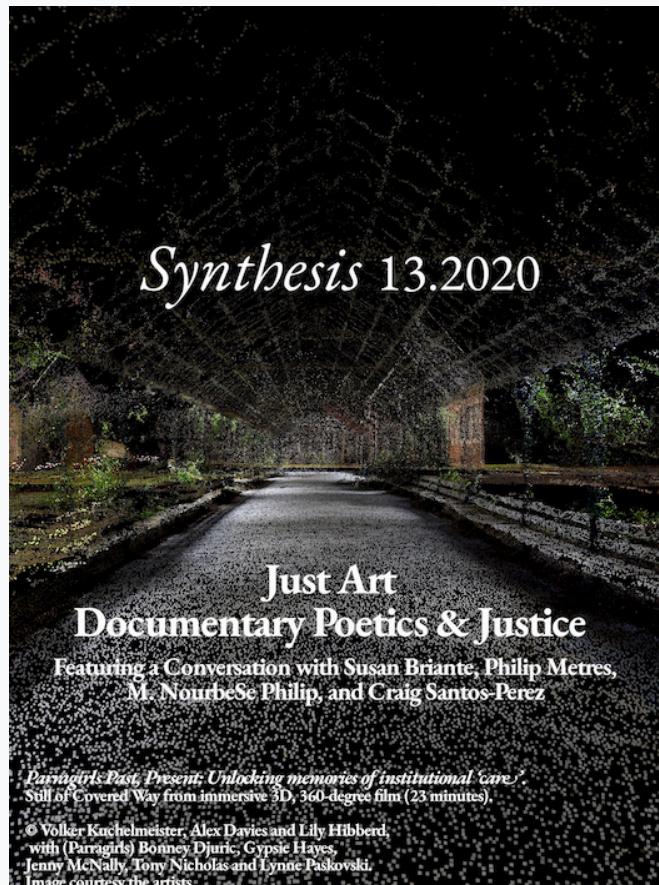


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**Out of Bounds: Confronting War Crimes and the Breakdown of Justice with Contemporary Art**

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# **Out of Bounds: Confronting War Crimes and the Breakdown of Justice with Contemporary Art**

Catherine Bernard

## **Abstract**

Recent art has turned to judiciary and extra-judiciary practices, specifically in the context of international conflicts, in order to assert art's political accountability and relevance to our capacity to historicise the present. The war in Iraq inspired works that directly address issues of representation and remediation, such as Marc Quinn's *Mirage* (2008), in which the aesthetic experience opens onto an ambiguous experience of the breakdown of justice. Other works have chosen to turn carceral space itself into the site of a collective remembering that harnesses affect to a critical reflection on the administration of justice, on assent and dissent. This article will turn to key works by Marc Quinn and Trevor Paglen that confront extra-judiciary malpractices, but also to recent collective art projects involving an interdisciplinary take on the experience of imprisonment, such as *Inside. Artists and Writers in Reading Prison* (2016), in which artists of all backgrounds responded to Oscar Wilde's *De Profundis* on the very premises of Wilde's incarceration, as well as the work of 2019 Turner Prize co-recipient: Jordanian sound artist Lawrence Abu Hamdan whose recent works rely on testimonies from Syrian detainees and probe the political pragmatics of aural art. All these works have turned to the document—literary, visual, aural—to reflect on the process of experiential mediation. How does the experience of imprisonment, or extra-judiciary malpractices, come to the spectator? How are they read, heard, interpreted, remediated? The article ponders the remediation and displacement of aesthetic experience itself and the “response-ability”—following Donna Haraway's coinage—of such a repoliticised embodied experience. It will assess the way by which such interdisciplinary works rethink the poetics of the documentary for an embodied intellection of justice—and injustice—in the present.

Criticism in the past twenty years has explored the repoliticising of contemporary art and its renewed sense of accountability in the face of a global sense of crisis, fuelled by protracted international conflicts, as well as economic and environmental crises. Such a critical turn has been crucial to the redefinition of art's relation to the present and its historicity. As early as 1998, Grant H. Kester laid the ground for a reassessment of art's vital link to the present and of its commitment to a form of critical reflexiveness that put paid to the Greenbergian, late formalist dictum that art must remain autonomous in order to remain true to itself. In *Art, Activism, & Oppositionality. Essays from Afterimage*, Kester charted the rise of artistic practices—initially in the field of photography—aiming at challenging the long-established distinctions between art, criticism and activism. According to Kester, in order to meet that challenge, activist art had to strike a fine balance between aesthetics and political action, in order to retain its specific mode of interacting with the present:

A traditional, formalist critical approach is premised on a clear separation between the realm of the artwork and the realm of political decision making, and between the artist as a private, expressive subject and the domain of social exchange and collective will-formation. In order to engage with, and evaluate, works that challenge that separation it is necessary to develop new analytic systems. At the same time activist artists and critics are confronted by the need to preserve the specificity of activist *art*, as a practice that is discrete from other forms of political activism. (n.p.)

