

# United Enemies

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*United Enemies*  
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## Abstract

*This commentary presents the sculpture 'United Enemies', in the context of international legal research. It relies on experimental theatre and related understandings of performance to explain how internal self-determination language and rhetoric are used in the texts of African intrastate peace agreements to bring together former enemies. In doing so, it identifies two categories of connection between the legal object and the research question: conceptualisation (how to tell this story) and dissemination (how to communicate its research findings).*

**Keywords:** *United Enemies*; international law; experimental theatre; performance; African peace agreements.

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## 1 The object

*United Enemies 2011* is a set of two pairs of two-faced patinated bronze statues, approximately 4 metres high.<sup>2</sup> Each statue, depicting two ugly, hairless, old, grey, male faces covered in large grey robes, stands on a three-legged peg.

*United Enemies 2011* is part of a bigger project called 'United Enemies' (1993–2011) during which, Thomas Schütte<sup>3</sup> has created pairs of enemies in the form of clay puppets, placed under glass domes,<sup>4</sup> photographic depictions of the said miniatures in lithographs<sup>5</sup> and big sculptures. He drew his initial inspiration during his research stay in Rome in 1992, when Italian politicians and other prominent state figures were arrested for corruption.

I have selected this piece (*Enemies*) for its colossal size, its monochrome appearance, and its ability to be displayed both indoors and outdoors. I first came across these two sets of statues outside the Serpentine Gallery: the two bronze statues, like giant conjoined twins, capture the attention of bystanders at Hyde Park.<sup>6</sup> From afar, they might inspire fear. On closer inspection, they could generate more nuanced feelings, such as surprise, worry, bewilderment, or even an uncomfortable laugh.

Its title, *United Enemies*, underlines that the two figureheads, whose individual limbs (except for their three legs) are unidentifiable and covered with dark grey robes and unable to stand on their own. The figures are joined together with tight rope, although they avoid facing each other, each gazing elsewhere, contemplating their strange situation: sealed with the rope, bound together in eternal enmity.

I have linked the *Enemies* to my research interests which lie in international law. I use an international legal approach to study the primary object and purpose of African intrastate peace agreements (agreements between statal and non-statal parties of a given state).<sup>7</sup> I am not researching the form of these materials as international treaties or agreements.<sup>8</sup> Rather, I am interested in their content, in the sense that they reference and

2 The exact dimensions of the two sculptures are 406.4 x 203.2 x 226.1 cm, and 391.2 x 205.1 x 210.8 cm.

3 Thomas Schütte studied at the Kunstakademie Düsseldorf under Benjamin Buchloh and Gerhard Richter, among others, and was influenced by minimalism and conceptualism. He works across media in print, watercolour and installation, although he is best known for his sculptures. His awards include the Golden Lion at the 2005 Venice Biennale and the 2010 Düsseldorf Prize. His work is held in the collections of the Tate Modern in London, the Museum of Modern Art in New York and the Art Institute of Chicago. For artist information, see <[www.thomas-schuette.de/ajax.php#](http://www.thomas-schuette.de/ajax.php#/)>.

4 Schütte has created 18 pieces of puppets taped together and placed under glass domes, for more information see <[www.tate.org.uk/art/artworks/schutte-no-title-t07019](http://www.tate.org.uk/art/artworks/schutte-no-title-t07019)>.

5 'United Enemies: A Play in Ten Scenes', portfolio of 10 offset lithographs, eight with ink additions, exhibited at the Museum of Modern Art in New York <[www.moma.org/collection/works/157495](http://www.moma.org/collection/works/157495)>.

6 'Thomas Schütte: Faces and Figures', Exhibition at Serpentine Gallery, London, from 25 September to 18 November 2012.

7 Steven R Ratner and Anne Marie Slaughter, 'Appraising the Methods of International Law: A Prospectus for Readers' (1999) 93 *American Journal of International Law* 291, 291–2; also, Robert Cryer, Tamara Hervey and Bal Sokhi-Bulley, *Research Methodologies in EU and International Law* (Hart 2010) 1–7, 16–42.

