

## Imagining Scenes of Mass Atrocity from Afar

### Maps and landscapes at the International Criminal Court

#### 1. Point of departure

In an attempt to bring 'the judicial work of the Court closer to the most affected communities', Trial Chamber VI of the International Criminal Court (ICC) recommended to hold the opening statements of the *Ntaganda* case not in The Hague, the permanent seat of the Court, but in Bunia, in the Democratic Republic of Congo.<sup>160</sup> Mainly for reasons of safety and money, the ICC Presidency decided in the end to stick to the permanent basis and to refrain from holding local opening statements.<sup>161</sup> Contemplating the possibilities of bringing the trial closer to the affected communities reflects a response to the widespread and persistent criticism on the ICC being (too) far removed from the situations over which it rules and the lack of 'feet on the ground' of ICC staff members. On the other hand, it has been argued that distance from local social, political, and judicial dynamics facilitates the neutrality and impartiality of the court.<sup>162</sup> Either way, this does not mean that international criminal trials are void of local particularities; the far-away is always present in the ICC's courtrooms through different modes of representation (language, images, persons, maps, video etc.). Imagining the space where the crimes tried took place is not only important for an accurate description of the crime scene, but also crucial in the attempt of the court and specifically that of the Office of the Prosecutor (OTP) to affirm the groundedness of its work despite the sterile, distant, and rather abstract setting in which it is practiced. Considering holding opening statements in a local setting represents the need to bring the global into the local. The spatial awareness displayed in the trials held in The Hague illuminates, the other way around, the attempt to bring the local into the global.

One of the most tangible ways in which the local is brought into the ICC, is the through the use of maps.<sup>163</sup> When talking about a certain area, maps are the obvious objects used to visualize the

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<sup>160</sup> ICC, *the Prosecutor v. Bosco Ntaganda*, 'Recommendation to the Presidency on holding part of the trial in the State concerned', ICC-01/04-02/06, Trial Chamber VI, 19 March 2015, p. 11.

<sup>161</sup> ICC, *the Prosecutor v. Bosco Ntaganda*, 'Decision on the recommendation to the Presidency on holding part of the trial in the State concerned', ICC-01/04-02/06, The Presidency, 15 June 2015.

<sup>162</sup> G. Simpson, *Law, War and Crime: War Crimes, Trials and the Reinvention of International Law* (Polity, 2007). C.M. De Vos, 'Investigating from Afar: The International Criminal Court's Evidence Problem', *Leiden Journal of International Law* (2013) 26. See also M. Kersten, 'Is Local Icc Justice Necessarily Better Than Icc Justice?', *Justice in Conflict*, 13 August 2015, available at <https://justiceinconflict.org/2015/08/13/is-local-icc-justice-necessarily-better-than-icc-justice/> (last visited: 7 February 2017).

<sup>163</sup> Another very concrete way of bringing the local into the courtroom is the actual presence of members of the affected communities as witnesses or through victim representation, or by emphasizing their non-presence. For such

spatial dimensions of the story. In many ways, maps contribute to the processes of constructing a particular view on the events that are discussed in the courtroom. While references to space, place, and landscape might seem banal, insignificant, or taken for granted, a close reading of what is said and shown in court illuminates that these references are key in understanding how trial participants make sense of their own task and that of the court. Maps and their explanations not only describe ‘where it happened’ but also shape the story of what happened and how it should be understood and dealt with. This chapter studies the use of maps in the prosecution’s story in an attempt to shed light on their function in the narrative that is communicated beyond the technical and procedural details of the case on trial, and beyond the classical legal discussion of space in terms of territory and jurisdiction. Fixating location by way of showing maps reflects an attempt to enhance the truth-value of the legal story; roads and place names appear to be value-free and factual, enhancing authoritative distance. Simultaneously, maps are a way to bring the local closer, to make it more real instead of abstract. Through cartographic visualizations and accompanying stories about landscapes and movement, a sterilized courtroom setting can activate the imagination.<sup>164</sup> Spatial imaginaries can therefore contribute to the audience’s experience of the realness of the events and the local knowledge and groundedness of the speaker. In its appeal to truth, order, and imagination, the performance of maps in the courtroom is reflective of the ICC’s constant oscillation between the strange and the familiar; authoritative distance and local groundedness; the universal and the particular.<sup>165</sup>

However, maps are no innocent illustrations.<sup>166</sup> ‘The local’ is not an absolute external reality; the invocation of space is never objective.<sup>167</sup> Research in critical cartography and human geography has radically changed the view on maps as neutral communicative devices; the map is now considered to be a field of strategic choices and power relations.<sup>168</sup> Despite the extensive literature on maps and their relation to law and power, little attention has been paid to the use of

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direct references in opening statements see for example: ICC, *the Prosecutor v. Thomas Lubanga Dyilo*, ICC-01/04-01/06, Transcript 26 January 2009, opening of the Prosecution, p. 33-34; ICC, *the Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, ICC-01/04-01/07-T-80, Transcript 24 November 2009, opening of the Victim Representative, p. 45-46.

<sup>164</sup> S. Caquard, 'Cartography I: Mapping Narrative Cartography', *Progress in Human Geography* (2013) 37 136.

<sup>165</sup> See A. Philippopoulos-Mihalopoulos, 'Law's Spatial Turn: Geography, Justice and a Certain Fear of Space', *Law, culture and the humanities* (2011) 7 195. He notes that 'space forces law to question its ethics. Nowhere than in space is law's internal conflict between the universal (or, across geographical boundaries) and the particular (or, the material emplacement) more forcefully tested. The lack of certainty, direction, orientation, predictability, causality that space brings, shakes law's judgement, the certainty of legal decisions, the irreversibility of judgement, the causal link on which a judge relies.'

<sup>166</sup> J.B. Harley, 'Maps, Knowledge, and Power', in G Henderson & M Waterstone (eds.), *Geographic Thought-a Praxis Perspective* (Routledge, 2009), 129.

<sup>167</sup> D. Massey, *For Space* (Sage Publications, 2005).

<sup>168</sup> J.W. Crampton, 'Maps as Social Constructions: Power, Communication and Visualization', *Progress in Human Geography* (2001) 25 235; Harley (2009); Caquard (2013).

maps in the context of international criminal trials and hardly any specific rules on their use can be found in official ICC documents.<sup>169</sup> However, maps are frequently used, multifunctional devices at the ICC, which warrants scrutiny of their role(s) and the way in which they serve the particular narrative in which they are deployed. In this chapter, I argue that, even if maps are not intentionally used for argumentative purposes, they are used to persuade particular audiences of a certain interpretation of ‘the local’. Maps always tell something about the assumptions and goals of its makers and users. Invoking space and place is inextricably linked to the space and place of its invocation; what is told in court about the local also informs us about the place the court proclaims to occupy and thus about the way it conceives its own place in the world. The spatial references communicated by maps exemplify the court’s anxiety between being simultaneously universal and particular. When explaining the global, the prosecutor still resorts to references to the local.<sup>170</sup> In balancing the strive for abstraction and authority on the one hand and the display of local knowledge and closeness on the other, trial participants call on different levels of geographical background knowledge, revealing not only the trial participant’s perception of the local but also the different intended audiences of the spatial story.

