

**GANGSTERS' PARADISE: PERFORMATIVITY, NARRATIVE,
AND PERSPECTIVE IN *THE ACT OF KILLING* AND *THE LOOK
OF SILENCE***

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INTRODUCTION

In 1965, Indonesia endured a military.¹ This new military dictatorship labeled any opposing individual a “communist” and a threat to Indonesian democracy.² Between 1965 and 1966, over one million “communists” were killed, and many more were beaten, tortured, raped, or detained in concentration camps.³ Paramilitary forces and Indonesian gangsters largely carried out these exterminations with government authority and financed by the West.⁴ The perpetrators of these massive human rights violations have thus

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¹ Helen Fein, *Revolutionary and Antirevolutionary Genocides: A Comparison of State Murders in Democratic Kampuchea, 1975 to 1979, and in Indonesia, 1965 to 1966*, 35 COMP. STUD. IN SOC'Y & HIST. 796, 801 (1993).

² See *id.* at 802.

³ For a more extensive background on Indonesian history through the context of international criminal law, see Renée Harrison, *Mass Crimes and Adjudication in Indonesia: Learning From the Cambodian Example*, 11 B.Y.U. INT'L L. & MGMT. REV. 107, 111. (Summer 2015); see also Henry Barnes, *Joshua Oppenheimer: 'You Celebrate Mass Killing So You Don't Have to Look Yourself in the Mirror'*, THE GUARDIAN (June 20, 2013, 10:57 AM), <https://www.theguardian.com/film/2013/jun/20/joshua-oppenheimer-act-of-killing>.

⁴ Jonah Weiner, *The Weird Genius of "The Act Of Killing,"* THE NEW YORKER (July 15, 2013), <http://www.newyorker.com/culture/culture-desk/the-weird-genius-of-the-act-of-killing>.

far eluded punishment and even hold power in many parts of the country.⁵ This paper provides both filmic and legal analyses of Joshua Oppenheimer's *The Act of Killing* (2012) and *The Look of Silence* (2014), two documentaries that depict this ongoing conflict.⁶ Part One describes the role of participatory spectatorship and Hollywood film in the genesis of the Indonesian gangster. Part Two proffers a theory of redemptive spectatorship, wherein Indonesian gangsters were made to reflect on their crimes through their own performative reenactments. Part Three defines "perspectival shifting" as another form of storytelling that confronts Indonesia's revisionist history and stubborn refusal to acknowledge past harms. Part Four concludes by framing these mass atrocities, and the documentaries that depict them within the context of international criminal law.

I. PARTICIPATORY SPECTATORSHIP AS PERPETRATION

In *The Act of Killing*, Oppenheimer requests that the mass murderers of Indonesian "communists" reenact their heinous actions on film.⁷ It is unfathomable as to how these killers can gleefully reenact their cruelty on camera, yet their boyish captivation with American films and narrative storytelling could explain both their impetus to kill and drive to perform it repeatedly. Anwar Congo and his fellow executioners have a long-standing obsession with Americana, fueled by their love of Hollywood cinema.⁸ Working as ticket scalpers in the local cinema, they saw mafia gangsters and western outlaws as role models of strength and masculinity.⁹ Anwar crafted his entire persona through American films, and admits to the camera that he "imitated them carefully as if [he] played in those movies [him]self."¹⁰ It is through American filmmaking that he was

⁵ *Id.*; see also THE ACT OF KILLING (Final Cut for Real 2012).

⁶ THE ACT OF KILLING, *supra* note 5; THE LOOK OF SILENCE (Final Cut for Real 2014).

⁷ THE ACT OF KILLING, *supra* note 5.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

inspired to kill hundreds of victims with wire, his signature act of violence.¹¹ His existence gives credence to all who critique the depictions of violence in media and fear film's power to both instruct and encourage criminal and deviant behavior.¹²

Through this mimesis, Anwar could live out the narratives he admired on screen.¹³ The "Act" of killing takes on a double and conflicted meaning for Anwar, where the "act" is simultaneously a performance and a perpetration.¹⁴ Because the West is the ultimate arbiter of cool, Anwar and his friends look to western culture to define their every action.¹⁵ Their vision is so preoccupied with the surface of the screen that they cannot look beneath the surface of their own reality.¹⁶ Instead, their life imitates the art they ingest. Their spectatorship spills over into reality where they engage in an extended mimetic play of violence and masculinity.¹⁷ It is because of their love for the American gangster that they are capable of perpetrating massive atrocities that would turn the stomachs of most other individuals who comprehend the differences between film and reality. Anwar and his friends, by contrast, commit heinous acts of murder with the extensive distance that is typically afforded to a moviegoer.¹⁸ They commit murder in sunglasses, and it doesn't feel real.¹⁹ Accordingly, the reenactments they perform seem