In 2003, Julian Stallabrass delineated the “types and prospects” of what was to become a new form of “radical art” and returned to the same feature, already delineated by Kester, in his exploration of contemporary radical art, namely the porosity between art, activism and re-politicised criticism, with “radical politics and cultural activism coming into synthesis”: “They pursue political ends through cultural means, and this form of cultural propaganda is also found in the actions of anti-capitalist street protesters, who unite actions comparable to performance, environmental and installation art with practical acts of subversion” (198). The Occupy Movement that appeared in 2011 and the mobilisation against ecological disaster both inspired artistic / activist responses addressing the inequalities generated by globalisation and financial capitalism. Yates McKee, in *Strike Art. Contemporary Art and the Post-Occupy Condition*, T.J. Demos, in *Decolonizing Nature. Contemporary Art and the Politics of Ecology* both describe forms of artistic mobilisation poised on the borderline between art and political action, and that seem to repurpose the avant-garde agit-prop agenda for a rearming of aesthetics and collective

affect. Such experimentations, poised on the border line of action and art, of documentation and aesthetics were particularly vibrant during the Occupy Wall Street movement, such as the “sign garden” in Zuccotti Park of September 2011 (McKee 104). They have also featured prominently in the Black Lives Matter movement; one may here mention the #BlackOutTour digital meme that targeted the American Museum of Natural History and Theodore Roosevelt’s equestrian statue standing at the museum entrance, a meme in which the “heroic, imperial visage of Roosevelt had been struck with a black bar, echoed in turn by a larger black band at the bottom of the image reading #BlackOutTour” (McKee 182). With agit-prop, art/activism eschews the reassuring certainties of artistic hierarchies and even turns its back on the very sites of art—the gallery, the museum, the art centre—in order to take to the street and embrace the emancipatory power of contingency. Engaging with history in the making, activating the dissenting potential of art, implies a blurring of the distinction between accounting for and doing, between documenting and creating, between learning and acting. Art becomes its own document, even as it makes history and even as it does justice to a form of counter-visuality and to a dissenting present

In this sense, the situation of art in the post-Occupy condition can be characterized in the most general sense as an *extended process of learning*, a “training in the practice of freedom,” ... but one that is immersed directly in the risk and contingency of movements as they unfold (McKee 238-239)

The artists this article will turn to, are also poised on the frontier between art and activism, albeit in a different fashion. They refuse to relinquish the language of art altogether and choose, on the contrary, to rearm the critical power of art from within the very language of art, whether it be in the form of installation, performance, video or audio installation art. Unlike most of the art collectives Yates McKee and T.J. Demos focus on, however, the artists explored here do not, with rare exceptions, define themselves as activists and yet I would like to argue that their working from within the art institution and eco-system, or on the rim of the system, contributes to eroding the cultural structures that inform our expectations of art and the overall economy of affect. Modern art has long destabilised art’s autonomy; yet the narrative still dominating our understanding of art postulates that autonomy opens to us a safe haven at the very heart of discursive structures of domination, and that in order to be emancipatory, art must be ‘just’ art. The works explored here insist on the contrary that today no artwork can be ‘just’ art. Confronting the embeddedness of artistic forms within the political fabric of experience

implies a crucial shift in the very syntax of artistic self-reflexiveness. This suggests that art take on the responsibility of no longer functioning as an adverbial adjunct to power structures, ignorant of its own determinisms, but become an ethical attribute or epithet holding itself, culture and ideology to account. It implies art must be true, or ‘just,’ to its capacity to question its own grammar in the face of history in the making. Only this sense of justice to its own historicity may allow art to re-empower itself as more than ‘just’ art. Needless to say, such a radical shift in art’s self-reflexive grammar remains an open process. Unlike agit-prop manifestations, art, when working from within the power structures it intends to hold to account, must also contend with its own contradictions. Art that intends to be ‘just’ will of necessity confront the possibility it may remain aporetic. It needs to accept such an aporetic stance as yet another form of its own tentative justice. Maybe such ‘just’ art achieves but ambivalent ends. Yet, from within the powerhouse of culture, it also traces the contours of repoliticised affects which question the very syntax and function of aesthetics and thus force us to look on as political subjects, to see at last what is always already political in our encounter with art.

### **Re-embodiment of visuality**

Contemporary artists have not been alone in this critical unhinging of aesthetic experience. Visual studies have gone a long way to write what Nicholas Mirzoeff defined as “a counterhistory of visuality” (*Right to Look*), that is a history of the visual that would undo the mechanisms distributing the right to look or not, namely, the system “assembl[ing] a visualisation” that “manifests the authority of the visualizer” (2). Typically for Mirzoeff, such authority is now inscribed in the “military-industrial complex” characteristic of a “post-panoptic visuality” and several works to be discussed here precisely confront the mechanisms of artistic experience as entailed by this complex.

Central to art’s counter-attacks on our current system of visuality, war photography and war testimonies have provided an invaluable and complex material allowing artists to reflect both on their own accountability in the face of contemporary wars and on the regime of visuality that rules over our affective and ethical encounter with testimonies documenting these wars. Both Judith Butler in *Frames of War. When is Life Grievable?* and Ariella Azoulay, in her essays on the photographic documentation of Israel’s occupation, have insisted on the covert way war photography articulates visuality. They both stress the necessity to disclose the contract imposed on the viewer by way of photography’s seemingly innocent indexicality. A war

photograph is always already inscribed in the power structure of visual culture and thus leaves us little leeway to think through the regime of visuality it relies on and sustains. In this case,

interpretation is not to be conceived restrictively in terms of a subjective act. Rather, interpretation takes place by virtue of the structuring constraints of genre and form on the communicability of affect—and so sometimes takes place against one's will or, indeed, in spite of oneself (Butler 67).

