

## NEW VOICES

### THE MAP AND INTERNATIONAL LAW'S STIFLED VISUAL DISCOURSE

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*Traditional accounts of international law cast the map as a passive narrator of its divisions, violence, and predilections, leaving its place in international legal discourse under-explored and under-theorised. This paper seeks to reframe the map as a particular and contingent technology designed to enact and entrench hegemonies within international law, whilst itself enjoying a quiet monopoly over the discipline's limited visual discourse. It contends that the map, as one of international law's visual conduits, dominates its imagination without adequate critique. With the support of a case study of mapping practices in the West Bank, this paper suggests that the ubiquitous 'world picture' stifles radical and transformative images conducive to global justice. Against this backdrop, it explores routes to alternative visual imaginaries, such as 'deep' and 'participatory' mapping, through which international law might better accommodate the layered socio-spatial realities of the modern world, state and city.*

**Keywords:** international law; cartography; critical geography; deep mapping; territoriality

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## I. INTRODUCTION

It is no surprise that international lawyers are sentimental about maps. International law and cartography share a common goal in the ordering of subject and space, a common origin in the Westphalian and colonial projects, and, fundamentally, a common understanding of how statehood, territoriality, and voice are constituted. This paper seeks to dislodge that sentimentality. Mainstream histories of international law tend to fixate on textual sources and thus overlook the role of the map, as international law's primary visual conduit, in shaping the international legal imagination. Authors have addressed maps as evidence in international law<sup>1</sup> and drawn analogies between law and map,<sup>2</sup> but few have confronted the map as an active and prescriptive presence in international law.<sup>3</sup> Drawing insights from critical

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<sup>1</sup> See e.g. Guenter Weissberg, 'Maps as Evidence in International Boundary Disputes: A Reappraisal' (1963) 57 *American Journal of International Law* 781; Hyung K Lee, 'Mapping the Law of Legalizing Maps: The Implications of the Emerging Rule on Map Evidence in International Law' (2005) 14 *Pacific Rim Law and Policy Journal* 159; William Thomas Worster, 'Maps Serving as Facts or Law in International Law' (2018) 33 *Connecticut Journal of International Law* 278; William Thomas Worster, 'The Frailties of Maps as Evidence in International Law' (2018) 9 *Journal of International Dispute Settlement* 570.

<sup>2</sup> See e.g. Boaventura de Sousa Santos, 'Law: A Map of Misreading: Toward a Postmodern Conception of Law' (1987) 14 *Journal of Law and Society* 279, 282; Sally Engle Merry, 'Anthropology, Law, and Transnational Processes' (1992) 21 *Annual Review of Anthropology* 357, 358; Karin Mickelson, 'The Maps of International Law: Perceptions of Nature in the Classification of Territory' (2014) 27 *Leiden Journal of International Law* 621, 621–22.

<sup>3</sup> Notable exceptions include Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900* (Cambridge University Press 2009); Jordan Branch, *The Cartographic State: Maps, Territory and the Origins of Sovereignty*

geography, this paper suggests that, by revitalising the world map through new practices of mapping, international law might enhance its capacity for radical, subaltern, and proletarian conceptualisations of space.

Section II unpacks the map's structural prescriptions before Section III explains their historical entanglement with international legal praxis. Section IV then explores how, at present, these prescriptions condition the discursive production of 'place' in international legal argument. On these terms, Section V explores alternative mappings of space that might better accommodate the intricacies and idiosyncrasies of lived space.

## II. DISSECTING THE MAP AS AN ARTEFACT OF INTERNATIONAL LAW

In order to address the map as a contingent and particular technology of governance, it is important to identify what distinguishes the cartographic representation of space from its natural subject. With the advent of the 'world picture',<sup>4</sup> the conversion of natural space into the visual lexicon of constitutive units became a fixture of international governance. Indeed, the post-1945 international legal order has ossified around this 'statist visual imaginary' and its implication that life, politics and commerce transpire exclusively and evenly through the absolute, static, and opaque unit of the nation-state.<sup>5</sup> This image has become particularly ubiquitous in the post-

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(Cambridge University Press 2013); Nikolas M Rajkovic, 'On Fragments and Geometry: The International Legal Order as Metaphor and How It Matters' (2013) 6 *Erasmus Law Review* 6; Nikolas M Rajkovic, 'The Visual Conquest of International Law: Brute Boundaries, the Map, and the Legacy of Cartogenesis' (2018) 31 *Leiden Journal of International Law* 267; Jean d'Aspremont and Eric De Brabandere, 'Paintings of International Law' in Jessie Hohmann and Daniel Joyce (eds), *International Law's Objects* (Oxford University Press 2018).

