictional identities to form new documents for the archive is the *Missing Lebanese War Notebooks* (2004) pieced together by the purportedly renowned historian, Dr Fadl Farh Fakhouri, who allegedly donated all his files to the Atlas Group (Raad in Maimon, 2009: 99). Factual and precise knowledge of the history of the Lebanese war is ascribed to this persona. His collection contains photographic and textual notations of horse races that the historian

purportedly attended every Sunday. These refer to no historical war; however, they do allude to the traumatic effects of war in general (Raad in Maimon, 2009: 99). The artist of this work, who does not occupy the “official role of recording history”, uses freedom of expression to produce alternative narratives and subjectivities. This subversion, of official bureaucratic fact making functions as “discursive noise” (Maimon, 2009: 97-99).

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of 2010.**



Souheil Bachar / The Atlas Group. *Hostage: The Bachar Tapes (English version)*, 2001-2002. (Raad, 2002b [Online]).

Vered Maimon elaborates, using Raad’s *Hostage: The Bachar Tapes (English version)* (2001-2002).<sup>1</sup> Here, the subject matter of identity and collectives becomes explicit through the fictional hostage Bachar, who does not represent an ethnically defined group (the Arab subaltern); rather, the artist exhibits a parody of the subject of politics. Bachar shares the experience with American hostages but at the same time is addressed by them as “the other” who has no part in their experience; he is the “third citizen”, neither American hostage nor American, since what links him is also defined by what separates him. This mode of sharing complicates the simplified notion of “common experience” as it points simultaneously to a possibility and even inevitability of communality but is denied by his seeming “otherness”. In this manner, “positivistic and rational total accounts” are avoided by the splitting of the role of appearance. This splitting creates a miscount of subjectivities, manifest in Raad’s practice due to the absence and presence of the real and fictional.

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of 2010.**

2nd Precedent  
Walid Raad,  
*The Atlas  
Group*  
(1998-2004)  
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“Raad’s archive addresses the imaginary aspects of collective forms of affiliation that are enacted in appearances” (Maimon, 2009: 100). He avoids this kind of positivistic and rational account of community by framing his conceptual strategies using suggestive titles and emphasising performative rather than factual aspects of his archive. This allows his work to move beyond institutional critique as it not only replicates and ridicules forms of rationality, but also challenges the assumption of a “rational communication” altogether. Raad’s work can therefore arguably be understood to articulate a new understanding of politics, one which is bound by imaginary forms of identification (Maimon, 2009: 100), staging what Rancière understands to be appearances of subjectivity which are a simultaneously linked and separated social whole (Rancière, 2004: 87)(Maimon, 2009: 101).

“seeing truth”

Detective, I would argue that Raad’s *Atlas Group* project encapsulates a straightforward translation of aesthetic redress. However, one of my main concerns with this project is that the strategy which employs historical forms of representation is very limited. Would you not agree that art which mimics empirical strategies to destabilise fact production risks replicating the same forms it tries to destabilise? And as a result, perpetuates the elimination of possible disagreement? (Rancière, 2004: 92). Disagreement in this case is not purely a confrontation of interest; rather, it is understood as a process for dis-identification and declassification, in this manner creating new partitions between subjects and roles, names and identities, and speech and noise (Maimon, 2009: 103). I am also concerned that the representations fail to register psychological and perceptual aspects of the violence of war, as they remain unintelligible. I think this is due to administrative form, which is applied to create many of the works that seem to keep the viewer at an emotional distance (Thomson, 2002: 188). Disagreement produced without affect continues to ignore the emotional effects these rational arguments have on subjectivities.

Little Prince, the question which remains for me is, is this distance desirable? And if not, what is to be done about it so that we do not fall into the same trap? Please advise soonest, as the Easter recess is fast approaching and we need to confirm the initial trial

**CASE DOCKET**

**DATE: 02.07.2008**

**Act No. 1  
of 2010.**

TO:

Adv. Alice

FROM:

Det. L. Prince

CASE NO.

001/05/2008

SUBJECT:

THE ROLE OF AFFECT

Advocate Alice,

I'm a little shaken by all this talk of fictional characters, but I did come across some information which should prove most enlightening and will hopefully address some of your concerns. Affective art inverts the distance observed in your second precedent. It brings emotional sensation closer, which, in conjunction with a process of affirmative transformation, could produce quite an evocative combination. The combination of process and affect, I would argue, is the aim of aesthetic redress.

By incorporating affect, the process has the ability to overcome Raad's concern that the artworks fail to register psychological and perceptual aspects of the violence/harm/trauma. The incorporation of sense memory, which "operates through the body to produce a kind of 'seeing truth' rather than 'thinking truth'" (Bennett, 2005: 26) secures aesthetic redress in the realm of human experience. In art history there is a long tradition of engagement with process and affect, that is, art which incites an affective response in the viewer (Bennett, 2005: 28). Engaging with it means, in a sense, to feel it viscerally, thereby triggering a deeper reinterpretation of the research + reconstruction. This affect is termed "sense memory" by Gilles Deleuze<sup>2</sup>, and is understood to run deeper than visual memory (Bennett, 2005: 36). Artistic inquiry of this kind moves outside of a representational practice that aims to comment on a subject matter. Instead, it generates sensation to produce an encounter in the present as a means of producing understanding. I believe that this is of great pertinence for the processes of aesthetic redress, as "[e]motions are felt only as they are experienced in the present; as remembered events, they become representations" (Bennett, 2005: 22).

William James observes that emotions are not retrievable from memory; however they are revivable

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hearing, else this case will drag out indefinitely.

Thank you,

Adv. Alice.

University of Cape Town

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from memory. Recalling a situation that produces sensations such as loss or happiness produces a new bout of emotion (Bennett, 2005: 22-23). Normally experiences are processed through cognitive schemes which allow familiar experiences to be identified, interpreted and assimilated into written or verbal narratives, explains Pierre Janet. In this manner experience is transformed into representation, with the exception of extremely traumatic or affective experiences. In the latter experience, the unfamiliar or extraordinary nature of the experience is unintelligible and the cognitive system is overstretched. According to Janet, “the subject is often incapable of making a narrative memory regarding the event” (Janet in Bennett, 2005: 23).

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In the past, both psychology and aesthetics have argued that trauma resists representation. However, in the 1990s trauma studies prompted a re-evaluation of the modernist literary text, poetry and specifically Holocaust or war testimony, all of which bear an imprint of trauma rather than a narrative of traumatic experiences (Bennett, 2005: 22). Theorists of trauma and memory therefore turned to visual and performance art. Both fields share a long tradition of engagement with affect and the immediate experience, and both not only make use of trauma and memory as inspiration or objects of representation, but they become fundamental components of relations between the artwork and spectator, so that the artist and viewers may become “a spectator of one’s own feelings” (Bennett, 2005: 22).

“seeing truth”

The art of sense memory is less the art of a pure personal or subjective expression than an enactment of the uneasy relationship between common memory and that which threatens its coherence: a manifestation of lived experience of an inside and an outside. In recent times we have seen this most clearly demonstrated in work documenting the experience of living with AIDS – work that is concerned with a form of traumatic experience that is beyond the established forms of representation, but is simultaneously bound up with the continual negotiation of the interface with social and cultural institutions.<sup>3</sup> The language developed to express the particular nature of this experience manifests not only in a form of sense memory but a sense of how such memory might cut across common memory, revealing a kind of *truth* that

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of 2010.**

alludes to the moral organisation of common memory (Bennett, 2005: 27).

## Sense Memory

Deleuze asserts that artists think in terms of sensations that are generated through the artist's engagement with the medium. For example, a painter expresses this through colour and line. However, this expression of sense memory is not the residue of the painter's self-expression or the property of some prior self. Deleuze argues that it emerges in the present as it attaches itself to the figures in the image (Bennett, 2005: 37). "Sensation is what is being painted, what is being painted on the canvas is the body, not insofar as it is represented as an object, but insofar as it is experienced as sustaining *this* sensation" (Deleuze in Bennett, 2005: 37). This shifts the emphasis from expression to production, from object to process, wherein sensation is the modus, not the subject. This process is experienced not as a remembering of the past, rather it is the "continuous negotiation of a present with indeterminable links to the past" (Bennett, 2005: 37-38). Sense memory is thus more a *speaking out* rather than a *speaking of* (Bennett, 2005: 38). This model of viewing evokes a memory image which does not maintain the separation between an interior subject and its exterior; rather, it activates and realises connections between the inside and the outside in an attempt to establish a basis for empathy (Bennett, 2005: 44-45). Therefore, "seeing truth" can be understood to be part of the process of aesthetic redress in order for affirmative transformation to take hold. Inversely, one can observe that judicial redress can be argued to rely purely on a "thinking truth".

In the context of aesthetic redress I think it's important to note, Advocate, that Deleuze's sense memory does not represent original trauma, but enacts a state or experience of post-traumatic memory which haunts the survivor later on and is therefore an issue of the present (Bennett, 2005: 40). Deleuze also observes that to question how this "seeing feeling" is achieved, one should not look for the meaning, but rather the production of answers, as it is "the how" which allows affect to "lead to a critical understanding that undercuts rather than affirms the bounds of subjectivity, thereby taking us beyond ourselves" (Bennett, 2005: 41, 104).

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Well, Alice, that should just about point your looking glass in the right direction! Let me know what you find.

**Act No. 1  
of 2010.**

Yours faithfully

Det. L. Prince

University of Cape Town

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of 2010.**

97). Kentridge, on the other hand, mimics processes of the commission in *Ubu*, using the narrative to show how it is to live with the burden of history and to create a work which affects the viewer sensorially. In his GIPCA lecture<sup>4</sup>, he emphasised the process as his focus for creative production, which is triggered by research that evolves as he deconstructs and reconstructs an idea (Kentridge, 2010 [Online]). This process of making includes productive misunderstandings, and plays with fact and fiction to produce an artefact – that which is called art. For him art, much like life, is a journey. Unlike life, though, in the realm of art one can go back in time. He compares the product of this process to an incomplete riddle or a detective story which the viewer attempts to solve. This complements the human experience, as it is in our nature to try and solve a riddle (Kentridge, 2010 [Online]).



*Ubu and the Truth Commission*, 1997. (Written by Jane Taylor). From the production by William Kentridge and The Handspring Puppet Company (Handspring Puppet Company, 2002 [Online]).

PRECEDENTS

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**CASE DOCKET**

**DATE: 29.09.2008**

**Act No. 1  
of 2010.**

TO:

Det. L. Prince

FROM:

Adv. Alice

CASE NO.

001/05/2008

SUBJECT:

RE: A PRECEDENT OF  
AFFECTIVE AESTHETIC  
REDESS

Det. L. Prince,

Don't be too disturbed by your apparent fictional status, you're in good company. Please find attached an investigation of William Kentridge's *Ubu and the Truth Commission* (1997), produced in collaboration with the Handspring Puppet Company. I think this might be the precedent we need with regard to affect and art. I have added a summation of Precedents to date.

Kind Regards,

Adv. Alice

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of 2010.

**PRECEDENT 3**

William Kentridge, *Ubu and the Truth Commission* 1997.

William Kentridge is described as a political artist, not because he engages with slogans and programs, but because his work emerges from the South African historical context as a “reconfiguration of the inescapable” (Hickey, 2009: 18). He incorporates sense memory into his production of “dialectical images”. These, he declares, make us the beings that we base our personal and collective histories on. Yet simultaneously we make our “own history”. His argument echoes Jean-Luc Nancy’s “being-in-common” (Nancy in Maimon, 2009: 106). This is what links Kentridge’s work to Raad’s. However, one can also observe that what separates the work is the absence of affect in Raad’s work, which is clearly present in Kentridge’s Soho films and his puppet play, *Ubu and the Truth Commission* (Hickey, 2007: 25).

Sense M  
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In this latter work the markers of trauma and the traces of erasure remain visible and in the present. In reality, however, markers of a traumatic event often vanish swiftly.

