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Symbolism of International Criminal Law

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*We with our faithful escort moved
Along the brink of the vermilion boiling,
Wherein the boiled were uttering loud laments.*

*People I saw within up to the eyebrows,
And the great Centaur said; "Tyrants are these
Who dealt in bloodshed and in pillaging.*

*Here they lament their pitiless mischiefs; here
Is Alexander, and fierce Dionysius
Who upon Sicily brought dolorous years."*

*Dante Alighieri, The Divine Comedy, Vol. 1: Inferno,
Canto 12.*

International criminal law is being pulled in different directions by various conflicting considerations – deterrence, retribution, justice for victims, reconciliation, and setting the historical record. This trend is detrimental for the survival of the system as it erodes its coherence and undermines much sought-after legitimacy. There is a dire need for a principle objective that will bring order to the system. Symbolism is a good candidate for this role as it frames all other declared goals of international criminal law. The symbolic value of the discipline rests on the universal consensus it represents. This statement is only partially true, however, for it leaves out extra-legal pragmatic considerations that often counterbalance judicial reasoning during international trials.

Marina Aksenova is a postdoctoral research fellow at the Centre of Excellence for International Courts at the Faculty of Law of the University of Copenhagen. Her doctoral thesis 'Complicity in International Criminal Law', defended at the European University Institute in Florence in 2014, won an annual Mauro Cappelletti award and has just been published as a monograph with Hart Publishing. She holds a degree in criminology from the University of Oxford and an LLM in international law from the University of Amsterdam. Marina is a practicing lawyer, who has worked at the International Criminal Tribunal for the Former Yugoslavia (2005-2007), international law firm specializing in investment arbitration (2007-2009), and the Extraordinary Chambers in the Courts of Cambodia (2011). She was also engaged in multiple consultancy projects including those involving Colombian civil society actors in conjunction with the peace process negotiations and the defence teams of Guantanamo detainees.