A certain *algorithmic*cty lies at the heart of law, which has expressed itself explicitly through two distinct institutional mechanisms, each of which has responded to the consequences of state and colonial violence in very different ways. As a paradigmatic, rule-based system, international criminal tribunals, established during the post-war period, offer a useful setting for analyzing the *computational logic* inherent in law—the ways it both underwrites its legal principles and organizes its proceedings. Whereas truth and reconciliation commissions, also created during the latter half of the twentieth century to adjudicate over the historical wrongs of colonialism, yield a powerful counter-model for exploring the condition of *incomputability* as well as for reflecting upon the limits of the law in relationship to public demands for justice. In contrast to the instrumental programs of criminal tribunals, truth commissions support diverse modes of interaction and display that emphasize the production of alternate political imaginaries and encourage novel forms of testimony. Postcolonial and post-conflict subjects that enter into these paralegal assemblies tend to engage in methods of address figured around *incomputability* and *incommensurability*, and thus come to challenge the protocols of inherited judicial forums governed by rational imperatives to get at truth through a calculus of maximal legibility.
Yet, given that such international legal institutions have been themselves constituted by the universalizing concept of the “west,” could their forming, likewise, align them with the more radical processes of decolonization and critical legal deprogramming exemplified by the truth commission? From a computational, Cold War perspective, the east-west dichotomy is still the defining structural legacy of coding, albeit narrowly conceived in its binary formulation as a political antagonism that turns on the ideological program of ground zeros and ones. Indeed, the idea of the “west” could itself be regarded as the key operational procedure that sets up many of our contemporary forums and conventions of international law. Certainly, it has emerged out of the imperial legacy of rule-based systems, with their colonial histories and calculated global reorderings. This is not, however, to suggest that the project of free market capitalism would eventually find its computational corollary within the domain of the incomputable. Deregulation has been the outcome of major initiatives, whereas the incomputable must always be understood as the consequence of “minoritarian” decoding practices. It is this political tension that structures the relationship between the computable and the incommensurate and, by extension, that of the west and its formerization.

Tribunals and Truth Commissions

With their elaborated “rules of procedure and evidence,” international criminal tribunals have transformed the juridical apparatus into a quasi-machinic set of operations that compress the affective realm of experience through the legal strictures of testimony and cross-examination. Adjudication over what may be counted as evidence, or who may be called as a witness, requires that the expressive qualities of material evidence and the performative dimensions of speech are subordinate to their production of fact. By contrast, a truth and reconciliation commission (TRC), which has no legal mandate, but is generally organized by a quest for justice and an ethical demand that the perpetrator of violence admit to and account for wrongdoing, could be characterized as a kind of “incomputable object,” one that operates in “excess of calculation.” The incomputable thus designates an incommensurate condition, which can’t be fully apprehended and made subject to various modes of governance and control.

Within the South African context, the TRC, which conducted hearings between 1996–2000, had the power to grant amnesty in exchange for frank testimony. The distressing and often diverse forms of exchange between victims of apartheid and its perpetrators—including detailed re-enactments of torture—were not circumscribed by legal conventions that would submit such painful forms of testimony to relentless cross-examination. In Canada, the objective of the TRC (2009–2015) was focused upon “listening” to stories recounted by survivors of
the residential school system, in which more than 150,000 aboriginal children were forcibly removed from their families and communities. Only limited testimony was given by those who actually ran the schools or from any other authority figures.\textsuperscript{4} Victims, rather than perpetrators, took center stage in the TRC, and listening, rather than argumentation, determined their encounters. Over the 6 years of the Canadian TRC, more than 7,000 witnesses testified to their physical and sexual abuse, malnourishment, and ill treatment in the schools, the last of which closed only in 1996. On 2 June 2015, the TRC found the Canadian government had committed “cultural genocide,” of which the “establishment and operation of residential schools were a central element of this policy.”\textsuperscript{5}

Canada separated children from their parents, sending them to residential schools. This was done not to educate them, but primarily to break their link to their culture and identity. . . . These measures were part of a coherent policy to eliminate Aboriginal people as distinct peoples and to assimilate them into the Canadian mainstream against their will. . . . The Canadian government pursued this policy of cultural genocide because it wished to divest itself of its legal and financial obligations to Aboriginal people and gain control over their land and resources. If every Aboriginal person had been ‘absorbed into the body politic,’ there would be no reserves, no Treaties, and no Aboriginal rights.\textsuperscript{6}

