

AS

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der kreative Schaffensraum
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RIGHTS
GO
BY

EXHIBITION
ON THE EROSION
AND DENIAL OF RIGHTS

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AS RIGHTS GO BY

ON THE EROSION

AND DENIAL OF RIGHTS

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Even though basic rights and democratic principles are constitutionally anchored, recognized and implemented in many countries as universal social values, developments can be observed that are infringing on citizens' rights. These rights are being curtailed and undermined in the name of the economy and security, rights that refugees are denied in the first place. Slavoj Žižek refers to these social asymmetries as a new form of apartheid. Post-democratic developments have accelerated since the financial crisis of 2008. Our reality is being shaped by political agendas increasingly dictated by deregulated financial markets, and uncontrolled mass-surveillance aimed at predicting and influencing (purchasing) behaviour. Social and legal inequalities are increasing both between individual social strata as well as between individual countries. The works shown in the exhibition examine individual aspects of unequal rights.

In the current highly explosive scenario it makes sense to take a look at the causes and consequences of the judicial inequalities associated with increasing economic disparity. A shift in rights that favours investors at the expense of citizens is a result of the purported necessity for political policy to submit to market interests, especially financial market interests. The radicalization and globalization of markets has, in turn, led to the entrenchment of inequalities between rich and poor countries in the exploitative battle for cheap raw materials and labour. Neo-colonial strategies are among the causes of migratory movements. Debt and trade agreements are being used to institutionalise inequality. In the interaction between corporate and political agendas, rights are increasingly being regarded in terms of promising returns versus profit-reduction. In the forthcoming trade agreements there is a proposal to institutionalise legal advantages for corporations in the form of a system of courts to protect investors as

well as a regulatory cooperative board. The proposed cooperative regulation would give lobbyists exclusive rights to influence the drafting of laws, anchoring a previously informal influence on official procedure. The consequences are a reduction in parliamentary powers and the further erosion of civil rights. A regulatory cooperative board and investor court system would undermine democratic parliamentary principles, establishing corporate and banking interests at the expense of civil rights. With extreme global competition and financialisation, labour rights are being negated (precarisation) or sold as a gain in freedom (the entrepreneurial self) and refugees denied legal status. How could measures that result in a reduction or a complete denial of rights have been established and legitimized? The crisis in Greece, in particular, illustrates the urgency of the need to repoliticise. The democratic right of countries to shape their own policies is being undermined in the face of pressure from creditors and the EU.

Alongside the economically based attack on democratic rights, the exhibition also examines infringements justified in the name of security. Here it would be appropriate to query the extent to which infringements of rights committed by mass surveillance are linked to social and judicial inequality in both domestic and foreign policies. The many years in which the welfare state has been defamed have been accompanied by a shift from social security towards mass surveillance as a state issue and manifestation of the state's interest in its citizens. Future consumer behaviour, viability, profiling and the predictability of behaviour patterns in general – these are the things that corporate and security agendas seek to exploit.

The exhibition explores judicial, social and emotional changes in the relations between political policy, corporate and big business interests, and violence. The artworks on display explore the curtailing, undermining or denial of rights by corporate and security-related imperatives, as well as the mechanisms that legitimate these processes. This erosion of our rights is accompanied by the denial of rights to refugees and migrants.

For Giorgio Agamben, refugees, who have nothing more than their bare lives, represent the flip side of a body politic that is granted its rights. Agamben regards refugees, with their rights-deprived status, as a contemporary embodiment of the ancient Roman figure of *homo sacer*.

A number of the artworks also engage with the issue of distribution of rights within the art system itself, a system which reflects the social and judicial inequalities observed in society at large. Reflection on one's own behavior and position is decisive in aesthetic practices, rendering visible judicial, social or societal asymmetries in the conditions of production.

SILVIA BECK

COMPLICITY REPORT

-
multimedia installation, 2016
-



In her work, Silvia Beck addresses the special rights that individual persons or groups claim for themselves, rights which represent an exception from normal regulations. The fantasy of the self-defined, uncontrolled exception is linked to a status of privilege. Silvia Beck examines issues like privileged statuses that purport to be rights but actually represent a form of presumption, a demand for special conditions and special treatment contrasted with a deficit of rights. Privilege entails having more rights, which undermines the general principle of rights equality. As a consequence, this means less rights for, and discrimination against, others. The desire for special rights and special treatment can be found in every field and social constellation. It represents the wish to define oneself and to rise above others, as an individual or as a closed circuit. Here, seclusion and surveillance become a special right provided by the autonomy and control of private security systems in the form of technology or bodyguards. Silvia Beck is interested in the suggestive imagination that is linked to special rights. As a consequence, personal information is published by choice in exchange for the promise of advantageous treatment on the one hand, but also to generate attention for oneself and one's status. This data is then used for categorising and predicting behaviour, to apply targeted strategies to the consumer (target group). Ultimately, this means the curtailing of the private sphere and personal autonomy, the erosion of freedoms and opportunities for persecution.