¹¹ *Id.*; see also Tim Masters, *Act of Killing Director Says He Can't Go Back to Indonesia*, BBC NEWS (Feb. 18, 2014), <http://www.bbc.com/news/entertainment-arts-26122788>.

¹² Jessica M. Silbey, *Filmmaking in The Precinct House and the Genre Of Documentary Film*, 29 COLUM. J.L. & ARTS 107, 145 (2005).

¹³ See THE ACT OF KILLING, *supra* note 5.

¹⁴ See, Al Jazeera English, *Empire – Extended Interview: Joshua Oppenheimer – Hollywood: Chronicle of an Empire*, YOUTUBE (Mar. 2, 2014), https://www.youtube.com/watch?v=spkD153ji_A ("Acting was always part of the act of killing for Anwar").

¹⁵ See *Id.*

¹⁶ See *Id.* ("I think that what their love of movies allowed them to do at the time...it allowed Anwar to distance himself from the act of killing while killing.").

¹⁷ THE ACT OF KILLING, *supra* note 5.

¹⁸ *Id.*

¹⁹ *Id.*

equally unreal. They take on the quality of a lurid B-movie, filled with gratuitous violence, dramatic overacting, and bleeding body parts.²⁰

The gangsters not only reenact their past, but also their psyche. They become captivated by the bewitching allure of filmic storytelling, driven to reveal their innermost fears and intimate perspectives to the world.²¹ Saturated with camp and kitsch, Anwar and his friend Herman Koto (a fellow gangster and paramilitary leader) dramatize one of his horrifying nightmares where his victims take revenge.²² Their vision is a fauvist's fever dream. Herman plays the devil in a tight-fitted red dress, laughing maniacally as he cuts off a hokey model of Anwar's head.²³ Like a perverse episode of Ru Paul's Drag Race, Herman smears his face with Anwar's blood like rouge and bats his long false eyelashes.²⁴ He castrates Anwar's body and chews on his liver while force-feeding Anwar his own penis.²⁵ The image of Anwar's suffering is at once dreamlike, macabre, pornographic, and homoerotic.²⁶ The gangsters reveal their inner turmoil and their inner desires through this childlike play. Indeed, *The Act of Killing* could be seen as a macabre love story between Herman and Anwar, who massage and flirt with one another throughout the entirety of the film.²⁷

Herman also appears in drag in the equally fantastical waterfall scene, which appears as a foil to Anwar's hellish nightmares.²⁸ Wearing blue, rather than red, Herman dances alongside Anwar as he is awarded a medal of honor from two of his victims, who removed the wires from their throats to thank

²⁰ *See id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *See* THE ACT OF KILLING, *supra* note 5.

²⁶ *See* Stanley Cohen, STATES OF DENIAL: KNOWING ABOUT ATROCITIES AND SUFFERING 178 (2001) (referring to exploitative human rights photography as "an allegory of colonialism" as well as an allegory for pornography).

²⁷ THE ACT OF KILLING, *supra* note 5.

²⁸ *See id.*

Anwar for “sending them to heaven.”²⁹ Anwar and Herman raise their hands upwards as the waterfall cascades behind them, and “Born Free” triumphantly enters the soundscape.³⁰ Just as Anwar uses his film as a platform to reveal his inner guilt, so too does he use the film to convey his innermost desires. Anwar uses this fictional narrative to reframe history using the lens of his own fantasy. Through this scene, we see that Anwar craves a godlike exaltation for his actions. Yet we can also see that Anwar craves redemption without forgiveness, and clemency without any admission of guilt.

