

redress-un-dressed

Introducing a play of judicial and aesthetic processes of redress

Elgin Rust

Master graduate of the Michaelis School of Fine Art,
Faculty of Humanities, University of Cape Town.
info@elginrust.net

The documents compiled for this journal are extracts from the mini-dissertation part of the Fine Art Masters *redress¹-un-dressed*, ADVOCATE ALICE PRESENTS: *R v JR 2010*, completed in 2010 at the University of Cape Town. This investigation into processes of redress (that is, strategies of transformation) led me to juxtapose processes of what I have termed ‘aesthetic redress’ against processes of judicial redress. Here I present a selection of discursive arguments underpinning the fictional case *R v Judicial Redress 2010 (R v JR2010)* which manifest in the practical body of work as a performative installation. For the purpose of this paper, I have chosen to focus on the play of judicial and aesthetic processes that highlight links between law, art and culture.

Key words: law, art, redress, aesthetic redress, play.

Redress-un-dressed

’n Inleiding tot die spel tussen regs- en estetiese prosesse van af restelling

Die dokumente wat saamgestel is vir hierdie joernaal, is uittreksels uit die mini-tesis vir *redress¹-un-dressed*, ADVOCATE ALICE PRESENTS: *R v JR 2010*, ter verkryging van ’n meestersgraad (2010) in Skone Kunste aan die Universiteit van Kaapstad. In hierdie ondersoek na regstelling (*redress*), oftewel strategieë van transformasie, jukstaponeer ek wat ek beskryf as estetiese regstelling naas prosesse van regterlike regstelling. Ek bied hier ’n seleksie van betoë as grondslag van die fiktiewe hofsaak *R v Judicial Redress 2010 (R v JR2010)*, wat in die praktiese groep werke as ’n vertoonkunsinstallasie manifesteer. Vir die doel van hierdie verhandeling het ek besluit om te fokus op die spel tussen regterlike en estetiese prosesse wat die skakels tussen kuns, kultuur en die reg belig.

Sleutelwoorde: wet, kuns, regstelling, estetiese regstelling, spel.

This investigation into processes of redress grew out of an awareness of the consequences of the many acts of violent transgressions committed by humans against one another, against humanity. These are clearly not exclusive to South Africa. Hal Foster goes so far as to propose that we live in a “trauma culture” (Foster in Bennett 2005: 6). I argue that as long as major institutions, such as the judiciary, continue to sideline emotional redress¹ by focusing purely on punishment and economic compensation², we will continue to live in this “trauma culture”, as these institutions continue to perpetuate what Pierre Bourdieu describes as “gentle violence”, imperceptible and invisible even to its victims. It 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). As a countermeasure, he proposes a materialist analysis of the economy of symbolic goods and the creation of symbolic weapons capable of shaking the institutions (Nice 2001: ix – 3). This is especially pertinent 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 attempt to facilitate processes of redress, but the need for further redress continues to be overwhelming. This need for redressing the legacy of apartheid overshadows the growing need for redressing the social crisis due to the increasing number of violent crimes such as murder, rape and assault committed daily against the weakest in society: women, children and anyone considered other (Gallagher 2005; Mistry 1997 [Online]). The war against them persists as their voices continue to be silenced by the patriarchal system of the judiciary which, in denying truth, denies processes of redress (Motsei 2007: 37 - 54; Greenbaum 2008: 81 - 98) (Thomson 2002: 187).

Case No. 001/05/2008

This fictional case engages the services of the invented characters Detective L. Prince and Advocate Alice, which are loosely based on *Alice in Wonderland* (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. The form of detective fiction allows me to mimic and subvert real processes of judicial redress by applying a process of redress through art, which I have termed ‘aesthetic redress’.

I open the case with a statement regarding my personal experience of judicial redress, given to the fictional figure Detective L. Prince via an artwork (Figure 1). This response not only recalls the experience I shared with my mother, but one I share with all women and children who have had the courage to participate in the judicial system, in an attempt not only to redress emotional and physical harm for themselves, but for all citizens.



Figure 1
for my mother and me, 2008, ink on digital collage,
inkjet on hahnemühle paper, 22cm x 30cm, London, private collection (Source Rust 2010: 671).

The scene of the crime is established as the courtroom, which attempts to redress a crime as it is here that the victim becomes a state witness who appears in court to testify. During 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 in cases of sexual assault, where the reputation of the victim/witness is called into question by attacking her [sic]³ character, thus repositioning her as the perpetrator (Zefferett 1998: 47).

In this manner, I initiate the investigation into judicial redress. The process documented in *Case Docket 001/05/2008* records the investigation in the form of letters, reports and memos compiled by the fictional characters. Their investigation 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.

Photographic documentation and physical evidence collected from the Cape Town courts is used by the fictional characters to interrogate the abstract concepts of redress by applying a specific process of research + reconstruction + reinterpretation to these symbols (objects,

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 + reconstruction⁶⁺ 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 consequently 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.