8 See the 1969 Vienna Convention on the Law of Treaties, 22 May 1969, entered into force on 27 January 1980, UNTS vol 1155, p 331, offering definitions of international treaties and international agreement in Articles 2(1)a and 3 respectively. The materials (African intrastate peace agreements) are essentially municipal documents. They are drafted with the assistance of informal groups of states and international organisations acting as mediators/facilitators (peacemakers), in response to/against the background of measures of international organisations addressing their preceding conflicts/crises, referencing international law standards.

apply international law, whilst setting aside municipal law.<sup>9</sup> I make use of international legal tools of interpretation and I rely on the use of internal self-determination as a drafting and interpretative technique for bringing together enemies.<sup>10</sup>

## 2 Categories of connection

I have related the *Enemies* to my research question, which examines how and on what basis internal self-determination language and rhetoric are used to bring together former enemies (warring parties) as a way of establishing peace within a given state. This question is answered by identifying categories and types of ‘internal self-determination language, rhetoric, or understanding’ and assessing their benefits and limitations.<sup>11</sup>

As such, the research uses ‘internal self-determination’ as an analytical tool to study and evaluate peace agreement provisions, which are usually studied as part of power-sharing literature in political science/peace research.<sup>12</sup> It thus, offers a different angle of approaching the study of their main (not all) provisions. It groups and generalises its findings under categories, such as: the participation of enemies in the transitional government (tasked with caretaker duties during the immediate post-agreement stage); the (conditional) participation in elections marking the transition to peace; and the participation in the reconfiguring of political power of a state, through constitution promulgation, constitutional or other amendments.

9 The Fomboni Accord (2001) (Comoros), Article 29, declares null and void every contrary existing provision of the constitution; for similar formulations, see the Transitional Federal Charter (2004) (Somalia), Article 3, para 2; the Arusha Accord (1993) (Rwanda), Article 3, paras 1–2; the Transitional Period Charter (1991) (Ethiopia), Article 18; Arusha Agreement (2000) (Burundi), Protocol II, ch II, Article 15 (2); for a similar provision of municipal law remaining in force only if not in contravention to the peace agreement, see also Charter of Values (2009) (Madagascar), Article 43; the Transitional Charter of Burkina Faso is ‘complementary’ to the constitution of 1991, but *lex specialis*, since, ‘in the event of conflict (between the two) . . . the provisions of the Charter shall prevail’: Transitional Charter (Burkina Faso) (2014), Preamble, para 12, and Article 25(1).

10 By the term internal self-determination, the study refers to the ‘right of all peoples to freely determine their political status and freely pursue their economic, social and cultural development’, as espoused in the opening articles of the two International Human Rights Covenants: see International Covenant on Civil and Political Rights 999 UNTS 171, entered into force 23 March 1976, and International Covenant on Economic, Social and Cultural Rights 993 UNTS 3, entered into force 3 January 1976, respectively; see also United Nations, Charter of the United Nations, signed at San Francisco on 26 June 1945, entered into force on 24 October 1945, 1 UNTS XVI, hereinafter ‘UN Charter’, Article 1(2): ‘The purposes of the United Nations are . . . to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of all peoples.’

11 The distinction between internal and external self-determination, to a degree supported by the international legal instruments, is standard in self-determination writings; for good examples see Michla Pomerance, *Self-determination in Law and Practice* (Martinus Nijhoff 1982), 37–42 and 36, describing external self-determination as the act with which a people determine their future status and liberate themselves from alien rule and internal self-determination as the selection of the desired system of government and the substantive nature of the regime selected (democratic, socialist etc).

12 Power-sharing is not a legal term of art. As regards theories/types, literature divides it into ‘consociational’ and ‘integrative’; see, amongst others, Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration* (Yale University Press 1977) 25–52; Timothy Sisk, *Power-sharing and International Mediation in Ethnic Conflicts* (US Institute of Peace 1996); also, Donald Rothchild, ‘Africa’s Power Sharing Institutions as a Response to Insecurity: Assurance without Deterrence’ in Stephen Saiderman and Marie-Joelle Zahar (eds), *Intrastate Conflict Governments and Security* (Routledge 2009), 138–60, 142–8; Andreas Mehler, ‘Peace and Power Sharing in Africa: A Not So Obvious Relationship’ (2009) 108(432) *African Affairs* 453; Matthew Hoddie and Caroline Hartzell, ‘Power Sharing in Peace Settlements: Initiating the Transition from Civil War’ in Donald Rothchild and Philip Roeder (eds), *Sustainable Peace: Power and Democracy after Civil Wars* (Cornell 2005); for international law research, attention is shifted towards the language and normative degree of such entitlements, their reciprocal nature and the beneficiaries.

I use the *Enemies* for two purposes: conceptualisation and dissemination.<sup>13</sup> This object has supported my thinking process of how an international lawyer would tell a story of the primary function of African intrastate peace agreements, drawn from the analysis of the data of peace agreement provisions gathered from the texts of agreements from 35 African countries.<sup>14</sup> I also use the object as part of dissemination strategies to different audiences, so as to convey key findings, illustrate ideas and trigger participation.

To draw these connections between the *Enemies* and my research I have relied upon concepts and conventions used in performing arts, in particular, the theatre.<sup>15</sup> In hypothesising the connections between my (generalised) research findings, drawn from diverse factual situations, one of the major difficulties has been how to explain the possibilities and constraints of the human ability to represent reality. I have relied upon experimental theatre to explain imitation and representation: the fact that an object, placed in one context creates a fictitious reality, whilst the object is a real object, part of reality, which is not entirely separate from fictitious reality.

