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International criminal justice on/and film

Kirsten Ainley, Stephen Humphreys, and Immi Tallgren

The contributions to this Issue were presented at a workshop on ‘International criminal justice on/and film’, held at the London School of Economics and Political Science in September 2016.¹ The workshop gathered together scholars from international law, international relations, history, and film and media studies, as well as lawyers, filmmakers, and producers, to consider the impact of film upon law and law upon film. In this Introduction, we lay out the questions that motivated the workshop, outline the intellectual rationale for the project, sketch the contributions to this Issue, and suggest directions for further inquiry in the field.

What does film have to do with international criminal justice, and what do international criminal law and trials have to do with film? If their relationship is, as we suspect, co-dependent, at least to a degree, how do they relate and interact? Films can of course be characterised as ‘telling stories’ about international criminal law, while international criminal trials too serve as venues for ‘telling stories’ about crime, guilt, and victimisation, including by relaying or narrating the past through images. Films have long served as evidence in this genre of trials or filling in the background, reproducing ‘the historical context’ or representing ‘what really happened’. Filmed crimes—and filmed trials—attract media attention; indeed they are sometimes placed deliberately in the public realm to serve institutional policies of ‘outreach’ and ‘re-education’. Further, films may become accessory instruments of international crime, in some cases even inciting violence. The medium of film is moreover ideally suited to advocate or impose particular views of events and responsibilities, sometimes obscuring other interpretations. Beyond all this, films are also increasingly used to teach international law and international relations, and their histories.

We are not the first scholars to engage this topic. Valuable research already exists, focusing on various aspects and genres of film, including by contributors we were fortunate to have at the workshop.² In the interest of mapping what exists as comprehensively as possible, we decided to assert a broad notion of what was meant by ‘film’. We welcomed both fictive and documentary films (the boundary is occasionally indeterminate); outreach and education films; audio-visual trial recordings and transmissions; media film material; and more recent private

¹ The workshop was funded by the LSE Centre for International Studies and the LSE Departments of Law and International Relations.

² See, e.g., C Delage, *Caught on Camera: Film in the Courtroom from the Nuremberg Trials to the Trials of the Khmer Rouge*, eds and trans. R Schoolcraft & MB Kelly (University of Pennsylvania Press, 2014); O Corten & F Dubuisson (eds), *Du droit international au cinéma* (Pedone, 2015); P Rush & O Simić (eds), *The Arts of Transitional Justice* (Springer, 2014); L Douglas, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (Yale UP, 2001); L Douglas, ‘Trial as Documentary: Images of Eichmann’, in L Moran et al. (eds), *Law’s Moving Image* (GlassHouse Press, 2005) 95; S Liebman, ‘The Majdanek Trial: The Holocaust on Trial on Film’, in C Delage & P Goodrich (eds), *The Scene of Mass Crime* (Routledge, 2013) 113; W Werner, ‘“We Cannot Allow Ourselves to Imagine What It All Means”’: Documentary Practices and the International Criminal Court’ 7 *Law and Contemporary Problems* (2013) 319; U Weckel, *Beschämende Bilder* (Frank Steiner Verlag, 2012); U Weckel, ‘Power of Images: Real and Fictional Roles of Atrocity Film Footage at Nuremberg’, in KC Priemel & A Stiller (eds), *Reassessing the Nuremberg Military Trials: Transitional Justice, Trials Narratives and Historiography* (Berghahn, 2012) 221; C Schwöbel, ‘The Market and Marketing of International Criminal Law’, in C Schwöbel (ed.), *Critical Approaches to International Criminal Law* (Routledge, 2014) 264; C Schwöbel-Patel, ‘Spectacle in International Criminal Law: The Fundraising Image of Victimhood’ 4 *London Review of International Law* (2016) 247; J Ten Brink & J Oppenheimer (eds), *Killer Images: Documentary Film, Memory and the Performance of Violence* (Wallflower Press, 2012); C Vismann, *Medien der Rechtsprechung* (Fischer, 2011).

eye-witness/participant film clips that appear to indicate the emergence of a genre of international criminal ‘home-movies’. We sought all types and genres: advocacy, documentary, investigation, tragedy, melodrama, action, comedy, parody, therapy, re-enactments, and confessionals.

