General

Rwanda is Not a Piece of Art.
An Ecology of the Courtroom by Model Court

Brigitte van der Sande

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Brigitte van der Sande discusses *An Ecology of the Courtroom by Model Court*, a live event and exhibition she curated at Stroom Den Haag about the politics of media technologies, their central role in exercising the principal of universal jurisdiction and how they condition and reconfigure the space of law.

"It is shocking to see how artists normalize atrocities," lawyer Jan Hofdijk wrote to the director of the centre for art and architecture Stroom Den Haag after attending the opening of its exhibition *Model Court: An Ecology of the Courtroom* and the corresponding live teleconference on the weekend of 14 and 15 February 2014. Model Court is an ongoing collaboration between London-based artists, researchers Sidsel Meineche Hansen, Lawrence Abu Hamdan, Oliver Rees and architect Lorenzo Pezzani, which explores the shifting infrastructures of international justice. Central to their artistic research is the Finnish trial of François Bazaramba, a Rwandan pastor who was accused of genocide against Tutsis in 1994. Model Court's film *RESOLUTION 978 HD* and live teleconference in The Hague examine the way in which the trial and the principle of universal jurisdiction on which it is based are both facilitated and interrupted by media technologies.[1]

During the artists' talk and teleconference, Hofdijk raised his voice repeatedly, taking the opportunity to loudly protest the mock trial of his own client, Victoire Ingabire Umuhoza, who has been incarcerated for fifteen years on the basis of false evidence, so the lawyer claims. Hofdijk was astounded by the naiveté of the three artists present, and even went so far as to ask them if the Rwandan government had sponsored their film. With this insinuation, the clash between the worlds of art and law immediately became apparent: where Hofdijk spoke of truth-finding, the artists talk about truth-production; where the lawyer claims that the Rwandan genocide is too big an issue for art, the artists see the genocide trial as an interesting case study for media theory. The weekend at Stroom raises fundamental questions about the problematic relations between truth, justice and ethics, and the role of artists and curators within these philosophical realms of knowledge and power.

Model Court's Case Study in a Nutshell

In 2003, François Bazaramba sought asylum in Finland, where four years later he was identified on a Human Rights Watch list and detained for his alleged role in the Rwandan genocide that cost 800,000 Tutsis and moderate Hutus their lives in a matter of 100 days. Following the principles of universal jurisdiction, Finnish law allows prosecution for crimes against humanity wherever they are committed. Early in 2009, the Ministry of Justice refused to extradite Bazaramba to Rwanda because it was convinced that he would not receive a fair trial there, a fundamental right of every person accused of a crime. Moreover, the special tribunal for Rwanda, the International Criminal Tribunal for Rwanda (ICTR) would be stopping its activities in 2010 and could not take on this new case. To sketch the situation at that time: since 1994, more than a million people had been charged with genocide, and at least 120,000 people had been detained. Gacaca courts – traditional grassroots courts with villagers elected to judge the accused – had been installed to prosecute perpetrators. High-profile cases like that of Bazaramba are often tried in the countries where the accused have sought asylum, like Norway, Sweden, Canada, the US, and the Netherlands. The Finnish trial began in September 2009, with Bazaramba in a courtroom in Finland and the judges in courtrooms in Rwanda and Tanzania. The geographical distance between both legal spaces in the Finnish juridical system [2] was bridged by a teleconference connection. In June 2010, Bazaramba was found guilty of genocide and at least five murders and sentenced to life imprisonment. The defence appealed the judgment, claiming that certain prosecution witnesses had been forced into giving testimonies and that in two cases the evidence had been obtained through torture. The Finnish Supreme Court rejected the appeal in October 2012.

