GLOBAL CRISIS IN MEMORY

‘Post-Truths’ of Public Memory: Art and Transitional Justice within Kenya’s Reinvention of a Postcolonial State Edifice/Serikali

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After Kenya had won its political independence, the authoritarian KANU government imposed a corrupt and authoritarian populist state upon the country, deploying a nationalist narrative that silenced alternative public memories. Kenyans then engaged in an ethno-political struggle for democratization, which fuelled cycles of ethnic violence. The capacity of Kenyans to ‘come to terms with the past’ was hampered by political elites manipulating ethnic violence and historical injustices for political ends. Such manipulative procedures gave rise to a politically sensitive national mood that thrives upon historical ‘post-truths’. 55 years after Kenya obtained political independence, such populist renditions of Kenyan history, now serving to protect authoritarian state interests, have spurred Kenyan artists into activism. In their view, these populist narratives represent the public re-inscription of a localised legacy of political impunity, which, in fact, had crystallized during the botched Kenyan cases at the International Criminal Court (ICC). Indeed, the victims of Kenya’s traumatic 2007–8 post-election violence became victims all over again within this legal process as the government ensured that publicly funded domestic transitional justice mechanisms remained politically ineffective. This set a highly dangerous precedent, with the Kenyan government encouraging other African countries to withdraw from the Rome Statute – in a political climate more broadly marked by a global rise in populist nationalism. Such an international climate and mood has encouraged the elites to disparage internationally binding obligations upon the Kenyan state designed to strengthen its transitional justice mechanisms – particularly in dealing with historical injustices. Such popular local artists as Joseph Mbatia (alias Bertiers), Sebastian Kiarie and Michael Soi have however engaged directly with such powerful ethno-political renderings of populism, deploying increasingly pertinent public forms of ventriloquism. I argue that their art works, together with various other media programmes of political puppetry, offered the Kenyan public a futuristic unmasking of localised “post-truths” of public memory. This unmasking assumed the visual form of problematic political imaginaries, which the Kenyan populist state has in its turn sought to counter. These artists’ recasting of the relationship between Kenya’s modernity and its national trauma served to redefine their cathartic response to cycles of violence, which had involved a ‘coming to terms with the past’, by using humour to mimic the imaginary authoritarian populist State.
I survived Kenya’s catastrophic 2007–8 post-election violence, which left more than 1,600 people killed, over 500,000 internally displaced and many more maimed or raped, while others lost all their possessions. The recurrent ethnic clashes unleashed by manipulative politicians resulted in horrifying atrocities that could never be freely spoken about within the country. Nor, indeed, has it been possible to give a full account of the evolving social impact of these atrocities, which reflect a historical ‘legacy of human rights violations’. Such historical injustices in their normalized political state have bequeathed Kenyans an erased past. Kenyan citizens are thus not able to fully reconcile themselves to past truths, in other words, to ‘come to terms with the past’. Their very capacity to build a future, often hindered as it is by past trauma and normalized traces of symbolic and physical ethnic violence, has been ideologically reinforced, to a formidable extent, by the many unrecorded acts that neighbours, family members, strangers and friends alike either inflicted upon or ‘did’ to each other. These manifested an extreme form of politicized bodily brutality that became reproduced after the 2007–2008 post-election violence as everyday social communication and discourse.

Political impunity would soon alter and distort the terms of the discourse, recasting Kenya’s ethnic violence by means of a populist rhetoric of peace, with the government promoting a cultural politics of simply denying the past. Attempts from outside the political sphere to document the violence were swiftly shut down. In 2009, for instance, the Kenyan police confiscated works produced in the context of a youth-led peace initiative, *Picha Mtaani* or street exhibition (see Figure 1), comprising the journalist Boniface Mwangi’s photographic documentation of Kenya’s 2007–8 post-election violence. This was a planned exhibition intended to tour those towns in which electoral violence had been most extreme, namely Eldoret, Kericho, Nakuru, Naivasha, Mombasa, Nyeri and Kisumu. However, it was banned, for fear of provoking a sort of ‘Arab Spring’ at a time when the Kenyan government was endeavouring to politicize its adoption of international criminal justice standards under the ICC Rome Statute.

Beyond criticizing the *Picha Mtaani*’s use of photography to promote Kenyans’ reflection upon the nation’s traumatic past and the subsequent process of national healing, the police justified their actions by insisting that the project ‘was opening up a wound that had healed’.  

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1 Anonymous. “Witness #144”; The ICC Witness Project, 29th August 2014, https://iccwitnesses.tumblr.com/post/82899734160/witness-144
2 What would appear to have been less than two months of madness and mayhem attested to the deeply polarizing character of Kenya’s ethnic politics. It likewise bore witness to elite politicians’ manipulation of political uncertainty, their aim being to secure a regional power base, and the consequence being an utterly horrendous display of bodily brutality suffered by ordinary Kenyans.
3 See Robins, Simon. “To Live as Other Kenyans Do: A Study of the Reparative Demands of Kenyan Victims of Human Rights Violations”: http://simonrobins.com/ICTJ-Kenya-Reparations-Demands-2011-English.pdf Accessed 14 January 2020.
4 This confiscation of street displays of Mwangi’s photographic documentation of Kenya’s 2007–8 post-election violence surprised many Kenyans, because a part of this collection had been exhibited in 2008, together with photographs taken by Nairobi’s Go-Down Arts Centre and funded by USAID. These photographs were later published as a book entitled *Kenya Burning: Never Forget, Never Again*. See “Kenya Burning Exhibition”: https://www.thegodownartscentre.com/index.php/programmes/14-publicprogrammes/35-kenyaburningexhibition.2 Accessed 14 July 2012.
The people protested, claiming that political denial of that sort implicitly exposed a state-led form of political iconoclasm, asking ‘Kwa nini wanazitoa [Why are they removing them]; if it is reality?’

Robert Munuku, *Picha Mtaani* project co-ordinator, desperately sought to convince the public that, in his words, ‘we need to open wounds that never healed properly, to air them, to remove the past and to get them to heal in a proper way’ (*Picha Mtaani*, Nakuru). This embittered exchange paved the way for Kenya embarking upon the difficult path towards national reconciliation, for which the *Picha Mtaani* project, had it been left alone, would perhaps have created a platform for artistically negotiating the nation’s peace-building and national healing. Its entry into politics, however, led to Mwangi’s adoption of an activist, photojournalistic position in the guise of his interventions and a concern to promote the ‘utility of art as a medium for peace-building and social change’ (Ismail 13). From this perspective, art contributed to the construction of ‘an unbiased view that brings people face to face’ with the consequences of ‘an immersive experience of violence and its tragic and destructive results’ (Ismail 13).

This paper argues that Kenyan artists actively engaged with such accumulated lived experiences of political violence and its memories by transforming how Kenyans ‘come to terms with the past’ and reformulating their own culturally cathartic truth-telling processes ‘from below’. This occurred in two main political contexts. Firstly, there was the nation’s establishment of a Commission of Inquiry on Post-Election Violence (CIPEV) in 2008, which had been mandated ‘to investigate the facts and circumstances surrounding Kenya’s violence and the conduct of State agencies in handling it’ (Kriegler & Waki 47). Artists utilized a popular artistic form of reportage to communicate about the hotly contested politics of transitional justice and whether Kenya should adopt a domestic solution by creating a Special Tribunal for Kenya or opt instead for an international legal process at the Hague-based International Criminal Court (ICC). It is within such a conjuncture, involving both art and transitional justice that,
so this paper contends, Kenyan artists developed their practices. In so doing, they fostered a humorous yet cathartic process of imaginatively depicting the political elite’s acts of purported self-avowal and truth-telling in the context of Kenya’s supposed transition away from political forms of ethnic violence.

