

An Artistic and Performative Decoding and Encoding of International Law  
for the Posthuman Cyborg Anthropocene

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## **Abstract**

### **An Artistic and Performative Decoding and Encoding of International Law for the Posthuman Cyborg Anthropocene**

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This dissertation describes the development of my transdisciplinary international law-arts research-creation (TILARC) practice for decoding and encoding international law through art and performance. This practice is based on a critique of the body of international law that developed from the 1945 *Charter of the United Nations*. It uses art and performance to imagine renewing this planetary charter to address the environmental, technological, humanitarian and human rights challenges of our times. This is not a law reform project, but an imaginative and creative project aimed at engaging a broader audience in thinking and making art and performance about international law relevant to contemporary crises.

TILARC was developed from my desire to make art and performance while contemplating international law unbounded by the confines of legal practice. It is a reflective practice of decoding international law and a creative practice of encoding values more suited to addressing contemporary challenges. The dissertation provides an overview of the international law system and identifies its defects and potential for addressing contemporary issues. Through diffractive reading of critical literature about the language of law and international law's foundations, and cultural and philosophical critiques, the dissertation explores how law interacts with the crises of the posthuman cyborg anthropocene.

Fuelled by these insights, research-creation provides a thoughtful, embodied means to explore and deepen transdisciplinary practice, by mingling artmaking, performance and law in a continuous productive flow. Autoethnography, grounded theory, practice-led research,

critical studies and relativism provide ethical guidance for developing experiential, data-driven, performative, embodied knowledge combining the arts and international law.

The dissertation documents TILARC projects of reimagining through art and performance values that are more suited for our times. These include exploring identity through painting masks; using sketching to reflect on war and peace; activism, artmaking and lawmaking to envision a future without plastic pollution; and political, academic and artistic projects seeking to uncover and encode shared values to support collaborative co-creation. TILARC produces practical and scholarly contributions to knowledge about how the arts can be used to gain deeper understanding of international law problems and strengthen individual agency in seeking to contribute creatively to possible solutions.

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**An Artistic and Performative Decoding and Encoding of International Law for the  
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## **Introduction**

I am an international lawyer who seeks to decode international law through artmaking and performance and an artist/performer who seeks to reimagine and encode international law through creative processes. I define myself as a cyborg of the posthuman anthropocene, an emergent and imaginative identity that positions me to critique and create. Being cyborg means that my identity and capabilities are enmeshed and entangled with useful, possibly dangerous, technologies over which I have only limited agency. I am posthuman in that I reject the idea of white human male capitalist supremacy over all knowledge and all planetary existence. I recognize the interconnection of living and non-living entities that constitute nature around me and in me, and which sustain and enrich my existence. My circumstances are that I live in the anthropocene, when the geological record of the planet is being shaped ever more by human induced environmental, cultural and political disasters.

I find that international law offers an insufficient response to the existential conditions and challenges facing humanity and the planet, so I turn to art and performance to imagine the kind of values needed to survive and thrive under current conditions. I am weary of the tedious pace and lack of representation and imagination in state-to-state negotiation of international law. I am concerned about humanity's collective failure to resolve human rights, humanitarian and environmental crises. I decide to use a more individualistic and artistic approach to contemplate international legal problems to see what this might yield. While practising lawyers work within existing legal frames and seek to reform them, I use my critical artistic approach to draw attention to law's rigidities, blind spots, and gaps, especially its indifference to vulnerable nature and the most vulnerable humans. I use this critical artistic approach to imagine bottom-up, inclusive, holistic approaches to international law that might be more responsive to the needs of both people and our planet.

I undertook this INDI PhD in Fine Arts because of my desire to reflect critically on international law while making art to reimagine norms more suited to addressing global human rights, humanitarian and environmental crises we currently face. I saw research-creation<sup>1</sup> as an inviting way to develop an academic and artistic practice integrating and potentially transforming international law and the arts. I hoped that by channelling my interest in international law and my concern about global issues into individual and collective artmaking and performance, I would develop new skills and new knowledge that would be of value to me and people around me.

During my doctoral studies I used research-creation practices to experiment with thinking critically about international law while engaging in individual and collective art and performance projects and reflecting on the transdisciplinary processes. In this way I developed a practice which I call Transdisciplinary International Law-Arts Research-Creation (hereafter TILARC) which combines the disciplines of the arts and international law in research-creation. I make visual and performative art inspired by readings exploring ideas about international law, philosophy, and culture, and seek to imagine how international law could be transformed to meet contemporary needs. Through this intellectual and creative exploration, I conjure imagined beings in the form of paintings, masks and humanoid sculptures who individually and collectively help me to express my vision for a renewed international code of values.

The analysis and critique of international law focuses on the institutions, laws and policy frameworks that largely derive from the foundational 1945 *Charter of the United*

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<sup>1</sup> See for example, Owen Chapman and Kim Sawchuk, "Research-creation: Intervention, analysis and 'family resemblances'," Special Issue on Media Arts Revisited, *Canadian Journal of Communication*, 37, no. 1 (2012): 5-26; Erin Manning, "Against Method," in *Non-Representational Methodologies: Re-Envisioning Research*, ed. Phillip Vannini (Routledge: 2015), 52-71; Natalie Loveless, *How to Make Art at the End of the World: a Manifesto for Research-Creation* (Durham: Duke University Press, 2019); Kathryn Vaughan, "Pieced together: Collage as an artist's method for interdisciplinary research," *International Journal of Qualitative Methods*, 4, no. 1 (2005): 27-52, <https://doi.org/10.1177/160940690500400103>.

*Nations*<sup>2</sup> (*UN Charter*). Therefore, I describe my decoding and encoding of international law as being aimed at “renewing our planetary charter,” that is, at imagining how the *Charter* and the existing institutions, laws and policies might need to change to address the profound challenges we face in the cyborg posthuman anthropocene. I describe my project as “decoding and encoding” international law because my artmaking and performance provide a different way to interpret, reflect and critically analyse international law and envision this creative renewal of international law. I use the term “decoding” to describe my critical, analytical, embodied and artistic process of thinking about international law to ascertain its assumptions, impacts and inadequacies. I use the term “encoding” to describe the imaginative, creative, individual or collective process of discerning values and proposing new normative frameworks that might contribute to a renewal of international law.

Having practised international and public law for many years, I wanted to think about it differently, through artmaking and performance, not just through writing legal texts. I was curious as to what thinking and making art about international law would yield. Would it produce new insights about international law or art? Would it provide me with aesthetic consolation for perceived failures of international law? Would it produce a strange and awkward mash-up of art and law, and could that be interesting and informative?

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<sup>2</sup> United Nations, and International Court of Justice. *Charter of the United Nations and Statute of the International Court of Justice*. New York: Office of Public Information, United Nations, 1968. The *Charter* was signed on 26 June 1945 in San Francisco and came into force on 24 October 1945. The Statute of the International Court of Justice is an integral part of the *Charter*.

Through artmaking and performance, I explored critical writings on art, culture, philosophy and law, and ideas about new materialism,<sup>3</sup> the anthropocene,<sup>4</sup> being cyborg,<sup>5</sup> and posthumanism.<sup>6</sup> I focused my thinking and artmaking on identity and introspection about peace, human rights and humanitarian law, and environmental issues. Conflicts, human rights abuses, and environmental destruction continue despite the existence of international laws and institutions specifically designed to prevent them. Being a lawyer, I naturally turn to the language of law for solutions, but find that seemingly powerful, promising words fail to have much impact in global affairs. They express much of what is in my heart but seem to have little or no meaning to others. This drives me to go beyond the words of law to make art instead. Through my art I reflect on when words work and when they fail us. Words of legal texts sometimes appear as artifacts in my art, observed as objects of cultural and historical interest made by humans, whose purpose may have become obscured by time and changing circumstances. As I perform or make art, I contemplate why these words were written, and what they mean in the face of current realities. This dissertation is comprised of my art,

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<sup>3</sup> Rick Dolphijn and Iris van der Tuin, 3. “Matter feels, converses, suffers, desires, yearns and remembers,” Interview with Karen Barad, in *New Materialism: Interviews & Cartographies*, Open Humanities Press (2012): <http://dx.doi.org/10.3998/ohp.11515701.0001.001>. Evelien Geerts and Iris van der Tuin, “The Feminist Futures of Reading Diffractively: How Barad’s Methodology Replaces Conflict-based Readings of Beauvoir and Irigaray,” *Rhizomes cultural studies in emerging knowledge*, no. 30 (2016); Jane Bennett, *Vibrant Matter – A Political Ecology of Things*. Durham and London: Duke University Press, 2010); E. Barrett and B. Bolt, *Carnal knowledge: Towards a ‘new materialism’ through the arts*. (London: I.B. Tauris, 2013); Tim Ingold, “The Materials of Life”. Chapter 2, in Tim Ingold, *Making: Anthropology, Archaeology, Art and Architecture* (1st ed.). (Routledge, 2013). <https://doi.org/10.4324/9780203559055>, 20-21. New materiality’s relevance to art and law is discussed in Chapter 2.

<sup>4</sup> Anna Grear, “Deconstructing Anthropos: A Critical Legal Reflection on ‘Anthropocentric’ Law and Anthropocene,” *Humanity* (20 May 2015): Springer Science+Business Media Dordrecht, published online; Benjamin J. Richardson, *The Art of Environmental Law: Governing with Aesthetics* (Oxford, UK: Hart Publishing, an imprint of Bloomsbury Publishing, 2019).

<sup>5</sup> Donna Haraway, “A Cyborg Manifesto: Science, Technology, and Socialist-Feminism in the Late Twentieth Century,” in *Simians, Cyborgs, and Women*, (New York: Routledge, 1990), 171–204. The idea of being cyborg, enmeshed with technology, is discussed in Chapter 2.

<sup>6</sup> Isabelle Stengers, “Wondering about Materialism”, in Levi R. Bryant, Nick Srnicek, and Graham Harman, *The Speculative Turn: Continental Materialism and Realism*, (Melbourne, Victoria, S. Aust.: Re.press, 2011); Rosi Braidotti, “A Theoretical Framework for the Critical Posthumanities,” *Theory, Culture & Society* 36, no. 6 (2019): 31–61. <https://doi.org/10.1177/0263276418771486>. The connections between posthumanism and new materialism are discussed in Chapter 2.

performance, and writing inspired by critical readings, research-creation, and qualitative methodologies, and resulting from my TILARC practice.

Through reading, material engagements, artmaking and performance, I critique international law and reimagine norms and values that are more suited to addressing the global and local crises we currently face: human-induced climate change, mass species extinction, conflict, threatened nuclear annihilation, pandemic, colonial legacy, and economic and gender inequality. As I work with materials, people, ideas, and law to write prose and poems, draw, paint, and assemble artworks, the works become beings who help me to express ideas about the future of international law. Some of my processes have been collective and collaborative,<sup>7</sup> giving me an opportunity to encounter and learn from the collaborators' diverse perspectives and to find points of connection and common ground with them. This has immeasurably enriched these projects and helped me develop my TILARC practice, although I emphasize that the interpretations and experiences reflected in this dissertation are my own and do not purport to represent the multiplicity of perspectives of participants and collaborators in these projects.

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<sup>7</sup> Examples of collaborative projects are the *Arts and Human Rights* workshops, symposium and *Conversing Multiplicities* art exposition, organized through the Human Rights Research and Education Centre, University of Ottawa, and the micro-opera *Handle with Care: Values in Our Hearts*, organized through Reflective Iterative Scenario Enactments (RISE), a SSHRC funded collaborative improvisational opera research-creation project, whose principal investigator is Dr. Eldad Tsabary, Concordia University, both of which are discussed in Chapters 4 and 8.

## Creative reimagining, not law reform

I speculate about how the perspectives of posthuman,<sup>8</sup> materialist,<sup>9</sup> anticolonial,<sup>10</sup> feminist,<sup>11</sup> and aesthetic<sup>12</sup> scholars might help restore and reinforce the best of the current international law system while supporting and strengthening peaceful resolution of conflict, and human rights and environmental protection. Would the values espoused by these scholars help me to imagine an international order more responsive to current crises of climate change and environmental destruction, human inequality and vulnerability, and armed conflict and nuclear threat? As I make art and performance, I contemplate how posthuman materiality could be infused into international law. Would such an approach better support and recognize the interdependent relationship of humans, living and nonliving entities that constitute this planet, protect them from violence and destruction, and provide them with restorative reconciliatory justice?

My art is a personal expression of my perspectives and hopes for a creative renewal of international law, for viewers and readers to experience for themselves. I am interested in juxtaposing, resolving and reconciling the arts and international justice. In my TILARC practice, the arts and law intertwine, intermingle, stray apart, and return united, ever

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<sup>8</sup> Stengers, “Wondering about Materialism”; Braidotti, “Critical Posthumanities.”

<sup>9</sup> Dolphijn and van der Tuin, “Matter feels”; Geerts and van der Tuin, “Feminist Futures”; Bennett, *Vibrant Matter*; Barrett and Bolt, *Carnal knowledge*; Ingold, “Materials of Life”.

<sup>10</sup> Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge, UK: Cambridge University Press, 2007).

<sup>11</sup> Judith Butler, *Gender Trouble* (New York: Routledge, 1990); Gillian Rose, *Feminism & Geography: The Limits of Geographical Knowledge* (Cambridge: Polity Press, 1993); Moman Rahman and Anne Witz, “What Really Matters? The Elusive Quality of the Material in Feminist Thought,” *Feminist Theory* 4, (2003): 243-261.10.1177/14647001030043001; Geerts and van der Tuin, “Feminist Futures”; Rozsika Parker and Griselda Pollock, *Old Mistresses: Women, Art and Ideology* (London: Pandora Press, Routledge & Kegan Paul Ltd., 1981), reprinted 1987; Hélène Cixous, “The Laugh of the Medusa,” trans. K. Cohen, K. and P. Cohen, *Signs* 1, no. 4 (Summer, 1976): 875-893 The University of Chicago Press, Stable URL: <http://www.jstor.org/stable/3173239>; Hilary Charlesworth and Christine Chinkin, *Boundaries of International Law: A Feminist Analysis*, Melland Schill Studies in international law. Manchester: Manchester University Press, 2000.

<sup>12</sup> Benjamin J. Richardson, *The Art of Environmental Law: Governing with Aesthetics* (Oxford, UK: Hart Publishing, an imprint of Bloomsbury Publishing, 2019); Mary Ellen O'Connell, *The Art of Law in the International Community*, Hersch Lauterpacht Memorial Lecture Series, (Cambridge, United Kingdom: Cambridge University Press, 2019).

becoming, ever revealing new insights. This project is not one of law reform but of artmaking and performance to reimagine and assemble an artistic vision of future international law.

Through my TILARC practice, I seek to engender new insights about international law and envision concepts and approaches that might contribute to developing a renewed planetary charter. Reading influential legal, philosophical, and cultural texts leads me to view international law as having somewhat problematic origins, as the constitutional justification first for European imperial, then Western capitalist, regimes of subjugation, destruction, and exploitation of peoples and planet. I use autoethnography,<sup>13</sup> A/R/Tography,<sup>14</sup> grounded theory,<sup>15</sup> practice-based research,<sup>16</sup> and critical,<sup>17</sup> embodied and performative<sup>18</sup> methodological approaches to guide my exploration of international law through artmaking and performance. TILARC practice and the written and creative assemblages thereby

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<sup>13</sup> Carolyn Ellis and Arthur P. Bochner, "Autoethnography, personal narrative, reflexivity: research as subject," in *Handbook of Qualitative Research*, eds. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oak, London, New Delhi: Sage Publications, 2000, 2d ed.), 733-768; Christopher N. Poulos, *Essentials of Autoethnography*. Essentials of Qualitative Methods Series. (Washington, DC: American Psychological Association, 2021).

<sup>14</sup> Anita Sinner, Veronica Sahagun Sanchez, Jennifer Wicks and Darlene St. Georges, Chapter 10. "A/R/Tographic Rhythm: International Perspectives on Visual Arts PhDs in Education," in *Provoking the Field: International Perspectives on Visual Arts Phds in Education*, ed. Rita L. Irwin, Anita Sinner, and Jeff Adams (Bristol: Intellect, 2019), 111-121; Natalie Leblanc, Sara Florence Davidson, Jee Yeon Ryu and Rita L. Irwin "Becoming through a/r/tography, autobiography and stories in motion," *International Journal of Education through Art* (2015), Volume 11 Number 3, 355-374. doi: 10.1386/eta.11.3.355\_1; Rita L. Irwin, "Becoming A/R/Tography." *Studies in Art Education: A Journal of Issues and Research in Art Education* 54, no. 3 (2013): 198-215.

<sup>15</sup> Kathy Charmaz, "Grounded Theory: Objectivist and Constructivist Methods," in *Handbook of Qualitative Research*, eds. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oak, London, New Delhi: Sage Publications, 2000, 2d ed.), 509-535; C. Urquhart, *Grounded theory for qualitative research*, (SAGE Publications, Ltd.: 2013) <https://www-doi-org.lib-ezproxy.concordia.ca/10.4135/9781526402196>.

<sup>16</sup> Brad Haseman, "A Manifesto for Performative Research." *Media International Australia, Incorporating Culture & Policy*, no. 118 (2006): 98-106.

<sup>17</sup> Joe L. Kincheloe and Peter McLaren, "Rethinking Critical Theory and Qualitative Research," in *Handbook of Qualitative Research*, eds. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oak, London, New Delhi: Sage Publications, 2000, 2d ed.), 279-313; Edward W. Said, *Orientalism* (New York: Random House Vintage Books, 1978), 272. See also, Jaber F. Gubrium and James A Holstein, "Analyzing Interpretive Practice," in *Handbook of Qualitative Research*, eds. Norman K. Denzin and Yvosnna S. Lincoln (Thousand Oak, London, New Delhi: Sage Publications, 2000, 2d ed.), 487-508; John K. Smith and Deborah K. Deemer, "The problem of criteria in the age of relativism," in *Handbook of Qualitative Research*, eds. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oak, London, New Delhi: Sage Publications, 2000, 2d ed.), 877-896.

<sup>18</sup> Michal M. McCall, "Performance Ethnography: A Brief History and Some Advice," in *Handbook of Qualitative Research*, eds. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oak, London, New Delhi: Sage Publications, 2000, 2d ed.), 421-433; Valerie J. Janesick, "The Choreography of Qualitative Research Design: Minuets, Improvisations, and Crystallization," in *Handbook of Qualitative Research*, eds. Norman K. Denzin and Yvonna S. Lincoln (Thousand Oak, London, New Delhi: Sage Publications, 2000, 2d ed.), 379-433.



produced are intended as an artistic war machine<sup>19</sup> aimed at decolonizing, feminizing, materializing, naturalizing, humanizing, and reimagining international law for our troubled times. These assemblages are intended as beings and voices of the posthuman cyborg anthropocene, critiquing international law and current crises and reimagining new approaches. The TILARC practice of reading, artmaking and disseminating ideas and artworks provokes material engagement with the contemporary global crises and conversations about speculative futures.

I use art and performance to explore legal themes pertaining to our relations with each other, technology, and the environment, to critique and reimagine international law better suited to contemporary conditions. International law deals with many critical topics that shape our world such as peace and security, self-determination, human rights, climate change, pollution, biodiversity, health, technology, trade and investment, which provide me with inspiration for making art about global crises. For this dissertation my focus is on identity and peace, human rights, and environmental protection. Inspired by critical readings that illuminate the posthuman cyborg anthropocene, I make art to expose questions about international law's role in European imperialism and development of globalized capitalism, and its relations to the human and nonhuman.

Instead of working within existing legal frames to seek to reform them, I use artistic processes to reimagine international law that is more responsive to the existential condition we experience. This is not intended to rewrite international law but to draw attention to the need for different perspectives on our world by offering new interpretations, new models, and new possibilities, through my reflections and artmaking. This is meant as an imaginative and creative exercise, not a law reform project.

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<sup>19</sup> Gilles Deleuze and Félix Guattari. *A Thousand Plateaus: Capitalism and Schizophrenia*. Translated by Brian Massumi. (Minneapolis: University of Minnesota Press, 1987), 422-423.

## **Generating new knowledge**

I write this dissertation autoethnographically<sup>20</sup> since it deals with my personal process of developing TILARC and explaining the contributions of each project to my overall goal of using art and performance to critique and envision international law's renewal.

Autoethnographic writing is an ideal choice for conveying the multidimensional sensory and intellectual experience of research-creation. In this way, I analyse, reflect, report upon, and draw conclusions about my TILARC practice as a means of creating new knowledge and understanding about identity, peace, human rights and our environment.

My TILARC practice continuously produces new insights and inspires me to write, perform and make art. It was developed through a series of individual and collaborative projects, each of which generated new knowledge about international law in the posthuman cyborg anthropocene. This knowledge about using artistic and performative methods to explore, communicate and create about international law issues, has been developed through collective and individual performances, artworks, expositions, discussions, manifestos and codes of values, all of which are reflected upon in this dissertation.

Using the arts to engage with issues of international law can help us to understand and feel injustice, and to find and strengthen justice.<sup>21</sup> This approach can awaken imagination and express ideas about human, environmental and technological vulnerability, agency, consent, identity, and trust, can foster positive relations among humans and our nonhuman kin, reveal important shared values, and facilitate working together to achieve them. Combining discussion of painful and discouraging topics of genocide, human rights abuse and environmental destruction with artmaking and performance affects the mood, attitude,

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<sup>20</sup> Ellis and Bochner, "Autoethnography, personal narrative, reflexivity: research as subject," 735.

<sup>21</sup> Maxine Greene, "Teaching as Possibility: A Light in Dark Times" in Sheila L. Macrine, 2009. *Critical Pedagogy in Uncertain Times: Hope and Possibilities*. 1st ed. Education, Politics, and Public Life. New York: Palgrave Macmillan, 137-149; Maxine Greene. 2011. "Releasing the Imagination." *Nj* 34 (1): 61-70. <https://doi.org/10.1080/14452294.2011.11649524>.

approach, allowing participants to be curious, gentle, and empathetic, to experience their own agency and act positively in contributing to a better world.<sup>22</sup> This reflective and creative process helps us to recollect and reimagine our diverse and distant pasts and futures,<sup>23</sup> and to be open and generous in working together to find the path of peace and environmental and human rights protection.<sup>24</sup> Everyone brings something different to the conversation and everyone learns and benefits from the new insights revealed.

## **Overview of the dissertation**

This dissertation is organized in two parts and eight chapters besides this introduction. It includes a bibliography, annexes and a list of figures comprising photographs of the artworks and projects to which I refer throughout the text.<sup>25</sup> Part I. Decoding explains the ideas, methodologies and practices that helped me to critique international law and draw connections between international law, art, and performance. These ideas, methodologies and practices guide me in critiquing international law and inspire me to create art assemblages expressing ideas about international law as it is and as it could be. Part II. Encoding recounts the imaginative, creative, individual or collective process of discerning values and proposing new normative frameworks that might contribute to renewing our planetary charter. It demonstrates how the ideas, methodologies and practices described in Part I influence my approach to individual and collective creative work. The artistic assemblages developed

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<sup>22</sup> Ruth Buchanan and Jeffery G. Hewitt, Chapter 36. "Treaty Canoe," in *International Law's Objects*, eds. Jessie Hohmann and Daniel Joyce (Oxford University Press, 2019).

<sup>23</sup> L. Bryant, N. Srnicek, and G. Harman, eds., *The Speculative Turn: Continental Materialism and Realism* (2011) [https://www.re.press.org/book-files/OA\\_Version\\_Speculative\\_Turn\\_9780980668346.pdf](https://www.re.press.org/book-files/OA_Version_Speculative_Turn_9780980668346.pdf), opening page of the collection, on the concept of anamnesis.

<sup>24</sup> Thinking of the long-term project of TILARC, I am inspired by Martin Luther King's exquisite phrase about patience and purpose, "the arc of the moral universe is long, but it bends toward justice": Smithsonian Institution, "Dr. Martin Luther King Jr.," accessed 29 November 2024, <https://www.si.edu/spotlight/mlk?page=4&iframe=true>.

<sup>25</sup> The Figures are provided as separate pdf documents for ease of electronic transmission. These works referred to in this dissertation can also be found on my International Law-Art-Governance website on this page: <https://oonaghfitzgerald.com/list-of-figures-for-phd>. The website catalogues artworks, performances, expositions, and discussions produced through TILARC, thereby serving as a means of disseminating new knowledge.

through TILARC practice, convey stories of international law's past, present and possible future, and provide a means to speculate about norms and values.

Chapter 1 provides the first part of the literature review, which forms the underpinning for my decoding of international law. It begins with a brief overview of international law and international institutions to set the context and familiarize the reader with key aspects of international law and governance relevant to my TILARC practice. The chapter then explains the critical method of reading adopted for the dissertation, considers questions about the language of law, and interrogates international law's foundations. Chapter 2 provides the second part of the literature review, focusing on cultural critiques relevant to international law. It discusses aesthetics and international law, object-oriented approaches to international law, cultural critiques for the posthuman, cyborg anthropocene, and Deleuze and Guattari's art-law cultural critique.<sup>26</sup> Chapter 3 explains research-creation, why it provides an appealing way to reflect critically and creatively on problematic international law issues and how it contributes to my transdisciplinary practice of using art and performance to reflect upon international law. The chapter illustrates how I used research-creation to support embodied experiments with and reflections on drawing and painting faces, sculpting and inscribing clay, and painting reflections on the purposes of the *UN Charter*. Chapter 4 elaborates the qualitative methodologies that support the intellectual, ethical and creative practices used for my doctoral research. Autoethnography, A/R/Tography, grounded theory, practice-based research, critical, and arts-infused qualitative methodological approaches are explained and elucidated with examples from the creative projects undertaken for my PhD. These include a socially engaged zine sharing project, making masks from waste cardboard, organizing a micro-opera, and exploring and assembling found birch bark.

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<sup>26</sup> Deleuze and Guattari. *A Thousand Plateaus*.

Part II. Encoding deepens the analysis and assessment of my experiences of TILARC, focusing on three main themes: identity and introspection, the plasticocene,<sup>27</sup> and recoding values. These three groupings allow me to explore through art and performance projects, issues of international environmental, human rights and humanitarian law protection, and the possibility of a renewed planetary charter. Each of these three chapters describes the TILARC process in a particular context and reflects upon what was learned from the project. Chapter 5 analyses my art and performance projects about identity and introspection. This includes exploration of identity through face and mask, and a visual and written introspection on how to get to peace. Chapter 6 analyses the challenges of making art and law in the plasticocene, explores activism, artmaking and lawmaking to envision a future without plastic pollution, and details the making of assemblages from plastic waste. Chapter 7 analyses projects aimed at working out shared values in the context of implementing values-driven change at the local level, developing a manifesto on arts and human rights, making a collaborative improvisational micro-opera, and speculating about future projects exploring shared values through international law and artmaking. In Chapter 8 I reflect on the development of my TILARC practice and how this has produced scholarly and practical knowledge, I consider the broader implications of this transdisciplinary practice, then speculate about how I might continue to develop, deepen and disseminate the practice beyond the doctoral dissertation.

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<sup>27</sup> Plasticocene seems a fitting term to describe an aspect of the anthropocene, in which the planet and its living and nonliving entities are overwhelmed by plastic pollution. I adopted this term after finding it on the internet being used for educational and artistic expositions about ocean plastics: Elisabetta Milan, “Plastic-Ocene”, accessed on 22 November 2024, [https://www.elisabettamilan.com/?page\\_id=39](https://www.elisabettamilan.com/?page_id=39).

## **PART I. Decoding**

This dissertation examines how I bring the fields of international law and the arts into conversation through transdisciplinary research-creation practice. It is divided in two parts, entitled Part I Decoding and Part II Encoding. The first Part provides the scholarly underpinning for this process of decoding, including an explanation of international law, why I believe critical decoding is warranted, how this inspires me to make art and performance, and how research-creation and qualitative methodologies support this transdisciplinary decoding. The second Part analyses individual and collective projects on identity and imagination, introspection about peace, coping with plastic waste, and searching for shared values. It assesses how artmaking and performance about international law can contribute to creative decoding and encoding of international law and the generation of new knowledge by empowering artists and viewers to participate in reimagining collective norms more suited to current global issues.

Part I is comprised of four chapters. Chapter 1 provides a brief introduction to international law and a discussion of critical literature on law. Chapter 2 discusses cultural and philosophical scholarship relevant to my critique of international law, highlighting the need for creative reimagining. Chapter 3 examines research-creation as an innovative way to bring different disciplines into communication to create new forms of knowledge. Chapter 4 explains the qualitative research methodologies that provide ethical, intellectual and practical support in developing my TILARC practice.

## **Chapter 1. Literature review – Introduction to and critique of international law**

Chapter 1 is the first part of my literature review. Both chapters 1 and 2 provide the scholarly underpinning for my decoding of international law and lay the foundations for my encoding process of reimagining international law through art and performance. I begin by offering a brief introduction to international law to provide the reader with necessary context and background for this transdisciplinary international law-arts project, as well as to situate the critical questioning of international law, which follows. This critical questioning involves adopting a diffractive approach to reading,<sup>28</sup> examining law and language, and exploring international law's foundations by drawing on anticolonial, anticapitalist, and feminist critiques.

### **A brief introduction to the UN Charter and international law**

To help elucidate my project of reflecting on international law through art and performance it is useful to provide an overview of the system of international law which causes me such critical reflection and inspires my artmaking. My decoding, encoding and reimagining of international law focuses on the 1945 *UN Charter* as the foundational document for international institutions and treaties that affect peace and security, human rights, and the environment. Produced as a definitive response to the horrors of two world wars, the *UN Charter* sought to bind all nations and all peoples together in a pact for peace and human flourishing. It established the General Assembly of all members of the United Nations,<sup>29</sup> the Security Council with five permanent members and 10 rotating members,<sup>30</sup> the

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<sup>28</sup> Karen Michelle Barad, *Meeting the Universe Halfway: Quantum Physics and the Entanglement of Matter and Meaning*, (Durham N.C.: Duke University Press, 2007), 29.

<sup>29</sup> *UN Charter*, Chapter IV.

<sup>30</sup> *UN Charter*, Chapter V Article 27(3) states that votes in the Security Council on non-procedural matters "shall be made by an affirmative vote of nine members including the concurring votes of the permanent members"-- this is often called the veto power of permanent members: United Nations, "On what basis was Security Council permanent membership granted?" *Dag Hammarskjöld Library*, accessed 21 November 2024, [https://ask.un.org/faq/14518#:~:text=UN%20Charter%20Article%2027\(3,veto%20power%20of%20permanent%20members](https://ask.un.org/faq/14518#:~:text=UN%20Charter%20Article%2027(3,veto%20power%20of%20permanent%20members). Originally the UNSC had only 6 non-permanent members but an amendment to the *Charter*

Economic and Social Council,<sup>31</sup> a Trusteeship Council,<sup>32</sup> the Secretariat,<sup>33</sup> and the International Court of Justice<sup>34</sup>. In parallel to these developments, the 1944 Bretton Woods Conference laid the foundations for a global financial system, establishing two key institutions, the International Monetary Fund and the World Bank, and resulting in the *General Agreement on Tariffs and Trade* (GATT) 1948.<sup>35</sup> These institutions proceeded to build the post second world war infrastructure of international treaties that shapes our world today, with the victors of that war holding sway in shaping the regime. The asserted founding principles were sovereign equality of nations, equal dignity of human beings, peaceful resolution of disputes, and social and economic cooperation. The *UN Charter* referred to “the principle of equal rights and self-determination of peoples” in Article 1. Common Article 1(1) of both the *International Covenant on Economic, Social and Cultural Rights*<sup>36</sup> and the *International Covenant on Civil and Political Rights*,<sup>37</sup> reiterated this principle, declaring that

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increased this to 10 in 1965: A/RES/1991 (XVIII) of 17 December 1963: United Nations, “UN Membership” *Dag Hammarskjöld Library*, accessed 29 November 2024, <https://research.un.org/en/unmembers/scmembers>.

<sup>31</sup> *UN Charter*, Chapter X.

<sup>32</sup> *UN Charter*, Chapter XIII. Its main goals were to promote the advancement of the inhabitants of Trust Territories and their progressive development towards self-government or independence. It suspended operations in 1994 when all Trust Territories had finally attained self-government or independence, either as separate States or by joining neighbouring independent countries: United Nations, “Trusteeship Council”, accessed 21 November 2024, <https://www.un.org/en/about-us/trusteeship-council#:~:text=The%20aims%20of%20the%20Trusteeship,by%20joining%20neighbouring%20independent%20countries>. Britain held Palestine as a mandate territory from 1917-1947, overseeing decades of brutality, then handed it to the UN to resolve. The UN recommended partition and Israel unilaterally declared independence whereas the Palestinians refused the terms, leading to a further eighty years of conflict and instability. The failure to find a peaceful resolution to this situation is one of the most obvious failings of the UN.

<sup>33</sup> *UN Charter*, Chapter XV.

<sup>34</sup> *UN Charter*, Chapter XIV. See also the *Statute of the International Court of Justice* annexed to the *UN Charter*.

<sup>35</sup> The *Havana Charter* of 1948 would have established an International Trade Organization but failed because the US did not ratify it. For 47 years the GATT was a provisional agreement but “provided the rules for much of world trade and presided over periods that saw some of the highest growth rates in international commerce”: World Trade Organization, “History of the multilateral trading system”, accessed 21 November 2024, [https://www.wto.org/english/thewto\\_e/history\\_e/history\\_e.htm](https://www.wto.org/english/thewto_e/history_e/history_e.htm). The *Marrakech Agreement* of 1994 established the World Trade Organization (WTO): Georgetown Law, “From the GATT to the WTO: A Brief Overview”, *International Trade Law Research Guide*, accessed 21 November 2024, <https://guides.ll.georgetown.edu/c.php?g=363556&p=4108235>.

<sup>36</sup> United Nations (General Assembly), *International Covenant on Economic, Social, and Cultural Rights* (adopted 16 December 1966, entered into force 3 January 1976) Treaty Series, 993, 3 art 1.

<sup>37</sup> United Nations (General Assembly), *International Covenant on Civil and Political Rights* (adopted 19 December 1966, entered into force 23 March 1976) United Nations, 999 UNTS 171 art 1.



“All peoples have the right of self-determination”. However, colonization’s oppressive effects would linger in colonizer states recognized as members of the UN and in Trust and Non-Self-Governing Territories.<sup>38</sup>

### **The postwar expansion of international law and institutions**

Since 1948 there have been eight decades of international institution building, norm setting and programming. Under the six organs of the UN<sup>39</sup> there are numerous subsidiary bodies, commissions, committees, and working groups. In the UN system there are 15 UN specialized agencies, which are autonomous international organizations brought into relationship with the UN through negotiated agreements.<sup>40</sup> In addition, there are 6 UN funds and programs financed through voluntary rather than assessed contributions, 9 other entities and bodies associated with the UN and carrying out UN activities, and 8 related organizations with mandates that extend beyond Articles 57 and 63 of the *UN Charter*. These are listed in Annex I United Nations System to provide a systemic and visual overview of the extent of the UN system and how international law, policy, and institutions coordinate and shape many aspects of daily life. Perceiving this extensive institutional architecture helps one to recognize the breadth and depth of coordination efforts on issues of global importance.

The UN Treaty Series<sup>41</sup> is a searchable data bank of some 560 multilateral treaties deposited with the UN Secretariat. It is organized in 29 chapters listed in Annex II. UN Treaty Series Subject Areas provide a glimpse of the breadth of international law. The treaties contain the internationally negotiated rules on such topics as interstate and

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<sup>38</sup> United Nations (General Assembly), *Declaration on the Granting of Independence to Colonial Countries and Peoples* (adopted 14 December 1960), Resolution 1514 (XV).

<sup>39</sup> These are the General Assembly (GA), the Security Council (SC), the Economic and Social Council (ECOSOC), the Trusteeship Council, the International Court of Justice (ICJ), and the UN Secretariat

<sup>40</sup> These are funded by both voluntary and assessed contributions. See United Nations, “UN System”, accessed 20 November 2024: <https://www.un.org/en/about-us/un-system#:~:text=The%20United%20Nations%20Environment%20Programme,development%20of%20the%20global%20environment>.

<sup>41</sup> United Nations. “United Nations Treaty Collection = Nations Unies Collection Des Traités.” New York, N.Y.: United Nations, 1996, accessed 20 November 2024: <https://treaties.un.org/Home.aspx>.

commercial dispute settlement, diplomatic immunities, human rights, refugees, narcotics, human trafficking, crime, obscenity, health, trade, development, transportation, navigation, education, culture, missing persons, status of women, family support, oceans, outer space, commodities, telecommunications, disarmament, environment, economic and fiscal matters. Searching the database by participant state one finds entries providing details of the process by and conditions under which the state agreed to be bound by a particular treaty.<sup>42</sup>

To this body of treaty law we could add instruments called declarations which “were not originally intended to have binding force, but their provisions may have reflected customary international law or may have gained binding character as customary law at a later stage”.<sup>43</sup> Thus, the *1948 Universal Declaration of Human Rights (UDHR)*,<sup>44</sup> is widely considered to represent customary law, and this is also claimed, but still debated by some, with respect to the *UN Declaration on the Rights of Indigenous Peoples*<sup>45</sup> (herein *UNDRIP*).

This overview of the UN system does not include the many regional institutions and arrangements that also address some of the same topics as well as other issues, and articulate norms specific to the region.<sup>46</sup> Nation states also make bilateral treaties with other states

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<sup>42</sup> The data base indicates signature, definitive signature, accession, ratification, objection, communication: United Nations Treaty Collection, “Multilateral Treaties Deposited with the Secretary-General”, accessed 20 November 2024, [https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=\\_en](https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=_en). To illustrate this, one finds there are over 500 entries each for Russia, United Kingdom and France, 458 for the United States, 424 for China, 403 for Canada, 380 for Nigeria, 369 for Mexico, and 341 for Israel. Determining the reasons for these variations might be an interesting study. A helpful glossary of terms relating to treaty actions is provided at United Nations Treaty Collection, “Glossary”, accessed 20 November 2024, [https://treaties.un.org/PAGES/Overview.aspx?path=overview/glossary/page1\\_en.xml](https://treaties.un.org/PAGES/Overview.aspx?path=overview/glossary/page1_en.xml). See also, United Nations General Assembly, *Vienna Convention on the Law of Treaties*. Vienna, 23 May 1969. Entry into force: 27 January 1980, Article 11, Means of expressing consent to be bound by a treaty.

<sup>43</sup> United Nations Treaty Collection, “Glossary”.

<sup>44</sup> United Nations (General Assembly), *Universal Declaration of Human Rights*, UNGA Resolution 217 A (10 December 1948) accessed 21 November 2024, <https://documents.un.org/doc/resolution/gen/nr0/043/88/pdf/nr004388.pdf>.

<sup>45</sup> United Nations General Assembly Resolution adopted on 13 September 2007. “It was adopted with 144 votes in favour, 11 abstentions and four States against (Australia, Canada, New Zealand and the United States of America). Since then, a number of States have changed their position, including the four which voted against but have now endorsed the Declaration”: United Nations, “UN Declaration on the Rights of Indigenous Peoples”, accessed 29 November 2024, <https://www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples>.

<sup>46</sup> Examples are the Organization of American States, <https://www.oas.org/en/>, the African Union, <https://au.int/>, and the North Atlantic Treaty Organization (NATO), [https://www.nato.int/cps/en/natohq/topics\\_67656.htm](https://www.nato.int/cps/en/natohq/topics_67656.htm).

creating specific legal obligations between the two parties.<sup>47</sup> Each state should ensure compliance with its international law obligations,<sup>48</sup> which may entail reviewing and revising domestic policy, and enacting and enforcing legislative and regulatory changes.

The *UN Charter* evinces a spirit of shared sorrow and suffering, and hunger for solidarity and cooperation,<sup>49</sup> but notably fails to situate humans in relation to their environment. It exhibits a philosophical perspective that is entirely human centred: humans have power over each other, humans kill each other, humans discriminate against, abuse and exploit each other; but, through their nation states' representatives, humans can agree to rules to live in peace and dignity, can coordinate their activities on socio-economic issues of common interest, and can trade with each other to improve the social and economic condition of all humanity. There is nothing in the *UN Charter* that recognizes humanity's relationship with the environment, nothing whatsoever to suggest humans should consider all of the planet's living and non-living components, the oceans, atmosphere, rivers, and forests that constitute the planet as a vast interconnected and interdependent ecosystem.

In the post second world war reconstruction, economic integration was seen as a priority for development and restoring peaceful, competitive, mutually beneficial relations between states. The GATT/WTO trade rules were developed to facilitate global trade by progressively dismantling trade and non-trade barriers that limited access to foreign markets and by providing a means to challenge protectionist measures. Foreign investment was seen as a vehicle for development and international investment agreements with investor-state dispute settlement clauses were agreed to provide foreign investors special protections

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<sup>47</sup> An example is the Canada-European Union Comprehensive Economic Trade Agreement (CETA), [https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/about\\_ceta-propos\\_aecg.aspx?lang=eng](https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/about_ceta-propos_aecg.aspx?lang=eng).

<sup>48</sup> United Nations, *Vienna Convention on the Law of Treaties*. Vienna, 23 May 1969, Entry into force: 27 January 1980, *Treaty Series*, vol. 1155, 331, Article 26, *Pacta sunt servanda*. Every treaty in force is binding upon the parties to it and must be performed by them in good faith. Article 27, Internal law and observance of treaties. A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

<sup>49</sup> *UN Charter*, Preamble.

against national governments which might expropriate or otherwise discriminate against foreign businesses. The World Bank Group tells us that globalized trade has made consumer goods more affordable, provided employment and raised many people out of poverty.<sup>50</sup> With its emphasis on economic growth the international system has been a great enabler of multinational corporations, allowing them to move freely around the world, investing in foreign countries offering access to valuable natural resources and new markets. They could arrange their affairs to take advantage of cheap labour and lax environmental standards, while minimizing or avoiding corporate income tax and civil and criminal liability.<sup>51</sup>

One might well ask whether the paradigm of the state-centred, human-focused international law system supports or impedes efforts to address today's human-induced crises of entangled devastation such as climate change, mass species extinction, threatened nuclear annihilation, pandemic, conflict and gross inequality.<sup>52</sup> My artmaking and performance about matters of international law seeks to bring attention to the gap between the foundational framework of international law and our lived reality today.

Significant work on human rights continued for decades, and in the early 1970s environmental pollution was finally recognized as a significant negative consequence of economic development.<sup>53</sup> However, Cold War dynamics continued to emphasize national

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<sup>50</sup> World Bank Group, "Trade is an engine of growth that creates jobs, reduces poverty and increases economic opportunity", accessed 20 November 2024: <https://www.worldbank.org/en/topic/trade#:~:text=Trade%20is%20an%20engine%20of,participation%20in%20the%20world%20economy>.

<sup>51</sup> Civil society and academic efforts to strengthen accountability of multinational corporations have met with resistance from both states and industry, so progress has been slow and incremental: Oonagh E. Fitzgerald, "Addressing the human rights conduct of transnational corporations through international institutional bypasses", *Transnational Legal Theory*, 2019, DOI: 10.1080/20414005.2019.1651123.

<sup>52</sup> Gear, "Deconstructing Anthropos," 236.

<sup>53</sup> The *Declaration of the United Nations Conference on the Human Environment*, proclaimed at the United Nations Conference on the Human Environment, in Stockholm, 5 to 16 June 1972, "placed environmental issues at the forefront of international concerns and marked the start of a dialogue between industrialized and developing countries on the link between economic growth, the pollution of the air, water, and oceans and the well-being of people around the world": United Nations, *Declaration of the United Nations Conference on the Human Environment*, (June 1972), accessed 21 November 2024, <https://www.un.org/en/conferences/environment/stockholm1972#:~:text=The%20Stockholm%20Declaration%20C%20which%20contained,and%20the%20well%20being%20of>.

economic and political interests. As we now hover at 90 seconds to midnight on the Doomsday Clock,<sup>54</sup> it is discouraging to note the lack of progress in eliminating nuclear weapons since 1972, when the United Nations General Assembly adopted Principle 26 of the *Stockholm Declaration*: “Man and his environment must be spared the effects of nuclear weapons and all other means of mass destruction. States must strive to reach prompt agreement, in the relevant international organs, on the elimination and complete destruction of such weapons.”

Despite competitive, zero-sum geopolitical tendencies, people with ideas and causes continue to turn to the UN to seek its endorsement and protection under carefully negotiated language of resolutions, declarations and treaties. Efforts by the anti-nuclear movement have resulted in a treaty banning nuclear weapons,<sup>55</sup> which has yet to be signed by any nuclear armed countries or their allies, including Canada. It took over two decades for national governments and Indigenous peoples' representatives to negotiate *UNDRIP*, which is finally recognized as “a triumph for justice and human dignity”.<sup>56</sup> Colonial settler states with significant populations of Indigenous peoples (Canada, the US, Australia and New Zealand) were hesitant to adopt it, but eventually did so, while continuing to equivocate about what such adoption meant.<sup>57</sup> Meanwhile, Indigenous Peoples are contributing their knowledge and

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<sup>54</sup> Louise Lerner, “Doomsday Clock remains at a minute and a half to midnight in 2024—closest ever to apocalypse”, *uchicago news* (23 January 2024), accessed 21 November 2024: <https://news.uchicago.edu/story/2024-doomsday-clock-announcement-90-seconds-to-midnight-apocalypse#:~:text=of%20Chicago%20News-,Doomsday%20Clock%20remains%20at%20a%20minute%20and%20a%20half%20to,at%2090%20seconds%20to%20midnight>.

<sup>55</sup> United Nations (General Assembly), *Treaty on the Prohibition of Nuclear Weapons*, New York, 7 July 2017, Entry into force: 22 January 2021, accessed 21 November 2024: <https://documents.un.org/doc/undoc/gen/n17/209/73/pdf/n1720973.pdf>.

<sup>56</sup> United Nations Office of the High Commissioner for Human Rights, “UN Declaration on the Rights of Indigenous Peoples - OHCHR and Indigenous Peoples” (13 September 2007), accessed 21 November 2024, <https://www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples>.

<sup>57</sup> Erin Hanson, “UN Declaration on the Rights of Indigenous Peoples”, *Indigenousfoundations.arts.ubc.ca*, accessed 21 November 2024, [https://indigenousfoundations.arts.ubc.ca/un\\_declaration\\_on\\_the\\_rights\\_of\\_indigenous\\_peoples/](https://indigenousfoundations.arts.ubc.ca/un_declaration_on_the_rights_of_indigenous_peoples/). For Indigenous scholarship on the potential of the Declaration, see, Centre for International Governance Innovation. *Braiding Legal Orders: Implementing the United Nations Declaration on the Rights of Indigenous Peoples*.

perspectives to international meetings on climate change, biodiversity, traditional knowledge and traditional cultural expression.<sup>58</sup> As they strengthen their global community of allies, Indigenous Peoples continue to press for greater representation on issues of importance to them.<sup>59</sup>

### **Efforts to take a more coordinated holistic approach**

With nations seeking to collaborate in addressing the many pressing issues of the day, the UN system has grown to be massive, omnipresent, and costly.<sup>60</sup> Since the 70<sup>th</sup> anniversary of the *UN Charter* there has been soul searching about whether the UN remains fit for purpose with criticism levelled at “its numbing bureaucracy, its institutional cover-ups of corruption and undemocratic politics of its security council”.<sup>61</sup> As the range of topics being addressed through the UN system proliferate, so do complexity, incoherence, overlap, duplication and fragmentation. The political and representative nature of staffing and budget decisions makes it difficult to build a well-aligned and focused workforce or implement sweeping efficiency reforms. Coordinating activities across areas of specialization to optimize results, “Delivering as One”,<sup>62</sup> is especially challenging for such a large and geographically diffused organization.

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Edited by John Borrows, Larry N. Chartrand, Oonagh E. Fitzgerald, and Risa Schwartz. Waterloo, ON, Canada: Centre for International Governance Innovation, 2019.

<sup>58</sup> International Labour Office, “Indigenous peoples and climate change,” 2017, accessed 17 December 2024. <https://www.ilo.org/media/425376/download>.

<sup>59</sup> United Nations, “Indigenous Peoples Must Have Full Representation, Participation in Decisions Affecting Their Territory, Governance, Speakers Stress at Permanent Forum,” *Meetings Coverage and Press Releases* 22<sup>nd</sup> session, 19 April 2023, accessed 17 December 2024. <https://press.un.org/en/2023/hr5477.doc.htm>.

<sup>60</sup> IISD, “Member States Approve USD 3.59 Billion UN Budget for 2024,” *SDG Knowledge Hub*, (11 January 2024), accessed 21 November 2024, <https://sdg.iisd.org/news/member-states-approve-usd-3-59-billion-un-budget-for-2024/#:~:text=The%20regular%20budget%20for%202024,Ant%C3%B3nio%20Guterres%20in%20October%202023>. A helpful budget explainer is here: <https://www.un.org/en/video/how-much-does-un-really-cost#:~:text=On%202024%20December%202023%2C%20the,finance%20the%20Organization's%20peacebuilding%20fund>.

<sup>61</sup> Chris McGreal, “70 years and half a trillion dollars later: what has the UN achieved?” (1 September 2015), *The Guardian*, accessed on 21 November 2024: <https://www.theguardian.com/world/2015/sep/07/what-has-the-un-achieved-united-nations>.

<sup>62</sup> “Delivering as one” was an initiative under the leadership of UN Secretary-General Ban Ki-moon to reduce fragmentation and improve coherence between UN entities, policies and programs: High-level Panel on United Nations System-wide Coherence in the areas of development, humanitarian

The *2030 Agenda for Sustainable Development*<sup>63</sup> was designed to show the interrelations between social, political, environmental and economic conditions for human dignity and thriving, and to bring greater coherence and unity of effort in tackling the global challenges of poverty, hunger, inequality, discrimination, conflict, climate change and environmental degradation. The 17 *Sustainable Development Goals* (SDGs) are set out here because they are supposed to be front and centre not only for UN organizations but also for national and subnational governments, public and private sector entities, and nongovernmental institutions everywhere. They are a reasonably updated guide to the interconnectedness of social, economic, political and environmental dimensions of life on the planet, and therefore are reflected in much of my TILARC practice, as discussed in more detail in Chapter 7:

- Goal 1. End poverty in all its forms everywhere.
- Goal 2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture.
- Goal 3. Ensure healthy lives and promote well-being for all at all ages.
- Goal 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all.
- Goal 5. Achieve gender equality and empower all women and girls.
- Goal 6. Ensure availability and sustainable management of water and sanitation for all.
- Goal 7. Ensure access to affordable, reliable, sustainable and modern energy for all.
- Goal 8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.
- Goal 9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation.
- Goal 10. Reduce inequality within and among countries.
- Goal 11. Make cities and human settlements inclusive, safe, resilient and sustainable.
- Goal 12. Ensure sustainable consumption and production patterns.
- Goal 13. Take urgent action to combat climate change and its impacts.
- Goal 14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development.

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assistance and the environment, “Delivering as one” in United Nations (General Assembly), “Follow-up to the outcome of the Millennium Summit,” A/61/583, Sixty-first session, Agenda item 113 (20 November 2006) accessed 21 November 2024: <https://documents.un.org/doc/undoc/gen/n06/621/41/pdf/n0662141.pdf>.

<sup>63</sup> United Nations General Assembly, “Transforming our world: the 2030 Agenda for Sustainable Development.” Resolution A/70/1 (September 2015), accessed 21 November 2024, <https://documents.un.org/doc/undoc/gen/n15/291/89/pdf/n1529189.pdf>: “We are committed to achieving sustainable development in its three dimensions – economic, social and environmental – in a balanced and integrated manner.”

Goal 15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss.

Goal 16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.

Goal 17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development.

With so many goals and a further 169 targets, the Agenda may prove to be too complex for national governments and transnational corporations, let alone subnational entities like municipalities, universities, schools, businesses and nongovernmental organizations, to implement.<sup>64</sup> As a result the SDGs lose their resonance in the local community, where most of the action needs to take place.<sup>65</sup> At its September 2024 meeting, the UN General Assembly expressed grave concern about the lack of progress in achieving the SDGs:

18. In 2015, we resolved to free the human race from the tyranny of poverty, hunger and want and to heal and secure our planet. We promised that we would leave no one behind. We have made some progress, but the achievement of the Sustainable Development Goals is in peril. Progress on most of the Goals is either moving too slowly or has regressed below the 2015 baseline. Years of sustainable development gains are being reversed. Poverty, hunger and inequality have increased. Human rights are under threat, and we run the risk of leaving millions of people behind. Climate change, biodiversity loss, desertification and sand and dust storms, pollution and other environmental challenges pose serious risks to our natural environment and our prospects for development.<sup>66</sup>

The General Assembly reaffirmed the 2030 Agenda as “our overarching road map for achieving sustainable development in all three of its dimensions, overcoming the multiple, interlinked crises that we face and securing a better future for present and future generations.”<sup>67</sup> The General Assembly adopted the *Pact for the Future, Global Digital Compact and Declaration on Future Generations*<sup>68</sup> (herein *Pact for the Future* or the *Pact*)

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<sup>64</sup> United Nations, Department of Economic and Social Affairs, “Sustainable Development,” accessed on 21 November 2024, <https://sdgs.un.org/goals>.

<sup>65</sup> This is discussed further in Chapter 8.

<sup>66</sup> United Nations (General Assembly), “Summit of the Future Outcome Documents”, September 2024, [https://www.un.org/sites/un2.un.org/files/sotf-pact\\_for\\_the\\_future\\_adopted.pdf](https://www.un.org/sites/un2.un.org/files/sotf-pact_for_the_future_adopted.pdf), *Pact for the Future*, 3, para 18.

<sup>67</sup> Ibid., *Pact for the Future*, 3, para 19.

<sup>68</sup> Ibid., 1, para 19.



which reads like an extended global manifesto. The opening words speak with urgency and portent about the challenges we face:

1. We, the Heads of State and Government, representing the peoples of the world, have gathered at United Nations Headquarters to protect the needs and interests of present and future generations through the actions in this Pact for the Future.
2. We are at a time of profound global transformation. We are confronted by rising catastrophic and existential risks, many caused by the choices we make. Fellow human beings are enduring terrible suffering. If we do not change course, we risk tipping into a future of persistent crisis and breakdown.
- ...
7. Today, we pledge a new beginning in multilateralism. The actions in this Pact aim to ensure that the United Nations and other key multilateral institutions can deliver a better future for people and planet, enabling us to fulfil our existing commitments while rising to new and emerging challenges and opportunities.<sup>69</sup>

In clause 8 the General Assembly expresses “unwavering commitment” to international law and the *UN Charter* but notes in clause 6 that these must be strengthened to “be fit for the present and the future”. Clause 9 reinterprets the *UN Charter*’s three pillars of “peace and security, human rights and development” as “sustainable development, peace and security, and human rights”, thereby incorporating environmental issues into the socio-economic frame but simultaneously locking them into a conditional balance or trade-off with development. There are 56 action items, a quantity that leads me to ask, who at the international and individual state level will be tasked with doing these actions, and how will progress be monitored. The *Pact* includes Annex II. *Declaration on Future Generations* which aims to integrate “intergenerational solidarity, justice and equity” into decision-making by identifying guiding principles, commitments and actions. The *Pact* also includes a *Global Digital Compact*, with the objectives of closing “all digital divides,” expanding digital inclusion, fostering “an inclusive, open, safe and secure digital space that respects, protects and promote human rights,” advancing responsible “data governance,” and enhancing “international governance of artificial intelligence for the benefit of humanity.”<sup>70</sup>

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<sup>69</sup> Ibid, 1.

<sup>70</sup> Ibid, 40-41.

As I write and reflect on my art and performance about international law issues of identity, peace, human rights, the environment, and creative collaboration, I cannot help but be impressed by the language used and the ideas expressed in the *Pact*. It seems to acknowledge the cyborgs of the posthuman anthropocene, recognizing the interconnectedness of social, economic and environmental problems, the importance of thinking and acting in a multigenerational frame, and our entangled relationship with technology. Were we not living in such challenging times, the *Pact* might inspire confidence that improvements in global governance are on the horizon. I imagine for a moment that nations might take seriously the words they negotiated and seek to implement them at the international, national and local level.

Reading the *Pact* against a backdrop of daily disaster news, however, it seems prudent to be more sceptical. I am wary of the possible harm of raising false hopes and making false promises; of how pleasing words soothe our anxieties and lull us into complacency; and of how linking economic growth with people and planet greenwashes capitalism, giving it a free pass. This might suggest that the *Pact* is barely disguised diplomatic cynicism to paper over reluctance to give up privilege and advantage. The reiteration ever more plaintively of the 2015 SDG commitments without changing behaviour may indicate a lack of leadership, inclusive representation, and follow-through at the international level. The continual blunting of environmental action by twinning it with economic development may be a red flag indicating that, despite years of international environmental law developments, the state-centred, human-centred international law system still fails to take environmental considerations sufficiently seriously.

### **Introducing artistic speculation**

As a lawyer I can pose the question, what would it be like to renew the *UN Charter* by making the planet and all its living and non-living constituents an active part of it? This is a

hard question for lawyers to answer from the state-centred, human-focused international legal paradigm. It requires a mind shift, to think of nature not as an exploitable commodity but as a being or beings with recognized and enforceable rights.<sup>71</sup> As an artist and performer it is easier to decode and creatively recode and reimagine a planetary charter more suited to our times.

An artistic movement might be helpful to enliven ideas and introduce them into the mainstream of popular culture. Artists can present issues shockingly, humorously, and ambiguously, enticing the audience to ask their own questions and reach their own conclusions. There could be benefit in exposing international law and international policy frameworks like the SDGs and the *Pact* to the scrutiny of children, their teachers and their families to invite bigger conversations about what is important for planetary thriving. Perhaps an aesthetic artistic interpretation of the *Pact* could galvanize people. I imagine the *Pact* becoming the basis of an opera libretto, and bringing the skills of composers, choreographers, directors, dancers, musicians, actors, costume and set designers and artists to contribute to exploring and elucidating the ideas, and silences of the text. In my TILARC practice I react to matters of international law through aesthetics, artmaking and performance, driven by the idea that words may not be sufficient to express all that is at stake in today's global challenges.

### **Diffraction reading**

To gain critical perspective on international law as a phenomenon operating in the world today, it is useful to reflect upon its foundations and functions. I look for critical

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<sup>71</sup> There have been a few recent developments, based on Indigenous and traditional stewardship relations with land and rivers, e.g., the Te Urewera region and the Whanganui River in Aotearoa/New Zealand: Kia Dunn, "Standing for Nature – Giving natural territories the status of a legal person", Ecotrust Canada Blog, April 25, 2024, accessed 26 November 2024, <https://ecotrust.ca/latest/blog/standing-for-nature-giving-natural-territories-the-status-of-a-legal-person/>; Aissa Dearing, "Legal Personhood: Extending Rights to Nature?", Unearthing Justice, JSTOR Daily, July 11, 2024, accessed 26 November 2024, <https://daily.jstor.org/legal-personhood-extending-rights-to-nature/>.

insights about law in both legal texts and readings from the arts and philosophy about new materialism, feminism, anticolonialism, postmodernism and environmentalism. Accustomed to reading legal texts, I struggled with some of these other readings until discovering Barad's inspiring approach to reading. She acknowledged that each reader would take something different from a text and one should read glancingly, diffractively, to see if interesting diffractions emerge.<sup>72</sup> Barad suggested that a methodological diffraction apparatus allows one to study the entanglement of nature, society and science:

[D]iffraction does not fix what is the object and what is the subject in advance, and so, unlike methods of reading one text or set of ideas against another where one set serves as a fixed frame of reference, diffraction involves reading insights through one another in ways that help illuminate differences as they emerge: how different differences get made, what gets excluded, and how those exclusions matter.<sup>73</sup>

Deleuze and Guattari used the term "refrain" with similar intent: "*Glass harmonica*: the refrain is a prism, a crystal of space-time. It acts upon that which surrounds it, sound or light, extracting from it various vibrations, or decompositions, projections, or transformations."<sup>74</sup> I imagined my being, my consciousness, including all my sources of knowing, as a finely tuned instrument of diffraction. Dawney suggested that,

'diffracting' offers us a take on methodology that pays attention to the researcher as composer: as active participant in the making of worlds and objects... [D]iffracting can be understood as a practice that acknowledges its participation in world-making, and which makes visible its own interference and the material effects of this interference.<sup>75</sup>

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<sup>72</sup> Barad, *Meeting the Universe Halfway*, 29: Barad builds on Donna Haraway's 1992 proposal to replace the metaphor of reflection with diffraction: "Donna Haraway proposes diffraction as an alternative to the well-worn metaphor of reflection. As Haraway suggests, diffraction can serve as a useful counterpoint to reflection: both are optical phenomena, but whereas reflection is about mirroring and sameness, diffraction attends to patterns of difference. One of her concerns is the way reflexivity has played itself out as a methodology, especially as it has been taken up and discussed by mainstream scholars in science studies. Haraway notes that '[reflexivity or reflection] invites the illusion of essential, fixed position, while [diffraction] trains us to more subtle vision' (1992). Diffraction entails 'the processing of small but consequential differences,' and 'the processing of differences . . . is about ways of life'..."

See also, "Diffraction as Critical Consciousness" in Thyra Goodeve Nichols, *How like a Leaf an Interview with Thyra Nichols Goodeve*. (New York: Routledge, 1998), 101-108.

<sup>73</sup> Barad, *Meeting the Universe*, 30.

<sup>74</sup> Deleuze and Guattari, *A Thousand Plateaus*, 348.

<sup>75</sup> Leila Dawney, Ch. 6 "Diffracting", in Lury et al., *Routledge Handbook*, 108.

Dee Das counselled reading “against the grain” when reading from the “colonial archive”, to read between the lines and discover information hidden beneath assumptions, distortions and prejudices.<sup>76</sup> These approaches acknowledge the agency of reader-researchers to discover meaning within texts, and even create meaning for themselves.

Barthes added a certain freedom to the reading process by arguing that the author’s intention is not determinative of the meaning of the text.<sup>77</sup> It is both disappointing and liberating to acknowledge,

We know now that a text is not a line of words releasing a single 'theological' meaning (the 'message' of the Author- God) but a multi-dimensional space in which a variety of writings, none, of them original, blend and clash. The text is a tissue of quotations drawn from the innumerable centres of culture.<sup>78</sup>

Barthes wrote, “Once the Author is removed, the claim to decipher a text becomes quite futile.”<sup>79</sup> He contended that “a text's unity lies not in its origin but in its destination”, the reader, and “the birth of the reader must be at the cost of the death of the Author.”<sup>80</sup>

I stitched together this tissue of legal and cultural references to explain and articulate the exasperation with international law that spurs me to artmaking. I adopted the idea of diffractive reading as my working method for reading difficult philosophical texts, allowing me to engage with them fully subjectively, based on my legal knowledge, art making and performance practice, life experience, and resistance to sexism, racism, colonialism and neo-colonial capitalism. This obviated the need to try to “know” what these authors meant and allowed me to glean ideas and inspiration useful to my project. As well as diffractively reading, it was useful to think about intertextuality, i.e., the ways in which past expressions of

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<sup>76</sup> Joanna Dee Das, “Dancing Dahomey at the World’s Fair: Revising the Archive of African Dance,” in *Futures of Dance Studies*. eds. Rebecca Schneider, Janice Ross, and Susan Manning (Madison: University of Wisconsin Press, 2020), 57, <https://muse.jhu.edu/book/71575>, cited in Germaine Ingram and Toni Shapiro-Phim, “Freedom and the archive,” in *Art and Human Rights: A Multidisciplinary Approach to Contemporary Issues*. eds. Fiana Gantheret, Nolwenn Guibert, and Sofia Stolk (Edward Elgar Publishing Limited, 2023), 107.

<sup>77</sup> Roland Barthes, “The Death of the Author”, translation by Stephen Heath, *Image, Music, Text*. London: Fontana Press, 1977, 142-148.

<sup>78</sup> Barthes, “Death of the Author”, 146.

<sup>79</sup> Ibid, 147.

<sup>80</sup> Ibid, 148.

ideas were reiterated, reinterpreted, and commented upon over time.<sup>81</sup> As I sorted through this dense array of readings, the concepts flickered back and forth between authors and disciplinary fields, illuminating real and potential connections between existential crises, artmaking and international law.

