
Editorial

Editorial: On My Way In – I: Impressions of a New Editor-in-Chief’s First Months in the EJIL Engine Room; On My Way Out – Advice to Young Scholars VI: WeakPoint, On the Uses and Abuses of PowerPoint; In This Issue

On My Way In – I: Impressions of a New Editor-in-Chief’s First Months in the EJIL Engine Room

EJIL’s Editor-in-Chief Joseph Weiler has written a series of editorials titled ‘On My Way Out’, providing advice to young scholars. I’ve always read these with great interest, considering myself squarely in the target audience. That has not changed now that I have joined him as an Editor-in-Chief of this most inspiring journal. I am very much still on my way in, although into what continues to surprise. ‘Not a single dull day at EJIL’, Joseph had promised me. He has not disappointed.

Continuing in the EJIL tradition of being as transparent as possible about the editorial process, let me share with you a few experiences as a fresh Editor-in-Chief. I hope this newcomer’s view from behind the scenes will complement the official accounts and [statistics](#) that EJIL already provides.¹

Unsurprisingly, the core of the job has been an enormous amount of reading. Every few weeks, the Editors-in-Chief receive a pack of over 1000 pages: new submissions, peer review reports, road maps for revisions, revised submissions, peer review reports of revised manuscripts, final submissions. Reading all of these pages is a great way to learn about emerging research areas, different styles of scholarly writing and wide-ranging approaches to [peer reviewing](#)² (ranging from the rather unhelpful conclusion-only assessments to truly impressive engagement with an author’s work and detailed suggestions for improving it).

Perhaps the best and most educative part of the job has been discussing all of these articles and reports with the Associate Editors and the other Editor-in-Chief. Meeting virtually, some of us with a double espresso because in their time zone it is 6 am, we

¹ JHHW, ‘Editorial: Vital Statistics’, 30 *European Journal of International Law (EJIL)* (2019) 3, available at <http://www.ejil.org/pdfs/30/1/2965.pdf>.

² JHHW, ‘Editorial: Best Practice: Writing a Peer Review Report’, 30 *EJIL* (2019) 355, available at <http://www.ejil.org/pdfs/30/2/2984.pdf>.

analyse each and every piece of writing. What is exciting about this article? What does the article allow us to see or understand that was not known already? Will it still be read in five years' time? Have we recently published on the same topic? How could the argument be made clearer? Who would be in a good position to peer review in this particular area? Is the reviewer's issue with the article one of quality or one of not liking the argument or approach? Does the author's revision road map address the issues raised by the reviewer? Has the second, third or even fourth version of the submission addressed all previous concerns?

In order to facilitate these discussions and to get to a complete issue, an enormous amount of work is done that is not immediately visible when one reads an *EJIL* article. Associate Editors Justus Vassel and Michal Saliternik write reports on each and every new piece that has come in. They also draw up lengthy and well-structured agendas for our meetings. Editorial Assistant Jenya Grigorova ensures that the 1000+ page reader neatly corresponds with all the items on the agenda. Together with Justus and Michal, Managing Editor Anny Bremner is in charge of much of the communication with the authors and peer reviewers, including chase-the-reviewer and please-be-patient emails. Meanwhile, Book Review Editor Christian Tams and Assistant Editor Gail Lythgoe commission, edit and curate book reviews. Together with our long-term partner Oxford University Press, Anny takes care of the final furlong, ensuring that manuscripts that have been accepted actually end up in the journal, ushering them along to the copy editor, typesetter and proofreader. She even reviews the quality of the paper on which the articles eventually appear.

Beyond the reading, we invest a lot of time and energy in preparing for *EJIL* events. In September, we convened a special *EJIL* Symposium on International Law and Democracy, the *EJIL* Symposium to celebrate the journal's 30th anniversary. Authors, whose abstracts had been selected on the basis of a [call for papers](#),³ received feedback on their draft papers from members of the *EJIL* Boards and colleagues at NYU, which kindly hosted the event. The venue came with its characteristic approach: no endless presentations, but an expectation that everyone would have read all the papers and therefore move straight into comments. The comments were as nourishing, diverse and rich in flavours as the breakfasts, lunches and dinners to which the Jean Monnet Centre treated the participants. Both discussants and fellow participants took papers apart and offered suggestions for reconstruction. We hope that some of the papers will end up in this journal's pages, but that will be only a cherry on the cake: the workshop in and of itself was a celebration of *EJIL*'s birthday, catalysing thoughts, ideas and experiences beyond what the journal's pages can ever capture.

