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## **Integrity in International Justice**

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## **E-Offprint:**

Marina Aksenova, “The Role of Aesthetics in Furthering Integrity”, in Morten Bergsmo and Viviane E. Dittrich (editors), *Integrity in International Justice*, Torkel Opsahl Academic EPublisher, Brussels, 2020 (ISBNs: 978-82-8348-190-7 (print) and 978-82-8348-191-4 (e-book)). This publication was first published on 19 November 2020.

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*Front cover: Sir Thomas More (1478-1535) painted by the German artist Hans Holbein the Younger (1497-1543) in the late 1520s. Sir Thomas More is discussed extensively in this book as a symbol of integrity in justice.*

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## The Role of Aesthetics in Furthering Integrity

Marina Aksenova \*

### 12.1. Aesthetics, Integrity and the Internal Values of International Criminal Justice

International criminal law is a discipline that looks outwards by establishing the standards of behaviour upon which the international community agrees. There is a threshold of reprehensible conduct and anything below that threshold gets universally condemned. The discipline seeks to protect the core of life and dignity by outlawing abuses, which can hurt our shared humanity. The question is whether people directly involved in the process of administering international justice must embrace the values of international criminal law internally. This is when the integrity question becomes relevant. Is this a legal or an extra-legal consideration?

The policy brief underlying this volume refers to ‘integrity’ both as a legal term and a virtue term referring to the quality of a person’s character.<sup>1</sup> For instance, Articles 36(3)(a) and 42(3) of the Rome Statute of the International Criminal Court (‘ICC’) refer to “high moral character” of the participants of an international criminal justice process. The term ‘integrity’ is simultaneously a virtue term for the purposes of this work. If one dwells on the virtue meaning of ‘integrity’, the policy brief mentions, among other

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<sup>1</sup> Morten Bergsmo, “Revisiting Integrity in International Justice”, FICHL Policy Brief Series No. 93 (2018), Torkel Opsahl Academic EPublisher (‘TOAEP’), Brussels, 2018 (<https://legal-tools.org/doc/e550f7>). See, for more discussion of the legal meaning of integrity, the lecture by Olympia Bekou, “Integrity Standards in the Statutes of International Criminal Jurisdictions”, Centre for International Law Research and Policy (‘CILRAP’) Films, 1 December 2018 ([www.cilrap.org/cilrap-film/181201-bekou/](http://www.cilrap.org/cilrap-film/181201-bekou/)).

definitions, the alignment of intention, speech and action.<sup>2</sup> It is important for operationalizing the discipline of international justice that those who are tasked with manifesting its values in specific cases and situations, do so based on their inner conviction. Any misalignment has the potential of damaging the system in the long run. How does one connect to the inner guidance or the inner moral compass of individuals working in the field of international criminal justice?

One way to promote better connection between inner guidance and outer norms propagated by international criminal law is through embracing the wider role of art or aesthetics. Here, it is important to note that the terms ‘art’ and ‘aesthetics’ are used interchangeably in this chapter. Art is understood broadly to encompass different forms of expression (visual, auditory, sensual) employed with the purpose of transmitting a certain message coloured by emotions. Aesthetics is the study of these processes.

To cover basic definitional concerns, it is useful for the present analysis to view art as a process of creative expression rather than as an outcome-driven activity. The work of Simon O’Sullivan is helpful in explaining this specific vision. In his article, “The Aesthetics of Affect: Thinking Art beyond Representation”, O’Sullivan observes that art is not merely an object of knowledge to be studied from the perspective of representation, but something that produces affects.<sup>3</sup> O’Sullivan explains that seeing art from the ‘representational’ point of view traditionally means one of two things: either one speaks of the moment of art’s production, which entails adopting the historical lens through which the object of art is viewed, or, alternatively, it means that one foregoes the historical explanation and resorts to the framework of deconstructivism. This latter position still refers to art as an object, which forms part of the representational discourse.<sup>4</sup> But even after the deconstruction exercise, the object of art remains and continues to produce affects. Affects are moments of intensity, a reaction in or on the body at the level of matter.<sup>5</sup>

This complex vision of art exposes art’s dual function: to represent and interpret reality, and to create direct human experience connecting us to

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<sup>2</sup> *Ibid.* This approach to integrity also constitutes in part the Noble Eightfold Path to Happiness, which is one of the central teachings in Theravada Buddhism.

<sup>3</sup> Simon O’Sullivan, “The Aesthetics of Affect: Thinking Art beyond Representation”, in *Angelaki Journal of the Theoretical Humanities*, 2010, vol. 6, no. 3, pp. 125–135.

<sup>4</sup> *Ibid.*, pp. 125–126.

<sup>5</sup> *Ibid.*

ourselves through aesthetics. Art goes beyond language and even beyond the representation of meaning by creating a direct experience. It facilitates the channel of communication between the observer and the observed, dispensing with the dimensions of time and space.<sup>6</sup> In other words, art creates room in which the attention of the observer is manipulated so that he or she perceives the world in an unfamiliar way. To further demonstrate what is meant by the affective function of art, it is helpful to refer to the work of the art theorist John Dewey, who points out that art traditionally accompanied daily rituals, such as worship, hunting or law-making.<sup>7</sup> Originally, art was inseparable from the conditions of its creation, thereby bringing its affective function to the forefront: experience associated with the object of art was of utmost importance. For instance, the Greek Parthenon, which is regarded today as an art masterpiece, was originally designed and built as a place of civic commemoration.<sup>8</sup> Dewey further observes that it is only much later and through the process of industrialization that art became contextualized by being confined to specific places, such as museums or opera houses.<sup>9</sup> Such contextualization strengthened the representational vision of art.

The experiential aspect of art opens up the emotional channels for receiving the interpretative or representational message, while at the same time avoiding intransigence. In this way, the message is internalized by an individual, taking into account their subjective reality and experience of life. It is the process-oriented feature of art that invites contemplation and makes it possible to speak of the improved alignment of inner moral convictions and external action in individuals. Art and creative expression have the capacity to go beyond firm analytical structures, and surpass cognitive biases and other ‘mental defences’ to enhance clearer views of the specific situation calling for attention. Dewey’s distinction between the ‘thinker’ and the ‘artist’ in the context of life cycles is helpful to explain this point.

Life, according to Dewey, goes in cycles reflective of an adaption to the environment by any living creature. There is constant adjustment and transformation of imbalance happening (for instance, satisfying hunger). Dewey calls this process the rhythm of loss of integration with the envi-

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<sup>6</sup> *Ibid.*

<sup>7</sup> John Dewey, *Art as Experience*, Capricorn, 1958 [1934].