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Silvia Beck was born in 1959 in Bingen am Rhein; she lives and works in Berlin.

www.silviabeck.de

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COMPLICITY REPORT

(video still), multimedia installation, 2016

JAMES BRIDLE

SEAMLESS TRANSITIONS

-
digital video, 5:28 min, 2015
animation: Picture Plane
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Seamless Transitions shows three sites of immigrant adjudication, detention, and deportation in the UK that are never photographed because they are inaccessible: the Special Immigration Appeals Court, where secret evidence is submitted, the Harmondsworth Detention Center, a privately run prison on the edge of London, and the Inflight Jet Center, a private terminal inside London Stansted Airport. Based on planning documents and eyewitness reports, the video uses architectural visualisation techniques to reconstruct these physical spaces, but also the accompanying complex legal and social apparatus. The viewer experiences these dark sites on a virtual camera tour, from the official judgment to boarding the aircraft. The locations represent the invisible policy of deportation and the judicial processes, undertaken in secret, that provide their legal basis. This not only hides refugees from the general public, but also keeps the general public in the dark concerning their own government's policy. What is being negotiated in secret? Secret courts are operating in the context of surveillance (FISC), while investor protection clauses and trade agreements (TTIP) are negotiated in secret. Legal exceptions are legitimized through special courts, in the name of economic and national security.

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SEAMLESS TRANSITIONS
digital video, (video stills), 5:28 min, 2015
animation: Picture Plane

commissioned by The Photographers' Gallery, London
Seamless Transitions is supported by NOME, Berlin,
and public funding by the National Lottery through Arts Council England.

GEORGE DRIVAS SEQUENCE ERROR

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HD video, 11 min, 2011
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Sequence Error is the term used in computer science for “an error that arises when the arrangement of items in a set does not follow some specified order.” In his film *Sequence Error* George Drivas references Karl Marx’s aphorism “history repeats itself, first as tragedy, then as farce,” while adapting speeches by Che Guevara (1963) and George Marshall (1947). The setting is a contemporary business environment collapsing under the impact of a sudden systemic crisis. Opposition to the dismissals ordered by management grows, with staff and management quoting speeches by Che Guevara and George Marshall. According to Marx, reference to protagonists from the past hinders the development of one’s own capacity for resistance. The company represents the capitalist system, while the crisis represents the emergency situation that is used as a pretext for the suspension of rights. Employment contracts are terminated, staff are subjected to dismissal proceedings, and labour relations are suspended by a tribunal.

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SEQUENCE ERROR

HD video, (video still), 11 min, 2011

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George Drivas was born in 1969 in Athens; he lives and works in Berlin and Athens.

www.drivas.org

ÖZLEM GÜNYOL / MUSTAFA KUNT THE PORTRAIT



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digital print on wallpaper

200 x 240 cm, 2015
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In *The Portrait* Özlem Günyol and Mustafa Kunt overlap photographs of the hundred richest people on the Forbes Magazine World's Billionaires List 2015. Superimposing the individual photographs renders their subjects unrecognisable. The result is an identikit image, the proportions of which conform to the format of a biometric passport photo. The two artists imitate official image aesthetics, visualizing these hundred people's loss of individuality as they become numbers in a statistical analysis. Özlem Günyol and Mustafa Kunt illustrate the invisible grey area between the state and the economy as a kind of identikit picture that represents the anonymisation and non-identifiability of this relationship. The anonymization alludes, among other things, to the splitting mechanisms of financial bodies and the dispersal of wealth to make it undetectable to tax authorities, and to avoid personal risk and control. On the one hand, capital can be transferred to tax havens anonymously, on the other there is widespread lobbying based on economic identity aimed at institutionalising rights to the advantage of investors. *The Portrait* represents an image of an economically unidentifiable sovereign.

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THE PORTRAIT

digital print on wallpaper, 200 x 240 cm, 2015

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Özlem Günyol was born in 1977 and Mustafa Kunt in 1978, in Ankara; they both live in Frankfurt.

www.gunyor-kunt.com

ADELITA HUSNI-BEY ARD (LAND)

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video, colour, sound, 23:20 min, 2014
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In her film *Ard (Land)* Adelita Husni-Bey addresses the state-subsidized, privately financed Cairo 2050 urban development project, a mega-project that threatens the existence of many informal settlements in Cairo, such as Gezirat al-Qursaya and Ramlet Boulaq. Produced in collaboration with filmmaker Salma El Tarzi and activist Nazly Hussein, the film shows a workshop where the tactics and consequences of neoliberal urban planning policies as well as their social and judicial consequences are discussed. It is about processes of expropriation and gentrification in the name of the “common good,” usage that only benefits the investors, a perversion, in other words, of the phrase’s original meaning, and a usage that contravenes the Egyptian constitution. An activist reads aloud the articles in the constitution relating to informal settlements that have been contravened by the actions of the state. Adelita Husni-Bey accompanies this workshop with participants from the informal settlements, and activists, who remodel the Cairo 2050 maquette, originally intended as a backdrop, intervening in the model, and re-writing laws in the process. The participants model their own self-empowerment on a stage, with chiaroscuro lighting providing support and setting.



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ARD (LAND)

video, (video still), colour, sound, 23:20 min, 2014

courtesy of the artist and Laveronica arte contemporanea

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Adelita Husni-Bey was born in 1985 in Milan; she lives and works in New York.

www.gallerialaveronica.it

NIKITA KADAN PROCEDURE ROOM

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8 plates, printed, 2009-2010
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The work consists of porcelain plates showing drawings of police torture techniques. Nikita Kadan alludes to methods of torture used by the Ukrainian police. He shows torture instructions in the style of the *Popular Medical Dictionary* of the Soviet era, whose illustrations showed patients cheerfully undergoing extremely painful treatment. The implication is that torture is like a medical procedure, a 'necessary surgical intervention' to legitimate state violence. The denial of the subject's status, and the destruction of identity using physical and psychological violence are justified in the name of the wellbeing and protection of the body politic. To maintain the appearance of established legal standards or to represent these as such to the public, the machinery of illusion and propaganda are employed: violations of law are denied, carried out in secret, or declared to be either gains in freedom or necessary to the public interest.