The Symposium was accompanied by a meeting of the Editorial and Scientific Advisory Boards, whose members shape the direction of *EJIL*, in terms of vision as well as practically by supporting the peer review process. Board members have also played crucial roles in the preparation for and implementation of the Symposium, and

³ *EJIL* Call for Papers: International Law and Democracy Revisited – The *EJIL* 30th Anniversary Symposium, available at <https://www.ejiltalk.org/ejil-call-for-papers-international-law-and-democracy-revisited-the-ejil-30th-anniversary-symposium/>.

in designing plans for the next one, for which the [call for papers](#), on Inequality and International Law,⁴ has been issued.

In the week prior to the Symposium, Justus Vassel, Christian Tams and I hosted an event on publishing in EJIL at the glorious [Athens meeting](#) of the European Society of International Law.⁵ Conference participants with promising drafts asked about the submission process, while authors who had already published in EJIL gave useful feedback on their experience of the whole process. Given the strong ties between [ESIL and EJIL](#),⁶ past and present, we hope to organize similar meetings at future ESIL conferences, ideally together with other international law journals.

Less expected but also instructive has been an enormous amount of other EJIL-related emails on a day-to-day, indeed at times hourly, basis. Some authors express dissatisfaction about the length of time it has taken for their paper to be rejected. This complaint is understandable but difficult to address. For some time now the EJIL editorial team has been able, with very few exceptions, to notify authors within the promised six weeks from the time of submission if their manuscript has been sent to peer review or rejected for curatorial or other reasons. In case of doubt we send pieces to peer review – a decision never challenged when the outcome is publication. Once sent out to peer review, patience is required: the challenge of finding good, speedy and willing [peer reviewers](#) is a long-standing one.⁷ The hope is that even if EJIL in the end decides not to take the piece, the reviews and editorial comments will still nourish the article, enhancing the possibilities for a strong publication elsewhere.

A few other difficult emails have concerned posts on EJIL: Talk! Most of the EJIL: Talk! correspondence is handled solely by the magnificent trio in charge of this diverse and lively blog – Dapo Akande, Diane Desierto and Marko Milanovic – and their equally responsive Associate Editors. I cannot begin to imagine the number of emails they receive. But in sensitive cases, EJIL: Talk!-related communication lands on the Editors-in-Chief's desks, too: the buck stops here, and, so Joseph reminds me, 'next time it will be your turn to stand trial!'. Some readers write to say that we are not sufficiently strict with our policy against *ad hominem* attacks, while some contributors think we are too strict in our insistence on refraining from any argument that relates to the person to whom one responds. The EJIL spirit is one of fostering genuine debate about arguments; such debate can flourish in an environment where posts focus on the arguments, rather than the person, of the opponent. The line between what to object to and what to let pass is hard to draw, but after extensive discussions among the entire EJIL: Talk! trio, two Associate Editors and the Editors-in-Chief, the

⁴ 'Announcing our Second EJIL Symposium June 2020: Call for Papers on Inequality and International Law', available at <https://www.ejiltalk.org/announcing-our-second-ejil-symposium-june-2020-call-for-papers-on-inequality-and-international-law/>.

⁵ 15th ESIL Conference, programme available at <https://esilathens2019.gr/programme/>.

⁶ JHHW, 'Editorial: EJIL and ESIL', 24 EJIL (2013) 752, available at <http://www.ejil.org/pdfs/24/3/2422.pdf>.

⁷ JHHW, 'Editorial: Peer Review in Crisis', 23 EJIL (2012) 309, available at <http://www.ejil.org/pdfs/23/2/2275.pdf>.

line ultimately identified in each and every case is finely calibrated. Thankfully, in most cases, the issue is eventually resolved through dialogue with authors and/or readers.