In order to unravel the role of maps in bridging and distancing the local from the global (and vice versa) at the ICC, this chapter studies the use of maps and the accompanying descriptions of place, landscape, and movement in the opening statement of the prosecution; the practice that was in the *Ntaganda* case considered to be a suitable tool for bridging imagined and real spatial distances. The way in which the function of the opening statement is described as being a ‘roadmap’<sup>171</sup> and the prominent place of maps in recent ICC opening statements, marks its relevance to the scrutiny of conceptualizations of locality in international tribunals. The invocation of space is important to the construction of a narrative that attempts to bring the far away into the realm of a courtroom and crucial in the opening statement’s attempt to reach out to a wider audience. The following section briefly addresses the relation between maps and international law in general and flags the specific questions that arise when maps are used in international *criminal* trials and, more specifically, in their opening statements. The next section

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<sup>169</sup> Some information can be found in documents on visual aid, see for example: ICC, *the Prosecutor v. Lubanga*, ‘Decision on the Use of Visual Aid’, ICC-01/04-01/06, Trial Chamber I, 2 December 2008; ICC, *the Prosecutor v. Bemba*, ‘The Prosecution’s Submissions in Preparation for the Commencement of the Trial: Annex G’, 10 June 2010, available at [https://www.icc-cpi.int/RelatedRecords/CR2010\\_03997.PDF](https://www.icc-cpi.int/RelatedRecords/CR2010_03997.PDF) (last visited: 7 February 2017); ICC, *the Prosecutor v. Bemba*, ‘Registry Submission on the Feasibility Study of CaseMap Installation in the Courtrooms’, ICC-01/05-01/08/1004, Trial Chamber III, 8 November 2010, available at [https://www.icc-cpi.int/CourtRecords/CR2010\\_10359.PDF](https://www.icc-cpi.int/CourtRecords/CR2010_10359.PDF) (last visited: 7 February 2017).

<sup>170</sup> For example, by emphasizing local audiences and the wish to bridge distances in *Katanga*, opening of the Prosecution, p. 21 and 23.; *Bemba*, opening of the Prosecution, p. 33-34; *Lubanga*, opening of the Victim Representative, p. 68.

<sup>171</sup> Vasiliev (2012) 747; Tanford (2009); Powell (2001).

zeroes in on the use of maps in the ICC's courtrooms, with a focus on the *Ntaganda* case, and discusses three interrelated ways in which cartography is deployed in the story of the prosecution, namely for ordering, imagining, and appropriating the local. In an attempt to imagine and understand the local at the ICC, it is ordered into a simplified cartographic abstraction. However, in order to imagine and understand the meaning of this abstraction, it has to be translated into vivifying landscape descriptions. Moreover, these spatial imageries are created with a certain aim; maps and landscape descriptions are always appropriated in a way that fits the trial context and the particular narrative of the prosecution. The last section provides some concluding remarks.

## 2. Mapmakers and map readers

The map has always been a tool for people to make sense of space and place. Making and interpreting a map is a way to encounter unfamiliar territory, to assess ones environment, and to 'reduce the fear of the unknown'.<sup>172</sup> As Nikolas Rajkovic notes in a presentation on cartographic disobedience and international law: the 'first thing we do when we encounter an intellectual social problem is making a map, a conception of space', in this way our conception of space influences and is influenced by our production of knowledge.<sup>173</sup> Through abstraction and simplification, maps provide (an illusion of) certainty, and add a dimension of realness to the events.<sup>174</sup> If we can point to something in order to indicate place and time, it is (made) less fictional.<sup>175</sup> As if we say: 'here it happened, there is an identifiable location, thus it actually took place'. Furthermore, maps are said to be trusted and to 'connote authority',<sup>176</sup> which makes them particularly useful tools in a courtroom where presenting a persuasive and authoritative account of the events is the key activity of trial participants.

Obviously, legal proceedings require details on place and time, which are crucial to the indictments and arguments. But maps do more than that; they represent an attempt to direct space. Maps are never neutral but tell something about the one who makes, interprets or explains the map; '[t]o learn how to read any map', Truchi notes, 'is to be indoctrinated into that

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<sup>172</sup> P. Turchi, *Maps of the Imagination: The Writer as Cartographer* (Trinity University Press, 2011); A. Godlweska and G.J. Martin, 'Map', in JA Agnew & DN Livingstone (eds.), *The Sage Handbook of Geographical Knowledge* (Sage Publications, 2011), 358.

<sup>173</sup> N Rajkovic, 'Cartographic Disobedience', The International and Comparative Law Center (ICLC) at Mississippi College School of Law, 31 March 2014, available at <http://iglp.law.harvard.edu/network-news/cartographic-disobedience-nikolas-rajkovic/> (last visited: 7 February 2017).

<sup>174</sup> When talking about maps, the line between reality and fiction is necessarily vague, as Caquard notes, in line with postcolonial perspectives, 'mapping the world is as much about mapping reality as it is about mapping fiction.' Caquard (2013) 140.

<sup>175</sup> Pointing to where 'it' happened also occurs frequently in visual representations of ICL, for example in documentaries that include footage of the local crime scenes.

<sup>176</sup> M. Monmonier, *How to Lie with Maps* (University of Chicago Press, 1991), 87.

mapmaker's culture.<sup>177</sup> A map is the product of a set of particular choices about what to show and what not to show; what to highlight and what to ignore. Indeed, geographical representations 'reveal as much as they conceal'.<sup>178</sup> This is what Monmonier calls the 'cartographic paradox': a map has to be selective in order to be clear and meaningful without obscuring critical information by being exhaustive; it *must* distort reality in order to be useful, it has to lie in order to be truthful.<sup>179</sup> A map is thus functionally manipulative. A telling example of the multiple interpretations of space and the contested nature of its translation into maps unfolded during the opening statements in the *Gbagbo and Blé Goudé* case before the ICC. The large pro-Gbagbo audience that was following the opening from the public gallery loudly disapproved of the prosecution's explanation of the map of Ivory Coast; one visitor commented to the prosecutor's geographical knowledge by exclaiming 'where did you go to school?',<sup>180</sup> which shows how maps and knowledge do not form a neutral one-to-one relationship, and the use of maps can build as well as undermine authority.

That maps are not neutral is particularly well illustrated by studies to the relation between maps and international law. Postcolonial theorists have emphasized how the rise of the nation-state, imperialism, and the development of cartography are inextricably intertwined.<sup>181</sup> It is easy to see how international law's key concept of sovereignty is strongly endorsed by cartographic representation. Not surprisingly, maps are prominently used in the International Court of Justice, where territorial disputes dominate the agenda. Traditionally, the position of international courts towards the use of maps as actual evidence has been one of cautiousness; Judges have been very much aware of the political character of maps and the International Court of Justice has explicitly questioned the neutrality of maps.<sup>182</sup> At most, maps are regarded as hearsay or corroborative evidence.<sup>183</sup> For example, in *Burkina Faso v. Mali*, the court argued that maps are 'merely extrinsic evidence which may be used, along with other evidence, to establish the real facts. Their value

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<sup>177</sup> Turchi (2011). See also Godlweska and Martin (2011) 359.

<sup>178</sup> Philippopoulos-Mihalopoulos (2011). Similarly, Turchi notes that '[m]aps are defined by what they include but are often more revealing in what they exclude.' Turchi (2011).

<sup>179</sup> Monmonier (1991).

<sup>180</sup> Field observation by author, 28 February 2016, opening of *The Prosecutor v. Laurent Gbagbo and Charles Blé Goudé* at the International Criminal Court, The Hague.

<sup>181</sup> T. Mahmud, 'Geography and International Law: Towards a Postcolonial Mapping', *Santa Clara Journal of International Law* (2007) 5 19; Harley (2009).

<sup>182</sup> H.K. Lee, 'Mapping the Law of Legalizing Maps: The Implications of the Emerging Rule of Map Evidence in International Law', *Pacific Rim Law and Policy Journal* (2005) 14 164.