... [Perhaps] images from photographs and documentary films may have been seen [to recall events]. But at the site itself, there is almost no trace of what happened there. It is an area that is still used, an area in which people live and go to work. There are no bloodstains. The ghosts of the people do not stalk the streets. Scenes of battle, great and small, disappear, are absorbed by the terrain. (Kentridge in Hickey 2007: 56)

The works of Kentridge, Raad and Lê repopulate these scenes in what can be seen as an aesthetic redress. Where Lê plays with the real and the mystical imagined creature that is the helicopter, Raad and Kentridge play with fictional identities that are often based on real identities, to create new forms of narrative which inform their works. This links the problem of knowledge to the allocation of roles. Raad’s work mimics the archive, thereby asking what constitutes reliable historical documentation of a traumatic event (such as a civil war). He also shows that this is inevitably linked to the question of who has the right to think and produce knowledge (Maimon, 2004:

*Ubu and the Truth Commission* (1997) was directed by William Kentridge and written by Jane Taylor. The script is based on original testimonies of the TRC<sup>5</sup> and Alfred Jarry's 19th century character of Ubu Roi (Handspring Puppet Company, 2002 [Online]). This process involved research and reconstruction to not only explore emotion per se, but also to allow the intensities of affect to flow in and out of the characters. Played out with affect, the story thus enables the work to go beyond the psychological and emotional. To do this it brings binaries into play (such as the perpetrator-victim and / or past-present) with the fictional, while at the same time incorporating and playing with emotions, psychology and agency. As a result it produces an affective experience.

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memory

*Ubu and the Truth Commission* used the documented testimonies of the TRC to create a play which re-staged the process using fictional figures and stories based on actual people and events. The puppets and the puppeteers who presented the characters of the play occupied the stage throughout the performance, enacting the testimonies of victims and perpetrators alike. In this manner, *Ubu and the Truth Commission* examines the reception of testimonies, adding a critical dimension to the body of testimonial media and art, where:

The emotion of the witnesses are themselves part of the production in this case, broken into discrete elements (a hand gesture, a nod, a speech inflection) that each appear to require the labour of the manipulator. The elements of this performance, separated and subjected to a redistribution of affect allow us to bring to life a puppet-witness as easily as drain her of life, to feel not just the emotional impact of testimony but the effects of caprice on character and disposition. Even as we *feel into* the body of the witness, we cannot indulge in an identification with character, except insofar as we experience these tiny elements of character performance in isolation (Bennett, 2005: 123).

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of 2010.**

'seeing truth'  
690

Empathy produced in this space of encounter is partially produced by the effect of being touched by another, combined with the effect of *seeing oneself feeling*, as one catches oneself in the act of acting (Bennett, 2005: 123).



William Kentridge. *Ubu tells the Truth*, 1999.  
Film on DVD (Exporevue, 2001 [Online]).

Michael de Certeau points to one of the problems encountered by the TRC, a problem which echoes concerns of aesthetic redress, when he asks what kind of present it is that is constructed in this process of court-like public hearing. A process which changes chronological history into one that is different from the one that could have been (de Certeau in Dubow, 2007: 50). Here the “temporal delineation is part of the remedial relation of sickness to cure, of retrieval to reflection to repair” (Dubow, 2007: 50). It reveals the problem of temporality, a codification of time linked to the synthesising of a restored body-politic (Dubow, 2007: 50).

Walter Benjamin describes it as a clash of past and present objects, which release their dialectic significance when re-enacted in a contemporary experience. In Benjamin’s terms, the belated appearance of the truth is “the moment of temporal rupture [which] bespeaks an awakening to history, that perilous moment in which time is seen to ‘put on its true – surrealist – face’” (Benjamin in Dubow, 2007: 53). This instance, a site of catastrophe, can only be known retrospectively<sup>7</sup> (Dubow, 2007: 53). Detective, you see, this can be understood

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as a precursor to Ranci re! In Kentridge’s work, this clash hints at the falsity of the categorical separation of temporalities and the ideological power which is used to sustain the separation. Through the process of the re-materialization of the mark, a process that restores the visibility of the trace in his landscapes, Kentridge’s animations are haunted by ghosts who “suffer the memory but lose the narrative” (Derrida in Dubow, 2007: 55-58). In this manner, the impossibility of ever fully mastering that which took place is acknowledged and transformed into an affirmative strategy which may give rise to new subjectivities (Hansen in Dubow 2007: 58).

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**Act No. 1  
of 2010.****SUMMATION**

Now pay attention, Little Prince: aesthetic redress, while offering the possibility of affirmative transformation, shares with Kentridge's example an inability to ever fully master the past, as these processes are never complete. However, this gap is overcome through an affective experience triggered by sense memory, which creates a "seeing truth" that can take us beyond ourselves. Thus, the core concern of this project is not the trauma of violent crimes; rather it is the *act* of redress, a process one cannot empirically measure as it involves complex human experiences.

This visual representation of redress is a symbolic act which affects contemporary subjectivities in a manner not dissimilar to the affects of rose windows in the Middle Ages<sup>7</sup>. The contemporary function is applied to reveal the inherent undecidability of the order, in this manner destabilising traditional social constructs anchored in the systems which govern citizens.

I argue that this affirmative transformation is achieved through the process of *back + arrange + again* where: *back* stands for research which involves collecting actual evidence, *arrange* is the reconstruction of this evidence in some aesthetic form to produce an affective encounter, and *again* stands for reinterpretation, triggered by sense memory. This shifts the emphasis from expression to production, from object to process, in short, your fiction to the facts of this case – sensation is the *modus operandi*, not the subject.

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1 “*Hostage* is composed of videotapes allegedly produced by Souheil Bachar together with the Atlas group. A fictional figure, Bachar is presented as having been kidnapped in Beirut in 1983 and imprisoned for ten years in solitary confinement – except for twenty-seven weeks in 1985 when he was held in a cell with five American hostages, among them Terry Anderson and Thomas Sutherland. In conversation with Vered Maimon, Raad explained that the figure of Bachar is based on a real Arab captive, Wajd Doumani, who was held together with the American captives and is mentioned, among others, in Terry Anderson’s account of his captivity experiences. Efforts to find Doumani failed, thus Raad created the figure of Bachar who is played by well-known Lebanese actor Fabi Abi Samra. According to Raad, [Doumani] was the only Arab to have been held with Westerners. *Hostage* originated as a response to the real life fact that all five of the Americans referred to in the piece published depoliticized books about their captivity experience, telling their stories in personal rather than public terms” (Maimon, 2009: 101-102).

2 Deleuze’s concept of sense memory is developed from the *encountered sign* which he formulates in *Proust and Signs*. This sign differs from a recognisable object as it can only be felt or sensed. Its affect is not only a passive bodily experience, as it also stimulates thought, “compelling and fuelling inquiry rather than simply placating the subject” (Bennett, 2005: 36). It therefore has the capacity to engage on the emotional, psychological and sensorial level. Of importance for Deleuze is that the affective actions of the image are linked to thinking processes in such a manner that neither the affective experience (sense memory) or the representation (the common memory) dominates (Bennett, 2005: 36).

3 The body of writing, painting , photographic collage, and performance work of the late David Wojnarowicz exemplifies this well. See Wojnarowicz, D. 1991. *Close to the Knives: A Memoir of Disintegration*. New York: Vintage Books (Bennett, 2005: 161).

4 *Putting the S into Laughter* was the title of William Kentridge’s guest lecture at UCT’s Gordon Institute for Performing and Creative Arts (GIPCA ) Great Texts/Big Questions public lecture on 8 April, 2010.

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5 Dear Detective, I'd like to point out that the TRC was conceptualised as a public confession that was divorced from the retributive justice system, a system that was set to act as a corrective "national history lesson". Instead, the process has been more like a "re-historization of civic life grafted on acts of redemptive reflection", a process that attempted to confront the past in order to affirm the uniqueness of the present (Dubow, 2007: 50). It offered those who perpetrated politically motivated abuses the option of a new "ethical subjectivity" through a process of confession and, on the other hand, victims were presented with possible reincorporation into the social. This specific process of redress was played out under the glare of the media, a process that imposed a spectacularising imperative onto the new nation's curative project. This was not without problems, as the media influenced the procedures, which in turn influenced personal understanding of TRC projects (Dubow, 2007: 50-51).

6 Based on Shoshana Feldman's observation of the psychoanalytic experience in "Education in Crisis" in Feldman, S and Laub, D. 1992. *Testimony: Crisis in Witnessing in Literature, Psychoanalysis and History*. London and New York. Routledge (Dubow, 2007: 53).

7 Medieval theologians were mindful of the capacity of images to address viewers' own bodily memory. Medieval devotional imagery was intended to trigger an affective response that touched the viewer in such a way that the effect itself was felt rather than seen. There has been an observable shift from the affect as triggered by medieval representation to an art that reproduces the world, as developed within the Renaissance conception of representation. This is where Gilles Deleuze's "sense memory" comes into play: a form of memory which is distinct from thought, but which equally functions as a way of producing some kind of understanding of the world around us and our human experience (Bennett, 2005: 36).

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**INVESTIGATION REPORT****Act No. 1  
of 2010.**

**DATE:** 04.10.2008  
**TO:** Adv. Alice  
**FROM:** Det. L. Prince  
**CASE NO.** 001/05/2008  
**SUBJECT:** CRIME SCENE

Dear Adv. Alice,

I thought you'd never ask. Let's take a look at the crime scene.

The scene of the crime in this case is the courtroom, a space which facilitates processes of redress. The space represents a specific social system, namely the judicial system, which serves a very specific function in society. The judiciary polices law, applies law and adjudicates punishment and redress in an attempt to maintain a just society (NPA, 2008: 2). This system is put in place by the state (Sikakhane, 2010: 21):

An effective state is at the core of the reciprocal relationship that the state has with its citizens. People expect the state to provide them with certain benefits, including security, justice, enabling conditions for the pursuit of economic livelihoods, as well as public services such as education and health care. In return, they pay taxes, accept the state's monopoly on coercive force as well as other restrictions to their freedom according to the law (Sikakhane, 2010: 21).

The failure of the state to keep its end of the bargain results in a loss of confidence and a loss of legitimacy. These are derived from three sources: service delivery, socially accepted beliefs about authority, and appropriate accountability mechanisms (i.e. process legitimacy). This body of work looks, albeit obliquely, at the loss of confidence in the rule of law due to its ineffectual redress of violent crime (Sikakhane, 2010: 21).

Laden with colonial and apartheid histories, the South African judiciary is far from a neutral space. Imported in Dutch colonial times, it came with a preconceived patriarchal bias which was appropriated to perpetuate racial bias during the apartheid regime (Nadima, 2001: 5). Today, the judiciary attempts to

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redress the legacy of apartheid, which has left the nation riddled with inequality and violent crimes (Sachs, 2009: 9-34; Mkhize, 2009 [Online]; Mistry, 1997 [Online]).

In the weeks to come I will arrange to visit the crime scene and start collecting photographic documentation of courtrooms – should the case go to trial.

Impatiently,

Det. L. Prince.

University of Cape Town

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**INVESTIGATION REPORT****Act No. 1  
of 2010.**

**DATE:** 23.10.2008  
**TO:** Det. L. Prince, Prosecuting Team  
**FROM:** Adv. Alice  
**CASE NO.:** 001/05/2008  
**SUBJECT:** THE TRIAL AS THEATRICAL FORM

Dear Det. L. Prince,

I understand your urgency; be advised, this case will go to trial.

With that out of the way, if we are investigating processes of judicial redress we will have to critically interrogate the performative aspects. You've already made the first step by identifying and isolating some aspects of the crime. For your information, I have attached my research inspired by Susan Sontag's statement:

"The trial is primarily a theatrical form."  
(Sontag, 1966: 126)

She is not the only one to have made this observation. William Kentridge also commented on the theatrical aspects of the TRC, held in public halls and broadcast nightly (Cole, 2007: 167-168). As recipients, the audience played a role in this performed drama of testimonies (Bennett, 2005: 104). The judicial system, it turns out, is not that far removed from the visual system that Jean-Francois Lyotard describes as "the theatre of representation".

