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# The Stuff of International Law

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Jessie Hohmann and Daniel Joyce (eds). *International Law's Objects*. New York: Oxford University Press, 2018. Pp. 592. \$135.00 (hardback). ISBN: 9780198798200. \$49.95 (paperback). ISBN: 9780198798217.

## Abstract

*This review essay addresses the call for a 'material turn' in international law announced with the publication of International Law's Objects. It will engage the book's methodological forays into a material culture studies approach to international law by analysing the theoretical positions of the introductory essays. It will do so, in part, by reviewing the various goals enunciated, including a revitalization of what the editors see as a dusty, text-centric discipline, as well as their hope to broaden the range of international legal study. It will do so also by engaging material culture studies in source disciplines, such as anthropology and archaeology. The review essay will then analyse four of the case studies of objects, how they work with their chosen objects and what the contributors add to our understanding of international law with their confrontation. The essay will offer the potential goals of using material culture study by proposing that international legal study is advanced by enhancing our apprehension of the lived experience of international law through an engagement with objects and by a linked opening up of all the senses to bring us a fuller apprehension of the workings and impact of international law.*

## 1 International Legal Materials

In front of me I have a padded envelope, which looks like any other padded envelope used for sending small books with the usual postal mark and labels for the sender and recipient.<sup>1</sup> Except this envelope has an additional label that reads: 'RETURN TO

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<sup>1</sup> The padded envelope does not register in the hierarchy of symbolic messaging of office paper discussed in Andrea Pellegram's contribution to Daniel Miller's *Material Cultures*, with letterhead stationery at the top of the hierarchy – '[e]verything about it says "special purpose"' – unless it is cast by that framework to the utilitarian, as opposed to Post-its® in her discussion, which carry a message of informality. Pellegram, 'The Message in Paper', in D. Miller (ed.), *Material Cultures: Why Some Things Matter* (1998) 103, at 106.

SENDER/SERVICE TEMPORARILY SUSPENDED.’ I had held onto this envelope from the autumn of 1990, because it was returned to my student-edited international law journal during the First Gulf War due to its being addressed to Kuwait during the Iraqi invasion. The recipient was the Judicial Tribunal of the Organisation of Arab Petroleum Exporting Countries (OAPEC). So, here is a now-empty envelope that was to convey an issue of an international law journal for use in the library of a multilateral organization’s tribunal, essentially to be utilized in the application of expertise in the tribunal. The context seems fraught with international legal significance. But much else about the envelope also shows legal indices. The US postage mark reflecting US\$2.30 paid would have otherwise made its way to Kuwait as a result of the Universal Postal Union established by the Treaty of Bern in 1874. The green customs label has its own story, including its rendering questions in English and French. On the verso side of the envelope is a mark ‘Jiffy<sup>TM</sup>’, which reflects not its international status but its status with the US Patent and Trademark Office, the ‘<sup>TM</sup>’ indicating that the mark had not yet achieved its registered status, which it subsequently did, and we know nothing about later attempts to trademark the mailer outside the United States. And then there is an international recycling symbol, which now is specifically indexed with a Unicode number by the Unicode Consortium with its office in Mountain View, California. In *The Shape of Time*, art historian George Kubler instructs us on the difference between ‘self-signals’ of objects, for example, ‘the hammer upon the workbench signals that its handle is for grasping’, and the ‘adherent signal, die-stamped on the hammer, says only that the design is patented under a protected trade-mark and manufactured at a commercial address’.<sup>2</sup> What I have in front of me is a mailer replete with Kubler’s ‘adherent symbols’, but these adherent symbols tell stories of the anticipated marshalling of expertise in a multilateral tribunal,<sup>3</sup> in this case the volume being sent back to the journal’s office during the operation of a war. The empty mailer is not just an empty mailer: it has won a place in my personal cabinet of curiosities – along with a small wooden box with its ‘Authentic Cut from the Berlin Wall’.

If my padded envelope is an object suggestive of a variety of avenues to international law, *International Law’s Objects*, edited by Jessie Hohmann and Daniel Joyce, provides, in essence, a manifesto about the importance of adding material culture to the study of international law.<sup>4</sup> Indeed, the editors are very clear about that in their introduction: ‘[t]his book is an opening salvo.’<sup>5</sup> The book’s status as manifesto provides an answer

<sup>2</sup> G. Kubler, *The Shape of Time: Remarks on the History of Things* (1962), at 24.

<sup>3</sup> Here David Kennedy has long told us of the narratives of technical expertise in international law, recently in his *World of Struggle*, where he talks of ‘the language and practice of technical expertise’. D. Kennedy, *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy* (2016), at 2, even if Kennedy tells us now that expertise has of late become ‘unhitched from the promise of decisive clarity’. *Ibid.* Of course, in the case of my padded mailer, it is the now-missing volume of the journal, with the university’s crest, that symbolized a realm of expertise. Kennedy presents a fetishized expertise, as I see it, taking the bureaucratic from Max Weber’s chapter on ‘Bureaucracy’, essentially perceiving international lawyers as creating charisma from the uncharismatic. Max Weber, *Economy and Society*, ed. G. Roth and C. Wittach, trans. Ephraim Fischhoff *et al.* vol. 2 (Publisher 1968), at 956–1005.

<sup>4</sup> Hohmann and Joyce, ‘Introduction’, in J. Hohmann and D. Joyce (eds.), *International Law’s Objects* (2018), 1, at 9.

<sup>5</sup> *Ibid.*, at 8. Indeed, the editors would like to see a material turn take a course much like the ‘turn to history’ in international law. *Ibid.*

to why there seem to be five introductions after the joint introduction by the two editors. Admittedly, those five essays come under the title ‘Thinking International Law through Objects’, suggesting that this is the theory part before going to the various case studies under the title, ‘Objects of International Law’. But the five essays – in part because they reference the entries in the book on specific objects that lie ahead – come across as five alternative introductions. Hohmann and Joyce begin their introduction by asking: ‘What might we learn about international law if we began with objects, things, and material culture?’<sup>6</sup> With a 592-page, 40-chapter book in one’s hands, the answer is hardly in doubt.

One of the editors’ key motivations for the book is to use objects to bring vitality to international law – and to provide additional entry points into international law scholarship, not the least of which is to allow for increased representation by under-represented populations in the study of international law. What looks largely like a formal turn includes a substantive agenda. Pressing the vitality theme, Jessie Hohmann tells us that ‘lawyers can be accused of spending a good deal of our time killing off law, trapping it in weighty books (along with the remains of the occasional fly that flew too slowly)’.<sup>7</sup> Indeed, ‘[w]e separate it from life’.<sup>8</sup> So, Hohmann wants to take international law, which is ‘often presented as something remote, cold, and impersonal’,<sup>9</sup> and bring it out of the library. The impulse to enliven international law is hardly new. One can think of David Kennedy’s ‘Spring Break’, with its wonderful multi-layered narrative of his human rights mission to visit political prisoners in Uruguay in the 1980s,<sup>10</sup> over against the double-columned pages of the *American Journal of International Law* with its barely pronounceable, dreary titles.

In the search for vitality, Joyce writes that ‘Jessie Hohmann in her original conception of the project was partly inspired by the British Museum exhibition, “A History of the World in 100 Objects”’.<sup>11</sup> Looking at Neil MacGregor’s book accompanying the exhibition, we see the vast majority of its objects are reproduced pin-lit with dark, black backgrounds, that is to say, presenting the objects in stock museum fashion, and we find ourselves very much in a museum setting.<sup>12</sup> Nevertheless, interrogated by MacGregor, the objects are full of vitality and seem to tell stories. We learn, for example, that the chemical analysis of the Mummy of Hornedjitef evidences ‘substances found in different parts of the eastern Mediterranean and [we can] begin to reconstruct the trading networks that supplied materials to Egypt’.<sup>13</sup> *A History of the World in 100 Objects*, wearing its museum pedigree on its sleeve, cannot escape the dark imperial underbelly of so many museum collections, particularly those of ethnographic

<sup>6</sup> *Ibid.*, at 1.

<sup>7</sup> Hohmann, ‘The Lives of Objects’, in Hohmann and Joyce (eds.), *supra* note 4, at 20, 34.

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

<sup>10</sup> Kennedy, ‘Spring Break’, 63 *Texas Law Review* (1985) 1377.

<sup>11</sup> Joyce, ‘International Law’s Cabinet of Curiosities’, in Hohmann and Joyce (eds.), *supra* note 4, at 15, 25.

<sup>12</sup> Still, we should remember that the British Museum exhibition was a coproduction with BBC4 Radio.

<sup>13</sup> N. MacGregor, *A History of the World in 100 Objects* (2012), at 7.

museums and encyclopaedic metropolitan museums like the British Museum.<sup>14</sup> *International Law's Objects* works to avoid the tarnish of its British Museum model. The book's objects – put aside the various substances, like glyphosate and sugar, included among those 'objects' – tend to have been photographed *in situ* or to involve stories of imperial acquisition. Exemplifying the latter, indeed as a narrative of delayed repatriation that mirrors the museum critique, Lucas Lixinski tells the story of the Italian acquisition of the Axum Stele under Mussolini and the overly long path for its return to Ethiopia, including the irony that the building before which it stood in Rome was the Ministry of Italian Africa to be taken over in 1951 by an international organization, the United Nations Food and Agricultural Organization, with the Stele still waiting decades to be returned to Ethiopia.<sup>15</sup> The changeover from the explicitly colonial function of the building to the international did not bring the stele any closer to home. And Joyce narrates a tale of early modern cabinets of curiosities, such as the one assembled by Habsburg emperor Rudolf II, as having an imperial function, including being shown to diplomats. In essence, the 'composition of the original cabinets of curiosities reflected the influence of trade, discovery, colonial activity, and exploitation'.<sup>16</sup> Joyce makes an explicit analogy between the collection of objects in *International Law's Objects* and the 'cabinets of curiosities (or [W]underkammer) which first appeared in the Renaissance'.<sup>17</sup> He explains that '[t]he cabinets of curiosities—with their air of the esoteric, but also the encyclopaedic—offer a useful resonance (and also a warning) for this edited collection',<sup>18</sup> and he identifies the warning in the cabinets' speaking to 'the emergence of international law as a Eurocentric form of knowledge-making and discourse attempting to control, represent, and order the world according to European self-conceptions of power and hierarchy'.<sup>19</sup> Understanding the cabinets in their way of organizing knowledge 'can help us to understand international law's objects, but also to perceive the various and often violent histories within which international law has emerged as a contemporary practice'.<sup>20</sup> A realm of objects not only enlivens but can also instruct regarding a violent international legal lineage.

Towards these ends, Hohmann and Joyce recruited contributors to collect various objects of international law. In the book's introduction, the editors place objects into four categories. The first are 'workaday objects', which are 'used routinely in the study and practice of international law' and 'include international, regional, and bilateral treaties and declarations, maps, and diplomatic cables'.<sup>21</sup> They explain that, although 'some of these objects are normally rendered in text, they represent important objects

<sup>14</sup> This controversy had been well underway for decades at the time of the exhibition and is only increasing in bitterness, as captured by the title of Dan Hicks's new book, *The Brutish Museums: The Benin Bronzes, Cultural Violence and Cultural Restitution* (2020).

<sup>15</sup> Lixinski, 'Axum Stele', in Hohmann and Joyce (eds.), *supra* note 4, at 130, 135.

