SWITCH
ON PAPER

DEMOCRATIC REPUBLIC OF CONGO

Other ways of doing – art, law or social sciences

INTERVIEW WITH FRANCK LEIBOVICI BY VIRGINIE BOBIN

Since 2014 artist and poet Franck Leibovici and social sciences researcher Julien Seroussi, have been conducting an analysis of the documents produced during trials held at the International Criminal Court of The Hague (The Netherlands). These documents are handled with tools from the field of art and poetry, in order to offer possible models that could be useful for practitioners of international justice.

The trial of Germain Katanga and Mathieu Ngudjolo began in 2009 at the International Criminal Court (ICC) in The Hague (Netherlands). The two men were charged with crimes against humanity and war crimes during an attack on the village of Bogoro (Democratic Republic of Congo) in 2003, in the context of the civil war that is still being waged today. This was one of the first trials of the newly established Court which was officially created in 2002 following the signature of the Treaty of Rome in 1998 with the mission of bringing to trial individuals accused of genocide, crimes against humanity, and war crimes. Today the ICC comprises 123 member states (notable exceptions include China, Israel, Russia, and the United States).

Even though the Rome Statute defines the jurisdictions and regulations of the court, the latter still has to manage the disparate legal practices of the signatory countries, judges, prosecutors and other resultant actors – witnesses and defendants included- in the course of the trial. The relationship of each actor to justice, in its formal manifestations but also political, ethical and moral implications (the conception of the notion of "truth" for example) quickly proved heterogeneous, turning the trial into the theatre of a constant invention and reconfiguration of the presuppositions and effects of the law. The "universal" jurisdiction of the International Criminal Court therefore requires many operations of translation and interpretation on a linguistic but also conceptual and semiotic level.

The social science researcher Julien Seroussi joined the court as a legal assistant to one of the judges. He was aware of his friend Franck Leibovici's interest in devising artistic tools capable of addressing public issues beyond the scope of art, and regularly discussed the complexity of the case with him. The pair decided to study the numerous documents produced for and by the trial (evidence, hearing transcripts). They were convinced that the tools of art and of poetry, by making "unimaginable gestures" possible within a "primary field" (the court), could contribute to a better understanding of a reality that was only accessible via the fragments presented during the hearings. They ran their idea by the International Criminal Court, which encouraged them to pursue it.

The collaboration between Leibovici and Seroussi relies on a definition of art that does not stem from what Leibovici ironically calls “the solarium model” (where the artist allows himself to be “tanned” by a historical or political subject from which he pulls inspiration for his work), nor does it stem from art that is considered activist or politically engaged. It is more about using operations of redescription (that is to say modes of translation) to leverage potentialities and invent tools capable of operating within the initial setting (the court) as well as among other audiences produced by the different contexts surrounding the project’s various manifestations (workshops, conferences, exhibitions, publications, radio shows...).

“If we are able to alter the content of the definitions of the terms ‘artwork’ or ‘poetry’ in this way, thanks to new instruments and new alliances, we are likely to make an impact on the institution and bring about changes in it. This applies to the art world but also to other worlds : legal, scientific, daily life. Each time that we can identify devices of inscription that do not appear as such, we can know what form of power is at stake. As a result, if a poet, an artist, or whoever it may be, sticks his nose into these operations of inscription - by asking himself how they are produced, how they circulate, what type of audience they generate - we can then act on the institutional machinery.” [1]

Virginie Bobin : Assuming that the readers of Switch (on Paper) are not necessarily familiar with your work, could you quickly explain two notions that are very important in order to understand your practice, “poetic document” and “redescription”[2] ?

franck leibovici : in short, a “poetic document” is a device that connects diverse heterogeneous documents (in any medium, whether it be text, video, or audio) in order to produce a new representation of the whole. this is useful for reformulating the public problem at the origin of these very materials. these new connections between pre-existing documents produce a “re-description”: without the need to add any additional comment, the same reorganized and recombined elements end up producing new images. in that way a “poetic document” produces forms of knowledge. it means one thing: today, we no longer work with isolated images or words. our scale is heap; excess, to be treated with the means at hand, the moment prior to the well-organized database where everything is properly structured. we therefore need to invent tools that are able to navigate through these heaps and extract knowledge from them. “poetic documents” are an attempt.

