Review of International Studies (2026), **52:** 4, 736–756
doi:10.1017/S0260210524000949

RIS

RESEARCH ARTICLE

Norm expressivism and punishment in International Relations

Cornelia Baciu

Centre for Military Studies, Department of Political Science, University of Copenhagen, Copenhagen, Denmark and Institute of Social Sciences, Kiel University, Kiel, Germany
Email: Cornelia.Baciu@ifs.ku.dk

(Received 12 May 2024; revised 30 October 2024; accepted 5 November 2024)

Abstract

Although expressivism has been studied in relation to criminal justice since the emergence of modern international criminal law, an expressivist perspective in norms and criminal justice research resurfaced in the past decades, inviting a new viewpoint on the dynamic interplay between norms and symbolic action in International Relations (IR). Situated as an account of punishment, expressivism has been criticised for being too abstract and lacking an immanent meaning or for its dialectic position in relation to punishment. Addressing this theoretical shortcoming, this article remediates our understanding of expressivism, establishing new knowledge of the meaning of norm expressivism in IR and clarifying the relationship between expressivism and notions of punishment in criminal justice and norm research. To this end, it hermeneutically deconstructs the rhetoric of country delegates at the United Nations in the aftermath of Russia's full-scale invasion of Ukraine. It examines crucial examples of expressivism: disagreement pronouncements, denunciation of norm violation, postulation of guilt, and penal analogies. While criminal justice research posits expressivism as a distinct account of punishment, the novelty of this article consists in illustrating how, even in the absence of prosecution in the courtroom, expressivist rationales can have a reinforcing effect on the international legal order.

Keywords: criminal justice; expressivism; International Relations theory; norms; punishment; Ukraine; UN

Introduction

Although expressivism has been studied in relation to criminal justice since the emergence of modern international criminal law,[1] an expressivist perspective in norms and criminal justice research has resurfaced in the past decades,[2] inviting a new viewpoint on the dynamic interplay between norms and symbolic action in International Relations (IR). The expressivist literature situates expressivism as a distinct account of punishment. Yet the problem is that expressivism as an account of punishment has been criticised for being too abstract and lacking an immanent

[1]Kim R. Nossal, 'International sanctions as international punishment', *International Organization*, 43:2 (1989), pp. 301–22; Joel Feinberg, 'The expressivist function of punishment', *The Monist*, 49:3 (1965), pp. 397–423; Jean Hampton, 'The retributive idea', in Jeffrie G. Murphy and Jean Hampton (eds), *Forgiveness and Mercy* (Cambridge: Cambridge University Press, 1988), pp. 111–61. On the emergence of international criminal law, see Kevin J. Heller, *The Nuremberg Military Tribunals and the Origins of International Criminal Law* (Oxford: Oxford University Press, 2011).

[2]Prominent contributions include Barrie Sander, 'The expressive turn of international criminal justice: A field in search of meaning', *Leiden Journal of International Law*, 32:4 (2019), pp. 851–72; Carsten Stahn, *Justice as Message: Expressivist Foundations of International Criminal Justice* (Oxford: Oxford Academic, 2020); Daniela Demko, 'An expressive theory of

© The Author(s), 2025. Published by Cambridge University Press on behalf of The British International Studies Association. This is an Open Access article, distributed under the terms of the Creative Commons Attribution licence (http://creativecommons.org/licenses/by/4.0), which permits unrestricted re-use, distribution and reproduction, provided the original article is properly cited.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

meaning[3] or for its dialectic position in relation to punishment.[4] Addressing this theoretical shortcoming, the article seeks to remediate our understanding of norm expressivism, establishing new knowledge of the meaning of norm expressivism in IR theory and criminal justice and clarifying the relationship between expressivism and notions of punishment and criminal justice.

The novelty and overarching value-added of this article consist in demonstrating how expressivism – traditionally seen as a distinct account of punishment[5] – can play a normative role even if punishment in the form of trials and prosecution is not embraced. I argue that even in the absence of judicial proceedings in a courtroom, the intentions entailed by expressivist rationales can have a reinforcing effect on the legal order. To this end, the article makes a multidisciplinary theoretical contribution to norm research in IR, International Criminal Law (specifically criminal justice), and penal philosophy. On the one side, the article contributes to the literature on norm research in IR, complementing existing scholarship on norm complexity and interaction. On the other side, it advances norm expressivism frameworks in criminal justice research, in particular, the storytelling framework. Empirically, it unpacks the rhetoric of countries' delegates at the United Nations in the aftermath of Russia's full-scale invasion of Ukraine.[6] I examine several examples of rhetoric expressed in relation to the interconnected ideas of accountability, punishment, or criminal justice: *disagreement pronouncements, denunciation of norm violation, postulation of guilt*, and *penal analogies*.

I utilise foundational literature on punitivity[7] to clarify the relationship between punishment and expressivism. Nietzsche's scholarship on the genealogy of Guilt is particularly useful to unearth the entanglements between the guilty, the victim, and the IR community and to show how norm expressivism manifests and is practically articulated in the judicial realm. The conceptual rooting of this article in both International Law and IR is underpinned by the multidisciplinary origins[8] of expressivism, with many theoretical influences still remaining untracked.

To empirically unpack the expressivist rhetoric, this article examines the Ukraine-related debates at the United Nations, both in the United Nations Security Council (UNSC) and United Nations General Assembly (UNGA). I look at the period 24 February 2022–24 March 2023, seeking to untwist the way the expressivist idea of criminal justice and punishment – which I define as a form of penalty, sanctioning, or countermeasure in reaction to a wrongdoing – has appeared during those debates. To this end, this article will empirically enrich the scientific debates on

international punishment for international crimes', in Florian Jeßberger and Julia Geneuss (eds), *Why Punish Perpetrators of Mass Atrocities? Purposes of Punishment in International Criminal Law* (Cambridge: Cambridge University Press, 2020), pp. 176–95; Carsten Stahn, 'Syria and the semantics of intervention, aggression and punishment: On "red lines" and "blurred lines"', *Journal of International Criminal Justice*, 11:5 (2013), pp. 955–77; Attila Tanyi, 'Norm-expressivism and regress', *South African Journal of Philosophy*, 36:3 (2017), pp. 362–76; Peter Chau, 'Bennett's expressive justification of punishment', *Criminal Law and Philosophy*, 11:4 (2017), pp. 661–79; Anthony Duff, *Punishment, Communication, and Community* (Oxford: Oxford University Press, 2003); Joshua Glasgow, 'The expressivist theory of punishment defended', *Law and Philosophy*, 34:6 (2015), pp. 601–31; Peter Königs, 'The expressivist account of punishment, retribution, and the emotions', *Ethical Theory and Moral Practice*, 16:5 (2013), pp. 1029–47; Tim Meijers and Marlies Glasius, 'Expression of justice or political trial? Discursive battles in the Karadžić case', *Human Rights Quarterly*, 35:3 (2013), pp. 720–52; Robert D. Sloane, 'The expressive capacity of international punishment: The limits of the national law analogy and the potential of international criminal law', *Stanford Journal of International Law*, 43:1 (2007), pp. 39–94; Alette Smeulers, 'Punishing the enemies of all mankind', *Leiden Journal of International Law*, 21:4 (2008), pp. 971–93; Bill Wringe, 'Expressive theories of punishment', in Matthew C. Altman (ed.), *The Palgrave Handbook on the Philosophy of Punishment* (Cham: Springer International Publishing, 2023), pp. 245–65.

[3]Sander, 'The expressive turn'; Kjersti Lohne, *Advocates of Humanity: Human Rights NGOs in International Criminal Justice* (Oxford: Oxford University Press, 2019).

[4]Glasgow, 'The expressivist theory'.

[5]See for example Feinberg, 'The expressivist function'; Königs, 'The expressivist account'; Sander, 'The expressivist turn'.

[6]While acknowledging the need for historical accuracy when studying Russia's invasion of Ukraine, herewith I would like to emphasise that, factually, Russia's aggression in Ukraine started in 2014. The full-scale invasion is the focal point of this article due to the distinct increase in the scope and nature of both expressivist and punitive measures.

[7]Specifically, I employ the penal philosophy of Nietzsche.

[8]Stahn, *Justice as Message*, p. 392.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

norm expressivism, which, with few exceptions,[9] largely draw on instances of expressivism in the courtrooms.

The paper proceeds as follows. The next section explains the expressivist framework of analysis and its linkage to norm research in IR and criminal law. Additionally, I seek to deconstruct current debates by referring back to the foundational literature by Nietzsche, in an attempt to have a *prima facie* moral-philosophical discussion of punishment, which I then apply empirically to IR. The third section explains the hermeneutic-interpretative approach employed in this analysis. The fourth part presents the rhetoric related to norm expressivism at the United Nations in the period studied. The subsequent section discusses the significance of rhetoric and norm expressivism, and how they interact, clarifying the relationship between norm expressivism and criminal justice. I conclude that expressivist action provides the roots of falsifiable propositions with regards to norm breach, as well as guilt and responsibility attribution, creating paths to accountability. Without an expressivist perspective, we would fail to grasp how speech acts play a role in shaping the long-term development of accountability, moral aspirations, and institutional memory within international organisations, shaping political decisions and judicial action.