The theatre paradigm was, in a way, reaffirmed after careful consideration of the object *Enemies*, the object of my research (intrastate peace agreements) and some initial links between them. The piece *Enemies* is part of a repertory, which the artist has developed for almost two decades, which bears similarities to a theatrical repertory.

Peace agreements themselves have a theatrical element, too.<sup>16</sup> This could also be described as ritual, or ceremonial. The moment of their conclusion resembles those 'hypothesised' or 'mythical' historical social-contract moments of primitive societies that seek to break the cycle of violence and establish or re-establish themselves by redefining the legitimate violence, as portrayed by Benjamin.<sup>17</sup> Peace agreements operate within this key national pre-constitutional setting. In modern peace agreements, the peace process might contain negotiations behind closed doors, in secret places, but the conclusion is

13 Amanda Perry-Kessaris, 'The Pop-Up Museum of Legal Objects as Socio-legal Research Design' (2017) 68(3) NILQ 225–44, 230 and 244.

14 The materials are drawn from very diverse factual backgrounds. they relate to 35/54 African countries and they include 233/254 African post-Cold War intrastate peace agreements; unless otherwise stated, the texts of collected peace agreements can be found at the site of the UN Peacemaker Database, launched by the UN Department of Political Affairs <<http://peacemaker.un.org/>> (other peace agreement digital collections include the INCORE database, the Uppsala Peace and Conflict Database, the Kroc Institute Peace Accords Matrix, the Conciliation Resources collection and Monty Marshall's listings).

15 I rely on experimental theatre and, in particular, the work and teachings of Antonin Artaud as found in his seminal manifesto of 'Theatre and its double' (*Le Théâtre et son Double*). I also draw inspiration from this concept as applied by subsequent artists, who have used objects as an integral part in the staging of plays, more specifically Tadeusz Kantor, as well as Luca Ronconi and Carlo Quartucci. I have also been (partially) inspired by the use of objects during 'happenings' in performing arts (for instance, the use of mannequins by Gregory Semitekolo); see Antonin Artaud, *The Theatre and its Double (Le Théâtre et son Double)* (Editions 1938); Tadeusz Kantor, *A Journey Through Other Spaces: Essays and Manifestos 1944–1990* (Michal Kobialka (trans), University of California Press 1993), in particular, 'Credo', at 23, the 'Autonomous Theatre', at 42, 'Emballages' (wrappings), at 77; Jeff Kelley, *Childsplay: The Art of Allan Kaprow* (University of California Press 2004) 50; for 'happenings' as part of dance see Sally Banes, *Writing Dancing in the Age of Postmodernism* (Wesleyan University Press 1994), 212–13, 253.

16 For a slightly different understanding of theatricality about the rule of law promotion, see Stephen Humphries, *Theatre of the Rule of Law* (Cambridge University Press 2010) xii, 9–10.

17 'In primitive conditions that scarcely know the beginnings of constitutional relations, and even in cases where the victor has established himself in invulnerable possession, a peace ceremony is entirely necessary. Indeed, the word "peace," in the sense in which it is the correlative to the word "war" . . . denotes this a priori, necessary sanctioning, regardless of all other legal conditions, of every victory. This sanction consists precisely in recognizing the new conditions as a new "law," quite regardless of whether they need de facto any guarantee of their continuation.'; Walter Benjamin, 'Critique of Violence' (original title in German 'Zur Kritik der Gewalt'), in *Selected Writings: 1913–1926* vol 1 (Belknap Press of Harvard University Press 1996) 236–52, 240.

marked with pomp and ceremony that are on equal footing with the signature of the text: former enemies join their hands,<sup>18</sup> or mark the ceremonies with symbolic objects, as did Catherine Samba-Panza in Bangui in 2015 (after the conclusion of the forum for national reconciliation) holding the 'flame of peace' offered to her by a little girl.<sup>19</sup>

The second comes from interpretation, as peacemakers often put forward the ambiguity (or indeterminacy) of the texts as a negotiation strategy. This technique, termed by negotiators as 'constructive ambiguity', is thought to increase the chances of success of the agreement.<sup>20</sup> Although the idea of ambiguity as a drafting (legislating) strategy has been discussed by legal analysis elsewhere,<sup>21</sup> it is worth noting that, since these texts are drafted with the use of international legal language, ambiguity (or indeterminacy) is not an exceptional feature of peace agreements, but an inherent element, 'for indeterminacy follows as a structural property of the international legal language itself. It is not an externally induced distortion.'<sup>22</sup>

Therefore, interpretation becomes key, especially when the analysis searches for 'something more than black letter', the 'moral subtext' of a legal text, that is its implied or deeper meaning. This includes the different notions of justice underlying a legal argument, which make it necessary also to read between the lines'.<sup>23</sup> Such discussion points out the links between the legal terms and theatre, bearing in mind that, before being used by literary analysis, the concept of subtext originated from Stanislavsky, and his introduction of the term 'podtékst' (подтэкст), the Russian word for subtext.<sup>24</sup> Before that, subtext only meant the text appearing below other text on a page.

