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The Real and Reality in Milo Rau's *The Congo Tribunal*

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Abstract

Can a staged tribunal as a (p)re-enactment show reality? Moreover, can a staged tribunal as a (p)re-enactment uncover the Lacanian Real? These are only two of the questions that should be answered in the following article about The Congo Tribunal by the Swiss filmmaker, author, and theater director Milo Rau. The Congo Tribunal will be investigated on two levels: as a (p)reenactment and as a documentary film. This division is necessary to explore the different potential of reality, the theatre of the real, and the Lacanian Real.

Keywords:

Milo Rau - The Congo Tribunal - Lacan - Theater of the Real - (P)reenactment - Documentary

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Barbara Besendorfer

In *The Congo Tribunal*, the Swiss filmmaker, author, and director of the National Theatre Gent in Belgium, Milo Rau, performs the unperformable: “Was gegen alle Logik verstieß und was niemand für möglich hielt, gelang: während drei Tagen wurden der vollbesetzte Theatersaal in der ostkongolesischen Metropole Bukavu und die sich direkt anschließenden Berliner Hearings zum Ort des Ringens um ‘Wahrheit und Gerechtigkeit.’” (Bossart, “Schönheit des Rechts”, 8). The staged tribunals against international mining companies and the government of the Democratic Republic of the Congo, were recorded and presented to the viewers with footage of the preparations for the trial as a documentary film. However, Rau does not differentiate between the theatrical performance and the film. For him, *The Congo Tribunal* “consisted of both a film and a theatre part.” (Rau, “New Realism”, 133). *The Congo Tribunal* can serve as a model for future trials in the Democratic Republic of the Congo; it is a “Vorleuchten einer Zukunft” (Tobler, 24) that Rau calls a “theatre of the real or also new realist theatre” (Rau, “New Realism”, 122), in which the most important thing is, “the reality of the moment of representation. What is real and what is not real at that moment?” (ibid.).

In her book *Theatre of the Real*, Carol Martin defines the theater of the real within a very wide frame. It includes “documentary theatre, verbatim theatre, reality-based theatre, theatre-of-fact, theatre of witness, tribunal theatre, nonfiction theatre, restored village performances, war and battle reenactments, and autobiographical theatre.” (5). For her, the theater of the real happens when the lines between the stage and the real world are blurred and it is no longer clear what belongs to the performance and what to real life. In *The Congo Tribunal*, the lines between theater and reality are blurred more than once: The director, Milo Rau gives an introductory speech before the tribunal starts

in which he emphasizes the fictionality of the tribunal; all performers on the stage play themselves; one of the Congolese ministers, invited as a witness, lost his position as a consequence of the tribunal. These are only some examples where reality breaks in the theatrical world of the theatre of the real in *The Congo Tribunal*.

In a different sense than Martin, Jacques Lacan describes the Real, which is part of the registers of psychoanalysis with the Imaginary and the Symbolic, in his *Seminars, Book XI* from 1973. To depict the connection between these registers, Lacan introduced the image of the Borromean Knot: A knot in which the constituents can not exist without the others. When one knot is untied, the others untie, too. This is why the Real can only be investigated together with the Symbolic and the Imaginary. However, for my purpose of examining the Real and Reality in Milo Rau's *The Congo Tribunal*, I will only briefly introduce the Symbolic and the Imaginary and focus on the Real. The Imaginary is the realm of images, the Symbolic the realm of language. Almost everything in our world, meaning in our reality, can be described with the help of images or language which relate to a referent but there are things excluded from representation and perception. This is the realm of the Real: "what cannot be represented, articulated, or interpreted but is present in a different way." (Biberman 716). As mentioned above, Rau attempts to do exactly this, to perform the unperformable, to represent the unperceivable, to show the Real. It shows in the very form of the tribunals as pre-enactments, in the trauma of the witnesses, and in the desire for justice that underlies the whole project.

This article focuses on the production of the Real and Reality in Milo Rau's *The Congo Tribunal*. Unlike Rau, I will make a distinction between the theatrical part and the film to explore if the Real and Reality change their meanings between the different forms of media. I argue that Rau's idea of trials against war crimes arises from a desire for justice. In his role as a film and theater director Rau can invite politicians, experts, and witnesses to a theatrical trial with amazingly honest testimonies because

it is precisely not legally binding, and none of the accused or the witnesses have a lawyer to defend their case (See: *Das Kongo Tribunal*, 2017, 21; 30). Rau stages a fantasy that is not likely to happen in the same way. However, he is able to install the theatrical trial as a model that opens up the hypothetical possibility that a trial like this could happen; to make it imaginable. Through repetition in the film, these kinds of trials he performs start to feel natural, and in 'becoming' natural, they become thinkable. Rau produces a theater of the Real in the sense of the scholar Carol Martin and he is able to represent the unrepresentable Lacanian Real.

