
Editorial

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EJIL Roll of Honour

EJIL relies on the good will of colleagues in the international law community who generously devote their time and energy to act as peer reviewers for the large number of submissions we receive. Without their efforts, our Journal would not be able to maintain the excellent standards to which we strive. A lion's share of the burden is borne by members of our Boards, but we also turn to many colleagues in the broader community. We thank the following colleagues for their contribution to *EJIL*'s peer review process in 2022:

Karen Alter, Kai Ambos, Matilda Arvidsson, Danaï Azaria, Arnulf Becker Lorca, Eyal Benvenisti, David Berry, Eirik Bjorge, Laurence Boisson de Chazournes, Jonathan Bonnitcha, Kristen Boon, Fernando Bordin, Leonardo Borlini, Gian Luca Burci, Michelle Burgis-Kasthala, Thomas Burri, Matthew Canfield, Sungjoon Cho, Andrew Clapham, Gerard Conway, Joseph E. David, Natalie R. Davidson, Ignacio De la Rasilla del Moral, Ríán Derrig, Talita Dias, Janina Dill, Dafna Dror-Shpoliansky, Mark A. Drumbl, Babatunde Fagbayibo, Michael Fakhri, Malgosia Fitzmaurice, Lorenzo Gasbarri, Adom Getachew, Lorenzo Gradoni, Thomas Grant, Florian Grisel, Markus Gunneflo, Lukas Hakelberg, Laurence Helfer, Ellen Hey, Jennifer A. Hillman, Alexandra Huneus, Miles Jackson, Natalie Jones, Nidal Nabil Jurdi, Adam Kamradt-Scott, Machiko Kanetake, Michelle Staggs Kelsall, Alexandra Kemmerer, Emily Kidd White, Martin Kuijer, Andreas Kulick, Andrew Lang, Peter Lawrence, Noam Lubell, Kubo Mačák, Lauri Mälksoo, Tim McFarland, Miriam Bak McKenna, Frédéric Mégret, Irma Mosquera Valderrama, Samuel Moyn, Damien Neven, Michael Ng, Melanie O'Brien, Pietro Ortolani, Martins Paparinskis, Luca Pasquet, Joost Pauwelyn, Daniel Peat, Nicolás Perrone, Alice Pirlot, Mark Pollack, Peter Quayle, Fabián Raimondo, Morten Rasmussen, August Reinisch, Anthea Roberts, Alejandro Rodiles, Yael Ronen, Nat Rubner, Urska Sadl, Mavluda Sattorova, Juan Scarfi, William Schabas, Björn Schiffbauer, Kirsten Schmalenbach, Dana Schmalz, Thomas Schultz, Christine Schwöbel-Patel, Samuli Seppänen, Wenhua Shan, Dinah Shelton, Sandesh Sivakumaran, Anna Sodersten, Muthucumaraswamy Sornarajah, Taylor St John, Øyvind Stiansen, Ann Stoler, Sofia Stolk, Dimitri Van Den Meerssche, Andrea Varga, Ingo Venzke, Geraldo Vidigal, Guilherme Vilaça, Andreas von Arnould, Jochen von Bernstorff, Franz von Lucke, Michael Waibel, Yilin Wang, Philippa Webb, Ken Yang, Rumiana Yotova and Fuad Zarbiyev.

SMHN and JHHW

2022 EJIL Peer Reviewer Prize

The EJIL Peer Review Prize 2022 is awarded to Professor Dr Jochen von Bernstorff. Professor von Bernstorff's reviews are intellectually generous, whilst analytically sharp. He takes articles on their own terms, but critically analyses the arguments. Time and again, the ensuing reviews are thorough, precise and constructive. In cases of a 'Revise and Resubmit' recommendation, the author is left with no doubt as to what in the eyes of the reviewer needs doing.

Professor von Bernstorff is the fourth EJIL Peer Review Prize winner since the Prize was instituted in 2019. She joins our earlier prize winners, Professor Dr Tilmann Altwicker, Dr Megan Donaldson and Dr Leena Grover.