Possibly less enduring but much appreciated have been the many generous emails I received on assuming the role of an Editor-in-Chief, sometimes adding practical feedback on how to improve *EJIL*'s procedures and communications. It may take some time to implement, but keep the feedback coming! Other emails responded to the interview on *EJIL: Live!* in which Joseph Weiler welcomed me to *EJIL*. Many emails picked up on issues we discussed: emails illustrating the gender citation gap; emails concurring with the call for acknowledgement of intellectual debt beyond footnotes, also encouraging *EJIL* authors to cite literature in languages other than English; and emails, also from practitioners, expressing concerns about the quantity of publications. In one instance, my comment about too much being published was misunderstood. I have always argued for and will continue to promote diversity in terms of topics, diversity in terms of authors and diversity in terms of genres and fora. My point about too much being published was inspired by what I believe to be a widely shared experience of a pressure to publish, by scholars young and old, externally imposed or internalized due to the academic culture of which we are products. It is an issue that Joseph Weiler has already raised in one of his [Editorials](#).⁸ My interest is in thinking about how the field can foster the conditions for producing work that generously engages with existing scholarship while developing new approaches and arguments. (And I know how hard it is: as I illustrate in the interview, many of my ambitions for the field remain aspirations for my own writing).

There is a lot of work to be done to keep *EJIL* at the levels to which editorial teams over the last three decades have raised it. However, there is little work that gives as much intellectual satisfaction as contributing to the production of yet another lively, surprising, diverse and enduring table of contents of a new issue of this unique international law journal.

Speaking of the table of contents, I cannot claim much credit for the curation of the previous, this and possibly also the next issue of *EJIL*: most of the articles had already been scheduled for publication before I assumed this role. The Symposium on Commissions of Inquiry that appears in this issue, and which Mike Becker, Doreen Lustig and I convened, has been in the making since 2016 and was accepted for publication in its final form last February. But that Symposium does, I believe, reflect *EJIL*'s enthusiasm for new topics, new approaches and new voices. You can literally hear some of these voices in a forthcoming episode of [EJIL: Live!](#),⁹ like *EJIL: Talk!* an integral part of the *EJIL* intellectual community. More interested in interviewing than in being interviewed, I am happy to have changed seats, encouraging others to do the talking.

Back to reading!

SMHN

⁸ JHHW, 'Editorial: Publish and Perish: A Plea to Deans, Faculty Chairpersons, University Authorities', 29 *EJIL* (2018) 673, available at <http://www.ejil.org/pdfs/29/3/2914.pdf>.

⁹ All interviews are available at <http://www.ejil.org/live.php>.

On My Way Out – Advice to Young Scholars VI: WeakPoint, On the Uses and Abuses of PowerPoint

I have most certainly reached the final phase of my academic and professional career and as I look back I want to offer, for what it is worth, some dos and don'ts on different topics to younger scholars in the early phases of theirs. This is the sixth instalment and regards that staple of academic life: PowerPoint.

There is a concept in Jewish law called 'Fencing' (*Seyag*). It is a prophylactic; a new prohibition is decreed, which is not, in and of itself, biblically based but is introduced in the interest of protecting people from inadvertently committing an infraction of a divine commandment or in order to prevent people from entering into a danger zone of temptation. Here is a trivial example: the recitation of one's nightly prayers can (and should) take place during the night. Night time lasts, surely, until daybreak – just before dawn. One o'clock in the morning is surely still night time. The Rabbis decreed a 'Fence' and fixed a deadline of midnight. 'A man', they reasoned, 'will return home, and say to himself: I'll eat a little bit, and drink a little bit, and sleep a little bit – and then recite my prayers. [After all, I have all night ahead of me]. He ends up sleeping all night and missing his nightly prayers.'

I have imposed on myself a Fence: no PowerPoint at all (for that matter, no Facebook, Twitter or Instagram). It is an extreme (im)position, which I am not suggesting others should adopt. However, I am advocating a far more prudent and discerning use of PowerPoint.

The technology was originally developed for the American corporate world, driven by an ethos in which time is money – cut it short, get to the point – and in which presentation trumps deliberation, decisiveness trumps doubt and communication is oftentimes in the command mode.