Throughout the Canadian TRC’s work, they encouraged the performance and integration of cultural rituals, such as aboriginal drumming and song, as part of its mode of public address and reckoning. Contrary to these more performative methods of testimony, a 1987 legal dispute over aboriginal title, or native land, claims between the Delgamuukw First Nations and the Crown in British Columbia was denied on the basis that oral traditions could not stand on their own as historical evidence of land seizure or treaty rights. As the trial progressed, the presiding judge, Chief Justice Allan McEachern, became increasingly impatient at having to actually listen to the oral histories from the Gitxsan and Wet’suwet’en plaintiffs. The judge asked whether it would not be sufficient to have their words written down, as their story-telling mode of address would likely not get him nearer to the truth that he sought. During the trial stage of the dispute, Mary Johnson, who was also a chief—Chief Antgulilibix—was asked to sing her wilp (song of mourning), which is a crucial feature in determining the legitimacy of territorial ownership within her First Nations culture. This disruption to courtroom rituals of presentation irritated McEachern, who took particular exception to singing in court: “This is a trial,” he reproached, “not a performance.” Besides, he added, the significance of the

Tin Ear
music was lost on him as he had “a tin ear . . . so it’s not going to do any good to sing to me.”

In his ruling, McEachern found that the “broad concepts embodied in oral tradition did not conform to juridical definitions of truth,” stating: “I am unable to accept adaawk, kunax, and oral traditions as reliable bases for detailed history but they could confirm findings based on other admissible evidence.” While the Supreme Court of Canada would eventually go on to accept oral traditions as expressive forms of testimonial evidence in their own rights, during the provincial trial, the performance of a song, in which land ownership has been encoded, was subject to both a narrow legal definition of what constitutes evidence as well as a judiciary who was ontologically incapable of opening his “ear” to that of the “other.” Through its public performance, the song might be said to have produced a “legal rupture” and even a surfeit of information—an acoustic resonance and affective remainder—that reverberated within the body of the witness as well as throughout the trial chamber. It changed not only the tempo and rhythm of the proceedings, but also its evidential and testimonial range. Moreover, the song carried extraneous information beyond its rhetorical content that also needed to be decoded, in order for the judiciary to apprehend its embodied history—the recognition of aboriginal title to ancestral land—that was under dispute. Unlike the rule-based logic that organizes the criminal tribunal to arrive at a verdict of guilty or not guilty upon an evaluation of all tendered evidence and testimony, the affective processes of the truth commission simply can’t be fully captured by an instrumental or computational conception of justice as merely on or off, right or wrong, empirical fact or ontological fiction.

Beyond Reasonable Doubt versus Indeterminacy

On 11 February 1994, the United Nations adopted the Rules of Procedure and Evidence pursuant to Article 15 of the Statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY). This document set in motion the juridical apparatus and evidential instructions for the investigation and prosecution of war crimes in the Balkans. Its rubrics mark the foundational constitution of the ICTY as a rule-based legal economy, in which the power to deliberate truth is codified through processes of exchange that are transacted between jurists, witnesses, and experts on the trading floor of the court. Moreover, the value of any given testimony is continually measured against legal precedent, corroborating evidence, and counter-claims. As a quasi-historic body with the majority of its cases now completed and sentences rendered, the ICTY’s court records have been made public and are fully accessible online,
with the exception of materials relating to appeals. Upon written request, video footage of in-trial proceedings can also be reviewed and obtained. Not only do all of these various records and recordings represent the most comprehensive legal archive of a war crimes tribunal to date, they also provide extraordinary insight into the complex inner workings of an international court. The following exchange between defendant Slobodan Milošević and witness Liri Loshi takes us directly into one of the ICTY’s trial chambers:

ICTY Session, Tuesday, 3 September 2002, The Hague
Slobodan Milošević (defendant) cross-examining Liri Loshi (witness)

MILOŠEVIĆ: Yes. We’re going to look at all that very carefully, don’t you worry about that. And experts will take a look at that too, never you mind. But what I would like you to tell me is how, by showing a picture of a body in a meadow, you set out to prove that death was caused by execution. And then you go a step further and say that death occurred through execution and that the execution was carried out by the Serb army and police. How do you prove that by showing the picture of a dead body, of a dead man in a meadow? . . .