### **Questioning language and the language of law**

As a first consideration, the role of language in making law needed to be considered critically. Cixous challenged us: “Now, I-woman am going to blow up the Law: an explosion henceforth possible and ineluctable; let it be done, right now, in language.”<sup>82</sup> She continued:

If woman has always functioned "within" the discourse of man, a signifier that has always referred back to the opposite signifier which annihilates its specific energy and diminishes or stifles its very different sounds, it is time for her to dislocate this "within," to explode it, turn it around, and seize it; to make it hers, containing it, taking it in her own mouth, biting that tongue with her very own teeth to invent for herself language to get inside of.<sup>83</sup>

Derrida enthusiastically explained the power of Cixous’ feminist challenge to language and law:

That this Omnipotence-other deprives us, in the name of literature, of the right or the power to choose between literature and non-literature, between fiction and documentary, is a new state of affairs in the world and in the history of humanity. The consequences and implications are mind-boggling. Not just in the realm of law (for even the genesis of the law is at stake here).<sup>84</sup>

In Derrida’s own autoethnographic writing on monolingualism he described his fraught (pleasurable and painful) relationship with the French language: “I only have one language; it

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<sup>81</sup> Richard Bauman, “Introduction: Genre, Performance, and the Production of Intertextuality.” In Richard Bauman, *A World of Others’ Words: Cross-Cultural Perspectives on Intertextuality* (Malden, MA: Blackwell Pub., 2004) 1–14, 4–5. See also, Gilles Deleuze and Félix Guattari, *What is Philosophy?* (Columbia University Press: New York, 1994), Ch. 1 “What is a Concept”, 19:

[E]very concept relates back to other concepts, not only in its history but in its becoming or its present connections. ... Every concept has components that may, in turn, be grasped as concepts... Concepts, therefore, extend to infinity and, being created, are never created from nothing.

<sup>82</sup> Cixous, “Medusa,” 887.

<sup>83</sup> Ibid; Known as a “French feminist critic and theorist, novelist, and playwright”, Britannica, T. Editors of Encyclopaedia. “Hélène Cixous.” *Encyclopedia Britannica*, June 1, 2024. <https://www.britannica.com/biography/Helene-Cixous>.

<sup>84</sup> Jacques Derrida, *Genesis, Genealogies, Genres and Genius*, trans. Beverley Bie Brahic, (Edinburgh: Edinburgh University Press, 2006), 56.

is not mine”,<sup>85</sup> and noted the “performative contradiction”<sup>86</sup> in declaring this. He identified language and its rules with law, containing “terror, soft, discreet, or glaring”, and accounting for “the determinable possibility of subservience and hegemony”.<sup>87</sup> He wrote cryptically:

Because there is no natural property of language, language gives rise only to appropriative madness, to jealousy without appropriation. Language speaks this jealousy; it is nothing but jealousy unleashed. It takes its revenge at the heart of the law. The law that, moreover, language itself is, apart from also being mad. Mad about itself. Raving mad.<sup>88</sup>

While colonialism illustrated his point, Derrida (self-identifying as a French-speaking Algerian Jew) considered that anyone could make the same declaration: “My language, the only one I hear myself speak and agree to speak, is the language of the other.”<sup>89</sup> Arguing that all culture is originally colonial, Derrida explained, “Every culture institutes itself through the unilateral imposition of some ‘politics’ of language.”<sup>90</sup> He continued: “*First and foremost*, the monolingualism of the other would be that sovereignty, that law originating from elsewhere, certain, but also primarily the very language of the Law. And the Law as Language” (his emphasis).<sup>91</sup> He explained, “It is the monolanguage *of* the other. The *of* signifies not so much property as provenance: language is for the other, coming from the other, *the* coming of the other” (his emphasis);<sup>92</sup> and “The monolingualism of the other certainly has the threatening face and features of colonial hegemony.”<sup>93</sup> For one who felt himself so muted and inhabited by “*distant, heterogenous, uninhabitable, deserted*” (his emphasis)<sup>94</sup> monolingualism, it is no small triumph that Derrida’s neologism

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<sup>85</sup> Jacques Derrida, *Monolingualism of the Other, or, the Prosthesis of Origin*, Cultural Memory in the Present, (Stanford, Calif.: Stanford University Press, 1998), 1-2.

<sup>86</sup> Derrida, *Monolingualism*, 5.

<sup>87</sup> Ibid, 23.

<sup>88</sup> Ibid, 24.

<sup>89</sup> Ibid, 25.

<sup>90</sup> Ibid, 39.

<sup>91</sup> Ibid, 39.

<sup>92</sup> Ibid, 68.

<sup>93</sup> Ibid, 69.

<sup>94</sup> Ibid, 58.

“phallogocentrism”, describing a male-centred point of view expressed in and through language, has become a recognized part of language.<sup>95</sup>

Cixous invited us to invent our own language and enact our own laws. She and Derrida warned us of the overwhelming control language exercises over our thought and expression. Butler further explained the risk in using the oppressor’s political tools of language and law to liberate the oppressed, suggesting it could be self-defeating for women to appeal to and depend upon the existing legal system to achieve emancipation and justice. Building on Foucault’s contention that “juridical systems of power” formed, defined and reproduced “the subjects they subsequently come to represent... in accordance with the requirements of those structures”, Butler wrote:

the juridical formation of language and politics that represents women as “the subject” of feminism is itself a discursive formation and effect of a given version of representational politics. And the feminist subject turns out to be discursively constituted by the very political system that is supposed to facilitate its emancipation. This becomes politically problematic if that system can be shown to produce gendered subjects along a differential axis of domination or to produce subjects who are presumed to be masculine. In such cases, an uncritical appeal to such a system for the emancipation of “women” will be clearly self-defeating.<sup>96</sup>

Butler speculated that the legal category of woman might be entirely fictive; “there may not be a subject who stands ‘before’ the law, awaiting representation in or by the law.”<sup>97</sup> She asked, “Do the exclusionary practices that ground feminist theory in a notion of ‘women’ as subject paradoxically undercut feminist goals to extend its claims to ‘representation’?”<sup>98</sup> and “Is the construction of the category of women as a coherent and stable subject an unwitting regulation and reification of gender relations?”<sup>99</sup> I spent much of my legal career trying to use

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<sup>95</sup> Ibid, 70, Oxford Reference, “phallogocentrism”, accessed 29 November 2024, <https://www.oxfordreference.com/display/10.1093/acref/9780191834837.001.0001/acref-9780191834837-e-292>; Purdue, Phallogocentrism or Phallogocentrism”, accessed 29 November 2024, <https://www.cla.purdue.edu/academic/english/theory/genderandsex/terms/phallogocentrism.html>.

<sup>96</sup> Butler, *Gender Trouble*, 4-5, interpreting diffractively Michel Foucault, “Right of Death and Power over Life,” in *The History of Sexuality, Volume I, An Introduction*, trans. Robert Hurley (New York: Vintage, 1980), originally published as *Histoire de la sexualité I: La volonté de savoir* (Paris: Gallimard, 1978).

<sup>97</sup> Butler, *Gender Trouble*, 5.

<sup>98</sup> Ibid, 8.

<sup>99</sup> Ibid, 8-9.



human rights arguments to control the oppressive tendencies of lawmakers and was encouraged by the impact of the *Canadian Charter of Rights and Freedoms*<sup>100</sup> and international law in reshaping Canadian law. I observe today that women, Indigenous Peoples and People of Colour continue to experience serious discrimination and oppression in Canadian society and ask myself whether I may have deluded myself with the promise of reform through legal language and argumentation.

These remarkable reflections on the hegemonic nature of language and the language of law present some fundamental challenges for using language and legal tools to try to expand international law to make it more representative and inclusive of all genders, all peoples and all living and non-living constituents of nature. While language may be necessary for discussion about decoding and reimagining and encoding international law, it may well be inadequate for renewing a planetary charter for our times and even deter us from imagining alternative world views. Again, this is where the arts may free our imaginations from the pervasive surveillance and self-censorship of language and law.<sup>101</sup>

### **Questioning international law's foundations**

Applying such critical insights to international law, it is readily apparent that the supposed universality of the language of international law has worked to undermine and devalue gender critiques such that they remain largely unaddressed. Charlesworth and Chinkin observed:

The universality of the UN's mandate has been interpreted in ways that work against the recognition of particularities of identity, other than nationality, except as marginal coda... Gender is elided with minority racial membership, indigeneity, disability and other characteristics that deviate from the assumed international norm of personhood –

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<sup>100</sup> *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), c 11.

<sup>101</sup> The way in which language generally and the language of law particularly can limit how we frame ideas and express our experience of the world recalls the all-pervasive social disciplinary function of Jeremy Bentham's panopticon: Michel Foucault, *Discipline and Punish: The Birth of the Prison*, Trans. Alan Sheridan, (New York: Pantheon, 1977), 202-203, 207.

the white man... The UN's political and legal agenda is seriously skewed and lopsided by the institution's domination by men.<sup>102</sup>

Thus, international law declares “the equal rights of men and women”<sup>103</sup> but denies the material embodied condition of women and girls. Meanwhile women lawyers hoping to be taken seriously, have to learn the language and culture of law that was made by and for men. Simpson suggested that law is buttoned up and serious, “austere modernism”<sup>104</sup> and I would add, reflecting a men's club culture specifically meant to exclude women. Simpson explained, “The point ... is to make things less interesting not more interesting; the point is dispassion not passion”.<sup>105</sup> Framed by a self-image from the Enlightenment comprised of a separate body and a mind divided into “a calculating instrument of reason and a chamber of passion”<sup>106</sup> the liberal ideal of an international lawyer is “[t]o be calm, reasoning, sober and position-less”.<sup>107</sup> We learn to write in “deracinated, depersonalised, formally circumscribed, view-from-nowhere prose”<sup>108</sup> on the understanding that “physical and psychological separation” from the subject matter “is what marks the lawful human being”.<sup>109</sup> That objective universal viewpoint is of course that of the white male and those who challenge this supposed objectivity are by virtue of their critique considered unsuited<sup>110</sup> for international law.

International law is largely shaped by states agreeing on principles (declarations), agreeing on rules (treaties) and behaving consistently (customary international law). Judges of domestic and international courts opine on the meaning of law and apply it to factual

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<sup>102</sup> See Charlesworth and Chinkin, *Boundaries*, 194-195.

<sup>103</sup> Found in the preambles of the *UN Charter* and the *UDHR*, and common article 3 of the *ICCPR* and *ICESCR*.

<sup>104</sup> Gerry Simpson, *The Sentimental Life of International Law: Literature, Language, and Longing in World Politics*, (Oxford: Oxford University Press, 2022), Ch. ii, “the sentimental lives of international lawyers” 4 of 62. For a visual/material reflection on my experience of international law, see Appendix I. List of Figure, Fig. 1.

<sup>105</sup> Simpson, *Sentimental Life*, Ch. ii, “the sentimental lives of international lawyers” 6 of 62.

<sup>106</sup> *Ibid*, 6 of 62.

<sup>107</sup> *Ibid*, 7 of 62.

<sup>108</sup> *Ibid*, 8 of 62.

<sup>109</sup> *Ibid*, 8 of 62.

<sup>110</sup> In this context both senses of this word as unfit and not wearing a suit seem apt.

circumstances. International law academics and practitioners develop arguments to explain, critique, defend, reinterpret or reform international law rules. Their arguments may be lost or forgotten in books and law journals or may eventually gain traction if they are adopted by policy makers in national governments or judges in their court rulings.<sup>111</sup>

Toope took a non-idealistic and practical approach to international law suggesting that its strength and hope was in its processes, its continual state of becoming, the way communities of practice form, debate, develop and apply norms to shape behaviour and guide collective action.<sup>112</sup> This suggests international law is always capable of becoming more inclusive and responsive to current global challenges. Indeed, this is what motivates me to undertake this critique of international law despite my awareness that using the master's tools of language generally and the language of international law specifically might well undermine my efforts.<sup>113</sup> I seek to overcome these limitations with diffractive reading and artmaking, to pose questions about the origins of international law and ask, if those origins are tainted, whether that affects international law's legitimacy in framing solutions to today's crises. Deleuze and Guattari suggested that criticism worked by taking a concept to a plane at which some of its components cease to function, altering or dissipating the concept.<sup>114</sup> Diffractive reading and writing about international law helps me to express my opinion or view of reality about these matters, knowing other conceptual planes exist and other diffractions are not only possible but inevitable.<sup>115</sup>

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<sup>111</sup> Books I have written or edited have occasionally been referred to by courts in their judgments. Each time I learn of this it is thrilling, a kind of micro-vindication suggesting my legal career was not entirely without impact.

<sup>112</sup> Toope, *Age of Anxiety*, "Conclusion: That a Beginning be Made", 5-9 of 20.

<sup>113</sup> See Charlesworth and Chinkin, *Boundaries*, 189-200, for a discussion about women's participation and representation in decision- and policy-making in international institutions.

<sup>114</sup> Gilles Deleuze and Félix Guattari, *What is Philosophy?* (Columbia University Press: New York, 1994), Ch. 1 "What is a Concept", 28: "To criticize is only to establish that a concept vanishes when it is thrust into a new milieu, losing some of its components, or acquiring others that transform it. ...[T]hose who criticize without creating ... are the plague of philosophy."

<sup>115</sup> As I write this, a dazzling rainbow of refracted morning sunlight is playing on my computer screen, making me visually aware of Barad's insights about diffraction: that realities can have simultaneous different

## Feminist critique of international law

International law describes an abstract world in which one's material, racialized, gendered, embodied circumstances are considered irrelevant and immaterial. Anyone who is not a white male from Europe or North America may feel like an under- or un-represented outsider in this legal world. A feminist critique might well question how a lawyer can use the language and institutions of international law to overcome gender oppression.<sup>116</sup> A lawyer seeking to expand justice and equality for disadvantaged groups would find herself framed by, entangled with, and obliged to work with the master's tools.<sup>117</sup> For example, Charlesworth<sup>118</sup> and Chinkin explained:

[T]he very nature of international law has made dealing with the structural disadvantages of sex and gender difficult. The realities of women's lives do not fit easily into the concepts and categories of international law... international law is constructed upon particular male assumptions and experiences of life where 'man' is taken to represent the 'human' ... [thus] impinging upon its authority and 'universality'.<sup>119</sup>

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appearances and meanings: light passing through the window frame behind me, now in the computer screen, reflected across the curtains beside me, and the light particles streaming everywhere and anywhere at once.

<sup>116</sup> Hilary Charlesworth and Christine Chinkin. *Boundaries of International Law: A Feminist Analysis*, Melland Schill Studies in international law. Manchester: Manchester University Press, 2000.

<sup>117</sup> See also, Michel Foucault, *The order of things: An archaeology of human sciences*, (London and New York: Routledge, 1989) (Original work published in 1966), 3-18. This book, despite its promising title, said surprisingly little about international law or gender. It was noteworthy that Foucault started the book with a detailed description of a 1656 painting by Diego Velázquez, *Las Meninas* – the Ladies-in-waiting - in which we see the Infanta Margarita surrounded by her attendants and posing as though mimicking her mother Queen Mariana of Austria who, we see reflected in a mirror, is posing with her spouse King Phillip IV of Spain for a portrait by the great master. Foucault described the multiple male lines of sight that encircled and framed the five-year-old Infanta and her entourage layering representations of representations upon each other: the artist at his canvas, the man descending a staircase into the room, the shadowy man behind the nun, the boy with his tiny foot upon the sleeping mastiff, the king out of the image, reflected in the mirror and in the Infanta's pose and sideways look seeking parental approval. Yet Foucault's compelling analysis seemed to overlook that the painting's heart and centre was the Infanta and her lively and diverse coterie. The laws and social ordering conveyed by the painting and its multiple points of view also framed and accentuated this female child's potential as future governor and law maker: she would become Holy Roman Empress. With its title and the multiple impressions of real and potential female rulers with their female attendants, the painting offered a glimpse of the possibility of a future age of woman in power making international law. Diego Velázquez, "Las Meninas, 1656 by Diego Velázquez", accessed 30 November 2024, <https://www.diego-velazquez.org/las-meninas.jsp>.

<sup>118</sup> Hilary Charlesworth is only the 5th woman to serve on the 15-member International Court of Justice established in 1945, an indication of the depth of sexism in international legal institutions.

<sup>119</sup> Charlesworth and Chinkin, *Boundaries*, 17-18.

Charlesworth and Larking suggested that to deconstruct and understand how law works, it was useful to look at it from a perverse perspective. Instead of focusing on what environmental and human rights protections international law provided, “We could begin from the opposite end and examine what international law has to offer to the person who wants to pollute the environment or violate human rights.”<sup>120</sup> In other words, we needed to consider whose interests were being served by law.

Critical and diffractive questioning of the origins of international law is important because of international law’s tendency to reproduce and reinforce itself. Feminist, anticolonial and posthuman critiques are concerned with how law can reproduce and reinforce injustices. Orford argued that international law and international legal practice were inherently contested and polemical in nature, and that there was no “neutral story” of the history of international law to be told because “[t]here is no impartial and agreed account of what ‘international law’ is”.<sup>121</sup>

Orford contended that there could be no impartial accounts of international law’s history to guide today’s interpretation and use of international law. She discouraged the search for formalist definitive meaning based on past texts and encouraged historians and international lawyers to recognize and embrace the creative contested role they play in understanding and shaping international law. She asked what international law historical studies would look like if we acknowledged that

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<sup>120</sup> Hilary Charlesworth and Emma Larking, “International Law: A Discipline of Crisis,” *The Modern Law Review* 65, no. 3 (2002): 377–392.

<sup>121</sup> Anne Orford, *International Law and the Politics of History*. Cambridge, United Kingdom: Cambridge University Press, 2021. <https://doi.org/10.1017/9781108691765>, Ch. 6.1 “How Historians Make Law Too”, 5-6 of 78, citing Karl N. Llewellyn, “The Normative, the Legal, and the Law-Jobs: The Problem of Juristic Method” (1940) 49 *Yale Law Journal* 1355, at 1358, 1359: “...any study that is presented as a history of international law, or of a subfield... involves an account of what ‘international law’ ... is. The question that arises prior to the writing of such a history is: what is the history of international law a history of? International lawyers fiercely debate what ‘international law’... actual ‘is’. As the realist Karl Llewellyn argued, ‘if Law and all the relevant vocabulary were not a fighting matter as well as a confused one, it would be possible to make one’s own definitions, stick to them, and still hope for understanding. But it is a fighting matter.’” Because of the challenge accurately to pinpoint references in Kobo ebooks, where pages change to fit the screen, these citations include chapter and section references as well as notional page references.

... we assemble relations and construct patterns with past material rather than finding them, and in so doing our work is openly partisan rather than above the battle?... what might be possible if we took responsibility for our own creativity and generativity in making the law and its history...<sup>122</sup>

Orford concluded,

Once we accept that “our concepts are not simply describing the world but are actually “constitutive” of what we see”, we are left with the task of constructing an argument and committing to the premises underpinning it ... the question is not which method is objective, impartial, or correct but which method is useful. Which (partisan and political) vision of the history of international law best helps us to grasp the current moment and why?<sup>123</sup>

Orford’s compelling argument about the contested nature of legal discourse, liberated me to piece together a critical and creative narrative of international law’s origins and history drawing on critical anticolonialism, feminism and posthumanism. The critical narrative is intended to break away from conventional thinking about international law in global affairs, interrogate and possibly destabilize international law’s legitimacy, and stimulate a creative reimagining of international law better suited for current crises.

Thus, the cosmopolitan tradition, which is foundational to international law, deserves critical assessment. Nussbaum considered it to be both noble and deeply flawed, and thus ill-suited to address today’s global crises.<sup>124</sup> She defined Cynic/Stoic cosmopolitanism as a “moral ideal ... of equal human dignity”<sup>125</sup> that urged “us to recognize the equal and unconditional, worth of all human beings, a worth grounded in moral choice-capacity ... rather than on traits that depend on fortuitous natural or social arrangements.”<sup>126</sup> Nussbaum wrote, “Cosmopolitan politics impose stringent duties of respect, including an end to aggressive war, support for people who have been unjustly attacked and a ban on crimes

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<sup>122</sup> Orford, *International Law and the Politics of History*, Ch. 7.3.2 “Politics all the Way Down”, 51 of 86.

<sup>123</sup> Ibid, Ch. 7.3.2 “Politics all the Way Down”, 52-53 of 86.

<sup>124</sup> Martha C. Nussbaum, *Cosmopolitan tradition: a noble but flawed ideal* (Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 2019). Because of the challenge accurately to pinpoint references in Kobo ebooks, where pages change to fit the screen, these citations include chapter and, where available, section references as well as notional page references.

<sup>125</sup> Nussbaum, *Cosmopolitan tradition*, Ch.1, “World Citizens”, 4 of 28.

<sup>126</sup> Ibid, 2 of 28.

against humanity ... [b]ut ... no duties of material aid”.<sup>127</sup> She found that the “Stoics’ false dichotomy”<sup>128</sup> of justice and materiality had pervaded the Western history of ideas and development of international law, reproducing itself in unproductive institutional and legal conflicts, such as the stoic differentiation of “first”- and “second”-generation human rights, that is, the idea that the right to be free of constraint is more important than the right to be provided with the means of survival.<sup>129</sup> Her analysis suggested that the tradition of stoic cosmopolitanism was based on toxic masculine ideals of self-sufficiency.<sup>130</sup> Nussbaum suggested that the citizen of the world in whose image international law had been constructed was a Western, white male stoic, leaving many humans and other living beings unrepresented and unprotected. Acknowledging Amartya Sen’s influential work,<sup>131</sup> Nussbaum proposed adopting a “capabilities approach” to reform cosmopolitanism in line with updated, universal, and flexible moral principles requiring states to meet “a minimum threshold level... to have any claim to justice”.<sup>132</sup> Her materialistic conception of cosmopolitanism would extend duties of justice and material aid to nonhuman animals and the world of nature.

Nussbaum left me to ponder whether states adopting, and citizens enjoying, a capabilities approach would be more willing and able to contribute to creating a peaceful, sustainable, and generous international order. Nussbaum revealed the gendered anthropocentric nature of the cosmopolitan tradition.<sup>133</sup> Her proposal to reform

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<sup>127</sup> Ibid, 7 of 28.

<sup>128</sup> Ibid, Ch.2, “Duties of Justice, Duties of Material Aid: Cicero’s Problematic Legacy”, 41 of 54. See also, Ch.3, “The Worth of Human Dignity: Two Tensions in Stoic Cosmopolitanism”.

<sup>129</sup> Ibid, Ch.2, “Duties of Justice, Duties of Material Aid: Cicero’s Problematic Legacy”, 1-4 of 54. See also, Ch.6, “The Tradition and Today’s World: Five Problems”, United Nations (General Assembly). 1966.

“International Covenant on Civil and Political Rights.” Treaty Series 999 (December): 171; and United Nations (General Assembly). 1966. “International Covenant on Economic, Social, and Cultural Rights.” Treaty Series 999 (December): 171.

<sup>130</sup> Nussbaum, *Cosmopolitan tradition*, Ch.5, “Mutilated and Deformed: Adam Smith on the Material Basis of Human Capabilities”, 60-74 of 74.

<sup>131</sup> Stanford Encyclopedia of Philosophy, “The Capability Approach,” first published 14 Apr 2011; substantive revision 10 Dec 10 2020, accessed 5 December 2024. <https://plato.stanford.edu/entries/capability-approach/>

<sup>132</sup> Nussbaum, *Cosmopolitan tradition*, Ch.7, “From Cosmopolitanism to the Capabilities Approach”, 6 of 20.

<sup>133</sup> Ibid, Ch.2, “Duties of Justice, Duties of Material Aid: Cicero’s Problematic Legacy”, 22 of 54.

cosmopolitanism by incorporating a duty of material aid allowed us to reimagine a more communal idea of international law that would recognize that many humans and other beings of this planet were vulnerable and needed help from those around them to protect and nurture them. I can readily incorporate these ideas into my artmaking, but it is less obvious how a different philosophical lens can be infused into the whole of body of existing international law and its institutions. Perhaps this could occur if the ideas were taken up and propagated by artists, civil society organizations and the general public. They might then be absorbed and appropriated by politicians, lawyers, and judges, thus becoming part of general thought, language and opinion.

### **Anticolonial critique of international law**

Besides questioning international law's classical origins in cosmopolitanism, it is useful to consider its foundations in negotiations and power politics between European monarchs and Roman Catholic popes to understand the important influence of religion and imperialism in shaping international law. International law began as a justification for Christian imperial conquest of most of the world. Fifteenth century papal decrees authorized European Christian kingdoms to seize lands and subjugate people who were not Christians.<sup>134</sup> Under the doctrine of discovery, foreign lands occupied by non-Christians were considered *terra nullius*, meaning land belonging to no one. Within decades Christian theologian Francisco de Vitoria, advisor to Charles V, Holy Roman Emperor and King of Spain, refuted these religious underpinnings for conquest, proposing instead the "natural law" notion of freedom of entry,

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<sup>134</sup> Oliver Corten and Pierre Klein, with drawings by Gérard Bedoret, *Une Histoire Du Droit International: De Salamanque À Guantanamo* (Luçon: Futuropolis, 2022), provide a fresh, anticolonial perspective on the history of international law. Three papal bulls created the infamous doctrine of discovery: Pope Nicholas V's *Dum diversas* (1452) and *Romanus Pontifex* (1455); and Pope Alexander VI's *Inter caetera* (1493): United Nations Special Rapporteur to the Permanent Forum on Indigenous Issues, *Preliminary study of the impact on indigenous peoples of the international legal construct known as the Doctrine of Discovery*, Ninth session, New York, 19-30 April 2010, E/C.19/2010/13, accessed 1 January 2025, <https://aila.ngo/wp-content/uploads/2010/09/DOD5.pdf>, 6-8. Scholars note: Bill Chappell, "The Vatican repudiates 'Doctrine of Discovery,' which was used to justify colonialism," *NPR*, March 30, 2023, accessed 1 January 2025, <https://www.npr.org/2023/03/30/1167056438/vatican-doctrine-of-discovery-colonialism-indigenous>, citing Rev. David McCallum.



sojourn, and commerce as justification for subjugating and enslaving unwelcoming, uncooperative native peoples, taking over their land and appropriating their resources.<sup>135</sup> Even as papal authority declined, the European monarchs were able to rely on both justifications as the law of Christian nations (international law) authorizing rapacious colonization and slavery of non-Christian peoples. Bootstrapped by royal charters, the doctrine of discovery became the jurisprudential foundation for colonial dominion and land ownership systems confiscating Indigenous Peoples' lands and sovereignty around the world.<sup>136</sup> Van Ittersum has suggested that Grotius, who for over a century has been lionized as the father of modern international law, might more appropriately be remembered as "the godfather of Dutch imperialism"<sup>137</sup> for "his hands-on involvement in Western imperialism and colonialism".<sup>138</sup> Van Ittersum wrote, "All through his life and career, Dutch imperialism and colonialism remained a cause close to his heart"<sup>139</sup> such that

... his natural rights and natural law theories were conceived for the sole purpose of justifying Dutch expansion overseas. We can now fit Grotius into the recent critique of modern international law as an ideology that at best ignored, or at worst fully supported, the dirty business of Western imperialism and colonialism.<sup>140</sup>

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<sup>135</sup> Charles H. McKenna, "Francisco de Vitoria: Father of International Law." *Studies: An Irish Quarterly Review* 21, no. 84 (1932), 635-648. While Vitoria's views on the status of Indigenous peoples were somewhat advanced for his time they nevertheless provided justification for colonization (643): "After examining all the titles advanced by the Spaniards for their jurisdiction over the Indians, he concluded that "the aborigines undoubtedly had true dominion in both public and private matters, just like Christians, and that neither their princes nor private persons could be despoiled of their property on the ground of their not being true owners." Vitoria enunciated an early definition of international law (643): "What natural reason has established among all nations is called the law of nations," and claimed this gave Spaniards a right, "provided no harm was done, ... to visit and settle in the land of the Barbarians and also lawfully to trade with them".

<sup>136</sup> UN Special Rapporteur, *Preliminary study of Doctrine of Discovery*, 10-13.

<sup>137</sup> Martine Julia van Ittersum, Anne Orford, and Florian Hoffmann. "Part I Histories, Ch.4 Hugo Grotius: The Making of a Founding Father of International Law." In *The Oxford Handbook of the Theory of International Law*, 2016, 99.

<sup>138</sup> van Ittersum, Ch.4 "Hugo Grotius", 84, the author asserts that the "Grotian Delusion" was "based on a highly selective reading of *De Jure Belli ac Pacis* and completely ignores the larger historical context of Grotius' work" (84). van Ittersum describes how at the time of the he 1899 Hague Peace Conference Americans constructed a national identity aligned with Dutch rather than British history and promoted Grotius as the founder of modern international law in an elaborate wreath laying ceremony at Grotius' tomb in Delft (88-93). The Dutch also embraced this reframing of history "paid homage to Grotius as a symbol of the country's civilizing mission ever since", 95.

<sup>139</sup> Ibid, 99.

<sup>140</sup> Ibid, 100.

The foundational writings of Vitoria and Grotius were from the European age of exploration and reflected the values of their times regarding race, religion, and conquest. Universalizing the European tradition as the foundation of international law presents many outsiders (Africans, Indigenous Peoples, women, Indians, Chinese etc.) with a sense of injustice and continuing colonization. For those of us living as settlers and immigrants in the land called Canada, these insights expose foundational, constitutional illegitimacy and leave us with a daunting task of reconciliation with First Nations, Inuit and Metis. A collaborative project of discussing and making art about international law's role in the dispossession of Indigenous peoples might contribute to raising awareness and understanding about Canada's flawed legal foundations.<sup>141</sup>

Anghie<sup>142</sup> traced the evolution of, and legal justification for, colonialism/imperialism from the time of Vitoria, through the nineteenth century, the Mandate system of the League of Nations, post Second World War decolonization, the international financial institutions' good governance and human rights agenda, to the global war on terrorism. He demonstrated how colonialism/imperialism metamorphosized at each stage to underpin the new regime of economic, political, and social control and subjugation. He suggested that the sovereignty realized through self-determination of previously colonized peoples was highly constrained and was most effective as a tool for arguing the new state had already bound itself to the Western imperial economic order. In Anghie's anticolonial retelling of history, each period reconstructed and reinforced the "dynamic of difference" between "civilized" Western European states and the "uncivilized" rest of the world.<sup>143</sup> European imperialists and colonizers used Vitoria's "natural law" notion of freedom of entry and commerce to take over foreign lands, subjugate native peoples and appropriate resources. They made cursory treaties

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<sup>141</sup> An example of experiential teaching about dispossession of Indigenous peoples by non-Indigenous peoples is The KAIROS Blanket Exercise, accessed 1 January 2025, <https://www.kairosblanketexercise.org/>.

<sup>142</sup> Anghie, *Imperialism, Sovereignty*.

<sup>143</sup> Ibid., 4 *et seq.*

with Indigenous Peoples to stake their claims of sovereignty as against other European colonial competitors, thereby contradicting their simultaneous assertions that the land was *terra nullius* and Indigenous peoples possessed no sovereignty to cede.<sup>144</sup> Western colonial powers subsequently adapted and updated universalized international legal constructs to the changing circumstances of the mandate system, decolonization movement and development agenda to ensure their continued access to and control of exploitable resources in the former colonies. This Third World Approaches to International Law (TWAIL)<sup>145</sup> critique of international law provokes the question, what international law might be if founded on a more equal footing of respect, identity, trust, and consent.

Over the centuries this legalized “framework of dominance” of land, natural resources, and Indigenous Peoples<sup>146</sup> gained global reach. It transformed into the industrial revolution which commenced the human-induced warming of the planet. Barad wrote and talked about how nuclear bombs were tested and exploded on lands and waters of Indigenous Peoples, adding to their dispossession and dislocation. She saw a tight connection between the policy of Mutually Assured Destruction that hangs over this earth, because of a handful of nuclear-armed states, and enduring colonialism.<sup>147</sup> Defined by the presence in recent rock sediment “of plutonium fallout from nuclear experimentation, materials like plastic, fuel ash particles, and carbon dioxide”, the anthropocene, a new geological age marked by human activity, is emerging.<sup>148</sup>

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<sup>144</sup> Tanya Aalberts, Chapter 33. “Sovereign Marks.” In Jessie Hohmann and Daniel Joyce, eds. *International Law's Objects* (First ed. Oxford: Oxford University Press, 2019).

<sup>145</sup> TWAIL is the acronym for an intellectual movement to critique and decolonize international law: <https://twailr.com>.

<sup>146</sup> UN Special Rapporteur, *Preliminary study of Doctrine of Discovery*, 9-10.

<sup>147</sup> Karan Barad, “Troubling time/s, undoing the future”, Faculty of Arts, Aarhus University, 2 June 2016, accessed 30 November 2024, [https://www.youtube.com/watch?v=dBnOJioYNHU&ab\\_channel=FacultyofArts%2CAarhusUniversitet](https://www.youtube.com/watch?v=dBnOJioYNHU&ab_channel=FacultyofArts%2CAarhusUniversitet). Karan Barad, “After the end of the world: Entangled nuclear colonialisms, matters of force, and the material force of justice,” *Theory & event* 22, no. 3 (2019): 524–550.

<sup>148</sup> Michael Irving, “Are we living in the Anthropocene epoch? Scientific body says “yes””, 31 August 2016, *New Atlas*, <https://newatlas.com/anthropocene/45151/>, accessed 25 November 2024; J. Lokrantz/Azote based on Steffen et al., “Planetary Boundaries research”, *Stockholm Resilience Centre*, 2015, accessed 25 November

Grear argued that the “Anthropocene (and its climate crisis) represents a crisis of human hierarchy,” and she discerned “dense continuities ... between the Anthropocene... and the patterned imposition of hierarchies operative within the ‘anthropocentrism’ of law.”<sup>149</sup> She discussed how the term “anthropocene” tended to universalize the blame on all of humanity for colonial, industrial and capitalist projects launched and prosecuted by European and American elites.<sup>150</sup> She traced the roots of this “death of nature” worldview to Descartes’ bifurcation of mind and body and Bacon’s scientific method.<sup>151</sup>

### **Anticapitalist critique of international law**

Grear noted that “convergences in critical accounts of the genesis of the Anthropocene and of the foundations of the international legal order richly imply that both phenomena exhibit corresponding structural characteristics”.<sup>152</sup> She reviewed the hierarchies of “feminized others”, based on gender, race, indigeneity, constructed in line with the Cartesian world view, and, like Simpson,<sup>153</sup> observed how law enacted disembodied legal personhood: “liberal legal subjectivity centres round a disembodied juridical subject ... whose structure simultaneously delivers a juridical objectification of the ‘natural world’”.<sup>154</sup>

Observing the role corporations played historically and today in advancing the project of global dominance, Grear asserted,

[L]aw—including international law—systemically privileges the corporation as an idiosyncratic juridical form possessing disembodied characteristics that no corporeally specific human (or animal) body ultimately can possess. Law’s dominant construction of legal personhood—and law in general, including international environmental law—

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2024, <https://www.stockholmresilience.org/research/planetary-boundaries.html>; Linn Persson, Bethanie M. Carney Almroth et al., “Outside the Safe Operating Space of the Planetary Boundary for Novel Entities,” 18 January 2022, *Environmental Science & Technology*, Vol. 56, Issue 3, accessed 25 November 2024, <https://pubs.acs.org/doi/10.1021/acs.est.1c04158>.

<sup>149</sup> Grear, “Deconstructing Anthropos,” 227.

<sup>150</sup> Ibid, 227-229. For an interesting infographic on colonial impacts on GHG emissions see, CarbonBrief, “Revealed: How colonial rule radically shifts historical responsibility for climate change,” 26 November 2023, accessed 25 November 2024, <https://www.carbonbrief.org/revealed-how-colonial-rule-radically-shifts-historical-responsibility-for-climate-change/>.

<sup>151</sup> Grear, “Deconstructing Anthropos,” 234.

<sup>152</sup> Ibid, 230.

<sup>153</sup> Simpson, *Sentimental Life*, Ch. ii, “the sentimental lives of international lawyers” 8 of 62.

<sup>154</sup> Grear, “Deconstructing Anthropos,” 235, 236.

are thus unresponsive—at a fundamental level—to the ethical implications of the vulnerable embodied bio-materiality of the living order.<sup>155</sup>

Rejecting the fiction that Anthropos represented all humanity, she argued that the transnational corporation best represented, and most enjoyed the benefits of international law's disembodied notion of the proper legal subject. Like Charlesworth and Larking, Gear asked us to consider who was “we” in the anthropocene and whether international law protected “us”.<sup>156</sup> I share this concern that there are structural features of international law that favour the multinational corporation and ignore and fail to represent the vast majority of humanity and all of the rest of the living and non-living constituents of this planet.

Law is not the only discipline that has been subjected to an anticolonial and feminist critique. Rose, writing as a feminist geographer, explained how difficult it was even to find the language for challenging the discipline of geography.<sup>157</sup> Afterall, as Said stated, “Geography was essentially the material underpinning for knowledge about the Orient” serving to “dignify simple conquest with an idea, to turn the appetite for more geographical space into a theory about the special relationship between geography on the one hand and civilized or uncivilized peoples on the other.”<sup>158</sup> Nevertheless, Rose cracked open the endless dualisms of nature/culture, woman/man and the mother nature trope, to expose the gendered nature of geography, and how these ingrained metaphors carried forward into manly grand enterprises of rapacious appropriation, exploitation and destruction of land.<sup>159</sup> Rose's exposure of how geography's language, methods and techniques dominated our sense of place is of great importance in undermining the “doctrine of discovery” and reimagining its

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<sup>155</sup> Ibid, 241.

<sup>156</sup> Ibid, 244, 246.

<sup>157</sup> Rose, *Feminism & Geography*, 15: “Like Jane Miller [Seductions, Studies in Reading and Culture (Virago, London, 1990) pp. 1, 3], I have to say that ‘I was, and still am, seduced by men's systematic and exhaustive claims on our meanings and our realities through their occupation of everything which is thought of not as male, but simple as human’, Like Snitow and de Lauretis, Miller argues that this seduction is unavoidable: “women can no more escape being adulterated than they can escape being adulteresses’.”

<sup>158</sup> Said, *Orientalism*, 216.

<sup>159</sup> Rose, *Feminism & Geography*, 62-112.

utter impossibility. The maps, compasses and related tools and methods of navigators and surveyors could be seen as “objects of international law”, providing a visual trick to assert territorial boundaries and appropriate and incorporate unfamiliar lands and waters into European empires. Thus, these objects serve to underpin international law concepts such as sovereignty, jurisdiction, and extraterritoriality.<sup>160</sup> Derrida recalled how geography was taught to Algerian children: not a word on Algeria’s history or geography, but “[we] could draw the coast of Brittany and Gironde estuary with our eyes closed.”<sup>161</sup> For an alternative, more inspiring view of place, consider Black’s description of how the Indigenous “Law of Relationship creates a body of law which, in Australia’s case, ‘vibrates in song’ and is ‘woven across’ *Corpus Australis*. This is expressed in the concept of song-lines, or Dreaming Tracks, that criss-cross the body of the continent.”<sup>162</sup>

These critical writings expose the masculinist, stoic, and colonial nature of international law, how geography served to record and reify conquest, and how both disciplines appear to be blind to the circumstances of most of humanity including all women, and all other living and non-living constituents of the planet. They also suggest the need to reimagine these disciplines so as to consider the material conditions of all people, and all other living and non-living entities, and to embrace a more inclusive and ample sense of who are their stakeholders. I take these renewed ideas into my artmaking and performance about international law.

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<sup>160</sup> Kate Miles, ch.15. *Insulae Moluccae: Map of the Spice Islands 1594, 703-736*, in Jessie Hohmann and Daniel Joyce, eds., *International Law's Objects* First edition. (Oxford: Oxford University Press, 2019).

<sup>161</sup> Jacques Derrida, *Monolingualism of the Other, or, the Prosthesis of Origin*, Cultural Memory in the Present, (Stanford, Calif.: Stanford University Press, 1998), 44. I have a similar tactile memory from early schooling in England, where we shaped the seven hills of Rome from plasticene. Visiting the city as an adult, I felt I knew its bones. The English education system thus sought to convey the idea that the British Empire was the inheritor of the Roman Empire.

<sup>162</sup> Christine F. Black, *The Land Is the Source of the Law: A Dialogic Encounter with Indigenous Jurisprudence* (London: Routledge, 2011), 15; cited in Daniel R. Quiroga-Villamarín, “Domains of objects, rituals of truth: Mapping intersections between international legal history and the new materialisms,” *International Politics Reviews* 8, (2020): 129–151, <https://doi.org/10.1057/s41312-020-00083-w>. Quiroga-Villamarín notes: “Black centers indigenous legal theory not on the western subject or the state, but rather on the very materiality of ‘country’: the land, rivers and stories that underpin all indigenous legal activity.”

The next chapter continues the literature review underpinning my TILARC practice, moving from a direct critique of international law's foundations into the philosophical and cultural critique relevant to international law. Chapter 2 considers how aesthetics might provide a way to rethink international law in terms of core principles of justice and to introduce art as a vital companion to law. It examines how object-oriented thinking about international law exposes the materiality of international law. Philosophical and cultural scholars elucidate the existential circumstances of the posthuman, cyborg anthropocene, suggesting the power of art to resist oppression and transform international law.

## **Chapter 2. Literature review – Cultural and philosophical critique of international law**

Chapter 2 is the second part of my literature review, moving from a direct critique of international law's foundations into a philosophical and cultural critique. Both chapters 1 and 2 underpin my decoding of international law and lay the foundations for my encoding process of reimagining international law through art and performance. This chapter begins with consideration of aesthetics as providing a way to rethink international law in terms of core principles of justice and introduce art as a vital companion to law, capable of expressing profound ideas, connections and feelings that are understated in the stoic language of international law. Next, I refer to recent experimentation with applying object-oriented thinking to international law analysis, and thereby exposing the interconnection between abstract legal concepts and objects in the real world, and international law's undeniable material impact on the planet. I then review scholarly writings that explain the posthuman, cyborg anthropocene, beginning with the idea of being cyborg, then exploring the connections between new materialism and posthumanism. The chapter ends with an examination of Deleuze and Guattari's question about why people accept servitude<sup>163</sup> and consideration of how art and performance could be a war machine against oppression, drawing new lines of creative flight.

### **Aesthetics and international law**

European legal and philosophical traditions tend to depersonalize and universalize, leaving outsiders who do not identify as European white male obscured by laws' indifference to their circumstances. A return and rethinking of aesthetics to connect law with deeply held human values may offer potential for lawyers to reframe and reform international law and for artists to use art and performance to reach beyond legal language and processes to reimagine

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<sup>163</sup> Deleuze and Guattari, *A Thousand Plateaus*, 376.



international law. The following section considers aesthetics and international law in relation to environmental protection and in relation to human rights, peace and security.

### **Aesthetics and environmental protection**

Richardson wrote about the connection between art, aesthetics and environmental law.<sup>164</sup>

Both for representing the natural world and enabling novel practical engagement with it, the arts can open human imagination across the enlarging temporal and spatial dimensions of the Anthropocene.

... sensory appreciation of the natural world, including as mediated by the arts, matters because of its capacity to shape the ethical and political imagination of the society and thereby the progressive development of environmental law. A richer and more critical sensory awareness of nature's beauty or disfigurement can stimulate deeper ethical and political deliberation about humankind's place in nature, our environmental impact, the interests of non-human life and other dimensions that underpin environmental laws and policies.<sup>165</sup>

After outlining the difficulty of human comprehension of large scale and long duration environmental upheaval caused by climate change, Richardson argued that the arts can connect people to their feelings and engender solidarity for legal reform, and while "Artists do not generally create solutions to climate change, ... their work can provoke deeper reflection about the problems and thereby hopefully inspire action."<sup>166</sup>

He suggested "As a catalyst for the cultural transformation that we need in order to create stronger laws to protect the global climate, the arts can help convey and interpret the gravity of climate change and enliven scientific information in more engaging and interesting ways for public discourse."<sup>167</sup> Richardson proposed, "Our environmental aesthetics need renewal so we can better sense and respond to the upheavals of the Anthropocene... [beginning] by understanding 'aesthetics' in its broadest and original meaning, as relating to

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<sup>164</sup> Richardson, *The Art of Environmental Law*.

<sup>165</sup> Ibid, 9.

<sup>166</sup> Ibid, 248, and 249 citing J. Gergis and P. Whatton, 'Can Art Put Us in Touch with Our Feelings About Climate Change?' *The Conversation* 4 May 2017, <http://theconversation.com>.

<sup>167</sup> Richardson, *The Art of Environmental Law*, 271.

sensory perception rather than just artistic quality or beauty.”<sup>168</sup> He exhorted us to “open our senses to the aesthetic deprivation of the Anthropocene, be it plastic pollution or animal extinctions.”<sup>169</sup> Richardson argued economic and scientific methods alone were insufficient to solve the environmental problems of the Anthropocene: “We must also value the aesthetic realm, including the arts, in our emotional and ethical engagement with nature.”<sup>170</sup> He concluded, “Of course, art cannot save the world’s environment or ourselves, but it can help humanity to see itself embedded in a broader community with nature, and it can challenge the consumer culture and the accompanying institutions and ideologies.”<sup>171</sup> Much of my art deals with environmental themes and I use my assemblages and paintings to provoke questions about our entangled relations with nature, our complicity in contributing to the anthropocene, and our agency to contribute to positive change. By creating humanoid faces and figures out of birchbark, paper and plastic waste, and entangling human forms with verdant nature I beckon viewers to identify with the depicted beings, feel both their predicament and their power, and become environmental warriors themselves.

### **Aesthetics and human rights, peace and security**

I explore international human rights, peace and security as well as environmental issues through my artmaking. Aesthetics is also relevant to how international law addresses the goal of protecting human rights and establishing and maintaining global peace. O’Connell<sup>172</sup> proposed to draw on the arts and aesthetic philosophy to motivate “efforts to improve the effectiveness of international law” to respond to “major violence, environmental decline, human rights abuse, and economic deprivation.” She contrasted the views of Hugo Grotius

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<sup>168</sup> Ibid, 275.

<sup>169</sup> Ibid, 276.

<sup>170</sup> Ibid, 318, 319.

<sup>171</sup> Ibid, 320.

<sup>172</sup> O’Connell, *The Art of Law*, Introduction, 1 of 32. Because of the challenge accurately to pinpoint references in Kobo ebooks, where pages change to fit the screen, these citations include chapter and section references as well as notional page references.

and Thomas Hobbes as defining two opposing conceptions of international law, with Grotius viewing human beings as “social, other-oriented, and thus willing and able to make the sacrifices of self-interest needed to live in peaceful community under law”,<sup>173</sup> and Hobbes seeing “human beings as unable to act other than in self-interest unless coerced... [such that] “law is impossible at the international level, beyond a national government’s coercive reach”.<sup>174</sup> This dichotomy had carried forward into the twentieth century as the difference between Lauterpacht’s natural law envisioning “rule of law over the will of sovereign states”<sup>175</sup> and Morgenthau’s legal positivism, which like realist political theory,<sup>176</sup> held “that the only actual fetter on state action is coercive power, especially an opponent’s superior military strength”.<sup>177</sup> While legal “[p]ositivism requires material proof of state acceptance, whether express or tacit... [, i]t lacks a normative hierarchy or moral basis for law beyond consent”.<sup>178</sup> Legal positivism leads to a cynical, transactional view of international law, such that states are inclined to assert the right to withdraw from any treaty or reject any principle of international law that is inconvenient for their national policy aims. O’Connell contrasted this with natural law theory which considered that “some norms remain binding with or without consent” such as concepts of universality and equality.<sup>179</sup>

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<sup>173</sup> Ibid, Introduction, 2 of 32.

<sup>174</sup> Ibid, 3 of 32.

<sup>175</sup> Ibid, 4 of 32.

<sup>176</sup> Realism refers to a set of related theories of international relations that emphasizes the role of the state, national interest, and power in world politics: “Realism (including neorealism) focuses on abiding patterns of interaction in an international system lacking a centralized political authority. That condition of anarchy means that the logic of international politics often differs from that of domestic politics, which is regulated by a sovereign power.” Duncan Bell, “Realism”, *Britannica*, (30 October 2024), accessed 26 November 2024, <https://www.britannica.com/topic/realism-political-and-social-science>.

<sup>177</sup> O’Connell, *The Art of Law*, Introduction, 4 of 32.

<sup>178</sup> Ibid, 6 of 32.

<sup>179</sup> Ibid, 5 of 32. See also, McKenna, “Francisco de Vitoria”, 642-643:

“Vitoria admitted that legal questions should be treated according to the principles of law; but law must be moral, at least it should not be unmoral. Consequently, theologians trained in the philosophy of law should be jurists, who dealt, for the most part, with texts without considering the spirit or the right or wrong involved. In his opinion neither was complete without the other...”

McKenna describes Vitoria’s natural law theory (645):

“The only just cause admitted for commencing war is “a wrong received”. Diversity of religion, extension of empire, as well as personal glory to the prince are not legitimate causes for waging war. After war has broken out it is not lawful to kill the innocent...”

To reach beyond the limitation of cold positivism and overcome the suspicion of natural law's Christian roots, O'Connell turned to aesthetic philosophy and the arts to find "a source of knowledge that is universally shared".<sup>180</sup> She explained,

Aesthetics explores ethical questions in a way independent of material, positive evidence. Aesthetics draws on knowledge gained through reason applied to the universal reaction of pleasure in the beautiful, perceived through the senses. It is a transcendent source that aesthetic philosophers observe demonstrates the deep human appreciation for harmony as well as the human capacity to live in community, to be moved to action wholly on behalf of others, regardless of self-interest".<sup>181</sup>

She used this rich source of values to support her claim that the international community has established peremptory norms, i.e., fundamental principles that must be obeyed, even if inconvenient or opposed to self-interest. She distilled these to first, the fundamental prohibition on use of force, expressed as the very core of the *UN Charter*,<sup>182</sup> and the overwhelming preference in the *Charter* for peaceful settlement of disputes.<sup>183</sup> She noted

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Even after the justice of a war has been determined, care, must be taken 'that greater evils do not arise out of the war than the war would avert'."

<sup>180</sup> O'Connell, *The Art of Law*, Introduction, 7 of 32.

<sup>181</sup> Ibid, Introduction, 7 of 32; Beauty and the Good of Others, 29 et seq. of 90. At 45-50 of 90 it is noteworthy how she contrasts the beautiful (linking the beautiful and the good, law and harmony) and the sublime (linking power, terror, awe, and fascism). See also Marine Aksenova, "Conclusion: Universality, dignity, and the five great elements," in *Art and Human Rights: A Multidisciplinary Approach to Contemporary Issues*, edited by Fiana Gantheret, Nolwenn Guibert, and Sofia Stolk, (Edward Elgar Publishing Limited: 2023), 350-351.

<sup>182</sup> United Nations, *Charter of the United Nations*, 1945, 1 UNTS XVI, available at: <https://www.un.org/en/about-us/un-charter/full-text> [accessed 11 June 2024]. Chapter I: Purposes and Principles Article 1. The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Article 2(4): All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

<sup>183</sup> United Nations, *Charter*, Chapter VI: Pacific Settlement of Disputes and Chapter XIV: The International Court of Justice. Article 33 of the *Charter* provides:

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

only two exceptions to the prohibition on the use of force: 1. when the UN Security Council authorized use of force to restore international peace and security,<sup>184</sup> and 2. self-defence in collective or individual response to an armed attack.<sup>185</sup> She noted, “The International Court of Justice (ICJ) has found that despite the lack of express provision in the *Charter*, the principles of necessity, proportionality, and other general principles apply to restrict resort to force.”<sup>186</sup> She argued that while these principles are expressed in the positive law of the *Charter*, their fundamentally binding nature was even deeper, drawn from and grounded in natural law and its substitutes (aesthetic philosophy).<sup>187</sup> O’Connell referred to Hannah Arendt and Iris Murdoch as two philosophers who “find proof of selflessness, counter-arguments to the philosophy of self-interest in the writing of Immanuel Kant”, particularly the disinterested selfless pleasure experienced when contemplating the beautiful (e.g. seeing or imagining a sunset).<sup>188</sup> She wrote,

The beautiful and the pleasure experienced are intrinsically connected with the sense that others will in fact share the judgment. Judging something beautiful is an internal dialogue with others in the mind. This dialogue or communication requires the ability to stand in the shoes of another, to have the enlarged mentality to think not only about our own view but those of others. It is a cosmopolitan perspective that reaches to the consideration of all of humanity. The judgment of beauty and the awareness of others lead us outside ourselves.<sup>189</sup>

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2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

<sup>184</sup> United Nations, *Charter*, Chapter VII: Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression, Articles 39-41, 51. Article 39 of the *Charter* provides:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

<sup>185</sup> United Nations, *Charter*, Article 51 of the *Charter* provides:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

<sup>186</sup> O’Connell, *The Art of Law*, Ch. 2, Prohibiting Force Through Peremptory Norms, B General Principles 18 of 98.

<sup>187</sup> Ibid, see, Ch. 1, Revitalizing the Theory of International Law Compliance, I B, The Substitutes for Natural Law.

<sup>188</sup> Ibid, see Ch. 1, A, Beauty and the Good of Others, 22 of 66.

<sup>189</sup> Ibid, 24 of 66.

She noted that “[i]magination allows us to experience beauty in unexpected ways”,<sup>190</sup> and concluded:

Knowledge from the contemplation of beauty uniquely reveals our fitness for orderly social life brought about in part by adherence to the rule of law, including law that requires selflessness.

Aesthetic philosophy supports the binding nature of law even when not in self-interest.<sup>191</sup>

O’Connell noted that “not all people believe in God; everyone believes in beauty”<sup>192</sup> and “Beauty reveals why there are enduring norms binding on all for the good of all.”<sup>193</sup> She described how realist legal arguments and state practices seek to undermine the prohibition on use of force, make peacekeeping ever more forceful,<sup>194</sup> expand the right of self-defence,<sup>195</sup> and assert a right to intervene upon request<sup>196</sup> and a right to rebellion.<sup>197</sup> Despite these trends, O’Connell steadfastly argued that expansion of these avenues of violence ran counter to and could not alter the peremptory norms against use of force<sup>198</sup> and in favour of peaceful settlement of disputes with the oversight of the UN Security Council.<sup>199</sup> She declared, “International law exists to eliminate the use of force and to promote peaceful resolution of disputes. These aspirations are at the heart of the system and support the conclusion that the *Charter* prohibition on the use of force is a peremptory norm”,<sup>200</sup> thus permitting no derogation. She contended that peremptory norms exist beyond the reach of realist positive law, presumably in the realm of aesthetic philosophy as exemplars of the beautiful, and while

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<sup>190</sup> Ibid, 24 of 66.

<sup>191</sup> Ibid, 41-42 of 66.

<sup>192</sup> Ibid, 42 of 66.

<sup>193</sup> Ibid, 43 of 66.

<sup>194</sup> Ibid, Ch. 3, The UN Council for Maintaining the Peace.

<sup>195</sup> Ibid, Ch. 4, The Limited Exception for Self-Defence, B Specific Provisions of Article 51. She notes (25 of 104), that “Retaliatory attacks after the danger has passed and pre-emptive attacks before the danger is occurring are clearly prohibited by international law.”

<sup>196</sup> Ibid, Ch. 5, Restricting Exceptions for Invitation and Rebellion, I, Restricting Intervention by Invitation.

<sup>197</sup> Ibid, Ch. 5, II, Restricting Resort to Rebellion.

<sup>198</sup> Ibid, Ch. 2, Prohibiting Force through Peremptory Norms.

<sup>199</sup> Ibid, Ch. 3, The UN Council for Maintaining the Peace; Ch. 6, Revitalizing the Process of International Dispute Resolution.

<sup>200</sup> Ibid, Ch. 2, Prohibiting Force through Peremptory Norms. Conclusion, 93 of 146.

they may be expressed in positive law, as in the *Charter*, they cannot be derogated from by contrary practice or new positive law.<sup>201</sup>

O’Connell observed that underlying much of the realist argumentation and the use of force since the Cold War was a kind of moral exceptionalism that ran roughshod over the principle of sovereign equality of states: “The problem is not with agreement on the law that applies, but rather with acceptance that the law applies to all, on the basis of equality.”<sup>202</sup> She wrote, “Equality is the ‘most basic principle of international law’. Without the principle of equality, ‘it is impossible to maintain even a minimum of universal international order’”.<sup>203</sup> She noted the irony that even some human rights advocates had called for expansive use of force under the banner of humanitarian intervention or responsibility to protect,<sup>204</sup> when her extensive analysis suggested that attempts to overthrow governments through force supported with outside assistance rarely, if ever, produced positive results.<sup>205</sup> O’Connell wrote that the NATO intervention in Libya in 2011 and similar cases

...provide powerful evidence of the misplaced faith in military force to advance complex goals of security, prosperity, good governance, respect for human rights, and protection of the environment. As Christine Chinkin and Mary Kaldor expressed it, true security ‘entails a law-based rather than a war-based approach...’<sup>206</sup>

O’Connell noted that “Peace through law and legal institutions no longer captures the imagination of statesmen or even peace activists.”<sup>207</sup> She found inspiration in the participatory nature of theatre, comparing it to legal dispute resolution:

People do not leave the theatre as winners or losers. They may leave transformed, depending on the quality of the play, the performers, the staging, the scenery, the space and their own commitment to engage. Participants in international legal process need

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<sup>201</sup> Ibid, Ch. 2, Conclusion, 61-62 of 98.

<sup>202</sup> Ibid, Ch. 2, Conclusion, 63 of 98.

<sup>203</sup> Ibid, Ch.5, C, Jus Cogens and Invitation, 30 of 102.

<sup>204</sup> Global Center for the Responsibility to Protect, “What is R2P?”: <https://www.globalr2p.org/what-is-r2p/>.

<sup>205</sup> O’Connell, *The Art of Law*, Ch.5, C, Jus Cogens and Invitation. See also, Council on Foreign Relations, “The Rise and Fall of the Responsibility to Protect,” updated April 20, 2023, accessed 1 January 2025, <https://education.cfr.org/learn/timeline/rise-and-fall-responsibility-protect>.

<sup>206</sup> O’Connell, *The Art of Law*, Ch.5, II, B, Expansion and Insurrection, 55 of 102, citing C. Chinkin and M. Kaldor, *International Law and New Wars*, (Cambridge: Cambridge University Press, 2017) 528.

<sup>207</sup> O’Connell, *The Art of Law*, Ch. 6, Revitalizing the Process of International Dispute, I, Prohibition on Force and Peaceful Settlement, C, Beyond the Charter, 28 of 74.

not be designated ‘winners’ or ‘losers’ either. They may be assessed for the quality of their performances, their ability to communicate.<sup>208</sup>

Rather than treating legal matters as military battles or sports competitions, which could only lead to glorious victory for one and humiliating defeat for another party, they should be seen as more about the artistry of understanding and perfecting international law.<sup>209</sup> She wrote, “Under Realism, the use of international courts and tribunals is perceived as a place of unnecessary risk to be avoided by the self-perceived powerful.”<sup>210</sup> Struggling to distract from realism’s present obsession with brute force and its undermining of the equality of states, O’Connell suggested: “If war fascinates, so does art. What attracts people to the theatre can attract them to the courtroom. The ancient Greeks developed institutions of legal process through drama. That approach offers a way to reignite popular interest in peaceful settlement.”<sup>211</sup> She argued that international law, reinvigorated by aesthetic philosophy to deepen comprehension of the prohibition of force and of the creativity of dispute settlement, can become a space of transcendent vision.<sup>212</sup>

In my view international law is nothing worth contemplating if it is only based on consent of the powerful and the threat of force. Such a view would offer no foundation for reimagining a new planetary charter better suited to current needs. International law should be a way for the world’s diverse peoples to come together to articulate core values common to them all, values so important that they may require forbearance, selflessness and generosity at times. This aesthetic purpose seems to be at the heart of the *UN Charter*, with its prohibition on use of force and its emphasis on the equality of nations large and small and on peaceful settlement of disputes. I found O’Connell’s legal and aesthetic analysis especially

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<sup>208</sup> Ibid, Ch.6, II, International Legal Process and Theatre, B, Legal Drama, 39 of 74.

<sup>209</sup> Ibid, Ch.6, II, B, Legal Drama, 39-40 of 74.

<sup>210</sup> Ibid, Ch.6, Conclusion, 44 of 74.

<sup>211</sup> Ibid, 44 of 74. Regarding the ritualistic aspects of international courts, see Marina Aksenova, “Introduction to the Symposium on Art, Aesthetics, and International Courts.” *AJIL Unbound* 114, (2020): 103-07. doi:10.1017/aju.2020.22.

<sup>212</sup> O’Connell, *The Art of Law*, Ch.7, Conclusion, 13 of 18.



helpful as I embarked on a transdisciplinary international law/arts introspection about how we can resolve international conflict and establish and maintain peace, and found myself motivated to sketch the advocates arguing in recent cases before the International Court of Justice.<sup>213</sup>

### **An experiment with object-oriented international law**

An emerging theme in critical international law studies is about international law's seeming blindness or indifference to the materiality of the human and planetary condition.

Hohmann and Joyce introduced their collection of object-oriented reflections on international law by asking:

What might we learn about international law if we began with objects, things, and material culture? ... What might we see, if we took seriously international law's role in constructing the world, claiming and disclaiming parts of it, vesting things with authority or stripping them of legitimacy?<sup>214</sup>

Hohmann and Joyce explained their decision to examine international law's objects:

This preoccupation with objects also reflects the uneasy relationship with materials and materialism between the advance of a digital world, which seems to work against our desires for tangibility and the real, and the world of hyper-consumerism where material things seem to define, but also threaten and overwhelm us.<sup>215</sup>

The authors provided a brief overview of the growing body of literature on materiality,<sup>216</sup> noting that "New materialist approaches are often motivated by strong feminist insights, by a concern with the disastrous implications of human domination of the planet, and seek a new ethics and context that recognizes the 'intra-action' of all entities."<sup>217</sup> They postulated that

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<sup>213</sup> This project, entitled *Sketches of No Consequence*, is discussed in more detail in Chapter 5.

<sup>214</sup> Jessie Hohmann and Daniel Joyce, eds., *International Law's Objects*, (First ed. Oxford: Oxford University Press, 2019), Introduction, 1 of 18. To counterbalance the abstract, objective nature of international law, this collection of essays foregrounds a wide variety of objects caught up in international law, to highlight international law's material impacts in the real world. Because of the challenge accurately to pinpoint references in Kobo ebooks, where pages change to fit the screen, these citations include chapter author, number and title as well as notional page references.

<sup>215</sup> Hohmann and Joyce, *International Law's Objects*, Introduction, 11 of 18.

<sup>216</sup> Ibid, 12-13 of 18.

<sup>217</sup> Ibid, 13 of 18.

“The materiality of international law is intimately bound up with its many limitations, injustices, but also future possibilities.”<sup>218</sup> In a subsequent chapter Hohmann wrote:

The aim in bringing objects to life is to enliven international law, and enliven international lawyers. By pushing at the edges of our discipline, and asking us to reconsider the way we categorize objects and subjects, the animate and the inanimate, the living and the non-living we can see international law in new ways. In doing so, we can enliven old debates, and animate new ones.<sup>219</sup>

These legal reflections inspired by writings from philosophy and new materialism demonstrate a concern that international law is failing to provide solutions to today’s global crises. One of the problems with international law is that it is so late to the game: these ideas have been circulating in artistic, cultural and philosophical communities for decades, but have barely penetrated the law and only to the extent they can be translated into recognizable legal concepts.

Yet we are living in the posthuman, cyborg anthropocene, challenged to survive and thrive in the face of multiple risks and crises: human-induced climate change, mass species extinction, conflict, threatened nuclear annihilation, pandemic, colonial legacy, and economic and gender inequality. International law provides tools that can contribute to solving these problems, but our legal framework is defective. We international lawyers tinker at the edges, and even there, we fail in implementation and enforcement, and we never get to the heart of the matter. For us to decode and reimagine international law better to address the materiality of our planetary existence, we need to take a closer look at these cultural writings and adopt their radical approaches. As lawyer/artist I find the cognitive dissonance between existing international law and these anticolonial, feminist, environmental and materialist critiques provides plenty of “material” for my TILARC practice. The next sections examine these

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<sup>218</sup> Ibid, 15 of 18.

<sup>219</sup> Hohmann and Joyce, *International Law's Objects*, Hohmann, 2. The Lives of Objects, 22 of 30.

cultural and philosophical sources directly, rather than through the blinkered view of international law.

## Being Cyborg

A significant dimension of our contemporary times is that we have become native cyborgs for whom most communication is through digital technology. Widening access to large language models like Chat GPT and DeepSeek means many people are communicating and collaborating with artificial intelligence in their daily lives to make art and music, write, research, plan projects and support their mental health.<sup>220</sup> Being cyborg, enmeshed with our digital devices and virtual identities, experiencing “the interpenetration of art and science”<sup>221</sup> is part of the postmodern posthuman condition. The fleeting and magical aura<sup>222</sup> of doing and witnessing live performance,<sup>223</sup> the emotional excitement of working with other humans, and the blissful flow of research-creation, all need to be communicated digitally through typed words, video recordings and photographs. As Baudrillard wrote, “The cool universe of digitality has absorbed the world of metaphor and metonymy. The principle of simulation wins out over the reality principle just as over the principle of pleasure.”<sup>224</sup>

The information age is framed by language, and Cixous, Derrida and Butler have already shown us how language is law, expresses law, and exercises control over those who speak, write and listen. Thus, it is unsurprising that these dynamics are reproduced and entrenched in new communication technologies. Lyotard used “language games” as his

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<sup>220</sup> Francesca Paris and Larry Buchanan, “The Upshot: 35 Ways Real People Are Using A.I. Right Now” *The New York Times*, 14 April 2023, accessed 30 November 2024, <https://www.nytimes.com/interactive/2023/04/14/upshot/up-ai-uses.html>.