SMHN and JHHW

Desk Rejections

I know the feeling. It has happened to me more than once, twice and thrice. 'They didn't even send it to peer review?!*&%#@.' On one occasion it was subsequently published in another journal and is one of my most cited pieces!

Regrettably, neither EJIL nor I•CON has the human resources to send a fully reasoned letter to authors in all cases of desk rejections. We therefore want to set out here and explain the procedure at these Journals that results in a desk rejection.

Context is important. Both EJIL and I•CON publish around 60–70 articles a year. This means that we receive many good articles that we are unable to publish. It also means that each decision to publish is, in some ways, at the expense of another article that we will not be able to publish. There is, thus, a 'zero-sum game' involved, at least in the back of our minds. We mention this to emphasize that we are doubly aware of the importance to our authors and to the journal of these decisions, and they are never taken lightly.

Every single article received is read by at least two persons: one of the Associate Editors (all of whom are in various stages of advanced study, some are already established academics) and one of the Editors-in-Chief. We allocate the reading task on the basis of subject-matter proximity to the expertise of the readers. In many cases, the article is also read by another Associate Editor or the other Editor-in-Chief, either because the article caught their eye or because the responsible editor had doubts and asked others to read along. Thus, when the monthly editorial meetings open with the agenda item 'screened articles', between two and five members of the editorial team discuss each piece.

In cases of highly specialized fields or when we feel we might not be familiar with the latest research, not infrequently we turn to a member of the Editorial Board of the Journal or an external expert for help in the screening decision. If perplexities remain, we send the piece to peer review.

Which factors are brought to bear in the screening decision? These can be divided into 'curatorial' and 'editorial' decisions. EJIL and I•CON are journals of general interest in public law and international law, respectively. One curatorial aim is to make each issue of interest to as broad a readership as possible – meaning that all of our subscribers and readers will hopefully find in each issue at least one or more pieces of

interest and from which they may profit. So, on occasion (not frequently), we see very good articles which, however, we might consider ‘too specialized’ and more fitting for a specialized journal, bearing in mind, too, the zero-sum game. We may have published, to give another example, in the last two years a couple of articles partially covering similar ground. That might weigh against publishing a third piece so soon afterwards. There are no hard and fast rules here, but I think our authors will understand that we cannot altogether avoid some curatorial considerations in our screening decisions.

‘Editorial’ decisions go to the quality of the submission. In our screening deliberations and decisions, we are acutely aware that we are not infallible and that there might be both false positives and false negatives. However, editors cannot outsource the responsibility to screen and select by sending everything to peer review. Peer reviewing is a precious and scarce resource, especially since we expect our peer reviewers to write a thorough and reasoned report rather than a brief conclusory statement. We use our best judgement and our accumulated experience, and if the team decides that the quality of the article is such that it will not in its present form pass peer review, we will decide on a rejection. Common examples of such might be failure to deliver on the promises announced at the beginning of the article, insufficient engagement with existing relevant literatures, obvious methodological weaknesses, especially in the increasingly popular empirical studies, and, finally, plain and simple: poor organization and writing. We habitually see submissions with true promise but which are rushed and, in our view, prematurely submitted. It is, we believe, always advisable, where possible, to have a piece ‘workshopped’ once or twice before submission. Frequently, when we spot an article with a lot of promise, but which in our judgement will not pass peer review as it stands, we write to the author with our reservations and encourage that person to work further and submit the piece at a later stage. Quite a few pieces eventually published in both journals initially fell into this category.

JHHW, with GdeB and SMHN

10 Good Reads 2022

Here is my pick of ‘Good Reads’ from the books I read in 2022. I want to remind you, as I do every year, that these are not ‘book reviews’, which also explains the relative paucity of law books or books about the law. Many excellent ones have come my way in 2022, as in previous years, but an excellent law book is not always, in fact rarely is, a ‘good read’ in the sense intended here: curl up on the sofa and enjoy a very good read, maybe even as a respite from an excellent law book. I should also point out that some of these ‘good reads’ are not necessarily literary masterpieces – and yet, still, they are very good reads.