JUDGE MAY: I’m going to stop you. I’m going to stop you. All this is argument. There’s no point arguing with the witness. He’s given his evidence. He’s described what he filmed. There’s no point asking him what it’s supposed to prove. That’s a matter which we’re going to have to decide. You know this. You argue with witnesses and it’s pointless.9
The prosecution of international crimes that first began with the Nuremberg and Tokyo Trials in the 1940s has since continued with the creation of the International Criminal Tribunal for Rwanda (1994), the special courts for Sierra Leone (2000) and Lebanon (2007), the Criminal Court for Cambodia (2003), the Special Panels for Serious Crimes for Timor-Leste (2006), and has given rise to the 2003 establishment of a permanent International Criminal Court (ICC) in The Hague. When the rule of law is violated, can the injustices of political violence be met by the protocols of such courts, or do they require the production of new ethical arrangements in which contingency, rather than predictability, are their defining feature? Such conditions of indeterminacy are, I believe, more widely accepted within the operations of the TRC, but are governed by a strict legal calculus—beyond reasonable doubt—within criminal law. Can theoretical frameworks borrowed from software studies and structural logics derived from computer science provide new tools for analyzing how these forums organize themselves and articulate their particular truth-making practices?

Philosophical Latency

Emphasizing an apparent continuity between the law and its computability is not simply to attribute a formal or mathematical analogy to its functions, but is also to acknowledge (or “to indicate,” or something) a “philosophical latency” and a “historical inheritance,” as Laura U. Marks notes in her own research on the Islamic genealogies inherent to computation. The very origins of certain legal processes inform the language of computation, such that the term “execute,” as in “to execute a coding script,” heralds from the fourteenth-century legal reference to carry out or accomplish a course of action: to prosecute, to issue a warrant, or to sentence. With the advent of electronic programmable computers in the 1940s, and their capacity to store, index, and retrieve data, new possibilities for quantifying and systematizing legal processes arose. Interest in automation was already growing across a wide range of sectors as the influence of Claude Shannon’s mathematical theory of information was combined with Norbert Wiener’s wartime research into cybernetic feedback loops and communication control systems. Given the data-intensive practices of trial proceedings and their reliance upon previous legal decisions or precedents, it is perhaps not surprising that efforts to apply scientific methods to law would take hold during this time. “Jurimetrics,” as the new field has aptly been named, has given legal practitioners much greater access to case law, which in turn facilitates the planning and building of cases, and leads to the standardization of legal terminology.

It [jurimetrics] is concerned with such matters as quantitative analysis of judicial behavior, the application of communication and
Popović et al. (IT-05-88). Cases joined to this trial: Beara (IT-02-58), Borovčanin (IT-02-64), Drago Nikolić (IT-02-63), Pandurević & Trbić (IT-05-86), Popović (IT-02-57). International Criminal Tribunal for the former Yugoslavia (ICTY), “Appeals Judgement – Popović et al. (Part 1/2) – 30 January 2015,” 2015, video still, source: YouTube

Captain Jeff Benzine, a former Special Branch detective, demonstrates his “wet bag” torture method to the Truth and Reconciliation Commission, Cape Town, Western Cape, 1997, photo: George Hallett, courtesy Gallery MOMO
information theory to legal expression, the use of mathematical logic in law, the retrieval of legal data by electronic and mechanical means, and the formulation of a calculus of legal predictability.¹²

Today, this once marginal field has evolved into so-called “legal computing” or “computational law,” which is predominantly concerned with the analysis of legal big data and the application of legal features to online materials. For example, all transcripts of ICTY proceedings are fully searchable and indexable using key terms and filters. Managing this massive legal archive is essential given the ICTY’s more than 9.3 million holdings; no prosecutor or defense team could ever grasp the dataset of a multi-year case with innumerable branches reaching into other prosecutions and appeals. The “creative commons” attribution, which facilitates the quick and easy exchange of customized copyright licenses generated for online content, offers another example of computational law, one that enacts legal conventions regarding data (regulations, rules, contracts), even if we are not fully aware of such legal functionality when browsing.