<sup>16</sup> Joyce, *supra* note 11, at 20.

<sup>17</sup> *Ibid.*, at 15.

<sup>18</sup> *Ibid.*, at 29.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> Hohmann and Joyce, *supra* note 4, at 4.

in their own right'.<sup>22</sup> Mainly, the book avoids these traditional vehicles of international law, except for a chapter by Sara Dehm on passports.<sup>23</sup> Hohmann and Joyce are certainly after new media for the study of international law, but they have set out a polarity between the textual and the non-textual. Characterizing their effort, the editors write: 'This project, on international law's objects, grew out of our curiosity about what an object-focused approach to international law might reveal, which is marginalized or forgotten in our narrow focus on textual interpretation, and in locating and pinning down the intentions and motivations of states'.<sup>24</sup> So the project is logophobic in nature. For them, international law has too long been bound up in a web of words. That is part of the deadened discipline that needs renewal.

Within broader legal studies, *International Law's Objects* follows a line of predecessors in trying to emerge from the dry and fusty character of the law but also to provide a critique of law's self-imaging. Peter Goodrich, for example, has made a series of forays into his long critique of law's own mythology, identifying itself as somehow post-mythological, scientific and objective. And he has done so by engaging other disciplines, starting with his *Legal Discourse*, which uses semiotic tools to provide a critique of the 'emergence of the myth of law as a unitary language and as a discrete scientific discipline'.<sup>25</sup> In *Law in the Courts of Love*, he begins by uncovering a special *Cour Amoureuse*, created in 1400 by Charles VI of France to address matters of love and created as a women's court for which the judges were 'selected by a panel of women on the basis of the recitation or written presentation of poetry'; in essence, law as poetry.<sup>26</sup> And with *Legal Emblems and the Art of Law*, he tried again to uncover law in a different register by delving into the early modern emblem book to find law in all its visuality. 'Why', he asks, 'are we not researching and teaching a visual literacy of law?'.<sup>27</sup> Goodrich engages strange pictures, starting with a scribe using his foot to write, in order to engage law before its current self-mythology, enabling him to revitalize legal knowledge.<sup>28</sup>

Although Goodrich is a strong voice here, he is hardly alone in the critique of law donning its chosen objective, rational garb, the critique that would be rendered by the *Objects* book. That critique has a long tradition, and Goodrich was himself a contributor, along with Peter Fitzpatrick, to Anthony Carty's *Post-Modern Law*, in which Carty, in his introduction, writes of the need for the 'deconstruction of secular rationalism'.<sup>29</sup> If Goodrich advocates a sort of prelapsarian, more visual law, Joyce

<sup>22</sup> *Ibid.*

<sup>23</sup> Dehm, 'Passport', in Hohmann and Joyce (eds.), *supra* note 4, at 342.

<sup>24</sup> Hohmann and Joyce, *supra* note 4, at 7.

<sup>25</sup> P. Goodrich, *Legal Discourse: Studies in Linguistics, Rhetoric and Legal Analysis* (1987).

<sup>26</sup> P. Goodrich, *Law in the Courts of Love: Literature and Other Minor Jurisprudences* (1996), at ix.

<sup>27</sup> P. Goodrich, *Legal Emblems and the Art of Law: Obiter Dicta as the Vision of Governance* (2014), at 23.

<sup>28</sup> On Goodrich's general project of criticizing the myth of law as post-mythological, scientific and objective, particularly in his emblem book, see Landauer, 'Legal Emblems and the Return of the Impressed', 27 *Yale Journal of Law & the Humanities* (2015) 291.

<sup>29</sup> Carty points to the role of Foucault and Derrida. Carty, 'Introduction: Post-Modern Law', in A. Carty (ed.), *Post-Modern Law: Enlightenment, Revolution and the Death of Man* (1990) 1, at 5. There has been a strong critical impulse both in law generally and, especially since the 1980s, in international law. The

introduces his early modern cabinets of curiosities as a model that also carries a caution about their Eurocentrism. Wouter Werner, in his theoretical contribution to *International Law's Objects*, 'Framing Objects of International Law', affirms: 'Practices of international law have always been filled with material objects. However, the almost exclusive focus of academic lawyers on text and verbal arguments has led to a neglect of the roles and functions of objects across international law.'<sup>30</sup> Werner remarks that the volume 'reads like a reminder of what we knew all along',<sup>31</sup> but the reference to remembrance is not so much a remembrance of things past as a gentle nudge about a world of objects that the academic international writer generally ignores. In short, the project of *International Law's Objects* is less to recover a lost faculty than to broaden international law's frame.

Linked to the vitalizing and critical projects—including the move away from the traditional archive of treaties and *travaux préparatoires*—is a search for objects over words, which prompts us to ask: what, then, are the 'objects' of international law? Defining the range of 'objects' that are the subject-matter of the *Objects* book, Fleur Johns writes, '[i]ndeed, the choice of the word "objects" for this book's title as opposed to "stuff"—that is, the preference for a "count noun" as opposed to a "non-count noun"—brings questions of counting to the fore'.<sup>32</sup> She asserts that 'what and who counts in and for international law, what or who does not, and the prospect of international law offering any comprehensive accounting, are all called into question by this book's opening the discipline to objects'.<sup>33</sup> By using 'in and for' international law, Johns consciously uses 'counts' – playing on two of its English meanings – in terms of both the subjects' performing the task of enumeration and being worthy of notice, that is, having meaning. But the objects of the book are hardly confined to those that can be enumerated, and Johns just on the previous page advised: '[t]o lay claim to objects for international law (and not any or all objects, but *these* objects in this book—an odd assortment by any measure) is an exercise in speculative writing'.<sup>34</sup> Many of the objects in the book are clearly objects in Johns's sense of a count noun, such as the Barcelona Traction share,<sup>35</sup> railway clocks,<sup>36</sup> the Somali pirate skiff<sup>37</sup> and the gavel.<sup>38</sup> But some of the book's objects are substances, like sugar<sup>39</sup> and opium,<sup>40</sup> and Thérèse Murphy even devotes her chapter to AIDS, jumping over the virus to the disease.<sup>41</sup>

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critical impulse too had its forbears, such as Jerome Frank's *Law and the Modern Mind* (1930) summoning a psychoanalytical critique of the law's supposed rationalism with chapter titles like 'Verbalism and Scholasticism'.

<sup>30</sup> Werner, 'Framing Objects of International Law', in Hohmann and Joyce (eds.), *supra* note 4, at 57–58.

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

<sup>32</sup> Johns, 'Things to Make and Do', in Hohmann and Joyce (eds.), *supra* note 4, at 47, 55.

<sup>33</sup> *Ibid.*, at 56.

<sup>34</sup> *Ibid.* at 55.

<sup>35</sup> Fontanelli and Bianco, 'Barcelona Traction Share', in Hohmann and Joyce (eds.), *supra* note 4, at 141.

<sup>36</sup> Gordon, 'Railway Clocks', in Hohmann and Joyce (eds.), *supra* note 4, at 387.

<sup>37</sup> Guilfoyle, 'Somali Pirate Skiff', in Hohmann and Joyce (eds.), *supra* note 4, at 443.

<sup>38</sup> Parker, 'Gavel', in Hohmann and Joyce (eds.), *supra* note 4, at 214.

<sup>39</sup> Fakhri, 'Sugar', in Hohmann and Joyce (eds.), *supra* note 4, at 478.

<sup>40</sup> Hohmann, 'Opium', in Hohmann and Joyce (eds.), *supra* note 4, at 319.

<sup>41</sup> Murphy, 'AIDS', in Hohmann and Joyce (eds.), *supra* note 4, at 106.

The book's objects also arguably traverse further into the immaterial and the conceptual. Stephen Humphreys contributes a chapter on 'Data' for the book. He makes an argument that data is material and draws from 'Friedrich Kittler's famous claim that there is no such thing as software'.<sup>42</sup> In fact, '[i]t's hardware all the way down: physical machines containing material objects that signal data already rendered in binomials, awaiting rearticulation, recombination, as "fact"'.<sup>43</sup> Humphreys is, indeed, correct, beyond his turning to the work of literary critic and media studies theorist Kittler, and here we can learn from work in physics, that information has to be physically embodied.<sup>44</sup> There are always physical indices that are required to reflect any information. Yet, despite its physicality, the data Humphreys is considering remains, from a human experiential perspective, essentially conceptual.

So too are the 'Screens' of Christine Schwöbel-Patel and Wouter Werner's chapter, where the authors play off the screen as both the computer or television screen as a means of conveyance and communication over against screens used to block light and sound.<sup>45</sup> Schwöbel-Patel and Werner describe the 'paradoxical function of the screen as a medium which reveals and obscures at the same time', as is the case with 'representations on the screen' having gone through an editorial process of exclusion so that the screen conceals as it reveals.<sup>46</sup> In films, Schwöbel-Patel and Werner address the movie screen and the fact that the so-called "fourth wall" – the imaginary wall (or screen) that exists between the audience and stage – is broken down, and the audience is directly addressed by one of the characters', which leads the authors to turn to Brecht's *Verfremdungseffekt* or alienation effect breaking down the traditional roles of the play on the stage and the audience.<sup>47</sup> Putting aside the fact that their play on the word 'screen' is perhaps a little too convenient in English, including an etymological footnote to the use of word in English,<sup>48</sup> Schwöbel-Patel and Werner are ultimately viewing the screen conceptually. The authors turn to case studies, including the disastrous screening in northern Uganda of a film produced by a non-governmental organization on criminal legal defendant Joseph Kony that induced the audience – upset by the overtly Western character of the film and by an implication that Kony and his Lord's Resistance Army might still be active in northern Uganda – to object and even hurl objects at the screen: '[a]lthough it had been intended to be an invisible screen in the documentation of the effects of the conflict in Uganda, the screen was very much understood to be an object.'<sup>49</sup> It takes this transitional process for the screen to become suddenly solid when, in fact, it was solid all along. But this sudden

<sup>42</sup> Humphreys, 'Data: The Given', in Hohmann and Joyce (eds.), *supra* note 4, at 191, 195.

<sup>43</sup> *Ibid.*, at 195–196.

<sup>44</sup> See, for example, the work of Rolf Landauer regarding information as physical: Landauer, 'Irreversibility and Heat Generation in the Computing Process', 5 *IBM Journal of Research and Development* (1961) 183.

<sup>45</sup> Schwöbel-Patel and Werner, 'Screen', in Hohmann and Joyce (eds.), *supra* note 4, at 419.

<sup>46</sup> *Ibid.*, at 422.

<sup>47</sup> *Ibid.*, at 422.

<sup>48</sup> *Ibid.*, at 419 n.1.

<sup>49</sup> *Ibid.*, at 426.

materiality underscores the authors' primary sense of 'screens' as a conceptual device.<sup>50</sup> This is especially the case, considering their approach was not really about the screen in its materiality but rather conceptually in its oscillation between revealing and concealing. In an important sense, we should remember that many of the entries in *International Law's Objects* ultimately do not engage the *materiality* of their material objects.

Having said that, the book as a whole does want us to engage the material, and to do so, it introduces material culture studies into international law. Because the *Objects* book looks so much to material culture studies to bring objects into international law, it is important to address just how the contributors are marshalling the discipline, and specifically the book's approach to materiality. In essence, it is worth understanding how material culture studies separated out the 'material', setting it in opposition to some other realm, whether the mental, the spiritual or even the cultural, but then how a further split emerged within material cultural studies between a focus on the phenomenal nature of material objects as opposed to a focus on their symbolic nature that allowed them to be 'read'. These are two moves, one a move to material culture and the second, a further move within material culture studies, both of which the *Objects* book marshals for distancing the study of international law away from its traditional disciplinary practices.