The use of “Born Free” may provide a naïve campy touch to their fantastical fiction film, however it also symbolizes the massive permeation of American “freedom” within Indonesian culture. The film is saturated with small references to the western influences that incited and encouraged this massacre to occur.³¹ Herman prepares to run for office by listening to a broadcast of President Barack Obama and gesticulating in the mirror.³² Paramilitary leaders showcase their posters of Al Pacino, and singing Billy Big Mouth Bass.³³ Anwar and his cronies sing renditions of Creedence Clearwater Revival songs in their local bar.³⁴ America is just slightly to the west of the frame, however its whispers of influence take center stage in driving the actions and perceptions of gangsters who kill in the name of western democracy. The effort to democratize Indonesia can be seen as a grand performative spectatorship of American “democracy”, which is exalted and reenacted using its many cultural signifiers. As spectators, these gangsters killed in the name of both American democracy and Hollywood rebellion.

Throughout the film, we are told that the Indonesian word for “gangster” comes from the English word: “free man.”³⁵ Gangsters are free to do as they please and should be honored for

²⁹ *Id.*

³⁰ *Id.*

³¹ *See id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

their thuggish ability to serve the interests of the state beyond the strictures of law and order.³⁶ These “free men” carry out crimes and craft their personas using Indonesia’s two most popular American neocolonial imports—democracy and the movies.³⁷ Ironically enough, the Indonesian word for gangster (“preman”) is actually rooted in the *Dutch* word for “free man.”³⁸ The gangsters, as Indonesia’s paradigmatic symbols of freedom, are steeped in colonial roots both etymologically and substantively.

II. PASSIVE SPECTATORSHIP AS REDEMPTION

While shooting the film, Anwar and the others are driven by the desire to portray the “truth,” or rather the events as they really happened.³⁹ Herman emphasizes that their actions should be made public, to preserve their legacy in celluloid for their future generations.⁴⁰ Anwar extolls their film as a groundbreaking “new kind of cinema” simply because these sadistic acts are true to life.⁴¹ When he chops off a victim’s head on screen, it is all the more violent and “sadistic” because the audience will know that he actually perpetrated the crimes he is reenacting.⁴² Anwar states that the film will defy categorization, as it will embody aspects of comedy, hints of romance, and western motifs.⁴³ Oppenheimer may have included this dialogue as a sort of meta-filmic reference, causing us as spectators to shift uncomfortably in our seats. *The Act of Killing* is truly a “new kind of cinema”—a kind without a completely conscious spectatorship where we may find ourselves unaware that these ostentatious, dreamlike reenactments are representative of something far more harrowing and very much real.

While the gangsters strive to replicate their actions with objectivity and veracity, this drive is contraindicated by their

³⁶ *Id.*

³⁷ *Id.*

³⁸ Benedict Anderson, VIOLENCE AND THE STATE IN SUHARTO’S INDONESIA 129 (2000).

³⁹ THE ACT OF KILLING, *supra* note 5.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

realization that the truth depicts them in a more unsavory light than the “truth” that Indonesian society as a whole has accepted.⁴⁴ Anwar is haunted by his reality, and this fear only subsides when he numbs himself with alcohol, drugs, or anti-communist propaganda films.⁴⁵ His only solace is in the incapacitating role of spectator, where he can be numbed by filmic fantasy.⁴⁶ In his attempt to tell his story, however, Anwar is continuously confronted by the terrible truth of his past—if even just to fictionalize it. Anwar struggles most in a reenactment where he plays a communist being tortured and executed.⁴⁷ He winces and cries as Herman pretends to hit and strangle him for “trying to ban American films” in Indonesia.⁴⁸ This is not the only time where Anwar or other film participants are made almost physically ill from their reenactments.⁴⁹ In one scene, where members of the Pancasila Youth paramilitary group pretend to ransack a village, Anwar is rattled to the core.⁵⁰ He could barely participate as others pretend to torch huts, grab children, and drag away bodies.⁵¹ Herman’s daughter, who played a victim, could not stop crying even after they ended the scene.⁵² Frozen in shock, a woman stared blankly and immobile as paramilitary youth attempt to bring her out of shock.⁵³ It is through this fictional performance where the true horrors are revealed, as the suffering is remediated through a fictional lens. This lens places the unspoken and often-repressed truth within a narrative framework that all participants must engage with and none can ignore.

⁴⁴ *Id.*

⁴⁵ See Al Jazeera English, *supra* note 14 (“Government propaganda, including movies, helped the killers justify what they’ve done, even though they know, and say they know, that the propaganda is a lie.”).

⁴⁶ THE ACT OF KILLING, *supra* note 5.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Infra* notes 53–56.