This game⁷, 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”⁸. 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 unconsciousness of society, which is engraved in the ordinary (or in our case, I suspect, the court room) (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).

The Detective believes that these object-subject relations are crucial points of departure when considering processes of aesthetic redress. They open the reading to a diversity of positions, deconstructing social and cultural binaries (e.g. internal/external; masculine/feminine; truth/appearance) which is arguably the opposite of a legal reading, which attempts to fix positions (Irvine 2004 [Online]).

Memo

From:

Date:

Summary of Precedents 003/2011

Judicial Officer

23.06.2008, 02.07.2008 & 29.09.2008

After establishing the theoretical points of departure, the investigating team Advocate Alice and Detective L. Prince proceed to compile three precedents to underpin the arguments. This lays the foundations for the **Case Strategy 03.02.2010**.

Precedent 1

Advocate Alice selects Dinh Q. Lê’s collaborative *The Farmers and the Helicopters* 2006 (Figure 2) because of his particular use of material: aviation and other machine scrap collected around

the Tay Ninh Province, home to the US military in the American-Vietnam war. Together with two farmers/mechanics, Lê literally redressed this trash into Bell UH-1 or “Huey” helicopters (Cruz 2008 [Online]). This process is captured on three channels in a high-definition colour video installation intercut with American-Vietnam war movies (Cruz 2008 [Online]).



Figure 2

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 (Source universes-in-universe 2010 [Online]).

It strikes the Advocate as important that the collaborators returned to the original site of war to collect the residue, loaded with history and memory, to re-construct hand-crafted helicopters, thus performing a process of research + reconstruction (Mouret 2007 [Online]). By creating something from nothing, the subjects are making a new version thereof. Interspersed with clips taken from American blockbuster war films, which reflect a popular western culture and their collective ‘histories’; these objects are read in a way that slips between chaos and order, obscurity and revelation. The work expresses a basic human experience which turns it into a mirror for society. “The fulfilment of their dream [Lê and the farmers] 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 [the American] than their own” (Cruz 2008 [Online]). The process of weaving different cultural strands of memory and history serves as a metaphor for the mind’s struggle to integrate different representations. This completes the process of aesthetic redress = research + reconstruction + re-imagination.

Precedent 2

Our Advocate chooses Walid Raad’s *The Atlas Group* 1998-2004 as the second precedent because both artists work with the residue of war using similar processes of aesthetic redress, in which the performativity of an archive is applied to propose new subjectivities. These subjectivities are shaped by the past, but have moved beyond the initial harm or trauma. Unlike Lê, who plays Hollywood war movies off against the real stories of the farmers, Raad incorporates fictional figures into real stories to produce an archive focusing on the Lebanese civil wars between 1975 and 1991.

Advocate Alice cites as an example thereof, *War Notebooks* (2004) (Figure 3), which uses documents from the actual archives in Lebanon. These archives are re-staged by the fictional historian, Dr Fadl Farl Fakhouri, who is understood to have donated all his files to the Atlas Group (Raad in Maimon, 2009: 99). Dr Fakhouri's collection contains photographic and textual notations of horse races that he attended. Writer and critic Verd Maimon argues that, while they refer to no historical war, the archive alludes to the traumatic effects of war in general (Raad in Maimon, 2009: 99).

