



EUROPEAN SOCIETY OF INTERNATIONAL LAW

Conference Paper Series

Conference Paper No. 12/2014

10th Anniversary Conference, Vienna, 4-6 September 2014

Zero Dark Thirty: International Law, Torture and Representation

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ZERO DARK THIRTY: INTERNATIONAL LAW, TORTURE AND REPRESENTATION

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Abstract:

This paper explores the relationship between film and international law against a historical and theoretical backdrop, foreshadowing the further development of international legal theory regarding the image and also engaging with relevant film criticism. We examine one recent feature film, *Zero Dark Thirty*, directed by Kathryn Bigelow and released in December 2012. The film focuses on a fictionalised account of the covert US operation to capture and kill Osama bin Laden. The paper uses the film and its critical reception as a means to begin to consider related questions of genre, torture, gender, targeted killing and the dangers presented by their representation in a Hollywood film.

Keywords: international law; law and film; Zero Dark Thirty; legal theory; law and image; film criticism; Osama bin Laden; torture; targeted killing; representation.

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1. Introduction

In our mediatized and visually-driven era, international law, its institutions and practitioners feel the pull of publicity, engage with techniques of communicative power and increasingly negotiate the politics of representation. There is increasing attention given to the visual dimension of law and the normative power of the image.¹In the fields of human rights and international criminal justice in particular, film has been used as evidence, and for advocacy and outreach. For recent examples one can think of the viral social media experiment *Kony 2012* or the earlier significance of film as evidence in the trials at the International Criminal Tribunal for the former Yugoslavia and later the International Criminal Court.

This paper will explore the relationship between film and international law against a historical and theoretical backdrop, foreshadowing the further development of international legal theory regarding the image and also engaging with relevant film criticism. We examine one recent feature film, *Zero Dark Thirty*, directed by Kathryn Bigelow and released in December 2012. The film focuses on a fictionalised account of the covert US operation to capture and kill Osama bin Laden. The paper uses the film and its critical reception as a means to begin to consider related questions of genre, torture, gender, targeted killing and the dangers presented by their representation in a Hollywood film.

By focusing on the debates regarding the film, and its critical fallout, the intention is both to examine the power of pictures and the influence of the visual in the field of international law, but also to explore the accompanying risks. Having looked at the ambiguous visual record presented of the killing of bin Laden, we call into question the power of pictures and call for greater attention to be paid to the limits and ethics of representation in the practice and portrayal of international law.

¹ See how these questions are entering mainstream journalism in “Visibility Before All; Video and Human Rights”, *The Economist*, 14 January 2012, 58-59.

2. International Law and Film

The power of images and the significance of film are most commonly understood and integrated within law at the evidentiary and documentary level.² Yet international law has also found itself to be the subject of larger and more commercial feature films, principally produced for audience entertainment and consumption, and less motivated by a functional or pedagogical purpose. At times this has been explicit, but many older genres of popular film, such as those dealing with the criminal justice system, with conquest and conflict, have important international law ‘resonance’.

From early film representations such as *Judgment at Nuremberg* (1961) to more recent human rights and international law-related films such as *Hotel Rwanda* (2004), *Blood Diamond* (2006) and *The Whistleblower* (2010), international law has found itself to be the focus of several important and popular feature films. This development has coincided with a broader post-Cold War turn towards international law and its concepts in both media discourse and popular culture. International law’s expansion, growing confidence and reach has also been a factor. Yet popular influence and political significance in times of war, transition and global connection have come with an attendant uncertainty, concern and caution. International lawyers both want and shun the spotlight; desire recognition and power, yet fear misrepresentation and spectacle.

Film is also culturally situated - the debate within international economic law about the treatment of cultural products is often a debate in short hand about the pervasive cultural influence (and empire) of Hollywood and American film. Thus film as a global economy is positioned within wider debates about community formation and even over the place of liberal internationalism and the hegemonic role of the United States. During the Cold War film and art were key products in the battle for cultural supremacy and public diplomacy. Film has often been held up as a mirror to society and as our own era has seen a growth in human rights discourse and the juridification of political debate about conflict and its resolution, it is perhaps no surprise that the discipline has found itself caught up with the world of cultural production and image-making. As Anne Orford has written, there is a danger that the representation of international law in media accounts, can itself feed off and profit from the imagery of suffering, whilst concealing deeper questions of responsibility – “the exploitation of the suffering of people in civil wars or famines enriches global media corporations and their shareholders, and produces ‘the surplus-value of spectacle, entertainment, and spiritual enrichment for the “First World””.”³