V.B. : The project is aimed at different types of audiences, the first of which is generated by the activities of the International Criminal Court. Starting from your conception of artistic and poetic tools, how did you approach your collaboration with Julien Seroussi, knowing that the gestures and the representations you produced were intended, in fine, to “return to the legal world”?

f.l. : each time that julien seroussi came back to paris and told me what he was authorized to say about the trial hearings, i would say to myself : “this place is a real ‘court of miracles’...!”. his regular reports caught my attention. then, like a canny farm labourer, i checked out the lie of the land in order to evaluate the richness of the terrain : what kinds of material did the trial produce ? what were the inscription devices that we would be dealing with ? we wrote up a list : first, everything that is said in the hearing room is recorded on video (sound and image), whether the witnesses’ speeches, the court’s legal discussions, the technological bugs for which the judges call on the technicians for help. then, since the trial is international, people speak several languages, in this case, lingala, swahili, french, and english. so interpreters are needed in order to go from language to language (via headphones and various broadcast channels). simultaneously, everything that is said is transcribed in real time by court reporters and these transcripts are shown on the judges’, the prosecution’s, and the defence’s screens. finally, there is all the evidence (official documents, letters, photos, drawings, videos) that is called up during the trial. Wishing to make a democratic statement, the court decided to make the materials public (i.e. the videos, the transcripts, and the evidence), with the exception of some elements that could put the security of certain witnesses in danger. as soon as i was able to get a sense of the breadth of the available materials and once the trial had ended in 2014, i proposed to julien seroussi, that we should try to make something of this rich, seemingly under-exploited field – under-exploited from a non-legal perspective, that is, anthropologically, poetically etc. but also from a legal perspective, since the court, of which it was one of the first trials, had encountered several obstacles it was not prepared for. for the court, returning to these materials was also a way to rework its approach for future trials. so the project was right away conceived in a collaborative manner : treating the materials with tools originating in poetry and in art, but with the significant constraint that the work accomplished ultimately had to be useful to practitioners of international justice.

V.B. : Could you go back over some of the obstacles or difficulties encountered during the trial that were of particular concern to you - and explain why?

f.l. : the icc experienced two major difficulties. the first occurred early on, during the investigation of the prosecution, and can be summarised in the following question : how to create clean data (as opposed to dirty data) that will ensure that the ensuing work is well-grounded, given that in ituri [the region of drc where the village of bogoro is to be found], people can have several names, they might possess administrative documents with different birthdates, and there is no official map of the region. Nor do family relationships adhere to the European model of a nuclear family : “my brother” or “my sister” does not mean that we have the same parents, but simply that we are from the same village, or that we went to school together. furthermore, the judges only learned about the trial at the time of the hearing, they did not know anything about the case beforehand. this is the anglo-american adversarial system, where all information intended for the judge must pass through the filter of the

prosecution and the defence. the trial's impartiality is thereby ensured: no element reaches the judge's ears that has not first been discussed and challenged by the two parties. the inconvenience is that the judges are therefore totally unaware of the context of the crimes. it was very hard for them to understand not only the logic of the militia in power - new militia were created each week - but even the timeline of events was unknown to them, even more so were the local customs. fetish rites on the eve of battles and the position of medicine-men in the chains of command are a striking example: the judges heard what the witnesses had to say on these matters but did not know how to attach these phenomena to the legal framework they had available to them. more globally, the categories of thought or action of the actors, witnesses, victims, or accused were foreign to them. due to these problems early on in the investigation, and to the difficulty of accepting the witnesses' accounts as "other" cultural phenomenon and not as lies, in the end, the judges decided that 4 of the 5 witnesses were not credible. therefore, one of the accused was acquitted and the other had his charges significantly reduced.