<sup>221</sup> Walter Benjamin, *The Work of Art in the Age of Mechanical Reproduction*, trans. J.A. Underwood, (London: Penguin, 2008), 28-29.

<sup>222</sup> Benjamin, *Mechanical Reproduction*, 19.

<sup>223</sup> For a discussion of the meaning and ubiquity of performance see, Richard Schechner. *Performance Studies: An Introduction*. Edited by Sara Brady. (Third edition. London: Routledge, 2013) 22-44. He listed Happenings in an expanding array of avant-garde performance forms: “Allan Kaprow, creator of the first Happening, jumped at this chance to make a place for what he called “lifelike art”... The term “performance art” was coined in the 1970s as an umbrella for works that otherwise resisted categorization.” (31-31).

<sup>224</sup> Jean Baudrillard, *Simulations*, trans. Paul Foss, Paul Patton and Philip Beitchman (New York: Semiotext(e), 1983), 152.

“general methodological approach” since they were “the minimum relation required for society to exist”, and “in a society whose communication component is becoming more prominent day by day, ... it is clear that language assumes a new importance.”<sup>225</sup> However, he found that “In contemporary society and culture – postindustrial society, postmodern culture – ... [t]he grand narrative has lost its credibility”.<sup>226</sup> He described “the heteromorphous nature of language games,” and orientation favouring “multiplicity” and “the evolution of social interaction” to “temporary contract ... supplanting permanent institutions in the professional, emotional, sexual, cultural, family, and international domains, as well as in political affairs.”<sup>227</sup> Lyotard saw great risk and opportunity for computerization to respond to the post-modern condition where “Consensus has become an outmoded and suspect value,” relying as it does on debunked assumptions about how different people use and understand language.<sup>228</sup> He continued, “But justice is neither outmoded nor suspect. We must thus arrive at an idea and practice of justice that is not linked to that of consensus.”<sup>229</sup> Presciently, Lyotard saw the “computerization of society” as having two potentials: either as “the dream instrument” for control and terror, or as the means, by giving “the public free access to the memory and the data banks”, to supply everyone with the information they need to make knowledgeable independent decisions.<sup>230</sup>

Forty-five years later we find the digital environment is even more complex and dangerous. We have access to vast amounts of knowledge electronically, but paywalls block general access to some of the more trustworthy sources of news and academic knowledge, and all access is governed by commercially driven search engines and platforms that mine the

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<sup>225</sup> Jean Francois Lyotard, *The Postmodern Condition: A Report on Knowledge*, trans. Geoff Bennington and Brian Massumi (Minneapolis: University of Minnesota Press, 1979, 1984), 15-16.

<sup>226</sup> Lyotard, *Postmodern Condition*, 37.

<sup>227</sup> Ibid, 66.

<sup>228</sup> Ibid, 65-66.

<sup>229</sup> Ibid, 66.

<sup>230</sup> Ibid, 67.

data from every tap of our keyboards. We have access to free or low-cost artificial intelligence aids, but they are Large Language Models built from scouring the language of the internet, and therefore work to cement language hegemony and oppression. Panopticon surveillance is implicit in the commercial system of the internet where personal data from our online searches and purchases are marketed and sold by the digital platforms to anyone wanting to influence our opinions and behaviour. Surveillance is weaponized by bullies and paedophiles to target, intimidate and degrade their victims, by criminals to get access to our money through fraud, and by governmental and private sector spying agencies to track and target suspected criminals, opponents, dissidents, activists, journalists, and lawyers. The online world exhibits both potentialities identified by Lyotard: it is a shapeshifting utopia/dystopia offering truth, justice, and freedom as well as deception, entrenched injustice, and oppression.

Said warned of “the seductive degradation of knowledge, of any knowledge, anywhere, at any time,”<sup>231</sup> and in the advancing “information age” we already see that internet platforms and Large Language Models are powerful instruments for spreading disinformation. The combination of such communication technologies, monopolistic concentrations of capital, data, and influence in the hands of big tech companies, and national governments willing to override privacy in the name of security, leaves societies around the world teetering on a knife edge between Lyotard’s opposing visions. Stengers emphasized the additional danger that this capitalist information age facilitated a homogenization of knowledge and a concomitant loss of local and traditional knowledges and practices that connected societies to their environment.<sup>232</sup> She argued new materialism had to involve struggle against capitalism, observing, “We live in a cemetery of already destroyed practices, as capitalism, together with

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<sup>231</sup> Said, *Orientalism*, 328.

<sup>232</sup> Stengers, “Wondering about Materialism,” 369-370, discussing Vandana Shiva’s objections to biopiracy and privatization of life forms.



take account of the risks and opportunities of digital communications, identities, networks and affiliations.

### **New materialism and posthumanism**

New materialism is an embedded aspect of posthumanism. Stengers defined materialism as demanding “that we understand nature in such a way that there would be no absurdity in affirming that it produced us”.<sup>239</sup> In this way she aimed to recognize advances in science “because the possibility of matter spontaneously adopting ... a collective self-organized form of activity was somehow diminishing the gap between life and non-life.”<sup>240</sup> Reflecting on the ensuing debates, she found that “materialism loses its meaning when it is separated from its relations with struggle.”<sup>241</sup>

Braidotti provided a working definition of the “posthuman predicament” as:

... the convergence, across the spectrum of cognitive capitalism, of posthumanism on the one hand and post-anthropocentrism on the other. The former focuses on the critique of the humanist ideal of ‘Man’ as the allegedly universal measure of all things, while the latter criticizes species hierarchy and human exceptionalism.<sup>242</sup>

Keeling and Nguyen Lehman explained that posthumanism rejected the nature/culture dichotomy, and situated humans as entangled with their environment, assuming

... agency is distributed through dynamic forces of which the human participates but does not completely intend or control. Posthumanist philosophy constitutes the human as: (a) physically, chemically, and biologically enmeshed and dependent on the environment; (b) moved to action through interactions that generate affects, habits, and reason; and (c) possessing no attribute that is uniquely human but is instead made up of a larger evolving ecosystem.<sup>243</sup>

Barad, a physicist, affirmed a materialist, embodied sense of justice, “Ethics and justice are at the core of my concerns or rather, it runs through ‘my’ very being, all being. ... ethics is not a

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<sup>239</sup> Stengers, “Wondering about Materialism,” 368, citing Ilya Prigogine and Isabelle Stengers, *La Nouvelle Alliance: Metamorphose de la Science*, Paris, Gallimard, 1980; translated as *Order out of Chaos: Man’s New Dialogue With Nature*, Shambala, 1984.

<sup>240</sup> Stengers, “Wondering about Materialism,” 368.

<sup>241</sup> Ibid, 368.

<sup>242</sup> Braidotti, “Critical Posthumanities,” 31-32.

<sup>243</sup> Diane Marie Keeling and Marguerite Nguyen Lehman, “Posthumanism,” (*Oxford University Press*, 2018) <https://doi.org/10.1093/acrefore/9780190228613.013.627>.

concern we add to the questions of matter, but rather is the very nature of what it means to matter.”<sup>244</sup> She asserted that “agential realism” “provides a posthumanist performative account of technoscientific and other naturalcultural practices”, thus signalling,

... the crucial recognition that nonhumans play an important role in naturalcultural practices, including everyday social practices, scientific practices, and practices that do not include humans... [and] marks a refusal to take the distinction between “human” and “nonhuman” for granted...<sup>245</sup>

Bennett sought “to encourage more intelligent and sustainable engagements with vibrant matter and lively things” guided by the question “How would political responses to public problems change were we to take seriously the vitality of (nonhuman) bodies?”<sup>246</sup> Simultaneously she worked,

(1) to paint a positive ontology of vibrant matter, which stretches received concepts of agency, action, and freedom sometimes to the breaking point; (2) to dissipate the onto-theological binaries of life/matter, human/animal, will/determination, and organic/inorganic using arguments and other rhetorical means to induce in human bodies an aesthetic-affective openness to material vitality; and (3) to sketch a style of political analysis that can better account for the contributions of nonhuman actants.<sup>247</sup>

Noting the proliferation of creative neologisms to describe the accelerating and all-encompassing anthropocene, Braidotti took “a materialist approach”, describing it “as a multi-layered posthuman predicament that includes the environmental, socio-economic, and affective and psychic dimensions of our ecologies of belonging”.<sup>248</sup> She credited feminist authors as providing “the original manifestation of embodied and embedded carnal

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<sup>244</sup> Dolphijn and Ivan der Tuin, “Matter feels, converses, suffers,” 3. Geerts and van der Tuin, “The Feminist Futures of Reading Diffractively,” para.22, explain, “Diffractively reading” ... Michel Foucault's and Judith Butler's ideas about discursive practices, power, and matter, Barad not only wishes to bring matter and materiality back into the spotlight, but also hopes to deconstruct the nature-culture dichotomy and the anthropocentrism that supports it. Her posthumanist agential realism is a “relational ontology” which proposes that phenomena and discursive practices are always already in a relationship of “intra-action”, rather than being non-related, ontologically separate entities.”

<sup>245</sup> Barad, *Meeting the Universe*, 32.

<sup>246</sup> Bennett, *Vibrant Matter*, viii.

<sup>247</sup> Bennett, *Vibrant Matter*, x.

<sup>248</sup> Braidotti, “Critical Posthumanities”, 32.



empiricism”, grounding political subjectivity by accounting for one’s location in space and time.<sup>249</sup> She explained:

The emphasis on immanence marks the rejection of transcendental universalism and mind-body dualism. All matter or substance being one and immanent to itself, it is intelligent and self-organizing in both human and non-human organisms. Vital matter is driven by the ontological desire for the expression of its innermost freedom (*conatus*). This understanding of matter animates the composition of posthuman subjects of knowledge – embedded, embodied and yet flowing in a web of relations with human and non-human others. Vital neo materialism will also provide the ontological grounding for the critical posthumanities as a transversal field of knowledge.<sup>250</sup>  
[References omitted]

Barrett and Bolt viewed new materialism as giving voice to matter and restoring its vivacity.<sup>251</sup> They considered its profound implications for how we act in the world:

With its acknowledgement of agential matter, neo-materialism questions the anthropocentric narrative that has underpinned our view of humans-in-the-world since the enlightenment, a view that posits humans as makers of the world and the world as a resource for human endeavors, The new materialist discourse derives its urgency from the ethical, ecological and political imperatives that loom as a consequence of this view of the world... Put simply, the idea that the world is a passive resource for use by active humans is no longer sustainable. The matter of the world can no longer be a mere resource for human endeavor. What is at stake here, is the very ground on which humanism has been built and sustained.<sup>252</sup>

These feminist, materialist, posthuman perspectives<sup>253</sup> highlight international law’s frequent inadequacy in addressing the materiality of life on this planet. Consider for a

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<sup>249</sup> Ibid, 33-34.

<sup>250</sup> Ibid, 33-34.

<sup>251</sup> Barrett and Bolt, *Carnal knowledge*, 3.

<sup>252</sup> Ibid, 2-3.

<sup>253</sup> Quiroga-Villamarín, “Domains of objects, rituals of truth,” 129–151, citing Christine F. Black, *The Land Is the Source of the Law: A Dialogic Encounter with Indigenous Jurisprudence* (London: Routledge, 2011) and Christine F. Black, *A Mosaic of Indigenous Legal Thought: Legendary Tales and Other Writings* (New York: Routledge, 2017): “[F]eminist materialism subjected the Cartesian view of matter as passive and inert to a profound critique” and that “feminists have consistently argued for an approach that takes seriously the materiality of the human body for feminist theory and politics ... Butler ... in this vein, has attempted to study the intersections between the materiality of the body and the performativity of gender. Haraway ... has coined the term ‘material-semiotic actor’ to highlight that material objects are not ‘pre- or extradiscursive’ objects but rather direct participants in the creating of meaning, bodily or otherwise.” See also, Moman Rahman and Anne Witz, “What Really Matters? The Elusive Quality of the Material in Feminist Thought,” *Feminist Theory* 4, (2003): 243-261.10.1177/14647001030043001, 257-258 discussing how materiality is embedded in gender studies: “Notwithstanding their epistemological departure points ... the deployments of materiality as a route to a social ontology of gender and sexuality do share a concern with effectivity: materiality as the ‘effects’ of discourse (Butler, 1993); materiality as the social context and configuration of discourse (Hennessy, 2000); materiality as the everyday effectivity of social process, practice and experience (Smith, 1988; Jackson, 2001) and materiality as the practical effect of corporeality (Bordo, 1998).”

moment: the perpetual threat of nuclear annihilation hanging over us; the myriad human caused disasters, including climate change and conflict, that cause loss of physical and psychological security, hunger, impoverishment; the way in which every catastrophe sets back the emancipation and empowerment of women. These crises are embodied examples of why materiality should be relevant to international law. These feminist materialist perspectives offer powerful tools with which to critique and reimagine outdated legal orders built on stoic, cartesian, and anthropocentric models. These insights provide inspiration for making and performing attuned to vibrant, agential matter. For example, they inform my research-creation engagement with waste and decaying materials, to create beings who speak about the posthuman condition.

Opening law to materiality and art and performance engenders new possibilities. For example, iconic choreographer and dancer Graham articulated an embodied concept of law as the truth of expression in the movement of a dancer's well-trained body.<sup>254</sup> Connecting this existential moment to art and performance in attempting to choreograph for "contemporary times", Østern encountered "fragmentation and lack of shared basics, ... an emphasis on the now, endless possibilities and flow of information," and climate anxiety.<sup>255</sup> Østern needed "to create ruptures in traditional workflows as choreographer, and to distribute ownership, power, and responsibility... in new ways."<sup>256</sup> This combining of choreographical methods with existential reflections on global crises, inspired me to make a collaborative improvisational micro-opera attuned to discovering and exposing the values in our hearts.<sup>257</sup>

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<sup>254</sup> Martha Graham, "I am a dancer", in *The Routledge Dance Studies Reader*, eds. Jens Richard Giersdorf and Yutian Wong (London and New York: Routledge, 2019, 3d edition), 120-125, 120-121.

<sup>255</sup> Tone Pernille Østern, "Choreography as Poetic Pedagogical, and Political Action in Contemporary Times," in *Art as an Agent of Social Change*, eds. Hala Mreiwed, Mindy R. Carter and Claudia Mitchell, (Leiden, Boston: Brill Sense, 2021), 137-146, 140.

<sup>256</sup> Østern, "Choreography as Poetic," 141, 138-139, 144. See also, Philip Auslander, *From Acting to Performance: Essays in Modernism and Postmodernism* (London: Taylor & Francis e-Library, 2002) Part II. ch.7 Embodiment: the politics of postmodern dance 73-85. <http://www.myilibrary.com?id=31843>.

<sup>257</sup> Reflective Iterative Scenario Enactments (RISE), Oonagh Fitzgerald, "Handle With Care: Values in our Hearts. A RISE Micro-opera by Oonagh Fitzgerald," *Concordia*, video, 2023, accessed 16 December 2024. <https://riseopera.ca/media.html>, discussed in Chapter 7.

New materialism has produced a range of philosophical examinations that extend well beyond the scope of this dissertation, with its focus on how new materialism can inform rethinking and reimagining international law through artmaking and performance. It is useful to note points of connection. Shaviro argued that aesthetics could provide a ground for speculative realism.<sup>258</sup> He considered the “I” of an aesthetic judgment is both subjective in that it could be anyone, and universal in that it “needs to be *produced* through an ongoing process of solicitation and communication.”<sup>259</sup> He agreed with Harman that “aesthetics is not ‘a local phenomenon of human experience,’ but rather ‘the root of all relations . . . including causal relations.’”<sup>260</sup> Shaviro proposed speculative aesthetics because “the world is indeed, at its base, aesthetic. And through aesthetics, we can act in the world and relate to other things in the world without reducing it and them to mere correlates of our own thought.” Barrett and Bolt contend that a materialist aesthetic is “a relationship ‘between’ – between the human and non-human, the material and immaterial, the social and physical.”<sup>261</sup>

Bryant, Srnicek, and Harman dedicated a collection of essays on speculative materialism to the idea of anamnesis, meaning “remembrance or reminiscence, the collection and recollection of what has been lost, forgotten, or effaced”, and while this concerns our ancient origins, it is “a work that transforms its subject, always producing something new.”<sup>262</sup> Whether resulting from errors and omissions in the drafting and interpreting of laws or forgetfulness about what was originally intended, we find international law is lacking something important, indeed essential, to respond to today’s challenges. The idea of

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<sup>258</sup> S. Shaviro, *The universe of things: On speculative realism*, (University of Minnesota Press, 2014), Project MUSE. muse.jhu.edu/book/35606. Chapter 7, “Aisthesis”, 151. He writes, “Aesthetic pleasure can best be described as vicarious sensation or vicarious enjoyment... In aesthetic feeling, something that is not mine, and that I cannot assimilate into myself, is nevertheless directly communicated to me. I do not get to know the thing, but I allude to it, transforming it over a distance.”

<sup>259</sup> Shaviro, *On speculative realism*, 151-152, 153.

<sup>260</sup> Ibid, 156, citing Graham Harman, “On Vicarious Causation,” *Collapse: Philosophical Research and Development* (2007), 2:171–205, 205.

<sup>261</sup> Barrett and Bolt, *Carnal knowledge*, 6.

<sup>262</sup> Bryant, Srnicek, and Harman, *The Speculative Turn*, opening page of the collection.

recollecting something important that is buried, lost or forgotten and reintroducing it into epochal harmony with present needs through anamnesis is intriguing and hopeful. The growing desire to understand and adopt Indigenous Peoples' ways of knowing and being in relation with nature<sup>263</sup> may well be one of these lost treasures that can contribute to reshaping international law. New materialist anamnesis supports critical decoding and speculative reimagining through artmaking and performance about the past and future possibilities for international law.

### **Deleuze and Guattari's art-law cultural critique**

Diffractively reading Deleuze and Guattari's *A Thousand Plateaus*, I found their ideas were evocative and inspired me to confront profound, elusive questions, recognize these in my art, and express these in new artmaking and performance. I first noticed the power of their writing when, after having made many paintings<sup>264</sup> and masks that combined human faces with landscape elements, especially during the isolation of the pandemic, I read this passage:

Now the face has a correlate of great importance: the landscape, which is not just a milieu but a deterritorialized world. There are a number of face-landscape correlations, on this "higher" level. ... Compose them both, color them in, complete them, arrange them according to a complementarity linking landscapes to faces. ... Painting takes up the same movement but also reverses it, positioning a landscape as a face, treating one like the other: 'treatise on the face and the landscape'.<sup>265</sup>

The authors' understanding of this connection is certainly different from mine, but I appreciate that they connect "faciality" and "landscapity". For me the connection is about

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<sup>263</sup> See for example, June Kaminski, "Learning with the Natural World," *First Nations Pedagogy* (2013), accessed 28 November 2024, <https://firstnationspedagogy.com/earth.html>. Besides *UNDRIP*, there are several international law treaties that refer to traditional knowledge, traditional cultural expression, genetic resources that form part of the culture and lifestyle of Indigenous Peoples, a recent example being WIPO, *WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge*, 24 May 2024, adopted by the Diplomatic Conference: [https://www.wipo.int/edocs/mdocs/tk/en/gratk\\_dc/gratk\\_dc\\_7.pdf](https://www.wipo.int/edocs/mdocs/tk/en/gratk_dc/gratk_dc_7.pdf).

<sup>264</sup> For a selection of examples of my face-landscape imagery, see Appendix 1, List of Figures, Fig. 2.

<sup>265</sup> Deleuze and Guattari, *A Thousand Plateaus*, 172. Hans Belting takes issue with Deleuze and Guattari's argument, suggesting it "can only be understood if one realizes that they are trying to come to terms with the colonial history of the white man," by asserting European imagery of faces was about projecting Christian European power: Hans Belting, *Face and mask – A double history*, trans. Thomas S. Hansen and Abby J. Hansen (Princeton: Princeton University Press, 2017) (Original work published 2013), 31. Belting's history of the face and mask in western European visual culture provides a rich and nuanced analysis.

my relationship of belonging and being in nature. It is a strong repeated statement of purpose in my art. An example of this can be seen in *Emergent Relations* (Fig. 3), the masks pressed out of dampened packing cardboard, painted with leaves, and inspired by the authors' notion of "becoming".<sup>266</sup> "Becoming is the movement by which the line frees itself from the point, and renders points indiscernible: the rhizome, the opposite of arborescence; break away from arborescence. *Becoming is an antimemory*"<sup>267</sup> [authors' emphasis].

The authors have additional thoughts on painting that I found interesting and diffracted well with two paintings I completed, *Summer Winds* 1 and 2 (Fig. 4), which played with movement, depth, and distance.<sup>268</sup> They wrote:

The aim of painting has always been the deterritorialization of faces and landscapes, either by a reactivation of corporeality, or by a liberation of lines or colors, or both at the same time. There are many becomings-animal, becomings-woman, and becomings-child in painting.<sup>269</sup>

Deleuze and Guattari's evocative descriptions inspired the making of an assemblage, *Lines of Flight* (Fig. 5):

What is your body without organs [BwO]? What are your lines? What map are you in the process of making or rearranging? What abstract line will you draw, and at what price, for yourself and for others? What is your line of flight? What is your BwO, merged with that line? Are you cracking up? Are you going to crack up? Are you deterritorializing? Which lines are you severing, and which are you extending or resuming?<sup>270</sup>

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<sup>266</sup> Deleuze and Guattari, *A Thousand Plateaus*, 239: "Becoming is a verb with a consistency all its own; it does not reduce to, or lead back to, "appearing," "being," "equaling," or "producing"; 240: "If the writer is a sorcerer, it is because writing is a becoming, writing is traversed by strange becomings that are not becomings-writer, but becomings-rat, becomings-insect, becomings-wolf, etc." I wrote in the margin: "drawing faces in landscapes, landscapes in faces, becoming verdant, wild."

<sup>267</sup> Ibid, 295.

<sup>268</sup> Ibid, 298: "There is no falser problem in painting than depth and, in particular, perspective. For perspective is only a historical manner of occupying diagonals or transversals, lines of flight, in other words, of reterritorializing the moving visual block... Lines of flight as perspective lines, far from being made to represent depth, themselves invent the possibility of such a representation, which occupies them only for an instant, at a given moment. Perspective and even depth, are the reterritorialization of line of flight, which alone created painting by carrying it farther. What is called central perspective in particular plunged the multiplicity of escapes and the dynamism of lines into a punctual black hole. Conversely, it is true that problems of perspective triggered a whole profusion of creative lines, a mass release of visual blocks, at the very moment they claimed to have gained mastery over them. Is painting, in each of its acts of creation, engaged in a becoming as intense as that of music?"

<sup>269</sup> Ibid, 301.

<sup>270</sup> Ibid, 203.

Lines of flight seem to be about movements that can disrupt the established order:

It is on lines of flight that new weapons are invented, to be turned against the heavy arms of the State... it is most frequently the case that a single group or individual functions as a line of flight; that group or individual creates the line rather than following it, is itself the living weapon it forges rather than stealing one. Lines of flight are realities; they are very dangerous for societies...<sup>271</sup>

It is not that I understand this or that it makes sense, but it moves me to make art. It made me think of the flow of refugees who change the world as they go, even if they perish on the way.

This disruptive force is associated with what Deleuze and Guattari called the “war machine”:

Now we are in a better position to draw a map. If we return to a very general sense of the word “line,” we see there are not just two kinds of lines but three. First, a relatively supple line of interlaced codes and territorialities... in which the social space is constituted by territorial and lineal segmentation. Second, a rigid line, which brings about a dualist organization of segments, a concentricity of circles in resonance, and generalized overcoding; here, the social space implies a *State apparatus*... Third, one or several lines of flight, ... defined by decoding and deterritorialization (there is always something like a *war machine* functioning on these lines).<sup>272</sup>

In their chapter entitled “1227: Treatise on Nomadology - The War Machine,” Deleuze and Guattari explored “noology” (the systematic study and organization of thought, knowledge, and the mind) with the question, why people accept servitude. The authors wrote that the image of State-form developed in thought

... has two heads, corresponding to the two poles of sovereignty: the *imperium* of true thinking operating by magical capture, seizure or binding, constituting the efficacy of a foundation (*mythos*); a republic of free spirits proceeding by pact or contract, constituting a legislative and juridical organization, carrying the sanction of a ground (*logos*),<sup>273</sup>

and

Ever since philosophy assigned itself the role of ground it has been giving the established powers its blessing, and tracing its doctrine of faculties onto the organs of

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<sup>271</sup> Ibid, 204. Quoting F. Scott Fitzgerald’s description of his marriage to Zelda, the authors movingly illustrate the inexorable dangers of lines of flight.

<sup>272</sup> Ibid, 222.

<sup>273</sup> Ibid, 374-375.

State power. Common sense, the unity of all the faculties at the center constituted by the Cogito, is the State consensus raised to the absolute.<sup>274</sup>

Thus, Philosophy (*logos*), like law (*legis*) was always wrapping legitimacy and authority around the apparatus of domination, whether State or international law, thereby both corroborating and justifying the critiques of Cixous, Derrida, Butler and Rose. This striking observation became an underlying question for the micro-opera, *Handle with Care: Values in Our Hearts*: why do we accept servitude? It is almost too deep a question but asking why we accept any rules extraneous to ourselves is a starting point for asking what we value most.

Deleuze and Guattari described the striated territorialized space of State societies overcoding the earth, making it an “object, instead of being an active material element in combination with lineage” as the nomadic war machine on lines of flight deterritorializes and disrupts.<sup>275</sup> They described the war machine as an assemblage, explaining:

Assemblages are passionate, they are composition of desire. Desire has nothing to do with a natural or spontaneous determination; there is no desire but assembling, assembled, desire. The rationality, the efficiency, of an assemblage does not exist without the passions the assemblage brings into play, with the desires that constitute it as much as it constitutes them.<sup>276</sup>

When I make art assemblages out of waste material, or collaborate with others to organize discussions, art exhibitions and happenings about the *Arts and Human Rights*<sup>277</sup> or do collaborative improvisation with the RISE<sup>278</sup> team to create micro-operas, I/we are choosing to use my/our desire for assembling to make art not war. This is the positive power of assemblage.

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<sup>274</sup> Ibid, 376.

<sup>275</sup> Ibid, 388.

<sup>276</sup> Ibid, 399.

<sup>277</sup> This project is discussed in chapter 7, in the subsection entitled Building positive relations.

<sup>278</sup> RISE stands for Reflective Iterative Scenario Enactments, a SSCHRC funded collaborative improvisational opera research-creation project, whose principal investigator is Dr. Eldad Tsabary, Concordia University. I participated during academic years 2021-2023 in team activities and in 2023-2024 in individual reporting and reflection.

Deleuze and Guattari described a bleak vision of nomadic war machines captured and appropriated by State and World institutions (is this the United Nations?) as State or World war machines that continued war by political means and whose objective was “a peace still more terrifying than fascist death.”<sup>279</sup> Could this be mutually assured nuclear destruction?<sup>280</sup> They offered a ray of hope in their discouraging picture: an “artistic movement can be a potential war machine, to the precise extent to which it draws, in relation to a phylum, a place of consistency, a creative line of flight, a smooth space of displacement.”<sup>281</sup> This is because ideological, scientific or artistic movements take “war as an object all the more necessary for being merely ‘supplementary’: *they can make war only on the condition that they simultaneously create something else*”.<sup>282</sup> The authors concluded the chapter, obliquely answering the question of how we come to accept or resist our servitude: “War machines take shape against the apparatuses that appropriate the machine and make war their affair and their object: they bring connections to bear against the great conjunction of the apparatuses of capture or domination.”<sup>283</sup>

According to this analysis my quest to use art and performance to decode international law and develop my vision for a renewed planetary charter could be seen as a nomadic war machine. TILARC offers creative lines of flight whose object is not war but to confront global crises and the problem of servitude, environmental destruction, human rights and humanitarian law violations, and hopefully imagine something better. I consider whether I

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<sup>279</sup> Deleuze and Guattari, *A Thousand Plateaus*, 421-422.

<sup>280</sup> Morrison asks, “is there some fundamental relationship between organized, civilized, modernity and atrocity? Is atrocity – and genocide – somehow modernity’s dark twin?” Wayne Morrison, “A reflected gaze of humanity: Cultural criminology and images of genocide”, Ch. 12 in Keith J. Hayward and Mike Presdee, eds. *Framing Crime: Cultural Criminology and the Image*. (London: Routledge, 2010), 191. He critiques criminology as “[a] child of modernity, ... born in the contingent union of a faith in science and the Westphalia political-military compromise of the division of the recognized globe into a nation state system,” 191. Noting that “between 1890 and 2000, 170–200 million people lost their lives” in a range of genocidal events, 192, he observes that state use of mass killing and genocide is widespread and extensive, suggesting that all terror and state-sponsored violence against the vulnerable may have a universal dimension,” 204.

<sup>281</sup> Deleuze and Guattari, *A Thousand Plateaus*, 422-423.

<sup>282</sup> Ibid, 423, the authors’ emphasis.

<sup>283</sup> Ibid, *A Thousand Plateaus*, 423.



could assemble with the ideas of Orford, Nussbaum, O'Connell, Gear, Richardson, and the posthuman new materialists to become a nomadic war machine for human rights, environmental justice and peace making.

### **Relational, nomadic assemblage**

Embracing Deleuze and Guattari's "nomadology", Braidotti offered a theoretical framework for "critical or nomadic posthumanities",<sup>284</sup> describing her writing on this subject as composing "a relational community, defined as a nomadic, transversal 'assemblage'... that involves non-human actors and technological media."<sup>285</sup> She contended that "in a neo materialist vital system, all human and non-human entities are nomadic subjects-in-process, in perpetual motion, immanent to the vitality of self-ordering matter."<sup>286</sup> Braidotti noted how interdisciplinary and transdisciplinary studies have critiqued structural anthropocentrism and Eurocentric methodologies, leading a "nomadic exodus from disciplinary 'homes' [that] shifts the point of reference away from the authority of the past and onto accountability for the present".<sup>287</sup> This resonates with my TILARC project whereby I seek to challenge the authority of the past and break free of settled disciplinary confines by creating a relational community and transversal assemblage of arts and international law to centre accountability for the present.

Braidotti proposed to resist advanced capitalism's addictive, toxic, entropic and self-destructive system by de-accelerating and contributing "to the collective construction of social horizons of hope."<sup>288</sup> In Braidotti's posthuman neo-materialism, "The frame of reference becomes the world, in all its open-ended, inter-relational, transnational, multi-sexed, and trans-species flows of becoming: a native or vernacular form of

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<sup>284</sup> Braidotti, "Critical Posthumanities", 32.

<sup>285</sup> Ibid, 32-33.

<sup>286</sup> Ibid, 36.

<sup>287</sup> Ibid, 38.

<sup>288</sup> Ibid, 41.

cosmopolitanism”,<sup>289</sup> and the task is “to enter into new affective transversal assemblages, to co-create alternative ethical forces and political codes ...to compose a missing people”,<sup>290</sup> (those excluded from the ‘human’), “a new people and a new earth”.<sup>291</sup> This composition of missing people would be an exercise of anamnesis.

Also inspired by Deleuze and Guattari, Ingold transposes their ideas into his arts and crafts practice and theory. Like them, he rejects hylomorphism, which assumes artefacts are made simply by practitioners imposing their design on raw materials, in favour of making “as a process of growth”.<sup>292</sup> He would place

... the maker from the outset as a participant in amongst a world of active materials. These materials are what he has to work with, and in the process of making he ‘joins forces’ with them... Far from standing aloof, imposing his designs on a world that is ready and waiting to receive them, the most he can do is to intervene in worldly processes that are already going on, and which give rise to the forms of the living world that we see all around us – in plants and animals, in waves of water, snow and sand, in rocks and clouds – adding his own impetus to the forces and energies in play.<sup>293</sup>

Ingold rejected the idea that “everything about a form is prefigured in the design”<sup>294</sup> arguing instead, that “even if the maker has a form in mind, it is not this form that creates the work. It is the engagement with materials.”<sup>295</sup> Describing novice students making willow baskets on the Scottish coast, he observed that “The form was not imposed on the material from without, but was rather generated in this force field, comprised by the relations between the weaver and the willow.”<sup>296</sup> Considering examples of brickmaking and metallurgy, Ingold argued in each case the maker followed the flow of the material in a “continuous modulation that goes on in the midst of form-taking activity, in the *becoming* of things.”<sup>297</sup> After discussing unsatisfactory attempts to define materials, Ingold concluded that,

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<sup>289</sup> Ibid, 48.

<sup>290</sup> Ibid, 49.

<sup>291</sup> Ibid, 52.

<sup>292</sup> Ingold, “The Materials of Life,” 20-21.

<sup>293</sup> Ibid, 21.

<sup>294</sup> Ibid, 22.

<sup>295</sup> Ibid, 22.

<sup>296</sup> Ibid, 22-23.

<sup>297</sup> Ibid, 25-26, citing Simondon (2005) and Deleuze and Guattari, *Treatise on Nomadology* (2004).

...as substances-in-becoming ...[materials] carry on or perdure, forever overtaking the formal destinations that, at one time or another, have been assigned to them, and undergoing continual modulation as they do so. Whatever the objective forms in which they are currently cast, materials are always and already on their ways to becoming something else.

...Making, then, is a process of correspondence: not the imposition of preconceived form on raw material substance, but the drawing out or bringing forth of potentials immanent in a world of becoming.<sup>298</sup>

An intriguing dimension of this thought is that it helps us to understand the impermanence of artmaking and performance. Moments of creation, connection and expression will eventually be lost in the mists of time. Engaging with people and materials, aware of this fragility and constant change, helps us recall the distant past, appreciate the moment of connection, and imagine how all this matter could build speculative futures: anamnesis.

Sennett suggested “The desire for something more sustainable than decomposing materials is one of the sources in Western civilization for the supposed superiority of the head over the hand, the theorist better than the craftsman because ideas last.”<sup>299</sup> In his somewhat masculinist account of craft, Sennett discussed “material consciousness” in terms of “metamorphosis”, being changes in procedures in working with a material; “presence”, such as a maker’s mark, and “anthropomorphosis”, being the imputation of “human qualities to a raw material”, asserting “we become particularly interested in the things we can change.”<sup>300</sup> He contrasted the craftsman working with impermanent materials to the philosopher offering eternal ideas. “*Theoria* shares a root in Greek with *theatron*, a theater, which means literally a ‘place for seeing’”.<sup>301</sup> In ancient Greek theatre audiences “developed their own skills of interpretation as spectators” speculating “about what the stage-characters did not understand about themselves”. This was “seeing with the mind’s eye”, “understanding separated from

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<sup>298</sup> Ingold, “The Materials of Life,” 31, citing Barad (2003) and Deleuze and Guattari, *Treatise on Nomadology* (2004).

<sup>299</sup> Richard Sennett, *The Craftsman*, (New Haven: Yale University Press, 2008), Ch. 4. “Material Consciousness”. <http://site.ebrary.com/id/10315704>, 124.

<sup>300</sup> Sennett, *Craftsman*, 120.

<sup>301</sup> Ibid, 124.

doing”.<sup>302</sup> I interpret this as saying that as soon as one puts forward a theoretical proposition it can be interpreted and critiqued by spectators, whereas the maker does not separate thinking from doing and is “engaged in a continual dialogue with materials”.<sup>303</sup> However, when a made object is displayed it is subject to the same process of interpretation and critique. Sennett’s observation about theatre is useful in rethinking international dispute settlement as a form of theatre in which we the spectators and judges sit back and observe the strengths and weaknesses in the positions of each advocate, and collectively and empathetically nudge them toward a just and lasting reconciliation.

The next chapter begins applying these exciting ideas to the research-creation practice of making art and performance while thinking about international law.

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<sup>302</sup> Ibid, 125.

<sup>303</sup> Ibid, 125.

### Chapter 3. Research-creation

The Social Sciences and Humanities Research Council defines “research-creation” as, “An approach to research that combines creative and academic research practices, and supports the development of knowledge and innovation through artistic expression, scholarly investigation, and experimentation.”<sup>304</sup> Research-creation scholars have emphasized the power of research-creation for interdisciplinary or transdisciplinary engagement to generate new forms of knowledge,<sup>305</sup> and to act as an “intervention”<sup>306</sup> to draw attention to how traditional disciplines function to shape our reality. Research-creation invites the possibility of transversal engagement between the arts and international law to serve as an intervention on global human rights, humanitarian and environmental issues.

This chapter provides a discussion of what research-creation is, and explains that my research-creation practice of combining reflection on international law with artmaking and performance is a transdisciplinary practice. Autoethnographically, I explain why, as a researcher-artist-lawyer, I chose to use research-creation as a vehicle for my critical and artistic reflection on international law. I provide illustrations of how I used research-creation for transdisciplinary exploration of international law through artmaking, thus showing how research-creation became integral to my TILARC practice.

#### What is research-creation?

To develop the TILARC practice, I was drawn to research-creation as a thoughtful, iterative way to explore international law-arts transdisciplinarity and document the creation process. Sullivan described artmaking as “an aesthetic process of self-realization” as well as a “research process” and discussed how art did not change things but could change people who

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<sup>304</sup> Social Sciences and Humanities Research Council, “Definitions of Terms,” accessed 11 December 2024, <https://www.sshrc-crsh.gc.ca/funding-financement/programs-programmes/definitions-eng.aspx>.

<sup>305</sup> Manning, “Against Method,” 52-71, 53-54; Loveless, *How to Make Art at the End of the World*, 6-7.

<sup>306</sup> Chapman and Sawchuk, “Research-creation: Intervention, analysis and ‘family resemblances’,” 22.

could change things, and that imagination was the place of possibility.<sup>307</sup> Through use of art and performance I seek to tap into these possibilities to envision a renewed planetary charter.

Research-creation offers expressive and imaginative individualized avenues for creative research. Chapman and Sawchuk catalogue many phrases that capture the idea of research-creation: "arts-based research," "performative research," "practice-led research," "studio-based inquiry" and "practice as research",<sup>308</sup> suggesting these approaches share family resemblances: "'research-creation' describes a conglomerate of approaches and activities that incorporate creative processes and involve the production of artistic works in the context of academic programs."<sup>309</sup> They discuss four categories of creative research: research-for-creation,<sup>310</sup> research-from-creation,<sup>311</sup> creative presentations of research,<sup>312</sup> and creation-as-research,<sup>313</sup> suggesting they are united to other forms of scholarly research by their "intent to 'reveal' new things (i.e., the exploration of the boundaries of what can be created through research, as research)".<sup>314</sup> To answer the question how does a particular research-creation project contribute to knowledge Chapman and Sawchuk proposed that we ask, "On what level(s) can this project be identified as an intervention?"<sup>315</sup> They suggested that research-creation could be seen as an intervention not just against "scholarly form and decorum" but on the "specific fields of inquiry, practice, history etcetera in which it is embedded."<sup>316</sup> This resonates with my project of using art and performance to reflect on the *UN Charter* and current international law crises to imagine a renewed planetary charter. My project will not

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<sup>307</sup> Graeme Sullivan, *Art practice research: Inquiry in the visual arts*, (Thousand Oaks: Sage Publications, 2004), at 115 and 22-23 quoting Maxine Greene.

<sup>308</sup> Chapman and Sawchuk, "Research-creation: Intervention, analysis and 'family resemblances'," 10.

<sup>309</sup> Ibid, 13.

<sup>310</sup> Ibid, 15-16.

<sup>311</sup> Ibid, 16-18.

<sup>312</sup> Ibid, 18-19.

<sup>313</sup> Ibid, 19-21.

<sup>314</sup> Ibid, 21.

<sup>315</sup> Ibid, 22.

<sup>316</sup> Ibid, 23.

solve the problems of the world, but it is an intervention to raise questions, start conversations and instigate actions, which might eventually contribute to solving problems.

Research-creation is experimental and iterative, allowing method(s) to emerge through practice, reflection, and interpretation. Manning considered how research-creation could help transversal engagement across different disciplines, generating new experiences, extra lingual experimentation and knowledge, re-opening questions about the scope of these disciplines, and creating new forms of knowledge.<sup>317</sup> This suggests the possibility of transversal engagement between art and performance and international law.

At first, Manning's phrase word "transversal engagement across ... disciplines" evoked for me the image of an extrinsic process whereby one reaches across from one discipline to another, but this seemed endlessly frustrating, as if they could never really touch, or if they did touch, they would remain distinct, in proximity but unaltered by each other. Over time this image was replaced by a feeling that my experience of TILARC is an intrinsic, immanent, embodied state of becoming. I am the transdisciplinary exploration of international law through art making and performance. Sometimes it is obvious when I write words of a treaty on the art paper integrating it into visual artwork. At other times, the law books pile up with the art supplies on my desk and in my e-reader, powerful and empty words calling to each other silently. I take photographs of the still life composition – it is all mid-sentence, mid project, the connections reaching to each other, gestures not reciprocated, silenced by wilful non-reading, non-making. The piles could be tidied, rearranged, put back in their places but the broken, reaching, conversations would continue. This is how I explain the process, my head my heart my body are all part of the practice of legal reflection and artmaking.

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<sup>317</sup> Manning, "Against Method," 52-71, 53-54.

Loveless noted the different emphasis placed by the Social Sciences and Humanities Research Council (SSHRC) and the Canada Council for the Arts (CCA) on aspects of research-creation,<sup>318</sup> arguing that,

In the context of the university, while research-creation is (most often) linked to artistic production, its real potential rests in its demand for an inter or transdisciplinary perspective that, while marshalling the insights of emerging and developing fine arts research methodologies, exceeds the fine arts proper.<sup>319</sup>

My transdisciplinary international law-art practice is one such example of using research-creation techniques to extend beyond fine arts proper to tackle complex issues of global importance. Loveless saw research-creation “as one of those cracks (to paraphrase Leonard Cohen) that lets the light shine in, through its experimental and dissonant forms of practice, research, and pedagogy.”<sup>320</sup> She viewed it as “the logical outcome of interdisciplinary, conceptual, and social justice/activist legacies in contemporary art”.<sup>321</sup> She considered that the arts have an important role to play in confronting global crises because:

“They offer modes of sensuous, aesthetic attunement, and work as a conduit to focus attention, elicit public discourse, and shape cultural imaginaries. “How might the world be organized differently?” is a question that matters urgently, and it is a question that art — particularly art attuned to human and more-than-human social justice — asks in generative and complex ways.”<sup>322</sup>

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<sup>318</sup> Loveless, *How to Make Art at the End of the World*, 6, with SSHRC defining research-creation as “an approach to research that combines creative and academic research practices, and supports the development of knowledge and innovation through artistic expression, scholarly investigation, and experimentation” whereas CCA describes its support for “research/creation” as providing “artists with opportunities for creative renewal, experimentation, professional development and research”. The SSHRC definition still contains this same language in its definition of research-creation. Social Sciences and Humanities Research Council, “Research-creation,” Definition of Terms, accessed 11 December 2024. <https://canadacouncil.ca/funding/grants/explore-and-create/research-and-creation>. However, CCA now refers to “research and creation”: “The Research and Creation component of Explore and Create supports the initial stages of the creative process. Canadian artists, artistic groups and arts organizations can apply to develop and make creative works. Grants provide support for creative research, creation and project development.” Canada Council for the Arts, “Research and Creation,” accessed 11 December 2024. <https://canadacouncil.ca/funding/grants/explore-and-create/research-and-creation>. This definition seems less relevant to what I am doing in an academic setting.

<sup>319</sup> Loveless, *How to Make Art at the End of the World*, 6-7.

<sup>320</sup> Ibid, 8-9.

<sup>321</sup> Ibid, 9.

<sup>322</sup> Ibid, 16.



Placing “the curiosity-driven question first” Loveless adopted an “emergent” approach to “research rooted in process, multiplicity, context specificity, and contingency”<sup>323</sup>:

“Emergence ... refigures disciplinary research objects in ways that invite us to think interdisciplinarity-as-emergence: as productive of out-puts that exceed what is demonstrably present in their constituent parts.”<sup>324</sup> According to Loveless, research-creation draws on feminist, Indigenous, decolonial, and antiracist scholarship to insist “that artistic process and production be understood as transmissible knowledge with a ranked equivalence to the knowledge-making practices of other disciplines”.<sup>325</sup>

She explained how research-creation helped her students to engage imaginatively with the complex and overwhelming problems of the anthropocene:

In my classes, these days, I ask my students to think with me about how debate on the Anthropocene might shift how we engage in meaningful arts practice and theory. I also ask them to think with me about how research-creation, as an epistemological and methodological intervention into traditional scholarly research practices, might contribute to these debates within and without the academy. Alongside readings that offer critical analyses of the contested terrain of Anthropocene discourse (including decolonial and multispecies challenges to anthropocentric, capitalist, and colonialist ideologies) we look to develop research-creational practices that nurture our capacities not only to reflect and analyze but to act and intervene, mobilizing research-creation as a way to develop work that is not simply on ecological topics but that takes ecological form — not just *on* but *as*.<sup>326</sup>

Loveless considered transdisciplinary research-creation to be a disruptor and re-invigorator of academia,<sup>327</sup> concluding, “Research-creation, at its best, has the capacity to

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<sup>323</sup> Ibid, 25.

<sup>324</sup> Ibid, 26.

<sup>325</sup> Ibid, 29. For further reflection on the connections between art and Indigenous Peoples’ laws and the utility of artmaking to assist in reconciliation, see Jeffery G. Hewett, “How Indigenous Art Is Challenging Colonial Law,” *CIGIOOnline*, 27 September 2017, accessed 8 December 2024. <https://www.cigionline.org/articles/how-indigenous-art-challenging-colonial-law/>; Thomas Rohner, “Where Indigenous art and law intersect,” *Nunatsiaq*, 30 October 2019, accessed 8 December 2024. <https://nunatsiaq.com/stories/article/where-indigenous-art-and-law-intersect/>; Julie Tucker and Gemma Smyth, “Art, Law, and Community: Truth and Reconciliation through Art,” *reconciliationsyllabus*, 28 February 2019, accessed 8 December 2024. <https://reconciliationsyllabus.wordpress.com/2019/02/28/art-law-and-community-truth-and-reconciliation-through-art/>.

<sup>326</sup> Loveless, *How to Make Art at the End of the World*, 101.

<sup>327</sup> Ibid, 105: “Holding dissonant forms together in ways that are passionately attached and that resist naturalization, research-creation tells new stories and offers new sites of traction in the academy. It mobilizes forms that anamorphically shatter single-point perspective, failing to cohere fully into art or scholarship, instead nurturing driven curiosity as its lure and guide.”

impact our social and material conditions, not by offering more facts, differently figured, but by finding ways, through aesthetic encounters and events, to persuade us to care and to care differently.”<sup>328</sup> This is precisely what I seek to achieve through artmaking and performance inspired by matters of international law. I am not seeking to rewrite international law through my artwork and performance, but to encourage a reimagining of international law more attuned to the posthuman condition, caring more about individuals, the environment and our material relationships.

Noury and Paquin reviewed research-creation practices and offered their conclusions:

Research-creation can be activated by a vast array of methods and assemblages specific to each project, leading to somewhat unpredictable journeys. If research and creation have to be thought of as two components or moments of research-creation, the strength of this practice comes from articulating them into a coherent and united construct. ... Making the many dimensions of singular research-creation practices explicit is key for knowledge(s) production and dissemination.<sup>329</sup>

Being explicit and articulate about the multiple dimensions of TILARC is the fundamental objective of this dissertation. It is theory and practice together, weaving between the two, observing how one influences and shapes the other. Research-creation is a way of being “in flow”, curious, open, and active, absorbing into the whole aspects that are intentional, accidental, conscious, unconscious, and subconscious. Research-creation is demanding, requiring constant re-examination, reflection, and creative inspiration. It is difficult to discern where one research-creation project begins and ends and another starts as they seem to be interconnected and continuous, articulating in objects and ideas a complex ongoing narrative of embodied knowledge production. The metaphor of sewing a tapestry to describe this dissertation on TILARC practice appeals to me, suggesting a long history of

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<sup>328</sup> Ibid, 107.

<sup>329</sup> Cynthia Noury and Louis-Claude Paquin, “(Re)Visiting Our Previous Contributions for Research-Creation [as Practice] — A Performative and Polyvocal Writing Project,” Prepublication Version (Fall 2020): 45.

gathering strands, piecing together, reflecting, remembering, recording stories and myths.<sup>330</sup>

Material metaphors inspire me as I make art envisioning a renewed planetary charter with waste materials – threads, cloth, plastic, and cardboard – and piece together the narrative dissertation to accompany them.

### **Interdisciplinary and transdisciplinary**

This practice of bringing legal and arts disciplines into contact is both interdisciplinary and transdisciplinary. Because both terms remain somewhat ambiguous and contested,<sup>331</sup> it is helpful to examine them more closely. Lawrence explained that both interdisciplinary and transdisciplinary research required “a common conceptual framework and analytical methods based on shared terminology, mental images, and common goals”.<sup>332</sup>

Lawrence defined interdisciplinarity as involving “the collaboration and cooperation of scientists from at least two disciplines ... apply[ing] their disciplinary competence to work on common questions” with a “goal to integrate concepts, methods, and principles from different disciplines.”<sup>333</sup> Lury noted that “what counts as interdisciplinarity is widely contested”, but was able to articulate her simplified definitions: “Interdisciplinarity is characterized as interaction *across* and *between* disciplines. Importantly, this interaction is not oriented toward either a synthesis or a disappearance of disciplines.”<sup>334</sup> She suggested that interdisciplinarity could be helpful when researching global crises such as climate change and pandemic, bringing different experts into collaborative research on common problems, using networked

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<sup>330</sup> Vaughan, “Pieced together”; Trinh T. Minh-Ha, *Woman, native, other: Writing postcoloniality and feminism* (Bloomington: Indiana University Press, 1989), 128-129; Elizabeth Wayland Barber, *Women's Work: The First 20,000 Years : Women, Cloth, and Society in Early Times*. 1st ed. (New York: Norton, 1994).

<sup>331</sup> Roderick J. Lawrence, “Deciphering Interdisciplinary and Transdisciplinary Contributions,” *Transdisciplinary Journal of Engineering & Science* Vol: 1, No:1, (December, 2010), pp.125-130, 127: <https://www.ed.ac.uk/files/imports/fileManager/RJL-2010Inter-Trans.pdf>.

<sup>332</sup> Lawrence, “Deciphering,” 127.

<sup>333</sup> Ibid, 127.

<sup>334</sup> Celia Lury, “Introduction: Activating the present of interdisciplinary methods,” in Celia Lury, Rachel Fensham, Alexandra Heller-Nicholas, Sybille Lammes, Angela Last, Mike Michael, and Emma Uprichard, eds., *Routledge Handbook of Interdisciplinary Research Methods*, (First edition. London: Routledge, 2018). <https://catalog.osaarchivum.org/catalog/IXpmkAYq, 1>.

research infrastructure, and engaging in alternative futures thinking.<sup>335</sup> Interdisciplinarity could manifest in *enchainements*, arrangements of steps from interacting disciplines.<sup>336</sup>

Lury considered that “Transdisciplinarity aspires to be a more holistic approach, and aims to displace disciplinary formations.”<sup>337</sup> Lawrence identified key features of transdisciplinarity were that it “admits and confronts complexity in science and it challenges knowledge fragmentation”; “[i]t deals with research problems and organizations that are defined from complex and heterogeneous domains such as global environmental change”; and its “mode of knowledge production is also characterized by its hybrid nature, non-linearity, and reflexivity, transcending any academic disciplinary structure”.<sup>338</sup> Other characteristics identified by Lawrence include that transdisciplinarity embraces uncertainty, context-specificity, and inter-subjectivity, and that it is action-oriented and makes linkages between theory and practice.<sup>339</sup>

My efforts to use insights from legal, critical and philosophical scholarship relating to international law to instigate material and social engagement and artmaking, and to use material and social engagement and artmaking to stimulate reflection on international law, have characteristics of both interdisciplinarity and transdisciplinarity. In my research-creation practice, there are interactions across and between the disciplines, and *enchainements* of legal analysis followed by artistic practice, followed by legal reflection and further artmaking, etc.. This research-creation practice is also nonlinear and action-oriented, embracing intersubjectivity and uncertainty, and transcending existing disciplinary structures. My aim is

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<sup>335</sup> Lury, in Lury et al., *Routledge Handbook*, “Introduction,” 7-13.

<sup>336</sup> Ibid, 20-21.

<sup>337</sup> Ibid, 1.

<sup>338</sup> Lawrence, “Deciphering,” 127. Pierre Bourdieu, *The Weight of the World: Social Suffering in Contemporary Society*. Translated by Priscilla Parkhurst Ferguson. Stanford, California: Stanford University Press, 1999, discussing reflexivity in social research. “*Reflexivity* is the process of engaging in self-reflection about who we are as researchers, how our subjectivities and biases guide and inform the research process, and how our worldview is shaped by the research we do and vice versa”: M.K. Jamieson, G.H. Govaart, and M. Pownall, “Reflexivity in quantitative research: A rationale and beginner's guide,” *Social and Personality Psychology Compass*, 17(4), (2023) e12735, 1-15, 2: <https://doi.org/10.1111/spc3.12735>.

<sup>339</sup> Lawrence, “Deciphering,” 127.

to produce hybrid, emergent, embodied, and diffractive knowledge of both a theoretical and practical nature about complex international law and governance questions through artmaking and performance. Needing a sufficiently capacious descriptor, I therefore adopt transdisciplinary as the more apt term for my project.

### **Why transdisciplinary international law-arts research-creation**

This dissertation is about the TILARC practice I developed to critique existing international law and imagine different approaches more suited to addressing current global crises. Feeling some exasperation with the limitations of international law in responding to today's existential environmental, human rights and humanitarian crises, I turned to critical legal and cultural scholarship and artmaking and performance to explore international law themes relating to identity, peace, human rights and environmental protection. I hoped that my transdisciplinary process would allow me to explain and express my frustrations in creative ways and provide a positive empowering artistic vision of a renewed planetary charter in place of the prevalent cynicism, hopelessness and despair.

Having practised international and public law for many years, I cannot avoid thinking about law, but I no longer think about it as a practitioner analyzing and synthesizing legal texts. Law can seem disconnected from our material emotional experience,<sup>340</sup> and I try to re-establish those material or emotional connections through art and performance and suggest how they might renew international law. Through artmaking and performance, I reflect on how the language of law shapes our world. Using art and performance I seek to go beyond words in addressing current global challenges. I am curious as to whether thinking and making art about international law will yield new insights about international law and art.

The legal profession affords the practitioner or researcher constant opportunities to question and learn. With every new file the lawyer encounters new legal frames, people, fact

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<sup>340</sup> Simpson, *Sentimental Life*, 76-77, 78-79.

situations, and problems. Critical legal research and analysis skills and collaborative approaches to understanding and solving legal problems provided a foundation on which to develop this research-creation practice, in both its solitary (e.g., reading, writing and artmaking) and communal (e.g., participating in the RISE micro-opera team and organizing discussions, happenings, and art expositions) aspects.

I postulate that approaching international law from an artistic and performative angle can be a valuable new contribution to society.<sup>341</sup> I use art and performance to reflect upon, critique, and reimagine international law. I use the arts to consider how international law responds to today's global security, human rights, and environmental challenges and develop my vision of a renewed planetary charter. I continue to think like a lawyer or legal researcher, but I now express myself mainly through art rather than legal documentation. I am not suggesting that all international lawyers should drop their law books and make art. They are doing valuable work within a complex system with many of them hoping progressively to improve the state of existence on this planet. It can be psychologically challenging for a practising lawyer to entertain fundamental questions about what law is and does, while serving within the system, as one of its voices.<sup>342</sup>

By taking an artistic, critical, and philosophical approach, I can ask challenging and impractical questions and express through the arts what sometimes is difficult to express in

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<sup>341</sup> Greene, "Teaching as Possibility". Greene cites poems by Hannah Arendt and Adrienne Rich written in and about bitter times as "speaking of the capacity of human beings to reach beyond themselves to what they believe should be, which might be in some space they bring into being among and between themselves. The two remind us ... of what it signifies to imagine not what is necessarily probable or predictable, but what may be conceived as possible." At 138. See also, Greene. 2011. "Releasing the Imagination."

<sup>342</sup> See for example, rules applying to lawyers called to the Bar of Ontario, where they are considered "officers of the court": "Lawyers are not solely professional advocates or "hired guns." And while they do not surrender their free speech rights upon admission to the Bar, they are also officers of the court with fundamental obligations to uphold the integrity of the judicial process, both inside and outside the courtroom. It is the duty of counsel to be faithful both to their client and to the administration of justice." R. Roy McMurtry, "Role of the Courts and Counsel In Justice", *Court of Appeal of Ontario*, 6 June 2000, accessed 30 November 2024, <https://www.ontariocourts.ca/coa/about-the-court/archives/role-of-the-courts-and-counsel-in-justice/#:~:text=Lawyers%20are%20not%20solely%20professional,inside%20and%20outside%20the%20courtroom.>

words, or augment with art ideas that may be well expressed in legal language, but which are not being universally observed. For example, by using the language of international law in artworks I seek to draw attention both to gaps and incongruities that need addressing and to important concepts that deserve greater emphasis and compliance. Taking an artistic rather than practical approach to international law, I can take full cognizance of Deleuze and Guattari's insight that law like philosophy provides justification and legitimacy to state power.<sup>343</sup> Through artmaking and performance I can explore and connect big ideas like new materialism, posthumanism, feminism, being cyborg, and the anthropocene, to international law. I believe these ideas constitute our present reality but have yet to be fully integrated into the mainstream of international law, which changes incrementally through the slow development of consensus.<sup>344</sup> Placing these ideas in conversation with current international law through artmaking and performance reveals international law's inadequacies and enables us to imagine alternative futures.

Despite my criticisms of international law, I look to it to make sense of the world, for solace, guidance, and possibilities of cooperation to create order according to communal values that guide us towards justice. Human society needs international law to find agreement about the terms of peaceful co-existence and thriving for this planet. I use this intellectual and creative exploration to imagine how international law might better protect human rights and the environment and support peaceful resolution of conflict. I express my vision of a renewed planetary charter through art and performance, which I offer as a proposition for viewers to consider. This serves as an artistic intervention from outside the traditional legal frame and an accessible portal by which to observe and question how international law shapes our world. To answer the question why such interventions matter, they matter in the sense that Barad

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<sup>343</sup> Deleuze and Guattari. *A Thousand Plateaus*, 376.

<sup>344</sup> Toope, *Age of Anxiety*.

offers, that they result from purposeful attempts at ethical engagement with people, ideas and agential matter in pursuit of justice.<sup>345</sup> Through my TILARC practice I use my knowledge, experience and creative and organizational capacities to try to imagine and encourage others to imagine how we can contribute to making a better future for our planet. My research connecting reading, artmaking and performance teaches me about values of importance to me and may offer others an approach for exploring through research-creation their own questions about values. When I present my research at conferences and workshops, I hope for stimulating exchanges about how the arts can support us and contribute to addressing the crises of the posthuman cyborg anthropocene.

The first chapter provided a critique of international law's foundations, introducing the *UN Charter*, UN system and the field of international law, and through diffractive reading questioning the language of law and international law's foundations, all ideas that fuel my art and performance. The second chapter provided a philosophical and cultural critique of international law through aesthetics, object-oriented experimentation, and scholarly readings illuminating the posthuman, cyborg anthropocene. Deleuze and Guattari's art-law cultural critique raised the possibility of an artistic war machine whose object was making art not war. Critical legal, cultural, feminist, environmental, anticolonial, new materialist, posthumanist scholars offer insights and raise questions about international law, providing space to imagine possible improvements as well as radical undermining, decoding and encoding.

As noted, the UN system and its body of international laws have developed and expanded to address many of the challenges the world has faced since the end of the second world war. As a large geographically dispersed organization overseen by member states, the UN is susceptible to problems of incompetence, corruption, inefficiency and lack of coordination of its work. Geopolitical tensions impede cooperative problem solving and

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<sup>345</sup> Dolphijn and van der Tuin, "Matter feels, converses," Interview with Karen Barad.



allow alternative realities to flourish in which certain states reinterpret or denigrate international law to suit their ends. Global problems fester when institutions are ineffective and laws are not obeyed. In recently committing to the *Pact for the Future*, the UN General Assembly expressed its dismay at the collective failure to match the fine promising words of international law with bold action to address armed conflict, human rights violations, humanitarian crises, growing inequality, climate change and environmental devastation. According to the United Nations General Assembly press release, “the Pact is a strong statement of countries’ commitment to the United Nations, the international system and international law.”<sup>346</sup> Thus, in some respects the *Pact* is a restatement of commitments already made by states but which they have at times failed to observe or enforce.

In making art and performance about international law I ask questions about why this commitment is lacking. Are the legal frames too conventional, built out of European colonial history, seemingly incapable of imagining let alone incorporating the diverse outsider embodied perspectives of the many others? One might well ask, do international negotiators and the politicians to whom they report even appreciate our interrelationships not only with each other but with the whole planet and all its other living and nonliving constituents? Representatives of Indigenous Peoples at international climate change, biodiversity and plastic pollution negotiations generously offer insights about relationality and kinship from their traditional laws. These insights could help broaden and reimagine international law to contribute to environmental justice and stewardship for the planet. However, the representatives of Indigenous Peoples are mostly denied negotiating status in the UN system which only formally recognizes states, including those established through conquest and

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<sup>346</sup> United Nations General Assembly, “United Nations Adopts Ground-Breaking Pact for the Future to Transform Global Governance,” *Press Release* GA/12641, 2 October 2024, accessed 11 December 2024. <https://press.un.org/en/2024/ga12641.doc.htm>.

colonization. Inclusion of Indigenous Peoples at international meetings is improving slowly despite resistance of states.<sup>347</sup>

I question the rampant success of the multinational corporation as a global citizen welcome anywhere if they will spread some of their wealth. I contrast this with refugees and migrants, reviled by demagogues and blocked at every border, as they flee conflict, environmental disasters, and poverty, hoping for a haven and a decent life. I observe that corporate personality seems voracious, lacking in human susceptibility to conscience and eventual death. Over the past decades multinational corporations have elevated themselves to “global corporate citizens”,<sup>348</sup> suggesting a right to move and invest anywhere. States are eager for them to invest so give them incentives and special protections with little in the way of reciprocal promises to local communities, treating workers and the environment as expendable. Constant movement and shifting of corporate ownership from one jurisdiction to another make it challenging to hold multinational corporations to account for human rights and environmental harms committed in their operations. Because of the fiction of corporate persona,<sup>349</sup> untrammelled faceless, heartless capital bestrides the globe while borders are closed tightly against humans fleeing hunger and poverty, conflict, and environmental disasters. The immateriality of corporate persona and its material impacts on living and non-

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<sup>347</sup> United Nations, “Indigenous Peoples At The United Nations,” *Department of Economic and Social Affairs, Social Inclusion*, accessed 11 December 2024. <https://social.desa.un.org/issues/indigenous-peoples/indigenous-peoples-at-the-united-nations>; United Nations, “Participation Of Indigenous Peoples At The UN,” *Department of Economic and Social Affairs, Social Inclusion*, accessed 11 December 2024. <https://social.desa.un.org/issues/indigenous-peoples/participation-of-indigenous-peoples-at-the-un>.

<sup>348</sup> Klaus Schwab, Executive Chair of the World Economic Forum, seems to have popularized this notion. Klaus Schwab, “Global Corporate Citizenship: Working with Governments and Civil Society,” *Foreign Affairs* 87, no. 1 (2008): 107–18. <http://www.jstor.org/stable/20020271>. For a variety of alternative perspectives on the “corporate citizen”, see, Oonagh E. Fitzgerald, *Corporate Citizen: New Perspectives on the Globalized Rule of Law*. Montreal: McGill-Queen’s University Press, 2020. <https://nnels.ca/node/238037>.

<sup>349</sup> Mary Condon, “Of Butterflies and Bitterness? Legal Fictions in Corporate and Securities Law,” in Y. Gendreau (ed.), *Fictions in the Law / les fictions du droit*. Montreal, Q.C.: Les Editions Themis, 2001. 125-145, 127: “One of the first principles of Anglo-American corporate law that students learn is that the corporation is best understood as a legal fiction. The principle is otherwise known as the doctrine of the separate legal personality of the corporation. This is the idea that law grants a corporation a legal identity that is separate from its owners or shareholders, on the one hand, and those who make decisions on its behalf — officers and directors — on the other. Thus, the corporation is a fictitious creation of law.”

living constituents of our planet should be unmasked if we are to understand and address current global crises.

I am interested in imagining how the perspectives of radical posthuman, materialist, anticolonial, feminist, and aesthetic scholars might help restore and reinforce the best of the current system while supporting and strengthening peaceful resolution of conflict, human rights and environmental protection. I consider whether the values espoused by these scholars could help make the international order more responsive to current crises of climate change and environmental destruction, human inequality and vulnerability, and armed conflict and nuclear threat. As I make art and performance I contemplate how posthuman materiality could be infused into international law so that it would better support and recognize the interdependent relationship of humans, living and nonliving entities that constitute this planet, protect them from violence and destruction, and provide them with restorative reconciliatory justice.