I have selected a contemporary piece of artwork by a living artist. Besides its relevance, I have been drawn to it for these additional reasons. The *Enemies* piece falls into the category of a traditional art genre: it is a sculpture; it is simple, big, and made of an iconic sculpting material – bronze. Cast in the traditional form of figurative sculpture,

18 Think of the iconic Rabin–Arafat handshake on the conclusion of the Oslo Accords (13 September 1993); or the Mandela–De Klerk handshake outside Groote Schuur farm, Cape Town (11 February 1990); or the Raila Odila and Mwai Kimbaki handshake in Kenya (2008) after agreeing to share power in response to post-electoral violence.

19 11 May 2015 <[www.gettyimages.fr/detail/photo-d'actualit%C3%A9/catherine-samba-panza-president-of-the-transitional-photo-d'actualit%C3%A9/472995784](http://www.gettyimages.fr/detail/photo-d'actualit%C3%A9/catherine-samba-panza-president-of-the-transitional-photo-d'actualit%C3%A9/472995784)>.

20 Constructive ambiguity, as a negotiation technique, advocates that an ambiguously worded text can create opportunities for advancing the interests of both parties; the term is attributed to Henry Kissinger; Walter Isaacson, *Kissinger: A Biography* (Faber & Faber 1992) 556 and 481–2 (definition); Henry Kissinger, *Years of Upheaval* (Weidenfeld & Nicolson and M Joseph 1982) 783, 779–81; John G Stoessinger, *Nations in Darkness — China, Russia, and America* (McGraw-Hill 1990) 101; Eric Eisenberg, 'Ambiguity as Strategy in Organizational Communication' (1984) 51 *Communication Monographs* 227–42; for a critical discussion in relation to the Oslo accords, see Aharon Klieman, *Compromising Palestine: A Guide to Final Status Negotiations* (Columbia University Press 2000); for other illustrations, see Christine Bell, *On the Law of Peace: Peace Agreements and the Lex Pacificatoria* (Oxford University Press 2008) 165–9.

21 Bernard S Jackson, *Semiotics and Legal Theory* (Routledge & Kegan Paul 1985) 163–6, discussing 'motivated indeterminacy' as a legislative strategy as opposed to 'linguistic indeterminacy'.

22 Martti Koskeniemi, *From Apology to Utopia: The Structure of the International Legal Argument* (reissue with new 'Epilogue', Oxford University Press 2005) 62.

23 Amanda Perry-Kessaris, *Socio-legal Approaches to International Economic Law: Text, Context, Subtext* (Routledge 2012) 6.

24 'Do you suppose that words can exhaust all the nicest shadings of the emotions you experience? No! When communing with one another words do not suffice. If we want to put life into them, we must produce feelings. They fill out the blanks left by words, they finish what has been left unsaid.'; Constantin Stanislavski, *An Actor Prepares* (Elizabeth Reynolds Hapgood (trans), first published 1937, Methuen Drama 1980) 225 (ch on adaptation); also, Constantin Stanislavski, *Building a Character* (Elizabeth Reynolds Hapgood (trans), first published 1949, Methuen Drama 1968) 113–15; Stanislavski's seminal work *Работа актера над собой* has been translated into English in two parts under the titles 'An Actor Prepares' and 'Building a Character'.



with which most people are familiar, the object is audience-friendly. It can, thus, work well with an audience of lawyers and law scholars, who often claim that visuals ‘just aren’t their thing’. It also depicts a form of human condition, to which, despite differing interpretations (in terms of the enemies and their symbolisations, or different allusions to friends/foes in family/society, in a political/personal context), everyone can relate. Hence, this object can be functional for any type of audience, as it would not be that difficult to relate to a pair of bronze sculptures depicting a human situation, no matter how strange, or absurd.

Furthermore, Schütte labels his objects with succinct and thought-provoking, playful titles.<sup>25</sup> Not only are they part of the object, but they can signpost the first linkages between the object and the research hypothesisations. No matter how contradictory it might sound, the term ‘united enemies’, conveys, as a catchphrase, a powerful message of what African intrastate peace agreements do (or intend, but fail to do): they seek to establish peace within an existing state, not by territorially altering it, but by ensuring that the former enemies give up violence and share a part of the power structures of the state. Linked to my research themes, this title reads like a logo: that’s what we do, we unite enemies!