V.B. : The machinery of the trial has an extremely theatrical aspect to it: the presence of an audience, the protection of sensitive witnesses by a curtain, video and audio jamming... the researcher Başak Ertür (School of Law, Birbeck University of London) seeks to understand how trials (especially political ones) embody "sovereign theatre, as a stage where the performance of justice is a curious occasion for sovereign power to 'play itself out'". She wonders what the "manner in which justice is performed can teach us about modus operandi and self-representation of the sovereign"[3] . I imagine that these are questions you and Julien were confronted with during your work?

f.l. : not at all. the question of the self-representation of power, of the trial as theatre, is a well-known, frequently addressed topic that verges on cliché. we preferred to work on other aspects, specific to the concept of international justice, which is in the process of inventing itself. however, the sociotechnical device I talked about – protective curtain for the witness, distorted voice, image blurred on the screens, slow enunciation followed by 5 seconds of silence for the interprets not to loose track- is at the core of the trial experience. while reading the transcripts might give the impression of a narration sometimes interrupted by technological or procedural glitches, people attending the trial have the contrary impression: after endless discussions regarding procedural matters and dysfunctional machines, sometimes, god bless!, a narrative flow irrupts for a few minutes, telling events that are the trial's reason of being... between the written and physical experience of the trial, the quantitative relationships of "narration/something else" are inverted. besides, this sociotechnical device has another consequence: the narration is not only fragmented, its access varies based on viewpoints, the spatial location one occupies in the courtroom. witnesses face the judges, for they can look at them in the eyes, but turn their back on the audience, in order not to be bothered by its presence. separated from the courtroom by a window, the audience sees

the face of the witness on screens. when the identity of the latter is protected, the image is blurred and his/her voice distorted in the audio sets. in order for witnesses not to be intimidated by the gaze of the defendants during their testimony, a curtain is placed between them. yet since defendants have the right to know who is accusing them, the face of the witness, hidden to the audience, is visible on the screen of the defence. we therefore end up in the following situation: protected witnesses face the judges as well as the team of the attorney and the defence lawyers; the defendants only indirectly see the witnesses, via screens; the audience sees a blurred image and hears a distorted voice, like monoxided, that sounds a bit like Donald Duck. besides, in case of close or private sessions, the audience no longer hears anything in the audio sets, and the defendants have limited access to the collected data. therefore each status (judge, defendant, audience, witness) has a different access to the narration, and this situated viewpoint, fragmented by and in the space of the courtroom, has consequences on the understanding of the events. this dichotomy is also to be found in the inscription techniques used by the court to produce hearing summaries for example. here again, these inscription devices produce aspectual but never panoramic or synoptic visions.

V.B. : A new public occurrence of the project leads to new potential audiences: Julien and you published bogoro at Questions Théoriques in the collection "Réalités non couvertes" (Paris, October 2016). The book mainly consists of a selection of transcripts of the trial downloaded from the ICC website. Can you explain how you selected the excerpts, and tell us about the book mode of presentation, especially the key words?

f.l. : among the thousands of existing pages of transcripts, julien seroussi identified the transcripts of the main key-witnesses in the trial. based on this corpus, I selected excerpts based on 4 focuses: the account of the bogoro village attack on february 24, 2003; the excerpts that showed the gap between the court and the witnesses, which resulted in what anthropologists call "thick descriptions" – as they highlight invisible social mechanisms; the times of legal procedure invention or situations when the rules of the court were made explicit; and finally, the technological glitches that unexpectedly punctuated the trial. to allow another use of the book than the traditional linear reading, we also associated some excerpts with key words gathered in a tag index at the end of the book. these key words are notions used by the witnesses or the court – we, by no means, forged them. it allowed us to use the vocabulary of the actors and, more importantly, to put the various vocabularies on the same level, without considering the law as a sort of meta-language that would prevail over the others. thanks to this key word index, the reader can follow a tag and see how notions like "fetish", "kadogo/soldier-children" or "militia" evolve throughout hearings and questioning, how unstable and changing these notions are, and how far removed from our representations. these conflicts produce a very different reality, which can seem like a bricolage as it is made of heterogeneous elements that, from our perspective, do not fit together.