In material culture studies, the 'material' has been defined in a variety of ways. Dan Hicks, in the first chapter of the massive *Oxford Handbook of Material Culture Studies* edited by Hicks and Mary C. Beaudry, cites the 'famously very broad' definition offered in 1967 in an important book by the archaeologist James Deetz:

Material culture is usually considered to be roughly synonymous with artifacts, the vast universe of objects used by mankind to cope with the physical world, to facilitate social intercourse, and to benefit our state of mind. A somewhat broader definition of material culture is useful in emphasising how profoundly our world is the product of our thoughts, as that sector of our physical environment that we modify through culturally determined behavior. The definition includes all artifacts, from the simplest, such as a common pin, to the most complex, such as an interplanetary space vehicle. But the physical environment includes more than what most definitions of material culture recognize. We can also consider cuts of meat as material culture, since there are many ways to dress an animal; likewise plowed fields and even the horse that pulls the plow, since scientific breeding of livestock involves the conscious modification of an animal's form according to culturally derived ideals.<sup>51</sup>

<sup>50</sup> As the emblematic image for their chapter, they selected the iconic black-and-white photo of the audience for the Hollywood opening of the pioneering 3-D film *Bwana Devil*, with everyone wearing 3-D glasses. Not engaging that image with its play on three and two dimensions, the authors also did not identify its afterlife as the iconic cover photo for the US translation of Guy Debord's *Société du spectacle*. G. Debord, *Society of the Spectacle* (Red & Black 1970), and they could have drawn upon Debord's discussion of the 'spectacle' being the opposite of dialogue. *Ibid.*, para. 18.

<sup>51</sup> J. Deetz, *In Small Things Forgotten: An Archaeology of Early American Life* (1977), at 24–25, cited by Hicks, 'The Material-Cultural Turn', in D. Hicks and M. Beaudry (eds.), *The Oxford Handbook of Material Culture Studies* (2010) 25, at 48.



Yale art historian Jules Prown, a leading figure of material culture studies in art history, wrote that '[t]he word *material* in material culture refers to a broad, but not unrestricted, range of objects. It embraces the class of objects known as artifacts—objects made by man or modified by man'.<sup>52</sup> And he explains that it 'excludes natural objects', so that 'the study of material culture might include a hammer, a plow, a microscope, a house, a painting, a city', and although it 'would exclude trees, rocks, fossils, skeletons', it remained the case that 'natural objects are occasionally encountered in a pattern that indicates human activity', so, like Deetz, Prown would include the clipped poodle, the tattooed body and the prepared meal.<sup>53</sup> But the material of material culture studies does not stop there. Daniel Miller, one of the leading anthropologists working in material culture studies, included a contribution on radio in his edited collection *Material Cultures*.<sup>54</sup>

Hohmann and Joyce, in their introduction to *International Law's Objects*, argue that '[a] capacious approach to objects (and international law) is not without its risks', and turn to Luis Eslava and Sundhya Pahuja, who

have written of the danger of finding international law everywhere, noting that 'once we start advocating an expansive view of international law and its operation, we put ourselves on a knife's edge between the imperial expansion of international law on one side, and its complete analytical dissolution into everything and everywhere on the other'.<sup>55</sup>

Despite that warning from Eslava and Pahuja about overly expanding the coverage of international law, Hohmann and Joyce's world of 'objects' ventures well beyond the parameters that Hicks identifies as already capacious. *International Law's Objects* goes beyond the artifact, beyond human-made objects and human-formed objects with Thérèse Murphy on 'AIDS', Surabhi Ranganathan on 'Manganese Nodules', Leslie-Anne Duvic-Paoli on 'Trees' and Malgosia Fitzmaurice on 'Whale'.<sup>56</sup> To that, there are numerous human-cultivated substances, including Julia Dehm's 'One Tonne of Carbon Dioxide Equivalent (1tCO<sub>2</sub>e)', Jessie Hohmann's 'Opium' and Michael Fakhri's 'Sugar', putting aside Charlotte Peevers's 'USAID Rice—Haiti', addressing rice in sacks as pictured in her iconic photo of UN troops trying to contain a crowd, a photo that shows an obliviousness to the coming threat to the physical and economic health of Haitians represented by the cheap rice sent from Miami.<sup>57</sup> Without question, the

<sup>52</sup> Prown, 'Mind in Matter: An Introduction to Material Culture Theory and Method', 17 *Winterthur Portfolio* (1982) 1, at 2.

<sup>53</sup> *Ibid.*

<sup>54</sup> Tacchi, 'Radio Texture: Between Self and Others', in Miller (ed.), *supra* note 1, at 25.

<sup>55</sup> Hohmann and Joyce, *supra* note 4, at 3, quoting Eslava and Pahuja, 'Between Resistance and Reform: TWAIL and the Universality of International Law', 3 *Trade Law and Development* (2011) 103, 128.

<sup>56</sup> Murphy, 'Aids', in Hohmann and Joyce (eds.), *supra* note 4, at 106; Ranganathan, 'Manganese Nodules', in Hohmann and Joyce (eds.), *supra* note 4, at 272; Duvic-Paoli, 'Trees', in Hohmann and Joyce (eds.), *supra* note 4, at 504; Fitzmaurice, 'Whale', in Hohmann and Joyce (eds.), *supra* note 4, at 539.

<sup>57</sup> Dehm, 'One Tonne of Carbon Dioxide Equivalent (1tCO<sub>2</sub>e)', in Hohmann and Joyce (eds.), *supra* note 4, at 305; Hohmann, 'Opium', *supra* note 40, 'Sugar', *supra* note 39; Peevers, 'USAID Rice—Haiti', in Hohmann and Joyce (eds.), *supra* note 4, at 515. Charlotte Peevers chose for her reproduction a photo of blue-helmeted troops and a crowd from the *Los Angeles Times*, and she replicates the newspaper's caption: 'United Nations troops from Uruguay try to control the crowd of thousands so that sacks of rice from the

objects of *International Law's Objects* go well beyond the standard subject-matter of material culture studies, so that in a sense, one is almost tempted to drop the word 'culture'.

Following the editors' sounding Eslava and Pahuja's alarm, they articulate a 'parallel risk' where 'everything becomes an object of international law', but use that in turn to argue that 'this presumes a certain relationship between subjects and objects that material methodologies and approaches in fact, destabilize'.<sup>58</sup> They move, following some of the developments over the last decades of material culture theory – beyond the mere move away from a semiotic approach – to argue that objects are not simply 'passive recipients' of international legal analysis and 'do not just lie around waiting to be known and categorized, they have resistant potential, even agency, and remain in some sense always unknowable'.<sup>59</sup> Pressing the agency of objects is important to the editors and rearticulated by some of the contributors – although that agency does not really make its appearance in the book's 35 case studies. Hohmann, Joyce and others refer to Arjun Appadurai and his edited volume on *The Social Life of Things*<sup>60</sup> and Bruno Latour's Actor-Network Theory.<sup>61</sup> The editors specifically invoke Science and Technology Studies, in addition to Actor-Network-Theory, because those approaches 'ask us to look again at how our received categories of object and subject, the social and the natural, can occlude our understanding—or even seeing—the world'.<sup>62</sup> Over the last several decades, there has, indeed, been a good deal of focus on the agency of things in material culture studies, so that Hicks and Beaudry's *Oxford Handbook of Material Culture Studies* includes chapters on 'The Materials of STS', 'Material Culture and the Dance of Agency' and 'The Malice of Inanimate Objects: Material Agency'.<sup>63</sup> As one reads writing on the agency of things, there seems to be a common reference back to the French anthropologist Marcel Mauss's study of the gift and the special character that the gift took on, and sometimes Mauss comes to us through the mediation of Malinowski's revision of his theory. To that point, Janet Hoskins's chapter on 'Agency, Biography and Objects' opens: 'Anthropologists since Mauss (1924/1954)

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US can be distributed in the capital. Port-au-Prince', and argues: 'The framing reconstitutes relations between victim and savior, between survivor and spectator, involving the kind of spectacle of suffering that sells disaster to a far off consumer'. *Ibid.*, at 516, fig. 38.1 and discussion *ibid.*, at 516. Peevers's rice aid reminds one of an episode in *The Ugly American* where the Soviets stamped each bag of US aid rice: 'This rice is a gift from Russia'. W. Lederer and E. Burdick, *The Ugly American* (1958), at 35.

<sup>58</sup> Hohmann and Joyce, *supra* note 4, at 4.

<sup>59</sup> *Ibid.*

<sup>60</sup> A. Appadurai (ed.), *The Social Life of Things: Commodities in Cultural Perspective* (1986).

<sup>61</sup> B. Latour, *Reassembling the Social: An Introduction to Actor-Network Theory* (2005).

<sup>62</sup> Hohmann and Joyce, *supra* note 4, at 9.

<sup>63</sup> Law, 'The Material of STS', in Hicks and Beaudry (eds.), *supra* note 51, at 173; Pickering, 'Material Culture and the Dance of Agency', in Hicks and Beaudry (eds.), *supra* note 51, at 191; and Jones and Boivin, 'The Malice of Inanimate Objects: Material Agency', in Hicks and Beaudry (eds.), *supra* note 51, at 333. Among chapters in Tilly, Keane, Küchler, Rowlands and Spyer's *Handbook of Material Culture* is one on 'Agency, Biography and Objects' by Janet Hoskins, anthropologist and author of *Biographical Objects*. See Hoskins, 'Agency, Biography and Objects', in C. Tilly, W. Keane, S. Küchler, M. Rowlands and P. Spyer (eds.), *Handbook of Material Culture* (2006) 74; J. Hoskins, *Biographical Objects: How Things Tell the Story of Peoples' Lives* (1998).

and Malinowski (1922) have asserted that the lines between persons and things are culturally variable, and not drawn the same way in all societies'.<sup>64</sup> Nevertheless, it is always worth remembering that the agency of material is humanly given – things remain subjects as a *part* of culture.

*International Law's Objects* taps a rich vein of the expanding vogue of material culture studies with its increasing number of handbooks and other edited collections. And those handbooks and edited collections announce the rise of material culture studies as an established fact, if they occasionally acknowledge its past lives. Hicks entitles one of his chapters 'The Material-Culture Turn', and there he reminds us of its background in the late 19th-century and early 20th-century move to addressing material and culture, including Pitt Rivers's work on material things, Edward Tylor's 'coining of his famous phrase "object-lessons"' and the import of Friedrich Ratzel's *History of Mankind*.<sup>65</sup> Hicks then narrates the various recent turns within material culture, telling us that '[t]he textual analogy, and the idea of archaeology following a broader interdisciplinary "linguistic turn", led to an increasing dematerialization as contextual archaeology developed into interpretive archaeology'.<sup>66</sup> Significantly, Hicks looks to the past to tell us that '[i]n such work, material culture studies became, as Evans-Pritchard wrote of functionalist anthropology, "little more than a literary device"'.<sup>67</sup> And in the move away from material culture as symbols that I mentioned earlier, he sees in reaction to that 'semiotic' interpretation of things a move to the physical, to views focusing on how the 'properties of things might be understood as non-discursive: falling outside of a focus upon "reading" material culture'.<sup>68</sup> With this, he sees the move – still within the 'the material-cultural turn' – to address 'what material things "do", rather than just what they mean or how they are "entangled" in social relationships'.<sup>69</sup> In their contribution to the *Oxford Handbook*, Ian Cook and Divya P. Tolia-Kelly talk about 'geography's "cultural turn" in the early 1990s' and reference geography's 'de- and re-materialization'.<sup>70</sup> And Andrew Pickering states that his essay on 'Material Culture and the Dance of Agency' emphasizes 'the importance of a focus on practice and performance as a way of undoing the "linguistic turn" in the humanities and social sciences'.<sup>71</sup> Daniel Miller wrote that '[a] volume called *Material cultures* is obviously situated within what may be easily recognized as a general renaissance in the topic of material culture studies', and here we should underscore Miller's use of the term 'renaissance'.<sup>72</sup> Similarly, looking back at Kubler's *Shape of Time* from 1962,

<sup>64</sup> Haskins, 'Agency, Biography and Objects', *supra* note 63, at 74.

