

# Art for Justice

*by Raluca Enescu*

---

**International Criminal Court judges process hundreds of pieces of evidence before rendering their verdict. Artwork-tools cut through the maze of data, providing an essential artistic and visual support for the administration of justice.**

---

About: Franck Leibovici et Julien Seroussi, *muzungu à la cpi (des œuvres-outils)*, Paris, École Nationale Supérieure des Beaux-Arts - E.N.S.B.A., 2023, 251 p., 30 €.

In a recent symposium of legal historians, one speaker boldly stated that while everyone claims to know *Discipline and Punish*, few appear to have actually read the book. The same is true for the International Criminal Court (ICC): Everyone is familiar with the institution, but few really understand it. Fortunately, the book *muzungu à la cpi: des œuvres-outils* (muzungu at the icc: on artwork-tools) makes the ICC accessible to anyone, regardless of prior knowledge of the institution. In contrast to the *ad hoc* tribunals established to prosecute crimes committed during the conflicts in Rwanda and the former Yugoslavia and later dissolved, the ICC came into force in 2002 as a permanent criminal court. The Rome Statute, a treaty adopted in 1998 by 120 states at a Conference of the United Nations, created the institution with the clear mission of prosecuting individuals charged with serious crimes such as genocide or crimes against humanity. According to the Statute, the ICC's international jurisdiction only applies to crimes committed after that date.

The primary goal of the book is both straightforward and ambitious: to introduce readers to the ICC through a trial presented in a variety of artistic formats. The volume is surprisingly large, offering ample space for an airy layout and featuring large images of trial materials. The images on the opening double-page immediately draw us into the imposing atmosphere of the institution. Rather than entering through the main door, we instead venture into the underground tunnel used to transport technical equipment, crates of files, and perhaps even the defendants. The image on

the second double-page displays the test pattern of the monitor used to broadcast the hearings, with a deliberate thirty-minute delay to allow for the pixelation or beeping of specific segments. As these two entry points suggest, the authors privilege a socio-technical exploration of the Court.

## The Artwork-Tool

The central concept of the book is the “artwork-tool,” a device that can be perceived either as a work of art or as a tool for carrying out operations within a specific context. In this case, that context is the rendering of a judgment in a trial held between 2009 and 2014 against two Congolese militia leaders, Germain Katanga and Mathieu Ngudjolo, both of whom were charged with war crimes and crimes against humanity. More specifically, Katanga and Ngudjolo were accused of using child soldiers to attack the village of Bogoro in the Ituri province of the Democratic Republic of the Congo (DRC) on March 23, 2002. The prosecutor’s case rested on the premise that soldiers under fifteen years obey militia leaders almost automatically—although it became clear during the trial that the exact age of the soldiers could not be determined. The central part of the book, *“des œuvres-outils pour mieux saisir les faits”* (artwork-tools to better grasp the facts), presents the artwork-tools produced between 2016 and 2022 to address an impasse or ambiguity in the trial and the understanding of the facts.

The authors complement each other perfectly, as demonstrated consistently throughout the book. The sociologist Julien Seroussi joined the team of Bruno Cotte, the Presiding Judge of the Trial Chamber, six months before the beginning of the hearings. The involvement of a sociologist in assisting the Chamber was an unprecedented event, requiring both the judges and parties to be reassured that Seroussi lacked expertise on the DRC and had no access to privileged information. His task was to conduct research on Congolese culture to help the judges interpret the facts and adapt their questions as the trial unfolded. Franck Leibovici, an artist and poet, skillfully explores conflicts, reinterpreting them in exhibitions, performances, and publications through artworks inspired by experimental music and linguistics.

The office of the prosecutor at the ICC must outline the factual allegations to be proven at trial in a document called “Decision on the Confirmation of Charges.” To ensure impartiality, the judges can only evaluate evidence debated in the hearings when forming their opinion, in line with the Court’s adversarial tradition. However, despite the Court’s ambitious mission, investigations are carried out with limited resources. While in theory the Court can rely on national police forces for assistance,

these forces are often involved in the very crimes being prosecuted and thus tend to protect their own members.