An expressivist account of criminal justice in IR

Existing scholarship has traditionally situated expressivism as a distinct account[10] of punishment.[11] I define expressivism in IR as practices of representation of, and the articulation of, a moral reaction towards a certain behaviour of a political actor, embodying a reflexive moral commitment or attitude. Through expressivist practices, political actors, such as states or other international agents, project a certain moral desire. Being practised usually in a context of norm violation or law breach, expressivism resembles 'an articulation of the appropriate reaction to criminal acts on the part of the society, government, or other institution',[12] aiming to consolidate trust in norm validity and attribute responsibility.[13] Norm expressivism and its relationship to criminal justice and punitive practices matter in IR, especially when these pertain to the illegal use of force. War is prohibited under international law, and while one could expect that leaders will seek to avoid commencing wars that enhance their risk of being held accountable and punished, international crimes and atrocities continue to occur. This points to the crisis of authority in world politics, stressing the challenges that established international norms can face.[14]

Norm complexity and norm interactions have increasingly been the object of study in norm research in IR, especially from the perspective of norm-related behaviour and speech acts. Following the seminal article on norm change by Sikkink and Finnemore,[15] ensuing strands

[9]The most prominent example of scholarship on norm expressivism in International Relations is Stahn, 'Syria', and Stahn, *Justice as Message*.

[10]I understand an account as a basis for consideration of criminal justice, and not as criminal justice per se, and I explain in this section in what relation expressivist stays to criminal justice and how they are distinct.

[11]Feinberg, 'The expressivist function'; Königs, 'The expressivist account'; Sander, 'The expressivist turn'.

[12]Larry Mayand and Shannon Fyfe, *International Criminal Tribunals: A Normative Defense* (Cambridge: Cambridge University Press, 2017), p. 51.

[13]Cf. Demko, 'An expressive theory', p. 177.

[14]Nicole Deitelhoff and Lisbeth Zimmermann, 'Norms under challenge: Unpacking the dynamics of norm robustness', *Journal of Global Security Studies*, 4:1 (2019), pp. 2–17; Hannes Hansen-Magnusson, Antje Vetterlein, and Antje Wiener, 'The problem of non-compliance: Knowledge gaps and moments of contestation in global governance', *Journal of International Relations and Development*, 23 (2020), pp. 636–56; Christian Kreuder-Sonnen and Berthold Rittberger, 'The LIO's growing democracy gap: An endogenous source of polity contestation', *Journal of International Relations and Development*, 26 (2023), pp. 61–85; Christian Reus-Smit and Ayse Zarakol, 'Polymorphic justice and the crisis of international order', *International Affairs*, 99:1 (2023), pp. 1–22; Elvira Rosert, 'Salience and the emergence of international norms: Napalm and cluster munitions in the inhumane weapons convention', *Review of International Studies*, 45:1 (2019), pp. 77–99.

[15]Martha Finnemore and Katryn Sikkink, 'International norm dynamics and political change', *International Organization*, 52:4 (1998), pp. 887–917.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

of research have addressed in depth the issue of fragmentation and norm collision in IR,[16] international norm contestation,[17] norm robustness and international cooperation,[18] or norm complexity.[19] One notable contribution is the work on the conceptual framework of complex relations and interactions between international norms, which points towards the investigation of norms relations, norm interactions, and their effects.[20] At international organisations (IOs), countries' delegates can engage in norm linkage in their speeches through various argumentative strategies such as conflict arguments, cluster arguments, or synergy arguments.[21] While previous studies have identified the justification strategies that can be employed at the level of IOs, the manifestations of norms expressivism in the judicial space, and especially the nexus between expressivism and the idea of punishment and how norm-related behaviour and speech acts relate to individual norms or norm dynamics, have received little conceptual attention in IR.

The idea of studying international responses and normative dynamics in relation to the Russian war in Ukraine is not new.[22] Theorising the responses to actor's behaviour in response to Russia's invasion of Ukraine, Gholiagha and Sienknecht distinguish between responsible, irresponsible, appropriate, and inappropriate behaviour, showing the emergence of a new international norm, that of the responsibility to support.[23] Examining examples of key lines of argumentation and speech acts, Bosse demonstrates how the European Union's 2022 response to the invasion was

[16]Sassan Gholiagha, Anna Holzschreiter, and Andrea Liese, 'Activating norm collisions: Interface conflicts in international drug control', *Global Constitutionalism*, 9:2 (2020), pp. 290–317; Cortell and James W. Davis, 'When norms clash: International norms, domestic practices, and Japan's internalisation of the GATT/WTO', *Review of International Studies*, 31:1 (2005), pp. 3–25; Tom Buitelaar and Gisela Hirschmann, 'Criminal accountability at what cost? Norm conflict, UN peace operations and the International Criminal Court', *European Journal of International Relations*, 27:2 (2021), pp. 548–71; Siddhart Mallavarapu, 'After fragmentation: Notes from the Global South', *Global Constitutionalism*, 9:2 (2020), pp. 424–36; Christian Kreuder-Sonnen and Michael Zürn, 'After fragmentation: Norm collisions, interface conflicts, and conflict management', *Global Constitutionalism*, 9:2 (2020), pp. 241–67.

[17]Antje Wiener, *Contestation and Constitution of Norms in Global International Relations*, 1st ed. (Cambridge: Cambridge University Press, 2018); Brent Steele, 'Broadening the contestation of norms in international relations', *Polity*, 49:1 (2017), pp. 132–8; Senem Aydın-Düzgit and Gergana Noutcheva, 'External contestations of Europe: Russia and Turkey as normative challengers?', *Journal of Common Market Studies*, 60:6 (2022), pp. 1815–31; Laura von Allwörden, 'When contestation legitimizes: The norm of climate change action and the US contesting the Paris Agreement', *International Relations* Online First (2024), avaliable at: {https://doi.org/10.1177/00471178231222874}; Julia Drubel and Janne Mende, 'The hidden contestation of norms: Decent work in the International Labour Organization and the United Nations', *Global Constitutionalism*, 12:2 (2023), pp. 246–68; Johanna Speyer and Nils Stockmann, 'How a conversation between EU studies and critical-constructivist IR norm research illuminates a union in crisis: A research note', *Journal of Common Market Studies*, 62:3 (2024), pp. 902–13; Adam Bower, 'Contesting the International Criminal Court: Bashir, Kenyatta, and the status of the nonimpunity norm in world politics', *Journal of Global Security Studies*, 4:1 (2019), pp. 88–104.

[18]Jeffrey S. Lantis and Carmen Wunderlich, 'Resiliency dynamics of norm clusters: Norm contestation and international cooperation', *Review of International Studies*, 44:3 (2018), pp. 570–93; Eygi Yildiz, *Between Forbearance and Audacity: The European Court of Human Rights and the Norm against Torture* (Cambridge and New York: Cambridge University Press, 2024); Heike Krieger and Andrea Liese, *Tracing Value Change in the International Legal Order: Perspectives from Legal and Political Science* (Oxford: Oxford University Press, 2023).

[19]Caroline Fehl, 'Navigating norm complexity a shared research agenda for diverse constructivist perspectives', Peace Research Institute Frankfurt, Working Paper No. 41 (2018); Caroline Fehl, 'Bombs, trials, and rights: Norm complexity and the evolution of liberal intervention practices', *Human Rights Quarterly*, 41:4 (2019), pp. 893–915; Marcelo D. Varella, *Internationalization of Law: Globalization, International Law and Complexity* (Berlin: Springer, 2014).

[20]Caroline Fehl and Elvira Rosert, 'It's complicated: A conceptual framework for studying relations and interactions between international norms', Peace Research Institute Frankfurt, Working Paper No. 49 (2020).

[21]Caroline Fehl, 'Protect and punish: Norm linkage and international responses to mass atrocities', *European Journal of International Relations*, 29:3 (2023), pp. 751–79.

[22]Sassan Gholiagha and Mitja Sienknecht, 'Between (ir)responsibility and (in)appropriateness: Conceptualizing norm-related state behaviour in the Russian war against Ukraine', *Global Constitutionalism*, 13:2 (2024), pp. 370–91; Giselle Bosse, 'The EU's response to the Russian invasion of Ukraine: Invoking norms and values in times of fundamental rupture', *Journal of Common Market Studies*, 62:5 (2024), pp. 1222–38; Kevin J. Heller, 'Options for prosecuting Russian aggression against Ukraine: A critical analysis', *Journal of Genocide Research*, 26:1 (2024), pp. 1–24.

[23]Gholiagha and Sienknecht, 'Between (ir)responsibility and (in)appropriateness'.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

underpinned by normative considerations, among other factors.[24] Even though generalised punishment (understood in this article as criminal accountability and effective prosecution) through the application of criminal law might take years or might never happen, it is urgently necessary to understand what happens until then, and how this is linked to the idea of punishment. The post-norm violation phase at international level is crucial not only because it shows the articulation of reactions of the global community to an international wrongdoing – which can form the basis for documentation of the norm violations and legitimation of the eventual criminal accountability – but also because an expressivist account embodies a response to norm violations and societal expectations.

In international criminal justice research, expressivism has traditionally been understood as a function of punishment,[25] with previous studies having examined the semantics associated with criminal justification[26] or the normative legacies of narratives in domestic and international law.[27] Since the influential piece by Feinberg situating expressivism as a distinct account of punishment, it was perceived that an expressivist turn is emerging,[28] yet this is in the search for meaning. Expressivism in relation to punishment is mainly conceived as an 'appropriate reaction'[29] to a criminal wrongdoing, bearing the idea of articulating international norms and conveying meaning.[30] The link between expressivism and criminal justice's idea of punitivity is visible at the practice level. Expressivism is a component within a recurring process that involves the dynamic interaction among norms, criminal acts, and the delivery of punishment as a message.[31] In international criminal justice, expressivism can play crucial functions as a mode of justification for penal practices or as expressivist action taken by an authority in response to norm transgression.[32] While retribution communicates that there is no excuse and no room for tolerance when it comes to serious human rights violations, retribution alone is not enough to justify punishment.[33] Expressivist punishment's conceptual relevance pertains to bridging the 'divide between deontological and consequentialist justifications of punishment'.[34] Bringing international criminal justice and society closer to each other, expressivism gives utterance to the crime's severity and to societal punitive expectations in international criminal justice[35] at the same time. Expressivist accounts of criminal justice articulate 'messages in relation to individual wrongdoing and allocation of responsibility'.[36] Yet the mode through which this responsibility materialises is conceptually little understood. Seeking to address this shortcoming, one of the aims of this article is to debunk the nexus between the context of

[24]Bosse, 'The EU's response'.