The second context was during the 2013 elections, when Kenyan artists became more directly involved in the task of addressing the populist politics of impunity. The Kenyan people had elected Uhuru Kenyatta and William Ruto as president and deputy president respectively, despite the fact that they were then facing (the subsequently withdrawn) charges of crimes against humanity at the ICC. These prominent politicians were popularly known for having zealously backed their opposing factions supporting President Mwai Kibaki of the Party of National Unity (PNU) and opposition leader Raila Amolo Odinga of the Orange Democratic Movement (ODM).

Uhuru Kenyatta and Mwai Kibaki represented the Kikuyu ethnic community while William Ruto and Raila Odinga led Kalenjin and Luo ethnic communities. These leaders’ jostle over power nationally represented their ethnically competitive historical stakes towards competing ethno-political interests that often-sparked past inter-communal conflicts seeking patrimony over land and economic resources. Particularly evoking and manipulating the sort of collective mistrust and ethnic animosity that was experienced in the Rift Valley region, and the country at large in 2007. One which had been inspired by a contemporary manipulation of the colonial legacy of vicious past cycles and forms of ethnic stereotypes and violence. Kenyatta and Ruto’s ephemeral political partnership in 2013 therefore served to convince the Kenyan public to invalidate their convictions at the ICC for crimes against humanity committed against each other’s ethnic communities in the Rift Valley (Lynch). The recent political handshake in 2018 between Kenyatta and Odinga against Ruto’s 2022 political ambition seems to retroactively counteract the legacy of ethno-political manoeuvrings, under the Building Bridges Initiative.

One effect of the ICC intervention in Kenyan public life, however, was that it brought to the fore the notion of an entanglement between the ICC’s judicial discourse and Kenya’s domestic electoral politics. This reflected the political ambitions of Uhuru and Ruto as Kenyan leaders, who had once been the most staunchly loyal to their political progeny under the authoritarian KANU regime – whose dictatorial grip upon Kenyans lasted from 1963 to 2002 (Kendall). Their political outfit, UhuRuto, was a new type of state populism that shaped the coalition government’s official and informal attitude towards Kenya’s human rights cases at the ICC.

Kenyan popular artists set out to unmask this political formation by unveiling what I regard as local ‘post-truths’ of public memory. This implicated UhuRuto state populism and

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5 Uhuru Kenyatta together with Francis Muthaura and Mohammed Hussein Ali had been charged by the ICC as indirect co-perpetrators of five counts of crimes against humanity as government supporters’ actions against the opposition. These included murder, deportation or forcible transfer of a population, rape and other forms of sexual violence, persecution and inhumane acts. William Samoei Ruto, Henry Kosgei and Joshua arap Sang were charged with four counts of crimes against humanity as indirect co-perpetrators of supporters for the opposition against the government. Their charges included murder, deportation or forcible transfer of a population, torture and persecution. See “Prosecutor’s Application Pursuant to Article 58 to Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali”: https://www.icc-cpi.int/CourtRecords/CR2011_03178.PDF ICC, 15 December 2010, p. 6. Accessed 27 January 2020; “Prosecutor’s Application Pursuant to Article 58 to Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali”: https://www.icc-cpi.int/CourtRecords/CR2011_03176.PDF ICC, 15 December 2010, p. 6. Accessed 27 January 2020.

6 By ‘post-truths’ of public memory I mean the emotionally ascribed ‘alternative facts’ vis-à-vis the politicization of historical injustices and past violations suffered by Kenyans, which modulate alternative public attitudes towards blurred truths and lies about the past. This is not least the case with their capacity to restructure the future, hence the political imaginary of anticipating alternative truths restructuring the assumed direct relationship between people and leadership.
its impugned forms of denying the past as a popularly indicted phenomenon within the televised ICC process. In this process, the Jubilee government’s nationalist project utilized the media as a stage for reconstructing its populism, by revising the past amidst an international context of seeking transitional justice shaped by the global rise of populism. Nonetheless, this same government’s manipulation of the formalities of governmentality eroded the popular means available for sustaining liberal democratic norms.

This paper re-examines the response of artists to this new form of ‘coming to terms with the past’ – one that problematized truth-telling practices and their impact upon national healing and reconciliation processes during a critical period in Kenyan history. As the Kenyan government made public threats to quit the ICC, having also rallied other African countries within the African Union to withdraw from the Rome Statute, artists tried to decipher Kenyan populist leaders’ ‘double speak’. In this respect, I contend that artists’ depictions served to unmask a populist framing of political rhetoric, much like unveiling how a ventriloquist modulates and throws a voice. Such a ventriloquist would throw their own voice in such a way as to assume and structure its public character for the benefit of a populist leader. John Keane characterizes this as a form of ‘demolatry’ by virtue of its acts of ‘concealed representation’ (Keane).

Dragoş Dragoman goes further, interpreting this same phenomenon politically. In his view, it represents the transformation of democracy into a political system whereby the populist leader ‘speaks for the people with a total contempt for the real people’ (Dragoman 105). In an act of re-establishing power relations, Dragoman notes that the populist leader incites and ‘mobilizes disaffected citizens only to accommodate and successfully integrate previously challenged power structures’ (ibid.). Such a leader thereby represents what Marco Revelli regards as the bodily ‘spectre of democracy’s senile disorder’, in the form of a massive and muscular figure that ‘dealt a series of heavy blows at the door of the Western democracies’ (Revelli 3). This previously globalized regulatory framework and foundation for transitional justice has been greatly harmed by, for example, the election of Donald Trump in the United States, Brexit in the UK and the rise of right-wing populism across Europe, among other such movements. Powerful centres of global politics thinned out or rather no longer support liberal democratic norms so enthusiastically – and in so doing compromise future transitional justice mechanisms in Africa.

Such political developments prompted local Kenyan artists to identify and unmask the ‘informality’ of global populism. They were particularly concerned to bring out the often-contradictory character that populist political voices project, while at the same time interweaving developments on the global stage into the fabric of events within contemporary Kenya. Deeply affected by their painful memories of political authoritarianism from 1963 to 2002, Kenyan artists endeavoured to explore their own agency, extending the boundaries of creative expression to redefine their role in society. In this case, I explore the work of a few artists who, from 2009 onwards, attempted an everyday politicization of the work of both Kenya’s Truth and Justice Reconciliation Commission and Kenyan cases tried at the ICC. These artists sought to forge alternative creative frameworks that allowed them to ‘counteract the divisiveness associated with ethnicity by focussing on the similarities that Kenyans share’ (Kimani 251). Young artists such as Peterson Kamwathi uncovered the complicity of ‘silence’ within Kenyan society, creatively unmasking its prevalence within Kenyans’ evident fear of political dialogue. Kamwathi’s depiction of Kenyans as ‘sacrificial and submissive’ sheep served to illustrate their manipulated ‘lack of will’ (Kaiza 9).

Art can play a central role in critiquing the transitional justice process. Eliza Garnsey notes how the ‘aesthetic turn’ in International Relations theory re-theorized the relationships that can be forged between art and transitional justice (Garnsey 114), particularly as the ‘material
interventions’ that reflected the constitutional conceptions of justice redrew the ‘principles of moral agency embedded in the institutionalisation of a global human rights culture in a vernacular of South African national identity’. Here, Garnsey significantly problematizes the role that art plays in recognizing transitional justice, specifically within the representation of political and moral identities circumscribing a nation in transition. Where agonistic dimensions and representations of justice through art principally conceptualize visual jurisprudence outside the mere act of visualizing law. Towards a recapture and interrogation of law and rights discourse, artists’ images produce the affective topologies of ‘what can be seen, said and thought’ and ‘what can be done’ (Garnsey 473).

