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### Introduction

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## How should we study international criminal law? Reflections on the potentialities and pitfalls of interdisciplinary scholarship

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### 1. Introduction

Growing consensus within international criminal law (ICL) scholarship attests to the field's maturity not simply as a site of practice within international criminal tribunals (ICTs), but also, academia.<sup>1</sup> This growing body of scholarly work is overwhelmingly characterised by studies focussing on the normative evolution of the ICL regime as played out within the practice of ICTs.<sup>2</sup> Many of the authors of such accounts are themselves practitioners, underscoring the particular importance of doctrinal scholarship that is faithfully wedded to internal accounts of the law. Yet the significance of ICT practice has also been of interest to a number of scholars beyond the legal field, particularly, in the disciplines of criminology,<sup>3</sup> sociology,<sup>4</sup> international relations<sup>5</sup>, socio-legal studies,<sup>6</sup> geography<sup>7</sup> and anthropology<sup>8</sup>. Typically, there is very little engagement between ICL scholarship and these other disciplines; different research questions,<sup>9</sup> methods and sites of publication ensure that interdisciplinarity within and of ICL is rare. This is not unusual of course. Interdisciplinarity is frustratingly difficult, if not impossible,<sup>10</sup> if we understand it as a synthesis of two disciplines that produces a new approach. Law's normativity ensures that legal scholars tend to begin their inquiry with the rules without first thinking about how such rules emerged, how they relate to broader social and political agendas and what 'problems' they constitutively imagine and define. Partly too this is a matter of intellectual division of labour. Scholars of ICL can't be expected to be expert in the law and practice of ICL while also competent in historical, social science and anthropological

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<sup>1</sup> D. Luban, 'After the Honeymoon: Reflections on the Current State of International Criminal Justice', 11 *Journal of International Criminal Justice* (2013) 505-515.

<sup>2</sup> K. Anderson, 'The Rise of International Criminal Law: Intended and Unintended Consequences' 20 *European Journal of International Law* (2009) 331-358.

<sup>3</sup> For example: J. Hagan et al., 'Swaying the Hand of Justice: The Internal and External Dynamics of Regime Change at the International Criminal Tribunal for the Former Yugoslavia' 31 *Law & Social Inquiry* (2006) 585-616.

<sup>4</sup> For example: M. Madsen, 'The New Sociology of International Courts' 4(10) *ESIL Reflections* (2015), available at <http://www.esil-sedi.eu/node/1169>.

<sup>5</sup> For example: K. W. Abbott, 'International Relations Theory, International Law, and the Regime Governing Atrocities in Internal Conflicts' 93 *American Journal of International Law* (1999) 361-379; and D. Wippman, 'The International Criminal Court', C. Reus-Smit (ed.), *The Politics of International Law* (Cambridge University Press, Cambridge 2004), pp.151-188.

<sup>6</sup> For example: R. Byrne, 'Drawing the Missing Map: What Socio-Legal Research Can Offer to International Criminal Trial Practice' 26 *Leiden Journal of International Law* (2013) 991-1007.

<sup>7</sup> For example: R. Hughes, 'Ordinary theatre and extraordinary law at the Khmer Rouge Tribunal' 33 *Environment and Planning D - Society & Space* (2015) 714-731.

<sup>8</sup> For example: K. Clarke, *Fictions of Justice: The International Criminal Court and the Challenge of Legal Pluralism in Sub-Saharan Africa* (Cambridge University Press, 2009).

<sup>9</sup> J. Rowen and J. Hagan, 'Using Social Science to Frame International Crimes', 10 *Journal of International Law and International Relations* (2014) 92-106, p. 100.

<sup>10</sup> This is the case for Stanley Fish who argues that the scholar is too indoctrinated into a particular mindset to work outside it. Discussed in D. W. Vick, 'Interdisciplinarity and the Discipline of Law' (2004) 31 *Journal of Law & Society* 163-193, p. 189.

approaches.<sup>11</sup> Interdisciplinary can also seem threatening as it undermines a discipline's claim to epistemic authority.

