

## **Tape Plays Teletribunals**

Probably we all recognise the vexed relation of woman to allegories of truth or justice. As Cornelia Vismann reminds us ‘either ‘women’ are truth (as allegory) or they betray it.’<sup>i</sup> I’m interested in a filmic sub-genre of the displaced tribunal, one that inherits but is not limited to the *Rashomon* effect in which the competing subjective viewpoints nevertheless seem to collude against the plausibility of a female witness.<sup>ii</sup> Worse, her lack of plausibility is so habitually woven together with questionable sexuality. My sub-genre concerns sexual assault. Not so much the certificate-challenges of the New French Extreme. Rather a selection in which the direction of language sets the stakes. My ‘out of court settlements’ archive of films include such as Patrick Stettner’s *The Business of Strangers* (a CEO and a younger woman who may or may not be on her staff are holed up in a hotel when their flight is cancelled: together they assault a man who the younger woman says is a rapist), Roman Polanski’s *Death and the Maiden* (a husband and wife offer shelter to a man stranded in a storm only for the woman - to her husband’s desperate disavowal – to recognise the man’s voice and his taste in music as that of the doctor who assaulted her during the reign of a corrupt regime) and [SLIDE] Richard Linklater’s *Tape* (three former friends reunite some 10 years after high school, only to rake over the events of yesteryear after one of the men extracts a confession from his friend that he had raped the woman that, yes, they both dated). When writing about *Tape* an obvious reference point was Orit Kamir’s book *Framed: Women in Law & Film*. Yet while this book spoke to the topic it did not speak to any sense of textuality or problem of media. To get closer to those problems in general for me points to the work of Derrida, but to get to them specifically we have to turn to Cornelia Vismann. The paper today plays back

some reflections on *Tape* in light of Vismann's work on the competing interplay of media in the trial and the tribunal.

'If television cameras are present in court proceedings, elements that have their origins in the disorder of the tribunal will of necessity seep into the court trial. The ritual of the legal search for justice will give way to the logic of the duel.'<sup>iii</sup>

Vismann is writing of the emergence of the televised trial, of the imposition of the order of televisuality and its requisite technologies upon the inherited order of the trial proper. The conceits of the camera take up both space and authority as point-of-view that they were not allotted.

In the case of *Tape*, we do not have a televised trial. Rather we have a film, adapted from Stephen Belber's play of the same name, shot by Richard Linklater over the course of 6 days with then novel digital video (no tape as such). The apparent use of real time – 86 minutes restricted to the rudimentary room 29 of the Motor Palace motel – is fictitious not only in the sense that the film does not labour to conceal its cuts or its handheld camerawork but also in the sense that the speech-intensive 'action' of this film so rewrites the events of 10 years previously that temporal questions like 'what happened?' and 'when?' become difficult. Often matching the rapid and heated verbal exchanges with its own whip-pan volleys, the camera does not act as dispassionate judge but is involved. By extension, as Vismann notes, the camera teleports a whole other juridical audience into the scene, aligning and realigning identifications.

Given Vismann's combined investigation of law and visual culture, she also remarked on the insertion of cameras into the courtroom in cinema. A crisis is wrought or averted with the aid of the visual evidence supplied by the camera that, with a performative force *par excellence*, never lies. The diegetic insertion of technology as evidence, index, analogy is absent and present in *Tape* in several ways. This is a film in which a man is coerced into confessing a sexual assault that is surreptitiously recorded on tape, and the victim is summoned to receive the gift of apology, which she refuses. More literally legalistic films would not be able to refuse a flashback, would not be able to resist supplying the visual evidence signifying memory. They would restore the missing images, relieve us from the adult anxiety of room 29 and dally in the teenage tensions of a high school graduation party. Is it mere mediumistic inheritance that leads tape to refuse the expectation of flashback? No, since *Tape* also sensibly dispenses with the optional prologue and epilogue from Belber's original play. *Tape* refuses to play this game. The task of *Tape* is not to seek out the truth. Rather *Tape* stakes out the only too familiar trope of the exchange of women between men and were Amy to show and tell (executed cinematically as flashback) this would only pander to her place in their story. Whether victim or not, the one thing she is, is 'hot.' While some online reviews persist in misreading the narrative of *Tape* as one about two friends, with the woman already sequestered within their script, it is one of the strengths of the film that, through the making of a tape-recording, the trope of gender is exposed and not consolidated. It is not only that the displaced tribunal of *Tape* ironizes the trial and delivers a witty reversal of a 'dumb guy and smart guy' routine in so doing. Rather, it is the unexpected participation of the woman who blanks the script written for her as evidence or trophy or other object (a cassette tape even), and rather sends the legalistic performatives of the film into overdrive. Jon's

technical mediation in *Tape* is also at stake, not through visual flashback but through audio playback.