As we will see, artists working with war images produce forms of visual counter-interpretation, or counter-interpellation, exposing the visual grammar informing the interpretation taking place 'against our will,' thus also rewriting the visual contract entailed in our gaze upon documentary images. Such undoing is also central to what Azoulay has defined as "the civil contract of photography," a contract that contradicts the supposedly transparent indexicality of the photographic document:

...the status of the civil contract of photography is likewise not that of an actual document, but a tacit agreement. ... photography is one of the only practices by means of which a political community has been formed that is based on a mutual obligation among its members, who hold the power to act in connection with this obligation. (Azoulay, *Civil Contract of Photography* 109)

Vital to this visual contract is the necessity, in Azoulay's words, to "rehabilitate a phenomenal space so seemingly overdetermined" ("Potential History," 553). Rehabilitating that space implies that the spectator may be brought to fathom the visual power regime presiding over the image itself, including her/his own participation in the very regime making the exactions possible, and consequently the images documenting them. Only then may the image become an instrument of citizenship—and not 'just' a supposedly transparent index of what was—, a critical tool probing the conditions of possibility of visual citizenship and of our sharing in a complex phenomenal and historical space: "One is rather invited to reconstruct the formations and de-formations of being together of all those taking part in the event of photography" (Azoulay, "Potential History" 557). The "phenomenal space" is that of the production of the photographic document as well as of our encounter with the image. In the case of artistic appropriations of documentary images, it is also the material space of the art site: the museum, the art gallery, the art space outside the museum in the case of *in situ* art. In that sense, the critical process harnesses the sites of art, and the works as sites of the visual contract, to explore anew the political response-ability of our private and collective aesthetic experience.

This has also been crucial to the collective installation works and performances that have invested sites of power and (in)justice, such as prison houses or detention sites. With Michel Foucault, whose preface to *The Birth of the Clinic*—his exploration of the regulation of reticent, sick bodies—opens with the epigram: “This book is about space, about language, and about death; it is about the act of seeing, the gaze,” (ix), artists investing carceral space know that the gaze offers one of the most powerful instantiations of discursive domination. Visual surveillance has, for instance, been explored by artists like Harun Farocki in his video *I Thought I was Seeing Convicts* (2000) or Fiona Tan in her video installation *Correction* (2004) and her more recent work *Lockup 360* (2015; see Beugnet). Reinvesting the sites of visuality opens a way of reinventing art with an experiential responsibility, or, to turn to Donna J. Haraway’s coinage, “response-ability,” that is an ability to “cultivat[e] collective knowing” (34). Although the works to be evoked here deal with the experience of detention—legal or extra-judiciary—in very different ways, they all experiment with the historical reality of incarceration, testimonies of the miscarriage of justice and the extra-judiciary and work to reinvent aesthetic experience as ethical experience, art working thus as a collective “ethical compass” (Enwezor 14).

Museums have recently addressed the reality of detention, in response—implicit or not—to mass incarceration, thus corroborating Enwezor’s intuition that art today turns away from class awareness to “human rights” to understand our contemporary condition (54). In 2018, the Yale Center for British Art developed an archeology of prison art with the exhibition “Captive Bodies: British Prisons, 1750–1900” (27 August–25 November 2018), with a view that “this exhibition [would] aid to illustrate the historical thinking about justice, imprisonment, and punishment” (*Historians of Eighteenth-Century Art & Architecture*). Interestingly, the show brought artworks to cohabit with documentary traces, from cell keys to mugshots from the Nottingham Prison of Correction and samples from the photographic record of West Riding Prison from the 1880s. Art could no longer be ‘just’ art, but was explicitly inscribed in a surveillance system it was shown to document and visualise, thus fostering what Enwezor defines as “kinds of political realism” as such indebted to Foucault’s “bio-politics” (14). Very recent exhibitions have confronted the reality of imprisonment more directly. “Walls Turned Sideways: Artists Confront the Justice System,” held at Tufts University Art Gallery in Medford, MA (23 January–19 April 2020, curated by Risa Puelo), and “Marking Time: Art in the Age of Mass Incarceration,”

meant to take place at MoMA PS1 in Spring 2020 (curated by Nicole R. Fleetwood, along with assistant curators Amy Rosenblum-Martin, Jody Graf and Jocelyn Miller).<sup>1</sup> With a view to “underscor[ing] how prisons and the prison industrial complex are central to contemporary art and culture” (MoMA), PS1’s exhibition lays stress on the physicality of incarceration with “works that bear witness to artists’ reimaging of the fundamentals of living—time, space, and physical matter—pushing the possibilities of these basic features of daily experience to create new aesthetic visions achieved through material and formal invention” (MoMA). The show also featured:

work made by nonincarcerated artists—both artists who were formerly incarcerated and those personally impacted by the US prison system. From various sites of freedom or unfreedom, these artists devise strategies for visualizing, mapping, and making physically present the impact and scale of life under carceral conditions. (MoMA).