Moshe Halbertal and Stephen Holmes, *The Beginning of Politics: Power in the Biblical Book of Samuel* (Princeton University Press, 2017)

Inspired by this wonderful volume, which analyses the Book of Samuel, I recently gave a talk entitled ‘Politics, Power and Authority? Forget Machiavelli – It Is All in

the Book of Samuel'. Alongside King David, Machiavelli's Prince is a mere apprentice. Machiavelli taught 'Never do an enemy a small injury'. David could have said (but was smart enough to keep this counsel to himself) 'Never leave an enemy alive'. He was also smart enough to leave the killings to his lackeys and then wash his hands of it. (He did spare Saul's life, caught with his pants, literally, down – a smart move by a smart political operator).

From Halbertal and Holmes' book you will learn (a lot), become wiser (a lot) and derive pleasure (a lot). The book is not only a profound study of the building blocks of politics, but also a masterly exercise in literary analysis. And without compromising its scholarly depth, it reads so well.

In fact, this recommendation is a 'two for the price of one', for after reading *The Beginning of Politics* you will not need my exhortation to go and read the Book(s) of Samuel. And for those who have read it before, you will read it with new eyes.

'Samuel?', you may be thinking, 'is it not just one of those turgid biblical repetitive narrations of that inimitable skill of the Israelites to frustrate the Almighty, generation after generation?'. Think again. As story and drama it has it all: the tale of the House of Saul and the House of David has not only palace intrigues, bloody wars both internal and external with exquisite drama (think of David and Goliath as mere appetizer), there is also fratricide, murder, rape, incest. If Netflix were to ask me which Old Testament Book would make for the best series, it would have to be Samuel. It would leave *Game of Thrones* and its prequel in the dust. (I am not sure how much of a recommendation this is!).

Jean-Philippe Toussaint, *La Salle de bain* (Les éditions du minuit, 1985), *The Bathroom* (transl. Nancy Amphoux and Paul De Angelis, Dalkey Archive Press, 2008); *L'appareil photo* (Les éditions du minuit, 1989), *Camera* (transl. Matthew B. Smith, Dalkey Archive Press, 2008)

If Halbertal and Holmes made it to the top of the sagistica list, Toussaint makes it to the top of the *Belles Lettres*. Reading his first (1985) novel (*La Salle de bain*) and his second (1989) (*L'appareil photo*) I kept thinking with remorse – better late than never. For how could I have been oblivious to such genius for almost 40 years? And of course, since reading (and rereading) these two slim volumes I have been working my way through the remainder of his work. I consoled myself, in the self-deceiving manner of the aging and aged, that maybe it was an advantage to come to him later in life.

You can already sense that I am writing about Toussaint with the same enthusiasm I have towards, say, Sebald. And there are some parallels, parallels which go to style rather than content. There are very good novels. And then there are very good novels which at the same time change the way we think about The Novel. A little bit like, say, those who pioneered a New School in painting. Toussaint belongs to this rare second category.

Prepare yourself for a little shock when beginning to read *Bathroom*. But please, please do not be put off. It takes a little while to get the hang of it, but then it just sweeps you in. The books are short, but unlike, say, Von Schirach about whom I write below, not to be read in one gulp. For fun I read the Italian-, Spanish- and English-language editions (the choice of graphics for the covers amused me). The translations are, commendably, fine.

What are the books about? It is not the case here of not wanting to risk a spoiler. It is just so difficult actually to explain or even describe what they are 'about'. You will understand when you read them. But here, too: do not be put off. Bear with it and you will be seduced. I will give you one teaser: *L'appareil photo* is possibly the most delicate love story I have ever read.