<sup>8</sup> *Ibid.*, p. 4.

<sup>9</sup> *Ibid.*, p. 6.

ronment and recovery of union with it.<sup>10</sup> This rhythm produces both intellectual and aesthetic work. The former is more concerned with the conflict or the situation in which the discord arose, while the latter focuses on the phase of experience where union is achieved. Hence both the ‘thinker’ and the ‘artist’ are ultimately concerned with the interaction of any living creature with its surroundings, simply with the emphasis put in different places. The intellectuals create solutions to the problem using language, symbols and mathematical signs, whereas the artists do their thinking in the very qualitative media they work in.<sup>11</sup>

Going back to the question of integrity in the field of international justice, this chapter argues that the time is ripe to rethink what we expect from international law. The premise is that there needs to be a better defined link between its ‘outward’ values and the ‘inner’ values of those tasked with imparting the ‘outward’ values. As a first step in this process, the chapter suggests reflecting on the vehicles to facilitate this reassessment process. Relying, among other frames of reference, on natural law theory, it insists on strengthening the persuasive authority of international law by referring to the list of basic human goods, including that of aesthetics. The contribution engages in particular with the work of John Finnis, who discusses basic human goods pursued by humans, such as aesthetic experience.<sup>12</sup> Justice is a way of distributing these goods in society, and law is a coercive instrument for such distribution. The question is whether law can also be a direct reflection of the basic goods and not just the ‘enforcer’ of them. This is particularly true for international (criminal) law, which relies strongly on persuasion. International law has the capacity to impose duties or to confer powers on State officials, thereby reducing arbitrariness in their decision-making; it creates causes of action.<sup>13</sup> How can instrumentalization be prevented and the universality of international law be preserved in these circumstances? The answer lies in strengthening its link with the underlying values it represents, including that of aesthetics.

John Finnis in his work on natural law identifies an exhaustive list of seven basic human goods pursued by humans: life, knowledge, play, aes-

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<sup>10</sup> *Ibid.*, p. 14.

<sup>11</sup> *Ibid.*, p. 15.

<sup>12</sup> John Finnis, *Natural Law and Natural Rights*, second edition, Oxford University Press, 2011, p. 85.

<sup>13</sup> Basak Çali, *The Authority of International Law: Obedience, Respect, and Rebuttal*, Oxford University Press, 2015, p. 11.

thetic experience, sociability (friendship), practical reasonableness, and religion.<sup>14</sup> These elements comprise the notion of good and well-being. The list is exhaustive because, according to Finnis, the other goods will be the ways of pursuing or realizing one of the basic goods.<sup>15</sup> The idea of ‘good’ in formulating this list stems from man’s natural inclination to good – a feature he or she shares with all the substances in nature – with the ultimate goal being self-preservation.<sup>16</sup> One seeks to attain these goods as an individual, but also as a member of the community. As Thomas Aquinas wrote:<sup>17</sup>

since every part is ordained to the whole, as imperfect to perfect; and since one man is a part of the perfect community, the law must needs regard properly the relationship to universal happiness.

Justice, then, provides a framework for the realization of these goods in the community.<sup>18</sup>

The following section of the chapter dwells on the role of natural law theory and other theoretical frames of reference in explaining the role of aesthetics in promoting integrity in the field of international justice. Each sub-section discusses the role of art and creative expression in reclaiming the universal dimension of international law from a different theoretical standpoint. The third section of the chapter moves away from a purely theoretical analysis and discusses specific ways in which it is possible to engage with art in the field of international justice. It is argued that one can see international criminal law trials through the lens of aesthetics by viewing them as ritualistic performances. Secondly, it is possible to see art and creative expression as a method of scientific inquiry aimed at illuminating unseen elements of the discipline. Finally, one can explore and further develop the idea of engaging with art as a form of reparations practised by the ICC.

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<sup>14</sup> Finnis, 2011, see above note 12.

<sup>15</sup> *Ibid.*, p. 90.

<sup>16</sup> Thomas Aquinas, *Summa Theologiae*, ST II.I.94:2.

<sup>17</sup> *Ibid.*, ST I.II.90:2.

<sup>18</sup> Robert Nozick conceptualizes State as a dominant protective association that reserves for itself the right to judge any procedure of justice to be applied to its clients. He understands justice in a procedural sense as a moral restriction on the use of force by the dominant association, that is, the State. According to this reasoning only the minimal State can be justified, for any State that is more extensive violates people’s rights. See Robert Nozick, *Anarchy, State and Utopia*, Blackwell, 1974, pp. 101, 149.

## 12.2. Theoretical Frameworks for Discussing the Role of Aesthetics in Promoting Integrity

### 12.2.1. Natural Law Theory

The introduction alluded to the work of John Finnis that enumerates a list of goods towards which every human strives.<sup>19</sup> Finnis sees justice as a ‘distributor’ of these goods in society. It is always inter-subjective, or points to the direction of another person (‘other-directedness’); it regulates duties owed to others and the corresponding rights; and it contains a measure for distributing the goods in a proportionate way.<sup>20</sup> Justice excludes arbitrary self-preference in pursuit of good.<sup>21</sup> Law is the instrument of justice; it is a force keeping the equilibrium in society by regulating the pursuit of human goods and thus contributing to a common good of the relevant community.

The coercive qualities of law are well-documented and extensively discussed.<sup>22</sup> The key question is whether, in addition to being the distributive force in societies, law can also embody the essence of the human goods themselves. This question is particularly relevant to international law, which lacks coercive powers and systemically applicable sanctions akin to those imposed by national States on its subjects. Take, for instance, the work of Thomas Hobbes on the coercive powers of law in the context of a State. He argued that law coerces us by arousing fears about evil consequences of disobedience.<sup>23</sup> The will to obey law is thus the result of a reasoned reflection on the implications of one’s actions. The social contract is enforced without impeding on the individual’s freedom, which, according to Hobbes, is only taken away by the identifiable acts of interference by external agents. We cannot be said to act un-freely when obeying law be-

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<sup>19</sup> Finnis, 2011, see above note 12.

<sup>20</sup> *Ibid.*, pp. 161–63.

<sup>21</sup> *Ibid.*, p. 164.

<sup>22</sup> Hans Kelsen, *The Pure Theory of Law*, original German first edition 1934; second edition, 1960, translated to English by Max Knight (trans.), University of California Press, Los Angeles, 1967, p. 34; Dennis Lloyd, *The Idea of Law*, Penguin Books, Middlesex, 1970 [1964], p. 35 (in his index, the entry for coercion says, “See force, sanction”); Jacques Derrida, “Force of Law: The Mystical Foundation of Authority”, in Drucilla Cornell, Michel Rosenfeld and David Gray Carlson (eds.), *Deconstruction and the Possibility of Justice*, Routledge, New York and London, 1992, chap. 1.