⁵⁰ THE ACT OF KILLING, *supra* note 5.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

Just as spectatorship inspired the genesis of the gangster, it may also be wielded as a powerful tool against him. In performing these reenactments, the killers are occasionally struck by their own cruelty.⁵⁴ If their actual crimes are conceived of as semi-conscious filmic “reenactments” of Hollywood violence, then their fictitious reenactments of these “reenactments” provide invaluable re-contextualization and framing. In crafting a revisionist history of their atrocities, they must confront their own historiography and the truth that it obstructs. In narrating their past, they are forced to engage with reality *as* reality, not as some sort of glorified Scorsese remake.

The deepest revelation of the true extent of his crimes comes when Anwar watches the footage of the scenes he found so difficult to shoot.⁵⁵ Throughout the film, Oppenheimer plays the takes of their film on a small television screen.⁵⁶ Like Hamlet’s play-within-a-play, Oppenheimer’s film-within-a-film truly catches the conscience of this king.⁵⁷ In utter horror and disbelief, Anwar asks Oppenheimer if his victims felt as he did during this torture scene, where he experienced “his dignity destroyed” and “his pride gone” as “the terror begins to possess my body.”⁵⁸ Oppenheimer replies that they felt much worse because it was real, whereas Anwar understands that it is only a film.⁵⁹ Anwar identifies with the victim when he is forced to play that role. Yet upon viewing himself as a victim from the vantage point of a spectator, he was truly able to comprehend the counter-narrative that all victims and their families recognize as their reality.

Oppenheimer employs a two-pronged process of replication and observation, rapidly interchanging spectator with the spectacle as a way to challenge their implicit assumptions of

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *See id.*; Gillian Woods, *Hamlet: The Play Within the Play*, BRIT.

LIBR., <https://www.bl.uk/shakespeare/articles/hamlet-the-play-within-the-play> (last visited Mar. 3, 2017).

⁵⁸ THE ACT OF KILLING, *supra* note 5.

⁵⁹ *Id.*

authorship and agency.⁶⁰ In so doing, he weaves a rich metanarrative to surround the narrative that the killers synthesize and dramatize in their series of graphic reenactments. These gangsters committed many unimaginable acts of violence as if they were in an action movie, in the pursuit of swagger, glory, and wealth without any regard for moral repercussions.⁶¹ Through their fictitious reenactments, however, they were made to confront the grim realities of their actions. In the retelling, the gangsters were forced to re-contextualize their actions through common cultural narratives and modes of storytelling.

III. PERSPECTIVAL TRUTH AND RECONCILIATION

Adi Zulkadry, a fellow executioner culpable for the death of hundreds of communists in 1965, has a more realistic perspective on the truth than the other key players that Oppenheimer follows in *The Act of Killing*.⁶² Adi quickly recognizes that admitting the truth on film could convey that “the communists were not more cruel than us” thereby throwing their entire preconceived narrative in jeopardy.⁶³ To Adi, a successful rendition of reality as it actually happened would “rewrite history” and destroy their “public image.”⁶⁴ He readily acknowledges the heinousness of murder and confronts his past in a calculated, prescriptive matter.⁶⁵ The key, he says, is to find a way to avoid the guilt, thereby avoiding the concomitant insanity it would bring.⁶⁶ Adi actively chooses to define reality from his own perspective as a prescriptive solution to the problem of a guilty conscience. Adi privileges his perspective over any others because he believes that the line between right and wrong is drawn by those who are “the winners” of any conflict.⁶⁷

⁶⁰ *See id.*

⁶¹ *See id.*

⁶² *See id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

Oppenheimer confronts Adi's moral relativism and perspectival shifting in his subsequent film, *The Look of Silence*, by following another man named Adi, who happens to hold a drastically different comprehension of the military dictatorship.⁶⁸ Oppenheimer pursues the victims' interpretation of the communist massacre in a similar style of collaborative filmmaking, as is ethical for an outsider who is distanced from his subject by way of race, culture, level of trauma, and socio-economic background.⁶⁹ He follows Adi Rukun, an optometrist whose brother Ramli was brutally murdered by the exterminators.⁷⁰ On a similar television screen, Adi watches footage of his brother's tormentors as they happily reenact his castration, torture, and murder by the Snake River.⁷¹ Adi struggles to comprehend why they so gleefully reenact these atrocities, just as we struggle to understand the drive towards reenactment in *The Act of Killing*.⁷² We watch as Adi watches the screen, and through his gaze we experience a more painful personal spectatorship, acutely aware of his perspective as he endures the footage of the screen within the screen.⁷³ As if to answer the lingering question in *The Act of Killing*, Adi watches footage of a man miming a machete sawing at a victim, and postulates: "Maybe he acts this way because he regrets what he

⁶⁸ THE LOOK OF SILENCE (Final Cut for Real 2014).