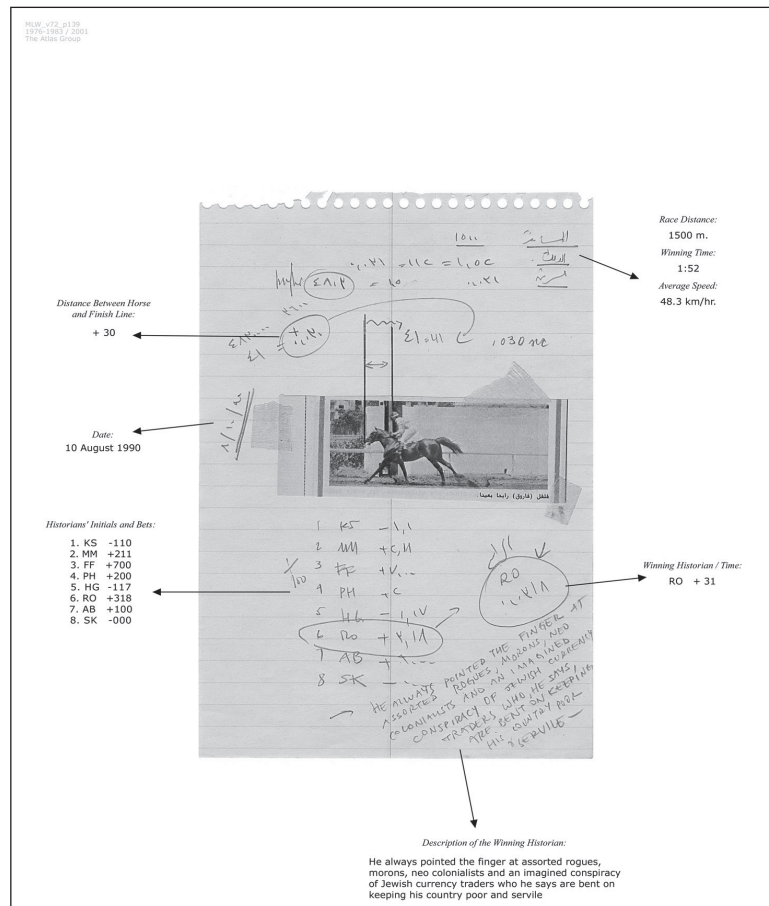


Figure 3
Walid Raad, *Missing Lebanese wars, 1996-2002*,
archival inkjet prints, single print, 112 x 127cm (Source Elsewhere ©, 2010 [Online]).

Advocate Alice observes that in this manner the artist, in this case Raad, can use his position outside of the 'official role of recording history' to maintain freedom of expression and produce alternative narratives and subjectivities (Maimon 2009: 97 - 99). Alice argues that Raad's body of work encapsulates a straightforward translation of aesthetic redress, albeit one in which historical forms of representation are very limited. For her, art that mimics empirical strategies (like the archive) to destabilise fact production risks replicating the same forms it tries to destabilise.

She therefore argues that when presenting the evidence for *Case Docket 001/05/2008* they, Advocate Alice and Detective Prince should be wary of falling into the same trap. They should ensure and not eliminate disagreement. They could do this using a process of dis-identification and declassification to create new partitions between subjects and roles, names and identities, and speech and noise (Maimon 2009: 103). In addition, Advocate Alice argues it will be important not to keep the viewer at an emotional distance as disagreement in this form

is produced without affect and thus continues to fail to register the emotional affects traumatic events such as war, have on subjectivities.

The good Detective explores this issue in a follow-up letter, suggesting that the registration of affect is incorporated through a form of sense memory. This memory “operates through the body to produce a kind of ‘seeing truth’ rather than ‘thinking truth’” (Bennett 2005: 26). Sense memory allows engagement with a traumatic experience that may otherwise be unintelligible, especially when the cognitive system of a victim/witnesses is overstretched. According to current trauma studies, “the subject is often incapable of making a narrative memory regarding the event” (Janet in Bennett 2005: 23). If that is the case, justice (and redress) cannot be achieved.

Detective Prince then mentions a theory postulated by Deleuze, which asserts that artists think in terms of sensations that are generated through the artist’s engagement with the medium. In this process, “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 engagement shifts the emphasis from expression to production, from object to process, wherein sensation is the modus, not the subject. Therefore, “seeing truth” can be understood as part of the process of aesthetic redress. Conversely, it can be argued that judicial redress relies purely on the polar opposite, “thinking truth”. Prince concludes that, when questioning how this “seeing feeling” works, 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).

Precedent 3

This leads Advocate Alice to present Kentridge/Handspring’s play *Ubu and the Truth Commission* 1997 as, unlike Raad, they achieve a “reconfiguration of the inescapable” by incorporating sense memory into his production of “dialectical images” (Hickey 2009: 18).

Directed by Kentridge and written by Jane Taylor, this script is based on original testimonies of the Truth and Reconciliation Commission (TRC) and Alfred Jarry’s 19th-century fictional character of Ubu Roi (Handspring Puppet Company, 2002 [Online]). It mimics the TRC, using the narrative to show what it means to live with the burden of history. Its process involves research and reconstruction, not only to explore emotion *per se*, but to allow the intensities of affect to flow in and out of the characters, allowing the work to go beyond the psychological and emotional. The theatrical production achieves this by bringing binaries into play (such as perpetrator/victim and/or past/present) while at the same time incorporating and engaging emotions, psychology and agency – thereby producing an affective experience for the audience.

Advocate Alice takes to heart Kentridge’s emphasis on process as creative production, a strategy that evolves as it de-constructs and reconstructs an idea (Kentridge 2010 [Online]). It includes productive misunderstandings and plays with fact and fiction to produce an artefact, which is called art. For Kentridge, art, much like life, is a journey. Unlike life, though, in the realm of art one can go back in time. This process 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). Temporality is revealed as a codification which is linked to the restoration of the body politic (Dubow 2007: 50). And this is at the heart of Alice’s argument for the case.



Figure 4

Ubu and the Truth Commission 1997, witness puppet with puppeteers Basil Jones and Busi Zokufa in play written by Jane Taylor from the production by William Kentridge with the Handspring Puppet Company (Source Handspring Puppet Company, 2002a [Online]).

These three precedents lead Detective L. Prince to spearhead the in-depth investigation of the crime scene: the spaces housing the judicial processes. He creates a photographic archive of evidence and also collects real evidence for the CASE ARCHIVE 001/05/2008: approximately 1000 x 90 minute magnetic tape cassettes containing recordings of proceedings, five leather-bound statutes of South Africa dating around 1960, one Advocate's robe, one pigeon-hole cupboard, one metal document cupboard, one wooden office filing cupboard and key, four large wooden office desks, one justice tuck-shop sign on metal, one Regional Court sign and seventeen blue court chairs, to list a few.