<sup>65</sup> Hicks, *supra* note 51, at 31–34.

<sup>66</sup> Hicks, *supra* note 51, at 73–74, for the 'linguistic turn', citing Thomas, 'Reading the Neolithic', 7 *Anthropology Today* (1991) 9, at 9.

<sup>67</sup> Hicks, *supra* note 51, at 74, quoting Evans-Pritchard, 'Social Anthropology: Past and Present', 50 *Man* (1950) 118, at 120.

<sup>68</sup> Hicks, *supra* note 51, at 74.

<sup>69</sup> *Ibid.*, at 75.

<sup>70</sup> Cook and Tolia-Kelly, 'Material Geographies', in Hicks and Beaudry (eds.), *supra* note 51, at 99, 99–100.

<sup>71</sup> Pickering, 'Material Culture and the Dance of Agency', in Hicks and Beaudry (eds.), *supra* note 51, at 191, 191.

<sup>72</sup> Miller, 'Why Some Things Matter', in Miller (ed.), *supra* note 1, at 3, 3–4.

it is worth remembering his statement, using the editorial ‘we’, that ‘[o]ur choice of the “history of things” is more than a euphemism to replace the bristling ugliness of “material culture”’.<sup>73</sup> In short, ‘material culture’ – although ushered in as new by the *Objects* book – is not only not new but is also hardly a neologism. With the ‘material turn’ traced by scholars of material culture in archaeology, anthropology and sociology, some of those scholars acknowledge that it takes on the aspect of an eternal return. And there seems to be repetition and oscillation, such as between a focus by material culture scholars on production, largely associated with the Marxist tradition, and a focus on consumption, associated with the work of Roland Barthes and Jean Baudrillard, which suggests endless cycling.<sup>74</sup>

Similarly, one finds – and this is an important dualism recited in *International Law’s Objects* – a polarity identified between semiotics and material culture that attends to the materiality of the objects in question, their thingness. Because the editors of *International Law’s Objects* tend to talk in terms of the ‘thingness’ of things, it is worth briefly turning to Dan Miller, who describes his own move away from semiotic-focused material culture study in *Stuff*. He writes:

When I began my career as an academic, committed to the study of material culture, the dominant theory and approach to the study of things was that of semiotics. We were taught that the best way to appreciate the role of objects was to consider them as signs and as symbols that represent us.<sup>75</sup>

Miller explains that, under that theory, material things represented a form of communication and, for example, clothes expressed the self, which led him to ask: ‘But what and where is this self that the clothes represent?’<sup>76</sup> Nevertheless, as one reads the analysis Miller provides in his book, whether on clothes in Trinidad, India, Madrid and London, or his analysis of houses, he is still asking questions that are not so far from that of the semioticians. Ultimately, he is trying to determine what these objects *mean*. Miller convinces us of the ‘close identification’ between people and the loose end of an Indian sari, which he shows has multiple uses.<sup>77</sup> And he describes the use of the *pallu* in cooking or in nursing, so that, in the latter case, he can assert that, ‘[f]or the child, the pallu becomes a physical embodiment of their mother’s love, a love they can literally take hold of’.<sup>78</sup> In any case, he is investing the *pallu* with meaning. One might ask just how far he has really moved from the semiotics he claims to have escaped. I would argue that we are inquiring into what things mean – and reading them in terms of their cultural context. That is, however, not to imply some sort of privileging of the cultural over the phenomenal. One cannot deny the purely phenomenal aspect of bodily sensation, including the sensation of physical pain. Rather, it is to suggest that much of the phenomenal is culturally framed.

<sup>73</sup> Kubler, *supra* note 2, at 9.

<sup>74</sup> J. Baudrillard, *The Consumer Society: Myths and Structures*, trans. Chris Turner (Sage Publications 1998).

<sup>75</sup> D. Miller, *Stuff* (2010), at 12.

<sup>76</sup> *Ibid.*, at 13.

<sup>77</sup> *Ibid.*, at 25.

<sup>78</sup> *Ibid.*, at 26.

If culturally embedded, the material, the stuff, of international law can bring us two related, if not identical, enhancements to our appreciation of international law. First, it can address itself to a wide variety of objects that tell us something about the lived experience of international law, the objects that are instruments of international law or that might be impacted by international law and have a human impact. Second, it can engage the various senses – including all their cultural ramifications, such as the cultural import of various colours, and here one can think of Michel Pastoureau’s studies devoted to green, red, blue and yellow. It can open additional avenues of sensing international law’s interface with the world. I will argue that these are the two closely related ways in which I welcome the introduction of material culture studies into international legal study that *International Law’s Objects* reflects. I would like here to turn to four of the case studies of the book to gauge what they can teach us about the lived experience of international law and the opening of the senses to additional input for apprehending international law and its import.

## 2 Studies out of Their Cases

From the alphabetically arranged entries, I have selected four for their evocativeness: Anne-Charlotte Martineau’s ‘*Chicotte*’,<sup>79</sup> on a hippopotamus hide-wrapped whip from Francophone Africa; Sophie Rigney’s ‘Postcard from the ICTY’, on the postcard given out free to visitors;<sup>80</sup> Kate Miles’s ‘*Insulae Molucae: Map of the Spice Islands, 1594*’,<sup>81</sup> on a late 16th-century nautical map; and Lolita Buckner Inniss’s ‘*Ships’ Ballast*’,<sup>82</sup> on ballast used in slave ships. In my selection, I may be slighting the various substances and commodities. That is not because they cannot be brought into material culture. Hicks and Beaudry, in the introduction to their handbook, make note of the various histories of cod, salt, opium, tea and tobacco.<sup>83</sup> Nevertheless, I think, and it is not unrelated to my selection of chapters in terms of evocativeness, that the substances and commodities, rather than being farther afield from the traditional international legal imagination, are more traditionally the subject-matter of international law, including as the primary focus of various international commodity agreements and agencies.<sup>84</sup> Indeed, Julia Dehm’s one tonne of carbon dioxide is the internationally agreed unit for markets implementing carbon exchanges.<sup>85</sup> She tells of her effort at ‘[c]onstructing 1tCO<sub>2</sub>e as an “object”’,<sup>86</sup> but it is not clear that her efforts to talk about the ‘refification’<sup>87</sup> of the one tonne have truly brought her study over the line into a new

<sup>79</sup> Martineau, ‘*Chicotte*’, in Hohmann and Joyce (eds.), *supra* note 4, at 182.

<sup>80</sup> Rigney, ‘Postcard from the ICTY’, in Hohmann and Joyce (eds.), *supra* note 4, at 366.

<sup>81</sup> Miles, ‘*Insulae Molucae: Map of the Spice Islands, 1594*’, in Hohmann and Joyce (eds.), *supra* note 4, at 247.

<sup>82</sup> Inniss, ‘*Ships’ Ballast*’, in Hohmann and Joyce (eds.), *supra* note 4, at 431.

<sup>83</sup> Hicks and Beaudry, *supra* note 51, at 3.

<sup>84</sup> One could look, for example, at Alexandrowicz’s chapter on ‘International Commodity Agreements and Agencies in the Inter-War Period’, in C. H. Alexandrowicz, *International Economic Organisations* (1952), at 34–47.

<sup>85</sup> Dehm, *supra* note 57, at 305.

<sup>86</sup> *Ibid.*, at 306.

<sup>87</sup> *Ibid.*, at 317–318.

object-focused approach. In essence, the various entries on substances and commodities, although intellectually rewarding, may perhaps introduce us less to a new type of subject-matter for, and consequently approach to, international legal studies.

In my review of the four chapters, I will start with Martineau and her chapter following the *chicotte* with a view to a narrative that moves from European creation to European forgetting at the same time that it was being appropriated by Africans. Rigney's postcard allows her to address how the card's function is the marketing of international criminal law. Miles's map of the Spice Islands allows us to engage the iconography of Dutch trading society. And Inniss's ballast introduces us to a key, if forgotten, component of the slave trade and ballast's place both in the slave trade and efforts to end it. For her, it exemplifies the central role of the slave trade in the development of international law. My aim in this section is to engage the four studies to help assess their contribution to our thinking about international law and how much their chosen objects increase the registers in which we apprehend international law.

Anne-Charlotte Martineau begins her chapter on the *chicotte* by telling us of her first encounter with the word. While she was working as a protection officer in the United Nations High Commissioner for Refugees camp in Guinea in 2002, she recounts: 'One morning, my assistant informed me that one of the camp's primary school teachers was using the *chicotte* on his pupils.'<sup>88</sup> 'In front of my blank stare', Martineau relates, 'he went on to explain that the *chicotte* refers to a stick, a belt, a cane—in short, any whipping or flogging object'.<sup>89</sup> Martineau thus opens with her humanitarian role as a European in francophone Africa with her 'blank stare', and that 'blank stare' presages her discussion of the European forgetting of the *chicotte* mirrored by an African domestication of the word. She explains the earlier use of the term: '[f]rom (at least) the last quarter of the nineteenth century, the word designated a hippopotamus-hide whip that Belgian forces used to impose their colonial authority in Africa.'<sup>90</sup> She observes that the *chicotte* became emblematic in the reform efforts of the Congo Reform Association and its use of 'atrocities photographs'.<sup>91</sup> Martineau identifies the role of the *chicotte* in the campaign against King Leopold's atrocities, including the report by Roger Casement, one of the organizers of the Congo Reform Association.<sup>92</sup> 'The *chicotte*', she observes, 'appeared as the antithesis of international law's civilizing mission'.<sup>93</sup> With the overthrow of the Congo Free State, the *chicotte* did not disappear but, as Martineau explains, became regulated and routinized. Furthermore, it was to find its justification as part of the civilizing mission, used 'on the grounds that it was both exceptional and temporary', that is, only until the Africans became civilized.<sup>94</sup> Here, Martineau adopts 'invention of tradition' from Hobsbawm and Roger's formulation

<sup>88</sup> Martineau, *supra* note 79, at 182.

<sup>89</sup> *Ibid.*

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ibid.* For the term, 'atrocities photographs', Martineau cites Sliwinski, 'The Childhood of Human Rights: The Kodak on the Congo', 5 *Journal of Visual Culture* (2006), 334.

<sup>92</sup> Martineau, *supra* note 79, at 185.

<sup>93</sup> *Ibid.*, at 186.