Peace agreements are, thus, compromises: all parties win to a degree, but all lose as well: right after the post-electoral violence in Kenya, the government and the opposition admitted quite frankly that ‘given the current situation, neither side can realistically govern the country without the other’.<sup>26</sup> Thus, they conceded to a set of peace agreements. Peace agreements can kill: the historic Arafat–Rabin handshake that marked the conclusion of the first of the Oslo Accords, cost Yitzhak Rabin his life – while attending a peace rally he was assassinated by a right-wing extremist opposed to the Oslo Accords.<sup>27</sup> Peace agreements can also generate discord within the ranks of signatory parties.<sup>28</sup> Some of their prominent members refuse to comply, thus becoming ‘spoilers’ during the implementation stage, or splinter groups that renew fighting,<sup>29</sup> implicitly or explicitly renouncing peace agreements – as did the M-23 rebels in the Democratic Republic of the Congo (DRC). Given the unpopularity of intrastate peace agreements, this is pivotal, bearing in mind that this object was inspired by a well-known corporate logo,<sup>30</sup> which makes it even more brilliant, ironic and absurd.

The *Enemies*, though cast as a type of figurative sculpture, simultaneously display an element of abstraction, or mutation, to be more precise: their faces, though inspired by human characteristics, are significantly distorted. Each figurehead is similarly mutated, making the enemies resemble each other an awful lot. The spectator could also wonder

25 Other examples include *Vater staat*, *Fratelli*, *Kleiner Respect+No Respect*.

26 Acting together for Kenya Agreement (2008), Preamble, para 2.

27 Agreement between the Government of Israel and Palestine Liberation Organization, known as ‘Oslo I Accord’, part of the Oslo Accords, signed at Washington on 13 September 1993; Rabin was assassinated on 4 November 1995 at a peace rally in support of the Oslo Accords. For one of the Oslo Accords’ architect’s account, see Yissai Belin, *Touching Peace: From the Oslo Accord to a Final Agreement* (Weidenfeld & Nicholson 1999) ‘Prologue’, 3, 129–32, 135–7.

28 The rebel group M-23 took its name after the Goma peace agreement signed on 23 of March 2009 in response to the ongoing disturbances in DRC; see Goma Peace Agreement (2009).

29 See, Stephen J Stedman, ‘Spoiler Problems in Peace Processes’ (1997) 22(2) *International Security* 5–53; spoilers include dissenters within a movement unhappy with the compromises needed for achieving the agreement.

30 The logo is that of ‘United Colours of Benetton’. The early versions of *Enemies* were cast as puppets possessing clay figureheads and colourful robes, so they could have been designed as *United Colours of Enemies*, shortened later to *United Enemies*, as we now know it.

whether this mutation/distortion is part of the original characteristics of these 'enemies', or the result of the act of binding these enemies together.

These two interpretations have resonance for my work since, the essential function of peace agreements is to disarm former enemies and bind them under the organised monopoly of violence of a pre-existing state, using internal self-determination language. These functions would include the (temporary) participation of enemies in the transitional government, their right to be recognised as a political party upon disarming and their participation in specific internationally assisted elections that mark the transition to peace. The former enemies are transformed by giving up arms and become political forces, or political parties, during an interim/transitional period, governed by international legal principles and standards set out in the said agreements.

This function is important, bearing in mind that a significant number of these agreements break down within five years of their conclusion, causing regular cycles of violence, described by political scientists as the 'recurrence rate' of conflict.<sup>31</sup> Peace agreements regularly fail and are followed by tragic events, such as the Rwandan genocide.<sup>32</sup> This is why, although backing it with slim evidence, the UN High-Level Panel emphasised that 'if two peace agreements, the 1991 Bicesse Agreement for Angola and the 1993 Arusha Accords for Rwanda, had been successfully implemented, deaths attributable to war in the 1990s would have been reduced by several million'.<sup>33</sup>

Discussion of the success or failure of peace agreements brings, amongst others, two factors that are relevant here: the clarity or ambiguity of their content; and the delegation of implementation capacities to actors (states or international organisations different from the warring parties signing up to these agreements).<sup>34</sup> The agreements are concluded during peace processes that bear a striking resemblance to deliberations at international organisations, in terms of multilingualism and the use of legal language in the drafting of (legally binding)<sup>35</sup>

31 Michael J Quinn, T David Mason and Mehmet Gurses, 'Sustaining the Peace: Determinants of Civil War Recurrence' (2007) 33(2) *International Interactions* 167–93; Barbara Walter, 'Does Conflict Beget Conflict? Explaining Recurring Civil War' (2004) 41(3) *Journal of Peace Research* 371–88; Virginia P Fortna, *Peace Time: Cease-Fire Agreements and the Durability of Peace* (Princeton University Press 2004).