In the following parts of this article, I will introduce *The Congo Tribunal*, then focus on the theatrical part as a pre-enactment and its meaning for the Real and Reality, and finally discuss what happens with the Real and Reality in the documentary film. After this, I hope to answer the following questions: Is the theatre of the real still real when it is reproduced as a documentary film? Is it the story of the filmmaker who staged a theatrical trial and needs the footage of the witnesses to give evidence and make the trial real? Or is it the story of the subjects whose real lives and problems are represented in the documentary film?

After a long research and preparation period, Rau and his team eventually staged *The Congo Tribunal* in the D. R. of the Congo and Germany in 2015, aiming to bring together perpetrators and victims of the Congo Wars. For this reason, the tribunal tried three exemplary cases. The *Banro* Case focused on the Canadian mining company *Banro* and its responsibility in the relocation and expropriation of people who lived close to their gold mine. In the *Bisie* Case, the emphasis is on the impoverishment of the population despite rich ore deposits around the village of *Bisie*. The *Mutarule* Case tried the massacre of *Mutarule* and investigated the lack of support by the government and the United Nations. The staged trials function as pre-enactments in revealing how a trial against those responsible for the murder and displacement in the D.R. of the Congo could look like in the future,

or in Rau's words, "Genau so' wie das Kongo Tribunal muss ein Gericht funktionieren, 'genau so' realisiert sich Gerechtigkeit." (Tobler, 25). The tribunal was not legally binding since it was theatrical: Judges, a jury of experts, and most of all witnesses, perpetrators, and victims of the crimes committed played themselves. Two years after the hearings, in 2017, the documentary film *The Congo Tribunal* premiered in Europe. The film includes the recordings of the staged trial, interviews with politicians and human rights activists in the D.R. of the Congo, and testimonies of the victims and perpetrators of the Congo Wars.

The decision to stage the tribunal in the D.R. of the Congo, the scene of massacres and exploitation of land and people, and in Berlin, the scene of the Congo Conference in 1884/85, highlights the impact the colonial past of Germany has on the contemporary crimes committed in the D. R. of the Congo as a consequence of this imperial past. What is the connection between the D.R. of the Congo and Berlin, given that the Congo is mostly known as a former Belgian colony? In November 1884, the German chancellor Otto von Bismarck invited representatives of the U.S., the Ottoman Empire, and the leading European powers, including Russia, to the Berlin or Congo Conference to discuss the freedom of trade at the rivers Congo and Niger and the division of Africa among the world powers. In the aftermath of the Congo Conference, the Belgian King Leopold III. took the vast area around the Congo basin as his private property, including the people living in this area. In 1908, after years of inconceivable exploitation, the international pressure on Belgium grew to convert the private property of the king to a regular colony (Nipperdey 2013; Conrad 2008). Eventually, in 1960 the Congo gained independence from Belgium, and decades of violent conflicts followed the independence. Since the early 1990s, civil and resource wars have taken about six million lives in the area.

The Congo Tribunal is a transmedial event. After the hearings in Bukavu and Berlin, the full hearings were made available online even before the film premiered in theaters in order to increase the range of potential audiences and to arouse interest in the film.¹ Additionally, most of the hearings, interviews, and analyses of the project were published as a book under the title *The Congo Tribunal*. Milo Rau stated about the theater tribunal and the documentary film.

“[E]s handelt sich um ein theatrales Tribunal, bei dem aber alles echt ist [...] gleichzeitig entsteht in dem Film etwas, das eigentlich dokumentarisch gar nicht darstellbar ist: ein Portrait der Weltwirtschaft, eine sehr konkrete Analyse all der Gründe und Hintergründe, die dazu führen, dass der Bürgerkrieg im Ostkongo seit über 20 Jahren nicht aufhört.” (IIPM, 8).

