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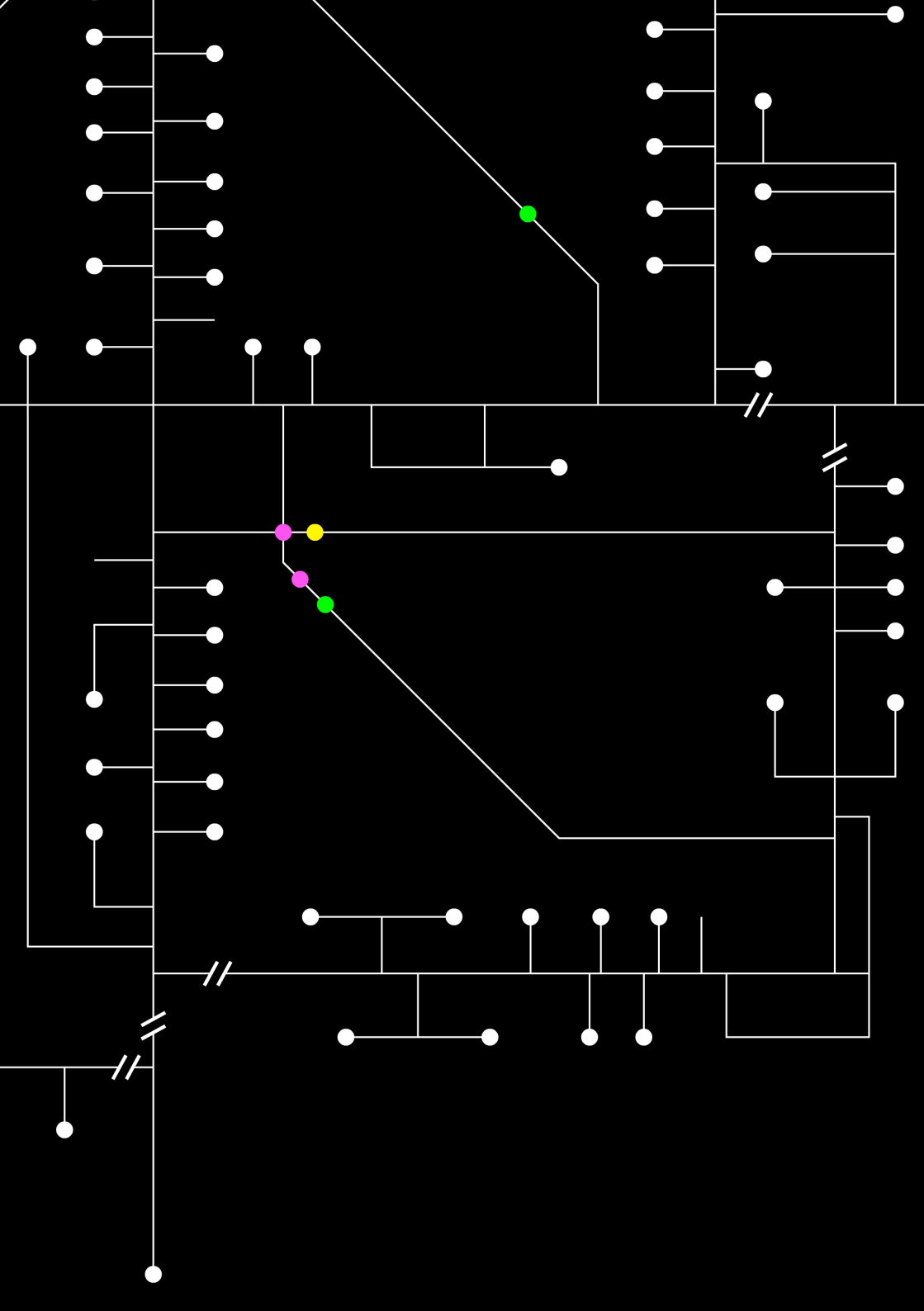


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COMPENSATORY INFRASTRUCTURES



Alle Abbildungen aus Karina Nimmerfall,
Unintentional Monument (The Matrix Code),
2020–2022

Dieses Heft erscheint als Teil einer Publikationsreihe des Labor für Kunst und Forschung am Department Kunst und Musik der Universität zu Köln. Sie dokumentiert Vorträge von Künstler*innen und Theoretiker*innen, die seit Oktober 2020 im Rahmen der Veranstaltungsreihe *Studio, Art & Research* stattfinden. Das als offenes Seminar konzipierte Format beschäftigt sich in Auseinandersetzung mit aktuellen politischen, gesellschaftlichen, alltäglichen oder wissenschaftlichen Themen mit dem Verhältnis von Kunst, Forschung und der Produktion von Wissen sowie den Möglichkeitsräumen und Handlungsfeldern, die dieses Zusammentreffen eröffnen kann. Dabei wird auch das Phänomen der institutionalisierten künstlerischen Forschung und ihre Widersprüche thematisiert und der Frage nachgegangen, wie sich Kunst und künstlerische Praxis verändern, wenn sie als Forschung verstanden und in universitäre Forschungsbedingungen integriert werden. Im Dezember 2021 war die Kunst- und Medienkulturwissenschaftlerin Lisa Stuckey für einen Vortrag anlässlich des Semesterthemas *Räume der Produktion von Wissen* zu Gast, welcher den Ausgangspunkt für den vorliegenden Text bildet. Begleitet wurde der Vortrag von einer Lecture Performance der Künstlerin Karina Nimmerfall mit Auszügen aus ihrer Arbeit *Unintentional Monument (The Matrix Code)*. Diese beschäftigt sich mit dem Einfluss des weitgehend unbekanntes und heute zerstörtes modernistisches Gebäudes der historischen RAND Corporation (gegr. 1948) auf aktuelle interdisziplinäre Forschungsprotokolle und Laborsettings.