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PROCEDURE ROOM
plates, (series of 8), printed, 2009-2010

KOLLEKTIV MIGRAFONA
(BELINDA KAZEEM, PETJA DIMITROVA,
RADOSTINA PATULOVA, VLATKA FRKETIĆ,
VINA YUN)

THE GLORIOUS 7

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wallpaper, 675 x 180 cm
comics, b&w, DIN-A5, 2011
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“Kollektiv Migrafona use comic strips to report on the realities of migration policy, the construction of national state identities, and the historical continuity of oppression and exploitation, but also to report on migrants’ struggle for equal rights, self-empowerment, better education, and improvements in working and living conditions. These comics draw on the racist Austrian consensus manifested in, among other things, the “Fremdengesetze” (asylum and immigration law), the production of hegemonic values and knowledge, as well as the writing of history.” (Kollektiv Migrafona)

In these comic strips the Glorious 7 (fairy-tale characters Cinderella, Aladdin, The Seven Dwarfs, the Town Musicians of Bremen, Pippi Longstocking, Hatschi Bratschi, and Little Red Riding Hood) meet the immigration authorities. They share their experiences of this Hydra of officialdom and bureaucracy, the harassment they endure, migration policy as expressed in law, an all-powerful monster that must be fought collectively. Kollektiv Migrafona conceive a political fantasy that relates narratives of self-empowerment and the fight for equal rights. Fairy-tale characters from different regions provide the basis for identification with these heroes of the resistance, who oppose systemic inequality.

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Kollektiv Migrafona is a collective of artists and activists engaging in the field of political anti-racism, working with migration history, politics and self-empowerment strategies from (Austrian based) immigrants. Kollektiv Migrafona was founded in 2007 in Vienna. Variable members.
www.petjadimitrova.net/works/Migrafona.html

VLADIMIR MILADINOVIĆ

TTIP LOBBYISTS

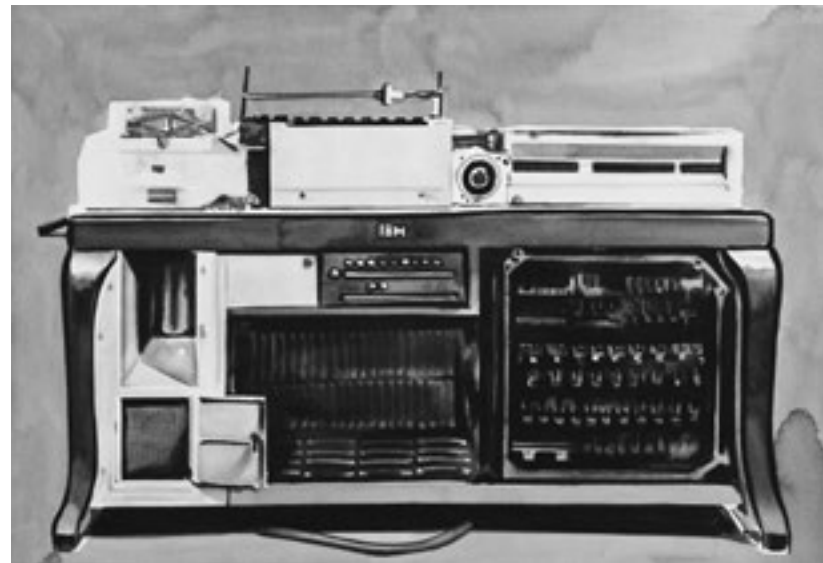


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watercolor drawings, various dimensions, 2016
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Vladimir Miladinović researches in archives, establishes relationships between historical and current developments, and explores ideological forms of media representation and historical narrative. He uses the process of drawing newspaper pages, historical advertising posters and archive material, to research the structures and modes of depiction in media coverage and image politics. He examines historical images and narratives for their ideological orientation, revealing contradictions and providing opportunities for reinterpretation from a more distanced perspective. Vladimir Miladinović researches the multinational companies playing an influential role in negotiations for the upcoming trade agreements who also supported the Nazis both before and during the war, and/or profited economically from the second world war. Companies like BASF, Shell, IBM, Bayer, Siemens, Ford, BMW and Nestlé can be found in both historical and current contexts. Vladimir Miladinović redraws archived posters from different epochs advertising these corporations, exploring the relationship between big business and the state, as well as the rules that organise this relationship in authoritarian and democratic systems. These corporations are pursuing the institutionalisation of lobbying with the proposed regulatory cooperation body and the investment court system, which would give them leverage with parliamentary lawmakers to curtail civil rights. The connection between political agendas and big business is not a new phenomenon, but the legal conditions governing this relationship are increasingly being defined by trade agreements, financial contracts and debt agreements.

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Vladimir Miladinović was born in 1981 in Belgrade, where he lives and works.