V.B. : In the afterword of bogoro, you propose the definition of a "forensic practice of writing [that] consists in producing "dense" descriptions, redescriptions that do not only come from the categories of the source institution (in this case, international criminal law) but include those of all the bodies involved, without a pre-established hierarchy." What you do you think of the approach proposed by The European Network for Law and Literature, founded by a Dutch judge and law professor together with a German literature researcher, with the goal of promoting the contributions of literature (for example novels that stage trials or criminal investigations) to law and vice versa, and encouraging ex-change between researchers from these two disciplines[4]? Or does this "forensic practice of writing" have more to do with the "forensic architecture" theorized by Eyal Weizman at the eponymous department of the University of Goldsmiths in London, which contributed to popularising the term in the art world[5]?

f.l. : i take the term "forensic" from an american manual by john olsson, called forensic linguistics (ny, london, 2008, continuum), a term which is used in trials to analyse documents that are liable to function as evidence. to be honest, i do not know the "european network for law and literature"'s approach, but any contribution by an outside body can only enrich the understanding of legal materials. it is always fruitful to use fictions as heuristic tools. in his last look entitled what about mozart ? what about murder ?, sociologist howard becker dedicated an entire chapter to the contribution of "the thought experiments" to field studies. however, speaking the tongue of legal experts remains essential, and more importantly, understanding their practice and constraints, if we want them to integrate the contribution of other disciplines into the legal system and change it. we should be able to reformulate a political or ethical question in "legal terms" for these legal experts can hear it. otherwise, we stick to the confrontation of incommensurable "polities", to quote sociologist luc boltanski - the "moral " against the "aesthetic" against the "legal polity" etc. this is why bogoro, along with exhibitions like muzungu fit into a wider project aimed at modifying, in the most humble way possible, the practices of international justice institutions. bogoro or muzungu are prototypes based on a case study, the trial of katanga and ngudjolo, but we eventually aim to implement our tools within these institutions, thereby shifting from "prototype to model". to give one example, at the end of each day of the hearing, the judges ask their assistants to produce summaries of the witness' accounts. but this summary is not a narrative, it takes the form of a two-column wide table, on the left are the incriminating elements, and on the right are the exculpatory ones. this means that the witness's account is immediately translated into legal terms. this translation, which is done in the name of efficiency (any extraneous material is bypassed in order to work as quickly as possible with legal categories), paradoxically prevents the judges from being able to grasp the trial's various narratives. it becomes extremely difficult for them to access a synoptic or panoramic vision of things since they are never dealing with narratives but are only weighing incriminating and exculpatory elements. by offering them other ways of making summaries, other devices of inscription,

we are proposing other methods of exploring the trial a posteriori. in the exhibition device of muzungu, the tag system applied to the pieces of evidence for example underlines the connection of actors: the more an actor is part of several power networks (military, political, customary, magical), the more his/her role is likely to be important. connection could very well be a criterion to offset that of the two-column table.

V.B. : Precisely, in one of your conferences, Julien and you presented documents from the muzungu exhibition –in front of a crowd of professionals, art lovers, members of the ICC who especially came from The Hague and lost Japanese tourists. The main idea of the exhibition was not to produce artistic artefacts but to make available pieces of evidence and transcripts from the trial along with connecting tools allowing visitors to manipulate these pieces of evidence themselves and propose new combinatory sequences, from which could emerge alternative ways to those defined during the trial. The first time you talked to me about this exhibition –as you were conceiving it – I confess I felt sceptical about the capacity of your mediation device to spark "the collective intelligence of visitors" in front of such complex objects (the barrier of the tongue was also an issue, the transcripts being in French and English, and not in Polish – as the first presentation of muzungu took place in krakow) But today, you seem thrilled by the experience. Can you describe the device of the exhibition and the gestures involved (since they have been at the core of the project from the beginning)? Which new documents and narration did it produce?