Before realizing *The Congo Tribunal*, Rau produced several documentary films, with many of them being based on theatrical tribunals. In May 2013, he staged the *Zurich Trials* in which the Swiss newspaper *Weltwoche* was symbolically tried to solve questions concerning the freedom of the press and anti-constitutional agitation against minorities. Also, in 2013, Rau and his team re-enacted the 2012 trial against artists and intellectuals in Moscow; however, the project’s participants did not just ‘replay’ what had happened, they “führten das auf, was in der russischen Wirklichkeit unmöglich gespielt werden kann.” (Bossart and Rau, “Warum es die Kunst gibt”, loc. 219). Older research on re-enactment focuses on the mere repetition of past events in the present time whereas more contemporary researchers like Erika Fischer-Lichte understand re-enactments as repetitions that are “niemals mit dem identisch [...], was sie wieder holen, d.h. leiblich ins Gedächtnis zurückholen. Sie tragen sich vielmehr selbst als Ereignisse hier und heute zu.” (13). In other words, re-enactments have a historical model but are performed with present knowledge and under the present circumstances and are therefore more than just a repetition of past events. They are their own events of reality. The

reality in re-enactments is often produced through documents and witnesses that give evidence about an event of the past making sense of it in the present. Martin uses the term, “recycle reality” (5) to describe what she calls “today’s addiction to and questioning of the real” (ibid.). The theatre of the real in the form of a re-enactment helps to navigate through the surplus of realities in the media and to make sense of the world in bringing reality on the stage. In opposition to the re-enactment of Rau’s *Moscow Trials*, the trial in *The Congo Tribunal* is supposed to be a pre-enactment.

Theatrical pre-enactments² want to “invent hypothetical scenarios, speculate about possible futures, and set out to experiment with fictitious time(s) and space(s) in order to gain insight into the present.” (Oberkrome and Straub, 9). They want to establish something new that was not there before and they create reality not only because of consequences or events in the future but also because they are real in the moment of representation – although these pre-enactments are theatrical. The verb “to enact” in its literal sense indicates “to make a bill into a law or to bring something into force” (ibid., 10), and can therefore be linked to “social developments and political phenomena of our contemporary world” (ibid.). This conception of pre-enactment is coherent with Rau, who not only wants to perform a staged tribunal. Rau wants his theater of the real to be an institution of reality in which a pre-enactment becomes reality in the future: “Was geschah also im ‘Kongo Tribunal’? Es wurden Realitäten in einem artifiziellen Rahmen geschaffen, den es vorher als Institution³ noch nicht gab.” (Rau, *General Assembly*, 16).

Robert Walter-Jochum states about *The Congo Tribunal*: “Die Teilnehmer_innen agieren, *als ob* es ein tatsächlich existierendes juristisches System gäbe, das ein faires Verfahren garantieren könnte, d.h. sie antizipieren eine solche Situation.” (169). It is this production of reality that makes Rau’s pre-enactment different from documentary theater, a designation he refuses to use: “[O]ur work is

different from documentary theatre in its traditional sense ... not a documentary theatre but, what I would call, the theatre of the real or also a new realist theatre.” (Rau “New Realism”, 122).

In the following, I will discuss why *The Congo Tribunal* as a (p)re-enactment⁴ has the ability to represent both the theater of the real and the Lacanian Real. As mentioned above, re-enactments and pre-enactments are different things. The first focuses on past events and attempts to recreate these.⁵ However, recent research concludes that “each repetition always implies deviations from the previous event and is decisively shaped by the present perspective” (Oberkrome and Straub, 10). The latter wants to stage hypothetical scenarios of the future⁶, as a “Vorbildhandlung, eine kontrollierte Vorführung von traumatischen oder faszinierenden [...] Vorgängen in der Realität.” (Bossart, “Milo Raus Theaterarbeit”, 1245). Despite this distinction, I argue with Adam Czirak et al. that *The Congo Tribunal* can be seen as both a pre-and a re-enactment (Czirak et al., “(P)Reenactment”, 201). One of the key features of (p)re-enactments is the break with the theatrical unity of space, time, and story, or, in Czirak’s words, “wo (P)Reenactments im Spiel sind, endet die Herrschaft der [...] [drei] Einheit-[en]” (Czirak, “Theater der radikalen Fiktionalität”, 41). This statement counters Rolf Bossart who writes in the introduction of the accompanying book to *The Congo Tribunal*, “es [ergab] sich, dass die Einheit von Handlung, Zeit und Ort, die die dramatische Grundregel des alten Theaters bildete, im Kongo Tribunal zu neuer Bedeutung kam.” (Bossart, “Schönheit des Rechts”, 9). I agree with Bossart at the level of place and story; still, the unity of time is not given in *The Congo Tribunal* when considered a (p)re-enactment, containing both a re-and a pre-enactment. *The Congo Tribunal* re-enacts the past through the investigations of Rau and his team, hearing witnesses, and national and international experts to pre-enact a possible future trial. Hence, pre-enactment and re-enactment are present at the same time in the theatrical part of *The Congo Tribunal*, for without reconstruction of the past, construction of the future was not possible. Without taking into account what has happened in the