The museographic premise speaks for itself: prison art is of necessity, as if essentially, embodied art, art that speaks of and to the body. Visuality is corporeal and one may know—even if vicariously—and understand the power formations presiding over the system of mass incarceration only as a re-embodied experience that engages a physical body that is always already political. This, more broadly, characterises what Nicole R. Fleetwood defines as “carceral aesthetics,” *i.e.* art produced by inmates under “conditions of unfreedom” (Fleetwood 25) that inherently make of prison, as a site of power, a phenomenological space. Fleetwood amply stresses the embodied nature of what she defines as “carceral aesthetics” in the essay that paved the way for the *Marking Time* PS1 show. “Carceral aesthetics,” which opens spaces for artistic expression at the heart of the prison “involves the creative use of penal space, time, and matter .... [D]eprivation becomes raw material and subject matter for prison art” (25).

Fleetwood focuses on art coming from within the prison system and where the documentary and the artistic coalesce. The works to be explored below occupy a different position within that same system. They come from artists who stand outside and look in—and we look in with them—, thus eliciting a reflection in which the external spectator’s position and aesthetic experience are revisited as also being sites of power. Video artist and film director Steve McQueen fully grasps the politics of such visual phenomenality and the intimate intertwining of the gaze, ideology and corporeality in his 2008 feature film *Hunger*, the film he devoted to the dirty protest and hunger strike organised by IRA prisoners, and in particular the hunger strike of Bobby Sands in Long Kesh Prison, between 1978 and 1981 (see Bernard 111-116); the

theme had also been previously explored by Richard Hamilton in the three diptych paintings he devoted to the 'troubles' in Northern Ireland, one of the diptychs, *The Citizen* (1981-1983) representing a blanketman in his Maze cell, as 1980 documentary footage came to immortalise the detainees (the three diptychs are to be seen at Tate). A disturbing blurring takes place in these works. Strategic sites of collective identity fashioning—the cinema theatre, the museum, the prison—are revealed to exist in a state of disturbing co-presence. The sites of spectatorship are implicitly reinscribed within a discursive system aimed at regulating collective identity and belonging. The reinvestment is specifically complex in the case of the museum institution. Granting a place—even if only a temporary one—to those behind bars and to their experiences, the museum divests itself of its aura of autonomy and deliberately holds itself accountable to a more complex, less irenic body politic.

The same reinvestment was at work in *Inside: Artists and Writers in Reading Prison* (4 September—4 December 2016), the collective work that was initiated by art commissioning agency Artangel. Taking over the prison that had been operational until 2013, Artangel invited artists and actors to respond to Wilde's vertiginous self exploration in *De Profundis* (1905), the protracted letter Wilde wrote to Lord Alfred Douglas, and ultimately to himself, as he was incarcerated in Reading Gaol. *Inside* offered itself as a multi-sensory experience: both visual and auditory, both literary and political. Working as confessional narrative and document testifying to the inhumanity of the 'separate system' implemented in Reading Gaol, *De Profundis* inspired an entangled collective experience that was both derivative and original, both specific to each visitor and generic, both embodied and conceptual. On Sundays, as if officiating at the altar of memory, actors—among whom Ben Whishaw or Ralph Fiennes, artists and writers—Patti Smith or Colm Tóibín—would read from *De Profundis*. Writers like Ann Carson or Deborah Levy had also been invited to "inhabi[t] different cells on the three floors, penning their own epistles drawn from the experience of confinement, both imagined and real, and addressed to a loved one as Wilde's letter had been" (Lingwood and Morris 16). Works by the likes of Ai Weiwei, Nan Goldin, Marlène Dumas, Doris Salcedo, Steve McQueen, Wolfgang Tillmans or Félix González-Torres also peopled the cells and corridors. Many were poised on the frontier of art and the documentary, Nan Goldin showing works documenting gay life (*The Boy*, in collaboration with Nathan Baker, 2016) or the reality of life under the spell of the Gross Indecency Laws, as in the documentary dialogue with ninety-three year-old George Montague, filmed by Goldin in his Brighton

home, asking for an apology from the British state, for having been convicted for indecent acts (Lingwood and Morris 17).

The trace left by Wilde's plight in our collective memory unlocked a complex reflection on discrimination and repression. The space of the prison functioned in that respect as a documentary site, or maybe, more precisely, as an archeological site, to be deciphered for what it revealed of the coercive ideology regulating minds and bodies. Testifying to a specific history of incarceration, it also worked as a tangible allegory of state repression. The visitors moving from floor to floor, from cell to cell were thus immersed in an experience of the present and the past, of the near and the far, of the same and the other, as it coalesced into a global history of discrimination and victimisation. Crucial to this historical immersion were the few surviving photographic records of the thousands of women and men imprisoned in Reading Gaol, and kept in the Berkshire record office. Displayed in the form of a photograph-bank in glass-cases positioned on the ground floor, the "mugshots" of these inmates worked as concrete, documentary reminders of those who went through the prison and left little or no trace and yet who now stare back across time with the full indexicality of their photographic presence (Lingwood and Morris 16).

The visual complex revealed in this multi-media collective work unfolds in a continuum reaching back to a past that will not pass and that still conditions our regime of visuality. These myriad experiences of political, social or sexual repression are woven together to generate a form of visual pedagogy that is fluid—where Reading Gaol's 'separate system' was tightly controlled—and empathic, beyond the specifics of discrimination and hurt. One may object that *Inside* reiterates the specific discriminations suffered by the witnesses we hear or see by standardising them and placing all of them under a common, generic denominator. With Okwui Enwezor, reflecting on the disturbing and insistent truth regime of the documentary, one may on the contrary argue that bringing different forms of documented wrongs to cohabit elicits a "being for the other" (Enwezor 16), an "undisciplined" collective being that may belatedly do justice to the endlessly reiterated experience of disciplined hurt.