It migrated rapidly and with a vengeance into the world of higher education and has become a default in both the classroom and all manner of conferences, workshops and other forms of presentation. Students expect it and will oftentimes criticize an instructor who does not use it. When invited to give a paper one is almost automatically prompted for one's memory stick or link. And as the technology has developed, the PowerPoint presentations have become fancier. Now it is not enough to have bullet points: better to present photos, and embedded videos, and caricatures and artwork, and even musical effects. Wow – or, rather, wow them. It has many advantages that I need not highlight, seeing how ubiquitous its use has become, but here are some shadows.

It has an almost inherent tendency to 'dumb down' complex issues, to drive the classroom to resemble a Primer, a Nutshell, an Emmanuel or other learning aids more associated with Bar exam preparation. And yes, from there the road is short to Twitterholicism and Facebookitis. Colleagues will often tell me: 'But in my class, the PowerPoint is but the shell around which I build the complex and deep discussion.' This may be true, but what often rests in the students' minds is the slide and the bullet points – the kernel, with the discussion inadvertently reduced to the shell. Revision often focuses on the slides or on slide mentality. And should not at least part of what

you teach be the training of students to follow a complex argument, keep five balls spinning in the air and follow a train of thought that is not reducible to bullet points?

It is not only the students who run the dumbing down risk. The PowerPoint mentality drives teachers to the ‘here is a difficult problem, here is a (neat) solution’ *modus pensandi* and away from ‘here is a difficult problem and after our discussion you will see it is even more difficult than you thought’. The very process of preparing the slides, though salutary in some respects, can have this inimical impact on our own thought processes.

In a somewhat different vein, PowerPoint rigidifies the class scheme. It is the King’s Way through the forest. It militates against exploring alternative routes (unless these are predetermined, which in some ways defeats the purpose) and free, innovative discussion. It over-privileges the function of the class (important of course) as the transmission of knowledge at the expense of exploration, interrogation and critical thinking. It has a propensity to shut down discussion or channel it to the content and scheme of the slides and thus reduces the potential of learning from one’s students. It has a tendency to put a premium on conclusion and certainty at the expense of open questions and dilemmas.

Even more than lecture notes it also risks rigidifying the year-to-year rethinking and evolution of the teacher. Once one has perfected one’s slides to cover the entire course the barriers to change are elevated – they are used from year to year, in this case with the false assumption that ‘if it works, why fix it?’.

I must confess here to another idiosyncratic extremism. When I started teaching many more years ago than I care to count, a wise colleague at the University of Michigan Law School (Richard Lempert of Law & Society fame) advised me to tear up my lecture notes at the end of each year – a recipe for both keeping fresh and spontaneous with one’s students and being forced to rethink even a subject that we believe to have mastered. Not just updating, but rethinking. It has happened more than once that a Teaching Assistant has said to me: ‘But last year you said something quite different!’. I feel vindicated when that happens.

As I mentioned above, graphics of all manner are now a staple of most PowerPoint presentations, a *de rigueur* background and accompaniment to practically every slide. What’s wrong with that, you may ask? Sometimes a picture is worth a thousand words, as the adage goes. Yes, but the emphasis should be on the ‘sometimes’. In my recent piece on *Achbita*,¹⁰ no words could convey as effectively the message delivered by three photographs I used. But the graphic inflation I observe in one PowerPoint after another has the precise opposite effect. One deep and profound insight is worth a thousand pictures may be true too. And with some slide sets I often wonder where education and knowledge end and entertainment begins. It is not uncommon to see ‘credit’ given to the graphic designer of the presentation – usually a hapless assistant.

¹⁰ JHHW, ‘Editorial: Je Suis Achbita!’, 28 *EJIL* (2017) 989, available at <http://www.ejil.org/pdfs/28/4/2835.pdf>.

PowerPoint is second to none in the ability to project graphs and tables and matrices, and there is a case to switch it on when one gets to that part of a class or presentation. But there is a danger, and it is real, that one is pushed to develop graphs and matrices by the medium itself and that, when the point of the graph is simply to show a trend, a few well-chosen words could be just as effective without the distraction.