Lyotard explicates the theatrical representation apparatus by analogy with the perspectival painting of the Italian renaissance. In the realm of painting, these spaces correspond to the surface and the technology of the painting that is the medium. The image and the position prescribed for the viewer by the perspective account for the stage and the viewer. However, perspective is more democratic when experienced directly in situ, that is, in three dimensional spaces (Readings, 1991a: 93).

The division outlined for painting is identical in the world of theatre, where there is a backstage area (3), a stage (2) and an auditorium (1); the backstage is divided from the stage, the stage from the auditorium, and the auditorium from the world. Detective, I have attached a copy of this DIAGRAM 001. Each space is

DIAGRAM 001  
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assigned a number for easy identification (Readings, 1991a: 93). Lyotard observes that the “representational system positions its viewing subject inside the system” (Lyotard in Readings, 1991a: 94). He further notes that the effect is not of illusion, but of seduction, which comes from the sense that one is divided from oneself, that there is a scission. Lyotard’s observations do not criticize the ideological falsity of this effect, but consider the performance as an apparatus used to avoid the language of illusions that one can easily slip into when considering representation. The form of critique that Lyotard employs questions the border between the stage and the auditorium and who it is that speaks in their traditional relationship. Lyotard uses different internal breaches to show how the apparatus constructs the image. The image and the spectator are referred back to the mechanism that constructs and positions the system. This achieves the preservation of the space of the theatrical apparatus (Readings, 1991a: 94-95).

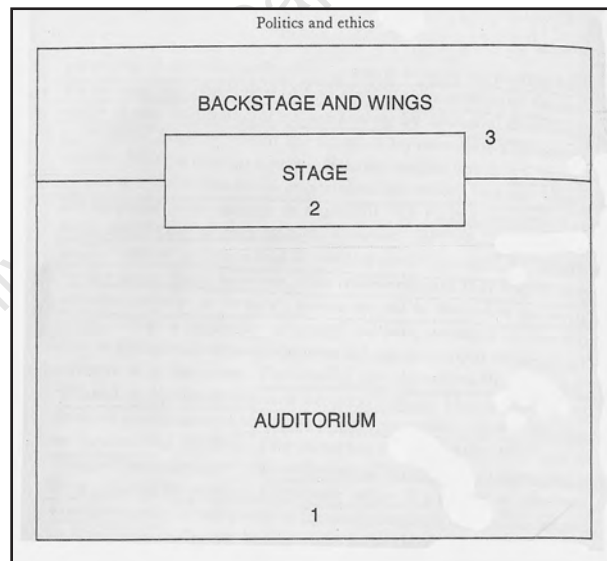


DIAGRAM 001 In *Introducing Lyotard – Art and Politics* (Readings, 1991a: 94).

In an attempt to structure the arguments for our case, which revolves around the judicial processes of redress, I turn to Lyotard to show how the court process constructs redress. Lyotard set a precedent for the use of the theatre of representation when he extended the analogy to investigate the political space of the Greek Polis. Similarly, one can scrutinize court performances by applying the same analogy. The auditorium (1) in this instance is the court which contains the public. The stage (2) demarcates the space in which perpetrator, advocate, witness and victim operate, performing the ritual drama that attempts to present arguments for or against a story, and the backstage (3) is occupied by the judges and inner workings of the court that dictate when and how, as well as who, has the power to speak during this process of truth-telling. These performances are highly regulated. Protocol does not allow any breaches inside this theatre of representation. Any attempt at ideological critique to make visible the backstage apparatus is contained by the outer limit – the political space of the city (Readings, 1991a: 95-96).

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This special representation of the court echoes the theatre of representation, which allows me to propose that the laws governing theatre of representation also govern the theatre of the court. One can therefore juxtapose the two systems (the artistic and the judicial), as the theatre of representation acts as a context for both. This will have an impact on the choice of aesthetic form when we consider presenting the evidence collected to date.

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The analogy of the theatre proposes a restaging of the crime that is the judicial processes of redress. As a form I therefore suggest an installation, as “installation art” was one form which attempted to break with the notion of traditional perspectives of painting. The viewer is situated within the artwork and can navigate in all three dimensions, resulting in a multitude of perspectives.

This performative act, the breaching of all divisions, was what interested many artists in the 1970s. They attempted to break out of the confined auditorium, which in the context of the art system was the gallery space. Installation art initially emerged out of artists’ dissatisfaction with the politics of art institutions, such as galleries and museums, and the traditional art objects they traded. In an attempt to avoid producing more commercially viable art objects for easy consumption by

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the capitalistic art system, artists moved art production in or out of the gallery or museum depending on their specific strategy: earthworks, events and happenings were all part of installation art in the 1960s. These strategies were, in the true spirit of the theatre of representation, assimilated through a gesture of cooperation extended by the galleries and museums. By the 1980s, installation art was co-opted back and once again firmly institutionalised (Reiss, 1999: 105).<sup>1</sup>

Detective, can you see that the museum/gallery which creates the limits of this theatre has the power to stage an “inside” opposed to the reality “outside” (Readings, 1991a: 96)? Lyotard proposed this when he argued that when the real is staged at the same time as the representation, the copy imposes its own rule on “reality”. That is, it “reduces the real to that which can be represented” (Readings, 1991a: 96). This means that the real is reduced to the absent object of a representation because the real becomes the representable. To sum up in Reading’s words: “What is explicitly ‘off-stage’, outside, is staged in that it can only be thought of in terms of its potential representation on stage, as a referent of the discourse” (Readings, 1991a: 96). This is what Lyotard means by calling representation a “placing outside [that takes place] on the inside” (Readings, 1991a: 96). This produces a theatre of representation that has an effect of “derealization”,<sup>2</sup> that is to say, “the reduction of the real to a representation for a subject” (Readings, 1991a: 96). It does this “by making everything within it a matter of conceptual representation” (Readings, 1991a: 96).

Therefore, dear Prince, I propose to present the case *R v JR 2010* as an immersive experience which insists on a literal and physical subject, the Phantasmagoria, an installation which takes into account the special structure of the courtroom, which, as a space, applies the same analogy as Lyotard’s theatre of representation. This will allow us to play with the different processes, the judicial and aesthetic, in an attempt to reveal an affective truth.

The term “phantasmagoria” refers to Brian Sutton-Smith’s rhetoric around the imagination of children, which is simultaneously geared towards the irrational and rational. Children and adults have the ability to continuously make the world over in their minds, in this manner producing “worlds of the ‘fantastic’ [which] focus not on the thing, the object, but rather on the subject,

the individual human being and the psyche” (Schurian, 2005: 14; Sutton-Smith, 1997: 152). This is linked to psychological observations of the fantastic, which is “seen as imagination, as a compound of thought, of problem solving, of creativity and of genius – [and] has a role to play in human behaviour, and particularly in perception, thinking and feeling” (Schurian, 2005: 14).

This phantasmagorical installation makes use of objects from the theatre of law to create a representation in another theatre, that of aesthetics. In keeping with the replacement of one stage with another, the elements can be arranged in such a way that their original function is broken down, manifesting in the performance of the subject as represented through its absence. The phantasmagorical installation is not purely a stage emulating a theatrical space. It is distinct because of its performative aspect, which requires the viewer to breach spaces. This play with perspective is no longer of one but of many, offering a more democratic perspective which does not dictate how and in what manner the viewer/participant gets involved. Play in this instance is not only used for enjoyment but also for protest. Declared to be beyond all rationalities and ethics by Friedrich Nietzsche, play can nonetheless represent a form of transformation (Sutton-Smith, 1997: 111 -118).

Detective, are you still with me? You will be happy to hear that I have received a date for the trial hearing. So it falls on you, my dear prince, to collect the evidence necessary to successfully prosecute judicial redress. Should you require any additional information please do not hesitate to ask.

Best Regards

Adv. Alice

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Documentation  
*Exhibit A*, 740

*Das Narrenschiff*  
2010, 743

*Law of dreams*  
2010, 747

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**INVESTIGATION REPORT**

**DATE:** 25.03.2009  
**TO:** Adv. Alice  
**FROM:** Det. L. Prince  
**CASE NO.** 001/05/2008  
**SUBJECT:** PHOTOGRAPHIC EVIDENCE

Dear Adv. Alice,

I think I have the gist of it. I visited the crime scene on numerous occasions to collect photographic evidence. These can be found in their entirety on the attached CD ARCHIVE CASE NO. 001/05/2008 and are available for use in building the case.

We both know that the photographic documents of the scene of the crime, the court space, are considered real evidence in the judicial system (Zeffertt, 1998: 406). However, one can argue that there is more to what meets the eye, that is, the empirical facts that these documents purport to transmit.

Photographs, films and sound recordings are presented in court proceedings to establish places or things which are difficult to look at<sup>3</sup>. Evidence must be given to establish that the photograph is a true likeness of the place, object or person it purports to represent. This evidence does not necessarily have to be given by the photographer. The photograph is considered a “document” which is admissible in “criminal proceedings without further identification if the photographer has acknowledged in writing that he [sic] is responsible for its accuracy. This means that he [sic] will have to write on the back of the photograph something like ‘I certify that this is a true likeness of Tom Smith’” (Zeffertt, 1998: 406-407).

Any document, object, photograph, sound or video recording needs to be proven to be authentic before it can be received as evidence. However, they do not have to measure up to some theoretical and possibly unattainable standard of perfection (Zeffertt, 1998: 407-408). In an attempt to protect against the abuse of film, video and sound recordings, His Lordship Milne JP in *S v Ramgobin and others* states that one is dealing with “evidential material which has ‘all the trapping and suits’ of reality, but which is at the same time, both peculiarly fallible and open to manipulation difficult to

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detect” (Zeffertt, 1998: 407). He states that the use of these media in the entertainment industry has resulted in powerful techniques of illusion and deception which one tends not to notice any longer. He goes so far as to argue that they have been accepted as if they were reality (Zeffertt, 1998: 406-407).

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“seeing truth”  
690

His Lordship is not that far off the mark with his observations, as photographs are commonly used as evidence based on the cliché that “the camera cannot lie”. This is “part of a deep but misplaced notion of the camera’s veracity as an agent of recording” (Clarke, 1997: 146). The myth of the documentary photograph’s truthfulness is built on the notion that it offers a trace of the real world stopped in time (Clarke, 1997: 24). Graham Clarke observes that the “document” as a means of “evidence” is related to the medieval term *documentum*, an official paper which functions as evidence and is not questioned as it is considered to be a truthful account backed by the authority of law (Clarke, 1997: 145). The legal system appropriated this term to refer to evidence which records criminals, crimes and victims (Clarke, 1997: 147).

However, documentary photography is far from a literal or mirror image of the world, as it has the capacity to reveal and conceal meanings it encodes as the “real”; when one looks at a photograph, one looks at something which no longer exists (Barthes in Clarke, 1997: 25). This questions the idea of the photograph as a witness, which is employed by artists as part of their strategy. I refer here to Kathryn Smith’s body of work *Euphemism* (2004), which makes use of forensic strategies. She incorporates “a weird kind of biography that is a deliberate mix of reality and artifice, of artistry and art history” (Smith in Richards, 2004: 8-10) to break down boundaries between symbolic and actual violence. This dramatises the convergence of truth, art and science along a narrative which reveals fact and fiction as anecdotal and relevant only to personal agendas (Richards, 2004: 16, 19-24).

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Alice, the spaces I documented for our case reflect the empirically ordered and patriarchal structure of the judicial process, but in very little way reflect any emotional considerations at stake. Or do they? The photographic evidence in *Untitled* (2009) and *Exhibit C* (2009) make a subjective reality more visible that remains hidden in the legal documenting process. Considering the photograph through an aesthetic lens unravels the relations between the photograph and the subject.