<sup>4</sup> On the notion of the 'world picture', see Martin Heidegger, 'The Age of the World Picture' in William Lovitt (tr), *The Question Concerning Technology and Other Essays* (Garland 1977); Benjamin Lazier, 'Earthrise; or, The Globalization of the World Picture' (2011) 116 *American Historical Review* 602; Gianni Vattimo and Robert T Valgenti, *Of Reality* (Columbia University Press 2016).

<sup>5</sup> Rajkovic, 'The Visual Conquest of International Law' (n 3) 272.

decolonisation world, as sovereign states now occupy the near entirety of the planet's landmass.<sup>6</sup>

Problematically, this visual taxonomy portrays the planet as a smooth surface, with states interrupted only by the single valve of the capital city, through which pure, unadulterated sovereignty emanates. This officialised world picture represses the layering of socio-spatial divisions – cultural, political, emotional, ethnic, economic, linguistic, national, religious, semantic, proprietary – upon which lived spaces are built.<sup>7</sup> Lefebvre, for example, advocates an understanding of space that emerges from – not in spite of – its occupation by 'an organic, living, and thinking being'.<sup>8</sup> Every space exists in spatial relation to its neighbours, in historical relation to its past, and in aspirational relation to its future.

Despite this, official maps present an internationally sanctioned façade that overlooks the relationality and liminality of lived spaces and represses the inconvenient truths of contestation, variegation, and rupture.<sup>9</sup> Critically, they impose new, eternally foreign fictions onto complex spaces instead of empathising with their occupants. Indeed, it is by virtue of this very capacity to censor and simplify that the map's neat delineations have become synonymous with order, discipline, and legibility.<sup>10</sup> In this sense, the map

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<sup>6</sup> Surabhi Ranganathan, 'Decolonization and International Law: Putting the Ocean on the Map' [2020] *Journal of the History of International Law* 1, 1.

<sup>7</sup> For an account of 'division spaces' characterised by this layering, see Scott Newton, 'Parallel Worlds: Cold War Division Space' in Matthew Craven, Sundhya Pahuja and Gerry Simpson (eds), *International Law and the Cold War* (Cambridge University Press 2019).

<sup>8</sup> Henri Lefebvre, 'Space and the State' in Neil Brenner and Stuart Elden (eds), *State, Space, World: Selected Essays* (Gerald Moore, Neil Brenner and Stuart Elden trs, University of Minnesota Press 2009) 229.

<sup>9</sup> Henri Lefebvre, *The Production of Space* (Donald Nicholson-Smith tr, Blackwell 1991) 363.

<sup>10</sup> Robert D Sack, 'Human Territoriality: A Theory' (1983) 73 *Annals of the Association of American Geographers* 55; Vasuki Nesiiah, 'Placing International Law: White Spaces on a Map' (2003) 16 *Leiden Journal of International Law* 1; Saskia Sassen, 'When Territory Deborders Territoriality' (2013) 1 *Territory, Politics, Governance* 21; Mickelson (n 2); Henry Jones, 'Lines in the Ocean:

orders not only natural space, but also the complex social relations that are inextricably bound up with it.