past, what happens in the present, and imagining what could be in the future, the borders from reality to the Real are not crossed because it is this phantasy of what might be in the future, a certain desire or fear that cannot be described where the Real shows. To exemplify this, I will describe witness E, a former employee of the company *Banro* (Rau, *Kongo Tribunal*, 95). During his testimony, he is wearing a disguise not to unveil his identity and his voice is alienated. The witness' identity cannot be revealed for fear of actual retribution in the future because of his testimony about the past in a theatrical tribunal. This is where the Real shows. The impending punishment hovering above the appearance of the witness like a dark cloud at the borderline between the inside of the theater and the outside of reality (Žižek 15). The unity of time is not given in *The Congo Tribunal* because the Real only shows if possible consequences of the future are considered, as well.

According to Czirak, theater, like Rau's tribunals perform, "*alternative or utopian realities* in order to create an affective drive toward political change" ("*(P)Reenactments*", 202). *The Congo Tribunal* was, in Rau's own words, "our first try to have a direct impact on politics and on public opinion" (Rau, "New Realism", 133). The public should know what was going on, hence Rau made the marginalized people of the D.R. of the Congo visible in using the potential of a (p)re-enactment. In the opening speech, he states: "Es wird darum gehen, die Stimme jener hörbar zu machen und anzuhören, die nie gehört werden." (Rau, "New Realism", 55). The people of the D.R. of the Congo have the chance to look back to the exploitative states of Europe and North America and thereby become visible.⁷ As such Rau's *The Congo Tribunal* confirms Czirak's statement that (p)re-enactments have, "the potential to make marginalized positions visible and recognizable" ("*(P)Reenactments*", 203).

(P)re-enactments often use the original location of events to show the performance's connection and give a semblance of authenticity. This seemingly provides a more profound sense of what, in fact, happened. Staging *The Congo Tribunal* in the D.R. of the Congo, close to the scenes of

the massacres and the exploitation of the people living there, as well as in Berlin – the scene of the Congo Conference – emphasizes how urgent the tribunal is needed in order to give back a sense of justice to the people.⁸ This “immersion” (ibid.) in what has happened and where it happened is seemingly what Rau had in mind when he staged the tribunal in the D.R. Congo and in Berlin (Bossart, “Schönheit des Rechts”, 9). He wants to use the “place’s historical value” (Czirak, “(P)Reenactments”, 203) to connect the performance to the colonial past of the D.R. of the Congo which started with the Congo Conference and the division of the continent in 1884/85 in Berlin. This connection to the colonial past, the relation between the colonizer and the colonized, paints a bigger picture of a globalized world in which the gap between Africa and Europe, ‘Third’ and ‘First World’, becomes even more apparent. Rau describes this as a “‘global realism’ because I *am* in Congo” (Rau, “New Realism”, 134). The bodily presence of Rau, the European theater director at the site of imperial oppression, can be seen as another connection between Europe’s and the D.R. of the Congo’s imperial past, the present situation in the D.R. of the Congo, and the future, Rau wants to give a model for a trial.