*Exhibit C*, 2009. Photomontage, archival ink on matte photolustre paper. 220 x 84cm.

Roland Barthes defines the subject's relation to the photograph as an encounter of trauma, a painful intrusion of the real beyond the pleasure principle as based on Lacan's "tuché" (Barthes, 1984: 4) translated as "the blind spot": "...that which always escapes from the grasp of that form of vision that is satisfied with itself in imagining itself as a consciousness" (Barthes, 1984: 75). This is what Barthes refers to in *Camera Lucida* as "petite tache", the real located in a detail, also called a stain. For Barthes, photography, much like the found object, has a privileged relationship with this blind spot. This stain, this traumatic real, is what turns photography for Barthes into a fantastically ambivalent medium, for it is not only readymade and simulacra but at the same time traumatic and real (Iverson, 2004: 50-51).

In the manifesto *Surrealist Situation of the Object* (1935), André Breton places this found object in the space of the unconscious. He describes how photography's mimetic function forced surrealist painting to retreat into the domain of inner perception, the emotional sphere,

thus detaching itself from external reality (Iverson, 2004: 48). For him, this established relations of external nature, perception and the unconsciousness which affect the psyche. I draw on Margaret Iverson to explicate this as she argues that:

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The found object as if by chance is situated at the point of connection between external nature, perception, and the unconsciousness, and thus has a peculiar, elusive relation to vision. The space occupied by the found object is carved out by traumatic experience, defined precisely as an experience that has failed to achieve a representation, but on which, nonetheless, one's whole existence depends (2004: 49).



*what was it you see...*, 2008. Preliminary collage, digital photograph, home print. 14 x 10cm.

The process of scratching into the photograph, this readymade evidence, allows this traumatic and real event of redress to manifest physically in the document. This act of scratching is an act performed secretly in the courtroom. Hidden from sight, many panels and pieces of furniture have been marked with personal inscriptions. I documented these blind spots for our case and have here a copy of one example, EXHIBIT IMG\_0723. It is this process which is mimicked in some of the images in *untitled* (2009).

Documentation

EXHIBIT  
IMG\_0723, 714

*untitled* (2009)  
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*EXHIBIT IMG\_0723*, 2010. Digital Image from the Archive  
*RVJR 2010 01/09/2008* . Dimensions variable.

This manipulated photographic evidence is one form which allows the relationship between photograph and subject to be brought to the argument for the case of *R v JR 2010*.

Adv. Alice, I think we have sufficient photographic evidence for the hearing to proceed. I wish you the best of luck for the preliminary hearing.

Faithfully,

Det. L. Prince

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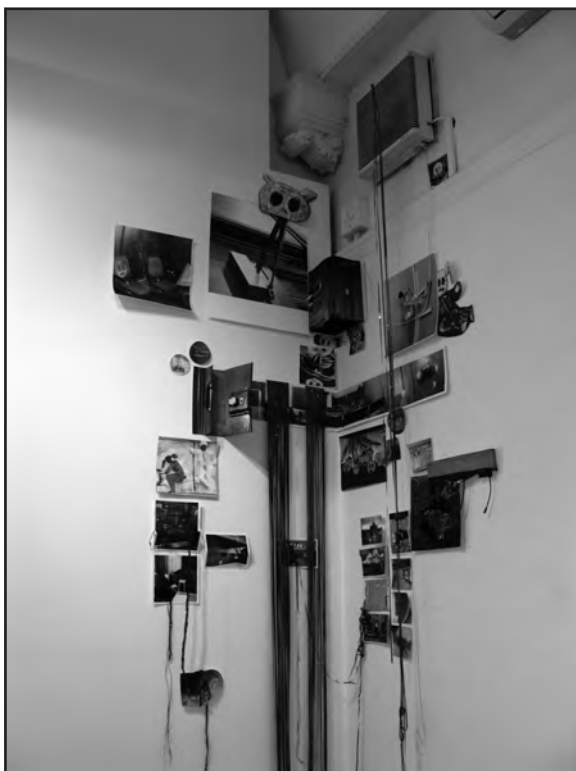
<sup>3</sup> That is anything too large (a car, room or site) or too small (DNA, fingerprints or hair samples): anything that cannot be inspected in loco.

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**TRIAL REPORT****DATE: 05.05.2009****Act No. 1  
of 2010.**

TO: Adv. Alice  
FROM: Judicial Officer  
CASE NO. 001/05/2008  
SUBJECT: 1<sup>st</sup> Preliminary hearing: -  
*untitled* 2009



*untitled*, 2009.

Mixed media display: photographic prints, photocopies,  
magnetic tape, ink on paper.

Dimensions variable. Installed for *In Principle* (2009)<sup>4</sup>.

*untitled* (2009) is a display of the photographic evidence collected by Detective Prince up to this point. The digitally and manually altered images are a jumble of squares, rectangles and circles documenting the scene of the crime. In addition, some are drawn, scratched or inked on in places, or assembled in a manner reminiscent of pop up images, echoing the windows of an advent calendar. The central image, a long montage, pans across

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a courtroom. Magnetic tape of inaudible court hearings frames its windows and runs down the wall into an image of a waste paper bin. Other tape has been crocheted with a French knitting tool. The long knobby rope links one image to the next, offering some loose connections. A three dimensional Afro, styled from magnetic tape, sprouts from one photograph documenting graffiti on a wooden bench panel. In this instance the short stubbles of tape lead nowhere.

With this assemblage of evidence, Advocate Alice opened the case *R v JR 2010* in May, 2009. *untitled (2009)* is the first attempt to produce a visual manifestation of processes of redress. The ordered archive that documents the scene of a crime has been disrupted and stands in opposition to the expressive and chaotic interventions. In this manner the assembled evidence has been restaged and forms a visual map of emotional responses to the rational, empirical and ordered approach of judicial redress.

However, this argument did not convince the judge and the trial has been postponed to give the prosecution time to expand their arguments at the second hearing, scheduled for August, 2009.

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**TRIAL REPORT****DATE: 11.08.2009****Act No. 1  
of 2010.**

TO:

Adv. Alice

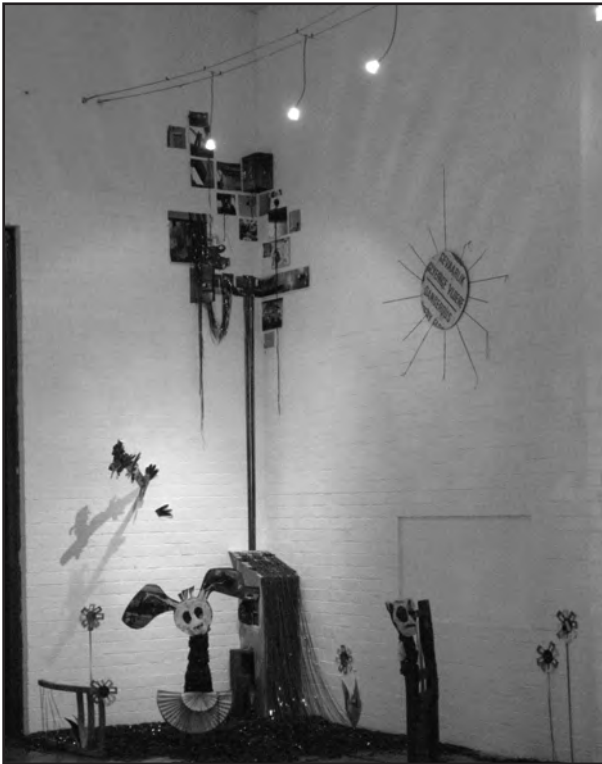
FROM:

Judicial Officer

CASE NO.

001/05/2008

SUBJECT:

2<sup>nd</sup> Preliminary Hearing -  
*adjourned* 2009

*Adjourned, 2009.*

Mixed media installation: photographic prints, photocopies, magnetic tape, courtroom furniture, pages from 1960 Statutes, recycled cardboard from installation *Comfort Room – ukhuselekile - Speak out* (2007) and ink on paper. Dimensions variable. The installation was set up for the second part of the Masters Group Show *In Principle* at the University of Witwatersrand, Johannesburg in August 2009.

**Act No. 1  
of 2010.****SUMMARY OF THE ARGUMENTS BROUGHT FORWARD BY  
ADV. ALICE:**

Non-verbal interview techniques are used to help children talk about their experiences. Props and drawings can reduce the social and emotional demands of the interview and the intrusion of the interviewer into the child's world, reducing the trauma of conveying embarrassing personal information (Westcott, 2002: 161-162). The techniques which assist with memory retrieval remain under constant scrutiny, as any assistance is believed to cause an increase of inaccuracies when retelling an experience. In the forensic context these inaccuracies are considered undesirable (Westcott, 2002: 161-162).

The failure of these interview techniques to produce accurate memory retrieval that cannot be converted into empirical facts should, however, not be used as an excuse not to apply them. Advocate Alice argues that a reading of a drawing or any other form of visual expression could bring important elements to the table which are not measurable in classical empirical terms, such as the emotional experience. Much like art that is considered affective, these visual expressions of experiences could allow the participants of this performative process to share aspects of an experience that cannot be expressed verbally, but are nonetheless crucial to the process of redress. Consequently, the evidence for this case was presented as *adjourned* (2009).

The upper section of this installation is an altered version of *untitled* (2009) in which the magnetic tape continues to function as a curtain. Instead of flowing into a waste paper basket, it ends instead in a small installation of the following: half a small cardboard house reminiscent of a doll's house, a bunny figure, a teddy figure, a wooden fence, some flowers, a sun, a cat and a bird on a branch. In a child's imagination objects' physicalities tend to be less fixed. A bowl of water becomes a lagoon, tape cassettes become the tiles of a roof (Fineberg, 1997: 128). These tiles release a torrent of magnetic bands down the side of the house that pool on the floor, ensnaring the figures standing to the left and right (assembled and collaged, cut and paste style, from the evidence collected by Detective Prince).

In this manner, photographic images are used as found objects. The photographic images function as textures that decorate the figures who stare out at the viewer from big black eyes. These cardboard figures, the size of young children, appear to be a large scale version of small cut-out dolls often used by minors to play with. The biggest, bunny-like figure has a head that teeters on an elongated body dressed in a knitted top of magnetic court tape, which was processed through a child's knitting tool. This girl's toy is normally used to craft small teddies or handbags.

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Under this guise, the eight to ten year old child is encouraged to develop numerous skills, from dexterity and concentration to perseverance. In addition, the child is also introduced to different gender roles. Girls knit and make teddies or handbags using a suitably pink toolkit. This is not visible, of course. Another common trait found in children's drawings is the absence of arms. As their awareness and motor skills grow, so does their accuracy for detail which then manifests in their drawings (Fineberg, 1997). The body of the bunny ends in a fan-like skirt folded out of a yellow papered book torn from the 1960s South African statutes – another item collected by Detective Prince. In this manner, the evidence collected for the case is used like a supply of craft material to restage a three dimensional scenario. This assemblage of things brings to life a scenario which is reminiscent of a child's two-dimensional drawing of their home, depicting the family and pets all set under a sunny sky. Normally associated with a happy scene, this three-dimensional scenario takes on a strangely sombre tone.

Please note that the case has been adjourned until further evidence is collected and ready for presentation at the next hearing. The date is pending.

JUDICIAL OFFICER

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**INVESTIGATION REPORT**

<b>Date:</b>	<b>11.10.2009</b>
TO:	Adv. Alice
FROM:	Det. P.
CASE NO.	001/05/2008
SUBJECT:	REAL EVIDENCE

My Dear Advocate,

Things that can be examined in court as means of proof are defined as real evidence. The 1998 South African Law of Evidence gives as an example a weapon that is produced in the prosecution of an offence against another person. Specimens of handwriting, plaster casts of footprints, a person's appearance and things seen at an inspection *in loco* also fall into this category. "The evidence is usually intended for the court to look at, but it may also listen, smell, taste or feel. The judge is entitled to rely upon his [sic] own perceptions and draw such inferences as may reasonably be drawn without the need of expert qualifications" (Zeffertt, 1998: 405). Any real piece of evidence is referred to as an exhibit. In order for this exhibit to be of assistance, it needs to be supplemented by the testimony of a witness (Zeffertt, 1998: 405). In our case, the installation of the evidence speaks on behalf of this witness.