Our guiding intuition was that more than any other genre of law, international criminal law emerges cinematically and owes at least a part of its narrative palette and its grammar to film. The history of international law is coextensive with that of film. The earliest beads in any ritual recounting of the history of international criminal law have the feel of film treatments: *Murder in Sarajevo*, *Prosecute the Kaiser!* or, going back in time, *Pirates of the Caribbean*. And of course international criminal law’s mythic birth at Nuremberg is saturated in film. Indeed no other genre of law feels quite as filmic as international criminal law.³ The tie between the two is strong and intuitive.

It is not just that the historical moments of the international criminal justice narrative lend themselves so easily to the screen. Nor that its grand narratives feel compellingly consonant with the classic Hollywood movie arc. It is rather that as a field, international criminal law deploys a register that is quintessentially filmic. Or to use Roland Barthes’s language, international criminal law borrows its connotative language (that is, its associations) from film, while its denotative language (its meaning) is that of the law.⁴ The narratives underlying international criminal trials—and the wider ‘movement’ advocating responsibility for atrocity to which international criminal law belongs—feel familiar or plausible in part because their moral arc has been represented to us so regularly through stories of good and evil on film.

When we talk about ‘international criminal justice on/and film’, we recall that international criminal law too is a medium. International criminal law in its institutional practice is filled with information and ideas about the good life, about what we think the ‘international’ is, about what we think ‘crime’ is, about how we think the world should be governed, about what we think people are fundamentally *like*. And, in particular, about what they *should* be like. On all these questions, international criminal justice—by which we mean the wider movement or discourse to which international criminal law belongs—goes where film has boldly gone before. These ‘justice’ questions have been rehearsed endlessly on the screen, positioning us as audience, as spectators, as witnesses of a certain kind, as truth-seekers. The LSE workshop, therefore, was built on the idea that there are several ways we might think about ‘international criminal justice’, and they are related to meanings given to ‘crimes’ and ‘criminals’, as well as to ‘the international’, to law, and, most enigmatic of all, to ‘justice’. Four perspectives on the term ‘international criminal justice’ animated the workshop.

First, what ‘international criminal justice’ *is*; what takes place in the institutions or jurisdictions we are familiar with today or in the most recent past. Here we have an intensive web of interrelations. There are documentary and fictive films, and others that defy this binary classification. There is the admission of filmic evidence in the courts. There is the documentation of evidence, the filming of witnesses, the broadcasting of trials. There is the confluence of memory and media, the rivalry of publics, the framing of the technicality of trial as entertainment.

³ See, e.g., I Tallgren, ‘Come and See? The Power of Images and International Criminal Justice’ 17 *International Criminal Justice Review* (2017) 259.

⁴ D Whitehall, ‘People in Glass Houses: Lessons for International Law from Margarethe von Trotta’s *Hannah Arendt*’ 2 *London Review of International Law* (2014) 329.

Second, what ‘international criminal justice’ was: tribunals and trials, crimes and criminals of the past. In the scholarship of the field and also in popular culture, much of this material focuses on the Nazi crimes of WWII, the Nuremberg trials and also the Eichmann trial. The Tokyo tribunal and national trials outside the European theatres of war remain mostly hors-de-champ.⁵ Perhaps most intriguing is the consonance between the earliest themes of international criminal law and the great anti-war films. Plenty of war films depict war crimes—*Waltz with Bashir*, *Katyn*, *The Battle of Algiers*, *The Thin Red Line*. But in general the cinematic message is similar to Lloyd George’s charge against the Kaiser after World War I: war crimes are caused by war. Or as it was famously put 27-odd years later, war is ‘the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole’.⁶ Elem Klimov’s extraordinary *Come and See* demonstrates this maxim in the most brutal way.⁷ However, since Nuremberg, the field of international criminal justice appears largely to have abandoned *jus ad bellum* to focus instead on the atrocity paradigm—which presumably happened for all sorts of reasons; legal, political, and historical.⁸ What is interesting is that film too seems to have abandoned the moral opprobrium attaching to aggressive war in the post-Cold War period—or rather, when it approaches *jus ad bellum*, it appears to do so in terms of *jus in bello*.⁹ Is this coincidence? Correlation? Co-determination?