This special issue reflects the truncated possibilities then of truly interdisciplinary scholarship as it does not seek to remake the ICL wheel altogether or showcase work that can perfectly fuse a number of disciplines in a single article.<sup>12</sup> Notwithstanding such circumspection, however, as guest editors, we consider interdisciplinarity within ICL as an important and ongoing endeavour for enriching ICL scholarship and to forge closer bonds between ICL scholars and non-legal scholars working on ICL. Accordingly, the special issue showcases a range of approaches typically from outside the legal discipline – international relations, cultural studies, socio-legal studies and sociology (Cynthia Banham, Mikkel Chistensen, Sara Dezalay, Peerce McMannus, Christoph Sperfeldt and Immi Tallgren). The special issue also seeks to take seriously the division within ICL itself between scholars and practitioners with the contribution of Michelle Jarvis seeking to reach out to academia from practice. Finally, not as a discipline, but as a theory, feminism is a particularly rich scholarly tradition that could radically reconfigure how we study and practice ICL. Rosemary Grey's contribution, which applies a doctrinal lens to the ICC Statute, illustrates the possibilities extant within traditional ICL scholarship.

In this introduction, I explore interdisciplinarity by first considering law as a discipline to account for how ICL has emerged as a field of practice and scholarship within the broader epistemic context of law. I then consider the nature of ICL scholarship before turning to questions of interdisciplinarity. This introduction acknowledges the work of scholars within ICL who are already conducting interdisciplinary scholarship of various kinds and seeks to continue such a tradition by widening discussion about the potentialities and pitfalls of such endeavours.<sup>13</sup> Ultimately, I argue that the best way of capturing ICL's interdisciplinarity potential is to characterise the field as 'international criminal justice' (ICJ).

## 2. The Legal Tradition and the Disciplining of the (International) Lawyer

Connotations of constraint and control arising from the word 'discipline' remind us of the difficulties of interdisciplinarity and the importance of accounting for *particular* scholarly traditions and histories. For 'disciplines are not just distinct bodies of knowledge or branches of learning...but are also social communities with members who share "personal experiences, values, and aesthetic judgments"'.<sup>14</sup> The socialising effects of a discipline are thus profound, because to

be disciplined ... is to learn to embody, to perform, and to enact on a daily basis, in the workplace, as everyday pedagogy, not only the academic genres that constitute the theories and practices of the discipline, but also the genres of social relations and embodied subjectivity that construct the discipline as 'a body' of knowledge ... To succeed in the

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<sup>11</sup> P. Roberts and N. McMillan, 'For Criminology in International Criminal Justice' 1 *Journal of International Criminal Justice* (2003) 315-338, p.337. Also see C. Bijleveld, 'On Research Methods for International Crimes – Methodological Issues in the Empirical Study of International Crimes', A. Smeulers (ed.), *Collective Violence and International Criminal Justice: An Interdisciplinary Approach* (Hart, Oxford, 2010), 275-296.

<sup>12</sup> In her article here, Tallgren makes a very similar point regarding her contribution as being *illustrative* of the directions possible within interdisciplinary ICL scholarship: I. Tallgren, 'Come and See? The Power of Images and International Criminal Justice' *issue?* *International Criminal Law Review* (2017) *pages?*

<sup>13</sup> In particular, see A. Smeulers (ed.), *Collective Violence and International Criminal Justice: An Interdisciplinary Approach* (Hart, Oxford, 2010).

<sup>14</sup> Vick, quoting Nissani, *supra* note 10, p. 166.

discipline means to be able to perform its genres, and to speak and write and embody its favourite discourses, myths, and narratives.<sup>15</sup>

Before thinking specifically about ICL, it is useful to consider briefly the discipline of law and then international law in general, so as to appreciate internal divisions and controversies as well as account for how and why legal scholarship is distinct from other subjects in the humanities and social sciences.

Law as an academic discipline is distinct from other disciplines in the academy for a number of reasons, but the most important is its often-dependent relationship to practice. This also ensures that law is able to maintain its distinctive character vis-à-vis other scholarly pursuits in the academy as the scholar can justify her craft of textual exegesis and teaching for its support or constructive critique and/or reform of the legal system. Yet, such proximity to legal institutions and thus, the state, elicits paradoxical reactions in the legal scholar. On the one hand, she can take comfort in the real world or 'pragmatic' application of her knowledge as legal and political power.<sup>16</sup> Yet, it is also crucial not to appear too close to power and so the resort to doctrinal or 'positivist' work is a way of preserving a semblance of neutrality.<sup>17</sup> According to Vick, law's 'disciplinary core' entails 'a doctrinal approach involving the use of particular interpretive tools and critical techniques in order to systemize and evaluate legal rules and generate recommendations as to what legal rules should be.'<sup>18</sup>