### **Embarking on research-creation**

I combine reflections on international law with artistic expression to draw attention to important identity, peace, environmental and human rights issues affecting life on this planet. Research-creation is a recursive practice in that reflection on the works created instigates further written or assembled works. In this way, the artworks created become communicative beings that speak of a vision for a renewed planetary charter. This will be developed further in Part II Chapters 5, 6 and 7 as I describe various projects. To illustrate how I began to develop my research-creation practice, the following pages discuss my early research-creation projects.

### **Faces: embodied artmaking through alternating hand technique**

In lockdown with my husband and young adult sons, I was reading scholarly works on research-creation for my application to the Concordia INDI program. Drawing faces while listening to live or radio conversations has been a lifelong practice. Over the years I came to accept my face drawing as apparently an essential expressive outlet. Later I would return to a sketch and elaborate it with colour and ink. As I sat listening to COVID-19 news and felt no hint of inspiration, I knew that face drawing was going to happen. Desultory dominant-hand pencil drawing of faces thus began. Uninspired and not wanting to waste the available paper, I challenged myself to copy the image on the facing sketchbook page with my non-dominant hand. With my dominant hand I then traced over the lines of each image adjusting slightly as the ink pen flowed. The images had family resemblances but were never identical. When it came to adding colour, my dominant hand gave the task to my non dominant: “Do what you can, I am stuck...” With my non-dominant hand, I boldly picked coloured water pastels and crayons from their boxes and roughly and exuberantly applied them. With the creative block thus breached, my dominant hand took up the task of painting and finishing the images. This series took several months to complete. At times tedious and repetitive, I enjoyed the ritual pattern of art production and the collaboration of both hands in finding surprising ways to energize the images.

This was my first experiment using research-creation to explore the transversal spaces, tensions and dynamics between the disciplines of art and international law and thereby constituting new processes for knowledge production.<sup>350</sup> I embraced a meditation on face and mask, about the power of face drawing in narrating past, present and future legal orders, at a time when people were required to wear masks in public and struggling with identity and

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<sup>350</sup> Manning, “Against Method”.

loneliness in lockdown isolation.<sup>351</sup> The unprompted choice to alternate hands to keep the drawing, colouring and painting going to completion was intuitive and playful, adding humour and surprise and lightening the pressure to perform.<sup>352</sup>

The paintings were responses to the waves of change that engulfed humanity in 2020. With governments implementing unprecedented payments to citizens to help them survive without working outside the home, I was at first hopeful that this global crisis would build international solidarity and draw nations together to collaborate. To some extent it did, with scientists developing vaccines in record time, but in many other ways we saw solidarity breakdown as nations and individuals began stockpiling and hoarding essential supplies. Violence against women increased and women's economic gains retrenched. It seemed that preexisting societal problems deepened.

As the *COVID Faces* series (Fig. 6) grew, I found myself meditating on racism, despair, isolation, injured nature, healing nature, and human relations with nature, and dreaming of harmony between humans and nature. The series evolved with deeper colours, nature elements with faces disappearing or drifting in forests and lakes. The merging of nature and human faces seemed intuitively soothing and appropriate for this strange time. The faces are an interplay of imagination, colour, scenery and surroundings, changing colour with nature's images, reflecting our many skin tones, how we reflect light, and how skin tone reflects the environment we find ourselves in at any moment. I was driven by the sense that we are nature, nature absorbs us, and we reflect nature.

As I read about research-creation, this deliberate and curious way to engage complex international law and governance issues with artmaking imbued my artistic practice. Whether the finished paintings communicate anything about international law and governance is for

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<sup>351</sup> Belting, *Face and Mask*.

<sup>352</sup> Chapman and Sawchuk. "Research-creation". The alternating hand technique incidentally provided a visual pun on their notion of "family resemblances" in the two faces produced.

others to say. From my point of view, in each one my hands sought to express and console the tumult of love and pain the world has been experiencing. Towards the end of the series, I dreamt of an image of a person whose head was overflowing with water. I found my non-dominant hand was more comfortable drawing that image than my dominant hand, so I reversed my practice and began with the nondominant hand. This suggested the dominant/nondominant handovers were having an interesting effect on my creativity and expression, opening new ways of artmaking.

A few months later, with the pandemic still lingering, I had the opportunity through my Ph.D. methodologies class to conduct a pilot study to share this practice with others to see how they might respond to trying the same alternating hand technique for artmaking.<sup>353</sup> In an art-based pilot study 17 participants used this same technique to produce a total of 34 works. Visual coding of expressive elements in the artworks that participants produced<sup>354</sup> and their questionnaire responses provided insights on artmaking and the alternating hand technique during the pandemic. In responses to the questionnaire about ease and feelings of comfort during each assigned task, which was rated on a scale of 1-10, it appeared that drawing with the dominant hand was relatively easy (7/10) with feelings of creativity slightly lower (5.5/10) and with strong contrasts between experienced and inexperienced artists. Drawing with the nondominant hand was more difficult for all participants (4.5/10) with feelings of creativity at (5.1/10). Comfort and ease in colouring with the nondominant hand was rated at 5.3/10 with feelings of creativity higher at 5.9/10. Finishing the works with the dominant hand was rated as easy (8.2/10) with feelings of creativity at 5.2/10. Many comments

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<sup>353</sup> This pilot study received short form ethics approval, used case study methodology, and was executed under the supervision and guidance of Professor Lorrie Blair, Concordia University for ARTE 882, using the Concordia University, “Abbreviated Summary Protocol Form for Academic Department Review For Minimal Risk Student Course Related Research Intended Solely for Pedagogical Purposes,” accessed 11 December 2024. [https://www.concordia.ca/content/dam/concordia/offices/vprgs/docs/Abbreviated\\_SPF.doc](https://www.concordia.ca/content/dam/concordia/offices/vprgs/docs/Abbreviated_SPF.doc). Participants gave free, prior and informed written consent, were provided with a summary of the study’s findings, and had an opportunity to comment on the findings and to withdraw from the study. The study was presented to the class and at the 2021 International Conference of the Arts and Humanities (ICOAH) conference.

<sup>354</sup> Rose, *Visual Methodologies*.

suggested that switching to the nondominant hand was both challenging and liberating, and returning to the dominant hand was comforting. The technique drove participants' artmaking forward to completion despite mental and bodily resistance, with some experiencing unfamiliar resources of creativity. A year after the pandemic began, participants reacted strongly to questions about whether it affected their artmaking, some rejecting any connection, others expressing ongoing anxiety. Some drawings seemed explicitly pandemic-related: a person hunched over a cell phone, another staring at a computer screen, another with a mask and fogged up glasses, a health care worker in full protective gear, and a wild haired bearded man. Alternating hand technique seems to propel artmaking and unblock creativity. Participant art-based inquiry through email exchanges, phone and zoom calls, and sharing photographs of artworks and questionnaire results built a light sense of community in pandemic isolation.

At an exposition of my works a few months later, visitors walked slowly along the spiral formation of 34 back-to-back paintings in the COVID-19 Faces series. They commented on the interesting family resemblances between the dominant and nondominant hand drawings. They probed how I gained a sense of embodiment and creativity from using the technique and shared their own intriguing stories about experiences of shifting tasks from one hand to another. Alternating hands in making art is a simple way to experience both embodiment and estrangement from oneself. Barad wrote about the relationship of hands:

When two hands touch, there is a sensuality of the flesh, an exchange of warmth, a feeling of pressure, of presence, a proximity of otherness that brings the other nearly as close as oneself. Perhaps closer. And if the two hands belong to one person, might this not enliven an uncanny sense of the otherness of the self, a literal holding oneself at a distance in the sensation of contact, the greeting of the stranger within? So much happens in a touch: an infinity of others—other beings, other spaces, other times—are aroused.<sup>355</sup>

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<sup>355</sup> K. Barad, "On Touching—the Inhuman That Therefore I Am." *Differences* (Bloomington, Ind.) 23, no. 3 (2012): 206–223, 206.

I make art with residents at a seniors' home in my neighbourhood and was happy to be able to suggest this technique to a woman who had lost use of her dominant hand after a stroke. We draw and paint together using our nondominant hands experiencing the discomfort and uncanny freedom as we develop new skills.

### **Masks: sculpting and inscribing clay**

Since that first research-creation project, I see how each project is a gathering of threads to make the tapestry of my developing practice of using art and performance as a minor intervention on global issues of international law. An ongoing research-creation project exploring materiality involves thinking about international law and working with clay.

For several years I experimented with painting autobiographical or biographical scenes on ready-made masks, intrigued by the idea that a three-dimensional face synthesizes and projects one's identity developed through experience, both enclosing one's inner life and reflecting one's environment.<sup>356</sup> I was interested in seeing how shaping the mask myself might augment this idea. Experiments involved shaping masks from various kinds of natural and synthetic clay, plaster bandages, papyrus and cardboard packing materials. Reading about new materialism, I was intrigued by Sennett's discussion of technical developments and evolving practices in the making of clay pots and bricks over millennia<sup>357</sup> and Ingold's discussion of the dialogic, multi-voiced, material practice of brickmaking.<sup>358</sup>

Experimenting with clay was not my usual medium but provided an interesting perspective for considering issues of materiality, performance and international law. During the pandemic lockdown, as I skimmed through YouTube videos to learn some basic techniques, it was evident that this material could be shaped into anything by anybody,

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<sup>356</sup> For interesting interpretations of the connections between face, mask and landscape, see Deleuze and Guattari, *A Thousand Plateaus*, 172; and Belting, *Face and Mask*, 31.

<sup>357</sup> Sennett, *The Craftsman*, regarding clay pots: 120-122 et seq., and bricks: 130-131 et seq.

<sup>358</sup> Ingold, "The Materials of Life," 24-25, discussing and citing Gilbert Simondon, *L'individu et sa genèse physico-biologique; l'individuation à la lumière des notions de forme et d'information*, (Paris: Presses universitaires de France, 1. éd. 1964), 41-42.



whatever their beliefs, motives and inspiration: hence garden gnomes, Madonna shrines, and lawn jockeys.<sup>359</sup> It was up to the maker to guide his or her own hand to inscribe meaning into the clay.

Clay's properties of fine malleability and quick drying made it an obvious substance for recording important information. Since 9000 BCE, simple clay tablets were used to record agricultural data from market transactions. This usage evolved to more complex forms of written communication by 3000 BCE such that legal codes, astronomical events and epic stories were being written on clay tablets.<sup>360</sup> Fragments of the fragile unfired and more sturdy fired tablets exist today.<sup>361</sup> Sometimes laws were written on stone, like the *Code of Hammurabi* dated 1755–1750 BCE,<sup>362</sup> which set out 282 legal decisions of King Hammurabi inscribed on a diorite stela, placed in the temple of Marduk, Babylon. The *Cyrus Cylinder*, a baked-clay cylinder inscribed in cuneiform in the Akkadian language, provided an account of the conquest of Babylon in 539 B.C. by Cyrus, King of Anshan (Persia) in which he decreed

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<sup>359</sup> Fredrick Kunkle, "In a Simple Lawn Ornament, Echoes of Slavery, Revolution," *The Washington Post* online, September 17, 2006, accessed 28 November 2024, <https://www.washingtonpost.com/archive/politics/2006/09/17/in-a-simple-lawn-ornament-echoes-of-slavery-revolution/b8471bf9-704e-4fda-b3d2-37b8d6c4d8f3/>. Pamela Sherrod, "The Secret Life of the Black Lawn Jockey," *Chicago Tribune* online, 8 February 1998, accessed 28 November 2024, <https://www.chicagotribune.com/news/ct-xpm-1998-02-08-9802080499-story,amp.html>. Scruggs, C. "The Lawn Jockey and 'the Justice We Dream Of': History and Race in Raymond Chandler's the High Window," *Papers on Language and Literature* 48, no. 2 (2012): 115–36, discussing the use of the lawn jockey in literature.

<sup>360</sup> The Epic of Gilgamesh, composed nearly 4,000 years ago and preserved on 12 incomplete clay tablets in Akkadian-language cuneiform script, tells the story of the King of the Mesopotamian city-state Uruk: Amy Tikkanen, "Epic of Gilgamesh," *Britannica*, updated 25 October 2024, accessed 28 November 2024, <https://www.britannica.com/topic/Epic-of-Gilgamesh>; The British Museum, "tablet", accessed 28 November 2024, [https://www.britishmuseum.org/collection/object/W\\_K-3375](https://www.britishmuseum.org/collection/object/W_K-3375); John Carey, "The Epic of Gilgamesh", Yale University Press (30 April 2020), accessed 28 November 2024, <https://yalebooks.yale.edu/2020/04/30/the-epic-of-gilgamesh/>; Ancient Texts, "The Epic of Gilgamesh", accessed 28 November 2024, [https://www.ancienttexts.org/library/mesopotamian/gilgamesh/#:~:text=The%20Epic%20of%20Gilgamesh,-Homepage&text=It%20comes%20to%20us%20from,between%202750%20and%202500%20BCE\)](https://www.ancienttexts.org/library/mesopotamian/gilgamesh/#:~:text=The%20Epic%20of%20Gilgamesh,-Homepage&text=It%20comes%20to%20us%20from,between%202750%20and%202500%20BCE)).

<sup>361</sup> Tablets were often unfired, meant to be wetted and the clay reused, but some were accidentally fired when buildings burned and thus fragments survived. sKaren Radner and Eleanor Robson, Chapter 1. "Materiality and Literacies"; Robert K. Englund, Chapter 2. "Accounting in Proto-Cuneiform"; Steve Tinney, Chapter 27. "Tablets of Schools and Scholars: A Portrait of the Old Babylonian Corpus" in *The Oxford Handbook of Cuneiform Culture*, eds. Karen Radner and Eleanor Robson (Oxford: Oxford University Press, 2011).

<sup>362</sup> William Hardy McNeill and Jean W. Sedlar, *Readings in World History* (New York: Oxford University Press, 1968), Part II. Law, 137-145, Slavery and Servitude, 164-167; Commerce and Debt, 191-194; Britannica, "Code of Hammurabi", updated 24 October 2024, accessed 30 November 2024, <https://www.britannica.com/topic/Code-of-Hammurabi>.

the ending of labour service by Babylonians, the return of deported peoples, and the restoration of gods, temples and religious cults.<sup>363</sup>

Inscribing laws in baked clay or on stone gave them a permanence that allowed them to last long after their relevance, just as today we find laws enacted through once recognized legal processes years ago continue to shape discourse and practice, even after conditions and attitudes have changed and laws are reformed.<sup>364</sup> Oppression can in this sense be “baked into” the way laws are understood and applied, creating pervasive systemic discrimination despite laws formally ending it and even prohibiting it.<sup>365</sup> Artist Stanley F  vrier embodied this in sculptures of himself bound, imprisoned in white plaster, as a visual realization of racial injustice and police violence.<sup>366</sup> Fixing the artist’s own body into a work of art can have an unsettling effect and raise strange technical and aesthetic questions.<sup>367</sup>

Words and objects shaped in wet clay are malleable and ephemeral, easily obscured instantly in one rough gesture or gradually worn away with the slow dripping of water. Artist

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<sup>363</sup> The British Museum, “cylinder”, accessed 28 November 2024, [https://www.britishmuseum.org/collection/object/W\\_1880-0617-1941](https://www.britishmuseum.org/collection/object/W_1880-0617-1941); Metropolitan Museum, “The Cyrus Cylinder and Ancient Persia: Charting a New Empire”, *The Met*, accessed 28 November 2024, <https://www.metmuseum.org/exhibitions/listings/2013/cyrus-cylinder>. The Cylinder has been called “the world’s first charter of human rights”: United for Human Rights, “A Brief History of Human Rights”, accessed 28 November 2024, <https://www.humanrights.com/what-are-human-rights/brief-history/>.

<sup>364</sup> Despite legal reforms it continues to be necessary to challenge and counter laws and practices that perpetuate aspects of colonialism and racism today: John Borrows, Chapter 1. “Canada’s Colonial Constitution,” in Michael Coyle and John Borrows (Eds.), *The Right Relationship: Reimagining the Implementation of Historical Treaties* (Toronto: University of Toronto Press, 2017).

<sup>365</sup> bell hooks, *Black Looks: Race and Representation*, (New York: Routledge, 2015), 11. See also, Black Lives Matter, “About Black Lives Matter”, accessed 28 November 2024, <https://blacklivesmatter.com/about/>: “Black Lives Matter imagines a world where Black people across the diaspora thrive, experience joy, and are not defined by their struggles. In pursuing liberation, we envision a future fully divested from police, prisons, and all punishment paradigms and which invests in justice, joy, and culture.” The movement was first created by Alicia Garza, Patrisse Cullors and Opal Tometi in 2013.

<sup>366</sup> Stanley F  vrier, *Cette chair* (2017-2019), accessed March 2, 2021, <https://collections.mnbaq.org/fr/oeuvre/600053988>; Didier Morelli, “Stanley F  vrier,” in *Esse, No. 101, New Materialisms* (2021) <https://esse.ca/en/new-materialisms>, 100-103.

<sup>367</sup> Belting, *Face and Mask*, 166-174, discussing the self-portraits of Jorge Molder. In dance the artist’s body is incorporated into the artform, expressing the lived experience of constraint and the dream of escape and freedom: Germaine Ingram and Toni Shapiro-Phim, “Freedom and the archive,” in *Art and Human Rights: A Multidisciplinary Approach to Contemporary Issues*. eds. Fiana Gantheret, Nolwenn Guibert, and Sofia Stolk (Edward Elgar Publishing Limited, 2023) 99-118; Rose Martin and Shyrine Ziadeh, “Dancing in dialogue: The notion of dance in politically fragile contexts,” in *Art and Human Rights: A Multidisciplinary Approach to Contemporary Issues*. eds. Fiana Gantheret, Nolwenn Guibert, and Sofia Stolk (Edward Elgar Publishing Limited, 2023) 61-75.

Phoebe Cummings used bankruptcy law to escape her indebtedness after art school and used her poverty to shape her creative practice.<sup>368</sup> She sought artist residencies with free access to local clay, would not fire or glaze it, and incorporated decomposition of her sculptures in the art performance, preserving a record of the works in photography, film, and writing.<sup>369</sup>

Working in clay or plaster affords the artist an opportunity to contemplate the long history of human making and building and the impermanence of human life and civilizations. These materials invite us to use them to honour and reflect through anamnesis everything that we consider important: justice, freedom, beauty and hope. As I dug my hands into the clay to form masks, I contemplated how to inscribe my vision and meaning into this material. Without access to a kiln during lockdown, I worked with unfired clay, letting it airdry, coating it with gesso, painting it with oil paints, then applying a protective glaze. I sculpted and painted the first series of three masks, *Winter Scenes* (Fig. 7), exploring the interplay of ice, snow, sky and wintry forests: a view across Lac McGregor in the morning; a view of the lake through the trees in moonlight; and sunset at the Experimental Farm in Ottawa. They each seemed to exist as a separate world, so I found a delicate curving arabesque of driftwood and displayed them laid them along it.

I then made three larger clay faces, enjoying the cool smoothness of the clay, how both hands were involved, and how physical and delicate the work was. I was intrigued with how the clay roughly took human form, and asked myself whether I should stop at that more abstract point or continue shaping and smoothing for a more symmetrical realistic face. Each face took several hours to sculpt, although my technique was becoming more assured and rapid. I noticed it was important to examine all parts of the face multiple times to clean up

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<sup>368</sup> Grant Gibson and Phoebe Cummings, November 25, 2020, “Phoebe Cummings on Raw Clay,” in *Material Matters with Grant Gibson*, podcast, MP3 audio, 37:57, <https://open.spotify.com/show/4HI3g1MKruYUDiPj7JxBgi>; see also Phoebe Cummings, <http://www.phoebecummings.com/>.

<sup>369</sup> Cummings, *Antediluvian Swag* (2016), *Triumph of the Immaterial* (2017), *Production Line* (2015); <http://www.phoebecummings.com/>.

blemishes, nicks and cracks and to smooth the surface. After the three large clay faces had air-dried, I coated them with white gesso to make a smooth, less porous painting surface. With their varying sizes, the faces resembled a family: father, mother, daughter. Winter was ebbing, everything was melting, and streams were rushing with spring water. This inspired me to paint the faces with scenes of bubbling water pouring over rocks with the first greens of early spring. I found a sturdy piece of driftwood to support and display the faces of the *Spring Flood* family (Fig. 8).

I continued my exploration with clay, making a slightly larger than life size head, *Tree Spirit* (Fig. 9), with tree roots around the neck and leaf-covered branches reaching over the back and sides of the head instead of hair. I arranged to have this double-fired, then I coated it with gesso, painted it with oil paints and glazed it with mod podge, displaying it on a turntable so it could be seen from all sides. I continued clay sculpting to accompany the writing of this dissertation, making life models and finishing with a reclining female nude that was slowly air dried then fired, and which eventually will be painted, likely with nature themes. Instead of using clay to inscribe words of international law, I am using it to deepen my material engagement and make beings that speak of my concern to reunite and strengthen humanity's relationship with our environment.

### **Words: painting the UN Charter**

In contrast to the clay projects, which made me think about inscribed words of law but not add them to my clay creations, a six-painting series entitled, *Reflections on the UN Charter - What is and is not there* (Fig. 10), was initiated by writing an opening phrase of text of the *UN Charter* on the art paper, asking what is and is not there, and then incorporating the words into a drawn and painted image evoked by the text. The 1945 *Charter* articulated the high importance of building institutions that fostered global peace and security and peaceful dispute settlement. As I painted, I considered whether those institutions were still fit for

purpose; what legal orders had been inscribed and become entrenched because of the *Charter*; what legal possibilities had been neglected, omitted, or forgotten. As the world grappled with the pandemic, anthropogenic climate change, biodiversity loss, rampant inequality, and nuclear threat, I pondered how could we renovate institutions of global governance to strengthen international laws of peace, justice, health and environmental security and solidarity to address the world's material needs.

The first painting, *Ancestors*, cites the opening words of the *Charter*, from which all else proceeded: "We the peoples of the United Nations determined..." The image is the water's edge of a deep forest with a rosy sky beyond. In the dark of the underbrush and earth we see faces, and in the movement of the water we see arms and hands reaching. The *Charter* was written in the blood of our ancestors, as survivors of the two world wars sought to construct a path to global peace. We cannot afford to forget its ambition "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind",<sup>370</sup> nor the horrors that necessitated such ambition. We owe all humanity alive today, our ancestors and future generations this responsibility to create a world of peaceful cooperation.

The second painting in the series, *Conversation*, cites the third paragraph of the opening words of the *Charter*, continuing from "We the peoples of the United Nations determined ... to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained".<sup>371</sup> The image is a campfire on the edge of a deep, dark forest, a wisp of smoke rising to the starry night sky, the light of the fire, reflecting, in calm waters. This is the covenant: to sit together for as long as it takes to develop laws and institutions that serve us all, then hold each other to account to honour

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<sup>370</sup> Preamble, *UN Charter*.

<sup>371</sup> *Ibid*.

the promises made; and to sit together again whenever crises occur, recognize and reconcile with mistakes of the past, and work out solutions justly, peacefully and cooperatively.

The remaining four paintings reference clauses of Chapter I Purposes and Principles Article 1 of the *Charter*. The third painting, *Nuclear Enthusiasm*, cites the first paragraph:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace...

The words appear in luminous yellow in the foreground. The midground is a reproduction of an old photograph of Chinese soldiers cheering a nuclear bomb test. The bomb exploding in the background is modified to incorporate the image of “Miss Atomic Bomb”, the icon of the National Atomic Testing Museum, in Las Vegas.<sup>372</sup> This painting contrasts the fundamentally important undertaking to maintain peace and work together to resolve disputes peacefully to the behaviour of states in accelerating their nuclear weapons programs during the Cold War and to this day. Derrida wrote:

The worldwide organization of the human *socius* today hangs by the thread of nuclear rhetoric. This is immediately readable in the fact that we use the term "strategy of deterrence" or "strategy of dissuasion," ... for the overall official logic of nuclear politics... The anticipation of nuclear war (dreaded as the fantasy, or phantasm, of a remainderless destruction) installs humanity - and through all sorts of relays even defines the essence of modern humanity - in its rhetorical condition.<sup>373</sup>

It seems strangely amnesiac or lobotomized to be painting this image and thinking about these issues so many decades later as we continue to live under the shadow of potential nuclear devastation, while mostly ignoring it.<sup>374</sup>

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<sup>372</sup> Giorgio Gallo and Steven N. Shore, “Making the Unthinkable Thinkable”, 2016, 9, found through ResearchGate, accessed 28 November 2024,

[https://www.researchgate.net/publication/307138707\\_Making\\_the\\_Unthinkable\\_Thinkable/citation/download](https://www.researchgate.net/publication/307138707_Making_the_Unthinkable_Thinkable/citation/download).

<sup>373</sup> Jacques Derrida, Catherine Porter, and Philip Lewis, “No Apocalypse, Not Now (Full Speed Ahead, Seven Missiles, Seven Missives)”, *Diacritics* 14, no. 2 (1984): 20–31. <https://doi.org/10.2307/464756>, 24.

<sup>374</sup> Jessica T. Mathews, “A new nuclear arms race is beginning. It will be far more dangerous than the last one,” *The Guardian The long read*, 14 November 2024, accessed 8 December 2024. <https://www.theguardian.com/world/2024/nov/14/nuclear-weapons-war-new-arms-race-russia-china-us>.

*In Flames*, which is the fourth painting in the series, cites the second clause of Article 1: “2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace”. The image is a painted rendition of the UN headquarters building in New York with a non-white face superimposed with vegetation overwhelming one side of the building as the other side of the building is consumed in flames. I was thinking about the equal rights and self-determination of peoples, how this had been shaped and contained through the inter-World War mandate and post-World War II trusteeship systems and through the “Blue Water” doctrine,<sup>375</sup> and about the promise of the *UN Declaration on the Rights of Indigenous Peoples*. I try to imagine what the UN might be like if all peoples did self-determine and were represented there. I reflect on how nature has been for too long ignored in global governance because humans are so tied up with their fraught relations with each other. We are not particularly adept at helping each other, let alone the whole planet, to flourish.

The fifth painting, *Being Female*, cites the third clause of Article 1: “3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”. The image is of a young woman naked standing on the edge of a cornfield with goldenrod, purple aster and wild grasses around her, with woods in the background starting to change colour.<sup>376</sup> I am challenging and embracing the conflation of female and nature – yes, I am

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<sup>375</sup> Bruce Robbins, “Blue Water: A Thesis”, [published in *OCEANAMERICA(S)*, guest-edited by Giorgio Mariani, *RIAS* 8:1 Spring- Summer 2015, 47-66, accessed 28 November 2024, <https://blogs.cuit.columbia.edu/bwr2001/files/2016/02/Robbins.Blue-Water.pdf>, at 2: “the idea that to be considered a bona fide colony--and thus entitled to exercise the self-determining rights guaranteed by both the Declaration and the UN Charter--a country or people had to be separated from its colonizer by at least thirty miles of open ocean.”

<sup>376</sup> I painted this with the help of a photograph I took of my parent’s old farm in autumn and took some inspiration from Robin Wall Kimmerer’s discussion of relationships, “Asters and Goldenrod”: Robin Wall Kimmerer, *Braiding Sweetgrass*, First edition, (Minneapolis, Minnesota: Milkweed Editions: 2013), 39-47.

nature, but so is everyone. The girl silently interrogates us: what is it about my form, my being, my presence, and my essence, that inspires this dream of my oppression? why is progress towards gender equality so slow? why does every catastrophe prove an excuse for regression? how can we heal the planet while gender wars rage within the human family?

The last painting in the series, *Common Ends*, cites the fourth clause of Article 1: “4. To be a centre for harmonizing the actions of nations in the attainment of these common ends”. The image is looking up at a bright blue sky from beneath a mighty tree surrounded by delicate saplings, all lit by the late afternoon sun. It is a space for contemplating a world in harmony, where humans work cooperatively with nature to secure the future of our planet.

Creating images inspired by the words of the *UN Charter* was an alternative approach to the usual lawyer’s role of reading, interpreting and applying legal text. As I read and copied the sections of text, sketched and painted, the words and developing images were in constant conversation with each other.<sup>377</sup> What is not there in the text is the world of nature which I bring into the images. A renewed planetary charter would need to be a pact of peace and friendship not just between peoples, but with nature as well.<sup>378</sup>

Having described what research-creation is and illustrated how I have employed it as a central part of developing my TILARC practice, I turn to qualitative methodologies that support and strengthen this practice.

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<sup>377</sup> These conversations about what is and should be in the international laws that bind us continued throughout the solo exhibition *DECODING AND REIMAGINING POSTHUMAN IDENTITY 2021* at Concordia University (Fig. 11). More information is available at, Oonagh Fitzgerald, “Decoding and Reimagining Postman Identity,” *International Law-Art-Governance*, accessed 17 December 2024. <https://oonaghfitzgerald.com/de-%5Ccre-coding-through-art-1>.

<sup>378</sup> United Nations General Assembly (25th sess.: 1970) *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*; also Peace and Friendship Treaties made between First nations Mi’kmaq, Maliseet and Passamaquoddy and the British Crown prior to 1779: CIRNAC, “Peace and Friendship Treaties”, accessed 30 November 2024, <https://www.rcaanc-cirnac.gc.ca/eng/1100100028589/1539608999656#a3>; Pacte de Paris, “The Paris Pact for People and the Planet (4P)”, accessed 30 November 2024, <https://pactedeparis.org/pdf/the-paris-pact-for-people-and-the-planet.pdf>; Summit Of The Future Outcome Documents, September 2024, *Pact for the Future, Global Digital Compact, and Declaration on Future Generations: Action 9. We will strengthen our actions to address climate change and Action 10. We will accelerate our efforts to restore, protect, conserve and sustainably use the environment. Together they could be the beginnings of an environmental pact.*



## Chapter 4. Qualitative research methodologies

Qualitative research methodologies were useful to inspire and advance my thinking, writing, making, and performing, and to ensure that my developing TILARC practice was ethically grounded. From all my doctoral research, it appeared that my transdisciplinary research-creation exploration of international law through art and performance was unprecedented, which meant there was no well-trodden methodological pathway to follow. Therefore, I commenced my TILARC project of decoding international law and imagining a renewed planetary charter by drawing on my managerial and legal academic and practical experience of problem-solving and collaborating in ad hoc teams, and employing research-creation approaches as explained in the preceding chapter. I augmented this with several qualitative methodologies discussed in this chapter: autoethnography, a/r/tography, grounded theory, practice-led research, critical approaches, and relativism. I also took support from other researchers who use their experience in the arts to enrich their social science research methodology.<sup>379</sup> Thus, I created a composite method by adapting the managerial and legal methods that had worked for me in the past and incorporating research-creation and qualitative methods to support the development of my TILARC practice.

To illustrate these methodologies in action, I share detailed narratives of my artmaking processes, which embody the principles of autoethnography, a/r/tography, grounded theory, practice-led research, relativism, critical approaches, and arts-infused qualitative methodologies. These stories highlight the methodological journey through rich, personal experiences. Some examples are only discussed in this chapter, while others are further elaborated in the first three chapters of Part II Encoding, organized under thematic groupings

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<sup>379</sup> Hala Mreiwed, Mindy R. Carter, and Claudia Mitchell (eds.), *Art as an Agent of Social Change*, (Leiden, Boston: Brill Sense, 2021); McCall, "Performance Ethnography," 421-423.

as follows: Chapter 5, Art and performance about identity and introspection, Chapter 6, Making art and law in the plasticocene, and Chapter 7, Recoding values.

### **Autoethnography and A/R/Tography**

In the following section I have coupled autoethnography and A/R/Tography because these two methodologies share characteristics of conscientious self-reflection which I found particularly useful in developing and recording my research-creation practice.

#### **Autoethnography**

This dissertation is predominantly an autoethnographic reflection and analysis of my experience developing and applying my TILARC practice, integrating qualitative methodologies and research-creation to decode and reimagine international law through art and performance. Autoethnography revealed itself to be a useful way to explore my identity as a posthuman cyborg of the anthropocene, and to undermine law's universalizing tendencies by incorporating my situated, embodied knowledge as older white woman-lawyer-artist-performer-researcher, as I document and analyze my transdisciplinary research journey.

According to Poulos,

Autoethnography is an autobiographical genre of academic writing that draws on and analyzes or interprets the lived experience of the author and connects researcher insights to self-identity, cultural rules and resources, communication practices, traditions, premises, symbols, rules, shared meanings, emotions, values, and larger social, cultural, and political issues.<sup>380</sup>

As a qualitative method, autoethnography,

1) uses a researcher's personal experience to describe and critique cultural beliefs, practices, and experiences; 2) acknowledges and values a researcher's relationships with others; 3) uses deep and careful self-reflection—typically referred to as “reflexivity”—to name and interrogate the intersections between self and society, the particular and the general, the personal and the political; 4) shows people in the process of figuring out what to do, how to live, and the meaning of their struggles; 5) balances intellectual and methodological rigor, emotion, and creativity; and 6) strives for social justice and to make life better.<sup>381</sup>

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<sup>380</sup> Poulos, *Essentials of Autoethnography*, 4.

<sup>381</sup> Ibid, 4, citing Tony E. Adams et al., *Handbook of Autoethnography*, (Routledge, 2016), <https://doi.org/10.4324/9781315427812>, 2.

Ellis and Bochner explained autoethnography through its enactment, rejecting use of a passive objectivist voice in favour of a form that would allow readers “to feel the moral dilemmas, think with our story instead of about it, join actively in the decision points that define an autoethnographic project, and consider how their own lives can be made a story worth telling”.<sup>382</sup> In autoethnography a researcher should speak of participants, not subjects, as both researcher and participants engage autoethnographically, reflecting on their own lives and experiences, and potentially writing their own stories.<sup>383</sup>

This was the case in the aspects of my TILARC practice where I worked with other people. In putting forth the proposition for the micro-opera *Values in Our Hearts*, I was inviting each participant to confront our contradictions in both wanting to work together and wanting to escape the group to build our own artistic identities. I invited them to do a solo performance to share a secret treasure with the group. We then strove to lightly weave these together through the sounds and movements of a chorus reflecting and echoing each soloist’s treasured revelation. Each participant left the performance with their own perception, and individual experience of this collaboration/identity dichotomy. The audience observed all of us as we revealed the secrets, as we reacted to them, and linked them to the whole performance. Of course, each member of the audience would experience the event differently. There is thus a wealth of perspectives on this single event, most of which are unknowable for me. In chapter 7 I recount my experience and perceptions of how this form of

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<sup>382</sup> Ellis and Bochner “Autoethnography, personal narrative”, 735. They describe the methodology as follows: “Autoethnography is an autobiographical genre of writing and research that displays multiple layers of consciousness, connecting the personal to the cultural. Back and forth autoethnographers gaze, first through an ethnographic wide-angle lens, focusing outward on social and cultural aspects of their personal experience; then, they look inward, exposing a vulnerable self that is moved by and may move through, refract, and resist cultural interpretations”: 738, 739. In dialogue between a student and the author, one of the authors suggests an approach to personal narrative: “[I]f you viewed your project as closer to art than science, then your goal would not be so much to portray the facts of what happened to you accurately, but instead to convey the meanings you attached to the experience”: 751.

<sup>383</sup> Ellis and Bochner “Autoethnography, personal narrative”, 754, 757.

gentle supportive improvisational frame helped draw us out of our isolation and open us to further artistic collaboration.

### **A/R/Tography**

Autoethnography has some commonalities with A/R/Tography, a form of arts-based situated self-study that emerged from the field of art education as a methodology or philosophy to integrate the three roles of artist, researcher and teacher.<sup>384</sup>

A/r/tography is a practice of living enquiry that combines life-writing with life-creating. It promotes artistic enquiry as an aesthetic awareness, one that is open to wonder while trusting uncertainty. Through attention to memory, identity, autobiography, reflection, meditation, storytelling and cultural production, artists/researchers/teachers/learners expose their living practices in both evocative and provocative ways.<sup>385</sup>

In capturing the “becoming”<sup>386</sup> relationship, experience and knowledge of the artist-researcher-teacher, A/R/Tography helpfully introduces and develops use of visual art expression within the autoethnographic repertoire. Autoethnography, augmented by insights and inspiration from A/R/Tography, contributes to my TILARC goal of envisioning a renewed planetary charter because it allows me to access reflections on both artmaking and law. Through writing and making art about this interdisciplinary practice, it helps me to understand, develop, and refine my methods.

Writing autoethnographically reduces the risk of trying to speak for others. This is particularly important when discussing decoding and encoding of international law. Chapter 2 demonstrated that international law tends to universalize the human condition and frame problems and solutions in terms of a stoic, cartesian, masculine and western model. I can

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<sup>384</sup> Sinner, Sahagun Sanchez, Wicks and St. Georges, “A/R/Tographic Rhythm,” 113. See also, Sara Scott Shields, “How I Learned to Swim: The Visual Journal as a Companion to Creative Inquiry,” *International Journal of Education & the Arts*, 17, no. 8 (April 2016). 1-25, citing Laurel Richardson (2005) at 11: “She acknowledges the poststructuralist shift towards self and research as coexisting. “Knowing the self and knowing about the subject are intertwined, partial, historical local knowledges. Poststructuralism, then, permits – even invites or incites – us to reflect on our method and to explore new ways of knowing” (Richardson & St. Pierre, 2005, p. 962). I see the visual journal as a way of creatively inquiring into our own understanding.”

<sup>385</sup> Leblanc, Davidson, Ryu and Irwin, “Becoming through a/r/tography,” 355. See also, Irwin, “Becoming A/R/Tography.”

<sup>386</sup> Ibid.

more effectively critique this model and decode international law by writing autoethnographically because I can bring my own embodied materialist knowledge as lawyer-woman-artist into the critique without self-censoring to conform to that universalist model. It also sensitizes me to the many othered perspectives that reveal oppressive aspects of international law.

Writing autoethnographically also supports me in the encoding process where I seek shared values to imagine a renewed planetary charter, because it keeps me acutely aware of the multiplicity of perspectives, and the risks and challenges of representing perspectives other than my own. One of the fundamental problems with international law is that it purports to be universal because it expresses the agreement of all or a plurality of states. However, there are many peoples whose right to self-determination is denied by state representatives asserting authority over those peoples' lands. The overwhelming male representation in state leadership and at international negotiations means that the experience of women and girls can be overlooked and deprioritized in international negotiations. The fact that all representatives are from states that seek to control exclusively portions of the globe ensures that negotiators mainly serve their own state's geopolitical interests. It is possible that more inclusion of the voices of Indigenous Peoples in international negotiations would help resituate humanity in more respectful relation with the living and nonliving constituents of this planet. Because of these representation issues, my encoding process involves focusing either on my own values and reactions to global issues, thus generating deeper self-knowledge, or focuses on creating situations that encourage people to share their values and articulate their ideas about what would be needed for a renewed planetary charter, generating both multiplicitous and shared knowledge. Thus, when I discuss collaborative projects undertaken during my doctoral studies, I focus on my perspectives and experiences to avoid generalizing.

Autoethnographical writing supports me in understanding and explaining my TILARC practice. It allows me to focus more closely on my doctoral research interests, including writing somewhat experimentally, not entirely conventionally. Sketching or assembling while reflecting on international law, and writing reflectively about this, constitutes my adaptation of autoethnography and aspects of A/R/Tography. Below is an example to explain how I deployed autoethnography and A/R/Tography in my TILARC practice, through use of sketching to record and reflect conversations about the difficult topic of climate vulnerability.

### **Sketches of Climate Vulnerability**

The series *Sketches of Climate Vulnerability* (Fig. 12) is the result of being asked to illustrate a daylong facilitated conversation, *Vulnerability beyond Indicators: a knowledge exchange on the methods for evaluating 'personal-political' climate vulnerability and adaptation*, held at Concordia University. At the start of the session, I requested and was granted participants' consent for me to draw them throughout the day. At the closure of the event, I left the sketch book for participants to look at the works, and after lightly touching up the sketches, I shared them electronically with participants so that they could keep a memento if so inclined. At the invitation of the organizers and with the permission of the participants to draw and participate in the conversation, I found it freeing to be able to listen to the discussion while intently and empathetically sketching and occasionally offering my own comments on the topics being discussed. As I sketched, I learned about many human rights dimensions of climate change and discriminatory attitudes that impaired our ability to find appropriate climate solutions. I captured some of the participants' words, expressions and gestures in a series of 29 quick sketches made over the course of eight hours of roundtable and breakout group discussions. The images were my sketched impressions, not a complete record of the day or of the experience of all the participants. The positive experience and feedback from participants made me eager to do this again. I tried to do it at a more intimate

meeting on human rights and art,<sup>387</sup> but found that the very close proximity of participants in a small room made it feel too intrusive to look intently at anyone and try to draw them as they spoke.

### **Grounded theory and practice-based research**

I have coupled grounded theory and practice-based research, which is a form of research-creation, in this section because these two methodologies share some common elements of being emergent, iterative, and encouraging a return to and reinterpreting of the data. I found the two methodologies to be mutually supportive in building, analysing and reinforcing the TILARC practice through a series of interconnected experimental projects.

#### **Grounded theory**

I was introduced to and became familiar with grounded theory<sup>388</sup> through my participation in the RISE project, and found that it was supportive of TILARC's exploratory and iterative processes. Charmaz explained the approach as follows:

Essentially, grounded theory methods consist of systematic inductive guidelines for collecting and analyzing data to build middle-range theoretical frameworks that explain the collected data. Throughout the research process, grounded theorists develop analytic interpretations of their data to focus further data collection, which they use in turn to inform and refine their developing theoretical analyses.<sup>389</sup>

Charmaz noted that the theory had been both challenged and invigorated by postmodernism, poststructuralism, post positivism and constructivism, giving voice to research subjects and celebrating firsthand knowledge of empirical worlds, mutual creation of knowledge by viewer and viewed, and relativism of multiple social realities.<sup>390</sup> This suggests that grounded theory fits well with autoethnographic work. It also fits well with research-creation in that it moves “each step of the analytic process toward the development,

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<sup>387</sup> A consultation organized by the Human Rights Research and Education Centre, University of Ottawa, Avignon, July 2024.

<sup>388</sup> Charmaz, “Grounded Theory: Objectivist and Constructivist Methods.” See also, Urquhart, *Grounded theory for qualitative research*.

<sup>389</sup> Charmaz, “Grounded Theory: Objectivist and Constructivist Methods,” 509.

<sup>390</sup> Ibid, 510.

refinement, and interrelation of concepts”,<sup>391</sup> and allows an ongoing reflection and refinement of the analysis of wide-ranging research data.<sup>392</sup> Charmaz emphasized that grounded theory research was an “emergent process” with the researcher composing a story “about people, social processes and situations”, reflecting the viewer and the viewed, but not an objective universalizing viewer.<sup>393</sup> The development of TILARC practice has been an entirely emergent process. It began by posing questions about what might result from making art while reflecting on international law issues, and whether this could help me to decode and reimagine international law. It proceeded through reading diffractively and making art inspired by the readings. It continued as I performed and shared my art and reflections, then wrote autoethnographically about the whole process. The TILARC practice that emerged continues to reveal itself through the artmaking and performances, reflections, and writing of this dissertation.

### **Practice-led research**

Practice-led research is a form of research-creation<sup>394</sup> but because its application is potentially broader than the arts, I have placed it here among the other qualitative methodologies. It has some commonalities with grounded theory, and seems relevant to TILARC. Haseman advocated for performative research through practice as a method:

... in recent years some researchers have become impatient with the methodological restrictions of qualitative research and its emphasis on written outcomes. They believe that approach necessarily distorts the communication of practice. There has been a radical push to not only place practice within the research process, but to *lead* research through practice. Originally proposed by artists/researchers and researchers in the creative community, these new strategies are known as creative practice as research, performance as research, research through practice, studio research, practice as research or practice-led research. In this paper, to clarify, performative researchers are

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<sup>391</sup> Ibid, 510.

<sup>392</sup> “Grounded theory analyses of such materials begin with our coding, take form with memos, and are fashioned into conference papers and articles. Yet our statement of the ideas seldom ends with publication. Rather, we revisit our ideas and, perhaps, our data and re-create them in a new form in an evolving process.” Ibid, 514-515.

<sup>393</sup> Ibid, 522-523. Charmaz encourages a constructivist approach in which researchers allow respondents to tell their stories in their own way and seek to understand both respondents’ and researchers’ meanings: 525-529.

<sup>394</sup> Chapman and Sawchuk, “Research-creation,” 10.



constructed as those researchers who carry out practice-led research. Practice-led research is intrinsically experiential and comes to the fore when the researcher creates new artistic forms for performance and exhibition...<sup>395</sup>

Haseman observed that practice-led research might not fit well with standard qualitative and quantitative research formats of identifying a clear statement of an issue and offering hypotheses to be tested, but might instead commence not with a problem but “an enthusiasm of practice”:<sup>396</sup>

Practice-led researchers construct experiential starting points from which practice follows. They tend to ‘dive in’, to commence practising to see what emerges. They acknowledge that what emerges is individualistic and idiosyncratic ... [eschewing] the constraints of narrow problem-setting and rigid methodological requirements at the outset of a project.<sup>397</sup>

Practice-led researchers tended to want the practice results to speak for themselves and not have to be fully translated into numbers and words.<sup>398</sup> Haseman suggested practice-led research was emerging as a third category of performative research beside qualitative and quantitative research, in which research results were performed. He noted that, “performative research represents a move which holds that practice is the principal research activity ... and sees the material outcomes of practice as all-important representations of research findings in their own right.”<sup>399</sup> Practice-led researchers had thus modified the literature review into an artistic audit, transforming it “into a more layered and rich analysis of the contexts of practice within which the performative researcher operates.”<sup>400</sup> This idea of “contexts of practice” helps explain the literature review in chapters 1 and 2, which aimed to familiarize the reader with the influences that shape my decoding and reimagining of international law.

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<sup>395</sup> Haseman, “A Manifesto for Performative Research.”

<sup>396</sup> Ibid, 100.

<sup>397</sup> Ibid, 100.

<sup>398</sup> Ibid, 101.

<sup>399</sup> Ibid, 103.

<sup>400</sup> Ibid, 105.

Below are two examples of art projects incorporating grounded theory and practice-led research methodologies. The first is a socially engaged art project in my neighbourhood during lockdown, and the second is an assemblage of moulded papyrus masks.

### **Spring Zine-ing**

An example of the emergent nature of practice-led research is the project *Spring Zine-ing – to the curb and beyond* (Fig. 13). This practice-led project commenced with a material enthusiasm (to make creative use of wastepaper), and through its emergent processes became something which I could give to my neighbourhood, and which gave me a hands-on experience of socially engaged art despite pandemic restrictions.

During lockdown online classes, I was introduced to and became intrigued by zines: tactile, affordable, personal, raw, do-it-yourself, self-published, independent, pamphlets, on diverse identity and protest themes. Cleaning out the basement of our house we found hundreds of rolled up large paper wall calendars from 2009. With much difficulty and the help of a heavy carpet I unrolled and flattened some of them. I folded them into zines, cutting a slit in the middle of the page and then reopening and flattening them to paint. Having spent many hours doing origami as a young girl, I was delighted with the neatness of creating a little book of possibilities out of a single sheet of paper.<sup>401</sup> Themes emerged about recycling, reusing and repurposing paper, creating less waste and being imaginative with what we have.

My physical community during the pandemic was mostly limited to my neighbourhood. With a coffee shop at one end of our block and a locally famous ice cream shop at the other end, we saw many strolling families, couples and groups of friends passing by our house on sunny days. Putting out free objects and books that might be of interest to passersby had

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<sup>401</sup> Vice, “How to fold and cut a zine”, accessed 28 October 2024: <https://www.vice.com/en/article/d3jxyj/how-to-make-a-zine-vgtl>.

become a pandemic family hobby. We distributed many books, toys and stuffed animals in this way, and cleared many cupboards and bookshelves.

As I took my daily walks in spring rain, snow, wind and sunshine, I saw green appearing, buds blossoming, birds returning and insects awakening. I took photographs of bushes, trees, and flowers that would make good subjects for the background wallpaper painting I would do on each zine. In water-soluble crayon and paint, I sketched and painted loose spring images of tree blossom, dandelion fields, rock and garden plants, and myself lying on a flowered carpet.<sup>402</sup>

There were some physical challenges working with wastepaper. It was very curly from being rolled up in a basement for some many years, making it difficult to flatten, fold and use for artmaking. I needed an expansive work surface because the sheets of paper were so large. I enjoyed working quickly and boldly to cover the paper. The idea of making free art also meant I did not want to spend hours and hours on each work, but art set its own pace, with each painting taking 3-5 hours to complete. The original ten water colour paintings were crunchy, textured, delicate and unstable from the crayon and paint used, making them less practical as a drawing or writing surface for the next artist to use, suggesting the idea of making copies. Scanning the works for reproduction was difficult because of the wrinkly state of the painted zines and variations in the light from dull and rainy to sunny days. As a result, I decide to have them scanned professionally, ordering 2 full size copies (24 x 36 inches) and 10 smaller copies (11 x 17 inches) of each of the 10 paintings.

In Ontario, the long, harsh lockdown was somewhat lifted at 12:01 a.m. on Friday June 11, 2021, so there was a mood of optimism and change in the air. Since my project was a product of COVID-19 restrictions and springtime walks, this was the perfect time to complete

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<sup>402</sup> The images are titled: *Lying Down*, *Magnolia On A Cloudy Day*, *Dandelions*, *Sunbeam Through Crab-apple Blossom*, *Apple Blossom Over Canal*, *Woodpecker Tree*, *Wisteria*, *Creeping Phlox Over Rocks*, *Rhododendrons*, *Poppies*.

it. With the weather forecast clear and the summer equinox approaching, it was time to perform the *Spring zine-ing to the curb and beyond*. It was held from Friday to Sunday June 11-13, 2021, in Hintonburg, Ottawa.

Our driveway and front garden slope down towards the road. The garden is entirely taken up by perennial flower beds dominated by a linden tree and a blue spruce on either side of a narrow central pathway which leads up to our painted wooden front porch. My husband and older son helped me to set up a display table at the bottom of the pathway with signage inviting people to take and decorate or write in the zines. We also set up a table closer to the house where I could continue folding and cutting the smaller prints into zines and observe at a discrete distance.

I offered the zines as gifts to passers-by for them to write or draw on and complete as they wished. The curbside offering was entirely voluntary with passers-by being free to ignore it or engage and take a zine. I was curious whether they would be interested in taking and completing them, and how participants would use the zines. This was intended as a gesture of kindness and solidarity and socially distanced community engagement at a time when social interaction was still limited. It provided an opportunity to give multiple lives to old wastepaper and to participate safely and creatively in a celebratory spring community art project as we started to emerge from pandemic restrictions. The project began as the material challenge of giving new creative life to old rolls of paper. The idea of making zines with the paper implied some sort of socially communicative project. It emerged as a celebration of springtime renewal and beauty through my daily walks, photography of new blossoms, and colourful painting.

The display was left out for 5 hours from 3:00 p.m. to 8:00 p.m. each day. I had not expected to have so much actual social engagement and found it exhausting to talk to so many people after the months of social isolation. My husband turned out to be much more

adept than I was at the sales pitch and chipped in whenever my enthusiasm was flagging, so we shared both the pleasure and effort of social engagement. Over the 3 days, I cut and folded 20 large format and 60 small format zines, and I gave away 19 large and 51 small zines, for a total of 70 giveaways. Subsequently I sent zines by mail to some of my artist friends for them to finish, and I used a few as greeting cards. Passersby were polite and friendly with participants ranging in age from 4 to about 75 years of age, mostly women and girls and several notably enthusiastic men. Some declined to take a zine, some said they would pick one up on their return from shopping, and some were enthusiastic, delighting in the images and the idea of a free unfinished zine giveaway, and eager to participate in a socially engaged art project.

Reflecting on the project, I mapped it against Frasz and Sidford's nine attributes, set out here.<sup>403</sup> "Aesthetics: From social to fine art aesthetics": the initial image was aesthetically pleasing and invited unknown additions by unknown participants. "Role / function of the artist: From facilitator of co-creation to primary creative agent": I facilitated the project by setting it up and inviting passers-by to take and use/decorate a zine. "Origin of the artist: From the community or a stranger": I lived in the neighbourhood for many years and felt we shared a common interest in our unpretentious, attractive, walkable neighbourhood. "Definition of the 'work': From process as 'the work' to a final product as 'the work'": my work was done when I released the painted zines into the neighbourhood and people took them. The work continued in whatever the recipients decided to do with the zines. "Direction of influence: From inward to serve the community or outward to reach others": the project

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<sup>403</sup> Alexis Frasz & Holly Sidford, "Mapping the Landscape of Socially Engaged Artistic Practice", Helicon Collaborative (2017), 15-17, accessed 28 October 2024, [https://icasc.ca/wp-content/uploads/2018/05/Mapping\\_the\\_Landscape\\_of\\_Socially\\_Engaged\\_Artistic\\_Practice\\_Sept2017.pdf](https://icasc.ca/wp-content/uploads/2018/05/Mapping_the_Landscape_of_Socially_Engaged_Artistic_Practice_Sept2017.pdf); Medium, "Ten Artists on What Social Practice Means to Them", 1 October 2019, accessed 30 November 2024, <https://medium.com/kickstarter/ten-artists-on-what-social-practice-means-to-them-9cae0a0f1364>; Michael G. Birchall, "Socially engaged art in the 1990s and beyond", accessed 28 October 2024, <https://www.on-curating.org/issue-25-reader/socially-engaged-art-in-the-1990s-and-beyond.html#>. YFoyINKSmUk.

was a gift from me to the community to encourage creativity and good feelings. “Origination of the work: From generated within the community to generated by an outsider”: this was generated by me in, and helped by, my physical and virtual communities, and continued to evolve in the hands of any passer-by who took a zine. “Place: From work that is inseparable from a place to work that is not geographically specific”: the project was geographically specific to my street in Ottawa with all the images painted being within walking distance of my house, but the project could be conducted anywhere.<sup>404</sup> “Issue: From single-issue to addressing multiple issues”: the issues was simple and uncontroversial, being recycling, solidarity, gratitude for community and creativity, nature and the delights of spring. “Duration: From a one-time project to a commitment over many years”: this was a spring project to be set up on a sunny weekend, but could be repeatable. Commencing with a material enthusiasm, and through emergent processes, this practice-led project became a gift for my neighbourhood, and an opportunity for socially engaged art compatible with pandemic times.

### **Papyrus Masks**

There seems to be a connection between practice-led research and grounded theory in that returning again and again to the practice or data first reveals, then shapes, and eventually builds the new knowledge or theory. Each time I complete a project through TILARC practice, there are continuing echoes back and forth between the resulting artwork or performance and my decoding and reimagining of international law. Deleuze and Guattari’s evocative descriptions of “lines of flight”<sup>405</sup> inspired the making of an assemblage of handmade papyrus masks entitled *Lines of Flight*, which was hung behind the audience at the micro-opera performance *Values in Our Hearts*.

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<sup>404</sup> For example, I offered the zines to visitors to my art exhibition at Concordia University in November-December 2022.

<sup>405</sup> Deleuze and Guattari, *A Thousand Plateaus*, 203.

After attending the 14th Meeting of the Conference of the Parties to the Convention on Biological Diversity in Sharm El Sheikh, Egypt in 2018, I bought some papyrus in Cairo which I later flattened under a heavy carpet. Reading that natural sugars and starch in papyrus pith contribute to holding it together, I filled the kitchen sink with warm water mixed with icing sugar, dipped a papyrus sheet into it, then shaped it over a cellophane covered mask, tied it with elastics and left it to air dry over a heating vent. I had ten sheets and with each one I tried different placements of the sheet to create extended headdresses, elaborate collars, and scarves flying. Once dried, I decorated them inside and out with gouache paints, then applied shiny mod podge, and sewed their folds and edges with embroidery thread to reinforce and hold the moulded shapes. Two of the sheets of papyrus were darker and became quite fragile after the moulding process.<sup>406</sup> Embracing the natural colour and fraying form, I simply covered them with mod podge and sewed them into shape. I cut and sewed a disintegrating silk curtain into long strips and searched online how to make a fishing net. I knotted a large net (9' x 5') out of the recycled fabric remnants and sewed the masks to it, to be hung in an open space where it could be seen from back or front. They appear as traces of humanity on lines of flight, ever reaching for some distant objective, caught in the fabric of time and circumstance.

### **Critical approaches and relativism**

As a legal practitioner and researcher, I found critical legal approaches to be helpful to understand how laws can mask injustice. Critical legal approaches have been useful to this doctoral project, as discussed in chapter 1, although I am no longer reading or writing from within the system of law. As I make art, I look for interesting and challenging perspectives on law. Critical approaches have helped raise questions about law and legal systems from

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<sup>406</sup> I gather they were made with the lower portion of the stalk of papyrus which is darker and less dense when processed: Brent Nongbri, "The Color(s) of Papyrus and Pliny's Instructions", posted on December 31, 2023, accessed 28 October 2024, <https://brentnongbri.com/2023/12/31/the-colors-of-papyrus-and-plinys-instructions/>.

diverse ignored or repressed perspectives (such as gender, Indigeneity, poverty, age, disability). More recently, critical writing about anticoloniality, Indigenous perspectives, new materialism, philosophy, and environmentalism seeks to challenge legal orders that perpetuate colonial legacies and destruction of the environment.<sup>407</sup> In his deconstruction of “orientalism”, Said was not content simply to demonstrate how Islam had been “fundamentally misrepresented in the West” emphasizing, “the real issue is whether indeed there can be a true representation of anything, or whether any and all representations, because they *are* representations, are embedded first in the language and then in the culture, institutions, and political ambience of the representer.”<sup>408</sup>

Critical approaches have thoroughly undermined the “God’s eye” view or view from “nowhere,” demonstrating that relativism is a “central condition of our very being in the world,” where, fundamentally, “all observation is theory laden” and “there is no possibility of theory-free observation or knowledge”.<sup>409</sup> While there is much we learn through critical studies, there can be a negative side effect: succumbing to a totalizing Foucault-induced despair and becoming disillusioned about all forms of social interaction. Unchecked relativism can start to feel disempowering, disengaging, and alienating, and can be disruptive

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<sup>407</sup> See, Kincheloe and McLaren, “Rethinking Critical Theory and Qualitative Research,” 294-304. The authors review the development over the 20th century of critical theory through postmodernism, critical feminism, and poststructuralism as a diverse strategy for deconstructing forms of cultural, economic, legal, and political domination, challenging the status quo, and understanding how our views are shaped by social and historical forces. They advocate “resistance” or “insurgent” postmodern critical research that challenges the power of corporate capital in a “globalized, privatized world”.

<sup>408</sup> Said, *Orientalism*, 272. See also, Gubrium and Holstein, “Analyzing Interpretive Practice,” 494, quoting Foucault, M. (1972). *The archaeology of knowledge*. New York: Pantheon, at 49: “For Foucault, these discourses are “practices that systematically form the objects [and subjects] of which they speak.”” The authors suggest that analytics of interpretive practice works against the Foucauldian propensity to totalize and view “all interpretations as artifacts of particular regimes of power/knowledge”: 494-495. They emphasize: “For Foucault, power operates in and through discourse as the other face of knowledge, thus the term power/knowledge. Discourse not only puts words to work, it gives them their meaning, constructs perceptions, and formulates understanding and ongoing course of interaction”: 501.

<sup>409</sup> Smith and Deemer, “The problem of criteria in the age of relativism,” 878, 879, 877. With all attempts to establish criteria – such as credibility, plausibility, communal assessment, correspondence, external referents, descriptive validity, interpretive validity – found lacking, the authors suggest that we, finite beings, must learn to live with relativism: 881, 882, 884, 885. Recognizing knowledge as “a human social production” they suggest that researchers are left simply to act morally, with humility and judgment: 890, 891.



and counterproductive to attempts at creative collective action. Relativism is a phenomenon that must be reckoned with in the posthuman cyborg anthropocene. Recognizing relativism can make us more aware of the multiplicity of points of view, more tentative in our constructions, more receptive to a wider range of ideas, all of which can contribute positively to our practical and ethical engagement, and lead to more interesting and surprising results. Relativism can also be liberating for this project because it allows me to acknowledge the embodied nature of my experience as a woman/lawyer/artist, to question and challenge canonical ways of thinking about international law, and to imagine a renewed planetary charter without falsely claiming to speak for all humanity.

Below is an example of how relativism was an important consideration in encouraging members of the RISE team to collaborate in creating a new micro-opera.

### **Values in Our Hearts**

Recognizing relativism was crucial in finding ways to draw my colleagues into collaborating to make the micro-opera *Values in Our Hearts* about the sensitive issues of trust, consent, and identity. I adjusted my approach to better understand and address the interests and concerns of each team member. I put forward a rough proposition developed by reflecting on our conversations and disclosing my vulnerabilities. I invited reactions and adjusted the propositions and the plan of the micro-opera according to the feedback received. My proposition was a prompt to demonstrate my sincerity and vulnerability and stimulate reaction and the next stages of engagement. As a frame, it was a mere gossamer web to be shaken, pulled, torn, and mended by the members of RISE as we came together to perform.

The topic of the micro-opera, how to develop trust between performers, protect participants' freedom to consent and withdraw consent, and how to foster creative individuality and identity in a collaborative setting, emerged from critical reflection sessions in which these issues were discussed. Unchecked relativism in what is meant to be creative

team activity, such as the making of a collaborative improvisational micro-opera, can start to feel disempowering, disengaging, and alienating. Instead of succumbing to a totalizing relativist despair, participants used autoethnographical discourse, sharing their experiences and concerns about unsafe performing conditions, explaining their interpretations, identifying problems, and finding common ground. This reminded me of the movie *Women Talking*,<sup>410</sup> in which the abused women, started talking with no language other than that of their male oppressors, and through two days of autoethnographical discourse, discovered their own agency, a new language of possibility, and a way out of their entrapment. This micro-opera is discussed further in chapter 7 Recoding values.

### **Arts-infused qualitative methodologies**

In determining how these qualitative social science methodologies might support my TILARC practice it was helpful to read about other researchers using the arts in their research. For example, McCall provided a compelling account of radical integration of social sciences and the performing arts.<sup>411</sup> McCall used knowledge of theatre to create performances based on field notes, enlivening the field notes by dramatically presenting the voices of research subjects to an audience. By demonstrating how the arts could contribute to developing and communicating social science research McCall's easy code-switching and blending between theatre and social science normalized and affirmed my emerging TILARC practice to envision a renewed planetary charter.

Similarly, Janesick integrated choreography and social science research, using the former as a metaphor for qualitative research in that "the researcher is the research

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<sup>410</sup> Directed by Sarah Polley (2022), based on a novel by Miriam Toews, *Women Talking* (Toronto: Alfred A Knopf Canada, 2018).

<sup>411</sup> McCall, "Performance Ethnography", 421-433, 421-423. She provided a brief overview of the historic avant-garde performance movement, tracing futurism, dadaism, surrealism, events, happenings, performance art or body art, experimental theatre performances. In the 1980s and 1990s sociologists began to turn their ethnographic field notes into performance, performance studies programs adapted ethnographies to perform them, and performance artists produced works styled as ethnographies.

instrument” as “the body is the instrument of dance.”<sup>412</sup> She embraced post-modern critiques that force “us to return to the heart of the matter: individual lives and how they are exploited in organizations on a daily basis”, suggesting that choreographers, other artists, and qualitative researchers contributed to “permanent insurrection”.<sup>413</sup> The researchers were thus embodied in the research, acknowledged their “own biases or ideological preference”, and were “responsive to ethical concerns”.<sup>414</sup> The ease with which Janesick integrated ideas from choreography into social science research was encouraging for my TILARC practice in that it affirmed the transposability of skills across disciplinary fields and the potential to generate new knowledge through such transdisciplinary work.

Below is an example of a research project involving a performative exploration and assemblage of birch bark, which demonstrates arts-infused qualitative methodologies in practice.

### **Birch bark explorations**

Inspired by readings on new materialism and agential matter, I began collecting pieces of birch bark found on the forest floor for what would become a highly performative assemblage. My contemporaneous journal entries explained the creative and performative process. I collected birch bark and driftwood at the cottage, for use in some way for Sheena Burnett’s RISE proposition.<sup>415</sup> I was amazed to discover how hardy birch bark was – I found fallen trees from years ago still encircled with intact bark while the hard core of the tree

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<sup>412</sup> Janesick, “The Choreography of Qualitative Research Design: Minuets, Improvisations, and Crystallization,” 379-433, 380.

<sup>413</sup> Ibid, 396, 395, 397. She emphasized the value of using different techniques and not limiting oneself to only one technique and saw qualitative design as made of three phases: 1. warm up, preparation, or prechoreographic stage” 2. “exploration or tryout and total work-out stage” and 3. “illumination and formulation or completion stage”: 381, 383. She emphasized inductive analysis: “Staying close to the data is the most powerful means of telling the story, just as in dance the story is told through the body itself”: 389. She used “the notion of crystallization to include incorporation of various disciplines as part of multifaceted qualitative research design”: 392.

<sup>414</sup> McCall, “Performance Ethnography”, 386.