Things become especially interesting when we consider real evidence in terms of objects of culture. According to Barthes, what I collected is part of the "furniture system", a signifying system of semantic objects formed out of its opposition to its functionally identical pieces. For example, one type of chair can have a different meaning to the next type of chair, but what they have in common is that they were both manufactured. Advocate, I have attached some prints of chairs that I collected as evidence: IMG\_9527, IMG\_9564, IMG\_9041, IMG\_9564, as examples. What makes them different from one another are the rules of association – their furnishings. According to Barthes, the user can, by tinkering with one element, or by freedom of associating pieces of furniture together, create "speech" with these variations (Barthes, 1964: 28-29).

This will give our witness a voice, represented by the submissions formed from assemblages of furniture!

Documentation

IMG\_9527, 722  
 IMG\_9564, 722  
 IMG\_9041, 723  
 IMG\_9564, 724

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Advocate Alice, this is so promising. I know we are on the right track. For this reason I have collected as many actual pieces of courtroom furniture as possible. Please see the Inventory List. I am, however, concerned as to what these could add to the case as they are in fact just a pile of trash!<sup>5</sup> Please advise soonest.

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of 2010.**

Inventory List  
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Det. Prince

University of Cape Town

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*EVIDENCE ITEMS IMG\_9527*, 2010. Digital Image from the archive *EVIDENCE RVJR 2010 16/07/2010*.

Dimensions variable.



*EVIDENCE ITEMS IMG\_9564*, 2010. Digital Image from the archive *EVIDENCE RVJR 2010 16/07/2010*.

Dimensions variable.

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*EVIDENCE ITEMS IMG\_9041*, 2010. Digital Image from the archive *EVIDENCE RVJR 2010 16/07/2010*.  
Dimensions variable.

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*EVIDENCE ITEMS IMG\_9528*, 2010. Digital Image from the archive *EVIDENCE RVJR 2010 16/07/2010*.

Dimensions variable.

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**INVESTIGATION REPORT****Act No. 1  
of 2010.**

**DATE** 13.11.2009  
**FROM:** Adv. Alice  
**TO:** Det. L. Prince\_  
**CASE NO.** 001/05/2008  
**SUBJECT:** RE: REAL EVIDENCE

Dear Det. Prince,

Please do not be worried. Even though this is what you so aptly call “just trash”, I wish to assure you that it will serve as great evidence for *R v JR 2010*. For your interest, I cite the following precedents, which opened up many new ways of looking at, seeing and feeling objects/evidence.

The real evidence you collected was singled out by the judicial system for disposal. The furniture is therefore referred to as “trash” as it no longer serves actively in the courtroom. Now obsolete in the performance of the judicial process of redress, it was relegated to a junkyard. From here it was collected, to play a vital role in the staging of our case. You pointed out earlier that this is possible due to Rancière’s observations regarding heterogeneous objects (Rancière, 2004: 86), which of course includes trash! For our case, the furniture acts as a witness of the judicial process of redress. Interestingly, Rancière uses terminology that strongly implicates the judiciary. Terms such as “witness”, “evidence” and “testimony” (Rancière, 2004: 83-93) underpin his argument and allow our investigation to juxtapose the realms of law and art.

The Game  
667

The transformation of the discarded object into the found object has a long art historical trajectory that dates back to cubist collages by Pablo Picasso and the ready-mades of Marcel Duchamp. It is important to observe the changes of attitude over the course of history because it shows a specific understanding of the object that best describes the inventory of trash. Detective, I have found a copy of Picasso’s early observations about transformation. The found object, in this case a bicycle seat, occupies many modes – that of trash, of art object, and as a functional seat again. The seat can be a bicycle seat or a bull’s head, but not both simultaneously. Picasso uses the found object in a surrealist, psychological manner. This possibility for change is what is important for the staging of the submissions of *R v JR 2010*.

Pablo Picasso  
LEAD NO 002  
728

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EVIDENCE ITEM  
IMG\_7834  
729

Just imagine that in this manner a collection of real evidence, which includes an office desk from the court, can transform into a boat. I have attached an image to show how it can work!

This approach is akin to Breton's found object, the *Cinderella Ashtray*, which shares with Duchamp's readymade a lack of obvious aesthetic quality and a minimal intervention on the part of the artist. I would argue, however, that these are not key concerns. Please let me briefly outline what are.

André Breton found a strange wooden spoon with a little boot carved under its handle in a Paris flea market. At home, he discovered that the object transformed itself into the object of his desire, a *Cinderella Ashtray* (*Cendrillion cendrier*): "It was clearly changing right under my eyes. From the side and at a certain height, the little wooden spoon coming off its handle, took on, with the help of the curvature of the handle, the aspect of a heel and the whole object presented the silhouette of a slipper on tiptoe like those dancers" (Breton in Iverson, 2004: 49). The spoon thus turns into a "lustrous lost object par excellence", Cinderella's glass slipper: "It is just what, in our folklore, takes on the meaning of the *lost object*" (Breton in Iverson, 2004: 50).

The Game  
667

What happened was that both the position of the object and the viewer changed, thus taking on different relationships and allowing for transformation to take place. Thus, functional goods that speak of utility and value become hieroglyphs that carry history on their "person", thus forming a double movement (Iverson, 2004: 86) that sets the stage for "the game" described by Rancière. Detective, you see we have come full circle. It is suited for this case that holds a mirror up to the judicial process, a process that tries to eliminate all double movement. The judicial process intends to reveal one or the other as a lie, that is, the slipper or the spoon. To help clarify, I have attached LEAD NO 003, a picture of Breton's *Slipper Spoon*.

*Slipper Spoon*  
LEAD NO 003  
729

To conclude, I'd like to briefly point out, my dear Prince, that in this manner junk/rubbish becomes a language! Detective, can you now see that this slippage is in itself a revolt<sup>6</sup> against any judicial reading which attempts to stabilise the object? In conjunction with an in-depth investigation into object-subject relations, the

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submissions I am preparing will transform the evidence into a scenario which cannot be ignored.

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Could you investigate the object-subject relations as well as ensure that all evidence is labelled and archived so that we can access it readily? I wish to have no surprises with regard to misplaced or missing evidence. I trust you on this, so don't let me down.

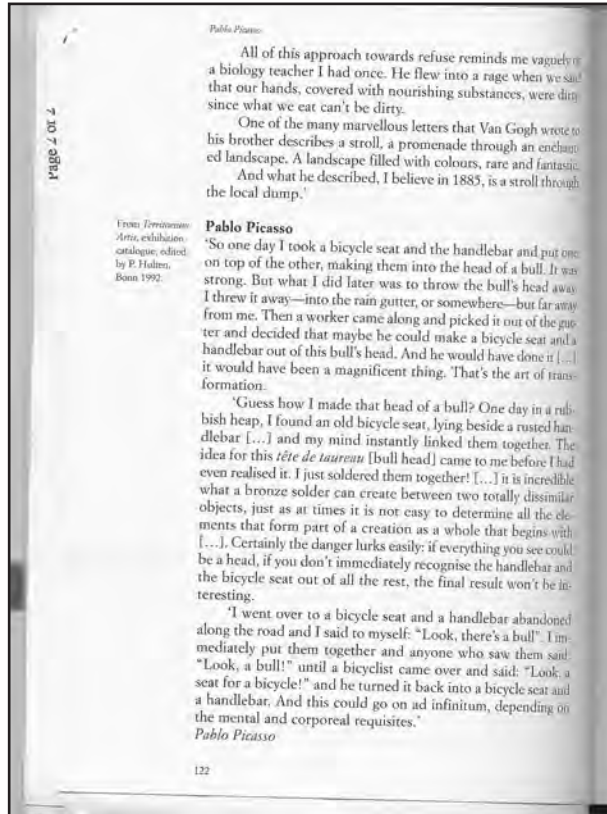
Thank you,

Adv. Alice

University of Cape Town

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LEAD NO 002: Extract from Pablo Picasso’s observations in Vergine’s book *When Trash Becomes Art: Trash, Rubbish, Mongo.* 2007.

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*EVIDENCE ITEMS IMG\_7834*, 2010. Digital Image from the archive *EVIDENCE RVJR 2010*. Lead Evidence; mixed courtroom furniture. Dimensions variable.



LEAD NO 003: Breton's *Slipper Spoon* (Iverson, 2004: 50).

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**INVESTIGATION REPORT**

**DATE:** 04.02.2010  
**TO:** Adv. Alice  
**FROM:** Det. Prince  
**CASE NO.** 001/05/2008  
**SUBJECT:** COURTROOM FURNITURE  
AND THE SUBJECT

Advocate Alice,

I have ensured that the evidence is ordered and safely stored, although with our justice system, who can guarantee anything? While working with the material I investigated what the courtroom furniture implies about our subject/s and came across some observations I would like to share.

Psychoanalysis has attempted to uncover the relationships between object and subject. Supporters of psychoanalysis argue that the fetish object implies a subject split along acknowledgement and denial. For example, the glossy fashion magazine implies a narcissistic subject, or the immaculate kitchen as object implies a subject attracted to “glorious muck” (Iverson, 2004: 45). What is clear is that in each case the object does not directly match what the subject is about. Rather, there is “an inverted relationship”. In this manner, the object compensates in some way for the subjective sense of deficiency (Iverson, 2004: 45).

For our case, it is the patina of the evidence/objects that adds to the intrinsic value of the argument (Vergine, 2007: 11). The direct documentation of minute and incontrovertible details records the habits and forms of behaviour of those who produced them (Vergine, 2007: 12). The collected courtroom furniture is riddled with marks of wear and tear, which bear witness to the traumatic performance of law in action.

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While it is true that discontent is hardly a good feeling, it is nonetheless a good adviser. To preserve garbage and 're-purpose' it (whether elaborated or not) in order to understand past experiences, experiences that have been revisited – memories and not just recollections therefore – beyond the imprint, beyond the trace, a preservation of sensation and not a reminiscence – is to create culture. A culture attains that status if it preserves a relationship with memory and uses it to transform memory (Vergine, 2007: 12).

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of 2010.**

The subject, represented by the furniture, can therefore be understood as a community defined by Rancière's theory of the inventory. He argues that the archive of heterogeneous objects is an inventory of historical traces. The objects and photographs witness a shared history or world, thus creating new potential that is a "multiplicity of inventions of the arts of doing and arts of living that constitute a shared world" (Rancière, 2004: 89). If I then apply the argument of inversion, one can argue that this community, represented by the real evidence of the courtroom furniture which represents a structured ordering system, implies a subject/s attracted to systems of chaos, chance and randomness. One should take this into consideration when staging the submissions for the case.

The Game  
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Sincerely

Det. L. Prince

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of 2010.**

**CASE REPORT**

**DATE:** 20. 02. 2010  
**TO:** Det. Prince  
**FROM:** Adv. Alice  
**CASE NO.** 001/05/2008  
**SUBJECT:** RE: COURTROOM  
FURNITURE AND THE  
SUBJECT

Dear Det. Prince,

CASE  
STRATEGY  
733

Thank you so much for the observations. I will take them into account. I have scheduled a Case Meeting for the 10<sup>th</sup> June 2010, when we can discuss matters in more detail. In the interim, please find attached a copy of the CASE STRATEGY 03.02.2010, prepared for His Lordship.

Detective Prince, thank you so much for your continued support and perseverance in this matter. I believe that thanks to your in-depth investigation we have a solid case in hand.