### **Limit cases: looking at war**

The documentation and mediatisation of the 'war on terror,' as well as the war in Syria, have also elicited a complex reflection on the aestheticisation of politics and on the visual complexes generated by these conflicts. As Judith

Butler has amply commented on in *Frames of War. When is Life Grievable?* the “war on terror” produced a specific “frame of war,” if only through the tight regulation of the visual documentation of the war and the implementation of “embedded reporting” (64-65). The framing of the photographic images produced and circulated during the war on terror far exceeds the photographers’ technical choices. The indexicality of the picture is always determined by a framing that exceeds the image, a discursive apparatus that conditions the photographer’s choices and our reception of the image:

We do not have to be supplied with a caption or a narrative in order to understand that a political background is being explicitly formulated and renewed through and by the frame, that the frame functions not only as a boundary to the image, but as structuring the image itself. If the image in turn structures how we register reality, then it is bound up with the interpretive scene in which we operate. (Butler 71)

According to Susan Sontag, capturing the gist of Ernst Jünger’s 1930 essay “War and Photography,” “[t]here is no war without photography” (66). As much as a reflexion on the violence of the camera that shoots—as such, placing the photographer in an analogous position to a combatant in modern warfare—, Jünger’s essay develops a reflection on the technological visual complex that makes both modern warfare and its visual documentation possible: “It is the same intelligence, whose weapons of annihilation can locate the enemy to the exact second and meter, that labors to preserve the great historical event in fine detail” (24).<sup>2</sup> In Butler’s terms, one unique frame, or “political formation” (23), also conditions the efficient unleashing of violence and its visual recording; and that frame implements itself through specific visual conditions, through a specific visual complex.

The ‘war on terror’ inflected the frame in hitherto unknown and unpredictable ways. The constrained documentation of the war in Iraq, as channelled by “embedded reporting” was radically deregulated by the images taken in Abu Ghraib prison and their circulation. Scholars in the field of media studies<sup>3</sup> or visual studies, have tried to unravel the logic and function of these images, as well as their structuring ideological apparatus, their ‘frame.’ A quick bibliographical search yields some eighty references to academic publications dealing with the torture images of Abu Ghraib. Both W.J.T. Mitchell and Nicholas Mirzoeff have considered the cultural determinisms structuring these images, Mirzoeff turning specifically to sex culture and essentialist and imperialist dualism: “Empire renders this divide [dualism] spatially so that America becomes ‘mind’ and the rest of the world, especially the Muslim world, becomes ‘body’” (Mirzoeff, “Invisible Empire” 41). Yet few

of these academic responses have turned to the art that has also responded to the human rights violations chronicled in these images (Mitchell; Apel).<sup>4</sup> Interestingly, Jonathan Markovitz's analysis of these works emphasises the asymmetrical impact of our visual economy on the respective circulation and pragmatics of the widely circulated original images and of the little-known works that have reacted to them, in spite of their dissemination on the web (64). Our visual complex thus seems to leave little room for any 'response-able' artistic objection.

Such asymmetry is what Marc Quinn's *Mirage* (2009) addresses, by challenging the very syntax of aesthetic experience and by stubbornly refusing to be 'just' art. Quinn's patinated bronze sculpture offers a three dimensional replica of the photograph featuring a hooded detainee perched on a narrow box and whose open hands are attached to electric wires. The image, powerfully reminiscent of Christian iconography (Mitchell, ebook, chapter 7), immediately produces a jarring tension between the all too obvious breakdown of justice and the iconology of mercy. But, as I have had occasion to underline elsewhere,<sup>5</sup> what grounds Quinn's response-able pragmatics is the way it harnesses the entire economy of art to a denunciation of the very frame of visuality. *Mirage* can never be 'just' art, but aims at shifting the aesthetic syntax by making our aesthetic experience a misplaced experience. One cannot in any way enjoy *Mirage*. The work offers no solace, but condemns us to reflect, as now active spectators, on the cultural and ideological continuum that links the space of art to the space of abject domination, two spaces that are not autonomous, but coterminous with the overarching mechanisms of discrimination. The work tricks us into seeing what we probably do not want to see, at least not in the specific context of the art gallery or the museum. Yet the work compels us to see, *volens nolens*, and violently redefines the experience of art as an ethical experience that unhinges the gaze. The hooded man cannot stare back and we are trapped into a contemplation that is ultimately self-reflexive. We see ourselves looking at the blinded figure and wondering at our part in the process of subjugation. John Limon has amply shown how, in the Abu Ghraib pictures, a complex and entrenched culture of shame gives rise to a form of radical enactment. If, as Limon insists, "shame is a coming into view," then what *Mirage* makes visible, we might argue with him, "is an integrated shame culture" (547). The art space cannot remain autonomous, immune from that shame culture. Our contemplation partakes, even if marginally, asymptotically, of that culture of shame. Concomitantly, the critical double take that is ours as we come upon the work,

in the art space, opens the possibility of a ‘response-ability,’ of an opening to what we do not want to see. ‘Just’ art has momentarily turned into art that may be ‘just.’ The affect might be a “floating” one (Limon 550), hard to pinpoint, elusive; yet it persists and holds art and our experience to account.