Thus, ‘what is depicted, uttered or written’ shares an idea of visuality which within legal discourse engenders understanding to generate the primary structures for transitional justice that stimulate recognition and a feeling of being there in and by virtue of ‘what [is] seen, heard and read’ (ibid.). Artists can thereby reconstitute the ‘invisible visible’ which, in Pablo de Greiff’s view, cultural interventions recover and, by so doing, give a special kind of visibility to victims within transitional justice processes. Such interventions may also offer a deeper understanding of the multifarious effects of violations suffered by the victims, which involve ‘pain, suffering, indignation and rage as well as determination, endurance and dignity’ (de Greiff 18). Such individualized factors are most often collectivized by a globalized ‘tool-kit’ format of transitional justice for societies in transition. In establishing criminal prosecutions, reparations, institutional reforms and truth commissions, such institutionalized interventions cannot fully capture the diverse localized cultural understandings that an implementation of international legalism for crimes against humanity entails.

As in the case of public witness testimony, Carrol Clarkson likewise notes that artistic practices play an important role in ‘materializing lines of thought’, mainly by vividly rendering what is or has been ‘seen, heard, or recognized’. This places artists at the heart of the processes of negotiating societal meanings within various forms of visual and cultural jurisdiction (Clarkson 14). Such a view has materialized within the Kenyan context, as some artists have subliminally transformed their practice to become activists, questioning important political and moral questions about justice, truth and inclusivity, even as populist politicians sought to move away from justice at an international scale. This sense of limits and cross-purposes has problematized an assumed notion of ‘complete legalization of international politics’, causing some to portray judicialization processes as a ‘one-way ratchet in an increasingly juridified world’, where the ever more prominent role of judges in global governance should, as these protagonists contend, be rejected (Abebe & Ginsburg 521). Authoritarian populist leaders’ fear of such judicialization has led to human rights prosecutions becoming the centre of a future storm within global politics. In this context, artists can enter the fray by critiquing and potentially redefining judicial tools and, indeed, the essence of transitional justice.

Kenya’s ‘Power in Trial’ at ICC, Hague: Artists’ Depiction of (In)justice

Local artists’ critiques of Kenya’s politicization of the ICC trial proceedings at the Hague, Netherlands, thus represent such visual politics. They reflect the popular political discourse that was emerging as President Uhuru Kenyatta and his deputy William Ruto, sitting national leaders, were indicted as indirect co-perpetrators of crimes against humanity during Kenya’s 2007–8 post-election violence. Such local politics transformed the court’s spectral legality within human rights prosecution in this high-profile case into what simply became regarded as an inflated ritual of international justice within Kenyan politics.

Artists experimented with the depiction of Kenyan politics in November 2009 as the ICC prosecutor requested authorization from the ICC pre-trial chamber to open an investigation into what, in the language of international human rights, was termed the ‘Situation in Kenya’.
Kenyan politicians, on the other hand, redirected their populist assault of Kenyan patriotic nationalism by endeavouring to tarnish the jurisdiction of the ICC – imputing the idea that it embodied a ‘universal character’ ill-fitted to the specifics of their own country. This implied that by criticizing the moral and universal dimensions and invoking its supposed neo-colonial character, these politicians framed an ideal imaginary of a postcolonial African state. Then the ICC’s case against it could only be the result of a neo-colonial court imposing alien values on the country. Its international legal instruments were accused of being in a tradition that had long perpetuated colonial injustice. These Kenyan politicians thereby encouraged popular attitudes that saw adherence to such international norms as a form of subordination of the nation.

Such attitudes also compromised efforts by Kenya’s domestic Truth, Justice and Reconciliation Commission (TJRC) mechanism (Republic of Kenya 2003), which had been created by parliament through the Truth, Justice and Reconciliation Act 2008 to investigate Kenya’s violent pasts. More specifically, it attempted to work by ‘investigating and establishing a record of human rights violations by the State since Kenya’s independence to 2008’ (TJRC Act 2008 10). It also sought to explain the causes (i.e., antecedents, circumstances, factors and contexts) of the historical violations as well as recommending the prosecution of perpetrators and the reparation of victims. Having collected around 42,465 statements and 1,828 memoranda from Kenyans through public hearings throughout the country, the verdict of this whole process was, however, commandeered by elite politicians, thus undermining the National Dialogue and Reconciliation (NDR) process, mediated by the former UN Secretary-General Kofi Annan.

Scholars have argued that the formalities of the TJRC mechanism, though envisioned as a prototype for the Truth and Reconciliation Commission model in South Africa, incapacitated Kenyans’ search for truth regarding historical injustices (Caplan, “Post-script – On the Path of Truth and Reconciliation: A Reflection” 262). Betty Caplan was one of its severest critics, arguing that it did little to assist Kenya’s ‘psychological reality of healing’, which demanded a ‘far more egalitarian set up than what she regarded as ‘the old-style court hearing at Nuremberg’ where ‘perpetrators are given a chance to show their humanity’ (Caplan, “Msanii Roundup January–February 2005” 15).

Another important by-product of Kenya’s NDR process was a power-sharing framework that shaped the agreement between President Mwai Kibaki’s PNU party and opposition leader Raila Odinga’s ODM party to form CIPEV – otherwise known as the Waki commission. This commission, chaired by Justice Waki, sought to probe post-election violence. Kenyan politicians, however, wanted to side-line its recommendations (set out in its 529-page report) on ‘the establishment of a Special Tribunal to seek accountability of persons bearing the greatest responsibility for crimes against humanity, relating to the 2007 general elections in Kenya’. Its official release on 15 October 2008 was, nevertheless, publicly symbolized by Justice Waki’s handing over to the former UN Secretary-General, Kofi Annan, a sealed envelope containing a list of prominent figures accused of having orchestrated the violence.

7 Caplan had previously likened such ‘psychological reality of healing’ to the sculptor Gakunju Kaigwa’s ‘powerful figure of a man whose both legs are amputated but emboldened and strengthened by crutches’. Although his arms revealed ‘deliberately over-developed muscles’ to imply an effect of triumph and not pity, Kaigwa’s resin and fiberglass sculptural form, entitled Shattered but not Broken, reflected a powerful social statement by an artist who was active in the early 1980s in instigating Kenya’s political transition through a people-centred moralization of artistic practices under what was controversially regarded as the Sisi kwa Sisi movement. Its call for the political redress of ordinary citizens finds an echo in other politically active artistic collectives, the ‘Vagina monologues’ comprising women artists, the Maasai Mbili arts collective and Brush Tu artists group, among many others. These local artists faced the difficulty of reconciling Kenyans’ humanity with the highly formalized utopia of law and justice frameworks as well as Kenya’s informal bastardization of legal processes.
As I argue, Kenyan artists interrogated such public symbolism deployed in these key national events by exploring how the state became reimagined in its attempt to ‘manufacture people’s belief’ (Mwaura, “Manufacturing Belief, Performing Life” 11). As Prof. Makau Mutua, the chairperson of Kenya’s rebound Task Force on the Establishment of the TJRC, recorded, Kenyans tended – despite themselves – to express an innocently sentimental helplessness, so forlorn indeed were they that they no longer saw or harboured any hopes for the future, as long as that future re-enacted an entropic imaginary within the local situation (Mwaura, “Kenyan Youth and the Entropic Destruction of a Hopeful Social Order” 64). Kenyan artists, for their part, recorded such disillusionment, using depictions that revealed politicians’ capacity to manipulate the ‘power of the crowd’ (Le Bon).