32 The Rwandan Genocide began when the concluded Arusha Accord and its five related protocols broke down after the plane carrying Rwandan President Juvénal Habyarimana was shot down (possibly by Hutu extremists opposing the Arusha Accords) on 6 April 1994. See Arusha Accord (1993), Rule of Law Protocol (1992), Power-sharing Protocol (1993), Refugee/IDP Protocol (1993), Armed Forces Protocol (1993), Miscellaneous Issues Protocol (1993), S/26915-A/48/824.

33 UN General Assembly, *A More Secure World: Our Shared Responsibility* (Report of the High-Level Panel on Threats, Challenges and Change 2 December 2004) A/59/565, para 86.

34 Although not underestimating them, my research does not cover all issues of success/failure that depend, for instance, on the relative power of negotiating parties before, during and after the agreement; the presence and absence of key armed and unarmed non-state actors; and the relative capacities/interest of non-state actors to govern.

35 The agreements might be political compromises, however, they are legally binding, as can be seen from the intention of the parties to be bound by these agreements mentioned in the documents; see, amongst others, Arusha Agreement (2000) (Burundi) Article 1; Principles Declaration (2001) (DRC), Part II, para 8; Brazzaville Ceasefire (1999) (Congo), ch VII, Article 14; Abidjan Agreement (1996) (Sierra-Leone), Article 2; Comprehensive Peace Agreement (2008) (Zimbabwe), Article XXVIII; Darfur Peace Agreement (2006), ch. 5, Article 509, para 2; Doha Framework Agreement (2010) (Sudan), Article 32.

political compromises.<sup>36</sup> The multiple working languages also indicate antagonisms in the running and the managing of the peace process.<sup>37</sup>

My research does not address the issue of measurement of the success of peace agreements as such, but it understands that, in evaluating them, we would have to address whether the peace pact delivered what was agreed. Therefore, the understanding and (related) authoritative interpretation of what was agreed in the text becomes a central point. Such agreements, usually not interpreted by courts or judges, raise more general issues of interpretation in relation to the context of their conclusion, with which international lawyers are familiar and could assist.<sup>38</sup>

### 3 Conceptualisation as theatrical experience

As previously indicated, in presenting the intersection between the research question and the object, I have been inspired by theory and teaching from the performing arts, in particular theatre. Such inspiration has been used as a methodological tool for conceptualisation. More specifically, the use of this single object helps in the process of moving from the individual examples to more general findings and observations. Therefore, it constitutes a visual aid in the conceptualisation of the research and a constant reminder of its key themes.

I have found the concept of theatre and its double by Artaud quite useful, in addition to his understanding of performance.<sup>39</sup> To summarise his manifesto, Artaud did not consider the theatrical reality to be simply mimetic of real life, but regarded theatre as an enhanced double of real life that could exist in parallel. Theatrical reality was obviously a form of extraordinary reality that was created through stylised movement, gestures, use of sound and lighting.

The repercussion was that, in addition to speech, other elements used to deliver the play through performance would be equally important, such as gestures and movement in general, as well as sound, lighting and sets. And although Artaud himself, when directing, made minimal use of sets, subsequent directors and artists, profoundly influenced by this concept, further developed the use of objects in plays. Those objects were not mere props, but an essential part of the performances. In this category, one could look at the 'emballages', the wrappings used by Tadeusz Kantor. Per wrappings, everyday objects with a given function (poor objects), for instance, an umbrella, are transformed into artistic objects, through the wrappings, and generate emotions through their use in theatre (as protective, hiding or revealing a particular angle). In other words, such practices include real objects and artistic objects to create a fictitious reality that does not bar reality from being a part of the work of art.

36 'Multilingualism', Report of the Secretary-General, UN Doc A/54/478 (1999); Mala Tabory, *Multilingualism in International Law and Institutions* (Sijthoff & Noordhoff 1980); on judicial discourse as a form of argumentative practice (deliberation) in international law and institutions, see Ian Johnstone, *The Power of Deliberation, International Law, Politics, and Organizations* (Oxford University Press 2011) 4–54.

37 For definitions of peace processes, see Bertrand Ramcharan, 'Peace Process' in Vincent Chetail (ed), *Post-conflict Peacebuilding: A Lexicon* (Oxford University Press 2009) 242–3; in the clear majority of African intrastate peace agreements, at least one of the original languages is either English or French (Portuguese and Arabic have been used in a few instances) and, when the international community is involved, the language of negotiations (English/French) usually takes precedence.

38 Koskenniemi (n 22): 'the determining force of law . . . is always contextual', and at 36–41; also, 341, on the relative determinacy of international law.