<sup>183</sup> However, Lee (2005) also notes that there are signals of a changing relation between maps and international courts, who increasingly rely on the evidentiary value of maps, in line with domestic map policies in for example the US and Australia.

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depends on their technical reliability and their neutrality in relation to the dispute and the Parties to that dispute; they cannot effect any reversal of the onus of proof.<sup>184</sup>

The International Court of Justice's cautious approach to maps is understandable in light of the nature of the dispute; to agree on the map would be to settle the case. In international *criminal* law (ICL) however, the function and status of maps in the courtroom is much more unclear. Maps in ICL are not evidencing disputed territories and boundaries, or at least those disputes over area are not the central focus of international criminal cases. Of course, borders do play a role in establishing the international or non-international character of a conflict, and the seizing of property can amount to a war crime, but in general geography is taken as a given and merely forms the background to the alleged crimes that are on trial. Still, maps might count as 'demonstrative evidence', helping to locate witnesses and to identify the places that are referred to during the trial.<sup>185</sup> Maps can be annotated by witnesses during examination, and the annotated maps usually enter the court records as evidence. More often than not, there seems to be agreement on the evidentiary value of maps and not many maps are subject of extensive disputes between prosecution and defence; sometimes, they are even explicitly requested. Similar to the ICJ judges, a preference for 'neutral' maps also appears from for example the *Katanga and Ngudjolo* case. In this case, the defence's request for the prosecution to provide a map was endorsed by Judge Cotte who mentioned:

So there was a whole series of names, names of streams, names of hills, names of localities, if they could be shown on a detailed map of some type that everyone could agree to, I think we could do our work much better. (...) It may not be possible to have a perfect map, but if we could have some kind of proper map, we would definitely be very pleased.<sup>186</sup>

By requesting a map that 'everyone could agree to', the wish is uttered to create a shared spatial reality. At the ICC, there apparently is a need for agreement on geography as a background to the case. But while the political or manipulative character of maps is implicitly recognized in this

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<sup>184</sup> ICJ, *Case Concerning the Frontier Dispute (Burkina Faso v Republic of Mali)*, 22 December 1986, Summary of the Judgment, available at <http://www.icj-cij.org/docket/index.php?sum=359&p1=3&p2=3&case=69&p3=5> (last visited: 7 February 2017).

<sup>185</sup> See for example ICC, *the Prosecutor v. Bosco Ntaganda*, ICC-01/04-02/06, Transcript 25 September 2015, examination of witness, p. 81; *Ntaganda*, Transcript 18 September 2015, examination of witness, p. 47-48; *Lubanga*, Transcript 25 March 2009, examination of witness, p. 53-54, 75; *Lubanga*, Transcript 3 February 2009, examination of witness, p. 32-35; *Bemba*, Transcript 15 March 2013, examination of witness, p. 7-9; *Katanga*, Transcript 5 April 2011, examination of witness, p. 7.

<sup>186</sup> *The Prosecutor v. Katanga and Ngudjolo Chui*, Transcript 5 September 2011, p. 47.

request for agreement, the absence of real disputes over maps in ICC courtrooms shows that the threshold is low.

That maps are mainly regarded as useful neutral tools for locating events also appears from the ICC's 'E-Court Protocol', that defines the type of document called 'map' as follows: '[a]ny document representing the layout of a location, including clear sketches that indicate a geographical location.'<sup>187</sup> The court distinguished 'maps' from 'sketches', a sketch being '[a]ny draft of any object / person / location which is not clearly a map.' The OTP usually discloses in advance what type of documents they will use as potential evidence or as 'visual aids', and maps and their sources often find their ways on those lists. Google Earth is a common source, as are maps produced by the French Institut Géographique National.<sup>188</sup> The OTP makes use of the software 'CaseMap' to produce cartographic documents that are used in trial or as annexes to arrest warrants.<sup>189</sup> Also for the opening statement, maps are categorized as visual aids and usually disclosed and approved of in advance.<sup>190</sup> However, the status of the map in the opening statement is even more ambiguous; what is said and shown in this phase of the trial is often labelled to be entirely non-evidentiary, which is also repeated by the presiding Judge in *Ntaganda*.<sup>191</sup> Despite this non-evidentiary character, or perhaps because of it, the opening statement is the most prominent moment of map usage. One could argue that these maps are indeed deployed as geographical background to the case, setting the scene, to give a sense of space. However, as appears from the analysis of the *Ntaganda* case below, maps shown in court are also a central part of the story. Physical maps and an accompanying explanation of movements and events on that map contribute to the construction of a *mental* map, and their invocation thus reflects an attempt to have others inhabit a certain version of how things are and how situations evolve in time and space.<sup>192</sup> To set the scene means to decide what the scene looks like; as such, maps are part of the argument. The study of maps thus shows the perspective of the

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<sup>187</sup> *The Prosecutor v. Thomas Lubanga Dyilo*, 'Technical protocol for the provision of evidence, material witness and victims information in electronic form for their presentation during the Trial', Registrar Submission, ICC-01/04-01/06-1263-Anx1, 19, available at [https://www.icc-cpi.int/RelatedRecords/CR2008\\_01599.PDF](https://www.icc-cpi.int/RelatedRecords/CR2008_01599.PDF) (last visited: 8 September 2016).

<sup>188</sup> See note 169.

<sup>189</sup> For example: *The Prosecutor v. Jean-Pierre Bemba*, 'The Prosecution's Submissions in Preparation for the Commencement of the Trial: Annex G', 10 June 2010, available at [https://www.icc-cpi.int/RelatedRecords/CR2010\\_03997.PDF](https://www.icc-cpi.int/RelatedRecords/CR2010_03997.PDF) (last visited: 7 February 2017)

<sup>190</sup> *Lubanga*, 'Decision on the Use of Visual Aid'.

<sup>191</sup> *Ntaganda*, Transcript 2 September 2015, opening words of Judge Fremr, p. 10. See also Chapter 1, section 3, p. 23.

<sup>192</sup> See J.S. Migdal, 'Mental Maps and Virtual Checkpoints: Struggles to Construct and Maintain State and Social Boundaries', in J.S. Migdal (ed.), *Boundaries and Belonging: States and Societies in the Struggle to Shape Identities and Local Practices* (Cambridge University Press, 2004), 7. According to Migdal, mental maps are never objective representations of what spaces and places look like, they 'incorporate elements of the meaning people attach to spatial configurations, the loyalties they hold, the emotions and passions that groupings evoke, and their cognitive ideas about how the world is constructed.'

one who makes the map and the one who explains the map,<sup>193</sup> and can therefore shed light on, in this case, the prosecutor's assumptions about, and production of, the local.

### 3. On your screen is a map<sup>194</sup>

The trial of Bosco Ntaganda opened on 2 September 2015 at the ICC in The Hague. The former Deputy Chief of the General Staff of the Force Patriotiques pour la Libération is accused of 13 counts of war crimes and 5 crimes against humanity, allegedly committed in a province of the Democratic Republic of the Congo (DRC), Ituri, in 2002-2003.<sup>195</sup> In the *Ntaganda* opening statement, the prosecutors use multiple maps. All courtroom participants can see the maps in front of them on their individual screens. The images displayed on these screens are also shown on multiple screens in the public gallery and are included in the live-stream that is accessible through the ICC website. As mentioned above, maps are necessarily selective, and one needs to consider their purpose and presumed audience to understand what it means to use a particular map in a particular setting.<sup>196</sup> In the ICC courtroom, maps are read and explained by the prosecutor. These explanations range from battle strategies to rather poetic descriptions of scenery and landscape. This section sets out three different yet highly interrelated ways (ordering, imagining, and appropriating the local) in which maps are used by the prosecutors, and discusses how these maps are central to the story that the OTP wants to bring across in the *Ntaganda* opening statement.