<http://vladimirmiladinovic.blogspot.co.at>



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TTIP LOBBYISTS

watercolor drawings, various dimensions, 2016

YURI PATTISON

1014

-
HD video, 10:14 min, 2015
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Yuri Pattison shows footage of the hotel room in Hong Kong where Edward Snowden gave his interview exposing the NSA in 2013. It is the same room, 1014 of the Mira Hong Kong hotel, shown in Laura Poitras' film *Citizenfour*. Yuri Pattison combines shots of room 1014 with stylistic elements from amateur hotel room reviews and fan videos of Hollywood filming locations. He integrates diagrams and elements of text from the NSA and GCHQ documents leaked by Snowden, and adds English translations of Chinese Netizen slang. The commentaries have been changed using the open source software Anonymouth to prevent stylistic identification. The work is a reflection of the rapid transition from political events to the entertainment sector in the form of the forthcoming Hollywood film (*Snowden* by Oliver Stone), and alludes to the undefined grey area between reality and fiction – the NSA's multiple breaches of the law, fed by Hollywood. When the loss of rights becomes a film narrative without anything changing in reality, it is perceived as fictionalisation.

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1014

HD video, (video still), colour, sound, 10:14 min, 2015
courtesy of the artist and Mother's Tankstation, Dublin

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Yuri Pattison was born in 1986 in Dublin; he lives and works in London
www.yuripattison.com

LORENZO PEZZANI & CHARLES HELLER LIQUID TRACES – THE LEFT-TO-DIE BOAT CASE

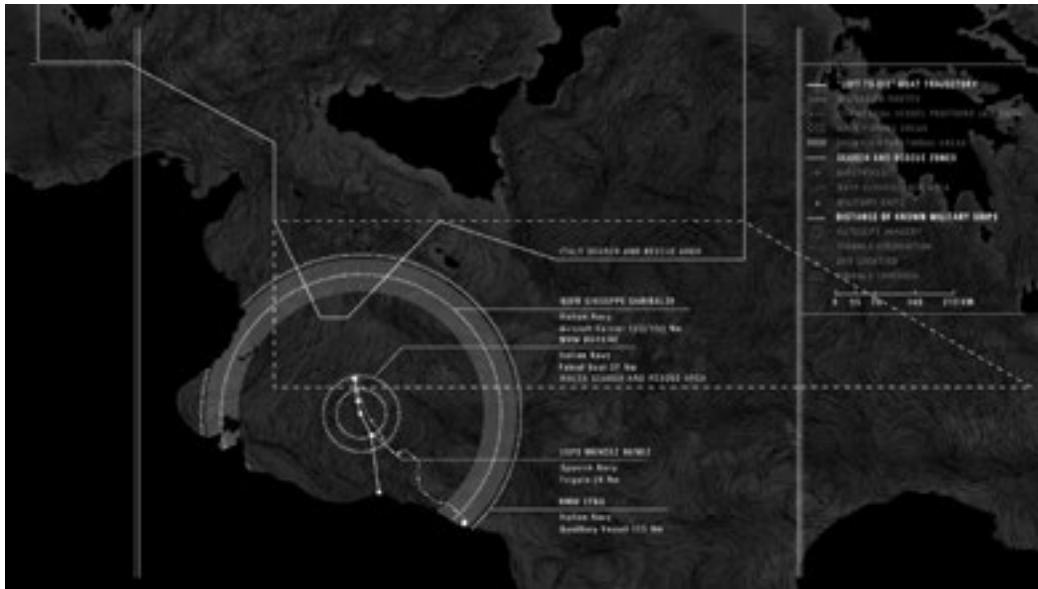
HD video, 18 min, 2011

In their video *Liquid Traces – The Left-to-Die Boat Case*, Lorenzo Pezzani and Charles Heller investigate a maritime tragedy that befell a refugee boat in 2011. They adopt a forensic approach to reconstruct the course of this tragic event and identify those responsible. On 26 March 2011, a group of 72 men, women and children set out to flee from Gaddafi's Libya in a rubber dinghy. Smugglers had estimated the trip to Lampedusa would take 18 hours. After a day, as water and gas started running out, the refugees began to panic. Using a satellite telephone, one of the refugees contacted a priest in Rome. A helicopter subsequently provided the refugees with water and cookies. In the meantime, the boat had reached the NATO surveillance zone and NATO jurisdiction. However, NATO warships and fishing boats in the immediate vicinity did not aid the refugees. The boat drifted until it was washed up on the Libyan coastline once again, after 16 days, and with only 11 people still on board. The two artists examine the extent to which information gleaned from surveillance technology provides evidence that the authorities acted in contravention of human rights conventions in failing to provide assistance.

Lorenzo Pezzani was born in 1982 in Trento; he lives and works in London.

Charles Heller was born in 1981 in the USA; he lives and works in Geneva.