Tommaso Pavone, *The Ghost Writers* (Cambridge University Press, 2022)

My generation of European Law lawyers are hopelessly Court-centric. That's what we know (or think we know). That is what interests us. European Law is about the Court of Justice of the European Union. Already years ago, Jo Shaw inveighed against this narrow view, which tends to leave out the main corpus of the law – legislation. She was right. You cannot write knowledgeably about the state of health of a country by simply visiting its hospitals. But there is another blind spot (more a black hole than a spot) in the Court-centric view of European law: the role of lawyers – in bringing cases, in arguing cases, in strategizing litigation, in virtually putting words in the mouth of the judges. Indeed, oftentimes the judgments we admire most are not the result of the genius of the judges but of the lawyers. I suppose the fundamental role of the Commission (and its Legal Service) has received attention, recognition (and critique), already going back to Eric Stein. But Pavone stretches his canvas far wider and he does so with verve and brilliance. The book has a thesis – almost conspiratorial in nature – which you might find at times overstated. I did, but this did not, and does not, detract from my high opinion of the book. For innovators, a modicum of exaggeration is a virtue, an indispensable virtue. Be that as it may, you are unlikely to think of Integration through Law in quite the same way as you did after reading this stimulating book. And by the nature of the enterprise, the book is attuned to the political and social context of European law, which has come to impact our lives in so many ways.

The underlying normativity of the book was not always clear to me, but that might be my own shortcoming and, in any event, even if I am right and it is not clear, here too, I regard this as a virtue. Last but not least, and this is what explains its appearance in this year's list, it is a very good read.

Ferdinand von Schirach, *The Collini Case* (Penguin, 2013)

Von Schirach is a prominent German criminal law lawyer. He is also a best-selling author (translated into a million languages), several of whose books have been made into films.

His life as a lawyer and some of the cases in which he acted provide the background (and at times much more) of his stories and novellas. For example, he recounts in *Crime and Guilt* (which I read years ago) his very first case – a harrowing tale of gang rape (the ‘gang’ in question being a group of the most respectable citizens of a small town in Germany – in which he acted as defence attorney and in which he (and his fellow attorneys) got the culprits off the hook on a procedural technicality. It was, in his own words, the ‘loss of innocence’ in his new profession. It will stick in your mind forever.

Although *The Collini Case* is one of his most famous, I got to it only this year. It is the epitome of a Good Read. Von Schirach is introspective and thoughtful, and getting the guilty acquitted is balanced by getting the wrongly accused acquitted. His conscience thus remains pure (I say this tongue in cheek). The stories and novellas are not truly profound, but are always thought-provoking. But what makes him such a good read and, justly, such a popular and best-selling author is his remarkable storytelling talent. You can intuit why he is such a successful lawyer, though the reverse relationship does not often work ...

The Collini Case is a case in point. I want to avoid spoilers, but the manner in which he weaves his tale (based on a real-life prominent and notorious case) draws you ineluctably in. It is the kind of book, short, which you will read in one afternoon without putting it down. And even though the twist at the end is foreseeable early on, you will still not be able to put the book down. Von Schirach is, too, an acute social observer of contemporary Germany. Not great literature, a very good read.

Signe Rehling Larsen, *The Constitutional Theory of the Federation and the European Union* (Oxford University Press, 2021)

I am sure that the title alone will evoke a yawn or grimace of the ‘not again’ genre. Can we not put behind us the EU identity navel-gazing? So I thought. Then I heard a talk by the author at the ICON-S Annual Meeting in Wrocław this year and decided I must take a look at the book. If you are an EU scholar, I think you should too. It’s not some blinding insight that will strike you, nor will you agree with everything. Well, how could you? Three European scholars means four opinions on ‘what the EU is’. Instead, it is not only refreshing to revisit the old debates (speaking as one of the General Editors and authors of *Integration through Law – Europe and the American Federal Experience* of 80s vintage.) But Larsen is judicious and insightful in what she deals with, and manages to make the discourse relevant, very relevant to contemporary debates (and hand-wringing) about our beloved Union. And, crucially, it’s of very manageable proportions and a good read.