<sup>23</sup> Thomas Hobbes, *Leviathan*, Cambridge University Press, 1996, chap. 21, as cited by Quentin Skinner, in Bo Stråth (eds.), *States and Citizens: History, Theory, Prospects*, Cambridge University Press, 2003, pp. 15–16.

cause reasoned reflection produces the will to obey the law.<sup>24</sup> The same will to obey may not necessarily arise with the same strength when it comes to the norms of international law because the threat of sanctions is not as pronounced as in domestic orders.

The authority of international law is, to a large extent, persuasive and includes the capacity of law to impose duties or to confer powers on State officials.<sup>25</sup> Basak Çali explains that, in practice, it means State officials engage in a deliberative exercise comparing and contrasting the authority of domestic law and international law when responding to authority claims made by international law.<sup>26</sup> This is the manifestation of the persuasive power of international law: it contributes to the decision-making process by reducing arbitrariness. It thus protects common values, not so much through coercion, but rather through bestowing additional causes of action on those in power.

The enforcement deficit characteristic of general public international law is acutely felt in the specific sub-field of international criminal law, which is the focal point of this chapter. The problem of modern international criminal justice is that it is torn between its focus on the universal sense of morality and its high degree of dependence on political processes at international, State and individual levels. For instance, at the international level, there is no consensus on whether to bring the situation in Syria to the attention of the United Nations Security Council for its subsequent referral to the ICC.<sup>27</sup> At the State level, there is wariness by some States about what is perceived as interference by the international community in the domestic affairs of States through the activities of international courts and human rights bodies.<sup>28</sup> And at an individual level, some high-ranking State officials enjoy *de facto* impunity, even in the presence of an arrest warrant issued by the ICC.<sup>29</sup> These inconsistencies have a direct bearing on

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<sup>24</sup> *Ibid.*

<sup>25</sup> Çali, 2015, see above note 13.

<sup>26</sup> *Ibid.*, p. 64.

<sup>27</sup> UN Security Council, “Referral of Syria to International Criminal Court Fails as Negative Votes Prevent Security Council from Adopting Draft Resolution”, press release, 22 May 2014, UN Doc. SC/11407.

<sup>28</sup> For example, Reuters, “Philippines informs U.N. of ICC withdrawal, court regrets move”, 16 March 2018.

<sup>29</sup> For example, International Criminal Court (‘ICC’), Situation in Darfur, Sudan, *The Prosecutor v. Omar Hassan Ahmad Al Bashir*, Pre-Trial Chamber I, Warrant of Arrest for Omar Hassan Ahmad Al Bashir, 4 March 2009, ICC-02/05-01/09-1 (<https://legal-tools.org/doc/814cca>).

the question of integrity of those tasked with enforcing international criminal justice, making misalignment of the external ambitions and inner values more possible due to moral relativism, political constraints, and overall contradictions implicit in the project of international criminal justice.

How to address these inconsistencies? There is a powerful educational potential in international criminal law. Its strong moralistic embedment makes it a suitable platform for communicating values to a wider audience. It is not just about the prosecution of individuals but also about sharing the norms concerning the conduct not tolerated by the rest of humanity. Accountability efforts are dependent on the intensity and scale on which these core values are shared.<sup>30</sup> This is precisely the point where international (criminal) law needs to come in closer contact with the ultimate values it protects.

If the law seeks to regulate human conduct for the benefit of the entire community, then why not see it as a force capable of upholding the values more directly through its own authority? Indeed, law embodies its coercive power and serves as a force maintaining order when it comes to the value it aims to endorse. However, I argue, law in its operation also touches upon all basic human values, including that of aesthetics, and not only the one it directly protects. This is particularly relevant for international law, which relies on its persuasive authority. Section 12.3. of the chapter provides an example of how this theoretical vision can be applied to an international criminal trial.

### **12.2.2. Visual Methodology in the Age of the Digital Baroque**

Natural law theory is just one framework that supports the use of art or aesthetics in promoting integrity. Jurisprudence provides for another fruitful paradigm to further support the claim of this chapter. Richard Sherwin, a scholar of contemporary jurisprudence, argues that there is an urgent demand for exploring visual methodology in legal science. The overproduction of imagery in our modern life is what Sherwin refers to as the age of the ‘digital baroque’.<sup>31</sup> The term ‘baroque’ emphasizes the shifts in the

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<sup>30</sup> Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions Are Changing World Politics*, W.W. Norton, 2011; Marina Aksenova, “Symbolism as a Constraint on International Criminal Law”, in *Leiden Journal of International Law*, 2017, vol. 30, no. 2, pp. 475–499.

<sup>31</sup> Richard K. Sherwin, *Visualizing Law in the Age of the Digital Baroque: Arabesques and Entanglements*, Routledge, 2011, pp. 187.

dominant forms of communication, whereby images collected, for instance, through social media, create mediated reality.<sup>32</sup> The original concept depicted by an image fades away with the unfolding of the infinite representational forms amply supplied by the Internet. The digital baroque calls for a new mindfulness, one that integrates the affects of the body's senses with the mind's natural capacity to analyse and categorize.<sup>33</sup>

Sherwin argues for the exploration of the path of visual jurisprudence as a way to navigate the new forms of mediated reality.<sup>34</sup> In this new state of affairs, where the visual shapes our perception of reality, law in its purely analytical form retains its validity, but loses the significance.<sup>35</sup> This is where Sherwin finds clear scope for developing new visual rhetoric, integrating ethics and aesthetics.<sup>36</sup> His call is to cultivate visual literacy and to retrieve the core humanist ideals of creative intuition and eloquence in the service of ethical wisdom.<sup>37</sup> The wise 'lawyer-poet-statesman' finds a way to balance unruly passions and deceits cultivated in the age of visual baroque with the "tyranny of the rational systems of knowledge" to make civic life both secure and just.<sup>38</sup> Sherwin's philosophical and jurisprudential stance serves to demonstrate the timeliness of an aesthetic intervention in the development of law as a discipline.