Doctrinal approaches are dominant in all practice areas, including international law, which has nevertheless nurtured its own distinctive culture and language since its evolution as a profession in the nineteenth century.<sup>19</sup> Operating in a world of power politics, international lawyers tend to share a common liberal (and paradoxical) mindset and commitment to preserving individual freedom through order.<sup>20</sup> Unlike lawyers in the domestic realm, international lawyers are often less dependent on the state to enforce order. The end of the Cold War has ushered in a particular rendering of such liberal ideals through a number of dominant narratives including 'heroic internationalism and' humanitarianism,<sup>21</sup> which have been seminal in underpinning ICL's rapid contemporaneous rise.<sup>22</sup> According to Orford, 'international lawyers gain an aura of power through their ability to translate or interpret the desires and aims of powerful entities, without having to take responsibility for the way that the knowledge they produce about such entities creates a particular image of the world and makes it seem real.'<sup>23</sup> Remaining aloof from power also can lead to questioning international law's relevance, especially in the face of devastating episodes of mass

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<sup>15</sup> Threadgold, quoted in A. Orford, 'Embodying Internationalism: The Making of International Lawyers' 19 *Australian Yearbook of International Law* (1998) 1-34, p.3.

<sup>16</sup> M Koskenniemi, *The Politics of International Law* (Hart, Oxford, 2011), p. 292.

<sup>17</sup> Orford (1998), *supra* note 15, p. 15.

<sup>18</sup> Vick, *supra* note 10, p. 165.

<sup>19</sup> M. Koskenniemi, *The Gentle Civilizer of Nations* (Cambridge University Press, Cambridge, 2002).

<sup>20</sup> On liberalism, see M. Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Cambridge: Cambridge University Press, 2005 [reissued edition]), p. 71; on commitment, see M. Koskenniemi (2011), *supra* note 16, p. 271-293. We can think of liberalism as both a paradigm and a theory informing international legal scholarship: M. Burgis-Kasthala, 'Scholarship as Dialogue? TWAIL and the Politics of Methodology' 14 *Journal of International Criminal Justice* (2016) 921-937, p. 924.

<sup>21</sup> 'International lawyers come to understand themselves as the embodiment of heroic internationalism, and of the values and myths that underlie international law. The role imagined for international law and international lawyers is premised upon an idealism about the capacity to do good through international law.' Orford (1998), *supra* note 15, p. 16.

<sup>22</sup> See Robinson on the illiberal effects of a liberal ICL tradition: D. Robinson, 'The identity crisis of international criminal law' 21 *Leiden Journal of International Law* (2008) 925-963.

<sup>23</sup> Orford (1998), *supra* note 15, p. 33.

atrocities.<sup>24</sup> What role could law have played in preventing such acts and how can it be used to redress them?

### 3. ICL as a maturing field and community of scholars/practice?

These questions have plagued ICL and because of the nature of its jurisdiction centred on some of humanity's worst moments, the stakes for its relevance could not be higher.<sup>25</sup> Yet it is this sense of a shared project or *telos* to redressing past atrocities so as to end future ones, that has produced a particularly strong sense of commitment and even faith for both practitioners and scholars of ICL.<sup>26</sup> Such a commitment, which is usually unquestioned, has nurtured an ever growing ICL community, which although emerging out of international law more broadly, has meant that over time, it has developed its own particular set of cultural practices, norms and language. In terms of both norms and practice then, it makes sense to think of ICL as a specialised legal *regime* as well as a (weak) scholarly field within the discipline of international law.<sup>27</sup> For Anderson, understanding ICL requires not only an appreciation of its 'internal structure', but how ICL has shaped 'areas of law, policy and politics which are quite outside ICL, and in particular beyond the ICTs'.<sup>28</sup> Yet to do this, we need to appreciate what is commonly understood as inside and outside of ICL. This is not settled and asking such a question goes to the heart of how the discipline of ICL disciplines the way we interpret the world.

There are a number of ways to study a scholarly field or discipline and its framing devices, such as through its methodology, its personnel,<sup>29</sup> its intended audiences, its constituency or objects of study. Perhaps the best way though is to start our enquiry with narrative. By exploring ICL narratives, the field's actors, purpose and approaches to practice and study all become clearer. In studying law and narrative, Robert Cover's contribution is perhaps the most well-known, arguing that only in understanding narrative, can we understand law because

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<sup>24</sup> See M. Nicolson, 'Walter Benjamin and the Re-Imagination of International Law' 27 *Law & Critique* (2016) 103-129.

<sup>25</sup> E. Van Sliedregt, 'International Criminal Law: Over-studied and Underachieving?' 29 *Leiden Journal of International Law* (2016) 1-12, pp. 3-4.