### III. THE MAP'S ENTRENCHMENT IN INTERNATIONAL LAW'S *BILDUNGSROMAN*

In understanding international law's quiet reliance upon cartography, it is crucial to understand that international law has never existed without, outside, or beyond the map. The disciplines originated, in their modern forms, as twin technologies through which foreign spaces were pulled into the carto-administrative rubric of European sovereignty.<sup>11</sup> For the governing elites of post-renaissance Europe, the Westphalian map provided a neat, legible format through which the reach of state power could be visually asserted, exhibited and authenticated. Yet this reification was reciprocal: As international law championed the map, the cartographic precepts of territoriality and jurisdiction acquired legal significance as the key parameters for participation in international community.<sup>12</sup> This relationship only deepened as Westphalian map was laid out like a tile floor over the non-European world.<sup>13</sup>

#### *1. Cartography as Colonial Currency*

The classical international legal doctrine of Grotius, Vitoria, and Suárez was primarily concerned with what Antony Anghie terms 'the grand redeeming project of bestowing sovereignty on the dark places of the earth'<sup>14</sup> and the imposition of European concepts (and images) of sovereignty upon non-

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Thinking with the Sea about Territory and International Law' (2016) 4 *London Review of International Law* 307.

<sup>11</sup> Benjamin Schmidt, 'Mapping an Empire: Cartographic and Colonial Rivalry in Seventeenth-Century Dutch and English North America' (1997) 54 *The William and Mary Quarterly* 549, 552.

<sup>12</sup> Sassen (n 10); Upendra Baxi, 'Some Newly Emergent Geographies of Injustice: Boundaries and Borders in International Law' (2016) 23 *Indiana Journal of Global Legal Studies* 15, 19.

<sup>13</sup> Benton (n 3).

<sup>14</sup> Antony Anghie, 'The Evolution of International Law: Colonial and Postcolonial Realities' (2006) 27 *Third World Quarterly* 739, 741.

European people and places.<sup>15</sup> The flourishing of European cartography in the sixteenth and seventeenth centuries was directly attributable to its recognised ability to entwine commerce, empire, and law, and to market the resulting tapestry as objective fact.<sup>16</sup> Whereas in Europe borders were inferred from political reality, the non-Westphalian world was mapped by force. Whether cast as 'cartographic violence'<sup>17</sup> or the more banal 'cartogenesis',<sup>18</sup> the map validated imperial Europe's legal proclamations of order and civility by compiling a new visual codex through which the world was to be read and, by implication, governed. In this way, the map was integral to the erasure of pre-colonial and non-European landmarks, boundaries and readings of space; an erasure that was subsequently sanctioned by imperial international law.<sup>19</sup>

The colonial project was ground zero for the modern map as an instrument of legal assertion. Law and map were united by a common goal that endures to this day: to flatten, order, and discipline colonial and post-colonial spaces. The map emerged not only as a means of making sense of the world, but as a constitutive force in its own right. It is relevant not only that the map was the conduit for the enduring subjugation of the Global South, but also that it originated (and continues to operate) as an instrument of visually enshrining that subjugation.

## 2. *Cartography as a Science*

Cartography served the colonial project through its façade of uniformity, empiricism and officialdom. 'For centuries', Carl Schmitt claims, 'humanity had a mythical image of the earth, but no scientific understanding of it as a

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<sup>15</sup> See generally Martti Koskenniemi, *The Gentle Civilizer of Nations* (Cambridge University Press 2001); Gerry Simpson, *Great Powers and Outlaw States* (Cambridge University Press 2004); Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press 2005).

<sup>16</sup> Kate Miles, 'Insulae Moluccae: Map of the Spice Islands, 1594' in Jessie Hohmann and Daniel Joyce (eds), *International Law's Objects* (Oxford University Press 2018) 249.

<sup>17</sup> Mark Neocleous, 'Off the Map' (2003) 6 *European Journal of Social Theory* 409.

<sup>18</sup> Rajkovic, 'The Visual Conquest of International Law' (n 3).

<sup>19</sup> Miles (n 16) 257–58.

whole<sup>20</sup> – the map played that role. As romantic cityscapes, evocative cartouches, and fantastical creatures gave way to the omniscient eye of the modern world picture, both law and map advanced the 'encrustation of the world picture'.<sup>21</sup> A remarkable study of enlightenment-period maps by political scientist Steve Pickering traces a conspicuous shift in cartographical style around the signing of the Westphalian treaties in 1648.<sup>22</sup> Lined maps replaced pictorial views and cartography came to be viewed as scientific rather than artistic. In this way, discourse over the map's subjectivity was set aside.