The field of international criminal law is particularly susceptible to the reception of visual or aesthetic rhetoric at this point of its development. The discipline urgently requires rethinking and additional support to strengthen its highly moralistic claims. International criminal law was conceived in the aftermath of World War II as a project to individualize the responsibility of the senior Nazi leadership for aggression. It later spearheaded the accountability movements for mass atrocities in the 1990s, through the creation of the International Criminal Tribunal for the former Yugoslavia ('ICTY') and the International Criminal Tribunal for Rwanda ('ICTR'), accompanied by the rise of enthusiasm around the project of international criminal justice. The early 2000s, however, signified a shift to-

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<sup>32</sup> *Ibid.*, p. 174.

<sup>33</sup> *Ibid.*, p. 113.

<sup>34</sup> In this regard, TOAEP's commitment to a wider use of the AV-recordings of conference lectures to support academic arguments in its publications is highly commendable.

<sup>35</sup> Sherwin, 2011, p. 177, see above note 31.

<sup>36</sup> *Ibid.*, p. 174.

<sup>37</sup> *Ibid.*, p. 187.

<sup>38</sup> *Ibid.*, p. 188.

wards a more critical perception of the field, leading up to what we now might call a legitimacy crisis stemming from the growing awareness of the field's own inherent limitations.<sup>39</sup>

The ICC is engaged in an ongoing battle to garnish support at the State level so that it can fully exercise its enforcement powers over individuals. Immi Tallgren articulately explains the difficulties implicit in the project of international criminal law, such as its propensity to overstate its own claims.<sup>40</sup> She refers to this field as “a truly illuminating package of ideas” dealing with existential questions of life and death, and choices between good and evil.<sup>41</sup> At the same time, Tallgren notes that the focus on individual criminal responsibility obfuscates complexity and context. Instead of discussing nuclear weapons, we discuss machete knives used in Rwanda. Instead of focusing on State responsibility for aggression, we focus on individual war crimes, such as rape or murder.<sup>42</sup> Another pertinent example is the problem of child soldiers.

At the time of writing, the ICC is trying Dominic Ongwen, who started as a child soldier in the Lord's Resistance Army in Uganda at the age of 10, subsequently rising in its ranks.<sup>43</sup> The moral ambiguity of prosecuting someone socialized into atrocities as a child certainly gets attention in the courtroom but is unlikely to get full expression in the eventual legal judgment.<sup>44</sup> The categories of victims and perpetrators are rather contained and fixed within the realm of international law, while the reality may be more complex: with time, child soldiers transition from the role of victims into the role of perpetrators.<sup>45</sup> Art, therefore, allows contextualization of law. Augmenting one's sense of empathy and positive sympathy may not only involve explaining the nature of an internationally recognized prohibi-

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<sup>39</sup> Aksenova, 2017, see above note 30.

<sup>40</sup> Immi Tallgren, “The Sensibility and Sense of International Criminal Law”, in *European Journal of International Law*, 2002, vol. 3, pp. 571, 572.

<sup>41</sup> *Ibid.*, p. 593.

<sup>42</sup> *Ibid.*, p. 594.

<sup>43</sup> ICC, Situation in Uganda, *The Prosecutor v. Dominic Ongwen*, Case Information Sheet, October 2018, ICC-02/04-01/15.

<sup>44</sup> Mark Drumbl, “The Ongwen Trial at the ICC: Tough Questions on Child Soldiers”, Open Democracy, 14 April 2015 (available on its website).

<sup>45</sup> Erin Baines, *Buried in the Heart: Women, Complex Victimhood and the War in Northern Uganda*, Cambridge University Press, 2016, p. 3.

tion (of torture, for example) but also by creating a direct experience of what it means to be human with all its complexities and ambiguities.

There is thus a clear need for mediating noble claims of international criminal law as formulated in the Preamble of the Rome Statute of the ICC and what this field is actually able to achieve. It is argued here that artistic expression can assist with this exercise by adding an experiential dimension to the claims of international criminal justice. In addition to that, art then becomes a suitable medium for communicating complex truth. It is possible that re-orienting the rhetoric of international criminal justice towards visual jurisprudence may provide an additional layer of context and complexity, and thereby contribute to the integrity of the participants of an international justice process.

### **12.2.3. The Connection Between Ethics and Aesthetics**

Admittedly, the study of integrity initially brings to mind the role of ethics and not that of aesthetics.<sup>46</sup> This is because ethics, as a branch of philosophy – and religion – deals with human actions and the general principles guiding these actions. Ethics is outcome-oriented – the goal is to apply generalized principles to a specific matter in order to attain the result aligned with a certain moral foundation. In contrast, aesthetics is process-oriented. It is less concerned with outcomes, but places values on the process through which certain action takes place. Aesthetics is, therefore, concerned with thoughtful contemplation. It is not focused on the general principles, but rather on the uniqueness of each experience.<sup>47</sup> Why study the role of aesthetics, one may ask, if it is ethics that supplies us with a ‘code of conduct’ that we may apply to the situations which require the alignment of inner guidance with the demands of external rules and values?

The work of Wittgenstein may provide an answer to this question. He argued that essentially ethics and aesthetics are two sides of the same coin. Just as they focus on different aspects of the same action (generality versus specificity; outcome versus process; acting versus experiencing), they do

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<sup>46</sup> See, for instance, lectures by Dienneke de Vos, “Recent Developments in Ethics Standard-Setting and Mechanisms in the UN”, CILRAP Films, 1 December 2018 ([www.cilrap.org/cilrap-film/181202-vos/](http://www.cilrap.org/cilrap-film/181202-vos/)); Shannon E. Fyfe, “Integrity and Prosecutorial Ethics in International Criminal Justice”, CILRAP Films, 1 December 2018 ([www.cilrap.org/cilrap-film/181202-fyfe/](http://www.cilrap.org/cilrap-film/181202-fyfe/)).

<sup>47</sup> Diané Collinson, “Ethics and Aesthetics are one”, in *The British Journal of Aesthetics*, 1985, vol. 25, no. 3, p. 266.

not imply a different set of underlying values. Rather they discuss the very same process from a different point of venture.<sup>48</sup>

In line with this position, this chapter does not denounce the role of ethics in promoting integrity, but rather suggests an alternative way of perceiving it. To give a concrete example, one may contemplate judicial impartiality. One way to look at this principle is through the lens of ethics that requires judges to apply the law without being influenced by personal convictions and biases. This is one of the fundamental elements of due process and is codified in a variety of human rights instruments as well as the statutes of international courts and tribunals.<sup>49</sup>

However, one may also see the application of the same principle as a process in each particular case. What are the elements inherent in an international criminal trial that promote judicial impartiality? One can suggest that certain procedures characteristic of an international trial – such as the swearing in of judges as they pledge to avoid representing a State or any other vested interests, their professionally worn attire as well as formalized conduct in the courtroom, including rising when the judges enter the room – all emphasize respect to the nature of judicial activity and remind judges of the need to uphold the principle of judicial independence. Is the process a trivial matter? Far from it, this chapter argues. Misalignment of inner guidance and the demands of justice can occur easily depending on the factual circumstances of the case, ‘triggering’ certain biases in a judge, which they may not even be conscious of.<sup>50</sup> There may also be situations of personal fatigue or general policy considerations of expediency of an international trial. All these factors may compromise judicial impartiality if it is only formulated as a general principle or a rule. The process whereby this rule is enforced in practice exists as a constant reminder of the need to uphold this principle in each specific case.