Dr. Lisa Stuckey ist Kunst- und Medienkulturwissenschaftlerin. Ihre Publikation *Forensische Verfahren in den zeitgenössischen Künsten: Forensic Architecture und andere Fallanalysen* (Berlin: De Gruyter, 2022) basiert auf ihrer Dissertation, für die sie den österreichischen Staatspreis „Award of Excellence 2021“ erhielt. Derzeit arbeitet sie an ihrem Postdoc-Projekt *Curating Weak Law* und ist Lehrbeauftragte für Kulturtheorie an der Universität für angewandte Kunst Wien. Ihre Forschungsschwerpunkte sind zeitgenössische Ästhetik, Institutionskritik sowie Kulturen des Kuratorischen und des Rechts. <http://lisastuckey.net>

COMPENSATORY INFRASTRUCTURES

Agencies and Think Tanks as Sites of Knowledge Production and Judgment Recommendation

This paper addresses hybrid institutionalizations and is structured in five sections. Section I proposes the notion of “compensatory infrastructures” that emerge during transitional justice processes and moments of disruption between politics, law, and the arts. Section II analyzes the rhetoric and imagery of the RAND Corporation (RAND) think tank from a contemporary perspective in comparison to the research agency Forensic Architecture (FA). The epistemic architectures of RAND and FA are discussed as sites of knowledge production and judgment recommendations in Section III. How consultation, decision-making, and judging may intersect is explored in Section IV. By moving away from the casuistic level, Section V suggests viewing think tanks and agencies, but also task forces and tribunals, as intermediate actors that are able to “curate weak law.”

I. Compensatory Infrastructures

To compensate means to balance out or make a substitute for something. While Alfred Adler’s psychological concept of compensation stipulates a mechanism of the neurotic for balancing out inferiority, C. G. Jung understands compensation more gen-

erally as a functional self-regulation of the psychic apparatus.¹ In law in turn, compensation can, for example, be archived through rehabilitation (of persons), restitution (of property or heritage), or restorative justice (in favor of truth).

Where speaking of vertical or horizontal “collaboration” does not suffice, this essay proposes the notion of “compensatory infrastructures,” situated between politics, law, and the arts. Such infrastructures frequently emerge during transitional justice² processes and in moments of disruption, in order to compensate for the failure of those responsible or for injustices and to help ensure that transformations succeed. When compensatory infrastructures manifest themselves, they become indispensable critical infrastructures. According to the legal philosopher Cornelia Vismann, NGOs, for example, “as the heirs of all human rights movements,” “certainly compensate for state inaction with financial support from the state.”³ A well-known example is the NGO Amnesty International, a frequent collaborator of the London-based research agency Forensic Architecture, on which this text shines a spotlight. A hint to what can be seen as a historical predecessor of FA: the first detective agency, the *Bureau des renseignements universels dans l’intérêt du commerce*, was founded in Paris in 1833 by the former criminal Eugène François

Vidocq, and combined detective activities with information services. Interestingly, compensation manifests itself in the detective figure, as sociologist Luc Boltanski makes clear:

“Properly speaking ..., the figure of the detective is sovereign in itself because the detective has been given the *ability to substitute for the state* in order to achieve what the liberal state, in a democratic-capitalist society, cannot accomplish without bringing to light the contradiction that inhabits it ...[.]”⁴

Compensatory infrastructures can also innovatively set trends and anticipate developments, as was the case with the “prototypical think tank”⁵ the RAND Corporation, whose rhetoricity and imagery will be compared here to that of FA. The media-culture theorists Claus Pias and Sebastian Vehlken have proposed five theses regarding the nature of think tanks: (i) they think up alternative scenarios, but do not decide; (ii) the information accumulated by experts is distributed via special networks; (iii) they differ from the hierarchies of both universities and bureaucratic administrations, but are subject to commissioning bodies and usually committed to particular ideologies; (iv) innovative processes take place between dilettantism and expertise; and (v) elitization in the form of excellence clusters and task forces make use of the think tank model.⁶

II. Observations on RAND’s Rhetoricity and Imagery

RAND was founded during the Cold War, established in 1948 as a non-profit organization for customized research services. The following observations on how its website, as genuine place for the self-representation of today, is curated, will repeatedly be compared to FA.

The menu item RAND > About, which is divided into several subsections, is displayed at the top of the page in remarkably small type, since it does not address daily politics or current files, but instead the background story, profile, and framework of the think tank. FA’s website reserves the front page for current cases as well, with the most recent ones published at the chronological top.

The first subsection, RAND > About > RAND at a Glance, consists primarily of hundred percent pie charts and thus follows an aesthetic of quantitative statistical information, which expresses the ideal of transparency by means of numbers.⁷ Another diagrammatic language is found in FA’s investigations, for example in the form of animated, interactive, or deep maps and corresponding legends, which facilitate navigation through the complexity of a specific matter. In the following subsection, RAND > About > Vision, the rhetoric of the corporation stands out clearly.