The emergence and proliferation of a top-down perspective on the globe inculcated an ontological arrogance shared by international lawyer and cartographer alike, and the 'taxonomic categorisation' of territory became a scientific and intellectual pursuit both worthy of devotion and commanding of deference.<sup>23</sup> The turn towards orthogonal (top-down) projection also prompted shifts in the way that space was visualised and knowledge about space was communicated. By depicting the colony as a flat, contiguous whole, the colonial cartographer imbued his creations with an illusion of homogeneity.<sup>24</sup> This suppressed the colony's 'tangled and interrupted' spaces and the 'changing and locally differentiated qualities of rule'.<sup>25</sup> The visual expulsion of nuance and contestation insulated the map from resistance or

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<sup>20</sup> Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (first published 1950, GL Ulmen tr, Telos Press 2006) 50.

<sup>21</sup> John Brian Harley, 'Deconstructing the Map' in Trevor J Barnes and James S Duncan (eds), *Writing Worlds: Discourse, Text and Metaphor in the Representation of Landscape* (Routledge 2006) 241–42.

<sup>22</sup> Steve Pickering, 'Borderlines: Maps and the Spread of the Westphalian State from Europe to Asia' (2013) XL-4/W3 International Archives of the Photogrammetry, Remote Sensing and Spatial Information Sciences III <<https://www.int-arch-photogramm-remote-sens-spatial-inf-sci.net/XL-4-W3/III/2013/>> accessed 15 March 2021.

<sup>23</sup> Nesiah (n 10) 10.

<sup>24</sup> Miles (n 16) 252.

<sup>25</sup> Benton (n 3) 3.

critique. The map has, in turn, become integral to international law's territorialised 'way of thinking'.<sup>26</sup>

The qualities that attracted the colonial cartographer to the map are arguably the same ones that have made it so ubiquitous in international legal discourse today. While maps have been individually contested for their contents, the medium itself eludes critique. The world map became coterminous – in both physical and conceptual terms – with the Westphalian system and the assertion of European sovereignty over foreign lands and peoples. The map, fundamentally designed to reimagine particular and contingent acts of governance as pseudo-scientific acts of 'discovery', warrants resistant, alternative and proletarian readings of space that might dislodge its visual hegemony.

#### IV. CONTESTING THE MAP IN INTERNATIONAL LEGAL ARGUMENT

As international law has evolved with the map, it has come to perceive it as a visual precondition to international legal voice. It presumes, as in the 1933 Montevideo Convention, that statehood is bound up in the existence of a defined territory, a fact invariably ascertained by recourse to the map.<sup>27</sup> In essence, appeals to international legal attention must resonate with the visual structure that the map has prefigured for international legal argument. International legal voice is thus contingent on being present, or at least placeable, on the world map.

In this way, international legal argument is conditioned by the map as a particular and contingent form. It forces local actors to re-articulate local spaces as at odds with the presumed contentment of Westphalian cartography in order to capture the international attention. This section unpacks this phenomenon by locating it within the 'war of maps' over the

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<sup>26</sup> Dino Kritsiotis, 'Public International Law and Its Territorial Imperative' (2009) 30 *Michigan Journal of International Law* 547, 547; Sara Kendall, 'Cartographies of the Present: "Contingent Sovereignty" and Territorial Integrity' in Martin Kuijer and Wouter Werner (eds), *Netherlands Yearbook of International Law 2016* (TMC Asser 2017) 4.

<sup>27</sup> Convention on Rights and Duties of States adopted by the Seventh International Conference of American States (adopted 26 December 1933, entered into force 26 December 1934) 165 UNTS 3802 (Montevideo Convention) art 1.