On the level of a (p)re-enactment, the symbolic trial participants partake in a “premediation” (Grusin, 46). Richard Grusin coined this term to describe “that all possible scenarios of the future have already been mediated” (Oberkrome and Straub, 15). By filming the trial, publishing the hearings online, and including scenes of it in the documentary film, the legally binding trial that must come in the future will be a re-enactment of the pre-enactment by Milo Rau. What consequences will this have on future trials in front of national and international courts? In the sense of Grusin, the result is that the participants of the theatrical trial are prepared to go through a legally binding trial due to them being premeditated through the theatrical trial. The latter helps to “prevent the experience of a traumatic future” (Grusin, 46). Does the trial’s pre-enactment prevent the trauma of giving testimony

for its participants in *The Congo Tribunal*? According to Lacan, the trauma is part of the unrepresentable and unthinkable Real that shows only at the borderlines of reality (Lacan, 35). If the (p)re-enactment prevents future trauma for the witnesses and victims, it means that they go through a traumatic experience already in the theatrical trial. In speaking about the reality of the past, in giving testimony of what has happened, the witnesses perform a theater of the real in the sense of Martin where the lines between theater and reality are blurred. At the same time, they cross the line to the Lacanian Real that is indescribable. The trauma is there, in the theater in Bukavu but it is not within the symbolic or imaginary order, not tangible or describable, it is in the realm of the Real. If the staged trial shows the Real, and a future trial is a re-enactment of the pre-enacted trial that, according to Rau, has to be done “genau so” (Rau, “New Realism”, 25), then the participants do not have to go through the trauma again, and it prevents the traumatic experience as Grusin claims. The trauma of the witnesses described above is another example of the unrepresentable Real in the (p)re-enactment *The Congo Tribunal*. In the following, I will give an example of where the line between theater and Reality was blurred in the sense of Martin’s theater of the real.

Rau and his team went on a research trip in the area of Mutarule when they heard about the massacre. Arriving at the village shortly after the violent death of children and women, the devastated survivors asked them to record the dead bodies to give testimony about what had happened. The massacre was one of the three cases tried during the theatrical trial which represents a re-enactment of the past in reconstructing what has happened in Mutarule. However, the Mutarule Case also had actual consequences for the future since the Minister of the Interior, who did arrive late at the scene of the massacre, was dismissed after the theatrical trial – despite it not being legally binding. During the trial, he was asked why neither the police nor the military came to the village for help, and he responded: “Ich werde hier nicht erklären, warum sie nicht eingegriffen haben. Die Vorfälle fanden

in der Nacht statt. Ich weiß nicht, ob die Polizei zu dem Zeitpunkt des Überfalls überhaupt eingreifen konnte.” (Rau, *Das Kongo Tribunal*, 194). This confession did cost him his job. *The Congo Tribunal*, as a (p)re-enactment, portrays incidents of the past, which are discussed in the present and have consequences for the future. The consequence in the reality of the future was that the minister lost his governmental position. The dismissal of the minister that represents the theater of the real stands in contrast to witness E described earlier in the article who did not experience actual consequences. It is the fear of consequences that shows the Real during his testimony.

As explained above, the theatrical part of *The Congo Tribunal* as a (p)re-enactment has the potential to show the Real and at the same time represent the theater of the real. The following part of this paper will elaborate on reality and the Real in the documentary film.

What gives the recordings of the theatrical trial the semblance of depicting reality, is the embedment in the documentary film where victims, perpetrators, and politicians are filmed in their everyday environment. According to Dirk Eitzen, “the best documentary is the one that gives viewers the strongest sense of engagement with reality .” (100), and Rau is able to transport this “sense of engagement” through, “akribische Recherchen, detailversessene Nachstellungen, permanente Aktionsbereitschaft, Ergebnisoffenheit bis zum Schluss.” (Bossart, “Vorwort”, *Die Enthüllung des Realen*, loc. 142). In recording the theatrical tribunal and creating a documentary film around it, the ephemeral “reality of the moment of representation” (Rau, “New Realism”, 122) is perpetuated. Does the iteration of the film in the movie theaters or other venues extend the reality of the moment?

Elaborating on the thought that only “the reality of the moment of representation” (ibid.) is real leads to the question, whether this reality of the theater of the real can be depicted in the reproduction of the (p)re-enactment in the documentary film. In his famous and often quoted text *Das Kunstwerk im Zeitalter seiner technischen Reproduzierbarkeit*, Walter Benjamin states: “Das Hier und Jetzt des Originals

macht den Begriff seiner Echtheit aus.” (13) and he moves on, “die Umstände, in die das Produkt der technischen Reproduktion des Kunstwerks gebracht werden kann, mögen im übrigen den Bestand des Kunstwerks unangetastet lassen – sie entwerten auf alle Fälle sein Hier und Jetzt.” (ibid., 15). According to Benjamin, the reproduction of the original leads to a decline of *Echtheit*, authenticity, and eventually, the Real of the representation. What does that do to a work of art that was designed from the beginning to be reproduced as a film? Is it possible to transport the reality of the “Hier und Jetzt” through the film?