#### **12.2.4. The Role of Art in Evoking the Truth-Content**

Theodor Adorno, in the famous *Aesthetic Theory*, acknowledges the difficulty of defining art and chooses to describe it through dialectical exercises

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<sup>48</sup> *Ibid.*

<sup>49</sup> For example, European Convention on Human Rights, 4 November 1950, Article 6 (<https://legal-tools.org/doc/8267cb>); Rome Statute of the International Criminal Court, 17 July 1998, Article 36(3)(a) (<https://legal-tools.org/doc/7b9af9>).

<sup>50</sup> For a recent example, see Kevin Jon Heller, “Judge Ozaki Must Resign — Or Be Removed”, *Opinio Juris*, 29 March 2019 (available on its web site).

by resorting to contradictions, while simultaneously upholding the limit to these contradictions. Art has two elements: ‘import’ – art’s form and content – and ‘function’ – the work’s purpose.<sup>51</sup> He then dwells extensively on the contradiction between the components of import, emphasizing the essential nature of the ‘truth-content’ of art, or the way in which artwork simultaneously challenges the way things are and suggests how they could be.<sup>52</sup> Importantly, Adorno underlines the fluidity of art, which exists in relation to what it is not – historical origins of the production. Art’s servitude to kings and amusement is not to be held against it as its original sin as “truth exists exclusively as that which has become”.<sup>53</sup> These sets of identified contradictions give us a sense of the effects of art without necessarily providing a comprehensive definition. The inquiry into the nature of art would therefore require a separate study going far beyond the scope of the present chapter. It is rather the qualities art that can be known and discussed in conceptual terms.

The ‘truth-content’ of art, then, is an inalienable part of the art-object and the aesthetic experience of the art. Art reveals truth that is not so easily captured by formalized knowledge because experiences, such as suffering, remain foreign to knowledge.<sup>54</sup> Knowledge can subordinate them conceptually and provide means for improving certain states, such as amelioration of suffering, but it cannot express through its own means the experience without becoming itself irrational.<sup>55</sup> Art and knowledge are thus complementary in revealing the truth. Art cannot be reduced to rationalistic determinations, but it contains an implicit need for interpretation.<sup>56</sup> By demanding such interpretation, it invites philosophical reflection. According to Adorno, this alone is the justification of the discipline of aesthetics.<sup>57</sup>

It is therefore possible to see art as being complementary to international (criminal) law: suffering cannot be understood at the level of analytical categories, yet it can be described and ameliorated. It is the experiential dimension brought about by art that allows for deeper internalization of suffering. The pitfall in this process that Adorno identified in his other

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<sup>51</sup> Theodor W. Adorno, *Aesthetic Theory*, Continuum, 1970, pp. 100, 227.

<sup>52</sup> *Ibid.*, p. 132.

<sup>53</sup> *Ibid.*, p. 3.

<sup>54</sup> Adorno, 1970, p. 18, see above note 51.

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*, p. 128.

<sup>57</sup> *Ibid.*

work is the challenge of aesthetic representation removing some of the horrors the depiction or production represents.<sup>58</sup>

### **12.3. Art as a Vehicle of Transformative Change**

This section is exploratory in nature in that it investigates the possibilities of, firstly, viewing international proceedings from the aesthetics point of view, while examining the implications of this view. Secondly, it briefly touches upon the prospects of using art as a method of inquiry to gain more insight into the field of international justice and thus improving the integrity of its stakeholders. Finally, this section examines some practical examples of interjecting creative expression in the administration of international justice in the form of reparations.

#### **12.3.1. Viewing International Criminal Proceedings as an Aesthetic Experience**

This sub-section focuses on the application of Finnis's basic goods theory directly to an international criminal trial. As already mentioned, international criminal law is a sub-field of international law with a strong moral appeal. It endorses values shared by humanity as a whole by prohibiting the most heinous conduct in both war and peace. It is an attempt by the international community to foster a collective response to evil. A clear example of how basic human goods are reflected in international criminal law comes from the provision prohibiting genocide. For the completeness of the picture, it is important to provide a comprehensive account of how each basic good, not just aesthetics, discussed by Finnis is reflected in an international criminal trial. This is to emphasize the connections between different values.

The legal definition of genocide is found in Article II of the Genocide Convention<sup>59</sup> and is replicated in Article 6 of the Rome Statute of the

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<sup>58</sup> Theodor W. Adorno, *Can One Live after Auschwitz? A Philosophical Reader*, Stanford University Press, 2003, p. 252.

<sup>59</sup> In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

1. Killing members of the group;
2. Causing serious bodily or mental harm to members of the group;
3. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. Imposing measures intended to prevent births within the group;
5. Forcibly transferring children of the group to another group.

ICC. This norm clearly protects life as a basic human value. The crime of genocide sits at the apex of the group of offences with highly traumatic connotations for future generations. It criminalizes the destruction of individuals as a collective entity, on the basis of their belonging to a group defined by certain characteristics. This act is particularly heinous for it attacks persons and denies them their right to exist as a group. Hannah Arendt referred to genocide as “an attack upon human diversity as such, that is, upon a characteristic of the ‘human status’ without which the very words ‘mankind’ or ‘humanity’ would be devoid of meaning”.<sup>60</sup> The convoluted logic underlying acts of genocide threatens the whole of humankind due to its capacity to indoctrinate and turn humans against each other. The dangerous potential of genocide, historically tested, elevates it to the status of the most odious international crime.

Genocide is also an attack on sociability or the peaceful co-existence of humans. The process whereby genocide occurs consists of several steps.<sup>61</sup> It starts with the feelings of animosity, resentment and fear directed against individuals based on their belonging to a certain group. These sentiments are not endogenous, however, and are usually linked to the ideas planted ‘from above’ by the authority seeking control or power. One group is made to believe that the other group is threatening the well-being of the former. Sometimes, the feelings of mistrust and resentment are mutual between the groups. The ideology of hate is one of the ways to manipulate people and make them ‘governable’. As a result of indoctrination, the culture of blaming others for personal grievances with the potential of escalating into violence is thus created.