Third, we considered what ‘international criminal justice’ could or should or might have been, but is not, i.e., the *remarkable absence* of certain types of violence and injustice from its remit: colonialism; racialised capitalism; the trade in weapons of mass destruction; climate change; corruption; exploitation of resources; global wealth, income and welfare inequalities. How do these gaps relate to its well-rehearsed absence for the victors in war? For example, extraordinary crimes are underway at time of writing in Syria and Yemen, which we witness through our news feeds. But international criminal law appears not to figure in these conflicts. The inability of courts to exercise jurisdiction over situations such as these—the war crimes of which have travelled the world on YouTube¹⁰—underlines the absurdity of the dream of a ‘universal’ criminal justice that once animated the International Criminal Court (ICC). It is as though only the spectator is universal.

A similar question arises regarding the relevance of ‘international criminal justice’ for the violence we today call terrorism and counter-terrorism. Despite international agreements (and disagreements) on various dimensions of terrorism, both international criminal law and film have so far kept both terrorism and its repression bounded within a narrative that is less solemn

⁵ See I Tallgren, ‘Watching *Tokyo Trial*’ 5 *London Review of International Law* (2017) 291, 295.

⁶ ‘Judgment’, *Trial of the Major War Criminals before the International Military Tribunal* (International Military Tribunal, 1947) vol. 1, 186.

⁷ *Иду у смомпу* [*Come and See*], dir. E Klimov (1985).

⁸ See S Moyn, ‘From Aggression to Atrocity: Rethinking the History of International Criminal Law’ in KJ Heller et al. (eds), *Oxford Handbook of International Criminal Law* (Oxford UP, forthcoming) available at <https://ssrn.com/abstract=2805952> (last visited 18 May 2018); G Simpson, ‘Stop Calling It “Aggression”: War as Crime’ 61 *Current Legal Problems* (2008) 191. The recent entry into force of the 2010 Kampala Amendments to the *Rome Statute* may yet signal the resurgence of the war crime of aggression.

⁹ L May, ‘*Jus Post Bellum* Proportionality and the Fog of War’ 24 *European Journal of International Law* (2013) 315.

¹⁰ The work of the White Helmets in Syria was the subject of an Oscar winning documentary in 2016. Khalid Kateb, the Syrian cinematographer, was barred entry into the US to accept the award at the 2017 ceremony, under the new administration’s border control measures: Internet Movie Database, ‘The White Helmets’, available at <http://www.imdb.com/title/tt6073176/> (last visited 18 May 2018).

and less morally ambitious. The fetishised judicial heroes such as Justice Haywood in *Judgment at Nuremberg* or the chief prosecutors of the ICC are never put in conversation with the enigmatic, neurotic, and troubled operatives of *Zero Dark Thirty* or *Eye in the Sky*.¹¹

Likewise, another inarguably international form of everyday violence today struggles to find a place in the narratives of film or law. Images of refugees and migrants—civilians behind barbed wire, officials in uniforms with dogs, packed boats and trains, dead bodies, and shameful handshakes with dictators—come close to those we see on the screen in the context of atrocity crimes, yet they appear to be cordoned off outside the realm of international criminal justice.