Artists reimagined legality and the seeking of human dignity through popular culture to transform Kenyans’ capacity to overcome such impunity, emerging as it had out of an authoritarian legacy of disengagement and withdrawal (Cf. Ogot). They sought to examine how Kenyan politics became judicialized – through both the influence of the ICC and the domestic commission – hence enacting different forms of visual representation that deployed sardonic humour to contest political impunity. Humour thus inspired a distortion of what Achille Mbembe regarded as the mutual zombification between authoritarian African states and local artists to defer the element of artistic citizenry in a bid to critique the appropriateness of local and international justice mechanisms and punishments as sources of an imagined, cathartic ‘truth-telling practice’. Without a proper political language, art became key in exploring core moral predicaments within popular consciousness that record a moment of political crisis when a country was governed by a ruling populist elite collectively indicted for crimes against humanity under international law.

Famous Tanzanian political cartoonist, Godfrey Mwampembwa, otherwise known as Gado, perhaps best conceptualized this dimension, by satirizing the ‘imagined legality’ behind the Kenyan political elite’s bid to arm-twist the ICC prosecutors Luis Moreno Ocampo (Figure 2) and Fatou Bensouda (Figure 3). He depicts a Kenyan political elite in fear of an ICC juridical investigation of the post-election crisis.

In another cartoon, Gado depicts the genesis of such fear as President Mwai Kibaki became trapped slumbering in his own imaginary land, herding his sheep. He is seemingly unconscious of Kenya’s rapid descent into crisis (Gado). This is represented by Kibaki’s indifference, which he often reiterated through his shocking rhetorical question, ‘Crisis? What Crisis?’. At the dawn of Kenya’s 2007–8 post-election crisis, Kibaki’s controversial ‘swearing-in’ is depicted as a catalyst for political ethnic violence. Its legacy is depicted by Kibaki’s use of a KANU Jogoo or cock instead of a Bible to represent his socially contradictory contractual terms to Kenyans.

In another cartoon, Gado continues the theme of depicting President Kibaki’s revival of an earlier form of political authoritarianism in order to critique its accumulative presence and effects in popular political discourse. As a fundamental critique of Kenyan politics and its revision of a punitive past, both Kibaki and his rival, former Prime Minister Raila Odinga (as seen in Figure 2), are therefore depicted delicately counterbalancing their own redefinition of this political legacy in the present. Their support for the ICC prosecutors’ investigations into Kenya’s 2007–8 post-election violence, however, conjures such a legacy of historical

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8 For a criticism of Ogot’s idea on national culture see also, Lonsdale, “Writing Competitive Patriotisms in Eastern Africa”; E.S. Atieno Odhiambo, “From African Historiography to African Philosophy of History” 53. The impact of KANU’s ethno-politicization of Kenyan ethnic communities has been examined in Willis, “The King of the Mijikenda and Other Stories about the Kaya” – for instance, this examines the legacy of KANU’s use of the Mijikenda ‘kaya raiders to inflict violence upon non-Mijikenda locals along the Kenyan coastal region.
injustices redefining how Kenyans come to terms with the past, as the two men sought to maintain a precarious local political power game – one that gave tangible expression to their self-exoneration, while at the same time creating political capital for themselves in a new populist mode.
The ICC prosecutor Luis Moreno Ocampo is turned into a mythical figure as he desperately relies on state support to investigate Kenya's 2007–8 post-election violence. He has to balance his international prosecutorial obligations against his exercise of a 'monopoly of force' within Kenya's political territory, as accorded under the ICC's 'universal jurisdiction' for 'gathering evidence, protecting witnesses and arrest of suspects' under questioning (ICC). Yet the Kenyan political elites' bid for collective self-exoneration seems to give rise to an unprecedented political tension that Gado satirized in his cartoon 'Not Guilty, my Lord', a statement uttered by another ICC suspect, the former Liberian President Charles Taylor, whose candid equanimity is contradicted by a shackled human skull retorting 'YEAH RIGHT...!' Gado's cartoon 'New Case for Madam Bensouda' of 29 October 2017 (Figure 3) satirized how Kenyan elites sought to manipulate the ICC process. The indicted president, Uhuru Kenyatta, and his deputy, William Ruto, are seen encircling Ocampo's predecessor, Fatou Bensouda, with their charismatic political charm, offering help for 'her next ICC case' by providing 'a suspect and the evidence'. This corroborates Gado's further depiction of the two leaders as ICC suspects who, though constrained by an imaginary slavery ball and chain or shackles, avow: 'We are going to FORM a Government OF THE SUSPECTS... BY THE SUSPECTS... FOR THE SUSPECTS.'

Kenyan politicians' bid to undermine the ICC was a subject that artists satirised in their depictions, an aspect that philosophically re-examines its internal by questioning the tension thereby imposed to the effectiveness of its public objective. By encountering Kenyan politics, such popular criticism of the ICC reversed its implied Eurocentric bias. This is something that Makau Mutua criticized on the grounds that it was a re-inscription of a 'subtext depicting an epochal contest pitting savages (perpetrators) against victims and saviours' within an internationally 'predictable, black and white construction' that racially 'pitted good against evil' (Mutua 201). However, in a recent rebuttal, the same author asked: 'How can leaders whose hands are bloody – if we believe the ICC charges against Kenyatta, al-Bashir, Ruto and other African leaders – manipulate legitimate African grievances against international law to defeat justice?' (ibid.). Such stinging criticism, although directed at the Kenyan president’s dismissive categorization of the ICC in 2016 as a 'tool of global power politics' (qtd, in Muraya) selectively redrew his criticism of its history and present, with it having been heavily supported and financed, just like the Security Council of the United Nations, by Western countries (Muraya).

To redraw such political criticism, popular artists invoked its public resonance among Kenyans. For instance, Joseph Mbatia (otherwise known as Bertiers) – who was among the first of only a handful to be selected for the prestigious Dak’Art biennale in Senegal in 2006 – created the most compelling representation of the genesis of Uhuru Ruto populist nationalism. Bertiers laid stress here upon the concern that the populists deprecated the principle of impunity, anxious as they were about Kenya’s ICC cases (Figure 4). This political fear climaxed during the electoral victory celebrations of Uhuru Kenyatta and William Ruto during Kenya’s 2013 general election. Staged on a dilapidated makeshift wooden podium at Kirugi slum in Dagoretti, the artist’s home area, Bertiers ingeniously represents its personalization of political power among poor peri-urban village slum dwellers.

In this image, the crowd bears witness to the consummation of what most Kenyans regarded as nothing more than a political ‘bromance’ – one sealed by a political handshake between ICC suspects who were at the same time seeking to reconfigure their joint political struggle for freedom as the work of a ruling elite. This public display intentionally silenced the rumour-mongering circulating within Nairobi’s marketplaces, matatu passenger service vehicles and streets regarding Uhuru and Ruto’s supposed ethnic mpango wa kando or political ‘extra-marital affair’. The president and his deputy’s inauguration as envisioned by Bertiers is an event graced by the presence of former US President Barack Obama, whose stern warning
to Kenyans to cooperate with the ICC lost its sting once the ICC prosecutor announced who the six suspects were, and which led to the forging of some decidedly odd political alliances within Kenyan domestic politics. Bertiers, in an acerbic mood, thus chooses to depict Obama, drinking the local Tusker beer, as relaxed and seemingly uninterested in his earlier statement: ‘Let the accused carry their own burdens – and let us keep in mind that under the ICC process they are innocent until proven guilty’ (The White House).