In a further move toward automating legal reasoning, the nascent area of “algorithmic law” focuses on creating machine-readable or machine-executable code aimed at simplifying and fast-tracking the analysis of legal documents, thus enabling the rapid construction of legal databases and even modeling of trials. In my 2014 essay “Deadly Algorithms,” I ask how legal codes could preside over the proposed use of automated decision making within the United States-led War on Terror, especially as concerns the deployment of armed combat drones to kill

suspected enemy combatants without recourse to due process. Therein, the term “execute” gains a triple meaning: only by executive decision can the president execute the kill order, which, in turn, executes a coding script that operates the remote-controlled drone, that is itself engaged in acts of summary execution. The increasing oversight of algorithms in situations of questionable legal conduct, such as anti-terror operations or predictive policing, puts into sharp relief the use of algorithms as a management tool for the legal industry. In what seems to be a foregone conclusion, machine-executable formats will facilitate the modeling of legal cases based on input parameters that will return a range of probable or preformatted judgments. As legal commentator Kenneth Grady puts it: “The practice of law is not immune to the algorithmic future, and legal service delivery will not be insulated from the world of computers. Lawyers and law organizations that want to survive the restructuring of the industry must become adept at understanding and using technology, including algorithms, to deliver what clients want in legal services.”

Neither Legal Analogy nor Computational Metaphor

If the law and computation already share an extended—if somewhat unacknowledged—history of mutual involvement organized around efficiency and automation, how can the law respond to the advent of algorithmic culture while remaining indifferent to its broader social and cultural transformations? For lawyer and media theorist Richard K. Sherwin, visual and screen-based media are actively changing the ways in which the “legal mind” thinks—shifting media from a tool for use in delivering law to a fundamental force in reorganizing the ways in which jurists conceptualize and understand the world. Quotidian characterizations of the law as comprised by “legal instruments” have long served to emphasize a technological vernacular at the core of its operations. Metaphors drawn from the humanities are widely used in computer science and software development to help “naturalize” the novelty of computational objects by locating them within the grammar of existing milieus. As computer scientists Timothy R. Colburn and Gary M. Shute have written, “application programs execute threads, occasionally experience memory leaks, and undergo garbage collection. Program exceptions are thrown and caught. Programmers organizing data regularly speak of stacks, queues, trees, pipes, and streams.” But this is not what I am proposing in considering the computability or, indeed, incomputability of forums entrusted with the task of adjudicating over the aftermath of political, state, and colonial violence.

As philosopher Luciana Parisi provocatively raises in her discussion of software space: “Algorithms do not simply govern the procedural logic of computers: more generally, they have become the objects of a new programming culture.” Is it possible to define algorithms as objects, she
asks, whose ontology is not strictly determined by mathematics or physics? “The ontological claim for an ultimate merging between information and matter does not seem to account for a simple but entirely inevitable question . . . how can that which is abstract remain as real as that which is concrete?”

This conceptualization of algorithms as a form of “actuality in their own right,” and not simply a set of instructions, contrasts with cybernetic models of information theory, which focus on the ways in which external data adjust the system, while ignoring the unpredictability of data internal to the system itself. In addition to exploring how computation inaugurates a new mode of legal thought and practice, I wish to consider both the older system of feedback and control, in which data is separated from instruction, as well as more contemporary forms of distributed computing that are generative and thus maintain no such distinction between internal events and external realities. Why? Because each of these informatic configurations suggestively accounts for the computational dynamics inherent to the operations of tribunals and truth commissions, and the ways they mediate relations between subjects and their multiple contexts.

While metaphors do necessary work, tribunals and truth commissions are more than simply metaphoric expressions of computational-like process. They are themselves consequences of certain modes of thinking and acting; ones that the formering of the west seeks to trouble. If metaphors within computer science are used to name abstractions that manage complexities, as Colburn and Shute contend, then metaphors or analogies must also be rethought as more than simply devices for mediating innovation through recourse to established ideas, but as operational. The abstractions of the law are often resolved using the rhetorical device of analogy to help communicate complex ideas: “the analogous situation is not just a handy rhetorical tool, it is a ‘mechanism of mind,’ a way that we cognitively process our experience. . . . The analogies embodied in metaphoric language provide not just a logical experience, but a sensory one as well. In other words, jurors are able to both understand and to get a feel for your argument through the analogy.”