<sup>415</sup> Reflective Iterative Scenario Enactments (RISE), Sheena Burnett, “Returning to the Trees: The technological Burnout Crisis (RISE),” *Concordia*, video accessed 16 December 2024. <https://riseopera.ca/media.html>.

trunks had decomposed into soft reddish-brown mulch. The fallen tree could be broken apart by tugging at a column of bark and the innards would fall out as a loamy powder, chewed to pieces by insects, microbes, and mycelium, leaving the miraculous empty cylinder of bark. Its ability to withstand the decomposition process explained why birch bark was so useful for making canoes and baskets. I searched online for information about how to clean bark and prepare it for various purposes. Whatever I did with this bark could not be derivative or appropriative of Indigenous artifacts, but should be a tribute to those traditions, a fine line to tread for a European immigrant. I considered painting or sculpting it into something, but its natural beauty caused me to hesitate to start.

I scrubbed and washed the pieces of birch bark I had collected on the deck, with the quiet autumn lake beside me and the late afternoon sun setting alight the yellows and reds of maple and birch trees. Scrubbing the inside and outside of the bark gave me a more intimate acquaintance with it. There were moss, lichen and fungi living on the bark and I hoped the cleaning would remove most of that and stabilize the remaining bark and bring out more of its whitish shine. The pieces were in various stage of decay and the thorough scrubbing could not restore what had already been permanently altered by the action of weather, birds, insects, microbes, etc. It was interesting to see the results. Some pieces fell apart into medallions or small plaques. Small holes bored by insects, worms or birds were revealed. The scrubbing of some pieces revealed the innate strength of the bark, despite it looking badly weathered. To grasp the pieces firmly to clean them, I inserted my arm into the sections of trunk and experienced the wearing of this unusual skin, like a kind of armour.

I thought about how I might use this in Sheena's back-to-nature, technology-extinction project, sensing a connection with my paintings and masks of human-nature mergers. I felt the embodied materiality of this project. I thought about how pieces might work in a sculpture but with no clear idea of form, and how I might paint it, once I had fixed on the

form of the assemblage. As I soaked everything with the garden hose, mushrooms sprouted underfoot, squirrels chattered, and chickadees called the coming of evening.

The following day, as I went into the woods again to gather more pieces of birch bark, there was so much of it glinting quietly in the underbrush. My senses were alert, possibilities in the periphery of every frame as I searched for fallen birch trees and explored their condition with my hunting knife and my hands. The hunting knife was useful in feeling for the weak spots in the fallen logs, cutting bark, and then scraping the decaying wood and fungi from the inside. I jostled the fallen trunks, extracting half decomposed pieces of wood until the bark came free. Inside there were wormy white lines of mycelium, on the broken end of the trunk mushrooms emerged. As I explored the woodland and probed at the silver birch trunks, I noticed a wide variety of different coloured mushrooms poking out everywhere. My lack of knowledge about fungi inhibited me from doing anything with this abundance, but my curiosity was peaked. This materiality project was full of wonder – it was turning into a science project as I realized I must learn more about mushrooms. If the movie *Fantastic Fungi*<sup>416</sup> can be given credence, my enhanced desire to learn about the fungi may have been a kind of fungal messaging from my close contact with them in those days of foraging, or not. I was amazed how they worked to transform the woodland waste into rich mulchy soil. After gathering a huge amount of bark, I left the other logs to continue their gentle journey into oblivion. I could return to them in a year or so if I was still finding creative uses for the bark.

I brought my haul to the deck for cleaning and inspected and moved around the pieces I had left to dry there the night before. I was astonished to see that my vigorous efforts to remove the greenery growing on the bark had not worked very well: there were new juicy green blooms. I considered how I could slow or preserve this natural process. I also thought about the intriguing qualities of making ephemeral art, that continued to transform and decay

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<sup>416</sup> *Fantastic Fungi*, 2019 documentary by Louie Schwartzberg: <https://www.imdb.com/title/tt8258074/>.

through nature's multifloral agency despite the artist's intervention. There was much to think about in this project, and it connected well with my interest in making recycling art.

I gathered up all the washed birch bark in two plastic garbage bags and brought them inside to dry completely and then coat with some kind of finishing agent. When I spread the piece out to dry in our small enclosed second floor porch, a gigantic spider scuttled out and I screamed, shocking our neighbours who were enjoying a drink on their front porch. My son tried at first to kill the spider but because of its enormous size thought better of it and managed to toss it out the window onto the roof. The surprising spider increased my discomfort with working with the living/dying material and I researched what could be done to seal it to slow down the processes of decomposition and wildness of which the bark was part. I read online about lacquers and shellacks and various toxic treatments, and I wrote to a friend who knew wood and fine carpentry to get ideas. I went to Wallacks art shop where they said that I should probably go to a hardware store or Lee Valley to get the appropriate product, but after discussing the treatments available at Lee Valley, I was disinclined to go that route. Wallacks had some mod podge, made in Quebec, glossy or matte finish, and it was water soluble and safe for children, which I decided to try. I gingerly re-entered the enclosed porch to paint the interior surfaces of each piece of bark with the podge, arranging them on the shaken-out plastic bags, and vacuuming up the detritus from all the birch pieces. I was relieved not to find more spiders. The following day, I painted the exterior surfaces of all the birch bark pieces. I left them to cure for another day, then used a belt punch to make two holes in each of several pieces and strung some hemp between the holes so the pieces could be worn as rudimentary costumes. I packed these pieces to bring to the Sheena's micro-opera improvisation in St. Joachim, Quebec. Before departing, I scouted our house for a suitable place to mount the assemblage upon my return. The front hall, with its central ceiling light

fixture would work, and this could be an interesting visual for Halloween kids playing trick or treat.

I did not know what Sheena's pre-figuration proposition would be like, but was glad to be able to bring myself into the experience through preparing the birch bark pieces as props. The wooded location was beautiful, and the weather stayed mild and grey without raining. After the tech team set up all the recording devices, we gathered in the woods around the shallow cave formed by an uprooted tree. Sheena with her dog Silence sat in the earth cave as Sheena explained the proposition: to create an opera without prefigured forms of music, words, movements, or stories, but responding and in tune with the environment in which we found ourselves.

As Sheena and I had arranged, I gathered my prepared birchbark pieces to dress her as though she was a kind of woodland Joan of Arc/Jeanne d'Arc. It was a pleasing ritual to encase her back, chest, head, face, and arms in this strange birchbark armour. She struggled with the one leg casing which affected her movement, causing her to lurch and pivot as she made sounds. After a while, she told me she was ready to lie down and move in the mud, so I helped her remove all the bark pieces from her body. She began to move in bare feet.

I strung pieces of birch bark from my neck, arms, shoulders, and belt and started moving. I helped other musicians to try on some pieces. Observing people wearing and moving with the bark pieces in this unusual woodland musical setting, and visiting the statue of Jeanne d'Arc on the Plains of Abraham in Quebec City the following day, inspired me to start assembling the pieces into *Jeanne B'ark, Heroine of the Anthropocene*, (Fig. 14), a helmeted, winged warrior defending the forests from human destruction. I enjoyed the complexities of shaping the odd pieces of birch bark into a humanoid form, sharing the prototype with children who came trick or treating on Halloween. As I worked with found

birch bark in concert with diffractive reading, I realized I was becoming a post-humanist new materialist.

Several months later, *Jeanne B'ark* was suspended from the ceiling bars of a Concordia University exposition space, turning slowly on a small mechanical rotation device. At her feet was a fan of scrolled wastepaper strips painted in soft pink and blue leftover house paint. This is how I summarized this project for the exposition:

*Jeanne B'Ark, Posthuman Heroine for the Anthropocene*, birch bark, mod podge and twine and string. Birch bark found on the forest floor among long fallen trees, washed, dried, painted with mod podge, constructed with twine and a belt punch. The material was tested first as a costume for a woodland improvisational opera in St. Jerome, Quebec (LePARC RISE). Then I built a prototype bark warrior to amuse the trick or treaters at Halloween. I reinforced and further elaborated on this creature for the current exhibition.

Fragile and durable, this bark creature is a being in being, moss growing upon it, microbes and mycelium devouring it, becoming humous for future trees and plants, becoming humanoid all at the same time. The material has many aesthetic qualities – silver, white, pink, and grey, shiny, smooth, round, curving, sturdy, brittle, fragile, curling, feathering, that dictate my approach to assemblage and the resulting creature. First Nations peoples have long harvested and worked with birch bark in many ingenious ways. My engagement with these found pieces of bark is taken up with joy, respect and awe for the diverse, rich meanings that imbue this material.

Jeanne B'Ark is heroic and pathetic, mighty, kind, and lovable. Her enemies may conspire to destroy her, but she gathers believers wherever she goes and stands as an inspiration for current and future generations.

Consider writing a message on the paper strips about the woodland values she inspires in you.

I invited people to write down on the strips of paper their thoughts about her, the woodland values she might represent, and the kinds of values we posthumans will need to survive the anthropocene. I was pleasantly surprised by the amount of engagement this assemblage received when exhibited. Attendees were intrigued by the birch bark as a material and expressed their own fondness for it. I explained how the assemblage came into being, beginning with one beautiful piece of found bark, gathering and preparing more bark, wearing of it at the woodland micro-opera, sharing her prototype with trick or treaters, and completing her for the show. I relayed stories I had read about how First Nations had used birch bark both for writing important stories and preserving them in hidden birch bark boxes.



I explained that I was not trying to appropriate Indigenous ways of harvesting or working with birch bark but that they enriched, informed, and inspired my working with this extraordinary material.

There were many conversations about *Jeanne B'Ark* and her alter ego, Jeanne d'Arc, whether the latter was imaginary or real, mad or visionary, or all of these. One person thought the wooden assemblage was like the pyre on which she was burnt alive. Was the bark assemblage then the ghost of Jeanne? I was delighted to share with one of my professors from a Design Social Transformation course<sup>417</sup> that our discussions about using art to promote local social transformation and making art from recycled materials provided inspiration and motivation for me to explore and assemble found birch bark. This project proved to be highly socially engaging, and I long for another opportunity to display *Jeanne B'ark* and continue the engagement and discussion about encoding woodland values to survive the anthropocene. Transdisciplinary work connecting international environmental and human rights law with new materialism inspired embodied artmaking and performance, engendering more questions, answers, and forms of expression.

### **Ethical aspects**

Autoethnography, a/r/tography, grounded theory, practice-led research, relativism, critical approaches, and arts-infused qualitative methodologies support reflexive, critical, relativist, iterative, embodied research. They seek knowledge, not only from external stimuli, but from within, and demand an ethical approach to all aspects of research. This supports my objective of reimagining international law to provide a greater measure of justice for people and planet. Each of my research projects concerns international law questions with ethical dimensions, such as how to collaborate with others in co-creation and to articulate shared

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<sup>417</sup> The outcomes of this course are discussed in chapter 7, under the subheading Learning how to implement the Sustainable Development Goals (SDGs) at the local level.

values, how to address plastic and other environmental pollution and safeguard nature, how to secure human rights, and how to end conflict and promote peaceful resolution of international disputes. The qualitative methodologies discussed in this chapter provide ways to help ensure that ethical considerations guide each step of the research process, enlivening questions about what materials to use in art production, what to read and reference, how to reflect on research-creation, how to address issues of representation, and how to engage with others in collaborative projects.

TILARC practice is experimental and improvisational, guided by arts-based research-creation methods as well as qualitative research methods that acknowledge and dwell in uncertainty, gathering knowledge from the whole research experience. These methodologies do not lead me inexorably to envisioning a renewed planetary charter, but they are signposts in an unfamiliar but intriguing landscape, showing me that others have also struggled with uncertainties, but found ways to continue asking questions and gathering data until they recognize a viable path to resume and complete their research journey. Committed to ethical research, these methodologies show how to stay true to one's values in the research process. They do not provide sure answers, but they demonstrate ways to embrace the uncertainty of transdisciplinary international law-arts research and the becoming of research-creation and find new knowledge in the process. They support the integrity of my research in producing works that pose ethical questions about our individual and collective responsibility and commitment in the posthuman cyborg anthropocene to heal each other and the planet. Using these methodologies helps me develop, clarify, and explain my TILARC practice in ways that may be useful to other researchers. The more people are engaged in thinking, performing and making art about these important topics, the more chance that values might shift towards longing for, perhaps even insisting on, a more sustainable, inclusive and peaceful planetary order.

## **PART II. Encoding**

The first two chapters of Part I Decoding provided my legal, cultural and philosophical critique of international law. The last two chapters of Part I explained how research-creation supported my transdisciplinary international law-art practice and how autoethnography, A/R/Tography, grounded theory, practice-led research, relativism, critical approaches, and arts-infused qualitative methodologies guided me in developing this practice, reflecting upon it and writing about it. The chapters on research-creation and qualitative methodologies described various projects that contributed to the development of TILARC practice through material or social engagement while thinking about international law. Together these four first chapters provided the analytical and methodological toolkit for both Part I's critiquing of international law and Part II's reimagining and renewing of international law for our times.

Part II develops the idea of encoding or reimagining international law, focusing on three main themes: identity and introspection in chapter 5, the plasticocene in chapter 6, and encoding values in chapter 7. These three groupings allow me to explore through art and performance projects, issues of international environmental, human rights and humanitarian law protection, and the possibility of renewing the planetary charter. Each chapter recounts the transdisciplinary research-creation process and reflects upon what was learned from the work. Chapter 8 reflects on the development of the TILARC practice and its scholarly and practical contributions, speculating about the future of TILARC practice and concluding the dissertation.

## Chapter 5. Art and performance about identity and introspection

This chapter explores TILARC practice focusing on the themes of identity and introspection. The first section explores issues of identity through painted masks. The second section examines how artmaking can be used for deep introspection about peace at times when verbal communication may be unproductive and risk misunderstanding. Both demonstrate the way TILARC practice generates a recursive, meditative process of knowledge production, from international law reflections that engender artmaking and performance, which instigate further international law reflections, which inspire more artmaking and performance, and so on. By approaching challenging global problems in this emergent, embodied, transdisciplinary way, it is possible to generate new questions, new inspiration and new knowledge about the problem and possible approaches to finding solutions.

### Exploring identity through face and mask

Reading Belting's treatise on the double history of face and mask<sup>418</sup> added layers of meaning to my lifetime practice of drawing faces and painting masks. Facial recognition is a highly tuned human skill,<sup>419</sup> now being more clumsily replicated by artificial intelligence. We naturally read faces and masks, imbuing them with meaning. When I paint a mask with a story it is as though the mind inside is now on the outside of the face or memory has been captured in facial expression. Wearing masks allows us to play with identity, donning and doffing characters, like hats. Drawn, painted, or sculpted faces and masks seem to call forth imaginary beings, becoming personae, for dialogue about identity and meaning. This can be useful for creative exploration of identity in the posthuman cyborg anthropocene, to pose

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<sup>418</sup> Belting, *Face and Mask*.

<sup>419</sup> Lynn Waterhouse, Chapter 3. "The Social Brain is a Complex Super-Network", Lynn Waterhouse, (ed.), *Rethinking Autism*, Academic Press, 2013, Pages 97-155, ISBN 9780124159617, <https://doi.org/10.1016/B978-0-12-415961-7.00003-4>, 97: "Face recognition is one of the most important social perception skills. Brain regions dedicated to human face processing include the amygdala, fusiform face area, the occipital face area, a region of the ventromedial temporal cortex, and the superior temporal sulcus."

questions about our present, past and future, to help us imagine and speculate about what could be.

Masks and images of faces reveal and hide, provide evidence of presence and absence, show what they hide and veil what they reveal, making the viewer conscious of contradiction and paradox. Ancient artifacts and art history suggest a significant feature of our humanity is our play between self, image, face, mask, alive, dead, remembered, and constructed. Neolithic peoples decorated and recreated faces on human skulls, then created masks.<sup>420</sup> In ancient Egypt a priest performed a “mouth-opening” ritual in which he breathed on a sculpture to “animate” it, breathing life into it.<sup>421</sup> The Book of Genesis in the Old Testament borrowed this idea with God sculpting Adam from clay and then breathing life into him.<sup>422</sup> From early associations with cult of the dead, the mask became a feature of ancient Greek theatre where actors wore larger than life masks that helped to project their voices. There were no separate words in Greek for mask and face: “The Greek word *prosopon* meant the face as it is seen – in other words ‘before our eyes’.”<sup>423</sup> In Latin *persona* meant “through a mask”, suggesting replacement and transformation of the body through the mask.<sup>424</sup> Graven images were forbidden by the three major western monotheistic religions (Christianity,

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<sup>420</sup> Hans Belting, *Face and Mask – a double history* (English translation of 2013 work by 2017, Princeton University Press), 34-37. For examples of neolithic (7000 BC) face sculptures, see: Kristin Romey, “Face of 9,500-year-old man revealed for first time”, *National Geographic* (5 January 2017), accessed 28 November 2024, <https://www.nationalgeographic.com/history/article/jericho-skull-neolithic-facial-reconstruction-archaeology-british-museum>; Megan Gannon, “Haunting, 9,000-Year-Old Stone Mask Discovered in a Field in the West Bank”, *LiveScience* (30 November 2018), accessed 28 November 2024, <https://www.livescience.com/64199-rare-neolithic-stone-mask.html>.

<sup>421</sup> Priests of Anubis, the guide of the dead and the god of tombs and embalming, perform the opening of the mouth ritual: University College London, “The ‘Opening of the Mouth’ ritual”, (2003), accessed 28 November 2024, <https://www.ucl.ac.uk/museums-static/digitalegypt/religion/wpr.html>.

<sup>422</sup> Michelangelo, “Creation of Adam”, *Museivaticani*, accessed 28 November 2024, <https://www.museivaticani.va/content/museivaticani/en/collezioni/musei/cappella-sistina/volta/storie-centrali/creazione-di-adamo.html>.

<sup>423</sup> Belting, *Face and Mask*, 50; The British Museum, “A Greek theatre mask” *Teaching History with 100 Objects*, accessed 28 November 2024, [http://teachinghistory100.org/objects/about\\_the\\_object/greek\\_theatre\\_mask](http://teachinghistory100.org/objects/about_the_object/greek_theatre_mask); My Learning, “Arts and Entertainment in Ancient Greece”, accessed 28 November 2024, <https://www.mylearning.org/stories/ancient-greeks-everyday-life-beliefs-and-myths/412>.

<sup>424</sup> Belting, *Face and Mask*, 52; The British Museum, “theatre mask”, accessed 28 November 2024, [https://www.britishmuseum.org/collection/object/G\\_1873-0820-568](https://www.britishmuseum.org/collection/object/G_1873-0820-568).

Judaism and Islam) so ritual masks disappeared from Europe and the Middle East until colonial encounters revealed their presence and importance in other cultures.<sup>425</sup>

Portrait painting was said by Pliny the elder to have begun with drawing the shadow profile reflected on a wall by candlelight, to provide a remembrance of a departing lover.<sup>426</sup> Reflections in mirrors and in water have inspired contemplation of self as opposed to another, for example, Caravaggio painted the myth of Narcissus falling in love with his own reflection (circa 1597-1599), and Parmigianino made a self-portrait, (1523-1524) distorted as in a convex barber's mirror. Iconic images of faces have been created and displayed to shape and consolidate identity. In film and in propaganda, massive portraits projected the desired image and dominated us, whether of dictators like Mao Tse Tung, or Hollywood stars like Marilyn Monroe.<sup>427</sup> The ambiguity of life, death, real, imagined, present and absent, never leaves the mask, the face, the portrait, and the viewer of the portrait.<sup>428</sup> Faces, real and imagined and reproduced into infinity, are explored in the works of Francis Bacon, such as his 1953 Study after Diego Velazquez's 1650 Portrait of Pope Innocent X,<sup>429</sup> and of Nam June Paik, in his TV Buddhas performance piece of Buddha contemplating himself being televised.<sup>430</sup>

### **Imagining Fairies**

I used the ambivalence of masks and faces to explore imagination in dark times, as a playful and escapist response to the proliferation of conspiracy theories and fake news as we

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<sup>425</sup> Belting, *Face and Mask*, 54.

<sup>426</sup> Steve Middlehurst, "Shadow Self Portrait Contact Sheets The History of the Shadow Self Portrait" (Posted on May 29, 2015), accessed 28 October 2024, <https://stevemiddlehurstcontextandnarrative.wordpress.com/2015/05/29/the-history-of-the-shadow-self-portrait/citing-Hagi-Kanaan-Tracing-Shadows-Reflections-on-the-Origin-of-Painting> (accessed at Tel Aviv University 25.5.15) – <http://www.tau.ac.il/~kenaan/tracing.pdf>; for an illustration of this idea: The Invention of Drawing – Joseph-Benoît Suvée (Belgian, 1743 – 1807).

<sup>427</sup> Belting, *Face and Mask*, 175-192, 229-239.

<sup>428</sup> Bartolomé Esteban Murillo, "Two Women at a Window", c. 1655/1660, *National Gallery of Art*, accessed 28 November 2024, <https://www.nga.gov/collection/art-object-page.1185.html>. The picture portrays a woman and a girl looking and laughing at a passerby who is the viewer.

<sup>429</sup> Belting, *Face and Mask*, 150-157, 212.

<sup>430</sup> Ibid, 209-211; Public Delivery, "Nam June Paik's TV Buddhas – His best-known work", (20 September 2024), accessed 28 November 2024, <https://publicdelivery.org/nam-june-paik-tv-buddha/>.

entered the second year of the pandemic. With summer solstice approaching, my mind turned to nature and fantasy, and Shakespeare's play, *A Midsummer Night's Dream*. This play, which premiered on January 1, 1605, is set in midsummer in Athens. Shakespeare lived all his life in the shadow of the bubonic plague, writing prolifically during outbreaks and quarantine lockdowns in London and Stratford-upon-Avon. Eager for vicarious pleasure in imagination, I started painting alien-like paper masks as imaginary fairies from the play. In describing this project in the following pages, I have included excerpts from the play that served as inspiration for this mask assemblage.

I began with fairy queen Titania's assistants, Peaseblossom, Cobweb, Mustardseed, and Moth. These flowers and creatures from garden or field, tiny and magical in imagination, are in reality, complex, interconnected, and magnificent. I made the character Fairy who opens the play,<sup>431</sup> then the contrasting characters of fairy king Oberon and Titania to express their fraught relationship and contrast his jealous rage and her peaceful gratitude. I completed the set with Robin Goodfellow, also known as Puck, servant to king Oberon, the jester, mocker, mercurial and wilful, doing his master's bidding but always adding a twist of mischief for the fun of it, enlivening the plot with his maddening pranks.

The Stratford Festival's 2021 pared-down pandemic version of the play used eight actors to perform all the many human and fairy characters. I identified with these fantastical creatures, and enjoyed imagining what a fairy's life might be as compared to my life as a lawyer. I loved the idea of tiny creatures living in flowers, sleeping on mossy banks of

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<sup>431</sup> I named Shakespeare's unnamed first fairy "Flower Power" because I had painted her mask in hippy-style blue and yellow flowers painted with blueberry juice and turmeric powder, an experiment in using organic dyes:

Over hill, over dale,  
Thorough bush, thorough brier,  
Over park, over pale,  
Thorough flood, thorough fire,  
I do wander everywhere,  
Swifter than the moon's sphere;  
And I serve the fairy queen,  
To dew her orbs upon the green. Shakespeare, *Dream*.

streams, and frolicking in the moonlight. The project was about separating imaginative play and fantasy from reality and fact, which seemed to have become complicated for a world in isolation living online and susceptible to believing fake news on real subjects like the pandemic and vaccine safety and efficacy.

The fairy world of Shakespeare's play presented an excellent metaphor for the chaotic injured planet we were experiencing. His poetry was full of allusions to nature and names of flowers and plants. A whole garden in Stratford, Ontario, was created simply to celebrate the many plants and flowers he mentioned in his plays. Shakespeare's England was long before the anthropocene.<sup>432</sup> His world was dealing with natural disasters of flood, drought and pestilence, and there was no false sense of human mastery of the environment. In *Dream*, conflict between the fairy king and his queen was creating havoc for humans: floods, torrential rains, crop failures. In our day, human-induced climate change, damage to habitat, and loss of biodiversity contribute to pandemic, insect infestations, unpredictable severe weather, floods and forest fires. Shakespeare's fairies were not just sweet and benevolent, they were also mischievous and malevolent. Imagined as fairies, they provide stories to help us reconcile with the chaos of life: serendipity, coincidence and misfortune.

Fairy and Puck meet at dusk in the woodland and discuss the conflict of their king and queen that is roiling the countryside. Oberon is filled with jealous rage because Titania has adopted a little changeling boy as a promise to her dear friend dying in childbirth and refuses to give the child to Oberon. Their bitter conflict has stirred up environmental chaos. Spurned and angry, Oberon conspires with Puck to humiliate Titania. With a magic potion applied to

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<sup>432</sup> While dating of the anthropocene remains somewhat contested, "In 2016 the Anthropocene Working Group recommended that the year 1950 serve as the starting point of the interval. This recommendation was based upon the idea that by this point in Earth's history, plutonium isotopes caused by nuclear weapons testing fallout would be concentrated enough to serve as an observable signal in rock strata." John P. Rafferty, "Anthropocene Epoch: geochronology," *Britannica* updated 22 November 2024, accessed 16 December 2024. <https://www.britannica.com/science/Anthropocene-Epoch>. Humans have been impacting their environment for some 12,000 years, since the Holocene's stable weather enabled agriculture: John Gowdy, "Our hunter-gatherer future: Climate change, agriculture and uncivilization," *Futures*, Volume 115, 2020, <https://doi.org/10.1016/j.futures.2019.102488>.



the eyelids of sleeping Titania, Oberon causes her to fall madly in love with the first creature she sees upon awakening. Through fairy magic Puck transforms the head of amateur actor Bottom who is dozing between scene rehearsals, into that of an ass. The warring couple whose feud has disrupted the seasons and all of nature meet by chance – “ill met by moonlight” - and the world shudders.<sup>433</sup>

Titania has come to the woodland near Athens to contribute to the nuptial celebrations of the noble Athenians. Her fairies prepare a bower for her to spend the night. As she sleeps Oberon anoints her eyes with a magic potion. When she awakens, she falls madly in love with the transformed Bottom (or is she just pretending, to torment her husband?). Titania speaks to her new love, Bottom, and calls her fairies to attend to him.<sup>434</sup> After Oberon and Puck reverse the magic, Titania awakens from the strange “dream”, reconciles with Oberon and shares the darling child. The world is at peace.<sup>435</sup> Shakespeare’s delightful play ignited

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<sup>433</sup> This is the dialogue between the warring couple, alluding to how their conflict has disturbed the seasons and the weather. Titania: The seasons alter: hoary-headed frosts

Far in the fresh lap of the crimson rose,  
And on old Hiems' thin and icy crown  
An odorous chaplet of sweet summer buds  
Is, as in mockery, set: the spring, the summer,  
The chiding autumn, angry winter, change  
Their wonted liveries, and the mazed world,  
By their increase, now knows not which is which:  
And this same progeny of evils comes  
From our debate, from our dissension;  
We are their parents and original.

Oberon: Do you amend it then; it lies in you:  
Why should Titania cross her Oberon?  
I do but beg a little changeling boy,  
To be my henchman. Shakespeare, *Dream*.

<sup>434</sup> Titania: Out of this wood do not desire to go.  
Thou shalt remain here whether thou wilt or no.  
I am a spirit of no common rate.  
The summer still doth tend upon my state,  
And I do love thee. Therefore go with me.  
I'll give thee fairies to attend on thee,  
And they shall fetch thee jewels from the deep  
And sing while thou on pressed flowers dost sleep.  
And I will purge thy mortal grossness so  
That thou shalt like an airy spirit go.—  
Peaseblossom, Cobweb, Moth, and Mustardseed! Shakespeare, *Dream*.

<sup>435</sup> Oberon: Now, until the break of day,  
Through this house each fairy stray.  
To the best bride-bed will we,

my imagination and inspired me to make this character study of his fairies *Imagining Fairies, Feet on the Ground* (Fig. 15), bringing them to life as I paint, while remaining firmly grounded in reality. The masks were mounted on a wooden plank painted deep blue with glowing pale-yellow circles, like fireflies on a summer's evening.

### **Cyborg masks**

I contributed my enthusiasm for masks and poetic decoding to the RISE team as we were preparing an improvisational micro-opera on *Cyborg Identity Crisis*,<sup>436</sup> contributing libretti based on computer code and handmade props. I made four life-size colourful paintings of an x-ray of an iPhone and had these made into stickers to be applied to PPE masks as blindfolds for the audience. I also painted eight paper cyborg masks which I called *My Cyborg Me* (Fig. 16), by cutting four full face masks in a diagonal swoop so that one side had the mouth and nose, and the other side had more of the forehead and chin. I decorated them in computer inspired patterns in bright colours with gold and silver details and mounted each on a matching-coloured holding stick so they could be held to the face while singing without interfering with sound projection. The performance in November 2021 was one of the first events at the Oscar Peterson Concert Hall since the pandemic. I greeted each attendee upon arrival and gave them a cell phone paper sticker in the colour of their choice and a PPE mask on which to stick it. I instructed them to put the sticker mask over their eyes once they were seated, so they could focus on the sound for the first half of the performance, and to raise the blindfold when they detected that the lightshow and dancing had begun. It was exciting to co-create with the RISE team, and it was thrilling to experience Valentina Plata and Jay

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Which by us shall blessed be; ...  
Puck: If we shadows have offended,  
Think but this, and all is mended,  
That you have but slumber'd here  
While these visions did appear.  
And this weak and idle theme,  
No more yielding but a dream, ... Shakespeare, *Dream*.

<sup>436</sup> This was based on a proposition by Pablo Flores. Reflective Iterative Scenario Enactments (RISE), "Cyborg Identity Crisis," *Concordia*, video accessed 16 December 2024. <https://riseopera.ca/media.html>.

Marchand Knight singing my libretti and using the handheld half masks. I would have liked to find a way to choreograph a mask parade with one or more group poses, as part of the opera performance, but on the day of the event there were too many other technical preoccupations and preparations, so this opportunity was missed. I had the chance to use the cyborg masks in a later RISE performance, *Lost Connections*,<sup>437</sup> to which I also contributed a libretto about Y2K. I removed the holding sticks and taped two of the masks together to make a full-face mask and wore that while performing a shadow dance in a glassed alcove at 4<sup>th</sup> Space. For another RISE performance, *Why do we dream*,<sup>438</sup> I painted three full face masks with large fanciful flowers and two swan shaped eye masks in bright colours. The face masks were worn by dancers weaving in and out of tethering cloths and the eye masks were worn by singers chanting surreal dreams.<sup>439</sup> Dancing while wearing a full mask felt liberating and empowering. The first of my moulded painted papyrus masks was suspended on a wall in the entrance to the performance space with a speaker inside it projecting sound from the performance, creating an eerie and dreamy effect. Through this series of collaborative improvisational micro-operas, the RISE team gradually emerged from cool digital isolation into the heat and excitement of live performance. The intensity of live performance and the proximity and engagement of audience members raised questions about safety, trust and consent which would become the theme of *Values in our Hearts*, discussed in Chapter 7.

### **Introspection on how to get to peace**

The next project to be discussed here developed as an introspection on how to promote peace, that grew out of my anxieties about armed conflicts raging in parts of the world. As

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<sup>437</sup> This was a proposition by Jay Marchand Knight. Reflective Iterative Scenario Enactments (RISE), Jay Marchand Knight, “lost\_connection: an opera by RISE and CLOrk about how technology fails us,” *Concordia*, video accessed 16 December 2024. <https://riseopera.ca/media.html>.

<sup>438</sup> This was a proposition by Valentina Plata. Reflective Iterative Scenario Enactments (RISE), Valentina Plata, “Why do we dream? A lucid dream opera by RISE and CLOrk,” *Concordia*, video accessed 16 December 2024. <https://riseopera.ca/me>

<sup>439</sup> I created the character and libretto for Majordomo Millie for Jay Marchand Knight, as a master of ceremonies for the dream.

the world approaches the 80<sup>th</sup> anniversary of the *UN Charter* and then the *Universal Declaration on Human Rights*,<sup>440</sup> conflicts are sorely testing international human rights and humanitarian law and the very institutions and principles of the international order. In such times of crisis, as an international human rights lawyer, I tend to cling to the law as a mast on a sailing ship in a violent ocean. Law, however, has become both an object of mockery, condemned as being irrelevant and insulting, and a weapon used to isolate and condemn.

Understanding what is happening to create and feed international crises is challenging for citizens around the world and we must search beyond simplified, biased, even concocted versions of the facts presented in conventional and social media. Communications between neighbours, colleagues and friends become fraught with risk, full of potential hurt, so much is left unsaid, increasing alienation. Simple gestures are weighted with inflamed interpretations, mistrust, and condemnation on all sides. Every outburst opens new wounds, rubs salt into existing injuries. Expressions of compassion or solidarity feel dangerously incomplete, strangely insincere (what's left unsaid), words are picked too carefully or not carefully enough. Hesitate before jumping in, hold your tongue, check your words, avoid engaging, research, think, observe, question, make art.<sup>441</sup> With conflicts raging, international law seemingly rendered useless, mainstream media intimidated and unreliable, and ordinary conversation reduced to a battleground, my mast seems to be splintering in pieces beneath the waves.

When we make art or talk about artmaking we can transcend these difficulties, embrace our common humanity, process and express complex thoughts and emotions. My TILARC practice helps me to make art to express conflicted feelings, understand and critique

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<sup>440</sup>United Nations. *Universal Declaration of Human Rights*, (10 Dec. 1948), U.N.G.A. Res. 217 A (III) (1948).

<sup>441</sup> A recent Globe & Mail article relates a cautionary saga of student protests, opposing positions, hurt feelings, damaged prospects and unresolved misunderstandings. Robyn Doolittle, "How a student petition on Israel sent a law school's progressive ideals crashing into Bay Street's hard realities" *The Globe and Mail*, 15 June 2024, accessed 16 June 2024, <https://www.theglobeandmail.com/business/article-tmu-law-school-student-petition-israel/>.

unfolding disasters, and find rays of hope to reimagine international law to address current crises. The following section provides an overview of this introspective research-creation process of making art about international law, using autoethnographic, grounded and critical research methodologies and inspired by critical legal and philosophical writings, applying this to the context of my mixed media painting series, *Sketches of No Consequence* (Fig. 17). Law can seem disconnected from the material emotional reality of the world,<sup>442</sup> so I try to re-establish material or emotional connections through art and performance to suggest how they might affect international law. The section concludes with reflections about how approaching international law from an artistic and performative angle - artmaking for peace and justice - can be a valuable new contribution to society.<sup>443</sup>

I look to law to make sense of the world, to order it according to communal values and to guide towards justice. The reality of how law, especially international law, is misused, abused, or ignored continues to disappoint, yet I look to law for solace, guidance, and possibilities of cooperation. Human society needs international law to find agreement about the terms of peaceful co-existence and thriving for this planet. As I reflected on making *Sketches of No Consequence*, I considered whether I could assemble with the ideas of Orford, O'Connell, Nussbaum, Gear, and others discussed in the first two chapters of this dissertation, to become a generative nomadic war machine<sup>444</sup> for justice and peace-making. Deleuze and Guattari wrote of the disruptive power of creative assemblages whose object was not war but some higher purpose. This suggests the wild, inspirational power of creative ideas and assemblages for imagining a renewal of international law. Thus, TILARC practice might generate creative lines of flight whose object was not servitude to war but the freedom of peace and justice for all.

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<sup>442</sup> Simpson, *Sentimental Life*, 76-77, 78-79.

<sup>443</sup> Greene, "Teaching as Possibility"; Greene, "Releasing the Imagination".

<sup>444</sup> Deleuze and Guattari, *A Thousand Plateaus*, 388, discussed in chapter 2.

Conflicts, human rights abuses, and environmental destruction continue despite international laws and institutions specifically designed to prevent them. In these times of conflict, I naturally turn to the language of law and find myself pouring over my books of international humanitarian and human rights law treaties. The powerful, promising words of these documents express much of what is in my heart but seem to have little or no meaning to others. I am dismayed that they fail to gain purchase in global affairs: is the language not clear; are these definitions not met; have words somehow lost their meaning? This drives me to make art instead, to go beyond words. Through my artwork I reflect on when words work and when they fail us. Words of legal texts become artifacts in my art, observed as objects of cultural and historical interest made by humans, whose purpose may have become ambiguous or contested over time. As I make art, I contemplate why these words were written and what they mean in the face of current realities.

### **Seeking solace in the arts**

In leading the *Arts and Human Rights* workshops, symposium, manifesto, exposition, performance, and panel discussions of 2022-2023 (Fig. 18),<sup>445</sup> I found that using art and performance to cultivate imagination and express ideas about human, environmental and

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<sup>445</sup> This *Arts and Human Rights* project led by Oonagh E. Fitzgerald as principal investigator and co-chaired by 233 | Ramon Blanco-Barrera 233art.com was developed as the second *Arts and Human Rights* conference of the Human Rights Research and Education Centre (HRREC) of the University of Ottawa. In January 2022 there were two preparatory workshops, 1. *What are Human Rights in the Posthuman Age of the Anthropocene?* and 2. *The Arts and Human Rights in the Context of Being Cyborgs, Living Speculative Futures*. These led to a two-day Symposium in April 2022 entitled, *Building Positive Relations: The Arts, New Materialism, Posthumanism and Human Rights*. Participants included human rights, philosophy and arts teachers and advocates and practising artists, story tellers, dancers, and musicians from around the world, generously sharing their insights, understanding and vision. Artistic works, experiences and ideas shared among participants enriched understanding of how to build positive relations between the arts, new materialism, posthumanism, and human rights. Over the summer participants provided feedback on an initial draft of ideas for a manifesto, which were incorporated in a finalized version, provided in English, French and Spanish. In partnership with HRREC, Concordia University's Milieux and LeParc, Universidad de Sevilla, and Emergent Art Space (EAS), the multimedia exposition *Arts and Human Rights: Conversing Multiplicities* was organised to animate and illuminate these themes. EAS selected art works from its *Arts and Human Rights* call to young artists to be shown in this exposition as well as in a virtual exhibition on the EAS website. In December 2023 we presented an Ignite virtual panel: *Arts and Human Rights: Conversing Multiplicities* in celebration of the 75<sup>th</sup> anniversary of the *Universal Declaration of Human Rights*, in partnership between the John Humphrey Centre for Peace and Human Rights and HRREC. Information about the project is available here: Oonagh Fitzgerald, "Arts & Human Rights: Conversing Multiplicities," *International Law-Art-Governance*, accessed 17 December 2024. <https://oonaghfitzgerald.com/arts-%26-human-rights>. Aspects of this project are discussed in chapter 7.

technological vulnerability could foster positive relations, reveal important shared values, and facilitate working together to achieve them. Combining discussion of painful and discouraging topics of violence and human rights abuse with artmaking and performance (for example, participating in a workshop to embroider scenes from the Armenian genocide<sup>446</sup> or moving to a soundscape from the Occupied West Bank<sup>447</sup>) affected the mood, attitude, approach, allowing participants to be curious, gentle, and empathetic, to experience their own agency and act positively in contributing to a better world. Everyone brought something different to the conversation and learned and benefited from new insights revealed.

The performing arts help us to experience and process strong emotions.<sup>448</sup> In this time of heightened anxiety, I had the opportunity to attend several dance performances,<sup>449</sup> and they were especially moving, transporting me back into the dancer's world. I find that the dancer's body lit obliquely on a stage conveys so much about humanity – our conflicts, striving, grief, love, loss, hope, communion, and transcendence.<sup>450</sup> These performances shake and awaken me, communicating in languages beyond words that touch directly to my senses, breath, and pulse.<sup>451</sup> The enthusiastic and physical response from the audience as they leap to their feet to applaud loudly suggests that I am not alone in feeling this intensity. I find that dance works best when it entices me into an imaginary world where I experience something in new ways, where I feel, and do not simply see, the embodiment of the dance. We need the arts to commune with ourselves and each other, to overcome frustration, to give expression to strong

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<sup>446</sup> Sophia Boyadjian & Catherine Heard, *Emperor of Atlantis* Armenian genocide redwork embroidery workshop, *Arts and Human Rights: Conversing Multiplicities*, June 2023.

<sup>447</sup> Dirar Kalash, *For Masafer Yatta*, soundscape, *Arts and Human Rights: Conversing Multiplicities*, June 2023.

<sup>448</sup> *Handle With Care: Values in Our Hearts*. This was a RISE improvisational collaborative micro-opera, conceived by Oonagh Fitzgerald and exploring entangled desires to express individual identity and commune creatively with others, discussed in more detail in Chapter 7.

<sup>449</sup> Nederland Dans Theater; Margie Gillis Dance Foundation; Oona Doherty Company; at the National Arts Centre, Ottawa, Spring, 2024.

<sup>450</sup> Rose Martin and Shyrine Ziadeh, "Dancing in dialogue: The notion of dance in politically fragile contexts," in *Art and Human Rights: A Multidisciplinary Approach to Contemporary Issues*. eds. Fiana Gantheret, Nolwenn Guibert, and Sofia Stolk (Edward Elgar Publishing Limited, 2023), 61.

<sup>451</sup> Siri Hustvedt, "Wim Wender's Pina: Dancing for Dance," in *A Woman Looking at Men Looking at Women: Essays on Art, Sex, and the Mind*, (Simon & Schuster, 2016), e-book 5-6 of 10; 107-108 of 994.

emotions, to provide solace for pain, and to reaffirm the good, the dignified and the beautiful in all of us. Making and witnessing art is an act of faith, it is a form of praying to lead us beyond our pettiness and viciousness, to learn and transform ourselves, our way of being, and our society.

Greek playwright Aeschylus' trilogy of plays, *The Oresteia*<sup>452</sup> (comprised of *The Agamemnon*, *The Libation Bearers*, and *The Eumenides*), recounted how the House of Atreus was cursed because King Tantalus butchered his son and served him to the Gods to test their powers of divination, how Agamemnon was murdered by his wife Clytemnestra and her lover Aegisthus, who were then murdered by her son Orestes who was then pursued by the Furies until he was tried and acquitted, the Furies were transformed into Eumenides or kindly spirits, and the cycle of violence ended. The plays used familiar Greek myths to convey a story of cultural history, that of a civilizational transition from clan violence to public law, and to affirm that only a properly functioning legal system could end blood feuds and recurrent violence.

These stories blended the strange, mythical, and timeless with the ordinary, familiar, and immediate experience of living humans. While we may long for finished heroic narratives that tell the story of progress (in this case moving from the darkness of blood feud to a system of governance under law), human experience tends to unfold in a less orderly, narrative form, and may feel more like the anguished boredom of the characters in *Waiting for Godot*.<sup>453</sup> Dramas like *The Orestes* help us see the promise of agency and order: not being enslaved by fate and uncontrolled passion, but obedient to justice.<sup>454</sup> The path towards justice and peace is contested and many will challenge the concepts of justice and peace arguing that

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<sup>452</sup> Aeschylus. *The Oresteia of Aeschylus*. New York: Farrar, Straus, Giroux, 1978.

<sup>453</sup> Beckett, Samuel. *Waiting for Godot*. New York, NY: Grove Press, 2011 (completed in 1949).

<sup>454</sup> For a discussion of how Sophocles' play *Antigone* elucidates tensions between law and ethics, see Amy Swiffen, *Law, Ethics and the Biopolitical*, A GlassHouse Book (Routledge: 2011), Chapter 1. Law and Ethics, 17-29.



justice is conquest of one's enemies and peace is one that is established and enforced through the might of arms. It may seem hopelessly naïve to hold onto the idea that organized society's greatest task is to abjure violence and to work towards reconciliation of conflict. But without the pure objective of not using force to resolve the conflicts that inevitably arise in local and international society, the peace will always be disturbed by those wanting to profit from the invention, manufacture, sale, distribution, and use of more and newer means of force. These will be promoted with language explaining their speed, accuracy, and efficiency in killing, and the safety, remoteness, and detachment for the operator. The fundamental ethical question of whether it is wrong to resolve conflict by force is avoided, buried in an avalanche of well-honed legal arguments that expand the scope for use of force.

### **Dreaming of peace**

The more we resort to force and listen to the arguments in favour of using force, the harder it is to imagine peace and articulate the arguments for peace. Peaceful resolution of disputes to end conflict involves a reimagining of use of force. For peace to last, it may be best that there not be clear winners and losers but rather a compromise achieved through listening to all those involved and affected, and validating aspects of every party's position. Once the arguments for use of force have won the day, it is hard to get battling parties to consider alternatives. For the peremptory norm prohibiting use of force except in extremely limited circumstances to work, there must be a concomitant burden on everyone in the international community to work diligently to lower the temperature and seek peaceful resolution, rather than picking sides and supplying arms. This collective responsibility to support peaceful resolution is not a personal utopian dream, but is firmly expressed in article 1 of the *UN Charter* and reaffirmed in subsequent declarations on friendly relations between

states.<sup>455</sup> International law, for all its problems, has been and can again be a place of dreaming of a better world.

Violence naturally engenders violent reactions. Heated emotions lead to rash and regrettable words and actions. Systems of law are there to help adjudicate conflict but fail if they are not viewed as legitimate by those subject to them and if they leave losing parties humiliated and isolated. We see so many world leaders resorting to force in response to flare ups of violence or political difficulties, but can we imagine using forms of dispute settlement to resolve the problems? Can we strengthen the array of diplomatic, discursive tools to prevent or dissolve the polarizing, blaming, and shaming that tends to lead to festering resentment and more use of force? How can international law be made both stronger and more inclusive so that all are represented and protected by it, and that all participate in shaping it and upholding it?

Earlier in my career as an international lawyer, I harboured the dream that international human rights law and humanitarian law were evolving in a direction that could eventually make war and any form of assistance to war illegal. I believed that legal rules, if well understood and applied could so circumscribe the use of military force as to make it pointless. This does not seem to reflect the world in which we live, however. Little about the course of world events over the last several decades has lent credence to my hopeful vision. Military force in all its post-modern, cyborg, remote, alienated, AI-assisted pseudo-precision has joined forces with the close-up blood, crunch and stink of tanks and hand to hand combat to make war a shared planetary experience of violence, death and destruction, horror and entertainment. Even human rights advocates have sometimes joined with those advocating for

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<sup>455</sup> UN General Assembly Resolution 2625 (XXV), *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*, 24 October 1970, annex. See also, UN General Assembly, *Declaration on the Right to Peace*, 19 December 2016, UN Doc. A/RES/71/189. See also, Tuba Turan, “The 2016 UN General Assembly Declaration on the Right to Peace: A Step towards Sustainable Positive Peace within Societies?” *Human Rights Law Review* 23, no. 2 (2023): ngad007, <https://doi.org/10.1093/hrlr/ngad007>.

military intervention to protect populations from grave breaches of human rights and humanitarian law under the banner of responsibility to protect<sup>456</sup> or to promote regime change.

Working for the Canadian government, I gave legal advice about the application of international humanitarian law and human rights law in times of conflict, the protections for civilians and prisoners of war, command responsibility, the need for targeting to meet standards of distinction, proportionality and precaution,<sup>457</sup> and the obligation to disseminate information about these rules. Dissemination of information about international humanitarian law and human rights law is critical so that soldiers, civilians, politicians, and journalists understand that armed conflict has legal and ethical limits, and that they must respect these important rules and protections, which benefit all parties to conflict.<sup>458</sup> Lawyers advise government leadership and train the military to comply with the international law of armed conflict not only because that is right, but also because in so doing they reduce the risk that their own soldiers will be subjected to violations of international law. Dealing with the pressure to fabricate exceptions or ignore the law is often part of the lawyer's ethical challenge in times of conflict. It has to be acknowledged that lawyers are not immune from war's sublime<sup>459</sup> attractions and can find themselves writing justifications for all kinds of evil<sup>460</sup> supposedly for "noble" reasons.

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<sup>456</sup> Global Centre for the Responsibility to Protect, "What is R2P?", accessed 28 November 2024, <https://www.globalr2p.org/what-is-r2p/>.

<sup>457</sup> ICRC, "Targeting under International Humanitarian Law", accessed 17 June 2024, <https://casebook.icrc.org/highlight/targeting-under-international-humanitarian-law>.

<sup>458</sup> ICRC, "The Obligation to Disseminate International Humanitarian Law", accessed 30 November 2024, [https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.icrc.org/en/download/file/1042/obligation-dissemination-ihl.pdf&ved=2ahUKEwi--N3U8f2GAxVJ2wIHHSqkC6EQFnoECCAQAQ&usg=AOvVaw2ixFiYdnmRbR60oj5HJN\\_6](https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.icrc.org/en/download/file/1042/obligation-dissemination-ihl.pdf&ved=2ahUKEwi--N3U8f2GAxVJ2wIHHSqkC6EQFnoECCAQAQ&usg=AOvVaw2ixFiYdnmRbR60oj5HJN_6); Fund to Support of Fundamental Researches, "Dissemination of knowledge about human rights and international humanitarian law in times of armed conflicts: role and tasks of non-governmental organizations and academic circles", (25 September 2015) *OSCE*, accessed 28 November 2024, <https://www.osce.org/odihr/185476>.

<sup>459</sup> O'Connell, *The Art of Law*, "Recovering Beauty in the Law", 27 of 52: "Kant understood the sublime as the equivalent of ideas of power and power as strength, violence, pain, and terror."

<sup>460</sup> Memorandum for William J. Haynes II, General Counsel of the Department of Defense Re: Military Interrogation of Alien Unlawful Combatants Held Outside the United States, accessed 28 October 2024, [https://www.aclu.org/sites/default/files/pdfs/safefree/yoo\\_army\\_torture\\_memo.pdf](https://www.aclu.org/sites/default/files/pdfs/safefree/yoo_army_torture_memo.pdf). Memorandum for John A.

Used to arguing and expressing myself in international legal language, in recent months I found I was reticent to say anything that could offend anyone, let alone engage in legal argumentation. I became strangely and uncomfortably silenced even as I longed to engage. I helped steer a professional association I belong to away from making a statement because I did not want our meetings to become another site of conflict. I was relieved that many colleagues concurred in this approach and gave examples of other organizations that had adopted a similar approach to contentious matters. Though I questioned myself many times, I never came to an answer that justified bringing the conflict into our meetings. International lawyers work for many sides, and law is inherently dialogic and comes alive in practice. Every participant or bystander nation or international organization needs a team of lawyers to answer, in a confidential solicitor-client manner, the myriad and complex questions that arise in international conflict. My association's members were free to use their international law knowledge as best they saw fit, according to their professional code of ethics and conscience.

I share in O'Connell's desire to make war obsolete through reinvigorating and strengthening a legal system that provides for the peaceful settlement of disputes. I am not a realist, I am more of an idealist, hoping that by prohibiting use of force and creating institutions for the maintenance of peace and dispute resolution, we can learn to get beyond the ready resort to force in international affairs. A system of law implies that those subject to law have relinquished resort to extra-legal measures such as self-help, blood feud and vigilante justice. It envisions the establishment of rules, judicial bodies capable of issuing authoritative rulings, and adherence by, and submission of all to, those rules and authoritative rulings.

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Rizzo Senior Deputy General Counsel, Central Intelligence. Re: Application of United States Obligations Under Article 16 of the Convention Against Torture to Certain Techniques that may be used in the Interrogation of High Value al Qaeda Detainees, accessed 28 October 2024, <https://www.justice.gov/sites/default/files/olc/legacy/2013/10/21/memo-bradbury2005.pdf>.

I feel pained and powerless about the global conflicts going on around us. I read to be better informed, review international law sources, and formulate and refine my opinions, but conclude that words are unlikely to be helpful. My nonparticipation in the conflicts, my outsider perspective, my lack of skin in the game, and my privilege of not living in fear and insecurity, all these disentitle me to speak out and create a risk of my saying something wrong and inadvertently offending through my ignorance and ineptitude. All the empathy and sorrow I feel about the human tragedies unfolding and the violations of human rights and humanitarian law are utterly insignificant as compared to the tumultuous horror and emotion that participants suffer.

Making art is my humble response to this vicarious horror, my impotence and the lack of value of my unspoken words. This leads me into private thoughts, private grief, sketching automatically, painting images of no consequence and A/R/Tographically documenting some of the recent hearings before the International Court of Justice. I call the series *Sketches of No Consequence* for two reasons. The title expresses my feelings of insignificance and impotence as well as my horror at the lack of consequence, justice, and peaceful order. For these reflections, I used Rose and Barrett's approaches to art observation,<sup>461</sup> to observe, describe and analyse the works.

### **Sketches of no consequence**

My faith in international law, human rights and human goodness has been shaken by so much conflict and violence in recent years. I wanted to make protest art, buying two cans of house paint in the colours of the Ukrainian flag, but my thinking evolved as I worked on this project. I flattened more scrolls of waste poster paper, taped the sheets into three long strips, attached more rolls of wastepaper to form a scroll at each end of these strips, and painted

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<sup>461</sup> Rose, *Visual Methodologies*; see also Terry Barrett, *Crits: A Student Manual*. London: Bloomsbury Visual Arts, Bloomsbury Publishing Plc, 2019.

abstractly on both sides of the paper with the blue, yellow and a leftover creamy white housepaint, covering the military blocks of blue and yellow paint and the faint chalky outlines of children that evidenced earlier experimental stages of this project. When these strips were fully dried, I asked my husband to lie on them with his arms raised above his head as though swimming, and I drew his outline in pencil, finishing the sketch with brown acrylic marker. I drew hearts, referring to diagrams in *Gray's Anatomy*,<sup>462</sup> in each chest cavity using red acrylic marker, encircling each with radiating waves extending to the edges of the human outline. This work, called *With love* (Fig. 19), is more subtle than my original idea, conveying something about the beauty, dignity, and desperation of humanity in times of both war and peace. It was first hung as part of the scenery for a RISE improvisational micro-opera performance built around heart beats.<sup>463</sup>

*Sketches of No Consequence* is a series of random small paintings made as conflicts disoriented me, and I was unable to formulate clear thoughts. To occupy myself, I sketched whatever was in front of me. I sat on a bench, drew what I saw, my head and heart in tumult. Conversations happened. On two occasions I had the chance to walk and draw with each of my sisters, which was an interesting, half distracted, gentle way to be with them. The drawing felt at times embarrassing, indulgent, pointless, mechanical, as though I was a drawing zombie, unable to grasp meaning. Nonetheless I drew intently, as weather cooled and the days got shorter, grasping at the last light as shadows stretched furtively along the frigid ground. I drew as the light faded, and my hands became too cold to draw. I took whatever I had done and later relished painting and finishing them.

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<sup>462</sup> Henry Gray, 2013. *Gray's Anatomy*. London, England: Arcturus Publishing.

<sup>463</sup> This improvisational performance in the spring of 2023 was called *Heart Tethers* and was led by Concordia University HUMA PhD student Danielle Garrison. Reflective Iterative Scenario Enactments (RISE), Danielle Garrison, "Heart Tethers: Danielle Garrison, Concordia Laptop Orchestra (CLOrk), and the RISE project," *Concordia*, video accessed 16 December 2024. <https://riseopera.ca/media.html>.

Some of the sketches are of what was in my head, what I had been reading in the news, or what I read in the law books strewn on my side table: *Geneva Conventions*, *Genocide Convention*, *UN Declaration of Human Rights*, *International Convention on Cultural, Social and Economic Rights*, *International Convention on Civil and Political Rights*. I had these documents open on my desk, speaking silently, mouthing words that I took so seriously but that were ignored and desecrated by warring parties. Despite these words and holy pacts, civilians have never had more to fear from those with power and weapons.

Breaking away from small sketches I bought large sheets of watercolour paper. I applied gesso, then used a pencil to draw a wintry tree from a photo I took at the Experimental Farm, and continued working with ink, water soluble coloured crayons, and Gansai Tambi paints. As I worked and reworked this piece, entitled *Ghost Tree* (Fig. 20), I reflected on past and ongoing conflicts, the faint glimmerings of parts of my father's family history and dispersal, from Normandy, to England, to Ireland, back to England, then to Canada, Australia, and the United States. I considered the blank spaces of my mother's family history buried under the rubble and hard sheen of mid European conflict, world war and cold war. I thought of the history of conquests and colonialism, of the land where this tree grows, and of the subjugation of nature to industrialization and capitalism. I recalled the Haudenosaunee seven generations philosophy that decisions taken today "should result in a sustainable world seven generations into the future",<sup>464</sup> and the still unfulfilled right of Indigenous peoples to continue in relationship with their ancestral lands.<sup>465</sup> The indistinct

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<sup>464</sup> Indigenous Corporate Training Inc., "What is the Seventh Generation Principle?" 30 May 2020, accessed 28 November 2024, <https://www.ictinc.ca/blog/seventh-generation-principle#:~:text=The%20Seventh%20Generation%20Principle%20is,seven%20generations%20into%20the%20future.>

<sup>465</sup> Article 25 of UNDRIP states that "Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard."

gasping, groaning ghost faces seemed to recall the past and future dead, and the cruelty and beauty of the life we share, endure and shape on this planet.

I did two oil paintings, *Blood tide I and II* (Fig. 21) about the moon's view of our world. It watches and illuminates the earth, night after night without end, turning the same face to us, watching. I always see a face in the moon but when I drew the face I see, it looked too simplistic, so I found NASA photographs taken from space with much more geographic detail and used one of these to paint over my cartoon moon. Why draw the moon that has been contemplated, narrated, personified, deified, and worshipped across this planet for millennia?<sup>466</sup> The moon silently watches our earth. I imagine it witnessing the horrendous convulsions our planet has seen from meteors crashing to earth, ice ages, volcanic eruptions and lava flows, to atmospheric testing and use of atomic bombs. With gravity it senses the heaving of the tides, the menstrual flows, and the birthing of all earthly creatures. Does it sense humanity's brutal reckonings and disruptions of the peace? Seen from afar, the blood tide is a galactic oceanic tide of destruction and horror. Youth, child, babe in mother's arms, old man, garden, field, home, happiness and dreaming obliterated in the roaring, raging blood tide. The moon bears witness from afar and nearby, recalling the many blood tides before, and yet to come.

This blood tide bears witness to a seemingly unquenchable desire to spill blood. As Swift<sup>467</sup> acidly proposed serving suckling babies to highlight the inhumanity of British policies during the Irish famine, today's witnesses could serve our warriors murdered babies for their dinner. No need to prepare or clean them, the more agony inflicted the more delectable the meat. Astonished eyes and gaping eyeholes, crushed skulls and decapitations, emaciated rotting corpses, burned remains and severed limbs, await the warriors' greedy

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<sup>466</sup> Wikipedia lists scores of goddesses and gods associated with the moon in different cultures: Wikipedia, "List of lunar deities", accessed 28 October 2024: [https://en.wikipedia.org/wiki/List\\_of\\_lunar\\_deities](https://en.wikipedia.org/wiki/List_of_lunar_deities).

<sup>467</sup> Jonathan Swift, 1667-1745. *A Modest Proposal*. Champaign, Ill. :Project Gutenberg, 1997.



gourmand jaws. Let them crunch bone and grit, let them slurp the sticky blood, to staunch their fathomless emptiness like Titus Andronicus.<sup>468</sup> Is this a last feast so hideous it ends all wars and consumes their perpetrators in their own evil, a feast of the heaping burnt, broken, exploded, starved, and crushed, a feast where all laws are sacrificed, burned and remade, to then be forged in stronger metal and etched in harder stone, to say once more, never again...? It is hard to imagine that lasting peace can follow such an orgy of violence.

I took up the role of courtroom artist to make *Sketches of the International Court of Justice* (Fig. 22). As I watched and listened to the hearings before the International Court of Justice (ICJ), I drew the advocates in their corporeal, cultural, sartorial, and gendered individuality. I wrote their words across the page, filling in any empty spaces with flowers uprooted from the ground. I did this for the hearings in which South Africa was seeking interim measures to prevent genocide of Palestinians in Gaza and the hearings on the two questions referred by the UN General Assembly about the legal consequences of Israel's prolonged occupation of Palestinian territory. I exhausted myself listening to this litany of pain and legal argumentation as I sketched and wrote in ink, then roughly coloured with pastels, and painted each of the 14 works. For months no one seemed to pay any attention to international law. The Security Council has been all but impotent with permanent members using their veto or abstention privilege to prevent or undercut the Council's ability to make decisive executive orders to address violent crisis after crisis. In December of 2023, South Africa invoked the *Genocide Convention* to initiate proceedings against Israel and since then, obtained three progressively more severe orders for interim measures while awaiting the full hearing on the merits. In February 2024 the scheduled oral hearings of a 2022 referral to the

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<sup>468</sup> William Shakespeare, *Titus Andronicus*. Washington Square Press Inc., N.Y., 2005.

ICJ from the UN General Assembly<sup>469</sup> provided an important outlet for international legal expression about the ongoing Israeli occupation of Palestinian territory.

I could have done more sketches as cases proliferated: the further requests for interim measures,<sup>470</sup> Nicaragua's request for interim measures to prevent Germany from supplying weapons to Israel,<sup>471</sup> and the International Criminal Court's Chief Prosecutor announcing his request for indictments to be laid against Israeli and Hamas leadership for war crimes and crimes against humanity. However, it felt as though I had done enough when I finished with the ICJ's ruling on the occupation.<sup>472</sup> The works have the character of graffitied wallpaper. They are remnants from a moment in time when lawyers spoke up on behalf of contending parties, went to the altar of law in the Hague, took seriously the idea of peaceful dispute settlement, took account of words written, negotiated, and prayed. Words tumbled out of advocates' mouths, were repeated in prayers, declarations, and pleas. The speaking was an

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<sup>469</sup> ICJ, *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, record of oral proceedings, accessed 28 November 2024, <https://www.icj-cij.org/case/186/oral-proceedings>. The UN GA referred two questions to the ICJ:

“What are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures?” “How do the policies and practices of Israel affect the legal status of the occupation, and what are the legal consequences that arise for all States and the United Nations from this status?” <https://unric.org/en/occupied-palestinian-territories-first-days-of-hearings-at-the-international-court-of-justice/>

<sup>470</sup> The most recent ruling provides the chronology of procedure of this ongoing case: *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, Order, International Court of Justice, 24 May 2024, para. 1-19, <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240524-ord-01-00-en.pdf>.

<sup>471</sup> Government of the Republic of Nicaragua, “Application Instituting Proceedings”, <https://www.icj-cij.org/sites/default/files/case-related/193/193-20240301-app-01-00-en.pdf>. In paragraph 20 of its Order, the ICJ concluded: “Based on the factual information and legal arguments presented by the Parties, the Court concludes that, at present, the circumstances are not such as to require the exercise of its power under Article 41 of the Statute to indicate provisional measures.” It did not dismiss the matter outright thus leaving Germany with an obligation to exercise continued due diligence to avoid supplying weapons that could be used by Israel to commit genocide or other violations of humanitarian law: ICJ, *Alleged Breaches of Certain International Obligations in Respect of The Occupied Palestinian Territory (Nicaragua v. Germany)*, (30 April 2024), <https://www.icj-cij.org/sites/default/files/case-related/193/193-20240430-ord-01-00-en.pdf>. See this analysis of the ruling: Stefan Talmon, “Why the Provisional Measures Order in Nicaragua v. Germany severely limits Germany's ability to transfer arms to Israel”, (2 May 2024), *Verfassungsblog*, accessed 28 October 2024, <https://verfassungsblog.de/why-the-provisional-measures-order-in-nicaragua-v-germany-severely-limits-germanys-ability-to-transfer-arms-to-israel/>.

<sup>472</sup> ICJ, *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, Advisory Opinion, International Court of Justice, 19 July 2024, <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>.

act of belief and solace; my scribbling, sketching and painting, was also an act of belief and solace. The series weaves in with the horrors in the news, with the books on my shelves, with my silence, and with the pain everywhere as we contemplate how to get to peace.

### **Reflecting on and reimagining international law through the arts**

Theatre has considerable relevance to how we understand international law. The audience observes entertaining enactments on a stage curiously, imaginatively, critically, empathetically, and reflectively, discovering new truths from the characters, dilemmas and twists of fate in the play. They leave the theatre, emotionally drained or rejuvenated, deep in thought or laughing and debating with their companions. Could we do this with international law? The broadcasts of ICJ hearings last year had some of the character of theatre. I found it cathartic to listen to arguments while sketching and painting the advocates and presiding justice. But I am a lawyer: who else would watch with such enthusiasm, and how do we avoid the cases becoming win/lose, zero sum affairs that change nothing outside the courtroom because parties are so entrenched in their positions? Should the point of theatrical international dispute settlement be that we all discover together, and help each other live up to, shared values? Would this be a way to get to peace?

The *Sketches* project demonstrated how I could use artmaking to explore fundamental questions of international law. This TILARC practice of sketching while contemplating the conflicts raging across the globe and reading the texts of international human rights and humanitarian law and critical cultural literature provided a transdisciplinary and creative way to explore challenging issues, express strong emotions and reimagine possible solutions. Nearly 80 years since the *UN Charter* and the *Universal Declaration of Human Rights* were made, we see how words can fade and be forgotten in closed books. The arts can help us rediscover the promise of weighty words written years ago in the dark shadow of two world wars. They can help us express the desire to end war and establish international rule of law,

where conflict is resolved through a universal commitment to discuss and apply the law and resort to force is relegated to the past.