The fact that so much violence falls through the cracks points to another consonance between international criminal law and film: their gravitation towards big personalities—stars and narcissists. Hollywood loves its villains, of course, and so does international criminal law. Adolf Eichmann, Slobodan Milošević, Charles Taylor, Hans Landa, Colonel Kurtz, the Joker. To what extent does international criminal law need star power to sell itself and its cause? Big names, political conflagration, megawatt villains? The drive is not only to tell big stories to generate big money (although the ICC and international tribunals are always in need of funds). Rather, international criminal justice seeks to occupy the global moral high ground, opposing itself to the base practices of international politics ‘as usual’. It is as though the concept ‘justice’ in some way necessitates, or could conceivably be exhausted by, the spectacle of warlords on trial. Could this be because trying warlords is so aesthetically compelling, so photogenic?¹²

The apex of the battle of the big men (and they are almost invariably men) in law and politics can be seen in the contemporary legal obsession with prosecuting sitting heads of state, despite the consequences.¹³ It is a familiar script: *corruption runs to the top!* Think *Syriana*, *Enemy of the State*, *Blood Diamond*, or even the Bourne movies—in which the lone hero (George Clooney, Leonardo Di Caprio, Will Smith, Matt Damon) takes on the machine of the state, with the uncertain promise that those at the top might one day be *held to account*. International criminal law goes a step further and tries to act out the fantasy. If cinema is a form of dreamwork or wish-fulfilment, as our Lacanian friends hold, how much more dreamworky is international criminal justice?¹⁴

In practice, international criminal trials come a poor second to film when it comes to heroes. In its wider presence, the international criminal justice ‘movement’ does seek compelling protagonists—think Simon Wiesenthal as ‘the Nazi hunter’ or Human Rights Watch’s Reed Brody in his decade-long pursuit of Hissène Habré, former president of Chad. But in the courtroom, this role seems to fall to the prosecutor rather than, say, the judge or key witness (as in *Judgment at Nuremberg*). Some prosecutors appear to relish the role, such as Gideon Hausner (*The Eichmann Trial*), David Crane (*War Don Don*), or Luis Moreno Ocampo—though the latter’s overtures to Hollywood underlines how easily the performance of crusader

¹¹ See D Joyce & G Simm, ‘Zero Dark Thirty: International Law, Film and Representation’ 3 *London Review of International Law* (2015) 295.

¹² See, e.g., Schwöbel-Patel (2016).

¹³ K Ainley, ‘Retreat or Retrenchment? An Analysis of the International Criminal Court’s Failure to Prosecute Presidents’, in A Brysk & M Stohl (eds), *Contracting Human Rights: Crisis, Accountability, and Opportunity*. Edward Elgar (2018) 179.

¹⁴ M Aristodemou, ‘A Constant Craving for Fresh Brains and a Taste for Decaffeinated Neighbours’ 25 *European Journal of International Law* (2014) 35.

may slip into caricature.¹⁵ The more measured pronouncements of Carla Del Ponte and Louise Arbour at the ICTY have, perhaps, provided greater *gravitas* to counter-balance the drama. Interesting to note here that international criminal law is more progressive than film in the gender of its protagonists—Fatou Bensouda at the ICC continues the trend from Arbour and Del Ponte in which women exercise considerably more agency and enjoy higher visibility in the actual practice of international trials than they are allowed on screen.¹⁶

Prosecutorial dignity may not make for compelling spectacle, but the relative paucity of larger-than-life ‘good guys’ in international trials may not be down merely to the banality of good—by which we mean the tedium of persuasive prosecution, as compared with the thrill of criminal transgression. It may also be that international criminal justice is fundamentally uninterested in genuine moral struggle. The field does not comprise an inquiry into moral murkiness or difficult choices (à la *Syriana*, say, or *Apocalypse Now*—or even *Zero Dark Thirty* or *Eye in the Sky*); rather it stages a contest between norm and deviation: the bad guys are not just bad, they are also, at some level, ontologically suspect. Evil is individual, but good is universal. It is all of humanity against ‘them’. This is quite radically different from filmic considerations of aggression and atrocity. The connotative and the denotative diverge on film: film can sustain much more ambiguity, both factual and moral, than can international criminal trials. And it can also achieve a more satisfying catharsis.