<http://www.forensic-architecture.org>



LIQUID TRACES – THE LEFT-TO-DIE BOAT CASE

HD Video, (video still), 18 min, 2011

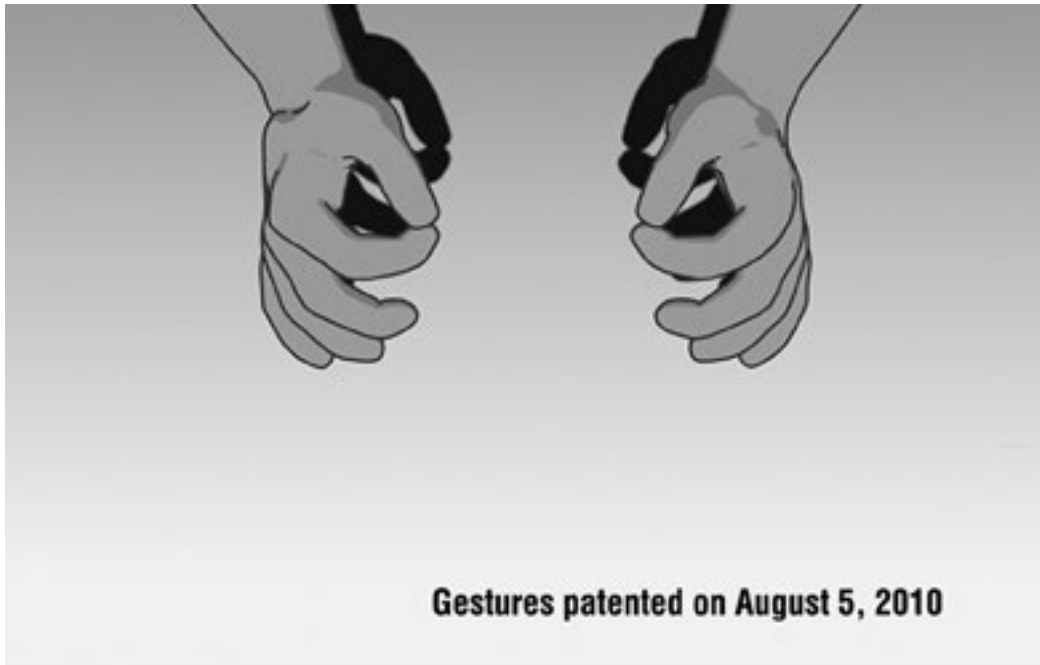
JULIEN PRÉVIEUX

WHAT SHALL WE DO NEXT? (SEQUENCE #1)

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installation, overhead projector with LCD panel

HD video, 3:54 min, 2006-2011
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In his animation *What Shall We Do Next? (Sequence #1)*, Julien Prévieux shows a collection of gestures from the US Patent and Trademark Office (USPTO). The gestures illustrated are used in the context of operating functions for technological devices, such as laptops, computer consoles etc. The operating movements were patented in advance even though the relevant interfaces have not even been invented yet. This means the rights to possible operative movements have been purchased pre-emptively. The patents are not being granted for technological inventions but for their mode of operation. Julien Prévieux is interested in the impact of technology on our bodies, bodily movements and behaviour, and in how these are altered by interactive fields of operation. What is the impact of this on bodily movements, and how does the practical value of an operative movement change the body-technology interface? Julien Prévieux appropriates these gestures to emancipate them from their practical function, to make them dance across the projection surface. The acquisition of rights along the body-technology interface represents only one aspect of the broad spectrum of newly emerging rights appropriation with technology by economic interests.



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WHAT SHALL WE DO NEXT? (SEQUENCE #1)

HD video, (video still), 3:54 min, 2006-2011

courtesy gallery Jousse Enterprise

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Julien Prévieux was born in 1974 in Grenoble; he lives and works in Paris.

jousse-entreprise.com

ANDREA RESSI

CAMP –

STRUCTURES OF EXCLUSION

-
installation, acrylic on MDF panels, wood
each 30 x 45 cm, 2016
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Andrea Ressi's work *CAMP – Structures of Exclusion* addresses the state of emergency and the refugee camps associated with it. For Giorgio Agamben, refugees embody a contemporary version of *homo sacer*, a figure of Roman law, a person outside the law who could be killed with impunity. For Agamben, the exclusion of *homo sacer* represents a political praxis in which sovereignty is constituted through lawlessness. In a critique of neoliberalism published in the 1990s, Agamben expresses his fear of emergency measures becoming standard, permanent. Here bare life represents the threat of social decline, lack of rights and the loss of political significance. Andrea Ressi alludes in her work to the zones of loss that usually remain invisible: loss of habitat, loss of rights, loss of freedom, insecurity, and represents them as modules of the state of emergency. In her image and text objects she references structures of translation, or simplification of media imagery, and raises the significance of the subject to the level of new global pictograms that show a world in upheaval, a world of global migration. Using the imagery of painting-based pictograms, Andrea Ressi focuses on clarifying frequently under-appreciated broader contexts. Based on structural analyses, the imagery represents a visual logic of contextualization that renders connections visible through abstraction, in contrast to the frequent over-simplifications presented in the media.

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CAMP – STRUCTURES OF EXCLUSION

CAMP – Structures of Exclusion

acrylic on MDF panels, 30 x 45 cm, 2016

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Andrea Ressi was born in 1970 in Graz; she lives and works in Vienna.
<http://www.toposcape.com>

JUDITH SIEGMUND

“AS RIGHTS GO BY”

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text installation, 2016
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This text work by Judith Siegmund expresses an irritation prompted by the observation that people's apparent lack of rights will lead others to draw competitive advantage from this fact. She contrasts a newspaper report about violence directed at migrants with excerpts from philosophical texts. These fragments of text from different periods and different contexts both address the idea of competition. On the one hand it is seen as a positive force in the drive for development, on the other as a strategy of separation as well as a way of dealing with personal insecurity and fear. The montage of these text fragments generates an associative space where we can reflect on the relationship between competition and violence without having to compete.