Yours respectfully,

Adv. Alice

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**CASE STRATEGY**

**DATE:** 03.03.2010  
**TO:** His Lordship  
**FROM:** Adv. Alice  
**CASE NO.** 001/05/2008  
**SUBJECT:** PRELIMINARY STRATEGY

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Your Lordship,

Respectfully, please find attached the proposed strategy arguing for the re-staging of the evidence of *R v JR 2010*, based on the extensive research compiled by Det. L. Prince and myself to date. Herewith I briefly draw together the most important elements of the arguments:

We are investigating judicial and aesthetic redress, therefore it must be pointed out that this theatrical process of redress limits agency to a strict set of rules. The witness and perpetrator's agency is especially controlled, to such an extent that they are no longer telling their story, but one constructed by the system (Bennett, 1981: 3-10). Agency is displaced. In the art system "both disinterested art and surrealism were interested in the displacement of the artist's agency" (Iverson, 2004: 49). We therefore make use of these strategies and as a result can compare the different systems, the judicial and aesthetic, as both systems operate in the same social context.

These interacting yet operationally closed function-systems each produce a different version of reality. They describe the world through defining elements of communication, generating their own special environments according to their own rules of self-organisation. The law system, for example, is situated in court houses, while the art system operates through galleries, museums, project spaces, etc. (Van Assche, 2007: 105-109). A place (or an object in space) becomes a type of communication, producing narratives within the social system. As closed from one another as these systems may appear to be, they nonetheless interact, as they are environments within the same social system which produce relevant context for one another (Van Assche, 2007: 105-109). Interactions between citizens, which are simultaneously situated in several social systems, can lead to changes of reality, power and knowledge (Van Assche, 2007: 110-112).

**Act No. 1  
of 2010.**Aesthetic  
Redress  
676, 681The Role of  
Affect  
690, 695The Trial as  
Theatrical form  
705Photographic  
Evidence  
710Real Evidence  
720Sense Memory  
692

Based on this relationship, I recommend the re-staging of the arguments for the case *R v JR 2010*, using the processes of aesthetic redress proposed by Detective Prince and supported by the cited precedents in an attempt to deconstruct the performative processes of redress. This re-staging can take place as a form of mimicry that allows fact and fiction to be staged in the same space. In this theatre the subject's personal experience, i.e. that which is explicitly "off-stage" or outside, is staged inside, in the imagined courtroom. A theatre is thus created in which the viewer feels that the reality has been changed.

The investigation for the case, much like the process of aesthetic redress, goes back to the sites – the scenes of the crime – to collect as much evidence (photographic and real) as possible. This actual material, this archive, which we currently have in our possession, loosely refers to the actual process of judicial redress. This material will be re-staged for a cumulative trial hearing, which attempts to deconstruct judicial redress in a three-dimensional space. Theorist Peter Osborne argues that this is a process in which each object/experience/image is re-evaluated according to its own particularities and which in itself constitutes evidence that becomes as real as the event it portrays. "The real now coincides with the image" (de Oliveira, 2003: 134).

The final case hearing takes the form of an installation assembled through the processes of aesthetic redress. The playful mimicry of the judiciary inherent in the evidence produces what is real for the subject. The constructed submissions participate in an act of double speech which allows trash to be elevated. Simultaneously they activate sense memory, in this manner revealing human beings' affinity for chaos and ambiguity. Installation is therefore a logical strategy to employ for the presentation of this complex case, as it allows for literal, physical, conceptual and spatial processes of redress to manifest abstract processes of law and art.<sup>7</sup>

This staging, my Lordship, is arguably a co-appearance.<sup>8</sup> Installation functions as a form that can facilitate a political staging of subjectivities<sup>9</sup> as it places agency with the viewer rather than taking it away. To achieve this, the evidence collected for *R v JR 2010* is re-staged as a performative installation which juxtaposes official and unofficial means of retrieving

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and reconstructing evidence in a process that destabilises the existing system (the judicial system), which is public and global, through private and individual means (de Oliveira, 2003: 123). Repopulating the space with object-subject relations allows the processes to make a shared social experience visible (Rancière, 2004: 90).

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Should you have any queries, we can discuss them on 23 July 2010, when we meet for the trial hearing in Room 5, Hiddingh Campus.

Respectfully,

Adv. Alice

University of Cape Town

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1 Michael Asher's site-specific installation, part of the *Spaces and Anti-Illusion: Procedures/Material* exhibition (1969), occupied a clock tower. In this alternative space, Asher whitewashed the three-storied exhibition space and removed all exterior fixtures, such as doors and windows, allowing free access to sounds, smells, debris, people and weather conditions, which stands in stark contrast to the work he did for *Spaces*. Here he had sealed off a room that absorbed sound, responding to the sealed off quality of the institution. Instead he created a space where there was no longer a separation between inside and outside. He recalls: "The intention was to enable viewers, once having entered the interior of the installation, to find the exterior to be as important as the interior... I wanted to merge interior and exterior conditions that are the exterior noise, air, light and pollutants with the conditions existing in the interior" (Reiss, 1999: 126). Asher's work admits things which the conventional gallery takes pains to seal out. His aim was to propose a different way of viewing sculpture. "The outside was objectified and integrated through the once sealed doors and widows" (Reiss, 1999: 135).

2 *derealization* – **noun** Psychiatry: *an alteration in perception leading to the feeling that the reality of the world has been changed or lost. Origin: 1940–45; de- + realization, orig. in the phrase feeling of derealization, as trans. of G Entfremdungsgefühl (Freud)* (Dictionary.com: 2010c [Online]).

3 That is anything too large (a car, room or site) or too small (DNA, fingerprints or hair samples): anything that cannot be inspected *in loco*.

4 "*In Principle*, at the Michaelis Gallery, consisted of works in progress by MFA students at the Michaelis School of Fine Art, University of Cape Town. *In Principle* addressed the underlying tensions between principle and practice. Curated by Jonah Sack, the works on show demonstrated this conflict through interplay between the conceptual underpinnings and the material realisation that these artists engaged towards producing their final body of work. Participating artists included Jenny Altschuler, Francis Burger, Cathy Dickerson, Tracey Derrick, Claire Jorgenson, Ryna Malherbe, Tashinga Matindike, Robyn Nesbit, Catherine Price, Elgin Rust, Fabian Saptouw and Dale Washkansky" (Arthrob, 2010 [Online]).

5 The use of the term trash has its origin in the title *When Trash Becomes Art: Trash, Rubbish, Mongo* by Lea Vergine. This American term can be substituted with any of the following terms: cast-offs, debris, dreck, garbage, junk, kilter, litter, muck, mullock, offal, rubbish, refuse, scrap, sweepings, useless items, waste, etc.

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6 Julia Kristeva's etymology of the word "trash" as a revolt signifies a return and a shift which "can be a dream of internal freedom that touches on our psychological structure or our political goals, or a symptom of social abandonment of all social rules, good customs and consciousness" (Vergine, 2007: 12).

7 For additional reading, please refer to Angelika Nollert's essay on "performative installation" (Nollert, 2003: 8-28). This essay is part of a catalogue for the exhibition series initiated by the Siemens Arts Program in cooperation with the Gallery Taxipalais, Innsbruck, Museum Ludwig, Cologne, Museum für die Gegenwartskunst, Siegen; Secession, Wien and Galerie für Zeitgenössische Kunst, Leipzig.

8 "The problem is not who is 'represented', but who can make claims that turn him or her into a political subject rather than simply indicating membership in a disadvantaged social and racial group" (Maimon, 2009: 111).

9 This staging of subjects is key in Lê's, Raad's, and Kentridge's work, as outlined in the precedents earlier (pages 681, 685 and 695).

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**Act No. 1  
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<b>TRIAL REPORT</b>	<b>DATE: 22.07.2010</b>
FROM:	JUDICIAL OFFICER
TO:	Adv. Alice
CASE NO.	001/05/2008
SUBJECT:	1 <sup>st</sup> Hearing <i>R v JR/JULY 2010</i>

Dear Prosecuting team,

Due to the docket being lost, this trial very nearly did not proceed. However, thanks to the intrepid Detective Little Prince who, at the urgings of Advocate Alice had a backup copy at hand, we were able to proceed. The preliminary staging in preparation for the final case hearing allowed all parties involved to reflect on the arguments in the process. It was noted that the submissions are not final and are subject to change. Nonetheless, some initial observations can be made regarding the final performative installation of the evidence of *R v JR 2010*. Please find attached documentation and respective observations.

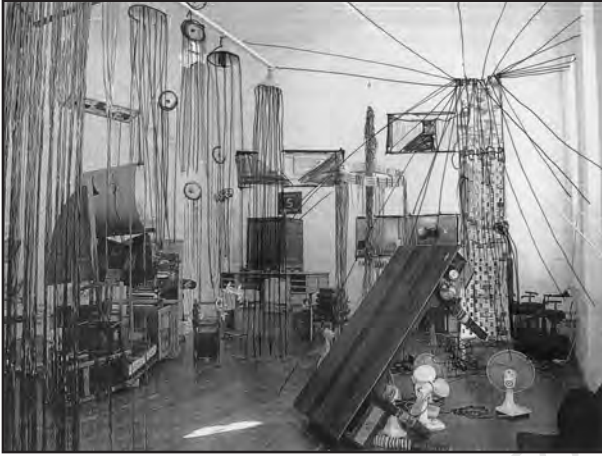
Yours kindly

J. O.

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SUBMISSION 1

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Installation view of *R v JR July*, 2010. Mixed media: courtroom furniture, photographic documentation. Dimensions variable.

On entering the installation the viewer/jury/judge might at first glance be overwhelmed by the chaos of furniture, games and reels and reels of loose magnetic tape. However, closer inspection of the disparate collection reveals in-depth considerations that structure the arguments presented. The installation is roughly laid out, based on the formal structure that defines key positions in a courtroom. The viewer is led along a trail, much like a detective game with clues leading one on. These leads are, however, not definitive and the viewer can choose what leads to follow, thus constructing a narrative in a free form puzzle style.

What makes this installation different from, for example, Andrea Loeffke's installation *Once Upon a Time* (2008), is that the work does not start out with sweet and innocent objects which become sinister. Instead, the work starts out with a bureaucratic system represented by the evidence. This becomes a phantasmagoria of toys comprising a fantastical ship, games, towers and craft collages – all part of our fictional investigation, much as a child might turn the furniture of their home into an imaginary fortress or pirate ship. The structure echoes that of a fairytale in which the primary narrative contains a secondary narrative. The primary narrative is the detective fiction led by the two protagonists. The secondary narrative is the processes which redress

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of 2010.**

emotions. This clash of narratives has the effect of reality being a bit out of kilter (Black, 2008: 35).

## SUBMISSION 2A



*Evidence by Det. L. Prince, 2010.*

Two pinboards, two square tables, Exhibits A, B and C.  
Dimensions variable.

The initial investigation was taken up by Det. L. Prince. He collated his research into three main exhibits: Exhibit A, a 1000-piece puzzle; Exhibit B, a 49-piece memory game with joker; and Exhibit C, a series of photomontages. Exhibits A and B, which call for viewer participation, are placed on two square tables collected from the Cape Town Magistrates' Court as evidence.

However, unlike evidence used in a judicial setting, these images were digitally manipulated to visually enhance elements contained within their frames. In this manner, playful and conscious processes of decision-making were interwoven to trigger sensations based on shared experiences of curated objects, materials, colours and textures to produce new ways of redress.

SUBMISSION 2B

Act No. 1  
of 2010.



*Dornröschen*, 2009. Preliminary collage for Exhibit A 2010.  
Inkjet on Hahnemuehle paper, ink, glitter and watercolour pencil.  
73 x 53cm.

For this collage, Detective Prince chose a photograph from CASE ARCHIVE 001/05/2008 which documents the crime scene. The architecture of this space is what Judge Albie Sachs would describe as “architecture that proclaims authority, that says ‘Beware, the state is on top of you’” (2009: 91); the kind of space that makes anyone interacting with it feel guilty (2009: 91).