Central to this critical double take, is also what the very status of this work—patinated bronze, precious, unique, hence auratic in Benjamin’s sense of the word—also suggests about the mediatisation of the torture images. The exalted nature of the auratic work stands in exacting contrast with the degraded images that circulated on the web and made the headlines. The all too easy circulation of these cheap images compounded the degradation of the human reduced to being “the means” (Ogilvie 77), the channel, of shameless affects. *Mirage* aims at turning the degraded means back into an end, a human end. Yet the work is highly paradoxical and its opaque patinated bronze does not seem to afford any stable ethical certainty. It just confronts us, an erect ghostly presence, a variation maybe on the phantom Achille Mbembe also perceives to be at the heart of “the Negro experience”:

[t]he Negro bears within him the human’s tombstone. He is the phantom haunting Western humanist delirium. Western humanism thus stands as a sort of vault haunted by the phantom of the one who had been forced to share the destiny of the object. (*Necropolitics* 163)

*Mirage* engineers an emotion that unfolds on the far side of aesthetics, as if out of aesthetic bounds, and yet in this an-aesthetic experience something of a new visual contract is obtained. Quinn’s exploration of the ethics of looking shares with recent visual studies or ethical philosophy an attempt to define a ‘response-able’ visual contract, that would ground a critical visual citizenship: “audiovisual practices mediate political action and vice versa, so that in their co-construction we fine-tune our analyses of the conditions that organize and shape our categories of understanding about ourselves and others as citizenry” (Telesca 339). By including the visual apparatus of the art space within the critical process, Quinn necessarily “requires of the viewer a depth of field that extends to seeing the regime that made the disaster (and its imagery) in the first place” (Telesca 340-341).

### **Seeing the unseeable**

*Mirage* remediated artistic repurposing, for an experience that tried to do justice to what Norman W. Spaulding also defines as “the terror of accountability,” by pushing at the limits of visuality and of aesthetics: “This is the terror of accountability—its simultaneous ubiquity and irreducible

ambiguity in the face of crimes so horrifying as to defy the closure of judgment" (147). On the conflict in Afghanistan, Trevor Paglen has opted for a symmetrical strategy and invited us to see what few lenses have so far captured. In *The Black Sites* (2006—), he turns his lens on the US secret prison sites in Afghanistan and elsewhere round the world—where torture has been said to be practiced, a system “hundreds of ‘ghost prisoners’ have gone through” (Paglen, n.p.). In *Torture Taxi* (2007), a book co-authored with investigative journalist A.C. Thompson, he sheds light on the US “extraordinary rendition program,” implemented since 1995 as part of the “war on terror,” and which entails suspects being flown in CIA-chartered flights to prisons outside the US borders. Both a geographer—he received a PhD in geography at UC Berkeley in 2008—and an artist, Paglen has documented sites that exist off-limits and do not have any form of official existence. Using a telephoto lens to capture the often nondescript, indifferent, sometimes barely identifiable sites, Paglen’s images are the results of intensive collaborative work, as he himself explains in an interview with Julian Stallabrass:

... researching front companies used in covert operations, or working with amateur astronomers to track classified spacecraft in Earth orbit. These are all relational practices and they all have various sorts of politics to them. Photographing a secret military base means insisting on the right to do it, and enacting that right. Thus we have a sort of political performance. Finding CIA Black sites means, well, finding secret black sites. Working with amateur astronomers has a politics of collaboration to it, as well as something I think of as “minoritarian empiricism,” which has to do with experimenting with radical possibilities of classical empiricism. (Paglen, “Negative Dialectics” 7)

With such a form of collective “minoritarian empiricism” Paglen authorises the image by de-authoring it. The final image results from a collective work of visual awareness that cuts across an anonymous community that steers its gaze towards elusive signs to be scripted in sky charts and tentatively reconstructed out of the broken memories of former detainees (Paglen, *The Black Sites*). Out of the piecemeal empirical process some evidence is at last produced that itself paradoxically offers little to be seen and known. Once again, the cognitive experience is minimal. Its power lies in the bare presence of the image, its response-ability to a reality that was meant to remain unseen and uncharted. If, as Judith Butler, points out, “efforts to control the visual and narrative dimensions of war delimit public discourse by establishing and disposing the sensuous parameters of reality itself—including what can be seen and what can be heard” (xi), then the intractable empiricism of *The Black*

*Sites and Torture Taxi* turns the visual complex against itself to testify to the all too real existence of ghost sites in which “ghost detainees” are “disappeared” (Paglen, *Missing Persons*). The syntactic queering entailed in Paglen’s passive use of the verb “disappear” itself captures something of the disempowering of those deprived of the right to exist visually and politically.<sup>6</sup> A counter visual syntax is thus opposed to the lethal syntax of the “Extraordinary Rendition Program” and its capacity to objectify the “enemy” to the point of “disappearing” him. Most of the documentary images collected in *The Black Sites* are images of nondescript sites, in which very little is to be seen and even documented as such. Yet these seemingly insignificant images are endowed with maximum political significance and relevance. They work towards a politics of documentary re-apparition, by identifying indifferent sites as the sites of extrajudicial law and arbitrariness. In line with Enwezor, Paglen thus insists that “vision, whether blind or seeing is always invested with a function of apprehending the visual in a manner far more extensive than what the eye ultimately sees” (Enwezor 37). The civil contract of images, one may argue, lies in this very extension of the realm of the visible.