#### 3.1 Ordering the local

The majority of the maps used in *Ntaganda* order stories about chaotic violent attacks. The movement of fleeing civilians and hunting soldiers is depicted by lines and arrows that move on a rather simple and vague map; a grey square with some white lines (rivers, roads?), white areas (height differences?) and place names. Not very much context is given: no scale, no legend, and no indication of the geographical embedment of this particular cut out. The lines could be rivers, trade routes, or cycling paths for that matter. Choices about the inclusion or exclusion of such features are part of the specific story in which these maps are embedded.<sup>197</sup> In this case, more important than communicating the exact geographical location and its spatial features seems to

<sup>193</sup> Monmonier (1991).

<sup>194</sup> *Ntaganda*, opening statement of the Prosecution, p. 17-18. See also, *Katanga and Ngudjolo Chui*, opening statement of the Prosecution, p. 23, 33-37; *Lubanga*, opening statement of the Prosecution, p. 8-11; *Bemba*, opening statement of the Prosecution, p. 28; ICC, *the Prosecutor v. Ruto and Sang*, ICC-01/09-01/11-T-27, Transcript 10 September 2013, opening statement of the Prosecution, p. 21-22.

<sup>195</sup> At the time of writing, the *Ntaganda* trial is still ongoing. For more information on the case, see <https://www.icc-cpi.int/drc/ntaganda> (last visited: 7 February 2017).

<sup>196</sup> D. Rushworth, 'Mapping in Support of Frontier Arbitration', *IBRU Boundary and Security Bulletin* (1999) 153.

<sup>197</sup> Also referred to as its metanarrative, or second text. Harley (2009).

be the way in which it orders the specific actions that are on trial. The maps provide the surface on which movement is represented, dramatized by brightly coloured arrows.<sup>198</sup> The arrows and dots are explained as follows:

The first location they attacked was Pluto. On your screens it's a village from the north. As the UPC advanced, the civilians who could escape fled south towards Mongbwalu. As they were running for their lives they could see UPC soldiers slaughtering those left behind too weak to escape.<sup>199</sup>

Civilians are represented by blue arrows, the Union des Patriotes Congolais (UPC) soldiers are represented by orange arrows. In describing the attack on Pluto we see a blue arrow moving downwards, after which this line is from top to bottom overridden by an orange line until nothing of the blue is left (figure 1).<sup>200</sup> The implied story is clear: the victims flee, but are caught and slaughtered by the soldiers. The ‘neutral’, abstract, and simplified depiction on the screen enforces a very specific interpretation; the blue line turning orange emphasizes that there was no room for escape.

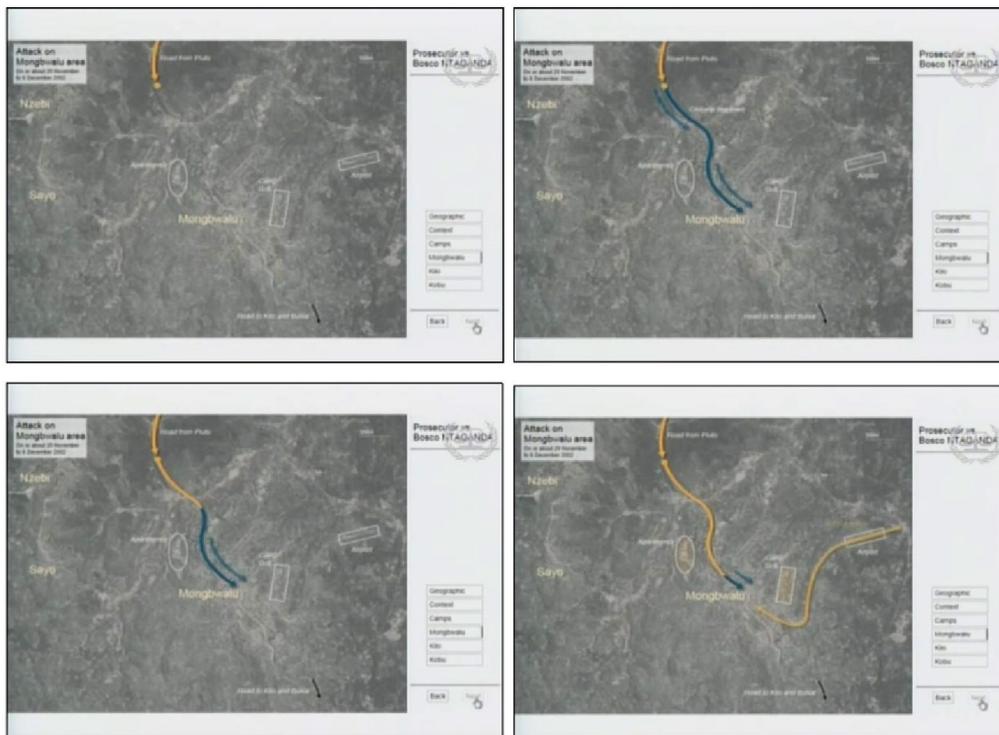


Figure 1 Attack on Pluto. Stills from the trial registration of the opening statement of the prosecutor in Ntaganda.

<sup>198</sup> See Monmonier (1991) 107 ‘Few map symbols are as forceful and suggestive as the arrow.’

<sup>199</sup> Ntaganda, opening statement of the Prosecution, p. 39.

<sup>200</sup> The quality of the screenshots of the maps taken from the trial registration is quite low. However, the real-time display of these maps in the courtroom had a similar low quality.

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A similar map visualizes the attack on Mongbwalu, which is described as follows:

The UPC attack against the civilians caused the forcible transfer of the population out of the area. Women, men and children fled from Mongbwalu south through the bush to the Walendu-Djatsi area. Others escaped from Mongbwalu to Kilo, Sayo, or Nzebi.<sup>201</sup>

And later, smaller attacks on towns along the two roads connecting Mongbwalu and Bunia are visualized and described:

This next slide zooms into the area between the two roads. After the successful takeover of the main villages in the area, which they took first, Lipri, Bambu, Kobu, civilians were pushed further into the dense and hilly bush terrain in the centre.<sup>202</sup>

The map cleans up a story of conflict; it schematizes a chaotic situation that is difficult to grasp. It adds a suggestion of clarity, neutrality, and mappability to the rather emotional story, making it more suitable as evidence in the courtroom.<sup>203</sup> The maps in *Ntaganda* describe action; the map and arrows represent not only the where but also the when and the how. The story inscribed by the dots and arrows makes the map into an ordering device for both time and space. The type of story told at the ICC is one of conflict, and the ordering of the case by way of maps and arrows makes sense in light of the strong relation between cartography and the battlefield.<sup>204</sup> The ICC maps are remindful of military maps in their rather schematic depictions of route and terrain. In war, maps are ‘assemblages of knowledge’ that are used as weapons of war (tactics, movement), inventories (resources), and geopolitical intelligence (allegiances and enemies, strength and weaknesses).<sup>205</sup> Maps are ‘trusted’ as tools for explaining battle plans and military moves.<sup>206</sup> The maps displayed in the *Ntaganda* case represent the OTP’s interpretation of an, allegedly criminal, military strategy. The presentation of the attacks in the form of a schematic map makes use of a recognizable and accepted military style to bring across the OTP’s interpretation of the situation. However, it is a specific simplified reading of what happened that has no military purpose but is

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<sup>201</sup> *Ntaganda*, opening statement of the Prosecution, p. 39. For similar references to the bush, see also *Bemba*, opening statement of the Victim Representative, p. 47; *Katanga*, opening statement of the Prosecution, p. 24.