P.D. James, *An Unsuitable Job for a Woman* (Faber & Faber, 1972)

As a crime/detective writer, P.D. James is second to none. I think years back I must have read all her Adam Dalgliesh novels and watched the excellent BBC TV series – way

before series became the preferred genre of the big studios. They are still available on YouTube. But somehow, I was oblivious to the Cordelia Gray novels. (And please don't jump to facile conclusions.) *An Unsuitable Job for a Woman* is the first of these and having finally read it I discovered to my regret that she apparently only wrote one more. It is vintage P.D. James – a compelling page turner. But Cordelia Gray is not simply a female Adam Dalgliesh. He, experienced, poetry lover, melancholic at times and almost at the point of burnout. She, young (22), accidentally takes a job with a failed (but very wise) private detective whose agency is at the point of bankruptcy and who commits suicide at the beginning of the tale (this is not a spoiler), leaving her to tackle on her own her first independent case. She did 'read' (as they say in British university circles) English lit. at college, a fact that plays an important part in the story. Indeed, it is a very 'Cambridge' tale. P.D. James not only tells a very good story, but is a keen observer of the human and social condition. It is a 'one day, one gulp' book, but a satisfying read at that.

Bruno Schulz, *Collected Stories* (transl. Madeline G. Levine, Northwestern University Press, 2018)

If you read David Grossman's first novel, *See Under: Love*, you will have come across Bruno Schulz in a fantasy chapter 'dedicated' to him. The circumstances of his death are as harrowing as they are grotesque. When in Operation Barbarossa the Germans took over Drohobych (in the Lviv area) from the Soviets (who had occupied that part of Poland), a ghetto was established – a one-way road to the Belzec extermination camp. But Schulz, a resident of Drohobych, was a gifted painter as well as an extraordinary writer (he won the Polish Academy of Literature Golden Laurel award in 1938 – at the very end of those 20 culturally golden years of post-WWI Polish independence) and was offered protection – as his 'personal Jew' – by one Landau, a German Gestapo officer, in exchange for painting for him. In 1942 Schulz was shot in the street by another German Gestapo officer, one Guenther, as an act of revenge. Apparently, Landau had murdered Guenther's 'personal Jew', so here was payback. Schulz was 50 years old at the time of his murder.

He was not prolific, and important parts of his writing did not survive. He is most famous for *Sklepy Cynamonowe* (1934), translated into English as *The Street of Crocodiles*. I read some Schulz when I was far too young, and it left no impression on me. But seeing that a new translation appeared (in 2018), I read it again this year. It is a masterpiece. It is a series of short stories relating to his local habitat. If you read it, you will understand why it so impressed the literary world then and now. It has one of the characteristics of a classic since it is at one and the same time minutely focused in space and time, and yet it is universal in space and is timeless. Even in translation (the Polish original defeated me, sigh), his descriptive powers as regards smell, colour and the normal objects and goings on of daily life, not to mention his acute observation of his human subjects, are close to mesmerizing. Schulz (like Olga Tokarczuk) also gives lie to the usual well-meaning (and foul-meaning) descriptions of relations between Jews and Poles. In Schulz there are no Polish Jews, but Jewish Poles, and their

relationship to their fellow Catholic Poles covers the whole gamut of sociality, as one would expect if one could rid oneself of the habitual stereotypes.

Schulz had a dark view of life in general, so do not expect cathartic moments. But you will find big words, an additional gloss on the human condition – where the universal can only be grasped through the local. Great writer – good read.

Benito Pérez Galdós, *Trafalgar* (Edición de José Andrés Álvaro Ocáriz) (Desiréediciones, 2017)

If you think Trafalgar, or for that matter Waterloo, and if you have grown up in the English-speaking world, you might normally think of the genius and bravery of Nelson and the strategic brilliance (and luck) of Wellington. You (or at least I) do not give much thought to the vanquished.