[25]Feinberg, 'The expressivist function'; Königs, 'The expressivist account'.

[26]Stahn, *Justice as Message*.

[27]Stahn, *Justice as Message*; Stahn, 'Syria'; Meijers and Glasius, 'Expression'; Tim Kelsall, 'Politics, anti-politics, international justice: Language and power in the Special Court for Sierra Leone', *Review of International Studies*, 32:4 (2006), pp. 587–602; Marina Aksenova, 'Symbolic expression at the International Criminal Tribunal for the former Yugoslavia', in Carsten Stahn, Rafael Braga da Silva, Carmel Agius, Serge Brammertz, and Colleen Rohan (eds), *Legacies of the International Criminal Tribunal for the Former Yugoslavia: A Multidisciplinary Approach* (Oxford: Oxford University Press, 2020), pp. 149–73; Simone Gigliotti and Amber Pierce, 'The narrative legacies of exceptional crime', in Carsten Stahn, Rafael Braga da Silva, Carmel Agius, Serge Brammertz, and Colleen Rohan (eds), *Legacies of the International Criminal Tribunal for the Former Yugoslavia: A Multidisciplinary Approach* (Oxford: Oxford University Press, 2020), pp. 112–29; Ivor Sokolić, 'Narratives of justice and war in Croatia', in Carsten Stahn, Rafael Braga da Silva, Carmel Agius, Serge Brammertz, and Colleen Rohan (eds), *Legacies of the International Criminal Tribunal for the Former Yugoslavia: A Multidisciplinary Approach* (Oxford: Oxford University Press, 2020) pp. 445–61.

[28]Sander, 'The expressive turn'.

[29]Mayand and Fyfe, *International Criminal Tribunals*, p. 51.

[30]Stahn, 'Syria'.

[31]Stahn, 'Syria', p. 87.

[32]Wringe, 'Expressive theories of punishment', p. 245.

[33]Cf. Stahn, 'Syria', p. 331.

[34]Stahn, 'Syria', p. 332. See also Demko, 'An expressive theory', p. 192.

[35]Mark A. Drumbl, *Atrocity, Punishment, and International Law* (Cambridge: Cambridge University Press, 2007), p. 155.

[36]Stahn, 'Syria', p. 332.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

responsibility attribution and expressivist criminal justice. To this end, and complementing studies linking expressivism and the penal philosophies of Hegel or Durkheim,[37] this article employs the work of Friedrich Nietzsche, in particular his genealogy of Guilt, which I explain further in this section.

While punishment can entail distinct forms of penalty, expressivism is associated with a form of penalty or damage at normative, symbolic, and communicative levels. An expressivist account of punishment can produce normative harm by conveying disagreement with the wrongdoer's actions and postulating the offender's guilt. Denunciations of norm violations through speech acts and performative practices can contribute to the affirmation and projection of international values and norms.[38] Whether at communicative, motivational, or symbolic level,[39] these expressions may manifest themselves via mnemotechnics, the evocation of emotions, or rituals associated with guilt. Expressivism is concerned not only with the construction of messages but also with how these are received by diverse audiences.[40] In its expressivist meaning, punishment is employed to enable awareness and a historical acknowledging that the law was broken. It is thus the act of expressing and articulating, along with the established agency, that is at the heart of the expressivist account of punishment. Connections in the form of strategic linkages[41] can be established to justify positionalities, such as support or opposition for UN resolutions. Here, Nietzsche's genealogy of Guilt[42] is useful to better grasp the expressive idea of punishment in order to understand the entanglement between guilt, responsibility, and punitivity, and to comprehend the role of emotions in the punitive behaviour.

Relating expressivism to punitivity and penal philosophy, and drawing on Nietzsche's genealogy of Guilt, this article shows how the Guilt and responsibility of the offender in relation to a crime is being embedded in the institutional consciousness and international memory. Guilt and responsibility are interlinked: 'guilt implies the consciousness of guilt, and punishment evidence that the criminal is a responsible person'.[43] Nietzsche explains the genesis of guilt in the Second Treatise of his book *On the Genealogy of Morality: A Polemic*. To the question 'How has Guilt come to be in the world?', Nietzsche draws the genesis of guilt from the material aspect of *Schuld*, which in German has double etymology, meaning both guilt and owing someone something such as financial debt, or based on an agreement.[44] He asserts that guilt is as old as the idea of legal subject and is entangled with notions such as agreement and exchange, emphasising the relational aspect of Guilt.[45] Nietzsche claims that notions such as responsibility and conscience are genuinely embedded in the moral sphere of Guilt.[46] In effect, the idea of accountability and punishment in its expressivist manifestation in the post-norm violation phase resembles the idea of establishing a historical moment materialising the responsibility of an offender in relation to a crime.

[37]Stahn, *Justice as Message*, chapter 'International criminal justice and expressivist theory'; Wringe, 'Expressive theories of punishment', p. 245.

[38]For a discussion of norm expression and their different manifestations as norm affirmation, norm projection, or storytelling, see Stahn, *Justice as Message*, chapter 2.

[39]Chau, 'Bennett's expressive justification'.

[40]Sloane, 'The expressive capacity'; Jeffrey S. Lantis and Carmen Wunderlich, 'Resiliency dynamics of norm clusters: Norm contestation and international cooperation', *Review of International Studies*, 44:3 (2018), pp. 570–93.

[41]Caroline Fehl, 'Protect and punish: Norm linkage and international responses to mass atrocities', *European Journal of International Relations*, 29:3 (2023), pp. 751–79.

[42]For an insightful presentation of Nietzsche's genealogy of Guilt, see Bernard Reginster, 'The genealogy of Guilt', in Simon May (ed.), *Nietzsche's On the Genealogy of Morality: A Critical Guide* (Cambridge: Cambridge University Press, 2011), pp. 56–77.

[43]Hannah Arendt, 'Organized guilt and universal responsibility', in Hannah Arendt (ed.), *Essays in Understanding: 1930–1954* (New York: Knopf Doubleday Publishing Group, 2011), p. 157.

[44]Friedrich Wilhelm Nietzsche, *Zur Genealogie der Moral: eine Streitschrift* (online: https://www.projekt-gutenberg.org/nietzsch/genealog/geneal02.html, [1892]) Essay II.4, own translation.

[45]Ibid.

[46]Nietzsche, *Zur Genealogie der Moral*, Essay II.5.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

An expressivist account of international norms, in contrast to a norm complexity approach – which refers to the interactions between norms, and which I discussed earlier in this section – depicts how articulations and speeches at the United Nations, as well as continuous manifestations inducing international shame, damage, and harm,[47] can be interpreted as activating the remembering of norms due to its production of agony. As Nietzsche puts it: 'One burns something so that it remains in the memory: only what does not stop hurting remains in the memory.'[48] This implies that the violation of norms can be understood as a phenomenon of forgetting the rules. Sovereign actors and the idea of free-will are considered to be bounded by responsibility towards norms and conventions.[49] Pain, which is viewed by Nietzsche as a penalty for being guilty of a wrongdoing, is considered the strongest way to activate mnemonic processes and make norms unforgettable. Pain is defined as the infliction of damage or losses on the wrongdoer.[50] Punishment is thus an expression of treaty law and norms in the present and its perennialisation through making it part of the institutional memory and reflexive conscience of guilt in IOs.[51] Emotions are important as they can intermediate the production of guilt perceptions but might also shape whether punitive behaviour is adopted or not.[52] Recalling past atrocities can highlight the destructive potential of a crime, through leveraging emotions and retrospective processes of remembering past crimes. At speech level, this can create new understandings of when a norm is violated, how a norm violation can be ascertained, and whether it warrants punitive actions and sanctioning.

The reason why the notion of punishment requires an expressivist framework is because expressivism can be seen as an approach to solving the old problem of retribution[53] (consisting in finding convergence on the objectives and the criteria for retribution) and the problem of consequentialism (which implies a moral system that might leave wrongdoers unpunished). While expressivism and retribution share the idea of holding the wrongdoer accountable, expressivism is one manifestation of punishment, being 'part of the language, articulation, and representation through which legal agents and the field as a whole manifest themselves in relation to others'.[54] Both in international criminal justice and IR, retribution is characterised by a series of challenges, such as the challenge of establishing the necessary and sufficient conditions for 'postulating guilt',[55] or having to deal with the problem of 'postulating guilt in law and in morals'.[56] Further interconnected challenges are the issue of a 'fluffy Leviathan', referring to the fuzziness of international authority and the lack of consolidated judicial structure[57] in IR, along with uneven, interdependent poles of power in the international order.[58] These matters have been problems of retribution since the establishment of the system of international law after the Second World War and are exacerbated in a contemporary

[47] For a discussion on stigma, shaming, and norms in International Relations, see for example Rebecca Adler-Nissen, 'Stigma management in International Relations: Transgressive identities, norms, and order in international society', *International Organization*, 68:1 (2014), pp. 153–76.

[48] Nietzsche, *Zur Genealogie der Moral*, Essay II.3, own translation.

[49] Friedrich Wilhelm Nietzsche (ed.), *Ansell-Pearson, On the Genealogy of Morality* (Cambridge: Cambridge University Press, 2007 [c. 1892]).

[50] Nietzsche, *Zur Genealogie der Moral*.

[51] For a study on shaming by international organisations and condemnatory speech acts, see Theresa Squatrito, Magnus Lundgren, and Thomas Sommerer, 'Shaming by international organisations: Mapping condemnatory speech acts across 27 international organisations, 1980–2015', *Cooperation and Conflict*, 54:3 (2019), pp. 356–77.