International law’s treatment within film has been as varied as the many genres and narrative archetypes that populate the industry.⁴ Films such as *Blood Diamond* and *The Whistleblower* have used international justice themes as a variation on familiar earlier genres such as docudrama,

² There is increasing, but still limited, scholarly interest in questions of visual representation, the image and law. See for example: Costas Douzinas, *Law and the Image: The Authority of Art and the Aesthetics of Law* (University of Chicago Press, Chicago, 1999); Richard K Sherwin, *Visualizing Law in the Age of the Digital Baroque: Arabesques and Entanglements* (Routledge, Abingdon, 2011).

³ Anne Orford, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law* (Cambridge University Press, Cambridge, 2003) 78.

⁴ A useful resource on international law and film can be found at: <<http://iiljfilms.blogspot.com.au/>>.

crime, conflict and even outlaw narratives. Other films such as *The Interpreter* (2005) have used international law's glamour and even the UN's architecture as a backdrop for a traditional political thriller.

There have also been films with an explicit documentary aesthetic such as Errol Morris' work *The Fog of War* (2003) and *Standard Operating Procedure* (2008) exploring the Cold War, Vietnam and Abu Ghraib through stark and revealing interviews with key participants. Another film, *The Act of Killing* (2012) uses documentary techniques to explore paramilitary violence and killings in 1960s Indonesia which have remained unaccounted for as crimes. This kind of aesthetic is almost film 'as justice', where participants illustrate the moral complexities in their various roles of witness, victim and perpetrator and urge mechanisms of international law and human rights to respond in kind. *Hotel Rwanda* is another example of this type of film seeking to represent the Rwandan Genocide, though doing so in the context of UN failures to act and subsequent hesitant efforts at the ICTR to deliver justice.

Although *Hotel Rwanda* attempts to give quite an accurate picture of what occurred it does so through a micro focus on a safe haven: an idealised space of bravery and hope, an oasis amidst desolation. In the face of the genocidal violence and killing outside the Hotel's walls the audience's attention is in the main fixed on the Hotel and we come to understand the tragedy through a small cast of characters, who we trust have faced evil, but who through courage and the human spirit cling to survival, and remain for the most part safe within the walls, abandoned by the West but still protected in some part by Western walls and local ingenuity.⁵

Film is adapting to the broader changes in the digital media landscape and has migrated online both as commodified cultural product, but also as YouTube clip and marketing tool. Here a recent example is the *Kony 2012* experiment in viral online film advocacy.⁶ Traditional epistolary and oral forms of civic engagement have been widened to include social and other forms of digital media advocacy, heavily reliant on the development of an aesthetic and imagery associated with human rights and international criminal justice-related themes. These aesthetics have also fed back into the use of film as evidence at key trials such as the Lubanga trial at the ICC, with its echoes of the use of film at Nuremberg. The use of film at the Nuremberg trials was significant and yet has also been underplayed in subsequent accounts. For the affect of the film also threatened spectacle and thereby to undermine the careful archival sensibility of much of the evidence led.⁷

Of course just because international law finds itself screened to global audiences both as entertainment and as advocacy, does not mean that it has been successfully done or that this

⁵ For a more developed reading of the film and an examination of the power of human rights-related films see: Lena Khor, "Human Rights and Network Power" (2011) 33(1) *Human Rights Quarterly* 105.

⁶ Daniel Joyce, "Media Witnesses: Human Rights in an Age of Digital Media" (2013) 8 *Intercultural Human Rights Law Review* 231 at 258-262.

⁷ Telford Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir* (Bloomsbury, London, 1993) 186-187.

engagement with film comes without risk.⁸ Kony remains on the run and the film an example of a successful experiment in terms of its distribution, but a failure in terms of remedy.⁹ *Blood Diamond* sits alongside other action adventures in online market places, largely divorced from ongoing debates regarding resources and conflict.¹⁰ The complexity of the film, *Standard Operating Procedure*, with its reading of the perpetrators as potential victims and witnesses, has been largely lost in our indignation at the Abu Ghraib imagery and its entry into the realm of international law iconography. Often international legal complexities have translated poorly onto the big screen. As with debates over international legality and the public demand for clarity from experts, the mediatization of international legal subjects has resulted in a dilemma – how to both acknowledge the politics, complexity and failures of the discipline, whilst also appealing to a form of normative certainty in its representation on screen as some form of moral internationalism or at least humanitarianism.