<sup>26</sup> D.S. Koller, 'The Faith of the International Criminal Lawyer', 40 *New York University Journal of International Law and Politics* (2008) 1019-1069, p. 1020; and I. Tallgren, 'Searching for the Historical Origins of International Criminal Law', M. Bergsmo, Wui Ling C. and Y. Ping (eds), *Historical Origins of International Criminal Law*, vol. 1 (Torkel Opsahl Academic EPublisher, Brussels, 2014), pp. xi-xxx.

<sup>27</sup> Burgis-Kasthala (2016), *supra* note 20, p. 924; and P. Dixon & C. Tenove, 'International Criminal Justice as a Transnational Field: Rules, Authority and Victims' 7 *International Journal of Transitional Justice* 393-413. M. Koskeniemi, 'The Fate of Public International Law: Between Technique and Politics' 70 *Modern Law Review* (2007) 1-30, p. 30. Christensen also suggests we understand ICL as a 'sub-discipline' as well as field: [citation](#). See Dezalay [in this issue](#) on the idea of ICL as a 'weak field' as well as her study of the conflict field as a weak field S. Dezalay, 'Lawyering War or Talking Peace? On Militant Usages of the Law in the Resolution of Internal Armed Conflicts: A Case Study of International Alert', Y. Dezalay & B.G. Garth (eds), *Lawyers and the Construction of Transnational Justice* (Routledge, Abingdon, 2012) 60-83. Also see Tallgren (2014), *supra* note 26.

<sup>28</sup> Anderson (2009), *supra* note 2, p. 357. Structural implications of ICL can also be explored through a political economy perspective. For example, see T. Krever, 'Ending impunity? Eliding political economy in international criminal law', U. Mattei & J. D. Haskell (eds), *Research Handbook on Political Economy and Law* (Cheltenham: Edward Elgar, 2015), 298-314.

<sup>29</sup> C. Stahn, Evolution, Revolution or New Culture? The Changing Anatomy of International Criminal Justice (and Some of its Curiosities) 15 *International Criminal Law Review* (2015) 1122-1137, p. 1127.

No set of legal institutions or prescriptions exists apart from the narratives that locate it and give it meaning... Once understood in the context of the narratives that give it meaning, law becomes not merely a system of rules to be observed, but a world in which we live.<sup>30</sup>

This socialising function of law and narrative accounts for why understanding the background understandings about ICL becomes crucial. As Cover notes, narratives are both moral and structured by time, with a beginning and a (projected) end: 'every narrative is insistent in its demand for its prescriptive point, its moral'.<sup>31</sup> This is clear for ICL too, where its moral imperative of firstly ending impunity through criminal trials so as to lessen and then eliminate future atrocities, is hard to dislodge.<sup>32</sup> Such a narrative account of ICL's purpose then structures the way a history of law as progress retells ICL's evolution as the seductive embrace of ever more norms and courts to ensure that ICL proves that history need not be repeated.<sup>33</sup> An emphasis too on institutions, especially courts, prescribes the work for international criminal lawyers as largely doctrinal support for normative evolution and enforcement.<sup>34</sup> Such a narrative then radically limits our understanding of what counts as 'criminal', 'international' and part of the professional practice of the field. Sarah Nouwen makes such a point most keenly in her reflection on the nature of qualitative fieldwork about the ICC where typically those 'receiving' ICL in Africa are understood to be outside the scholarly consideration of ICL.<sup>35</sup> Thus, dominant ICL narratives frame who and what remains inside and outside of the purview of ICL as scholarship and practice.<sup>36</sup> The contributions from Tallgren and Banham make such a point through their consideration of 'alternative' materials and texts for ICL research.

Although it is not possible to step outside of the narrative frame that we live in, self-reflexivity at least allows us to explore how such narratives give shape to particular scholarly cultures and practices. Thus, a typical piece of writing within ICL begins within the frame of ICL positive rules and seeks to clarify them in pursuit of the broader ICL *telos* of ending impunity. A critical or interdisciplinary consideration of ICL though would not start here. For example, another way would be to start an analysis by considering the nature of the personnel populating and perpetuating the field of ICL.<sup>37</sup> This sociological sensibility informs the accounts of Christensen and Dezalay as well as

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<sup>30</sup> R. M. Cover, 'The Supreme Court, 1982 Term -- Foreword: Nomos and Narrative' 97 *Harvard Law Review* (1983-1984) 4, pp. 4-5.

<sup>31</sup> *Ibid.*, 5.