Trafalgar, first of Benito Pérez Galdós' (1843–1920) 19 *Episodios Nacionales* of Spanish history, is a classic correction to such. It is written in novelistic form, from the perspective of a young, inexperienced sailor (Gabriel), who joins the Spanish/French Armada on the eve of the famous battle. (In this he is reminiscent of the young Fabrice del Dongo, he of Stendhal's *La Chartreuse de Parme*, who experiences Waterloo as a foot soldier and only catches a glimpse from the muddy field of Napoleon's gown passing by on his horse.)

It is by no means a revisionist history, nor an apologetic account – though he does express his (historically justified) disgust at the French Admiral Villeneuve, who botched the battle for the Spanish–French alliance.

From a literary point of view, the book belongs to the 19th-century school of realism – and is really rather good as such – though by no means, in and of itself, is it a 'great' novel. Its importance is that in the genre of fictionalized history, it is not a history of kings and heroes – an Upstairs tale – but gives the view from Downstairs. And that, of course, gives it a human touch, which is helped by a good dose of humour and irony and which never deteriorates to self-lacerating despair and cynicism, such as one finds in, say, that other true masterpiece of the vanquished *All Quiet on the Western Front*. But it shares with Remarque a revulsion to war. I suppose we must be grateful to authors of the vanquished for debunking the glorification of armed conflict.

If you are interested in the historicity of the battle as well as the novelistic, I recommend the Critical Edition of 2017 by José Andrés Álvaro Ocáriz, himself a gifted poet and author.

Fernando Aramburu, *Los peces de la amargura* (Tusquets Editores, 2009)

This is a collection of short stories by Aramburu (he of *Patria* fame). I think this is a perfect introduction to this gifted author, though written after some of the novels that made his name. It has become somewhat à la mode in certain Spanish circles to

critique Aramburu as ‘not really deep’ and similar such characterizations. Pay no attention. Pure jealousy, which is the usual lot of serious authors whose work gains a popular appeal, is made into movies and the like.

I had not before this year read any short stories by him – I am not even sure if he has other short story collections. The transition from novel to short story is neither obvious nor always successful, as is the case with the transition from short story to novel. (Think Maupassant, with the possible exception of *Bel Ami*, or Cheever – masters of the short story, mediocre novelists). Aramburu is as good a short story author as he is a novelist. The collection ends with a story in the form of a play, *Después de las Llamas*. It is a jewel. And I can say with some confidence that no matter your taste in *Belles Lettres* you will find this collection a very good read.

Alda Merini, *Vuoto d’amore* (Einaudi, 1991)

This anthology of Merini’s poetry was a present, which collected dust on my shelves since 2018, and finally it (and I) found redemption. Another ‘better late than never’ – with a vengeance.

The poetry is essential, exquisite and at times shattering. Merini had a difficult life, including a period of psychiatric hospitalization, reflected in her 1984 collection *La Terra Santa* – personal and intense, some of which is included in this volume. But let that not deter you. The pain is never lachrymose, the suffering never self-pitying. And in quite a few of the poems, love letters in the form of poems, there is a subtle and delicate humorous irony, including self-irony. It is, too, the poetry of a ferociously strong woman.

This is the poem that opens this anthology:

Lo sguardo del poeta

Se qualcuno cercasse de capire il tuo sguardo
Poeta difenditi con ferocia
il tuo sguardo son cento sguardi che ahimè ti hanno
guardato tremando

A Short ‘Theological’ Epilogue

Among my friends, my passion for literature is well known. ‘How do you find the time? What is your secret?’, I am so often asked. And yes, I believe that I am as busy an academic as the next one. We all know that the moment we are appointed to an academic position, we can wave goodbye to *La Vita Contemplativa*. It is a life of juggling teaching with research and writing and with the endless other commitments of academic citizenship. There is always a deadline looming, a paper for which you begged ‘...one more weekend please, Monday morning, no fail’.