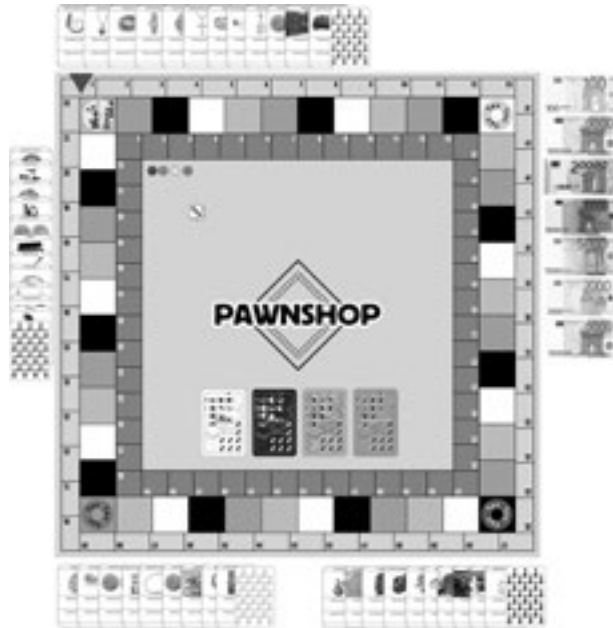


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“AS RIGHTS GO BY”
text installation, 2016

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Judith Siegmund was born in 1965; she lives and works in Berlin.
www.judithsiegmond.de



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THE AMAZING BOARD GAMES CLUB
installation, 2016



-
PAWNSHOP
boardgame, installation, 2014

LINA THEODOROU THE AMAZING BOARD GAMES CLUB

-
installation, 2016
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For the installation *The Amazing Board Games Club*, Lina Theodorou designed board games that allude to the catastrophic situation in Greece. Visitors can play with two of these board games. The financial board game *Pawnshop – Days of Mistrust* is conceived as a satire of the textbook capitalist game Monopoly, where instead of maximizing earnings, the aim is to avoid bankruptcy. All of the situations described on the game's cards reflect the everyday reality of Greece's humanitarian crisis, which assumed catastrophic proportions as a result of the crash of the financial market and the policy of austerity. As recent developments in Greece have shown, when states are in debt they lose their sovereignty, the population loses social rights, and the principles of the democratic process become meaningless. By contrast, the board game *Save the Pensioner* is part of a fictional advertising campaign for pharmaceuticals, aimed at preparing the population for 20 more years of working and keeping fit. Eighteen pharmaceutical concerns have developed the SENEX Plan to profit from the collapse of social systems. *Save the Pensioner* is based on the quiz game *Electric Questioner*, providing information on old-age illnesses, on anatomy and first aid, suggesting treatments, and so on. Lina Theodorou's Board Games Club invites visitors to understand everyday reality in crisis-torn Greece by playing a board game. It alludes to the social and legal consequences associated with debt and austerity programs, as well as to the companies that profit from poverty and the erosion of people's rights.

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Lina Theodorou was born in 1970 in Athens; she lives and works in Berlin.
<https://linatheodorou.wordpress.com>

CAREY YOUNG

OBSIDIAN CONTRACT

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Letraset text and black mirror

mirror: 69,9 x 54,6 cm, text: 24,8 x 19,1 cm, 2010

distance between text and wall: 7,5 cm
-

In *Obsidian Contract* Carey Young shows a legal contract written backwards that can only be read reflected in a black mirror. The viewer, also reflected, becomes part of the contract's text, which states that by looking at the text for more than 10 seconds, the viewer consents to using the space reflected in it for specified activities. The text offers the exhibition area visible in the mirror as public space where particular activities that were banned at specific times are once again permitted, such as the grazing of animals, the gathering of firewood, or sexual activity. One example is the communal use of grazing land that was forbidden when the British aristocracy divided the countryside up among themselves. Carey Young's contract text envisages public space and jurisdictions in the context of the exhibition, and makes the visitors its contractual partners. For the duration of the viewer's attention it fictively re-establishes rights that have been lost.



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OBSIDIAN CONTRACT

lettraset text and black mirror, 2010

mirror: 69,9 x 54,6 cm, text: 24,8 x 19,1 cm

distance between text and wall: 7,5 cm

credits © Carey Young 2010

courtesy of Paula Cooper Gallery New York

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Carey Young was born in 1970 in Lusaka, Zambia; she lives and works in London.