West Bank and the interplay of visual and legal forms seen in the disciplining of the Occupied Palestinian Territories ('OPT') as a site of carto-legal contestation.<sup>28</sup>

### *1. Perspective and Framing: Mapping the West Bank*

If the map signifies order, then claims of disorder and illegality must dislodge that presumed order. In his seminal *Forensic Architecture*,<sup>29</sup> Eyal Weizman describes the introduction of a topographical model to the Israeli High Court in the *Beit Sourik* proceedings.<sup>30</sup> His understated account of the process exposes an important detail: 'When a topographical model showing the path of the Wall was brought to court, at the request of the judges, the parties had to leave their designated places and assemble around it.'<sup>31</sup> In both metaphorical and concrete terms, the introduction of multi-dimensionality into the courtroom uprooted and disrupted the quotidian order of legal proceedings and their presumed mapping of the Beit Sourik locality.<sup>32</sup> This is a prime example of how international legal attention can be harnessed in new ways by disrupting the map and overcoming international law's apathetic approach to visual forms.

Even the most formalistic, empirical maps incorporate a set of aesthetic choices that temper our perception of subject and space.<sup>33</sup> In the words of the late legal anthropologist Sally Engle Merry, 'law [...] like a map, represents/distorts reality through the mechanisms of scale, projection, and symbolization.'<sup>34</sup> In sites such as the OPT that rupture the map's neat taxonomy of space, these variables facilitate the weaponization of

<sup>28</sup> Christine Leuenberger and Izhak Schnell, 'The Politics of Maps: Constructing National Territories in Israel' (2010) 40 *Social Studies of Science* 803, 817–18.

<sup>29</sup> Eyal Weizman, *Forensic Architecture: Violence at the Threshold of Detectability* (Zone Books 2017).

<sup>30</sup> HCJ 2056/04 *Beit Sourik Village Council v. The Government of Israel* [2004] IsrSC 58(5) 807, IsrLR 264. See also Martti Koskenniemi, 'Occupied Zone—"a Zone of Reasonableness"?' (2008) 41 *Israel Law Review* 13.

<sup>31</sup> Eyal Weizman, 'Maps of Israeli Settlements' (Open Democracy, 24 April 2002), <[https://www.opendemocracy.net/en/article\\_631jsp/](https://www.opendemocracy.net/en/article_631jsp/)> accessed 16 March 2021.

<sup>32</sup> *Ibid* 125.

<sup>33</sup> Shari Motro, 'Lessons From the Swiss Cheese Map' [2005] *Legal Affairs* 46, 47.

<sup>34</sup> Merry (n 2) 358.

cartography to political ends.<sup>35</sup> During the negotiation of the Oslo II Accord, in which the territorial limits of the West Bank and Gaza were defined, an Israeli map came close to sabotaging negotiations with Arafat's Palestinian Liberation Organisation.<sup>36</sup> This so-called 'Swiss Cheese' Map colour-coded the PLO's territorial administration in such a way as to portray it as an 'archipelago' of disconnected pockets of land, causing PLO leader Arafat what was described as 'insufferable humiliation'.<sup>37</sup>

This example invites us to treat counter-cartographies with caution. In cartographical dialectics, framing and perspective become exceptionally important. In a 2007 study, Vandello, Goldschmied and Richards showed two maps of Israel to participants in order to explore the 'appeal of the underdog'.<sup>38</sup> The first group was shown a map which focused exclusively on Israel, presenting Israel as the 'topdog' relative to the OPT, whereas the second group viewed a larger-scale map of the Middle East in which Israel appeared as the smaller 'underdog'. Of the first group, 70% considered the Palestinians as the underdog; of the second group, 62.1% saw Israel as the underdog.<sup>39</sup> This study demonstrates the contingency of virtually any depiction of space, and the elusiveness of objective mapping. It is a testament to this that the Israeli submissions to the ICJ disposed of maps altogether, perhaps in order to avoid giving visual credence to the West Bank as a contiguous, coherent whole.<sup>40</sup>

## 2. Counter-Cartographies in the West Bank

It is no surprise, then, that one of the richest uses of visual media in international legal cartography is that of the Palestinian written statement in

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<sup>35</sup> Leuenberger and Schnell (n 28) 817–818.

<sup>36</sup> Worster, 'Maps Serving as Facts or Law in International Law' (n 1) 288.

<sup>37</sup> Motro (n 33) 47.

<sup>38</sup> Joseph A Vandello, Nadav P Goldschmied and David AR Richards, 'The Appeal of the Underdog' (2007) 33 *Personality and Social Psychology Bulletin* 1603.