[52] Benoît Dubreuil, 'Punitive emotions and norm violations', *Philosophical Explorations*, 13:1 (2010), pp. 35–50.

[53] S. I. Benn, 'An approach to the problems of punishment', *Philosophy*, 33:127 (1958), pp. 325–41 (p. 325).

[54] Stahn, 'Syria', p. 391.

[55] Benn, 'An approach to the problems of punishment', p. 325.

[56] Ibid., p. 325.

[57] Anthony F. Lang, Jr., *Punishment, Justice and International Relations: Ethics and Order after the Cold War* (London: Routledge, 2008), p. 133.

[58] Cornelia Baciu, 'Interpolarity. Re-Visiting Security and the Global Order', *Defence Studies*, 22:4 (2022), pp. 571–90.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

context of contestation,[59] as well as by the moral indeterminacy of norms and international law.[60] An expressivist account of criminal justice in IR is important not only because it shows the articulation of reactions to an international wrongdoing, but also because it marks a response to norm violations and societal expectations. In other words, even though local and global judicial bodies established to prosecute war crimes face difficulties in fulfilling their objectives of punishment for past wrongdoings and discouraging future offences, they can intermediate the advancement of expressivist aims,[61] and this article unearths the modes through which expressivist aims manifest at the level of IOs.

The proposed conceptualisation of expressivism advances the literature on criminal justice in International Law and norm research in IR. In regard to International Law, and particularly international criminal justice, this article shows how norm violations are illustrated at IO level, and how this is linked to the idea of punishment through, for example, penal analogies. In particular, it advances the norm expressivism framework developed by Carsten Stahn[62] by adding an additional layer helping us to better understand the associations between norm violation and crucial notions, such as guilt, responsibility attribution, accountability, and punishment, in international criminal justice research. Highlighting the role of mnemotechnics or emotions, my framework not only furthers the concept of 'storytelling'[63] in norm affirmation dynamics by proposing concrete mechanisms through which storytelling can happen, but it also adds a theoretical distinction to the literature on punishment and norm expressivism by focusing to a greater extent on the penal purpose. A focus on the penal purpose is important for a better understanding of the link between expressivism and punitivity, which has been often criticised for being vague or too abstract. In IR, this article unpacks the nexus between norms and expressivism, complementing existing studies on norm complexity. Specifically, it delineates between different manifestations of norm expressivism within the judicial realm, showing how norm-related behaviour and speech acts connect to individual norms and norm violation.

Methodological considerations

This research builds upon previous studies harnessing UN debates or international narratives to unveil normative aspects of IR and criminal justice. The idea of studying the rhetoric of international elites in relation to reasoning and justifications for criminal law is not new.[64] Following previous scholarship examining UN debates and international discourses,[65] I build a methodology showing how meaning unfolds and how words are made to matter in the international judicial realm. I study the expressivist manifestations and responses to norm violation based on the Ukraine-related debates at the UN, both in the UNSC and UNGA, and how criminal justice was implied. I look at references made during the period 24 February 2022–24 March 2023, and I hermeneutically deconstruct how the expressivist idea of punishment has appeared during those debates. I chose to look at this period because all UN resolutions in relation to Russia's full-scale invasion of Ukraine were adopted during this period. What Russia has attempted with

[59] Beth A. Simmons and Jo Hyeran Jo, 'Measuring norms and normative contestation: The case of international criminal law', *Journal of Global Security Studies*, 19 (2019), pp. 18–36.

[60] Wolfgang Wagner and Wouter Werner, 'War and punitivity under anarchy', *European Journal of International Security*, 3:3 (2018), pp. 310–25.

[61] Cf. Sokolić, 'Narratives of justice', p. 151; see Drumbl, *Atrocity*.

[62] Stahn, *Justice as Message*; Stahn, 'Syria'.

[63] Stahn, 'Syria'.

[64] Stahn, *Justice as Message*; 'Syria'; Meijers and Glasius, 'Expression'; Kelsall, 'Politics, anti-politics, international justice'; Aksenova, 'Symbolic expression'; Gigliotti and Pierce, 'The narrative legacies'; Sokolić, 'Narratives of justice'.

[65] Felix S. Bethke, Felix Haass, and Holger Niemann, 'The language of responsibility in the United Nations Security Council, 1946–2020', *International Studies Quarterly*, 68:2 (2024), pp. 1–11; Brent J. Steele, 'Making words matter: The Asian tsunami, Darfur, and "reflexive discourse" in international politics', *International Studies Quarterly*, 51:4 (2007), pp. 901–25; Katrin Bachleitner, 'International memories in global politics: Making the case for or against UN intervention in Libya and Syria', *Review of International Studies*, 50:2 (2024), pp. 271–88.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

Aim	Manifestations	Punitive association	Process	Actors
▪ Enable historical moment acknowledging that the law was broken ▪ Materialisation of responsibility	▪ Disagreement pronouncement ▪ Denunciation of norm violation ▪ Postulation of guilt ▪ Penal analogies	▪ Communicative harm ▪ Normative harm	▪ Mnemotechnic ▪ Emotions ▪ Rituals of pain	▪ International Organisations ▪ States ▪ Individual elites ▪ Non-state actors

Figure 1. Manifestations of normative expressivism in reaction to norm violation.

Ukraine – an imperial takeover of a neighbouring territory through a war of conquest in which the aggressor threatens the use of nuclear weapons – has ignited one of the largest armed conflicts in Europe since the Second World War.[66] After screening the debates in the UNGA and UNSC in relation to Ukraine, I hermeneutically identify the representational modes that seek to unveil crimes or punctuate the violation of specific, identifiable norms. Involving an encounter with philosophy and language, hermeneutics constitutes an interpretative method[67] focused on understanding texts and how expressions and representations intermediate cognition and verdict. In this corpus, I examine how guilt, responsibility, or accountability are articulated, but also how the links to judicial prosecution, retribution, attribution and criminal justice more generally are made, creating the institutional memory at the UN. Starting from the assumption that expressivism can break silence around crimes and reinforce the universal non-impunity norm and the idea of 'Never again',[68] I distinguish between several manifestations of expressivism in the international realm.

Manifestations of norm expressivism following Russia's full-scale invasion

Several rhetorical patterns are related to the idea of punishment and criminal justice and include references involving disagreement pronouncements, denunciations of norm violations, postulation of guilt, and penal analogies. These manifestations can be in a relationship of mutual reinforcement and can often overlap. I lay down the different types of manifestations of normative expressivism in Figure 1.

It is assumed that references are deliberately selected and used by international institutions, and that thus, through language, they try to persuade. Previous research demonstrates that linkages can be explicitly made to promote prosecution and norms,[69] and my research contributes to a greater understanding of these linkages, investigating their genesis, implications, but also their agentic power. The idea of the discursive agency that can emerge in IOs is reinforced by the Ghanaian UN representative, who claimed that:

> As the collective custodians of the peace of our world, we must take every necessary action to strengthen the present fragile order. That includes using these debates to send a clear, unified message of support for the Charter and international law, the bases for a stable international system. Not doing so would lead the world towards a historical path of division.[70]

[66]'One Year after Russia's Invasion of Ukraine: Experts React', *RAND* (2023), available at: {https://www.rand.org/pubs/commentary/2023/02/one-year-after-russias-invasion-of-ukraine.html}.
[67]Compare to Hans Georg Gadamer, *Wahrheit und Methode* (Tübingen: J. C. B. Mohr [Paul Siebeck], 1975), p. 205.
[68]Stahn, 'Syria', p. 394.
[69]Fehl, 'Protect and punish'.
[70]12 October 2022; A/ES-11/PV.13.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

Disagreement pronouncements

Disagreement pronouncements are international practices that express a judgement of disapproval,[71] in which judgement is distinct from emotions, condemning international conduct of states or other actors. Expressions of disagreements contain a judgement of the offender's denial of the legal order. Expressions of disagreement and disapproval involve rhetoric in which agents express their opposition to the wrongdoer's behaviour and norm denial.

The UN resolution ES-11/4, adopted by the General Assembly during its 11th emergency special session in October 2022, entitled 'Territorial integrity of Ukraine: Defending the principles of the Charter of the United Nations', condemned the organisation by the Russian Federation of the illegal so-called referendums and attempted illegal annexation of territories in Ukraine, reaffirming commitment to the sovereignty, independence, unity, and territorial integrity of Ukraine within its internationally recognised borders. It called Russia's actions in Ukraine 'a violation of the territorial integrity and sovereignty of Ukraine and inconsistent with the principles of the Charter of the United Nations' and demanded that Russia 'immediately, completely and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders'.[72] The resolution was adopted with a historical level of support with 143 votes in favour, 35 abstentions, and 5 votes against (by Belarus, Nicaragua, North Korea, Russia, Syria). During the meeting, delegates of member states gave speeches and expressed their support for the resolution, while articulating disagreement with Russia's actions. Disagreement was expressed through clear articulations of condemnation and rejection of the wrongdoing.

During the debate on the voting of draft resolution ES-11/4, expressions of disagreement were articulated either negatively, by expressing condemnation or outrage, or positively, by expressing alignment with a resolution condemning the violation of norms by Russia. The intervention of the Italian delegate exemplifies these two types of expressions of disagreement. Maurizio Massari expressed his country's alignment with the statement delivered by the representative (observer) of the European Union. He 'reject[ed] and unequivocally condemn[ed] the illegal attempted annexation by Russia of the Ukrainian provinces of Donetsk, Kherson, Luhansk and Zaporizhzhya', claiming that 'such unilateral annexation is void and cannot have any legal effect' and that 'Italy deplores in the strongest terms the sham referendums in Ukrainian territories occupied by Russia during its war of aggression against Ukraine'.[73] Disagreement was expressed through the condemnation of the illegal attempted annexations on the one hand and expression of alignment with the position of the European Union on the other. Alignment with other states produced a multiplicatory effect, expressing a multitude of agencies, and thus gaining additional legitimising potential. Importantly, disagreement with Russia's actions was expressed by countries from all continents,[74] showing the global dimension of the antagonism and rejection of Russia's actions. For example,

[71] Cf. Feinberg, 'The expressivist function', pp. 401–3.