It is, indeed, *distraction* that is the operative word when thinking of PowerPoint in the context of conference presentations. True, when one has only 10–12 minutes in so many conferences there seems to be a compelling case to resort to PowerPoint. What can be more effective, many think, than a series of slides capturing the essence of a serious paper that I am compelled to squeeze into 12 minutes? My view is exactly the opposite. It is perhaps sometimes the case, but in my experience it usually has the opposite effect. A long and involved presentation may (or rather might) perhaps benefit from a PowerPoint presentation that helps keep the audience from losing the long train of thought. But when you have just a few measured minutes (not unlike an oral argument before an appellate jurisdiction in many systems) there is nothing more powerful, communicative and effective than the Word, than eye contact, than a conversation-style talking with (to) your audience, than modulating your presentation with the subtle signals you pick up from your audience. You see perplexed faces? You explain again. You insert a quick example. There is only one thing, in these measured time situations, that is worse than PowerPoint – reading a text. But have you not noticed that with PowerPoint the presenter is looking at the screen instead of at you, and then back to his smartphone? That she is reading instead of listening? Do you really think that a bunch of sophisticated academics are unable to keep three and a half ideas and five propositions (how much more can one manage in 12 minutes?) in their mind for 12 minutes? You may be thinking that you are not a gifted speaker, but this is a learnable virtue, one that improves dramatically with practice. Paradoxically, a gifted speaker can survive the distractions of PowerPoint because her manner of delivery will capture attention – but in this case too, the PowerPoint is a superfluous distraction. In my view if you are an average or unconfident speaker, not only will PowerPoint distract and debilitate in many cases, but it will remove the incentive to improve and perfect your presentation skills by offering false comfort. Is it not the case that preparation of the slides oftentimes replaces the thinking about, designing and practising an effective oral presentation? And presentation skills are essential to our profession as teachers, educators and scholars. Profound thinking that is ineffectively presented is lost.

I would like to end with two pleas:

Please do not dismiss all of this as the rumination of an aging (correct) technological troglodyte (incorrect). I use technology extensively in my research – notably empirical work – and have no phobia of it. These are ruminations that are rooted in my lifelong commitment to and reflection on good teaching, and I include conferences as integral to our teaching vocation.

And kindly accept that I have, of course, overstated the case and, as I mentioned at the outset, I do not advocate my own extremism of eschewing PowerPoint altogether (and anyway I cheat, I do use the blackboard when helpful). But I am recommending

a much more judicious, reflective and restrained use of PowerPoint. Not in every class. Not in the whole class. Not for every presentation. A measured use of graphics. And pictures only when they really serve better than words.

JHHW

In This Issue

The first section of this issue includes three articles. The first article, by *Paz Andrés Sáenz de Santa María*, examines the treaty-making practice of the European Union (EU) from an international law perspective. Contrary to the view that international treaty law is ill-suited to deal with distinct legal actors such as the EU, this article shows that international treaty law has been a useful and flexible mechanism to fulfil the objectives of the EU's external relations. At the same time, EU treaty-making practice and adjudication have contributed to the development of international treaty law. The article highlights the main features of this mutually constructive relationship, while also pointing to some challenges that need to be addressed.

The second article, by *Vera Shikelman*, assesses the implementation of the decisions of the United Nations Human Rights Committee (HRC) in individual communications. Drawing on an analysis of original empirical data, the article identifies the main factors that influence state compliance with HRC decisions. Arguably, these findings can also shed light on state cooperation with other international human rights institutions.

In the third article, *Máximo Langer and Mackenzie Eason* challenge the prevailing perception that universal jurisdiction is in decline. They conduct a worldwide survey to show that universal jurisdiction has actually been invisibly but persistently expanding in terms of quantity, frequency and geographical spread. They then suggest some explanations for this trend and assess its merits and pitfalls.

International commissions of inquiry (COIs) represent another key mechanism for addressing serious violations of international law. The second section of this issue features a Symposium, convened by Michael Becker, Doreen Lustig and Sarah Nouwen, that explores the concrete impacts of COIs on the situations with respect to which they were created. In the Introduction, *Michael Becker and Sarah Nouwen* provide a typology of the ways in which international COIs can make a difference and also discuss some challenges to the empirical study of COIs.

The remainder of the Symposium examines the actual effects of COIs in three case studies. *Eliav Lieblich* focuses on the 1957 United Nations Special Committee for the Problem of Hungary. Operating in complex Cold War circumstances, this committee was never meant to curtail human rights violations in Hungary, nor was it expected to diminish Soviet Union interventionism. Nonetheless, as Lieblich shows, the committee did have various indirect, unpredictable and ultimately conflicting political and institutional effects.