⁶⁹ See Wanda Bershen, *A Question of Ethics: The Relationship Between Filmmaker and Subject*, INT'L DOCUMENTARY ASS'N, <http://www.documentary.org/feature/question-ethics-relationship-between-filmmaker-and-subject> (last visited Mar. 4, 2017) (quoting Bill Nichols, *What to Do About Document Distortion? Toward a Code of Ethics*, INT'L DOCUMENTARY ASS'N, <http://www.documentary.org/content/what-do-about-documentary-distortion-toward-code-ethics-0> (last visited Mar. 4, 2017) ("These questions boil down to questions of trust--a quality that cannot be legislated, proposed or promised in the abstract so much as demonstrated, earned and granted in negotiated, contingent, concrete relationships in the here and how.")).

⁷⁰ THE LOOK OF SILENCE, *supra* note 71.

⁷¹ *Id.*

⁷² *Id.*; THE ACT OF KILLING, *supra* note 5.

⁷³ THE LOOK OF SILENCE, *supra* note 71.

did. He regrets killing people. Because he feels guilty, when he reenacts the killings, he's completely numb."⁷⁴

Adi's profession as the town's optometrist provides a rich metaphor for his mission to disrupt the (re)vision of the perpetrators and refocus the fading image of the past as it blurs in the distance.⁷⁵ Just as Anwar was forced to reconcile with his victims' harsh counter-narrative, so too are Adi's customers forced to bear witness with the insidious underbelly to the past they wish to either amend or regret.⁷⁶ This perspective-shifting is most readily apparent in one of the culminating scenes where Adi confronts the widow and children of one of his brother's murderers.⁷⁷ He uses two storytelling tactics in an attempt to bridge the tremendous gap between survivor and perpetrator.⁷⁸ He reads the exterminator's own description of the murder to the widow, and displays the pictures he had drawn of Ramli's torture and execution.⁷⁹ When the wife denies all knowledge of her husband's actions, Oppenheimer and Adi play decade-old footage of her listening to her husband as he reads from his book to the camera.⁸⁰ Together they subvert the overriding narrative put forth by "the winners" with this *evidence-verité*.⁸¹

IV. COLLABORATIVE NARRATIVE AS A PURSUIT OF JUSTICE

Though Oppenheimer and Adi have a symbiotic relationship, it is not necessarily the case that they have the same goals in crafting this narrative. Adi seems somewhat satisfied and grateful for the widow's apology and acknowledgment that they "feel the same way."⁸² Adi is not confronting the perpetrators for any form of revenge, so much as a simple

⁷⁴ *Id.*; see THE ACT OF KILLING, *supra* note 5.

⁷⁵ THE LOOK OF SILENCE, *supra* note 71.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Jessica M. Silbey, *Evidence Verité and the Law of Film*, 31

CARDOZO L. REV. 1257, 1271 (2010).

⁸² THE LOOK OF SILENCE, *supra* note 71.

acknowledgment of wrongdoing.⁸³ Oppenheimer reveals another motive when, unsatisfied with the apology, he says, “Just one more clip,” to emphasize the widow’s direct witnessing and tacit acceptance of her husband’s behavior.⁸⁴ Once again confronted with the footage, the family preserves their ignorance and blamelessness by averting their eyes.⁸⁵ Though they share similar perspectives on the “reality” of the Indonesian extermination, Oppenheimer and Adi may not share the same perspectives on what would constitute “justice” in this particular exchange. According to Oppenheimer, Adi wanted to meet the perpetrators hoping that “they would, in meeting him, acknowledge what they did was wrong, and that he would be able to forgive them so they could start to live together as human beings, instead of as victim and killer divided by fear and mutual suspicion.”⁸⁶ Perhaps Adi was willing to accept a shallow apology in the hopes that this reconciliation will one day become a lived reality rather than a lofty goal.