As social theorist and philosopher Brian Massumi has suggested, when one poaches a concept, a certain “residue” always carries over from one domain into another—their affects—and this is what can be repotentialized through acts of critical borrowing. “When you uproot a concept from its network of systematic connections with other concepts, you still have its connectivity.”

Using conceptual frameworks derived from computation in order to reflect upon the practices of tribunals and truth commissions offers another means by which law may enter into a productive relay with media theory and culture to develop alternate analytic tools and produce new theoretical and political insights. To manipulate theories and ideas not only
metaphorically, but also at the level of their coding, requires acts of strategic piracy if such adaptations are to find their relevance within other spheres of activity.

Legal Imagination

In *Visualizing Law in the Age of the Digital Baroque: Arabesques & Entanglements* (2011), Sherwin stresses the need for the production of a new “legal imagination” that can better account for the many ways in which visuality—especially as constituted by its digital forms and formats—actively constructs legal realities. “Jurists,” he argues, “need to cultivate a new visual literacy so that they may understand better how images work, the better to cultivate competencies in visual communication, cross-examination, and judgment.”21 A cursory look at any number of contemporary legal proceedings would quickly reveal the degree to which media has transformed the ways in which legal questions are being pursued and presented, both in and outside of the courtroom, as well as the ways in which judicial infrastructures are being designed and managed. As Sherwin notes, despite the reliance of legal practices upon all manner of technical media, the degree to which they are seen as hacking into, and even altering, its actual source code—its legal logic—seems to go largely unnoticed.22

“Sure these digital tools are handy,” one ICTY prosecutor has said to me in The Hague, “but a court case was like a journey, as long as one arrives at one’s destination, it doesn’t matter if by car or bicycle.” The outcome of the trial is what matters, he stressed, and the technical means or methods merely function in the service of that objective, which in his case have been to prosecute and convict war criminals. If questions arise as to the veracity of a video documenting an atrocity, then it is his legal task to ascertain its probative value through witness testimony, cross-examination, and forensic testing. The facticity of any given media artifact, he maintains, is arrived at through strict compliance with the “Rules of Procedure and Evidence” that govern the proceedings of the Tribunal. Media exhibits are, in this instance, no different than any other forms of evidence, and the fact of their emergence at the scene of the crime in the form of amateur camcorder footage, or later in the court as exhibits, is not to be deemed particularly noteworthy. His point is clear: namely, that it has been his job to work his way through all the materials and situations presented in order to arrive at the “truth” of what had transpired, regardless of the challenges encountered along the way. But the widespread availability of video functionality on mobile phones has arguably changed the ways in which policing is being conducted and opened up new channels for civic participation in the demand for accountability, which will surely affect judicial mechanisms.23 Media matters, not only in terms of providing novel tools and new forms of social and cultural organization, but as a mode of thinking or cognition itself.
In their polemical essay “Decolonization is not a metaphor,” critical race theorists Eve Tuck and K. Wayne Yang critique the widespread assignation of the term “decolonization” to all manner of projects—political and otherwise—especially within contexts of settler-colonialism. Instead, “decolonization,” they insist, needs to be understood first and foremost as “the unequivocal repatriation of Indigenous land and life” in the Americas. In laying out their forceful argument, they posit an ethics of incommensurability “that recognizes what is distinct and what is sovereign for project(s) of decolonization in relation to human and civil rights based social justice projects.”\(^\text{24}\) By this they mean that “opportunities for solidarity lie in what is incommensurable rather than what is common across these efforts,” a position that echoes and further amplifies that of philosopher Jacques Rancière when he describes politics as that which reframes commonality: politics is constituted not by what is shared or held in common, but rather by that which disrupts consensus.\(^\text{25}\)