Other collective endeavours positioned on the boundary between art and political activism similarly aim at elaborating counter-visual and empirical practices. The collective Forensic Architecture, a self-titled “research agency,” located at Goldsmiths, University of London, “undertake[s] advanced spatial and media investigations into cases of human rights violations, with and on behalf of communities affected by political violence, human rights organisations, international prosecutors, environmental justice groups, and media organisations” (Forensic Architecture “About — Agency”). From the digital reconstruction of “The use of white sulphur in urban environments” by Israeli forces in Gaza (27.12.2008 – 18.01.2009), to that of “Police brutalities at the Black Lives Matter Protests” (25.05.2020 – ongoing) Forensic Architecture has documented some 60 “incidents,” all referenced on their website. Although it was nominated for the 2018 Turner Prize, Forensic Architecture eschews any claim to aesthetic experience. The visual here is not so much the site of an aesthetic experience, as that of a cognitive one, grounded in the ethical conviction that tools of visualisation should be enlisted to the co-production of an inclusive visual contract. Restoring some portion of visual justice implies documenting what has not been documented and visually testifying to the breakdown of civil rights. Reconstructing the “incidents” forensically implies shifting the remits of citizenry, and engineering a system of visual disobedience based on “a

common praxis” and “inclusive citizenship” (Azoulay *Civil Contract of Photography*, 131).

Bearing witness to the breakdown of justice has increasingly been enmeshed in the reconstruction of the lived experience of discrimination. Audio-investigator Lawrence Abu Hamdan, co-recipient of the 2019 Turner Prize,<sup>7</sup> also shifts the dialectics of art and the documentary through aural works he has developed in collaboration with Amnesty International and Forensic Architecture. Basing his research on the memories of detainees of the Syrian regime prison of Saydnaya, some 25km north of Damascus, Abu Hamdan “worked with survivors’ earwitness accounts to help reconstruct the prison’s architecture and gain insight as to what is happening inside” (Abu Hamdan), in order to produce a counter-model of “embedded reporting”: *Saydnaya (the missing 19db)* (2017).<sup>8</sup> “Layering testimony, translation and the explication of a creative process directe towards the collection and installation of acoustic reports,” the audio-installation “draws expression out of invisibility and vocal suppression in order to make evident the implications of unseen violence” (Guy 111, 112), a strategy characteristic of most works—visual or literary—confronting the carceral system (McCann 58). Not quite understanding what they hear, the visitors can only engage imaginatively with what they think they hear, thus tentatively taking part in the reconstruction of the exactions, a reconstruction that is bound to miss reality, betraying it in the very act of its remediation. The experience cannot pretend to be restorative; yet justice may lie in the simple, bare acknowledgement of the betrayal. Trying to empathise with what these cryptic sounds might testify to will necessarily fall short of capturing the reality of what the detainees went through, Abu Hamdan seems to imply. Yet another form of intractable empirical experience is here enforced, in which the visitors are not merely addressees, but participants, even as they may fail to come to any form of true cognition. The negative dialectics at work here engineers an unyielding aesthetic contract, that is also a “civil contract” as Ariella Azoulay defines it in her investigation into documentary photography:

In the political sphere that is reconstructed through the civil contract, photographed persons are participant citizens, just the same as I am. Within this space, the point of departure for our mutual relations cannot be empathy or mercy. It must be a covenant for the rehabilitation of their citizenship... (*Civil Contract of Photography* 17)

The contract reimagined by Abu Hamdan’s audio installation and the other works explored here can only be a tentative, imperfect one. All bear witness to

an impossible dialectics between the necessity to bear witness and the no less powerful and all too pressing certainty that bearing witness will always fall short of the truth of experience. Yet “a bond of identification” (Azoulay, *Civil Contract of Photography* 17) has been formed, and the contract regulating our aesthetic experience has been altered. The dialectics may be a negative one, offering no surpassing of oppositions but rather the awareness of an ongoing darkness. Yet, a form of dark cognition is thus also co-produced that travels through the body politic and pushes against the limits of regulated visuality and embodied politics.

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<sup>1</sup> The exhibition was meant to open on April 5<sup>th</sup> 2020, but has been delayed due to the Covid 19 crisis. For an analysis of the visuality of the carceral regime, one may want to turn to the online event organized by the Institute of Arts and Sciences at UC Santa Cruz on November 17, 2020 and that brought together Nicholas Mirzoeff, Nicole R. Fleetwood and Herman Gray: <https://ias.ucsc.edu/events/2020/visuality-and-carceral-formations-nicole-fleetwood-herman-gray-nicholas-mirzoeff>. Accessed 20 November 2020.

<sup>2</sup> Jünger's essay, “Krieg und Lichtbild,” prefaced a documentary anthology of testimonies from soldiers who had fought in the First World War and that also included photographs from the battlefield (see Jünger 1993). The expression itself “There is no war without photography” does not appear in Jünger's text, it is Sontag's.

<sup>3</sup> See for instance Taylor (2005)

<sup>4</sup> One notable exception is the questionnaire elaborated by *October* and in which such art historians or specialists of visual studies and aesthetics as Benjamin H. D. Buchloh, Claire Bishop or David Joselit answer the question: “In What Ways Have Artists, Academics, and Cultural Institutions Responded to the U.S.-Led Invasion and Occupation of Iraq?,” *October* (Winter 2008).