RAND's work is "peer-reviewed by experts."⁸ Even though FA also collaborates with experts, peer-review functions rather intra-medially through "cross-referencing,"⁹ which calls to mind judicial cross-examinations. RAND makes its research results available through "unrestricted reports,"¹⁰ and strikingly postulates a sort of sobriety: "[W]hen emotions ran high, RAND remained committed to sober, objective research." After all, RAND's type of consultancy is pragmatic (differing from the charismatic type of consultancy, as Thomas Macho points out¹²), with the aim of "sober solutions."

In the next subsection, RAND > About > Diversity, Equity, and Inclusion, credential quotes are used in the style of testimonials. These personal statements make individual points of view—which however are representative rather than controversial—more obvious than in the case of FA. The RAND Corporation supports a "deliberative practice of questioning"¹³ and consequently places conversational cultures more at the center than FA, which focuses on meta-filmic displays of its inquiries and uses public talks as an educational means for distributing knowledge. According to the cultural theorist Jan C. Suntrup, the "weighing of reasons that precedes any decision" is typical of the idea of deliberation as it emerged in the United States.¹⁴

"Communicative acts can be called deliberative if they are argumentative speech acts in which validity claims are supported with reasons and possible counter-positions are taken into account. In general, models of deliberation respond to apparent deficiencies of modern democracies by seeking to implant the logic of justification and argumentation into the political world of power games and clandestine decisionmaking"¹⁵

In balancing out deficiencies, RAND connects the compensatory with a closeness to those concerned: "[W]e're listening to each other and to people affected by our work. We're following the data and research on effective strategies where it exists—and helping fill gaps where it doesn't."¹⁶ Compared to RAND's work in the "public interest" of civil society, FA's "public truth"¹⁷ sounds more skeptical of hegemony, precisely by not speaking of objectivity, but instead by implying that truth is socio-politically and juridically contested.

The page RAND > About > History and Mission shows a photo of the current architecture of the site of knowledge production; this is not so in the case of FA's website, which keeps a rather low profile in this respect. With regard to its history, the difference to the present is emphasized: "The RAND Corporation ... helps improve policy and decisionmaking through research and analysis."¹⁸

“The difference between RAND today and the organization created in 1948 is substantial and dramatic. We started with one client—the U.S. Air Force—and over the past seven decades have generated ideas and solutions for thousands of clients and other stakeholders around the world.”¹⁹

Even though RAND and FA are both concerned with political-ideological independence, RAND’s clientele includes the military and governments, unlike FA, which rejects such requests on principle.²⁰ The funding of the two actors is visualized in charts and lists on their websites, whereas RAND foregrounds the philanthropic aspect in its fundraising “[RAND Campaign](#).” The ancient Greek term “philanthropy” is derived from the words “love of” and “human,” resulting in a strong visual presence of faces, groups of figures, and communities in the campaign video, which consists mainly of talking heads, historical and contemporary photo and video documentations of RAND’s working processes (from the “studio”), and TV footage (from the “field”). FA, on the other hand, is restrained in its use of faces in connection with the matters under investigation and does not adhere to RAND’s rhetoric of national and global security linked to behavioral research on people or societies in the social sciences. Methodologically, scenario building in the case of RAND—exemplified in the

campaign trailer by means of serious board and video games—refers to prospective and contingent events, under the guise of the hypothetical (initially to avoid war). In FA’s media forensics, scenarios tackle (criminal) incidents retrospectively.

Professionalization is expressed in the menu item [RAND > About > Standards](#): “The initial formulation of the standards grew out of a lengthy and lively ‘conversation about quality’ in the RAND hallways and on the RAND email network.”²¹ Standards have thus evolved harmoniously through practice, with a conspicuous reference to the architecture that shapes thinking. FA, on the other hand, has to comply with already stipulated standards in order to be commissioned and funded, since the agency is subject to the ethics of the European Research Council: “compliance with legislation, disciplinary norms, duty of care, protection of and respect for research subjects, and so forth. A good management of these aspects adds value: excellence in ethics adds to the credibility and excellence of the science.”²²

“[RAND Art + Data](#)” is a current initiative that aims at “collaboration with artists to develop thought-provoking new ways to visualize RAND research.”²³ The understanding of art implied by the skillful competence to “visualize” research data can be seen as a negative foil to the current turn

toward an ethical utilization of the arts.²⁴ A notion of art associated with creativity, provocation, flexibility, and innovation, which has long been deconstructed by philosophers,²⁵ can, however, endure longer in second-order art contexts such as think tanks. By blending the distinction between art and service, FA does not seek to externally visualize its data, since its media competence is a crucial part of the investigatory process. RAND does not transgress boundaries aesthetically in the same way, but operates through compensation: the think tank produces analysis, which is then illustrated and mediated by external artists as an approach to communication design.

III. Epistemic Architectures

This section explores aspects of knowledge distribution and epistemic infrastructural architectures. RAND and FA both have research fellows. In addition, RAND runs a Graduate School for Multidisciplinary Policy Analysis and FA one for Research Architecture.

A tank—as perforated container, box, or studio with subversive or secret links to open space, the social field, or battlefield—stems conceptually from the military:

“‘Tank’ established itself in English as of since the year 1915 as a designation for armored tracked vehicles:

with these tanks a protective space is designed—a space that gains time by the tanks’ armor, tearing open a time frame on the battlefields of the First World War that enables accurate targeting of, for example, enemy machine gun nests. Their protected space creates a latency time that ... enables sustainable problem solving.”²⁶

Besides its figurative meaning, a ‘think tank’ may also indicate an undisturbed space within an open-plan office in the form of a smart (space-efficient) infrastructure. As such, it retains its inwardness structurally while making it possible to peek outside, but due to the glass walls that seek to combine privacy and transparency, no longer unobserved.