Hala Khoury-Bisharat reaches similar conclusions with respect to the 2009 United Nations Fact-Finding Mission on the Gaza Conflict. She observes that within Israeli

society this commission caused a severe backlash against human rights organizations, which were accused of cooperating with the commission and nurturing its criticism of the Israeli government. However, rather than entirely disempowering these organizations, the domestic backlash led to an increase in their international funding. These unexpected outcomes demonstrate the mixed effects that COIs can have in deeply divided societies.

Finally, *Mohamed Helal* discusses the mixed impact of the 2011 Bahrain Independent Commission of Inquiry. On the one hand, the commission instigated some reforms in the Government of Bahrain and helped mitigate political tensions in the aftermath of the Arab Spring protests. On the other hand, the Government has failed to fully implement the commission's recommendations, especially those relating to accountability for human rights abuses.

Our *Roaming Charges* contribution in this issue takes us to the Mekong River in Southeast Asia and tells a story of hardship and survival more clearly than words can.

Thereafter, this issue features two EJIL: *Debates!* *Jeffrey Kahn* analyses the intricate and strained relationship between the European Court of Human Rights (ECtHR) and the Constitutional Court of the Russian Federation in light of a recent federal law which expands the Russian Court's jurisdiction to deny effect to judgments of the Strasbourg Court. He finds that this not only challenges the dynamic conception and construction of the Convention but also undermines the final authority of the ECtHR. In his Reply, *A. Blankenagel* disputes this alleged challenge by providing both a doctrinal analysis as well as strategic reasons for the Russian approach.

The second debate examines the relationship between populist governments and international law. *Heike Krieger* contends that populist governments promote an instrumentalist perception of international law, which reduces the role of international law to serving national interests, and which favours international coordination over cooperation. In reply, *Marcela Prieto Rudolphy* questions the very attempt to identify a (single) populist approach to international law. She also challenges the claim that populism moves international law towards a 'law of coordination', and that this is necessarily a bad thing. *Paul Blokker* similarly calls for a richer and more empathetic understanding of populism and its approach to law. In particular, he emphasizes the popular sovereignty and the constituent dimensions of populism, as well as the contested nature of the progressive narrative of international law.

This issue closes with an article that reanimates our classic rubric, A Fresh Look at an Old Case. *Amedeo Arena* delves into the history of the EU's most famous case: *Costa v. ENEL*.¹¹ Based on previously undisclosed materials and interviews, he traces the obscure history and context of this peculiar case regarding a petty energy bill that has become the Union's equivalent to *Marbury v. Madison*.

The Book Review section features four pieces that engage with a highly diverse set of books on aspects of international law and governance. We begin with a review

¹¹ Take a look at 'Roaming Charges: Moments of History', 29 *EJIL* (2018) 503, available at <http://www.ejil.org/pdfs/29/2/2875.pdf>.

essay by *Sahiba Gill*, *Edouard Adelus* and *Francisco de Abreu Duarte*, which looks at recent general works on FIFA and the governance of global football: perhaps an unusual choice, even for EJIL readers accustomed to looking beyond the main genres of (international) legal literature; but one that we hope will raise awareness of FIFA's problematic resistance to change. (For more, take a look at the short introduction to the essay).

This issue also includes three shorter reviews of recent works. The first is Roger O'Keefe's review of *The Trial of the Kaiser*, William Schabas' account of an early experiment with international criminal justice and part of a new genre of books on international law and its history aimed at non-specialists. This is followed by Anna Chadwick's review of *Neoliberal Legality*, a collection of essays edited by Honor Brabazon that seeks to identify the role of international law in the (allegedly anti-regulatory) neoliberal project. In the final review, Richard Gardiner, author of *Treaty Interpretation*, assesses *Between the Lines of the Vienna Convention?*, an edited volume by Joseph Klingler, Yuri Parkhomenko and Constantinos Salonidis, who discuss 'Canons and Other Principles of Interpretation in Public International Law' – the bread and butter of international legal practice

Antjie Krog's haunting poem, 'Litany', written in 1996 during the first Truth and Reconciliation hearings in South Africa, produces strong and reverberating echoes with our Commissions of Inquiry Symposium and concludes our issue on the Last Page.

JHHW