Such moves ultimately represent settler fantasies of easier paths to reconciliation. Actually, we argue, attending to what is irreconcilable within settler colonial relations and what is incommensurable between decolonizing projects and other social justice projects will help to reduce the frustration of attempts at solidarity; but the attention won’t get anyone off the hook from the hard, unsettling work of decolonization. Thus, we also include a discussion of interruptions that unsettle innocence and recognize incommensurability.\(^\text{26}\)

I wonder whether forums such as the TRC of Canada might offer a context for conceptualizing an ethics of the incomputable, the irreducible, and incommensurate, not as an easy path toward reconciliation in which historical wrongs are righted so that we can move on, but as a complex process of speaking to history and listening to stories that had previously fallen upon tin ears or were violently suppressed. Testimony is given not in order to mete out punishment or acquire compensation, but as a public claim for recognition of the cruel and violent acts that have taken place, whether during the more recent decades of political repression, or over extended periods of colonial rule. Testimony is given so that the survivors of historical injustice can begin to “live” in the present, rather than merely endure. Testimony is given so that the conditions for a shared humanity might eventually begin to be assembled out of radical difference. Can entities such as a TRC, which assume an activist stance toward justice (in contrast to the more instrumental bearing taken by forums of international law), begin to unsettle legal bias and decenter their privileged vantage points from the judicial bench?
Disassembling the master narratives and power structures that reinscribe the logic of colonial rule into the legal mechanisms specifically designed to address them—the ICC’s prosecutorial focus on Africa makes this patently obvious—involves complex processes of formerization in which the recognition of historical wrongs must go hand in hand with the creation of new rights.\(^{27}\) Parisi has argued that the behavior and ontology of algorithmic objects, which arise with interactive and distributive computing, need to be understood as generative and not simply defined by a finite set of rules. Only when computational thinking is grasped in this manner does it offer a conceptual framework whereby the formal rules and coding practices that script our institutional responses to state and colonial violence could give way to the emergence of new ethical arrangements and political imaginaries. One generates rights, not through inheritance or conviction, or even by way of recourse to transcendent declarations of universality, but by one’s actions. For philosopher Gilles Deleuze, reflecting upon the French legal tradition, jurisprudence doesn’t refer to the study of the underlying principles of law—its legal source code—but concerns the creation of new laws, as well the creation of rights expressed by and through these laws. Jurisprudence, he argues, is “everything that creates problems for the law, that threatens to call what is established by law into question.”\(^{28}\) Jurisprudence is thus conceived as a domain of thought and practice that is productive of rights—a way of acting and being acted toward—and therefore is also productive of new forms of political life. Within the context of computational networks, an examination of their interrelations with law has raised not so much a question of truth and power after the Internet, but rather that of computation after its instrumental embedding within colonial institutions of truth and power. Reintroducing the incomputable back into law as a generative and destabilizing force is key to conceiving of computation as not just productive of the facticity of the west, but as generative of its political formerization too.

With Deleuze’s legal provocation in mind, the search for justice that impels the activities of a TRC can thus be theorized as conceptually aligned with a much more radical understanding of the algorithmic realm as generative of new data configurations fully capable of evolving new modes of behavior. While the horizon of computation for ethical decision making includes the possibility that the most mathematically principled result may involve one’s own sacrificial demise, an ethics derived solely out of mathematical axioms and calculation is untenable.\(^{29}\) One that is incomputable, that is to say, the consequence of generative modes of novel interaction between subjects and their contexts, holds considerably more promise. As philosopher Isabelle Stengers has always insisted, science does not belong to the domain of its experts alone, nor by extension should an interest in legal processes remain exclusive to the jurisdiction of law, nor computing to computer science. We need, rather, to be attuned to the ways in which different systems are already mutually affective.\(^{30}\) Of course,
every practice creates its particular forms of intelligibility, which
determine its specific attachments and combine to assert its relevance.
The particular value of a song, or native drumming, or the re-enactment
of a crime across differently constituted domains of practice may resist
remediation into pre-established formats, producing instead frictions
and incommensurabilities that challenge accepted norms. Although the
consequences of state and colonial violence would not change, conceptions
of justice could assume a more projective and holistic character than those
produced by judicial mechanisms figured around sentencing and arrived
at through the retrospective application of law. The search for truth as
an “experimental form” that emerges out of an algorithmic-like set of
practices in which indeterminacy, contingency, and incommensurability are
its productive modalities must prevail over the reductive logics of systems
and institutions that will only ever return predictable search results.