Even if somebody, based on their flawed practical reasonableness, decides to destroy a group as such for the sake of pursuing other goods, law would stand in their way as a deterrent. In this case, law overtakes individual practical reasonableness and becomes a manifestation of the same value at the community level. Finnis defines practical reasonableness as bringing intelligence and order into one’s own actions and habits.<sup>62</sup> However, one’s internal order and decision-making process may come into conflict with the

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<sup>60</sup> Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, Viking Press, 1965, pp. 268, 269.

<sup>61</sup> For more discussion, see, for example, Bert Ingelaere, Stephan Parmentier, Jacques Haers and Babara Segaert (eds.), *Genocide, Risk and Resilience: An Interdisciplinary Approach*, Palgrave, 2013.

<sup>62</sup> Finnis, 2011, p. 88, see above note 12.

common good. In specific instances of criminality, the emotional state may overtake an individual, leading to actions misaligned with practical reasonableness. Eric Posner, in his work on “Law and the Emotions”, points to the neglected role of emotions in legal theory. He contends that people’s preferences differ depending on whether they are in the ‘calm’ state or affected by emotions. He upholds rationality in both states but claims that this rationality is consistent with the internal order of preferences dictated by the emotional state.<sup>63</sup> In such situations, law serves as a ‘common denominator’ for collective intelligence. It remedies internal misalignment with the external common good.

If the deterrent effect of law for whatever reason does not take effect and genocide occurs, international criminal law then, in theory and subject to its multiple limitations, provides for remedies, such as trial and punishment of the responsible person. In this case, law is by no means devoid of the emotional component. It can be said to express anger as an emotional response to the violation of community values. Thomas Aquinas in his teachings insisted that anger does not always lead us astray and can very well be the consequence of reason. Anger, according to him, can be the instrument of virtue when it requires judgment on the nature and degree of punishment of the offender and an appropriate emotive stance towards him or her.<sup>64</sup> Law is thus once again relevant to sociability, as an international criminal trial for the crime of genocide provides for a sense of community and justice, which are meted out on behalf of international society as a whole as “a passionate reaction graduated in its intensity”.<sup>65</sup>

Criminal trials are instruments of generating knowledge, as one of their purposes is ascertaining the truth about what happened. Establishing individual criminal responsibility beyond reasonable doubt is premised on the sufficiency of evidence and the scrupulous analysis of facts. There is a certain distinction between ordinary criminal trials focusing on individual responsibility and legal proceedings targeting mass atrocities, such as genocide. The latter shape collective memory by looking at a broader picture of events and contrasting conflicting accounts embedded in political, social

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<sup>63</sup> Eric A. Posner, “Law and the Emotions”, University of Chicago, John M. Olin Law and Economics Working Paper No. 103, September 2000, pp. 2–5.

<sup>64</sup> Gregory M. Reichberg, *Thomas Aquinas on War and Peace*, Cambridge University Press, 2016, p. 92.

<sup>65</sup> Émile Durkheim, *The Division of Labour in Society*, 1893, p. 52.

and religious frameworks.<sup>66</sup> The knowledge produced by international trials is thus of a broader nature.

It is thus possible to conceptualize international criminal trials as ritual-like social performances.<sup>67</sup> Such vision of justice resonates with the basic human good of play. Play is understood here as a process. Jeffrey Alexander's conceptualization of social performances is useful to explain this point.<sup>68</sup> He argues that a social performance consists of a number of elements, including actors, scripts, background representations, and audience. In simpler societies, these elements are fused, or tightly linked to each other. Religious rituals are examples of social performances when the audience does not need to be convinced because it already shares the beliefs that the actors are transmitting. With increasing social complexity, the elements of any social performance become de-fused. The successful social performance re-fuses the elements by bringing them together in a coherent fashion. Failure to do so may render the social performance unconvincing, thus obstructing the delivery of the symbolic integrative message indented by the cultural practice in question.<sup>69</sup>

The first international prosecutions of genocide at the ICTY and the ICTR were undoubtedly social performances carrying a strong message of condemnation and giving effect to the values agreed upon internationally.<sup>70</sup> Criminal punishment resulting from this process is a manifestation of the other-directedness of justice in a sense that it remedies the situation from the other end by evoking retribution aimed at atonement. The administration of justice, especially at the international level, is a highly regulated and highly emotive performance that relies on actors, script and audience.

The connection between the prohibition of genocide and religion as a basic human value is rather straightforward. The divinity of life has been one of the reasons for the initial criminalization of murder in the context of ordinary criminal law. Genocide as an attack on diversity with the potential

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<sup>66</sup> Ruti G. Teitel, *Transitional Justice*, Cambridge University Press, 2010, p. 72.

<sup>67</sup> Marina Aksenova, "The Role of ICT in Historical Accounts of Genocide", in Uladzislau Belavusau and Aleksandra Gliszczyńska-Grabias (eds.), *Law and Memory: Towards Legal Governance of History*, Cambridge University Press, 2017, p. 57.

<sup>68</sup> Jeffrey C. Alexander, "Cultural Pragmatics: Social Performance between Ritual and Strategy", in Jeffrey C. Alexander, Bernhard Giesen and Jason L. Mast (eds.), *Social Performance: Symbolic Action, Cultural Pragmatics and Ritual*, Cambridge University Press, 2006, p. 32.

<sup>69</sup> For more on this topic, see Aksenova, 2017, see above note 67.

<sup>70</sup> Alexander, 2006, p. 58, see above note 68.

of the destruction of the whole portion of the population magnifies the harm of murder. In terms of functionality, one can also see clear parallels between a criminal trial and a religious ritual. Émile Durkheim, looking for moral foundations of the legal order, turned to religion as a system of communication of ideas and sentiments. For Durkheim, religion consists of acts that have the object of perpetually making and remaking the souls of the collectivity and of individuals; thus, its function is to strengthen the bonds attaching the individual to society.<sup>71</sup> International criminal trials, although secular in nature, also promote a similar value-based system and serve as a glue for individuals across countries, who share their moral outrage at the crime of genocide.