Referring to the film critic Richard Brody, Dirk Eitzen writes in his 2017 essay “The Duties of Documentary in a Post-Truth Society”: “Documentary is fundamentally about knowing things, including how we know them. Given that purpose, the first obligation of documentary filmmakers is not to make entertaining movies but to respect reality.” (Eitzen, 99). While this is certainly true, a documentary however still needs to be entertaining in some sense to bring the people to the theaters. The filmmaker Kitty Green follows this more pragmatic approach. To her, it is not an increase of knowledge that is foregrounded in her films; rather, the aim is to evoke the feeling of being connected to reality for the viewers, “any technique that works to foster a feeling of relating to reality is acceptable: storytelling, dramatization, music, whatever.” (Eitzen, 100). This statement seems to strangely resonate with Bernd Stegemann’s musings in *Lob des Realismus*: “Es lässt sich nicht mehr bestimmen was realistische Kunst ist und was gerade nicht [...] alles kann Ausdruck von Realität sein, wenn es der Kontext und die Rezeption so wahrnehmen wollen.” (56). The difference between Stegemann’s remarks on *Kontext* and *Rezeption* and Green’s notion of the “feeling of being connected to reality” is that the former is based on knowledge about reality while the latter is more diffuse. A diffuse feeling for reality cannot replace the knowledge about what reality is and what it is not.

Rau created a reality that lasted as long as the theatrical tribunal; but, as previously mentioned, in recording the tribunal and creating a documentary film, he also aims to transfer the theatrical reality into the reality of the future. In order to analyze this process, it will be necessary to find out whether the film is indeed a documentary and which and whose story the film tells.

John Grierson, a Scottish documentary filmmaker, defines documentaries as films with a “creative treatment of actuality” (qtd. in Nichols 6). Nichols elaborates that “‘creative treatment’ suggests the license of fiction, whereas ‘actuality’ reminds us of the responsibilities of the journalist and historian.” (ibid.). Later in the text, he modifies his first definition and states that “documentary films speak about actual situations or events and honor known facts; they do not introduce new, unverifiable ones.” (7). Given this definition, one might notice a problem with labeling *The Congo Tribunal* as a documentary since it portrays the development and performance of a theatrical trial which is supposed to be a real trial of the future to come. The film introduces something new that is precisely not verifiable since it depicts a (p)re-enactment which shows the Real but is at the same time staged and therefore fictional. In “New Realism and the Contemporary World”, Rau quotes Jean-Luc Godard’s statement about the reality of performance itself: “[R]ealism in theatre doesn’t mean that a reality is reproduced but that the reproduction itself becomes real in the moment of performance” (122). As mentioned above, Rau makes clear in the introductory speech that his performance is fictional but at the same time shows how the Real can be produced in theater and transported to a future reality with a film. Rau changes reality and undermines the film’s documentary status since “a documentary that distorts facts, alters reality, or fabricates evidence jeopardizes its own status as a documentary” (Nichols, 8). Quintessentially, in changing reality, Rau challenges his own claim to show reality in a documentary film. However, he never sees himself as a documentarist: “Wenn mich einige als Dokumentaristen bezeichnen, so basiert das auf einem Missverständnis.” (Bossart, “Warum es die

Kunst gibt", 208), but rather conceptualizes his theater as the "theatre of the real" (Rau, "New Realism", 122). Nevertheless, the film is labeled as a documentary in its press kit (IIPM, 5).

But in what sense did the film *The Congo Tribunal* alter reality? On the level of legal enforcement, the theater trial is not an actual one because it is not legally binding and therefore fictional. On the level of the theatrical performance, as a part of the documentary film, the recordings of the theatrical trial alter reality and create a new one. The claim to the reality that a documentary film per se creates is called into question. The film's scenes that show the theatrical trial do not depict reality in the sense of a documentary film because they introduce new, unverifiable facts. To understand how the film altered reality it maybe helps to come back to the question of which and whose story the film aims to tell. Is it the story of the filmmaker who staged a theatrical trial and needs the footage of the witnesses to give evidence and make the trial a theater of the real in the sense of Martin? Or is it the story of the subjects whose lives and problems are represented in the film? Or, in other words, is it the story of a theatrical, and in this case, fictional trial or of a non-fictional documentation of realistic, actual situations?