It is a form of slavery to our work (the charitable view) or (the less charitable view) to our ambition.

What, then, is ‘my secret’?

In Mark 2:27 Jesus famously said, ‘The Sabbath was made for man, not man for the Sabbath’. ‘Yes, but’, replies this Pharisaic Jew... (you expected this ‘Yes, but’). My view, for what it is worth, is that only if one accepts in the deepest sense that man was made, so to speak, for the Sabbath, will the Sabbath end up being made for man.

During the 25 hours of the Sabbath, there are no emails or WhatsApps, no computer or TV, no work-related activities (that Monday deadline notwithstanding), no shopping, no use of vehicles. It is a time out of time. And ritual commitments fulfilled, one can turn to other spiritual activities of which reading *Belles Lettres* surely is. Add to the Sabbaths the various Holy days (not holidays, I fear) and one ends up with quite a lot of time for non-work-related reading each year.

Two caveats are in order: first, if this reads like some form of Jewish evangelizing – ‘become a Jew and observe the Sabbath’ – perish the thought. I would not wish such even on my enemies (well, maybe on one or two I would). But assigning to yourself a day a week that takes you out of the normal rhythms of daily life, of work and ambition may be worth a thought.

Second, Judaism, alongside the other monotheistic religions, is notorious for some aspects of its attitude towards women, Sabbath observance being one such case. Partly in law, partly in custom, household chores and childcare are left to women, and thus the guys can have a rewarding spiritual time. There are, of course, egalitarian ways of sharing the burden and for some time now there have been vibrant forms of egalitarian Judaism trying to address among many other issues that too.

If you are interested in previous Good Reads recommendations, see [here](#).

JHHW

In This Issue

This issue opens with a Letter to the Editors by *Nicolás Perrone*, who responds to a review of his book, *Investment Treaties and the Legal Imagination*, published in our volume 33:1 issue.

The Articles section begins with a contribution by *Stephen Humphreys* that probes our understanding of responsibility towards ‘future generations’ in relation to climate change. Humphreys argues that the current rhetorical focus on future generations may end up working against the very group it seeks to defend, while undermining legitimate claims of the present. In the next article, *Abhimanyu George Jain* critically explores the trajectory of international law’s regulation of autonomous military capabilities (AMCs). The article links regulatory developments to four discursive strategies – conflation, deferral, normalization and valorization – that sustain the assumption that AMCs are amenable to regulation. Questioning the inevitability of the current path, the article argues for the possibility of a different way of regulating this field. On her part, *Nasia Hadjigeorgiou*’s article delves

into the potential consequences of the International Court of Justice's *Chagos Islands* Advisory Opinion regarding the parts of the territory of Cyprus, commonly known as 'Sovereign Base Areas', that the UK kept under its control after the island's independence. Hadjigeorgiou argues that, much like the case concerning Mauritius, the detachment of some parts of the island did not meet the freely expressed consent of its people, and thus runs contrary to the right of self-determination.

The Articles section concludes with a Focus on international investment law. *Anthea Roberts and Taylor St John* delve into the ways in which key proposals about reforming investor–state dispute settlement come about by looking at the background of the people behind them. Based on a series of interviews with officials involved in the system's reform, Roberts and St John observe how individuals who have not spent their careers in the field of investment arbitration tend to develop more disruptive reform proposals, while arbitral insiders have typically proposed reforms aiming to conserve the current system. For their part, *Ingo Venzke and Philipp Günther* retell the story of how the 1959 Germany–Pakistan investment treaty – often considered the first of its kind – came to be. Doing so, the authors revisit many of the myths surrounding this treaty, including the motivations behind it, and nuance claims about its innovation.

In a world of laws, rules and regulations, our Roaming Charges in this issue highlights one rule we may well enjoy.