www.careyyoung.com

THE ECONOMICS OF INEQUALITY

One of the starting points for this exhibition was the observation that civil rights are increasingly being undermined for economic reasons. The austerity policy declared essential and implemented over years that peaked in the government's refusal to heed the results of the Greek referendum on the EU-mandated austerity measures, the pending TTIP and TISA trade agreements, additional constraints on or undermining of democratic political processes, and the institutionalization of corporate and financial market interests (the regulatory cooperative board and the investor court system) are deeply worrying. Creditors are using debt to pursue not just financial interests but also ideological ones using violence, overturning democratically made decisions, constitutionally enshrined laws and international agreements. Thus, the interventions of the Troika / Quadriga lack a legal basis. The extent of the debt and the political orientation of the country's government are the decisive factors for the repayment conditions in bailout packages and the extent of the penalties imposed, i.e. they are decisive in determining the extent of restrictions imposed on the populace's personal freedoms. There is a high price for opposition to austerity programs, alternative proposals are hindered, inhumane and senseless measures are implemented using a nation's debt to exert pressure. The international financial crisis was preceded by a spreading of risk by the key investment players, which was then shifted to the state. The resulting socialization of debt not only accelerated social precarity, but judicial precarity as well. In his book "The Sovereignty Effect", Joseph Vogl explores the interdependency of state and market, politics and economy, and documents how public administrations have been pervaded by the private sector since the founding of the modern state. The financialisation of the world has, however, led to a shift of sovereignty towards a perversion of the idea of political sovereignty. "Sovereignty is assigned to those who have the capacity to transform their own risks into danger for others while positioning themselves as lender of last resort." (Joseph Vogl).¹ The outsourcing of risk assumes a key role in the logic of the market – high-risk financial market activity promises either maximum profits or maximum losses. Trading in risk is a core element of speculation on market agendas, whereby such speculation is always based on the future value of currencies, product and market developments, and so on. The regulation of financial markets announced after the crisis was never implemented. On the contrary, bubbles keep the system running while the banks and lobbyists hold direct sway over legislation and political agendas.

The investment protections demanded in the trade agreements, the private courts as well as the proposed regulatory board (transatlantic regulatory cooperation) are thus symptomatic of a development that deprives parliaments of power and legally endorses and institutionalizes the stakeholders' influence to the disadvantage of the general public. When stakeholders are given exclusive rights to participate in the legislative process by law, whether before proposed legislation is passed on to national parliaments or not, this is more than problematic in a democratic context. When investment protections provide an opening to litigate against expected losses in advance, this impacts on legislation by ensuring that laws for the general good (e.g., consumer protection, workers' rights) never even come to a vote, to say nothing of the secrecy in which such negotiations are shrouded. Increasing democratic deficits due to financialisation are obvious, whether through the socialization of debts caused by financial market actors, or through the proposed institutionalized prioritization of corporations by a regulatory board and investment protections. Favouring the agendas of the minority with access to capital thus extends to legislation far beyond the market in continual pursuit of the liberal market credo that general prosperity automatically rises when profits rise. As can repeatedly be observed, it leads on the contrary to a dramatic cleft between rich and poor. Corporations are given tax breaks, wage-dumping is accompanied by precarious working conditions, workers' rights are curtailed, and so on.

SECURITY PHANTASMS: UTILISATION, SEPARATION AND IDEALISATION

Alongside the curtailing of civil rights justified on economic grounds, the security-related restrictions have far-reaching consequences. In its April 2014 ruling on blanket data retention, the European Court of Justice declared it to be a serious breach of fundamental human rights. However it is still repeatedly affirmed as necessary for public security and to safeguard the rule of law. On the one hand, these values are increasingly secondary to economic interests, while data storage and evaluation is seen, above all by corporations, as capital and growth factor. Key here is the manipulation of future purchasing behaviour and behaviour patterns in general through the formation of personal profiles and utilisation of them at the expense of the personal rights of each individual. Surveillance data is inefficient in the fight against terrorism as is shown, for instance, in a study produced by the New American Foundation. What role does technology play in

circumventing or pushing through legal standards? What legal certainties, legal vacuums and control spaces do they spawn? Is the deficit of rights for the one side intended to create rights advantages for the other? The amassing of data is intended to provide exploitable knowledge and to aid manipulation and control by means of categorisation. Mass surveillance primarily targets the prediction of behaviour patterns in the most varied of fields, to provide the capacity to influence or intervene preventively. The focus is on the economic aspect of data trade, as well as regulation of behaviour. Mass surveillance is a breach of our right to informational self-determination and to privacy, our human rights, EU law, and so on, and it always carried out in the name of national security.

The expansion to blanket mass surveillance is occurring parallel to the export of risk southwards and in the direction of impoverished population groups. With increased social risks and reduced social security, people are being treated as risk factors. They are to be countered by mechanisms being put in place that promote self-regulation and calculable algorithmic possibilities. At the same time, the reduction of social security is accompanied by the apparent dissolution of notions of welfare and community associated with it. What remains is ostensible security based on surveillance, controlling within and keeping the outside world out. In the discussion of national security, this security is connoted by the sealing of national borders, the re-establishment of traditional family structures and gender roles, and reactivation of the image of the assertive, male defender of the Christian West.² The goal is not to safeguard democratic and liberal legal standards or emancipatory potential, but to reintroduce conservative nationalist, patriarchal, hierarchical structures. The sociologist Andreas Kemper points out that the aim of both neoliberalism and nationalism is to increase inequality as well as social and legal deficits. "Neoliberals want more inequality between the rich and the poor, the nationalists between Christian and non-Christian German citizens in the country."³ In the respective narratives the ideal conjured up is the market, or nationalism, with traditional gender roles as an idealized notion of balance, the one through the phantasm of the self-regulating market, the other by means of a regulating unity of nationhood and identity.