In the great war movies, protagonists often act in ignorance and ambiguity and are faced with complicated moral choices. This is even true of ‘those most responsible’, like Robert McNamara in *The Fog of War*.¹⁷ The very idea of a fog of war is, of course anathema to ICL; it is a main refuge of the old ICL bogeyman: ‘impunity’. Indeed, its apparent sabotage of the law of armed conflict is precisely what international criminal law is supposed to remedy. Yet Errol Morris can *both* prosecute McNamara (imperfectly, but more successfully than international criminal justice, it seems) and *also* retain the moral and circumstantial ambiguity of the fog of war. McNamara admits he may be a war criminal. But he is also persuasive about acting in the knowledge of his own ignorance. The fog of war is at once inculpatory *and* exculpatory. There are legal bright lines we could draw between specific acts of McNamara’s but by the end of the film we are largely uninterested in them.

Fourth and last, what might ‘international criminal justice’ become? Can the field learn from cinema? Recent films that in different ways point out the absence of justice, or the desire for justice to mean something more than trials of warlords, range from Peter Schreiner’s *Lampedusa* to Aki Kaurismäki’s *The Other Side of Hope* or Abderrahmane Sissako’s *Bamako*. What is interesting here is the potentially catalysing effect of films or images: when images start to resemble others in an intolerable, painful way, something might happen to the way we see the world around us. Can the master-narratives of ICL be challenged? Can our conceptions

¹⁵ M Slosson, ‘ICC Prosecutor Courts Hollywood with Invisible Children’ *Reuters* (2 April 2012), available at <https://www.reuters.com/article/us-kony-campaign-hollywood/icc-prosecutor-courts-hollywood-with-invisible-children-idUSBRE8300JZ20120401> (last visited 18 May 2018). See *Prosecutor*, dir. B Stevens (2010); *Watchers of the Sky*, dir. E Belzberg (2014); *The Court*, dir. M Vetter & M Gentile (2013); *The Reckoning*, dir. P Yates (2009); *Kony2012*, dir. J Russell (2012). See also M Bergsmo, W Kaleck, S Muller & WH Wiley, ‘A Prosecutor Falls, Time for the Court to Rise’, FICHL Policy Brief Series No. 86 (2017), available at <http://www.toaep.org/pbs-pdf/86-four-directors/> (last visited 18 May 2018).

¹⁶ Sharon Stone’s character in *Largo Winch II*, dir. J Salle (2011) and Kerry Fox’s in *Storm*, dir. H-C Schmid (2009) are amongst the few exceptions.

¹⁷ *The Fog of War: Eleven Lessons from the Life of Robert S McNamara*, dir. E Morris (2003).

of ‘crime’, ‘suffering’, ‘guilt’, ‘punishment’, ‘agency’, ‘humanity’ be improved upon through art, stories, film?

There is reason to hope they might. While international criminal justice often resembles film cliché, at least in its self-representation, film itself often does not. In the classic war film, social and political conflict mirrors personal conflict. Idris Elba and his brother, in *Sometimes in April*, struggle with questions not easily resolved by a determination of guilt. In *Waltz with Bashir* we are presented with an amnesiac protagonist who is simultaneously a victim and almost certainly a war criminal. *The Battle of Algiers*—even *Zero Dark Thirty*—retains some moral complexity and actively displaces the distinction between the torturers and the tortured. War films may provide context for international criminal justice, but their murky moral universe explains little about the bright-line justice that characterises the legal genre. For that we need to look to the blunter archetypes of the Western or superhero. In the latter, a lifetime of movie-watching has habituated us to a world of lawless villains needing to be ‘brought to justice’. The Western and superhero typify a narcissistic response to the trauma of World War II. Both genres propose id-centric dramas, in which the repressed trauma of violence plays out again and again in narratives in which the loser now is later to win. It is a Hobbesian universe in which the principal struggle is over the exercise of the sovereign right to violence itself.