Oppenheimer, in contrast, “wanted to do something unprecedented in nonfiction film . . . and more importantly in Indonesia, a fundamental breaking of the silence [in Indonesia].”⁸⁷ Linked to the film’s website is a petition for a U.S. Senate resolution that “will condemn the 1965-66 atrocities, call on U.S. agencies to declassify documents related to the events, and urge political leaders in Indonesia to establish a commission to address the human rights violations and promote reconciliation across the country.”⁸⁸ Just as Adi seemed to be more satisfied than Oppenheimer with the apology, so too might a commission-led trial for the perpetrators mass murders look like justice for some and not for others. There is significant deviation among the victims’ responses in *The Look of Silence*,

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Berlinale – Berlin International Film Festival, *The Look of Silence Panel Discussion Berlinale 2015*, YOUTUBE (Feb. 9, 2015), <https://www.youtube.com/watch?v=5qBJ70ITgcs>.

⁸⁷ *Id.*

⁸⁸ *Participate – The Petition*, THE LOOK OF SILENCE, <http://thelookofsilence.com/participate> (last visited March 3, 2017).

connoting the arguable notion that a sense of justice is a truly individuated and personal experience—a notion that threatens to destabilize the entirety of criminal law.⁸⁹ Adi does not speak for all victims when he denies any desire for revenge or retribution, and he may even be an outlier in this respect. While one survivor at Snake River begs Adi's mother to forget the past, she continues to pray for karma to be dealt upon the children of the perpetrators and their families.⁹⁰

While Adi established his own individualized adjudicatory process in an attempt to move forward towards reconciliation, a nationwide commission or international criminal court could not possibly provide a comparable sense of personal affirmation and recognition. However, a truth commission could be helpful in shifting societal and international perspectives on Indonesian history. As Robert Cover describes in his seminal essay entitled “Nomos and Narrative,” law has a unique capacity to “imbue action with significance.”⁹¹ As such, law has the capacity to inform narrative, change morality, and alter destiny.⁹² International and national recognition upstream may trickle down and initiate intra-communal healing and forgiveness. Aside any trickle down effects, a commission's reconciliatory “forces” are limited.⁹³ Governmental bodies may *pardon* these perpetrators, however they do not have the “standing” to *forgive*.⁹⁴ In high contrast to the documentaries' convoluted interweaving of individual perspectives, criminal trials simplify narratives as they retell

⁸⁹ THE LOOK OF SILENCE, *supra* note 71.

⁹⁰ *Id.*

⁹¹ Cover, Robert M., *The Supreme Court, 1982 Term -- Foreword: Nomos and Narrative*, 97 HARV. L. REV. 4, 8 (1983).

⁹² *Id.* at 5 (“In this normative world, law and narrative are inseparably related. Every prescription is insistent in its demand to be located in discourse – to be supplied with history and destiny, beginning and end, explanation and purpose.”).

⁹³ See Martha Minow, *Forgiveness, Law and Justice*, 103 CAL. L. REV. 1615, 1628–29 (2015).

⁹⁴ *Id.* at 1629; see also Kathryn Abrams, *Seeking Emotional Ends with Legal Means*, 103 CAL. L. REV. 1657 (2015).

them.⁹⁵ Whereas a film might more directly convey raw and unmediated emotion, a criminal trial must translate any traumatic and harrowing experiences into cut-and-dry legal language.⁹⁶ Provided that a national commission is created or an international trial is held, Oppenheimer's work could arguably be used to supplement other material evidence of paramilitary war crimes in Indonesia.⁹⁷ Film has previously been used as evidence in international criminal court proceedings, such as the Lubanga trial at the ICC or the Nuremberg trials.⁹⁸ Though highly problematic, it could even be argued that *The Act of Killing* and *The Look of Silence* have obviated the need for an international criminal trial—particularly because Oppenheimer's footage is currently being used by human rights organizations to move forward with their advocacy efforts.⁹⁹ *The Act of Killing* has been described as “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.”¹⁰⁰ Though Oppenheimer's goal may have been to promote justice, this does not suffice to say that the documentaries he has made provide an unbiased standpoint; nor do they afford the perpetrators the various procedural safeguards that we come to associate with a fair and equitable proceeding. Additionally, video footage is often described as having a more substantial evidentiary weight than other, more “indirect” forms of evidence such as written documents or still photographs.¹⁰¹ As such, Oppenheimer's

⁹⁵ See generally Minow, *supra* note 93.