These are used to produce the subsequent case strategy for the trial hearing *R v JR 2010* presented by Advocate Alice in the Egyptian Building on Orange Street, October 14th 2010.

<u>Case Strategy</u>	<u>Date: 03.02.2010</u>
To:	His Lordship
From:	Adv. Alice
Case No.	001/05/2008

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 agency of the witness and the perpetrator 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). Our use of these strategies allows us to compare the judicial and the aesthetic systems, as both operate in the same social context.

These interacting yet operationally closed function-systems produce different version of reality. They describe the world through defining elements of communication, and 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).

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 court room. 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. An installation is, therefore, a logical strategy to employ for the presentation of this complex case, as it allows for the literal, physical, conceptual and spatial processes of redress to manifest the abstract processes of law and art.

This staging, my Lordship, is arguably a co-appearance⁹. The installation functions as a form that can facilitate a political staging of subjectivities¹⁰ 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 performative¹¹ installation which juxtaposes official and unofficial means of retrieving 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).

Should you have any queries, these can be discussed on 22 July 2010, when we meet for the trial hearing in Room 5, Hiddingh Campus.

Respectfully,
Adv. Alice

Trial Report **Date: 23.07.2010**
From: **Judicial Officer**
To: **Adv. Alice**
Case No. **001/05/2008**
Subject: **1st Hearing *R v JR*/JULY 2010**

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 the documentation and respective observations.

Yours kindly
J. O.

Submission 1

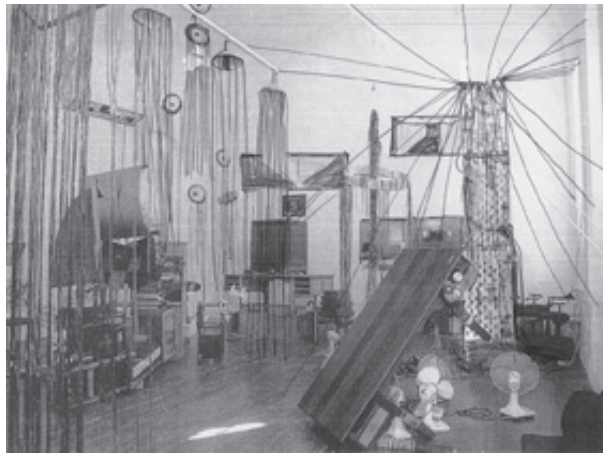


Figure 5

Installation view of *R v JR, July 2010*, mixed media: court room furniture, photographic documentation, dimensions variable, Cape Town (Source Rust 2010: 739).

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 court room. 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 fairy tale in which the primary narrative contains a secondary narrative. The primary narrative is the detective fiction led by the two protagonists. The secondary narrative consists of the processes of judicial redress (Black 2008: 35).

Submission 2A



Figure 6

Evidence by Det. L. Prince, 2010. Two pin boards, two square tables, Exhibits A and B. dimensions variable, Cape Town (Source Rust 2010: 740).

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, part of a series of photomontages. Exhibits A and B, which call for viewer participation, are placed on two square tables collected from the Cape Town Magistrate's Court as evidence.

However, unlike evidence used in a judicial setting, these images were digitally manipulated to enhance visual 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 redressing.

Submission 2B



Figure 7

Dornröschen, 2009, preliminary collage for Exhibit A, 2010, inkjet on hanemuehle paper, ink, glitter and watercolour pencil, 53cm x 73cm, Cape Town, private collection (Source Rust 2010: 741).

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 court room space. The viewer is drawn in by the colours and figures but is simultaneously jolted out into another context by the court room space. Mather 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 court room space, recorded as real photographic evidence for *R v JR 2010*.

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.

Submission 3

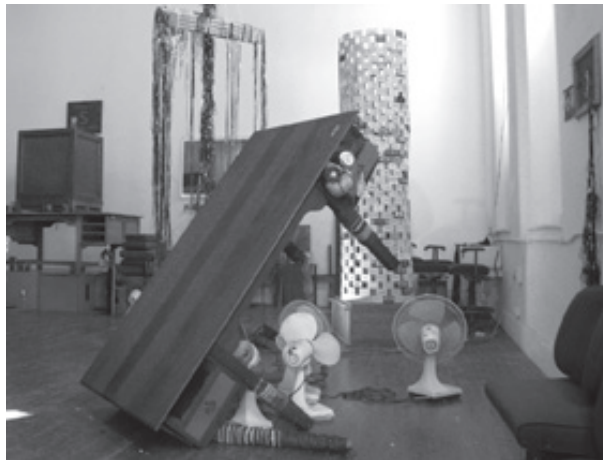


Figure 8

Adv. Alice, 2010, court room office desk, 5 broken fans, magnetic tape of court hearings, dimensions variable, Cape Town (Source Rust 2010: 742).