<sup>94</sup> *Ibid.*, at 187.

from their co-edited book, to assert that the Belgian ‘agents also projected themselves as having humanized what had been a “traditional” practice’ and engaged in modernizing by ‘replace[ing] traditional mutilation, stoning, or death’.<sup>95</sup> Martineau explains that, over the years, the use of the *chicotte* became regulated in terms of who could use it, on whom it could be used and progressively over the decades reducing—in sequential acts in 1913, 1933 and 1951—the number of strokes that could be lawfully administered until it was outlawed altogether in 1959.<sup>96</sup>

To underscore its presence in the past European mind, Martineau ventures into the *chicotte*’s appearance in novels, with ‘the whip symbolizing the white rulers’ sexual avidity and masculine vitality, while colonized women were depicted as indomitable’.<sup>97</sup> But it is elsewhere, in a note, that Martineau worries out loud:

To what extent do I also play the game of voyeurism (by presenting the *chicotte* as an object of international law) and therefore simplification? How can one examine the experience of phenomenal violence without in some ways mitigating it, fetishizing it, or turning it into pornography? I have no easy response to the dilemma of representing violence.<sup>98</sup>

With that worry embedded in a footnote, Martineau argues that ‘[t]he *chicotte* became a synecdoche for colonial violence’, and she can quote Jean-Francois Beyart’s characterization of it as ‘an icon of racial oppression’.<sup>99</sup> There is a tendency for some of the contributors to *International Law’s Objects* – as with many practitioners of material culture studies – to view their chosen objects as synecdoches, and sometimes the object is made into a vehicle that cannot bear the weight. Nonetheless, Martineau makes a strong case for the emblematic character of the *chicotte*.

It is with significant irony, as Martineau observes, that the *chicotte* is forgotten in Europe and later re-emerges as a discovery of international human rights organizations. She quotes the 500-page report published in 2010 by the UN High Commissioner for Human Rights that described the Congolese army’s use of punishment practices ‘that were tantamount to cruel, inhuman and degrading treatment, in particular public flogging and punishment with the *chicotte*, a leather-thonged whipping device’.<sup>100</sup> Also in 2010, UNICEF attacked the use of the *chicotte* in schools in western and central Africa.<sup>101</sup> For Martineau, the irony is that ‘[n]owhere is there a mention of colonial history, legacy and responsibility’.<sup>102</sup> This represents a convenient forgetting. Martineau selected as her representative photograph from the Brooklyn Museum

<sup>95</sup> *Ibid.*, at 188, citing E. Hobsbawm and T. Rogers (eds.), *The Invention of Tradition* (1983).

<sup>96</sup> Martineau, *supra* note 79, at 187.

<sup>97</sup> *Ibid.*, at 182

<sup>98</sup> *Ibid.*, at 184–185 n.10.

<sup>99</sup> *Ibid.*, at 183–184, quoting Beyart, ‘Hégémonie et coercition en Afrique subsaharienne. La “politique de la chicotte”’, 2 *Politique africaine* (2008) 123, at 134.

<sup>100</sup> Office of the United Nations High Commissioner for Human Rights, *Report of the Mapping Exercise Documenting the Most Serious Violations of Human Rights and International Humanitarian Law Committed Within the Territory of the Democratic Republic of the Congo Between March 1993 and June 2003* (2010), at 148, quoted in Martineau, *supra* note 79, at 189.

<sup>101</sup> UNICEF, *Too Often . . . Silence: A Report on School-Based Violence in West and Central Africa* (2010), at 4, quoted in Martineau, *supra* note 79, at 189.

<sup>102</sup> Martineau, *supra* note 79, at 189.

that may look rather benign in isolation until one considers its import and the ridges of spiralling leather.<sup>103</sup> Martineau presents a significant story of the initiation of the *chicotte*, its use in portraying the scandal of the Free Republic of the Congo and its subsequent regimentation and regulation under direct Belgian government control, followed by European amnesia while international organizations portrayed its role as an African abuse. If she worried about examining ‘the experience of phenomenal violence without in some ways mitigating it, fetishizing it, or turning it into pornography’, her study may not directly be of the experience of phenomenal violence, but the violence is palpable.

Sophie Rigney, in her chapter on the ‘Postcard from the ICTY’, focuses on the card given to visitors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague.<sup>104</sup> The postcard is at once stark and dramatic, ‘juxtapos[ing] two images of handcuffs, set against a black background’: the first, ‘ragged, dirty with soil, and tightly bound’ with lettering below it stating, ‘Exhibit No. P16/6 . . . (Srebrenica)’, and the other, identified as ‘UN-ICTY handcuffs’, are handcuffs used for the defendants.<sup>105</sup> Between the two images are words in English translated into either French or Bosnian/Croatian/Serbian: ‘[b]ringing war criminals to justice and justice to victims.’<sup>106</sup> The two very different handcuffs, arrayed vertically, are pin-lit like museum objects, with light providing shading around both sets of cuffs, and dramatically set off against the black background, so that the postcard presents a highly refined, aestheticized image. Rigney acknowledges the aesthetic quality of the postcard, but does not dwell on it or the fact that the handcuffs are separated from their wearers and abstracted from the experience of their use. Instead, she wants to move to observe that ‘this postcard is designed to send a message about the work of the ICTY’,<sup>107</sup> basically selling its mission.

Distilling the marketing message of the postcard, Rigney observes that the two aspects of bringing war criminals to justice and justice to victims are ‘interlinked’ since ‘without justice being imposed upon war criminals, justice cannot be provided to victims’.<sup>108</sup> Noting that the ‘aims of international criminal law are legion’,<sup>109</sup> she focuses our attention on two: “ending impunity” and “giving victims a meaningful voice”.<sup>110</sup> Rigney rehearses the tribunal’s most instrumental role as deterrent, which, for her, is central to the debates about international criminal law. Rigney asks, ‘Why

<sup>103</sup> *Ibid.* at 183, fig. 9.1. Martineau herself writes for the caption:

I chose this image of the *chicotte* so as to facilitate the various meanings to be projected onto it. I am not suggesting that this image has no context—obviously, it has one (as the object is displayed in a museum in New York). My point is rather that I opted for an image that would allow for the different legal meanings to be brought to the fore.

<sup>104</sup> Rigney, *supra* note 80, at 366.

<sup>105</sup> *Ibid.*

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*

<sup>108</sup> *Ibid.*, at 366.

<sup>109</sup> *Ibid.*, at 368.

<sup>110</sup> *Ibid.*, at 368–369.



does an object designed to “market” an international criminal tribunal use language and imagery that suggests guilt?’.<sup>111</sup> The answer is clear to her. There is no room for impunity, there can be no failure to prosecute, and no verdict other than a guilty verdict can be found.<sup>112</sup> In her critique of the postcard’s branding, Rigney maintains that the ‘focus on individualized trial can be criticized as permitting a decontextualization of the events surrounding the crimes, which can allow the underlying structural causes of the atrocities to be ignored’.<sup>113</sup> Here she takes her lead from scholars like Martti Koskenniemi, Karen Engle, Immi Tallgren and Tor Krever. Koskenniemi observed that ‘the truth is not necessarily served by an individual focus’, and to the contrary, ‘the meaning of historical events often exceeds the intentions or actions of particular individuals and can be grasped only by attention to structural causes, such as economic or functional necessities, or a broad institutional logic through which the actions by individuals create social effects’.<sup>114</sup> But for Rigney, the postcard and its messaging make no room for demurral. In her worry about the uncompromising binary character of international criminal law, Rigney adds that ‘[n]ot infrequently, the accused may have been a victim of crimes, and victims in atrocity be perpetrators’.<sup>115</sup>

Turning her attention to the victims represented by the cloth handcuffs, Rigney tells us that they were found in a mass grave with no identification of its wearer.<sup>116</sup> ‘Perhaps’, she ventures, ‘this is appropriate in the particular circumstances, but nonetheless, it is indicative of a reality where victims of atrocity often become “disembodied, depersonified, and . . . depoliticised”’.<sup>117</sup> Here, Rigney addresses the gendered element of the messaging. ‘I use the gendered pronoun “he”’, she states, ‘in relation to this victim, because the description on the postcard that the body was found “in a mass grave near Srebrenica” implies that he was one of the 7,000–8,000 men and boys who were killed in the eastern part of Bosnia in 1995’.<sup>118</sup> The gendered nature of the postcard provides no space for women as victims, including as victims of sexual violence. She worries about the loss of contextualization she sees at the core of international criminal law, but, somehow, generalizes her critique of the ICTY’s branding reflected by the postcard as a broader critique of international criminal law.

<sup>111</sup> *Ibid.*, at 368.

<sup>112</sup> *Ibid.*, at 370.

<sup>113</sup> *Ibid.*

<sup>114</sup> Koskenniemi, ‘Between Impunity and Show Trials’, 6 *Max Planck Yearbook of United Nations Law* (2002), 1, at 13–14. It is just this passage that Karen Engle quotes in her article on anti-impunity and the turn to criminal law in human rights, after arguing that ‘[t]he criminal law lens often reveals a simple picture of the world infused with a few bad actors’, and, as she will also argue simultaneously, ‘narrows historical inquiry’, ‘downplays the role of the state’ and lets the broader population off the hook. Engle, ‘Anti-Impunity and the Turn to Criminal Law in Human Rights’, 100 *Cornell Law Review* (2015) 1069, at 1120.

<sup>115</sup> Rigney, *supra* note 80, at 375.

<sup>116</sup> *Ibid.*, at 373.

<sup>117</sup> *Ibid.*, at 373–374, quoting Nouwen, ‘Justifying Justice’, in J. Crawford and M. Koskenniemi (eds.), *The Cambridge Companion to International Law* (2012) 327, at 340.

<sup>118</sup> Rigney, *supra* note 80, at 374.

Rigney mentions the missing victims of other ethnicities but does not bring to our attention debates about the work of the tribunal. In a sense, she has abstracted in her critique of abstraction. To this point, Rigney tells us that '[m]arketing is perceived to be important for international criminal law, because international criminal law is a system dependent on the support of states (for finances, for the execution of warrants, and for access to materials for investigations)'.<sup>119</sup> Significantly, in light of Rigney's focus on the postcard's compressing and simplification, we can forget that the ICTY's Statute was established by a Security Council resolution for a fixed period and subsequently extended. If one goes to the tribunal's website, one finds these words: 'During its mandate, which lasted from 1993–2017, it irreversibly changed the landscape of international humanitarian law, provided victims an opportunity to voice the horrors they witnessed and experienced, and proved that those suspected of bearing the greatest responsibility for atrocities committed during armed conflicts can be called to account'.<sup>120</sup> Indeed, the tribunal's 'website stands as a monument to those accomplishments, and provides access to the wealth of resources that the Tribunal produced over the years'.<sup>121</sup> In its post-humous marketing, those words provide an interesting bookend to Rigney's chapter. Rigney's postcard gave a sense of permanence. There was in the high-resolution photograph no inference of the tribunal's limited lifespan. The postcard tells a permanent story against the impermanence signalled by the tribunal's website.