An example of the dangers of human rights heroism as film can be found in the currently released documentary *E-Team* (2014) which follows the work of Human Rights Watch's emergency team as they themselves document, record and publicise violations of human rights and international law.¹¹ Does this kind of genre veer too close to advocacy at the expense of moral complexity or even visual power?

If international lawyers cannot always provide clear answers to complex questions, then for film-makers at least we are expected to provide adventure, strong narrative concerns and moral significance. How then to account for the technical and mundane elements within our discipline, for the fact that often international justice makes for poor viewing – just try the ICC or UN TV for starters.¹² How also to account for the competing demands of celebrity and justice? Celebrity can assist with publicity, but can it deepen processes of justice? Or is there a danger that it will trivialise and divert such efforts? This kind of concern is often personified in our view of Hollywood actors or musicians as UN ambassadors and moral agents. As a recent online article asks relevantly, how good are the UN's goodwill ambassadors?¹³

3. Zero Dark Thirty

Zero Dark Thirty has also faced this difficulty. Will Kathryn Bigelow do for the aftermath of 9/11 what Leonardo DiCaprio did for *Blood Diamonds* and Nicole Kidman did for the UN interpreting service? Bigelow drew significant criticism for her representation of torture and interrogation in the film and principally for failing to take an overt political position regarding the abuse of human rights and violation of international law within the film. If her film is powerful in terms of her

⁸ There is an emerging category of human rights film festival. See discussion of this phenomenon and an instrumentalist argument for human rights films in Sonia Tascon, "Considering Human Rights Films, Representation and Ethics: Whose Face?" (2012) 34(3) *Human Rights Quarterly* 864.

⁹ Sam Gregory, "Kony 2012 Through a Prism of Video Advocacy Practices and Trends" (2012) 4 *Journal of Human Rights Practice* 463.

¹⁰ For a counter argument see Khor, "Human Rights and Network Power"(n 5).

¹¹ See further: <<http://www.abc.net.au/lateline/content/2014/s4020784.htm>>.

¹² Proceedings stream 'live' from the ICC website. Cf. UN TV at <<http://webtv.un.org/>>.

¹³ See: <<http://www.irinnews.org/report/99012/how-good-are-goodwill-ambassadors>>.

visual representation of significant events in recent political history, it is seemingly silent in terms of situating its subject matter explicitly within an international legal framework. What is especially interesting is the ‘absence’ of international law in this powerful film. The film also blurs the distinction between documentary and fiction. Bigelow faces the difficulty of taking on a subject of such contemporary significance and complexity when there has been arguably insufficient time to reflect on these ‘events’ and their full variety of meaning. As Keyan Tomaselli and Maureen Eke argue:

Most films lack a sense of history as process. This is because films relate their messages in the perceptual present.¹⁴

Yet the film opens explicitly contextualised by the events of 9/11 with the screen blank while recordings of victims play in the background. The audience is told that the film deals in real events and that its protagonists draw on stories and experiences that have been shared by historical figures. This aesthetic of ‘authenticity’ is blended throughout what is otherwise very much a Hollywood film. The film is punctuated by familiar and unfamiliar historical events and locations such as interrogations of terror suspects in ‘black sites’, the terror attacks in London, the shifting political sands of the US regarding torture and interrogation techniques following the election of President Obama, the targeting of the CIA in Pakistan and Afghanistan and especially the hunt for and eventual assassination of bin Laden in Pakistan.

The central character Maya is a young CIA operative who has spent her entire professional adult life obsessed with capturing and killing bin Laden, who has lost colleagues and friends in this pursuit, and faced obstacles and criticism within the CIA for her work. She has also been tutored in the practice of torture and participates in gruelling interrogations of suspects with colleagues at black sites, all the while building an investigative trail leading to bin Laden. This hunt is thwarted by politics, the anti-torture lobby, the lazy careerism of her CIA superiors and simply by plain old human error and miscalculation.