[72] A/RES/ES-11/4.

[73] Maurizio Massari, Italy, Speech at the UNGA Eleventh Emergency Special Session; 13th plenary meeting; New York, 12 October 2022, 10 a.m.

[74] The following UN resolutions have been adopted since Russia's full-scale invasion in Ukraine: A/RES/ES-11/1 on the aggression in Ukraine with 141 votes in favour, 5 against, and 35 abstentions on 2 March 2022; A/ES-11/2 on humanitarian consequences of the aggression against Ukraine on 24 March 2022, adopted with 140 votes in favour, 5 against, and 38 abstentions; A/RES/ES-11/3 on 7 April 2022 on the suspension of rights of membership of the Russian Federation in the Human Rights Council adopted with 93 votes in favour, 24 votes against, and 58 abstentions; A/RES/ES-11/4 on the territorial integrity of Ukraine and defending the principles of the UN Charter adopted with 143 votes in favour, 5 against, and 35 abstentions; A/RES/ES-11/5 on the furtherance of remedy and reparation for aggression against Ukraine, adopted with 94 votes in favour, 14 against, and 73 abstentions; A/RES/ES-11/6 on principles of the Charter of the United Nations underlying a comprehensive, just, and lasting peace in Ukraine, adopted with 141 votes in favour, 7 against, and 32 abstentions. In addition, there was also a resolution on the territorial integrity of Ukraine adopted during the 78th session of the UN General Assembly (A/RES/68/262) with 100 votes in favour, 11 against, and 58 abstentions.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

the Liberian representative condemned 'the violence, threats of violence and other acts of intimidation increasingly taking place in Ukraine by Russia and joins other Member States in calling for an end to the chaos and tumult'.[75] Similarly to the Italian representative, Cecilia Forgbe Wreh-McGill of Liberia articulated a dimension of solidarity and unity with the other member states that had expressed their disagreement.

In expressing disagreement, consternation, and condemnation, some countries stressed that the message was targeted towards the political leadership in Moscow, and not to the Russian people, with the Swiss delegate stressing that: 'Our clear condemnation of the military aggression is based on the principles of the Charter of United Nations and the international legal order in force and is not directed against the Russian people.'[76]

A further manifestation of the proposed expressivist approach is the denunciation of norm violation.

Denunciation of norm violation

The denunciation of norm violation refers to showcasing the wrongdoer's violation of specific, identifiable and tangible norms. The denunciation of norm violations can document the instances of breaking the law, helping to identify the specific legislative provisions that were broken, and, ultimately, for which the offender is perceived responsible. Denunciation of norm violations might have some degree of overlap with disagreement pronouncements, yet references expressing denunciation of norm violation are distinctive, involving a narrative process specifying concrete norms that have been broken. During performative speech acts at the UN, delegates have articulated the concrete norm violations by Russia. Normative moments have been created through the denunciation of the breaches of the UN Charter, or other concrete international law treaties and conventions.

Many countries denounced Russia's violation of the prohibition of the use of force (Art. 2 of the UN Charter), seen as a cornerstone of international law. For example, the Romanian representative stated that 'the actions of the Russian Federation are based on the illegal use of force and represent serious violations of the most important principles and norms of international law, enshrined first and foremost in the Charter of the United Nations'.[77] Other countries, such as San Marino, articulated and condemned the violation of international legal principles of proportionality and protection of civilians. The San Marino delegate stated that his country 'strongly condemns the indiscriminate and disproportionate attacks on civilians, including through indiscriminate shelling, air strikes and the use of explosive devices in densely populated areas' and highlighted that 'the international humanitarian law in this area is clear', stressing the norm of protection of civilians.[78] The delegate for Canada stressed the deliberate violation of international law and illegality of Russia's actions in Ukraine, including of the so-called referendums. He claimed that 'the actions of the Russian Federation clearly violate the Charter of the United Nations and the customary principle of international law that no acquisition of territory by the threat or use of force shall be recognized as lawful', highlighting that Russia's actions in Ukraine constitute 'an illegal invasion, an illegal occupation and an illegal annexation.'[79]

[75]Cecilia Forgbe Wreh-McGill, Liberia, Speech at the UNGA Eleventh Emergency Special Session; 13th plenary meeting; New York, 12 October 2022, 10 a.m.

[76]Andrea Barbara Baumann-Bresolin, Switzerland, Speech at the UNSC 9280th meeting; New York, Tuesday, 14 March 2023, 10 a.m.

[77]Cornel Feruță, Romania, Speech at the UNGA Eleventh Emergency Special Session; 13th plenary meeting; New York, 12 October 2022, 10 a.m.

[78]Damiano Beleffi, San Marino, Speech at the UNGA Eleventh Emergency Special Session; 9th plenary meeting; New York, 24 March 2022, 10 a.m.

[79]Bob Rae, Canada, Speech at the UNGA Eleventh Emergency Special Session; 14th plenary meeting; New York, 12 October 2022, 3 p.m.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

Some countries have listed the precise violations and infringements of international legal norms by Russia. Papua New Guinea sponsored the resolution ES-11/2 on the humanitarian consequences of the aggression against Ukraine, which was adopted with 140 votes in favour, 5 against, and 38 abstentions. Condemning Russia's use and threat of use of force, Mr Sarufa claimed that:

> Not only is the threat or use of force and of nuclear weapons a clear violation of the United Nations Charter and international law, but it is also contrary to the commitments Russia made in the Budapest Memorandum, the Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and the statement by the five NPT nuclear-weapons States in January that a nuclear war cannot be won and must never be fought.[80]

Moreover, Italy has also clearly articulated the violation of the Helsinki Final Act, which established the Conference on Security and Co-operation in Europe (later OSCE), created during the Cold War to enable dialogue and cooperation, and to which both Ukraine and Russia are party: 'Such actions constitute a flagrant breach of the Charter of the United Nations and blatantly violate international law and the principles of the Helsinki Final Act.'[81] Other countries have emphasised Russia's non-compliance with demands from the International Court of Justice ordering the suspension of Russian military operations in Ukraine, as the French representatives Mr De Rivière highlighted: 'It is clear that Russia has in no way complied with that decision.'[82] Congo has condemned the violation of norms such as the 'independence, sovereignty and the territorial integrity of Ukraine' while also seeking legitimation by openly stating, as have many other countries, its voting position in support of the resolution and demanding an end of the norm breach: 'Democratic Republic of the Congo will vote in favour of draft resolution A/ES-11/L.5, as we did for the first three resolutions on Ukraine.'[83]

Postulation of guilt

Postulation of guilt refers to expressivist practices that unveil and expose the blame and attribution of responsibility for a wrongdoing, enabling moments during which the wrongdoing and the attribution of the responsibility of the wrongdoer for breaking the law are being ascertained. Rhetoric blocks, in the form of short references during speeches expressing postulations of guilt, might have a degree of overlap with denunciation of norm violation. Yet they are distinct from denunciation of norm violation in that they pronounce the guilt and responsibility. Hence, they constitute a more advanced phase than the expression and denunciation of norm violation and represent a phase in which the perpetrator is pronounced guilty. The materiality of the expressions of guilt intermediates what Nietzsche calls a conscience of guilt, which is articulated through contractarian logics of responsibility, accountability, and blame in relation to breaking of a contract or agreement. Nietzsche situates the concept of guilt, conscience, and responsibility in the moral realm of legal and normative obligations. During addresses at the UN, delegates have postulated Russia as being guilty and responsible for: violating the UN Charter, abusing its veto in the UNSC, violating criteria of UN Human Rights Council membership, committing atrocities, or creating a humanitarian crisis, *inter alia*.

To enable the exposition and subsequent documentation of guilt and responsibility, the resolution A/RES/ES-11/5, 'Furtherance of remedy and reparation for aggression against Ukraine', also

[80]Fred Sarufa, Papua New Guinea, Speech at the UNGA Eleventh Emergency Special Session; 13th plenary meeting; New York, 12 October 2022, 10 a.m.

[81]Maurizio Massari, Italy, Speech at the UNGA Eleventh Emergency Special Session; 13th plenary meeting; New York, 12 October 2022, 10 a.m.

[82]Nicolas De Rivière, France, Speech at the UNGA Eleventh Emergency Special Session; 14th plenary meeting; New York, 12 October 2022, 3 p.m.