In her chapter, 'Insulae Molucae: Map of the Spice Islands, 1594', Kate Miles writes about a Dutch map drawn in the late 16th century but printed, as she tells us in a footnote, in 1617.<sup>122</sup> She begins by reminding us that maps represent international law '[l]iterally, in giving concrete form to concepts such as sovereignty and territory, and conceptually, in representing not only ideas of space, but also perceptions of international law'.<sup>123</sup> Maps, she observes, are deeply intertwined with colonialism and claims to territory. Indeed, several of the entries in the *Objects* book focus on territorial claims, such as François Finck's 'Border Check-Point, the Moldovan Republic of Transnistria', which tells of a border set up by an unrecognized polity;<sup>124</sup> Jeffrey J. Smith's 'Western Sahara Boundary Marker', which is a relic of a French past;<sup>125</sup> and Rosemary Rayfuse's 'Russian Flag at the North Pole', a Russian flag planted as an ostentatious territorial gesture on the ocean floor at the north pole.<sup>126</sup> For Miles, maps are instrumental, and she argues that they are propositions and 'construct their own worlds, rather than reproduce them'.<sup>127</sup> She tells us of the British use of 'survey mapping' not only as 'displays of authority and a method of ordering space, but also

<sup>119</sup> *Ibid.* at 369.

<sup>120</sup> United Nations / International Criminal Tribunal for the Former Yugoslavia webpage <https://www.icty.org/> (last visited 15 August 2021).

<sup>121</sup> *Ibid.*

<sup>122</sup> Miles, *supra* note 81, at 249 n.8.

<sup>123</sup> *Ibid.*, at 247.

<sup>124</sup> Finck, 'Border Check-Point, the Moldovan Republic of Transnistria', in Hohmann and Joyce (eds.), *supra* note 4, at 162.

<sup>125</sup> Smith, 'Western Sahara Boundary Marker', in Hohmann and Joyce (eds.), *supra* note 4, at 529.

<sup>126</sup> Rayfuse, 'Russian Flag at the North Pole', in Hohmann and Joyce (eds.), *supra* note 4, at 410.

<sup>127</sup> Miles, *supra* note 81, at 250. Here Miles draws from D. Wood, *The Power of Maps* (1992), at 12.

constitute[ing] an image of British colonial control'.<sup>128</sup> It is worth considering here the troubles created also by poor mapping and the absence of maps. In her history of modern India, Maria Misra tells us that when the Pakistani–Indian borders were drawn by the British, '[i]nvariably there was controversy about the “shadow lines”, the artificial map-made divisions imposed on Punjab and Bengal, shadowy because they were drawn with a rather thick lead pencil, leaving acres of territory and thousands of lives in the disputed penumbra of these markings'.<sup>129</sup> This is no less an imperial story, reflecting the callousness of hurried work.

Although there were no patches of differently coloured stretches of land on the map, Miles maintains that with the claiming of space, we can discern in the map 'a capturing of trade routes, and a controlling of anticipated resources from those territories' – the prominent depiction of sandalwood, cloves and nutmeg in a row along the bottom of the map – while 'it erases Indigenous inhabitants from the sphere altogether as well as any suggestion of competing claims to territory from other European nations'.<sup>130</sup> If, for Miles, maps are propositions, the proposition of the *Insulae Molucae* is 'commerce—more specifically, the dominance of commerce and the power of the state entwined within the emergence of the rules of modern international law'.<sup>131</sup> Miles aligns her mapmaker, Petrus Plancius, with the Dutch East India Company (VOC) and the coming international legal scheme of Hugo Grotius, and she tells us that the VOC 'managed a centralized hydrographic office at which map-makers were required to operate under conditions of strict confidentiality, including non-disclosure of company activities and no unauthorized publication of company material'.<sup>132</sup> Not having access to VOC materials, Plancius based his map 'on covertly obtained charts from the Portuguese'.<sup>133</sup> And yet for Miles, despite the Portuguese ingredients, Plancius's map was an advertisement for late 16th-century Dutch society and its commercial core.

In telling her tale, Miles pays attention to the iconography of the *Insulae Molucae*, all those oversized ships and sea monsters, with the monsters symbolizing the risk of the ocean voyage. And yet, looking at the map, the beasts look plucked from a bestiary, and the real threats, such as storms at sea, are nowhere in sight on the map's placid two-dimensional, tan expanse. In the end, as Miles puts it, the map markets a story to investors. Nevertheless, it is exactly on the production and consumption of the map that Miles needs to say more. Although she explains that the small map was produced as a copperplate engraving, she does not provide us with the size of its edition. Elsewhere, Miles has written about Agostino Brunias's painting 'Sir William Young Conducting a Treaty with the Black Caribs of the Island of St Vincent', and she is able to explain that Brunias accompanied Young 'to produce paintings specifically designed to encourage British settlement in the Caribbean'.<sup>134</sup> She offers that

<sup>128</sup> *Ibid.*, at 252.

<sup>129</sup> M. Misra, *Vishnu's Crowded Temple: India since the Great Rebellion* (2007), at 246.

<sup>130</sup> Miles, *supra* note 81, at 253.

<sup>131</sup> *Ibid.*

<sup>132</sup> *Ibid.*, at 254.

<sup>133</sup> *Ibid.*

<sup>134</sup> Miles, 'Painting International Law as Universal: Imperialism and the Co-opting of Image and Art', 8 *London Review of International Law* (2020), 372.

travelling artists contemporary to Brunias had their art ‘imprinted into the European consciousness through their visibility in art galleries, institutions, and homes, as well as their reproduction in books’.<sup>135</sup> Indeed, we learn, Brunias’s painting of Young was ‘included as a print in several editions of a well-known book, widely distributed throughout France and Britain’.<sup>136</sup> That is critical to know, but prompts further questions about the initial chances of the success of the painting as well as that of *Insulae Molucae*. Just as one reads a map, Miles’s art historical approach is to read the ‘stories’ conveyed by art, whether by a map of the Spice Islands or by the image of a treaty signing in the Caribbean with the sun clearly lighting up only the British subjects. But, as we are guided through art’s narratives, we wonder more about the contemporaneous readership. In the tug of war one sees in material studies literature between those focusing on production and those focusing on consumption, Miles’s chosen object, the *Insulae Molucae*, calls upon us to dig deeper into both.

Lolita Buckner Inniss’s chapter on ‘Ships’ Ballast’ focuses on the significant role of ballast in the slave trade. If ballast has always been part of shipping, during the centuries of slave trade across the Atlantic, ballast gained special import. Ballast was needed when ships held living cargo of captives who shifted and moved, and, in later periods when a ship was used exclusively for slaving and needed ballast for the return voyage. For Inniss, attention has been focused on the iron shackles of the slave trade, but ballast was also a signature of the slave ship. ‘Because ballast was present on almost every cargo ship’, she argues, ‘its very mundanity makes it an unlikely yet insidious symbol of historic African captivity and enslavement’.<sup>137</sup>

A good deal of Inniss’s narrative is of a cat-and-mouse story of slave ships and efforts, after the increasingly multilateral interdiction of the slave trade in the early 19th century, to stop slave ships or for ship captains to pass their ships off as for other purposes. Inniss points out that ‘[t]he presence, as well as the amount and type of ballast found on European ships in the eighteenth and nineteenth centuries was often a marker of slavery’.<sup>138</sup> In fact, as Inniss observes, ‘[e]xcessive ballast was frequently seen as a sign of slavery, such as in the stopping and searching of the *Arrogante Emilio* outside of Havana, Cuba in 1853’.<sup>139</sup> Ship captains would try to claim that their ships were carrying only ballast, and, she tells us, ‘[d]epositions of crewmembers include repeated denials of having carried slaves, stating that they carried either goods or, at other times, ballast only’.<sup>140</sup> This was, for example, the case of the Spanish schooner *Con la Boca*, which arrived in Havana claiming to be voyaging in ballast only but it was rumoured ‘that along the way the ship had landed at St Thomas, and disembarked a cargo of slaves’.<sup>141</sup> Indeed, scepticism was raised by such claims so that, in the case of

<sup>135</sup> *Ibid.*

<sup>136</sup> *Ibid.*

<sup>137</sup> Inniss, *supra* note 81, at 435.

<sup>138</sup> *Ibid.*, at 433.

<sup>139</sup> *Ibid.*, at 434.

<sup>140</sup> *Ibid.*, at 439.

<sup>141</sup> *Ibid.*

*Con la Boca's* claims of voyaging 'in ballast', Inniss considers whether 'quotation marks or italics were used frequently in published accounts to describe this claim, perhaps signalling that interlocutors had doubts about the veracity'.<sup>142</sup>

Inniss ties ballast to some of the worst horrors of the Middle Passage. Indeed, 'the most painful aspect of the relationship between humans and ballast in the transatlantic slave trade is that in some circumstances captured Africans themselves were drowned by being tied to ballast. Even more grimly, captives were sometimes used to ballast each other when they were tied together and jettisoned to their deaths in the ocean'.<sup>143</sup> It was just such a case that occurred in 1781 with the *Zong*, where the captain decided, with mounting disease due to insufficient water, to throw captives overboard, assuming the loss would be recovered through insurance policies. Significantly, it was the trial over the insurance policy in 1783 that exposed the horrors to public scrutiny. It would go up on appeal and the very visibility of the case was significant. 'The killings of the captive Africans', Inniss observed, 'excited outrage among some members of the public and helped to raise consciousness of then-fledgling human rights law'.<sup>144</sup> The *Zong* case helped to prompt the outlawing of the slave trade, and it is the interdiction of the slave trade that makes up most of the legal record from which Inniss drew. Inniss argues convincingly that '[h]istorians have given particular attention to the abolition of slavery, while offering few accounts of how the abolition of slavery figures in the history of international law'.<sup>145</sup> For her, '[b]elying this scholarly inattention, few other issues in the nineteenth century shaped the evolution of international law as did the slave trade at sea'.<sup>146</sup> In essence, just as Antony Anghie saw European imperialism as foundational for international law, Inniss is persuasive that the law on the transport of African captives should be understood as central to the development of international law.

The prevalence of legal process in Inniss's chapter prompts queries about why *International Law's Objects* paid almost no attention to the long history of prize courts and admiralty cases in their interaction with the international legal order. Inniss does not focus on traditional claims cases but rather on the appearance, if having since become invisible, of ballast as an integral part of legal governance. In her final paragraph, she observes that the ballast of slave ships that 'survives to the present day, like that found in the recovered wreck of the *São José-Paquete de Africa* in 2015, is at once brutal and banal'.<sup>147</sup> And there, in a footnote, she turns to Hannah Arendt's 'banality of evil'.<sup>148</sup> For Inniss, '[i]n like fashion, some objects may seem ordinary in their typical import but, as in the case of ships' ballast used in historic transatlantic slavery practices, they may also be deployed as instruments of great evil'.<sup>149</sup> Whether that

<sup>142</sup> *Ibid.*

<sup>143</sup> *Ibid.*, at 435–436.

<sup>144</sup> *Ibid.*, at 438.

<sup>145</sup> *Ibid.*, at 437.

<sup>146</sup> *Ibid.*

<sup>147</sup> *Ibid.*, at 442.

<sup>148</sup> *Ibid.*, at 442 n.89.

<sup>149</sup> *Ibid.*

hits Arendt's note of Eichmann as an ordinary functionary caught up in great evil, Inniss's chapter with its tremendous commercial and technological orchestration required to transport 12 million souls across the Atlantic to the Americas reminds us of the immense effort that the Third Reich poured into the Holocaust, only starting with the enormity of railway logistics. Inniss's narrative prompts us to think about just how much went into building all those ships, and even the supply of crude weights used as ballast as part of the commerce of the slave trade.