Eventually her instincts regarding the significance and identity of a key messenger for bin Laden lead her, and the CIA and special forces team tasked to find him, to his bunker in Pakistan. It is an already familiar story, but now we are purportedly being given more detail than the media or official narratives have provided. Maya confronts office politics and bureaucracy, and is told to watch her back as political attitudes change to the interrogations, but her obsession with her target leads inexorably towards a high-risk covert mission to assassinate bin Laden – a mission which we know from the beginning to have been successful.

The film forms two halves. The first is immersed in the gritty, repulsive and unlawful world of interrogations where Maya is both participant and observer. The US is revealed as both victim and perpetrator, as powerful and weak. The second half revolves largely around making the political case to her superiors for the resources to conduct the necessary investigative work; and then the audience follows the special ops team in seemingly real time as they undertake their darkened mission in stealthy helicopters into Pakistani territory.

¹⁴ Keyan G Tomaselli and Maureen Eke, “Film and Human Rights: Whose Rights, Whose Interpretations, What Consequences?” (1997) 9 *Visual Anthropology* 353, 353.

But in a critical way the two halves are connected. The audience is led to believe that without the information gathered from the interrogations there would be no lead on the whereabouts of bin Laden. Do the unlawful means then justify the ends? Bin Laden is of course ultimately killed, his hard drives and files are retrieved, but what next? Is he in fact already history before he is killed? Maya identifies the body and flies home alone, finally able to cry. But the revenge motif is obscured. Is she grieving her own loss and culpability? Does she represent America's loss or is she upset by the futility of it all? To her credit Bigelow's film does not provide easy answers here and in some ways represents a screen upon which the audience can project its own anxieties and desires. The ending remains after all an anti-climax.

The reception of *Zero Dark Thirty* has been controversial and divided. At first, film critics applauded it as a powerful film presenting mainstream audiences with the difficult facts about the US 'War on Terror' and its use of torture in the hunt for Osama bin Laden. The film was nominated for five Academy Awards and named best picture of 2012 by the New York Film Critics Circle.¹⁵ Yet when political journalists started to review the film, questions were raised about its claims to representing the truth and it was derided as "a snuff film"¹⁶ and as "a failure on every level from the theatrical to the historical to the moral."¹⁷ Many journalists criticised the film as an apology for torture by inaccurately representing that torture was critical in eliciting information that ultimately led covert teams to bin Laden.¹⁸ Such debates echoed those within our own scholarly community regarding torture and its legality.¹⁹

In addition to radical disagreement over whether the film supports or undermines the use of torture, critics cannot agree over which genre it falls into. The issue of genre is important as genres raise expectations and critics may applaud a film adhering to or subverting generic tropes in unexpected ways. Finally, the gender of its heroine, Maya, has been an important factor in terms of how *Zero Dark Thirty* has been interpreted. She is presented alternatively as either a wonder woman figure succeeding improbably in a hyper-masculine, yet curiously bureaucratic, world, or as an asexual plot device whose significance for feminist progress is undercut by the familiar trope of the pleasure in looking at a beautiful monster.

¹⁵ Steve Coll, "'Disturbing' & 'Misleading'", *New York Review of Books*, 7 February 2013.

¹⁶ Joann Wypijewski, "Picture Show", *The Nation*, 18 February 2013.

¹⁷ Bronwen Maddox, "For lovers of truth, Zero Dark Thirty is sheer torture", *The Times*, 2 February 2013, 22.

¹⁸ Slavoj Žižek, "Zero Dark Thirty: Hollywood's Gift to American Power", *The Guardian UK*, 26 January 2013; Glenn Greenwald, "Zero Dark Thirty: CIA Hagiography, Pernicious Propaganda", *The Guardian UK*, 15 December 2012; Jane Mayer, "Zero Conscience in 'Zero Dark Thirty'", 14 December 2012, *The New Yorker*; Naomi Wolf, "A Letter to Kathryn Bigelow on Zero Dark Thirty's Apology for Torture", *The Guardian UK*, 5 January 2013; Coll, "'Disturbing' & 'Misleading'" (n 15).

¹⁹ There is a significant critical literature here. See especially, Susan Marks, "Apologising for Torture" (2004) 73 *Nordic Journal of International Law* 365; Fleur Johns, *Non-Legality in International Law: Unruly Law* (Cambridge University Press, Cambridge, 2013); Judith Butler, *Frames of War: When Is Life Grievable?* (Verso, London, 2009).