How are RAND’s and FA’s office spaces designed? Whether RAND’s elliptical headquarters in Santa Monica or FA’s anecdotally invoked open-plan office facing a patio of the Goldsmiths campus, into which a narrow corridor leads: both sites of knowledge production mostly evade public view. In collective seclusion, FA’s working procedure updates the notion of the artistic studio by mingling it with the think tank model introduced above.

Another exemplary institutionalization that exists in the environment of FA and with which the agency collaborates with or is commissioned by, is

the European Center for Constitutional and Human Rights (ECCHR). While it presents itself as a quasi-institute and educational court, it is organized as a club.²⁷ On its website, the ECCHR foregrounds its infrastructural architecture as a site of knowledge production, but not its built architecture. After all, the center does not reside in a representative building like the Strasbourg-based European Court of Human Rights (ECHR), whose architecture is highly symbolic: from an aerial view, the building forms scales of justice, with one tray higher than the other—according to the principle *in dubio pro reo* (“when in doubt, rule for the accused”).

By keeping in mind how RAND’s standards have evolved, two characteristics of the interior architecture stick out. First, the hallways: “[U]nlike the court architectures of the nineteenth century, whose network of corridors was intended to prevent the parties involved in the case from encountering one another outside of trial,”²⁸ the corridors of RAND’s modernist building by the architect H. Roy Kelley (1953–2007), which was then replaced by the current building, were designed to foster informal encounters and creative exchange. Second, the table: in both historical and contemporary images, the table as a place for strategic board games is prominently featured as epitome of negotiation and agreement as well as means for managing conflicts.²⁹

IV. Consultation—Decisionmaking—Judgment

How does an “action recommendation” (as given by the RAND think tank),³⁰ which is ostensibly based on objective, sober, and “high quality” reasoning, become a judgment recommendation (as offered in FA’s investigative conclusions)? This question is aimed at the dynamics in which consulting, deciding, and judging may converge.

Consultation leads to a suspension of the course of action and the decision, according to Brandstetter/Pias/Vehlken.³¹ By creating a space to think, such a suspension exists not only as an external service, but also within institutions and platforms. Accordingly, RAND has a Board of Trustees (trustee also means curator) and FA an Advisory Board that “provides consultation on issues of politics, ethics, technology, and public dissemination.”³² Moreover, FA is itself part of an advisory body, namely the Technology Advisory Board of the International Criminal Court (ICC) in The Hague. FA’s technical judgment contributes to legal investigations and can thereby, according to John L. Austin’s speech act theory,³³ not only ascertain something, but also act in the form of a verdict. When the court tribunal of The Hague delegates aspects of legal decisionmaking to research institutions such as FA, the agency’s investigations are not

framed as lay opinions—on the contrary: technical expertise, aesthetic judgment, and applied research form the components of the disclosure plot. This corresponds with the tradition of legal realism of relying on the expertise of scholars and scientists. (But it would be an abuse of authority, if experts, as legal laypeople, tried to decide; juries, as lay organs, on the other hand, must decide.) Accordingly, the narrative of acting on the obvious as materialized in the evidence—which is coded and traded elsewhere as an artwork—leads to the fact that forensic expertise replaces laity, dilettantism, and amateurism. In this expertise economy, the agency FA obtains legal professional advice itself, while the researchers acquire legal expertise due to casuistic necessity, by both questioning the law and formulating critiques of the law empirically. This dialectic is also relevant for the aforementioned ECCHR, which states: “Law is an expression of societal power relations and thus an instrument of hegemony. However, law also has an emancipatory potential”³⁴ An important, albeit self-evident, statement.

The London-based Cabinet War Rooms (a secret underground complex for the *command* during World War II) can today be visited as part of the Imperial War Museum. Agencies and think tanks like the ones under scrutiny here, only *recommend* particular evidence-based decisions.

RAND’s goal is societal impact and difference, and the same can be said of FA, whose investigative work furthermore functions on the basis of critically engaged subversion. When based on a forensically produced data evaluation, a judgment recommendation is received like a judgment, the action/decision infiltrates the advice/recommendation.

If hybrid institutions like those discussed here (think tanks, agencies, NGOs, et cetera) cannot adjudicate, but can only judge in a suspended way or aesthetically, they might challenge a court decision through legal remedies such as complaints, appeals, or revisions. They might, however, also establish compensatory infrastructures on the meta and micro level.

On the meta level, FA is characterized by a certain autopoiesis: “institution-building without a founding decree,” when its advice following fact-finding is received “like a judgment.”³⁵ In the words of Gerald Raunig, this might be grasped as “instituting,” which “should not establish a constituted power, but rather aims at instituting oneself, arranging oneself.”³⁶

To what extent does Raunig conceive self-establishment as a legal approach: Does it correspond with the historical legal positivism and the codification of the law of a particular jurisdiction? Or is “instituting” to be understood in the sense of the new transnational as well as constitutional “forms of







self-establishment of law,” which have been perceptible since the 1990s and are independent of “nation-state centers, their institutions and sources (parliaments, courts, international treaties)?”³⁷

On the micro level, the simulated architectural model—as a new jurisprudential dispositif—seems to be crucial to the tipping point or climax of deliberation, recommendation, and judgment in the legal aesthetic process. The architectural model, which eventually covers entire neighborhoods, can serve the following functions in different phases during an investigation and a trial: (i) topological ordering process and translation technique, (ii) event and crime scene simulation, (iii) decision architecture, (iv) advocacy and defense of social justice, (v) export as linear video narration, and (vi) testimonial and cultural heritage transmission. In contrast to the continental European inquisitorial criminal legal procedure, in which only one witness may be in the courtroom at a time (so as to achieve impartiality through spatial separation), the virtual gathering around a disputed matter in the architectural model defies the categories of legitimate evidence, such as a testifying individual or an expert opinion. As a data carrier, the model can be introduced into an ordinary judicial sovereign knowledge system if considered admissible or be presented at a parliamentary inquiry. Al-

ternatively, as a mobile forum/courtroom, the model competes with other evidentiary procedures and conceptions of truth.