Propped up at an angle, a heavy office desk collected from the Cape Town Magistrate’s Court acts as a fort for the group of figures hiding underneath, which are assembled from discarded court room 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.

Submission 4

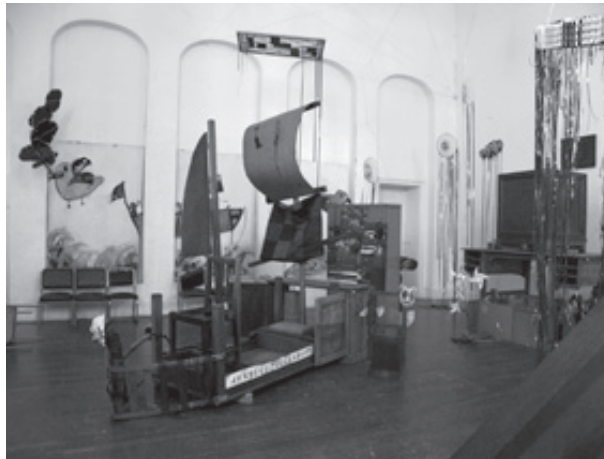


Figure 9

Das Narrenschiff, 2010, found court room table, filing cabinet, chairs, storage cupboard and signage, dimensions variable, Cape Town (Source Rust 2010: 743).

Das Narrenschiff in this first hearing, *R v JR July 2010*, 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 migration, notions of colonialism and globalisation.

The ship in this installation is assembled from court room 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 game play can transform a cardboard box into a house or a spaceship, a bunk bed into Mount Everest and a table into a ship (unlike their real counterparts, of course, they never physically move). The symbolic, makeshift ship often appears in children's stories¹² 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.

Submission 5

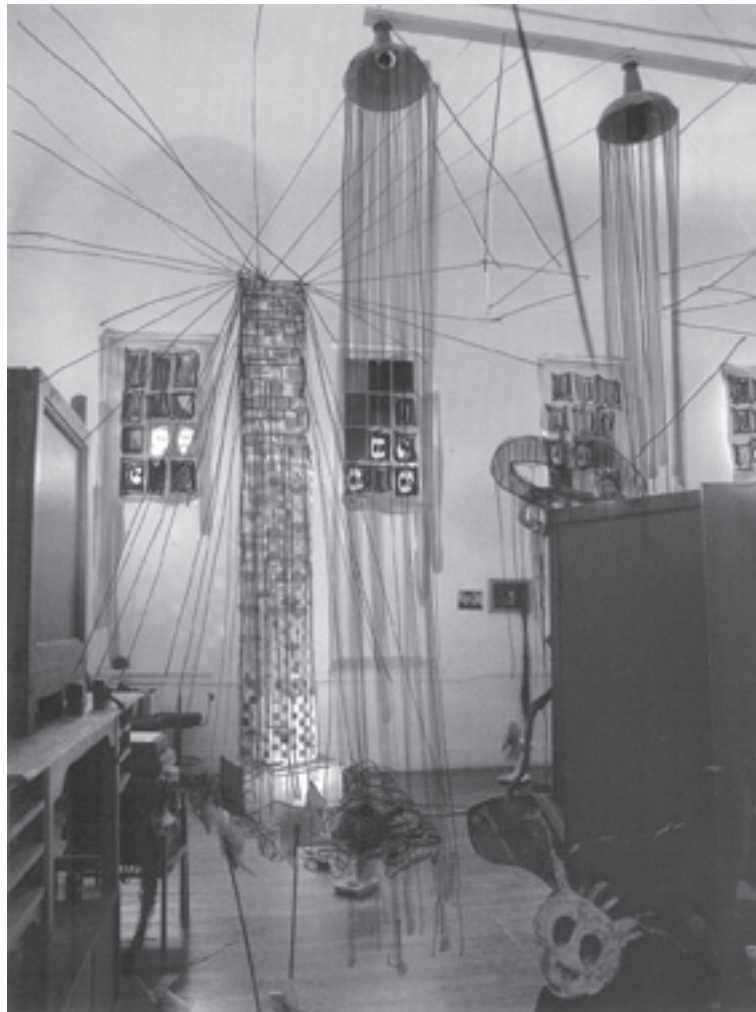


Figure 10
Babble, the law is, 2010, tower of court tape cassettes, dimensions variable,
Cape Town (Source Rust 2010: 745).

The tower in this fictional restaging of evidence was constructed using discarded tape recordings of court proceedings 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 fairy tale 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 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 effects 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.