International criminal justice capitalises on these familiar genres partly by inverting them. International legal professions may imagine themselves as crusaders for justice. Indeed, the hyperbole remains through the narrative frame. But the epic struggle dissolves in the actual practice of the courtroom and there is little scope for vigilantism. As Antonio Cassese liked to say, international criminal law moves us from a Hobbesian into a Kantian world—a world of retribution rather than vengeance. Nevertheless, the rhetorical fervour persists in the field, in genuine tension with its procedural banality. There is always the danger that pop imagery and pop psychology will result in a kind of pop moral aesthetic. International criminal justice constantly risks undermining its grounding in process through its desire for spectacle. Call it the fatal lure of the superhero story arc.

It is a blunt diagnosis, but if it holds some truth, we believe the broader world of filmic representation holds out promise for the law. The capacity of film for representation and nuance is better developed than that of law. Its language is more articulate and subtle. The spectacle of international criminal justice has, in some respects, moved in ever decreasing cycles, from the grandstanding of Nuremberg to the fading grandiosity of the ICTs, to the televised slog of the hybrid tribunals, through the largely unglamorous work of the ICC. With each move, ICL leaves behind the sheen of the big screen and takes on instead the grainy camerawork of found footage, the startling authenticity of cinema *vérité*, the interminable facticity of uncut reels of documentary, or the straight utility of an archive. But perhaps this is exactly what it should be doing—rendering the practices of law dull, attempting first and foremost to do justice rather than to narrate history. Stretching ICL towards state practice, corporate actors and structural injustice means weaning it off its reliance on grand filmic narratives. It means at least asking law’s protagonists to acknowledge the complexity within these narratives—to notice how few films about international criminal justice themselves now rely on film cliché.

The Issue begins with a piece which shifts our gaze from the content of films, law and trials to the techniques and technologies of film and their role in making law and atrocity legible in international criminal justice. Peter Rush and Maria Elander note that official visual records of international trials are constructed cinematically—the records are shaped by editorial decisions about who and what are seen and at what level of detail, for instance through the zooming in

and out of the court cameras. A great deal of the work of contemporary courts is concerned with ‘outreach’, which often involves showing publics the films produced of the trials or by the tribunals. Visual representations of trials have become critical sites for the cultural production of international criminal law, and many, perhaps most, of these representations take the form of film.

In their article, Rush and Elander examine the ways that film renders law legible through its materials and craft—through projection and through the creation of meaning in the absence of pictures. Using analysis of the projection of clips from the *Nazi Concentration Camps*—which is a film produced for use at the IMT in Nuremberg from footage taken by Allied military photographers in the German concentration camps immediately after liberation—in a quasi-fictional drama, *The Stranger*, and the projection of the full film at the IMT itself, the authors demonstrate the importance of apparatus and technique in determining the impact of film. They dissect the construction of drama in two loci: an intimate judge’s study in *The Stranger* and the grand courtroom at the IMT, furnished with seats taken from a local cinema, and with projection screen in front and centre. Through these differing staging techniques the screen becomes authoritative and the films evidential.

The authors subsequently turn their attention to the memory of crime within film, using two films, *Calling the Ghosts* and *The Missing Picture*, to interrogate the ways film can make the memory of crime legible in the absence of pictures. The visual rhetoric of these two films—slow, repetitive, meditative—contrasts with the urgency and purpose of the *Nazi Concentration Camps* and the films drawing upon it. *Calling the Ghosts* and *The Missing Picture* document witnesses trying to understand how they experienced that which ‘only happens in the movies’. The slow speed of comprehension and healing is seen in these films as in tension with the need for efficiency in trials.