<sup>202</sup> *Ntaganda*, opening statement of the Prosecution, p. 48. For a similar description plus map visualizing the entrapment of civilians see *Katanga*, opening of the Prosecution, p. 23-24, 36.

<sup>203</sup> On the translation of emotional stories of suffering into the more rigid courtroom story, see also Chapter 4.

<sup>204</sup> Harley (2009) 134.

<sup>205</sup> G. Toal, 'Battlefield', in JA Agnew & DN Livingstone (eds.), *The Sage Handbook of Geographical Thought* (Sage Publications, 2011), 219.

<sup>206</sup> Harley notes: '[i]n newspapers, on television screens, and in innumerable political cartoons, military leaders are frequently shown in front of maps to confirm or reassure their viewers about the writ of power over the territory in the map. Map motifs continue to be accepted as geopolitical signs in contemporary society.' Harley (2009) 139.

deployed in service of a criminal case and the selective story of the prosecutor. Maps meant to explain military strategy are usually presented *before* the battle takes place; in court, the maps attempt to capture what happened retroactively. Both simplifications have different purposes.

The binary coding of mobility in these ICC maps serves a story that clearly distinguishes victims from perpetrators, the good from the evil, the innocent from the guilty.<sup>207</sup> The innocent civilians have to run, flee, escape, hide and get trapped. The perpetrators hunt, capture, overrun, and encircle. The OTP's mapping exercise is more than a tool for developing a coherent presentation of evidence. It means owning the situations. The one who makes the map can decide on what is revealed and what is concealed. Maps purposefully manoeuvre the chaos of conflict into the ordered framework of ICL; a clean, simplified map of the area with dots, arrows, and demarcations structures the movements of perpetrators and victims and translates messy situations into a narrative with fixed contours. This suggestion of clarity supports a claim on authority and applicability of ICL to a certain situation. The simplified narrative is, conform the proceedings, presented as 'the truth.'<sup>208</sup> Coming from a courtroom, it is presented to the outside world as an authoritative story. The translation of this story into a map comprises the conflict and imposes a narrow story on a region. The map as an accepted form of ordering space authorizes a version of reality that is abstracted and objectified through its cartographic representation. In this way, maps confine the spatial imagination of the audience.

### 3.2 *Imagining the local*

However, maps do also stimulate imagination. In his work on topographies in literature, Joseph Hillis Miller speaks about how references to geographical features aim at giving verisimilitude, believability, to a story.<sup>209</sup> The ICC's cartographic introduction of the far away strives for a similar verisimilitude, to provide grounding for the prosecutor's story. References to space and place appeal to the senses and endorse the vividness of the experience of the events on trial. As the previous examples show, the a-specificity of the maps is usually accompanied with a story that dramatically addresses how the specificities of the environment are intertwined with the unfolding of the alleged crimes. The next example from the OTP's opening statement in the *Katanga and Ngudjolo* case displays the common combination of a schematic map of an attack and an almost poetic description of the scenery:

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<sup>207</sup> *Ntaganda*, opening statement of the Prosecution, p. 40. On this binary portrayal, see also Chapter 5.

<sup>208</sup> On the notion of 'truth' in the ICC context, see Chapter 4.

<sup>209</sup> J. Hillis Miller, *Topographies* (Stanford University Press, 1995).

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The village was surrounded. There was perfect synchronisation as you can see on the screen. In yellow, you have the FNI troops, and in orange, to the south, you have the FRPI troops. Once the objective of wiping out Bogoro was successful, Ngudjolo and Katanga met up with other commanders of the FNI and the FRPI at the village centre. It was possible to see dead bodies of civilians. The commanders and fighters of the FNI and FRPI celebrated victory in the shadows -- in the shade of the mango trees while the massacres and pillaging continued. This attack wiped out Bogoro from the map.<sup>210</sup>

Here, a map with arrows that depict two sides of a conflict is attached to a story of the celebration of death in the shade of the mango trees. The peaceful landscape is contrasted with the violence. Where maps sterilize space for purposes of clarity, depictions of the geographical location by way of describing landscapes or displaying photos and videos of the ‘crime scene’ contribute to the vividness of the account and, thus, the vividness of the mental map it aims to construct. In mental maps, the landscape is inextricably interwoven with the events it represents,<sup>211</sup> and in this particular story the landscape is inscribed with danger and violence.

In the very first lines in the *Ntaganda* case already, the prosecution engages with a process of inducing spatial imagination. Chief Prosecutor Fatou Bensouda opens the case by zeroing in on a personal story of one victim who went to a meeting point on a hill where peace talks were supposed to take place. On that hill, he got trapped, had to flee, and lost his family.<sup>212</sup> The description of space, landscape, and movement within that setting is an essential part of the story. Surely, describing the top of the hill as a strategically chosen meeting point is important for the argument that the OTP brings forward about the existence of a criminal common plan to wipe out a specific group. But taking this particular example as the opening of the case is more than a mere introduction of that argument, it also reveals the symbolic value of this particular story with these particular spatial features. The OTP explicitly deploys the spatial features of the scene because they illustrate its main point of deliberately targeted innocent civilians; the hill symbolizes the trap, the inescapability, the vulnerability of the victims. The prosecutor further explains how this victim’s search for his family led him to a banana field in the village of Kobu ‘where the trees had been cut. Amongst these trees were many bodies.’ This evokes a vivid image of a banana field which turns into a centre of violence and death. This field, and the adjacent Hotel Paradiso,

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<sup>210</sup> *Katanga*, opening statement of the Prosecution, p. 37-38.

<sup>211</sup> Hillis Miller (1995) 6.

<sup>212</sup> *Ntaganda*, opening statement of the Prosecution, p. 11.

form a red thread throughout this opening story of the prosecution.<sup>213</sup> Obviously, the prosecutor deploys the strong mental picture of the banana field and the irony of the name of the hotel not only as a 'neutral' facts of the crime scene but also in order to emphasize and animate in a rather literary way the story of brutal intrusion of an innocent village. A recurrent reference to the bringing home of the bodies and the burial in a field by the witness's house makes the pain of the victims tangible, and the importance of the familiar concept 'home' emphasizes the intrusion of their daily lives, portraying the local as familiar yet unsafe.

After this personalized spatial story, senior trial lawyer Nicole Samson proceeds with the prosecution's opening statement. She zones out to present the broader picture and introduces the maps described in the previous section. The explanation of the attacks through abstracted maps and arrows familiarizes the audience with the geographical set-up and the relevant names and places. The accompanying stories assign emotional value to the maps and bring the audience from abstraction back to imagination. The abstract cartographic representation is a prerequisite to the further visualization of the village where the crimes took place. After the introduction of the maps, a photographic presentation of the crime scene is presented. Samson explains:

I'll now present a visual of Sayo, the village itself, which was taken for the purpose of the forensic mission. It will allow you to walk through Sayo village and see some of the village landmarks that the witnesses will refer to, including the health centre, the church and the exhumation sites.<sup>214</sup>

Here, Samson points to a very clear function of including spatial clues: we need to be able to see (in real or in our minds) what the scene referred to in the courtroom looks like in order to understand what the trial is about. Without any explanation, the images of Sayo are, like the maps, not so spectacular; a road of red clay, a few small houses, some plastic chairs, drying sheets, trees, and hilly surroundings. The visual presentation could have told us many different stories about the Congolese village but Samson inscribes the landscape with the story of violence:

Here is Sayo's main street and you can see the structures along it. On the right is the Sayo health centre with a round white sign where dozens of people were killed. We continue down the main street towards the school area and the church. This is the

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<sup>213</sup> In *Ntaganda*, the prosecutors revoke the banana field multiple times in the opening statement of the Prosecution, on p. 12, 25, 27, 50-55.