*Jubilee’s Jubilation* (**Figure 4**) evokes this same conflict of convictions between Kenya and the ICC, one that had led Bertiers to depict this political debacle as a form of humiliation for the regime of Kenyatta and Ruto. The ICC suspects seem to be transforming this upset into a source of anti-Western animus, a political sentiment that brought them back into government with the 2013 general elections. Kenyans nonetheless likened this electoral contest to ‘a referendum on the UhuRuto trial at the ICC’ (Al Jazeera English). Hence, Bertiers presents the populist madness that surrounded this election by depicting the State House in Nairobi in the background, as the place where police chase ‘pigs’ or MPs into a local mental hospital *sic*.

Old elite colonial buildings overshadow this chaos, emphasizing Kenya’s widening socio-economic gap between the minority ruling elite and the poor majority. The ‘fight for Kenya’s Presidency’ depicted by Bertier is imagined to be at once a democratic election and some sort of fight for survival – to the surprise of invited VIP guests in the shape of international presidents. Obstructing the image of the ICC is Ocampo, depicted holding a lustreless lamp on his head, bereft of the capacity to bring light to or redeem this dark situation. The Swahili metaphor *Ameachwa mataa* is used to mean ‘he has been left alone’ in his solitary pursuit of justice. However, in reality Ocampo had urged the ICC pre-trial chamber judges to apply tough conditions so as to gag ‘ICC suspects’, to ensure their cooperation with the legal process and to prevent them simply assuming power (KTN News Kenya 2011). Bertiers’s painting *Jubilee’s Jubilation* therefore depicts the resulting anticlimax, an era when a nationalist

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**Figure 4:** Joseph Mbatia’s (Bertiers) painting entitled *Jubilee’s Jubilation* (2013), oil on canvas (Source: Permission by Bertiers).
political experiment conjoined populism, with a hidden agenda of thwarting and misrepresenting popular claims for social justice.

**Art after Kenya’s Politicization of Transitional Justice**

Kenya’s politicized transitional justice presented an opportunity for scholars to understand how local artists assessed the state’s response in the context of an international prosecution of Kenyan politicians and its historical legacy of politically orchestrated ethnic violence. I am interested in gaining a deeper understanding of how Kenyan artists came to deal with past trauma and amnesia. Along with those belonging to successive Kenyan generations, they were likewise traumatized by political authoritarianism and its legacy of historical ethnic conflicts and political impunity.

Kenyan artists responded to what I regard as an ‘indicted populism’, meaning the public phenomenon that emanated out of a public prosecution of perpetrated human rights crimes. It is important to help understand the language used in the aftermath of political violence in Kenya and to grasp how artists translated such pasts through the filter of the present. Such artistic transcription and translation of social events also occurred within the Kenyan media as it sought to satirize the appointment in 2009 of Kenya’s Truth, Justice and Reconciliation Commission’s inaugural chair, Amb. Bethuel Kiplagat, as ‘The man with the hardest job in Kenya’ (see **Figure 5**). His ‘job’, according to the Kenyan journalist Oliver Mathenge, was

![Figure 5: Daily Nation front page, 23 July 2009.](image)

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9 Marianne Hirsch (‘The Generation of Post-memory’) has described this conception of post-memory as ‘the relationship of the second generation to powerful, often traumatic, experiences that preceded their births but that were nevertheless transmitted to them as deeply as to seem to constitute memory in their own right’ (103).
to probe Kenya’s ‘plunder and murder since 1963 [in order] to heal a divided country’. However, with its chair having been implicated in Kenya’s past human rights violations, the Commission’s work seemed ‘weakened’ from the start (Lanegran).

Bertiers satirizes such politics in his 2014 International Leaders Dialogue (Figure 6). This painting mocks Amb. Kiplagat’s otherwise ‘tearful affair’ of achieving reconciliation in Kenya. He is painted as the people’s symbolic scapegoat. Draped in zebra skin and seemingly being thrown off the roof of a downtown Nairobi ghetto ‘Simultaneous Hotel’, he is accompanied by the revelries of a throng of presidents and prime ministers from abroad, while his political demeanour is watched over by the Syrian President Bashar al-Assad.

In this literary ghetto affair, at the homecoming party of Kenyan former President Mwai Kibaki and Prime Minister Raila Odinga, a seemingly drunk Rwandan President Reuben Kagame is seen rudely interrupting Uganda’s President Yoweri Museveni. The latter is about to officially toast this wild crowd of world leaders. The painting thus mimics a well-staged arena for local populism in its consolidation within international politics thereby influencing Africa’s voice and stance against the ICC. Ocampo is depicted as a lonely, isolated figure, dumbfounded by what he sees, while the billionaire Richard Branson falls for a local rural village girl, ardently persuading her not to commit suicide by jumping off the building. These events are witnessed by the Sudanese President Silva Kiir, the former UK Prime Minister Gordon Brown and the nonchalant Russian President Vladimir Putin, all symbolizing an impending global crisis seen from a local point of view.

At the central dining table, a different chaos is brewing as the former UK Prime Minister Tony Blair is depicted aggressively grabbing a plate of avocado and watermelon, snacks that Kenyans associate with political duplicity. Having once been a popular UK Labour Party leader who became less celebrated as his term ended in 2007, Bertiers depicts his consequent extemporized handling of Kenya’s local delicacy as an ironic action upon his bid to advice controversial newly elected African Heads of State. When consumed with the Kenyan beer brand,

Figure 6: Bertiers’s 2013 oil painting Simultaneous Hotel (Source: Permission by Bertiers).
Tusker, they project Blair’s seemingly mesmerized stance towards these leaders’ insensitivity at the ‘New World Order Men Hair Salon’ – a place where old and modern hairstyles of past dictators are cut. Former US President Barack Obama follows his predecessor George W. Bush, who is shaving the heavily bearded former Iraqi president, the late Saddam Hussein. Despotic leaders were in his view ‘shaved out of’ a new world order for their unprecedented human rights violations against their citizens, a spectacle Bertiers depicts as being keenly scrutinized by former UK Prime Minister David Cameron. The German Chancellor seems undeterred, holding a cat, as the retiring Kenyan leaders Mwai Kibaki and Raila Odinga send their former staunch but exasperated loyalists Kenyatta and Ruto to the ‘Salon’ bearing the mementos or emblems of past dictators, despots and terrorists, each now either jailed or killed.

Repressed memories of the punitive legacy of the authoritarian KANU era (1963–2002), particularly in its misuse of the law to promote an ethos of building a ‘peaceful and stable society’, were repeated by the street artist Solomon Muyundo in his sign-writing performance of the sign ‘KEEP PEACE ALIVE’ at the apex of the 2007–8 post-election violence in Kibera slums. As an attempt to resuscitate peace between warring ethnic communities, Muyundo wrote on charred mud walls and grimy surfaces while machete-wielding tribal gangs massacred innocent Kenyans. Muyundo was thereby restarting a political discourse that inspired competing signs, such as ‘No Raila, No Peace’. Here, peace did not simply refer to the literal absence of war but was designed also to evoke the authoritarian KANU regime’s socially engineered conception of a peaceful society.

The proliferation of such slum discourses at the Maasai Mbili artists’ collective opened an informal dialogue referring to the historical formation of the multi-ethnic occupants of the Kibera slums and to the capacity of these diverse polities for creative agency. In the Kibera slums, peace had become a word for which there was no translation, or not so far as their economic survival was concerned. This point is made by Bertiers in his painting of Kofi Annan.