Elizabeth Cowie writes in "Recording Reality, Desiring the Real": "[F]iction denotes a genre or category that [...] is a narrative work of imagination" (23). The theatrical trial is fictional because it is staged but the issues tried in it did in fact, happen. "'Fiction' is thus a hybrid of the nonreal and the real, as an imagining of the actual." (Cowie 24). The claim that a film is non-fictional usually is made by filmmakers who emphasize that their recording of the world references reality. According to Cowie, "the truth of the nonfiction work arises not through being recorded reality, however, but through the arguments, it makes in presenting the statements of others – experts, witnesses, participants in the events" (26). If we understand the theatrical trial in the film as recorded reality, the testimonies of experts and witnesses who participated in the (fictional) event are also witnesses for the documentary

film's non-fictional character. According to Nichols, "the division of documentary from fiction, [...] rests on the degree to which the story fundamentally corresponds to actual situations, events, and people versus the degree to which it is primarily a product of the filmmaker's invention." (12). Following this distinction between fiction and documentary, at first sight, *The Congo Tribunal* (2017) seems to be more non-fiction than fiction. The actual situation of the people of the D.R. of the Congo is at the center of the film. On the one hand, the film is about their lives, their suffering, and the injustice they are subjected to. On the other hand, the people's situation is documented to support the truthfulness of the staged trial which is theatrical and needs the statements of its participants in their environment to give proof of their testimonies.

How does the documentary deal with these theatrical scenes? The film prepares the viewers for the tribunal, introduces the witnesses, experts, and politicians, reinforcing the credibility of the witnesses in the trial. In doing this, the first scene of the film is not set in the D.R. of the Congo but at the site of the hearings in Berlin; potentially because Berlin was the starting point in Africa's division in 1884. The first shot shows a deserted stage. On the stage to the left is a lectern, in the center a long table for six people, to the right is another, shorter table with space for four people set up. Three large banners with the title "The Congo Tribunal" are hanging above the stage. The rows of seats in front of the stage are empty. The scenery looks like a courtroom waiting to be filled with people. The next scene shows Rau and his team talking to the trial participants and giving last instructions before the trial begins. In showing the theatrical courtroom first, the film highlights that the focus is on the trial itself, not the individual fates of the people which are interchangeable.

The viewers have the first glimpse of the D.R. of the Congo only in the next scene. Rau and his team are the first camera team arriving at the location of a massacre in Mutarule in 2014 during a research trip to the Congo. Dead bodies are lying on the ground, most of them children and their

mothers. One woman cries out her anger: “[W]arum ist kein internationales Gericht da? Es kümmert niemanden.” (5:15)⁹. This is the buzzword for Rau: He cares, and he wants to stage an international trial. He speaks in a local radio show which informs the people in the D.R. of the Congo about his symbolic trial, and at the same time, the film informs and prepares the viewers of the movie about what the trial will be. After the radio show, the film shows aerial footage of the D.R. of the Congo; nature, small towns, and the largest gold mining area in South-Kivu. It seems as if Rau takes the viewers by the hand and brings them directly to the village of the later trial witnesses. The priest Zihahirwa Chakirwa, the former miner Mwendad Rukwabuka, and the peasant Laheri Kafabul recall their lives since *Banro*, the Canadian mining company, has relocated their village. The symbolic trial will repeat most of their testimonies. Showing them to the viewers before the trial in their everyday environment helps to support the truthfulness of their testimony, precisely in “fostering a feeling relating to reality” (Eitzen, 100). Any technique that supports the claim for truth in a documentary film creates a sense of reality.

The following part of the film shows conversations with politicians, the construction work on the stage, and introduces experts and judges.¹⁰ Twenty-one minutes into the film, the viewers see the staged tribunal in the D.R. of the Congo for the first time. The film’s organization works like an upside-down argument in which the examples to support the argument are shown before the respective testimonies are uttered. This leads to an identification of the viewers with the victims of exploitation and strengthens the feeling of the necessity for a trial to bring justice to the people. The first witness of the staged tribunal who speaks about his relocated village’s poor situation is the priest Zihahirwa Chakirwa. To bring a priest as the first witness to the stage strengthens the credibility of the testimony since priests are not supposed to violate the Eighth Commandment.