<sup>214</sup> *Ntaganda*, opening statement of the Prosecution, p. 44-45.

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school area. And we now get to an area where the Prosecution exhumed one grave containing five bodies.

(...)

We now continue on the main road to the Sayo church. You can see the church in the distance. This is the church where people were killed as I described earlier. On the right of the church and behind it, you can look down into the town of Mongbwalu. Further down, further down to the left of the church, experts exhumed another body.<sup>215</sup>

Because the maps were introduced first, the places sound familiar when Samson talks her audience through the visuals. The mentioning of the view on the town of Mongbwalu refers back to a previous introduction of this town as the headquarters of brutal militias, emphasizing the vulnerable position of the church, right in the line of fire. The arrows on the previously shown maps have pre-set the audience's focus on seeing the village as a route of occupation and escape. This relates to the exploratory function of maps; as Godlewska and Martin note, 'the unnamed and unplaced remain mysterious to us. It is only when phenomena are named and placed that we can begin to discern them and to explore their relations with other designated and situated phenomena.'<sup>216</sup> In the *Ntaganda* opening statement, the maps that were shown before the photos of the village, foregrounded and shaped the lens through which we see the visual presentation; we walked this way before, we know what happened. The audience gets to know the crime scene schematically by way of the map first, and then Samson shows us what it 'really' looks like. The particular introduction of the local as a battlefield affects the light in which the roads, buildings, and place names are seen and interpreted.

To look at the function of maps in the opening narrative in terms of imagination and identification, is to look at the targeting or making of an audience. The beginning of a story needs to combine the familiar with the novel,<sup>217</sup> and the way in which prosecutors help the audience to localize and identify with their story reveals whom they assume their audience to be and what they think the background knowledge of that audience is.<sup>218</sup> From the invoked spatial references that situate the conflict can be deduced that the audience to which the opening statement is directed is often not primarily the local community. Clearly, the intended audience for the maps and visual presentation in *Ntaganda* is a non-local one. The explanation of the maps is targeting

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<sup>215</sup> *Ntaganda*, opening statement of the Prosecution, p. 45.

<sup>216</sup> Godlewska and Martin (2011) 358.

<sup>217</sup> Said (1975); Koskenniemi (1999). See also chapter 2.

<sup>218</sup> These spatial references not only reveal who the targeted audience is but also appeal to that audience as the court's source of legitimacy; in a way, calling on such an audience constitutes the audience to whom and on whose behalf the trial participants speak. See Tallgren (2014); Corrias and Gordon (2015).

an audience that was unfamiliar with the place before, and now gets to know the village through the strict lens of the violent narrative told by the prosecutor. Consider the following ‘spatial story’<sup>219</sup> in the *Ntaganda* opening statement, where the senior trial lawyer describes the region where the alleged crimes took place:

The crimes charged occurred in the Democratic Republic of Congo in the province of Ituri. Ituri lies in the northeast of the DRC bordering Uganda. Rwanda is southeast of Ituri. The capital of Ituri is Bunia. Ituri is divided into five territories, Mambasa, Irumu, Djugu, Mahagi and Aru. Each of the five territories is further subdivided into collectivities. To give your Honours a sense of the size of Ituri, it's over 65,000 square kilometres. That's roughly the size of The Netherlands and Belgium put together.<sup>220</sup>

The reference to the size of Ituri as roughly the size of The Netherlands and Belgium shows a particular understanding of what would be a logical point of reference for the Judges, who are taken to be more familiar with these European countries than with the geographical features of Ituri. This makes sense, the court being located in The Netherlands. However, an alternative geographical embedment of the story would make more sense if the statement was, as is often claimed, also directed to the affected communities.<sup>221</sup> An interesting example that addresses the heterogeneity of the audience comes from the victim representative in the *Bemba* case. In his opening statement, the representative describes the location of Central African Republic (CAR) as follows:

The Republic of Central Africa is also little known. Today it is difficult to have someone understand where the Central African Republic is located. Sometimes you have to say

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<sup>219</sup> De Certeau describes map as spatial stories and notes the map-like qualities of oral descriptions of space and place. M. De Certeau, *The Practice of Everyday Life*, trans. S Rendall (University of California Press, 1984), 118.

<sup>220</sup> *Ntaganda*, opening statement of the Prosecution, p. 17-18. Similarly, in their opening statement in *Katanga*, the defence notes: ‘Bogoro, as we heard from Mr Ocampo this morning, is a village in Ituri, a province in the east of Congo, bordering Uganda. You can pass through the village of Bogoro in a couple of minutes. It's a tiny place. I was, therefore, surprised when I first came into this case - and I was in London - and I turned to my Times World Atlas to find Bogoro marked on it. Why was it marked on it, this tiny little place? Well, it's marked on it for a reason: It's geographically highly important. It marks the point where you can pass from East Africa, from Uganda, into the Democratic Republic of the Congo. You cross Lake Albert, one of those series of lakes that runs down the Rift Valley there in Africa. You climb the wall of the Rift Valley, and at the top of the wall through a little gap is Bogoro. That's why it's marked on the Times Atlas. That's its significance, geographically and militarily, because it controls the route between Uganda and Bunia. And Bunia, as we know, is the principal town in this province, a province incidentally the size of England, the size of my country, with basically two roads running through it. That's its significance.’ *Katanga*, opening statement of the Defence, p. 50.

<sup>221</sup> That the opening statements are intended to reach local audiences is claimed in for example *Katanga*, opening of the Prosecution, p. 21; *Lubanga*, opening statement of the Victim Representative, p. 68; *Bemba*, opening of the Prosecution, p. 33-34. Judge Cotte on the opening day of *Katanga* also repeatedly emphasizes to take into account the persons who are following the proceedings from afar, p. 3, 7, 72.

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that that is the country of Jean-Bedel Bokassa and then people know what it is, but this is also the country of Barthelemy Boganda. Barthelemy Boganda was also a great hero of the cause of unity and fraternity in Africa. He was not as well-known internationally as Patrick Lumumba, probably because he died before the independence of his country. And so, in a nutshell, the Central African Republic is bordered to the north by the Republic of Chad, to the east by the Republic of Sudan, to the west by Cameroon and to the south by the Democratic Republic of Congo and Congo.<sup>222</sup>

In this example, different audiences are addressed. The initial calling on local and regional heroes activates a different audience than the geographical references in terms of borders, which explains to an outside audience where the CAR is located. This short quote features different conceptions of space and state: a Westphalian idea based on territory and one that is informed by community ties.<sup>223</sup> Explaining space in terms of borders is just one of the ways in which it can be done. Equally, maps are just one of the ways in which spatial relations can be encountered. More precisely, maps are very particular technologies for understanding and ordering space, and the status of cartography as the preferred way of visualizing space emphasizes the court's firm embedment in a particular 'regime of knowledge production.'<sup>224</sup> In that way, even the very choice to use a map to structure the narrative reveals an assumption about the way in which its users understand and imagine the spaces they describe and the audiences they described them to.