One question that remains is whether compensatory infrastructures are by definition temporary or whether they can remain compensatory if they manifest themselves. One scenario involves permanent organs that outsource knowledge production and judgment recommendation to compensate for their own agenda. Another scenario consists of the provision of compensatory infrastructures by new actors that have attained second-order institutional autonomies;³⁸ these actors might operate based on institutional, disciplinary, or contextual detours. One could argue that an agency like FA uses contemporary arts pragmatically, while legal institutions have restraints—and vice versa. Such strategies can again be regarded as provisional workarounds or as sources for “investigative aesthetics,”³⁹ whose effectiveness is a result of plural transversal entanglements. The abovementioned boards of advisors and trustees of institutionalizations that offer consultation as a research service show that the compensatory is not only a practice of horizontal collaboration or of a vertical expertise economy, but also a matter of structural interlockings. Compensatory infrastructures do not necessarily freeze a status quo, but can lead also to a reorganization

through the described climax of consultation, decisionmaking, and judgment. To come back to the question of institution-building, the *2020 Global Go To Think Tank Index Report* (2021, written by James G. McGann) gives the following definition: “[A]ny think tank that has been ranked as the top think tank (#1) in a category for 3 consecutive years will be recognized as a Center of Excellence.”⁴⁰ The phenomena subsumed under the term “compensatory infrastructures” thus differ from indispensable compensation alone, which can remain invisible (like various forms of precarious work, such as temporary employment or labor leasing).

V. Curation of Weak Law

Effectiveness, as previously mentioned, is of course relative and relational. A figuration that might be of greater avail in grasping the phenomena addressed in this paper on a more general level is that of the “curation of weak law.”

Think tanks and agencies but also task forces and tribunals can be regarded as prototypical postmodern models of negotiation and strategy development beyond parliaments and jurisdiction. As compensatory infrastructures they develop scenarios to support the decision processes of policy- and lawmakers (think tanks), deal with reconciliation and truth-seeking in connection with past crimes (tri-

bunals), or find ad hoc casuistic solutions to problems in urgent situations (task forces). As intermediate agents they might have the authority to act, but often operate on levels of counseling, preparation, recommendation, serious play, or putting to the test — on levels of “weak law” one could argue. Contrary to the force of law, weak law is only partially effective, needs to take detours both institutionally and methodologically, and has to deal with absences of various kinds. Think tanks et al. can then become actors that curate weak law outside of (inter-, trans-, supra-)national legal forces or compensate for transformational and future inabilities on a substitutionary basis. A critique of the force of law is prominently articulated in Jacques Derrida’s essay on “The ‘Mystical Foundation of Authority’.”⁴¹ In his focus on the textuality of law, Derrida, however, lost sight of its infrastructural dimension, according to the jurist Karl-Heinz Ladeur:

“In G. Agamben, J. Derrida, and to a certain extent already in Foucault, one can observe a strong overestimation of the ‘constituted,’ hierarchically founded side of law, especially the setting of the law by a sovereign, while the ... *infrastructure of law* is either not classified at all or as a mere constant repetition of the same through a doom of violence founded by sovereignty, in any case determined as purely political.”⁴²

With the “trial as the heart chamber of law,”⁴³ it seems pertinent to ask about accessory chambers as well as temporary and compensatory infra-structures that contribute to managing contradictions and curating transformations. The actors examined here are usually analyzed separately, since they engage with different time horizons. They shall be brought together under the figuration “curation of weak law.”

Diagnostically, the weakness of think tanks et al. can be configured in various ways:

Think tanks: Associated with prospective action and conflict prevention resulting from strategic scenario thinking, weak law is encountered in time delay through counseling, which is supposed to facilitate informed decisionmaking. Even if ideally acquired autonomously, the advice is often affiliated with service (not critique).

Tribunals: Associated with retrospective action as well as expressions of a desired transformation, weak law is found in suspended and aesthetic judgments—legally defined as “non-judgments”⁴⁴—which can nevertheless have an effect on other societal levels. Tribunals are often linked to critique, remembrance, and history work; as such they can curate weak law and be politically strong nevertheless.

Task forces: As temporarily powerful mechanisms, task forces are instrumental and often commissioned on an ad hoc basis.