<sup>39</sup> *Ibid* 1607.

<sup>40</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Written Statement of the Government of Israel)* [2004] ICJ Pleadings 1579 <<https://www.icj-cij.org/public/files/case-related/131/1579.pdf>> accessed 15 March 2021.

the Israeli Wall advisory opinion.<sup>41</sup> It maps and re-maps the West Bank through no fewer than seven different lenses, showing the spread of Israeli settlements in the West Bank,<sup>42</sup> shifts in population,<sup>43</sup> the spread of water resources,<sup>44</sup> and its natural topography,<sup>45</sup> while also tracing these cartographies over satellite imagery.<sup>46</sup> In going beyond a top-down, orthogonal projection of space, the Palestinian submission breaks rank from the standard framing of space in international law and continues a broader lineage of counter-cartographies in the West Bank.<sup>47</sup> This is particularly clear in its use of photographic evidence to convey the lived experiences of residents in the West Bank. Though born from conflict, the visuo-cartographical discourse around the West Bank may well represent a blueprint for the contestation of official cartographies in less explicitly oppressed spaces.

By illuminating the contingency and partisanship bound up in the map, this example might warn international lawyers away from counter-cartographies and reaffirm their institutional affiliation to the Westphalian image. However, this does not justify institutional retreat from the discourse that the partisan map evokes. If contingency and partisanship are inevitable in depictions of contested spaces, then why not embrace, employ and address them as such? Disavowing the map on the basis of subjectivity would free that subjectivity from critique. Rather than rejecting the map, we should embrace it as a tool and instrument of discourse. De-empiricising and re-sentimentalising the map would provide fertile ground for the richer visual discourse that international law currently lacks. Looking beyond the bland portrayal of official politico-administrative divisions would give voice to the layered socio-spatial realities that the map has long oppressed. As further

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<sup>41</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Written Statement submitted by Palestine)* [2004] ICJ Pleadings 1555 <<https://www.icj-cij.org/public/files/case-related/131/1555.pdf>>.

<sup>42</sup> *Ibid*, maps 3, 5, 7-8.

<sup>43</sup> *Ibid*, map 9.

<sup>44</sup> *Ibid*, map 10.

<sup>45</sup> *Ibid*, map 11.

<sup>46</sup> *Ibid*, maps 12a-k.

<sup>47</sup> Weizman (n 29) 140-41; Christine Leuenberger, 'Maps as Politics: Mapping the West Bank Barrier' (2016) 31 *Journal of Borderlands Studies* 1, 20.

investigated in the following section, visual depictions of inequality, liminality, and segregation could serve to repurpose the map towards a redistributive ethic in international legal authorship.

## V. 'DEEP MAPPING' INTERNATIONAL LAW

The foregoing discussion leads the international lawyer into unfamiliar territory – official maps have dominated international law's spatial-visual matrix since its very beginnings. To address this discomfort, the de-mapping of international law could invite a rich variety of multimedia responses. This article takes only tentative steps towards a mode of mapping that disrupts the official and hegemonic model to which modern mapping readily adheres.

Weizman expresses the rationale for counter-cartographies eruditely: 'Access to truth can be obtained by local communities and groups rather than only by institutional science and law, but this "positional" truth has to be fought for.'<sup>48</sup> Here, the concept of the 'deep map' is instructive.<sup>49</sup> Roberts situates 'deep mapping' as a practice of spatial anthropology, primed to 'highlight the ways in which qualitative and humanistic forays into the representation and practice of space and place are multi-faceted, open-ended and – perhaps more contentiously – irreducible to formal and programmatic design.'<sup>50</sup>

In contrast to the traditional 'thin map', the deep map accommodates the layered identities of lived space and attempts to evolve with them. Its rich anthropological aspect invites autonomous, experiential mapping uncompromised by the search for officialdom and veracity. On these terms, Clifford McLucas describes the deep map as one that engages 'the insider and the outsider [...] the amateur and the professional, the artist and the scientist, the official and the unofficial, the national and the local' and, crucially, is 'a

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<sup>48</sup> Weizman (n 29) 128.