The image shows part of the perpetrators’ bench and a waiting bench at the back of the court. Wood panelling dominates the space, which is colonised by an array of figures in an unstable drama. The different narratives, the real and the fantasy collide and destabilise the image as the drawing style does not sit comfortably within the courtroom space. The viewer is drawn in by the colours and figures but is simultaneously jolted out into another context by the courtroom space. Martha Rosler’s collage series *Bringing the War Home* (1967-1972) can be understood as a precedent for this form of collage. In her series one can observe a clash of fact (images of war) with the fiction of a magazine’s idealised domestic setting. In the collage created for Exhibit A, the fictional story of the figures is inserted into the actual courtroom space, recorded as real photographic evidence for *R v JR 2010*.

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of 2010.**

## Documentation

*Evidence display  
11am Det. L.  
Prince (2010)  
762*

This collage was used by Detective Prince as the source image for the 1000-piece puzzle which is *Exhibit A* (2010). The viewer can choose to interact with this work by attempting to piece the puzzle together, but the repetition of colour and texture in the image confuses and makes the game exceedingly difficult. This difficulty is intended to echo a popular understanding of law, which is often fragmentary and obscure. For observations with regards to *Exhibit B* (2010), the memory game, please refer to the MINUTES OF EVIDENCE MEETING.

## SUBMISSION 3



*Adv. Alice*, 2010. Courtroom office desk, 5 broken fans, magnetic tape of court hearings. Dimensions variable.

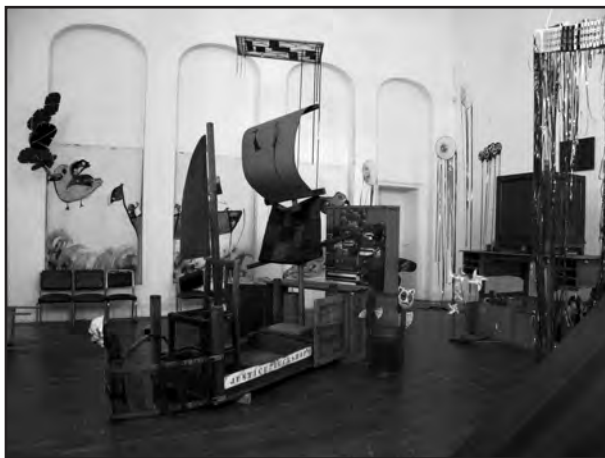
Propped up at an angle, a heavy office desk collected from the Cape Town Magistrates' Court acts as a fort for the group of figures hiding underneath, which are assembled from discarded courtroom fans, magnetic tape and modified prints. It is a space which protects but also remains a site of potential danger, as the teetering table looks as though it might topple over at any moment.

*10am Case  
Meeting with  
Adv. Alice  
(2010)  
759*

This assemblage was developed from *10am Case Meeting with Adv. Alice* (2010). Please refer to the Minutes of *10am Case Meeting with Adv. Alice* in Addendum 1 for a breakdown of the meeting.

SUBMISSION 4

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*Das Narrenschiff*, 2010. Found courtroom table, filing cabinet, chairs, storage cupboard and signage. Dimensions variable.

In this first hearing, *R v JR July 2010*, *Das Narrenschiff* is situated in the middle of the installation space, roughly where the main performance of a judicial trial would take place. Here perpetrator, witness, victim, prosecutor, defence, judicial officers and supporting clerks of the court perform the ritualised process of law. The German title, *Das Narrenschiff*, a reference to Sebastian Brant's *The Ship of Fools* (1494), brings aboard a more sinister reading than a simple fantasy journey of the courtroom performance. Brant's satire, based on the allegory of the ship, carried all undesirable citizens cross-country to Narragonia, a fool's utopia (Zeydel, 1944: 15).

The ship has been deployed as a metaphor by many artists throughout the ages as a vessel for meaning. Ilya Kabakov, Cai Guo-Qiang, Kcho and Yinka Shonibare are a few who have done so in the form of installation. Their ships are deconstructed, reconfigured, assembled from real boats, shipwrecks, books and any other flotsam and jetsam contemporary culture produces. For his most recent exhibition, *Looking up...™*, Yinka Shonibare produced a miniature of an antique trading vessel, rigged with his trademark "Dutch wax" fabric, sailing high on waves which appear to recall Katsushika Hokusai's work *The Great Wave Off Kanagawa* (Shonibare, 2010 [Online]). In this manner his work addresses issues of

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of 2010.**

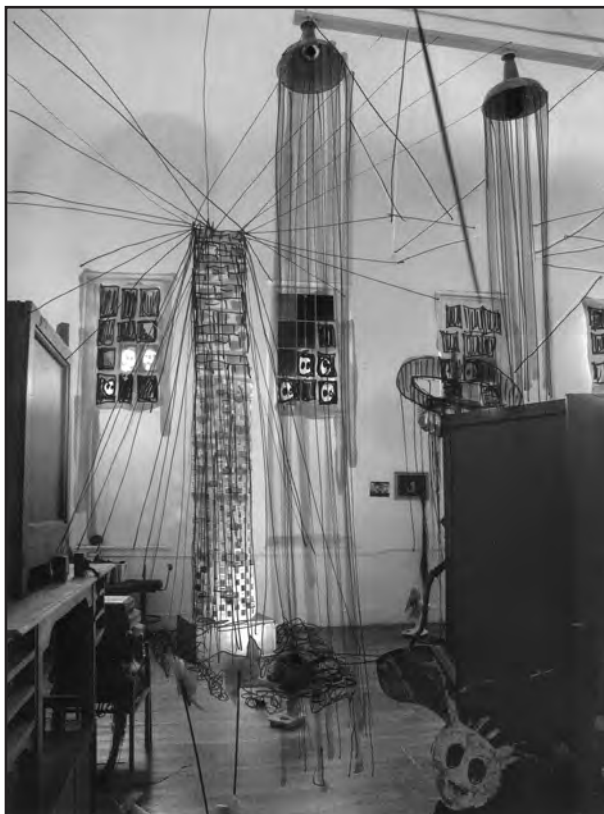
migration, notions of colonialism and globalisation.

The ship in this installation is assembled from courtroom furniture, again in much the same way that children would make use of home furniture. It is designed to be accessible, but more so for a child than an adult. Nonetheless, the viewer can step on to the ship and take hold of the steering wheel, perhaps to travel to a fantasy destination, inviting them to imagine themselves back in childhood when they still built tree houses, forts and other hideouts. This kind of gameplay can transform a cardboard box into a house or a space ship, a bunk bed into Mount Everest and a table into a ship (but unlike their real counterparts, of course, they never physically move). The symbolic, makeshift ship often appears in children's stories<sup>1</sup> as a vessel which allows the imagination to travel beyond the confines of the real space it occupies. In this manner notions of memories of childhood play and contemporary social concerns are mixed.

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SUBMISSION 5

Act No. 1  
of 2010.



*Babble, the law is*, 2010. Magnetic tape cassettes. Dimensions variable.

The tower in this fictional restaging of evidence was constructed using discarded tape recordings of court proceedings<sup>2</sup> in a way which echoes the use of Lego blocks. This system of building blocks is instrumental in allowing children to construct imitations of real and imagined environments. In this instance the tower can be associated with the religious story of the tower of Babel in Genesis, the fairytale towers of Rapunzel or Sleeping Beauty and the satire of *Gulliver's Travels* (1726) by Jonathan Swift in which Gulliver is tied down by miniature people after he is shipwrecked (Wikipedia, 2010 [ONLINE]). Instead of a person, the tower is tied down by its content, the magnetic tape.

The tower is a contested structure that can be used to exert control, in the same way that a judge controls

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the judicial space and processes of redress. It stands symbolically for the judge, the figure who is meant to show the way by pronouncing just verdicts. However, in relation to the ship, the tower is more readily associated with a lighthouse, a guiding light instead of a judging force. In this instance it fails on both counts, as the voices on the reams and reams of magnetic tape are silenced and threaten to ensnare the boat.

The play with scale is important in the entire installation, as it has affects on the body of the viewer. These spaces impose a child's perspective on the viewer, as, for example, the viewer is overpowered by the scale of the tower. The affects of the scaling invite or preclude participation, positioning the viewer within the work. As a participant in this universe, the viewer occupies a subjective position which is never fixed, but changes as the viewer moves through the different spaces.

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SUBMISSION 6

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*Law of dreams*, 2010. Witness bench, courtroom office desk, two filing cabinets. Dimensions fixed.

“Dreams are theatres which put on the appearance of a play in order to slip other unavowable plays between the lines of the avowal scenes.” (Derrida, 2003: 31)

In the real world the witness bench is positioned on the level of the main trial performance. In the exhibition space, a little ladder allows the viewer to climb up and survey the terrain much like a judge would survey the court performance. Here, viewers have a double role as participants and performers with subjective experiences within the piece, but can also place themselves outside of this creation, in an objective position, by climbing into the elevated witness bench. This repositioning of the witness attempts, above all, to once again place agency in the hands of the subject.

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of 2010.**SUBMISSION 7A  
Installation Details *R v JR July 2010*

*Won't give it away*, 2010. Metal filing cupboard, cardboard, wooden box, lighting and courtroom tapes. Dimensions variable.

SUBMISSION 7B

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*Exhibit C*, 2010. Photomontage, archival ink on matte photolustre paper. 220 x 84cm.

SUBMISSION 7C



*The day I wasn't there*, 2010. Magnetic tape and metal bed frame. 200 x 90 x 250cm.

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SUBMISSION 7D



*Alice, the answer is blowing in the wind*, 2010. Recycled pages from 1960s statutes, videotape, pins, ink and dowel sticks. Dimensions variable.

SUBMISSION 7E



*Mr. & Mrs. Marple* 2010. Wood cut-offs and crocheted tape. Dimensions variable.

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JUDGEMENT

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Judgement according to Lyotard is based on the linking of phrases which are necessary but do not themselves determine the judgement (Readings, 1991b: 125). It is the manner in which the phrases are linked in relation to the idea of justice which determines judgement. However, justice can never be represented, that is, turned into a norm. Therefore, a just judgement would be one that respects the indeterminacy of justice, “that it does not seek to justify its claim to justice by means of a descriptive” (Readings, 1991b: 125), thus leaving it open for discussion (Readings, 1991b: 125). According to Lyotard “this judgement is not an undifferentiated pluralism, rather it is based in the most rigorous respect of difference” (in Readings, 1991b: 125). And difference, the seed of discontent, is what makes a democracy.

The arguments presented for *R v JR 2010* are in no way conclusive. Instead the presentation hopes to entice the viewer on a visual as well as narrative journey, expressing thoughts and sensations through the application of a myriad of techniques employed in multiform assemblage. In this manner, the subjects, the viewer and artist, will have to come to their own verdicts based on the evidence presented, to pronounce a final judgement.

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1            Stories such as *Where the Wild Things Are*, *My Bed is a Boat* and many more.

2            Usually the courtroom tape recordings are destroyed as they are considered classified and confidential and represent a not entirely legal archive. Mysteriously, they landed in the hands of Det. Prince and could be incorporated as evidence.

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Through the investigation of redress I have come to observe the close link between art, justice and society. The manner in which one understands the judicial system is largely based on how popular culture, art and courtroom spaces portray its function. This link can also work in reverse, as how one understands a system dictates how one interacts with it. It is vital that citizens take an active interest in the processes of justice and redress, as they do have real-life effects. Laws are passed, sentences executed, compensations awarded, all in an attempt to redress the wrongs and harms done within our social network.