For it is a cassette tape, rather than a camera, that is embedded within this film as the index of its archive fever. Upfront, the film's title *Tape* takes an aspirational centre stage; [SLIDE] unravelling magnetic tape is suggested as the titles snake across the screen bracketing the film; [SLIDE] a cheap cassette circulates from hand to hand within the narrative. This cassette *might* be a legal object - it does contain what appears to be the confession of a sexual assault never previously brought to justice. Yet Vince, who engineers the production of this tape, barely refers to it as something that might enter a legal environment other than the effective tribunal of room 29 of the Motor Palace. The tape, it seems, is not for the record. The two named trajectories for the tape are, firstly, that it could be given to Amy who might be 'interested' to hear its contents – this before the pair realise that Amy is now an Assistant District Attorney, and secondly that this might spark the beginning of Vince's own movie career. Like the more socially-mobile Jon, who is screening his first film at the Lansing Film Festival – the ostensible occasion for this school reunion – Vince too might use art to transcend his life, to learn from his mistakes, and make something *meaningful*.

Unlike a flashback that is used to convey memory, that is memory as cinematically configured according to a very narrow prescription of a reel that can more or less simply be rewound and replayed, in this temporally concentrated motel room, we see Vince manufacture the tape. [SLIDE] It is quite the production. Though we learn that the subject of Amy always comes up whenever these two guys get together, this time,

under the makeshift interrogation lights of Room 29, Vince won't let Jon off the hook and, in the manner of a belligerent prosecution, needles Jon into revealing 'what happened' that night at the party after graduation. We should note that the conversation between the two of them has already set up the question of violence; of what merely amounts to a 'threatening appearance' and of what might constitute violence as such, and articulated in similar terms, whether one of them merely 'acts in a phallic fashion' or actually *is* 'a dick'. Jon's subsequent contorted concession that he applied 'excessive linguistic pressure' as the means with which to coerce Amy into having sex with him might be easily caricatured by Vince as 'bullshit,' but it is not the suggestion that the language of force is either the prequel to or the mask of violence in the world that is most interesting, rather it is that language is not signification alone but also force.

Writing of the discrepant methods used by Michel Foucault and Pierre Legendre in their treatment of the trials of Pierre Rivière and Corporal Lortie respectively, Vismann pays attention to their understanding of the relation between writing, especially written confession and the deed of murder. In the case of Foucault, Rivière's belated statement is yet understood by Foucault as predictive of his crime. Vismann writes that 'Speech acts reveal their tragic dimension [...]. Once let loose, they cannot be stopped in their tracks.'<sup>iv</sup> What is compelling about *Tape* is that while speech acts are indeed let loose and cannot in a sense be stopped, their tracks are not analogue, reference to 'tape' notwithstanding. They do not simply or irrefutably betray the one who made them, pointing them out. In spite of technology's promise to capture that which it records – and the perfect copy made by the low-end Walmart tape recorder hidden in a bag under a table on the other side of the room gives the lie

to this fantasy – every track remains beholden to the countersignature of the other. I'll come to Amy's devastating response to the trap in which she manages not to be set soon. First I will address the complex character of Jon's confession and the concomitant stream of apologies by way of Vismann's critical presentation of Legendre as well as Derrida's attention to the performative genre of *Confessions*.

For Foucault as there would be for Derrida, there are multiple procedures of truthfinding at stake in a trial, which may 'found' rather than simply 'find' that which they seek. For Legendre attention is more narrowly focused upon the field of language, a field construed as having been wounded by a deed without a word, a crime without an accompanying sentence: this wound must be redressed by the court proceedings; the court must enjoin the accused to refer to the crime in the first person ('I killed X...'). The restitution effected by the use of the first person is towards that of the institution of language. Every trial addresses itself to this larger criteria through the sentence that the defendant must utter in the first person, thus the stakes always point beyond the individual crime. They point towards a 'cure for the office of the father' as Vismann says, suggesting that a paternal metaphor of language is at stake.<sup>v</sup>

If we do not have 'missing images' supplied by *Tape*, if we cannot see 'then,' we have instead yet more words (*Tape* is already verbose). The forging of the tape produces an aural slippage in the otherwise visually consistent room: it is only played back once for verification, immediately after Jon eventually and crudely shouts, in the first person, that he 'pinned her arms back and stuck [his] dick in.' In Legendre's terms, as presented by Vismann, we have a result. The tape repeats the most incriminating sentence; Jon is later to say, under pressure from Amy as to why he

suddenly 10 years later wants to apologise, that after hearing what he said on the tape, what he did 'hit him' and he wanted to say that he was sorry. Not during the event, not during the confession, but on hearing himself speak on tape, Jon is struck by his own deed.