<sup>49</sup> David J Bodenhamer, John Corrigan and Trevor M Harris (eds), *Deep Maps and Spatial Narratives* (Indiana University Press 2015).

<sup>50</sup> Les Roberts, 'Deep Mapping and Spatial Anthropology' (2016) 5 *Humanities* 5, 6.

conversation and not a statement.<sup>51</sup> The deep map is thus innately attuned to the socio-historiographical contestation that underlies the map, rather than deaf to it. The deep map thus bridges chasms between past and present, natural and artificial, international and local, and appreciates the dynamic transitions between them.

In practice, the construction of a 'deep map' in international legal argument would require a consultative cartographic ethic. While this would be quite a departure from the discipline's longstanding penchant for prescriptivism, it could nonetheless be achieved through techniques such as participatory mapping, here signifying mapping practices that involve the participation of the relevant area's inhabitants<sup>52</sup> or simply through a more empathic approach to discussing local spaces as active participants in international law. Beyond the immediate obstacles lies a space in which legal conventionality could admit a deeper connection with the experiences of its subjects, whether natural persons or lived spaces. By re-mapping a site of conflict around, for instance, a victim's relationship to it, international law would confront local spaces in a more involved way, actively helping to reaccommodate victim experiences and give victims voice within legal arenas.

Some steps have been taken towards deep and participatory mapping in law. As explained by Kirsten Anker, the Australian National Native Title Tribunal admitted as evidence a painting produced by fifty indigenous artists depicting their understanding of the land. Critically, she observes that '[t]he use of such a painting in evidence may undermine the exclusivity of both

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<sup>51</sup> Quoted in Selina Springett, 'Going Deeper or Flatter: Connecting Deep Mapping, Flat Ontologies and the Democratizing of Knowledge' (2015) 4 *Humanities* 623, 627–29, fn 5.

<sup>52</sup> See Rainforest Foundation UK, 'Participatory Mapping' (Mapping for Rights) <<https://www.mappingforrights.org/participatory-mapping/>> accessed 12 November 2020; Rainforest Foundation UK, 'The Mapping For Rights Methodology: A New Approach to Participatory Mapping in the Congo Basin' (October 2015) <<https://www.rainforestfoundationuk.org/media.ashx/2909565-eng-low-res.pdf>> accessed 15 March 2021; Bjørn Sletto and others (eds), *Radical Cartographies: Participatory Mapmaking from Latin America* (University of Texas Press 2020).

western cartography and western law'.<sup>53</sup> Through counter-mappings of this kind, new cartographical practices hold the potential to give cartographic voice to those against whom the map has been deployed. In this way, deep mapping offers a valuable alternative to the map's disciplining of indigenous communities.

It is beyond the scope of this paper to dictate the form that a 'deep map' should take in international legal process, and indeed to do so would risk reinscribing new imaginative prescriptions in place of those that deep mapping seeks to dislodge. It is critical, however, that frameworks are identified within which minority, indigenous, and subaltern geographies can be given voice and place in international legal discourse and argument. At this stage, it might be apt for the 'deep map' to be introduced into legal discourse as a term signifying a more nuanced ethic when confronting social space, and as a reminder of the narrow socio-spatial matrix into which the map has contorted international legal argument. This point surely merits further enquiry by lawyers, critical cartographers, and anthropologists alike.

## VI. CONCLUSION

This paper has taken steps towards a more critical engagement with the relationship between international law and the map. It has sought to reframe the map as an active participant at the foreground of international legal thought and discourse, and also as a restrictive matrix through which international legal argument is conditioned. This critique reveals the need for alternative imaginations of space in international law, as critical discourses in and around international law lack the visual expression that they merit. By raising a critical consciousness of cartographical dialectics in sites such as the West Bank and giving legal voice to emergent practices of deep mapping and participatory mapping, perhaps international law and cartography can achieve a new, more constructive duality.

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<sup>53</sup> Kirsten Anker, 'The Truth in Painting: Cultural Artefacts as Proof of Native Title' (2005) 9 *Law Text Culture* 91, 93.