Submission 6

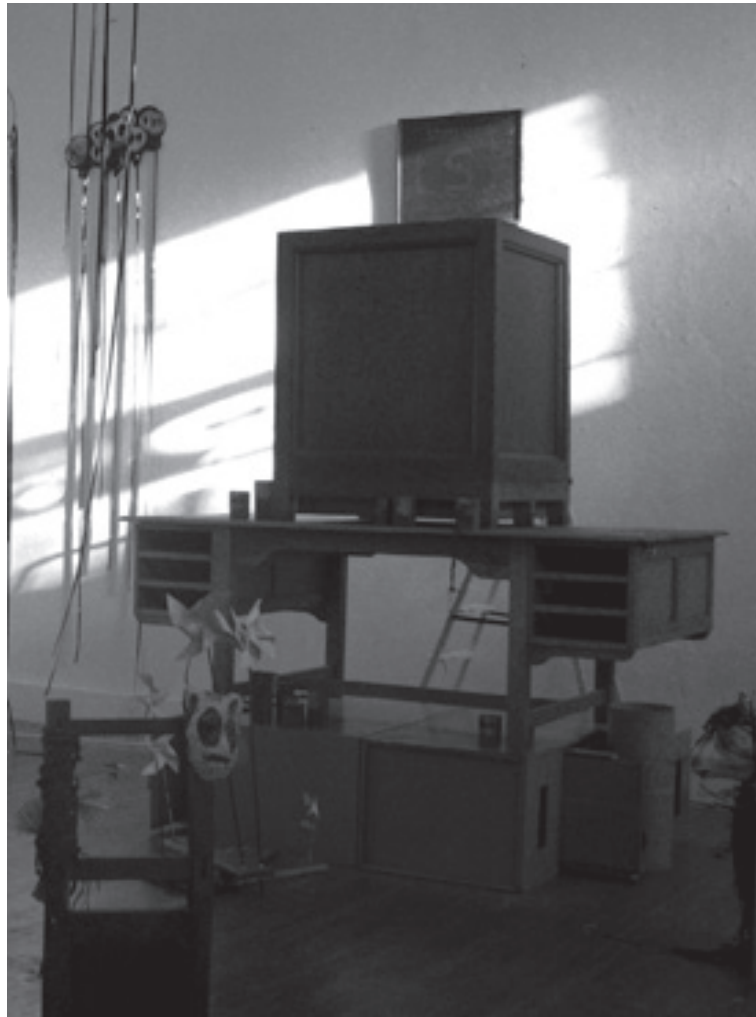


Figure 11

Law of dreams 2010, witness bench, courtroom office desk and two filing cabinets, dimensions fixed.
Cape Town (Source Rust 2010: 747).

“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.

Conclusion

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 the judiciary's function. This also works in reverse, as one's understanding of 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 have real effects. Laws are passed, sentences executed and compensations awarded to redress the wrongs and harms done within our society.

This extract focuses on the theoretical and practical arguments underpinning an *aesthetic redress* that is played out as a story of detectives trying to create a symbolic order of judicial redress in the real world. In this game, characters from well-known fairy tales are swapped with narrators in the real world, placing them in actual courtrooms usually controlled by adults. This offers a critical sign-play between different discourses. As the processes and strategies of the judicial and art systems are mimicked, they are subverted and appropriated to create their own story. This interpretation of the evidence (photographic and real) opens up multiple inherent yet undecided positions. Agency is crucial but is restricted to the actual processes of redress. Without agency, I argue, the production of subjectivity – which is at the heart of redress – is not possible. The complete transcripts of *Case No. 001/05/2008* may be found at Hiddingh Hall Library, UCT.

Notes

- 1 This is specifically the case as the law takes physical injury much more seriously than emotional distress. For example, a minor cut entitles a plaintiff to damages whereas the 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 the damage has no specific physical source. Compensation is then only available when the mental suffering constitutes a "recognisable psychiatric illness" (Teff, 2009: i). To discourage the perceived threat of a 'compensation culture' (Treff, 2009: 4), the law imposes strict limits on who can recover damages for emotional harm. 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).
- 2 Since 2009, restorative approaches to justices have been introduced due to a growing awareness of its role in rebuilding torn societies: "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).
- 3 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.
- 4 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]). These readings exist simultaneously, never arriving at one fixed final argument (Balkin, 1999 [Online]).
- 5 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 Rex or Regis (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 whomever. In all civil matters the Plaintiff / Claimant will be cited first, the Defendant second. 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]).

- 6 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).
- 7 For Jacques Rancière this game is a clash or breaking of past and present, which creates disagreements that challenge the enforced binaries affecting the viewer. He describes this as “the game”, a strategy applied by those artists engaged with critical art which is only possible because there are existing relationships between politics and art (Rancière, 2004: 86, 88).
- 8 “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]).
- 9 “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).
- 10 This staging of subjects is crucial in Lê’s, Raad’s, and Kentridge’s work, as outlined in the precedents in the **Summary of Precedents 003/2011** compiled by the Judicial Officer.
- 11 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.
- 12 Stories such as *Where the Wild Things Are*, *My Bed is a Boat* and many more.