Jon is also wounded in the heat of the exchange with Vince, not so much because he has now spoken about that night at the party, but because Vince so wound him up as to make him talk of it, and on tape too. His authority is in question, and Jon is the film-maker here. While *Tape* resists the temptation to have the outraged Jon literally complain of Vince *taping* him without consent, the association is in the air, and this between two men, one or more of who may be a dick.<sup>vi</sup> I say this not just to be contentious or flippant, but because I think the film is highly conscious of the phonetic and typographic similarity between the two words, tape and rape. [SLIDE] Tape: an archival medium that should faithfully store the contents it captures. I've suggested already that the cheapness of Vince's tape, not to mention its now antique status in the history of technology, and our generation's memory of the ready fallibility of such media, suggest the reverse. But the problem is not simply that storage media might fall apart, be literally divisible, although it might. Rather the supplement that the recording donates to that which is recorded always reinscribes the event and does not simply re-present it. As Derrida writes, 'the archive produces the event no less than it records or consigns it.'<sup>vii</sup> Likewise, rape as a meaningful inscription loses ground. In the singular case of this film, Jon's actions, as well as his speech, are vulnerable to the countersignature of the other. Thus, in the face of Jon's effusive, near endless, apologies, Amy says she was not raped. Again, while nervous

laughter is prompted on numerous occasions, the film is not at all facetious about this subject matter, neither does it remove or belittle the criminality of sexual assault.

Rather than introduce Amy – the last one of the three to arrive at the Motor Palace – as the final witness to and guarantee of this rape narrative, *Tape* changes tack. *Tape* the film and the Walmart cassette part company. Rather than remain the ruse through which the relation between Jon and Vince is held in place, Amy undoes their authority. Rather than simply refuse the apology because she says she was not raped, Amy structurally recodes it as a speech act that does not have her as its object or the intention to apologise as its aim.

Putting pressure on what is called apology, Amy's effective re-write brings out Jon's uncanny repetition of the genre of *Confessions* as diagnosed by Paul de Man and by Derrida.<sup>viii</sup> There should be no trace of repetition in such a thing as confession. De Man elaborates problems with the performative capacity of confession through Rousseau who, in writings 10 years apart, confesses to the same event twice (that event, famously, being putting the blame for the theft of a ribbon that Rousseau himself had stolen onto a convenient servant girl, Marion). De Man plots out these two instances, from Rousseau's *Reveries* as well as the eponymous *Confessions*, such that the first registers as the confession of an event and the second as the machinic making of an excuse. The sinister insinuation of the latter manifests in the transference of the guilt from committing an offence, to the guilty pleasure in writing about it.



Throwing out of court Jon's professed sincerity of apology, Amy counters: 'You didn't like what you said on the tape Jon, so you came back to say it little more eloquently.' As with Rousseau, the apology serves only to prolong Jon's airtime and to broadcast his guilt. For while it required substantial goading for Vince to sufficiently wind Jon up until his confession bursts out, once started, he can barely stop. [SLIDE] He really is sorry! Truly. Genuinely. Sincerely. This windbag apologises something like 9 times, not to mention those uttered 'in general' before Amy arrives.

Without detailing the breadth of Derrida's intervention here, suffice to say he pulls De Man up for apparently forgetting that Rousseau is already in a state of repetition in his curious structural duplication of the confession of a minor crime as pivotal moment in that other inaugural work, Augustine's *Confessions*. Moreover, Derrida finds De Man overly close to a duplication of the separation of constative from performative when he separates event of confession (in the first instance) to the machine of excuse or apology (in the second or any other instance). While event is traditionally conceived as spontaneous, affective and organic and while the mechanical is thought of as repetitious, unfeeling, automata, Derrida comes to hyphenate the two. He recasts the performative that holds out so much temptation for the spontaneous, as machine-event. The perversion that is pleasure in writing is there from the 'first'. 'First' like 'when' in the belated relays of *Tape*, is difficult to determine, and the archives of the confession are, as Derrida remarks, 'interminable'.<sup>ix</sup> Thus speech acts cannot be stopped, not because they command unerring precision, but because their course can always be redirected...