4. The Question of Genre

The predominant interpretations of *Zero Dark Thirty* are as either a police procedural (detective) story or as a war film. The focus on “the endless technical invocations of military and intelligence life (satellite images, staged meetings in the CIA headquarters in Langley, Virginia, and other trappings of ‘tracraft’)”²⁰ and the ostensibly dispassionate detective work of tracking down bin Laden leads some critics to see the film as “the ultimate procedural,”²¹ and “devoid of moral context.”²² While Michael Atkinson refers to Bigelow as “the Queen of the asymmetrical war film,”²³ Michael Boughn considers her to be fascinated with the genre of the war movie - “with the specific realities of war and their effects on those caught up in them.”²⁴ But as we know the ‘War on Terror’ is characterised as exceptional, presented as a war without beginning or end and with an enemy largely imagined. Perhaps this gives rise to a certain degree of the film’s interpretive ambiguity?

A compelling argument can also be made for seeing *Zero Dark Thirty* as a western, which Vincent Malusa argues is the bedrock for Bigelow’s cinema.²⁵ In the classic Western, cowboy hats are coded white for good guys and black for bad, with the natives forming part of the landscape or barbaric savages.²⁶ Glenn Greenwald sees *Zero Dark Thirty* as operating in similarly stereotypical ways:

The CIA and the US government are the Good Guys, the innocent targets of terrorist violence, the courageous warriors seeking justice for the 9/11 victims. Muslims and Arabs are the dastardly villains, attacking and killing without motive (other than the one provided by Bloomberg) and without scruples. Almost all Hollywood action films end with the good guys vanquishing the big, bad villain - so that the audience can leave feeling good about the world and themselves - and this is exactly the script to which this film adheres.²⁷

Central to the question of genre is the issue of whether the film should be considered as art or as journalism, human rights advocacy or even as history. This issue is directly related to the controversy over whether or not the film is an apology for, or represents a critique of, torture. Some have argued that while the film works as art, it is flawed journalism and history. Still

²⁰ Maddox, “For lovers of truth, Zero Dark Thirty is sheer torture”(n 17).

²¹ David Denby, “Zero Dark Thirty” and “This is Forty”, *The New Yorker*, 24 December 2012.

²² Mayer, “Zero Conscience in ‘Zero Dark Thirty’”(n 18); cf Mahnola Dargis, “By Any Means Necessary”, *The New York Times*, 17 December 2012.

²³ Michael Atkinson, “Duty Calls” (2013) 23 *Sight and Sound* 30, 33.

²⁴ Michael Boughn, “The War on Art and Zero Dark Thirty” (2014) 91 *Cineaction*.

²⁵ Malusa argues, “Le western est la base du cinema de Bigelow, et l’idée de déplacer le desert fondateur du grand Ouest dans les steppes ensablées du Moyen-Orient lui a permis de jeter un pont entre action pure, sensationnalisme et règles de l’engagement.”(Gabrielle Simm’s translation). Vincent Malusa, “Contre-histoire” (2013) February *Cahiers du Cinema* 28.

²⁶ Ruth Buchanan and Rebecca Johnson, “The ‘Unforgiven’ Sources of International Law: Nation-building, Violence and Gender in the West(ern)”, in Doris Buss and Ambreena Manji (eds), *International Law: Modern Feminist Perspectives* (Hart, Oxford, 2005).

²⁷ Greenwald, “Zero Dark Thirty: CIA Hagiography, Pernicious Propaganda”(n 18).

others critique the idea that art ‘excuses’ the film’s position on torture. Glenn Greenwald’s excoriation of the film takes the position that it should not be regarded as ‘apolitical’, but rather as amoral, clichéd and pretentious.²⁸ Genre matters for film as it does in providing a vocabulary for international law as both language game, narrative and imagery.

5. Torture, Apology and Gender

Many support their interpretation of *Zero Dark Thirty* as questioning or apologising for torture by reference to the cinematic language of the film. The narrative structure of the film and its interpellation of the viewer through point of view shots are understood as producing certain responses in the audience. For example, critics of *Zero Dark Thirty* refer to the opening scene, a blank screen with actual audio recordings of the voices of some of those who died in the destruction of the Twin Towers. They argue that this opening is unjustifiably manipulative, especially in light of the fact that it is followed by a torture scene where Dan, a CIA operative, is interrogating Ammar for details of a lead on Osama bin Laden’s whereabouts. This could be seen as implying a justification for the torture. By contrast, Michael Boughn, argues that the ‘attacks’ on Bigelow are part of the ‘war on art’. Boughn reads the same scene quite differently, reflecting that:

the camera angles down on Ammar and up at Dan. The shots down on Ammar embody a brutal power over a helpless, wounded victim. The shots up at Dan reinforce that sense of unbridled power and viciousness. The result is a deep emotional confusion, with the viewer’s point-of-view destabilized. Since the scene comes hard on the heel of the 9/11 victim’s voice, it ought to be a clear and unambiguous announcement of righteous anger and revenge. Dan’s anger is palpable, but the viewer’s ability to identify with it is troubled and subverted by the cinematography which forces her to sympathize with Ammar as well.²⁹

Critics of Bigelow have also contended that the graphic and lengthy scenes of waterboarding and beating in the film do not go far enough in representing the horrific intimacy and degradation of torture and thus “grotesquely understate the reality of ‘enhanced interrogation’, as any film director would if making a film for mass release: no genital torture, threat of electric shocks, dispatch of prisoners to other, less constrained countries”.³⁰

Steve Coll argues that *Zero Dark Thirty* ignores what the record shows about how regulated, lawyerly and bureaucratized—how banal—torture apparently became at some of the CIA black sites.³¹ For international lawyers it is both troubling and reassuring to see our discipline hidden from view; seemingly irrelevant, but also for once not presented as connected with these practices. The film has evoked moral outrage and extreme reactions. In likening Bigelow to Leni

²⁸Ibid.

²⁹Michael Boughn, “The War on Art and Zero Dark Thirty” (n 24).

³⁰Maddox, “For lovers of truth, Zero Dark Thirty is sheer torture”(n 17).

³¹Coll, “‘Disturbing’ & ‘Misleading’”(n 15).

Riefenstahl, Naomi Wolf calls attention to the omission from the film of the more shocking record of torture from this period, taunting, “[b]y the way, you left out the scene where the CIA dude sodomizes the wrong guy: Khaled el-Masri, the German citizen unfortunate enough to have a similar name to a militant named Khaled al-Masri.”³² According to Greenwald “there is ample evidence to suspect that the film’s CIA heroine is, at least in composite part, based on the same female CIA agent responsible for the kidnapping, drugging and torture of Khalid El-Masri in 2003”.³³

Another scene in the film is central to how readers understand its position on torture. In what could be construed as a rare reference to law, albeit law is not mentioned explicitly, three CIA analysts look at the screen when president Obama asserts that “America doesn’t torture.” Jane Mayer, whose work has focused on the approach to torture within the US administration, argues that, in the context of the film, this scene represents opposition to torture as legalistic and irrelevant:

The lone anti-torture voice shown in the film is a split-second news clip of President Barack Obama, taken from a “60 Minutes” interview, in which he condemns torture. It flashes on a television screen that’s in the background of a scene set in Pakistan; the movie’s terrorist-hunters, who are holding a meeting, barely look up, letting Obama’s pronouncement pass without comment. “By this point in the film,” as the CNN national-security analyst Peter Bergen wrote recently, “the audience has already seen that the C.I.A. has employed coercive interrogation techniques on an al Qaeda detainee that produced a key lead in the hunt for bin Laden. In the film, Obama’s opposition to torture comes off as wrongheaded and prissy.”³⁴

By contrast, Mahnola Dargis, reviewing the film for the *New York Times*, sees the scene as a blank screen onto which viewers will project their own interpretations:

Ms Bigelow cuts to a close-up of... Maya. The analyst’s face is blank. Maya’s face reveals nothing and offers as much explanation as her silence. How viewers interpret this look will depend on them because here and throughout this difficult, urgent movie Ms Bigelow does not fill in the blanks for them... I read her expression as that of an employee absorbing a new set of marching orders from her next boss—orders that drastically reverse her old ones.³⁵

When asked about whether she had expected her film to provoke such controversy, Bigelow responded:

It’s perhaps a question of education in images and of capacity to read a film, to identify a point of view: what the film signifies occurs less in speech than in the mise en scene. If you aren’t familiar with cinematographic language, interpretation loses its nuance and

³²Wolf, “A Letter to Kathryn Bigelow on Zero Dark Thirty’s Apology for Torture”(n 18). See the *Case of El-Masri v The Former Yugoslav Republic of Macedonia* (13/12/2012), App No 39630.