Next, in the Critical Review of Jurisprudence section of the journal, *Michelle Burgis-Kasthala* critically examines the August 2020 judgment of the Special Tribunal for Lebanon. Her article situates the Tribunal's findings within Lebanon's political context, while adopting a close narrative reading of the text itself. The Critical Review of Governance section features an article by *Natalie Davidson and Tamar Hostovsky Brandes*, mapping the place of international human rights law in the case law of Israeli courts. Their article suggests that human rights law before Israeli courts is most effective when employed with respect to issues least threatening to state power.

The issue concludes with a Legal/Illegal debate on the 2020 SolarWinds incident, a major hacking campaign often attributed to Russia that targeted major cyber security firms. *Kristen Eichensehr* argues that the incident was not in clear violation of international law; *Antonio Coco, Talita Dias and Tsvetelina van Benthem* suggest otherwise.

Our Last Page poem in this issue, by the 19th-century American poet *Emily Dickinson*, offers a reflection on the elusiveness of peace.

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In This Issue – Reviews

This issue features two review essays and one regular (in-depth) review. We begin with *Rián Derrig's* detailed engagement with *International Law as Behavior* (Harlan Grant Cohen and Timothy Meyer, eds.), an 'agenda-setting' collection of essays that reflects on the rise of behaviouralism in international legal studies. In his essay, 'What Can a Few Make of Mankind?', Derrig agrees with the editors and contributors that 'behaviouralism is ascendant' (Anna Spain Bradley). However, he views this ascendancy as

problematic for a number of reasons. In his view, behaviouralism is concerned with critiquing (while at the same time trying to fulfil or correct) the rationality of actors – an idea that has been rejected by many disciplines, and its importation into legal studies ignores insights into behaviour from the likes of legal realism. He also notes, thinking with Arendt, that there is a risk that ‘behaviouralism may inaugurate a politics of passivity’.

Next up is *Benoit Mayer’s* essay on attempts to distinguish between procedure and substance. In his view, the distinction, while regularly used, overshadows more useful distinctions, such as that between ‘principal’ and ‘accessory’ obligations. Mayer reviews three recently published books, in French and English, on *substance et procédure en droit international public*, but finds that they ‘do not convincingly explain what is being distinguished from what, or why this distinction needs to be made’.

Finally, we feature *Andrej Lang’s* review of Gráinne de Búrca’s *Reframing Human Rights in a Turbulent Era*, ‘arguably one of the most important books in human rights scholarship in recent years’. In Lang’s view, de Búrca’s ‘experimentalist account’, illustrating the role of human rights through case studies, successfully counters the trend in scholarship critiquing human rights.

We hope you will agree that this is a Review Section that prompts reflection and encourages debate on crucial additions to the international legal literature. It certainly made us reflect. But we would like to end on a (self-)critical note: we began managing the Review Section around five years ago. In these five years, this is one of only two issues in which all reviews have been authored by male academics; in this respect, we are not happy with the shape of this section. Gender is of course only one parameter by which diversity should be judged. Yet, as far as this parameter is concerned, for some time now, the trend has not been our friend, despite our bona fide efforts. (For example, we have for some time commissioned more reviews from women than from men.) Our statistics and anecdotal evidence from email conversations with potential reviewers point to a number of factors that could explain why this is so. Women are more likely to turn down an invitation. The drop-out rate among woman reviewers has been three times higher than for male reviewers, at least since the start of Covid. Men are more likely to approach us to propose a review (which we do consider seriously, despite EJIL’s commitment to book reviews being ‘typically solicited’, as we note on the Journal’s website). Still, while these factors could go some way towards explaining the current state of affairs, the gender imbalance does leave us a bit puzzled. Could one explanation be that we are simply missing out on women scholars who are interested in reviewing, and bring to the Journal a good blend of critical distance and benevolence? If you think this is the case, please feel free to write to us at ejil.review@gmail.com to suggest names of potential reviewers.

GL and CJT