<sup>32</sup> Koskenniemi notes the way in which many international lawyers view international law as possessing an 'inbuilt moral direction': M. Koskenniemi, 'Law, Teleology and International Relations: An Essay in Counterdisciplinarity' 26 *International Relations* (2011) 2-34, pp. 4.

<sup>33</sup> See Baars who analyses four dominant narratives within ICL: G. Baars, 'The Making of an International Criminal Law', C. Schwoebel (ed.), *Critical Approaches to International Criminal Law* (Abingdon, Routledge, 2014) pp. 196-218.

<sup>34</sup> This is never a simple process, however, as Koller points out that the international criminal lawyer typically struggles with a paradox: 'The cosmopolitan identity calls out for a tribunal to reaffirm the cosmopolitan community against the individual aggressor. The legalist identity proceeds, however, on the basis that for a fully fair trial the defendant must be able to question any assumption underlying the trial, including introducing the idea of long-standing, if not intractable, incompatibility among communities.' Koller, *supra* note 26, pp. 1064-1065.

<sup>35</sup> S. Nouwen, '"As You Set out for Ithaka": Practical, Epistemological, Ethical, and Existential Questions about Socio-Legal Empirical Research in Conflict' 27 *Leiden Journal of International Law* (2014) 227-260. Also see M. Drumbi, 'Toward a Criminology of International Crimes' 19 *Ohio State Journal on Dispute Resolution* (2003) 263-282.

<sup>36</sup> On ICL's purview, see M. Burgis-Kasthala, 'An Arresting Event: Assassination within the Purview of International Criminal Law', C. Schwoebel, *Critical Approaches to International Criminal Law: An Introduction* (Abingdon, Routledge, 2014), pp.246-263.

<sup>37</sup> On the nature of the ICL scholarly field, see S Vasilev, 'On Trajectories and Destinations of International Criminal Law Scholarship' 28 *Leiden Journal of International Law* (2015) 701-716.

Jarvis, who all point to the particular professional agendas and trajectories that have come to shape ICL (in particular, compare the different institutional and professional histories of the ICTY and the ICC in Jarvis' and Dezalay's contributions). While Christensen notes broad trends in the professional ICL field through a systematic study of the biographies of its scholars, Jarvis offers an autobiographical account as illustrative of the field's evolution.

#### 4. Towards Interdisciplinarity?

Invocations of interdisciplinarity are increasingly *de rigueur* within the academy where funding sources favour research projects boasting innovative and collaborative approaches.<sup>38</sup> Within the discipline of law per se whether at the behest of grant monies or otherwise, there are regular calls for interdisciplinary approaches to law. ICL is no exception with a growing body of work seeking to draw on other disciplines and forge links between ICL and scholars outside the field writing about ICL, especially ICTs. Often calls for interdisciplinarity do little more than remain grounded in one discipline while dabbling in the theory and methods of another.<sup>39</sup> Thus, we can think of interdisciplinary endeavours along a spectrum beginning with dabbling in other disciplines (perhaps, best understood as multidisciplinary)<sup>40</sup> and stretching all the way to near synthesis between ICL and another discipline so as to create a new discipline. The nature of research within a discipline is always evolving and so what can be understood as interdisciplinary at one moment need not be so at another, as instead, this transitional quest will often lead to full integration of certain interdisciplinary approaches.<sup>41</sup> Accordingly, some scholars simply begin their inquiry of ICL with not only doctrinal, but social, historical and criminological tools without necessarily classifying their work as interdisciplinary. We can also think about the way in which the dominant disciplinary frame of ICL shapes the research agendas of non-legal scholars. For example, ICL has increasingly come to be understood by ICL scholars and practitioners as concerned exclusively with the 'core' crimes of the Rome Statute. This is closely followed in much of the criminological literature that fails to question the presumption that such crimes are the most heinous and the most serious across the globe.<sup>42</sup>

We can categorise most interdisciplinary ICL work as an attempt to broaden the research agenda of the field itself beyond traditional doctrinal perspectives that do not question an internal point of view about the law.<sup>43</sup> For Koskenniemi this would entail research that is no longer properly 'legal' as law is a craft concerned with interpretation of rules. The social implications of such rules are also relevant, but what is key is to remain grounded – or disciplined – in the normative and authoritative force of legal rules in social and political life. Social sciences do not treat law in this normative way and hence, the difficulty of performing truly interdisciplinary work.<sup>44</sup>

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<sup>38</sup> Vick, *supra* note 10, p. 171

<sup>39</sup> Vick, *supra* note 10, p. 192.