### *3.3 Appropriating the local*

Limiting and stimulating imagination through maps contribute to the persuasive power of the narrative of the OTP and, in light of the severe criticism to which the ICC is subjected, it puts their intervention forward as a legitimate and well-informed way to bring justice to the local *and* global community. In order to fit within this narrative, the local has to be appropriated within the story of the OTP, meaning that a specific type of 'local' has to be constructed. The OTP unavoidably needs to show awareness of local particularities to set the scene and to tell a believable story about what happened, but this local knowledge always needs to be functional in the particular story of the prosecutor. By explaining what we see on the maps, the OTP assigns a very specific meaning and importance to geographical features. Consider the following description of another map:

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<sup>222</sup> *Bemba*, opening statement of the Victim Representative, p. 37.

<sup>223</sup> On alternative perception of land not as bounded territory but as for example compositions of trails, zones and places of potential movement see A.M. Brighenti, 'Lines, Barred Lines. Movement, Territory and the Law', *International Journal of Law in Context* (2010) 6.

<sup>224</sup> Mahmud (2007) 529.

By December 2002, both Mongbwalu and Bunia were controlled by the UPC and connected by three dirt roads. One road ran from Bunia through Lipri and Nyangaray. A longer route was through Mabanga. And you will recall that this was the road taken by the UPC during its earlier attack on Mongbwalu, a route that led through UPC controlled areas. The road in the best condition though was the one that led through Bambu, Kobu and other Lendu villages. To ensure free and easy access to and from Mongbwalu, and to protect from enemy attack, the UPC needed to control these roads. That meant driving out the Lendu, both combatant and civilian, as the UPC considered all Lendu to be their enemy.<sup>225</sup>

The roads in this story are deployed in a narrative of occupation and control.<sup>226</sup> The map that shows the roads needs to clarify how these roads fit in the strategically planned attack; they are part of the ‘common plan.’ The map displays a route; a point-to-point connection that is important to the warring parties. The difference between the road in the best condition and the other road is not visible on the map but the prosecutor assures her audience of the difference in strategic importance. The roads on the map symbolize a transition from safety to fear, as they are transformed from potentially multifunctional communal connection between villagers and villages into the strategic routes of the battlefield. In this restricted understanding of local space, the prosecutor militarizes and de-socializes the roads and the villages.<sup>227</sup> The map reduces ‘the local’ to a territory of violence and reinforces the selected view on space, dictated by the prosecutor’s interpretation of the satellite images of Google Maps.

While the map makes the local clear and recognizable as a battlefield, the accompanying descriptions assign a certain dimension of mysticism to it. The earlier examples in which banana fields, mango trees, and lush mountains feature as the stunning backdrop with which the violence is contrasted, reveal a certain romanticization of the far-away; a strange deceitful beauty that hints at a rather Westernized perspective on the exotic local.<sup>228</sup> Crucially, in the story of the prosecutor, the familiar has to become the strange, the beautiful has to become the ugly, and the innocent local has to become dangerous in order to justify that this case of the prosecution can restore the balance and do justice to the local. Elements of the scenery are inscribed with threat and fear.

<sup>225</sup> *Ntaganda*, opening statement of the Prosecution, p. 47-48.

<sup>226</sup> On lines on maps that signify occupation (versus habitation), see T. Ingold, *Lines: A Brief History* (Routledge, 2007), 85.

<sup>227</sup> *Ibid.*, 24. ‘[T]he map eliminates all trace of the practices that produced it, creating the impression that the structure of the map springs directly from the structure of the world.’

<sup>228</sup> E.W. Said, *Orientalism* (Pantheon Books, 1978). On symbols of otherness in the decoration of imperialist maps, see Harley (2009) 140.

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The landscape is a vital element in making this fear tangible. The hills are the terrain of the enemy,<sup>229</sup> the forests function as the decorum of the victims' 'precarious conditions', where you can hide but not really escape.<sup>230</sup> While the landscape is described as strategically complicit in the crimes, it is also scarred by that very same violence. The pools of blood;<sup>231</sup> the fields where the bodies are buried;<sup>232</sup> the forests and villages set on fire;<sup>233</sup> these images create a strong mental picture of the stain of crime that defines the specific 'local' that is described. The seriousness of the crimes is often emphasized by focusing on the innocent character of the space where the crimes took place, to mark the intrusion of the local and the safe.<sup>234</sup> By describing how children were recruited while they were playing outside or on the way to school, the brutality of the crime is underlined.<sup>235</sup> As noted, the OTP often makes explicit how the defendant invaded homes, drawing on the assumption that the home is a private space to which the extension of the battlefield is even more 'unlawful.' The local becomes the synonym of danger where no place is safe.<sup>236</sup> Consider the following description:

As indicated by its name, Walendu, this is a Lendu territory between Mongbwalu and Bunia. The map on your screens shows several of the villages in this area identified in blue, but there are dozens more. The area is lush and mountainous. From the village of Lipri, which is itself on a hill, you can see over the valley towards Kobu and neighbouring villages. The straight-line distance between Lipri and Kobu is about 14 kilometres.<sup>237</sup>

Different things are happening here. Walendu, as Samson explained, can be identified as Lendu by its name; place name and identity are intertwined and geography is put forward as uncontested 'proof' of property.<sup>238</sup> That the area is lush and mountainous, usually a description of beautiful scenery, is now attached to a story where people have to flee into the bush and where hills are

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<sup>229</sup> *Ntaganda*, opening statement of the Prosecution, p. 41. See also for example p. 40. 'In Mongbwalu, Bosco Ntaganda set up his base at the apartments. These apartments were also strategically located on a hill overlooking the town. Bosco Ntaganda used the apartments to detain, interrogate and kill captured combatants and civilians alike.'

<sup>230</sup> *Ntaganda*, opening statement of the Prosecution, p. 48.

<sup>231</sup> *Ibid.*, p. 44.

<sup>232</sup> *Ibid.*, p. 12, 27, 44, 52.

<sup>233</sup> *Ibid.*, opening statement of the Prosecution, p. 48 and 51

<sup>234</sup> See also Chapter 5, p. 116.