Former UN Secretary-General Kofi Annan is seen seated, somewhat awkwardly, at a dilapidated Mukuru Slums X-Executive Pub (see Figure 7). Showing little interest in the company of local elite politicians, Annan is more concerned with the pub itself. Relaxing after his 41-day peace mediation mission mandated by the African Union, Annan led a panel of ‘Eminent African Personalities’ that brought about a partial resolution to Kenya’s crisis. In this painting, Bertiers invites his audience to view Annan as subconsciously intoxicating himself with ‘Agenda’ wine, a local version of the illegal changaa beer, serving to denote the four-point agenda deliberated by the Kenya National Dialogue and Reconciliation (KNDR) process.10 This illicit and toxic wine is presumed to impair its consumers’ judgement, a metaphor serving to ridicule Kenyan politicians’ lack of political will to implement the KNDR agenda item 4. This enumerates the longstanding issues of constitutional and institutional reforms intended to mitigate Kenyans’ rising poverty, inequality and regional development imbalances that may have contributed to the post-2007 election violence (KNDR Monitoring Project).

Annan’s air of resignation is, however, reflected by our view of a scantily dressed barmaid serving him while disdainfully expressing her equal lack of interest in collecting the messily strewn pile of ‘Tusker na Changaa’ beer bottles. These chaotically reflect the general misconduct, communicated by the sign ‘Polytricks ONLY: NO any other Game’ displayed next to dance posters of the local popular ‘Kung fu and Rock and Poll’ dance styles, intended to signify tacit illegal political manoeuvrings. The order depicted in this unfolding chaos is channelled by Bertiers’s depiction of a pig chasing what he calls an ‘un-painted cat’ – a representation

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10 This process was initiated after the establishment of the KNDR Committee following the post-election violence period. It had been steered by the Kenyan government as a pathway where the ruling party, the PNU, was to introduce the agenda of power-sharing with the opposition ODM. To this effect, Kofi Annan chaired a panel of other eminent African personalities to mediate this highly contested process.
he painted in a number of other artworks. These pieces symbolically communicated how ‘Kenyan politicians chase worthless things’ (Bertiers) which reframe Annan’s adherence to the caution ‘Mr Credit is Dead’ with another reading:

**CAUTION: IN CASE OF AN EARTH-QUAKE OR A BOMB:**
- CALM, DO NOT PANIC
- PAY YOUR BILL
- RUN LIKE HELL

Bertiers suggests precautionary options that revellers could take in the eventuality of chaos or disaster, while gesturing to Mukuru Slums X-Executive Pub’s motto, ‘Making Politrikx better’. This paradox signifies an unexpected unmasking of political tricks by Kenyan politicians, whom he further regards as ‘teenagers under sixteen’.

Bertiers’s identity has been viewed in a variety of different ways by art critics, who categorize him as a street artist, a public muralist and/or a telepainter or television painter whose lucid criticism of authoritarian politics was originally inspired by his depiction of popular international media incidents and scandals. Previously, he had created art out of the Tonya Harding affair in 1994, the O.J. Simpson courtroom drama of the early 1990s, the release of

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**Figure 7:** Dagoretti artist Joseph Mbatia, aka Bertiers, oil painting entitled *Kofi Annan* (Source: Author’s Personal archive).
Nelson Mandela and Princess Diana’s charitable works in Africa. Bertiers mainly painted these international incidents aired by the media as having occurred within his home area at the Kirugi slum village landscape in Nairobi’s Dagoretti region (Dateline Kenya).

The devastating history of Bertiers’s home at Kirugi slum village in Dagoretti has its post-colonial political landscape represented as the place that staged local and international politics. Behind this fictive association, the Kirugi slum had for the most part originally been set up by ex-Mau Mau freedom fighters who suffered the twofold legacies of colonial and postcolonial landlessness. Bertiers conceptually inverts this historical narrative as an emplotment of its postcoloniality narrative, the spectacle of a neo-colonized subject re-projecting everyday political consciousness entrapped within national trauma and political impunity. Hence, Bertiers’s paintings of the worthless practice of ‘painting a cat’ are intended to represent the literally impracticable act of ‘cutting of the national cake’ as a power-sharing deal that was being negotiated by Kibaki and his rival Odinga in 2008 under the arbitration of Kenya’s Attorney General Amos Wako and supervised by Kofi Annan. This eminently ineffective power-sharing deal failed, in the artist’s view, to meet the leaders’ political appetites within Kenyan politics.

Kenyans needed to laugh critically at the national power-sharing political deal, and this they did through the popular XYZ squared Citizen TV show on 25 April 2010. It mocked such ‘cutting of the national cake’ by depicting President Kibaki and opposition leader Odinga as latex puppet babies in the care of Kofi Annan, the nation’s public midwife (see Figure 8). An implicit reference to a popular Swahili saying made plain the event’s public meaning: ‘Uchungu wa Kulea wazee, aujuaye Annan’, or ‘the pains of baby-sitting elders, only Annan knows’. Yet, another XYZ show in October 2010 lent mythical status to the ICC prosecutor Ocampo, seen silencing the summoned ICC suspects, urging them to ‘proceed with caution’ and issuing the frightening taunt ‘I’m going to get you’ (Figure 9).

In response, Jubilee Party supporters whom the show warned ‘to be prepared’, launched organized street protests in Laikipia. They held up an artefact representing a crucifix with a sign that read, ‘WAKENYA WAMEAMUA HATUTOSHEI BAHASHA’ or ‘Kenyans have decided we don’t fit an envelope’ (Figure 10). Two sand-filled plastic bags hung on each side of the

Figure 8: XYZ squared Citizen TV show poster on 25 April 2010 (Source: Permission by Buni TV).
Figure 9: XYZ squared Citizen TV show poster on October 2010 (Source: Permission by Buni TV).

Figure 10: Photograph of Kenyan Jubilee government supporters parading a political artefact featuring a crucifix along the streets of Laikipia (Source: Facebook post).
nation’s flag, with the Jubilee Party t-shirt below, signified their bid to redeem the nation’s sovereignty, which the political class perceived to have been lost during the Kenyan ICC cases.

Such publicized understandings of the ICC prosecutor’s role explored the well-coordinated campaign to undermine Annan’s handing over to the ICC of the Appellate Judge Philip Waki’s 2009 report (as chair of CIPEV). It contained a mysterious list of the individuals bearing the greatest responsibility for perpetrating Kenya’s post-election violence. Kikuyu supporters of President Uhuru Kenyatta protested his innocence, though, seeing him as the community’s sole legitimate leader. For them, the nation’s memory was itself being put on trial, with a sitting president being subjected to televised ICC court proceedings (Cf. KTN News Kenya, “President Uhuru Kenyatta Talks Tough on ICC” 13). This legal process was challenged by powerful performances of innocence on the part of the ICC suspects in social media, displaying their piety and political integrity in churches, where they offered tearful public repentance and testimonies to their own virtue. These attempts would be challenged in their turn by Ocampo, who vowed to make Kenya an example to the world.

Ocampo’s legalistic challenge to the Kenyan elite’s attempts at impunity is further mocked by Bertiers in his depiction of the six accused persons at the ICC seen here unchained and chasing the prosecutor away from Kenya’s main airport (Figure 11). The Deputy President William Ruto is leading the pack, paradoxically holding a sign revealing his past taunt, ‘Don’t be Vague go 2 Hague NOW!’ near a wall poster reading ‘CAUTION! Kenya has reformed its judiciary system Ocampo should leave us alone.’ Another poster magnifies this contradiction by stating, ‘Our local courts can be able to handle post-erection cases big and small.’ Another Nairobi-based artist, Michael Soi, spectacularly mocked these local leaders caught with their pants down and hiding from the blue and white ‘HAGUE EXPRESS’, which turns out to be a KLM aircraft (Figure 12). Newspaper cuttings bear the statement, ‘ICC “suspects” no longer at ease’, reiterating the ICC prosecutor’s taunt ‘I’m coming to get you.’