<sup>40</sup> On the difference between multidisciplinary and interdisciplinarity, see Tallgren's **contribution** to the special issue as well as M. McCann, 'Dr Strangelove (Or: How I learned to stop worrying and love methodology)' 41 *Law, Politics and Society* (2008) 19-59, p. 50.

<sup>41</sup> Vick, *supra* note 10.

<sup>42</sup> For example, see D. L. Rothe & C. W. Mullins, 'Toward a Criminology of International Criminal Law: An Integrated Theory of International Criminal Violations' 33 *International Journal of Comparative and Applied Criminal Justice* (2009) 97-118.

<sup>43</sup> In particular, critical approaches to international law, as discussed in Christensen's **contribution in this issue**. Generally, see C. Schwoebel (ed.), *Critical Approaches to International Criminal Law: An Introduction* (Abingdon, Routledge, 2014),

<sup>44</sup> 'Interdisciplinary vocabularies of "scholarship" and "science" miss what for most international lawyers is the most obvious aspect of our trade: namely, its craft-likeness, its being above all a practice. International law is

Perhaps then, it is best to characterise research beyond ICL doctrine not as ICL, but as International Criminal Justice (ICJ). For Roberts and McMillan, ICJ research would require a range of specialisms and disciplinary backgrounds.<sup>45</sup> Often extant ICJ research engages with methodologies found in the social sciences, whether quantitative or qualitative. Typically, such work is qualitative in nature, but there are some quantitative examples<sup>46</sup> and perhaps this is one area of potential development as numerous critical scholars have argued that ICL's grand claim such as that ending impunity will end or at least reduce atrocity crimes,<sup>47</sup> has yet to be systematically tested.<sup>48</sup> Extra-disciplinary methodologies however do not necessarily entail a rethinking of dominant ICL concerns;<sup>49</sup> they can be used to reinforce existing frameworks and agendas. The extent to which a scholarly field is open to challenge is reflective of its own self-confidence and maturity. ICL is no longer new, yet the vast majority of its practitioners and scholars remain disinterested in opening the field up to new forms of inquiry, [such as engaging with film](#).<sup>50</sup> We hope this special issue will demonstrate the rich possibilities available whether through multi-disciplinary, interdisciplinary or extra-disciplinary scholarship of ICL towards the broader field of ICJ.

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not a social science. It is not a (theoretical) science at all – that is to say, it does not operate on the basis of demonstrable, even less empirical truths, nor with ideas about moral goodness. Legal ‘truth’ or ‘goodness’ is concerned with what Panu Minkkinen calls the *correctness* of the legal decision. This is a product of legal practice, argument and persuasion, not its precondition.’ Koskeniemi (2011), *supra* note 32, p. 19.

<sup>45</sup> Roberts and McMillan (2003), *supra* note 11, p. 316.

<sup>46</sup> See [Christensen's](#) article in this issue.

<sup>47</sup> Drumbl makes this point in particular regarding the effects of international sentencing: M Drumbl, ‘Collective Violence and Individual Punishment: The Criminality of Mass Atrocity’ 99 *Northwestern University Law Review* (2005) 539.

<sup>48</sup> Nouwen (2014), *supra* note 35, pp. 229-230. Cf. Stahn who argues that ‘Not all of...[international criminal justice’s] effects can be empirically measured or explained.’ Stahn (2015), *supra* note 29, p. 1127. For a social science consideration of ICC deterrence achievements, see K. Cronin-Furman, ‘Managing Expectations: International Criminal Trials and the Prospects for Deterrence of Mass Atrocity’ 7 *International Journal of Transitional Justice* (2013) 434-454. For an evaluation of the ICTY’s ability to establish the facts for the wider population affected, Milanovic draws on social psychology: M. Milanovic, ‘The Impact of the ICTY on the former Yugoslavia: an anticipatory postmortem’ 110 *American Journal of International Law* (2016) 233-259.

<sup>49</sup> For an example of a recent quantitative study on ICL that takes the parameters of the field as given: S. Manley, ‘Referencing Patterns at the International Criminal Court’ 27 *European Journal of International Law* (2016) 191-214.

<sup>50</sup> But see I. Tallgren, ‘The Sensibility and Sense of International Criminal Law’ 13 *European Journal of International Law* (2002) 561-595; and D. Joyce & G. Simm, ‘Zero Dark Thirty: international law, film and representation’ 3 *London Review of International Law* (2015) 295-318.