TILARC practice helped me to understand and process the complex and dangerous times in which we live, to decode international law and envision a renewed planetary charter for peace. This process made me recognize that the current tolerance for violence is a fundamental betrayal of the *UN Charter*'s commitments to prohibit use of force, to encourage peaceful resolution of disputes, and to establish universal peace under law. It made me realize that we can reclaim these commitments by offering a hopeful narrative of rule of law founded in aesthetic philosophy, to counter the positivist realist "might is right" argumentation which is now prevailing. Sharing and discussing this TILARC practice with others<sup>473</sup> generated new knowledge and enhanced awareness and understanding of international law issues. Such projects generate new knowledge about international law and can contribute to reimagining international laws and governance approaches more suited to today's crises. By sharing these sketches and reflections I hope to ignite interest in transdisciplinary thinking and artmaking about international law with a view to reimagining how the international legal system could better support the needs of humanity and our planet.

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<sup>473</sup> This research was presented at the Human Rights and Art Consultation, organized by the Human Rights Research and Education Centre (HRREC), University of Ottawa in Avignon, France, July 2024, and at the International Conference on Arts and Humanities (ICOAH), Colombo, Sri Lanka, September 2024 (virtually).

## Chapter 6. Making art and law in the plasticocene

This chapter describes my TILARC project about gathering plastic waste and using it to make art as I contemplated the need for concerted action by regulators, producers and consumers of plastic to change behaviours to eliminate plastic pollution. This is an ongoing project of exploring through artmaking the materiality of plastic waste and using social engagement and legal discussions to raise awareness about the need to end plastic pollution. The chapter begins with my first research-creation projects using plastic waste, discusses the linking of artmaking and activism in activism,<sup>474</sup> considers artmaking and lawmaking to envision a future without plastic pollution, and is completed by a discussion of my project to create artistic assemblages out of a discarded water trampoline.

### Making art from plastic waste

We are facing a global environmental crisis of excessive and rapidly increasing production, use and disposal of single use plastic. According to the United Nations Environment Programme,

“Around the world, one million plastic bottles are purchased every minute, while up to five trillion plastic bags are used worldwide every year. In total, half of all plastic produced is designed for single-use purposes ... Plastics including microplastics are now ubiquitous in our natural environment. They are becoming part of the Earth's fossil record and a marker of the Anthropocene, our current geological era... Today, we produce about 400 million tonnes of plastic waste every year... If historic growth trends continue, global production of primary plastic is forecasted to reach 1,100 million tonnes by 2050.”<sup>475</sup>

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<sup>474</sup> J. C. F. Martins and R. M. de O. Campos, “The body as theme and tool of activism in young people., *European Journal of Cultural Studies* 27, no. 2 (2024): 232-252, <https://doi-org.lib-ezproxy.concordia.ca/10.1177/13675494231163647>: “activism ... has become a generic term involving the individual or collective production of artistic events or content engaging with several specific causes. This neologism implies an organic relationship between two fields, summoning a multiplicity of techniques, languages, directions and means, from performance and urban arts to digital formats and hacktivism.” See also, Suzanne Nossel, “Introduction: On ‘Artivism,’ or Art’s Utility in Activism,” *Social Research* 83, no. 1 (2016): 103–5, <http://www.jstor.org/stable/44283396>; Lara Stammen and Miriam Meissner, “Social Movements’ Transformative Climate Change Communication: Extinction Rebellion’s Activism,” *Social Movement Studies* 23, no. 1 (2024): 19–38, <https://doi.org/10.1080/14742837.2022.2122949>.

<sup>475</sup> United Nations Environment Programme, “Our planet is choking on plastic,” accessed 23 December 2024, [https://www.unep.org/interactives/beat-plastic-pollution/?gad\\_source=1&gclid=Cj0KCQiAsaS7BhDPArisAAX5cSCd41rcIPbzWqICloarhaq2T47emGYmlIaWVJi\\_ZmsP18pCqCmJb5YaAmcoEALw\\_wcB](https://www.unep.org/interactives/beat-plastic-pollution/?gad_source=1&gclid=Cj0KCQiAsaS7BhDPArisAAX5cSCd41rcIPbzWqICloarhaq2T47emGYmlIaWVJi_ZmsP18pCqCmJb5YaAmcoEALw_wcB): “Approximately 36 per cent of all plastics produced are used in packaging, including single-use plastic products for food and beverage containers, approximately 85 per cent of which ends up in landfills or as unregulated waste.

In recent years ubiquitous plastic waste began to invade my consciousness, raising questions about the meaning of plastic artifacts such as conference lanyards, the viability of plastic as a material for artmaking, my responsibility for plastic waste, and the role of international law in the proliferation of plastic waste. Below I discuss two research-creation assemblages made from plastic waste.

### **Lanyard tutu**

My exploration of making art with plastic waste began with designing the *International Law Conference Lanyard Tutu* using Strauss and Fuad-Luke's "slow design" principles: 1) reveal, 2) expand, 3) reflect, 4) engage, 5) participate, 6) evolve, and the idea of time.<sup>476</sup> My last job as Director of the International Law Research Program at the Centre for International Governance Innovation involved extensive travel: attending international meetings and building research networks on a wide range of international law topics, and in the process leaving a regrettable carbon footprint. Over six years I accumulated friends, photos, memories, and many satisfying publications, as well as a bag full of tangled conference lanyards. A year later, the design project started to take shape.

The slow design principles are used in the following reflection on how I made the lanyard tutu as they seemed particularly suited to a project that gestated for several years as a formless idea before revealing itself, and in taking shape, drew on and connected, the span of my life.<sup>477</sup> The first slow design principle is "Reveal - pause, interval, awareness."<sup>478</sup> I asked myself, what was the sensual potential of waste, what could be made from a heap of

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Additionally, some 98 per cent of single-use plastic products are produced from fossil fuel, or "virgin" feedstock. The level of greenhouse gas emissions associated with the production, use and disposal of conventional fossil fuel-based plastics is forecast to grow to 19 per cent of the global carbon budget by 2040... Of the seven billion tonnes of plastic waste generated globally so far, less than 10 per cent has been recycled. Millions of tonnes of plastic waste are lost to the environment, or sometimes shipped thousands of kilometres to destinations where it is mostly burned or dumped."

<sup>476</sup> C. F. Strauss and A. Fuad-Luke, (nd). *Slow design principles: A new interrogative and reflexive tool for design research and practice*, 8-9, accessed 28 October 2024, [https://raaf.org/pdfs/Slow\\_Design\\_Principles.pdf](https://raaf.org/pdfs/Slow_Design_Principles.pdf).

<sup>477</sup> Ibid.

<sup>478</sup> Ibid, 8.

conference lanyards. I had an idea to make a human sculpture, a head, or a body. Instead, in the completed work, the body was invisible, and only the attire was revealed. I disentangled and sorted the conference lanyards by colour. Laying them out beside each other, I started to see that that they resembled a tutu, with the narrow ribbons of lanyard hinting at a fitted bodice and the cluster of flaring nametags suggesting a short tule tutu skirt.

“Engage - listening, rhythm, communicating”<sup>479</sup> is the fourth principle, which was relevant to finding available sources to help me in designing the assemblage. When the idea of making a tutu revealed itself, I turned to open-source pattern ideas from the internet. I found there was a virtual community of makers passionate about and skilled in crafting ballet tutus. I took a screenshot of a black swan tutu pattern from Pinterest, carefully measured the various pattern pieces, adjusted the measurements for an adult sized tutu, and converted them into inches.

The third slow design principle is “Reflect - understanding, natural, calm, contemplate.” I commenced a reflective consumption of waste plastic and paper and fabric remnants. Leftover architectural paper helped me draw the tutu pattern to scale. Finding pale pink raw silk leftover curtain fabric tucked away in a drawer evoked childhood memories of the magic of ballet. I constructed the tutu using a combination of hand and machine sewing. The second principle is “Expand - Elastic, being.”<sup>480</sup> Arranging and sewing the lanyard strips to the tutu bodice seemed to expand the potential expressivity of these artifacts, suggesting they could tell an intriguing story beyond their existence as waste remains from past events. Stitched together on the silk bodice, the cheap plastic fabric strands seemed to take on some of the aesthetic qualities of embroidered military insignia and appointment badges.

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<sup>479</sup> Ibid, 9.

<sup>480</sup> Ibid, 9.

The fifth principle is “Participate – love, flourishing”<sup>481</sup> and “embracing ideas of conviviality and exchange to foster social accountability and enhance communities.”<sup>482</sup> I found myself patiently making alongside Vaughan’s parka.<sup>483</sup> Using leftover cotton curtain liner, I replicated the pattern of the tutu, connecting it to the silk outer layer, providing a lining to cover all the raw and fraying edges and create a smooth cool surface against the imaginary dancer’s body. To construct the tulle ruffles for under the short ballet skirt, I was inspired by a classmate’s provocation to make something with a plastic bag. I used clear plastic grocery bags with their length folded in four, sewed a double thread across the width and down the centre of the folded bag, pulled the thread tight and knotted it. I sewed many of the resulting plastic florets onto the electric blue silk panty of the tutu.

The sixth slow design principle is “Evolve - journey, growth, process.”<sup>484</sup> Like any sewing project, the tutu required planning ahead, and step by step execution, but I quickly found the material construction had its own organically determined plan. Early stages of piecing together the materials could be done efficiently with a sewing machine but as the material assemblage took on more three dimensionality hand sewing helped make gradual adjustments and complex connections. The last element in slow design is the idea of “The long view- a continuum – infinite time.”<sup>485</sup> I found a pair of ballet slippers from half a century ago in a side drawer of my childhood desk and a plaster bandage mask I had made a year earlier and, decorating them with some of the remaining lanyards, incorporated both into the tutu installation. This project connected my identities over many decades, from the girl whose passion was ballet and modern dance, to the lawyer contributing to the development of

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<sup>481</sup> Ibid, 9.

<sup>482</sup> Ibid, 6.

<sup>483</sup> Vaughan, “Pieced Together”.

<sup>484</sup> Ibid, 9.

<sup>485</sup> Ibid, 10.



more inclusive international law, to the older artist and performer reflecting and reacting to these interwoven identities.

I found that slow design principles were helpful in my creative process because they acknowledge and embrace the way ideas bubble into consciousness and take shape through the interactions of materials, environment, technology, people, experience, and time. In this way an initial desire to sculpt a head evolved into an invisible being inside a costume. I thought about interrelations of body, attire and being, Degas' delightful *Little dancer*,<sup>486</sup> and found a reflection by Hood and Kraehe:<sup>487</sup>

In thinking again about the constructed divide between human and non-human things, it is important to note that we are all things. For humans in general, understanding that everything and everybody is made up of dynamic materials is an important political point for consciousness raising, with implications for long-term sustainability and care with the world. For the artists in particular, it sets up a more ethical way of thinking about how matter participates in the artmaking process.

This tutu assemblage of dynamic materials hints at human and non-human identities and invites reflection about long term sustainability and care for the world. Thus, slow design dovetailed with my research-creation practice to provide an ethical approach to artmaking and design in the posthuman anthropocene.

When exhibited the tutu hung from a small slow turning motor attached to the ceiling, allowing the plastic nametags to catch the light as it turned. Visitors to the exposition were intrigued that the lanyard assemblage had taken the form of a tutu without a person inside it. They seemed struck by what I had been able to create with ordinary plastic conference lanyards. Many asked themselves about the stories that might emerge from their own collections of conference detritus. As this conversation recurred so frequently, I was tempted to ask them to send their old lanyards to me with a personal note so I could try to construct

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<sup>486</sup> Edgar Degas, *Little dancer, Aged 14*, image from Zoe Dicken, "Sotheby's to auction iconic Degas sculpture", (15 June 2015), *BoatInternational*, accessed 28 October 2024, <https://www.boatinternational.com/luxury-yacht-life/lifestyle/sothebys-to-auction-iconic-degas-sculpture--26479>.

<sup>487</sup> E.J. Hood, & A.M. Kraehe, "Creative matter: New materialism in art education research, teaching and learning", *Art Education*, (2017) 70 (2), 32-38, at 35.

something for them. Another idea that came up was creating a massive tapestry like mycelium or neural networks of lanyards from all kinds of people and discovering the unusual visual, social, geographical and topical connections between them. Attendees also found many extraordinary meanings about identity, performance, and social masking in the tutu assemblage.

### **Amazonia**

Creating art assemblages from plastic gives rise to an array of material, artistic and ethical challenges. Making the assemblage *Amazonia, Goddess of Waste* (Fig. 23) from discarded packing paper and plastic, presented me with the material challenge of making a semi-permanent art piece from unruly waste. I considered the opportunities and challenges of artmaking in times of environmental crisis as I struggled with the materiality of *Amazonia*'s paradoxical fragility. Influenced by new materialism (emphasizing the agency and vitality of waste materials), postmodernism (embracing impermanence, irony, and assemblage), and posthumanism (decentering the human and critiquing anthropocentric systems), I contemplated international law's failure to protect human rights and the environment.

Through my TILARC practice I challenged myself to be aware and explicit about the multiple dimensions of thinking and doing, and to be "in flow", curious, open, and active, absorbing into the whole aspects that were intentional, accidental, conscious, unconscious, and subconscious. By playing with materials, making, and reflecting on my artistic practice I connected through space and time with real and imagined stories.<sup>488</sup> I imagined using waste materials (plastic and cardboard) to construct a being. In this way I sought to tap into the possibilities of reimagining my relationship with waste materials.

The convergence of posthuman critical thinking and new materialism provided me, as a visual artist, with inspiration for making art attuned to vibrant, agential matter. It offered me,

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<sup>488</sup> Minh-Ha, *Woman, native, other*, at 128; Barber, *Women's Work*.

as an international lawyer, powerful tools with which to critique and reimagine legal orders. It called for embodied thinking about law and artmaking,<sup>489</sup> offering guidance to my transdisciplinary research-creation. Autoethnography allowed me to document the personal, postmodern, posthuman, embodied, material experience of TILARC artmaking with plastic waste.<sup>490</sup>

Many others before me have been moved to make art from every day, found and waste objects, seeking to redefine or reimagine their relations with these objects and materials.<sup>491</sup> We observe the material in its environment of discard (recycling or garbage bins, a ditch at the side of the road, a river's edge, the beach), extract it as a resource for art production and import it into a world of imagination, decoding, recoding, redefinition and resignification. We give these monstrous materials new life, wings, power as media of expression for themselves and the artists who handle them. The results can be silly, messy, ironic, beautiful, and terrifying.

Awareness of the performativity<sup>492</sup> of artmaking was acute when trying to make art from waste materials. Despite their industrial sophistication there was little guidance on how to work with them, and the creative effort could readily devolve into absurdity. Self-conscious performativity was evident in gathering, cleaning, touching, arranging, cutting,

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<sup>489</sup> Graham, "I am a dancer", 120-121.

<sup>490</sup> This section borrows from a paper published by Universidad De Bogota Jorge Tadeo Lozano: Oonagh E. Fitzgerald, "Entangled Beings: A Reflection on Making Art Assemblages from Waste Materials", *La Tadeo Dearte*, 25 June 2024, Vol. 9 No. 12 (2023): Diseño+Arte+Ciencia, DOI: 10.21789/24223158.2107.

<sup>491</sup> Here are sources pointing to the work of notable recycling artists: Artspur, "10 Artists Working in Recycled Art," 1 August 2018, accessed 28 October 2024, <https://blog.artsper.com/en/get-inspired/top-10-of-recycled-art/#:~:text=Belgian%20artist%20Wim%20Delvoye%20is,used%20objects%20into%20spectacular%20artwork>; Canadian Geographic, "From plastic trash to treasured art: Five artists invite us to rethink our relationship with plastic," 29 June 2020, accessed 28 October 2024, <https://canadiangeographic.ca/articles/from-plastic-trash-to-treasured-art-five-artists-invite-us-to-rethink-our-relationship-with-plastic/>; Causeartist, "13 Incredible Artivists Using Recycled Materials in Their Art" Arts, Culture & Entertainment, accessed 28 October 2024, <https://causeartist.com/incredible-recycled-art-materials-creations/#:~:text=HA%20Schult%20is%20a%20German,a%20building%20made%20of%20garbage>; Lynne Cooke, "Essay by Lynne Cooke with statements by Joseph Beuys", 7000 Oak, accessed 28 October 2024, <http://web.mit.edu/allanmc/www/cookebeuys.pdf>; Vik Muniz, accessed 28 October 2024, <http://vikmuniz.net/news/muntref-vik-muniz>; Ha Schult, accessed 28 October 2024, <https://www.haschult.de/picture-boxes#content>.

<sup>492</sup> McCall, "Performance Ethnography", 421-423.

assembling, mounting, and displaying waste plastic artwork. The formed materials resisted and mocked attempts to reshape them, glue them, and tame them. They have their own mysterious and dangerous ways of interacting with our bodies and the environment. They force us to confront our own entanglement with, and embodied responsibility<sup>493</sup> for, the burgeoning piles of plastic waste. Besides the material challenges of handling plastic waste, the process can be emotional, engendering feelings of hypocrisy, futility, desperation, triviality, and frustration.

Connection with the environment is fundamental to my practice. Working with waste materials provoked a reverie about how the international legal system has enabled the spread of plastic and other polluting waste, and has only taken small, belated, steps to address the resulting environmental destruction. Landfills, rivers, and oceans are overflowing with plastic waste. Recycling serves to alleviate our sense of responsibility by allowing us to dispose of our plastic waste, even though we know the programs are only able to recycle some of the plastics being produced.<sup>494</sup> Contemplating my household environmental footprint, I gathered waste materials and considered whether I could turn them into artwork. I took photographs of inside-out cleaned waste food packaging and posted them on Instagram, asking whether they could be used to create an art project. *Amazonia* started to take shape in the form of a youthful pregnant woman covered in silvery plastic leaves. Cleaning and cutting the material was easy enough but it was frustrating trying to find means to stick the leaves onto the body, especially as I did not want to add to environmental problems by using toxic glues.

While my art projects have little impact on the flow of waste to landfills and will not solve the global problem of plastic waste, they make work for me, providing a time-

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<sup>493</sup> Our clothing, toiletries, cyborg extensions (glasses, contact lenses, phone cases, cables), and the plastic our food comes in are all part of this problem.

<sup>494</sup> Environment and Climate Change Canada, "Plastic waste and pollution reduction," accessed 24 December 2024, <https://www.canada.ca/en/environment-climate-change/services/managing-reducing-waste/reduce-plastic-waste.html>. Charles Moore, "Plastic pollution in oceans and on land," *Britannica* 17 December 2024, accessed 24 December 2024, <https://www.britannica.com/topic/legislation-politics/The-legislative-process>.

consuming, often frustrating meditation on the mess we create: how we need to reuse, consume less, clean up, take responsibility for the garbage we purchase, use briefly, then discard. If we all took the time to try to make things with our garbage maybe, we would have less time to consume and create waste. Some may consider it a waste of energy to try to transform garbage into art and a display of privilege in that I have the time and resources to playfully explore transdisciplinary research-creation projects when others must scavenge garbage simply to survive. Being a socially engaged visual artist/lawyer and not a scientist, my imperfect solution to waste is to try to consume less and use waste to make an artistic statement, something beautiful, humorous, provocative, and shocking, that gets others to engage with their own plastic waste.

As I tried to make art with plastic waste, I learned how to use these materials for positive ends, but also found that they were not ideal, and that we must produce and use less of them. I could not see myself buying a block of marble or a ton of clay, wood, steel, or aluminum to make my art because I am surrounded by waste material that needs to be repurposed and understood as material in this world. With broken supply chains that end with the consumer's purchase, and with no thought given to the many afterlives of used, broken and discarded objects, I am surrounded by endless materials for artmaking. There is no other place to which garbage disappears: it is with us and in us.

I tried to imagine a more circular economy where people reduce, recycle, reuse, and where environment, human flourishing, and the economy balance harmoniously. I imagined artisanal mining of waste materials of the postmodern posthuman world becoming a subversive goldrush, with garbage being transformed into something precious. Thus, for me plastic waste is precious as an endless free source of material for making art reflecting on environmental issues. However, its properties are dangerous, destructive, and not well understood or safely regulated. The mountains of unrecycled plastic waste document our

disordered, greedy and thoughtless lives, contributing to the shameful geological record of the anthropocene. If artmaking helps draw attention to the problem of plastic pollution, it may spur social and political action in favour of safer, more transparent management of production, use, and recycling of plastic, and development of a more sustainable and circular economy.

Getting ready to show *Amazonia* in an art exhibition in Montreal, I worried that she might not survive travel from Ottawa. Would she disintegrate enroute or in a sudden gust of wind as we carried her from the car to the exhibition space? She survived the trip, and my son helped me install her hanging from a rotating device taped to one of the ceiling bars in the exhibition space. I still marvel at how for two weeks she hung firmly, rotating slowly, never losing a silvery leaf. This was my artistic statement about her:

Haste makes waste. Bezos and his empire delivering to our doors, each parcel more urgent and important, perfectly packaged, padded in plastic, paper, and cardboard. Delivery drivers hurry blindly from destination to destination, themselves driven by algorithms and data input, fulfilling our decadent dreams. They see nobody, no neighbourhood, nothing local. Leaves grow, leaves fall, what is our future? Hope filled with horror: microplastics and macroplastics awash in our oceans and in all our beings and those yet to become. Littering, flaking, enduring, permeating all our bodies, what are we delivering to this earth?

When the show ended, *Amazonia* waited on her stretcher at the curb. Under a grey sheet her youthful pregnant form looked tragic, apparently deceased, causing passersby to stop and gasp until I reassured them that she was not real. When I tried to hang her at home, a month later, there was another moment of tragedy as I realized she was now disintegrating.

After weeks of summer distractions, I started writing reflections and repairing this garbage sculpture. While I admired her form, I saw her weaknesses and vulnerabilities, as limbs kept separating and layers kept peeling off, falling, drifting downward. She was constantly in the process of falling apart and required repeated fixing because nothing sticks well to plastic waste. After a series of repairs, I got ready to hoist her again with little confidence that she was stable: would her arms, hands, and elbows hold? I considered

whether the project was about this instability, whether I should view her as a performance piece about futility and entropy, and find a suitable way to record her dissolution, perhaps through time lapse photography over weeks, days, or hours, but I continued to resist.

I did more to rebuild and reinforce her and, struggling with the suspending strings, I got her aloft and positioned. I walked away briefly to read again about glues for plastic and, when I passed by her, she was already listing, one of her suspending strings having come loose again. Both duct tape and white glue failed in this project. White glue's hold was ethereal and fleeting, and if knocked it detached entirely leaving a clear web of dried, impotent glue. Duct tape<sup>495</sup> applied on the frame to hold the suspending strings and in tightly rolled narrow strips was surprisingly unserious about sticking to itself or to plastic. The myth of its omni utility was disappointingly disproven. I took her down and laid her on the IKEA cardboard stretcher my husband originally made for transporting Jeanne b' Ark. She looked stable on that, using the floor piece as a kind of halo around her head. In exasperation, I contemplated getting some proper glue and using the stretcher instead of strings to support her or taking an axe to her and putting her out for garbage pickup.

I expanded the dining table, covered it in newspaper and laid her there. Having read about all the amazing plastic glues on the market I was no further ahead as they all seemed toxic and inappropriate for the kind of plastic waste with which I was working. Rummaging through my tool bag, I encountered a ball of artist gum wrapped in a plastic bag, the accumulated residue of all the gum used in our show in Montreal to hang photos and prints on the gallery walls. I read the packaging label on another unopened pack of the gum, thinking it might work better than white glue and duct tape. I also looked again at mod podge, favoured for collage: was this not a collage? This made me think about adding scraps of

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<sup>495</sup> Duct tape is generally made of three layers: an outer layer of polythene plastic, a middle layer of fabric, and rubber-based glue as the adhesive: RS Home, "Everything You Need To Know About Duct Tape," accessed 26 December 2024, <https://ie.rs-online.com/web/generalDisplay.html?id=ideas-and-advice/duct-tapes-guide#:~:text=Duct%20tape%20is%20typically%20made,is%20a%20rubber%2Dbased%20glue.>

fabric. In my remnants drawer I found the hems of plain abstract jacquard in a greyish beige with cream lines that I had trimmed when I shortened my son's curtains. I started cutting leaf shapes out of this fabric and slowly revisited every inch of *Amazonia*'s feet and legs, using the gum to replace ineffective glue and duct tape. When I had done a section, I applied mod podge. I continued this way up the whole of the front of the figure as she lay on her back on the table. Once the mod podge was cured, I turned her over and repeated the process on the back. Meanwhile, I was puzzling over how I could display her vertically when every part of her body was weak and susceptible to breaking apart, even with the new gum and podge. If the stretcher was the solution, why fix her backside, and ought I to focus on making the stretcher interesting instead?

We were filling yard bags with the leaves and branches from a sick tree that my husband had cut down, when he pulled through the fence a long strand of strangling vine with dried leaves and tendrils. I was about to roll it up and throw it in the bag but was suddenly struck by the thought that it might be a perfect way to wrap *Amazonia* to hold her together and distribute her weight away from her weakest parts. I found rolled up picture-hanging wire left over from previous exhibitions and wrapped that around the strands of vine, removing the dried leaves but retaining the curly tendrils. I wrapped jute string around the vine and wire for added resilience and flexibility. So far it looked good, and I was excited to learn how to apply it to *Amazonia*, to hold her in multiple places, to keep her firm and stable. That would have to wait until after her backside had been repaired and adjusted with the artist gum, mod podge, material leaves and additional plastic and foil leaves accumulated in the last few days.

I delighted in the flash of realization when a material object revealed its possibilities. I had been talking to a former colleague who had used the word "entanglements" to describe various professional and social commitments that kept him occupied and feeling vital. It was an evocative word, suggesting the risk of strangulation and entrapment as well as the



possibility of delight from sensual and intellectual engagement. Rather than having *Amazonia* simply hanging from her ribs or turning suspended, entanglement with the natural vines, wires, and string might convey additional dimensions of our relationship with plastics and waste.

I applied mod podge to the entwined vine, wire, and jute. I bent the thickest stem of the vine into a hook and tied it. Noticing how it adjusted to the new shape, I tightened it again. I tested the vines on my body, and then went for a walk to consider the best way to apply them to the figure to distribute and support her weight. When I returned, I wrapped *Amazonia* in the vines, got the step ladder and suspended her from a metal loop in the ceiling. She held overnight but, detecting some strain on her chest, I adjusted her again. Despite my struggle to make her permanent, *Amazonia* remained waywardly fragile.

The vine as the only natural element in the artwork, encircling and suspending the female form of shiny plastic packaging leaves, provided material and visual contrast, posing questions about our relations with nature. She was lovely but also horrible. My artist son responded to a photo of her by sending me a photo of an old print of a hanged and trussed sailor. It hit home: this was not a pretty sight. *Amazonia* was certainly provocative and readily conveyed horror, conjuring sexual violence, subjugation, imprisonment, torture, death. I was relieved that I had resisted the temptation to show her to our neighbours' children in my flush of excitement at finishing this latest version. It might be best only to show her occasionally rather than have her hang permanently. Weirdly, this struggle to make *Amazonia* physically more robust had made her less tolerable as an art piece, more unbearable.

Instead of discussing the various tentative advances and retreats in international human rights and environmental law, I presented my beloved and sorrowful *Amazonia, Goddess of Waste Entangled*. She is naked, pregnant, and bound, giving no answers, only posing

questions. She is a daughter of international law's failures, a sacrifice of everything we hold dear, a non-functioning cyborg, representing the unfortunate pollution of all planetary places and beings. In making this waste assemblage, *Amazonia* and I may have been transforming into an artistic war machine against environmental degradation, as this is not generally how international lawyers behave.

### **Artivism, artmaking and lawmaking to envision a future without plastic pollution**

The next plastic project began in the late summer of 2023 as I completed reconstruction of *Amazonia* and found a large, discarded plastic water trampoline at the roadside in Val-des-Monts. Because of the magnitude of the material challenges and the serendipitous timing of the international negotiations for a binding treaty to eliminate plastic pollution, I saw an opportunity to apply TILARC practice to this environmental problem. As I proceeded with material and intellectual engagement collecting plastic waste, attending the international negotiations on the plastic treaty, participating in discussions of the treaty, and deconstructing and reconstructing the material into imaginary beings, a stream of creative possibilities began to reveal themselves, extending throughout and beyond the period covered by this reflection.

This dissertation has discussed how art and aesthetics could contribute to shaping and understanding international law.<sup>496</sup> Specifically regarding environmental protection, Richardson suggested that the arts serve to “open human imagination” to comprehend the crisis of the anthropocene, and that “sensory appreciation of the natural world, including as mediated by the arts, matters because of its capacity to shape the ethical and political imagination of the society and thereby the progressive development of environmental law.”<sup>497</sup>

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<sup>496</sup> For examples of discussions of art and aesthetics in international law see: Hilary Charlesworth, 2022. “The Art of International Law.” Proceedings of the ASIL Annual Meeting 116: 7–24, <https://doi.org/10.1017/amp.2023.3>; O'Connell, *The Art of Law in the International Community*; Orford, *International Law and the Politics of History*, 7.3.2, 933-934, 703-704; Jean d'Aspremont and Eric De Brabandere, “Paintings of International Law”, in Hohmann and Joyce, *International Law's Objects*, ch. 22, 829; Daniel Litwin, “Stained Glass Windows, the Great Hall of Justice of the Peace Palace”, in Hohmann and Joyce, *International Law's Objects*, ch. 34, 1155.

<sup>497</sup> Richardson, *Art of Environmental Law*, 9.

Loveless explained how her students were able to engage imaginatively with the complex and overwhelming problems of the anthropocene such that their research-creation projects on ecological topics took on ecological form.<sup>498</sup>

Living in the posthuman, cyborg anthropocene, we are challenged to survive and thrive in the face of multiple risks and crises: human-induced climate change, mass species extinction, conventional or nuclear war,<sup>499</sup> pandemic, colonial legacy and conflict, economic and gender inequality. International law offers potential or partial solutions to many of these problems, but we see these prescriptions being reinterpreted, ignored, rejected, and violated. International law's lack of success in addressing the materiality of planetary existence invites modest reform proposals,<sup>500</sup> more radical new approaches,<sup>501</sup> and provides an entry point for decoding and reimagining<sup>502</sup>.

Diverse authors have warned of the risks of relying on established language and disciplines such as law and geography to find new insights and approaches to entrenched systems of injustice such as colonialism, sexism, racism and capitalism.<sup>503</sup> This requires spurning the master's tools or at least treating them with suspicion, and finding insights in other knowledge systems, such as Indigenous legal orders,<sup>504</sup> new materialism<sup>505</sup> and posthumanism<sup>506</sup> and their feminist explorations. As an older white woman lawyer with

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<sup>498</sup> Loveless, *How to Make Art*, 101.

<sup>499</sup> Barad, "Troubling time/s, undoing the future"; Barad, "After the end of the world".

<sup>500</sup> Such as reframing the notion of cosmopolitanism to reject the toxic masculinity of stoicism and embrace an international duty of material aid: Nussbaum, *Cosmopolitan tradition*, 145, 264-296.

<sup>501</sup> Keeling and Nguyen Lehman, "Posthumanism,"; Braidotti, "Critical Posthumanities", 32.

<sup>502</sup> Hohmann and Joyce, *International Law's Objects*. To counterbalance the abstract, objective nature of international law, this collection of essays foregrounds a wide variety of objects caught up in international law, to highlight international law's material impacts in the real world.

<sup>503</sup> Cixous, "The Laugh of the Medusa"; Butler, *Gender Trouble*, 2-3; Rose, *Feminism & Geography*, 15; Said, *Orientalism*, 216.

<sup>504</sup> Kate Miles, ch.15. "Insulae Moluccae: Map of the Spice Islands" 1594, 703-736, in Hohmann and Joyce, *International Law's Objects*; Black, *The Land Is the Source of the Law*, 15.

<sup>505</sup> Quiroga-Villamarín, "Domains of objects, rituals of truth"; Dolphijn and van der Tuin, "Matter feels, converses, suffers, desires, yearns and remembers", 3; Geerts and van der Tuin, "The Feminist Futures of Reading Diffractively", para.22. See also, Bennett, *Vibrant Matter*, viii; Rahman and Witz, "What Really Matters?", 257-258. See also, Graham, "I am a dancer", 120-121.

<sup>506</sup> Braidotti, "Critical Posthumanities", 32, 33-34.

artistic tendencies thriving on unceded Indigenous territories, I take an embodied and critical approach to reflecting on international law and making art, and ground both my art and reflections in my entangled, unfulfilled responsibilities.

This leads me to make art assemblages out of waste materials, turning waste into characters expressing something humorous, horrific and heroic about our desperate entanglement with environmental disasters. In this way I join other posthuman new materialist artists drawing attention to environmental and related human rights crises.<sup>507</sup> As Richardson observes, “art cannot save the world’s environment ... but it can help humanity to see itself embedded in a broader community with nature, and it can challenge the consumer culture and the accompanying institutions and ideologies.”<sup>508</sup>

The following paragraphs are my reflections on the experience of being a civil society observer at the international negotiations.

#### **Reflections of an international lawyer/artist at INC-4**

I was reading and listening to podcasts<sup>509</sup> about the UN Environmental Program Intergovernmental Negotiating Committee (UNEP-INC) process to develop a binding treaty to eliminate plastic pollution. I was able to attend the fourth and penultimate negotiating session (INC-4) in Ottawa in April of 2024 as a civil society observer, using the International Law Association’s<sup>510</sup> accreditation with the UN Economic and Social Council (ECOSOC). I made a short presentation about international law and plastic pollution at a preparatory civil society meeting organized by UNEP and organized a virtual panel of experts to coincide with the INC-4 to discuss the international law dimensions of making a treaty on plastic

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<sup>507</sup> Stammen and Meissner. “Social Movements’ Transformative Climate Change Communication”.

<sup>508</sup> Richardson, *The Art of Environmental Law*, 320. Also see, 271: “As a catalyst for the cultural transformation that we need in order to create stronger laws to protect the global climate, the arts can help convey and interpret the gravity of climate change and enliven scientific information in more engaging and interesting ways for public discourse.”

<sup>509</sup> Anja Krieger, *Plastisphere: A podcast on plastic pollution in the environment*, accessed 28 October 2024, <https://anjakrieger.com/plastisphere/>.

<sup>510</sup> I currently serve as president of the International Law Association of Canada: [ila-canada.ca](http://ila-canada.ca), the national branch of the global organization International Law Association: [ila-hq.org/en](http://ila-hq.org/en).

pollution.<sup>511</sup> I used the insights and takeaways from this panel and from attending INC-4 to draft an informal ILA submission to UNEP.<sup>512</sup> I followed up with the South Korean branch of the ILA to encourage them to attend the INC-5 in Busan, South Korea in late 2024 and join with ILA Canada in proposing an ILA research committee on the topics related to international law and plastic pollution.

Plastic pollution is complicated: while we are all alarmed that plastic and its chemical components are showing up in everything, and can all agree that we hate that streams, rivers, lakes and oceans are choked with plastic waste, we cannot but acknowledge that plastic is a miracle material in many facets of our lives. The challenge is to make a treaty that eliminates the problem of plastic pollution but allows useful, safe and recyclable plastics to continue to be produced.

It appeared to me that the fossil fuel industry was heavily implicated in the negotiating process, determined to continue increasing production of plastics.<sup>513</sup> Delegates to INC-4 arriving at and departing from the Ottawa airport walked through hallways lined with advertisements extolling the many benefits of plastic and warning of the dangers to human health, affordable nutrition, employment and economic prosperity if plastic were to be regulated. There were many representatives of the fossil fuel industry attending the negotiations, pressing for a treaty that allows them to continue to augment production of polymers and plastics with the least amount of governmental interference. In plenary and at

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<sup>511</sup> Information about and a recording of the event are available here: <https://www.ila-canada.ca/post/plastic-pollution-and-international-law>.

<sup>512</sup> Available here: <https://www.ila-canada.ca/post/plastic-pollution-and-international-law-1>. A formal submission would have required approval of the ILA Executive Committee which could not have been accomplished in the timeframe available.

<sup>513</sup> These are my observations from attending the plenary and work sessions, and side events at INC-4, and discussions with observers and delegates in the corridors. Judith Enck, “Challenging Big Oil’s Big Lie about Plastic Recycling: California’s lawsuit against Exxon is about ending the lie that most plastic is recyclable”, October 5, 2024, accessed 28 October 2024, <https://www.scientificamerican.com/article/challenging-big-oils-big-lie-about-plastic-recycling/>; *The People of The State of California, Ex Rel. Rob Bonta, Attorney General of California v. Exxon Mobil Corporation*; and Does 1 through 100, Inclusive, accessed 28 October 2024, [https://oag.ca.gov/system/files/attachments/press-docs/Complaint\\_People%20v.%20Exxon%20Mobil%20et%20al.pdf](https://oag.ca.gov/system/files/attachments/press-docs/Complaint_People%20v.%20Exxon%20Mobil%20et%20al.pdf).

side events to the negotiations, the science and civil society representatives complained that they were vastly outnumbered by the industry lobbyists. Academic scientists objected to industry-produced science and expressed concern that their own studies on the health effects of plastic pollution were being downplayed or ignored. At side events focusing on the negative impact of the plastics industry in Indigenous communities, Indigenous observers noted, first, the harm of expropriation, exploitation and destruction of their land for fossil fuel extraction; second, the harm to health and environment destruction experienced when oil refinement, polymer and other chemical production and plastic manufacturing were situated close to their traditional lands;<sup>514</sup> and third, the long term harm to human and animal health when persistent organic pollutants and other plastic-related pollution inevitably found their way to, and accumulated in, northern homelands.

Sitting in the plenaries, work sessions and side events at INC-4, with the internet glitching and preliminary objections consuming most of the allotted time, it was evident that familiar international antagonisms and power struggles were shaping the process and the results. While some petrostates doggedly asserted their right to exploit their fossil fuel reserves (e.g. Saudi Arabia and Russia), it was interesting to see how others (e.g. Canada and Nigeria) instead chose to join with states in the High Ambition Coalition to End Plastic Pollution, led by Rwanda and Norway.<sup>515</sup> This Coalition identified seven key deliverables for success, presenting a package of international law and governance reforms that would go a long way to reducing the problem of global plastic pollution.<sup>516</sup>

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<sup>514</sup> Dr. Elaine MacDonald, “Chemical Valley report shows dangerous impact of pollution”, *Ecojustice* (February 22, 2024), accessed 28 October 2024, <https://ecojustice.ca/news/chemical-valley-report-shows-dangerous-impact-of-pollution/#:~:text=Their%20community%20has%20faced%20health,cultural%20relationship%20with%20the%20land.>

<sup>515</sup> High Ambition Coalition to End Plastic Pollution, “End Plastic Pollution by 2040”, accessed 28 October 2024, <https://hactoendplasticpollution.org/>.

<sup>516</sup> Ibid:

1. Eliminate problematic plastics, including by bans and restrictions.
2. Develop global sustainability criteria and standards for plastics
3. Set global baselines and targets for sustainability throughout the lifecycle of plastics.

In the following months, as I reviewed the compilation text of the draft treaty<sup>517</sup> I could see that contradictions have fully invaded every proposed clause with incomprehensible square bracketed additions. Thus, the text proposed strong measures aimed at reducing or ending plastic pollution: provisions that would regulate, limit, cap production, phase out toxic chemicals, require transparency about polymer and plastic constituent chemicals and their health impacts, impose lifecycle responsibility on polymer and plastic producers, and offer funding and technology transfer to developing countries. At the same time the text contained language aimed at limiting the reach of the new treaty: provisions that enshrined the sovereign right of states fully to exploit their natural resources and make their own decisions about production, regulation and waste management of polymers and plastics. Below is a short extract from the 73 pages of the latest text, showing the objective of the treaty, one of the least contentious provisions. Even so, nearly every aspect is in square brackets, indicating each such aspect still has not been agreed. Most of the compilation text is similarly peppered with square brackets and alternative texts still to be negotiated and agreed.<sup>518</sup>

2. Objective 1. The objective of this instrument is to [end plastic pollution] [including in the marine environment to] [in order to] [protect human health] [, animal health] [plant health] [biodiversity] [achieving healthy environment] [and the environment] [from] [the adverse effects of] [end] [prevent] plastic pollution[.], including in the marine environment [without prejudgment and prejudice to the inexorable high end utility of products] [and other aquatic as well as terrestrial ecosystems], [by ending plastic pollution] [based on a comprehensive approach] [that addresses the [full] life cycle of plastic [products] [waste]] [through the prevention, progressive reduction and [elimination] [remediation] of [additional] plastic pollution] [and legacy plastic pollution] [management] [and utilization of [plastic and] plastic waste] [according to national priorities] [by 2040] [and enhanced efforts thereafter], [in order][to protect human health] [, animal health] [and the environment][from its adverse effects][and] [while] [to achieve] [achieving] [sustainable development] [to promote circular economy] [, poverty eradication and just transition,] [considering] [in line with] the

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4. Ensure transparency in the value chain of plastics, including for material and chemical composition.
  5. Establish mechanisms for strengthening commitments, targets and controls over time.
  6. Implement monitoring and reporting at each stage through the lifecycle of plastics.
  7. Facilitate effective technical and financial assistance, scientific and socio-economic assessments.

<sup>517</sup> United Nations Environment Programme, “Compilation of draft text of the international legally binding instrument on plastic pollution, including in the marine environment,” 9 July 2024, UNEP/PP/INC.5/4, <https://www.unep.org/inc-plastic-pollution/session-5/documents#WorkingDocumentsINC5>.

<sup>518</sup> Ibid.

principle of common but differentiated responsibilities] [and respective capabilities] [taking into account national circumstances, capabilities and priorities] [as well as] [the matched] financial and technical support][through the efficient transfer of technology, reliable and predictable[, proportionate and concomitant] financing and capacity building.] [from developed nations to provide to developing nations].

The text resembles a massive pile of unsorted plastic – which pieces can be recycled, which are toxic, which will biodegrade naturally? It occurs to me that it would be interesting to read some of this contradictory incoherent text into my colleague Phil Nguyen’s AI-assisted compositional program<sup>519</sup> to create chaotic music.

Despite the many square brackets and contradictions of the compilation text, it is clear that there is a need for global cooperation to develop fair standards to protect human and environmental health, help all countries access the knowledge and technology needed to meet those standards, require transparency and accountability from producers and users of polymers and plastics, and establish review systems that promote adjustment and intensification of efforts as relevant knowledge and technology advance.

The goal of completing a binding treaty by the end of 2024 depended on successful negotiations leading up to and at INC-5 in Busan, South Korea in November. Those discussions broke down when several oil producing countries balked at any restriction on

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<sup>519</sup> In an email dated 26 December 2024, Philon Nguyen described the technique he used in an earlier collaborative micro-opera, discussed in chapter 7, *Handle with Care: Values in Our Hearts*, which I led: “We used a Max patch that was itself based on the automated improvisation software DYCI2 developed by Jérôme Nika from the Institut de Recherche et Coordination Acoustique/Musique in Paris (IRCAM) (reference below). Automated improvisation is a technique that was developed to accompany live musicians in real time. ... we used 4 DYCI2 agents, each controlling samples of a section of our digital orchestra (i.e. winds, brass, strings and piano). The DYCI2 setup was used to improvise real time with a speaker reading our Manifesto.” Philon referred to this article: J. Nika, K. Déguernel, A. Chemla-Romeu-Santos and E. Vincent, “DYCI2 Agents: Merging the Free, Reactive, and Scenario-Based Music Generation Paradigms.” *International Computer Music Conference Proceedings*, Shanghai, China, October 2017, accessed 27 December 2024. [https://www.researchgate.net/publication/319528165\\_DYCI2\\_agents\\_merging\\_the\\_free\\_reactive\\_and\\_scenario-based\\_music\\_generation\\_paradigms](https://www.researchgate.net/publication/319528165_DYCI2_agents_merging_the_free_reactive_and_scenario-based_music_generation_paradigms). For more information about the composer, see Philon Nguyen, accessed 28 October 2024, <https://www.universaledition.com/en/Contacts/Philon-Nguyen/>. See also, Philon Nguyen and Eldad Tsabary, “Towards Deconstructivist Music: Reconstruction Paradoxes, Neural Networks, Concatenative Synthesis and Automated Orchestration in the Creative Process,” *Organised Sound* 29, no. 1 (n.d.): 79–90, <https://doi.org/10.1017/S1355771823000237>.



production of polymers and plastic.<sup>520</sup> With the Busan meeting over, and no treaty agreed, there is talk of holding an “INC-5.2” in 2025 to complete the negotiations.<sup>521</sup>

### **Continuing to raise awareness and mobilize action**

Notwithstanding the still unfinished negotiations, the UNEP-INC process has increased public awareness about the enormity of the problem of plastic pollution and highlighted important creative work being done around the world to address the problem.<sup>522</sup> To engage the local Ottawa community in the plastics debate, UNEP sponsored the assemblage of a giant tap appearing to spew plastic waste instead of water, just outside the meeting venue for INC-4.<sup>523</sup>

I organized a noon hour virtual panel on the 10<sup>th</sup> of December 2024 to recap the year’s international environmental law developments, including the failure to reach agreement on a new plastics treaty in Busan.<sup>524</sup> I have been gathering names of artists and academics interested in plastic, art and environmentalism, with the aim of holding a one-day workshop and exposition in May 2025 at 4<sup>th</sup> Space, Concordia University’s “uniquely flexible public space that acts as your gateway to the research and learning activities”<sup>525</sup> of the academic

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<sup>520</sup> Emma Bryce, “INC-5: ‘dark arts’, filibusters, and the final meeting that wasn’t,” *Dialogue Earth*, 6 December 2024, accessed on 8 December 2024. <https://dialogue.earth/en/pollution/inc-5-dark-arts-filibusters-and-the-final-meeting-that-wasnt/#:~:text=As%20a%20result%2C%20negotiators%20from,a%20new%20meeting%20next%20year>.

<sup>521</sup> Ibid.

<sup>522</sup> Ocean Cleanup is an interesting civil society effort to clean up ocean plastic: Ocean Cleanup, accessed 29 October 2024, <https://theoceancleanup.com/>; there are also a plastic eating enzyme and a plastic eating fungus being studied for potential scaled up use to biodegrade plastic pollution: Jangira Lewis, “10 Scientific Solutions to Plastic Pollution”, *EarthOrg* (18 November 2023), accessed 28 October 2024, <https://earth.org/scientific-solutions-to-plastic-pollution/>.

<sup>523</sup> *Turn of the Plastic Tap*, created by Von Wong, a photographic artist/influencer, accessed 28 October 2024, <https://blog.vonwong.com/turnofftheplastictap/>.

<sup>524</sup> International Law Association of Canada “International Environmental law Developments”, 10 December 2024 virtual panel, noon to 1:30 p.m. EST. International law experts discussed recent international environmental litigation, the results of the three 2024 UN Conferences of the Parties (COPs) on Biodiversity, Desertification and Climate Change, climate finance, the development of the Plastic Pollution Treaty, and Indigenous participation in these international environmental law developments. Panelists were Payam Akhavan, Marie-Claire Cordonier-Segger, Marcus Jewett, Alexandra Harrington, Graeme Reed, moderated by Oonagh E. Fitzgerald. The event was advertised broadly and the recording will be posted on the ILA Canada website.

<sup>525</sup> Concordia University, 4<sup>TH</sup> SPACE, accessed 27 December 2024. <https://www.concordia.ca/next-gen/4th-space/about.html>.

community. I plan to show my plastic assemblages and engage visitors in discussion about how to deal with plastic pollution through science, law and the arts. I also plan to invite experts in the plastic pollution convention and recycling, and artists who construct from plastic, to talk about their work and our future in the plasticocene. Holding this street facing interactive exhibition in downtown Montreal will be an opportunity to bring the conversation and the call for action outside the rarified international negotiations directly to the students, staff, faculty members, families and broader community of Concordia University. This dissertation also serves to continue the discussion with readers about how each of us can contribute to eliminating plastic pollution. Further thoughts about next steps in raising awareness are discussed in the last section of this chapter.

### **Making our lady of perpetual and persistent plastic pollutants**

The previous sections focused on my reflections on the international law and public policy dimensions of the problem of plastic pollution. The following sections recount my experience of gathering plastic waste at home and abroad, the iterative processes of plastic waste deconstruction and assemblage, and the social, cultural and environmental inspirations that influenced me as these assemblages of plastic waste took shape. These are all aspects of the research-creation process of thinking about international law as I make art. In looking back upon the elements that went into this project I see the project as a free-flowing engagement with, and rumination on, aspects of colonization and globalization.

### **Gathering plastic waste here and there**

The enormous, discarded water bouncer (a water trampoline without springs)<sup>526</sup> I had found by the side of the road in 2023 became my last major project for the PhD. The trampoline was made of heavy plastic in bright blues and yellows with parts fading and worn into more natural water and earth tones. After passing it several times on my daily walks, I

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<sup>526</sup> On sale at Walmart, RAVE Bongo 15 5 stars out of 1 review \$3,443.66 \$574 monthly\*or \$860.92 biweekly.

decided to take it before the township garbage service picked it up. My husband brought our car and some gardening gloves and shears. It quickly became clear that the shears were not capable of cutting the thick plastic and synthetic mesh. I brushed off dead leaves and dirt and rolled it as tightly as I could, and we heaved it into the back of the car. We dumped it on our driveway.

Attending a conference in Thailand some weeks later, I had the opportunity to visit the longest beach in Phuket and was appalled at the amount of plastic and glass garbage constantly being thrown onto the beach by the waves of the Andaman Sea. As one looked west- and seaward from the beach, India was far over the horizon, and I imagined it and passing ships might be sources of all this plastic waste. I found a large plastic bag and with my cell phone proceeded to photograph plastic and glass objects found on the beach before picking them up (Fig. 24). Almost every step I took brought me in contact with more waste. After a relatively short walk my bag was nearly full and, on the return, more pieces had washed ashore. When I got back to where we were staying, I placed the full bag in a garbage container, feeling some doubts about the efficacy of the local garbage system and about whether this plastic waste might again find itself adrift on the land or sea. I was keen to do a similar tourist clean up when visiting the beaches of Ireland but found none of the small pieces of plastic waste, only a net buried in sand. Trying to dislodge it, I soon realized I did not have the strength, and took little comfort in the idea that the interaction of waves and sand had retrieved this dangerous netting from the sea, suspending it on the shore, if only until the next big storm.<sup>527</sup>

One day in the early spring, I noticed how much plastic waste had accumulated along my usual walk around the Experimental Farm in Ottawa. Finding a large plastic bag stuck

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<sup>527</sup> National Marine Sanctuaries, “Lend a Hand with Trash Removal,” accessed 27 December 2024, <https://sanctuaries.noaa.gov/wildlife-viewing/trash.html>.

against a fence, I took it and picked up the garbage strewn along the roadways. Later I organized a street cleanup in our neighbourhood as part of a City of Ottawa clean-up project. Five adults and five children were able to clean our entire street, including two popular parks and a churchyard. We were able to sort the waste using our recycling boxes. It was an enjoyable, performative activity to show and embody our connection with, and responsibility for, our local environment. It made me see how privileged I am to live in a place where there is sorted garbage collection. However, the fact that this sorting only results in recycling 9% of the three million tons of plastic thrown away in Canada every year remains a serious concern.<sup>528</sup>

### **Deconstruction and assemblage**

The following is a diary of the trampoline's deconstruction and assemblage. Research-creation is an individualized process:<sup>529</sup> in this case it was set in motion through an oscillating flow of taking inspiration from readings, exhibitions and performances; material engagement with a view to artmaking; sketching; and reflective writing. I proceeded to dismantle the plastic trampoline, finding that a boxcutter worked well if I had the right angle and tension with the material. I cut some pieces, brushed them, washed them with soapy water, and left them to dry. Several days of rain and wind followed, however, and curious cats or racoons stepped on them with muddy paws, so they needed to be cleaned again. Every few days I cut up more of the trampoline, brushed the pieces to remove the most obvious dirt, then gave them a more thorough cleaning with soap and water, dried them with old towels and stacked them inside for a future project. Having completed this cutting and cleaning process, I had a great deal of material: yellow and blue pieces of thick plastic, black netting, and various rope

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<sup>528</sup> Environment and Climate Change Canada, "Plastic waste and pollution reduction."

<sup>529</sup> See for example, Vaughan, "Pieced together"; Scott Shields, "How I Learned to Swim"; Rita L. Irwin, Anita Sinner, and Jeff Adams, eds. *Provoking the Field: International Perspectives on Visual Arts*. (Phds in Education. Bristol: Intellect, 2019).

and hard plastic fixtures. There was plenty to allow me to make something big, but it needed to be made in modular, decomposable pieces because the total weight was enormous.

I approached the material with trepidation as it had a distinct, strong chemical smell. Under a large warning label printed on the plastic it bore a small plaque indicating its origins, “Made in Guangzhou, China ...RAVE Sports”. At first, I wore a mask as I cut it, thinking about possible dangers of this unknown material, the safety of the workers in the factory in China, the safety of the water creatures who absorbed some of the material as it floated on the lake, the incidental risks to the children and adults scrambling on and off, bouncing, jumping off it into the lake. I opened the windows as I worked but continued to worry that the intense exposure to this material might be detrimental to my health. I would make my assemblage, but this health concern remained a sinister part of the work itself, a part of the horror of relating to the material.

I liked tearing the plastic with a boxcutter, but it was difficult to be precise and I was not sure what shapes I should make. I intended to use a belt hole puncher to make holes and connect the pieces with nylon string, but to create what? I tried sketching shapes on the plastic, but the ink smudged easily and did not help much in guiding my cutting. Instead, I used a small sketch book to develop ideas for the sculpture, and then cut according to these general ideas, allowing the plastic materiality to guide me (Fig. 25). To develop ideas, I sketched and painted images of what might be made with the material. I only had a vague idea of what I would make: perhaps a series of people, a family, bodies or costumes, more goddesses and gods of waste. I liked the varying shades of blue and yellow but was less comfortable with the Ukrainian flag colouring, hoping it would not become a subtext. Halloween might be a good time to test out this project, whatever it became, as I could display it on our front porch and ask neighbourhood visitors what they thought about it all.

On my walks I listened anxiously for silenced birds and insects,<sup>530</sup> watched the skies for ravens, blue jays, hawks, osprey, and golden eagles, watched the density of forest falling to the chainsaw turning it into a thin veneer of roadside green, barely masking gaping gashes of destruction beyond. I observed the garbage left by human residents and searched for artistic inspiration and material.

This was proving to be a difficult project. The weight and sturdiness of the material tended to dictate and limit design and assemblage choices. I cut varying sizes of swooshes, like paisley or abstract fish. I used the belt punch to make a hole in each and tried connecting them with nylon string to a belt. The nylon string proved useless as it frayed and slipped out of the knots I tried to make. I abandoned it for ordinary cotton string. The belt became very heavy with the plastic swooshes attached, so I put this aside to consider. I did not like the limp effect of the connecting string and decide to use an industrial stapler to connect pieces together instead. I cut eight long triangular pieces and connected the long edges with the stapler as though I was sewing seams to make a skirt. I could not turn the skirt right-side out (to hide the staples) because it was so rigid. I stood the tall cone shape I had made over a space heater for a few minutes, and it softened enough that, with much physical effort and wearing safety gloves, I was able to turn it right-side out. I tried various assemblages as a base (using broken lawn furniture) but this failed and was too heavy and awkward. Whatever I used need to be transportable and as lightweight as possible. I decided to use the rigidity of plastic containers and packing materials to build a central pillar and bustle and outer edge for the skirt to fall over. This allowed me to recycle some of the plastic waste of our household (planter packs and pots, drink and food containers etc.). This resulted in the skirt standing wider and more securely. I had also made an outer skirt shaped like an undergarment hoop skirt by stapling the reinforcing joining strips from the trampoline into an enormous cone-

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<sup>530</sup> Carson, *Silent Spring*.

shaped net. I placed this over the standing skirt and was relieved to observe that, despite the added weight, it did not collapse. This was progress.

I made a skinny bodice using the same technique of stapling cut pieces and then heating and turning the bodice right-side out. I also made large hands, arms, and shoulder decorations to join the bodice, sleeves and hands. I started shaping a head out of light plastic containers and wrapping material and tried applying pieces of plastic to a paper mask using mod podge. The result was hideous and messy: the mod podge was frustratingly ineffective at holding the plastic and the paper mask disintegrated with the application of the mod podge. I decided to cover the head using the stapler to connect plastic pieces. I contemplated how to make a humanoid head shape with this rigid flat material. I cut a piece of blue plastic like the flat pictures of a slightly elongated map of the earth, with four triangular cutouts curving towards each pole. I cut one-inch slashes diagonally all over the material to make it somewhat more pliable. I stapled the curving edges and turned the piece right-side out and stuffed it with the plastic head shape and its garish mask. The effect was indistinct: facial features were hidden except the point of the nose, like a head in a shroud.

I worked intensely on the arms, shoulders and collar of the sculpture on a rainy afternoon. I successfully connected the body with arms to the skirt and it remained standing, towering at about 7 feet without the head and neck. It looked impressive and I was hoping I could arrange the neck, head and collar decoration in such a way that it would rest stably on the body.

I took a couple of photographs and left the creature standing in the room, but found my mind racing, unable to stop thinking about it. I talked to my husband about a conversation with my sisters about employing the “female arts” of sewing and dressmaking to make this creature, methods adapted to the horrors of toxic plastic with boxcutter and industrial stapler

to replace needle, thread and scissors.<sup>531</sup> I liked the fact that my art-making techniques connected to my upbringing as a girl in a household of women makers, and to a tradition of women makers with fabrics and threads of all kinds, adapting techniques to the conditions in which they found themselves. I am their posthuman cyborg progeny struggling to create in the material conditions of the anthropocene.

I sketched 'wigs' to add to the bare head shape. I woke up that night and could not get back to sleep. I listened for the sound of loons on the lake but heard none. I thought they might have been frightened away by speed boats on the holiday weekend. I heard geese. I thought about the sculpture and a title came to me: *Our Lady of Perpetual, Persistent Plastic Pollutants*. This surprised me but made sense. I am inspired to make art creatures that are grounded in some iconic mythic female character to draw inspiration from their stories and their courage. I was not sure who this nasty plastic creature was. It was clearly female with its exaggerated medieval long skirt and cinched Elizabethan bodice, but its apparent malignancy made it difficult to identify possible models. Then it struck me that the blue dress is a potent symbol of Mary, Jesus' mother. She is represented in grottos on roadsides, in gardens and outside churches, with sorrowful posture surrounded by decorative flowers, praying for our sins and us sinners for ever and ever, Amen. The counterpoint of her mercy and purity and the disaster of plastic pollution had impact.

I needed to rethink the headpiece better to reflect this emerging character: perhaps a halo and veil of sorts. I also tried to figure out how best to use the rest of the plastic material. Perhaps a kind of grotto would work well as a frame for this creature. Perhaps a little pond with fish and waterlilies, an arbour of trees and vines could surround her playfully, using up the material in fun shapes of frogs and fish and birds.

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<sup>531</sup> Feminist perspectives on artmaking are both comfort and inspiration to unknown and unseen women artists: Rozsika Parker and Griselda Pollock. *Old Mistresses: Women, Art and Ideology*. (London: Pandora Press, Routledge & Kegan Paul Ltd., 1981), reprinted 1987.



## **Christianity, coloniality and globalization**

My sister asked if my lady would be monstrous. My son informed me he already dreaded its monstrosity. I was thinking that this creature tied in with the capitalist idea of the global corporate citizen. Whereas many humans find themselves stateless and excluded, unable to leave countries or enter them at will, corporations, capital and their kin can move freely across borders in the globalized world. Plastic is their material kin, travelling the world in container ships, filling the shops and homes, then filling streams, roadways, garbage dumps, nature reserves, oceans and even the air. It is as though capitalism acts like the myth of Uranus and Gaia, with Uranus, insatiably and relentlessly having his way with Gaia and producing ever more unwanted plastic offspring to pollute the environment.

The semi-rigidity of the material allowed me to make large forms, but the weight of the material meant that these forms were susceptible to collapsing. Therefore, I could not use all the material from the trampoline in one humanoid form. I contemplated what to do with the rest of the material. I thought about sharing the project with others – for example, cutting shapes and then having neighbourhood kids help me piece together something with some of the remaining material. I was sceptical that sharing in this dreadful activity would make it more fun and anyway, I would need to mitigate the dangers of the box cutter, industrial stapler and smelly material. Because the cut material could be spread over a large area, for example, in a display around the human form I was creating, the idea began to germinate of a dance performance about this material and the creatures produced with it.

I had the idea to make a large globe out of the remaining plastic material, connecting it to the creature with a plastic chain (ball and chain imagery). I puzzled over how to make a passably proportionate globe and searched the web for ideas. I learned about the controversy

over flat maps and how they distorted the shape and size of many countries.<sup>532</sup> This was done to make navigation aids for sailors, but it resulted in some regions imagining themselves bigger and better than others – a kind of cartographic imperialism. I concluded that a globe was too literal and obviously symbolic. The question of how to represent each country fairly seemed daunting, beyond both my technical abilities and the scope of this project.

My husband and I visited an exhibition at the Montreal Museum of Fine Arts, *Saints, Sinners, Lovers and Fools: Three Hundred Years of Flemish Masterworks*, at the same time as I was contemplating the plastic sculpture's emerging identity. Seeing various Madonna and child paintings and sculptures, I recalled that the Virgin was often depicted with her newborn baby, mourning her crucified adult son, or ascending to heaven. This possibility of a plastic child added another element and another possibility to the assemblage, especially as I had already made a plastic waste sculpture of a pregnant female.

In this exhibition, there was a room of early maps, a floor mounted globe, and a wall case full of curios from international explorations. The globe and maps were quite unlike modern cartography and showed all kinds of artistic license: the globe was an imagining of the heavens with the various constellations arranged according to signs of the zodiac – so the observer had to imagine herself positioned inside it looking up at the heavens as they rotated above. The maps were drawn in the shape of powerful beasts, perhaps to depict the might of the forming nation. It was during this period of flourishing Flemish art that imperial exploration accelerated, and notions of international law were developed by the Christian popes and jurists Grotius and Vittoria. I was so animated by this layering of international law onto cartography and art<sup>533</sup> that the museum guard approached me whispering officiously that I should lower my voice so as not to disturb other gallery goers (no one else was in the room

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<sup>532</sup> Richard Schechner. *Performance Studies: An Introduction*. Edited by Sara Brady. (Third edition. London: Routledge, 2013), 32-35.

<sup>533</sup> Miles, "Insulae Moluccae: Map of the Spice Islands, 1594."

but evidently, I bothered him). This was the first time I had seen an art gallery being treated like a church or library.

### **Continuing the assemblage**

I made a simple halo/crown out of braided yellow plastic strips, cut curly strands of yellow hair and stapled them to a band held in place on the creature's forehead. As I was talking to my aunt and sisters on our Sunday morning Facetime call, I began playfully constructing a baby out of plastic food containers, bottles, a cardboard egg carton, bubble wrap and duct tape. It was very light. I would have liked to cover it in the yellow plastic but, because of the plastic's heavy rigidity, I could not see how to do this without losing the barely suggested form of the baby and making it too heavy for the creature to hold.

I proceeded to unmake the madonna to address her instability because the piles of plastic underneath her skirt had proved insufficiently rigid to hold her full weight. I peeled off the pieces that were not contributing to stability, getting back to the central column of rolled up tubular bubble wrap which I observed was listing. I decided to reintroduce the folded metal deckchair frames as a sturdier brace for this plastic column. I rebuilt the bustle and removed the remaining plastic containers that were not contributing to the form (more waste to deal with at some future time). I put the heavy blue skirt back on the frame, added the net overskirt, and observed that the improved structure stood firmly and provided some fullness for the buttocks. I inserted the bodice and head, but they wobbled and fell. I added a closed plastic bottle inside the base of the bodice to make the waist rigid. I inserted the reinforced waist into the skirt, adjusted the net overskirt, and inserted the head and shoulder decorations into the neck of the bodice, adjusted, and waited to see if it would hold.

I placed the baby into the creature's arms, legs around her waist, took some pictures then cut up small pieces of the yellow and blue plastic as I contemplated whether I could collage them onto the baby's body with artist gum or mod podge. I posted on Instagram a

detail photograph of *Our Lady of the Perpetual, Persistent Plastic Pollutants with Infant*. I liked the weirdness of the semitransparent baby – in its earlier iteration it looked like a small astronaut which my son held aloft singing David Bowie’s “Space Oddity” to much laughter. I considered whether I should paint it with leftover acrylic paint from an earlier project, *With Love*.

I examined all the remaining plastic and black netting to determine how I could use it to create a “ground”. My sister talked about how in painting the figure usually had a ground, and we discussed how sculptures may or may not have a ground. Since I had so much plastic, I could use it to create an environment for the creature, and/or could add it to her, for example, extending around her and cascading behind her, like the images I drew of her trailing sea creatures. I think the latter approach might fit best with the idea of plastic impacting the environment and spreading everywhere. The extended water drop or paisley shapes I had already cut might work as seaweed or eels arranged around her....