³³Greenwald, “Zero Dark Thirty: CIA Hagiography, Pernicious Propaganda”(n 18).

³⁴Mayer, “Zero Conscience in ‘Zero Dark Thirty’”(n 18).

³⁵Mahnola Daris, “By Any Means Necessary”, *The New York Times*, 17 December 2012.

becomes very reductive and one-dimensional. In the press, the subject matter of the film has often been simplified, people only want to see black or white, good or evil. But reality is extremely complex. Torture has been a subject of debate in the United States since 2002, a subject which the film puts back on the agenda and which will continue to be debated for years, no doubt.³⁶

Most of the critique of *Zero Dark Thirty* focuses on its troubling content and its failure to take an overt political or even moral position in relation to torture and the CIA's role in the 'War on Terror'. Critics argue that the film misrepresents the fact that torture was not crucial in obtaining the clues leading to the discovery and killing of Osama bin Laden.³⁷ Further, they argue that torture is not effective in eliciting reliable evidence. Contrary to the character Dan's assertion in the film that "Everyone breaks in the end. It's biology", some victims of torture have died rather than reveal information, while others have provided misinformation to get the torture to stop. Some have based their critical reading of the film on its manipulative narrative structure, visual techniques and the absence of contrary perspectives and voices. This undercuts Bigelow's response, that her critics are not educated in cinematographic language and have consequently misunderstood the film's message.

As the first Hollywood female director to have won an Academy Award for directing, gender is read as important to Kathryn Bigelow's films. To what extent does the casting of Jessica Chastain in the role of Maya undermine the scopophilic structure of narrative film as assuming a male viewer who identifies with a male hero whose gaze is directed within the film onto a female object?³⁸ Since news of Abu Ghraib broke, gender has been an important aspect of the 'debate' about torture, with 'gender coercion' whereby American servicewomen 'perform acts designed to take advantage of their gender in relation to Muslim males' by female American interrogators used to sexually humiliate male Muslim detainees in Iraq and Afghanistan.³⁹ What is Maya's role in torture in *Zero Dark Thirty* and how significant is her gender to this role?

David Denby celebrates Maya as a feminist heroine:

That a woman is leading the charge is almost as surprising to the Americans as it is to the Muslim prisoners. After all the female avengers of the past fifteen years—Uma Thurman and Angelina Jolie kicking men in the ego and other places—American movies have at last produced a woman clothed, like Athena, in wilful strength and intellectual armour.⁴⁰

However, for Susan Carruthers, "[t]he feminist gesture of casting a young woman as the central architect of bin Laden's downfall is undercut by the cinematographic reliance on Chastain's

³⁶ "Dans le bunker: Entretien avec Kathryn Bigelow" (2013) February *Cahiers du Cinema* 24 (Gabrielle Simm's translation).

³⁷ For example: Maddox, "For lovers of truth, *Zero Dark Thirty* is sheer torture"(n 17); Coll, "'Disturbing' & 'Misleading'"(n 15); Mayer, "Zero Conscience in '*Zero Dark Thirty*'"(n 18); Dexter Filkins, "Bin Laden, The Movie", *The New Yorker*, 17 December 2012; Denby, "Zero Dark Thirty"(n 21).

³⁸ Laura Mulvey, "Visual Pleasure and Narrative Cinema" (1975) 16 *Screen* 6.

³⁹ Timothy Kaufman-Osborn, "Gender Trouble at Abu Ghraib?" (2005) 1 *Politics and Gender* 597, 610.

⁴⁰ Denby, "Zero Dark Thirty"(n 21).

exquisite cheekbones, flawless skin, and lithe form to keep us fixated as Maya pursues her grail with Old Testament zeal.”⁴¹

While this film defies easy categorisation and invites multiple interpretations, most readers have interpreted Maya as little more than a plot device. The lack of information about her personal life means that she is interpreted as little more than a cartoon, but “[o]nce Bin Laden is bagged, she becomes a girl again... Naturally, she cries, for lost innocence?”⁴²