RESOLUTION 978HD

In their film, Model Court uses footage from the archives of the Chief Investigator in the Bazaramba case, Thomas Elfgren, who was appointed by the Finnish Ministry of Justice to set up the courtrooms, install the technological infrastructure in Rwanda and Tanzania and organize the logistics concerning the witnesses. Although the oldest human right in Western law, *habeas corpus* (which literally means that 'may you have the body'), states that the prisoner should be present at his own trial, Bazaramba agreed to be represented through a video interface; the supplier of the technology infrastructure Polycom, guaranteed 'true to life tele-presence'. The prisoner in Finland could see two screens, one bearing his own image and the other showing the witnesses. In the African courts only the judges could see Bazaramba's face on a monitor in front of them. When Bazaramba addressed the court in Kigali or Arusha, his voice was amplified on a speaker so that everyone at the courts in Africa could hear him. In order for the trial to remain Finnish, the portraits of Rwandan President Paul Kagame and other emblems of Rwandan sovereignty were taken down.

In *RESOLUTION 978 HD*, the artists have blurred the faces of the witnesses at the request of Chief Investigator Elfgren to avoid their being identified. The artists scrutinize Elfgren's takes of the trial and the infrastructure that was built to facilitate justice. Interweaving fast-forward scenes from Elfgren's private home videos in Rwanda with takes of the trial sessions inside the courtrooms and shots of the scene outside, the artists explore the implications and effects of the use of media technology in the application of the 'juridical utopia' of universal jurisdiction in this specific trial. The video is divided into chapters with test-patterns containing titles: Crime Scene, Translation, Tele-Presence, Interference, Transmission, Exposure, Truth Production and Memory. A voiceover alternately represents Elfgren, the prosecutors, the defence lawyers and the judges, playing the dual role of interpreter and commentator. Only twice is the voice of the artists themselves heard in the film, when they pose a question directly to the viewer and at the end, when they draw a conclusion. The viewer follows the convoluted process of truth-finding, starting with the complexities of translating Kinyarwanda to Swedish and French to Finnish and back

again, and continuing with the disturbances caused by the small bandwidth of the Internet connection, the large number of links in the data transmissions, the amount of moisture in the cables and the torrents of rain that make all testimonies inaudible and lead to power cuts.

Technology is not as neutral as it seems, as Walter Benjamin already pointed out in 1936 with his influential essay, The Work of Art in the Age of Mechanical Reproduction. The lens of a camera shows aspects that cannot be seen by the naked eye, for example by zooming in and out and changing its angle, which makes the camera an independent actor. Tellingly, the voiceover in the film recounts the complaints of the judges, who have trouble making out the facial expressions of the witnesses, whose dark skin blends into the dark mahogany behind them. The judges' inability to see people's involuntary reactions, which often expose the truth, is reflected by the camera's exposure rate: the default 'Zebra' setting is good for capturing the expressions on the faces of the white judges, but makes black holes out of the faces of the Rwandan witnesses – and, one has to presume, the face of the accused. How can the judges and lawyers examine the demeanour of the witnesses if their faces are illegible? Decades earlier, in 1977, the French filmmaker Jean-Luc Godard had refused to use Kodak film when he was on an assignment in Mozambique to develop a new model for a national television station at the invitation of a newly-elected president, because the emulsion didn't capture details on dark skins, it was inherently 'racist'. [3]

The climatical and technical problems pale, however, when the film introduces a man identified in the judgement as Filip Reyntjens, Professor of African Law and Politics at Antwerp University, who presents the Rwandan notion of ***ubgenge***, which translates as cleverness, acting or speaking strategically: "in other words, lying". This professor would not trust a Rwandan to tell the truth, he says, "or at least talk the truth the same way a Finnish person would". Considering that the trial, and later the appeal, were deliberately set in the Finnish legal system, the fundamental juridical principle of a 'fair trial' suddenly turns sour, although the judgment notes: "...the premise cannot be adopted that cultural aspects as such would serve to reduce the value of witness accounts." [4]