In her final paragraph, Inniss describes the ballast as 'a subtle surviving synecdoche of the slave ship [and] transatlantic slavery'.<sup>150</sup> I have mentioned that many of the authors viewed their objects as synecdoches, stand-ins for something larger. One can read Kimberley N. Tripp's wonderful chapter on 'Boots (on the Ground)',<sup>151</sup> where it is clear that the boots refer directly – in her case consciously, as in the expression 'boots on the ground' – to the troops who wear the boots, and further to the commitment of the state sending its troops, with 'boots on the ground' translating into 'a symbol of the level of commitment'.<sup>152</sup> In Inniss's case, she may depict the ballast as synecdoches of the slave ship and slavery. In her narrative, the ballast emerges as a stand-in not only for the slave ship and slavery but also for the interdiction of the slave trade. Yet, the emotional power of Inniss's narrative comes with a portrait of the ballast as somehow the inert *Doppelgänger* of the captive African, both because ballast has to make up for the lightness and mobility of humans in holding the boat upright and because of its role in horrific deaths. In Inniss's method, we are to consider the weight of the ballast, its very material qualities, but she drew her narrative largely from traditional legal records. There are cases from which she can draw testimony and commentary that tell us about the role of ballast in the larger story. Significantly, despite the logophobia of *International Law's Objects*, Inniss's narrative, like many contributions to the book, is largely textually derived. Contributors may focus on an object to tell part of a narrative, may draw from written sources to provide us the requisite background for the object or may draw from both, in essence engaging in a sort of mixed media of sources for their analysis, which, I would argue, is as it should be.

### 3 The Education of the Senses

What, then, is the promise of studying the objects of international law and applying the methods of material culture studies to an apprehension of international law and its practices in the world? We can, I have suggested, find one of the answers in what I would like to describe as an education of the senses,<sup>153</sup> recruiting all of the senses in an engagement with the international legal order. I suggest this not simply to animate international law. The editors speak to a 'reinvigoration' that they hope to initiate.<sup>154</sup> And

<sup>150</sup> *Ibid.*, at 442.

<sup>151</sup> Tripp, 'Boots (on the Ground)', in Hohmann and Joyce (eds.), *supra* note 4, at 151.

<sup>152</sup> *Ibid.*, at 158.

<sup>153</sup> I am drawing the term 'education of the senses' from Peter Gay's *Education of the Senses* (1984).

<sup>154</sup> Hohmann and Joyce, *supra* note 4, at 10.

Hohmann ends her theoretical chapter announcing that '[t]he aim in bringing objects to life is to enliven international law, and enliven international lawyers'.<sup>155</sup> Hohmann here is concluding her argument about the 'lives of things', the 'actant' part of the editors and some of the contributors' methodological framing. As I have observed, the contributions in *International Law's Objects* that cite academic work on objects as subjects, in the end, do not really bring things to life. Nevertheless, the broader goal of enlivening in the sense of energizing international law and international lawyers is part of the promise of the *Objects* book. The hope, as the two editors announce, is for a broadening of international law, a 'reinvigoration in terms of method and style, whilst also enabling different voices and narratives to emerge through reading and rereading the objects associated with the field'.<sup>156</sup> Their goal is a broadening that is more than methodological, but also an engagement with a wider range of voices, which I believe to be part of the escape from the tradition that the editors and the contributors desire.

Part of their project sets objects over against texts in what I have described as a form of logophobia. 'This project, on international law's objects', the editors explain, 'grew out of our curiosity about what an object-focused approach to international law might reveal, which is marginalized or forgotten in our narrow focus on textual interpretation, and in locating and pinning down the intentions and motivations of states'.<sup>157</sup> I have quoted Werner's argument in his theoretical chapter that 'the almost exclusive focus of academic lawyers on text and verbal arguments has led to a neglect of the roles and functions of objects across international law'.<sup>158</sup> Inniss, in her chapter, also testifies to this point, although pointing more to practices in history rather than law, '[d]espite the priority of things over words, far too often we have privileged the words of history and the ways that discourses shape historical action and understanding'.<sup>159</sup> One might, however, ask whether this opposition – a duality of word and world – is really helpful. After all, the padded envelope with which I opened this essay may, of course, have a specific feel to the hand that padded envelopes do, but it is the presence of various labels and words that provide the suggestion of aspects of the international legal world in which it travels. And we should remember that for many of the objects of *International Law's Objects*, text is critical. What would the 'Breton Road Signs' be without their words imprinted in Breton? What of the 'Passport' of Sara Dehm's entry without the various words identifying the passports' holders and their status? And what of the Barcelona Traction Share without all of the critical references to the company's being 'incorporated under the laws of Canada with limited liability', its self-labelling as a '*Certificat de bonne provenance de titres canadiens*' and confirmation by the *Institut belgo-luxembourgeois du change* that the owner of the share is a national of Belgium and a resident of Brussels?<sup>160</sup> We have already seen that the text on Rigney's

<sup>155</sup> Hohman, *supra* note 7, at 46.

<sup>156</sup> Hohmann and Joyce, *supra* note 4, at 10.

<sup>157</sup> *Ibid.*, at 7.

<sup>158</sup> Werner, *supra* note 30, at 58.

<sup>159</sup> Inniss, *supra* note 82, at 431.

<sup>160</sup> Fontanelli and Bianco, *supra* note 35, at 143.

postcard is critical to her deciphering the meaning of the card's marketing effort. And a critical part of Gerry Simpson's discussion of the monument to Edith Cavell resides in the fact that Cavell's 'famous *crie de coeur*, "patriotism is not enough" [was] added later and situated in a discreet place at the base of the memorial'.<sup>161</sup> Admittedly, these are very different types of texts from those that are more traditionally read, marshalled and uttered by the international lawyer, but it is important to recognize that key parts of the language on the Barcelona Traction Share were directly pertinent to the International Court of Justice's adjudication. We are here not so far removed from the epicentre of international legal practice.

A material culture approach to international law, I am arguing, can summon an education of the senses – in the plural. Indeed, Werner talks of objects' providing 'a specific *feel* to international legal practices',<sup>162</sup> and Hohmann argues that '[i]n its tangibility an object can connect international law to the people it touches'.<sup>163</sup> The sense of touch is directly invoked. But Hohmann gives the game away in the next sentence: 'Look around you', she writes, 'and it is hard not to find objects in which law has a life, and laws in which objects are deeply enmeshed'.<sup>164</sup> We are, it seems, not so much in a world in which one focuses on the sense of touch. Indeed, in the material culture of *International Law's Objects*, there is an unmistakable primacy of the visual – and that is putting aside the decision to reproduce representative photographs for each of the objects, with, for example, Ranganathan's manganese modules pictured in a dramatic photograph of a nodule with a dark background and lit like one of the museum objects in the *History of the World in 100 Objects*. Admittedly, both the Barcelona Traction Share and the ICTY postcard could have been felt, one for the feel of the paper grain embossed with the indicia of a certificate evidencing shares of equity ownership in the company and the other for the sheen of a postcard. But the two objects are essentially visual in the chapters' narratives. The railway clocks of Geoff Gordon's 'Railway Clocks' are literally there so one can 'look up the time'. The stained glass of Daniel Litwin's chapter on 'Stained Glass Windows, the Great Hall of Justice of the Peace Palace' as well as Jean d'Aspremont and Eric De Brabandere's 'Paintings of International Law', in which d'Aspremont and De Brabandere analyse the style of various paintings adopted for covers of international legal books, are both very conscious about their visibility.<sup>165</sup> There are the road signs, such as Thomas MacManus's 'Peace Sign: La Comunidad de Paz de San José de Apartadó' and Jacqueline Mowbray's 'Breton Road Signs'.<sup>166</sup> And Helmut Philipp Aust's chapter on "'Good Urban Citizen'" focuses our attention on a banner hanging from street lamps in downtown Atlanta.<sup>167</sup>

<sup>161</sup> Simpson, 'NM 68226 84912; TQ 30052 80597', in Hohmann and Joyce (eds.), *supra* note 4, at 294, 304.

<sup>162</sup> Werner, *supra* note 30, at 58.

<sup>163</sup> Hohmann, *supra* note 7, at 34.

<sup>164</sup> *Ibid.*

<sup>165</sup> Litwin, 'Stained Glass Windows, the Great Hall of Justice of the Peace Palace', in Hohmann and Joyce (eds.), *supra* note 4, at 463; D'Aspremont and De Brabandere, 'Paintings of International Law', in Hohmann and Joyce (eds.), *supra* note 4, at 330.

<sup>166</sup> MacManus, 'Peace Sign: La Comunidad de Paz de San José de Apartadó', Hohmann and Joyce (eds.), *supra* note 4, at 357; Mowbray, 'Breton Road Signs', in Hohmann and Joyce (eds.), *supra* note 4, at 173.

<sup>167</sup> Aust, "'Good Urban Citizen'", in Hohmann and Joyce (eds.), *supra* note 4, at 225.



Of course, one also finds an essential visuality in the flags in Ziv Bohrer's "'Jolly Roger" (Pirate Flag)' and Rosemary Rayfuse's 'Russian Flag at the North Pole', if the Russian flag is cast in darkness under the sea after the celebratory photographs were taken.<sup>168</sup>

With vision as the dominant sense invoked – and I have chosen that word with its etymology consciously in mind – in *International Law's Object*, there is almost no reference to sound. Archaeologists are trying to reproduce sounds of the past in the field of 'sound archaeology' or 'archaeoacoustics'.<sup>169</sup> Seán Street has conducted sound experiments of various familiar rooms in *The Sound of a Room*.<sup>170</sup> And historian Alain Corbin has given us a history of silence.<sup>171</sup> In the chapter in *International Law's Objects* on the gavel, James E.K. Parker provides a narrative about the emergence of the gavel, basically unfamiliar to so many domestic court traditions, emerging in international courts, such as the Nuremberg trials, the International Criminal Tribunal for Rwanda and the ICTY.<sup>172</sup> Parker associates the striking of the gavel to a 'speech act', but goes on to tell a story of the gavel's becoming mostly ceremonial, so that he draws upon Seth Kim-Cohen's discussion of the 'non-cochlear'.<sup>173</sup> But Parker does not really establish the silences studied by Corbin. Rather, he has established an essentially *visual* symbol out of the gavel. He wants to point to the gavel's new role as 'silence' rather than 'obsolescence' to underscore its continued presence even if no sound is made.<sup>174</sup> And, among the noisiest of objects in *International Law's Objects*, Immi Tallgren's paper shredder in her chapter '*Déchiquteuse* (Paper-Shredder)' seems to be marked by its location, somehow tucked away 'in the cellars of embassies', so that we do not hear its grinding noise despite its ability to 'devour' paper.<sup>175</sup> She wants to suggest a sort of violence: '[w]ith images *la déchiquteuse* exercises a more brutal form of rewriting and reshaping than the Stalinist regime's notorious practices on photo montages: certain faces were made to disappear from the photos and history books'.<sup>176</sup> Putting aside the 'right to be forgotten' among the inventory of rights introduced by Europe's Data Protection Regulation and the personal protection that document destruction also promises, Tallgren here focuses on the mechanical violence of a machine at work altering history, which may portend the infliction of bodily harm, but, significantly, she does not introduce the noise of her grinding machine, a sound of administration.