6. Killing bin Laden

As examined above a great majority of reviews of the film revolve around its depiction of torture, with reviewers then often reflecting on their own position on the morality, legality and even the utility of torture. This is unsurprising, given that the first 45 minutes of the film are dominated by torture scenes which hang heavily over what follows. Yet, very short shrift is given to the targeted killing of Osama bin Laden, other than that his killing is anticipated and desired.⁴³ International lawyers may have analysed the lawfulness of such targeted assassinations, yet this question has not received as much critical attention in the debates regarding the film.⁴⁴ As the ultimate target of the search, bin Laden is a plot device, necessary to generate the action rather than presented as a character. His agency and position are largely assumed, though there is uncertainty as to whether he remains a terror threat in real terms anymore. In some ways this is an under-explored question for both international lawyers and critics of the film – is there presumed justice in the killing of bin Laden and should this be celebrated or condemned? Susan Carruthers argues powerfully that:

[f]ar more wholeheartedly than it endorses torture's efficacy, *Zero Dark Thirty* celebrates state-sanctioned, extrajudicial killing. “Do your fucking jobs. Bring me people to kill,” thunders Maya's boss George . . . “Kill him for me,” she instructs the squad leader who is duly steeled by her conviction. That this uncritical embrace of assassination as a tool of statecraft should have passed entirely unremarked in the brouhaha surrounding *Zero Dark Thirty* tells us a good deal about the new normal in an era of secret kill-lists and escalating drone strikes.⁴⁵

Further, Glenn Greenwald concludes: “there is no event in the last decade that has inspired as much collective pride and pervasive consensus as the killing of Osama bin Laden.”⁴⁶ There is then guilty pleasure in the film’s representation of the final killing of bin Laden, but there is little catharsis or room to reflect upon its legality.

⁴¹ Susan L Carruthers, “Zero Dark Thirty” (2013) Spring *Cineaste* 51.

⁴² Wypiyewski, “Picture Show”(n 16).

⁴³ Carruthers, “Zero Dark Thirty”(n 41).

⁴⁴ Some exceptions include, Michael Atkinson, “Duty Calls”(n 23)32; Logan Hill, “Secrets of *Zero Dark Thirty*”, *Rolling Stone*, 17 January 2013, 20. For a representative examination of targeted killing within international legal scholarship see APV Goodman and Dominic McGoldrick, “Assassination and Targeted Killing – The Killing of Osama bin Laden” (2011) 60 *International and Comparative Law Quarterly* 778.

⁴⁵ Carruthers, “Zero Dark Thirty”(n 41).

⁴⁶ Greenwald, “Zero Dark Thirty: CIA Hagiography, pernicious propaganda”(n 18).

7. Conclusion

This paper has mapped out a variety of critical readings of the film *Zero Dark Thirty*, pointing to the broader international law-focused debates with which it can be connected, but also noting the absence of law in the film itself. In this example, the power of pictures can perhaps trigger a broader debate about the methods and manner of the mission to capture bin Laden – both a defining event within the ‘War on Terror’ and yet one which remains curiously hidden from view. We conclude then by asking whether audiences now require images and pictures to analyse and assess such activity and its consequences in international law terms, and what might be lost in translation? Given the power of the image, but also its potential for manipulation and various interpretations, what are we to make either of the ‘official visual narrative’ provided by the CIA, or of this subsequent fictionalised attempt by Hollywood to provide the pictures and narrative behind the event? Should international lawyers equip themselves with a visual vocabulary and sophistication to match the technologies available and the demands which publicity increasingly makes of the discipline?

What is interesting about *Zero Dark Thirty* is that some viewers see it as ambiguous, raising questions about the efficacy and morality of torture, while others see it as a CIA propaganda film, built on crude stereotypes of American heroes and Muslim terrorists that leave no room for critical perspectives. So how do viewers reach such different conclusions from viewing the same film, reading the key scenes in radically divergent ways? Can such opposing conclusions be predicted from viewers’ political beliefs? If film critics and political journalists are sharply split along disciplinary lines in their assessment of the film, how should international lawyers read *Zero Dark Thirty*? And how do non-lawyers understand the role of international law in this film?

What is unsettling about *Zero Dark Thirty* is that targeted killing and torture are presented as the subject of mass entertainment, without the director appearing to take a moral position or engaging in any form of debate surrounding the international legality of such actions. International law is largely surplus to requirements. This example then provides an opportunity to think more deeply about the potential and limits of our discipline’s relationship with film. Does the power of pictures threaten to obscure the power of law? *Zero Dark Thirty* points to under-explored themes and techniques in international law, highlighting the need for the further development of a visual as well as a text-based international legal vocabulary as we grapple with filmic representations of international legal significance.