Finally, there is a powerful interaction between aesthetics and the legal prohibition of genocide. It is clear that international criminal trials embody a very strong sense of aesthetics, which becomes apparent if one looks at the attributes of an international criminal trial. Procedurally speaking, they run according to a strict script, which approximates them to a theatrical performance. The judges wear carefully designed robes. The ICC's physical premises were constructed with the idea of justice and transparency in mind.<sup>72</sup> All of the participants in the process rely on powerful emotive rhetoric in their arguments. For instance, the ICTY judges reserved particularly strong statements for genocide as compared to other crimes in the Statute. The judgment against Radoslav Krstić – the first person convicted of genocide at the ICTY – delivers a powerful message of condemnation of this crime pointing to its particular heinousness: “[a]mong the grievous crimes this Tribunal has the duty to punish, the crime of genocide is singled out for special condemnation and opprobrium”.<sup>73</sup>

These aesthetical attributes of international criminal law do not only serve the practical purpose of bringing order to the process of the administration of justice, but also stress the importance of the values claimed by the discipline. This point of view of international criminal justice allows strengthening integrity of its stakeholders by highlighting the elements that

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<sup>71</sup> Émile Durkheim, *The Elementary Forms of the Religious Life*, George Allen & Unwin, London, 1912, p. 471.

<sup>72</sup> ICC, “The ICC has moved to its permanent premises”, press release, 14 December 2015, ICC-CPI-20151214-PR1180.

<sup>73</sup> International Criminal Tribunal for the former Yugoslavia (‘ICTY’), *Prosecutor v. Radislav Krstić*, Appeals Chamber, Judgement, 19 April 2004, IT-98-33-A, para. 36 (<https://legal-tools.org/doc/86a108>).

comprise the system and make it operational. This view serves as a reminder of why international criminal law exists in the first place and what its overall objectives are.

Moreover, the strong aesthetic element embedded in the field of international criminal justice complements the production of knowledge by the courts through judgments and decisions. Aesthetics allows revealing an additional layer of truth about suffering through artistic expression. As discussed in the previous section, truth-content is an inalienable part of the art-object and the aesthetic experience of the art, according to Adorno.

### **12.3.2. Methodological Advantages of Using Art in the Field of International Justice**

From a methodological perspective, art may serve as a method of inquiry with the purpose of illuminating aspects of the field of international justice currently concealed from view.

The thought of exploring the instrumental dimension of art is not new, as art has been used for educational purposes since as early as in the times of the Renaissance. In the field of politics, art is frequently employed to question dogmatic ideas and reach out to diverse segments of the population. For instance, Chinese artist Ai Wei Wei drew attention to the refugee crisis by wrapping a Florentine Palazzo in orange lifeboats during his 2016 exhibition there. In addition to that, visual methods are used in discourse analysis, which can be studied through documentary or historical images with other forms of data.<sup>74</sup> More generally, sociology has started taking the ‘visual’ more seriously with the ongoing research on the promise of visual methodology as an alternative way of scientific inquiry.<sup>75</sup>

Such a turn has not yet occurred in the study and practice of law, a discipline which remains focused entirely on texts and the written word. One can imagine, however, how undertaking art projects aimed at promoting international (criminal) law values, such as integrity, can contribute to the study of the discipline as such. Creative expression can bring to light the aspects of this field long ignored by traditional approaches. For instance, an exhibition dedicated to the work of the ICC may evoke responses in the general public indicative of the new solutions to practical prob-

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<sup>74</sup> Gillian Rose, *Visual Methodologies: An Introduction to Researching with Visual Materials*, third edition, Sage, 2012.

<sup>75</sup> *Ibid.*

lems faced by the Court. The ICC took its first steps in this direction in 2018 by partnering with the *National Geographic* photographer Marcus Bleasdale in organizing an exhibition entitled “Healing, Trauma and Hope”. The exhibition took place on the ICC premises in The Hague and at the United Nations Headquarters in New York and is available online at the time of writing.<sup>76</sup> It is important to note, however, that precise impact of such creative outreach activities has not yet been fully studied.<sup>77</sup>

### 12.3.3. Practical Example of Using Art in International Criminal Law

This sub-section explores the practical ways in which art and creative expression can be interjected in the process of administration of international justice. International criminal law and its emerging system of reparations is chosen to illustrate the point. In this example, the ultimate goal of engaging with art is promoting reconciliation in the affected communities.<sup>78</sup> While the purpose of strengthening integrity is not directly covered in the following discussion, it is fair to assume that exploring the ways of enhancing international justice through alternative means has direct impact on the integrity of its actors. As discussed in the introduction, lack of integrity often stems from the lack of alignment of inner values and their outer expression. Arguably, the more instruments international justice has at its disposal, the more clarity its various stakeholders will benefit from. Seeing positive change in the communities and focusing on the core values of the discipline can facilitate better judgment in individuals.

The practice of reparations is one clear entry point where international justice starts accepting the deployment of creative expression. While the old generation of international criminal courts and tribunals placed little emphasis on reparations and victim participation, the ICC together with Extraordinary Chambers in the Courts of Cambodia (‘ECCC’) are pioneering the idea of inclusivity of victims’ concerns in international criminal proceedings. Pursuant to Article 75(1) of the Rome Statute of the ICC, the Court may order reparations to victims, in the form of restitution, compensation and rehabilitation. This list is not exhaustive as the Court may select

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<sup>76</sup> ICC, “Trauma, healing and hope” (available on its web site).

<sup>77</sup> Fiana Gantheret, “The Use of Artistic Productions as a Transitional Justice Mechanism in the Context of International Criminal Justice and the Misuse of International Tribunals’ Mandates”, *Art and International Justice Blog*, 1 July 2019.

<sup>78</sup> Rachel Kerr, “The ‘Art’ of Reconciliation”, FICHL Policy Brief Series No. 78 (2017), TOAEP, Brussels, 2017 (<http://www.toaep.org/pbs-pdf/78-kerr/>).

reparations with symbolic, preventative and transformative value.<sup>79</sup> Reparations give victims a chance to reclaim their story and their dignity. In the practice of reparations, criminal law is called upon to fulfil its secondary functions, that is, to bring back the equilibrium not through pure coercion but also through its persuasion. The clear challenge, of course, is how to repair the irreparable

Reparations have thus potential to become one of the vehicles of reconciliation as the ICC orders symbolic reparations to honour the losses suffered by the community and individuals. Symbolic reparations therefore do not aim to bring back what has been forever lost, but rather acknowledge the importance of the values harmed by the crimes. Implementation of such orders will be, to a large extent, an artistic exercise. It is through these symbolic measures, with artistic underpinnings, that the layer of truth about suffering can reveal itself.