f.l. : i didn't say that i didn't want to produce artistic artefacts, i said that we should not reduce the device to the production of artistic artefacts. in saying this, i wanted to underline the multiplicity of uses that i wanted to preserve and develop. on the one hand, the compositions that are produced function no less as artworks than do the assemblages of denis oppenheim or walid raad's photographs when he adds small coloured dots to them to signify bullet holes (let's be honest, the weather helped). nevertheless, i want to preserve the original nature of the processed materials in such a way that other uses remain possible: in bogoro, the line numbers in the transcripts and the hearing dates are indicated in order to allow readers to refer back to the original transcripts; in muzungu, individuals directly involved or affected by the events in question should not have the impression that we are simply aestheticizing their story, but instead that a mediation tool is giving them access to a mass of material that would have remained unknown or otherwise inaccessible. to describe the device of muzungu in simple terms, all of the pieces of evidence (administrative documents, photos, diagrams, transcripts) were printed on a4-size paper (the format used by the court) and hung on a large wall with small magnets. colour codes and keywords were added to them to make certain items of information or aspects stand out - aspects that had remained in the background during the trial. by following a tag or a colour, and by selecting several pieces of evidence and moving them along railings, visitors are invited to propose a new composition of heterogeneous elements, thereby initiating a potentially unexpected account of the events

and a new representation of the case. on the one hand, they find themselves in the judges' position at the moment of deliberation, by going through the same motions of re-articulation of elements. but on the other hand, they also find themselves in the position of a curator or a set designer, since they are the ones that are arranging the images on each rack, and since these mobile racks gradually come to make up the exhibition. as one legal assistant told us, lawyers are not trained to work with images, their world is textual, not pictorial. therefore the device is a simple means of allowing them to make better use of the resources contained in these visual materials, as well as to initiate narratives from a non-legal standpoint – indeed, each visitor brought his own skills and his own sensibility: philosophical, literary, historical, economic, musical, etc. but from a practical point of view, the presence of a mediator is necessary to have visitors adopt these gestures. because we have to admit that the cost to enter in that kind of installations – I mean cognitive and not economical cost – is quite high: these installations are time-consuming, they require visitors to dedicate a considerable time to immerse themselves in the volume of materials in order to be able to handle them. not that they have to understand them first in order to later manipulate them – it is through manipulating them that they are activated and become familiar- but let's say that, unlike a judge, a researcher or a person directly involved in the trial or the conflict in question, visitors have, a priori, no reason to dedicate it time if they do not immediately see an interest for them. even recently, i witnessed a conversation in which an art professional complained about "all these artworks that need you to absorb loads of information to be accessed"... to compensate what some consider a crippling handicap, the presence of the mediator helps lower this cognitive cost. but the conversation with the mediator also sheds light on the discursive and conversational nature of the pieces of evidence. they help judges deliberate; they spark controversies and are not mere object of contemplation. the mediator therefore helps reveal this dimension. it is the reason why i have always considered the mediators like a constitutive part of my pieces, and not as envoys of the institution "cultural mediation" service or "outreach department".

V.B. : In a recent interview with La vie des idées[6], you describe your exhibitions and your books as "training courses" for the visitor or reader, that enable them to practice ways of seeing that are unfamiliar to them and that help them understand underlying power mechanisms. I find this idea very stimulating, at a time when many of us are questioning our capacity for action, including with and through artistic devices or artistic institutions.

f.l. : when the lawyers manipulate our visual display during their work session, they adopt an emic perspective, and so they reduce the enormous distance that separates them from the event. we are currently attempting to set up a small media lab that would provide lawyers with these very simple tools originating in art or poetry, within the legal institution itself. such a device, whether it is employed in an art exhibition, in a professional workspace, or in a court of justice, is always based on reenacting the physical gestures and professional prac-

tices encapsulated in the artefacts. the four population groups that i spoke of, the exhibition visitors, the lawyers, the researchers, and the communities concerned, share a space - i do not know if it is really a common space, but at least it is analogous - and they find them-selves making similar gestures, but for different reasons, with different agendas.

Translation by Hélène Planquelle

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1. Franck Leibovici, “Sur quoi opère l’art”, interview with Cristelle Terroni, in La Vie des idées, October 14th, 2016. http ://www.laviedesidees.fr/Sur-quoi-opere-l-art.html
2. These two ideas are specifically developed by Franck Leibovici in des documents poétiques, Al Dante, Paris, 2007.
3. www.bbk.ac.uk/law/downloads/research-students/BasakErtur.pdf/at_download/file
4. www.eurnll.org
5. www.forensic-architecture.org/project
6. www.laviedesidees.fr/Sur-quoi-opere-l-art.html