Theory-politically, the figuration “curation of weak law” shall be embedded in two different strands of argumentation, namely the “making of law” and the “making of a case”:

Making of law: A reference to “weak law” can be found in Bruno Latour’s ethnographic study *The Making of Law*, where it is asked: “In law, what does it mean to say that a tool is ‘powerful’ and a procedure ‘weak’?”⁴⁵ The author analyzes the matter in relation to the following historical context:

“When Napoleon created the Council of State—as a descendant of the King’s Council—he maintained the principle of *reserved justice*, which reduced counsellors to the rank of simple ‘advisors’ (the name ‘*counselor*’ in French is a rather *weak term* meaning the one who gives advice only). The Council of State had to suffer this humiliating limitation until 24 May 1872, when, with the advent of the Third Republic, it finally became a court with full and entire powers and was then immune from government interference. They had finally moved from a regime of reserved justice to one of *delegated* [o. e.] justice.”⁴⁶

Remarkably, the description directly links the weak to reserved advice (a practice set aside, withheld, restraint), in which the consultative intermediate stands in contrast to the immunity of the strong decision. Even in the context of the established in-

frastructure of today's delegated justice, the making of law consists of a hesitant and enduring collective testing of scenarios. Latour describes the General Assembly of the Council of State as an "immense writing workshop"⁴⁷:

"[T]he Counsel Sections must exercise a mode of divination ...: they have to anticipate through various thought experiments all the problems, obstacles, ordeals and drawbacks that the draft of the document might encounter. ... In order to give mere words the strength to resist all these constraints, *everything must be thought of in advance*"⁴⁸

Making a case: While commonly regarded as deficient, it is in weakness that alternatives to normative hegemones might emerge.⁴⁹ It could furthermore be argued that law should become weak in the sense of the philosopher Rosi Braidotti's understanding of a "becoming-minoritarian."⁵⁰ An interpretation of weakness as strength is found, for example, in the feminist scholar Ewa Majewska's concept of "weak resistance."⁵¹ This then leads to the fundamental problem of how to make a case, which can be understood both as a question of how to curate weak law, as well as how law curates conflicted relations. Current discourses on feminist curating translate insights into social (in-)justices related to homemaking, invisible production labor, and wel-

fare work to art and cultural spheres, where the curatorial as care work is a critically analyzed commonplace or is practiced affirmatively to test new organizational formats and methods.⁵² What, however, largely still seems to be a desideratum (that must be met elsewhere), is making curatorial theorizations productive for a multifaceted perspective on legal cultures and the intermediate actors of compensatory infrastructures.

Note

Sections I–IV incorporate paragraphs translated to English from the author's monograph *Forensische Verfahren in den zeitgenössischen Künsten: Forensic Architecture und andere Fallanalysen* (Berlin: De Gruyter, 2022). Section V segues into her post-doctoral research project *Curating Weak Law*.

May 30, 2022

- ¹ C. G. Jung, *Psychologische Typen* (Projekt Gutenberg, 2020 [1921]), pp. 901–2.
- ² Regarding the emerging transdisciplinary research field of Transitional Justice, nota bene: Beyond a mere reference to the past, transitional justice measures are “indispensable for building and strengthening democracy, both after the end of an era of violence and within an established democracy.” Anja Mihr, Gert Pickel and Susanne Pickel, “Einführung in Transitional Justice,” in Anja Mihr, Gert Pickel, and Susanne Pickel, eds., *Handbuch Transitional Justice: Aufarbeitung von Unrecht – hin zur Rechtsstaatlichkeit und Demokratie* (Wiesbaden: Springer VS, 2018), pp. 3–23, esp.: p. 11, trans. LS.
- ³ Cornelia Vismann, *Das Recht und seine Mittel. Ausgewählte Schriften*, eds. Markus Kajewski and Fabian Steinhauer (Frankfurt am Main: S. Fischer, 2012), p. 490, note 3, trans. LS.
- ⁴ Luc Boltanski, *Mysteries and Conspiracies: Detective Stories, Spy Novels and the Making of Modern Societies* (Cambridge/Malden: Polity Press, 2014 [2012]), p. 71, emphasis LS.
- ⁵ Claus Pias and Sebastian Vehlken, “Von der ‘Klein-Hypothese’ zur Beratung der Gesellschaft,” in Thomas Brandstetter, Claus Pias, and Sebastian Vehlken, eds., *Think Tanks: Die Beratung der Gesellschaft* (Berlin: Diaphanes, 2010), pp. 7–16, esp.: p. 11, trans. LS.
- ⁶ *Ibid.*, pp. 12–14.
- ⁷ See RAND Corporation, “RAND at a Glance,” <https://www.rand.org/about/glance.html> (accessed November 7, 2021).
- ⁸ RAND Corporation, “Vision,” <https://www.rand.org/about/vision.html> (accessed November 7, 2021).
- ⁹ Eyal Weizman, *Forensic Architecture: Violence at the Threshold of Detectability* (Zone Books: New York, 2017), p. 58.
- ¹⁰ RAND Corporation, “Vision.”
- ¹¹ *Ibid.*
- ¹² Thomas Macho, “Was tun? Skizzen zur Wissensgeschichte der Beratung,” in Brandstetter et al., *Think Tanks*, pp. 59–85, esp.: p. 70.
- ¹³ RAND Corporation, “Diversity, Equity, and Inclusion at RAND,” <https://www.rand.org/about/diversity-equity-inclusion.html> (accessed November 7, 2021).
- ¹⁴ Jan Christoph Suntrup, *Umkämpftes Recht: Zur mehrdimensionalen Analyse rechtskultureller Konflikte* (Frankfurt am Main: Vittorio Klostermann, 2018), p. 170, trans. LS.
- ¹⁵ *Ibid.*
- ¹⁶ RAND Corporation, “Diversity.”
- ¹⁷ Forensic Architecture, ed., *Forensis: The Architecture of Public Truth* (Berlin: Sternberg Press, 2014).
- ¹⁸ RAND Corporation, “History,” <https://www.rand.org/about/history.html> (accessed November 7, 2021).
- ¹⁹ *Ibid.*
- ²⁰ Forensic Architecture, “About,” <https://forensic-architecture.org/about/agency> (accessed May 7, 2022).
- ²¹ RAND Corporation, “Standards,” in *RAND Corporation*, <https://www.rand.org/about/standards.html> (accessed November 7, 2021).
- ²² European Research Council, “Ethics,” <https://erc.europa.eu/managing-your-project/ethics> (accessed November 7, 2021).
- ²³ RAND Corporation, “RAND Art + Data,” <https://www.rand.org/about/nextgen/art-plus-data.html> (accessed May 28, 2022).
- ²⁴ See Judith Siegmund, *Zweck und Zweckfreiheit: Zum Funktionswandel der Künste im 21. Jahrhundert* (Berlin: J.B. Metzler, 2019).
- ²⁵ See Christoph Menke and Juliane Rebentisch, eds., *Kreation und Depression: Freiheit im gegenwärtigen Kapitalismus* (Berlin: Kadmos, 2011).
- ²⁶ Thomas Brandstetter, Claus Pias, and Sebastian Vehlken, “Think-Tank-Denken: Zur Epistemologie der Beratung,” in Brandstetter et al., *Think Tanks*, pp. 17–57, esp.: p. 19, trans. LS.
- ²⁷ The German legal form of a club or association, *ein getragener Verein*.
- ²⁸ Lisa Stuckey, “Karina Nimmerfall: Aus ihrer Zeit gefallene Sequenzen/Sequences Fall out of their Time,” trans. Hilda Hoy, *Camera Austria International*, no. 152 (2020), pp. 7–18, esp.: p. 15.
- ²⁹ The cultural significance of the table is a subject in Hannah Arendt, *The Human Condition* (Chicago: University of Chicago Press, 1958), as well as in Cornelia Vismann, *Medien der Rechtsprechung*,