⁹⁶ *Id.*

⁹⁷ THE ACT OF KILLING, *supra* note 5.

⁹⁸ Daniel Joyce & Gabrielle Simm, *Zero Dark Thirty: International Law, Film and Representation*, 3 LONDON REV. INT'L L. 295, 299 (2015).

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 297.

¹⁰¹ See Jessica Silbey, *Evidence Verité and the Law of Film*, 31 CARDOZO L. REV. 1257 (2010); see also Jessica Silbey, *Videotaped Confessions and the Genre of Documentary*, 16 FORDHAM INTELL. PROP. MEDIA & ENT. L.J. 789 (2006).

extensively edited and highly aestheticized documentaries might nonetheless become exhibited at trial as the unmediated “truth”.

International criminal court proceedings are often described as “rituals” where collective stories of suffering are associated with “notions of order, justice, and community.”¹⁰² They empower the victims by allowing these stories to be heard in a public forum, however, they “radically transform[] their experiences” by distilling highly individualized and personal trauma into highfalutin legal concepts and notions bearing universal appeal.¹⁰³ Less desirable victims may be left out of the fold, and an unsatisfactory ruling could imbue the atrocity with a historicized sense of finality that belies both reality and the perceptions of those who were actually harmed. As opposed to Anwar’s reenactments, which diminished the distance between himself and his victim, criminal trials proffer narratives that distance via simplification and condemnation.¹⁰⁴ They may charge some offenders to the exclusion of others, or even implicate those who were not actually involved with the perpetration.¹⁰⁵ *The Look of Silence* could be characterized as a quest for forgiveness, and forgiveness has been known to “jeopardize the appearance, if not the reality, of law’s evenhandedness.”¹⁰⁶ In fact, forgiveness is definitively a “conscious, deliberate decision to forgo rightful grounds for grievance against those who committed a harm.”¹⁰⁷ If reconciliation is the true aim of most survivors, as opposed to retribution, then the law’s natural adversarial process might serve as a detriment to the process of communal healing and forgiveness that Adi has initiated.

Although Oppenheimer calls for a commission, he is well aware that our societal understandings of guilt and blame

¹⁰² Wouter G. Werner, “We Cannot Allow Ourselves To Imagine What It All Means:” *Documentary Practices and the International Criminal Court*, 76 L. & CONTEMP. PROBS. 319, 321 (2014).

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 339.

¹⁰⁵ See, e.g., WAR DON DON (Racing Horse Productions 2010).

¹⁰⁶ Martha Minow, *Forgiveness, Law and Justice*, 103 CAL. L. REV. 1615, 1619 (2015).

¹⁰⁷ *Id.* at 1626.

drastically “other” the perpetrator as a way to avoid self-incrimination and implication.¹⁰⁸ Guilt is more slippery and systemic than a prosecutor may presume.¹⁰⁹ Oppenheimer exposes the humanity of Anwar, with all his regret and trauma, as a way to challenge the simplicity of the criminal justice narrative. By emphasizing Anwar’s painful spectatorship, he challenges the guilty/innocent dichotomy on which the criminal justice system relies.¹¹⁰ As we watch Anwar watching, we may implicate our own guilt as fellow spectators whose American way of life was a driving factor that led to these crimes.¹¹¹ By denying their humanity, we establish the requisite distance necessary to assuage our fears that such a villain might exist within each of us.¹¹² “The capacity for human evil,” according to Oppenheimer, “depends on our ability to lie to ourselves.”¹¹³

¹⁰⁸ THE ACT OF KILLING, *supra* note 5.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ See PRIMO LEVI, THE REAWAKENING 228 (Touchstone, 1965) (“Monsters exist, but they are too few in number to be truly dangerous. More dangerous are the common men, the functionaries ready to believe and to act without asking questions.”).

¹¹² See generally Saira Mohamed, *Of Monsters and Men: Perpetrator Trauma and Mass Atrocity*, 115 COLUM. L. REV. 1157 (2015); see also Berlinale - Berlin International Film Festival, *The Look of Silence Panel Discussion Berlinale 2015*, YOUTUBE (Feb. 9, 2015), <https://www.youtube.com/watch?v=5qbJ70ITgcs> (“I think the capacity for human evil depends on our ability to lie to ourselves.”).

¹¹³ *Id.*