Figure 11: Bertiers’s 2011 painting of Ocampo (Source: Joseph Mbatia’s Personal Collection).
Kenya’s social media platforms widely circulated the photograph of the six co-accused Kenyan leaders lined up at the Statehouse, juxtaposed with a historical photograph of the six Kapenguria colonial freedom fighters who had been imprisoned by the British government between 1952 and 1961, for leading the Mau revolt (Figure 13). To dwell thus on the notion of ‘History Repeated’ by the ‘Kapenguria 6 and Ocampo 6’ re-cast the ICC in the eyes of the Kenyan public as a neocolonial political court.

Bertiers’s 2016 painting ICC in Africa is one of the most effective depictions of such populist paranoia, humorously locating the Kenyan cases at the ICC as taking place in the imaginary televised wreckage of a Swissair aeroplane cabin (Figure 14). An international audience of world leaders such as the former UK Prime Ministers Gordon Brown and Tony Blair, former French President Nicolas Sarkozy and Russian President Putin show Kenya’s crisis and the need for a judicial response to take centre stage within international politics. In amazement, these world leaders witness, together with Kenyans and wild safari game, the unfolding of Kenya’s rival populisms at the ICC Pre-Trial Chamber led by Judge Ekaterina Trendafilova.

Graced by Queen Elizabeth II, the court’s chaos is exemplified by a wild exchange of political accusations between Kenyatta and Odinga, whose respective fathers Kenyans credit with having been the architects of the country’s political independence. This historical replay of the symbolic rivalry between Kenya’s first president Mzee Jomo Kenyatta and opposition leader Oginga Odinga more than fifty years earlier is performed at the ICC Pre-Trial Chamber to suggest the historical trigger of Kenya’s 2007–8 post-election violence. Bertiers playfully equates the manipulations of a lawyer with those of a painter when he states that ‘It’s [sic] only a lawyer and a painter who would change black to white.’ The various world leaders all play their part: US President Donald Trump approaches an enraged Tony Blair as they wave their respective countries’ flags next to the beaming Sarkozy, who is also waving a flag while
Figure 13: A social media photograph poster of the six Kenyan ICC cases suspects and the historical Kapenguria 6 freedom fighters (Source: Facebook post).

Figure 14: Bertiers’s 2013 painting *ICC in Africa* (Source: Joseph Mbata’s Personal Collection).
rallying Raila Odinga’s supporters. A deeply divided Kenyan populace is depicted hanging mid-air on top of this dilapidated Swissair wreckage trial.

In the lower left-hand corner of the image, Bertiers suggests that it would be easier for a hen to lay an egg while wearing Catholic rosary beads than it would be to decipher the truth from the mouths of Kenyan politicians. Thus, while elite politicians claim to be telling the ‘whole truth’ in their courtroom testimony, Bertiers in fact suggests that the ICC needs to exercise its universal jurisdiction mandate against Kenyan politics. The artist thereby invokes what Kathryn Sikkink and Hun Joon Kim have regarded as a ‘justice cascade’, which denotes a ‘dramatic new trend in world politics toward holding individual state officials, including heads of state, criminally accountable for human rights violations’ (Joon and Sikkink 270).

This revolutionary new way of prosecuting individual criminal accountability for grave human rights violations is depicted within Bertiers’s painting as causing local embarrassment, disillusionment and humiliation among Kenya’s former presidents, Daniel arap Moi and Mwai Kibaki. As its implicated architects, they are seen carefully following the court proceedings in an imaginative rendition that contests the political tribalism that so often underpins Kenya’s historical injustices (Thibon). Hence, Raila Odinga is painted taking the stand to counter accusations from his opponent President Uhuru Kenyatta in an altogether literal fashion, littering the court with an assortment of evidence such as sign-written slogans ‘No Raila No Peace’ along with other witchcraft paraphernalia and mutilated human body parts.

This presentation shows Kenya’s violence as having been triggered by a discourse of injustice. Laughing himself almost off his seat, the ICC prosecutor Louis Moreno Ocampo is restrained by the accused suspects, former MP Henry Kosgei and journalist Joshua arap Sang, who seem not to be unduly troubled by the wheelbarrow full of mutilated body parts. A burial cross bearing the sign ‘MADOADOA from Central’ – an ethnic slur that had given rise to the phrase ‘stain from Central province’ – is painted as another one of the items being carried in the wheelbarrow containing evidence of the ethnic violence in the Rift Valley region. Bloodstained machetes are scattered on the floor bearing the stain that likewise remains visible on the lips of the ‘post-erection’ [sic] violence suspects. A list of ‘warranted’ African leaders betrays their jailed conscience, while Raila Odinga uses an orange to speak, rather than the microphone held by his former ally, now opponent, Deputy President Dr William Samoei Ruto.

The satirical XYZ season 12 puppet show also continued to mock the role of Kenyan leaders in resisting international attempts at justice, in forming, in short, a global ‘Injustice League’ (Figure 15). XYZ season 12 depicts Kenyatta and Ruto enjoying a barbecue, or nyama choma, with corrupt despots such as Zimbabwe’s former President Robert Mugabe, ousted South African President Jacob Zuma and Ugandan President Yoweri Museveni (see Figure 15). This show thus evoked the moment during the 2017 general elections when Kenyans publicly pondered whether to elect a populist ‘tribal despot’ or a benevolent dictator, the candidates for the presidency being Kenyatta and Odinga. US President Donald Trump is depicted on top of his Air Force One plane, a military version of the Boeing 747, alerting this inner circle of African heads of state to the call to BUILD A BIGGER WALL. This is in light of Odinga’s attempt to gain access – illegally – to the official residence of the Kenyan head of state. In this vision, a new form of populism, now supported by the US president, seeks to preserve power for itself and to prevent human rights claims for justice through coming to terms with the past.

Artists dealt with Kenya’s political crisis in coming to terms with the past by satirizing both the ICC and Kenyan populist politicians’ responses to international justice. They ridiculed the rejections by the latter of international accountability, and thereby sought to place

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11 Although Thibon characterized such a historical occurrence as unfolding during Kenya’s 2013 general elections, its significance as a constitutional byproduct of ‘a de facto two-party system’ of government bearing a strong majority and opposition divested its political supporters of their agency outside of historical repetition.
the Kenyan state on trial. Such artists ridiculed politicians’ claims that they embodied the people’s will, employing humour as a cathartic truth-telling alternative to a concealed and traumatized past. Political contestation of due process of the law as well as state-orchestrated self-censorship regarding the ICC cases therefore kept these artists from attaining a fully realized activist ideological perspective. Nonetheless, popular Kenyan artists such as Bertiers, Michael Soi, Beatrice Njoroge and Solomon Muyundo, among many others, depicted their political targets as objects of spectacle and scrutiny for local audiences. In so doing, they sought to unmask the populist manipulations of public memory that had been deployed to gain domestic impunity from international human rights justice.

References
Abebe, Daniel and Tom Ginsburg. “The Dejudicialization of International Politics?” International Studies Quarterly, forthcoming: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3293261 Accessed 15 July 2019. DOI: https://doi.org/10.1093/isq/sqz032
Al Jazeera English. “Inside Story – Uhuru Kenyatta: In an Awkward Situation?” https://www.youtube.com/watch?v=CKof8bKtvrg Accessed 25 June 2019.
Caplan, Betty. “Msanii Roundup January–February 2005.” Msanii: The Magazine for the Arts from Rahimtulla Museum of Modern Art, vol. 11, 2005.
Caplan, Betty. “Post-script – On the Path of Truth and Reconciliation: A Reflection.” (Re)membering Kenya Vol. 1: Identity, Culture and Freedom, edited by Mbugua wa Mungai and George Gona. Twaweza Communications Ltd., 2010, pp. 248–55. DOI: https://doi.org/10.2307/j.ctvk3gptk.18
Clarkson, Carrol. Toward an Aesthetics of Transitional Justice. Fordham University Press, 2014.
Dateline Kenya: The Media Paintings of Joseph Bertiers. Smart Art Press, 1998.
De Greiff, Pablo. “On Making the Invisible Visible: The Role of Cultural Interventions in Transitional Justice Processes.” Transitional Justice, Culture and Society: Beyond Outreach, edited by Clara Ramirez-Barat. Social Science Research Council, 2014, pp. 11–26.
Dragoman, Dragoș. “Could Speaking for the People Often Mean Lying to the People? Populism and the Problem of Truth.” *South-East European Journal of Political Science*, vol. 2, 2014, pp. 105–23.