These remarks echo those of Vismann in her conclusion to the essay on the question of ‘replaying the crime’ (*Rejouer les Crimes*). There, instead of magnifying a fear of media and calling a halt to the intercession of images in the name of the judge, Vismann points to the ‘play of gazes’ in the theatre of justice as already themselves citational – the machinic quality to which reprographic media draw attention and which De Man framed as secondary.<sup>x</sup> Citationality, in all senses, is exploited by Amy. It is not that only Amy constitutively can have the last word – and a last word that she explicitly denies to Jon – but rather that the force of surprise is so much on her side that neither man knows how to continue.

Amy derails the authority of Jon’s actions as his apology retroactively positions them by saying that she was not raped, ruining the first person affirmation of his linguistic reparation. Jon may well have been ‘reckless’ as to Amy’s consent that night – and it comes as another shock for him to learn that she was then in love with him.<sup>xi</sup> Putting his hand over her mouth certainly contributed to the lack of any accompanying speech on her part that night. But speaking now in room 29, Amy rewrites the place where she is expected to be as the passively functioning tape recording the inscriptions of the men. *Tape* decks the twin clichés of gender and technology – of inscription as phallic mark on virgin ground, and of passive feminine sexuality as inaugurated in reaction to the active ‘writing’ of masculine sexuality. In this light, Jon’s insistence that he really means what he says and his pleas for Amy to accept his apologies function as another attempted insemination.

Now Amy’s rewrite is not easy. Twice more she demonstrates her distance from their plot. Firstly, she lets rip a stream of lurid invective at Jon wishing a brutal assault

upon his person, only to abruptly shift with disarming irony into a smile, charging the men with having prescribed just such a performance. As they reel she delivers another blow. Mobilising the language of the law, she fakes a phone call to the police and appears to shop both Jon and Vince, the first for a ‘verified’ Criminal Sexual Conduct felony and the second for possession of illegal substances. [SLIDE] Unable to marshal further apologies to a body for whom they cut no ice, Jon hands himself over to the judgement of the other. Meanwhile, Vince in panic flushes his drugs and destroys the tape he had so laboured to make. Revealing the hoax, Amy leaves the room, leaves *Tape*, and leaves the men without their alibi, both in the end the ‘dumb guy’.

Remarkable extradiegetically as it is that Robert Sean Leonard [Jon] in a cast interview still refers to *Tape* in comparison to *Rashomon* as if we end this film unable to decide between the testimonies of the two witnesses, and, that several years after the release of *Tape*, Uma Thurman was to front a number of execrable Virgin Media advertisements in which she personified exactly the kind of domesticated media that is deconstructed in *Tape*, *Tape* nevertheless displays the ‘ordeal’ of the decision, on which Vismann was to insist in her seminars on Derrida’s ‘Force of Law’ at Goldsmiths.<sup>xii</sup> It is not that Amy becomes identical with justice, fully present at such. The calls she makes, as I’ve suggested are shot through with citational precedent, yet her audience do not see this machine-event coming.

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<sup>i</sup> Vismann, ‘Beyond Image’ 43.

<sup>ii</sup> Kamir discusses *Rashomon* at length.

<sup>iii</sup> Vismann, ‘Teletribunals’ 18

<sup>iv</sup> Vismann, ‘Rejouer’ 165

<sup>v</sup> Vismann, ‘Rejouer’ 167

<sup>vi</sup> NB. ‘dick’ as colloquial for detective.

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<sup>vii</sup> Derrida, 'Typewriter Ribbon: Limited Ink II' 101

<sup>viii</sup> Derrida, 'Typewriter Ribbon: Limited Ink II', Paul de Man 'Excuses  
(Confessions)'

<sup>ix</sup> Derrida, 'Typewriter Ribbon: Limited Ink II' 71

<sup>x</sup> Vismann, 'Rejouer' 174

<sup>xi</sup> Legal scholar Ngaire Naffine notes both that the UK Sexual Offences Act includes the codicil that a man may be judged guilty of rape if he is 'reckless' as to whether the woman consents (21, n.67) and that in Australian legislation the Victorian Parliament includes silence on the part of the woman as 'enough to show that the act took place without that person's free agreement' (37). See her 'Possession: Erotic Love in the Law of Rape' in *The Modern Law Review*, 57:1, 1994, 10-37.

<sup>xii</sup> Derrida, 'Force of Law' 24.