Works cited

- Bennett, J. 2005. *Empathic Vision, Affect Trauma & Contemporary Art*. California: Stanford University Press.
- Bennett, L and Feldman, M. 1981. *Reconstructing Reality in the Courtroom*. London: Tavistock Publications.
- Black, P. 2008. “Once Upon a Time: A Conversation with Andrea Loeffke”. In *Sculpture Magazine*, Vol. 27 No. 4, May 2008. 32-37.
- Carroll, L. 2009. *Alice’s Adventures in Wonderland; and, Through the Looking Glass: and What Alice Found There*. Oxford: Oxford University Press.
- Derrida, J. 2003. *Geneses, Geologies, Genres & Genius – The Secrets of the Archive*, trans. Brahic, B. New York: Columbia University Press.
- Dubow, J and Rosengarten, R. 2007. “History as the Main Complainant: William Kentridge and the Making of Post-Apartheid South Africa”. In Hickey, T (ed.). 2007. *William Kentridge: Fragile Identities*. Brighton: Faculty of Arts & Architecture, University of Brighton. 47-59.
- de Oliveira, N; Oxley, N and Petry, M (eds). 2003. *Installation Art in the New Millennium, the Empire of the Senses*. London: Thames & Hudson.
- Saint-Exupéry, A. 1987. *Der Kleine Prinz*. trans. to German by G & F Leitgeb. Düsseldorf: Karl Rauch Verlag.
- Greenbaum, B. 2008. “An elaboration of the themes and contentions in Mmatshilo Motsei’s book *The Kanga and the Kangaroo Court: Reflections*”

- on the Rape Trial of Jacob Zuma". In *South African Journal of Criminal Justice* 21 (1): 81-98.
- Gallagher, C. 2005. "Thousands of children raped in SA every day". In *Saturday Star*. September 03, 2005: 8.
- Hickey, T (ed). 2007. *William Kentridge: Fragile Identities*. Brighton: Faculty of Arts & Architecture, University of Brighton.
- Iverson, M. 2004 "Readymade, Found Object, Photograph". In *Art Journal*, Summer 2004. 45 -57.
- Maimon, V. 2009. The Third Citizen: On Models of Criticality in Contemporary Artistic Practices*. In *OCTOBER* 129, Summer 2009: 85 – 112. October Magazine, Ltd. and Massachusetts Institute of Technology.
- Motsei, M. 2007. *The Kanga and the Karoo Court: Reflections on the Rape Trial of Jacob Zuma*. Johannesburg: Jacana Media.
- Pearsall, J (ed). 1999. *The Concise Oxford Dictionary*. 10th ed. New York: Oxford University Press.
- Ranci re, J. 2002. "The Aesthetic Revolution and its Outcomes". In *New Left Review* 14, Mar - Apr 2002. 133 – 151.
- Ranci re, J. 2004. "Problems and Transformations in Critical Art". In Bishop, C (ed). 2006. *Participation*. London: Whitechapel. Cambridge Mass: MIT Press. 83 – 93.
- Rehberg, V. 2010. "Object Relations: The myriad ways in which contemporary artists have been dealing with their ambivalent relationship to the ready-made". In *Frieze*, June-August 2010: 50-54.
- Rust, E. 2010. *redress^l-un-dressed, ADVOCATE ALICE PRESENTS: R v JR 2010*. MFA Thesis. Department of Humanities, University of Cape Town (Unpublished).
- Sachs, A. 2009. *The Strange Alchemy of Life and Law*. Great Britain: Oxford University Press.
- Thompson, N. 2002. "Cumulus from America: A Museum of Lies". In *Parkett* 66 2002: 187-190.
- Teff, H. 2009. *Causing Psychiatric & Emotional Harm – Reshaping the Boundaries of Legal Liability*. Oregon: Hart Publishing.
- Van Assche, K. 2007. Planning as/and/in context: towards a new analysis of context in interactive planning. In *METU JFA* 2007/2 (24:2) 105 -117.
- Vergine, L. 2007. *When trash becomes art: Trash, rubbish, mongo*. Milan: Skira.
- Zeffertt, D (ed). 1998. *The South African Law of Evidence*. 4th ed. South Africa: Butterworths.
- Zeydel, E (ed). 1944. *The Ship of Fools by Sebastian Brandt*. New York: Columbia University Press.

Online citations

- Balkin, J M. 1999. Transcendental Deconstruction, Transcendent Justice-- Part III. Originally published in *92 Mich. L. Rev.* 1131 (1994). [Online]. Available <http://www.yale.edu/lawweb/jbalkin/articles/trans03.htm> [2010. October 01]
- Brevard County Clerk of the Court. 2010. *Legal Terms: redress*. [Online] Available: <http://199.241.8.125/index.cfm?FuseAction=LegalInterests.LegalTerms> [2009. October 12]