Some of the plastic could be cut and sewn with the stapler into an enormous face,<sup>534</sup> padded with waste plastic containers and with hair made from the black netting and scraps of plastic. Trying to start this by drawing on the plastic, I was again confronted by the plastic’s heavy rigidity that scorned my imagination. Instead, I drew faces in my sketchbook. The challenge was to be able to piece together sections using the stapler. This limited the size and ordering of pieces. I started building a huge face, from the eyeballs outward. I cut and stapled a large eye, a pair of eyes. I added eyelids, lashes, the skin above the eyes, the brows, a forehead and a nose. Next came the cheeks, upper lip, chin and mouth, then framing the whole face into an oval. I hung it on a door frame to reflect on how 3-dimensional this would become, whether there would be hair, and how it would be suspended for exhibition. Despite

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<sup>534</sup> Faces and masks are a common feature of my artwork, often reflecting questions about our identity: Belting, *Face and mask*.

all my constructions there still seemed to be no limit to the amount of material from this trampoline, and there was always more plastic waste accumulating to use as stuffing. For Halloween I stapled paisley shapes as hair, making the head even heavier. I hung it on the bottom pillar of the staircase, to greet trick or treaters.

### **Drawing attention to the problem**

By repurposing a banal recreational object that epitomizes unnecessary consumerism, highlighting its environmental persistence and artificiality through its imposing scale, precarious structure, and the symbolic juxtaposition of sacred imagery with profane plastic waste, I try to draw attention to the rapacity and wastefulness of Canadians' approach to nature, deep-rooted in colonial and capitalist traditions. We buy cottages in unspoiled wilderness and then proceed to spoil it, always justifying the destruction as fun for the kids (a wakeboard that churns up the shoreline dislodging habitat for lake birds and aquatic life), more convenient access (altering the topography to blast laneways), ensuring we have the best view (clearing an entire mountainside of trees). We can be sitting in our picture windows with dragonflies, butterflies, loons, merganser ducks, hummingbirds, blue jays, woodpeckers, partridges, wild turkey, ravens, hawks, eagles, racoons, porcupines, beaver, deer and bears slipping in and out of the frames of our security cameras and not realize how we should check our privilege and start to protect this tenuous biodiversity. Environmental destruction and pollution are not just the fault of some other person, they are the fault of all of us.

My personal TILARC project will not solve the problem of plastic pollution, but it has deepened my understanding of the problem and my commitment to help eliminate plastic pollution. I mentioned to my sisters and aunt that I was going to be speaking about this project at a conference taking place in Colombo, Sri Lanka, and my sister asked in astonishment, are you going to bring your creature to Sri Lanka? I laughed at the image of travelling with this massive ghastly creature and told her no, I would be participating

virtually. My midnight virtual presentation was enthusiastically received as audience members from around the world discussed how they could engage creatively with their communities to address this ubiquitous problem of plastic pollution.<sup>535</sup>

I want to share with as many people as possible my material experience with this project and encourage others to get involved in the task of eliminating plastic pollution. As I proceeded with material and intellectual engagement collecting plastic waste, attending the international negotiations on the plastic treaty, participating in discussions of the treaty, and deconstructing and reconstructing the material into imaginary beings, creative possibilities continued to reveal themselves. There is still so much more plastic to incorporate into the assemblage, and it continues to evolve. I conceive an idea for a collaborative improvisational micro-opera<sup>536</sup> / animated film based around the plastic beings that I am creating, Our Lady, the infant, the face, perhaps other creatures (a giant squid?). I consider the voices of Our Lady (with her impenetrable visage) and of the giant face. Perhaps a giant mouth could be constructed to open and close so that someone could give a voice to them. The libretto could be a combination of free poetry and extracts of the consolidated treaty text. Perhaps there could be dancing, and tethering in synthetic plastic fabrics. AI scrambling of sound and text might be interesting. Use of discarded repurposed sound equipment could be a feature.<sup>537</sup> If a film could be made, it could be used to raise awareness about the urgent need to eliminate plastic pollution and conclude the plastic treaty quickly. These and other ideas bubble to the surface of my imagination during sleepless nights, long swims and walks, as I engage with repurposing and reimagining the plastic waste around me.

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<sup>535</sup> International Conference of Arts and Humanities, Colombo, Sri Lanka, September 2024.

<sup>536</sup> The concept derives from Reflective Iterative Scenario Enactments (RISE), A SHRRC funded research project from 2020-2025 led by Professor Eldad Tsabary, involving a diverse team of artists, poets, musicians and dancers. This could be a reformulation and celebration of the team that worked on RISE in 2022-2023.

<sup>537</sup> Perhaps a reconstitution of Eldad Tsabary's 2023 *Waste Whisperer* installation of recycled sound equipment.

## Chapter 7. Recoding values

This chapter aims to illustrate how conversations and creative activities involving international law and the arts can decode existing legal and societal values (analysing their limitations and biases); and reimagine and recode values that are more responsive to contemporary human rights, humanitarian and environmental crises.

Throughout western history artists have played a role in commenting on aspects of international law.<sup>538</sup> As a lawyer I am intrigued by how values are expressed in law. Through my TILARC practice I aimed to decode the values in international laws, consider how responsive they were to contemporary crises, and reimagine how they might be improved to better address these crises. My reflections, artmaking and performative collaborative endeavours led me to draft value propositions. These are not law reform proposals but indications of possible avenues to explore to develop and code collective values. We live in an age of individuality, fragmentation, and multiplicity so the most we can hope for is to get people talking, sharing ideas, caring for each other, and finding some common ground. As I worked through these projects and learned from the many participants, my own values adapted and evolved. This section describes these decoding/coding projects.

This chapter is divided into two substantive sections and a final section speculating about future work in this area. The first substantive section, Seeking shared values, focused on my work over the course of the PhD to use the idea of developing shared codes of values to start conversations about how we as individuals want to contribute to changing the world in a positive way. This section includes a subsection on implementing the values in the

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<sup>538</sup> For examples of visual artists expressing something about international law, consider: Pieter Bruegel the Elder, *The Tower of Babel*, c. 1563, Kunsthistorisches Museum, Vienna; Raffaello Sanzio da Urbino, *The School of Athens*, 1509-1511, Vatican Museum, Rome; Francisco De Goya Y Lucientes, *The 3rd of May 1808 in Madrid, or The Executions*, Copyright © Museo Nacional del Prado; Frida Kahlo, *Moses*, 1945 <https://www.fridakahlo.org/moses.jsp>; Ansel Adams, *Picasso's Guernica*, 1942. Gelatin silver print. The Museum of Modern Art, New York. Departmental Collection. © 2016 The Ansel Adams Publishing Rights Trust. © 2016 Estate of Pablo Picasso/Artists Rights Society (ARS), New York; Arnaldo Pomodoro, *Sphere Within a Sphere*, UN plaza <https://www.un.org/ungifts/content/sphere-within-sphere>.

Sustainable Development Goals (SDGs)<sup>539</sup> at the local level. It describes a design class project to introduce the SDGs in a small rural community using arts and cultural activities, testing the idea of a draft code of values, and a municipal election campaign to implement the SDGs in my hometown of Ottawa. The second subsection focuses on a two-year multimedia collaborative project on *Building Positive Relations: the Arts, New Materialism, Posthumanism and Human Rights*.

The second substantive section, Handle with care: values in our hearts, describes the collaborative improvisational RISE micro-opera exploring shared values which I led in 2023. This section explains the development of the proposition, how we collaborated and coordinated our work to make a performance, the complementary research-creations involved in the project, how the opera fitted with Deleuze and Guattari's idea of a war machine with art as its objective, and the notion of making soft law together through talking, writing, making art and music, and performing.

The final section of this chapter considers what might come next in this exploration of re-coding values for a new planetary charter. This section discusses a developing international collaboration of scholars and artists, entitled *Beyond Borders*, and considers whether the *Pact for the Future*, adopted by the United Nations General Assembly in September 2024, offers any promise for a renewed planetary charter capable of addressing current crises. It concludes with the view that words alone are likely insufficient to move us beyond our current situation and that artmaking and performance offer ways beyond words to imagine a better future for people and planet.

### **Seeking shared values**

The development of TILARC practice began with considering how to do transdisciplinary research involving international law and arts and performance. I explored

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<sup>539</sup> The 17 SDGs are set out in Chapter 1.



the transversal spaces, tensions and dynamics between the disciplines of arts and international law.<sup>540</sup> Through the practice of thinking about international law alongside making art and performing, I discovered that interdisciplinarity and transdisciplinarity could shift from awkward, extrinsic reaching across from one discipline to the other to intrinsic, immanent, embodied becoming.<sup>541</sup> I aimed to use posthuman, new materialist philosophical frameworks<sup>542</sup> and critical methodologies<sup>543</sup> to make art that instigated the development of individual, community, and planetary codes of values designed to overcome the multiple crises of the anthropocene.

### **Learning how to implement the Sustainable Development Goals (SDGs) at the local level**

I took a Concordia University graduate design summer school<sup>544</sup> with the objective of developing the skills and know-how essential to implement the 17 Sustainable Development

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<sup>540</sup> Manning, *Against Method*, 962; Loveless, *How to Make Art*, 107; Chapman and Sawchuk, “Research-creation,” 22. This is discussed in chapter 3 on research-creation. See also, Braidotti, “Critical Posthumanities,” 31-32, 41, 49.

<sup>541</sup> Deleuze and Guattari, *A Thousand Plateaus*, 239, 240, 301; Dolphijn and van der Tuin, Interview with Karen Barad. These ideas are developed in chapter 2, Philosophical and cultural critique of international law, specifically the sections on New materialism and posthumanism and Deleuze and Guattari’s art-law cultural critique, and chapter 3, Research-creation.

<sup>542</sup> Braidotti, “Critical Posthumanities,” 31-32, 41, 49; Barad, *Meeting the Universe*, 32; Bennett, *Vibrant Matter*, x; Barrett and Bolt, *Carnal knowledge*, 2-3. These are discussed in chapter 2.

<sup>543</sup> Kincheloe and McLaren, “Rethinking Critical Theory and Qualitative Research,” 294-304; Said, *Orientalism*, 272; Gubrium and Holstein, “Analyzing Interpretive Practice,” 494; Smith and Deemer, “The problem of criteria in the age of relativism,” 890, 891. These are discussed in chapter 4, and chapters 1 and 2 are a critical reflection and decoding of international law.

<sup>544</sup> This Concordia graduate-level Design course was DART 632 Special Topics in the Built Environment, led for Concordia University by Carmela Cucuzzella and Ursula Eicker. The bilingual, interdisciplinary summer school was launched by le Centre interdisciplinaire de recherche opérationnalisation de développement durable / Interdisciplinary Research Center in Operationalization of Sustainable Development (CIRODD), accessed 6 January 2025, <https://cirodd.org/ecolete/>, in collaboration with several other institutions, including Concordia University. I attended this consortium’s first Summer School on Societal Transformation between July 27 and August 27, 2021. The objective of this 45-hour training, plus 90 hours of independent work, session was to develop the skills and know-how essential to achieving the 17 Sustainable Development Goals (SDGs) in a municipal context. The course advertisement I received by email stated: “The Summer School is part of the urgent need to accelerate the socio-ecological transition in our societies and uses the SDGs to help frame interventions. The program is inspired by the scientific model of key competencies recognized by UNESCO (Wiek et al, 2011), in which the acquisition of the meta-competency of integrated problem solving is the foundation of the socio-ecological transition. CIRODD’s academic and pedagogical partners for this Summer School are Acadia University, Concordia University, the EDS Institute of Laval University and the Maison de l’innovation sociale (MIS). The CIRODD also collaborates with the Université du Québec à Chicoutimi (UQAC).”

Goals (SDGs) in a municipal context. This was an academic and virtual program, and while each team was assigned a real municipality to study in depth, and there were opportunities to speak with professors knowledgeable about the communities being studied, there was no direct interaction with the leaders or members of those local communities. The bilingual team to which I was assigned, comprising Sabine Gowsy, Anne Léger, Elena Menjivar-Jimenez and myself (herein “our team”), was given documentation for Centreville, a small semi-rural commuter town in Nova Scotia, and an opportunity to speak to a professor familiar with the community. After the course, the final reports of each team were forwarded to the local authorities of the municipalities being studied for their consideration.

Notwithstanding the academic limitations, the course provided a sandbox to consider how to build community support for implementing the SDGs at the local level, how value coding could support the plan to implement the SDGs locally, and how cultural and arts activities could reinforce commitment to shared values and thereby support development of a local SDG implementation plan. As noted in chapter 1, the SDGs aimed to take an integrated approach to solving social, economic and environmental challenges.<sup>545</sup> As our team conducted its environmental, economic, social, cultural and infrastructural analysis of the target community it occurred to us that the lingering effects of historic injustices might impair the chances of developing the shared sense of purpose needed to implement the SDGs.

Indigenous peoples have lived in this area for at least eleven thousand years.<sup>546</sup> Centreville sits on the traditional lands of the Mi'kmaq<sup>547</sup> (Annapolis Valley and Glooscap First Nations), who were displaced, exploited, victimized and discriminated against by

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<sup>545</sup> UNGA, “2030 Agenda for Sustainable Development”. The 17 SDGs are set out in Chapter 1. Introduction.

<sup>546</sup> The Confederacy of mainland Mi'kmaq, “Mi'kmawey Debert Cultural Centre,” accessed 28 December 2024, <http://cmmns.com/program/mikmawey-debert-cultural-centre/>. Canadian Geographic, “First Nations,” *Indigenous Peoples Atlas of Canada*, The Royal Canadian Geographic Society, 2018, 8-9.

<sup>547</sup> Canadian Geographic, “Indigenous Peoples,” *Indigenous Peoples Atlas of Canada*, The Royal Canadian Geographic Society, 2018, 24-25. This land is governed by the *Peace and Friendship Treaties* of 1725-1779.

successive waves of European colonizers.<sup>548</sup> The English and Scottish attempted unsuccessfully to colonize the area in the 1620s, then French settlers (Acadians) moved in.<sup>549</sup> Armed conflict between Britain and France raged for decades until the 1713 *Treaty of Utrecht* transferred most of the French colony to Britain.<sup>550</sup> During the Seven Years War the British rounded up thousands of Acadian families and expelled them, dispersing them to American colonies, and seized all the French claims in the North America, confirmed in the *Treaty of Paris* of 1763.<sup>551</sup> African and white loyalists moved into the area after the American revolution.<sup>552</sup> In the early 19<sup>th</sup> century African loyalists settled in Gibson Woods where they experienced years of racial discrimination.<sup>553</sup> Many Indigenous children were sent to Shubenacadie Residential School where they suffered abuse and neglect,<sup>554</sup> negatively impacting generations of Mi'kmaq.<sup>555</sup> These complex histories and cultural dynamics suggested to our team that there was a need to reconcile and build trust between diverse communities.<sup>556</sup>

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<sup>548</sup> Canadian Geographic, "First Nations," *Indigenous Peoples Atlas of Canada*, 12-21.

<sup>549</sup> J. Murray Beck, "Nova Scotia," 7 April 2009, updated by Richard Foot, Erin James-abra and Jacqueline Mcisaac, 7 March 2024, accessed 29 December 2024, <https://www.thecanadianencyclopedia.ca/en/article/nova-scotia#:~:text=In%201621%20King%20James%20I,settlements%2C%20but%20both%20were%20unsuccessful>

<sup>550</sup> Ibid.

<sup>551</sup> Ibid.

<sup>552</sup> Ibid. For a good description of the tumult of life in the early maritime colonies, see also Sally Armstrong, *The Nine Lives of Charlotte Taylor*, (Toronto: Vintage Canada, 2007). For a good description of the challenges facing African settlers in Canada, see also the novel, Lawrence Hill, *The Book of Negroes*, (Toronto: Harper Perennial, 2011).

<sup>553</sup> County of Kings, "African Heritage Month Community Feature," video, 14 February 2024, accessed 28 December 2024, [https://www.youtube.com/watch?v=6MwoIh8-Res&ab\\_channel=KingsCountyNS](https://www.youtube.com/watch?v=6MwoIh8-Res&ab_channel=KingsCountyNS). Note, this video was produced after the summer 2021 course ended.

<sup>554</sup> Canadian Geographic, "Indigenous Peoples," *Indigenous Peoples Atlas of Canada*, 62-63, 70; Todd Battis, "Unanswered questions: Search of former N.S. residential school grounds begins," *CTV News*, 5 June 2021, accessed 28 December 2024, <https://www.ctvnews.ca/canada/unanswered-questions-search-of-former-n-s-residential-school-grounds-begins-1.5458237>.

<sup>555</sup> In addition, it appeared that "women with disabilities, Deaf women, Indigenous women and Indigenous people who are gender diverse, women living in rural communities and young women and girls" were often left out of policymaking processes in Nova Scotia: Julianne M. Acker-Verney, Alana Cattapan, Alexandra Dobrowolsky, Tammy Findlay, and April Mandrona, "Feministing and the "real" world of politics. Letters of engagement: learning from our efforts at feminist public policy deliberations," in Cattapan, Alana, Ethel Tungohan, Nisha Nath, Fiona MacDonald, and Stephanie Paterson, eds. *Feministing in Political Science*. Edmonton, Alberta: University of Alberta Press, 2024, 180.

<sup>556</sup> See for example, Marina Aksenova and Amber N. Rieff, "Setting the Scene: The Use of Art to Promote Reconciliation in International Criminal Justice." *Leiden Journal of International Law* 33, no. 2 (n.d.): 495–516. <https://doi.org/10.1017/S0922156520000011>.

Our team considered that there was a need to find ways to come to terms and reconcile with this past and rebuild a sense of solidarity to tackle current challenges. After reviewing the circumstances of the town, our team chose to focus on three SDGs that we believed would help build this social cohesion: SDG 4.7 Education for Sustainable Development, SDG 16.7 Peace and justice and the establishment of effective, accountable, and inclusive institutions, and SDG 13.3 Take urgent action to combat climate change and its repercussions.

### **Using cultural activities to promote the SDGs and find shared values**

We recommended that the various and diverse local communities be encouraged to participate in group social and cultural activities to enhance familiarity and connections. Our team recommended using cultural, arts and crafts activities to share and celebrate diverse heritage and build understanding between hitherto isolated parts of the community. We noted that arts and culture are associated with the following SDGs: 4 (quality education), 5 (gender equality), 8 (decent work and economic growth), 11 (sustainable cities and communities), 12 (sustainable consumption and production patterns), 13 (raising awareness and training people to take climate action) and 16 (peace, justice and strong institutions).<sup>557</sup> As Hosagrahar explained,

The SDGs enshrine a conceptual shift in thinking about development beyond economic growth – envisioning a desirable future that is equitable, inclusive, peaceful, and environmentally sustainable. This bold vision demands creative approaches, beyond the typical linear and sectoral ones that most countries have been used to in recent decades.

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Promoting respect for cultural diversity within a human rights-based approach also facilitates cultural understanding and peace, ... prevents conflicts, and protects the rights of marginalized groups.<sup>558</sup>

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<sup>557</sup> Richard Curtis, “Why Arts And Culture Are Important For The Global Goals?” 21 May 2021, accessed 28 November 2024, <https://www.globalgoals.org/news/culture-and-sdgs>.

<sup>558</sup> Jyoti Hosagrahar, “Culture: at the heart of Sustainable Development Goals”, *The UNESCO Courier* (11 April 2017), accessed 28 November 2024, <https://en.unesco.org/courier/april-june-2017/culture-heart-sdgs>.

Culture and creativity contribute to each of the three economic, social and environmental pillars of the SDGs in a cross-cutting and integrative way, and "can serve as both drivers to achieve the SDGs and catalysts, when culture-based solutions can ensure the success of interventions to achieve the SDGs."<sup>559</sup>

The arts could be used in a variety of ways to foster a sense of community and inspire action on the SDGs.<sup>560</sup> Art projects could reflect SDG values in their organization, execution, use of materials and final expression, thereby simultaneously helping to implement multiple SDGs. Making art about the SDGs would be a dynamic way to engage young people and empower them to think creatively and constructively. Artworks could be displayed in public places throughout the community, reclaiming and beautifying neglected indoor and outdoor spaces. Art projects inspired by the SDGs could showcase works by artists from various cultural communities, thereby promoting dialogue between communities and generating a common interest in collaborating to implement the SDGs.

Once the social and cultural activities had established more of a sense of community it would then be possible to work together to develop a local code of values to help mobilize people in support of the SDG implementation effort. Having residents participate in developing the code would ensure it was community led, fostered inclusion and built trust, and was relevant to the priorities of the local population. We prepared a draft code to be offered to the community as a "straw man" for them to consider, revise and build upon, or reject, as they saw fit. We wrote:<sup>561</sup>

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<sup>559</sup> Ibid.

<sup>560</sup> There are already several impressive art collectives creating art projects related to the understanding and implementation of the SDGs : Patrick Kabanda, "At the UN, the Arts Emerge as a Force for Sustainable Development", 23 October 2020, accessed 28 October 2024, <https://sdg.iisd.org/commentary/guest-articles/at-the-un-the-arts-emerge-as-a-force-for-sustainable-development/>; Art of Change 21, accessed 28 November 2024 <https://artofchange21.com/fr/accueil/>; "Working with world-renowned artists and partners, we facilitate exciting art projects related to the United Nations' Global Goals – including public events, art experiences, multi-platform communication, and educational activities – for everyone to engage in the plan for people, planet, and prosperity", accessed 20 August 2021, <http://www.art2030.org/projects/cura-bra-cura-te>; accessed 20 August 2021, <https://art4globalgoals.com/en/project>.

<sup>561</sup> The strawman code (original in French) developed from team research and discussion.

For example, the community code could include something like this:

In our community each member is expected to:

- Cultivate an attitude of respect and gratitude for the opportunity to share our stories and aspirations to work together on such an important task as achieving the SDGs in Centreville.
- Cultivate an attitude of courage, perseverance and solidarity in the face of urgent and wicked problems and the resistance and inertia of people, institutions, laws, traditions and habits.
- Recognize the limitations of our own knowledge and understanding, and the need to seek, listen to and consider diverse voices, perspectives and expertise.
- Take an integrated and interdisciplinary approach to solving problems holistically, in their broader context.
- Employ collaborative, inclusive, respectful and fair decision-making approaches.
- Explore innovative and creative approaches to rethink, remake, repair and transform towards the achievement of the SDGs.
- Develop a circular and repairable approach to economic, social and ecological challenges.
- Foster an appreciation for Indigenous knowledge and the Mi'kmaq concept of Netukulimk: the use of the natural generosity provided by the Creator for the self-sufficiency and well-being of the individual and the community by achieving adequate standards of community nutrition and economic well-being without jeopardizing the integrity, diversity, or productivity of our environment.<sup>562</sup>
- Foster a sense of belonging and relationship with the natural environment and all forms of life, and a willingness to take responsibility for safeguarding and rehabilitating our relationships with the natural environment.
- Demonstrate a willingness to take responsibility for safeguarding and rehabilitating our relationships with each other to transform our society to be more just, equitable, inclusive, safe and peaceful.

By working together on a code of values, members of the community could discover what values were most important to each of them as individuals as well as which values they shared with others, and start to articulate how they wanted to engage with, and be treated by, their community in Centreville's SDG implementation process.

Through this case study our team became familiar with the economic, environmental, social and cultural aspects of this community and began to see the potential for positive shifts to implement the full range of SDGs locally, and our report included many practical ideas to pursue. However, we concluded that implementation depended on changing attitudes, drawing people out of COVID lockdown isolation and celebrating and reconciling the rich

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<sup>562</sup> Unama'ki Institute of Natural Resources, "Netukulimk," accessed 6 January 2025, <https://www.uinr.ca/programs/netukulimk/>.

histories and cultures of the region. We suggested that cultural and social activities could help build personal relationships and commitments to a common cause. Then, by working together to establish their own inclusive code of values to guide SDG implementation, the whole community could become more invested in the cause and mobilized to contribute to the effort. This case study helps to illustrate that influencing change is not just a matter of having a good programmatic idea (such as the SDGs). It also requires finding ways to reach to the hearts and minds of people. Celebration of diverse cultures through simple arts and social activities has the potential to awaken, unite and mobilize people.

### **Testing the idea of a draft code at Milieux LeParc**

After this academic exercise of considering how to implement the SDGs in a local community I was curious to pursue these ideas further and see how I could use them in my developing TILARC practice.

For my doctoral directed research course,<sup>563</sup> I organized a virtual noon hour seminar presentation and discussion<sup>564</sup> at LeParc Milieux in which I described my developing transdisciplinary practice. I shared an example of a code of values that I had drafted as a possible approach to confronting the crises of the anthropocene. It was only a proposition, to initiate discussion and elicit ideas from others about decoding, coding, and the importance of identifying our truest values.<sup>565</sup> I appreciated the comments from participants about

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<sup>563</sup> INDI 882 2, Doctoral Directed Research Course - *transdisciplinary approach to law and art to innovate a global Charter for our times*, Concordia University, Fall 2021, under the supervision of Professor Eldad Tsabary.

<sup>564</sup> Milieux Concordia, "De-Re-coding International Law Through Art: A Walk in LeParc with Oonagh Fitzgerald," 4 November 2021, accessed 28 December 2024, <https://milieux.concordia.ca/event/de-re-coding-international-law-through-art/>.

<sup>565</sup> De\Re-Coding Values for Our Times

- An attitude of respect and gratitude for the opportunity to share our stories and aspirations to work together on such an important task as achieving the sustainable development goals (SDGs) in our locality;
- An attitude of courage, perseverance and solidarity in the face of urgent and wicked problems and the resistance and inertia of people, institutions, laws, traditions and habits;
- Respect for all aspects of human dignity and freedom, including ensuring decent work, decent living standards, healthcare and education.
- The recognition of the limits of our own knowledge and understandings and the need to seek out diverse voices, perspectives and expertise;
- An integrated and interdisciplinary approach to solving problems holistically;

continuing to do socially engaged art, and involving others in the reflection and art making. I had often found working in groups, collaborating, coordinating, leading, and sharing, whether in law or the arts, to be rewarding, effective and impactful. I recognized that finding ways to apply this to my transdisciplinary research-creation projects would surely strengthen the process and results.<sup>566</sup>

I was excited to have the opportunity to integrate this social engagement element into my exposition a few weeks later. I invited visitors to reflect, debate, write and code with me on the painted strips of wastepaper arrayed on the floor beneath *Jeanne B'ark* about the values they thought we needed to foster to survive and thrive in the posthuman anthropocene.

### **Campaigning on SDG values**

These experiences of thinking about how to apply the SDGs in local communities and how to be guided by shared values, led me to seek nomination and then campaign for municipal councillor, Kitchissippi ward 15, Ottawa in 2022, against the incumbent, on a platform of bringing the SDGs to the local level (Fig. 26):<sup>567</sup>

I've lived in Kitchissippi since 1992, and am proud to belong to a community growing in vibrancy and diversity. An experienced leader in public, private and not for profit organizations, I'm committed to bringing my passion for equity and inclusion, environmental sustainability, justice and good governance to City Hall.

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- A collaborative, inclusive, respectful and fair decision-making approach;
  - An innovative and creative approach to rethink, redo, repair and transform towards the achievement of the SDGs;
  - A circular and repairable approach to economic, social and ecological challenges;
  - An appreciation for Indigenous knowledge about environmental and human interdependence, relationship and care;
  - A sense of belonging and relationship with the natural environment and all forms of life, and a willingness to take responsibility for safeguarding and rehabilitating our relationships with the natural environment;
  - The humility and hunger to learn about the experience and history of all peoples, especially First Nations, Inuit and Metis peoples, and settlers of colour, and work towards reconciliation and true partnership;
  - A willingness to take responsibility to safeguard and rehabilitate all our relationships to transform global human society into one that is more just, equitable, inclusive, secure and peaceful.

<sup>566</sup> Discussing Design Justice Network principles, and citing Sasha Costanza-Chock, *Design Justice: Community-Led Practices to Build the Worlds We Need*, (MIT Press 2020), Paterson notes “design justice starts from the premise ‘nothing for us without us’” and recommends, “social empathy as a policy orientation, and design justice as a framework for institutional change”: Stephanie Paterson, Ch. 10 “Don’t be an Asshole,” in *Feministing in Political Science*, eds. Alana Cattapan, Ethel Tungohan, Nisha Nath, Fiona MacDonald, and Stephanie Paterson (University of Alberta Press, 2024), 157, 167-168.

<sup>567</sup> We campaigned from July 1 to election day, 20 October 2022. The campaign website is still visible here: <https://oonaghfitzgerald.ca>



*Taking Action on Sustainability and Inclusion*

I am personally committed to empowering all neighbourhoods of Kitchissippi to achieve the global Sustainable Development Goals (Agenda 2030). I pledge to take into account interrelated economic, environmental, social and cultural dimensions as I help our City tackle tough issues like poverty, affordable housing and transit, decent work, climate change, green transition and public health.

SDG implementation necessitated bringing the goals to the local level, translating them into local issues of concern, and identifying what levers would be available at the municipal level to effect change. I identified my priorities, embedded in the SDG implementation strategy, as follows:

*Areas of Focus at Ottawa City Hall*

Improve year-round accessibility and safety of active and mobility assisted transportation.  
Ensure that automobile commuter routes do not undermine our climate goals and quality of life.  
Support the development and deployment of sustainable construction and clean energy systems.  
Ensure that new multi-unit construction preserves and improves parklands and quality of life.  
Ensure public health services reach all residents with timely, culturally appropriate assistance.  
Increase affordable, liveable, supportive, and safe housing.  
Encourage neighbourhood shopping, services, and recreation.  
Foster a community of innovators and entrepreneurs.  
Ensure major development projects meet high standards of environmental and social acceptability.  
Improve relations between police and diverse and disadvantaged communities.  
Strengthen relations with First Nations, Inuit, and Métis peoples.  
Cultural programs for all ages to build a creative, diverse, and engaged community.  
Help seniors to get the support they need to live independently as long as possible.  
Collaborate with all levels of government for joined-up solutions for our community.<sup>568</sup>

My husband was my campaign manager and together we knocked on over 15,800 doors, speaking to countless residents about their personal challenges, and hopes and dreams for our community. With many people still working from home and feeling isolated with their COVID puppies, the door knocking campaign was able to reach a considerable number of residents and gave rise to many memorable and meaningful conversations as well as a few

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<sup>568</sup> Ibid, from ccampaign website.

strange encounters. Being somewhat shy, it was helpful to have a campaign built around the SDGs because it provided so many interesting entry points for discussing the issues of concern to the residents and then bridging to my platform. Reflecting on the privilege I had as a candidate to talk to so many diverse members of my local community, a comment by Bourdieu seems apt: “I would say that the interview can be considered a sort of spiritual exercise that, through forgetfulness of self, aims at a true conversion of the way we look at other people in the ordinary circumstances of life.”<sup>569</sup>

I did several debates and interviews on television, radio, social and print media, wrote an op-ed for the local paper and filled out numerous candidate surveys. I discovered I was not naturally comfortable campaigning and needed a great deal of moral support from my husband. After learning so much about the problems in my ward and city and seeing the unfriendly posture of the provincial government towards municipal elected officials, I was not greatly disappointed that the majority of voters decided to stay with the incumbent. I realized that it would have been difficult to make much progress with SDG implementation as a councillor because there was so much horse-trading and “busy work” for councillors, that big ideas would tend not to be prioritized. I concluded it might be easier to influence attitudes and effect progress through an ad hoc committee of citizen/artists. I was grateful for the unforgettable experience of campaigning on SDG values and talking to so many Kitchissippi residents and being able to take this new knowledge into my academic research, artmaking and performance.

### **Building Positive Relations**

The project *Building Positive Relations: The Arts, New Materialism, Posthumanism and Human Rights*<sup>570</sup> began as my short, written proposal for the Human Rights Research and

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<sup>569</sup> Bourdieu, *The Weight of the World*, 614.

<sup>570</sup> This project is laid out in detail on a page of my website: Oonagh Fitzgerald, “Arts & Human Rights,” *International Law-Art-Governance*, accessed 29 December 2024. <https://oonaghfitzgerald.com/arts-%26-human-rights>. I am grateful for the advice and support of the team at the Human Rights Research and Education

Education Centre (HRREC) of the University of Ottawa, but its realization depended on the diverse contributions of many other people. This project involved organizing two virtual workshops and a symposium, collectively drafting a manifesto and co-curating a multimedia art exposition with performances and live panels, and a final virtual panel. Every step of the project provided opportunities for participants to contribute their expertise and talent as they wished, and we all had the opportunity to learn from each other and develop our own insights and inspiration from the experience. It would be impossible to speak for all the participants and to describe what they brought to the events and what they took from this collaboration. For me, it was an enriching experience to find such enthusiastic and talented collaborators with whom to explore these challenging issues, which are so central to my own reflections on international law.

I had undertaken to organize an Arts and Human Rights symposium for HRREC and had roughed in a project description, but felt uninspired and incapable of proceeding because the project required such a multiplicity of perspectives and participants, and I was only one voice. I needed to generate interest and find a supportive and enthusiastic group of collaborators. I was conscious that the concept I had proposed was impossible for me to realize alone and would be unattractive to other people unless they saw themselves as active coproducers. I was introduced virtually to an HRREC colleague living in Spain, Ramon Blanco-Barrera, who offered to help, and immediately we began to brainstorm about how to engage a wide variety of artists and human rights advocates to participate in the project. As we invited more people into the project excitement and possibilities grew.

Because we would be holding the workshops and symposium virtually, we were able to attract a diverse group of philosophers, musicians, artists, curators, human rights educators

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Centre (HRREC), University of Ottawa: John Packham, Viviana Fernandez, Caroline Faucher, Omid Milani and Ramon Blanco Barrera \ 233. Ramon became my main collaborator for this project.

and advocates.<sup>571</sup> The participants generously brought their ideas to two preparatory workshops entitled *What are Human Rights in the Posthuman Age of the Anthropocene?* and *The Arts and Human Rights in the Context of Being Cyborgs, Living Speculative Futures*. Formal reports<sup>572</sup> summarizing each workshop helped us develop the agenda for the symposium with each participant preparing a presentation or performance to share with the group.

The reports of the two workshops and the day-long symposium provided a basis to try to draft a *Manifesto for the Arts, New Materialism, Posthumanism and Human Rights* (herein *Manifesto*).<sup>573</sup> This was shared with participants for their input and criticism, then reviewed and revised over several months. The manifesto was a summation of consensus/acquiescence after discussion, debate, revisions and adjustments. The *Manifesto*<sup>574</sup> acknowledged that using written language was limiting and problematic for the many reasons discussed herein, and suggested that “For human rights to evolve to meet new challenges, legal language must be informed by experience, imagination, and artistic expression beyond words.” Nonetheless it resorted to words, hoping that the artistic reaction and response would enliven and compensate for words’ shortcomings.

Seeking to “generate new thinking about how to build positive relations between the arts, posthumanism, new materialism and human rights,” the *Manifesto* embraced “inclusive and interdisciplinary research and practices that recognize our interdependence with each other and the material world.” It noted that participants’ “individual and collaborative work

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<sup>571</sup> Ricardo Dal Farra, Elsy Zavarce, Ann Wettrich, Oonagh E. Fitzgerald, Elizabeth Presa, Lorrie Blair, Richard Lubben, Ramon Blanco-Barrera, Anoush Moazzeni, Teresa Dillon, Kahente Horn-Miller, Omid Biabani Milani, Asma Kazmi, Al-An deSouza, Fernando Peraita, Dirar Kalash, Andrea Fitzpatrick, John Packer, Esther Regueira, Kimiko (Kimika) Nonomura, Van Armenian, Boel Christensen-Scheel, Tony Yap, Francesca Ferrando, Grazia Peduzzi, Stanley Février, Federico Guzmán, Eldad Tsabary.

<sup>572</sup> Drafts prepared by Gloria Song, PhD candidate at University of Ottawa and revised and finalized by Ramon Blanco-Barrera and me.

<sup>573</sup> More information about the project and participants is available here: <https://oonaghfitzgerald.com/arts-%26-human-rights>.

<sup>574</sup> The *Manifesto for the Arts, New Materialism, Posthumanism and Human Rights* is set out in full in Annex III.

of advocacy, teaching, decoding, encoding, artmaking, and performance” sought “to foster solidarity and inclusion.” It recalled the discussions we had had about acknowledging the privilege and power derived from past injustices that benefited some of us, and working to undo “colonial, capitalist, extractivist, racialized and gendered power.” It expressed our urge to “use our artistic expression and human rights advocacy to decode and dismantle the legal, economic, cultural, and social architecture that entrenches injustice.”

The *Manifesto* recalled our critique of prevalent anthropocentrism and our desire to reconnect with the material environment. It questioned whether we could re-imagine human rights to encompass the nonhuman, living and non-living elements of the world around us. It encouraged us seek to learn respectfully “from Indigenous ways of knowing and being in relationship,” and “from the arts and traditional storytelling about the human condition and our existential struggle for identity, belonging and meaning.”

The *Manifesto* concluded with a kind of collective *Desiderata*<sup>575</sup> for the posthuman cyborg anthropocene:

As post-humans experiencing cyborg existence and globalization, we confront our individual and collective impact on the planet, the sacrificed ghosts that enable our way of life and haunt our actions, as well as our entanglement with corporate avatars. We seek to reshape digital technologies to be ethical, transparent, inclusive, democratic, and sustainable, so they do not reinforce or perpetrate injustice.

- We celebrate the flame of creativity and individuality in each of us.
- We create to learn about our motivations and the materials and methods of making and to express ourselves.
- We create together to deepen our understanding of each other and to experience creative communion beyond ordinary conversation.
- We work together across disciplines to explore meanings, share concerns and knowledge, and find alternative approaches to address the crises of the anthropocene.
- We employ diverse collaborative and individual reflective and creative processes.
- We endeavour to be compassionate allies with human rights and environmental defenders.
- We seek to be gentler on our environment and to care for the materials and beings we involve in our artmaking.
- We work to decode and reimagine legal and governance structures to strengthen environmental and human rights protections.

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<sup>575</sup> Max Ehrmann, *Desiderata*, 1927, accessed 8 January 2025, <https://www.desiderata.com/desiderata.html>.

- We seek to create new forms of beauty that connect us to the joyousness of life as it unfolds beyond all beliefs, sorrows, and suffering.

Once finalized, shared with participants, and published,<sup>576</sup> the *Manifesto* was used to invite workshop and symposium participants, an international network of young artists,<sup>577</sup> and other artists to contribute works to a co-curated<sup>578</sup> art exposition, with performances and discussions, entitled *Arts and Human Rights: Conversing Multiplicities*, held at Concordia University.<sup>579</sup> The art exposition indeed brought to life the manifesto expanding its meaning far beyond its words. It created an opportunity for a wide variety of artists to react by producing and exposing or performing their own works, and for workshop discussions among artists, academics, and visitors. This suggests to me that the manifesto was useful as a prompt to instigate creative reactions and counterproposals. It was merely the impetus to stimulate creation of a vibrant array of collective and individual artmaking and performance, and then the words became dormant as I moved on to another project.

Rereading the *Manifesto* months later, the words seem gentle and comforting, like holding hands together in a circle, recalling the deeply moving experience of sharing artworks and performances, perspectives and ideas about the arts and human rights over

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<sup>576</sup> The *Manifesto* was published on the webpage for the Arts and Human Rights project: <https://oonaghfitzgerald.com/arts-%26-human-rights>.

<sup>577</sup> Emergent Arts Space, <https://emergentartspace.org> led by Grazia Peduzzi and Ann Wettrich.

<sup>578</sup> Co-curation was by Oonagh Fitzgerald, Ramon Blanco Barrera \ 233 and Ann Wettrich.

<sup>579</sup> Participating Visual Artists: Ramon Blanco Barrera \ 233, *Design of Exposition Poster & Manifesto*; Stanley Février, *Sans titre*; Susana Romero, *Party*; Catherine Heard, *Redwork: The Emperor of Atlantis Comic Book*; Ignacio Traverso, *Barricades*; Agustín Israel Barrera, *Party*; Manuel Fernando Mancera-Martinez, *The secret words of the words secret*; Omid Milani, *Jester and Justitia*; Teresa Díaz, *Thank you*; Maria del Mar Garcia-Jimenez, *The possibility of reality checks*; Elsy Zavarce, Silvia Martinez, Angel Leiva / Venezuela, *Cocoon*; Federico Guzmán, *Intronaut*; Richard Lubben, *Ai Collaboration*; Ramon Blanco Barrera \ 233, *Abstract future*; Gema Climent, *Reflection, Musubi the living spirit*; María Elvira Querol, *The Girls' Long Journey to Water*; Elizabeth Presa, *Icons*; Oonagh Fitzgerald, *Amazonia: Goddess of Waste*; Kenan Peter, *Silence Word*; Raka Panda, *Man with Wishing Tree*; Lilian Munuo, *Mbessi*; Maame Marful, *Women and Liberty*; Annah Nkyalu, *Cyber Attack*; Sai BLANK, *Portrait of Father*; Ignacio Cote Cordin, *Not so sweet memories; Where death was*; Aydin Matlabi, *As the Wind Blows: Masha Becomes the Wind*; Anirban Mishra, *Death of Heroes*; Caitlin Mkhasibe, *All I Wanted for Christmas Were Anthracite and a Hail of Bullets*; Jayeti Bhattacharya, *Memories for Future II Handmade Book*; Jiang Feng, *Unwholesome Shelter*; P.Cube Play, *Life Behind Bars*; Oonagh Fitzgerald, *Ukraine with love*;

Video And Sound Recording Contributors: Sheena Barnett, *The crisis of the pre-figured: composing qualities as pathway to neurodiverse perception*; P. Cube Play, *Colors Are Dangerous*; Ricardo Dal Farra, *Decoding reality*; Danielle Garrison, *Abortion and women's rights to choose*; Dirar Kalash, *For Masafer Yatta*; Juan Antonio Rodríguez, *The protest*; Tony Yap, *Coda*.

zoom. They are not words to lead a revolution; rather they hint at companionship and caring across distances and time. The *Manifesto* inspired new artworks and performances for the exposition *Conversing Multiplicities*, thereby enlarging and reconstituting the network. A July 2024 retreat in Avignon, France, on *Art and Human Rights* organized by HRREC provided another chance to contemplate this fertile relationship, which sustains much of my TILARC practice. HRREC colleagues are organizing another retreat and summer course in Seville, Spain, to further the development of this relationship between the arts and human rights.

### **Handle with care: values in our hearts**

This section describes the TILARC practice and methodologies used to produce the collaborative improvisational micro-opera *Handle with Care: Values in our Hearts* (Fig. 27) and provides reflections on the knowledge produced. This section is divided into the following subsections: To collaborate or individuate; A proposition to lay down guiding rules; Copying to become a chorus, Tentative steps into performance; Complementary research-creations; A war machine with art as its object; and Making soft law together.

#### **To collaborate or individuate**

I joined the RISE<sup>580</sup> micro-opera research group and participated in several collaborative improvisational performances involving a laptop orchestra,<sup>581</sup> singers, dancers, visual and performance artists. I contributed ideas, visuals (costumes, props, masks, artwork), movement, and librettos to these conscientiously unplanned and wild events. In group reflections after these events, conversations turned to developing guidance to enhance the

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<sup>580</sup> For the micro-opera *Handle with Care: Values in our Hearts* the RISE team consisted of Professor Eldad Tsabary (principal investigator), Antoine Bellemare, Oonagh Fitzgerald, Danielle Garrison, Malte Leander, Jay Marchand Knight, Adriana Minu, Katarzyna Musial (Katya), Philon Nguyen (Phil), Kofi Oduro, and Valentina Plata. Link to the video recording: <https://youtu.be/qwsZqcGMc38>. More information is available here: <https://oonaghfitzgerald.com/handle-with-care-1>.

<sup>581</sup> The Concordia Laptop Orchestra (CLOrk) is a research-creation platform and ensemble in the Music Department at Concordia University, Montreal, founded in 2011 by Eldad Tsabary: <https://laptoporchestra.ca/>.

feeling of safety of performers in such intimate and uncontrolled performances. Guidance adopted because of these conversations included posting signage prohibiting photography or video recording except by the authorized photographer or videographer, establishing physical separation between performers and the audience, and having someone serve as a safety officer to troubleshoot and ensure compliance with these rules during the performance. After several successful micro-opera experiments in our first year together, we found ourselves at the start of a new school year experiencing a different group dynamic. Hours of Zoom conversations produced more isolation, distrust, and resistance to the idea of performing together.

An evening workshop in a dance studio where we experienced tethering, mimicry, and imaginative play,<sup>582</sup> finally brought us into tentative physical contact. I determined to build on the tiny flame of connection that had been sparked. As a starting point, I shared by email a proposal to develop an improvisational collaborative micro-opera from our Zoom conversations about consent, trust, and identity, and about our competing desires for autonomy and to work together.<sup>583</sup> Acknowledging the multiplicity of our perspectives, I recalled that the group had determined what we expected from each other: civility, respect for our differences, support, cooperation. I suggested that some of us might need rules to guide or motivate, some might need them to resist and break, some saw them as poetic possibilities that could transform our relationships.

This micro-opera became a meditation on the question of how to find and respect the values in our individual proud hearts sufficiently to collaborate, co-create and nurture one another and our planet. At first I needed to overcome team members' objections to working on any kind of performance despite that being an explicit aspect of engagement with RISE.

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<sup>582</sup> The workshop had three segments, led by Danielle Garrison, Adriana Minu and Mira Rozenberg.

<sup>583</sup> The proposition is set out in Annex IV.



Improvising together in the in-person workshop in December 2022 had warmed and humanized relations somewhat. I felt that, if we could move quickly so as not to lose the somatic sensations of the workshop, we could build on that experience and create a performance together about our collective deliberations over the last few months of RISE. We could explore relations between self, identity, individuality, and our yearning for belonging, solidarity, and collaborative creation as well as political issues of negotiation, consent, autonomy, and legitimacy.

### **A proposition to lay down guiding rules**

I designed the proposition in a way that would be respectful of differences, encourage individuality and allow collaboration. I wanted to create an environment in which each participant would have an opportunity to be exactly who they wanted to be. I invited participants to think of brief solos and how to transition between solos and group work. I wrote libretto ideas framed around my questions about philosophical readings and international law, and asked, how could we make our own laws to free us from servitude and serve us all better? I invited participants to add to a “secret chest of values in our hearts”, asking,

Are we laying down rules for our group that work for all of us, prevent us from accidentally harming each other, help promote our understanding and inclusion of all of us, and foster both collective and individual growth, passion, and inspiration? What is in your heart as the most cherished of your values? Are you willing and able to express this, and if so, how would you like to express this? What should our rules say or not say, do or not do? What do you see as limits of rules and words? Have you another, truer way to express these values? Could this be your solo? Could this be a chorus you lead? Are generosity and multiplicity core values?

I included my secrets and encouraged the group to think about theirs, writing:

I love working with you. It is lonely and cold to hold onto an idea just in my head. The seed of an idea needs validation and germination through questioning, conversation, and collaborative elaboration. I need you.

Opera is the perfect opportunity for wild collaborative processes (improvised interactions) because it would be almost impossible (and monotonous) for a single vision to encompass all its multi-media dimensions.

Your curiosity, engagement, insights, and ideas electrify, motivate, inspire me. I believe in happenings!

Collaboration can be troubling, risky, and enlightening. We should be careful, considerate, and kind. We learn from mistakes and do better the next time.

I also love to work alone e.g., if I am making visual arts or writing. As I work alone, our conversations and ideas from books, radio and podcasts etc. play in my mind, constantly in conversation with what I am doing.

I love to make art (micro-operas) and learn about how we express our values and find connections.

For the RISE team our cyborg existence was both a cause of our alienation (we would discuss for hours in a Zoom room and end further apart) and the means of organizing this micro-opera about individuation and collaboration, despite physical distance and busy schedules.<sup>584</sup> Zoom conversations swung back and forth from extremes of openness to defensiveness. We explored our competing desires to withdraw from society and social media to cultivate our creative autonomy, self-expression, and identity, and to break out of virtual isolation into a community of flesh and blood beings, embrace collaborative processes, share ideas and practices, and perform together. Sharing the proposition through Discord channels, updating planning documents in Google drive, emails, What's App messaging, phone calls, individual and group Zoom calls, all facilitated remote development of the micro-opera and permitted the tiny flame of embodied connectivity experienced in our live workshops to endure.

### **Copying to become a chorus**

To reach into the issues of identity, individuality, trust, consent, and collaboration, the proposition for the micro-opera suggested playing with the technique of mirroring, copying, or echoing each other's sounds and movements. Copying is how we learn as children, how we learn social rules and conventions. Pairs copying or mirroring each other might attract others to join like a chorus, and the reflecting could become more complex. We could break

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<sup>584</sup> For an example of digital collaboration see, Eldad Tsabary, "Improvisation as an Evolutionary Force in Laptop Orchestra Culture," *Critical Studies in Improvisation* 11, no. 1-2 (2017) 1-12, 8. <https://doi.org/10.21083/csieci.v11i1-2.3714>.

out of mimicry when it became tedious or oppressive, take a more diffractive approach, and seek our individual lines of flight.

Through further one-on-one and group discussion we worked out an approach to the improvisation, choosing themes of choral mimicry, shadowing, echoing, supporting, and slowness. As someone who enjoys choreography, I desired to shape movement and physical interaction but in the context of trying to coax engagement by my RISE teammates, my choreographic role was a light touch, offering general prompts to help the chorus members respond supportively to the solos, working out a flow from opening through alternating choruses and solos to the closing, identifying minimal stage directions and cues to move us through the space and the performance.

The idea of copying transformed into a kind of Greek chorus, in which participants would echo, shadow, and reflect the soloist's performance, blending and fading it in the transition to the next solo. To help activate a variety of choruses, simple musical instruments and theatrical masks were positioned on cloths on either side of the stage, and sheets were hung upstage (at the back of the performance area) with spotlights arranged for making shadows dance by moving behind the screen. Much of the chorus work was during the solos, reacting to and echoing the soloist, with only short transitional ensembles. If we had had the opportunity to repeat the performance, I imagine this would have evolved as we became more comfortable with the ordering and deepened our understanding of each solo's sonic and visual potential.<sup>585</sup>

I urged the participants, when serving as chorus members, to use all their senses to feel and merge with the other chorus members to create a supportive reflection or echo of the soloist's performance. They could withdraw from and return to performing in the chorus at

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<sup>585</sup> For a discussion of collaborative improvisation dynamics, see Eldad Tsabary, "Stabilizing and Destabilizing Agents in Laptop Orchestra Improvisation," *Les Cahiers de La Société Québécoise de Recherche En Musique* 17, no. 1 (2016): 39–49, <https://doi.org/10.7202/1044668ar>, paras. 1, 4.

any point but should sustain the performance as they did this. Slowness, stopping time, reflecting, and sustaining performance were important ideas to carry through the entire improvisation and help knit the solos and transitions into a whole.

### **Tentative steps into performance**

Sharing ideas with the whole team at once was necessary but could be risky if a negative dynamic took over conversation. I was seeking neither a consensus of approval nor a consensus of rejection, rather, some willingness from individuals to play along with each other, exchange and contribute to collaborative development. Following up with one-on-one communications helped me to understand individuals' reactions and their potential contributions. Then sharing these evolving ideas with the group helped clarify themes and approaches, produce further questions, shift direction, and continue to build momentum. Lawyers routinely question, interpret, consult experts, incorporate ethics in decision-making, seek to understand all sides of an issue, reconcile positions, negotiate, compromise, agree on solutions and advocate reforms. Taking a collaborative, curious and conciliatory approach to understanding and solving problems and finding shared values was helpful in working with the RISE team.

I was optimistic that the desire to work together would overcome the obstacles to collaboration that we were experiencing. I had individual calls with each member of the group to explain the project, answer their questions, allay concerns, and discuss their proposed solos. The solos – initially proposed to be each 2-minutes long – were enthusiastically embraced but participants wanted more time to develop their pieces, so time limits were dropped. Virtually, and in meetings in the performance space, Video Production

Studio, on the day before and the day of the performance, we worked out technical details, ordering of solos and transitions,<sup>586</sup> and set essential cues and spacing.

Iteratively I assembled the micro-opera from the offerings of team members, adding each idea into the mix and rearranging the whole palette of ideas to incorporate and develop a structure. Alternating solos and chorus work wove postmodern theatre, with electronic and acoustic sound, spoken word, singing, dance, video, and visual art.

The production of the micro-opera was entirely emergent, being born out of a social crisis and artistic blockage in the RISE team, developing through propositions, prompts, one-on-one conversations, individual composition and artmaking, group planning, rehearsal and performance, and continuing to reveal itself through reflections, and writing. Grounded theory<sup>587</sup> fit well with this project, which emerged through group conversations about consent, trust, and identity, and about creating group norms that respected our individualism and vulnerability in the process of creation. We viewed the data – our shared experience in conversation and a workshop - in a multiplicity of ways. I saw this as an opportunity to use research-creation to express the interplay between collaborative creation under shared norms and individual identity that sought to know, express, and transform itself, unconstrained by any rules. I proposed to the group that we could use the discussions and anxieties to create something together, if we did it gently, respectfully, and supportively.

We set up an ordering that provided dynamic diversity and a narrative arc, and was sufficiently stable to have necessary cues (to align video, lighting, and sound) and reassure

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<sup>586</sup> The order set was as follows: Chorus to enter and sit in a circle around a light source; Phil – Prologue (Oonagh’s libretto) - reading with responsive orchestral AI programming system; Chorus; Antoine – spoken word - look at your hand; Chorus - hands and shadow hands; Katya – black and white paper, video, piano of increasing intensity; Chorus; Adriana – sound and movement – gifts; Chorus; Danielle – fabric draping of chorus; Juanita – video, singing and spoken word; Chorus; Malte – slow creeping, tissue layering; Chorus; Valentina – image of score, singing and spoken word; Chorus; Oonagh – Interlude (Oonagh’s libretto) leaf mask with recorded voice; Chorus – forest at night; Kofi – shadow video, electronic sound and spoken word; Chorus; Eldad – electronic sound and singing; Chorus; Karl – spoken word – Epilogue (Oonagh’s libretto) Oonagh walking with papal cape; Chorus gathers; End.

<sup>587</sup> Charmaz, “Grounded Theory”, 509, 514-515, 525-529.

participants, but open-ended enough to keep it thoroughly improvisational. I relied on the tacit knowledge of participating musicians, singers, and dancers to hold the performance together and move it forward through solos and chorus improvisation. From start to finish and beyond, as participants, audience members and I reflected upon the performance, the process was evolutionary and emergent. Every member of the RISE group and the audience would have their own valid perspectives on the experience. In writing my reflections I could not speak for any of them, only offer my impressions and appreciation for their contributions.

Each participant in the micro-opera worked independently exploring ideas for their solo, creating sound, video, drawings, costume, props, etc., then shared their ideas with me and the group. These various individual research-creations were then pieced together, sewn, and collaged into the collective assemblage of the micro-opera.<sup>588</sup> Using mimetic techniques of mirroring and reflecting allowed the chorus to appreciate, embody, harmonize, and support soloists' performances, echoing and carrying forward sensorial reverberations. This playful and raw performance strengthened trust among performers and revealed the codes of values in our hearts. As the project unfolded and in later reflections, I began to recognize that these same values of consent, trust, and identity, and competing desires for autonomy and collaboration were crucial dynamics in international cooperation and the development of international law.

There was a small audience as we only had a few days to advertise the event. The main video camera recording the performance was stationary, behind the audience, and did not always have the best view of what was happening on the stage. There were a few problems with the sound recording but fortunately a field recorder was able to pick up where more

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<sup>588</sup> Vaughan, "Pieced together"; Barber, *Women's Work*.

direct recording was not available. Eldad Tsabary expertly pieced together the recorded sound and visuals to document the performance.<sup>589</sup>

I was anxious to see the video and when I did, I realized what a challenging piece it must have been for the audience to follow and watch because of its rawness, roughness, awkward timing, and the mix of intensity and emptiness. When we held a RISE reflection about the event a month later, participants talked about feeling apprehensive and vulnerable but supported, ambiguous and awkward but light-hearted, and acutely conscious of the artifice and performativity. We considered whether we had done enough to engage the audience. As Kofi suggested, the best way for the audience to prepare to watch it, was to be aware they are in for an experience.

### **Complementary research-creations**

I worked on an assemblage of waste cardboard, plastic, fabric and packing materials, which inspired the title for the micro-opera. As I encouraged my teammates to develop their solos, I had the idea of a fairy queen in a cape that magically gathered butterflies and flowers as she trailed it across a summer meadow. Mulling over ideas, sounds and materials led to the creation of the *Cloak of Tattered Hearts*. At first, I called it the “papal cape of hearts” because as my family and I tried parading around in it, I was reminded of cardinals and popes commanding religious ceremonies. Minh-Ha wrote, “In many parts of the world, magic (and witchcraft) is essentially a woman’s function .... Thus, the adoption of female attires by male shamans and priests is a widespread phenomenon that still prevails in today’s religious contexts”,<sup>590</sup> implying their ceremonial gowns were appropriated from women (possibly even fairy queens). Taking note of this enmeshed meaning embedded in the tissue and form of a ceremonial cape enlivened the material exploration and play. Minh-ha described the

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<sup>589</sup> Link to the video recording: <https://youtu.be/qwsZqcGMc38>.

<sup>590</sup> Minh-Ha, *Woman, native, other*, 128-129.

connections between weaving, making material and the word: “Making material: spinning and weaving is a euphonious heritage of wo/mankind handed on from generation to generation of weavers within the clapping of the shuttle and creaking of the block – which the Dogon call “the creaking of the Word.”<sup>591</sup> Women’s weaving, knitting, sewing and embroidering connected us through time and space, with knowledge, cultures, and stories, such as the Bayeux tapestry<sup>592</sup> recounting the history of the Norman conquest. These material metaphors inspired me to construct masks, costumes, scenery, and text for the micro-opera. Danielle Garrison extended the material metaphors in the performance, bringing her long white tethering fabric and draping it gently over the members of the chorus as we slowed to stillness while Jay Marchand Knight sang an aria.

Part of my art-based practice to develop the idea of the cloak involved listening to recorded ambient meadow sounds. I found a glorious two-hour recording on Spotify of ambient night sounds with frogs, toads, owls, lapping water, breezes, rustling leaves etc. Because we were preparing for a live performance with real musicians, I ruled out using a commercial streaming service and could not find a suitable “creative commons” alternative. I dwelt on the problem and my desire to recreate a spring evening in the countryside, until all at once, on the drive to Montreal for our rehearsals and performance, I wrote a poetic description of night sounds on my phone, which, with Eldad Tsabary’s help, I recited, recorded, and played on a speaker placed inside one of the *Emerging Relations* leaf masks. As I crept around the darkened stage with this mask, the chorus improvised night sounds from behind the sheet-screen. This was an example of the emergent nature of research-creation assemblage, how an idea could shift from visuals to sounds, to words, to movements,

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<sup>591</sup> Ibid, 128. The Dogon are an ethnic group indigenous to the central plateau region of Mali, in West Africa, south of the Niger bend, near the city of Bandiagara, and in Burkina Faso: John A. Shoup, *Ethnic Groups of Africa and the Middle East: An Encyclopedia*. ABC-CLIO. (2011), 86. ISBN 978-1-59884-362-0. See also Barber, *Women's Work*.

<sup>592</sup> Bayeux Museum, “The Bayeux Tapestry”, accessed 28 November 2024, <https://www.bayeuxmuseum.com/en/the-bayeux-tapestry/>.



and back around again in kaleidoscopic reverberations. Research-creation was becoming a fecund practice in which reflection on works in production instigated further written or assembled works. In this way, performances, artworks, and reflections communicated back and forth, in an ongoing process of discovery and assemblage.

I completed art works as this project was developing: *Lines of Flight* displayed behind the audience, *Emergent Relations*, used as props, *Handle with Care: Values in Our Hearts*, hung at the entrance to the performance space and used in advertising the event;<sup>593</sup> and *Cloak of Tattered Hearts*, worn in the last minutes of the performance. Jay Marchand Knight made pen and marker drawings that were featured in her video and displayed on the wall beside the audience.

#### **A war machine with art as its object**

Deleuze and Guattari's provocative question why we accept servitude and allow law and philosophy to wrap justifications and legitimacy around our servitude,<sup>594</sup> and their idea of the artistic war machine<sup>595</sup> resonated with the objectives of this micro-opera. If we questioned all rules and developed our own rules to facilitate our collaboration, would we be freer both to be ourselves and be creative together? Asking why we accepted any rules extraneous to ourselves was a starting point for asking what we valued most.

Members of the RISE team chose to use our desire for assembling to make an artistic war machine whose object was not war but the passion of creative expression and collaboration. The assemblages told their own story. Assembling to make radical art not war explained the whole assemblage of the micro-opera itself, and its constituent parts: the assemblage of Philon Nguyen's AI randomized orchestral overture with his voice reading

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<sup>593</sup> Advertising for the micro-opera: <https://milieux.concordia.ca/event/handle-with-care-values-in-our-hearts-a-micro-opera/>

<sup>594</sup> Deleuze and Guattari, *A Thousand Plateaus*, 376.

<sup>595</sup> Ibid, 423.

parts of my original proposition which he refers to as “our Manifesto”;<sup>596</sup> Antoine Bellemare’s meditative words and shadows, and the reflective movements of the chorus; the elements of video, music, costume and movement in Katarzyna Musial’s piano solo, with the chorus listening and reacting; Adriana Minu’s sound, movement, emotional and imaginative words, all interacting with the space, chorus and audience; the combination of Danielle Garrison’s movement and laying of fabric, Jay Marchand-Knight’s drawings, video and voice, and the still chorus; Malte Leander’s crawling, and the tissues being pinned to him by the chorus members; Valentina Plata’s playful and mournful song taking the chorus and audience on an emotional rollercoaster; me moving around the stage in darkness with a mask assembled with a recording of my words speaking from within the mask, to the echoing night creature sounds of the chorus; Kofi Oduro’s video, laptop, live-coding, pacing and light-hearted words transforming us into blue pineapples and cheese; Eldad Tsabary’s assemblage of technology, invisibility in shade and a mask, bathing the performance in watery waves of sound and song; the audience members being there, experiencing the unfamiliarity of what was happening and what was coming; the videographer and his equipment recording; the conversations that followed the performance. This was the positive power of assemblage.

Creating disruptive assemblages for art not war seems to meet Deleuze and Guattari’s definition of a nomadic war machine. Transdisciplinary research-creation thinking and making offered creative lines of flight whose object was not war but to confront the problems of servitude, identity, trust, and consent, and hopefully create something better. The micro-opera became a diffractive response to their book and the experience of reading and resisting it.

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<sup>596</sup> In conversations and a recent email explaining the AI assisted orchestral technique he used for this performance. The proposition was not intended as a manifesto but perhaps through the process of the RISE team members responding creatively to it individually and as a group, it took on this quality.

### **Making soft law together**

Research-creation combined with qualitative research methodologies provided a way to integrate organizational and creative action, thinking, philosophy, and the disciplines of the arts and international law, towards the well-defined objective of making an expressive performance about consent, trust, and identity. Given the subject matter, and the circumstance that “no” seemed to have become the default position for the group, it was important to tread carefully through the interpersonal terrain to find ways to engage people. Arranging one-on-one calls with each team member and RISE’s director helped me better understand everyone’s interests and concerns, and what they wanted to bring to the performance. When I approached each member individually, I discovered they were already either fully or somewhat engaged, and that it was then a matter of talking through our ideas and building them together. By sharing information about each other’s ideas and commitment we started to build the viability, credibility and legitimacy of the project and the cohesion of the group. Having a flexible framing proposition for the micro-opera that invited co-creation allowed each participant to shape the performance.

The performance depended entirely on the skills and attitudes each participant brought to it. I knew the participants well enough from our conversations, the workshop, and other performances we had done, that I was confident in their ability to perform and improvise. Participants expressed their concerns and considerations, and together we developed accommodations and solutions. For example, Philon Nguyen, a composer who was not comfortable improvising was eager to use his voice-activated AI improvisational orchestral program, reading some of the original proposition as a manifesto, resulting in a powerful opening to the piece. Using the prompts of supporting, reflecting, echoing, shadowing, and slowness that we had developed, the improvisational choruses complemented, connected, and filled the spaces between solos. The care which everyone showed for each other, was

visualized in Danielle Garrison's covering us with fabric as if to protect and honour each one of us.

The performance was a collective experience of vulnerability and light-heartedness, connecting us to the values in our hearts. In international law development, discussion often begins with recounting of unhappy stories with unfortunate outcomes to help participants to understand the problem. Participants then start to share ideas about how rules and processes that had worked in other contexts might improve the situation. This discussion eventually leads to the articulation of a declaration of principles. This is called "soft law"<sup>597</sup> in that it demonstrates widely shared concern about the problem and a growing consensus about the solutions and remedies which do not yet have the force of binding law. Over time soft law may become customary international law if it is broadly approved and respected. Its principles also may be articulated as binding law in an international treaty or convention, thus becoming "hard" law. An idea that began either as soft law or hard law eventually may be elevated to a peremptory norm of general international law or *jus cogens*. This means "it is a norm of general international law" and "is accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character."<sup>598</sup> Examples of this are the prohibitions on slavery, torture, and genocide. The

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<sup>597</sup> Dinah L. Shelton, "Soft Law" in *Handbook of International Law* (Routledge Press, 2008), [https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2048&context=faculty\\_publications#:~:text=Soft%20law%20is%20a%20type,other%20statements%20of%20expected%20behavior](https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2048&context=faculty_publications#:~:text=Soft%20law%20is%20a%20type,other%20statements%20of%20expected%20behavior).