The viewers, up until then, have seen a non-fictional documentary film but with the recordings of the theatrical trial, fiction is embedded into the film. Still, Rau manages to make the viewers of the film forget that it is staged because they have heard and seen the same accusations of the witnesses brought up in the theatrical trial before in their everyday environment. The viewers recognize the witnesses and evaluate them as credible. Therefore, Rau shows reality and it does not matter that parts of the film are fictional because this fictionality is a model for the reality of the future.

This article investigated the Real and reality at the intersection of (p)re-enactment and documentary film in Milo Rau's *The Congo Tribunal* to examine whether Rau's assertion about making "the theater of the real" (Rau, "New Realism", 122) is valid in the sense of Carol Martin's theater of the real and Lacan's Real. The theatrical trial as a (p)re-enactment uses and is used by the film to prove its claim to reality; however, the (p)re-enactment embedded in the film alters reality and "jeopardizes its own status as a documentary" (Nichols 2010, 8). The film can no longer be labeled a documentary film but rather a "film of the Real" that shows what a legally binding trial of the future has to look like.

I have argued that Rau's idea of trials against war crimes arises from a desire for justice and he did choose a theatrical (p)re-enactment to produce not only a theater of the real but also to show the Real in the sense of Lacan. Showing the cruelties happening in the D.R. of the Congo produces feelings about injustice and the desire for change in the audience of the performance and viewers of the documentary film (Kolesch and Knoblauch, 252-253). The desire for the change of the world is what Rau wants to achieve with his tribunals: "An die Stelle der Kritik der Gegenwart tritt der symbolische Entwurf des Zukünftigen [...] man muss außerhalb der Herrschafts-Institutionen neue, utopische Institutionen vorbereiten, die dann da sind, wenn die aktuellen zusammenbrechen." (Rau, *General Assembly*, 12). For Rau, the new utopian institution is the theater in which he can show how

change can happen. What he is doing in *The Congo Tribunal* has never happened before; no one ever tried to bring together perpetrators and victims of the Congo Wars, including representatives of the multinational mining companies and politicians of the D.R. of the Congo. What he did could not be described with images or language, the Imaginary or the Symbolic, in the sense of Lacan. That is because the desire to change the world is located in the realm of the Real. According to Slavoj Žižek, the ability of human beings to have a fantasy that goes beyond reality creates desire (6). However, the fulfillment of this desire itself is not the Real, since as soon as a desire is fulfilled, it belongs to reality. It is “the reproduction of desire as such, with its circular movement.” (7) that fills, what he calls the “black hole” (8) of the Real. Man’s pursuit of satisfaction, whether it is a personal desire or, as in *The Congo Tribunal*, the desire for justice, a longing that can not be described with the realm of the Symbolic or the Imaginary, this is where the Real shows.

In its claim to the Real, it seems as if the (p)re-enactment and the film are interdependent and build upon each other to give a picture of the global connections between war, exploitation, and multinational companies. The perception of these connections and the fact that it is possible to have a trial in the D.R. of the Congo is what Rau wanted: “Machen muss es dann die Menschheit.” (Rau, *General Assembly*, 16).

- 1 <http://www.the-congo-tribunal.com/film.html>.
- 2 E.g. *Preenacting Europe*, Interrobang (2014); *Serious Games*, Harun Farocki (2009-2010).
- 3 The theater as an institution of justice.
- 4 In using the term *(p)reenactment*, I indicate both a pre-and a reenactment. Unless both are designated at the same time, I use the terms *pre-enactment* or *re-enactment*.
- 5 E.g. *Seven Easy Pieces*, Marina Abramovic (2005); *Battle of Orgreave*, Jeremy Deller (2001).
- 6 E.g. *Preenacting Europe*, Interrobang (2014); *Serious Games*, Harun Farocki (2009-2010).
- 7 To stress a term from feminist film studies, the *oppositional gaze* which fits here as well. Making visible marginalized groups on-screen by looking back (hooks, "The Oppositional Gaze").
- 8 Opposing the Russel or Vietnam Tribunal, which was held in Sweden in 1966.
- 9 Subtitles are in German.
- 10 The theatrical tribunal was led by Jean-Louis Glissen, an expert for international criminal law at the International Court of Justice in Den Haag and Sylvestre Bisimwa, a human rights attorney who also works for the International Court of Justice. The jury of experts consisted of human rights activists, the lawyer of a multinational mining company, an attorney for land law, and an Africa correspondent (*Das Kongo Tribunal* 2017, 13).

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