<sup>5</sup> See my “Affecting/Re-affecting Vision.”

<sup>6</sup> The syntactical twist features in other reflections on the Extraordinary Rendition Program (see Sadat).

<sup>7</sup> The four nominees, Lawrence Abu Hamdan, Helen Cammock, Oscar Murillo and Tai Shani pleaded with the jury to be considered as a group and to be awarded the Prize jointly.

<sup>8</sup> For an exploration of the way documentary cinema may afford a complexification of political subjectivities see Galván-Álvarez.

## Works Cited

Alexeivitch, Svetlana. *Zinky Boys: Soviet Voices from a Forgotten War*. Trans. Larry Heinemann. New York: Norton, 1992.

Alexeivitch, Svetlana. *Chernobyl Prayer*. Trans. Anna Gunin and Arch Tait. London: Penguin, 2016.

Arjomand, Minou. *Staged. Show Trials, Political Theatre and the Aesthetics of Judgement*. New York: Columbia UP, 2018.

Audi, Paul. *Réclamer justice*. Paris: Galillée, 2019.

Caillet, Aline, and Frédéric Pouillaude (Eds). *Un art documentaire*. Rennes: Presses universitaires de Rennes, 2017.

Derrida, Jacques. *Séminaire. La Peine de mort*, Paris: Galilée, 2012.

Fitterman, Robert, and Vanessa Place. *Notes on Conceptualisms*. New York: Ugly Duckling Presse, 2013.

Fleetwood, Nicole, *Marking Time. Art in the Age of Mass Incarceration*. Boston: Harvard UP, 2020.

Foucault, Michel. *Surveiller et punir*, Paris: Gallimard, 1975.

Ginzburg, Carlo, *Clues, Myths and the Historical Method*. Trans. John Tedeschi and Anne C. Tedeschi. Baltimore: John Hopkins UP, 1992.

Greaney, Patrick, *Quotational Practices: Repeating the Future in Contemporary Art*. U of Minnesota P, 2014.

Greaney, Patrick. "Last words: Expression and Quotation in the Work of Luis Camnitzer." *The Germanic Review*, 98, 2014: 89-120.

Israel, Liora. *L'Arme du droit*, (2<sup>nd</sup> edition). Paris: Sciences Po Presses, 2020.

Kidman, Fiona. *This Mortal Boy*. Aardvark Bureau, 2019.

Kouchner, Camille. *La Familia Grande*. Paris: Seuil, 2021.

Keislow, Rainer Maria. "Le Spectre du juste." *Grief. Revue des mondes du droit*, n° 7/2, 2020: 106-114.

Lavocat, Françoise. *Fait et fiction. Pour une frontière*. Paris: Seuil, 2016.

Leibovici, Franck, and Julien Serroussi. *bogoro*. Paris: Questions Théoriques, coll. Réalités non couvertes, 2016.

Leibovici, Franck. *Des opérations d'écriture qui ne disent pas leur nom*. Paris: Questions Théoriques, coll. Hidden Beach, 2020.

Macé, Marielle. *Styles. Critique de nos formes de vie*. Paris: Gallimard, 2016.

Macé, Marielle. *Sidérer, considérer*. Paris: Verdier, 2017.

Nash, Mark. "Experiments with Truth: The Documentary Turn", essay published in the catalogue of the exhibition curated by Mark Nash,

*Experiments with Truth*, Philadelphia: The Fabric Workshop and Museum, 2004.

Nash, Mark, “Reality in the age of aesthetics”, *Frieze*, 8 April 2008.<<https://www.frieze.com/article/reality-age-aesthetics>> Accessed 19 June 2021.

Perloff, Marjorie. *Unoriginal Genius. Poetry by Other Means in the New Century*, Chicago: U of Chicago P, 2010.

Philip, M. NourbeSe. *Zong!* Connecticut: Wesleyan UP 2011.

Place, Vanessa. *The Guilt Project. Rape, Morality and the Law*. New York: Other Press, 2010.

Pouillaude, Frédéric. *Représentations factuelles*. Paris: Cerf, 2020.

Rancière, Jacques. *Le Partage du sensible*. Paris: La Fabrique, 2000.

Robbe-Grillet, Alain. *Pour un nouveau roman*. Paris: Minuit, 1963.

Sarat, Austin, and Catherine O. Franck and Matthew Anderson, “Introduction” in *Teaching Law and Literature*. Sarat et.al., (Eds). New York: Modern Language Association, 2011: 1-30.

David Shields. *Reality Hunger*. New York: Vintage, 2011.

Talon-Hugon, Carole. *L'Artiste en habits de chercheur*. Paris: Presses Universitaires de France, 2021.

Théval, Gaëlle. *Poésies ready-made*. Paris: L'Harmattan, 2015.

Toker, Leona, “Toward a Poetic of Documentary Prose — from the Perspective of Gulag Testimonies.” *Poetics Today*, vol. 18, n°2, Summer 1997: 187-222.

Toth, Naomi, “Echoing Last Words.” *Textual Practice*, vol. 33, n° 9: 1555-1576.

Zenatti, Marie-Jeanne, *Factographies. L'Enregistrement littéraire à l'époque contemporain*. Paris : Classiques Garnier, 2014.