1. The designation “Ground Zero” has a
much longer history reaching back to the
detonation of two atomic bombs over
Japan. See Anne McClintock, “Imperial
Ghosting and National Tragedy: Revenants
from Hiroshima and Indian Country in
the War on Terror,” PMLA, vol. 129, no. 4
(October 2014), pp. 823–824.

2. For a discussion of the “incomputable”
within algorithmic reasoning, see
Luciana Parisi, Contagious Architecture:
Computation, Aesthetics, and Space
(Cambridge, MA: MIT Press, 2013). For
a discussion of “calculation” applied to
conflict, see Eyal Weizman, The Least of
All Possible Evils: Humanitarian Violence
from Arendt to Gaza (London: Verso,
2012).

3. Parisi defines the “incomputable” as
the “algorithmically random result of the
binary expansion of an algorithmic
sequence.” Parisi, Contagious
Architecture, p. 262.

4. See The Survivors Speak: A Report of
the Truth and Reconciliation Commission
of Canada (Winnipeg: Truth and
Reconciliation Commission of Canada,
2015).

5. Truth and Reconciliation Commission of
Canada, Honouring the Truth, Reconciling
for the Future: Summary of the Final
Report of the Truth and Reconciliation
Commission of Canada (Winnipeg:
The Truth and Reconciliation Commission

6. Ibid., pp. 2–3.

7. See Val Napoleon, “Delgamuukw: A Legal
Straightjacket for Oral Histories?,”
Canadian Journal of Law and Society,

8. See Jacques Derrida, Ear of the Other:
Otobiography, Transference, Translation
(Lincoln, NE: University of Nebraska

9. Court Transcript 020903IT 9418-524,

10. Laura U. Marks, Enfoldment and Infinity:
An Islamic Genealogy of New Media Art
Marks makes this specific point when
discussing the affinities between systems
of data compression in new media art
and the kinds of Islamic world-making
practices characteristic of Persian carpets.

11. See Claude E. Shannon and Warren
Weaver, The Mathematical Theory of
Communication (Urbana, IL: University of

12. Lee Loevinger, “Jurimetrics: The
Methodology of Legal Inquiry,” Law and
Contemporary Problems, vol. 28, no. 1

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8 December 2016).

SeyfarthLean Consulting, 10 February
2015, online at: http://www.seytlines.
com/2015/02/the-algorithmic-lawyer/.

15. Timothy R. Colburn and Gary M. Shute,
“Metaphor in computer science,” Journal
of Applied Logic, vol. 6, no. 4 (December


17. Ibid., p. 2.

for the Perfect Analogy (but Don’t
Surrender a Communication Lifesaver),”
Persuasive Litigator, 1 February 2010,
online at: http://www.persuasivelitigator.
com/2010/02/stop-searching-for-the-
perfect-analogy-but-dont-surrender-a-
communication-lifesaver.html.
19. See Colburn and Shute, “Metaphor in computer science.”
22. From pre-trial interviews, press, and websites for discussing information related to upcoming cases; evidential materials such as photos, videos, surveillance footage; visual aids in the form of animations and digital reenactments that assist with witness recall or help lawyers narrate a complex sequence of events; reports of experts reliant upon specialised software and hardware for conducting their analytics; to the actual documentation of trials that enables the potential review of proceedings during appeals and retrials; not to mention the media delivery systems that organize the court, from microphones, translation booths, cameras, to computer screens for the presentation of exhibits and records. See Sherwin, Visualizing Law, pp. 14–15.
28. These insights into the creative dimension of jurisprudence as theorized by Deleuze have been presented at a lecture by Paul Patton, “Immanence, Transcendence, and the Creation of Rights” (Birkbeck Institute for the Humanities, London, 7 November 2011).
29. Sarah Kaplan, “What if your self-driving car decides one death is better than two—and that one is you?,” The Washington Post, 28 October 2015. When computing the potential risks for a serious road accident, the owner of a self-driving car may find the moral calculus to limit harm or injury may mean that they themselves should be algorithmically sacrificed.