39 Artaud (n 15).



I use my object as a metaphor for a legal argument that is inferred from the examination of materials (texts of peace agreements) drawn from real life situations (African conflicts and crises). Through the process of conceptualisation, I use the *Enemies* to devise a method of telling my story, which includes ways of sequencing research arguments, as well as assistance in typology and generalisation of evidence based on said materials. African peace agreements have been concluded in response to conflicts, large-scale atrocities and numerous coups and related violence.<sup>40</sup> Excluding the Western Saharan<sup>41</sup> and South African agreements,<sup>42</sup> most agreements are ostensibly concluded outside the context of colonial and similar situations (apartheid).

The idea of the 'double' reality of the object helps me grapple with the double reality of evidence-based findings and generalised abstract research findings. Despite their differences in factual and contextual characteristics, the African peace agreements share a common underlying idea that informs their primary object and purpose: you share power so you have no reason to undermine the state; the state re-diffuses power through the peace agreement; and society benefits from it. This, as a result, informs the corresponding legal provisions, as well as the interpretative tools one could use to understand those agreements.

For all types of enemies (illegitimate governments clinging to power after election loss, violent coups, or governments not in full control of their territory), these agreements establish a legitimate authority to govern while the state reconfigures its power structures (via new or amended constitutions). Enemies are united and must live with each other, if they are to establish a non-genocidal, human-rights-observing state that has room for all.

#### 4 Dissemination as performance: shattering the fourth wall

*When they were building the walls, how could I not have noticed!*

*But I never heard the builders, not a sound.*

*Imperceptibly they have closed me off from the outside world.<sup>43</sup>*

One of the difficulties of presenting the findings of this research question lies within the fact that the diverse empirical data are used to design generalised findings and, thus, produce conclusions of an abstracted nature. In this exercise, one must carefully balance the individual (examples from different factual backgrounds and country dynamics) against the more general (conclusions).

40 For information on current conflicts, see the data from the Uppsala Conflict and Peace Dataset as published by Lotta Harbom and Peter Wallensteen, 'Armed Conflicts, 1946–2009.' (2010) 47(4) *Journal of Peace Research* 501–9; also, the data from the Human Security Centre, University of British Columbia, 'Human Security Brief 2006' <[www.hsrgroup.org/human-security-reports/20092010/text.aspx](http://www.hsrgroup.org/human-security-reports/20092010/text.aspx)>.

41 See the 'Settlement Proposals' of 30 August 1988, accepted (in principle) by Morocco and Frente POLISARIO; they consist of a settlement proposal (part 1), prepared and presented by the UN Secretary-General and the Organisation of African Union chairman, under the mandate conferred by the General Assembly in its resolution 40/50 (1985), and in conformity with GA Res 1514 (XV) (1960), and the Implementation Plan (part 2), proposed by the Secretary-General pursuant to the Security Council Resolution 621 (1988); see UN Document S/21360 (18 June 1990); section IV, para 50, of the Implementation Plan (part 2) establishes a transitional period between the ceasefire and the proclamations of the result of the referendum, which, still, has not taken place.

42 See Groote Schuur Minute (1990), Pretoria Minute (1990) and National Peace Accord (1991).

43 'Walls', poem by C P Cavafy, *Collected Poems* (Edmund Keeley and Philip Sherrard (trans), rev edn, Princeton University Press 1992).



Figure 1: Bespoke model of *Enemies* made from recycled paper and string

Presented in different locations, *United Enemies* has been part of various exhibitions and related contexts. These include outdoor locations (Central Park<sup>44</sup> and Museum of Modern Art, New York),<sup>45</sup> Turin (Castello di Rivoli),<sup>46</sup> London (outside Serpentine Gallery, Hyde Park), Berlin (Bettina Berggruen Garden Berggruen Museum), Bonn (outside Skulpturenhalle); and indoor museum/gallery spaces (Moderna Museet, Skeppsholmen, Stockholm,<sup>47</sup> Basel (Fondation Beyeler),<sup>48</sup> to name but a few.

This roaming set of sculptures, displayed outdoors in parks, gardens, or gallery backyards, under different weather conditions that have impacted on its material (patina), has helped me trace linkages to the peace agreements, texts that share a common understanding of bringing together former enemies, but originate from different factual (African countries) and legal backgrounds (conflicts and crises). They are also the products of informal groups of mediators, roaming around different locations. The mediators are on perpetual stand-by,<sup>49</sup> regularly liaising and circulating ‘drafts’ and discussing ‘deals’ whilst constantly moving round hotels from Arusha to Dar-es-Salaam, Syrte, Pretoria, Nairobi, Doha, Paris, Geneva and so forth. Such meetings are nowadays a regular part of the work of organisations, states and NGOs, assumed on an ad hoc basis, or in the margins of international summits. These two linkages have informed the making and the use of the bespoke model of the object *Enemies*.