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The installation *R v JR 2010* is a play between the real world, judicial processes of redress and a fictional narrative, a detective story spearheaded by Advocate Alice and Detective Little Prince. It is based on child characters from well-known fairytales interpreted according to ideas of aesthetic redress. In this manner it swaps the narrators of the real world with fictional figures who steer the investigation into processes of judicial and aesthetic redress. The leads they follow take them into the actual world, inhabited and controlled by adults. By mimicking the processes and strategies of the judicial and art system, they subvert and appropriate them to create their own story. Agency is key, but is restricted in the actual processes of redress. Without it, I argue, the production of subjectivity is not possible.

In an attempt to define what I term aesthetic redress, I turned to aesthetic strategies employed in contemporary critical art which are no longer focused on revealing a truth, but which reflect undecided positions inherent in social systems. I attempted this through strategies of object relations which destabilise perceived western binaries. This is based on a “deconstruction of materiality” – a deconstruction in the Derridian sense – part of the process of aesthetic redress = research + reconstruction + reinterpretation (as extrapolated from dictionary definitions which read as redress = back + arrange + again). In the field of visual art, the reinterpretation is triggered through Deleuze’s concept of sense memory: affect which leads to a deeper understanding of subjectivity. It is in these terms that I understand and use “aesthetic redress”.

What I chose to retain from processes of critical art of the 1960s and 70s is a process of mimicry that exercises critique. This process is implemented in a playful manner to stage the fictional investigation. In this manner, I, as author of the fiction, retain an artistic licence to subvert the official process and structure of legal redress, as I am situated outside the judiciary.

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This production, *redress*<sup>1</sup>-un-dressed 2010, can be considered “discursive noise” in the form of an allegory, seen to be the basic trait of ambiguity and “thus stand[ing everywhere] opposed to purity and coherence of meaning” (Cohen in Jennings, 2008: 117).

Detective Prince collected real and photographic evidence of the judicial processes of redress for Advocate Alice’s analysis of aesthetic objects of materiality with actual residue – patina and scars which mark memory and history – to set up the arguments for *R v JR 2010*. Advocate Alice studied Lyotard’s theatre of representation, investigating the role of installations, play and deconstruction to argue for an alternative staging of the evidence. Prince and Alice thereby apply processes of aesthetic redress, as defined in the first part of the document. In this manner they are using the archive of evidence to construct a serial installation which allows the viewer to participate in the argument intellectually, viscerally, physically and emotionally. The evidence documents an experience of judicial redress, while at the same time offering strategies of affirmative transformation by placing agency with the witnesses as they face and re-evaluate their own subjective understandings of the process.

Traditional forms of presenting evidence and bearing testimony are often devoid of the traumatic experiences that victims have to address, both of the crime and the legal processes which follow. However, the form of aesthetic redress, presented as a performative installation, arguably not only has an ability to make trauma visible in the present, but can also reveal processes of how to move beyond trauma, as it applies a formula of redress = back + rearrange + again.

This formula has been crucial in the development of the story, which spans three years of investigation and case hearings. The work evolved from playful intuitive collages into a more conscious process which created a whole environment. Play and serious decision making are interwoven to create a narrative system which overlaps, juxtaposes and unites through scale, colour, sound, form, space and material.

The Final Case Hearing for *R v JR 2010* is the result of this fictional investigation that stems from a real experience. This pursuit of personal memory and autobiography takes the work along a path that deconstructs systems and structures of processes of redress. Presented together with this document, the restaging of the evidence for *R v Judicial Redress 2010* freed up the investigation to play off similarities and differences

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between the aesthetic and judicial processes. In this manner *redress*<sup>1</sup>-un-dressed attempts to critically engage in processes of redress to offer a more affirmative strategy of transformation.

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I therefore invite the viewer to explore the case for *redress*<sup>1</sup>-un-dressed and to come to their own conclusion on the matter, to reach their own verdict. I, for one, plan to come to my own verdict and proclaim a personal judgement independently of this research project, by way of a series of drawings of the installation, in much the same way that graphic artists make drawings of court proceedings for the news when cases are closed to other recording media. This proposed investigation, which continues my research into the production of subjectivity and anything 'beyond', is not part of the MFA.

However, the aim of these drawings is to capture the position and mood of the evidence and participants of the specific case presented. In this manner I hope to bring further resolution to this case for myself. The drawings will be the only visual documentation of *redress*<sup>1</sup>-un-dressed. This act plays with the traditional form of documenting a body of work, a tradition which relies on photography or film to record ephemeral works for posterity. In this manner, documentation will be performed through the use of expressive mark making rather than the traditional filling out of official forms, thus elevating a subjective record over a supposedly objective one.

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## EXTRACTS FROM CASE DOCKET 001/05/2008

- |                                    |     |
|------------------------------------|-----|
| 1. INVENTORY LIST OF REAL EVIDENCE | 757 |
| 2. MINUTES OF CASE MEETING         | 759 |
| 3. MINUTES OF EVIDENCE MEETING     | 762 |
| 4. ARCHIVE CD CASE NO 001/05/2008  |     |

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of 2010.INVENTORY OF COURT ROOM MATERIALCOLLECTED 2009 @ THE CAPE TOWN MAGISTRATE COURT

Amount	Description
Aprox 1000	90 min magnetic tape cassettes containing recordings of proceedings
5	Leather-bound statutes of South Africa dating around 1960 to 1963
1	Advocate's robe
1	Undercoat for the Advocate's robe
1	Pigeon-hole cupboard
1	Metal document cupboard
1	Wooden office filing cupboard and key
1	Large wooden office desk
1	Half of wooden office desk
3	Frames of metal chairs
2	Office chair foam cushioning, covered in a red stripe fabric
3	Fake leather chair cushions
5	Back piece of wooden office chairs
1	Justice tuck-shop sign on metal
1	Regional court sign
1	Court numbering sign, "19"
1	Warning sign for slippery floors
5	Pieces of office desk drawers
2	Complete wooden drawers
1	Wooden box
2	Beige plastic bins
1	Piece of wood with round holes, original function unknown
1	Metallic chair with green fake leather back
1	Wooden chair with brown foam backrest and seat
1	Wooden chair, no seating
	Collection of random, unidentifiable pieces of wood
1	Spring metal bed frame without legs

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Additional	
17	Blue chairs @ P.
1	Children's bed frame
1	Wooden bed backing
86	Green chairs, general
7	Brown chairs
2	Red chairs
4	Red high chairs @ P. 2010
1	Office desk, large
1	Office desk, small
2	Coffee table
1	Filing cabinets
3	Wooden shelf
21	Witness bench
3	Office chairs on wheels

**MINUTES OF CASE MEETING**

DATE	10 June 2010
TIME	10.30 am
PLACE	Michaelis Gallery, Cape Town
PRESENT	Adv. Alice, Det. L. Prince and public
APOLOGIES	NA
MINUTE-KEEPER	Adv. Alice



*10:30am Case Meeting with Adv. Alice, 2010.*

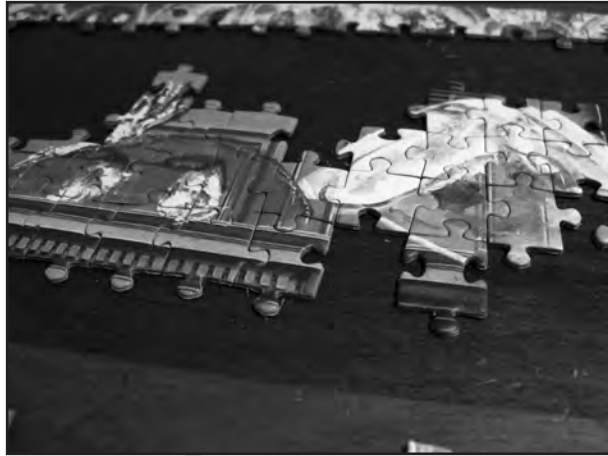
Court office desk, discarded broken court office fans, court tapes of old case recordings, crocheted magnetic tape court socks, French-knitted court tape tubes, discarded wood. All material assembled from real evidence collected by Det. L. Prince.

*Exhibit A*, 1000-piece puzzle, is from Det. Prince's archive of evidence.

- *10:30am Case Meeting with Adv. Alice 2010* is part of the Michaelis Masters Group Show *It's Not Final* (2010) curated by Bettina Malcomess & Peter van Heerden. This installation informs the final arguments that Adv. Alice hopes to present in October 2010.
- *10:30am Case Meeting with Adv. Alice 2010* makes aspects of her character and her thought processes visual with regards to the case *R v JR 2010*. On her desk is *Exhibit A* (2010) in the process of being put together. A small reference image lies

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amongst the pieces, inviting the viewer to complete the puzzle. The installation, which can initially be read in a very literal manner – office, desk and lamp – slips into a fantastical realm, structured by fragments of a narrative which explores aspects of the case.



Detail of *Exhibit A*, 2010.1000-piece puzzle presented by Det. L. Prince at the case meeting, 64 x 48 cm.

- Det. P. strategically investigated the photographic evidence by following leads, a process which playfully mimicked the actual processes of detective work. This play acting is a strategy often employed by children in an attempt to understand and expand their environment. It is, however, also a strategy employed as a critical process of investigation employed by artists to deconstruct the truth and myth of our social realities. *redress*<sup>1</sup>-un-dressed makes use of the play acting strategies to offer affirmative strategies of transformation through an affective response. This allows Det. Prince and Adv. Alice creative licence, i.e. authorial freedom, to play with the internal rules of the system, as they are not bound by them. By creating their own fictional realities, fantasies or myths they deconstruct the *real vs. myth*.

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- To argue the case *R v JR 2010*, Adv. Alice takes on a similar approach to Det. Prince, mimicking processes that underpin judicial redress. Her investigation, which is from inside the judiciary, remains on the outside. This play of positions can be observed in the case meeting, as different figures occupy different spaces.

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**MINUTES OF EVIDENCE MEETING**

DATE	11 August 2010
TIME	11am
PLACE	The Sub Station gallery, Johannesburg
PRESENT	Adv. Alice, Det. L. Prince and public
APOLOGIES	NA
MINUTE-KEEPER	NN – judicial officer in JHB

INSTALLATION OVERVIEW



*Evidence display 11am Det. L. Prince, 2010.  
Exhibit A and Exhibit B on two tables from the Evidence Archive  
RVJR 2010.*



Installation detail:  
Exhibit A – 1000-piece puzzle. 64 x 48 cm.



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Installation detail:

Exhibit B – 49-piece memory game *redress*<sup>1</sup>-un-dressed 2010.

Dimensions variable.

**Exhibition setup:**

The works were unpacked with all their parts accounted for and found to be in good condition. After deliberation with the curators on site, the works were displayed in both rooms as a means of thematically linking the exhibition as a whole across the two spaces. Access from the larger space is afforded up a short flight of stairs into the smaller space.

*Exhibit A* was assembled in the smaller space at the top of the stairs by slotting the two leg pieces into grooves beneath the table surface. The puzzle was placed on the table by carefully extracting the half-completed puzzle from its packaging between two cardboard sheets. The remaining puzzle pieces as well as the reference picture were also placed on the table. The work was lit by a single 50 watt spotlight.

*Exhibit B* was installed in the larger room on the other side of the same wall as *Exhibit A* by suspending the table from a metal bracket so that the two front legs were raised approximately 50 cm from the floor. The third leg was returned to the packaging crate and not displayed as we were unable to suspend it from the table neatly or securely. The memory game cards were placed face down on the table surface with a linking pair shown face-up. The game's instructions were affixed to the left of the table surface on the wall. This work was also lit by a single 50 watt spotlight.

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of 2010.****Observations:**

The memory game in *Exhibit B* was regularly played by visitors to the gallery on the opening night and the two preceding days. It was seen as somewhat of a challenge to viewers. A few viewers played the game for an extended period of time. Some cheated. By the end of the first two days nearly all the pieces were face-up in matching pairs.

I only observed myself and one other visitor endeavouring to complete the puzzle in *Exhibit A*.

Raising the height of the table off the floor in *Exhibit B* added an element of oddness to the work that rendered it both playful and curious in a very successful way. The height resonated with that encountered by small children trying to engage in the world of adult-sized furniture.

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