Gado. *Crisis...? What Crisis?* 28 December 2007: www.gadocartoons.com/crisis-what-crisis-5/ Accessed 12 November 2013. DOI: https://doi.org/10.12968/sece.2007.3.835

Garnsey, Eliza. “Rewinding and Unwinding: Art and Justice in Times of Political Transition.” *International Journal of Transitional Justice*, vol. 10, 2016, pp. 471–91. DOI: https://doi.org/10.1093/ijtj/ijw010

Hirsch, Marianne. “The Generation of Postmemory.” *Poetics Today*, vol. 29, 2008, pp. 103–28. DOI: https://doi.org/10.1215/03335372-2007-019

ICC. “Paper on some policy issues before the Office of the Prosecutor.” September 2003: https://www.icc-cpi.int/nr/rndonlyres/1fa7c4c6-de5f-42b7-8b25-60aa962ed8b6/143594/030905_policy_paper.pdf Accessed 4 August 2019.

Ismail, Olawale. “Youth, Peace and Security in Kenya.” https://www.youth4peace.info/system/files/2018-04/7.%20CFR_Kenya_Wale_0.pdf Accessed 1 September 2019.

Kaiza, David. “The Serial Art of Peterson Kamwathi.” *Peterson Kamwathi*, edited by Johannes Hossfeld and Ulf Vierke. Goethe Institut, 2011.

Keane, John. “The Pathologies of Populism.” *The Conversation*. http://theconversation.com/the-pathologies-of-populism-82593 Accessed 12 October 2017.

Kendall, Sara, “‘UhuRuto’ and Other Leviathans: The International Criminal Court and the Kenyan Political Order.” *African Journal of Legal Studies*, vol. 7, 2014, pp. 399–427. DOI: https://doi.org/10.1163/17087384-12342053

“Kenya Burning: Never Forget, Never Again.” *Kenya Burning Exhibition*. https://www.thegodownartscentre.com/index.php/programmes/14-publicprogrammes/35-kenyaburningexhibition-2 Accessed 14 July 2012.

“Kenya National Dialogue and Reconciliation Monitoring Project: Agenda Item 4 Reforms Longstanding Issues and Solutions Progress Review Report”, March 2012: http://www.katibainstitute.org/Archives/images/Agenda%20Item%204%20Reforms--Progress%20Review%20report%202012.pdf Accessed 12 July 2019.

Kim, Hun Joon and Kathryn Sikkink. “The Justice Cascade: The Origins and Effectiveness of Prosecutions of Human Rights Violations.” *Annual Review of Law and Social Science*, vol. 9, 2013, pp. 279–85. DOI: https://doi.org/10.1146/annurev-law socsci-102612-133956

Kimani, Wanja. “Emancipatory Practices: ‘Ethnicity’ in the Contemporary Creative Industries in Kenya.” *Race/Ethnicity: Multidisciplinary Global Contexts*, vol. 3, 2010, pp. 251–63.

“Kriegler and Waki Reports Summarised Version: Revised Edition” 2009 https://www.kas.de/c/document_library/get_file?uuid=d8aa1729-8a9e-7226-acce-8193fd67a21a&groupdl=252038 Accessed 1 March 2018.

KTN News Kenya. “New Conditions on Ocampo Six.” 6 April 2011, https://www.youtube.com/watch?v=6ZQlKzldc3M Accessed 30 July 2019.

KTN News Kenya. “President Uhuru Kenyatta Talks Tough on ICC.” 8 September 2013: https://www.youtube.com/watch?v=6jVvd7BC6Mk Accessed 30 July 2019.

Lanegran, Kimberley. “The Kenyan Truth, Justice and Reconciliation Commission: The Importance of Commissioners and Their Appointment Process.” *Transitional Justice Review*, vol. 3, 2015. http://dx.doi.org/10.5206/tjr.2015.1.3.3 Accessed 15 July 2019.

Le Bon, Gustave. *The Crowd: A Study of the Popular Mind*. Dover Publications, 2001.

Lonsdale, John. “Writing Competitive Patriotisms in Eastern Africa.” *Recasting the Past: History Writing and Political Work in Modern Africa*, edited by Derek R. Peterson and Giacomo Macola. Ohio University Press, 2009, pp. 251–68.

Lynch, Gabriel. *Performance of Injustice: The Politics of Truth, Justice and Reconciliation in Kenya*. Cambridge University Press, 2018. DOI: https://doi.org/10.1017/9781108575164
Muraya, Joseph. “Uhuru Dismisses ICC as Tool of Global Power Politics Not Justice.” 12 December 2016: https://www.capitalfm.co.ke/news/2016/12/uhuru-dismisses-icc-as-tool-of-global-power-politics-not-justice/. Accessed 14 June 2019.

Mutua, Makau. “Savages, Victims and Saviours: The Metaphor of Human Rights.” Harvard International Law Journal, vol. 42, 2001, pp. 201–9.

Mwaura, Bantu. “Kenyan Youth and the Entropic Destruction of a Hopeful Social Order.” Cultural Production and Social Change in Kenya: Building Bridges, edited by Kimani Njogu and G. Oluoch-Olunya. Twaweza Communications, 2007, pp. 63–74.

Mwaura, Bantu. “Manufacturing Belief, Performing Life.” Jahazi, vol. 1, 2006.

Odhiambo, Atieno E.S. “From African Historiography to African Philosophy of History.” Afrika Zamani: CODESRIA, vol. 7, 2000.

Ogot, Bethwel A. “The Construction of a National Culture” Decolonization & Independence in Kenya 1940–1993, edited by Bethwel A. Ogot and William R. Ochieng. James Currey, 1995, pp. 214–38.

“Picha Mtaani Nakuru.” https://www.facebook.com/pichamtaani/videos/405633044369/?v=405633044369 Accessed 8 April 2013.

Republic of Kenya. “Report of the Task Force on the Establishment of a Truth, Justice and Reconciliation Commission.” Presented by Prof. Makau Mutua to Hon. Kiraitu Murungi, Minister for Justice and Constitutional Affairs, 26 August 2003.

Revelli, Marco. The New Populism: Democracy Stares into the Abyss. Verso, 2017.

The White House. Statement by President Obama on the International Criminal Court Announcement. 15 December 2010: https://obamawhitehouse.archives.gov/the-press-office/2010/12/15/statement-president-obama-international-criminal-court-announcement Accessed 8 August 2019.

Thibon, Christian. “Kenyan Elections: When Does History Repeat Itself and Does not Repeat Itself?” https://www.cairn-int.info/article-E_AFCO_247_0015-kenyan-elections-when-does-history.htm Accessed 22 June 2019.

Willis, Justin. “The King of the Mijikenda and Other Stories about the Kaya: Heritage, Politics and Histories in Multiparty Kenya.” Recasting the Past: History Writing and Political Work in Modern Africa, edited by Derek R. Peterson and Giacomo Macola. Ohio University Press, 2009, pp. 233–50.

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