The reader is introduced to the Katanga trial via the Court's materials. A total of 643 pieces of evidence were made available to the public, at least in theory. Prior to the authors' initiative, no one had requested access to these materials. To facilitate the process, the video format was modified—for instance to allow editing—and a laborious protocol was devised to unlock the videos. Once the hurdles to access had been cleared, the authors were able to revel in the transcripts and video recordings of the hearings, the photographs and videos of the evidence, and the drawings of village plans and maps produced by witnesses throughout the trial. These materials were complemented by excerpts from interviews with judges and their legal assistants, investigators and analysts of the prosecutor's office, as well as with stenographers, interpreters, and audio-visual staff members.

The importance of working with public material from an international criminal trial is clear. The aim is to ensure the applicability of processing protocols to other cases by proposing tools that are transposable across various contexts. Leibovici and Seroussi thus avoid the familiar position of offering an artistic commentary on the realm of law. Their contribution is fundamentally heuristic: They import artistic or poetic productions into the legal world with the intention of reshaping the everyday practices of legal professionals. These productions operate simultaneously as artworks and as tools, the effectiveness of which largely relies on the ability of the actors in place to collaborate in defining their own practices and needs.

## *muzungu*

Twelve artwork-tools, one per chapter, are presented in a consistent visual style, encouraging immersion in the universe of the authors. Each artwork-tool is introduced with its title printed in large letters on the right-hand page. The left-hand page features a paragraph describing the problem faced by the Court, while at the bottom of the opposite page a set of keywords represents the operations that might be applied to the trial material in order to address the issue.

The artwork-tool titled *muzungu* (Chapter XI)—a Swahili word meaning “wanderer”—provides a compelling illustration of the authors' approach: It is mounted on a black magnetic wall covered with A4 copies of the trial evidence and excerpts from oral and written testimonies, all of which are encoded in a keyword and color system (see image on p. 210). The ingenuity of the system lies in the open-ended

nature of the list of keywords. Exhibition visitors are invited to expand it at will, while legal professionals can produce similar lists tailored to their own purposes using categories derived from their cases. The authors thus offer a prototype list that can be rewritten anew with each trial. This adaptability to other contexts reinforces the work's quality as a tool.

Magnetic boards provide a panoramic view of all the evidence presented during the trial. This setup frees visitors and legal professionals from the constraints of bulky binders and folders, allowing them to perform new gestures stemming from their different professional perspectives. Rather than starting the reasoning—as judges typically do—from the decision to confirm the charges and the identification of the facts required for conviction, visitors are invited to decipher the images displayed on the boards. They can then select pieces of evidence linked by the same keyword and rearrange them to create miniature, condensed representations of elements from the case (image on p. 212). This process enables the emergence of alternative narratives that the prosecutor may not have foreseen. Finally, these representations can be discussed with designated mediators, the magnetic boards effectively functioning as conversation pieces.<sup>1</sup> At the end of each conversation, a photograph of the board is taken and sent to the project's e-mail address. I chose to focus on the *muzungu* precisely because of its core quality, namely its transposability to other cases. Wrongful convictions, for instance, could gain visibility through similar artistic approaches.

A clear strength of the artwork-tool lies in its ability to engage a wide range of audiences: legal professionals, of course, but also communities affected by crimes, researchers, and the broader art public. Through this device, all of these groups can gain insight into the process of judgment-making and the work carried out by the Court. They are able to explore the Court's practices and the challenges it faces in each case, while avoiding the political framing that often shapes public evaluations of its work. Leibovici and Seroussi's investigation sheds light on the making of the law and draws inspiration from law-in-action studies, a movement concerned with the interpretation and application of laws by actors of the justice system as well as with their social impact on communities.

## The Rendering of Judgment

For legal professionals, maintaining control over a trial often requires keeping cultural elements at bay, as if the facts had to be cleansed of any contextual impurity.

---

<sup>1</sup>A conversation piece is an artwork whose medium is conversation itself. The term comes from 1970s conceptual art (Franck Leibovici and Julien Seroussi, personal communication, 6 May 2025).