- eds. Alexandra Kemmerer and Markus Krajewski (Frankfurt am Main: S. Fischer, 2011).
- ³⁰ Pias and Vehlken, "Von der 'Klein-Hypothese' zur *Beratung der Gesellschaft*," p. 7, trans. LS.
- ³¹ Brandstetter et al., "Think-Tank-Denken: Zur Epistemologie der Beratung," p. 17, trans. LS.
- ³² Forensic Architecture, "Advisory Board," <https://forensic-architecture.org/about/advisory-board> (accessed May 7, 2022).
- ³³ John L. Austin, *How to do Things with Words. The William James Lectures Delivered at Harvard University in 1955*, ed. J. O. Urmson (Oxford: Clarendon Press, 1962).
- ³⁴ European Center for Constitutional and Human Rights, "Our Institute," <https://www.ecchr.eu/en/institute-legal-intervention/> (accessed November 7, 2021).
- ³⁵ Vismann, *Medien der Rechtsprechung*, p. 102, trans. LS. Vismann writes this in reference to the law professors who became judges in the historical context of the dispatching of files.
- ³⁶ Gerald Raunig, "Instituent Practices, No. 2: Institutional Critique, Constituent Power, and the Persistence of Instituting," trans. Aileen Derieg, *extradisciplinaire*, no. 1 (2007), <https://transversal.at/transversal/0507/raunig/en> (accessed May 28, 2022).
- ³⁷ Thomas Vesting, *Rechtstheorie. Ein Studienbuch* (Munich: C. H. Beck 2015 [2007]), p. 143, trans. LS.
- ³⁸ In the global economy, for example, transnational law established a second-order autonomy under private law contracts; while arbitration bodies decide on conflicts beyond the legal sources of the state, private normative orders are often recognized as substantive law by national jurisdictions. Suntrup, *Umkämpftes Recht*, pp. 95–97.
- ³⁹ Regarding "investigative aesthetics" see the primary sources Weizman, *Forensic Architecture*, p. 94; Matthew Fuller and Eyal Weizman, *Investigative Aesthetics: Conflicts and Commons in the Politics of Truth* (London, Brooklyn: Verso, 2021). See furthermore the secondary source, Lisa Stuckey, *Forensische Verfahren in den zeitgenössischen Künsten: Forensic Architecture und andere Fallanalysen* (Berlin: De Gruyter, 2022), <https://doi.org/10.1515/9783110732887>.
- ⁴⁰ James G. McGann, *2020 Global Go To Think Tank Index Report*, no. 18 (University of Pennsylvania, 2021), p. 53, https://repository.upenn.edu/think_tanks/18 (accessed May 23, 2022).
- ⁴¹ Jacques Derrida, "Force of Law: The 'Mystical Foundation of Authority,'" trans. Mary Quaintance, in *Cardozo Law Review* 11, nos. 5–6 (1990), pp. 919–1045.
- ⁴² Karl-Heinz Ladeur, *Die Textualität des Rechts: Zur poststrukturalistischen Kritik des Rechts* (Weilerswist: Velbrück Wissenschaft, 2016), p. 303, emphasis/trans. LS.
- ⁴³ Suntrup, *Umkämpftes Recht*, p. 398, trans. LS.
- ⁴⁴ "Non-judgments are pronouncements that merely appear to be judgments but lack the authority conveyed by procedural law and judicial competence." Hans-Heiner Kühne, *Strafprozessrecht: Eine systematische Darstellung des deutschen und europäischen Strafverfahrensrechts* (Heidelberg et al.: C.F. Müller, 2010 [8th edition]), p. 612, trans. LS.
- ⁴⁵ Bruno Latour, *The Making of Law: An Ethnography of the Conseil d'État*, trans. Marina Brilman and Alain Pottage (Cambridge, Malden: Polity Press, 2010 [2002]), p. 41.
- ⁴⁶ *Ibid.*, p. 38, emphasis LS.
- ⁴⁷ *Ibid.*, p. 58.
- ⁴⁸ *Ibid.*, p. 64, original emphasis.
- ⁴⁹ For the exchange on the subject of "weak remedies," I am grateful to Sebastian Köthe.
- ⁵⁰ Rosi Braidotti, *Nomadic Theory. The Portable Rosi Braidotti* (New York: Columbia University Press, 2011).
- ⁵¹ "The concept of weak resistance emphasizes the oppression and resistance, the appropriations and dissimulations always present in the process of the making of the subject of other. Weak does not mean impossible. It means resisting." Ewa Majewska, "Weak Resistance," in *Krisis—JOURNAL für contemporary philosophy*, no. 2 (2018): "Marx from the Margins," <https://archive.krisis.eu/weak-resistance/> (accessed April 21, 2022), pp. 167–8, esp.: p. 168.