STATE OF EMERGENCY AS STATUS QUO

Coupled with this are notions of a self-elected positioning beyond the rule of law, seen in tax havens, and of forced location, if one thinks of camps. Tax avoidance, the flight of capital and people fleeing from war-torn countries, or from “failed states”, denote two extremes in one and the same system, whereby the accompanying emergency situation is increasingly manifesting itself as the status quo for the crisis. Crises are all too often used to legitimise the suspension of civil rights for the purposes of state control, exploitation and to legitimise economic interests. The financial crisis has thus accelerated the redistribution from the bottom up not only in an economic but also in a legal sense, just as bomb attacks are taken as a justification to expand the radius of surveillance to encompass us all. The economic and security-related imperative prescribes the guidelines. The state of emergency is used as an opportunity to control or terminate rights, which then become the new status quo with procedures declared to be unavoidable and necessary, or sold as promises. What is the role of the state of emergency in relation to the rule of law? According to Giorgio Agamben, the state of emergency ensures the right to suspend the legal validity of rights. This is a legal construct that he associates with the legal figure of *homo sacer* and with concentration or refugee camps, which are no longer bound to a specified location and a specified period, as refugee movements show us every day, although this situation can be regarded as permanent. According to Agamben, sovereignty is characterised by the legally unprotected life of *homo sacer* which is only available to the sovereign.

UNIVERSAL CIVIL RIGHTS

With the figure of *homo sacer*, Agamben criticises the legal consequences of the exclusion of the concept of nations from a sovereignty based on birthright and ancestry. His criticism of human rights ties in with this. “Human rights actually represent the original form of inscribing bare life into the legislative political organization of the nation state.”⁴ For Agamben, human rights proposed as universal intrinsically represent a universal instrument for defining a form of inequality and a lack of rights (the exception from civil rights). At the moment when rights are no longer civil rights, the human being is outlawed, he becomes *homo sacer*, banished and doomed.⁵ With this critique, Agamben ties in with Hannah Arendt’s statement that there can only be one human right, and that is “the right to rights.”⁶ Arendt’s criticism was that human rights only apply to those already within an existing legal system. In her opinion, human rights cannot be asserted independently of political authority so she cast doubt on their supposed inalienability on the grounds that as entities within a political community, individuals are not independent of the authorities able to implement legislation.

A legal system that differentiates between citizens and non-citizens and that does not actually stipulate rights equality seems completely out-dated. When we look at how rights are changing, whether in the direction of emancipation or reaction, we see clearly the need for careful observation and participation. We should pay special attention to the *semantic expropriation* of emancipatory terminology by right-wing populist movements and political parties, as Andreas Kemper documents.⁷ Democratic principles should not only be taken literally, but rights already won should be extended and processes of self-empowerment promoted.

In her book *The Posthuman*, Rosi Braidotti argues for a new post-nationalist and nomadic European identity. She espouses a fundamental egalitarianism, the equality of all living beings that consists of a single, permanently self-renewing material, rendering dualisms like nature/culture, human/animal superfluous.⁸ This conception of equal rights, conceivable through the recognized ontological equality of human/nature/technology, gives hope for the first time of a fairer distribution of rights. There is reason to fear, however, that rights could be downgraded to a uniform low level.

ASYMMETRIES IN ART

The art system reflects social and legal inequalities that can be observed in society at large. The gap between blue-chip artists and those artists who rely on self-exploitation and are unable to live from their art is deepening. Cutbacks and austerity measures intensify competition for grants and for representative positions. The freedom of art as a fundamental right must be viewed in the context of the art market, art business and art discourse, whereby the field of the work and area of operation are hierarchically defined. The claim of freedom frequently proves to be an actual loss of rights, such as deficits in legal employment protection, excess work, little or no free time and economic insecurity. The expansion of the definition of art is understood by artists as an aesthetic and political space for analysing legal bases, apparent rights, and non-rights within their own artistic field, or for fighting for their own rights or those of disadvantaged groups. However, there is also the danger that art profits from other people's non-rights. Therefore the reflection of one's own actions and stance plays a decisive role in aesthetic practices, rendering visible judicial, social or societal asymmetries in the conditions of production.

Sabine Winkler

- 1 Cf. Joseph Vogl (and Translated by William Callison), "The Sovereignty Effect: Markets and Power in the Economic Regime," in: *Qui Parle*, Vol. 23, No. 1, Special Dossier: Rethinking Sovereignty and Capitalism (Fall/Winter 2014), University of Nebraska Press, pp 125-135
- 2 Marc Jongen of the Alternative for Germany Party, *Patriotic Europeans Against the Islamicisation of the Occident (PEGIDA)*
- 3 Andreas Kemper, "Rechtsruck in der AfD", 03.17.2015, www.nachdenkseiten.de/?p=25419 (here, in translation)
- 4 Giorgio Agamben, "Jenseits der Menschenrechte," in *Jungle World* Nr.28, 4 July 2001, <http://jungle-world.com/artikel/2001/27/25547.html> (here, in translation)
- 5 Cf. Giorgio Agamben, "Jenseits der Menschenrechte," in *Jungle World* Nr.28, 4 July 2001, <http://jungle-world.com/artikel/2001/27/25547.html> (here, in translation)
- 6 Hannah Arendt, "The Origins of Totalitarianism", New York, A Harvest Book, 1951
- 7 Cf. Andreas Kemper, "Rechtsruck in der AfD." See note 3.
- 8 Cf. Rosi Braidotti, "The Posthuman", Cambridge, UK, Polity Press 2013

AS RIGHTS GO BY ON THE EROSION AND DENIAL OF RIGHTS

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