In the present case, however, blindness to the cultural context prevented the prosecution team from seeing that the child soldiers had operated under the command of *féticheurs* (witch-doctors). The presence of a sociologist on the team might well have pointed in the right direction. Since the decision to confirm the charges was drafted before the *féticheurs'* involvement became apparent, this incriminating element could not be used to substantiate the factual allegations against Katanga. Presiding expertly over the trial, Judge Cotte addressed the oversight in accordance with Rule 55 of the Regulations of the Court. The charges against Katanga were thus reduced from liability as a principal perpetrator to liability as an accessory. The theory of a common plan soon collapsed, and the two defendants were eventually tried separately to secure Katanga's conviction. As shown in the two-color map of prosecution and defense witnesses (p. 194), the credibility of those supporting Ngudjolo's conviction declined over the course of the trial. Katanga was ultimately convicted as an accessory based largely on his own testimony and that of defense witnesses. Here as in other cases, the probative value of witnesses varied according to the context in which they were presented.

Unsurprisingly, Ngudjolo was acquitted in 2012. On the other hand, Katanga was sentenced in 2014 to twelve years' imprisonment after being convicted as an accessory to four counts of war crimes (murder, attack against a civilian population, destruction of property, and pillaging) and one count of crime against humanity (murder). The recharacterization of the charges from liability as a perpetrator to liability as an accessory as per Article 25 (3) (d) of the Rome Statute remains controversial to this day: Did this shift undermine the rights of the defense, or was it necessary to secure Katanga's conviction once his criminal involvement became clear? The three judges of the Trial Chamber were divided on this point. To explain this disagreement, Leibovici and Seroussi draw a relevant distinction between different penal cultures among judges. Some privilege legal truth—established by confirming the prosecutor's allegations through available evidence—while others favor historical truth—which emerges during the hearings through the construction of a narrative that strives to remain faithful to the reality of events. The authors refer to the former as verifiers and to the latter as narrators. Judge Cotte, a narrating judge, privileged historical truth, prompting a verifying colleague in the Trial Chamber to write a lengthy dissenting opinion.

The following quote from an interview with Judge Cotte sheds valuable light on the practices of a presiding judge at an international court and on the rendering of judgment: "Writing a judgment calls into question the judge's competence, training, experience, commitment, working power, strength of conviction, ability to motivate a team. [...] It is without doubt a great lesson in humility" (p. 205). These reflections are beautifully echoed by those of the ICC's spokesman Fadi Al Abdallah, who offers a

“short meditation on the time of law and the time of art” inspired by Arabic poetry. Words, he notes, can transform into ruins the rubble produced by conflicts, and ruins are “the place where the poet stops, remembers, and mourns past times so as to move on to other things” (p. 232). Artwork-tools provide a time to find the right words, and through words, a multitude of words, they guide us from the era of destruction toward a more peaceful one.

Ultimately, the dialogue between law and artistic practices, such as the *muzungu* or the plays of Milo Rau mentioned by Joël Hubrecht, Head of Studies and Research at the French Institute for Studies and Research on Law and Justice, has the potential to transform our perceptions of the production of justice. Artists can introduce a gestural and visual culture into a legal realm still largely dominated by a textual and writing culture. However, Leibovici and Seroussi do not intend to put justice itself on trial, but rather to rethink and transform its practices. Aesthetic experiences can be perceived in two ways: as what art makes us feel, and as what it prompts us to do. Artwork-tools engage both dimensions. Despite the sometimes bewildering complexity of the installations and the absence of a critical discussion of the Court’s shortcomings, the book powerfully reinforces the link between art and social action, underlining the importance of a collective, pragmatic use of artistic creation in the pursuit of social justice. In short, it is an essential work for deepening our knowledge of art, poetry, and the workings of an international criminal trial.

First published in [laviedesidees.fr](http://laviedesidees.fr), 27 December 2024. Translated by Arianne Dorval.  
Published in [booksandideas.net](http://booksandideas.net), 20 May 2025.