- Clowney D, W. 2010. *Hegel in Philosophers, Artists and Critics on Art*. [Online] Available: http://www.rowan.edu/open/philosop/clowney/aesthetics/philos_artists_onart/hegel.htm [2010. August 4]
- Cruz, J. 2008. *Dinh Q. Lê: The Farmers and the Helicopters*. [Online] Available: http://universes-in-universe.org/eng/magazine/articles/2008/dinh_q_le [2010. May 23]
- Dictionary.com. 2008.redress. *Dictionary.com Unabridged*. Random House, Inc [Online] Available: <http://dictionary.reference.com/browse/redress> [2008. July 23]
- Dictionary.com. 2010a.re-dress. *Dictionary.com Unabridged*. Random House, Inc. [Online] Available: <http://dictionary.reference.com/browse/re-dress> [2010. August 14]
- Dictionary.com. 2010b.redress. *Online Etymology Dictionary*. Douglas Harper, Historian. [Online] Available: <http://dictionary.reference.com/browse/redress> [2010. August 11]
- Elsewhere © 2010.Raad, W. The Atlas Group / Missing Lebanese wars, 1996 - 2002. [Online] Available: <http://api.ning.com/files/MQpdjvjRDIAhfpCMn16P5F5XrvPl6iOtOZ/walidraadmissinglebanesewars.jpg> [2010. October 10]
- Handspring Puppet Company. 2002. *UBU AND THE TRUTH COMMISSION*. [Online] Available: <http://www.handspringpuppet.co.za/html/ubu.html> [2010. August 4]
- Handspring Puppet Company, 2002a. Ubu and the Truth Commission 1997 by Jane Taylor. From the production by William Kentridge and The Handspring Puppet, Company University of Cape Town Press. [Online] Available: <http://www.csps.emory.edu/images/face.jpg> [2010. July 28]
- Irvine, M. 2004 -2009 ©. *Derrida/ Deconstruction: Notes*. [Online] Available: <http://www9.georgetown.Ed.u/faculty/irvinem/theory/Derrida-Deconstruction-Notes.html> [2010. August 4]
- Johnson, K. 2005. "Art Review: Images of Vietnamese in the Generation since the War". In *The New York Times*, Friday, October 7, 2005. [Online]. Available <http://www.nytimes.com/2005/10/07/arts/design/07john.html> [2010, September 11].
- Kemp, G. 2010. *Citing Cases*. [Personal e-mail, 09 September] to E. Rust.
- Kentridge, W. 2010. *Putting the S into Laughter*, podcast. In *Gordon Institute for Performing and Creative Arts (GIPCA) Great Text/Big Questions* lecture series.[Online] Available: <http://www.uct.ac.za/news/multimedia/sound/> [2010. August 11]
- LLRX. 2010. *Features - Researching South African Law* by Barratt, A and Snyman, P, Published on October 1, 2002. [Online] Available: <http://www.llrx.com/features/southafrica.htm#Citation> [2010. August 4]
- Mistry, D. 1997. Centre for the Study of Violence and Reconciliation. *Victims and the Criminal Justice System in South Africa*, Seminar No. 11.[Online]. Available: <http://www.csvr.org.za/wits/papers/papdux2.htm> [2010. March 20]
- Mouret, H. 2007. *People in www.vietnam.chopper.com*. [Online] Available: <http://vietnam-chopper.com/thepeople.html> [2010. September 4]
- Shonibarembé, Y. 2010. *Looking up... TM* [Online] Available: <http://www.yinkashonibarembé.com/future.html> [2010. August 4]
- universes-in-universe, 2010. Magazine / Dinh Q. Lê / Images. [Online] Available:

http://universes-in-universe.org/eng/magazine/articles/2008/dinh_q_le/images/02/[2009. May 23]

University of Cape Town. 2007. *Faculty of Law, research, writing, style and referencing guide*. [Online] Available: <http://www.lib.uct.ac.za/law/Info/writingguideforlawstudents.pdf> [2010 August 10]

Wikipedia. 2010. *Gullivers Reisen*. [Online] Available: [Gullivers Reisen http://de.wikipedia.org/wiki/Gullivers_Reisen](http://de.wikipedia.org/wiki/Gullivers_Reisen) [2010. August 4]

Witcombe C L C E. 2010. *Hegel and the end of art?* Revised. In *What is Art?...What is an Artist?* 1997. [Online] Available: <http://witcombe.sbc.edu/modernism/endofart.html> [2010. August 4]

Elgin Rust was born in Düsseldorf, Germany, in 1974. After receiving her BA(FA) in Studio Practice and Theory at The University of Cape Town, Rust completed an MFA (with distinction) at the Michaelis School of Fine Art (UCT). Focusing her energies mainly on sculpture and installation, she nonetheless works with a wide range of media. She has participated in numerous group shows in Cape Town at the Michaelis Gallery; the Association of Visual Art (AVA); the Rooster Theatre Collective, as well as participating in a workshop facilitated by the L'Atelier D'Alexandrie (Egypt, 2009). *Judgement - Uitspraak 2011, Case No 001/05/2008* was her first solo exhibition hosted by The AVA Gallery, Cape Town. Currently she is preparing *Appeal 2012, Case No. 001/05/2008* a collaborative research project that responds to the investigation presented. She lives and works in Cape Town.