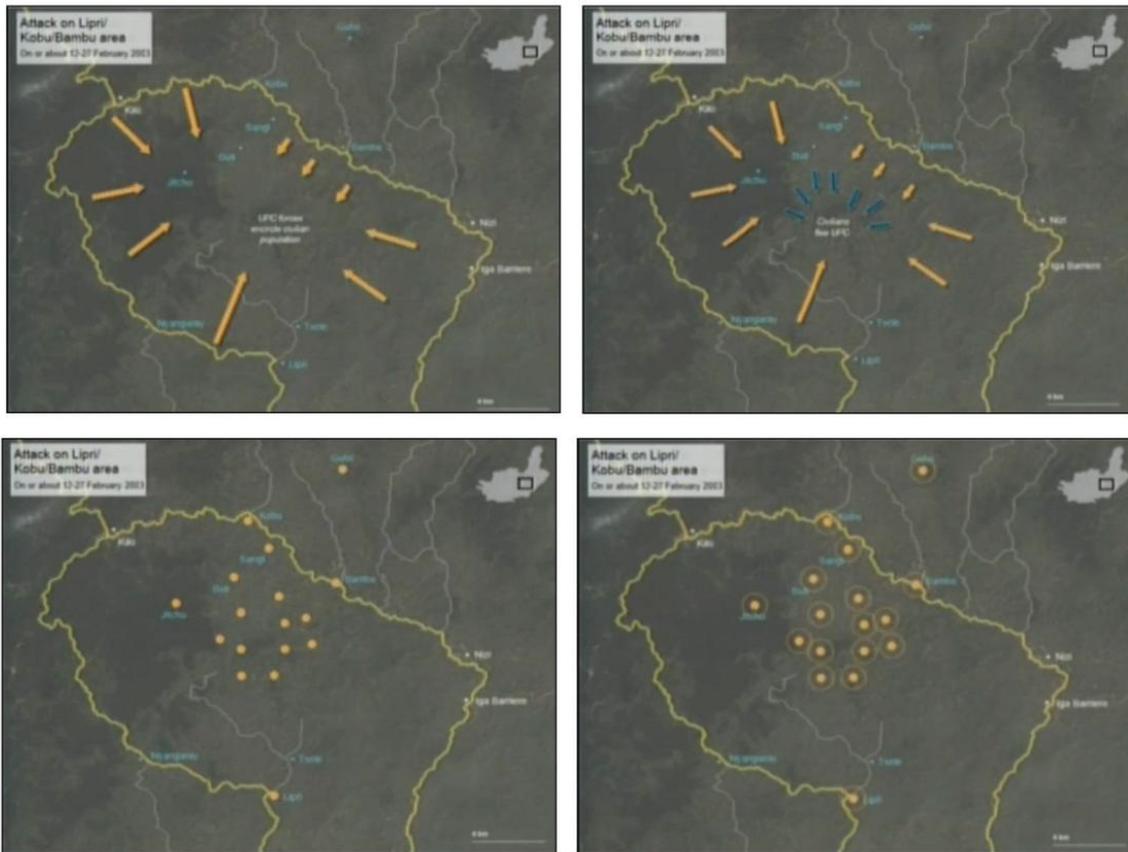
<sup>235</sup> *Lubanga*, opening statement of the Prosecution, p. 5, 14-18.

<sup>236</sup> An example of this can be found in *Bemba*, opening of the Prosecution, p. 28. Here, the prosecutor explicitly emphasizes how violence invaded both public and private space: '[t]hey committed rape anywhere, any time, against any women, girls or elderly people, as well as against men with authority. They did it at night, or in broad daylight, in homes, in compounds, on the streets, in the fields, in public and in private.'

<sup>237</sup> *Ntaganda*, opening statement of the Prosecution, p. 48.

<sup>238</sup> On the politics of place-names, see Monmonier (1991) 210. 'Naming can be a powerful weapon of the cartographic propagandist. Place-names, or *toponyms*, not only make anonymous locations significant elements of the cultural landscape but also offer strong suggestions about a region's character and ethnic allegiance.'

associated with danger. Translated back to the map, the encircling of the civilians in the bush is visualized by orange arrows (soldiers) closing in on a group of blue arrows (civilians), followed by trembling orange dots that depict the heavy weapons used to kill the civilians but also, rather literally, it visualizes how the violence ‘shook’ the environment (see figure 2). Sterile cartography can symbolize fear.



**Figure 2** Attack on Lipri/Kobu/Bambu area. Stills from the trial registration of the opening statement of the Prosecution.

Through the connections made between maps, landscape, and violence, the prosecutor inscribes a specific narrative onto a village or region. Crucial in the story that the OTP brings forward, is the description of the local as an unsafe area by emphasising the instability of the region. Ituri is for example described in the *Ntaganda* case as ‘the bloodiest corner of the DRC’<sup>239</sup> and the victim representative notes in the opening of the *Katanga* case a ‘mindset of lawlessness and vengeance which has been reigning in Ituri and which are borne of rampant impunity in the region.’<sup>240</sup> In the same case, the prosecutor describes how ‘Bogoro became a village of martyrs and will go down in

<sup>239</sup> *Ntaganda*, opening of the Prosecution, p. 13.

<sup>240</sup> *Katanga*, opening of the Victim Representative, p. 46.

the history of horror of our common world.<sup>241</sup> This clearly shows how, through maps, distances and differences are not only bridged but also strategically preserved, because distance objectifies and neutralises the prosecutor as an authoritative outsider who is able to bring order and restore justice.

#### 4. End point

Maps are everywhere and can have multiple meanings and uses. News items, lectures, and even works of fiction are often illustrated with maps. Through Google Maps and open mapping software, engagement with cartography has become an everyday activity. A common reaction to drafts of this chapter was ‘I love maps’, or as one commentator noted ‘I’m socialized into liking maps’. However, the comfort of maps should not obscure their multiple implications. That we like maps and that they are handy does not mean that they do not evoke questions; their use is always embedded in a certain context which is worth analysing. The ICC’s complex relation with the local that is reflected by its cartography might not be specific to the maps, but symptomatic of the ICC’s spatial anxieties between the universal and the particular, between distance and closeness, and between the familiar and the strange.

In a courtroom, certainty is held in high esteem. That means that in the end, also the truth-value of maps needs to be tested. The difficulty and, to some extent, absurdity of establishing the neutrality or the value of maps is wonderfully illustrated by a dialogue between the prosecutor and an expert witness that appeared in the *Lubanga* trial and again in the *Ntaganda* case:

Q: Right. Let's move to the map that is at tab 9, DRC-OTP-2087-1820. This is a map of the Congo. Mr Witness, do you remember referring to this map during your testimony in the Lubanga case? Do you remember having seen this map during your evidence?

A: I remember seeing a map. So I imagine it's this one because I saw so many maps I can tell you of the Congo. And I think this one here is pretty accurate in terms of the scale, size of things. I think the map is perfect. But was it the one that I referred to during my oral evidence? I don't know. I mean, I can't -- I have no way of knowing, but this is a good map. That's all I can say.<sup>242</sup>

The question as well as the answer is not very satisfactory. What if it is the same map, does that make the map more accurate or the testimony more valid? What is a good map? When is it

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<sup>241</sup> *Katanga*, opening of the Prosecution, p. 42.

<sup>242</sup> *Ntaganda*, Transcript 25 September 2015, examination of witness Roberto Garretón, p. 81.

useful? Why? As this analysis shows, maps offer certainty as much as uncertainty and their meaning is heavily context dependent.

While maps are at first sight useful practical tools that clear-up ambiguities and help to localize oneself in unfamiliar places, they are always products of a particular set of choices about what to show and how to situate a certain story. In the opening statement, the prosecution creates a context that is favourable to its case and directs the audience into interpreting maps in a certain way. In order to draw the local into the courtroom, to make it more real, it has to be presented as more abstract and more subjective at the same time. In the OTP's statement, maps firstly serve the ordering of the prosecutor's story by simplification into binaries; secondly, they are deployed to stimulate the imagination of audiences who are largely unfamiliar with the local specificities, and finally, they are used to appropriate the local when the OTP assigns meaning to spatial features that is of particular use to the justification of its case. The OTP is bridging the distance between The Hague and the 'far-away' by making the local tangible and familiar but it is simultaneously preserving the distance by portraying the local as an unsafe and unstable area as opposed to the stable and 'saving' court.

The purpose here is not to judge this use of maps as necessarily either a good or a bad practice, but the deployment of maps in the story of ICC prosecutors shows that even small and taken for granted items in the courtroom can reveal something about the larger set of assumptions underlying their use. The way in which the ICC prosecutors rely on maps in their opening addresses displays that the court is deeply embedded in a specific culture of observing and understanding the world. Due to procedures and rules, but also through the use of 'technologies of knowledge' such as maps, explaining conflict at the ICC is highly restrictive and limits alternative interpretations. This calls into question the meaning of the court's claim on being global as well as its commitment to the local.