We could have summoned all five of the senses for the study of the objects of international law. Historian Emily Cockayne, in *Hubbub: Filth, Noise & Stench in England, 1600–1770*, has given us a book with chapter titles like 'Itchy', 'Mouldy', 'Noisy', 'Dirty' and 'Gloomy'.<sup>177</sup> Admittedly, her subject is about 'how people were made to

<sup>168</sup> Bohrer, "'Jolly Roger" (Pirate Flag)', in Hohmann and Joyce (eds.), *supra* note 4, at 259.

<sup>169</sup> See, e.g., S. Mills, *Auditory Archaeology: Understanding Sound and Hearing in the Past* (2014).

<sup>170</sup> S. Street, *The Sound of a Room: Memory and the Auditory Presence of Place* (2020).

<sup>171</sup> A. Corbin, *The History of Silence: From the Renaissance to the Present Day*, trans. Jean Birrell (Polity 2018).

<sup>172</sup> Parker, 'Gavel', *supra* note 38, at 213.

<sup>173</sup> *Ibid.*, at 217, 222–223.

<sup>174</sup> *Ibid.*, at 223.

<sup>175</sup> Tallgren, '*Déchiquteuse* (Paper-Shredder)', in Hohmann and Joyce (eds.), *supra* note 4, at 203, 203.

<sup>176</sup> *Ibid.*, at 211.

<sup>177</sup> E. Cockayne, *Hubbub: Filth, Noise and Stench in England, 1600–1770* (2007).

feel uncomfortable by other people'<sup>178</sup> in her narrative essentially about some people looking down on others. Nevertheless, it is a reminder of the vast sensory range that could have been drawn upon by marshalling international law's objects. In *International Law's Objects*, one might have sought a promise to bring a wide range of the sensory into international law, adding to the phenomenal experience of the workings of the law. Yet, the authors instead tend to focus on the visual and the meaning presented through visual means. As tactile as the two pairs of handcuffs pictured on the ICTY postcard may be, we are not instructed by Rigney to imagine the feel of the two very different sets of handcuffs in use. If anything, our attention is drawn to the highly aestheticized images of the card. Rigney may have pointed to the gendered aspect of the image, but in an important sense, the paired handcuffs were disembodied beyond the disembodiment of victims that she claims as a result of the workings of international criminal law.

It is, indeed, surprising that the human body makes so little presence in *International Law's Objects*. This is particularly noticeable considering the enormous academic interest in the body in recent decades, an interest that has exploded enough into various practices of the history of the body that there is talk of a 'somatic turn'.<sup>179</sup> The body and the tangible are, of course, not entirely missing from this book on objects. Certainly, two of the chapters I highlighted, Martineau's '*Chicotte*' and Inniss's '*Ships' Ballast*', confront us directly with corporeal pain and death. I have mentioned Martineau's worry about her inability to capture the 'experience of phenomenal violence' of the *chicotte*, as well as her concern about the unintended consequences of trying to capture it. But her chapter does, indeed, evoke the violence. Even her rehearsing the slow progression of governing the number of strokes lawfully permitted brings the violence to the fore. Inniss's chapter evokes the cramped, dark, filthy ship hulls without describing them directly. The very notion of ballast, as she points out, being required because of the shifting and lighter nature of human bodies not providing the correct ballast draws our attention to the bodies being transported at sea without having to be explicit. Inniss also describes an incident where both crewmembers and captive Africans contracted ophthalmia, a disease resulting in blindness.<sup>180</sup> That incident led to one of the cases she describes of ship captains deciding to send their African captives into the depths. She brings us an extremely visceral and horrifying sense of the experience of the Middle Passage. It is, however, notable that Martineau and Inniss's chapters in the book stand out in terms of highlighting the infliction of death and pain – Rigney's handcuffs seem abstracted from the international legal crime that is the subject of the ICTY's adjudication. It is, furthermore, remarkable that *International Law's Objects*, on the whole, does not really confront bodily experience, or even lived experience. Jessie Hohmann maintains that '[i]n its tangibility an object can connect international law to the people it touches'.<sup>181</sup> She announces

<sup>178</sup> *Ibid.*, at 1.

<sup>179</sup> Cooter, 'The Turn of the Body: History and the Politics of the Corporeal', 186 *Arbor* (2010) 394, quoted by W. Ruberg, *History of the Body* (2020), at 111.

<sup>180</sup> Inniss, *supra* note 82, at 436.

<sup>181</sup> Hohmann, *supra* note 7, at 34.

that she will ‘start with everyday lives—the way that law and its objects are caught up with and woven into our daily existences’.<sup>182</sup> But she does not really do so, and not only because she is focused here more on the ‘actant’ element of the objects. In my view, the most important promise of a material culture of international law is to tell us more of the lived experience of international law.

For this, practitioners of international law’s study of objects could look to the work of decades of anthropologists, only starting with those engaged in traditional fieldwork. It is notable that lawyer-anthropologist Annelise Riles’s comparing the way Fijian women handle traditional layers of mats in a bundle called a *vivivi* to the way that Fijian women NGO representatives handle the paper drafts being negotiated in an NGO meeting significantly makes its appearance in a material culture studies handbook the way it does not in *International Law’s Objects*.<sup>183</sup> The practitioners can also look to historians practising ‘microhistory’,<sup>184</sup> who have brought us lived experience through focus on a village, a family or an individual. Of such historical work, one might think of Carlo Ginzburg’s *The Cheese and the Worms*, Alain Corbin’s *The Life of an Unknown: The Rediscovered World of a Clog Maker in Nineteenth-Century France* (despite Corbin’s claim not to be practising microhistory), Natalie Zemon Davis’s *The Return of Martin Guerre* or Robert Darnton’s *The Great Cat Massacre*.<sup>185</sup> If Sanjay Subrahmanyam’s *Three Ways to Be Alien: Travails & Encounters in the Early Modern World* and Amy Stanley’s *Stranger in the Shogun’s City: A Japanese Woman and Her World* tell stories that are more picaresque in character, with their subjects’ traversing of hierarchies,<sup>186</sup> much of microhistory is history from below. And it is just that sort of engagement that may help international lawyers expand on Balakrishnan Rajagopal’s ‘international law from below’<sup>187</sup> and Luis Eslava’s more recent study of international law from below from the perspective of Bogotá in *Local Space, Global Life*.<sup>188</sup> Whether or not international lawyers marshal material culture in a study of international law from below, they could more broadly draw on it to aid our appreciation of the lived experience of international law.

Although the editors of *International Law’s Objects* largely focus our attention on the materiality of international law’s material, there are contributors who provide

<sup>182</sup> *Ibid.*, at 33.

<sup>183</sup> Riles, ‘Infinity Within the Brackets’, 25 *American Ethnologist* (1998) 378, cited by Miyazaki, ‘Gifts and Exchange’, in Hickey and Beaudry (eds.), *supra* note 53, 246, at 261–262.

<sup>184</sup> On microhistory, see Ghobrial, ‘Introduction: Seeing the World Like a Microhistorian’, Supplement 14 *Past and Present* (2019) 13; S. Magnússon and I. Sziójártó, *What Is Microhistory? Theory and Practice* (2013).

<sup>185</sup> C. Ginzburg, *The Cheese and the Worms: The Cosmos of a Sixteenth-Century Miller*, trans. John and Anne C. Tedeschi (Johns Hopkins University Press 2013); A. Corbin, *The Life of an Unknown: The Rediscovered World of a Clog Maker in Nineteenth-Century France*, trans. Arthur Goldhammer (Columbia University Press 2001); N. Zemon Davis, *The Return of Martin Guerre* (1984); R. Darnton, *The Great Cat Massacre, and Other Episodes in French Cultural History* (1984).

<sup>186</sup> S. Subrahmanyam, *Three Ways to Be Alien: Travails and Encounters in the Early Modern World* (2011); A. Stanley, *Stranger in the Shogun’s City: A Japanese Woman and Her World* (2020).

<sup>187</sup> B. Rajagopal, *International Law from Below: Development, Social Movements, and Third World Resistance* (2003).

<sup>188</sup> L. Eslava, *Local Space, Global Life: The Everyday Operation of International Law and Development* (2015).

us more of an exercise in decoding of the symbols embedded in their objects. That is notably the case in two of the chapters I have highlighted, in Rigney's study of the ICTY postcard and in Miles's study of the map of the Spice Islands. Rigney decodes the 'branding and marketing' of international criminal law in its effort to gain support for the tribunal's mission. The card's words, '[b]ringing war criminals to justice and justice to victims', directly speak to that mission among the various possible goals of an international criminal tribunal as rehearsed by Rigney. Miles describes another type of marketing, in her case, for 'commerce—more specifically, the dominance of commerce and the power of the state entwined within the emergence of the rules of modern international law'.<sup>189</sup> Both describe their objects essentially as advertisements, seeking an assured source of funding, one within the international community that seeks funds from states and the other from investors in the enterprise of the VOC. Rigney and Miles are engaged in an art of deciphering, with Miles turning to an essentially iconographic method, but their studies are no less fruitful as a result of their approach, if in their case the objects were consciously intended to convey messages.

I have here separated out objects that are the intentional conveyers of meaning from the other objects. Certainly, the book, with its signs and flags, its indicia of borders, its stain glass windows and book covers, is full of studies of objects intended to convey meaning. Even, I would argue, Martineau's *chicotte*, threatening its use, must be seen as a conveyor of meaning in the discipline of the rubber plant, the colonial state and, later, the schools of Francophone Africa. Indeed, the ballast intentionally conveys meaning when a ship claimed to be sailing '*en lastre*, Spanish for in ballast'.<sup>190</sup> And to the extent that the meaning is not intentional, as I have suggested earlier, I do not believe that one should entirely separate the intentionally semiotic from the unintended impact on the senses. In both cases, we are called upon to apprehend the meaning of objects within the international legal order.

In attending this meaning of objects, a material culture study in international law can bring us two related expansions of international legal study. The first involves an education of the senses – and not just the principal sense of sight that dominates *International Law's Objects*. And the second is a route to the lived experience of international law, which inevitably enlists the senses. Returning to my padded envelope, its various labels were suggestive of the working of the international legal order, including in time of war and its various adherent symbols referencing different aspects of the international legal order. The feeling of the padded envelope in one's hands suggests the missing journal issue with its role in the application of expertise with the imprimatur of a major North American law school in a multilateral legal forum. In essence, the feeling of the padding suggesting the spectral feeling of the missing volume with its dark-blue and white cover. Just as the historian Anthony Grafton invites us to attend to the materiality and the logistics of Renaissance humanistic writing and publishing in his recent *Inky Fingers: The Making of Books in Early Modern Europe*,<sup>191</sup>

<sup>189</sup> Rigney, *supra* note 80, at 253.

<sup>190</sup> Inniss, *supra* note 82, at 435.

<sup>191</sup> A. Grafton, *Inky Fingers: The Making of Books in Early Modern Europe* (2020).

it is useful for us to think of the actual commerce of international law, the thwarted expectation of the journal volume lined on the shelf in Kuwait or perhaps the feeling of its being opened with its pages pressed against the platen of a photocopy machine, both in its role in the application of legal expertise. The envelope also bears its various marks, including that designating the return to its sender, so that the object provides archival testimony outside the archive but finally a record of the actual impact of international law on the stuff around us. *International Law's Objects* invites us to think about how the study of material culture – stuff – can enhance our drawing from varying and incoming sense data as well as our understanding of lived experience of international law. The editors have called the book 'an opening salvo'. Putting aside the irony of their using a set-piece martial metaphor, the book successfully calls for an opening and an expansion of international legal study.