44 Exhibited at Central Park from 5 March–25 August 2013.

45 Exhibited at Sculpture Garden from 17 July 2013–24 June 2016.

46 Exhibition from 22 May–23 September 2012.

47 Exhibition at Moderna Museet Skeppsholmen from 8 October 2016–15 January 2017.

48 Exhibition at Fondation Beyeler in Basel from 6 October 2013–2 February 2014.

49 For the Standby Team of Mediation Experts of the Mediation Support Unit of the UN Department of Political Affairs, established in 2008, and deployable within 72 hours, see *Strengthening the Role of Mediation in the Peaceful Settlement of Disputes, Conflict Prevention and Resolution* (Report of the Secretary-General, 25 June 2012) A/66/811, paras 31 and 38.

In making the bespoke model, I used recycled paper, paper glue, acrylic colour and thread. I selected the papier-mâché technique, also taking into consideration the practicalities of carrying the model around, without damaging it, and its environmentally friendly attributes. Interestingly, since my research revolves around the study of texts of legal documents, I decided it would be appropriate to use discarded paper found in the recycle bin of my office, instead of fimo clay, or styrofoam, the other possible alternatives.

The recycled paper, once morphed into paper pulp shaped as the pair of enemies, had to be dried in sunlight. That would normally require a day or two, or more, depending on weather conditions. It actually took several days for the model to dry out, before being painted and sealed with the thread, making it possible to gaze on the object under different weather circumstances, shades of light, and corresponding angles, just as the original work has been exhibited under different skylines and weather conditions. This daily display of the model-in-progress helped me think through and assess and re-assess the hypotheses and the synergies in my research, whilst contemplating the model's finishing touches.

Here lies the ability of experimental theatre to generate reaction through the senses. With regard to the different strands of experimental theatre, I have relied on Artaud, as his main objective of generating reaction through the senses was to create empathy between the audience and those on stage. Because my audience can see the original *Enemies*, as captured in pictures, they can start relating to it. Most importantly, the use of a bespoke model makes them part of a spectacle, or a happening, or a theatrical convention, within which each audience member becomes an "interested spectator", sympathising with the fortunes of the characters, and giving expression to the legal and moral critique evoked by the action of the play.<sup>50</sup>

Instead of showering an audience with facts and figures of select examples of African agreements, which would puzzle those unfamiliar with the subject matter and might put them off, I am able to use the object to discuss more general themes of my research, whilst trying to convey what is at stake for the parties that are behind those agreements and those they claim to represent, or fight for. This happens when the audience starts to relate to these two ugly grey figures that are humanesque but not entirely human. These figures personify the warring parties, the former enemies that sign up to peace agreements. The fact that they have two heads but three feet immediately captures the emotional reaction of the audience: this is a good way to demonstrate the reality that the enemies cannot exist separately. The thread I have used in my model has a distinct colour, which makes it stand out. In this way, I can draw attention to the thread that represents the rope, to highlight that the enemies are bound together.

Through the seal that the rope represents, I can then make reference to an alliance, effectuated by the binding power of law, through the peace agreement. I then focus on the enemies' faces, which are at the same time distinct and banal. These two interpretations of the faces help me channel research thoughts on the transformative power and effect of the law upon warring parties within a state (mutation through the law), while commenting on how enemies fighting each other, because of their (political or other) differences, end-up mirroring each other (via the common goal to gain access to power within a state).

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50 Ian Brownlie, 'The Rights of Peoples in Modern International Law' (1985) 9 Australian Bulletin of Society of Legal Philosophy 104, 104.

Thus, the process of creating a small bespoke model further enabled me to solidify the connections between *Enemies* and my research findings. Using the bespoke model offers a practical way of demonstrating a visual analogy for introducing the research findings to a general audience. If in a theatre the fourth wall is what separates the actors from the audience,<sup>51</sup> we could metaphorically talk about the fourth wall between legal research/expertise (of the legal academia) and society, within which law operates. By relying on the object, I have used the idea of ‘breaking through the fourth wall’ between legal experts and the society within which legal expertise (here the research findings of African peace agreements) is supposed to function.

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51 The ‘fourth wall’ (*quatrième mur*), an established theatrical convention, is understood as the imagined/invisible wall that separates the actors on stage from the audience. Whilst in traditional theatre, the actor pretends the audience is not there, in modern experimental theatre, we ‘break’ or ‘shatter’ the wall. Historically, dating back to Molière, the realistic theatre would rely on this convention; for putting an emphasis on the wall in realistic theatre through the strategic use of objects and sets, or placement of actors, see Jean Clothia, *André Antoine* (Directors in Perspective, Cambridge University Press 1991), ch on ‘The Fourth Wall: Antoine and the New Acting’, 20–38; for shattering the wall, see Artaud (n 15) 148.