<sup>598</sup> International Law Commission. Draft conclusions on identification and legal consequences of peremptory norms of general international law (*jus cogens*). 2022. Adopted by the International Law Commission at its seventy-third session, in 2022, and submitted to the General Assembly as a part of the Commission's report covering the work of that session (A/77/10, para. 43). Accessed 9 January 2025. [https://legal.un.org/ilc/texts/instruments/english/draft\\_articles/1\\_14\\_2022.pdf](https://legal.un.org/ilc/texts/instruments/english/draft_articles/1_14_2022.pdf). Feminist authors have noted that the concept of *jus cogens*, which recognizes racial but not gender inequality, is skewed to masculinist and traditional values: Jonathan Wampler, "Jus Cogens and the Lack of a Universal Gender Equality Norm," *Oxford Human Rights Hub*, 15 June 2023, accessed 9 January 2025, <https://ohrh.law.ox.ac.uk/jus-cogens-and-the-lack-of-a-universal-gender-equality-norm/>, citing Hilary Charlesworth and C.M. Chinkin, "The Gender of Jus Cogens," *Philosophy of Law: Classic and Contemporary Readings*, 2010.

process of articulating concerns, possible solutions, debating and coalescing around principles is central to cooperative, collaborative problem-solving and decision-making.

By laying down a gentle “soft law” of mutual respect, support and engagement, the RISE performance helped us learn how to play together, understand what each of us needed, and appreciate each other’s unique identity and creativity. By working both together and independently for the purpose of making a group performance which included solos, we internalized the discussions about consent, trust, and identity, reflecting, sharpening, and embodying them in the music, sound, movement, and visuals that we created. These processes and the performance were productive of embodied, expressive understanding and knowledge about consent, trust, identity, and collaboration, far beyond what conversation alone could accomplish. The embodied experience of performing cooperatively with shared norms in *Handle with Care* carried forward, providing mutual promises of respect for identity, consent, and trust to support the RISE team’s participation several weeks later in the *Heart Tethers Residency*.<sup>599</sup> Having built up trust and confidence in each other, we were not undone by the exposed visceral internality of amplified heart beats and electronic sound but calm, confident, and capable of collaborating in the strange circumstances.

The issues of consent, trust, and identity, were existential issues for us as we came out of the pandemic, carrying our personal and collective traumas, and immediately confronting waves of disinformation and a world in dangerous disorder. We had become atomized by long isolation, social media propagation of alternate realities, and witnessing the deterioration of international cooperation, solidarity, peace, and security. It was dangerous to assume anything: we needed to start engagements tentatively to affirm our individual perspectives

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<sup>599</sup> Danielle Garrison, principal investigator, with RISE and Concordia Laptop Orchestra, and other guest performers: <https://www.youtube.com/watch?v=Qn9XbtiKXZ4>.

and identity, and find sufficient common ground to continue the conversation, and persuade us to consent and invest in collaboration.

Working with musicians, technicians, artists, and dancers on an improvisational micro-opera was inspiring because the collaborations were rich with possibility and variability. This approach could be used again to decode and reimagine aspects of international law relevant to today's global crises. With *Handle with Care*, I was able to grasp an opportunity that presented itself, where the team was stuck in a rut going over these issues of consent, trust, and identity. Performing and making art about this moved us forward together. Where individuals are preoccupied with difficult personal and political issues such as armed conflict, human rights violations or environmental destruction, qualitative methods and research-creation could be used to develop another micro-opera, producing a creative reimagining of relationships and international law.

Through this collaborative improvisational micro-opera, we explored individual and group norms and values related to identity, trust, and consent. This supported the expression of a multiplicity of identities, engendered delicate acts of solidarity, and sparked ephemeral moments of connection across our diverse solitudes. Identity, trust, and consent surely offer a more promising basis for establishing and developing a cooperative international legal order than their opposites: denial of identity, distrust, and force. Creating improvisational collaborative micro-opera using TILARC practice could help citizen artists to express their individual identity, develop trust, and exercise consent as they discover shared values and commitments about identity, peace, human rights or environmental issues. This would provide a “bottom-up” creative approach to reimagining a more inclusive and responsive international legal order through communities of artistic practice. Socially engaged art and performance could empower citizen artists to develop respectful collaborative practices for

sharing their concerns, expressing their diverse identities, and creatively addressing today's challenging issues.

### **Coding a planetary charter for our times**

This chapter has examined my exploration of coding values more suited to our times. I used the SDGs as a starting point for discussions about community values in a virtual classroom case study, an electoral campaign, in my doctoral research and exposition of the research-creation assemblage of *Jeanne B'ark*. I embarked on a project that involved sharing of artworks and ideas about building positive relations between the arts and human rights in the posthuman, cyborg anthropocene, which led to the development of a manifesto, which in turn inspired a collective multimedia art exposition and performances. I then explained how an improvisational micro-opera exploring collaborative and individual creation, identity, consent, and trust, helped to create a soft law of mutual support among performers as they expressed the values in their hearts. These experiences suggest to me that while the quest for shared values may involve using inspirational or provocative language to draft resolutions and manifestos, language may be insufficient to mobilize people. Socially engaged artmaking and performance can express and communicate ideas in less direct, but more impactful and persuasive ways. This last section considers attempts to solve global crises without the arts, and recommends engaging with the arts to enliven, interpret, and transcend written texts to reimagine a planetary charter for our times. It is divided into three subsections: The beyond boundaries project; The pact for the future; and Deploying the arts to engage broadly.

#### **The beyond boundaries project**

As I complete this chapter on decoding and recoding values, an international network of academics has been responding to the prompt: "How should we live and what should we do for global concord and social well-being against the background of the most critical social,

political and environmental challenges we face in the real world?”<sup>600</sup> Participants are debating this with a view to developing a manifesto which would then be shared with artists and art teachers to stimulate creation of a global wave of art works. There are obvious connections between this project and my TILARC practice. I am pleased to be involved, thrilled to find others who are struggling with these questions, and see myself as someone who can help bridge the academic thinking and art making phases of the project.

It seems there are still so many questions to unpack in this provocation: who is meant by “we”, what is meant by the “real world”, what are “global concord and social well-being”. Getting to a stable peace is of fundamental importance. We need to do more work to reconcile with each other, to understand past and current conflicts, acknowledge and take steps to remedy past wrongs. The international community has made progress in articulating common principles through the *UN Charter*, the *UN Declaration of Human Rights*, the *General Agreement on Tariffs and Trade*, and the *Geneva Conventions* of 1949, and the many laws and institutions that followed over succeeding decades. However, few people in our societies are very aware of these ideas and their importance in grounding the prohibition on armed conflict and providing the framework for peaceful settlement of disputes and the institutions of cooperation for solving the many social, environmental, health, and economic issues that confront us. The UN suffers from many problems that should be addressed (e.g. abuse of the veto power by permanent members of the Security Council) and has many detractors, but it remains an essential part of any solution to global problems.

There have been many progressive developments through the UN, such as, the *UN Declaration on the Rights of Indigenous Peoples*, the *Paris Agreement on Climate Change*, and the *Agenda 2030 Sustainable Development Goals* discussed in chapter 1 and earlier in

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<sup>600</sup> Helmut Braeutigam and Robert Heinsch, *Beyond Boundaries* Project (BeBo), Phase 1 commenced September 2024 with 4 more phases to follow.



this chapter. Through their representatives, nations of the UN study emerging issues, develop policy approaches and negotiate legal instruments. The problem is that not all these well-meaning initiatives are fully implemented in every country's domestic and foreign policy. Being sovereign, states can decide whether, and if so how, to implement their obligations, and thus we find that they tend to implement in ways that serve their national interests and protect domestic industries, undermining global solidarity of purpose.

Without being undiplomatic and laying specific accusations, the reader can probably imagine how a state's self-interest might influence how it engages with international law. Thus, a state with fossil fuel reserves might seek to find strategic, national security, and greenwash arguments to justify continuing to exploit the reserves despite accelerating climate change. A state might be inclined to assert historical, traditional, cultural and religious justifications in failing to fully protect human rights (especially of girls, women, LGBTQIA+, minorities and Indigenous peoples). A state eager to assert military power might seek to construct arguments about how this would be justified self defence against a dangerous opponent. A state at war might be inclined to dehumanize the enemy combatants and civilian populations despite the universality of humanitarian law and human rights protections applicable in conflict. A nuclear armed state might wish to claim that the deterrent effect of mutually assured destruction depends on it maintaining and even strengthening its nuclear weapons stockpiles.

The challenge is to get beyond this self-interest that undermines collective objectives like reducing greenhouse gases, reducing the production of plastic, raising the status and life prospects of girls and women, and ending war and establishing global peace. There may already be broad agreement on the *Beyond Boundaries* issue of what constitutes "global concord and social well-being". At its September 2024 meeting in New York, the UN

General Assembly issued the *Pact for the Future, Global Digital Compact, and Declaration on Future Generations*.<sup>601</sup>

### **The pact for the future**

The *Pact* began with the words “1. We, the Heads of State and Government, representing the peoples of the world, have gathered at United Nations Headquarters to protect the needs and interests of present and future generations...”<sup>602</sup> There was an abrupt admission of past failures: “2. We are at a time of profound global transformation. We are confronted by rising catastrophic and existential risks, *many caused by the choices we make*.”<sup>603</sup> Proclaiming belief in a brighter future for all, the *Pact* continued in “4. ... Through the actions we take today, we resolve to set ourselves on that path, striving for a world that is safe, peaceful, just, equal, inclusive, sustainable and prosperous, a world in which well-being, security and dignity and a healthy planet are assured for all humanity.”<sup>604</sup> The *Pact* acknowledged the importance of adhering to a shared body of rules of conduct and recommitting: “5. ... to international cooperation based on respect for international law, without which we can neither manage the risks nor seize the opportunities that we face. This is not an option but a necessity.”<sup>605</sup> Nation states collectively then pledged “7. ... a new beginning in multilateralism” and reaffirmed “8. ... our unwavering commitment to act in accordance with international law”<sup>606</sup> and the *UN Charter*, and reaffirmed “9. ... that the three pillars of the United Nations – sustainable development, peace and security, and human rights – are equally important, interlinked and mutually reinforcing.”<sup>607</sup>

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<sup>601</sup> United Nations General Assembly, *Pact for the Future, Global Digital Compact and Declaration on Future Generations*, Summit of The Future Outcome Documents, September 2024, accessed 28 October 2024: [https://www.un.org/sites/un2.un.org/files/sotf-pact\\_for\\_the\\_future\\_adopted.pdf](https://www.un.org/sites/un2.un.org/files/sotf-pact_for_the_future_adopted.pdf).

<sup>602</sup> UNGA, *Pact for the Future*, 1.

<sup>603</sup> *Ibid*, 1.

<sup>604</sup> *Ibid*, 1.

<sup>605</sup> *Ibid*, 1.

<sup>606</sup> *Ibid*, 1.

<sup>607</sup> *Ibid*, 1.

The *Pact* continued through 84 paragraphs and 56 action items plus 74 clauses of the *Global Digital Compact* and 32 clauses of the *Declaration on Future Generations*, for a total of 61 pages single-spaced. Action 1 of the *Pact* pledged to “leave no one behind”.<sup>608</sup> Action 10, paragraph 29, stated, “we recognize the urgent need for a fundamental shift in our approach in order to achieve a world in which humanity lives in harmony with nature.”<sup>609</sup> By action item 12, states pledged to “strengthen our collective efforts to turbocharge the full implementation”<sup>610</sup> of the SDGs by 2030. Paragraph 32 on “international peace and security”, noted with concern the “increasing and diverse threats to international peace and security, particularly violations of the purposes and principles of the Charter, and the growing risks of a nuclear war”.<sup>611</sup> States reaffirmed “the imperative of upholding and promoting the rule of law at the international level in accordance with the principles of the Charter”.<sup>612</sup> They emphasized the importance of the commitments made in the *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*.<sup>613</sup> In Action 13, states pledged to “redouble our efforts to build and sustain peaceful, inclusive and just societies and address the root causes of conflicts,”<sup>614</sup> and by Action 14 they undertook to “protect all civilians in armed conflict.”<sup>615</sup> In Action 15, states undertook to “ensure that people affected by

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<sup>608</sup> Ibid, 4.

<sup>609</sup> Ibid, 10.

<sup>610</sup> Ibid, 12.

<sup>611</sup> Ibid, 12.

<sup>612</sup> Ibid, 12.

<sup>613</sup> UN General Assembly Resolution 2625 (XXV), *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*, 24 October 1970, annex. This Declaration proclaimed and detailed 7 principles: (a) The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations, (b) The principle that States shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered, (c) The duty not to intervene in matters within the domestic jurisdiction of any State, in accordance with the Charter, (d) The duty of States to co-operate with one another in accordance with the Charter, (e) The principle of equal rights and self-determination of peoples, (f) The principle of sovereign equality of States, (g) The principle that States shall fulfil in good faith the obligations assumed by them in accordance with the Charter.

<sup>614</sup> UNGA, *Pact for the Future*, 12.

<sup>615</sup> Ibid, 13.

humanitarian emergencies receive the support they need”.<sup>616</sup> In Action 16, states committed to promote cooperation, defuse tensions and seek “the pacific settlement of disputes”.<sup>617</sup> States undertook by Actions 18-27 to “build and sustain peace”,<sup>618</sup> and address aspects of peace and security; maritime security; terrorism; peace operations; organized crime; and nuclear, conventional, chemical, biological and cyber weapons disarmament and non-proliferation. In Action items 38-45, states undertook to transform global governance including reforming the UN Security Council,<sup>619</sup> and in Actions 47-55 committed to reforming the international financial architecture to be inclusive and supportive of developing countries and to address climate change.<sup>620</sup>

From the above summary, it appears as though states desire to self-correct and are determined to work together to honour their commitments and ensure they and global institutions are working cooperatively and effectively for the good of the planet. The words are impressive, powerful, meaningful, and read like a global manifesto for planetary survival, but are they enough? Can we rest assured that these pledges by states will restore peace, protect human rights and our environment, and save our planet from human-caused destruction? The commitments made by states are in stark contrast to current realities of armed conflict, nuclear brinksmanship, violence, insecurity, environmental degradation, biodiversity loss, famine, poverty, inequality and discrimination. Is this a serious but hopeless prayer, like one made in desperation over a dying loved one? With all its action items, is the *Pact* a true undertaking to act, or a deluded attempt to paper over failure and inaction with words, and pretend that words alone are enough? Although these documents are all available for free on the internet, it is fair to ask, who knows about these commitments other than a few

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<sup>616</sup> Ibid, 14.

<sup>617</sup> Ibid, 14.

<sup>618</sup> Ibid, 15-21.

<sup>619</sup> Ibid, 28-32.

<sup>620</sup> Ibid, 33-39.

officials in state capitals, nongovernmental organizations that participated in the consultations, journalists, and academics. If few know about these pledges, who will hold the states to account to accomplish them?

A task is not completed simply by promising to do it, even if weary diplomats might wish this were so. They know implementation of an international commitment generally involves cooperating internationally on various facilitative mechanisms as well as making domestic policy, administrative, legislative and regulatory changes. The UN is only an organization of its members and only acts through them. National and subnational governments in democracies also have limited means to change human behaviour. There needs to be grassroots and individual engagement and empowerment. The arts could help with this.

### **Deploying the arts to engage broadly**

There is a role for the arts in awareness-raising, strengthening individual agency and mobilization, such that people of all ages contribute to better global, national and local governance. As a simple example, imagine the impact of children in schools discussing these pledges and making art projects and performances about them. The teachers, principals, children and parents would all learn something about global governance while participating in a creative endeavour. They would be faced with questions about their own agency and responsibility, which could ignite further reflections, creations and actions.

It may be possible to address some of the questions about the “we” in the *Beyond Boundaries* project, when we contemplate and make art to decode and reimagine the values needed to meet today’s challenges. There are often problems of representation with the national delegations to the UN: they may be dominated by men who are the economic and social elites of each country, with limited or no representation of women, Indigenous Peoples, minorities, differently abled persons, youth and seniors. By engaging different people in

artmaking and performance about these issues, we exercise our personal agency and expressive power, and gain knowledge about ourselves and each other.

Through the arts we can also question the “real world” mentioned in the *Beyond Boundaries* provocation and presented to us in international declarations and treaties. Influenced by posthumanism and new materialism, we could critique international law in an embodied way, with all our senses and insight to identify its failures and inadequacies. For example, would a less human-centred approach be helpful in recognizing the impacts humans have on the planet and rebalancing our relations with our environment? The contrast between the words of the *Pact for the Future* and today’s global problems raises concern that the words are perhaps too imaginative, perhaps conveying imaginary pledges only. Venerated by posterity as the Lawgiver, Greek archon and poet Solon (638-558 BC)<sup>621</sup> abolished the severest laws of Draco and made more temperate laws which, he was proud to recount, made him deeply unpopular with both the rich and the dispossessed. This is an interesting point: ideal laws and manifestos may be useless; compromise is essential to achieve anything. His laws were written on whitewashed wooden blocks on the Acropolis, but he also wrote poems about them to sing at various gatherings, thereby making a more entertaining narrative tailored to different audiences. This raises the question, does the grand language of *The Pact for the Future* somehow miss the material reality of many humans and nonhumans and this planet? Could we turn the *Pact* into a popular song or a Brechtian micro-opera or a garden of some kind?<sup>622</sup> If each participant in an artistic project contributed their own embodied

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<sup>621</sup> Melvyn Bragg and guests, “Solon the Lawgiver”, *In Our Time* podcast (23 March 2023), accessed 20 October 2024, <https://www.bbc.co.uk/programmes/m001k7wb><https://www.greeka.com/greece-history/famous-people/solon/#:~:text=Solon%2C%20the%20Athenian%20politician%20and,fame%20all%20over%20the%20c,enturies>.

<sup>622</sup> Simpson, *Sentimental Life*, chapter vii “Gardening, instead, or, of pastoral international law.” He uses the metaphor of gardening for his relationship with international law in times of deep crisis. Gardening, cultivating a garden, means one is looking to the future, and putting in effort to make it brighter.

perceptions about what the *Pact* meant, could this expose a multiplicity of realities that need to be considered and engaged as we face today's challenges?

International law may seem disembodied, deracinated and impersonal and yet it is written to deal with some of our most existential threats. How do we make connections between the diplomats negotiating soft commitments like the *Pact for the Future*, governments back in national capitals, and ordinary people trying to live their lives despite the crises around them? How do we connect multinational corporations, so they are made accountable for their contributions to global crises? How do we connect and give voice to other species, the oceans, rivers, forests, air, living and non-living constituents of our environment? The arts can make these kinds of connections, informing, and transforming shared values.

My TILARC explorations of decoding and recoding values have led me to convene workshops and a symposium, develop a manifesto and co-curate an exposition on arts and human rights; develop an SDG implementation plan for a community; campaign for municipal election on SDG implementation; make a micro-opera about the performers' deepest values; and reflect on how the *Pact for the Future* could be enlivened through the arts. I see the importance of finding common values and using these as foundations to create words, art and performance. Words, even in artistic or UN General Assembly manifestos, will not assure our surviving and thriving in the posthuman, cyborg anthropocene. They may be a useful step in the process of change, but without embodied insights and creative engagement they risk withering on the digital page. Art and performance need to bring pressing global issues into aesthetic focus and ignite positive change at the individual and community level.

## **Chapter 8. Speculation about the future of TILARC**

This final chapter has four sections. The first section reflects on the journey of developing my TILARC practice through academic research and arts-based practice, noting the contributions to both scholarly and practical fields of knowledge at each stage of research. The second section takes a broader view of the dissertation as a whole, reflecting on the significance of TILARC practice in addressing global challenges and its contribution to scholarship and artistic practice. The third section speculates about what could be the next steps in applying, deepening and disseminating this TILARC practice. The fourth section is a brief conclusion.

### **Reflecting on the development of TILARC practice**

I began this dissertation by explaining that my desire to make art while thinking about international law aimed to decode international law, focusing on the *UN Charter* and how it has shaped the development of international law and institutions ever since. I explained that my aim was not law reform but rather to use legal, philosophical and cultural critique, artmaking and performance to ascertain and decode what was missing in international law that rendered it unfit to meet the challenges of our times and then to reimagine how it might be encoded better to address these challenges.

### **Critiquing international law's foundations**

The decoding exercise began with a critique of international law's foundations. Starting with a brief introduction to the *UN Charter* and international law, I used diffractive reading<sup>623</sup> to question how language frames and censors thought and how the language of law tends to reproduce and reinforce the oppression inherent in language.<sup>624</sup> These insights grounded my resort to artmaking and performance to reflect on international law, as they offered the

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<sup>623</sup> Barad, *Meeting the Universe Halfway*, 29; Deleuze and Guattari, *A Thousand Plateaus*, 348.

<sup>624</sup> Cixous, "Medusa"; Derrida, *Genesis, Genealogies*; Derrida, *Monolingualism*; Butler, *Gender Trouble* (New York: Routledge, 1990), 4-5.



possibility of escaping the confines of language for creative reimagining. Relying on critical legal texts I questioned international law's foundations, especially its problematic origins in stoicism's toxic masculinity<sup>625</sup> and European Christian imperialism.<sup>626</sup> The result is an international order in which the weak and dependent, women and the living and non-living constituents of the planet are ignored and unrepresented, and the multinational corporation thrives and dominates. Although the 1945 *UN Charter* spoke of "the equal rights of men and women and of nations large and small",<sup>627</sup> and saving "succeeding generations from the scourge of war",<sup>628</sup> eighty years later wars fuelled by the powerful states continue to rage, and Indigenous peoples, vulnerable and disadvantaged peoples, women, girls and non-binary individuals continue to suffer discrimination, oppression, deprivation, and violence. The environment, the other living and non-living entities of this planet, originally silenced and excluded by the *Charter*, receive only the slightest of protections framed in anthropocentric and instrumental terms, despite accelerating risks of climate change, biodiversity loss, plastic and other toxic pollution, and nuclear annihilation. International law and globalization seem to work well for disembodied multinational corporations, inheritors of the imperial system, as they traverse the globe in search of tax havens, cheap labour and resources, and low environmental and human rights standards. We need a planetary charter that reattributes the many externalities that have favoured corporate wealth accumulation at the expense of people and planet and that provides restorative reconciliatory justice.

This critical analysis has scholarly and practical implications. It invites us to examine the origins of international law and the legal status of transnational corporations and use our creative powers to reimagine and advocate for a more inclusive form of international law. It

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<sup>625</sup> Nussbaum, *Cosmopolitan tradition*.

<sup>626</sup> Anghie, *Imperialism, Sovereignty*; van Ittersum, "Hugo Grotius"; UN Special Rapporteur, *Preliminary study of Doctrine of Discovery*.

<sup>627</sup> Second paragraph of the Preamble to the *UN Charter*.

<sup>628</sup> First paragraph of the Preamble to the *UN Charter*.

also demonstrates how international negotiations could be made more representative and inclusive. Art making and socially engaged artistic practices inspired by this critical analysis can help people to see and care about these significant gaps in international law and governance. Exposing and recognizing these gaps is a first step to adjusting behaviour and proposing new approaches.

### **Philosophical and cultural critique**

My exploration of decoding continued through a philosophical and cultural critique of international law, beginning with consideration of aesthetics and international law. Aesthetic considerations<sup>629</sup> led me to search for values we might share, which could contribute to reimagining a planetary charter for our times. This inspired me to explore values of beauty, truth, peace, consent, and identity through my artmaking and performance. A recent experiment with object-oriented international law<sup>630</sup> highlighted international law's unusual material impacts and demonstrated the possibility of bringing philosophical and cultural insights into conversation with international law. Philosophical and cultural critiques helped explain my identity as a posthuman cyborg of the anthropocene. Digital technology has transformed us, opening up both vast possibilities of creative connection and oppressive surveillance and exploitation,<sup>631</sup> which we must navigate with bravery and care, as cyborg warriors.<sup>632</sup>

New materialism and posthumanism have reclaimed embodied knowledge and the interrelations of all living and non-living entities within and around us, unsettling hierarchical notions of human superiority and exceptionalism.<sup>633</sup> New materialism reconnects artists and

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<sup>629</sup> Richardson, *The Art of Environmental Law*; O'Connell, *The Art of Law*; Shaviro, *On speculative realism*.

<sup>630</sup> Hohmann and Joyce, *International Law's Objects*.

<sup>631</sup> Lyotard, *Postmodern Condition*; Baudrillard, *Simulations*; Foucault, *Discipline and Punish*.

<sup>632</sup> Haraway, "Cyborg Manifesto", Anderson, "O Superman (For Massenet)".

<sup>633</sup> Stengers, "Wondering about Materialism," 368, 377.

Braidotti, "Critical Posthumanities"; Dolphijn and van der Tuin, Interview with Karen Barad; Barad, *Meeting the Universe*; Bennett, *Vibrant Matter*.

artisans to their materials, enlivening and enriching creative processes.<sup>634</sup> The idea of anamnesis<sup>635</sup> or recollection, reconnects us through time, to distant pasts, and long forgotten dreams and helps us reach into and seek to shape unknown futures. Today's potters, weavers, sculptors, artists, actors, dancers and musicians connect through their materials, instruments and bodies with the dreams and hopes of artists and artisans of the past and future.<sup>636</sup> Using their bodies, voices, hands and feet to interact with the material and cyborg world, they seek to express what is most precious, drawing themselves and their audiences into anamnestic dreaming. Deleuze and Guattari's art-law cultural critique exhilarates and inspires this imagining with rhizomes, becomings, lines of flight, assemblages, and the power of artistic war machines whose object is not war but artistic expression.<sup>637</sup>

There are both scholarly and practical implications to this philosophical and cultural critique of international law. Exposing international law to these different perspectives invites us to take radical new approaches to reimagining international law, not as an instrument of control for the status quo but as a means to assemble our efforts to save the planet and ourselves. These critiques invite us to reimagine international law and make art that engages conscientiously and aesthetically with each other, with materials and with the living and non-living constituents of our environment. This is a practical contribution to international law in that it reinforces the need to update legal paradigms to consider scientific and philosophical understandings and to respond more effectively to current crises. This also has practical implications for artmaking. Introducing concepts from international law into philosophical and cultural discussions generates inspiration for new ways of making art, as posthuman cyborg artists of the anthropocene grapple with their entanglement and shared responsibility

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<sup>634</sup> Barrett and Bolt, *Carnal knowledge*; Graham, "I am a dancer"; Auslander, *From Acting to Performance: Essays in Modernism and Postmodernism*; Østern, "Choreography as Poetic Pedagogical, and Political Action in Contemporary Times".

<sup>635</sup> Bryant, Srnicek and Harman, *The Speculative Turn*.

<sup>636</sup> Ingold, *Making*; Sennett, *Craftsman*.

<sup>637</sup> Deleuze and Guattari, *A Thousand Plateaus*.

for these current crises and helps guide them to more ethical and sustainable ways of producing art.

### **Research-creation**

Research-creation has proved to be a thoughtful, iterative way to explore transdisciplinary international law and artmaking and to document my research processes. My transdisciplinary international law-art engagement began awkwardly as a tentative, extrinsic reaching across disciplines, but developed into an intrinsic, immanent, embodied practice. Research-creation allowed me to turn cold international law problems into “aesthetic encounters and events” that might be capable of persuading others “to care and to care differently”.<sup>638</sup> It enabled me to develop my transdisciplinary international law-arts practice whereby reflection on international law inspired artmaking and performance, and artmaking and performance revealed insights about international law, and the recounting of both processes engendered a distinct reproduceable research practice. Research-creation is recursive in that the works created instigate further written or assembled works, and these writings and artworks instigate further projects, and so on, with all contributing to and communicating an expanding vision for a renewed planetary charter.

TILARC is a new form of transdisciplinary research-creation involving the arts and international law. Therefore, writing about the literature underpinning this research and describing the research-creation projects through which I developed the practice contribute to scholarship about potential applications of research-creation to interdisciplinary and transdisciplinary research. Writing about TILARC provides a practical contribution in that it is a how-to guide for exploring difficult political, legal and environmental issues through artmaking and performance. Teachers encountering students struggling to cope with the existential crises of our times such as armed conflict or climate change can deploy TILARC

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<sup>638</sup> Loveless, *How to Make Art*, 107.

as a means for their class to learn about such issues through artmaking and performance. This serves to empower both teachers and students, enhancing their understanding, expressive capacity, and agency in the face of complex challenges.

### **Qualitative methodologies**

Qualitative methodologies helped me to pursue and learn from this emergent process of bringing international law and the arts into conversation. Grounded theory<sup>639</sup> and practice-based research<sup>640</sup> allowed me to recognize that every element of this process provided data and offered learning opportunities that would develop TILARC practice. Autoethnography,<sup>641</sup> critical approaches<sup>642</sup> and relativism<sup>643</sup> situated me explicitly in the research and allowed me to recount my personal experience of developing TILARC practice. In this way I could critique the universalizing language of international law<sup>644</sup> and raise questions about who and what may be ignored or overridden by international law. Relativism helped me to hear, acknowledge and seek to understand and accommodate the multiplicity of perspectives and desires in our atomized world, whether in the context of a symposium on arts and human rights, a municipal election campaign, or an improvisational performance group. The qualitative methodologies adopted for my research provided a basis for assessing and addressing ethical questions I encountered, helping me stay relatively calm, curious and open to experiences as they unfolded. Applying these methodologies to the developing TILARC practice ensured that collaborative and socially engaged processes were ethically based and affirmed and celebrated the dignity and multiplicitous contributions of all participants.

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<sup>639</sup> Charmaz, "Grounded Theory."

<sup>640</sup> Haseman, "A Manifesto".

<sup>641</sup> Poulos, *Essentials of Autoethnography*; Ellis and Bochner "Autoethnography, personal narrative"; Irwin, "Becoming A/R/Tography"; Scott Shields, "How I Learned to Swim".

<sup>642</sup> Cixous, "Medusa"; Butler, *Gender Trouble*; Rose, *Feminism & Geography*; Said, *Orientalism*; Kincheloe and McLaren, "Rethinking Critical Theory and Qualitative Research"; Gubrium and Holstein, "Analyzing Interpretive Practice".

<sup>643</sup> Smith and Deemer, "The problem of criteria in the age of relativism."

<sup>644</sup> Cixous, "Medusa"; Derrida, *Genesis, Genealogies*; Derrida, *Monolingualism*; Butler, *Gender Trouble*.

Documenting my use of these methodologies contributes to developing scholarship focused on using qualitative methods to support creative, arts-infused research. It also makes a practical contribution by showing how to use the methodologies effectively in support of research-creation, embracing the uncertainties and complexities, while continuously building and reflecting on the data as I tested and developed the TILARC practice.

Having detailed the process by which I decode international law, the dissertation turned to projects focused on encoding and reimagining international law. TILARC projects on the themes of identity and introspection, the plasticocene, and encoding values demonstrate the diversity of ways in which the intellectual and artistic practices of TILARC can be deployed and how they each produce scholarly and practical contributions to knowledge.

### **Reflections on identity and peace**

I used reflections on international law and artmaking as a means to look inward and examine fundamental questions about identity and values. This technique led me to connect my ongoing aesthetic interest to the long history of ambivalent mysterious double-play between face and mask.<sup>645</sup> This allowed me then to explore the imaginative world of fairies in Shakespeare's *Midsummer Night's Dream* to distinguish fantasy and fake news and celebrate my need for imaginative play while staying grounded in reality. Using the same technique, I embarked on a heavy meditation on international armed conflict. Through readings, reflections and artmaking, I rediscovered my enduring desire for, and commitment to peace through law, and developed language and visual tools for communicating about these difficult issues.

These examples show the versatility of TILARC for individual creative exploration. They demonstrate how the interplay of legal reflections and artmaking can be an enriching and effective way to meditate on an issue, uncover and integrate new knowledge, and

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<sup>645</sup> Belting, *Face and Mask*.

rediscover and reclaim forgotten or buried insights. Anamnesis comes more readily through fluid mixing of making and reflecting, opening possibilities of deeper understanding of complex issues. By encouraging deep reflection and liberating artmaking the TILARC practice contributes to the development of both new scholarship and new creative practice addressing current issues.

### **Plastic assemblages**

My material engagement with waste plastic involved collecting garbage as a foreign tourist and as a local resident and constructing imaginary beings out of this abundant and frightful artificial resource. I listened to podcasts and attended international law negotiations and discussions about making a global treaty to ban plastic pollution. In this way I learned more about the problems of toxicity and non-recyclability and the urgent need for solutions at the international, national, local and individual level. By participating in garbage cleanups and sharing the knowledge that my research produced at conferences and expositions, and in my writing and on my website, the project took on an element of social engagement and activism, whereby I hoped to raise awareness, change individual behaviours, and persuade decisionmakers to act to eliminate plastic pollution.

There are practical and scholarly contributions made through this multidimensional engagement with plastic waste. Using TILARC practice for activism and socially engaged artmaking produces and disseminates knowledge assemblages that connect individuals to their local, national and global community, transforming them into active participants for social change. Making art with plastic waste is an existential encounter with the plasticocene in which the artist develops practical, embodied knowledge about how to work with these abundant, problematic materials. The imaginative assemblages created from waste materials stimulate reflection about our personal and collective responsibility for plastic waste which sharpens the sense both of responsibility for the problem and of agency in contributing to the

solutions. Scholarly written reflections, legal submissions, conference presentations, and panel discussions develop knowledge assemblages that influence policy changes at the local, national and international level.

### **Recoding values**

I explored the recoding of values through a series of socially engaged projects connecting the arts and international law. In the *Arts and Human Rights* project, artists, academics and human rights advocates shared their expressive interpretations of the relations between the arts and human rights in words, stories, music, dance, film and visual art, producing a manifesto and stimulating a further and expanded round of artistic engagement through an art exposition, performances and discussions. I discovered with classmates how SDG implementation in a rural community would necessitate reconciliation of past conflicts and that artistic and cultural projects could provide an inclusive, sustainable and embodied way to support community engagement and build social cohesion. As a candidate for municipal election, I conversed with thousands of fellow residents about their vision for a sustainable, inclusive and just local community, and experienced first-hand the social atomization, isolation and anguish that had settled and deepened during COVID lockdown. This prepared me and sensitized me to the dynamics of the RISE team as its members vacillated between their desire to collaborate creatively and their urge to separate from the team and focus on individual identity. The collective micro-opera project that tentatively developed from this posthuman cyborg anxiety gently came together as we found ways to express, accommodate and validate our most precious values in collaborative improvisational performance.

The exploration of decoding and recoding continues through my TILARC practice, with new networked *Beyond Boundaries* discussions about how we should live and what we should do “for global concord and social well-being against the background of the most



critical social, political and environmental challenges we face”.<sup>646</sup> I reflected on the latest soft law statement of international solidarity, the UN General Assembly’s *Pact for the Future*, and concluded that we have less need of words describing commitments and more need of activation through social engaged activism. Artmaking and performance about these matters can increase social engagement and inspire social transformation. The *Pact* and the *Beyond Boundaries* project show that nation states and citizens are preoccupied with current crises and wish to contribute to solving them. While the *Pact* risks irrelevance if it fails to connect to popular culture, the latter project recognizes the arts as important potential contributors to social transformation.

Using TILARC to recode values through reflection on international law issues and artmaking and performance is an innovative way to engage with and gain some limited agency over the many global crises that overwhelm us in the post human cyborg anthropocene. By inviting artistic expression about these complex issues, TILARC helps to bridge between disciplinary fields that tend to fragment knowledge and isolate concerned citizens. By inviting social engagement TILARC encourages self-awareness, community orientation, and empowerment of citizen advocates. Being driven by scholarly engagement and reflection, TILARC produces new knowledge assemblages in the form of codes of values, a manifesto, panel discussions, conference presentations, academic papers and this dissertation. By conscientiously engaging with global challenges while making art, TILARC produces practical ethical, embodied, material knowledge about the world around us. This contributes to more inclusive and caring collaborations and more sustainable artistic assemblages, aimed at coding values for a renewed planetary charter. In the next section I pan back from the details of the development of the TILARC practice and their contributions to

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<sup>646</sup> Brautigam & Heinsch, *Beyond Boundaries* project description, 2.

scholarly and practical knowledge, to take a broader view of TILARC practice as a whole to consider its potential impact and contribution to knowledge.

### **Broader implications of TILARC practice**

As an international lawyer-artist I sought to escape the confines of legal practice and free my reflections on international law from law's disciplinary constraints so they could be more radically critical and creative. The TILARC approach took shape and strengthened into a generative, repeatable practice, offering a way for me to engage with international law through art and performance to express ideas about the many crises of our times.

The 1945 *UN Charter* articulated the importance of building institutions that foster global peace and security and peaceful dispute settlement but failed to include the environment and its non-human constituent elements. Eighty years later, despite the decades of institution building, international law making and economic progress, the world is in crisis, with growing inequality, armed conflict, climate change, biodiversity loss, and nuclear threat. We need a charter that takes a more inclusive and holistic approach to safeguarding the planet. We now face problems that are extremely complex and interconnected, with deep roots in systems of past oppression and exploitation. Concerns about identity, consent and trust resonate positively and negatively in intimate, community, and international relations. Addressing any of these global problems requires attending to, recollecting, and reconciling, these underlying issues of identity, consent and trust.

Art and performance provide ways to express what words of law alone cannot do adequately, helping us develop, reveal, assert, and cherish our identities, relationships, and our values. Participating in arts and cultural activities can help people to understand historic oppressions and build community to work together on addressing today's crises.<sup>647</sup> Bringing

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<sup>647</sup> Greene, "Teaching as Possibility: A Light in Dark Times"; Greene, "Releasing the Imagination"; Aksenova and Rieff, "Use of Art to Promote Reconciliation," 2. Three qualities of art that can contribute to reconciliation, 2.1 Art as a process, 2.2 Art's relational quality, and 2.3 Art's inherent intelligence.

legal concepts and critiques of law into artmaking and performance is a way to share information and bridge disciplines, thereby inviting challenging conversation, creative reflection and imaginative assemblage. Through transdisciplinary research-creation individual and collective projects, I was able to explore and express ideas about core dimensions of the posthuman condition: identity, multiplicity, representation, vulnerability, dignity, consent, trust, relation to nature, material engagement, being cyborg, and solidarity. TILARC practice is a gentle and creative means to decode and reimagine a renewed planetary charter in that arts activities can help people share understandings, discern common values, express their own soft law of flexible consensus, as a basis to collaborate creatively.

Each of the individual and collective projects discussed in the preceding chapters<sup>648</sup> contributed to my understanding of how art and performance could help decode international law and envision a renewed planetary charter. They coalesced and settled into what became my TILARC practice. By stimulating a constant interplay between arts and international law, this practice has a dynamic of inspired curiosity as objects, ideas and people entangle and weave into new stories, projects and possibilities. In this way the practice generates knowledge and enhances awareness and understanding of international humanitarian, human rights and environmental law issues.

Pictured as a Venn diagram,<sup>649</sup> I situate TILARC practice at the intersection of three circles representing global crises; culture, art and performance; and international law. It is surrounded by existential protest art (being the intersection of global crises and culture, art and performance), Sustainable Development Goals (being at the intersection of global crises and international law) and aesthetics and creative lawyering (being at the intersection of international law and culture, art and performance). TILARC is not a law reform initiative

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<sup>648</sup> Annex V. Chart of TILARC projects.

<sup>649</sup> See Annex VI. TILARC in a Venn diagram.

aimed directly at changing international law. It is nonetheless a useful way to engage creatively with international law, explore sensitive issues, generate new insights, and raise awareness about matters of importance to local, national and international communities. The TILARC practice helped my personal development in that it gave me a positive and creative way of engaging with global problems that can easily overwhelm and leave one feeling hopeless. It helped me to make art, perform and write about difficult issues in ways that may touch other people. TILARC is a valuable practice for collaborating with others because it is inviting of multiplicity and ethically based. It is aesthetics-based engagement with the world, without winners and losers, only curiosity and creativity, caring and sharing, and with continuous renewal of trust and consent. The individual and collaborative TILARC projects generated new embodied knowledge about the posthuman cyborg anthropocene and about how art and performance can contribute to commenting on, and possibly influencing the development of international norms to meet current global crises.

TILARC is adaptable to individual introspective creative work or collaborative projects. The practice may seem highly personal, dependent on my knowledge of international law and my artistic inclinations and the research-creation journey autoethnographically documented in this dissertation. Yet TILARC offers multiple points of connection for anyone who seeks to assert their own agency in the face of the overwhelming forces of the posthuman cyborg anthropocene: we can read, contemplate, talk, write, and make art and performance about the topic of concern. TILARC provides a creative and ethical way to explore complex problems and tackle the existential frustrations and challenges of our times. As an individual practice it can be meditative and enlightening, bringing clarity of thought and purpose, and channelling artmaking. As a collaborative practice it can be intense, dangerous, enriching, multiplicitous, exciting and supportive.

We learn different things from solo and group activities, but they all contribute to building artistic practice and knowledge about what is important to us and how we can contribute to imagining a planetary charter more suited to our times. As we make art and performance together we explore our identities as posthuman cyborgs of the anthropocene, contemplate our interdependent relationships with all living and non-living constituents of this planet, and imagine a renewed planetary charter committed to peace, respect for identity, consent, trust, and justice. What one learns from such an experience goes well beyond words. It is reconnection with and recollection of the generations before and the generations to come, all dreaming of a better world.

Writing this dissertation enabled me to summon, analyse and organise extensive research, from over four years of reading, reflecting, artmaking, convening, and performing, and connect that to other relevant recollections and sources of knowledge. The continuous retracing, recollecting, analysing and documenting of transdisciplinary research-creation serves to connect thoughts, action and inspiration across disciplines. This generates more thoughts, action and inspiration for new projects. In this way I have been able to trace the development of TILARC from an enthusiasm to deploy art and performance to reflect deeply about international law, through multiple exploratory projects to my established practice. By producing collaborative and individual works and documenting the development of TILARC practice I intend to contribute to scholarship<sup>650</sup> on interdisciplinary and transdisciplinary research, arts-infused qualitative methodologies and research-creation. Thereby I also mean to contribute practical knowledge about caring collaboration, sustainable artmaking, and self-

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<sup>650</sup> Aksenova and Rieff, "Use of Art to Promote Reconciliation," 3.7 Academics. The authors noted that despite our visually oriented contemporary society, international law remained "focused entirely on texts and the written word." They suggest that "undertaking art projects aimed at promoting international criminal law values can contribute to the study of the discipline as such. Creative expression can illuminate the aspects of this field long ignored by traditional approaches."

care through artmaking and reflection, as I raise awareness about current global crises and encourage others to engage and exercise their agency in seeking to address these crises.

### **The future of TILARC practice**

I am keen to share this TILARC practice through teaching, writing, artmaking and performance. I intend to continue to deepen the practice, because there are so many topics that would lend themselves to being explored in this way. The examples of TILARC practice discussed in these pages contain the seeds for more projects, spanning beyond this doctoral research. For example, with the accelerating pace of development of surveillance technology, algorithmic manipulation, data mining and artificial intelligence, I am interested in a further TILARC exploration of cyborg identity. I am also interested in exploring with Indigenous and other artists and scholars the possibility of developing collaborative art projects or a performance about international law's imperial origins and its impacts on Indigenous peoples' laws and cultures.

There are several ideas that I plan to pursue in the immediate future. I will continue to revise and update my International Law-Art-Governance website to disseminate information about my TILARC practice. I will continue to participate in the *Beyond Boundaries* project to see how I can support it in connecting international law, philosophy, and the arts. I have committed to organizing a one-day demonstration of plastic art-making and law-making at Concordia University's Fourth Space in early summer 2025. I will look into publication opportunities for my dissertation, possibly transforming it into an illustrated how-to guide for students and teachers looking for creative ways to engage with the most challenging issues of our times. I will explore the possibility of teaching TILARC practice at university, in either or both of the faculties of fine arts and law. I would be interested in pursuing postdoctoral work if that would provide me continued access to a community interested in collaborating in transdisciplinary research-creation. I will look for opportunities to present on TILARC

practice and specific TILARC projects at arts conferences. I am considering mounting an art exposition about TILARC at Concordia University now that it has settled as my research-creation practice. I am also considering developing some kind of collaborative art and performance project to explore the *Pact for the Future*, perhaps through improvisational micro-opera.

One thing is certain, now that I have developed this practice for bringing complex international law problems and the arts into transdisciplinary creative communication, I will have no shortage of challenging topics to which to apply it. I will continue to seek out organizations and individuals who might be interested in accompanying me on and contributing to this TILARC journey.

## **Conclusion**

This dissertation has shown how I was able to develop an initial idea to combine critical reflections on international law with artmaking and performance into a reflective, creative and sustainable transdisciplinary practice. All this individual and collaborative work generated new forms of knowledge about material and social engagement and decoding and encoding of values.

International law and state to state negotiation are failing to solve today's complex global problems. To bring new insights to these problems I think critically about international law as I make art and create performances, inspired by the scholars of the cyborg posthuman anthropocene. Individual or collaborative TILARC practice enables us to explore and express core aspects of the posthuman condition: identity, multiplicity, representation, vulnerability, dignity, consent, trust, relation to nature, material engagement, being cyborg, and solidarity. This practice offers vast possibilities for enriching understanding of international law and gaining new insights into how we might change attitudes about and approaches to our relations with each other and the nonhuman living and non-living constituents of this planet.

Making art and performing together affords an opportunity gently to discuss difficult topics, share understandings, and develop our own soft law as a basis of imaginative collaboration. As we engage creatively, we develop new transdisciplinary and embodied knowledge about our relationships and about the complex problems we are seeking to solve. TILARC provides for an aesthetics-based engagement with global issues, driven by caring, curiosity and creativity. This assemblage practice of making art and performance, critiquing, decoding, reimagining and encoding values for the posthuman cyborg anthropocene has the disruptive potential of an artistic war machine, whose purpose is not war but to make art to promote peace, human rights and environmental protection.

To begin this doctoral research project, I posed the question whether a transdisciplinary research-creation approach combining international law and the arts could help decode meaning and recode values and vision to help us find solutions to current global crises. Through this explanation of the development of my TILARC practice I have shown how it provides an innovative, creative and embodied way for individuals and groups to contribute with all their beings to ongoing and urgent renewal of our shared values. Having grounded the practice in critical legal, philosophical and cultural literature, research-creation, and qualitative methodologies, and validated the practice through the experience and documenting of multiple TILARC projects, I intend to continue developing the practice through new and ongoing relationships, projects and issues, all aimed at reimagining a planetary charter more suited to our times.



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## Annex I. United Nations System<sup>651</sup>

Type of Agency	Notes
<b>UN Specialized Agencies, which are autonomous international organizations brought into relationship with the UN through negotiated agreements</b>	These are and funded by both voluntary and assessed contributions
Food and Agriculture Organization (FAO)	
International Civil Aviation Organization (ICAO)	
International Fund for Agricultural Development (IFAD)	
International Labour Organization (ILO)	Founded in 1919, ILO was originally an agency of the League of Nations transferred to the UN upon its creation.
International Monetary Fund (IMF)	
International Maritime Organization (IMO)	
International Telecommunication Union (ITU)	Established in 1865 to standardize and regulate international radio and telecommunications.
United Nations Educational, Scientific and Cultural Organization (UNESCO)	
United Nations Industrial Development Organization (UNIDO)	
United Nations World Tourism Organization (UNWTO)	Established in 1974.
Universal Postal Union (UPU)	Established in 1874 to set a uniform postal rate and equal treatment between domestic and foreign mail.
World Health Organization (WHO)	
World Intellectual Property Organization (WIPO)	
World Meteorological Organization (WMO)	Its predecessor, the International Meteorological Organization (IMO), was founded in 1873.
World Bank (WB)	World Bank Group (WBG) comprises five legally separate institutions, two of which, the International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA) are not specialized agencies in accordance with Articles 57 and 63 of the Charter.

<sup>651</sup> This information about the UN system is taken from the United Nations website, “UN System”, accessed 20 November 2024: <https://www.un.org/en/about-us/un-system#:~:text=The%20United%20Nations%20Environment%20Programme,development%20of%20the%20global%20environment.>

<b>UN funds and programs financed through voluntary rather than assessed contributions</b>	
United Nations Development Programme (UNDP)	
The United Nations Environment Programme (UNEP)	Founded in 1972 to address the world's growing environmental challenges.
United Nations Population Fund (UNFPA)	
United Nations Human Settlements Programme (UN-HABITAT)	
United Nations Children's Fund (UNICEF)	
World Food Programme (WFP)	
<b>Other Entities and Bodies</b>	
Joint United Nations Programme on HIV/AIDS (UNAIDS)	
The Office of the United Nations High Commissioner for Refugees (UNHCR)	Replacing the UN International Refugee Organization (IRO), which existed from 1946 to 1952.
United Nations Institute for Disarmament Research (UNIDIR)	
United Nations Institute for Training and Research (UNITAR)	
United Nations Office for Project Services (UNOPS)	
United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)	Which reports only to the UN General Assembly.
United Nations System Staff College (UNSSC)	
United Nations University (UNU)	
UN WOMEN	
<b>Related Organizations</b>	Not specifically in accordance with Articles 57 and 63 of the UN Charter in that they deal with matters beyond "economic, social, cultural, educational, health, and related fields".
Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO)	
International Atomic Energy Agency (IAEA)	
International Criminal Court (ICC)	
International Organization for Migration (IOM)	
Organisation for the Prohibition of Chemical Weapons (OPCW)	

United Nations Framework Convention on Climate Change Secretariat (UN Climate Change) (UNFCCC)	Established in 1992 when countries adopted the United Nations Framework Convention on Climate Change (UNFCCC). “With the subsequent adoption of the Kyoto Protocol in 1997 and the Paris Agreement in 2015, Parties to these three agreements have progressively reaffirmed the Secretariat’s role as the United Nations entity tasked with supporting the global response to the threat of climate change”.
World Trade Organization (WTO)	
International Trade Centre (ITC)	

## Annex II. United Nations Treaty Series Subject Areas

UN Treaty Series Subject Areas
I. Charter of the United Nations and Statute of the International Court of Justice
II. Pacific Settlement of International Disputes
III. Privileges and Immunities, Diplomatic and Consular Relations, etc
IV. Human Rights
V. Refugees and Stateless Persons
VI. Narcotic Drugs and Psychotropic Substances
VII. Traffic in Persons
VIII. Obscene Publications <sup>652</sup>
IX. Health
X. International Trade and Development
XI. Transport and Communications
XII. Navigation
XIII. Economic Statistics
XIV. Educational and Cultural Matters
XV. Declaration of Death of Missing Persons
XVI. Status of Women
XVII. Freedom of Information
XVIII. Penal Matters
XIX. Commodities
XX. Maintenance Obligations
XXI. Law of the Sea
XXII. Commercial Arbitration and Mediation
XXIII. Law of Treaties
XXIV. Outer Space
XXV. Telecommunications
XXVI. Disarmament
XXVII. Environment
XXVIII. Fiscal Matters
XXIX. Miscellaneous

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<sup>652</sup> The most recent entry in this category is from 1949.

### **Annex III. Building Positive Relations: Manifesto for the Arts, New Materialism, Posthumanism and Human Rights**

23 November 2022

Inspired by the experience of sharing artistic works and diverse perspectives, this manifesto seeks to connect individual and collective reflections and generate new thinking about how to build positive relations between the arts, posthumanism, new materialism and human rights. We embrace inclusive and interdisciplinary research and practices that recognize our interdependence with each other and the material world. Our individual and collaborative work of advocacy, teaching, decoding, encoding, artmaking, and performance seeks to foster solidarity and inclusion.

The idea of a manifesto is approached with trepidation. We acknowledge the inadequacy of attempting to communicate complex ideas through words alone. For human rights to evolve to meet new challenges, legal language must be informed by experience, imagination, and artistic expression beyond words. We focus on the creative, expressive flame in each of us unconstrained by conventions, canons, and categorizations of artistic worth.

As we explore ideas about the arts and human rights, new materialism and posthumanism, we are wary of how social conditioning may unconsciously influence us and how our access to knowledge about the world is often mediated by anthropocentric distortions. We acknowledge that those of us with privileges, power, and resources continue to benefit from historical policies and practices that today would be considered illegal aggression, genocide, occupation, and crimes against humanity. We strive to use our artistic expression and human rights advocacy to decode and dismantle the legal, economic, cultural, and social architecture that entrenches injustice. We strive to identify and embrace the best in human knowledge and understanding while challenging ideas that are entangled in the ongoing influence of colonial, capitalist, extractivist, racialized and gendered power.

In a discussion of building positive relations between the arts, new materialism, posthumanism and human rights, many concepts clash, and answers are elusive. Consider for example, how the reductive idea of “survival of the fittest” can be used to advance both scientific understanding of evolution and an anthropocentric, racialized, and gendered political agenda. We seek generative ideas that encompass wonder, caring, nurturing, identity, solidarity, kinship, community, kindness. Human rights protections are essentially about careful caretaking of the many ‘non-fit’, the disadvantaged and oppressed. Do “human rights” raise humans above nature, making environmental protection mainly about saving the planet for humans? Can we reimagine “human rights” to include other forms of life? Can we see connections between the inherent dignity of each person and the inherent dignity of each tree, bird, river, or rock? We endeavour to learn from Indigenous ways of knowing and being in relationship, aware of the risk of appropriating and misrepresenting what may be beyond our understanding.

We seek to feel connection and create solidarity so we can solve problems together. To do this we need to learn more about each other and develop a deeper understanding of what it is to be human, even as the category of human constantly shifts and expands. Digital technology promises greater connection to other humans around the world but may lead to desensitization to and disassociation from their suffering because of disinformation, commercialism, unequal access, and information overload. What can we learn from the arts

and traditional storytelling about the human condition and our existential struggle for identity, belonging and meaning? How does new materialism help us understand our relationship with the universe of animate and inanimate nonhumans? How do we see beyond anthropocentric binaries like “man against nature” to foster positive relationships?

As post-humans experiencing cyborg existence and globalization, we confront our individual and collective impact on the planet, the sacrificed ghosts that enable our way of life and haunt our actions, as well as our entanglement with corporate avatars.

We seek to reshape digital technologies to be ethical, transparent, inclusive, democratic, and sustainable, so they do not reinforce or perpetrate injustice.

- We celebrate the flame of creativity and individuality in each of us.
- We create to learn about our motivations and the materials and methods of making and to express ourselves.
- We create together to deepen our understanding of each other and to experience creative communion beyond ordinary conversation.
- We work together across disciplines to explore meanings, share concerns and knowledge, and find alternative approaches to address the crises of the anthropocene.
- We employ diverse collaborative and individual reflective and creative processes.
- We endeavour to be compassionate allies with human rights and environmental defenders.
- We seek to be gentler on our environment and to care for the materials and beings we involve in our artmaking.
- We work to decode and reimagine legal and governance structures to strengthen environmental and human rights protections.
- We seek to create new forms of beauty that connect us to the joyousness of life as it unfolds beyond all beliefs, sorrows, and suffering.

## Annex IV. Proposition – Values in Our Hearts

Here is a simple proposition aimed at developing **an improvisational micro-opera** from our collective exercises and experiences over the last few months of RISE.

It explores relations between self, identity, individuality, and our yearning for belonging, solidarity, and collaborative creation.

It would be an improvisational performance (e.g., 1 hour in length) exploring these themes and building on the experiences of the workshops we did with Danielle, Adriana, and Mira. With Danielle's help we might book a dance studio for this. If that is not possible, VPS might do but we would need the dance floor installed. We would need room for CLOrk and an audience. I would recommend that we do this soon – before the end of January so we do not lose the sensations of the December workshops.

There are no limits and rules, but we respect each other's limitations. Consent, no consent, yes, no, maybe, are activated within us a questions and invitations, emerging to shape our actions and conversations, injecting possible rules of self-knowledge.

Curiously we feel and experience differently in the isolation of the zoom world. There are many black squares as some listen, while others wonder if they say too much or are on the same wavelength. We discuss and discover our own limits. When we meet as humans in the woods or in a studio space any hesitation is dispelled by inspiration, and we are joyful in each other's company.

We talk about what we expect from each other: civility, respect for our differences, support for each other, collaboration.

Through exploration of interdisciplinarity and multisensual experience (call it what you want – e.g. synesthesia) we test the limits of aesthetic, cultural and social rules.

Our identities are partially constructed of rules passed down from our families and our culture, providing us with a lifeline and a noose. We mimic to learn and survive but we know we have potential for more than mimicry, to strike out in new directions.

Some of us need a few rules to guide or motivate us, others need them only to feel resistance and break them, others see them as songs or poems yet to be written.

I propose we start off partnering with someone 'looking in the mirror'. Do you see yourself or someone else? It could be someone quite obviously different, offering a new identity to explore. One of you leads and the other mimics. Actors \ vocalists \ dancers in pairs work to move \ vocalize together. You can do conventional stuff (there could be props) – e.g. combing hair, putting on makeup, dressing, tying a tie, vamping for the mirror.

You can expand beyond this, dancing \ moving \ vocalizing, mirroring each other's movements \ sounds but at a point the follower becomes frustrated or bored with mimicry and breaks loose from this, doing \ sounding something different, rejecting the task of following.

At a later point the pair decide to merge their movements \ sounds, picking up ideas from each other and then dancing \ moving \ vocalizing in a kind of duet, not necessarily mirroring

each other but complementing, echoing each other. It could have some of the dynamics of a conventional duet.

They break apart again into the individuality, the aloneness. Quiet, saying no to the imposition of harmonizing, fitting in.

Eventually they find a way to come back together. Maybe it is through the movement \ sound of others on the stage. There would be other pairs going through a similar process of mirroring, then rejecting the constraint of the relationship (the mirror) gaining independence and identity, coming back in to share and expose their identities, dialoguing in movement \ sound, finding complementarity, harmonizing, then hitting a further rupture of harmony.

Vocally \ sonically something similar is happening. Singing and making music harmoniously and then breaking from it, sounding discordant. Exploring the process by which we relate to each other by learning from each other and copying, how this becomes tedious, we need to break and find ourselves, but we want to share ourselves with others, so we find ways again to share snippets of identity and make them harmonize with what the other person is doing. How this can become deep harmony and coordination but again, can become oppressive, leading to the break away, and the search for autonomy, identity, or other stimuli.

Part of the discord could be competitive struggles of ego and identity, trying to be heard over others, and part of it could be true self-discovery: I do not need to follow, I can say no.

The different movers \ vocalists find someone else (another 'partner') to commune with. How does it go? Sometimes it works, and we have an awesome party – perhaps everyone is complementing, sharing, harmonizing for a while – it's beautiful, wild, but exhausting.

We want to work together, we will come together again, to make a group harmony of some sort. There is a thread of connection – what is it – that which makes us enjoy each other, love each other, not want to harm each other, this is so important. We are like the starlings in their murmurations. We naturally share, out of the corners of our eyes, our ears, our bodies, all our senses. A circle of fabric for making tethering connections could be part of the moments of collective performance.

But how long does it last? Don't we love to feel part of a group? Don't we love to be loved? How do the discordant bodies and voices come back together? How do we find ways to hear, feel, taste move with our identity engaged and alive in collaboration with others?

How does it end – who knows, but I am an optimist. We did not get this far without a compelling need and love of working together.

## **Libretto**

Prologue – Phil Nguyen with orchestral program

Yes, no, maybe

I consent

No, I do not consent

Am I my decisions?

Where do I start -



And you take over?

Inside outside  
Identity constructed  
On our parents' knees  
Rules internalized  
To guide  
To resist  
To be written as songs  
Echoing through time.

We learn survival  
Through mimicry  
Reflecting, mirroring  
Reaching beyond safety  
To seek our own lines of flight.

We slow - stop - time  
Recalling, recycling  
Reusing, replaying

No limits and rules  
Respect our limits  
In negotiated play  
Do I consent?  
Do you?

...

I'm reading about how little I know  
It's killing me  
Why did I not write this?  
Why did I not see this first?  
Why am I so blind?  
Why are they so all-seeing?  
The voice of reason  
The voice of critique  
The voice of the philosopher  
I bow down,  
Now wait a minute  
How can they speak as though they are the voice of god?  
Are they the voice of god?  
They might as well be...  
Vestigial,  
Unsexed,  
Still sexy,  
Surveying Empire's ruins:  
Post-modern genii!  
They even have me pegged:  
Girl becoming bird

Becoming Amazonian  
Becoming coyote crone!  
How do they do this,  
write with such authority  
As the voice of god?  
They have insights but each one  
Pains me, strains me,  
To find it,  
Absorb it, lose it, forget it.  
What's left?  
Me alone with a heavy book, a heavy sweater, heavy socks  
A sense of loss, indignation, indigestion

Have you another, truer way  
To express these values?

Perhaps your solo is this...  
I'd love your solo to be about this...

Interlude - Oonagh's voice recording with leaf mask

Listen to the  
Creek pouring  
The last of the spring runoff  
Down the mountainside  
Moss and marsh plants greening  
On slick rocks and sodden earth  
Warm breezes stir  
The awakening forest

Insects are already buzzing,  
Singing, biting, stinging  
Dragonflies dart and feast  
As the sun slips behind the hills

Listen to the birds chirping,  
Blue jays calling to each other  
Readying themselves for night

The water lapping on the shore  
Frogs peeping  
A fish jumps unseen  
Scattering rippling circles  
In its wake

The dark spruce branches  
Rustle and jostle each other  
In a light breeze

Bats race silently across the clear twilight sky  
Between the trees

A toad croaks  
Another responds

The tiny light of a firefly dances bright then dims

The breeze picks up  
Wavelets slap the shore  
A wind chime responds

Later an owl calls -  
Soothing to the sleepers in their beds  
Not so for the tiny creatures  
Scurrying through the darkened underbrush

I moved to Canada as a child  
For the insects -  
They did not disappoint

Epilogue - Karl reading  
So here we are wearing our hearts on our sleeves.  
Each of us  
A beating heart bared  
Shredded, torn, worn  
Patched, repaired  
Comforted, and loved.  
What is in your heart  
As your truest value?  
Our hearts  
Bound unbound  
Hidden and revealed  
Finding what's true  
We find the values in our hearts  
Handle them with care  
This is all we are.  
It's what we give.

## Annex V. List of TILARC projects

Fig. 1.	INTERNATIONAL LAW CONFERENCE TUTU	Chapter 1, 6
Fig. 2	FACE-LANDSCAPE IMAGERY UNTITLED	Chapter 2
Fig. 3	EMERGENT RELATIONS	Chapter 2
Fig. 4	SUMMER WINDS 1 AND 2	Chapter 2
Fig. 5	LINES OF FLIGHT	Chapter 2
Fig. 6	COVID FACES SERIES	Chapter 3
Fig. 7	WINTER LIGHT SCENES	Chapter 3
Fig. 8	SPRING FLOOD FAMILY	Chapter 3
Fig. 9	TREE SPIRIT	Chapter 3
Fig. 10	REFLECTIONS ON THE UN CHARTER - WHAT IS AND IS NOT THERE	Chapter 3
Fig. 11	DECODING AND REIMAGINING POSTHUMAN IDENTITY	Chapter 3, 4, 5
Fig. 12	SKETCHES OF CLIMATE VULNERABILITY	Chapter 4
Fig. 13	SPRING ZINE-ING – TO THE CURB AND BEYOND	Chapter 4
Fig. 14	JEANNE B'ARK, MYTHICAL HEROINE OF THE ANTHROPOCENE	Chapter 4
Fig. 15	IMAGINING FAIRIES, FEET ON THE GROUND	Chapter 5
Fig. 16	MY CYBORG ME	Chapter 5
Fig. 17	SKETCHES OF NO CONSEQUENCE	Chapter 5
Fig. 18	BUILDING POSITIVE RELATIONS: THE ARTS, NEW MATERIALISM, POSTHUMANISM AND HUMAN RIGHTS	Chapter 5, 7
Fig. 19	WITH LOVE	Chapter 5
Fig. 20	GHOST TREE	Chapter 5
Fig. 21	BLOOD TIDE I AND II	Chapter 5
Fig. 22	SKETCHES OF THE INTERNATIONAL COURT OF JUSTICE	Chapter 5
Fig. 23	AMAZONIA GODDESS OF WASTE ENTANGLED	Chapter 6
Fig. 24	PHOTO ESSAY: PICKING UP PLASTIC WASTE, MAI KHAO BEACH, PHUKET, THAILAND	Chapter 6
Fig. 25	OUR LADY OF THE PERPETUAL, PERSISTENT PLASTIC POLLUTANTS WITH INFANT	Chapter 6
Fig. 26	SDG IMPLEMENTATION AT THE LOCAL LEVEL: theory and practice (municipal election campaign)	Chapter 7
Fig. 27	HANDLE WITH CARE: VALUES IN OUR HEARTS	Chapter 7
	HUMAN RIGHTS AND ART RETREAT	Chapter 4, 7, 8
	BEYOND BOUNDARIES LAW	Chapter 7
	DISSERTATION	

## Annex VI. TILARC in a Venn diagram