Ulrike Weckel too examines the projection of films in the courtroom—specifically the films of atrocity used in the Belsen, Nuremberg, and Eichmann trials—which were partly aimed, she argues, at shaming the defendants. She notes that the films had little probative value in establishing individual guilt, as they were shot after liberation and did not document the perpetration of any crimes. Indeed, many of the defendants never visited a concentration camp. Moreover, she argues that the films were shown for the benefit of journalists as much as, and perhaps more than, for judges. Journalists had a particular interest in how the defendants reacted to the films—the extent to which they exhibited shame. And journalists also needed a hook to focus their reporting of the trials—to be persuaded to continue to attend and write up proceedings in the press. Weckel documents what is perhaps the first time film was used in a criminal trial—the footage shown at the Belsen trial, shot by British Army cameramen when they entered the camp in April 1945. The drama of the moment—the dock was lit up while the rest of the courtroom was dark—was disturbed by the defendants’ inappropriate reactions to the screening, chatting and seemingly bored by the on-screen events. Weckel documents how journalists dealt with these events—desperate to read something from the defendants’ reactions, but disagreeing over what they had seen. The same pattern was repeated at the IMT—journalists reported very different reactions from the defendants upon viewing *Nazi Concentration Camps*.

In the movies, by contrast, the appropriate reactions of defendants are made to happen—the Nazi character Janning’s conversion and eventual confession in *Judgment at Nuremberg*, and the real-life Albert Speer’s imagined conversion in *Speer und Er*. Docudramas do similar work. *The Eichmann Show*, for example, thematises the contrast between the profound impact of the atrocity films shown at the trial on the judges and audience, on one hand, and the impassivity of Eichmann himself, on the other, at a time when public interest in the Holocaust had waned.

International criminal justice had progressed, by the time of the Eichmann trial, to a full show—a courtroom full of cameras so that all of humanity could witness the unfolding morality play in close-to-real-time. And it is noteworthy that it was the mechanics of the show—the mundane drama of filming the Eichmann trial—which was the focus of the 2015 film. We are so saturated by films of atrocities, particularly those of the Holocaust, that to regenerate interest on the 70th anniversary of the liberation of Auschwitz, the BBC chose to film the filming of a trial. The conceit generated a new audience for the camp films (though we are shown only short clips rather than the full 90 minutes) and, while we learn little from either the films or the trials about the defendants' experience of shame, we can continue to rehearse our own responses to the crimes and to the accused with the help of fiction and fictionalised films.

Eugene McNamee and Maria Andrews focus on just one film—*Judgment at Nuremburg*—as a way to think through the purpose and impact over time of a film about law. *Judgment* was a film ostensibly about the Jurists' Trial in Nuremberg, but it was made shortly after the excesses of McCarthyism in the US, and at a time when broader notions of complicity in the Holocaust were being explored. The authors remind us that films speak directly to the time in which they are produced as well as the time they depict. *Judgment* is seen here in its context in 1960s America—as part of an emerging genre of courtroom dramas, with lawyers, particularly for the prosecution (and, implicitly, consolidating ideas about the rule of law and due process) as heroic figures. The practice of law and the defence of justice become positioned in US culture as fundamentally American values, and, by the early 1960s, Hollywood was ready to take on international criminal law, the Nazi crimes, and the role of judges in their commission.

Judgment was released in 1961—the year of the Eichmann trial. It is reasonable to assume that many viewers of the film were also exposed to news coverage of that trial, and of Eichmann's reaction to the atrocity montage. There are complex layers here of fiction, fact, temporality, place—Eichmann's trial was taking place in Israel at the same time as viewers in the US were watching a fictionalised recreation of the Jurists' Trial, which had taken place in 1947 in Germany. In these different milieus, the audiences in both countries would have viewed the same film footage from the camps in 1945. And much later, *Judgment* scriptwriter Abby Mann would remark on the continuing relevance of the film's themes (particularly the propensity for people to delude themselves into the commission of atrocity crimes at times of perceived crisis) to post 9/11 America. McNamee and Andrews traverse these layers, documenting the changes made to the historical record by the scriptwriter, and arguing that these served the purpose of reflecting US policies on eugenics and political and racial persecution back to the American audience. In making these changes, Mann and director Stanley Kramer were accused of diminishing the Jewish experience of the Holocaust, including by using clips from *Nazi Concentration Camps* (not, incidentally, shown at the Jurists' Trial) primarily as part of the narrative arc of Judge Haywood's character. The authors also note the impact of seeing camp footage in a Hollywood film on some Jewish-Americans—as if a door had opened to allow the articulation of Jewish experience of the Holocaust in American culture, despite the absence of Jewish protagonists in the film itself. And more broadly, they note how the film restructures the trial-narrative for an audience: we are rendered as spectators, but with more information about the characters than the IMT audience (or journalists) would have had, since we are shown their behaviour outside the courtroom too. We are invited to recognise the moral complexities of a period which has often seemed morally clear in retrospect—to think about the role of functionaries and bureaucrats who have to make invidious ethical choices, and how legal systems react to political programmes.