[83]Georges Nzongola-Ntalaja, DR Congo, Speech at the UNGA Eleventh Emergency Special Session; 13th plenary meeting; New York, 12 October 2022, 10 a.m.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

seeking compensation and support for the victim, was adopted on 14 November 2022, with 94 votes in favour, 14 votes against, and 73 abstentions. The creation of a registry of damages set by the resolution was seen as essential for documenting the instances of guilt and recording evidence for damages, losses, and injuries caused by Russian aggression, as the Montenegrin delegate put it:

> With this draft resolution, the General Assembly recognizes the need to establish an international mechanism to compensate Ukraine for the damage caused by Russia's aggression. The draft resolution recommends the creation of a registry of damages to serve as a record of evidence and claims of damage, loss and injury caused by the aggression of Russia.[84]

Some countries have emphasised the utility of an eventual register of loss and damages by Ukraine to be established through the resolution, as a potential mechanism to punish the wrongdoings and hold the offender accountable through trials and prosecution in the future. As the Mexico delegate put it: 'Accountability is an inescapable part of the rule of law', and 'there are judicial processes under way that may lead to the establishment of mechanisms to repair damages and, of course, to punish those responsible for them'.[85] Other countries have expressed support for the ongoing investigations, perceived as preparatory retributive steps for punishing and holding the wrongdoer accountable:

> We reaffirm our support for the ongoing investigations and processes that would eventually lead to the identification of the perpetrators of all violations in order to hold them to account for their actions, or inactions. The world cannot afford impunity in the face of such egregious violations in Ukraine.[86]

Several states clearly expressed the guilt of the wrongdoer while stressing their expectations for punitive action to enable accountability: 'The perpetrators must not go unpunished for unleashing such brute force and for violating international peace and security.'[87] Another delegate highlighted the imminent danger of leaving such conduct unpunished:

> Ukraine is a victim of forceful territorial acquisitions, and if that is left unsanctioned it could become the worst precedent of the beginning of the decay of the international order generations have strived to build in the aftermath of devastating world wars to ensure the lasting reign of peace and prosperity.[88]

Leaving the violation of norms unsanctioned was viewed by the two representatives as a dangerous precedent, in the sense of ontologically endangering the legal order enacted by the UN Charter and other treaties and conventions. In addition, failure to hold the perpetrator accountable for the wrongdoing was perceived as bearing the risk of further breaches of sovereignty or other fundamental rights enshrined in the rules-based order.

Expressions of guilt at the UN do not automatically mean that the perpetrator has sensed guilt or perceived itself as guilty. Countries might exhibit shame and guilt or not, depending on their place in and relation to the international system.[89] Resolutions or statements blaming Russia of

[84] Andrejs Pildegovičs, Latvia, Speech at the UNGA Eleventh Emergency Special Session; 15th plenary meeting; New York, 14 November 2022, 10 a.m.

[85] Juan Manuel Gómez Robledo Verduzco, Mexico, Speech at the UNGA Eleventh Emergency Special Session; 15th plenary meeting; New York, 14 November 2022, 10 a.m.

[86] Khalilah Hackman, Ghana, Speech at the UNSC 9280th meeting; New York, 14 March 2023, 10 a.m.

[87] Goran Šćepanović, Montenegro, Speech at the UNGA Eleventh Emergency Special Session; 13th plenary meeting; New York, 12 October 2022, 10 a.m.

[88] Cornel Feruță, Romania, Speech at the UNGA Eleventh Emergency Special Session; 13th plenary meeting; New York, 12 October 2022, 10 a.m.

[89] Jelena Subotic and Ayse Zarakol, 'Cultural intimacy in international relations', *European Journal of International Relations*, 19:4 (2012), pp. 915–38.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

being guilty of starting an illegal war of aggression cannot compel Russia to feel guilty, but they can produce knowledge about how others perceive guilt, and what they perceive Russia as being guilty of. Mnemonic processes and the activation of emotions were found to shape the way guilt and penance are expressed.

Penal analogies through mnemotechnics and emotions

Penal analogy refers to the performative reconstruction of a past wrongdoing that was legally and judicially ascertained as a crime, being presented in a fashion of similarity vis-à-vis a current wrongdoing. Through mnemonic processes, the speeches of IOs' delegates can convey new knowledge and enable the emergence of learning processes. Mnemotechnics is a 'conscious learning technique' in which 'the elements of places and images (loci et imagines) are used to develop a kind of mental script that can be used to write in memory as if on a blank page'.[90] National and international discourses of memory resonate in these spaces as part of the daily agenda by remembering the past through discourse. Through the incorporation of memory by different states, such as Ghana or Albania, memories of the past are constantly changed in the current time. The process of remembering is continuously influenced by the present as well as present features such as habitus or identity, with remembering being 'fundamentally reconstructive', denoting a 'shift, deformation, distortion, reevaluation'[91] or a renewal of remembering that can occur in the present.

References to the past have been made to enable a normative moment acknowledging that the law has been broken by using the past to validate actions in the present through an analogy. One example came from the Canadian representative, Bob Rae, who, remembering the past, made an analogy for Russia's annexation of Ukrainian provinces, comprising a territory 'about the same size as the three Baltic countries illegally annexed by Stalin in 1940'.[92] Rae mentioned that 'we must remember that point because after the occupation of the three Baltic countries by the Soviet army, the rate of participation in the "elections" of the new constituent assemblies reached a staggering 99.6 per cent in 1940 following the invasion and annexation by Stalin's Government', and that figure of over 99 per cent 'resembles the results of the so-called referendums held in the four illegally occupied regions of Ukraine that Russia has just attempted to annex'.[93]

In an intervention at the UNSC, the Ukrainian representative, Serhii Dvornyk, quoted from the Nuremberg trials against the propaganda by the Nazi regime, to enable an analogy to the contemporary propaganda by the Russian government, claiming that 'the history of the past contains powerful reminders of what happens when one nation, poisoned with propaganda inciting hatred, waged a war of elimination against other nations and peoples'.[94] Dvornyk revealed in his speech a constatation by the Nuremberg Tribunal in the judgement against Julius Streicher, a prominent Nazi propagandist: 'In his speeches and articles, week after week, month after month, he infected the German mind with a virus of anti-Semitism and incited the German people to acts of persecution.'[95] The Ukrainian delegate further made an analogy about the 'false claims about the discrimination against Germans' that 'were used as a justification for aggressive expansionism, annexation and atrocities' and Russia's practices in contemporary times.[96] To ascertain the accountability of those responsible for ordering crimes, Dvornyk argued that a tribunal should facilitate

[90] Aleida Assmann, *Erinnerungsräume: Formen und Wandlungen des kulturellen Gedächtnisses* (München: C. H. Beck, 2003), p. 27; see also Nietzsche, *Zur Genealogie der Moral.*

[91] Assmann, *Erinnerungsräume*, p. 29.

[92] Bob Rae, Canada, Speech at the UNGA Eleventh Emergency Special Session; 14th plenary meeting; New York, 12 October 2022, 3 p.m.

[93] Ibid.

[94] Serhii Dvornyk, Ukraine, Speech at the UNSC 9280th meeting; New York, 14 March 2023, 10 a.m.

[95] Ibid.

[96] Ibid.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

'a process of moral penance and deep reflection on the role of that country and its army in the atrocities committed in Ukraine'.[97]

Oftentimes, references to the past are intertwined with emotions. Remembering past atrocities can simultaneously elicit emotions of anger and discontent, exposing the destructive potential that Russia's actions in Ukraine can have. For example, mentioning the root causes of the Holocaust, the massacres in Rwanda, the genocide in Srebrenica, and ethnic cleansing in Kosovo, the Albanian delegate highlighted that they did not come out of nowhere, but they 'were planned through well-elaborated programs based on a common elements' such as 'words deliberately chosen to dehumanize the other, which would then be followed by bloodshed'.[98] He continued his speech by emphasising that a similar dynamic is present in the case of Russia's aggression in Ukraine, too, and that:

> Russia's unprovoked military aggression in Ukraine is being conducted after years of aggressive rhetoric from all levels of the Russian State that has basically asserted that there is no Ukrainian language, culture or church, that Ukraine has no history and that it should have no future.[99]

Emotions and the past are sometimes interwoven by the materialisation of a visualisation and imagination of the destruction and sufferings of the victim. A good illustration comes from the delegate of Guatemala, who stated that:

> we are moved by the images of the more than 3.2 million Ukrainians fleeing their country, displaced by force as a result of the aggression of another State. Women, children, men, older persons – all of them fleeing a callous and appalling conflict, bringing to mind very similar images from the Second World War.[100]

Through the employment of emotions and processes of remembering, speech acts at the UN have established new knowledge about when a norm violation is a norm violation and how we know that it deserves punitive action and sanctioning. I explain the entanglements between expressivism rationales and their relationship to international law in the following section.

Expressivism rationales and their relationship to international law

In this section, I elucidate the relationship between expressivism and international law.

From my analysis, expressivism emerges as a phase in which the wrongdoing is empirically ascertained. IOs, such as the UN, can serve as medium through which states articulate their political choices and punitive desires. A moment acknowledging that international law has been broken is established through speech acts at the UN, through condemnation of the norm violation, and through the demand for accountability. Not all speech acts demand punishment or condemn Russia's actions, as demonstrated by the number of votes against or abstentions in relation to the adopted resolution. UN resolutions related to Ukraine after Russia's full-scale military invasion have nonetheless been adopted by an overwhelming majority, clearly showing that a majority of UN states reject Russia's actions in Ukraine.

Expressivism can manifest in different ways such as, for example, a pronouncement of disagreement, denunciation of norm violation, postulation of guilt, or penal analogies through mnemotechnics. Pronouncements of disagreement were expressed by states during UN debates in relation to Russia's actions in Ukraine, such as the illegal attempted annexation of territories and

[97] Ibid.

[98] Arian Spasse, Albania, Speech at the UNSC 9280th meeting; New York, 14 March 2023, 10 a.m.

[99] Ibid.

[100] Omar Lisandro Castañeda Solares, Guatemala, Speech at the UNGA Eleventh Emergency Special Session; 8th plenary meeting, 23 March 2022, 3 p.m.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

the use of violence and threats of violence. A majority of states condemned the military aggression as being an unacceptable behaviour. This is demonstrated through the voting preferences displayed for the Ukraine-related UN resolutions. Not all states which voted in favour of Ukraine have delivered a speech. Among those who did, many delegates used strong words to signal positioning and the gravity of the crisis, such as 'unequivocally condemn' or 'deplore in strongest terms', expressing disagreement and denial of such conduct. In their speeches, states expressed norms such as territorial sovereignty, prohibition of the use of force, and proportionality, articulating how Russia violated some of the foundational principles and norms of international law. Major concern and outrage were expressed in relation to the infringements of the UN Charter, which is the backbone of the modern international legal order. Delegates also mentioned specific legal provisions that Russia infringed, such as the Helsinki Act, the Budapest Memorandum, Review Conferences of the Parties on the Non-Proliferation of Nuclear Weapons, decisions of the International Court of Justice, and the Convention on the Prevention and Punishment of the Crime of Genocide.