Two reparation orders issued by the ICC clearly demonstrate the link between reparations and reconciliation. Firstly, in *Lubanga* – the case dealing with the recruitment of child soldiers – the judges expressly acknowledged that the objectives of rehabilitation, reconciliation, and reintegration of former child soldiers might be accomplished through symbolic and transformative reparations.<sup>80</sup> The *Lubanga* order on reparations explicitly states that “reparations should aim at reconciling the victims with their families and the affected communities”.<sup>81</sup> The Trust Fund for Victims – the ICC body tasked with implementing reparations orders – now faces a real challenge in explaining how reconciliation and reintegration should be understood for the purposes of symbolic reparations initiatives in the specific context of this case. Based on their work in the affected communities, the experts concluded that crimes against children are often committed with the acceptance of the broader community. Thus, what is really needed in terms of memorialization or any other symbolic initiative is awareness-

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<sup>79</sup> ICC, Situation in the Democratic Republic of Congo, *The Prosecutor v. Germain Katanga*, Trial Chamber, Order for Reparations Pursuant to Article 75 of the Statute, ICC 01/04-01/07, 24 March 2017, para. 297 (<https://legal-tools.org/doc/63d36d>).

<sup>80</sup> ICC, Situation in the Democratic Republic of Congo, *The Prosecutor v. Thomas Lubanga Dyilo*, Appeals Chamber, Order for Reparations (amended), 3 March 2015, ICC-01/04-01/06-3129-AnxA, para. 67 (<https://legal-tools.org/doc/df2804>).

<sup>81</sup> *Ibid.*, para. 46.

raising within this broader community about the harm inflicted on children as a result of their inscription in the armed forces.<sup>82</sup>

The use of symbolic rehabilitative measures can also be seen in the *Al Mahdi* case, in which the ICC pronounced on the appropriate reparations in cases of the destruction of cultural heritage. This case is unique because artistic expression is not only a tool for reparations, but also the value protected by the principles of international criminal law. The reparations order, issued in August 2017, found Mr. Al Mahdi, who orchestrated the demolition of ten shrines of historical and cultural significance in Timbuktu, Mali,<sup>83</sup> liable for EUR 2.7 million for damage caused by the attack.<sup>84</sup> The Court emphasized the emotional distress caused to the Timbuktu community as a whole by the destruction of the shrines.<sup>85</sup> The ICC further stressed the inherent, unique and sentimental value of most cultural property and cultural heritage because of their purpose and symbolism.<sup>86</sup>

Thus, the mental anguish caused by its obliteration is addressed on an individual level by compensation and on a collective level by symbolic rehabilitative measures, such as memorial, commemoration or forgiveness ceremony. The aim is to grant public recognition to the harm suffered by the Timbuktu community.<sup>87</sup> The Court also focused on Mr. Al Mahdi's apology, which it found to be "genuine, categorical and empathetic".<sup>88</sup> As a symbolic measure with potential reconciliatory impact, the judges ordered the excerpt from the trial containing an apology be put on the Court's web

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<sup>82</sup> ICC, Situation in the Democratic Republic of Congo, *The Prosecutor v. Thomas Lubanga Dyilo*, Trial Chamber II, Public Redacted version of Filing regarding symbolic collective reparations projects with Confidential Annex: Draft Request for Proposals, ICC-01/04-01/06-3223-Conf, 19 September 2016, ICC-01/04-01/06 (<https://legal-tools.org/doc/401740>).

<sup>83</sup> Marina Aksenova, "The Al Mahdi Judgment and Sentence at the ICC: A Source of Cautious Optimism for International Criminal Justice", *EJIL: Talk!*, 13 October 2016 (available on its web site).

<sup>84</sup> ICC, Situation in the Republic of Mali, *The Prosecutor v. Ahmed Al Faqi Al Mahdi*, Trial Chamber, Reparations Order, 17 August 2017, ICC-01/12-01/15, para. 134 (<https://legal-tools.org/doc/02d1bb>).

<sup>85</sup> *Ibid.*, para. 90.

<sup>86</sup> *Ibid.*, para. 22.

<sup>87</sup> *Ibid.*, para. 90.

<sup>88</sup> *Ibid.*, para. 70 (citing Trial Judgment, paras. 103–05).

site accompanied by the corresponding transcript translated into the primary local languages.<sup>89</sup>

In the same vein, the ECCC accepted as a form of reparations a classical dance production and a related exhibition addressing the crime of forced marriage committed during the Khmer Rouge regime.<sup>90</sup> Courts and tribunals are thus now beginning to acknowledge the reconciliatory potential of art and creative expression explicitly, yet further research is needed to understand how art can be used to achieve these goals.

#### 12.4. Conclusion

This chapter argued that art and aesthetic studies are useful tools in promoting integrity in international justice because of their process-oriented nature and focus on subjectivity. Contemplative reflection inherent in aesthetics increases mindfulness and invites self-inquiry. More specifically, this contribution focused on the function of art as the ‘connector’ of inner values and external action. It is possible to justify the study of aesthetics in the field of international justice by relying on a number of theoretical frameworks, including visual jurisprudence and natural law theory. Furthermore, there are several concrete ways in which art can be integrated into the study of international justice. One possibility is viewing international (criminal) trials as ritualistic performances, unfolding based on a certain script. The robes worn by the participants in the process, the public nature of a hearing, the dramatic undertones are all there to serve as a reminder of the values at stake. Aesthetics becomes a bridge connecting the physical manifestation of a criminal trial with what it is supposed to represent. It is also the language spoken by those involved in the process.

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<sup>89</sup> *Ibid.*, paras. 70–71.

<sup>90</sup> Extraordinary Chambers in the Courts of Cambodia, *The Prosecutor v. Nuon Chea and Khieu Samphan*, Trial Chamber, Civil Party Lead Co-Lawyers’ Final Claim for Reparation in Case 002/02 with Confidential Annexes, 30 May 2017, E457/6/2/1, para. 30 (<https://legal-tools.org/doc/876df7>).

Nuremberg Academy Series No. 4 (2020):

## **Integrity in International Justice**

Morten Bergsmo and Viviane E. Dittrich (editors)

This is the first book to comprehensively analyse integrity in international justice. Thirty-three chapters discuss in-depth the meaning of integrity, awareness and culture of integrity, the roles of international organizations and states as well as international courts in enhancing integrity, integrity as seen through the lens of cases, and the relationship between the principles of independence and integrity. The book considers integrity as a legally binding standard in international courts, while including perspectives from other disciplines such as philosophy, history, psychology and religion. It argues that respect for integrity among high officials and staff members is a prerequisite for international courts and other international organizations to fulfil their mandates.

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ISBNs: 978-82-8348-190-7 (print) and 978-82-8348-191-4 (e-book).



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