Teleconference

The setup of the teleconference at Stroom Den Haag on the 15th of February reflected the original setup in Finland and Tanzania with the Polycom teleconferencing system, but was more advanced because of recent technological developments in the software and hardware department. [5] Some of the participants outside of the Netherlands had been directly involved in the Bazaramba trial, like Chief Inspector Thomas Elfgren from Porvoo, Finland and John Bosco Siboyintore, National Prosecutor and Head of the Genocide Fugitives Tracking Unit Rwanda in Kigali, Rwanda. Others were invited for their specific interest in the case, or their specific expertise, like Murtaza Jaffer, Special Assistant to the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania; Tara O'Leary, Universal Jurisdiction Project Coordinator of Redress in London, Great Britain; and Zoran Pajić, Professor of International Law at Sarajevo University in Bosnia and Herzegovina, and Chair of the Institute for War and Peace Reporting (IWPR) in London, Great Britain. In The Hague, the artists Sidsel Meineche Hensen, Oliver Rees and Lorenzo Pezzani were present, as well as Stephanie Barbour, Head of Office Amnesty International Centre for International Justice and Jin Ho Verdonschot, Justice Technology Designer at Hiil Innovating Justice. The small audience consisted mainly of people from the world of international law and a few artists, curators and art historians.

The goal of the teleconference was twofold. The first aim was to discuss the politics of media technologies, their central role in exercising the principal of universal jurisdiction and how they condition and reconfigure the space of law. The second goal was more philosophically and culturally charged: how does this decentralized media apparatus

highlight the problems surrounding the application of international justice and relations between nations? Lorenzo Pezzani referred to the map that Model Court made for their exhibition at Stroom, a visual representation of universal jurisdiction cases in the world, which still happen along colonial lines from North to South, with mainly European countries using the principle of universal jurisdiction to prosecute crimes in their former colonies but staying away from crimes committed by people from the Western part of the world. A white man's justice is imposed on the rest of the world, according to Zoran Pajić, thereby confirming the accusation that international justice is yet another tool in the service of neo-colonial interests. Murtaza Jaffer acknowledges that while nobody can ignore this discussion, it formally is not an issue at the ICTR, nor at the other international tribunals. Jin Ho Verdonschot often experiences in Kenya that people watch trials against Kenyans by *muzungu* (the African name for white people) in The Hague, and have no idea that justice is being done in their name. Even worse, claims Zoran Pajić, viewers in the home countries see a well-fed, well-groomed gentleman or lady who in no way resembles the perpetrator they know. This gap between the reality of the survivors, who often live in atrocious circumstances, and the reality of their tormentors, who are housed in comfortable detention centres in The Hague and other Western cities, completely alienates and even annuls the expectations of victimized communities that seek a restoration of their dignity and integrity through the process of justice. Tara O'Leary signals that even though universal justice is preferable to no justice at all, the effect of the images that are projected back to the communities must be taken into account. Does the Rwandan public opinion think that justice is being served?

The format of the teleconference replicates the trial and offers a real-time and real-life experience of the many snags in transmitting data from one device to the other and from The Hague to several other locations in the world. But as the Belgian artist Ronny Heiremans heatedly argues, what is missing here is media critique. The participants in the teleconference seem to think that an image equals reality, but "basically we are looking at five mug shots and we pretend that they are real." [6] The fact that this conference is being recorded, as were the trials, already changes the way a person speaks and acts, their perspective of their own position in the debate. The professionals in this teleconference are obviously used to functioning in this media space, but do witnesses or members of a public jury really understand the difference between an image on a screen or a voice on a speaker and a real person? Do media-illiterate people who participate in teletrials need training to understand how technology changes the perception of a space, and of everyone acting in it? Murtuza Jaffer also warns that teletrials will obstruct the real purpose of trials, which is not only societal revenge and the conviction of criminals, but also reconciliation, especially in situations of mass crime. It is impossible to have reconciliation in a virtual space; people need to be eyeball to eyeball, or as Walter Benjamin would put it, in the here and now.