Disagreement pronouncements and denunciations of norm violation synergistically overlapped with expressions of guilt, in which delegates postulated the guilt of the offender. Guilt was also expressed through sustained open support for the resolution A/RES/ES-11/5 'Furtherance of remedy and reparation for aggression' that, *inter alia*, 'recognizes that the Russian Federation must be held to account for any violations of international law in or against Ukraine, including its aggression in violation of the Charter of the United Nations against Ukraine'.[101] The resolution recommended the establishment of an international register and evidence-gathering mechanisms run by member states to document norm violations, and losses and damages suffered by Ukraine, to facilitate retributive steps and hold Russia accountable.

Following my analysis, the relation between expressivism and punishment becomes very clear. Expressivism operates within the judicial sphere, manifesting in forms of accountability, as well as guilt and responsibility attribution for identifiable norm violations. Expressivist accountability involves activities like monitoring, reporting, or interpreting behaviours perceived as norm violations, such as atrocities or aggressions. Although the expressivist account of punishment does not *de jure* punish the perpetrator in the sense of judicial prosecution and sentencing, it enables a historical moment acknowledging and documenting the norm violations, with IOs epitomising the locus where expressivism unfolds. Moreover, shimmering the unique contribution of this article, my analysis shows that expressivism can have a normative effect even in the absence of trials and prosecution in a courtroom.

Although one of the features of the judicial sphere in IR is that it consists of sovereign states, and it lacks an overarching authority that embodies similar levels of power and coercion monopoly that characterise nation-states, my analysis shows how IOs can exert control and coercion as sanctioning actors. UN resolutions have arguably been instrumental for multiple packages of sanctions adopted to sanction Russia's aggression in Ukraine. Moreover, after it invaded Ukraine, Russia was expelled from the Human Rights Council following the UNGA Resolution A/ES-11/L.3. Hence, IOs constitute an important pole within the judicial sphere in IR, and their legal authority emerges from adopted resolutions. By means of the aggregate performances at the UN, delegates can enable and authorise resolutions stipulating future sanctioning or coercion. Delineating the concrete instances of law breaking might be useful for potential future judicial steps and prosecution. Figures of speech or appeals to emotions can elevate the persuasive potential for support, e.g. for a resolution. They can also have an amplifying effect through expressed multiplication and solidary alignment with the position of other states in the protection of collective legal orders.

The overlap between expressivism and punishment or criminal justice manifests not only at the inferential, but also at the normative level. Both expressivism and the retributive philosophy on which the idea of punishment and criminal justice rest are grounded in a contractarian logic in

[101] A/RES/ES-11/5.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

which the wrongdoer is perceived to have a right to be punished,[102] and the international community is perceived to have a collective responsibility to enable holding the offender accountable. This contractarian logic illustrates the entanglement of expressivist punishment with Nietzsche's moral philosophy and interpretation of liability as a debt situation. The wrongdoer is indebted not only to the victim, but also to the order whose rules (s)he has deliberately broken.

A further synergy and overlap between expressivism and a retributive penal philosophy is the ascertainment of guilt and responsibility, and Nietzsche's genealogy of Guilt helps us to unearth the profound entanglements between expressivism and criminal justice. Here, the offender's violation of established law and norms is seen as a denial of a contract or agreement, and the punitive action as a negation of this denial.[103] At the UN, this is enacted through an expression of disagreement and condemnation, and thus as a concrete negation of the wrongdoing. The guilt of the offender is postulated through oral interventions that become written statements and video records, and thus pieces of evidence. This clearly illustrates the idea of punitivity as an expression of an awareness of *Schuld*.[104] The guilt is ascertained and embedded in the institutional and international consciousness projected by the UN. The consciousness of the UN is seen as an abstracted form of Self,[105] working as a palimpsest in which norms and ideas are expressed. The *Schuld* of the offender is mnemotechnically materialised through expressive performances embedded in the institutional memory. These evoke the wrongdoer's responsibility towards the legal order associated with the UN. Being bounded by this order, infringements of commitments endanger the ontology of the very legal order. Speeches at the UN represent the medium through which expressions of disagreement, denunciations of norm violations, postulation of guilt, or penal analogies are enacted. What is remarkable is that throughout the period 24 February 2022–24 March 2023, many expressions and phrases of condemnation and postulation of guilt repeated themselves. These repetitions appear as rituals of pain that are embedded in the institutional memory of the UN. As Nietzsche put it: 'One burns something so that it remains in the memory: only what does not stop hurting remains in the memory.'[106] While the expressive practices at the UN do not induce the wrongdoer's concrete pain, they can reinforce actual punitive actions, such as sanctions that cause pain in the form of financial losses and exclusions from international fora[107] or which can instigate pain in the form of a stigma effect for the wrongdoer.

The use of memory has also been instrumental in eliciting emotions at the UN in relation to Russia's actions in Ukraine. Through intertwining national and international memory discourses and historical analogies, delegates have sought to legitimise their positions through historical analogies. If a wrongdoing such as, for example, Russia's annexations of Baltic states in the past was deemed illegal, this was considered to yield illegality for similar actions in the present. Through materialising a visualisation and imagination of the destruction and sufferings of the victim, remembrance of past atrocities, such as the Holocaust, and the genocides in Rwanda or Srebrenica, IO delegates can evince emotions with persuasive potential.

[102] Markus D. Dubber, 'The right to be punished: Autonomy and its demise in modern penal thought', *Law and History Review*, 16:1 (1998), pp. 113–46.

[103] This works as a negation of an initial denial of rights. In 'Elements of the Philosophy of Right' and elsewhere in his writings, Hegel puts forwards the syllogism of double negation, i.e. negation of a negation – this thesis is well explained in Jean-Christophe Merle, *German Idealism and the Concept of Punishment* (Cambridge: Cambridge University Press, 2010), p. 112. Although Hegel has been sometimes criticised for his idealistic dialectics, the negation of negation thesis can provide the roots of falsifiable propositions with regards to norm violation.

[104] Nietzsche, *Zur Genealogie der Moral*.

[105] This reflexive consciousness can refer to the self in the present and self in the future. It involves manifestations of being and doing.

[106] Nietzsche, *Zur Genealogie der Moral*, own translation.

[107] On 6 April 2022, the UN General Assembly adopted the resolution A/ES-11/L4 suspending the rights of membership of the Russian Federation in the Human Rights Council. The resolution was adopted with 93 votes in favour, 24 against, and 58 abstentions.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

To conclude, expressivism can lay down a phase of condemnation, ascertaining the crime through the exposition of guilt, materialisation of responsibility, and establishment of normative moments acknowledging that the law was broken. In an expressivist philosophy of punishment, states appear as moral agents[108] that can exert punitive agency through expressivist practices. During speeches at the UN, states can use certain language and semantic expressions to justify their positionality towards an international wrongdoing. Although concrete punishment that can disenable the wrongdoing has not been taken and actual international trials in a courtroom have not yet started, an expressivist account of punitivity can help legitimise sanctioning, judicial action, and the restoration of rights. Expressivist practices shape the context in which concrete punitive actions, such as sanctions against Russia or the mandate warrant by the International Criminal Court against Russian president Vladimir Putin, are taken. The diverse practices of sanctioning norm violations indicate that IR involve a form of punitive action that is more than just an interim or substitute phase for a criminal law procedure.

The expressivist framework proposed in this article pursues a penological purpose of its own. This embodies the normative expression of disapproval of norm denial as well as postulation of wrongdoer's guilt. This is not to say, however, that the expressivist account of punishment, which through articulations, representations, and performative manifestations takes the shape of a practice in its own rights, can escape contestation,[109] norm conflict,[110] deviance,[111] resistance,[112] or entanglements with authority, interests, and morals.[113] This was demonstrated by the lack of support and absence of expression of condemnation by countries that are friendly towards Russia or by previously colonial countries' low support for the resolution A/RES/ES-11/5 'Furtherance of remedy and reparation for aggression'.

Conclusion

This paper examined norm expressivism in International Relations and International Law. The core contribution, and the novelty of this article, consists in showing how expressivism, which is classically viewed as a distinct approach to punishment, can serve a normative function even in the absence of court proceedings and prosecution. I demonstrated that even in the absence of trials, the intentions behind expressivist justifications can have a normative reinforcing function for the legal order. In doing so, the article provided a multidisciplinary theoretical contribution to International Criminal Law (specifically criminal justice), norm research in IR, and penal philosophy.

First, by advancing the literature on criminal justice,[114] particularly the work by Carsten Stahn, this article shed light on the meaning of expressivism and the relationship in which it stays vis-à-vis punishment. Specifically, this article further developed the 'storytelling' framework of norm

[108]Toni Erskine, 'Kicking bodies and damning souls: The danger of harming "innocent" individuals while punishing "delinquent" states', *Ethics & International Affairs*, 24 (2010), pp. 261–85.

[109]Lantis and Wunderlich, 'Resiliency dynamics of norm clusters'.

[110]Erich Vranes, 'The definition of "norm conflict" in international law and legal theory', *European Journal of International Law*, 17:2 (2006), pp. 395–418.

[111]Max Lesch, 'From norm violations to norm development: Deviance, international institutions, and the torture prohibition', *International Studies Quarterly*, 67:3 (2023), pp. 1–13.