⁵² To name just one relevant publication on feminisms and the curatorial: Helena Reckitt and Dorothee Richter, eds., *OnCurating.org*, no. 52 (2021): “Instituting Feminism.” An exemplary discursive event during the Covid-19 pandemic was “Caring Infrastructures,” curated by Sascia Bailer at M.1 of the Arthur Boskamp-Stiftung, October 24–25, 2020, <https://www.m1-hohenlockstedt.de/en/2019-2020/future/infrastrukturen-des-zwischenmenschlichen/> (accessed April 21, 2022).

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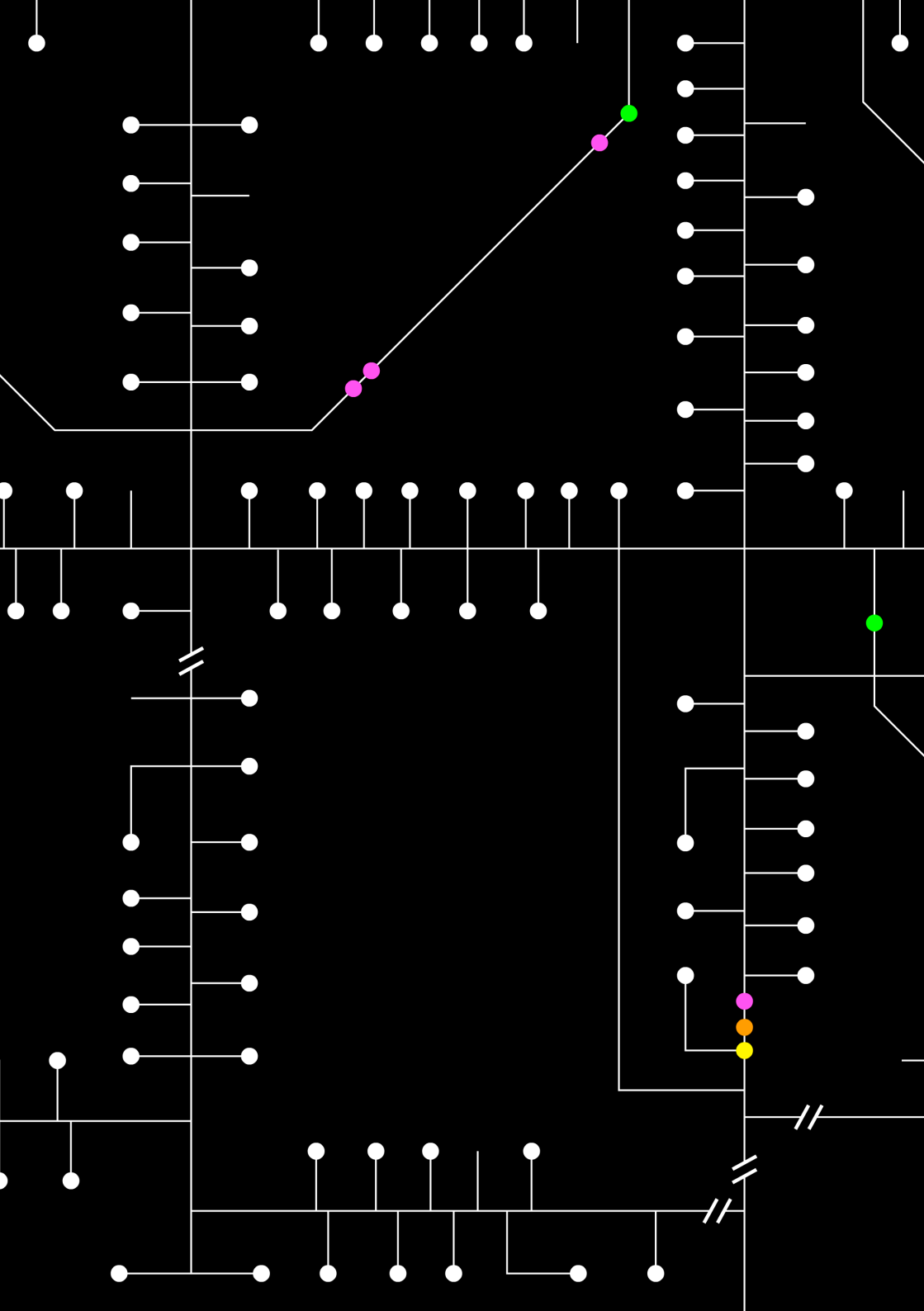
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