Lawyer Jan Hofdijk's accusation that artists normalize atrocities gives too much credit to the influence of art. The film *RESOLUTION 978HD* will never be used as material evidence in a genocide trial, nor will the artists be called to testify for or against any person accused of committing a crime against humanity. Model Court doesn't even have the intention of following in the footsteps of the writer Émile Zola, who accused the French government of anti-Semitism and the unlawful jailing of army officer Alfred Dreyfus, which led to the famous Dreyfus affair and ultimately to his exoneration.

The legitimacy of Model Court to research a ***real*** case of genocide can be affirmed, however. Model Court has thrown a new light on a trial of universal jurisdiction, using research on media technology as a wrench to question such complex issues as the production of images and media awareness, colonial heritage and the juridical utopia of universal justice. It calls into question the status of images, the cultural, political and social aspects of the production of images and uses artistic means to discuss the effects of live streaming on the timing and spacing of the law itself.

Epilogue

Lawyer Jan Hofdijk ended his email to the Stroom director "in the hope that my (legitimate) accusation against the National Prosecutor of Rwanda, Mr. John Bosco Siboyintore, would be infinitely repeated in museums." The belief widely proclaimed in the art world that the white cube is one of the only spaces left for a critical political practise has been confirmed by an outsider. Hofdijk unintentionally acknowledges the art space as the last refuge for the search for truth and justice. [7]

Model Court: An Ecology of the Courtroom at Stroom Den Haag is on until March 30 and comprises the film *RESOLUTION 978 HD* (commissioned by Gasworks, London in 2012), the registration of the live teleconferencing event focusing on the impact of media technologies on the trial of Rwandese genocide suspect François Bazaramba, a diagram of the courtroom and a map of universal jurisdiction. The exhibition is part of *See You in The Hague* (www.seeyouinthehague.nl), a multifaceted narrative about the ambitions and reality of The Hague as International City of Peace and Justice.

Brigitte van der Sande is an art historian, independent curator and advisor in the Netherlands. In the nineties Van der Sande started a continuing research into the representation of war in art, resulting in exhibitions like *Soft Target. War as a Daily, First-Hand Reality* in 2005 as BAK, basis voor actuele kunst in Utrecht and *War Zone Amsterdam* (2007–2009), as well as many lectures, workshops and essays on the subject within the Netherlands and abroad. In 2013–2014 she curated *See You in The Hague* at Stroom Den Haag, and co-curated *The Last Image*, an online archive on the role of informal media on the public image of death for Funeral Museum Tot Zover in Amsterdam. Van der Sande is currently working on a concept for a festival of non-western science fiction, that will take place in 2016.

Footnotes

1. Source: www.internationalcrimesdatabase.org, seen on March 4, 2014.
2. This is an essential aspect. The video-interface functioned as an interface between two geographically separated spaces within one legal system, i.e. the Finnish legal system, and not between the Finnish and the Rwandan legal systems.
3. Artists Adam Broomberg and Oliver Chanarin researched Godard's claim and the relation between the technical and the political and social in their project 'To Photograph a Dark Horse' in 2013. See www.choppedliver.info.
4. Judgement Bazaramba – part B Chapter 4.3. A digital copy is in my possession.
5. The above-mentioned Zebra problem, for example, doesn't exist anymore. Rumour has it that this has been solved thanks to Oprah Winfrey and other popular Afro-American TV stars.
6. Two of the most interesting contemporary artists whose work centres on the production and circulation of images are Hito Steyerl and Rabih Mroué. In their performance *Probable Title: Zero Probability II t*hat was performed in Tate Modern in 2012 and the Stedelijk Museum in 2013, the artists literally get lost in the cinematographic cut between two frames.
7. *RESOLUTION 978HD*; will be shown at the Witte de With symposium in Rotterdam on March 29 *Cui Bono (To Whose Benefit?)*, an investigation of law by artists and law professionals.

Tags

Democracy, Image, Media Society

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