[112]Alan Bloomfield, 'Norm antipreneurs and theorising resistance to normative change', *Review of International Studies*, 42:2 (2016), pp. 310–33.

[113]Toni Erskine, 'Whose progress, which morals? Constructivism, normative IR theory and the limits and possibilities of studying ethics in world politics', *International Theory*, 4:3 (2012), pp. 449–68; Ian Hurd, 'The strategic use of liberal internationalism: Libya and the UN Sanctions, 1992–2003', *International Organization*, 59:3 (2005), pp. 495–526; Christopher Rudolph, 'Constructing an atrocities regime: The politics of war crimes tribunals', *International Organization*, 55:3 (2002), pp. 655–91.

[114]Stahn, 'Syria'; Sander, 'The expressive turn'; Chau, 'Bennett's expressive justification'; Smeulers, 'Punishing the enemies'; Meijers and Glasius, 'Expression'; Glasgow, 'The expressivist theory'; Duff, 'Punishment'; Wringe, 'Expressive theories of punishment'; Feinberg, 'The expressivist function'; Sloane, 'The expressive capacity'; Königs, 'The expressivist account'; Tanyi, 'Norm-expressivism and regress'.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

expressivism proposed by Stahn.[115] I have illustrated how norm expressivism can manifest as *pronouncements of disagreement, denunciations of norm violations, postulations of guilt*, or *penal analogies*. Yet these examples are not mutually exclusive and are non-exhaustive. Moreover, this article has clarified the relationship between expressivism and criminal justice. It has revealed how normative expressivism is associated with conceptual elements of retributive philosophies of punishment through illustrations of expressivist rhetoric and performative practices at the UN in the aftermath of Russia's full-scale invasion in Ukraine.

Normative expressivism constitutes a performative phase within the judicial sphere, during which the wrongdoing is ascertained, the guilt and responsibility are postulated, and the need for accountability is expressed. Through normative expressivism, agents often seek to justify punitive action. Expressivism enables the establishment of customary knowledge in international normative and judicial spaces, such as IOs. It does so through establishing knowledge that specifies which norms have been violated, and creating normative moments in which norm violations are brought into linkage with punitivity. Although the establishment of new knowledge is dialectic, *expressions of disagreement*, along with the *denunciation of norm violation, postulation of guilt* and responsibility, and articulation of *penal analogies*, immediately create moments that might reinforce smaller punitive actions and countermeasures, such as sanctions[116] or stigma-inducing punitive steps.[117] This becomes exceptionally relevant in the absence of an international Leviathan and universal prosecuting authority. Norm decay can be particularly prejudicial for endeavours seeking to maintain a peaceful international order.

Second, this article contributes to the norm research debate in IR. My article has sought to provide a building block for the norm interaction and norm complexity debate by exploring the nexus between expressivism and norms in the judicial realm in IR. The article complements previous studies on the justification strategies[118] employed to promote criminal justice and punishment of mass atrocities at IOs. To this end, it elucidates how norm-related behaviour and speech acts relate to identifiable norms or norm dynamics, by unpacking the judicial space that emerges during international organisations' debates. Not only do these debates identify the specific norms that have been violated, but UN sessions personify instances during which evidence is provided that links the actions of the perpetrator to the infringement of a certain legal norm fixed in existing conventions or agreements.

Third, this article contributes to scholarship in penal philosophy, complementing previous work combining foundational scholarship and criminal justice. An established literature has documented the links between the work by Émile Durkheim and expressivism.[119] Complementing this literature, my article has added new knowledge on the largely overlooked Nietzschean scholarship. In particular, it demonstrated the utility of Nietzsche's genealogy of Guilt in deconstructing the nexus between expressivism and criminal justice. Nietzsche's work on punitivity proved useful to palpably exhume the meaning of the different examples and manifestations of norm expressivism, but also to understand how they mediate the emergence of responsibility attribution and accountability. By those delegates expressing condemnation, denunciating norm violations, postulating the guilt, or articulating penal analogies, the wrongdoer is perceived as deserving sanctioning, since an alternative behaviour compliant with the existing law and norms could have been chosen.[120]

In sum, much attention has been paid to international responses and the positioning of states on the war against Ukraine[121] or norm violations in IR.[122] While this literature has mostly focused

[115] Stahn, *Justice as Message*; 'Syria'.

[116] Wolfgang Wagner, Linet Durmuşoğlu, Barbora Holá, Ronald Kroeze, Jan-Willem van Prooijen, and Wouter Werner, *Punishment in International Society: Norms, Justice, and Punitive Practices* (Oxford: Oxford University Press, 2024).

[117] Such as exclusion from international fora.

[118] Fehl, 'Protect and punish'.

[119] Stahn, 'Syria'; *Justice as Message*; Wringe, 'Expressive theories of punishment', p. 245.

[120] Cf. Nietzsche, *Zur Genealogie der Moral*.

[121] Gholiagha and Sienknecht, 'Between (ir)responsibility and (in)appropriateness'; Bosse, 'EU's response'.

[122] Squatrito, Lundgren, and Sommerer, 'Shaming by international organizations'.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

on studying cleavages or alliances in the international system, by applying expressivist lenses, this article expounds how expressivist action epitomises a negation of norm denial. This approach enriches the existing literature in IR and International Law by delineating how expressivist practices contribute to the creation of international norms and accountability mechanisms, through disagreement pronouncements, denunciations of norm violation, postulations of guilt, or penal analogies. The provided examples describe processes of *denial* of norm violation or *denial* of treaty infringement. Expressivist action encapsulates a negation (or denial) by large parts of the international community of the initial *denial* of law by the offender. This bifold negation framework[123] provides the roots of falsifiable propositions with regards to norm violation, creating paths to accountability. Identifying the specific norms that have been broken, and providing evidence that links the actions of the perpetrator to the infringement of a specific legal norm fixed in existing conventions or agreements, the article clarifies how expressivism showcases norms violations and simultaneously reinforces the UN as a judicial space, even in the absence of judicial prosecution in a courtroom. In the UN judicial sphere, as in a panopticon, delegates embody the guardians of international norms and conventions, disavowing impunity and the denial of a victim's rights to justice. Without the expressivist lens, we would miss the opportunity to capture examples and mechanisms of denial of norm violation. We would also miss understanding how rhetorical acts contribute to the long-term construction of accountability, moral desires, and institutional memory at the UN, shaping future judicial action.

Future research should unpack the metaphysical component of norm expressivism. This intertwining is important to future scientific inquiries, because it provides an understanding of what shapes underlying motivations behind norm adherence or norm violations. In addition, future studies could explore the dimension of norm expressivism in relation to Russia's aggression in Ukraine between 2014 and 2022. It is simultaneously the violation of norms, the changing imaginaries about the international legal order, and the tension where the states take the freedom of both being and doing, that make the understanding of norms and norm dynamics in International Relations so urgently needed, as Russia's military invasion in Ukraine has blatantly demonstrated.

Video abstract. To view the online video abstract, please visit: https://doi.org/10.1017/S0260210524000949.

Acknowledgements. The author is grateful to the three anonymous reviewers for their insightful comments and the *Review of International Studies* editors for their spot-on suggestions on the manuscript along the journey. I would also like to extend my gratitude to Antje Wiener, Rebecca Adler-Nissen, Peter Marcus Kristensen, Henrik Larsen, Halvard Leira, Kevin Jon Heller, Thomas Fraise, Maria Mälksoo, Anders Wivel, Neil Renic, Clemens Binder, Kristin Eggeling, Michele Betsill, Maja Zehfuss, Yevgeniy Golovchenko, Kristian Søby Kristensen, Jens Ladefoged Mortensen, Johan Grøne Christensen, and Mathilde Kaalund for their helpful comments on this paper. Thanks are due to Mark Drumbl, Brent Steele, Nina Græger, Stefano Guzzini, Wolfgang Wagner, Amitav Acharya, Oumar Ba, and Barry Buzan for having talked to me about earlier versions of this research and, through their abundant wisdom, helped me to apprehend some crucial aspects pertaining to criminal justice and punishment in International Relations. Previous versions of this paper have been presented at the ISA Annual Convention in San Francisco, as well as at workshops at the University of Copenhagen, University of Hamburg, and Danish Institute for International Studies.

Funding statement. This research was independently conducted without any external funding support.

Competing interests. I declare that I have no conflicts of interest to disclose.

Cornelia Baciu is Scandinavian Visiting Professor at the Institute of Social Sciences at Kiel University and Researcher at the Centre for Military Studies, Department of Political Science, University of Copenhagen, where since 2021 she has been conducting research on sanctions, expressivism, global governance, and the Euro-Atlantic security order. Cornelia Baciu has published two Special Issues: 'From Kabul to Kyiv: The crisis of liberal interventionism and the return of war' (with Wolfgang Wagner and Falk Ostermann in *Politics and Governance*) and 'Interpolarity: Revisiting security and the global order'

[123]The idea of a twofold denial in relation to norms and accountability creation draws on Hegel's double negation syllogism.

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

(with Delphine Deschaux-Dutard in *Defence Studies*), and two books. Her latest journal articles include 'Foreign policy, memory and changing imaginaries and practices of neutrality in the Second Republic' in the *Austrian Journal of Political Science*, 'Mimesis and status-seeking in the global order: BRICS summit diplomacy and performative practices' and 'Junior allies in wars of choice: Party politics and role conceptions in Danish and Romanian decisions on the Iraq War' in *European Journal of International Security* after "*Austrian Journal of Political Science*".

https://doi.org/10.1017/S0260210524000949 Published online by Cambridge University Press

Cite this article: Cornelia Baciu, 'Norm expressivism and punishment in International Relations', *Review of International Studies*, 52 (2026), pp. 736–756. https://doi.org/10.1017/S0260210524000949