The final article turns to defence lawyers. Rarely protagonists—and certainly not heroes—of international trial films, defence lawyers open up a productive space for the critique of international criminal law, according to Sophie Rigney—who was herself a defence lawyer at the ICTY until 2011. Rigney uses two films—*The Trial (of Ramush Haradinaj)* and *War Don Don*—to show how the narratives woven by and around defence lawyers and the practice of defence expose ruptures and injustices, but also possibilities. The two films involve an unusually high level of access to the defence and to the accused and, in doing so, call into question the extent to which trials can achieve the purported aims of ICL—ending impunity, doing justice ‘for victims’, deterring future crimes, writing an authoritative history, and so on. In the films, we see defence lawyers undermining the ICL system within the presentation of their cases in court, and also in their reflections in interviews on camera. One of the foundational tenets of ICL is that ‘crimes against international law are committed by men, not by abstract entities’,¹⁸ but the defence lawyers in these films and in their trials challenge this view. They use strategies of rupture—naming those who could legitimately be charged with related crimes but who are protected by their political power or allegiances and laying open the hierarchies of an often racialised or neo-colonial power, which allows only some types of harmful action to be criminalised.

Mirroring Weckel’s observation that journalists are an important audience for lawyers in ICL, Rigney notes that documentaries are an effective medium for defence lawyers to use to communicate broader messages. Through this medium they can explore the instabilities in ICL—the sometimes blurred lines between victimhood and perpetration, the impossibility of establishing ‘truth’—particularly the truth about the structural roots of conflict and enablers of atrocity, and the bias towards conviction in the international criminal law system. Through the narratives of the two films, and an account of her own experiences as a defence lawyer, Rigney reworks the case for defence advocacy as a locus for the performance of critique of the field.

These four pieces suggest that international criminal justice still owes much of its grammar to the movies. But it is nevertheless irreducible to film. Yes, it invests film with dubious evidentiary qualities. It vainly hopes to contain the filmic imaginary by insisting on an unsustainably sharp line between truth and fiction. But as time goes on and international criminal justice as trope becomes increasingly mired in the tedious realism of the war movies and the humility of the camp-documentary, maybe it also improves.

We believe we can improve research in this area too, for instance by turning our gaze more actively towards a more diverse set of films. In the next iteration, we will call on films which accord more agency and authorship to those in ‘the dark corners of the world’¹⁹ on the receiving end of the today’s international criminal justice project. We will also pay more attention to the looking relation, the gaze, which is informed by the agency position of the spectator and her life-world, and which sees women as more than just victims of international crimes, and men in roles other than either heinous perpetrators or heroes of their nation or international justice. We will also think more systematically about the ways that different kinds of film interact with ICL. But, for now, let the credits roll on four outstanding provocations on international criminal justice on/and film.

¹⁸ *Nuremberg Judgment* (1947) vol. 1, 223.

¹⁹ D Crane, ‘Dancing with the Devil: Prosecuting West Africa’s Warlords: Building Initial Prosecutorial Strategy for an International Tribunal after Third World Armed Conflicts’ 37 *Case Western Reserve Journal of International Law* (2005) 1, 3-4. See also J Reynolds & S Xavier, ‘“The Dark Corners of the World”—TWAAIL and International Criminal Justice’ 14 *Journal of International Criminal Justice* (2016) 959.